

Order for Directions – Sample Terms/POA Challenge

TRIAL OF ISSUES

THIS COURT ORDERS that there be a trial of the issues in this proceeding. The following issues are to be tried:

- (a) The applicant affirms and the respondent denies that <> is, or was on January 1, 2007, and has been continually since January 1, 2007, incapable of giving or granting a power of attorney for property;
- (b) The applicant affirms and the respondent denies that <> is now, or was on January 1, 2007, and has been continually since January 1, 2007, incapable of giving or granting a power of attorney for personal care;
- (c) The applicant affirms and the respondent denies that all powers of attorney for property and personal care signed by <> on or after January 1, 2007 were the result of the undue influence of <> upon <>;
- (d) The applicant denies and the respondent affirms that <> had knowledge of, and approved of, any of the powers of attorney that he [she] signed on or after January 1, 2007;
- (e) The applicant affirms and the respondent denies that <> is incapable of managing his [her] property;
- (f) The applicant affirms and the respondents deny that <> is incapable of managing his [her] healthcare and making personal care decisions;
- (g) The applicant affirms and the respondent denies that a guardian of property of <> should be appointed and, if so, either the applicant or some other person or entity should be appointed;

- (h) The applicant affirms and the respondent denies that a guardian of the person of <> should be appointed, and, if so, either the applicant or some other person or entity should be appointed.

PRODUCTION OF MEDICAL NOTES

THIS COURT ORDERS that the parties are entitled to compel production from the person or institutions in possession of:

- (a) Medical notes, pharmacy records, OHIP records, including the personal claims history, together with provider details report (decoded OHIP list of services), and all other records, files, correspondence and e-mails relating to <> from <> to the date of this Order, from any person or physician, institution, government agency or department, healthcare facility or care provider in possession or control of such documents;
- (b) Solicitors' and paralegals' notes, records, files, correspondence and e-mails relating to the preparation of any powers of attorneys of<> from <> to the date of this Order from any solicitor, law firm, paralegal or other individual in the possession or control of such records;
- (c) Financial records, banking records and tax returns relating to <> for the period commencing <> to the date of this Order, whether held in his [her] name or for his [her] benefit, from any financial advisor, bank, trust company, insurance company or accountant, in possession or control of such records. Without limiting the generality of the foregoing, the Order includes <>. [specific non-parties can be added to the order]

EXAMINATION OF NON-PARTIES

THIS COURT ORDERS that the applicant and the respondent are granted leave pursuant to Rule 31.10 and 39.03(1) to examine <> relating to the issues set out in paragraph 1 of this Order in accordance with the *Rules of Civil Procedure*.

SOLICITOR/CLIENT ISSUES

THIS COURT ORDERS that any solicitor may give evidence relating to communications with <> in connection with the drafting and execution of any powers of attorney and the production of any documents as set out in paragraph <> above.

PROHIBITIONS ON ATTORNEY

THIS COURT ORDERS that, pending the trial of the issues in this application [name of attorney or healthcare provider] shall:

- (a) Immediately advise the applicant of any material change in the medical condition or proposed medical treatment of <>;
- (b) Make no change in the permanent residence of <> without reasonable notice to an agreement of the applicant and, in default of agreement without the prior approval of the court;
- (c) Make no payment from or transfer out of the assets of <>, except as may be necessary for her personal care, maintenance or well-being, without reasonable notice to an agreement of the applicant and, in default of

agreement without the prior approval of the court.

COSTS

THIS COURT ORDERS that the costs of this application and of this Order for Directions shall be reserved to the trial judge.

FURTHER DIRECTIONS

THIS COURT ORDERS that the parties are at letter to move for further directions as may appear advisable or necessary.

SECTION 3 COUNSEL

THIS COURT ORDERS that the Public Guardian and Trustee shall arrange counsel for <> pursuant to Section 3 of the *Substitute Decisions Act*.

DISCLOSURE OF DOCUMENTS BY ATTORNEY

THIS COURT ORDERS that <> shall provide to the parties by <> [date], copies of all records regarding <> 's property, including but not limited to, the most recent statements regarding bank accounts, investments, mortgages, real property, interests in any estate in his [her] possession or which he can reasonably obtained by making reasonable inquiries.

FREEZING OF ASSETS

THIS COURT ORDERS that the assets of <> shall be frozen wherever located, subject <>'s authority, given by this Order, to pay ongoing day-to-day expenses, including but not limited to, caregiver expenses, property maintenance, utilities, groceries, and taxes.

ACCOUNTING

THIS COURT ORDERS that <> shall provide to the parties by <> [date], a list of all day-to-day expenses of <>, including contact information for caregivers and any healthcare provider.

or

THIS COURT ORDERS that <> shall provide a monthly accounting to the parties of the expenses paid out of the assets of <>, including but not limited to, caregiver expenses, property maintenance, groceries, taxes.

CHANGES TO INVESTMENTS

THIS COURT ORDERS that the parties must unanimously agree to changes in <>'s investments. If unanimous consent is not obtained, further direction can be sought from the court.

TIMETABLE

THIS COURT ORDERS that the parties agree to the timetable attached as Schedule "A", or as they otherwise may agree, or by further court order.

FREEZING OF REAL PROPERTY

THIS COURT ORDERS that a Caution be registered on title against <> municipally known as <> with a legal description of <> so that no one has authority to sell, encumber, transfer or in any way deal with the real property without further court order.

PRODUCTION OF ACCOUNTS

THIS COURT ORDERS that <> shall prepare his [her] accounts in respect of his management of <>'s assets in proper court format and provide such accounts to the parties by [date]. The accounts shall cover the period from <> to <> date. After receipt of said accounts, any party is at liberty to apply to the court to seek an Order compelling <> to formally pass his accounts.