

**IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE**

<b>PAUL DENNIS REID, JR.,</b>	)	
<b>by and through Linda Martiniano,</b>	)	<b>CASE NO.</b> _____
	)	
<b>Petitioner,</b>	)	
	)	<b>Montgomery County Circuit Court</b>
	)	<b>Trial Court No. 38887</b>
<b>STATE OF TENNESSEE,</b>	)	
	)	<b>Death Penalty</b>
	)	<b>EXECUTION DATE: June 28, 2006</b>
<b>Respondent.</b>	)	

**MOTION TO REMAND TO MONTGOMERY COUNTY CIRCUIT COURT  
FOR HEARING ON COMPETENCY TO BE EXECUTED UNDER *FORD v*  
*WAINWRIGHT AND VAN TRAN v. STATE***

**AND**

**FOR STAY OF EXECUTION**

**EXPEDITED HEARING REQUESTED**

Linda Martiniano, as next friend for Paul Dennis Reid, Jr., and for the reasons set forth below, respectfully moves this Court, pursuant to its “inherent supervisory authority over the judicial system of this State,”<sup>1</sup> to stay Mr. Reid’s execution and remand this matter to the Montgomery Circuit Court for a determination of whether he is competent to be executed under the principles announced in *Ford v. Wainwright*, 477 U.S. 399, 106 S.Ct. 2595, 91 L.Ed.2d 335 (1986) and *Van Tran v. State*, 6 S.W.3d 257 (Tenn. 1999). An expedited hearing is requested.

**MEMORANDUM OF LAW AND FACTS IN SUPPORT OF THIS MOTION**

This motion is submitted as a first instance in this Court under the procedures set out in *Van Tran v. State*, 6 S.W.3d at 267, 273. In *Van Tran*, this Court rejected all other available avenues for bringing a claim of incompetence under *Ford* and required

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<sup>1</sup> *Van Tran v. State*, 6 S.W.3d 257, 260 (Tenn. 1999).

that “a petitioner should raise the issue of competency to be executed in the first instance in this Court.” *Van Tran v. State*, 6 S.W.3d at 267. The additional requirement that the claim must be brought in petitioner’s written response to the State’s motion to set an execution date cannot apply in this case as the State has never filed a motion to set an execution date.<sup>2</sup>

Because the procedural history of this case is unique and because there is no established procedure in Tennessee by which Mr. Reid, or Ms. Martiniano on behalf of Mr. Reid, can claim his incompetence to be executed, this Court must exercise its inherent jurisdiction and supervisory authority and create a procedure that is akin to that created in *Van Tran* that permits an inquiry into Mr. Reid’s incompetence under *Ford v. Wainwright*. As the Court noted in *Van Tran*, “this Court has not only the power, but the duty, to consider, adapt, and modify common law rules,” “when an issue arises for which no procedure is otherwise specifically prescribed.” *Van Tran v. State*, 6 S.W.3d at 264-265.

In addition, this Court recognized that it has “an affirmative constitutional duty to ensure that no incompetent prisoner is executed.” *Id.* at 265. The procedure set forth in *Van Tran* requires the petitioner to initiate the claim that he is incompetent to be executed in this Court but then notes that “[t]his Court will not make a determination of the issue.” *Id.* at 267. Once the claim is raised this Court’s role is to remand the case “to the trial court where the prisoner was originally tried and sentenced for the determination of the

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<sup>2</sup> The execution was set on June 28, 2006, by this Court on September 26, 2005, when this Court granted a stay of the October 5, 2005 execution date. The date was then stayed by order of the Montgomery County Circuit Court on September 29, 2005, when it accepted the post-conviction petition filed by Ms. Gleason and Mr. Hare that was not verified by Mr. Reid. This petition was dismissed and all orders of the Montgomery County Circuit Court were stricken by this Court’s opinion in *Holton v. State and Reid v. State*, \_\_\_ S.W.3d \_\_\_, Tenn. Sup. Ct. No. M2005-01870-SC-S10-PD and No. M2005-02398-SC-S10-PR (May 4, 2006). This Court’s act of vacating the stay reestablished June 28 as the execution date without a motion by the State.

issue.” *Id.* It is only in the trial court, once the case is remanded that the prisoner must set forth a factual foundation for his claim that he is not competent to be executed. *Id.*

A prisoner is not competent to be executed if he “lacks the mental capacity to understand the fact of the impending execution and the reason for it.” *Thompson v. State*, 134 S.W.3d 168, 176 (Tenn. 2004)(citing *Van Tran v. State*, 6 S.W.3d at 266). George Woods, M.D., a physician specializing in neuropsychiatry, evaluated Mr. Reid on June 20, 2006. At the time he reported that Mr. Reid is incompetent to be executed due to his lack of understanding the reason for his execution. As explained by Dr. Woods, Mr. Reid’s “neurologically-derived mental defect, a neurological psychosis, precludes him from either understanding his position or appreciating the legal options available to him.” (Affidavit of Dr. Woods, ¶ 14; Attached.) In fact, his delusion that he and everyone around him are being controlled by Scientific Technology and that he is “under the control of a government-directed surveillance, influences, impels, invades, and guides his daily activities and his understanding of his legal position and the options available to him.” (*Id.* at ¶ 10.) In fact, Mr. Reid does not understand the reason he is being executed. As explained by Dr. Woods, Mr. Reid believes that he is innocent and that “he is poised to expose Scientific Technology and his innocence and therefore Scientific Technology will have him killed.” (*Id.* at ¶ 26; *accord. Id.* at ¶¶ 11, 15, 16, 25.)<sup>3</sup>

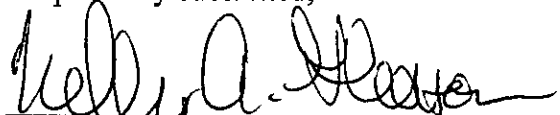
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<sup>3</sup> There are several actions pending concerning Mr. Reid, all of which are predicated on his delusional belief that Scientific Technology is in charge of him, this Court, his lawyers, and his fate. Each of these cases raise substantial questions concerning Mr. Reid’s present competence under several distinct legal competency standards. This Court has before it Mr. Reid’s appeal pursuant to T.R.A.P. 9 questioning his competence to assist his counsel in his post-conviction petition that is pending in Division 3 of the Criminal Court of Davidson County. *Paul Reid, Jr. v. State of Tennessee*, Case No. M2005-00260-SC-S09-PC (argued before this Court on February 2, 2006, and pending decision). On May 23, 2006, Paul Reid’s sister, Linda Martiniano, filed a timely post-conviction petition as next friend for her brother. On June 13, the circuit court dismissed that petition summarily, without entertaining evidence and applying the wrong test of competence to waive post-conviction relief. Issues of first impression are on appeal from that decision. On June 22, 2006, a motion for stay of execution was filed in this Court requesting the June 28 execution be stayed to permit the orderly appeal of the decision of the Montgomery County Circuit Court.

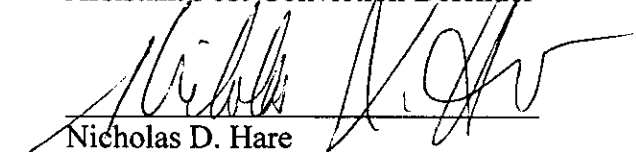
**RELIEF REQUESTED**

WHEREFORE, this petition requests that this Court stay the scheduled execution and remand this matter to the Montgomery Circuit Court for that court to receive a petition with appropriate support that Mr. Reid is incompetent to be executed and for that court to conduct a review under the procedures set out in *Van Tran*.

Respectfully submitted,



Kelly A. Gleason  
Assistant Post-Conviction Defender



Nicholas D. Hare  
Assistant Post-Conviction Defender

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Nashville, Tennessee 37243  
(615) 741-9331  
FAX (615) 741-9430

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Also on June 22, 2006, Ms. Martiniano filed a motion in the Court of Criminal Appeals requesting that court stay Mr. Reid's execution to permit the orderly appeal of the dismissal of Mr. Reid's petition for post-conviction relief. (Motion for Review of Denial of Motion for Stay of Execution Pending T.R.A.P. 3 Appeal of Right of Dismissal Post-Conviction Petition and Truncated Brief; a copy of which was attached to the motion for a stay filed in this Court on June 22.) As noted by Judge Gasaway, "Mr. Reid's competency has always been an issue from virtually the date of his arrest, so this Court knows that this assertion [of incompetence to file post-conviction] by Ms. Gleason and Mr. Hare is not some eleventh hour contention, that his competency has been in question for a long time." (Transcript of September 29, 2005 hearing.) Competency to be executed under *Van Tran* is determined by a different legal standard than competency to waive post-conviction relief.


STATE OF TENNESSEE )  
 ) ss  
COUNTY OF DAVIDSON )

**AFFIDAVIT**

I, Kelly A. Gleason, after having been duly sworn, aver and say as follows:

All of the factual assertions contained in this Motion are true and correct to the best of my knowledge and belief.

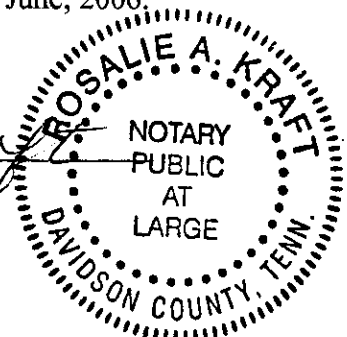
**FURTHER THE AFFIANT SAITH NOT:**

  
\_\_\_\_\_  
Kelly A. Gleason, Affiant

Sworn to and subscribed before me on this the 23<sup>rd</sup> day of June, 2006.

My Commission Expires: 11-24-07

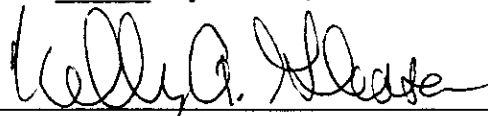
  
\_\_\_\_\_  
NOTARY PUBLIC



**CERTIFICATE OF SERVICE**

My Commission Expires NOV. 24, 2007

I hereby certify that a true and exact copy of this Motion was hand delivered to Jennifer L. Smith, Associate Deputy Attorney General, Criminal Justice Division, P.O. Box 20207, Nashville, TN 37202-0207 on this the 23<sup>rd</sup> day of June, 2006.

  
\_\_\_\_\_  
Kelly A. Gleason

**ATTACHMENT**

State of California )  
                          ) ss  
County of Costa )

**AFFIDAVIT OF GEORGE W. WOODS, JR., M.D.**

I, George W. Woods, Jr., M.D., after being sworn under oath, swear and affirm that the following is true and correct:

1. I am a licensed physician specializing in neuropsychiatry. I am in private clinical practice and also focus on forensic consultations. My business addresses are as follows:

2612 Lake Ferry Lane  
Atlanta, Georgia 30338

1511-M Sycamore Avenue, #258  
Hercules CA 94547

139 Harmon Drive  
San Antonio, Texas 78209

2. I am a Fellow of the American Psychiatric Association and a member of the Northern California Psychiatric Association. I am also a member of the American Academy of Psychiatry and the Law and The American Neuropsychiatric Association. I am on the Board of Directors of The International Academy of Law and Mental Health, where I serve on the Scientific Committee and the Executive Committee. I am also on the Advisory Board of the Health Law Institute, DePaul University College of Law.

3. I received my bachelor's degree from Westminster College in Salt Lake City, Utah, in 1969. I received my medical degree at the University of Utah in 1977 and completed my residency at the Pacific Medical Center in San Francisco, California in 1981. I then participated in a National Institute of Mental Health/American Psychiatric

Association NIMH/APA) Fellowship in 1982. I received my board certification in psychiatry and neurology in 1992.

4. I joined the faculty of the University of California, Davis, Medical School, Department of Psychiatry, in 1996. For the next four years, I taught aspects of Forensic Psychiatry, including various types of competency as well as criminal responsibility to psychiatrists in the Postgraduate Forensic Fellowship. I am currently Affiliate Professor at the Morehouse College School of Medicine, Department of Psychiatry. I teach a course entitled Clinical Aspects of Forensic Psychiatry. I am also Adjunct Professor in the Department of Educational Leadership and Public Policy at the California State University, Sacramento.

5. I maintain a private clinical practice in neuropsychiatry, psychopharmacology, and psychotherapy. I have been qualified and have testified as an expert in numerous civil and criminal cases in State, including the State of Tennessee, as well as Federal Courts.

6. At the request of counsel for Mr. Reid, I interviewed Mr. Reid on August 18, 2005, and October 6, 2005. I also reviewed background materials on Mr. Reid including medical records, results of neuropsychological testing and neuroimaging studies, and expert evaluations and/or reports. Based upon my interviews of Mr. Reid and my review of his background materials, I advised Mr. Reid's counsel and submitted a declaration that Mr. Reid was incompetent under the standards found in *Rees v. Peyton*, 384 U.S. 312, 86 S.Ct. 1505, 16 L.Ed.2d 583 (1966) and in *State v. Nix*, 40 S.W.3d 459 (Tenn. 2001). That declaration, which includes the bases for my conclusions, is attached hereto as Attachment 1 and is incorporated herein. On June 20, 2006, counsel for Mr.



Reid again requested an opinion from me as to whether Mr. Reid is presently competent utilizing two standards: 1) the standard for competency to waive appeals as found in *Rees*; and 2) the standard for competency to be executed as found in *Ford v. Wainright*, 477 U.S. 399, 106 S.Ct. 2595, 91 L.Ed.2d 335(1986).

7. Standards Utilized: The *Rees v. Peyton* standard is summarized in *Rumbaugh v. Proconier*, 753 F.2n 395, 398 (5<sup>th</sup> Cir. 1985) as:

(a) Is the person suffering from a mental disease or defect?

(b) If the person is suffering from a mental disease or defect, does that disease or defect prevent him from understanding his legal position and the options available to him?

(c) If the person is suffering from a mental disease or defect which does not prevent him from understanding his legal position and the options available to him, does that disease or defect, nevertheless, prevent him from making a rational choice among his options?

The *Ford v. Wainright* standard is found in *Ford*, 477 U.S. at 422, 106 S.Ct. at 2608, 91 L.Ed.2d at \_\_\_\_, and requires those who are executed to know the fact of their impending execution and the reason for it.

8. I examined Mr. Reid again on June 20, 2006. Based upon my examinations and review of materials, it is again my professional opinion, which I hold to a reasonable degree of neuropsychiatric certainty, that Mr. Reid suffers from a neurological disorder -- left temporal lobe dysfunction. The temporal lobe dysfunction has produced in Mr. Reid a chronic, schizophrenia-like psychosis which has severely impaired his ability to weigh, deliberate, inform and cooperate. Mr. Reid also has

impairments in his ability to sequence his memories, often developing delusional precepts in order to explain his misperceptions. Each of these factors substantially impairs his ability to understand his legal position and the options available to him.

9. On June 20, 2006, Mr. Reid described himself as having "zero confidence" in his legal team. Although lack of confidence in one's attorneys may not seem significant, a crucial fact in Mr. Reid's case is that this lack of confidence is directly related to his delusional system. He noted that "they won't do anything to help me." Mr. Reid believes that this lack of attention on the part of his attorneys is due to their collusion with "Scientific Technology," the government organization that has been controlling his mind since at least 1985, and which videotapes and records his entire life.

10. Mr. Reid's neuropsychiatric presentation reflects frank paranoia, manifested by the mind control of Scientific Technology, a longstanding, relatively well-circumscribed delusion. A delusion is a false belief based on incorrect inference about external reality that is firmly sustained despite what almost everybody else believes and despite what constitutes incontrovertible and obvious proof or evidence to the contrary. Mr. Reid's delusion, that he, his family, his legal team, and all others whom he comes in contact with are under the control of a government-directed surveillance, influences, impels, invades, and guides his daily activities and his understanding of his legal position and the options available to him.

11. Mr. Reid believes that his legal team has no control over his fate. Rather, he sees them as in cahoots with Scientific Technology to prevent him from being found innocent. He also notes that his legal team has refused to advocate for him to be moved

from Brushy Mountain Prison in East Tennessee back to Riverbend Prison in Nashville and has refused to advocate for him not to have to wear electronic belts while in court.

12. Mr. Reid acknowledges that he has not "spent 5 minutes" reading about his case. He states that the television is his main source of information about his case. He has never gone to the law library, nor has he read any motions or briefs filed on his behalf by his attorneys. It is Mr. Reid's belief that since Scientific Technology has already coached his attorneys and investigators, it would be futile for him to be an active part of his appellate process.

13. Mr. Reid's delusional belief that Scientific Technology has tainted his legal position and any possible options relating to that position extends to all of his trials, subsequent hearings, and current proceedings. He notes that, in his previous trials, the judges, district attorneys, and defense attorneys had been given videotapes of his life or scripts of those videotapes. Mr. Reid states that he recognized private phrases or statements he had uttered in 1985 and 1986, now being used by the various court officers, and is adamant that the only way officers of the court could have known these statements is for them to have been given transcripts of his earlier life.

14. Mr. Reid believes that his attorneys cannot disobey Scientific Technology, and are part and parcel of this experiment on, and control of, his mind. Consequently, his neurologically-derived mental defect, a neurological psychosis, precludes him from either understanding his position or appreciating the legal options available to him.

15. Mr. Reid is unable to separate his organic delusions from his legal position. In fact, he believes that Scientific Technology placed him in this legal position. Since, in his mind, there are videotapes of every moment of his life from at least 1985, he

believes there are tapes that would exonerate him. Scientific Technology's unwillingness to disclose the tapes, and his attorneys' acquiescence to Scientific Technology's control, comprise the foundation of Mr. Reid's psychotic inability to cooperate with his legal team, undermining both his legal position and any options he may derive from the relationship with his team.

16. Mr. Reid's writings are reflective of his inability to either understand his legal position or to rationally utilize the legal options available to him. Mr. Reid is an obsessive, voluminous writer. He hopes that his writings will force the world to recognize several major factors. First, George Bush, Sr., while President, was stricken by Scientific Technology in Japan, and fainted. Second, George Bush, Jr., was attacked by Scientific Technology and fainted, secondary to a Scientific Technology-enhanced pretzel. Third, John F. Kennedy, Jr.'s, fatal accident was caused by Scientific Technology. Last, Mr. Reid's 21 years of Scientific Technology's surveillance, control, and influence over every facet of his life is part of a pattern devised by Scientific Technology which has a goal of remote mental domination.

17. Mr. Reid's writings are minimally concerned with his case. There is no evidence of legal research. His pages of words, taken from the dictionary and thesaurus, contain few legal terms, if any. Rather, there are grandiose confabulations describing an idyllic childhood which is completely unsubstantiated and factually inaccurate. This confabulation is consistent with the memory impairments found in temporal lobe dysfunction.

18. Episodic memory refers to the explicit and declarative memory system used to recall personal experiences framed in our own context, such as a short story or

what you had for dinner last night. Episodic memory has largely been defined according to the inability of people with amnesia due to lesions of the medial temporal lobe to remember experiences that healthy people can remember. Thus, this memory system depends on the medial temporal lobes (including the hippocampus and the entorhinal and perirhinal cortexes). Extreme examples of memory distortions include confabulation, which occurs when “memories” are created to be consistent with current information, such as “remembering” that someone broke into the house and rearranged household items...(Price et al, Memory Dysfunction, New England Journal of Medicine, July 2005)

19. These cortical impairments, consistent with Mr. Reid’s documented temporal lobe damage, are manifested throughout Mr. Reid’s writings. He writes very little concerning his legal position or his potential legal options. These writings corroborate Mr. Reid’s psychotically fueled inability to either understand his legal position or engage in possible options, matters that are completely secondary to his paranoid ideation, his delusion of control by Scientific Technology.

20. Mr. Reid’s paranoid ideation extends to and engulfs other inmates, his family, experts that have evaluated him (including myself), and, of course, his legal team. His neurologically mediated paranoia extends to every facet of his life, since he believes that each and every one of his actions is monitored, recorded and, at times, distributed.

21. Mr. Reid believes that the Scientific Technology controls his ability to awaken and controls his ability to sleep. He believes Scientific Technology has directly impaired his ability to write and often limited his ability to understand what he has written, forcing him to rewrite, add, or rework information. He believes Scientific Technology also independently rewrites his material.

22. Scientific Technology has also, according to Mr. Reid, limited his ability to read effectively by impairing his ability to recall information from previous paragraphs, thereby requiring him to stop reading for extended periods. He notes that his memory, particularly his ability to sequence his memory, has become problematic, thanks to Scientific Technology. This perseverative quality of his memory, getting stuck, is manifested by his belief that certain actions or behaviors he witnesses today have occurred in the past, and the person exhibiting that action has done the very same thing before, a neurological déjà vu. Mr. Reid firmly believes that many of the actions of his legal team are behaviors they have performed, exactly, before, and this neurological rumination extends to specific actions that impede his ability to control his personal affairs. Mr. Reid believes that Scientific Technology can control his ability to eat by causing him to become bloated. He believes that Scientific Technology limits the amount of money he gets, thereby limiting his commissary, although he can buy items if Scientific Technology would allow him to have funds. Scientific Technology influences family friends to not send money, and other outside sources to purposely limit his access to money.

23. According to Mr. Reid, all of his interpersonal communications are overseen by Scientific Technology and thereby prevent him from trusting anyone. Although he can brush his teeth, shower (when Scientific Technology allows him to have showers in his cell), and buy commissary, Scientific Technology, through inmates, family, and his legal team, infects his communications to his detriment thereby emotionally isolating him. Consequently, Mr. Reid's personal behaviors are in the service

of his paranoid ideation and cognitive dysfunctions, no matter how inconsequential they may be.


24. Mr. Reid has, involuntarily, surrendered legal rights and liabilities to his paranoid delusions of control. He sees himself as having no rights, delusional in his belief that his every thought is recorded, his every movement videotaped, and his every relationship influenced, to his detriment. His understanding of why Scientific Technology is willing to allow him to be executed illuminates the extent of his delusion of control.

25. Mr. Reid alleges that Scientific Technology is now willing to allow him to be executed because, through his writings, he is so close to exposing them. It is now in their best interest to eradicate him through execution, and he sees his execution not as a punishment for the crimes for which he has been convicted. Rather, execution now has a two-fold goal. Scientific Technology can now quiet him and eliminate his ability to finally expose them.

26. The pervasive quality of Mr. Reid's paranoid delusion of control directly impairs his competency under *Rees* and *Ford*. Because of Mr. Reid's mental illness, he has no rational understanding of his legal position and options. He cannot make a rational choice among his legal options. Furthermore, while he sporadically can and will recite that he is going to be executed because he has been convicted of murder, his true deranged understanding of why he is to be executed is that he is poised to expose Scientific Technology and his innocence and therefore Scientific Technology will have

him killed. He has no capacity to assist counsel. I conclude that he is incompetent under *Rees and Ford*.<sup>1</sup>

FURTHER AFFIANT SAITH NOT.

Attest:   
George W. Woods, Jr., MD

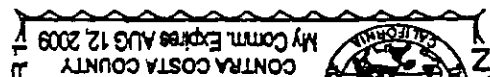
Sworn to and subscribed before me on this the 22 day of June, 2006.

My Commission Expires: \_\_\_\_\_

PLEASE SEE ATTACHED  
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NOTARY FORM

\_\_\_\_\_  
NOTARY PUBLIC

<sup>1</sup> I also again conclude that Mr. Reid is not competent under *State v. Nix*, 40 S.W.3d 459(Tenn. 2001).





State of California  
County of Contra Costa

Subscribed and sworn to (or affirmed) before me on this 22<sup>nd</sup> day of JUNE,  
2006, by George W. Woods Jr., personally known to me or  
proved to me on the basis of satisfactory evidence to be the person(s) who appeared  
before me.

Signature [Handwritten Signature]



**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: Affidavit of George W. Woods Jr. MD.

Document Date: 6/22/06 Number of Pages: 10

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

