

Petition for Letters of Administration with Will Annexed (Will Previously Probated)

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used in connection with a petition for letters of administration with the Will annexed when the Will has been previously probated pursuant to O.C.G.A. §53-6-15(b). In the event the will has not been previously probated, Form 7, Petition for Letters of Administration with Will Annexed, should be used.
2. According to 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. Pages after Notice of Rule 5.6 (A) are to be completed by the moving party, unless otherwise directed by the court.
3. Signatures of those who acknowledge service 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. §53-11-2 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.

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 LETTERS OF ADMINISTRATION WITH WILL ANNEXED
(WILL PREVIOUSLY PROBATED)**

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.

On _____, _____, the Last Will and Testament
of _____,
(Full name of decedent) First Middle Last
whose place of domicile was _____,
Street City County State Zip Code
was probated in this Court in _____ Form.

2.

The will of the above named decedent dated _____, 20__ was
previously probated and Final Order was issued on _____, 20__.

3.

Listed below are all of the beneficiaries under said Will previously probated who have a present interest, including but not limited to a vested remainder interest but not including trust beneficiaries where there is a trustee who is not the nominated Administrator with Will Annexed, and whose identity and whereabouts are known or may be determined by reasonable diligence.

| Name | Age (or over 18) | Address |
|------|------------------|---------|
| | | |
| | | |
| | | |

4.

Petitioner(s) further show(s) that the circumstances giving rise to the need for an Administrator with the Will Annexed (Will previously probated) are as follows:

(Initial all which apply):

- (a) The appointed Executor is deceased.
- (b) The appointed Executor has renounced or declined his/her right to serve as such.
- (c) Other reason a testate estate is unrepresented: _____.

5.

The Petitioner(s) _____ is/are entitled to be appointed Administrator(s) with Will Annexed by reason of:

- (a) Having been unanimously selected by the beneficiaries of the Will, which was previously probated, who are capable of expressing a choice. If the sole beneficiary is the decedent's surviving spouse, no action for divorce or separate maintenance was pending at the time of death.

_____ (b) Appointment of the proposed Administrator(s) with Will Annexed named above will best serve the interest of the estate and the proposed Administrator(s) with Will Annexed is/are:

- _____ (1) A beneficiary or the trustee of any trust that is a beneficiary under the Will.
- _____ (2) A surviving spouse and no action for divorce or separate maintenance were pending or completed at the time of the decedent's death.
- _____ (3) An eligible person as defined in O.C.G.A. §53-6-1.
- _____ (4) A creditor of the estate (evidence of such indebtedness is attached).
- _____ (5) The county administrator.

6.

The proposed Administrator(s) with Will Annexed should be allowed to qualify without the necessity of posting bond, since only personal representatives of intestate estates and temporary administrators are normally required to post bond. See O.C.G.A. §53-6-50(a).

7.

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 state.

8.

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

WHEREFORE, Petitioner(s) pray(s):

1. That due and legal notice of this petition be given as the law requires.
2. That Letters of Administration with Will Annexed, Will previously probated, issue to the proposed Administrator(s) with Will Annexed named above.
3. That this Court grant such other and further relief as it deems proper under the circumstances.

Signature of First Petitioner

Signature of Second Petitioner, if any

Printed Name

Printed Name

Mailing Address

Mailing Address

Telephone Number

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 (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
My Commission Expires _____

Printed Name of First Petitioner

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

Signature of Second Petitioner

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name of Second Petitioner

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

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

**ACKNOWLEDGMENT OF SERVICE AND
SELECTION BY BENEFICIARIES CAPABLE OF EXPRESSING A CHOICE**

The foregoing petition of _____ for _____ Letters of Administration with Will Annexed (Will previously probated) having been duly filed, each of the undersigned beneficiaries hereby acknowledges service of the petition referred to above, waives copies of same and all further service and notice, selects the person proposed in said petition to be Administrator with Will Annexed and consents to the petition.

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

NOTARY/CLERK OF PROBATE COURT Printed Name
My Commission Expires _____

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

NOTARY/CLERK OF PROBATE COURT Printed Name
My Commission Expires _____

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

NOTARY/CLERK OF PROBATE COURT Printed Name
My Commission Expires _____

NOTICE

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

SEE PROBATE COURT RULE 5.6 (A).

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

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

ORDER FOR SERVICE OF NOTICE

The foregoing Petition for Letters of Administration with Will Annexed (Will previously probated) having been filed, and the beneficiaries capable of expressing a choice not having made a unanimous selection and/or it being alleged that a nominated executor has failed to qualify, it is ordered that notice shall issue and be served upon the beneficiaries who have not acknowledged service of the petition, if any, and if applicable (upon the executor of the deceased executor whose death created the vacancy) (upon any executor nominated in the Will who has failed to qualify), as follows:

(Initial any and all which apply)

_____ Notice shall be served personally, or by certified mail or statutory overnight delivery, as requested by the Petitioner together with a copy of the petition and pursuant to O.C.G.A. §53-11-3 and the purported Will (and codicil(s)), at least ten (10) days before the Will (and codicil(s)) can be probated on the following interested parties who reside in Georgia (if mailed, must be with return receipt requested, and restricted delivery to addressee only):

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

_____ Notice shall be published once a week for four (4) 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:

SO ORDERED 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)

ORDER FOR APPOINTMENT OF GUARDIAN AD LITEM

IT IS ORDERED that _____
Name Address Telephone Number

is appointed guardian ad litem for _____,
minor/unborn heir/ the unknown heir, and that said guardian ad litem be duly served with a copy
of the foregoing Notice, petition, purported Will and notice of this appointment, and that upon
said guardian ad litem's acceptance of the same, said guardian ad litem shall make answer
hereto. This appointment is limited to this proceeding only and it shall cease when a final order
is entered on this petition.

SO ORDERED 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)

ANSWER OF GUARDIAN AD LITEM

I hereby accept the foregoing appointment, acknowledge service and notice of the proceedings as provided by law, and for answer say:

This _____ day of _____, 20____.

Signature of Guardian Ad Litem (GAL): _____

Typed/printed name of GAL: _____

Address: _____

Telephone Number: _____

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

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

NOTICE

(Strike any paragraph if not applicable.)

TO: _____
(List here all non-resident interested parties having known addresses in the continental U.S. to be served by certified or registered mail)

This is to notify you to file objection, if there is any, to the above referenced petition, in this Court on or before the thirteenth (13th) 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 thirteen (13) days, the deadline for the filing of any objection shall be ten (10) days from the date of receipt shown on such return receipt.

This is further to notify _____,
(List here all interested parties who reside in Georgia to be served personally or by certified mail with restricted delivery to the addressee, if specifically requested by the petitioner)

who are required to be served personally, to file objection, if there is any, to the above referenced petition, in this Court on or before the tenth (10th) 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 pleadings/objections must be signed before a notary public or before a probate court clerk, and filing fees must be tendered with your pleadings/objections, unless you qualify to file as an indigent party. Contact probate court personnel at the following address/telephone number 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.

Address

Telephone Number

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)

NOTICE
(Strike any paragraph if not applicable.)

TO: _____
(List here all interested parties having known addresses outside the continental U.S. to be served by certified or registered mail)

This is to notify you to file objection, if there is any, to the above referenced petition, in this Court on or before the thirtieth (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 thirty (30) days, the deadline for the filing of any objection shall be ten (10) days from the date of receipt shown on such return receipt.

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 above referenced petition, 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 pleadings/objections must be signed before a notary public or before a probate court clerk, and filing fees must be tendered with your pleadings/objections, unless you qualify to file as an indigent party. Contact probate court personnel at the following address/telephone number 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.

Address

Telephone Number

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)

ORDER

The foregoing petition for Letters of Administration with Will Annexed (Will previously probated) having been duly filed,

And it appearing that the Will of the decedent was previously probated in this Court, and that service was perfected according to law,

And it also appearing that _____ is/are lawfully qualified for said Administration with Will Annexed and all other requirements of law having been fulfilled; and no objection being offered thereto,

IT IS HEREBY ORDERED that Letters of Administration with the Will Annexed issue to the person(s) found above to be lawfully qualified, upon his/her/their taking and subscribing the Oath as provided by law.

SO ORDERED 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)

OATH

I do solemnly swear (or affirm) that this writing contains the true Last Will of the above named decedent, so far as I know or believe, and that I will well and truly execute the same in accordance with the laws of Georgia. So help me God.

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

Signature of Administrator with Will Annexed

CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

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

Signature of Administrator with Will Annexed

CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

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

LETTERS OF ADMINISTRATION WITH WILL ANNEXED
(Relieved of Filing Returns and/or Certain Powers Granted at Time of Appointment)

At a regular term of the Probate Court, the Last Will and Testament dated _____, _____ and Codicil(s) dated _____, _____ of the above named decedent, at the time of his or her death a resident of said County, was legally proven in Solemn form and was admitted to record by order, and it was (further) ordered that _____ be allowed to qualify as Administrator with the Will Annexed, and that upon doing so, Letters of Administration with the Will Annexed be issued to said individual(s).

NOW, THEREFORE, the Administrator, having taken the oath of office and complied with all the necessary prerequisites of the law, is/are legally authorized to discharge all the duties and exercise all the powers of Executor(s) under the Will of said deceased and of Administrator(s) with the Will Annexed according to the Will and the law.

IT IS FURTHER ORDERED that the undersigned judge does hereby
(Initial all which apply:)

- _____ (a) **REPORTS WAIVED:** Grants to the Administrator(s) the power to serve without making and filing inventory, and without filing any annual or other returns or reports to any court; but the fiduciary(ies) shall furnish to the heirs, at least annually, a statement of receipts and disbursements.
- _____ (b) **BOND WAIVED:** Waives the requirement to post bond.
- _____ (c) **POWERS GRANTED:** Grants to the Administrator(s) the powers contained in O.C.G.A. §53-12-261 not included in (a) above.

Given under my hand and official seal, the ____ day of _____, 20____.

Judge of the Probate Court

NOTE: The following must be signed if the judge does not sign the original of this document:

Issued by:

Clerk/Deputy Clerk of the Probate Court

(Seal)

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

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

LETTERS OF ADMINISTRATION WITH WILL ANNEXED
(Not Relieved of Filing Returns)

At a regular term of the Probate Court, the Last Will and Testament dated _____, _____ and Codicil(s) dated _____, _____ of the above named decedent, at the time of his or her death a resident of said County, was legally proven in Solemn form and was admitted to record by order, and it was (further) ordered that _____ be allowed to qualify as Administrator with the Will Annexed, and that upon doing so, Letters of Administration with the Will Annexed be issued to said individual(s).

NOW, THEREFORE, the said Administrator, having taken the oath of office and complied with all the necessary prerequisites of the law, is/are legally authorized to discharge all the duties and exercise all the powers of Executor(s) under the Will of said deceased and of Administrator(s) with the Will Annexed according to the Will and the law and is/are hereby required to render a true and correct inventory of all the goods, chattels, rights and credits of said deceased, and make a return of them to this Court; and further, to file a proper annual or final return with this Court each year until the Administration with Will Annexed is fully discharged.

Given under my hand and official seal, the ____ day of _____, 20____.

Judge of the Probate Court

NOTE: The following must be signed if the judge does not sign the original of this document:

Issued by:

Clerk/Deputy Clerk of the Probate Court

(Seal)