

**STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE**

IN THE PROBATE COURT

**Instruction to Attorneys
For filing documents required for Appointment of Conservator
Of financial Assets for Adult Incapacitated Person
(62-5-401)**

(Please read "Top Ten Reasons NOT to File a Petition for a Conservatorship in the Greenville County Probate Court" prior to filing any documents.)

THE PROBATE COURT FOLLOWS THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE FOR REQUIRED SERVICE AND NOTICE:

1. File SUMMONS (Civil Form), PETITION (Form 540PC attached), and FILING FEE (See reverse side for Fee Schedule) in the Probate Court. The Protective Proceedings Clerk will contact you with Case Number when documents are filed.
2. Summons & Petition must be served on all interested parties by Personal Service or Certified Mail, Return Receipt Requested. An Affidavit of Service must be filed for all Respondents, including the alleged incapacitated person and his/her Counsel/GAL.
3. The Counsel/GAL must sign the acceptance on Form 532PC (attached) prior to submitting the form for the Judge's signature.
4. One (1) Physician/Examiner's testimony is required for the finding of incapacity in a Conservatorship proceeding. Use Form 533PC (attached) for the appointment of the Physician/Examiner. The Physician/Examiner is not required to testify at the hearing; however, his testimony must be in affidavit form, and his examination of the alleged incapacitated person must have taken place within six (6) months prior to the hearing date. The Physician/Examiner's affidavit must be filed prior to the hearing.

After the above-referenced documents have been filed in Probate Court, a Request for Hearing Date form will be mailed to the attorney for the Petitioner. This form must be completed and returned to the Protective Proceedings Clerk either by mail or FAX, and a hearing date convenient for all parties will be set.

PRIOR TO THE HEARING, the proposed Conservator will be required to watch a video detailing his/her duties and responsibilities as a court-appointed Conservator. Please contact the Protective Proceedings Clerk at 467-7404 to make an appointment for this viewing. **THE JUDGE WILL NOT HEAR THE CASE UNLESS THE PROPOSED CONSERVATOR HAS WATCHED THE VIDEO.**

At the hearing, the presiding Judge will set the amount of surety bond required. The Judge requires certain specific language in an Order Appointing Conservator. A guide for preparing the Order is attached.

For further information, call 467-7404 (Protective Proceedings Clerk).

[Probate Court Fees](#)

**TOP TEN REASONS NOT TO FILE A PETITION
FOR AN ADULT CONSERVATORSHIP
IN THE GREENVILLE COUNTY PROBATE COURT**

1. The adult does not reside in Greenville County.
2. The adult does not own property in Greenville County.
3. The adult is not incapacitated as defined by statute [62-5-101 as amended].
4. A physician will not certify that the adult is incapacitated by affidavit [62-5-407 (b)].
5. The proposed conservator is not bondable.
6. The adult's only cash asset is a monthly Social Security check. (Payee changes can be made by contacting the local Social security Administration office.)
7. A Durable Power of Attorney is on file in the RMC Office (or exists in recordable form).
8. The adult's only asset, other than monthly Social Security checks, is real property; and no changes are proposed for the property at this time.
9. All cash assets are held in joint accounts.
10. Monies are being held in established trust for the adult.

**GUIDE FOR COMPLETING FORM 540PC
(Petition for Appointment of Conservator)**

Complete Caption on each form. A separate Petition must be completed for each individual in need of Conservatorship. The Case Number will be assigned by Probate Court.

The PETITIONER is the person petitioning for the appointment.

1. NATURE OF INTEREST OF UNDERSIGNED: Relationship of the Petitioner to the Minor or Alleged Incapacitated Person.
2. INFORMATION - MINOR/INCAPACITATED PERSON: Complete all appropriate information.
3. VENUE: Self-explanatory.
4. NAME & ADDRESS OF GUARDIAN: This relates to a Court-Appointed Guardian- - not a guardian ad litem or a natural parent.
5. INFORMATION OF FAMILY: For "Minor": Complete information for Minor's parents, or if none, the nearest relatives. If either or both parents are deceased -- so indicate. If parents are separated or divorced or separated by Court Order -- a copy of the Custody Decree must accompany the Petition. For "Alleged Incapacitated Persons". Complete information of the spouse and any adult children, or if none, the nearest relative.
6. GENERAL STATEMENT OF PROPERTY, ASSETS & INCOME: For "Minor". List all known assets coming into the hands of the Conservatorship -- insurance settlement proceeds, inheritance, etc. For, "Alleged Incapacitated Person": List all known assets of the Protected Person with estimated values -- real estate, bank accounts, vehicles, monthly income, etc. (if monthly Social Security checks are payable to a Representative Payee for the Alleged Incapacitated Person, do not include the monthly checks.) SEE TOP TEM REASONS NOT TO FILE A PETITION, ETC.
7. REASON FOR APPOINTMENT OF CONSERVATOR: Complete information stating specific reasons justifying the appointment of a conservator.
8. INFORMATION PROPOSED CONSERVATOR: Complete information and check appropriate square for petitioner's priority for appointment.
9. PERSONS REQUIRED BY STATUTE TO BE SERVED WITH SUMMONS & PETITION AND GIVEN NOTICE OF HEARING: Complete information. For "Minor": Parent not petitioning to be appointed Conservator; or if parents are deceased, the nearest relatives listed in Question #5, plus the alleged incapacitated person and the Counsel/GAL.
10. NAME OF PERSON TO BE APPOINTED: This must be signed by the attorney for the petitioner. This is a verified petition.

VERIFICATION: Complete information, including the Petitioner's notarized signature.

ORDER FOR HEARING: Not applicable.

ORDER FOR APPOINTMENT: Not applicable.

QUALIFICATION & STATEMENT OF ACCEPTANCE: If the appointment is uncontested, this Section may be completed prior to filing the Petition.