

PETITION TO PROBATE WILL IN SOLEMN FORM

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used when filing a Petition to Probate Will in Solemn Form pursuant to O.C.G.A. § 53-5-20 et seq.
2. It is permissible, but not mandatory, to use this form in connection with a petition to probate a copy of a will in lieu of a lost original pursuant to O.C.G.A. § 53-4-46, provided that appropriate interlineations are made, and additional information is given to overcome the presumption of revocation.
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. O.C.G.A. § 53-5-22 (c) provides that service of notice, when made personally or by mail, shall include a copy of the Petition and of the Will (and Codicil(s)) for which probate is sought. The same is true when service is acknowledged. This form may, but is not required to, be used where service by registered or certified mail with return receipt requested, restricted delivery, is requested by the Petitioner(s) in lieu of personal service, in accordance with O.C.G.A. § 53-11-3 (e). Make appropriate changes in the Order for Notice, Notice and Certificate of Service. If Petitioner(s) request(s) personal service by registered, certified, or statutory overnight delivery with return receipt requested and with delivery restricted to the addressee only and that service is unsuccessful, service must be made pursuant to O.C.G.A. § 53-11-3 (a).
6. Paragraph 4 requires sufficient factual information for the Court to conclude that those listed in Paragraph 3 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 Personal Representative, if applicable. The

Personal Representative of a deceased heir is authorized to consent on behalf of that heir. 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.org.] Examples of such statements 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.”

7. Paragraph 6. In the event there is a Testamentary Guardian named in the Will and the Decedent died leaving minor children, then the Consent to Serve should be completed according to O.C.G.A. § 29-2-4 and/or § 29-3-5. When a Testamentary Guardian is to be appointed, Supplement 5 (Testamentary Guardianship) should be included with this Petition and the Petitioner(s) must provide full names and addresses for the minor children’s adult siblings and grandparents. If there are no living adult siblings or grandparents, the Petitioner(s) must provide full names and addresses for the minor children’s great-grandparents, aunts, uncles, great-aunts, or great-uncles, if any such relatives exist. If the minor children shared the same parents, the Petitioner(s) may complete one Supplement 5 for such similarly situated children. If the minor children did not share the same parents, a separate Supplement 5 must be filed for each minor. Contact the Probate Court in which the Petition will be filed for its policy as to the filing of Supplement 5 when there are multiple children.
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. An oath must be administered by a Probate Judge or Clerk [the oath cannot be administered by a notary]. Use Georgia Probate Court Standard Form 35 for the oath. The oath is not included in this form. Georgia Probate Court Standard Form 53, Commission to Administer Oath, can be used if the oath is to be administered by a court outside the State of Georgia.
12. 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, labeled GPCSF 1.

**IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA**

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

PETITION TO PROBATE WILL IN SOLEMN FORM

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.

While alive, Decedent duly made and published a Last Will and Testament dated _____, (along with Codicil(s) dated _____), which is herewith offered for probate in Solemn Form as the Decedent's "Will". _____ is/are named as the Executor(s).

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
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

6.

[Initial if applicable and attach Supplement 5 if you are seeking the appointment of a Testamentary Guardian.]

As shown in Paragraph 3 above, the Decedent was survived by (a) minor child(ren), and:

_____ (a) The Will names a Testamentary Guardian and Supplement 5 is attached.

_____ (b) The Will names a Testamentary Conservator of the minor child(ren) of the Decedent for property passing under the Decedent's Will. The following individual(s) who has/have consented to serve is/are named as Testamentary Conservator(s) in the Decedent's Will:

Name	Address
------	---------

_____ (c) There is/are now a court-appointed Conservator(s), who is/are identified as follows:

Name	Address
------	---------

7.

Additional Data: [Where full particulars are lacking, state here the reasons for any such omission. If any executor nominated in the Will has a priority equal to or higher than the Propounder(s) but will not qualify, indicate the name and reasons.]

WHEREFORE, Petitioner(s) pray(s)

1. Leave to prove said Will (and Codicil(s)) in Solemn Form;
2. That due and legal notice be given as the law requires;
3. That said Will be admitted to record on proper proof;
4. That Letters of Testamentary Conservatorship issue, if applicable;
5. That Letters Testamentary issue; and
6. That this Court order such other relief as may be 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 Exhibit(s) are true and correct.

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 ASSENT TO PROBATE INSTANTER

The undersigned, being 18 years of age or older, laboring under no legal disability and being an heir of the above-named Decedent, hereby acknowledges service of a copy of Petition to Probate the Will in Solemn Form, purported Will, and notice, waives copies of same, waives further service and notice, and hereby assents to the probate of said Will in Solemn Form instanter.

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

NOTARY/CLERK OF PROBATE COURT Printed Name of Heir

My Commission Expires _____

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

NOTARY/CLERK OF PROBATE COURT Printed Name of Heir

My Commission Expires _____

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

NOTARY/CLERK OF PROBATE COURT Printed Name of Heir

My Commission Expires _____

**IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA**

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

**TESTAMENTARY CONSERVATOR'S
CONSENT TO SERVE**

[To be completed only in the event a Testamentary Conservator is named in the Will]

The undersigned, being 18 years of age or older, laboring under no legal disability, and being named as Testamentary Conservator, hereby consents to serve. I understand that once appointed, I will have the same rights, powers, and duties as set forth in O.C.G.A. § 29-3-5.

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

NOTARY/CLERK OF PROBATE COURT Printed Name

My Commission Expires _____

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

NOTARY/CLERK OF PROBATE COURT Printed Name

My Commission Expires _____

**NOTICE REGARDING UNIFORM PROBATE
COURT RULE 5.6 (A):**

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

IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA

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

ORDER FOR SERVICE OF NOTICE

The foregoing Petition to Probate Will (and Codicil(s)) in Solemn Form having been filed, service is ordered as follows:

[Initial any and all which apply]

_____ Notice together with a copy of the Petition and purported Will (and Codicil(s)) shall be served personally, or by certified mail or statutory overnight delivery, as requested by the Petitioner(s) pursuant to O.C.G.A. § 53-11-3, at least ten (10) days before the Will (and Codicil(s)) can be probated on the following heirs 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 and purported Will (and Codicil(s)) shall be served by registered or certified mail, return receipt requested, pursuant to O.C.G.A. § 53-11-4, upon the following nonresident heirs 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 heirs 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)

NOTICE

AN ORDER FOR SERVICE WAS GRANTED BY THIS COURT ON _____,
20____, REQUIRING THE FOLLOWING: *[Strike any paragraph if not applicable]*

TO: _____
[List here all heirs who reside in Georgia to be served personally or by certified mail 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 to Probate Will in Solemn Form, in this Court on or before the tenth (10th) day after the date you are personally served or sign the return receipt.

TO: _____
[List here all heirs 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 Petition to Probate Will in Solemn Form, 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 heirs 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.

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.

Address

Judge of the Probate Court

Telephone Number

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

AN ORDER FOR SERVICE WAS GRANTED BY THIS COURT ON _____,
20____, REQUIRING THE FOLLOWING: *[For use if an heir is required to be served by publication]*

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

This is to notify you to file objection, if there is any, to the Petition to Probate Will in Solemn Form, 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 _____, 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 ADMITTING WILL (AND CODICIL(S)) TO PROBATE IN SOLEMN FORM

An alleged Last Will and Testament dated _____
(and Codicil(s) dated _____) was/were propounded.

_____ was/were nominated Personal Representative(s) by the Testator. The Court finds that the Decedent died domiciled within, or domiciled outside the State of Georgia but owning property within, the above County. The Court further finds that all of the heirs at law were served or acknowledged service. The Court further finds that no objection has been filed, and all requirements of law have been fulfilled. The Court further finds that the propounded Will (is self-proving) (has been proved by one or more witnesses).

ACCORDINGLY, IT IS ORDERED that the Will dated _____
(and the Codicil(s) dated _____) is/are established as the Last Will and Testament of the Decedent (“the Decedent’s Will”); that the Will be admitted to record as proven in Solemn Form; and, that the nominated Executor(s) named above has/have leave to qualify as Personal Representative(s) by taking the required oath, after which Letters Testamentary shall issue. The Clerk shall serve the Personal Representative(s) with copies of this Order and the Letters upon qualification.

IT IS FURTHER ORDERED that the Personal Representative(s) shall disburse all property according to the terms of the Decedent’s Will and shall maintain all records of income and disbursements until discharged by Order of this Court.

IT IS FURTHER ORDERED that: *[initial if applicable]*

- _____ (a) An inventory shall be filed.
- _____ (b) Annual returns shall be filed.
- _____ (c) Letters of Testamentary Conservatorship shall issue to

_____.

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)

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 Solemn 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 said Executor(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 Executor(s) under the Will of said Deceased, 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/Deputy Clerk of the Probate Court

**IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA**

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

LETTERS TESTAMENTARY
(Not 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 Solemn 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 said Executor(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 Executor(s) under the Will of said Deceased, according to the Decedent's Will and the law and is/are hereby required to render a true and correct inventory of all property, both real and personal, and any and all debts of the estate, and make a return of them to this Court, and further, to file a proper annual return or final return with this Court each year within sixty (60) days of the anniversary date of appointment until the Executorship is fully discharged.

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

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

Judge of the Probate Court

Issued by: _____ [Seal]

Clerk/Deputy Clerk of the Probate Court

**IN THE PROBATE COURT
COUNTY OF _____
STATE OF GEORGIA**

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

LETTERS OF TESTAMENTARY CONSERVATORSHIP OF MINOR
[To be completed only in the event a Testamentary Conservator is named in the Will]

TO: _____, Testamentary Conservator(s)
RE: _____, Minor
_____, Date of Birth

Pursuant to the Last Will and Testament (and Codicil(s)), of the above-named Decedent, you have been appointed Testamentary Conservator(s) of the Minor’s property. You have assented to this appointment by taking your oath. In general, your duties as Testamentary Conservator are to protect and maintain the property of the Minor and utilize the Minor’s property solely for the benefit of the Minor. Consult your attorney if you have any questions.

These Letters of Testamentary Conservatorship empower the above Testamentary Conservator(s) to hold, for the Minor, only property which passed through the estate of the above named Decedent.

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/Deputy Clerk of the Probate Court