INSTRUCTIONS: HOW TO ASK THE COURT TO APPOINT A GUARDIAN AND/OR A CONSERVATOR OF AN ADULT

USE THIS PACKET if you want to be appointed a guardian and conservator for an incapacitated or protected adult. These materials do **not** help you with the following processes:

- Guardianship or conservatorship for minors;
- Temporary or emergency appointments of guardians or conservators for adults.
- Guardians for gravely disabled persons.

Follow each step carefully. Each step has certain forms, and some of these forms have extra instruction sheets to help you. The whole process will take at least a couple of months.

FIRST STEPS:

STEP 1 **DRIVER'S LICENSE.** Upon appointment of a guardian, the incapacitated adult generally loses his or her privilege to obtain or retain a driver's license. The court may allow the person to retain their driver's license upon petition.

Note: If you believe the person should be allowed to continue to drive, you must request that in your petition and must obtain a statement from the person's physician that the person is capable of continuing to drive.

STEP 2 **COMPLETE THE COURT FORMS IN THIS PACKET:** Fill out all the forms completely and in black ink.

A. PROBATE COVER SHEET. Complete the information about you and the proposed protected/incapacitated person, and check the appropriate boxes ("guardianship, adult protected person" and/or "conservatorship, adult protected person").

B. PETITION FOR APPOINTMENT OF GUARDIAN AND/OR CONSERVATOR (With request for Appointment of Attorney, Medical Professional, and Court Investigator/Visitor). Fill out all the information carefully. You must list the people entitled to know about this matter. See Arizona Revised Statutes ("A.R.S.") §14-1401, §14-5309 (guardianships) and §14-5405 (conservatorships).

C. AFFIDAVIT OF PERSON TO BE APPOINTED. This document must be completed by the Petitioner, (the person who wants to be appointed guardian and/or conservator) and filed with the PETITION FOR APPOINTMENT.

D. MOTION TO APPOINT ATTORNEY, MEDICAL PROFESSIONAL, and INVESTIGATOR. If the proposed protected/incapacitated person already has a lawyer, you must include the name and address of the lawyer in the Motion; if not the Court will appoint one from a list maintained by the Court. The Court will also appoint an investigator from a list maintained by the Court. You must include the name and address in the Motion of a physician, psychiatrist or registered nurse who will complete a report to the Court. If possible this should be someone that the proposed protected/incapacitated person has been seeing. The Court will **always** appoint a physician, psychologist or registered nurse in guardianship cases, and sometimes in conservatorship cases.

NOTE: <u>THE PETITIONER MUST PAY FOR THESE SERVICES IF THE PETITION IS NOT GRANTED.</u> If the incapacitated person/protected person's estate is insufficient to pay for the investigator and the attorney, the Court will cover those costs but the Petitioner must

pay the cost of the medical professional. Money paid by the Petitioner to obtain appointment as the guardian/conservator may be recovered from the incapacitated person/protected person's estate with Court approval.

1) If you are requesting that the person be allowed to continue to drive, you must have the medical professional state in the report whether the person has the physical and mental capacity to do so.
2) Ask the medical professional if the person is currently in need of inpatient behavioral or mental health treatment. If so, you should request inpatient treatment authority in your Petition, and the report must be from a licensed psychologist or psychiatrist stating that the person is currently in need of inpatient behavioral or mental health treatment. If a secured mental health facility is required, DO NOT use these forms.

E. ORDER APPOINTING ATTORNEY, MEDICAL PROFESSIONAL and INVESTIGATOR. Complete this form except for the date and Judge's signature. The Court Investigator's name does not need to be written in, just write "court investigator."

STEP 3 **COPIES:** Copy the originals of all the above completed forms. Originals get filed with the Court, 1 copy for your records, plus 1 copy each for everyone entitled to notice.

STEP 4 **OTHER PAPERS:** Complete the following form and make one copy.
(NOTE: This form is not filed with the Clerk, but you will need it to schedule a court hearing.)

- **PETITIONER'S INFORMATION SHEET TO COURT INVESTIGATOR.** This document will provide all the important information to the Court Investigator so that the case will not be delayed.

TO FILE THE PAPERS AT THE COURT:

STEP 5 **DETERMINE WHERE TO FILE THE COURT FORMS:** There are three locations of the Superior Court in Mohave County - Kingman, Bullhead City, and Lake Havasu City. File your documents at the location that has previously handled this case.

Clerk of Superior Court **401 E. Spring St.** **Kingman, AZ 86401** **(928) 753-0713** Monday-Friday 8:00a-5:00p	**Clerk of Superior Court** **2225 Trane Road** **Bullhead City, NV** **(928) 758-0730** Monday-Friday 8:30a-12:00p, 1:30p-4:30p	**Clerk of Superior Court** **2001 College Drive** **Lake Havasu City, AZ 86404** **(928) 453-0701** Monday-Friday 8:30a-12:00p, 1:30p-4:30p

STEP 6 **FILE YOUR DOCUMENTS WITH THE COURT:**

A. Take the **original and 3 copies** of the following documents to the **Clerk of the Court** for processing.
- PROBATE COVER SHEET
- PETITION FOR APPOINTMENT OF GUARDIAN AND CONSERVATOR (with Request for Appointment of Attorney, Medical Professional, and Court Investigator);
- AFFIDAVIT OF PERSON TO BE APPOINTED (A.R.S. §14-5106(A))
- PETITIONER'S INFORMATION SHEET TO COURT INVESTIGATOR
- SUPPLEMENTAL EMERGENCY PETITION (if asking for emergency appointment)

B. Bring the original and one copy of:
- REQUEST FOR HEARING DATE
- ORDER APPOINTING ATTORNEY, PHYSICIAN, AND COURT INVESTIGATOR

The Court will return copies of each of these to you by return mail.

Include a self-addressed stamped envelope so the Court can mail a copy of the Order to you after it is signed.

C. If you cannot or do not want to file the documents in person, you can mail the documents to the Clerk of the Court. Provide a self-addressed, stamped envelope with proper postage so that the Clerk can return your "conformed" (stamped by Court staff) copies to you.

Mail to: Clerk of Superior Court
P.O. Box 7000
Kingman, AZ 86402

STEP 7 **PAY YOUR FILING FEE:** Payment is made to the **Clerk of the Court.** (A list of court fees can be found on line at www.mohavecourts.az.gov) If you think a fee deferral is appropriate, ask the probate clerk or the staff for an Application for Fee Waiver or Deferral before you file your Petition.

STEP 8 **NOTE YOUR "GC" CASE NUMBER:** The Clerk will file the originals, and stamp the copies for you with the case number and proof that you filed the originals. The case number always starts with the initials "GC." You must use this number on every paper you file with the court from now on.

TO GET THE COURT HEARING DATE SCHEDULED:

STEP 9 **HOW YOU WILL YOU GET A COURT HEARING DATE:** The Court will schedule the hearing: date, time, place, and judicial officer, by Minute Order. This Minute Order will also name the attorney, investigator, and medical professional. **YOU MUST APPEAR AT THIS HEARING.** The Court will also mail you a copy of the signed Order so you can proceed with the next step by giving the NOTICE OF HEARING to all interested persons.

STEP 10 **SEND BLANK MEDICAL PROFESSIONAL'S REPORT AND COPY OF THE APPOINTMENT ORDER with LETTER TO MEDICAL PROFESSIONAL AND STAMPED, SELF ADDRESSED ENVELOPE.** Fill in the blanks on the letter, giving the date, the name of the proposed protected/incapacitated person, the case number, the professional's name, and the date by which the report must be filed (this should be at least ten days before the hearing, and you should obtain the original report from the doctor, file it, and send copies to all interested parties). Include a stamped, self-addressed envelope for the medical professional to send the completed report to you.

STEP 11 **SEND COPIES OF PETITION, NOTICE OF HEARING, INVESTIGATOR'S INFORMATION SHEET, AND APPOINTMENT ORDER with LETTER TO INVESTIGATOR.** Fill in the blanks on the letter, giving the date, the investigator's name, the date by which the investigator must file their report with the Court, and where the proposed protected/incapacitated person can be located. The Investigator should send copies of their report to all persons listed in the Petition. Follow up with the Investigator at least seven days before the hearing date to verify that this has been done.

STEP 12 **SEND COPIES OF ALL DOCUMENTS TO THE COURT APPOINTED ATTORNEY.** The Court appointed attorney needs to be sent all documents filed in the case, together with copies of the letters mailed to the Medical Professional and Investigator. Fill in the blanks on the Attorney Appointment letter, giving the date, the name of the proposed protected/incapacitated person, the case number, the attorney's name, the hearing date and time, circle the city in which the hearing will be held, and where the proposed protected/incapacitated person can be located.

STEP 13 **NEXT STEP – NOTICE OF HEARING.** Now you are ready to give notice of the court papers and the hearing to everyone who is entitled to know about the court case before the hearing date. **Persons entitled to notice are listed in A.R.S. §14-5309 for guardianships and A.R.S. §14-5405 for conservatorships**. There are important procedures and time lines for this which you must follow. **Methods of giving notice and time lines are found at A.R.S. § 14-1401.** Notice must be served personally on the proposed protected/incapacitated person at least fourteen days before the hearing, and that person's spouse and parents if they can be found within the state. If not found within the state the spouse and parent's can be served by publication. Don't forget to get the written report from the medical professional, filed with the Court and copies sent to all interested parties, and to make sure that the Investigator's Report has been filed with the Court and sent to all interested parties.

STEP 14 **AFTER THE HEARING:** After the Judge signs the Order appointing you to act, the Clerk of the Superior Court issues the Letters that authorize you to act. Certified copies can be obtained for $27.00 each, and will be required for some things, such as to access bank accounts, sell real property, or change title on vehicles.

STEP 15 **OTHER HELP:** If you still have questions about this procedure, you can ask a lawyer for legal advice. The Arizona State Bar can help you find a lawyer. Their number is 1-866-482-9227. You may also go online at www.mohavecourts.az.gov, Legal Resources.

STATUES REFERRED TO CAN BE FOUND AT THE LAW LIBRARY, OR ONLINE AT http://www.azleg.state.az.us

NOTE THAT STATUTES MAY HAVE BEEN CHANGED AND THE MOST CURRENT VERSION IS WHAT SHOULD BE FOLLOWED.

IMPORTANT: **If you are a Pro Per Litigant and want to receive your paperwork from the Court electronically, fill out the "Pro Per Litigant(s) Electronic Distribution" form.**