

STATE OF SOUTH CAROLINA  
COUNTY OF \_\_\_\_\_

IN THE MATTER OF:

\_\_\_\_\_,  
an alleged incapacitated individual.

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, please use For #5F3GC and follow the Instructions on page 1 of that form.

2. The emergency Motion must be filed at the same time as a (a) summons and petition, (b) motion and order for appointment of an attorney if none retained, and (c) motion and order for appointment of guardian *ad litem* if none previously appointed. Examples of emergencies for which the court will accept a motion for emergency relief are as follows:

- a. A.I.I. has an 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 acute mental or physical episode, self-neglect or otherwise, mandating 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:

\_\_\_\_\_  
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 EMERGENCY  
RELIEF AND HEARING**

\_\_\_\_\_,  
vs. Petitioner(s)

\_\_\_\_\_,  
Respondent(s)

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 \_\_\_\_\_  
am/pm, or at such date and time as the court orders, for:

Appointment of emergency 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*.

An emergency protective order.

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 guardianship or 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.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Preferred Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Relationship to the  
alleged incapacitated individual: \_\_\_\_\_

Attorney Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone(O): \_\_\_\_\_

Email: \_\_\_\_\_

Attorney for: \_\_\_\_\_

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

COUNTY OF \_\_\_\_\_  
IN THE MATTER OF:  
\_\_\_\_\_,  
an alleged incapacitated individual.

IN THE PROBATE COURT  
CASE NUMBER: \_\_\_\_\_-GC-\_\_\_\_-\_\_\_\_\_

**EX PARTE ORDER FOR  
EMERGENCY RELIEF AND  
NOTICE OF HEARING**

\_\_\_\_\_,  
vs. Petitioner(s)

\_\_\_\_\_,  
Respondent(s)

The Court has jurisdiction over the parties and subject matter, and venue is proper. Based on the physician's affidavit filed with the Court and the factual allegations made, the request for emergency order and hearing is  GRANTED;  DENIED. If granted, **pending the emergency hearing, IT IS ORDERED:**

1. The physical welfare of the alleged incapacitated individual (A.I.I.) requires emergency 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 emergency 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.

**NOTICE OF EMERGENCY HEARING**

Date: \_\_\_\_\_  
Time: \_\_\_\_\_  
Place: \_\_\_\_\_

Petitioner shall serve this Order and Notice of Emergency Hearing on the A.I.I., the attorney and GAL for the A.I.I., and adverse parties immediately after issuance.

\_\_\_\_\_  
Debora 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