

**IN THE CHANCERY COURT FOR SUMNER COUNTY, TENNESSEE
AT GALLATIN**

IN RE: _____
RESPONDENT

CASE NO. _____

**PETITION FOR APPOINTMENT OF CONSERVATOR
T.C.A. § 34-3-104**

**TO THE HONORABLE CHANCELLOR OF THE CHANCERY COURT OF SUMNER
COUNTY, TENNESSEE:**

Comes now the Petitioner, [name of Petitioner], and files this petition for the appointment of a conservator of [name of Respondent], and would show to the Court as follows:

1. The name, date of birth, residence and mailing address of the Respondent is as follows:

Name: _____

Date of Birth: _____

Residence: _____

Mailing address: _____

2. Upon information and belief, the Petitioner avers that the Respondent is a person who by reason of advanced age and/or mental infirmity is unable to manage his/her own affairs. Specifically, [include case specific issues] more particularly described in the sworn medical examination report of his/her treating physician which is attached hereto.

3. The name, age, residence and mailing address, relationship of the Petitioner, and statement of any felony or misdemeanor convictions of the Petitioner, if any, are as follows:

Name: _____

Age: _____

Residence: _____

Mailing address: _____

Relationship to respondent: _____

A statement of any felony or misdemeanor convictions of the Petitioner, if any:

4. The Petitioner is seeking to have himself/herself appointed conservator of the Respondent. (In the event that the proposed conservator and the Petitioner are not the same person, then the name, age, mailing address, relationship to the Respondent, and statement of any felony or misdemeanor convictions, if any, should be included in this paragraph. Also, the proposed conservator should sign a statement acknowledging that he or she is aware of the petition being filed and his/her willingness to serve as conservator.)

5. The name, mailing address, and relationship of the closest relative(s) of the Respondent are as follows:

Name: _____

Mailing address: _____

Relationship to Respondent: _____

Or state that the Respondent has no living spouse or other relative of equal degree under the Tennessee law of intestate succession. (If one of the children of the Respondent is deceased, and has surviving children, then the surviving children, even though minors, should be listed since they are included in the definition of "closest relatives of the Respondent" according to the Tennessee law of intestate succession.)

6. Describe the current residence of the proposed ward, the age of the ward, and what events or physical conditions have precipitated the filing of this Petition.

7. The Respondent's treating physician is [doctor's name and location] (or where appropriate a psychologist or senior psychological examiner.) A copy of [doctor's, psychologist's, or senior psychological examiner's name] sworn medical examination report is attached to this petition (or will be filed before the hearing) and incorporated herein by reference. (If the Respondent has not been examined within ninety (90) days prior to the filing of the petition, or if he/she cannot be examined or refuses to be voluntarily examined, the Court shall order the Respondent to submit to an examination by a physician, who is identified in the petition as the Respondent's physician, or where appropriate, a psychologist selected by the Court.)

8. A list of the assets of the Respondent is as follows: These may include, but are not limited to, any real property, personal property, vehicles, bank accounts, and investments.

9. A list of the source, amount, and frequency of Respondent's income is as follows: These may include, but are not limited to, any social security, pension or retirement payments, annuity payments, disability payments, rental income, and interest on investments or dividends.

10. The list of the usual monthly expenses of the Respondent are as follows: These may include, but are not limited to, mortgage or rent payments, costs of care at nursing home, utility bills, groceries, taxes and insurance, clothing and incidentals, or past due medical bills.

11. Describe how the income and expenditures have been handled up to this point, either by the Respondent or someone acting on their behalf, and why this arrangement is no longer feasible.

12. Describe the specific rights being requested to be assumed by Petitioner, including control of assets and decision making capabilities and the specific powers to be retained by the person with the disability. Also included should be information regarding the living arrangements of the Respondent and any changes to that as requested, any changes in the current investment selections, and the proposed disposal of any assets and the reason therefore. A separate property management plan should be submitted for approval unless specifically waived by the Court.

WHEREFORE, PREMISES CONSIDERED, PETITIONER PRAYS:

1. That proper notice and process be served upon the Respondent, [Respondent's name], by the guardian ad litem in accordance with T. C. A. §34-1-108, and that notice by certified (check T.C.A. on this) mail with return receipt requested be given to the closest relatives and upon the person or institution, if any, having care and custody of the Respondent or with whom the respondent is living in accordance with T. C. A. §34-1-106;
2. That this Court appoint a Guardian ad Litem to investigate the facts and report to the court as instructed by the statute and any order of the court; pursuant to T.C.A. § 34-1-107. The Guardian ad Litem serves as an agent of the court, and is not an advocate for the respondent or any other party;
3. The Petitioner, pursuant to T.C.A. § 34-3-104 (10), requests a Guardian ad Litem with specific experience or expertise in this matter as it is warranted by the circumstances.
4. That at a hearing of this cause, the Court appoint the Petitioner as conservator of the person and property of the Respondent, [Respondent's name], upon furnishing bond in the amount of \$ _____; pursuant to T. C. A. § 34-1-105;
5. That this Court approve the property management plan and authorize the Petitioner to expend such funds from the Respondent's assets and income as may be appropriate under the circumstances; pursuant to T. C. A. §§ 34-1-110 and 34-1-115;
6. That the Petitioner have such other and further general relief to which he may be entitled.

[NAME OF PROPOSED CONSERVATOR]

ATTORNEY INFORMATION

**STATE OF TENNESSEE
COUNTY OF SUMNER**

I, _____, state under oath that the facts set out in the foregoing petition are true to the best of my knowledge, information and belief.

[NAME OF PROPOSED CONSERVATOR]

SWORN TO AND SUBSCRIBED before me this the _____ day of _____, 20____.

NOTARY PUBLIC

My commission expires:

CERTIFICATE OF SERVICE

[YOU MUST MAIL A COPY OF THIS ENTIRE DOCUMENT TO ALL INTERESTED PARTIES AND COMPLETE THIS CERTIFICATE VERIFYING THE DATE MAILED AND PARTIES IT WAS MAILED TO.]

I hereby certify that a true and exact copy of the foregoing *Inventory* has been served by U.S. Mail, postage prepaid, upon the interested parties listed below.

(SIGNATURE)

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[ADD ADDITIONAL PAGE(S) FOR LISTING OF INTERESTED PARTIES, IF NECESSARY]

**IN THE CHANCERY COURT FOR SUMNER COUNTY, TENNESSEE
AT GALLATIN**

IN RE: _____ **CASE NO.** _____
MINOR / RESPONDENT

ORDER APPOINTING GUARDIAN AD LITEM

This cause came on to be heard upon the sworn petition of _____, Petitioner, filed herein for the appointment of a conservator of [NAME OF RESPONDENT]; upon affidavit of physician filed in this cause; upon statements of counsel representing the Petitioner; and upon the entire record in this cause, From all of which it appearing to the Court that a guardian ad litem should be appointed as an agent of the Court to impartially investigate the facts and make a report and recommendation to the Court,

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. That _____, a lawyer licensed to practice in the State of Tennessee, be and is hereby appointed guardian ad litem in this cause;
2. That the said guardian ad litem shall investigate the facts and report to the Court as instructed by statute (T.C.A §34-1-107), as well as make recommendations to the Court as to whether a fiduciary should be appointed for the respondent, whether the proposed fiduciary is the appropriate person to be appointed;
3. That the said guardian ad litem shall investigate the physical and mental capabilities of the respondent and shall include:
 - (i) An in person interview with the respondent;
 - (ii) A review of the sworn report of the report of the physician, psychologist, or senior psychological examiner to verify that the sworn statement contains; (a) a detailed description of the respondent's physical or mental conditions or both that may render the respondent a person with a disability; and (b) a detailed description of how the respondent's physical or mental conditions or both may impair the respondent's ability to function normally.
4. That the said guardian ad litem shall investigate;

- (i) The nature and extent of the respondent's property;
- (ii) The financial capabilities and integrity of the proposed fiduciary. In evaluating the financial capabilities and integrity of the proposed fiduciary, the guardian ad litem may take such actions as directed by the Court and as the guardian ad litem deems necessary, which may include but are not limited to:
 - (a) Obtaining and reviewing the proposed fiduciary's credit report;
 - (b) Inquiring into whether and to what extent the proposed fiduciary has previous experience in managing assets of the same or similar type and value of the respondent's assets;
 - (c) Inquiring into how the proposed fiduciary plans to manage the respondent's assets;
 - (d) Inquiring into if the proposed fiduciary has previously borrowed funds from the respondent or received any financial assistance or benefits from the respondent; and
 - (e) Interview any persons with knowledge and review any documents pertinent to the financial capabilities and integrity of the proposed fiduciary.

5. That the said guardian ad litem be and is hereby granted access to the records of [NAME OF RESPONDENT] in any financial institution and to review any medical records pertaining to [NAME OF RESPONDENT]; and that the guardian ad litem shall be permitted to discuss the Respondent's physical and mental condition with any physician, psychologist, or other health care provider who may have pertinent information;

6. That the guardian ad litem owes a duty to the Court to impartially investigate to determine the facts and report the facts to the Court. The guardian ad litem is not an advocate for the Respondent; and

7. That the guardian ad litem shall make a written report to the Court at least three (3) days prior to the date set for hearing on the matter. The report shall specifically state whether the respondent wants to contest (i) the need for a fiduciary, (ii) merely the person to be the fiduciary, or (iii) neither. If the respondent wants to contest any portion of the proceeding and the guardian ad litem's opinion is that there should be a fiduciary appointed, the guardian ad litem shall identify the adversary counsel or indicate there is none and request the appointment of an attorney ad litem. If the guardian ad litem recommends that a fiduciary should be appointed, he/she shall recommend whether the proposed fiduciary should be appointed or if someone else, identified by the guardian ad litem.

Enter this the ____ of _____, 20____.

CHANCELLOR

APPROVED:

Attorney for Petitioner

CERTIFICATE OF SERVICE

[YOU MUST MAIL A COPY OF THIS ENTIRE DOCUMENT TO ALL INTERESTED PARTIES AND COMPLETE THIS CERTIFICATE VERIFYING THE DATE MAILED AND PARTIES IT WAS MAILED TO.]

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**IN THE CHANCERY COURT IN SUMMER COUNTY, TENNESSEE
AT GALLATIN**

IN RE: _____ **CASE NO.** _____
MINOR / RESPONDENT

This order, without letters of conservatorship, is not effective evidence of conservatorship authority. (T.C.A. § 34-1-109 (a).)

**ORDER APPOINTING CONSERVATOR
T.C.A. §§ 34-3-107 & 34-1-129**

This cause came on to be heard upon the sworn Petition of John Smith, the Report of the Guardian Ad Litem, the medical report of (Name of Physician or Psychologist or Senior Psychological Examiner), the sworn testimony of the Petitioner and the Guardian Ad Litem on (Date) and representations of counsel, the Court finds the following:

- A. The Respondent has been properly served.
- B. All persons entitled to notice of this proceeding have been properly notified.
- C. The Respondent is a resident of Sumner County, Tennessee.
- D. The Guardian Ad Litem has filed a report recommending appointment of a Fiduciary for the person and property of the respondent; appointment of the proposed Fiduciary.
- E. The Respondent is a disabled person; owns property requiring supervision; and should have a conservator appointed.
- F. The proposed Fiduciary is a fit and proper person to be named conservator of the person and property of the Respondent.
- G. The property management plan proposed by the Fiduciary is acceptable and should be adopted.

(Optional: Add the following if the Court determines bond should be waived.)
H. It is in the best interests of the Respondent that bond for the Fiduciary be waived because (state the reason). (See T.C.A. § 34-1-105.)

Based on these findings, it is,

ORDERED, ADJUDGED AND DECREED:

1. On making the required bond, John Smith is appointed Conservator of the person and property of [NAME OF RESPONDENT], the Respondent, and Letters of Conservatorship shall be issued to evidence this appointment by the Clerk of the Court.

2. Bond is set in the penal sum of \$_____ (or bond is waived.)

3. The rights of the Respondent to be transferred to the Conservator are as follows:

(Enumerate the powers removed from the respondent and those to be vested in the Conservator. To the extent not specifically removed, the respondent shall retain and shall exercise all of the powers of a person without a disability.) T.C.A. §34-3-107

4. The Fiduciary is authorized to invest the Respondent's assets as described in and pay the expenses enumerated in the property management plan which is incorporated by reference herein.

5. The Fiduciary shall not spend the Respondent's assets or income for any purpose not enumerated in the property management plan, shall not sell any asset of the Respondent without prior Court approval and shall not change the investment of the Respondent's assets without prior Court approval except to the extent described in the approved property management plan.

6. The fee of the Guardian Ad Litem is set at \$_____.

7. The fee of the attorney(s) for the Petitioner is set at \$_____.

8. The fees of the Guardian Ad Litem and attorney(s) together with the cost of these proceedings shall be paid from the assets of the Respondent.

9. The costs of this cause should be taxed to the estate for which execution may issue if necessary.

(Add additional provisions as may be needed to deal with specific circumstances of the Respondent.)

Entered on this the _____ day of _____, 20____.

LOUIS W. OLIVER, III, CHANCELLOR
EIGHTEENTH JUDICIAL DISTRICT

APPROVED FOR ENTRY:

Attorney Name

Attorney for the Petitioner

1000 Main Street

Gallatin, TN 37066

Guardian Ad Litem

Address

Phone Number

CERTIFICATE OF SERVICE

[YOU MUST MAIL A COPY OF THIS ENTIRE DOCUMENT TO ALL INTERESTED PARTIES AND COMPLETE THIS CERTIFICATE VERIFYING THE DATE MAILED AND PARTIES IT WAS MAILED TO.]

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