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 GPCSF Supplement 1.

5. O.C.G.A. § 53-11-2 (b) provides that when a party to a proceeding in the 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.

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 of this form requires sufficient factual information for the Court to conclude that those listed in paragraph 3 of this form 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 is authorized to consent on behalf of that heir. O.C.G.A. § 53-2-40 (c). 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."

8. Use GPCSF Supplement 2 if the Court determines it is appropriate to appoint a special process server.

9. Use GPCSF 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:

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 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.

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

_____
Printed Name of Petitioner

My Commission Expires: _____

IN THE PROBATE COURT OF _____ COUNTY
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 acknowledges 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_____ _____
Signature of Interested Party

_____ _____
NOTARY/CLERK OF PROBATE COURT Printed Name of Interested Party

My Commission Expires: _____

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

_____ _____
NOTARY/CLERK OF PROBATE COURT Printed Name of Interested Party

My Commission Expires: _____

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

_____ _____
NOTARY/CLERK OF PROBATE COURT Printed Name of Interested Party

My Commission Expires: _____

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

_____ _____
NOTARY/CLERK OF PROBATE COURT Printed Name of Interested Party

My Commission Expires: _____

NOTICE

THE FOLLOWING PAGES ARE TO BE COMPLETED BY THE PETITIONER (MOVING PARTY) UNLESS OTHERWISE DIRECTED BY THE COURT.

SEE UNIFORM PROBATE COURT RULE 5.6 (A).

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

ORDER FOR SERVICE OF NOTICE

[Not Needed If All Creditors Have Consented]

The foregoing petition for order declaring no administration necessary having been filed, service is ordered as follows:

[Initial all that apply]

_____ Notice together with a copy of the petition shall be served personally, or by registered or certified mail or statutory overnight delivery, as requested by the petitioner(s) pursuant to O.C.G.A. § 53-11-3, at least 30 days before the petition can be granted on the following interested parties who reside in Georgia: *[If mailed, must be with return receipt requested, and restricted delivery to addressee only]*

_____ Notice together with a copy of the petition shall be served by registered or certified mail, return receipt requested, pursuant to O.C.G.A. § 53-11-4, upon the following nonresident interested parties whose current residence addresses are known:

_____ Notice shall be published once a week for four weeks in the legal organ of this County, before _____, in order to serve by publication the following interested parties whose current residence addresses are unknown:

OR

Upon reading and considering the foregoing petition for order declaring no administration necessary, IT IS ORDERED that notice issue thereon as required by law, requiring all non sui juris heirs by and through guardian ad litem and/or 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 30 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 or by registered or certified mail or statutory overnight delivery, as requested by the petitioner(s) pursuant to O.C.G.A. § 53-11-3, 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 weeks.

SO ORDERED this _____ day of _____, 20____.

_____
Judge of the Probate Court

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

NOTICE

The petition of _____, for an order declaring no administration is necessary in the above-referenced estate having been duly filed, *[Strike any paragraph if not applicable]*

TO: _____

[List here all interested parties having known addresses in Georgia to be served personally or by registered or certified mail or statutory overnight delivery with restricted delivery to the addressee, if specifically requested by the petitioner(s)]

This is to notify you who are required to be served personally, to file objection, if there is any, to the petition, in this Court on or before the 30th day after the date you are personally served or sign the return receipt.

TO: _____

[List here all interested parties having known addresses outside the continental U.S. to be served by registered or certified mail or statutory overnight delivery with restricted delivery to the addressee, if specifically requested by the petitioner(s)]

This is to notify you to file objection, if there is any, to the petition, in this Court on or before the 30th day after _____, 20_____ (the date of the mailing of this notice to you by certified or registered mail, return receipt requested); provided, however, that if a return receipt for such notice is actually received by the Court within such 30 days, the deadline for the filing of any objection shall be 30 days from the date of receipt shown on such return receipt.

TO: _____

[List here all interested parties having known addresses in the continental U.S. to be served by registered or certified or statutory overnight delivery with restricted delivery to the addressee, if specifically requested by the petitioner(s)]

This is to notify you to file objection, if there is any, to the petition, in this Court on or before the 30th day after _____, 20_____ (the date of the mailing of this notice to you by certified or registered mail, return receipt requested); provided, however, that if a return receipt for such notice is actually received by the Court within such 30 days, the deadline for the filing of any objection shall be 30 days from the date of receipt shown on such return receipt.

BE NOTIFIED FURTHER: All objections to the petition must be in writing, setting forth the grounds of any such objections. All objections should be sworn to before a notary public or before a probate court clerk, and filing fees must be tendered with your objections, unless you qualify to file as an indigent party. Contact probate court personnel for the required amount of filing fees. If any objections are filed, a hearing will be (held on _____, 20_____) (scheduled at 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 of the Probate Court

_____

_____
Address

_____
Telephone Number

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

NOTICE

The petition of _____, for an order declaring no administration is necessary in the above-referenced estate having been duly filed,

TO: _____
[List here all interested parties having unknown addresses to be served by publication]

This is to notify you to file objection, if there is any, to the petition, in this Court on or before _____.

BE NOTIFIED FURTHER: All objections to the petition must be in writing, setting forth the grounds of any such objections. All objections should be sworn to before a notary public or before a probate court clerk, and filing fees must be tendered with your objections, unless you qualify to file as an indigent party. Contact probate court personnel for the required amount of filing fees. If any objections are filed, a hearing will be (held on _____, 20_____)
(scheduled at a later date). If no objections are filed, the petition may be granted without a hearing.

_____
Judge of the Probate Court

By: _____
Clerk of the Probate Court

_____

_____
Address

_____
Telephone Number

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

CERTIFICATE OF SERVICE

I certify that I have this date mailed (unless otherwise noted) in an envelope with the proper postage affixed thereto for First-Class Mail delivery copies of the petition for order declaring no administration necessary, order for service of notice, including any attached exhibits and the notice to the following parties at the addresses below:

This _____ day of _____.

_____
Clerk of the Probate Court

_____

_____
Address

_____
Telephone Number

Probate Court Return Mailing Address:

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

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

PETITION FOR ORDER DECLARING NO ADMINISTRATION NECESSARY

FINAL ORDER

A petition for order declaring no administration necessary on the above estate was filed. It appearing that the decedent died intestate domiciled within, or domiciled outside the State of Georgia but owning real property within, the above county; 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; and that no objection has been filed.

ACCORDINGLY, IT IS ORDERED 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 _____.

_____
Judge of the Probate Court

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

CERTIFICATION OF SERVICE OF ORDER
FOR NO ADMINISTRATION NECESSARY

I certify that I have 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 _____.

_____
Clerk of the Probate Court

_____

_____
Address

_____
Telephone Number