|  |  |  |
| --- | --- | --- |
| 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-     -      |
| Petitioner(s), | ) |  |
| vs. | ) | **PROBATE COURT INSTRUCTIONS FOR**  |
|      , | ) | **NOTICE OF AND MOTION FOR** |
| Respondent(s). | ) | **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, (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.

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 file a Notice of and Motion for Emergency Relief (Form #512GC).

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 this 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.

Executed this       day of      , 20

 Petitioner/Movant

|  |  |  |
| --- | --- | --- |
| 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-     -      |
| Petitioner(s), | ) |  |
| vs. | ) | **NOTICE OF AND MOTION FOR**  |
|      , | ) | **TEMPORARY RELIEF AND HEARING** |
| 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, [ ]  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*.

[ ]  A temporary protective order as follows (specify):

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.

|  |
| --- |
| Executed this       day of      , 20     . |

|  |  |
| --- | --- |
| Signature: |  |
| Print Name: |       |
| Address: |       |
|  |       |
| Preferred Telephone: |       |
| Secondary Telephone: |       |
| Email: |       |
| Relationship to the alleged incapacitated individual: |       |

|  |  |
| --- | --- |
| Attorney Signature: |  |
| Print Name: |       |
| Firm Name:  |       |
| Bar Number: |       |
| Address: |       |
|  |       |
| Telephone: |       |
| Email: |       |

**ORDER FOR TEMPORARY HEARING**

Having reviewed 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:

|  |
| --- |
|  |
|      , Judge of Probate |

|  |
| --- |
| Executed this       day of      , 20      |
|                     , South Carolina |