

CHESAPEAKE CIRCUIT COURT

First Judicial Circuit of Virginia



GUARDIANS AD LITEM

FOR

INCAPACITATED ADULTS PROCEDURES

July 1, 2011

Guardians ad Litem for Incapacitated Adults Procedures

Petitions / Wednesday Motions Docket Hearing:

- Petitions requiring an appointment of a Guardian ad Litem (“GAL”) and a GAL report are to be filed at least three (3) weeks prior to the anticipated hearing date.
- The case should be placed for hearing on the 9:00 a.m. Wednesday Motions docket by scheduling the hearing online at: <http://www.cityofchesapeake.net/civilmotions>, after consulting with the appointed GAL to coordinate available dates.
- If the case necessitates a shorter time frame than three (3) weeks, please refer to the *Guidelines for Emergency Appointments of Guardians ad Litem for Incapacitated Adults Through Duty Judge*, discussed *infra* on page 3.

Guardian ad Litem Rotation List:

- Guardians ad Litem for adults will be chosen by rotation from a list maintained by judges’ chambers. Attorneys who are listed on the Supreme Court of Virginia’s list of Qualified Guardians ad Litem for Adults in Circuit 1 may request to be added to the Court’s rotation list by completing the *Application for Addition to the Guardians ad Litem for Adults Rotation List* and submitting same to the Chief Judge of this Circuit.

Order Appointing GAL:

- Upon filing a Petition requiring appointment of a GAL and Report, the Clerk’s Office will prepare the form GAL Order and send the order to judges’ chambers. The GAL will be chosen by rotation from the rotation list and the order will be entered by a judge. If a GAL with a specialized expertise is needed, the petitioning attorney shall fax a letter to the duty judge requesting appointment of a GAL with specialized expertise. The final determination is made by the Court.
- **Attorneys are expected to accept GAL appointments in all cases;** however, if there is a conflict or an attorney is unable to accept the appointment, the attorney must fax a letter to the duty judge and to all counsel of record requesting a phone conference on the issue. The Court will make the final determination.
- The order appointing a GAL should be entered within three (3) days of filing.
 - After entry of the order, it will be the **petitioner’s attorney’s responsibility to notify the GAL** of his or her appointment to the case.
 - The petitioner’s attorney is responsible for forwarding copies of the Petition and related documents to the GAL.

GAL Reports:

- The GAL should file the GAL Report with the Clerk’s Office at least **five (5) business days** prior to the date of the hearing.

**Guidelines for Emergency Appointment of Guardians ad Litem
for Incapacitated Adults Through Duty Judge**

In most cases, three (3) days is a sufficient turn-around time from the filing of a petition until the Guardian ad Litem (“GAL”) order is entered by the judge.

In a limited number of cases, it may be essential for a GAL to be appointed that day and the attorney may seek the signing of a GAL order through the duty judge. The petitioner’s attorney should include a letter to the duty judge specifying the circumstances of the case that make emergency appointment of a GAL necessary.

Under the following circumstances it may be appropriate to request that the duty judge enter an emergency GAL order.

1. The petitioning attorney reasonably believes that the Respondent’s life or health is threatened, e.g.:
 - The Respondent has left, may leave, or be removed from a care facility or a home;
 - The Respondent’s living conditions are dangerous;
 - Consent for a medical procedure or surgery is needed (being in a hospital, *per se*, is not necessarily an emergency situation).

2. The petitioning attorney reasonably believes the Respondent is being financially exploited, e.g.:
 - Repeated payments for the same services;
 - Participation in telemarketing sweepstakes and ventures;
 - Inappropriate transactions with family members.

Please do not bring non-emergency matters to the Duty Judge.