

STATE OF MICHIGAN

IN THE PROBATE COURT FOR THE COUNTY OF WAYNE

In the Matter of the Estate of

John Doe,

An Alleged Legally  
Incapacitated Individual

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File No.: 00-000,000 GA

Hon. Terrance A. Keith

Hearing: November 1, 2018 at 9:00 a.m.

**ACCEPTANCE OF TRUST AND  
REPORT OF GUARDIAN AD LITEM**

I, Jane Q. Esquire, the duly appointed Guardian Ad Litem for John Doe and 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, do hereby accept the trust imposed upon me as Guardian Ad Litem with reference to the Petition filed in the Court by Rita Doe, who is interested in this matter as wife of the ward, seeking appointment as Guardian for John Doe and report to the Court as follows:

The Petition alleges that John Doe is 82 years old and suffered a stroke with right-sided affect on July 11, 2018. As a result of the stroke, John Doe has lost thinking ability and activities.

MCL 700.1105(a) of the Estates and Protected Individuals Code defines an incapacitated individual as a person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, not including minority, to the extent of lacking sufficient understanding or capacity to make or communicate informed decisions.

MCL 700.5305(1) defines the duties of a Guardian Ad Litem as including 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 effort to assist in the determination of the need for a Guardian, I personally visited with John Doe on Friday, October 19, 2018 at Elmwood Geriatric Center, 1881 East Grand Blvd., Detroit, Michigan, phone (313) 922-1600. Mr. Doe is confined to bed with a PEG tube inserted in his stomach for feeding. I attempted to advise Mr. Doe that a Petition for Appointment of Guardian had been filed by his wife, Rita Doe, requesting that she be appointed Guardian. I did furnish Mr. Doe with a copy of the Petition, Notice of Hearing and Notice to Alleged Incapacitated Individual on Petition to Appoint Guardian.

I explained to Mr. Doe all of his rights under Michigan law, as stated above, including the right to contest the Petition, to request limits on the Guardian's powers, to request that a particular person be appointed Guardian, to be present at the hearing and to be represented by an attorney, and that an attorney would be appointed for him if he is unable to afford legal counsel. Mr. Doe did not make any response and did not focus on me at any time. I do not believe that Mr. Doe understood anything that was being said to him at the time of our visit.

I spoke to a nurse at Elmwood Geriatric Center who indicated that Mr. Doe had suffered a cardiovascular accident, was diabetic and otherwise needed help with all activities of daily living. She indicated that Mr. Doe will occasionally speak in monosyllables, but that he otherwise is not capable of responding to questions posed to him. Mr. Doe did not object to the appointment of his wife as Guardian, and probably is not capable of making an objection.

I spoke to Rita Doe by phone on Thursday, October 18, 2018, regarding her Petition. She indicated that she and her husband did not have any children together, but that John Doe did have a daughter in South Carolina, Jane Smith. Rita Doe indicated that Jane Smith is aware of the hearing on this matter and has discussed the appointment of a Guardian for her father with Rita

Doe. Apparently Jane Smith has no objection to the appointment of Rita Doe as Guardian for John Doe.

According to Ms. Doe, the Petitioner, all assets owned by John Doe are jointly owned between the two of them as husband and wife. They do own a house on Mt. Elliott in Detroit, and very little in the way of other assets. John Doe currently receives a pension of \$580.00 per month and social security of \$800.00 per month. Since Medicaid is paying for the nursing home, to the extent that the assets are not needed for the support of Rita Doe, it does not appear that there is a need for a Conservator.

As Guardian Ad Litem, I waive the appearance of John Doe in Court at the time of the hearing on Petition for Appointment of Guardian as he is incapable of traveling to Court and to do so would endanger his health.

I believe that John Doe is a legally incapacitated individual as it is defined under the Estates and Protected Individuals Code. I recommend that Rita Doe be appointed full Guardian for John Doe and that she serve with the filing of an Acceptance of Appointment.

Respectfully submitted,

LAW OFFICE OF JANE Q. ESQUIRE

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Dated: October 26, 2018