

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
ORPHANS' COURT DIVISION**

**Administrative Order No. 09 of 2019**

***In re: Adoption of Local Orphans' Court Rules Governing Guardianship Proceedings***

**ORDER**

AND NOW, this 1<sup>st</sup> day of May, 2019, in accordance with the June 1, 2018 order of the Supreme Court of Pennsylvania (No. 771 Supreme Court Rules Docket) vacating local Orphans' Court Rules governing guardianship proceedings not adopted in accordance with Pa. O.C. Rule 1.5 and Pa.R.J.A. No. 103 (d) effective June 1, 2019, and authorizing the adoption of local rules deemed necessary in accordance with Pa. O.C. Rule 1.5 and Pa.R.J.A. No. 103 (d), it is now ORDERED that current local Orphans' Court Rules governing guardianship proceedings are rescinded, and the attached rules are adopted, effective June 1, 2019.

As required by Pa.R.J.A. 103(d), this Administrative Order and the attached Local Orphans' Court Rules were submitted to the Supreme Court of Pennsylvania Orphans' Court Procedural Rules Committee for review before December 1, 2018, and written notification has been received from the Rules Committee certifying that the Local Orphans' Court Rules are not inconsistent with any general rule of the Supreme Court. This Administrative Order and the attached rules shall be filed with the Office of Judicial Records (formerly the *Prothonotary, Clerk of Courts and Clerk of Quarter Sessions*) in a docket maintained for Administrative Orders issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this Administrative Order and the attached rules and one copy of the Administrative Order and attached rules on a computer diskette shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this Administrative Order and attached rules shall be filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://www.philacourts.us/localrules>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the Administrative Order and attached rules shall also be published in *The Legal Intelligencer* and will be submitted to *American Lawyer Media*, *Jenkins Memorial Law Library*, and the Law Library for the First Judicial District.

**BY THE COURT:**

*/s/ Idee C. Fox*

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**Honorable Idee C. Fox  
President Judge  
Court of Common Pleas  
Philadelphia County**

*/s/ Matthew D. Carrafiello*

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**Honorable Matthew D. Carrafiello  
Administrative Judge, Orphans' Court Division  
Court of Common Pleas  
Philadelphia County**

**Philadelphia Local Orphans' Court Rules Effective June 1, 2019**

**Chapter I. PRELIMINARY RULES**

Amended Rule. Deletions are in ~~strikethrough text~~; additions are **bolded and underlined**.

**Rule 1.8A. 1.8(c). Forms.**

- (1) **Legal papers shall be accompanied by an Orphans' Court Cover Sheet as set forth in the Appendix to these Rules.**
- (2) **Petitions for Adjudication/Statements of Proposed Distribution filed in accordance with Pa. O.C. Rule 2.4 and Phila. O.C. Rule 2.4B shall include an Account Filing Checklist as set forth in the Appendix to these Rules.**
- (3) Local Orphans' Court forms are set forth in the Appendix.

## **Chapter XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS**

### **Rule 14.1A. Guardianship Petition Practice and Pleading. Special Petitions.**

**(1) Small Estate of Incapacitated Persons.** If at a hearing the incapacity is established, and it appears that the gross estate does not exceed the statutory limitation, the Court may award the entire estate to the person or institution maintaining the incapacitated person, or make such order as may be appropriate under the circumstances. In such case, a decree in approved form, in lieu of the final decree appointing a guardian, shall be attached to the face of the petition.

**Probate Section Comment:** 20 Pa.C.S. § 5101 and § 5505 prescribe the statutory limitation for small estates.

**(2) Petition for Allowances.** Expenditures for the maintenance or support of an incapacitated person or for a dependent of the incapacitated person, or for payment of counsel fees, shall be governed by the appropriate provisions of Phila. O.C. Rule 5.6C(1) and (3) and as provided below.

**(a) Filing of Petition and Decrees.** A petition for allowance from the incapacitated person's estate, during incapacity, shall be filed, in accordance with Pa. O.C. Rule 4.7 and Phila. O.C. Rule 4.7A, with the Clerk by the guardian or any interested party. A proposed final decree shall be attached to the face of the petition. When the petitioner is not a guardian, a preliminary decree containing a provision for the time and place for hearing to be fixed by the Court shall also be attached to the face of the petition. Notice shall be given to the guardian, to all interested parties, and to such other persons as the Court may direct.

**(b) Contents of Petition.** The petition shall include:

- (i) the information listed in Pa. O.C. Rule 14.2(a)(1) through (5);
- (ii) the name(s) of the guardian(s), the date of his or her or appointment, the nature of the guardianship of the estate or person (limited or plenary) and the name of the Hearing Judge;
- (iii) the names and addresses of all interested parties;
- (iv) if the petitioner is not a guardian, his or her relationship to the incapacitated person, and, if not related, the nature of his or her interest;
- (v) a statement of all previous distributions allowed by the Court since the date of the last Court approved accounting, if any;
- (vi) an itemized statement of all claims of the incapacitated person's creditors known to petitioner;
- (vii) a statement of the requested distribution and the reasons therefor; and
- (viii) a prayer for the distribution requested. If the allowance requested

will involve a matter which will require annual petitions for substantially similar relief, the petitioner may request the Court to make the grant of the allowance applicable to more than one (1) year, but not to exceed three (3) years, unless otherwise permitted by the Court.

**(c) Restrictions Governing Allowance:**

- (i) Except in cases of extreme emergency, requests for allowances will not be approved prior to the filing of the inventory or the last required annual report, as the case may be.
- (ii) Requests for allowances for fees of Court-appointed Counsel will not be approved prior to the filing of the Guardian Inventory. Whenever possible, reasonable counsel fees shall be ordered to be paid from the estate of the incapacitated person. If the incapacitated person is unable to pay for counsel, the Court may order counsel fees and costs to be paid by the county. See 20 Pa.C.S. § 5511(c).
- (iii) If any portion of the incapacitated person's estate is received from the United States Veterans' Administration or its successor, or any agency of the Commonwealth, notice of the request for allowance shall be given to such agency.

**(3) Other Petitions.** Any other petitions for relief may be filed consistent with the applicable statutes and rules. See 20 Pa.C.S. § 5501 *et seq.*, Pa. O.C. Rule 14.1(c).

**Rule 14.2A. Petition for Adjudication of Incapacity and Appointment of a Guardian of the Person or Estate of an Incapacitated Person**

**(1) Petition Contents.** When the petitioner avers, as required by Pa. O.C. Rule 14.2 (a) (6), (7) and (8), the existence of an executed health care power of attorney or advance health care directive, or an executed power of attorney, or any other writing by the alleged incapacitated person pursuant to Title 20, Chapters 54, 56 or 58, the petition shall state the position of the Petitioner as to the continuation of the duties of the agent identified under such document(s).

**(2) Exhibits.**

**(a)** A Preliminary Decree and a Final Decree, as set forth in the Appendix maintained pursuant to Phila. O.C. Rule 1.8(c), shall be attached to the face of a petition for adjudication of incapacity.

**(b) Consent of Proposed Guardian.** The signed written consent of the proposed guardian to act as guardian, as set forth in the Appendix

maintained pursuant to Phila. O.C. Rule 1.8(c), shall be attached to the petition.

### **(3) Emergency Guardians.**

**(a) Appointment.** The Court, upon petition and hearing at which clear and convincing evidence is shown, may appoint an emergency guardian or guardians of the person and the estate of an alleged incapacitated person when it appears that the person lacks capacity, is in need of a guardian and a failure to make such appointment would result in irreparable harm to the person or estate of the alleged incapacitated person. The Court may also appoint an emergency guardian of the person pursuant to 20 Pa.C.S. § 5513, for an alleged incapacitated person who is present in this Commonwealth but is domiciled outside the Commonwealth, regardless of whether he or she has property in this Commonwealth.

**(b) Applicability of Other Provisions.** The provisions of 20 Pa.C.S. § 5511, including those relating to counsel, shall be applicable to such proceedings, except when the Court has found such provisions to be impractical.

### **(c) Duration of Emergency Guardianship.**

- (i) **Person.** An emergency order appointing an emergency guardian of the person may be in effect for up to seventy-two (72) hours. If the emergency continues, the emergency order may be extended for no more than twenty (20) days from the expiration of the initial emergency order, upon application to the Court.
- (ii) **Estate.** The duration of an emergency order appointing an emergency guardian of the estate shall not exceed thirty (30) days.
- (iii) If continuing guardianship of person or estate is necessary, a full guardianship proceeding must be instituted pursuant to 20 Pa.C.S. § 5511 during or after the expiration of the period of the emergency order or any extension.
- (iv) The use of an expert report or deposition testimony in lieu of live in-person testimony in emergency guardianship proceedings must be specifically authorized by the court. The use of telephonic live testimony is left to the discretion of the court.

### **(4) Citation with Notice.**

**(a) Issuance of Citation.** Upon the issuance of a citation following the granting of a preliminary decree to a petition for adjudication of incapacity, Petitioner or their designee shall pick up the original citation from the Clerk in person, or contact the Clerk to request another arrangement. Such requests may or may not be honored, at the discretion of the Clerk.

**(b) Service.** If there are no known intestate heirs, notice shall also be given to the Attorney General at the Eastern Regional Office in Philadelphia.

**(c) Alias Citation.** If the original citation was not personally served on the alleged incapacitated person at least twenty (20) days prior to the scheduled hearing date, the Court upon request may issue an alias citation. The Alias Citation must be served on the alleged incapacitated person at least twenty (20) days prior to the newly scheduled hearing date, in the same manner as the original citation.

*Note: An Alias Citation is not required if the original citation has been timely served on the alleged incapacitated person and a continuance is requested from the originally scheduled hearing date.*

**Probate Section Comment:** 20 Pa.C.S. § 5512.1 elaborates the basis upon which the Court shall make a finding of incapacity. The description and the steps taken to find less restrictive alternatives must include sufficient information to satisfy the requirements of 20 Pa.C.S. § 5518. 20 Pa.C.S. § 5511 establishes that the Court may adjudicate an individual incapacitated and appoint a guardian only upon petition and hearing and upon the presentation of clear and convincing evidence. If the alleged incapacitated person is in a hospital, nursing home or other institution, service must be made upon an attorney or authorized personnel of the institution and notice of the hearing should be given to the director or other authorized official of such facility. If the alleged incapacitated person is a veteran, notice of the hearing must be given to the Veterans' Administration. A shorter time period for service may be permitted in connection with petitions for the appointment of an emergency guardian.

#### **14.6A. Determination of Incapacity and Selection of Guardian. Hearing Date.**

**(1) Proof of Service.** On the date of the hearing for determination of incapacity, the following shall be submitted:

(a) an affidavit of service of the petition and citation on the alleged incapacitated person, attached to or endorsed upon the original citation, reciting that the petition and citation were explained to the maximum extent possible in language likely to be understood by the alleged incapacitated person and that a copy of each was left with him or her; and

(b) an affidavit reciting the manner of giving notice of the hearing and identifying those persons to whom such notice was given as required in Pa. O.C. Rule 14.2(f)(2).

- (2) Attendance at Hearing.** The petitioner and the alleged incapacitated person shall be present at the hearing unless the Court is satisfied, upon the deposition or *notarized expert report* or testimony of or sworn statement by a physician or licensed psychologist, that the physical or mental condition of the alleged incapacitated person would be harmed by his or her presence.
- (3) Independent Evaluation:** If, pursuant to 20 Pa.C.S. § 5511(d), the Hearing Judge deems it necessary upon his or her own motion or on petition by the alleged incapacitated person for cause shown, he or she shall order an independent evaluation to meet the requirements of 20 Pa.C.S. §5518, and determine the appropriate charges and the persons responsible for payment.
- (4) Testamentary Writings.** A copy of all testamentary writings of the incapacitated person found by the guardian, or in the possession of any other person, certified to be true and correct, shall be submitted by the guardian or such other person to the Hearing Judge for inspection within thirty (30) days of such guardian's appointment, or within thirty (30) days when such testamentary writing(s) is subsequently discovered.

#### **Rule 14.8A. Guardianship Reporting, Monitoring, Review, and Compliance**

- (1)** Guardian shall file all inventories, annual reports, and final reports in accordance with 20 Pa. C.S. §5521(c), Pa. O.C. Rule 14.8, and Pa.R.J.A. No. 510(b). Reports and inventories may be filed in either an electronic format or a physical paper format. Reports and inventories filed in an electronic format shall use the Guardianship Tracking System.  
See <https://ujportal.pacourts.us/Guardianship.aspx>.

**Probate Section Comment:** The Clerk will provide a computer terminal in the Clerk's office and will assist those Guardians without a computer or internet access to file these legal papers through the Guardianship Tracking System.

- (2)** The Guardianship Tracking System is designated by the Court to provide the notices to the Guardian required by Pa. O.C. Rule 14.8(f).

## APPENDIX

### PHILADELPHIA COUNTY ORPHANS' COURT FORMS

#### **General Orphans' Court Forms:**

- \*Certificate of Compliance
- \*Orphans' Court Subpoena
- Orphans' Court Cover Sheet
- \*Entry of Appearance

#### **\*Decedent's Estate Proceeding Forms:**

- Account Filing Checklist – Decedent's Estate
- Appeal from Register of Wills
- Excerpt from Schedule of Distribution

#### **Incapacitated Person's Proceeding Forms:**

- Account Filing Checklist – Guardian of Incapacitated Person
- Consent of Guardian
- Final Decree
- Guardian Address Confirmation Form
- Preliminary Decree

#### **\*Minor's Proceedings Forms:**

- Account Filing Checklist - Guardian of Minor

#### **\*Minor's and Incapacitated Person's Compromises Forms:**

- Minors and Incapacitated Persons Checklist
- Affidavit of Compliance
- Petition to Settle Minor's Compromise

#### **\*Power of Attorney Proceedings Forms:**

- Account Filing Checklist – Agent under Power of Attorney

#### **\*Trust Proceeding Forms:**

- Account Filing Checklist – Special Needs Trust
- Account Filing Checklist – Trust (Testamentary/*Inter Vivos*)

#### **\*Wrongful Death and Survival Proceeding Forms:**

- Wrongful Death and Survival Actions Checklist
- Affidavit of Compliance
- Petition to Settle Wrongful Death and Survival Actions

#### **\*Register of Wills Forms:**

- Affidavit for Filing in Philadelphia County by Foreign Fiduciary

***\*The above-listed Forms are available on the Website of the First Judicial District of Pennsylvania at: [www.philacourts.us/forms](http://www.philacourts.us/forms)***

# Orphans' Court Cover Sheet

Court of Common Pleas of Philadelphia County Orphans' Court Division  <b>Cover Sheet</b>		<b>FOR COURT USE ONLY</b>	
		ASSIGNED TO JUDGE	
		CONTROL NO.  <i>Responding parties must include this number on all filings.</i>	
NAME OF ESTATE		ORPHANS' COURT NUMBER	
TYPE OF ESTATE <input type="checkbox"/> Decedent's Estate <input type="checkbox"/> Trust Inter Vivos <input type="checkbox"/> Testamentary Trust <input type="checkbox"/> Incapacitated Person <input type="checkbox"/> Minor <input type="checkbox"/> Principal (power of attorney) <input type="checkbox"/> Non-Profit Corporation <input type="checkbox"/> Special Needs Trust <input type="checkbox"/> Other (specify) _____			
FILING PARTY'S RELATIONSHIP TO ESTATE			
PLEADING OR DOCUMENT FILED			
NAME OF FILING PARTY (NOT COUNSEL FOR THE PARTY)		ADDRESS	
<b>ATTORNEYS MUST CHECK ONE BOX</b> TO THE CLERK OF ORPHANS' COURT: <input type="checkbox"/> Kindly enter my appearance on behalf of _____ <input type="checkbox"/> I have entered my appearance on behalf of _____			
NAME OF FILING ATTORNEY OR PARTY		ADDRESS	
PHONE NUMBER	FAX NUMBER		
SUPREME COURT IDENTIFICATION NO.		E-MAIL ADDRESS	
SIGNATURE OF FILING ATTORNEY OR PARTY		DATE	
OTHER PARTIES (Name, address, and telephone number of unrepresented parties or all counsel already of record. If needed, use separate sheet.)			
Is notice required? <input type="checkbox"/> No <input type="checkbox"/> Yes. Copy of notice attached to pleading. Date of Notice: _____ <input type="checkbox"/> Yes. All joinders are attached.		If Citation is requested: 1. Was Citation against Respondent previously issued? <input type="checkbox"/> Yes <input type="checkbox"/> No 2. If yes, date of service: _____	
Has another petition been decided in this case? <input type="checkbox"/> Yes <input type="checkbox"/> No Is another petition pending? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, identify the Judge: _____			
<b>FOR COURT USE ONLY - FIRST FILINGS ONLY (If Applicable)</b>			
DATE OF BIRTH	DATE OF DEATH	REGISTER OF WILLS NUMBER	DATE OF DEED OF TRUST
<i>The Filing Party shall complete the information at the bottom of the Cover Sheet filed with the Clerk, and not the service copies. The information will only be used by the Clerk. The Clerk shall not release this information to the general public.</i>			

## Account Filing Checklist - Guardian of Incapacitated Person

<b>COURT OF COMMON PLEAS OF PHILADELPHIA • ORPHANS' COURT DIVISION</b> <b>ACCOUNT FILING CHECKLIST • GUARDIAN OF INCAPACITATED PERSON</b>		
ESTATE OF _____, INCAP.	PREPARER: ATTORNEY/ACCOUNTANT	TELEPHONE NUMBER
O. C. NUMBER _____ OF _____	ADDRESS & EMAIL ADDRESS	
<b>INSTRUCTIONS:</b> Persons wishing to file an account must first complete this form, indicating in "preparer" column ( <b>YES or N/A</b> ) whether the items listed are included in the audit papers and/or the account. Items that are required in all cases are printed in <b>BOLD</b> . Upon review by the staff of the Clerk's Office, the account and related audit papers may be accepted for filing if complete or rejected if incomplete.		
PREPARER	ITEM	O. C. CLERK
	1) <b>Account Cover Page and Summary Page</b> [Pa. O.C. Rule 2.1(b)(4)(i)-(ii)]	
	2) <b>Account Signed by All Accountants and Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.1(b)(4)(iv)]	
	3) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by Counsel</b> [Pa. O.C. Rule 2.4(e)]	
	4) <b>Petition for Adjudication/Statement of Proposed Distribution Signed by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	5) <b>Petition for Adjudication/Statement of Proposed Distribution Verified by at Least One Accountant</b> [Pa. O.C. Rule 2.4(d)]	
	6) <b>Copy of Decree or Instrument Appointing Guardian</b> [Phila. O.C. Rule 2.4B(6)(a)]	
	7) <b>If Deceased, Statement of Appointment of Personal Representative</b> [Phila. O.C. Rule 2.4B(6)(b)]	
	8) <b>Statement of Method of Notice and Copy of Notice</b> [Pa. O.C. Rule 2.5]	
	9) <b>Agreement of Compromise and Settlement</b> [Phila. O.C. Rule 2.4B(1)(c)]	
	10) <b>Agreement Regarding Accountant's Compensation</b> [Phila. O.C. Rule 2.4B(1)(d)]	
	11) <b>Certificate of Appointment of Foreign Fiduciary</b> [Phila. O.C. Rule 2.4B(3)(a)]	
	12) <b>Affidavit by Foreign Fiduciary</b> [Phila. O.C. Rule 2.4B(3)(b)]	
	13) <b>Income Accounting Waivers</b> [Phila O.C. Rule 2.4B(1)(e)]	
<input type="checkbox"/> <b>ACCEPTED</b> <input type="checkbox"/> <b>REJECTED</b>	REVIEWED BY _____	DATE _____

10-132D (7-20-16)

## Consent of Guardian Form

### COURT OF COMMON PLEAS OF PHILADELPHIA ORPHANS' COURT DIVISION

Estate of \_\_\_\_\_  
O.C. # \_\_\_\_\_ Control # \_\_\_\_\_

#### CONSENT OF GUARDIAN

I, \_\_\_\_\_ accept and confirm my appointment as Guardian of the Person / Estate (circle all that apply) of \_\_\_\_\_ ("Ward").

I understand that as Guardian:

1. I must always act in the best interests of my Ward;
2. I have a fiduciary responsibility to my Ward and the Court;
3. I must act with reasonable prudence in all matters relating to the Estate;
4. I must not engage in self-dealing;
5. I am forbidden from expending principal of the Estate without prior Court authorization;
6. I am forbidden from selling any real property owned by my Ward without prior Court authorization;
7. I must file a Guardian's Inventory within ninety (90) days of my appointment as Guardian of the Estate;
8. I must file an annual report as Guardian of the Person and an annual report as Guardian of the Estate every year on the anniversary date of my appointment as Guardian;
9. I understand the duties and responsibilities of being a Guardian, and have the knowledge, skills and expertise to be a Guardian; and
10. I understand and agree that as a Guardian, I must act in accordance with the laws governing guardians found in the statutes set forth in 20 Pa.C.S. §5501, et seq., and the Pennsylvania and Philadelphia Orphans' Court Rules concerning guardianships set forth in Chapter XIV, particularly Pa. O.C. Rule 14.8 and Phila. O.C. Rule 14.8.A.
11. The primary language of the alleged incapacitated person is \_\_\_\_\_. My primary language is \_\_\_\_\_.
12. My failure to abide by the above will result in my removal as Guardian, and may result in my being found in contempt of Court, surcharged for any losses to the Estate, fined, and/or otherwise sanctioned.

Further, subject to penalty of law under 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities, I affirm that I have not been convicted of or pleaded guilty or no contest to any crime involving fraud, deceit, and/or financial misconduct.

\_\_\_\_\_  
Name of Guardian

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## Decree Appointing Guardian of the Estate

COURT OF COMMON PLEAS OF PHILADELPHIA  
ORPHANS' COURT DIVISION

Estate of Ivan Smith,  
An Alleged Incapacitated Person  
O.C. No. XXX AI of 2019  
Control No. XXXX

### FINAL DECREE

AND Now, this     day of June 2019, upon consideration of the Petition for Adjudication of Incapacity and Appointment of a Guardian and after a hearing held following due service of a copy of the Petition and Citation Notice upon Ivan Smith, this Court finds by clear and convincing evidence that:

1. Ivan Smith is 77 years old and is a domiciliary of the City and County of Philadelphia.
2. Ivan Smith suffers from vascular dementia with psychosis, schizophrenia, chronic obstructive pulmonary disease, and hypertension which totally impairs his capacity to receive or evaluate information effectively and to make and communicate decisions concerning management of his financial affairs.

Accordingly, it is hereby ORDERED and DECREED that Ivan Smith is adjudged a totally/partially incapacitated person and that \_\_\_\_\_ is appointed plenary/limited Guardian of the Estate of Ivan Smith, an incapacitated person.

The Guardian of the Estate shall enter security with a corporate surety in the amount of \$ \_\_\_\_\_ within \_\_\_\_\_ days of this Decree.

The Guardian of the Estate is **NOT** permitted to expend the principal of the incapacitated person's estate without ADVANCE permission of the court in accordance with the provisions of 20 Pa.C.S. § 5536, however, income may be expended by the Guardian for the care of the incapacitated person without court approval.

All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages, shall grant to the Guardian of the Estate access to any and all assets, records, and accounts maintained for the benefit of the incapacitated person, and the Guardian of the Estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all of these assets, records and accounts. The failure of any financial institution to honor this order may lead to contempt proceedings and the imposition of sanctions. Pa. O.C. Rule 14.7(b)(2).

The health care agent or the agent appointed under a durable power of attorney previously executed by the incapacitated person shall be accountable to the Guardian of the

Estate of the incapacitated person as well as to the Principal (Ivan Smith). This agent's authority shall remain in effect to the extent approved by the Guardian of the Estate. **OR** Any previously executed powers of attorney or health care powers of attorney and the authority to act under these documents is null and void.

The Guardian of the Estate is directed to file an Inventory within ninety (90) days of the date of this Decree in accordance with the provisions of 20 Pa.C.S. § 5521(b) and § 5142. Pa. O.C. Rule 14.8(a)(1). The Guardian of the Estate shall file an Annual Report one year after appointment and annually thereafter in accordance with the provisions of 20 Pa.C.S. § 5521(c)(1)(i). A Final Report shall be filed by the Guardian of the Estate within sixty (60) days of the death of the incapacitated person, an adjudication of capacity, a change of guardian or the expiration of an order of limited duration pursuant to 20 Pa.C.S. § 5521(c)(2). A Final Report shall also be filed upon receipt of the provisional order from another state's court accepting transfer of a guardianship. Pa. O.C. Rule 14.8(a)(4) & (5). The Guardian shall serve a notice of the filing of any of these reports on all those persons, *sui juris*, who would be entitled to share in the estate of the incapacitated person if he/she died intestate, and the person or institution providing residential care services to the incapacitated person as well as to \_\_\_\_\_ within ten (10) days after filing a report using the attached form. Pa. O.C. Rule 14.8(b).

If the incapacitated person resides in a nursing facility and is the recipient of Medical Assistance, the Guardian of the Estate shall be compensated out of income at the rate of \$100 per month. In all circumstances, compensation out of income shall not prejudice the right of the Guardian to seek additional compensation by petition for allowance.

In the event the incapacitated person has a safe deposit box, an Official Examiner of this court shall be in attendance when the safe deposit box is opened by the Guardian of the Estate. The Certificate of the Official Examiner of his examination of the assets in the safe deposit box shall be submitted to the Court, and, when approved by the hearing judge, shall be filed with the record in this case. The amount and manner of compensation for these services of the Official Examiner shall be determined by the hearing judge.

All evidence received at the hearing concerning the present matter, including but not limited to medical depositions, expert reports, testimony and exhibits, shall be SEALED and not made available except upon further Decree of this Court.

Ivan Smith was/was not present at the hearing and was/was not represented by counsel. The court finds clear and convincing medical evidence that the physical and mental health of Ivan Smith would have been harmed by requiring his/her presence at the hearing. Counsel for the petitioner shall cause to be served upon and read to the incapacitated person a copy of this Decree and the following Statement of Rights:

**You, Ivan Smith, are hereby notified of your right to seek reconsideration of this Decree pursuant to Rule 8.2 and the right to appeal this Decree within 30 days from the date of this Decree by filing a Notice of Appeal with the Clerk of the Orphans' Court. You may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. You have a right to be represented by an attorney to file a motion for reconsideration, an appeal, or to seek modification or termination of this guardianship. If the assistance of counsel is**

**needed and You cannot afford an attorney, an attorney will be appointed to represent you free of charge. Pa. O.C. Rule 14.7(a)(2).**

BY THE COURT:

\_\_\_\_\_  
, J.

Counsel

Guardian(s)

## Decree Appointing Guardian of the Person

### COURT OF COMMON PLEAS OF PHILADELPHIA ORPHANS' COURT DIVISION

Estate of Ivan Smith,  
An Alleged Incapacitated Person  
O.C. No. XXX AI of 2019  
Control No. XXXX

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2. Ivan Smith suffers from vascular dementia with psychosis, schizophrenia, chronic obstructive pulmonary disease, and hypertension which totally impairs his capacity to receive or evaluate information effectively and to make and communicate decisions to meet the essential requirements for his physical health and safety.

Accordingly, it is hereby ORDERED and DECREED that Ivan Smith is adjudged a totally/partially incapacitated person and that \_\_\_\_\_ is appointed plenary/limited Guardian of the Person of Ivan Smith, an incapacitated person.

The health care agent or the agent appointed under a durable power of attorney previously executed by the incapacitated person shall be accountable to the Guardian of the Person of the incapacitated person as well as to the Principal (Ivan Smith). This agent's authority shall remain in effect to the extent approved by the Guardian of the Person. **OR** Any previously executed powers of attorney or health care powers of attorney and the authority to act under these documents is null and void.

The Guardian of the Person shall file an Annual Report one year after appointment and annually thereafter in accordance with the provisions of 20 Pa.C.S. § 5521(c)(1)(ii). Pa. O.C. Rule 14.8(a)(3). A Final Report shall be filed by the Guardian of the Person within sixty (60) days of the death of the incapacitated person, an adjudication of capacity, a change of guardian or the expiration of an order of limited duration pursuant to 20 Pa.C.S. § 5521(c)(2). A Final Report shall also be filed upon receipt of the provisional order from another state's court accepting transfer of a guardianship. Pa. O.C. Rule 14.8(a)(4) & (5). The Guardian shall serve a notice of the filing of any of these reports on all those persons, *sui juris*, who would be entitled to share in the estate of the incapacitated person if he/she died intestate, and the person or institution providing residential care services to the incapacitated person as well as to \_\_\_\_\_ within ten (10) days after filing a report using the attached form. Pa. O.C. Rule 14.8(b).

The Guardian of the Person, unless authorized after a subsequent hearing, shall not have the power to:

1. Consent on behalf of the incapacitated person to psychosurgery, electroconvulsive therapy or removal of a healthy body organ;
2. Prohibit the marriage or consent to the divorce of the incapacitated person; or
3. Consent on behalf of the incapacitated person to the performance of any experimental biomedical or behavioral medical procedure or participation in any biomedical or behavioral experiment.

All evidence received at the hearing concerning the present matter, including but not limited to medical depositions, expert reports, testimony and exhibits, shall be SEALED and not made available except upon further Decree of this Court.

Ivan Smith was/was not present at the hearing and was/was not represented by counsel. The court finds clear and convincing medical evidence that the physical and mental health of Ivan Smith would have been harmed by requiring his/her presence at the hearing. Accordingly, counsel for the petitioner shall cause to be served upon and read to Ivan Smith a copy of this Decree and the following Statement of Rights:

**You, Ivan Smith, are hereby notified of your right to seek reconsideration of this Decree pursuant to Rule 8.2 and the right to appeal this Decree within 30 days from the date of this Decree by filing a Notice of Appeal with the Clerk of the Orphans' Court. You may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. You have a right to be represented by an attorney to file a motion for reconsideration, an appeal, or to seek modification or termination of this guardianship. If the assistance of counsel is needed and You cannot afford an attorney, an attorney will be appointed to represent you free of charge. Pa. O.C. Rule 14.7(a)(2).**

BY THE COURT:

\_\_\_\_\_  
, J.

Counsel

Guardian(s)

## Decree Appointing Guardian of the Estate and Person

COURT OF COMMON PLEAS OF PHILADELPHIA  
ORPHANS' COURT DIVISION

Estate of Ivan Smith,  
An Alleged Incapacitated Person  
O.C. No. XXX AI of 2019  
Control No. XXXX

### FINAL DECREE

AND Now, this     day of June 2019, upon consideration of the Petition for Adjudication of Incapacity and Appointment of a Guardian and after a hearing held following due service of a copy of the Petition and Citation Notice upon Ivan Smith, this Court finds by clear and convincing evidence that:

1. Ivan Smith is 77 years old and is a domiciliary of the City and County of Philadelphia.
2. Ivan Smith suffers from vascular dementia with psychosis, schizophrenia, chronic obstructive pulmonary disease, and hypertension which totally impairs his capacity to receive or evaluate information effectively and to make and communicate decisions concerning management of his financial affairs or to meet essential requirement of his physical health and safety.

Accordingly, it is hereby ORDERED and DECREED that Ivan Smith is adjudged a totally/partially incapacitated person and that \_\_\_\_\_ is appointed plenary/limited Guardian of the Estate of Ivan Smith, an incapacitated person. \_\_\_\_\_ is appointed Guardian of the Person of Ivan Smith, an incapacitated person.

The Guardian of the Estate shall enter security with a corporate surety in the amount of \$\_\_\_\_\_ within \_\_\_\_\_ days of this Decree.

The Guardian of the Estate is **NOT** permitted to expend the principal of the incapacitated person's estate without ADVANCE permission of the court in accordance with the provisions of 20 Pa.C.S. § 5536, however, income may be expended by the guardian for the care of the incapacitated person without court approval.

All financial institutions, including without limitation, banks, savings and loans, credit unions, and brokerages, shall grant to the Guardian of the Estate access to any and all assets, records, and accounts maintained for the benefit of the incapacitated person, and the Guardian of the Estate shall be entitled to transfer, retitle, withdraw, or otherwise exercise dominion and control over any and all of these assets, records and accounts. The failure of any financial institution to honor this order may lead to contempt proceedings and the imposition of sanctions. Pa.O.C .Rule 14.7(b)(2).

The health care agent or the agent appointed under a durable power of attorney previously executed by the incapacitated person shall be accountable to the Guardian of the Person and Estate of the incapacitated person as well as to the Principal (Ivan Smith). This agent's authority shall remain in effect to the extent approved by the Guardian of the Person and Estate. **OR** Any previously executed powers of attorney or health care powers of attorney and the authority to act under these documents is null and void.

The Guardian of the Estate is directed to file an Inventory within ninety (90) days of the date of this Decree in accordance with the provisions of 20 Pa.C.S. § 5521(b) and § 5142. Pa. O.C. Rule 14.8(a)(1). The Guardian of the Estate and Person shall each file an Annual Report one year after appointment and annually thereafter in accordance with the provisions of 20 Pa.C.S. § 5521(c)(1)(i) and (ii). Pa. O.C. Rule 14.8(a)((2) & (3)). Final Reports shall be filed by the Guardian of the Estate and Person within sixty (60) days of the death of the incapacitated person, an adjudication of capacity, a change of guardian or the expiration of an order of limited duration pursuant to 20 Pa.C.S. § 5521(c)(2). Final Reports shall also be filed upon receipt of the provisional order from another state's court accepting transfer of a guardianship. Pa. O.C. Rule 14.8(a)(4) & (5). The Guardian shall serve a notice of the filing of any of these reports on all those persons, *sui juris*, who would be entitled to share in the estate of the incapacitated person if he/she died intestate, and the person or institution providing residential care services to the incapacitated person as well as to \_\_\_\_\_ within ten (10) days after filing a report using the attached form. Pa. O.C. Rule 14.8(b).

If the incapacitated person resides in a nursing facility and is the recipient of Medical Assistance, the Guardian of the Estate shall be compensated out of income at the rate of \$100 per month. In all circumstances, compensation out of income shall not prejudice the right of the Guardian to seek additional compensation by petition for allowance.

In the event the incapacitated person has a safe deposit box, an Official Examiner of this court shall be in attendance when the safe deposit box is opened by the Guardian of the Estate. The Certificate of the Official Examiner of his examination of the assets in the safe deposit box shall be submitted to the Court, and, when approved by the hearing judge, shall be filed with the record in this case. The amount and manner of compensation for these services of the Official Examiner shall be determined by the hearing judge.

The Guardian of the Person, unless authorized after a subsequent hearing, shall not have the power to:

1. Consent on behalf of the incapacitated person to psychosurgery, electroconvulsive therapy or removal of a healthy body organ;
2. Prohibit the marriage or consent to the divorce of the incapacitated person; or
3. Consent on behalf of the incapacitated person to the performance of any experimental biomedical or behavioral medical procedure or participation in any biomedical or behavioral experiment.

All evidence received at the hearing concerning the present matter, including but not limited to medical depositions, expert reports, testimony and exhibits, shall be SEALED and not made available except upon further Decree of this Court.

Ivan Smith was/was not present at the hearing and was/was not represented by counsel. The court finds clear and convincing medical evidence that the physical and mental health of Ivan Smith would have been harmed by requiring his/her presence at the hearing. Counsel for the petitioner shall cause to be served upon and read to Ivan Smith a copy of this Decree and the following Statement of Rights:

**You, Ivan Smith, are hereby notified of your right to seek reconsideration of this Decree pursuant to Rule 8.2 and the right to appeal this Decree within 30 days from the date of this Decree by filing a Notice of Appeal with the Clerk of the Orphans' Court. You may also petition the court at any time to review, modify, or terminate the guardianship due to a change in circumstances. You have a right to be represented by an attorney to file a motion for reconsideration, an appeal, or to seek modification or termination of this guardianship. If the assistance of counsel is needed and You cannot afford an attorney, an attorney will be appointed to represent you free of charge. Pa. O.C. Rule 14.7(a)(2).**

BY THE COURT:

\_\_\_\_\_  
, J.

Counsel

Guardian(s)

## Guardian Address Confirmation Form

### COURT OF COMMON PLEAS OF PHILADELPHIA ORPHANS' COURT DIVISION

Estate of \_\_\_\_\_

O.C. # \_\_\_\_\_ Control # \_\_\_\_\_

### GUARDIAN ADDRESS CONFIRMATION FORM

I am the (check one):

Guardian/Co-Guardian of Person and Estate

Guardian/Co-Guardian of the Estate

Guardian/Co-Guardian of Person

As the Guardian named in the above case, I affirm that my name, address, phone number, and email address should be recorded as follows:

Name (Please Print): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Home Phone # \_\_\_\_\_ Mobile Phone # \_\_\_\_\_

E-Mail: \_\_\_\_\_

Preferred contact method: (Phone, Mail or Email) \_\_\_\_\_

I understand that it is my responsibility to update the Court of my current contact information if any of it should change or become inaccurate, and I agree to do so immediately.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## Preliminary Decree Awarding Citation for Guardianship Hearing

COURT OF COMMON PLEAS OF PHILADELPHIA  
ORPHANS' COURT DIVISION

Estate of X,  
An Alleged Incapacitated Person  
O.C. No. X AI of 2018  
Control No. X

### PRELIMINARY DECREE

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_ 2019, upon consideration of the Petition for Adjudication of Incapacity and the Appointment of Plenary Guardian of the Person and Estate, it is hereby ORDERED and DECREED that:

1. A citation is awarded, directed to X, to show cause why he should not be adjudged an incapacitated person and why a plenary guardian of his person and estate should not be appointed; the hearing thereon to be held in Courtroom 41, City Hall, Philadelphia, PA, 19107 on \_\_\_\_\_, 2019 at \_\_\_\_\_.
2. Petitioner shall cause to be served (by personal service) the Citation with Notice and Petition, pursuant to the provisions of 20 Pa.C.S. §5511(a) and Pa.O.C. Rule 14.2, upon the alleged incapacitated person at least twenty (20) days prior to the court hearing. The contents and terms of the Citation with Notice and Petition shall be read and explained to the maximum extent possible in language and terms the alleged incapacitated person is most likely to understand in accordance with the provisions of 20 Pa.C.S. §5511(a).
3. At least twenty (20) days prior notice of the court hearing, together with a copy of the petition and citation, shall be given personally or by certified mail in accordance with the provisions of 20 Pa.C.S. §5511(a) to all persons who are *sui juris* and who would be entitled to share in the estate of the alleged incapacitated person if he died intestate, and the Person or Institution providing residential services to the alleged incapacitated person, and to -----.

**Notice shall also be given to the Commonwealth of Pennsylvania, Office of Attorney General, as a possible intestate heir to the estate of the alleged incapacitated person. (Include this section only when AIP has no next of kin).** Notice shall also be given to the U.S. Department of Veterans Affairs as a result of the alleged incapacitated person receiving veteran's benefits (or survivor benefits). **(Include this section only when AIP is a veteran or receives survivor benefits)**

4. An affidavit of service containing specific averments as to the above requirements in the two preceding paragraphs shall be presented at the beginning of the court hearing.
5. Petitioner and/or counsel for the petitioner shall notify the court, in writing, at least seven (7) days prior to the court hearing if counsel has not been retained by or on behalf

of the alleged incapacitated person in accordance with the provisions of 20 Pa.C.S. §5511(a). This notice shall also contain all pertinent information which would indicate to the court whether or not counsel should be appointed to represent the interests of the alleged incapacitated person.

6. In accordance with Pa. O.C. Rule 14.2(c)(2), unless previously attached to the Petition, Petitioner shall submit for each proposed guardian, at least seven (7) days prior to the court hearing, the response to the Pennsylvania State Police criminal record check, issued within six months of the date of filing of the Petition. If any proposed guardian resided outside the Commonwealth of PA within the previous five (5) year period and was 18 years of age or older at any time during that period, the criminal record check from each state in which the proposed guardian resided within the five year period shall be submitted.

For criminal history reports from PA, see <https://epatch.state.pa.us/Home.jsp>.

7. The alleged incapacitated person shall be present at the court hearing unless it is established by clear and convincing medical evidence that his physical or mental condition would be harmed by his presence in court in accordance with the provisions of 20 Pa.C.S. §5511(a).
8. In accordance with 20 Pa.C.S. §5518, at the hearing on this matter the Petitioner must present testimony, in person or by deposition, from a medical professional, who must be qualified by training and experience to evaluate individuals with incapacities of the type alleged by the Petitioner, that establishes the nature and extent of the alleged incapacitated person's incapacities and disabilities and his mental, emotional, and physical condition, and adaptive behavior and social skills. The absence of such testimony and/or depositions shall preclude a declaration of incapacity and appointment of a guardian. Alternatively, the use of an Expert Report in lieu of testimony in person or by deposition shall be in accordance with Pa. O.C. Rule 14.3.
9. The Consent of Guardian and Guardian Address Confirmation Form (substantially in the forms annexed to this Preliminary Decree) shall be completed by the proposed guardian and presented to the Court at the time of the hearing.

BY THE COURT:

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, J.

X, Esquire