

STATE OF SOUTH CAROLINA
COUNTY OF

IN THE MATTER OF:

_____,
an alleged incapacitated
individual.

_____,
vs. Petitioner(s)

_____,
Respondent(s)

IN THE PROBATE COURT
CASE NUMBER: _____-GC-_____-_____

**PROBATE COURT INSTRUCTIONS FOR
NOTICE OF AND MOTION FOR
TEMPORARY RELIEF AND HEARING
PURSUANT TO S.C. CODE ANN. § 62-5-108**

1. This Motion is to be used where action should be taken on behalf of an alleged incapacitated individual (A.I.I.) before a permanent hearing may be scheduled; for example: incapacity is expected to be of limited duration, the action is limited in scope, or a currently serving fiduciary is not adequately performing his duties. It must be filed at the same time as a summons and petition, supporting affidavits, motion for appointment of an attorney, and motion for appointment of guardian *ad litem*.

If this is an emergency and risk of harm or loss is **likely and imminent before a temporary or permanent hearing may be scheduled**, please use Form #512GC and follow the Instructions on page of that form.

2. Evidence of the suitability and creditworthiness of the proposed guardian, conservator, or other fiduciary must be provided in a written credit report and criminal background check from the state of residence of the proposed guardian, conservator, or other fiduciary, and must be submitted with the Motion.

3. If the Motion includes a request for the freezing or restriction of assets, information as to the bank accounts of the A.I.I. must be provided.

4. A temporary hearing will not be scheduled until the court receives proof of service at least ten (10) days prior to the hearing of a (a) summons and petition, (b) motion for temporary relief with supporting affidavits, (c) motion and order for the appointment of an attorney if none previously retained, and (d) motion and order for appointment of guardian *ad litem* if none previously appointed.

5. A temporary order will not be issued without notice of hearing to the A.I.I., the attorney for A.I.I., Guardian *ad Litem* for the A.I.I., and adverse parties, unless otherwise determined by the court.

6. A temporary order expires six (6) months from the date of issuance of the order.

I HAVE READ AND UNDERSTAND THESE INSTRUCTIONS.

Petitioner/Movant

Executed this _____ day of _____, 20____.

STATE OF SOUTH CAROLINA
COUNTY OF _____

IN THE PROBATE COURT
CASE NUMBER: _____-GC-____-_____

IN THE MATTER OF:

_____,
an alleged incapacitated
individual.

**NOTICE OF AND MOTION FOR
TEMPORARY RELIEF AND HEARING**

_____,
vs. Petitioner(s)

_____,
Respondent(s)

I move for temporary relief to protect the welfare or assets of _____,
an alleged incapacitated individual (A.I.I.), and request a hearing on _____, 20____, at
_____ am/pm, or at such date and time as the court orders, for:

- Appointment of temporary guardian, conservator, or other fiduciary.
- Removal of existing guardian, conservator, or other fiduciary, and appointment of a successor.
- Appointment or removal of guardian *ad litem*.
- A temporary protective order.

Immediate relief is needed pending the appointment of a permanent guardian, conservator, or other fiduciary; or the issuance of a permanent protective order, as shown by the following facts:

If a temporary guardianship or protective order related to the welfare of the A.I.I. is requested, a physician's affidavit dated within the last forty-five (45) days is attached.

Signature: _____
 Print Name: _____
 Address: _____

 Telephone: _____
 Email: _____
 Relationship to the
 alleged incapacitated individual: _____

Executed this _____ day of _____, 20____.

ORDER FOR TEMPORARY HEARING

Having received proof of service of the Summons, Petition, Notice of and Motion for Temporary Hearing with supporting affidavits on the alleged incapacitated individual (A.I.I.), the A.I.I.'s attorney, and the A.I.I.'s Guardian *ad Litem*, the court orders a hearing as follows:

Date: _____
Time: _____
Place: _____

Debra A. Faulkner, Probate Court Judge
Caroline M. Horlbeck, Associate Probate Court Judge
Clayton L. Jennings, Associate Probate Court Judge

Executed this _____ day of _____, 20 _____
_____, South Carolina

TEMPORARY ORDER

The court has jurisdiction over the parties and subject matter, and venue is proper. Based on the physician's affidavit and factual allegations made, **IT IS ORDERED:**

1. The physical welfare of the alleged incapacitated individual (A.I.I.) requires temporary relief as follows:

_____ is appointed Guardian with all of the rights and duties in S.C. Code Ann. § 62-5-304A(B);

_____ is appointed Limited Guardian to
make decisions about the A.I.I.'s custody and residence;
consent to medical or other professional care, counsel, treatment, or service, and/or
access medical records;
other: _____.

2. The assets of the A.I.I. require temporary protection as follows:

_____ is appointed Conservator with all of the rights and duties in S.C. Code Ann. § 62-5-422(A);

_____ is appointed Limited Conservator to
have access to the A.I.I.'s financial records, provided, however, if this box is
checked no disbursements may be made without written court approval;
apply for, receive and manage money and property with the exception of

institute and maintain proceedings to protect money and property;
other: _____.

3. _____ is appointed Guardian *ad Litem* with all of the rights and duties in S.C. Code Ann. § 62-5-106.

4. a Protective Order is entered as follows:

_____.

A fiduciary bond in the amount of \$ _____ is required.

This Order expires _____, 20____.

Debra A. Faulkner, Probate Court Judge
Caroline M. Horlbeck, Associate Probate Court Judge
Clayton L. Jennings, Associate Probate Court Judge

Executed this _____ day of _____, 20 _____
_____, South Carolina