

Arizona Supreme Court

Committee on Improving Judicial Oversight and Processing of Probate Court Matters

Final Report to the Arizona Judicial Council

June 2011



Committee on Improving Judicial Oversight and Processing of Probate Court Matters

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	<u>Page</u>
I. Introduction	<u>5</u>
II. Executive Summary	<u>9</u>
III. Assessments, Actions Taken, Additional Recommendations, and Notices of Other Issues	<u>10</u>
A. Transition of Minors to Adult Guardianships and Conservatorships	<u>10</u>
1. Assessment	<u>10</u>
2. Actions Taken.....	<u>12</u>
3. Additional Recommendations.....	<u>15</u>
4. Notice of Other Issues	<u>18</u>
B. Judicial Oversight	<u>18</u>
1. Assessment	<u>18</u>
2. Actions Taken.....	<u>20</u>
3. Additional Recommendations.....	<u>23</u>
4. Notice of Other Issues	<u>72</u>
C. Fees Paid to Fiduciaries and Attorneys from Estates	<u>75</u>
1. Assessment	<u>75</u>
2. Actions Taken.....	<u>78</u>
3. Additional Recommendations.....	<u>81</u>
4. Notice of Other Issues	<u>119</u>
IV. Conclusion	<u>120</u>

APPENDICES

A	List of Stakeholders.....	122
B.	List of Workgroup Members.....	127
C.	Senate Bill 1081.....	130
D.	Risk Assessment Tool (Triage Program A and B) Instructions Risk Assessment Tool Order Appointing Investigator Post Appointment	139
E.	Senate Bill 1499.....	163
F.	Minimum Best Practices	197
G.	Order to Guardian	199
H.	Order to Conservator	203
I.	Order to Guardian and Conservator	207
J.	Proof of Restricted Account from Financial Institution..	212
K.	Form 5 (Contained in Rule 38).....	214
L.	Forms 6 – 10 (Contained in Rule 38).....	219
M.	Fee Guidelines.....	279
N.	Compendium of All Recommended Rules, Forms, and Guidelines	287

I. Introduction

Approximately twenty-five percent of Arizona’s citizens are fifty-five years of age or older. This demographic places unique challenges on the Judicial Branch, including increased filings in the areas of adult guardianships, conservatorships, and increased exploitation and abuse of vulnerable adults. Additionally, disabled children and their parents encounter unique legal and financial issues when the child reaches the age of majority, necessitating court action. Protection of incapacitated and vulnerable individuals is an important concern of the Arizona Judicial Branch, as evidenced by key strategic initiatives in the Court’s strategic agenda: “Justice 2020, A Vision for the Future of the Arizona Judicial Branch.”

Much progress has been made to improve court processing and oversight of probate matters. In the late 1990s, Arizona began to regulate “professional fiduciaries,” individuals and entities who serve as guardians, conservators, and personal representatives in probate cases for a fee. In June 2000, the Court appointed the Fiduciary Advisory Committee, which issued its Final Report to the Arizona Judicial Council (“AJC”) in June 2001. A number of the Committee’s recommendations resulted in changes to statutes, court rules, and procedures, including, for example, increased qualifications for licensed fiduciaries and authority for a judicial officer to issue a fiduciary arrest warrant. Other strategic

efforts taken over the last decade include the implementation of random audits of licensed fiduciaries and amendments to the statutory provisions regarding licensed fiduciaries serving as an agent under a power of attorney. Effective January 1, 2009, the Court adopted the Arizona Rules of Probate Procedure, which provide uniform, statewide practice standards for probate proceedings in the superior court.¹

Although significant progress has been made over the past decade, additional efforts are needed to provide for the protection of vulnerable and incapacitated persons. Key initiatives contained in “Justice 2020” include simplifying the processing of guardianship cases and ensuring fiduciaries are held accountable for the services they provide to their vulnerable clients. To accomplish these goals, Chief Justice Rebecca White Berch issued Administrative Order No. 2010-52 on April 30, 2010, establishing the Committee on Improving Judicial Oversight and Processing of Probate Matters (“Committee”), which disbands with delivery of this report.

Pursuant to the Administrative Order, the Committee was charged with the responsibility to consider and make recommendations regarding: (1) ways to

¹ The superior court in Arizona decides probate matters, among other case types. For ease of reference, courts and practitioners frequently refer to the superior court as the “probate court” when it decides these matters. Indeed, the name of this Committee includes the term. Use of this shorthand reference, however, may lead the public to mistakenly believe that a “probate court” exists separately from the superior court. In an attempt to dispel this impression, therefore, we refer to the “superior court” or the “court” in the body of this report.

streamline the process when an incapacitated or vulnerable child reaches the age of majority and is in need of a guardian and/or conservator; (2) effective court oversight and monitoring of guardianships, conservatorships, and decedent estate cases; (3) statewide fee guidelines for professional fiduciaries and attorneys paid from a ward's or protected person's estate; and (4) the process used by courts to review and award fiduciary fees and attorney fees, particularly when disputed. The Committee was not authorized to investigate particular cases and did not do so. Additionally, the Committee lacked time and resources for such an undertaking. The Committee, however, received anecdotal input about problems faced in the superior court, and members of the Committee reported others. Therefore, the Committee considered the above-described issues with an eye towards how the current statutes, rules, procedures, and training regimens could be improved to foster the fair, efficient, and cost-effective handling of probate matters and further the best interests of vulnerable adults.

The Committee established and maintained a site on the Arizona Judicial Branch's website. In addition to posting pertinent documents for Committee and public view, the site invited public comment through use of a form or mailed letter. Additionally, the Committee sought public comment by identifying a list of stakeholders and asking those persons or groups to inform its members of the Committee's charge and invite comment. A list of stakeholders is set forth in

Appendix A. For example, AARP sent out information to 100,000 Arizona members soliciting comments. Further, the Committee asked the presiding judge in each county to post a notice of the request for comment outside the doors of any courtroom used for probate hearings and sent letters to all State senators and State representatives asking them to inform constituent groups about the Committee's request for input. Committee members invited comment at speaking events. Finally, the Committee's request was contained in an Arizona Republic newspaper article entitled, "Comments on Probate Court Sought," dated June 22, 2010. The Committee received approximately 200 written comments in addition to verbal comments made at public full-Committee meetings and to individual committee members outside meetings or at workgroup meetings.

The full Committee met 18 times in public meetings over an approximate 13-month period. The Committee formed three workgroups to consider, respectively, (1) streamlining the transition for minors in need of protection to adult guardianships and conservatorships, (2) ensuring effective court oversight of probate matters, and (3) revising processes employed to review and approve fiduciary fees and attorney fees. Pursuant to authority conferred by the Administrative Order, the Chair appointed non-Committee members to join Committee members in the workgroups. A list of each workgroup's membership is set forth in Appendix B. The Committee completed the bulk of its work through

these workgroups, which met publically for hundreds of hours. To accomplish their tasks, the workgroups reviewed information from the National Center for State Courts and the laws and procedures used in courts in other states, among other things.

In October 2010, the Committee submitted an Interim Report focused primarily on potential statutory and rule changes in order to enable AJC to (1) recommend the supreme court either proceed with or refrain from making rule changes and/or suggesting the legislature make statutory changes, and (2) provide feedback to the Committee about the appropriateness of any alternative rule and statutory changes currently under consideration by the Committee. The Committee Chair presented the Interim Report at AJC's meeting held October 21, 2010, and AJC took action on these recommendations, as described hereafter.

At its meeting held June 10, 2011, the Committee voted to send this final report to AJC.

II. [Executive Summary](#)

This final report makes Recommendations A through F1 to AJC outlining steps to take to better enable the judiciary to protect Arizona's vulnerable and incapacitated population. These recommendations are in addition to the 12 recommendations made to AJC in October 2010, some of which have been adopted and implemented. In essence, the Committee's recommendations focus on

recommended rule, code, and statutory changes, some of which occurred during this past legislative session, designed to improve the court's ability to oversee guardianships, conservatorships, decedents' estates, and trusts, provide transparency and disclosure of pertinent information to wards, protected persons, beneficiaries, and other interested persons, and ensure all participants in probate matters are sufficiently informed and trained concerning the protection of vulnerable and incapacitated persons. In making these recommendations, the Committee attempted to balance considerations of unnecessary costs to an estate, projected benefits to subject persons and estates, and available court resources.

III. Assessments, Actions Taken, Recommendations, and Notices of Other Issues

A. Transition of Minors to Adult Guardianships and Conservatorships

1. Assessment

A number of issues are faced by parents and other custodial caregivers (collectively, "parents" for ease of reference) of incapacitated children who are nearing their eighteenth birthdays and are in need of guardianships or conservatorships:

(a) Parents often fail to consider the need for an adult guardianship or conservatorship until denied the right to act on behalf of their son or daughter when, for example, visiting a physician for the first time after the child's

eighteenth birthday. When this occurs, the parent is often forced to seek an emergency, temporary guardianship order from the court. The lack of action before the child's eighteenth birthday can cause unnecessary anxiety for the parent and adult son or daughter, place the latter's needs in a state of flux, and increase the cost and time expended by the court, the parent, and the young adult.

(b) Confusion reportedly exists among judicial officers regarding whether proceedings for imposition of an adult guardianship can be started while the proposed ward is a minor. As a result, proceedings before such officers are not commenced until after the child's eighteenth birthday. In these cases, consequently, a gap exists in custodial authority over a person who needs a general or limited guardianship and/or conservatorship.

(c) Conflicts often develop between divorced parents who serve as co-guardians to an adult incapacitated son or daughter or when only one parent serves as guardian. Both situations often upset the wards and necessitate the devotion of excessive court resources. Additionally, some confusion exists among judicial officers regarding their authority to act in these situations.

(d) The guardianship and conservatorship process is confusing for many people, which necessitates a devotion of undue time to the process, results in mistakes that hamper the parties and the court, unnecessarily compels some

individuals to hire attorneys to gain an understanding of the process, and/or deters many people from engaging in the appropriate legal process.

(e) The guardianship and conservatorship process can be expensive for families, which can deter them from seeking general or limited guardianships and conservatorships. Although the court can waive fees based on the financial position of the proposed ward or protected person, the forms used by many courts to determine waiver eligibility are daunting and unfairly convey an impression that fee waiver is dependent on the entire family's finances. Fees mistakenly paid are not refunded.

(f) In 2003, the legislature amended the probate code by incorporating portions of the updated Uniform Probate Code ("UPC"), including adding provisions for limited guardianships, which give more autonomy to wards. The legislature, however, did not include other provisions of the updated UPC, which emphasize that courts should consider limited guardianships before imposing unlimited guardianships. Many well-meaning parents are unaware of the availability of limited guardianships. Additionally, judicial officers may be less familiar with limited guardianships and therefore less likely to consider them.

2. Actions Taken

On October 21, 2010, the AJC adopted the following recommendations made by the Committee in its Interim Report:

Recommendation 1: The supreme court should advocate for the legislature to expand the statutory “standby” guardianship provisions in the probate code.

Recommendation 2: The supreme court should advocate for the legislature to include a statutory provision in the probate code that exclusively applies to incapacitated minors approaching adulthood.

After adoption of these recommendations, Committee members worked with the supreme court’s legislative liaison, members of the Arizona Legislature, and interest group representatives regarding necessary legislation. Ultimately, the legislature enacted Senate Bill (“SB”) 1081 (Appendix C) for placement in A.R.S. chapter 225, which Governor Janice K. Brewer signed into law on April 25, 2011, with an effective date of July 20, 2011. SB 1081 provides as follows, in relevant part:

(a) The bill expands “standby” guardianship procedures by authorizing a parent or spouse to appoint a guardian for an unmarried incapacitated child or spouse by any signed writing. The prior statute authorized appointment only by testamentary appointment in a will. In addition to prescribing other procedures, SB 1081 authorizes the court to confirm in advance the appointing parent’s or spouse’s selection upon a finding the parent/spouse will likely become unable to care for the incapacitated person within two years, thereby granting more control and peace of mind to that parent/spouse. *See* Ariz. Rev. Stat. (“A.R.S.”) §§ 14-5301 – 14-5301.02.

(b) A person interested in an alleged incapacitated minor's welfare can initiate adult guardianship proceedings when the minor is seventeen years and 6 months of age and ask that the adult guardianship commence on the minor's eighteenth birthday. Rather than repeat any recently concluded medical evaluation process to establish incapacity, the petitioner may satisfy the statutory obligation by providing a recent evaluation report authored by a physician, psychologist or registered nurse. A.R.S. § 14-5301.03.

(c) A person interested in a minor's welfare can initiate adult conservatorship proceedings when the minor is seventeen years and 6 months of age and ask that the adult conservatorship commence on the minor's eighteenth birthday. A.R.S. § 14-5301.04.

(d) After a minor under a conservatorship turns seventeen years of age, an interested person may petition for continuation of a conservatorship or other protective order beyond the minor's eighteenth birthday rather than reinitiating proceedings after the minor turns eighteen. A.R.S. § 14-5401(B).

(e) A party petitioning for a guardianship who seeks appointment of a parent or nonparent custodian for the alleged incapacitated person must name the court and case number of any action or proceeding in which any custodial order was previously entered regarding the proposed ward. A.R.S. § 14-5303.

3. Additional Recommendations

Recommendation A: To implement SB 1081, the supreme court should immediately update the forms appended to Rule 38, Rules of Probate Procedure (“Probate Rule(s)”) as needed to account for the delayed effective date of court orders for guardianships/conservatorships that take effect on a minor’s eighteenth birthday.

To the Committee’s knowledge, staff for the Administrative Office of the Courts (“AOC”) has already commenced the process of updating forms to account for changes made in SB 1081.

Recommendation B: To implement SB 1081, the supreme court should immediately promulgate a rule requiring that the caption and case filing number of a conservatorship or other protective proceeding continued pursuant to A.R.S. § 14-5401 remains substantially the same.

It is important to promulgate a rule to substantially maintain a caption and case filing number in a matter continued pursuant to recently enacted A.R.S. § 14-5401 to provide continuity for the court and the parties (e.g., case history, accounting deadlines, etc.) and to make certain the fiduciary continues to have access to financial accounts and other private information after entry of the continuation order. The Committee recommends the following new Probate Rule addition:²

Rule 5. Captions on Documents Filed With the Court

² Throughout this report, suggested additions to existing rules, statutes, and code provisions are noted by all-capital letters and deletions are demarcated by strike-outs.

....

C. CONTINUATION OF CONSERVATORSHIP OR OTHER PROTECTIVE ORDER. A PETITION TO CONTINUE A MINOR CONSERVATORSHIP OR OTHER PROTECTIVE ORDER PURSUANT TO A.R.S. §14-5401(B) SHALL BE FILED IN THE PENDING PROTECTIVE PROCEEDING CASE. IF THE COURT GRANTS THE PETITION, THE CASE NUMBER SHALL REMAIN THE SAME BUT THE CAPTION SHALL BE AMENDED TO REFLECT THAT THE CONSERVATORSHIP OR OTHER PROTECTIVE ORDER IS FOR AN ADULT.

The Committee submitted this proposed rule change to the supreme court in May 2011 pursuant to its request for suggested immediate rule changes needed in light of the enactment of SB 1081. On June 1, the court approved the proposed change with an emergency effective date of July 20. The court will release the rule for comment and consider any comments on its December rules agenda.

Recommendation C: The supreme court should include within its legislative package for the 2012 session a provision authorizing the superior court to enter access orders and resolve access disputes arising between parents of adult wards. The supreme court should also ask for legislation specifying that any award of adult family support imposed pursuant to A.R.S. § 25-320(D) can be awarded by the court in probate proceedings.

A parent's legal obligation to support a child typically ceases when that child turns eighteen years of age or graduates high school, whichever occurs later. A.R.S. §§ 25-320(F) (Supp. 2008), 25-501(A) (2007). Under certain circumstances, however, the superior court can order either or both parents to provide support for mentally or physically disabled adult children if the disability began before the age of eighteen. A.R.S. § 25-320(E); *see also* A.R.S. § 25-

501(A) (“In the case of mentally or physically disabled children, if the court, after considering the factors set forth in § 25-320, subsection D, deems it appropriate, the court may order support to continue past the age of majority.”). Not surprisingly, many adult children receiving continuing family support are adult wards. The statutes do not provide authority for the court to order visitation or to resolve disputes concerning access to adult wards, however. Judicial officers report frustration and inconsistency in resolving disputes that arise when one parent serves as a guardian or the parents serve as co-guardians. Often, these guardians had battled over parental visitation in family court proceedings when the ward was a minor; thus, it is not unusual for the highly emotional issues present in family court cases to shift to probate proceedings. Unlike in child custody and visitation disputes, however, the court in probate proceedings for adults lacks specific authority to resolve access disputes. The Committee recommends that the supreme court include within its legislative package for the 2012 session a provision that authorizes the court to impose access orders and resolve access disputes. Additionally, the court should specify that any award of adult family support imposed pursuant to A.R.S. § 25-320(D) can be awarded by the court in probate proceedings. Such authority would further the goal of SB 1081, which requires petitions for adult guardianships to include reference to prior custody

proceedings. Alternatively, the Committee recommends the supreme court grant this authority by Rule if it considers this a procedural device

3. Notice of Other Issues

(a) *Standby guardianships for minors with capacity.* As previously described, SB 1081 provides authority for a parent or spouse to appoint a guardian for an unmarried incapacitated child or spouse by any signed writing. The Committee was not charged with the responsibility of considering changes to laws and rules exclusively governing guardianships that become necessary solely as a result of a child's minority. Regardless, the Committee notes that an expanded standby provision for these guardianships would be useful. *See* A.R.S. § 14-5202 (addressing testamentary appointment of guardian for a minor). The Committee therefore urges the supreme court to point out the omission to the legislature during the 2012 session so that it may take action if it wishes to do so.

B. Judicial Oversight

1. Assessment

The number of Title 14 cases (guardianships, conservatorships, trusts and decedent estates) pending in Arizona's courts presents challenges to providing effective judicial oversight. For example, as of the end of June 2010 (the last time fiscal year-end statistics were posted for the judiciary), 46,106 guardianships and conservatorships and 32,218 trust and decedent estate cases were pending in the

superior court statewide. *See*

<http://www.azcourts.gov/Portals/39/2010DR/SuperiorTemporary.pdf#page=3> As of June 2011, the Arizona Supreme Court had oversight responsibilities for 247 licensed fiduciaries³ and 52 licensed fiduciary businesses, which include the 15 county public fiduciaries and the Arizona Department of Veterans Affairs. Courts in 13 of Arizona's 15 counties do not have specialized departments to consider and decide Title 14 cases but instead include Title 14 cases among other case types for decision.

The Committee identified the following issues affecting judicial oversight of guardianship and conservatorship cases:

(a) Judicial officers are not required to participate in training specific to deciding Title 14 cases before presiding over such cases. Because most judicial officers did not practice as attorneys in Title 14 cases, the learning curve can be sharp.

(b) Non-licensed family members or friends who petition to become guardians often lack critical information about what the position entails. Thus, post-appointment, they may realize belatedly they are ill-equipped for the position and/or fail to adequately perform their duties.

³ Of these licensed fiduciaries, 67 serve the public through employment with a public fiduciary or the Arizona Department of Veterans Affairs.

(c) Court-appointed attorneys, guardians ad litem, and court investigators are not required to participate in training specific to their roles in guardianship and conservatorship cases.

(d) The judiciary's auditing procedures are not sufficient to oversee all guardianships and conservatorships.

(e) The process for obtaining guardianships and conservatorships can be daunting to parties involved in such proceedings, which either deters use of the system or causes confusion.

(f) Confusion exists regarding the respective roles of court-appointed attorneys, guardians ad litem, and fiduciaries.

(g) Alternative dispute resolution is not always available or used when disputes arise.

(h) Only guardians are required to visit wards post-appointment, and no mechanism exists for periodic visits and reports by others to ensure the guardian or conservator is performing his or her duties appropriately.

(i) The courts often lack sufficient resources to provide needed oversight and protection of Arizona's vulnerable adults.

2. Actions Taken

On October 21, 2010, the AJC approved or otherwise acted on the following recommendations made by the Committee in its Interim Report:

Recommendation 3: The supreme court should add a rule to the Probate Rules that requires funded, ongoing, unannounced post-appointment visitation of wards and protected persons.

AJC decided the Committee should study this proposal further and consider funding options. The Committee did so; additional recommendations are set forth in Recommendation E (p. 24).

Recommendation 4: The supreme court should add a Probate Rule directing the superior court to create and conduct a funded program for random audits of conservatorship accountings to validate the accuracy of annual or biennial accounts currently required in all adult conservatorship matters.

AJC decided the Committee should study the funding options for this recommendation further. The Committee did so; additional recommendations are set forth in Recommendation E (p. 24).

Recommendation 5: The supreme court should explore funding sources for conducting periodic visitations, reporting, training, and random audits.

AJC adopted this recommendation. Thereafter, at the Committee's urging, AOC submitted a grant request entitled, "*Strengthening the Operation of Arizona Probate Courts through Statewide Education*" to the State Justice Institute ("SJI"). On April 27, 2011, SJI approved AOC's request and issued a grant for \$30,000.00 with an additional cash match of \$21,569.00 for the development of a probate bench book for judicial officers and video-based, on-line training for non-licensed fiduciaries, attorneys representing a proposed adult ward or protected person, and

superior court investigators. In addition, these funds will be used to expand resources on the “Law for Seniors” website.

Additional recommendations regarding funding are set forth in Recommendation E (p. 24).

Recommendation 6: The supreme court should develop statewide uniform training requirements for major participants in guardianship and conservatorship cases in specified ways.

AJC approved this recommendation in concept and referred the issue of training judicial branch employees to the Committee on Judicial Education and Training (“COJET”)⁴ for further discussion and the development of a proposed program. At its meeting on December 2, 2010, COJET endorsed Recommendation 6 in concept and urged timely development of a program. The Judicial College of Arizona, which oversees education exclusively for judicial officers and reports to COJET, will address development of a program to educate judicial officers about probate. In the meantime, members of the Committee will present a program at the Arizona Judicial Conference this month to update judicial officers on new developments in probate during the past year. Chief Justice Berch ordered all judicial officers who preside over probate matters to attend this session. Aspects of Recommendation 6 that pertain to training for judicial branch employees remain pending before COJET.

⁴ COJET assists the supreme court in developing educational policies and standards for employees of the judicial branch only.

The Committee continued discussing training for judicial-branch employees and non-judicial-branch employees, and sets forth more detailed recommendations in this report. *See* Recommendations G – K, pp. 35 - 44.

Recommendation 7: The supreme court should give priority to the development of automated case management systems that will substantially improve probate case monitoring and oversight by efficient and cost-effective means.

AJC referred this recommendation to the Commission on Technology (“COT”) to determine where development of such case management systems falls within the judiciary’s automation priorities as it works to bring all state courts into the AZTurboCourt e-filing project. This matter remains pending before COT.

Recommendation 8: The supreme court should develop uniform, interactive and dynamic electronic probate forms through AZTurboCourt or another online website that will allow documents to be electronically generated and filed. The court should prioritize phasing in AZTurboCourt for probate matters.

AJC referred this recommendation to COT to determine where development of such forms falls within the judiciary’s automation priorities as it works to bring all state courts into the AZTurboCourt e-filing project. This matter remains pending before COT. In the meantime, the Committee developed some forms that can be used as interactive electronic forms. *See* Appendices D, G – L.

3. Additional Recommendations

Recommendation D: The supreme court should appoint one person within AOC to serve as Probate Projects Coordinator to

ensure implementation of all recommendations eventually adopted by the supreme court.

The Interim Report and this Final Report make numerous, comprehensive recommendations the Committee deems essential for improving court oversight of probate matters. Among other things, the Committee recommends the formation of task forces comprised of persons with particular expertise in probate and/or technology to create and implement various programs. Some of the jobs assigned to these task forces overlap or depend on the completion of work by other task forces or the promulgation of rules. Consequently, it is imperative that someone monitor implementation of the recommendations adopted by the supreme court and coordinate the work of all task forces to maximize an efficient and effective exchange of information and to keep the execution of work on schedule. The Committee believes a single person employed by AOC would be best able to accomplish this task because AOC provides administrative services to all courts in Arizona, and it reports to the supreme court. The Committee therefore recommends appointment of a Probate Projects Coordinator, with attendant, necessary support resources, to serve in this capacity at least until implementation of all recommendations adopted by the supreme court is complete.

Recommendation E: The supreme court should add a Probate Rule that requires funded, ongoing, unannounced post-appointment visitation of all wards and protected persons. If the court is unable to secure adequate funding to implement this recommendation, the court should add a Probate Rule that

authorizes a variety of post-appointment review tools using a triage model.

Sections 14-5303(C), and 14-5407(B), A.R.S., currently provide for a court investigator to conduct an investigation and prepare a report for the court pertaining to the need for a proposed guardianship or conservatorship and the suitability of the proposed appointee to serve as a fiduciary. There is no mechanism for requiring annual unannounced visits and reports to the court by someone other than the guardian, however.⁵ In order to better detect when wards and protected persons are abused or neglected, the Committee recommended in the Interim Report that unannounced in-person visits be conducted on an annual basis to evaluate the welfare and condition of adults under the court's protection. These visits should be documented in a report to the court. If available resources cannot support annual visits and reports, the Committee alternatively recommended a longer period of time between visits but not less than biennially.⁶

⁵ The superior court in Maricopa County voluntarily operates the "Guardianship Review Program," which uses volunteer court visitors to check on the welfare of wards and protected persons and report to the court. The Committee is additionally aware that Tarrant County, Texas and Washington D.C. have well-developed court-visitation programs.

⁶ The Committee's Recommendation complements one made by a Joint Task Force of the Conference of Chief Justices and the Conference of State Court Administrators on Elders and the Courts, in conjunction with the National Center for State Court's Center for Elders and the Courts, and reported in the Adult Guardianship Court Data and Issues Results from an Online Survey dated March 2, 2010 ("NCSC Report"). Recommendation 3 in the NCSC Report provides: "Each state court system should implement procedures for monitoring the performance of guardians and conservators and the well-being of incapacitated persons."

Acknowledging that the Committee considered annual or biennial visits in every case to be optimal, AJC nevertheless asked the Committee to develop an alternative recommendation, considering particularly whether the court's limited resources can be used to target post-appointment visitation with wards/protected persons determined to be at risk for neglect, abuse, or financial exploitation. The Committee considered these factors and created two alternate programs based on a case triage model.

Triage Program A.

During the pre-appointment evaluation, the investigator or court visitor completes a risk assessment tool (see Appendix D), which requires identification of known risk factors in a given case. The tool is designed to help the court gauge the level of priority of a case for post-appointment monitoring, identify the most appropriate method of review, and choose who should conduct that review. The investigator⁷ primarily gathers the information by interviewing the prospective ward/protected person, appointed counsel, and the petitioner and by reviewing reports. Following written instructions, the investigator then assesses the ward's/protected person's current and future stability and potential for harm or loss by examining current social structure, residential environment, interdependency issues and available resources, and legal and social advocacy services. Each

⁷ The court can assign another court employee to do the assessment or any follow up assessments warranted. For ease of reference, we refer to an investigator.

assessment is given a numbered score; these numbers are added together to give the potential ward or protected person a total risk level score. The scores fall into one of three ranges: minimal risk, moderate risk, maximum risk. The investigator is encouraged to provide comments and justification for deviating from a seemingly applicable scoring range. The risk assessment tool is filed with the court as a confidential document. Thereafter, assuming appointment of a fiduciary, the judicial officer simultaneously orders a level of post-appointment follow-up that must include some type of visitation. For example, the court may order a telephonic interview with the ward/protected person biennially, an annual in-person visit, or a combination of actions, including a case compliance audit or forensic investigation.

Post-appointment visitations are conducted by court employees or designees, such as volunteers. Using volunteers would result in satisfying the judicial monitoring obligation at minimal cost, although a paid, full-time employee must be used to coordinate volunteers. Members of the Committee conferred with Erica Woods, ABA Commissioner on Law and Aging, who is knowledgeable about guardianship monitoring programs used throughout the United States.⁸ Ms. Woods

⁸ Ms. Woods reported that the ABA and AARP developed a monitoring program in approximately 1991 that 53 courts used, including the superior court in Maricopa County. Funding for the programs ended after seven years; three years later only half the courts had maintained the program. The court in Maricopa County will embark on a new pilot visitation program with the ABA and AARP commencing with a site visit scheduled for August 2011. The ABA and AARP are currently using SJI grant funds to update a monitoring program handbook

identified several possible sources of volunteers, including retired judges,⁹ social work students, nursing students,¹⁰ and law school students. Significantly, these volunteer visitors serve as more than the eyes and ears of the court; they provide community resource information as needed to guardians to better enable them to serve their wards' best interests.

To implement Triage Model A, the supreme court should promulgate an addition to Probate Rule 30 similar to the following:

Rule 30. Guardianships/Conservatorships – Specific Procedures

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D. INDEPENDENT CASE REVIEW

1. DURING A PRE-APPOINTMENT INVESTIGATION OF A SUBJECT PERSON PURSUANT TO A.R.S. § 14-5308(B), AN INVESTIGATOR SHALL ASSESS THE NEED FOR POST-APPOINTMENT MONITORING THROUGH USE OF RISK ASSESSMENT CRITERIA ESTABLISHED BY THE SUPREME COURT AND SET FORTH IN A FORM. THE INVESTIGATOR SHALL FILE THE RISK ASSESSMENT FORM WITH THE COURT UPON COMPLETION OF THE INVESTIGATION.

that will be made available electronically along with forms. The supreme court should monitor their progress and obtain the handbook and forms for potential use.

⁹ Maricopa County hired a volunteer supervisor and uses retired judges. It reports difficulties with recruitment from such a small pool. Regardless, it anecdotally reports finding problems in 5% of cases in which visitation occurred.

¹⁰ For example, Washington D.C. partnered with five local universities to use social work students to make visits and respond to questions. The program employs a trained social worker, who recruits, trains, assists, and coordinates students in their volunteer duties. The program has eight students, who visit approximately 90 wards/protected persons each year – just under 10% of the court's caseload.

2. UPON APPOINTMENT OF A GUARDIAN OR CONSERVATOR FOR AN ADULT, THE SUPERIOR COURT SHALL CONSIDER THE RISK ASSESSMENT INFORMATION PROVIDED BY THE INVESTIGATOR AND ORDER ONE OR MORE METHODS OF CASE REVIEW. SUCH METHODS MUST INCLUDE VISITATION OF THE SUBJECT PERSON AND MAY INCLUDE FINANCIAL REVIEW. THE COURT MUST ORDER SOME TYPE OF CASE REVIEW AT LEAST BIENIALLY.

3. THE COURT MAY USE VOLUNTEERS TO VISIT ADULT WARDS AND PROTECTED PERSONS. ANY VOLUNTEER MUST SUBMIT TO A CRIMINAL BACKGROUND CHECK AND UNDERGO TRAINING AS REQUIRED BY THE SUPREME COURT.

4. IN DETERMINING WHETHER THE SUBJECT PERSON IS IN NEED OF A GUARDIANSHIP OR CONSERVATORSHIP, THE COURT SHALL NOT CONSIDER THE RISK ASSESSMENT FORM COMPLETED PURSUANT TO THIS RULE, NOR SHALL THE RISK ASSESSMENT FORM BE ADMISSIBLE IN EVIDENCE DURING ANY HEARING ON WHETHER A GUARDIAN OR CONSERVATOR SHOULD BE APPOINTED FOR THE SUBJECT PERSON.

Triage Program B.

This program proceeds as Triage Program A with one exception: the court has discretion to forego any post-appointment case review. Under this program, it is anticipated the court will require some type of post-appointment review only if it concludes a subject person is at maximum risk for neglect, abuse, or financial exploitation. The risk assessment form remains substantially similar to the one used for Triage Program A but contains options for the court to take no action post-appointment. *See* Appendix D. This program is necessitated when counties have insufficient resources to implement Triage Program A.

To implement Triage Model B, the supreme court should promulgate an addition to Probate Rule 30 like the following, which is substantially similar to the rule amendment recommended for Triage Program A but makes post-appointment review discretionary:

Rule 30. Guardianships/Conservatorships – Specific Procedures

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D. INDEPENDENT CASE REVIEW

1. DURING A PRE-APPOINTMENT INVESTIGATION OF A SUBJECT PERSON PURSUANT TO A.R.S. § 14-5308(B), AN INVESTIGATOR SHALL ASSESS THE NEED FOR POST-APPOINTMENT MONITORING THROUGH USE OF RISK ASSESSMENT CRITERIA ESTABLISHED BY THE SUPREME COURT AND SET FORTH IN A FORM. THE INVESTIGATOR SHALL FILE THE RISK ASSESSMENT FORM WITH THE COURT UPON COMPLETION OF THE INVESTIGATION.

2. UPON APPOINTMENT OF A GUARDIAN OR CONSERVATOR FOR AN ADULT, THE COURT SHALL CONSIDER THE RISK ASSESSMENT INFORMATION PROVIDED BY THE INVESTIGATOR. AT THE COURT’S DISCRETION, IT MAY ORDER ONE OR MORE METHODS OF CASE REVIEW. SUCH METHODS MAY INCLUDE VISITATION OF THE SUBJECT PERSON AND FINANCIAL REVIEW.

3. THE COURT MAY USE VOLUNTEERS TO VISIT ADULT WARDS AND PROTECTED PERSONS. ANY VOLUNTEER MUST SUBMIT TO A CRIMINAL BACKGROUND CHECK AND UNDERGO TRAINING AS REQUIRED BY THE COURT.

4. IN DETERMINING WHETHER THE SUBJECT PERSON IS IN NEED OF A GUARDIANSHIP OR CONSERVATORSHIP, THE COURT SHALL NOT CONSIDER THE RISK ASSESSMENT FORM COMPLETED PURSUANT TO THIS RULE, NOR SHALL THE RISK

ASSESSMENT FORM BE ADMISSIBLE IN EVIDENCE DURING ANY HEARING ON WHETHER A GUARDIAN OR CONSERVATOR SHOULD BE APPOINTED FOR THE SUBJECT PERSON.

Resources for independent case review

An investigator's use of the risk assessment tool in the pre-appointment stage will not result in any cost to the courts as this evaluation is already required.¹¹ If the court implements post-appointment case evaluations, a cost will be incurred.

The Committee examined data from different sources in attempting to affix a cost to a post-appointment visitation program. According to Ms. Woods from the ABA, the cost of volunteer visitation programs at county levels has ranged from \$10,000 - \$30,000 annually. Assuming \$30,000 is the average cost for urban counties and \$10,000 is the average cost for non-urban counties, we should anticipate an annual statewide cost of approximately \$300,000 for a visitation program.¹² In Ada County, Idaho, the visitation program costs on average \$50 per case.¹³ In Maricopa County, the visitation program costs on average \$44 per case.¹⁴ Based on these figures, the supreme court can expect any program to cost \$40 - \$50 per case for visitation. If something other than visitation is ordered, the

¹¹ Petitioners pay approximately \$400 in fees for investigator services.

¹² This calculation assumes two urban counties and thirteen non-urban counties.

¹³ Ada County's program uses two full-time employees and five or six volunteers. The program budget is approximately \$100,000.

¹⁴ Maricopa County's program uses contract court investigators for \$20 per hour. Each investigator spends approximately two to two and one-quarter hours for a visit.

cost will likely decrease. The court should bear in mind, however, that the above-described programs are not precisely comparable to the post-appointment case review models suggested by the Committee, and therefore the costs may not correlate. Thus, the supreme court should consider these as rough estimates of any program implemented in Arizona's courts.

The Committee has identified sources of funding for a post-appointment case review program. The supreme court could impose an additional filing fee on guardianship reports and conservatorship accounts. For instance, a \$20-\$25 fee imposed for filing an annual guardianship report or annual conservatorship account would generate approximately \$40-\$50 for biennial case reviews. Fees could also be assessed against fiduciaries who fail to comply with filing requirements. Because filing fees are already steep, however, the court should consider asking the legislature to impose a smaller fee on a larger group for use in case review. For example, the legislature could assess \$1 for issuance of a death certificate, which could be paid to a fund to use for post-appointment case review, including visitation. In Arizona in 2009, approximately 45,000 people died. Assuming an average of three death certificates per person were issued, the surcharge would generate \$135,000 annually. Assuming an average of five death certificates per person were issued, the surcharge would generate approximately \$225,000 annually. Another source of funding is the general fund. The supreme court

should consider asking the legislature for program funding on a statewide basis. If the legislature is unable to fund the programs entirely, it could work with county governments to split funding obligations. Any filing fees should be deposited into the probate fund prescribed by A.R.S. § 14-5433. Subsection C of that provision provides authority for the court to expend moneys from the probate fund for post-appointment visitation. If the legislature funds the program from the general fund or by imposing a surcharge on death certificates, those moneys should be placed in the confidential intermediary and fiduciary fund pursuant to A.R.S. § 8-135. The legislature should also amend subsection A of that provision to authorize use of the funds for a post-appointment case review program.

The Committee realizes that the cost and effectiveness of a post-appointment case review program is uncertain. The Committee therefore recommends that courts in urban and non-urban counties choose either Triage Program A or Triage Program B to run for six months as pilot projects. Thereafter, the supreme court can consider whether to require one, either, or a modified review program. If a pilot project is authorized, the supreme court should designate the risk assessment tool as a confidential document by administrative order. If the court adopts either or both models on a permanent basis, the court should add the risk assessment tool to the list of confidential documents in Probate Rule 7. The Committee further recommends appointment of a focused task force to oversee

creation, implementation, tracking, and reporting of the pilot projects. Among others things, the task force should conduct a feasibility study to arrive at a more accurate cost for the program and develop a compendium of community resources to provide to guardians as needed. The task force should include a mix of judicial officers, professional fiduciaries, investigators and court administrators familiar with probate, and a social worker. The task force should report to the Probate Projects Coordinator (see Recommendation D, p. 23).

Recommendation F: The supreme court should add a Probate Rule directing the superior court to create and conduct a funded program for random audits of conservatorship accounts to validate the accuracy of annual or biennial accounts currently required in all adult conservatorship matters.

The Committee recommended in its interim report that random audits be conducted (i) by the court's own designated staff; (ii) by independent contractors solicited and retained for this purpose as court services providers; or (iii) by independent licensed fiduciaries who have contracted with the court to perform such services. The scope of conservatorship cases subject to court-ordered random audits may be limited to cases above a certain threshold unrestricted asset amount, such as \$100,000 or \$200,000. The Committee further suggested that the supreme court should exempt from audit licensed fiduciaries, which include a county public fiduciary, the Arizona Department of Veterans Services, and private professional fiduciaries. These licensed fiduciaries are already under regulatory oversight of

the Arizona Supreme Court and subject to random audit pursuant to Arizona Code of Judicial Administration § 7-201(D)(2)(b)(4).

AJC asked the Committee to review funding sources for a random audit program. The funding sources found are the same as those set forth in Recommendation E (p. 24). The Committee reiterates its recommendation that the supreme court create and conduct a funded system of random audits.

Recommendation G: The supreme court should immediately develop statewide uniform training requirements for judicial officers and a bench book to comply with recently enacted A.R.S. § 14-1101.

During the 2011 legislative session, members of the Committee worked with the supreme court's legislative liaison, members of the Arizona Legislature, and interest group representatives regarding necessary legislation to improve the court's ability to oversee probate matters. Ultimately, the legislature enacted SB 1499 (Appendix E), which Governor Janice K. Brewer signed into law on April 29, 2011 with an effective date from and after December 31, 2011.¹⁵ Among other things, SB 1499 requires judicial officers presiding over probate matters to participate in training as prescribed by the supreme court. A.R.S. § 14-1101.

The Committee recommended in the interim report that judicial officers complete training focused solely on probate matters before deciding probate

¹⁵ The Committee Chair reported the progress of SB 1499 to AJC at its March 2011 meeting and secured AJC's approval of the Committee's recommendations regarding this statute.

matters and then take a refresher course a minimum of every 5 years. Additionally, the Committee recommended development of a statewide comprehensive bench book for use as a reference by judicial officers. The Committee reiterates these recommendations and further suggests that the supreme court appoint a focused task force to develop the required training regimen and a bench book that includes the practices set forth in Appendix F. The task force should include a mix of judicial officers, court administrators and attorneys experienced in probate, and fiduciaries. The Judicial College of Arizona should oversee the task force as it is responsible for judicial officer training. The Committee additionally recommends that the supreme court set a deadline for implementation of an appropriate training regimen and bench book. It is the Committee's understanding that the SJI grant money can be used to accomplish these tasks.

Recommendation H: The supreme court should develop a mandatory, uniform, online, statewide training program for all non-licensed fiduciaries.

Licensed fiduciaries handle a relatively small percentage of Title 14 cases. Most often, a non-licensed person, such as a parent, relative, or friend of the ward, protected person, or decedent serves as the fiduciary. Many of these individuals likely have little or no idea of the requirements for serving as a fiduciary. Therefore, the supreme court should advocate for adoption of a statute similar to

A.R.S. § 25-351 *et seq.* or create a Probate Rule that requires all parents involved in a dissolution proceeding to complete a parenting class, and requires all non-licensed fiduciaries to complete a training program prior to being appointed by the court as a fiduciary, unless an emergency exists. The Committee suggests the training program should not be more than 90 minutes in length, be available for viewing at all courthouses as well as Internet-based, and that an online assessment be given and a certificate issued upon successful completion of the course. This recommendation coincides with recommendation 2 of the NCSC Report, which suggests each court system “develop written and online materials to inform non-professional guardians and conservators about their responsibilities and how to carry out those responsibilities effectively.”

Should the supreme court prefer to achieve this recommendation by court rule rather than by urging enactment of a new statutory section, the Committee suggests that a rule be incorporated into the Probate Rules as Rule 27 under part IV, “Procedures Relating to the Appointment of Fiduciaries.” In order to maintain uniformity with the style and structure of the existing rules, it is suggested that the proposed rule read as follows:

RULE 27.1. TRAINING FOR NON-LICENSED FIDUCIARIES.

A. ANY PERSON WHO IS NEITHER A LICENSED FIDUCIARY UNDER A.R.S. § 14-5651 NOR A FINANCIAL INSTITUTION SHALL COMPLETE A TRAINING PROGRAM APPROVED BY THE SUPREME COURT BEFORE LETTERS TO SERVE AS A GUARDIAN,

CONSERVATOR, OR PERSONAL REPRESENTATIVE ARE ISSUED UNLESS THE APPOINTMENT WAS MADE PURSUANT TO SECTIONS 14-5310(A), 14-5401.01(A) OR 14-5207(C).

B. IF THE APPOINTMENT WAS MADE BECAUSE AN EMERGENCY EXISTED, THE FIDUCIARY SHALL COMPLETE THE TRAINING PROGRAM WITHIN THIRTY DAYS OF APPOINTMENT OR BEFORE THE PERMANENT APPOINTMENT OF THE FIDUCIARY, WHICHEVER IS EARLIER. FOR GOOD CAUSE, THE COURT MAY EXTEND THE TIME PERIOD FOR THE FIDUCIARY TO COMPLETE THE TRAINING PROGRAM.

C. FOR PURPOSES OF THIS RULE, “FINANCIAL INSTITUTION” MEANS A BANK THAT IS INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION AND CHARTERED UNDER THE LAWS OF THE UNITED STATES OR ANY STATE, A TRUST COMPANY THAT IS OWNED BY A BANK HOLDING COMPANY THAT IS REGULATED BY THE FEDERAL RESERVE BOARD, OR A TRUST COMPANY THAT IS CHARTERED UNDER THE LAWS OF THE UNITED STATES OR THIS STATE.

The Committee previously made this recommendation to AJC in its Interim Report. AJC approved the recommendation in concept and referred it to COJET for further vetting. COJET, however, has not addressed the recommendation as it is not responsible for training persons outside the judicial branch. Consequently, the Committee reiterates the recommendation and further suggests that the supreme court appoint a focused task force to develop the required training program. The task force should include licensed fiduciaries, a person familiar with programming web-based training, and court administrators and attorneys experienced in probate. The Arizona Fiduciaries Association has informed the Committee of its willingness to assist in creating training materials, including a

video. The Probate Projects Coordinator (see Recommendation D, p. 23) should oversee the task force. The Committee additionally recommends that the supreme court set a deadline for implementation of an appropriate training program. It is the Committee's understanding that the SJI grant money can be used to accomplish these tasks.

Recommendation I: The supreme court should rename and expand the Seniors and Probate website maintained by the judiciary to ensure all interested persons can obtain information about the duties of a fiduciary, the guardianship and conservatorship process, forms, and other resources for Title 14 cases.

Help desks or self-service centers are not uniformly available throughout the State. By providing better resources to self-represented parties, the court will improve probate case processing and monitoring. By providing an online self-help center concerning probate issues, the supreme court would likely enhance the ability of non-licensed fiduciaries and self-represented interested parties to learn about the process, avoid missteps, and spot abuses to point out to the court. A fine example of a self-help center for probate is found on Ramsey County, Minnesota's website, which is located at <http://www.mncourts.gov/district/2/?page=524>. See also online self-service center tools developed by Los Angeles County, California, <http://www.lasuperiorcourt.org/probate/selfhelp.htm>, and the California Administrative Office of the Courts, <http://www.courtinfo.ca.gov/selfhelp/>. Currently, the judiciary maintains a Seniors and Probate website that can be

expanded to fulfill these purposes.

<http://www.azcourts.gov/PublicServices/SeniorsProbateLaw.aspx> In addition, a collaborative effort between the Arizona Foundation for Legal Services and Education and the supreme court resulted in the production and ongoing funding of the Law for Seniors website, www.LawforSeniors.org, which is found on the Seniors and Probate website and can be expanded to provide additional information for seniors and for those who care for them.

The Committee previously made this recommendation to AJC in its Interim Report. AJC approved the recommendation in concept and referred it to COJET for further vetting. COJET, however, has not addressed the recommendation as it is not responsible for training persons outside the judicial branch. Consequently, the Committee reiterates the recommendation and further suggests that the supreme court appoint a focused task force to develop forms and training materials, which can be placed online for consultation. Additionally, the task force should develop “smart forms” in conjunction with the AZTurboCourt process for ease and accuracy of filing required forms such as annual accounts. The task force should include a mix of licensed fiduciaries, court administrators and attorneys familiar with probate, and a person familiar with implementing forms into the AZTurboCourt system. The task force should coordinate with the task force appointed pursuant to Recommendation H in developing training materials and

forms to ensure efficiency and consistency. The Probate Projects Coordinator (see Recommendation D, p. 23) should oversee the task force and provide coordination with the Recommendation H task force. The Committee additionally recommends that the supreme court set a timeframe for creating the training materials and forms, placing them online, and eventually implementing smart forms in AZTurboCourt. It is the Committee's understanding that the SJI grant money can be used to accomplish these tasks. Finally, the Committee believes the name of the website should be changed to something like, "Law for Seniors and the Vulnerable" and include material relevant to both minor and adult guardianships and conservatorships as well as existing materials relating to seniors. The Committee suggests persons with marketing expertise craft an appropriate name for the site.

Recommendation J: The supreme court should require any attorney wanting to be appointed as counsel or guardian ad litem for a proposed adult ward or protected person to complete a court-approved training program before accepting the first appointment.

Attorneys play vital roles in many guardian and conservatorship cases, particularly when appointed to represent a proposed ward or protected person or to serve as a guardian ad litem. Therefore, the supreme court should create a Probate Rule requiring any attorney wanting to be appointed as counsel for a proposed adult ward or protected person or guardian ad litem for a proposed adult ward or

protected person to first complete a statewide training program.¹⁶ The Rule should require attorneys with existing appointments to complete the training as soon as practicable. All attorneys accepting appointments should re-certify with a refresher training course that provides more advanced training no later than every five years. The Committee suggests the training program be Internet-based, an online assessment be given, and a certificate issued upon successful completion of the course.

The Committee is not charged with responsibility for addressing issues relating to minor conservatorships. Nevertheless, the supreme court may wish to create a similar rule requiring training for attorneys appointed to minor guardianship and conservatorship matters.

The Committee previously made this recommendation to AJC in its Interim Report. AJC approved the recommendation in concept and referred it to COJET for further vetting. COJET, however, has not addressed the recommendation as it is not responsible for training persons employed outside the judicial branch. Consequently, the Committee reiterates the recommendation and further suggests that the supreme court appoint a focused task force to develop the required training program. The task force should include a mix of judicial officers, court

¹⁶ An exception to this requirement might be made when a proposed ward or protected person wishes to hire his or her own attorney, and insufficient time exists to complete the training before assumption of the representation.

administrators and attorneys experienced in probate, a person knowledgeable about programming Web-based training, and a member of the state bar familiar with attorney education. The Probate Projects Coordinator (see Recommendation D, p. 23) should oversee the task force. The Committee additionally recommends that the supreme court set a deadline for implementation of an appropriate training program. It is the Committee's understanding that the SJI grant money can be used to accomplish these tasks.

After creation of a training program, the Committee recommends promulgation of a Probate Rule setting forth the requirements for attorneys seeking appointments. The task force should recommend the Rule in order to tailor it to the training requirements decided upon. The Rule might appear something like the following:

RULE 10(E): DUTIES OF COUNSEL FOR SUBJECT PERSON OF GUARDIANSHIP/CONSERVATORSHIP PROCEEDING; DUTIES OF GUARDIAN AD LITEM

1. INITIAL TRAINING. ANY ATTORNEY WHO SERVES AS A COURT-APPOINTED ATTORNEY OR GUARDIAN AD LITEM FOR A PROPOSED ADULT WARD OR ADULT PROTECTED PERSON MUST FIRST COMPLETE A TRAINING COURSE PRESCRIBED BY THE SUPREME COURT, WHICH WILL ISSUE A CERTIFICATE OF COMPLETION. THE ATTORNEY MUST FILE A COPY OF THE CERTIFICATE OF COMPLETION WITH THE ADMINISTRATIVE OFFICE OF THE COURT OR THE SUPREME COURT'S DESIGNEE NO LATER THAN TEN DAYS AFTER ENTRY OF THE APPOINTMENT ORDER. ANY ATTORNEY WHO, AT THE TIME THIS RULE BECOMES EFFECTIVE, IS

SERVING AS COURT-APPOINTED ATTORNEY OR GUARDIAN AD LITEM FOR AN ADULT WARD OR PROTECTED PERSON MUST COMPLETE A TRAINING COURSE PRESCRIBED BY THE SUPREME COURT AS SOON AS PRACTICABLE AND THEREAFTER MUST FILE A CERTIFICATE OF COMPLETION WITH THE ADMINISTRATIVE OFFICE OF THE COURT OR THE SUPREME COURT'S DESIGNEE.

2. **SUBSEQUENT TRAINING.** AFTER COMPLETING THE INITIAL TRAINING COURSE PRESCRIBED BY THE SUPREME COURT, ANY ATTORNEY WHO CONTINUES TO SERVE AS A COURT-APPOINTED ATTORNEY OR GUARDIAN AD LITEM FOR AN ADULT WARD OR PROTECTED PERSON MUST COMPLETE AN ADDITIONAL TRAINING COURSE PRESCRIBED BY THE SUPREME COURT EVERY FIVE YEARS AND FILE A CERTIFICATE OF COMPLETION AS SET FORTH IN SUBSECTION 1.

3. In a guardianship or conservatorship proceeding, the participation of an attorney representing the subject person shall terminate upon the subject person's death. In extraordinary situations, the court, for good cause shown, may authorize the limited participation of the subject person's attorney after the subject person's death. In such cases, the court shall set forth, in its order authorizing the attorney's continued participation, the basis for the continued participation and the scope of the attorney's participation.

Recommendation K: The supreme court should develop a mandatory, statewide training program and require all superior court investigators in Title 14 and Title 36 cases to successfully complete it before their initial appointment to a case.

Section 14-5308, A.R.S., requires each court investigator appointed by the court in an action seeking appointment of a guardian or conservator for an adult to "have a background in law, nursing or social work and [to] have no personal interest in the proceedings." The investigators serve as the eyes and ears of the

judicial officers. Thus, the supreme court should create a rule requiring any person wanting to be appointed as an investigator and meeting the statutory qualifications to complete a statewide training program. The Rule should require investigators with existing appointments to complete the training as soon as practicable. All investigators accepting appointments should re-certify with a refresher training course that provides more advanced training no later than every five years. The Committee suggests the training program be Internet-based, an online assessment be given, and a certificate issued upon successful completion of the course.

The Committee previously made this recommendation to AJC in its Interim Report. AJC approved the recommendation in concept and referred it to COJET for further vetting. The Education Services division of AOC is aware of the requirement and intends to develop a training plan for future consideration by COJET. The Committee reiterates the recommendation and further suggests that the supreme court appoint a focused task force to develop the required training program. The task force should include a mix of judicial officers, court administrators and investigators experienced in probate, and a person knowledgeable about programming Web-based training. The Probate Projects Coordinator (see Recommendation D, p. 23) should oversee the task force. The Committee additionally recommends that the supreme court set a deadline for

implementation of an appropriate training program. It is the Committee's understanding that the SJI grant money can be used to accomplish these tasks.

After creation of a training program, the Committee recommends promulgation of a Probate Rule setting forth the requirements for investigators seeking appointments. The task force should recommend the Rule in order to tailor it to the training requirements decided upon. The Rule might appear something like the following:

RULE 10(F): DUTIES OF INVESTIGATORS.

1. BEFORE BEING APPOINTED AS AN INVESTIGATOR PURSUANT TO A.R.S. §§ 14-5303(C), 14-5407(B), OR 36-540(G), A PERSON MUST FIRST COMPLETE A TRAINING COURSE PRESCRIBED BY THE SUPREME COURT, WHICH WILL ISSUE A CERTIFICATE OF COMPLETION. THE INVESTIGATOR MUST FILE A COPY OF THE CERTIFICATE OF COMPLETION WITH THE ADMINISTRATIVE OFFICE OF THE COURT OR THE SUPREME COURT'S DESIGNEE.

2. AFTER COMPLETING THE INITIAL TRAINING COURSE PRESCRIBED BY THE SUPREME COURT, ANY PERSON WHO CONTINUES TO SERVE AS A COURT-APPOINTED INVESTIGATOR MUST COMPLETE AN ADDITIONAL TRAINING COURSE PRESCRIBED BY THE SUPREME COURT EVERY FIVE YEARS AND FILE A CERTIFICATE OF COMPLETION AS SET FORTH IN SUBSECTION A.

Recommendation L: The supreme court should immediately promulgate Probate Rule and the Arizona Code of Judicial Administration changes to further delineate the roles of court-appointed attorneys, guardians ad litem, and fiduciaries.

As set forth in the Interim Report, confusion regarding the respective roles of court-appointed attorneys, guardians ad litem, and fiduciaries affects judicial

oversight of guardianship and conservatorship cases and can unnecessarily increase the fees and costs to the estates of wards and protected persons. Fiduciaries often feel obligated to attend depositions or court proceedings even though their attorney's attendance would suffice to serve the ward's or protected person's best interests. Also, the role of guardians ad litem is often undefined, leading to duplicative efforts with court-appointed attorneys, and appointment terms can last longer than necessary.

The Committee further concludes that a fiduciary represented by counsel may be able to competently prepare and file some documents and appear in uncontested court proceedings without the need for counsel to perform these tasks, as is currently mandated.¹⁷ Indeed, unrepresented, non-licensed fiduciaries perform such tasks routinely without attorney assistance.

To eliminate confusion regarding the respective roles of a fiduciary, an attorney appointed for a ward/protected person, and a guardian ad litem, and to eliminate unnecessary expenditures of attorney fees, the Committee recommends that the supreme court immediately promulgate the following rules and Arizona Code of Judicial Administration ("ACJA") changes:

Arizona Rules of Probate Procedure

¹⁷ Most if not all bonding companies require fiduciaries to retain counsel. Currently, if counsel appears of record in a case, the fiduciary is not permitted to file documents or appear in court without that counsel. Additionally, other attorneys are ethically prohibited from communicating directly with represented fiduciaries.

Rule 10. Duties Owed BY COUNSEL, FIDUCIARIES, UNREPRESENTED PARTIES, AND INVESTIGATORS

A. Duties of Counsel.

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B. Duties of Unrepresented Parties.

....

C. Duties of Court-Appointed Fiduciaries.

1. A court-appointed fiduciary shall

....

b. REFRAIN FROM CHARGING TO ATTEND COURT PROCEEDINGS, INCLUDING DEPOSITIONS, UNLESS SUCH ATTENDANCE IS REQUIRED BY LAW, COURT ORDER, OR OTHER CIRCUMSTANCES SUCH THAT THE FIDUCIARY'S ATTENDANCE IS NECESSARY;

[LETTERING OF SUBSEQUENT, EXISTING SUBPARAGRAPHS CHANGED TO ACCOMMODATE INSERTION OF (b)]

....

D. Duties Relating to Counsel for Fiduciaries ~~Upon Withdrawal~~.

1. TO MINIMIZE LEGAL EXPENSES INCURRED BY THE BENEFICIARY OF THE FIDUCIARY RELATIONSHIP, A FIDUCIARY'S ATTORNEY SHALL ENCOURAGE THE FIDUCIARY TO TAKE THOSE ACTIONS THE FIDUCIARY IS AUTHORIZED TO PERFORM AND CAN PERFORM COMPETENTLY ON THE FIDUCIARY'S OWN TO FULFILL THE FIDUCIARY'S DUTIES RATHER THAN HAVING THE ATTORNEY TAKE SUCH ACTIONS ON THE FIDUCIARY'S BEHALF.

2. In addition to the requirements set forth in Arizona Rule of Civil Procedure 5.1, an attorney who has appeared in a probate case as counsel for record for a

guardian, conservator, personal representative, or trustee shall include with any motion to withdraw a status report that advises the court and parties of any issues pending in the probate case and informs the court and parties whether, to the best of the attorney's knowledge, all required guardian reports, inventories, accountings, and other similar required reports have been filed.

RULE 10.1 FIDUCIARY'S AUTHORITY TO FILE DOCUMENTS AND APPEAR IN COURT PROCEEDINGS WHEN REPRESENTED BY COUNSEL.

A. NOTWITHSTANDING AN ATTORNEY HAVING APPEARED IN A PROBATE CASE ON BEHALF OF A FIDUCIARY, A FIDUCIARY WHO IS REPRESENTED BY AN ATTORNEY IN A PROBATE CASE MAY SIGN AND FILE DIRECTLY WITH THE COURT ANY DOCUMENT EXCEPT A MOTION, A PETITION, AN APPLICATION, OR A CLOSING STATEMENT.

B. A FIDUCIARY WHO FILES A DOCUMENT DIRECTLY WITH THE COURT PURSUANT TO THIS RULE SHALL BE RESPONSIBLE FOR SERVING A COPY OF SUCH DOCUMENT UPON THOSE PERSONS WHO, BY STATUTE, COURT RULE, OR COURT ORDER, ARE ENTITLED TO RECEIVE A COPY OF THE DOCUMENT. THE FIDUCIARY MUST ALSO PROVIDE THE FIDUCIARY'S ATTORNEY WITH A COPY OF THE DOCUMENT FILED DIRECTLY WITH THE COURT.

C. UPON MOTION BY A FIDUCIARY'S ATTORNEY OF RECORD, THE COURT MAY AUTHORIZE THE FIDUCIARY TO APPEAR WITHOUT LEGAL REPRESENTATION IN A PARTICULAR COURT PROCEEDING AND COMMUNICATE WITH ANY OPPOSING COUNSEL IN CONNECTION WITH THAT PROCEEDING.

COMMENT

THE COURT RECOGNIZES THAT FIDUCIARIES REPRESENTED BY COUNSEL MAY NOT NEED THE SERVICES OF COUNSEL TO FILE CERTAIN DOCUMENTS OR APPEAR IN CERTAIN COURT PROCEEDINGS. SOMETIMES, THE INVOLVEMENT OF COUNSEL IS UNNECESSARY AND CAN BE COSTLY TO AN ESTATE. RULE 10.1(C) PERMITS THE COURT TO AUTHORIZE THE FIDUCIARY TO APPEAR IN CERTAIN COURT PROCEEDINGS WITHOUT THE ATTORNEY OF RECORD UPON REQUEST BY THAT ATTORNEY. IT IS ANTICIPATED THAT SUCH REQUESTS WILL BE MADE FOR ROUTINE COURT

APPEARANCES THAT DO NOT CONCERN CONTESTED ISSUES. TO BE CLEAR, THIS RULE APPLIES ONLY TO COURT FILINGS AND APPEARANCES AND DOES NOT AUTHORIZE A FIDUCIARY TO DRAFT OTHER LEGAL DOCUMENTS, SUCH AS ESTATE PLANNING DOCUMENTS. WHEN A REPRESENTED FIDUCIARY APPEARS WITHOUT THE ATTORNEY OF RECORD PURSUANT TO THIS RULE, OTHER COUNSEL MAY COMMUNICATE WITH THE FIDUCIARY IN CONNECTION WITH THAT PROCEEDING ONLY WITHOUT VIOLATING THE ATTORNEY'S ETHICAL OBLIGATION MANDATED BY ARIZ. R. SUP. CT. 42, ER 4.2.

RULE 15.1 APPOINTMENT OF GUARDIAN AD LITEM.

A. A PARTY REQUESTING THE APPOINTMENT OF A GUARDIAN AD LITEM SHALL MAKE THE REQUEST IN A MOTION THAT SETS FORTH WHY THE APPOINTMENT IS NECESSARY OR ADVISABLE AND WHAT, IF ANY, SPECIAL EXPERTISE IS REQUIRED OF THE GUARDIAN AD LITEM.¹⁸

B. THE ORDER APPOINTING A GUARDIAN AD LITEM PURSUANT TO THIS SECTION SHALL CLEARLY SET FORTH THE SCOPE OF THE APPOINTMENT, INCLUDING THE REASONS FOR AND DURATION OF THE APPOINTMENT, RIGHTS OF ACCESS AS AUTHORIZED BY THIS RULE, AND THE APPLICABLE TERMS OF COMPENSATION.

C. UPON APPOINTING A GUARDIAN AD LITEM, THE COURT MAY ENTER AN ORDER AUTHORIZING THE GUARDIAN AD LITEM TO HAVE IMMEDIATE ACCESS TO THE PERSON FOR WHOM THE GUARDIAN AD LITEM HAS BEEN APPOINTED AND ALL MEDICAL AND FINANCIAL RECORDS PERTAINING TO SUCH PERSON, INCLUDING RECORDS AND INFORMATION THAT ARE OTHERWISE PRIVILEGED OR CONFIDENTIAL. UPON RECEIPT OF A CERTIFIED COPY OF SUCH ORDER, THE CUSTODIAN OF ANY RELEVANT RECORD RELATING TO A PERSON FOR WHOM A GUARDIAN AD LITEM HAS BEEN APPOINTED SHALL PROVIDE THE GUARDIAN AD LITEM WITH ACCESS TO SUCH RECORD AS AUTHORIZED BY THE COURT'S ORDER.

Arizona Code of Judicial Administration

¹⁸ Proposed Rule 15.1(A) repeats language in current Rule 18(B), which applies to appointments of guardians ad litem and counsel. If the supreme court promulgates Rule 15.1, it should amend Rule 18(B) to excise references to guardians ad litem.

Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-202: Fiduciaries

J. Code of Conduct. . . .

1. [unchanged]

2. Ethics. The fiduciary shall exhibit the highest degree of trust, loyalty and fidelity in relation to the ward, protected person, or estate.

a. – f. [unchanged]

g. The fiduciary shall only prepare powers of attorney or other legal document, if also certified as a legal document preparer pursuant to ACJA § 7-208, **except PERMITTED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, OR** as ordered by the court. This provision does not apply to the Arizona Department of Veterans Services pursuant to A.R.S. § 41-603(A).

Rules of the Supreme Court of Arizona

Rule 31. Regulation of the Practice of Law

(a) Supreme Court Jurisdiction Over the Practice of Law.

.....

.....

(b) Authority to Practice. Except as hereinafter provided in section (d), no person shall practice law in this state or represent in any way that he or she may practice law in this state unless the person is an active member of the state bar.

.....

(d) Exemptions. Notwithstanding the provisions of section (b), but subject to the limitations of section (c) unless otherwise stated:

.....

30. AN OFFICER, MEMBER, OR EMPLOYEE OF A CORPORATION, LIMITED LIABILITY COMPANY, PUBLIC FIDUCIARY, OR THE ARIZONA DEPARTMENT OF VETERANS SERVICES THAT IS LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. §14-5651, WHO IS NOT AN ACTIVE MEMBER OF THE STATE BAR MAY REPRESENT SUCH ENTITY BEFORE THE SUPERIOR COURT IN PROBATE PROCEEDINGS IF THE ENTITY IS NOT REPRESENTED BY COUNSEL OR TO THE EXTENT PERMITTED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, IF ALL THE FOLLOWING CONDITIONS ARE SATISFIED: (A) THE ENTITY AUTHORIZES THE OFFICER, MEMBER, OR EMPLOYEE TO REPRESENT IT IN THE PROCEEDINGS; (B) SUCH REPRESENTATION IS NOT THE OFFICER'S, MEMBER'S, OR EMPLOYEE'S PRIMARY DUTY TO THE ENTITY BUT SECONDARY OR INCIDENTAL TO OTHER DUTIES RELATED TO THE MANAGEMENT OR OPERATION OF THE ENTITY; AND (C) THE OFFICER, MEMBER, OR EMPLOYEE IS NOT RECEIVING SEPARATE OR ADDITIONAL COMPENSATION (OTHER THAN REIMBURSEMENT FOR COSTS) FOR SUCH REPRESENTATION; AND, SUCH OFFICER, MEMBER OR EMPLOYEE IS INDIVIDUALLY LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. §14-5651. NOTWITHSTANDING THE FOREGOING PROVISION, THE COURT MAY REQUIRE REPRESENTATION BY AN ATTORNEY WHENEVER IT DETERMINES THAT LAY REPRESENTATION IS INTERFERING WITH THE ORDERLY PROGRESS OF THE PROCEEDINGS OR IMPOSING UNDUE BURDENS ON OTHER PARTIES. IN ADDITION, THE COURT MAY ASSESS AN APPROPRIATE SANCTION AGAINST ANY PARTY OR ATTORNEY WHO HAS ENGAGED IN UNREASONABLE, GROUNDLESS, ABUSIVE OR OBSTRUCTIONIST CONDUCT.

31. NOTHING IN THESE RULES SHALL PROHIBIT A PERSON LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. § 14-5651 AND PERFORMING SERVICES IN COMPLIANCE WITH RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, AND ARIZONA CODE OF JUDICIAL ADMINISTRATION, PART 7, CHAPTER 2, SECTION 7-202. THIS EXEMPTION IS NOT SUBJECT TO PARAGRAPH (C) OF THIS RULE AS LONG AS THE DISBARRED ATTORNEY OR MEMBER HAS BEEN LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. § 14-5651 AND THE

ARIZONA CODE OF JUDICIAL ADMINISTRATION, PART 7, CHAPTER 2,
SECTION 7-202.

The Committee is informed that ACJA § 7-202 will undergo extensive amendment to address recent legislative enactments and any adoption by the supreme court of recommendations in this report. The supreme court may prefer to substantially address a licensed fiduciary's ability to represent a fiduciary entity in court proceedings via ACJA § 7-202 rather than as an exemption in Rule 31, Rules of the Arizona Supreme Court. If so, the Committee recommends the following amendments to ACJA § 7-202 and Rule 31 in lieu of the proposed recommended amendments set forth immediately above.

Arizona Code of Judicial Administration

Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-202: Fiduciaries

F. Role and Responsibilities of Fiduciaries. In addition to the requirements of ACJA § 7-201(F), the following requirements apply:

1. – 9. [unchanged]

10. A LICENSED FIDUCIARY IS AUTHORIZED TO:

A. PREPARE LEGAL DOCUMENTS WITHOUT THE SUPERVISION OF AN ATTORNEY, AS AUTHORIZED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, OR

B. REPRESENT THE LICENSED FIDUCIARY BUSINESS, OFFICE OF THE PUBLIC FIDUCIARY OR THE ARIZONA DEPARTMENT OF VETERANS' SERVICES BEFORE THE SUPERIOR

COURT IN PROBATE PROCEEDINGS IF THE BUSINESS, OFFICE OR DEPARTMENT IS NOT REPRESENTED BY COUNSEL OR TO THE EXTENT PERMITTED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, IF ALL THE FOLLOWING CONDITIONS ARE SATISFIED:

1. THE ENTITY AUTHORIZES THE LICENSED FIDUCIARY TO REPRESENT IT IN THE PROCEEDINGS;

2. THE FIDUCIARY IS NOT RECEIVING SEPARATE OR ADDITIONAL COMPENSATION (OTHER THAN REIMBURSEMENT FOR COSTS) FOR SUCH REPRESENTATION; SUCH REPRESENTATION IS NOT THE OFFICER'S, MEMBER'S, OR EMPLOYEE'S PRIMARY DUTY TO THE ENTITY BUT SECONDARY OR INCIDENTAL TO OTHER DUTIES RELATED TO THE MANAGEMENT OR OPERATION OF THE ENTITY.

J. Code of Conduct.

1. [no change]

2. Ethics. The fiduciary shall exhibit the highest degree of trust, loyalty and fidelity in relation to the ward, protected person, or estate.

a. – f. [unchanged]

g. The fiduciary shall only prepare powers of attorney or other legal documents, if also certified as a legal document preparer pursuant to ACJA § 7-208, ~~except~~ PERMITTED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, OR as ordered by the court. This provision does not apply to the Arizona Department of Veterans Services pursuant to A.R.S. § 41-603(A).

Rules of the Supreme Court of Arizona

Rule 31. Regulation of the Practice of Law

(a) Supreme Court Jurisdiction Over the Practice of Law.

.....

(b) Authority to Practice. Except as hereinafter provided in section (d), no person shall practice law in this state or represent in any way that he or she may practice law in this state unless the person is an active member of the state bar.

....

(d) Exemptions. Notwithstanding the provisions of section (b), but subject to the limitations of section (c) unless otherwise stated:

....

30. NOTHING IN THESE RULES SHALL PROHIBIT A PERSON LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. § 14-5651 AND PERFORMING SERVICES IN COMPLIANCE WITH RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE AND ARIZONA CODE OF JUDICIAL ADMINISTRATION, PART 7, CHAPTER 2, SECTION 7-202. THIS EXEMPTION IS NOT SUBJECT TO PARAGRAPH (C) OF THIS RULE AS LONG AS THE DISBARRED ATTORNEY OR MEMBER HAS BEEN LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. § 14-5651 AND THE ARIZONA CODE OF JUDICIAL ADMINISTRATION, PART 7, CHAPTER 2, SECTION 7-202. NOTWITHSTANDING THE FOREGOING PROVISION, THE COURT MAY REQUIRE REPRESENTATION BY AN ATTORNEY WHENEVER IT DETERMINES THAT LAY REPRESENTATION IS INTERFERING WITH THE ORDERLY PROGRESS OF THE PROCEEDINGS OR IMPOSING UNDUE BURDENS ON OTHER PARTIES. IN ADDITION, THE COURT MAY ASSESS AN APPROPRIATE SANCTION AGAINST ANY PARTY OR ATTORNEY WHO HAS ENGAGED IN UNREASONABLE, GROUNDLESS, ABUSIVE OR OBSTRUCTIONIST CONDUCT.

Recommendation M: The supreme court should form a focused task force to draft information for public distribution regarding key elements of the guardianship and conservatorship process, including the powers and duties of such fiduciaries.

In most protective proceedings, family members serve as guardians or conservators to their loved ones. More often than not, these family members have

little or no education regarding the requirements for serving in these roles. This lack of knowledge can dissuade competent family members from taking on these roles and result in inconsistent adherence to legislative and court requirements. Also, parents of minors are often unaware of the need to obtain an adult guardianship or the mechanism for doing so until after the child becomes an adult and access to information is denied to the parent. Finally, even if a family member is not serving as guardian or conservator, they are often concerned with making sure their loved one is being protected correctly. Family members who would like to verify their loved one's case is being handled correctly are often uninformed of the rules and requirements, and therefore they do not know what to expect from the process or how to raise concerns.

The Committee recommends the supreme court form a focused task force to draft information for public distribution regarding key elements of the guardianship and conservatorship process, including the powers and duties of guardians and conservators. The information should be broken into discrete topics and presented via writings (hard copy and digital) and videos. Pima County used an excellent video in the 1980s, which walked lay people through the guardianship and conservatorship process. The Committee believes a statewide video or series of videos should be developed and posted on the Judicial Branch's website as well as other pertinent websites maintained by other branches. Non-licensed persons

desiring to serve as fiduciaries should be required to view explanatory material before accepting an appointment to ensure their ability to comply with a fiduciary's duties and to prepare them for the role. The task force should include members of the Executive Branch who deal with incapacitated children and elder care issues, members of the superior court, a representative of a non-profit organization providing outreach to families with incapacitated children or adults, one or more attorneys experienced in representing guardians, conservators, wards and protected persons, and a representative from the licensed fiduciary community.¹⁹

Recommendation N: The supreme court should appoint a focused task force to develop automated case management systems together with uniform, interactive and dynamic electronic probate forms through AZTurboCourt.

As previously mentioned, AJC referred Recommendations 7 and 8 in the Interim Report to COT for placement within the judiciary's schedule of automation priorities. That matter remains pending before COT. Regardless of where these recommendations fall on the priority list, no reason exists to delay commencement of the pre-automation process. The Committee recommends the supreme court immediately appoint a focused task force to develop automated case management systems, including the triggers of risk indicators (see Interim Report, Appendix D),

¹⁹ The Arizona Fiduciaries Association informed the Committee on several occasions that it is developing training materials for its members and would be happy to work with the supreme court to develop similar materials for lay fiduciaries.

and create probate smart-forms for eventual use in AZTurboCourt. The task force should be comprised of persons experienced with modifying our existing case management systems and AZTurboCourt, and court administrators and judicial officers familiar with probate and the required forms. The Probate Projects Coordinator (see Recommendation D, p. 23) should oversee the task force and coordinate with COT.

Recommendation O: The supreme court should amend the order to guardian, order to conservator, and order to guardian and conservator appended to Probate Rule 38 to require the fiduciary to send a copy of the order to certain classes of interested persons.

During the Committee public comment process, several family members expressed concern about lacking information regarding the duties of a guardian or conservator. Consequently, they may not realize an issue exists that should be brought to the court's attention. Form orders appended to Probate Rule 38 set forth duties of guardians and conservators and are issued to such persons upon their appointment. The Committee recommends amending these form orders to require fiduciaries to mail copies of orders to specified persons, including wards/protected persons and family members within 30 days after letters of guardianship/conservatorship are issued. These orders will provide valuable information to the recipients regarding the guardianship/conservatorship process. The recommended amended forms are set forth in Appendix G (Order to

Guardian), Appendix H (Order to Conservator), and Appendix I (Order to Guardian and Conservator) (additions to forms are highlighted).

Recommendation P: The supreme court should amend Probate Rules 8 and 10 and add Rule 15.2 to authorize the superior court to dismiss Title 14 cases for lack of prosecution.

Effective case management requires an understanding of how many court cases are subject to action or management at any given time. Civil and family court cases that are fully resolved by entry of judgment, decree or order of dismissal are routinely and efficiently removed from the court's list of active cases to allow court administration and judicial officers to focus their attention on managing only active cases. Not infrequently, civil and family court cases are abandoned or are slow to progress for a variety of reasons ranging from a conscious desire to abandon the case to uncertainty in how to proceed. In these cases, the court is often not notified of the reason for the parties' delay. Rule 38.1(d), Arizona Rules of Civil Procedure ("Civil Rules"), and Rules 46(B) and 91(R), Arizona Rules of Family Law Procedure ("Family Rules"), address this situation by creating an inactive calendar that places stagnant cases on a track to be dismissed after notice to the parties giving them an opportunity to proceed with the case if they desire. If no action is taken within the prescribed times, the case is dismissed by the court, and the court can focus its resources in managing the smaller universe of cases that remain active.

Mechanisms in other case types also exist to ensure that inactive cases are revitalized or dismissed. Criminal and juvenile court cases are generally scheduled for mandatory hearings immediately upon the filing of criminal, delinquency or dependency proceedings with the court, and these cases proceed from hearing to hearing until final disposition. Consequently, these cases are never dormant.

Management of probate matters presents a hybrid case management system and commensurate case management difficulties. Structurally, informal and formal probates and intestacy administrations are like civil cases in some respects but different in others. These cases are filed with the clerk of court and, barring a contest or opposition, the petitioner or personal representative has the responsibility to seek appointment as personal representative, provide notice to heirs, notify and settle creditors' claims, resolve tax issues, prepare an inventory and appraisal, collect and distribute assets, and close out the estate. By statutory design, the court has more limited oversight of informal proceedings, especially when waivers are executed. Oversight is increased when formal court authority is sought for various actions. Conversely, guardianship and conservatorship cases proceed more like criminal or juvenile cases with court oversight primarily occurring at annual accountings and reports from year to year. These cases routinely terminate with a final accounting and order of accountability if these final steps do not occur. Probate Rule 3(A) incorporates the Civil Rules

into Title 14 cases unless they are inconsistent or preempted by the Probate Rules. Presumptively, this would make Civil Rule 38.1(d) applicable to Title 14 cases, but it has never been consistently applied to Title 14 cases because Civil Rule 38.1(d) is driven by the civil requirement to file a motion to set and certificate of readiness within nine months of filing of the civil case; a procedure that generally has no clear corollary in Title 14 cases. For better case management, Title 14 cases need a common sense rule that fits within the unique procedures applicable to Title 14 cases of various kinds.

The Committee recommends that the supreme court promulgate amendments to the Probate Rules as follows:

Rule 8. Service of Court Papers.

A. Whenever A.R.S. Title 14 requires the notice of a hearing or other document be served personally, service shall be conducted pursuant to rule 4(d), 4.1, and 4.2 of the Arizona Rules of Civil Procedure.

B. IF SERVICE OF A NOTICE AND PETITION OR APPLICATION THAT COMMENCES A PROBATE CASE IS NOT MADE UPON ALL PERSONS REQUIRED IN THE MANNER PRESCRIBED BY A.R.S. TITLE 14 WITHIN 120 DAYS AFTER THE FILING OF THE INITIAL PETITION OR APPLICATION, THE COURT, UPON MOTION OR ITS OWN INITIATIVE AFTER NOTICE TO THE PETITIONER OR APPLICANT, MAY DISMISS THE PETITION OR APPLICATION WITHOUT PREJUDICE OR DIRECT THAT SERVICE BE EFFECTED WITHIN A SPECIFIED TIME; PROVIDED THAT IF THE PETITIONER OR APPLICANT SHOWS GOOD CAUSE FOR THE FAILURE PRIOR TO THE EXPIRATION OF TIME ALLOWED FOR SERVICE, THE COURT SHALL EXTEND THE TIME FOR SERVICE FOR AN APPROPRIATE PERIOD.

Rule 10. Duties Owed ~~to the Court~~ BY COUNSEL, FIDUCIARIES, UNREPRESENTED PARTIES, AND INVESTIGATORS

- A. [no change]
- B. [no change]
- C. Duties of Court-Appointed Fiduciaries.
 - 1. [no change]
 - 2. [no change]
 - 3. [no change]

4. **DUTIES REGARDING MINOR’S DEATH, ADOPTION, MARRIAGE OR EMANCIPATION.** THE COURT-APPOINTED GUARDIAN OF A MINOR WARD WHO IS ADOPTED, MARRIES OR BECOMES EMANCIPATED SHALL NOTIFY THE COURT IN WRITING WITHIN TEN DAYS OF SUCH EVENT. IF THE MINOR DOES NOT HAVE A CONSERVATOR AT THE TIME THE GUARDIANSHIP TERMINATES, THE GUARDIAN SHALL PROVIDE THE COURT AND FORMER MINOR WARD WITH A WRITTEN LIST OF ANY KNOWN ASSETS OR MONIES BEYOND PERSONAL EFFECTS BELIEVED TO BE OWNED BY THE FORMER MINOR WARD.²⁰

RULE 15.2. INVOLUNTARY TERMINATION OF APPOINTMENT; OTHER REMEDIES FOR NON-COMPLIANCE; DISMISSAL; SANCTIONS.

A. DISMISSAL OF PROBATE, SPECIAL ADMINISTRATION OR SUBSEQUENT ADMINISTRATION PROCEEDINGS FOR LACK OF PROSECUTION.

1. TWO YEARS AFTER INITIATION OF A CASE FILED PURSUANT TO TITLE 14, CHAPTER 3, A.R.S., THE COURT SHALL ISSUE A NOTICE OF IMPENDING DISMISSAL OF THE CASE UNLESS AT LEAST ONE OF THE FOLLOWING HAS BEEN FILED IN THE CASE:

- a. A CLOSING STATEMENT AUTHORIZED BY §14-3933;
- b. A PETITION TO SETTLE THE ESTATE AUTHORIZED BY §§14-3931, AND -3932;

²⁰ Upon the effective date of this amendment to Rule 10, the court should also modify the order to guardian to remove language requiring production of such a list only “if requested.”

c. AN ORDER TERMINATING THE APPOINTMENT OF A SPECIAL ADMINISTRATOR PURSUANT TO §14-3618;

d. AN ORDER SETTING THE CASE FOR FUTURE TRIAL, HEARING, OR CONFERENCE OR AN ORDER EXTENDING THE ADMINISTRATION OF THE ESTATE BEYOND TWO YEARS.

2. THE CLERK OF THE COURT OR COURT ADMINISTRATOR, WHOEVER IS DESIGNATED BY THE PRESIDING JUDGE, SHALL PROMPTLY NOTIFY PARTIES, PERSONS WHO HAVE FILED A DEMAND FOR NOTICE, AND DISTRIBUTEES OF THE IMPENDING DISMISSAL OF THE CASE. AT THE EXPIRATION OF 90 DAYS AFTER ISSUANCE OF THE NOTICE, THE COURT SHALL DISMISS THE CASE WITHOUT PREJUDICE AND TERMINATE THE APPOINTMENT OF THE PERSONAL REPRESENTATIVE OR SPECIAL ADMINISTRATOR WITHOUT A HEARING UNLESS AT LEAST ONE OF THE FOLLOWING HAS BEEN FILED IN THE CASE:

a. ANY OF THE FOUR DOCUMENTS DESCRIBED ABOVE;

b. A REQUEST FOR HEARING OR CONFERENCE;

c. A PETITION TO TERMINATE THE APPOINTMENT OF THE PERSONAL REPRESENTATIVE OR SPECIAL ADMINISTRATOR;

d. A STATUS REPORT DESCRIBING MATTERS THAT REMAIN TO BE RESOLVED.

ANY TERMINATION OF THE APPOINTMENT OF THE PERSONAL REPRESENTATIVE OR SPECIAL ADMINISTRATOR UNDER THIS RULE SHALL NOT DISCHARGE THE FIDUCIARY FROM LIABILITY OR EXONERATE ANY BOND. THE COURT MAY EXTEND THE PERIODS SET FORTH IN THIS RULE PRIOR TO THEIR EXPIRATION FOR GOOD CAUSE SHOWN. FOR PURPOSES OF THIS SUBSECTION, "DISTRIBUTEES" MEANS HEIRS IN INTESTATE ESTATES AND DEVISEES IN A TESTATE ESTATE.

B. TERMINATION OF A MINOR GUARDIANSHIP CASE. CONSISTENT WITH THE PROVISIONS OF A.R.S. § 14-5210, THE CLERK OF THE COURT OR COURT ADMINISTRATOR, WHOEVER IS DESIGNATED BY THE PRESIDING JUDGE, SHALL CLOSE A MINOR GUARDIANSHIP CASE FILED PURSUANT TO §§ 14-5201 TO -5212 UPON THE MINOR REACHING THE AGE OF MAJORITY, THE MINOR'S ADOPTION, MARRIAGE, EMANCIPATION, OR DEATH. IF THE COURT HAS REASON TO BELIEVE THAT THE MINOR HAS A DISABILITY OR IMPAIRMENT THAT MAY NECESSITATE THE APPOINTMENT OF A GUARDIAN AFTER THE MINOR'S EIGHTEENTH BIRTHDAY, AND A PETITION HAS NOT BEEN FILED PURSUANT TO A.R.S. § 14-5303, THE COURT SHALL SET A STATUS HEARING NOT LESS THAN 90 DAYS PRIOR TO THE MINOR'S EIGHTEENTH BIRTHDAY TO DETERMINE WHETHER A PETITION FOR APPOINTMENT OF A GUARDIAN FOR AN ADULT SHOULD BE FILED.

C. REMEDIES FOR NON-COMPLIANCE BY A GUARDIAN OR CONSERVATOR FOR AN ADULT. IN THE EVENT A GUARDIAN OR CONSERVATOR FAILS TO COMPLY WITH ANY REQUIREMENTS OF A.R.S. TITLE 14, COURT RULES, OR A COURT ORDER, THE COURT MAY ENTER ANY ORDER APPROPRIATELY DESIGNED TO ENSURE COMPLIANCE WITH LEGAL REQUIREMENTS OR PROTECT THE BEST INTEREST OF THE WARD OR PROTECTED PERSON, INCLUDING:

1. ORDER THE GUARDIAN OR CONSERVATOR TO COMPLY WITHIN A TIME CERTAIN;

2. ISSUE AN ORDER TO SHOW CAUSE PURSUANT TO RULE 35 REQUIRING THE GUARDIAN OR CONSERVATOR TO SHOW CAUSE WHY APPROPRIATE ACTIONS SHOULD NOT BE TAKEN BY THE COURT;

3. APPOINT A COURT INVESTIGATOR TO INVESTIGATE THE REASONS FOR THE GUARDIAN'S OR CONSERVATOR'S NON-COMPLIANCE AND REPORT TO THE COURT REGARDING THE INVESTIGATOR'S FINDINGS AND PROPOSED RECOMMENDATIONS;

4. TERMINATE THE GUARDIANSHIP OR CONSERVATORSHIP PROCEEDING IF THE COURT DETERMINES THAT DISMISSAL IS APPROPRIATE. THE COURT SHALL NOT TERMINATE A GUARDIANSHIP OR CONSERVATORSHIP CASE IF THE COURT HAS

REASON TO BELIEVE THE WARD REMAINS INCAPACITATED OR THE PROTECTED PERSON REMAINS IN NEED OF PROTECTION AND SUCH PERSON CONTINUES TO RESIDE IN ARIZONA; OR,

5. IMMEDIATELY SUSPEND OR TERMINATE THE AUTHORITY OF THE GUARDIAN OR CONSERVATOR TO TAKE ANY FURTHER ACTION ON BEHALF OF THE WARD OR THE ESTATE AND APPOINT A SUCCESSOR OR TEMPORARY FIDUCIARY;

6. INITIATE PROCEEDINGS THAT MAY RESULT IN ISSUANCE OF A FIDUCIARY ARREST WARRANT PURSUANT TO A.R.S. § 14-5701; OR

7. ENTER SUCH OTHER ORDER AS MAY BE APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE.

D. GENERAL INVOLUNTARY TERMINATION. IF NO ACTION OR HEARING OCCURS FOR A PERIOD OF SIX MONTHS AFTER A CASE IS INITIATED UNDER A.R.S. TITLE 14, THE COURT SHALL ISSUE A NOTICE THAT THE CASE WILL BE ADMINISTRATIVELY TERMINATED IN 90 DAYS WITHOUT HEARING, UNLESS BEFORE THAT DATE THE INITIATING PARTY FILES WITH THE COURT A REQUEST FOR ACTION OR A STATUS REPORT THAT DESCRIBES MATTERS REMAINING FOR RESOLUTION. THE NOTICE SHALL BE PROVIDED TO ALL PARTIES, PERSONS ENTITLED TO NOTICE OF THE COMMENCEMENT OF THE CASE, AND ANY PERSON WHO FILED A DEMAND FOR NOTICE.

E. EFFECT OF DISMISSAL. UNLESS OTHERWISE ORDERED BY THE COURT, THE ENTRY OF AN ORDER DISMISSING A CASE SERVES TO DISMISS ALL PENDING MATTERS IN THE CASE WITHOUT PREJUDICE BUT DOES NOT DISMISS, VACATE, OR SET ASIDE ANY FINAL ORDER APPROVING ACCOUNTINGS OR APPROVING OTHER ACTIONS OF A PERSON APPOINTED PURSUANT TO A.R.S TITLE 14.

F. DISMISSAL AUTHORITY. THE AUTHORITY OF THE COURT TO ISSUE NOTICES, DISMISS CASES AND TERMINATE APPOINTMENTS UNDER THIS RULE MAY BE PERFORMED BY COURT ADMINISTRATION OR BY AN APPROPRIATE ELECTRONIC PROCESS UNDER SUPERVISION OF THE COURT.

NOTE: Proposed Probate Rule 15.2(A)(2) requires the clerk of the court to provide the notice of impending dismissal to devisees. Identifying devisees may be difficult for a clerk of the court. If the supreme court agrees that the clerk should send notices to devisees, the court should ensure that clerks have the means to readily identify these persons.

Recommendation Q: The supreme court should ask the legislature in the 2012 term to enact legislation requiring prospective guardians and conservators for adults and prospective personal representatives in formal probates to submit to background and credit checks.

Judicial officers report a lack of pertinent information concerning prospective guardians and conservators for adults and personal representatives in formal probates; such information is important to know to ensure that trustworthy persons serve in fiduciary positions to vulnerable persons or estates. Licensed fiduciaries and non-family-member fiduciaries for minors must agree to a credit check and background check as a precursor to appointment. Non-licensed fiduciaries for adults and personal representatives in formal probate are not required to undergo these checks.

Section 14-5106, A.R.S., requires prospective guardians and conservators to disclose pertinent information, including whether the person has been convicted of a felony. Oftentimes, prospective guardians/conservators falsely claim they have never committed crimes; the court currently has no mechanism for discovering

such misrepresentations. The prospective guardian/conservator is not required to disclose a prior bankruptcy filing. Also, fiduciaries sometimes file for bankruptcy protection or commit crimes after appointment; the court does not learn of these subsequent events. Clearly, the court should know if a prospective fiduciary had been convicted, for example, of fraud before appointing that person as a conservator for an adult. Similarly, in providing oversight to a conservatorship, the court should know if a conservator has filed for personal or professional bankruptcy, which may indicate the conservatorship should be more closely monitored. Prospective personal representatives in formal probates are not required to disclose any information before appointment, which creates a risk that the court will appoint an unsuitable person for the position.

The Committee recommends that the supreme court ask the legislature to require prospective guardians and conservators for adults and prospective personal representatives in formal probates to submit to background and credit checks as a condition for appointment. Additionally, the law should authorize the court to conduct periodic updated checks post-appointment. Upon enactment of such legislation, the court should promulgate a rule directing whether such post-appointment checks should be conducted periodically in every case (for example, every three years) or only when ordered by the court. Finally, any rule should also require guardians and conservators for adults and personal representatives in

formal probates to immediately inform the court if they are convicted of a felony or if the fiduciary files for personal or professional bankruptcy protection.

The supreme court should impose a fee on prospective fiduciaries for conducting background checks. Currently, the fee imposed on licensed fiduciaries and non-family-member fiduciaries for minors is \$26 in Maricopa County. Many counties already use credit checking agencies and can conduct the required credit checks at no additional cost. AOC also has such access and may be able to conduct checks for counties without credit checking agency assistance.

Recommendation R: The supreme court should promulgate Probate Rules that ensure the viability of restricted assets.

Arizona courts do not consistently require proof of the status and correct titling of restricted accounts and other assets in estates. As a result, particularly with long-lasting conservatorships, sometimes restrictions are forgotten and assets dispersed or encumbered. For example, on numerous occasions, bank employees have wrongfully released a protected person's funds to a conservator upon presentation of an appointment order, not realizing that restrictions existed in letters issued by the court after the bond had posted.

Although remedies exist for unauthorized releases of restricted assets,²¹ the better course of action is to require timely confirmation that repositories of

²¹ If the order appointing the fiduciary restricts the fiduciary's authority over estate assets, a financial institution may be required to repay wrongfully released funds.

restricted assets are aware of the restrictions and require notice to third parties of any restrictions on real property. The Committee therefore recommends that the supreme court amend Probate Rules 22 and 26 as follows:

Rule 22. ORDERS APPOINTING CONSERVATORS, GUARDIANS, AND PERSONAL REPRESENTATIVES; Bonds and Bond Companies; RESTRICTED ASSETS

A. **ORDERS.** Every order appointing a conservator or a personal representative shall plainly state the amount of bond required. Neither letters of conservator nor letters of personal representative shall be issued to any person until any required bond has been filed with the clerk of court. **EVERY ORDER APPOINTING A CONSERVATOR, GUARDIAN, OR PERSONAL REPRESENTATIVE SHALL INCLUDE THE FOLLOWING LANGUAGE: “WARNING: THIS APPOINTMENT IS NOT EFFECTIVE UNTIL THE LETTERS OF APPOINTMENT HAVE BEEN ISSUED BY THE CLERK OF THE SUPERIOR COURT.”**

B. **BONDS.** Each fiduciary bond filed with the clerk of court shall state on the bond or on an attachment to the bond the name and address of the bonding company's statutory agent or other person authorized to accept service of process for the bonding company in the State of Arizona. The bonding company shall promptly notify the clerk of court of any change in the company's statutory agent or in the statutory agent's address.

C. RESTRICTED ACCOUNTS

1. EVERY ORDER APPOINTING A CONSERVATOR OR PERSONAL REPRESENTATIVE, OR THAT AUTHORIZES A SINGLE TRANSACTION OR OTHER PROTECTIVE ARRANGEMENT PURSUANT TO A.R.S. §14-5409, SHALL PLAINLY STATE ANY RESTRICTIONS ON THE FIDUCIARY’S AUTHORITY TO MANAGE MONETARY ASSETS OF THE ESTATE.

2. IF THE RESTRICTION AFFECTS THE FIDUCIARY'S ABILITY TO MANAGE MONETARY ASSETS OF THE ESTATE, THE ORDER AND, UNLESS OTHERWISE ORDERED BY THE COURT, ANY LETTERS THAT ISSUE SHALL CONTAIN THE FOLLOWING LANGUAGE: "FUNDS SHALL BE DEPOSITED INTO AN INTEREST-BEARING, FEDERALLY INSURED RESTRICTED ACCOUNT AT A FINANCIAL INSTITUTION ENGAGED IN BUSINESS IN ARIZONA. NO WITHDRAWALS OF PRINCIPAL OR INTEREST MAY BE MADE WITHOUT CERTIFIED ORDER OF THE SUPERIOR COURT. UNLESS OTHERWISE ORDERED BY THE COURT, REINVESTMENT MAY BE MADE WITHOUT FURTHER COURT ORDER SO LONG AS FUNDS REMAIN INSURED AND RESTRICTED IN THIS INSTITUTION AT THIS BRANCH."

3. UNLESS OTHERWISE ORDERED BY THE COURT, THE FIDUCIARY SHALL FILE A PROOF OF RESTRICTED ACCOUNT FOR EVERY ACCOUNT ORDERED RESTRICTED BY THE COURT WITHIN 30 DAYS AFTER THE ORDER OR LETTERS, WHETHER TEMPORARY OR PERMANENT, ARE FIRST ISSUED.

4. UNLESS OTHERWISE ORDERED BY THE COURT, AN ATTORNEY WHO REPRESENTS THE FIDUCIARY, THE WARD, PROTECTED PERSON, OR INSURANCE COMPANY AND WHO IS THE RECIPIENT OF ANY PROCEEDS TO BE RESTRICTED FOR THE BENEFIT OF A MINOR, INCAPACITATED PERSON OR PROTECTED PERSON, SHALL ENSURE THE ESTABLISHMENT OF THE RESTRICTED ACCOUNT, PROPER TITLING OF THE SAME, AND SAFE DEPOSIT OF THE RESTRICTED FUNDS. THE ATTORNEY SHALL FILE A PROPERLY EXECUTED PROOF OF RESTRICTED ACCOUNT FORM EXECUTED BY AN AUTHORIZED REPRESENTATIVE OF THE FINANCIAL INSTITUTION WITHIN 30 DAYS AFTER THE ISSUANCE OF LETTERS OR ENTRY OF A SINGLE TRANSACTION ORDER.

D. RESTRICTED REAL PROPERTY

1. EVERY ORDER APPOINTING A CONSERVATOR OR A PERSONAL REPRESENTATIVE, OR THAT AUTHORIZES A SINGLE TRANSACTION

OR OTHER PROTECTIVE ARRANGEMENT PURSUANT TO A.R.S. §14-5409, SHALL PLAINLY STATE ANY RESTRICTIONS ON THE AUTHORITY TO SELL, LEASE, ENCUMBER OR CONVEY REAL PROPERTY OF THE ESTATE. NEITHER LETTERS OF CONSERVATOR NOR PERSONAL REPRESENTATIVE SHALL BE ISSUED BY THE CLERK OF THE COURT TO ANY PERSON UNLESS THE LANGUAGE RESTRICTING THE FIDUCIARY'S AUTHORITY IS CONTAINED IN THE LETTERS.

2. IF THE RESTRICTION LIMITS THE FIDUCIARY'S AUTHORITY TO MANAGE REAL PROPERTY, THE ORDER APPOINTING THE CONSERVATOR OR PERSONAL REPRESENTATIVE, OR THAT AUTHORIZES OR RATIFIES THE TRANSACTION SHALL CONTAIN THE FOLLOWING LANGUAGE: "NO REALTY SHALL BE LEASED FOR MORE THAN ONE YEAR, SOLD, ENCUMBERED OR CONVEYED WITHOUT PRIOR COURT ORDER."

Rule 26. Issuance AND RECORDING of Letters

A. [unchanged]

B. ~~Any restrictions on the authority of the fiduciary to act shall be reflected in the letters issued.~~ IF THE COURT RESTRICTS THE AUTHORITY OF A CONSERVATOR, GUARDIAN OR PERSONAL REPRESENTATIVE, THE CLERK OF THE COURT SHALL NOT ISSUE LETTERS OF CONSERVATOR, GUARDIAN, OR PERSONAL REPRESENTATIVE UNLESS THE LANGUAGE RESTRICTING THE FIDUCIARY'S AUTHORITY IN THE COURT'S ORDER IS CONTAINED IN THE LETTERS OF APPOINTMENT.

C. [unchanged]

D. [unchanged]

E. PURSUANT TO A.R.S. § 14-5421, A CONSERVATOR SHALL FILE AND RECORD A CERTIFIED COPY OF THE LETTERS WITH THE OFFICE OF THE COUNTY RECORDER IN ALL COUNTIES WHERE THE ESTATE OWNS REAL PROPERTY. THE CONSERVATOR SHALL ALSO FILE A

COPY OF THE RECORDED LETTERS WITH THE COURT WITHIN 30 DAYS AFTER ISSUANCE OF THE CONSERVATOR'S LETTERS.

Finally, the Committee recommends that the supreme court amend Probate Rule 38 to add a “Proof of Restricted Account From Financial Institution” form for use in conjunction with Probate Rule 22. The Committee recommends use of the form set forth in Appendix J.

3. Notice of Other Issues

(a) *Allowing probate attorneys to serve as judges pro tem in probate matters.* The Committee received comments that probate attorneys sometimes also serve as judges pro tem in probate matters. As a result, concern was expressed that an attorney in a contested probate matter may feel constrained to vigorously argue against opposing counsel who also serves as a pro tem judge for fear it may affect the outcome of a future case decided by that person in a pro tem capacity. It was also suggested that attorneys who also serve as part-time pro tem judges may develop closer relationships with judicial officers, thereby leading to potentially improper communications. Attorneys are regularly used as pro tem judges in a variety of matters in all types of superior court cases. Proponents of the use of pro tem judges in Title 14 cases point out that the court needs pro tem judges to keep

pace with probate matters, and the most effective pro tem judges are attorneys experienced in probate.²²

The superior court's use of probate attorneys as pro tem judges is permissible under the rules promulgated by the supreme court. Rule 81, ACJA, Application D, establishes standards of conduct for pro tem judges, including regulation of the appearance of attorneys in specialized court divisions like probate. "Those provisions exist to 'allow the greatest possible use of part-time pro tempore judges . . . while minimizing any potential for the appearance of impropriety.'" *Kay S. v. Mark S.*, 213 Ariz. 373, 378, ¶ 24, 142 P.3d 249, 254 (App. 2006) (citation omitted). Rule 81, ACJA, Application D(3), provides that "[a] pro tempore part-time judge who serves once or only sporadically in a specialized division of a court or in a court without specialized divisions may appear as a lawyer in such specialized division or court during such service." According to the supreme court's Judicial Ethics Advisory Committee, "sporadic" means "at irregular intervals," and implies "infrequent" service. *Kay S.*, 213 Ariz. at 378-79, ¶ 28, 142 P.3d at 254-55 (citation omitted). Rule 81, ACJA, Application D(4), states that an attorney who serves "repeatedly on a continuing scheduled basis" as a pro tem judge in the specialized division cannot also appear

²² Desire for such expertise is not unique. See ACJA. § 1-306(B)(1)(c) (requiring attorney pro tem judges in tax court matters to have "education and experience practicing in the area of taxation during the five years preceding the appointment.").

as an attorney in the division during that term of service. The Committee has not received any indication that the superior court uses part-time pro tem judges in probate divisions more than sporadically.

The Committee does not discern a need for new rules to guard against inappropriate contact between part-time pro tem judges and full-time judicial officers. Ethical rules in place for attorneys and judicial officers prohibit ex parte communications between the two while court matters are pending that involve both parties. *See* Ariz. R. Sup. Ct. 42, ER 3.5(B); Ariz. R. Sup. Ct. 81, Rule 2.9. Assuming the rule is violated, the matter can be raised in the context of a particular case. Indeed, any party can seek disqualification of a pro tem judge or full-time judge on the basis of an actual or perceived conflict of interest; any ruling is subject to appellate review. *See, e.g., Kay S.*, 213 Ariz. 373, 142 P.3d 249 (deciding propriety of court's refusal to disqualify judge in dissolution case after wife learned husband's attorney had been serving as judge pro tem in same family law division).

The Committee was not charged with responsibility to investigate the use of pro tem judges in any particular case, was not equipped to do so, and has not done so. Additionally, the Committee did not consider the propriety of the generally accepted principle that courts may use attorneys as pro tem judges to assist in handling the court's caseload. In its review of existing court rules, the

Committee concludes no further rules are needed to govern the superior court's use of attorneys as pro tem judges in Title 14 cases on a limited, as-needed basis.

(b) *Using court commissioners to decide probate matters.* The Committee received comments suggesting only regularly appointed or elected judges should decide probate cases in light of the importance of the issues. The superior court uses commissioners in many types of cases, including probate, to assure the efficient flow of cases. The Committee was not charged with responsibility to investigate the qualities and expertise of particular judicial officers, was not equipped to do so, and has not done so. It is for the supreme court and the particular county courts to decide the manner of court staffing. From the Committee's perspective, what is important is that all judicial officers – judges and commissioners – are trained to effectively decide probate cases. For this reason, the Committee reports the issue but makes no recommendations regarding it.

C. Fees Paid to Fiduciaries and Attorneys from Estates

1. Assessment

Arizona law and due process requirements mandate that an attorney be appointed to represent any adult for whom a guardianship or conservatorship appointment is sought.²³ In some instances, the petition seeking appointment of a

²³ See A.R.S. §§ 14-5303(C), 14-5401.01(C), 14-5707.

guardian or conservator nominates a licensed fiduciary to serve in this capacity. In addition, a fiduciary may retain an attorney to provide legal advice when the fiduciary serves as guardian, conservator, or personal representative. Attorneys and fiduciaries are entitled to reasonable compensation for their services.

The Committee identified the following issues regarding the judiciary's ability to prevent expenditure of excessive fees from a ward's or protected person's estate:

(a) Fees are usually reviewed and approved by the court after expenditures have occurred; no mechanism exists to pre-approve a maximum fee, hourly rates, or set a range of permissible fees. When the fiduciary submits the annual account, a judicial officer typically approves and/or disapproves fiduciary fees, and fees incurred by the fiduciary's attorney, the court-appointed attorney, and the guardian ad litem, which are all paid from the estate. In some cases, there may be significant expenditures from an estate before a judicial officer reviews the account.

(b) Any interested person may object to fees paid to anyone out of the estate. Because proceedings to consider the objection may further unreasonably deplete estate assets, however, many objections are not raised to the court. Typically, fee petitions are scheduled for approval by the court on a non-appearance calendar, which means no party needs to appear at the hearing.

Probate Rule 12. Unless the court receives an objection to the fees prior to the scheduled hearing date, the court will review the fees for reasonableness and enter an order accordingly. Even in the few counties that have court accountants to review annual accountings that reflect fee expenditures, these accountants do not assist the judicial officers in reviewing fees.

(c) Disputes over fees can be time consuming and costly, resulting in expenditures of significant fees by fiduciaries and attorneys that are typically charged to an estate. Alternatives to the current procedure are needed to provide for the timely and efficient resolution of fee disputes.

(d) There is no time limitation governing when fee requests can be submitted or approved, which can prevent a judicial officer from receiving accurate information about what expenses are being incurred by an estate. For example, an attorney may submit a fee request for approval by the fiduciary or court years after services were performed.

(e) No statewide guidelines exist to assist judicial officers in reviewing annual accounts and fee petitions to determine the reasonableness of fees charged.

(f) Third parties can pursue a course of action that does not directly benefit the ward or protected person but nevertheless can result in significant costs to that person's estate. For example, family members can make unreasonable demands on the fiduciary or repeat reasonable requests through daily telephone

calls. As another example, some family members reportedly initiate court proceedings solely or primarily to preserve an inheritance. In such cases, the estate typically bears the costs of the fiduciary and the fiduciary's attorney.

(g) On occasion, a good faith dispute arises between the fiduciary and third parties, such as family members, regarding a variety of matters. The cost of resolving such disputes in court, however, can drain the estate. Although alternative dispute resolution ("ADR") tools are available to an extent, barriers exist to their use. For example, many courts have a limited availability of resources to conduct settlement conferences, and parties and judicial officers are not familiar with available ADR tools in probate matters, such as short trials. Additionally, no mechanism currently exists to mandate cost-saving dispute resolution methods such as binding arbitration or summary trial.

2. Actions Taken

On October 21, 2010, the AJC approved or otherwise acted on the following recommendations made by the Committee in its Interim Report:

Recommendation 9: The supreme court should adopt statewide fee guidelines for attorneys and fiduciaries paid from an estate.

Administrative Order No. 2010-52 required the Committee to "develop statewide fee guidelines for professional fiduciaries and court-appointed attorneys in probate matters." The Chief Justice orally clarified upon inquiry by the Committee Chair that "court-appointed attorneys" include any attorneys paid from

the estate of a ward or protected person. The Committee had not prepared recommended guidelines by the time of the interim report; therefore, no action was taken. The Committee has since developed statewide, uniform guidelines for all Title 14 cases. *See* Recommendation X, p. 102.

Recommendation 10: The supreme court should add a Probate Rule or ask the legislature to include a statutory provision in the probate code, that requires attorneys, fiduciaries and others seeking fees from an estate in guardianship or conservatorship cases to do so within a specific time frame or be barred from doing so, absent good cause.

AJC agreed with this recommendation and asked the Committee move forward with developing a time frame for attorneys, fiduciaries, and others to seek fees from an estate. The Committee worked with members of the legislature regarding this issue, which culminated in the enactment of SB 1499. As a result, A.R.S. § 14-5110 now requires attorneys and guardians ad litem who intend to be paid by the ward or protected person's estate to submit a claim to the fiduciary within four months of rendering the service, incurring the cost, or being appointed, whichever is later, unless another deadline is set by the court. *See* Appendix E.

Recommendation 11: The supreme court should ask the legislature to adopt a fee-shifting statute specifically applicable to probate matters. The court should also promulgate a corresponding Probate Rule.

After extended discussion regarding the various iterations of a potential fee-shifting statute, AJC deferred voting on the recommendation at the October 2010

meeting and asked the Committee to present options to AJC at its March 2011 meeting. After the October meeting, members of the Arizona Legislature solicited input from various groups, including the supreme court and the Committee, concerning a package of probate-related legislation that included many of the issues under consideration by the Committee, including a fee-shifting statute. Therefore, Committee members worked with the supreme court's legislative liaison, members of the Arizona Legislature, and interest group representatives regarding legislation. Ultimately, the legislature enacted SB 1499 (Appendix E), which has an effective date from and after December 31, 2011. In pertinent part, SB 1499 authorizes the court to order a person who engages in unreasonable conduct to reimburse the estate of a ward, protected person, decedent, or trust for any professional fees or expenses incurred as a result of such conduct. A.R.S. § 14-1104. *See* Appendix E.

Recommendation 12: The supreme court should ask the legislature to adopt a statute mandating arbitration for disputes concerning the reasonableness of fees of fiduciaries and all attorneys paid from the estate.

After extended discussion, AJC asked the Committee to defer consideration of this recommendation and raise it at a future AJC meeting. Thereafter, the legislature enacted SB 1499, which grants the court discretion to require arbitration of a dispute pursuant to existing arbitration statutes, A.R.S. § 12-133,(B) – (K), or order other methods of alternative dispute resolution. *See* Appendix E.

3. Additional Recommendations

Recommendation S: The supreme court should adopt a holistic approach to court oversight of Title 14 cases in order to minimize incurrence of unnecessary fees and expenses and further the best interest of the ward or protected person.

The Committee identified many causes that give rise to fee disputes and interfere with the trusting relationship between a fiduciary and a ward/protected person in guardianship and conservatorship cases, including but not limited to the following:

1. Differing expectations on the prudent management of costs;
2. Anticipated costs outweighing probable benefits;
3. Lack of transparency concerning expected compensation, prevailing market rates for compensation, and relative qualifications of professional services in the marketplace;
4. Surprises about the magnitude of aggregate fees and costs, which interested parties or the court did not anticipate before expenses were incurred;
5. Lack of budgeting or disclosure of budgets;
6. Appearance of conflict in attorney-client relationships when an attorney represents a fiduciary in one protective proceeding but is opposing counsel in another proceeding;
7. Lack of counsel to adequately advocate for protected person following appointment of a conservator, particularly regarding fees and expenses;
8. Lack of common reference points to determine whether fees are reasonable, including common standards on what time or expenses are compensable;
9. Annual accounting forms that are neither uniform nor particularly useful to spot trends, anticipate future shortfalls, or evaluate the fiduciary's performance;

10. Persons engaging in unreasonable conduct in Title 14 proceedings do not reimburse the fees or costs incurred by the ward, protected person, decedent's estate, or trust as a result of such conduct;

11. Existing fiduciary removal statutes can result in contested proceedings that are contrary to the best interests of the ward or protected person; and,

12. Lack of probate training or experience among judicial officers, attorneys and non-licensed fiduciaries, can increase costs or frustrate the best interests of incapacitated and vulnerable persons.

After extensive study, the Committee concluded that adoption of rigid fee guidelines would not improve judicial oversight of Title 14 cases without creating new and serious problems, such as increased administrative costs, diminished quality of professional services, or underserved populations. For these reasons, the Committee recommends a holistic approach to oversight that, in addition to statewide uniform fee guidelines, considers a number of factors designed to maximize the prudent management of costs.

In working with members of the legislature, the Committee recommended several provisions that further the holistic approach to prudent management of costs and maintenance of trusting relationships in Title 14 cases, which the legislature adopted in SB 1499. *See* A.R.S. §§ 14-1104 (requiring persons paid from estate to prudently manage costs, engage in cost-benefit analyses, and consider market rates for fiduciary and attorney services); 14 -1109 (authorizing court to summarily deny repetitive motion/petition without awaiting response); 14-5109 (mandating disclosure of basis for compensation paid from estate and

requiring compensation be reasonable and necessary as assessed by enumerated factors); 14-5110 (setting claim deadline for compensation from estates); 14-5307 (authorizing substitution of a guardian even if no wrongdoing if in the ward's best interest); 14-5308(F) (prohibiting investigator, or a person or entity closely related to the investigator, from serving as a fiduciary, attorney, or professional in the same case or for the subject person, absent order of court); 14-5415 (authorizing substitution of a conservator even if no wrongdoing if in protected person's best interest); 14-5418 (requiring conservator to periodically permit protected person and others to view financial records related to the protected person's estate); 14-5651 (A)(3) (requiring provision of licensing and oversight information to the ward, protected person, and others); 14-10706 (D) (authorizing substitution of trustee upon request by beneficiary who is also the settler of the trust). The additional recommendations that follow complete this holistic approach and, in the Committee's view, provide improved tools for judicial oversight while retaining flexibility to ensure that the court's limited resources are appropriately focused on cases in need of more oversight while cases needing less oversight are spared from adhering to unnecessary and potentially expensive requirements.

Recommendation T: The supreme court should promulgate a Probate Rule that requires the prudent management of costs in Title 14 cases.

Although the legislature enacted A.R.S. § 14-1104 as part of SB 1499 to require the prudent management of costs in Title 14 cases, the Committee voted to repeat and expand slightly on this provision²⁴ in the Probate Rules to provide a blueprint for the court, parties, and interested persons for cost management throughout the life of a case. The Committee recommends the supreme court promulgate the following Probate Rule:

RULE 10.2: PRUDENT MANAGEMENT OF COSTS

IN A PROCEEDING BROUGHT PURSUANT TO TITLE 14:

A. THE FIDUCIARY MUST PRUDENTLY MANAGE COSTS, PRESERVE THE ASSETS OF THE WARD OR PROTECTED PERSON FOR THE BENEFIT OF THE WARD OR PROTECTED PERSON, AND PROTECT AGAINST INCURRING ANY COSTS THAT EXCEED PROBABLE BENEFITS TO THE WARD, PROTECTED PERSON, DECEDENT'S ESTATE OR TRUST, EXCEPT AS OTHERWISE DIRECTED BY A GOVERNING INSTRUMENT OR COURT ORDER.

B. THE GUARDIAN AD LITEM, FIDUCIARY, FIDUCIARY'S ATTORNEY, ATTORNEY FOR THE WARD OR PROTECTED PERSON MUST TIMELY DISCLOSE TO THE COURT AND ALL PERSONS ENTITLED TO NOTICE IF THE PERSON HAS A REASONABLE BELIEF THAT PROJECTED COSTS OF COMPLYING WITH A COURT ORDER MAY EXCEED THE PROBABLE BENEFITS TO THE WARD, PROTECTED PERSON, DECEDENT'S ESTATE OR TRUST. IF APPROPRIATE, CONSISTENT WITH DUE PROCESS, THE COURT SHALL ENTER OR MODIFY THE ORDERS AS MAY PROTECT OR FURTHER THE BEST INTEREST OF THE WARD, PROTECTED PERSON, DECEDENT'S ESTATE OR TRUST AGAINST PROJECTED COSTS THAT EXCEED PROBABLE BENEFITS.

²⁴ Proposed Rule 10.2, unlike newly enacted A.R.S. § 14-1104, requires timely disclosure that projected costs of complying with a court order may exceed probable benefits, and expands consideration of market rates for goods and services to all stages of a case rather than just at the time of appointment of a fiduciary or a substitute fiduciary.

C. MARKET RATES FOR GOODS AND SERVICES ARE A PROPER, ONGOING CONSIDERATION FOR THE FIDUCIARY AND THE COURT DURING THE INITIAL COURT APPOINTMENT OF A FIDUCIARY OR ATTORNEY, A HEARING ON A BUDGET OBJECTION AND A REQUEST TO SUBSTITUTE A COURT-APPOINTED FIDUCIARY OR ATTORNEY. AT ANY STAGE OF THE PROCEEDINGS, THE COURT MAY ORDER THAT COMPETITIVE BIDS FOR GOODS OR SERVICES BE OBTAINED.

Recommendation U: The Committee recommends the supreme court carefully consider the value of a Probate Rule that requires a petitioner for a conservatorship to include a good faith estimate for certain costs with the petition. If the supreme court chooses to require such estimates, the Committee recommends promulgation of Probate Rule 30.1.

A focal point of many disputes that arise concerning fees and costs in a guardianship or conservatorship case is the lack of knowledge about the range of those fees and costs at the commencement of a case. The Committee believes it is imperative to increase transparency and disclosure of anticipated fees and costs to the greatest extent possible. Interested persons are sometimes shocked when they view the annual account and learn for the first time the amount of estate monies used to manage the guardianship or conservatorship. Litigation regarding the propriety of these expenses can ensue, resulting in more fees and costs being incurred. The Committee recommends the supreme court reduce the occurrences of “sticker shock” and minimize resulting litigation costs by promulgating a series of Probate Rules and attendant forms designed to disclose anticipated expenses early in a case and resolve any potential disputes about management of a

guardianship or conservatorship case before fees and costs are incurred and paid from an estate.

During the recent legislative session, an early version of SB 1499 contained a provision requiring a petitioner for a conservatorship or guardianship to file with the petition a good faith estimate of enumerated projected monthly costs to the protected person's estate and a subsequent, optional budget. Members of the Committee worked with the legislature and other interested persons to refine the language of the proposed estimate and budget procedure. In the course of doing so, the Committee sought and received AJC's approval at its March 24, 2011 meeting. Thereafter, the supreme court supported the estimate and budget procedures set forth in SB 1499, although it expressed a preference for placing such procedures in court rules in order to more readily make adjustments to the procedures as necessary. Prior to the final passage of SB 1499, the legislature removed the estimate and budget provisions from the bill.

After enactment of SB 1499, the Committee renewed discussions concerning the wisdom of requiring petitioners in guardianship or conservatorship cases to submit estimates with original petitions prior to the appointment of the fiduciary. After extensive discussion, the Committee agreed that pre-appointment estimates should not be required in guardianship-only cases. Members divided on whether to

recommend that the supreme court promulgate a Probate Rule that requires good faith estimates in conservatorship cases.

Members of the Committee favoring promulgation of a rule requiring good faith estimates in conservatorship cases concluded that requiring estimates at the time of the petition would further the goals of transparency and disclosure of projected fees and costs. Although petitioners may not be able to accurately estimate expenses, they likely would be capable in many cases of making some projections that would better inform the court and all interested persons from the outset. Such information early in the process may also spur the petitioner to examine all options before deciding who to urge as conservator and could draw out any disputes for resolution before fees and costs are incurred. Because the proposed rule allows a petitioner to forego making an estimate if the petitioner cannot do so in good faith, a petitioner should not be unduly burdened by the rule. Conversely, without the estimate procedure, petitioners seeking conservatorships for subject persons with small estates and predictable costs likely would be required to file budgets, which would be more burdensome and may unnecessarily tax the resources of the court.

Members of the Committee who do not favor promulgation of a rule requiring good faith estimates reasoned that requiring estimates in all conservatorships would needlessly increase the cost of case management with no

significant ensuing benefit and may deter family members from petitioning for a needed conservatorship. Because of HIPPA and financial privacy laws, the petitioner may not have access to much of the information needed to make estimates. Members also expressed concerns that providing accurate estimates before appointment of a fiduciary would be extremely difficult in many cases because the petitioner would not yet have access to information needed to make an accurate estimate, interested persons may feel misled if costs are ultimately much higher than originally estimated based on the limited available information, and privacy rights of the subject person may be unduly infringed upon.

The Committee recommends that the supreme court carefully consider the pros and cons of requiring good faith estimates at the time of a petition for conservatorship. The Committee is not aware that any courts outside Arizona have implemented a similar estimate process; Arizona would be the first. For that reason, if the court is inclined to implement an estimate requirement, it should further consider whether to initially conduct pilot projects statewide and measure results before permanently requiring the procedure.

Should the supreme court decide to proceed with the estimate procedure, the Committee recommends adding a Probate Rule as follows:

RULE 30.1: GOOD FAITH ESTIMATE

A. PETITION TO APPOINT A CONSERVATOR SHALL BE ACCOMPANIED BY A GOOD FAITH ESTIMATE OF ALL PROJECTED MONTHLY AND

ANNUAL COSTS THAT SHALL BE INCURRED BY A CONSERVATOR, EXCEPT MEDICAL COSTS, TO THE EXTENT THE INFORMATION CAN BE REASONABLY KNOWN OR PROJECTED AT THE TIME A PETITION IS FILED.

B. THE GOOD FAITH ESTIMATE SHALL BE MADE IN FORM 5 SET FORTH IN RULE 38 (FORMS) AND SHALL CONFORM TO THE INSTRUCTIONS PROVIDED WITH FORM 5.

C. IF THE PETITIONER IS UNABLE TO PROVIDE ALL OR PART OF THE GOOD FAITH ESTIMATE AT THE TIME THE PETITION IS FILED, THE PETITIONER MUST STATE IN THE PETITION ALL EFFORTS MADE BY THE PETITIONER TO OBTAIN THE ESTIMATES, AND THE PETITIONER SHALL UPDATE THE GOOD FAITH ESTIMATE FIVE DAYS BEFORE THE HEARING ON THE PETITION IF FURTHER INFORMATION BECOMES KNOWN.

Assuming the supreme court promulgates Rule 30.1, the Committee further recommends that the court adopt Form 5 (Appendix K) as part of the forms set forth in Probate Rule 38 and require all petitioners for a conservatorship to use it. This form also should be posted on the superior court's website and/or the Seniors and Probate website in a format that automatically tabulates numbers for ease and accuracy of calculation. Eventually, Form 5 should be integrated into the AZTurboCourt filing system as a smart form. *See* Recommendation 8, p. 23.

Recommendation V: The supreme court should promulgate Probate Rules requiring a conservator to disclose the sustainability of a conservatorship and permit the court to order a budget in the early stages of a case and on an ongoing basis and authorizing the court to issue financial orders to better oversee a case.

A conservator is required by A.R.S. § 14-5418(A) to file an inventory of the protected person's estate within 90 days after the court issues letters of conservator. At that point, the conservator is in a position to provide a detailed forecast of fees and expenses anticipated in a case. The conservator also has sufficient information to formulate a plan for use of the protected person's assets over the course of that person's projected lifespan. Although a conservator obviously cannot pinpoint with precision all expenses that may occur in the day-to-day life of a protected person or accurately predict that person's lifespan, the Committee believes the conservator has sufficient information at that point in time to estimate whether the estate assets will last the person's projected lifetime, disclose that estimate to the court and interested persons, and plan accordingly. In the Committee's view, the benefits of early planning and disclosure, even if imprecise, are preferable to engaging in the planning process on an emergency basis as assets dwindle.

The Committee recommends that all conservators be required to file a number of financial forms with the court as the case progresses to both further transparency in management of an estate and permit interested parties to raise concerns with the court about a plan prior to its implementation. Specifically, the Committee recommends adoption of forms 6 – 10 in Probate Rule 38 (Appendix L). The Committee anticipates that filing one or more of these forms, as required,

will reduce later disputes with attendant costs to estates. Thus, the supreme court should require conservators to file the following:

1. An estimate of the sustainability of a conservatorship filed at the time of the inventory. The Committee recommends use of a mathematical formula to estimate whether a conservatorship is sustainable. If not, the conservator must inform the court of an alternative plan for furthering the best interest of the protected person.

2. A conservatorship budget filed at the time of the inventory and with the conservator's account thereafter, unless otherwise ordered by the court. Interested persons are entitled to raise timely objections to the proposed budget for resolution by the court. The court may accept a budget in the absence of an objection or approve, disapprove or modify the budget upon its own motion or upon an objection. If an interested person fails to timely object to the budget, the budget will be deemed presumptively reasonable at the time of the conservator's account, although the conservator still bears the burden of proving the reasonableness of expenses. Finally, the conservator must provide timely notice of any changes in expenditures projected to exceed a budget category by ten percent or \$2,000, whichever is greater, unless a different threshold is set by the court.

3. Annual conservatorship accounts that provide more meaningful information to the court to permit it to better assess the reasonableness of fees and

costs expended in a conservatorship case. The Committee recommends that account forms be uniform for statewide use in the interests of consistency, training, and eventual adaptation in the AZTurboCourt e-filing system.

Some judicial officers have raised concerns about the availability of time and resources to review and approve, disapprove, or modify a budget filed at the time of the inventory. The Committee appreciates this concern and therefore recommends authorizing the court to enter an order at the time of appointment relieving the conservator from filing an initial budget. Also, if a budget is filed without objection, the court need not review it; the budget will be deemed presumptively reasonable at the time of the annual account. Additionally, the court should be afforded discretion to enter other financial orders such as requiring an updated estimate to oversee a particular case. The Committee believes providing the court with flexibility in crafting financial orders geared to a particular case will enable the court to enhance oversight of cases using available resources.

To implement the above-described course of action, the Committee recommends promulgation of the following Probate Rules:

Rule 30. Guardianships/Conservatorships-Specific Procedures²⁵

A. ~~Inventories~~ INVENTORY.

1. Unless otherwise ordered by the court, the conservator shall file the inventory of the protected person's estate, **AS REQUIRED BY A.R.S. SECTION**

²⁵ The suggested changes in Rule 30 also change terminology to be consistent with statutory references.

14-5418(A), within 90 days after the conservator's letters of conservator, whether temporary or permanent, are first issued. The inventory shall list all property owned by the protected person as of the date the conservator's letters of conservator, whether temporary or permanent, were first issued, and shall provide the values of such assets as of the date of the conservator's first appointment.

2. If the conservator is unable to file the inventory within 90 days after the conservator's letters of conservator, whether temporary or permanent, are first issued, the conservator shall, before the deadline, file a motion that requests additional time to file the inventory. Such motion shall state why additional time is required and how much additional time is required to file the inventory.

3. If, after filing the inventory but before filing the conservator's first ACCOUNT ~~accounting~~, the conservator discovers an additional asset or discovers that the value of an asset on the inventory, whether appraised or not, is erroneous or misleading, the conservator shall file an amended inventory. If the conservator files an amended inventory because the conservator has discovered an additional asset and if the additional asset is not already subject to a court-ordered restriction, the conservator shall, with the amended inventory, file a petition requesting the court to either increase the amount of the conservator's bond or enter an order restricting the sale, conveyance, or encumbrance of the additional asset.

4. Unless permitted by the court, after a conservator has filed the conservator's first ACCOUNT ~~accounting~~ with the court, the conservator shall not amend the inventory. If the conservator discovers any assets after the filing of the conservator's first ACCOUNT ~~accounting~~ or if the conservator discovers that the value of an asset listed on the inventory is erroneous or misleading, the conservator shall make the appropriate adjustments on the conservator's subsequent ACCOUNTS ~~accountings~~.

B. CONSERVATOR'S ACCOUNTS ~~Accountings~~.

1. Unless otherwise ordered by the court, the conservator's first ACCOUNT ~~accounting~~ shall reflect all activity relating to the conservatorship estate from the date the conservator's letters were first issued through and including the last day of the ninth month after the date the conservator's permanent letters were issued and shall be filed with the court on or before the anniversary date of the issuance of the conservator's permanent letters. For each bank or securities account listed on the ending balance schedule of the ACCOUNT ~~accounting~~, the conservator shall attach to the ACCOUNT ~~accounting~~ a copy of the monthly statement that corresponds to the ending balance of such account as reflected on the ACCOUNT ~~accounting~~.

2. Unless otherwise ordered by the court, all subsequent **ACCOUNTS accountings** shall reflect all activity relating to the conservatorship estate from the ending date of the most recent previously filed **ACCOUNT accounting** through and including the last date of the twelfth month thereafter, and shall be filed with the court on or before the anniversary date of the issuance of the conservator's permanent letters. For each bank or securities account listed on the ending balance schedule of the **ACCOUNT accounting**, the conservator shall attach to the **ACCOUNT accounting** a copy of the monthly statement that corresponds to the ending balance of such account as reflected on the **ACCOUNT accounting**.

3. **UNLESS OTHERWISE ORDERED BY THE COURT, THE CONSERVATOR'S ACCOUNT SHALL BE FILED IN THE FORMAT SET FORTH IN THE APPROPRIATE FORM CONTAINED IN RULE 38 OF THESE RULES.**

~~4.3.~~ Unless otherwise ordered by the court and except as provided in A.R.S. § 14-5419(F), a conservator shall file a final **ACCOUNT accounting** for a deceased protected person within 90 days after the date of the protected person's death.

~~5.4.~~ If the conservator is unable to file an **ACCOUNT accounting** within the time set forth in this rule, the conservator shall, before the deadline, file a motion that requests additional time to file the **ACCOUNT accounting**. The motion shall, at a minimum, state why additional time is required and how much additional time is required to file the **ACCOUNT accounting**.

~~6.5.~~ For purposes of this rule, if the conservator's appointment initially was temporary, "the date the conservator's letters were first issued" shall mean the date the conservator's temporary letters were issued; otherwise, "the date the conservator's letters were first issued" shall mean the date the conservator's permanent letters were issued.

C. Annual Guardian Reports

1. Unless otherwise ordered by the court, the guardian's first annual report shall cover the time from the date the guardian's letters were first issued through and including the last day of the ninth month after the date the guardian's permanent letters were issued. The report shall be filed with the court on or before the anniversary date of the issuance of the guardian's permanent letters.

2. Unless otherwise ordered by the court, all subsequent annual reports of guardian shall cover the time from the ending date of the most recent previously filed annual report of guardian through and including the last date of the twelfth

month thereafter. The report shall be filed with the court on or before the anniversary date of the issuance of the guardian's permanent letters.

3. If the guardian is unable to file an annual report of guardian within the time set forth in this rule, the guardian shall, before the deadline, file a motion that requests additional time to file the report. The motion shall state why additional time is required and how much additional time is required to file the report.

4. For purposes of this rule, if the guardian's appointment initially was temporary, "the date the guardian's letters were first issued" shall mean the date the guardian's temporary letters were issued; otherwise, "the date the guardian's letters were first issued" shall mean the date the guardian's permanent letters were issued.

RULE 30.2: FINANCIAL ORDER

A. FOLLOWING THE APPOINTMENT OF A CONSERVATOR, A CONSERVATOR FOR AN ADULT SHALL INSTITUTE AND FOLLOW A BUDGET, AS SET FORTH IN RULE 30.4, UNLESS OTHERWISE ORDERED BY THE COURT, AND THE COURT MAY ENTER ONE OR MORE OF THE FOLLOWING ORDERS:

1. LIMIT EXPENDITURES FROM THE ESTATE OF THE PROTECTED PERSON AS THE COURT FINDS IS IN THE PROTECTED PERSON'S BEST INTEREST; OR,

2. REQUIRE THE CONSERVATOR TO PROCEED IN ANY OTHER LAWFUL MANNER THE COURT FINDS IS IN THE PROTECTED PERSON'S BEST INTEREST.

B. AFTER A CONSERVATOR IS APPOINTED, THE COURT MAY DISCHARGE THE PROTECTED PERSON'S ATTORNEY IF THE COURT FINDS THAT THE COST OF THE CONTINUED REPRESENTATION EXCEEDS THE PROBABLE BENEFIT TO THE PROTECTED PERSON. UNTIL DISCHARGED, THE PROTECTED PERSON'S ATTORNEY HAS A CONTINUING DUTY TO REVIEW THE CONSERVATOR'S INVENTORY, BUDGETS AND ACCOUNTS AND TO NOTIFY THE COURT OF ANY OBJECTIONS OR CONCERNS THE ATTORNEY IDENTIFIES WITH RESPECT TO THE CONSERVATOR'S INVENTORY, BUDGETS AND ACCOUNTS.

COMMENT

A.R.S. § 14-5408(A)(3) AUTHORIZES THE COURT, AFTER IT DETERMINES THAT A BASIS FOR THE APPOINTMENT OF A CONSERVATOR EXISTS WITH RESPECT TO A PERSON FOR REASONS OTHER THAN MINORITY, TO ENTER SUCH ORDERS AS ARE NECESSARY FOR THE BENEFIT OF THE PROTECTED PERSON AND MEMBERS OF THAT PERSON'S HOUSEHOLD. A.R.S. § 14-5426(A) AUTHORIZES THE COURT TO LIMIT THE POWERS OF A CONSERVATOR. CONSISTENT WITH THOSE STATUTES, THIS RULE IS INTENDED TO ENSURE THAT THE PROTECTED PERSON'S ESTATE IS PROPERLY MANAGED, PROTECTED, AND PRESERVED.

RULE 30.3: SUSTAINABILITY OF CONSERVATORSHIP

A. THE CONSERVATOR SHALL DISCLOSE WHETHER THE ANNUAL EXPENSES OF THE CONSERVATORSHIP EXCEED INCOME AND, IF SO, WHETHER THE ASSETS AVAILABLE TO THE CONSERVATOR LESS LIABILITIES ARE SUFFICIENT TO SUSTAIN THE CONSERVATORSHIP DURING THE PROJECTED LIFESPAN OF THE PROTECTED PERSON. IF THE ASSETS ARE NOT SUFFICIENT, THE CONSERVATOR SHALL ALSO DISCLOSE THE MANAGEMENT PLAN FOR THE NON-SUSTAINABLE CONSERVATORSHIP. UNLESS OTHERWISE ORDERED BY THE COURT, THE CONSERVATOR SHALL DISCLOSE THE INFORMATION REQUIRED BY THIS RULE, INCLUDING THE CONSERVATOR'S ASSUMPTIONS AND CALCULATION, WHEN FILING AN INVENTORY, ANY CONSERVATOR'S ACCOUNT, AND FOLLOWING ANY MATERIAL CHANGE OF CIRCUMSTANCES.

B. THE INFORMATION REQUIRED BY THIS RULE SHALL BE A GOOD FAITH PROJECTION BASED UPON THE INFORMATION THAT IS REASONABLY AVAILABLE TO THE CONSERVATOR CONCERNING THE SUBJECT PERSON. THIS INFORMATION MAY BE CONSIDERED BY THE COURT WHEN ENTERING ORDERS.

C. THE CONSERVATORSHIP IS DEEMED SUSTAINABLE IF THE FOLLOWING EQUATION IS PROJECTED TO BE TRUE:

$$\frac{(\text{AVAILABLE ASSETS MINUS LIABILITIES OF THE ESTATE})}{(\text{ANNUAL EXPENDITURES MINUS ANNUAL INCOME})} \geq \text{PROJECTED LIFESPAN}$$

D. THE DISCLOSURE REQUIRED BY THIS RULE IS NOT REQUIRED IN THE CONSERVATORSHIP FOR A MINOR UNLESS OTHERWISE ORDERED BY THE COURT.

E. UNLESS OTHERWISE ORDERED BY THE COURT, THE SUSTAINABILITY DISCLOSURE SHALL BE FILED IN THE FORMAT SET FORTH IN THE APPROPRIATE FORM CONTAINED IN RULE 38 OF THESE RULES.

COMMENT

THE PURPOSE OF THE DISCLOSURE REQUIRED BY THIS RULE IS TO PROVIDE THE COURT AND PARTIES WITH A GENERAL IDEA AS TO WHETHER THE ASSETS AND INCOME OF THE CONSERVATORSHIP ESTATE ARE SUFFICIENT TO PAY FOR THE PROTECTED PERSON'S EXPENSES DURING THAT PERSON'S PROJECTED LIFE EXPECTANCY. THUS, THE DISCLOSURE REQUIRED BY THIS RULE IS INTENDED TO SERVE SOLELY AS A MANAGEMENT TOOL; THE COURT DOES NOT INTEND THAT A GOOD FAITH PROJECTION WILL FORM THE BASIS FOR A CLAIM OF LIABILITY AGAINST THE CONSERVATOR.

THE FOLLOWING EXAMPLE DESCRIBES HOW THE REQUIRED DISCLOSURE IS CALCULATED: ASSUME A PROTECTED PERSON'S ESTATE CONSISTS OF \$20,000 IN BANK ACCOUNTS AND A RESIDENCE WITH A FAIR MARKET VALUE OF \$120,000 AND A \$65,000 MORTGAGE. FURTHER ASSUME THAT SAME PROTECTED PERSON HAS AN ANNUAL INCOME OF \$20,000 AND ANNUAL EXPENSES (INCLUDING FIDUCIARY AND ATTORNEY FEES) OF \$45,000. THE CONSERVATORSHIP'S SUSTAINABILITY IS CALCULATED AS FOLLOWS:

$$\frac{(\$120,000 + 20,000 - 65,000)}{(\$45,000 - 20,000)} \geq \text{PROJECTED LIFESPAN}$$

$$\frac{\$75,000}{\$25,000} \geq \text{PROJECTED LIFESPAN}$$

3 YEARS UNTIL ASSETS ARE DEPLETED \geq PROJECTED LIFESPAN

THUS, IF THE CONSERVATOR ESTIMATES THAT THE PROTECTED PERSON'S LIFESPAN IS THREE YEARS OR LESS, THE CONSERVATORSHIP IS SUSTAINABLE. ON THE OTHER HAND, IF THE CONSERVATOR ESTIMATES THAT THE PROTECTED PERSON'S

LIFESPAN IS MORE THAN THREE YEARS, THE CONSERVATORSHIP IS NOT SUSTAINABLE AND THE CONSERVATOR MUST EXPLAIN HOW THE PROTECTED PERSON'S EXPENSES WILL BE MANAGED AFTER THREE YEARS.

RULE 30.4: CONSERVATORSHIP ESTATE BUDGET

A. UNLESS OTHERWISE ORDERED BY THE COURT, THE CONSERVATOR SHALL FILE A BUDGET NOT LATER THAN THE DATE THE INVENTORY IS DUE AND WITH THE CONSERVATOR'S ACCOUNT FILED THEREAFTER, FOLLOWING CONSULTATION WITH ANY ATTORNEY OR GUARDIAN AD LITEM FOR THE PROTECTED PERSON. THE FIRST BUDGET SHALL COVER THE DATE OF THE CONSERVATOR'S INITIAL APPOINTMENT THROUGH AND INCLUDING THE END DATE OF THE CONSERVATOR'S FIRST ACCOUNT.

B. UNLESS OTHERWISE ORDERED BY THE COURT, THE BUDGET SHALL BE FILED IN THE FORMAT SET FORTH IN THE APPROPRIATE FORM CONTAINED IN RULE 38 OF THESE RULES.

C. THE CONSERVATOR MUST PROVIDE A COPY OF THE BUDGET TO ALL PERSONS ENTITLED TO NOTICE OF THE CONSERVATOR'S ACCOUNTS PURSUANT TO ARIZONA REVISED STATUTES SECTION 14-5419(C).

D. THE CONSERVATOR SHALL FILE AN AMENDMENT TO THE BUDGET AND PROVIDE NOTICE IN THE SAME MANNER AS THE INITIAL BUDGET WITHIN THIRTY DAYS AFTER REASONABLY PROJECTING THAT THE EXPENDITURES FOR ANY SPECIFIC CATEGORY WILL EXCEED THE APPROVED BUDGET BY MORE THAN TEN PER CENT OR TWO THOUSAND DOLLARS, WHICHEVER IS GREATER, UNLESS A DIFFERENT THRESHOLD FOR AMENDMENT IS PRESCRIBED BY THE COURT.

E. AN INTERESTED PERSON MAY FILE A WRITTEN OBJECTION TO THE BUDGET OR AMENDMENT WITHIN FOURTEEN DAYS AFTER THE FILING DATE OF THE BUDGET OR AMENDMENT. ON THE FILING OF A WRITTEN OBJECTION, THE COURT MAY OVERRULE ALL OR PART OF THE OBJECTION, ORDER A REPLY BY THE CONSERVATOR OR SET A HEARING ON THE OBJECTION. THE COURT MAY ALSO SET A HEARING IN THE ABSENCE OF AN OBJECTION. AT A HEARING, THE CONSERVATOR HAS THE BURDEN TO PROVE THAT A CONTESTED

BUDGET ITEM IS REASONABLE, NECESSARY AND IN THE BEST INTEREST OF THE PROTECTED PERSON. IF AN INTERESTED PERSON FAILS TO OBJECT TO A BUDGET ITEM WITHIN FOURTEEN DAYS AFTER THE FILING DATE OF THE BUDGET OR AMENDMENT, HOWEVER, THE BUDGET ITEM SHALL BE DEEMED PRESUMPTIVELY REASONABLE AT THE TIME OF THE CONSERVATOR'S ACCOUNT.

F. THE COURT MAY ORDER THAT A BUDGET IS ACCEPTED IN THE ABSENCE OF AN OBJECTION. ON THE COURT'S OWN MOTION OR UPON THE FILING OF A WRITTEN OBJECTION, THE COURT SHALL APPROVE, DISAPPROVE OR MODIFY THE BUDGET TO FURTHER THE PROTECCTED PERSON'S BEST INTEREST.

Recommendation W: The supreme court should amend existing Probate Rules 7 and 38 to require use of appropriate forms to satisfy mandatory reporting requirements, to make the instructions in these forms binding, and to treat the completed forms confidentially.

The forms required by proposed Probate Rules 30.1, 30.3, and 30.4 (see Appendix L) report sensitive financial information and therefore should be treated as confidential documents. Conservators should be required to use these precise forms for ease of training, judicial review, and eventual incorporation into the AZTurboCourt e-filing system. Until the forms are available through AZTurboCourt, they should be made available on an appropriate judicial website(s) using a spreadsheet workbook with appropriately embedded formulas designed to automatically perform necessary calculations.²⁶ Finally, the instructions for the forms are too detailed to place directly in the pertinent Probate

²⁶ The Committee prepared the forms set forth in the Appendix using a Microsoft Excel® workbook..

Rule. The Committee therefore recommends that the instructions in the forms have the force of rule.²⁷

The Committee recommends amendments to Probate Rules 7 and 38 as follows:

Rule 7. Confidential Documents and Information

A. Definitions.

1. For purposes of this rule, “confidential document” means the following:

a. [unchanged]

b. [unchanged]

c. GOOD FAITH ESTIMATES AND BUDGETS FILED PURSUANT TO RULES 30.1, 30.3, AND 30.4, ARIZONA RULES OF PROBATE PROCEDURE.

d. ~~e.~~ inventories and appraisements filed pursuant to A.R.S. § 14-5418(A);

e. ~~d.~~ accountings filed pursuant to A.R.S. Title 14;

f. ~~e.~~ a credit report; or

g. ~~f.~~ any other document ordered by the court to be filed or maintained as a confidential document pursuant to this rule.

Rule 38. ~~Appendix to~~ Forms

²⁷ The supreme court may wish to consider starting the financially related forms with number 10 in order to reserve lower numbers for future forms relating to the initiation of a guardianship or conservatorship.

A. ~~The f~~ Forms 1 THROUGH 4 included in Appendix A are the preferred forms and meet the requirements of these rules. Whenever these rules require the use of a form that is “substantially similar” to a form contained in this rule, such language means that the content of these forms may be adapted to delete information that does not apply to a particular case or add other relevant information, provided that all information contained in the preferred form and applicable to the case is included. The deletion of information contained in the preferred form or the failure to complete a portion of the preferred form constitutes a representation to the court and adverse parties that the omitted or unanswered questions or items are not applicable. Any form may be modified for submission at times and under circumstances provided for by an Administrative Order of the Supreme Court of Arizona.

~~B. The f~~ Forms 1 THROUGH 4 in Appendix A shall not be the exclusive method for presenting such matters in the superior court.

B. FORMS 5 THROUGH 10 INCLUDED IN APPENDIX A MEET THE REQUIREMENTS OF THESE RULES. UNLESS OTHERWISE ORDERED BY THE COURT, FORMS 5 THROUGH 9 SHALL BE THE EXCLUSIVE METHOD FOR PRESENTING SUCH MATTERS IN THE SUPERIOR COURT. FORM 10 CAN BE USED BY A CONSERVATOR ONLY IF AUTHORIZED BY THE COURT TO DO SO. THE INSTRUCTIONS INCLUDED WITH FORMS 5 THROUGH 10 SUPPLEMENT THE RULES AND HAVE THE SAME FORCE AND EFFECT AS THE RULES.

COMMENT

~~The f~~ Forms 1 THROUGH 4 contained in Appendix A are sufficient under the rules and are intended to indicate the simplicity and brevity of statement that these rules contemplate. Although use of these forms is encouraged, the forms are not the exclusive means for addressing the court in writing.

FORMS 5 THROUGH 10, HOWEVER, MUST BE USED IN THEIR EXACT FORM AS THEY ARE THE EXCLUSIVE MEANS FOR ADDRESSING THE COURT IN WRITING. FORM 10 IS A SIMPLIFIED FORM THAT CAN ONLY BE USED BY THE CONSERVATOR IF THE COURT SO AUTHORIZES. THE REQUIREMENT OF USING THESE FORMS IS IMPOSED IN AN EFFORT TO INCREASE JUDICIAL OVERSIGHT OF

CONSERVATORSHIPS. THESE FORMS WILL BRING UNIFORMITY AND COMPARABILITY TO JUDICIAL OVERSIGHT OF CONSERVATORSHIPS.

Recommendation X: The supreme court should promulgate a Probate Rule that reiterates new statutory requirements concerning compensation by the estate of a ward or protected person.

In order to promote transparency and disclosure of fees paid from the estate of a ward or protected person, newly enacted A.R.S. § 14-5109(A) and (B) requires guardians, conservators, attorneys, and guardians ad litem to provide written notice of the basis of compensation to the court and interested persons. Newly enacted § 14-5110(A) provides a deadline for submitting claims for fees. *See* Appendix E. The Committee recommends that the supreme court promulgate a Probate Rule reiterating these requirements by referring to the statutes because many affected persons may consult the Probate Rules to determine procedural requirements governing fees.

Section 14-5109(C), A.R.S., requires compensation paid from an estate to be reasonable and necessary. *See* Appendix E. The provision lists factors for considering whether compensation meets this standard. Among other factors, the statute provides that “any other factors bearing on the reasonableness of fees” should be considered. Pursuant to the court’s direction in the AO 2010-52, the Committee has drafted recommended guidelines for use by the court in determining the reasonableness of fees paid from an estate. *See* Appendix M. To

require use of the guidelines and to address the previously described compensation issues, the court should amend Probate Rule 33 as follows:

**Rule 33. Compensation for Fiduciaries and ~~Attorney's Fees~~ Attorneys;
STATEWIDE FEE GUIDELINES**

A. A GUARDIAN, CONSERVATOR, ATTORNEY OR GUARDIAN AD LITEM WHO INTENDS TO BE COMPENSATED BY THE ESTATE OF A WARD OR PROTECTED PERSON SHALL GIVE WRITTEN NOTICE OF THE BASIS OF ANY COMPENSATION AS REQUIRED BY ARIZONA REVISED STATUTES SECTION 14-5109.

B.A. Unless otherwise ordered by the court, a petition that requests approval of compensation for a personal representative, trustee, guardian, conservator, guardian ad litem, attorney representing such fiduciary, or an attorney representing the subject person in a guardianship or conservatorship proceeding for services rendered in proceedings under A.R.S. Title 14 shall be accompanied by a statement that includes the following information:

1. If compensation is requested based on hourly rates, a detailed statement of the services provided, including the tasks performed, the date each task was performed, the time expended in performing each task, the name and position of the person who performed each task, and the hourly rate charged for such services;

2. An itemization of costs for which reimbursement is sought that identifies the cost item, the date the cost was incurred, the purpose for which the expenditure was made, and the amount of reimbursement requested, or, if reimbursement of costs is based on some other method, an explanation of the method being used for reimbursement of costs; and

3. If compensation is not based on hourly rates, an explanation of the fee arrangement and computation of the fee for which approval is sought.

C.B. Copies of all petitions for compensation and fee statements shall be provided to or served on each party and person who has appeared or requested notice in the case. Proof of such service shall be filed with the court.

D.C. If a petition for compensation or fees is contested, the objecting party shall set forth all specific objections in writing, and a copy of such written objections shall

be given to or served on each party and person who has appeared or requested notice in the case. Proof of service or delivery of such notice shall be filed with the court.

~~E.D.~~ When an attorney or fiduciary fee statement accompanies an annual accounting, the fee statement shall match the charges reported in the annual accounting or a reconciliation of the fee statement to the accounting shall be provided by the fiduciary.

~~F.E. WHEN DETERMINING REASONABLE COMPENSATION, The superior court SHALL FOLLOW THE STATEWIDE FEE GUIDELINES SET FORTH IN APPENDIX B TO THESE RULES. may adopt fee guidelines designating compensation rates that may be used in determining the reasonableness of fees payable to licensed fiduciaries in cases under A.R.S. Title 14.~~

~~G.F.~~ Unless ordered by the court, neither a personal representative nor a personal representative's attorney is required to file a petition for approval of such person's fees.

~~H. COMPENSATION PAYABLE TO ATTORNEYS OR GUARDIANS AD LITEM FROM THE ESTATE OF A WARD OR PROTECTED PERSON IS WAIVED IF NOT SUBMITTED IN COMPLIANCE WITH ARIZONA REVISED STATUTES, SECTION 14-5110.~~

Recommended Guidelines

The Committee recommends that the supreme court adopt guidelines set forth in Appendix M. The guidelines are intended to assist the court, fiduciaries, guardians ad litem, attorneys, parties, and interested persons in evaluating whether compensation is reasonable. As provided in proposed Probate Rule 33(F), the guidelines apply statewide in order to promote a consistent application of factors when determining reasonableness of professional fees; courts in each county would adhere to these guidelines rather than set their own unique set of guidelines.

Because every case is different and every fiduciary, guardian ad litem, and attorney has unique qualifications, the recommended fee guidelines set forth compulsory billing standards, points of reference, and general compensation factors but not predetermined times to perform specific tasks, predetermined rate schedules, or fees as a percent of an estate. Therefore, following compliance with compulsory billing standards, the court must weigh the totality of the circumstances and, in its discretion, assign more or less weight to any given points of reference or compensation factors as it deems just and reasonable.

The guidelines only apply to the compensation of court-appointed fiduciaries - specifically guardians, conservators, and personal representatives, licensed and unlicensed, as well as guardians ad litem and attorneys who are paid by a ward, protected person, estate, or trust. The guidelines do not apply to compensation paid by a trust or decedent's estate if compensation is specified or set forth in the relevant trust or testamentary instrument. The fee guidelines do not apply when the fees are not paid by the estate – e.g., a court-appointed attorney who is paid by the court.

Early in the proceedings, a minority of the Committee recommended use of fee guidelines tied to the amount of liquid assets in an estate not reserved for the protected person's projected living expenses. The goal of those guidelines was to reserve sufficient estate assets to pay the protected person's reasonable living

expenses for that person's estimated lifespan. The majority of the Committee rejected this approach. The Committee concluded rigid guidelines that establish flat hourly rates, specify a dollar limit for the performance of a certain task, or set a ceiling for the amount of professional fees that is tied to the size of an estate is fraught with problems. Professional services must be tailored to the specific circumstances of each engagement, and a one-size-fits-all regulatory approach to professional services and compensation is not practical and not in the best interest of each unique ward, protected person, estate, and trust. Although such regulatory approaches have the attraction of apparent simplicity, the result can be increased administrative costs, diminished quality of professional services, or underserved populations. Reasonable compensation is best determined on a case-by-case basis, while applying consistent compensation guidelines.

The Committee agreed it is appropriate to consider the sufficiency of estate assets to sustain the protected person's projected lifespan. Rather than address this issue in fee guidelines, however, the Committee concluded it is more appropriately addressed in the sustainability disclosure provided in proposed Probate Rule 30.3.

As mentioned, in lieu of rigid guidelines, the Committee recommends guidelines that permit market forces to operate and grant the court flexibility in application to a particular estate. Thus, although the guidelines set forth compulsory billing standards - prohibiting the practice of "double dipping" when

simultaneously performing tasks for multiple clients, for example – the guidelines also rely on points of reference for various tasks that will promote predictability in determining what fees are reasonable. For example, the guidelines provide as a point of reference that a fiduciary expends six hours per month for routine shopping if a ward lives at home and two hours per month if the ward lies in a facility. If routine shopping takes more time, the fiduciary would be expected to justify the variance to the court. Significantly, the recommended guidelines provide that total expenditures from an estate, including reasonable professional fees, cannot deplete an estate unless the conservator has disclosed an alternate plan for the estate as required by recommended Probate Rule 30.3.

Finally, the guidelines report as points of reference hourly professional compensation ranges for attorneys, licensed fiduciaries, and guardians ad litem. These ranges would be gathered from information compiled by AOC based on available information concerning market rates for these professionals, published on the AOC's website for use by interested persons and the court, and periodically updated. The hourly ranges are non-binding but would serve as informative and persuasive initial points of reference in determining reasonable compensation.

In summary, the recommended guidelines, along with the proposed use of budgets, detailed accounts, and other financial tools, would assist professionals,

interested persons, and the court in determining appropriate management for the estate of a ward or protected person.

Recommendation Y: The supreme court should promulgate a Probate Rule governing summary denial of repetitive filings as permitted by newly enacted A.R.S. § 14-1109.

As part of SB 1499, the legislature enacted A.R.S. § 14-1109, which authorizes the court to summarily deny a repetitive motion or petition without requiring a response. *See* Appendix E. This provision will permit the court to control professional fees incurred by an estate by relieving a fiduciary or attorney for a ward or protected person from responding repeatedly to renewed motions that the court has already considered and denied. If the motion seeks new relief or raises new grounds for relief previously denied, the court can require a response.

To implement A.R.S. § 14-1109, the Committee recommends promulgation of an amendment to Probate Rule 18 as follows:

Rule 18. Motions

A. Generally. A motion shall be filed with the court when a party seeks procedural rather than substantive relief.

B. Motions for Appointment of ~~Guardian Ad Litem or~~ Counsel. A party requesting the appointment of ~~a guardian ad litem or~~ counsel shall make such request in a motion that sets forth why the appointment is necessary or advisable and what, if any, special expertise is required of ~~the guardian ad litem or~~ counsel.

C. IF A PARTY HAS A GOOD FAITH BELIEF THAT AN INTERESTED PERSON HAS FILED A MOTION OR PETITION THAT REQUESTS THE SAME OR SUBSTANTIALLY SIMILAR RELIEF TO THE RELIEF

REQUESTED IN AN EARLIER MOTION OR PETITION FILED BY THE SAME INTERESTED PERSON WITHIN THE PRECEDING TWELVE MONTHS, AND IF THE LATER FILED MOTION OR PETITION DOES NOT DESCRIBE IN DETAIL A CHANGE IN FACT OR CIRCUMSTANCE THAT SUPPORTS THE REQUESTED RELIEF, THE PARTY MAY FILE A NOTICE OF REPETITIVE FILING. THIS NOTICE SHALL BE FILED NO LATER THAN THE RESPONSE OR OBJECTION DEADLINE FOR THE ALLEGEDLY REPETITIVE FILING AND SHALL INCLUDE THE TITLE AND DATE OF THE ALLEGED REPETITIVE FILING, THE TITLE AND DATE OF THE EARLIER FILING, AND THE DATE OF THE COURT'S RULING ON THE EARLIER FILING. A NOTICE OF REPETITIVE FILING SHALL HAVE THE EFFECT OF STAYING THE DEADLINE TO RESPOND OR OBJECT TO THE ALLEGED REPETITIVE FILING UNTIL FURTHER ORDER OF THE COURT. THE COURT MAY SUMMARILY STRIKE A REPETITIVE MOTION, WITHOUT HEARING, ON ITS OWN INITIATIVE OR FOLLOWING RECEIPT OF A NOTICE OF REPETITIVE FILING.

COMMENT

ARIZONA REVISED STATUTES SECTION 14-1109 PERMITS THE COURT TO SUMMARILY DENY A REPETITIVE MOTION OR PETITION, AS DESCRIBED IN THE STATUTE. RULE 18(C) PROVIDES A COST-EFFECTIVE MECHANISM FOR A PARTY TO INFORM THE COURT OF A GOOD FAITH BELIEF THAT A MOTION OR PETITION IS REPETITIVE WITHOUT WAIVING THE RIGHT TO FILE A RESPONSE OR OBJECTION SHOULD THE COURT ULTIMATELY DETERMINE THAT THE MOTION OR PETITION IS NOT REPETITIVE. NOTHING IN THIS RULE IS INTENDED TO PRECLUDE THE COURT ON ITS OWN MOTION FROM SUMMARILY DENYING A REPETITIVE MOTION OR PETITION.

Recommendation Z: The supreme court should promulgate a Probate Rule limiting the ability of a petitioner to nominate a specific attorney to represent the subject person.

On occasion, a petitioner will nominate an attorney to represent the ward or protected person based on the recommendation of a fiduciary. Because that

attorney effectively serves as the opposing counsel, it is potentially counterproductive or a conflict of interest to permit that fiduciary to essentially choose that attorney. In light of the relationship of trust between attorney and client, it is also inappropriate for a fiduciary's attorney in other matters to represent the subject person. On the other hand, if a subject person has an established relationship with an attorney, the petitioner should be permitted to nominate that attorney to represent the subject person.

The Committee recommends adoption of an amendment to Probate Rule 19 as follows:

Rule 19. Appointment of Attorney, Medical Professional, and Investigator

A. A request for the appointment of an attorney, medical professional, and investigator may be included in the petition for the appointment of a guardian or conservator and need not be made by separate motion. A separate form of order for the appointment of an attorney, a medical professional, and an investigator shall be submitted to the court within three days after the request is made.

B. **ABSENT GOOD CAUSE, A PARTY WHO SEEKS THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR SHALL NOT NOMINATE A SPECIFIC ATTORNEY TO REPRESENT THE SUBJECT PERSON UNLESS THE ATTORNEY HAS AN EXISTING OR PRIOR ATTORNEY-CLIENT RELATIONSHIP WITH THE SUBJECT PERSON.** If a party ~~who seeks the appointment of a guardian or conservator~~ nominates a specific attorney to represent the **SUBJECT PERSON** alleged incapacitated person or the person alleged to be in need of protection, the party shall, in the petition for appointment of guardian or conservator, describe the attorney's prior relationship, if any, with the petitioner and the **SUBJECT PERSON** ~~alleged incapacitated person or the person alleged to be in need of protection.~~

C. UNLESS OTHERWISE ORDERED BY THE COURT, AN ATTORNEY SHALL NOT BE APPOINTED, ACCEPT AN APPOINTMENT, OR REMAIN APPOINTED AS THE ATTORNEY OR GUARDIAN AD LITEM FOR THE SUBJECT PERSON IF THE ATTORNEY HAS AN EXISTING ATTORNEY-CLIENT RELATIONSHIP WITH THE NOMINATED OR APPOINTED FIDUCIARY.

D. ~~C.~~ If a party who seeks the appointment of a guardian or conservator nominates a specific medical professional to evaluate the alleged incapacitated person or the person alleged to be in need of protection, the party shall, in the petition for appointment of guardian or conservator, describe the medical professional's prior relationship, if any, with the petitioner and the alleged incapacitated person or the person alleged to be in need of protection.

E. ~~D.~~ Noncompliance with this rule may be cause for continuing the hearing on the petition for appointment of guardian or conservator to such time as the judicial officer directs.

Recommendation A1: The supreme court should promulgate a Probate Rule addressing the procedure for passing over a person with higher priority when appointing a fiduciary.

In SB 1499, the legislature amended A.R.S. § 14-5311(E) to require the court upon request of a person passed over for appointment as a fiduciary to make a specific finding regarding the court's determination of good cause to appoint a person as a fiduciary with lower or no priority. *See* Appendix E. The Committee recommends the supreme court promulgate the following Probate Rule to establish procedures to implement § 14-5411(E):

RULE 26.1: WRITTEN FINDINGS ON APPOINTMENT

FOLLOWING A WRITTEN REQUEST BY A PERSON WITH HIGHER PRIORITY FOR APPOINTMENT AS A GUARDIAN OR CONSERVATOR BUT WHO WAS PASSED OVER BY THE COURT IN FAVOR OF APPOINTING A PERSON WITH LOWER PRIORITY, THE COURT SHALL

MAKE A SPECIFIC FINDING REGARDING THE COURT'S DETERMINATION OF GOOD CAUSE AND WHY THE PERSON WAS NOT APPOINTED. THE REQUEST MUST BE MADE WITHIN TEN DAYS AFTER THE ENTRY OF THE ORDER.

Recommendation B1: The supreme court should promulgate Probate Rules to address available methods of alternative dispute resolution.

In SB 1499, the legislature enacted A.R.S. § 14-1108 to authorize the court to order arbitration or other methods of alternative dispute resolution after appointment of a fiduciary. *See* Appendix E. This provision will assist the court and parties in resolving some disputes in a more efficient and cost-saving manner.

The Committee recommends amendment of existing Probate Rules to govern procedures for such methods as follows:

Rule 28. Pretrial Procedures

A. Initial Procedures; Scheduling Conference.

1. If a matter is contested, unless the parties agree otherwise, the court shall set a scheduling conference that shall occur promptly after the date of the initial hearing on the petition. The scheduling conference may be held at the time set for the initial hearing on the petition. At the scheduling conference, the court and the parties shall address the following issues:

....

b. the deadline for filing a joint alternative dispute resolution statement pursuant to **Rule 29 16(g), Arizona Rules of Civil Procedure**;

....

Rule 29. Arbitration ALTERNATIVE DISPUTE RESOLUTION

~~Unless the parties to a contested matter agree otherwise, Rules 72 through 76, Arizona Rules of Civil Procedure, pertaining to compulsory arbitration, shall not apply.~~

A. THE PARTIES TO A CONTESTED MATTER ARE NOT SUBJECT TO COMPULSORY ARBITRATION AS SET FORTH IN RULES 72 THROUGH 77, ARIZONA RULES OF CIVIL PROCEDURE. THE COURT IS AUTHORIZED BY ARIZONA REVISED STATUTES SECTION 14-1108, HOWEVER, TO ORDER ALTERNATIVE DISPUTE RESOLUTION, INCLUDING ARBITRATION. IF THE COURT ORDERS ARBITRATION, THE ARBITRATION SHALL BE GOVERNED BY RULES 73 THROUGH 77, ARIZONA RULES OF CIVIL PROCEDURE.

B. UPON MOTION OF ANY PARTY OR UPON ITS OWN INITIATIVE, THE COURT MAY DIRECT THE PARTIES TO PARTICIPATE IN ONE OR MORE ALTERNATIVE DISPUTE RESOLUTION PROCESSES, INCLUDING BUT NOT LIMITED TO ARBITRATION, MEDIATION, SETTLEMENT CONFERENCE, OPEN NEGOTIATION, OR A PRIVATE DISPUTE RESOLUTION PROCESS AGREED UPON BY THE PARTIES.

C. NO LATER THAN THIRTY (30) DAYS AFTER A PROBATE PROCEEDING BECOMES CONTESTED AS DEFINED BY RULE 27, THE PARTIES SHALL CONFER, EITHER IN PERSON OR BY TELEPHONE, ABOUT:

1. THE POSSIBILITIES FOR A PROMPT SETTLEMENT OR RESOLUTION OF THE CASE; AND

2. WHETHER THE PARTIES MIGHT BENEFIT FROM PARTICIPATION IN SOME ALTERNATIVE DISPUTE RESOLUTION PROCESS, THE TYPE OF PROCESS THAT WOULD BE MOST APPROPRIATE IN THEIR CASE, THE SELECTION OF AN ALTERNATIVE DISPUTE RESOLUTION SERVICE PROVIDER, AND THE SCHEDULING OF THE PROCEEDINGS.

D. THE PARTIES ARE RESPONSIBLE FOR ATTEMPTING IN GOOD FAITH TO AGREE ON AN ALTERNATIVE DISPUTE RESOLUTION PROCESS AND FOR REPORTING THE OUTCOME OF THEIR CONFERENCE TO THE COURT. WITHIN FIFTEEN (15) DAYS AFTER THEIR CONFERENCE, THE PARTIES SHALL INFORM THE COURT OF THE FOLLOWING:

1. IF THE PARTIES HAVE AGREED TO USE A SPECIFIC ALTERNATIVE DISPUTE RESOLUTION PROCESS, THE TYPE OF ALTERNATIVE DISPUTE RESOLUTION PROCESS TO BE USED, THE NAME AND ADDRESS OF THE ALTERNATIVE DISPUTE RESOLUTION SERVICE PROVIDER THEY WILL USE, AND THE DATE BY WHICH THE ALTERNATIVE DISPUTE RESOLUTION PROCEEDINGS ARE ANTICIPATED TO BE COMPLETED;

2. IF THE PARTIES HAVE NOT AGREED TO USE A SPECIFIC ALTERNATIVE DISPUTE RESOLUTION PROCESS, THE POSITION OF EACH PARTY AS TO THE TYPE OF ALTERNATIVE DISPUTE RESOLUTION PROCESS APPROPRIATE FOR THE CASE OR, IN THE ALTERNATIVE, WHY ALTERNATIVE DISPUTE RESOLUTION IS NOT APPROPRIATE; AND

3. IF ANY PARTY REQUESTS THAT THE COURT CONDUCT A CONFERENCE TO CONSIDER ALTERNATIVE DISPUTE RESOLUTION.

E. DURING THE ALTERNATIVE DISPUTE RESOLUTION PROCESS, THE PARTIES HAVE A DUTY TO PARTICIPATE IN GOOD FAITH.

Recommendation C1: The supreme court should ask for an amendment to A.R.S. § 14-1108 to permit use of alternative dispute resolution methods, including arbitration, for any issue in a probate case other than whether a subject person is incapacitated or in need of protection.

Newly enacted A.R.S. § 14-1108 authorizes the superior court to order arbitration or alternative dispute resolution for disputes that arise after appointment

of a fiduciary. *See* Appendix E. To the Committee's knowledge, the intent of the temporal component of the statute was to disallow use of such dispute resolution devices to determine a subject person's capacity or need for protection. Disputes not involving these issues often arise before appointment of a fiduciary, however. For example, family members may dispute who among them is best suited to serve as a fiduciary. Similarly, will contests arise prior to the appointment of a fiduciary. Such disputes may be suited for quick and effective resolution through arbitration or other alternative dispute resolution devices rather than by a potentially more expensive evidentiary hearing. The Committee therefore recommends that the supreme court advocate for an amendment to A.R.S. § 14-1108 during the next legislative session to authorize the court to order arbitration or other alternative dispute resolution methods to resolve all disputes not involving a subject person's capacity or need for protection.

Recommendation D1: The supreme court should promulgate a Probate Rule that provides remedies for vexatious conduct.

The Committee received comments that estates of wards, protected persons, and decedents can incur significant and unnecessary fees due to habitual conduct undertaken solely or primarily to harass a party or that party's representative, cause unreasonable delay in proceedings, cause undue harm to the ward or protected person, or cause unnecessary expense. Conduct is not vexatious if undertaken in good faith even if the conduct is unreasonable. The court traditionally uses its

inherent authority to control vexatious conduct by screening filings by a vexatious actor before allowing them to proceed. The proposed rule would provide notice to all parties and interested persons of the availability of this remedy. This authority is exercised sparingly and is reserved for the most outrageous cases. Imposition of procedures for vexatious litigants is subject to appellate review.

The Committee recommends the court promulgate a Probate Rule codifying the procedure for probate cases as follows:

RULE 29.2: REMEDIES FOR VEXATIOUS CONDUCT; DEFINITIONS

A. IF THE COURT FINDS THAT A PERSON ENGAGED IN VEXATIOUS CONDUCT IN CONNECTION WITH A PROBATE CASE, THE COURT MAY DO EITHER OR BOTH OF THE FOLLOWING:

1. ORDER THAT THE PERSON MUST OBTAIN THE COURT'S PERMISSION TO FILE FUTURE PLEADINGS AND OTHER PAPERS IN THE PROBATE CASE OR IN OTHER CASES. IF THE COURT ENTERS SUCH AN ORDER, NO PARTY IS REQUIRED TO RESPOND TO THE PERSON'S FUTURE FILINGS UNTIL ORDERED TO DO SO BY THE COURT.

2. ORDER THAT A FIDUCIARY, FIDUCIARY'S ATTORNEY, COURT-APPOINTED ATTORNEY GUARDIAN AD LITEM, TRUSTEE OR PERSONAL REPRESENTATIVE DOES NOT HAVE TO RESPOND TO FUTURE REQUESTS FOR INFORMATION MADE BY THE PERSON RELATED TO THE PROBATE CASE UNLESS REQUIRED BY SUBSEQUENT COURT ORDER.

B. THE REMEDIES PERMITTED PURSUANT TO THIS SECTION ARE IN ADDITION TO ANY OTHER CIVIL REMEDY OR ANY OTHER PROVISION OF LAW.

C. FOR THE PURPOSES OF THIS SECTION:

1. "COURT-APPOINTED ATTORNEY" MEANS AN ATTORNEY APPOINTED PURSUANT TO SECTION 14-5303, SUBSECTION C, SECTION 14-5310, SUBSECTION C, SECTION 14-5401.01, SUBSECTION C OR SECTION 14-5407, SUBSECTION B.

2. "FIDUCIARY" MEANS AN AGENT UNDER A DURABLE POWER OF ATTORNEY, AN AGENT UNDER A HEALTH CARE POWER OF ATTORNEY, A GUARDIAN, A CONSERVATOR, A PERSONAL REPRESENTATIVE, A TRUSTEE OR A GUARDIAN AD LITEM.

3. "VEXATIOUS CONDUCT" MEANS HABITUAL, REPETITIVE CONDUCT UNDERTAKEN SOLELY OR PRIMARILY TO HARASS OR MALICIOUSLY INJURE ANOTHER PARTY OR THAT PARTY'S REPRESENTATIVE, CAUSE UNREASONABLE DELAY IN PROCEEDINGS, CAUSE UNDUE HARM TO THE WARD OR PROTECTED PERSON, OR CAUSE UNNECESSARY EXPENSE. IT DOES NOT INCLUDE CONDUCT UNDERTAKEN IN GOOD FAITH.

Recommendation E1: The supreme court should ask the legislature to amend A.R.S. §§ 14-5419, - 5315 to require that the conservator's account and guardian's report cover the period of the issuance of letters through the one-year anniversary of the appointment and annually thereafter. The court should then amend Probate Rules 30 and 31 to require filing of accounts and reports within 90 days after each anniversary date.

Section 14-5419(A), A.R.S., provides that the conservator must "account to the court for administration of the estate not less than annually on the anniversary date of qualifying as conservator." Similarly, A.R.S. § 14-5315(A) requires a guardian to "submit a written report to the court on each anniversary date of qualification as guardian." Probate Rules 30 and 31 requires the first account to cover the initial nine months after issuance of letters of conservator/guardian and be filed one year after issuance of letters. Thereafter, accounts and reports are filed

annually. As a result, only the initial account and report covers a period less than one year.

The Committee recommends that the supreme court seek amendments to A.R.S. §§ 14-5419(A) and -5315(A) to remove the language requiring an account and report filing “on the anniversary date” and substitute language providing that the account and report cover the initial full year of the appointment. Thereafter, the supreme court should amend Probate Rules 30 and 31 and attendant forms to provide that the account and report be filed within 90 days after the initial anniversary date of the issuance of letters and every anniversary date thereafter. These changes would impose a one-year initial account and report period, which matches subsequent account and report periods. Having identical periods would enhance the ability of the court, parties, and interested persons to use the forms recommended in this report to more accurately compare accounts and reports from year to year.

Recommendation F1: The supreme court should adopt all proposed rules, forms, and guidelines set forth in Appendix N subject to all specific recommendations set forth previously in this report. Additionally, all rules, forms, and guidelines should be adopted simultaneously with an effective date from and after December 31, 2011 to coincide with the effective date of SB 1499.

For ease of reference, the Committee has compiled in Appendix N a single packet of rules, forms, and guidelines proposed in this report. The Committee recommends adoption of the entire packet subject to the specific

recommendations set forth previously. Because this packet is designed to work in conjunction with SB 1499, the Committee further recommends that the supreme court adopt all recommended rules, forms, and guidelines, with the exception of those rules designed to work immediately in conjunction with SB 1081, with an effective date from and after December 31, 2011, the effective date of SB 1499.

3. Notice of Other Issues

Currently, the judiciary does not keep detailed statistical information regarding guardianship and conservatorship cases beyond the number of cases pending and the number of fiduciaries licensed in Arizona. For example, the judiciary does not collect quantifiable data about: (a) the number of probate cases in which a licensed fiduciary is appointed as the fiduciary, (b) the number of cases that are uncontested, and (c) the average or median amount of fiduciary and attorney fees incurred in cases. Such information may assist the judiciary in assessing trends in probate cases and in discerning whether anecdotally reported problems are widespread or confined to case types with shared characteristics. The supreme court should consider the utility of collecting more statistical information regarding guardianship and conservatorship and may be well-served by appointing a focused task force to consider what information should be collected.

IV. Conclusion

Many of the Committee's recommendations set forth in this Final Report are the result of the Committee's original ideas born from extensive consideration and discussion and have not been tested in courts within or outside Arizona. Thus, if it chooses to adopt these recommendations, the supreme court would blaze new trails in monitoring and administering probate matters. For this reason, the Committee urges the supreme court to continue to examine the tools in place for overseeing probate cases to ensure that best practices are in place and used in a cost-effective manner in both urban and rural counties. The Committee additionally urges the supreme court to work with other branches of government in this process.

Members of the Committee have worked diligently and cooperatively to move the Arizona judiciary's probate oversight procedures one giant step forward. Although the task has been time-consuming, members were honored to participate in this process in order to assist in better protecting the most vulnerable among Arizona's citizens. We are confident the supreme court will continue along the path laid by its Committee and implement procedures that will make Arizona a

model in monitoring and administrating probate matters.

Respectfully submitted June 13, 2011.

ANN A. SCOTT TIMMER

Hon. Ann A. Scott Timmer, Chair

On behalf of the Committee on
Improving Judicial Oversight and
Processing of Probate Court Matters

APPENDIX A

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[Appendix B](#)

Workgroup Membership**

Workgroup #1

Minor to Adult Guardianships

Chair: Hon. David L. Mackey
Superior Court in Yavapai County

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Melissa Kushner**

Child Welfare Integration Specialist, Division of
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Callie Parkinson**

Law Clerk to Chief Judge Timmer

Jay M. Polk

Attorney

Jacob Schmitt

Child Welfare Program Administrator

Kim D. Simmons**

Director, Staff Development and Training,
Division of Developmental Disabilities

Hon. Ann A. Scott Timmer

Arizona Court of Appeals, Div. 1

**Pursuant to Administrative Order 2010-52, Committee Chair Hon. Ann A. Scott Timmer appointed these persons to the workgroups, although they are not members of the full Committee.

Workgroup #2

Judicial Oversight of Probate Matters

Chair: Hon. Charles Harrington
Superior Court in Pima County

Diana Clarke

Probate Court Counsel, Superior Court in
Maricopa County

Hon. Robert D. Myers (Retired)
Public/Attorney Member

Hon. Julia Connors

Superior Court in Pima County

Marcus Reinkensmeyer**

Court Administrator, Superior Court in
Maricopa County

Faustina Dannenfelser

Program Administrator, Adult Protective
Services

Catherine Robbins

Mohave County Public Fiduciary

Hon. Gary Donahoe

Superior Court in Maricopa County

Mark Salem

Public Member

Elizabeth Evans**

Probate Court Administrator, Superior Court in
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Sylvia Stevens

AARP Representative

Denise Lundin-Newton (Retired)

Clerk of Superior Court Representative

Ellen Terry**

Volunteer Coordinator, East Valley Adult
Resources

Workgroup #3

Fee Guidelines/Fee Awards and Fee Dispute Resolution

Chair: Hon. Robert Carter Olson
Superior Court in Pinal County

Diana Clarke

Probate Court Counsel, Superior Court in
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Thomas L. Davis

Public Member

Elizabeth Evans**

Probate Court Administrator, Superior Court in
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Honorable Rosa Mroz

Superior Court in Maricopa County

Callie Parkinson**

Law Clerk to Chief Judge Timmer

Jay M. Polk

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Mark Salem

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Denice Shepherd

Licensed Fiduciary/Attorney

Michael D. Strauber**

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Hon. Ann A. Scott Timmer

Arizona Court of Appeals, Div. 1

Appendix C

SENATE BILL 1081

AN ACT REPEALING SECTION 14-5301, ARIZONA REVISED STATUTES; AMENDING TITLE 14, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 14-5301; AMENDING TITLE 14, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 14-5301.01, 14-5301.02, 14-5301.03 AND 14-5301.04; AMENDING SECTIONS 14-5303, 14-5401, 14-5405, 14-5407, 14-5416 AND 14-5430, ARIZONA REVISED STATUTES; RELATING TO TRUSTS, ESTATES AND PROTECTIVE PROCEEDINGS.

Be it enacted by the Legislature of the State of Arizona:

Section **14-5301**, Arizona Revised Statutes, is repealed.

Sec.2. Title 14, chapter 5, article 3, Arizona Revised Statutes, is amended by adding a new section 14-5301, to read:

14-5301. APPOINTMENT OF GUARDIAN BY WILL OR OTHER WRITING; OBJECTIONS; NOTICE

A. A PARENT, BY WILL OR OTHER SIGNED WRITING, MAY APPOINT A GUARDIAN FOR AN UNMARRIED CHILD WHO THE PARENT BELIEVES IS AN INCAPACITATED PERSON, SPECIFY DESIRED LIMITATIONS ON THE POWERS TO BE GIVEN TO THE GUARDIAN AND REVOKE OR AMEND THE APPOINTMENT BEFORE CONFIRMATION BY THE COURT. APPOINTMENTS BECOME EFFECTIVE ONLY AS PRESCRIBED PURSUANT TO SECTION 14-5301.01, SUBSECTION A.

B. AN INDIVIDUAL, BY WILL OR OTHER SIGNED WRITING, MAY APPOINT A GUARDIAN FOR THE INDIVIDUAL'S SPOUSE WHO THE APPOINTING SPOUSE BELIEVES IS AN INCAPACITATED PERSON, SPECIFY DESIRED LIMITATIONS ON THE POWERS TO BE GIVEN TO THE GUARDIAN AND REVOKE OR AMEND THE APPOINTMENT BEFORE CONFIRMATION BY THE COURT. AN APPOINTMENT PURSUANT TO THIS SUBSECTION BECOMES EFFECTIVE ONLY AS PRESCRIBED PURSUANT TO SECTION 14-5301.01, SUBSECTION A.

C. UNLESS THE COURT HAS CONFIRMED THE APPOINTMENT PURSUANT TO SUBSECTION D OF THIS SECTION, THE INCAPACITATED PERSON, THE PERSON HAVING CARE OR CUSTODY OF THE INCAPACITATED PERSON IF OTHER THAN THE APPOINTING PARENT OR SPOUSE OR THE ADULT NEAREST IN KINSHIP TO THE INCAPACITATED PERSON MAY FILE A WRITTEN OBJECTION TO AN APPOINTMENT. THE FILING OF THE WRITTEN OBJECTION TERMINATES THE APPOINTMENT. AN OBJECTION MAY BE WITHDRAWN AND, IF WITHDRAWN, HAS NO EFFECT. THE OBJECTION DOES NOT PRECLUDE JUDICIAL APPOINTMENT OF THE PERSON SELECTED BY THE APPOINTING PARENT OR SPOUSE. NOTICE OF THE OBJECTION MUST BE GIVEN TO THE GUARDIAN AND ANY OTHER PERSON ENTITLED TO NOTICE OF THE ACCEPTANCE OF THE APPOINTMENT. THE COURT MAY TREAT THE FILING OF AN OBJECTION AS A PETITION FOR THE APPOINTMENT OF A

TEMPORARY GUARDIAN PURSUANT TO SECTION 14-5310 OR FOR THE APPOINTMENT OF A LIMITED OR GENERAL GUARDIAN PURSUANT TO SECTION 14-5303 AND PROCEED ACCORDINGLY.

D. ON PETITION OF THE APPOINTING PARENT OR SPOUSE AND A FINDING THAT THE APPOINTING PARENT OR SPOUSE WILL LIKELY BECOME UNABLE TO CARE FOR THE INCAPACITATED PERSON WITHIN TWO YEARS, BEFORE THE APPOINTMENT BECOMES EFFECTIVE, THE COURT MAY CONFIRM THE APPOINTING PARENT'S OR SPOUSE'S SELECTION OF A GUARDIAN AND TERMINATE THE RIGHTS OF OTHERS TO OBJECT. NOTICE MUST BE GIVEN TO THE GUARDIAN AND ANY OTHER PERSON ENTITLED TO NOTICE OF THE ACCEPTANCE OF THE APPOINTMENT.

Sec.3.Title 14, chapter 5, article 3, Arizona Revised Statutes, is amended by adding sections 14-5301.01, 14-5301.02, 14-5301.03 and 14-5301.04, to read:

14-5301.01. APPOINTMENT OF GUARDIAN BY WILL OR OTHER WRITING; EFFECTIVENESS; ACCEPTANCE; CONFIRMATION

A. THE APPOINTMENT OF A GUARDIAN PURSUANT TO SECTION 14-5301 IS EFFECTIVE ON THE DEATH OF THE APPOINTING PARENT OR SPOUSE, THE ADJUDICATION OF INCAPACITY OF THE APPOINTING PARENT OR SPOUSE OR A WRITTEN DETERMINATION BY A PHYSICIAN WHO HAS EXAMINED THE APPOINTING PARENT OR SPOUSE THAT THE APPOINTING PARENT OR SPOUSE IS NO LONGER ABLE TO CARE FOR THE INCAPACITATED PERSON, WHICHEVER FIRST OCCURS.

B.A GUARDIAN APPOINTED PURSUANT TO SECTION 14-5301 IS ELIGIBLE TO ACT ON THE FILING OF AN ACCEPTANCE OF APPOINTMENT, WHICH MUST BE FILED WITHIN THIRTY DAYS AFTER THE GUARDIAN'S APPOINTMENT BECOMES EFFECTIVE. THE GUARDIAN MUST:

1.FILE THE NOTICE OF ACCEPTANCE OF APPOINTMENT AND A COPY OF THE WILL WITH THE COURT IN THE COUNTY IN WHICH THE WILL WAS OR COULD BE PROBATED OR, IN THE CASE OF A SIGNED WRITING CREATED PURSUANT TO SECTION 14-5301, FILE THE ACCEPTANCE OF APPOINTMENT AND THE SIGNED WRITING WITH THE COURT IN THE COUNTY IN WHICH THE INCAPACITATED PERSON RESIDES OR IS PRESENT.

2.GIVE WRITTEN NOTICE OF THE ACCEPTANCE OF APPOINTMENT TO THE APPOINTING PARENT OR SPOUSE, IF LIVING, THE INCAPACITATED PERSON, A PERSON HAVING CARE OR CUSTODY OF THE INCAPACITATED PERSON OTHER THAN THE APPOINTING PARENT OR SPOUSE, AND THE ADULT NEAREST IN KINSHIP. UNLESS THE APPOINTMENT WAS PREVIOUSLY CONFIRMED BY THE COURT, THE NOTICE GIVEN PURSUANT TO THIS PARAGRAPH MUST INCLUDE A STATEMENT OF THE RIGHT OF THOSE NOTIFIED TO TERMINATE THE APPOINTMENT BY FILING A WRITTEN OBJECTION AS PROVIDED IN SECTION 14-5301.

C. AN APPOINTMENT EFFECTED BY FILING THE GUARDIAN'S ACCEPTANCE UNDER A WILL PROBATED IN THE STATE OF THE TESTATOR'S DOMICILE IS EFFECTIVE IN THIS STATE.

D. UNLESS THE APPOINTMENT WAS PREVIOUSLY CONFIRMED BY THE COURT, WITHIN THIRTY DAYS AFTER FILING THE NOTICE AND THE WILL OR SIGNED WRITING, A GUARDIAN APPOINTED PURSUANT TO SECTION 14-5301 MUST FILE A PETITION IN THE COURT FOR CONFIRMATION OF THE APPOINTMENT. NOTICE OF THE FILING MUST BE GIVEN IN THE MANNER AS PRESCRIBED IN SECTION 14-5309.

E. THE AUTHORITY OF A GUARDIAN APPOINTED UNDER SECTION 14-5301 TERMINATES ON THE APPOINTMENT OF A GUARDIAN BY THE COURT OR THE GIVING OF WRITTEN NOTICE TO THE GUARDIAN OF THE FILING OF AN OBJECTION PURSUANT TO SECTION 14-5301, WHICHEVER FIRST OCCURS.

F. THE APPOINTMENT OF A GUARDIAN UNDER THIS SECTION IS NOT A DETERMINATION OF INCAPACITY.

G. THE POWERS OF A GUARDIAN WHO TIMELY COMPLIES WITH THE REQUIREMENTS OF SUBSECTIONS B AND D OF THIS SECTION GIVE ACTS BY THE GUARDIAN THAT ARE OF BENEFIT TO THE INCAPACITATED PERSON AND THAT OCCURRED ON OR AFTER THE DATE THE APPOINTMENT BECAME EFFECTIVE THE SAME EFFECT AS THOSE THAT OCCURRED AFTER THE FILING OF THE ACCEPTANCE OF APPOINTMENT.

14-5301.02. APPOINTMENT AND STATUS OF GUARDIAN

A PERSON BECOMES A GUARDIAN OF AN INCAPACITATED PERSON BY A PARENTAL OR SPOUSAL APPOINTMENT OR ON APPOINTMENT BY THE COURT. THE GUARDIANSHIP CONTINUES UNTIL IT IS TERMINATED, WITHOUT REGARD TO THE LOCATION OF THE GUARDIAN OR THE WARD.

14-5301.03. JUDICIAL APPOINTMENT OF GUARDIAN; SPECIAL PROVISION FOR INCAPACITATED MINORS APPROACHING ADULTHOOD

A. A PARTY THAT IS INTERESTED IN THE WELFARE OF A MINOR WHO IS AT LEAST SEVENTEEN YEARS SIX MONTHS OF AGE AND WHO IS ALLEGED TO BE INCAPACITATED MAY INITIATE GUARDIANSHIP PROCEEDINGS PURSUANT TO THIS ARTICLE AND REQUEST THAT ANY GUARDIANSHIP ORDER TAKE EFFECT IMMEDIATELY ON THE MINOR'S EIGHTEENTH BIRTHDAY.

B. THE PETITIONER MAY PROVIDE WITH THE PETITION A REPORT OF AN EVALUATION OF THE MINOR BY A PHYSICIAN, PSYCHOLOGIST OR REGISTERED NURSE THAT MEETS THE REQUIREMENTS OF SECTION 14-5303, SUBSECTION D. IF

THE EVALUATION WAS CONDUCTED WITHIN SIX MONTHS AFTER THE DATE THE PETITION IS FILED WITH THE COURT, THE PETITIONER MAY ASK IN THE PETITION THAT THE COURT ACCEPT THIS REPORT IN LIEU OF ORDERING ANY ADDITIONAL EVALUATION PURSUANT TO SECTION 14-5303, SUBSECTION C, AND THE COURT MAY GRANT THE REQUEST.

14-5301.04. JUDICIAL APPOINTMENT OF CONSERVATOR OR PROTECTIVE ORDER; SPECIAL PROVISION FOR INCAPACITATED MINORS APPROACHING ADULTHOOD

A PARTY THAT IS INTERESTED IN THE WELFARE OF A MINOR WHO IS AT LEAST SEVENTEEN YEARS SIX MONTHS OF AGE AND WHO IS ALLEGED TO BE IN NEED OF PROTECTION MAY PETITION THE COURT FOR APPOINTMENT OF A CONSERVATOR OR REQUEST AN APPROPRIATE PROTECTIVE ORDER PURSUANT TO SECTION 14-5404 AND REQUEST THAT ANY CONSERVATORSHIP ORDER OR PROTECTIVE ORDER TAKE EFFECT IMMEDIATELY ON THE MINOR'S EIGHTEENTH BIRTHDAY.

Sec.4. Section 14-5303, Arizona Revised Statutes, is amended to read:

14-5303. PROCEDURE FOR COURT APPOINTMENT OF A GUARDIAN OF AN ALLEGED INCAPACITATED PERSON

A. The alleged incapacitated person or any person interested in that person's affairs or welfare may petition for the appointment of a guardian or for any other appropriate protective order.

B. The petition shall contain a statement that the authority granted to the guardian may include the authority to withhold or withdraw life sustaining treatment, including artificial food and fluid, and shall state, to the extent known:

1. The interest of the petitioner.
2. The name, age, residence and address of the alleged incapacitated person.
3. The name, address and priority for appointment of the person whose appointment is sought.
4. The name and address of the conservator, if any, of the alleged incapacitated person.
5. The name and address of the nearest relative of the alleged incapacitated person known to the petitioner.
6. A general statement of the property of the alleged incapacitated person, with an estimate of its value and including any compensation, insurance, pension or allowance to which the person is entitled.

7. The reason why appointment of a guardian or any other protective order is necessary.

8. The type of guardianship requested. If a general guardianship is requested, the petition must state that other alternatives have been explored and why a limited guardianship is not appropriate. If a limited guardianship is requested, the petition also must state what specific powers are requested.

9. IF A CUSTODIAL ORDER WAS PREVIOUSLY ENTERED REGARDING AN ALLEGED INCAPACITATED PERSON IN A CHILD CUSTODY ACTION OR SIMILAR PROCEEDING IN THIS STATE OR ANOTHER JURISDICTION AND THE PETITIONER OR PROPOSED GUARDIAN IS A PARENT OR NONPARENT CUSTODIAN OF THE ALLEGED INCAPACITATED PERSON, THE COURT AND CASE NUMBER FOR THAT ACTION OR PROCEEDING.

C. On the filing of a petition, the court shall set a hearing date on the issues of incapacity. Unless the alleged incapacitated person is represented by independent counsel, the court shall appoint an attorney to represent that person in the proceeding. The alleged incapacitated person shall be interviewed by an investigator appointed by the court and shall be examined by a physician, psychologist or registered nurse appointed by the court. The investigator and the person conducting the examination shall submit their reports in writing to the court. In addition to information required under subsection D, the court may direct that either report include other information the court deems appropriate. The investigator also shall interview the person seeking appointment as guardian, visit the present place of abode of the alleged incapacitated person and the place where it is proposed that the person will be detained or reside if the requested appointment is made and submit a report in writing to the court. The alleged incapacitated person is entitled to be present at the hearing and to see or hear all evidence bearing on that person's condition. The alleged incapacitated person is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed examiner and investigator, and to trial by jury. The court may determine the issue at a closed hearing if the alleged incapacitated person or that person's counsel so requests.

D. A report filed pursuant to this section by a physician, psychologist or registered nurse acting within that person's scope of practice shall include the following information:

1. A specific description of the physical, psychiatric or psychological diagnosis of the person.

2. A comprehensive assessment listing any functional impairments of the alleged incapacitated person and an explanation of how and to what extent these functional impairments may prevent that person from receiving or evaluating information in making decisions or in communicating informed decisions regarding that person.

3. An analysis of the tasks of daily living the alleged incapacitated person is capable of performing without direction or with minimal direction.

4. A list of all medications the alleged incapacitated person is receiving, the dosage of the medications and a description of the effects each medication has on the person's behavior to the best of the declarant's knowledge.
5. A prognosis for improvement in the alleged incapacitated person's condition and a recommendation for the most appropriate rehabilitation plan or care plan.
6. Other information the physician, psychologist or registered nurse deems appropriate.

Sec. 5. Section 14-5401, Arizona Revised Statutes, is amended to read:

14-5401. PROTECTIVE PROCEEDINGS

A. ~~Upon~~ ON petition and after notice and a hearing ~~in accordance with the provisions of~~ PURSUANT TO this article, the court may appoint a conservator or make another protective order for cause as follows:

1. Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a minor if the court determines that a minor owns money or property that requires management or protection ~~which~~ THAT cannot otherwise be provided or has or may have affairs ~~which~~ THAT may be jeopardized or prevented by ~~his~~ minority or that funds are needed for ~~his~~ THE MINOR'S support and education and that protection is necessary or desirable to obtain or provide funds.

2. Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a person if the court determines both of the following:

(a) The person is unable to manage the person's estate and affairs effectively for reasons such as mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power or disappearance.

(b) The person has property ~~which~~ THAT will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care and welfare of the person or those entitled to be supported by the person and that protection is necessary or desirable to obtain or provide funds.

B. ON PETITION AND AFTER NOTICE AND A HEARING PURSUANT TO THIS ARTICLE, THE COURT MAY CONTINUE A CONSERVATORSHIP OR OTHER PROTECTIVE ORDER ENTERED PURSUANT TO SUBSECTION A, PARAGRAPH 1 OF THIS SECTION BEYOND THE MINOR'S EIGHTEENTH BIRTHDAY IF THE COURT DETERMINES THAT THE ORDER IS APPROPRIATE PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION. THE PETITION SHALL COMPLY WITH THE REQUIREMENTS OF SECTION 14-5404, SUBSECTION B AND MUST BE FILED AFTER THE MINOR'S SEVENTEENTH BIRTHDAY AND BEFORE TERMINATION OF THE CONSERVATORSHIP BY COURT ORDER.

Sec. 6. Section 14-5405, Arizona Revised Statutes, is amended to read:

14-5405. NOTICE IN CONSERVATORSHIP PROCEEDINGS

A. In a proceeding for the appointment or removal of a conservator of a protected person or person allegedly in need of protection, other than the appointment of a temporary conservator or temporary suspension of a conservator, **AND IN A PROCEEDING TO CONTINUE A CONSERVATORSHIP OR OTHER PROTECTIVE ORDER PURSUANT TO SECTION 14-5401, SUBSECTION B**, notice of the hearing shall be given to each of the following:

1. The protected person or the person allegedly in need of protection if that person is fourteen years of age or older.
2. The spouse, parents and adult children of the protected person or person allegedly in need of protection, or if no spouse, parents or adult children can be located, at least one adult relative of the protected person or the person allegedly in need of protection, if such a relative can be found.
3. Any person who is serving as guardian or conservator or who has the care and custody of the protected person or person allegedly in need of protection.
4. Any person who has filed a demand for notice.

B. At least fourteen days before the hearing notice shall be served personally on the protected person or the person allegedly in need of protection and that person's spouse and parents if they can be found within the state. Notice to the spouse and parents, if they cannot be found within the state, and to all other persons except the protected person or the person allegedly in need of protection shall be given in accordance with section 14-1401. Waiver of notice by the protected person or the person allegedly in need of protection is not effective unless the protected person or the person allegedly in need of protection attends the hearing.

Sec. 7. Section 14-5407, Arizona Revised Statutes, is amended to read:

14-5407. PROCEDURE CONCERNING HEARING AND ORDER ON ORIGINAL PETITION

A. On the filing of a petition for appointment of a conservator or any other protective order because of minority, the court shall set a hearing date on the matters alleged in the petition. If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it shall appoint an attorney to represent the minor. If the minor is at least fourteen years of age the court shall consider the choice of the minor.

B. On the filing of a petition for appointment of a conservator or any other protective order for reasons other than minority, **OR ON THE FILING OF A PETITION FOR CONTINUATION OF A CONSERVATORSHIP OR OTHER PROTECTIVE ORDER PURSUANT TO SECTION 14-5401, SUBSECTION B**, the court shall set a hearing date. Unless the person to be protected has counsel of ~~his~~ **THAT PERSON'S** own choice, the court shall appoint an attorney to represent ~~him~~ **THAT PERSON**. If the alleged disability is mental illness, mental deficiency, mental

disorder, physical illness or disability, chronic use of drugs, or chronic intoxication, the court shall appoint an investigator to interview the person to be protected. On petition by an interested person or on the court's own motion, the court may direct that an appropriate medical or psychological evaluation of the person be conducted. The investigator and the person conducting the medical or psychological evaluation shall submit written reports to the court before the hearing date.

C. In any case where the veterans administration is or may be an interested party, a certificate of an authorized official of the veterans administration that the person allegedly in need of protection has been found incapable of handling the benefits payable, on examination in accordance with the laws and regulations governing the veterans administration, is prima facie evidence of the necessity for appointment of a conservator.

D. The person allegedly in need of protection is entitled to be present at the hearing, to be represented by counsel, to present evidence and to cross-examine witnesses, including any court appointed examiner and investigator. The issue may be determined at a closed hearing if the person allegedly in need of protection or that person's counsel so requests.

E. After the hearing, ~~upon~~ **ON** a finding that a basis for the appointment of a conservator or any other protective order has been established, the court shall make an appointment or other appropriate protective order.

Sec. 8. Section 14-5416, Arizona Revised Statutes, is amended to read:

14-5416. PETITIONS FOR ORDERS SUBSEQUENT TO APPOINTMENT

A. Any person interested in the estate or affairs of a person for whom a conservator has been appointed may file a petition in the appointing court for an order:

1. Requiring bond or security or additional bond or security, or reducing bond.
2. Requiring an accounting for the administration of the estate of the protected person.
3. Directing distribution.
4. Removing the conservator and appointing a temporary or successor conservator.

5. CONTINUING THE CONSERVATORSHIP PURSUANT TO SECTION 14-5401, SUBSECTION B.

~~5.~~ **6.** Granting other appropriate relief.

B. A conservator may petition the appointing court for instructions concerning the fiduciary's responsibility.

C. ~~Upon~~ **ON** notice and a hearing the court may give appropriate instructions or make any appropriate order.

D. When a surety of a conservator desires to be released from responsibility for future acts, the surety may apply to the court for a release. The court shall proceed in the same manner as in a proceeding under section 14-3604, subsection B. Notice shall be given to the conservator as provided in section 14-5413.

Sec. 9. Section 14-5430, Arizona Revised Statutes, is amended to read:

14-5430. TERMINATION OF PROCEEDING

A. The protected person, the conservator or any other interested person may petition the court to terminate the conservatorship. A protected person seeking termination is entitled to the same rights and procedures as in an original proceeding for a protective order.

B. The court, ~~upon~~ **ON** determining after notice and a hearing that the minority or disability of the protected person has ceased, shall terminate the conservatorship **UNLESS THE COURT HAS CONTINUED THE CONSERVATORSHIP OR OTHER PROTECTIVE ORDER PURSUANT TO SECTION 14-5401, SUBSECTION B.**

C. ~~Upon~~ **ON** termination, title to assets of the estate passes to the formerly protected person or to the person's successors. The order of termination shall provide for expenses of administration and shall direct the conservator to execute appropriate instruments to evidence the transfer.

Appendix D

Risk Assessment Form, Instructions, & Order

Probate Court Post Appointment Risk Assessment Tool –Triage Model “A” and “B”

**This Risk Assessment Tool in its entirety is a “confidential document” pursuant to the Arizona Rules of Probate Procedure, Rule 7.*

This risk assessment tool identifies the potential risk factors at the onset of a new guardianship/conservatorship matter and recommends the appropriate level of court monitoring or Independent Case Review (ICR) to be conducted. The ICR is designed to assist the court’s oversight of guardianship/conservatorship cases and provide independent information about the status of the ward/protected person to supplement the mandatory reports filed by the guardian/conservator.

The initial risk assessment is performed by the court appointed investigator. The completed form serves as a supplement to the “Court Investigator’s Report”. This tool may also be used in subsequent years by the “Preparer” assigned by the Court to reassess the risk factors and provide recommendations for court monitoring. The recommendations provided by the court appointed investigator in the assessment are “suggestive only” and the Court in their discretion makes the final determination regarding the post appointment review/monitoring.

Courts implementing Triage Model “A” (Mandatory Post Appointment Court Monitoring) shall consider the risk assessment information provided by the Post Appointment Risk Assessment and enter an “Order Appointing Investigator to Conduct an Independent Case Review/Investigation.” The Order directs the investigator to perform the ICR selecting one or more methods provided or as individually specified by the Court.

Courts implementing Triage Model “B” (Elective Post Appointment Court Monitoring) have full discretion to review all reports/plans, certain reports/plans based on a range of rating scores, or only those considered to be “Maximum Risk” and subsequently elect to forego any post appointment case review. Options to take “No Action” are provided.

Probate Case General Information

<input type="checkbox"/> Initial Assessment <input type="checkbox"/> Subsequent Assessment		Date: _____
Court Investigator’s/Preparer’s Name: _____		Phone # _____
Cause Name: _____	Petitioner’s Name: _____	
Cause No: _____	Petitioner’s Phone #: _____	
<input type="checkbox"/> Ward <input type="checkbox"/> Protected Person <input type="checkbox"/> Minor <input type="checkbox"/> Adult	Petitioner’s Address: _____	
Ward/PP’s Attorney: _____	_____	
Value of the Estate: \$ _____ <input type="checkbox"/> Undetermined	Petitioner’s Attorney: _____	
Bond: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Undetermined	Petitioner’s Email: _____	
Restricted Assets: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Undetermined	Petitioner’s Employer: _____	
Ward/PP Personal Health and Behavioral Factors:		
<input type="checkbox"/> Developmental Disability/TBI	<input type="checkbox"/> SMI/Substance Abuse/Dual Diagnoses/PTSD	
<input type="checkbox"/> Dementia/Alzheimer’s Disease	<input type="checkbox"/> Primary Diagnosis: _____	
<input type="checkbox"/> Serious Physical Illness	<input type="checkbox"/> Secondary Diagnosis: _____	
Ward/PP Residential:		
<input type="checkbox"/> Resides with Family and/or Guardian/Conservator	<input type="checkbox"/> Resides independently in own home or apartment	
<input type="checkbox"/> Resides in a Skilled Nursing Facility	<input type="checkbox"/> Resides Alone	
<input type="checkbox"/> Resides in an Assisted Living Facility	<input type="checkbox"/> Resides in a Licensed Group Home	
<input type="checkbox"/> Other: _____	_____	

Risk Assessment

I. Social Factors: These factors may contribute to an increase in case complexities.

- | | | | |
|--|-----|-------|---------|
| <input type="checkbox"/> Ward/PP currently appears to be in one or more unhealthy relationships | = 4 | _____ | |
| <input type="checkbox"/> Ward/PP lacks local supports of family or friends | = 3 | _____ | |
| <input type="checkbox"/> Ward/PP has a history of family conflict | = 2 | _____ | |
| <input type="checkbox"/> Ward/PP has a history of active social involvement (12 Step, church, service organizations) | = 1 | _____ | |
| Total Social Factors Scoring Points: (0-10) | | | = _____ |

II. Residential: These factors may demonstrate the degree of daily interaction, contact and monitoring for the Ward/PP.

- | | | | |
|---|-----|-------|---------|
| <input type="checkbox"/> The Ward/PP is at immediate risk of unsafe discharge or eviction from their residence | = 5 | _____ | |
| <input type="checkbox"/> Ward/PP currently resides in a short term placement (transitional housing or rehab) | = 4 | _____ | |
| <input type="checkbox"/> Ward/PP has a history of chronic homelessness | = 4 | _____ | |
| <input type="checkbox"/> Ward/PP living independently but some self neglect has been noted during investigation | = 2 | _____ | |
| <input type="checkbox"/> Ward/PP does not qualify for "needed" government entitlements to subsidize housing | = 2 | _____ | |
| <input type="checkbox"/> Ward/PP living in a licensed institution pending medical or residential stabilization | = 2 | _____ | |
| <input type="checkbox"/> Ward/PP living w/family member(s) | = 1 | _____ | |
| Total Residential Scoring Points: (0-17) | | | = _____ |

III. Guardian/Conservator and Ward/PP Interdependency Issues: These factors may interfere with the ability of the fiduciary to neutrally conduct the affairs of the Ward/PP.

- | | | | |
|---|-----|-------|---------|
| <input type="checkbox"/> Guardian and/or Conservator receiving income or support from Ward/PP | = 5 | _____ | |
| <input type="checkbox"/> Guardian and/or Conservator residing with the Ward or Protected Person | = 3 | _____ | |
| Total Guardian/Conservator Dependency Points: (0-8) | | | = _____ |

IV. Legal: These factors demonstrate whether potential issues may arise that will impede the fiduciary's success and if counsel is involved for guidance and legal advocacy.

- | | | | |
|---|-----|-------|---------|
| <input type="checkbox"/> Petitioner has a criminal history | = 4 | _____ | |
| <input type="checkbox"/> Petitioner on a Conservatorship Estate is " Unbondable " due to a poor credit history | = 3 | _____ | |
| <input type="checkbox"/> Guardian/Conservator has a history of non-compliance with mandatory reporting or law | = 3 | _____ | |
| <input type="checkbox"/> Ward/PP's legal representative plans to withdraw after the initial appointment hearing | = 2 | _____ | |
| <input type="checkbox"/> Guardian/Conservator is self represented (propria persona / "pro per") | = 2 | _____ | |
| <input type="checkbox"/> Ward/PP not present at adjudication or subsequent hearing(s) | = 2 | _____ | |
| Total Legal Points: (0-16) | | | = _____ |

V. Government Entitlement Programs with Advocacy/Auditing Features: Government entitlements consisting of income have some minimal checks and balances. Medical entitlements routinely provide some minimal case management services providing additional case oversight as well as mandatory reporting of abuse/exploitation.

- | | | | |
|---|-----|-------|---------|
| <input type="checkbox"/> Ward/PP denied eligibility to receive "needed" governmental services/ entitlements | = 4 | _____ | |
| <input type="checkbox"/> Ward/PP has not applied for "needed" government entitlements | = 3 | _____ | |
| <input type="checkbox"/> Ward/PP w/ SSA or VA income benefits | = 1 | _____ | |
| <input type="checkbox"/> Ward/PP w/ AZ ALTCS, DES/DDD, RBHS Case Management Services | = 1 | _____ | |
| Total Government Entitlement Programs Points: (0-5) | | | = _____ |

Total Score: (add all points then check the appropriate boxes in one of the three score ranges below) (0-56) = _____

- SCORE =1-20** (Minimal Risk)
 SCORE =21-36 (Moderate Risk)
 SCORE =37-56 (Maximum Risk)

This is a confidential document pursuant to the Arizona Rules of Probate Procedure, Rule 7.

Score Range Calculation and Recommended Court Action

Guardianship/Conservatorship Is Recommended Guardianship/Conservatorship Not Recommended
(This selection is specific to the Court Appointed Investigator's recommendation to the Court pursuant to A.R.S. § 14-5303 and § 14-5407.)

Score Range = 1 – 20 (Minimal Risk)
This recommendation is to be considered when the total score from the risk assessment is in the range 1 – 20 or if the investigator/preparer has justified in the comment(s) section the potential risks are very minimal. Generally, these cases may have multiple agencies involved in oversight and the proposed bond/asset restrictions will reduce the risk of fiduciary neglect, exploitation or abuse. The Ward/PP may have a family member fiduciary who has a history of successful surrogate decision making on behalf of the Ward/PP prior to the need for the legal appointment.

Minimum Risk - Recommended Court Action: *Preparer - Please check one or more of the following choices:*

- Court to Determine PostAppointment Monitoring Upon Review of the Next Report of Guardian or Account of Conservator
- Ward/Protected Person Visit and Short Questionnaire Completed
- Remote Interview by Video Conferencing with Ward/PP and Short Questionnaire Completed (Check resource availability)
- Guardian/Conservator Visit or Telephonic Interview and Short Questionnaire Completed
- Financial Statement/Asset Verification Filed w/Court
- Telephonic Interview of Ward/PP and/or Fiduciary and Status Report Required (Triage Model "B" only)
- No Post Appointment Independent Case Review or Follow-Up Recommended (Triage Model "B" only)

Investigator/Preparer's Comments: _____

Score Range = 21 – 36 (Moderate Risk Score)
This recommendation is to be considered when the total score from the risk assessment is in the range 21 – 36 or if the investigator/preparer has justified in the comment(s) section the potential risks are moderate. Generally, these cases may have other agencies involved in oversight and the proposed bond/asset restrictions will reduce the risk of fiduciary neglect, exploitation or abuse. The Ward/PP's family member is the petitioner and they have little or no experience with Ward advocacy and may need some assistance initially understanding their duties, or preparing the mandatory reports and forms to comply with the legal requirements. The Estate may have minimal assets or assets are all secured and the monthly income is used to sustain the Ward/PP's current monthly expenses with minimal discretionary income remaining.

Moderate Risk - Recommended Court Action: *Preparer - Please check one or more of the following choices:*

- Ward/Protected Person Visit and Short Questionnaire Completed
- Guardian/Conservator Visit or Telephonic Interview and Short Questionnaire Completed
- Financial Statement/Asset Verification Filed w/Court

Investigator/Preparer's Comments: _____

Score Range Calculation and Recommended Court Action (Continued)

Score Range = 28 – 56 (Maximum Risk Score)

This recommendation is to be considered when the total score from the risk assessment is in the range 37 – 56 or if the investigator/preparer has justified in the comment(s) section the potential risks warrant maximum court oversight and monitoring due to triggers identified but not captured by the risk assessment tool. Contributing factors in determining the Ward/PP is at "Maximum Risk" include one or more of the following: The Ward/PP has no oversight by other agencies, and/or the fiduciary has no or minimal experience and the issues of the case at the onset are complex, and/or the fiduciary is not represented by legal counsel and lacks legal representation to provide guidance in addressing one or more complex issues e.g. multiple assets, recovery actions, difficult placement issues, and/or complex client advocacy issues.

Maximum Risk - Recommended Court Action: Preparer - Please check one or more of the following choices:

- Ward/Protected Person Visit and Long Questionnaire completed and filed
- Guardian and/or Conservator Interview and Long Questionnaire completed and filed
- Provider Interview and Questionnaire completed and filed
- Court Case Compliance Audit Performed - Court Accountings, Annual Guardian Report(s), Inventory Compliance, Address
- Forensic Investigation: (This selection is only applicable to post appointment risk assessments performed after the initial appointment due to indicators discovered that potential abuse, neglect or financial exploitation has occurred.)
- Court Accountings Accuracy and Compliance Financial Statements Verification Tax Compliance Asset Verification

Investigator/Preparer's Comments: _____

Investigator/Preparer's Final Recommendation to the Court:

Triage Model "A" and "B" (These selections are applicable to both Triage Models "A" and "B")

- Court to Determine Post Appointment Monitoring Upon Review of the Next Report of Guardian or Account of ~~Conservator~~
- Ward/Protected Person Visit and Short Questionnaire Completed
- Remote Interview by Video Conferencing of Ward/PP and Short Questionnaire Completed (Check resource availability)
- Guardian/Conservator Visit or Telephonic Interview and Short Questionnaire Completed
- Financial Statement/Asset Verification Filed w/Court
- Ward/Protected Person Visit and Long Questionnaire completed and filed
- Guardian and/or Conservator Interview and Long Questionnaire completed and filed
- Provider Interview and Questionnaire completed and filed
- Court Case Compliance Audit Performed - Court Accountings, Annual Guardian Report(s), Inventory Compliance
- Forensic Investigation: (This selection is only applicable to post appointment risk assessments performed after the initial appointment due to indicators discovered that potential abuse, neglect or financial exploitation has occurred.)
- Court Accountings Accuracy and Compliance Financial Statements Verification Tax Compliance Assets Verification

Triage Model "B" Recommendation Exceptions: (These two electives are not applicable to Triage Model "A" - Mandatory Post Appointment Court Monitoring)

- No Post Appointment Independent Case Review or Follow-Up Recommended (Triage Model "B" only)
- Telephonic Interview of Guardian/Conservator and Court Status Report Required (Triage Model "B" only)

Preparer's Signature: _____ Date: _____

- Confidential Envelope prepared and attached in accordance with the Arizona Rules of Probate Procedure, Rule 7.

******* This Section to Be Completed By the Court *******

Method of Independent Case Review (ICR):

Triage Model "A" and "B" (These selections are applicable to both Triage Models "A" and "B")

- Ward/Protected Person Visit and Short Questionnaire Completed
- Remote Interview of Ward/PP by Video Conferencing and Short Questionnaire Completed (Check resource availability)
- Guardian/Conservator Visit or Telephonic Interview and Short Questionnaire Completed
- Financial Statement/Asset Verification Filed w/Court
- Ward/Protected Person Visit and Long Questionnaire completed and filed
- Guardian and/or Conservator Interview and Long Questionnaire completed and filed
- Provider Interview and Questionnaire completed and filed
- Court Case Compliance Audit Performed - Court Accountings, Annual Guardian Report(s), Inventory Compliance
- Telephonic Interview of Guardian/Conservator and Court Status Report Required
- Forensic Investigation: (This selection is only applicable to post appointment risk assessments performed after the initial appointment due to indicators discovered that potential abuse, neglect or financial exploitation has occurred.)
- Court Accountings Accuracy and Compliance Financial Statements Verification Tax Compliance Assets Verification

Triage Model "B" Recommended Exceptions: (These two electives are not applicable to Triage Model "A" – Mandatory Post Appointment Court Monitoring)

- Telephonic Interview of Guardian/Conservator and Court Status Report Required (Triage Model "B" only)
- No Post Appointment Independent Case Review or Follow-Up Recommended (Triage Model "B" only)

Key Issue(s): The court appointed designee will perform the following checked task(s), specific to this individual case, and report the results as verified to the Court:

- Minor still attending school of record Minor still residing with custodian of record
- Minor's address, telephone and email confirmation Minor not at risk of residential displacement
- Fiduciary's address, telephone and email confirmed Fiduciary's place of employment verified
- Fiduciary not at risk of foreclosure or eviction Other: _____
- Fiduciary provide proof of medical provider and insurance for Ward
- Fiduciary needs assistance in initial preparation of first annual mandatory reports

Court Appointed Designee:

A court appointed designee will perform the Independent Case Review (ICR) or other Court action checked.

- Court appointed Counsel (CAC) Public Fiduciary
- Court Staff Independent Contract Investigator/Auditor
- Volunteer court monitoring program Court Accountant/Auditor
- Other: _____

Independent Case Review Due Date: _____ One-Time Annual Biennial Triennial Other

Date Order Sent to appointed Independent Case Review Investigator/Designee: _____

Name: _____ Title: _____

Printed Name: Court Staff

Name: _____ Date: _____

Signature: Court Staff

This is a confidential document pursuant to the Arizona Rules of Probate Procedure, Rule 7.

**PROBATE COURT POST APPOINTMENT RISK ASSESSMENT TOOL
Triage Model "A" and "B"**

INSTRUCTIONS

1.0 Introduction/Background

The statutory fiduciary oversight function of Arizona probate courts is primarily carried out through review of the annual reports filed by the guardian and/or conservator. The annual reports are usually the only continuing source of information about the ward/protected person that are available to the court to confirm the welfare and well-being of the ward and proper administration of the protected person's income and assets.

In 2010/2011 the Committee on Improving Judicial Oversight and Processing of Probate Court Matters recommended to the Arizona Judicial Council a rule be adopted in Arizona to require a post-appointment visitation of the ward on an annual, biennial, or triennial basis to verify the wellbeing of the ward/protected person and their estate.

The risk assessment tool was developed in an effort to provide a resource for courts to use to institute an initial post-appointment Independent Case Review (ICR) that matches available local resources to case-based levels of risk. The risk assessment form, completed at the onset of the case by the court appointed investigator, is a tool based on a triage approach that identifies and assesses risks, recommends a method of follow up and permits the court to assign resources accordingly.

During the first year of the case, many decisions must be made by the fiduciary in stabilizing a ward/protected person's placement, health and financial well-being. The initial year can be a period of intense and stressful adjustment as the fiduciary and the ward/protected person become more familiar with one another and issues are resolved. Over time, many cases progress to a level of stability.

The Risk Assessment Tool will initially be implemented as a "Pilot Project." Maricopa County Probate Court is committed to piloting Triage Model "A" that provides mandatory post appointment monitoring and ensures all adult Wards are visited within two (2) years of the initial appointment of a fiduciary. Maricopa County has had a Volunteer Guardian Monitoring Program modeled on the AARP Model since 1999. Maricopa County collects filing fees and has Court Investigators and Auditors to aid in performing the pilot project. Counties without the necessary resources can pilot Triage Model "B" which provides full judicial discretion in electing to perform post-

appointment monitoring. The benefit of piloting the risk assessment tool is it provides valuable information to aid judicial decision making as a supplement to the court investigator's report there are no additional court costs. The participating counties who pilot the tool for six months will allow a proper sampling of the instruments effectiveness in its ability to measure "risk" and to make the necessary improvements in the process and instructions to streamline its future implementation as a mandatory statewide uniform triage model.

2.0 Purpose

The Risk Assessment Tool is designed to help the court gauge the following:

- **Level of Priority:** Determine what level of priority the case might need for post-appointment monitoring by identifying known risk factors that might exist in a given case; and
- **Method of Review:** The tool then provides an opportunity for the Investigator to provide their opinion as to the recommended appropriate method of post-appointment monitoring to assign. The Court ultimately decides based on all the facts presented and the resources available what method will be most appropriate for post-appointment monitoring; and
- **Appropriate Person or Entity:** The tool provides a selection of designees who may be appropriate to be designated to conduct the Independent Case Review or other monitoring as ordered by the court.

3.0 Probate Court - Subsequent Application of the Post Appointment Risk Assessment Tool

Use of the risk assessment tool does not have to be limited to the first year of the case. A guardianship or conservatorship case can have a long shelf life. Periods of stability might be long, short or intermittent depending on the individual's circumstances. The court may decide that a risk assessment or subsequent independent case review is not necessary for subsequent years. The court may direct the annual, biennial or triennial filing of a short form questionnaire as a supplement to the information contained in the guardian's report. If a red flag arises at some point, the court might decide to order a new risk assessment and adjust the level of attention to require a long form questionnaire or other additional monitoring or audit of the fiduciary.

4.0 Risk Assessment Tool Preparer

The risk assessment tool is intended to originally be completed at the onset of the case by the court appointed investigator, however, the Court, has the discretion to assign court staff or another party to complete the risk assessment tool. Subsequent assessments may be performed by any party, but a party familiar with the case or file may provide more accurate, timely and cost efficient form completion and filing with the Court.

The information gathered by the Investigator during interviews with the petitioner, alleged ward/protected person or their counsel may not be independently verified due to the lack of resources, time and expense. The information is the work product of the Investigator or preparer.

5.0 Analysis of Risk Assessment and Recommendation Tool

The court appointed investigator performing the initial investigation, or other party designated by the court, completes the risk assessment consistent with the instructions provided. In the event the court investigator does not recommend a guardian and/or conservator be appointed, the risk assessment tool would still need to be completed. The court investigator's report is one of many considerations weighed by the court in making the determination to adjudicate a person incapacitated or in need of protection. During the hearing on the Petition for the Appointment of Guardian and/or Conservator, the Court ultimately decides if adjudication is warranted, based on the evidence and further directs the post appointment monitoring of the fiduciary, if deemed applicable and appropriate.

Some early feedback "Investigator's Comments – Risk Assessment Tool" by the Maricopa County Court Investigator's (April 26, 2011) provided valuable insight to aid future "Pilot Counties" in adapting and aligning to the tool for optimum effectiveness. Excerpts of the "Comments" are provided in these instructions and are noted with an asterisk with clarification, if applicable.

6.0 Risk Assessment Tool – Confidential Document¹

The Risk Assessment Tool in its entirety is a "confidential document" pursuant to the Arizona Rules of Probate Procedure, Rule 7. CONFIDENTIAL DOCUMENTS AND INFORMATION.

¹ A copy of Rule 7, Confidential Documents and Information is attached to these instructions

The preparer of the Risk Assessment Tool when filing the document with the court, files the Risk Assessment Tool with the Clerk of the Arizona Superior Court, placing the original document in an envelope that bears the case name and number, the name of the document being filed "Probate Court Post Appointment Risk Assessment Tool", the name of the person filing the document (the preparer), and the phrase "Confidential Document." A separate envelope shall be used for each confidential document. A confidential document shall not be maintained as part of the public record of a probate case.

7.0 New Case - Independent Case Review (ICR)

The Investigator assigned appointed by the court to conduct the Independent Case Review (ICR) will begin the process of the ICR or other court assigned monitoring in a timely fashion to ensure filing by the Court Ordered due date. The Investigator shall be responsible for tracking the due date and filing the appropriate forms, financial statements and/or report(s). The ICR short form or long form questionnaire or other status report will serve as an independent source of information and will serve to supplement other reports received from the fiduciary e.g. the annual report of guardian and annual account of conservator.

8.0 Completing the Risk Assessment Tool - Instructions

RISK ASSESSMENT TOOL - GENERAL INFORMATION INSTRUCTIONS - PAGE NO. 1

1. Initial or Subsequent Assessment: Select the applicable box.
2. Date: Enter the date the form is being completed.
3. Name: Enter the Court Investigator's and phone number.
4. Case Information: Enter the "Cause No", "Cause Name", and Case Type (Ward, Protected Person, Minor, Adult) from the Court's Order appointing the post appointment monitoring, investigation or the Independent Case Review (ICR) if an existing case.
5. Value of the Estate: Enter the most current value of the Estate. This information may also be discovered by contacting the petitioner or the petitioner's attorney. This information may be found in the Petition for Guardianship and/or Conservatorship or if an existing case in the Inventory, Account or Budget of

Conservator. Commentary: *"Frequently, the fiduciary does not know the value of the estate until the Letter are issued and they go to the financial institutions".* The Investigator should attempt to gather all information that is "reasonably obtainable" and can select "undetermined" or write unknown. If additional clarification is needed, the Investigator's comments section may provide for an explanation to the Court.

6. Bond: Select the applicable box. This information may be located in the Petition for Guardianship and/or Conservatorship or can be discovered by contacting the petitioner or the petitioner's attorney. Commentary: *"Conservator is unbondable, Once again, the Investigator takes the word of the petitioner that they are bondable or have a poor credit history".* If the fiduciary is not represented by counsel, it is possible the first time the bond issue may come up is when the Investigator asks the question. The fiduciary's bondability and credit history is valuable information to provide the Court, even if the source of information is the Petitioner.
7. Restricted Assets: Select the applicable box. This information may be located in the Petition for Guardianship and/or Conservatorship or can be discovered by contacting the petitioner or the petitioner's attorney. Commentary: *"Most assets will not be restricted until the appointment".* The actual restricting of the assets is a finding of the Court, however, if the petitioner is seeking to restrict assets to reduce the amount of bond needed, the petitioner or their attorney will know and the Petition may state restrictions sought.
8. Attorney for the Ward/Protected Person: This information is usually found in the Order appointing attorney, investigator and physician. It is also noted on the legal pleadings in the listing of the parties to the case.
9. Petitioner's Information: A majority of this information will be in the Petition for Guardianship and/or Conservatorship. Additional discovery can be made by contacting the petitioner or the petitioner's attorney. If there are multiple "Co-Petitioner's, please attach an additional sheet of paper with the information.
10. Attorney for Petitioner: This information will be in the Petition for Guardianship and/or Conservatorship or noted on the legal pleadings in the listing of parties to the case.
11. Ward/PP Personal Health and Behavioral Factors: Select the applicable box(es). If the Ward/PP has multiple diagnoses, it may result in selecting more than one

box. List the primary and secondary diagnoses found on the physician's report, medical records, guardianship report(s) or subsequent filed risk assessment(s).

12. Ward/PP Residential: Select the applicable box(es) for the current, verified residential environment.

**RISK ASSESSMENT
INSTRUCTIONS - PAGE NO. 2**

The Risk Assessment Tool provides an opportunity for the Investigator to assign a level of risk measurement when assessing the Ward/PP. The current social structure, residential environment, interdependency issues and available resources, and legal and social advocacy services are the key categories related to measuring the Ward/PP's current and future stability and potential for harm or loss. The weight of importance assigned to the assessment criteria will serve as a guide and allow for a risk calculation to be performed.

The court recognizes that not every situation or circumstance relevant to the degree of risk can be captured and measured by this tool. Due to these limitations the Investigator is encouraged to utilize the Risk Assessment Tool uniformly and to its fullest capacity while providing comments and proper justification when deviation from the available scoring range(s) is appropriate.

I. Social Factors

The Court recognizes the many nuances that initially contribute to a party filing a petition for protection of a vulnerable person and provides some examples as follows:

- The Estate or proposed Ward/Protected Person' stability is in a state of flux.
- The family members may find they need to make decisions outside of the scope of their previous experience for a loved one.
- The Ward/PP may need someone to advocate and take charge to stabilize their placement, health or financial well-being.

The previous issues arising prior to the filing of a petition for protection are often intense and stressful. There is an adjustment period and learning curve that gradually helps the family and the Ward/PP become more familiar with one another in their new roles. Issues are frequently resolved over time. Many cases progress to a level of stability.

During the investigation for determination of need of guardian and/or conservator the investigator will have an opportunity to observe the interaction of the proposed Ward/PP within their support structure. The investigator's interviews with the Ward/PP, petitioner, and the available caregivers, family, friends and associates will help determine if it appears there are potential risks identified within the Ward/PP's current social structure.

Likewise, proposed Wards/PP's who have a history of being highly active within their current social structure are likely to have a harder time adjusting to the initial changes brought on by changes in residency and social structure. The losses in autonomy and inability to make independent decisions are significant and may warrant additional post appointment monitoring to ensure autonomy is preserved to the greatest extent possible. Least restrictive alternatives and best interest standards are required by Law.

II. Residential

Routinely, there is a direct correlation between the proposed Ward/PP's residential environment and their current level of stability. The unique circumstances of each individual situation and the proposed Ward/PP's lifestyle preferences contribute significantly to what is safe for one person versus another. Person's at risk of being evicted or discharged unsafely will have a higher for post-appointment follow up. Persons with a history of being electively chronically homeless may be at a lesser risk as this may be more of a preferred lifestyle than a deprivation of structured living. Persons residing with family may in some instances be a stabilizer but in other instances be a higher risk factor depending on the dynamics and available resources and support. Proposed Wards/PP's residing in a licensed institution receives some staffing oversight. Licensed facilities are also subject to the Ombudsman program and have a Resident's Bill of Rights. Complaints are investigated by the Arizona Department of Health Services (ADHS).

III. Guardian/Conservator and Ward/PP Interdependency Issues

A guardian and/or conservator may be residing with the proposed Ward/PP or have become dependent on income or resources of the Ward/PP to address the day to day household expenses. It is sometimes conceptually hard for the petitioner to understand the "new" standards they will be held to as a steward of a vulnerable adult's well being, income or resources. What is in the "best interest" of the Ward/PP may not align with what has been happening historically, pre-adjudication. To the degree possible, the Investigator needs to assess whether there are current

trends that demonstrate these inherent risk factors elevate the need for post-appointment monitoring and make recommendations accordingly.

IV. Legal

The investigator can usually assess whether legal counsel for the Ward/PP will continue by contacting the attorney and asking them what their intentions are. The Ward/PP having legal representation beyond the initial court appointment has an additional layer of legal advocacy and potential oversight available to them. The size of the Estate, case complexities and cost to benefit analysis is usually applied to determine if it is in the proposed Ward/PP's best interest to have continued legal representation. Legal advocacy services provided by the Ward/PP's counsel include the review of the timely filing of guardian/conservator annual reports, inventories, budgets and accounts.

Similarly, when the fiduciary has legal representation it may aid in ensuring some level of guidance for meeting the first year mandatory requirements and general legal guidance throughout the fiduciary's administration. Pro per guardians/conservators may have to seek assistance to complete the first annual mandatory reports and accounts. They may be at more risk of non-compliance with mandatory reporting.

The petitioner with a criminal history in and of itself does not prohibit them from serving as guardian and/or conservator, unless they are an Arizona licensed fiduciary. The court will take into consideration the nature of any criminal history and the duties being delegated by the court prior to appointing a guardian and/or conservator with a criminal history.

*To determine if the petitioner has a poor credit history or is unbondable, the Investigator will need to largely depend on information provided by the petitioner during their interview.

V. Government Entitlement Programs with Advocacy/Auditing Features

A Ward with Federal government entitlements (SSA/VA) has a federal representative payee appointed. The federal government Representative Payee is responsible to prepare and submit an annual summary accounting/report. The report provides some oversight of how much money is spent for the Ward/PP's annual housing, care, personal needs, fiduciary fees and savings accrued. A Ward/PP with government

income entitlements has some inherent oversight for the accountability of this income via the annual reports filed with the federal entity.

A Ward/PP with AZ government entitlements (ALTCS, DES/DDD, RBHS) has a case manager assigned who performs routine case visits and reports back to the government agency as to the Wards well being within the jurisdiction of that specific program. Arizona Long Term Care System (ALTCS) contracts out case management services and the case manager visits quarterly and completes documentation as to the medical, pharmaceutical and overall care plan needs of the Ward/PP. The Department of Economic Securities, Division of Developmental Disability (DES/DDD) provides case managers who oversee the Ward/PP's programming and residential needs to ensure the Individual Service Plan (ISP) is being properly maintained by all of the state's contract providers and the guardian/conservator. Quarterly multi-disciplinary meetings are conducted to ensure the plans goals and objectives for the Ward/PP are being implemented. The Regional Behavioral Health Authority (RBHA) for the region within Arizona where the Ward/PP resides has assigned case management services, day treatment programming, pharmaceutical support and medical group staffing(s). The Ward/PP who is eligible for some level of these services has improved oversight and more frequent contact with the public.

Scoring the Risk Assessment: The Investigator totals the categories I – V and calculates the total score at the bottom of Page No. 2. The corresponding box for the matching range is selected. One Score Range Box is selected from the categories Minimal Risk, Moderate Risk, Maximum Risk.

SCORE RANGE CALCULATION AND RECOMMENDED COURT ACTION INSTRUCTIONS - PAGE NO. 3

The "Score Range Calculation and Recommended Court Action" has two selection boxes to allow the court investigator to check the one box most aligned with the court investigator's final conclusion and recommendation pursuant to the duties prescribed in A.R.S. § 14-5303 and § 14-5407.

Guardianship/Conservatorship Is Recommended - If this box is selected then proceed to complete the recommendation from page 3 or 4 of the Risk Assessment Tool.

Guardianship/Conservatorship Not Recommended - If this box is selected then proceed to the bottom of page 4, sign and complete the data requested and file the form with the court as a supplement to the "Court Investigator's Report" with the "Confidential Envelope."

Select Risk Level – Select the one risk area that is being recommended to the Court (Minimum Risk, Moderate Risk, Maximum Risk) from page 3 or page 4. Add any comments, if desired, to further support the recommendation. If necessary, the Court Investigator can provide additional comments or resource information by attaching a narrative and identifying the specific area being addressed within the source document.

Selecting the Recommended Post Appointment Action

The balancing of the guardianship and/or conservatorship case to the appropriate level of post-appointment oversight is key to the court's success in post appointment Ward/Protected Person and Fiduciary case monitoring. The Investigator needs to make the best recommendation based on the information reasonable available.

Minimum Risk/Moderate Risk - Recommended Court Action(s)

Court to Determine Post Appointment Monitoring Upon Review of the Next Report of Guardian or Account of Conservator

In some unique situations, a recommendation of "Court to Determine Post Appointment Monitoring Upon Review of the Next Report of Guardian or Account of Conservator" is a valid recommendation. The investigator can provide a brief explanation in the comments section.

Ward/Protected Person Visit and Short Questionnaire Completed

The Investigator conducts a Ward/PP interview using a checklist "Short Questionnaire" and allows for brief narrative notes and a recommendation regarding future monitoring. The questionnaire is Ward/PP focused and is not intended to be a full comprehensive assessment or an interview of multiple disciplines.

Guardian/Conservator Visit or Telephonic Interview and Short Questionnaire Completed

The Investigator conducts a fiduciary interview using a checklist "Short Questionnaire" and allows for brief narrative notes and a recommendation regarding future monitoring. The questionnaire is focused on the fiduciary's report of the Ward/PP's wellbeing and current financial situation and does not imply a verification of fact has occurred regarding the information obtained during the fiduciary interview. This selection is not intended to be a full comprehensive assessment or a lengthy interview of the fiduciary. This selection does provide an opportunity to provide some support to the fiduciary who expresses a need and to further direct the fiduciary to Web based court forms and related guardianship and conservatorship internet links.

□ Remote Interview by Video Conferencing or In-Person Interview with Ward/PP and Court Status Report Required (Check Resource Availability)

The Investigator conducts a remote interview by video conferencing or in-person Ward/PP interview using a checklist "Short Questionnaire" and allows for brief narrative notes and a recommendation regarding future monitoring. The questionnaire is Ward/PP focused and is not intended to be a full comprehensive assessment or an interview of multiple disciplines.

□ Financial Statement/Asset Verification Filed w/Court

A record(s) verification would be performed by the assigned investigator with the financial institution, investment company or broker, or through the Recorders office to ensure assets and bank accounts had proper restrictions and were titled and held in a form consistent with the ownership interest and court order. Insurance verification may be performed on assets that require protection from loss or damage. Information can be obtained from the fiduciary if it cannot be obtained otherwise. Financial records should have a date stamp and source reference identifying their authenticity.

Note: The next two recommendations are only available to Court's using Triage Model "B" that allows for non-mandatory post appointment monitoring.

□ Telephonic Interview of Ward/PP and/or Fiduciary and Court Status Report Required

The assigned Investigator would contact the Ward/PP or the Guardian and/or Conservator and perform a brief interview and file a brief narrative status report. The report will specifically address any key issues identified at the onset of the new appointment critical to the individual case and verify the fiduciary is aware of their duties consistent with the "Court Order to Guardians and/or Conservators and Acknowledgement." The assigned investigator would verify both the fiduciary and Ward/PP's address(es). In the event the address is not current, the assigned investigator would provide the court with the current address and contact the fiduciary and advise them they are non-compliant with the "Probate Information Form" requirement. The assigned investigator may provide the fiduciary a reference to locating the form to encourage filing.

This is also an opportunity for the fiduciary to ask any questions regarding the preparing of the mandatory reports and the assigned investigator may be a liaison to aid compliance.

□ No Post Appointment Independent Case Review or Follow-Up Recommended

**SCORE RANGE CALCULATION AND RECOMMENDED COURT ACTION
INSTRUCTIONS - PAGE NO. 4**

Maximum Risk - Recommended Court Action (Score Range 37-56)

- Ward/Protected Person Visit and Long Questionnaire completed and filed
- Guardian and/or Conservator Interview and Long Questionnaire completed and filed
- Provider Interview and Questionnaire completed and filed
- Case Compliance Audit Performed

The assigned investigator would canvas the court docket and court file and complete a mandatory report status grade card. This would establish the fiduciary's timeliness in complying with their mandatory obligations. A lack of timeliness may result in subsequent court fees and fines to the fiduciary.

Forensic Investigation:

A detailed examination of financial records verified with supporting documents to determine if there are any defalcations, misappropriations or neglectful asset management.

Specific areas that may be directed by the court for a forensic investigation are: conservator account reports, financial statements, tax compliance, or asset verifications

Investigator Final Recommendation to the Court (Bottom of page 4)

1. Select the applicable box or boxes being recommended
2. Sign and date
3. Print your name
4. Post the date from the legal document of your appointment date
5. Post the date you are filing the document with the court
6. Comply with the Confidential Envelope requirements pursuant to the Arizona Rules of Probate Procedure, Rule 7.

**COURT ACTION
INSTRUCTIONS - PAGE NO. 5**

This section is completed by the court. The court has the final discretion in determining the appropriate level of case review or monitoring and the selection of the designee.

Types of Designees

A court appointed designee will have a "court appointed investigator" status as granted in the Court's Order enabling the designee to perform the Independent Case Review or other Court action. The Designees suggested like Court Appointed Counsel, Court Staff, Public Fiduciary, Court Investigator already have some court related functions and accountability and the assignment to perform a telephonic interview and file a report or provide an accompanying bank statement when applicable, would result in minimal time and little to no expense depending on the Court's volume of probate cases.

Volunteer Court Visitor - The completion of a Ward/PP visit and completion of a short form questionnaire by a volunteer visitor would result in satisfying the judicial monitoring obligation with minimal to no cost to the Court or Estate. Maricopa County Superior Court has a Volunteer Visitor Program actively in operation. Rural counties may be able to develop some volunteers through CASA, Victim Witness, retirees or Area Agency on Aging programs to facilitate this level of post appointment visitation and reporting.

Independent Contract Investigator/Auditor – The designees performing these services would be independent contractors and would be procured similar to contract counsel. The court appointed designee would require more time and fact gathering, forensic analysis and result in lengthier reporting. This would be most expensive level of monitoring due to the higher risk assessed.

*In Maricopa County, the duties of post appointment court monitoring are delegated among several disciplines, e.g. accounting, examiners and investigators, or the Guardian Review Project. The Court may select more than one box in appointing a designee.

Once a first post appointment visit has been conducted the report can advise the Court if annual, biennial or triennial visits are recommended accordingly.

Triage Model "A" or Triage Model "B"

The Court has an option to choose between Triage Model "A" or Triage Model "B". In addition, the Court, in their discretion, may specifically direct a task to be performed by the post appointment independent case review investigator. Some key issues for specific follow-up to be determined by the court are listed on page "Court's Section" Page No. 5. "Key Issue(s) Pending Verification."

- Minor still attending school of record
- Minor still residing with custodian of record
- Minor's address, telephone and email confirmed
- Minor not at risk of residential displacement
- Fiduciary's address, telephone and email confirmed
- Fiduciary's place of employment verified
- Fiduciary not at risk of foreclosure or eviction
- Fiduciary has proof of medical provider and insurance for Ward
- Fiduciary needs assistance in initial preparation of first annual mandatory reports
- Other: _____

9.0 National Probate Court Standards Specific to Court Oversight and Monitoring:

On July 11, 2001, the Arizona Supreme Court formally adopted the National Probate Court Standards that were developed by the Commission on National Probate Standards, first published in 1999, and directed that these national standards "shall govern probate cases in the superior court." [Administrative Order 2001-63]

Standard 1.3.4, Responsibility for Enforcement

The probate court should be responsible for the enforcement of its orders.

Standard 3.3.15 Monitoring of the Guardian

The probate court should have written policies and procedures to ensure the prompt review of reports and requests filed by guardians

Standard 3.3.17 Enforcement

(a) The probate court should enforce its orders by appropriate means, including the imposition of sanctions. These may include suspension, contempt, removal, and appointment of a successor.

(b) Where the court learns of a missing, neglected, or abused respondent, it should take immediate action to ensure the safety and welfare of that respondent.

Standard 3.4.15 Reports by the Conservator

(a) A conservator should be required to file with the probate court an inventory of the respondent's assets and a statement setting forth a plan to meet the respondent's needs and to allocate resources for those needs, with annual accountings or updates provided by the conservator thereafter.

(b) A conservator should seek initial approval from the court for any significant distributions for the respondent's maintenance and support, and obtain the court's permission before making any significant deviations from the initially approved plan. When considering such applications, the court should balance the immediate benefit of permitting the requested disbursement against the prudence of conserving the respondent's assets for future use.

Standard 3.4.16 Monitoring of the Conservator

The probate court should have written policies and procedures to ensure the prompt review of reports and requests filed by conservators.

1 Proposed Forms

2 Order – Appointing Investigator for Post Appointment Independent Case Review

3 Name: _____

4 Address: _____

5 City, State, Zip: _____

6 Phone: _____

7 Comp.# (if applicable): _____

8 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

9 IN AND FOR THE COUNTY OF _____

10
11 In the Matter of the Guardianship for and/or
12 Conservatorship of:
13 Minor/Protected Person/Incapacitated
14 Person

Cause No.
ORDER APPOINTING INVESTIGATOR FOR
POST APPOINTMENT INDEPENDENT CASE
REVIEW/INVESTIGATION

15 Adult Minor

16 Upon good cause found,

17 IT IS ORDERED:

18
19 (A) Appointing _____, the following Court designee as the court
20 investigator to conduct a post appointment independent case review:

- 21 Court appointed Counsel (CAC)
- 22 Public Fiduciary
- 23 Court staff
- 24 Court Accountant
- 25 Court Examiner
- 26 Court Investigator
- 27 Independent Contract Investigator/Auditor

28

1	<input type="checkbox"/> Volunteer Program (GRP)	
2	(B) The investigator shall conduct a court appointed investigation and independent case	
3	review and file the appropriate report as follows:	
4	<input type="checkbox"/> Court to Determine Post Appointment Monitoring Upon Review of the Next Report of	
5	Guardian or Account of Conservator	
6	<input type="checkbox"/> Ward/PP Visit and Short Questionnaire Completed	
7	<input type="checkbox"/> Remote Interview of Ward/PP by Video Conferencing and Short Questionnaire	
8	Completed	
9	<input type="checkbox"/> Guardian/Conservator Visit or Telephonic Interview and Short Questionnaire	
10	Completed	
11	<input type="checkbox"/> Financial Statement/Asset Verification Filed w/Court	
12	<input type="checkbox"/> Ward/Protected Person Visit and Long Questionnaire completed and filed	
13	<input type="checkbox"/> Guardian and/or Conservator Interview and Long Questionnaire completed and filed	
14	<input type="checkbox"/> Court Compliance Audit Performed - Accountings, Annual Guardian Report(s), Inventory	
15	<input type="checkbox"/> Forensic Investigation: (This section only applicable to post appointment risk	
16	assessments performed after the initial appointment due to indicators discovered that	
17	potential abuse, neglect or financial exploitation has occurred.)	
18		
19	<input type="checkbox"/> Court Accountings Accuracy and Compliance <input type="checkbox"/> Financial Statements Verification	
20	<input type="checkbox"/> Tax Compliance <input type="checkbox"/> Assets Verification <input type="checkbox"/> Other: _____	
21	Triage Model "B" Exceptions: (These two electives are not applicable to Triage Model "A" –	
22	Mandatory Post Appointment Court Monitoring)	
23	<input type="checkbox"/> Telephonic Interview of Guardian/Conservator and Court Status Report Required	
24	<input type="checkbox"/> No Post Appointment Independent Case Review or Follow-Up	
25	(C) Ordering, the investigator to verify the following information and include their discovery in	
26	their report to the Court as follows:	
27	<input type="checkbox"/> Minor still attending school of record	
28		

- 1 Minor still residing with custodian of record
- 2 Minor's address, telephone and email confirmation
- 3 Fiduciary's employer verified
- 4 Minor not at risk of residential displacement
- 5 Fiduciary's address, telephone and email confirmation
- 6 Fiduciary not at current risk of foreclosure or eviction
- 7 Fiduciary provide proof of medical provider and insurance for Ward/PP/Minor

8 (D) All agencies shall cooperate with the Court appointed Investigator, in
 9 performing their investigation, and the Court appointed Investigator shall have full access
 10 to the records and information belonging to the Ward/Protected Person/Minor specified in
 11 this Order necessary to complete the independent case review investigation.

- 12 Investigations, case management records and status reports;
- 13 Medical records;
- 14 Financial account/asset verification;
- 15 School/employment records;
- 16 Other: _____

17 (E) All financial institutions shall provide copies of financial information and as
 18 requested by the Court appointed Investigator regarding accounts held by or for _____
 19 _____ Ward/Minor/Protected Person.

20 (F) The investigator shall file a written report as to their findings and recommendations
 21 for the ward/protected person/Minor, _____ [Name] _____ by _____ [Date] _____.

22 DATED this _____ day of _____

23
 24
 25
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 27 _____
 28 HONORABLE
 Judicial Officer of the Arizona Superior Court
 Division #

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2	Copies of the foregoing were mailed/delivered	
3	This _____ day of _____, _____ to:	
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Appendix E

SENATE BILL 1499

AN AC AMENDING TITLE 14, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 14-1101, 14-1104, 14-1105, 14-1108 AND 14-1109; AMENDING SECTIONS 14-1201 AND 14-5108, ARIZONA REVISED STATUTES; AMENDING TITLE 14, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 14-5109 AND 14-5110; AMENDING SECTIONS 14-5303, 14-5304, 14-5306, 14-5307, 14-5308, 14-5309, 14-5310, 14-5311, 14-5313, 14-5315, 14-5401, 14-5401.01, 14-5404, 14-5405, 14-5407 AND 14-5410, ARIZONA REVISED STATUTES; REPEALING SECTION 14-5415, ARIZONA REVISED STATUTES; AMENDING TITLE 14, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 14-5415; AMENDING SECTIONS 14-5418, 14-5419, 14-5651, 14-5652 AND 14-10706, ARIZONA REVISED STATUTES; RELATING TO PROBATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ARIZONA:

SECTION 1. TITLE 14, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, IS AMENDED BY ADDING SECTIONS 14-1101, 14-1104, 14-1105, 14-1108 AND 14-1109, TO READ:

14-1101. TRAINING

A JUDICIAL OFFICER PRESIDING OVER PROCEEDINGS BROUGHT PURSUANT TO THIS TITLE MUST PARTICIPATE IN TRAINING AS PRESCRIBED BY THE SUPREME COURT.

14-1104. PRUDENT MANAGEMENT OF COSTS

IN A PROCEEDING BROUGHT PURSUANT TO THIS TITLE:

1. THE FIDUCIARY MUST PRUDENTLY MANAGE COSTS, PRESERVE THE ASSETS OF THE WARD OR PROTECTED PERSON FOR THE BENEFIT OF THE WARD OR PROTECTED PERSON AND PROTECT AGAINST INCURRING ANY COSTS THAT EXCEED PROBABLE BENEFITS TO THE WARD, PROTECTED PERSON, DECEDENT'S ESTATE OR TRUST, EXCEPT AS OTHERWISE DIRECTED BY A GOVERNING INSTRUMENT OR COURT ORDER.

2. A GUARDIAN AD LITEM, FIDUCIARY, FIDUCIARY'S ATTORNEY AND ATTORNEY FOR THE WARD OR PROTECTED PERSON HAVE A DUTY TO:

(A) ACT IN THE BEST INTEREST OF THE WARD OR PROTECTED PERSON.

(B) AVOID ENGAGING IN EXCESSIVE OR UNPRODUCTIVE ACTIVITIES.

(C) AFFIRMATIVELY ASSESS THE FINANCIAL COST OF PURSUING ANY ACTION COMPARED TO THE REASONABLY EXPECTED BENEFIT TO THE WARD OR PROTECTED PERSON.

3. MARKET RATES FOR GOODS AND SERVICES ARE A PROPER, ONGOING CONSIDERATION FOR THE FIDUCIARY AND THE COURT DURING THE INITIAL COURT APPOINTMENT OF A FIDUCIARY OR ATTORNEY AND RELATING TO A REQUEST TO SUBSTITUTE A COURT-APPOINTED FIDUCIARY OR ATTORNEY.

14-1105. REMEDIES FOR UNREASONABLE OR ABUSIVE CONDUCT; DEFINITIONS

A. IF THE COURT FINDS THAT A DECEDENT'S ESTATE OR TRUST HAS INCURRED PROFESSIONAL FEES OR EXPENSES AS A RESULT OF UNREASONABLE CONDUCT, THE COURT MAY ORDER THE PERSON WHO ENGAGED IN THE CONDUCT OR THE PERSON'S ATTORNEY, OR BOTH, TO PAY THE DECEDENT'S ESTATE OR TRUST FOR SOME OR ALL OF THE FEES AND EXPENSES AS THE COURT DEEMS JUST UNDER THE CIRCUMSTANCES.

B. IN A GUARDIANSHIP OR CONSERVATORSHIP CASE, IF THE COURT FINDS THAT A WARD OR PROTECTED PERSON HAS INCURRED PROFESSIONAL FEES OR EXPENSES AS A RESULT OF UNREASONABLE CONDUCT, THE COURT MAY ORDER THE PERSON WHO ENGAGED IN THE CONDUCT OR THE PERSON'S ATTORNEY, OR BOTH, TO PAY THE WARD OR PROTECTED PERSON FOR SOME OR ALL OF THE FEES AND EXPENSES AS THE COURT DEEMS JUST UNDER THE CIRCUMSTANCES.

C. THE REMEDIES PERMITTED PURSUANT TO THIS SECTION ARE IN ADDITION TO ANY OTHER CIVIL REMEDY OR ANY OTHER PROVISION OF LAW. THE REMEDIES PERMITTED PURSUANT TO THIS SECTION MAY BE INVOKED TO MITIGATE THE FINANCIAL BURDEN ON A WARD, PROTECTED PERSON, DECEDENT'S ESTATE OR TRUST INCURRED AS A RESULT OF UNJUSTIFIED COURT PROCEEDINGS OR UNREASONABLE OR EXCESSIVE DEMANDS MADE ON A FIDUCIARY, FIDUCIARY'S ATTORNEY, COURT-APPOINTED ATTORNEY OR REPRESENTATIVE.

D. FOR THE PURPOSES OF THIS SECTION:

1. "COURT-APPOINTED ATTORNEY" MEANS AN ATTORNEY APPOINTED PURSUANT TO SECTION 14-5303, SUBSECTION C, SECTION 14-5310, SUBSECTION C, SECTION 14-5401.01, SUBSECTION C OR SECTION 14-5407, SUBSECTION B.

2. "FIDUCIARY" MEANS AN AGENT UNDER A DURABLE POWER OF ATTORNEY, AN AGENT UNDER A HEALTH CARE POWER OF ATTORNEY, A GUARDIAN, A

CONSERVATOR, A PERSONAL REPRESENTATIVE, A TRUSTEE OR A GUARDIAN AD LITEM.

3. "PERSON WHO ENGAGED IN THE CONDUCT" INCLUDES A FIDUCIARY, AN ATTORNEY OR A GUARDIAN AD LITEM.

4. "PROFESSIONAL" MEANS AN ACCOUNTANT, AN ATTORNEY, A FIDUCIARY, A PHYSICIAN, A PSYCHOLOGIST, A REGISTERED NURSE, A GUARDIAN AD LITEM OR AN EXPERT WITNESS.

5. "PROFESSIONAL FEES OR EXPENSES" INCLUDES THE FIDUCIARY'S FEES AND EXPENSES AND THE FIDUCIARY'S ATTORNEY FEES AND EXPENSES, AS WELL AS THE FEES AND EXPENSES OF ANY OTHER PROFESSIONALS HIRED BY THE FIDUCIARY OR THE FIDUCIARY'S ATTORNEY.

14-1108. ARBITRATION OF DISPUTES; ALTERNATIVE DISPUTE RESOLUTION
IN A PROCEEDING BROUGHT PURSUANT TO THIS TITLE, AFTER THE INITIAL APPOINTMENT OF A FIDUCIARY, THE COURT MAY REQUIRE ARBITRATION OF A DISPUTE PURSUANT TO THE REQUIREMENTS OF SECTION 12-133, SUBSECTIONS B THROUGH K, OR ORDER ALTERNATIVE DISPUTE RESOLUTION.

14-1109. REPETITIVE FILINGS; SUMMARY DENIAL

IF AN INTERESTED PERSON FILES A MOTION OR PETITION THAT REQUESTS THE SAME OR SUBSTANTIALLY SIMILAR RELIEF TO THE RELIEF REQUESTED IN ANOTHER MOTION OR PETITION FILED BY THE SAME INTERESTED PERSON WITHIN THE PRECEDING TWELVE MONTHS AND IF THE LATER FILED MOTION OR PETITION DOES NOT DESCRIBE IN DETAIL A CHANGE IN FACT OR CIRCUMSTANCE THAT SUPPORTS THE REQUESTED RELIEF, THE COURT MAY SUMMARILY DENY THE MOTION OR PETITION WITHOUT A RESPONSE OR OBJECTION BEING FILED AND WITHOUT A HEARING OR ORAL ARGUMENT BEING SET.

Sec. 2. Section 14-1201, Arizona Revised Statutes, is amended to read:

14-1201. Definitions

In this title, unless the context otherwise requires:

1. "Agent" includes an attorney-in-fact under a durable or nondurable power of attorney, a person who is authorized to make decisions concerning another person's health care and a person who is authorized to make decisions for another person under a natural death act.

2. "Application" means a written request to the registrar for an order of informal probate or appointment under chapter 3, article 3 of this title.

3. "BASIS FOR COMPENSATION" MEANS HOURLY RATE, A FIXED FEE OR A CONTINGENCY FEE AGREEMENT AND REIMBURSABLE COSTS.

~~3.~~ 4. "Beneficiary", as it relates to a trust beneficiary, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer. As it relates to a charitable trust, beneficiary includes any person entitled to enforce the trust. As it relates to a beneficiary of a beneficiary designation, beneficiary refers to a beneficiary of an insurance or annuity policy, an account with pay on death designation, a security registered in beneficiary form or a pension, profit sharing, retirement or similar benefit plan, or any other nonprobate transfer at death. As it relates to a beneficiary designated in a governing instrument, beneficiary includes a grantee of a deed, a devisee, a trust beneficiary, a beneficiary of a beneficiary designation, a donee, appointee or taker in default of a power of appointment and a person in whose favor a power of attorney or a power held in any person, fiduciary or representative capacity is exercised.

~~4.~~ 5. "Beneficiary designation" refers to a governing instrument naming a beneficiary of an insurance or annuity policy, of an account with pay on death designation, of a security registered in beneficiary form or of a pension, profit sharing, retirement or similar benefit plan, or any other nonprobate transfer at death.

~~5.~~ 6. "Child" includes a person who is entitled to take as a child under this title by intestate succession from the parent whose relationship is involved. Child excludes a person who is only a stepchild, a foster child, a grandchild or a more remote descendant.

~~6.~~ 7. "Claims", in respect to estates of decedents and protected persons, includes liabilities of the decedent or the protected person, whether arising in contract, in tort or otherwise, and liabilities of the estate that arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration. Claims do not include estate or inheritance taxes or demands or disputes regarding title of a decedent or a protected person to specific assets alleged to be included in the estate.

~~7.~~ 8. "Community property" means that property of a husband and wife that is acquired during the marriage and that is community property as prescribed in section 25-211.

~~8.~~ 9. "Conservator" means a person who is appointed by a court to manage the estate of a protected person.

~~9.~~ 10. "Court" means the superior court.

~~10.~~ 11. "Dependent child" means a minor child ~~who~~ WHOM the decedent was obligated to support or an adult child who was in fact being supported by the decedent at the time of the decedent's death.

~~11.~~ 12. "Descendant" means all of the decedent's descendants of all generations, with the relationship of parent and child at each generation.

~~12.~~ 13. "Devise", when used as a noun, means a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will.

~~13.~~ 14. "Devisee" means a person designated in a will to receive a devise. For the purposes of chapter 3 of this title, in the case of a devise to an existing trust or trustee, or to a trustee on trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

~~14.~~ 15. "Disability" means cause for a protective order as described in section 14-5401.

~~15.~~ 16. "Distributee" means any person who has received property of a decedent from that person's personal representative other than as a creditor or purchaser. Distributee includes a testamentary trustee only to the extent of distributed assets or increment that remains in that person's hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For the purposes of this paragraph, "testamentary trustee" includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

~~16.~~ 17. "Estate" includes the property of the decedent, trust or other person whose affairs are subject to this title as originally constituted and as it exists from time to time during administration. As it relates to a spouse, the estate includes only the separate property and the share of the community property belonging to the decedent or person whose affairs are subject to this title.

~~17.~~ 18. "Exempt property" means that property of a decedent's estate that is described in section 14-2403.

~~18.~~ 19. "Fiduciary" includes a personal representative, guardian, conservator and trustee.

~~19.~~ 20. "Foreign personal representative" means a personal representative appointed by another jurisdiction.

~~20.~~ 21. "Formal proceedings" means proceedings conducted before a judge with notice to interested persons.

~~21.~~ 22. "Governing instrument" means a deed, will, trust, insurance or annuity policy, account with pay on death designation, security registered in beneficiary form, pension, profit sharing, retirement or similar benefit plan, instrument creating or exercising a power of appointment or a power of attorney or a dispositive, appointive or nominative instrument of any similar type.

~~22.~~ 23. "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment but excludes a person who is merely a guardian ad litem.

24. "GUARDIAN AD LITEM" INCLUDES A PERSON WHO IS APPOINTED PURSUANT TO SECTION 14-1408.

~~23.~~ 25. "Heirs", except as controlled by section 14-2711, means persons, including the surviving spouse and the state, who are entitled under the statutes of intestate succession to the property of a decedent.

~~24.~~ 26. "Incapacitated person" has the same meaning prescribed in section 14-5101.

~~25.~~ 27. "Informal proceedings" means those proceedings conducted without notice to interested persons by an officer of the court acting as a registrar for probate of a will or appointment of a personal representative.

~~26.~~ 28. "Interested person" includes any trustee, heir, devisee, child, spouse, creditor, beneficiary, person holding a power of appointment and other person who has a property right in or claim against a trust estate or the estate of a decedent, ward or protected person. Interested person also includes a person who has priority for appointment as personal representative and other fiduciaries representing interested persons. Interested person, as the term relates to particular persons, may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

~~27.~~ 29. "Issue" of a person means descendant as defined in this section.

~~28.~~ 30. "Joint tenants with the right of survivorship" and "community property with the right of survivorship" includes co-owners of property held under circumstances that entitle one or more to the whole of the property on the death of the other or others but excludes forms of co-ownership registration in which the underlying ownership of each party is in proportion to that party's contribution.

~~29.~~ 31. "Lease" includes any oil, gas or other mineral lease.

~~30.~~ 32. "Letters" includes letters testamentary, letters of guardianship, letters of administration and letters of conservatorship.

~~31.~~ 33. "Minor" means a person who is under eighteen years of age.

~~32.~~ 34. "Mortgage" means any conveyance, agreement or arrangement in which property is encumbered or used as security. Mortgage does not include leases or easements.

~~33.~~ 35. "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of the decedent's death.

~~34.~~ 36. "Organization" means a corporation, limited liability company, business trust, estate, trust, partnership, joint venture, association, government or governmental subdivision or agency or any other legal or commercial entity.

~~35.~~ 37. "Parent" includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under this title by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, foster parent or grandparent.

~~36.~~ 38. "Payor" means a trustee, insurer, business entity, employer, government, governmental agency or subdivision or any other person who is authorized or obligated by law or a governing instrument to make payments.

~~37.~~ 39. "Person" means an individual or an organization.

~~38.~~ 40. "Personal representative" includes executor, administrator, successor personal representative, special administrator and persons who perform substantially the same function under the law governing their status. A general personal representative excludes a special administrator.

~~39.~~ 41. "Petition" means a written request to the court for an order after notice.

~~40.~~ 42. "Proceeding" includes action at law and suit in equity.

~~41.~~ 43. "Property" has the same meaning prescribed in section 14-10103.

~~42.~~ 44. "Protected person" has the same meaning prescribed in section 14-5101.

~~43.~~ 45. "Protective proceeding" has the same meaning prescribed in section 14-5101.

~~44.~~ 46. "Registrar" means the official of the court designated to perform the functions of registrar as provided in section 14-1307.

~~45.~~ 47. "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under that title or lease, collateral trust certificate, transferable share or voting trust certificate and, in general, includes any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of these securities.

~~46.~~ 48. "Separate property" means that property of a husband or wife that is the spouse's separate property as defined in section 25-213.

~~47.~~ 49. "Settlement", in reference to a decedent's estate, includes the full process of administration, distribution and closing.

~~48.~~ 50. "Special administrator" means a personal representative as described by sections 14-3614 through 14-3618.

~~49.~~ 51. "State" has the same meaning prescribed in section 14-10103.

~~50.~~ 52. "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

~~51.~~ 53. "Successors" means persons, other than creditors, who are entitled to property of a decedent under a will or this title.

~~52.~~ 54. "Supervised administration" refers to the proceedings described in chapter 3, article 5 of this title.

~~53.~~ 55. "Survive" means that a person has neither predeceased an event, including the death of another person, nor is deemed to have predeceased an event under section 14-2104 or 14-2702.

~~54.~~ 56. "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

~~55.~~ 57. "Testator" includes a person of either sex.

~~56.~~ 58. "Trust" includes an express trust, private or charitable, with any additions, wherever and however created. Trust also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. Trust excludes other constructive trusts and excludes resulting trusts, conservatorship, personal representatives, trust accounts, custodial arrangements pursuant to chapter 7, article 7 of this title, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions or employee benefits of any kind, trusts created by a city or town for the payment of medical insurance, health care benefits or expenses, long-term or short-term disability, self insurance reserves and similar programs administered by a city or town, legal defense trusts and any arrangement under which a person is nominee or escrowee for another.

~~57.~~ 59. "Trustee" includes an original, additional or successor trustee, whether or not appointed or confirmed by THE court.

~~58.~~ 60. "Ward" has the same meaning prescribed in section 14-5101.

~~59.~~ 61. "Will" includes a codicil and any testamentary instrument that merely appoints an executor, revokes or revises another will, nominates a guardian or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.

Sec. 3. Section 14-5108, Arizona Revised Statutes, is amended to read:

14-5108. Guardianship of foreign citizens

The court may appoint ~~an adult as the~~ A guardian of a AN ADULT foreign citizen if all of the following are true:

1. The foreign citizen is under twenty-one years of age.
2. The foreign citizen has a temporary visa issued by the United States or is a legal permanent resident.

Sec. 4. Title 14, chapter 5, article 1, Arizona Revised Statutes, is amended by adding sections 14-5109 and 14-5110, to read:

14-5109. DISCLOSURE OF COMPENSATION; DETERMINING REASONABLENESS AND NECESSITY

A. WHEN A GUARDIAN, A CONSERVATOR, AN ATTORNEY OR A GUARDIAN AD LITEM WHO INTENDS TO SEEK COMPENSATION FROM THE ESTATE OF A WARD OR PROTECTED PERSON FIRST APPEARS IN THE PROCEEDING, THAT PERSON MUST GIVE WRITTEN NOTICE OF THE BASIS OF THE COMPENSATION BY FILING A STATEMENT WITH THE COURT AND PROVIDING A COPY OF THE STATEMENT TO ALL PERSONS ENTITLED TO NOTICE PURSUANT TO SECTIONS 14-5309 AND 14-5405. THE STATEMENT MUST PROVIDE A GENERAL EXPLANATION OF THE COMPENSATION ARRANGEMENT AND HOW THE COMPENSATION WILL BE COMPUTED.

B. IF DURING THE PENDENCY OF THE ACTION THE BASIS FOR COMPENSATION CHANGES, THE GUARDIAN, CONSERVATOR, ATTORNEY OR GUARDIAN AD LITEM MUST PROVIDE NOTICE OF THE CHANGE TO ALL PERSONS ENTITLED TO NOTICE PURSUANT TO THIS SUBSECTION NOT LESS THAN THIRTY DAYS BEFORE THE CHANGE BECOMES EFFECTIVE.

C. COMPENSATION PAID FROM AN ESTATE TO A GUARDIAN, CONSERVATOR, ATTORNEY OR GUARDIAN AD LITEM MUST BE REASONABLE AND NECESSARY. TO DETERMINE THE REASONABLENESS AND NECESSITY OF COMPENSATION, THE COURT MUST CONSIDER THE BEST INTEREST OF THE WARD OR PROTECTED PERSON. THE FOLLOWING FACTORS MAY BE CONSIDERED TO THE EXTENT APPLICABLE:

1. WHETHER THE SERVICES PROVIDED ANY BENEFIT OR ATTEMPTED TO ADVANCE THE BEST INTEREST OF THE WARD OR PROTECTED PERSON.
2. THE USUAL AND CUSTOMARY FEES CHARGED IN THE RELEVANT PROFESSIONAL COMMUNITY FOR THE SERVICES.
3. THE SIZE AND COMPOSITION OF THE ESTATE.

4. THE EXTENT THAT THE SERVICES WERE PROVIDED IN A REASONABLE, EFFICIENT AND COST-EFFECTIVE MANNER.

5. WHETHER THERE WAS APPROPRIATE AND PRUDENT DELEGATION TO OTHERS.

6. ANY OTHER FACTORS BEARING ON THE REASONABLENESS OF FEES.

D. THE PERSON SEEKING COMPENSATION HAS THE BURDEN OF PROVING THE REASONABLENESS AND NECESSITY OF COMPENSATION AND EXPENSES SOUGHT.

14-5110. CLAIM DEADLINE FOR COMPENSATION; DEFINITIONS

A. IN A GUARDIANSHIP, CONSERVATORSHIP OR PROTECTIVE PROCEEDING, UNLESS A LATER CLAIM DEADLINE IS ESTABLISHED IN ADVANCE BY THE COURT, A CLAIM FOR COMPENSATION BY ATTORNEYS OR GUARDIANS AD LITEM WHO INTEND TO BE PAID BY THE WARD OR PROTECTED PERSON'S ESTATE IS WAIVED IF NOT SUBMITTED TO THE FIDUCIARY IN WRITING WITHIN FOUR MONTHS AFTER EITHER RENDERING THE SERVICE, INCURRING THE COST, INITIAL APPOINTMENT OF THE FIDUCIARY OR THE EFFECTIVE DATE OF THIS SECTION, WHICHEVER IS LATER. A CLAIM IS DEEMED SUBMITTED ON DELIVERY, MAILING OR ELECTRONIC TRANSMISSION TO THE FIDUCIARY. A SUBSEQUENT APPOINTMENT OF A SUBSTITUTE FIDUCIARY DOES NOT RENEW THE CLAIM PERIOD.

B. THIS SECTION DOES NOT APPLY TO AN ATTORNEY SEEKING COMPENSATION BASED ON A CONTINGENCY FEE AGREEMENT.

C. FOR THE PURPOSES OF THIS SECTION:

1. "COMPENSATION" INCLUDES FEES, COSTS AND REIMBURSABLE EXPENSES.

2. "ESTATE" INCLUDES ANY ESTATE ESTABLISHED PURSUANT TO THIS TITLE EXCEPT A TRUST UNLESS THE TRUST IS SUPERVISED BY THE COURT AND THE WARD OR PROTECTED PERSON IS A BENEFICIARY.

Sec. 5. Section 14-5303, Arizona Revised Statutes, is amended to read:

14-5303. Procedure for court appointment of a guardian of an alleged incapacitated person

A. The alleged incapacitated person or any person interested in that person's affairs or welfare may petition for the appointment of a guardian or for any other appropriate protective order.

B. The petition shall contain a statement that the authority granted to the guardian may include the authority to withhold or withdraw life sustaining treatment, including artificial food and fluid, and shall state, **AT A MINIMUM AND** to the extent known, **ALL OF THE FOLLOWING:**

1. The interest of the petitioner.
2. The name, age, residence and address of the alleged incapacitated person.
3. The name, address and priority for appointment of the person whose appointment is sought.
4. The name and address of the conservator, if any, of the alleged incapacitated person.
5. The name and address of the nearest relative of the alleged incapacitated person known to the petitioner.
6. A general statement of the property of the alleged incapacitated person, with an estimate of its value and including any compensation, insurance, pension or allowance to which the person is entitled.
7. The reason why appointment of a guardian or any other protective order is necessary.
8. The type of guardianship requested. If a general guardianship is requested, the petition must state that other alternatives have been explored and why a limited guardianship is not appropriate. If a limited guardianship is requested, the petition also must state what specific powers are requested.

C. On the filing of a petition, the court shall set a hearing date on the issues of incapacity. Unless the alleged incapacitated person is represented by independent counsel, the court shall appoint an attorney to represent that person in the proceeding. The alleged incapacitated person shall be interviewed by an investigator appointed by the court and shall be examined by a physician, psychologist or registered nurse appointed by the court. **IF THE ALLEGED INCAPACITATED PERSON HAS AN ESTABLISHED RELATIONSHIP WITH A PHYSICIAN, PSYCHOLOGIST OR REGISTERED NURSE WHO IS DETERMINED BY THE COURT TO BE QUALIFIED TO EVALUATE THE CAPACITY OF THE ALLEGED INCAPACITATED PERSON, THE COURT MAY APPOINT THE ALLEGED INCAPACITATED PERSON'S PHYSICIAN, PSYCHOLOGIST OR REGISTERED NURSE PURSUANT TO THIS SUBSECTION.** The investigator and the person conducting the examination shall submit their reports in writing to the court. In addition to information required under subsection D, the court may direct that either report include other information the court deems appropriate. The investigator also shall interview the person seeking appointment as guardian, visit the present place of abode of the alleged incapacitated person and the place where it is proposed that the person will be detained or reside if the requested appointment is made and submit a report in writing to the court. The alleged incapacitated person is entitled to be present at the hearing and to see or hear all evidence bearing on that person's condition. The alleged incapacitated person is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed examiner and investigator, and to trial by jury. The court may determine the issue at a closed hearing if the alleged incapacitated person or that person's counsel so requests.

D. A report filed pursuant to this section by a physician, psychologist or registered nurse acting within that person's scope of practice shall include the following information:

1. A specific description of the physical, psychiatric or psychological diagnosis of the person.
2. A comprehensive assessment listing any functional impairments of the alleged incapacitated person and an explanation of how and to what extent these functional impairments may prevent that person from receiving or evaluating information in making decisions or in communicating informed decisions regarding that person.
3. An analysis of the tasks of daily living the alleged incapacitated person is capable of performing without direction or with minimal direction.
4. A list of all medications the alleged incapacitated person is receiving, the dosage of the medications and a description of the effects each medication has on the person's behavior to the best of the declarant's knowledge.
5. A prognosis for improvement in the alleged incapacitated person's condition and a recommendation for the most appropriate rehabilitation plan or care plan.
6. Other information the physician, psychologist or registered nurse deems appropriate.

Sec. 6. Section 14-5304, Arizona Revised Statutes, is amended to read:

14-5304. Findings; order of appointment; limitations; filing

A. In exercising its appointment authority pursuant to this chapter, the court shall encourage the development of maximum self-reliance and independence of the incapacitated person.

B. The court may appoint a general or limited guardian as requested if ~~it is satisfied~~ **THE COURT FINDS** by clear and convincing evidence that:

1. The person for whom a guardian is sought is incapacitated.
2. The appointment is necessary to provide for the demonstrated needs of the incapacitated person.
3. The person's needs cannot be met by less restrictive means, including the use of appropriate technological assistance.

C. In conformity with the evidence regarding the extent of the ward's incapacity, the court may appoint a limited guardian and specify time limits on the guardianship and limitations on the guardian's powers.

D. The guardian shall file an acceptance of appointment with the appointing court.

Sec. 7. Section 14-5306, Arizona Revised Statutes, is amended to read:

14-5306. Termination of guardianship for incapacitated person

The authority and responsibility of a guardian for an incapacitated person terminates ~~upon~~ ON the death of the guardian or ward, a determination of incapacity of the guardian, or ~~upon removal~~ SUBSTITUTION or resignation as provided in section 14-5307. Testamentary appointment under an informally probated will terminates if the will is later denied probate in a formal proceeding. Termination does not affect ~~his~~ THE GUARDIAN'S liability for prior acts ~~nor his~~ OR THE GUARDIAN'S obligation to account for funds and assets of ~~his~~ THE GUARDIAN'S ward.

Sec. 8. Section 14-5307, Arizona Revised Statutes, is amended to read:

14-5307. Substitution or resignation of guardian; termination of incapacity

A. On petition of the ward or any person interested in ~~his~~ THE WARD'S welfare, ~~OR ON THE COURT'S OWN INITIATIVE~~, the court ~~may remove~~ SHALL SUBSTITUTE a guardian and appoint a successor if it is in the best ~~interests~~-INTEREST of the ward. ~~THE COURT DOES NOT NEED TO FIND THAT THE GUARDIAN ACTED INAPPROPRIATELY TO FIND THAT THE SUBSTITUTION IS IN THE WARD'S BEST INTEREST. THE GUARDIAN AND THE GUARDIAN'S ATTORNEY MAY BE COMPENSATED FROM THE WARD'S ESTATE FOR DEFENDING AGAINST A PETITION FOR SUBSTITUTION ONLY FOR THE AMOUNT ORDERED BY THE COURT AND ON PETITION BY THE GUARDIAN OR THE GUARDIAN'S ATTORNEY. WHEN SUBSTITUTING A GUARDIAN AND APPOINTING A SUCCESSOR, THE COURT MAY APPOINT AN INDIVIDUAL NOMINATED BY THE WARD IF THE WARD IS AT LEAST FOURTEEN YEARS OF AGE AND HAS, IN THE OPINION OF THE COURT, SUFFICIENT MENTAL CAPACITY TO MAKE AN INTELLIGENT CHOICE.~~ On petition of the guardian, the court may accept a resignation and make any other order ~~which~~ THAT may be appropriate.

~~B. An order adjudicating incapacity may specify a minimum period, not exceeding one year, during which no petition for an adjudication that the ward is no longer incapacitated may be filed without special leave. Subject to this restriction, the ward or any person interested in his welfare may petition the court for an order that the ward is no longer incapacitated and for the removal or resignation of the guardian. A request for this order may be made by informal letter to the court or judge. Any person who knowingly interferes with the transmission of this request may be found in contempt of court.~~

B. THE WARD MAY PETITION THE COURT FOR AN ORDER THAT THE WARD IS NO LONGER INCAPACITATED OR PETITION FOR SUBSTITUTION OF THE GUARDIAN AT ANY TIME. A REQUEST FOR THIS ORDER MAY BE MADE BY INFORMAL LETTER TO THE COURT OR JUDGE. A PERSON WHO KNOWINGLY INTERFERES WITH THE TRANSMISSION OF THIS REQUEST MAY BE FOUND IN CONTEMPT OF COURT.

C. AN INTERESTED PERSON, OTHER THAN THE GUARDIAN OR WARD, SHALL NOT FILE A PETITION FOR ADJUDICATION THAT THE WARD IS NO LONGER INCAPACITATED EARLIER THAN ONE YEAR AFTER THE ORDER ADJUDICATING INCAPACITY WAS ENTERED UNLESS THE COURT PERMITS IT TO BE MADE ON THE BASIS OF AFFIDAVITS THAT THERE IS REASON TO BELIEVE THAT THE WARD IS NO LONGER INCAPACITATED.

D. AN INTERESTED PERSON, OTHER THAN THE GUARDIAN OR WARD, SHALL NOT FILE A PETITION TO SUBSTITUTE A GUARDIAN EARLIER THAN ONE YEAR AFTER THE ORDER ADJUDICATING INCAPACITY WAS ENTERED UNLESS THE COURT PERMITS IT TO BE MADE ON THE BASIS OF AFFIDAVITS THAT THERE IS REASON TO BELIEVE THAT THE CURRENT GUARDIAN WILL ENDANGER THE WARD'S PHYSICAL, MENTAL OR EMOTIONAL HEALTH IF NOT SUBSTITUTED.

~~E.~~ E. Before ~~removing~~ SUBSTITUTING a guardian, accepting the resignation of a guardian or ordering that a ward's incapacity has terminated, the court, following the same procedures to safeguard the rights of the ward as apply to a petition for appointment of a guardian, may send an investigator to the residence of the present guardian and to the place where the ward resides or is detained to observe conditions and report in writing to the court.

Sec. 9. Section 14-5308, Arizona Revised Statutes, is amended to read:

14-5308. Court appointed investigators; qualifications; duties

A. An investigator appointed by the court under sections 14-5303 and 14-5407 shall have a background in law, nursing or social work and shall have no personal interest in the proceedings.

B. The investigator shall conduct an investigation before the court appoints a guardian or a conservator to allow the court to determine the appropriateness of that appointment. As directed by the court, the investigator shall conduct additional investigations to determine if it is necessary to continue the appointment.

C. In conducting investigations the investigator shall:

1. Interview the alleged incapacitated person or the protected person and the proposed guardian or conservator.
2. Visit the alleged incapacitated person's or the protected person's current or proposed place of residence.
3. Interview nursing home or care home care givers and the home's manager or administrator.
4. Transport the alleged incapacitated person or the protected person as directed by the court.

D. In conducting interviews under this section the investigator may examine any court record, medical record or financial record that relates to the investigation.

E. As a condition of appointment as an investigator the court shall require the applicant to furnish a full set of fingerprints to enable the court to conduct a criminal background investigation to determine the applicant's suitability. The court shall submit the completed fingerprint card to the department of public safety. The department shall provide the applicant's criminal history record information to the court pursuant to section 41-1750. The department of public safety shall conduct criminal history records checks pursuant to section 41-1750 and applicable federal law. The department of public safety is authorized to submit fingerprint card information to the federal bureau of investigation for a national criminal history records check.

F. AN INVESTIGATOR APPOINTED BY THE COURT PURSUANT TO SECTIONS 14-5303 AND 14-5407, AND ANY PERSON OR ENTITY CLOSELY RELATED TO THE INVESTIGATOR, SHALL NOT BE APPOINTED AS A FIDUCIARY, ATTORNEY OR PROFESSIONAL IN THE SAME CASE OR FOR THE SAME PERSON WHO WAS THE SUBJECT OF THE PRIOR INVESTIGATION UNLESS OTHERWISE ORDERED BY THE COURT FOR GOOD CAUSE. FOR THE PURPOSES OF THIS SUBSECTION, "CLOSELY RELATED" INCLUDES A SPOUSE, CHILD, PARENT, SIBLING, GRANDPARENT, AUNT, UNCLE OR COUSIN OF THE INVESTIGATOR AND ANY BUSINESS, PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, TRUST OR OTHER ENTITY THAT THE INVESTIGATOR OR A CLOSELY RELATED PERSON HAS A FINANCIAL INTEREST IN, IS EMPLOYED BY OR RECEIVES COMPENSATION OR FINANCIAL BENEFIT FROM.

**Sec. 10. Section 14-5309, Arizona Revised Statutes, is amended to read:
14-5309. Notices in guardianship proceedings**

A. In a proceeding for the appointment or ~~removal~~ SUBSTITUTION of a guardian of a ward or an alleged incapacitated person other than the appointment of a temporary guardian or temporary suspension of a guardian, notice of a hearing shall be given to each of the following:

1. The ward or the alleged incapacitated person and that person's spouse, parents and adult children.
2. Any person who is serving as guardian or conservator or who has the care and custody of the ward or the alleged incapacitated person.
3. In case no other person is notified under paragraph 1 of this subsection, at least one of that person's closest adult relatives, if any can be found.
4. Any person who has filed a demand for notice.

B. At least fourteen days before the hearing notice shall be served personally on the ward or the alleged incapacitated person, and that person's spouse and parents if they can be found within the state. Notice to the spouse and parents, if they cannot be found within the state, and to all other persons except the ward or the alleged incapacitated person shall be given as provided in section

14-1401. Waiver of notice by the ward or the alleged incapacitated person is not effective unless that person attends the hearing.

Sec. 11. Section 14-5310, Arizona Revised Statutes, is amended to read:

14-5310. Temporary guardians; appointment; notice; court appointed attorney hearings; duties

A. If an alleged incapacitated person has no guardian and an emergency exists or if an appointed guardian is not effectively performing the duties of a guardian and the welfare of the ward is found to require immediate action, the alleged incapacitated person, the ward or any person interested in the welfare of the alleged incapacitated person or the ward may petition for a finding of interim incapacity and for the appointment of a temporary guardian. No finding and appointment may be made without notice, pursuant to section 14-5309, except as provided in subsection B of this section.

B. The court may enter a finding of interim incapacity and may appoint a temporary guardian without notice to the proposed ward or the proposed ward's attorney only if all of the following conditions are met:

1. It clearly appears from specific facts shown by an affidavit or by the verified petition that immediate and irreparable injury, loss or damage will result before the proposed ward or the proposed ward's attorney can be heard in opposition.
2. The petitioner or the petitioner's attorney certifies to the court in writing any efforts that the petitioner or the petitioner's attorney has made to give the notice or the reasons supporting the claim that notice should not be required.
3. The petitioner files with the court a request for a hearing on the petition for the appointment of a temporary guardian.
4. The petitioner or the petitioner's attorney certifies that that person will give notice of the petition, the order and all filed reports and affidavits to the proposed ward by personal service within the time period the court directs but not in excess of seventy-two hours following entry of the order of appointment.
5. The petitioner files a report from a physician, a registered nurse practitioner or a psychologist detailing the need for a guardian and the basis for the emergency unless the report is waived by the court on a showing of good cause by a party to the action.

C. Unless the proposed ward is represented by independent counsel, the court shall appoint an attorney to represent the proposed ward in the proceeding on receipt of the petition for temporary appointment. The attorney shall visit the proposed ward as soon as practicable and shall be prepared to represent the interest of the proposed ward at any hearing on the petition.

D. Every order finding interim incapacity and appointing a temporary guardian granted without notice expires as prescribed by the court but within a period of not more than thirty days unless within that time the court extends it for good cause shown for the same period or unless the attorney for the ward consents that it may be extended for a longer period. The court shall enter the reasons for the extension on the record.

E. The court shall schedule a hearing on the petition for a finding of interim incapacity and the appointment of a temporary guardian within the time specified in subsection D of this section. If the petitioner does not proceed with the petition the court, on the motion of any party or on its own motion, may dismiss the petition.

F. If the court orders the appointment of a temporary guardian without notice, the ward may appear and move for its dissolution or modification on two days' notice to the petitioner and to the temporary guardian or on such shorter notice as the court prescribes. The court shall proceed to hear and determine that motion as expeditiously as possible.

G. IF THE WARD OBJECTS TO THE PERSON WHO IS TEMPORARILY APPOINTED, THE COURT MAY APPOINT AN INDIVIDUAL NOMINATED BY THE PROPOSED WARD IF THE WARD IS AT LEAST FOURTEEN YEARS OF AGE AND HAS, IN THE OPINION OF THE COURT, SUFFICIENT MENTAL CAPACITY TO MAKE AN INTELLIGENT CHOICE. THE COURT SHALL APPOINT AN ALTERNATIVE GUARDIAN IF AVAILABLE AND AFTER FINDING THAT THE APPOINTMENT IS IN THE BEST INTEREST OF THE WARD.

~~G.~~ H. The hearing on a petition for the appointment of a temporary guardian shall be held in the same manner as a hearing on a preliminary injunction. The court may order the hearing on the petition for appointment of a permanent guardian to be advanced and consolidated with the hearing of the petition for temporary appointment. If the court does not order this consolidation any evidence received on a petition for temporary appointment that would be admissible at the hearing on a petition for a permanent appointment becomes part of the record and need not be repeated at a later hearing. This subsection does not limit the parties to any rights they may have to trial by jury.

~~H.~~ I. After notice and a hearing, if the court finds that a temporary guardian is necessary and the provisions of this section have been met, the court shall make an appointment of a temporary guardian for a specific purpose and for a specific period of time of not more than six months unless the court extends this time period for good cause shown.

~~I.~~ J. A temporary guardian is responsible to provide the care and custody of the ward. The authority of a permanent guardian previously appointed by the court is suspended as long as the temporary guardian has authority. A temporary guardian may be removed at any time. A temporary guardian shall make any report the court requires. In all other respects, the provisions of this title concerning guardians apply to temporary guardians.

Sec. 12. Section 14-5311, Arizona Revised Statutes, is amended to read:

14-5311. Who may be guardian; priorities

A. Any qualified person may be appointed guardian of an incapacitated person, subject to the requirements of section 14-5106.

B. The court may consider the following persons for appointment as guardian in the following order:

1. A guardian or conservator of the person or a fiduciary appointed or recognized by the appropriate court of any jurisdiction in which the incapacitated person resides.

2. An individual or corporation nominated by the incapacitated person if the person has, in the opinion of the court, sufficient mental capacity to make an intelligent choice.

3. The person nominated **TO SERVE AS GUARDIAN** in the incapacitated person's most recent durable power of attorney **OR HEALTH CARE POWER OF ATTORNEY**.

4. The spouse of the incapacitated person.

5. An adult child of the incapacitated person.

6. A parent of the incapacitated person, including a person nominated by will or other writing signed by a deceased parent.

7. Any relative of the incapacitated person with whom the incapacitated person has resided for more than six months before the filing of the petition.

8. The nominee of a person who is caring for or paying benefits to the incapacitated person.

9. If the incapacitated person is a veteran, the spouse of a veteran or the minor child of a veteran, the department of veterans' services.

10. A fiduciary, **WHO IS LICENSED PURSUANT TO SECTION 14-5651** ~~guardian or conservator~~, **OTHER THAN A PUBLIC FIDUCIARY**.

11. A PUBLIC FIDUCIARY WHO IS LICENSED PURSUANT TO SECTION 14-5651.

C. A person listed in subsection B, paragraph 4, 5, 6, 7 or 8 **OF THIS SECTION** may nominate in writing a person to serve in that person's place. With respect to persons who have equal priority, the court shall select the one the court determines is best qualified to serve.

D. For good cause the court may pass over a person who has priority and appoint a person who has a lower priority or no priority. **FOR THE PURPOSES OF THIS SUBSECTION, "GOOD CAUSE" INCLUDES A DETERMINATION THAT:**

1. THE INCAPACITATED PERSON'S DURABLE POWER OF ATTORNEY OR HEALTH CARE POWER OF ATTORNEY IS INVALID.

2. HONORING THE INCAPACITATED PERSON'S DURABLE POWER OF ATTORNEY OR HEALTH CARE POWER OF ATTORNEY WOULD NOT BE IN THE PHYSICAL, EMOTIONAL OR FINANCIAL BEST INTEREST OF THE INCAPACITATED PERSON.

3. THE ESTIMATED COST OF THE FIDUCIARY AND ASSOCIATED PROFESSIONAL FEES WOULD ADVERSELY AFFECT THE ABILITY OF THE INCAPACITATED PERSON'S ESTATE TO PROVIDE FOR THE INCAPACITATED PERSON'S REASONABLE AND NECESSARY LIVING EXPENSES.

E. ON A REQUEST BY A PERSON WHO WAS PASSED OVER BY THE COURT PURSUANT TO SUBSECTION D OF THIS SECTION, THE COURT SHALL MAKE A SPECIFIC FINDING REGARDING THE COURT'S DETERMINATION OF GOOD CAUSE AND WHY THE PERSON WAS NOT APPOINTED. THE REQUEST MUST BE MADE WITHIN TEN DAYS AFTER THE ENTRY OF THE ORDER.

Sec. 13. Section 14-5313, Arizona Revised Statutes, is amended to read:

14-5313. Proceedings subsequent to appointment; venue

A. The court at the place where the ward resides has concurrent jurisdiction with the court that appointed the guardian or in which acceptance of a parental or spousal appointment was filed, over resignation, ~~removal~~ SUBSTITUTION, accounting and other proceedings relating to the guardianship including proceedings to limit the authority previously conferred on a guardian or to remove limitations previously imposed.

B. If the court located at the place where the ward resides is not the court in which acceptance of appointment is filed, the court in which proceedings subsequent to appointment are commenced shall in all appropriate cases notify the other court, in this or another state, and after consultation with that court shall determine whether to retain jurisdiction or transfer the proceedings to the other court, whichever may be in the best interests of the ward. A copy of any order accepting a resignation, ~~removing~~ SUBSTITUTING a guardian or altering authority shall be sent to the court in which acceptance of appointment is filed.

Sec. 14. Section 14-5315, Arizona Revised Statutes, is amended to read:

14-5315. Guardian reports; contents

A. A guardian shall submit a written report to the court on each anniversary date of qualification as guardian, on resignation or ~~removal~~ SUBSTITUTION as guardian and on termination of the ward's disability.

B. The guardian shall mail a copy of the report to:

1. The ward.

2. The ward's conservator.
3. The ward's spouse or the ward's parents if the ward is not married.
4. A court appointed attorney for the ward.
5. Any other interested person who has filed a demand for notice with the court.

C. The report shall include the following:

1. The type, name and address of the home or facility where the ward lives and the name of the person in charge of the home.
2. The number of times the guardian has seen the ward in the last twelve months.
3. The date the guardian last saw the ward.
4. The name and address of the ward's physician or registered nurse practitioner.
5. The date the ward was last seen by a physician or a registered nurse practitioner.
6. A copy of the ward's physician's or registered nurse practitioner's report to the guardian or, if none exists, a summary of the physician's or the registered nurse practitioner's observations on the ward's physical and mental condition.
7. Major changes in the ward's physical or mental condition observed by the guardian in the last year.
8. The guardian's opinion as to whether the guardianship should be continued.
9. A summary of the services provided to the ward by a governmental agency and the name of the individual responsible for the ward's affairs with that agency.

Sec. 15. Section 14-5401, Arizona Revised Statutes, is amended to read:

14-5401. Protective proceedings

~~Upon~~ **ON** petition and after notice and a hearing in accordance with the provisions of this article, the court may appoint a conservator or make another protective order for cause as follows:

1. Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a minor if the court determines that a minor owns money or property that requires management or protection ~~which~~ **THAT** cannot otherwise be provided or has or may have affairs ~~which~~ **THAT** may be jeopardized or prevented by ~~his~~ minority or that funds are needed for ~~his~~ **THE MINOR'S** support and education and that protection is necessary or desirable to obtain or provide funds.

2. Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a person if the court ~~determines~~ SPECIFICALLY FINDS ON THE RECORD both of the following:

(a) The person is unable to manage the person's estate and affairs effectively for reasons such as mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power or disappearance.

(b) The person has property ~~which~~ THAT will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care and welfare of the person or those entitled to be supported by the person and that protection is necessary or desirable to obtain or provide funds.

Sec. 16. Section 14-5401.01, Arizona Revised Statutes, is amended to read:

14-5401.01. Temporary conservators; appointment; notice; hearings

A. If a person ALLEGEDLY in need of protection has no conservator and an emergency exists or if an appointed conservator is not effectively performing the duties of a conservator and the estate or affairs of the protected person are found to require immediate action, the person ALLEGEDLY in need of protection, the protected person or any person interested in that person's estate or affairs may petition for a finding of a need for interim protection and for the appointment of a temporary conservator. ~~No~~ A finding and appointment may NOT be made without notice, pursuant to section 14-5405, except as provided in subsection B of this section.

B. The court may enter a finding of a need for interim protection and may appoint a temporary conservator without notice to the ~~proposed-protected~~ person ALLEGEDLY IN NEED OF PROTECTION or ~~the proposed-protected~~ THAT person's attorney if all of the following conditions are met:

1. It clearly appears from specific facts shown by affidavit or by the verified petition that immediate and irreparable injury, loss or damage will result before the ~~proposed-protected~~ person ALLEGEDLY IN NEED OF PROTECTION or that person's attorney can be heard in opposition.

2. The petitioner or the petitioner's attorney certifies to the court in writing any efforts that the petitioner or the attorney has made to give the notice or the reasons supporting the claim that notice should not be required.

3. The petitioner files with the court a request for a hearing on the petition for the appointment of a temporary conservator.

4. The petitioner or the petitioner's attorney certifies that notice of the petition, order and all filed reports and affidavits will be given to the ~~proposed-protected~~ person ALLEGEDLY IN NEED OF PROTECTION by personal service within the time period the court directs but not more than seventy-two hours after entry of the order of appointment.

C. Unless the ~~proposed-protected~~ person ALLEGEDLY IN NEED OF PROTECTION is represented by independent counsel, the court shall appoint an attorney to represent that person in the proceeding on receipt of the petition for temporary appointment. The attorney shall visit the ~~proposed-protected~~ person ALLEGEDLY IN NEED OF PROTECTION as soon as practicable and shall be prepared to represent that person's interests at any hearing on the petition.

D. Every order finding a need for interim protection and appointing a temporary conservator granted without notice expires as prescribed by the court but within a period of not more than thirty days unless within that time the court extends it for good cause shown for the same period or unless the attorney for the ~~proposed-protected~~ person ALLEGEDLY IN NEED OF PROTECTION consents that it may be extended for a longer period. The court shall enter the reasons for the extension on the record.

E. The court shall schedule a hearing on the petition for a finding of the need for interim protection and the appointment of a temporary conservator within the time specified in subsection D of this section. If the petitioner does not proceed with the petition the court, on the motion of any party or on its own motion, may dismiss the petition.

F. If the court orders the appointment of a temporary conservator without notice, the ~~proposed-protected~~ person ALLEGEDLY IN NEED OF PROTECTION may appear and move for its dissolution or modification on two days' notice to the petitioner and to the temporary conservator, or on such shorter notice as the court prescribes. The court shall proceed to hear and determine that motion as expeditiously as possible. IF THE PERSON ALLEGEDLY IN NEED OF PROTECTION OBJECTS TO THE PERSON WHO IS TEMPORARILY APPOINTED, THE COURT MAY APPOINT AN INDIVIDUAL NOMINATED BY THE PERSON ALLEGEDLY IN NEED OF PROTECTION IF THE PERSON ALLEGEDLY IN NEED OF PROTECTION IS AT LEAST FOURTEEN YEARS OF AGE AND HAS, IN THE OPINION OF THE COURT, SUFFICIENT MENTAL CAPACITY TO MAKE AN INTELLIGENT CHOICE. THE COURT SHALL APPOINT AN ALTERNATIVE CONSERVATOR IF AVAILABLE AND AFTER FINDING THAT THE APPOINTMENT IS IN THE BEST INTEREST OF THE PERSON ALLEGEDLY IN NEED OF PROTECTION.

G. The hearing on a petition for the appointment of a temporary conservator shall be held in the same manner as a hearing on a preliminary injunction. The court may order the hearing on the petition for appointment of a permanent conservator to be advanced and consolidated with the hearing ~~of~~ ON the petition for temporary appointment. If the court does not order this consolidation any evidence received on a petition for temporary appointment that would be admissible at the hearing on a petition for a permanent appointment becomes part of the record and need not be repeated at a later hearing. This subsection does not limit the parties to any rights they may have to trial by jury.

H. After notice and a hearing, if the court finds that a temporary conservator is necessary and the provisions of this section have been met, the court shall make an appointment of a temporary conservator for a specified period of time of not more than six months unless the court extends this time period for good cause shown.

Sec. 17. Section 14-5404, Arizona Revised Statutes, is amended to read:

14-5404. Original petition for appointment or protective order

A. The person allegedly in need of protection, any person who is interested in that person's estate or affairs, including that person's parent, guardian or custodian, or any person who would be adversely affected by lack of effective management of that person's estate and affairs may petition for the appointment of a conservator or for any other appropriate protective order.

B. The petition shall set forth, **AT A MINIMUM AND** to the extent known, **ALL OF THE FOLLOWING:**

1. The interest of the petitioner.
2. The name, age, residence and address of the person allegedly in need of protection.
3. The name, address and priority for appointment of the person whose appointment is sought.
4. The name and address of the guardian, if any, of the person allegedly in need of protection.
5. The name and address of the nearest relative of the person allegedly in need of protection known to the petitioner.
6. A general statement of the estate of the person allegedly in need of protection with an estimate of its value, including any compensation, insurance, pension or allowance to which the person is entitled.
7. The reason why appointment of a conservator or any other protective order is necessary.

Sec. 18. Section 14-5405, Arizona Revised Statutes, is amended to read:

14-5405. Notice in conservatorship proceedings

A. In a proceeding for the appointment or ~~removal~~ **SUBSTITUTION** of a conservator of a protected person or person allegedly in need of protection, other than the appointment of a temporary conservator or temporary suspension of a conservator, notice of the hearing shall be given to each of the following:

1. The protected person or the person allegedly in need of protection if that person is fourteen years of age or older.
2. The spouse, parents and adult children of the protected person or person allegedly in need of protection, or if no spouse, parents or adult children can be located, at least one adult relative of the protected person or the person allegedly in need of protection, if such a relative can be found.
3. Any person who is serving as guardian or conservator or who has the care and custody of the protected person or person allegedly in need of protection.
4. Any person who has filed a demand for notice.

B. At least fourteen days before the hearing notice shall be served personally on the protected person or the person allegedly in need of protection and that person's spouse and parents if they can be found within the state. Notice to the spouse and parents, if they cannot be found within

the state, and to all other persons except the protected person or the person allegedly in need of protection shall be given in accordance with section 14-1401. Waiver of notice by the protected person or the person allegedly in need of protection is not effective unless the protected person or the person allegedly in need of protection attends the hearing.

Sec. 19. Section 14-5407, Arizona Revised Statutes, is amended to read:

14-5407. Procedure concerning hearing and order on original petition

A. On the filing of a petition for appointment of a conservator or any other protective order because of minority, the court shall set a hearing date on the matters alleged in the petition. If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it shall appoint an attorney to represent the minor. If the minor is at least fourteen years of age the court shall consider the choice of the minor.

B. On the filing of a petition for appointment of a conservator or any other protective order for reasons other than minority, the court shall set a hearing date. Unless the person to be protected has counsel of ~~his~~ **THE PERSON'S** own choice, the court shall appoint an attorney to represent ~~him~~ **THAT PERSON**. If the alleged disability is mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, or chronic intoxication, the court shall appoint an investigator to interview the person to be protected. On petition by an interested person or on the court's own motion, the court may direct that an appropriate medical or psychological evaluation of the person be conducted. The investigator and the person conducting the medical or psychological evaluation shall submit written reports to the court before the hearing date.

C. In any case where the veterans administration is or may be an interested party, a certificate of an authorized official of the veterans administration that the person allegedly in need of protection has been found incapable of handling the benefits payable, on examination in accordance with the laws and regulations governing the veterans administration, is prima facie evidence of the necessity for appointment of a conservator.

D. The person allegedly in need of protection is entitled to be present at the hearing, to be represented by counsel, to present evidence and to cross-examine witnesses, including any court appointed examiner and investigator. The issue may be determined at a closed hearing if the person allegedly in need of protection or that person's counsel so requests.

E. After the hearing, ~~upon a finding~~ **AND AFTER MAKING SPECIFIC FINDINGS ON THE RECORD** that a basis for the appointment of a conservator or any other protective order has been established, the court shall make an appointment or other appropriate protective order.

Sec. 20. Section 14-5410, Arizona Revised Statutes, is amended to read:

14-5410. Who may be appointed conservator; priorities

A. The court may appoint an individual or a corporation, with general power to serve as trustee, as conservator of the estate of a protected person subject to the requirements of section 14-5106. The following are entitled to consideration for appointment in the order listed:

1. A conservator, guardian of property or other like fiduciary appointed or recognized by the appropriate court of any other jurisdiction in which the protected person resides.
2. An individual or corporation nominated by the protected person if the protected person is at least fourteen years of age and has, in the opinion of the court, sufficient mental capacity to make an intelligent choice.
3. The person nominated **TO SERVE AS CONSERVATOR** in the protected person's most recent durable power of attorney.
4. The spouse of the protected person.
5. An adult child of the protected person.
6. A parent of the protected person, or a person nominated by the will of a deceased parent.
7. Any relative of the protected person with whom the protected person has resided for more than six months before the filing of the petition.
8. The nominee of a person who is caring for or paying benefits to the protected person.
9. If the protected person is a veteran, the spouse of a veteran or the minor child of a veteran, the department of veterans' services.
10. A fiduciary; **WHO IS LICENSED PURSUANT TO SECTION 14-5651 guardian, or conservator, OTHER THAN A PUBLIC FIDUCIARY.**
11. **A PUBLIC FIDUCIARY WHO IS LICENSED PURSUANT TO SECTION 14-5651.**

B. A person listed in subsection A, paragraph 4, 5, 6, 7 or 8 of this section may nominate in writing a person to serve in that person's place. With respect to persons having equal priority, the court shall select the one it determines is best qualified to serve. The court, for good cause, may pass over a person having priority and appoint a person having a lower priority or no priority. **FOR THE PURPOSES OF THIS SUBSECTION, "GOOD CAUSE" INCLUDES A DETERMINATION THAT:**

1. **THE PROTECTED PERSON'S DURABLE POWER OF ATTORNEY IS INVALID.**
2. **HONORING THE PROTECTED PERSON'S DURABLE POWER OF ATTORNEY WOULD NOT BE IN THE PHYSICAL, EMOTIONAL OR FINANCIAL BEST INTEREST OF THE PROTECTED PERSON.**

3. THE ESTIMATED COST OF THE FIDUCIARY AND ASSOCIATED PROFESSIONAL FEES WOULD ADVERSELY AFFECT THE ABILITY OF THE PERSON'S ESTATE TO PROVIDE FOR THE PROTECTED PERSON'S REASONABLE AND NECESSARY LIVING EXPENSES.

C. ON THE REQUEST OF A PERSON WHO WAS PASSED OVER BY THE COURT PURSUANT TO SUBSECTION B OF THIS SECTION, THE COURT SHALL MAKE A SPECIFIC FINDING REGARDING THE COURT'S DETERMINATION OF GOOD CAUSE AND WHY THE PERSON WAS NOT APPOINTED. THE REQUEST MUST BE MADE WITHIN TEN DAYS AFTER THE ENTRY OF THE ORDER.

Sec. 21. Repeal

Section 14-5415, Arizona Revised Statutes, is repealed.

Sec. 22. Title 14, chapter 5, article 4, Arizona Revised Statutes, is amended by adding a new section 14-5415, to read:

14-5415. RESIGNATION OR SUBSTITUTION OF CONSERVATOR

A. ON PETITION OF THE PROTECTED PERSON OR ANY PERSON INTERESTED IN THE PROTECTED PERSON'S WELFARE, OR ON THE COURT'S OWN INITIATIVE, THE COURT SHALL SUBSTITUTE A CONSERVATOR AND APPOINT A SUCCESSOR IF THE SUBSTITUTION IS IN THE BEST INTEREST OF THE PROTECTED PERSON. THE COURT DOES NOT NEED TO FIND THAT THE CONSERVATOR ACTED INAPPROPRIATELY TO FIND THAT THE SUBSTITUTION IS IN THE PROTECTED PERSON'S BEST INTEREST. THE CONSERVATOR AND THE CONSERVATOR'S ATTORNEY MAY BE COMPENSATED FROM THE PROTECTED PERSON'S ESTATE FOR DEFENDING AGAINST A PETITION FOR SUBSTITUTION ONLY FOR THE AMOUNT ORDERED BY THE COURT AND ON PETITION BY THE CONSERVATOR OR THE CONSERVATOR'S ATTORNEY. WHEN SUBSTITUTING A CONSERVATOR AND APPOINTING A SUCCESSOR, THE COURT MAY APPOINT AN INDIVIDUAL NOMINATED BY THE PROTECTED PERSON IF THE PERSON IS AT LEAST FOURTEEN YEARS OF AGE AND HAS, IN THE OPINION OF THE COURT, SUFFICIENT MENTAL CAPACITY TO MAKE AN INTELLIGENT CHOICE. ON PETITION OF THE CONSERVATOR, THE COURT MAY ACCEPT A RESIGNATION AND MAKE ANY OTHER ORDER THAT MAY BE APPROPRIATE.

B. THE PROTECTED PERSON MAY PETITION THE COURT FOR AN ORDER THAT THE PROTECTED PERSON IS NO LONGER IN NEED OF PROTECTION OR PETITION FOR SUBSTITUTION OF THE CONSERVATOR AT ANY TIME. A REQUEST FOR THIS ORDER MAY BE MADE BY INFORMAL LETTER TO THE COURT OR JUDGE. A PERSON WHO KNOWINGLY INTERFERES WITH THE TRANSMISSION OF THIS REQUEST MAY BE FOUND IN CONTEMPT OF COURT.

C. AN INTERESTED PERSON, OTHER THAN THE CONSERVATOR OR PROTECTED PERSON, SHALL NOT FILE A PETITION FOR ADJUDICATION THAT THE PROTECTED PERSON IS NO LONGER IN NEED OF PROTECTION EARLIER THAN ONE YEAR AFTER THE ENTRY OF A PROTECTIVE ORDER UNLESS THE COURT PERMITS THE PERSON TO FILE THE PETITION ON THE BASIS OF AFFIDAVITS THAT THERE IS REASON TO BELIEVE THAT THE PROTECTED PERSON IS NO LONGER IN NEED OF PROTECTION.

D. AN INTERESTED PERSON, OTHER THAN THE CONSERVATOR OR PROTECTED PERSON, SHALL NOT FILE A PETITION TO SUBSTITUTE A CONSERVATOR EARLIER THAN ONE YEAR AFTER THE ENTRY OF A PROTECTIVE ORDER, UNLESS THE COURT PERMITS THE PERSON TO FILE THE PETITION ON THE BASIS OF AFFIDAVITS THAT THERE IS REASON TO BELIEVE THAT THE CURRENT CONSERVATOR WILL ENDANGER THE PROTECTED PERSON'S ESTATE IF THE CONSERVATOR IS NOT SUBSTITUTED.

E. BEFORE IT ORDERS THAT NEED FOR PROTECTION NO LONGER EXISTS, SUBSTITUTING A CONSERVATOR OR ACCEPTING THE RESIGNATION OF A CONSERVATOR, THE COURT, FOLLOWING THE SAME PROCEDURES TO SAFEGUARD THE RIGHTS OF THE PROTECTED PERSON THAT APPLY TO A PETITION FOR APPOINTMENT OF A CONSERVATOR, MAY REQUIRE APPROPRIATE ACCOUNTS AND ENTER APPROPRIATE ORDERS TO PRESERVE AND PROTECT THE ASSETS OF THE ESTATE, TO REQUIRE REIMBURSEMENT OR PAYMENT AS NEEDED AND TO TRANSFER ASSETS OR TITLE THERETO TO APPROPRIATE SUCCESSORS.

Sec. 23. Section 14-5418, Arizona Revised Statutes, is amended to read:

14-5418. Inventory and records

A. Within ninety days after appointment, a conservator shall prepare and file with the court an inventory of the **estate owned by assets** of the protected person on the date of the conservator's appointment, listing it with reasonable detail and indicating the fair market value **of each asset** as of the date of appointment **of each item listed**. **The conservator shall attach to the inventory a copy of the protected person's CONSUMER credit report from a credit reporting agency that is dated within ninety days before the filing of the inventory.**

B. The conservator shall provide a copy of the inventory to the protected person if the protected person can be located, has attained **the age of** fourteen years **of age**, and has sufficient mental capacity to understand these matters, and to any parent or guardian with whom the protected person resides. The conservator shall keep suitable records of the conservator's administration and exhibit the records on request of any interested person.

c. **Unless otherwise ordered by the court, a person who is entitled to notice of the conservator's annual account pursuant to section 14-5419, subsection C may request in writing that the conservator do one of the following not more than once every thirty days:**

1. **Allow the person to view the protected person's financial records, the conservator's billing statements, the billing statements of the conservator's attorney or other records related to the protected person under the conservator's control.**

2. Provide the requesting person with copies of these documents. Unless otherwise ordered by the court, the conservator shall allow the person to view or provide copies of the requested documents to the person as soon as practicable but no later than thirty days after receiving the request. The requesting party must pay reasonable copying costs.
3. Provide a report of receipts and disbursements of the conservatorship.

Sec. 24. Section 14-5419, Arizona Revised Statutes, is amended to read:

14-5419. Accounts; definition

A. Except as provided pursuant to subsection F of this section, every conservator must account to the court for the administration of the estate not less than annually on the anniversary date of qualifying as conservator and also on resignation or ~~removal~~ SUBSTITUTION, and on termination of the protected person's minority or disability, except that for good cause shown on the application of an interested person, the court may relieve the conservator of filing annual or other accounts by an order entered in the minutes.

B. The court may take any appropriate action on filing of annual or other accounts. In connection with any account, the court may require a conservator to submit to a physical check of the estate in the conservator's control, to be made in any manner the court may specify.

C. An adjudication allowing an intermediate or final account can be made only on petition, notice and a hearing. Notice must be given to:

1. The protected person.
2. A guardian of the protected person if one has been appointed, unless the same person is serving as both guardian and conservator.
3. If no guardian has been appointed or the same person is serving as both guardian and conservator, a spouse or, if the spouse is the conservator, there is no spouse or the spouse is incapacitated, a parent or an adult child who is not serving as a conservator.
4. A representative appointed for the protected person, if the court determines in accordance with section 14-1408 that representation of the interest of the protected person would otherwise be inadequate.

D. An order, made on notice and a hearing, allowing an intermediate account of a conservator, adjudicates as to the conservator's liabilities concerning the matters considered in connection therewith. An order, made on notice and a hearing, allowing a final account adjudicates as to all previously unsettled liabilities of the conservator to the protected person or the protected person's successors relating to the conservatorship.

E. In any case in which the estate consists, in whole or in part, of benefits paid by the veterans administration to the conservator or the conservator's predecessor for the benefit of the protected person, the veterans administration office that has jurisdiction over the area is entitled to a copy

of any account filed under ~~chapter 5, article 4 of~~ this ~~title~~ ARTICLE. Each year in which an account is not filed with the court, the conservator, if requested, shall submit an account to the appropriate veterans administration office. If an account is not submitted as requested, or if it is found unsatisfactory by the veterans administration, the court on receipt of notice of the deficiency shall require the conservator to immediately file an account with the court promptly.

F. Unless prohibited by order of the court, the conservator may file with the court, in lieu of a final account, a verified statement stating that:

1. The protected person has died. The conservator shall attach a certified copy of the protected person's death certificate to the statement.
2. The protected person's successors have all waived in writing their right to have the conservator submit to the court a final account of the conservator's administration of the protected person's estate. The conservator shall attach the originals of the written waivers to the statement.
3. The conservator has delivered a copy of a closing statement to the protected person's successors. The conservator shall attach a copy of the closing statement to the statement.

G. The closing statement that is to be delivered to the protected person's successors shall be a verified statement stating the following:

1. The protected person has died and the date of the person's death.
2. The persons receiving the closing statement have a right to have the conservator submit to the court a final account of the conservator's administration of the protected person's estate.
3. If the person wishes to have the final accounting reviewed by the court, the person should not sign a waiver that waives this right.
4. If all persons receiving the closing statement choose to waive the right to have the conservator submit to the court a final account, the final account will not be reviewed by the court.
5. A list of the property owned by the protected person, as of the date of the protected person's death, is attached to the closing statement and that the list states the fair market value of the property as of the date of the protected person's death.
6. The conservator, by the closing statement, shall inform the protected person's successors that if they waive court review of the conservator's final account, the conservatorship will be terminated, the conservator will be discharged from all liabilities relating to the conservatorship, the bond or other security posted by the conservator will be exonerated and any restrictions previously imposed on the assets of the conservatorship will be lifted.

H. The conservator shall file an affidavit with the court that states that the closing statement was sent or delivered to the protected person's successors on a date before the date that the protected person's successors signed the written waiver.

I. Unless proceedings are pending against the conservator, on the filing of the statement described in subsection F of this section and the affidavit described in subsection H of this section, the court shall enter an order terminating the conservatorship, discharging the conservator from all liabilities relating to the conservatorship, exonerating and releasing any bond or other security posted by the conservator and releasing any restrictions previously imposed on the assets of the conservatorship.

J. For the purposes of this section, "protected person's successors" means:

1. The personal representative of the protected person's estate if the personal representative and the conservator are not the same person.
2. If the conservator and the personal representative of the protected person's estate are the same person and if the protected person died intestate, the protected person's heirs.
3. If the conservator and the personal representative of the protected person's estate are the same person and if the protected person died testate, the devisees under the protected person's will that has been admitted to probate.

Sec. 25. Section 14-5651, Arizona Revised Statutes, is amended to read:

14-5651. Fiduciaries; licensure; qualifications; conduct; removal; exemption; definitions

A. Except as provided by subsection G of this section, the superior court shall not appoint a fiduciary unless that person is licensed by the supreme court. The supreme court shall administer the licensure program and shall adopt rules and establish and collect fees necessary for its implementation. The supreme court shall deposit, pursuant to sections 35-146 and 35-147, the monies collected pursuant to this subsection in the confidential intermediary and fiduciary fund established by section 8-135. At a minimum the rules adopted pursuant to this subsection shall include the following:

1. A code of conduct.
2. A requirement that fiduciaries post a cash deposit or surety bond with the supreme court.
3. A REQUIREMENT THAT ON APPOINTMENT A FIDUCIARY WHO IS SERVING AS A GUARDIAN OR CONSERVATOR MUST PROVIDE WRITTEN INFORMATION TO THE WARD OR PROTECTED PERSON AND ALL PERSONS ENTITLED TO NOTICE PURSUANT TO SECTION 14-5309 OR 14-5405 THAT THE FIDUCIARY IS LICENSED BY THE SUPREME COURT AND SUBJECT TO REGULATION BY THE SUPREME COURT. THE LANGUAGE OF THE WRITTEN INFORMATION PROVIDED BY THE FIDUCIARY SHALL BE PRESCRIBED BY THE SUPREME COURT AND SHALL INCLUDE

REFERENCE TO THE CODE OF CONDUCT THAT ALL LICENSED FIDUCIARIES MUST FOLLOW.

~~3.~~ 4. Minimum qualifications.

~~4.~~ 5. Biennial renewal of licensure.

B. As a condition of appointment, the supreme court shall require each applicant for the position of fiduciary to submit a full set of fingerprints to the supreme court for the purpose of obtaining a state and federal criminal records check to determine the suitability of the applicant pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

C. An applicant for licensure must:

1. Be at least twenty-one years of age.

2. Be a citizen of this country.

3. Not have been convicted of a felony.

4. Attest that the applicant has not been found civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, theft or conversion.

5. Attend an initial session and thereafter biennial training sessions prescribed by the supreme court on the duties of a fiduciary.

6. Consent in the application form to the jurisdiction of the courts of this state for all actions arising under this article or article 6 of this chapter and appoint the fiduciary program coordinator as the lawful agent for the purpose of accepting service of process in any action, suit or proceeding that relates to the duties of a fiduciary. The program coordinator shall transmit by registered mail to the person's last known address the lawful service of process accepted by the program coordinator. Notwithstanding the provisions of this paragraph, service of process on a public fiduciary or the department of veterans' services shall be made pursuant to the Arizona rules of civil procedure.

D. The superior court shall, and any person may, notify the supreme court if it appears that a fiduciary has violated a rule adopted under this section. The supreme court shall then conduct an investigation and hearing pursuant to its rules. If the supreme court determines that the fiduciary committed the violation it may revoke the fiduciary's license or impose other sanctions, including civil penalties, and shall notify the superior court in each county of this action. The supreme court may then also require the fiduciary to forfeit a cash deposit or surety bond to the extent necessary to compensate the court for the expenses it incurred to conduct the investigation and hearing.

E. A person who in good faith provides information or testimony regarding a fiduciary's misconduct or lack of professionalism is not subject to civil liability.

F. Persons appointed by the chief justice to serve in an advisory capacity to the fiduciary program, staff of the fiduciary program, hearing officers and employees of the administrative office of the courts who participate in the fiduciary program are immune from civil liability for conduct in good faith that relates to their official duties.

G. The requirements of this section do not apply to a financial institution. This exemption does not prevent the superior court from appointing a financial institution as a fiduciary. The supreme court may exempt a fiduciary from the requirements of this section for good cause.

H. This section does not grant any fiduciary or any applicant for a license as a fiduciary the right to a direct appeal to the supreme court.

I. The supreme court may receive and expend monies from the confidential intermediary and fiduciary fund established by section 8-135 for the purposes of performing the duties related to fiduciaries pursuant to this section.

J. This section applies to any supreme court licensed fiduciary who is acting as a guardian, conservator, personal representative, trustee or agent under a power of attorney, whether or not that person is acting pursuant to court appointment.

K. For the purposes of this section:

1. "Fiduciary" means:

(a) A person who for a fee serves as a court appointed guardian or conservator for one or more persons who are unrelated to the fiduciary.

(b) A person who for a fee serves as a court appointed personal representative and who is not related to the decedent, is not nominated in a will or by a power conferred in a will and is not a devisee in the will.

(c) A public fiduciary appointed pursuant to section 14-5601.

(d) The department of veterans' services.

2. "Financial institution" means a bank that is insured by the federal deposit insurance corporation and chartered under the laws of the United States or any state, a trust company that is owned by a bank holding company that is regulated by the federal reserve board or a trust company that is chartered under the laws of the United States or this state.

**Sec. 26. Section 14-5652, Arizona Revised Statutes, is amended to read:
14-5652. Attorneys; fiduciary duties**

A. **EXCEPT AS PRESCRIBED PURSUANT TO SECTION 14-1104 AND** absent an express agreement to the contrary, the performance by an attorney of legal services for a fiduciary, settlor or testator does not by itself establish a duty in contract or tort or otherwise to any third party. For the purposes of this subsection, third party does not apply to the personal representative, settlor or testator.

B. An attorney who acts as a personal representative or trustee shall disclose to all adult persons who have an interest in the estate or trust the names of any person who has an interest in that estate or trust to whom the attorney is currently rendering or has in the past rendered legal services. The attorney must make this disclosure in writing within a reasonable time after learning that a client or former client has an interest in the estate or trust. The representation of an interested person by that attorney is not grounds for removing the attorney as the personal representative or trustee unless the attorney is unable to perform the fiduciary duties as personal representative or trustee without violating the attorney's ethical responsibilities to the client or former client.

Sec. 27. Section 14-10706, Arizona Revised Statutes, is amended to read:

14-10706. Removal of trustee

A. The settlor, a cotrustee or a beneficiary may request the court to remove a trustee or a trustee may be removed by the court on its own initiative.

B. The court may remove a trustee if:

1. The trustee has committed a material breach of trust.
2. Lack of cooperation among cotrustees substantially impairs the administration of the trust.
3. Because of unfitness, unwillingness or persistent failure of the trustee to administer the trust for the benefit of the beneficiaries, the court determines that removal of the trustee best serves the interests of the beneficiaries.
4. There has been a substantial change of circumstances or removal is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust and a suitable cotrustee or successor trustee is available.

C. Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order appropriate relief under section 14-11001, subsection B as may be necessary to protect the trust property or the interests of the beneficiaries.

D. ON PETITION OF A BENEFICIARY WHO IS ALSO A SETTLOR OF A TRUST, INCLUDING A BENEFICIARY FOR WHOM A GUARDIAN OR CONSERVATOR HAS BEEN APPOINTED, THE COURT SHALL SUBSTITUTE A TRUSTEE AND APPOINT A

SUCCESSOR IF THE SUBSTITUTION IS IN THE BEST INTEREST OF THE BENEFICIARY. THE TRUSTEE AND THE TRUSTEE'S ATTORNEY MAY BE COMPENSATED FROM THE TRUST FOR DEFENDING AGAINST A PETITION FOR SUBSTITUTION ONLY FOR THE AMOUNT ORDERED BY THE COURT AND ON PETITION BY THE TRUSTEE OR THE TRUSTEE'S ATTORNEY. WHEN SUBSTITUTING A TRUSTEE AND APPOINTING A SUCCESSOR, THE COURT MAY APPOINT AN INDIVIDUAL NOMINATED BY THE BENEFICIARY IF THE BENEFICIARY HAS, IN THE OPINION OF THE COURT, SUFFICIENT MENTAL CAPACITY TO MAKE AN INTELLIGENT CHOICE.

Sec. 28. Effective date

This act is effective from and after December 31, 2011.

Appendix F

Minimum Best Practices

A. ADULT GUARDIANSHIP CASES

i. Annual Guardianship Reports

1. Order guardian to file annual reports
2. Direct guardian to file the annual report of a guardian at the appointment hearing
3. Set filing deadlines in appointment and in all subsequent guardian report review hearing orders
 - a. Judge should warn guardian of possible sanctions for non-compliance with court orders
 - (i) Monetary fines, including costs of an alternative fiduciary, assessed against guardian personally
 - (ii) Suspension of Letters
 - (iii) Removal
 - (iv) Fiduciary arrest warrant
4. Provide Annual Report of Guardian forms and filing instructions
 - a. In court at the appointment hearing
 - b. At the Clerk's office, law library, self-service forms center
 - c. On the court's website
 - d. At the local bar association office

B. ADULT CONSERVATORSHIP CASES

ii. Bonds and Restricted Accounts

1. Order conservator to post bond, record Letters and give filing deadline
2. Order bond posted prior to Letters of Conservator being issued
3. If no bond, or in a partially bonded estate, order all non-bonded assets be restricted and give filing deadline of Proof of Restricted Account
4. Confirm that appropriate bond has been posted by appropriate tickler such as non-appearance hearing

5. Order appointing conservator should always contain the following warning language: **“This Order does not authorize any transaction. Letters of Conservator must be issued.”**
6. Confirm that conservator accounts are established with appropriate restrictions where applicable
 - a. Order conservator to file a Proof of Restricted Account in an appropriate format and give filing deadline
 - b. Consider periodic requirement of filing an updated Proof of Restricted Account to confirm balance of funds
- ii. Inventory and Appraisalment
 1. Order conservator to file Inventory and Appraisalment within 90 days of the appointment hearing
 2. Confirm Inventory is filed by implementing automation of case monitoring event
- iii. Annual Account of Conservator
 1. Order conservator to file the annual accounting at the initial appointment hearing
 2. Set filing deadlines in appointment hearing by implementing automation of case monitoring event
 3. Warn conservator of possible sanctions for non-compliance with court orders
 - a. Fines - Costs of referral to alternate fiduciary assessed against conservator personally
 - b. Suspension of Letters
 - c. Removal
 - d. Fiduciary Arrest Warrant
 4. Provide Annual Account of Conservator forms and filing instructions
 - a. In court at the appointment hearing
 - b. At the clerk’s office, law library, self-service forms center
 - c. On the court’s website
 - d. At the local bar association office

::

:: (Assigned to the Honorable

:: Judicial

::

:: Officer)

::

The welfare and best interest of the person named above ("your ward") are matters of great concern to this Court. By accepting appointment as guardian you have subjected yourself to the power and supervision of the Court. Therefore, to assist you in the performance of your duties, this order is entered. You are required to be guided by it and comply with its provisions, as it relates to your duties as guardian of your ward to your duties as his/her guardian as follows:

1. You have powers and responsibilities similar to those of a parent of a minor child, except that you are not legally obligated to contribute to the support of your ward from your own funds.
2. Unless the order appointing you provides otherwise, your duties and responsibilities include (but are not limited to) making appropriate arrangements to see that your ward's personal needs (such as food, clothing, and shelter) are met.
3. You are responsible for making decisions concerning your ward's educational, social, and religious activities. If your ward is 14 years of age or older, you must take into account the ward's preferences to the extent they are known to you or can be discovered with a reasonable amount of effort.
4. You are responsible for making decisions concerning your ward's medical needs. Such decisions include (but are not limited to) the decision to place your ward in a nursing home or other health care facility and the employment of doctors, nurses, or other professionals to provide for your ward's health care needs. However, you are to use the least restrictive means and environment available that meet your ward's needs.
5. You may arrange for medical care to be provided even if your ward does not wish to have it, **but you may not place your ward in a level one behavioral health facility against your ward's will unless the Court specifically has authorized you to consent to such placement.**
6. You may handle small amounts of money or property belonging to your ward without being appointed as a conservator. As a general rule, "small amount" means that the ward does not receive income (from all sources) exceeding \$10,000.00 per year, does not accumulate excess funds exceeding that amount, and does not own real property. If more than these amounts come into your possession, or are accumulated by you, you are required to petition the Court for the appointment of a conservator.
7. If you handle any money or property belonging to your ward, you have a duty to do each of the following:
 - a. Care for and protect your ward's personal effects;
 - b. Apply any monies you receive for your ward's current support, care, and education needs;
 - c. Conserve any excess funds not so spent for your ward's future needs;
 - d. Maintain your ward's funds in a separate account, distinct from your own and identified as belonging to the ward;

e. Maintain records of all of the ward's property received and expended during the period of the guardianship;

f. Account to your ward or your ward's successors at the termination of the guardianship, ~~if requested~~; and

g. Not purchase, lease, borrow, or use your ward's property or money for your benefit or anyone else's, without prior Court approval.

8. You shall not accept any remuneration of any kind for placing your ward in a particular nursing home or other care facility, using a certain doctor, or using a certain lawyer. "Remuneration" includes, but is not limited to, direct or indirect payments of money, "kickbacks," gifts, favors, and other kinds of personal benefits.

9. You will need to obtain a certified copy of the letters that are issued to you by the clerk of the superior court. Your certified copy is proof of your authority to act as guardian of your ward, and you should have this document available when acting on behalf of your ward. You may need to obtain additional (or updated) copies from time to time for delivery to, or inspection by, the people with whom you are dealing.

10. You are required to report annually, in writing, with respect to your ward's residence, physical and mental health, whether there still is a need for a guardian, and (if there is no conservator) your ward's financial situation. Your report is due each year on the anniversary date of your appointment.

11. If your ward's physical address changes, you shall notify the court by updating the probate information form within three days of learning of the change in your ward's physical address. If your ward dies, you shall notify the court in writing of the ward's death within ten days of learning that the ward has died.

12. You must be conscious at all times of the needs and best interests of your ward. If the circumstances that made a guardianship necessary should end, you are responsible for petitioning the Court to terminate the guardianship and obtaining your discharge as guardian. Even if the guardianship should terminate by operation of law, you will not be discharged from your responsibilities until you have obtained an order from this Court discharging you.

13. If you become unable to continue with your duties for any reason, you (or your guardian or conservator, if any) must petition the Court to accept your resignation and appoint a successor. If you should die, your personal representative or someone acting on your behalf must advise the Court and petition for the appointment of a successor.

14. If you have any questions about the meaning of this order or the duties that it and the statutes impose upon you by reason of your appointment as guardian, you should consult an attorney or petition the Court for instructions.

15. If you are not a licensed fiduciary and are not related by blood or marriage to the ward, you are not entitled to compensation for your services as the ward's guardian. ~~See A.R.S. § 14-5651(J)(1).~~

16. WITHIN THIRTY (30) DAYS AFTER YOUR LETTERS OF GUARDIAN ARE ISSUED, YOU MUST MAIL A COPY OF THIS ORDER TO GUARDIAN AND ACKNOWLEDGEMENT AND INFORMATION TO INTERESTED PERSONS TO THE FOLLOWING:

A. YOUR WARD;

B. YOUR WARD'S ATTORNEY, SPOUSE, PARENTS, AND ADULT CHILDREN;

C. YOUR WARD'S CONSERVATOR IF ONE HAS BEEN APPOINTED FOR YOUR WARD; AND

D. ANY PERSON WHO HAS FILED A DEMAND FOR NOTICE IN CONNECTION WITH THIS MATTER.

This is only an outline of some of your duties as guardian. It is your responsibility to obtain proper legal advice about your duties. Failure to do so may result in personal financial liability for any losses.

WARNING: FAILURE TO OBEY THE ORDERS OF THIS COURT AND THE STATUTORY PROVISIONS RELATING TO GUARDIANS MAY RESULT IN YOUR REMOVAL FROM OFFICE AND OTHER PENALTIES. IN SOME CIRCUMSTANCES, YOU MAY BE HELD IN CONTEMPT OF COURT, AND YOUR CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL, A FINE, OR BOTH.

DATED this _____ day of _____, 20____.

<<Judicial Officer>>

<Judge/Commissioner-Judge Pro Tem>

Superior Court of Arizona in <<county>> County

ACKNOWLEDGEMENT

The undersigned acknowledges receiving a copy of this order and agrees to be bound by its provisions, whether or not he or she read it before signing, as long as he or she is guardian.

<<Guardian Name>>

Date

be filed with the court on or before the first anniversary date of the issuance of your letters of permanent conservator. Unless otherwise ordered by the Court, all subsequent accountings shall reflect all activity relating to the conservatorship estate from the ending date of the most recent previously filed accounting through and including the last date of the twelfth month thereafter, and must be filed with the court on or before the anniversary date of the issuance of your letters of permanent conservator. Each accounting must list all conservatorship property at the beginning of the accounting period and the conservatorship property at the end of the accounting period, and must describe all money and property received or disbursed by you during the accounting period. As to money and property received, you must provide the date of each receipt, the source of the receipt, the purpose of the receipt, and the amount of the receipt. As to money and property disbursed, you must provide the date of each disbursement, the payee/distributee, the purpose of the disbursement, and the amount of the disbursement. With each accounting, you also must submit a bank statement or financial account statement that supports the ending balances of each account shown on the accounting.

10. **NEVER** use any of the protected person's money or property for any reason other than for the protected person's direct benefit. You may not profit in any way from access to the protected person's assets. You have a legal duty of fairness and impartiality to the protected person. Neither you, your friends, nor other family members may profit by dealing in the assets of the conservatorship estate. You must be cautious and prudent in investing the protected person's assets.

11. You must not make speculative investments. Do not purchase merchandise or services that the protected person would have considered extravagant or inappropriate for his/her lifestyle prior to your appointment. Use the assets to maintain the safety, health and comfort of the protected person, bearing in mind that the protected person may have no additional sources of income for the remainder of his/her life.

12. The conservatorship terminates only upon the entry of a court order terminating the conservatorship. The court will enter such an order only after you, the protected person, or another interested person files a petition requesting that the conservatorship be terminated. If the protected person is a minor, such a petition should be filed after the minor becomes 18 years of age, after the conservatorship estate has been exhausted, or after the death of the protected person, whichever occurs first. If the protected person is an adult, such a petition should be filed if the protected person no longer needs a conservator (either because the protected person's disability has ceased or because the conservatorship estate has been exhausted) or after the protected person dies. Unless otherwise ordered by the court or unless, in the case of the protected person's death, you comply with [A.R.S. § 14-5419\(F\)](#), you will need to file a final accounting with the court before you can be discharged of liability in connection with the conservatorship and before your bond is exonerated.

13. If you have any questions as to your duties as a conservator, contact an attorney who handles conservatorships before taking any action.

14. If you are not a licensed fiduciary and are not related by blood or marriage to the protected person, you are not entitled to compensation for your services as the ward's conservator. See [A.R.S. § 14-5651\(J\)\(1\)](#).

15. WITHIN THIRTY (30) DAYS AFTER YOUR LETTERS OF CONSERVATOR ARE ISSUED, YOU MUST MAIL A COPY OF THIS ORDER TO CONSERVATOR AND ACKNOWLEDGEMENT AND INFORMATION TO INTERESTED PERSONS TO THE FOLLOWING:

- A. YOUR PROTECTED PERSON IF YOUR PROTECTED PERSON IS AT LEAST 14 YEARS OF AGE;**
- B. YOUR PROTECTED PERSON'S ATTORNEY, SPOUSE, PARENTS, AND ADULT CHILDREN;**
- C. YOUR PROTECTED PERSON'S GUARDIAN IF ONE HAS BEEN APPOINTED FOR YOUR PROTECTED PERSON; AND**
- D. ANY PERSON WHO HAS FILED A DEMAND FOR NOTICE IN CONNECTION WITH THIS MATTER.**

This is an outline of only some of your duties as conservator. It is your responsibility to obtain proper legal advice about your duties. Failure to do so may result in personal financial liability for any losses.

WARNING: FAILURE TO OBEY THE ORDERS OF THIS COURT AND THE STATUTORY PROVISIONS RELATING TO CONSERVATORS MAY RESULT IN YOUR REMOVAL FROM OFFICE AND OTHER PENAL TIES. IN SOME CIRCUMSTANCES, YOU MAY BE HELD IN CONTEMPT OF COURT, AND YOUR CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL, A FINE, OR BOTH.

DATED this ____ day of _____, 20 ____.

<<Judicial Officer>>

<Judge/Commissioner-Judge Pro Tem>

Superior Court of Arizona in <<County>> County

ACKNOWLEDGEMENT

I, the undersigned, acknowledge receiving a copy of this order and agree to be bound by its provisions, whether or not I read it before signing, as long as I am conservator.

<<Conservator Name>>

Date

Appendix I

Order to Guardian and Conservator

→ Form 4. Order to Guardian and Conservator and Acknowledgement **AND INFORMATION TO INTERESTED PERSONS**

Name of Person Filing Document: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Attorney Bar Number (if applicable): _____

Licensed Fiduciary Number (if applicable): _____

Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF COUNTY

In the Matter of the Guardianship of and	::	No. CaseNo.
	::	
Conservatorship for	::	
	::	
	::	ORDER TO GUARDIAN AND
	::	
Ward's Name ,	::	CONSERVATOR AND
	::	
	::	ACKNOWLEDGEMENT AND INFORMATION TO INTERESTED PERSONS
	::	
	::	
a Minor	::	(Assigned to the Honorable
	::	

:: Judicial Officer)

::

an Adult

::

::

The welfare and best interest of the person named above ("your ward" and "protected person") are matters of great concern to this Court. By accepting appointment as guardian and conservator you have subjected yourself to the power and supervision of the Court. Therefore, to assist you in the performance of your duties, this order is entered. You are required to be guided by it and comply with its provisions because it relates to your duties as guardian of your ward and conservator of your protected person, as follows:

GUARDIAN(S)

1. You have powers and responsibilities similar to those of a parent of a minor child, except that you are not legally obligated to contribute to the support of your ward from your own funds.
2. Unless the order appointing you provides otherwise, your duties and responsibilities include (but are not limited to) making appropriate arrangements to see that your ward's personal needs (such as food, clothing, and shelter) are met.
3. You are responsible for making decisions concerning your ward's educational, social, and religious activities. If your ward is 14 years of age or older, you must take into account the ward's preferences to the extent they are known to you or can be discovered without unreasonable effort.
4. You are responsible for making decisions concerning your ward's medical needs. Such decisions include (but are not limited to) the decision to place your ward in a nursing home or other health care facility and the employment of doctors, nurses, or other professionals to provide for your ward's health care needs. However, you are to use the least restrictive means and environment available that meet your ward's needs.
5. You may arrange for medical care to be provided even if your ward does not wish to have it **but you may not place your ward in a level one behavioral health facility against your ward's will unless the Court specifically has authorized you to consent to such placement.**
6. You may handle small amounts of money or property belonging to your ward without being appointed conservator. As a general rule, "small amount" means that the ward does not receive income (from all sources) exceeding \$10,000 per year, does not accumulate excess funds exceeding that amount, and does not own real property. If more than these amounts come into your possession, or are accumulated by you, you are required to petition for the appointment of a conservator.
7. If you handle any money or property belonging to your ward, you have a duty to do each of the following:
 - a. Care for and protect your ward's personal effects;
 - b. Apply any monies you receive for your ward's current support, care, and education needs;
 - c. Conserve any excess funds not so spent for your ward's future needs;

- d. Maintain your ward's funds in a separate account, distinct from your own and identified as belonging to the ward;
 - e. Maintain records of all of the ward's property received and expended during the period of the guardianship;
 - f. Account to your ward or your ward's successors at the termination of the guardianship, ~~if requested~~; and
 - g. Not purchase, lease, borrow, or use your ward's property or money for your benefit or anyone else's, without prior Court approval.
8. You shall not accept any remuneration of any kind for placing your ward in a particular nursing home or other care facility, using a certain doctor, or using a certain lawyer. "Remuneration" includes, but is not necessarily limited to, direct or indirect payments of money, "kickbacks," gifts, favors, and other kinds of personal benefits.
9. You will need to obtain a certified copy of the letters that are issued to you by the clerk of the superior court. Your certified copy is proof of your authority to act as guardian of your ward, and you should have the document available when acting on behalf of your ward. You may need to obtain additional (or updated) copies from time to time for delivery to, or inspection by, the people with whom you are dealing.
10. You are required to report annually, in writing, with respect to your ward's residence, physical and mental health, whether there still is a need for a guardian, and your ward's financial situation. Your report is due each year on the anniversary date of your appointment.
11. If your ward's physical address changes, you shall notify the court by updating the probate information form within three days of learning of the change in your ward's physical address. If your ward dies you shall notify the court in writing of the ward's death within ten days of learning that the ward has died.
12. You must be conscious at all times of the needs and best interests of your ward. If the circumstances that made a guardianship necessary should end, you are responsible for petitioning the Court to terminate the guardianship and obtaining your discharge as guardian. Even if the guardianship should terminate by operation of law, you will not be discharged from your responsibilities until you have obtained an order from this Court discharging you.
13. If you should be unable to continue with your duties for any reason, you (or your guardian or conservator, if any) must petition the Court to accept your resignation and appoint a successor. If you should die, your personal representative or someone acting on your behalf must advise the Court and petition for the appointment of a successor.
14. If you have any questions about the meaning of this order or the duties that it and the statutes impose upon you by reason of your appointment as guardian, you should consult an attorney or petition the Court for instructions.
15. If you are not a licensed fiduciary and are not related by blood or marriage to the ward, you are not entitled to compensation for your services as the ward's guardian and conservator. See [A.R.S. § 14-5651\(J\)\(1\)](#).

CONSERVATOR(S)

1. Immediately locate, identify, secure and inventory all of the assets of the protected person and make proper arrangements for their protection, such as changing the locks on the house, renting a safe deposit box for important documents, etc.
2. Immediately take title to all of the protected person's property. The property should be titled in the name of the conservatorship: "(Your name), as Conservator(s) of the estate of (protected person's name)" or "(protected person's name), by (your name), Conservator." Unless otherwise ordered by the court, do not put the protected person's funds into joint accounts, trust

accounts ("in trust for"), or payable on death (POD) accounts. Do not list yourself as beneficiary on any bank accounts or other assets belonging to the protected person.

3. If the Court has ordered you to place funds in a restricted account, you must immediately file a receipt from the bank or financial institution showing that you have deposited the money in an account that the bank has restricted in accordance with the Court order. The receipt should include the name and address of the financial institution, the type of account, the account number, and the amount deposited.

4. Record certified copies of your letters of conservator in each county in Arizona where the protected person owns property in order to protect title to those properties. If the protected person owns property in another state, record letters in the county in that state in which the property is located as well.

5. File your formal inventory with the Court no more than 90 days after your letters of conservator, whether temporary or permanent, were first issued. If you are filing it without an attorney, be sure to put the case name and number on all papers you file with the Court.

6. Keep detailed records of all receipts and expenditures you make on behalf of the protected person, including bills, receipts, bank statements, tax returns, bills of sale, promissory notes, etc. Open a separate conservatorship checking account for deposit of your protected person's income and other receipts and payment of all bills and expenses. Avoid dealing in cash and do not write checks to "cash."

7. Establish a budget, pay the protected person's debts when they become due, and properly invest the protected person's assets. You may hire accountants, attorneys, and other advisors to help you carry out your duties as the size and the extent of the conservatorship estate may dictate.

8. Keep detailed records of the time you are spending in identifying, managing and protecting the conservatorship estate in case you later decide to ask the Court to be paid for your time from the conservatorship estate.

9. File annual accountings with the Court. Unless otherwise ordered by the Court, your first accounting must reflect all activity relating to the conservatorship from the date your letters of conservator, whether temporary or permanent, were first issued through and including the last day of the ninth month after the date your letters of permanent conservator were issued and must be filed with the court on or before the first anniversary date of the issuance of your letters of permanent conservator. Unless otherwise ordered by the Court, all subsequent accounting shall reflect all activity relating to the conservatorship estate from the ending date of the most recent previously filed accounting through and including the last date of the twelfth month thereafter and must be filed with the court on or before the anniversary date of the issuance of your letters of permanent conservator. Each accounting must list all conservatorship property at the beginning of the accounting period and the conservatorship property at the end of the accounting period, and must describe all money and property received or disbursed by you during the accounting period. As to money and property received, you must provide the date of each receipt, the source of the receipt, the purpose of the receipt, and the amount of the receipt. As to money and property disbursed, you must provide the date of each disbursement, the payee/distributee, the purpose of the disbursement, and the amount of the disbursement. With each accounting you also must submit a bank statement or financial account statement that supports the ending balances of each account shown on the accounting.

10. **NEVER** use any of the protected person's money or property for any reason other than the protected person's direct benefit. You may not profit in any way from access to the protected person's assets. You have a legal duty of fairness and impartiality to the protected person. Neither you, your friends, nor other family members may profit by dealing in the assets of the conservatorship estate. You must be cautious and prudent in investing the protected person's assets.

11. You must not make speculative investments. Do not purchase merchandise or services that the protected person would have considered extravagant or inappropriate for his/her lifestyle prior to your appointment. Use the assets to maintain the safety,

health and comfort of the protected person, bearing in mind that the protected person may have no additional sources of income for the remainder of his/her life.

12. The conservatorship terminates only upon the entry of a court order terminating the conservatorship. The court will enter such an order only after you, the protected person, or another interested person files a petition requesting that the conservatorship be terminated. If the protected person is a minor, such a petition should be filed after the minor becomes 18 years of age, after the conservatorship estate has been exhausted, or after the death of the protected person, whichever occurs first. If the protected person is an adult, such a petition should be filed if the protected person no longer needs a conservator (either because the protected person's disability has ceased or because the conservatorship estate has been exhausted) or after the protected person dies. Unless otherwise ordered by the court or unless, in the case of the protected person's death, you comply with [A.R.S. § 14-5419\(F\)](#), you will need to file a final accounting with the court before you can be discharged of liability in connection with the conservatorship and before your bond is exonerated.

13. If you have any questions as to your duties as a conservator, contact an attorney who handles conservatorships before taking any action.

14. WITHIN THIRTY (30) DAYS AFTER YOUR LETTERS OF GUARDIAN AND CONSERVATOR ARE ISSUED, YOU MUST MAIL A COPY OF THIS ORDER TO GUARDIAN AND CONSERVATOR AND ACKNOWLEDGEMENT AND INFORMATION TO INTERESTED PERSONS TO THE FOLLOWING:

- A. YOUR WARD PROTECTED PERSON IF YOUR WARD PROTECTED PERSON IS AT LEAST 14 YEARS OF AGE;**
- B. YOUR WARD PROTECTED PERSON'S ATTORNEY, SPOUSE, PARENTS, AND ADULT CHILDREN; AND**
- C. ANY PERSON WHO HAS FILED A DEMAND FOR NOTICE IN CONNECTION WITH THIS MATTER.**

This is an outline of only some of your duties as conservator. It is your responsibility to obtain proper legal advice about your duties. Failure to do so may result in personal financial liability for any losses.

WARNING: FAILURE TO OBEY THE ORDERS OF THIS COURT AND THE STATUTORY PROVISIONS RELATING TO GUARDIANS AND CONSERVATORS MAY RESULT IN YOUR REMOVAL FROM OFFICE AND OTHER PENALTIES. IN SOME CIRCUMSTANCES, YOU MAY BE HELD IN CONTEMPT OF COURT, AND YOUR CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL, A FINE, OR BOTH.

DATED this ___ day of _____, 20 ___.

<<Judicial Officer>>

<Judge/Commissioner-Judge Pro Tem>

Superior Court of Arizona in <<County>> County

ACKNOWLEDGEMENT

I, the undersigned acknowledge receiving a copy of this order and agree to be bound by its provisions, whether or not I read it before signing, as long as I am guardian and conservator.

<<Guardian/Conservator's Name>>

Date

Appendix J

Proof of Restricted Account from Financial Institution

Name: _____
Address: _____
City, State, Zip: _____
Phone: _____
Comp.# (if applicable): _____

ARIZONA SUPERIOR COURT, _____ COUNTY

In the Matter of the Conservatorship of: _____ Case No. _____

Date of birth: _____

**PROOF OF RESTRICTED ACCOUNT
FROM FINANCIAL INSTITUTION**

Type of Conservatorship:
 Adult Minor

Name of Financial Institution: _____

Branch Address: _____

Phone: _____

State of Arizona)
County of _____) ss.

The undersigned states under oath as follows:

We have opened the following accounts for the estate in the name of _____
by _____, conservator.

<u>Account Number</u>	<u>Opening Balance</u>	<u>Type of Account</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Proof Of Restricted Account From Financial Institution - Case No. _____

Each account is federally insured by the FDIC or NCUA and is restricted as follows:

No withdrawals of principal, income, or interest will be allowed except by certified order of the Superior Court. Reinvestment may be made without further court order so long as funds remain insured and restricted in this institution at this branch. In the case of a minor, the funds shall not be released to the minor at age eighteen (18) until we receive a certified court order.

We have received a copy of the court's order of _____ that requires the restricted account(s) and we will comply with the order.

DATED: _____

Signature of Representative

Name of Representative

Title

SUBSCRIBED AND SWORN to before me this date: _____

by _____

My Commission Expires:

Notary Public

APPLIES TO ALL ASSIGNEES

By signing above you are stating for yourself and your successors that you have restricted these accounts from all debit activity unless otherwise ordered by the court.

Appendix K

Form 5 (Contained in Rule 38)

Form 5. PETITIONER'S GOOD FAITH ESTIMATE

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Licensed Fiduciary Number (if applicable): _____
Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF «COUNTY»

IN THE MATTER OF THE
CONSERVATORSHIP FOR
«Protected Person's Name»,
 a Minor
 an Adult

NO. «CaseNo.»

PETITIONER'S
GOOD FAITH ESTIMATE
 Amendment

(Assigned to the Honorable
«Judicial Officer»)

Confidential Document
Rule 7, Rules Probate Proc.

REQUIRED ATTACHMENTS, which are to be attached in the following order:

- SCHEDULE 1: Good Faith Estimate
- Supporting Detail for SCHEDULE 1, as necessary

PETITIONER'S CERTIFICATION

I, the undersigned, acknowledge that I have read and reviewed this form, accompanying schedule and attached supplements, and after reasonable inquiry have a good faith belief that the information in this report is true, accurate and complete to the best of my knowledge and belief.

<<Petitioner's Name>>

<<Date>>

Form 5. Continued

INSTRUCTIONS FOR FORM 5: PETITIONER'S GOOD FAITH ESTIMATE

Purpose of Form:

Use Form 5 to prepare a good faith estimate of disbursements that you, as the Petitioner, anticipate during the first year of administration of the proposed conservatorship. This good faith estimate is required by Rule 30.1, Arizona Rules of Probate Procedure, and may form the basis for financial orders the Court may enter if a conservator is appointed.

Of course, at the time of filing the Petition, a good faith estimate may be difficult, because some information about the needs of the proposed protected person may not be available, just as some of the conservatorship operating costs may be unknown.

The judge understands these inherent challenges in preparing a good faith estimate and understands that these difficulties may limit your ability to make reliable estimates of some probable costs. **However, as the Petitioner, you are required to submit a good faith estimate based upon the information that is reasonably known by you following reasonable efforts to obtain the necessary information.**

Additionally, please provide a brief description of each estimate on each line of the statement. This is not a requirement to provide supporting documentation, just a brief description of the rationale or basis for your estimates.

If you are unable to complete all or part of a good faith estimate, complete a written statement attesting to your due diligence and describing your efforts to acquire any needed information which was ultimately unobtainable.

Please note: you are not required to provide an estimate for medical costs; this information is commonly unavailable due to privacy considerations. However, if you can make a good faith estimate of medical costs, you should do so.

When to File:

Form 5 is filed at the time the petition is filed but should be filed separately as a confidential document; the estimate is not available for public inspection.

While the Petition is pending, you have an obligation to amend your good faith estimate if, after filing your original Form 5, you learn additional information which changes your

original estimate. The amended Form 5 shall be filed not less than five (5) days prior to the hearing on the Petition.

General Instructions:

All references in these instructions to "you" refer to the Petitioner. All references to "year" refer to the first twelve months following the issuance of Letters of Appointment of a conservator.

Form 5 requires attachment of SCHEDULE 1: Good Faith Estimate. If there is insufficient space on SCHEDULE 1 for you to provide any required supporting detail, you are required to attach the supporting detail as separate page(s).

As to any supporting detail to SCHEDULE 1, identify the line on SCHEDULE 1 and, if appropriate, column being described.

Helpful Suggestion:

These instructions assume that Form 5 and SCHEDULE 1 are being completed manually with paper forms. However, Form 5 and SCHEDULE 1 are also available in an electronic format at no cost and will automate all of the calculations. Please see: www.azcourts.gov/fadd_full_cite/

Notice:

Any estimates allowed or required by these instructions are not designed or intended as a basis for civil liability, criminal liability, or to serve as the basis for litigants to seek collateral remedies against each other or obtain tactical advantages in proceedings before a court.

Specific Instructions:

SCHEDULE 1 (Form 5): Good Faith Estimate

Column Instructions: SCHEDULE 1 consists of three columns.

- Column A includes the estimated monthly disbursements of the conservatorship. These are typically recurring disbursements that repeat from month-to-month.

- Column B includes the estimated annual disbursements. This includes one-time disbursements and twelve months of the estimated monthly disbursements described in Column A.
- Column C includes your description of the estimated disbursements; if additional space is required, attach supporting detail.

Line Instructions:

If the estimate for any line is zero, enter 0.

If the estimate for any line is unknown, write "unknown" for that line.

As to each entry, provide a brief description in Column C; if additional space is required, attach supporting detail on a separate page.

Estimated one-time, first year disbursements:

Line 1 – Estimated Fiduciary Fees and Costs UNTIL Filing of Inventory: Enter in Column B the one-time, estimated fiduciary fees and costs incurred or projected to be incurred by the proposed protected person's estate until the filing of the inventory as required by Arizona Revised Statutes section 14-541B. Do NOT enter on line 1 the regular and recurring monthly fiduciary fees and costs which are properly entered on line 13.

Most professional fees and costs are subject to the Statewide Fee Guidelines, which are included with the Rules of Probate Procedure.

Line 2 – Estimated Fiduciary's Attorney Fees & Costs UNTIL Filing of Inventory: Enter in Column B the one-time, estimated fiduciary's attorney fees and costs incurred or projected to be incurred by the proposed protected person's estate until the filing of the inventory. Do NOT enter on line 2 the regular and recurring monthly fiduciary's attorney fees and costs which are properly entered on line 14.

In making any estimates of attorney fees, you may assume that the Petition will not be significantly contested unless you have reason to believe the Petition will be contested.

Line 3 – Estimated Protected Person's Attorney Fees & Costs UNTIL Filing of Inventory: Enter in Column B the one-time, estimated protected person's attorney fees and costs incurred or projected to be incurred by the proposed protected person's estate until the filing of the inventory. Do NOT enter on line 3 the regular and recurring monthly protected person's attorney fees and costs which are properly entered on line 15.

Line 4 – Estimated Other One-Time, First Year Disbursements: Enter in Column B any other known or probable one-time disbursements during the first year of a conservatorship. Provide a brief description as supporting detail.

Line 5 – Total Estimated One-Time, First Year Disbursements: Enter in Column B the sum of lines 1 through 4.

Estimated monthly, first year disbursements:

Line 6 – Estimated Food, Clothing, and Shelter: Enter in Column A the monthly estimated disbursements for goods or services provided to a protected person that are essential for survival including food, clothing, and shelter; do not include medical costs.

For the limited purpose of estimating a disbursement on this line, disbursements for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.

For example: Enter the regular fees to a care facility, required companions or care providers, food, clothing, toiletries, utilities, or household expenses, including home mortgage payments.

Line 7 – Estimated Medical Costs (Optional): An entry on line 7 is optional; you are not required to provide a good faith estimate of medical costs.

However, if you can provide a good faith estimate for medical costs AND if you elect to do so, enter in Column A the monthly estimated medical payments for the protected person, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription and non-prescription medicines, insurance premiums and co-pays.

Line 8 – Estimated Dignity Funds: Enter in Column A the estimated monthly funds that will be released directly to the protected person as a spending allowance. Do NOT estimate how the protected person may expend these funds; these funds are no longer considered part of the conservatorship estate.

Line 9 – Estimated Debt Service on Liabilities: Enter in Column A the estimated monthly debt service payments on debts, such as loans and personal debts of the protected person.

Please note: Do NOT include the home mortgage payment on the residence where the protected person resides, this is included on line 6.

Line 10 – Estimated Discretionary Expenditures: Enter in Column A the estimated monthly discretionary expenditures.

Discretionary expenditures includes all goods and services provided to a protected person that are not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person, such as entertainment and vacation costs. Discretionary care does NOT include expenditures that are estimated on another line on SCHEDULE 1.

Line 11 – Estimated Other Disbursements for Protected Person: Enter in Column A any other estimated monthly disbursements for the protected person that are not included on another line on SCHEDULE 1, including estimated disbursements made for a dependent of the protected person.

Line 12 – Total Estimated for Protected Person: Enter in Column A the sum of lines 6 through 11.

Line 13 – Estimated Fiduciary Fees and Costs, Excluding Line 1: Enter in Column A the estimated monthly disbursements for fiduciary fees and costs, excluding one-time, first year disbursements made until the filing of the inventory. Said another way, do not include any fees and costs included on line 1.

Fees are compensation paid to the fiduciary. Costs include administrative charges that are authorized in the Statewide Fee Guidelines, such as filing fees and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing and shelter.

Line 14 – Estimated Fiduciary's Attorney Fees and Costs, Excluding Line 2: Enter in Column A the estimated monthly fiduciary's attorney fees and costs, excluding one-time, first year disbursements made until the filing of the inventory. Said another way, do not include any fees and costs included on line 2.

Line 15 – Estimated Protected Person's Attorney Fees and Costs, Excluding Line 3: Enter in Column A the estimated monthly protected person's attorney fees and costs, including fees and costs to any court-appointed counsel or guardian ad litem; do not include one-time, first year disbursements made until the filing of the inventory. Said another way, do not include any fees and costs included on line 3.

Line 16 – Estimated Other Administrative Fees and Costs: Enter in Column A the estimated monthly disbursements that are an administrative fee or cost of the conservatorship that are NOT included on another line on SCHEDULE 1, such as a financial advisor or accountant.

Provide a brief description explaining any estimated other administrative fee and cost.

Line 17 – Total Estimated Administration Disbursements: Enter in Column A the sum of lines 13 through 16.

Line 18 – Total Estimated MONTHLY Disbursements: Enter the sum of lines 12 and 17 in Column A.

Line 19 – Total Estimated ANNUAL Disbursements: If you have not already done so, multiply all the entries in Column A by 12 and enter each result in Column B. Enter the sum of lines 5, 12 and 17 in Column B.

Line 20 – Due Diligence Statement: If you entered "unknown" on any line of the good faith estimate, except for medical costs, you are required to describe the efforts taken to acquire any needed information, which was ultimately unobtainable at the time of the good faith estimate.

FORM 5: Petitioner's Good Faith Estimate:

Form 5 is largely a self-explanatory document; it serves as a coversheet for your good faith estimate.

When filing Form 5, you are required to attach SCHEDULE 1. You may attach supporting detail if the space provided on SCHEDULE 1 is insufficient for your description of estimated disbursement. Check each box on Form 5 for each included attachment.

When amending Form 5, include any attachments that are changed as a result of the amendment. Check each box on an amended Form 5 for each included attachment.

Organize all required attachments in the same order as shown on Form 5.

Sign Form 5 when you are finished and have reviewed the form and all required attachments. When you sign, you are certifying that you have read and reviewed the entire report and, after reasonable inquiry, you have a good faith belief that the information in this report is true, accurate and complete to the best of your knowledge and belief.

If the Petition to appoint a conservator is granted, the conservator will use Form 6 if the Court requires an operating budget. A budget is typically due 90 days after issuance of Letters of Appointment. At the time of the first annual conservator's account, the conservator will use Form 7. Instructions are included with each form.

In the matter of: _____ Case No. _____

SCHEDULE 1 (Form 5):
Good Faith Estimate

(Refer to Form 5 instructions to Complete SCHEDULE 1)

Column A	Column B	Column C
Monthly Estimates	Annual Estimates For First Year	Description of Estimated Disbursement

If additional space is required, attach supporting data.

ESTIMATED ONE-TIME, FIRST YEAR Disbursements (Money Spent):

1	Estimated Fiduciary Fees and Costs UNTIL Filing of Inventory		
2	Estimated Fiduciary's Attorney Fees & Costs UNTIL Filing of Inventory		
3	Estimated Protected Person's Attorney Fees & Costs UNTIL Filing of Inventory		
4	Estimated Other One-Time Disbursements (provide description)		
5	Total Estimated One-Time Disbursements (add lines 1 through 4)		

ESTIMATED MONTHLY, FIRST YEAR Disbursements (Money Spent):

6	Spent for Protected Person:		Column A multiplied by 12 months
7	Estimated Food, Clothing, and Shelter		
8	Estimated Medical Costs (OPTIONAL)		
9	Estimated Dignity Funds		
10	Estimated Debt Service on Liabilities		
11	Estimated Other for Protected Person (attach detail)		
12	Total Estimated for Protected Person (add lines 6 through 11)		

Spent for Administration Fees & Costs, Excluding One-Time, First Year Disbursements (lines 1 through 4):

13	Estimated Fiduciary Fees & Costs		
14	Estimated Fiduciary's Attorney Fees & Costs		
15	Estimated Protected Person's Attorney Fees & Costs		
16	Estimated Other Administrative Fees & Costs (provide description)		
17	Total Estimated Administration Fees & Costs (add lines 13 through 16)		

18. Total Estimated Monthly Disbursements (add lines 12 & 17)

19. Total Estimated Annual Disbursements (add lines 5, 12 & 17)

20. Due Diligence Statement:

Appendix L

Forms 6-10 (Contained in Rule 38)

Form 6. CONSERVATOR'S 90 DAY REPORT

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Licensed Fiduciary Number (if applicable): _____
Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF «COUNTY»

IN THE MATTER OF THE
CONSERVATORSHIP FOR

«Protected Person's Name»,

- a Minor
 an Adult

NO. «CaseNo.»

CONSERVATOR'S
90 DAY REPORT

Amendment

(Assigned to the Honorable
«Judicial Officer»)

Confidential Document
Rule 7, Rules Probate Proc.

REQUIRED ATTACHMENTS, which are to be attached in the following order:

- INVENTORY
- SCHEDULE 1: Statement of Receipts and Disbursements
- SCHEDULE 2: Statement of Net Assets
- SCHEDULE 3: Statement of Sustainability of Conservatorship
- Supporting Detail required for SCHEDULE 1
- Supporting Detail required for SCHEDULE 2
- Supporting Detail required for SCHEDULE 3

CONSERVATOR'S CERTIFICATION

I, the undersigned, acknowledge that I have read and reviewed this form, accompanying schedules and attached supplements, and after reasonable inquiry have a good faith belief that the information in this report is true, accurate and complete to the best of my knowledge and belief.

<<Conservator Name>>

<<Date>>

Form 6. Continued

INSTRUCTIONS FOR FORM 6: FIRST CONSERVATOR'S ACCOUNT

Purpose of Form:

Use Form 6 to prepare and report the "90 Day Report", which includes an Inventory, Initial Budget, and Initial Calculation of the Sustainability of the Conservatorship.

This form is the precursor to filing the first conservator's account on Form 7, and each subsequent conservator's account on Form 8, until you file your final account on Form 9. If you are required to provide a budget with your annual conservator's account, report the budget on each respective form.

If this conservatorship consists of a small estate or has very little activity, you can ask the Court to simplify your filing requirements, such as:

- Filing only an Inventory, rather than a complete Form 6, and
- Filing Form 10 for each of your conservator's accounts, which is a simplified annual reporting form.

However, you must file the detailed reports, unless simplified reporting procedures are authorized by the Court.

When to File:

Generally, a conservator is required to file three reports 90 days after their appointment: the Inventory, Initial Budget, and an Initial Calculation of Sustainability of the Conservatorship. All three required reports are included in Form 6, which is a comprehensive 90 day report.

However, you must review the Court's orders in your case, which may establish a different due date or different reporting requirements that the conservator is required to follow, since every conservatorship is unique to some degree.

Form 6 is filed as a confidential document; the report is not available for public inspection.

General Instructions:

All references in these instructions to "you" refer to the conservator, and all references to "year" refer to the reporting or accounting period, even though the first conservator's account typically covers a nine month period.

Unless otherwise ordered by the Court, Form 6 requires attachments, including but not limited

to the official Inventory; SCHEDULE 1) Statement of Receipts and Disbursements; SCHEDULE 2) Statement of Net Assets; and SCHEDULE 3) Statement of Sustainability of Conservatorship. In addition to the required schedules, certain answers require supporting detail, which are also required attachments to Form 6. As to any supporting detail, identify the schedule, line and, if appropriate, column that is detailed.

You should complete the Inventory and then the required schedules prior to completing Form 6, because Form 6 is essentially a coversheet as you gather together your complete report, and it includes a certification that the report is true, accurate and complete to the best of your knowledge and belief. Don't sign this certification until you have read and reviewed the completed report.

Helpful Suggestion:

These instructions assume that Form 6 and all schedules are being completed manually on paper forms. However, Form 6 and all schedules are also available in an electronic format at no cost and will automate all of the calculations. Please see: www.azcourts.gov/add_full_cite

Notice:

Any estimates allowed or required by these instructions are not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

Specific Instructions:

Inventory:

An Inventory is required from a conservator and is included as an attachment to Form 6. Please see Section 14-5418 Arizona Revised Statutes and Arizona Probate Rule 30.

Unless otherwise ordered by the Court, do not include any property in your inventory that is titled in the name of a different legal entity,

such as property held by a trust or corporation, unless you as conservator can exercise a power of direction over the asset. A power of direction includes the ability to direct the other legal entity to transfer title or possession to the property.

When listing the value of all assets do NOT deduct any liens or mortgages. Report debts separately as liabilities but identify if any debt is secured against any particular asset.

SCHEDULE 1 (Form 6): Statement of Receipts and Disbursements

Column Instructions:

SCHEDULE 1 consists of columns that mostly do not apply to Form 6. Only Column F is utilized with Form 6. **Please note: Columns A through E, as well as Column G, are not used on Form 6 and are intentionally left blank.**

Column F – Budget Current Year: Complete Column F if the court requires a budget for the year that is just beginning. This is where you present a budget of receipts and disbursements for the coming year.

Please note: unless otherwise directed by the Court, your Budget for the current year is for the first nine (9) months after your appointment; the first budget is not for an entire year.

Line Instructions:

As you determine what to enter on each line, please remember that transactions are recognized on SCHEDULE 1 when money is received or money is disbursed by the conservatorship. In accounting terms, transactions are recognized on a cash basis; you list receipts and disbursements when money effectively changes hands.

For example, if a cost is incurred but not paid before the end of a reporting period, the cost is not listed as a disbursement until paid.

For example, if a check is mailed before the end of a reporting period but does not clear the bank until early in the next reporting period, the disbursement is treated as paid when the check was mailed.

Receipts reported on SCHEDULE 1 include any money, whether income to the estate, liquidation of any general estate asset, or the proceeds of any loan to the estate.

Once you determine which columns of SCHEDULE 1 are required, complete each row as follows:

Line 1 – Start Date of each Period: Enter the start date for each period.

For example, if a conservator is appointed on October 1, 2011, the first budget and first conservator's account will cover the nine months ending on June 30, 2012. Typically, the first conservator's account would then be due on September 30, 2012, for the period from October 1, 2011 to June 30, 2012:

- Column F will have a start date of October 1, 2012.

Line 2 – End Date of each Period: Enter the end date for each period. Using the preceding example, the end date is June 30, 2012.

Line 3 – Retirement and Disability Income:

Enter all regular and recurring income that is expected as a result of retirement or disability, including but not limited to Social Security, Railroad Retirement, pension benefits, Social Security Disability, Supplemental Security Income, and worker's compensation benefits. Do NOT include distributions from tax-deferred investments, such as 401K and IRA funds. *Remember: unless otherwise ordered by the Court, the budget is for nine months.*

Line 4 – Annuities, Structured Settlements, and Trust Income:

Enter all income that is expected from annuities, structured settlements, or trust income that is not already included in line 3.

Line 5 – Wages and Earned Income:

Enter all expected wages and earned income of the protected person that is not included in lines 3 or 4.

Line 6 – Investment and Business Income:

Enter all expected investment and business income, including but not limited to interest, dividend, rent, and royalty income that is not included in lines 3, 4 or 5.

Line 7 – Other Receipts:

Enter any other expected receipts that are not included in lines 3 through 6, including but not limited to any other income, any distributions from tax-deferred investments, such as 401K or IRA funds, any amount expected from selling an asset, or the proceeds from any new loan to the protected estate. Attach a detailed statement explaining the other receipts.

Line 8 – Total Receipts: Add lines 3 through 7 in each column to calculate the Total Receipts budget.

Line 9 – Assets/Liabilities as Receipts:

The number you reported on line 8 shows the total receipts expected to the conservatorship, but it is also important for the Court to know whether

the conservatorship is going to be able to meet the lifetime needs of the protected person; and for this reason, the court needs to know how much of the receipts are expected to come from consuming assets or from borrowing money.

Enter on line 9 the amount of money that is already included in line 8 that is expected to come from selling or liquidating an asset or from incurring a new liability.

For example, if you expect a required minimum distribution from an IRA fund which pays out the earnings as well as some amount of the principal, enter the total distribution on line 7 and enter the amount of the principal expected on line 9.

For example, if you expect the proceeds from an installment sale over a period of years, and this year you expect interest on the unpaid balance plus a payment on the balance due, enter the total payment expected this year on line 7 and enter the principal portion of the receipts on line 9.

For example, if you expect to sell an asset, such as a residence, enter the net amount expected on line 7 and enter the same amount on line 9.

For example, if the conservator expects to borrow money to pay the bills of the protected person, enter the amount of the new loan on lines 7 and 9 and include as a liability on SCHEDULE 2.

Line 10 – Total Income included in Receipts: Subtract line 9 from the Total Receipts on line 8.

Line 11 – Food, Clothing, and Shelter: Enter the expected disbursements for goods or services provided to a protected person that are essential for survival, excluding medical costs but including food, clothing, and shelter for the protected person. (For the limited purpose of reporting a disbursement on line 11, expenditures for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.)

For example: enter the regular fees to a care facility, required companions or care providers, food, clothing, toiletries, utilities, or household expenses including home mortgage payments for the protected person's residence.

Line 12 – Medical Costs: Enter all of the expected medical payments for the protected person that are not included on line 11, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription and non-prescription medicines, insurance premiums and co-pays.

Line 13 – Dignity Funds: Enter the amount of funds that are budgeted to release directly to the protected person as a spending allowance. Do NOT report how the protected person expends these funds; these funds are no longer considered part of the conservatorship estate once distributed.

Line 14 – Debt Service on Liabilities: Enter the amount of expected debt service payments on debts, such as loans and personal debts of the protected person.

- Do NOT include the home mortgage payment on the residence where the protected person resides (this was reported on line 11).
- Do NOT include as debt service any disbursements for obligations incurred in a prior period of the conservatorship, such as fiduciary and attorney fees and costs. Report these amounts in the appropriate disbursement category when paid.

For example, if the fiduciary earned a fee in one period, but the fee is paid in a later period, the fee is reported as a disbursement on line 18 when expected to be paid, NOT line 14. Any operating bills of the conservatorship are treated in the same manner, such as fees to care providers that are incurred but not paid until a later year.

For example, if the protected person has an outstanding credit card debt that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the protected person has an outstanding car loan that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the Conservator takes out a loan for the benefit of the protected person, such as a loan to fund the needs of the protected person until real estate or a business interest is sold, all debt service payments on this debt are reported on line 14.

Line 15 – Discretionary Expenditures: Discretionary expenditures means all goods and services provided to a protected person that are not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person, such as entertainment and vacation costs. Discretionary care does NOT include expenditures that are included on another line on SCHEDULE 1.

Line 16 – Other Disbursements for Protected Person: Report other disbursements that are expected for the protected person but

not included on another line on SCHEDULE 1, including disbursements that are made for a dependent of the protected person. Include on line 16 the purchase of any asset, such as a residence, vehicle, or computer. Attach supporting detail explaining the other disbursements.

For example, if a residence is purchased for the protected person, report the planned cash down-payment on line 16, mortgage payments on line 11, and list the mortgage as liability on SCHEDULE 2. (see line 24 where this down-payment is also entered)

For example, if the conservator plans to invest in a marketable security, such as a mutual fund or publicly traded stock, enter the disbursement on line 16 (see line 24 where this purchase is also reported).

For example, enter on line 16 any tax payment that is not already listed on another line.

Line 17 – Total for Protected Person: Enter the sum of lines 11 through 16.

Line 18 – Fiduciary Fees and Costs: Enter the anticipated expenditures for Fiduciary Fees and Costs. Fees are compensation paid to the Fiduciary. Costs include administrative charges that are authorized in the Statewide Fee Guidelines, such as filing fees and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing and shelter.

Line 19 – Fiduciary’s Attorney Fees and Costs: Enter the Fiduciary’s Attorney Fees and Costs.

Line 20 – Protected Person’s Attorney Fees and Costs: Enter the Protected Person’s Attorney Fees and Costs, including court-appointed counsel and any guardian ad litem, if paid by the conservator.

Line 21 – Other Administrative Fees and Costs: Report other disbursements that are expected as an administrative fee or cost of the conservatorship that are NOT included on another line on SCHEDULE 1, such as an appraiser, financial advisor, court investigator, or accountant. Attach supporting detail explaining any other expenditure.

Line 22 – Total Administration Disbursements: Enter the sum of lines 18 through 21.

Line 23 – Total Disbursements: Add lines 17 and 22.

Line 24 – Assets/Liabilities as Disbursements: The number you reported on line 23 shows the total budgeted disbursements

of the conservatorship, but the court also needs to know how much is planned for disbursement to satisfy debts or acquire assets.

Enter the amount that is included in line 23 that will reduce the principal balance of a debt or be used to acquire an estate asset.

For example, if you will expend funds on an installment purchase over a period of years, and this year you pay interest on the unpaid balance plus a payment on the balance due, enter the total payment (interest and principal) on line 14 and enter the principal portion of the payment on line 24.

For example, if you will buy a residence for the protected person, enter the net amount planned to disburse as a down-payment on line 14 and enter the same amount on line 24. Thereafter, any mortgage payments are reported on line 11, and this obligation will now be reported as a debt on SCHEDULE 2.

For example, if the conservatorship previously borrowed money to pay the bills of the protected person, enter any debt service payment for the loan on line 14 (including principal and interest), and enter the principal amount paid (but not interest) on line 24.

Line 25 – Total Expenses in Disbursements: Subtract line 24 from the Total Disbursements on line 23.

Line 26 – Total Surplus/ (Shortfall): Enter line 8 minus line 25. If the amount is positive, this is a cash-flow Surplus. If the amount is negative, this is a cash-flow Shortfall, and the number must be displayed in parentheses or preceded by a negative sign.

Line 27 – Net Income/ (Net Expenses): Enter line 10 minus line 25. If the amount is positive, this is the amount by which income is budgeted to exceed expenses. If the amount is negative, this is the amount by which expenses are budgeted to exceed the income of the conservatorship, and a negative number must be displayed in parentheses or preceded by a negative sign.

SCHEDULE 2 (Form 6): Statement of Net Assets

Section 1 – Net Assets: The first section of SCHEDULE 2 includes a summary of the inventory.

Column Instructions:

SCHEDULE 2 consists of columns that mostly do not apply to Form 6. Only Column B is utilized with Form 6. **Please note: Column A and**

Columns C through E are not used on Form 6 and are intentionally left blank.

Column B – Inventory Summary: Complete Column B to display a summary of your Inventory.

When reporting the value of all general assets do NOT deduct any liens or mortgages. Debts are separately reported as liabilities.

Line Instructions:

Line 1 – Valuation Report Date: Enter the date of the Inventory.

Line 2 – Real Estate: Enter the value of all real estate owned by the estate, such as the residence of the protected person, any rental or vacation real estate, and any cemetery plots. *Remember to enter the gross value of ALL assets and do not deduct liens or mortgages; ALL liabilities are listed separately on line 17 as debts.*

Line 3 – Vehicle(s): Enter the value of any vehicles, such as a personal automobile, motorcycle, golf cart, watercraft, airplane, or recreational vehicle.

Line 4 – Business Ownership Interests: Enter the value of any business ownership interests, such as a closely held family business. Do not list shares in a publicly traded corporation on line 4.

Line 5 – Household Items and Personal Effects: Enter the value of household items and personal effects that are owned by the protected person, which commonly include the property that the protected person stored in his or her primary residence, including displayed collectible items. Property with significant value, like precious jewelry and valuable collections, should be itemized and included separately on line 8.

Line 6 – Stocks, Bonds, and Mutual Funds, not tax-deferred: Enter the present value of stocks, bonds, mutual funds, and other marketable securities, such as savings bonds and learner bonds, but excluding business interests that were entered on line 4 or tax-deferred assets that are entered below on line 7.

Line 7 – Tax-Deferred Assets: Enter the present value of tax-deferred assets, such as IRA and 401(k) accounts. Include all tax-deferred assets, including but not limited to tax-deferred cash accounts, certificates of deposit, savings accounts, and brokerage accounts.

Line 8 – Other General Assets: Enter the present value of all other assets that are not already listed, excluding cash and regular bank accounts. Include the cash value of any

insurance policies or any prepaid benefits, such as prepaid funeral plans.

Line 9 – Total General Assets: Enter the sum of lines 2 through 8.

Line 10 – Bank Accounts, Restricted Access: Enter the cash balance of any bank accounts that are court-restricted, meaning funds may not be withdrawn without a court order. Bank accounts include checking, saving, certificates of deposit, money market accounts, and all functionally similar accounts, whether in a bank, savings and loan, credit union, or other similar financial institution. Do not include tax-deferred assets that were listed above on line 7.

Line 11 – Bank Accounts, Unrestricted Access: Enter the cash balance of any bank accounts that are NOT court-restricted, meaning funds may be withdrawn without a court order.

Line 12 – Cash on Hand: Enter the amount of currency that you have on behalf of the estate, such as a petty cash fund. Do not include coin collections on this line, unless the coins have no collectible value above the face value of the coins.

Line 13 – Other Money-Denominated Assets: Enter the value of other money denominated assets, such as a cash card. These assets are functionally equivalent to money in a bank account and do not change in value by market fluctuation, except by receipt of a dividend or interest. Attach supporting detail.

Line 14 – Total Cash and Bank Accounts: Enter the sum of lines 10 through 13.

Line 15 – Total Available Assets: Add lines 9 and 14.

Line 16 – Bills & Payables more than 30 days old: Enter the amount of any and all just-due bills and payables, plus ALL incurred but unpaid fiduciary and attorney fees and costs, as of the end of the reporting period. Attach supporting detail.

Line 17 – Debts: Enter the amount of all other debts, such as notes, mortgages, credit cards and personal loans, as of the end of the reporting period. Attach supporting detail.

Line 18 – Total Liabilities: Add lines 16 and 17.

Line 19 – Net Assets: Enter line 15 minus line 18. This is the value of the net assets as of the date of the reporting period.

Section 2 – Reconciliation of Conservator's Account: The second section of SCHEDULE 2 does not apply to Form 6 and is intentionally left blank.

SCHEDULE 3 (Form 6): Statement of Sustainability of Conservatorship

The purpose of SCHEDULE 3 is to estimate how long the conservatorship estate can meet the expenses of the protected person, and then to compare whether that duration is longer or shorter than the estimated lifespan of the protected person. A conservatorship estate that can meet the predicted expenses of a protected person is considered sustainable, while a conservatorship estate that cannot is not sustainable. A conservatorship estate must have a written management plan if it is not sustainable.

Column Instructions:

SCHEDULE 3 consists of columns that mostly do not apply to Form 6. Only Column B is utilized with Form 6. **Please note: Column A and Columns C through E are not used on Form 6 and are intentionally left blank.**

Column B – Original Sustainability

Estimate: Complete Column B to provide your estimates on the sustainability of the conservatorship. Your estimates should be based upon the most current information that is reasonably available to you.

As a reminder, the information provided on this schedule is a good faith estimate based upon the information that is reasonably available to you. Some information may be easy to calculate and should be accurate, such as money available in bank accounts, but some information is very difficult to estimate, such as the projected life expectancy of the protected person. This schedule requires you to share what you believe to be true, not what you can prove to be true. You are not making an avowal; you are telling the Court what you think is true in this particular case for this particular protected person.

Line Instructions:

Line 1 – Report Date of Sustainability

Estimate: Enter the date of the report of sustainability.

Overview of Lines 2 through 4: You calculated the net assets of the conservatorship estate on SCHEDULE 2, but there may be additional factors that may impact those assets looking forward, such as additional assets that might come from an inheritance or a personal injury claim. Likewise, looking forward, some assets might be needed for known one-time expenditures, such as a major medical expenditure or the startup costs for the conservatorship. Once these adjustments are made, if any, the remaining net assets should be available to meet the typical or recurring needs of the protected person.

Said another way, you are calculating the net assets that are thought to be available to meet the regular and recurring needs of the protected person from this point forward.

Line 2 – Net Assets: Enter the value of the Net Assets available to the estate, as calculated on SCHEDULE 2, Column B, line 19.

Line 3 – Adjustments: Enter zero, unless adjustments are required. If so:

- Enter as a positive value any new and significant assets that you expect to come into the conservatorship, such as an inheritance or a personal injury award.
- Enter as a negative value any assets that need to be used to satisfy any planned, one-time, significant expenditures, such as one-time medical cost, large repairs, or the cost to stabilize the conservatorship.

Explain any adjustments as supporting detail on a separate page.

Line 4 – Adjusted Net Assets: Add a positive value on line 3 to line 2, or deduct a negative value on line 3 from line 2. This is your estimate of the assets that will be available to meet the recurring needs of the protected person.

For example, if the net asset figure on line 2 is \$100,000, and line 3 is a positive value, such as \$5,000, enter the sum of both numbers, \$105,000 on line 4. However, if line 3 instead has a negative value, such as minus \$8,000, which can be written as -\$8,000 or (\$8,000), you would enter \$92,000 on line 4.

Overview of Lines 5 through 7: You already calculated the budgeted net income or the net expenses of the conservatorship estate on SCHEDULE 1, but there may be additional factors that impact the typical or recurring net income or net expenses looking forward, such as income or expenses that will change in the future. Said another way, what will be the regular or recurring net income or net expenses in a typical year?

Line 5 – Net Income/(Net Expenses): Enter the value of the budgeted net income or net expenses for the estate as calculated on SCHEDULE 1, line 27, Column F. Enter net income as a positive number, and enter net expenses as a negative number.

Line 6 – Adjustments: Enter zero, unless adjustments are required. If so:

- Enter as a positive value any significant one-time expenses that were recognized as a disbursement when calculating the net income or net expenses for the year just ended, such as a one-time medical cost or the startup cost for the conservatorship.
- Enter as a positive value any significant and recurring income that was not recognized (or not fully recognized) when calculating the net income or net expenses for the year just ended, such as a new source of income like disability benefits.
- Enter as a negative value any significant and recurring expenditure that was not recognized (or not fully recognized) when calculating the net income or net expenses for the year just ended, such as a new or increased expenditure for care of the protected person.
- **Once any other adjustments are first determined, convert what remains as a nine month budget into an annual figure.**

For example, if the protected person now receives a regular and recurring disability payment of \$1,000 per month, and only the first three months of benefits was included in the net income or net expenses for the year just ended, there is a required positive adjustment in the amount of \$9,000, which recognizes the additional income that will be received in a typical year (since 3 months was already recognized).

For example, if the protected person incurred a substantial one-time expenditure, which was a disbursement when calculating the net income or net expenses for the year just ended, this is a positive adjustment, since this disbursement will not recur in a typical year. This might occur with the one-time cost for a new roof on the protected person's residence.

For example, if the protected person will now require additional care services, which was not previously included as a disbursement in calculating the net income or net expenses, this is a negative adjustment.

For example, if after making all the adjustments, you calculate that the budgeted net expenses are approximately \$9,000 over nine months, this should equate to annual expenses of about \$12,000. If you divide the nine month figure by nine and then multiply it by twelve.

Explain any adjustments as supporting detail on a separate page.

Line 7 – Adjusted Net Income/(Net Expenses): Add the positive value on line 5 to line 5, or deduct the negative value on line 6 from line 5. This is your estimate of the regular and recurring net income or net expenses of the conservatorship.

If line 7 is a positive value, you are estimating that the conservatorship is sustainable because the conservatorship is expected to produce more income than it spends. If line 7 is positive, do NOT complete lines 8 through 10; skip to line 11.

If line 7 is a negative value, continue to line 8.

Line 8 – Enter Adjusted Net Assets: Enter the number calculated on line 4.

Line 9 – Enter Adjusted Net Expenses: Enter the absolute value of the number calculated on line 7. This means you will enter a positive number for the value that is shown on line 7 as a negative number. Said another way, ignore the negative sign when entering this number on line 9.

Line 10 – Estimated Years of Sustainability: Enter here line 8 divided by line 9. This is your estimate of the number of years that the conservatorship can fund the recurring and regular expenses of the protected person before the entire net estate is consumed.

Line 11 – Estimate of Protected Person's Remaining Life Expectancy: Enter your good faith estimate of the remaining life expectancy of the protected person expressed in years. Just tell the Court what you think, not what you can prove. You may rely on your own experience, any opinions that you consider credible, such as the opinions of a medical professional, and life expectancy tables. However, do not use life expectancy tables without making adjustments for the particular circumstances of the protected person based upon the information that is reasonably available to you.

Line 12 – Conservatorship Is Sustainable: Check the box for "Yes" if Adjusted Net Income on line 7 is a positive number OR if line 10 is equal to or greater than line 11. If not, check the box for "No".

Said another way, check "Yes", if the income exceeds expenses as reported on line 7. Likewise, check "Yes", if the number of years it takes to consume the estate is equal to or greater than the projected life expectancy of the protected person. Otherwise, check "No".

Line 13 – Management Plan: If line 12 is checked "No", describe your management plan for the conservatorship, since the estate is not expected to last the lifetime of the protected person. That plan shall include the future care

needs of the protected person shall be met. For example, there may be a need for an adjustment in the protected person's standard of living or a future need for public assistance.

The objective of the conservator must always focus on the best interests of the protected person, while respecting the wishes of the protected person to the extent not inconsistent with the protected person's best interests.

FORM 6: Conservator's Account:

Form 6 is largely a self-explanatory document; it serves as a coversheet for your complete annual report.

When filing Form 6, you are required to attach the Inventory, SCHEDULES 1, 2, and 3. If you need to attach any supporting detail to any schedule, this detail is also a required attachment. Check each box on Form 6 for each included attachment.

When amending Form 6, include any required attachments that are changed as a result of the amendment. Check each box on an amended Form 6 for each included attachment.

Organize all required attachments in the same order as shown on Form 6.

Sign Form 6 when you are finished and have reviewed the form and all required attachments. When you sign, you are certifying that you have read and reviewed the entire report and, after reasonable inquiry, you have a good faith belief that the information in this report is true, accurate and complete to the best of your knowledge and belief.

Please remember, you will use Form 7 starting with your first conservator's account. Thereafter, you will continue use Form 8 for each of your subsequent annual conservator's accounts until you are ready to file your final account. Use Form 9 for your final conservator's account.

Please remember, if this conservatorship consists of a small estate or has very little activity, you can ask the Court to simplify your filing requirements, such as:

- Filing only an Inventory, rather than a complete Form 6, and
- Filing Form 10 for each of your conservator's accounts, which is a simplified annual reporting form.

However, you must file the detailed reports, unless simplified reporting procedures are authorized by the Court.

In the matter of:		Case No.				
Column A	Column B	Column C	Column D	Column E	Column F	Column G
Past	Present	Future				
Actual Periods Prior Period	Budget Periods Just Ended	Actual Receipts Periods Just Ended	Deviation From Budget	Deviation Percent	Budget Current Year	Change Requested
/ / 20	/ / 20	/ / 20	/ / 20	/ / 20	/ / 20	/ / 20
SCHEDULE 1 (Form 6):						
Statement of Receipts and Disbursements						
(Refer to Form 8 instructions to complete SCHEDULE 1)						
1. Start Date of each Period:						
2. End Date of each Period:						
Receipts (Money Received)						
3. Retirement and Disability Income						
4. Social Security (including Supplemental Security Income)						
5. Wages and Earned Income						
6. Investment and Business Income						
7. Other Receipts (Specify)						
8. Total Receipts (add lines 3 through 7)						
9. Amount Available for Disbursement						
10. Total Income included in Receipts (line 8 minus line 9)						
Disbursements (Money Spent)						
Spent For Protected Person:						
11. Food, Clothing, and Shelter						
12. Medical Costs						
13. Utility Funds						
14. Direct Services on Liabilities						
15. Other (Specify)						
16. Other for Protected Person (Attach Schedule)						
17. Total for Protected Person (add lines 11 through 15)						
Spent For Administrative Fees & Costs:						
18. Industry Fees and Costs						
19. Attorney Fees and Costs						
20. Protected Person's Attorney Fees and Costs						
21. Other Administrative Fees and Costs (Attach Schedule)						
22. Total Administration (add lines 18 through 21)						
23. Total Disbursements (add lines 17 and 22)						
24. Assets/Liabilities as Disbursements (see instructions)						
25. Total Expenses in Disbursements (line 23 minus line 24)						
26. Total Surplus/(Shortfall) (line 8 minus line 25)						
27. Worksheet Expenses (line 10)						
28. Worksheet Expenses (line 25)						

In the matter of:		Case No.				
SCHEDULE 3 (Form 6): Statement of Sustainability of Conservatorship (Refer to Form 6 Instructions to complete SCHEDULE 3)		Column A Sustainability Estimated in Form 6 SCHEDULE 3	Column B Original Sustainability Estimate	Column C Change from Prior Schedule 3	Column D Change as Percent of Original Estimate	Column E Explanation of Change
1	Report Date of Sustainability Estimate:	7/1/20	1/1/20			
Net Assets Available to Conservatorship:						
2	Net Assets (See SCHEDULE 2, line 29)					
3	Adjustments					
4	Adjusted Net Assets (add lines 2 and 3)					
Recurring Net Income/(Net Expenses):						
5	Recurring Net Income/(Net Expenses)					
6	Adjustments					
7	Adjusted Net Income/(Net Expenses) (add lines 5 and 6)					
If line 7 is equal to or greater than zero, the Conservatorship is estimated to be sustainable. DO NOT complete lines 8 through 10 in that Column.						
8	Enter Adjusted Net Assets (line 4)					
9	Enter Adjusted Net Expense (Absolute Value of line 7)					
10	Estimated Years of Sustainability (line 8 divided by line 9)					
11	Estimated Probability of Success (line 10 divided by 10)					
12	Conservatorship is Sustainable (See Instructions)	Yes	No	Yes	No	
13	Preceding Management Plan	Management Plan Going Forward				

NOTICE TO RECIPIENT OF THIS SCHEDULE:

The Conservator's estimates and analyses of Adjusted Net Assets, Adjusted Net Income/(Net Expenses), and Protected Person's Life Expectancy are good faith estimates based upon the information that is reasonably available to the Conservator concerning the Protected Person. This information is provided for the limited purpose of assisting the Court in its oversight of this Conservatorship.

Form 7. FIRST CONSERVATOR'S ACCOUNT

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Licensed Fiduciary Number (if applicable): _____
Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF «COUNTY»

IN THE MATTER OF THE
CONSERVATORSHIP FOR

«Protected Person's Name»,

- a Minor
 an Adult

NO. «CaseNo.»

FIRST
CONSERVATOR'S ACCOUNT
 with BUDGET
 Amendment

(Assigned to the Honorable
«Judicial Officer»)

Confidential Document
Rule 7, Rules Probate Proc.

REQUIRED ATTACHMENTS, which are to be attached in the following order:

- SCHEDULE 1: Statement of Receipts and Disbursements
- SCHEDULE 2: Statement of Net Assets & Reconciliation
- SCHEDULE 3: Statement of Sustainability of Conservatorship
- RECENT BANK STATEMENT for each bank account
- Supporting Detail required for SCHEDULE 1
- Supporting Detail required for SCHEDULE 2
- Supporting Detail required for SCHEDULE 3
- TRANSACTION LOG, detailing all financial transaction during the current reporting period, reported by category.

CONSERVATOR'S CERTIFICATION

I, the undersigned, acknowledge that I have read and reviewed this form, accompanying schedules and attached supplements, and after reasonable inquiry have a good faith belief that the information in this report is true, accurate and complete to the best of my knowledge and belief.

<<Conservator Name>>

<<Date>>

Form 7. Continued

INSTRUCTIONS FOR FORM 7: FIRST CONSERVATOR'S ACCOUNT

Purpose of Form:

Use Form 7 to prepare and report the first conservator's account, concerning the administration of the estate. Begin using Form 8 with the second conservator's account, and continue using Form 8 until you file your final account on Form 9. If you are required to provide a budget with your annual conservator's account, report the budget on this same form.

If this conservatorship consists of a small estate or has very little activity, ask the Court to authorize the conservator to file Form 1D, which is a simplified conservator's account; you must file the full report, unless the simplified conservator's account is authorized.

When to File:

Generally, each conservator's account and budget covers a one year period, such that each reporting period is referred to as a year. However, a reporting period may cover a different period of time, either longer or shorter than a year, if ordered by the Court, depending on the circumstances of each individual case.

By court rule, the first conservator's account covers a period that ends nine months after the issuance of the Letters as Conservator, and the first conservator's account is due 90 days later, which means the first conservator's account is due on the first anniversary of the conservator's appointment. Each successive year, the conservator's report is due on the subsequent anniversary of the appointment. See Section 14-5419, Arizona Revised Statutes and Rule 30, Arizona Rules of Probate Procedure.

However, you must review the Court's orders in your case, which may establish a different end date or different due date for the conservator's account, just as the Court may establish other special requirements that the conservator is required to follow, since every conservatorship is unique to some degree.

Form 7 is filed as a confidential document; the account is not available for public inspection.

General Instructions:

All references in these instructions to "you" refer to the conservator, and all references to "year" refer to the reporting or accounting period, even though the first conservator's account typically covers a nine month period.

Unless otherwise ordered by the Court, Form 7 requires attachments, including but not limited to SCHEDULE 1: Statement of Receipts and Disbursements; SCHEDULE 2: Statement of Net Assets & Reconciliation; and SCHEDULE 3: Statement of Sustainability of Conservatorship. In addition to the required schedules, certain answers require supporting detail, which are also required attachments to Form 7. As to any supporting detail, identify the schedule, line and, if appropriate, column that is detailed.

You should complete the required schedules prior to completing Form 7, because Form 7 is essentially a coversheet as you gather together your complete report, and it includes a certification that the report is true, accurate and complete to the best of your knowledge and belief. Don't sign this certification until you have read and reviewed the completed report.

Helpful Suggestion:

These instructions assume that Form 7 and all schedules are being completed manually on paper forms. However, Form 7 and all schedules are also available in an electronic format at no cost and will automate all of the calculations. Please see: [www.azcourts.gov/\[add full cite\]](http://www.azcourts.gov/[add full cite])

Notice:

Any estimates allowed or required by these instructions are not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

Specific Instructions:

SCHEDULE 1 (Form 7): Statement of Receipts and Disbursements

Column Instructions:

SCHEDULE 1 consists of columns that are divided into two basic categories: Columns B (through E) relate to the present, meaning information that you are reporting for the year just ended; and Columns F and G describe the

future, the year that is just beginning. **Please note: Column A is not used on Form 7 and is intentionally left blank.**

You may be required to use all of the available columns in SCHEDULE 1 or just some of the columns, depending whether the Court requires a budget.

Column A – Actual Results Prior Period:

Since this is a first conservator's account, this Column is intentionally left blank.

Column B – Budget, Period Just Ended:

If you were required to file a budget for the year just ended, enter the budget for the year just ended in Column B. Please note: If the budget was amended during the year, enter the final amended budget in Column B and describe the amendments as supporting detail to SCHEDULE 1.

Column C – Actual Results, Period Just Ended:

Complete "Column C" to report the conservator's account for the year just ended. This is the column where the actual receipts and disbursements for the year just ended are reported.

Column D – Deviation from Budget, &

Column E – Deviation as Percent: If you are required to complete Columns B and C, then compute Columns D and E, which show the dollar amount and percent of deviation, respectively, between the budget and actual results. The formulas to calculate the deviation are shown in the headers to Columns D and E. *Please remember, if you are using the electronic version of this form, the formulas are embedded and both columns are automatically calculated, as are all calculations on the Form.*

Column F – Budget Current Year:

Complete Column F if the court requires a budget for the year that is just beginning. This is where you present a budget of receipts and disbursements for the coming year.

Column G – Change Requested:

Finally, if you are required to complete both Columns C and F, then compute Column G to show the dollar amount for changes to the proposed budget as compared to last year's actual results. The formula to calculate the change is shown in the header to Column G.

Line Instructions:

As you determine what to enter on each line, please remember that transactions are recognized on SCHEDULE 1 when money is received or money is disbursed by the conservatorship. In accounting terms, transactions are recognized on a cash basis; you list receipts and disbursements when money effectively changes hands.

For example, if a cost is incurred but not paid before the end of a reporting period, the cost is not listed as a disbursement until paid.

For example, if a check is mailed before the end of a reporting period but does not clear the bank until early in the next reporting period, the disbursement is treated as paid when the check was mailed.

Receipts reported on SCHEDULE 1 include any money, whether income to the estate, liquidation of any general estate asset, or the proceeds of any loan to the estate.

Once you determine which columns of SCHEDULE 1 are required, complete each row as follows:

Line 1 – Start Date of each Period: Enter the start date for each period.

For example, if a conservator files an account that is due on September 30, 2012, for the period from July 1, 2011 to June 30, 2012:

- *Columns B and C will have a start date July 1, 2011, and*
- *Column F will have a start date of July 1, 2012.*

Line 2 – End Date of each Period: Enter the end date for each period. *Using the preceding example, the end date is June 30 one year later than the start date.*

Line 3 – Retirement and Disability Income:

Enter all regular and recurring income that is received as a result of retirement or disability, including but not limited to Social Security, Railroad Retirement, pension benefits, Social Security Disability, Supplemental Security Income, and worker's compensation benefits. Do NOT include distributions from tax-deferred investments, such as 401K and IRA funds.

Line 4 – Annuities, Structured Settlements,

and Trust Income: Enter all income that is received from annuities, structured settlements or trust income that is not already included in line 3.

Line 5 – Wages and Earned Income:

Enter all wages and earned income of the protected person that is not included in lines 3 or 4.

Line 6 – Investment and Business Income:

Enter all investment and business income, including but not limited to interest, dividend, rent, and royalty income that is not included in lines 3, 4 or 5.

Line 7 – Other Receipts:

Enter any other receipts that are not included in lines 3 through 6, including but not limited to any other income,

any distributions from tax-deferred investments, such as 401K or IRA funds, any amount received from selling an asset, or the proceeds from any new loan to the protected estate. Attach a detailed statement explaining the other receipts.

Line 8 – Total Receipts: Add lines 3 through 7 in each column to calculate the Total Receipts reported for each column.

Line 9 – Assets/Liabilities as Receipts: The number you reported on line 8 shows the total receipts to the conservatorship, but it is also important for the Court to know whether the conservatorship is going to be able to meet the lifetime needs of the protected person; and for this reason, the court needs to know how much of the receipts came from consuming assets or from borrowing money.

Enter on line 9 the amount of money that is already included in line 8 that came from selling or liquidating an asset or from incurring a new liability.

For example, if you receive a required minimum distribution from an IRA fund which pays out the earnings as well as some amount of the principal, enter the total distribution on line 7 and enter the amount of the principal received on line 9.

For example, if you receive the proceeds from an installment sale over a period of years, and this year you receive interest on the unpaid balance plus a payment on the balance due, enter the total payment received this year on line 7 and enter the principal portion of the receipts on line 9.

For example, if you sell an asset, such as a residence, enter the net amount received on line 7 and enter the same amount on line 9.

For example, if the conservator borrows money to pay the bills of the protected person, enter the amount of the new loan on lines 7 and 9 and include as a liability on SCHEDULE Z.

Line 10 – Total Income Included in Receipts: Subtract line 9 from the Total Receipts on line 8.

Line 11 – Food, Clothing, and Shelter: Enter the disbursements for goods or services provided to a protected person that are essential for survival, excluding medical costs but including food, clothing, and shelter for the protected person. (For the limited purpose of reporting a disbursement on line 11, expenditures for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.)

For example: enter the regular fees to a care facility, required companions or care providers,

food, clothing, toiletries, utilities, or household expenses including home mortgage payments for the protected person's residence.

Line 12 – Medical Costs: Enter all of the medical payments for the protected person that are *not* included on line 11, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription and non-prescription medicines, insurance premiums and co-pays.

Line 13 – Dignity Funds: Enter the amount of funds that are released directly to the protected person as a spending allowance. Do NOT report how the protected person expended these funds; these funds are no longer considered part of the conservatorship estate.

Line 14 – Debt Service on Liabilities: Enter the amount of debt service payments on debts, such as loans and personal debts of the protected person.

- Do NOT include the home mortgage payment on the residence where the protected person resides (this was reported on line 11).
- Do NOT include as debt service any disbursements for obligations incurred in a prior period of the conservatorship, such as fiduciary and attorney fees and costs. Report these amounts in the appropriate disbursement category when paid.

For example, if the fiduciary earned a fee in one period, but the fee was paid in a later period, the fee is reported as a disbursement on line 10 when paid, NOT line 14. Any operating bills of the conservatorship are treated in the same manner, such as fees to care providers that are incurred but not paid until a later year.

For example, if the protected person has an outstanding credit card debt that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the protected person has an outstanding car loan that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the Conservator takes out a loan for the benefit of the protected person, such as a loan to fund the needs of the protected person until real estate or a business interest is sold, all debt service payments on this debt are reported on line 14.

Line 15 – Discretionary Expenditures: Discretionary expenditures means all goods and services provided to a protected person that are

not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person, such as entertainment and vacation costs. Discretionary care does NOT include expenditures that are included on another line on SCHEDULE 1.

Line 16 – Other Disbursements for Protected Person: Report other disbursements that are made for the protected person but not included on another line on SCHEDULE 1, including disbursements that are made for a dependent of the protected person. Include on line 16 the purchase of any asset, such as a residence, vehicle, or computer. Attach supporting detail explaining the other disbursements.

For example, if a residence was purchased for the protected person, report the cash down-payment on line 16, mortgage payments on line 11, and list the mortgage as liability on SCHEDULE 2. (see line 24 where this down-payment is also entered)

For example, if the conservator invests in a marketable security, such as a mutual fund or publicly traded stock, enter the disbursement on line 16 (see line 24 where this purchase is also reported).

For example, enter on line 16 any tax payment that is not already listed on another line.

Line 17 – Total for Protected Person: Enter the sum of lines 11 through 16.

Line 18 – Fiduciary Fees and Costs: Enter the expenditures for Fiduciary Fees and Costs. Fees are compensation paid to the Fiduciary. Costs include administrative charges that are authorized in the Statewide Fee Guidelines, such as filing fees and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing and shelter.

Line 19 – Fiduciary's Attorney Fees and Costs: Enter the Fiduciary's Attorney Fees and Costs.

Line 20 – Protected Person's Attorney Fees and Costs: Enter the Protected Person's Attorney Fees and Costs, including court-appointed counsel and any guardian ad litem, if paid by the conservator.

Line 21 – Other Administrative Fees and Costs: Report other disbursements that are an administrative fee or cost of the conservatorship that are NOT included on another line on SCHEDULE 1, such as an appraiser, financial advisor, court investigator, or accountant. Attach supporting detail explaining any other expenditure.

Line 22 – Total Administration Disbursements: Enter the sum of lines 18 through 21.

Line 23 – Total Disbursements: Add lines 17 and 22.

Line 24 – Assets/Liabilities as Disbursements: The number you reported on line 23 shows the total disbursements of the conservatorship, but the court also needs to know how much was disbursed to satisfy debts or acquire assets.

Enter the amount that is included in line 23 that reduced the principal balance of a debt or was expended to acquire an estate asset.

For example, if you expend funds on an installment purchase over a period of years, and this year you pay interest on the unpaid balance plus a payment on the balance due, enter the total payment (interest and principal) on line 14 and enter the principal portion of the payment on line 24.

For example, if you buy a residence for the protected person, enter the net amount disbursed as a down-payment on line 14 and enter the same amount on line 24. Thereafter, any mortgage payments are reported on line 11, and this obligation will now be reported as a debt on SCHEDULE 2.

For example, if the conservatorship previously borrowed money to pay the bills of the protected person, enter any debt service payment for the loan on line 14 (including principal and interest), and enter the principal amount paid (but not interest) on line 24.

Line 25 – Total Expenses in Disbursements: Subtract line 24 from the Total Disbursements on line 23.

Line 26 – Total Surplus/(Shortfall): Enter line 8 minus line 23. If the amount is positive, this is a cash-flow Surplus. If the amount is negative, this is a cash-flow Shortfall, and the number must be displayed in parentheses or preceded by a negative sign.

Line 27 – Net Income/(Net Expenses): Enter line 10 minus line 25. If the amount is positive, this is the amount by which income exceeds expenses. If the amount is negative, this is the amount by which expenses exceed the Income of the conservatorship, and a negative number must be displayed in parentheses or preceded by a negative sign.

SCHEDULE 2 (Form 7): Statement of Net Assets & Reconciliation

Section 1 – Net Assets: The first section of SCHEDULE 2 includes the inventory for comparison purposes with an updated report of net assets, including an explanation of any changes.

Column Instructions:

Column A – Inventory Summary: Complete Column A to display the Inventory Summary.

If you filed Form 6 at the time of filing the "Inventory", this summary information can be copied directly from SCHEDULE 2, Column B of that Form 6. If you did not file a Form 6, you complete Column A by summarizing the inventory at this time.

This information is presented for comparison purposes only. If you were appointed during the past year as a successor conservator, and the original conservator filed the inventory, you will include your predecessor's inventory in Column A. You are not attesting to the accuracy of your predecessor's information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Valuations for Period Just Ended: Complete Column B to provide an update about the net assets of the conservatorship for the year just ended, including additions, deletions, and changes in value from the inventory.

As a reminder, when you filed your original inventory, you were required to provide a valuation of all the property, and some assets were easy to value, like bank accounts, but some assets were difficult to value, like real estate, and may have required the services of a professional appraiser. However, when filing an annual conservator's account and completing SCHEDULE 2, you are not required to file another formal inventory but only provide an update on the net assets of the estate, including your good faith estimate of any significant changes in valuation, which may be based upon your personal opinions. You are not required to seek the opinion of a professional appraiser. Of course, the balance in bank accounts can always be readily determined and must be accurately reported after deducting any outstanding checks or adding any deposits that are not yet posted.

Unless otherwise ordered by the Court, do not include in the net asset report any property that is titled in the name of a different legal entity, such as property held by a trust or corporation, unless you as conservator can exercise a power of direction over the asset. A power of direction includes the ability to direct the other legal entity to transfer title or possession to the property.

When reporting the value of all general assets do NOT deduct any liens or mortgages. Debts are separately reported as liabilities.

Column C – Change from Prior SCHEDULE 2, Column D – Change as Percent, & Column E – Explanation of Change: Compute Columns C and D, which show the dollar amount and percent of change, respectively, from last year to this year. The mathematical calculation is shown in the header to Columns C and D. Complete Column E to explain any changes in the value or composition of the assets or liabilities included in the category; and if more space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Valuation Report Date: Enter the date of each report of net assets. Column A is the date of the inventory, and Column B is the end date of your current conservator's account (this is found on SCHEDULE 1, Column C, line 2).

Line 2 – Real Estate: Enter the value of all real estate owned by the estate, such as the residence of the protected person, any rental or vacation real estate, and any cemetery plots. *Remember to enter the gross value of ALL assets and do not deduct liens or mortgages! ALL liabilities are listed separately on line 17 as debts.*

Line 3 – Vehicle(s): Enter the value of any vehicles, such as a personal automobile, motorcycle, golf cart, watercraft, airplane, or recreational vehicle.

Line 4 – Business Ownership Interests: Enter the value of any business ownership interests, such as a closely held family business. Do not list shares in a publicly traded corporation on line 4.

Line 5 – Household Items and Personal Effects: Enter the value of household items and personal effects that are owned by the protected person, which commonly include the property that the protected person stored in his or her primary residence, including displayed collectible items. Property with significant value, like precious jewelry and valuable collections, should be itemized and included separately on line 6.

Line 6 – Stocks, Bonds, and Mutual Funds, not tax-deferred: Enter the present value of stocks, bonds, mutual funds, and other marketable securities, such as savings bonds and bearer bonds, but excluding business interests that were entered on line 4 or tax-deferred assets that are entered below on line 7.

Line 7 – Tax-Deferred Assets: Enter the present value of tax-deferred assets, such as IRA and 401(k) accounts. Include all tax-deferred assets, including but not limited to tax-deferred cash accounts, certificates of deposit, savings accounts, and brokerage accounts.

Line 8 – Other General Assets: Enter the present value of all other assets that are not already listed, excluding cash and regular bank accounts. Include the cash value of any insurance policies or any prepaid benefits, such as prepaid funeral plans.

Line 9 – Total General Assets: Enter the sum of lines 7 through 8.

Line 10 – Bank Accounts, Restricted Access: Enter the cash balance of any bank accounts that are court-restricted, meaning funds may not be withdrawn without a court order. Bank accounts include checking, saving, certificates of deposit, money market accounts, and all functionally similar accounts, whether in a bank, savings and loan, credit union, or other similar financial institution. Do not include tax-deferred assets that were listed above on line 7.

Line 11 – Bank Accounts, Unrestricted Access: Enter the cash balance of any bank accounts that are NOT court-restricted, meaning funds may be withdrawn without a court order.

Line 12 – Cash on Hand: Enter the amount of currency that you have on behalf of the estate, such as a petty cash fund. Do not include coin collections on this line, unless the coins have no collectible value above the face value of the coins.

Line 13 – Other Money-Denominated Assets: Enter the value of other money-denominated assets, such as a cash card. These assets are functionally equivalent to money in a bank account and do not change in value by market fluctuation, except by receipt of a dividend or interest. Attach supporting detail.

Line 14 – Total Cash and Bank Accounts: Enter the sum of lines 10 through 13.

Line 15 – Total Available Assets: Add lines 9 and 14.

Line 16 – Bills & Payables more than 30 days old: Enter the amount of any and all past-due bills and payables, plus ALL incurred but unpaid fiduciary and attorney fees and costs, as of the end of the reporting period. Attach supporting detail.

Line 17 – Debts: Enter the amount of all other debts, such as notes, mortgages, credit cards and personal loans, as of the end of the reporting period. Attach supporting detail.

Line 18 – Total Liabilities: Add lines 16 and 17.

Line 19 – Net Assets: Enter line 15 minus line 18. This is the value of the net assets as of the date of the reporting period.

Section 2 – Reconciliation of Conservator's Account: The second section of SCHEDULE 2 is utilized to reconcile the cash flow information reported on SCHEDULE 1 to the net asset information reported on SCHEDULE 2. The purpose for this reconciliation is to prove that the ending balance in cash and bank accounts matches the starting balance plus receipts and minus disbursements.

Line 20 – Starting Cash Balance: Enter starting Cash Balance from SCHEDULE 2, Column A, line 14.

Line 21 – Total Receipts: Enter Total Receipts from SCHEDULE 1, Column C, line 8.

Line 22 – Available Funds: Add lines 20 and 21.

Line 23 – Total Disbursements: Enter Total Disbursements from SCHEDULE 1, Column C, line 23.

Line 24 – Ending Cash Balance: Calculate Ending Cash Balance by subtracting line 23 from line 22. The result must equal the Ending Cash Balance as reported on SCHEDULE 2, Column B, line 14. If these amounts do not match, there is an error in the report.

SCHEDULE 3 (Form 7): Statement of Sustainability of Conservatorship

The purpose of SCHEDULE 3 is to estimate how long the conservatorship estate can meet the expenses of the protected person, and then to compare whether that duration is longer or shorter than the estimated lifespan of the protected person. A conservatorship estate that can meet the predicted expenses of a protected person is considered sustainable, while a conservatorship estate that cannot is not sustainable. A conservatorship estate must have a written management plan if it is not sustainable.

Column Instructions:

Column A – Sustainability Estimated in Form 6, SCHEDULE 3: If Form 6, Schedule 3 was filed, complete Column A to display information from the first estimate of sustainability; this information is presented for comparison purposes only and can be copied directly from Column B of Form 6, SCHEDULE 3.

including the report date. If you are a successor conservator, you will still include your predecessor's sustainability calculation, if one was performed. You are not attesting to the accuracy of this information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Sustainability Estimated for Period Just Ended: Complete Column B to provide your estimates on the sustainability of the conservatorship. This may be your first estimate or a new estimate, depending whether you previously filed Form 6, SCHEDULE 3. Your estimates should be based upon the most current information that is reasonably available to you.

For example, if there is a substantial change of circumstances for the protected person, such as a medical deterioration which requires a different level of care, use this information when calculating sustainability, even if the change occurred after the end of the reporting period but before the date of filing this schedule.

As a reminder, the information provided on this schedule is a good faith estimate based upon the information that is reasonably available to you. Some information may be easy to calculate and should be accurate, such as money available in bank accounts, but some information is very difficult to estimate, such as the projected life expectancy of the protected person. This schedule requires you to share what you believe to be true, not what you can prove to be true. You are not making an avowal; you are telling the Court what you think is true in this particular case for this particular protected person.

Column C – Change from Prior SCHEDULE 3, Column D – Change as Percent, & Column E – Explanation of Change: If you have a prior sustainability estimate in Column A, compute Columns C and D, which show the dollar amount and percent of change, respectively, from last estimate to this estimate. The mathematical calculation is shown in the header to Columns C and D. Complete Column E to explain any changes in the value or composition of the assets or liabilities included in the category; and if more space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Report Date of Sustainability Estimate: Enter the date of each report of sustainability. Column A is the date of the prior estimate, and Column B is the date of your new estimate of sustainability.

Overview of Lines 2 through 4: You calculated the net assets of the conservatorship estate on SCHEDULE 2, but there may be additional factors that may impact those assets looking forward, such as additional assets that might come from an inheritance or a personal injury claim. Likewise, looking forward, some assets might be needed for known one-time expenditures, such as a major medical expenditure or the startup costs for the conservatorship. Once these adjustments are made, if any, the remaining net assets should be available to meet the typical or recurring needs of the protected person.

Said another way, you are calculating the net assets that are thought to be available to meet the regular and recurring needs of the protected person from this point forward.

Line 2 – Net Assets: Enter the value of the Net Assets available to the estate, as calculated on SCHEDULE 2, line 19, Columns A and B, respectively.

Line 3 – Adjustments: Enter zero, unless adjustments are required. If so:

- Enter as a positive value any new and significant assets that you expect to come into the conservatorship, such as an inheritance or a personal injury award.
- Enter as a negative value any assets that need to be used to satisfy any planned, one-time, significant expenditures, such as one-time medical cost, large repairs, or the cost to stabilize the conservatorship.

Explain any adjustments in the space provided on SCHEDULE 3, Column E, or provide supporting detail on a separate page.

Line 4 – Adjusted Net Assets: Add a positive value on line 3 to line 2, or deduct a negative value on line 3 from line 2. This is your estimate of the assets that will be available to meet the recurring needs of the protected person.

For example, if the net asset figure on line 2 is \$100,000, and line 3 is a positive value, such as \$5,000, enter the sum of both numbers, \$105,000 on line 4. However, if line 3 instead has a negative value, such as minus \$8,000, which can be written as -\$8,000 or (\$8,000), you would enter \$92,000 on line 4.

Overview of Lines 5 through 7: You already calculated the net income or the net expenses of the conservatorship estate on SCHEDULE 1, but there may be additional factors that impact the typical or recurring net income or net expenses looking forward, such as income or expenses

that will change in the future. Said another way, what will be the regular or recurring net income or net expenses in a typical year?

Line 5 – Net Income/(Net Expenses): Enter the value of the net income or net expenses for the estate as calculated on SCHEDULE I, line 27, Columns A and C, respectively. Enter net income as a positive number, and enter net expenses as a negative number.

Line 6 – Adjustments: Enter zero, unless adjustments are required. If so:

- Enter as a positive value any significant one-time expenses that were recognized as a disbursement when calculating the net income or net expenses for the year just ended, such as a one-time medical cost or the startup cost for the conservatorship.
- Enter as a positive value any significant and recurring income that was not recognized (or not fully recognized) when calculating the net income or net expenses for the year just ended, such as a new source of income like disability benefits.
- Enter as a negative value any significant and recurring expenditure that was not recognized (or not fully recognized) when calculating the net income or net expenses for the year just ended, such as a new or increased expenditure for care of the protected person.

For example, if the protected person now receives a regular and recurring disability payment of \$1,000 per month, and only the first three months of benefits was included in the net income or net expenses for the year just ended, there is a required positive adjustment in the amount of \$9,000, which recognizes the additional income that will be received in a typical year (since 3 months was already recognized).

For example, if the protected person incurred a substantial one-time expenditure, which was a disbursement when calculating the net income or net expenses for the year just ended, this is a positive adjustment, since this disbursement will not recur in a typical year. This might occur with the one-time cost for a new roof on the protected person's residence.

For example, if the protected person will now require additional care services, which was not previously included as a disbursement in calculating the net income or net expenses, this is a negative adjustment.

Explain any adjustments in the space provided on SCHEDULE 3, Column E, or provide supporting detail on a separate page.

Line 7 – Adjusted Net Income/(Net Expenses): Add the positive value on line 6 to line 5, or deduct the negative value on line 6 from line 5. This is your estimate of the regular and recurring net income or net expenses of the conservatorship.

If line 7 is a positive value, you are estimating that the conservatorship is sustainable because the conservatorship is expected to produce more income than it expends. If line 7 is positive, do NOT complete lines 8 through 10; skip to line 11.

If line 7 is a negative value, continue to line 8.

Line 8 – Enter Adjusted Net Assets: Enter the number calculated on line 4.

Line 9 – Enter Adjusted Net Expenses: Enter the absolute value of the number calculated on line 7. This means you will enter a positive number for the value that is shown on line 7 as a negative number. Said another way, ignore the negative sign when entering this number on line 9.

Line 10 – Estimated Years of Sustainability: Enter here line 8 divided by line 9. This is your estimate of the number of years that the conservatorship can fund the recurring and regular expenses of the protected person before the entire net estate is consumed.

Line 11 – Estimate of Protected Person's Remaining Life Expectancy: Enter your good faith estimate of the remaining life expectancy of the protected person expressed in years. Just tell the Court what you think, not what you can prove. You may rely on your own experience, any opinions that you consider credible, such as the opinions of a medical professional, and life expectancy tables. However, do not use life expectancy tables without making adjustments for the particular circumstances of the protected person based upon the information that is reasonably available to you.

Line 12 – Conservatorship is Sustainable: Check the box for "Yes" if Adjusted Net Income on line 7 is a positive number OR if line 10 is equal to or greater than line 11. If not, check the box for "No".

Said another way, check "Yes", if the income exceeds expenses as reported on line 7. Likewise, check "Yes", if the number of years it takes to consume the estate is equal to or greater than the projected life expectancy of the protected person. Otherwise, check "No".

Line 13 – Management Plan: If Column A and/or Column B, line 12 is checked "No", provide the most recent prior management plan in Column A, if any, and describe your current management plan in Column B. If there is no change to the prior management plan, enter "No Change" in Column B.

The conservator shall provide the court with an alternative management plan if the estate is not calculated as sustainable. That plan shall describe how the future care needs of the protected person shall be met. For example, there may be a need for an adjustment in the protected person's standard of living or a future need for public assistance.

The objective of the conservator must always focus on the best interests of the protected person, while respecting the wishes of the protected person to the extent not inconsistent with the protected person's best interests.

FORM 7: Conservator's Account:

Form 7 is largely a self-explanatory document; it serves as a coversheet for your complete annual report.

When filing Form 7, you are required to attach SCHEDULES 1, 2, and 3, as well as a copy of bank statements for all accounts as of the date when the current reporting period ended. If you need to attach any supporting detail to any schedule, this detail is also a required

attachment. Check each box on Form 7 for each included attachment.

When amending Form 7, include any required attachments that are changed as a result of the amendment. Check each box on an amended Form 7 for each included attachment.

Organize all required attachments in the same order as shown on Form 7.

Sign Form 7 when you are finished and have reviewed the form and all required attachments. When you sign, you are certifying that you have read and reviewed the entire report and, after reasonable inquiry, you have a good faith belief that the information in this report is true, accurate and complete to the best of your knowledge and belief.

Please remember, you will use Form 8 starting with your second conservator's account, and you will continue using Form 8 for each of your annual conservator's accounts thereafter until you are ready to file your final account.

Use Form 9 for your final conservator's account.

Please remember, if this conservatorship consists of a small estate or has very little activity, ask the Court to permit you to file Form 10, which is a simplified conservator's account; however, you must file the full report, unless the simplified conservator's account is authorized.

In the matter of:	Case No.						
	Column A	Column B	Column C	Column D	Column E	Column F	Column G
	PRESENT			FUTURE			
Actual Results Prior Period	Budget Period Just Ended	Actual Results Period Just Ended	Deviation from Budget	Deviation as Percent	Budget Current Year	Change Requested	
1/1/20	1/1/20	1/1/20	Column C minus Column B	Column E selected by Column B and multiplied by 100	1/1/20	Column F minus Column C	
SCHEDULE 1 (Form 7):							
Statement of Receipts and Disbursements							
(Refer to Form 8 instructions to Complete SCHEDULE 7)							
1. Start Date of each Period:							
2. End Date of each Period:							
Receipts (Money Received)							
3. Retirement and Disability Income							
4. Social Security							
5. Wages and Earned Income							
6. Other Receipts (Attach Schedule)							
7. Other Receipts (Attach Schedule)							
8. Total Receipts (add lines 3 through 7)							
9. Total Receipts (add lines 3 through 7)							
10. Total Income Included in Receipts (line 8 minus line 9)							
Disbursements (Money Spent)							
Spent for Protected Person:							
11. Food, Clothing, and Shelter							
12. Transportation							
13. Dignity Funds							
14. Health Care							
15. Discretionary Expenditures							
16. Other for Protected Person (Attach Schedule)							
17. Total for Protected Person (add lines 11 through 15)							
Spent for Administrative Fees & Costs:							
18. Attorney's Fees and Costs							
19. Protective Services							
20. Protected Person's Attorney Fees and Costs							
21. Other Administrative Fees and Costs (Attach Schedule)							
22. Total Administration (add lines 18 through 21)							
23. Total Disbursements (add lines 17 and 22)							
24. Assets/Liabilities as Disbursements (See Instructions)							
25. Total Expenses in Disbursements (line 23 minus line 24)							
26. Net Income/Net Expenses (line 10 minus line 25)							
27. Net Income/Net Expenses (line 10 minus line 25)							

In the matter of:		Case No.			
Column A	Column B	Column C	Column D	Column E	
Summary Reported on Form 9, SCHEDULE 2	Updated Valuations for Period Just Ended	Change from Prior Schedule 2 (Column C minus Column B)	Change as Percent (Column D divided by Column B)	Explanation of Change	
SECTION 1: Net Assets					
General Assets: Excluding Cash and Bank Accounts:					
1. Cash	70				
2. Bonds					
3. Vehicles					
4. Real Estate					
5. Personal Items and Personal Effects					
6. Stocks, Bonds & Mutual Funds - Not Tax-Deferred					
7. Other Assets					
8. Other General Assets (Attach Detail)					
9. Total General Assets (add lines 2 through 8)					
Cash and Regular Bank Accounts:					
10. Bank Accounts - Savings/Checking					
11. Bank Accounts - Investment/Retirement					
12. Cash on Hand					
13. Other Money Instruments (Attach Detail)					
14. Total Cash and Bank Accounts (add lines 10 through 13)					
15. Total Assets (add lines 9 and 14)					
16. Liabilities (attach detail)					
17. Net Assets (line 15 minus line 16)					
SECTION 2: Reconciliation of Conservator's Account					
Reconciliation of Cash and Regular Bank Accounts:					
18. Starting Cash Balance (from Column A, line 14)					
19. Total Receipts (SCHEDULE 1, Column C, line 8)					
20. Total Disbursements (SCHEDULE 1, Column C, line 23)					
21. Net Assets (line 15 minus line 16)					
22. Starting Cash Balance (from Column A, line 14)					
23. Ending Cash Balance (must equal Column B, line 14)					

In the matter of:		Case No.				
SCHEDULE 3 (Form 7): <i>Statement of Sustainability of Conservatorship</i> (Refer to Form 7 instructions to complete SCHEDULE 3)		Column A	Column B	Column C	Column D	Column E
		Sustainability Estimated in Form 6 SCHEDULE 3:	Updated Sustainability Estimated For Period Just Ended	Change from Prior Schedule 3	Change as Percent	Explanation of Change
1.	Report Date of Sustainability Estimate:	/ / 20	/ / 20			
Net Assets Available to Conservatorship: 2. Net Assets (See SCHEDULE 2, line 19) 3. Adjustments: 4. Adjusted Net Assets (add lines 2 and 3)						
Recurring Net Income (Net Expenses): 5. Net Income (Net Expenses) (See SCHEDULE 1, line 27) 6. Adjustments: 7. Adjusted Net Income (Net Expenses) (add lines 5 and 6)						
If line 7 is equal to or greater than zero, the Conservatorship is estimated to be sustainable. DO NOT complete lines 8 through 10 in that Column.						
8.	Enter Adjusted Net Assets (line 4)					
9.	Enter Adjusted Net Expenses (Absolute Value of line 7)					
10.	Estimated Years of Sustainability (line 8 divided by line 9)					
11.	Estimate of Protected Person's remaining life expectancy					
12.	Conservatorship is Sustainable (See Instructions)	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>			
13.	Preceding Management Plan	Management Plan Going Forward				
NOTICE TO RECIPIENT OF THIS SCHEDULE. The Conservator's estimates and analyses of Adjusted Net Assets, Adjusted Net Income (Net Expenses), and Protected Person's Life Expectancy are good faith estimates based upon the information that is reasonably available to the Conservator concerning the Protected Person. This information is provided for the limited purpose of assisting the Court in its oversight of this Conservatorship.						

Form 8. CONSERVATOR'S ACCOUNT

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Licensed Fiduciary Number (if applicable): _____
Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF «COUNTY»

IN THE MATTER OF THE
CONSERVATORSHIP FOR

«Protected Person's Name»,

- a Minor
 an Adult

NO. «CaseNo.»

CONSERVATOR'S ACCOUNT

- with BUDGET
 Amendment

(Assigned to the Honorable
«Judicial Officer»)

Confidential Document
Rule 7, Rules Probate Proc.

REQUIRED ATTACHMENTS, which are to be attached in the following order:

- SCHEDULE 1: Statement of Receipts and Disbursements
- SCHEDULE 2: Statement of Net Assets & Reconciliation
- SCHEDULE 3: Statement of Sustainability of Conservatorship
- RECENT BANK STATEMENT for each bank account
- Supporting Detail required for SCHEDULE 1
- Supporting Detail required for SCHEDULE 2
- Supporting Detail required for SCHEDULE 3
- TRANSACTION LOG, detailing all financial transaction during the current reporting period, reported by category.

CONSERVATOR'S CERTIFICATION

I, the undersigned, acknowledge that I have read and reviewed this form, accompanying schedules and attached supplements; and after reasonable inquiry have a good faith belief that the information in this report is true, accurate and complete to the best of my knowledge and belief.

<<Conservator Name>>

<<Date>>

Form 8. Continued

INSTRUCTIONS FOR FORM 8: CONSERVATOR'S ACCOUNT

Purpose of Form:

Use Form 8 to prepare and report the annual conservator's account, concerning the administration of the estate. Begin using Form 8 with the second conservator's account, and continue using Form 8 until you file your final account on Form 9. If you are required to provide a budget with your annual conservator's account, report the budget on this same form.

If this conservatorship consists of a small estate or has very little activity, ask the Court to authorize the conservator to file Form 10, which is a simplified conservator's account; you must file the full report, unless the simplified conservator's account is authorized.

When to File:

Generally, each conservator's account and budget covers a one year period, such that each reporting period is referred to as a year. However, a reporting period may cover a different period of time, either longer or shorter than a year, if ordered by the Court, depending on the circumstances of each individual case.

By court rule, the first conservator's account covers a period that ends nine months after the issuance of the Letters as Conservator, and the first conservator's account is due 90 days later, which means the first conservator's account is due on the first anniversary of the conservator's appointment. Each successive year, the conservator's report is due on the subsequent anniversary of the appointment. See Section 14-5419, Arizona Revised Statutes and Rule 30, Arizona Rules of Probate Procedure.

However, you must review the Court's orders in your case, which may establish a different end date or different due date for the conservator's account, just as the Court may establish other special requirements that the conservator is required to follow, since every conservatorship is unique to some degree.

Form 8 is filed as a confidential document; the account is not available for public inspection.

General Instructions:

All references in these instructions to "you" refer to the conservator, and all references to "year" refer to the reporting or accounting period.

Unless otherwise ordered by the Court, Form 8 requires attachments, including but not limited

to SCHEDULE 1: Statement of Receipts and Disbursements; SCHEDULE 2: Statement of Net Assets & Reconciliation; and SCHEDULE 3: Statement of Sustainability of Conservatorship. In addition to the required schedules, certain answers require supporting detail, which are also required attachments to Form 8. As to any supporting detail, identify the schedule, line and, if appropriate, column that is detailed.

You should complete the required schedules prior to completing Form 8, because Form 8 is essentially a coversheet as you gather together your complete report, and it includes a certification that the report is true, accurate and complete to the best of your knowledge and belief. Don't sign this certification until you have read and reviewed the completed report.

Helpful Suggestion:

These instructions assume that Form 8 and all schedules are being completed manually on paper forms. However, Form 8 and all schedules are also available in an electronic format at no cost and will automate all of the calculations. Please see: www.azcourts.gov/fadd_full_cite/

Notice:

Any estimates allowed or required by these instructions are not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

Specific Instructions:

SCHEDULE 1 (Form 8): Statement of Receipts and Disbursements

Column Instructions:

SCHEDULE 1 consists of columns that are divided into three basic categories: Column A relates to the past, meaning information that was previously reported; Columns B through E relate to the present, meaning information that you are reporting for the year just ended; and

Columns F and G describe the future, the year that is just beginning.

You may be required to use all of the columns in SCHEDULE 1 or just some of the columns, depending whether the Court requires a budget.

Column A – Actual Results Prior Period:

Complete Column A to present information from the last conservator's account; this information is presented for comparison purposes only, and must be copied directly from Column C of last year's SCHEDULE 1, including the starting and ending dates. If the conservatorship was in existence last year, but you were appointed as a successor conservator and this is your first conservator's account, you still include your predecessor's information in Column A, but you are not attesting to the accuracy of this information and are not responsible for verifying the activity reported by the prior conservator.

Column B – Budget, Period Just Ended:

If you were required to file a budget for the year just ended, enter the budget for the year just ended in Column B. Please note: if the budget was amended during the year, enter the final amended budget in Column B and describe the amendments as supporting detail to SCHEDULE 1.

Column C – Actual Results, Period Just Ended:

Complete "Column C" to report the conservator's account for the year just ended. This is the column where the actual receipts and disbursements for the year just ended are reported.

Column D – Deviation from Budget, &

Column E – Deviation as Percent: If you are required to complete Columns B and C, then compute Columns D and E, which show the dollar amount and percent of deviation, respectively, between the budget and actual results. The formulas to calculate the deviation are shown in the headers to Columns D and E. Please remember, if you are using the electronic version of this Form, the formulas are embedded and both columns are automatically calculated, as are all calculations on the Form.

Column F – Budget Current Year: Complete Column F if the court requires a budget for the year that is just beginning. This is where you present a budget of receipts and disbursements for the coming year.

Column G – Change Requested: Finally, if you are required to complete both Columns C and F, then compute Column G to show the dollar amount for changes to the proposed budget as compared to last year's actual results. The formula to calculate the change is shown in the header to Column G.

Line Instructions:

As you determine what to enter on each line, please remember that transactions are recognized on SCHEDULE 1 when money is received or money is disbursed by the conservatorship. In accounting terms, transactions are recognized on a cash basis; you list receipts and disbursements when money effectively changes hands.

For example, if a cost is incurred but not paid before the end of a reporting period, the cost is not listed as a disbursement until paid.

For example, if a check is mailed before the end of a reporting period but does not clear the bank until early in the next reporting period, the disbursement is treated as paid when the check was mailed.

Receipts reported on SCHEDULE 1 include any money, whether income to the estate, liquidation of any general estate asset, or the proceeds of any loan to the estate.

Once you determine which columns of SCHEDULE 1 are required, complete each row as follows:

Line 1 – Start Date of each Period: Enter the start date for each period.

For example, if a conservator files an account that is due on September 30, 2012, for the period from July 1, 2011 to June 30, 2012:

- Column A will have a start date of July 1, 2010,
- Columns B and C will have a start date July 1, 2011, and
- Column F will have a start date of July 1, 2012.

Line 2 – End Date of each Period: Enter the end date for each period. Using the preceding example, the end date is June 30 one year later than the start date.

Line 3 – Retirement and Disability Income:

Enter all regular and recurring income that is received as a result of retirement or disability, including but not limited to Social Security, Railroad Retirement, pension benefits, Social Security Disability, Supplemental Security Income, and worker's compensation benefits. Do NOT include distributions from tax-deferred investments, such as 401K and IRA funds.

Line 4 – Annuities, Structured Settlements, and Trust Income:

Enter all income that is received from annuities, structured settlements or trust income that is not already included in line 3.

Line 5 – Wages and Earned Income: Enter all wages and earned income of the protected person that is not included in lines 3 or 4.

Line 6 – Investment and Business Income: Enter all investment and business income, including but not limited to interest, dividend, rent, and royalty income that is not included in lines 3, 4 or 5.

Line 7 – Other Receipts: Enter any other receipts that are not included in lines 3 through 6, including but not limited to any other income, any distributions from tax-deferred investments, such as 401K or IRA funds, any amount received from selling an asset, or the proceeds from any new loan to the protected estate. Attach a detailed statement explaining the other receipts.

Line 8 – Total Receipts: Add lines 3 through 7 in each column to calculate the Total Receipts reported for each column.

Line 9 – Assets/Liabilities as Receipts: The number you reported on line 8 shows the total receipts to the conservatorship, but it is also important for the Court to know whether the conservatorship is going to be able to meet the lifetime needs of the protected person, and for this reason, the court needs to know how much of the receipts came from consuming assets or from borrowing money.

Enter on line 9 the amount of money that is already included in line 8 that came from selling or liquidating an asset or from incurring a new liability.

For example, if you receive a required minimum distribution from an IRA fund which pays out the earnings as well as some amount of the principal, enter the total distribution on line 7 and enter the amount of the principal received on line 9.

For example, if you receive the proceeds from an installment sale over a period of years, and this year you receive interest on the unpaid balance plus a payment on the balance due, enter the total payment received this year on line 7 and enter the principal portion of the receipts on line 9.

For example, if you sell an asset, such as a residence, enter the net amount received on line 7 and enter the same amount on line 9.

For example, if the conservator borrows money to pay the bills of the protected person, enter the amount of the new loan on lines 7 and 9 and include as a liability on SCHEDULE 2.

Line 10 – Total Income Included in Receipts: Subtract line 9 from the Total Receipts on line 8.

Line 11 – Food, Clothing, and Shelter: Enter the disbursements for goods or services provided to a protected person that are essential for survival, excluding medical costs but including food, clothing, and shelter for the protected person. (For the limited purpose of reporting a disbursement on line 11, expenditures for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.)

For example: enter the regular fees to a care facility, required companions or care providers, food, clothing, toiletries, utilities, or household expenses including home mortgage payments for the protected person's residence.

Line 12 – Medical Costs: Enter all of the medical payments for the protected person that are not included on line 11, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription and non-prescription medicines, insurance premiums and co-pays.

Line 13 – Dignity Funds: Enter the amount of funds that are released directly to the protected person as a spending allowance. Do NOT report how the protected person expended these funds; these funds are no longer considered part of the conservatorship estate.

Line 14 – Debt Service on Liabilities: Enter the amount of debt service payments on debts, such as loans and personal debts of the protected person.

- Do NOT include the home mortgage payment on the residence where the protected person resides (this was reported on line 11).
- Do NOT include as debt service any disbursements for obligations incurred in a prior period of the conservatorship, such as fiduciary and attorney fees and costs. Report these amounts in the appropriate disbursement category when paid.

For example, if the fiduciary earned a fee in one period, but the fee was paid in a later period, the fee is reported as a disbursement on line 13 when paid, NOT line 14. Any operating bills of the conservatorship are treated in the same manner, such as fees to care providers that are incurred but not paid until a later year.

For example, if the protected person has an outstanding credit card debt that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the protected person has an outstanding car loan that was incurred before a

conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the Conservator takes out a loan for the benefit of the protected person, such as a loan to fund the needs of the protected person until real estate or a business interest is sold, all debt service payments on this debt are reported on line 14.

Line 15 – Discretionary Expenditures: Discretionary expenditures means all goods and services provided to a protected person that are not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person, such as entertainment and vacation costs. Discretionary care does NOT include expenditures that are included on another line on SCHEDULE 1.

Line 16 – Other Disbursements for Protected Person: Report other disbursements that are made for the protected person but not included on another line on SCHEDULE 1, including disbursements that are made for a dependent of the protected person. Include on line 16 the purchase of any asset, such as a residence, vehicle, or computer. Attach supporting detail explaining the other disbursements.

For example, if a residence was purchased for the protected person, report the cash down-payment on line 16, mortgage payments on line 11, and list the mortgage as liability on SCHEDULE 2. (see line 24 where this down-payment is also entered)

For example, if the conservator invests in a marketable security, such as a mutual fund or publicly traded stock, enter the disbursement on line 16 (see line 24 where this purchase is also reported).

For example, enter on line 16 any tax payment that is not already listed on another line.

Line 17 – Total for Protected Person: Enter the sum of lines 11 through 16.

Line 18 – Fiduciary Fees and Costs: Enter the expenditures for Fiduciary Fees and Costs. Fees are compensation paid to the fiduciary. Costs include administrative charges that are authorized in the Statewide Fee Guidelines, such as filing fees and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing and shelter.

Line 19 – Fiduciary's Attorney Fees and Costs: Enter the Fiduciary's Attorney Fees and Costs.

Line 20 – Protected Person's Attorney Fees and Costs: Enter the Protected Person's

Attorney Fees and Costs, including court-appointed counsel and any guardian ad litem, if paid by the conservator.

Line 21 – Other Administrative Fees and Costs: Report other disbursements that are an administrative fee or cost of the conservatorship that are NOT included on another line on SCHEDULE 1, such as an appraiser, financial advisor, court investigator, or accountant. Attach supporting detail explaining any other expenditure.

Line 22 – Total Administration Disbursements: Enter the sum of lines 18 through 21.

Line 23 – Total Disbursements: Add lines 17 and 22.

Line 24 – Assets/Liabilities as Disbursements: The number you reported on line 23 shows the total disbursements of the conservatorship, but the court also needs to know how much was disbursed to satisfy debts or acquire assets.

Enter the amount that is included in line 23 that reduced the principal balance of a debt or was expended to acquire an estate asset.

For example, if you expend funds on an installment purchase over a period of years, and this year you pay interest on the unpaid balance plus a payment on the balance due, enter the total payment (interest and principal) on line 14 and enter the principal portion of the payment on line 24.

For example, if you buy a residence for the protected person, enter the net amount disbursed as a down-payment on line 14 and enter the same amount on line 24. Thereafter, any mortgage payments are reported on line 11, and this obligation will now be reported as a debt on SCHEDULE 2.

For example, if the conservatorship previously borrowed money to pay the bills of the protected person, enter any debt service payment for the loan on line 14 (including principal and interest), and enter the principal amount paid (but not interest) on line 24.

Line 25 – Total Expenses in Disbursements: Subtract line 24 from the Total Disbursements on line 23.

Line 26 – Total Surplus/(Shortfall): Enter line 6 minus line 23. If the amount is positive, this is a cash-flow Surplus. If the amount is negative, this is a cash-flow Shortfall, and the number must be displayed in parentheses or preceded by a negative sign.

Line 27 – Net Income/(Net Expenses): Enter line 10 minus line 25. If the amount is positive, this is the amount by which income exceeds expenses. If the amount is negative, this is the amount by which expenses exceed the income of the conservatorship, and a negative number must be displayed in parentheses or preceded by a negative sign.

SCHEDULE 2 (Form 8): Statement of Net Assets & Reconciliation

Section 1 – Net Assets: The first section of SCHEDULE 2 includes the previous report of net assets for comparison purposes with an updated report of net assets, including an explanation of any changes.

Column Instructions:

Column A – Valuations Reported in Prior Period: Complete Column A to display information from the last report of net assets; this information is presented for comparison purposes only and can be copied directly from Column B of last year's SCHEDULE 2, including the statement date. If the conservatorship was in existence last year but you were appointed as a successor conservator, and this is your first conservator's account, you will still include your predecessor's information. You are not attesting to the accuracy of this information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Valuations for Period Just Ended: Complete Column B to provide an update about the net assets of the conservatorship for the year just ended, including additions, deletions, and changes in value.

As a reminder, when you filed your original inventory, you were required to provide a valuation of all the property, and some assets were easy to value, like bank accounts, but some assets were difficult to value, like real estate, and may have required the services of a professional appraiser. However, when filing an annual conservator's account and completing SCHEDULE 2, you are not required to file another formal inventory but only provide an update on the net assets of the estate, including your good faith estimate of any significant changes in valuation, which may be based upon your personal opinions. You are not required to seek the opinion of a professional appraiser. Of course, the balance in bank accounts can always be readily determined and must be accurately reported after deducting any outstanding checks or adding any deposits that are not yet posted.

Unless otherwise ordered by the Court, do not include in the net asset report any property that is titled in the name of a different legal entity, such as property held by a trust or corporation, unless you as conservator can exercise a power of direction over the asset. A power of direction includes the ability to direct the other legal entity to transfer title or possession to the property.

When reporting the value of all general assets do NOT deduct any liens or mortgages. Debts are separately reported as liabilities.

Column C – Change from Prior SCHEDULE 2, Column D – Change as Percent, & Column E – Explanation of Change: Compute Columns C and D, which show the dollar amount and percent of change, respectively, from last year to this year. The mathematical calculation is shown in the header to Columns C and D. Complete Column E to explain any changes in the value or composition of the assets or liabilities included in the category; and if more space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Valuation Report Date: Enter the date of each report of net assets. Column A is the end date of the prior account (this is found on SCHEDULE 1, Column A, line 2), and Column B is the end date of your current conservator's account (this is found on SCHEDULE 1, Column C, line 2).

Line 2 – Real Estate: Enter the value of all real estate owned by the estate, such as the residence of the protected person, any rental or vacation real estate, and any cemetery plots. Remember to enter the gross value of ALL assets and do not deduct liens or mortgages; ALL liabilities are listed separately on line 17 as debts.

Line 3 – Vehicle(s): Enter the value of any vehicles, such as a personal automobile, motorcycle, golf cart, watercraft, airplane, or recreational vehicle.

Line 4 – Business Ownership Interests: Enter the value of any business ownership interests, such as a closely held family business. Do not list shares in a publicly traded corporation on line 4.

Line 5 – Household Items and Personal Effects: Enter the value of household items and personal effects that are owned by the protected person, which commonly include the property that the protected person stored in his or her primary residence, including displayed collectible items. Property with significant value, like precious jewelry and valuable collections, should be itemized and included separately on line 8.

Line 6 – Stocks, Bonds, and Mutual Funds, not tax-deferred: Enter the present value of stocks, bonds, mutual funds, and other marketable securities, such as savings bonds and bearer bonds, but excluding business interests that were entered on line 4 or tax-deferred assets that are entered below on line 7.

Line 7 – Tax-Deferred Assets: Enter the present value of tax-deferred assets, such as IRA and 401(k) accounts. Include all tax-deferred assets, including but not limited to tax-deferred cash accounts, certificates of deposit, savings accounts, and brokerage accounts.

Line 8 – Other General Assets: Enter the present value of all other assets that are not already listed, excluding cash and regular bank accounts. Include the cash value of any insurance policies or any prepaid benefits, such as prepaid funeral plans.

Line 9 – Total General Assets: Enter the sum of lines 2 through 8.

Line 10 – Bank Accounts, Restricted Access: Enter the cash balance of any bank accounts that are court-restricted, meaning funds may not be withdrawn without a court order. Bank accounts include checking, saving, certificates of deposit, money market accounts, and all functionally similar accounts, whether in a bank, savings and loan, credit union, or other similar financial institution. Do not include tax-deferred assets that were listed above on line 7.

Line 11 – Bank Accounts, Unrestricted Access: Enter the cash balance of any bank accounts that are NOT court-restricted, meaning funds may be withdrawn without a court order.

Line 12 – Cash on Hand: Enter the amount of currency that you have on behalf of the estate, such as a petty cash fund. Do not include coin collections on this line, unless the coins have no collectible value above the face value of the coins.

Line 13 – Other Money-Denominated Assets: Enter the value of other money-denominated assets, such as a cash card. These assets are functionally equivalent to money in a bank account and do not change in value by market fluctuation, except by receipt of a dividend or interest. Attach supporting detail.

Line 14 – Total Cash and Bank Accounts: Enter the sum of lines 10 through 13.

Line 15 – Total Available Assets: Add lines 9 and 14.

Line 16 – Bills & Payables more than 30 days old: Enter the amount of any and all past-due bills and payables, plus ALL incurred but

unpaid fiduciary and attorney fees and costs, as of the end of the reporting period. Attach supporting detail.

Line 17 – Debts: Enter the amount of all other debts, such as notes, mortgages, credit cards and personal loans, as of the end of the reporting period. Attach supporting detail.

Line 18 – Total Liabilities: Add lines 16 and 17.

Line 19 – Net Assets: Enter line 15 minus line 18. This is the value of the net assets as of the date of the reporting period.

Section 2 – Reconciliation of Conservator's Account: The second section of SCHEDULE 2 is utilized to reconcile the cash flow information reported on SCHEDULE 1 to the net asset information reported on SCHEDULE 2. The purpose for this reconciliation is to prove that the ending balance in cash and bank accounts matches the starting balance plus receipts and minus disbursements.

Line 20 – Starting Cash Balance: Enter starting Cash Balance from SCHEDULE 2, Column A, line 14.

Line 21 – Total Receipts: Enter Total Receipts from SCHEDULE 1, Column C, line 8.

Line 22 – Available Funds: Add lines 20 and 21.

Line 23 – Total Disbursements: Enter Total Disbursements from SCHEDULE 1, Column C, line 23.

Line 24 – Ending Cash Balance: Calculate Ending Cash Balance by subtracting line 23 from line 22. The result must equal the Ending Cash Balance as reported on SCHEDULE 2, Column B, line 14. If these amounts do not match, there is an error in the report.

SCHEDULE 3 (Form 8): Statement of Sustainability of Conservatorship

The purpose of SCHEDULE 3 is to estimate how long the conservatorship estate can meet the expenses of the protected person, and then (i) compare whether that duration is longer or shorter than the estimated lifespan of the protected person. A conservatorship estate that can meet the predicted expenses of a protected person is considered sustainable, while a conservatorship estate that cannot is not sustainable. A conservatorship estate must have a written management plan if it is not sustainable.

Column Instructions:

Column A – Sustainability Estimated in Prior Period: Complete Column A to display information from the last estimate of sustainability; this information is presented for comparison purposes only and can be copied directly from Column B of last year's SCHEDULE 3, including the report date. If the conservatorship was in existence last year but you were appointed as a successor conservator, and this is your first conservator's account, you will still include your predecessor's information. You are not attesting to the accuracy of this information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Sustainability Estimated for Period Just Ended: Complete Column B to provide an update concerning your new estimates on the sustainability of the conservatorship. Your estimates should be based upon the most current information that is reasonably available to you.

For example, if there is a substantial change of circumstances for the protected person, such as a medical deterioration which requires a different level of care, use this information when calculating sustainability, even if the change occurred after the end of the reporting period but before the date of filing this schedule.

As a reminder, the information provided on this schedule is a good faith estimate based upon the information that is reasonably available to you. Some information may be easy to calculate and should be accurate, such as money available in bank accounts, but some information is very difficult to estimate, such as the projected life expectancy of the protected person. This schedule requires you to share what you believe to be true, not what you can prove to be true. You are not making an avowal; you are telling the Court what you think is true in this particular case for this particular protected person.

Column C – Change from Prior SCHEDULE 3, Column D – Change as Percent, & Column E – Explanation of Change: Compute Columns C and D, which show the dollar amount and percent of change, respectively, from last year to this year. The mathematical calculation is shown in the header to Columns C and D. Complete Column E to explain any changes in the value or composition of the assets or liabilities included in the category; and if more space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Report Date of Sustainability Estimator: Enter the date of each report of sustainability. Column A is the date of the prior estimate, and Column B is the date of your new estimate of sustainability.

Overview of Lines 2 through 4: You calculated the net assets of the conservatorship estate on SCHEDULE 2, but there may be additional factors that may impact those assets looking forward, such as additional assets that might come from an inheritance or a personal injury claim. Likewise, looking forward, some assets might be needed for known one-time expenditures, such as a major medical expenditure or the startup costs for the conservatorship. Once these adjustments are made, if any, the remaining net assets should be available to meet the typical or recurring needs of the protected person.

Said another way, you are calculating the net assets that are thought to be available to meet the regular and recurring needs of the protected person from this point forward.

Line 2 – Net Assets: Enter the value of the Net Assets available to the estate, as calculated on SCHEDULE 2, line 19, Columns A and B, respectively.

Line 3 – Adjustments: Enter zero, unless adjustments are required. If so:

- Enter as a positive value any new and significant assets that you expect to come into the conservatorship, such as an inheritance or a personal injury award.
- Enter as a negative value any assets that need to be used to satisfy any planned, one-time, significant expenditures, such as one-time medical cost, large repairs, or the cost to stabilize the conservatorship.

Explain any adjustments in the space provided on SCHEDULE 3, Column E, or provide supporting detail on a separate page.

Line 4 – Adjusted Net Assets: Add a positive value on line 3 to line 2, or deduct a negative value on line 3 from line 2. This is your estimate of the assets that will be available to meet the recurring needs of the protected person.

For example, if the net asset figure on line 2 is \$100,000, and line 3 is a positive value, such as \$5,000, enter the sum of both numbers, \$105,000 on line 4. However, if line 3 instead has a negative value, such as minus \$8,000,

which can be written as $-\$8,000$ or $(\$8,000)$, you would enter $\$92,000$ on line 4.

Overview of Lines 5 through 7: You already calculated the net income or the net expenses of the conservatorship estate on SCHEDULE 1, but there may be additional factors that impact the typical or recurring net income or net expenses looking forward, such as income or expenses that will change in the future. Said another way, what will be the regular or recurring net income or net expenses in a typical year?

Line 5 – Net Income/(Net Expenses): Enter the value of the net income or net expenses for the estate as calculated on SCHEDULE 1, line 27, Columns A and C, respectively. Enter net income as a positive number, and enter net expenses as a negative number.

Line 6 – Adjustments: Enter zero, unless adjustments are required. If so:

- Enter as a positive value any significant one-time expenses that were recognized as a disbursement when calculating the net income or net expenses for the year just ended, such as a one-time medical cost or the startup cost for the conservatorship.
- Enter as a positive value any significant and recurring income that was not recognized (or not fully recognized) when calculating the net income or net expenses for the year just ended, such as a new source of income like disability benefits.
- Enter as a negative value any significant and recurring expenditure that was not recognized (or not fully recognized) when calculating the net income or net expenses for the year just ended, such as a new or increased expenditure for care of the protected person.

For example, if the protected person now receives a regular and recurring disability payment of \$1,000 per month, and only the first three months of benefits was included in the net income or net expenses for the year just ended, there is a required positive adjustment in the amount of \$3,000, which recognizes the additional income that will be received in a typical year (since 3 months was already recognized).

For example, if the protected person incurred a substantial one-time expenditure, which was a disbursement when calculating the net income or net expenses for the year just ended, this is a positive adjustment, since this disbursement will not recur in a typical year. This might occur with

the one-time cost for a new roof on the protected person's residence.

For example, if the protected person will now require additional care services, which was not previously included as a disbursement in calculating the net income or net expenses, this is a negative adjustment.

Explain any adjustments in the space provided on SCHEDULE 3, Column E, or provide supporting detail on a separate page.

Line 7 – Adjusted Net Income/(Net Expenses): Add the positive value on line 6 to line 5, or deduct the negative value on line 6 from line 5. This is your estimate of the regular and recurring net income or net expenses of the conservatorship.

If line 7 is a positive value, you are estimating that the conservatorship is sustainable because the conservatorship is expected to produce more income than it expends. If line 7 is positive, do NOT complete lines 8 through 10; skip to line 11.

If line 7 is a negative value, continue to line 8.

Line 8 – Enter Adjusted Net Assets: Enter the number calculated on line 4.

Line 9 – Enter Adjusted Net Expenses: Enter the absolute value of the number calculated on line 7. This means you will enter a positive number for the value that is shown on line 7 as a negative number. Said another way, ignore the negative sign when entering this number on line 9.

Line 10 – Estimated Years of Sustainability: Enter here line 8 divided by line 9. This is your estimate of the number of years that the conservatorship can fund the recurring and regular expenses of the protected person before the entire net estate is consumed.

Line 11 – Estimate of Protected Person's Remaining Life Expectancy: Enter your good faith estimate of the remaining life expectancy of the protected person expressed in years. Just tell the Court what you think, not what you can prove. You may rely on your own experience, any opinions that you consider credible, such as the opinions of a medical professional, and life expectancy tables. However, do not use life expectancy tables without making adjustments for the particular circumstances of the protected person based upon the information that is reasonably available to you.

Line 12 – Conservatorship is Sustainable: Check the box for "Yes" if Adjusted Net Income on line 7 is a positive number OR if line 10 is equal to or greater than line 11. If not, check the box for "No".

Said another way, check "Yes", if the income exceeds expenses as reported on line 7. Likewise, check "Yes", if the number of years it takes to consume the estate is equal to or greater than the projected life expectancy of the protected person. Otherwise, check "No".

Line 13 – Management Plan: If Column A and/or Column B, line 12 is checked "No", provide the most recent prior management plan in Column A, if any, and describe your current management plan in Column B. If there is no change to the prior management plan, enter "No Change" in Column B.

The conservator shall provide the court with an alternative management plan if the estate is not calculated as sustainable. That plan shall describe how the future care needs of the protected person shall be met. For example, there may be a need for an adjustment in the protected person's standard of living or a future need for public assistance.

The objective of the conservator must always focus on the best interests of the protected person, while respecting the wishes of the protected person to the extent not inconsistent with the protected person's best interests.

FORM 8: Conservator's Account:

Form 8 is largely a self-explanatory document; it serves as a coversheet for your complete annual report.

When filing Form 8, you are required to attach SCHEDULES 1, 2, and 3, as well as a copy of bank statements for all accounts as of the date when the current reporting period ended. If you need to attach any supporting detail to any schedule, this detail is also a required attachment. Check each box on Form 8 for each included attachment.

When amending Form 8, include any required attachments that are changed as a result of the amendment. Check each box on an amended Form 8 for each included attachment.

Organize all required attachments in the same order as shown on Form 8.

Sign Form 8 when you are finished and have reviewed the form and all required attachments. When you sign, you are certifying that you have read and reviewed the entire report and, after reasonable inquiry, you have a good faith belief that the information in this report is true, accurate and complete to the best of your knowledge and belief.

Please remember, you will use Form 8 starting with your second conservator's account, and you will continue using this form for each of your annual conservator's accounts thereafter until you are ready to file your final account.

Use Form 9 for your final conservator's account, unless the Court expressly authorizes you to file a simplified conservator's account on Form 10.

In the matter of:		Case No.				
Column A	Column B	Column C	Column D	Column E	Column F	Column G
Actual Results Prior Period: / / 20	Budget Period Just Ended: / / 20	Actual Results / / 20	Deviation from Budget (Column C minus Column B)	Deviation as Percent (Column D divided by Column B and multiplied by 100)	Budget Current Year: / / 20	Change Requested (Column E minus Column C)
Past			Present		Future	
SCHEDULE 1 (Form 8):						
Statement of Receipts and Disbursements						
(Refer to Form 8 instructions to Complete SCHEDULE 1.)						
1. End date of each Period:						
2. End date of each Period:						
Receipts (Money Received):						
3. Retirement and Disability Income						
4. Annuities, Structured Settlements, and Trust Income						
5. Investment and Business Income						
6. Total Receipts (add lines 3 through 5)						
7. Assets/Liabilities as Receipts (see instructions)						
8. Total Receipts (add lines 3 through 7)						
Disbursements (Money Spent):						
9. Food, Clothing, and Shelter						
10. Medical Costs						
11. Debt Service on Liabilities						
12. Other for Protected Person (Attach Schedule)						
13. Total for Protected Person (add lines 9 through 12)						
14. Assets/Liabilities as Disbursements (see instructions)						
15. Total Disbursements (add lines 9 through 14)						
16. Total Surplus/(Shortfall) (line 6 minus line 15)						
17. Net Excess/(Net Deficit)						

In the matter of:		Case No.		
Column A	Column B	Column C	Column D	Column E
Valuations Reported in Prior Period SCHEDULE 2.	Adjusted Valuations for Period Just Ended.	Change from Prior Schedule 2	Change as Percent	Explanation of Change
	____/____/20		of	
	____/____/20		Percent	
			Change in	
			Value of Assets	
			Reported in	
			Schedule 2	
			and	
			Current	
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Form 9. FINAL CONSERVATOR'S ACCOUNT

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Licensed Fiduciary Number (if applicable): _____
Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF «COUNTY»

IN THE MATTER OF THE
CONSERVATORSHIP FOR

«Protected Person's Name»,

 a Minor
 an Adult

NO. «CaseNo.»

FINAL
CONSERVATOR'S ACCOUNT
 Amendment

(Assigned to the Honorable
«Judicial Officer»)

Confidential Document
Rule 7, Rules Probate Proc.

REQUIRED ATTACHMENTS, which are to be attached in the following order:

- SCHEDULE 1: Statement of Receipts and Disbursements
- SCHEDULE 2: Statement of Net Assets & Reconciliation
- Statement of Asset Distribution
- RECENT BANK STATEMENT for each bank account
- Supporting Detail required for SCHEDULE 1
- Supporting Detail required for SCHEDULE 2
- TRANSACTION LOG, detailing all financial transaction during the current reporting period, reported by category.

CONSERVATOR'S CERTIFICATION

I, the undersigned, acknowledge that I have read and reviewed this form, accompanying schedules and attached supplements, and after reasonable inquiry have a good faith belief that the information in this report is true, accurate and complete to the best of my knowledge and belief.

<<Conservator Name>>

<<Date>>

Form 9, Continued

INSTRUCTIONS FOR FORM 9: FINAL CONSERVATOR'S ACCOUNT

Purpose of Form:

Use Form 9 to prepare and report the final conservator's account, concerning the administration of the estate.

If this conservatorship consists of a small estate or has very little activity, ask the Court to authorize the conservator to file Form 10, which is a simplified conservator's account; you must file the full report, unless the simplified conservator's account is authorized.

When to File:

Generally, each conservator's account and budget covers a one year period, such that each reporting period is referred to as a year. However, a final conservator's account typically covers the entire final period of the conservatorship from the date of the last conservator's account, which may be more or less than one year.

Please note, unless prohibited by the Court, under certain circumstances a final account is not required. See Section 14-5419, Arizona Revised Statutes.

You must review the Court's orders in your case, which may establish different requirements to conclude the conservatorship and to be discharged as conservator, since every conservatorship is unique to some degree.

Form 9 is filed as a confidential document; the account is not available for public inspection.

General Instructions:

All references in these instructions to "you" refer to the conservator, and all references to "year" refer to the reporting or accounting period.

Unless otherwise ordered by the Court, Form 9 requires attachments, including but not limited to SCHEDULE 1: Statement of Receipts and Disbursements; and SCHEDULE 2: Statement of Net Assets & Reconciliation. In addition to the required schedules, certain answers require supporting detail, which are also required attachments to Form 9. As to any supporting detail, identify the schedule, line and, if appropriate, column that is detailed.

You should complete the required schedules prior to completing Form 9, because Form 9 is essentially a coversheet as you gather together your complete report, and it includes a

certification that the report is true, accurate and complete to the best of your knowledge and belief. Don't sign this certification until you have read and reviewed the completed report.

Helpful Suggestion:

These instructions assume that Form 9 and all schedules are being completed manually on paper forms. However, Form 9 and all schedules are also available in an electronic format at no cost and will automate all of the calculations. Please see: www.azcourts.gov/add_full_site/

Notice:

Any estimates allowed or required by these instructions are not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

Specific Instructions:

SCHEDULE 1 (Form 9): Statement of Receipts and Disbursements

Column Instructions:

SCHEDULE 1 consists of columns that are divided into two basic categories: Column A relates to the past, meaning information that was previously reported; and Columns B through E relate to the present, meaning information that you are reporting for the year just ended. **Please note: Columns F & G are not used on Form 9 and are intentionally left blank.**

You may be required to use all of the columns in SCHEDULE 1 or just some of the columns, depending whether the Court requires a budget.

Column A - Actual Results Prior Period:

Complete Column A to present information from the last conservator's account; this information is presented for comparison purposes only, and must be copied directly from Column C of last year's SCHEDULE 1, including the starting and

ending dates. If the conservatorship was in existence last year, but you were appointed as a successor conservator and this is your first conservator's account, you still include your predecessor's information in Column A, but you are not attesting to the accuracy of this information and are not responsible for verifying the activity reported by the prior conservator.

Column B – Budget, Period Just Ended: If you were required to file a budget for the year just ended, enter the budget for the year just ended in Column B. Please note: If the budget was amended during the year, enter the final amended budget in Column B and describe the amendments as supporting detail to SCHEDULE 1.

Column C – Actual Results, Period Just Ended: Complete "Column C" to report the conservator's account for the year just ended. This is the column where the actual receipts and disbursements for the year just ended are reported.

Column D – Deviation from Budget, & Column E – Deviation as Percent: If you are required to complete Columns B and C, then compute Columns D and E, which show the dollar amount and percent of deviation, respectively, between the budget and actual results. The formulas to calculate the deviation are shown in the headers to Columns D and E. Please remember, if you are using the electronic version of this Form, the formulas are embedded and both columns are automatically calculated, as are all calculations on the Form.

Column F – Budget Current Year: Since this is a final conservator's account, this Column is intentionally left blank.

Column G – Change Requested: Since this is a final conservator's account, this Column is intentionally left blank.

Line Instructions:

As you determine what to enter on each line, please remember that transactions are recognized on SCHEDULE 1 when money is received or money is disbursed by the conservatorship. In accounting terms, transactions are recognized on a cash basis; you list receipts and disbursements when money effectively changes hands.

For example, if a cost is incurred but not paid before the end of a reporting period, the cost is not listed as a disbursement until paid.

For example, if a check is mailed before the end of a reporting period but does not clear the bank until early in the next reporting period, the disbursement is treated as paid when the check was mailed.

Receipts reported on SCHEDULE 1 include any money, whether income to the estate, liquidation of any general estate asset, or the proceeds of any loan to the estate.

Once you determine which columns of SCHEDULE 1 are required, complete each row as follows:

Line 1 – Start Date of each Period: Enter the start date for each period.

For example, if a conservator files an account that is due on September 30, 2012, for the period from July 1, 2011 to June 30, 2012:

- Column A will have a start date of July 1, 2010, and
- Columns B and C will have a start date July 1, 2011.

Line 2 – End Date of each Period: Enter the end date for each period. Using the preceding example, the end date in Column A is June 30, 2011, but the end date in Columns B and C is the end date for the Conservatorship.

Line 3 – Retirement and Disability Income: Enter all regular and recurring income that is received as a result of retirement or disability, including but not limited to Social Security, Railroad Retirement, pension benefits, Social Security Disability, Supplemental Security Income, and Worker's compensation benefits. Do NOT include distributions from tax-deferred investments, such as 401K and IRA funds.

Line 4 – Annuities, Structured Settlements, and Trust Income: Enter all income that is received from annuities, structured settlements or trust income that is not already included in line 3.

Line 5 – Wages and Earned Income: Enter all wages and earned income of the protected person that is not included in lines 3 or 4.

Line 6 – Investment and Business Income: Enter all investment and business income, including but not limited to interest, dividend, rent, and royalty income that is not included in lines 3, 4 or 5.

Line 7 – Other Receipts: Enter any other receipts that are not included in lines 3 through 6, including but not limited to any other income, any distributions from tax-deferred investments, such as 401K or IRA funds, any amount received from selling an asset, or the proceeds from any new loan to the protected estate. Attach a detailed statement explaining the other receipts.

Line 8 – Total Receipts: Add lines 3 through 7 in each column to calculate the Total Receipts reported for each column.

Line 9 – Assets/Liabilities as Receipts: The number you reported on line 8 shows the total receipts to the conservatorship, but it is also important for the Court to know whether the conservatorship is going to be able to meet the lifetime needs of the protected person; and for this reason, the court needs to know how much of the receipts came from consuming assets or from borrowing money.

Enter on line 9 the amount of money that is already included in line 8 that came from selling or liquidating an asset or from incurring a new liability.

For example, if you receive a required minimum distribution from an IRA fund which pays out the earnings as well as some amount of the principal, enter the total distribution on line 7 and enter the amount of the principal received on line 9.

For example, if you receive the proceeds from an installment sale over a period of years, and this year you receive interest on the unpaid balance plus a payment on the balance due, enter the total payment received this year on line 7 and enter the principal portion of the receipts on line 9.

For example, if you sell an asset, such as a residence, enter the net amount received on line 7 and enter the same amount on line 9.

For example, if the conservator borrows money to pay the bills of the protected person, enter the amount of the new loan on lines 7 and 9 and include as a liability on SCHEDULE 2.

Line 10 – Total Income Included in Receipts: Subtract line 9 from the Total Receipts on line 8.

Line 11 – Food, Clothing, and Shelter: Enter the disbursements for goods or services provided to a protected person that are essential for survival, excluding medical costs but including food, clothing, and shelter for the protected person. (For the limited purpose of reporting a disbursement on line 11, expenditures for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.)

For example: enter the regular fees to a care facility, required companions or care providers, food, clothing, toiletries, utilities, or household expenses including home mortgage payments for the protected person's residence.

Line 12 – Medical Costs: Enter all of the medical payments for the protected person that are not included on line 11, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription

and non-prescription medicines, insurance premiums and co-pays.

Line 13 – Dignity Funds: Enter the amount of funds that are released directly to the protected person as a spending allowance. Do NOT report how the protected person expended these funds; these funds are no longer considered part of the conservatorship estate.

Line 14 – Debt Service on Liabilities: Enter the amount of debt service payments on debts, such as loans and personal debts of the protected person.

- Do NOT include the home mortgage payment on the residence where the protected person resides (this was reported on line 11).
- Do NOT include as debt service any disbursements for obligations incurred in a prior period of the conservatorship, such as fiduciary and attorney fees and costs. Report these amounts in the appropriate disbursement category when paid.

For example, if the fiduciary earned a fee in one period, but the fee was paid in a later period, the fee is reported as a disbursement on line 18 when paid, NOT line 14. Any operating bills of the conservatorship are treated in the same manner, such as fees to care providers that are incurred but not paid until a later year.

For example, if the protected person has an outstanding credit card debt that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the protected person has an outstanding car loan that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the Conservator takes out a loan for the benefit of the protected person, such as a loan to fund the needs of the protected person until real estate or a business interest is sold, all debt service payments on this debt are reported on line 14.

Line 15 – Discretionary Expenditures: Discretionary expenditures means all goods and services provided to a protected person that are not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person, such as entertainment and vacation costs. Discretionary care does NOT include expenditures that are included on another line on SCHEDULE 1.

Line 16 – Other Disbursements for Protected Person: Report other disbursements

that are made for the protected person but not included on another line on SCHEDULE 1, including disbursements that are made for a dependent of the protected person. Include on line 16 the purchase of any asset, such as a residence, vehicle, or computer. Attach supporting detail explaining the other disbursements.

For example, if a residence was purchased for the protected person, report the cash down-payment on line 16, mortgage payments on line 11, and list the mortgage as liability on SCHEDULE 2. (see line 24 where this down-payment is also entered)

For example, if the conservator invests in a marketable security, such as a mutual fund or publicly traded stock, enter the disbursement on line 16 (see line 24 where this purchase is also reported).

For example, enter on line 16 any tax payment that is not already listed on another line.

Line 17 – Total for Protected Person: Enter the sum of lines 11 through 16.

Line 18 – Fiduciary Fees and Costs: Enter the expenditures for Fiduciary Fees and Costs. Fees are compensation paid to the Fiduciary. Costs include administrative charges that are authorized in the Statewide Fee Guidelines, such as filing fees and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing, and shelter.

Line 19 – Fiduciary's Attorney Fees and Costs: Enter the Fiduciary's Attorney Fees and Costs.

Line 20 – Protected Person's Attorney Fees and Costs: Enter the Protected Person's Attorney Fees and Costs, including court-appointed counsel and any guardian ad litem, if paid by the conservator.

Line 21 – Other Administrative Fees and Costs: Report other disbursements that are an administrative fee or cost of the conservatorship that are NOT included on another line on SCHEDULE 1, such as an appraiser, financial advisor, court investigator, or accountant. Attach supporting detail explaining any other expenditure.

Line 22 – Total Administration Disbursements: Enter the sum of lines 18 through 21.

Line 23 – Total Disbursements: Add lines 17 and 22.

Line 24 – Assets/Liabilities as Disbursements: The number you reported on

line 23 shows the total disbursements of the conservatorship, but the court also needs to know how much was disbursed to satisfy debts or acquire assets.

Enter the amount that is included in line 23 that reduced the principal balance of a debt or was expended to acquire an estate asset.

For example, if you expend funds on an installment purchase over a period of years, and this year you pay interest on the unpaid balance plus a payment on the balance due, enter the total payment (interest and principal) on line 24 and enter the principal portion of the payment on line 24.

For example, if you buy a residence for the protected person, enter the net amount disbursed as a down-payment on line 24 and enter the same amount on line 24. Thereafter, any mortgage payments are reported on line 11, and this obligation will now be reported as a debt on SCHEDULE 2.

For example, if the conservatorship previously borrowed money to pay the bills of the protected person, enter any debt service payment for the loan on line 24 (including principal and interest), and enter the principal amount paid (but not interest) on line 24.

Line 25 – Total Expenses in Disbursements: Subtract line 24 from the Total Disbursements on line 23.

Line 26 – Total Surplus/(Shortfall): Enter line 8 minus line 25. If the amount is positive, this is a cash-flow Surplus. If the amount is negative, this is a cash-flow Shortfall, and the number must be displayed in parentheses or preceded by a negative sign.

Line 27 – Net Income/(Net Expenses): Enter line 10 minus line 25. If the amount is positive, this is the amount by which income exceeds expenses. If the amount is negative, this is the amount by which expenses exceed the income of the conservatorship, and a negative number must be displayed in parentheses or preceded by a negative sign.

SCHEDULE 2 (Form 9): Statement of Net Assets & Reconciliation

Section 1 – Net Assets: The first section of SCHEDULE 2 includes the previous report of net assets for comparison purposes with an updated report of net assets, including an explanation of any changes.

Column Instructions:

Column A – Valuations Reported in Prior Period: Complete Column A to display

information from the last report of net assets; this information is presented for comparison purposes only and can be copied directly from Column B of last year's SCHEDULE 2, including the statement date. If the conservatorship was in existence last year but you were appointed as a successor conservator, and this is your first conservator's account, you will still include your predecessor's information. You are not attesting to the accuracy of this information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Final Valuations:

Complete Column B to provide an update about the net assets of the conservatorship at the conclusion of the conservatorship, including additions, deletions, and changes in value.

As a reminder, when you filed your original inventory, you were required to provide a valuation of all the property, and some assets were easy to value, like bank accounts, but some assets were difficult to value, like real estate, and may have required the services of a professional appraiser. However, when filing an annual conservator's account and completing SCHEDULE 2, you are not required to file another formal inventory but only provide an update on the net assets of the estate, including your good faith estimate of any significant changes in valuation, which may be based upon your personal opinions. You are not required to seek the opinion of a professional appraiser. Of course, the balance in bank accounts can always be readily determined and must be accurately reported after deducting any outstanding checks or adding any deposits that are not yet posted.

Unless otherwise ordered by the Court, do not include in the net asset report any property that is titled in the name of a different legal entity, such as property held by a trust or corporation, unless you as conservator can exercise a power of direction over the asset. A power of direction includes the ability to direct the other legal entity to transfer title or possession to the property.

When reporting the value of all general assets do NOT deduct any liens or mortgages. Debts are separately reported as liabilities.

Column C – Change from Prior SCHEDULE 2, Column D – Change as Percent, & Column E – Explanation of Change: Compute Columns C and D, which show the dollar amount and percent of change, respectively, from last year to this year. The mathematical calculation is shown in the header to Columns C and D. Complete Column E to explain any changes in the value or composition of the assets or liabilities included in the category; and if more

space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Valuation Report Date: Enter the date of each report of net assets. Column A is the end date of the prior account (this is found on SCHEDULE 1, Column A, line 2), and Column B is the final date of your current conservator's account (this is found on SCHEDULE 1, Column C, line 2).

Line 2 – Real Estate: Enter the value of all real estate owned by the estate, such as the residence of the protected person, any rental or vacation real estate, and any cemetery plots. Remember to enter the gross value of ALL assets and do not deduct liens or mortgages. ALL liabilities are listed separately on line 17 as debts.

Line 3 – Vehicle(s): Enter the value of any vehicles, such as a personal automobile, motorcycle, golf cart, watercraft, airplane, or recreational vehicle.

Line 4 – Business Ownership Interests: Enter the value of any business ownership interests, such as a closely held family business. Do not list shares in a publicly traded corporation on line 4.

Line 5 – Household Items and Personal Effects: Enter the value of household items and personal effects that are owned by the protected person, which commonly include the property that the protected person stored in his or her primary residence, including displayed collectible items. Property with significant value, like precious jewelry and valuable collections, should be itemized and included separately on line 8.

Line 6 – Stocks, Bonds, and Mutual Funds, not tax-deferred: Enter the present value of stocks, bonds, mutual funds, and other marketable securities, such as savings bonds and bearer bonds, but excluding business interests that were entered on line 4 or tax-deferred assets that are entered below on line 7.

Line 7 – Tax-Deferred Assets: Enter the present value of tax-deferred assets, such as IRA and 401(K) accounts. Include all tax-deferred assets, including but not limited to tax-deferred cash accounts, certificates of deposit, savings accounts, and brokerage accounts.

Line 8 – Other General Assets: Enter the present value of all other assets that are not already listed, excluding cash and regular bank accounts. Include the cash value of any insurance policies or any prepaid benefits, such as prepaid funeral plans.

Line 9 – Total General Assets: Enter the sum of lines 2 through 8.

Line 10 – Bank Accounts, Restricted

Access: Enter the cash balance of any bank accounts that are court-restricted, meaning funds may not be withdrawn without a court order. Bank accounts include checking, saving, certificates of deposit, money market accounts, and all functionally similar accounts, whether in a bank, savings and loan, credit union, or other similar financial institution. Do not include tax-deferred assets that were listed above on line 7.

Line 11 – Bank Accounts, Unrestricted

Access: Enter the cash balance of any bank accounts that are NOT court-restricted, meaning funds may be withdrawn without a court order.

Line 12 – Cash on Hand: Enter the amount of currency that you have on behalf of the estate, such as a petty cash fund. Do not include coin collections on this line, unless the coins have no collectible value above the face value of the coins.

Line 13 – Other Money-Denominated

Assets: Enter the value of other money-denominated assets, such as a cash card. These assets are functionally equivalent to money in a bank account and do not change in value by market fluctuation, except by receipt of a dividend or interest. Attach supporting detail.

Line 14 – Total Cash and Bank Accounts:

Enter the sum of lines 10 through 13.

Line 15 – Total Available Assets: Add lines 9 and 14.

Line 16 – Bills & Payables more than 30

days old: Enter the amount of any and all past-due bills and payables, plus ALL incurred but unpaid fiduciary and attorney fees and costs, as of the end of the reporting period. Attach supporting detail.

Line 17 – Debts: Enter the amount of all other debts, such as notes, mortgages, credit cards and personal loans, as of the end of the reporting period. Attach supporting detail.

Line 18 – Total Liabilities: Add lines 16 and 17.

Line 19 – Net Assets: Enter line 15 minus line 18. This is the value of the net assets as of the date of the reporting period.

Section 2 – Reconciliation of Conservator's

Account: The second section of SCHEDULE 2 is utilized to reconcile the cash flow information reported on SCHEDULE 1 to the net asset information reported on SCHEDULE 2. The purpose for this reconciliation is to prove that the ending balance in cash and bank accounts

matches the starting balance plus receipts and minus disbursements.

Line 20 – Starting Cash Balance: Enter starting Cash Balance from SCHEDULE 2, Column A, line 14.

Line 21 – Total Receipts: Enter Total Receipts from SCHEDULE 1, Column C, line 8.

Line 22 – Available Funds: Add lines 20 and 21.

Line 23 – Total Disbursements: Enter Total Disbursements from SCHEDULE 1, Column C, line 23.

Line 24 – Ending Cash Balance: Calculate Ending Cash Balance by subtracting line 23 from line 22. The result must equal the Ending Cash Balance as reported on SCHEDULE 2, Column B, line 14. If these amounts do not match, there is an error in the report.

Statement of Asset Distribution:

You are required to attach a statement to your final conservator's account describing what happened to any remaining assets that were in your care at the conclusion of the conservatorship.

Were the assets returned to the former protected person, who is no longer incapacitated? If the former protected person is deceased, were the assets transferred to an appointed personal representative of the decedent's estate? If neither circumstance applies, who received the assets and why are they entitled to do so.

Please remember: you remain responsible for protecting this estate until you are discharged and relieved of this responsibility. If you distribute the assets without authority, you can be personally liable for any improper distribution.

FORM 9: Final Conservator's Account:

Form 9 is largely a self-explanatory document; it serves as a coversheet for your complete annual report.

When filing Form 9, you are required to attach SCHEDULES 1 and 2, a Statement of Asset Distribution, as well as a copy of bank statements for all accounts as of the date of the final conservator's account. If you need to attach any supporting detail to any schedule, this detail is also a required attachment. Check each box on Form 9 for each included attachment.

When amending Form 9, include any required attachments that are changed as a result of the amendment. Check each box on an amended Form 9 for each included attachment.

Organize all required attachments in the same order as shown on Form 9.

Sign Form 9 when you are finished and have reviewed the form and all required attachments. When you sign, you are certifying that you have read and reviewed the entire report and, after reasonable inquiry, you have a good faith belief that the information in this report is true, accurate and complete to the best of your knowledge and belief.

In the matter of:	Case No.					
	Column A	Column B	Column C	Column D	Column E	Column F
	Post Actual Results From Period: <u> </u> / <u> </u> / <u>20</u>	Budget Period Just Ended: <u> </u> / <u> </u> / <u>20</u>	Actual Results Period Just Ended: <u> </u> / <u> </u> / <u>20</u>	Deviation from Budget (Column C minus Column B)	Deviation as Percent (Column D divided by Column B multiplied by 100)	Budget Change Requested (Column F minus Column E)
SCHEDULE 1 (Form 9):						
Statement of Receipts and Disbursements						
(Refer to Form 9 instructions to Complete SCHEDULE 1)						
1. Start Date of each Period: <u> </u> / <u> </u> / <u>20</u>						
2. End Date of each Period: <u> </u> / <u> </u> / <u>20</u>						
Receipts (Money Received):						
3. Retirement and Disability Income						
4. Social Security, Veterans Benefits, and Other Government Benefits						
5. Wages and Earned Income						
6. Other Receipts (Attach Schedule)						
7. Total Receipts (add lines 3 through 6)						
8. Total Receipts (add lines 3 through 7)						
9. Total Receipts (add lines 3 through 8)						
10. Total Income included in Receipts (line 8 minus line 9)						
Disbursements (Money Spent)						
Spent for Protected Person:						
11. Food, Clothing, and Shelter						
12. Medical Costs						
13. Dignity Funds						
14. Other Disbursements						
15. Discretionary Expenditures						
16. Other for Protected Person (Attach Schedule)						
17. Total for Protected Person (add lines 11 through 16)						
Spent for Administrative Fees & Costs:						
18. Attorney's Fees and Costs						
19. Fiduciary's Attorney Fees and Costs						
20. Protected Person's Attorney Fees and Costs						
21. Other Administrative Fees and Costs (Attach Schedule)						
22. Total Administration (add lines 18 through 21)						
23. Total Disbursements (add lines 17 and 22)						
24. Assets/Liabilities as Disbursements (see instructions)						
25. Total Expenses in Disbursements (line 23 minus line 24)						
26. Total Surplus (Shortfall) (line 8 minus line 25)						
27. Net Income/(Net Expenses) (line 10 minus line 25)						

In the matter of:		Case No.		
Column A	Column B	Column C	Column D	Column E
Valuations Reported in Prior Period SCHEDULE 2	Updated Final Valuations	Change from Prior Schedule 2	Change as Percent	Explanation of Change
700	700			
SECTION 1 - Net Assets				
1. Valuation Report Date:				
General Assets - Evaluate Each Asset Bank Statement:				
2. Real Estate				
3. Vehicles				
4. Personal Property				
5. Household Items and Personal Effects				
6. Other Assets				
7. Total General Assets				
Other Financial Assets				
8. Other Financial Assets (Attach Detail)				
9. Total Other Financial Assets				
Debt and Regular Bank Accounts:				
10. Bank Accounts				
11. Bank Accounts - Unreconciled/ Adjust				
12. Loan on Hand				
13. Other Financial Assets (Attach Detail)				
14. Total Debt and Bank Accounts (Add lines 10 through 13)				
15. Total Assets (Add lines 7 and 14)				
Liabilities				
16. Bill & Payables more than 30 days out (Attach Detail)				
17. Total Liabilities (Add lines 16 and 17)				
18. Net Assets (Line 15 less line 17)				
SECTION 2 - Reconciliation of Conservator's Account				
Reconciliation of Cash and Regular Bank Accounts:				
20. Starting Cash Balance (From Column A, Line 14)				
21. Total Receipts (SCHEDULE 1, Column C, line 8)				
22. Total Disbursements (Add lines 20 and 21)				
23. Total Disbursements (SCHEDULE 1, Column C, line 23)				
24. Ending Cash Balance (Add lines 20, 21, and 23)				

Starting Cash Balance carries from Column A, Line 14

Ending Cash Balance must equal Column B, Line 24

Form 10. Continued

INSTRUCTIONS FOR FORM 10: SIMPLIFIED CONSERVATOR'S ACCOUNT

Purpose of Form:

If the Court authorizes you to file a simplified conservator's account, use Form 10 to prepare your annual report concerning the administration of the estate. Typically, the Court will allow simplified conservator's accounts if the conservatorship consists of a small estate or has very little activity.

If the Court has not authorized you to file a simplified conservator's account on Form 10, file your first conservator's account on Form 7, and all subsequent conservator's accounts are filed on Form 8, until the final account on Form 9. If you are required to provide a budget with your annual conservator's account, the Court has not authorized the use of Form 10.

When to File:

Generally, each conservator's account and budget covers a one year period, such that each reporting period is referred to as a year. However, a reporting period may cover a different period of time, either longer or shorter than a year, if ordered by the Court, depending on the circumstances of each individual case.

By court rule, the first conservator's account covers a period that ends nine months after the issuance of the Letters as Conservator, and the first conservator's account is due 90 days later, which means the first conservator's account is due on the first anniversary of the conservator's appointment. Each successive year, the conservator's report is due on the subsequent anniversary of the appointment. See Section 14-5419, Arizona Revised Statutes and Rule 30, Arizona Rules of Probate Procedure.

However, you must review the Court's orders in your case, which may establish a different end date or different due date for the conservator's account, just as the Court may establish other special requirements that the conservator is required to follow, since every conservatorship is unique to some degree.

Form 10 is filed as a confidential document; the account is not available for public inspection.

General Instructions:

All references in these instructions to "you" refer to the conservator, and all references to "year" refer to the reporting or accounting period.

Form 10 requires attachments, including but not limited to SCHEDULE 1: Statement of Receipts and Disbursements; SCHEDULE 2: Statement of Net Assets & Reconciliation; and SCHEDULE 3: Statement of Sustainability of Conservatorship. In addition to the required schedules, certain answers require supporting detail, which are also required attachments to Form 10. As to any supporting detail, identify the schedule, line and, if appropriate, column that is detailed.

You should complete the required schedules prior to completing Form 10, because Form 10 is essentially a coversheet used to assemble your complete report, and it includes a certification that the report is true, accurate and complete to the best of your knowledge and belief. Don't sign this certification until you have read and reviewed the completed report.

Helpful Suggestion:

These instructions assume that Form 10 and all schedules are being completed manually on paper forms. However, Form 10 and all schedules are also available in an electronic format at no cost and will automate all of the calculations. Please see: [www.azcourts.gov/\[add full site\]](http://www.azcourts.gov/[add full site])

Notice:

Any estimates allowed or required by these instructions are not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

Specific Instructions:

SCHEDULE 1 (Form 10): Statement of Receipts and Disbursements

Column Instructions:

SCHEDULE 1 consists of two columns; Column A relates to the past, meaning information that was previously reported last year; and Column B relates to the present, meaning information that you are reporting for the year just ended, the current year.

You complete only Column B when preparing your first conservator's account, but you use both columns in all subsequent accounts.

Column A – Actual Results Prior Period: Complete Column A to present information from the last conservator's account; this information is presented for comparison purposes only, and must be copied directly from Column B of last year's SCHEDULE I, including the starting and ending dates. If the conservatorship was in existence last year, but you were appointed as a successor conservator and this is your first conservator's account, you still include your predecessor's information in Column A, but you are not attesting to the accuracy of this information and are not responsible for verifying the activity reported by the prior conservator.

Column B – Actual Results Current Period: Complete "Column C" to report the conservator's account for the year just ended. This is the column where the actual receipts and disbursements for the year just ended are reported.

Line Instructions:

As you determine what to enter on each line, please remember that transactions are recognized on SCHEDULE I when money is received or money is disbursed by the conservatorship. In accounting terms, transactions are recognized on a cash basis; you list receipts and disbursements when money effectively changes hands.

For example, if a cost is incurred but not paid before the end of a reporting period, the cost is not listed as a disbursement until paid.

For example, if a check is mailed before the end of a reporting period but does not clear the bank until early in the next reporting period, the disbursement is treated as paid when the check was mailed.

Receipts reported on SCHEDULE I include any money, whether income to the estate, liquidation of any general estate asset, or the proceeds of any loan to the estate.

Once you determine which columns of SCHEDULE I are required, complete each row as follows:

Line 1 – Start Date of each Period: Enter the start date for each period.

For example, if a conservator files an account that is due on September 30, 2012, for the period from July 1, 2011 to June 30, 2012:

- Column A will have a start date of July 1, 2010, and

- Column B will have a start date July 1, 2011.

Line 2 – End Date of each Period: Enter the end date for each period. Using the preceding example, the end date is June 30 one year later than the start date.

Please note: the remainder of SCHEDULE I reports the receipts and disbursements for the conservatorship, if any.

- Column A is simply copied from Column B of last year's SCHEDULE I, if any;
- As to this year's Column B, enter this year's receipts and disbursements, if any. If there are no receipts and disbursements, simply enter zeros in Column B.

For example, if the protected person is a minor whose entire protected estate is deposited in a court-restricted bank account, and no money changes hands, you can just enter zeros.

Line 3 – Retirement and Disability Income: Enter all regular and recurring income that is received as a result of retirement or disability, including but not limited to Social Security, Railroad Retirement, pension benefits, Social Security Disability, Supplemental Security Income, and worker's compensation benefits. Do NOT include distributions from tax-deferred investments, such as 401K and IRA funds.

Line 4 – Annuities, Structured Settlements, and Trust Income: Enter all income that is received from annuities, structured settlements or trust income that is not already included in line 3.

Line 5 – Wages and Earned Income: Enter all wages and earned income of the protected person that is not included in lines 3 or 4.

Line 6 – Investment and Business Income: Enter all investment and business income, including but not limited to interest, dividend, rent, and royalty income that is not included in lines 3, 4 or 5.

Line 7 – Other Receipts: Enter any other receipts that are not included in lines 3 through 6, including but not limited to any other income, any distributions from tax-deferred investments, such as 401K or IRA funds, any amount received from selling an asset, or the proceeds from any new loan to the protected estate. Attach a detailed statement explaining the other receipts.

Line 8 – Total Receipts: Add lines 3 through 7 in each column to calculate the Total Receipts reported for each column.

Line 9 – Food, Clothing, and Shelter: Enter the disbursements for goods or services provided to a protected person that are essential for survival, excluding medical costs but including food, clothing, and shelter for the protected person. (For the limited purpose of reporting a disbursement on line 9, expenditures for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.)

For example: enter the regular fees to a care facility, required companions or care providers, food, clothing, toiletries, utilities, or household expenses including home mortgage payments for the protected person's residence.

Line 10 – Medical Costs: Enter all of the medical payments for the protected person that are not included on line 9, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription and non-prescription medicines, insurance premiums and co-pays.

Line 11 – Dignity Funds: Enter the amount of funds that are released directly to the protected person as a spending allowance. Do NOT report how the protected person expended these funds; these funds are no longer considered part of the conservatorship estate.

Line 12 – Debt Service on Liabilities: Enter the amount of debt service payments on debts, such as loans and personal debts of the protected person.

- Do NOT include the home mortgage payment on the residence where the protected person resides (this was reported on line 9).
- Do NOT include as debt service any disbursements for obligations incurred in a prior period of the conservatorship, such as fiduciary and attorney fees and costs. Report these amounts in the appropriate disbursement category when paid.

For example, if the fiduciary earned a fee in one period, but the fee was paid in a later period, the fee is reported as a disbursement on line 16 when paid, NOT line 12. Any operating bills of the conservatorship are treated in the same manner, such as fees to care providers that are incurred but not paid until a later year.

For example, if the protected person has an outstanding credit card debt that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 12.

For example, if the protected person has an outstanding car loan that was incurred before a

conservator was appointed, the debt service payments on this debt are reported on line 12.

For example, if the Conservator takes out a loan for the benefit of the protected person, such as a loan to fund the needs of the protected person until real estate or a business interest is sold, all debt service payments on this debt are reported on line 12.

Line 13 – Discretionary Expenditures: Discretionary expenditures means all goods and services provided to a protected person that are not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person, such as entertainment and vacation costs. Discretionary care does NOT include expenditures that are included on another line on SCHEDULE 1.

Line 14 – Other Disbursements for Protected Person: Report other disbursements that are made for the protected person but not included on another line on SCHEDULE 1, including disbursements that are made for a dependent of the protected person. Include on line 14 the purchase of any asset, such as a residence, vehicle, or computer. Attach supporting detail explaining the other disbursements.

For example, if a residence was purchased for the protected person, report the cash down-payment on line 14, mortgage payments on line 9, and list the mortgage as liability on SCHEDULE 2.

For example, if the conservator invests in a marketable security, such as a mutual fund or publicly traded stock, enter the disbursement on line 14.

For example, enter on line 14 any tax payment that is not already listed on another line.

Line 15 – Total for Protected Person: Enter the sum of lines 9 through 14.

Line 16 – Fiduciary Fees and Costs: Enter the expenditures for Fiduciary Fees and Costs. Fees are compensation paid to the Fiduciary. Costs include administrative charges that are authorized in the Statewide Fee Guidelines, such as filing fees and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing and shelter.

Line 17 – Fiduciary's Attorney Fees and Costs: Enter the Fiduciary's Attorney Fees and Costs.

Line 18 – Protected Person's Attorney Fees and Costs: Enter the Protected Person's Attorney Fees and Costs, including court-

appointed counsel and any guardian ad litem, if paid by the conservator.

Line 19 – Other Administrative Fees and Costs: Report other disbursements that are an administrative fee or cost of the conservatorship that are NOT included on another line on SCHEDULE 1, such as an appraiser, financial advisor, court investigator, or accountant. Attach supporting detail explaining any other expenditure.

Line 20 – Total Administration Disbursements: Enter the sum of lines 16 through 19.

Line 21 – Total Disbursements: Add lines 15 and 20.

Line 22 – Total Surplus/(Shortfall): Enter line 8 minus line 21. If the amount is positive, this is a cash-flow Surplus. If the amount is negative, this is a cash-flow Shortfall, and the number must be displayed in parentheses or preceded by a negative sign.

SCHEDULE 2 (Form 10): Statement of Net Assets & Reconciliation

Section 1 – Net Assets: The first section of SCHEDULE 2 includes the inventory or a prior report of net assets, as well as an updated report of net assets, including an explanation of any changes.

Column Instructions:

Column A – Valuations Reported in Prior Period: Complete Column A to display information from your last report about net assets of the conservatorship; this information is presented for comparison purposes.

- If this is your first conservator's account AND you previously filed Form 6, this summary information can be copied directly from SCHEDULE 2, Column B of Form 6.
- If this is your first conservator's account AND you were NOT required to file Form 6, you will need to complete Column A by summarizing the valuations that you provided on your inventory that you filed 90 days after your appointment.
- If this is your second or subsequent conservator's account, you can copy this information directly from Column B of last year's SCHEDULE 2.

This information is presented for comparison purposes only. If you were appointed during the past year as a successor conservator, and the

original conservator filed the inventory or prior SCHEDULE 2, you will include your predecessor's information in Column A. You are not attesting to the accuracy of your predecessor's information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Valuations for Period Just Ended: Complete Column B to provide an update about the net assets of the conservatorship for the year just ended, including additions, deletions, and changes in assets or asset values.

As a reminder, when you filed your original inventory, you were required to provide a valuation of all the property, and some assets were easy to value, like bank accounts, but some assets were difficult to value, like real estate, and may have required the services of a professional appraiser. However, when filing an annual conservator's account and completing SCHEDULE 2, you are not required to file another formal inventory but only provide an update on the net assets of the estate, including your good faith estimate of any significant changes in valuation, which may be based upon your personal opinions. You are not required to seek the opinion of a professional appraiser. Of course, the balance in bank accounts can always be readily determined and must be accurately reported after deducting any outstanding checks or adding any deposits that are not yet posted.

Unless otherwise ordered by the Court, do not include in the net asset report any property that is titled in the name of a different legal entity, such as property held by a trust or corporation, unless you as conservator can exercise a power of direction over the asset. A power of direction includes the ability to direct the other legal entity to transfer title or possession to the property.

When reporting the value of all general assets do NOT deduct any liens or mortgages. Debts are separately reported as liabilities.

Column C – Explanation of Change: Complete Column C to explain any changes in the value or composition of the assets or liabilities included in the category; and if more space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Valuation Report Date: Enter the date of each report of net assets. Column A is the end date of the prior account or date of the inventory, and Column B is the end date of your current conservator's account (this is found on SCHEDULE 1, Column B, line 2).

Line 2 – Real Estate: Enter the value of all real estate owned by the estate, such as the residence of the protected person, any rental or vacation real estate, and any cemetery plots. *Remember to enter the gross value of ALL assets and do not deduct liens or mortgages; ALL liabilities are listed separately on line 17 as debts.*

Line 3 – Vehicle(s): Enter the value of any vehicles, such as a personal automobile, motorcycle, golf cart, watercraft, airplane, or recreational vehicle.

Line 4 – Business Ownership Interests: Enter the value of any business ownership interests, such as a closely held family business. Do not list shares in a publicly traded corporation on line 4.

Line 5 – Household Items and Personal Effects: Enter the value of household items and personal effects that are owned by the protected person, which commonly include the property that the protected person stored in his or her primary residence, including displayed collectible items. Property with significant value, like precious jewelry and valuable collections, should be itemized and included separately on line 8.

Line 6 – Stocks, Bonds, and Mutual Funds, not tax-deferred: Enter the present value of stocks, bonds, mutual funds, and other marketable securities, such as savings bonds and bearer bonds, but excluding business interests that were entered on line 4 or tax-deferred assets that are entered below on line 7.

Line 7 – Tax-Deferred Assets: Enter the present value of tax-deferred assets, such as IRA and 401(K) accounts. Include all tax-deferred assets, including but not limited to tax-deferred cash accounts, certificates of deposit, savings accounts, and brokerage accounts.

Line 8 – Other General Assets: Enter the present value of all other assets that are not already listed, excluding cash and regular bank accounts. Include the cash value of any insurance policies or any prepaid benefits, such as prepaid funeral plans.

Line 9 – Total General Assets: Enter the sum of lines 2 through 8.

Line 10 – Bank Accounts, Restricted Access: Enter the cash balance of any bank accounts that are court-restricted, meaning funds may not be withdrawn without a court order. Bank accounts include checking, saving, certificates of deposit, money market accounts, and all functionally similar accounts, whether in a bank, savings and loan, credit union, or other similar financial institution. Do not include tax-deferred assets that were listed above on line 7.

Line 11 – Bank Accounts, Unrestricted Access: Enter the cash balance of any bank accounts that are NOT court-restricted, meaning funds may be withdrawn without a court order.

Line 12 – Cash on Hand: Enter the amount of currency that you have on behalf of the estate, such as a petty cash fund. Do not include coin collections on this line, unless the coins have no collectible value above the face value of the coins.

Line 13 – Other Money-Denominated Assets: Enter the value of other money denominated assets, such as a cash card. These assets are functionally equivalent to money in a bank account and do not change in value by market fluctuation, except by receipt of a dividend or interest. Attach supporting detail.

Line 14 – Total Cash and Bank Accounts: Enter the sum of lines 10 through 13.

Line 15 – Total Available Assets: Add lines 9 and 14.

Line 16 – Bills & Payables more than 30 days old: Enter the amount of any and all just-due bills and payables, plus ALL incurred but unpaid fiduciary and attorney fees and costs, as of the end of the reporting period. Attach supporting detail.

Line 17 – Debts: Enter the amount of all other debts, such as notes, mortgages, credit cards and personal loans, as of the end of the reporting period. Attach supporting detail.

Line 18 – Total Liabilities: Add lines 16 and 17.

Line 19 – Net Assets: Enter line 15 minus line 18. This is the value of the net assets as of the date of the reporting period.

Section 2 – Reconciliation of Conservator's Account: The second section of SCHEDULE 2 is utilized to reconcile the cash flow information reported on SCHEDULE 1 to the net asset information reported on SCHEDULE 2. The purpose for this reconciliation is to prove that the ending balance in cash and bank accounts matches the starting balance plus receipts and minus disbursements.

Line 20 – Starting Cash Balance: Enter starting Cash Balance from SCHEDULE 2, Column A, line 14.

Line 21 – Total Receipts: Enter Total Receipts from SCHEDULE 1, Column C, line 8.

Line 22 – Available Funds: Add lines 20 and 21.

Line 23 – Total Disbursements: Enter Total Disbursements from SCHEDULE 1, Column B, line 21.

Line 24 – Ending Cash Balance: Calculate Ending Cash Balance by subtracting line 23 from line 22. The result must equal the Ending Cash Balance as reported on SCHEDULE 2, Column B, line 14. If these amounts do not match, there is an error in the report that must be corrected or explained.

SCHEDULE 3 (Form 10): Statement of Sustainability of Conservatorship

SCHEDULE 3 IS NOT REQUIRED AND MAY BE OMITTED IF THE PROTECTED PERSON IS A MINOR, WHO IS NOT INCAPACITED EXCEPT BY AGE, SUCH THAT AN ADULT CONSERVATORSHIP PETITION WILL NOT BE FILED.

The purpose of SCHEDULE 3 is to estimate how long the conservatorship estate can meet the expenses of the protected person, and then to compare whether that duration is longer or shorter than the estimated lifespan of the protected person. A conservatorship estate that can meet the predicted expenses of a protected person is considered sustainable, while a conservatorship estate that cannot is not sustainable. A conservatorship estate must have a written management plan if it is not sustainable.

Column Instructions:

Column A – Sustainability Estimated in Prior Period: Complete Column A to display information from the last estimate of sustainability, if one was previously filed; this information is presented for comparison purposes only and can be copied directly from Column B of last year's SCHEDULE 3, including the report date. If the conservatorship was in existence last year but you were appointed as a successor conservator, and this is your first conservator's account, you will still include your predecessor's information. You are not attesting to the accuracy of this information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Sustainability Estimated for Period Just Ended: Complete Column B to provide an update concerning your new estimates on the sustainability of the conservatorship. Your estimates should be based upon the most current information that is reasonably available to you.

For example, if there is a substantial change of circumstances for the protected person, such as a medical deterioration which requires a

different level of care, use this information when calculating sustainability, even if the change occurred after the end of the reporting period but before the date of filing this schedule.

As a reminder, the information provided on this schedule is a good faith estimate based upon the information that is reasonably available to you. Some information may be easy to calculate and should be accurate, such as money available in bank accounts, but some information is very difficult to estimate, such as the projected life expectancy of the protected person. This schedule requires you to share what you believe to be true, not what you can prove to be true. You are not making an avowal; you are telling the Court what you think is true in this particular case for this particular protected person.

Column C – Explanation of Change: Complete Column C to explain any changes in the value or composition of the assets or liabilities included in the category; and if more space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Report Date of Sustainability Estimate: Enter the date of each report of sustainability. Column A is the date of the prior estimate, and Column B is the date of your new estimate of sustainability.

Overview of Lines 2 through 4: You calculated the net assets of the conservatorship estate on SCHEDULE 2, but there may be additional factors that may impact those assets looking forward, such as additional assets that might come from an inheritance or a personal injury claim. Likewise, looking forward, some assets might be needed for known one-time expenditures, such as a major medical expenditure or the startup costs for the conservatorship. Once these adjustments are made, if any, the remaining net assets should be available to meet the typical or recurring needs of the protected person.

Said another way, you are calculating the net assets that are thought to be available to meet the regular and recurring needs of the protected person from this point forward.

Line 2 – Net Assets: Enter the value of the Net Assets available to the estate, as calculated on SCHEDULE 2, line 19, Columns A and B, respectively.

Line 3 – Adjustments: Enter zero, unless one or more of the following adjustments apply:

- Enter as a positive value any new and significant assets that you expect to come into the conservatorship, if any, such as an inheritance or a personal injury award.

- Enter as a negative value any assets that need to be used to satisfy any planned, one-time, significant expenditures, if any, such as one-time medical cost, large repairs, or the cost to stabilize the conservatorship.

Explain any adjustments in the space provided on SCHEDULE 3, Column C, or provide supporting detail on a separate page.

Line 4 – Adjusted Net Assets: Add a positive value on line 3 to line 2, or deduct a negative value on line 3 from line 2. This is your estimate of the assets that will be available to meet the recurring needs of the protected person.

For example, if the net asset figure on line 2 is \$100,000, and line 3 is a positive value, such as \$5,000, enter the sum of both numbers, \$105,000 on line 4. However, if line 3 instead has a negative value, such as minus \$8,000, which can be written as -\$8,000 or (\$8,000), you would enter \$92,000 on line 4.

Overview of Lines 5 through 7: You already calculated the cash-flow surplus or shortfall of the conservatorship estate on SCHEDULE 1, but there may be additional factors that impact the typical or recurring cash-flow looking forward, such as income or expenses that will change in the future. Said another way, what will be the regular or recurring cash-flow surplus or shortfall in a typical year?

Line 5 – Total Surplus/(Total Shortfall): Enter the value of the cash-flow surplus or shortfall for the estate as calculated on SCHEDULE 1, line 22, Columns A and B, respectively. Enter Total Surplus as a positive number, and enter Total Shortfall as a negative number.

Line 6 – Adjustments: Enter zero, unless one or more of the following adjustments apply:

- Enter as a positive value any significant one-time expenses that were recognized as a disbursement when calculating cash-flow for the year just ended, if any, such as a one-time medical cost or the startup cost for the conservatorship.
- Enter as a positive value any significant and recurring income that was not recognized (or not fully recognized) when calculating cash-flow for the year just ended, if any, such as a new source of income like disability benefits.
- Enter as a negative value any significant and recurring expenditure that was not recognized (or not fully

recognized) when calculating cash-flow for the year just ended, if any, such as a new or increased expenditure for care of the protected person.

For example, if the protected person now receives a regular and recurring disability payment of \$1,000 per month, and only the first three months of benefits was included in the cash-flow for the year just ended, there is a required positive adjustment in the amount of \$9,000, which recognizes the additional income that will be received in a typical year (since 3 months was already recognized).

For example, if the protected person incurred a substantial one-time expenditure, which was a disbursement when calculating the cash-flow for the year just ended, this is a positive adjustment, since this disbursement will not recur in a typical year. This might occur with the one-time cost for a new roof on the protected person's residence.

For example, if the protected person will now require additional care services, which was not previously included as a disbursement in calculating cash-flow, this is a negative adjustment.

Explain any adjustments in the space provided on SCHEDULE 3, Column C, or provide supporting detail on a separate page.

Line 7 – Adjusted Cash-Flow Surplus/(Shortfall): Add the positive value on line 6 to line 5, or deduct the negative value on line 6 from line 5. This is your estimate of the regular and recurring cash-flow surplus or shortfall of the conservatorship.

If line 7 is a positive value, you are estimating that the conservatorship is sustainable because the conservatorship is expected to produce more cash-flow than it expends. If line 7 is positive, do NOT complete lines 8 through 10; skip to line 11.

If line 7 is a negative value, continue to line 8.

Line 8 – Enter Adjusted Net Assets: Enter the number calculated on line 4.

Line 9 – Enter Adjusted Cash-Flow Shortfall: Enter the absolute value of the number calculated on line 7. This means you will enter a positive number for the value that is shown on line 7 as a negative number. Said another way, ignore the negative sign when entering this number on line 9.

Line 10 – Estimated Years of Sustainability: Enter here line 8 divided by line 9. This is your estimate of the number of years that the conservatorship can fund the recurring and

regular cash-flow shortfall of the protected person before the entire net estate is consumed.

Line 11 – Estimate of Protected Person's Remaining Life Expectancy: Enter your good faith estimate of the remaining life expectancy of the protected person expressed in years. Just tell the Court what you think, not what you can prove. You may rely on your own experience, any opinions that you consider credible, such as the opinions of a medical professional, and life expectancy tables. However, do not use life expectancy tables without making adjustments for the particular circumstances of the protected person based upon the information that is reasonably available to you.

Line 12 – Conservatorship is Sustainable: Check the box for "Yes" if Adjusted Net Income on line 7 is a positive number OR if line 10 is equal to or greater than line 11. If not, check the box for "No".

Said another way, check "Yes", if the income exceeds expenses as reported on line 7. Likewise, check "Yes", if the number of years it takes to consume the estate is equal to or greater than the projected life expectancy of the protected person. Otherwise, check "No".

Line 13 – Management Plan: If Column A and/or Column B, line 12 is checked "No", provide the most recent prior management plan in Column A, if any, and describe your current management plan in Column B. If there is no change to the prior management plan, enter "No Change" in Column B.

The conservator shall provide the court with an alternative management plan if the estate is not calculated as sustainable. That plan shall describe how the future care needs of the protected person shall be met. For example, there may be a need for an adjustment in the protected person's standard of living or a future need for public assistance.

The objective of the conservator must always focus on the best interests of the protected person, while respecting the wishes of the protected person to the extent not inconsistent with the protected person's best interests.

Required Transaction Log:

The final required attachment to Form 10 is a Transaction Log, if you had any receipts or disbursements for the current year, which you were required to report on SCHEDULE 1.

Therefore, in addition to any other supporting detail to Form 10, you are responsible for providing a transaction log of your receipts and disbursements; this is as simple as providing a legible copy of the check register, i.e. date, amount, name, and description of each item.

FORM 10: Conservator's Account:

Form 10 is largely a self-explanatory document; it serves as a coversheet for your complete annual report.

When filing Form 10, you are required to attach SCHEDULES 1, 2, and 3, as well as a copy of bank statements for all accounts as of the date when the current reporting period ended. If you need to attach any supporting detail to any schedule, this detail is also a required attachment. Check each box on Form 10 for each included attachment. EXCEPTIONS:

- the Court may exempt you from completing all or part of Form 10,
- SCHEDULE 3 is not required if the protected person is a minor, who is NOT incapacitated except by age, such that an adult conservatorship petition will not be filed, and
- Transaction Log is not required if there were no receipts or disbursements for the current year (as shown on Column B of SCHEDULE 1).

When amending Form 10, include any required attachments that are changed as a result of the amendment. Check each box on an amended Form 10 for each included attachment.

Organize all required attachments in the same order as shown on Form 10.

Sign Form 10 when you are finished and have reviewed the form and all required attachments. When you sign, you are certifying that you have read and reviewed the entire report and, after reasonable inquiry, you have a good faith belief that the information in this report is true, accurate and complete to the best of your knowledge and belief.

Please remember, if the Court allows you to file a simplified conservator's account, you will use Form 10 each year.

In the matter of:		Case No.	
SCHEDULE 1 (Form 10): <i>Statement of Receipts and Disbursements</i> (Refer to Form 10 Instructions to Complete SCHEDULE 1)		Column A	Column B
		Past	Present
		Actual Results Prior Period:	Actual Results Current Period
1. Start date of each Period:		/ / 20	/ / 20
2. End date of each Period:		/ / 20	/ / 20
Receipts (Money Received):			
3.	Retirement and Disability Income		
4.	Annuities, Structured Settlements, and Trust Income		
5.	Wages and Earned Income		
6.	Investment and Business Income		
7.	Other Receipts (Attach Schedule)		
8.	Total Receipts (add lines 3 through 7)		
Disbursements (Money Spent):			
Spent for Protected Person:			
9.	Food, Clothing, and Shelter		
10.	Medical Costs		
11.	Dignity/Funds		
12.	Debt Service on Liabilities		
13.	Discretionary Expenditures		
14.	Other for Protected Person (Attach Schedule)		
15.	Total for Protected Person (add lines 9 through 14)		
Spent for Administrative Fees & Costs:			
16.	Fiduciary Fees and Costs		
17.	Fiduciary's Attorney Fees and Costs		
18.	Protected Person's Attorney Fees and Costs		
19.	Other Administrative Fees and Costs (Attach Schedule)		
20.	Total Administration (add lines 16 through 19)		
21.	Total Disbursements (add lines 15 and 20)		
22.	Total Surplus/(Shortfall) (line 8 minus line 21)		

In the matter of:	Case No.	
SCHEDULE 2 (Form 10):		
Statement of Net Assets & Reconciliation		
(Refer to Form 10 instructions to complete SCHEDULE 2)		
SECTION 1: Net Assets		
Statement Report Date: _____/_____/20__		
	Column A	Column B
	Valuations Reported in Prior Period SCHEDULE 1	Updated Valuations for Period Just Ended
	_____/_____/20__	_____/_____/20__
General Assets, Excluding Cash and Bank Accounts:		
1. Real Estate		
2. Vehicles		
3. Boat(s)		
4. Other Personal Property		
5. Household Items and Personal Effects		
6. Stocks, Bonds & Mutual Funds - Not Tax-Deferred		
7. Other General Assets (Attach Detail)		
8. Total General Assets (Add lines 1 through 7)		
Cash and Regular Bank Accounts:		
9. Bank Accounts - Restricted Access		
10. Cash on Hand		
11. Other Money Instruments/Assets (Attach Detail)		
12. Total Cash and Bank Accounts (Add lines 9 through 11)		
13. Total Available Assets (Add lines 8 and 12)		
14. Bills & Payables more than 30 days old (Attach Detail)		
15. Debits (Attach Detail)		
16. Total Disbursements (Attach Detail)		
17. Net Assets (line 13 minus line 16)		
SECTION 2: Reconciliation of Conservator's Account		
Reconciliation of Cash and Regular Bank Accounts:		
18. Starting Cash Balance (From Column A, line 14)		
19. Total Receipts (SCHEDULE 1, Column C, line 8)		
20. Available Funds (Add lines 18 and 19)		
21. Total Disbursements (SCHEDULE 1, Column C, line 23)		
22. Ending Cash Balance (line 20 minus line 21)		
Starting Cash Balance comes from Column A, Line 14		
Ending Cash Balance must equal Column B, Line 14		

Appendix M

Statewide Fee Guidelines

**STATEWIDE FEE GUIDELINES
FOR ASSESSING THE REASONABLENESS OF
FIDUCIARY, GUARDIAN *AD LITEM*,
AND ATTORNEY COMPENSATION
IN TITLE 14 PROCEEDINGS**

INTRODUCTION:

THESE GUIDELINES ARE INTENDED TO ASSIST THE COURT, FIDUCIARIES, GUARDIANS *AD LITEM*, ATTORNEYS, PARTIES, AND INTERESTED PERSONS IN EVALUATING WHETHER COMPENSATION IS REASONABLE, SINCE PROFESSIONAL SERVICES MUST BE TAILORED TO THE SPECIFIC CIRCUMSTANCES OF EACH ENGAGEMENT, AND A ONE-SIZE-FITS-ALL REGULATORY APPROACH TO PROFESSIONAL SERVICES AND COMPENSATION IS NOT PRACTICAL AND NOT IN THE BEST INTEREST OF EACH UNIQUE WARD, PROTECTED PERSON, ESTATE, AND TRUST. ALTHOUGH SUCH REGULATORY APPROACHES HAVE THE ATTRACTION OF APPARENT SIMPLICITY, THE RESULT CAN BE INCREASED ADMINISTRATIVE COSTS, DIMINISHED QUALITY OF PROFESSIONAL SERVICES, OR UNDERSERVED POPULATIONS, SUCH THAT REASONABLE COMPENSATION IS BEST DETERMINED ON A CASE-BY-CASE BASIS, WHILE APPLYING CONSISTENT COMPENSATION GUIDELINES.

SINCE EVERY CASE IS DIFFERENT, HOWEVER, AND BECAUSE EVERY FIDUCIARY, GUARDIAN *AD LITEM*, AND ATTORNEY HAS UNIQUE QUALIFICATIONS, THESE FEE GUIDELINES SET FORTH COMPULSORY BILLING STANDARDS, POINTS OF REFERENCE, AND GENERAL COMPENSATION FACTORS, BUT NOT PREDETERMINED TIMES TO PERFORM SPECIFIC TASKS, PREDETERMINED RATE SCHEDULES, OR FEES AS A PERCENT OF AN ESTATE. THEREFORE, FOLLOWING COMPLIANCE WITH COMPULSORY BILLING STANDARDS, THE COURT SHALL WEIGH THE TOTALITY OF THE CIRCUMSTANCES AND, IN ITS DISCRETION, ASSIGN MORE OR LESS WEIGHT TO ANY GIVEN POINTS OF REFERENCE OR COMPENSATION FACTORS AS IT DEEMS JUST AND REASONABLE.

SCOPE:

THESE GUIDELINES ONLY APPLY TO THE COMPENSATION OF COURT-APPOINTED FIDUCIARIES, SPECIFICALLY GUARDIANS, CONSERVATORS, AND PERSONAL REPRESENTATIVES, LICENSED AND UNLICENSED, AS WELL AS GUARDIANS *AD LITEM* AND ATTORNEYS WHO ARE PAID BY A WARD, PROTECTED PERSON, ESTATE, OR TRUST (COLLECTIVELY REFERRED TO IN THE *GUIDELINES* AS AN “ESTATE”), BUT SHALL NOT APPLY TO COMPENSATION PAID BY A TRUST OR DECEDENT’S ESTATE, IF COMPENSATION IS SPECIFIED OR SET FORTH IN THE RELEVANT TRUST OR TESTAMENTARY INSTRUMENT. THESE FEE GUIDELINES DO NOT APPLY WHEN THE FEES ARE NOT PAID BY THE ESTATE, SUCH AS COURT-APPOINTED COUNSEL WHO ARE PAID BY THE COURT.

GUIDELINES:

1. REASONABLE COMPENSATION. FIDUCIARIES, GUARDIANS *AD LITEM*, AND ATTORNEYS (COLLECTIVELY REFERRED TO IN THE *GUIDELINES* AS A “PROFESSIONAL”) ARE ENTITLED TO REASONABLE COMPENSATION FOR THE SERVICES THEY RENDER IN FURTHERANCE OF THE BEST INTEREST OF THE ESTATE, WHICH RESULTS IN COMPENSATION THAT IS FAIR, PROPER, JUST, MODERATE, SUITABLE UNDER THE CIRCUMSTANCES, FIT, APPROPRIATE TO THE END IN VIEW, AND TIMELY PAID, CONSISTENT WITH THE FOLLOWING GUIDELINES. THE RIGHT TO RECEIVE COMPENSATION MAY BE LIMITED BY APPLICABLE STATUTES.
2. COMPULSORY BILLING STANDARDS. UNLESS OTHERWISE ORDERED BY THE COURT, COMPENSATION AND REIMBURSEMENT SHALL MEET THE FOLLOWING STANDARDS:
 - A. ALL FEE PETITIONS SHALL COMPLY WITH RULE 33 OF THE *ARIZONA RULES OF PROBATE PROCEDURE*.
 - B. ALL HOURLY BILLING SHALL BE IN AN INCREMENT TO THE NEAREST 1/10 OF AN HOUR, WITH NO MINIMUM BILLING UNIT IN EXCESS OF 1/10 OF AN HOUR. NO “VALUE BILLING” FOR SERVICES RENDERED IS PERMITTED, RATHER THAN THE ACTUAL TIME EXPENDED.
 - C. “BLOCK BILLING” IS NOT PERMITTED; BLOCK BILLING OCCURS WHEN A TIMEKEEPER PROVIDES ONLY A TOTAL AMOUNT OF TIME SPENT WORKING ON MULTIPLE TASKS, RATHER THAN AN ITEMIZATION OF THE TIME EXPENDED ON A SPECIFIC TASK.
 - D. NECESSARY TRAVEL TIME AND WAITING TIME MAY BE BILLED AT 100% OF THE NORMAL HOURLY RATE, EXCEPT FOR TIME SPENT ON OTHER BILLABLE ACTIVITY, AND IN-STATE MILEAGE IS NOT REIMBURSED; TRAVEL TIME AND WAITING TIME ARE NOT NECESSARY WHEN THE

SERVICE CAN BE MORE EFFICIENTLY RENDERED BY CORRESPONDENCE OR ELECTRONIC COMMUNICATION, E.G. TELEPHONIC COURT HEARINGS.

- E. BILLABLE TIME THAT BENEFITS MULTIPLE CLIENTS, INCLUDING TRAVEL AND WAITING TIME, SHALL BE APPROPRIATELY APPORTIONED BETWEEN EACH CLIENT.
- F. BILLABLE TIME DOES NOT INCLUDE TIME SPENT ON BILLING OR ACCOUNTS RECEIVABLE ACTIVITIES, INCLUDING TIME SPENT PREPARING ITEMIZED STATEMENTS OF WORK PERFORMED, COPYING, OR DISTRIBUTING STATEMENTS; HOWEVER, TIME SPENT DRAFTING THE ADDITIONAL DOCUMENTS THAT ARE REQUIRED BY COURT ORDER, RULE, OR STATUTE, INCLUDING ANY RELATED HEARING, IS BILLABLE TIME. THE COURT SHALL DETERMINE THE REASONABLE COMPENSATION, IF ANY, IN ITS SOLE DISCRETION, CONCERNING ANY CONTESTED LITIGATION OVER FEES OR COSTS.
- G. BILLABLE TIME DOES NOT INCLUDE INTERNAL BUSINESS ACTIVITIES OF THE PROFESSIONAL, INCLUDING CLERICAL OR SECRETARIAL SUPPORT TO THE PROFESSIONAL.
- H. THE HOURLY RATE CHARGED FOR ANY GIVEN TASK SHALL BE AT THE AUTHORIZED RATE, COMMENSURATE WITH THE TASK PERFORMED, REGARDLESS OF WHO ACTUALLY PERFORMED THE WORK, BUT CLERICAL AND SECRETARIAL ACTIVITIES ARE NOT SEPARATELY BILLABLE FROM THE PROFESSIONAL.

EXAMPLE: AN ATTORNEY CAN ONLY BILL AN ATTORNEY RATE WHEN PERFORMING SERVICES THAT REQUIRE AN ATTORNEY, BUT A PARALEGAL RATE WHEN PERFORMING PARALEGAL SERVICES, A FIDUCIARY RATE WHEN PERFORMING FIDUCIARY SERVICES, NO CHARGE WHEN PERFORMING SECRETARIAL OR CLERICAL SERVICES, ETC.

EXAMPLE: A FIDUCIARY CAN ONLY BILL A FIDUCIARY RATE WHEN PERFORMING SERVICES THAT REQUIRE THE SKILL LEVEL OF THE FIDUCIARY, BUT A COMPANION RATE WHEN PERFORMING COMPANION SERVICES, A BOOKKEEPER RATE WHEN PERFORMING BOOKKEEPING AND BILL-PAYING SERVICES FOR A CLIENT, NO CHARGE WHEN PERFORMING SECRETARIAL OR CLERICAL SERVICES, ETC.

- I. REASONABLE COSTS THAT ARE INCURRED IN FURTHERANCE OF THE BEST INTEREST OF THE ESTATE ARE REIMBURSABLE AT ACTUAL COST, WITHOUT "MARK-UP". EXAMPLES OF REIMBURSABLE COSTS INCLUDE, BUT ARE NOT LIMITED TO: GOODS OR SERVICES OBTAINED FOR OR CONSUMED BY THE ESTATE; POSTAGE AND SHIPPING FEES; DEPOSITION

AND TRANSCRIPT COSTS; FEES CHARGED BY A PROCESS SERVER; PUBLICATION FEES; EXPERT WITNESS FEES; MESSENGER COSTS; CASE-SPECIFIC BONDS; AND ELECTRONIC DATABASE FEES CHARGED BY AN OUTSIDE VENDOR (E.G., WESTLAW, LEXISNEXIS, PACER, ETC.) EXCEPT FOR CHARGES TO RESEARCH ARIZONA STATUTES, CASE LAW, AND REGULATIONS. REIMBURSABLE COSTS DO NOT INCLUDE ANY COST NOT SPECIFICALLY OR DIRECTLY ASSOCIATED WITH THE DELIVERY OF GOODS OR SERVICES TO AN IDENTIFIED ESTATE, I.E. OVERHEAD.

- J. TIME AND EXPENSES FOR ANY MISFEASANCE OR MALFEASANCE ARE NOT COMPENSABLE.
 - K. TIME AND EXPENSES TO CORRECT OR MITIGATE ERRORS CAUSED BY THE PROFESSIONAL, OR THEIR STAFF, ARE NOT BILLABLE TO THE ESTATE.
 - L. TIME OR EXPENSES TO RESPOND OR DEFEND AGAINST A REGULATORY COMPLAINT AGAINST THE PROFESSIONAL ARE NOT BILLABLE TO THE ESTATE.
 - M. A PROFESSIONAL MAY ONLY CHARGE INTEREST ON THEIR UNPAID COMPENSATION OR UNPAID REIMBURSEMENT WITH COURT APPROVAL.
3. POINTS OF REFERENCE. THE COURT SHALL CONSIDER POINTS OF REFERENCE WHEN CONSIDERING HOURLY RATES AND CHARGES, AS NON-BINDING BUT INFORMATIVE AND PERSUASIVE CONSIDERATIONS, INCLUDING:
- A. THE USUAL AND CUSTOMARY FEES CHARGED IN THE RELEVANT PROFESSIONAL COMMUNITY FOR SUCH SERVICES AS PERIODICALLY REPORTED BY THE ADMINISTRATIVE OFFICE OF THE COURTS. SEE EXHIBIT A.
 - B. TO THE EXTENT AUTHORIZED BY LAW, A NON-LICENSED FIDUCIARY WHO IS RELATED TO A PROTECTED PERSON, WARD, OR DECEDENT, MAY RECEIVE REASONABLE COMPENSATION FOR SERVICES AS A CONSERVATOR, GUARDIAN, OR PERSONAL REPRESENTATIVE, RESPECTIVELY, COMMENSURATE WITH THE SERVICES PERFORMED.
 - C. THE NUMBER OF BILLABLE HOURS AND SERVICES RENDERED IN COMPARABLE CASES BEFORE THAT JUDICIAL OFFICER.
 - D. AS ONLY A GENERAL BENCHMARK, THE COMMON FIDUCIARY SERVICES RENDERED IN A ROUTINE GUARDIANSHIP OR CONSERVATORSHIP ENGAGEMENT ARE AS FOLLOWS (THE FIDUCIARY SHOULD BE PREPARED TO PROVIDE A REASONABLE EXPLANATION FOR EXCEEDING THESE BENCHMARKS, UPON REQUEST BY THE COURT):

- I. ROUTINE BOOKKEEPING, SUCH AS DISBURSEMENTS, BANK RECONCILIATION, DATA ENTRY OF INCOME AND EXPENDITURES, AND MAIL PROCESSING: FOUR (4) HOURS PER MONTH, AT A COMMENSURATE RATE FOR SUCH SERVICES.
 - II. ROUTINE SHOPPING: SIX (6) HOURS PER MONTH IF WARD IS AT HOME, AND TWO (2) HOUR PER MONTH IF WARD IN A FACILITY, AT A COMMENSURATE RATE FOR SUCH SERVICES.
 - III. ONE ROUTINE PERSONAL VISIT PER MONTH BY THE FIDUCIARY TO THE WARD OR PROTECTED PERSON.
 - IV. PREPARATION OF CONSERVATOR'S ACCOUNT AND BUDGET: FIVE (5) HOURS PER YEAR.
 - V. PREPARATION OF ANNUAL GUARDIANSHIP REPORT: TWO (2) HOURS PER YEAR.
 - VI. MARSHALLING OF ASSETS AND PREPARATION OF INITIAL INVENTORY: EIGHTY (80) HOURS.
- E. NOT MORE THAN ONE ATTORNEY MAY BILL FOR ATTENDING HEARINGS, DEPOSITIONS, AND OTHER COURT PROCEEDINGS ON BEHALF OF A CLIENT, NOR BILL FOR STAFF TO ATTEND, ABSENT GOOD CAUSE.
- F. EACH FIDUCIARY AND GUARDIAN *AD LITEM* SHALL NOT BILL FOR MORE THAN ONE PERSON TO ATTEND HEARINGS, DEPOSITIONS, AND OTHER COURT PROCEEDINGS ON BEHALF OF AN ESTATE, ABSENT GOOD CAUSE. THIS PROVISION DOES NOT PRECLUDE AN ATTORNEY, WHO REPRESENTS A FIDUCIARY OR GUARDIAN *AD LITEM*, FROM SUBMITTING A SEPARATE BILL.
- G. THE TOTAL AMOUNT OF ALL ANNUAL EXPENDITURES, INCLUDING REASONABLE PROFESSIONALS FEES, *MAY NOT DEplete* THE ESTATE DURING THE ANTICIPATED LIFESPAN OF THE WARD OR PROTECTED PERSON, UNTIL AND UNLESS THE CONSERVATOR HAS DISCLOSED THAT THE CONSERVATORSHIP HAS AN ALTERNATIVE OBJECTIVE, SUCH AS PLANNED TRANSITION TO PUBLIC ASSISTANCE OR ASSET RECOVERY, AS SET FORTH IN THE DISCLOSURE REQUIRED BY RULE OF PROBATE PROCEDURE 30.3.
4. COMPENSATION FACTORS. THE COURT SHALL CONSIDER THE FOLLOWING FACTORS, AS GENERAL PRINCIPLES, NOT RIGID RULES, WHEN DETERMINING WHAT CONSTITUTES REASONABLE COMPENSATION:
- A. THE REQUEST FOR COMPENSATION IN COMPARISON TO THE PREVIOUSLY DISCLOSED BASIS FOR FEES, ANY PRIOR ESTIMATE BY

THE PROFESSIONAL, AND ANY COURT ORDER; [REFINE AFTER LEGISLATION IS ADOPTED]

- B. THE EXPERTISE, TRAINING, EDUCATION, EXPERIENCE, AND SKILL OF THE PROFESSIONAL IN TITLE 14 PROCEEDINGS;
- C. WHETHER AN APPOINTMENT IN A PARTICULAR MATTER PRECLUDED OTHER EMPLOYMENT;
- D. THE CHARACTER OF THE WORK TO BE DONE, INCLUDING DIFFICULTY, INTRICACY, IMPORTANCE, NECESSITY, TIME, SKILL OR LICENSE REQUIRED, OR RESPONSIBILITY UNDERTAKEN;
- E. THE CONDITIONS OR CIRCUMSTANCES OF THE WORK, INCLUDING EMERGENCY MATTERS (REQUIRING URGENT ATTENTION), SERVICES PROVIDED OUTSIDE REGULAR BUSINESS HOURS, POTENTIAL DANGER (E.G., HAZARDOUS MATERIALS, CONTAMINATED REAL PROPERTY, OR DANGEROUS PERSONS), OR OTHER EXTRAORDINARY CONDITIONS;
- F. THE WORK ACTUALLY PERFORMED, INCLUDING THE TIME ACTUALLY EXPENDED, AND THE ATTENTION AND SKILL-LEVEL REQUIRED FOR EACH TASK, INCLUDING WHETHER A DIFFERENT PERSON COULD HAVE RENDERED BETTER, FASTER OR LESS EXPENSIVE SERVICE;
- G. THE RESULT, SPECIFICALLY WHETHER BENEFITS WERE DERIVED FROM THE EFFORTS, AND WHETHER PROBABLE BENEFITS EXCEEDED COSTS;
- H. WHETHER THE PROFESSIONAL TIMELY DISCLOSED THAT A PROJECTED COST WAS LIKELY TO EXCEED THE PROBABLE BENEFIT, AFFORDING THE COURT AN OPPORTUNITY TO MODIFY ITS ORDER IN FURTHERANCE OF THE BEST INTEREST OF THE ESTATE.
- I. THE FEES CUSTOMARILY CHARGED AND TIME CUSTOMARILY EXPENDED FOR PERFORMING LIKE SERVICES IN THE COMMUNITY;
- J. THE DEGREE OF FINANCIAL OR PROFESSIONAL RISK AND RESPONSIBILITY ASSUMED;
- K. THE FIDELITY AND LOYALTY DISPLAYED BY THE PROFESSIONAL, INCLUDING WHETHER THE PROFESSIONAL PUT THE BEST INTEREST OF THE ESTATE BEFORE THE ECONOMIC INTEREST OF THE PROFESSIONAL; AND,
- L. THE “POINTS OF REFERENCE”, AS SET FORTH ABOVE.

5. NON-TRADITIONAL COMPENSATION ARRANGEMENTS.

- A. FLAT-FEE: UNLESS OTHERWISE PROHIBITED BY LAW OR RULE, FLAT-FEE COMPENSATION IS PERMISSIBLE, AND MAY INCLUDE ALL OR PART OF AN ENGAGEMENT, IF THE PREDICTABILITY OF COSTS IS ENHANCED AND IF THE ECONOMIC INTERESTS OF THE PROFESSIONAL ARE THEREBY BETTER ALIGNED WITH THE ESTATE.

THE BASIS FOR ANY FLAT FEE COMPENSATION SHALL BE DISCLOSED IN ADVANCE, IN WRITING, SPECIFYING IN DETAIL THE SERVICES INCLUDED IN ANY FLAT-FEE, THE UNITS OF EACH SERVICE, AND THE USUAL HOURLY RATE FOR SUCH SERVICES. THE ACTUAL DELIVERY OF SERVICES INCLUDED WITH THE FLAT FEE SHALL BE DOCUMENTED.

- B. CONTINGENT FEE: UNLESS OTHERWISE PROHIBITED BY LAW OR RULE, NOTHING IN THESE GUIDELINES SHALL PROHIBIT A CONTINGENT FEE ENGAGEMENT WITH AN ATTORNEY, PROPERLY EXECUTED IN WRITING, E.G. REPRESENTATION ON A PERSONAL INJURY CLAIM.

EXHIBIT A FOR 2011

STATEWIDE FEE GUIDELINES FOR

ASSESSING THE REASONABLENESS OF FIDUCIARY, GUARDIAN

***AD LITEM*, AND ATTORNEY COMPENSATION**

IN TITLE 14 PROCEEDINGS

This Exhibit shall be periodically updated by the Administrative Office of the Courts, and an updated Exhibit A may be downloaded at

	Hourly Professional Compensation Range			
	Minimum	Median	Average	Maximum
Attorney				
Licensed Fiduciary				
Guardian <i>ad Litem</i>				

PLEASE NOTE: THE HOURLY RATES REPORTED IN EXHIBIT A ARE COMPILED BY THE ADMINISTRATIVE OFFICE OF THE COURTS AS A POINT OF REFERENCE ON ESTIMATED CURRENT MARKET RATES AMONG PROFESSIONALS BASED UPON CURRENTLY AVAILABLE INFORMATION. THESE RATES ARE NON-BINDING ON THE PARTIES, PROFESSIONALS OR THE COURT, BUT ARE INFORMATIVE AND PERSUASIVE AS AN INITIAL POINT OF REFERENCE IN DETERMINING REASONABLE COMPENSATION. ACTUAL COMPENSATION RATES WILL VARY BASED UPON OTHER FACTORS INCLUDING THE EXPERIENCE OF THE PROFESSIONAL, GEOGRAPHIC AREA OF SERVICE, AND RESOURCES OF THE FIRM.

[Appendix N](#)

Compendium of all Recommended Rules, Forms, and Guidelines²⁸

Proposed Amendments to the Arizona Rules of Probate Procedure

Rule 5. Captions on Documents Filed With the Court

A. Generally. All documents filed with the court in a probate case shall contain a caption that sets forth the name of the court, the title of the case, the file number, and a title that briefly describes the type of document being filed. The title of the case shall include the name of the subject person or trust, and, if the subject person is a minor, the title of the case shall note such minority.

B. Civil Action or Family Law Proceeding Filed Within or Consolidated with a Probate Case. Any documents filed with the court in connection with a civil action, family law proceeding, or juvenile proceeding filed within or consolidated with a probate case, shall contain the caption required by section A of this rule, followed by a caption that complies with Rule 10(a), Arizona Rules of Civil Procedure, or Rule 30(A), Arizona Rules of Family Law Procedure.

C. CONTINUATION OF CONSERVATORSHIP OR OTHER PROTECTIVE ORDER. A PETITION TO CONTINUE A MINOR CONSERVATORSHIP OR OTHER PROTECTIVE ORDER PURSUANT TO A.R.S. §14-5401(B) SHALL BE FILED IN THE PENDING PROTECTIVE PROCEEDING CASE. IF THE COURT GRANTS THE PETITION, THE CASE NUMBER SHALL REMAIN THE SAME BUT THE CAPTION SHALL BE AMENDED TO REFLECT THAT THE CONSERVATORSHIP OR OTHER PROTECTIVE ORDER IS FOR AN ADULT.

Rule 7. Confidential Documents and Information

A. Definitions.

1. For purposes of this rule, “confidential document” means the following:

a. the probate information form filed pursuant to Rule 6 of these rules;

²⁸ Proposed insertions to rules are shown by all-caps and deletions are shown by strike-outs.

b. medical reports and records obtained and filed with the court in connection with proceedings pursuant to A.R.S. §§ 14-5303, -5310, -5401.01, or -5407, or A.R.S. § 36-3206, or in connection with the requirements of A.R. S. § 14-5312.01 and -5312.02;

c. **GOOD FAITH ESTIMATES AND BUDGETS FILED PURSUANT TO RULES 30.1, 30.3, AND 30.4, ARIZONA RULES OF PROBATE PROCEDURE.**

d. ~~e.~~ inventories and appraisements filed pursuant to A.R.S. § 14-5418(A);

e. ~~d.~~ accountings filed pursuant to A.R.S. Title 14;

f. ~~e.~~ a credit report; or

g. ~~f.~~ any other document ordered by the court to be filed or maintained as a confidential document pursuant to this rule.

[Remainder of rule unchanged]

Rule 8. Service of Court Papers.

A. Whenever A.R.S. Title 14 requires the notice of a hearing or other document be served personally, service shall be conducted pursuant to rule 4(d), 4.1, and 4.2 of the Arizona Rules of Civil Procedure.

B. **IF SERVICE OF A NOTICE AND PETITION OR APPLICATION THAT COMMENCES A PROBATE CASE IS NOT MADE UPON ALL PERSONS REQUIRED IN THE MANNER PRESCRIBED BY A.R.S. TITLE 14 WITHIN 120 DAYS AFTER THE FILING OF THE INITIAL PETITION OR APPLICATION, THE COURT, UPON MOTION OR ITS OWN INITIATIVE AFTER NOTICE TO THE PETITIONER OR APPLICANT, MAY DISMISS THE PETITION OR APPLICATION WITHOUT PREJUDICE OR DIRECT THAT SERVICE BE EFFECTED WITHIN A SPECIFIED TIME; PROVIDED THAT IF THE PETITIONER OR APPLICANT SHOWS GOOD CAUSE FOR THE FAILURE PRIOR TO THE EXPIRATION OF TIME ALLOWED FOR SERVICE, THE COURT SHALL EXTEND THE TIME FOR SERVICE FOR AN APPROPRIATE PERIOD.**

Rule 10. Duties Owed ~~to the Court~~ BY COUNSEL, FIDUCIARIES, UNREPRESENTED PARTIES, AND INVESTIGATORS

A. Duties of Counsel.

1. Responsibility to Court. Upon changing office address or telephone number, each attorney shall advise the clerk of court or the court administrator in each of the counties in which

that attorney has probate cases pending of the attorney's current office address and telephone number.

2. Limited Scope Representation. Subject to the limitations in ER 1.2(c), Rules of Professional Conduct, an attorney may make a limited appearance by filing a notice stating that the attorney and the party have a written agreement that the attorney will provide limited scope representation to the party and specifying the matter or issues with regard to which the attorney will represent the party. Service on an attorney who has made a limited appearance for a party shall be valid, to the extent permitted by statute and Rule 4(f), Arizona Rules of Civil Procedure, in all matters in the case, but shall not extend the attorney's responsibility to represent the client beyond the specific matter for which the attorney has agreed to represent the client. Nothing in this rule shall limit an attorney's ability to provide limited services to a client without appearing of record in any judicial proceedings.

B. Duties of Unrepresented Parties.

1. An unrepresented party shall inform the court of his or her current address and telephone number. The person has a continuing duty to advise the court of any change in address or telephone number.

2. A person who is not an active member of the State Bar of Arizona or has not been admitted *pro hac vice* pursuant to the Rules of the Arizona Supreme Court may not represent family members or other lay persons during court proceedings.

3. A person who is not an active member of the State Bar of Arizona, an attorney admitted *pro hac vice* pursuant to the Rules of the Arizona Supreme Court, or certified as a legal document preparer by the Arizona Supreme Court may not prepare documents for another person to file with the court.

C. Duties of Court-Appointed Fiduciaries.

1. A court-appointed fiduciary shall

a. review all documents filed with the court that are prepared on the fiduciary's behalf;

b. **REFRAIN FROM CHARGING TO ATTEND COURT PROCEEDINGS, INCLUDING DEPOSITIONS, UNLESS SUCH ATTENDANCE IS REQUIRED BY LAW, COURT ORDER, OR OTHER CIRCUMSTANCES SUCH THAT THE FIDUCIARY'S ATTENDANCE IS NECESSARY;**

c. **b.** if the fiduciary is a licensed fiduciary who is not also an active member of the State Bar of Arizona, place the fiduciary's license number on all documents signed by the fiduciary and filed with the court;

d e. file an updated probate information form that contains the information required by Rule 6 of these rules within ten days after any changes in such information, except that if the ward's physical address changes, the ward's guardian shall file the updated probate information form within three days of learning of the change in address; and

e d. in the case of an updated probate information form that reflects a change of a subject person's address or telephone number or a change of the fiduciary's address or telephone number, mail or deliver a copy of the updated probate information form to the subject person's court-appointed attorney, the subject person's guardian ad litem, and all parties to the probate case in which the updated probate information form has been filed.

2. Duties Regarding Death of Ward or Protected Person. The court-appointed fiduciary shall do the following upon the death of the fiduciary's ward or protected person:

a. A guardian or conservator appointed pursuant to A.R.S. Title 14 shall notify the court in writing of the ward or protected person's death within ten days of learning that the ward or protected person has died.

b. Except as provided by in A.R.S. § 14-5419(F) or otherwise ordered by the court, a conservator shall file a final accounting of the protected person's estate within 90 days of the date of the protected person's death. The accounting shall reflect all activity between the ending date of the most recently approved accounting and the date of death of the protected person. The court may extend the date for filing the accounting or relieve the conservator from filing an annual or final accounting.

3. Termination of Appointment. Before a court-appointed fiduciary may resign from a case or have the fiduciary's responsibilities judicially terminated, the fiduciary shall comply with all statutory requirements for withdrawal, including the filing of final reports and accountings.

4. DUTIES REGARDING MINOR'S DEATH, ADOPTION, MARRIAGE OR EMANCIPATION. THE COURT-APPOINTED GUARDIAN OF A MINOR WARD WHO IS ADOPTED, MARRIES OR BECOMES EMANCIPATED SHALL NOTIFY THE COURT IN WRITING WITHIN TEN DAYS OF SUCH EVENT. IF THE MINOR DOES NOT HAVE A CONSERVATOR AT THE TIME THE GUARDIANSHIP TERMINATES, THE GUARDIAN SHALL PROVIDE THE COURT AND FORMER MINOR WARD WITH A WRITTEN LIST OF ANY KNOWN ASSETS OR MONIES BEYOND PERSONAL EFFECTS BELIEVED TO BE OWNED BY THE FORMER MINOR WARD.

D. Duties Relating to Counsel for Fiduciaries ~~Upon Withdrawal.~~

1. TO MINIMIZE LEGAL EXPENSES INCURRED BY THE BENEFICIARY OF THE FIDUCIARY RELATIONSHIP, A FIDUCIARY'S ATTORNEY SHALL ENCOURAGE THE

FIDUCIARY TO TAKE THOSE ACTIONS THE FIDUCIARY IS AUTHORIZED TO PERFORM AND CAN PERFORM COMPETENTLY ON THE FIDUCIARY'S OWN TO FULFILL THE FIDUCIARY'S DUTIES RATHER THAN HAVING THE ATTORNEY TAKE SUCH ACTIONS ON THE FIDUCIARY'S BEHALF.

2. In addition to the requirements set forth in Arizona Rule of Civil Procedure 5.1, an attorney who has appeared in a probate case as counsel of record for a guardian, conservator, personal representative, or trustee shall include with any motion to withdraw a status report that advises the court and parties of any issues pending in the probate case and informs the court and parties whether, to the best of the attorney's knowledge, all required guardian reports, inventories, accountings, and other similar required reports have been filed.

E. Duties of Counsel for Subject Person of Guardianship/Conservatorship Proceeding-; **DUTIES OF GUARDIAN AD LITEM**

1. **INITIAL TRAINING.** ANY ATTORNEY WHO SERVES AS A COURT-APPOINTED ATTORNEY OR GUARDIAN AD LITEM FOR A PROPOSED ADULT WARD OR ADULT PROTECTED PERSON MUST FIRST COMPLETE A TRAINING COURSE PRESCRIBED BY THE SUPREME COURT, WHICH WILL ISSUE A CERTIFICATE OF COMPLETION. THE ATTORNEY MUST FILE A COPY OF THE CERTIFICATE OF COMPLETION WITH THE ADMINISTRATIVE OFFICE OF THE COURT OR THE SUPREME COURT'S DESIGNEE NO LATER THAN TEN DAYS AFTER ENTRY OF THE APPOINTMENT ORDER. ANY ATTORNEY WHO, AT THE TIME THIS RULE BECOMES EFFECTIVE, IS SERVING AS COURT-APPOINTED ATTORNEY OR GUARDIAN AD LITEM FOR AN ADULT WARD OR PROTECTED PERSON MUST COMPLETE A TRAINING COURSE PRESCRIBED BY THE SUPREME COURT AS SOON AS PRACTICABLE AND THEREAFTER MUST FILE A CERTIFICATE OF COMPLETION WITH THE ADMINISTRATIVE OFFICE OF THE COURT OR THE SUPREME COURT'S DESIGNEE.

2. **SUBSEQUENT TRAINING.** AFTER COMPLETING THE INITIAL TRAINING COURSE PRESCRIBED BY THE SUPREME COURT, ANY ATTORNEY WHO CONTINUES TO SERVE AS A COURT-APPOINTED ATTORNEY OR GUARDIAN AD LITEM FOR AN ADULT WARD OR PROTECTED PERSON MUST COMPLETE AN ADDITIONAL TRAINING COURSE PRESCRIBED BY THE SUPREME COURT EVERY FIVE YEARS AND FILE A CERTIFICATE OF COMPLETION AS SET FORTH IN SUBSECTION 1.

3. In a guardianship or conservatorship proceeding, the participation of an attorney representing the subject person shall terminate upon the subject person's death. In extraordinary situations, the court, for good cause shown, may authorize the limited participation of the subject person's attorney after the subject person's death. In such cases, the court shall set forth, in its

order authorizing the attorney's continued participation, the basis for the continued participation and the scope of the attorney's participation.

F. DUTIES OF INVESTIGATORS.

1. BEFORE BEING APPOINTED AS AN INVESTIGATOR PURSUANT TO A.R.S. §§ 14-5303(C), 14-5407(B), OR 36-540(G), A PERSON MUST FIRST COMPLETE A TRAINING COURSE PRESCRIBED BY THE SUPREME COURT, WHICH WILL ISSUE A CERTIFICATE OF COMPLETION. THE INVESTIGATOR MUST FILE A COPY OF THE CERTIFICATE OF COMPLETION WITH THE ADMINISTRATIVE OFFICE OF THE COURT OR THE SUPREME COURT'S DESIGNEE.

2. AFTER COMPLETING THE INITIAL TRAINING COURSE PRESCRIBED BY THE SUPREME COURT, ANY PERSON WHO CONTINUES TO SERVE AS A COURT-APPOINTED INVESTIGATOR MUST COMPLETE AN ADDITIONAL TRAINING COURSE PRESCRIBED BY THE SUPREME COURT EVERY FIVE YEARS AND FILE A CERTIFICATE OF COMPLETION AS SET FORTH IN SUBSECTION A.

RULE 10.1 FIDUCIARY'S AUTHORITY TO FILE DOCUMENTS AND APPEAR IN COURT PROCEEDINGS WHEN REPRESENTED BY COUNSEL.

A. NOTWITHSTANDING AN ATTORNEY HAVING APPEARED IN A PROBATE CASE ON BEHALF OF A FIDUCIARY, A FIDUCIARY WHO IS REPRESENTED BY AN ATTORNEY IN A PROBATE CASE MAY SIGN AND FILE DIRECTLY WITH THE COURT ANY DOCUMENT EXCEPT A MOTION, A PETITION, AN APPLICATION, OR A CLOSING STATEMENT.

B. A FIDUCIARY WHO FILES A DOCUMENT DIRECTLY WITH THE COURT PURSUANT TO THIS RULE SHALL BE RESPONSIBLE FOR SERVING A COPY OF SUCH DOCUMENT UPON THOSE PERSONS WHO, BY STATUTE, COURT RULE, OR COURT ORDER, ARE ENTITLED TO RECEIVE A COPY OF THE DOCUMENT. THE FIDUCIARY MUST ALSO PROVIDE THE FIDUCIARY'S ATTORNEY WITH A COPY OF THE DOCUMENT FILED DIRECTLY WITH THE COURT.

C. UPON MOTION BY A FIDUCIARY'S ATTORNEY OF RECORD, THE COURT MAY AUTHORIZE THE FIDUCIARY TO APPEAR WITHOUT LEGAL REPRESENTATION IN A PARTICULAR COURT PROCEEDING AND COMMUNICATE WITH ANY OPPOSING COUNSEL IN CONNECTION WITH THAT PROCEEDING.

COMMENT

THE COURT RECOGNIZES THAT FIDUCIARIES REPRESENTED BY COUNSEL MAY NOT NEED THE SERVICES OF COUNSEL TO FILE CERTAIN DOCUMENTS OR APPEAR IN CERTAIN COURT PROCEEDINGS. SOMETIMES, THE INVOLVEMENT OF COUNSEL IS UNNECESSARY AND CAN BE COSTLY TO AN ESTATE. RULE 10.1(C) PERMITS THE COURT TO AUTHORIZE THE FIDUCIARY TO APPEAR IN CERTAIN COURT PROCEEDINGS WITHOUT THE ATTORNEY OF RECORD UPON REQUEST BY THAT ATTORNEY. IT IS ANTICIPATED THAT SUCH REQUESTS WILL BE MADE FOR ROUTINE COURT APPEARANCES THAT DO NOT CONCERN CONTESTED ISSUES. TO BE CLEAR, THIS RULE APPLIES ONLY TO COURT FILINGS AND APPEARANCES AND DOES NOT AUTHORIZE A FIDUCIARY TO DRAFT OTHER LEGAL DOCUMENTS, SUCH AS ESTATE PLANNING DOCUMENTS. WHEN A REPRESENTED FIDUCIARY APPEARS WITHOUT THE ATTORNEY OF RECORD PURSUANT TO THIS RULE, OTHER COUNSEL MAY COMMUNICATE WITH THE FIDUCIARY IN CONNECTION WITH THAT PROCEEDING ONLY WITHOUT VIOLATING THE ATTORNEY'S ETHICAL OBLIGATION MANDATED BY ARIZ. R. SUP. CT. 42, ER 4.2.

RULE 10.2: PRUDENT MANAGEMENT OF COSTS

IN A PROCEEDING BROUGHT PURSUANT TO TITLE 14:

A. THE FIDUCIARY MUST PRUDENTLY MANAGE COSTS, PRESERVE THE ASSETS OF THE WARD OR PROTECTED PERSON FOR THE BENEFIT OF THE WARD OR PROTECTED PERSON, AND PROTECT AGAINST INCURRING ANY COSTS THAT EXCEED PROBABLE BENEFITS TO THE WARD, PROTECTED PERSON, DECEDENT'S ESTATE OR TRUST, EXCEPT AS OTHERWISE DIRECTED BY A GOVERNING INSTRUMENT OR COURT ORDER.

B. THE GUARDIAN AD LITEM, FIDUCIARY, FIDUCIARY'S ATTORNEY, ATTORNEY FOR THE WARD OR PROTECTED PERSON MUST TIMELY DISCLOSE TO THE COURT AND ALL PERSONS ENTITLED TO NOTICE IF THE PERSON HAS A REASONABLE BELIEF THAT PROJECTED COSTS OF COMPLYING WITH A COURT ORDER MAY EXCEED THE PROBABLE BENEFITS TO THE WARD, PROTECTED PERSON, DECEDENT'S ESTATE OR TRUST. IF APPROPRIATE, CONSISTENT WITH DUE PROCESS, THE COURT SHALL ENTER OR MODIFY THE ORDERS AS MAY PROTECT OR FURTHER THE BEST INTEREST OF THE WARD, PROTECTED PERSON, DECEDENT'S ESTATE OR TRUST AGAINST PROJECTED COSTS THAT EXCEED PROBABLE BENEFITS.

C. MARKET RATES FOR GOODS AND SERVICES ARE A PROPER, ONGOING CONSIDERATION FOR THE FIDUCIARY AND THE COURT DURING THE INITIAL COURT APPOINTMENT OF A FIDUCIARY OR ATTORNEY, A HEARING ON A BUDGET OBJECTION AND A REQUEST TO SUBSTITUTE A COURT-APPOINTED FIDUCIARY OR ATTORNEY. AT ANY STAGE OF THE PROCEEDINGS, THE COURT MAY ORDER THAT COMPETITIVE BIDS FOR GOODS OR SERVICES BE OBTAINED.

RULE 15.1 APPOINTMENT OF GUARDIAN AD LITEM.

A. A PARTY REQUESTING THE APPOINTMENT OF A GUARDIAN AD LITEM SHALL MAKE THE REQUEST IN A MOTION THAT SETS FORTH WHY THE APPOINTMENT IS NECESSARY OR ADVISABLE AND WHAT, IF ANY, SPECIAL EXPERTISE IS REQUIRED OF THE GUARDIAN AD LITEM.

B. THE ORDER APPOINTING A GUARDIAN AD LITEM PURSUANT TO THIS SECTION SHALL CLEARLY SET FORTH THE SCOPE OF THE APPOINTMENT, INCLUDING THE REASONS FOR AND DURATION OF THE APPOINTMENT, RIGHTS OF ACCESS AS AUTHORIZED BY THIS RULE, AND THE APPLICABLE TERMS OF COMPENSATION.

C. UPON APPOINTING A GUARDIAN AD LITEM, THE COURT MAY ENTER AN ORDER AUTHORIZING THE GUARDIAN AD LITEM TO HAVE IMMEDIATE ACCESS TO THE PERSON FOR WHOM THE GUARDIAN AD LITEM HAS BEEN APPOINTED AND ALL MEDICAL AND FINANCIAL RECORDS PERTAINING TO SUCH PERSON, INCLUDING RECORDS AND INFORMATION THAT ARE OTHERWISE PRIVILEGED OR CONFIDENTIAL. UPON RECEIPT OF A CERTIFIED COPY OF SUCH ORDER, THE CUSTODIAN OF ANY RELEVANT RECORD RELATING TO A PERSON FOR WHOM A GUARDIAN AD LITEM HAS BEEN APPOINTED SHALL PROVIDE THE GUARDIAN AD LITEM WITH ACCESS TO SUCH RECORD AS AUTHORIZED BY THE COURT'S ORDER.

RULE 15.2. INVOLUNTARY TERMINATION OF APPOINTMENT; OTHER REMEDIES FOR NON-COMPLIANCE; DISMISSAL; SANCTIONS.

A. DISMISSAL OF PROBATE, SPECIAL ADMINISTRATION OR SUBSEQUENT ADMINISTRATION PROCEEDINGS FOR LACK OF PROSECUTION.

1. TWO YEARS AFTER INITIATION OF A CASE FILED PURSUANT TO TITLE 14, CHAPTER 3, A.R.S., THE COURT SHALL ISSUE A NOTICE OF IMPENDING DISMISSAL OF THE CASE UNLESS AT LEAST ONE OF THE FOLLOWING HAS BEEN FILED IN THE CASE:

- a. A CLOSING STATEMENT AUTHORIZED BY §14-3933;
- b. A PETITION TO SETTLE THE ESTATE AUTHORIZED BY §§14-3931, AND -3932;
- c. AN ORDER TERMINATING THE APPOINTMENT OF A SPECIAL ADMINISTRATOR PURSUANT TO §14-3618;
- d. AN ORDER SETTING THE CASE FOR FUTURE TRIAL, HEARING, OR CONFERENCE OR AN ORDER EXTENDING THE ADMINISTRATION OF THE ESTATE BEYOND TWO YEARS.

2. THE CLERK OF THE COURT OR COURT ADMINISTRATOR, WHOEVER IS DESIGNATED BY THE PRESIDING JUDGE, SHALL PROMPTLY NOTIFY PARTIES, HEIRS, DEVISEES, AND ALL WHO DEMAND NOTICE IN THE CASE OF THE IMPENDING DISMISSAL OF THE CASE. AT THE EXPIRATION OF 90 DAYS AFTER ISSUANCE OF THE NOTICE, THE COURT SHALL DISMISS THE CASE WITHOUT PREJUDICE AND TERMINATE THE APPOINTMENT OF THE PERSONAL REPRESENTATIVE OR SPECIAL ADMINISTRATOR WITHOUT A HEARING UNLESS AT LEAST ONE OF THE FOLLOWING HAS BEEN FILED IN THE CASE:

- a. ANY OF THE FOUR DOCUMENTS DESCRIBED ABOVE;
- b. A REQUEST FOR HEARING OR CONFERENCE;
- c. A PETITION TO TERMINATE THE APPOINTMENT OF THE PERSONAL REPRESENTATIVE OR SPECIAL ADMINISTRATOR;
- d. A STATUS REPORT DESCRIBING MATTERS THAT REMAIN TO BE RESOLVED.

ANY TERMINATION OF THE APPOINTMENT OF THE PERSONAL REPRESENTATIVE OR SPECIAL ADMINISTRATOR UNDER THIS RULE SHALL NOT DISCHARGE THE FIDUCIARY FROM LIABILITY OR EXONERATE ANY BOND. THE COURT MAY EXTEND THE PERIODS SET FORTH IN THIS RULE PRIOR TO THEIR EXPIRATION FOR GOOD CAUSE SHOWN.

B. TERMINATION OF A MINOR GUARDIANSHIP CASE. CONSISTENT WITH THE PROVISIONS OF A.R.S. § 14-5210, THE CLERK OF THE COURT OR COURT ADMINISTRATOR, WHOEVER IS DESIGNATED BY THE PRESIDING JUDGE, SHALL CLOSE A MINOR GUARDIANSHIP CASE FILED PURSUANT TO §§ 14-5201 TO -5212 UPON THE MINOR REACHING THE AGE OF MAJORITY, THE MINOR'S ADOPTION, MARRIAGE, EMANCIPATION, OR DEATH. IF THE COURT HAS REASON TO BELIEVE THAT THE MINOR HAS A DISABILITY OR IMPAIRMENT THAT MAY

NECESSITATE THE APPOINTMENT OF A GUARDIAN AFTER THE MINOR'S EIGHTEENTH BIRTHDAY, AND A PETITION HAS NOT BEEN FILED PURSUANT TO A.R.S. § 14-5303, THE COURT SHALL SET A STATUS HEARING NOT LESS THAN 90 DAYS PRIOR TO THE MINOR'S EIGHTEENTH BIRTHDAY TO DETERMINE WHETHER A PETITION FOR APPOINTMENT OF A GUARDIAN FOR AN ADULT SHOULD BE FILED.

C. REMEDIES FOR NON-COMPLIANCE BY A GUARDIAN OR CONSERVATOR FOR AN ADULT. IN THE EVENT A GUARDIAN OR CONSERVATOR FAILS TO COMPLY WITH ANY REQUIREMENTS OF A.R.S. TITLE 14, COURT RULES, OR A COURT ORDER, THE COURT MAY ENTER ANY ORDER APPROPRIATELY DESIGNED TO ENSURE COMPLIANCE WITH LEGAL REQUIREMENTS OR PROTECT THE BEST INTEREST OF THE WARD OR PROTECTED PERSON, INCLUDING:

1. ORDER THE GUARDIAN OR CONSERVATOR TO COMPLY WITHIN A TIME CERTAIN;

2. ISSUE AN ORDER TO SHOW CAUSE PURSUANT TO RULE 35 REQUIRING THE GUARDIAN OR CONSERVATOR TO SHOW CAUSE WHY APPROPRIATE ACTIONS SHOULD NOT BE TAKEN BY THE COURT;

3. APPOINT A COURT INVESTIGATOR TO INVESTIGATE THE REASONS FOR THE GUARDIAN'S OR CONSERVATOR'S NON-COMPLIANCE AND REPORT TO THE COURT REGARDING THE INVESTIGATOR'S FINDINGS AND PROPOSED RECOMMENDATIONS;

4. TERMINATE THE GUARDIANSHIP OR CONSERVATORSHIP PROCEEDING IF THE COURT DETERMINES THAT DISMISSAL IS APPROPRIATE. THE COURT SHALL NOT TERMINATE A GUARDIANSHIP OR CONSERVATORSHIP CASE IF THE COURT HAS REASON TO BELIEVE THE WARD REMAINS INCAPACITATED OR THE PROTECTED PERSON REMAINS IN NEED OF PROTECTION AND SUCH PERSON CONTINUES TO RESIDE IN ARIZONA; OR,

5. IMMEDIATELY SUSPEND OR TERMINATE THE AUTHORITY OF THE GUARDIAN OR CONSERVATOR TO TAKE ANY FURTHER ACTION ON BEHALF OF THE WARD OR THE ESTATE AND APPOINT A SUCCESSOR OR TEMPORARY FIDUCIARY;

6. INITIATE PROCEEDINGS THAT MAY RESULT IN ISSUANCE OF A FIDUCIARY ARREST WARRANT PURSUANT TO A.R.S. § 14-5701; OR

7. ENTER SUCH OTHER ORDER AS MAY BE APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE.

D. GENERAL INVOLUNTARY TERMINATION. IF NO ACTION OR HEARING OCCURS FOR A PERIOD OF SIX MONTHS AFTER A CASE IS INITATED UNDER A.R.S. TITLE 14, THE COURT SHALL ISSUE A NOTICE THAT THE CASE WILL BE ADMINISTRATIVELY TERMINATED IN 90 DAYS WITHOUT HEARING, UNLESS BEFORE THAT DATE THE INITIATING PARTY FILES WITH THE COURT A REQUEST FOR ACTION OR A STATUS REPORT THAT DESCRIBES MATTERS REMAINING FOR RESOLUTION. THE NOTICE SHALL BE PROVIDED TO ALL PARTIES, PERSONS ENTITLED TO NOTICE OF THE COMMENCEMENT OF THE CASE, AND ANY PERSON WHO FILED A DEMAND FOR NOTICE.

E. EFFECT OF DISMISSAL. UNLESS OTHERWISE ORDERED BY THE COURT, THE ENTRY OF AN ORDER DISMISSING A CASE SERVES TO DISMISS ALL PENDING MATTERS IN THE CASE WITHOUT PREJUDICE BUT DOES NOT DISMISS, VACATE, OR SET ASIDE ANY FINAL ORDER APPROVING ACCOUNTINGS OR APPROVING OTHER ACTIONS OF A PERSON APPOINTED PURSUANT TO A.R.S TITLE 14.

F. DISMISSAL AUTHORITY. THE AUTHORITY OF THE COURT TO ISSUE NOTICES, DISMISS CASES AND TERMINATE APPOINTMENTS UNDER THIS RULE MAY BE PERFORMED BY COURT ADMINISTRATION OR BY AN APPROPRIATE ELECTRONIC PROCESS UNDER SUPERVISION OF THE COURT.

Rule 18. Motions

A. Generally. A motion shall be filed with the court when a party seeks procedural rather than substantive relief.

B. Motions for Appointment of ~~Guardian Ad Litem or~~ Counsel. A party requesting the appointment of ~~a guardian ad litem or~~ counsel shall make such request in a motion that sets forth why the appointment is necessary or advisable and what, if any, special expertise is required of ~~the guardian ad litem or~~ counsel.

C. IF A PARTY HAS A GOOD FAITH BELIEF THAT AN INTERESTED PERSON HAS FILED A MOTION OR PETITION THAT REQUESTS THE SAME OR SUBSTANTIALLY SIMILAR RELIEF TO THE RELIEF REQUESTED IN AN EARLIER MOTION OR PETITION FILED BY THE SAME INTERESTED PERSON WITHIN THE PRECEDING TWELVE MONTHS, AND IF THE LATER FILED MOTION OR PETITION DOES NOT DESCRIBE IN DETAIL A CHANGE IN FACT OR CIRCUMSTANCE THAT SUPPORTS THE REQUESTED RELIEF, THE PARTY MAY FILE A NOTICE OF REPETITIVE FILING. THIS NOTICE SHALL BE FILED NO LATER THAN THE RESPONSE OR OBJECTION DEADLINE FOR THE ALLEGEDLY REPETITIVE FILING AND SHALL INCLUDE THE TITLE AND DATE OF THE ALLEGED REPETITIVE FILING, THE TITLE AND DATE OF

THE EARLIER FILING, AND THE DATE OF THE COURT'S RULING ON THE EARLIER FILING. A NOTICE OF REPETITIVE FILING SHALL HAVE THE EFFECT OF STAYING THE DEADLINE TO RESPOND OR OBJECT TO THE ALLEGED REPETITIVE FILING UNTIL FURTHER ORDER OF THE COURT. THE COURT MAY SUMMARILY STRIKE A REPETITIVE MOTION, WITHOUT HEARING, ON ITS OWN INITIATIVE OR FOLLOWING RECEIPT OF A NOTICE OF REPETITIVE FILING.

COMMENT

ARIZONA REVISED STATUTES SECTION 14-1109 PERMITS THE COURT TO SUMMARILY DENY A REPETITIVE MOTION OR PETITION, AS DESCRIBED IN THE STATUTE. RULE 18(C) PROVIDES A COST-EFFECTIVE MECHANISM FOR A PARTY TO INFORM THE COURT OF A GOOD FAITH BELIEF THAT A MOTION OR PETITION IS REPETITIVE WITHOUT WAIVING THE RIGHT TO FILE A RESPONSE OR OBJECTION SHOULD THE COURT ULTIMATELY DETERMINE THAT THE MOTION OR PETITION IS NOT REPETITIVE. NOTHING IN THIS RULE IS INTENDED TO PRECLUDE THE COURT ON ITS OWN MOTION FROM SUMMARILY DENYING A REPETITIVE MOTION OR PETITION.

Rule 19. Appointment of Attorney, Medical Professional, and Investigator

A. A request for the appointment of an attorney, medical professional, and investigator may be included in the petition for the appointment of a guardian or conservator and need not be made by separate motion. A separate form of order for the appointment of an attorney, a medical professional, and an investigator shall be submitted to the court within three days after the request is made.

B. ABSENT GOOD CAUSE, A PARTY WHO SEEKS THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR SHALL NOT NOMINATE A SPECIFIC ATTORNEY TO REPRESENT THE SUBJECT PERSON UNLESS THE ATTORNEY HAS AN EXISTING OR PRIOR ATTORNEY-CLIENT RELATIONSHIP WITH THE SUBJECT PERSON. If a party ~~who seeks the appointment of a guardian or conservator~~ nominates a specific attorney to represent the SUBJECT PERSON ~~alleged incapacitated person or the person alleged to be in need of protection~~, the party shall, in the petition for appointment of guardian or conservator, describe the attorney's prior relationship, if any, with the petitioner and the SUBJECT PERSON ~~alleged incapacitated person or the person alleged to be in need of protection~~.

C. UNLESS OTHERWISE ORDERED BY THE COURT, AN ATTORNEY SHALL NOT BE APPOINTED, ACCEPT AN APPOINTMENT, OR REMAIN APPOINTED AS THE ATTORNEY OR GUARDIAN AD LITEM FOR THE SUBJECT PERSON IF THE ATTORNEY HAS AN EXISTING ATTORNEY-CLIENT RELATIONSHIP WITH THE NOMINATED OR APPOINTED FIDUCIARY.

~~D.C.~~ If a party who seeks the appointment of a guardian or conservator nominates a specific medical professional to evaluate the alleged incapacitated person or the person alleged to be in need of protection, the party shall, in the petition for appointment of guardian or conservator, describe the medical professional's prior relationship, if any, with the petitioner and the alleged incapacitated person or the person alleged to be in need of protection.

~~E. D.~~ Noncompliance with this rule may be cause for continuing the hearing on the petition for appointment of guardian or conservator to such time as the judicial officer directs.

Rule 22. ORDERS APPOINTING CONSERVATORS, GUARDIANS, AND PERSONAL REPRESENTATIVES; Bonds and Bond Companies; RESTRICTED ASSETS

A. **ORDERS.** Every order appointing a conservator or a personal representative shall plainly state the amount of bond required. Neither letters of conservator nor letters of personal representative shall be issued to any person until any required bond has been has filed with the clerk of court. **EVERY ORDER APPOINTING A CONSERVATOR, GUARDIAN, OR PERSONAL REPRESENTATIVE SHALL INCLUDE THE FOLLOWING LANGUAGE: “WARNING: THIS APPOINTMENT IS NOT EFFECTIVE UNTIL THE LETTERS OF APPOINTMENT HAVE BEEN ISSUED BY THE CLERK OF THE SUPERIOR COURT.”**

B. **Bonds.** Each fiduciary bond filed with the clerk of court shall state on the bond or on an attachment to the bond the name and address of the bonding company's statutory agent or other person authorized to accept service of process for the bonding company in the State of Arizona. The bonding company shall promptly notify the clerk of court of any change in the company's statutory agent or in the statutory agent's address.

C. RESTRICTED ACCOUNTS

1. EVERY ORDER APPOINTING A CONSERVATOR OR PERSONAL REPRESENTATIVE, OR THAT AUTHORIZES A SINGLE TRANSACTION OR OTHER PROTECTIVE ARRANGEMENT PURSUANT TO A.R.S. §14-5409, SHALL PLAINLY STATE ANY RESTRICTIONS ON THE FIDUCIARY’S AUTHORITY TO MANAGE MONETARY ASSETS OF THE ESTATE.

2. IF THE RESTRICTION AFFECTS THE FIDUCIARY’S ABILITY TO MANAGE MONETARY ASSETS OF THE ESTATE, THE ORDER AND, UNLESS OTHERWISE ORDERED BY THE COURT, ANY LETTERS THAT ISSUE SHALL CONTAIN THE FOLLOWING LANGUAGE: “FUNDS SHALL BE DEPOSITED INTO AN INTEREST-BEARING, FEDERALLY INSURED RESTRICTED ACCOUNT AT A FINANCIAL INSTITUTION ENGAGED IN BUSINESS IN ARIZONA. NO WITHDRAWALS OF PRINCIPAL OR INTEREST MAY BE MADE WITHOUT CERTIFIED ORDER OF THE

SUPERIOR COURT. UNLESS OTHERWISE ORDERED BY THE COURT, REINVESTMENT MAY BE MADE WITHOUT FURTHER COURT ORDER SO LONG AS FUNDS REMAIN INSURED AND RESTRICTED IN THIS INSTITUTION AT THIS BRANCH.”

3. UNLESS OTHERWISE ORDERED BY THE COURT, THE FIDUCIARY SHALL FILE A PROOF OF RESTRICTED ACCOUNT FOR EVERY ACCOUNT ORDERED RESTRICTED BY THE COURT WITHIN 30 DAYS AFTER THE ORDER OR LETTERS, WHETHER TEMPORARY OR PERMANENT, ARE FIRST ISSUED.

4. UNLESS OTHERWISE ORDERED BY THE COURT, AN ATTORNEY WHO REPRESENTS THE FIDUCIARY, THE WARD, PROTECTED PERSON, OR INSURANCE COMPANY AND WHO IS THE RECIPIENT OF ANY PROCEEDS TO BE RESTRICTED FOR THE BENEFIT OF A MINOR, INCAPACITATED PERSON OR PROTECTED PERSON, SHALL ENSURE THE ESTABLISHMENT OF THE RESTRICTED ACCOUNT, PROPER TITLING OF THE SAME, AND SAFE DEPOSIT OF THE RESTRICTED FUNDS. THE ATTORNEY SHALL FILE A PROPERLY EXECUTED PROOF OF RESTRICTED ACCOUNT FORM EXECUTED BY AN AUTHORIZED REPRESENTATIVE OF THE FINANCIAL INSTITUTION WITHIN 30 DAYS AFTER THE ISSUANCE OF LETTERS OR ENTRY OF A SINGLE TRANSACTION ORDER.

D. RESTRICTED REAL PROPERTY

1. EVERY ORDER APPOINTING A CONSERVATOR OR A PERSONAL REPRESENTATIVE, OR THAT AUTHORIZES A SINGLE TRANSACTION OR OTHER PROTECTIVE ARRANGEMENT PURSUANT TO A.R.S. §14-5409, SHALL PLAINLY STATE ANY RESTRICTIONS ON THE AUTHORITY TO SELL, LEASE, ENCUMBER OR CONVEY REAL PROPERTY OF THE ESTATE. NEITHER LETTERS OF CONSERVATOR NOR PERSONAL REPRESENTATIVE SHALL BE ISSUED BY THE CLERK OF THE COURT TO ANY PERSON UNLESS THE LANGUAGE RESTRICTING THE FIDUCIARY’S AUTHORITY IS CONTAINED IN THE LETTERS.

2. IF THE RESTRICTION LIMITS THE FIDUCIARY’S AUTHORITY TO MANAGE REAL PROPERTY, THE ORDER APPOINTING THE CONSERVATOR OR PERSONAL REPRESENTATIVE, OR THAT AUTHORIZES OR RATIFIES THE TRANSACTION SHALL CONTAIN THE FOLLOWING LANGUAGE: “NO REALTY SHALL BE LEASED FOR MORE THAN ONE YEAR, SOLD, ENCUMBERED OR CONVEYED WITHOUT PRIOR COURT ORDER.”

Rule 26. Issuance AND RECORDING of Letters

A. If the appointment of a fiduciary is limited in time by statute or court order, the letters issued shall reflect the termination date of the appointment.

B. ~~Any restrictions on the authority of the fiduciary to act shall be reflected in the letters issued.~~ IF THE COURT RESTRICTS THE AUTHORITY OF A CONSERVATOR, GUARDIAN OR PERSONAL REPRESENTATIVE, THE CLERK OF THE COURT SHALL NOT ISSUE LETTERS OF CONSERVATOR, GUARDIAN, OR PERSONAL REPRESENTATIVE UNLESS THE LANGUAGE RESTRICTING THE FIDUCIARY’S AUTHORITY IN THE COURT’S ORDER IS CONTAINED IN THE LETTERS OF APPOINTMENT.

C. The clerk of court shall not issue letters of guardian, conservator, personal representative, or special administrator until the fiduciary has filed the bond or other security, if a bond or other security is required by the court.

D. Before issuing certified copies of letters of appointment, the clerk of court shall verify that the fiduciary's appointment is still in effect.

E. PURSUANT TO A.R.S. § 14-5421, A CONSERVATOR SHALL FILE AND RECORD A CERTIFIED COPY OF THE LETTERS WITH THE OFFICE OF THE COUNTY RECORDER IN ALL COUNTIES WHERE THE ESTATE OWNS REAL PROPERTY. THE CONSERVATOR SHALL ALSO FILE A COPY OF THE RECORDED LETTERS WITH THE COURT WITHIN 30 DAYS AFTER ISSUANCE OF THE CONSERVATOR’S LETTERS.

RULE 26.1: WRITTEN FINDINGS ON APPOINTMENT

FOLLOWING A WRITTEN REQUEST BY A PERSON WITH HIGHER PRIORITY FOR APPOINTMENT AS A GUARDIAN OR CONSERVATOR BUT WHO WAS PASSED OVER BY THE COURT IN FAVOR OF APPOINTING A PERSON WITH LOWER PRIORITY, THE COURT SHALL MAKE A SPECIFIC FINDING REGARDING THE COURT'S DETERMINATION OF GOOD CAUSE AND WHY THE PERSON WAS NOT APPOINTED. THE REQUEST MUST BE MADE WITHIN TEN DAYS AFTER THE ENTRY OF THE ORDER.

RULE 27.1. TRAINING FOR NON-LICENSED FIDUCIARIES.

A. ANY PERSON WHO IS NEITHER A LICENSED FIDUCIARY UNDER A.R.S. § 14-5651 NOR A FINANCIAL INSTITUTION SHALL COMPLETE A TRAINING PROGRAM APPROVED BY THE SUPREME COURT BEFORE LETTERS TO SERVE AS A

GUARDIAN, CONSERVATOR, OR PERSONAL REPRESENTATIVE ARE ISSUED UNLESS THE APPOINTMENT WAS MADE PURSUANT TO SECTIONS 14-5310(A), 14-5401.01(A) OR 14-5207(C).

B. IF THE APPOINTMENT WAS MADE BECAUSE AN EMERGENCY EXISTED, THE FIDUCIARY SHALL COMPLETE THE TRAINING PROGRAM WITHIN THIRTY DAYS OF APPOINTMENT OR BEFORE THE PERMANENT APPOINTMENT OF THE FIDUCIARY, WHICHEVER IS EARLIER. FOR GOOD CAUSE, THE COURT MAY EXTEND THE TIME PERIOD FOR THE FIDUCIARY TO COMPLETE THE TRAINING PROGRAM.

C. FOR PURPOSES OF THIS RULE, "FINANCIAL INSTITUTION" MEANS A BANK THAT IS INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION AND CHARTERED UNDER THE LAWS OF THE UNITED STATES OR ANY STATE, A TRUST COMPANY THAT IS OWNED BY A BANK HOLDING COMPANY THAT IS REGULATED BY THE FEDERAL RESERVE BOARD, OR A TRUST COMPANY THAT IS CHARTERED UNDER THE LAWS OF THE UNITED STATES OR THIS STATE.

Rule 28. Pretrial Procedures

A. Initial Procedures; Scheduling Conference.

1. If a matter is contested, unless the parties agree otherwise, the court shall set a scheduling conference that shall occur promptly after the date of the initial hearing on the petition. The scheduling conference may be held at the time set for the initial hearing on the petition. At the scheduling conference, the court and the parties shall address the following issues:

a. the deadline for filing a written objection if one has not already been filed;

b. the deadline for filing a joint alternative dispute resolution statement pursuant to [Rule 29 16\(g\), Arizona Rules of Civil Procedure](#);

c. any other issues the court or the parties deem relevant.

2. Unless inconsistent with these rules, [Rule 16\(b\), Arizona Rules of Civil Procedure](#), shall apply to all pre-trial conferences.

3. Following the scheduling conference, the court shall enter an order setting forth the deadlines determined at the scheduling conference.

B. Discovery and Disclosure. Unless inconsistent with these rules, Rules 26 through [37\(f\), Arizona Rules of Civil Procedure](#), shall apply to discovery and disclosure in contested probate proceedings.

C. Procedure for Evidentiary Hearing. Except as otherwise provided in A.R.S. Title 14 or these rules, Rules 38 and 39 through 53, Arizona Rules of Civil Procedure, shall apply to evidentiary hearings in probate proceedings. [Rule 38.1, Arizona Rules of Civil Procedure](#), shall not apply to contested probate proceedings unless otherwise ordered by the court.

Rule 29. ~~Arbitration~~ ALTERNATIVE DISPUTE RESOLUTION

~~Unless the parties to a contested matter agree otherwise, Rules 72 through 76, Arizona Rules of Civil Procedure, pertaining to compulsory arbitration, shall not apply.~~

A. THE PARTIES TO A CONTESTED MATTER ARE NOT SUBJECT TO COMPULSORY ARBITRATION AS SET FORTH IN RULES 72 THROUGH 77, ARIZONA RULES OF CIVIL PROCEDURE. THE COURT IS AUTHORIZED BY ARIZONA REVISED STATUTES SECTION 14-1108, HOWEVER, TO ORDER ALTERNATIVE DISPUTE RESOLUTION, INCLUDING ARBITRATION. IF THE COURT ORDERS ARBITRATION, THE ARBITRATION SHALL BE GOVERNED BY RULES 73 THROUGH 77, ARIZONA RULES OF CIVIL PROCEDURE.

B. UPON MOTION OF ANY PARTY OR UPON ITS OWN INITIATIVE, THE COURT MAY DIRECT THE PARTIES TO PARTICIPATE IN ONE OR MORE ALTERNATIVE DISPUTE RESOLUTION PROCESSES, INCLUDING BUT NOT LIMITED TO ARBITRATION, MEDIATION, SETTLEMENT CONFERENCE, OPEN NEGOTIATION, OR A PRIVATE DISPUTE RESOLUTION PROCESS AGREED UPON BY THE PARTIES.

C. NO LATER THAN THIRTY (30) DAYS AFTER A PROBATE PROCEEDING BECOMES CONTESTED AS DEFINED BY RULE 27, THE PARTIES SHALL CONFER, EITHER IN PERSON OR BY TELEPHONE, ABOUT:

1. THE POSSIBILITIES FOR A PROMPT SETTLEMENT OR RESOLUTION OF THE CASE; AND

2. WHETHER THE PARTIES MIGHT BENEFIT FROM PARTICIPATION IN SOME ALTERNATIVE DISPUTE RESOLUTION PROCESS, THE TYPE OF PROCESS THAT WOULD BE MOST APPROPRIATE IN THEIR CASE, THE SELECTION OF AN ALTERNATIVE DISPUTE RESOLUTION SERVICE PROVIDER, AND THE SCHEDULING OF THE PROCEEDINGS.

D. THE PARTIES ARE RESPONSIBLE FOR ATTEMPTING IN GOOD FAITH TO AGREE ON AN ALTERNATIVE DISPUTE RESOLUTION PROCESS AND FOR REPORTING THE OUTCOME OF THEIR CONFERENCE TO THE COURT. WITHIN FIFTEEN (15) DAYS

AFTER THEIR CONFERENCE, THE PARTIES SHALL INFORM THE COURT OF THE FOLLOWING:

1. IF THE PARTIES HAVE AGREED TO USE A SPECIFIC ALTERNATIVE DISPUTE RESOLUTION PROCESS, THE TYPE OF ALTERNATIVE DISPUTE RESOLUTION PROCESS TO BE USED, THE NAME AND ADDRESS OF THE ALTERNATIVE DISPUTE RESOLUTION SERVICE PROVIDER THEY WILL USE, AND THE DATE BY WHICH THE ALTERNATIVE DISPUTE RESOLUTION PROCEEDINGS ARE ANTICIPATED TO BE COMPLETED;

2. IF THE PARTIES HAVE NOT AGREED TO USE A SPECIFIC ALTERNATIVE DISPUTE RESOLUTION PROCESS, THE POSITION OF EACH PARTY AS TO THE TYPE OF ALTERNATIVE DISPUTE RESOLUTION PROCESS APPROPRIATE FOR THE CASE OR, IN THE ALTERNATIVE, WHY ALTERNATIVE DISPUTE RESOLUTION IS NOT APPROPRIATE; AND

3. IF ANY PARTY REQUESTS THAT THE COURT CONDUCT A CONFERENCE TO CONSIDER ALTERNATIVE DISPUTE RESOLUTION.

E. DURING THE ALTERNATIVE DISPUTE RESOLUTION PROCESS, THE PARTIES HAVE A DUTY TO PARTICIPATE IN GOOD FAITH.

RULE 29.2: REMEDIES FOR VEXATIOUS CONDUCT; DEFINITIONS

A. IF THE COURT FINDS THAT A PERSON ENGAGED IN VEXATIOUS CONDUCT IN CONNECTION WITH A PROBATE CASE, THE COURT MAY DO EITHER OR BOTH OF THE FOLLOWING:

1. ORDER THAT THE PERSON MUST OBTAIN THE COURT'S PERMISSION TO FILE FUTURE PLEADINGS AND OTHER PAPERS IN THE PROBATE CASE OR IN OTHER CASES. IF THE COURT ENTERS SUCH AN ORDER, NO PARTY IS REQUIRED TO RESPOND TO THE PERSON'S FUTURE FILINGS UNTIL ORDERED TO DO SO BY THE COURT.

2. ORDER THAT A FIDUCIARY, FIDUCIARY'S ATTORNEY, COURT-APPOINTED ATTORNEY GUARDIAN AD LITEM, TRUSTEE OR PERSONAL REPRESENTATIVE DOES NOT HAVE TO RESPOND TO FUTURE REQUESTS FOR INFORMATION MADE BY THE PERSON RELATED TO THE PROBATE CASE UNLESS REQUIRED BY SUBSEQUENT COURT ORDER.

B. THE REMEDIES PERMITTED PURSUANT TO THIS SECTION ARE IN ADDITION TO ANY OTHER CIVIL REMEDY OR ANY OTHER PROVISION OF LAW.

C. FOR THE PURPOSES OF THIS SECTION:

1. "COURT-APPOINTED ATTORNEY" MEANS AN ATTORNEY APPOINTED PURSUANT TO SECTION 14-5303, SUBSECTION C, SECTION 14-5310, SUBSECTION C, SECTION 14-5401.01, SUBSECTION C OR SECTION 14-5407, SUBSECTION B.

2. "FIDUCIARY" MEANS AN AGENT UNDER A DURABLE POWER OF ATTORNEY, AN AGENT UNDER A HEALTH CARE POWER OF ATTORNEY, A GUARDIAN, A CONSERVATOR, A PERSONAL REPRESENTATIVE, A TRUSTEE OR A GUARDIAN AD LITEM.

3. "VEXATIOUS CONDUCT" MEANS HABITUAL, REPETITIVE CONDUCT UNDERTAKEN SOLELY OR PRIMARILY TO HARASS OR MALICIOUSLY INJURE ANOTHER PARTY OR THAT PARTY'S REPRESENTATIVE, CAUSE UNREASONABLE DELAY IN PROCEEDINGS, CAUSE UNDUE HARM TO THE WARD OR PROTECTED PERSON, OR CAUSE UNNECESSARY EXPENSE. IT DOES NOT INCLUDE CONDUCT UNDERTAKEN IN GOOD FAITH.

Rule 30. Guardianships/Conservatorships-Specific Procedures

A. ~~Inventories~~ INVENTORY.

1. Unless otherwise ordered by the court, the conservator shall file the inventory of the protected person's estate, **AS REQUIRED BY A.R.S. SECTION 14-5418(A)**, within 90 days after the conservator's letters of conservator, whether temporary or permanent, are first issued. The inventory shall list all property owned by the protected person as of the date the conservator's letters of conservator, whether temporary or permanent, were first issued, and shall provide the values of such assets as of the date of the conservator's first appointment.

2. If the conservator is unable to file the inventory within 90 days after the conservator's letters of conservator, whether temporary or permanent, are first issued, the conservator shall, before the deadline, file a motion that requests additional time to file the inventory. Such motion shall state why additional time is required and how much additional time is required to file the inventory.

3. If, after filing the inventory but before filing the conservator's first **ACCOUNT** ~~accounting~~, the conservator discovers an additional asset or discovers that the value of an asset on the inventory, whether appraised or not, is erroneous or misleading, the conservator shall file an amended inventory. If the conservator files an amended inventory because the conservator has discovered an additional asset and if the additional asset is not already subject to a court-ordered restriction, the conservator shall, with the amended inventory, file a petition requesting the court to either increase the amount of the conservator's bond or enter an order restricting the sale, conveyance, or encumbrance of the additional asset.

4. Unless permitted by the court, after a conservator has filed the conservator's first ACCOUNT accounting with the court, the conservator shall not amend the inventory. If the conservator discovers any assets after the filing of the conservator's first ACCOUNT accounting or if the conservator discovers that the value of an asset listed on the inventory is erroneous or misleading, the conservator shall make the appropriate adjustments on the conservator's subsequent ACCOUNTS accountings.

B. CONSERVATOR'S ACCOUNTS Accountings.

1. Unless otherwise ordered by the court, the conservator's first ACCOUNT accounting shall reflect all activity relating to the conservatorship estate from the date the conservator's letters were first issued through and including the last day of the ninth month after the date the conservator's permanent letters were issued and shall be filed with the court on or before the anniversary date of the issuance of the conservator's permanent letters. For each bank or securities account listed on the ending balance schedule of the ACCOUNT accounting, the conservator shall attach to the ACCOUNT accounting a copy of the monthly statement that corresponds to the ending balance of such account as reflected on the ACCOUNT accounting.

2. Unless otherwise ordered by the court, all subsequent ACCOUNTS accountings shall reflect all activity relating to the conservatorship estate from the ending date of the most recent previously filed ACCOUNT accounting through and including the last date of the twelfth month thereafter, and shall be filed with the court on or before the anniversary date of the issuance of the conservator's permanent letters. For each bank or securities account listed on the ending balance schedule of the ACCOUNT accounting, the conservator shall attach to the ACCOUNT accounting a copy of the monthly statement that corresponds to the ending balance of such account as reflected on the ACCOUNT accounting.

3. UNLESS OTHERWISE ORDERED BY THE COURT, THE CONSERVATOR'S ACCOUNT SHALL BE FILED IN THE FORMAT SET FORTH IN THE APPROPRIATE FORM CONTAINED IN RULE 38 OF THESE RULES.

~~4.3.~~ Unless otherwise ordered by the court and except as provided in A.R.S. § 14-5419(F), a conservator shall file a final ACCOUNT accounting for a deceased protected person within 90 days after the date of the protected person's death.

~~5.4.~~ If the conservator is unable to file an ACCOUNT accounting within the time set forth in this rule, the conservator shall, before the deadline, file a motion that requests additional time to file the ACCOUNT accounting. The motion shall, at a minimum, state why additional time is required and how much additional time is required to file the ACCOUNT accounting.

~~6.5.~~ For purposes of this rule, if the conservator's appointment initially was temporary, "the date the conservator's letters were first issued" shall mean the date the conservator's

temporary letters were issued; otherwise, “the date the conservator's letters were first issued” shall mean the date the conservator's permanent letters were issued.

C. Annual Guardian Reports

1. Unless otherwise ordered by the court, the guardian's first annual report shall cover the time from the date the guardian's letters were first issued through and including the last day of the ninth month after the date the guardian's permanent letters were issued. The report shall be filed with the court on or before the anniversary date of the issuance of the guardian's permanent letters.

2. Unless otherwise ordered by the court, all subsequent annual reports of guardian shall cover the time from the ending date of the most recent previously filed annual report of guardian through and including the last date of the twelfth month thereafter. The report shall be filed with the court on or before the anniversary date of the issuance of the guardian's permanent letters.

3. If the guardian is unable to file an annual report of guardian within the time set forth in this rule, the guardian shall, before the deadline, file a motion that requests additional time to file the report. The motion shall state why additional time is required and how much additional time is required to file the report.

4. For purposes of this rule, if the guardian's appointment initially was temporary, “the date the guardian's letters were first issued” shall mean the date the guardian's temporary letters were issued; otherwise, “the date the guardian's letters were first issued” shall mean the date the guardian's permanent letters were issued.

OR *VERSION 1-TRIAGE PROGRAM A

D. INDEPENDENT CASE REVIEW

1. DURING A PRE-APPOINTMENT INVESTIGATION OF A SUBJECT PERSON PURSUANT TO A.R.S. § 14-5308(B), AN INVESTIGATOR SHALL ASSESS THE NEED FOR POST-APPOINTMENT MONITORING THROUGH USE OF RISK ASSESSMENT CRITERIA ESTABLISHED BY THE SUPREME COURT AND SET FORTH IN A FORM. THE INVESTIGATOR SHALL FILE THE RISK ASSESSMENT FORM WITH THE COURT UPON COMPLETION OF THE INVESTIGATION.

2. UPON APPOINTMENT OF A GUARDIAN OR CONSERVATOR FOR AN ADULT, THE SUPERIOR COURT SHALL CONSIDER THE RISK ASSESSMENT INFORMATION PROVIDED BY THE INVESTIGATOR AND ORDER ONE OR MORE METHODS OF CASE REVIEW. SUCH METHODS MUST INCLUDE VISITATION OF THE SUBJECT PERSON AND MAY INCLUDE FINANCIAL REVIEW. THE COURT MUST ORDER SOME TYPE OF CASE REVIEW AT LEAST BIENIALLY.

3. THE COURT MAY USE VOLUNTEERS TO VISIT ADULT WARDS AND PROTECTED PERSONS. ANY VOLUNTEER MUST SUBMIT TO A CRIMINAL BACKGROUND CHECK AND UNDERGO TRAINING AS REQUIRED BY THE SUPREME COURT.

4. IN DETERMINING WHETHER THE SUBJECT PERSON IS IN NEED OF A GUARDIANSHIP OR CONSERVATORSHIP, THE COURT SHALL NOT CONSIDER THE RISK ASSESSMENT FORM COMPLETED PURSUANT TO THIS RULE, NOR SHALL THE RISK ASSESSMENT FORM BE ADMISSIBLE IN EVIDENCE DURING ANY HEARING ON WHETHER A GUARDIAN OR CONSERVATOR SHOULD BE APPOINTED FOR THE SUBJECT PERSON.

OR *VERSION 2-TRIAGE PROGRAM B

D. INDEPENDENT CASE REVIEW

1. DURING A PRE-APPOINTMENT INVESTIGATION OF A SUBJECT PERSON PURSUANT TO A.R.S. § 14-5308(B), AN INVESTIGATOR SHALL ASSESS THE NEED FOR POST-APPOINTMENT MONITORING THROUGH USE OF RISK ASSESSMENT CRITERIA ESTABLISHED BY THE SUPREME COURT AND SET FORTH IN A FORM. THE INVESTIGATOR SHALL FILE THE RISK ASSESSMENT FORM WITH THE COURT UPON COMPLETION OF THE INVESTIGATION.

2. UPON APPOINTMENT OF A GUARDIAN OR CONSERVATOR FOR AN ADULT, THE COURT SHALL CONSIDER THE RISK ASSESSMENT INFORMATION PROVIDED BY THE INVESTIGATOR. AT THE COURT'S DISCRETION, IT MAY ORDER ONE OR MORE METHODS OF CASE REVIEW. SUCH METHODS MAY INCLUDE VISITATION OF THE SUBJECT PERSON AND FINANCIAL REVIEW.

3. THE COURT MAY USE VOLUNTEERS TO VISIT ADULT WARDS AND PROTECTED PERSONS. ANY VOLUNTEER MUST SUBMIT TO A CRIMINAL BACKGROUND CHECK AND UNDERGO TRAINING AS REQUIRED BY THE COURT.

4. IN DETERMINING WHETHER THE SUBJECT PERSON IS IN NEED OF A GUARDIANSHIP OR CONSERVATORSHIP, THE COURT SHALL NOT CONSIDER THE RISK ASSESSMENT FORM COMPLETED PURSUANT TO THIS RULE, NOR SHALL THE RISK ASSESSMENT FORM BE ADMISSIBLE IN EVIDENCE DURING ANY HEARING ON WHETHER A GUARDIAN OR CONSERVATOR SHOULD BE APPOINTED FOR THE SUBJECT PERSON.

RULE 30.1: GOOD FAITH ESTIMATE

A. PETITION TO APPOINT A CONSERVATOR SHALL BE ACCOMPANIED BY A GOOD FAITH ESTIMATE OF ALL PROJECTED MONTHLY AND ANNUAL COSTS THAT SHALL BE INCURRED BY A CONSERVATOR, EXCEPT MEDICAL COSTS, TO THE EXTENT THE INFORMATION CAN BE REASONABLY KNOWN OR PROJECTED AT THE TIME A PETITION IS FILED.

B. THE GOOD FAITH ESTIMATE SHALL BE MADE IN FORM 5 SET FORTH IN RULE 38 (FORMS) AND SHALL CONFORM TO THE INSTRUCTIONS PROVIDED WITH FORM 5.

C. IF THE PETITIONER IS UNABLE TO PROVIDE ALL OR PART OF THE GOOD FAITH ESTIMATE AT THE TIME THE PETITION IS FILED, THE PETITIONER MUST STATE IN THE PETITION ALL EFFORTS MADE BY THE PETITIONER TO OBTAIN THE ESTIMATES, AND THE PETITIONER SHALL UPDATE THE GOOD FAITH ESTIMATE FIVE DAYS BEFORE THE HEARING ON THE PETITION IF FURTHER INFORMATION BECOMES KNOWN.

RULE 30.2: FINANCIAL ORDER

A. FOLLOWING THE APPOINTMENT OF A CONSERVATOR, A CONSERVATOR FOR AN ADULT SHALL INSTITUTE AND FOLLOW A BUDGET, AS SET FORTH IN RULE 30.4, UNLESS OTHERWISE ORDERED BY THE COURT, AND THE COURT MAY ENTER ONE OR MORE OF THE FOLLOWING ORDERS:

1. LIMIT EXPENDITURES FROM THE ESTATE OF THE PROTECTED PERSON AS THE COURT FINDS IS IN THE PROTECTED PERSON'S BEST INTEREST; OR,

2. REQUIRE THE CONSERVATOR TO PROCEED IN ANY OTHER LAWFUL MANNER THE COURT FINDS IS IN THE PROTECTED PERSON'S BEST INTEREST.

B. AFTER A CONSERVATOR IS APPOINTED, THE COURT MAY DISCHARGE THE PROTECTED PERSON'S ATTORNEY IF THE COURT FINDS THAT THE COST OF THE CONTINUED REPRESENTATION EXCEEDS THE PROBABLE BENEFIT TO THE PROTECTED PERSON. UNTIL DISCHARGED, THE PROTECTED PERSON'S ATTORNEY HAS A CONTINUING DUTY TO REVIEW THE CONSERVATOR'S INVENTORY, BUDGETS AND ACCOUNTS AND TO NOTIFY THE COURT OF ANY OBJECTIONS OR CONCERNS THE ATTORNEY IDENTIFIES WITH RESPECT TO THE CONSERVATOR'S INVENTORY, BUDGETS AND ACCOUNTS.

COMMENT

A.R.S. § 14-5408(A)(3) AUTHORIZES THE COURT, AFTER IT DETERMINES THAT A BASIS FOR THE APPOINTMENT OF A CONSERVATOR EXISTS WITH RESPECT TO A PERSON FOR REASONS OTHER THAN MINORITY, TO ENTER SUCH ORDERS AS ARE NECESSARY FOR THE BENEFIT OF THE PROTECTED PERSON AND MEMBERS OF THAT PERSON'S HOUSEHOLD. A.R.S. § 14-5426(A) AUTHORIZES THE COURT TO LIMIT THE POWERS OF A CONSERVATOR. CONSISTENT WITH THOSE STATUTES, THIS RULE IS INTENDED TO ENSURE THAT THE PROTECTED PERSON'S ESTATE IS PROPERLY MANAGED, PROTECTED, AND PRESERVED.

RULE 30.3: SUSTAINABILITY OF CONSERVATORSHIP

A. THE CONSERVATOR SHALL DISCLOSE WHETHER THE ANNUAL EXPENSES OF THE CONSERVATORSHIP EXCEED INCOME AND, IF SO, WHETHER THE ASSETS AVAILABLE TO THE CONSERVATOR LESS LIABILITIES ARE SUFFICIENT TO SUSTAIN THE CONSERVATORSHIP DURING THE PROJECTED LIFESPAN OF THE PROTECTED PERSON. IF THE ASSETS ARE NOT SUFFICIENT, THE CONSERVATOR SHALL ALSO DISCLOSE THE MANAGEMENT PLAN FOR THE NON-SUSTAINABLE CONSERVATORSHIP. UNLESS OTHERWISE ORDERED BY THE COURT, THE CONSERVATOR SHALL DISCLOSE THE INFORMATION REQUIRED BY THIS RULE, INCLUDING THE CONSERVATOR'S ASSUMPTIONS AND CALCULATION, WHEN FILING AN INVENTORY, ANY CONSERVATOR'S ACCOUNT, AND FOLLOWING ANY MATERIAL CHANGE OF CIRCUMSTANCES.

B. THE INFORMATION REQUIRED BY THIS RULE SHALL BE A GOOD FAITH PROJECTION BASED UPON THE INFORMATION THAT IS REASONABLY AVAILABLE TO THE CONSERVATOR CONCERNING THE SUBJECT PERSON. THIS INFORMATION MAY BE CONSIDERED BY THE COURT WHEN ENTERING ORDERS.

C. THE CONSERVATORSHIP IS DEEMED SUSTAINABLE IF THE FOLLOWING EQUATION IS PROJECTED TO BE TRUE:

$$\frac{(\text{AVAILABLE ASSETS MINUS LIABILITIES OF THE ESTATE})}{(\text{ANNUAL EXPENDITURES MINUS ANNUAL INCOME})} \geq \text{PROJECTED LIFESPAN}$$

D. THE DISCLOSURE REQUIRED BY THIS RULE IS NOT REQUIRED IN THE CONSERVATORSHIP FOR A MINOR UNLESS OTHERWISE ORDERED BY THE COURT.

E. UNLESS OTHERWISE ORDERED BY THE COURT, THE SUSTAINABILITY DISCLOSURE SHALL BE FILED IN THE FORMAT SET FORTH IN THE APPROPRIATE FORM CONTAINED IN RULE 38 OF THESE RULES.

COMMENT

THE PURPOSE OF THE DISCLOSURE REQUIRED BY THIS RULE IS TO PROVIDE THE COURT AND PARTIES WITH A GENERAL IDEA AS TO WHETHER THE ASSETS AND INCOME OF THE CONSERVATORSHIP ESTATE ARE SUFFICIENT TO PAY FOR THE PROTECTED PERSON'S EXPENSES DURING THAT PERSON'S PROJECTED LIFE EXPECTANCY. THUS, THE DISCLOSURE REQUIRED BY THIS RULE IS INTENDED TO SERVE SOLELY AS A MANAGEMENT TOOL; THE COURT DOES NOT INTEND THAT A GOOD FAITH PROJECTION WILL FORM THE BASIS FOR A CLAIM OF LIABILITY AGAINST THE CONSERVATOR.

THE FOLLOWING EXAMPLE DESCRIBES HOW THE REQUIRED DISCLOSURE IS CALCULATED: ASSUME A PROTECTED PERSON'S ESTATE CONSISTS OF \$20,000 IN BANK ACCOUNTS AND A RESIDENCE WITH A FAIR MARKET VALUE OF \$120,000 AND A \$65,000 MORTGAGE. FURTHER ASSUME THAT SAME PROTECTED PERSON HAS AN ANNUAL INCOME OF \$20,000 AND ANNUAL EXPENSES (INCLUDING FIDUCIARY AND ATTORNEY FEES) OF \$45,000. THE CONSERVATORSHIP'S SUSTAINABILITY IS CALCULATED AS FOLLOWS:

$$\frac{(\$120,000 + 20,000 - 65,000)}{(\$45,000 - 20,000)} \geq \text{PROJECTED LIFESPAN}$$

$$\frac{\$75,000}{\$25,000} \geq \text{PROJECTED LIFESPAN}$$

3 YEARS UNTIL ASSETS ARE DEPLETED \geq PROJECTED LIFESPAN

THUS, IF THE CONSERVATOR ESTIMATES THAT THE PROTECTED PERSON'S LIFESPAN IS THREE YEARS OR LESS, THE CONSERVATORSHIP IS SUSTAINABLE. ON THE OTHER HAND, IF THE CONSERVATOR ESTIMATES THAT THE PROTECTED PERSON'S LIFESPAN IS MORE THAN THREE YEARS, THE CONSERVATORSHIP IS NOT SUSTAINABLE AND THE CONSERVATOR MUST EXPLAIN HOW THE PROTECTED PERSON'S EXPENSES WILL BE MANAGED AFTER THREE YEARS.

RULE 30.4: CONSERVATORSHIP ESTATE BUDGET

A. UNLESS OTHERWISE ORDERED BY THE COURT, THE CONSERVATOR SHALL FILE A BUDGET NOT LATER THAN THE DATE THE INVENTORY IS DUE AND WITH THE CONSERVATOR'S ACCOUNT FILED THEREAFTER, FOLLOWING CONSULTATION WITH ANY ATTORNEY OR GUARDIAN AD LITEM FOR THE PROTECTED PERSON. THE FIRST BUDGET SHALL COVER THE DATE OF THE CONSERVATOR'S INITIAL APPOINTMENT THROUGH AND INCLUDING THE END DATE OF THE CONSERVATOR'S FIRST ACCOUNT.

B. UNLESS OTHERWISE ORDERED BY THE COURT, THE BUDGET SHALL BE FILED IN THE FORMAT SET FORTH IN THE APPROPRIATE FORM CONTAINED IN RULE 38 OF THESE RULES.

C. THE CONSERVATOR MUST PROVIDE A COPY OF THE BUDGET TO ALL PERSONS ENTITLED TO NOTICE OF THE CONSERVATOR'S ACCOUNTS PURSUANT TO ARIZONA REVISED STATUTES SECTION 14-5419(C).

D. THE CONSERVATOR SHALL FILE AN AMENDMENT TO THE BUDGET AND PROVIDE NOTICE IN THE SAME MANNER AS THE INITIAL BUDGET WITHIN THIRTY DAYS AFTER REASONABLY PROJECTING THAT THE EXPENDITURES FOR ANY SPECIFIC CATEGORY WILL EXCEED THE APPROVED BUDGET BY MORE THAN TEN PER CENT OR TWO THOUSAND DOLLARS, WHICHEVER IS GREATER, UNLESS A DIFFERENT THRESHOLD FOR AMENDMENT IS PRESCRIBED BY THE COURT.

E. AN INTERESTED PERSON MAY FILE A WRITTEN OBJECTION TO THE BUDGET OR AMENDMENT WITHIN FOURTEEN DAYS AFTER THE FILING DATE OF THE BUDGET OR AMENDMENT. ON THE FILING OF A WRITTEN OBJECTION, THE COURT MAY OVERRULE ALL OR PART OF THE OBJECTION, ORDER A REPLY BY THE CONSERVATOR OR SET A HEARING ON THE OBJECTION. THE COURT MAY ALSO SET A HEARING IN THE ABSENCE OF AN OBJECTION. AT A HEARING, THE CONSERVATOR HAS THE BURDEN TO PROVE THAT A CONTESTED BUDGET ITEM IS REASONABLE, NECESSARY AND IN THE BEST INTEREST OF THE PROTECTED PERSON. IF AN INTERESTED PERSON FAILS TO OBJECT TO A BUDGET ITEM WITHIN FOURTEEN DAYS AFTER THE FILING DATE OF THE BUDGET OR AMENDMENT, HOWEVER, THE BUDGET ITEM SHALL BE DEEMED PRESUMPTIVELY REASONABLE AT THE TIME OF THE CONSERVATOR'S ACCOUNT.

F. THE COURT MAY ORDER THAT A BUDGET IS ACCEPTED IN THE ABSENCE OF AN OBJECTION. ON THE COURT'S OWN MOTION OR UPON THE FILING OF A

WRITTEN OBJECTION, THE COURT SHALL APPROVE, DISAPPROVE OR MODIFY THE BUDGET TO FURTHER THE PROTECTED PERSON'S BEST INTEREST.

Rule 33. Compensation for Fiduciaries and ~~Attorney's Fees~~ Attorneys; STATEWIDE FEE GUIDELINES

A. A GUARDIAN, CONSERVATOR, ATTORNEY OR GUARDIAN AD LITEM WHO INTENDS TO BE COMPENSATED BY THE ESTATE OF A WARD OR PROTECTED PERSON SHALL GIVE WRITTEN NOTICE OF THE BASIS OF ANY COMPENSATION AS REQUIRED BY ARIZONA REVISED STATUTES SECTION 14-5109.

~~B.A.~~ Unless otherwise ordered by the court, a petition that requests approval of compensation for a personal representative, trustee, guardian, conservator, guardian ad litem, attorney representing such fiduciary, or an attorney representing the subject person in a guardianship or conservatorship proceeding for services rendered in proceedings under A.R.S. Title 14 shall be accompanied by a statement that includes the following information:

1. If compensation is requested based on hourly rates, a detailed statement of the services provided, including the tasks performed, the date each task was performed, the time expended in performing each task, the name and position of the person who performed each task, and the hourly rate charged for such services;

2. An itemization of costs for which reimbursement is sought that identifies the cost item, the date the cost was incurred, the purpose for which the expenditure was made, and the amount of reimbursement requested, or, if reimbursement of costs is based on some other method, an explanation of the method being used for reimbursement of costs; and

3. If compensation is not based on hourly rates, an explanation of the fee arrangement and computation of the fee for which approval is sought.

~~C.B.~~ Copies of all petitions for compensation and fee statements shall be provided to or served on each party and person who has appeared or requested notice in the case. Proof of such service shall be filed with the court.

~~D.C.~~ If a petition for compensation or fees is contested, the objecting party shall set forth all specific objections in writing, and a copy of such written objections shall be given to or served on each party and person who has appeared or requested notice in the case. Proof of service or delivery of such notice shall be filed with the court.

~~E.D.~~ When an attorney or fiduciary fee statement accompanies an annual accounting, the fee statement shall match the charges reported in the annual accounting or a reconciliation of the fee statement to the accounting shall be provided by the fiduciary

~~F.E.~~ WHEN DETERMINING REASONABLE COMPENSATION, ~~T~~the superior court SHALL FOLLOW THE STATEWIDE FEE GUIDELINES SET FORTH IN APPENDIX B TO THESE RULES ~~may adopt fee guidelines designating compensation rates that may be used in determining the reasonableness of fees payable to licensed fiduciaries in cases under A.R.S. Title 14.~~

~~G.F.~~ Unless ordered by the court, neither a personal representative nor a personal representative's attorney is required to file a petition for approval of such person's fees.

H. COMPENSATION PAYABLE TO ATTORNEYS OR GUARDIANS AD LITEM FROM THE ESTATE OF A WARD OR PROTECTED PERSON IS WAIVED IF NOT SUBMITTED IN COMPLIANCE WITH ARIZONA REVISED STATUTES, SECTION 14-5110.

Rule 38. Appendix to Forms

A. ~~The forms~~Forms 1 THROUGH 4 included in Appendix A are the preferred forms and meet the requirements of these rules. Whenever these rules require the use of a form that is “substantially similar” to a form contained in this rule, such language means that the content of these forms may be adapted to delete information that does not apply to a particular case or add other relevant information, provided that all information contained in the preferred form and applicable to the case is included. The deletion of information contained in the preferred form or the failure to complete a portion of the preferred form constitutes a representation to the court and adverse parties that the omitted or unanswered questions or items are not applicable. Any form may be modified for submission at times and under circumstances provided for by an Administrative Order of the Supreme Court of Arizona.

~~B. The forms~~Forms 1 THROUGH 4 in Appendix A shall not be the exclusive method for presenting such matters in the superior court.

B. FORMS 5 THROUGH 10 INCLUDED IN APPENDIX A MEET THE REQUIREMENTS OF THESE RULES. UNLESS OTHERWISE ORDERED BY THE COURT, FORMS 5 THROUGH 9 SHALL BE THE EXCLUSIVE METHOD FOR PRESENTING SUCH MATTERS IN THE SUPERIOR COURT. FORM 10 CAN BE USED BY A CONSERVATOR ONLY IF AUTHORIZED BY THE COURT TO DO SO. THE INSTRUCTIONS INCLUDED WITH FORMS 5 THROUGH 10 SUPPLEMENT THE RULES AND HAVE THE SAME FORCE AND EFFECT AS THE RULES.

COMMENT

~~The~~ Forms 1 THROUGH 4 contained in Appendix A are sufficient under the rules and are intended to indicate the simplicity and brevity of statement that these rules contemplate. Although use of these forms is encouraged, the forms are not the exclusive means for addressing the court in writing.

FORMS 5 THROUGH 10, HOWEVER, MUST BE USED IN THEIR EXACT FORM AS THEY ARE THE EXCLUSIVE MEANS FOR ADDRESSING THE COURT IN WRITING. FORM 10 IS A SIMPLIFIED FORM THAT CAN ONLY BE USED BY THE CONSERVATOR IF THE COURT SO AUTHORIZES. THE REQUIREMENT OF USING THESE FORMS IS IMPOSED IN AN EFFORT TO INCREASE JUDICIAL OVERSIGHT OF CONSERVATORSHIPS. THESE FORMS WILL BRING UNIFORMITY AND COMPARABILITY TO JUDICIAL OVERSIGHT OF CONSERVATORSHIPS.

Proposed Amendments to the
Arizona Rules of the Supreme Court

OPTION 1:

Rule 31. Regulation of the Practice of Law

(a) Supreme Court Jurisdiction Over the Practice of Law.

....

(b) Authority to Practice. Except as hereinafter provided in section (d), no person shall practice law in this state or represent in any way that he or she may practice law in this state unless the person is an active member of the state bar.

....

(d) Exemptions. Notwithstanding the provisions of section (b), but subject to the limitations of section (c) unless otherwise stated:

....

30. AN OFFICER, MEMBER, OR EMPLOYEE OF A CORPORATION, LIMITED LIABILITY COMPANY, PUBLIC FIDUCIARY, OR THE ARIZONA DEPARTMENT OF VETERANS SERVICES THAT IS LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. §14-5651, WHO IS NOT AN ACTIVE MEMBER OF THE STATE BAR MAY REPRESENT SUCH ENTITY BEFORE THE SUPERIOR COURT IN PROBATE PROCEEDINGS IF THE ENTITY IS NOT REPRESENTED BY COUNSEL OR TO THE EXTENT PERMITTED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, IF ALL THE FOLLOWING CONDITIONS ARE SATISFIED: (A) THE ENTITY AUTHORIZES THE OFFICER, MEMBER, OR EMPLOYEE TO REPRESENT IT IN THE PROCEEDINGS; (B) SUCH REPRESENTATION IS NOT THE OFFICER'S, MEMBER'S, OR EMPLOYEE'S PRIMARY DUTY TO THE ENTITY BUT SECONDARY OR INCIDENTAL TO OTHER DUTIES RELATED TO THE MANAGEMENT OR OPERATION OF THE ENTITY; AND (C) THE OFFICER, MEMBER, OR EMPLOYEE IS NOT RECEIVING SEPARATE OR ADDITIONAL COMPENSATION (OTHER THAN REIMBURSEMENT FOR COSTS) FOR SUCH REPRESENTATION; AND, SUCH OFFICER, MEMBER OR EMPLOYEE IS INDIVIDUALLY LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. §14-5651. NOTWITHSTANDING THE FOREGOING PROVISION, THE COURT MAY REQUIRE REPRESENTATION BY AN ATTORNEY WHENEVER IT DETERMINES THAT LAY REPRESENTATION IS INTERFERING WITH THE ORDERLY PROGRESS OF THE PROCEEDINGS OR IMPOSING UNDUE BURDENS ON OTHER PARTIES. IN ADDITION,

THE COURT MAY ASSESS AN APPROPRIATE SANCTION AGAINST ANY PARTY OR ATTORNEY WHO HAS ENGAGED IN UNREASONABLE, GROUNDLESS, ABUSIVE OR OBSTRUCTIONIST CONDUCT.

31. NOTHING IN THESE RULES SHALL PROHIBIT A PERSON LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. § 14-5651 AND PERFORMING SERVICES IN COMPLIANCE WITH RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, AND ARIZONA CODE OF JUDICIAL ADMINISTRATION, PART 7, CHAPTER 2, SECTION 7-202. THIS EXEMPTION IS NOT SUBJECT TO PARAGRAPH (C) OF THIS RULE AS LONG AS THE DISBARRED ATTORNEY OR MEMBER HAS BEEN LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. § 14-5651 AND THE ARIZONA CODE OF JUDICIAL ADMINISTRATION, PART 7, CHAPTER 2, SECTION 7-202.

OPTION 2:

Rule 31. Regulation of the Practice of Law

(a) Supreme Court Jurisdiction Over the Practice of Law.

....

(b) Authority to Practice. Except as hereinafter provided in section (d), no person shall practice law in this state or represent in any way that he or she may practice law in this state unless the person is an active member of the state bar.

....

(d) Exemptions. Notwithstanding the provisions of section (b), but subject to the limitations of section (c) unless otherwise stated:

....

30. NOTHING IN THESE RULES SHALL PROHIBIT A PERSON LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. § 14-5651 AND PERFORMING SERVICES IN COMPLIANCE WITH RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE AND ARIZONA CODE OF JUDICIAL ADMINISTRATION, PART 7, CHAPTER 2, SECTION 7-202. THIS EXEMPTION IS NOT SUBJECT TO PARAGRAPH (C) OF THIS RULE AS LONG AS THE DISBARRED ATTORNEY OR MEMBER HAS BEEN LICENSED AS A FIDUCIARY PURSUANT TO A.R.S. § 14-5651 AND THE ARIZONA CODE OF JUDICIAL ADMINISTRATION, PART 7, CHAPTER 2, SECTION 7-202. NOTWITHSTANDING THE FOREGOING PROVISION, THE COURT MAY REQUIRE REPRESENTATION BY AN ATTORNEY WHENEVER IT DETERMINES THAT LAY REPRESENTATION IS INTERFERING WITH THE ORDERLY PROGRESS OF THE PROCEEDINGS OR

IMPOSING UNDUE BURDENS ON OTHER PARTIES. IN ADDITION, THE COURT MAY ASSESS AN APPROPRIATE SANCTION AGAINST ANY PARTY OR ATTORNEY WHO HAS ENGAGED IN UNREASONABLE, GROUNDLESS, ABUSIVE OR OBSTRUCTIONIST CONDUCT.

Proposed Amendments to the
Arizona Code of Judicial Administration

OPTION 1:

Arizona Code of Judicial Administration

Section 7-202: Fiduciaries

....

J. Code of Conduct. . . .

1. [unchanged]

2. Ethics. The fiduciary shall exhibit the highest degree of trust, loyalty and fidelity in relation to the ward, protected person, or estate.

a. – f. [unchanged]

g. The fiduciary shall only prepare powers of attorney or other legal document, if also certified as a legal document preparer pursuant to ACJA § 7-208, ~~except~~ **PERMITTED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, OR** as ordered by the court. This provision does not apply to the Arizona Department of Veterans Services pursuant to A.R.S. § 41-603(A).

OPTION 2:

Arizona Code of Judicial Administration

Section 7-202: Fiduciaries

F. Role and Responsibilities of Fiduciaries. In addition to the requirements of ACJA § 7-201(F), the following requirements apply:

1. – 9. [unchanged]

10. A LICENSED FIDUCIARY IS AUTHORIZED TO:

A. PREPARE LEGAL DOCUMENTS WITHOUT THE SUPERVISION OF AN ATTORNEY, AS AUTHORIZED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, OR

B. REPRESENT THE LICENSED FIDUCIARY BUSINESS, OFFICE OF THE PUBLIC FIDUCIARY OR THE ARIZONA DEPARTMENT OF VETERANS' SERVICES BEFORE THE SUPERIOR COURT IN PROBATE PROCEEDINGS IF THE BUSINESS, OFFICE OR DEPARTMENT IS NOT REPRESENTED BY COUNSEL OR TO THE EXTENT PERMITTED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, IF ALL THE FOLLOWING CONDITIONS ARE SATISFIED:

1. THE ENTITY AUTHORIZES THE LICENSED FIDUCIARY TO REPRESENT IT IN THE PROCEEDINGS;

2. THE FIDUCIARY IS NOT RECEIVING SEPARATE OR ADDITIONAL COMPENSATION (OTHER THAN REIMBURSEMENT FOR COSTS) FOR SUCH REPRESENTATION; SUCH REPRESENTATION IS NOT THE OFFICER'S, MEMBER'S, OR EMPLOYEE'S PRIMARY DUTY TO THE ENTITY BUT SECONDARY OR INCIDENTAL TO OTHER DUTIES RELATED TO THE MANAGEMENT OR OPERATION OF THE ENTITY.

J. Code of Conduct.

1. [unchanged]

2. Ethics. The fiduciary shall exhibit the highest degree of trust, loyalty and fidelity in relation to the ward, protected person, or estate.

a. – f. [unchanged]

g. The fiduciary shall only prepare powers of attorney or other legal documents, if also certified as a legal document preparer pursuant to ACJA § 7-208, ~~except~~ PERMITTED BY RULE 10.1, ARIZONA RULES OF PROBATE PROCEDURE, OR as ordered by the court. This provision does not apply to the Arizona Department of Veterans Services pursuant to A.R.S. § 41-603(A).

Proposed Statewide Fee Guidelines

STATEWIDE FEE GUIDELINES

FOR ASSESSING THE REASONABLENESS OF

FIDUCIARY, GUARDIAN *AD LITEM*,

AND ATTORNEY COMPENSATION

IN TITLE 14 PROCEEDINGS

INTRODUCTION:

THESE GUIDELINES ARE INTENDED TO ASSIST THE COURT, FIDUCIARIES, GUARDIANS *AD LITEM*, ATTORNEYS, PARTIES, AND INTERESTED PERSONS IN EVALUATING WHETHER COMPENSATION IS REASONABLE, SINCE PROFESSIONAL SERVICES MUST BE TAILORED TO THE SPECIFIC CIRCUMSTANCES OF EACH ENGAGEMENT, AND A ONE-SIZE-FITS-ALL REGULATORY APPROACH TO PROFESSIONAL SERVICES AND COMPENSATION IS NOT PRACTICAL AND NOT IN THE BEST INTEREST OF EACH UNIQUE WARD, PROTECTED PERSON, ESTATE, AND TRUST. ALTHOUGH SUCH REGULATORY APPROACHES HAVE THE ATTRACTION OF APPARENT SIMPLICITY, THE RESULT CAN BE INCREASED ADMINISTRATIVE COSTS, DIMINISHED QUALITY OF PROFESSIONAL SERVICES, OR UNDERSERVED POPULATIONS, SUCH THAT REASONABLE COMPENSATION IS BEST DETERMINED ON A CASE-BY-CASE BASIS, WHILE APPLYING CONSISTENT COMPENSATION GUIDELINES.

SINCE EVERY CASE IS DIFFERENT, HOWEVER, AND BECAUSE EVERY FIDUCIARY, GUARDIAN *AD LITEM*, AND ATTORNEY HAS UNIQUE QUALIFICATIONS, THESE FEE GUIDELINES SET FORTH COMPULSORY BILLING STANDARDS, POINTS OF REFERENCE, AND GENERAL COMPENSATION FACTORS, BUT NOT PREDETERMINED TIMES TO PERFORM SPECIFIC TASKS, PREDETERMINED RATE SCHEDULES, OR FEES AS A PERCENT OF AN ESTATE. THEREFORE, FOLLOWING COMPLIANCE WITH COMPULSORY BILLING STANDARDS, THE COURT SHALL WEIGH THE TOTALITY OF THE CIRCUMSTANCES AND, IN ITS DISCRETION, ASSIGN MORE OR LESS WEIGHT TO ANY GIVEN POINTS OF REFERENCE OR COMPENSATION FACTORS AS IT DEEMS JUST AND REASONABLE.

SCOPE:

THESE GUIDELINES ONLY APPLY TO THE COMPENSATION OF COURT-APPOINTED FIDUCIARIES, SPECIFICALLY GUARDIANS, CONSERVATORS, AND PERSONAL REPRESENTATIVES, LICENSED AND UNLICENSED, AS WELL AS GUARDIANS *AD LITEM* AND ATTORNEYS WHO ARE PAID BY A WARD, PROTECTED PERSON, ESTATE, OR TRUST (COLLECTIVELY REFERRED TO IN THE *GUIDELINES* AS AN “ESTATE”), BUT SHALL NOT APPLY TO COMPENSATION PAID BY A TRUST OR DECEDENT’S ESTATE, IF COMPENSATION IS SPECIFIED OR SET FORTH IN THE RELEVANT TRUST OR TESTAMENTARY INSTRUMENT. THESE FEE GUIDELINES DO NOT APPLY WHEN THE FEES ARE NOT PAID BY THE ESTATE, SUCH AS COURT-APPOINTED COUNSEL WHO ARE PAID BY THE COURT.

GUIDELINES:

6. REASONABLE COMPENSATION. FIDUCIARIES, GUARDIANS *AD LITEM*, AND ATTORNEYS (COLLECTIVELY REFERRED TO IN THE *GUIDELINES* AS A “PROFESSIONAL”) ARE ENTITLED TO REASONABLE COMPENSATION FOR THE SERVICES THEY RENDER IN FURTHERANCE OF THE BEST INTEREST OF THE ESTATE, WHICH RESULTS IN COMPENSATION THAT IS FAIR, PROPER, JUST, MODERATE, SUITABLE UNDER THE CIRCUMSTANCES, FIT, APPROPRIATE TO THE END IN VIEW, AND TIMELY PAID, CONSISTENT WITH THE FOLLOWING GUIDELINES. THE RIGHT TO RECEIVE COMPENSATION MAY BE LIMITED BY APPLICABLE STATUTES.
7. COMPULSORY BILLING STANDARDS. UNLESS OTHERWISE ORDERED BY THE COURT, COMPENSATION AND REIMBURSEMENT SHALL MEET THE FOLLOWING STANDARDS:
 - N. ALL FEE PETITIONS SHALL COMPLY WITH RULE 33 OF THE *ARIZONA RULES OF PROBATE PROCEDURE*.
 - O. ALL HOURLY BILLING SHALL BE IN AN INCREMENT TO THE NEAREST 1/10 OF AN HOUR, WITH NO MINIMUM BILLING UNIT IN EXCESS OF 1/10 OF AN HOUR. NO “VALUE BILLING” FOR SERVICES RENDERED IS PERMITTED, RATHER THAN THE ACTUAL TIME EXPENDED.
 - P. “BLOCK BILLING” IS NOT PERMITTED; BLOCK BILLING OCCURS WHEN A TIMEKEEPER PROVIDES ONLY A TOTAL AMOUNT OF TIME SPENT WORKING ON MULTIPLE TASKS, RATHER THAN AN ITEMIZATION OF THE TIME EXPENDED ON A SPECIFIC TASK.
 - Q. NECESSARY TRAVEL TIME AND WAITING TIME MAY BE BILLED AT 100% OF THE NORMAL HOURLY RATE, EXCEPT FOR TIME SPENT ON OTHER BILLABLE ACTIVITY, AND IN-STATE MILEAGE IS NOT REIMBURSED; TRAVEL TIME AND WAITING TIME ARE NOT NECESSARY WHEN THE SERVICE CAN BE MORE EFFICIENTLY RENDERED BY CORRESPONDENCE OR ELECTRONIC COMMUNICATION, E.G. TELEPHONIC COURT HEARINGS.

- R. BILLABLE TIME THAT BENEFITS MULTIPLE CLIENTS, INCLUDING TRAVEL AND WAITING TIME, SHALL BE APPROPRIATELY APPORTIONED BETWEEN EACH CLIENT.
- S. BILLABLE TIME DOES NOT INCLUDE TIME SPENT ON BILLING OR ACCOUNTS RECEIVABLE ACTIVITIES, INCLUDING TIME SPENT PREPARING ITEMIZED STATEMENTS OF WORK PERFORMED, COPYING, OR DISTRIBUTING STATEMENTS; HOWEVER, TIME SPENT DRAFTING THE ADDITIONAL DOCUMENTS THAT ARE REQUIRED BY COURT ORDER, RULE, OR STATUTE, INCLUDING ANY RELATED HEARING, IS BILLABLE TIME. THE COURT SHALL DETERMINE THE REASONABLE COMPENSATION, IF ANY, IN ITS SOLE DISCRETION, CONCERNING ANY CONTESTED LITIGATION OVER FEES OR COSTS.
- T. BILLABLE TIME DOES NOT INCLUDE INTERNAL BUSINESS ACTIVITIES OF THE PROFESSIONAL, INCLUDING CLERICAL OR SECRETARIAL SUPPORT TO THE PROFESSIONAL.
- U. THE HOURLY RATE CHARGED FOR ANY GIVEN TASK SHALL BE AT THE AUTHORIZED RATE, COMMENSURATE WITH THE TASK PERFORMED, REGARDLESS OF WHO ACTUALLY PERFORMED THE WORK, BUT CLERICAL AND SECRETARIAL ACTIVITIES ARE NOT SEPARATELY BILLABLE FROM THE PROFESSIONAL.

EXAMPLE: AN ATTORNEY CAN ONLY BILL AN ATTORNEY RATE WHEN PERFORMING SERVICES THAT REQUIRE AN ATTORNEY, BUT A PARALEGAL RATE WHEN PERFORMING PARALEGAL SERVICES, A FIDUCIARY RATE WHEN PERFORMING FIDUCIARY SERVICES, NO CHARGE WHEN PERFORMING SECRETARIAL OR CLERICAL SERVICES, ETC.

EXAMPLE: A FIDUCIARY CAN ONLY BILL A FIDUCIARY RATE WHEN PERFORMING SERVICES THAT REQUIRE THE SKILL LEVEL OF THE FIDUCIARY, BUT A COMPANION RATE WHEN PERFORMING COMPANION SERVICES, A BOOKKEEPER RATE WHEN PERFORMING BOOKKEEPING AND BILL-PAYING SERVICES FOR A CLIENT, NO CHARGE WHEN PERFORMING SECRETARIAL OR CLERICAL SERVICES, ETC.

- V. REASONABLE COSTS THAT ARE INCURRED IN FURTHERANCE OF THE BEST INTEREST OF THE ESTATE ARE REIMBURSABLE AT ACTUAL COST, WITHOUT "MARK-UP". EXAMPLES OF REIMBURSABLE COSTS INCLUDE, BUT ARE NOT LIMITED TO: GOODS OR SERVICES OBTAINED FOR OR CONSUMED BY THE ESTATE; POSTAGE AND SHIPPING FEES; DEPOSITION AND TRANSCRIPT COSTS; FEES CHARGED BY A PROCESS SERVER; PUBLICATION FEES; EXPERT WITNESS FEES; MESSENGER COSTS; CASE-

SPECIFIC BONDS; AND ELECTRONIC DATABASE FEES CHARGED BY AN OUTSIDE VENDOR (E.G., WESTLAW, LEXISNEXIS, PACER, ETC.) EXCEPT FOR CHARGES TO RESEARCH ARIZONA STATUTES, CASE LAW, AND REGULATIONS. REIMBURSABLE COSTS DO NOT INCLUDE ANY COST NOT SPECIFICALLY OR DIRECTLY ASSOCIATED WITH THE DELIVERY OF GOODS OR SERVICES TO AN IDENTIFIED ESTATE, I.E. OVERHEAD.

- W. TIME AND EXPENSES FOR ANY MISFEASANCE OR MALFEASANCE ARE NOT COMPENSABLE.
 - X. TIME AND EXPENSES TO CORRECT OR MITIGATE ERRORS CAUSED BY THE PROFESSIONAL, OR THEIR STAFF, ARE NOT BILLABLE TO THE ESTATE.
 - Y. TIME OR EXPENSES TO RESPOND OR DEFEND AGAINST A REGULATORY COMPLAINT AGAINST THE PROFESSIONAL ARE NOT BILLABLE TO THE ESTATE.
 - Z. A PROFESSIONAL MAY ONLY CHARGE INTEREST ON THEIR UNPAID COMPENSATION OR UNPAID REIMBURSEMENT WITH COURT APPROVAL.
8. POINTS OF REFERENCE. THE COURT SHALL CONSIDER POINTS OF REFERENCE WHEN CONSIDERING HOURLY RATES AND CHARGES, AS NON-BINDING BUT INFORMATIVE AND PERSUASIVE CONSIDERATIONS, INCLUDING:
- H. THE USUAL AND CUSTOMARY FEES CHARGED IN THE RELEVANT PROFESSIONAL COMMUNITY FOR SUCH SERVICES AS PERIODICALLY REPORTED BY THE ADMINISTRATIVE OFFICE OF THE COURTS. SEE EXHIBIT A.
 - I. TO THE EXTENT AUTHORIZED BY LAW, A NON-LICENSED FIDUCIARY WHO IS RELATED TO A PROTECTED PERSON, WARD, OR DECEDENT, MAY RECEIVE REASONABLE COMPENSATION FOR SERVICES AS A CONSERVATOR, GUARDIAN, OR PERSONAL REPRESENTATIVE, RESPECTIVELY, COMMENSURATE WITH THE SERVICES PERFORMED.
 - J. THE NUMBER OF BILLABLE HOURS AND SERVICES RENDERED IN COMPARABLE CASES BEFORE THAT JUDICIAL OFFICER.
 - K. AS ONLY A GENERAL BENCHMARK, THE COMMON FIDUCIARY SERVICES RENDERED IN A ROUTINE GUARDIANSHIP OR CONSERVATORSHIP ENGAGEMENT ARE AS FOLLOWS (THE FIDUCIARY SHOULD BE PREPARED TO PROVIDE A REASONABLE EXPLANATION FOR EXCEEDING THESE BENCHMARKS, UPON REQUEST BY THE COURT):
- VII. ROUTINE BOOKKEEPING, SUCH AS DISBURSEMENTS, BANK RECONCILIATION, DATA ENTRY OF INCOME AND EXPENDITURES,

AND MAIL PROCESSING: FOUR (4) HOURS PER MONTH, AT A COMMENSURATE RATE FOR SUCH SERVICES.

VIII. ROUTINE SHOPPING: SIX (6) HOURS PER MONTH IF WARD IS AT HOME, AND TWO (2) HOUR PER MONTH IF WARD IN A FACILITY, AT A COMMENSURATE RATE FOR SUCH SERVICES.

IX. ONE ROUTINE PERSONAL VISIT PER MONTH BY THE FIDUCIARY TO THE WARD OR PROTECTED PERSON.

X. PREPARATION OF CONSERVATOR'S ACCOUNT AND BUDGET: FIVE (5) HOURS PER YEAR.

XI. PREPARATION OF ANNUAL GUARDIANSHIP REPORT: TWO (2) HOURS PER YEAR.

XII. MARSHALLING OF ASSETS AND PREPARATION OF INITIAL INVENTORY: EIGHTY (80) HOURS.

L. NOT MORE THAN ONE ATTORNEY MAY BILL FOR ATTENDING HEARINGS, DEPOSITIONS, AND OTHER COURT PROCEEDINGS ON BEHALF OF A CLIENT, NOR BILL FOR STAFF TO ATTEND, ABSENT GOOD CAUSE.

M. EACH FIDUCIARY AND GUARDIAN *AD LITEM* SHALL NOT BILL FOR MORE THAN ONE PERSON TO ATTEND HEARINGS, DEPOSITIONS, AND OTHER COURT PROCEEDINGS ON BEHALF OF AN ESTATE, ABSENT GOOD CAUSE. THIS PROVISION DOES NOT PRECLUDE AN ATTORNEY, WHO REPRESENTS A FIDUCIARY OR GUARDIAN *AD LITEM*, FROM SUBMITTING A SEPARATE BILL.

N. THE TOTAL AMOUNT OF ALL ANNUAL EXPENDITURES, INCLUDING REASONABLE PROFESSIONALS FEES, *MAY NOT DEplete* THE ESTATE DURING THE ANTICIPATED LIFESPAN OF THE WARD OR PROTECTED PERSON, UNTIL AND UNLESS THE CONSERVATOR HAS DISCLOSED THAT THE CONSERVATORSHIP HAS AN ALTERNATIVE OBJECTIVE, SUCH AS PLANNED TRANSITION TO PUBLIC ASSISTANCE OR ASSET RECOVERY, AS SET FORTH IN THE DISCLOSURE REQUIRED BY RULE OF PROBATE PROCEDURE 30.3.

9. COMPENSATION FACTORS. THE COURT SHALL CONSIDER THE FOLLOWING FACTORS, AS GENERAL PRINCIPLES, NOT RIGID RULES, WHEN DETERMINING WHAT CONSTITUTES REASONABLE COMPENSATION:

M. THE REQUEST FOR COMPENSATION IN COMPARISON TO THE PREVIOUSLY DISCLOSED BASIS FOR FEES, ANY PRIOR ESTIMATE BY THE PROFESSIONAL, AND ANY COURT ORDER; [REFINE AFTER LEGISLATION IS ADOPTED]

- N. THE EXPERTISE, TRAINING, EDUCATION, EXPERIENCE, AND SKILL OF THE PROFESSIONAL IN TITLE 14 PROCEEDINGS;
- O. WHETHER AN APPOINTMENT IN A PARTICULAR MATTER PRECLUDED OTHER EMPLOYMENT;
- P. THE CHARACTER OF THE WORK TO BE DONE, INCLUDING DIFFICULTY, INTRICACY, IMPORTANCE, NECESSITY, TIME, SKILL OR LICENSE REQUIRED, OR RESPONSIBILITY UNDERTAKEN;
- Q. THE CONDITIONS OR CIRCUMSTANCES OF THE WORK, INCLUDING EMERGENCY MATTERS (REQUIRING URGENT ATTENTION), SERVICES PROVIDED OUTSIDE REGULAR BUSINESS HOURS, POTENTIAL DANGER (E.G., HAZARDOUS MATERIALS, CONTAMINATED REAL PROPERTY, OR DANGEROUS PERSONS), OR OTHER EXTRAORDINARY CONDITIONS;
- R. THE WORK ACTUALLY PERFORMED, INCLUDING THE TIME ACTUALLY EXPENDED, AND THE ATTENTION AND SKILL-LEVEL REQUIRED FOR EACH TASK, INCLUDING WHETHER A DIFFERENT PERSON COULD HAVE RENDERED BETTER, FASTER OR LESS EXPENSIVE SERVICE;
- S. THE RESULT, SPECIFICALLY WHETHER BENEFITS WERE DERIVED FROM THE EFFORTS, AND WHETHER PROBABLE BENEFITS EXCEEDED COSTS;
- T. WHETHER THE PROFESSIONAL TIMELY DISCLOSED THAT A PROJECTED COST WAS LIKELY TO EXCEED THE PROBABLE BENEFIT, AFFORDING THE COURT AN OPPORTUNITY TO MODIFY ITS ORDER IN FURTHERANCE OF THE BEST INTEREST OF THE ESTATE.
- U. THE FEES CUSTOMARILY CHARGED AND TIME CUSTOMARILY EXPENDED FOR PERFORMING LIKE SERVICES IN THE COMMUNITY;
- V. THE DEGREE OF FINANCIAL OR PROFESSIONAL RISK AND RESPONSIBILITY ASSUMED;
- W. THE FIDELITY AND LOYALTY DISPLAYED BY THE PROFESSIONAL, INCLUDING WHETHER THE PROFESSIONAL PUT THE BEST INTEREST OF THE ESTATE BEFORE THE ECONOMIC INTEREST OF THE PROFESSIONAL; AND,
- X. THE “POINTS OF REFERENCE”, AS SET FORTH ABOVE.

10. NON-TRADITIONAL COMPENSATION ARRANGEMENTS.

- C. FLAT-FEE: UNLESS OTHERWISE PROHIBITED BY LAW OR RULE, FLAT-FEE COMPENSATION IS PERMISSIBLE, AND MAY INCLUDE ALL OR PART OF AN ENGAGEMENT, IF THE PREDICTABILITY OF COSTS IS ENHANCED AND IF THE ECONOMIC INTERESTS OF THE PROFESSIONAL ARE THEREBY BETTER ALIGNED WITH THE ESTATE.

THE BASIS FOR ANY FLAT FEE COMPENSATION SHALL BE DISCLOSED IN ADVANCE, IN WRITING, SPECIFYING IN DETAIL THE SERVICES INCLUDED IN ANY FLAT-FEE, THE UNITS OF EACH SERVICE, AND THE USUAL HOURLY RATE FOR SUCH SERVICES. THE ACTUAL DELIVERY OF SERVICES INCLUDED WITH THE FLAT FEE SHALL BE DOCUMENTED.

- D. CONTINGENT FEE: UNLESS OTHERWISE PROHIBITED BY LAW OR RULE, NOTHING IN THESE GUIDELINES SHALL PROHIBIT A CONTINGENT FEE ENGAGEMENT WITH AN ATTORNEY, PROPERLY EXECUTED IN WRITING, E.G. REPRESENTATION ON A PERSONAL INJURY CLAIM.

EXHIBIT A FOR 2011

STATEWIDE FEE GUIDELINES FOR

ASSESSING THE REASONABLENESS OF FIDUCIARY, GUARDIAN

***AD LITEM*, AND ATTORNEY COMPENSATION**

IN TITLE 14 PROCEEDINGS

This Exhibit shall be periodically updated by the Administrative Office of the Courts, and an updated Exhibit A may be downloaded at

	Hourly Professional Compensation Range			
	Minimum	Median	Average	Maximum
Attorney				
Licensed Fiduciary				
Guardian <i>ad Litem</i>				

PLEASE NOTE: THE HOURLY RATES REPORTED IN EXHIBIT A ARE COMPILED BY THE ADMINISTRATIVE OFFICE OF THE COURTS AS A POINT OF REFERENCE ON ESTIMATED CURRENT MARKET RATES AMONG PROFESSIONALS BASED UPON CURRENTLY AVAILABLE INFORMATION. THESE RATES ARE NON-BINDING ON THE PARTIES, PROFESSIONALS OR THE COURT, BUT ARE INFORMATIVE AND PERSUASIVE AS AN INITIAL POINT OF REFERENCE IN DETERMINING REASONABLE COMPENSATION. ACTUAL COMPENSATION RATES WILL VARY BASED UPON OTHER FACTORS INCLUDING THE EXPERIENCE OF THE PROFESSIONAL, GEOGRAPHIC AREA OF SERVICE, AND RESOURCES OF THE FIRM.

Risk Assessment Form, Instructions, & Order

Probate Court Post Appointment Risk Assessment Tool –Triage Model “A” and “B”

**This Risk Assessment Tool in its entirety is a “confidential document” pursuant to the Arizona Rules of Probate Procedure, Rule 7.*

This risk assessment tool identifies the potential risk factors at the onset of a new guardianship/conservatorship matter and recommends the appropriate level of court monitoring or Independent Case Review (ICR) to be conducted. The ICR is designed to assist the court’s oversight of guardianship/conservatorship cases and provide independent information about the status of the ward/protected person to supplement the mandatory reports filed by the guardian/conservator.

The initial risk assessment is performed by the court appointed investigator. The completed form serves as a supplement to the “Court Investigator’s Report”. This tool may also be used in subsequent years by the “Preparer” assigned by the Court to reassess the risk factors and provide recommendations for court monitoring. The recommendations provided by the court appointed investigator in the assessment are “suggestive only” and the Court in their discretion makes the final determination regarding the post appointment review/monitoring.

Courts implementing Triage Model “A” (Mandatory Post Appointment Court Monitoring) shall consider the risk assessment information provided by the Post Appointment Risk Assessment and enter an “Order Appointing Investigator to Conduct an Independent Case Review/Investigation.” The Order directs the investigator to perform the ICR selecting one or more methods provided or as individually specified by the Court.

Courts implementing Triage Model “B” (Elective Post Appointment Court Monitoring) have full discretion to review all reports/plans, certain reports/plans based on a range of rating scores, or only those considered to be “Maximum Risk” and subsequently elect to forego any post appointment case review. Options to take “No Action” are provided.

Probate Case General Information

<input type="checkbox"/> Initial Assessment <input type="checkbox"/> Subsequent Assessment Date: _____	
Court Investigator’s/Preparer’s Name: _____ Phone # _____	
Cause Name: _____	Petitioner’s Name: _____
Cause No: _____	Petitioner’s Phone #: _____
<input type="checkbox"/> Ward <input type="checkbox"/> Protected Person <input type="checkbox"/> Minor <input type="checkbox"/> Adult	Petitioner’s Address: _____
Ward/PP’s Attorney: _____	
Value of the Estate: \$ _____ <input type="checkbox"/> Undetermined	Petitioner’s Attorney: _____
Bond: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Undetermined	Petitioner’s Email: _____
Restricted Assets: <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Undetermined	Petitioner’s Employer: _____
Ward/PP Personal Health and Behavioral Factors:	
<input type="checkbox"/> Developmental Disability/TBI	<input type="checkbox"/> SMI/Substance Abuse/Dual Diagnoses/PTSD
<input type="checkbox"/> Dementia/Alzheimer’s Disease	<input type="checkbox"/> Primary Diagnosis: _____
<input type="checkbox"/> Serious Physical Illness	<input type="checkbox"/> Secondary Diagnosis: _____
Ward/PP Residential:	
<input type="checkbox"/> Resides with Family and/or Guardian/Conservator	<input type="checkbox"/> Resides independently in own home or apartment
<input type="checkbox"/> Resides in a Skilled Nursing Facility	<input type="checkbox"/> Resides Alone
<input type="checkbox"/> Resides in an Assisted Living Facility	<input type="checkbox"/> Resides in a Licensed Group Home
<input type="checkbox"/> Other: _____	

Risk Assessment

I. Social Factors: These factors may contribute to an increase in case complexities.

- Ward/PP currently appears to be in one or more unhealthy relationships = 4 _____
- Ward/PP lacks local supports of family or friends = 3 _____
- Ward/PP has a history of family conflict = 2 _____
- Ward/PP has a history of active social involvement (12 Step, church, service organizations) = 1 _____
- Total Social Factors Scoring Points:** (0-10) = _____

II. Residential: These factors may demonstrate the degree of daily interaction, contact and monitoring for the Ward/PP.

- The Ward/PP is at immediate risk of unsafe discharge or eviction from their residence = 5 _____
- Ward/PP currently resides in a short term placement (transitional housing or rehab) = 4 _____
- Ward/PP has a history of chronic homelessness = 4 _____
- Ward/PP living independently but some self neglect has been noted during investigation = 2 _____
- Ward/PP does not qualify for "needed" government entitlements to subsidize housing = 2 _____
- Ward/PP living in a licensed institution pending medical or residential stabilization = 2 _____
- Ward/PP living w/family member(s) = 1 _____
- Total Residential Scoring Points:** (0-17) = _____

III. Guardian/Conservator and Ward/PP Interdependency Issues: These factors may interfere with the ability of the fiduciary to neutrally conduct the affairs of the Ward/PP.

- Guardian and/or Conservator receiving income or support from Ward/PP = 5 _____
- Guardian and/or Conservator residing with the Ward or Protected Person = 3 _____
- Total Guardian/Conservator Dependency Points:** (0-8) = _____

IV. Legal: These factors demonstrate whether potential issues may arise that will impede the fiduciary's success and if counsel is involved for guidance and legal advocacy.

- Petitioner has a criminal history = 4 _____
- Petitioner on a Conservatorship Estate is "~~Unbondable~~" due to a poor credit history = 3 _____
- Guardian/Conservator has a history of non-compliance with mandatory reporting or law = 3 _____
- Ward/PP's legal representative plans to withdraw after the initial appointment hearing = 2 _____
- Guardian/Conservator is self represented (~~propria persona~~ / "pro per") = 2 _____
- Ward/PP not present at adjudication or subsequent hearing(s) = 2 _____
- Total Legal Points:** (0-16) = _____

V. Government Entitlement Programs with Advocacy/Auditing Features: Government entitlements consisting of income have some minimal checks and balances. Medical entitlements routinely provide some minimal case management services providing additional case oversight as well as mandatory reporting of abuse/exploitation.

- Ward/PP denied eligibility to receive "needed" governmental services/ entitlements = 4 _____
- Ward/PP has not applied for "needed" government entitlements = 3 _____
- Ward/PP w/ SSA or VA income benefits = 1 _____
- Ward/PP w/ AZ ALTCS, DES/DDD, RBHS Case Management Services = 1 _____
- Total Government Entitlement Programs Points:** (0-5) = _____

Total Score: (add all points then check the appropriate boxes in one of the three score ranges below) (0-56) = _____

- SCORE =1-20** (Minimal Risk) **SCORE =21-36** (Moderate Risk) **SCORE =37-56** (Maximum Risk)

This is a confidential document pursuant to the Arizona Rules of Probate Procedure, Rule 7.

Score Range Calculation and Recommended Court Action

Guardianship/Conservatorship Is Recommended Guardianship/Conservatorship Not Recommended
(This selection is specific to the Court Appointed Investigator's recommendation to the Court pursuant to A.R.S. § 14-5303 and § 14-5407.)

Score Range = 1 – 20 (Minimal Risk)
This recommendation is to be considered when the total score from the risk assessment is in the range 1 – 20 or if the investigator/preparer has justified in the comment(s) section the potential risks are very minimal. Generally, these cases may have multiple agencies involved in oversight and the proposed bond/asset restrictions will reduce the risk of fiduciary neglect, exploitation or abuse. The Ward/PP may have a family member fiduciary who has a history of successful surrogate decision making on behalf of the Ward/PP prior to the need for the legal appointment.

Minimum Risk - Recommended Court Action: *Preparer - Please check one or more of the following choices:*

- Court to Determine PostAppointment Monitoring Upon Review of the Next Report of Guardian or Account of Conservator
- Ward/Protected Person Visit and Short Questionnaire Completed
- Remote Interview by Video Conferencing with Ward/PP and Short Questionnaire Completed (Check resource availability)
- Guardian/Conservator Visit or Telephonic Interview and Short Questionnaire Completed
- Financial Statement/Asset Verification Filed w/Court
- Telephonic Interview of Ward/PP and/or Fiduciary and Status Report Required (Triage Model "B" only)
- No Post Appointment Independent Case Review or Follow-Up Recommended (Triage Model "B" only)

Investigator/Preparer's Comments: _____

Score Range = 21 – 36 (Moderate Risk Score)
This recommendation is to be considered when the total score from the risk assessment is in the range 21 – 36 or if the investigator/preparer has justified in the comment(s) section the potential risks are moderate. Generally, these cases may have other agencies involved in oversight and the proposed bond/asset restrictions will reduce the risk of fiduciary neglect, exploitation or abuse. The Ward/PP's family member is the petitioner and they have little or no experience with Ward advocacy and may need some assistance initially understanding their duties, or preparing the mandatory reports and forms to comply with the legal requirements. The Estate may have minimal assets or assets are all secured and the monthly income is used to sustain the Ward/PP's current monthly expenses with minimal discretionary income remaining.

Moderate Risk - Recommended Court Action: *Preparer - Please check one or more of the following choices:*

- Ward/Protected Person Visit and Short Questionnaire Completed
- Guardian/Conservator Visit or Telephonic Interview and Short Questionnaire Completed
- Financial Statement/Asset Verification Filed w/Court

Investigator/Preparer's Comments: _____

Score Range Calculation and Recommended Court Action (Continued)

Score Range = 28 – 56 (Maximum Risk Score)

This recommendation is to be considered when the total score from the risk assessment is in the range 37 – 56 or if the investigator/preparer has justified in the comment(s) section the potential risks warrant maximum court oversight and monitoring due to triggers identified but not captured by the risk assessment tool. Contributing factors in determining the Ward/PP is at "Maximum Risk" include one or more of the following: The Ward/PP has no oversight by other agencies, and/or the fiduciary has no or minimal experience and the issues of the case at the onset are complex, and/or the fiduciary is not represented by legal counsel and lacks legal representation to provide guidance in addressing one or more complex issues e.g. multiple assets, recovery actions, difficult placement issues, and/or complex client advocacy issues.

Maximum Risk - Recommended Court Action: Preparer - Please check one or more of the following choices:

- Ward/Protected Person Visit and Long Questionnaire completed and filed
- Guardian and/or Conservator Interview and Long Questionnaire completed and filed
- Provider Interview and Questionnaire completed and filed
- Court Case Compliance Audit Performed - Court Accountings, Annual Guardian Report(s), Inventory Compliance, Address
- Forensic Investigation: (This selection is only applicable to post appointment risk assessments performed after the initial appointment due to indicators discovered that potential abuse, neglect or financial exploitation has occurred.)
- Court Accountings Accuracy and Compliance Financial Statements Verification Tax Compliance Asset Verification

Investigator/Preparer's Comments: _____

Investigator/Preparer's Final Recommendation to the Court:

Triage Model "A" and "B" (These selections are applicable to both Triage Models "A" and "B")

- Court to Determine Post Appointment Monitoring Upon Review of the Next Report of Guardian or Account of ~~Conservator~~
- Ward/Protected Person Visit and Short Questionnaire Completed
- Remote Interview by Video Conferencing of Ward/PP and Short Questionnaire Completed (Check resource availability)
- Guardian/Conservator Visit or Telephonic Interview and Short Questionnaire Completed
- Financial Statement/Asset Verification Filed w/Court
- Ward/Protected Person Visit and Long Questionnaire completed and filed
- Guardian and/or Conservator Interview and Long Questionnaire completed and filed
- Provider Interview and Questionnaire completed and filed
- Court Case Compliance Audit Performed - Court Accountings, Annual Guardian Report(s), Inventory Compliance
- Forensic Investigation: (This selection is only applicable to post appointment risk assessments performed after the initial appointment due to indicators discovered that potential abuse, neglect or financial exploitation has occurred.)
- Court Accountings Accuracy and Compliance Financial Statements Verification Tax Compliance Assets Verification

Triage Model "B" Recommendation Exceptions: (These two electives are not applicable to Triage Model "A" - Mandatory Post Appointment Court Monitoring)

- No Post Appointment Independent Case Review or Follow-Up Recommended (Triage Model "B" only)
- Telephonic Interview of Guardian/Conservator and Court Status Report Required (Triage Model "B" only)

Preparer's Signature: _____ Date: _____

- Confidential Envelope prepared and attached in accordance with the Arizona Rules of Probate Procedure, Rule 7.

******* This Section to Be Completed By the Court *******

Method of Independent Case Review (ICR):

Triage Model "A" and "B" (These selections are applicable to both Triage Models "A" and "B")

- Ward/Protected Person Visit and Short Questionnaire Completed
- Remote Interview of Ward/PP by Video Conferencing and Short Questionnaire Completed (Check resource availability)
- Guardian/Conservator Visit or Telephonic Interview and Short Questionnaire Completed
- Financial Statement/Asset Verification Filed w/Court
- Ward/Protected Person Visit and Long Questionnaire completed and filed
- Guardian and/or Conservator Interview and Long Questionnaire completed and filed
- Provider Interview and Questionnaire completed and filed
- Court Case Compliance Audit Performed - Court Accountings, Annual Guardian Report(s), Inventory Compliance
- Telephonic Interview of Guardian/Conservator and Court Status Report Required
- Forensic Investigation: (This selection is only applicable to post appointment risk assessments performed after the initial appointment due to indicators discovered that potential abuse, neglect or financial exploitation has occurred.)
- Court Accountings Accuracy and Compliance Financial Statements Verification Tax Compliance Assets Verification

Triage Model "B" Recommended Exceptions: (These two electives are not applicable to Triage Model "A" – Mandatory Post Appointment Court Monitoring)

- Telephonic Interview of Guardian/Conservator and Court Status Report Required (Triage Model "B" only)
- No Post Appointment Independent Case Review or Follow-Up Recommended (Triage Model "B" only)

Key Issue(s): The court appointed designee will perform the following checked task(s), specific to this individual case, and report the results as verified to the Court:

- Minor still attending school of record
- Minor's address, telephone and email confirmation
- Fiduciary's address, telephone and email confirmed
- Fiduciary not at risk of foreclosure or eviction
- Fiduciary provide proof of medical provider and insurance for Ward
- Fiduciary needs assistance in initial preparation of first annual mandatory reports
- Minor still residing with custodian of record
- Minor not at risk of residential displacement
- Fiduciary's place of employment verified
- Other: _____

Court Appointed Designee:

A court appointed designee will perform the Independent Case Review (ICR) or other Court action checked.

- Court appointed Counsel (CAC)
- Court Staff
- Volunteer court monitoring program
- Other: _____
- Public Fiduciary
- Independent Contract Investigator/Auditor
- Court Accountant/Auditor

Independent Case Review Due Date: _____ One-Time Annual Biennial Triennial Other

Date Order Sent to appointed Independent Case Review Investigator/Designee: _____

Name: _____ Title: _____
Printed Name: Court Staff
Name: _____ Date: _____
Signature: Court Staff

This is a confidential document pursuant to the Arizona Rules of Probate Procedure, Rule 7.

**PROBATE COURT POST APPOINTMENT RISK ASSESSMENT TOOL
Triage Model "A" and "B"**

INSTRUCTIONS

1.0 Introduction/Background

The statutory fiduciary oversight function of Arizona probate courts is primarily carried out through review of the annual reports filed by the guardian and/or conservator. The annual reports are usually the only continuing source of information about the ward/protected person that are available to the court to confirm the welfare and well-being of the ward and proper administration of the protected person's income and assets.

In 2010/2011 the Committee on Improving Judicial Oversight and Processing of Probate Court Matters recommended to the Arizona Judicial Council a rule be adopted in Arizona to require a post-appointment visitation of the ward on an annual, biennial, or triennial basis to verify the wellbeing of the ward/protected person and their estate.

The risk assessment tool was developed in an effort to provide a resource for courts to use to institute an initial post-appointment Independent Case Review (ICR) that matches available local resources to case-based levels of risk. The risk assessment form, completed at the onset of the case by the court appointed investigator, is a tool based on a triage approach that identifies and assesses risks, recommends a method of follow up and permits the court to assign resources accordingly.

During the first year of the case, many decisions must be made by the fiduciary in stabilizing a ward/protected person's placement, health and financial well-being. The initial year can be a period of intense and stressful adjustment as the fiduciary and the ward/protected person become more familiar with one another and issues are resolved. Over time, many cases progress to a level of stability.

The Risk Assessment Tool will initially be implemented as a "Pilot Project." Maricopa County Probate Court is committed to piloting Triage Model "A" that provides mandatory post appointment monitoring and ensures all adult Wards are visited within two (2) years of the initial appointment of a fiduciary. Maricopa County has had a Volunteer Guardian Monitoring Program modeled on the AARP Model since 1999. Maricopa County collects filing fees and has Court Investigators and Auditors to aid in performing the pilot project. Counties without the necessary resources can pilot Triage Model "B" which provides full judicial discretion in electing to perform post-

appointment monitoring. The benefit of piloting the risk assessment tool is it provides valuable information to aid judicial decision making as a supplement to the court investigator's report there are no additional court costs. The participating counties who pilot the tool for six months will allow a proper sampling of the instruments effectiveness in its ability to measure "risk" and to make the necessary improvements in the process and instructions to streamline its future implementation as a mandatory statewide uniform triage model.

2.0 Purpose

The Risk Assessment Tool is designed to help the court gauge the following:

- **Level of Priority:** Determine what level of priority the case might need for post-appointment monitoring by identifying known risk factors that might exist in a given case; and
- **Method of Review:** The tool then provides an opportunity for the Investigator to provide their opinion as to the recommended appropriate method of post-appointment monitoring to assign. The Court ultimately decides based on all the facts presented and the resources available what method will be most appropriate for post-appointment monitoring; and
- **Appropriate Person or Entity:** The tool provides a selection of designees who may be appropriate to be designated to conduct the Independent Case Review or other monitoring as ordered by the court.

3.0 Probate Court - Subsequent Application of the Post Appointment Risk Assessment Tool

Use of the risk assessment tool does not have to be limited to the first year of the case. A guardianship or conservatorship case can have a long shelf life. Periods of stability might be long, short or intermittent depending on the individual's circumstances. The court may decide that a risk assessment or subsequent independent case review is not necessary for subsequent years. The court may direct the annual, biennial or triennial filing of a short form questionnaire as a supplement to the information contained in the guardian's report. If a red flag arises at some point, the court might decide to order a new risk assessment and adjust the level of attention to require a long form questionnaire or other additional monitoring or audit of the fiduciary.

4.0 Risk Assessment Tool Preparer

The risk assessment tool is intended to originally be completed at the onset of the case by the court appointed investigator, however, the Court, has the discretion to assign court staff or another party to complete the risk assessment tool. Subsequent assessments may be performed by any party, but a party familiar with the case or file may provide more accurate, timely and cost efficient form completion and filing with the Court.

The information gathered by the Investigator during interviews with the petitioner, alleged ward/protected person or their counsel may not be independently verified due to the lack of resources, time and expense. The information is the work product of the Investigator or preparer.

5.0 Analysis of Risk Assessment and Recommendation Tool

The court appointed investigator performing the initial investigation, or other party designated by the court, completes the risk assessment consistent with the instructions provided. In the event the court investigator does not recommend a guardian and/or conservator be appointed, the risk assessment tool would still need to be completed. The court investigator's report is one of many considerations weighed by the court in making the determination to adjudicate a person incapacitated or in need of protection. During the hearing on the Petition for the Appointment of Guardian and/or Conservator, the Court ultimately decides if adjudication is warranted, based on the evidence and further directs the post appointment monitoring of the fiduciary, if deemed applicable and appropriate.

Some early feedback "Investigator's Comments – Risk Assessment Tool" by the Maricopa County Court Investigator's (April 26, 2011) provided valuable insight to aid future "Pilot Counties" in adapting and aligning to the tool for optimum effectiveness. Excerpts of the "Comments" are provided in these instructions and are noted with an asterisk with clarification, if applicable.

6.0 Risk Assessment Tool – Confidential Document¹

The Risk Assessment Tool in its entirety is a "confidential document" pursuant to the Arizona Rules of Probate Procedure, Rule 7. CONFIDENTIAL DOCUMENTS AND INFORMATION.

¹ A copy of Rule 7, Confidential Documents and Information is attached to these instructions

The preparer of the Risk Assessment Tool when filing the document with the court, files the Risk Assessment Tool with the Clerk of the Arizona Superior Court, placing the original document in an envelope that bears the case name and number, the name of the document being filed "Probate Court Post Appointment Risk Assessment Tool", the name of the person filing the document (the preparer), and the phrase "Confidential Document." A separate envelope shall be used for each confidential document. A confidential document shall not be maintained as part of the public record of a probate case.

7.0 New Case - Independent Case Review (ICR)

The Investigator assigned appointed by the court to conduct the Independent Case Review (ICR) will begin the process of the ICR or other court assigned monitoring in a timely fashion to ensure filing by the Court Ordered due date. The Investigator shall be responsible for tracking the due date and filing the appropriate forms, financial statements and/or report(s). The ICR short form or long form questionnaire or other status report will serve as an independent source of information and will serve to supplement other reports received from the fiduciary e.g. the annual report of guardian and annual account of conservator.

8.0 Completing the Risk Assessment Tool - Instructions

RISK ASSESSMENT TOOL - GENERAL INFORMATION INSTRUCTIONS - PAGE NO. 1

1. Initial or Subsequent Assessment: Select the applicable box.
2. Date: Enter the date the form is being completed.
3. Name: Enter the Court Investigator's and phone number.
4. Case Information: Enter the "Cause No", "Cause Name", and Case Type (Ward, Protected Person, Minor, Adult) from the Court's Order appointing the post appointment monitoring, investigation or the Independent Case Review (ICR) if an existing case.
5. Value of the Estate: Enter the most current value of the Estate. This information may also be discovered by contacting the petitioner or the petitioner's attorney. This information may be found in the Petition for Guardianship and/or Conservatorship or if an existing case in the Inventory, Account or Budget of

Conservator. Commentary: **"Frequently, the fiduciary does not know the value of the estate until the Letter are issued and they go to the financial institutions".* The Investigator should attempt to gather all information that is "reasonably obtainable" and can select "undetermined" or write unknown. If additional clarification is needed, the Investigator's comments section may provide for an explanation to the Court.

6. Bond: Select the applicable box. This information may be located in the Petition for Guardianship and/or Conservatorship or can be discovered by contacting the petitioner or the petitioner's attorney. Commentary: **"Conservator is unbondable, Once again, the Investigator takes the word of the petitioner that they are bondable or have a poor credit history".* If the fiduciary is not represented by counsel, it is possible the first time the bond issue may come up is when the Investigator asks the question. The fiduciary's bondability and credit history is valuable information to provide the Court, even if the source of information is the Petitioner.
7. Restricted Assets: Select the applicable box. This information may be located in the Petition for Guardianship and/or Conservatorship or can be discovered by contacting the petitioner or the petitioner's attorney. Commentary: **"Most assets will not be restricted until the appointment".* The actual restricting of the assets is a finding of the Court, however, if the petitioner is seeking to restrict assets to reduce the amount of bond needed, the petitioner or their attorney will know and the Petition may state restrictions sought.
8. Attorney for the Ward/Protected Person: This information is usually found in the Order appointing attorney, investigator and physician. It is also noted on the legal pleadings in the listing of the parties to the case.
9. Petitioner's Information: A majority of this information will be in the Petition for Guardianship and/or Conservatorship. Additional discovery can be made by contacting the petitioner or the petitioner's attorney. If there are multiple "Co-Petitioner's, please attach an additional sheet of paper with the information.
10. Attorney for Petitioner: This information will be in the Petition for Guardianship and/or Conservatorship or noted on the legal pleadings in the listing of parties to the case.
11. Ward/PP Personal Health and Behavioral Factors: Select the applicable box(es). If the Ward/PP has multiple diagnoses, it may result in selecting more than one

box. List the primary and secondary diagnoses found on the physician's report, medical records, guardianship report(s) or subsequent filed risk assessment(s).

12. Ward/PP Residential: Select the applicable box(es) for the current, verified residential environment.

**RISK ASSESSMENT
INSTRUCTIONS - PAGE NO. 2**

The Risk Assessment Tool provides an opportunity for the Investigator to assign a level of risk measurement when assessing the Ward/PP. The current social structure, residential environment, interdependency issues and available resources, and legal and social advocacy services are the key categories related to measuring the Ward/PP's current and future stability and potential for harm or loss. The weight of importance assigned to the assessment criteria will serve as a guide and allow for a risk calculation to be performed.

The court recognizes that not every situation or circumstance relevant to the degree of risk can be captured and measured by this tool. Due to these limitations the Investigator is encouraged to utilize the Risk Assessment Tool uniformly and to its fullest capacity while providing comments and proper justification when deviation from the available scoring range(s) is appropriate.

I. Social Factors

The Court recognizes the many nuances that initially contribute to a party filing a petition for protection of a vulnerable person and provides some examples as follows:

- The Estate or proposed Ward/Protected Person' stability is in a state of flux.
- The family members may find they need to make decisions outside of the scope of their previous experience for a loved one.
- The Ward/PP may need someone to advocate and take charge to stabilize their placement, health or financial well-being.

The previous issues arising prior to the filing of a petition for protection are often intense and stressful. There is an adjustment period and learning curve that gradually helps the family and the Ward/PP become more familiar with one another in their new roles. Issues are frequently resolved over time. Many cases progress to a level of stability.

During the investigation for determination of need of guardian and/or conservator the investigator will have an opportunity to observe the interaction of the proposed Ward/PP within their support structure. The investigator's interviews with the Ward/PP, petitioner, and the available caregivers, family, friends and associates will help determine if it appears there are potential risks identified within the Ward/PP's current social structure.

Likewise, proposed Wards/PP's who have a history of being highly active within their current social structure are likely to have a harder time adjusting to the initial changes brought on by changes in residency and social structure. The losses in autonomy and inability to make independent decisions are significant and may warrant additional post appointment monitoring to ensure autonomy is preserved to the greatest extent possible. Least restrictive alternatives and best interest standards are required by Law.

II. Residential

Routinely, there is a direct correlation between the proposed Ward/PP's residential environment and their current level of stability. The unique circumstances of each individual situation and the proposed Ward/PP's lifestyle preferences contribute significantly to what is safe for one person versus another. Person's at risk of being evicted or discharged unsafely will have a higher for post-appointment follow up. Persons with a history of being electively chronically homeless may be at a lesser risk as this may be more of a preferred lifestyle than a deprivation of structured living. Persons residing with family may in some instances be a stabilizer but in other instances be a higher risk factor depending on the dynamics and available resources and support. Proposed Wards/PP's residing in a licensed institution receives some staffing oversight. Licensed facilities are also subject to the Ombudsman program and have a Resident's Bill of Rights. Complaints are investigated by the Arizona Department of Health Services (ADHS).

III. Guardian/Conservator and Ward/PP Interdependency Issues

A guardian and/or conservator may be residing with the proposed Ward/PP or have become dependent on income or resources of the Ward/PP to address the day to day household expenses. It is sometimes conceptually hard for the petitioner to understand the "new" standards they will be held to as a steward of a vulnerable adult's well being, income or resources. What is in the "best interest" of the Ward/PP may not align with what has been happening historically, pre-adjudication. To the degree possible, the Investigator needs to assess whether there are current

trends that demonstrate these inherent risk factors elevate the need for post-appointment monitoring and make recommendations accordingly.

IV. Legal

The investigator can usually assess whether legal counsel for the Ward/PP will continue by contacting the attorney and asking them what their intentions are. The Ward/PP having legal representation beyond the initial court appointment has an additional layer of legal advocacy and potential oversight available to them. The size of the Estate, case complexities and cost to benefit analysis is usually applied to determine if it is in the proposed Ward/PP's best interest to have continued legal representation. Legal advocacy services provided by the Ward/PP's counsel include the review of the timely filing of guardian/conservator annual reports, inventories, budgets and accounts.

Similarly, when the fiduciary has legal representation it may aid in ensuring some level of guidance for meeting the first year mandatory requirements and general legal guidance throughout the fiduciary's administration. Pro per guardians/conservators may have to seek assistance to complete the first annual mandatory reports and accounts. They may be at more risk of non-compliance with mandatory reporting.

The petitioner with a criminal history in and of itself does not prohibit them from serving as guardian and/or conservator, unless they are an Arizona licensed fiduciary. The court will take into consideration the nature of any criminal history and the duties being delegated by the court prior to appointing a guardian and/or conservator with a criminal history.

*To determine if the petitioner has a poor credit history or is unbondable, the Investigator will need to largely depend on information provided by the petitioner during their interview.

V. Government Entitlement Programs with Advocacy/Auditing Features

A Ward with Federal government entitlements (SSA/VA) has a federal representative payee appointed. The federal government Representative Payee is responsible to prepare and submit an annual summary accounting/report. The report provides some oversight of how much money is spent for the Ward/PP's annual housing, care, personal needs, fiduciary fees and savings accrued. A Ward/PP with government

income entitlements has some inherent oversight for the accountability of this income via the annual reports filed with the federal entity.

A Ward/PP with AZ government entitlements (ALTCS, DES/DDD, RBHS) has a case manager assigned who performs routine case visits and reports back to the government agency as to the Wards well being within the jurisdiction of that specific program. Arizona Long Term Care System (ALTCS) contracts out case management services and the case manager visits quarterly and completes documentation as to the medical, pharmaceutical and overall care plan needs of the Ward/PP. The Department of Economic Securities, Division of Developmental Disability (DES/DDD) provides case managers who oversee the Ward/PP's programming and residential needs to ensure the Individual Service Plan (ISP) is being properly maintained by all of the state's contract providers and the guardian/conservator. Quarterly multi-disciplinary meetings are conducted to ensure the plans goals and objectives for the Ward/PP are being implemented. The Regional Behavioral Health Authority (RBHA) for the region within Arizona where the Ward/PP resides has assigned case management services, day treatment programming, pharmaceutical support and medical group staffing(s). The Ward/PP who is eligible for some level of these services has improved oversight and more frequent contact with the public.

Scoring the Risk Assessment: The Investigator totals the categories I – V and calculates the total score at the bottom of Page No. 2. The corresponding box for the matching range is selected. One Score Range Box is selected from the categories Minimal Risk, Moderate Risk, Maximum Risk.

SCORE RANGE CALCULATION AND RECOMMENDED COURT ACTION INSTRUCTIONS - PAGE NO. 3

The "Score Range Calculation and Recommended Court Action" has two selection boxes to allow the court investigator to check the one box most aligned with the court investigator's final conclusion and recommendation pursuant to the duties prescribed in A.R.S. § 14-5303 and § 14-5407.

Guardianship/Conservatorship Is Recommended - If this box is selected then proceed to complete the recommendation from page 3 or 4 of the Risk Assessment Tool.

Guardianship/Conservatorship Not Recommended - If this box is selected then proceed to the bottom of page 4, sign and complete the data requested and file the form with the court as a supplement to the "Court Investigator's Report" with the "Confidential Envelope."

Select Risk Level – Select the one risk area that is being recommended to the Court (Minimum Risk, Moderate Risk, Maximum Risk) from page 3 or page 4. Add any comments, if desired, to further support the recommendation. If necessary, the Court Investigator can provide additional comments or resource information by attaching a narrative and identifying the specific area being addressed within the source document.

Selecting the Recommended Post Appointment Action

The balancing of the guardianship and/or conservatorship case to the appropriate level of post-appointment oversight is key to the court's success in post appointment Ward/Protected Person and Fiduciary case monitoring. The Investigator needs to make the best recommendation based on the information reasonable available.

Minimum Risk/Moderate Risk - Recommended Court Action(s)

Court to Determine Post Appointment Monitoring Upon Review of the Next Report of Guardian or Account of Conservator

In some unique situations, a recommendation of "Court to Determine Post Appointment Monitoring Upon Review of the Next Report of Guardian or Account of Conservator" is a valid recommendation. The investigator can provide a brief explanation in the comments section.

Ward/Protected Person Visit and Short Questionnaire Completed

The Investigator conducts a Ward/PP interview using a checklist "Short Questionnaire" and allows for brief narrative notes and a recommendation regarding future monitoring. The questionnaire is Ward/PP focused and is not intended to be a full comprehensive assessment or an interview of multiple disciplines.

Guardian/Conservator Visit or Telephonic Interview and Short Questionnaire Completed

The Investigator conducts a fiduciary interview using a checklist "Short Questionnaire" and allows for brief narrative notes and a recommendation regarding future monitoring. The questionnaire is focused on the fiduciary's report of the Ward/PP's wellbeing and current financial situation and does not imply a verification of fact has occurred regarding the information obtained during the fiduciary interview. This selection is not intended to be a full comprehensive assessment or a lengthy interview of the fiduciary. This selection does provide an opportunity to provide some support to the fiduciary who expresses a need and to further direct the fiduciary to Web based court forms and related guardianship and conservatorship internet links.

□ Remote Interview by Video Conferencing or In-Person Interview with Ward/PP and Court Status Report Required (Check Resource Availability)

The Investigator conducts a remote interview by video conferencing or in-person Ward/PP interview using a checklist "Short Questionnaire" and allows for brief narrative notes and a recommendation regarding future monitoring. The questionnaire is Ward/PP focused and is not intended to be a full comprehensive assessment or an interview of multiple disciplines.

□ Financial Statement/Asset Verification Filed w/Court

A record(s) verification would be performed by the assigned investigator with the financial institution, investment company or broker, or through the Recorders office to ensure assets and bank accounts had proper restrictions and were titled and held in a form consistent with the ownership interest and court order. Insurance verification may be performed on assets that require protection from loss or damage. Information can be obtained from the fiduciary if it cannot be obtained otherwise. Financial records should have a date stamp and source reference identifying their authenticity.

Note: The next two recommendations are only available to Court's using Triage Model "B" that allows for non-mandatory post appointment monitoring.

□ Telephonic Interview of Ward/PP and/or Fiduciary and Court Status Report Required

The assigned Investigator would contact the Ward/PP or the Guardian and/or Conservator and perform a brief interview and file a brief narrative status report. The report will specifically address any key issues identified at the onset of the new appointment critical to the individual case and verify the fiduciary is aware of their duties consistent with the "Court Order to Guardians and/or Conservators and Acknowledgement." The assigned investigator would verify both the fiduciary and Ward/PP's address(es). In the event the address is not current, the assigned investigator would provide the court with the current address and contact the fiduciary and advise them they are non-compliant with the "Probate Information Form" requirement. The assigned investigator may provide the fiduciary a reference to locating the form to encourage filing.

This is also an opportunity for the fiduciary to ask any questions regarding the preparing of the mandatory reports and the assigned investigator may be a liaison to aid compliance.

□ No Post Appointment Independent Case Review or Follow-Up Recommended

**SCORE RANGE CALCULATION AND RECOMMENDED COURT ACTION
INSTRUCTIONS - PAGE NO. 4**

Maximum Risk - Recommended Court Action (Score Range 37-56)

- Ward/Protected Person Visit and Long Questionnaire completed and filed
- Guardian and/or Conservator Interview and Long Questionnaire completed and filed
- Provider Interview and Questionnaire completed and filed
- Case Compliance Audit Performed

The assigned investigator would canvas the court docket and court file and complete a mandatory report status grade card. This would establish the fiduciary's timeliness in complying with their mandatory obligations. A lack of timeliness may result in subsequent court fees and fines to the fiduciary.

Forensic Investigation:

A detailed examination of financial records verified with supporting documents to determine if there are any defalcations, misappropriations or neglectful asset management.

Specific areas that may be directed by the court for a forensic investigation are: conservator account reports, financial statements, tax compliance, or asset verifications

Investigator Final Recommendation to the Court (Bottom of page 4)

1. Select the applicable box or boxes being recommended
2. Sign and date
3. Print your name
4. Post the date from the legal document of your appointment date
5. Post the date you are filing the document with the court
6. Comply with the Confidential Envelope requirements pursuant to the Arizona Rules of Probate Procedure, Rule 7.

**COURT ACTION
INSTRUCTIONS - PAGE NO. 5**

This section is completed by the court. The court has the final discretion in determining the appropriate level of case review or monitoring and the selection of the designee.

Types of Designees

A court appointed designee will have a "court appointed investigator" status as granted in the Court's Order enabling the designee to perform the Independent Case Review or other Court action. The Designees suggested like Court Appointed Counsel, Court Staff, Public Fiduciary, Court Investigator already have some court related functions and accountability and the assignment to perform a telephonic interview and file a report or provide an accompanying bank statement when applicable, would result in minimal time and little to no expense depending on the Court's volume of probate cases.

Volunteer Court Visitor - The completion of a Ward/PP visit and completion of a short form questionnaire by a volunteer visitor would result in satisfying the judicial monitoring obligation with minimal to no cost to the Court or Estate. Maricopa County Superior Court has a Volunteer Visitor Program actively in operation. Rural counties may be able to develop some volunteers through CASA, Victim Witness, retirees or Area Agency on Aging programs to facilitate this level of post appointment visitation and reporting.

Independent Contract Investigator/Auditor – The designees performing these services would be independent contractors and would be procured similar to contract counsel. The court appointed designee would require more time and fact gathering, forensic analysis and result in lengthier reporting. This would be most expensive level of monitoring due to the higher risk assessed.

*In Maricopa County, the duties of post appointment court monitoring are delegated among several disciplines, e.g. accounting, examiners and investigators, or the Guardian Review Project. The Court may select more than one box in appointing a designee.

Once a first post appointment visit has been conducted the report can advise the Court if annual, biennial or triennial visits are recommended accordingly.

Triage Model "A" or Triage Model "B"

The Court has an option to choose between Triage Model "A" or Triage Model "B". In addition, the Court, in their discretion, may specifically direct a task to be performed by the post appointment independent case review investigator. Some key issues for specific follow-up to be determined by the court are listed on page "Court's Section" Page No. 5. "Key Issue(s) Pending Verification."

- Minor still attending school of record
- Minor still residing with custodian of record
- Minor's address, telephone and email confirmed
- Minor not at risk of residential displacement
- Fiduciary's address, telephone and email confirmed
- Fiduciary's place of employment verified
- Fiduciary not at risk of foreclosure or eviction
- Fiduciary has proof of medical provider and insurance for Ward
- Fiduciary needs assistance in initial preparation of first annual mandatory reports
- Other: _____

9.0 National Probate Court Standards Specific to Court Oversight and Monitoring:

On July 11, 2001, the Arizona Supreme Court formally adopted the National Probate Court Standards that were developed by the Commission on National Probate Standards, first published in 1999, and directed that these national standards "shall govern probate cases in the superior court." [Administrative Order 2001-63]

Standard 1.3.4, Responsibility for Enforcement

The probate court should be responsible for the enforcement of its orders.

Standard 3.3.15 Monitoring of the Guardian

The probate court should have written policies and procedures to ensure the prompt review of reports and requests filed by guardians

Standard 3.3.17 Enforcement

(a) The probate court should enforce its orders by appropriate means, including the imposition of sanctions. These may include suspension, contempt, removal, and appointment of a successor.

(b) Where the court learns of a missing, neglected, or abused respondent, it should take immediate action to ensure the safety and welfare of that respondent.

Standard 3.4.15 Reports by the Conservator

(a) A conservator should be required to file with the probate court an inventory of the respondent's assets and a statement setting forth a plan to meet the respondent's needs and to allocate resources for those needs, with annual accountings or updates provided by the conservator thereafter.

(b) A conservator should seek initial approval from the court for any significant distributions for the respondent's maintenance and support, and obtain the court's permission before making any significant deviations from the initially approved plan. When considering such applications, the court should balance the immediate benefit of permitting the requested disbursement against the prudence of conserving the respondent's assets for future use.

Standard 3.4.16 Monitoring of the Conservator

The probate court should have written policies and procedures to ensure the prompt review of reports and requests filed by conservators.

1 Proposed Forms
2 Order – Appointing Investigator for Post Appointment Independent Case Review
3 Name: _____
4 Address: _____
5 City, State, Zip: _____
6 Phone: _____
7 Comp.# (if applicable): _____

8 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

9 IN AND FOR THE COUNTY OF _____

10
11 In the Matter of the Guardianship for and/or
12 Conservatorship of:
13 Minor/Protected Person/Incapacitated
14 Person

Cause No.
ORDER APPOINTING INVESTIGATOR FOR
POST APPOINTMENT INDEPENDENT CASE
REVIEW/INVESTIGATION

15 Adult Minor

16 Upon good cause found,

17 IT IS ORDERED:

18
19 (A) Appointing _____, the following Court designee as the court
20 investigator to conduct a post appointment independent case review:

- 21 Court appointed Counsel (CAC)
22 Public Fiduciary
23 Court staff
24 Court Accountant
25 Court Examiner
26 Court Investigator
27 Independent Contract Investigator/Auditor
28

1	<input type="checkbox"/> Volunteer Program (GRP)	
2	(B) The investigator shall conduct a court appointed investigation and independent case	
3	review and file the appropriate report as follows:	
4	<input type="checkbox"/> Court to Determine Post Appointment Monitoring Upon Review of the Next Report of	
5	Guardian or Account of Conservator	
6	<input type="checkbox"/> Ward/PP Visit and Short Questionnaire Completed	
7	<input type="checkbox"/> Remote Interview of Ward/PP by Video Conferencing and Short Questionnaire	
8	Completed	
9	<input type="checkbox"/> Guardian/Conservator Visit or Telephonic Interview and Short Questionnaire	
10	Completed	
11	<input type="checkbox"/> Financial Statement/Asset Verification Filed w/Court	
12	<input type="checkbox"/> Ward/Protected Person Visit and Long Questionnaire completed and filed	
13	<input type="checkbox"/> Guardian and/or Conservator Interview and Long Questionnaire completed and filed	
14	<input type="checkbox"/> Court Compliance Audit Performed - Accountings, Annual Guardian Report(s), Inventory	
15	<input type="checkbox"/> Court Compliance Audit Performed - Accountings, Annual Guardian Report(s), Inventory	
16	<input type="checkbox"/> Forensic Investigation: (This section only applicable to post appointment risk	
17	assessments performed after the initial appointment due to indicators discovered that	
18	potential abuse, neglect or financial exploitation has occurred.)	
19	<input type="checkbox"/> Court Accountings Accuracy and Compliance <input type="checkbox"/> Financial Statements Verification	
20	<input type="checkbox"/> Tax Compliance <input type="checkbox"/> Assets Verification <input type="checkbox"/> Other: _____	
21	Triage Model "B" Exceptions: (These two electives are not applicable to Triage Model "A" –	
22	Mandatory Post Appointment Court Monitoring)	
23	<input type="checkbox"/> Telephonic Interview of Guardian/Conservator and Court Status Report Required	
24	<input type="checkbox"/> No Post Appointment Independent Case Review or Follow-Up	
25	(C) Ordering, the investigator to verify the following information and include their discovery in	
26	their report to the Court as follows:	
27	<input type="checkbox"/> Minor still attending school of record	
28		

- 1 Minor still residing with custodian of record
- 2 Minor's address, telephone and email confirmation
- 3 Fiduciary's employer verified
- 4 Minor not at risk of residential displacement
- 5 Fiduciary's address, telephone and email confirmation
- 6 Fiduciary not at current risk of foreclosure or eviction
- 7 Fiduciary provide proof of medical provider and insurance for Ward/PP/Minor

8 (D) All agencies shall cooperate with the Court appointed Investigator, in
 9 performing their investigation, and the Court appointed Investigator shall have full access
 10 to the records and information belonging to the Ward/Protected Person/Minor specified in
 11 this Order necessary to complete the independent case review investigation.

- 12 Investigations, case management records and status reports;
- 13 Medical records;
- 14 Financial account/asset verification;
- 15 School/employment records;
- 16 Other: _____

17 (E) All financial institutions shall provide copies of financial information and as
 18 requested by the Court appointed Investigator regarding accounts held by or for _____
 19 _____ Ward/Minor/Protected Person.

20 (F) The investigator shall file a written report as to their findings and recommendations
 21 for the ward/protected person/Minor, _____ [Name] _____ by _____ [Date] _____.

22 DATED this _____ day of _____

23
 24
 25
 26
 27 _____
 28 HONORABLE
 Judicial Officer of the Arizona Superior Court
 Division #

1		
2		
3	Copies of the foregoing were mailed/delivered	
4	This _____ day of _____, _____ to:	
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::

:: (Assigned to the Honorable

:: Judicial

::

:: Officer)

::

The welfare and best interest of the person named above ("your ward") are matters of great concern to this Court. By accepting appointment as guardian you have subjected yourself to the power and supervision of the Court. Therefore, to assist you in the performance of your duties, this order is entered. You are required to be guided by it and comply with its provisions, as it relates to your duties as guardian of your ward to your duties as his/her guardian as follows:

1. You have powers and responsibilities similar to those of a parent of a minor child, except that you are not legally obligated to contribute to the support of your ward from your own funds.
2. Unless the order appointing you provides otherwise, your duties and responsibilities include (but are not limited to) making appropriate arrangements to see that your ward's personal needs (such as food, clothing, and shelter) are met.
3. You are responsible for making decisions concerning your ward's educational, social, and religious activities. If your ward is 14 years of age or older, you must take into account the ward's preferences to the extent they are known to you or can be discovered with a reasonable amount of effort.
4. You are responsible for making decisions concerning your ward's medical needs. Such decisions include (but are not limited to) the decision to place your ward in a nursing home or other health care facility and the employment of doctors, nurses, or other professionals to provide for your ward's health care needs. However, you are to use the least restrictive means and environment available that meet your ward's needs.
5. You may arrange for medical care to be provided even if your ward does not wish to have it, **but you may not place your ward in a level one behavioral health facility against your ward's will unless the Court specifically has authorized you to consent to such placement.**
6. You may handle small amounts of money or property belonging to your ward without being appointed as a conservator. As a general rule, "small amount" means that the ward does not receive income (from all sources) exceeding \$10,000.00 per year, does not accumulate excess funds exceeding that amount, and does not own real property. If more than these amounts come into your possession, or are accumulated by you, you are required to petition the Court for the appointment of a conservator.
7. If you handle any money or property belonging to your ward, you have a duty to do each of the following:
 - a. Care for and protect your ward's personal effects;
 - b. Apply any monies you receive for your ward's current support, care, and education needs;
 - c. Conserve any excess funds not so spent for your ward's future needs;
 - d. Maintain your ward's funds in a separate account, distinct from your own and identified as belonging to the ward;

e. Maintain records of all of the ward's property received and expended during the period of the guardianship;

f. Account to your ward or your ward's successors at the termination of the guardianship, ~~if requested~~; and

g. Not purchase, lease, borrow, or use your ward's property or money for your benefit or anyone else's, without prior Court approval.

8. You shall not accept any remuneration of any kind for placing your ward in a particular nursing home or other care facility, using a certain doctor, or using a certain lawyer. "Remuneration" includes, but is not limited to, direct or indirect payments of money, "kickbacks," gifts, favors, and other kinds of personal benefits.

9. You will need to obtain a certified copy of the letters that are issued to you by the clerk of the superior court. Your certified copy is proof of your authority to act as guardian of your ward, and you should have this document available when acting on behalf of your ward. You may need to obtain additional (or updated) copies from time to time for delivery to, or inspection by, the people with whom you are dealing.

10. You are required to report annually, in writing, with respect to your ward's residence, physical and mental health, whether there still is a need for a guardian, and (if there is no conservator) your ward's financial situation. Your report is due each year on the anniversary date of your appointment.

11. If your ward's physical address changes, you shall notify the court by updating the probate information form within three days of learning of the change in your ward's physical address. If your ward dies, you shall notify the court in writing of the ward's death within ten days of learning that the ward has died.

12. You must be conscious at all times of the needs and best interests of your ward. If the circumstances that made a guardianship necessary should end, you are responsible for petitioning the Court to terminate the guardianship and obtaining your discharge as guardian. Even if the guardianship should terminate by operation of law, you will not be discharged from your responsibilities until you have obtained an order from this Court discharging you.

13. If you become unable to continue with your duties for any reason, you (or your guardian or conservator, if any) must petition the Court to accept your resignation and appoint a successor. If you should die, your personal representative or someone acting on your behalf must advise the Court and petition for the appointment of a successor.

14. If you have any questions about the meaning of this order or the duties that it and the statutes impose upon you by reason of your appointment as guardian, you should consult an attorney or petition the Court for instructions.

15. If you are not a licensed fiduciary and are not related by blood or marriage to the ward, you are not entitled to compensation for your services as the ward's guardian. ~~See A.R.S. § 14-5651(J)(1).~~

16. WITHIN THIRTY (30) DAYS AFTER YOUR LETTERS OF GUARDIAN ARE ISSUED, YOU MUST MAIL A COPY OF THIS ORDER TO GUARDIAN AND ACKNOWLEDGEMENT AND INFORMATION TO INTERESTED PERSONS TO THE FOLLOWING:

A. YOUR WARD;

B. YOUR WARD'S ATTORNEY, SPOUSE, PARENTS, AND ADULT CHILDREN;

C. YOUR WARD'S CONSERVATOR IF ONE HAS BEEN APPOINTED FOR YOUR WARD; AND

D. ANY PERSON WHO HAS FILED A DEMAND FOR NOTICE IN CONNECTION WITH THIS MATTER.

This is only an outline of some of your duties as guardian. It is your responsibility to obtain proper legal advice about your duties. Failure to do so may result in personal financial liability for any losses.

WARNING: FAILURE TO OBEY THE ORDERS OF THIS COURT AND THE STATUTORY PROVISIONS RELATING TO GUARDIANS MAY RESULT IN YOUR REMOVAL FROM OFFICE AND OTHER PENALTIES. IN SOME CIRCUMSTANCES, YOU MAY BE HELD IN CONTEMPT OF COURT, AND YOUR CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL, A FINE, OR BOTH.

DATED this _____ day of _____, 20____.

<<Judicial Officer>>

<Judge/Commissioner-Judge Pro Tem>

Superior Court of Arizona in <<county>> County

ACKNOWLEDGEMENT

The undersigned acknowledges receiving a copy of this order and agrees to be bound by its provisions, whether or not he or she read it before signing, as long as he or she is guardian.

<<Guardian Name>>

Date

be filed with the court on or before the first anniversary date of the issuance of your letters of permanent conservator. Unless otherwise ordered by the Court, all subsequent accountings shall reflect all activity relating to the conservatorship estate from the ending date of the most recent previously filed accounting through and including the last date of the twelfth month thereafter, and must be filed with the court on or before the anniversary date of the issuance of your letters of permanent conservator. Each accounting must list all conservatorship property at the beginning of the accounting period and the conservatorship property at the end of the accounting period, and must describe all money and property received or disbursed by you during the accounting period. As to money and property received, you must provide the date of each receipt, the source of the receipt, the purpose of the receipt, and the amount of the receipt. As to money and property disbursed, you must provide the date of each disbursement, the payee/distributee, the purpose of the disbursement, and the amount of the disbursement. With each accounting, you also must submit a bank statement or financial account statement that supports the ending balances of each account shown on the accounting.

10. **NEVER** use any of the protected person's money or property for any reason other than for the protected person's direct benefit. You may not profit in any way from access to the protected person's assets. You have a legal duty of fairness and impartiality to the protected person. Neither you, your friends, nor other family members may profit by dealing in the assets of the conservatorship estate. You must be cautious and prudent in investing the protected person's assets.

11. You must not make speculative investments. Do not purchase merchandise or services that the protected person would have considered extravagant or inappropriate for his/her lifestyle prior to your appointment. Use the assets to maintain the safety, health and comfort of the protected person, bearing in mind that the protected person may have no additional sources of income for the remainder of his/her life.

12. The conservatorship terminates only upon the entry of a court order terminating the conservatorship. The court will enter such an order only after you, the protected person, or another interested person files a petition requesting that the conservatorship be terminated. If the protected person is a minor, such a petition should be filed after the minor becomes 18 years of age, after the conservatorship estate has been exhausted, or after the death of the protected person, whichever occurs first. If the protected person is an adult, such a petition should be filed if the protected person no longer needs a conservator (either because the protected person's disability has ceased or because the conservatorship estate has been exhausted) or after the protected person dies. Unless otherwise ordered by the court or unless, in the case of the protected person's death, you comply with [A.R.S. § 14-5419\(F\)](#), you will need to file a final accounting with the court before you can be discharged of liability in connection with the conservatorship and before your bond is exonerated.

13. If you have any questions as to your duties as a conservator, contact an attorney who handles conservatorships before taking any action.

14. If you are not a licensed fiduciary and are not related by blood or marriage to the protected person, you are not entitled to compensation for your services as the ward's conservator. See [A.R.S. § 14-5651\(J\)\(1\)](#).

15. WITHIN THIRTY (30) DAYS AFTER YOUR LETTERS OF CONSERVATOR ARE ISSUED, YOU MUST MAIL A COPY OF THIS ORDER TO CONSERVATOR AND ACKNOWLEDGEMENT AND INFORMATION TO INTERESTED PERSONS TO THE FOLLOWING:

- A. YOUR PROTECTED PERSON IF YOUR PROTECTED PERSON IS AT LEAST 14 YEARS OF AGE;**
- B. YOUR PROTECTED PERSON'S ATTORNEY, SPOUSE, PARENTS, AND ADULT CHILDREN;**
- C. YOUR PROTECTED PERSON'S GUARDIAN IF ONE HAS BEEN APPOINTED FOR YOUR PROTECTED PERSON; AND**
- D. ANY PERSON WHO HAS FILED A DEMAND FOR NOTICE IN CONNECTION WITH THIS MATTER.**

This is an outline of only some of your duties as conservator. It is your responsibility to obtain proper legal advice about your duties. Failure to do so may result in personal financial liability for any losses.

WARNING: FAILURE TO OBEY THE ORDERS OF THIS COURT AND THE STATUTORY PROVISIONS RELATING TO CONSERVATORS MAY RESULT IN YOUR REMOVAL FROM OFFICE AND OTHER PENAL TIES. IN SOME CIRCUMSTANCES, YOU MAY BE HELD IN CONTEMPT OF COURT, AND YOUR CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL, A FINE, OR BOTH.

DATED this ____ day of _____, 20 ____.

<<Judicial Officer>>

<Judge/Commissioner-Judge Pro Tem>

Superior Court of Arizona in <<County>> County

ACKNOWLEDGEMENT

I, the undersigned, acknowledge receiving a copy of this order and agree to be bound by its provisions, whether or not I read it before signing, as long as I am conservator.

<<Conservator Name>>

Date

Order to Guardian and Conservator

→ Form 4. Order to Guardian and Conservator and Acknowledgement **AND INFORMATION TO INTERESTED PERSONS**

Name of Person Filing Document: _____
 Address: _____
 City, State, Zip Code: _____
 Telephone Number: _____
 Attorney Bar Number (if applicable): _____
 Licensed Fiduciary Number (if applicable): _____
 Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
 IN AND FOR THE COUNTY OF COUNTY

In the Matter of the Guardianship of and	::	No. CaseNo.
	::	
Conservatorship for	::	
	::	
	::	ORDER TO GUARDIAN AND
	::	
Ward's Name ,	::	CONSERVATOR AND
	::	
	::	ACKNOWLEDGEMENT AND INFORMATION TO INTERESTED PERSONS
	::	
	::	
a Minor	::	(Assigned to the Honorable
	::	

:: Judicial Officer)

::

an Adult

::

::

The welfare and best interest of the person named above ("your ward" and "protected person") are matters of great concern to this Court. By accepting appointment as guardian and conservator you have subjected yourself to the power and supervision of the Court. Therefore, to assist you in the performance of your duties, this order is entered. You are required to be guided by it and comply with its provisions because it relates to your duties as guardian of your ward and conservator of your protected person, as follows:

GUARDIAN(S)

1. You have powers and responsibilities similar to those of a parent of a minor child, except that you are not legally obligated to contribute to the support of your ward from your own funds.

2. Unless the order appointing you provides otherwise, your duties and responsibilities include (but are not limited to) making appropriate arrangements to see that your ward's personal needs (such as food, clothing, and shelter) are met.

3. You are responsible for making decisions concerning your ward's educational, social, and religious activities. If your ward is 14 years of age or older, you must take into account the ward's preferences to the extent they are known to you or can be discovered without unreasonable effort.

4. You are responsible for making decisions concerning your ward's medical needs. Such decisions include (but are not limited to) the decision to place your ward in a nursing home or other health care facility and the employment of doctors, nurses, or other professionals to provide for your ward's health care needs. However, you are to use the least restrictive means and environment available that meet your ward's needs.

5. You may arrange for medical care to be provided even if your ward does not wish to have it but you may not place your ward in a level one behavioral health facility against your ward's will unless the Court specifically has authorized you to consent to such placement.

6. You may handle small amounts of money or property belonging to your ward without being appointed conservator. As a general rule, "small amount" means that the ward does not receive income (from all sources) exceeding \$10,000 per year, does not accumulate excess funds exceeding that amount, and does not own real property. If more than these amounts come into your possession, or are accumulated by you, you are required to petition for the appointment of a conservator.

7. If you handle any money or property belonging to your ward, you have a duty to do each of the following:

- a. Care for and protect your ward's personal effects;
- b. Apply any monies you receive for your ward's current support, care, and education needs;
- c. Conserve any excess funds not so spent for your ward's future needs;

- d. Maintain your ward's funds in a separate account, distinct from your own and identified as belonging to the ward;
 - e. Maintain records of all of the ward's property received and expended during the period of the guardianship;
 - f. Account to your ward or your ward's successors at the termination of the guardianship, ~~if requested~~; and
 - g. Not purchase, lease, borrow, or use your ward's property or money for your benefit or anyone else's, without prior Court approval.
8. You shall not accept any remuneration of any kind for placing your ward in a particular nursing home or other care facility, using a certain doctor, or using a certain lawyer. "Remuneration" includes, but is not necessarily limited to, direct or indirect payments of money, "kickbacks," gifts, favors, and other kinds of personal benefits.
9. You will need to obtain a certified copy of the letters that are issued to you by the clerk of the superior court. Your certified copy is proof of your authority to act as guardian of your ward, and you should have the document available when acting on behalf of your ward. You may need to obtain additional (or updated) copies from time to time for delivery to, or inspection by, the people with whom you are dealing.
10. You are required to report annually, in writing, with respect to your ward's residence, physical and mental health, whether there still is a need for a guardian, and your ward's financial situation. Your report is due each year on the anniversary date of your appointment.
11. If your ward's physical address changes, you shall notify the court by updating the probate information form within three days of learning of the change in your ward's physical address. If your ward dies you shall notify the court in writing of the ward's death within ten days of learning that the ward has died.
12. You must be conscious at all times of the needs and best interests of your ward. If the circumstances that made a guardianship necessary should end, you are responsible for petitioning the Court to terminate the guardianship and obtaining your discharge as guardian. Even if the guardianship should terminate by operation of law, you will not be discharged from your responsibilities until you have obtained an order from this Court discharging you.
13. If you should be unable to continue with your duties for any reason, you (or your guardian or conservator, if any) must petition the Court to accept your resignation and appoint a successor. If you should die, your personal representative or someone acting on your behalf must advise the Court and petition for the appointment of a successor.
14. If you have any questions about the meaning of this order or the duties that it and the statutes impose upon you by reason of your appointment as guardian, you should consult an attorney or petition the Court for instructions.
15. If you are not a licensed fiduciary and are not related by blood or marriage to the ward, you are not entitled to compensation for your services as the ward's guardian and conservator. See [A.R.S. § 14-5651\(J\)\(1\)](#).

CONSERVATOR(S)

1. Immediately locate, identify, secure and inventory all of the assets of the protected person and make proper arrangements for their protection, such as changing the locks on the house, renting a safe deposit box for important documents, etc.
2. Immediately take title to all of the protected person's property. The property should be titled in the name of the conservatorship: "(Your name), as Conservator(s) of the estate of (protected person's name)" or "(protected person's name), by (your name), Conservator." Unless otherwise ordered by the court, do not put the protected person's funds into joint accounts, trust

accounts ("in trust for"), or payable on death (POD) accounts. Do not list yourself as beneficiary on any bank accounts or other assets belonging to the protected person.

3. If the Court has ordered you to place funds in a restricted account, you must immediately file a receipt from the bank or financial institution showing that you have deposited the money in an account that the bank has restricted in accordance with the Court order. The receipt should include the name and address of the financial institution, the type of account, the account number, and the amount deposited.

4. Record certified copies of your letters of conservator in each county in Arizona where the protected person owns property in order to protect title to those properties. If the protected person owns property in another state, record letters in the county in that state in which the property is located as well.

5. File your formal inventory with the Court no more than 90 days after your letters of conservator, whether temporary or permanent, were first issued. If you are filing it without an attorney, be sure to put the case name and number on all papers you file with the Court.

6. Keep detailed records of all receipts and expenditures you make on behalf of the protected person, including bills, receipts, bank statements, tax returns, bills of sale, promissory notes, etc. Open a separate conservatorship checking account for deposit of your protected person's income and other receipts and payment of all bills and expenses. Avoid dealing in cash and do not write checks to "cash."

7. Establish a budget, pay the protected person's debts when they become due, and properly invest the protected person's assets. You may hire accountants, attorneys, and other advisors to help you carry out your duties as the size and the extent of the conservatorship estate may dictate.

8. Keep detailed records of the time you are spending in identifying, managing and protecting the conservatorship estate in case you later decide to ask the Court to be paid for your time from the conservatorship estate.

9. File annual accountings with the Court. Unless otherwise ordered by the Court, your first accounting must reflect all activity relating to the conservatorship from the date your letters of conservator, whether temporary or permanent, were first issued through and including the last day of the ninth month after the date your letters of permanent conservator were issued and must be filed with the court on or before the first anniversary date of the issuance of your letters of permanent conservator. Unless otherwise ordered by the Court, all subsequent accounting shall reflect all activity relating to the conservatorship estate from the ending date of the most recent previously filed accounting through and including the last date of the twelfth month thereafter and must be filed with the court on or before the anniversary date of the issuance of your letters of permanent conservator. Each accounting must list all conservatorship property at the beginning of the accounting period and the conservatorship property at the end of the accounting period, and must describe all money and property received or disbursed by you during the accounting period. As to money and property received, you must provide the date of each receipt, the source of the receipt, the purpose of the receipt, and the amount of the receipt. As to money and property disbursed, you must provide the date of each disbursement, the payee/distributee, the purpose of the disbursement, and the amount of the disbursement. With each accounting you also must submit a bank statement or financial account statement that supports the ending balances of each account shown on the accounting.

10. **NEVER** use any of the protected person's money or property for any reason other than the protected person's direct benefit. You may not profit in any way from access to the protected person's assets. You have a legal duty of fairness and impartiality to the protected person. Neither you, your friends, nor other family members may profit by dealing in the assets of the conservatorship estate. You must be cautious and prudent in investing the protected person's assets.

11. You must not make speculative investments. Do not purchase merchandise or services that the protected person would have considered extravagant or inappropriate for his/her lifestyle prior to your appointment. Use the assets to maintain the safety,

health and comfort of the protected person, bearing in mind that the protected person may have no additional sources of income for the remainder of his/her life.

12. The conservatorship terminates only upon the entry of a court order terminating the conservatorship. The court will enter such an order only after you, the protected person, or another interested person files a petition requesting that the conservatorship be terminated. If the protected person is a minor, such a petition should be filed after the minor becomes 18 years of age, after the conservatorship estate has been exhausted, or after the death of the protected person, whichever occurs first. If the protected person is an adult, such a petition should be filed if the protected person no longer needs a conservator (either because the protected person's disability has ceased or because the conservatorship estate has been exhausted) or after the protected person dies. Unless otherwise ordered by the court or unless, in the case of the protected person's death, you comply with [A.R.S. § 14-5419\(F\)](#), you will need to file a final accounting with the court before you can be discharged of liability in connection with the conservatorship and before your bond is exonerated.

13. If you have any questions as to your duties as a conservator, contact an attorney who handles conservatorships before taking any action.

14. WITHIN THIRTY (30) DAYS AFTER YOUR LETTERS OF GUARDIAN AND CONSERVATOR ARE ISSUED, YOU MUST MAIL A COPY OF THIS ORDER TO GUARDIAN AND CONSERVATOR AND ACKNOWLEDGEMENT AND INFORMATION TO INTERESTED PERSONS TO THE FOLLOWING:

- A. YOUR WARD PROTECTED PERSON IF YOUR WARD PROTECTED PERSON IS AT LEAST 14 YEARS OF AGE;**
- B. YOUR WARD PROTECTED PERSON'S ATTORNEY, SPOUSE, PARENTS, AND ADULT CHILDREN; AND**
- C. ANY PERSON WHO HAS FILED A DEMAND FOR NOTICE IN CONNECTION WITH THIS MATTER.**

This is an outline of only some of your duties as conservator. It is your responsibility to obtain proper legal advice about your duties. Failure to do so may result in personal financial liability for any losses.

WARNING: FAILURE TO OBEY THE ORDERS OF THIS COURT AND THE STATUTORY PROVISIONS RELATING TO GUARDIANS AND CONSERVATORS MAY RESULT IN YOUR REMOVAL FROM OFFICE AND OTHER PENALTIES. IN SOME CIRCUMSTANCES, YOU MAY BE HELD IN CONTEMPT OF COURT, AND YOUR CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL, A FINE, OR BOTH.

DATED this ___ day of _____, 20 ____.

<<Judicial Officer>>

<Judge/Commissioner-Judge Pro Tem>

Superior Court of Arizona in <<County>> County

ACKNOWLEDGEMENT

I, the undersigned acknowledge receiving a copy of this order and agree to be bound by its provisions, whether or not I read it before signing, as long as I am guardian and conservator.

<<Guardian/Conservator's Name>>

Date

Proof of Restricted Account from Financial Institution

Name: _____
 Address: _____
 City, State, Zip: _____
 Phone: _____
 Comp.# (if applicable): _____

ARIZONA SUPERIOR COURT, _____ COUNTY

In the Matter of the Conservatorship of: _____ Case No. _____
 Date of birth: _____
Type of Conservatorship:
 Adult Minor

**PROOF OF RESTRICTED ACCOUNT
 FROM FINANCIAL INSTITUTION**

Name of Financial Institution: _____
 Branch Address: _____
 Phone: _____

State of Arizona)
 County of _____) ss.

The undersigned states under oath as follows:
 We have opened the following accounts for the estate in the name of _____
 _____ by _____, conservator.

<u>Account Number</u>	<u>Opening Balance</u>	<u>Type of Account</u>

Proof Of Restricted Account From Financial Institution - Case No. _____

Each account is federally insured by the FDIC or NCUA and is restricted as follows:

No withdrawals of principal, income, or interest will be allowed except by certified order of the Superior Court. Reinvestment may be made without further court order so long as funds remain insured and restricted in this institution at this branch. In the case of a minor, the funds shall not be released to the minor at age eighteen (18) until we receive a certified court order.

We have received a copy of the court's order of _____ that requires the restricted account(s) and we will comply with the order.

DATED: _____

Signature of Representative

Name of Representative

Title

SUBSCRIBED AND SWORN to before me this date: _____

by _____

My Commission Expires:

Notary Public

APPLIES TO ALL ASSIGNEES

By signing above you are stating for yourself and your successors that you have restricted these accounts from all debit activity unless otherwise ordered by the court.

Form 5 (Contained in Rule 38)

Form 5. PETITIONER'S GOOD FAITH ESTIMATE

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Licensed Fiduciary Number (if applicable): _____
Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF «COUNTY»

IN THE MATTER OF THE
CONSERVATORSHIP FOR

«Protected Person's Name»,

- a Minor
 an Adult

NO. «CaseNo.»

PETITIONER'S
GOOD FAITH ESTIMATE

Amendment

(Assigned to the Honorable
«Judicial Officer»)

Confidential Document
Rule 7, Rules Probate Proc.

REQUIRED ATTACHMENTS, which are to be attached in the following order:

- SCHEDULE 1: Good Faith Estimate
 Supporting Detail for SCHEDULE 1, as necessary

PETITIONER'S CERTIFICATION

I, the undersigned, acknowledge that I have read and reviewed this form, accompanying schedule and attached supplements, and after reasonable inquiry have a good faith belief that the information in this report is true, accurate and complete to the best of my knowledge and belief.

<<Petitioner's Name>>

<<Date>>

Form 5. Continued

**INSTRUCTIONS FOR FORM 5:
PETITIONER'S GOOD FAITH ESTIMATE**

Purpose of Form:

Use Form 5 to prepare a good faith estimate of disbursements that you, as the Petitioner, anticipate during the first year of administration of the proposed conservatorship. This good faith estimate is required by Rule 30.1, Arizona Rules of Probate Procedure, and may form the basis for financial orders the Court may enter if a conservator is appointed.

Of course, at the time of filing the Petition, a good faith estimate may be difficult, because some information about the needs of the proposed protected person may not be available, just as some of the conservatorship operating costs may be unknown.

The judge understands these inherent challenges in preparing a good faith estimate and understands that these difficulties may limit your ability to make reliable estimates of some probable costs. **However, as the Petitioner, you are required to submit a good faith estimate based upon the information that is reasonably known by you following reasonable efforts to obtain the necessary information.**

Additionally, please provide a brief description of each estimate on each line of the statement. This is not a requirement to provide supporting documentation, just a brief description of the rationale or basis for your estimates.

If you are unable to complete all or part of a good faith estimate, complete a written statement attesting to your due diligence and describing your efforts to acquire any needed information which was ultimately unobtainable.

Please note: you are not required to provide an estimate for medical costs; this information is commonly unavailable due to privacy considerations. However, if you can make a good faith estimate of medical costs, you should do so.

When to File:

Form 5 is filed at the time the petition is filed but should be filed separately as a confidential document; the estimate is not available for public inspection.

While the Petition is pending, you have an obligation to amend your good faith estimate if, after filing your original Form 5, you learn additional information which changes your

original estimate. The amended Form 5 shall be filed not less than five (5) days prior to the hearing on the Petition.

General Instructions:

All references in these instructions to "you" refer to the Petitioner. All references to "year" refer to the first twelve months following the issuance of Letters of Appointment of a conservator.

Form 5 requires attachment of SCHEDULE 1: Good Faith Estimate. If there is insufficient space on SCHEDULE 1 for you to provide any required supporting detail, you are required to attach the supporting detail as separate page(s).

As to any supporting detail to SCHEDULE 1, identify the line on SCHEDULE 1 and, if appropriate, column being described.

Helpful Suggestion:

These instructions assume that Form 5 and SCHEDULE 1 are being completed manually with paper forms. However, Form 5 and SCHEDULE 1 are also available in an electronic format at no cost and will automate all of the calculations. Please see: www.azcourts.gov/fadd_full_cite/

Notice:

Any estimates allowed or required by these instructions are not designed or intended as a basis for civil liability, criminal liability, or to serve as the basis for litigants to seek collateral remedies against each other or obtain tactical advantages in proceedings before a court.

Specific Instructions:

SCHEDULE 1 (Form 5): Good Faith Estimate

Column Instructions: SCHEDULE 1 consists of three columns.

- Column A includes the estimated monthly disbursements of the conservatorship. These are typically recurring disbursements that repeat from month-to-month.

- Column B includes the estimated annual disbursements. This includes one-time disbursements and twelve months of the estimated monthly disbursements described in Column A.
- Column C includes your description of the estimated disbursements; if additional space is required, attach supporting detail.

Line Instructions:

If the estimate for any line is zero, enter 0.

If the estimate for any line is unknown, write "unknown" for that line.

As to each entry, provide a brief description in Column C; if additional space is required, attach supporting detail on a separate page.

Estimated one-time, first year disbursements:

Line 1 – Estimated Fiduciary Fees and Costs UNTIL Filing of Inventory: Enter in Column B the one-time, estimated fiduciary fees and costs incurred or projected to be incurred by the proposed protected person's estate until the filing of the inventory as required by Arizona Revised Statutes section 14-541B. Do NOT enter on line 1 the regular and recurring monthly fiduciary fees and costs which are properly entered on line 13.

Most professional fees and costs are subject to the Statewide Fee Guidelines, which are included with the Rules of Probate Procedure.

Line 2 – Estimated Fiduciary's Attorney Fees & Costs UNTIL Filing of Inventory: Enter in Column B the one-time, estimated fiduciary's attorney fees and costs incurred or projected to be incurred by the proposed protected person's estate until the filing of the inventory. Do NOT enter on line 2 the regular and recurring monthly fiduciary's attorney fees and costs which are properly entered on line 14.

In making any estimates of attorney fees, you may assume that the Petition will not be significantly contested unless you have reason to believe the Petition will be contested.

Line 3 – Estimated Protected Person's Attorney Fees & Costs UNTIL Filing of Inventory: Enter in Column B the one-time, estimated protected person's attorney fees and costs incurred or projected to be incurred by the proposed protected person's estate until the filing of the inventory. Do NOT enter on line 3 the regular and recurring monthly protected person's attorney fees and costs which are properly entered on line 15.

Line 4 – Estimated Other One-Time, First Year Disbursements: Enter in Column B any other known or probable one-time disbursements during the first year of a conservatorship. Provide a brief description as supporting detail.

Line 5 – Total Estimated One-Time, First Year Disbursements: Enter in Column B the sum of lines 1 through 4.

Estimated monthly, first year disbursements:

Line 6 – Estimated Food, Clothing, and Shelter: Enter in Column A the monthly estimated disbursements for goods or services provided to a protected person that are essential for survival including food, clothing, and shelter; do not include medical costs.

For the limited purpose of estimating a disbursement on this line, disbursements for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.

For example: Enter the regular fees to a care facility, required companions or care providers, food, clothing, toiletries, utilities, or household expenses, including home mortgage payments.

Line 7 – Estimated Medical Costs (Optional): An entry on line 7 is optional; you are not required to provide a good faith estimate of medical costs.

However, if you can provide a good faith estimate for medical costs AND if you elect to do so, enter in Column A the monthly estimated medical payments for the protected person, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription and non-prescription medicines, insurance premiums and co-pays.

Line 8 – Estimated Dignity Funds: Enter in Column A the estimated monthly funds that will be released directly to the protected person as a spending allowance. Do NOT estimate how the protected person may expend these funds; these funds are no longer considered part of the conservatorship estate.

Line 9 – Estimated Debt Service on Liabilities: Enter in Column A the estimated monthly debt service payments on debts, such as loans and personal debts of the protected person.

Please note: Do NOT include the home mortgage payment on the residence where the protected person resides, this is included on line 6.

Line 10 – Estimated Discretionary Expenditures: Enter in Column A the estimated monthly discretionary expenditures.

Discretionary expenditures includes all goods and services provided to a protected person that are not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person, such as entertainment and vacation costs. Discretionary care does NOT include expenditures that are estimated on another line on SCHEDULE 1.

Line 11 – Estimated Other Disbursements for Protected Person: Enter in Column A any other estimated monthly disbursements for the protected person that are not included on another line on SCHEDULE 1, including estimated disbursements made for a dependent of the protected person.

Line 12 – Total Estimated for Protected Person: Enter in Column A the sum of lines 6 through 11.

Line 13 – Estimated Fiduciary Fees and Costs, Excluding Line 1: Enter in Column A the estimated monthly disbursements for fiduciary fees and costs, excluding one-time, first year disbursements made until the filing of the inventory. Said another way, do not include any fees and costs included on line 1.

Fees are compensation paid to the fiduciary. Costs include administrative charges that are authorized in the Statewide Fee Guidelines, such as filing fees and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing and shelter.

Line 14 – Estimated Fiduciary's Attorney Fees and Costs, Excluding Line 2: Enter in Column A the estimated monthly fiduciary's attorney fees and costs, excluding one-time, first year disbursements made until the filing of the inventory. Said another way, do not include any fees and costs included on line 2.

Line 15 – Estimated Protected Person's Attorney Fees and Costs, Excluding Line 3: Enter in Column A the estimated monthly protected person's attorney fees and costs, including fees and costs to any court-appointed counsel or guardian ad litem; do not include one-time, first year disbursements made until the filing of the inventory. Said another way, do not include any fees and costs included on line 3.

Line 16 – Estimated Other Administrative Fees and Costs: Enter in Column A the estimated monthly disbursements that are an administrative fee or cost of the conservatorship that are NOT included on another line on SCHEDULE 1, such as a financial advisor or accountant.

Provide a brief description explaining any estimated other administrative fee and cost.

Line 17 – Total Estimated Administration Disbursements: Enter in Column A the sum of lines 13 through 16.

Line 18 – Total Estimated MONTHLY Disbursements: Enter the sum of lines 12 and 17 in Column A.

Line 19 – Total Estimated ANNUAL Disbursements: If you have not already done so, multiply all the entries in Column A by 12 and enter each result in Column B. Enter the sum of lines 5, 12 and 17 in Column B.

Line 20 – Due Diligence Statement: If you entered "unknown" on any line of the good faith estimate, except for medical costs, you are required to describe the efforts taken to acquire any needed information, which was ultimately unobtainable at the time of the good faith estimate.

FORM 5: Petitioner's Good Faith Estimate:

Form 5 is largely a self-explanatory document; it serves as a coversheet for your good faith estimate.

When filing Form 5, you are required to attach SCHEDULE 1. You may attach supporting detail if the space provided on SCHEDULE 1 is insufficient for your description of estimated disbursement. Check each box on Form 5 for each included attachment.

When amending Form 5, include any attachments that are changed as a result of the amendment. Check each box on an amended Form 5 for each included attachment.

Organize all required attachments in the same order as shown on Form 5.

Sign Form 5 when you are finished and have reviewed the form and all required attachments. When you sign, you are certifying that you have read and reviewed the entire report and, after reasonable inquiry, you have a good faith belief that the information in this report is true, accurate and complete to the best of your knowledge and belief.

If the Petition to appoint a conservator is granted, the conservator will use Form 6 if the Court requires an operating budget. A budget is typically due 90 days after issuance of Letters of Appointment. At the time of the first annual conservator's account, the conservator will use Form 7. Instructions are included with each form.

In the matter of: _____ Case No. _____

SCHEDULE 1 (Form 5):
Good Faith Estimate

(Refer to Form 5 instructions to Complete SCHEDULE 1)

Column A	Column B	Column C
Monthly Estimates	Annual Estimates For First Year	Description of Estimated Disbursement

If additional space is required, attach supporting data.

ESTIMATED ONE-TIME, FIRST YEAR Disbursements (Money Spent):

1. Estimated Fiduciary Fees and Costs UNTIL Filing of Inventory
2. Estimated Fiduciary's Attorney Fees & Costs UNTIL Filing of Inventory
3. Estimated Protected Person's Attorney Fees & Costs UNTIL Filing of Inventory
4. Estimated Other One-Time Disbursements (provide description)
5. Total Estimated One-Time Disbursements (add lines 1 through 4)

ESTIMATED MONTHLY, FIRST YEAR Disbursements (Money Spent):

- Spent for Protected Person:
6. Estimated Food, Clothing, and Shelter
 7. Estimated Medical Costs (OPTIONAL)
 8. Estimated Dignity Funds
 9. Estimated Debt Service on Liabilities
 10. Estimated Discretionary Expenditures
 11. Estimated Other for Protected Person (attach detail)
 12. Total Estimated for Protected Person (add lines 6 through 11)

Spent for Administration Fees & Costs, Excluding

One-Time, First Year Disbursements (lines 1 through 4):

13. Estimated Fiduciary Fees & Costs
14. Estimated Fiduciary's Attorney Fees & Costs
15. Estimated Protected Person's Attorney Fees & Costs
16. Estimated Other Administrative Fees & Costs (provide description)
17. Total Estimated Administration Fees & Costs (add lines 13 through 16)

18. Total Estimated Monthly Disbursements (add lines 12 & 17)

19. Total Estimated Annual Disbursements (add lines 5, 12 & 17)

20. Due Diligence Statement:

Forms 6-10 (Contained in Rule 38)

Form 6. CONSERVATOR'S 90 DAY REPORT

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Licensed Fiduciary Number (if applicable): _____
Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF «COUNTY»

IN THE MATTER OF THE CONSERVATORSHIP FOR «Protected Person's Name», <input type="checkbox"/> a Minor <input type="checkbox"/> an Adult		NO. «CaseNo.» CONSERVATOR'S 90 DAY REPORT <input type="checkbox"/> Amendment (Assigned to the Honorable «Judicial Officer») Confidential Document <i>Rule 7, Rules Probate Proc.</i>
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REQUIRED ATTACHMENTS, which are to be attached in the following order:

- INVENTORY
- SCHEDULE 1: Statement of Receipts and Disbursements
- SCHEDULE 2: Statement of Net Assets
- SCHEDULE 3: Statement of Sustainability of Conservatorship
- Supporting Detail required for SCHEDULE 1
- Supporting Detail required for SCHEDULE 2
- Supporting Detail required for SCHEDULE 3

CONSERVATOR'S CERTIFICATION

I, the undersigned, acknowledge that I have read and reviewed this form, accompanying schedules and attached supplements, and after reasonable inquiry have a good faith belief that the information in this report is true, accurate and complete to the best of my knowledge and belief.

<<Conservator Name>>

<<Date>>

Form 6. Continued

INSTRUCTIONS FOR FORM 6: FIRST CONSERVATOR'S ACCOUNT

Purpose of Form:

Use Form 6 to prepare and report the "90 Day Report", which includes an Inventory, Initial Budget, and Initial Calculation of the Sustainability of the Conservatorship.

This form is the precursor to filing the first conservator's account on Form 7, and each subsequent conservator's account on Form 8, until you file your final account on Form 9. If you are required to provide a budget with your annual conservator's account, report the budget on each respective form.

If this conservatorship consists of a small estate or has very little activity, you can ask the Court to simplify your filing requirements, such as:

- Filing only an Inventory, rather than a complete Form 6, and
- Filing Form 10 for each of your conservator's accounts, which is a simplified annual reporting form.

However, you must file the detailed reports, unless simplified reporting procedures are authorized by the Court.

When to File:

Generally, a conservator is required to file three reports 90 days after their appointment: the Inventory, Initial Budget, and an Initial Calculation of Sustainability of the Conservatorship. All three required reports are included in Form 6, which is a comprehensive 90 day report.

However, you must review the Court's orders in your case, which may establish a different due date or different reporting requirements that the conservator is required to follow, since every conservatorship is unique to some degree.

Form 6 is filed as a confidential document; the report is not available for public inspection.

General Instructions:

All references in these instructions to "you" refer to the conservator, and all references to "year" refer to the reporting or accounting period, even though the first conservator's account typically covers a nine month period.

Unless otherwise ordered by the Court, Form 6 requires attachments, including but not limited

to the official Inventory; SCHEDULE 1) Statement of Receipts and Disbursements; SCHEDULE 2) Statement of Net Assets; and SCHEDULE 3) Statement of Sustainability of Conservatorship. In addition to the required schedules, certain answers require supporting detail, which are also required attachments to Form 6. As to any supporting detail, identify the schedule, line and, if appropriate, column that is detailed.

You should complete the Inventory and then the required schedules prior to completing Form 6, because Form 6 is essentially a coversheet as you gather together your complete report, and it includes a certification that the report is true, accurate and complete to the best of your knowledge and belief. Don't sign this certification until you have read and reviewed the completed report.

Helpful Suggestion:

These instructions assume that Form 6 and all schedules are being completed manually on paper forms. However, Form 6 and all schedules are also available in an electronic format at no cost and will automate all of the calculations. Please see: www.azcourts.gov/add_full_cite

Notice:

Any estimates allowed or required by these instructions are not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

Specific Instructions:

Inventory:

An Inventory is required from a conservator and is included as an attachment to Form 6. Please see Section 14-5418 Arizona Revised Statutes and Arizona Probate Rule 30.

Unless otherwise ordered by the Court, do not include any property in your inventory that is titled in the name of a different legal entity,

such as property held by a trust or corporation, unless you as conservator can exercise a power of direction over the asset. A power of direction includes the ability to direct the other legal entity to transfer title or possession to the property.

When listing the value of all assets do NOT deduct any liens or mortgages. Report debts separately as liabilities but identify if any debt is secured against any particular asset.

SCHEDULE 1 (Form 6): Statement of Receipts and Disbursements

Column Instructions:

SCHEDULE 1 consists of columns that mostly do not apply to Form 6. Only Column F is utilized with Form 6. **Please note: Columns A through E, as well as Column G, are not used on Form 6 and are intentionally left blank.**

Column F – Budget Current Year: Complete Column F if the court requires a budget for the year that is just beginning. This is where you present a budget of receipts and disbursements for the coming year.

Please note: unless otherwise directed by the Court, your Budget for the current year is for the first nine (9) months after your appointment; the first budget is not for an entire year.

Line Instructions:

As you determine what to enter on each line, please remember that transactions are recognized on SCHEDULE 1 when money is received or money is disbursed by the conservatorship. In accounting terms, transactions are recognized on a cash basis; you list receipts and disbursements when money effectively changes hands.

For example, if a cost is incurred but not paid before the end of a reporting period, the cost is not listed as a disbursement until paid.

For example, if a check is mailed before the end of a reporting period but does not clear the bank until early in the next reporting period, the disbursement is treated as paid when the check was mailed.

Receipts reported on SCHEDULE 1 include any money, whether income to the estate, liquidation of any general estate asset, or the proceeds of any loan to the estate.

Once you determine which columns of SCHEDULE 1 are required, complete each row as follows:

Line 1 – Start Date of each Period: Enter the start date for each period.

For example, if a conservator is appointed on October 1, 2011, the first budget and first conservator's account will cover the nine months ending on June 30, 2012. Typically, the first conservator's account would then be due on September 30, 2012, for the period from October 1, 2011 to June 30, 2012:

- Column F will have a start date of October 1, 2012.

Line 2 – End Date of each Period: Enter the end date for each period. Using the preceding example, the end date is June 30, 2012.

Line 3 – Retirement and Disability Income:

Enter all regular and recurring income that is expected as a result of retirement or disability, including but not limited to Social Security, Railroad Retirement, pension benefits, Social Security Disability, Supplemental Security Income, and worker's compensation benefits. Do NOT include distributions from tax-deferred investments, such as 401K and IRA funds. *Remember: unless otherwise ordered by the Court, the budget is for nine months.*

Line 4 – Annuities, Structured Settlements, and Trust Income:

Enter all income that is expected from annuities, structured settlements, or trust income that is not already included in line 3.

Line 5 – Wages and Earned Income:

Enter all expected wages and earned income of the protected person that is not included in lines 3 or 4.

Line 6 – Investment and Business Income:

Enter all expected investment and business income, including but not limited to interest, dividend, rent, and royalty income that is not included in lines 3, 4 or 5.

Line 7 – Other Receipts:

Enter any other expected receipts that are not included in lines 3 through 6, including but not limited to any other income, any distributions from tax-deferred investments, such as 401K or IRA funds, any amount expected from selling an asset, or the proceeds from any new loan to the protected estate. Attach a detailed statement explaining the other receipts.

Line 8 – Total Receipts:

Add lines 3 through 7 in each column to calculate the Total Receipts budget.

Line 9 – Assets/Liabilities as Receipts:

The number you reported on line 8 shows the total receipts expected to the conservatorship, but it is also important for the Court to know whether

the conservatorship is going to be able to meet the lifetime needs of the protected person; and for this reason, the court needs to know how much of the receipts are expected to come from consuming assets or from borrowing money.

Enter on line 9 the amount of money that is already included in line 8 that is expected to come from selling or liquidating an asset or from incurring a new liability.

For example, if you expect a required minimum distribution from an IRA fund which pays out the earnings as well as some amount of the principal, enter the total distribution on line 7 and enter the amount of the principal expected on line 9.

For example, if you expect the proceeds from an installment sale over a period of years, and this year you expect interest on the unpaid balance plus a payment on the balance due, enter the total payment expected this year on line 7 and enter the principal portion of the receipts on line 9.

For example, if you expect to sell an asset, such as a residence, enter the net amount expected on line 7 and enter the same amount on line 9.

For example, if the conservator expects to borrow money to pay the bills of the protected person, enter the amount of the new loan on lines 7 and 9 and include as a liability on SCHEDULE 2.

Line 10 – Total Income included in Receipts: Subtract line 9 from the Total Receipts on line 8.

Line 11 – Food, Clothing, and Shelter: Enter the expected disbursements for goods or services provided to a protected person that are essential for survival, excluding medical costs but including food, clothing, and shelter for the protected person. (For the limited purpose of reporting a disbursement on line 11, expenditures for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.)

For example: enter the regular fees to a care facility, required companions or care providers, food, clothing, toiletries, utilities, or household expenses including home mortgage payments for the protected person's residence.

Line 12 – Medical Costs: Enter all of the expected medical payments for the protected person that are not included on line 11, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription and non-prescription medicines, insurance premiums and co-pays.

Line 13 – Dignity Funds: Enter the amount of funds that are budgeted to release directly to the protected person as a spending allowance. Do NOT report how the protected person expends these funds; these funds are no longer considered part of the conservatorship estate once distributed.

Line 14 – Debt Service on Liabilities: Enter the amount of expected debt service payments on debts, such as loans and personal debts of the protected person.

- Do NOT include the home mortgage payment on the residence where the protected person resides (this was reported on line 11).
- Do NOT include as debt service any disbursements for obligations incurred in a prior period of the conservatorship, such as fiduciary and attorney fees and costs. Report these amounts in the appropriate disbursement category when paid.

For example, if the fiduciary earned a fee in one period, but the fee is paid in a later period, the fee is reported as a disbursement on line 18 when expected to be paid, NOT line 14. Any operating bills of the conservatorship are treated in the same manner, such as fees to care providers that are incurred but not paid until a later year.

For example, if the protected person has an outstanding credit card debt that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the protected person has an outstanding car loan that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the Conservator takes out a loan for the benefit of the protected person, such as a loan to fund the needs of the protected person until real estate or a business interest is sold, all debt service payments on this debt are reported on line 14.

Line 15 – Discretionary Expenditures: Discretionary expenditures means all goods and services provided to a protected person that are not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person, such as entertainment and vacation costs. Discretionary care does NOT include expenditures that are included on another line on SCHEDULE 1.

Line 16 – Other Disbursements for Protected Person: Report other disbursements that are expected for the protected person but

not included on another line on SCHEDULE 1, including disbursements that are made for a dependent of the protected person. Include on line 16 the purchase of any asset, such as a residence, vehicle, or computer. Attach supporting detail explaining the other disbursements.

For example, if a residence is purchased for the protected person, report the planned cash down-payment on line 16, mortgage payments on line 11, and list the mortgage as liability on SCHEDULE 2. (see line 24 where this down-payment is also entered)

For example, if the conservator plans to invest in a marketable security, such as a mutual fund or publicly traded stock, enter the disbursement on line 16 (see line 24 where this purchase is also reported).

For example, enter on line 16 any tax payment that is not already listed on another line.

Line 17 – Total for Protected Person: Enter the sum of lines 11 through 16.

Line 18 – Fiduciary Fees and Costs: Enter the anticipated expenditures for Fiduciary Fees and Costs. Fees are compensation paid to the Fiduciary. Costs include administrative charges that are authorized in the Statewide Fee Guidelines, such as filing fees and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing and shelter.

Line 19 – Fiduciary’s Attorney Fees and Costs: Enter the Fiduciary’s Attorney Fees and Costs.

Line 20 – Protected Person’s Attorney Fees and Costs: Enter the Protected Person’s Attorney Fees and Costs, including court-appointed counsel and any guardian ad litem, if paid by the conservator.

Line 21 – Other Administrative Fees and Costs: Report other disbursements that are expected as an administrative fee or cost of the conservatorship that are NOT included on another line on SCHEDULE 1, such as an appraiser, financial advisor, court investigator, or accountant. Attach supporting detail explaining any other expenditure.

Line 22 – Total Administration Disbursements: Enter the sum of lines 18 through 21.

Line 23 – Total Disbursements: Add lines 17 and 22.

Line 24 – Assets/Liabilities as Disbursements: The number you reported on line 23 shows the total budgeted disbursements

of the conservatorship, but the court also needs to know how much is planned for disbursement to satisfy debts or acquire assets.

Enter the amount that is included in line 23 that will reduce the principal balance of a debt or be used to acquire an estate asset.

For example, if you will expend funds on an installment purchase over a period of years, and this year you pay interest on the unpaid balance plus a payment on the balance due, enter the total payment (interest and principal) on line 14 and enter the principal portion of the payment on line 24.

For example, if you will buy a residence for the protected person, enter the net amount planned to disburse as a down-payment on line 14 and enter the same amount on line 24. Thereafter, any mortgage payments are reported on line 11, and this obligation will now be reported as a debt on SCHEDULE 2.

For example, if the conservatorship previously borrowed money to pay the bills of the protected person, enter any debt service payment for the loan on line 14 (including principal and interest), and enter the principal amount paid (but not interest) on line 24.

Line 25 – Total Expenses in Disbursements: Subtract line 24 from the Total Disbursements on line 23.

Line 26 – Total Surplus/ (Shortfall): Enter line 8 minus line 25. If the amount is positive, this is a cash-flow Surplus. If the amount is negative, this is a cash-flow Shortfall, and the number must be displayed in parentheses or preceded by a negative sign.

Line 27 – Net Income/ (Net Expenses): Enter line 10 minus line 25. If the amount is positive, this is the amount by which income is budgeted to exceed expenses. If the amount is negative, this is the amount by which expenses are budgeted to exceed the income of the conservatorship, and a negative number must be displayed in parentheses or preceded by a negative sign.

SCHEDULE 2 (Form 6): Statement of Net Assets

Section 1 – Net Assets: The first section of SCHEDULE 2 includes a summary of the inventory.

Column Instructions:

SCHEDULE 2 consists of columns that mostly do not apply to Form 6. Only Column B is utilized with Form 6. **Please note: Column A and**

Columns C through E are not used on Form 6 and are intentionally left blank.

Column B – Inventory Summary: Complete Column B to display a summary of your Inventory.

When reporting the value of all general assets do NOT deduct any liens or mortgages. Debts are separately reported as liabilities.

Line Instructions:

Line 1 – Valuation Report Date: Enter the date of the Inventory.

Line 2 – Real Estate: Enter the value of all real estate owned by the estate, such as the residence of the protected person, any rental or vacation real estate, and any cemetery plots. *Remember to enter the gross value of ALL assets and do not deduct liens or mortgages; ALL liabilities are listed separately on line 17 as debts.*

Line 3 – Vehicle(s): Enter the value of any vehicles, such as a personal automobile, motorcycle, golf cart, watercraft, airplane, or recreational vehicle.

Line 4 – Business Ownership Interests: Enter the value of any business ownership interests, such as a closely held family business. Do not list shares in a publicly traded corporation on line 4.

Line 5 – Household Items and Personal Effects: Enter the value of household items and personal effects that are owned by the protected person, which commonly include the property that the protected person stored in his or her primary residence, including displayed collectible items. Property with significant value, like precious jewelry and valuable collections, should be itemized and included separately on line 8.

Line 6 – Stocks, Bonds, and Mutual Funds, not tax-deferred: Enter the present value of stocks, bonds, mutual funds, and other marketable securities, such as savings bonds and learner bonds, but excluding business interests that were entered on line 4 or tax-deferred assets that are entered below on line 7.

Line 7 – Tax-Deferred Assets: Enter the present value of tax-deferred assets, such as IRA and 401(k) accounts. Include all tax-deferred assets, including but not limited to tax-deferred cash accounts, certificates of deposit, savings accounts, and brokerage accounts.

Line 8 – Other General Assets: Enter the present value of all other assets that are not already listed, excluding cash and regular bank accounts. Include the cash value of any

insurance policies or any prepaid benefits, such as prepaid funeral plans.

Line 9 – Total General Assets: Enter the sum of lines 2 through 8.

Line 10 – Bank Accounts, Restricted Access: Enter the cash balance of any bank accounts that are court-restricted, meaning funds may not be withdrawn without a court order. Bank accounts include checking, saving, certificates of deposit, money market accounts, and all functionally similar accounts, whether in a bank, savings and loan, credit union, or other similar financial institution. Do not include tax-deferred assets that were listed above on line 7.

Line 11 – Bank Accounts, Unrestricted Access: Enter the cash balance of any bank accounts that are NOT court-restricted, meaning funds may be withdrawn without a court order.

Line 12 – Cash on Hand: Enter the amount of currency that you have on behalf of the estate, such as a petty cash fund. Do not include coin collections on this line, unless the coins have no collectible value above the face value of the coins.

Line 13 – Other Money-Denominated Assets: Enter the value of other money denominated assets, such as a cash card. These assets are functionally equivalent to money in a bank account and do not change in value by market fluctuation, except by receipt of a dividend or interest. Attach supporting detail.

Line 14 – Total Cash and Bank Accounts: Enter the sum of lines 10 through 13.

Line 15 – Total Available Assets: Add lines 9 and 14.

Line 16 – Bills & Payables more than 30 days old: Enter the amount of any and all just-due bills and payables, plus ALL incurred but unpaid fiduciary and attorney fees and costs, as of the end of the reporting period. Attach supporting detail.

Line 17 – Debts: Enter the amount of all other debts, such as notes, mortgages, credit cards and personal loans, as of the end of the reporting period. Attach supporting detail.

Line 18 – Total Liabilities: Add lines 16 and 17.

Line 19 – Net Assets: Enter line 15 minus line 18. This is the value of the net assets as of the date of the reporting period.

Section 2 – Reconciliation of Conservator's Account: The second section of SCHEDULE 2 does not apply to Form 6 and is intentionally left blank.

SCHEDULE 3 (Form 6): Statement of Sustainability of Conservatorship

The purpose of SCHEDULE 3 is to estimate how long the conservatorship estate can meet the expenses of the protected person, and then to compare whether that duration is longer or shorter than the estimated lifespan of the protected person. A conservatorship estate that can meet the predicted expenses of a protected person is considered sustainable, while a conservatorship estate that cannot is not sustainable. A conservatorship estate must have a written management plan if it is not sustainable.

Column Instructions:

SCHEDULE 3 consists of columns that mostly do not apply to Form 6. Only Column B is utilized with Form 6. **Please note: Column A and Columns C through E are not used on Form 6 and are intentionally left blank.**

Column B – Original Sustainability

Estimate: Complete Column B to provide your estimates on the sustainability of the conservatorship. Your estimates should be based upon the most current information that is reasonably available to you.

As a reminder, the information provided on this schedule is a good faith estimate based upon the information that is reasonably available to you. Some information may be easy to calculate and should be accurate, such as money available in bank accounts, but some information is very difficult to estimate, such as the projected life expectancy of the protected person. This schedule requires you to share what you believe to be true, not what you can prove to be true. You are not making an avowal; you are telling the Court what you think is true in this particular case for this particular protected person.

Line Instructions:

Line 1 – Report Date of Sustainability

Estimate: Enter the date of the report of sustainability.

Overview of Lines 2 through 4: You calculated the net assets of the conservatorship estate on SCHEDULE 2, but there may be additional factors that may impact those assets looking forward, such as additional assets that might come from an inheritance or a personal injury claim. Likewise, looking forward, some assets might be needed for known one-time expenditures, such as a major medical expenditure or the startup costs for the conservatorship. Once these adjustments are made, if any, the remaining net assets should be available to meet the typical or recurring needs of the protected person.

Said another way, you are calculating the net assets that are thought to be available to meet the regular and recurring needs of the protected person from this point forward.

Line 2 – Net Assets: Enter the value of the Net Assets available to the estate, as calculated on SCHEDULE 2, Column B, line 19.

Line 3 – Adjustments: Enter zero, unless adjustments are required. If so:

- Enter as a positive value any new and significant assets that you expect to come into the conservatorship, such as an inheritance or a personal injury award.
- Enter as a negative value any assets that need to be used to satisfy any planned, one-time, significant expenditures, such as one-time medical cost, large repairs, or the cost to stabilize the conservatorship.

Explain any adjustments as supporting detail on a separate page.

Line 4 – Adjusted Net Assets: Add a positive value on line 3 to line 2, or deduct a negative value on line 3 from line 2. This is your estimate of the assets that will be available to meet the recurring needs of the protected person.

For example, if the net asset figure on line 2 is \$100,000, and line 3 is a positive value, such as \$5,000, enter the sum of both numbers, \$105,000 on line 4. However, if line 3 instead has a negative value, such as minus \$8,000, which can be written as -\$8,000 or (\$8,000), you would enter \$92,000 on line 4.

Overview of Lines 5 through 7: You already calculated the budgeted net income or the net expenses of the conservatorship estate on SCHEDULE 1, but there may be additional factors that impact the typical or recurring net income or net expenses looking forward, such as income or expenses that will change in the future. Said another way, what will be the regular or recurring net income or net expenses in a typical year?

Line 5 – Net Income/(Net Expenses): Enter the value of the budgeted net income or net expenses for the estate as calculated on SCHEDULE 1, line 27, Column F. Enter net income as a positive number, and enter net expenses as a negative number.

Line 6 – Adjustments: Enter zero, unless adjustments are required. If so:

- Enter as a positive value any significant one-time expenses that were recognized as a disbursement when calculating the net income or net expenses for the year just ended, such as a one-time medical cost or the startup cost for the conservatorship.
- Enter as a positive value any significant and recurring income that was not recognized (or not fully recognized) when calculating the net income or net expenses for the year just ended, such as a new source of income like disability benefits.
- Enter as a negative value any significant and recurring expenditure that was not recognized (or not fully recognized) when calculating the net income or net expenses for the year just ended, such as a new or increased expenditure for care of the protected person.
- **Once any other adjustments are first determined, convert what remains as a nine month budget into an annual figure.**

For example, if the protected person now receives a regular and recurring disability payment of \$1,000 per month, and only the first three months of benefits was included in the net income or net expenses for the year just ended, there is a required positive adjustment in the amount of \$9,000, which recognizes the additional income that will be received in a typical year (since 3 months was already recognized).

For example, if the protected person incurred a substantial one-time expenditure, which was a disbursement when calculating the net income or net expenses for the year just ended, this is a positive adjustment, since this disbursement will not recur in a typical year. This might occur with the one-time cost for a new roof on the protected person's residence.

For example, if the protected person will now require additional care services, which was not previously included as a disbursement in calculating the net income or net expenses, this is a negative adjustment.

For example, if after making all the adjustments, you calculate that the budgeted net expenses are approximately \$9,000 over nine months, this should equate to annual expenses of about \$12,000. If you divide the nine month figure by nine and then multiply it by twelve.

Explain any adjustments as supporting detail on a separate page.

Line 7 – Adjusted Net Income/(Net Expenses): Add the positive value on line 5 to line 5, or deduct the negative value on line 6 from line 5. This is your estimate of the regular and recurring net income or net expenses of the conservatorship.

If line 7 is a positive value, you are estimating that the conservatorship is sustainable because the conservatorship is expected to produce more income than it spends. If line 7 is positive, do NOT complete lines 8 through 10; skip to line 11.

If line 7 is a negative value, continue to line 8.

Line 8 – Enter Adjusted Net Assets: Enter the number calculated on line 4.

Line 9 – Enter Adjusted Net Expenses: Enter the absolute value of the number calculated on line 7. This means you will enter a positive number for the value that is shown on line 7 as a negative number. Said another way, ignore the negative sign when entering this number on line 9.

Line 10 – Estimated Years of Sustainability: Enter here line 8 divided by line 9. This is your estimate of the number of years that the conservatorship can fund the recurring and regular expenses of the protected person before the entire net estate is consumed.

Line 11 – Estimate of Protected Person's Remaining Life Expectancy: Enter your good faith estimate of the remaining life expectancy of the protected person expressed in years. Just tell the Court what you think, not what you can prove. You may rely on your own experience, any opinions that you consider credible, such as the opinions of a medical professional, and life expectancy tables. However, do not use life expectancy tables without making adjustments for the particular circumstances of the protected person based upon the information that is reasonably available to you.

Line 12 – Conservatorship Is Sustainable: Check the box for "Yes" if Adjusted Net Income on line 7 is a positive number OR if line 10 is equal to or greater than line 11. If not, check the box for "No".

Said another way, check "Yes", if the income exceeds expenses as reported on line 7. Likewise, check "Yes", if the number of years it takes to consume the estate is equal to or greater than the projected life expectancy of the protected person. Otherwise, check "No".

Line 13 – Management Plan: If line 12 is checked "No", describe your management plan for the conservatorship, since the estate is not expected to last the lifetime of the protected person. That plan shall include the future care

needs of the protected person shall be met. For example, there may be a need for an adjustment in the protected person's standard of living or a future need for public assistance.

The objective of the conservator must always focus on the best interests of the protected person, while respecting the wishes of the protected person to the extent not inconsistent with the protected person's best interests.

FORM 6: Conservator's Account:

Form 6 is largely a self-explanatory document; it serves as a coversheet for your complete annual report.

When filing Form 6, you are required to attach the Inventory, SCHEDULES 1, 2, and 3. If you need to attach any supporting detail to any schedule, this detail is also a required attachment. Check each box on Form 6 for each included attachment.

When amending Form 6, include any required attachments that are changed as a result of the amendment. Check each box on an amended Form 6 for each included attachment.

Organize all required attachments in the same order as shown on Form 6.

Sign Form 6 when you are finished and have reviewed the form and all required attachments. When you sign, you are certifying that you have read and reviewed the entire report and, after reasonable inquiry, you have a good faith belief that the information in this report is true, accurate and complete to the best of your knowledge and belief.

Please remember, you will use Form 7 starting with your first conservator's account. Thereafter, you will continue use Form 8 for each of your subsequent annual conservator's accounts until you are ready to file your final account. Use Form 9 for your final conservator's account.

Please remember, if this conservatorship consists of a small estate or has very little activity, you can ask the Court to simplify your filing requirements, such as:

- Filing only an Inventory, rather than a complete Form 6, and
- Filing Form 10 for each of your conservator's accounts, which is a simplified annual reporting form.

However, you must file the detailed reports, unless simplified reporting procedures are authorized by the Court.

In the matter of:		Case No.				
Column A	Column B	Column C	Column D	Column E	Column F	Column G
Past Actual Periods Prior Period	Budget Period Just Ended	Present Actual Periods Enlaid	Deviation From Budget	Deviation Percent	Budget Current Year	Change Requested
/ / 20	/ / 20	/ / 20	/ / 20	/ / 20	/ / 20	/ / 20
SCHEDULE 1 (Form 6):						
Statement of Receipts and Disbursements						
(Refer to Form 8 instructions to complete SCHEDULE 1)						
1. Start Date of each Period:						
2. End Date of each Period:						
Receipts (Money Received)						
3. Retirement and Disability Income						
4. Social Security (including Supplemental Security Income)						
5. Wages and Earned Income						
6. Investment and Business Income						
7. Other Receipts (Specify)						
8. Total Receipts (add lines 3 through 7)						
9. Amount Available for Disbursement						
10. Total Income included in Receipts (line 8 minus line 9)						
Disbursements (Money Spent)						
Spent For Protected Person:						
11. Food, Clothing, and Shelter						
12. Medical Costs						
13. Utility Funds						
14. Direct Services on Liabilities						
15. Other (Specify)						
16. Other for Protected Person (Attach Schedule)						
17. Total for Protected Person (add lines 11 through 15)						
Spent For Administrative Fees & Costs:						
18. Industry Fees and Costs						
19. Attorney Fees and Costs						
20. Protected Person's Attorney Fees and Costs						
21. Other Administrative Fees and Costs (Attach Schedule)						
22. Total Administration (add lines 18 through 21)						
23. Total Disbursements (add lines 17 and 22)						
24. Assets/Liabilities as Disbursements (see instructions)						
25. Total Expenses in Disbursements (line 23 minus line 24)						
26. Total Surplus/(Shortfall) (line 8 minus line 23)						
27. Worksheet Total Expenses (line 10)						
28. Worksheet Total Receipts (line 8)						

In the matter of:	Case No.				
SCHEDULE 3 (Form 6): <i>Statement of Sustainability of Conservatorship</i> <small>(Refer to Form 6 Instructions to complete SCHEDULE 3)</small>	Column A Sustainability Estimated in Form 6 SCHEDULE 3	Column B Original Sustainability Estimate	Column C Change from Prior Schedule 3	Column D Change as Percent of Original Estimate	Column E Explanation of Change
1. Report Date of Sustainability Estimate:	7/1/20	1/1/20			
Net Assets Available to Conservatorship:					
2. Net Assets (See SCHEDULE 2, line 29)					
3. Adjustments					
Adjusted Net Assets (add lines 2 and 3)					
Recurring Net Income/(Net Expenses):					
4. Recurring Net Income/(Net Expenses)					
5. Adjustments					
Adjusted Net Income/(Net Expenses) (add lines 4 and 5)					
If line 7 is equal to or greater than zero, the Conservatorship is estimated to be sustainable. DO NOT complete lines 8 through 10 in that Column.					
6. Enter Adjusted Net Assets (line 4)					
7. Enter Adjusted Net Expense (Absolute Value of line 7)					
8. Estimated Years of Sustainability (line 8 divided by line 9)					
9. Estimated Recurring Net Income/(Net Expenses)					
10. Conservatorship is Sustainable (See Instructions)	No	Yes	No	Yes	No
11. Preceding Management Plan	Management Plan Going Forward				
<p>NOTICE TO RECIPIENT OF THIS SCHEDULE:</p> <p>The Conservator's estimates and analyses of Adjusted Net Assets, Adjusted Net Income/(Net Expenses), and Protected Person's Life Expectancy are good faith estimates based upon the information that is reasonably available to the Conservator concerning the Protected Person. This information is provided for the limited purpose of assisting the Court in its oversight of this Conservatorship.</p>					

Form 7. FIRST CONSERVATOR'S ACCOUNT

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Licensed Fiduciary Number (if applicable): _____
Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF «COUNTY»

IN THE MATTER OF THE
CONSERVATORSHIP FOR

«Protected Person's Name»,

- a Minor
 an Adult

NO. «CaseNo.»

FIRST
CONSERVATOR'S ACCOUNT
 with BUDGET
 Amendment

(Assigned to the Honorable
«Judicial Officer»)

Confidential Document
Rule 7, Rules Probate Proc.

REQUIRED ATTACHMENTS, which are to be attached in the following order:

- SCHEDULE 1: Statement of Receipts and Disbursements
- SCHEDULE 2: Statement of Net Assets & Reconciliation
- SCHEDULE 3: Statement of Sustainability of Conservatorship
- RECENT BANK STATEMENT for each bank account
- Supporting Detail required for SCHEDULE 1
- Supporting Detail required for SCHEDULE 2
- Supporting Detail required for SCHEDULE 3
- TRANSACTION LOG, detailing all financial transaction during the current reporting period, reported by category.

CONSERVATOR'S CERTIFICATION

I, the undersigned, acknowledge that I have read and reviewed this form, accompanying schedules and attached supplements, and after reasonable inquiry have a good faith belief that the information in this report is true, accurate and complete to the best of my knowledge and belief.

<<Conservator Name>>

<<Date>>

Form 7. Continued

INSTRUCTIONS FOR FORM 7: FIRST CONSERVATOR'S ACCOUNT

Purpose of Form:

Use Form 7 to prepare and report the first conservator's account, concerning the administration of the estate. Begin using Form 8 with the second conservator's account, and continue using Form 8 until you file your final account on Form 9. If you are required to provide a budget with your annual conservator's account, report the budget on this same form.

If this conservatorship consists of a small estate or has very little activity, ask the Court to authorize the conservator to file Form 1D, which is a simplified conservator's account; you must file the full report, unless the simplified conservator's account is authorized.

When to File:

Generally, each conservator's account and budget covers a one year period, such that each reporting period is referred to as a year. However, a reporting period may cover a different period of time, either longer or shorter than a year, if ordered by the Court, depending on the circumstances of each individual case.

By court rule, the first conservator's account covers a period that ends nine months after the issuance of the Letters as Conservator, and the first conservator's account is due 90 days later, which means the first conservator's account is due on the first anniversary of the conservator's appointment. Each successive year, the conservator's report is due on the subsequent anniversary of the appointment. See Section 14-5419, Arizona Revised Statutes and Rule 30, Arizona Rules of Probate Procedure.

However, you must review the Court's orders in your case, which may establish a different end date or different due date for the conservator's account, just as the Court may establish other special requirements that the conservator is required to follow, since every conservatorship is unique to some degree.

Form 7 is filed as a confidential document; the account is not available for public inspection.

General Instructions:

All references in these instructions to "you" refer to the conservator, and all references to "year" refer to the reporting or accounting period, even though the first conservator's account typically covers a nine month period.

Unless otherwise ordered by the Court, Form 7 requires attachments, including but not limited to SCHEDULE 1: Statement of Receipts and Disbursements; SCHEDULE 2: Statement of Net Assets & Reconciliation; and SCHEDULE 3: Statement of Sustainability of Conservatorship. In addition to the required schedules, certain answers require supporting detail, which are also required attachments to Form 7. As to any supporting detail, identify the schedule, line and, if appropriate, column that is detailed.

You should complete the required schedules prior to completing Form 7, because Form 7 is essentially a coversheet as you gather together your complete report, and it includes a certification that the report is true, accurate and complete to the best of your knowledge and belief. Don't sign this certification until you have read and reviewed the completed report.

Helpful Suggestion:

These instructions assume that Form 7 and all schedules are being completed manually on paper forms. However, Form 7 and all schedules are also available in an electronic format at no cost and will automate all of the calculations. Please see: [www.azcourts.gov/\[add full cite\]](http://www.azcourts.gov/[add full cite])

Notice:

Any estimates allowed or required by these instructions are not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

Specific Instructions:

SCHEDULE 1 (Form 7): Statement of Receipts and Disbursements

Column Instructions:

SCHEDULE 1 consists of columns that are divided into two basic categories: Columns B (through E) relate to the present, meaning information that you are reporting for the year just ended; and Columns F and G describe the

future, the year that is just beginning. **Please note: Column A is not used on Form 7 and is intentionally left blank.**

You may be required to use all of the available columns in SCHEDULE 1 or just some of the columns, depending whether the Court requires a budget.

Column A – Actual Results Prior Period:

Since this is a first conservator's account, this Column is intentionally left blank.

Column B – Budget, Period Just Ended:

If you were required to file a budget for the year just ended, enter the budget for the year just ended in Column B. Please note: If the budget was amended during the year, enter the final amended budget in Column B and describe the amendments as supporting detail to SCHEDULE 1.

Column C – Actual Results, Period Just Ended:

Complete "Column C" to report the conservator's account for the year just ended. This is the column where the actual receipts and disbursements for the year just ended are reported.

Column D – Deviation from Budget, &

Column E – Deviation as Percent: If you are required to complete Columns B and C, then compute Columns D and E, which show the dollar amount and percent of deviation, respectively, between the budget and actual results. The formulas to calculate the deviation are shown in the headers to Columns D and E. *Please remember, if you are using the electronic version of this form, the formulas are embedded and both columns are automatically calculated, as are all calculations on the Form.*

Column F – Budget Current Year:

Complete Column F if the court requires a budget for the year that is just beginning. This is where you present a budget of receipts and disbursements for the coming year.

Column G – Change Requested:

Finally, if you are required to complete both Columns C and F, then compute Column G to show the dollar amount for changes to the proposed budget as compared to last year's actual results. The formula to calculate the change is shown in the header to Column G.

Line Instructions:

As you determine what to enter on each line, please remember that transactions are recognized on SCHEDULE 1 when money is received or money is disbursed by the conservatorship. In accounting terms, transactions are recognized on a cash basis; you list receipts and disbursements when money effectively changes hands.

For example, if a cost is incurred but not paid before the end of a reporting period, the cost is not listed as a disbursement until paid.

For example, if a check is mailed before the end of a reporting period but does not clear the bank until early in the next reporting period, the disbursement is treated as paid when the check was mailed.

Receipts reported on SCHEDULE 1 include any money, whether income to the estate, liquidation of any general estate asset, or the proceeds of any loan to the estate.

Once you determine which columns of SCHEDULE 1 are required, complete each row as follows:

Line 1 – Start Date of each Period: Enter the start date for each period.

For example, if a conservator files an account that is due on September 30, 2012, for the period from July 1, 2011 to June 30, 2012:

- Columns B and C will have a start date July 1, 2011, and
- Column F will have a start date of July 1, 2012.

Line 2 – End Date of each Period: Enter the end date for each period. *Using the preceding example, the end date is June 30 one year later than the start date.*

Line 3 – Retirement and Disability Income:

Enter all regular and recurring income that is received as a result of retirement or disability, including but not limited to Social Security, Railroad Retirement, pension benefits, Social Security Disability, Supplemental Security Income, and worker's compensation benefits. Do NOT include distributions from tax-deferred investments, such as 401K and IRA funds.

Line 4 – Annuities, Structured Settlements,

and Trust Income: Enter all income that is received from annuities, structured settlements or trust income that is not already included in line 3.

Line 5 – Wages and Earned Income:

Enter all wages and earned income of the protected person that is not included in lines 3 or 4.

Line 6 – Investment and Business Income:

Enter all investment and business income, including but not limited to interest, dividend, rent, and royalty income that is not included in lines 3, 4 or 5.

Line 7 – Other Receipts:

Enter any other receipts that are not included in lines 3 through 6, including but not limited to any other income,

any distributions from tax-deferred investments, such as 401K or IRA funds, any amount received from selling an asset, or the proceeds from any new loan to the protected estate. Attach a detailed statement explaining the other receipts.

Line 8 – Total Receipts: Add lines 3 through 7 in each column to calculate the Total Receipts reported for each column.

Line 9 – Assets/Liabilities as Receipts: The number you reported on line 8 shows the total receipts to the conservatorship, but it is also important for the Court to know whether the conservatorship is going to be able to meet the lifetime needs of the protected person; and for this reason, the court needs to know how much of the receipts came from consuming assets or from borrowing money.

Enter on line 9 the amount of money that is already included in line 8 that came from selling or liquidating an asset or from incurring a new liability.

For example, if you receive a required minimum distribution from an IRA fund which pays out the earnings as well as some amount of the principal, enter the total distribution on line 7 and enter the amount of the principal received on line 9.

For example, if you receive the proceeds from an installment sale over a period of years, and this year you receive interest on the unpaid balance plus a payment on the balance due, enter the total payment received this year on line 7 and enter the principal portion of the receipts on line 9.

For example, if you sell an asset, such as a residence, enter the net amount received on line 7 and enter the same amount on line 9.

For example, if the conservator borrows money to pay the bills of the protected person, enter the amount of the new loan on lines 7 and 9 and include as a liability on SCHEDULE Z.

Line 10 – Total Income Included in Receipts: Subtract line 9 from the Total Receipts on line 8.

Line 11 – Food, Clothing, and Shelter: Enter the disbursements for goods or services provided to a protected person that are essential for survival, excluding medical costs but including food, clothing, and shelter for the protected person. (For the limited purpose of reporting a disbursement on line 11, expenditures for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.)

For example: enter the regular fees to a care facility, required companions or care providers,

food, clothing, toiletries, utilities, or household expenses including home mortgage payments for the protected person's residence.

Line 12 – Medical Costs: Enter all of the medical payments for the protected person that are *not* included on line 11, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription and non-prescription medicines, insurance premiums and co-pays.

Line 13 – Dignity Funds: Enter the amount of funds that are released directly to the protected person as a spending allowance. Do NOT report how the protected person expended these funds; these funds are no longer considered part of the conservatorship estate.

Line 14 – Debt Service on Liabilities: Enter the amount of debt service payments on debts, such as loans and personal debts of the protected person.

- Do NOT include the home mortgage payment on the residence where the protected person resides (this was reported on line 11).
- Do NOT include as debt service any disbursements for obligations incurred in a prior period of the conservatorship, such as fiduciary and attorney fees and costs. Report these amounts in the appropriate disbursement category when paid.

For example, if the fiduciary earned a fee in one period, but the fee was paid in a later period, the fee is reported as a disbursement on line 10 when paid, NOT line 14. Any operating bills of the conservatorship are treated in the same manner, such as fees to care providers that are incurred but not paid until a later year.

For example, if the protected person has an outstanding credit card debt that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the protected person has an outstanding car loan that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the Conservator takes out a loan for the benefit of the protected person, such as a loan to fund the needs of the protected person until real estate or a business interest is sold, all debt service payments on this debt are reported on line 14.

Line 15 – Discretionary Expenditures: Discretionary expenditures means all goods and services provided to a protected person that are

not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person, such as entertainment and vacation costs. Discretionary care does NOT include expenditures that are included on another line on SCHEDULE 1.

Line 16 – Other Disbursements for Protected Person: Report other disbursements that are made for the protected person but not included on another line on SCHEDULE 1, including disbursements that are made for a dependent of the protected person. Include on line 16 the purchase of any asset, such as a residence, vehicle, or computer. Attach supporting detail explaining the other disbursements.

For example, if a residence was purchased for the protected person, report the cash down-payment on line 16, mortgage payments on line 11, and list the mortgage as liability on SCHEDULE 2. (see line 24 where this down-payment is also entered)

For example, if the conservator invests in a marketable security, such as a mutual fund or publicly traded stock, enter the disbursement on line 16 (see line 24 where this purchase is also reported).

For example, enter on line 16 any tax payment that is not already listed on another line.

Line 17 – Total for Protected Person: Enter the sum of lines 11 through 16.

Line 18 – Fiduciary Fees and Costs: Enter the expenditures for Fiduciary Fees and Costs. Fees are compensation paid to the Fiduciary. Costs include administrative charges that are authorized in the Statewide Fee Guidelines, such as filing fees and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing and shelter.

Line 19 – Fiduciary's Attorney Fees and Costs: Enter the Fiduciary's Attorney Fees and Costs.

Line 20 – Protected Person's Attorney Fees and Costs: Enter the Protected Person's Attorney Fees and Costs, including court-appointed counsel and any guardian ad litem, if paid by the conservator.

Line 21 – Other Administrative Fees and Costs: Report other disbursements that are an administrative fee or cost of the conservatorship that are NOT included on another line on SCHEDULE 1, such as an appraiser, financial advisor, court investigator, or accountant. Attach supporting detail explaining any other expenditure.

Line 22 – Total Administration Disbursements: Enter the sum of lines 18 through 21.

Line 23 – Total Disbursements: Add lines 17 and 22.

Line 24 – Assets/Liabilities as Disbursements: The number you reported on line 23 shows the total disbursements of the conservatorship, but the court also needs to know how much was disbursed to satisfy debts or acquire assets.

Enter the amount that is included in line 23 that reduced the principal balance of a debt or was expended to acquire an estate asset.

For example, if you expend funds on an installment purchase over a period of years, and this year you pay interest on the unpaid balance plus a payment on the balance due, enter the total payment (interest and principal) on line 14 and enter the principal portion of the payment on line 24.

For example, if you buy a residence for the protected person, enter the net amount disbursed as a down-payment on line 14 and enter the same amount on line 24. Thereafter, any mortgage payments are reported on line 11, and this obligation will now be reported as a debt on SCHEDULE 2.

For example, if the conservatorship previously borrowed money to pay the bills of the protected person, enter any debt service payment for the loan on line 14 (including principal and interest), and enter the principal amount paid (but not interest) on line 24.

Line 25 – Total Expenses in Disbursements: Subtract line 24 from the Total Disbursements on line 23.

Line 26 – Total Surplus/(Shortfall): Enter line 8 minus line 23. If the amount is positive, this is a cash-flow Surplus. If the amount is negative, this is a cash-flow Shortfall, and the number must be displayed in parentheses or preceded by a negative sign.

Line 27 – Net Income/(Net Expenses): Enter line 10 minus line 25. If the amount is positive, this is the amount by which income exceeds expenses. If the amount is negative, this is the amount by which expenses exceed the Income of the conservatorship, and a negative number must be displayed in parentheses or preceded by a negative sign.

SCHEDULE 2 (Form 7): Statement of Net Assets & Reconciliation

Section 1 – Net Assets: The first section of SCHEDULE 2 includes the inventory for comparison purposes with an updated report of net assets, including an explanation of any changes.

Column Instructions:

Column A – Inventory Summary: Complete Column A to display the Inventory Summary.

If you filed Form 6 at the time of filing the "Inventory", this summary information can be copied directly from SCHEDULE 2, Column B of that Form 6. If you did not file a Form 6, you complete Column A by summarizing the inventory at this time.

This information is presented for comparison purposes only. If you were appointed during the past year as a successor conservator, and the original conservator filed the inventory, you will include your predecessor's inventory in Column A. You are not attesting to the accuracy of your predecessor's information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Valuations for Period Just Ended: Complete Column B to provide an update about the net assets of the conservatorship for the year just ended, including additions, deletions, and changes in value from the inventory.

As a reminder, when you filed your original inventory, you were required to provide a valuation of all the property, and some assets were easy to value, like bank accounts, but some assets were difficult to value, like real estate, and may have required the services of a professional appraiser. However, when filing an annual conservator's account and completing SCHEDULE 2, you are not required to file another formal inventory but only provide an update on the net assets of the estate, including your good faith estimate of any significant changes in valuation, which may be based upon your personal opinions. You are not required to seek the opinion of a professional appraiser. Of course, the balance in bank accounts can always be readily determined and must be accurately reported after deducting any outstanding checks or adding any deposits that are not yet posted.

Unless otherwise ordered by the Court, do not include in the net asset report any property that is titled in the name of a different legal entity, such as property held by a trust or corporation, unless you as conservator can exercise a power of direction over the asset. A power of direction includes the ability to direct the other legal entity to transfer title or possession to the property.

When reporting the value of all general assets do NOT deduct any liens or mortgages. Debts are separately reported as liabilities.

Column C – Change from Prior SCHEDULE 2, Column D – Change as Percent, & Column E – Explanation of Change: Compute Columns C and D, which show the dollar amount and percent of change, respectively, from last year to this year. The mathematical calculation is shown in the header to Columns C and D. Complete Column E to explain any changes in the value or composition of the assets or liabilities included in the category; and if more space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Valuation Report Date: Enter the date of each report of net assets. Column A is the date of the inventory, and Column B is the end date of your current conservator's account (this is found on SCHEDULE 1, Column C, line 2).

Line 2 – Real Estate: Enter the value of all real estate owned by the estate, such as the residence of the protected person, any rental or vacation real estate, and any cemetery plots. *Remember to enter the gross value of ALL assets and do not deduct liens or mortgages! ALL liabilities are listed separately on line 17 as debts.*

Line 3 – Vehicle(s): Enter the value of any vehicles, such as a personal automobile, motorcycle, golf cart, watercraft, airplane, or recreational vehicle.

Line 4 – Business Ownership Interests: Enter the value of any business ownership interests, such as a closely held family business. Do not list shares in a publicly traded corporation on line 4.

Line 5 – Household Items and Personal Effects: Enter the value of household items and personal effects that are owned by the protected person, which commonly include the property that the protected person stored in his or her primary residence, including displayed collectible items. Property with significant value, like precious jewelry and valuable collections, should be itemized and included separately on line 6.

Line 6 – Stocks, Bonds, and Mutual Funds, not tax-deferred: Enter the present value of stocks, bonds, mutual funds, and other marketable securities, such as savings bonds and bearer bonds, but excluding business interests that were entered on line 4 or tax-deferred assets that are entered below on line 7.

Line 7 – Tax-Deferred Assets: Enter the present value of tax-deferred assets, such as IRA and 401(k) accounts. Include all tax-deferred assets, including but not limited to tax-deferred cash accounts, certificates of deposit, savings accounts, and brokerage accounts.

Line 8 – Other General Assets: Enter the present value of all other assets that are not already listed, excluding cash and regular bank accounts. Include the cash value of any insurance policies or any prepaid benefits, such as prepaid funeral plans.

Line 9 – Total General Assets: Enter the sum of lines 7 through 8.

Line 10 – Bank Accounts, Restricted Access: Enter the cash balance of any bank accounts that are court-restricted, meaning funds may not be withdrawn without a court order. Bank accounts include checking, saving, certificates of deposit, money market accounts, and all functionally similar accounts, whether in a bank, savings and loan, credit union, or other similar financial institution. Do not include tax-deferred assets that were listed above on line 7.

Line 11 – Bank Accounts, Unrestricted Access: Enter the cash balance of any bank accounts that are NOT court-restricted, meaning funds may be withdrawn without a court order.

Line 12 – Cash on Hand: Enter the amount of currency that you have on behalf of the estate, such as a petty cash fund. Do not include coin collections on this line, unless the coins have no collectible value above the face value of the coins.

Line 13 – Other Money-Denominated Assets: Enter the value of other money-denominated assets, such as a cash card. These assets are functionally equivalent to money in a bank account and do not change in value by market fluctuation, except by receipt of a dividend or interest. Attach supporting detail.

Line 14 – Total Cash and Bank Accounts: Enter the sum of lines 10 through 13.

Line 15 – Total Available Assets: Add lines 9 and 14.

Line 16 – Bills & Payables more than 30 days old: Enter the amount of any and all past-due bills and payables, plus ALL incurred but unpaid fiduciary and attorney fees and costs, as of the end of the reporting period. Attach supporting detail.

Line 17 – Debts: Enter the amount of all other debts, such as notes, mortgages, credit cards and personal loans, as of the end of the reporting period. Attach supporting detail.

Line 18 – Total Liabilities: Add lines 16 and 17.

Line 19 – Net Assets: Enter line 15 minus line 18. This is the value of the net assets as of the date of the reporting period.

Section 2 – Reconciliation of Conservator's Account: The second section of SCHEDULE 2 is utilized to reconcile the cash flow information reported on SCHEDULE 1 to the net asset information reported on SCHEDULE 2. The purpose for this reconciliation is to prove that the ending balance in cash and bank accounts matches the starting balance plus receipts and minus disbursements.

Line 20 – Starting Cash Balance: Enter starting Cash Balance from SCHEDULE 2, Column A, line 14.

Line 21 – Total Receipts: Enter Total Receipts from SCHEDULE 1, Column C, line 8.

Line 22 – Available Funds: Add lines 20 and 21.

Line 23 – Total Disbursements: Enter Total Disbursements from SCHEDULE 1, Column C, line 23.

Line 24 – Ending Cash Balance: Calculate Ending Cash Balance by subtracting line 23 from line 22. The result must equal the Ending Cash Balance as reported on SCHEDULE 2, Column B, line 14. If these amounts do not match, there is an error in the report.

SCHEDULE 3 (Form 7): Statement of Sustainability of Conservatorship

The purpose of SCHEDULE 3 is to estimate how long the conservatorship estate can meet the expenses of the protected person, and then to compare whether that duration is longer or shorter than the estimated lifespan of the protected person. A conservatorship estate that can meet the predicted expenses of a protected person is considered sustainable, while a conservatorship estate that cannot is not sustainable. A conservatorship estate must have a written management plan if it is not sustainable.

Column Instructions:

Column A – Sustainability Estimated in Form 6, SCHEDULE 3: If Form 6, Schedule 3 was filed, complete Column A to display information from the first estimate of sustainability; this information is presented for comparison purposes only and can be copied directly from Column B of Form 6, SCHEDULE 3.

including the report date. If you are a successor conservator, you will still include your predecessor's sustainability calculation, if one was performed. You are not attesting to the accuracy of this information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Sustainability Estimated for Period Just Ended: Complete Column B to provide your estimates on the sustainability of the conservatorship. This may be your first estimate or a new estimate, depending whether you previously filed Form 6, SCHEDULE 3. Your estimates should be based upon the most current information that is reasonably available to you.

For example, if there is a substantial change of circumstances for the protected person, such as a medical deterioration which requires a different level of care, use this information when calculating sustainability, even if the change occurred after the end of the reporting period but before the date of filing this schedule.

As a reminder, the information provided on this schedule is a good faith estimate based upon the information that is reasonably available to you. Some information may be easy to calculate and should be accurate, such as money available in bank accounts, but some information is very difficult to estimate, such as the projected life expectancy of the protected person. This schedule requires you to share what you believe to be true, not what you can prove to be true. You are not making an avowal; you are telling the Court what you think is true in this particular case for this particular protected person.

Column C – Change from Prior SCHEDULE 3, Column D – Change as Percent, & Column E – Explanation of Change: If you have a prior sustainability estimate in Column A, compute Columns C and D, which show the dollar amount and percent of change, respectively, from last estimate to this estimate. The mathematical calculation is shown in the header to Columns C and D. Complete Column E to explain any changes in the value or composition of the assets or liabilities included in the category; and if more space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Report Date of Sustainability Estimate: Enter the date of each report of sustainability. Column A is the date of the prior estimate, and Column B is the date of your new estimate of sustainability.

Overview of Lines 2 through 4: You calculated the net assets of the conservatorship estate on SCHEDULE 2, but there may be additional factors that may impact those assets looking forward, such as additional assets that might come from an inheritance or a personal injury claim. Likewise, looking forward, some assets might be needed for known one-time expenditures, such as a major medical expenditure or the startup costs for the conservatorship. Once these adjustments are made, if any, the remaining net assets should be available to meet the typical or recurring needs of the protected person.

Said another way, you are calculating the net assets that are thought to be available to meet the regular and recurring needs of the protected person from this point forward.

Line 2 – Net Assets: Enter the value of the Net Assets available to the estate, as calculated on SCHEDULE 2, line 19, Columns A and B, respectively.

Line 3 – Adjustments: Enter zero, unless adjustments are required. If so:

- Enter as a positive value any new and significant assets that you expect to come into the conservatorship, such as an inheritance or a personal injury award.
- Enter as a negative value any assets that need to be used to satisfy any planned, one-time, significant expenditures, such as one-time medical cost, large repairs, or the cost to stabilize the conservatorship.

Explain any adjustments in the space provided on SCHEDULE 3, Column E, or provide supporting detail on a separate page.

Line 4 – Adjusted Net Assets: Add a positive value on line 3 to line 2, or deduct a negative value on line 3 from line 2. This is your estimate of the assets that will be available to meet the recurring needs of the protected person.

For example, if the net asset figure on line 2 is \$100,000, and line 3 is a positive value, such as \$5,000, enter the sum of both numbers, \$105,000 on line 4. However, if line 3 instead has a negative value, such as minus \$8,000, which can be written as -\$8,000 or (\$8,000), you would enter \$92,000 on line 4.

Overview of Lines 5 through 7: You already calculated the net income or the net expenses of the conservatorship estate on SCHEDULE 1, but there may be additional factors that impact the typical or recurring net income or net expenses looking forward, such as income or expenses

that will change in the future. Said another way, what will be the regular or recurring net income or net expenses in a typical year?

Line 5 – Net Income/(Net Expenses): Enter the value of the net income or net expenses for the estate as calculated on SCHEDULE I, line 27, Columns A and C, respectively. Enter net income as a positive number, and enter net expenses as a negative number.

Line 6 – Adjustments: Enter zero, unless adjustments are required. If so:

- Enter as a positive value any significant one-time expenses that were recognized as a disbursement when calculating the net income or net expenses for the year just ended, such as a one-time medical cost or the startup cost for the conservatorship.
- Enter as a positive value any significant and recurring income that was not recognized (or not fully recognized) when calculating the net income or net expenses for the year just ended, such as a new source of income like disability benefits.
- Enter as a negative value any significant and recurring expenditure that was not recognized (or not fully recognized) when calculating the net income or net expenses for the year just ended, such as a new or increased expenditure for care of the protected person.

For example, if the protected person now receives a regular and recurring disability payment of \$1,000 per month, and only the first three months of benefits was included in the net income or net expenses for the year just ended, there is a required positive adjustment in the amount of \$9,000, which recognizes the additional income that will be received in a typical year (since 3 months was already recognized).

For example, if the protected person incurred a substantial one-time expenditure, which was a disbursement when calculating the net income or net expenses for the year just ended, this is a positive adjustment, since this disbursement will not recur in a typical year. This might occur with the one-time cost for a new roof on the protected person's residence.

For example, if the protected person will now require additional care services, which was not previously included as a disbursement in calculating the net income or net expenses, this is a negative adjustment.

Explain any adjustments in the space provided on SCHEDULE 3, Column E, or provide supporting detail on a separate page.

Line 7 – Adjusted Net Income/(Net Expenses): Add the positive value on line 6 to line 5, or deduct the negative value on line 6 from line 5. This is your estimate of the regular and recurring net income or net expenses of the conservatorship.

If line 7 is a positive value, you are estimating that the conservatorship is sustainable because the conservatorship is expected to produce more income than it expends. If line 7 is positive, do NOT complete lines 8 through 10; skip to line 11.

If line 7 is a negative value, continue to line 8.

Line 8 – Enter Adjusted Net Assets: Enter the number calculated on line 4.

Line 9 – Enter Adjusted Net Expenses: Enter the absolute value of the number calculated on line 7. This means you will enter a positive number for the value that is shown on line 7 as a negative number. Said another way, ignore the negative sign when entering this number on line 9.

Line 10 – Estimated Years of Sustainability: Enter here line 8 divided by line 9. This is your estimate of the number of years that the conservatorship can fund the recurring and regular expenses of the protected person before the entire net estate is consumed.

Line 11 – Estimate of Protected Person's Remaining Life Expectancy: Enter your good faith estimate of the remaining life expectancy of the protected person expressed in years. Just tell the Court what you think, not what you can prove. You may rely on your own experience, any opinions that you consider credible, such as the opinions of a medical professional, and life expectancy tables. However, do not use life expectancy tables without making adjustments for the particular circumstances of the protected person based upon the information that is reasonably available to you.

Line 12 – Conservatorship is Sustainable: Check the box for "Yes" if Adjusted Net Income on line 7 is a positive number OR if line 10 is equal to or greater than line 11. If not, check the box for "No".

Said another way, check "Yes", if the income exceeds expenses as reported on line 7. Likewise, check "Yes", if the number of years it takes to consume the estate is equal to or greater than the projected life expectancy of the protected person. Otherwise, check "No".

Line 13 – Management Plan: If Column A and/or Column B, line 12 is checked "No", provide the most recent prior management plan in Column A, if any, and describe your current management plan in Column B. If there is no change to the prior management plan, enter "No Change" in Column B.

The conservator shall provide the court with an alternative management plan if the estate is not calculated as sustainable. That plan shall describe how the future care needs of the protected person shall be met. For example, there may be a need for an adjustment in the protected person's standard of living or a future need for public assistance.

The objective of the conservator must always focus on the best interests of the protected person, while respecting the wishes of the protected person to the extent not inconsistent with the protected person's best interests.

FORM 7: Conservator's Account:

Form 7 is largely a self-explanatory document; it serves as a coversheet for your complete annual report.

When filing Form 7, you are required to attach SCHEDULES 1, 2, and 3, as well as a copy of bank statements for all accounts as of the date when the current reporting period ended. If you need to attach any supporting detail to any schedule, this detail is also a required

attachment. Check each box on Form 7 for each included attachment.

When amending Form 7, include any required attachments that are changed as a result of the amendment. Check each box on an amended Form 7 for each included attachment.

Organize all required attachments in the same order as shown on Form 7.

Sign Form 7 when you are finished and have reviewed the form and all required attachments. When you sign, you are certifying that you have read and reviewed the entire report and, after reasonable inquiry, you have a good faith belief that the information in this report is true, accurate and complete to the best of your knowledge and belief.

Please remember, you will use Form 8 starting with your second conservator's account, and you will continue using Form 8 for each of your annual conservator's accounts thereafter until you are ready to file your final account.

Use Form 9 for your final conservator's account.

Please remember, if this conservatorship consists of a small estate or has very little activity, ask the Court to permit you to file Form 10, which is a simplified conservator's account; however, you must file the full report, unless the simplified conservator's account is authorized.

In the matter of:	Case No.						
	Column A	Column B	Column C	Column D	Column E	Column F	Column G
	PRESENT			FUTURE			
Actual Results Prior Period	Budget Period Just Ended	Actual Results Period Just Ended	Deviation from Budget	Deviation as Percent	Budget Current Year	Change Requested	
1/1/20	1/1/20	1/1/20	Column C minus Column B	Column E selected by Column B and multiplied by 100	1/1/20	Column F minus Column C	
SCHEDULE 1 (Form 7):							
Statement of Receipts and Disbursements							
(Refer to Form 8 instructions to Complete SCHEDULE 7)							
1. Start Date of each Period:							
2. End Date of each Period:							
Receipts (Money Received):							
3. Retirement and Disability Income							
4. Social Security							
5. Wages and Earned Income							
6. Other Receipts (Attach Schedule 7)							
7. Other Receipts (Attach Schedule 7)							
8. Total Receipts (add lines 3 through 7)							
9. Total Receipts (add lines 3 through 7)							
10. Total Income Included in Receipts (line 8 minus line 9)							
Disbursements (Money Spent):							
Spent for Protected Person:							
11. Food, Clothing, and Shelter							
12. Transportation							
13. Dignity Funds							
14. Health Care							
15. Discretionary Expenditures							
16. Other for Protected Person (Attach Schedule 7)							
17. Total for Protected Person (add lines 11 through 15)							
Spent for Administrative Fees & Costs:							
18. Administrative Fees and Costs							
19. Attorney's Attorney Fees and Costs							
20. Protected Person's Attorney Fees and Costs							
21. Other Administrative Fees and Costs (Attach Schedule 7)							
22. Total Administration (add lines 18 through 21)							
23. Total Disbursements (add lines 17 and 22)							
24. Assets/Liabilities as Disbursements (See instructions)							
25. Total Expenses in Disbursements (line 23 minus line 24)							
26. Net Income/Net Expenses (line 10 minus line 25)							
27. Net Income/Net Expenses (line 10 minus line 25)							

In the matter of:		Case No.			
Column A	Column B	Column C	Column D	Column E	
Summary Reported on Form 9, SCHEDULE 2	Updated Valuations for Period Just Ended	Change from Prior Schedule 2 (Column C minus Column B)	Change as Percent (Column D minus Column C)	Explanation of Change	
SECTION 1: Net Assets					
General Assets: Excluding Cash and Bank Accounts:					
1. Cash	70				
2. Bonds					
3. Vehicles					
4. Real Estate					
5. Personal Items and Personal Effects					
6. Stocks, Bonds & Mutual Funds - Not Tax-Deferred					
7. Other Assets (Attach Detail)					
8. Total General Assets (Add lines 1 through 7)					
Cash and Regular Bank Accounts:					
9. Bank Accounts - Savings/Checking					
10. Bank Accounts - Other (Attach Detail)					
11. Cash on Hand					
12. Other Assets (Attach Detail)					
13. Total Cash and Bank Accounts (Add lines 9 through 12)					
14. Total Assets (Add lines 8 and 13)					
15. Liabilities (Attach Detail)					
16. Total Liabilities (Add lines 15 and 14)					
17. Net Assets (Line 14 minus line 16)					
SECTION 2: Reconciliation of Conservator's Account					
Reconciliation of Cash and Regular Bank Accounts:					
18. Starting Cash Balance (From Column A, line 14)					
19. Total Receipts (SCHEDULE 1, Column C, line 8)					
20. Total Disbursements (SCHEDULE 1, Column C, line 23)					
21. Net Assets (Line 15 minus line 18)					
Starting Cash Balance comes from Column A, line 14					
Ending Cash Balance must equal Column B, line 14					

In the matter of: SCHEDULE 3 (Form 7): <i>Statement of Sustainability of Conservatorship</i> (Refer to Form 7 Instructions to complete SCHEDULE 3)	Case No.				
	Column A Sustainability Estimated in Form 6 SCHEDULE 3: / / 20	Column B Updated Sustainability Estimated For Period Just Ended / / 20	Column C Change from Prior Schedule 3 Column A, and multiplied by 100	Column D Change as Percent Column A, and multiplied by 100	Column E Explanation of Change
1. Report Date of Sustainability Estimate:					
Net Assets Available to Conservatorship:					
2. Net Assets (See SCHEDULE 2, line 19)					
3. Adjustments:					
4. Adjusted Net Assets (add lines 2 and 3)					
Recurring Net Income (Net Expenses):					
5. Net Income (Net Expenses) (See SCHEDULE 1, line 27)					
6. Adjustments:					
7. Adjusted Net Income (Net Expenses) (add lines 5 and 6)					
If line 7 is equal to or greater than zero, the Conservatorship is estimated to be sustainable. DO NOT complete lines 8 through 10 in that Column.					
8. Enter Adjusted Net Assets (line 4)					
9. Enter Adjusted Net Expenses (Absolute Value of line 7)					
10. Estimated Years of Sustainability (line 8 divided by line 9)					
11. Estimate of Protected Person's remaining life expectancy					
12. Conservatorship is Sustainable (See Instructions)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input type="checkbox"/> No	
13. Preceding Management Plan	Management Plan Going Forward				
<p style="text-align: center;">NOTICE TO RECIPIENT OF THIS SCHEDULE.</p> <p>The Conservator's estimates and analyses of Adjusted Net Assets, Adjusted Net Income (Net Expenses), and Protected Person's Life Expectancy are good faith estimates based upon the information that is reasonably available to the Conservator concerning the Protected Person. This information is provided for the limited purpose of assisting the Court in its oversight of this Conservatorship.</p>					

Form 8. CONSERVATOR'S ACCOUNT

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Licensed Fiduciary Number (if applicable): _____
Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF «COUNTY»

IN THE MATTER OF THE
CONSERVATORSHIP FOR

«Protected Person's Name»,

- a Minor
 an Adult

NO. «CaseNo.»

CONSERVATOR'S ACCOUNT

- with BUDGET
 Amendment

(Assigned to the Honorable
«Judicial Officer»)

Confidential Document
Rule 7, Rules Probate Proc.

REQUIRED ATTACHMENTS, which are to be attached in the following order:

- SCHEDULE 1: Statement of Receipts and Disbursements
- SCHEDULE 2: Statement of Net Assets & Reconciliation
- SCHEDULE 3: Statement of Sustainability of Conservatorship
- RECENT BANK STATEMENT for each bank account
- Supporting Detail required for SCHEDULE 1
- Supporting Detail required for SCHEDULE 2
- Supporting Detail required for SCHEDULE 3
- TRANSACTION LOG, detailing all financial transaction during the current reporting period, reported by category.

CONSERVATOR'S CERTIFICATION

I, the undersigned, acknowledge that I have read and reviewed this form, accompanying schedules and attached supplements; and after reasonable inquiry have a good faith belief that the information in this report is true, accurate and complete to the best of my knowledge and belief.

<<Conservator Name>>

<<Date>>

Form 8. Continued

INSTRUCTIONS FOR FORM 8: CONSERVATOR'S ACCOUNT

Purpose of Form:

Use Form 8 to prepare and report the annual conservator's account, concerning the administration of the estate. Begin using Form 8 with the second conservator's account, and continue using Form 8 until you file your final account on Form 9. If you are required to provide a budget with your annual conservator's account, report the budget on this same form.

If this conservatorship consists of a small estate or has very little activity, ask the Court to authorize the conservator to file Form 10, which is a simplified conservator's account; you must file the full report, unless the simplified conservator's account is authorized.

When to File:

Generally, each conservator's account and budget covers a one year period, such that each reporting period is referred to as a year. However, a reporting period may cover a different period of time, either longer or shorter than a year, if ordered by the Court, depending on the circumstances of each individual case.

By court rule, the first conservator's account covers a period that ends nine months after the issuance of the Letters as Conservator, and the first conservator's account is due 90 days later, which means the first conservator's account is due on the first anniversary of the conservator's appointment. Each successive year, the conservator's report is due on the subsequent anniversary of the appointment. See Section 14-5419, Arizona Revised Statutes and Rule 30, Arizona Rules of Probate Procedure.

However, you must review the Court's orders in your case, which may establish a different end date or different due date for the conservator's account, just as the Court may establish other special requirements that the conservator is required to follow, since every conservatorship is unique to some degree.

Form 8 is filed as a confidential document; the account is not available for public inspection.

General Instructions:

All references in these instructions to "you" refer to the conservator, and all references to "year" refer to the reporting or accounting period.

Unless otherwise ordered by the Court, Form 8 requires attachments, including but not limited

to SCHEDULE 1: Statement of Receipts and Disbursements; SCHEDULE 2: Statement of Net Assets & Reconciliation; and SCHEDULE 3: Statement of Sustainability of Conservatorship. In addition to the required schedules, certain answers require supporting detail, which are also required attachments to Form 8. As to any supporting detail, identify the schedule, line and, if appropriate, column that is detailed.

You should complete the required schedules prior to completing Form 8, because Form 8 is essentially a coversheet as you gather together your complete report, and it includes a certification that the report is true, accurate and complete to the best of your knowledge and belief. Don't sign this certification until you have read and reviewed the completed report.

Helpful Suggestion:

These instructions assume that Form 8 and all schedules are being completed manually on paper forms. However, Form 8 and all schedules are also available in an electronic format at no cost and will automate all of the calculations. Please see: www.azcourts.gov/fadd_full_cite/

Notice:

Any estimates allowed or required by these instructions are not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

Specific Instructions:

SCHEDULE 1 (Form 8): Statement of Receipts and Disbursements

Column Instructions:

SCHEDULE 1 consists of columns that are divided into three basic categories: Column A relates to the past, meaning information that was previously reported; Columns B through E relate to the present, meaning information that you are reporting for the year just ended; and

Columns F and G describe the future, the year that is just beginning.

You may be required to use all of the columns in SCHEDULE 1 or just some of the columns, depending whether the Court requires a budget.

Column A – Actual Results Prior Period:

Complete Column A to present information from the last conservator's account; this information is presented for comparison purposes only, and must be copied directly from Column C of last year's SCHEDULE 1, including the starting and ending dates. If the conservatorship was in existence last year, but you were appointed as a successor conservator and this is your first conservator's account, you still include your predecessor's information in Column A, but you are not attesting to the accuracy of this information and are not responsible for verifying the activity reported by the prior conservator.

Column B – Budget, Period Just Ended:

If you were required to file a budget for the year just ended, enter the budget for the year just ended in Column B. Please note: if the budget was amended during the year, enter the final amended budget in Column B and describe the amendments as supporting detail to SCHEDULE 1.

Column C – Actual Results, Period Just Ended:

Complete "Column C" to report the conservator's account for the year just ended. This is the column where the actual receipts and disbursements for the year just ended are reported.

Column D – Deviation from Budget, &

Column E – Deviation as Percent: If you are required to complete Columns B and C, then compute Columns D and E, which show the dollar amount and percent of deviation, respectively, between the budget and actual results. The formulas to calculate the deviation are shown in the headers to Columns D and E. Please remember, if you are using the electronic version of this Form, the formulas are embedded and both columns are automatically calculated, as are all calculations on the Form.

Column F – Budget Current Year: Complete Column F if the court requires a budget for the year that is just beginning. This is where you present a budget of receipts and disbursements for the coming year.

Column G – Change Requested: Finally, if you are required to complete both Columns C and F, then compute Column G to show the dollar amount for changes to the proposed budget as compared to last year's actual results. The formula to calculate the change is shown in the header to Column G.

Line Instructions:

As you determine what to enter on each line, please remember that transactions are recognized on SCHEDULE 1 when money is received or money is disbursed by the conservatorship. In accounting terms, transactions are recognized on a cash basis; you list receipts and disbursements when money effectively changes hands.

For example, if a cost is incurred but not paid before the end of a reporting period, the cost is not listed as a disbursement until paid.

For example, if a check is mailed before the end of a reporting period but does not clear the bank until early in the next reporting period, the disbursement is treated as paid when the check was mailed.

Receipts reported on SCHEDULE 1 include any money, whether income to the estate, liquidation of any general estate asset, or the proceeds of any loan to the estate.

Once you determine which columns of SCHEDULE 1 are required, complete each row as follows:

Line 1 – Start Date of each Period: Enter the start date for each period.

For example, if a conservator files an account that is due on September 30, 2012, for the period from July 1, 2011 to June 30, 2012:

- Column A will have a start date of July 1, 2010,
- Columns B and C will have a start date July 1, 2011, and
- Column F will have a start date of July 1, 2012.

Line 2 – End Date of each Period: Enter the end date for each period. Using the preceding example, the end date is June 30 one year later than the start date.

Line 3 – Retirement and Disability Income:

Enter all regular and recurring income that is received as a result of retirement or disability, including but not limited to Social Security, Railroad Retirement, pension benefits, Social Security Disability, Supplemental Security Income, and worker's compensation benefits. Do NOT include distributions from tax-deferred investments, such as 401K and IRA funds.

Line 4 – Annuities, Structured Settlements, and Trust Income:

Enter all income that is received from annuities, structured settlements or trust income that is not already included in line 3.

Line 5 – Wages and Earned Income: Enter all wages and earned income of the protected person that is not included in lines 3 or 4.

Line 6 – Investment and Business Income: Enter all investment and business income, including but not limited to interest, dividend, rent, and royalty income that is not included in lines 3, 4 or 5.

Line 7 – Other Receipts: Enter any other receipts that are not included in lines 3 through 6, including but not limited to any other income, any distributions from tax-deferred investments, such as 401K or IRA funds, any amount received from selling an asset, or the proceeds from any new loan to the protected estate. Attach a detailed statement explaining the other receipts.

Line 8 – Total Receipts: Add lines 3 through 7 in each column to calculate the Total Receipts reported for each column.

Line 9 – Assets/Liabilities as Receipts: The number you reported on line 8 shows the total receipts to the conservatorship, but it is also important for the Court to know whether the conservatorship is going to be able to meet the lifetime needs of the protected person, and for this reason, the court needs to know how much of the receipts came from consuming assets or from borrowing money.

Enter on line 9 the amount of money that is already included in line 8 that came from selling or liquidating an asset or from incurring a new liability.

For example, if you receive a required minimum distribution from an IRA fund which pays out the earnings as well as some amount of the principal, enter the total distribution on line 7 and enter the amount of the principal received on line 9.

For example, if you receive the proceeds from an installment sale over a period of years, and this year you receive interest on the unpaid balance plus a payment on the balance due, enter the total payment received this year on line 7 and enter the principal portion of the receipts on line 9.

For example, if you sell an asset, such as a residence, enter the net amount received on line 7 and enter the same amount on line 9.

For example, if the conservator borrows money to pay the bills of the protected person, enter the amount of the new loan on lines 7 and 9 and include as a liability on SCHEDULE 2.

Line 10 – Total Income Included in Receipts: Subtract line 9 from the Total Receipts on line 8.

Line 11 – Food, Clothing, and Shelter: Enter the disbursements for goods or services provided to a protected person that are essential for survival, excluding medical costs but including food, clothing, and shelter for the protected person. (For the limited purpose of reporting a disbursement on line 11, expenditures for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.)

For example: enter the regular fees to a care facility, required companions or care providers, food, clothing, toiletries, utilities, or household expenses including home mortgage payments for the protected person's residence.

Line 12 – Medical Costs: Enter all of the medical payments for the protected person that are not included on line 11, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription and non-prescription medicines, insurance premiums and co-pays.

Line 13 – Dignity Funds: Enter the amount of funds that are released directly to the protected person as a spending allowance. Do NOT report how the protected person expended these funds; these funds are no longer considered part of the conservatorship estate.

Line 14 – Debt Service on Liabilities: Enter the amount of debt service payments on debts, such as loans and personal debts of the protected person.

- Do NOT include the home mortgage payment on the residence where the protected person resides (this was reported on line 11).
- Do NOT include as debt service any disbursements for obligations incurred in a prior period of the conservatorship, such as fiduciary and attorney fees and costs. Report these amounts in the appropriate disbursement category when paid.

For example, if the fiduciary earned a fee in one period, but the fee was paid in a later period, the fee is reported as a disbursement on line 13 when paid, NOT line 14. Any operating bills of the conservatorship are treated in the same manner, such as fees to care providers that are incurred but not paid until a later year.

For example, if the protected person has an outstanding credit card debt that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the protected person has an outstanding car loan that was incurred before a

conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the Conservator takes out a loan for the benefit of the protected person, such as a loan to fund the needs of the protected person until real estate or a business interest is sold, all debt service payments on this debt are reported on line 14.

Line 15 – Discretionary Expenditures: Discretionary expenditures means all goods and services provided to a protected person that are not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person, such as entertainment and vacation costs. Discretionary care does NOT include expenditures that are included on another line on SCHEDULE 1.

Line 16 – Other Disbursements for Protected Person: Report other disbursements that are made for the protected person but not included on another line on SCHEDULE 1, including disbursements that are made for a dependent of the protected person. Include on line 16 the purchase of any asset, such as a residence, vehicle, or computer. Attach supporting detail explaining the other disbursements.

For example, if a residence was purchased for the protected person, report the cash down-payment on line 16, mortgage payments on line 11, and list the mortgage as liability on SCHEDULE 2. (see line 24 where this down-payment is also entered)

For example, if the conservator invests in a marketable security, such as a mutual fund or publicly traded stock, enter the disbursement on line 16 (see line 24 where this purchase is also reported).

For example, enter on line 16 any tax payment that is not already listed on another line.

Line 17 – Total for Protected Person: Enter the sum of lines 11 through 16.

Line 18 – Fiduciary Fees and Costs: Enter the expenditures for Fiduciary Fees and Costs. Fees are compensation paid to the fiduciary. Costs include administrative charges that are authorized in the Statewide Fee Guidelines, such as filing fees and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing and shelter.

Line 19 – Fiduciary's Attorney Fees and Costs: Enter the Fiduciary's Attorney Fees and Costs.

Line 20 – Protected Person's Attorney Fees and Costs: Enter the Protected Person's

Attorney Fees and Costs, including court-appointed counsel and any guardian ad litem, if paid by the conservator.

Line 21 – Other Administrative Fees and Costs: Report other disbursements that are an administrative fee or cost of the conservatorship that are NOT included on another line on SCHEDULE 1, such as an appraiser, financial advisor, court investigator, or accountant. Attach supporting detail explaining any other expenditure.

Line 22 – Total Administration Disbursements: Enter the sum of lines 18 through 21.

Line 23 – Total Disbursements: Add lines 17 and 22.

Line 24 – Assets/Liabilities as Disbursements: The number you reported on line 23 shows the total disbursements of the conservatorship, but the court also needs to know how much was disbursed to satisfy debts or acquire assets.

Enter the amount that is included in line 23 that reduced the principal balance of a debt or was expended to acquire an estate asset.

For example, if you expend funds on an installment purchase over a period of years, and this year you pay interest on the unpaid balance plus a payment on the balance due, enter the total payment (interest and principal) on line 14 and enter the principal portion of the payment on line 24.

For example, if you buy a residence for the protected person, enter the net amount disbursed as a down-payment on line 14 and enter the same amount on line 24. Thereafter, any mortgage payments are reported on line 11, and this obligation will now be reported as a debt on SCHEDULE 2.

For example, if the conservatorship previously borrowed money to pay the bills of the protected person, enter any debt service payment for the loan on line 14 (including principal and interest), and enter the principal amount paid (but not interest) on line 24.

Line 25 – Total Expenses in Disbursements: Subtract line 24 from the Total Disbursements on line 23.

Line 26 – Total Surplus/(Shortfall): Enter line 6 minus line 23. If the amount is positive, this is a cash-flow Surplus. If the amount is negative, this is a cash-flow Shortfall, and the number must be displayed in parentheses or preceded by a negative sign.

Line 27 – Net Income/(Net Expenses): Enter line 10 minus line 25. If the amount is positive, this is the amount by which income exceeds expenses. If the amount is negative, this is the amount by which expenses exceed the income of the conservatorship, and a negative number must be displayed in parentheses or preceded by a negative sign.

SCHEDULE 2 (Form 8): Statement of Net Assets & Reconciliation

Section 1 – Net Assets: The first section of SCHEDULE 2 includes the previous report of net assets for comparison purposes with an updated report of net assets, including an explanation of any changes.

Column Instructions:

Column A – Valuations Reported in Prior Period: Complete Column A to display information from the last report of net assets; this information is presented for comparison purposes only and can be copied directly from Column B of last year's SCHEDULE 2, including the statement date. If the conservatorship was in existence last year but you were appointed as a successor conservator, and this is your first conservator's account, you will still include your predecessor's information. You are not attesting to the accuracy of this information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Valuations for Period Just Ended: Complete Column B to provide an update about the net assets of the conservatorship for the year just ended, including additions, deletions, and changes in value.

As a reminder, when you filed your original inventory, you were required to provide a valuation of all the property, and some assets were easy to value, like bank accounts, but some assets were difficult to value, like real estate, and may have required the services of a professional appraiser. However, when filing an annual conservator's account and completing SCHEDULE 2, you are not required to file another formal inventory but only provide an update on the net assets of the estate, including your good faith estimate of any significant changes in valuation, which may be based upon your personal opinions. You are not required to seek the opinion of a professional appraiser. Of course, the balance in bank accounts can always be readily determined and must be accurately reported after deducting any outstanding checks or adding any deposits that are not yet posted.

Unless otherwise ordered by the Court, do not include in the net asset report any property that is titled in the name of a different legal entity, such as property held by a trust or corporation, unless you as conservator can exercise a power of direction over the asset. A power of direction includes the ability to direct the other legal entity to transfer title or possession to the property.

When reporting the value of all general assets do NOT deduct any liens or mortgages. Debts are separately reported as liabilities.

Column C – Change from Prior SCHEDULE 2, Column D – Change as Percent, & Column E – Explanation of Change: Compute Columns C and D, which show the dollar amount and percent of change, respectively, from last year to this year. The mathematical calculation is shown in the header to Columns C and D. Complete Column E to explain any changes in the value or composition of the assets or liabilities included in the category; and if more space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Valuation Report Date: Enter the date of each report of net assets. Column A is the end date of the prior account (this is found on SCHEDULE 1, Column A, line 2), and Column B is the end date of your current conservator's account (this is found on SCHEDULE 1, Column C, line 2).

Line 2 – Real Estate: Enter the value of all real estate owned by the estate, such as the residence of the protected person, any rental or vacation real estate, and any cemetery plots. Remember to enter the gross value of ALL assets and do not deduct liens or mortgages; ALL liabilities are listed separately on line 17 as debts.

Line 3 – Vehicle(s): Enter the value of any vehicles, such as a personal automobile, motorcycle, golf cart, watercraft, airplane, or recreational vehicle.

Line 4 – Business Ownership Interests: Enter the value of any business ownership interests, such as a closely held family business. Do not list shares in a publicly traded corporation on line 4.

Line 5 – Household Items and Personal Effects: Enter the value of household items and personal effects that are owned by the protected person, which commonly include the property that the protected person stored in his or her primary residence, including displayed collectible items. Property with significant value, like precious jewelry and valuable collections, should be itemized and included separately on line 8.

Line 6 – Stocks, Bonds, and Mutual Funds, not tax-deferred: Enter the present value of stocks, bonds, mutual funds, and other marketable securities, such as savings bonds and bearer bonds, but excluding business interests that were entered on line 4 or tax-deferred assets that are entered below on line 7.

Line 7 – Tax-Deferred Assets: Enter the present value of tax-deferred assets, such as IRA and 401(k) accounts. Include all tax-deferred assets, including but not limited to tax-deferred cash accounts, certificates of deposit, savings accounts, and brokerage accounts.

Line 8 – Other General Assets: Enter the present value of all other assets that are not already listed, excluding cash and regular bank accounts. Include the cash value of any insurance policies or any prepaid benefits, such as prepaid funeral plans.

Line 9 – Total General Assets: Enter the sum of lines 2 through 8.

Line 10 – Bank Accounts, Restricted Access: Enter the cash balance of any bank accounts that are court-restricted, meaning funds may not be withdrawn without a court order. Bank accounts include checking, saving, certificates of deposit, money market accounts, and all functionally similar accounts, whether in a bank, savings and loan, credit union, or other similar financial institution. Do not include tax-deferred assets that were listed above on line 7.

Line 11 – Bank Accounts, Unrestricted Access: Enter the cash balance of any bank accounts that are NOT court-restricted, meaning funds may be withdrawn without a court order.

Line 12 – Cash on Hand: Enter the amount of currency that you have on behalf of the estate, such as a petty cash fund. Do not include coin collections on this line, unless the coins have no collectible value above the face value of the coins.

Line 13 – Other Money-Denominated Assets: Enter the value of other money-denominated assets, such as a cash card. These assets are functionally equivalent to money in a bank account and do not change in value by market fluctuation, except by receipt of a dividend or interest. Attach supporting detail.

Line 14 – Total Cash and Bank Accounts: Enter the sum of lines 10 through 13.

Line 15 – Total Available Assets: Add lines 9 and 14.

Line 16 – Bills & Payables more than 30 days old: Enter the amount of any and all past-due bills and payables, plus ALL incurred but

unpaid fiduciary and attorney fees and costs, as of the end of the reporting period. Attach supporting detail.

Line 17 – Debts: Enter the amount of all other debts, such as notes, mortgages, credit cards and personal loans, as of the end of the reporting period. Attach supporting detail.

Line 18 – Total Liabilities: Add lines 16 and 17.

Line 19 – Net Assets: Enter line 15 minus line 18. This is the value of the net assets as of the date of the reporting period.

Section 2 – Reconciliation of Conservator's Account: The second section of SCHEDULE 2 is utilized to reconcile the cash flow information reported on SCHEDULE 1 to the net asset information reported on SCHEDULE 2. The purpose for this reconciliation is to prove that the ending balance in cash and bank accounts matches the starting balance plus receipts and minus disbursements.

Line 20 – Starting Cash Balance: Enter starting Cash Balance from SCHEDULE 2, Column A, line 14.

Line 21 – Total Receipts: Enter Total Receipts from SCHEDULE 1, Column C, line 8.

Line 22 – Available Funds: Add lines 20 and 21.

Line 23 – Total Disbursements: Enter Total Disbursements from SCHEDULE 1, Column C, line 23.

Line 24 – Ending Cash Balance: Calculate Ending Cash Balance by subtracting line 23 from line 22. The result must equal the Ending Cash Balance as reported on SCHEDULE 2, Column B, line 14. If these amounts do not match, there is an error in the report.

SCHEDULE 3 (Form 8): Statement of Sustainability of Conservatorship

The purpose of SCHEDULE 3 is to estimate how long the conservatorship estate can meet the expenses of the protected person, and then (i) compare whether that duration is longer or shorter than the estimated lifespan of the protected person. A conservatorship estate that can meet the predicted expenses of a protected person is considered sustainable, while a conservatorship estate that cannot is not sustainable. A conservatorship estate must have a written management plan if it is not sustainable.

Column Instructions:

Column A – Sustainability Estimated in Prior Period: Complete Column A to display information from the last estimate of sustainability; this information is presented for comparison purposes only and can be copied directly from Column B of last year's SCHEDULE 3, including the report date. If the conservatorship was in existence last year but you were appointed as a successor conservator, and this is your first conservator's account, you will still include your predecessor's information. You are not attesting to the accuracy of this information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Sustainability Estimated for Period Just Ended: Complete Column B to provide an update concerning your new estimates on the sustainability of the conservatorship. Your estimates should be based upon the most current information that is reasonably available to you.

For example, if there is a substantial change of circumstances for the protected person, such as a medical deterioration which requires a different level of care, use this information when calculating sustainability, even if the change occurred after the end of the reporting period but before the date of filing this schedule.

As a reminder, the information provided on this schedule is a good faith estimate based upon the information that is reasonably available to you. Some information may be easy to calculate and should be accurate, such as money available in bank accounts, but some information is very difficult to estimate, such as the projected life expectancy of the protected person. This schedule requires you to share what you believe to be true, not what you can prove to be true. You are not making an avowal; you are telling the Court what you think is true in this particular case for this particular protected person.

Column C – Change from Prior SCHEDULE 3, Column D – Change as Percent, & Column E – Explanation of Change: Compute Columns C and D, which show the dollar amount and percent of change, respectively, from last year to this year. The mathematical calculation is shown in the header to Columns C and D. Complete Column E to explain any changes in the value or composition of the assets or liabilities included in the category; and if more space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Report Date of Sustainability Estimator: Enter the date of each report of sustainability. Column A is the date of the prior estimate, and Column B is the date of your new estimate of sustainability.

Overview of Lines 2 through 4: You calculated the net assets of the conservatorship estate on SCHEDULE 2, but there may be additional factors that may impact those assets looking forward, such as additional assets that might come from an inheritance or a personal injury claim. Likewise, looking forward, some assets might be needed for known one-time expenditures, such as a major medical expenditure or the startup costs for the conservatorship. Once these adjustments are made, if any, the remaining net assets should be available to meet the typical or recurring needs of the protected person.

Said another way, you are calculating the net assets that are thought to be available to meet the regular and recurring needs of the protected person from this point forward.

Line 2 – Net Assets: Enter the value of the Net Assets available to the estate, as calculated on SCHEDULE 2, line 19, Columns A and B, respectively.

Line 3 – Adjustments: Enter zero, unless adjustments are required. If so:

- Enter as a positive value any new and significant assets that you expect to come into the conservatorship, such as an inheritance or a personal injury award.
- Enter as a negative value any assets that need to be used to satisfy any planned, one-time, significant expenditures, such as one-time medical cost, large repairs, or the cost to stabilize the conservatorship.

Explain any adjustments in the space provided on SCHEDULE 3, Column E, or provide supporting detail on a separate page.

Line 4 – Adjusted Net Assets: Add a positive value on line 3 to line 2, or deduct a negative value on line 3 from line 2. This is your estimate of the assets that will be available to meet the recurring needs of the protected person.

For example, if the net asset figure on line 2 is \$100,000, and line 3 is a positive value, such as \$5,000, enter the sum of both numbers, \$105,000 on line 4. However, if line 3 instead has a negative value, such as minus \$8,000:

which can be written as -\$8,000 or (\$8,000), you would enter \$92,000 on line 4.

Overview of Lines 5 through 7: You already calculated the net income or the net expenses of the conservatorship estate on SCHEDULE 1, but there may be additional factors that impact the typical or recurring net income or net expenses looking forward, such as income or expenses that will change in the future. Said another way, what will be the regular or recurring net income or net expenses in a typical year?

Line 5 – Net Income/(Net Expenses): Enter the value of the net income or net expenses for the estate as calculated on SCHEDULE 1, line 27, Columns A and C, respectively. Enter net income as a positive number, and enter net expenses as a negative number.

Line 6 – Adjustments: Enter zero, unless adjustments are required. If so:

- Enter as a positive value any significant one-time expenses that were recognized as a disbursement when calculating the net income or net expenses for the year just ended, such as a one-time medical cost or the startup cost for the conservatorship.
- Enter as a positive value any significant and recurring income that was not recognized (or not fully recognized) when calculating the net income or net expenses for the year just ended, such as a new source of income like disability benefits.
- Enter as a negative value any significant and recurring expenditure that was not recognized (or not fully recognized) when calculating the net income or net expenses for the year just ended, such as a new or increased expenditure for care of the protected person.

For example, if the protected person now receives a regular and recurring disability payment of \$1,000 per month, and only the first three months of benefits was included in the net income or net expenses for the year just ended, there is a required positive adjustment in the amount of \$3,000, which recognizes the additional income that will be received in a typical year (since 3 months was already recognized).

For example, if the protected person incurred a substantial one-time expenditure, which was a disbursement when calculating the net income or net expenses for the year just ended, this is a positive adjustment, since this disbursement will not recur in a typical year. This might occur with

the one-time cost for a new roof on the protected person's residence.

For example, if the protected person will now require additional care services, which was not previously included as a disbursement in calculating the net income or net expenses, this is a negative adjustment.

Explain any adjustments in the space provided on SCHEDULE 3, Column E, or provide supporting detail on a separate page.

Line 7 – Adjusted Net Income/(Net Expenses): Add the positive value on line 6 to line 5, or deduct the negative value on line 6 from line 5. This is your estimate of the regular and recurring net income or net expenses of the conservatorship.

If line 7 is a positive value, you are estimating that the conservatorship is sustainable because the conservatorship is expected to produce more income than it expends. If line 7 is positive, do NOT complete lines 8 through 10; skip to line 11.

If line 7 is a negative value, continue to line 8.

Line 8 – Enter Adjusted Net Assets: Enter the number calculated on line 4.

Line 9 – Enter Adjusted Net Expenses: Enter the absolute value of the number calculated on line 7. This means you will enter a positive number for the value that is shown on line 7 as a negative number. Said another way, ignore the negative sign when entering this number on line 9.

Line 10 – Estimated Years of Sustainability: Enter here line 8 divided by line 9. This is your estimate of the number of years that the conservatorship can fund the recurring and regular expenses of the protected person before the entire net estate is consumed.

Line 11 – Estimate of Protected Person's Remaining Life Expectancy: Enter your good faith estimate of the remaining life expectancy of the protected person expressed in years. Just tell the Court what you think, not what you can prove. You may rely on your own experience, any opinions that you consider credible, such as the opinions of a medical professional, and life expectancy tables. However, do not use life expectancy tables without making adjustments for the particular circumstances of the protected person based upon the information that is reasonably available to you.

Line 12 – Conservatorship is Sustainable: Check the box for "Yes" if Adjusted Net Income on line 7 is a positive number OR if line 10 is equal to or greater than line 11. If not, check the box for "No".

Said another way, check "Yes", if the income exceeds expenses as reported on line 7. Likewise, check "Yes", if the number of years it takes to consume the estate is equal to or greater than the projected life expectancy of the protected person. Otherwise, check "No".

Line 13 – Management Plan: If Column A and/or Column B, line 12 is checked "No", provide the most recent prior management plan in Column A, if any, and describe your current management plan in Column B. If there is no change to the prior management plan, enter "No Change" in Column B.

The conservator shall provide the court with an alternative management plan if the estate is not calculated as sustainable. That plan shall describe how the future care needs of the protected person shall be met. For example, there may be a need for an adjustment in the protected person's standard of living or a future need for public assistance.

The objective of the conservator must always focus on the best interests of the protected person, while respecting the wishes of the protected person to the extent not inconsistent with the protected person's best interests.

FORM 8: Conservator's Account:

Form 8 is largely a self-explanatory document; it serves as a coversheet for your complete annual report.

When filing Form 8, you are required to attach SCHEDULES 1, 2, and 3, as well as a copy of bank statements for all accounts as of the date when the current reporting period ended. If you need to attach any supporting detail to any schedule, this detail is also a required attachment. Check each box on Form 8 for each included attachment.

When amending Form 8, include any required attachments that are changed as a result of the amendment. Check each box on an amended Form 8 for each included attachment.

Organize all required attachments in the same order as shown on Form 8.

Sign Form 8 when you are finished and have reviewed the form and all required attachments. When you sign, you are certifying that you have read and reviewed the entire report and, after reasonable inquiry, you have a good faith belief that the information in this report is true, accurate and complete to the best of your knowledge and belief.

Please remember, you will use Form 8 starting with your second conservator's account, and you will continue using this form for each of your annual conservator's accounts thereafter until you are ready to file your final account.

Use Form 9 for your final conservator's account unless the Court expressly authorizes you to file a simplified conservator's account on Form 10.

In the matter of: _____ Case No. _____

SCHEDULE 1 (Form 8):
Statement of Receipts and Disbursements
 (Refer to Form 8 instructions to Complete SCHEDULE 1.)

	Column A		Column B		Column C		Column D		Column E		Column F		Column G	
	Actual Results Prior Period: / / 20	Budget Period Just Ended: / / 20	Actual Results / / 20	Budget / / 20	Deviation from Budget (Column C minus Column D)	Deviation as Percent (Column E divided by Column D multiplied by 100)	Budget Current Year: / / 20	Change Requested (Column G minus Column C)						
Receipts (Money Received):														
1. Retirement and Disability Income														
2. Annuities, Structured Settlements, and Trust Income														
3. Investment and Business Income														
4. Total Receipts (add lines 1 through 3)														
Disbursements (Money Spent):														
5. Food, Clothing, and Shelter														
6. Medical Costs														
7. Debt Service on Liabilities														
8. Other for Protected Person (Attach Schedule)														
9. Total for Protected Person (add lines 5 through 8)														
10. Assets/Liabilities as Receipts (see instructions)														
11. Total Disbursements (add lines 5 through 9)														
12. Assets/Liabilities as Disbursements (see instructions)														
13. Total Expenses in Disbursements (line 11 minus line 12)														
14. Total Surplus/(Shortfall) (line 6 minus line 13)														
15. Net Surplus/(Net Expense) (line 10)														

In the matter of:		Case No.		
Column A	Column B	Column C	Column D	Column E
Valuations Reported in Prior Period SCHEDULE 2.	Adjusted Valuations for Period Just Ended.	Change from Prior Schedule 2	Change as Percent of Prior Schedule 2	Explanation of Change
10/30	11/30			
SECTION 1: Net Assets				
1. Valuation Report Date				
General Assets, Excluding Cash and Bank Accounts:				
2. Real Estate				
3. Vehicles				
4. Other Personal Assets				
5. Personal Notes and Personal Checks				
6. Other Personal Assets				
7. Total General Assets (Attach Detail)				
Cash and Bank Accounts:				
8. Cash				
9. Bank Accounts - Unrestricted Access				
10. Bank Accounts - Restricted Access				
11. Total Cash and Bank Accounts (Add lines 8 and 9)				
12. Total Net Assets (Add lines 7 and 11)				
Liabilities:				
13. Total Liabilities (Add lines 16 and 17)				
14. Total Net Assets (Add lines 12 and 13)				
SECTION 2: Reconciliation of Conservator's Account				
Reconciliation of Cash and Restricted Bank Accounts:				
20. Starting Cash Balance (From Column A, line 11)				
21. Total Receipts (SCHEDULE 1, Column C, line 5)				
22. Total Disbursements (SCHEDULE 1, Column C, line 23)				
23. Ending Cash Balance (Add lines 20 and 21, less line 22)				

Starting Cash Balance comes from Column A, line 11

Ending Cash Balance must equal Column B, line 14

In the matter of:		Case No.			
Column A	Column B	Column C	Column D	Column E	
Sustainability Estimated in Prior Period SCHEDULE 3:	Updated Sustainability Estimated For Period Just Ended:	Change from Prior Schedule 3	Change as Percent	Explanation of Change	
1/20	1/20	Column E minus Column A	Column E minus Column A and multiplied by 100		
SCHEDULE 3 (Form 8): Statement of Sustainability of Conservatorship (Refer to Form 8 Instructions to complete SCHEDULE 3)					
1. Report Date of Sustainability Estimate:					
Net Assets Available to Conservatorship:					
2. Net Assets (See SCHEDULE 2, line 19)					
3. Adjustments					
Recurring Net Income/(Net Expenses):					
4. Net Income/(Net Expenses) (See SCHEDULE 3, line 25)					
5. Adjustments					
6. Adjusted Net Income/(Net Expenses) (See lines 3 and 5)					
If line 7 is equal to or greater than zero, the Conservatorship is estimated to be sustainable; DO NOT complete lines 8 through 10 in that Column.					
8. Enter Adjusted Net Assets (line 4)					
9. Enter Adjusted Net Expenses (line 6)					
10. Estimated Years of Sustainability (line 8 divided by line 9)					
11. Estimate of Protected Person's remaining life expectancy					
12. Conservatorship is Sustainable (See Instructions)					
13. Preceding Management Plan					
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No Management Plan Going Forward					
The Conservator's estimates and analyses of Adjusted Net Assets, Adjusted Net Income/(Net Expenses), and Protected Person's Life Expectancy are good faith estimates based upon the information that is reasonably available to the Conservator concerning the Protected Person. This information is provided for the limited purpose of assisting the Court in its oversight of this Conservatorship.					

Form 9. FINAL CONSERVATOR'S ACCOUNT

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Licensed Fiduciary Number (if applicable): _____
Representing Self or Attorney for: _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF «COUNTY»

IN THE MATTER OF THE
CONSERVATORSHIP FOR

«Protected Person's Name»,

 a Minor
 an Adult

NO. «CaseNo.»

FINAL
CONSERVATOR'S ACCOUNT
 Amendment

(Assigned to the Honorable
«Judicial Officer»)

Confidential Document
Rule 7, Rules Probate Proc.

REQUIRED ATTACHMENTS, which are to be attached in the following order:

- SCHEDULE 1: Statement of Receipts and Disbursements
- SCHEDULE 2: Statement of Net Assets & Reconciliation
- Statement of Asset Distribution
- RECENT BANK STATEMENT for each bank account
- Supporting Detail required for SCHEDULE 1
- Supporting Detail required for SCHEDULE 2
- TRANSACTION LOG, detailing all financial transaction during the current reporting period, reported by category.

CONSERVATOR'S CERTIFICATION

I, the undersigned, acknowledge that I have read and reviewed this form, accompanying schedules and attached supplements, and after reasonable inquiry have a good faith belief that the information in this report is true, accurate and complete to the best of my knowledge and belief.

<<Conservator Name>>

<<Date>>

Form 9, Continued

INSTRUCTIONS FOR FORM 9: FINAL CONSERVATOR'S ACCOUNT

Purpose of Form:

Use Form 9 to prepare and report the final conservator's account, concerning the administration of the estate.

If this conservatorship consists of a small estate or has very little activity, ask the Court to authorize the conservator to file Form 10, which is a simplified conservator's account; you must file the full report, unless the simplified conservator's account is authorized.

When to File:

Generally, each conservator's account and budget covers a one year period, such that each reporting period is referred to as a year. However, a final conservator's account typically covers the entire final period of the conservatorship from the date of the last conservator's account, which may be more or less than one year.

Please note, unless prohibited by the Court, under certain circumstances a final account is not required. See Section 14-5419, Arizona Revised Statutes.

You must review the Court's orders in your case, which may establish different requirements to conclude the conservatorship and to be discharged as conservator, since every conservatorship is unique to some degree.

Form 9 is filed as a confidential document; the account is not available for public inspection.

General Instructions:

All references in these instructions to "you" refer to the conservator, and all references to "year" refer to the reporting or accounting period.

Unless otherwise ordered by the Court, Form 9 requires attachments, including but not limited to SCHEDULE 1: Statement of Receipts and Disbursements; and SCHEDULE 2: Statement of Net Assets & Reconciliation. In addition to the required schedules, certain answers require supporting detail, which are also required attachments to Form 9. As to any supporting detail, identify the schedule, line and, if appropriate, column that is detailed.

You should complete the required schedules prior to completing Form 9, because Form 9 is essentially a coversheet as you gather together your complete report, and it includes a

certification that the report is true, accurate and complete to the best of your knowledge and belief. Don't sign this certification until you have read and reviewed the completed report.

Helpful Suggestion:

These instructions assume that Form 9 and all schedules are being completed manually on paper forms. However, Form 9 and all schedules are also available in an electronic format at no cost and will automate all of the calculations. Please see: www.azcourts.gov/add_full_site/

Notice:

Any estimates allowed or required by these instructions are not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

Specific Instructions:

SCHEDULE 1 (Form 9): Statement of Receipts and Disbursements

Column Instructions:

SCHEDULE 1 consists of columns that are divided into two basic categories: Column A relates to the past, meaning information that was previously reported; and Columns B through E relate to the present, meaning information that you are reporting for the year just ended. **Please note: Columns F & G are not used on Form 9 and are intentionally left blank.**

You may be required to use all of the columns in SCHEDULE 1 or just some of the columns, depending whether the Court requires a budget.

Column A - Actual Results Prior Period:

Complete Column A to present information from the last conservator's account; this information is presented for comparison purposes only, and must be copied directly from Column C of last year's SCHEDULE 1, including the starting and

ending dates. If the conservatorship was in existence last year, but you were appointed as a successor conservator and this is your first conservator's account, you still include your predecessor's information in Column A, but you are not attesting to the accuracy of this information and are not responsible for verifying the activity reported by the prior conservator.

Column B – Budget, Period Just Ended: If you were required to file a budget for the year just ended, enter the budget for the year just ended in Column B. Please note: If the budget was amended during the year, enter the final amended budget in Column B and describe the amendments as supporting detail to SCHEDULE 1.

Column C – Actual Results, Period Just Ended: Complete "Column C" to report the conservator's account for the year just ended. This is the column where the actual receipts and disbursements for the year just ended are reported.

Column D – Deviation from Budget, & Column E – Deviation as Percent: If you are required to complete Columns B and C, then compute Columns D and E, which show the dollar amount and percent of deviation, respectively, between the budget and actual results. The formulas to calculate the deviation are shown in the headers to Columns D and E. Please remember, if you are using the electronic version of this Form, the formulas are embedded and both columns are automatically calculated, as are all calculations on the Form.

Column F – Budget Current Year: Since this is a final conservator's account, this Column is intentionally left blank.

Column G – Change Requested: Since this is a final conservator's account, this Column is intentionally left blank.

Line Instructions:

As you determine what to enter on each line, please remember that transactions are recognized on SCHEDULE 1 when money is received or money is disbursed by the conservatorship. In accounting terms, transactions are recognized on a cash basis; you list receipts and disbursements when money effectively changes hands.

For example, if a cost is incurred but not paid before the end of a reporting period, the cost is not listed as a disbursement until paid.

For example, if a check is mailed before the end of a reporting period but does not clear the bank until early in the next reporting period, the disbursement is treated as paid when the check was mailed.

Receipts reported on SCHEDULE 1 include any money, whether income to the estate, liquidation of any general estate asset, or the proceeds of any loan to the estate.

Once you determine which columns of SCHEDULE 1 are required, complete each row as follows:

Line 1 – Start Date of each Period: Enter the start date for each period.

For example, if a conservator files an account that is due on September 30, 2012, for the period from July 1, 2011 to June 30, 2012:

- Column A will have a start date of July 1, 2010, and
- Columns B and C will have a start date July 1, 2011.

Line 2 – End Date of each Period: Enter the end date for each period. Using the preceding example, the end date in Column A is June 30, 2011, but the end date in Columns B and C is the end date for the Conservatorship.

Line 3 – Retirement and Disability Income: Enter all regular and recurring income that is received as a result of retirement or disability, including but not limited to Social Security, Railroad Retirement, pension benefits, Social Security Disability, Supplemental Security Income, and Worker's compensation benefits. Do NOT include distributions from tax-deferred investments, such as 401K and IRA funds.

Line 4 – Annuities, Structured Settlements, and Trust Income: Enter all income that is received from annuities, structured settlements or trust income that is not already included in line 3.

Line 5 – Wages and Earned Income: Enter all wages and earned income of the protected person that is not included in lines 3 or 4.

Line 6 – Investment and Business Income: Enter all investment and business income, including but not limited to interest, dividend, rent, and royalty income that is not included in lines 3, 4 or 5.

Line 7 – Other Receipts: Enter any other receipts that are not included in lines 3 through 6, including but not limited to any other income, any distributions from tax-deferred investments, such as 401K or IRA funds, any amount received from selling an asset, or the proceeds from any new loan to the protected estate. Attach a detailed statement explaining the other receipts.

Line 8 – Total Receipts: Add lines 3 through 7 in each column to calculate the Total Receipts reported for each column.

Line 9 – Assets/Liabilities as Receipts: The number you reported on line 8 shows the total receipts to the conservatorship, but it is also important for the Court to know whether the conservatorship is going to be able to meet the lifetime needs of the protected person; and for this reason, the court needs to know how much of the receipts came from consuming assets or from borrowing money.

Enter on line 9 the amount of money that is already included in line 8 that came from selling or liquidating an asset or from incurring a new liability.

For example, if you receive a required minimum distribution from an IRA fund which pays out the earnings as well as some amount of the principal, enter the total distribution on line 7 and enter the amount of the principal received on line 9.

For example, if you receive the proceeds from an installment sale over a period of years, and this year you receive interest on the unpaid balance plus a payment on the balance due, enter the total payment received this year on line 7 and enter the principal portion of the receipts on line 9.

For example, if you sell an asset, such as a residence, enter the net amount received on line 7 and enter the same amount on line 9.

For example, if the conservator borrows money to pay the bills of the protected person, enter the amount of the new loan on lines 7 and 9 and include as a liability on SCHEDULE 2.

Line 10 – Total Income Included in Receipts: Subtract line 9 from the Total Receipts on line 8.

Line 11 – Food, Clothing, and Shelter: Enter the disbursements for goods or services provided to a protected person that are essential for survival, excluding medical costs but including food, clothing, and shelter for the protected person. (For the limited purpose of reporting a disbursement on line 11, expenditures for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.)

For example: enter the regular fees to a care facility, required companions or care providers, food, clothing, toiletries, utilities, or household expenses including home mortgage payments for the protected person's residence.

Line 12 – Medical Costs: Enter all of the medical payments for the protected person that are not included on line 11, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription

and non-prescription medicines, insurance premiums and co-pays.

Line 13 – Dignity Funds: Enter the amount of funds that are released directly to the protected person as a spending allowance. Do NOT report how the protected person expended these funds; these funds are no longer considered part of the conservatorship estate.

Line 14 – Debt Service on Liabilities: Enter the amount of debt service payments on debts, such as loans and personal debts of the protected person.

- Do NOT include the home mortgage payment on the residence where the protected person resides (this was reported on line 11).
- Do NOT include as debt service any disbursements for obligations incurred in a prior period of the conservatorship, such as fiduciary and attorney fees and costs. Report these amounts in the appropriate disbursement category when paid.

For example, if the fiduciary earned a fee in one period, but the fee was paid in a later period, the fee is reported as a disbursement on line 18 when paid, NOT line 14. Any operating bills of the conservatorship are treated in the same manner, such as fees to care providers that are incurred but not paid until a later year.

For example, if the protected person has an outstanding credit card debt that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the protected person has an outstanding car loan that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 14.

For example, if the Conservator takes out a loan for the benefit of the protected person, such as a loan to fund the needs of the protected person until real estate or a business interest is sold, all debt service payments on this debt are reported on line 14.

Line 15 – Discretionary Expenditures: Discretionary expenditures means all goods and services provided to a protected person that are not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person, such as entertainment and vacation costs. Discretionary care does NOT include expenditures that are included on another line on SCHEDULE 1.

Line 16 – Other Disbursements for Protected Person: Report other disbursements

that are made for the protected person but not included on another line on SCHEDULE 1, including disbursements that are made for a dependent of the protected person. Include on line 16 the purchase of any asset, such as a residence, vehicle, or computer. Attach supporting detail explaining the other disbursements.

For example, if a residence was purchased for the protected person, report the cash down-payment on line 16, mortgage payments on line 11, and list the mortgage as liability on SCHEDULE 2. (see line 24 where this down-payment is also entered)

For example, if the conservator invests in a marketable security, such as a mutual fund or publicly traded stock, enter the disbursement on line 16 (see line 24 where this purchase is also reported).

For example, enter on line 16 any tax payment that is not already listed on another line.

Line 17 – Total for Protected Person: Enter the sum of lines 11 through 16.

Line 18 – Fiduciary Fees and Costs: Enter the expenditures for Fiduciary Fees and Costs. Fees are compensation paid to the Fiduciary. Costs include administrative charges that are authorized in the Statewide Fee Guidelines, such as filing fees and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing, and shelter.

Line 19 – Fiduciary's Attorney Fees and Costs: Enter the Fiduciary's Attorney Fees and Costs.

Line 20 – Protected Person's Attorney Fees and Costs: Enter the Protected Person's Attorney Fees and Costs, including court-appointed counsel and any guardian ad litem, if paid by the conservator.

Line 21 – Other Administrative Fees and Costs: Report other disbursements that are an administrative fee or cost of the conservatorship that are NOT included on another line on SCHEDULE 1, such as an appraiser, financial advisor, court investigator, or accountant. Attach supporting detail explaining any other expenditure.

Line 22 – Total Administration Disbursements: Enter the sum of lines 18 through 21.

Line 23 – Total Disbursements: Add lines 17 and 22.

Line 24 – Assets/Liabilities as Disbursements: The number you reported on

line 23 shows the total disbursements of the conservatorship, but the court also needs to know how much was disbursed to satisfy debts or acquire assets.

Enter the amount that is included in line 23 that reduced the principal balance of a debt or was expended to acquire an estate asset.

For example, if you expend funds on an installment purchase over a period of years, and this year you pay interest on the unpaid balance plus a payment on the balance due, enter the total payment (interest and principal) on line 23 and enter the principal portion of the payment on line 24.

For example, if you buy a residence for the protected person, enter the net amount disbursed as a down-payment on line 24 and enter the same amount on line 23. Thereafter, any mortgage payments are reported on line 11, and this obligation will now be reported as a debt on SCHEDULE 2.

For example, if the conservatorship previously borrowed money to pay the bills of the protected person, enter any debt service payment for the loan on line 14 (including principal and interest), and enter the principal amount paid (but not interest) on line 24.

Line 25 – Total Expenses in Disbursements: Subtract line 24 from the Total Disbursements on line 23.

Line 26 – Total Surplus/(Shortfall): Enter line 8 minus line 25. If the amount is positive, this is a cash-flow Surplus. If the amount is negative, this is a cash-flow Shortfall, and the number must be displayed in parentheses or preceded by a negative sign.

Line 27 – Net Income/(Net Expenses): Enter line 10 minus line 25. If the amount is positive, this is the amount by which income exceeds expenses. If the amount is negative, this is the amount by which expenses exceed the income of the conservatorship, and a negative number must be displayed in parentheses or preceded by a negative sign.

SCHEDULE 2 (Form 9): Statement of Net Assets & Reconciliation

Section 1 – Net Assets: The first section of SCHEDULE 2 includes the previous report of net assets for comparison purposes with an updated report of net assets, including an explanation of any changes.

Column Instructions:

Column A – Valuations Reported in Prior Period: Complete Column A to display

information from the last report of net assets; this information is presented for comparison purposes only and can be copied directly from Column B of last year's SCHEDULE 2, including the statement date. If the conservatorship was in existence last year but you were appointed as a successor conservator, and this is your first conservator's account, you will still include your predecessor's information. You are not attesting to the accuracy of this information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Final Valuations:

Complete Column B to provide an update about the net assets of the conservatorship at the conclusion of the conservatorship, including additions, deletions, and changes in value.

As a reminder, when you filed your original inventory, you were required to provide a valuation of all the property, and some assets were easy to value, like bank accounts, but some assets were difficult to value, like real estate, and may have required the services of a professional appraiser. However, when filing an annual conservator's account and completing SCHEDULE 2, you are not required to file another formal inventory but only provide an update on the net assets of the estate, including your good faith estimate of any significant changes in valuation, which may be based upon your personal opinions. You are not required to seek the opinion of a professional appraiser. Of course, the balance in bank accounts can always be readily determined and must be accurately reported after deducting any outstanding checks or adding any deposits that are not yet posted.

Unless otherwise ordered by the Court, do not include in the net asset report any property that is titled in the name of a different legal entity, such as property held by a trust or corporation, unless you as conservator can exercise a power of direction over the asset. A power of direction includes the ability to direct the other legal entity to transfer title or possession to the property.

When reporting the value of all general assets do NOT deduct any liens or mortgages. Debts are separately reported as liabilities.

Column C – Change from Prior SCHEDULE 2, Column D - Change as Percent, & Column E – Explanation of Change: Compute Columns C and D, which show the dollar amount and percent of change, respectively, from last year to this year. The mathematical calculation is shown in the header to Columns C and D. Complete Column E to explain any changes in the value or composition of the assets or liabilities included in the category; and if more

space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Valuation Report Date: Enter the date of each report of net assets. Column A is the end date of the prior account (this is found on SCHEDULE 1, Column A, line 2), and Column B is the final date of your current conservator's account (this is found on SCHEDULE 1, Column C, line 2).

Line 2 – Real Estate: Enter the value of all real estate owned by the estate, such as the residence of the protected person, any rental or vacation real estate, and any cemetery plots. Remember to enter the gross value of ALL assets and do not deduct liens or mortgages. ALL liabilities are listed separately on line 17 as debts.

Line 3 – Vehicle(s): Enter the value of any vehicles, such as a personal automobile, motorcycle, golf cart, watercraft, airplane, or recreational vehicle.

Line 4 – Business Ownership Interests: Enter the value of any business ownership interests, such as a closely held family business. Do not list shares in a publicly traded corporation on line 4.

Line 5 – Household Items and Personal Effects: Enter the value of household items and personal effects that are owned by the protected person, which commonly include the property that the protected person stored in his or her primary residence, including displayed collectible items. Property with significant value, like precious jewelry and valuable collections, should be itemized and included separately on line 8.

Line 6 – Stocks, Bonds, and Mutual Funds, not tax-deferred: Enter the present value of stocks, bonds, mutual funds, and other marketable securities, such as savings bonds and bearer bonds, but excluding business interests that were entered on line 4 or tax-deferred assets that are entered below on line 7.

Line 7 – Tax-Deferred Assets: Enter the present value of tax-deferred assets, such as IRA and 401(K) accounts. Include all tax-deferred assets, including but not limited to tax-deferred cash accounts, certificates of deposit, savings accounts, and brokerage accounts.

Line 8 – Other General Assets: Enter the present value of all other assets that are not already listed, excluding cash and regular bank accounts. Include the cash value of any insurance policies or any prepaid benefits, such as prepaid funeral plans.

Line 9 – Total General Assets: Enter the sum of lines 2 through 8.

Line 10 – Bank Accounts, Restricted

Access: Enter the cash balance of any bank accounts that are court-restricted, meaning funds may not be withdrawn without a court order. Bank accounts include checking, saving, certificates of deposit, money market accounts, and all functionally similar accounts, whether in a bank, savings and loan, credit union, or other similar financial institution. Do not include tax-deferred assets that were listed above on line 7.

Line 11 – Bank Accounts, Unrestricted

Access: Enter the cash balance of any bank accounts that are NOT court-restricted, meaning funds may be withdrawn without a court order.

Line 12 – Cash on Hand: Enter the amount of currency that you have on behalf of the estate, such as a petty cash fund. Do not include coin collections on this line, unless the coins have no collectible value above the face value of the coins.

Line 13 – Other Money-Denominated

Assets: Enter the value of other money-denominated assets, such as a cash card. These assets are functionally equivalent to money in a bank account and do not change in value by market fluctuation, except by receipt of a dividend or interest. Attach supporting detail.

Line 14 – Total Cash and Bank Accounts:

Enter the sum of lines 10 through 13.

Line 15 – Total Available Assets: Add lines 9 and 14.

Line 16 – Bills & Payables more than 30

days old: Enter the amount of any and all past-due bills and payables, plus ALL incurred but unpaid fiduciary and attorney fees and costs, as of the end of the reporting period. Attach supporting detail.

Line 17 – Debts: Enter the amount of all other debts, such as notes, mortgages, credit cards and personal loans, as of the end of the reporting period. Attach supporting detail.

Line 18 – Total Liabilities: Add lines 16 and 17.

Line 19 – Net Assets: Enter line 15 minus line 18. This is the value of the net assets as of the date of the reporting period.

Section 2 – Reconciliation of Conservator's

Account: The second section of SCHEDULE 2 is utilized to reconcile the cash flow information reported on SCHEDULE 1 to the net asset information reported on SCHEDULE 2. The purpose for this reconciliation is to prove that the ending balance in cash and bank accounts

matches the starting balance plus receipts and minus disbursements.

Line 20 – Starting Cash Balance: Enter starting Cash Balance from SCHEDULE 2, Column A, line 14.

Line 21 – Total Receipts: Enter Total Receipts from SCHEDULE 1, Column C, line 8.

Line 22 – Available Funds: Add lines 20 and 21.

Line 23 – Total Disbursements: Enter Total Disbursements from SCHEDULE 1, Column C, line 23.

Line 24 – Ending Cash Balance: Calculate Ending Cash Balance by subtracting line 23 from line 22. The result must equal the Ending Cash Balance as reported on SCHEDULE 2, Column B, line 14. If these amounts do not match, there is an error in the report.

Statement of Asset Distribution:

You are required to attach a statement to your final conservator's account describing what happened to any remaining assets that were in your care at the conclusion of the conservatorship.

Were the assets returned to the former protected person, who is no longer incapacitated? If the former protected person is deceased, were the assets transferred to an appointed personal representative of the decedent's estate? If neither circumstance applies, who received the assets and why are they entitled to do so.

Please remember: you remain responsible for protecting this estate until you are discharged and relieved of this responsibility. If you distribute the assets without authority, you can be personally liable for any improper distribution.

FORM 9: Final Conservator's Account:

Form 9 is largely a self-explanatory document; it serves as a coversheet for your complete annual report.

When filing Form 9, you are required to attach SCHEDULES 1 and 2, a Statement of Asset Distribution, as well as a copy of bank statements for all accounts as of the date of the final conservator's account. If you need to attach any supporting detail to any schedule, this detail is also a required attachment. Check each box on Form 9 for each included attachment.

When amending Form 9, include any required attachments that are changed as a result of the amendment. Check each box on an amended Form 9 for each included attachment.

Organize all required attachments in the same order as shown on Form 9.

Sign Form 9 when you are finished and have reviewed the form and all required attachments. When you sign, you are certifying that you have read and reviewed the entire report and, after reasonable inquiry, you have a good faith belief that the information in this report is true, accurate and complete to the best of your knowledge and belief.

In the matter of:	Case No.					
	Column A	Column B	Column C	Column D	Column E	Column F
	Post Actual Results From Period: <u> </u> / <u> </u> / <u>20</u>	Budget Period Just Ended: <u> </u> / <u> </u> / <u>20</u>	Actual Results Period Just Ended: <u> </u> / <u> </u> / <u>20</u>	Deviation from Budget (Column C minus Column B)	Deviation as Percent (Column D divided by Column B multiplied by 100)	Budget Change Requested (Column F minus Column E)
SCHEDULE 1 (Form 9):						
Statement of Receipts and Disbursements						
(Refer to Form 9 instructions to Complete SCHEDULE 1)						
1. Start Date of each Period: <u> </u> / <u> </u> / <u>20</u>						
2. End Date of each Period: <u> </u> / <u> </u> / <u>20</u>						
Receipts (Money Received):						
3. Retirement and Disability Income						
4. Social Security Income						
5. Wages and Earned Income						
6. Other Receipts (Attach Schedule)						
7. Total Receipts (add lines 3 through 6)						
8. Total Income (add lines 3 through 7)						
9. Total Income (add lines 3 through 7)						
10. Total Income included in Receipts (line 8 minus line 9)						
Disbursements (Money Spent)						
Spent for Protected Person:						
11. Food, Clothing, and Shelter						
12. Medical Costs						
13. Dignity Funds						
14. Other Disbursements						
15. Discretionary Expenditures						
16. Other for Protected Person (Attach Schedule)						
17. Total for Protected Person (add lines 11 through 16)						
Spent for Administrative Fees & Costs:						
18. Attorney's Fees and Costs						
19. Fiduciary's Attorney Fees and Costs						
20. Other Administrative Fees and Costs (Attach Schedule)						
21. Total Administration (add lines 18 through 21)						
22. Total Administration (add lines 18 through 21)						
23. Total Disbursements (add lines 17 and 22)						
24. Assets/Liabilities as Disbursements (see instructions)						
25. Total Expenses in Disbursements (line 23 minus line 24)						
26. Total Surplus (Shortfall) (line 8 minus line 25)						
27. Net Income/(Net Expenses) (line 10 minus line 25)						

In the matter of:		Case No.		
Column A	Column B	Column C	Column D	Column E
Valuations Reported in Prior Period SCHEDULE 2	Updated Final Valuations	Change from Prior Schedule 2	Change as Percent	Explanation of Change
700	700			
SECTION 1 - Net Assets				
1. Valuation Report Date:				
General Assets - Evaluate Each Asset Bank Statement:				
2. Real Estate				
3. Vehicles				
4. Personal Property				
5. Household Items and Personal Effects				
6. Other Assets				
7. Total General Assets				
Debt and Regular Bank Accounts:				
8. Bank Accounts				
9. Other Bank Accounts				
10. Total Debt and Bank Accounts				
11. Total Assets				
12. Total Liabilities				
13. Total Net Assets				
SECTION 2 - Reconciliation of Conservator's Account				
Reconciliation of Cash and Regular Bank Accounts:				
14. Starting Cash Balance (From Column A, Line 14)				
15. Total Receipts (SCHEDULE 1, Column C, Line 8)				
16. Total Disbursements (SCHEDULE 1, Column C, Line 23)				
17. Ending Cash Balance				

Form 10. Continued

INSTRUCTIONS FOR FORM 10: SIMPLIFIED CONSERVATOR'S ACCOUNT

Purpose of Form:

If the Court authorizes you to file a simplified conservator's account, use Form 10 to prepare your annual report concerning the administration of the estate. Typically, the Court will allow simplified conservator's accounts if the conservatorship consists of a small estate or has very little activity.

If the Court has not authorized you to file a simplified conservator's account on Form 10, file your first conservator's account on Form 7, and all subsequent conservator's accounts are filed on Form 8, until the final account on Form 9. If you are required to provide a budget with your annual conservator's account, the Court has not authorized the use of Form 10.

When to File:

Generally, each conservator's account and budget covers a one year period, such that each reporting period is referred to as a year. However, a reporting period may cover a different period of time, either longer or shorter than a year, if ordered by the Court, depending on the circumstances of each individual case.

By court rule, the first conservator's account covers a period that ends nine months after the issuance of the Letters as Conservator, and the first conservator's account is due 90 days later, which means the first conservator's account is due on the first anniversary of the conservator's appointment. Each successive year, the conservator's report is due on the subsequent anniversary of the appointment. See Section 14-5419, Arizona Revised Statutes and Rule 30, Arizona Rules of Probate Procedure.

However, you must review the Court's orders in your case, which may establish a different end date or different due date for the conservator's account, just as the Court may establish other special requirements that the conservator is required to follow, since every conservatorship is unique to some degree.

Form 10 is filed as a confidential document; the account is not available for public inspection.

General Instructions:

All references in these instructions to "you" refer to the conservator, and all references to "year" refer to the reporting or accounting period.

Form 10 requires attachments, including but not limited to SCHEDULE 1: Statement of Receipts and Disbursements; SCHEDULE 2: Statement of Net Assets & Reconciliation; and SCHEDULE 3: Statement of Sustainability of Conservatorship. In addition to the required schedules, certain answers require supporting detail, which are also required attachments to Form 10. As to any supporting detail, identify the schedule, line and, if appropriate, column that is detailed.

You should complete the required schedules prior to completing Form 10, because Form 10 is essentially a coversheet used to assemble your complete report, and it includes a certification that the report is true, accurate and complete to the best of your knowledge and belief. Don't sign this certification until you have read and reviewed the completed report.

Helpful Suggestion:

These instructions assume that Form 10 and all schedules are being completed manually on paper forms. However, Form 10 and all schedules are also available in an electronic format at no cost and will automate all of the calculations. Please see: [www.azcourts.gov/\[add full site\]](http://www.azcourts.gov/[add full site])

Notice:

Any estimates allowed or required by these instructions are not designed or intended as a basis for civil or criminal liability. Neither is it intended to be the basis for litigants to seek collateral remedies against each other or to obtain tactical advantages in proceedings before a court.

Specific Instructions:

SCHEDULE 1 (Form 10): Statement of Receipts and Disbursements

Column Instructions:

SCHEDULE 1 consists of two columns; Column A relates to the past, meaning information that was previously reported last year; and Column B relates to the present, meaning information that you are reporting for the year just ended, the current year.

You complete only Column B when preparing your first conservator's account, but you use both columns in all subsequent accounts.

Column A – Actual Results Prior Period: Complete Column A to present information from the last conservator's account; this information is presented for comparison purposes only, and must be copied directly from Column B of last year's SCHEDULE I, including the starting and ending dates. If the conservatorship was in existence last year, but you were appointed as a successor conservator and this is your first conservator's account, you still include your predecessor's information in Column A, but you are not attesting to the accuracy of this information and are not responsible for verifying the activity reported by the prior conservator.

Column B – Actual Results Current Period: Complete "Column C" to report the conservator's account for the year just ended. This is the column where the actual receipts and disbursements for the year just ended are reported.

Line Instructions:

As you determine what to enter on each line, please remember that transactions are recognized on SCHEDULE I when money is received or money is disbursed by the conservatorship. In accounting terms, transactions are recognized on a cash basis; you list receipts and disbursements when money effectively changes hands.

For example, if a cost is incurred but not paid before the end of a reporting period, the cost is not listed as a disbursement until paid.

For example, if a check is mailed before the end of a reporting period but does not clear the bank until early in the next reporting period, the disbursement is treated as paid when the check was mailed.

Receipts reported on SCHEDULE I include any money, whether income to the estate, liquidation of any general estate asset, or the proceeds of any loan to the estate.

Once you determine which columns of SCHEDULE I are required, complete each row as follows:

Line 1 – Start Date of each Period: Enter the start date for each period.

For example, if a conservator files an account that is due on September 30, 2012, for the period from July 1, 2011 to June 30, 2012:

- Column A will have a start date of July 1, 2010, and

- Column B will have a start date July 1, 2011.

Line 2 – End Date of each Period: Enter the end date for each period. Using the preceding example, the end date is June 30 one year later than the start date.

Please note: the remainder of SCHEDULE I reports the receipts and disbursements for the conservatorship, if any.

- Column A is simply copied from Column B of last year's SCHEDULE I, if any;
- As to this year's Column B, enter this year's receipts and disbursements, if any. If there are no receipts and disbursements, simply enter zeros in Column B.

For example, if the protected person is a minor whose entire protected estate is deposited in a court-restricted bank account, and no money changes hands, you can just enter zeros.

Line 3 – Retirement and Disability Income: Enter all regular and recurring income that is received as a result of retirement or disability, including but not limited to Social Security, Railroad Retirement, pension benefits, Social Security Disability, Supplemental Security Income, and worker's compensation benefits. Do NOT include distributions from tax-deferred investments, such as 401K and IRA funds.

Line 4 – Annuities, Structured Settlements, and Trust Income: Enter all income that is received from annuities, structured settlements or trust income that is not already included in line 3.

Line 5 – Wages and Earned Income: Enter all wages and earned income of the protected person that is not included in lines 3 or 4.

Line 6 – Investment and Business Income: Enter all investment and business income, including but not limited to interest, dividend, rent, and royalty income that is not included in lines 3, 4 or 5.

Line 7 – Other Receipts: Enter any other receipts that are not included in lines 3 through 6, including but not limited to any other income, any distributions from tax-deferred investments, such as 401K or IRA funds, any amount received from selling an asset, or the proceeds from any new loan to the protected estate. Attach a detailed statement explaining the other receipts.

Line 8 – Total Receipts: Add lines 3 through 7 in each column to calculate the Total Receipts reported for each column.

Line 9 – Food, Clothing, and Shelter: Enter the disbursements for goods or services provided to a protected person that are essential for survival, excluding medical costs but including food, clothing, and shelter for the protected person. (For the limited purpose of reporting a disbursement on line 9, expenditures for food, clothing, and shelter remain essential for survival even if there are less expensive alternatives.)

For example: enter the regular fees to a care facility, required companions or care providers, food, clothing, toiletries, utilities, or household expenses including home mortgage payments for the protected person's residence.

Line 10 – Medical Costs: Enter all of the medical payments for the protected person that are not included on line 9, including but not limited to medical, dental, optical, hearing, medical equipment and supplies, prescription and non-prescription medicines, insurance premiums and co-pays.

Line 11 – Dignity Funds: Enter the amount of funds that are released directly to the protected person as a spending allowance. Do NOT report how the protected person expended these funds; these funds are no longer considered part of the conservatorship estate.

Line 12 – Debt Service on Liabilities: Enter the amount of debt service payments on debts, such as loans and personal debts of the protected person.

- Do NOT include the home mortgage payment on the residence where the protected person resides (this was reported on line 9).
- Do NOT include as debt service any disbursements for obligations incurred in a prior period of the conservatorship, such as fiduciary and attorney fees and costs. Report these amounts in the appropriate disbursement category when paid.

For example, if the fiduciary earned a fee in one period, but the fee was paid in a later period, the fee is reported as a disbursement on line 16 when paid, NOT line 12. Any operating bills of the conservatorship are treated in the same manner, such as fees to care providers that are incurred but not paid until a later year.

For example, if the protected person has an outstanding credit card debt that was incurred before a conservator was appointed, the debt service payments on this debt are reported on line 12.

For example, if the protected person has an outstanding car loan that was incurred before a

conservator was appointed, the debt service payments on this debt are reported on line 12.

For example, if the Conservator takes out a loan for the benefit of the protected person, such as a loan to fund the needs of the protected person until real estate or a business interest is sold, all debt service payments on this debt are reported on line 12.

Line 13 – Discretionary Expenditures: Discretionary expenditures means all goods and services provided to a protected person that are not essential for survival but are designed to improve or prolong the quality and enjoyment of life for the protected person, such as entertainment and vacation costs. Discretionary care does NOT include expenditures that are included on another line on SCHEDULE 1.

Line 14 – Other Disbursements for Protected Person: Report other disbursements that are made for the protected person but not included on another line on SCHEDULE 1, including disbursements that are made for a dependent of the protected person. Include on line 14 the purchase of any asset, such as a residence, vehicle, or computer. Attach supporting detail explaining the other disbursements.

For example, if a residence was purchased for the protected person, report the cash down-payment on line 14, mortgage payments on line 9, and list the mortgage as liability on SCHEDULE 2.

For example, if the conservator invests in a marketable security, such as a mutual fund or publicly traded stock, enter the disbursement on line 14.

For example, enter on line 14 any tax payment that is not already listed on another line.

Line 15 – Total for Protected Person: Enter the sum of lines 9 through 14.

Line 16 – Fiduciary Fees and Costs: Enter the expenditures for Fiduciary Fees and Costs. Fees are compensation paid to the Fiduciary. Costs include administrative charges that are authorized in the Statewide Fee Guidelines, such as filing fees and postage. Costs do NOT include funds advanced for the benefit of a protected person, such as disbursements for food, clothing and shelter.

Line 17 – Fiduciary's Attorney Fees and Costs: Enter the Fiduciary's Attorney Fees and Costs.

Line 18 – Protected Person's Attorney Fees and Costs: Enter the Protected Person's Attorney Fees and Costs, including court-

appointed counsel and any guardian ad litem, if paid by the conservator.

Line 19 – Other Administrative Fees and Costs: Report other disbursements that are an administrative fee or cost of the conservatorship that are NOT included on another line on SCHEDULE 1, such as an appraiser, financial advisor, court investigator, or accountant. Attach supporting detail explaining any other expenditure.

Line 20 – Total Administration Disbursements: Enter the sum of lines 16 through 19.

Line 21 – Total Disbursements: Add lines 15 and 20.

Line 22 – Total Surplus/(Shortfall): Enter line 8 minus line 21. If the amount is positive, this is a cash-flow Surplus. If the amount is negative, this is a cash-flow Shortfall, and the number must be displayed in parentheses or preceded by a negative sign.

SCHEDULE 2 (Form 10): Statement of Net Assets & Reconciliation

Section 1 – Net Assets: The first section of SCHEDULE 2 includes the inventory or a prior report of net assets, as well as an updated report of net assets, including an explanation of any changes.

Column Instructions:

Column A – Valuations Reported in Prior Period: Complete Column A to display information from your last report about net assets of the conservatorship; this information is presented for comparison purposes.

- If this is your first conservator's account AND you previously filed Form 6, this summary information can be copied directly from SCHEDULE 2, Column B of Form 6.
- If this is your first conservator's account AND you were NOT required to file Form 6, you will need to complete Column A by summarizing the valuations that you provided on your inventory that you filed 90 days after your appointment.
- If this is your second or subsequent conservator's account, you can copy this information directly from Column B of last year's SCHEDULE 2.

This information is presented for comparison purposes only. If you were appointed during the past year as a successor conservator, and the

original conservator filed the inventory or prior SCHEDULE 2, you will include your predecessor's information in Column A. You are not attesting to the accuracy of your predecessor's information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Valuations for Period Just Ended: Complete Column B to provide an update about the net assets of the conservatorship for the year just ended, including additions, deletions, and changes in assets or asset values.

As a reminder, when you filed your original inventory, you were required to provide a valuation of all the property, and some assets were easy to value, like bank accounts, but some assets were difficult to value, like real estate, and may have required the services of a professional appraiser. However, when filing an annual conservator's account and completing SCHEDULE 2, you are not required to file another formal inventory but only provide an update on the net assets of the estate, including your good faith estimate of any significant changes in valuation, which may be based upon your personal opinions. You are not required to seek the opinion of a professional appraiser. Of course, the balance in bank accounts can always be readily determined and must be accurately reported after deducting any outstanding checks or adding any deposits that are not yet posted.

Unless otherwise ordered by the Court, do not include in the net asset report any property that is titled in the name of a different legal entity, such as property held by a trust or corporation, unless you as conservator can exercise a power of direction over the asset. A power of direction includes the ability to direct the other legal entity to transfer title or possession to the property.

When reporting the value of all general assets do NOT deduct any liens or mortgages. Debts are separately reported as liabilities.

Column C – Explanation of Change: Complete Column C to explain any changes in the value or composition of the assets or liabilities included in the category; and if more space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Valuation Report Date: Enter the date of each report of net assets. Column A is the end date of the prior account or date of the inventory, and Column B is the end date of your current conservator's account (this is found on SCHEDULE 1, Column B, line 2).

Line 2 – Real Estate: Enter the value of all real estate owned by the estate, such as the residence of the protected person, any rental or vacation real estate, and any cemetery plots. *Remember to enter the gross value of ALL assets and do not deduct liens or mortgages; ALL liabilities are listed separately on line 17 as debts.*

Line 3 – Vehicle(s): Enter the value of any vehicles, such as a personal automobile, motorcycle, golf cart, watercraft, airplane, or recreational vehicle.

Line 4 – Business Ownership Interests: Enter the value of any business ownership interests, such as a closely held family business. Do not list shares in a publicly traded corporation on line 4.

Line 5 – Household Items and Personal Effects: Enter the value of household items and personal effects that are owned by the protected person, which commonly include the property that the protected person stored in his or her primary residence, including displayed collectible items. Property with significant value, like precious jewelry and valuable collections, should be itemized and included separately on line 8.

Line 6 – Stocks, Bonds, and Mutual Funds, not tax-deferred: Enter the present value of stocks, bonds, mutual funds, and other marketable securities, such as savings bonds and bearer bonds, but excluding business interests that were entered on line 4 or tax-deferred assets that are entered below on line 7.

Line 7 – Tax-Deferred Assets: Enter the present value of tax-deferred assets, such as IRA and 401(K) accounts. Include all tax-deferred assets, including but not limited to tax-deferred cash accounts, certificates of deposit, savings accounts, and brokerage accounts.

Line 8 – Other General Assets: Enter the present value of all other assets that are not already listed, excluding cash and regular bank accounts. Include the cash value of any insurance policies or any prepaid benefits, such as prepaid funeral plans.

Line 9 – Total General Assets: Enter the sum of lines 2 through 8.

Line 10 – Bank Accounts, Restricted Access: Enter the cash balance of any bank accounts that are court-restricted, meaning funds may not be withdrawn without a court order. Bank accounts include checking, saving, certificates of deposit, money market accounts, and all functionally similar accounts, whether in a bank, savings and loan, credit union, or other similar financial institution. Do not include tax-deferred assets that were listed above on line 7.

Line 11 – Bank Accounts, Unrestricted Access: Enter the cash balance of any bank accounts that are NOT court-restricted, meaning funds may be withdrawn without a court order.

Line 12 – Cash on Hand: Enter the amount of currency that you have on behalf of the estate, such as a petty cash fund. Do not include coin collections on this line, unless the coins have no collectible value above the face value of the coins.

Line 13 – Other Money-Denominated Assets: Enter the value of other money denominated assets, such as a cash card. These assets are functionally equivalent to money in a bank account and do not change in value by market fluctuation, except by receipt of a dividend or interest. Attach supporting detail.

Line 14 – Total Cash and Bank Accounts: Enter the sum of lines 10 through 13.

Line 15 – Total Available Assets: Add lines 9 and 14.

Line 16 – Bills & Payables more than 30 days old: Enter the amount of any and all just-due bills and payables, plus ALL incurred but unpaid fiduciary and attorney fees and costs, as of the end of the reporting period. Attach supporting detail.

Line 17 – Debts: Enter the amount of all other debts, such as notes, mortgages, credit cards and personal loans, as of the end of the reporting period. Attach supporting detail.

Line 18 – Total Liabilities: Add lines 16 and 17.

Line 19 – Net Assets: Enter line 15 minus line 18. This is the value of the net assets as of the date of the reporting period.

Section 2 – Reconciliation of Conservator's Account: The second section of SCHEDULE 2 is utilized to reconcile the cash flow information reported on SCHEDULE 1 to the net asset information reported on SCHEDULE 2. The purpose for this reconciliation is to prove that the ending balance in cash and bank accounts matches the starting balance plus receipts and minus disbursements.

Line 20 – Starting Cash Balance: Enter starting Cash Balance from SCHEDULE 2, Column A, line 14.

Line 21 – Total Receipts: Enter Total Receipts from SCHEDULE 1, Column C, line 8.

Line 22 – Available Funds: Add lines 20 and 21.

Line 23 – Total Disbursements: Enter Total Disbursements from SCHEDULE 1, Column B, line 21.

Line 24 – Ending Cash Balance: Calculate Ending Cash Balance by subtracting line 23 from line 22. The result must equal the Ending Cash Balance as reported on SCHEDULE 2, Column B, line 14. If these amounts do not match, there is an error in the report that must be corrected or explained.

SCHEDULE 3 (Form 10): Statement of Sustainability of Conservatorship

SCHEDULE 3 IS NOT REQUIRED AND MAY BE OMITTED IF THE PROTECTED PERSON IS A MINOR, WHO IS NOT INCAPACITED EXCEPT BY AGE, SUCH THAT AN ADULT CONSERVATORSHIP PETITION WILL NOT BE FILED.

The purpose of SCHEDULE 3 is to estimate how long the conservatorship estate can meet the expenses of the protected person, and then to compare whether that duration is longer or shorter than the estimated lifespan of the protected person. A conservatorship estate that can meet the predicted expenses of a protected person is considered sustainable, while a conservatorship estate that cannot is not sustainable. A conservatorship estate must have a written management plan if it is not sustainable.

Column Instructions:

Column A – Sustainability Estimated in Prior Period: Complete Column A to display information from the last estimate of sustainability, if one was previously filed; this information is presented for comparison purposes only and can be copied directly from Column B of last year's SCHEDULE 3, including the report date. If the conservatorship was in existence last year but you were appointed as a successor conservator, and this is your first conservator's account, you will still include your predecessor's information. You are not attesting to the accuracy of this information, and you are not responsible for verifying the activity reported by the prior conservator, but you are responsible for disclosing to the court any discrepancies that you discover.

Column B – Updated Sustainability Estimated for Period Just Ended: Complete Column B to provide an update concerning your new estimates on the sustainability of the conservatorship. Your estimates should be based upon the most current information that is reasonably available to you.

For example, if there is a substantial change of circumstances for the protected person, such as a medical deterioration which requires a

different level of care, use this information when calculating sustainability, even if the change occurred after the end of the reporting period but before the date of filing this schedule.

As a reminder, the information provided on this schedule is a good faith estimate based upon the information that is reasonably available to you. Some information may be easy to calculate and should be accurate, such as money available in bank accounts, but some information is very difficult to estimate, such as the projected life expectancy of the protected person. This schedule requires you to share what you believe to be true, not what you can prove to be true. You are not making an avowal; you are telling the Court what you think is true in this particular case for this particular protected person.

Column C – Explanation of Change: Complete Column C to explain any changes in the value or composition of the assets or liabilities included in the category; and if more space is required, file an explanation as supporting detail.

Line Instructions:

Line 1 – Report Date of Sustainability Estimate: Enter the date of each report of sustainability. Column A is the date of the prior estimate, and Column B is the date of your new estimate of sustainability.

Overview of Lines 2 through 4: You calculated the net assets of the conservatorship estate on SCHEDULE 2, but there may be additional factors that may impact those assets looking forward, such as additional assets that might come from an inheritance or a personal injury claim. Likewise, looking forward, some assets might be needed for known one-time expenditures, such as a major medical expenditure or the startup costs for the conservatorship. Once these adjustments are made, if any, the remaining net assets should be available to meet the typical or recurring needs of the protected person.

Said another way, you are calculating the net assets that are thought to be available to meet the regular and recurring needs of the protected person from this point forward.

Line 2 – Net Assets: Enter the value of the Net Assets available to the estate, as calculated on SCHEDULE 2, line 19, Columns A and B, respectively.

Line 3 – Adjustments: Enter zero, unless one or more of the following adjustments apply:

- Enter as a positive value any new and significant assets that you expect to come into the conservatorship, if any, such as an inheritance or a personal injury award.

- Enter as a negative value any assets that need to be used to satisfy any planned, one-time, significant expenditures, if any, such as one-time medical cost, large repairs, or the cost to stabilize the conservatorship.

Explain any adjustments in the space provided on SCHEDULE 3, Column C, or provide supporting detail on a separate page.

Line 4 – Adjusted Net Assets: Add a positive value on line 3 to line 2, or deduct a negative value on line 3 from line 2. This is your estimate of the assets that will be available to meet the recurring needs of the protected person.

For example, if the net asset figure on line 2 is \$100,000, and line 3 is a positive value, such as \$5,000, enter the sum of both numbers, \$105,000 on line 4. However, if line 3 instead has a negative value, such as minus \$8,000, which can be written as -\$8,000 or (\$8,000), you would enter \$92,000 on line 4.

Overview of Lines 5 through 7: You already calculated the cash-flow surplus or shortfall of the conservatorship estate on SCHEDULE 1, but there may be additional factors that impact the typical or recurring cash-flow looking forward, such as income or expenses that will change in the future. Said another way, what will be the regular or recurring cash-flow surplus or shortfall in a typical year?

Line 5 – Total Surplus/(Total Shortfall): Enter the value of the cash-flow surplus or shortfall for the estate as calculated on SCHEDULE 1, line 22, Columns A and B, respectively. Enter Total Surplus as a positive number, and enter Total Shortfall as a negative number.

Line 6 – Adjustments: Enter zero, unless one or more of the following adjustments apply:

- Enter as a positive value any significant one-time expenses that were recognized as a disbursement when calculating cash-flow for the year just ended, if any, such as a one-time medical cost or the startup cost for the conservatorship.
- Enter as a positive value any significant and recurring income that was not recognized (or not fully recognized) when calculating cash-flow for the year just ended, if any, such as a new source of income like disability benefits.
- Enter as a negative value any significant and recurring expenditure that was not recognized (or not fully

recognized) when calculating cash-flow for the year just ended, if any, such as a new or increased expenditure for care of the protected person.

For example, if the protected person now receives a regular and recurring disability payment of \$1,000 per month, and only the first three months of benefits was included in the cash-flow for the year just ended, there is a required positive adjustment in the amount of \$9,000, which recognizes the additional income that will be received in a typical year (since 3 months was already recognized).

For example, if the protected person incurred a substantial one-time expenditure, which was a disbursement when calculating the cash-flow for the year just ended, this is a positive adjustment, since this disbursement will not recur in a typical year. This might occur with the one-time cost for a new roof on the protected person's residence.

For example, if the protected person will now require additional care services, which was not previously included as a disbursement in calculating cash-flow, this is a negative adjustment.

Explain any adjustments in the space provided on SCHEDULE 3, Column C, or provide supporting detail on a separate page.

Line 7 – Adjusted Cash-Flow Surplus/(Shortfall): Add the positive value on line 6 to line 5, or deduct the negative value on line 6 from line 5. This is your estimate of the regular and recurring cash-flow surplus or shortfall of the conservatorship.

If line 7 is a positive value, you are estimating that the conservatorship is sustainable because the conservatorship is expected to produce more cash-flow than it expends. If line 7 is positive, do NOT complete lines 8 through 10; skip to line 11.

If line 7 is a negative value, continue to line 8.

Line 8 – Enter Adjusted Net Assets: Enter the number calculated on line 4.

Line 9 – Enter Adjusted Cash-Flow Shortfall: Enter the absolute value of the number calculated on line 7. This means you will enter a positive number for the value that is shown on line 7 as a negative number. Said another way, ignore the negative sign when entering this number on line 9.

Line 10 – Estimated Years of Sustainability: Enter here line 8 divided by line 9. This is your estimate of the number of years that the conservatorship can fund the recurring and

regular cash-flow shortfall of the protected person before the entire net estate is consumed.

Line 11 – Estimate of Protected Person’s Remaining Life Expectancy: Enter your good faith estimate of the remaining life expectancy of the protected person expressed in years. Just tell the Court what you think, not what you can prove. You may rely on your own experience, any opinions that you consider credible, such as the opinions of a medical professional, and life expectancy tables. However, do not use life expectancy tables without making adjustments for the particular circumstances of the protected person based upon the information that is reasonably available to you.

Line 12 – Conservatorship is Sustainable: Check the box for “Yes” if Adjusted Net Income on line 7 is a positive number OR if line 10 is equal to or greater than line 11. If not, check the box for “No”.

Said another way, check “Yes”, if the income exceeds expenses as reported on line 7. Likewise, check “Yes”, if the number of years it takes to consume the estate is equal to or greater than the projected life expectancy of the protected person. Otherwise, check “No”.

Line 13 – Management Plan: If Column A and/or Column B, line 12 is checked “No”, provide the most recent prior management plan in Column A, if any, and describe your current management plan in Column B. If there is no change to the prior management plan, enter “No Change” in Column B.

The conservator shall provide the court with an alternative management plan if the estate is not calculated as sustainable. That plan shall describe how the future care needs of the protected person shall be met. For example, there may be a need for an adjustment in the protected person’s standard of living or a future need for public assistance.

The objective of the conservator must always focus on the best interests of the protected person, while respecting the wishes of the protected person to the extent not inconsistent with the protected person’s best interests.

Required Transaction Log:

The final required attachment to Form 10 is a Transaction Log, if you had any receipts or disbursements for the current year, which you were required to report on SCHEDULE 1.

Therefore, in addition to any other supporting detail to Form 10, you are responsible for providing a transaction log of your receipts and disbursements; this is as simple as providing a legible copy of the check register, i.e. date, amount, name, and description of each item.

FORM 10: Conservator’s Account:

Form 10 is largely a self-explanatory document; it serves as a coversheet for your complete annual report.

When filing Form 10, you are required to attach SCHEDULES 1, 2, and 3, as well as a copy of bank statements for all accounts as of the date when the current reporting period ended. If you need to attach any supporting detail to any schedule, this detail is also a required attachment. Check each box on Form 10 for each included attachment. EXCEPTIONS:

- the Court may exempt you from completing all or part of Form 10,
- SCHEDULE 3 is not required if the protected person is a minor, who is NOT incapacitated except by age, such that an adult conservatorship petition will not be filed, and
- Transaction Log is not required if there were no receipts or disbursements for the current year (as shown on Column B of SCHEDULE 1).

When amending Form 10, include any required attachments that are changed as a result of the amendment. Check each box on an amended Form 10 for each included attachment.

Organize all required attachments in the same order as shown on Form 10.

Sign Form 10 when you are finished and have reviewed the form and all required attachments. When you sign, you are certifying that you have read and reviewed the entire report and, after reasonable inquiry, you have a good faith belief that the information in this report is true, accurate and complete to the best of your knowledge and belief.

Please remember, if the Court allows you to file a simplified conservator’s account, you will use Form 10 each year.

In the matter of:	Case No.
SCHEDULE 1 (Form 10): <i>Statement of Receipts and Disbursements</i> (Refer to Form 10 Instructions to Complete SCHEDULE 1)	Column A Past Actual Results Prior Period: _____ / ____ / 20 _____ / ____ / 20
	Column B Present Actual Results Current Period _____ / ____ / 20 _____ / ____ / 20
Receipts (Money Received):	
1. Start Date of each Period: _____	
2. End Date of each Period: _____	
3. Retirement and Disability Income	
4. Annuities, Structured Settlements, and Trust Income	
5. Wages and Earned Income	
6. Investment and Business Income	
7. Other Receipts (Attach Schedule)	
8. Total Receipts (add lines 3 through 7)	
Disbursements (Money Spent):	
Spent for Protected Person:	
9. Food, Clothing, and Shelter	
10. Medical Costs	
11. Dignity Funds	
12. Debt Service on Liabilities	
13. Discretionary Expenditures	
14. Other for Protected Person (Attach Schedule)	
15. Total for Protected Person (add lines 9 through 14)	
Spent for Administrative Fees & Costs:	
16. Fiduciary Fees and Costs	
17. Fiduciary's Attorney Fees and Costs	
18. Protected Person's Attorney Fees and Costs	
19. Other Administrative Fees and Costs (Attach Schedule)	
20. Total Administration (add lines 16 through 19)	
21. Total Disbursements (add lines 15 and 20)	
22. Total Surplus/(Shortfall) (line 8 minus line 21)	

In the matter of:	Case No.	
SCHEDULE 2 (Form 10): Statement of Net Assets & Reconciliation <small>(Refer to Form 10 instructions to complete SCHEDULE 2)</small>		
SECTION 1: Net Assets Valuation Report Date: <u> </u> / <u> </u> / <u>20</u>	Column A Valuations Reported in Prior Period SCHEDULE 1	Column B Updated Valuations for Period Just Ended: <u> </u> / <u> </u> / <u>20</u>
		Column C Explanation of Change
General Assets, Excluding Cash and Bank Accounts:		
1. Real Estate		
2. Vehicles		
3. Boat(s)		
4. Other Personal Property		
5. Household Items and Personal Effects		
6. Stocks, Bonds & Mutual Funds - Not Tax-Deferred		
7. Cryptocurrency		
8. Other General Assets (Attach Detail)		
9. Total General Assets (add lines 1 through 8)		
Cash and Regular Bank Accounts:		
10. Bank Accounts - Restricted Access		
11. Bank Accounts		
12. Cash on Hand		
13. Other Money Instruments/Assets (Attach Detail)		
14. Total Cash and Bank Accounts (add lines 10 through 13)		
15. Total Available Assets (add lines 9 and 14)		
16. Bills & Payables more than 30 days old (Attach Detail)		
17. Debts (Attach Detail)		
18. Total Liabilities (add lines 16 and 17)		
19. Net Assets (line 15 minus line 18)		
SECTION 2: Reconciliation of Conservator's Account		
Reconciliation of Cash and Regular Bank Accounts:		
20. Starting Cash Balance (From Column A, line 14)		
21. Total Receipts (SCHEDULE 1, Column C, line 8)		
22. Available Funds (Add lines 20 and 21)		
23. Total Disbursements (SCHEDULE 1, Column C, line 23)		
24. Ending Cash Balance (line 22 minus line 23)		
		Starting Cash Balance comes from Column A, Line 14
		Ending Cash Balance must equal Column B, Line 14

