

PETITION FOR LETTERS OF ADMINISTRATION

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used for a petition for letters of administration pursuant to O.C.G.A. § 53-6-20 et seq.
2. Use of this form is permissible, but not mandatory, in connection with a petition for appointment of a successor administrator, pursuant to O.C.G.A. § 53-6-21 (b). Appropriate strikethroughs must be made, and additional information must be given concerning the identity of the previous administrator, the reason for the vacancy in the office, and the date the office became vacant.
3. With respect to the conditions under which the judge may, pursuant to O.C.G.A. § 53-7-1 (b), waive bond, waive reports, waive statements, and/or grant certain powers contained in O.C.G.A. § 53-12-261, note:
 - (a) all of the heirs must consent, and
 - (b) notice must be published.
4. Signatures of heirs who acknowledge service must be sworn to before a notary public or the clerk of any probate court of this State. An attorney at law may acknowledge service on behalf of an heir; however, the attorney must certify that he or she currently represents that heir with regard to the pending matter and, in order to comply with O.C.G.A. § 53-11-6, the attorney's signature must be sworn to as provided above. With regard to a power of attorney, the attorney-in-fact may acknowledge service on behalf of the grantor of the power, provided that the power of attorney grants such authority, the signature of the attorney-in-fact is attested, a copy of the power of attorney is attached, and the attorney-in-fact certifies that the copy is a true copy and is still in effect.
5. O.C.G.A. § 53-11-2 provides that a party to a probate proceeding who is not sui juris must be represented by a guardian, provided that the Court may appoint a guardian ad litem or determine that the natural guardian, guardian, conservator, or testamentary guardian has no conflict and may serve. If a guardian ad litem is necessary because a party is not sui juris, use GPCSF Supplement 1.
6. Paragraph 4 requires sufficient factual information for the Court to conclude that those listed in paragraph 3 of this petition include each and every heir of the decedent and that there are not additional heirs of the same or closer degree according to O.C.G.A. § 53-2-1. These facts must allow the Court to rule out the possibility that there may be other heirs of the same or closer degree who have not been listed. Provide the date of death of any deceased heirs and the name of the deceased heir's personal representative if applicable. The personal representative of a post deceased heir(s) is authorized to consent on behalf of that heir. O.C.G.A. § 53-7-1. When a party to a proceeding in probate court is a post deceased heir whose estate has no personal representative, such deceased heir's estate may be represented in the proceeding by a guardian ad litem. A person's heirs are

determined at the time of that person's death. A close relative must be alive at the time the decedent dies to be an heir. If an heir who outlived the decedent subsequently dies, that post deceased heir must be represented by the personal representative of his or her estate or by a guardian ad litem. *[If you are uncertain how to determine the heirs of a decedent, refer to the "Heirs Determination Worksheet" available from the probate court or at www.gaprobate.gov.]* Examples of such statement would be: (a) "Decedent was or was not married at the time of his death and had no children born, adopted, living, or deceased, other than listed herein"; (b) "Decedent had no other siblings half or whole other than those listed herein"; and (c) "Decedent's brother who died previously had no other children born, adopted, living, or deceased, other than listed herein."

7. According to Uniform Probate Court Rule 5.6 (A), unless the Court specifically assumes the responsibility, it is the responsibility of the moving party to prepare the proper citation and deliver it properly so it may be served according to law. All pages after the notice regarding Uniform Probate Court Rule 5.6 (A) are to be completed by the moving party, unless otherwise directed by the Court.
8. Use GPCSF Supplement 3 when an additional certificate of service is necessary.
9. Exhibits should be labeled at the bottom of each exhibit as "Exhibit A," "Exhibit B," etc. in consecutive order. The corresponding letter of each said exhibit should be inserted into the appropriate place in the form.
10. An oath must be administered by a probate judge or clerk (the oath cannot be administered by a notary public). Use GPCSF Supplement 4 for the oath. The oath is not included in this form. GPCSF 53, Commission to Administer Oath, can be used if the oath is to be administered by a court outside the State of Georgia.

II. General Instructions

General instructions applicable to all Georgia Probate Court Standard Forms are available in each probate court or at www.gaprobate.gov, labeled GPCSF 1.

4.

Required: *[Provide sufficient factual information to enable the Court to conclude that all of the heirs of the decedent are included and that there are no heirs of the same or closer degree according to O.C.G.A. § 53-2-1. Provide the names of any deceased heirs, the name and address of his or her personal representative, if any, and include the date of death for each (see instructions for further clarification). Also, state here all pertinent facts that may govern the method of giving notice to any person and that may determine whether or not a guardian ad litem should be appointed for any person. If any heirs listed above are cousins, grandchildren, nephews or nieces of the decedent, indicate the deceased ancestor through whom they are related to the decedent.]*

5.

Under the law, it is necessary that said estate be administered and
_____ should be appointed
administrator(s) by reason of:

[Initial one]

- _____ (a) being unanimously selected by all the heirs *[This alternative does not apply if the surviving spouse is the sole heir and an action for divorce or separate maintenance was pending at the time of decedent's death.];*
- _____ (b) being the surviving spouse where no action for divorce or separate maintenance was pending at the time of decedent's death;
- _____ (c) being (an) heir(s) and not the surviving spouse;
- _____ (d) having been selected by a majority in interest of the heirs;
- _____ (e) being (an) eligible person(s) as defined by O.C.G.A. § 53-6-1;
- _____ (f) being (a) creditor(s) of the decedent (evidence of the indebtedness is attached);
- _____ (g) being the county administrator.

6.

To the knowledge of the petitioner(s), no other proceedings with respect to this estate are pending, or have been completed, in any other probate court in this or any other state.

7.

The decedent passed leaving an estate of real property located in _____ County(ies), Georgia [List real property that is located in another state and/or country] having a total fair market value of approximately \$ _____.

The decedent passed leaving personal property as follows [Provide approximate value]:

- | | | |
|-------|--|----------|
| | (a) Cash/bank accounts/certificates of deposit: | \$ _____ |
| | (b) Stocks/bonds/brokerage accounts: | \$ _____ |
| | (c) Other assets of significant value [List assets]: | \$ _____ |
| _____ | | |
| _____ | | |

APPROXIMATE TOTAL VALUE OF PERSONAL PROPERTY \$ _____ 0.00

8.

[Petitioner(s) MUST initial one]

- _____ (a) All heirs have consented to the waiver of bond, waiver of reports, waiver of statements, and/or grant of certain powers contained in O.C.G.A. § 53-12-261 to the administrator(s). Therefore, the petitioner(s) hereby move(s) the Court to publish notice of the filing of the petition and tender(s) with this petition publication fees. **[This only applies if all heirs have properly selected, acknowledged, and consented to this option.]**
- _____ (b) The identities and/or addresses of all heirs are not known. Therefore, the petitioner(s) hereby move(s) the Court to publish notice of the filing of the petition, and tender(s) with this petition publication fees.
- _____ (c) Notice of this petition need not be published because the petitioner(s) has/have listed all heirs at law and their addresses, and petitioner(s) is/are not requesting a waiver of bond, waiver of reports, waiver of statements, or the grant of powers contained in O.C.G.A. § 53-12-261.

9.

Additional data: [Where full particulars are lacking, state here the reasons for any such omission.]

WHEREFORE, petitioner(s) pray(s):

1. Service be perfected; and
2. that if no good cause is shown to the contrary, _____
be appointed administrator(s) of the estate of said decedent.

Signature of Petitioner

Printed Name

Mailing Address

Telephone Number

Signature of Attorney: _____

Printed Name of Attorney: _____

Address: _____

Telephone Number: _____ State Bar # _____

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned petitioner(s) who, after being duly sworn, state(s) that the facts set forth in the foregoing petition for letters of administration (and the attached exhibit(s)) are true and correct.

Sworn to and subscribed before me this
_____ day of _____, 20_____

Signature of Petitioner

NOTARY/CLERK OF PROBATE COURT

Printed Name of Petitioner

My Commission Expires: _____

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

IN RE: ESTATE OF _____)
 _____)
 DECEASED _____,) ESTATE NO. _____
 _____)

SELECTION BY HEIRS
(AND CONSENT OF HEIRS TO WAIVER OF BOND AND/OR GRANT OF CERTAIN POWERS)
[Make a separate page of this form for each heir consenting]

The undersigned, being 18 years of age or older, laboring under no legal disability and being an heir of the above-named decedent, hereby acknowledges service of a copy of the petition for letters of administration and notice, waives copies of same, waives further service and notice, and hereby selects _____ to act as administrator(s) of the above-styled estate. If so indicated below, I hereby consent for the administrator(s) to be granted the additional powers contained in (a), (b), (c), and/or (d) of this page.

- _____ (a) *[optional; initial if applicable **TO GRANT POWERS**]* The personal representative is required by law to file a petition for leave to sell and obtain other approval by the Court for various acts. By initialing here I agree that the personal representative should be awarded all of the powers contained in O.C.G.A. § 53-12-261 except the personal representative shall not be authorized to bind the estate by any warranty in any conveyance or contract in violation of O.C.G.A. § 53-8-14 (a); **AND/OR**
- _____ (b) *[optional; initial if applicable **TO WAIVE REPORTS**]* The personal representative is required by law to file reports (e.g., inventory and returns) and provide a copy to each interested party. By initialing here I agree that the personal representative should not be required to file any reports with the Court; **AND/OR**
- _____ (c) *[optional; initial if applicable **TO WAIVE BOND**]* The personal representative is required by law to post a bond as the Court deems necessary. By initialing here I agree that the personal representative should not be required to post a bond; **AND/OR**
- _____ (d) *[optional; initial if applicable **TO WAIVE STATEMENTS**]* The personal representative is required by law to furnish to the heirs, at least annually, a statement of receipts and disbursements. By initialing here I agree that the personal representative should not be required to furnish these statements.

Sworn to and subscribed before me this _____ day of _____, 20____.

Signature of Heir

NOTARY/CLERK OF PROBATE COURT

Printed Name of Heir

My Commission Expires: _____