

PETITION FOR ORDER DECLARING NO ADMINISTRATION NECESSARY

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used when filing a Petition for an Order Declaring No Administration Necessary, pursuant to O.C.G.A. § 53-2-40 et seq., and should only be used when the Decedent died intestate (without a Will).
2. Unanimous consent of the heirs at law to the agreed upon division is required according to O.C.G.A. § 53-2-40 (b).
3. Signatures of heirs who acknowledge service must be sworn to before a notary public or the Clerk of any Probate Court of this State. It is not necessary that all acknowledgments appear on the same page. 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. It is not necessary that all acknowledgments appear on the same page.
4. 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. Should a guardian ad litem be necessary because a party is not sui juris, use Supplement 1.
5. O.C.G.A. § 53-2-40 (c) provides that the personal representative of a deceased heir is authorized to agree to the division of property.
6. A signed original agreement setting out the heirs' agreed upon distribution of the estate must be attached to the Petition. The legal description included in the agreement must sufficiently identify the property in order to pass good title.
7. Paragraph 4 requires sufficient factual information for the Court to conclude that those listed in Paragraph 3 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 deceased heir is authorized to consent on behalf of that heir. O.C.G.A. § 53-6-30. [NOTE: 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”; (c) “the Decedent’s brother who died previously had no other children born, adopted, living or deceased, other than listed herein.”

8. Use Supplement 2 if the Court determines it is appropriate to appoint a special process server.
9. Use Supplement 3 when an additional certificate of service is necessary.
10. 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.
11. 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 can 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.

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.

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

PETITION FOR ORDER DECLARING NO ADMINISTRATION NECESSARY

The Petition of _____
[Full name(s) of Petitioner(s)] First Middle Last
whose physical address(es) is/are _____,
Street City County State Zip Code,
and mailing address(es) is/are _____,
Street City County State Zip Code
shows to the Court the following:

1.

_____ ,
[Full name of Decedent] First Middle Last
whose place of domicile was _____,
Street City County State Zip Code
died intestate (without a will) on _____, 20 _____, owning property in this state.

2.

The above named Decedent died without a valid Last Will and Testament.

3.

Listed below are all of the Decedent's heirs at law, with age or majority status, address and relationship to the Decedent set opposite the name of each:

<i>Name</i>	<i>Age (or over 18)</i>	<i>Address</i>	<i>Relationship</i>

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 party and that may determine whether or not a guardian ad litem should be appointed for any party. 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.

The Decedent owned the following described personal property in this state *[include identifying account numbers, serial numbers, etc., where applicable]*:

6.

The Decedent owned the following described real property in this state *[insert complete legal description and street address, if any]*:

7.

As to the estate of said Decedent:

[Initial all that apply]

- _____ (a) The estate of Decedent owes no debts.
- _____ (b) The estate of Decedent owes no debts, other than an outstanding security deed held by (complete name(s) and address(es) including zip codes must be provided for each creditor so listed) _____, who must be properly served in this matter unless such holder has consented in writing below to the petition.
- _____ (c) The estate of Decedent owes no debts, other than to such creditor(s) as have consented in writing to the petition, as shown on the consent below.
- _____ (d) The estate of Decedent owes no debts, other than (complete name(s) and address(es) including zip codes must be provided for each creditor so listed) those listed immediately below who have not consented in writing and must be served as provided by law:

8.

All the heirs have amicably agreed upon a division of the estate among themselves as shown by the written agreement attached hereto containing original signatures of all heirs, attested to by a notary public or Probate Court Clerk.

9.

To the knowledge of the Petitioner, no other proceedings with respect to this estate are pending, or have been completed, in any other Probate Court in this state.

WHEREFORE, Petitioner prays that this Court issue and serve any notice required by law in such matters, and that after ascertaining the legal sufficiency for granting this Petition, this Court grant an Order that no administration is necessary in this estate, all as provided by law.

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 Order Declaring No Administration Necessary (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
My Commission Expires _____

Printed Name of Petitioner