

# LAKE CIRCUIT COURT

THIRTY-FIRST JUDICIAL CIRCUIT  
2293 NORTH MAIN STREET  
CROWN POINT, INDIANA 46307



PHONE (219) 755-3488  
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GEORGE C. PARAS  
JUDGE

February 4, 2014

MICHAEL A. SARAFIN  
MAGISTRATE

**VIA HAND DELIVERY**

ROBERT G. VANN  
MAGISTRATE

Martin Goldman  
Court Administrator  
Lake County Superior Courts  
2293 N. Main Street  
Crown Point, IN 46307

**Re: Adoption of New Probate and Guardianship Local Rules**

Dear Mr. Goldman:

As you may know, I have been working with the Probate and Trust Law Committee of the Lake County Bar Association with respect to the proposal of new probate and guardianship local rules. Enclosed you will find a red-lined version of the current local rules. The red-lined edits are those proposed by the Committee. The red-lined edits that are highlighted in yellow are those proposed by a group of judicial officers (Judge Calvin Hawkins, Judge Diane Kavadias Schneider, Probate Commissioner Danette Garza, and myself) who met on January 17, 2014. Please note that Judge William Davis has also reviewed the proposed new rules and has indicated that he has no objection.

In light of the foregoing, and on behalf of both the Lake County Bar and the reviewing judicial officers, I am requesting that you present these proposed new probate and guardianship local rules to Judge John Pera for his review and distribution to the judges at large.

Should you have any questions or concerns regarding this matter, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jewell Harris, Jr.", with a large, stylized flourish at the end.

Jewell Harris, Jr.  
Probate Commissioner  
Lake Circuit Court

Enclosure

cc: Hon. Judge George C. Paras

**LAKE COUNTY RULES OF PROCEDURE APPLICABLE TO  
GUARDIANSHIPS**

LR 45-PR00-3931

All probate rules and regulations promulgated by the Veterans Administration are hereby adopted as probate rules of the Court.

LR 45-PR00-4032

A Guardian's Information Sheet must be completed and filed with any petition seeking to establish a temporary or permanent guardianship or a protective order pursuant to I.C. § 29-1-3-4 et. seq., as amended. The Court will not act upon the petition until the Guardian's Information Sheet is completed and filed. The Guardian's Information Sheet must be filed on green paper in compliance with Indiana Trial Rule 5(G) and Administrative Rule 9(G)(1). (SEE ATTACHED FORM A).

LR-45-PR00-40

Guardianship matters must be transacted with the Probate Commissioner. Only emergency matters may be submitted to the presiding Judge. Telephone calls or visits to the Probate Commissioner's private office should be kept at a minimum.

LR 45-PR00-4133

In all guardianship matters pertaining to declaring an adult incapacitated for any reason, at a minimum, the Physician's Statement in a form acceptable to the Court, executed by the licensed physician treating the alleged incapacitated person, must be submitted at the time the petition is filed or on the hearing date. No determination will be made without the Physician's Statement and/or supporting medical testimony. (SEE ATTACHED FORM B)

LR-45-PR00-41

Unless the Probate Clerk has sent the files to the Probate Commissioner, attorneys must obtain files from the Probate Clerk prior to submitting any matter to the Probate Commissioner.

LR 45-PR00-4234

In all guardianship matters, the Court's Instructions to the Guardian, executed by the Guardian, must be filed with the Court prior to Court appointment and issuance of letters. These Instructions are to be considered as direct Orders of the Court. Instructions to Guardian when the guardianship will be of the person only (SEE ATTACHED FORM C) or when the guardianship will apply to the minor's or incapacitated adult's property (SEE ATTACHED FORM D) must be completed and filed with the Court. If the Guardian will be appointed over both the person and estate, both sets of Court's Instructions to the Guardian must be completed and filed with the Court. No substitute form will be accepted by the Court.

LR 45-PR00-4235

All petitions, of any nature or kind, in all matters, must be executed and verified by the Guardian or the Interested Party (Petitioner), and not by the Attorney. All petitions requesting relief or action by the Court should, where applicable, contain reference to the appropriate statute or rule authorizing such relief or action.

LR 45-PR00-4436

Pursuant to I.C. §30-5-3-4(b), as amended, an appointment of a Guardian over an estate shall not operate to terminate a valid power of attorney, unless the power of attorney instrument provides for termination upon the incapacity of the principal. A Guardian shall not have power over property or health care conditions that are subject to a valid power of attorney. A Guardian cannot revoke or amend a power of attorney on behalf of a principal without Court approval. A Guardian seeking to revoke a valid power of attorney must obtain Court approval which can be granted only after hearing and notice to the attorney-in-fact.

LR 45-PR00-44

All Attorneys are required to prepare orders in an form approved by the Court (order per form or OPF) for all proceedings, except where expressly indicated to the contrary by the respective Probate Commissioner.

LR 45-PR00-4337

All Attorneys are required to prepare CCS Entry Forms and Orders in a form approved by the Court (order per form or OPF) showing each pleading filed, and

~~setting forth all necessary matters~~ for all proceedings except where expressly indicated to the contrary by the Court.

LR 45-PR00-~~4538~~

Where matters are filed by mail, or left with the Court for filing, a self-addressed stamped envelope must be included for return of documents to the Attorney.

LR 45-PR00-~~4639~~

Routine matters, such as Bonds, Inventories, and Status Reports, may be filed with the Probate Clerk for transmittal to the Court Probate Commissioner.

LR 45-PR00-~~4740~~

Unless waived by the applicable Court, Attorneys desiring to have the Court Reporter present for a hearing must make a written request for same ten (10) days in advance of the hearing. Hearings involving the Court Reporter shall be set subject to his or her availability.

LR 45-PR00-~~4841~~

Any contested matters scheduled for hearing on a probate day shall take precedence over unscheduled business. Aattorneys are encouraged to call the Court to find out when contested matters are routinely scheduled.

LR 45-PR00-~~4942~~

The Attorney shall prepare and serve any required notices on interested persons pursuant to I.C. §29-1-7-4.5, as amended, and proof thereof pursuant to I.C. §29-1-1-16, as amended, ~~and shall ensure that such notices are properly served in compliance with statutory requirements. The Attorney shall ascertain and provide adequate proof that notice was properly served prior to bringing a matter to the attention of the Probate Commissioner.~~

LR 45-PR00-50

~~Copies of petitions and accountings must be sent with all notices, where the hearing involved arises from the matters contained in the petition and/or accounting.~~

LR 45-PR00-~~51~~43

Inventories must be filed in all temporary guardianships of the estate within thirty (30) days after appointment of the Guardian. For permanent guardianships of the estate, inventories must be filed within ninety (90) days after appointment of the Guardian.

LR 45-PR00-~~52~~44

Attorneys must attend all hearings. ~~the hearing on current or final accounts on the date scheduled for such hearings.~~ The Court may, in its discretion, require the attendance of the Guardian at anyall such hearings.

LR 45-PR00-~~53~~45

All accountings filed with the Court must follow the statutory format prescribed by I.C. §29-1-16-4, as amended. Informal, handwritten, or transactional accountings will not be accepted. Unless otherwise ordered by the Court, anll accounting filed with the Court shall be accompanied by an aAffidavit in Lieu of Vouchers stating that receipts are available for all disbursements contained in the accounting.

LR 45-PR00-~~54~~46

Receipts for all final distributions must be filed with the final report or the supplemental report before discharge will be given by the Court.

LR 45-PR00-55

~~All accountings must follow the prescribed statutory format. Informal or handwritten accountings will not be accepted.~~

LR 45-PR00-~~5647~~

The name and address of the Insurance Agency providing the corporate surety must be typed on all corporate bonds filed in any guardianship.

LR 45-PR00-~~5748~~

In all contested matters, the Indiana Rules of Trial Procedure shall apply.

LR 45-PR00-~~5849~~

Any petition for the allowance of fees, for the Attorney and/or the Guardian shall set forth a description of the services performed and a calculation of the amount of the fee requested. At the time the petition is considered by the Court, the Attorney must be present. No fee request will be considered as a part of the final report or account in a guardianship proceeding. A separate petition must be filed requesting such fee determination. No fee shall be paid without prior approval of the Court.

~~LR 45-PR00-59~~

~~Where contracts for legal services have been entered into prior or subsequent to the opening of a guardianship over the estate of an incapacitated individual without prior Court approval, or when a settlement has been reached and no Guardianship is required, the Court reserves the right to approve or disapprove the fee contracts.~~

LR 45-PR00-~~6050~~

Attorney and Guardian fees in guardianship proceedings over the person of the protected person shall not be subject to Court approval. ~~will not be determined or authorized for payment by the Court in guardianship proceedings over the person of the incapacitated individual.~~

LR 45-PR00-~~6151~~

All transfers, sales, or encumbrances of the protected person's real or personal property is subject to prior Court approval. ~~deeds submitted to the Court for approval must be signed by the Guardian and the signature notarized prior to its submission. Copies of such deeds must be filed for the Court records.~~

LR 45-PR00-~~6252~~

In all wrongful death proceedings, the Guardian must be present at the time the settlement, either partial and/or final, is presented to the Court for approval. The Court retains the right to require the presence of the minor, incapacitated person, or a Custodial parent at the time the settlement is presented to the Courts for approval.

LR 45-PR00-~~6353~~

All documents filed with the Court must comply with the requirements of Indiana Trial Rule 5(G) and Administrative Rule 9(G)(1).

LR 45-PR00-~~6454~~

For good cause shown, the Court may waive any local procedural rule.

LR 45-PR00-~~6555~~

~~The Court shall determine the amount of the Guardian's bond in accordance with I.C. §29-3-7-1, as amended. A bond shall be required equal to the sum calculated under I.C. §29-3-7-1, as amended. Exceptions as provided by statute may be permitted in the Court's discretion. A bond shall be required equal to the sum of the full value of the personal property of the protected person and one year's estimated income from all assets in the Guardianship. Exceptions as provided by statute may be permitted, in the Court's discretion.~~

LR 45-PR00-67

~~Where an account with expenditures restricted by Court order has been created, an acknowledgement of or acquiescence to the restriction by the financial institution involved must be filed by the Guardian's Attorney within ten (10) days of the Court Order creating such an account. (SEE ATTACHED FORM B)~~

LR 45-PR00-~~6356~~

~~Subject to the discretion of the Court, the Court may restrict transfer of all or part of the liquid assets of a Guardianship by placing those assets in a federally-insured financial institution or in a brokerage account (or any~~

combination of the two) with the following restriction placed on the face of each account or document creating or evidencing the account:

NO PRINCIPAL OR INTEREST SHALL BE WITHDRAWN WITHOUT WRITTEN ORDER OF THE LAKE CIRCUIT/SUPERIOR COURT, PROBATE DIVISION. THE GUARDIAN AND/OR FINANCIAL INSTITUTION SHALL PROMPTLY NOTIFY THE COURT IN WRITING IN THE EVENT PRINCIPAL AND/OR INTEREST IS WITHDRAWN WITHOUT WRITTEN COURT ORDER.

Within thirty (30) days after an Order authorizing the creation of the restricted account or investment, a certificate by an officer of the institution at which the restricted account or investment has been created shall be filed with the Court which affirms that the account or investment is restricted by Court Order. (SEE ATTACHED FORM E).

The Guardian and/or the financial institution shall promptly notify the Court in writing in the event that any principal or interest is withdrawn from the account without Court authorization.

LR 45-PR00-6457

Current reports filed by the Guardian must show the present whereabouts of the protected person and his/her general welfare.

LR 45-PR00-69

~~All Guardian's accountings must contain a certification by an officer of a financial institution or the holding institution that the assets remaining in the guardianship which are in the charge, custody, or control of the holding institution, other than real estate, have been exhibited to said officer, and that they correspond with what is shown in the recapitulation section of the accounting. (SEE ATTACHED FORMS)~~

LR 45-PR00-7058

All benefits and payments, such as Social Security benefits received on behalf of a protected person, must be included and accounted for in the Guardian's accountings unless excluded by prior order of the Court.



LR 45-PR00-~~7159~~

Neither the Guardian nor the Attorney shall take or receive any fees until the amount thereof has been approved by the Court.

LR 45-PR00-~~7260~~

Unless limitations on the powers of the Guardian are sought in the Petition for Appointment. An order in a form approved by the Court (order per form or OPF) must be submitted at the time of the appointment of a Guardian, detailing the duties, responsibilities and powers of the Guardian. ~~Any limitations on the duties, responsibilities and powers of the Guardian must be detailed on a separate schedule which shall be incorporated in or attached to the Letters of Guardianship.~~

LR 45-PR00-~~7361~~

In all instances in which the appointment of a Guardian is contested, a Guardian Ad Litem shall be appointed unless waived by law, or by the Court in the Court's discretion, or if the alleged incapacitated person is represented by counsel.



FORM A. ACCOUNT VERIFICATION

ACCOUNT VERIFICATION

TO: \_\_\_\_\_

FROM: \_\_\_\_\_  
Guardian's Name

RE: Guardianship of \_\_\_\_\_

~~In order to comply with the rules of The Probate Court, I am required to file a Certification of Account Balances. Please certify the balances and names on the accounts I have listed below, as of \_\_\_\_\_, 2\_\_\_\_\_.~~

Dated: \_\_\_\_\_

Guardian: \_\_\_\_\_  
Guardian's Name

FOR BANK USE ONLY:

I certify that on \_\_\_\_\_, 2\_\_\_\_, the last day of the period covered by this accounting, there was on deposit in this institution to the credit of the Guardian, the following balance:

NAME ON ACCOUNT	ACCOUNT NUMBER	BALANCE	DATE
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Name and Address of Institution: \_\_\_\_\_ Signature of Certifying Officer: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

~~FORM B. — CERTIFICATE OF INVESTMENT~~

~~CERTIFICATE OF INVESTMENT~~

<del>KIND OF</del>	<del>INTEREST</del>	<del>DATE OF</del>	<del>FACE</del>	<del>GUARDIANSHIP</del>
<del>SECURITY</del>	<del>RATE</del>	<del>ACQUISITION</del>	<del>VALUE</del>	<del>VALUE</del>

~~I certify that the securities listed herein were exhibited to me by the Guardian, \_\_\_\_\_,~~

~~as being the property of the Protected Person and in the custody of the Guardian.~~

~~Date \_\_\_\_\_~~

~~Signature and Title of Certifying Officer \_\_\_\_\_~~

~~Name and Address of Institution \_\_\_\_\_~~

FORM BC. PHYSICIAN'S REPORT

PHYSICIAN'S REPORT

\_\_\_\_\_, a physician holding an unlimited license to practice medicine in the State of Indiana, submits the following report on \_\_\_\_\_, "Patient", based upon examination of Patient.

1. Set forth the dates of all examinations of the Patient within the last one (1) year from the date hereof.

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2. In your opinion, based upon your examination and observation of the Patient, is the Patient incapacitated as defined by Indiana law (see attached definition of "Incapacity")?

Yes      No      If more than one cause for incapacity exists, describe the nature and type of each incapacity, so, describe the nature and type of incapacity.

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3. In your opinion, based upon your examination and observation of the Patient, how long has the Patient been incapacitated?

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4. Describe the Patient's mental and physical condition; and, if appropriate, describe the Patient's educational condition, adaptive behavior and social skills.

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5. In your opinion, is the Patient totally or only partially incapable of making personal and financial decisions?

~~Totally Incapable~~ Partially Incapable Capable

~~If the Patient is partially incapable of making personal and/or financial decisions, please state the kinds of decisions which the Patient can and cannot make; and, include the reasons for this opinion. And, if the latter, state the kinds of decisions which the Patient can and cannot make. Include the reason for this opinion.~~

6. In your opinion, what is the most appropriate living arrangement for the Patient? And, if applicable, describe the most appropriate treatment or rehabilitation plan. Include the reasons for your opinion.

7. ~~In your opinion, C~~ can the Patient appear in Court without injury to his/her health? Yes ~~Yes~~ No ~~No~~

If the answer is no, explain the medical reasons for your answer.

8. ~~In your opinion, I~~ is the Patient capable of making a knowing and voluntary consent~~consenting~~ to the appointment of a Guardian?

Yes ~~Yes~~ No ~~No~~

9. ~~In your opinion, I~~ is the Patient capable of making a knowing and voluntary waiver of the "Notice of Court Hearing" in Guardianship proceedings?

Yes ~~Yes~~ No ~~No~~

10. In your opinion, is it in the best interests of the Patient that a Guardian be appointed to care for the Patient? Yes ~~Yes~~ No ~~No~~

If a Guardian is needed, is one needed for personal or financial needs, or both? Personal ~~Yes~~ Financial ~~No~~ Both

I affirm, under the penalties of perjury, the above and foregoing is true and correct to the best of my knowledge and belief.

Signed: \_\_\_\_\_

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

Telephone: \_\_\_\_\_

Dated: \_\_\_\_\_

If the description of the Patient's mental, physical and educational condition, adaptive behavior or social skills is based on evaluations by other professionals, please provide the names and addresses of all professionals who are able to provide additional evaluations. Evaluations on which the report is based should have been performed within three (3) months of the date of the filing of the Petition.

Names and addresses of other persons who performed evaluations upon which this report is based (including without limitation nurse practitioners, physician assistants, etc.):

Name: \_\_\_\_\_

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

Telephone: \_\_\_\_\_

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

Name: \_\_\_\_\_

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

Telephone: \_\_\_\_\_

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_



DEFINITION OF "INCAPACITY"  
AS DEFINED BY INDIANA LAW

I.C. 29-3-1-7.5, INCAPACITATED PERSON:

It means an individual who:

- (1) cannot be located upon reasonable inquiry;
- (2) is unable:
  - (a) to manage in whole or in part the individual's property;
  - (b) to provide self-care; or
  - (c) both  
because of insanity, mental illness, mental deficiency, physical illness,  
infirmity, habitual drunkenness, excessive use of drugs, incarceration,  
confinement, detention, duress, fraud, undue influence of others on the  
individual, or other incapacity; or

I.C. 12-7-2-61, DEVELOPMENTAL DISABILITY:

- (1) Has a developmental disability attributable to:
  - (a) mental retardation, cerebral palsy, epilepsy, or autism;
  - (b) any other condition closely related to mental retardation;
  - (c) dyslexia resulting from any disability described above;
  - (d) originates before the person is 18 years old, has continued or is  
expected to continue indefinitely, and substantially affects the  
individual's ability to function normally in society.
- (2) Has a severe, chronic disability that:
  - (a) is attributable to a mental or physical impairment, or a  
combination of both;
  - (b) is manifested before the individual is 22 years old;
  - (c) is likely to continue indefinitely;
  - (d) reflects the need for special types of care of lifelong, or extended  
duration, individually planned and coordinated;
  - (e) results in substantial limitations in a least 3 of:
    - i. Self-care;
    - ii. Receptive and expressive language;
    - iii. Learning;
    - iv. Mobility;
    - v. Self-direction;
    - vi. Capacity for independent living;
    - vii. Economic self-sufficiency.

~~FORM D. — LAWYER'S UNDERTAKING AND OBLIGATION~~

LAWYER'S UNDERTAKING AND OBLIGATION

~~I, \_\_\_\_\_, having been appointed as Guardian or as the Person best suited to protect the Estate of \_\_\_\_\_, by the Superior Court of Lake County, sitting at \_\_\_\_\_, Indiana, hereby authorize my Attorney \_\_\_\_\_, to deposit all of the net guardianship assets, in the amount of \$ \_\_\_\_\_, in a bank account or other interest bearing account in my name on behalf of the Protected Person, \_\_\_\_\_, with the restriction that withdrawal of principal or interest may be made ONLY on written order of the Court, or upon the Protected Person reaching the age of majority.~~

~~DATE: \_\_\_\_\_  
\_\_\_\_\_ Guardian of Protected Person~~

~~I, as an Officer of the Court and as Attorney for the above Guardianship, hereby assume and undertake personal responsibility to the above named Protected Person and to the Court to make the above designated restricted deposit and to deliver copies of the SIGNATURE CARD or CERTIFICATE evidencing the restricted deposit and the amount thereof to the Court with ten (10) days from the receipt of the funds, or to refund all of the funds to the Court immediately upon demand.~~

~~DATE: \_\_\_\_\_  
\_\_\_\_\_ Attorney~~

FORM C. COURT'S INSTRUCTIONS TO GUARDIAN OF THE PERSON

IN THE LAKE CIRCUIT/SUPERIOR COURT  
PROBATE DIVISION  
LAKE COUNTY, INDIANA

GUARDIANSHIP OF

CAUSE NUMBER

COURT'S INSTRUCTIONS TO GUARDIAN OF THE PERSON

Please read carefully before you date and sign. One copy of this form must be filed with the Court before your appointment as guardian is confirmed by the Court. Keep a copy for your records.

You have been appointed as the guardian of an individual who is unable to care for his or her own personal affairs. It is important that you fully realize your duties and responsibilities. Listed below are some of your duties.

You should be represented at all times by an attorney of record. Your attorney is required to notify the Court if you are not properly performing your duties to the protected person. By signing these Instructions you agree that the filing of that notice does not violate the attorney-client privilege. If the Court receives such notice it will set the matter for hearing and require you to personally appear and account to the Court for all actions taken or not taken by you as guardian.

The Instructions which follow are to be considered by you as Orders of the Court which require you to perform as directed. The Court appreciates your efforts on behalf of the protected person.

As Guardian of the person, you have the following duties and authority:

1. You must be or become sufficiently acquainted with the protected person and maintain sufficient contact with the protected person to know his or her capabilities, disabilities, limitations, needs, opportunities, and physical and mental health.

2. You are responsible to make sure the protected person has an adequate place to live that is appropriate for the protected person's needs. You can decide where the protected person will live. You must obtain approval of the Court before you move the protected person to another residence or health facility that is more than fifty (50) miles away.

3. You are responsible to make sure that the protected person receives needed and appropriate medical care. You can consent to medical

or other professional care and treatment for the protected person's health and welfare. You can consent to the protected person's admission to a health care facility.

4. You shall, to the extent possible, encourage and promote the self-reliance and independence of the protected person.

5. You can, to the extent that the protected person is able, delegate to the protected person certain responsibilities for decisions affecting the protected person's well-being.

6. You or your attorney must notify the Court if your address changes.

7. You must file a report with the Court at least every two (2) years. The report must state the present residence of the protected person and a statement of the protected person's current condition and general welfare. Failure to file the report may result in your removal as guardian.

I authorize my attorney to notify the Court in the event that he or she has reason to believe that I am not timely performing or am improperly performing my duties to the protected person even if such information would be otherwise confidential.

I acknowledge that I have carefully and completely read the above instructions and received a copy for my records. I agree to properly carry out my duties.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature, Guardian

\_\_\_\_\_  
Signature, Guardian

\_\_\_\_\_  
Print, Guardian

\_\_\_\_\_  
Print, Guardian

I acknowledge that I have carefully and completely discussed the above instructions with my client before this form was signed and believe that he or she is fully aware of and capable of performing the duties required of a guardian of the person.

\_\_\_\_\_  
Signature, Attorney

\_\_\_\_\_  
Signature, Attorney

\_\_\_\_\_  
Print, Attorney

\_\_\_\_\_  
Print, Attorney

FORM D. COURT'S INSTRUCTIONS TO GUARDIAN OF ESTATE

IN THE LAKE CIRCUIT/SUPERIOR COURT  
PROBATE DIVISION  
LAKE COUNTY, INDIANA

GUARDIANSHIP OF

CAUSE NUMBER

COURT'S INSTRUCTIONS TO GUARDIAN OF ESTATE

Please read carefully before you date and sign. One copy of this form must be filed with the Court before your appointment as guardian is confirmed by the Court. Keep one copy for your records.

Introduction:

You have been appointed as the guardian of an individual who is unable to care for his or her own financial affairs. It is important that you fully realize your duties and responsibilities. Listed below are some of your duties, but not all of them.

You must be represented at all times by an attorney of record. Your attorney is required to reasonably supervise and guide your actions as guardian unless and until that attorney is permitted by order of the Court to withdraw from representing you.

Your attorney is required to notify the Court in the event that you are not timely performing or improperly performing your fiduciary duties to the protected person, and by signing these Instructions you agree that the filing of that notice does not violate the attorney client privilege. If the Court receives such notice, it will set the matter for hearing and will require you to personally appear and account to the Court for all actions taken or not taken by you as guardian. You are required to notify the Court in writing in the event that your attorney is not timely performing or improperly performing his or her duties to reasonably supervise and guide your actions as guardian. Upon receipt of the notice, the Court will set the matter for hearing and require you and your attorney to personally appear and account to the Court for all actions taken or not taken by the attorney.

The Instructions which follow are to be considered by you as Orders of the Court which require you to perform as directed. Although your attorney will file all papers with the Court, the ultimate responsibility to see that all accounts and other documents are accurately prepared and filed, rests with you and you can be found personally liable should you not properly perform.

The Court appreciates your efforts on behalf of the protected person.

As Guardian you are required to:

1. Locate, collect and maintain all property owned by the protected person. Keep motor vehicles and real estate insured and protected.
2. Have your attorney file with the Court, within ninety (90) days after your appointment, a verified inventory and appraisal of all the property belonging to the protected person, with values as of the date you were appointed. You must provide a copy of the inventory to the protected person [if over fourteen (14) years of age] and to certain other persons as set out in Indiana Code §29-3-9-5, as amended.
3. Have your attorney file with the Court a verified current account of all the income and expenditures of the guardianship every two (2) years after your appointment, in the statutory format prescribed by I.C. §29-1-16-4. Informal, handwritten, or transactional accountings will not be accepted.
4. Pay bond premiums as they become due.
5. File and pay taxes on the protected person's income and assets.
6. Have your attorney file a final accounting with the Court upon the termination of the guardianship, whether due to the death of the protected person, or for any other reason.
7. Keep all of the assets of the protected person separate from your own. Guardianship funds should never be co-mingled with personal funds. Unauthorized use of the guardianship funds will result in personal liability.
8. Open a guardianship checking account in your name "as guardian of (the protected person)". This account shall be used for all payments or disbursements on behalf of the protected person. The account should be in the protected person's Social Security number, not yours. It cannot be a joint account.
9. Real estate, automobiles and other accounts and investments should be held in the name of the protected person.
10. All investment accounts and other bank account holdings should be retitled as follows: "John Smith Guardianship, Mary Jones Guardian."
11. Obtain approval from the Court to use guardianship assets, other than for normal bills.
12. Do not self-deal. Do not buy anything from or sell anything to the protected person. Do not borrow anything from the protected person.

13. If applicable, timely qualify the protected person for Medicaid or other public assistance.

14. It is the duty of the guardian to protect and preserve the protected person's property, to account for the use of the property faithfully, and to perform all the duties required by law of a guardian.

15. The guardian has the same duties and responsibilities concerning the protected person whether or not the protected person is a relative of the guardian.

16. NEVER pay attorney fees or compensation to yourself from assets of the guardianship without first obtaining the advance written approval of the Court.

17. If any questions arise during the guardianship, immediately consult with your attorney.

I authorize my attorney to notify the Court in the event that he or she has reason to believe that I am not timely performing or improperly performing my fiduciary duties to the protected person even if such information would be otherwise confidential.

I acknowledge that I have carefully and completely read the above instructions and received a copy for my records. I agree to properly carry out my duties.

Dated this        day of        , 20        .

Signature, Guardian

Signature, Guardian

Print, Guardian

Print, Guardian

I acknowledge that I have carefully and completely discussed the above instructions with my client before this form was signed and believe that he or she is fully aware of and capable of performing the duties required of a guardian of the estate.

Signature, Attorney

Signature, Attorney

Print, Attorney

Print, Attorney

FORM E. CERTIFICATE OF ACCOUNT RESTRICTION

CERTIFICATE OF RESTRICTION OF ACCOUNT ~~IN COMPLIANCE~~  
WITH ~~LAWYER'S~~ UNDERTAKING

The undersigned hereby certifies that he/she is an Officer or employee of the below named financial institution and that the following account has been opened:

Type of Account: \_\_\_\_\_

Account Number: \_\_\_\_\_

Amount Deposited: \_\_\_\_\_

Owner per Signature Card or Document of Title: \_\_\_\_\_  
\_\_\_\_\_

The undersigned further certifies that a copy of the Order of the Circuit/Superior Court of Lake County has been examined in full by us and that the terms of this account included a restriction that withdrawal of principal or interest may be made only on written order of the Circuit/Superior Court of Lake County, or upon the Protected Person reaching the age of majority unless the Court orders the guardianship extended past the age of majority pursuant to I.C. §29-3-12-7, as amended.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Name of Financial Institution

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed

\_\_\_\_\_  
Title



## PROBATE FEE GUIDELINES AND RULES

### INTRODUCTION

It is important that certain criteria be called to your attention as they pertain to Attorney and Personal Representative Fees.

The Attorney and his, or her, Client must consider these factors. The Court in making its determination as to the fees allowed will also consider the same.

The criteria to be considered include the following:

A. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

B. The likelihood, if apparent to the Client, that the acceptance of the particular employment will preclude other employment by the Attorney;

C. The fee customarily charged in the locality for similar legal services;

D. The amount involved and the results obtained;

E. The time limitations imposed by the Client or by the circumstances;

F. The nature and length of the professional relationship with the Client;

G. The experience, reputation, and ability of the Attorney or attorneys performing the services;

These factors shall include a determination as to how much of the Attorney's time was devoted to legal matters and how much of it was devoted to ministerial functions.

H. The nature and extent of the responsibilities assumed by the Attorney and the results obtained;

Included herein are considerations such as the identity of the Personal Representative, the level of expertise of the Attorney and Personal Representative in administering an estate; the character of the probate assets; and the character of any non-probate assets transferred.

I. The sufficiency of assets properly available to pay for legal services;

Inherent herein is whether the Attorney's duties are expanded by the existence of non-probate assets because of their inclusion for tax purposes, both federal and state; and,

J. The timeliness with which the necessary services are performed consistent with statutory requirements, the Court's Rules of Procedure, and the Rules of Professional Conduct applicable thereto.

In considering all of these factors, Attorneys are urged to discuss their fee and that of the Personal Representative or Guardian at the time they are retained in all Probate and Guardianship matters.

## LAKE COUNTY RULES OF PROCEDURE APPLICABLE TO ESTATES

### L.R.45-P.R.00 Rule 1.

All probate rules and regulations promulgated by the Veterans Administration are hereby adopted as probate rules of the Court.

### L.R.-45-P.R.00 Rule 2.

A Personal Representative's Information Sheet must be completed and filed with any petition opening a Supervised or Unsupervised Estate. The Court will not act upon the petition until the Personal Representative's Information Sheet is completed and filed. The Personal Representative's Information Sheet must be filed on green paper in compliance with Indiana Trial Rule 5(G) and Administrative Rule 9(G)(1). (SEE ATTACHED FORM A).

### L.R.45-P.R.00 Rule 2.

~~Probate matters must be transacted with the Probate Commissioner. Only emergency matters may be submitted to the presiding Judge. Telephone calls or visits to the Probate Commissioner's private office should be kept at a minimum.~~

### L.R.45-P.R.00 Rule 3.

~~Unless the Probate Clerk has sent the files to the Probate Commissioner, Attorneys must obtain files from the Probate Clerk prior to submitting any matter to the Probate Commissioner.~~

### L.R.45-P.R.00 Rule 3.

In all supervised and unsupervised estates, the Court's Instructions to the Personal Representative, executed by the Personal Representative and the Estate Attorney, must be filed with the Court prior to Court appointment and issuance of letters. These Instructions are to be considered as direct Orders of the Court. Instructions to Personal Representative of Supervised Estate (SEE ATTACHED FORM B) or Instructions to Personal Representative of Unsupervised Estate (SEE ATTACHED FORM C), as applicable, must be completed and filed with the Court. No substitute form will be accepted by the Court.

L.R.45-P.R.00 Rule 4.

All petitions, of any nature or kind, in all matters, must be executed and verified by the Personal Representative, the Trustee, or the Interested Party (Petitioner), and not by the Attorney. All petitions requesting relief or action by the Court should, where applicable, contain reference to the appropriate statute or rule authorizing such relief or action.

L.R.45-P.R.00 Rule 5.

All Attorneys are required to prepare CCS Entry Forms and Orders in a form approved by the Court (order per form or OPF) showing each pleading filed, and setting forth all necessary matters for all proceedings except where expressly indicated to the contrary by the Court.

~~L.R.45-P.R.00 Rule 6.~~

~~All Attorneys are required to prepare orders in a form approved by the Court (order per form or OPF) for all proceedings, except where expressly indicated to the contrary by the respective Probate Commissioner.~~

L.R.45-P.R.00 Rule 67.

Where matters are filed by mail, or left with the Court for filing, a self-addressed stamped envelope must be included for return of documents to the Attorney.

L.R.45-P.R.00 Rule 78.

Routine matters, such as Inventories, Proofs of Publication, ~~Inheritance Tax Returns, Affidavits of No Inheritance Tax Due~~, Closing Statements, and Final Reports, may be filed with the Probate Clerk for transmittal to the Court Probate Commissioner.

L.R.45-P.R.00 Rule 89.

Unless waived by the applicable Court, Attorneys desiring to have the Court Reporter present for a hearing must make a written request for same ten (10) days in advance of the hearing. Hearings involving the Court Reporter shall be set subject to his or her availability.

L.R.45-P.R.00 Rule ~~910~~.

Any contested matters scheduled for hearing on a probate day shall take precedence over unscheduled business. ~~Attorneys are encouraged to call the Court to find out when contested matters are routinely scheduled.~~

L.R.45-P.R.00 Rule ~~1011~~.

~~The Attorney shall prepare and serve any required notices on interested persons pursuant to I.C. §29-1-7-4.5, as amended, and proof thereof pursuant to I.C. §29-1-1-16, as amended, and shall ensure that such notices are properly served in compliance with statutory requirements. The Attorney shall ascertain and provide adequate proof that notice was properly served prior to bringing a matter to the attention of the Probate Commissioner.~~

~~L.R.45-P.R.00 Rule 12.~~

~~Copies of petitions and accountings must be sent with all notices, where the hearing involved arises from the matters contained in the petition and/or accounting.~~

L.R.45-P.R.00 Rule ~~1113~~.

~~An verified inventory must be prepared and filed in all supervised estates within sixty (60) days after appointment of the Personal Representative. In unsupervised estates, the Personal Representative shall comply with I.C. §29-1-7.5-3.2 with respect to inventories. An inventory is not required to be filed in an unsupervised estate.~~

L.R.45-P.R.00 Rule ~~1214~~.

~~Attorneys must attend all the hearings, on current or final accounts on the date scheduled for such hearings. The Court may, in its discretion, require the attendance of the Personal Representative or Trustee at any such hearings.~~

L.R.45-P.R.00 Rule ~~1315~~.

~~All accountings filed with the Court must follow the statutory format prescribed by I.C. §29-1-16-4, as amended. Informal, handwritten, or transactional accountings will not be accepted. Unless otherwise ordered by the Court, an accounting filed with the Court shall be accompanied by an Affidavit in Lieu of Vouchers stating that receipts are available for all disbursements contained in the accounting.~~

~~Unless otherwise ordered by the Court, all accountings to the Court shall be accompanied by an affidavit stating that receipts are available for all disbursements contained in the accounting.~~

L.R.45-P.R.00 Rule ~~14~~16.

Receipts for all final distributions must be filed with the final report or the supplemental report before discharge will be given by the Court.

~~L.R.45-P.R.00 Rule 17.~~

~~All accountings must follow the prescribed statutory format. Informal or handwritten accountings will not be accepted.~~

L.R.45-P.R.00 Rule ~~15~~18.

The name and address of the Insurance Agency providing the corporate surety must be typed on all corporate bonds filed in any estate.

L.R.45-P.R.00 Rule ~~16~~19.

In all contested matters, the Indiana Rules of Trial Procedure shall apply.

L.R.45-P.R.00 Rule ~~17~~20.

In a supervised estate, any petition for the allowance of fees, pursuant to the Fee Guidelines, for the Attorney and/or the Personal Representative shall set forth a description of the services performed and a calculation of the amount of the fee requested. At the time the petition is considered by the Court, the Attorney must be present. No fee request will be considered as a part of the final report or account in a supervised estate. A separate petition must be filed requesting such fee determination. No fee shall be paid without the prior approval of the Court. No Attorney or Personal Representative fees will be authorized for payment until the estate is substantially settled.

~~L.R.45-P.R.00 Rule 21.~~

~~Where contracts for legal services have been entered into prior or subsequent to the opening of, or conversion to, a supervised estate without prior Court approval, the Court reserves the right to approve or disapprove the fee contracts consistent with fee guidelines and/or Court policy.~~

| L.R.45-P.R.00 Rule 1822.

Attorney and Personal Representative fees will not be determined or authorized for payment by the Court in an unsupervised estate.

| L.R.45-P.R.00 Rule 1923.

Unless otherwise stated in the decedent's Last Will and Testament, any Attorney or Personal Representative fees determined to be due by reason of non-probate assets shall be assessed against the recipients of the non-probate assets.

~~L.R.45-P.R.00 Rule 24.~~

~~All deeds submitted to the Court for approval must be signed by the Personal Representative and the signature notarized prior to its submission. Copies of such deeds must be filed for the Court records.~~

~~L.R.45-P.R.00 Rule 25.~~

~~In all wrongful death proceedings, the Personal Representative must be present at the time the settlement, either partial and/or final, is presented to the Court for approval.~~

| L.R.45-P.R.00 Rule 2026.

All documents filed with the Court must comply with the requirements of Ind. Trial Rule 5(G) and Administrative Rule 9(G)(1).

| L.R.45-P.R.00 Rule 2127.

For good cause shown, the Court may waive any local procedural rule.

| L.R.45-P.R.00 Rule 2228.

When required by law, all Wills must be admitted to Probate unless filed with the Clerk pursuant to Ind. Code § 29-1-7-3.1, as amended.

L.R.-45-P.R.00 Rule 2329.

Bond procedures for Estates:

- a. If the decedent's Will provides for no bond, the Court may honor the request unless otherwise required by statute;
- b. If all heirs request no bond or a minimal bond, the Court may honor such request unless otherwise required by statute;
- c. In all instances, upon petition by an interested person, the Court may require a bond to protect creditors, heirs, legatees, or devisees;
- d. In all other situations, the Court will determine and set the amount of the bond and in no event shall it be less than that required to protect creditors and taxing authorities;
- e. Personal surety must meet the requirements of Ind. Code § 29-1-11-5;
- f. No Attorney will be accepted as personal surety on any bond required to be filed in Court.

L.R.45-P.R.00 Rule 2430.

Subject to the discretion of the Court, the Court may restrict transfer of all or part of the liquid assets of a Supervised Estate by placing those assets in a federally-insured financial institution or in a brokerage account (or any combination of the two) with the following restriction placed on the face of each account or document creating or evidencing the account:

NO PRINCIPAL OR INTEREST SHALL BE WITHDRAWN WITHOUT WRITTEN ORDER OF THE LAKE CIRCUIT/SUPERIOR COURT, PROBATE DIVISION. THE PERSONAL REPRESENTATIVE AND/OR FINANCIAL INSTITUTION SHALL PROMPTLY NOTIFY THE COURT IN WRITING IN THE EVENT PRINCIPAL AND/OR INTEREST IS WITHDRAWN WITHOUT WRITTEN COURT ORDER.

Within thirty (30) days after an Order authorizing the creation of the restricted account or investment, a certificate by an officer of the institution at which the restricted account or investment has been created shall be filed with the Court which affirms that the account or investment is restricted by Court Order. (SEE ATTACHED FORM D).



The Personal Representative and/or the financial institution shall promptly notify the Court in writing in the event that any principal or interest is withdrawn from the account without Court authorization.

~~Where an account with expenditures restricted by Court Order has been created, an acknowledgment of or acquiescence to the restriction by the financial institution involved must be filed by the Personal Representative's Attorney within ten (10) days of the Court Order creating such an account.~~

L.R.45-P.R.00 Rule 2534.

Three (3) months and fifteen (15) days after the date of the first published notice to creditors, the Personal Representative, or the Personal Representative's Attorney, must allow or disallow each claim filed against the estate.

L.R.45-P.R.00 Rule 2632.

If an estate cannot be closed, the Personal Representative must report the condition of the estate to the Court one (1) year after the date of the Personal Representative's appointment, and thereafter every year until the estate is fully administered.

~~L.R.45-P.R.00 Rule 33.~~

~~Inheritance Tax Returns, with all required attachments, must be filed in triplicate. Proposed Orders Determining Inheritance Tax Due must be filed in quadruplicate at the time of determination of the tax.~~

L.R.45-P.R.00 Rule 2734.

The Federal Estate Tax closing letter and/or the countersigned receipt, or a photocopy thereof, showing payment of the Federal Estate ~~and/or Indiana inheritance tax liability~~ in the estate must be filed with the Final Report or the Supplemental Report.

L.R.45-P.R.00 Rule 2835.

Proof of publication of all notices required to be published shall be filed with the Court by the Attorney for the estate. It is the Attorney's responsibility to ensure that publication was timely made, and proof thereof is properly filed with the Court.

L.R.45-P.R.00 Rule ~~2936~~.

~~In an unsupervised estate, the Court shall have no involvement, other than for opening and closing the and determining Indiana inheritance tax due in an unsupervised estate. If the jurisdiction of the Court is invoked for any other matter, the administration shall become a supervised administration from there on for all remaining matters.~~

L.R.45-P.R.00 Rule ~~3037~~.

~~If, after three (3) months following the date that the verified closing statement is filed in an unsupervised estate and an objection has not been filed, the Attorney must file a proposed Order closing the estate. When a verified closing statement has been filed, an affidavit executed by the Personal Representative stating that no proceedings are pending shall be filed with the Court upon the expiration of the three (3) month statutory waiting period.~~

L.R.45-P.R.00 Rule ~~38~~.

~~If the Personal Representative has filed a claim in the estate, the claim may be allowed by the Court if all interested parties have consented. In the event the consents have not been obtained, a special administrator shall be appointed and a hearing on the claim will be held as prescribed by statute.~~

ESTATE FORMS

FORM A. PERSONAL REPRESENTATIVE'S INFORMATION SHEET

NAME: \_\_\_\_\_  
  Last   First   Middle

ALIAS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

WORK ADDRESS: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

SOCIAL SECURITY NUMBER: \_\_\_\_\_

DRIVER'S LICENSE NUMBER: \_\_\_\_\_ (attach a copy)

SEX: \_\_\_\_\_

RACE:    White           Black           Hispanic           Asian  
  American Indian                         Unknown

HEIGHT: \_\_\_\_\_

WEIGHT: \_\_\_\_\_

EYE COLOR: \_\_\_\_\_

HAIR COLOR: \_\_\_\_\_

THIS FORM MUST BE FILED ON GREEN PAPER IN COMPLIANCE WITH INDIANA TRIAL RULE 5(G) AND ADMINISTRATIVE RULE 9(G)(1).

FORM B. COURT'S INSTRUCTIONS TO PERSONAL REPRESENTATIVE  
OF SUPERVISED ESTATE

IN THE LAKE CIRCUIT/SUPERIOR COURT  
PROBATE DIVISION  
LAKE COUNTY, INDIANA

SUPERVISED ESTATE OF \_\_\_\_\_

CAUSE NUMBER \_\_\_\_\_

COURT'S INSTRUCTIONS TO PERSONAL REPRESENTATIVE  
OF SUPERVISED ESTATE

Please read carefully before you date and sign. One copy of this form must be filed with the Court before your appointment as personal representative is confirmed by the Court. Keep one copy for your records.

Introduction:

You have been appointed as the personal representative of the estate of a deceased person. By your appointment, the Court has placed in you the highest trust that you will perform your duties in the best interests of all beneficiaries and creditors of the estate. It is important that you fully realize your duties and responsibilities. Listed below are some, but not all of them.

You must be represented at all times by an attorney of record. Your attorney is required to reasonably supervise and guide your actions as personal representative unless and until that attorney is permitted by order of the Court to withdraw from representing you.

Your attorney is required to notify the Court in the event that you are not timely performing or improperly performing your fiduciary duties to the beneficiaries and creditors of the estate and by signing these Instructions, you agree that the filing of that notice does not violate the attorney-client privilege. If the Court receives such notice, it will set the matter for hearing and require you to personally appear and account to the Court for all actions taken or not taken by you as personal representative. You are required to notify the Court in writing in the event that your attorney is not timely performing or improperly performing his or her duties to reasonably supervise and guide your actions as personal representative. Upon receipt of the notice, the Court will set the matter for hearing and require you and your attorney to personally appear and account to the Court for all actions taken or not taken by the attorney.

The Instructions which follow are to be considered by you as Orders of the Court which require you to perform as directed. Although your attorney will file all papers with the Court, you, as personal representative, are ultimately responsible to see that the estate is properly and promptly administered, and you are personally liable for incorrect distributions, payments, or acts, as well as any unpaid taxes or costs of administration. The Court appreciates your efforts on behalf of the estate.

**As Personal Representative, you are required to:**

1. Locate, collect and maintain all property owned by the decedent.
2. Keep motor vehicles and real estate insured and protected.
3. Immediately fill out a change of address at the post office to have the decedent's mail forwarded to you.
4. No later than two (2) months after your appointment, have your attorney file in this Court an inventory describing all property belonging to the estate, with date of death values, and forthwith serve a copy of the inventory on all known heirs, beneficiaries or distributees of the estate.
5. Estate Checking Account.
  - A. Open a separate checking account at an Indiana financial institution in your name "as personal representative for the estate of (the decedent)." Obtain a federal tax I.D. number for the checking account. Do not use your Social Security number or the decedent's Social Security number.
  - B. As a general rule, DO NOT put any of your funds or anyone else's funds in this account. However, if circumstances warrant, you should consult your attorney prior to doing so.
  - C. Always pay for estate expenses by checks from this account. Do not pay any expenses with cash.
  - D. Make sure that the bank is willing to return cancelled checks or electronic versions of the checks to you.
  - E. Keep records of all deposits including the identity of the person or entity paying the money into the estate.
6. Determine all debts that the decedent owed. Look through the decedent's tax returns and other papers. Talk to anyone who knew the decedent's business. Consult your attorney as to payment of debts, costs of

administration, bond premiums, and funeral bills. Some debts may be unenforceable. Some may have priority over others.

7. Have your attorney provide written notice of the administration of the estate to all known creditors of the estate.

8. If the decedent owned a business or was involved in contracts which were not yet fully performed, have your attorney obtain directions from the Court as to those matters.

9. DO NOT MAKE any distribution of personal property or real estate to an heir or devisee without prior Court order.

10. NEVER borrow estate property or put it to your own personal use.

11. Prepare and file income tax returns for the tax year in which the decedent died and any returns for prior years if needed. Timely prepare and file any estate, inheritance or fiduciary tax returns and pay taxes as they come due.

12. Accounting. Indiana law requires the estate to be closed within one (1) year of your appointment as personal representative. Before the estate can be closed, you must file with the Court a final accounting of your actions as personal representative.

A. Have your attorney file your final accounting, consisting of three (3) schedules, after the administration of the estate has been completed.

B. The first schedule must include all assets listed on the inventory, any income and additional assets obtained during administration, and any adjustments to the inventory.

C. The second schedule must be an itemized list of expenditures. Documentation for each expense shall include: (a) the payee; (b) check number or other identifying number on the instrument; (c) the amount disbursed; and, (d) if the reason for disbursement is not apparent from the description of the payee, a description of the reason for the disbursement sufficient to substantiate the reason for the disbursement as part of the administration of the estate. Cancelled checks or facsimile copies of paid checks for each expenditure must be attached as evidence of payment.

D. The third schedule must be a recapitulation indicating the remaining estate property after subtracting expenditures. A proposed distribution must be furnished to all interested parties, including heirs.

13. After the Court approves your final account, make distribution to the proper people and file a supplemental report with the Court, attaching receipts.

14. Notify the Court and your attorney of any change in your address or telephone number.

15. NEVER pay yourself or your attorney any fees from assets of the estate without a prior Court Order, unless your attorney confirms to you that the law or local court rules allow you to reimburse yourself from estate assets for necessary expenses that you previously paid with your personal funds.

16. Keep a record of the time you spend working on the estate. You are entitled to a reasonable fee, unless you waive a fee. Time records will help the Court determine your fee.

17. Always contact your attorney for advice if you are unsure as to any act as personal representative. Have your attorney counsel you in relation to the estate and explain anything that you do not fully understand.

18. Do not sell an estate asset without prior Court Order unless the Will, in very specific terms, authorizes the sale without court order. Consult your attorney about this.

I acknowledge that I have carefully and completely read the above instructions and received a copy for my records. I agree to properly carry out my duties.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature, Personal Representative

\_\_\_\_\_  
Signature, Personal Representative

\_\_\_\_\_  
Print, Personal Representative

\_\_\_\_\_  
Print, Personal Representative

I acknowledge that I have carefully and completely discussed the above instructions with my client before this form was signed and believe that he or she is fully aware of and capable of performing the duties required of a personal representative of a supervised estate.

\_\_\_\_\_  
Signature, Attorney

\_\_\_\_\_  
Signature, Attorney

\_\_\_\_\_  
Print, Attorney

\_\_\_\_\_  
Print, Attorney



FORM C. COURT'S INSTRUCTIONS TO PERSONAL REPRESENTATIVE  
OF UNSUPERVISED ESTATE

IN THE LAKE CIRCUIT/SUPERIOR COURT  
PROBATE DIVISION  
LAKE COUNTY, INDIANA

UNSUPERVISED ESTATE OF \_\_\_\_\_

CAUSE NUMBER \_\_\_\_\_

COURT'S INSTRUCTIONS TO PERSONAL REPRESENTATIVE  
OF UNSUPERVISED ESTATE

Please read carefully before you date and sign. One copy of this form must be filed with the Court before your appointment as personal representative is confirmed by the Court. Keep one copy for your records.

Introduction:

You have been appointed as the personal representative of the estate of a deceased person. By your appointment, the Court has placed in you the highest trust that you will perform your duties in the best interests of all beneficiaries and creditors of the estate. It is important that you fully realize your duties and responsibilities. Listed below are some, but not all of them.

You must be represented at all times by an attorney of record. Your attorney is required to reasonably supervise and guide your actions as personal representative unless and until that attorney is permitted by order of the Court to withdraw from representing you.

Your attorney is required to notify the Court in the event that you are not timely performing or improperly performing your fiduciary duties to the beneficiaries and creditors of the estate and by signing these Instructions, you agree that the filing of that notice does not violate the attorney-client privilege. If the Court receives such notice it will set the matter for hearing and require you to personally appear and account to the Court for all actions taken or not taken by you as personal representative. You are required to notify the Court in writing in the event that your attorney is not timely performing or improperly performing their duties to reasonably supervise and guide your actions as personal representative. Upon receipt of the notice, the Court will set the matter for hearing and require you and your attorney to personally appear and account to the Court for all actions taken or not taken by the attorney.

The Instructions which follow are to be considered by you as Orders of the Court which require you to perform as directed. Although your attorney will file all

papers with the Court, you, as personal representative, are ultimately responsible to see that the estate is properly and promptly administered, and you are personally liable for incorrect distributions, payments, or acts, as well as any unpaid taxes or costs of administration.

The Court appreciates your efforts on behalf of the estate.

**As personal representative, you are required to:**

1. Locate, collect and maintain all property owned by the decedent.
2. Keep motor vehicles and real estate insured and protected.
3. Immediately fill out a change of address at the post office to have the decedent's mail forwarded to you.
4. Within two (2) months of your appointment, you must prepare an inventory conforming with the requirements of I.C. 29-1-7.5-3.2 (b), as amended.
5. Estate Checking Account.
  - A. Open a separate checking account at an Indiana financial institution in your name "as personal representative for the estate of (the decedent)." Obtain a federal tax I.D. number for the checking account. Do not use your Social Security number or the decedent's Social Security number.
  - B. As a general rule, DO NOT put any of your funds or anyone else's funds in this account. However, if circumstances warrant, you should consult your attorney prior to doing so.
  - C. Always pay for estate expenses by checks from this account. DO NOT pay any expenses with cash.
  - D. Make sure that the bank is willing to return cancelled checks or electronic copies or digital images of the paid checks to you.
  - E. Keep records of all deposits, including the identity of each person or entity paying the money into the estate.
6. Determine all debts that the decedent owed. Look through decedent's tax returns and other papers. Talk to anyone who knew the decedent's business. Consult your attorney as to payment of debts, costs of administration, bond premiums, and funeral bills. Some debts may be unenforceable. Some may have priority over others.

7. Have your attorney provide written notice of the administration of the estate to all known creditors of the estate.

8. NEVER borrow estate property or put it to your own personal use.

9. DO NOT distribute any estate assets until assets (including personal property) are appraised, and consult with your attorney prior to making any distribution.

10. Prepare and file income tax returns for the tax year in which the decedent died and any returns for prior years if needed. Timely prepare and file any estate, inheritance or fiduciary tax returns and pay taxes as they come due.

11. After you fully complete the estate administration, you must file a closing statement with the Court verifying that all proper claims, expenses and taxes have been paid, that all assets have been properly distributed, and that a copy of the closing statement has been sent to all distributees, fully accounting for all assets, expenses and distributions made to the heirs.

12. Notify the Court and your attorney of any change in your address or telephone number.

13. Keep a record of the time you spend working on the estate. You are entitled to a reasonable fee, unless you waive a fee.

14. Always contact your attorney for advice if you are unsure as to any act as personal representative. Have your attorney counsel you in relation to the estate and explain anything that you do not fully understand.

I acknowledge that I have carefully and completely read the above instructions and received a copy for my records. I agree to properly carry out my duties.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signature, Personal Representative

Signature, Personal Representative

Print, Personal Representative

Print, Personal Representative

I acknowledge that I have carefully and completely discussed the above instructions with my client before this form was signed and believe that he or she is fully aware of and capable of performing the duties required of a personal representative of a supervised estate.

\_\_\_\_\_  
Signature, Attorney

\_\_\_\_\_  
Signature, Attorney

\_\_\_\_\_  
Print, Attorney

\_\_\_\_\_  
Print, Attorney

FORM D. CERTIFICATE OF ACCOUNT RESTRICTION

CERTIFICATE OF RESTRICTION OF ACCOUNT IN COMPLIANCE WITH  
LAWYER'S UNDERTAKING

The undersigned hereby certifies that he/she is an Officer or employee of the  
below named financial institution and that the following account has been opened:

Type of Account: \_\_\_\_\_

Account Number: \_\_\_\_\_

Amount Deposited: \_\_\_\_\_

Owner per Signature Card or Document of Title: \_\_\_\_\_

The undersigned further certifies that a copy of the Order of the  
Circuit/Superior Court of Lake County has been examined in full by us and that the  
terms of this account included a restriction that withdrawal of principal or interest  
may be made only on written order of the Circuit/Superior Court of Lake County.

DATE: \_\_\_\_\_

\_\_\_\_\_ Name of Financial Institution

\_\_\_\_\_ Signature

\_\_\_\_\_ Printed

\_\_\_\_\_ Title