

Circuit Court Probate Division

Guardianship Hearing Information Sheet

2: Obligations and Responsibilities of the Proposed Ward's Attorney

- The attorney has printed the Order of Notice for guardianship and has served upon the proposed ward and e-filed the return of service form.
- The attorney has informed the proposed ward of his/her "absolute and unconditional" right to an attorney who is expected to advocate for the proposed ward by challenging the petitioner's claim for the need for guardianship.
- The attorney has met with the proposed ward to discuss the claims alleged by the petitioner as to the need for guardianship and challenges to those claims.
- The attorney has looked at records and has identified and met with persons who know and have worked with the proposed ward and who can contradict the claim for the need for guardianship.
- The attorney has investigated, and if possible is prepared to challenge, the petitioner's alleged claims of incapacity, that substantial harm will or has resulted from the incapacity, and that the proposed ward is not making informed judgment.
- The attorney is prepared by presentation of evidence and testimony to challenge the petitioner's claim that there are no less restrictive alternatives to guardianship.
- The attorney has reviewed and researched all possible issues raised in the petition including the adequacy of the petition and potential evidentiary objections.
- The attorney has taken all possible steps to ensure that the proposed ward is able to attend the hearing, with a waiver of person appearance only if the proposed ward is likely to suffer harm or has no ability to understand the proceeding.
- Relatives and other interested parties have made contact with the proposed ward, the proposed ward's attorney, and/or the petitioner to offer information regarding the need for guardianship.
- Relatives and other interested parties are prepared to offer ideas concerning less restrictive alternatives to guardianship, including any information regarding previously expressed wishes of the proposed ward, the existence of durable power of attorney, durable power of attorney for health care, and wills.
- Relatives and other interested parties are prepared to be witnesses providing evidence either supporting or challenging the need for guardianship.