**Instructions**

Completing the caption:

Always use the absent attorney’s official registration name, which appears at padisciplinaryboard.org or padb.us.

After the attorney’s name, you may include a designation for the absence: “Deceased,” “a temporarily suspended attorney,” “an administratively suspended attorney,” “a suspended attorney,” “a disbarred attorney,” or “an attorney transferred to disability inactive status.”

After editing the Application, attach the following:

**□** Oder for Hearing ***or*** a proposed Order (**App. 2, Form C**)

**□** Rules of Disciplinary Enforcement 321 *et seq.* as “Exhibit A” (**App. 1**)

**□** Obituary (if available)

**□** Consent of Proposed Conservator

**□** Affidavit of a next of kin or personal representative (**App. 2, Form B**)

**□** Concurrence of Disciplinary Counsel

**□** Verification

**□** Proof of Service

**□** Certificate of Compliance (**App. 2, Form Q**)

When required by the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania, 204 Pa.Code § 213.81, Sections 7.0 (Confidential Information) or 8.0 (Confidential Documents), attach a:

**□** Confidential Information Form (**App. 2, Form R**)

**□** Confidential Document Form (**App. 2, Form S**)

WHEN THE APPLICATION IS FILED, USE A CIVIL FILINGS COVER SHEET:

**□** **App. 2, Form E** (form approved pursuant to Pa.R.C.P. 205.5(e))

**□** **App. 2, Form F** (Philadelphia Local Rule \*205.2(b)(1)).

# IN THE COURT OF COMMON PLEAS

OF \*\*\* COUNTY, PENNSYLVANIA

IN THE MATTER OF: **:** CIVIL DIVISION

**:**

**:**

[Absent Attorney’s Name as it **:** No. \*\*\*-\*\*\*\*

appears at padb.us], Deceased **[or** **:** **[**Administrative Docket **or**

**other reason for being “absent”]** **:** Miscellaneous Docket**]**

**:**

(Attorney Registration No.\*) **:**

APPLICATION FOR APPOINTMENT OF A CONSERVATOR PURSUANT TO RULE 321 OF THE PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Counsel of Record for these proceedings:

\*, Esquire

Suite \*\*\*\*

123 Main Street

\*\*\*, PA \*\*\*\*\*

(\*\*\*) \*\*\*-\*\*\*\*

Pa. Id. #\*

# IN THE COURT OF COMMON PLEAS

OF \*\*\* COUNTY, PENNSYLVANIA

IN THE MATTER OF : COURT OF COMMON PLEAS

: CIVIL DIVISION

:

\*\*\*, Deceased : No. \*\*\*-\*\*\*\*

: [Administrative Docket **or**

[Absent Attorney’s address] : Miscellaneous Docket]

\*\*\*, PA \*\*\*\*\* :

:

(Attorney Registration No. \*\*\*\*\*) :

APPLICATION FOR APPOINTMENT OF A CONSERVATOR

PURSUANT TO RULE 321 OF THE PENNSYLVANIA

RULES OF DISCIPLINARY ENFORCEMENT

TO THE HONORABLE [\*], PRESIDENT JUDGE OF SAID COURT:

Petitioner, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Esquire, with the written concurrence of Disciplinary Counsel of the Disciplinary Board of the Supreme Court of Pennsylvania, as appended hereto, makes this Application for Appointment of a Conservator Pursuant to Rule 321 of the Pennsylvania Rules of Disciplinary Enforcement (“Application”), and in support thereof represents as follows:

1. Petitioner is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.
2. A true and correct copy of Rules 321 through 329 of the Pennsylvania Rules of Disciplinary Enforcement (“Pa.R.D.E.”), which are the rules pertinent to the appointment and duties of a conservator, are attached hereto as “Exhibit A.”
3. Respondent, [\*\*Absent Attorney], was admitted to the practice of law in the Commonwealth of Pennsylvania on \*.

REVIEW THE FOLLOWING PARAGRAPHS AND USE THEM SEPARATELY OR IN COMBINATION OR WITH SOME MODIFICATION BASED ON THE FACTS OF YOUR CONSERVATORSHIP.

1. Respondent died on \*\*\*. A true and correct copy of the Obituary is attached as “Exhibit B.”
2. Respondent is survived by [his/her] spouse, \*, who resides in [\*\*\*city and state].

**OR**

1. [By Order of the Supreme Court of Pennsylvania dated \*, Respondent was [placed on temporary suspension pursuant to Pa.R.D.E. 208(f)(1).] **or** [suspended from the practice of law for a period of \* years.] **or** [disbarred [on consent].]

**OR**

1. On \*, Respondent [put information in here regarding whether absent attorney is on inactive status or administratively suspended and has not complied with Pa.R.D.E. 217; or perhaps Respondent is incapacitated and under treatment, or has been involuntarily committed and/or transferred to disability inactive status under Pa.R.D.E. 301(c), (d) or (e); or whatever information is applicable].
2. Petitioner believes and therefore avers that because of Respondent’s inability to attend to [his/her] current caseload, matters may be seriously neglected with the potential financial loss to the clients involved.

\* \* \* \* \* \* \* \* \*

9. Pa.R.D.E. 321(a) provides, in pertinent part, that “[u]pon application of Disciplinary Counsel or any other interested person with the written concurrence of Disciplinary Counsel, the president judge of a court of common pleas shall have the power to appoint one or more eligible persons to act as conservators of the affairs of an attorney or formerly admitted attorney if: (1) the attorney maintains or has maintained an office for the practice of law within the judicial district; and (2) . . . the following applies:”

[**retain (i) or (iii) and delete the other:**

1. the attorney is placed on emergency interim suspension under Pa.R.D.E. 208(f); and . . .

**OR**

“(iii) the attorney abandons his or her practice, disappears, dies or is transferred to inactive status because of incapacity or disability; and”]

“(3) no partner or other responsible successor to the practice of the attorney is known to exist.”

10. At the time of [his/her] death, Respondent maintained an office for the practice of law at \*\*\*, PA, \*\*\*\*\*, which is in the \*\*\* Judicial District ( \*\*\* County).

11. Petitioner is reliably informed, believes and therefore avers, that Respondent had been a sole practitioner since in or about \*\*\*\*, was so at the time of [his/her] death, and that no partner or other responsible successor to [his/her] law practice is known to exist.

12. Pa.R.D.E. 322 sets forth the duties of a conservator with respect to the files and clients of the deceased attorney for whose practice the conservatorship is sought. Among other things, these duties include the collection of the deceased attorney’s files, the preparation of an inventory of the files, and distribution of the files to individuals who were current or former clients, accompanied by contact information for the lawyer referral service in the locale where the lawyer practiced.

13. Petitioner has no reliable information concerning the number or identity of clients who have retained Respondent to represent their interests. [There exists approximately \* open client files, as well as approximately \* closed files.]

14. Pa.R.D.E. 324 sets forth the duties of a conservator with respect to professional or trustee accounts of the lawyer for whose practice the conservatorship is sought. Among other things, the conservator is required to give notice of the conservatorship to the bank in which such accounts are maintained, and to cause any funds of clients to be returned to the clients. Subsection (a) of Pa.R.D.E. 324 provides, in part, that “[t]he appointing court on application may by order direct that the conservator shall be sole signatory on any such account to the extent necessary for the purposes of these rules . . . .”

15. On information and belief, Respondent maintained professional and trustee accounts at \*\*\*\*\*\* Bank. Petitioner requests that [the conservator/he/she] be the sole signatory on these and all professional or trustee accounts maintained by Respondent.

16. Conservator-nominee \*\*\*\*\*\*\*\*\*\*, Esquire, is a member of the Bar of this Commonwealth with an office located at \*\*\*\*\*, PA \*\*\*\*\*. Conservator-nominee is not related to Respondent. [He/She] has no adverse interest or relationship with Respondent, nor is [he/she] representing any party who is adverse to any known client of Respondent. [He/she] is willing to serve as conservator in this action, and [his/her] consent is attached hereto as “Exhibit C.”

17. An Estate has not been opened, and therefore there is no personal representative to whom to give notice, as required by Pa.R.D.E. 321(b). A copy of this Application has been served upon Respondent’s [spouse/other relative] at [his/her] residence. Respondent’s [spouse/other relative] supports the appointment of a conservator, as shown in an Affidavit **[*See* Handbook, App. 2, Form B]**, which is attached as “Exhibit D.”

18. Rule 321(c) provides, in part, that “[t]he president judge . . . shall conduct a hearing on the application no later than seven days after the filing of the application.” However, president judges have granted such applications without a hearing. Since the need for a conservatorship is apparent and Respondent’s [spouse/other relative] supports the appointment of a conservator, Petitioner and Office of Disciplinary Counsel believe that a hearing is unnecessary. If the court wants to hold a hearing, either in person or remotely, Petitioner, conservator-nominee and ODC will be available. (Petitioner is not attaching a proposed Order for Hearing to this Application but will provide one upon request of the court.)

\* \* \* \* \* \* \* \* \*

WHEREFORE, Petitioner prays that your Honorable Court schedule a hearing, pursuant to Pa.R.D.E. 321(c), within seven (7) days of the date of the presentation of this Application, and thereafter enter an Order granting the Application and appointing \*\*\*\*\*\*\*, Esquire, as conservator to protect the interest of \*’s clients, with full powers and duties as set forth in Pa.R.D.E. 321 through 329.

**OR**

WHEREFORE, Petitioner prays that your Honorable Court dispense with a hearing and enter an Order granting the Application and appointing \*\*\*\*\*\*\*\*, Esquire, as conservator to protect the interest of \*’s clients, with full powers and duties as set forth in Pa.R.D.E. 321 through 329. **[USE THIS WHEREFORE CLAUSE WHEN YOU HAVE AN AFFIDAVIT EITHER FROM A SPOUSE OR FROM THE APPROPRIATE INDIVIDUAL NOT CONTESTING THE CONSERVATORSHIP.]**

Respectfully submitted,

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

\*

Suite \*\*\*

123 Main Street

\*\*\*, PA \*\*\*\*\*

(\*\*\*) \*\*\*-\*\*\*\*

Pa. Id. #\*

**INCLUDE EITHER THE ORDER FOR HEARING AND THE PROPOSED ORDER FOR APPOINTMENT, OR JUST THE PROPOSED ORDER FOR APPOINTMENT WHEN THE REQUESTED RELIEF IS AN APPOINTMENT WITHOUT A HEARING.**

# IN THE COURT OF COMMON PLEAS

# OF \*\*\* COUNTY, PENNSYLVANIA

IN THE MATTER OF : COURT OF COMMON PLEAS

: CIVIL DIVISION

:

\*\*\*, Deceased **[or other circumstance]** : No. \*\*\*-\*\*\*\*

: [Administrative Docket **or**

: Miscellaneous Docket]

(Attorney Registration No. \*\*\*\*\*) :

**ORDER FOR HEARING**

AND NOW, this day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, upon presentation and consideration of the Application for Appointment of a Conservator Pursuant to Rule 321 of the Pennsylvania Rules of Disciplinary Enforcement, a hearing is set for the day of \_\_\_\_\_\_\_\_\_\_, 20 \_\_, at \_\_\_\_\_\_\_\_ o’clock \_\_.m. in Courtroom No. \_\_\_\_\_\_.

The fee for filing this Application, and all costs, including certified copies, are waived.

By the Court:

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

P.J.

# IN THE COURT OF COMMON PLEAS

# OF \*\*\* COUNTY, PENNSYLVANIA

IN THE MATTER OF : COURT OF COMMON PLEAS

: CIVIL DIVISION

:

\*\*\*, Deceased **[or other circumstance]** : No. \*\*\*-\*\*\*\*

: [Administrative Docket **or**

: Miscellaneous Docket]

(Attorney Registration No. \*\*\*\*\*) :

## **ORDER**

AND NOW, this day of , 20\_\_, upon presentation and consideration of the Application for Appointment of a Conservator Pursuant to Pennsylvania Rule of Disciplinary Enforcement 321 (“Application”), it is hereby

ORDERED AND DECREED that the Application is GRANTED. The Court appoints \*\*\* , Esquire, to act as Conservator. Conservator shall notify all parties of said appointment. Such notification shall include a publication, as set forth in Pa.R.D.E. 322(c)(2), once in both the \*\*\* and the \*\*\* County Law Journal.

It is further ORDERED and DECREED that the Conservator shall take immediate possession of all files, computers, cellular telephones, recorded voice messages, electronic media, financial records of Attorney \*\*\* , bank and other financial institution records, mail, or other material relating to Attorney \*\*\* ’s clients, or which may contain client information, located at Attorney \*\*\* ’s former office and [\*\*\*his her] residence in \*\*\*, or at any other place discovered by Conservator during the execution of [\*\*\*his her] his duties as Conservator. Conservator shall distribute (or attempt to distribute) the files to Respondent’s clients, and take such other action as required by Pa.R.D.E. 321 through 329.

It is further ORDERED and DECREED that the Conservator shall, pursuant to Pa.R.D.E. 324, be the sole signatory on all professional or trustee accounts maintained by Attorney \*\*\* , including but not limited to Attorney \*\*\* ’s IOLTA account at \*\*\* Bank, [his/her] IOLTA/Trust Account at \*\*\* Bank, and [his/her] operating account at \*\*\* Bank. Except for checks and other negotiable instruments that are stale-dated, Conservator shall have authority to endorse and/or deposit checks and other negotiable instruments—including those made payable to \*\*\* , Esquire, to the Law Office of \*\*\* , and to any similar designation of payee—to Attorney \*\*\*’s professional or trustee accounts and to manage and administer the funds in those accounts.

It is further ORDERED and DECREED that the Conservator shall have sole authority to receive, open and read all mail addressed to Attorney \*\*\* from \*\*\* [date], and on, for the duration of this conservatorship.

It is further ORDERED and DECREED that all of Attorney \*\*\* ’s legal and administrative proceedings pending in the Commonwealth of Pennsylvania as of \*\*\* [date], are hereby STAYED, said Stay to continue, pursuant to Pa.R.D.E. 321(g), until the earliest of such time as: 1) the Conservator is discharged; 2) the court or other government unit in which a matter is pending orders that the stay be lifted; or 3) 30 days after the court or government unit in which a matter is pending is notified that substitute counsel has been retained. To the extent that Conservator becomes aware through [his/her] review of Attorney \*\*\* ’s files that Attorney \*\*\* is attorney of record in active cases pending in other counties, Conservator shall notify the courts in the other counties of the entry of this Order and Stay.

It is further ORDERED AND DECREED that the fee for filing this Application and costs are waived. All costs, including filing fees and certified copies, for the duration of this conservatorship, are waived. The [\*\*\*Office of Prothonotary/Office of Judicial Records] shall provide the Conservator with certified copies of this Order, upon request, to enable [him/her] to carry out [his her] duties as Conservator.

BY THE COURT:

P.J.

# IN THE COURT OF COMMON PLEAS

# OF \*\*\* COUNTY, PENNSYLVANIA

IN THE MATTER OF : COURT OF COMMON PLEAS

: CIVIL DIVISION

:

\*\*\*, Deceased **[or other circumstance]** : No. \*\*\*-\*\*\*\*

: [Administrative Docket **or**

: Miscellaneous Docket]

(Attorney Registration No. \*\*\*\*\*) :

**CONSENT OF PROPOSED CONSERVATOR**

TO THE HONORABLE \*\*, PRESIDENT JUDGE:

I, \*\*\*\*\*, Esquire, hereby consent to serve as Conservator in this action.

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

Date \*

Suite \*\*\*

123 Main Street

\*\*\*, PA \*\*\*\*\*

(\*\*\*) \*\*\*-\*\*\*\*

Pa. Id. #\*

# IN THE COURT OF COMMON PLEAS

OF \*\*\* COUNTY, PENNSYLVANIA

IN THE MATTER OF : COURT OF COMMON PLEAS

: CIVIL DIVISION

:

\*\*\*, Deceased **[or other circumstance]** : No. \*\*\*-\*\*\*\*

: [Administrative Docket **or**

: Miscellaneous Docket]

:

Attorney Registration No. \*\*\*\*\* :

**CONCURRENCE OF DISCIPLINARY COUNSEL**

I, \*\*\*\*, Disciplinary Counsel, do hereby provide my written concurrence, as required by Rule 321(a) of the Pennsylvania Rules of Disciplinary Enforcement, to the appointment of \*\*\*\* , Esquire, as Conservator in connection with the law practice of **[**deceased/temporarily suspended/suspended/disbarred**]** attorney \*\*\*\*\*, \*\*\* County, PA Bar ID \*\*\*\*\*.

Date

# IN THE COURT OF COMMON PLEAS

# OF \*\*\* COUNTY, PENNSYLVANIA

IN THE MATTER OF : COURT OF COMMON PLEAS

: CIVIL DIVISION

:

\*\*\*, Deceased **[or other circumstance]** : No. \*\*\*-\*\*\*\*

: [Administrative Docket **or**

: Miscellaneous Docket]

(Attorney Registration No. \*\*\*\*\*) :

VERIFICATION

The statements contained in the foregoing Application for Appointment of a Conservator Pursuant to Rule 321 of the Pennsylvania Rules of Disciplinary Enforcement are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

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

Date

*See* Enforcement Rule 321(b) for service requirements.

IN THE COURT OF COMMON PLEAS

# OF \*\*\* COUNTY, PENNSYLVANIA

IN THE MATTER OF : COURT OF COMMON PLEAS

: CIVIL DIVISION

:

\*\*\*, Deceased **[or other circumstance]** : No. \*\*\*-\*\*\*\*

: [Administrative Docket **or**

: Miscellaneous Docket]

(Attorney Registration No. \*\*\*\*\*) :

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon the person and in the manner indicated below, which service satisfies the requirements of Rule 321(b), Pa.R.D.E., addressed as follows:

By Personal Service [and/or First Class Mail]:

\*

By email:

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

\*,

Reg. No. \*

Suite \*\*\*

123 Main Street

\*\*\*, PA \*\*\*\*\*

\*\*\*-\*\*\*-\*\*\*\*