PETITION FOR YEAR'S SUPPORT

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used for filing a Petition for Year's Support pursuant to O.C.G.A. § 53-3-1 et seq.

2. The amount set apart shall be an amount sufficient to maintain the standard of living that the Surviving Spouse and each minor child had prior to the death of the Decedent, for a period of twelve (12) months, taking into consideration the following: (1) the support available to the individual for whom the property or money is to be set apart, from sources other than year's support, including but not limited to any separate estate and earning capacity of that individual; and (2) such other relevant criteria as the Court deems equitable and proper, including the solvency of the estate.

3. This Petition must be filed within twenty-four (24) months after Decedent's death.

4. The Petitioner(s) or his/her/their attorney must prepare and file with the Court, no later than the date of the Final Order, a Georgia Department of Revenue Form PT-61 for each parcel of real property located in the State of Georgia shown on Exhibit "A."

5. Signatures of heirs and beneficiaries 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 an heir or beneficiary; however, the attorney must certify that he or she currently represents that heir or beneficiary 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 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.

6. If the Decedent died without a Will or left a Will that has not yet been probated, Paragraph 3 requires sufficient factual information for the Court to conclude that those listed on Exhibit "B" 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 information as to whether any deceased heirs died before or after the Decedent and the name and address of the deceased heir's 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.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."

7. Exhibit "B" also requires that the Tax Commissioner be listed for each county in which there is real property owned by the Decedent.

8. 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.

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

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

11. 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.

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 or at www.gaprobate.gov, labeled GPCSF 1.

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

PETITION FOR YEAR'S SUPPORT

The Petition of _____
[Full name of Petitioner] 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 the Court the following:

1.

The Petitioner is:

_____ (a) The Surviving Spouse who has not married since the death of the Decedent.

_____ (b) A guardian or other individual acting on behalf of the minor child(ren), who have not turned 18 prior to the filing of this Petition and have not married *[state specific relationship]*: _____

_____,
[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) There is not a Will. *[List in Exhibit "B" 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. For any minor, include the date of birth and the name and address of the parent or guardian.]*

_____ (b) There is a Will, which has been offered for probate; however, a Personal Representative has not been appointed as of the date this Petition was filed. *[List the Personal Representative to be appointed, all of the heirs at law of the Decedent, with age or majority status, address and relationship to the Decedent set opposite the name of each, the beneficiaries named in the Will in Exhibit "B." For any minor, include the date of birth and the name and address of the parent or guardian.]*

_____ (c) There is a Will, which will be offered for probate. *[List the Personal Representative to be appointed, all of the heirs at law of the Decedent, with age or majority status, address and relationship to the Decedent set opposite the name of each, the beneficiaries named in the Will in Exhibit "B." For any minor, include the date of birth and the name and address of the parent or guardian.]*

_____ (d) There is a Will, which will not be offered for probate but is hereby filed with this Petition as Exhibit "____" or is already on file with this Court. *[List the Personal Representative named in the Will, all of the heirs at law of the Decedent, with age or majority status, address and relationship to the Decedent set opposite the name of each, the beneficiaries named in the Will in Exhibit "B." For any minor, include the date of birth and the name and address of the parent or guardian.]*

_____ (e) There is a Will, which has been probated. *[List the appointed Personal Representative. The names of the beneficiaries are not required to be listed in Exhibit "B" unless the appointed Personal Representative and the Petitioner are the same person. For any minor, include the date of birth and the name and address of the parent or guardian.]* A copy of the Final Order and Letters of Appointment are attached as Exhibit "____," in the event the Letters were not issued by the Probate Court named in the style above.

_____ (f) There is an appointed Administrator. *[List the appointed Personal Representative in Exhibit "B." The names of the heirs are not required to be listed in Exhibit "B" unless the Personal Representative and the Petitioner are the same person. For any minor, include the date of birth and the name and address of the parent or guardian.]* A copy of the Final Order and Letters of Appointment are attached as Exhibit "____," in the event the Letters were not issued by the Probate Court named in the style above.

3.

Required for all estates in which the heirs must be listed in Exhibit "B" *[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 in Exhibit "B" are cousins, grandchildren, nephews or nieces of the Decedent, indicate the deceased ancestor through whom they are related to the Decedent.]*

_____

_____

_____

_____

_____

_____

4.

Petitioner shows that the minor child(ren) of the Decedent and/or the Surviving Spouse (is) (are) entitled, before the payment of debts of the Decedent, to an allowance called Year's Support, which Petitioner hereby claims for the individual(s) named above.

5.

The Decedent's estate consists of real and/or personal property of the probable value of _____ dollars.

6.

A schedule of the property or a statement of the amount of money, or both, which the Petitioner proposes to have set aside to the following individuals: _____

[List the full name(s) of the individual(s) whom the Petitioner proposes the year's support be set aside to, usually the Spouse and minor child(ren).] The schedule is attached hereto as Exhibit "A," and made a part hereof.

7.

In addition to all taxes and tax liens on real property accrued for years prior to the year of the Decedent's death, Petitioner elects to have property taxes on any real property set apart as year's support divested as follows:

[Only select one]

_____ (a) Real property taxes accrued in the year of Decedent's death;
_____ (b) Real property taxes accrued in the year in which this Petition is filed; or
_____ (c) Real property taxes accrued in the year following the filing of this Petition if this Petition is filed in the year of the Decedent's death.

8.

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

_____

_____

_____

_____

_____

_____

_____

_____

_____

WHEREFORE, Petitioner prays:

1. That this Petition be accepted and filed.
2. That notice issue and be published and served as described above.
3. That any interested person who is a minor or an incapacitated adult have a guardian ad litem appointed for him or her.
4. That this Court grant such other and further relief as it deems proper under the circumstances.

This _____ day of _____, 20 _____.

_____
Signature of the Petitioner

_____
Printed Name of the Petitioner

_____

_____
Mailing Address

_____
Telephone Number

Signature of Attorney _____

Printed Name of Attorney _____

Address _____

_____

Telephone Number _____ State Bar #_____

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

PETITION FOR YEAR'S SUPPORT
EXHIBIT "A" SCHEDULE OF REAL AND PERSONAL PROPERTY FOR YEAR'S SUPPORT

[NOTE: If the Petitioner proposes to have set aside any interest in real property, then the complete legal (metes and bounds) description of the real property and the interest therein must appear in full on this Schedule and on the proposed Certificate of Order of Year's Support (Pages 9-11).]

The following is a schedule of the property or a statement of the amount of money or both which the Petitioner proposes to have set aside as year's support:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

PETITION FOR YEAR'S SUPPORT
EXHIBIT "B" LIST OF INTERESTED PERSONS

[To be completed (1) if there is not an appointed Executor or Administrator of the estate, or (2) if the Petitioner has been appointed the Executor or Administrator of the Decedent's estate.]

Petitioner hereby certifies that he/she has made reasonable inquiry to ascertain the names, last known addresses, and ages (if under 18) of all the interested persons with respect to the within matter. Petitioner understands that, for purposes of this affidavit, the term "interested person" refers to the above-named Decedent's children, spouse, other heirs at law, beneficiaries, creditors, and any others having a property right or claim against the estate which may be affected by the above Year's Support proceeding, including but not limited to the Tax Commissioner for each county in which the Decedent owned real property. Petitioner hereby certifies that the following are all of the interested persons known to Petitioner with respect to this matter and that any incapacitated adults are identified as such. *[For each individual named put the appropriate letter to show the relationship to the Decedent – Heir (H), Beneficiary (B), Creditor (C), Personal Representative (PR), or Other (O). Be advised* ***both heirs and beneficiaries*** *should be listed when there is a Will which has not been probated, or the Petitioner and the Personal Representative are the same person;* ***only beneficiaries*** *should be listed when the Petitioner is the Executor or Administrator of a Will that has been probated;* ***only heirs*** *should be listed when there is no Will.]*

Name	Age (or over 18)	Last Known Address	Relationship to Decedent

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 Year's Support (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 NO. _____**
DECEASED	)	

ACKNOWLEDGMENT OF SERVICE AND CONSENT TO
AWARD OF YEAR'S SUPPORT

The undersigned, being over 18 years of age, laboring under no legal disability and being an interested person hereby acknowledges service of the Petition for Year's Support along with the attached Exhibits and notice, waives all further service and/or notice, and hereby consents to the award of year's support as proposed in the Petition and attached Exhibits.

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

_____
Signature of Interested Person

_____
NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

_____
Printed Name of Interested Person

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

_____
Signature of Interested Person

_____
NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

_____
Printed Name of Interested Person

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

_____
Signature of Interested Person

_____
NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

_____
Printed Name of Interested Person

Probate Court Return Mailing Address:
_____
_____

(Above space to be used for filing in Superior Court Clerk's Office of Deeds and Records)

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

CERTIFICATE OF ORDER OF YEAR'S SUPPORT
(Pursuant to O.C.G.A. § 53-3-11)

DATE ORDER GRANTED: _____

GRANTOR: *[NAME OF DECEDENT]* _____

GRANTEE: *[FULL NAME OF EACH PERSON AWARDED YEAR'S SUPPORT. The Surviving Spouse and/or minor child(ren)]*

_____

_____

_____

ADDRESS OF GRANTEE:

_____

Legal Description of Real Property and Interest Therein:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

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_____

_____

_____

_____

_____

_____

Original Certificate delivered or mailed to Clerk of Superior Court of
_____ County on _____, 20____.

Certificate prepared by:

_____
SIGNATURE OF ATTORNEY State Bar # _____

I do hereby certify that the above information is based on the Order of the Probate Court issued on the date set out above and that the above information is true and correct.

By: _____ _____
Clerk of the Probate Court

_____
Probate Court Return Mailing Address

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 NO. _____**
DECEASED	**)**	

PETITION FOR YEAR'S SUPPORT
ORDER FOR NOTICE

The Petition for Year's Support having been filed in this office, let notice issue and be published once a week for four (4) weeks as required by law.

Further, it appearing that the estate (is) (is not) represented by a person other than the Petitioner, let the Clerk of this Court mail a copy of the Notice in this matter to (such Representative other than the Petitioner) (all interested persons listed in Exhibit "B" to the Petition, except those who have acknowledged service).

It is further ordered that the Clerk of this Court must mail a copy of the Petition within five (5) days of its filing to the Tax Commissioner or Tax Collector of any county in this State in which real property is proposed to be set apart is located.

SO ORDERED this _____ day of _____, 20____.

_____
Judge of the Probate Court

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

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

NOTICE OF PETITION TO FILE FOR YEAR'S SUPPORT

The Petition of _____, for a year's support from the estate of _____, Deceased, for Decedent's (Surviving Spouse) (and) (minor child(ren)), having been duly filed, all interested persons are hereby notified to show cause, if any they have, on or before _____, 20____, 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 on or before the time stated in the preceding sentence. 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 _____ in the Probate Court of the above named County, courtroom _____, (address) _____, Georgia) (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 NO. _____**
DECEASED	)	

CERTIFICATE OF SERVICE FOR YEAR'S SUPPORT

[Notice should be given to all interested parties included in Exhibit "B" and the Personal Representative, if one has been appointed, of the Decedent's estate and the Tax Commissioner for any County in which the Decedent owned property, must be listed here]:

I certify that I have this date mailed (unless otherwise noted) in an envelope with the proper postage affixed thereto for first-class mail delivery a copy of the notice 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 NO. _____**
DECEASED	)	

FINAL ORDER FOR YEAR'S SUPPORT

The Petition for a Year's Support for Decedent's (Surviving Spouse) (and) (minor child(ren)), setting forth the property sought to be set aside as a year's support, was filed; notice was issued, published, and served as required by law; and no objection was filed to the Petition.

WHEREFORE IT IS ORDERED that the Petition is granted and the property shown on the schedule of property attached hereto as Exhibit "A" and made a part hereof is hereby awarded to _____, Decedent's surviving spouse, and
[Name of Surviving Spouse]
_____, Decedent's minor child(ren), and
[Name(s) of Minor Child(ren)]
further that property taxes on any real property awarded hereby shall be divested as elected in the Petition and as allowed by law.

SO ORDERED this _____ day of _____, 20____

_____
Judge of the Probate Court