

STATE OF SOUTH CAROLINA)
)
 COUNTY OF _____)
)
 IN THE MATTER OF:)
)
 _____,)
 an alleged incapacitated individual.)
)
)
)
)
)
)

▲ PROBATE COURT USE ONLY ▲

IN THE PROBATE COURT
 CASE NUMBER -GC- -

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

1. This Motion is to be used only where immediate and irreparable injury or damage to the health, safety, or welfare of an alleged incapacitated individual (A.I.I.), or substantial economic loss to the A.I.I., **is likely and imminent before a temporary or permanent hearing may be scheduled.** If this is not an emergency as described below, but there is a need for action to be taken before a permanent hearing may be scheduled, you may file a Motion for Temporary Relief (Form #513GC).

2. This emergency Motion must be filed at the same time as a (a) Summons and Petition, (b) Motion for Appointment of Counsel for the A.I.I. if none has been retained (Form 523GC), (c) Motion for Appointment of Guardian *ad Litem* (GAL) if none previously appointed (Form 527GC), (d) Physician’s Affidavit for Emergency/Temporary Relief (Form 522GC), and (e) any supporting affidavits. Examples of emergencies for which the court may grant a motion for emergency relief are as follows:

- a. A.I.I.’s imminent loss of federal or state assistance such as Medicaid, Medicare, Social Security income, Supplemental Security Income, VA benefits.
- b. Kidnapping or false imprisonment of A.I.I., or transport of A.I.I. out of the state of South Carolina.
- c. Inability or refusal of A.I.I. to give informed consent to emergency medical procedures.
- d. A.I.I.’s inability to provide for own mental and physical needs which requires a guardian to seek immediate treatment.
- e. Need for or loss of housing or nursing home care for A.I.I.; provided, however, homelessness by itself is not an emergency.
- f. Unauthorized transfer of assets of A.I.I. including unauthorized transfer by agent pursuant to power of attorney.
- g. Inability of A.I.I. to take immediate action necessary to preserve assets.
- h. Inability of A.I.I. to prosecute or defend legal actions, or execute legal documents.
- i. A.I.I.’s imminent marriage.

3. 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.

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

5. An emergency hearing must be scheduled within ten (10) days of the issuance of the Ex Parte Order or as otherwise ordered by the court.

I HAVE READ AND UNDERSTAND THESE INSTRUCTIONS:

Executed this _____ day of _____, 20_____.

 Petitioner/Movant

STATE OF SOUTH CAROLINA)
)
 COUNTY OF _____)
)
 IN THE MATTER OF:)
)
 _____,)
 an alleged incapacitated individual.)
)
 _____,)
)
 vs.)
)
 _____,)
)
 Respondent(s).)

▲ PROBATE COURT USE ONLY ▲

IN THE PROBATE COURT
 CASE NUMBER -GC- -

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

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

Emergency appointment of: temporary guardian, temporary conservator, or other fiduciary (specify type):

Proposed fiduciary name: _____
 Proposed fiduciary address: _____
 Relationship to A.I.I.: _____

Removal of existing guardian, conservator, or other fiduciary, and appointment of a successor.

Appointment of Guardian *ad Litem* or removal of Guardian *ad Litem*.

An emergency protective order as follows (specify): _____

Immediate and irreparable injury, loss, or damage will result before notice can be served on adverse parties and a hearing held pursuant to S.C. Code Ann. § 62-5-108(B) as shown by the following facts: _____

If an emergency order for temporary guardianship, conservatorship, or other protective order related to the welfare of the A.I.I. is requested, a physician's affidavit dated within the last thirty (30) days is attached.

Executed this _____ day of _____, 20____.

Signature: _____
 Print Name: _____
 Address: _____

 Preferred Telephone: _____
 Secondary Telephone: _____
 Email: _____
 Relationship to A.I.I.: _____

Attorney Signature: _____
 Print Name: _____
 Firm Name: _____
 Bar Number: _____
 Address: _____

 Telephone: _____
 Email: _____
 Attorney for: _____

