

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT OF THE STATE OF  
FLORIDA IN AND FOR PASCO COUNTY**

IN RE:

\_\_\_\_\_,  
Alleged Vulnerable Adult,

\_\_\_\_\_,  
Petitioner,

v.

Case Number: \_\_\_\_\_

UCN: \_\_\_\_\_

Division: \_\_\_\_\_

\_\_\_\_\_,  
Respondent.

\_\_\_\_\_/

**TEMPORARY INJUNCTION FOR PROTECTION  
AGAINST EXPLOITATION OF A VULNERABLE ADULT (WITHOUT NOTICE)**

The Petition for Injunction for Protection against Exploitation of a Vulnerable Adult under section 825.1035, Florida Statutes, and other papers filed in this Court have been reviewed. This Court has jurisdiction over the vulnerable adult and the subject matter under Florida law. The Petitioner has standing.

It is intended that this protection order meet the requirements of 18 U.S.C. Section 2265, and therefore intended that it be accorded full faith and credit by the court of another state or Indian tribe and enforced as if it were the order of the enforcing state or of the Indian tribe.

**SECTION 1. NOTICE OF HEARING**

Because this Temporary Injunction for Protection against Exploitation of a Vulnerable Adult has been issued without prior notice to Respondent, the Petitioner and Respondent are instructed that they are scheduled to appear and testify at a hearing regarding this matter, when the Court will consider whether to issue a Final Judgment of Injunction for Protection against Exploitation of a Vulnerable Adult, which would remain in effect until modified or dissolved by the Court, and whether the Court should order additional relief, such as freezing accounts. The hearing will be held before The Honorable \_\_\_\_\_

If Petitioner and/or Respondent do not appear, this temporary injunction may be continued in force, extended, dismissed, and/or additional orders may be granted, including entry of a permanent injunction and the imposition of court costs. Petitioner and Respondent will be bound by the terms of any injunction or order issued at the final hearing.

**IF EITHER PETITIONER OR RESPONDENT DOES NOT APPEAR AT THE FINAL HEARING, HE OR SHE WILL BE BOUND BY THE TERMS OF ANY INJUNCTION OR ORDER ISSUED IN THIS MATTER.**

**All witnesses and evidence, if any, must be presented at this time.**

NOTICE: Because this is a civil case, there is no requirement that these proceedings be transcribed at public expense.

YOU ARE ADVISED THAT IN THIS COURT:

- a. A court reporter is provided by the court.
- b. An electronic recording only is provided by the court. A party may arrange in advance for the services of and provide for a court reporter to prepare a written transcript of the proceedings at that party's expense.

A RECORD, WHICH INCLUDES A TRANSCRIPT, MAY BE REQUIRED TO SUPPORT AN APPEAL. THE PARTY SEEKING THE APPEAL IS RESPONSIBLE FOR HAVING THE TRANSCRIPT PREPARED BY A COURT REPORTER. THE TRANSCRIPT MUST BE FILED WITH THE REVIEWING COURT OR THE APPEAL MAY BE DENIED.

**If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the (office that handles accommodations) at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711.**

## **SECTION II: FINDINGS**

The statements made under oath by Petitioner make it appear that section 825.1035, Fla. Stat., applies to the parties. The Court finds that an immediate and present danger of exploitation of the vulnerable adult exists. It also appears to the Court that there is a likelihood of irreparable harm to the vulnerable adult, and nonavailability of an adequate remedy at law. The Court further finds that there is a substantial likelihood that Petitioner will be successful in obtaining an injunction upon the merits. Additionally, the Court finds that the threatened injury to the vulnerable adult outweighs any possible harm to Respondent in granting this temporary injunction. This injunction provides for the vulnerable adult's physical or financial safety. Granting this temporary injunction will not in any way disserve the public interest.

## **SECTION III: TEMPORARY INJUNCTION AND TERMS**

**This injunction will be effective until the hearing set above and in no event longer than 15 days, unless good cause is shown to extend the injunction. The ex parte temporary injunction**

may be extended one time for up to an additional 30 days. If a final order of injunction is issued, the terms of this temporary injunction will be extended until service of the final injunction is effected upon Respondent. This injunction is valid and enforceable in all counties in Florida. The terms of this injunction may not be changed by either party alone or by both parties together. Only the Court may modify the terms of this injunction. Either party may ask the Court to change or end this injunction.

Any violation of this injunction may subject the Respondent to prosecution under section 825.1036, Fla. Stat.

In addition, any violation of this injunction, whether or not at the invitation of Petitioner, vulnerable adult, or anyone else, may subject Respondent to civil or indirect criminal contempt proceedings, including the imposition of a fine or imprisonment. Certain willful violations of the terms of this injunction, such as: refusing to vacate the dwelling that the parties share; going to or being within 500 feet of the vulnerable adult's residence; exploiting or unduly influencing the vulnerable adult; committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the vulnerable adult; telephoning, contacting, or otherwise communicating with the vulnerable adult directly or indirectly if prohibited by this injunction, knowingly and intentionally coming within 100 feet of the vulnerable adult's motor vehicle, regardless of whether that vehicle is occupied; or defacing or destroying the vulnerable adult's personal property constitutes a misdemeanor of the first degree punishable by up to one year in jail, as provided in section 775.082, Fla. Stat., or section 775.083, Fla. Stat. A person who has two or more prior convictions for violation of an injunction or foreign protection order against the same victim, and who subsequently commits a violation of any injunction or foreign protection order against the same victim, commits a felony of the third degree, punishable as provided in sections 775.082, 775.083, or 775.084, Fla. Stat., pursuant to section 825.1036, Fla. Stat. In addition, it is a federal criminal felony offense, punishable by up to life imprisonment, depending on the nature of the violation, to cross state lines or enter Indian country for the purpose of engaging in conduct that is prohibited by this injunction. 18 U.S.C. Section 2262.

It is **ORDERED AND ADJUDGED**:

1. **Exploitation prohibited.** Respondent may not commit, or cause any other person to commit, any acts of exploitation against the vulnerable adult. "Exploitation" means: knowingly obtaining or using, or endeavoring to obtain or use, an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who: (1) stands in a position of trust and confidence with the elderly person or disabled adult; or (2) has a business relationship with the elderly person or disabled adult.

"Exploitation" also means: obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use an elderly person's or disabled adult's funds, assets, or property with the intent to temporarily or permanently deprive the elderly person or disabled adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or disabled adult, by a person who knows or

reasonably should know that the elderly person or disabled adult lacks the capacity to consent;

“Exploitation” may also mean a breach of a fiduciary duty to an elderly person or disabled adult by the person’s guardian, trustee who is an individual, or agent under a power of attorney which results in an unauthorized appropriation, sale, transfer of property, kickback, or receipt of an improper benefit. An unauthorized appropriation occurs when the elderly person or disabled adult does not receive the reasonably equivalent financial value in goods or services, or when the fiduciary violates any of these duties:

1. For agents appointed under chapter 709:
  - a. Committing fraud in obtaining their appointments;
  - b. Obtaining appointments with the purpose and design of benefitting someone other than the principal or beneficiary;
  - c. Abusing their powers;
  - d. Wasting, embezzling, or intentionally mismanaging the assets of the principal or beneficiary; or
  - e. Acting contrary to the principal’s sole benefit or best interest; or
2. For guardians and trustees who are individuals and who are appointed under chapter 736 or chapter 744, Fla. Stat.:
  - a. Committing fraud in obtaining their appointments;
  - b. Obtaining appointments with the purpose and design of benefitting someone other than the principal or beneficiary;
  - c. Abusing their powers; or
  - d. Wasting, embezzling, or intentionally mismanaging the assets of the ward or beneficiary of the trust.

A kickback means a remuneration or payment, by or on behalf of a provider of health care services or items, to any person as an incentive or inducement to refer patients for past or future services or items, when the payment is not tax deductible as an ordinary and necessary expense. An improper benefit occurs when any remuneration or payment, by or on behalf of any service provider or merchant of goods, to any person as an incentive or inducement to refer customers or patrons for past or future services or goods.

“Exploitation” also means misappropriating, misusing, or transferring without authorization money belonging to an elderly person or disabled adult from an account in which the elderly person or disabled adult placed the funds, owned the funds, and was the sole contributor or payee of the funds before the misappropriation, misuse, or unauthorized transfer of (1) personal accounts; (2) joint accounts created with the intent that only the elderly person or disabled adult enjoys all rights, interests, and claims to moneys deposited into such account; or (3) convenience accounts created in accordance with section 655.80, Fla. Stat.

In addition to the above, “exploitation” means intentionally or negligently failing to effectively use an elderly person’s or disabled adult’s income and assets for the necessities required for that person’s support and maintenance, by a caregiver or a person who stands

in a position of trust and confidence with the elderly person or disabled adult.

“Exploitation” also refers to knowingly obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use an elderly person’s or a disabled adult’s funds, assets, property, or estate through intentional modification, alteration, or fraudulent creation of a plan of distribution or disbursement expressed in a will, trust agreement, or other testamentary devise of the elderly person or disabled adult without:

- a. A court order, from a court having jurisdiction the elderly person or disabled adult, which authorizes the modification or alteration;
- b. A written instrument executed by the elderly person or disabled adult, sworn to and witnessed by two persons who would be competent as witnesses to a will, which authorizes the modification or alteration; or
- c. Action of an agent under a valid power of attorney executed by the elderly person or disabled adult which authorizes the modification or alteration.

Any inter vivos transfer of money or property valued in excess of \$10,000 at the time of the transfer, whether in a single transaction or multiple transactions, by a person age 65 or older to a nonrelative whom the transferor knew for fewer than 2 years before the first transfer and for which the transferor did not receive the reasonable equivalent financial value in goods or services creates a permissive presumption that the transfer was the result of exploitation. This applies regardless of whether the transfer or transfers are denoted by the parties as a gift or loan, except it does not apply to a valid loan evidenced in writing that includes definite repayment dates. However, if any repayment of any such loan is in default, in whole or in part, for more than 65 days, the presumption applies.

2. **No contact.** Respondent may not have any contact with the vulnerable adult unless otherwise provided in this section.

a. Unless otherwise provided herein, Respondent may have no contact with the vulnerable adult. Respondent may not directly or indirectly contact the vulnerable adult in person, by mail, e-mail, telephone, fax, through another person, or in any other manner. Further, Respondent may not contact or have any third party contact anyone connected with the vulnerable adult’s employment or school, if applicable, to inquire about the vulnerable adult or to send any messages to the vulnerable adult. Unless otherwise provided herein, **Respondent may not go to, in, or within 500 feet of the vulnerable adult’s current residence:** *{address}* \_\_\_\_\_

\_\_\_\_\_, or any residence to which the vulnerable adult may move, or the vulnerable adult’s place of employment, if applicable: *{address}* \_\_\_\_\_

\_\_\_\_\_; or where the vulnerable adult attends school, if applicable: *{address}* \_\_\_\_\_

\_\_\_\_\_; or the following place(s) where the vulnerable adult goes often: *{address(es)}* \_\_\_\_\_

The Respondent may not knowingly come within 100 feet of the vulnerable adult's automobile at any time.

b. Other provisions regarding contact: \_\_\_\_\_

3. **Mailing Address.** Respondent must notify the Clerk of the Circuit Court of any change in his or her mailing address, or designated e-mail address(es), within 10 days of the change. All further papers (excluding pleadings requiring personal service) will be served by mail to Respondent's last known address. Such service by mail will be complete upon mailing. Section 825.1035, Fla. Stat. Service is complete upon mailing.

4. **Additional order(s) necessary to protect the vulnerable adult from exploitation.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. **Temporary Exclusive Use and Possession of Home**

a. \_\_\_\_\_ **Possession of the Home.** \_\_\_\_\_ Petitioner \_\_\_\_\_ Respondent has temporary exclusive use and possession over the dwelling located at: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

b. \_\_\_\_\_ **Transfer of Possession of the Home.** A law enforcement officer with jurisdiction over the home will accompany \_\_\_\_\_ Petitioner \_\_\_\_\_ Respondent to the home, and shall place \_\_\_\_\_ Petitioner \_\_\_\_\_ Respondent in possession of the home.

c. \_\_\_\_\_ **Personal Items.** \_\_\_\_\_ Petitioner \_\_\_\_\_ Respondent, in the presence of a law enforcement officer, may return to the premises described above on {date} \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m., or time arranged with the law enforcement department with jurisdiction over the home, accompanied by a law enforcement officer only, to obtain his or her clothing and items of personal health and hygiene and tools of the trade. A law enforcement officer with jurisdiction over the premises will go with \_\_\_\_\_ Petitioner \_\_\_\_\_ Respondent to the home and stand by to insure that he or she vacates the premises with only his or her personal clothing, toiletries, tools of the trade, and any specific items listed below. The law enforcement agency is not responsible for storing or transporting any property.

d. \_\_\_\_\_ Petitioner \_\_\_\_\_ Respondent may not damage or remove any furnishings or fixtures from the parties' former shared residence.

**If the Respondent is not awarded possession of the home and goes to the home without a law enforcement officer, it is a violation of this injunction.**

e. \_\_\_\_\_ The following other personal possessions may also be removed from the premises at this time: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

i. \_\_\_\_\_ If Respondent provides services to the vulnerable adult, the following services required for the vulnerable adult will continue to be provided: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

These services will now be provided by: \_\_\_\_\_

f. If Respondent was the vulnerable adult's caregiver, caregiving services will now be provided to the vulnerable adult by: \_\_\_\_\_

g. \_\_\_\_\_ Other: \_\_\_\_\_

\_\_\_\_\_

6. **Assets.** The Court finds probable cause that exploitation has occurred. Assets held solely in the name of the respondent may only be frozen on an ex parte basis if the petition and affidavit demonstrate to the court probable cause that such assets are traceable to the unlawful exploitation of the vulnerable adult, that such assets are likely to be returned to the vulnerable adult after a final evidentiary hearing, and that no other adequate remedy at law is reasonably available.

a. The following assets will be frozen:

	<b>Name of Financial Institution</b>	<b>Address</b>	<b>Account Number</b>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

b. Assets held by a trust may be frozen only by an order of the court if all the trustees of a trust are served with process and are given reasonable notice before any hearing on the petition.

- The trustee(s) has/have been properly served.
- The trustee(s) has/have **not** been properly served.
- Assets held by a trust will be frozen at this time.
- Assets held by a trust will **not** be frozen at this time.

The following assets held in trust will be frozen:

	<b>Name of Financial Institution</b>	<b>Address</b>	<b>Account Number</b>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

c. The following credit lines will be frozen:

	<b>Name of Financial Institution</b>	<b>Address</b>	<b>Account Number</b>
1.	_____	_____	_____
2.	_____	_____	_____

- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_

d. Lines of credit held by a trust may be frozen only by an order of the court if all the trustees of the trust are served with process and are given reasonable notice before any hearing on the petition.

- The trustee(s) has/have been properly served.
- The trustee(s) has/have **not** been properly served.
- Lines of credit held by a trust will be frozen at this time.
- Lines of credit held by a trust will **not** be frozen at this time.

The following lines of credit held in trust will be frozen:

	<b>Name of Financial Institution</b>	<b>Address</b>	<b>Account Number</b>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

e. Where this injunction freezes Respondent’s assets, only the proceeds of the exploitation will be affected as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

f. \_\_\_\_\_ The following assets under the temporary freeze will be returned to the vulnerable adult as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

g. \_\_\_\_\_ The following assets under the temporary freeze will remain under the temporary freeze until ownership can be determined.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

h. \_\_\_\_\_ If the Court orders an asset and credit freeze, the Court also orders that living expenses of the vulnerable adult continue to be paid as follows:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- The assets are between \$1500 and \$5000. The following financial institution(s) holding assets belonging to the vulnerable adult is/are ordered to pay to the Clerk of the Circuit Court \$75 from unencumbered assets of the vulnerable adult:

\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
OR

- The assets are over \$5000. The following financial institution(s) holding assets belonging to the vulnerable adult is/are ordered to pay to the Clerk of the Circuit Court \$200 from unencumbered assets of the vulnerable adult:
- \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SECTION IV. DIRECTIONS TO LAW ENFORCEMENT OFFICER IN ENFORCING THIS INJUNCTION**

*{Unless ordered otherwise by the judge, all provisions of this injunction are considered mandatory provisions and should be interpreted as part of this injunction.}*

1. The Sheriff or County, or any other authorized law enforcement officer, is ordered to serve this temporary injunction upon Respondent as soon as possible after its issuance.
2. **This injunction is valid and enforceable in all counties in Florida.** Violation of this injunction should be reported to the appropriate law enforcement agency. Law enforcement officers of the jurisdiction in which a violation of this injunction occurs shall enforce the provisions of this injunction and are authorized to arrest without warrant pursuant to section 901.15, Fla. Stat., for any violation of its provisions.
3. **THIS INJUNCTION IS ENFORCEABLE IN ALL COUNTIES OF FLORIDA, AND LAW ENFORCEMENT OFFICERS MAY EFFECT ARRESTS PURSUANT TO SECTION 901.15(6), FLA. STAT.** The arresting agent will notify the State Attorney's Office immediately after arrest.
4. **Reporting alleged violations.** If Respondent violates the terms of this injunction and there has not been an arrest, Petitioner may contact the Clerk of the Circuit Court of the county in which the violation occurred and complete an affidavit in support of the violation, or the Petitioner may contact the State Attorney's Office for assistance in filing an action for indirect civil contempt or indirect criminal contempt. Upon receiving such a report, the State Attorney is hereby appointed to prosecute such violations by indirect criminal contempt proceedings, or the State Attorney may decide to file a criminal charge, if warranted by the evidence.
5. **Respondent, upon service of this temporary injunction, is deemed to have knowledge of and to be bound by all matters occurring at the hearing and on the face of this injunction.**

**DONE AND ORDERED** at \_\_\_\_\_, \_\_\_\_\_ County, Florida this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
CIRCUIT JUDGE

COPIES TO:

- Sheriff of Pasco County
- Sheriff of Pinellas County

Petitioner:

- By U.S. Mail
- By hand delivery

Vulnerable Adult:

- By U.S. Mail
- By hand delivery

Respondent:

- Forwarded to sheriff for service
- By hand delivery
  
- State Attorney's Office
  
- Department of Children and Families, Adult Protective Services Program
  
- Other: \_\_\_\_\_

If assets or lines of credit are ordered to be frozen, the depositor(ies) or financial institution(s) were served with this injunction in accordance with section 655.0201, Fla. Stat., as follows:

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If assets or lines of credit are held by a trust ordered to be frozen, the depositor(ies) or financial institution(s) were served with this injunction in accordance with section 655.0201, Fla. Stat., as follows:

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I CERTIFY the foregoing is a true copy of the original as it appears on file in the office of the Clerk of the Circuit Court, and that I have furnished copies of this order as indicated above.

CLERK OF THE CIRCUIT COURT

[SEAL]

CLERK OF THE CIRCUIT COURT

By: \_\_\_\_\_  
Deputy Clerk