



**SPECIALIZING IN THE FIELDS OF PROBATE, GUARDIANSHIP, ELDER LAW,  
ESTATE PLANNING, TRUST PREPARATION AND MANAGEMENT,  
AND RELATED LITIGATION**

***LET OUR FAMILY BRING YOUR FAMILY PEACE OF MIND***

At Irama Valdes, P.A., we strive to provide effective and efficient service for all of our clients. You are more than just an Estate or a Guardianship. You are a family within our family. Your problems become our problems, and we work around the clock to help you find a solution. We strongly believe in keeping our clients updated frequently about their case, no matter how small the achievement. When you call our office, you will speak to a staff member or attorney that know, even the most minute details about your case. It is also our firm's policy to return emails and phone calls promptly so that you never feel left in the dark or spend days waiting for a response. As a licensed attorney in the State of Florida who exclusively practices probate, guardianship, and estate planning, Attorney Valdes can assist you in your case, no matter your location.

**• FREQUENTLY • DISCUSSED • TOPICS •**

**WHAT IS A GUARDIANSHIP?**

A Guardianship is a legally authorized relationship between a competent adult (the guardian) and a minor child or an incapacitated adult (the ward). In this relationship, the guardian is given (by the Court) the duty and right to act on behalf of the Ward in making certain decisions affecting the Ward's life (can be both or either the Ward's Person and Property).

**WHEN IS A GUARDIANSHIP  
NECESSARY (INCAPACITATED  
ADULT)?**

A Guardianship for an incapacitated adult is usually necessary for one or more of the following reasons: lack of access to finances; vulnerability to exploitation; refusal to receive appropriate care; and need for amendment or creation of trusts.

Lack of access to finances occurs when an alleged incapacitated person's assets are held individually and there are no legal documents

prepared that authorize another trusted individual access for bill paying and asset management. Legal documents include those such as durable power of attorney, healthcare surrogate, or trusts which are done prior to impairment and authorize another to manage finances.

Suppose, for example, that a person suffers a car accident and lands in a coma. Unless that person has a durable power of attorney and medical directives already in place before the accident, the court will need to appoint a guardian to make both financial and non-financial decisions for the comatose person.

Another more common example is an individual with dementia or Alzheimer's disease. Capacity may be a fleeting thing depending on the stage of cognitive impairment but decisions for this individual must be made.

### **WHEN IS A GUARDIANSHIP NECESSARY (MINOR CHILD)?**

A Guardianship for a minor child is necessary when the child is lacking a natural guardian (i.e., both mother and father cannot care for the child due to an incapacity or death) or when the child receives money either in the form of an inheritance or from an injury lawsuit. If the child is receiving less than \$15,000.00, the funds can be paid directly to the child's natural guardian, if one exists, and no guardianship is necessary. A Guardianship case may still be needed to approve the terms of a settlement agreement.

### **HOW IS A GUARDIANSHIP ESTABLISHED?**

Guardianship is a Court-supervised process for the determination of incapacity and appointment of an incapacitated person (known as a "Ward"). The first step is to have

the person's incapacity determined and thereafter, and in a separate (but related) case, appoint a guardian.

### **WHO CAN BE THE GUARDIAN?**

Florida Statutes states that a resident who is 18 years of age or older can be appointed. A nonresident can serve as guardian as long as he/she is related by blood, a legal adopted child or adoptive parent of the Ward, a spouse, brother, sister, uncle, aunt, niece, or nephew or ward, or someone related by blood to one of these named persons; or lastly, the spouse of a person otherwise qualified. However, no person who has been convicted of a felony or who, from any incapacity or illness, is incapable of discharging the duties of a guardian can be appointed.

If the Ward does not have anyone that qualifies under the above, the Court may appoint a Professional Guardian, or if the Ward is indigent (or only receives social security disability) then the Court may appoint a Public Guardian, which is paid by the State.

### **HOW LONG DOES THE GUARDIANSHIP PROCESS TAKE?**

Once the pleadings to determine the incapacity are filed, the Court itself will schedule the incapacity hearing for usually one to two months thereafter. Once the Court determines the incapacity of the Ward, the Attorney for the prospective Guardian can submit the proposed orders appointing the Guardian to the Court through their digital system, unless there exists a disagreement between those entitled to serve as Guardian, in which case, litigation will ensue to determine who is best suited to be appointed.

## **WHAT IF I CAN'T WAIT TWO MONTHS?**

If the proposed Ward is a danger to him/herself or others around him/her, or, a large amount of assets is in danger of being misappropriated, the Court will allow the appointment of an Emergency Temporary Guardian for a period of 90 days, which gives the usual guardianship process to proceed while also safeguarding the Ward and his/her assets.

## **WHEN DOES A GUARDIANSHIP END?**

A Guardianship for an adult incapacitated person ends when the adult is no longer incapacitated. In most cases, this means when the Ward dies, although there have been many cases where the Ward's capacity improves and their capacity is restored.

A Guardianship for a minor ends when the minor becomes an adult, i.e., when he or she turns 18 years old.

## **• FREQUENTLY • ASKED • QUESTIONS •**

### **WHAT SHOULD I BRING TO MY GUARDIANSHIP CONSULTATION?**

This is a great question and one clients often ask. You should bring with you a list of the Ward's assets and liabilities to start. Be prepared to answer how the assets are held (i.e., jointly with someone, in their own name, and whether there are "payable on death" beneficiaries). You should also bring a list of names, addresses, phone numbers and email addresses for the Ward's next of kin. If the Ward is receiving government benefits, this information is useful as well.

If a guardianship is being established for a minor child, an original Birth Certificate is necessary. This is required to be deposited with the Court and you will not get them back.

### **DO ALL OF THE RELATIVES NEED TO ATTEND THE MEETING?**

No, but if all of the relatives wish to attend, we will be happy to accommodate your family but using teleconferencing, skype, or having all meet in person in our spacious conference room. We are here to make you feel comfortable so whatever

accommodations we can offer, we will be happy to do so!

### **IS THE CONSULTATION FREE?**

Guardianship consultations are \$150.00/hour. During this consultation you will be receiving valuable information regarding the law and procedures specifically tailored to the facts of your case. We love educating our clients every step of the way, even during our first meeting, so the consultation may take anywhere between 45 minutes to an hour. Should you wish to retain our services, the consultation fee may be applied to the invoice for services.

If there is already a dispute as to who should be the Guardian or whether the alleged incapacitated person is incapacitated, this is considered a litigation case and the consultation fee is \$200.00/hour.

### **WHAT IS THE TOTAL COST OF A GUARDIANSHIP?**

As each family, their assets, and liabilities are different, so is their guardianship case. There are many variables in a guardianship case,

some of which we can plan for, but some of which are unexpected. We *can* advise that there are certain aspects of a guardianship that can mean more time spent on your case (and thus higher fees), for example: litigation between relatives, two (or more) competing Petitions for Appointment of Guardian, the existence of advanced directives (and whether they are valid), individuals with a high-net worth, etc. At Irama Valdes, P.A., we strive to be efficient. You will not be over-billed for the work done. Our hourly rates are competitive, and we like it that way. Our goal is for you to leave content. We understand this is a difficult time for you.

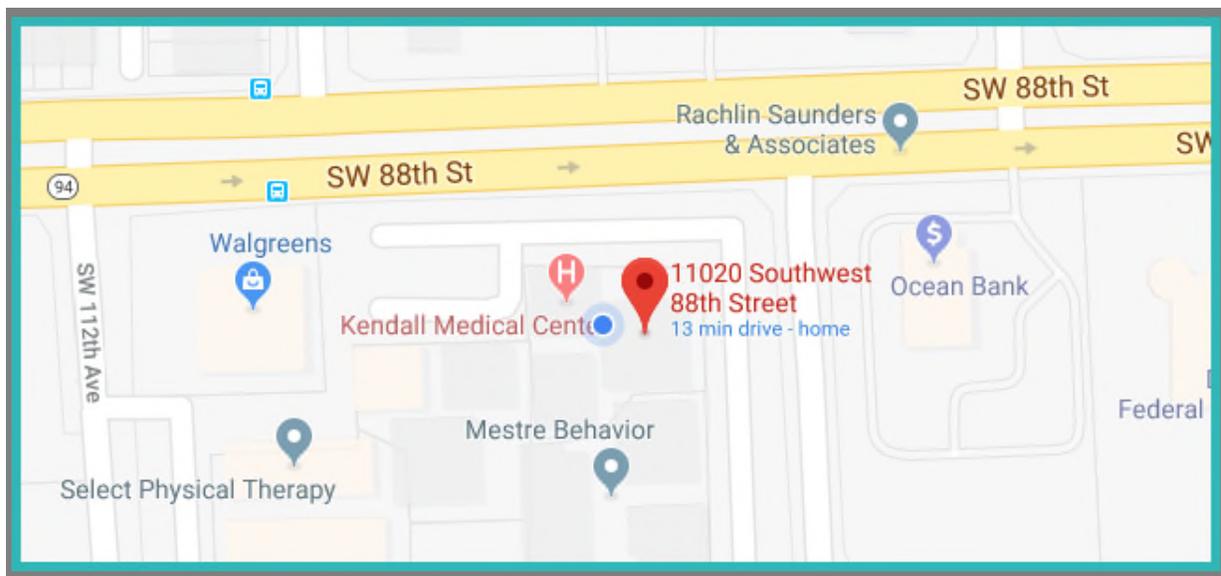
Receiving an exorbitant attorney invoice should be the last thing on your plate.

### WHERE ARE YOU LOCATED?

We have recently moved to the beautiful Kendall Oaks Professional Center between the Ocean Bank Building and the Walgreens specifically located at:

11020 N. Kendall Drive, Suite 100  
Miami, FL 33176

Parking is free.



## • ATTORNEY • INFORMATION •

Navigating the complexities of estate planning, probate and guardianship administration and litigation cases requires compassion and a keen eye for the details. As the founder of Irama Valdes, P.A., Ms. Valdes is dedicated to aiding people with their incapacitation and end-of-life planning. She serves clients in Miami and Fort Lauderdale, Florida, as well as throughout



Miami-Dade, Broward and Monroe counties. Ms. Valdes also accepts some family law cases and those involving mental health proceedings. She is fluent in both English and Spanish.

Ms. Valdes was born and raised in Miami, Florida and is a native Spanish speaker. She received an Associate in Arts Degree with Honors from Miami Dade College in 2004 and a Bachelor of Science in Communication, Cum Laude, from Florida International University in 2007. Ms. Valdes attended St. Thomas University's School of Law where she attained her Juris Doctor in 2010. Irama spearheaded the Volunteer Income Tax Assistance (V.I.T.A.) Program helping low-income individuals and families receive free assistance with preparing and filing their income tax returns. Dedicating over 200 hours to the V.I.T.A. program, she received the Outstanding Public Service Award for her leadership and dedication in Pro Bono services to the community and continues to give back to the community by taking pro-bono cases from several associations below.

Ms. Valdes is actively involved in the legal community. She currently serves as Vice-Chair for the Probate and Guardianship Committee of the Dade County Bar association. She previously served as the treasurer for the Miami Lakes Bar Association, and is a member of the Cuban American Bar Association, the Dade County Bar Association, the Florida Association for Women Lawyers, Inc., the National Association of Professional Women and the South Miami Kendall Bar Association.

Considering each of her clients as members of her own family, Ms. Valdes strives to help them develop plans that are tailored to meet their needs and their wishes. She helps people create wills and trusts, establish powers of attorney, put living wills in place and designate guardians for themselves and their children. Beginning her career as an intern and then as an employee for the Miami-Dade County Probate Court's chief judge, Ms. Valdes gained valuable knowledge of the processes and procedures related to probate administration, guardianship, and litigation matters related to both areas. She draws on this experience to help her expeditiously and efficiently achieve resolutions to her clients' legal issues.

Irama has a passion for helping her clients through difficult times.