

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 those who acknowledge service and consent to the agreement must be attested by a notary public or the clerk of any probate court of this state. An attorney at law may acknowledge service on behalf of his/her client; however, the attorney must certify that he or she currently represents that individual 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 attested as provided above. It is not necessary that all acknowledgements appear on the same page.
4. O.C.G.A. §53-2-40(b) does not require that all heirs must be sui juris. 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 of the person or property, or testamentary guardian has no conflict and may serve.
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 similar or closer degree that have not been listed. Provide the date of death of any deceased heirs and the name of the 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.org. 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."

II. General Instructions

General instructions applicable to all Georgia probate court standard forms are available in each probate court, labeled GPCSF 1.

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

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

PETITION FOR ORDER DECLARING NO ADMINISTRATION NECESSARY

The petition of _____,
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, with the age or majority status, address, and relationship to the decedent set opposite the name of each:

Name	Age (or over 18)	Address	Relationship

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 similar or higher degree according to O.C.G.A. §53-2-1. Provide the names of any deceased heirs and include the date of death for each. (See instructions for further clarification.) Also, state here all pertinent facts which may govern the method of giving notice to any party and which 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 any and all which 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) are 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 Attorney
(or petitioner if pro se)

Printed Name

Address

Telephone Number

State Bar #

Signature of Attorney
(or petitioner if pro se)

Printed Name

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 (and the attached exhibits) are true.

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

Signature of First Petitioner

NOTARY/CLERK OF PROBATE COURT

Printed Name of First Petitioner

My Commission Expires _____

Mailing Address

Telephone Number

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

Signature of Second Petitioner

NOTARY/CLERK OF PROBATE COURT

Printed Name of Second Petitioner

My Commission Expires _____

Mailing Address

Telephone Number

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

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

ORDER FOR NOTICE

(NOT NEEDED IF ALL CREDITORS HAVE CONSENTED)

Upon reading and considering the foregoing petition, IT IS ORDERED that notice issue thereon as required by law, requiring all creditors who have not consented to the petition to show cause in writing filed in this Court on or before a day certain, if published, or within ten (10) days of personal service, whichever is later, why the prayers of the petitioner should not be granted as prayed, and an Order granted that no administration is necessary in this estate. Further Ordered that any security deed holder or other creditor who has not consented in writing to the petition and whose current address is known be served with a copy of the Petition, this Order, and the following Notice, personally if a resident of this state, or by registered or certified mail, return receipt requested, if a nonresident with a known current address. Any creditor whose current address is not known must be served by publishing the notice once a week for four (4) weeks.

This _____ day of _____, 20____.

Judge of the Probate Court

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

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

NOTICE

TO WHOM IT MAY CONCERN:

_____ has petitioned for an order finding that no administration is necessary on the estate of the above named decedent. All creditors who have not consented to the petition are, therefore, required to show cause on or before _____, 20____ or within ten (10) days after personal service, whichever is later, why such order should not be granted.

All objections to the petition must be in writing, setting forth the grounds of any such objections. If any objections are filed, a hearing will be (held on _____, 20__.) (scheduled for a later date). If no objections are filed, the petition may be granted without a hearing.

This _____ day of _____, 20____.

Judge of the Probate Court

By: _____
Clerk/Deputy Clerk of the Probate Court

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

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

CERTIFICATE OF SERVICE

I certify that I have on this date mailed, unless otherwise noted, in an envelope with the proper postage affixed thereto for first-class mail delivery copies of the _____
_____ to the following parties at the addresses below:

This _____ day of _____, 20____.

Clerk/Deputy Clerk of the Probate Court

Address

Telephone Number

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

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

AGREEMENT AND
ACKNOWLEDGMENT OF SERVICE AND CONSENT

We, being all of the heirs of the above named decedent, hereby agree to the division of the decedent's estate among ourselves in the amounts and portions which would otherwise be determined in accordance with the rules of inheritance when a decedent dies without a will, or if different, as follows:

We hereby agree that the following interests vest as set forth below:

Full Name of individual to receive interest

Complete address including zip code of individual to receive interest

Date of Birth or Majority Status Interest or percentage received pursuant to this Order

.....

Full Name of individual to receive interest

Complete address including zip code of individual to receive interest

Date of Birth or Majority Status Interest or percentage received pursuant to this Order

Full Name of individual to receive interest

Complete address including zip code of individual to receive interest

Date of Birth or Majority Status

Interest or percentage received pursuant to this Order

.....

Full Name of individual to receive interest

Complete address including zip code of individual to receive interest

Date of Birth or Majority Status

Interest or percentage received pursuant to this Order

.....

Legal Description and location of Real Property:

Each of the undersigned heirs or creditors (including any security deed holder) hereby acknowledge due and legal service of the foregoing Petition, waives copies of same and all further service and notice in this matter, and consents to this agreement the terms of which shall be included in the Final Order Declaring that No Administration is Necessary. For each individual named put the appropriate letter to show the relationship to the Decedent - Heir (H), or Creditor (C).

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

Interested Party

NOTARY/ CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

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

Interested Party

NOTARY/ CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

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

Interested Party

NOTARY/ CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

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

Interested Party

NOTARY/ CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

(Above space to be used for filing in Superior Court Clerk's Office Deeds and Records)

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

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

RE: PETITION FOR ORDER DECLARING NO ADMINISTRATION NECESSARY

FINAL ORDER

A petition stating that no administration is necessary on the above estate has been duly filed. It appearing that the decedent died intestate domiciled in this county or died intestate owning real property in this county if the decedent was not domiciled in this state; that all of the heirs of said decedent have agreed upon a division of the estate as evidenced by the Agreement attached to the petition and incorporated herein by reference; that the estate of said decedent owes no debts, except to creditors, if any, including any security deed holders, who have consented or been served in this matter; (that notice was issued and published once a week for four (4) weeks in the newspaper in this county in which sheriff's advertisements appear); and that no written objections to the granting of an Order Declaring No Administration Necessary in said estate have been filed within the time required by law; now, therefore,

IT IS ORDERED AND DECREED that No Administration is Necessary on the above estate and by agreement of the parties the following interest hereby vests as follows:

GRANTOR: (NAME OF DECEDENT) _____

ADDRESS OF THE DECEDENT _____

GRANTEES: (For each person to receive an interest in any property according to the agreement and hereby Ordered by this Court)

Full Name of individual to receive interest

Complete address including zip code of individual to receive interest

Date of Birth or Majority Status

Interest or percentage received pursuant to this Order

Full Name of individual to receive interest

Complete address including zip code of individual to receive interest

Date of Birth or Majority Status

Interest or percentage received pursuant to this Order

Full Name of individual to receive interest

Complete address including zip code of individual to receive interest

Date of Birth or Majority Status

Interest or percentage received pursuant to this Order

Full Name of individual to receive interest

Complete address including zip code of individual to receive interest

Date of Birth or Majority Status

Interest or percentage received pursuant to this Order

Legal Description and location of any Real Property:

IT IS FURTHER ORDERED that the Clerk shall send a certified copy of this Order to the Clerk(s) of the Superior Court(s) for recording on the deed records of the following County(ies) in which real property is located _____, County(ies).

SO ORDERED this _____ day of _____, 20____.

Judge of the Probate Court

Probate Court Return Mailing Address:

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

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

CERTIFICATION OF SERVICE OF ORDER
FOR NO ADMINISTRATION NECESSARY

I certify that I have on this date mailed, unless otherwise noted, in an envelope with the proper postage affixed thereto for first-class mail delivery a certified copy of the Order of No Administration Necessary and the Agreement of the Parties in the No Administration Necessary to each party and county(ies) named below as addressed herein and deposited in the United States Mail, with the return address of this Court thereon.

This _____ day of _____, 20_____.

Clerk/Deputy Clerk of the Probate Court

Address

Telephone Number