

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, 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.
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 Supplement 1.
5. Use Supplement 2 if the Court determines it is appropriate to appoint a special process server.
6. Use Supplement 3 when an additional certificate of service is necessary.

7. In the event 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. [NOTE: 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.] 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. 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. 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.

[NOTE: If discharge is sought solely from office and not from office and all liability, STRIKE Paragraphs 3 and 4 below.]

3.

Required: *[In the event 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:

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 5 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 PROBATE COURT RULE 5.6 (A).

_____ *[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 (10) 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 from Office and all Liability]

IN RE: Petition for Discharge of Personal Representative

[Strike any Paragraph if not applicable]

TO: _____

[List here all interested parties having unknown addresses to be served by publication]
and (all and singular the heirs of said Decedent,)(the beneficiaries under the will,) and to whom it may concern:

This is to notify you to file objection, if there is any, to the above-referenced Petition, in this Court on or before _____, 20____.

TO: _____

[List here all heirs 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 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.

TO: _____

[List here all heirs 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 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 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 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 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
- _____ b. from office and all liability.

SO ORDERED this _____ day of _____, 20_____.

Judge of the Probate Court