

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

IN RE:

_____,
Alleged Vulnerable Adult,

_____,
Petitioner,

v.

Case Number: _____

UCN: _____

Division: _____

_____,
Respondent.

_____ /

**FINAL JUDGMENT OF INJUNCTION FOR PROTECTION
AGAINST EXPLOITATION OF A VULNERABLE ADULT (AFTER 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 of the parties and the subject matter under Florida law.

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. HEARING

This cause came before the Court for a hearing to determine whether an Injunction for Protection against Exploitation of Vulnerable Adult in this case should be:

- Issued
- Modified
- Extended.

The hearing was attended by:

- Petitioner _____
- Petitioner's Counsel _____
- The vulnerable adult named in the petition _____
- Vulnerable adult guardian _____

- Vulnerable adult counsel _____
- Respondent _____
- Respondent's Counsel _____
- Petitioner failed to appear _____
- Respondent failed to appear _____
- Financial institution representative _____
- Trustee(s): _____
- Other: _____

SECTION II. FINDINGS

A notice of this hearing was served on Respondent together with a copy of Petitioner's petition to this Court and the temporary injunction, if issued. Service was within the time required by Florida law, and Respondent was afforded reasonable notice and an opportunity to be heard in a manner that protected Respondent's right to due process.

A notice of this hearing was served on the vulnerable adult named in the Petition together with a copy of Petitioner's petition to this Court and the temporary injunction, if issued. Service was within the time required by Florida law. If appropriate, a copy has been provided to the vulnerable adult's guardian.

On {date} _____, a notice of this hearing was served on the following financial institutions: _____ together with a copy of Petitioner's petition to this Court and the temporary injunction, if issued. Service was within the time required by Florida law.

On {date} _____, a notice of this hearing was served on the following trustees: _____ together with a copy of Petitioner's petition to this Court and the temporary injunction, if issued. Service was within the time required by Florida law.

After hearing the testimony of each party present and of any witnesses, or upon the consent of the Respondent, the Court finds that, based on the specific facts of this case:

- that the vulnerable adult is a victim of exploitation or is in imminent danger of becoming a victim of exploitation by Respondent;
- there is a likelihood of irreparable harm and nonavailability of an adequate remedy at law;
- the threatened injury to the vulnerable adult outweighs possible harm to the respondent;
- the prior freeze of the assets of the respondent only affects the proceeds of such exploitation and there is a substantial likelihood that such assets will be ordered to be returned to the vulnerable adult;
- the relief provides for the vulnerable adult's physical or financial safety.

III. INJUNCTION AND TERMS

This injunction will be in full force and effect until:

- Further order of the Court or
- {date}*_____.

This injunction is valid and enforceable in all counties of 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 make ask the Court to change or end this injunction at any time.

Any violation of this injunction by the respondent may result in prosecution under section 825.1036, Fla. Stat.

In addition, any violation of this injunction, whether or not at the invitation of the Petitioner or 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: 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, unless the injunction specifically allows indirect contact through a third party; 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, or transfer of property. 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. Abusing their powers;
 - c. Wasting, embezzling, or intentionally mismanaging the assets of the principal or beneficiary; or
 - d. 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. Abusing their powers; or
 - c. Wasting, embezzling, or intentionally mismanaging the assets of the ward or beneficiary of the trust.

“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.

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)}_____

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

c. Other provisions regarding contact: _____

3. **Evaluation/Counseling.** Within 10 days of the date of this injunction, Respondent must enroll in and, thereafter without delay, complete the following. Respondent must provide proof of such enrollment to the Clerk of the Circuit Court within 30 days of the date of this injunction:

i. counseling services, to be paid for by the Respondent.

ii. Other _____

4. **Mailing Address.** Respondent must notify the Clerk of the Circuit Court of any change in his or her mailing address 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.

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

Possession of the Home. Petitioner has temporary exclusive use and possession over the dwelling located at: _____

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

Personal Items. 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 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.

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.

The following other personal possessions may also be removed from the premises at this time: _____

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: _____

If Respondent was the vulnerable adult’s caregiver, caregiving services will now be provided to the vulnerable adult by: _____

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 if the Petitioner demonstrates 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:

	Name of Financial Institution	Address	Account Number
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:

	Name of Financial Institution	Address	Account Number
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

c. The following credit lines will be frozen:

	Name of Financial Institution	Address	Account Number
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:

	Name of Financial Institution	Address	Account Number
1.	_____	_____	_____
2.	_____	_____	_____

3. _____
4. _____
5. _____

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

The following assets under the temporary freeze will be returned to the vulnerable adult as follows: _____

The following assets under the temporary freeze will remain under the temporary freeze until ownership can be determined: _____

7. Final Cost Judgment.

A final cost judgment is entered against Respondent in favor of the Petitioner for all taxable costs.

A final cost judgment is entered against Respondent in favor of the Clerk of Circuit Court for all the Clerk’s filing fees and service charges.

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. **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.

2. **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.

3. **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.

4. **Respondent, upon service of this 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.**
5. **The temporary injunction, if any, entered in this case is extended until such time as service of this injunction is effected upon Respondent.**

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 in open court
(Petitioner must acknowledge receipt in writing on the face of the original order – see below)
- By counsel

Vulnerable Adult:

- By U.S. Mail
- By hand delivery in open court
(Vulnerable adult must acknowledge receipt in writing on the face of the original order – see below)
- By counsel

Respondent:

- Forwarded to sheriff for service
- By hand delivery in open court
(Respondent must acknowledge receipt in writing on the face of the original order – see below)
- By certified mail
(may only be used when Respondent is present at the hearing and Respondent fails or refuses to acknowledge the receipt of the certified copy of this injunction)
- By counsel

- 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:

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:

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

ACKNOWLEDGMENT

I, _____, acknowledge receipt of a certified copy of this injunction for Protection.

Petitioner

ACKNOWLEDGMENT

I, _____, acknowledge receipt of a certified copy of this injunction for Protection.

Vulnerable adult

ACKNOWLEDGMENT

I, _____, acknowledge receipt of a certified copy of this injunction for Protection.

Respondent

Mailing Address