

# PETITION FOR DISCHARGE OF PERSONAL REPRESENTATIVE

## INSTRUCTIONS

### I. Specific Instructions

1. This form is to be used for a petition for discharge of a personal representative pursuant to O.C.G.A. §53-7-50 or discharge of a temporary administrator pursuant to O.C.G.A. § 53-7-52. A personal representative may, pursuant to O.C.G.A. §53-7-50 (e), petition the court solely for discharge from office but not from all liability.
2. If the petition is filed by a personal representative, the notice to debtors and creditors must have been published for four weeks, and three months must have elapsed from the date of the last publication. O.C.G.A. §§53-7-41; 53-11-4.
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, such 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.
4. O.C.G.A. §53-11-2 provides that a party to a probate proceeding who is not sui juris, is unborn, or is unknown 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. Further, the Court may appoint a guardian ad litem for a deceased heir whose estate has no personal representative. If a guardian ad litem is necessary, use GPCSF Supplement 1.
5. Use GPCSF Supplement 2 if the Court determines it is appropriate to appoint a special process server.
6. Use GPCSF Supplement 3 if an additional certificate of service is necessary.

7. If the decedent died intestate, paragraph 3 requires that a definitive statement be made to show to the court that the persons named in paragraph 2 constitute all of the heirs of the decedent and that there are no heirs of the same or closer degree according to O.C.G.A. §53-2-1. Provide the date of death for any deceased heirs. *[If you are uncertain how to determine the heirs of a decedent, please refer to the "Heirs Determination Sheet" available from the probate court or at [www.gaprobate.gov](http://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. 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](http://www.gaprobate.gov), labeled GPCSF 1.



*[If discharge is sought solely from office and not from office and all liability, STRIKE paragraphs 3 and 4 below.]*

3.

**Required:** *[If the decedent died intestate (without a will), make a definitive statement with 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 closer 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 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, please indicate the deceased ancestor through whom they are related to the decedent.]*

4.

Of those named in paragraph 2 above, it is not necessary to notify the following heirs or beneficiaries (a) who have relieved the personal representative of all liability and as to each of whom a copy of the writing(s) granting such relief is/are attached hereto; or (b) with respect to whom the personal representative has been relieved of all further liability in (a settlement of accounts)(an intermediate report)(other binding proceeding) pursuant to an order of this Court dated \_\_\_\_\_ and hereby incorporated herein as follows:

5.

The following heirs or beneficiaries are represented or should be represented by a guardian *[State names of heir/beneficiary and guardian, if one has already been appointed, and reason guardian needed/appointed]:*

6.

All claims against the estate have been paid (except for the following that have not been paid for the reasons set forth below) *[Provide names and addresses for service]:*

7.

*[Initial one]:*

\_\_\_\_ All necessary (inventories)(and)(returns) have been filed.

\_\_\_\_ Petitioner was relieved of filing (inventories)(and)(returns).

8.

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

WHEREFORE, petitioner(s) pray(s):

*[Initial one]*

\_\_\_\_\_ (a) to be discharged solely from office and, therefore, pray(s) that notice issue and be published one time in the official county newspaper with copies thereof being mailed by First-Class Mail to the creditors named in paragraph 6 above and that an order issue discharging the petitioner(s) from office.

OR

\_\_\_\_\_ (b) to be discharged from office and all liability and, therefore, pray(s) that notice issue and be served and published as required by law and that an order issue releasing and discharging the petitioner(s) from office and from all liability.

\_\_\_\_\_  
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 discharge of personal representative (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

**IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY  
STATE OF GEORGIA**

**IN RE: ESTATE OF** \_\_\_\_\_ )  
 )  
 ) **ESTATE NO.** \_\_\_\_\_  
**DECEASED** \_\_\_\_\_ )  
 )

**ACKNOWLEDGMENT OF SERVICE AND CONSENT TO PETITION**

The undersigned, being 18 years of age or older, laboring under no legal disability and being heirs or beneficiaries or unpaid purported creditors of the above-named decedent, hereby acknowledge service of a copy of the petition for discharge of personal representative, and notice, waive copies of same, waive further service and notice, and hereby consent to the petition.

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

\_\_\_\_\_  
Signature of Interested Party

\_\_\_\_\_  
NOTARY/CLERK OF PROBATE COURT  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Interested Party

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

\_\_\_\_\_  
Signature of Interested Party

\_\_\_\_\_  
NOTARY/CLERK OF PROBATE COURT  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Interested Party

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

\_\_\_\_\_  
Signature of Interested Party

\_\_\_\_\_  
NOTARY/CLERK OF PROBATE COURT  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Interested Party

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

\_\_\_\_\_  
Signature of Interested Party

\_\_\_\_\_  
NOTARY/CLERK OF PROBATE COURT  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Interested Party

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

\_\_\_\_\_  
Signature of Interested Party

\_\_\_\_\_  
NOTARY/CLERK OF PROBATE COURT  
My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Printed Name of Interested Party

***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**

*[Initial A. (discharge solely from office) or B. (discharge from office and all liability)]*

\_\_\_\_\_ A. The petition for discharge of personal representative having been filed, seeking discharge solely from office, it is ordered that notice be published one time in the newspaper in which sheriff's advertisements are published in this county at least ten days before \_\_\_\_\_, 20\_\_ and that a copy of the petition and notice be mailed by First-Class Mail to the creditors whose claims have not been paid as set forth in paragraph 6 of the petition.

\_\_\_\_\_ B. The petition for discharge of personal representative having been filed, seeking discharge from office and all liability, it is ordered that all heirs or beneficiaries or unpaid creditors who did not acknowledge service and consent to the petition be served 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 deadline for filing objections on the following interested parties who reside in Georgia: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ 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 \_\_\_\_\_, 20\_\_ in order to serve by publication the following interested parties whose current residence addresses are unknown: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ [*Applies in all cases unless notice is published for four weeks*] Notice shall be published one time in the legal organ of this county at least ten days before \_\_\_\_\_, 20\_\_\_\_\_ which is the date on or before which any objection is required to be filed.

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**

*[For discharge solely from office]*

IN RE: Petition for Discharge of Personal Representative

TO:

*[List all creditors who did not acknowledge service whose claims have not been paid.]*

and to whom it may concern:

This is to notify you to file an objection, if there is any, to the petition for discharge of personal representative, in this Court on or before \_\_\_\_\_, 20\_\_\_\_.

**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 \_\_\_\_\_) (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



TO:

*[List here all interested parties who reside 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 an objection, if there is any, to the above-referenced petition, in this Court on or before the 30th day after the date you are personally served or sign the 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.

\_\_\_\_\_  
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**

This is to 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

to the following parties at the addresses below:

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Clerk of the Probate Court

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

**IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY  
STATE OF GEORGIA**

**IN RE: ESTATE OF** \_\_\_\_\_ )  
 )  
 \_\_\_\_\_, ) **ESTATE NO.** \_\_\_\_\_  
**DECEASED** )

**FINAL ORDER**

The foregoing petition for discharge of \_\_\_\_\_ as  
\_\_\_\_\_ was filed. The Court finds that no objection has  
been filed and all requirements of law have been fulfilled.

ACCORDINGLY, IT IS ORDERED that petitioner(s) be, and is/are hereby, discharged

*[Initial one]*

- \_\_\_\_\_ (a) solely from office; or
- \_\_\_\_\_ (b) from office and all liability.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Judge of the Probate Court