

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF \_\_\_\_\_ )  
 )  
 IN THE MATTER OF: )  
 )  
 \_\_\_\_\_, )  
 an alleged incapacitated individual )  
 )  
 )  
 )

▲ PROBATE COURT USE ONLY ▲  
 IN THE PROBATE COURT  
 CASE NUMBER -GC- -  
**GUARDIAN AD LITEM REPORT**

The undersigned court-appointed Guardian *ad Litem* in this guardianship and/or protective proceeding submits the following report concerning the investigation which was conducted pursuant to S.C. Code Ann. § 62-5-106.

DURING MY INVESTIGATION, I INTERVIEWED THE FOLLOWING INDIVIDUALS:

	NAME OF PERSON INTERVIEWED:	DATE OF INTERVIEW:	METHOD OF INTERVIEW (e.g. in person, by phone):
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

DURING MY INVESTIGATION, I REVIEWED THE FOLLOWING DOCUMENTS:

	TYPE OF DOCUMENT:	PROVIDER OF THE DOCUMENT:
1.	_____	_____
2.	_____	_____
3.	_____	_____

**I. REPORT ON ALLEGED INCAPACITATED INDIVIDUAL:**

- Date and place of interview(s): \_\_\_\_\_
- Was the alleged incapacitated individual (A.I.I.) oriented to the time and place?  YES  NO
- Describe the A.I.I.'s physical appearance: \_\_\_\_\_
- Who are the A.I.I.'s closest family members? \_\_\_\_\_
- Does the A.I.I. have an attorney?  YES  NO If yes, list the attorney's name, address, and phone number. \_\_\_\_\_
- Does the A.I.I. have a primary care physician or other treating medical provider?  YES  NO If yes, list the doctor's name, address, and phone number. \_\_\_\_\_

7. Please list any known medical diagnoses of the A.I.I.

\_\_\_\_\_

8. What are the current care and treatment needs of the A.I.I.?

\_\_\_\_\_

9. What are the future care and treatment needs of the A.I.I.?

\_\_\_\_\_

10. The A.I.I. has been rated or found to be: (*Check all that apply*)

- Disabled;
- Mentally ill or incompetent;
- Chemically Dependent; or
- None of the above.

11. The A.I.I. would benefit from: (*Check all that apply*)

- Further education;
- Further training;
- Therapy or treatment;
- Medical aids or equipment;
- An operation or medical procedure(s);
- Structured living arrangements;
- Psychiatric treatment; or
- None of the above.

12. Is the A.I.I. capable of communicating, with or without reasonable accommodations, his or her wishes, interests, or preferences regarding a protective proceeding or the appointment of a guardian and/or conservator?  YES  NO

If no, proceed to **Section II**.

13. What is the plan of the A.I.I. to provide care for himself or herself?

\_\_\_\_\_

14. What is the plan of the A.I.I. to (i) manage his or her property or financial affairs, (ii) provide for his or her support, and/or (iii) provide support for his or her legal dependents?

\_\_\_\_\_

15. If a protective proceeding is pending, how does the A.I.I. feel about a finding of incapacity and the issuance of the requested protective order?

\_\_\_\_\_

16. If a Petition for guardianship is pending, how does the A.I.I. feel about the proposed guardianship and the proposed guardian?

\_\_\_\_\_

17. If a Petition for conservatorship is pending, how does the A.I.I. feel about the proposed conservatorship and the proposed conservator?

\_\_\_\_\_

**II. REPORT ON THE CONDITIONS OF PRESENT AND FUTURE RESIDENCE**

18. Date and time visited: \_\_\_\_\_

19. Address (including street, city, county, state, zip): \_\_\_\_\_

20. Type of abode: \_\_\_\_\_

21. Condition:

a. Exterior: \_\_\_\_\_

b. Interior: \_\_\_\_\_

c. Utilities working: \_\_\_\_\_

d. Cleanliness: \_\_\_\_\_

e. Fire hazards: \_\_\_\_\_

f. Other (explain): \_\_\_\_\_

22. Is there a proposed change in the residential plan for the A.I.I.?  YES  NO

If yes, please explain the plan and whether you believe the plan is in the best interest of the A.I.I.

\_\_\_\_\_

**III. REPORT ON THE PROPOSED GUARDIAN:** *(If there is not a Petition for Appointment of Guardian pending, proceed to **Section IV.**)*

23. Name of the proposed guardian: \_\_\_\_\_

24. Relationship of the proposed guardian to the A.I.I.: \_\_\_\_\_

25. Is the proposed guardian currently a primary caretaker for the A.I.I.?  YES  NO

If no, who is? \_\_\_\_\_

26. What are the proposed guardian's long-term plans for the A.I.I.?

\_\_\_\_\_

27. Upon review of the proposed guardian's criminal background check, do you have any concerns regarding the ability of the proposed guardian to serve in this role?  YES  NO

If yes, please explain your concerns. \_\_\_\_\_

28. Has DSS ever investigated the proposed guardian?  YES  NO

If yes, please explain the circumstances and provide any information the DSS record revealed that you believe the Court should know.

29. Did your investigation of the proposed guardian reveal anything that you believe the Court should know?  
 YES  NO

If yes, please explain. \_\_\_\_\_

30. Do you believe the proposed guardian is an appropriate person to serve as a guardian for the A.I.I. considering (i) his or her geographic location, (ii) his or her familial or other relationship, (iii) his or her ability to carry out the duties of the guardianship, (iv) his or her potential conflict of interests, (v) the wishes of the A.I.I., and (vi) the recommendations of the relatives of the A.I.I.? Provide a detailed response.

\_\_\_\_\_

31. Did your investigation reveal any other person who should be considered to be appointed the guardian in this matter?  YES  NO

If yes, please explain, including the name, address, telephone number, age, and relationship to the A.I.I.

\_\_\_\_\_

#### IV. REPORT ON THE PROPOSED CONSERVATOR

*(If there is not a Petition for Appointment of Conservator pending, proceed to Section V.)*

32. Name of the proposed conservator: \_\_\_\_\_

33. Relationship of the proposed conservator to the A.I.I.: \_\_\_\_\_

34. Is the proposed conservator currently the primary person assisting the A.I.I. with his or her finances?

YES  NO

If no, who is? \_\_\_\_\_

35. What assets does the A.I.I. own or income does the A.I.I. receive that require a conservator?

\_\_\_\_\_

36. Upon review of the proposed conservator's criminal background check, do you have any concerns regarding the ability of the proposed conservator to serve in this role?  YES  NO

If yes, please explain your concerns. \_\_\_\_\_

37. Has DSS ever investigated the proposed conservator?  YES  NO

If yes, please explain. \_\_\_\_\_

38. Upon review of the proposed conservator's credit report, do you have any concerns regarding the ability of the proposed conservator to serve in this role?  YES  NO

If yes, please explain your concerns. \_\_\_\_\_

39. Did your investigation of the proposed conservator reveal anything that you believe the Court should know?  YES  NO

If yes, please explain. \_\_\_\_\_

40. Do you believe the proposed conservator is an appropriate person to serve as a conservator for the A.I.I. considering (i) his or her geographic location, (ii) his or her familial or other relationship, (iii) his or her ability to carry out the duties of the conservatorship, (iv) his or her potential conflict of interests, (v) the wishes of the A.I.I., and (vi) the recommendations of the relatives of the A.I.I.? Provide a detailed response.

\_\_\_\_\_

41. Did your investigation reveal any other person who should be considered to be appointed the conservator in this matter?  YES  NO

If yes, please explain, including the name, address, telephone number, age, and relationship to the A.I.I.

\_\_\_\_\_

**V. REPORT ON PETITION FOR PROTECTIVE ORDER AND/OR REQUEST TO RATIFY HEALTH CARE POA, AND RATIFICATION OF POA/POAs**

*If this is a Protective Proceeding in which you are **NOT** recommending the appointment of a guardian or conservator, please complete Section VI and the Addendum Concerning Petition for Protective Order, which is attached to this Report (Page 9). If you are recommending the appointment of a guardian and conservator, proceed to Section VI but do not complete the Addendum.*

**VI. CONCLUSIONS AND ADDITIONAL COMMENTS**

42. Do you believe the A.I.I. is an incapacitated person pursuant to S.C. Code Ann. § 62-5-101(13)?

YES  NO

43. Do you believe the A.I.I. needs a guardian?

YES  NO

44. Do you believe there is a less restrictive alternative to the guardianship?

YES  NO

If yes, please explain. \_\_\_\_\_

45. Do you believe there should be limitations placed on the guardianship?

YES  NO

If yes, please explain. \_\_\_\_\_

46. Do you believe the A.I.I. needs a conservator?

YES  NO

47. Do you believe there is a less restrictive alternative to the conservatorship?  YES  NO

If yes, please explain. \_\_\_\_\_

48. Do you believe there should be limitations placed on the conservatorship?  YES  NO

If yes, please explain. \_\_\_\_\_

49. Pursuant to S.C. Code Ann. §§ 62-5-304A(A) and 62-5-407, as Guardian *ad Litem*, I believe that the A.I.I. should **retain** the following rights and powers: (*Check the rights and powers you recommend the A.I.I. should retain.*)

- a.  Marry or divorce;
- b.  Reside in a place of the A.I.I.'s choosing, and consent or withhold consent to any residential or custodial placement;
- c.  Travel without the consent of a guardian;
- d.  Give, withhold, or withdraw consent and make other informed decisions relative to medical, mental, or physical examinations, care, treatment, and therapies;
- e.  Make end-of-life decisions including, but not limited to, a "do not resuscitate" order or the application of any medical procedures intended solely to sustain life and consent or withhold consent to artificial nutrition and hydration;
- f.  Consent or refuse to consent to hospitalization and discharge or transfer to a residential setting, group home, or other facility for additional care and treatment;
- g.  Authorize disclosure of confidential information;
- h.  Operate a vehicle;
- i.  Vote;
- j.  Be employed without the consent of a guardian;
- k.  Consent to or refuse educational services;
- l.  Participate in social, religious, or political activities;
- m.  Buy, sell, or transfer real or personal property or transact business of any type including, but not limited to, those powers conferred upon a conservator under § 62-5-422;
- n.  Make, modify, or terminate contracts;
- o.  Bring or defend any action at law or equity; and
- p.  Other: \_\_\_\_\_

If necessary, please explain these recommendations. If additional space is needed, please use additional sheets and attach. \_\_\_\_\_

50. Pursuant S.C. Code Ann. §§ 62-5-304A(B) and 62-5-407(B), as Guardian *ad Litem*, I believe that a guardian or conservator's rights and powers shall include, but not be limited to: (*Check the rights and powers you recommend be **vested with a guardian or conservator.***)

- a.  Determine the place where the ward shall reside and consent or withhold consent to any residential or custodial placement;
- b.  Consent to travel;
- c.  Consent or refuse to consent to visitation with family, friends, and others;
- d.  Give, withhold, or withdraw consent and make other informed decisions relative to medical mental, or physical examinations, care, treatment, and therapies;
- e.  Make end-of-life decisions including, but not limited to, a "do not resuscitate" order or the application of any medical procedures intended solely to sustain life and consent or withhold consent to artificial nutrition and hydration;
- f.  Consent or refuse to consent to hospitalization and discharge or transfer to a residential setting, group home, or other facility for additional care and treatment;
- g.  Authorize disclosure of confidential information;
- h.  Consent to employment;
- i.  Consent to or refuse educational services;
- j.  Buy, sell, or transfer real or personal property or transact business of any type including, but not limited to, those powers conferred upon a conservator under § 62-5-422;
- k.  Make, modify, or terminate contracts; and
- l.  Bring or defend any action at law or equity.

If necessary, please explain these recommendations. If additional space is needed, please use additional sheets and attach. \_\_\_\_\_

51. Prior to your appointment, did you know the A.I.I.?  YES  NO  
If yes, please explain. \_\_\_\_\_

52. Prior to your appointment, did you know the person(s) seeking appointment as guardian and/or conservator?  YES  NO  
If yes, please explain. \_\_\_\_\_

53. Prior to your appointment, did you or do you now have a personal interest in these proceedings?  YES  NO  
If yes, please explain. \_\_\_\_\_

54. Do you believe there should be a formal hearing on this matter even if all parties are in agreement?

If yes, please explain. \_\_\_\_\_

YES

NO

55. Do you have any other recommendations relevant to this matter?

YES

NO

If yes, please explain. \_\_\_\_\_

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Firm Name (*if applicable*): \_\_\_\_\_

Bar Number (*if applicable*): \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_



**ADDENDUM CONCERNING PETITION FOR PROTECTIVE ORDER AND/OR REQUEST  
TO RATIFY HEALTH CARE POWER OF ATTORNEY**

COMPLETE THIS ADDENDUM ONLY IF IT APPLIES TO THE UNDERLYING PETITION. IF NOT, PLEASE DO NOT FILE THIS PAGE WITH YOUR REPORT.

**REPORT ON PETITION FOR PROTECTIVE ORDER AND/OR REQUEST TO RATIFY HEALTH CARE POA, AND RATIFICATION OF POA/POAs:**

56. What types(s) of planning documents does the A.I.I. have (e.g., power of attorney, will, trust)? \_\_\_\_\_

57. Name of the Petitioner: \_\_\_\_\_

58. Is the Petitioner a named agent or alternate agent in the A.I.I.'s power(s) of attorney (POA(s))?  YES  NO

If yes, which document or documents? \_\_\_\_\_

If no, what is the relationship of the Petitioner to the A.I.I.? \_\_\_\_\_

59. Have you been provided with copies of and reviewed the A.I.I.'s POA(s)?  YES  NO

60. Do you believe the POA or POAs of the A.I.I. are sufficient to address the needs of the A.I.I., based on your investigation?  YES  NO

If no, please explain the concerns. \_\_\_\_\_

61. Do either you or the A.I.I. have any concerns about or objection to the individual named as agent in the A.I.I.'s POA or POAs serving in that role, if the court ratifies the documents?  YES  NO

If yes, please explain the concerns: \_\_\_\_\_

62. If you have concerns, would the A.I.I. be better served by the appointment of a guardian and/or conservator rather than ratification of the document(s)?  YES  NO

If yes, please explain: \_\_\_\_\_

63. Do you recommend that the Court make a finding of incapacity and ratify the POA(s)?  YES  NO  
Please explain. \_\_\_\_\_

64. If you recommend the removal of any rights as part of the protective order, please indicate in Section VI which rights you believe should be removed and/or vested in the agent operating under the POA.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Firm Name (if applicable): \_\_\_\_\_

Bar Number (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_