

Filing Attorney Information or Pro Se Litigant:

Name _____

NJ Attorney ID Number _____

Law Firm/Agency Name: _____

Address _____

Email Address _____

Telephone Number _____

In the Matter of,

_____,

an Alleged Incapacitated Person

Superior Court of New Jersey
Chancery Division - Probate Part

County _____

Docket Number _____

Civil Action

**Order Fixing Guardianship Hearing
Date and Appointing Attorney for
Alleged Incapacitated Person**

THIS MATTER having been opened to the court by _____, plaintiff(s), for a judgment declaring _____, an incapacitated person and appointing a guardian of the person and/or estate (property) pursuant to applicable New Jersey statutes and Rules of Court, and for such other relief as the court may deem just, and the court having read and considered the verified complaint, the supporting certifications or affidavits, and all other papers and pleadings filed in this matter, and for good cause shown:

IT IS on this ____ day of _____, 20__, **ORDERED** that:

1. This matter be set down for hearing before this court at the _____ County Courthouse, _____, New Jersey on the ____ day of _____, 20__, at _____ am/ pm or as soon thereafter as plaintiff may be heard, to determine the issues of incapacity of _____ and the appointment of a guardian.
2. A copy of the verified complaint, supporting affidavits or certifications and this Order, shall be served on the alleged incapacitated person, by personally serving the same at least 20 days prior to the date scheduled for the hearing.
3. A separate notice shall be personally served on the alleged incapacitated person stating that if they desire to oppose the action, they may appear either in person or by attorney and may demand a trial by jury.

4. A copy of the verified complaint, supporting affidavits or certifications and this Order shall also be served on all the next-of-kin and other parties-in-interest identified in the verified complaint by certified mail, return receipt requested at least 20 days prior to the date scheduled for the hearing. If applicable, a copy of the verified complaint, supporting affidavits or certifications and this Order shall be served on the County Adjuster and the Regional Administrator for the Division of Developmental Disabilities.

5. _____, Esquire, whose office address is:

_____,
telephone number _____, is hereby appointed as attorney for the alleged incapacitated person. The appointed attorney shall personally interview the alleged incapacitated person, examine the medical records, make inquiry of persons having knowledge of the alleged incapacitated person's circumstances, their physical and mental state and their property, make reasonable inquiries to locate any Will or other testamentary substitutes, powers of attorney or health care directives previously executed by the alleged incapacitated person, or to discover any interests the alleged incapacitated person may have as a beneficiary of a will or trust. The appointed attorney shall prepare a written report of findings and recommendations (and, if applicable, an affidavit of services) to be filed with the Court and with the plaintiff(s) and other parties who have filed a written response at least ten (10) days prior to the hearing.

Select one:

The attorney appointed to represent the alleged incapacitated person is appointed *pro bono* (without cost).

OR

The attorney appointed to represent the alleged incapacitated person is to be paid. Pursuant to R. 4:86-4(d), the court may direct that the appointed attorney be paid from the assets of the alleged incapacitated person, or if such assets are insufficient, then from the party seeking guardianship or otherwise.

6. If the alleged incapacitated person obtains an attorney other than the attorney appointed by the above paragraph, that attorney shall notify the court and the appointed attorney at least ten (10) days prior to the hearing date.

7. A copy of the verified complaint, supporting affidavits or certifications and this Order shall be immediately served on the attorney for the alleged incapacitated person by personal service, certified mail, return receipt requested. If acceptable to the court-appointed attorney, service may be via facsimile, by regular mail, and/or by email.

8. The attorney above appointed to represent the alleged incapacitated person is hereby regarded as a HIPAA (Health Insurance Portability and Accountability Act) representative for the alleged incapacitated person and shall have the right and power to examine complete medical records, including medical and psychiatric records and written charts, pertaining to the alleged incapacitated person, and to visit and confer with the alleged incapacitated

person.

9. The attorney above appointed to represent the alleged incapacitated person shall have the right and power to examine financial and legal documents and records pertaining to the alleged incapacitated person.
10. The plaintiff shall file with the County Surrogate a proof of service of the pleadings required by this order to be served on the alleged incapacitated person and the parties in interest no later than ten (10) days before the date this matter is scheduled to be heard.
11. Any next-of-kin and other party-in-interest who wishes to be heard with respect to any of the relief requested in the verified complaint shall file with the Surrogate of _____ County at the following location: _____, together with the applicable filing fee and serve upon the attorney for the plaintiff and the attorney for the alleged incapacitated person at the address set forth above, a written answer, an answering affidavit, a motion returnable on the date this matter is scheduled to be heard or other written response ten (10) days before the date this matter is scheduled to be heard.
12. If applicable, any proposed guardian shall complete guardianship training as promulgated by the Administrative Director of the Courts, by viewing or otherwise reviewing the Court Appointed Guardian Tutorial posted on the Judiciary's website at njcourts.gov and receiving copies of the relevant guardianship training guide(s).
13. If applicable, any proposed guardian shall comply with any background screening policy for proposed guardians of incapacitated adults promulgated by the Administrative Director of the Courts and provided with this Order, including but not limited to fingerprinting and provision of personal identifiers to the court.

Select one:

- Based on factors including but not limited to the value of the guardianship estate, the background screening shall include a certified judgment search, with costs to be paid by the proposed guardian.

OR

- Based on factors including but not limited to the value of the guardianship estate, a certified judgment search is not required.

J.S.C.