

Rule 322. Procedures in general intervention proceedings subsequent to the appointment of a guardian or conservator and for resolution of disputes.

(a) Applicability.

This Rule applies to proceedings subsequent to the appointment of a guardian or conservator, including proceedings to limit powers, or remove or modify limitations on the powers of a guardian or conservator; to accept resignation of or remove a guardian or conservator; to object to or modify a guardianship report or conservatorship plan; and proceedings with respect to the administration of a conservatorship or guardianship.

(b) Initiation of proceeding.

Except as provided in SCR-PD 309, a proceeding subsequent to the appointment of a guardian or conservator must be initiated by filing a petition for the proceeding on the Form II-Q or a format substantially consistent with that form. The petition must state with specificity the grounds for the request. The petition must be accompanied by a notice of the right to respond to the petition or request an oral hearing on the petition or both.

(c) Service.

The petitioner must serve a copy of the petition and the notice required by Paragraph (b) upon each of the following and any other person upon whom service is required by statute or order of the Court:

(1) The incapacitated individual;

(2) The attorney of record for each party or person entitled to participate, or the party or other person entitled to participate if not represented by an attorney;

(3) Any person who has filed an effective request for notice pursuant to SCR-PD 304.

(d) Response to Petition.

Any party or person entitled to participate who objects to the relief requested, or who desires an oral hearing, must file a response to the petition or request for an oral hearing, or both, and must include in the response the reasons therefore. The response must be filed within 10 days of personal service of the petition and notice or 13 days if the petition and notice has been mailed. The response must be served as provided in Paragraph (c).

(e) Hearing.

(1) Oral Hearing.

The Court in its discretion may schedule an oral hearing. If so, the Court must issue a notice of such hearing, which must be served by the petitioner as provided in Rule 311(c).

(2) Hearing Through Written Submission.

The Court in its discretion may rule on the petition without requiring all parties to appear before the Court, with the hearing held through written submission.

COMMENT:

This Rule allows the Court to conduct a hearing on a petition by written submission when the Court reasonably concludes that an oral hearing would be unnecessary. *See In re Greene*, 829 A.2d 506, 508 (D.C. 2003). (“[W]hile a hearing is required, a hearing need not inevitably be an oral one. Rather a hearing in certain circumstances may be held through written submission.”)