

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT IN AND FOR
ORANGE COUNTY, FLORIDA

DIVISION: 1 - PROBATE

CASE NO.

Petitioner,
and

Respondent,
_____ /

ORDER OF REFERRAL TO ELDERCARE COORDINATOR

THIS MATTER having come before the Court upon:

- the Court's own Motion;
- Motion of the elder;
- Motion of the parties,
- Stipulation of the parties, or
- Motion by _____,

for Appointment of an Eldercare Coordinator, the Court having reviewed the Motion and the Court file, taken the testimony presented, considered argument of counsel, and being otherwise duly advised in the premise, **FINDS:**

A. Eldercare Coordination Process. Eldercare coordination is an elder-focused dispute resolution process during which an eldercare coordinator assists elders, legally authorized decision-makers, and others who participate by court order or invitation to resolve disputes with high conflict levels in a manner that respects the elder's need for autonomy and safety.

B. Appropriateness of Process. This matter is appropriate for eldercare coordination and it is in the best interest of the elder: _____.

C. Eldercare Coordinator. An eldercare coordinator is an impartial third person whose role is to assist the parties by:

- Facilitating more effective communication, negotiation, and problem-solving skills;
- Offering education about elder care resources;
- Facilitating the creation, modification, or implementation of an elder care plan if such a plan is necessary to reach a resolution;
- Making recommendations for resolutions; and
- Making decisions within the scope of a court order or with the parties' prior approval.

D. Selection of Eldercare Coordinator. The following eldercare coordinator was selected by parties' agreement the court:

Name: _____

Address: _____

Telephone: _____

Fax Number: _____

Email: _____

E. History of Elder Abuse/Domestic Violence. Based upon testimony and evidence presented, a review of related court records, or other representations made to the Court, the Court has determined:

- There is no history of elder abuse, neglect, or exploitation
- There is no history of domestic violence
- There has been a history of verified elder abuse
- There has been a history of domestic violence, and:
- Each party has had an opportunity to consult with an attorney or domestic violence advocate before this Court has accepted the parties' consent; and
- The elder and each party participating have consented to this referral and the consent has been given freely and voluntarily.

All confidentiality provisions in s. 415.107, F.S. continue to apply to the records made available to the court. The identity of any person reporting the abuse is not to be released.

It is therefore, **ORDERED**:

1. **Eldercaring Coordinator.** The following parties are ordered to participate in the eldercaring coordination process:

The parties are required to contact the eldercaring coordinator within ten (10) days of the date of this Order to schedule the first appointment.

a. The eldercaring coordinator is appointed to serve the Court for an initial period of _____ months (not to exceed two years). The eldercaring coordinator shall file a response to this Order within 30 days accepting or declining the appointment. At any time, any party or the eldercaring coordinator may apply directly to the Court for a discharge and shall provide the parties and counsel with notice of the application of discharge.

b. The parties or their attorneys must provide to the eldercaring coordinator copies of all pleadings and orders filed in this case, as well as such pleadings and orders related to domestic violence, elder abuse or exploitation, and any other pleadings and orders requested by the eldercaring coordinator related to eldercaring coordinatio

2. **Meetings.** The eldercaring coordinator may recommend and, unless otherwise directed by the court, may invite others to participate in the eldercaring coordination process that may provide information, support, or other assistance in facilitating dispute resolution. The eldercaring coordinator shall determine the schedule and location for appointments.

3. **Domestic Violence, Elder Abuse, Neglect or Exploitation Safeguards.** The parties shall adhere to all provisions of any injunction for protection or conditions of bail, probation, or a sentence arising from criminal proceedings. In addition to any safety measures the eldercaring coordinator deems necessary, the following domestic violence safeguards must be implemented:

- None are necessary.
- No joint meetings.
- No direct negotiations.
- No direct communications.
- Other: _____

4. **Role, Responsibility, and Authority of Eldercaring Coordinator.** The eldercaring coordinator shall have the following role, responsibility, and authority:

a. Facilitating the ability of the elder and other eldercaring coordination participants to work collaboratively in a way that respects the safety and autonomy of the elder. The eldercaring coordinator shall, for those purposes, initiate referrals for services and investigations if necessary and make recommendations to the parties as he/she deems appropriate.

b. Assisting the parties in creating, modifying and implementing an elder care plan, if necessary to reach a resolution.

c. Educating the parties and developing strategies to more effectively:

- i. Focus on the needs and care of the elder;
- ii. Minimize conflicts;
- iii. Communicate and negotiate with each other;
- iv. Understand the effects of conflict on the elder and each other;
- v. Disengage from another party when engagement leads to conflicts and non-cooperation; and
- vi. Identify the sources of their conflict with each other and work individually and/or jointly to minimize conflict and lessen its deleterious effects on the elder; and
- vi. Allow the elder to live free from the threat of being caught in the middle of disputes regarding his or her care, needs and safety.

d. Assisting the elder and other eldercaring coordination participants in identifying and utilizing resources that may assist them in resolving issues regarding the care and safety of the elder.

e. Reporting or communicating with the Court concerning nonconfidential matters as provided in paragraph 10 of this order. In the event that the eldercaring coordinator is unable to adequately perform the duties in accordance with the court's direction, the eldercaring coordinator shall file a written request for status conference.

f. Providing information to health care practitioners and other professionals when

the eldercaring coordinator deems it is reasonable and necessary and the elder or the legally authorized decision-maker(s) consents.

g. Teaching eldercaring coordination participants communication skills, principles of adult development, and issues facing elders as they age.

5. **Communication:** The eldercaring coordinator may communicate with the elder and the other eldercaring coordination participants in person, by telephone, or any other means, unless otherwise prohibited by court order or applicable law. The eldercaring coordinator shall devise detailed guidelines or rules for communication and interaction among the participants and practice those rules with the participants.

6. **Releases of Information:** The eldercaring coordinator is entitled to communicate with the Elder, the parties, health care providers, psychological providers, guardian, and any other third party deemed necessary by the eldercaring coordinator for the eldercaring coordination process. The participants will cooperate with the eldercaring coordinator and shall execute any necessary releases for communications related to the elder. In the event that any psychological evaluations, guardian reports, or any other reports related to the elder are prepared for any participant, the eldercaring coordinator may review such evaluations or reports, but shall not be required to provide a copy of such evaluation or report to any participant or third party. Furthermore, to the extent that any such evaluation or report is made confidential by any prior Order of the Court, then this Order shall authorize the release of said evaluation or report to the eldercaring coordinator.

7. **Scope of Authority.** The eldercaring coordinator shall make limited decisions within the scope of this Order of Referral, including:

With expressed written consent of the elder and parties designated in this court order, the eldercaring coordinator may have additional temporary decision-making authority to resolve specific non-substantive disputes between the parties until such time as a court order is entered modifying the decision; or make recommendations to the court concerning modifications to orders related to the resolution of disputes regarding the care of the elder.

8. **Fees and Costs for Eldercaring Coordination.**

- a. The parties have consented to this referral to eldercaring coordination.
 This order is without consent of the parties, but the court has determined that there is evidence of neglect, abuse and/or exploitation of the elder and the elder, or the elder's court-appointed guardian, has provided voluntary, informed consent to participate and: _____the parties have the financial ability to pay the eldercaring coordination fees and costs. OR
_____the elder is indigent and/or another party is indigent but there are public and/or private funds available to pay the indigent parties' allocated portion of the fees.

follows: b. The Court allocates payment of fees and costs for eldercaring coordination as

_____ % shall be paid by _____.

_____ % shall be paid by _____.

_____ % shall be paid by _____.

_____ % shall be paid by _____.

Other(s): _____.

c. If a party has caused the eldercaring coordinator to expend an unreasonable and unnecessary amount of time, that party may be solely responsible for payment of the eldercaring coordinator's fees and costs for such time expended. Failure to pay the eldercaring coordinator's fees and costs in a timely manner may subject the party to sanctions for contempt of court.

d. The eldercaring coordinator shall not proceed with the eldercaring coordination process until he/she is satisfied with the terms and conditions of payment for his/her services. Further, the eldercaring coordinator shall not perform nor continue to perform the eldercaring coordination services in this case unless all of his/her fees and costs are paid by the parties as ordered, and, in the event of nonpayment, the eldercaring coordinator shall file a Request for Status Conference, and the Court will address the issue of non-payment of fees and costs.

9. **Confidentiality.** All communications made among the parties or between any party and the eldercaring coordinator during the eldercaring coordination process cannot be kept confidential from any other parties involved in the eldercaring coordination process. However, the eldercaring coordinator has a duty to report any suspected abuse, neglect or exploitation to the state Adult Protective Services office. The eldercaring coordinator and each party may not testify or offer evidence about communications made by a party or the eldercaring coordinator during the eldercaring coordination meetings, except if:

a. It is necessary to identify, authenticate, confirm, or deny a written agreement entered into by the parties during eldercaring coordination;

b. The testimony or evidence is necessary to identify an issue for resolution by the Court without otherwise disclosing communications made by any party or the eldercaring coordinator;

c. The testimony or evidence is limited to the subject of a party's compliance with the Order of Referral to Eldercaring Coordinator or other orders of the Court which are pertinent to the Eldercaring Coordination process.

d. The eldercaring coordinator is reporting that the case is unsafe or no longer appropriate for eldercaring coordination;

e. The eldercaring coordinator is reporting that he or she is unable or unwilling to continue to serve and that a successor eldercaring coordinator should be appointed;

f. The eldercaring coordinator is not qualified to address or resolve certain issues in the case and a more qualified eldercaring coordinator should be appointed;

g. All parties and the eldercaring coordinator agree that the testimony or evidence be permitted; or

h. The testimony, evidence or report is necessary to protect any person from current or future acts that would constitute abuse, neglect, or exploitation of an elder under Chapter 825, Florida Statutes.

i. Report of emergency to court: An eldercaring coordinator must immediately inform the court if an abuse report was made to Adult or Child Protective Services due to reasonable cause to suspect that the elder or a child will suffer or is suffering abuse, neglect, abandonment or exploitation or that someone is expected to wrongfully remove or is wrongfully removing the elder from the jurisdiction of the court without prior court approval.

10. **Agreement on Nonconfidentiality.** The participants can agree to waive confidentiality of a specific communication or all communications. The waiver must be in writing, signed by the participants and their respective counsel. The waiver shall be filed with the Court and a copy served on the eldercaring coordinator. Any participant may revoke his or her waiver of confidentiality by providing written notice signed by the participant. The revocation shall be filed with the Court and a copy served on the other participants and the eldercaring coordinator. The eldercaring coordinator may submit a written report or other written communication regarding any nonconfidential matter to the court.

11. **Testimony and Discovery.** An eldercaring coordinator shall not be called to testify or be subject to the discovery rules of the Florida Rules of Procedure unless the court makes a prior finding of good cause. A party must file a motion, alleging good cause why the court should allow the eldercaring coordinator to testify or be subject to discovery. The requesting party shall serve the motion and notice of hearing on the eldercaring coordinator. The requesting party shall initially be responsible for the eldercaring coordinator fees and costs incurred as a result of the motion.

12. **Withdrawal Procedure.** With Court approval, the eldercaring coordinator may withdraw from the role of eldercaring coordinator. The eldercaring coordinator shall apply directly to the Court with a request to be discharged, and shall provide notice to the participants and their counsel of the request to withdrawal.

13. **Grievance Procedure:** Any party may seek to terminate the eldercaring coordinator's services by filing a motion with the Court. Any complaint regarding the conduct of a court appointed eldercaring coordinator may be filed with the presiding judge who may remove the eldercaring coordinator from the case, and upon a finding of good cause, may refer the complaint to any agency or regulatory body overseeing any professional license or certification held by the eldercaring coordinator. The eldercaring coordinator's services may not be terminated by any of the parties, or at the request of all parties, without order of this Court.

14. **Stipulation:** Any written stipulation of parties to utilize the eldercaring coordination process filed with this court is incorporated into this Order.

15. **Reservation of Jurisdiction.** This Court specifically reserves jurisdiction to enforce and/or modify the terms and conditions of this Order.

DONE AND ORDERED in _____ County, Florida,
on this ____ day of _____, 201__.

Jose R. Rodriguez
Circuit Judge

Copies to: Name of
Party: Counsel for
Party Address of
Counsel

Name of Party:
Counsel for Party
Address of Counsel

Other:

**IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE
BLANKS BELOW:** [fill in **all** blanks] This form was completed with the assistance of:

{*name of individual*} _____,
{*name of business*} _____,
{*address*} _____,
{*city*} _____, {*state*} _____, {*telephone number*} _____.

Exhibit: B

IN THE CIRCUIT COURT OF THE _____
JUDICIAL CIRCUIT IN AND FOR
_____ COUNTY, FLORIDA

Petitioner,

and

DIVISION:
CASE NUMBER:
SECTION:

Respondent.

_____ /

RESPONSE BY ELDERCARE COORDINATOR

I, {name} _____, notify the Court and affirm the following:

1. Acceptance: [check **one** only]

I accept the appointment as eldercaring coordinator.

I decline the appointment as eldercaring coordinator.

2. Qualifications: [check **one** only]

I meet the qualifications as an eldercaring coordinator recommended by the Florida Chapter of the Association of Family and Conciliation Courts.

I do not meet the qualifications recommended by the Florida Chapter of the Association of Family and Conciliation Courts. However, the parties have chosen me by mutual consent and I believe I can perform the services of an eldercaring coordinator because:

3. I am not aware of any conflict, circumstance, or reason that renders me unable to serve as the eldercaring coordinator in this matter and I will immediately inform the court and the parties if such arises.

4. I understand my role, responsibility, and authority under the Order Referring Parties to Eldercaresing Coordinator dated ____/____/____.

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I hereby affirm the truth of the statements in this acceptance and understand that if I make any false representations in this acceptance, I am subject to sanctions by the Court.

Date _____
Signature of Eldercaresing Coordinator _____
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Email: _____
Professional License # (if applicable) _____
Professional Certification # (if applicable) _____

Copies to:
____ Presiding Judge _____
____ Petitioner _____
____ Attorney for Petitioner _____
____ Respondent _____
____ Attorney for Respondent _____
____ Other: _____

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW: [fill in all blanks] This form was completed with the assistance of:

{name of individual} _____,
{name of business} _____,
{address} _____,
{city} _____, {state} _____, {telephone number} _____.

Exhibit: C

IN THE CIRCUIT COURT OF THE
JUDICIAL CIRCUIT IN AND FOR
COUNTY, FLORIDA

Petitioner,

and

DIVISION:
CASE NUMBER:
SECTION:

Respondent.

_____ /

ELDERCARE COORDINATOR REPORT OF AN EMERGENCY

The undersigned eldercaring coordinator reports an emergency to the court:

1. _____ With notice to the parties. A party has obtained a final order of injunction for protection against domestic or repeat violence or has been arrested for an act of domestic or repeat violence as provided under Chapter 741, Florida Statutes.

2. _____ Without notice to the parties pursuant to section 61.125 (8)(a), Florida Statutes, because: (choose all that apply):

a. _____ There is a reasonable cause to suspect the elder has or is being abused, neglected, or exploited as provided under Chapter 415, Florida Statutes, or the elder's health, safety and well-being are in immediate jeopardy.

b. _____ There is a reasonable cause to suspect that a child will suffer or is suffering abuse, neglect, or abandonment as provided under Chapter 39, Florida Statutes.

c. _____ A party, or someone acting on the elder's behalf, is expected to wrongfully remove or is wrongfully removing the elder from the jurisdiction of the court without prior approval of the court.

d. _____ It is necessary to protect any person from future acts that would constitute domestic violence under Chapter 741, Florida Statutes; child abuse, neglect, or abandonment under Chapter 39, Florida Statutes; or abuse, neglect, or exploitation of an elderly or disabled adult under Chapter 825, Florida Statutes.

e. _____ There is a pending investigation of the Adult or Child Protective Services.

3. Describe the emergency:

_____.

VERIFICATION BY ELDERCARING COORDINATOR

I, _____ (name of eldercaring coordinator) do hereby swear or affirm that the facts contained in this Eldercaring Coordinator Report of an Emergency are true and correct to the best of my knowledge and belief.

Date _____ Signature of Eldercaring Coordinator _____
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
E-mail: _____
Professional License # (if applicable) _____
Professional Certification # (if applicable) _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to or affirmed and signed before me on _____ by _____.

NOTARY PUBLIC or DEPUTY CLERK

[Print, type, or stamp commissioned name of notary or deputy clerk.]

_____ Personally known
_____ Produced identification
Type of identification produced _____

Copies to:
_____ Presiding Judge _____
_____ Petitioner _____
_____ Attorney for Petitioner _____
_____ Respondent _____
_____ Attorney for Respondent _____
_____ Other: _____

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW: [fill in **all** blanks] This form was completed with the assistance of:

{name of individual} _____,

{name of business} _____,
{address} _____,
{city} _____, *{state}* _____, *{telephone number}* _____.

Exhibit: D

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR DADE
COUNTY, FLORIDA

Petitioner,

and

DIVISION:
CASE NUMBER:
SECTION:

Respondent.

_____ /

ELDERCARE COORDINATOR REQUEST FOR STATUS CONFERENCE

The undersigned **VERIFICATION** requests a status conference in this case:
(choose all that apply)

1. ____ To request direction from the court concerning: _____

_____.

2. ____ To request resolution by the court regarding: _____

_____.

3. ____ To report noncompliance of _____ with the Order of Referral to Eldercare Coordinator, orders for psychological evaluation, counseling ordered by the court or recommended by a health care provider, or for substance abuse testing or treatment.

4. ____ To report that the case is no longer appropriate for eldercare coordination.

5. ____ To report that the undersigned eldercare coordinator is not qualified to address or resolve certain issues in this case and a more qualified successor eldercare coordinator should be appointed.

6. ____ The undersigned eldercare coordinator is unable or unwilling to continue to serve and a successor eldercare coordinator should be appointed.

WHEREFORE, the undersigned eldercare coordinator requests that a Status Conference be set by the Court.

Date _____

Signature of Eldercare Coordinator

Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
E-mail: _____
Professional License # (if applicable) _____
Professional Certification # (if applicable) _____

Copies to:

____ Presiding Judge _____
____ Petitioner _____
____ Attorney for Petitioner _____
____ Respondent _____
____ Attorney for Respondent _____
____ Other: _____

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW: [fill in **all** blanks] This form was completed with the assistance of:

{name of individual} _____,
{name of business} _____,
{address} _____,
{city} _____, *{state}* _____, *{telephone number}* _____.