

10.S 002424

STATE OF NORTH CAROLINA

WAKE County

File No.

FILED

In The General Court Of Justice  
Superior Court Division  
Before The Clerk

NOTE TO PETITIONER: If you are petitioning the court to accept guardianship on transfer from another state, this is not an appropriate form to use.

2018 OCT 29 PM 12:05

IN THE MATTER OF

Full Name Of Respondent  
Kathleen Hartsough Hofeller BY \_\_\_\_\_

Telephone No. Of Respondent  
919-848-7427

Address Of Respondent  
2427 Springmoor Circle  
Raleigh, North Carolina 27615

County Of Residence Of Respondent  
Wake

Date Of Birth  
01/28/1947

Race\*  
Caucasian

Sex\*  
Female

\*Race and sex are collected so that this information may be transmitted to NICS in the event of a qualifying adjudication under G.S. 14-409.43(a)(6).

Respondent Indigent

Respondent's Drivers License No. \_\_\_\_\_ State \_\_\_\_\_

Name And Address Of Petitioner  
Christopher S. Morden  
Monroe, Wallace & Morden, P.A.  
3225 Blue Ridge Road, Suite 117  
Raleigh, North Carolina 27612

County Of Residence Of Petitioner  
Wake

Telephone No. Of Petitioner  
919-876-1400

Petitioner's Relationship To Respondent Or Interest In Proceeding  
Attorney for Respondent

PETITION FOR ADJUDICATION OF INCOMPETENCE AND APPLICATION FOR APPOINTMENT OF GUARDIAN OR LIMITED GUARDIAN AND MOTION FOR APPOINTMENT OF INTERIM GUARDIAN (AOC-SP-198)

G.S. 35A-1105, -1112, -1114, -1210; 35B-17, -18

Name And Address Of Attorney For Petitioner  
Nickolas B. Sherrill  
Monroe, Wallace & Morden, P.A.  
3225 Blue Ridge Road, Suite 117  
Raleigh, North Carolina 27612

Telephone No. Of Petitioner's Attorney  
919-876-1400

State Bar No.  
45521

Name And Address Of Treatment Facility If Respondent Is An Inpatient

The undersigned, being duly sworn, requests that the Court, after notice and hearing, adjudicate the respondent above to be incompetent, and also applies for the appointment of the person(s) named below to serve, in the capacity indicated, as guardian(s) of the respondent.

In support of this Petition, the undersigned states:

- 1. During the past twelve (12) months, the above-named respondent was physically present as follows:

Period of Physical Presence <small>(include up to the 12 months prior to the filing date of the petition; do not list periods of temporary absence)</small>		Address
From	To	
April 2018	Present	2427 Springmoor Circle, Raleigh, North Carolina 27615
October 2014	April 2018	6701 Pointe Vista Circle, Raleigh, North Carolina 27615

- 2. (check a. or check and complete b.) (NOTE: In both a. and b., "state" includes a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.)

- a. There is no other pending proceeding involving the respondent in any court or agency of a state or foreign country.
- b. There is a pending proceeding(s) involving the respondent in the court or agency of a state or foreign country, as set forth below:

Location (County, State, and Country)	Type of Proceeding	File Number

- 3. A North Carolina court has jurisdiction to rule on this petition and application.
- 4. The respondent is
  - a resident of this county.
  - domiciled in this county.
  - an inpatient in the facility named above.
  - present in this county, it being impossible to determine his/her county of residence or domicile.

(Over)

EXHIBIT 100  
6  
Hofeller 5/17/19

Legislative Defendants Trial  
Ex.065

5. The respondent is incompetent in that he/she lacks sufficient capacity to manage his/her own affairs or to make or communicate important decisions concerning his/her person, family, or property, as shown by the following facts: (Set forth the facts which tend to show that the respondent is incompetent. Include cause of incompetence, which may be mental illness, mental retardation, epilepsy, cerebral palsy, autism, inebriety, senility, disease, injury, or other cause and give facts demonstrating lack of capacity. Be specific.)

Respondent's husband died in August 2018. Since husband's death:

1. Respondent was the victim of gift card payment scheme.
2. Respondent attempted to transfer large sum of money to India. Respondent has no connection with any person or entity in India.
3. Respondent is believed to be under influence of previously estranged child. Since appearance of child:
  - A. Financial assistant hired for Respondent quit her employment upon concerns for personal safety based on actions of previously estranged child.
  - B. Respondent removed appointed attorney-in-fact overseeing security of funds.
4. Respondent postponing neurological and cognitive testing by referred physicians.

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 CLERK OF COURT  
 DISTRICT OF COLUMBIA

6. The respondent's next of kin, if any, and other persons known to have an interest in this proceeding are:

Name And Address Stephanie Louise Hofeller Lizon 464 Miller Hollow Road PO Box 17 Le Roy, West Virginia 25252		Name And Address Edwin Giles Peterman PO Box 15832 Washington, D.C. 20003	
County Of Residence Jackson	Telephone No. unknown	County Of Residence Washington, D.C.	Telephone No. 202-335-4211
Relationship To Respondent Or Interest In Proceeding Child		Relationship To Respondent Or Interest In Proceeding Health Care Agent	
Name And Address Tracy William Smale 107 Kitakashiwa Park Homes Ichibankan 13-2 Kitakashiwa Dai Kashiwa-Shi, Chiba-Ken, Japan 277-0836		Name And Address	
County Of Residence Chiba Prefecture	Telephone No. 520-568-1573	County Of Residence	Telephone No.
Relationship To Respondent Or Interest In Proceeding Attorney-in-fact		Relationship To Respondent Or Interest In Proceeding	

7. General statement of respondent's assets and liabilities, including any income and receivables to which he/she is entitled:

Assets	Liabilities	Income and Receivables
Real Property \$ _____	Mortgage Loans \$ _____	Wages & Salaries \$ _____
Tangible Personal Property \$ _____	Other Secured Loans \$ _____	Rents \$ _____
Other Personal Property \$ _____	Unsecured Loans \$ _____	Pensions \$ _____
		Allowances \$ _____
		Insurance & Compensation \$ _____
		Other (including SSI/SSDI) \$ _____

There is a representative payee for government benefits.  Yes  No  
 There is a Durable Power of Attorney in place.  Yes  No  
 There is a Healthcare Power of Attorney in place.  Yes  No  
 There is a special needs or other trust in place.  Yes  No  
 The respondent has health insurance through Medicaid, Medicare, or a private insurer.  Yes  No

(Over)

IN THE MATTER OF

File No.

FILED

Name Of Respondent

Kathleen Hartsough Hofeller

8. CAPACITY INFORMATION

2018 OCT 29 PM 12:45

Check here if in a coma, persistent vegetative state, or non-responsive and move on to Item 9.

A. **Language and Communication** (understands/participates in conversations, can read and write, understands signs such as "keep out," "men," "women")

has capacity.  lacks capacity. Comment: \_\_\_\_\_

B. **Nutrition** (makes independent decisions re: eating, prepares food, purchases food)

has capacity.  lacks capacity. Comment: \_\_\_\_\_

C. **Personal Hygiene** (bathes, brushes teeth, uses proper hygiene when using the restroom)

has capacity.  lacks capacity. Comment: \_\_\_\_\_

D. **Health Care** (makes and communicates choices re: medical treatment/caregivers, notifies others of illness, follows medication instructions, reaches emergency health care)

has capacity.  lacks capacity. Comment: \_\_\_\_\_

E. **Personal Safety** (recognizes danger and seeks assistance as needed, protects self from exploitation/personal harm)

has capacity.  lacks capacity. Comment: \_\_\_\_\_

F. **Residential** (makes and communicates decisions re: residence/roommates, maintains safe shelter)

has capacity.  lacks capacity. Comment: \_\_\_\_\_

G. **Employment** (makes and communicates decisions re: employment, demonstrates vocational skills such as neatness and punctuality, writes or dictates application form)

has capacity.  lacks capacity. Comment: \_\_\_\_\_

H. **Independent Living** (follows a daily schedule, conducts housekeeping chores, uses community resources such as bank, store, post office)

has capacity.  lacks capacity. Comment: \_\_\_\_\_

I. **Civil** (knows to contact advocate if being exploited, understands consequences of committing a crime, registers to vote)

has capacity.  lacks capacity. Comment: \_\_\_\_\_

J. **Financial**

1. Makes and communicates decisions about paying bills and spending discretionary money, and makes change for \$1, \$5, and \$20

has capacity.  lacks capacity. Comment: \_\_\_\_\_

2. Makes and communicates decisions regarding management of a personal bank account, savings, investments, real estate, and other substantial assets

has capacity.  lacks capacity. Comment: \_\_\_\_\_

3. Can resist attempts at financial exploitation by others

has capacity.  lacks capacity. Comment: \_\_\_\_\_

(Over)

<b>9. RECOMMENDED GUARDIAN(S)</b>	
Name And Address Of Recommended Guardian Trudy J. Harris P.O. Box 510 Newcastle, California 95658	Name And Address Of Recommended Guardian LifeLinks 4812 Six Forks Rd., Suite 110 Raleigh, NC 27609 2018 OCT 29 PM 10:05 ... N.C.
<input checked="" type="checkbox"/> Of The Estate <input type="checkbox"/> Of The Person <input type="checkbox"/> General Guardian	<input type="checkbox"/> Of The Estate <input checked="" type="checkbox"/> Of The Person <input type="checkbox"/> General Guardian

**10. MOTION FOR APPOINTMENT OF INTERIM GUARDIAN**

*NOTE: In certain circumstances, an interim guardian may be needed to intervene on a respondent's behalf prior to an adjudication hearing. To request that the Court appoint an interim guardian for the respondent, complete and attach form AOC-SP-198, Motion For Appointment Of Interim Guardian.*

**VERIFICATION**

I, the undersigned petitioner, have read this Petition and state that its contents are true to my own knowledge except those matters stated on information and belief, which I believe are true.

**SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME**      Date 10/29/2018

Date 10/29/18      Signature Of Person Authorized To Administer Oaths *[Signature]*      Signature Of Petitioner *[Signature]*

Deputy CSC   
  Assistant CSC   
  Clerk Of Superior Court  
 Date My Commission Expires 6/17/18  
 County Where Notarized Wake

