

IN THE TRIBAL COURT OF THE QUINAUTL INDIAN NATION
TAHOLAH, WASHINGTON

IN RE THE GUARDIANSHIP OF:)

_____, DOB: _____)

An Incapacitated Adult.)

CASE NO. CV _____

PETITION FOR GUARDIANSHIP

OF AN INCAPACITATED ADULT

[] LIMITED

Petitioner.)

[] GENERAL

CERTIFICATION

I, _____, am the Petitioner in this matter, and I am asking to be appointed the guardian over the person and estate of the alleged incapacitated adult,

_____ I base my Petition on the following:

ALLEGED INCAPACITATED PERSON

1. The alleged incapacitated adult, _____, DOB: _____ is:

[] an enrolled member of the Quinault Indian Nation. OR

[] eligible to be enrolled in the Quinault Indian Nation and lives on the Quinault Indian Reservation. OR

[] an enrolled member of the _____ tribe and resides on the Quinault Indian Reservation.

2. [] Lives on the Quinault Indian Reservation at the following address:

_____. OR

[] Lives off the Reservation at _____ but is subject to the continuing jurisdiction of the Quinault Tribal Court.

3. [] Is [] is not under an existing Order of [] this Court [] another Court:

4. The alleged incapacitated person needs a guardian over [] his person [] his property [] his financial affairs based on the following reasons:

PETITIONER

The Petitioner, _____, date of birth _____:

5. ☐ Is an enrolled member of the Quinault Indian Nation. OR
☐ IS eligible to be enrolled in the Quinault Indian Nation. OR
☐ Is a member of the _____ tribe.
☐ Is not a member of any Indian tribe.
6. ☐ Lives on the Quinault Indian Reservation at the following address:
_____, OR
☐ Lives off the Reservation at _____, and ☐ is
under the continuing jurisdiction of this Court OR ☐ consents to the jurisdiction of this Court,
which shall continue until throughout the term of the guardianship.
7. In accordance with QTC, section 19.16.160, Petitioner is:
☐ named as such in the incapacitated person's most recent durable power of attorney. OR
☐ the spouse of the incapacitated person or nominated by the spouse in his/her will or other
document. OR
☐ an adult child of the incapacitated person. OR
☐ a parent of the incapacitated person or nominated by the parent in his/her will or other
document. OR
☐ a relative with whom the incapacitated person has resided in the last six months. OR
☐ an institution of the Quinault Indian Nation. OR
☐ other: _____
8. Has not been found guilty of a crime by any court which would disqualify the Petitioner from
being a guardian. (Please initial) _____

9. Is not a registered sex offender nor is required to register as a sex offender with any governmental agency or division; there are no known sex offenders or persons having alleged to be a sex offender in my home or in my family's home. (Please initial) _____
10. Does not have medical or physical incapacity which would prevent the guardian from fulfilling the duties of a guardian. (Please initial) _____
11. ☐ Is ☐ is not married. (If married) name of spouse: _____
12. ☐ Has ☐ doesn't have children in the household. If yes, list names and dates of birth for all children in the home: _____

13. ☐ Has ☐ doesn't have other adult persons in the household. If yes, list names and dates of birth for all adult persons in the home: _____

14. ☐ Is employed at: _____ OR ☐ is not employed.
15. Petitioner's spouse is employed at: _____ OR ☐ is not employed.
16. Has the following contact information: email: _____; phone number(s): (home) _____ and (cell) _____
17. The Petitioner is a fit and proper person to be appointed ☐ general guardian over the person and estate of the alleged incapacitated person. OR ☐ limited guardian over the ☐ person ☐ property ☐ financial affairs of the alleged incapacitated person.

18. The Petitioner is asking to be appointed guardian for the following reasons:

19. The Petitioner agrees not to move the alleged incapacitated person outside the jurisdiction of the Court without first notifying the Court of such a change.

OTHER PERSONS WHO MAY HAVE AN INTEREST

20. The names and addresses of persons most closely related by blood or marriage to the alleged incapacitated person, or who may have an interest in this proceeding, are as follows:

- A. _____ and relationship:

- B. _____ and relationship

- C. _____ and relationship

- D. _____ and relationship

- E. _____ and relationship

- F. _____ and relationship

- G. _____ and relationship

REQUESTS

Based on the foregoing, the Petitioner asks the Court:

1. To enter an Order of Guardianship over the ☐ person ☐ property ☐ financial affairs, and issue Letters of ☐ limited ☐ general Guardianship.
2. The period of the guardianship should be until _____.
3. The Court order that a qualified person be directed to exam the incapacitated person and file a written report with the Court regarding his/her incapacitation before the hearing to be set.
4. Other: _____

I swear and affirm that the above statements are true and correct to the best of my knowledge, and I do not file this Petition for any other reason than to seek what is in the best interests of the alleged incapacitated person.

DATE: _____

Petitioner, _____

SWORN TO/AFFIRMED BEFORE ME THIS _____ DAY OF _____, 20____.

Clerk/Notary Public in and for the State of Washington County
Of _____; my commission expires: _____

IN THE QUINULT TRIBAL COURT

In the Guardianship/Conservatorship
of:

No. _____

**Disclosure of Bankruptcy or
Criminal History**

Respondent / Minors

Disclosure of Bankruptcy or Criminal History

1. Disclosure of bankruptcy

☐ I am **not** a debtor in a bankruptcy, insolvency, or receivership proceeding now or in the past.

☐ I am or was a debtor in a bankruptcy, insolvency, or receivership proceeding.
(*Explain*) _____

2. Disclosure of criminal history

☐ I have **not** been convicted of a felony, a crime involving dishonesty, neglect, violence, use of physical force, or any other crime related to my duties as a Guardian or Conservator.

☐ I have been convicted of a felony, a crime involving dishonesty, neglect, violence, use of physical force, or any other crime related to my duties as a Guardian or Conservator. (*Explain*) _____

3. Court Findings

☐ I do **not** have any court findings against me involving a breach of fiduciary duty, violation of any state's consumer protection act, or violation of any other statute forbidding unfair or deceptive acts or practices in the conduct of any business.

[] I do have court findings against me involving a breach of fiduciary duty, violation of any state's consumer protection act, or violation of any other statute forbidding unfair or deceptive acts or practices in the conduct of any business. *(Explain)*

I declare under penalty of perjury under the laws of the State of Washington that the facts I have provided are true.

Signed at (city) _____, WA on (date) _____.

Signature

Printed Name

IN THE QUINAULT TRIBAL COURT

In the Guardianship of:

Respondent / Minors

No. _____

**Acceptance of Appointment
of Guardian**

Acceptance of Appointment of Guardian / Conservator

1. I have been appointed:
[] Full [] Limited Guardian

2. I accept this appointment and I will perform duties as Guardian according to law. I understand that the duties of a Guardian are described in Title 14 of the Quinault Code.

I declare under penalty of perjury under the laws of the State of Washington that the facts I have provided are true.

Signed at (city) _____, (state) _____ on (date) _____.

Signature

Printed Name

IN THE QUINULT TRIBAL COURT

In re Guardianship/Conservatorship of:

No.

Order Appointing

☐ **Limited Guardian**

☐ **Full Guardian**

Respondent _____

Order Appointing Full or Limited Guardian and/or Conservator

1. Summary

Date guardian/conservator appointed: _____

Due date for report and accounting: _____

Date of next review: _____

Letters expire on: _____

Due date for inventory: _____

☐ Certified professional guardian (CPG) ☐ Public professional guardian (PUG)

☐ Lay (family) guardian (LGD) ☐ Training completed ☐ Training required

	<u>Individual Subject to Guardianship/Conservatorship</u>	<u>Guardian/Conservator</u>
Name		
Address		
Phone		
Email		
Facsimile		

	<u>Notice Party</u>	<u>Notice Party</u>
Name		
Address		
Phone		
Email		
Relationship		

This matter came on for hearing on a petition for appointment of guardian of the respondent.

The proposed guardian and/or conservator was present.

The following other persons were also present at the hearing:

The court considered the written report/professional evaluation, the testimony of witnesses, remarks of counsel, and the documents filed herein. Based on the above, the court makes the following:

Findings of Fact

2. All notices required by law have been given and proof of service as required by statute is on file.

The court finds by clear and convincing evidence that Respondent was given proper notice of the hearing on the petition. Required proof of service is on file.

3. **Jurisdiction**

The court has jurisdiction over the person and/or estate of Respondent because:

- ☐ **Home Reservation Jurisdiction** – The respondent resides within the Quinault Reservation. AND
- ☐ **Quinault Tribal Member Jurisdiction** – The respondent is either a Quinault Tribal member or eligible for enrollment with the Quinault Nation OR
- ☐ **Other Tribal Member Jurisdiction** – The respondent is an enrolled member of a Federally Recognized Tribe other than Quinault.

4. **Respondent' Attendance**

- ☐ Respondent was present in court;
- ☐ Respondent refused to attend the hearing after having been fully informed of the potential consequences;
- ☐ There was no practicable way for Respondent to attend and participate even with supportive or technological assistance.
- ☐ Findings to support above _____
-

5. **Professional Evaluation**

- ☐ There was a professional evaluation by (name) _____
- ☐ There is sufficient information to determine Respondent's needs and abilities without the professional evaluation.

6. **Alternative arrangements made by the Respondent**

- ☐ Respondent did not make alternative arrangements for assistance, such as a power of attorney or other protective arrangements.
- ☐ Respondent made other protective arrangements for assistance, but such arrangements are inadequate in the following respects: _____
-
-

☐ (Name) _____ has been acting in a fiduciary capacity for Respondent and should **not** continue to do so for the following reasons:

7. Basis for guardianship and/or conservatorship

Respondent, _____, by clear and convincing evidence:

- ☐ lacks the ability to meet essential requirements for physical health, safety, or self-care because the respondent is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making.
- ☐ is incapable of managing property or financial affairs due to ☐ a limitation in Respondent's ability to receive and evaluate information or ☐ absence. An appointment of a conservator is necessary to ☐ avoid a significant dissipation of the individual's property or ☐ obtain funds or property to support and care for the individual or their dependents.
- ☐ is in need of a full ☐ guardianship.
- ☐ is capable of managing some personal and/or financial affairs, but is in need of the protection and assistance of a limited guardian. These specific powers are granted to the ☐ guardian ☐ conservator:

- ☐ The following less restrictive protective arrangement will meet Respondent's needs: _____

- ☐ There is clear and convincing evidence that Respondent's needs cannot be met by a protective arrangement instead of guardianship or other less restrictive alternative, including the use of appropriate supportive services, technological assistance, or supported decision making.

- ☐ There is clear and convincing evidence Respondent's needs cannot be met by limited guardianship. Full guardianship is appropriate.

- ☐ Specific Findings: _____

8. Guardian/Conservator

The proposed guardian/conservator is qualified to act as ☐ guardian and/or ☐ conservator for Respondent and they have filed the *Disclosure of Guardian or Conservator*. Their address, phone numbers and email address are as follows:

Address: _____

Phone No/s: Business _____ Personal _____

Email: _____

The relationship of the guardian and/or conservator to Respondent is:

☐ The guardian and/or conservator provides paid services, is a relative, or is employed by a person that provides paid services to the respondent. The court finds by clear and convincing evidence that the guardian and/or conservator is the best qualified person for the appointment and the appointment is in the best interest of the Respondent.

9. Restrictions on Respondent's right to communicate

The following facts support restricting Respondent's right to communicate, visit, and interact with others: _____

10. Right to Vote

Respondent:

☐ is capable of exercising the right to vote.

☐ is not capable of exercising the right to vote because Respondent cannot communicate, with or without support, a specific desire to participate in the voting process.

11. Right to Marry

Respondent:

☐ is capable of exercising the right to marry.

☐ is not capable of exercising the right to marry because Respondent lacks the ability to understand the special nature of the contract and the duties it entails.

Conclusions of Law

Based upon the above findings and fact, the court makes the following conclusions of law:

12. Individual Subject to Guardianship/Conservatorship

(Name) _____ is an individual who meets the requirements to be subject to guardianship and/or conservatorship within the meaning of QTC 14.10, and a:

☐ Full ☐ Limited guardian and/or

13. Guardian

(Name) _____ is a fit and proper person as he/she has no criminal convictions that would indicate otherwise and has the capacity.

14. Powers of Guardian and/or Conservator

- ☐ The powers of the guardian should include, but are not limited, to the following:
- ☐ Establish the adult's place of dwelling;
 - ☐ Consent to health or other care, treatment, or service for the adult;
 - ☐ Receive personally identifiable health care information regarding the adult.
 - ☐ To the extent reasonable, delegate to the adult responsibility for a decision affecting the adult's well-being;
 - ☐ Commence a proceeding or take other appropriate action to compel another person to support the adult or pay funds for the adult's benefit; and
 - ☐ Apply for and receive funds and benefits as a representative payee or an authorized representative or protective payee for the support of the adult;
 - ☐ To undertake the management of the financial affairs of the respondent;
 - ☐ To locate and gather assets.
 - ☐ To establish conservatorship accounts.
 - ☐ To manage or close any financial accounts, including accounts held individually or jointly with another. To obtain any and all records relative to such accounts without the necessity of obtaining the written authority of any other person named on any such joint accounts.
 - ☐ To remove Respondent's name from any joint bank account and/or financial account and change the mailing address of any bank and/or financial statement to any address the Conservator may request. If an asset has signatories or co-owners in addition to the respondent, the conservator has the authority to block all access to such account/asset until true ownership has been discovered.
 - ☐ To enter any safe deposit box held in the name of the respondent, individually or with another, and inventory the contents of the box in the presence of an employee of the institution. Upon the submission of the witnessed inventory to the Clerk of the court the conservator has the authority remove any contents and maintain and/or close said box or add items thereto. If the key to the box cannot be located the conservator has the authority to authorize the drilling open of the box by the institution.
 - ☐ To expend funds as necessary for the benefit of Respondent subject to review by the Court.
 - ☐ To convert all holdings, including but not limited to savings accounts, money market accounts, IRAs, pensions, annuities, 401Ks, mutual funds, stocks, bonds, cash, automobiles, mobile homes, and any other income or personal property, into the name of the conservator for the purposes of the conservatorship and all other reasonable duties required of a conservator.
 - ☐ To enter any dwelling or storage area rented or owned by Respondent, or access the land or property owned or rented (individually or with another) by Respondent without the necessity of obtaining the written authority of any other person named on any such dwelling, land, property or storage area.

- ☐ To remove, change, and/or re-key any lock to Respondent's personal or real property.
- ☐ To retain an appraiser to appraise real estate owned by the respondent in the event a petition for authority to sell the real property is brought.
- ☐ To expend funds to establish cremation or burial arrangements.
- ☐ Other: _____

Without further court order, the guardian does not have power to consent to sterilization on behalf Respondent.

15. Limitations and restrictions placed on the Respondent

The limitations and restrictions placed on Respondent are as follows:

- ☐ To vote or hold an elected office.
- ☐ To marry, divorce, or enter into or end a state registered domestic partnership.
- ☐ To consent to or refuse medical treatment.
- ☐ To decide who shall provide care and assistance.
- ☐ To make decisions regarding social aspects of their life.
- ☐ To possess a license to drive.
- ☐ To make or revoke a will.
- ☐ To enter into a contract.
- ☐ To appoint someone to act on their behalf.
- ☐ To sue and be sued, other than through a guardian and/or conservator.
- ☐ To buy, sell, own, mortgage, or lease property.
- ☐ To manage their money.
- ☐ Other limitations and restrictions: _____

16. Restrictions on Respondent's right to communicate, visit, and interact with others

The guardian is authorized to restrict Respondent's right to communicate, visit, and interact or otherwise associate with the following persons:

Name of Person	Nature of Restriction
1. _____	_____
2. _____	_____

- 17.** The court finds it would be contrary to Respondent's preferences to provide notice to (name) _____ who is a spouse, domestic partner, or adult child.

The court orders:

18. Prior Power of Attorney

Any power of attorney of any kind previously executed by the Respondent:

☐ is canceled in its entirety except for those provisions pertaining to _____

[] Full [] Limited Guardian and/or [] Full [] Limited Conservator of _____, and the powers and limitations of the guardian/conservator, the restrictions on Respondent's right to communicate, visit, or interact with others, and the limitation and restrictions placed on Respondent shall be as set forth in paragraphs 18 and 19 of the Conclusions of Law.

[] The guardian/conservator must complete and file proof of completion of lay guardian and conservator training or obtain an order waiving training by (date) _____ (no more than 90 days after today's date). Training can be done on-line and located at the following link: [2022 Lay Guardian Training for Guardians for Adults and Conservators for Adults or Minors - Overview \(wa.gov\)](#)

Within 30 days of any substantial change in the estate's income or assets, the Conservator shall report to the court and schedule a hearing. The purpose of the hearing will be for the court to consider making any additional provisions.

Within 3 months of appointment, the conservator shall file a verified inventory of Respondent's property, which has come into the conservator's possession or knowledge. The inventory shall include a statement of all encumbrances, liens, and other secured charges on any item.

Unless otherwise ordered, the guardian/conservator shall file an annual report on Respondent's status at least one week prior to the review hearing.

The guardian/conservator shall report to the court within 30 days any substantial change in Respondent's condition, value of Respondent's estate, or any change Respondent's residence.

Any guardian or conservator shall immediately notify the court if the condition of the adult has changed so that the adult is capable of exercising rights previously removed.

27. Authority for investment and expenditure

A conservator has all the powers granted in law, except as follows: _____

28. Duration of guardianship/conservatorship

This guardianship and/or conservatorship shall continue to be in effect:

☐ until it is terminated by court order;

☐ until further order of the court. The necessity for the guardianship to continue shall be reviewed annually;

☐ until Respondent, who is a minor, turns 18 years old; **or**

29. Guardian/Conservator Fees

The guardian/conservator shall petition the court for approval of fees.

30. Guardian Report

The guardian report shall cover the:

12 month period following the appointment.

The court must review the report at the end of the annual reporting period.

A review hearing is set for (date) _____

31. Other

Dated _____

Judge

Presented by:

Signature of Petitioner/Attorney

Signature of Guardian/Conservator

Signature of Party/Visitor

Printed Name

Printed Name

To the Respondent:

Attached is a copy of the *Order Appointing a Guardian and/or Conservator*. Please review it carefully so you know what rights have been given to the guardian and conservator and what rights

you retain. You have the right to ask the court to end or change the guardianship and/or conservatorship.

**IN THE QUINALT TRIBAL
COURT**

In the Guardianship/Conservatorship of:

Respondent

Case No.

**Declaration of Completion of
Guardian/Conservator
Training**

I. Motion

☐ I have been appointed:

☐ I am seeking appointment:

☐ Full ☐ Limited Guardian

☐ Full ☐ Limited Conservator

☐ Full ☐ Limited Guardian and Conservator

Dated: _____

Signature _____

Print name _____

II. Declaration of Completion

I have successfully completed the court approved training on the authority and responsibilities of guardians for adults and conservators for adults or minors.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____, (state) _____ on (date) _____.

Signature _____

Print name _____