

**GAL Sample Report #2**

STATE OF MICHIGAN

IN THE PROBATE COURT FOR THE COUNTY OF WAYNE

IN THE MATTER OF:

Jane Doe, a Legally  
Incapacitated Individual/

Case No.: 00-000,000-GA  
Hon. David Braxton  
Hearing: November 1, 2021  
at 9:00 a.m.

**REPORT OF GUARDIAN AD LITEM ACCEPTING  
APPOINTMENT AND RECOMMENDING DENIAL OF  
PETITION FOR A SUCCESSOR GUARDIAN AND CONSERVATOR1**

John Q. Esquire (P00000)  
Guardian Ad Litem  
1000 Barrister Court  
Detroit, MI 48226  
(313) 634-5789

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PETITION FOR A SUCCESSOR GUARDIAN AND CONSERVATOR**

I, the undersigned, duly appointed Guardian Ad Litem, do hereby accept the trust imposed upon me as Guardian Ad Litem to represent all persons interested herein who are minors or legally or mentally incompetent to act on their own behalf and all persons who may become interested, although unborn, undetermined, contingent or unascertained, relative to the petition filed in this court by Jennifer James, daughter, praying for removal of the current guardian/conservator and the appointment of herself.

The petition alleges that this 58 year old proposed ward should have a new guardian/conservator due to the current fiduciary filing a petition to terminate his services as such and that his health does not allow him to continue. Your Guardian ad Litem is aware of no such petition. The ward indicates she filed a petition to have the current guardianship/conservatorship terminated and that she be released to herself.

MCL 700.5219(3) indicates the court may terminate a guardianship, after notice and herein, and/or make any further order that may be appropriate.

MCL 700.5305(1) indicates that duties of a Guardian Ad Litem appointed for an individual alleged to be incapacitated shall include all of the following:

- (a) Personally visiting the individual.
- (b) Explaining to the individual the nature, purpose, and legal effects of a guardian's appointment.
- (c) Explaining to the individual the hearing procedure and the individual's rights in the hearing procedure, including, but not limited to, all of the following:
  - (i) The right to contest the petition.
  - (ii) The right to request limits on the guardian's powers, including a limitation on the guardian's power to execute on behalf of the ward either of the following:
    - (A) A do-not-resuscitate order.
    - (B) A physician orders for scope of treatment form.
  - (iii) The right to object to a particular person being appointed guardian.
  - (iv) The right to be present at the hearing.
  - (v) The right to be represented by legal counsel.
  - (vi) The right to have legal counsel appointed for the individual if he or she is unable to afford legal counsel.
- (d) Informing the individual that if a guardian is appointed, the guardian may have the power to execute a do-not-resuscitate order on behalf of the individual and, if meaningful communication is possible, discern if the individual objects to having a do-not-resuscitate order executed on his or her behalf.
- (e) Informing the individual that if a guardian is appointed, the guardian may have the power to execute a physician orders for scope of treatment form on behalf of the individual and, if meaningful communication is possible, discern of the individual objects to having a physician orders for scope of treatment form executed on his or her behalf.
- (f) Informing the individual of the name of each person known to be seeking appointment as guardian.
- (g) Asking the individual and the petitioner about the amount of cash and property readily convertible into cash that is in the individual's estate.
- (h) Making determinations, and informing the court of those determinations, on all of the following:
  - (i) Whether there are 1 or more appropriate alternatives to the appointment of a full guardian or whether 1 or more actions should be taken in addition to the appointment of a guardian. Before informing the court of his or her determination under this subparagraph,

the guardian ad litem shall consider the appropriateness of at least each of the following as alternatives or additional actions:

(A) Appointment of a limited guardian, including the specific powers and limitation on those powers the guardian ad litem believes appropriate.

(B) Appointment of a conservator or another protective order under part 4 of this article.<sup>1</sup> In the report informing the court of the determinations under this subdivision, the guardian ad litem shall include an estimate of the amount of cash and property readily convertible into cash that is in the individual's estate.

(C) Execution of a patient advocate designation, do-not-resuscitate order, physician orders for scope of treatment form, or durable power of attorney with or without limitations on purpose, authority, or duration.

(ii) Whether a disagreement or dispute related to the guardianship petition might be resolved through court ordered mediation.

(iii) Whether the individual wishes to be present at the hearing.

(iv) Whether the individual wishes to contest the petition.

(v) Whether the individual wishes limits placed on the guardian's powers.

(vi) Whether the individual objects to having a do-not-resuscitate order executed on his or her behalf.

(vii) Whether the individual objects to having a physician orders for scope of treatment form executed on his or her behalf.

(viii) Whether the individual objects to a particular person being appointed guardian.

In an attempt to assist in these determinations, your Guardian Ad Litem visited via phone with the proposed ward. Ms. Doe was served a copy of the herein petition via email at that time. Also present on the phone was the current fiduciary, Mr. John Doe. I explained the nature of my visit and her rights as enumerated in MCL 5305(1). She appeared to understand. Ms. Doe was oriented times three. She was very able to reply to my simple questions.

The proposed ward objects to the herein petition, and wishes to be present for the hearing. As indicated above, Ms. Doe states that she filed a petition to terminate and be released to herself. This matter was assigned to me at the last moment. Therefore, I was unable to confirm the existence of such a petition.

Ms. Doe only marginally presents as a person in need of a guardian. As indicated, she was very oriented and able to respond to simple questions. However, when Mr. Doe began to speak she became rude and unreasonable. She just kept repeating, "You just want me declared incompetent". She refused to join into the substance of the conversation.

Ms. Doe would not confirm or deny any psychiatric history, but Mr. Doe showed me psychotropic medication which Ms. Doe is currently taking. Mr. Doe indicated that his former wife is a registered nurse and licensed beautician. Regarding her mental illness, Mr. Doe states that she has gone as long as 15 years without symptoms and then will do something like when her car stopped and she walked 20 miles home rather than call him or a tow truck. At that time, she had sufficient money in her pocket to engage a tow truck.

Mr. Doe indicated that they had been in court only last month regarding these petitions. That at such time he was prepared to give up the fiduciary relationship as it was just too confusing. However, since that time he has placed his former wife into Leisure Village and convinced the state to increase her SSI monies sufficient to cover the cost. Given the change in circumstances, he is now prepared to continue in the fiduciary role.

I left a phone message for the petitioner, but there was no response. Therefore I have had no opportunity to speak with her and hear her side of the story. Mr. Doe alleges that petitioner moved herself, her children and grandchildren into the ward's home and essentially moved the ward out. That the ward then lived with her former husband for three years. Ms. Doe would not cooperate with an eviction and that without the Leisure Village solution, the situation was an irresolvable dilemma.

He further alleges that the daughter just wants control over her mother's money. That she will not even pay the property taxes on the home in which she resides in rent free. That if appointed fiduciary, she would not be responsible, as she has given no indication to date of such responsibility.

### **RECOMMENDATION**

Given the above, your Guardian Ad Litem recommends dismissal of the petition to terminate guardianship and conservatorship.

I hereby swear under pain of perjury that I have read the foregoing and find it to be truthful and accurate to the best of my information, knowledge and belief.

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Dated: October 22, 2021

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**1ALSO** WHEN A CONSERVATOR IS REQUESTED, **PLEASE** MAKE RECOMMENDATIONS AS TO BOND