

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

In the Matter of the Application of ROBIN LIEBOWITZ for  
the Appointment of Guardians of

**ANITA LIEBOWITZ,**

a Person in Need of a Guardian

Index No. \_\_\_\_\_

VERIFIED PETITION FOR  
APPOINTMENT OF  
GUARDIANS

TO THE SUPREME COURT, COUNTY OF NASSAU:

The Petition of ROBIN LIEBOWITZ, a daughter of the Person in Need of a Guardian,  
respectfully shows:

PERSON IN NEED OF A GUARDIAN

ANITA LIEBOWITZ, the Person in Need of a Guardian (PING), was born February 27,  
1924, and is now 85.

ANITA LIEBOWITZ resides at 19 Eagle Lane, Roslyn, New York 11576, County of  
Nassau, telephone (516) 626-1191.

ANITA LIEBOWITZ's husband died in 2004.

ANITA LIEBOWITZ has three children, Petitioner, Robin Liebowitz, Janice Liebowitz and  
Rose Merrie Liebowitz.

ANITA LIEBOWITZ has two (2) brothers, Robert Sternberg and Jonathan Sternberg. She  
has one (1) sister who pre-deceased her, Naomi Weber, who was survived by two (2) daughters, Joy  
Weber and Marilyn Marsden.

ANITA LIEBOWITZ is in need of a guardian as provided for in Article 81 of the Mental  
Hygiene Law because she has functional limitations that make her unable to provide for her needs.

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SANDRA N. BUSELL, ESQ.  
98 Cutter Mill Road, Suite 395N  
Great Neck, New York 11021  
(516) 829-9595

I believe ANITA LIEBOWITZ is likely to suffer harm because she is unable to provide for her needs, and cannot adequately understand the nature and consequences of this inability.

CIRCUMSTANCES OF THE PERSON IN NEED OF A GUARDIAN

Upon information and belief, the functional level of Anita Liebowitz, including her ability to manage the activities of daily living, her behavior, and understanding and appreciation of the nature and consequences of any inability to manage the activities of daily living can be described as follows: Anita Liebowitz is readily influenced by her daughters Rose Merrie Liebowitz Behar and Janice Liebowitz to the extent that when Anita Liebowitz is in their presence she is unable to exercise her own will and is unable to protect her own best interests, physical, emotional and financial. Although Anita Liebowitz may intellectually know what is in her best interests, when she is in the presence of Rose Merrie Liebowitz Behar and Janice Liebowitz she is unable to act on that knowledge.

Anita Liebowitz is dependent on others for activities such as shopping, housekeeping and transportation. Anita Liebowitz is dependent upon the care of aides who fear repercussion if they should speak out against Rose Merrie or Janice. As such the aides are unable to exercise sound judgment in the care of Anita Liebowitz and act in accordance with the wishes of Rose Merrie and Janice instead of in accordance with the best interests of Anita Liebowitz.

Although the initial research and planning for an aide was done by Petitioner her sisters have excluded her from exercising any authority over the aides. Petitioner strived to include her sisters in the decision making regarding the retention of aides and agreed to have the aides report to Janice Liebowitz. Petitioner's desire to have Rose Merrie and Janice included has resulted in the Petitioner's exclusion to the disadvantage of Anita Liebowitz.

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Petitioner, Robin Liebowitz, took the necessary actions to arrange for Anita Liebowitz to attend several day programs designed to enhance her social interaction and overall well being. The programs were researched and the necessary steps were followed to secure Anita Liebowitz's placement in said programs. Anita Liebowitz currently attends the following programs on a regular basis; Double Day Babcock Senior Center, 45 East Main Street, Oyster Bay, NY 11771, Ruth Humphreys, Director; Herricks Community Center Day Program, 999 Herricks Road, New Hyde Park, NY, Ann Tountas, Director. In addition Anita Liebowitz also attends a program known as The Friendship Circle, 300 Forest Drive, East Hills, NY 11548, Connie Wasserman, Director. Robin Liebowitz was not responsible for putting Anita Liebowitz in this program.

Anita Liebowitz is likely to suffer harm because she cannot adequately appreciate the nature and consequences of her inability to provide for property management. Rose Merrie and Janice have transferred large sums of money from Anita Liebowitz to themselves, their husbands and their children without consideration for the long term needs of Anita Liebowitz.

Rose Merrie and Janice have had Anita Liebowitz execute a power of attorney in their favor with Charles Schwab. Said power of attorney has been used to transfer funds from Anita Liebowitz to Rose Merrie, Janice and their families despite Anita Liebowitz's stated testamentary intent to treat her three children equally.

Rose Merrie and Janice have repeatedly prevented and delayed the expenditure of necessary funds for the maintenance and improvement of real property owned by Anita Liebowitz. Communications and related documents are annexed hereto as Exhibit "A".

Rose Merrie and Janice have prevented Robin from having access to the financial and medical records of Anita Liebowitz to allow for independent review. Rose Merrie and Janice have taken

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deliberate actions to exclude Robin from meetings related to Anita's personal and property management. Relevant correspondence is annexed hereto as Exhibit "B".

Rose Merrie and Janice have repeatedly prevented necessary repairs and updates to real property owned by Anita Liebowitz. Said repairs and updates were necessary to protect the safety and well being of Anita Liebowitz. Petitioner, Robin Liebowitz, secured the necessary repairs and updates but is regularly excluded from the decision making process by her sisters, Rose Merrie Liebowitz Behar and Janice Liebowitz.

Rose Merrie and Janice maintain control of the assets of Anita Liebowitz and have acted in disregard of the expressed wishes of Anita Liebowitz to their own benefit. Anita Liebowitz would benefit from the appointment of an independent guardian for property management as this would allow oversight of the manner in which Anita Liebowitz's funds are used and would insure that all possible resources are available to maintain Anita Liebowitz in her home for as long as is possible and facilitate placement in a long term care facility if and when such a need arises.

#### PROPERTY POWERS BEING SOUGHT

6. Your Petitioner seeks powers relating to property management for the AIP. The powers of the Guardian for the property management of the AIP must include but not be limited to: marshaling the assets of the AIP, if any, and to invest and reinvest such assets as a prudent person of discretion and intelligence in such matters seeking reasonable income, and to apply so much of the income and principal as necessary for the comfort, support, maintenance and well-being of the AIP; collecting all income of the AIP, including but not limited to Social Security income of the AIP; providing for maintenance and support of the AIP; pay all bills necessary to maintain the AIP; applying for government and private benefits for the benefit of the AIP; and any other power which the Court in its discretion shall deem appropriate to meet the property management needs of the AIP.

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PERSONAL POWERS BEING SOUGHT

7. Your Petitioner seeks powers relating to the personal needs of the AIP as specifically set forth herein. Your Petitioner believes that the powers of the Guardian for the personal needs of the AIP must include but not be limited to : making decisions regarding the social environment and other social aspects of the life of the AIP; be authorized access to or release of confidential records; consenting to or refusing generally accepted routine or major medical or dental treatment; maintain the AIP in an appropriate facility, upon consultation with the daughters of the AIP; choosing the place of abode of the AIP, upon consultation with the daughters of the AIP; and any other powers which the Court in its discretion shall deem appropriate to meet the personal needs of the AIP.

DURATION OF THE APPOINTMENTS

8. Based on the Person in Need of a Guardian's circumstances as described herein, the Petitioner is requesting that the term of the court-appointed Guardian be indefinite .

FINANCIAL RESOURCES OF THE PERSON IN NEED OF A GUARDIAN

9. As best can be determined at this time, the monthly income of ANITA LIEBOWITZ is as follows: Petitioner has been denied any information pertaining to the monthly income of ANITA LIEBOWITZ.

10. To the best of the Petitioner's knowledge, ANITA LIEBOWITZ's assets consist of the following:

Real Property

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19 Eagle Lane, Roslyn NY	\$	900,000.00
Total Value, Real Property:	\$	<u>900,000.00</u>
Stocks, Bonds		
Stock	\$	0.00
Total Value, Stocks, Bonds	\$	<u>0.00</u>
Cash Assets Held Solely by the Person in Need of a Guardian		
Cash Item	\$	0.00
Total Value, Personal Accounts	\$	<u>0.00</u>
Cash Assets the Person in Need of a Guardian Holds Jointly With Others		
Joint Item	\$	0.00
Total Value, Joint Accounts	\$	<u>0.00</u>
Other Assets		
APPROXIMATE TOTAL	\$	<u>900,000.00</u>

11. To the best of the Petitioner's knowledge, no outstanding claims, debts or obligations are pending against ANITA LIEBOWITZ.

12. ANITA LIEBOWITZ has a safe deposit box. It is located at Chase Bank, 57 Northern Blvd., Greenvale, New York and Robin Liebowitz and Janice Liebowitz are also authorized to open it.

13. To the best of the Petitioner's knowledge, ANITA LIEBOWITZ has no other financial resources beyond those listed in this Petition. Petitioner has been denied access to the financial records of Anita Liebowitz and can make no representation as to the extent of her financial resources.

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INTERESTED PARTIES

14. The names, addresses, telephone numbers and relationships of the Interested Parties, other than the Petitioner, including distributees as that term is defined in the Surrogate's Court Procedure Act § 103(42), are:

NAME	ADDRESS/TELEPHONE	RELATIONSHIP
<b>Distributees</b>		
ROSE MERRIE LIEBOWITZ	13047 Salinas Point Way Delray Beach, Florida 33446 (561) 381-3781	Daughter
JANICE LIEBOWITZ	7125 Fairfax Road Bethesda, Maryland 20814 (301) 654-7377	Daughter
ROBERT STERNBERG	8974 Via Tuscany Drive Bryton Beach, FL 33472 (561) 737-7745	Brother
JONATHAN STERNBERG	5 Chestnut Hill Avenue Philadelphia, PA 19118 (215) 242-8444	Brother
JOY WEBER	7 Meadow Lane Cragsmoor, NY 12420 (845) 647-3849	Niece
MARILYN MARSDEN	24 Spruce Drive Salisbury, CT 06068 (860) 435-0657	Niece

PETITIONER

15. The Petitioner, ROBIN LIEBOWITZ resides at 229 Sullivan Street, Apt. 3C, New York, New York 10012, telephone (415) 652-6668.

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16. PROPOSED GUARDIANS The Petitioner is asking that Guardians be named for ANITA LIEBOWITZ as follows:

NAME	ADDRESS/TELEPHONE	RELATIONSHIP
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The Petitioner is not in a position to name an individual for this role and asks that the court select an independent individual.

17. An independent guardian for property management is being sought because there is no friend or family member in a position to provide the assistance that ANITA LIEBOWITZ requires.

ROBIN LIEBOWITZ (Petitioner) Proposed Guardian for person	229 Sullivan Street, Apt. 3C New York, New York 10012 (415) 652-6668	daughter
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18. This proposed Guardian is suitable to exercise the powers necessary to assist ANITA LIEBOWITZ because she is the daughter of the AIP and is therefore familiar with the wishes and needs of the AIP. Petitioner has taken the necessary steps to secure placement in appropriate day programs and to retain appropriate assistance for ANITA LIEBOWITZ.

The Proposed Guardian for Personal Needs cared for ANITA LIEBOWITZ each weekend from Friday evening until Sunday evening for roughly two years from approximately September, 2006 until September, 2008. Petitioner continues to visit with ANITA LIEBOWITZ on a regular basis. Robin Liebowitz is the daughter living closest to ANITA LIEBOWITZ.

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## AVAILABLE RESOURCES

19. In attempting to assess whether ANITA LIEBOWITZ has prepared any advance directives that might serve as an alternative to a guardianship or shed light on her preferences for a guardian, the Petitioner has determined that:

ANITA LIEBOWITZ has a Will. Petitioner is not certain of where the original will is kept or who the named executors are. A previous will had named Janice as executor.

She has executed a Durable Power of Attorney. -The named agents are Rose Merrie Liebowitz, Janice Liebowitz and Robin Liebowitz. To the best of Petitioner's knowledge said Power of Attorney requires that all powers act together. To the best of Petitioner's knowledge, Rose Merrie and Janice caused ANITA LIEBOWITZ to executed an additional Power of Attorney at Charles Schwab which gives them unfettered access to ANITA LIEBOWITZ'S assets with Charles Schwab.

ANITA LIEBOWITZ has no trust.

She has executed a Health Care Proxy. The named agent is Janice Liebowitz, 7125 Fairfax Road, Bethesda, MD 20814. Said proxy has used her authority under the health care proxy to make decisions beyond the scope of said authority including denying Anita Liebowitz the right to travel, despite her doctor's expressed opinion to Petitioner that she was able to travel. Petitioner, Robin Liebowitz, is the substitute health care proxy. The choice of Janice as first health care proxy was based upon her residing closest to Anita Liebowitz at the time said instrument was executed.

20. To the best of the Petitioner's knowledge, ANITA LIEBOWITZ has no other available resources that would assist in providing for her needs or shed light on her preferences for a guardian.

21. The Petitioner believes that the available resources are not sufficient and reliable because those holding the Power of Attorney have misappropriated assets of Anita Liebowitz who is not able to understand the possible harm to her.

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OTHER INFORMATION

22. The Petitioner knows of no other information that would assist a Court Evaluator in completing an investigation and report.
23. The Petitioner expects ANITA LIEBOWITZ to attend the hearing because she believes she could meaningfully participate in the proceeding.
24. The petitioner has retained SANDRA N. BUSELL, Esq. to represent her in this matter. The petitioner respectfully requests that the Court, in the Order appointing Guardians, fix a fair and reasonable fee for the petitioner's attorney to be paid from the assets of the Person in Need of a Guardian.
25. No previous application has ever been made to this Court or any other Court of competent jurisdiction for the relief sought herein.

RELIEF SOUGHT

**WHEREFORE**, your Petitioner prays that the Court:

1. Declare that ANITA LIEBOWITZ is a person in need of a guardian as the term is defined in MHL § 81.02(b);
2. Appoint an independent Guardian of the property of ANITA LIEBOWITZ, with the powers requested in this Petition;
3. Appoint ROBIN LIEBOWITZ as Guardian of the person of ANITA LIEBOWITZ, with the powers requested in this Petition;
4. At the conclusion of the hearing requested in this Petition, approve a list of parties who must be served with notice of all future proceedings in this matter;
5. Grant such other, further or different relief as the Court deems just and proper.

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Dated: April \_\_\_\_\_, 2009

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Signature of Petitioner  
ROBIN LIEBOWITZ

**VERIFICATION**

STATE OF NEW YORK                    )  
  ) ss:  
COUNTY OF NEW YORK                )

**ROBIN LIEBOWITZ**, being duly sworn, deposes and states: I am the Petitioner in the within action, I have read the foregoing Petition and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe them to be true.

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Signature of Petitioner  
ROBIN LIEBOWITZ

Sworn to before me this  
\_\_\_\_\_ day of April 2009

\_\_\_\_\_  
Notary Public

Sandra N. Busell  
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