



# UTAH JUDICIARY

## Attorneys in Guardianship Cases Training Series

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### Part 4: Guardianship Programs in the Courts

### Materials



# Guardianship Programs in the Courts





# Guardianship Reporting And Monitoring Program



**Guardianship  
Signature  
Program**



# Guardianship Signature Program

**Connects available volunteer attorneys with respondents who need representation but do not have an attorney of their own choosing. (Utah Code 75-5-303(2)(b))**

**Utah Code 75-5-303(6)(e)(v) – “*the state court's list of attorneys who have volunteered to represent respondents in guardianship proceedings...*”**

**Serves respondents in all 8 districts in the state of Utah.**

**A partnership program with the Utah State Bar.**

**Managed by the Administrative Office of the Courts.**

## Guardianship Signature Program



## A GSP Attorney...

- Serves on a time-limited basis, generally pro bono.
- Represents the respondent's wishes.
- Meets with the client, as independently as possible.
- Investigates the nature and extent of the claimed incapacity.
- Explores alternatives to guardianship.
- Considers if evidence supports a guardianship, and if so, to what extent, and who is best to serve in that role.
- Assists the client in nominating a guardian or conservator
- Ensures that the client is present at the hearing unless excused.
- Presents proposals and contests proposals as appropriate.
- Participates in mediation with or on behalf of the client.



# Court Visitor Program

**Conducts guardianship-related investigations on behalf of the judge.**

**Serves all 8 districts in the state of Utah.**

**Written into Utah Code and governed by UCJA Rule 6-507.**

**Court Visitors are an extension of the judge.**

**Court Visitors work under a court order that outlines their role and scope.**



## A Court Visitor...

- Serves on a time-limited basis under a court order.
- Investigates, observes, and reports back to the judge.
- Is neutral and unbiased.
- Visits homes, interviews parties, and reviews records.
- Does not represent any party or advocate on their behalf.
- Is not a party to the case and does not participate in mediation.
- Investigates the nature and extent of the claimed incapacity, allegations of fraud, abuse, and more.
- Considers if evidence supports a guardianship, and if so, to what extent, and who is best to serve in that role.

# Volunteer Comparison

## Similarities

- Anyone can request a GSP attorney or a Court Visitor (CV), at any time in the proceedings.
- Both may be required by statute.
- Both serve as eyes on the case to ensure the rights of the respondent are protected and statutes are followed.
- Both will communicate with the respondent and other parties.
- Both are volunteers serving on a time-limited basis.

## Differences

- GSP attorneys only represent respondents, while CVs work on behalf of the judge.
- GSP attorneys are not neutral, while CVs must be neutral.
- GSP attorneys may participate in mediation, while CVs cannot.
- The GSP attorney role ends when the matter is resolved, while the CVs role ends on the date of the order.
- GSP attorneys can file documents in the case, while the CV can only submit the report and cannot file anything.
- GSP attorneys are program-specific, while CVs can be found outside the CVP.

# Program Interaction: Scenarios

- 1. You are the attorney for the Petitioner.**
- 2. You are the attorney for the Respondent.**
- 3. You are the attorney for an Interested Party.**



# 1. You are the attorney for the **Petitioner**.

Does the Respondent have an attorney?

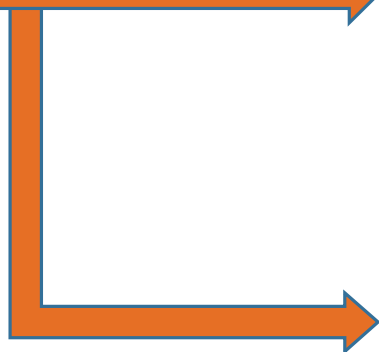


If No – you must file a request to appoint an attorney via the GSP. Utah Code 75-5-303(2)(b)

Can the Respondent attend the hearing?



If No, because the Respondent is in a coma – you must file a proposed order and ask to excuse the Respondent based on extended comatosis. Utah Code 75-5-303(6)(c)



If No for any other reason – you must file a request to appoint a Court Visitor. Utah Code 75-5-303(6)(b)(ii)

- (e) Counsel for the allegedly incapacitated person is not required if all of the following criteria are met:
- (i) the allegedly incapacitated person is the biological or adopted child of the petitioner;
  - (ii) the value of the allegedly incapacitated person's entire estate does not exceed \$20,000 as established by an affidavit of the petitioner in accordance with Section 75-3-1201;
  - (iii) the allegedly incapacitated person's **appearance at the hearing has not been waived** and the person appears in court with the petitioner, as described in Subsection (6)(a);
  - (iv) the allegedly incapacitated person is given the opportunity to communicate, to the extent possible, the person's acceptance of or objection to the appointment of the proposed guardian, including the opportunity to communicate that acceptance or objection to the court and, as applicable, to the person's supporters, health care providers, and attorney;
  - (v) no attorney from the state court's list of attorneys who have volunteered to represent respondents in guardianship proceedings is able to provide counsel to the person within 60 days of the date of the hearing, as described in Subsection (2)(b);**
  - (vi) the court is satisfied that counsel is not necessary to protect the interests of the allegedly incapacitated person; **and**
  - (vii) the court appoints a court visitor and receives a report from the court visitor under Subsection (5).**

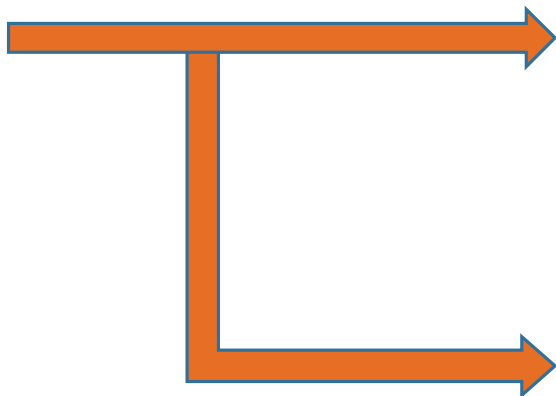
# 1. You are the attorney for the **Petitioner**.

Does the Respondent have an attorney?



If No – you must file a request to appoint an attorney via the **GSP**. Utah Code 75-5-303(2)(b)

Can the Respondent attend the hearing?

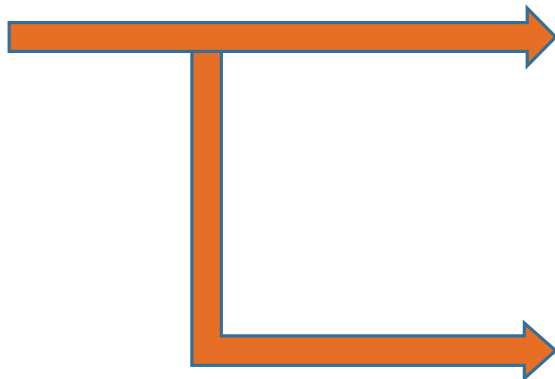


If No, because the Respondent is in a coma – you must file a proposed order and ask to excuse the Respondent based on extended comatosis. Utah Code 75-5-303(6)(c)

If No for any other reason – you must file a request to appoint a **Court Visitor**. Utah Code 75-5-303(6)(b)(ii)

## 2. You are the attorney for the Respondent.

Can the Respondent attend the hearing?



If No, because the Respondent is in a coma - file a proposed order and ask to excuse the Respondent, *if* the petitioner has not already done so. Utah Code 75-5-303(6)(c)

If No for any other reason – file a request to appoint a Court Visitor, *if* the petitioner has not already done so. Utah Code 75-5-303(6)(b)(ii)

Are there concerns about the petition, guardian, objections, counter petitions, allegations, a need to change the guardianship, etc.?



If Yes – you *may* file a request to assign a Court Visitor to complete a Pre- or Post-Appointment Review. Utah Code 75-5-303(5)(a)

### 3. You are the attorney for an Interested Party.

Does the Respondent have an attorney?



If No – you *may* file a request to appoint an attorney via the GSP. Utah Code 75-5-301.5(3)(a)

Are there concerns about the petition, guardian, objections, counter petitions, allegations, a need to change the guardianship, etc.?



If Yes – you *may* file a request to assign a Court Visitor to complete a Pre- or Post-Appointment Review. Utah Code 75-5-303(5)(a)

If Yes – you *may* file a motion to review the guardianship.\* Utah Code 75-5-301.5(3)(b)

# CASE TYPES

Hearing Attendance

Attorney Waiver

Severe Intellectual  
Disability Review

Pre-Appointment  
Review



Post-Appointment  
Review

Right to Association

Financial Review

Whereabouts

# Final Thoughts

- **The primary purpose of both programs is to help the court fulfill statutory requirements, while protecting and preserving the most rights possible for vulnerable individuals.**
- **The more eyes on an appointment, the better, including an attorney's.**
- **Court Visitors are one of the main ways the court monitors appointments across time, and they can be requested by anyone, at any time.**
- **The guardianship process can be lengthy. If the need is now, a temporary appointment may be appropriate to allow time for the court proceedings to occur.**
- **Consider volunteering as a GSP attorney!**



# Who Can Participate?

- Active or Inactive attorneys:
  - Licensed to practice law in Utah
  - Competent in guardianship law and procedure
- Law students or graduates:
  - In good standing
  - Completed the first year of legal studies, at an ABA approved law school
  - Supervised by a licensed Utah attorney, competent in guardianship law and procedure (SCRJ Rule 4-807)

## Benefits of Volunteering for the GSP

- Covered by the Bar's malpractice insurance.
- Access to E-Filing.
- Pro bono hours towards annual recommendation.
- Fees may be possible in some cases.
- Earn CLE credits for volunteer hours.
- Flexibility to suit your schedule.

# How it Works

## Guardianship Signature Program



- Complete training in guardianship law and procedure OR certify that you are competent in this area.
- Send an email to [GRAMP@utcourts.gov](mailto:GRAMP@utcourts.gov) to indicate your interest.
- Your address is added to the GSP email group.
- Receive an email each week with the updated list of open requests from across the state.
- If a case suits your interest and schedule, respond to the email that you can take it on.
- You will be attached to the case; you don't need to file an appearance.
- When the case is over, you can file a motion to withdraw and a request for fees (if applicable).

Only a prison sentence  
or a civil commitment  
is more restrictive  
on an individual's rights than  
guardianship.

In the District Court of Utah

\_\_\_\_\_ Judicial District \_\_\_\_\_ County

Court Address: \_\_\_\_\_

In the Matter of Protection for:	<b>Order Assigning a Court Visitor</b>
Respondent	Case Number
	Judge

**The court finds that:**

1. It requires further information regarding the respondent in these proceedings.
2. \_\_\_\_\_ is a special appointee of the court with no personal interest in these proceedings.

**The court concludes that:**

3. Utah Code Sections 75-5-303, 75-5-308, 75-5-309, 75-5-312.5, 75-5-405, and 75-5-407 permit the court to assign a visitor to make inquiries on behalf of the court and report on those inquiries.

**The court orders that:**

4. The person named in paragraph 2 is assigned as **Court Visitor** in this case and will make inquiries regarding the respondent, related to:

	The respondent's ability to attend the hearing.
	The respondent's circumstances and wellbeing, which can include living situation, finances, relationships, mental and physical health, and safety.
	where the guardian or conservator and respondent can be found.
	other (describe):

5. The **Court Visitor Program** staff may assist the Court Visitor throughout the assignment.
6. The Court Visitor may interview:
  - Respondent
  - Respondent's physician or other medical personnel that have provided or are providing treatment to the respondent
  - Guardians or Conservators (proposed or appointed)
  - Interested parties or persons
  - Other individuals interested in the welfare of the respondent
7. The person named in paragraph 2 will be able to present a copy of this order and photo identification.
8. Any person the Court Visitor contacts must cooperate with the Court Visitor and assist in gathering information. No person may unreasonably interfere with another person in their compliance with this order.
9. A Court Visitor is a representative of the court. Communication and interaction with the Court Visitor is as if made with the judge.
10. Upon request, the Court Visitor must have access to all records relating to the guardian/conservator (proposed or appointed) and the respondent, including protected health information under 45 CFR 164.512(e), financial records, and tax records from the Utah State Tax Commission.

For records classified as private under the Government Records Access and Management Act, this order is a court order pursuant to Utah Code Section 63G-2-202(7) ordering disclosure of such records.
11. The Court Visitor must not disclose the information and records provided under this order to anyone other than to the court, interested persons and others as ordered by the court.
12. The Court Visitor's interviews may not be recorded, photographed, or transmitted to other devices except by the Court Visitor or the Court Visitor Program Coordinator.

13. The **Court Visitor** will submit to the Court Visitor Program a report detailing the inquiries and observations from the assignment, on or before:  
\_\_\_\_\_. (date)

The **Court Visitor Program** will submit the report to the court, ending the Court Visitor's assignment, by: \_\_\_\_\_. (date)

14. All documents, recordings, and notes obtained by the Court Visitor pertaining to the investigation may be destroyed upon submission of the report.
15. Any person who fails to comply with or violates this order may be found in contempt of court, which is punishable by a fine or jail time.

Judge's signature may instead appear at the top of the first page of this document.

\_\_\_\_\_  
Date

Signature ► \_\_\_\_\_  
Judge \_\_\_\_\_

**The court's statement to the parties regarding the Court Visitor:**

A Court Visitor is a volunteer with no personal interest or connection to the case. The Court Visitor is appointed by the judge.

The Court Visitor may gather and review information, interview people, and observe people and places. The Court Visitor will finish by writing a report for the judge. The report will summarize the investigation.

The Court Visitor is important and essential to the court. They are neutral and help the court make informed decisions about guardianship and conservatorship cases.

The Court Visitor is not a party to the case. The Court Visitor is an extension of the judge and appointed by the court. The Court Visitor works under the Court Visitor Program. The statements below refer to both the Court Visitor and the Court Visitor Program.

The **Court Visitor Program (CVP)** adheres to the following guidelines during the investigation:

- The CVP assignment ends on the date listed on the court order.
- The CVP will not take sides or represent any party in the case.

- The CVP will not participate in mediation. A Court Visitor's assignment is placed on hold if mediation is ordered.
- The CVP will not talk to the parties or their lawyers about the investigation or contents of the report.
- The CVP will not share their report with parties or their lawyers until it is finished and given to the judge.
- The CVP is not allowed to respond to requests filed with the court, including any requests that the CVP be penalized or disciplined.
- The CVP will not change reports that have been submitted.
- The CVP will not actively participate in the case after the report is submitted. The court will determine the meaning and impact of the report and what happens next.



## Attorneys in Guardianship Cases Training Series

### Allison Barger

Allison Barger is an associate attorney with Kathie Brown Roberts PC and one of three Certified Elder Law Attorneys in the State of Utah. Allison participates in the Probate Rules subcommittee of the Utah Rules of Civil Procedure, of which she is a founding member. She has presented numerous continuing education programs to the State Bar sections and authored articles in the Utah Bar Journal on topics such as special needs planning, guardianships, and related ethical issues. She is a past chair of the Elder Law section of the Utah State Bar and has participated in various volunteer legal services for seniors throughout her career.

### Brant Christiansen

Brant T. Christiansen, JD, LLM, MBA, is a partner at Lewis Hansen. Over the last decade, Brant has represented numerous individuals, families, and professional fiduciaries in the guardianship and conservatorship process and has advised families on the most appropriate and least-restrictive protections for their incapacitated or disabled loved ones. Brant serves on the Executive Committee of the Elder Law Section of the Utah State Bar, the Executive Committee of the Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS), and as a member of the Probate Rules Subcommittee. Brant also volunteers for the Guardianship Signature Program.

### Katie Cox

Katie Cox is a staff attorney and Utah Medical-Legal Partnership Attorney Coordinator at the Disability Law Center. Katie also holds a Master of Social Work. She practices law as a healing profession, combining her law and MSW education to be a client-centered, humanistic practitioner, engaging in the work from both an individual and systemic perspective. Katie is passionate about social, economic, reproductive, and disability justice, human dignity, and whole health. Katie serves on the WINGS committee and regularly participate in subcommittees and workgroups aimed at improving access to justice for vulnerable individuals.

### Rob Denton

Rob Denton is a retired attorney, with a law degree from the S.J. Quinney College of Law at the University of Utah. Rob spent most of his career representing people with disabilities, including in guardianship cases. Rob worked for the Disability Law Center for 28 years. He is a member of the Utah WINGS committee, serving as a stakeholder from 2013-present. He has been an active participant in building and strengthening the Guardianship Signature Program since it was first developed in 2015.

## Leslie Francis

Leslie P. Francis, Ph.D., J.D., holds joint appointments as Alfred C. Emery distinguished professor of law and distinguished professor of philosophy at the University of Utah, where she also directs the Center for Law and Biomedical Sciences. Leslie is a published author, with works related to disability law and ethics, bioethics, and justice in health care. She is a member of the Disability Rights Bar Association and serves on the boards of the Utah Disability Law Center and the “And Justice for All” committee. Through the Guardianship Signature Program of the Office of State Courts, she regularly provides pro bono representation for people who are the subject of guardianship; for this work, she was a recipient of the service to the courts award in 2021.

## Langdon Owen

Langdon T. Owen, Jr. is a member of the law firm of Cohne Kinghorn, p.c. in Salt Lake City, Utah. Don is a transactional lawyer who practices in such areas as estate and tax planning, guardianship and conservatorship, business and commercial transactions, health care law, nonprofit organizations, probate, and real estate. He has practiced law since 1977, and serves on the Probate Rules subcommittee of the Utah Rules of Civil Procedure. He holds a Juris Doctor degree from the University of Utah (1977) and a Bachelor of Arts degree from the University of California, Berkeley (1973, with great distinction).

## Shonna Thomas

Shonna Thomas is the Court Program Administrator for the Guardianship Reporting and Monitoring Program (GRAMP), which includes the Guardianship Signature Program and the Court Visitor Program. Shonna serves as staff to WINGS and the Probate Rules subcommittee, and facilitates several workgroups related to guardianship. Shonna has worked for the State of Utah for 17 years, focusing her efforts on advocating for vulnerable populations, including five years as the training specialist on a federal research grant aimed at empowering teenagers with developmental disabilities. Shonna also worked as a behavior specialist and functional behavior assessment (FBA) trainer in Pennsylvania. Shonna holds MS degrees in human services and criminal justice, and a BA degree in psychology.





# UTAH JUDICIARY

## Guardianship Signature Program



# VOLUNTEER OPPORTUNITY

The Guardianship Signature Program (GSP) connects volunteer attorneys with respondents in guardianship proceedings who need an attorney but do not have one of their own choosing.

The program is a joint effort by the Administrative Office of the Courts and the Utah State Bar, with endorsements by the Board of District Court Judges and the Bar Commission.

To participate in the program, attorneys must:

- Be eligible to practice law in Utah or be enrolled in a Utah law school. \*
- Accept the fee limits (pro bono and Modest Means).
- Certify knowledge of guardianship law and procedure or complete the free online training course.

**Eligible for CLE credits**

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**Malpractice insurance covered by the Bar**

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**Choose cases to suit your schedule**

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**Active and Inactive attorneys can join**

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**Gain valuable experience while serving your community**

### **FOR MORE INFORMATION:**

**Call:** (801) 578-3925

**Email:** GRAMP@utcourts.gov

**Visit:** [utcourts.gov/gramp/gsp](http://utcourts.gov/gramp/gsp)

\* Under Rule 14-807, students and recent graduates, under the direct and immediate personal supervision and in the presence of a resident attorney, can conduct or assist with interviews and other investigations, do research, prepare pleadings and other papers, and represent the client at hearings.