

IN THE MATTER OF: \_\_\_\_\_ )  
FIRST & LAST NAME \_\_\_\_\_ )

*Guardian ad Litem Report*

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**NOW COMES the duly appointed and undersigned Guardian ad Litem for the Respondent and makes the following report to the Court:**

### **BACKGROUND**

1. I, GAL'S NAME, was duly appointed as Guardian ad Litem ("GAL") under N.C.G.S. § 35A-1107 for FIRST AND LAST NAME on DATE OF APPOINTMENT.
2. RESPONDENT'S FIRST AND LAST NAME ("Respondent") is AGE, SEX, AND ADDRESS OF RESPONDENT.
3. On DATE OF FILING, PETITIONER'S FIRST AND LAST NAME ("Petitioner") filed a petition for adjudication of incompetence and application for appointment of a guardian under N.C.G.S. § 35A-1105, -1210. The Petitioner is seeking to have NAME(S) OF POTENTIAL GUARDIAN(S) appointed as GUARDIAN OF THE PERSON / GUARDIAN OF THE ESTATE / GENERAL GUARDIAN for the Respondent.

### **INVESTIGATION SUMMARY**

4. DOCUMENT SUMMARY: Summarize the documents you reviewed as GAL, including medical records, psychological evaluations, law enforcement records, financial statements, and social-services files. Highlight the most important information for the court and detail what conclusions you drew—and want the court to draw—from these documents.
5. INTERVIEW SUMMARY: Summarize the people you interviewed as GAL, including next of kin, friends, neighbors, service providers, and other community members. Describe the key takeaways from those conversations. What did those conversations tell you about your client, your client's competency, and your client's wishes? What do those conversations suggest is in your client's best interests?
6. RESPONDENT-INTERVIEW SUMMARY: Summarize what you concluded from conversations with your client. Share your client's wishes with the court. If you were unable to ascertain your client's wishes, explain why. What should the court know about your client that might not be learned through other evidence?
7. PROPOSED-GUARDIAN SUMMARY: Describe relevant details about the proposed guardian's life, personality, and background. Inform the court of the results of any background checks completed and consider attaching the results to your report. Note any strengths you see in the proposed guardian or any concerns or hesitations you have about their appointment. Inform the court what the proposed guardian and your client's history or relationship has been like.
  - a. If you or your client would like the court to consider a different guardianship arrangement than the plan proposed by the petitioner, detail that here. Explain whom you are proposing and why it is in the client's best interests.

### **APPLICABLE LAW**

For items in this section, include only relevant portions. After selecting which citations are applicable, consider adding a brief explanation of why you think it applies to the immediate case. For example, consider summarizing why you think the respondent is competent and the case should be dismissed, or highlight the urgent circumstances that may necessitate an interim-guardian appointment.

8. An incompetent adult is "[a]n adult or emancipated minor who lacks sufficient capacity to manage the adult's own affairs or to make or communicate important decisions concerning the adult's person, family, or property whether the lack of capacity is due to mental illness, intellectual disability, epilepsy, cerebral palsy, autism, inebriety, senility, disease, injury, or similar cause or condition." N.C.G.S. § 35A-1101(7).
9. A clerk is required to "dismiss the proceeding if the finder of fact, whether the clerk or a jury, does not find the respondent to be incompetent." N.C.G.S. § 35A-1112(c).
10. If the "finder of fact . . . finds by clear, cogent, and convincing evidence that the respondent is incompetent, the clerk shall enter an order adjudicating the respondent incompetent. The clerk may include in the order findings on the nature and extent

of the ward's incompetence." N.C.G.S. § 35A-1112(d). In doing so, "the clerk shall either appoint a guardian . . . or, for good cause shown, transfer the proceeding for the appointment of a guardian to any county identified in G.S. 35A-1103." N.C.G.S. § 35A-1112(e).

11. An interim guardian is a guardian "appointed prior to adjudication of incompetence and for a temporary period, for a person who requires immediate intervention to address conditions that constitute imminent or foreseeable risk of harm to the person's physical well-being or to the person's estate." N.C.G.S. § 35A-1101(11).
12. If the clerk "finds that there is reasonable cause to believe that the respondent is incompetent, and: . . . [t]hat the respondent is in a condition that constitutes or reasonably appears to constitute an imminent or foreseeable risk of harm to his physical well-being, and that there is immediate need for a guardian to provide consent or take other steps to protect the respondent[;] or . . . [t]hat there is or reasonably appears to be an imminent or foreseeable risk of harm to the respondent's estate, and that immediate intervention is required in order to protect the respondent's interest, the clerk shall immediately enter an order appointing an interim guardian." N.C.G.S. § 35A-1114(d).
13. A multidisciplinary evaluation is "[a]n evaluation that contains current medical, psychological, and social work evaluations as directed by the clerk and that may include current evaluations by professionals in other disciplines, including without limitation education, vocational rehabilitation, occupational therapy, vocational therapy, psychiatry, speech-and-hearing, and communications disorders. . . . The evaluation shall set forth the nature and extent of the disability and recommend a guardianship plan and program." N.C.G.S. § 35A-1101(14).
14. A multidisciplinary evaluation is considered current if it is not more than a year old at the time it is presented to the court. N.C.G.S. § 35A-1101(14). "If a current multidisciplinary evaluation is not available and the clerk determines that one is necessary, the clerk, on his own motion or the motion of any party, may order that such an evaluation be performed pursuant to G.S. 35A-1111." N.C.G.S. § 35A-1212(b).
15. The "clerk may require a report prepared by a designated agency to evaluate the suitability of a prospective guardian, to include a recommendation as to an appropriate party or parties to serve as guardian, or both, based on the nature and extent of the needed guardianship and the ward's assets, liabilities, and needs." N.C.G.S. § 35A-1212(c).

**Based on the above report, the Guardian ad Litem makes the following recommendations to the Court:**

For the following recommendations, select only those that are relevant.

ADJUDICATE INCOMPETENT AND APPOINT GUARDIAN:

- I. That the Court find by clear, cogent, and convincing evidence that the Respondent is an incompetent adult under N.C.G.S. § 35A-1101(7).
- II. That the Court adjudicate the Respondent as an incompetent adult using the authority granted to the Court under N.C.G.S. § 35A-1112(d).
- III. That the Court appoint NAME OF GUARDIAN(S) as the GUARDIAN OF THE PERSON / GUARDIAN OF THE ESTATE / GENERAL GUARDIAN of the Respondent under N.C.G.S. § 35A-1120.

NOT ADJUDICATE AND DISMISS PETITION:

- I. That the Court not find the Respondent incompetent and dismiss the petition under N.C.G.S. § 35A-1112(c).

APPOINT INTERIM GUARDIAN AND/OR ORDER MULTIDISCIPLINARY EVALUATION:

- I. That the Court find that there is reasonable cause to believe that the Respondent is incompetent and that (1) the Respondent is in a condition that constitutes or reasonably appears to constitute an imminent or foreseeable risk of harm to the Respondent's physical well-being and that requires immediate intervention, AND/OR (2) there is or reasonably appears to be an imminent or foreseeable risk of harm to the Respondent's estate that requires immediate intervention in order to protect the Respondent's interests, AND (3) the Respondent needs an interim guardian to be appointed immediately to intervene on the Respondent's behalf before the adjudication hearing.
- II. That the Court appoint an interim guardian under N.C.G.S. § 35A-1114 and specify the interim guardian's powers and duties.
- III. That the Court, using its authority under N.C.G.S. § 35A-1212(b), order a multidisciplinary evaluation of the Respondent be completed, to assist in determining at a later date whether the Respondent is incompetent.
- IV. That the Court urge the interim guardian to consider the Respondent's wishes on matters, as appropriate in the judgment of the interim guardian.

Submitted, this the \_\_\_\_ of \_\_\_\_\_, 20\_\_.

GAL'S NAME, ATTORNEY  
GUARDIAN AD LITEM FOR THE RESPONDENT  
GAL ADDRESS AND CONTACT INFORMATION