PETITION FOR LETTERS OF TESTAMENTARY GUARDIANSHIP
Supplement 5
[To be used when seeking appointment of a Testamentary Guardian]

INSTRUCTIONS

I. Specific Instructions

1. This form should **only** be used when filing either Form 5 (Petition to Probate Will in Solemn Form pursuant to O.C.G.A. § 53-5-20 et seq.) or Form 7 (Petition to Probate Will in Solemn Form and for Letters of Administration with Will Annexed pursuant to O.C.G.A. § 53-6-13 et seq.). Please review the instructions for the applicable form when completing this Supplement.

2. 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.

3. Use Supplement 2 if the Court determines it is appropriate to appoint a special process server.

4. Use Supplement 3 when an additional certificate of service is necessary.

5. 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.

6. An oath must be administered by a Probate Judge or Clerk (the oath cannot be administered by a notary public). Use Supplement 4 for the oath. The oath is not included in this form.

7. 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 FOR LETTERS OF TESTAMENTARY GUARDIANSHIP
Supplement 5
[To be used when seeking appointment of a Testamentary Guardian]

A Petition to Probate Will (and Codicil(s)) in Solemn Form (and for Letters of Administration with Will Annexed) having been filed seeking the appointment of a Testamentary Guardian for the Decedent's minor child(ren) (hereinafter "Minor(s)"), _____
_____
_____, the Petitioner(s) hereby show(s) to the Court the following:

1.

Decedent was survived by the Minor(s) identified above.

2.

Decedent nominated a Testamentary Guardian of the Minor(s) in Decedent's Will.

3.

There is no living parent of the Minor(s).

4.

The following individual(s) are entitled to notice of the request for the appointment of the nominated Testamentary Guardian(s) pursuant to O.C.G.A. § 29-2-4: the Minor('s)(s') adult siblings and grandparents. *[If the Minor(s) do(es) not have adult siblings or grandparents, identify the Minor('s)(s') great-grandparents, aunts, uncles, great-aunts, or great-uncles, if any such relatives exist. Please identify the relationship to the Minor(s) with specificity [for example: "maternal grandmother," "paternal grandmother" or "paternal aunt"].]*

Name	*Address*	*Relationship to the Minor*

5.

Required: *[Provide sufficient factual information to enable the Court to conclude that all of the Minor('s)(s') relatives, who are required by O.C.G.A. § 29-2-4 to receive notice, are identified above. Also, state here all 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.]*

_____

_____

_____

_____

_____

_____

6.

The named Testamentary Guardian(s) has/have consented to serve, and the consent to serve is attached hereto and made a part of this Petition.

7.

_____ (a) The following individual(s) was/were appointed as Temporary Guardian(s) of the Minor(s):

Name Address

_____

_____

_____

_____ (b) 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) At the time of the Decedent's death, he/she had (a) minor child(ren) and there is/are a court-appointed Conservator(s), who is/are identified as follows:

Name Address

_____

_____

_____

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 be given as the law requires;
2. That Letters of Testamentary Guardianship issue; and
3. That this Court order such other relief as may be proper under the circumstances.

_____
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 Supplement 5 and the attached Exhibit(s) are true and correct.

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

_____
NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

_____
Signature of Petitioner

_____
Printed Name of Petitioner

_____
Mailing Address

_____

_____
Telephone Number

IN THE PROBATE COURT OF_____COUNTY
STATE OF GEORGIA

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

ACKNOWLEDGMENT OF SERVICE AND ASSENT TO APPOINTMENT OF TESTAMENTARY GUARDIAN

The undersigned, being 18 years of age or older, laboring under no legal disability and being the relatives of the Decedent's minor child(ren), hereby acknowledges service of a copy of the Petition to Probate the Will in Solemn Form seeking the appointment of a Testamentary Guardian for the Decedent's minor child(ren) and notice and hereby assents to the appointment of the nominated Testamentary Guardian(s).

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

_____ _____
NOTARY/CLERK OF PROBATE COURT Printed Name

My Commission Expires _____

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

_____ _____
NOTARY/CLERK OF PROBATE COURT Printed Name

My Commission Expires _____

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

_____ _____
NOTARY/CLERK OF PROBATE COURT Printed Name

My Commission Expires _____

IN THE PROBATE COURT OF_____COUNTY
STATE OF GEORGIA

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

TESTAMENTARY GUARDIAN
CONSENT TO SERVE

THE PETITION OF _____,
TO PROBATE THE WILL OF THE ABOVE-NAMED DECEDENT IN SOLEMN FORM (AND FOR LETTERS OF ADMINISTRATION WITH WILL ANNEXED)

The undersigned, being 18 years of age or older, laboring under no legal disability and being named as Testamentary Guardian(s) of the minor child(ren) of the above-named Decedent, 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. § 29-2-4.

Sworn to and subscribed before me this
_____ day of _____, 20_____ _____
Testamentary Guardian Signature

_____ _____
NOTARY/CLERK OF PROBATE COURT Printed Name

My Commission Expires _____

Sworn to and subscribed before me this
_____ day of _____, 20_____ _____
Testamentary Guardian 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 OF_____COUNTY
STATE OF GEORGIA

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

ORDER FOR SERVICE OF NOTICE

A Petition to Probate Will (and Codicil(s)) in Solemn Form (and for Letters of Administration with Will Annexed) having been filed seeking the appointment of a Testamentary Guardian, service is ordered as follows:

[Initial all that apply]
_____ Notice shall be served by certified mail, registered mail, or statutory overnight delivery, return receipt requested, pursuant to O.C.G.A. § 29-2-4, together with a copy of the Petition and the purported Will (and Codicil(s)), on the following relatives of the Minor(s):

_____
_____
_____
_____
_____

_____ 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 relatives of the Minor(s) whose current residence addresses are unknown:

_____
_____
_____
_____
_____

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

An Order for Service of Notice was entered by this Court on _____, 20___ regarding a Petition to Probate Will (and Codicil(s)) in Solemn Form (and for Letters of Administration with Will Annexed) seeking the appointment of a Testamentary Guardian and requiring the following:

TO: _____,
[List all of the Minor('s)(s') adult siblings and grandparents being served by certified, registered, or statutory overnight delivery mail]

This is to notify you to file objection, if there is any, to the appointment of the Testamentary Guardian(s) nominated in 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, registered, or statutory overnight delivery 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 appointment of the Testamentary Guardian(s) must be in writing and must include allegations and facts, stated with reasonable specificity, regarding why the nominated Testamentary Guardian(s) is/are unfit to serve. All objections should be sworn to before a notary public or before a Probate Court Clerk, and filing fees must be tendered with the 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 timely filed, an expedited hearing will be held within thirty (30) days of the date of the filing of the last objection. If no objections are filed, the Testamentary Guardian(s) may be appointed without a hearing.

_____

_____	_____
Address	Judge of the Probate Court
_____	By:_____
Telephone Number	Clerk of the Probate Court

IN THE PROBATE COURT OF_____COUNTY
STATE OF GEORGIA

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

NOTICE

An Order for Service of Notice was entered by this Court on _____, 20___ regarding a Petition to Probate Will (and Codicil(s)) in Solemn Form (and for Letters of Administration with Will Annexed) seeking the appointment of a Testamentary Guardian and requiring the following:

TO: _____,
[List all of the Minor('s)(s') great-grandparents, aunts, uncles, great-aunts, or great-uncles being served by certified, registered, or statutory overnight delivery mail]

This is to notify you to file objection, if there is any, to the appointment of the Testamentary Guardian(s) nominated in 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, registered, or statutory overnight delivery 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 appointment of the Testamentary Guardian(s) must be in writing and must include allegations and facts, stated with reasonable specificity, regarding why the nominated Testamentary Guardian(s) is/are unfit to serve. All objections should be sworn to before a notary public or before a Probate Court Clerk, and filing fees must be tendered with the 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 timely filed, an expedited hearing will be held within thirty (30) days of the date of the filing of the last objection. If no objections are filed, the Testamentary Guardian(s) may be appointed without a hearing.

_____

_____	_____
Address	Judge of the Probate Court
_____	By:_____
Telephone Number	Clerk of the Probate Court

IN THE PROBATE COURT OF_____COUNTY
STATE OF GEORGIA

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

NOTICE

An Order for Service of Notice was entered by this Court on _____, 20___ regarding a Petition to Probate Will (and Codicil(s)) in Solemn Form (and for Letters of Administration with Will Annexed) seeking the appointment of a Testamentary Guardian and requiring the following:

TO: _____,
[List here all of the Minor('s)(s') relatives having unknown addresses, to be served by publication]

This is to notify you to file objection, if there is any, to the appointment of the Testamentary Guardian(s) nominated in 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, registered, or statutory overnight delivery 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 appointment of the Testamentary Guardian(s) must be in writing and must include allegations and facts, stated with reasonable specificity, regarding why the nominated Testamentary Guardian(s) is/are unfit to serve. All objections should be sworn to before a notary public or before a Probate Court Clerk, and filing fees must be tendered with the 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 timely filed, an expedited hearing will be held within thirty (30) days of the date of the filing of the last objection. If no objections are filed, the Testamentary Guardian(s) may be appointed without a hearing.

_____

_____	_____
Address	Judge of the Probate Court
_____	By:_____
Telephone Number	Clerk of the Probate Court

IN THE PROBATE COURT OF_____COUNTY
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 delivery by certified, registered, or statutory overnight delivery mail, return receipt requested, copies of the Petition to Probate Will (and Codicil(s)) in Solemn Form (and for Letters of Administration with Will Annexed) seeking the appointment of a Testamentary Guardian to the following parties at the addresses set forth 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	**)**	

LETTERS OF TESTAMENTARY GUARDIANSHIP OF MINOR

TO: _____, Testamentary Guardian(s)

RE: _____, Minor

_____, Date of Birth

Pursuant to the Last Will and Testament (and Codicil(s)) of _____, deceased, you have been appointed Testamentary Guardian(s) of the Minor(s). You have assented to this appointment by taking your oath, and no objection to your appointment has been filed. In general, your duties as Testamentary Guardian(s) are to protect and maintain the person of the Minor(s), and your power over the Minor(s) shall be the same as that of a parent over a child, the guardian(s) standing in place of the parent(s). A Testamentary Guardian shall at all times act as a fiduciary in the Minor('s)(s') best interest and exercise reasonable care, diligence, and prudence.

Special Instructions:

1. It is your duty to see that the Minor(s) is/are adequately fed, clothed, sheltered, educated, and cared for, and that the Minor(s) receive(s) all necessary medical attention.
2. You must keep the Court informed of any change in your name or address.
3. You should inform the Court of any change of address of the Minor(s).
4. You shall, within sixty (60) days of appointment and within sixty (60) days after each anniversary date of appointment, file with this Court and provide to the Conservator(s) of the Minor(s), if any, a personal status report concerning the Minor(s).
5. You shall promptly notify the Court of any conflict of interest which may arise between you as Guardian(s) and the Minor(s) pursuant to O.C.G.A. § 29-2-23.
6. The Guardianship automatically terminates when the Minor dies, reaches age 18, is adopted, or is emancipated.
7. You shall act in coordination and cooperation with the Minor('s)(s') Conservator(s), if appointed, or if not, with others who have custody of the Minor('s)(s') property.
8. Consult your attorney if you have any questions. Your authority to act pursuant to these Letters is subject to applicable statutes and to any special orders entered in this case.

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