

INCAPACITED HAVE RIGHT TO BE IN COURT DURING INCAPACITATION HEARING

Even the AIP (alleged incapacitated person) have the right to be in court, ask questions and make demands BEFORE being declared incapacitated. Corrupt judges and corrupt lawyers try to keep their victims out of court to keep the AIP ignorant of what is happening to them.

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🔔 Wed, Jul 8 • 17:55

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- client. [1, 2]
- **Advocate, Not Decided:** The lawyer's statutory role is to **advocate for the client's expressed wishes and instructions**—not to act as a guardian ad litem who decides what is "in the client's best interest". If the AIP says "I want to go to court" or "I don't want a guardian," the lawyer is legally obligated to fight for that position. [1, 2, 3]

2. The Right to Be Present is a Constitutional Liberty

A guardianship strips away an individual's fundamental civil rights. An attorney cannot unilaterally waive the AIP's right to attend the hearing. Only a **judge** can excuse the AIP from appearing, and the judge can *only* do so if a **sworn medical report** is submitted proving that attendance would cause physical or psychological harm. [1, 2, 3]

If the lawyer blocked the AIP from attending without a formal judicial order based on an expert medical report, it is a direct violation of due process. [1]

Immediately Actionable Steps to Take

If you are a family member, friend, or interested party witnessing this, you can intervene to protect the AIP:

1. **Inform the Orphans' Court Judge Immediately:** Write a formal letter or have an independent lawyer file an emergency petition to the presiding judge in the

county's Clerk of the Orphans' Court. Inform the court that the AIP's appointed counsel has failed to consult with the client and is preventing them from exercising their right to be present. [1, 2, 3]

2. **Request a Separate Guardian Ad Litem (GAL):** If the defense counsel is failing, you or another interested party can petition the judge to appoint an independent Guardian Ad Litem. A GAL is a separate entity whose sole job is to investigate the situation objectively and report the truth directly to the judge. [1, 2, 3, 4, 5]
3. **Contact a Private Elder Law Attorney:** Consider hiring an independent Pennsylvania Elder Law Attorney to file a cross-petition or entry of appearance to challenge the deficient representation.
4. **File a Disciplinary Complaint:** An attorney who fails to communicate with a client and overrides their constitutional right to attend court is violating the Pennsylvania Rules of Professional Conduct. A formal complaint can be filed with the Disciplinary Board of the Supreme Court of Pennsylvania. [1, 2]

Has the **final guardianship hearing already taken place**, or is it scheduled for a future date? If you can share **which county** this is in, I can look up the exact contact info for that court's administrator so you can report this.

AI responses may include mistakes. For legal advice, consult a professional. [Learn more](#)

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14 sites

- A Step-By-Step Guide to Guardianship for an Elderly Parent

Sep 13, 2024 — ... is to be the court's investigator whose job is to make an evaluation of the facts and merits of the petition, submit a written...