

NO. 480102

IN RE: GUARDIANSHIP OF  
THE PERSON AND ESTATE OF  
  
LAURA CARTER HIGLEY,  
  
AN INCAPACITATED PERSON

§  
§  
§  
§  
§

IN THE PROBATE COURT  
  
NUMBER \_\_\_\_\_ ( ) OF  
  
HARRIS COUNTY, TEXAS

**APPLICATION FOR APPOINTMENT OF  
PERMANENT GUARDIAN OF THE PERSON AND ESTATE**

1 Pers by IN

2 Pers by P/P

Post 10/18/2019

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Co-Applicants GARRETT C. HIGLEY and ROBERT CARTER HIGLEY (hereinafter collectively referred to as "Co-Applicants" or, individually, as "Co-Applicant"), and file this their Application for Appointment of Permanent Guardian of the Person and Estate concerning their mother, LAURA CARTER HIGLEY, and in support thereof would respectfully show the Court the following:

1.

Justice Laura Carter Higley (hereinafter referred to as "Justice Higley") is an adult female who is currently without a Guardian of her person or estate. Justice Higley is presently 72 years of age, having been born on November 27, 1946. Justice Higley currently resides in Houston, Harris County, Texas at **6339 Belmont Street, Houston, Texas 77005, which is where Justice Higley may be personally served with citation in conjunction with the filing of this guardianship Application.**

2.

Co-Applicants are Justice Higley's sons, Garrett C. Higley and Robert Carter Higley. Garrett C. Higley resides at 3201 Bryker Drive, Austin, Texas 78703, and Robert Carter Higley resides at 155 Moose Street, Jackson, Wyoming 83001. Co-Applicant, Robert Carter Higley,

appoints W. Cameron McCulloch and J. Crispin Clarke, whose address is 2900 Wesleyan Suite 150 Houston, Texas 77027, to be his Resident Agents to accept service of process in all actions or proceedings with respect to the Guardianship of the Person and Estate of Laura Carter Higley, An Incapacitated Person, pursuant to Section 1104.357 of the Texas Estate Code. By and through the filing of this Application, Co-Applicants are requesting the following relief from the Court with regard to their mother, Justice Higley:

- That the Court find Justice Higley to be an incapacitated person as that term is defined by Section 1002.017(2) of the Texas Estates Code;
- That the Court appoint Garrett C. Higley, Justice Higley's son and Co-Applicant herein, to serve as the Permanent Guardian of Justice Higley's person; and
- That the Court appoint Robert Carter Higley, Justice Higley's son and Co-Applicant herein, to serve as the Permanent Guardian of Justice Higley's estate.

Pleading further, Co-Applicants affirm and represent that Garrett C. Higley is eligible to receive Letters of Guardianship of the Person for Justice Higley, and is entitled to be so appointed. Additionally, Co-Applicants further affirm and represent that Robert Carter Higley is eligible to receive Letters of Guardianship of the Estate for Justice Higley, and is entitled to be so appointed.

3.

A permanent guardianship of Justice Higley's person and estate is being sought because Justice Higley is unable to care for her own personal and financial affairs without assistance. The requested term of this guardianship is unknown to Co-Applicants, and should be for such time as Justice Higley's condition necessitates a Court appointed guardian.

4.

Co-Applicants represent to the Court that alternatives to this proposed guardianship and supports and services available to Justice Higley, which would avoid the need for the proposed guardianship, were considered and are not feasible at this time.

5.

This Court has jurisdiction and venue over this proceeding pursuant to Sections 1022.002(c) and 1023.001(a) of the Texas Estates Code because Justice Higley resides in Harris County, Texas.

6.

Justice Higley has been married only one time, and her husband, Robert (“Bob”) Allen Higley (hereinafter sometimes referred to as “Bob Higley”), is a resident of Houston, Harris County, Texas. Like Justice Higley, Bob Higley’s address is 6339 Belmont Street, Houston, Texas 77005. Pursuant to Section 1051.103(a)(4) of the Texas Estates Code, **Bob Higley may be personally served with citation in conjunction with this guardianship Application at 6339 Belmont Street, Houston, Texas 77005.**

7.

Two (2) children have been born to Justice Higley during her lifetime. The names, ages, and addresses of Justice Higley’s children are as follows:

Name: Garrett C. Higley (a.k.a. – Co-Applicant herein)  
Age: 45 years of age  
Address: 3201 Bryker Drive, Austin, Texas 78703

Names: Robert Carter Higley (a.k.a. – Co-Applicant herein)  
Age: 40 years of age  
Address: 155 Moose Street, Jackson, Wyoming 83001

Pleading further, Co-Applicants represents to the Court that no children have been adopted by Justice Higley as of the date of the filing of this Application.

8.

Both of Justice Higley’s parents are deceased.

9.

Justice Higley had one sibling, a brother, who is deceased.

10.

Justice Higley's property is generally described as real estate, financial accounts, business interests, retirement accounts, and personal property located in Houston, Harris County, Texas, with an approximate value, in the aggregate, in excess of \$8,000,000.00.

11.

The persons who are required to be notified by personal citation, pursuant to Section 1051.103 of the Texas Estates Code, are listed follows:

- **Justice Laura Carter Higley (the Proposed Ward)**  
**6339 Belmont Street**  
**Houston, Texas 77005**
- **Robert ("Bob") Allen Higley (Justice Higley's spouse)**  
**6339 Belmont Street**  
**Houston, Texas 77005**

12.

Co-Applicants have concerns that Justice Higley may be subjected to financial exploitation and abuse by Bob Higley, in Bob's capacity as the Attorney-In-Fact for Justice Higley. Based upon information and belief, Co-Applicants allege that Justice Higley executed a Statutory Durable Power of Attorney and a Medical Power of Attorney in favor of Bob Higley. More specifically, true and correct copies of Justice Higley's Statutory Durable Power of Attorney dated March 29, 2019 (the "Durable Power of Attorney"), and the Medical Power of Attorney dated March 29, 2019 (the "Medical Power of Attorney"), are attached hereto, respectively, as **Exhibit "A"** and **Exhibit "B"**. Although the Durable Power of Attorney and Medical Power of Attorney present a less restrictive alternative to a permanent guardianship, having Bob Higley serve as Justice

Higley's Attorney-In-Fact is not a viable option under the circumstances. As described in paragraph 13 below, Co-Applicants are requesting the appointment of a Guardian of the person (a.k.a. – Garrett C. Higley) and estate (a.k.a. – Robert Carter Higley) for Justice Higley due to concerns about Justice Higley's present mental state and because of actions that Bob Higley has taken which are inconsistent with Justice Higley's best interests and known wishes.

13.

The specific facts which require a Guardian to be appointed for Justice Higley are set forth as follows:

Justice Higley was initially diagnosed with an unspecified mild neurocognitive disorder/non-amnestic multi-domain cognitive impairment on November 29, 2017. On March 1, 2019, Justice Higley was diagnosed as suffering from a mild neurocognitive disorder due to possible Alzheimer's disease. On October 9, 2019, Justice Higley was diagnosed as suffering from a major neurocognitive disorder due to Alzheimer's disease. Due to the recent (and rapid) progression of her Alzheimer's disease, Justice Higley's mental state has deteriorated to the point that she is no longer able to care for her own physical health or manage her own financial affairs. More specifically, as a result of her Alzheimer's Disease, Co-Applicants allege and thereon believe that Justice Higley is mentally "in the moment" only, meaning that Justice Higley can carry on brief conversations and exchange simple pleasantries with other individuals, but cannot engage in substantive, analytical, or detailed discussions with others. Based on personal observation and belief, Co-Applicants allege that Justice Higley's memory deficits are so grave that—immediately after a particular conversation has taken place—she struggles to remember the information communicated to her and, moreover, cannot remember the particular individuals that she spoke to the previous day or the topics discussed with said individuals—she can recall only the fact that she had conversations with others.

As a result of her Alzheimer's disease, Justice Higley cannot presently discharge her duties as a Justice of the Court of Appeals for the First Court of Appeals District of Texas (hereinafter referred to as the "First Court of Appeals") or manage her personal and financial affairs without complete assistance and supervision from others. Pleading further, the conduct of Bob Higley (a.k.a. – Co-Applicants' father and Justice Higley's spouse) has exacerbated the present situation. Bob Higley has acted as a malevolent enabler in that he has encouraged Justice Higley not to resign or retire from serving as Justice in the First Court of Appeals and has personally opposed efforts to have Justice Higley removed. Bob Higley has also actively facilitated the means by which Justice Higley gets to and from the Courthouse—by driving herself. As a result of her Alzheimer's disease, Justice Higley has

become increasingly disoriented and struggles to locate familiar destinations, such as the First Court of Appeals, when attempting to drive on her own. She is incapable of driving herself to unfamiliar destinations or running errands by herself in the car and has become lost on more than one occasion while driving alone in the city of Houston. Justice Higley's continued operation of a motor vehicle poses a threat to her safety, her financial well-being, and the safety of others; nonetheless, during the late summer of 2019, Bob Higley had his sister, Barbara Staley, transport Justice Higley to the Department of Motor Vehicles (the "DMV"), to renew her driver's license so that she could continue to drive to the Courthouse, and throughout the city of Houston, on her own.

After undergoing recent neurological testing, as discussed in greater detail in footnote number one (1) below, the examining neuropsychologist spoke to Justice Higley and Bob Higley and specifically instructed that Justice Higley refrain from driving due to the threat that she poses to herself and other motorists while operating a vehicle. Immediately after the examination, Bob Higley egregiously disregarded the neuropsychologist's explicit instruction and allowed and/or encouraged Justice Higley to drive to the First Court of Appeals on her own, further evincing his lack of concern for his wife's well-being and his unwillingness to heed the advice of professionals and other individuals in providing adequate care to Justice Higley.

Additionally, based on personal observation and belief, Co-Applicants allege that Bob Higley has taken the following actions which further jeopardize Justice Higley's personal, professional, and financial well-being:

- On Justice Higley's behalf, and without her authorization or consent, Bob Higley has actively opposed, or otherwise thwarted, Co-Applicants' attempts to access supports and services for Justice Higley which would insure her well-being, care and safety.
- On or about October 4, 2019, Bob Higley transported Justice Higley to the office of an estate planning attorney in Houston, Harris County, Texas and, at his behest, Justice Higley executed estate planning instruments that significantly changed the disposition of Justice Higley's estate, in contravention to her wishes and desires, and included provisions which purport to adhere to Bob Higley's estate planning wishes for Justice Higley.
- Bob Higley has failed to provide adequate care for his wife, Justice Higley. Bob Higley has a longstanding history of yelling at and verbally abusing his wife (meaning Justice Higley), and in fact has been physically abusive with her on one reported occasion, and this pattern of behavior continues. He has failed to implement any sort of constructive measures to mitigate Justice Higley's cognitive shortcomings and, as previously mentioned, has thwarted attempts to access supports and services for Justice Higley which would insure her well-being, care and safety. In addition, Bob Higley has recently begun to restrict food from Justice Higley, which is contrary to the advice and treatment recommendations of Justice Higley's physicians. Co-Applicants allege and

believe that said food restriction is causing Justice Higley to be deprived of the nutritional support that she currently needs.

Justice Higley's personal and financial safety are paramount, as is the protection of her reputation and preservation of her legacy as an appellate justice. Bob Higley refuses to acknowledge that Justice Higley's recent, abnormal behavior endangers both herself and others, and Bob Higley has ignored clear indicators and explicit warnings that Justice Higley is no longer capable of serving as a Justice on the First Court of Appeals and/or managing her own personal and financial affairs. Absent the appointment of a guardian—with the ability to (i) implement long-term care and treatment programs for Justice Higley and (ii) resign from judgeship on her behalf—Justice Higley's personal, professional, and financial well-being continue to be at-risk as a result of her husband's inaction and conscious neglect.

For all of the reasons which are discussed above, Co-Applicants further allege and thereon believe that Bob Higley is unsuitable to serve as guardian of the person and/or estate of Justice Higley, the result of which makes him disqualified to serve as the Guardian of Justice Higley's person and estate pursuant to Section 1104.352 of the Texas Estates Code.

14.

Co-Applicants are in the process of obtaining a written letter or certificate from Justice Higley's treating neurologist which describes Justice Higley's current condition as required by Section 1101.103 of the Texas Estate Code.<sup>1</sup> Specifically, Co-Applicants anticipate that Dr. Igor Cherches, M.D. (hereinafter referred to as "Dr. Cherches")<sup>2</sup>, will conduct a mental examination of

---

<sup>1</sup> Although Dr. Cherches' Certificate of Medical Examination is forthcoming, Dr. Holly Carlson Zhao, Ph.D., M.A. (hereinafter referred to as "Dr. Zhao") previously examined Justice Higley on or about September 9, 2019 and completed a written report containing her findings regarding Justice Higley's present medical and mental state. Dr. Zhao's written Report, which concerns Justice Higley, is dated October 9, 2019. Dr. Zhao is a practicing neuropsychologist who initially examined Justice Higley, pursuant to a referral from Dr. Jonathan Magid (a.k.a. - Justice Higley's primary care physician) for neuropsychological evaluation and testing in the winter of 2017. Since becoming a treating neuropsychologist for Justice Higley, Dr. Zhao has evaluated Justice Higley on three separate occasions, with the most recent evaluation (complete with testing) occurring on September 16, 2019. Although Dr. Zhao's Report does not meet the requirements of Section 1101.103 of the Texas Estate Code, the findings, conclusions, and diagnoses therein, which concern Justice Higley, bolster the factual and circumstantial allegations pertaining to Justice Higley's incapacity as summarized in paragraph 13 above.

<sup>2</sup> Dr. Cherches has been Justice Higley's treating neurologist since the winter of 2017.

Justice Higley and complete a Physician's Certificate of Medical Examination detailing the extent of Justice Higley's present medical and mental state.

15.

Justice Higley's alleged incapacity could lead to a limitation or termination of rights, including a termination of Justice Higley's right to vote in a public election, and Justice Higley's eligibility to hold or obtain a license to operate a motor vehicle under Chapter 521 of the Texas Transportation Code.

16.

No guardianship for Justice Higley currently exists in this or any other state.

17.

Co-Applicants bring this Application in good faith and for just cause and respectfully request that their reasonable attorney's fees and expenses related to this Application, the hearing thereon, and the establishment of the requested permanent guardianship of the person and estate for their mother, Justice Higley, be approved and paid out of Justice Higley's guardianship estate pursuant to Section 1155.054 of the Texas Estates Code.

WHEREFORE, PREMISES CONSIDERED, Co-Applicants, Garrett C. Higley and Robert Carter Higley, pray that notice and citation of this Application be given as required by law; that Justice Higley be personally served with citation to appear and answer this Application; that an attorney ad litem be appointed to represent the legal interests of Justice Higley with respect to this guardianship proceeding; that Robert ("Bob") Allen Higley (a.k.a. – Justice Higley's spouse) be personally served with citation and a copy of this Application; that upon hearing hereof, the Court appoint Garrett C. Higley to be the Permanent Guardian of Justice Higley's person; that upon



hearing hereof, the Court appoint Robert Carter Higley to be the Permanent Guardian of Justice Higley's estate; that Letters of Guardianship of the Person be issued to Garrett C. Higley upon him taking the oath and giving bond as required by law; that Letters of Guardianship of the Estate be issued to Robert Carter Higley upon his taking the oath and giving bond as required by law; that Co-Applicants' attorney's fees for this matter be approved and paid from available funds which belong to Justice Higley's guardianship estate pursuant to Section 1155.054 of the Texas Estates Code; and that Co-Applicants have and recover such other and further relief as they may show themselves justly entitled to receive.

Respectfully submitted,

**MacINTYRE, McCULLOCH & STANFIELD,  
LLP**

By: 

W. CAMERON McCULLOCH  
State Bar Number 00788930

J. CRISPIN CLARKE  
State Bar Number 24094070

2900 Wesleyan, Suite 150  
Houston, Texas 77027

(713) 572-2900

(713) 572-2902 (Fax)

[e-serve@mmlawtexas.com](mailto:e-serve@mmlawtexas.com) (E-Service Only)

**ATTORNEYS FOR CO-APPLICANT  
ROBERT CARTER HIGLEY**

**HOPPER MIKESKA, PLLC**

By: 

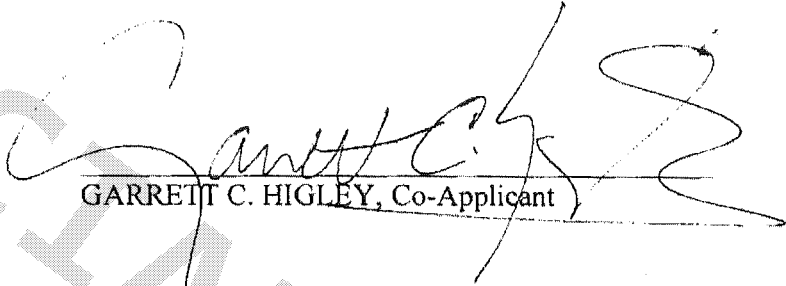
CRAIG HOPPER  
State Bar Number 00794947  
Barton Oaks Plaza, Building Two  
901 South MoPac Expressway, Suite 570  
Austin, Texas 78746  
(512) 615-6195  
(512) 615-6194 (Fax)  
[chopper@hoppermikeska.com](mailto:chopper@hoppermikeska.com) (E-Mail)

**ATTORNEYS FOR CO-APPLICANT  
GARRETT C. HIGLEY**

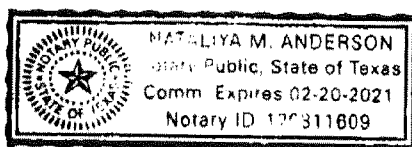
STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

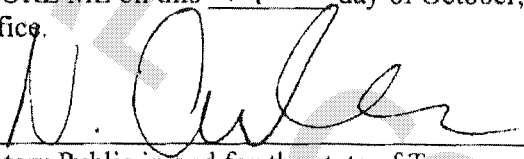
VERIFICATION

BEFORE ME, the undersigned authority, on this day personally appeared GARRETT C. HIGLEY, Co-Applicant in the foregoing Application for Appointment of Permanent Guardian of the Person and Estate, known to be the person whose name is subscribed to the above and foregoing Application and on his oath stated that such Application contains a correct and complete statement of the matters to which it relates and all the contents thereof are true, complete, and correct to the best of Co-Applicant's knowledge.

  
GARRETT C. HIGLEY, Co-Applicant

SWORN TO AND SUBSCRIBED BEFORE ME on this 14<sup>TH</sup> day of October, 2019,  
to certify which witness my hand and seal of office.



  
Notary Public in and for the state of Texas


STATE OF WYOMING §  
COUNTY OF TETON §

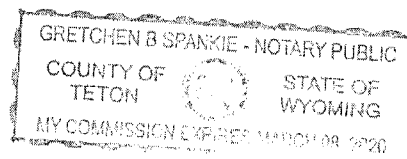
VERIFICATION

BEFORE ME, the undersigned authority, on this day personally appeared ROBERT CARTER HIGLEY, Co-Applicant in the foregoing Application for Appointment of Permanent Guardian of the Person and Estate, known to be the person whose name is subscribed to the above and foregoing Application and on his oath stated that such Application contains a correct and complete statement of the matters to which it relates and all the contents thereof are true, complete, and correct to the best of Co-Applicant's knowledge.

  
ROBERT CARTER HIGLEY, Co-Applicant

SWORN TO AND SUBSCRIBED BEFORE ME on this 15 day of October, 2019, to certify which witness my hand and seal of office.

  
Notary Public in and for the state of Wyoming



# **EXHIBIT "A"**

# EXHIBIT "A"

## STATUTORY DURABLE POWER OF ATTORNEY

**NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, TEXAS ESTATES CODE, TITLE 2, SUBTITLE P. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO. IF YOU WANT YOUR AGENT TO HAVE THE AUTHORITY TO SIGN HOME EQUITY LOAN DOCUMENTS ON YOUR BEHALF, THIS POWER OF ATTORNEY MUST BE SIGNED BY YOU AT THE OFFICE OF THE LENDER, AN ATTORNEY AT LAW, OR A TITLE COMPANY.**

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until: (1) you die or revoke the power of attorney; (2) your agent resigns, is removed by court order, or is unable to act for you; or (3) a guardian is appointed for your estate.

I, LAURA CARTER HIGLEY, of 6339 Belmont St., Houston, Texas 77005, appoint Robert A. Higley, of 6339 Belmont St., Houston, Texas 77005-3401, as my agent to act for me in any lawful way with respect to all of the following powers except for a power that I have crossed out below.

**TO WITHHOLD A POWER, YOU MUST CROSS OUT EACH POWER WITHHELD.**

- Real property transactions
- Tangible personal property transactions
- Stock and bond transactions
- Commodity and option transactions
- Banking and other financial institution transactions
- Business operating transactions
- Insurance and annuity transactions
- Estate, trust, and other beneficiary transactions
- Claims and litigation
- Personal and family maintenance
- Benefits from social security, Medicare, Medicaid, or other governmental programs or civil or military service
- Retirement plan transactions
- Tax matters
- Digital assets and the content of an electronic communication

**IF NO POWER LISTED ABOVE IS CROSSED OUT, THIS DOCUMENT SHALL BE CONSTRUED AND INTERPRETED AS A GENERAL POWER OF ATTORNEY AND MY AGENT SHALL HAVE THE POWER AND AUTHORITY TO PERFORM OR UNDERTAKE ANY ACTION I COULD PERFORM OR UNDERTAKE IF I WERE PERSONALLY PRESENT.**

### SPECIAL INSTRUCTIONS:

**ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.**

Special instructions applicable to agent compensation (initial in front of one of the following sentences to have it apply; if no selection is made, each agent will be entitled to compensation that is reasonable under the circumstances):

- ☒ My agent is entitled to reimbursement of reasonable expenses incurred on my behalf and to compensation that is reasonable under the circumstances.
- ☐ My agent is entitled to reimbursement of reasonable expenses incurred on my behalf but shall receive no compensation for serving as my agent.

Special instructions applicable to co-agents if you have appointed co-agents to act, initial in front of one of the following sentences to have it apply; if no selection is made, each agent will be entitled to act independently:

- ☒ Each of my co-agents may act independently for me.
- ☐ My co-agents may act for me only if the co-agents act jointly.
- ☐ My co-agents may act for me only if a majority of the co-agents act jointly.

Special instructions applicable to gifts (initial in front of the following sentence to have it apply):

RC I grant my agent the power to apply my property to make gifts outright to or for the benefit of a person, including by the exercise of a presently exercisable general power of appointment held by me, except that the amount of a gift to an individual may not exceed the amount of annual exclusions allowed from the federal gift tax for the calendar year of the gift.

No power granted by this Power of Attorney shall be exercisable in a manner that would grant to my agent a general power of appointment, as described in Section 2041 of the Internal Revenue Code, or any incidents of ownership over insurance on the life of my agent, as described in Section 2042 of the Internal Revenue Code (or under any Treasury Regulations issued under those sections).

**UNLESS YOU DIRECT OTHERWISE BELOW, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT TERMINATES. CHOOSE ONE OF THE FOLLOWING ALTERNATIVES BY CROSSING OUT THE ALTERNATIVE NOT CHOSEN.**

(A) This Power of Attorney is effective immediately and is not affected by my subsequent disability or incapacity.

(B) ~~This Power of Attorney is not effective immediately; it becomes effective upon my disability or incapacity.~~ RC

**YOU SHOULD CHOOSE ALTERNATIVE (A) IF THIS POWER OF ATTORNEY IS TO BECOME EFFECTIVE ON THE DATE IT IS EXECUTED. IF NEITHER (A) NOR (B) IS CROSSED OUT, IT WILL BE ASSUMED THAT YOU CHOSE ALTERNATIVE (A).**

If Alternative (B) is chosen and a definition of my disability or incapacity is not contained in this power of attorney, I shall be considered disabled or incapacitated for purposes of this power of attorney if a physician certifies in writing at a date later than the date this power of attorney is executed that, based on the physician's medical examination of me, I am physically or mentally incapable of managing my financial affairs. I authorize the physician who examines me for this purpose to disclose my physical or mental condition to another person for purposes of this power of attorney. A third party who accepts this power of attorney is fully protected from any action taken under this power of attorney that is based on the determination made by a physician of my disability or incapacity.

I agree that any third party who receives a copy of this document may act under it. Termination of this Durable Power of Attorney is not effective as to a third party until the third party has actual knowledge of the termination, or until it is revoked by me by revocation entered of record in the office of the County Clerk of Harris County, Texas. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this Power of Attorney. The meaning and effect of this durable power of attorney is determined by Texas law.

**PRIOR DESIGNATIONS REVOKED.** I revoke any prior durable power of attorney.

If my named agent fails or ceases to serve, I name the following as co-agents (collectively, my "agent"): Robert Carter Higley, of 155 Moose Street, Jackson, Wyoming 83001, and Garrett Clarkson Higley, of 3201 Bryker Drive, Austin, Texas 78703. If either of them fails or ceases to serve, the other shall serve as sole agent. For purposes of the preceding, an agent fails or ceases to serve if the agent dies, becomes incapacitated, resigns, refuses to act, or is removed by court order, or if my marriage to the agent is dissolved by a court decree of divorce or annulment or is declared void by a court (unless I provided in this document that the dissolution or declaration does not terminate the agent's authority to act under this power of attorney).

Signed this 29th day of March, 2019, in the law office of Davis & Willms, PLLC.

Laura Carter Higley  
LAURA CARTER HIGLEY

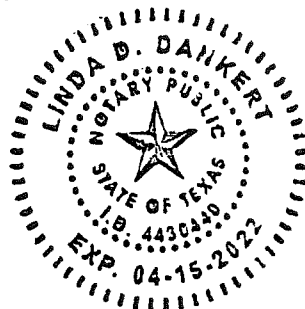
STATE OF TEXAS

§

COUNTY OF HARRIS

§

This instrument was acknowledged before me by LAURA CARTER HIGLEY, on this 29th day of March, 2019.



Linda D. Dankert  
Notary Public, State of Texas

## IMPORTANT INFORMATION FOR AGENT

### Agent's Duties

When you accept the authority granted under this power of attorney, you establish a "fiduciary" relationship with the principal. This is a special legal relationship that imposes on you legal duties that continue until you resign or the power of attorney is terminated, suspended or revoked by the principal or by operation of law. A fiduciary duty generally includes the duty to:

- (1) act in good faith;
- (2) do nothing beyond the authority granted in this power of attorney;
- (3) act loyally for the principal's benefit;
- (4) avoid conflicts that would impair your ability to act in the principal's best interest; and
- (5) disclose your identity as an agent when you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

**"Laura Carter Higley by (Your Signature), Agent"**

In addition, the Durable Power of Attorney Act (Texas Estates Code, Title 2, Subtitle P) requires you to:

- (1) maintain records of each action taken or decision made on behalf of the principal;
- (2) maintain all records until delivered to the principal, released by the principal, or discharged by a court; and
- (3) if requested by the principal, provide an accounting to the principal that, unless otherwise directed by the principal or otherwise provided in the Special Instructions, must include:
  - (A) the property belonging to the principal that has come to your knowledge or into your possession;
  - (B) each action taken or decision made by you as agent;
  - (C) a complete account of receipts, disbursements, and other actions of you as agent that includes the source and nature of each receipt, disbursement, or action, with receipts of principal and income shown separately;
  - (D) a listing of all property over which you have exercised control that includes an adequate description of each asset and the asset's current value, if known to you;
  - (E) the cash balance on hand and the name and location of the depository at which the cash balance is kept;
  - (F) each known liability;
  - (G) any other information and facts known to you as necessary for a full and definite understanding of the exact condition of the property belonging to the principal; and
  - (H) all documentation regarding the principal's property.

### Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates or suspends this power of attorney or your authority under this power of attorney. An event that terminates this power of attorney or your authority to act under this power of attorney includes:

- (1) the principal's death;
- (2) the principal's revocation of this power of attorney or your authority;
- (3) the occurrence of a termination event stated in this power of attorney;
- (4) if you are married to the principal, the dissolution of your marriage by a court decree of divorce or annulment or declaration that your marriage is void, unless otherwise provided in this power of attorney;
- (5) the appointment and qualification of a permanent guardian of the principal's estate unless a court order provides otherwise; or
- (6) if ordered by a court, your removal as agent under this power of attorney. An event that suspends this power of attorney or your authority to act under this power of attorney is the appointment and qualification of a temporary guardian unless a court order provides otherwise.

### Liability of Agent

The authority granted to you under this power of attorney is specified in the Durable Power of Attorney Act (Subtitle P, Title 2, Estates Code). If you violate the Durable Power of Attorney Act or act beyond the authority granted, you may be liable for any damages caused by the violation or subject to prosecution for misapplication of property by a fiduciary under Chapter 32 of the Texas Penal Code.

**THE AGENT, BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.**



**EXHIBIT "B"**

# EXHIBIT "B"

## MEDICAL POWER OF ATTORNEY

### Designation of Health Care Agent

I, LAURA CARTER HIGLEY, appoint:

Name: Robert A. Higley  
Address: 6339 Belmont St.  
Houston, Texas 77005  
Phone: (713) 468-6552

as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this document. This medical power of attorney takes effect if I become unable to make my own health care decisions and this fact is certified in writing by my physician.

### Limitations on the Decision Making Authority of My Agent Are as Follows

If I have executed a Directive to Physicians and Family or Surrogates and that Directive has not been revoked, then that Directive shall stand as the final expression of my right to refuse medical or surgical treatment and my Agent shall have no authority to countermand that Directive, whether executed before, after or at the same time as this Medical Power of Attorney.

If I do not have in place a Directive to Physicians and Family or Surrogates, my Agent shall have authority to refuse or consent to life sustaining treatments, considering the following guidelines. In those circumstances where certain treatments are to be withheld: (i) procedures to be discontinued or withheld include cardiac resuscitation, mechanical respiration, tube feeding, and antibiotics; however, (ii) I do want the administration of saline solutions, so that I will not die from dehydration, and I do want medication to alleviate pain (including any pain resulting from withholding or withdrawing treatment) even though it may shorten my life. I do not want to be maintained in or approaching what is known as a vegetative state. I prefer to live out my last days at home rather than in a hospital, if it does not jeopardize the chance of my recovery to a meaningful and sentient life and does not impose an undue burden on my family.

Whether I have either a terminal condition or merely an irreversible condition: (a) for so long as there is a reasonable possibility of my recovery to a meaningful and sentient life, even if only for a matter of weeks or even days, I request that I be kept alive using available life-sustaining treatment; on the other hand, (b) whenever there is not a reasonable possibility of my recovery to a meaningful and sentient life, I request that all treatments other than those needed to keep me comfortable be discontinued or withheld and my physician allow me to die as gently as possible.

### Designation of Alternate Agents

You are not required to designate an alternate agent but you may do so. An alternate agent may make the same health care decisions as the designated agent if the designated agent is unable or unwilling to act as your agent. If the agent designated is your spouse, the designation is automatically revoked by law if your marriage is dissolved, annulled, or declared void unless this document provides otherwise.

If the person designated as my agent is unable or unwilling to make health care decisions for me, I designate the following persons to serve as my agent to make health care decisions for me as authorized by this document, who serve in the following order:

#### First Alternate Agent

Name: Garrett Clarkson Higley  
Address: 3201 Bryker Drive  
Austin, Texas 78703  
Phone: (512) 739-1769

#### Second Alternate Agent

Name: Robert Carter Higley  
Address: 155 Moose Street  
Jackson, Wyoming 83001  
Phone: (713) 724-5072

## Location of Copies

The following person has a photocopy of the original:

Name: Mickey R. Davis  
Address: 3555 Timmons Lane, Suite 1250  
Houston, Texas 77027

## Duration

(I understand that this power of attorney exists indefinitely from the date I execute this document unless I establish a shorter time or revoke the power of attorney. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent continues to exist until the time I become able to make health care decisions for myself.)

This power of attorney has no specific expiration date; it shall continue to be valid until I revoke it.

## Prior Designations Revoked

I revoke any prior medical power of attorney.

## Disclosure Statement

**This Is an Important Legal Document. Before Signing this Document, You Should Know These Important Facts:**

Except to the extent you state otherwise, this document gives the person you name as your agent the authority to make any and all health care decisions for you in accordance with your wishes, including your religious and moral beliefs, when you are unable to make the decisions for yourself. Because "health care" means any treatment, service, or procedure to maintain, diagnose, or treat your physical or mental condition, your agent has the power to make a broad range of health care decisions for you. Your agent may consent, refuse to consent, or withdraw consent to medical treatment and may make decisions about withdrawing or withholding life-sustaining treatment. Your agent may not consent to voluntary inpatient mental health services, convulsive treatment, psychosurgery, or abortion. A physician must comply with your agent's instructions or allow you to be transferred to another physician.

Your agent's authority is effective when your doctor certifies that you lack the competence to make health care decisions.

Your agent is obligated to follow your instructions when making decisions on your behalf. Unless you state otherwise, your agent has the same authority to make decisions about your health care as you would have if you were able to make health care decisions for yourself.

It is important that you discuss this document with your physician or other health care provider before you sign the document to ensure that you understand the nature and range of decisions that may be made on your behalf. If you do not have a physician, you should talk with someone else who is knowledgeable about these issues and can answer your questions. You do not need a lawyer's assistance to complete this document, but if there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.

The person you appoint as agent should be someone you know and trust. The person must be 18 years of age or older or a person under 18 years of age who has had the disabilities of minority removed. If you appoint your health or residential care provider (e.g., your physician or an employee of a home health agency, hospital, nursing facility, or residential care facility, other than a relative), that person has to choose between acting as your agent or as your health or residential care provider; the law does not allow a person to serve as both at the same time.

You should inform the person you appoint that you want the person to be your health care agent. You should discuss this document with your agent and your physician and give each a signed copy. You should indicate on the document itself the people and institutions that you intend to have signed copies. Your agent is not liable for health care decisions made in good faith on your behalf.

Once you have signed this document, you have the right to make health care decisions for yourself as long as you are able to make those decisions and treatment cannot be given to you or stopped over your objection. You have the right to revoke the authority granted to your agent by informing your agent or your health or residential care provider orally or in writing, or by your execution of a subsequent medical power of attorney. Unless you state otherwise in this document, your appointment of a spouse is revoked if your marriage is dissolved, annulled, or declared void.

This document may not be changed or modified. If you want to make changes in this document, you must execute a new medical power of attorney.

You may wish to designate an alternate agent in the event that your agent is unwilling, unable, or ineligible to act as your agent. If you designate an alternate agent the alternate agent has the same authority as the agent to make health care decisions for you.

**This Power of Attorney Is Not Valid Unless (1) You Sign it and Have Your Signature Acknowledged Before a Notary Public; or (2) You Sign it in the Presence of Two Competent Adult Witnesses. The Following Persons May Not Act as One of the Witnesses:**

- (1) the person you have designated as your agent;
- (2) a person related to you by blood or marriage;
- (3) a person entitled to any part of your estate after your death under a will or codicil executed by you or by operation of law;
- (4) your attending physician;
- (5) an employee of your attending physician;
- (6) an employee of a health care facility in which you are a patient if the employee is providing direct patient care to you or is an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility; or
- (7) a person who, at the time this medical power of attorney is executed, has a claim against any part of your estate after your death.

By signing below I acknowledge that I have read and understand the information contained in the above disclosure statement.

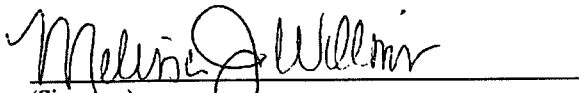
**YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY. YOU MAY SIGN IT AND HAVE YOUR SIGNATURE ACKNOWLEDGED BEFORE A NOTARY PUBLIC OR YOU MAY SIGN IT IN THE PRESENCE OF TWO COMPETENT ADULT WITNESSES.**

I sign my name to this medical power of attorney on this 29<sup>th</sup> day of March, 2019, at Harris County, Texas.

  
LAURA CARTER HIGLEY

**Statement of First Witness**


I am not the person appointed as agent by this document. I am not related to the principal by blood or marriage. I would not be entitled to any portion of the principal's estate on the principal's death. I am not the attending physician of the principal or an employee of the attending physician. I have no claim against any portion of the principal's estate on the principal's death. Furthermore, if I am an employee of a health care facility in which the principal is a patient, I am not involved in providing direct patient care to the principal and am not an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility.

  
(Signature)  
MELISSA J. WILLIAMS  
(Printed Name)

3555 Timmons Lane, Suite 1250  
Houston, Texas 77027

03/29/2019  
(Date)

**Signature of Second Witness**

  
(Signature)  
Mickey R Davis  
(Printed Name)

3555 Timmons Lane, Suite 1250  
Houston, Texas 77027

March 29, 2019  
(Date)