

**PETITION BY PERSONAL REPRESENTATIVE FOR
WAIVER OF BOND AND/OR GRANT OF CERTAIN POWERS**

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used by an Administrator or Executor who has already been appointed when filing a Petition for Waiver of Bond and/or Grant of Certain Powers Pursuant to O.C.G.A. § 53-7-1 (b).
2. Unanimous consent of the heirs to the Personal Representative's Petition is required, or the beneficiaries if the Decedent died testate. O.C.G.A. § 53-11-2 provides that a party to a Probate Court proceeding concerning a decedent's estate who is unborn or unknown or 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. For purposes of the consent required, with respect to any heir who is not sui juris, such consent may be given by such guardian ad litem, natural guardian, guardian, conservator or testamentary guardian. The Personal Representative of a deceased heir is authorized to consent on behalf of that heir.
3. Signatures of those who acknowledge service must be sworn to before 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 sworn to as provided above. It is not necessary that all acknowledgments appear on the same page. 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. Notice must be published once a week for four (4) weeks.
5. The relief sought in this Petition and provided in the Order is not retroactive.
6. If bond has been posted, and waiver of bond is sought for the future, check with the bonding compan(y)(ies) to obtain the necessary bond description to be placed in the Petition and Order and to coordinate this matter with the bonding compan(y)(ies).
7. In the event the assets are to be distributed according to a Will, only the beneficiaries need to be listed in Paragraph 5 and a completed definitive statement in Paragraph 4 is not required. In the event the Decedent died intestate (without a Will), Paragraph 4

- requires that a definitive statement be made to show to the Court that the persons named in Paragraph 3 constitute 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. The Personal Representative of a deceased heir or beneficiary is authorized to consent on behalf of that heir or beneficiary. O.C.G.A. § 53-7-1. [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 BY PERSONAL REPRESENTATIVE FOR WAIVER
OF BOND AND/OR GRANT OF CERTAIN POWERS

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
departed this life on _____, 20____.

2.

[Initial one]

_____ (a) The above-named Decedent died with a Will dated _____ (and
Codicil(s) dated _____), that (has been) (will be) (is
hereby, as a Petition for Probate is being filed simultaneously) offered for Probate.
*[Add below the name(s) of the person(s) to be appointed, and attach the Final
Order and Letters of Appointment, if any, as Exhibit "____."*]

[Full name of person to be appointed] First Middle Last

[Full address] Street City County State Zip Code

Telephone Number: _____

_____ (b) The above-named Decedent died intestate (*without a Will*). (_____, Administrator(s) was/were issued Letters of Administration concerning the above-referenced estate by this Court on _____, 20__.)
[Add below the name(s) of the appointed Administrator(s) and attach the Final Order and Letters of Appointment as Exhibit “ ____.”]

[Full name of person to be appointed] First Middle Last

[Full address] Street City County State Zip Code

Telephone Number: _____

3.

If Decedent died intestate (*without a Will*), list below all of the Decedent’s heirs at law. Each listing should include the name, age or majority status, address, and relationship to Decedent. All those listed are sui juris (having the legal ability to manage one’s own affairs) unless otherwise noted.

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

4.

[Initial one]

_____ (a) A Petition to Probate Will has been granted; therefore, a definitive statement is not required.

_____ (b) The Decedent died intestate (*without a Will*); therefore, a definitive statement is made below.

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 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.

Listed below are all of the beneficiaries under said Will (if the Decedent died testate) who have a present interest, including but not limited to a vested remainder interest, and whose identity and whereabouts are known or may be determined by reasonable diligence.

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

6.

All of the heirs/beneficiaries have consented that the Judge of the Probate Court may waive the bond and/or grant certain powers as set forth in the Consent of Heirs/Beneficiaries attached hereto.

7.

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

WHEREFORE Petitioner prays that the Court grant the relief requested in the Consent of Heirs/Beneficiaries attached hereto.

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 who, after being duly sworn, states that the facts set forth in the foregoing Petition by Personal Representative for Waiver of Bond and/or Grant of Certain Powers (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)

CONSENT OF HEIRS/BENEFICIARIES

[NOTE: If an heir/beneficiary is not sui juris, indicate the relationship of the person who is authorized to consent for him/her in accordance with the instruction page to this form.]

The undersigned, being an heir of the estate or being a beneficiary under the Will of the above Decedent, being sui juris unless otherwise indicated, do hereby authorize the Judge of the Probate Court to:

_____ (a) *[optional; initial if applicable TO GRANT POWERS]* The Personal Representative is required by law to file a petition for leave to sell and obtain other approval by the court for various acts. By initialing here I agree that the Personal Representative should be awarded all of the powers contained in O.C.G.A. § 53-12-261; **OR**

_____ (b) *[optional; initial if applicable TO WAIVE REPORTS]* The Personal Representative is required by law to file reports (Inventory and Returns) and provide a copy to each interested party. By initialing here I agree that the Personal Representative should not be required to file any reports with the Court; **AND/OR**

_____ (c) *[optional; initial if applicable TO WAIVE BOND]* The Personal Representative is required by law to post a bond as the Court deems necessary. By initialing here I agree that the Personal Representative should not be required to post a bond.

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

Signature of Heir/Beneficiary

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name of Heir/Beneficiary

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 OF _____ COUNTY
STATE OF GEORGIA**

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

ORDER FOR SERVICE

Upon reading the foregoing Petition, it is ordered that notice be issued and published once a week for four (4) weeks prior to the date on which objections must 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)

PETITION BY PERSONAL REPRESENTATIVE FOR WAIVER
OF BOND AND/OR GRANT OF CERTAIN POWERS

NOTICE

_____ has/have petitioned for waiver of bond and/or for the grant of certain powers contained in O.C.G.A. § 53-12-261 in regard to the above estate. All interested parties are hereby notified to show cause why said Petition should not be granted. All objections to the Petition must be in writing, setting forth the grounds of any such objections, and must be filed with the 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 _____, 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)

PETITION BY PERSONAL REPRESENTATIVE FOR
WAIVER OF BOND AND/OR GRANT OF CERTAIN POWERS

FINAL ORDER

The Petition for Waiver of Bond and/or Grant of Certain Powers contained in O.C.G.A. § 53-12-261 to the Personal Representative of the estate of the above-named Decedent, has been duly filed. Consent to the Petition was given by all heirs or beneficiaries under the Will, if testate. Notice was published according to law and no objection to the Petition has been filed.

It is therefore ordered that the undersigned Judge hereby:

[Initial all that apply]

- _____ (a) **POWERS GRANTED:** Grants to the Personal Representative(s) all of the powers contained in O.C.G.A. § 53-12-261.
- _____ (b) **REPORTS WAIVED:** Grants to the Personal Representative(s) the specific 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.
- _____ (c) **BOND WAIVED:** Waives the specific requirement to post bond.

FURTHER ORDERED that Letters of Administration or Testamentary reflecting the above be issued to the Personal Representative(s).

SO ORDERED this _____ day of _____, 20_____.

Judge of the Probate Court

INSTRUCTIONS

1. Unless an inventory has been waived, an inventory of the estate must be filed with this Court by the Personal Representative(s) within six (6) months after the date of qualification as Personal Representative(s), and a copy of that inventory must be delivered to the heir(s)/beneficiary(ies) by first-class mail within the same period.
2. Within sixty (60) days after the date of qualification as Personal Representative(s), notice must be given once a week for four (4) weeks by advertisement in the newspaper in this County in which sheriff's notices are published, requiring creditors of the estate to render their demands and requiring debtors to make payment.
3. Unless returns have been waived, or a different accounting period has been approved, within sixty (60) days after the anniversary date of qualification as Personal Representative(s), every year, every Personal Representative must make a just and true account, under oath, of his receipts and expenditures on behalf of the estate during the preceding year, together with a note or memorandum of any other fact necessary to the exhibition of the true condition of the estate. The vouchers showing the correctness of each item must be retained by the Personal Representative(s).
4. The Personal Representative(s) is/are allowed six (6) months from the date of his/her/their qualification to ascertain the condition of the estate, during which he/she/they is/are exempt from suit. The Personal Representative(s) should collect all debts due the estate, and pay the debts of the estate, wholly or in part, at the end of the six (6) month period. Payment of the debts of the Decedent shall be made in accordance with their rank in priority as provided in O.C.G.A. § 53-7-40.
5. The Personal Representative(s) may continue the business of the Decedent for the first year after his/her/their qualification without a court order.
6. The normal commissions allowed the Personal Representative(s) are two and one-half percent (2.5%) of all sums of money received, and a like commission on all sums of money paid out. In addition, the Judge of the Probate Court may allow a commission of up to three percent (3%) of the value of all property distributed in kind. There are special rules concerning commissions on interest earned and extra compensation.
7. After the payment of all expenses of administration and other debts, the balance of the estate shall be promptly distributed to the heir(s)/beneficiary(ies). The Personal Representative(s) must then make a final return, showing the receipts and disbursements since the last annual accounting, unless returns have been waived.
8. For further information see O.C.G.A. Title 53, Chapters 6 and 7.

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

LETTERS OF ADMINISTRATION
[Bond Waived and/or Certain Powers Granted]

At a regular term of Probate Court, this Court granted an order allowing _____ to qualify as Administrator(s) of the Decedent, who was domiciled in this County at the time of his or her death or was domiciled in another state but owned property in this County at the time of his or her death, and that upon so doing, Letters of Administration be issued to such Personal Representative(s).

THEREFORE, the said Administrator(s), having taken the oath of office and complied with all necessary prerequisites of the law, is/are legally authorized to discharge all the duties and exercise all powers of Personal Representative(s), according to Georgia law. In addition this Court:

[Initial all that apply]

- _____ (a) **POWERS GRANTED:** Grants to the Administrator(s) all of the powers contained in O.C.G.A. § 53-12-261.
- _____ (b) **REPORTS WAIVED:** Grants to the Administrator(s) the specific 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.
- _____ (c) **BOND WAIVED:** Waives the specific requirement to post bond.

IN TESTIMONY WHEREOF, I have hereunto affixed my signature as Judge of the Probate Court of said County and the seal of this office this ____ 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: _____ *[Seal]*

Clerk of the Probate Court

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

LETTERS TESTAMENTARY
[Relieved of Filing Returns]

At a regular term of Probate Court, the Last Will and Testament dated _____, (and Codicil(s) dated _____), of the above-named Decedent, who was domiciled in this County at the time of his or her death or was domiciled in another state but owned property in this County at the time of his or her death, was legally proven in _____ Form to be the Decedent’s Will and was admitted to record by order, and it was further ordered that _____, named as Executor(s) in said Will, be allowed to qualify, and that upon so doing, Letters Testamentary be issued to such Executor(s).

THEREFORE, the Executor(s), 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 powers of Executor(s) under the Will of said Decedent, according to the Decedent’s Will and the law.

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: _____ *[Seal]*

Clerk of the Probate Court