

Supreme Court, County of -----
State of New York

In the Matter of the Application of
"John Doe", Petitioner,
Pursuant to Article 81 of the Mental Hygiene
Law for the Appointment of a
Guardian of the Person and Property of

Index No.
R.J.I. No.

_____,
Alleged Incapacitated Person

Petitioner, "John Doe", respectfully represents the following:

PETITIONER

1. The Petitioner, "John Doe", resides at _____, NY (mailing address:
_____). His phone number is _____.

2. The Petitioner is the son of the alleged incapacitated person ("AIP").

(If the Petitioner has any special training or education, such as in finances,
accounting, or health care, it should be stated here.)

ALLEGED INCAPACITATED PERSON

3. The AIP, _____, resides at _____. She has
resided there for approximately four years.

4. The A.I.P. is a widow. Her husband, _____, died in 1997.

5. The A.I.P. has two children, the Petitioner and his sister, _____.

(In this section, you can give background info on the AIP, such as whether she had
worked, etc.)

OTHER FAMILY

6. _____. He resides at _____. His
phone number is () _____.

7. The A.I.P. has four grandchildren, all of them adults.

8. The A.I.P. had two siblings, _____ and _____,
both deceased.

(This section should be called Other Family and Friends if there is a friend or friends that the AIP has been particularly close to.)

FUNCTIONAL LIMITATIONS

9. The A.I. P. gave a Power-of-Attorney to _____, who managed the A.I.P.'s finances while she was alive. The Petitioner does not have a copy of the Power-of-Attorney, but was informed by _____ that no alternate attorney was named in it.

10. There is no known health care proxy.

11. There is no known will.

12. The A.I.P. has dementia and/or Alzheimer's. She no longer has lucid periods, and rarely communicates at all. It is unknown whether she recognizes people.

13. The funds of the A.I.P. cannot be accessed.

14. As a result of the foregoing, Petitioner submits that the appointment of a Guardian is required.

FINANCIAL RESOURCES

15. Upon information and belief, the A.I. P. receives a pension, Social Security benefits, Medicare and Medicaid benefits.

(This is where you can elaborate on assets and liabilities. List potential claims as well. If you knew of certain property, but don't know where it is now, state "location unknown." Estimate value. You can put it in list or chart form.)

16. To the best of Petitioner's knowledge, the A.I.P. does not have a safe deposit box.

POWERS SOUGHT UNDER MHL §§ 81.21(a) and 81.22(a)

17. The powers being sought on behalf of the A.I.P. pursuant to Mental Hygiene Law §§ 81.21(a) and 81.22(a), respectively, are as follows:

Property Management Powers

a) Transact any banking business including establishing checking accounts, savings accounts, certificates of deposit, collecting, negotiating, depositing, withdrawing, endorsing checks, drafts, or any negotiable instrument and any incidental powers related thereto.

b) Prosecute, defend, settle, and maintain any cause of action, arbitration, or civil judicial proceeding. Any settlement for the payment or receipt of more than \$10,000.00 shall require the approval of the Court. The authorization provided for in this subdivision shall terminate upon the death of the A.I.P. and the appointment of an executor or administrator.

c) Marshal all income and assets, and exercise the necessary incidental powers to effectuate such power including the power to open and inventory safe deposit boxes, and the power to redirect and open any and all mail directed to the A.I.P.

d) Prepare, complete, and sign all tax returns, and pay the tax due as shown by said returns; appear on behalf of the A.I.P. before Federal, State and Local taxing authorities; prosecute, defend and settle all tax claims, litigation, assessments and levies relating to any taxing authority or any type of tax.

e) Establish, terminate, change or complete any transaction regarding pension retirement incentives, IRA/Keogh/SEP and similar plans, programs and annuities.

f) Compromise, forgive, collect, prosecute, pay, and settle bills and debts with creditors and debtors.

g) Endorse, collect, negotiate, deposit and withdraw Social Security, pension or annuity benefit checks.

h) Apply, negotiate, prosecute and settle actions, claims and arbitrations for government entitlements and benefits of all kinds with any governmental administration or agency. Any settlement for the payment or receipt of more than \$10,000.00 shall require the approval of the Court.

i) Convey, release or assign any other interests of the A.I.P. in tangible personal property with a value less than \$1,000.00.

j) Enter into, rescind, assign, repudiate any and all contracts.

k) Authorize access to or release confidential records.

l) Invest funds of the A.I.P. as permitted by the prudent investor rule of §11-2.3 of the Estates, Powers and Trusts Law.

m) Retain attorneys, accountants, auctioneers, appraisers, property managers and real estate brokers and pay the necessary disbursements and fees for such individuals upon authorization by the Court.

n) File, prosecute, compromise and settle all personal and property insurance claims and all incidental powers related thereto necessary to effectuate this power, including without limitation the power to surrender insurance policies for cash value. Any settlement for the payment or receipt of more than \$10,000.00 shall require the approval of the Court.

o) Pay for the funeral expenses of the A.I.P.

p) Pay bills after death, if the debts were incurred prior to death, and if authority to pay any such bill would otherwise have existed, until a temporary administrator or executor is appointed.

Personal Needs Powers

q) Determine who shall provide the personal care, health care and assistance for the personal needs and health of the A.I.P. To enter into contracts for the same and pay such persons, firms or corporations.

r) Make decisions regarding social environment and other social aspects of the life of the A.I.P.

s) Determine whether the A.I.P should travel or should have a license to drive an automobile.

t) Consent to or refuse generally accepted routine or major medical or dental treatment. Treatment decisions shall only be made: (a) in accordance with the A.I.P.'s wishes, religious and moral beliefs, or, if such are not known and cannot be ascertained with reasonable diligence, in accordance with the A.I.P.'s best interests, including a consideration of the dignity and uniqueness of every person, the possibility and extent of preserving life, the preservation or improvement or restoration of health or functioning, relief of suffering, adverse side effects of treatment, less intrusive alternative treatments, and such other concerns and values of a reasonable person in the A.I.P.'s circumstances,

(b) with consideration of the requirements of Mental Hygiene Law §81.15, and (c) subject to the provisions of Mental Hygiene Law §81.29(e) dealing with life sustaining treatment.

u) Choose the place of abode of the A.I.P., consistent with the Findings pursuant to §81.15 of the Mental Hygiene Law, and consistent with the factors set forth in §81.22(a) of the Mental Hygiene Law.

DURATION OF THE POWERS BEING SOUGHT

18) The A.I.P.'s medical condition is irreversible and she will never be able to make any decision regarding her personal care or property management. Accordingly, Petitioner requests that the duration of the Guardianship be for an indefinite period of time.

INTERESTED PARTIES

19) The names, addresses, telephone numbers and relationships of the interested parties are:

(AIP's spouse, children, anyone who has been caring for her or who she has a close relationship with)

20) No previous application has been made for the relief sought herein.

WHEREFORE, the Petitioner requests:

1. That the annexed Order to Show Cause be signed by this Court;
2. That the Petitioner be named Guardian of the Person and Property of his mother, the Alleged Incapacitated Person, _____.

3. That the Petitioner have such other, further or different relief as the Court deems just and proper.

Dated: _____