

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF <County>**

Date:

Judicial Officer:

Deputy Clerk:

In the matter of:

No.

INITIAL GUARDIANSHIP HEARING

Parties Present:

<party>

<party>

This is the time set for the **INITIAL GUARDIANSHIP HEARING** on a <Motion/Petition> for Permanent Guardianship filed <Date of motion/petition filing> pursuant to [Rule 345](#).

Open Proceedings:

- The Court determines that the proceeding is to remain open to the public and admonishes attendees that they must not disclose identifying information (which includes posting anything on social media or the internet) about the child, siblings, parents, guardians or caregivers, or other persons identified in the proceeding. The Court explains contempt of court to all attendees and possible consequences of violating a court order.

- The Court orders that the proceeding be closed based on the following: <reason(s) that proceeding should be closed>.

Attorney/GAL Contact with Child Client:

- The Court determines that the child has been informed of and understands their right to attend their court hearings and speak to the judge.

- The Court confirms that the <attorney/GAL> for the child <has/has not> met with the child before this hearing. [A.R.S. § 8-221\(H\)](#), [Ariz. R.P. Juv. Ct. 306](#)

Documents Reviewed: The Court has received and reviewed the following documents: <Names of specific documents>. The Court determines that the investigation and report under [Rule 344\(f\)](#), if ordered by the Court, <has/has not> been completed and provided to all parties.

ICWA:

The Indian Child Welfare Act <does/does not> apply. [25 USC § 1901](#)

Service, Notice and Jurisdiction:

The Court finds it has jurisdiction over the persons and subject matter.

The Court finds that service of the motion <is/is not> complete as to <applicable parent/guardian>, <parent, guardian or Indian custodian> of <child> and/or that <any party> has waived service.

The Court finds that notice of this hearing was given to the <parent, guardian or Indian custodian> and to child's physical custodian, any foster parent with whom the child has resided within 6 months prior to the date of the hearing, the prospective guardian if the guardian is not the current physical custodial, and any other person the court ordered to be provided with notice of the hearing under [Rule 344\(e\)](#).

- The Court finds that the notice of hearing given to the <parent, guardian or Indian custodian> advised of the consequences of not appearing at this hearing.
- The Court finds that <parent, guardian or Indian custodian> <has /have> failed to appear without good cause.
- The parent, Indian custodian and the Tribe have received notice. [25 USC § 1912\(a\)](#).
- The parent, Indian custodian, and Tribe have waived the requirement that proceedings occur after 10 days from receipt of notice.
- The State of Arizona, by and through the Arizona Department of Child Safety, is authorized to initiate this proceeding pursuant to [A.R.S. § 8-201](#) et seq., [A.R.S. § 8-501](#) et seq., and [A.R.S. § 8-802](#) et seq.
- The Court has exclusive original jurisdiction over the subject matter pursuant to [A.R.S. § 8-802](#) and venue is appropriate in <county> **County** pursuant to [A.R.S. § 8-206](#).

Counsel: Appointment of counsel is made/affirmed at this time for the following (including a GAL for child pursuant to [Rule 345\(c\)\(3\)](#) if appropriate):

- <Counsel>, <counsel type>;
- <Counsel>, <counsel type>;
- <Counsel>, <counsel type>.

The <parent, guardian or Indian custodian> is to pay <amount assessed per month> per month for the cost of counsel.

The <parent, guardian or Indian custodian> is to pay <amount assessed per month> per month for the cost of counsel. **Plea:** The <parent, guardian or Indian custodian> enters a plea of <admit, deny, or does not contest> to the allegations contained in the <motion/petition>

- The Court determines that the <parent, guardian or Indian custodian> understands their rights.
- The Court advises the <parent, guardian or Indian custodian> of the consequences of their plea of <plea>.
- The Court determines that the plea of <plea> made by <parent, guardian or Indian custodian> <was/was not> made knowingly, intelligently and voluntarily.

<IF PRESENT>

- The Court provides foster parents, shelter care facility, receiving foster home, pre-adoptive placement or a member of the child's extended family with whom the child has been placed and/or identified as a possible placement an opportunity to be heard.

Findings and Orders:

If allegations are denied:

- Because the <parent, guardian or Indian custodian> has denied the allegations of the <motion/petition> filed on <date of motion/petition filing> the **Court sets this matter for trial** on <date, time and location of this hearing, within **90 days**> before the Honorable <Name of Judge/Commissioner/Hearing Officer>
- If the child has not been adjudicated dependent and any party objects to a permanent guardianship, the Court (may/does) set this matter **for settlement conference or mediation** on <date, time and location of mediation/mediator> or strikes the motion for guardianship and proceeds with the dependency petition.

Testimony:

<Any evidence and testimony presented before the Court>

- <Name> is a qualified expert witness under ICWA pursuant to [Ariz. R.P. Juv. Ct. 346\(c\)\(2\)](#).
- If granting guardianship: The Court, having considered the <motion/petition> dated <date filed>, the investigative report filed pursuant

to [A.R.S. § 8-872](#), the plea of <parent, guardian or Indian custodian> made by the <parent, guardian or Indian custodian>, as well as the best interests of <child>, finds by <burden of proof>, that:

<Child> <was a resident/were residents> of the State of Arizona at the time that the <motion/petition> was filed and, therefore, the Court has jurisdiction.

The Indian Child Welfare Act <does/does not> apply.

The <parent, guardian or Indian custodian> <was/were> properly served with notice of these proceedings and <has/have> <whether defaulting or admit/no contest>.

- If siblings not placed together, the Court finds DCS has made reasonable efforts to place siblings together or establish a plan for frequent visitation between siblings unless frequent visitation or ongoing contact between siblings is contrary to the child's safety or well-being.

Guardianship is in the best interest of <child>.

<Child> <has/have> been adjudicated dependent or all parties have agreed to guardianship prior to the adjudication of dependency.

<Child> <has/have> been in the custody of the prospective guardian for at least nine months. If this is to be waived, state good cause.

DCS has made reasonable efforts to reunify the family, but further efforts would be unproductive.

The likelihood of adoption is remote, or the termination of the parental rights is not in the best interests of <child>.

The prospective guardian(s) <is/are> fit and proper.

<Child> is placed out of state under the ICPC, and <receiving state> concurs with the dismissal of the dependency upon the establishment of the permanent guardianship.

ICWA: Pursuant to ICWA standards,

- Notice to the parent, Indian custodian, and Tribe has been given as required by federal law;
- All requirements for guardianship are proven beyond a reasonable doubt.

The Court further finds pursuant to ICWA, beyond a reasonable doubt, that:

- Active efforts have been made to prevent the breakup of the Indian family, but these efforts were unsuccessful;
- Continued custody by the parent would likely result in serious emotional or physical damage to the child, including by testimony of a qualified expert witness.
- The placement is in accord with the placement preferences set forth in [25 USC § 1915](#) or there is good cause to deviate from these preferences due to <State specific factors considered and basis for good cause finding>.

The Court, therefore, orders appointing <name(s) of prospective guardian(s)> as Permanent Guardian(s) of <child> and vesting <prospective guardian(s)> with all of the rights and responsibilities set forth in [A.R.S. § 14-5209](#), relating to the powers and duties of a guardian of a minor, other than those which may be set for the parents herein.

The Court orders that visitation will be at the discretion of the child's Permanent Guardian(s) unless otherwise set forth in the form of order.

The Court orders that letters of Permanent Guardianship be issued to the Permanent Guardian(s) without restriction. The Permanent Guardian(s) must immediately notify the Court of any address change and is/are responsible for the costs resulting from their failure to notify the Court.

- The Court orders that <Name of applicable parent>, <parent, guardian or Indian custodian>, must pay support to <Prospective Guardian(s)> in the amount of \$<dollar amount> each month.

The Court orders that a Guardianship Review Hearing be held (within 12 months) on <Date, time, place of the hearing> before the Honorable <Applicable judge/commissioner>. The Arizona Department of Child Safety or assignee must investigate the facts and circumstances surrounding the child's welfare and best interests and must file a written report with the Court prior to the Guardianship Review Hearing.

The Arizona Department of Child Safety (or other applicable agency) is relieved of all further responsibility in the matter other than its obligation to investigate and file a written report with the Court prior to the Guardianship Review Hearing.

The Court orders that the Foster Care Review Board is relieved of all further responsibilities in this matter.

The Court orders that the Court will retain jurisdiction of the guardianship to enforce its final order of Permanent Guardianship.

- The Court provides to the guardian information regarding the Sibling Information Exchange program.

Future Hearings if guardianship is not granted or a parent seeks a guardianship adjudication hearing, or some other hearing, is needed: The Court sets/affirms the following hearings:

- <hearing type> as to <parent, guardian or Indian custodian> is set for <Date, time and location of this hearing>.
- The Court vacates the <hearing type> set for <date, time and location of this hearing>.
- The Court admonishes the <parent, guardian or Indian custodian> that:
- Failure to attend future proceedings without good cause shown may result in proceedings going forward in their absence;
 - Failure to participate in reunification services may result in the establishment of a permanent guardianship.
 - The Court may read to and provide to the parent, guardian or Indian custodian a copy of Form 3. The Court may find on the record that a copy of Form 3 has been signed and returned to the Court.
- The Court finds that the parent, guardian, or Indian custodian was advised of the consequences of their failure to appear.

Dated: _____

<Judge/Commissioner/Hearing Officer> of the Superior Court