

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.: 2023-000000-GA
Hon. David Braxton
Hearing: November 1, 2023
at 9:00 a.m.

John Q. Esquire (P00000)
Guardian Ad Litem
1000 Barrister Court
Detroit, MI 48226
(313) 123-4567

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

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 and the appointment of herself as successor. Petitioner also has a petition for removal of conservator pending in the companion Conservatorship of Jane Doe.

The petition alleges that this 58-year-old ward should have a new guardian 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 guardianship terminated as she no longer believes she needs a guardian.

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 if 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.¹ 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 FaceTime with the proposed ward. Ms. Doe was served a copy of the present petition via email at that time. Also present at the facility with the ward during the FaceTime visit 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. She was consistently able to reply appropriately to my simple questions.

The current ward objects to the petition filed by her daughter and wishes to be present for the hearing. As indicated above, Ms. Doe states that she filed a petition to terminate the guardianship. I reviewed Case Access through the court's website, and do not see a petition filed by or on behalf of the ward. Based upon the statements of Ms. Doe, she clearly objects to a guardianship at this time and therefore I recommend that an attorney be appointed on her behalf to prepare the appropriate petition to terminate guardianship and this matter be adjourned to a later date to hear both petitions at that time. Attached to this report is the completed WCPC260, Objection form.

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.

Dated: October 22, 2023

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