

IN THE SUPREME COURT OF THE STATE OF ARIZONA
ADMINISTRATIVE OFFICE OF THE COURTS

In the Matter of:)	
)	
ADOPTING REVISIONS TO PROBATE)	Administrative Directive
FORMS 1 THROUGH 4 AND 10)	No. 2013 - <u>28</u>
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)	
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Arizona Code of Judicial Administration (ACJA) § 3-302: Probate Forms, effective September 1, 2012, adopted statewide forms for use in probate matters in the Superior Court. ACJA § 3-302 (D)(5) authorizes the Administrative Director of the Courts to approve technical changes to the forms, without prior approval of the Arizona Judicial Council.

Technical changes to some of the Probate Forms are needed to conform to statutory changes enacted by the 2013 Arizona State Legislature, to correct technical errors, and to increase consistency in format and ease of use of the forms.

IT IS DIRECTED adopting technical revisions, as specified in the attached Appendix “A,” to the following Probate Forms:

Form 1: Order to Personal Representative and Acknowledgement and Information to Heirs/Devises;

Form 2: Order to Guardian and Acknowledgement and Information to Interested Persons;

Form 3: Order to Conservator and Acknowledgement and Information to Interested Persons;

Form 3M: Order to Conservator of Minor and Acknowledgement and Information to Interested Persons;

Form 4: Order to Guardian and Conservator and Acknowledgement and Information to Interested Persons; and

Form 10: Proof of Restricted Account from Financial Institution.

IT IS FURTHER DIRECTED that these technical revisions shall be effective October 14, 2013.

IT IS FURTHER DIRECTED that staff from the Administrative Office of the Courts shall post these revised forms on the Arizona judicial department website and shall provide the updated forms to the Superior Court in each county, in compliance with ACJA § 3-302(D)(5).

Dated this 9th day of October, 2013.

David K. Byers
Administrative Director

APPENDIX “A”

PROBATE FORMS

**Form 1. Order to Personal Representative and
Acknowledgement and Information to Heirs/Devises**

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: _____

FOR CLERK'S USE ONLY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF _____

In the Matter of the Estate of

Decedent's Name,
Deceased

Case No. _____

**ORDER TO PERSONAL
REPRESENTATIVE AND
ACKNOWLEDGEMENT AND
INFORMATION TO HEIRS/DEVISEES**

The best interest of this estate is of great concern to this Court. As Personal Representative, you are subject to the power of the Court. Therefore, to help avoid problems and to assist you in your duties, this Order is entered. You are required to be guided by this Order and to obey it.

This Court will not review or supervise your actions as Personal Representative unless an interested party files a written request to the Court. In Arizona, if you are a beneficiary of an estate, you are expected to protect your own interests in the estate. The Personal Representative is required to provide sufficient information to the beneficiary to permit the beneficiary to protect his or her interests. The Court may hold a Personal Representative personally liable and responsible for any damage or loss to the estate resulting from a violation of the Personal Representative duties. The following is an outline of some of your duties as Personal Representative.

DUTIES OF THE PERSONAL REPRESENTATIVE

The duties of the Personal Representative are found in Chapter 3, Title 14 of the Arizona Revised Statutes (from now on called "A.R.S."). You are responsible for knowing and doing your duties according to these statutes. Some of the duties are as follows:

- 1. Gather, control, and manage estate assets.** As Personal Representative you have the duty to gather and control all assets that belonged to the decedent (the person who has died) at the time of his or her death. After the valid debts and expenses are paid, you have the duty to distribute any remaining assets according to the decedent's Will, or, if there is no Will, to the intestate heirs of the decedent. As Personal Representative, you have the authority to manage the estate assets, but you must manage the estate assets for the benefit of those interested in the estate.
- 2. Fiduciary Duties.** As Personal Representative you are a fiduciary. This means you have a legal duty of fairness and impartiality to the beneficiaries and the creditors of the estate. You must be cautious and prudent in dealing with estate assets. As Personal Representative, the estate assets do not belong to you and must never be used for your benefit or mixed with your assets or anyone else's assets. Arizona law prohibits a Personal Representative from participating in transactions that are a conflict of interest between you, as Personal Representative, and you as an individual. Other than receiving reasonable compensation for your services as Personal Representative, you may not profit from dealing with estate assets.
- 3. Provide Notice of Appointment.** Within **thirty (30) days** after your **Letters of Appointment** as Personal Representative are issued, you must mail notice of your appointment to the Arizona Department of Revenue and to the heirs and devisees whose addresses are reasonably available to you. If your appointment is made in a formal proceeding, you need not give notice to those persons previously noticed of a formal appointment proceeding. *See* A.R.S. § 14-3705.
- 4. Provide Notice of Admission of Will to Probate.** Within **thirty (30) days** of the admission of the Will to informal probate, you must give written notice to all heirs and devisees of the admission of the Will to probate, together with a copy of the Will. You must notify the heirs that they have four (4) months to contest the probate. *See* A.R.S. § 14-3306.
- 5. Mail Copies of this Order to Personal Representative.** Within **thirty (30) days** after your **Letters of Appointment** as Personal Representative are issued, you must mail a copy of this **Order to Personal Representative and Acknowledgment and Information to Heirs/Devisees** to all the heirs or devisees of the estate and to any other persons who have filed a demand for notice.
- 6. File Proof of Compliance.** Within **forty-five (45) days** after your **Letters of Appointment** as Personal Representative are issued, you must file with the Court a notarized statement swearing that a copy of this Order was mailed to each devisee, to each heir in intestate (no Will) estates, and to any other persons who have filed a demand for notice.

- 7. Publish Notice.** Unless a predecessor Personal Representative already has fulfilled this duty or you were appointed more than two years after the decedent's date of death, you must publish a notice once a week for three (3) consecutive weeks in _____ County in a newspaper of general circulation that announces your appointment as Personal Representative and tells creditors of the estate that, unless they present their claims against the estate within the prescribed time limit, the claims will not be paid. In addition, you must mail a similar notice to all persons you know are creditors of the estate. *See* A.R.S. § 14-3801.
- 8. Protect Assets.** You must immediately find, identify, and take possession of all the estate assets and make proper arrangements to protect them. *See* A.R.S. § 14-3709. All property must be retitled to show ownership in the name of the estate - such as "Estate of (decedent's name), by (your name) as Personal Representative." **Do not** put the estate assets into your name, anyone else's name, joint accounts, trust accounts ("in trust for"), or payable on death ("POD") accounts. Do not list yourself or any other person as joint owner or beneficiary on any bank accounts or other assets belonging to the estate. Do not mix any estate assets with your own assets or anyone else's assets.

If your authority as Personal Representative has been limited by the Court, you must promptly protect the estate assets as ordered and file a **Proof of Restricted Assets** form with the Court. You may not sell, encumber, distribute, withdraw, or otherwise transfer restricted assets without first obtaining permission from the Court.
- 9. Determine Statutory Allowances.** It is your responsibility to determine whether any individuals are entitled to statutory allowances under A.R.S. §§ 14-2402, -2403, and -2404. Statutory allowances include a homestead allowance, exempt property allowance, and a family allowance.
- 10. Inventory Assets.** Unless a predecessor Personal Representative already has fulfilled this duty, **within 90 days** after your **Letters of Appointment** as Personal Representative are issued, you must prepare an inventory or list of the decedent's probate assets and their values as of the date of death. *See* A.R.S. § 14-3706. The inventory must be either (1) filed with the Court and mailed to all interested persons who request it, or (2) not filed with the Court, but mailed to: (a) each of the heirs if the decedent died intestate or to each of the devisees if the decedent's Will was admitted to probate; and (b) to any other interested person who requests a copy of the inventory.
- 11. Standard of Care.** In administering estate assets, you must observe the standards of care applicable to a trustee, including the prudent investor rules. *See* A.R.S. §§ 14-10801 et seq. and 14-10901 et seq.
- 12. Keep Detailed Records.** You must keep detailed records of all receipts and expenses of the estate. You are required to provide an account of your administration of the estate to all persons affected by the administration. *See* A.R.S. § 14-3933.

- 13. Pay Valid Debts and Expenses.** You must determine which claims and expenses of the estate are valid and should be paid. You must provide to any creditor whose claims are not allowed prompt written notification that they will not be paid or will not be paid in full. *See* A.R.S. § 14-3806. To the extent there are enough assets in the estate, you are responsible for payment of any estate debts and/or expenses that you know about or can find out about. If there are not enough estate assets to pay all debts and expenses, you must determine which debts and expenses should be paid according to the law. *See* A.R.S. § 14-3805. You may be personally liable if you pay a debt or expense that should not be paid.
- 14. Pay Taxes.** It is your responsibility to determine that all taxes are paid and that all tax returns for the decedent and the estate are prepared and filed.
- 15. Distribute Remaining Assets.** After payment of all debts and expenses of the estate, you must distribute estate assets as directed in the Will, or, if there is not a Will, to the intestate heirs. If there are not enough assets in the estate to make the gifts set forth in the Will, it is your responsibility to determine how the distributions should be made as required by law. *See* A.R.S. §§ 14-3902 and -3907. You may be personally liable if you make an improper distribution of estate assets.
- 16. Change of Address.** Until the probate is closed and you are discharged as Personal Representative, you must notify the Court in writing if you change your home or mailing address.
- 17. Payment as Personal Representative.** As Personal Representative, you may be entitled to reasonable compensation. *See* A.R.S. § 14-3719. Arizona statutes do not designate percentage fees for your work or say how much a Personal Representative should be paid. You must keep receipts to prove out-of-pocket expenses. In determining whether a fee is reasonable, the Court will consider the following factors.
- (a) The time required (as supported by detailed time records), the novelty and difficulty of the issues involved, and the skill required to do the service properly;
 - (b) The likelihood that your acceptance as Personal Representative will preclude other employment;
 - (c) The fee normally charged in the area for similar services;
 - (d) The nature and value of estate assets, the income earned by the estate, and the responsibilities and potential liability assumed by you as Personal Representative;
 - (e) The results obtained for the estate;
 - (f) The time limitations imposed by the circumstances;
 - (g) The experience, reputation, diligence and ability of the person performing the services;
 - (h) The reasonableness of the time spent and service performed under the circumstances; and

(i) Any other relevant factors.

18. Court Involvement. Usually, to reduce estate expenses, estates are administered and estate claims and expenses are paid, including the fees to the attorney and Personal Representative, with little Court involvement. The Court does not supervise informal probates or the conduct of a Personal Representative. However, if any interested party believes that the estate has not been properly handled or that the fees charged by the attorney or Personal Representative are not reasonable under the circumstances, that party may request that the Court review the account for the Personal Representative administration of the estate. Any additional Court involvement may result in additional delay and expenses. If appropriate, the Court may assess the additional expense against the estate or the nonprevailing party.

19. Close the Estate. After you have administered the estate and the assets of the estate have all been distributed, the estate must be closed, either formally or informally. In an informal closing, a copy of the Closing Statement must be filed with the Court and sent to all persons receiving a distribution from the estate. *See* A.R.S. § 14-3933. For a formal closing, *see* A.R.S. §§ 14-3931 and -3932. **Usually, the estate should be completely administered and closed within two (2) years after the initial appointment of the Personal Representative.**

This is only a general outline of **some** of your duties as Personal Representative. This Order does not describe all of your duties and is not a substitute for obtaining professional legal advice. If you have any questions as Personal Representative, **before** taking any action, you should contact an attorney who handles probate estates to find out what to do.

The Superior Court of Arizona in _____ County may have forms, instructions, and procedures to help you with the Probate of an Informal Estate, and it has a list of lawyers who can give you legal advice, and can help you on a task-by-task basis for a fee. The Self-Service Center is located at: _____.

WARNING: FAILURE TO OBEY A COURT ORDER AND THE STATUTORY PROVISIONS RELATING TO THIS ESTATE MAY RESULT IN YOUR REMOVAL AS PERSONAL REPRESENTATIVE AND OTHER PENALTIES. IN SOME CIRCUMSTANCES YOU MAY BE HELD IN CONTEMPT OF COURT, PUNISHED BY CONFINEMENT IN JAIL, A FINE OR BOTH. IN ADDITION, IF YOU VIOLATE ANY OF YOUR FIDUCIARY DUTIES, YOU COULD BE HELD PERSONALLY LIABLE FOR ANY LOSSES FOR WHICH YOU ARE RESPONSIBLE.

DATED this _____ day of _____, 20____.

Judge/Special Commissioner

Judge/Special Commissioner's Name
(Type or Print Name)

Judge/Special Commissioner

Superior Court of Arizona in _____ County

ACKNOWLEDGMENT

I (We), the undersigned, acknowledge receiving a copy of this Order and agree to be bound by its provisions, whether or not read before signing, as long as serving as Personal Representative.

Personal Representative's Signature

Date

Personal Representative's Name
(Type or Print Name)

Co-Personal Representative's Signature (if any)

Date

Co-Personal Representative's Name
(Type or Print Name)

Form 2. Order to Guardian 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: _____

FOR CLERK'S USE ONLY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF _____

In the Matter of the Guardianship of

Ward's Name,

a Minor

an Adult

Case No. _____

**ORDER TO GUARDIAN AND
ACKNOWLEDGEMENT AND
INFORMATION TO INTERESTED
PERSONS**

(Assigned to the Honorable _____

Judicial Officer)

Warning: This appointment is not effective until the *Letters of Appointment* have been issued by the Clerk of the Superior Court.

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 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.** A "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 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;
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 compensation 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. "Compensation" includes, but is not limited to, direct or indirect payments of money, "kickbacks," gifts, favors, and other kinds of personal benefits. If you believe a certain placement or service, that might otherwise be considered self-dealing or a conflict of interest, is in the best interest of your ward, you must document to the Court your reasoning for selecting such placement or service and obtain Court approval.
 9. You will need to obtain a certified copy of the **Letters of Appointment** 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 the issuance of your **Letters of Appointment** as permanent guardian.
 11. If your ward's physical address changes, you shall notify the Court by updating the **Probate Information Form** within **three (3)** 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 (10)** 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(K)(1).

16. Within **thirty (30)** days after your **Letters of Appointment** as 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.

This Order shall be effective on _____, the minor's eighteenth (18th) birthday.

DATED this ___ day of _____, 20 ____.

Judicial Officer

Judicial Officer's Name

Judge/Commissioner-Judge Pro Tem

Superior Court of Arizona in _____ County

ACKNOWLEDGEMENT

I (We), the undersigned acknowledges receiving a copy of this Order and agrees to be bound by its provisions, whether or not read before signing, as long as serving as guardian.

Guardian's Signature

Date

Guardian's Name (Type or Print Name)

Co-Guardian's Signature (if any)

Date

Co-Guardian's Name (Type or Print Name)

Form 3. Order to 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: _____

FOR CLERK'S USE ONLY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF _____

In the Matter of the Conservatorship of

Protected Person's Name

a Minor

an Adult

Case No. _____

**ORDER TO CONSERVATOR AND
ACKNOWLEDGEMENT AND
INFORMATION TO INTERESTED
PERSONS**

(Assigned to the Honorable _____
Judicial Officer)

Warning: This appointment is not effective until the *Letters of Appointment* have been issued by the Clerk of the Superior Court.

The welfare and best interest of the person named above ("your protected person") are matters of great concern to this Court. By accepting appointment as 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, as it relates to your duties as conservator of your protected person as follows:

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 begin to 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." In titling the protected person's property, you should take into account the protected person's existing estate plan (if the protected person has one) unless the Court orders you to do otherwise. If you have any question as to how you should title an asset (including whether you should maintain an existing, or establish a new account that has a POD (payable on death) beneficiary designation or a trust account), you should consult with a qualified attorney or request instructions from the Court.
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 Appointment** as conservator with the County Recorder's Office 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 the **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 Appointment** as 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. Unless otherwise ordered by the Court, you must establish and file 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. Pursuant to Arizona Rules of Probate Procedure 33(A), you shall give written notice of the basis of any compensation as required by Arizona Revised Statutes § 14-5109. Keep detailed records of the time you are spending in identifying, managing, and protecting the conservatorship estate.

9. **File annual accounts with the Court.**

- (a) Unless otherwise ordered by the Court, your first account must reflect all activity relating to the conservatorship from the date your **Letters of Appointment** as conservator, whether temporary or permanent, were first issued through and including the last day of the ninth month after the date your **Letters of Appointment** as 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 Appointment** as permanent conservator.
- (b) Unless otherwise ordered by the Court, all subsequent accounts shall reflect all activity relating to the conservatorship estate from the ending date of the most recent previously filed account 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 Appointment** as permanent conservator.
- (c) **Each account must list all** conservatorship property at the beginning of the account reporting period and the conservatorship property at the end of the account reporting period, and must describe **all** money and property received or disbursed by you during the account reporting 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 account that you file, you also must submit a bank statement or financial account statement that supports the ending balances of each bank or financial account shown on the conservator account filed with the Court.

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 make reasonable efforts to determine the preferences of the protected person, both past or current, regarding all decisions the fiduciary is empowered to make. 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. The 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 account 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 protected person's conservator. *See* A.R.S. § 14-5651(K)(1).
15. Within **thirty (30) days** after your **Letters of Appointment** as 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 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.

This Order shall be effective on _____, the minor's eighteenth (18th) birthday.

DATED this ____ day of _____, 20 ____.

Judicial Officer

Judicial Officer's Name (Type or Print Name)

Judge/Commissioner-Judge Pro Tem

Superior Court of Arizona in _____ County

ACKNOWLEDGEMENT

I (We), the undersigned, acknowledge receiving a copy of this Order and agree to be bound by its provisions, whether or not read before signing, as long as serving as conservator.

Conservator's Signature

Date

Conservator's Name (Type or Print Name)

Co-Conservator's Signature (if any)

Date

Co-Conservator's Name (Type or Print Name)

**Form 3M. Order to Conservator of Minor and
Acknowledgement and Information to Interested
Persons**

FOR CLERK'S USE ONLY

Name of Person Filing Document: _____

Address: _____

City, State, Zip Code: aaaaaaaaaaaaaaaaaaaaaaaaaaaaaaaaaaaaaa

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 _____

In the Matter of the Conservatorship of

a Minor

Case No. _____

**ORDER TO CONSERVATOR OF
MINOR AND
ACKNOWLEDGEMENT AND
INFORMATION TO INTERESTED
PERSONS**

(Assigned to the Honorable
_____)

Warning: This appointment is not effective until the *Letters of Appointment* have been issued by the Clerk of the Superior Court.

The welfare and best interest of the person named above ("the minor") are matters of great concern to this Court. By accepting appointment as 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 must be guided by it and comply with its provisions, as it relates to your duties as a conservator of the minor.

1. The conservatorship property is not your property. It does not belong to you. It is the minor's property and you must hold it for the benefit of the minor until the minor turns eighteen (18).
2. If you are a parent of the minor, you may not use conservatorship assets to fulfill your legal obligation to support your child. Thus, you may not use the conservatorship funds to pay for things that a parent normally would pay for to support the parent's child (e.g., food, clothing, shelter, education expenses, etc.) unless the court enters an order expressly authorizing you to do so.
3. Unless the court orders otherwise, you must place the minor's property in a restricted, interest-bearing account at a federally insured institution authorized to do business in the State of Arizona or in a restricted interest-bearing account with the _____ County Clerk of the Superior Court, titled "THE ESTATE OF (the minors name), MINOR" with no withdrawals of principal or interest permitted therefrom without order of this court.
4. You may not withdraw funds from the restricted account without a court order. If the financial institution allows you to withdraw the funds without a court order YOU will be personally liable for whatever amount was withdrawn from the account. In addition, you may be removed as conservator, found in contempt of court and/or sanctioned for your failure to follow the court's order.
5. Once the minor attains the age of eighteen (18), you MUST file a Petition with the court to terminate the conservatorship. Once a petition is filed, the court will hold a hearing in order to terminate the conservatorship and disburse the conservatorship property to the former minor.
6. 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 minor, or another interested person files a petition requesting that the conservatorship be terminated. The 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 minor, whichever occurs first. Unless otherwise ordered by the court or unless, in the case of the minor's death, you comply with A.R.S. § 14-5419(F), you will need to file a final account with the court before you can be discharged of liability in connection with the conservatorship and before your bond is exonerated.
7. If you move and/or change your address, you must notify the Court within 10 days of the change. You will be responsible for any costs incurred as a result of your failure to notify the Court of any change of address.
8. If you have any questions as to your duties as a conservator, contact any attorney who handles conservatorships before taking any action.

9. If you are not a licensed fiduciary and are not related by blood or marriage to the minor, you are not entitled to compensation for your services as the minor's conservator. *See* A.R.S. § 14-5651(J)(1).
10. Within thirty (30) days after your letters of conservator are issued, you must mail a copy of this order to conservator and acknowledgment and information to interested person to the following:
 - (a) The minor, if the minor is at least 14 years of age;
 - (b) The minor's attorney (if the minor has an attorney) and parents;
 - (c) The minor's guardian, if one has been appointed for the minor; 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 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, FINE, OR BOTH.

DATED this _____ day of _____, 20 ____.

Judicial Officer's Signature

Judicial Officer's Name (Type or Print Name)

Judge/Commissioner-Judge Pro Tem

Superior Court of Arizona in _____ 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's Signature

Date

Conservator's Name (Type or Print Name)

Form 4. Order to Guardian and Conservator and Acknowledgement and Information to Interested Persons

FOR CLERK'S USE ONLY

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 _____

In the Matter of the Guardianship of
and Conservatorship for

Ward's (and Protected Person's) Name,

- a Minor
 an Adult

Case No. _____

**ORDER TO GUARDIAN AND
CONSERVATOR AND
ACKNOWLEDGEMENT AND
INFORMATION TO INTERESTED
PERSONS**

(Assigned to the Honorable _____
Judicial Officer)

Warning: This appointment is not effective until the *Letters of Appointment* have been issued by the Clerk of the Superior Court.

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:

Effective September 1, 2012
Revised October 14, 2013

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 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 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 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; 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 compensation 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. "Compensation" 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 of Appointment** 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 the issuance of your **Letters of Appointment** as permanent guardian.
 11. If your ward's physical address changes, you shall notify the Court by updating the **Probate Information Form** within **three (3) 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 (10) 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 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.
 14. 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(K)(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 begin to 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." In titling the protected person's property, you should take into account the protected person's existing estate plan (if the protected person has one) unless the Court orders you to do otherwise. If you have any questions as to how you should title an asset (including whether you should maintain an existing, or establish a new account that has a POD (payable on death) beneficiary designation or a trust account), you should consult with a qualified attorney or request instructions from the Court.
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 Appointment** as conservator with the County Recorder 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 the **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 Appointment** as 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. Unless otherwise ordered by the Court, you must establish and file 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 accounts with the Court.**
 - a. Unless otherwise ordered by the Court, your first account must reflect **all** activity relating to the conservatorship from the date your **Letters of Appointment** as conservator, whether temporary or permanent, were first issued through and including the last day of the ninth month after the date your **Letters of Appointment** as 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 Appointment** as permanent conservator.

- b. Unless otherwise ordered by the Court, all subsequent accounts shall reflect **all** activity relating to the conservatorship estate from the ending date of the most recent previously filed account 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 Appointment** as permanent conservator.
 - c. **Each account must list all conservatorship property** at the beginning of the account reporting period and the conservatorship property at the end of the account reporting period, and must describe **all** money and property received or disbursed by you during the account reporting 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 account, you also must submit a bank statement or financial account statement that supports the ending balances of each account shown on the account.
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 make reasonable efforts to determine the preferences of the protected person, both past or current, regarding all decisions the fiduciary is empowered to make. 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. The 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 account 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 Appointment** as 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.

GUARDIAN(S) AND CONSERVATOR(S):

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.

This is an outline of only **some** of your duties as guardian and 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.

This Order shall be effective on _____, the minor’s eighteenth (18th) birthday.

DATED this ____ day of _____, 20 ____.

Judicial Officer

Judge/Commissioner-Judge Pro Tem

Superior Court of Arizona in _____ County

ACKNOWLEDGEMENT

I (We), the undersigned acknowledge receiving a copy of this Order and agree to be bound by its provisions, whether or not read before signing, as long as serving as guardian and conservator.

Guardian/Conservator's Name

Date

Guardian/Conservator's Printed Name

Co-Guardian/Conservator's Signature (if any)

Date

Co-Guardian/Conservator's Printed Name

Form 10. Proof of Restricted Account from Financial Institution

FOR CLERK'S USE ONLY

Name of Person Filing Document: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

Licensed Fiduciary Number (if applicable): _____

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF _____

IN THE MATTER OF THE
CONSERVATORSHIP OF:

Date of Birth: _____

Type of Conservatorship:

Adult

Minor

Case No: _____

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>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Unless otherwise ordered by the court, 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.