SUPREME COURT OF ARIZONA

In the Matter of	)	Arizona Supreme Court
	)	No. R-07-0012
PETITION FOR ADOPTION OF THE ARIZONA RULES OF PROBATE PROCEDURE	)	

ORDER ADOPTING
THE ARIZONA RULES OF PROBATE PROCEDURE

A petition having been filed proposing to establish statewide, standardized probate rules, and comments having been received, upon consideration,

IT IS ORDERED that the Arizona Rules of Probate Procedure and the Appendix of Forms be adopted, as set forth in the attachment hereto, effective January 1, 2009.

DATED this ____ day of September, 2008.

_____
RUTH V. McGREGOR
Chief Justice

TO:
Rule 28 Distribution

Arizona Supreme Court No. R-07-0012

ATTACHMENT TO FINAL RULE ORDER

Arizona Rules of Probate Procedure

Table of Contents

Arizona Rules of Probate Procedure

PREAMBLE

These rules apply to probate proceedings brought under Arizona Revised Statutes ("A.R.S.") Title 14 and to proceedings to challenge or enforce the decision of one authorized to make health care decisions for a patient. They are designed to establish uniform practice and statewide standards for such proceedings in the superior court, to promote the prompt, efficient, and fair administration of such proceedings, and to supplement the statutes and rules of civil procedure, not to replace them. Thus, practitioners and unrepresented persons should be able to participate in probate proceedings in any part of the state by referencing these rules, the applicable statutes, and the rules of civil procedure, without having to tailor procedures and forms to comply with differing local probate practices or rules.

The appointment of a guardian or conservator intrudes on the ward's or protected person's liberty to make and carry out decisions regarding matters that may be of a very personal nature. The appointment of a guardian or conservator places the guardian or conservator in a position of trust and confidence with respect to the ward or protected person and imposes on the guardian or conservator the highest duty to act for the benefit of the ward or protected person. For these reasons, these rules also are intended to ensure the protection of the due process rights of persons for whom the appointment of a guardian or conservator is sought.

Judicial officers in probate matters should aspire to the standards set forth in the National Probate Court Standards, which were adopted by the Arizona Supreme Court in 2001. *See* Administrative Order 2001-63. The court is responsible for enforcing statutory requirements and ensuring compliance with court orders and rules in probate matters. Accordingly, judicial officers should periodically review and monitor all probate cases to ensure compliance with applicable statutes, rules, and court orders. *See* Ariz. R. Sup. Ct. 91(i). Public confidence in the integrity of the judicial process depends on compliance with court orders and the rule of law.

I. SCOPE OF RULES, DEFINITIONS, APPLICABILITY OF OTHER RULES

RULE 1. SCOPE OF RULES

These rules govern procedures in all probate proceedings, including guardianships, conservatorships, decedents' estates, trusts, and related matters, as well as proceedings to challenge or enforce the decision of one authorized to make health care decisions for a patient. These rules shall be construed and enforced to ensure the prompt, efficient, and just resolution of probate proceedings.

Comment

In some counties, more than one type of matter may be assigned to a particular judicial officer, division, or department. Thus, for example, a judicial officer assigned to a "probate department" may also be assigned mental health matters brought under A.R.S. § 36-501 et seq., or matters relating to the adjudication of the status of sexually violent persons pursuant to A.R.S. § 36-3701 et seq. These rules are not intended to apply to these latter matters simply because the matter has been assigned to a "probate" judicial officer. Instead, these rules apply only to proceedings brought under A.R.S. Title 14, A.R.S. § 12-1834, and A.R.S. § 36-3206, and to proceedings brought under A.R.S. § 12-1832 to construe a will, trust, or power of attorney.

RULE 2. DEFINITIONS

Unless a term is defined differently in these rules, the definitions in A.R.S. § 14-1201 shall apply to these rules. In addition, unless the context otherwise requires, the following definitions shall apply:

A. "Application" means a written request to the probate registrar that complies with Rule 16 of these rules.

B. "Certified fiduciary" means a person or entity that is certified by the Supreme Court of Arizona pursuant to A.R.S. § 14-5651.

C. "Civil action" means a lawsuit brought to enforce, redress, or protect private rights and includes suits in equity and actions at law. For purposes of these probate rules, the term "civil action" excludes any family law or probate proceeding.

D. "Commissioner" means a judicial officer who has the powers and duties set forth in Rule 96, Rules of the Supreme Court. Commissioners may be appointed as judges pro tempore and, as such, may act as judges in matters assigned to them.

E. "Evidence" means testimony, writing, material objects, or other things offered to prove the existence or nonexistence of a fact.

F. "Evidentiary hearing" or "hearing" means a proceeding held before a judicial officer or a jury during which evidence is presented.

G. "Family law proceeding" means a proceeding brought under A.R.S. Title 25.

H. "Guardian ad litem" means a representative appointed pursuant to A.R.S. § 14-1408 or a person appointed pursuant to Rule 17(g), Arizona Rules of Civil Procedure, by the court to represent the interests of a minor, unborn, or unascertained person; a person whose identity or address is unknown; or an incapacitated person in a particular case before the court. "Guardian ad litem" does not include an attorney appointed pursuant to A.R.S. §§ 14-5207(D), -5303(C), or -5407(B).

I. "Judicial officer" includes a commissioner, judge pro tempore, and judge.

J. "Motion" means an oral or written request made to the court that complies with Rule 18 of these rules.

K. "Non-appearance hearing" means a hearing scheduled pursuant to Rule 12 of these rules.

L. "Oral argument" means a proceeding before a judicial officer during which parties or their lawyers state their positions in support of or in opposition to a motion. Evidence is not presented at an oral argument.

M. "Party" means a person who has filed a notice of appearance, an application, a petition, or an objection in a probate proceeding. An interested person who has filed a demand for notice, but has not filed a notice of appearance, a petition, or an objection, is not a party.

N. "Petition" means a written request to the court for substantive relief that complies with Rule 17 of these rules.

O. "Probate case" means a court case originally commenced for one or more of the following purposes:

1. to administer a decedent's estate;

2. to appoint a guardian for an incapacitated person or minor in accordance with A.R.S. §§ 14-5201 to -5315;

3. to appoint a conservator or request some other protective order in accordance with A.R.S. §§ 14-5401 to -5433;

4. to designate a successor custodian in accordance with A.R.S. § 14-7668(D) or to determine or enforce the rights of persons under the Arizona Uniform Transfers to Minors Act, A.R.S. §§ 14-7651 through -7671;

5. to designate a custodial trustee in accordance with A.R.S. § 14-9113(D) or to determine or enforce the rights of persons under the Arizona Uniform Custodial Trust Act;

6. to request a judicial order relating to the internal affairs of a trust in accordance with A.R.S. §§ 14-10201 to -10204;

7. to challenge or enforce the decision of one authorized to make health care decisions for another person;

8. to obtain a declaratory judgment with respect to the construction or interpretation of a will, trust, or power of attorney; or

9. to obtain a declaratory judgment as authorized by A.R.S. § 12-1834.

P. "Probate proceeding" means a proceeding authorized by and arising under A.R.S. Title 14. The term "probate proceeding" does not mean a civil action, juvenile proceeding, or a family law proceeding even if such civil action, juvenile proceeding, or family law proceeding is filed within or consolidated with a probate case.

Q. "Protected adult" means an adult who qualifies for the appointment of a conservator under Arizona statutes regardless of whether a conservator has been appointed.

R. "Subject person" means the decedent, alleged incapacitated person, ward, person allegedly in need of protection, or protected person.

Comment

Regarding Rule 2(B). The term "fiduciary" is defined in A.R.S. § 14-1201(18).

Regarding Rule 2(F). The purpose of an evidentiary hearing is to assist the judicial officer or jury in deciding one or more issues of fact. Hearings are also sometimes referred to as trials. The state and federal constitutions and state statutes permit jury trials in some cases.

Regarding Rule 2(J). Accelerated, emergency, and ex parte motions are governed by Rule 13 of these rules.

Regarding Rule 2(M). The definition of "party" is intended to apply to parties in probate proceedings, not parties in civil actions filed within or consolidated with a probate case. Rule 4(B)(3) of these rules defines "party" for purposes of a civil action filed within or consolidated with a probate case.

Regarding Rules 2(O) and (P). The definitions of "probate case" and "probate proceeding" are intended to distinguish between the establishment of a court case and the various proceedings that may occur within the case. Thus, a "probate case" is a court case originally commenced for one or more of the listed purposes. Each probate case is assigned a single number by the clerk of court. A probate case will involve one or more probate proceedings. *See, e.g.*, A.R.S. § 14-3107. For example, a probate case relating to a decedent's estate may involve a proceeding to probate a will and appoint a personal representative, a proceeding to approve the sale of real property, and a proceeding to settle the estate and discharge the personal representative. Each application or petition filed within a probate case gives rise to a separate probate proceeding. A probate case may also involve non-probate issues such as personal injury claims or breach of contract claims. Thus, a probate case also may involve a civil action or a family law proceeding filed within or consolidated with the probate case.

Regarding Rule 2(P). For purposes of these rules, the definition of "civil action" includes, but is not limited to, actions that assert claims for breach of contract, negligence, fraud, or statutory abuse.

Regarding 2(Q). The qualifications for appointment of a conservator for an adult are set forth in A.R.S. § 14-5401(2).

RULE 3. APPLICABILITY OF OTHER RULES

A. Arizona Rules of Civil Procedure. Unless otherwise provided in these rules or inconsistent with these rules, the Arizona Rules of Civil Procedure apply to probate proceedings and to civil actions filed within or consolidated with a probate case.

B. Arizona Rules of Family Law Procedure. The Arizona Rules of Family Law Procedure shall govern the procedure for a family law action filed within or consolidated with a probate case.

C. Arizona Rules of Procedure for the Juvenile Court. The Arizona Rules of Procedure for the Juvenile Court shall govern the procedure for a juvenile proceeding consolidated with a probate case.

D. Arizona Rules of Evidence.

1. The Arizona Rules of Evidence apply in contested probate proceedings. If all parties agree not to have those rules apply and the judicial officer concurs and enters an order to that effect, all relevant evidence is admissible, provided, however, that the judicial officer may exclude evidence if its probative value is substantially outweighed by the danger of unfair prejudice or confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence, or if the evidence lacks reliability.

2. In uncontested probate proceedings, the Arizona Rules of Evidence shall not apply. All relevant evidence is admissible, but the judicial officer may exclude evidence if its probative value is substantially outweighed by the danger of unfair prejudice or confusion of the issues, or by considerations of undue delay, waste of time, needless presentation of cumulative evidence, or if the evidence lacks reliability.

Comment

The Arizona Rules of Probate Procedure are intended to supplement the Arizona Rules of Civil Procedure as they relate to probate proceedings and to help fill the gaps where the Arizona Rules of Civil Procedure do not clearly or logically apply to probate proceedings. The civil rules provide background in several areas not covered by these probate rules, including methods for computing time and serving process, among others. Thus, the Arizona Rules of Civil Procedure apply to probate proceedings unless they are inconsistent with the Arizona Rules of Probate Procedure. Application of both sets of rules requires that those involved in probate cases be familiar with the Arizona Rules of Civil Procedure as well as these probate rules.

Probate cases occasionally involve a "case within a case." For example, a civil action involving breach of fiduciary duty, fraud, and racketeering claims against a personal representative may be consolidated with the underlying probate case relating to the administration of the decedent's estate. *See Marvin Johnson, P.C. v. Myers*, 184 Ariz. 98, 907 P.2d 67 (1995). Probate cases may also involve issues such as dissolution of marriage, child support, or other family law matters. These probate rules shall apply to that portion of the consolidated case involving a probate proceeding. Rule 3(A) makes clear that the Arizona Rules of Civil Procedure apply to a civil case filed within or consolidated with a probate case, as well as to the probate case itself. Rule 3(B) makes clear that the Arizona Rules of Family Law Procedure apply to a family law case filed within or consolidated with a probate case. Rule 3(C) makes clear that the Arizona Rules of Procedure for the Juvenile Court apply to a juvenile proceeding consolidated with a probate case.

Many probate proceedings are uncontested. In those proceedings, the formality of the Arizona Rules of Evidence is not required. Rule 3(D)(1) clarifies that the Rules of Evidence do apply in contested probate proceedings, unless the parties agree not to apply them and the court so orders.

Although relevant evidence is generally admissible, subject to limitations that parallel the limitations in Arizona Rule of Evidence 403, the judge has discretion to preclude admission of evidence that is not adequately and timely disclosed.

A probate case may be consolidated into a juvenile case pursuant to A.R.S. § 8-202(A)-(C). If a juvenile case and a probate case are consolidated, the case retains the juvenile case number and is assigned to the judicial officer assigned to the juvenile matter.

II. GENERAL PROCEDURES

RULE 4. COMMENCEMENT AND DURATION OF PROBATE CASES AND PROBATE PROCEEDINGS, AND CIVIL ACTIONS, FAMILY LAW PROCEEDINGS, AND JUVENILE PROCEEDINGS FILED WITHIN OR CONSOLIDATED WITH A PROBATE CASE

A. Commencement and Duration of Probate Cases and Proceedings. A probate proceeding is commenced by filing a petition or, in the case of an informal probate of a will or informal appointment of a personal representative, by filing an application.

1. Commencement and Duration of Decedent's Estate Case.

a. A probate case relating to a decedent's estate is initiated by filing any of the following with the court:

(1) an application for informal appointment of a personal representative or for informal probate of a will in accordance with A.R.S. §§ 14-3301 to -3311;

(2) an application for informal appointment of special administrator in accordance with A.R.S. § 14-3614;

(3) a petition for formal appointment of a personal representative or for formal probate of will or for determination of intestacy in accordance with A.R.S. §§ 14-3401 to -3415;

(4) a petition for formal appointment of a special administrator in accordance with A.R.S. § 14-3614;

(5) certified copies of a domiciliary foreign personal representative's appointment and any official bond in accordance with A.R.S. § 14-4204; or

(6) an affidavit of succession to real property in accordance with A.R.S. § 14-3971(E).

b. A probate case initiated by filing one of the documents listed in subsections (1), (3), or (4) of section (A)(1)(a) of this rule continues until either the court has entered an order closing the estate or one year after the personal representative has filed a closing statement in accordance with A.R.S. §§ 14-3931 to -3938 or -3973 to -3974.

2. Commencement and Duration of Guardianship or Conservatorship Case.

a. A probate case relating to a guardianship is initiated by filing a petition requesting the appointment of a guardian in accordance with A.R.S. §§ 14-5303 or -5310. A probate case relating to a guardianship continues until the court has entered an order terminating the guardianship, or, in accordance with A.R.S. § 14-5306, the guardianship is terminated by operation of law.

b. A probate case relating to a conservatorship is initiated by filing a petition requesting the appointment of a conservator in accordance with A.R.S. §§ 14-5401.01 or -5404. A probate case relating to a conservatorship continues until the court has entered an order terminating the conservatorship in accordance with A.R.S. §§ 14- 5419(I) or -5430, or, if the conservator is granted the powers of a personal representative after the protected person's death, the case continues until the court has entered an order closing the estate or one year after the conservator has filed a closing statement in accordance with A.R.S. §§ 14-3931 to -3938.

3. Commencement and Duration of Trust Case. A probate case relating to the internal affairs of a trust is initiated by filing a petition in accordance with A.R.S. §§ 14-10201 to -10204, or a petition for declaratory judgment in accordance with A.R.S. §§ 12-

1801 to -1867. A probate case relating to the internal affairs of a trust continues until the court takes either of the following actions:

a. in the case of a trust subject to the continuing supervision of the court, the court enters an order terminating court supervision of the trust or terminating the trust, or

b. in all other cases, the court enters a final, appealable order granting or denying the petition.

B. Civil Actions Filed Within or Consolidated with a Probate Case.

1. Requirements. A civil action may be filed within or consolidated with a probate case, under the case number assigned to the probate case, only if the following conditions are met:

a. in a probate case relating to a decedent's estate, either the decedent's estate or the personal representative of the decedent's estate, or both, is a party to the civil action; or

b. in a probate case relating to a guardianship or conservatorship, or both, the ward or protected person, or the guardian or conservator for the ward or protected person, is a party to the civil action; or

c. in a probate case relating to the internal affairs of a trust, the trust or the trustee of the trust is a party to the civil action.

2. Commencement. A civil action filed within a probate case shall be commenced in accordance with Rule 3, Arizona Rules of Civil Procedure.

3. Definition of Party. As used in subsection B of this rule only, the word "party" means plaintiff, defendant, counterclaimant, counter-defendant, cross-claimant, cross-defendant, third-party plaintiff, or third-party defendant in the case filed within or consolidated with a probate case.

C. Family Law Proceeding Filed Within or Consolidated with a Probate Case.

1. Requirements. A family law proceeding may be filed within or consolidated with a probate case relating to a guardianship or conservatorship, under the case number assigned to a probate case,

only if the ward or protected person is either the petitioner or the respondent in such family law proceeding.

2. Commencement. A family law proceeding filed within a probate proceeding shall be commenced in accordance with Rule 23, Arizona Rules of Family Law Procedure.

Comment

In *Marvin Johnson, P.C. v. Myers*, 184 Ariz. 98, 907 P.2d 67 (1995), the Arizona Supreme Court held that a civil action against a former personal representative and others for fraud, breach of fiduciary duty, and racketeering in connection with the administration of an estate could be consolidated with the probate proceeding relating to the administration of the estate. Thus, the court has recognized that a probate proceeding may involve a case within a case. This rule sets forth the circumstances under which a civil action, family law proceeding, or juvenile proceeding may be filed within or consolidated with a probate case.

Regarding Rule 4(A)(1). Pursuant to A.R.S. § 14-1201(38), the term "personal representative" includes a special administrator.

Regarding Rule 4(A)(3). Pursuant to A.R.S. §§ 14-10201 to 10204, a proceeding commenced to address a specific issue relating to the internal affairs of a trust does not result in continuing court supervision of the trust's administration after the court has resolved the specific issue for which the proceeding was initiated.

Regarding Rule 4(B)(3). This definition of "party" applies only to a civil case filed within or consolidated with a probate case. The definition of "party" in Rule 2(M) applies to the rest of the probate rules.

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.

RULE 6. PROBATE INFORMATION FORM

A. Except as provided in section B of this rule, when a party files a petition or application requesting the appointment of a guardian, conservator, or personal representative, the party shall also file an information form that contains the following information:

1. The nominated fiduciary's

   a. mailing address;

   b. physical address;

   c. home telephone number;

   d. work telephone number;

   e. date of birth;

   f. social security number;

   g. race, height, weight, eye color, hair color; and

   h. relationship to the person alleged to be incapacitated, the person in need of protection, or the decedent.

2. The following information for the person alleged to be incapacitated or in need of protection:

   a. mailing address;

   b. physical address;

   c. home telephone number;

   d. date of birth; and

   e. social security number.

3. Decedent's date of birth.

B. If the nominated fiduciary is a certified fiduciary, a national banking association, a holder of a banking permit under Arizona law, a savings and loan association authorized to conduct trust business in Arizona, a title insurance company qualified to do business in Arizona, or a trust company holding a certificate to engage in trust business from the superintendent of financial institutions, none of the information required in section A(1) of this rule need be provided.

C. If the nominated fiduciary is a certified fiduciary, the nominated fiduciary's certification number shall be included on the probate information form.

D. An information form filed pursuant to this rule shall be maintained as a confidential document as provided in Rule 7.

E. Unless otherwise ordered by the court, a party who files an information form pursuant to this rule is not required to provide other parties or interested persons with a copy of the information form.

F. Failure of the petitioner to provide all the information required by subsection A of this rule shall not preclude the filing of the petition.

Comment

For various administrative functions, the court needs certain basic identifying information regarding fiduciaries and their wards and protected persons. The sole purpose of the probate information form is to provide the court with the information it needs to identify accurately the fiduciary and the ward or protected person. In some counties, the data contained in the probate information form will be entered into the court's electronic database and maintained by the clerk of the court or court administration. Each document filed with the court under Title 14 is deemed to include an oath, affirmation, or statement to the effect that the representations in it are true to the best of the knowledge of the person signing the document, and thus each document may subject the person signing or filing it to penalties relating to perjury. A.R.S. § 14-1310.

Generally, proceedings relating to the administration of a trust are not subject to the requirements of Rule 6. However nothing in this rule limits the court's authority to request the information listed in Rule 6 or other information relating to a trust, including information regarding trust beneficiaries, trustees, and trustors.

As to the requirement in Rule 6(C), if the nominated certified fiduciary is an entity, only the entity's fiduciary certification number need be provided. The fiduciary certification number of an individual is required only if the nominated certified fiduciary is an individual rather than an entity.

Pursuant to Rule 10(C) of these rules, court-appointed fiduciaries have a duty to update the information contained in the information form filed pursuant to this rule.

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;

   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. inventories and appraisements filed pursuant to A.R.S. §§ 14-3706(B) or -5418(A);

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

   e. a credit report; or

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

2. For purpose of this rule "confidential information" means the following:

   a. a social security number of a living person;

   b. any account number for a financial account, unless limited to the last four digits only; or

   c. any other information determined by the court to be confidential.

3. For purposes of this rule, "financial account" includes credit card account, bank account, brokerage account, insurance policy, and annuity contract.

4. For purposes of this rule, "redact" means to edit or obscure text in

a document to prevent it from being viewed. Redaction must be accomplished in a manner that prevents the reader from identifying the redacted information either physically or electronically.

B. The clerk of court shall comply with court rules and the Arizona Code of Judicial Administration for the security of electronically filed or transmitted confidential documents and information and the maintenance of confidential documents and information.

C. A party who files a confidential document under this rule shall, when filing the paper document with the Clerk's Office, place the original document in an envelope that bears the case name and number, the name of the document being filed, the name of the party filing the document, 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.

D. Other than confidential documents and arrest warrants, documents filed with the court shall not contain confidential information.

E. Upon motion by any party or upon the court's own motion, the court may order that

1. a document be filed as a confidential document, regardless of whether the document has already been filed with the court;

2. confidential information contained in a non-confidential document be redacted, regardless of whether the document has already been filed with the court. The redaction shall be performed by the originator of the document in instances where the document has yet to be filed.

F. A party who files a motion seeking to have a document or information declared confidential shall

1. provide the title of the document containing the confidential information or requested to be filed as confidential; and

2. include the approximate date the document was filed; and

3. state why the information in question should be redacted or the document should be filed as a confidential document.

G. The clerk of the court shall disclose confidential documents, except for the probate information form described in Rule 6, and confidential information only to the following persons:

1. an attorney or guardian ad litem appointed by the court to represent the person who is the subject of a guardianship or conservatorship proceeding in which the document has been filed;

2. a party to the probate case in which the document has been filed and such party's attorney, guardian ad litem, or other legal representative;

3. a person appointed as a court investigator, medical professional, psychologist, registered nurse, or accountant for the probate case in which the document has been filed;

4. judicial officers;

5. any person authorized by the court, upon a showing of good cause, to view or obtain a copy of such document or information; and

6. staff from the Administrative Office of the Courts for the purpose of conducting a compliance audit of a fiduciary or an investigation into alleged misconduct by a certified fiduciary, pursuant to the Arizona Code of Judicial Administration § 7-201.

H. The clerk of court shall disclose the probate information form described in Rule 6 only to the following persons:

1. an attorney or guardian ad litem appointed by the court to represent the person who is the subject of a guardianship or conservatorship proceeding in which the document has been filed;

2. a person appointed as a court investigator for the probate case in which the document has been filed;

3. judicial officers;

4. any person authorized by the court, upon a showing of good cause, to view or obtain a copy of such document or information; and

5. staff from the Administrative Office of the Courts for the purpose of conducting a compliance audit of a fiduciary or an investigation into alleged misconduct by a certified fiduciary, pursuant to the Arizona Code of Judicial Administration § 7-201.

I. Nothing in this rule shall prevent a confidential document from being used as an exhibit at any hearing in the probate case in which such document was filed.

Comment

Generally, court records are presumed to be open to any member of the public for inspection or copying during regular office hours at the office having custody of the records. In view of the possible countervailing interests of confidentiality, privacy, or the best interests of the state or parties, however, public access to some court records may be restricted. *See* Ariz. R. Sup. Ct. 123(c)(1).

The purposes of this rule are to preserve any medical professional-patient privilege and confidentiality and to protect vulnerable adults from identity theft and financial exploitation. Thus, the rule identifies documents that are to be considered confidential and not kept as part of the court file, and it provides a mechanism for filing such confidential documents. The rule is based, in part, upon former Rule 129, Rules of the Supreme Court, which dealt with confidentiality of medical records in guardianship and conservatorship cases, and Rule 123(c)(3), Rules of the Supreme Court, which deals with confidentiality of personal financial information. Unredacted versions of the probate information form or a financial statement from a brokerage house are confidential. If a party redacts account numbers or social security numbers from a confidential form, the form then may be made available for public viewing.

Although these documents and information may be confidential, the fiduciary must observe and abide by all requirements imposed by statute, law, controlling document, or court order requiring provision of the documents and information to any interested party.

Arizona Code of Judicial Administration § 1-506(E)(4) prohibits the court from accepting confidential or sealed documents by electronic filing. As technology and case management systems advance, court rules and the Code of Judicial Administration will address electronic filing security issues.

For purposes of section A(1)(c), the inventory itself should be treated as confidential; however, any cover sheet should not be treated as confidential. Thus, only the inventory, including any appraisals or financial documents, should be filed as confidential.

For purposes of section A(1)(d), the accounting itself should be treated as confidential; the petition requesting approval of the accounting, however, should not be treated as confidential. Thus, only the accounting, including any schedules and supporting financial documents, should be filed as confidential. The petition requesting approval of the accounting, including the fiduciary's and attorney's fee statements required by Rule 33 of these rules, should be separately filed and are not confidential documents.

For purposes of section G(2) of this rule, a legal representative of a party, such as a guardian or conservator or like fiduciary of a party, or the agent under a valid power of attorney may request release of confidential documents on behalf of the party; the mere existence of a fiduciary, however, should not prevent even an incapacitated party from making a request in his or her own name.

RULE 8. SERVICE OF COURT PAPERS

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

Comment

A.R.S. Title 14 generally authorizes service of notices of hearings by mail in lieu of personal delivery. *See, e.g.*, A.R.S. § 14-1401(A)(1). In some circumstances, however, A.R.S. Title 14 expressly requires that the notice of hearing be personally served. *See, e.g.*, A.R.S. §§ 14-5309(B) and -5405(B). Thus, a party who is required to give notice of a hearing should carefully review the applicable statutes. The purpose of this rule is to clarify that, if personal service is required by the court or by any provision of A.R.S. Title 14, service must comply with Rules 4 and 4.1 of the Arizona Rules of Civil Procedure.

RULE 9. NOTICE OF HEARING

A. The notice for any hearing shall state the title of the matter to be heard, the date, time, and place of the hearing, the name of the judicial officer before whom the matter is set for hearing, and whether the hearing is set as an appearance hearing or non-appearance hearing. Unless otherwise ordered by the court or unless the party being served waives this requirement, and except for notices that are published, the notice shall be accompanied by a copy of the petition or motion that is the subject of the hearing.

B. The notice shall include the following warnings:

This is a legal notice; your rights may be affected. Éste es un aviso legal. Sus derechos podrían ser afectados. If you object to any part of the petition or motion that accompanies this notice, you must file with the court a written objection describing the legal basis for your objection at least three days before the hearing date or you must appear in person or through an attorney at the time and place set forth in the notice of hearing.

C. If a hearing on a motion is requested, notice of the hearing on the motion shall be given pursuant to sections A and B of this rule.

D. When a petition for confirmation of the sale of real estate is filed,

1. Notice of the hearing on the petition shall contain the following information:

a. the proposed sales price and the name and telephone number of the petitioner or the petitioner's attorney; and

b. a statement that, at the hearing, the court may consider other bids.

2. Unless otherwise ordered by the court, the notice of the hearing shall be provided to all interested persons in accordance with A.R.S. § 14-1401(A). The court may also require that the notice of hearing be posted on the property to be sold and published in a newspaper of general circulation in the county in which the property is located at least fourteen days before the scheduled hearing for the sale of the property.

E. The provisions of Rule 6(e), Arizona Rules of Civil Procedure, shall not apply to notices of hearing in probate proceedings or notice of proceedings to challenge or enforce the decision of one authorized to make health care decisions for a patient.

Comment

Probate proceedings are predicated on interested persons receiving notice of hearings that might affect their rights. This rule is intended to clarify the information that must be provided to interested persons to ensure that their due process rights are protected.

In rare circumstances, justice may be better served if the petition or motion does not accompany the notice of hearing. For example, in cases in which the incapacitated person suffers from dementia, it may be preferable not to deliver to the incapacitated person a document containing sensitive information that may then become accessible to caregivers or others for whom it was not intended. In such cases, the court may order that the petition or motion not accompany the notice.

RULE 10. DUTIES OWED TO THE COURT

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. if the fiduciary is a certified fiduciary who is not also an active member of the State Bar of Arizona, place the fiduciary's certification number on all documents signed by the fiduciary and filed with the court; and

c. 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.

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.

D. Duties Relating to Counsel for Fiduciaries Upon Withdrawal.

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.

Comment

Rule 10 is designed to help the court oversee and supervise probate cases. Courts are required by other rules to exercise administrative supervision over cases. *See, e.g.*, Ariz. R. Sup. Ct. 92 (describing duties of presiding and associate presiding judges). As part of that supervision, courts should periodically review cases and may, after notice, dismiss or

administratively close cases that have not been efficiently prosecuted.

Only an attorney who is a member in good standing with the State Bar of Arizona may represent a party, fiduciary, or other party in a probate proceeding. A family member who is appointed as the fiduciary may represent him or herself in court, but may not speak for or on behalf of other family members. *Cf. Byers-Watts v. Parker*, 199 Ariz. 466, 467, 18 P.3d 1265, 1266 (App. 2001) (holding that the non-lawyer mother appointed as guardian *ad litem* for her minor son, could not represent her son in a civil lawsuit without the services of an attorney).

Rule 10(B)(3) is intended to apply to the drafting of documents such as applications, petitions, motions, objections to petitions, responses to motions, notices of hearing, status reports, and similar documents. It is not intended to preclude a physician, psychologist, or nurse from preparing a report to the court nor is it intended to preclude an accountant or bookkeeper from preparing an accounting to be submitted to the court, nor is the rule intended to prohibit such a document from being used as an exhibit.

Probate proceedings require reporting, accounting, and other statutorily mandated action. These requirements are important because they allow the court and interested persons to see whether the probate matter is being effectively administered and help ensure oversight of probate cases. Attorneys and fiduciaries are in the best position to advise the court regarding compliance with statutory and rule-based requirements and to set forth in their motions to withdraw how those requirements have been or will be met. In addition to considering the basis for an attorney's withdrawal, courts are encouraged to consider whether statutory or court-imposed requirements must be met before or after the withdrawal of counsel.

Section (C)(2) of this rule is based on former Rules 127 and 128, Rules of the Supreme Court. The section is included in these rules for the convenience of those who serve as fiduciaries in probate proceedings. In accordance with A.R.S. § 14-5419(F), a conservator may be allowed to file a closing statement in lieu of a final accounting, unless otherwise ordered by the court, as now reflected in Rule (10)(C)(2)(b).

RULE 11. TELEPHONIC APPEARANCES AND TESTIMONY

A. Upon timely written motion, a judicial officer may allow telephonic appearance during any proceeding. In the event more than one participant has requested telephonic appearance, the first party requesting telephonic appearance shall arrange at his or her expense for the call or conference call, unless the court orders otherwise.

B. Unless a shorter time is authorized by the judicial officer, a motion to allow telephonic testimony or argument shall be filed at least 30 days before the hearing, unless the notice setting the hearing provides for fewer than 30 days' notice, in which case the request shall be filed within five days after receipt of the notice setting the hearing. The motion shall be

served on all parties and on any person who has filed a demand for notice and shall be accompanied by a form of order.

C. A party opposing a motion for telephonic appearance or telephonic testimony shall file a written response within five days after service of the motion.

D. Telephonic appearances and testimony shall be of such quality that the voices of all parties and counsel are audible to each participant, the judicial officer, and, where applicable, the certified reporter or electronic recording device.

Comment

While telephonic appearance and testimony or argument are encouraged as time and cost-saving methods of addressing probate matters, a number of issues bear consideration. First, courts throughout the state have different telephone technology, some of which is better suited than others for telephonic appearances. For that reason, the judicial officer assigned to the case must approve the request in advance of the hearing.

Second, last-minute requests are discouraged. Judicial officers may not have an opportunity to consider a last-minute request because of the pressure of other court business.

Finally, a party should carefully consider a request to present telephonic testimony or arguments in a contested matter. A witness's demeanor while testifying is an important factor used by the court to assess a witness's credibility. A party who offers a witness by telephone may be at a disadvantage if the testimony is contradicted by a witness who personally appears. Judicial officers may reject an untimely request if it detracts from the court's ability to address other matters on the court's calendar or if it affects the court's ability to judge the demeanor of the witnesses in a contested matter.

RULE 12. NON-APPEARANCE HEARING

A. If testimony in support of a petition is not required by law, the court may set the petition for a non-appearance hearing.

B. A non-appearance hearing shall be set for a specific time on a specific day.

C. If a petition is set for a non-appearance hearing, no one need appear at the hearing.

D. If an interested person appears at a non-appearance hearing for the purpose of objecting to the relief requested in the petition, the interested person shall notify the court of such person's presence and objection and

shall promptly pay an appearance fee, if the person has not already done so. The court shall note the objection in the minutes and follow the procedures set forth in Rules 27-29, relating to contested matters.

Comment

Non-appearance hearings serve the interests of judicial economy and efficiency, may minimize attorney and fiduciary fees, and may save time and expense to all involved. Thus, these rules encourage the use of non-appearance hearings. Situations for which non-appearance hearings might be appropriate include hearings on petitions to approve accountings, petitions to appoint a personal representative of an estate, petitions to increase or decrease bond, petitions to release restricted assets, and petitions for formal probate of a will when the original will has been filed with the court and has been properly executed.

Non-appearance hearings are not appropriate for certain matters. For example, due process concerns militate against the use of non-appearance hearings in connection with a petition to appoint a guardian or a conservator. Similarly, petitions to confirm the sale of real property necessarily require an appearance hearing to allow upset bids, and petitions to probate a will when the original of the will cannot be located require an appearance hearing. *See* A.R.S. § 14-3415. In addition, a non-appearance hearing generally is not appropriate if the petitioner expects or knows that a matter will be contested.

Generally, evidence is not presented at a non-appearance hearing. In extraordinary circumstances, however, the court may allow the presentation of evidence at a non-appearance hearing.

RULE 13. ACCELERATIONS, EMERGENCIES, AND EX PARTE MOTIONS AND PETITIONS

A. Accelerated Rulings on Motions. If a party desires an accelerated ruling on a motion, the caption of the motion shall state that an accelerated ruling is requested and the body of the motion shall set forth the legal authority and factual circumstances that support the request for an accelerated ruling. The moving party shall not file a separate motion solely for the purpose of seeking an accelerated ruling on another motion.

B. Accelerated Hearings on Petitions in General. Except as provided in section C of this rule, if a party desires an accelerated hearing on a petition, the party shall file a motion that requests the accelerated hearing and sets forth the legal authority and factual circumstances that support the request for the accelerated hearing. The motion may incorporate by reference the allegations in the petition for which the accelerated hearing is requested. The petitioner shall provide the judicial officer assigned to

the case a copy of the motion and a copy of the petition, as well as a proposed form of order accelerating the hearing.

C. Emergency Appointment of Guardian or Conservator. If a party files a petition that requests the emergency appointment of a temporary guardian or a temporary conservator or other relief authorized by A.R.S. §§ 14-5310 or -5401.01, the party shall not file a separate motion that requests an accelerated hearing and, instead, shall state in the title of the petition that the petition seeks emergency or immediate relief. The party shall state in the petition the factual circumstances that support the request for emergency or immediate action.

D. Ex Parte Motions and Petitions. Any motion or petition that seeks ex parte relief shall state in the caption that ex parte relief is being requested and the body of the motion or petition shall set forth the legal authority and factual circumstances that support the request for ex parte relief.

Comment

Regarding Rule 13(A). The Rules of Civil Procedure provide time frames for filing response and reply memoranda to motions. If a party desires a ruling on a motion before that time expires, the party may request that the court accelerate its ruling on the motion. Such requests, however, may unfairly affect the opposing party by reducing the amount of time the opposing party has to respond to the motion. Such requests also create a challenge for judicial officers since they must choose whether the matter presented requires more prompt attention than other matters pending before the court. Consequently, in order for the judicial officer to evaluate a request to accelerate a ruling on a motion, the request must demonstrate good cause why the normal response times relating to motions should not apply.

With respect to the requirement that the caption of the motion indicate that an accelerated ruling is requested, it is sufficient for the words "accelerated ruling requested" to appear immediately below the title of the motion. The body of the motion, however, must provide the court with sufficient information so the court can fully and fairly evaluate whether an accelerated ruling will unfairly prejudice the other parties or other persons having business before the courts.

Regarding Rule 13(B). A.R.S. Title 14 generally provides that at least fourteen calendar days' notice must be given of a hearing on a petition. For good cause shown, however, the court may provide for a shorter notice time for any hearing. *See* A.R.S. § 14-1401(B). Thus, if a party desires that fewer than fourteen days' notice be required or if a party desires that a hearing be moved to a date sooner than that originally scheduled, the party should file a motion requesting that the court accelerate the hearing. Any such motion must demonstrate good cause why the hearing should be accelerated.

Regarding Rule 13(C). A.R.S. §§ 14-5310 and -5401.01 address petitions for the appointment of a temporary guardian and temporary conservator, respectively, and specifically

authorize the court to conduct the hearing on such petitions on fewer than fourteen days' notice. Therefore, a separate motion requesting an accelerated hearing is not required; however, pursuant to those statutes, the petition must set forth facts that demonstrate the existence of an emergency requiring immediate action.

With respect to the requirement that the caption of the motion indicate that emergency or immediate relief is being requested, it is sufficient for the word "emergency" to appear at the beginning of the title to the petition (e.g., "Emergency Petition for Appointment of Guardian") or that the words "immediate relief requested" or "emergency relief requested" appear below the title of the petition. The body of the petition must provide the court with sufficient information from which the court can fully and fairly evaluate whether emergency or immediate relief is appropriate.

Regarding Rule 13(D). Ex parte requests seek relief from the court without providing notice to other parties. In such a case, the other parties do not have an opportunity to respond before the court considers the request. Ex parte proceedings may substantially impair the rights of parties who are not given notice of the proceedings. Consequently, ex parte relief should be requested only in extraordinary circumstances. For example, A.R.S. §§ 14-5310 and -5401.01 describe when the appointment of a temporary guardian or temporary conservator may be requested without giving advance notice to the alleged incapacitated person or person alleged to be in need of protection.

With respect to the requirement that the caption of the motion or petition indicate that ex parte relief is being requested, it is sufficient for the words "ex parte" to appear at the beginning of the title of the motion or petition (e.g., "Ex Parte Emergency Petition for Appointment of Conservator") or immediately below the title of the motion or petition. The body of the motion or petition must provide the court with sufficient information from which the court can fully and fairly evaluate whether ex parte relief is appropriate.

RULE 14. CONSENTS, WAIVERS, RENUNCIATIONS, AND NOMINATIONS

A. Each of the following documents that is filed with the court shall be signed by the person making the consent, waiver, renunciation, or nomination and shall be acknowledged before a person authorized to take acknowledgements or, in the alternative, shall be acknowledged before a judicial officer in open court:

1. consent to any petition or application;

2. waiver of any right, including but not limited to waiver of notice, waiver of priority for appointment, and waiver of bond;

3. renunciation of the right to appointment as a guardian, conservator, personal representative, or trustee; or

4. nomination of a person to serve as a guardian, conservator, personal representative, or trustee.

B. The requirements of this section shall not apply to a disclaimer of property executed pursuant to A.R.S. Title 14, Chapter 10.

Comment

This rule relates to consents, waivers, renunciations, and nominations in connection with any probate proceeding, including those filed pursuant to A.R.S. §§ 14-1402 (waiver of notice), -3203 (waiver of priority for appointment of personal representative or renunciation and nomination), -3204 (waiver of demand for notice), -3603 (waiver of bond), and -3719 (renunciation of fees for personal representative). This rule helps protect heirs and devisees with respect to informal probate proceedings by requiring evidence that they have received proper notice and that they have waived their rights. Such waivers are important because there is little court oversight in the informal probate process. As section B makes clear, this rule does not apply to disclaimers of property interests, which are addressed in A.R.S. §§ 14-10001 to -10018.

In keeping with the court's duty to oversee the administration of estates and protect vulnerable individuals, a party filing a consent, waiver, renunciation of right to appointment, or nomination of fiduciary shall provide the court with proof of the identity of the person signing such a document. Generally, a document may be acknowledged by a notary public. However, a judicial officer, clerk of court, or deputy clerk of court may also acknowledge a document. *See* A.R.S. § 33-511.

RULE 15. PROPOSED ORDERS

A. In addition to the requirements of Rule 5(j), Arizona Rules of Civil Procedure, a party requesting an order shall, at least five days before the scheduled hearing, lodge with the judicial officer to whom the matter is assigned the original proposed order, as well as copies and envelopes required by Rule 5(j)(2)(b), Arizona Rules of Civil Procedure. The date of the hearing shall be stated immediately below the title of the order.

B. Noncompliance with this rule may be cause for continuing the hearing to such time as the judicial officer directs.

III. APPLICATIONS, PETITIONS, AND MOTIONS

RULE 16. APPLICATIONS

A. Filing. An application shall be filed with the court only when an interested person is requesting the probate registrar to do any of the following acts:

1. admit a will to informal probate or informally appoint a personal representative in accordance with A.R.S. §§ 14-3301 to -3311;

2. appoint a special administrator pursuant to A.R.S. § 14-3614(1);

3. issue a certificate in accordance with A.R.S. § 14-3937;

4. appoint a personal representative to administer a subsequently discovered asset in accordance with A.R.S. § 14-3938; or

5. grant a conservator the authority to exercise the powers and duties of a personal representative and endorse the letters of the conservator.

B. Form of Application. An application shall contain any statements required by statute and any other statements that support the relief requested. The statements shall be set forth in simple, concise, and direct paragraphs, each of which shall be separately numbered. The application shall contain a short and plain statement of the relief requested. Relief in the alternative or several different types of relief may be requested. The application shall comply with the provisions of Rules 8 through 11, Arizona Rules of Civil Procedure, applicable to complaints and claims for relief.

C. Notice. The person filing the application shall serve a copy of the application as required by law and shall file proof of such service with the probate registrar.

D. Probate Registrar's Action upon Application. When an application has been filed, the probate registrar shall act promptly upon such application.

E. Objection to Application. Any interested person who opposes the relief requested in an application for informal probate of will or appointment of personal representative shall file a petition in accordance with A.R.S. § 14-3401(A) or § 14-3414(A).

Comment

Regarding Rule 16(A). The word "application" is a term of art in probate matters that means a written request to the registrar to issue a statement of informal probate or informal appointment of personal representative under A.R.S. §§ 14-3301 to -3311. *See* A.R.S. § 14-1201(2); *see also* Rule 4(A) of these rules. A.R.S § 14-3614(1) provides that the registrar may appoint a special administrator on the application of any interested person. In addition, A.R.S. § 14-3937 authorizes the filing of an application to obtain a certificate from the registrar that the personal representative appears to have fully administered the estate. A.R.S. § 14-3938 authorizes the filing of an application to appoint a personal representative to administer an asset that is discovered after an estate has been closed. A.R.S. § 14-5425(D) authorizes a conservator to apply to the probate registrar to exercise the powers and duties of personal representative so that the conservator may administer and distribute the protected person's estate without additional or further appointment. Requests to the registrar should be made by application. In some cases, however, the request must be made to a judicial officer and should therefore be made by petition. Thus, a document should be titled "application" only for one of the limited purposes set forth in this rule.

Although applications usually are presented to the registrar without prior notice to other interested persons, in certain circumstances advance notice of the filing of the application must be given before the registrar acts upon the application. *See, e.g.*, A.R.S. §§ 14-3306, -3310. For example, notice must be provided when an interested person has filed a demand for notice or when a personal representative already has been appointed.

A challenge to an application for informal probate of will or appointment of personal representative may be made only by filing a petition to do any of the following: (i) set aside an informal probate of a will; (ii) probate a will; (iii) prevent the informal probate of a will that is the subject of a pending application; or (iv) determine whether the decedent died intestate. A.R.S. § 14-3401(A); *see also* A.R.S. § 14-3302 ("Informal probate is conclusive as to all persons until superseded by an order in a formal testacy proceeding."); *In re Estate of Torstenson*, 125 Ariz. 373, 375-76, 609 P.2d 1073, 1075-76 (App. 1980) (holding that the exclusive way to contest an informally probated will is to initiate a formal testacy proceeding). A.R.S. § 14-3414(A) addresses a proceeding to contest the qualification or priority of a person who has been informally appointed as personal representative or whose appointment as personal representative has been requested in an informal proceeding.

RULE 17. PETITIONS

A. Filing. A petition shall be filed with the court in the following circumstances:

1. a statute or court rule requires that the requested relief be made by petition or sought in a formal proceeding;

2. the relief requested is such that an evidentiary hearing is required or the party seeking relief from the court desires an evidentiary hearing; or

3. substantive relief is requested.

B. Form of Petition. A petition shall contain any statements required by statute and any other statements necessary to support the requested relief. The statements shall be set forth in simple, concise, and direct paragraphs, each of which shall be separately numbered. The petition shall contain a short and plain statement of the relief being requested. Relief in the alternative or several different types of relief may be requested. The petition shall comply with the provisions of Rules 8 through 11, Arizona Rules of Civil Procedure, applicable to complaints and claims for relief.

C. Setting of Hearing, Notice of Hearing, and Proof of Notice. Upon the filing of a petition, the petitioner shall obtain a hearing date and time from the court. The petitioner shall serve all interested persons with a copy of the petition and notice of the hearing as required by statute and these rules and shall file with the court proof of such service at or before the hearing.

D. Objection to Petition. Any interested person who opposes the relief requested in the petition shall file with the court, at least three days before the hearing, either an objection to the petition or a motion authorized by Rule 12, Arizona Rules of Civil Procedure, or the person may appear at the hearing and orally object to the petition.

1. If a party files an objection to the petition or a motion under Rule 12 of the Arizona Rules of Civil Procedure fewer than three days before the hearing date, the objection or motion shall not be stricken solely for failure to comply with this rule. The objecting party shall attend the hearing and inform the court that a written objection or Rule 12 motion has been filed.

2. If the person objecting to the relief requested in the petition does not file an objection or motion with the court before the hearing date but instead orally objects to the petition at the hearing, the person objecting shall subsequently file a written objection or motion, as directed by the court or agreed to by the parties, setting forth the grounds for the person's objection.

3. A written objection to a petition shall comply with the provisions of Rules 8 through 11, Arizona Rules of Civil Procedure.

E. Joinder. Any interested person who agrees with the relief requested in the petition may file a statement of such interest and may seek to join in the

petition by filing a motion for joinder stating the interested person's agreement.

F. Reply. Unless otherwise directed by the court, the petitioner shall not file a reply in support of the petition.

G. Counterclaims, Cross-Claims, Third-Party Practice, and Amendment of Petitions and Objections Thereto. Rules 13 through 15 of the Arizona Rules of Civil Procedure shall apply to any counter-petition, cross-petition, or third-party petition filed and to the amendment of any petition, counter-petition, cross-petition, or third-party petition, and to any objection to any of these documents.

Comment

Regarding Rule 17(A). A petition in a probate proceeding is the equivalent of a complaint in a civil action, and an objection is the equivalent of an answer in a civil action. Therefore, interested persons and the court should treat a petition as a complaint and an objection as an answer, except as otherwise provided by statute or these rules.

Examples of relief that should be requested by a petition include, but are not limited to, the following:

1. formal probate of a will or appointment of a personal representative of an estate, or both, pursuant to A.R.S. §§ 14-3401 and -3402;

2. formal appointment of a special administrator pursuant to A.R.S. § 14-3614(2);

3. appointment of a guardian or conservator, or both, or entry of any protective order authorized by A.R.S. §§ 14-5101 to -5704;

4. appointment a trustee;

5. termination of the appointment of or removal of a personal representative, guardian, conservator, or trustee;

6. surcharging a personal representative, guardian, conservator, or trustee;

7. compelling a personal representative, guardian, conservator, or trustee to perform a certain action, except with regard to any discovery;

8. approval of the sale of any property;

9. providing instructions or issuing a declaratory judgment;

10. approval of an accounting;

11. approval of or review of fiduciary fees or the fees of any person employed by a personal representative, guardian, conservator, or trustee;

12. ratification, confirmation, or approval of any transaction entered into by a personal representative, guardian, conservator, or trustee, or any settlement agreement relating to a decedent's estate, trust, guardianship, or conservatorship;

13. termination of a guardianship (except in the case of the death of the ward), termination of a conservatorship (regardless of the reason for termination), or closing an estate formally in accordance with A.R.S. §§ 14-3931 to -3938;

14. requiring the posting of a bond, changing the amount of a bond, or exonerating a bond by a personal representative, guardian, conservator, or trustee; or

15. holding someone in contempt of court.

Regarding Rule 17(D). The judicial officer should be informed at the hearing on a petition whether a party objects to the petition. Thus, to ensure that the judicial officer is timely informed of any objection, a written objection to a petition must be filed at least three days before the hearing on the petition. If a written objection has not been filed at least three days before the hearing, the objecting party should appear at the hearing and make his or her presence and objection known to ensure that the judicial officer is aware of the objection. Rule 28 sets forth the procedure to be followed once an objection to a petition has been made and the proceeding has become contested.

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.

Comment

Once a petition or application is pending, a party may seek procedural relief by filing a motion. Examples of procedural motions include motions relating to discovery, motions to allow or exclude evidence, motions to continue or accelerate hearings, motions for the appointment of

a guardian ad litem, motions for sanctions, and motions specifically authorized by the Rules of Civil Procedure, such as motions to dismiss and motions for summary judgment.

In some cases, relief may be sought by motion even if no petition is pending before the court. Examples of appropriate motions include motions for additional time to file an inventory, accounting, or annual report of guardian, and motions to extend the appointment of temporary fiduciaries.

The Arizona Rules of Civil Procedure govern the procedure relating to motions including (i) the time for filing response and reply memoranda; (ii) the manner of service of motions and response and reply memoranda; and (iii) requests for and setting of oral argument. In this regard, motions generally should meet the requirements of Rules 7.1(a) and 10(d), Arizona Rules of Civil Procedure. Certain types of motions, however, may have different requirements or time frames. For example, motions for summary judgment are subject to the requirements of Rule 56, Arizona Rules of Civil Procedure.

Regarding Rule 18(B). A.R.S. § 14-1408 and Rule 17(g), Arizona Rules of Civil Procedure, govern when a guardian ad litem may be appointed for a minor, an incapacitated person, an unknown person, or an unascertainable person. This rule is intended to clarify the information that must be provided to the court if the appointment of a guardian ad litem is requested.

IV. PROCEDURES RELATING TO THE APPOINTMENT OF FIDUCIARIES

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. If a party who seeks the appointment of a guardian or conservator nominates a specific attorney to represent 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 attorney's prior relationship, if any, with the petitioner and the alleged incapacitated person or the person alleged to be in need of protection.

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.

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.

Comment

Regarding Rule 19(A). This rule clarifies that a separate petition or motion for appointment of an attorney, a medical professional, and an investigator is not required. The request for the appointment of an attorney, a medical professional, and an investigator may be made in the petition for appointment of a guardian or conservator. As suggested by A.R.S. §§ 14-5303(C) and -5407(B), the phrase "medical professional" is intended to include, among others, a physician, psychologist, and registered nurse.

Regarding Rule 19(B). The appointment of a guardian or conservator affects an individual's fundamental liberties and entails serious due process concerns. Unless the alleged incapacitated person or person in need of protection has had a previous attorney-client relationship with independent counsel who is willing to serve as court-appointed counsel for these proceedings, the court should appoint an attorney to represent the alleged incapacitated person or person deemed in need of protection who is independent from the petitioner or the petitioner's attorney.

RULE 20. AFFIDAVIT OF PROPOSED APPOINTEE

Before the court appoints any person as a guardian or conservator, the person shall complete and file with the court the disclosure affidavit required by A.R.S. § 14-5106.

Comment

The disclosure affidavit is required regardless of whether the appointment sought is temporary or permanent. *See* A.R.S. § 14-5106(A). The disclosure affidavit is not required of a national banking association, a holder of a banking permit under Arizona law, a savings and loan association authorized to conduct trust business in Arizona, a title insurance company qualified to do business in Arizona, a trust company holding a certificate to engage in trust business from the superintendent of financial institutions, or a public fiduciary office. *See* A.R.S. §§ 14-5106(A) and -5411(B).

RULE 21. BACKGROUND CHECK REQUIREMENT FOR NON-RELATIVE SEEKING APPOINTMENT AS GUARDIAN OF MINOR

A. A non-relative who seeks appointment as the guardian of a minor shall submit to a criminal background investigation pursuant to A.R.S. § 14-5206(B). The applicant shall submit a full set of fingerprints and pay the required fee to the appropriate court or clerk division assigned to process such requests for the superior court in that county.

B. The court or clerk shall forward the background check application, fingerprint card, inventory sheet, and processing fee directly to the Arizona Department of Public Safety.

Comment

A person not related to a minor who wishes to be appointed as guardian for that minor must undergo a criminal background investigation before the hearing on the petition to appoint a guardian. The investigation is designed to assist the court in determining the applicant's suitability to serve as guardian. Applicants should contact the court or clerk division assigned to probate matters in the county for information regarding how to obtain a fingerprint card application and inventory sheet (where applicable) and where to be fingerprinted.

The Department of Public Safety conducts criminal history records checks pursuant to A.R.S. § 41-1750 and applicable federal law. The Department submits the fingerprint card information to the Federal Bureau of Investigation for a national criminal history records check. The Department of Public Safety then forwards the results of the background check to the court before appointment of a non-relative as a guardian for a minor occurs.

The criminal background check process may take six to eight weeks to complete once the Department of Public Safety has received the paperwork from the court or clerk. In most circumstances, the court will not appoint a non-relative as guardian for a minor until the background check has been completed. In emergency circumstances, the court may make a temporary appointment of a non-relative as guardian, pending receipt of the background check results.

In most counties, the clerk’s office is charged with the responsibility for distributing the fingerprint cards and instructions for fingerprinting to applicants for appointment as a guardian. In Maricopa County, the Probate Court Administrator’s Office handles the fingerprinting process.

RULE 22. BONDS AND BOND COMPANIES

A. 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.

B. 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.

Comment

Generally, a person appointed as a conservator or as a personal representative shall obtain and file a fiduciary bond before letters of appointment are issued. Certain exceptions, however, exist. These exceptions, as well as how the amount of bond is to be calculated, are set by statute. *See* A.R.S. §§ 14-3603 to -3606 (bonds for personal representatives); A.R.S. §§ 14-5411 and -5412 (bonds for conservators).

This rule is not intended to expand or narrow the circumstances in which a bond is required of a conservator or personal representative. Instead, its purpose is to require that the form of order clearly state whether a bond is required and, if so, the amount of the bond and to clarify that letters should not be issued until any required bond has been filed with the clerk of court.

Because A.R.S. § 14-1201 defines "personal representative" as including a special administrator, this rule also applies to the appointment of a special administrator.

RULE 23. APPOINTMENT OF TEMPORARY GUARDIAN OR TEMPORARY CONSERVATOR

A. When a petition requests the appointment of a temporary guardian, conservator, or both, the petition shall also either request the appointment of a permanent guardian, conservator, or both, or set forth why the appointment of a permanent guardian or conservator is not necessary.

B. Conformed copies of the petition for the appointment of a temporary guardian or conservator shall be presented to the assigned judicial officer, or, in the absence of an assigned judicial officer, to the presiding judge or other designated judicial officer. The assigned judicial officer shall decide whether to appoint a temporary guardian or temporary conservator and whether such appointment may occur without notice or without a hearing.

Comment

The phrases "permanent guardian" and "permanent conservator" are terms of art used to distinguish guardianships and conservatorships that do not have a predetermined duration from temporary guardianships and temporary conservatorships, both of which do have predetermined durations. Use of the word "permanent" is not intended to imply that the guardianship or conservatorship cannot be terminated.

This rule eliminates the practice in some counties of requiring a separate petition for appointment of a permanent guardian or conservator to be filed any time a temporary guardianship or conservatorship is requested. If it appears to the appointed fiduciary that a permanent appointment is necessary, the fiduciary should act promptly to see that one is appointed.

RULE 24. APPOINTMENT OF GUARDIAN WITH INPATIENT MENTAL HEALTH AUTHORITY

If the court appoints a guardian and grants the guardian the authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Arizona Department of Health Services, the order granting the guardian such authority shall specifically state that, unless otherwise extended by written order of the court, the authority terminates one year from the date the order is entered. The court may, in its discretion, order that the authority terminates sooner than one year from the date the order is entered.

Comment

This rule is intended to aid in the administration of cases in which a guardian has been granted the general duties of a guardian pursuant to A.R.S. § 14-5312 and the additional authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Department of Health Services. The guardian's authority to act for the ward in the underlying guardianship of general duties is not affected by the additional authority to consent to inpatient mental health treatment. By statute, a guardian's authority to consent to inpatient treatment ends if the guardian does not file an evaluation report at the one-year anniversary. The guardian's other statutory duties do not end after one year. The requirement of the guardian to file a report every year to state that the ward needs ongoing inpatient treatment provides due process for the ward and helps ensure that the ward is not held in a locked treatment facility if the ward does not require such confinement. See Rule 36 of these rules for the process for renewal of the authority to consent to inpatient treatment.

Pursuant to A.R.S. § 14-5312.01(C), the court may limit the duration of a guardian's authority to consent to inpatient mental health care and treatment. Pursuant to A.R.S. § 14-5312.01(P), the guardian's authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Department of Health

Services terminates if the guardian does not file the statutorily required annual report of guardian, pursuant to A.R.S. § 14-5315, and an evaluation report. The guardian's authority to consent to the ward's inpatient treatment also terminates if the evaluation report indicates that the ward does not need inpatient mental health care and treatment.

RULE 25. ORDER TO FIDUCIARY

A. Order to Personal Representative. Letters of personal representative shall not be issued until the proposed personal representative has signed and the court has entered an order to the personal representative. The order shall be substantially similar to Form 1 in the Appendix. This requirement shall not apply to the appointment of a special administrator.

B. Order to Guardian. Letters of guardian shall not be issued until the proposed guardian has signed and the court has entered an order to the guardian. The order shall be substantially similar to Form 2 in the Appendix.

C. Order to Conservator. Letters of conservator shall not be issued until the proposed conservator has signed and the court has entered an order to the conservator. The order shall be substantially similar to Form 3 in the Appendix.

D. Order to Guardian and Conservator. If the same person is being appointed as both guardian and conservator, the requirements of sections B and C of this rule may be satisfied by the person signing, and the court entering, an order to the guardian and conservator. The order shall be substantially similar to Form 4 in the Appendix.

RULE 26. ISSUANCE 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.

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.

Comment

"Letters" is a term of art used to refer to the document that reflects the grant of authority to the fiduciary. Before letters are issued, (a) the court must enter a written order appointing the fiduciary, or the registrar must issue a statement, (b) the fiduciary must sign and file with the court a document in which the fiduciary accepts the appointment, and (c) the fiduciary must file with the court any bond or post other security required by the court. In addition, some fiduciaries may be required to sign an order acknowledging the fiduciary's duties. *See* Rule 25 of these rules.

Administration of a decedent's estate or power to act for an incapacitated or protected person begins after the court enters an order appointing a personal representative, guardian, or conservator and after the clerk of the court issues such fiduciary "letters." Thus, a personal representative, guardian, or conservator has no authority to act until letters have been issued.

The words "temporary" and "permanent" are also terms of art associated with administration of guardianships, conservatorships, and decedents' estates. To assist appointed fiduciaries in carrying out their duties, rather than inserting the words "temporary" or "permanent" in the caption for letters, the time frame of appointment or restrictions should be stated in the text.

V. CONTESTED PROBATE PROCEEDINGS

RULE 27. HOW A PROBATE PROCEEDING BECOMES CONTESTED

A probate proceeding becomes contested when an objection, whether written or oral, is made to a petition. A contested probate proceeding shall be limited to the disputed facts and issues raised in the petition and the objection thereto. Provided that the rights of the parties are not adversely affected, the contested probate proceeding shall not affect other issues or pleadings in the same probate case that are not disputed.

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 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.

Comment

Parties and their attorneys are encouraged to confer before the initial hearing on the petition or the scheduling conference to agree on various pretrial deadlines. If the parties and their attorneys cannot agree, the parties and attorneys shall follow the Arizona Rules of Civil Procedure, specifically Rule 16(b). Any agreement may be submitted to the court in writing, thereby eliminating the need for the scheduling conference or reducing the scope of the conference, unless the court orders otherwise. The judicial officer may schedule a telephonic conference call in lieu of a conference and request that the parties submit a proposed schedule of deadlines.

Arizona Rule of Civil Procedure 38.1 deals with motions to set and certificates of readiness, which generally are not used in probate proceedings. Rule 38.1 is therefore inconsistent with these rules and is intentionally excluded.

RULE 29. ARBITRATION

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.

Comment

This rule is not intended to discourage parties or their attorneys from exploring the use of alternative dispute resolution.

VI. POST APPOINTMENT PROCEDURES

RULE 30. GUARDIANSHIP/CONSERVATORSHIP-SPECIFIC PROCEDURES

A. Inventories.

1. Unless otherwise ordered by the court, the conservator shall file the inventory of the protected person's estate 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 permanent appointment are 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 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 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 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 accountings.

B. Accountings

1. Unless otherwise ordered by the court, the conservator's first 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 accounting, the conservator shall attach to the accounting a copy of the monthly statement that corresponds to the ending balance of such account as reflected on the accounting.

2. 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 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 accounting, the conservator shall attach to the accounting a copy of the monthly statement that corresponds to the ending balance of such account as reflected on the accounting.

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

4. If the conservator is unable to file an 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 accounting. The motion shall, at a minimum, state why additional time is required and how much additional time is required to file the accounting.

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.

Comment

The statutes provide the substantive reporting requirements relating to inventories, accountings, and annual guardianship reports. *See* A.R.S. §§ 14-5315, -5418, and -5419. The purpose of this rule is to clarify the time periods to be covered by accountings and guardian reports and when such documents must be filed with the court.

Although the inventory itself is a confidential document, *see* Rule 7(A)(1)(c), the inventory and appraisement cover sheet is not a confidential document. Similarly, the accounting is a confidential document, *see* Rule 7(A)(1)(d), while the petition requesting

approval and any fee statements are not confidential documents.

If a guardian who has been granted the power to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Arizona Department of Health Services wishes to renew such authority before it expires, the time frame set forth in Rule 36(a) of these rules governs the filing of the annual guardian report.

RULE 31. DECEDENTS' ESTATES-SPECIFIC PROCEDURES

A. Inventories

1. Unless otherwise ordered by the court, a personal representative who is required to prepare an inventory shall, not later than 90 days after the personal representative's letters are issued, either:

   a. file the original of the inventory with the court and send a copy of the inventory to interested persons who request it; or

   b. deliver or mail a copy of the inventory to each of the heirs of an intestate estate, or to each of the devisees if a will has been probated, and to any other interested persons who request it, and shall provide proof of the mailing by notice to the court.

2. The inventory shall list all the property owned by the decedent at the time of the decedent's death as known by the personal representative on the date the inventory is prepared, and shall provide the values of such assets as of the date of the decedent's death.

3. If a personal representative who is required to prepare an inventory is unable to comply with the deadline set forth in this rule, the personal representative shall, before the deadline, file a motion that requests an extension of the deadline. The motion shall state why additional time is required and how much additional time is required.

B. If a petition for approval of a personal representative's accounting is filed with the court in a county that has a court accountant, the accounting shall not be submitted to the court accountant for review, nor shall the petitioner be required to pay the court accountant's fee, unless otherwise ordered by the court.

Comment

Regarding Rule 31(A). A.R.S. § 14-3706 sets forth the general requirements for the preparation of an inventory. This rule is intended to clarify that the 90 days referred to in that statute begins to run when the personal representative's letters issue. Pursuant to Rule 7(A)(1)(c), the inventory is a confidential document and should be filed as such.

Regarding Rule 31(B). Unlike conservatorships, decedents' estates generally are administered without court supervision. There is no statutory requirement for personal representatives to file annual accountings with the court as a conservator is required to do. This rule is not intended to impose a duty upon a personal representative to petition the court to approve an accounting. The rule is intended to clarify that when a personal representative files an accounting, the accounting is not subject to review by the court accountant in counties that have a court accountant. In such cases, the court has discretion to decide whether a court accountant should review a personal representative's accounting submitted to the court for approval. For example, the court might order the court accountant to review an accounting in cases involving complex or problematic issues, or in the case of a beneficiary who is a minor or incapacitated or protected adult for whom no conservator or similar fiduciary has been appointed, or in cases involving a beneficiary for whom a fiduciary has been appointed, but whose fiduciary has a conflict of interest.

RULE 32. TRUSTS-SPECIFIC PROCEDURES

If a petition for approval of a trustee's accounting is filed with the court in a county that has a court accountant, unless ordered by the court, the accounting need not be submitted to the court accountant for review, nor shall the petitioner be required to pay the court accountant's fee.

Comment

Unlike conservatorships, trusts generally are administered without court supervision. Thus, a trustee generally is not required to submit any accounting to the court. This rule is not intended to impose a duty upon a trustee to petition the court to approve an accounting. The rule is intended to clarify when an accounting filed by a trustee is subject to review by the court accountant in counties that have a court accountant. In such cases, the court has discretion regarding whether a court accountant should review a trustee's accounting submitted to the court for approval. For example, the court might order the court accountant to review an accounting in cases involving complex or problematic accountings; or in the case of a beneficiary who is a minor or incapacitated or protected adult for whom no conservator or similar fiduciary has been appointed; or in cases involving a beneficiary for whom a fiduciary has been appointed, but whose fiduciary has a conflict of interest.

RULE 33. COMPENSATION FOR FIDUCIARIES AND ATTORNEYS' FEES

A. All petitions requesting approval for payment of compensation to personal representatives, trustees, guardians, conservators, or their attorneys 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 dates that such services were rendered, the time expended for performing the services, the name and position of the person who performed the services, 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; 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.

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.

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.

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.

E. The superior court may adopt fee guidelines designating compensation rates that may be used in determining the reasonableness of fees payable to certified fiduciaries in cases under A.R.S. Title 14.

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.

Comment

This rule is not intended to require court approval of fiduciary fees or attorneys' fees in all circumstances. Instead, this rule clarifies that if approval of fees is requested, the court may require that certain information be provided to assist the court in determining the reasonableness of the fees. In many circumstances, especially with respect to decedents' estates and trusts, court approval of fiduciary fees and attorneys' fees is not required unless an interested person specifically requests that the court review the reasonableness or propriety of compensation paid to a fiduciary or attorney. *See, e.g.*, A.R.S. § 14-3721.

A.R.S. § 14-5651 limits the classes of persons or entities who are entitled to receive compensation for acting as a guardian, a conservator, or a personal representative.

This rule is not intended to apply when a party has requested that the court award the party attorneys' fees against another party, such as an award of sanctions or an award of attorneys' fees in a matter arising out of contract. Instead, this rule applies only to those circumstances in which a fiduciary or an attorney seeks compensation from the estate of a ward or protected person, a decedent's estate, or a trust.

Pursuant to Rule 7(A), fee statements are not confidential documents or information.

In assessing whether compensation paid to or requested by a fiduciary or an attorney is reasonable, the court should consider a variety of factors, not just the amount of time spent on a particular task. *See Schwartz v. Schwerin*, 85 Ariz. 242, 245-46, 336 P.2d 144, 146 (1959) (holding that in determining the reasonableness of attorneys' fees, the court should not give undue weight to any one factor). For example, when reviewing the fiduciary's compensation, the court also should consider the amount of principal and income received and disbursed by the fiduciary, the fees customarily paid to agents or employees for performing like work in the community, the success or failure of the administration of the fiduciary, any unusual skill or experience that the particular fiduciary may have brought to the work, the fidelity or disloyalty displayed by the fiduciary, the degree of risk and responsibility assumed by the fiduciary, the custom in the community as to allowances to trustees by settlers or courts and as to fees charged by trust companies and banks, the nature of the services performed in the course of administration (whether routine or involving skill and judgment), and any estimate that the fiduciary has given of the value of the services. *See* Mary F. Radford, George G. Bogert & George T. Bogert, *The Law of Trusts & Trustees* § 977 (3d ed. 2006). Similarly, when reviewing the attorney's compensation, the court should consider, among other factors, the attorney's ability, training, education, experience, professional standing, and skill; the character of the work performed by the attorney (its difficulty, intricacy, and importance, time and skill required, and the responsibility imposed); the work actually performed by the attorney (the skill, time, and attention given to the work by the attorney); and the success of the attorney's efforts and the benefits that were derived as a result of the attorney's services. *See Schwartz*, 85 Ariz. at 245-46, 336 P.2d at 146.

RULE 34. DISTRIBUTIONS TO MINORS AND INCAPACITATED OR PROTECTED ADULTS

A. If a fiduciary or other interested person requests that the court approve a distribution from a conservatorship estate, a decedent's estate, or a trust, and if one or more of the distributees is a minor or an incapacitated or protected adult, the fiduciary or interested person shall notify the court of the distributee's status as a minor or incapacitated or protected adult.

B. In addition to the requirements in section A of this rule, if a guardian or conservator has been appointed for the proposed distributee, or if other protective arrangements have been made for the proposed distributee, the fiduciary or interested person shall provide the court with a copy of the order appointing the guardian or conservator or approving of the protective arrangement.

Comment

This rule applies to partial and final distributions to minors and incapacitated or protected adults, whether the distribution is made by a conservator pursuant to A.R.S. § 14-5425(D) or a personal representative pursuant to A.R.S. § 14-3915. Courts are occasionally asked to approve distributions without the important information required by Rule 34. This rule therefore requires provision of the information necessary to allow the court to fulfill its obligation to protect the property of persons under a legal disability. In addition, the rule requires fiduciaries and attorneys to inform the court of matters that might not otherwise be readily apparent from a review of the file. This rule formalizes the process of notifying the court when a distribution is being made to a person under a legal disability.

Even though a proposed distributee may be under a legal disability, the appointment of a conservator for such person may not be necessary. For example, A.R.S. § 14-7656 authorizes a personal representative, trustee, or conservator, under some circumstances, to make a distribution to a custodian under the Arizona Uniform Transfers to Minors Act. *See* A.R.S. § 14-5103(A). This rule is not intended to require the appointment of a conservator for a distributee who is under a legal disability. Instead, this rule is designed to ensure that the court has all relevant information relating to a proposed distributee who is under a legal disability.

RULE 35. CIVIL CONTEMPT AND SANCTIONS

A. Civil Arrest Warrants. Civil arrest warrants proceedings are governed by Rule 64.1, Arizona Rules of Civil Procedure, and may be used to command the attendance of persons who disobey a court's order.

B. Orders to Show Cause. Orders to Show Cause are governed by Rule 6(d), Arizona Rules of Civil Procedure, and may be used to address problems

arising from another party's or a fiduciary's failure to discharge duties or obligations required by court order, court rule, or statute.

C. Fiduciary Arrest Warrants. Fiduciary arrest warrants shall be issued pursuant to the provisions of A.R.S. §§ 14-5701 through -5704 to address the failure of a fiduciary to appear for a probate proceeding after having been ordered to appear by the court.

Comment

The court has the power to ensure compliance with court orders. This rule sets forth tools in addition to the sanctions provided in statute and in Rule 37, Arizona Rules of Civil Procedure. The rule does not govern criminal contempt sanctions imposed to punish an offender or vindicate the authority of the court.

Regarding Rule 35(B). If the person subject to an order to show cause is a fiduciary, that person may be subject to a fiduciary arrest warrant under A.R.S. § 14-5701.

The superior court must notify the supreme court if it appears that a certified fiduciary has violated any rule adopted by the supreme court. *See* A.R.S. § 14-5651(D).

RULE 36. RENEWAL OF GUARDIAN'S INPATIENT MENTAL HEALTH AUTHORITY

A. Renewal Prior to Expiration of Authority

1. Within thirty days before the anniversary date of the guardian's appointment, a guardian who has been granted the authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Arizona Department of Health Services, and who wishes to renew such authority before it expires, shall file with the court the annual report of guardian and physician's or psychologist's evaluation report required by A.R.S. § 14-5312.01(P) and a motion requesting that the court renew the guardian's authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Arizona Department of Health Services. In addition, the guardian shall lodge a form of order renewing such authority. The guardian shall serve a copy of the annual report of guardian, a copy of the physician's or psychologist's evaluation report, a copy of the motion, and a copy of the form of order upon both the ward and the ward's court-appointed attorney.

2. If the ward files an objection or a request for hearing pursuant to A.R.S. § 14-5312.01(P), the court shall enter an order that complies with Rule 58(d), Arizona Rules of Civil Procedure, and that extends the guardian's authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Arizona Department of Health Services until the court has ruled on the ward's objection to or request for hearing on the continuation of the guardian's authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Arizona Department of Health Services.

B. Renewal After Authority Expires. If a guardian whose authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility licensed by the Arizona Department of Health Services expires and the guardian wishes to renew such authority, the guardian shall file with the court a petition requesting the renewal of the authority.

Comment

Rule 36 must be read in conjunction with Rule 24, regarding the original order granting the authority to a guardian to place a ward in a level one behavioral treatment facility for mental health care and treatment. This rule describes the process by which a guardian who has been granted the authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility requests to renew such authority. A.R.S. § 14-5312.01(P) requires a guardian who has been granted the authority to consent for the ward to receive inpatient mental health care and treatment in a level one behavioral health facility to file not only an annual report of guardian that complies with A.R.S. § 14-5315, but also a physician's or psychologist's evaluation report that indicates whether the ward continues to need inpatient mental health care and treatment. If the guardian does not file the evaluation report or if the evaluation report indicates that the ward does not need inpatient mental health care and treatment, the guardian's authority to consent to such treatment automatically ceases. A.R.S. § 14-5312.01(P).

The termination of the authority to consent to inpatient treatment does not terminate the guardian's appointment or the guardian's other authority regarding the ward. If the guardian desires to renew the authority to consent for the ward to receive inpatient mental health care and treatment, the guardian must timely request that the court renew this specific authority. The request is made by filing the required evaluation report, annual report of guardian, and a motion requesting renewal of authority. If the ward objects to the continuation of the authority, the court must set a hearing on the objection. The guardian's authority continues pending the court's ruling on the issue. A.R.S. § 14-5312.01(P).

VII. OTHER MATTERS

RULE 37. SETTLEMENTS INVOLVING MINORS OR INCAPACITATED ADULTS

A. Settlement of Claims on Behalf of Minors. Except as provided in A.R.S. § 14-5103(A), and without regard to whether a conservator has previously been appointed, any settlement of a civil claim brought on behalf of or against a minor for personal injury or wrongful death shall be submitted for review and approval by a judicial officer assigned to hear matters arising under A.R.S. Title 14.

B. Settlement of Claims on Behalf of Incapacitated Adults. Any settlement of a civil claim brought on behalf of or against an incapacitated adult for personal injury or wrongful death shall be submitted for review and approval by a judicial officer assigned to hear matters arising under A.R.S. Title 14, regardless of whether a conservator has been appointed for the incapacitated adult.

Comment

This rule is intended to clarify the requirement that whenever a settlement is reached in a civil proceeding brought on behalf of or against a minor or incapacitated adult to recover damages for personal injury or wrongful death, the proposed settlement must be submitted for review and approval to a judicial officer assigned to hear probate matters. In most instances, either a conservatorship or trust will need to be established for the minor or incapacitated adult to receive and manage the funds distributed from the settlement. Because of the minority or incapacity of the recipient of the funds, the court should review the terms of the settlement to ensure that its terms and conditions appear to be in the minor's or incapacitated person's best interests. An exception is recognized pursuant to A.R.S. § 14-5103, which provides that payment or delivery of money or personal property to minors in amounts not exceeding $10,000 per annum may be facilitated without the establishment of a conservatorship estate or other protective proceeding.

VIII. FORMS

RULE 38. APPENDIX OF FORMS

A. The forms 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 in Appendix A shall not be the exclusive method for presenting such matters in the superior court.

Comment

The forms 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.

APPENDIX OF FORMS

FORM 1

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Certified 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 Estate of <<DECEDENT'S NAME>>, Deceased.	No. <<CaseNo.>> **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's 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 undivided loyalty 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 given 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 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 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 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 or delivered 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 accounting 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 accounting for the Personal Representative's 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.**

WARNING: 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.

> 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.

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:

DATED this _____ day of _____, 20___.

_____
Judge/Special Commissioner
Superior Court of Arizona in << >> County

ACKNOWLEDGMENT

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 Personal Representative.

_____ _____

<<PR Name>> Date

FORM 2

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Certified 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 <<Ward's Name>>, ☐ a Minor ☐ an Adult	No. <<CaseNo.>> **ORDER TO GUARDIAN AND ACKNOWLEDGEMENT** (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. In addition to sending copies to the other persons named in the statute, you are directed to lodge a copy of your annual report with the Presiding Judge of this Court.

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 certified 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).

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_____.

_____
<<JudicialOfficer>>
<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

FORM 3

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Certified 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.>> **ORDER TO CONSERVATOR AND ACKNOWLEDGEMENT** (Assigned to the Honorable <<JudicialOfficer>>)

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 must be guided by it and comply with its provisions, as it relates to your duties as conservator of your protected person. As conservator, you must:

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." 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 Permanent Conservator have been 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 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 undivided loyalty 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 certified 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).

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 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_____.

_____
<<JudicialOfficer>>
<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

FORM 4

Name of Person Filing Document: _____
Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Attorney Bar Number (if applicable): _____
Certified 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 Conservatorship for <<Ward's Name>>, ☐ a Minor ☐ an Adult	No. <<CaseNo.>> **ORDER TO GUARDIAN AND CONSERVATOR AND ACKNOWLEDGEMENT** (Assigned to the Honorable <<JudicialOfficer>>)

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. In addition to sending copies to the other persons named in the statute, you are directed to lodge a copy of your annual report with the Presiding Judge of the Probate Department of this Court.

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 certified 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." 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 **permanent** conservator are 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 undivided loyalty 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.

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_____.

_____
<<JudicialOfficer>>
<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