

Policy of the Suffolk Division of the Probate and Family Court
Concerning the Handling of Certain Guardianship Cases

When a petition for guardianship of an adult

- a. is filed for a person in a hospital or a nursing home, or
- b. is filed by a state agency, or
- c. prays for antipsychotic medication authority, or
- d. prays for extraordinary medical treatment authority, or
- e. prays for nursing home placement authority,

the following procedure shall be followed:

If there is a Motion for Temporary Guardianship

1. Upon filing, the case shall be assigned:
 - a. A docket number if a docket number has not already been assigned, and
 - b. A hearing date for the motion. The hearing date shall be the first Tuesday after the date of filing except for requests filed on Monday or Friday, in which case, the hearing date shall be the second Tuesday after the date of filing.
2. If the petition prays for antipsychotic medication authority, extraordinary medical treatment authority, or nursing home placement authority, the file shall be sent directly to the judicial secretary for the judge to whom the case is assigned by docket number, along with a note indicating the assigned hearing date.
3. If the appointment of an attorney for the ward is required,
 - a. Because the petitioner's request is for antipsychotic medication or extraordinary medical treatment, or
 - b. Because the petitioner's request is for nursing home placement authority and the assigned judge always assigns counsel in those cases, or
 - c. Because the petitioner's request is for nursing home placement authority and the assigned judge has reviewed the file and instructed the secretary to appoint counsel,
4. Then the judicial secretary shall phone prospective counsel on a next-on-the-list basis and locate an attorney who can take the case and appear on the designated hearing date. The judicial secretary shall type up the appointment and hand deliver it, with any motion for appointment of counsel, to the judge assigned by docket number for signature. If that judge is not available, the secretary may have any judge sign the appointment.
5. If the judicial secretary for the judge to whom the case is assigned by docket number is not available, another judicial secretary shall make the required calls.

6. The secretary shall call the petitioner's attorney or the petitioner if *pro se* and inform him or her of the name and phone number of the attorney appointed.
7. The file, along with the appointment, shall then be returned to the Registry.
8. If the assigned judge determines that advance appointment of counsel is not required, the file shall be returned to the Registry with a note from the judicial secretary that advance appointment of counsel is not required.
9. On the day of the hearing of the motion for temporary guardianship, the attorneys need to let the Assistant Judicial Case Manager know whether the case is uncontested or contested and they need to understand that the case may have been added to an already busy list and that the factors that go into how an Assistant Judicial Case Manager determines the order of cases called are beyond quantifying.
10. Should it be necessary to schedule more hearing time than is available at the initial Tuesday hearing, the case shall revert to the individual calendar system and be scheduled for further hearing or a pre-trial conference before the assigned judge on one of that judge's guardianship Tuesdays on an expedited basis. Any review should be scheduled before the assigned judge on a guardianship Tuesday for that judge.
11. In the event of an extreme emergency, a motion for temporary guardianship may be sent to the motion session courtroom upon approval and initialing of the Judicial Case Manager, an Assistant Judicial Case Manager, or the First Assistant Register.

Permanent Guardianship

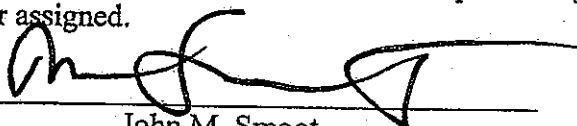
1. When there is no motion for temporary guardianship, any case which may require the appointment of an attorney (e.g., antipsychotic medication, extraordinary medical treatment, nursing home placement) shall be sent directly to the judicial secretary for the judge to whom the case is assigned after filing and docketing.
2. The judicial secretary, after review by the judge if necessary, shall type up the appointment and hand deliver it, with any motion for appointment of counsel, to the assigned judge for signature. If the assigned judge is not available, the secretary may have any judge sign the appointment.
3. If the judicial secretary for the judge to whom the case is assigned is not available, another judicial secretary shall make the required calls.
4. The secretary shall call the petitioner's attorney or the petitioner if *pro se* and inform him or her of the name and phone number of the attorney appointed.
5. If there has been no motion for temporary guardianship, the return day has passed and a proper return of service has been filed,

- a. If no appearance against the petition has been timely filed, the case shall be scheduled for an uncontested hearing on a Tuesday within 14 days of the return date. If the case is contested at what was scheduled as an uncontested hearing, the hearing shall be treated as a status conference, and the case shall be scheduled for a pre-trial conference on a guardianship Tuesday of the judge assigned to the case by docket number.
 - b. If an appearance against the petition has been filed, the case shall be scheduled for a status conference on a Tuesday within 30 days of the return date on a guardianship Tuesday of the judge assigned to the case by docket number.
6. Petitions for conservatorship that coincide with petitions for guardianship shall be scheduled for hearing with the guardianship case.

Treatment Reviews

7. Due to cutbacks in personnel, all administrative reviews of treatment plans in *Rogers* cases are suspended immediately. All interested parties must appear in court in person in the guardianship session on the review date.
8. However, if the case is uncontested, the attorney for the protected person need not appear if:
- a. the petitioner is represented by counsel; and
 - b. the attorney for the protected person has met with the protected person; and
 - c. prior to the hearing, the attorney has provided the petitioner with a motion seeking waiver of the protected person's appearance; and
 - d. prior to the hearing, the attorney has provided the petitioner with his or her written representations and assent.
9. Similarly, if the case is uncontested, the *Rogers* monitor need not appear if:
- a. the petitioner is represented by counsel; and
 - b. the monitor has met with the ward within 45 days of the review date; and
 - c. prior to the hearing, the monitor has provided the petitioner with a monitor's report.
11. The petitioner may confirm with the Assistant Judicial Case Manager that a packet is complete and then leave the complete uncontested packet with the Assistant Judicial Case Manager to be dealt with administratively at the end of the day.
12. Orders and decrees entered in the guardianship session shall be distributed for processing to the judicial secretaries by docket number assigned.

November 5, 2009



John M. Smoot
First Justice

Corrected GUARDIANSHIP BLOCK DAYS

Prepared November 5, 2009

DATE	DAY	JUDGE
2009-11-04	Wed	JMS
2009-11-10	Tue	JMS
2009-11-17	Tue	ECL
2009-11-24	Tue	JAS
2009-12-01	Tue	JPA
2009-12-08	Tue	JMS
2009-12-15	Tue	ECL
2009-12-22	Tue	JAS
2009-12-29	Tue	JPA
2010-01-05	Tue	JMS
2010-01-12	Tue	ECL
2010-01-19	Tue	JAS
2010-01-26	Tue	JPA
2010-02-02	Tue	JMS
2010-02-09	Tue	ECL
2010-02-16	Tue	JAS
2010-02-23	Tue	JPA
2010-03-02	Tue	JMS
2010-03-09	Tue	ECL
2010-03-16	Tue	JAS
2010-03-23	Tue	JPA
2010-03-30	Tue	JMS
2010-04-06	Tue	ECL
2010-04-13	Tue	JAS
2010-04-20	Tue	JPA
2010-04-27	Tue	JMS
2010-05-04	Tue	ECL
2010-05-11	Tue	JAS
2010-05-18	Tue	JPA
2010-05-25	Tue	JMS

2010-06-01	Tue	ECL
2010-06-08	Tue	JAS
2010-06-15	Tue	JPA
2010-06-22	Tue	JMS
2010-06-29	Tue	ECL
2010-07-06	Tue	JAS
2010-07-13	Tue	JPA
2010-07-20	Tue	JMS
2010-07-27	Tue	ECL
2010-08-03	Tue	JAS
2010-08-10	Tue	JPA
2010-08-17	Tue	JMS
2010-08-24	Tue	ECL
2010-08-31	Tue	JAS
2010-09-07	Tue	JPA
2010-09-14	Tue	JMS
2010-09-21	Tue	ECL
2010-09-28	Tue	JAS
2010-10-05	Tue	JPA
2010-10-12	Tue	JMS
2010-10-19	Tue	ECL
2010-10-26	Tue	JAS
2010-11-02	Tue	JPA
2010-11-09	Tue	JMS
2010-11-16	Tue	ECL
2010-11-23	Tue	JAS
2010-11-30	Tue	JPA
2010-12-07	Tue	JMS
2010-12-14	Tue	ECL
2010-12-21	Tue	JAS
2010-12-28	Tue	JPA

2011-01-04	Tue	JMS
2011-01-11	Tue	ECL
2011-01-18	Tue	JAS
2011-01-25	Tue	JPA
2011-02-01	Tue	JMS
2011-02-08	Tue	ECL
2011-02-15	Tue	JAS
2011-02-22	Tue	JPA
2011-03-01	Tue	JMS
2011-03-08	Tue	ECL
2011-03-15	Tue	JAS
2011-03-22	Tue	JPA
2011-03-29	Tue	JMS
2011-04-05	Tue	ECL
2011-04-12	Tue	JAS
2011-04-19	Tue	JPA
2011-04-26	Tue	JMS
2011-05-03	Tue	ECL
2011-05-10	Tue	JAS
2011-05-17	Tue	JPA
2011-05-24	Tue	JMS
2011-05-31	Tue	ECL
2011-06-07	Tue	JAS
2011-06-14	Tue	JPA
2011-06-21	Tue	JMS
2011-06-28	Tue	ECL
2011-07-05	Tue	JAS
2011-07-12	Tue	JPA
2011-07-19	Tue	JMS
2011-07-26	Tue	ECL
2011-08-02	Tue	JAS