**PETITION FOR DETERMINATION OF RIGHT OF DISPOSITION OF REMAINS OF A DECEDENT**

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used for a Petition for Determination of Right of Disposition of the Remains of a Decedent pursuant to O.C.G.A. § 31-21-7.

2. O.C.G.A. § 31-21-7 provides that the Petition may be filed by either (1) the funeral home with present custody of the remains of the Decedent or (2) one of two or more persons with the same relationship to the Decedent for purposes of the right to dispose of the remains as set forth in the Code section.

3. Notice of the filing of the Petition and the hearing to be held to consider same will be as the Court directs.

4. 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 may 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.

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.

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 DETERMINATION OF RIGHT OF DISPOSITION OF REMAINS OF A DECEDENT**

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

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.

Petitioner is: *[initial either (a) or (b) below]*

_____ (a) One of two or more persons with the same relationship to the Decedent for purposes of the right to dispose of the remains as set forth in O.C.G.A. § 31-21-7.

_____ (b) The funeral home with present custody of the remains of the Decedent.

3.

There are two or more persons with the same relationship to the Decedent for purposes of the right to dispose of the remains as set forth in O.C.G.A. § 31-21-7, such persons being:

| *Name* | *Address* | *Relationship to Decedent* |
|---|---|---|
| | | |
| | | |
| | | |

4.

There are no known persons having a higher priority pursuant to O.C.G.A. § 31-21-7 to make decisions concerning the disposition of the remains of the Decedent than those listed in Paragraph 3 above.

5.

The Decedent: *[initial all that apply]*

_____ (a) had an advance directive that addressed the disposition of the principal's body and is attached as Exhibit "____."

_____ (b) did not have an advance directive that addressed the disposition of the principal's body.

If (a) is selected please list the person(s) named as the agent:

| *Name* | *Address* | *Relationship to Decedent* |
|---|---|---|
| | | |
| | | |
| | | |

6.

*[initial all that apply]*

_____ (a) Of those persons listed above, the following have not participated in the attempt to determine the manner of disposition of the remains by agreement: _____. Reasonable efforts have been made by one or more of the others named in Paragraph 3 above to notify such person(s) and seek his/her/their participation. However, Petitioner is not aware of any opposition to the decision of a majority of those participating.

_____ (b) Of those persons listed above, the following are currently present in this county and are accessible to Petitioner for service of notice by hand delivery: _____.

_____ (c) Of those persons listed above, the following have acknowledged service of notice of this Petition and consent to the determination of the right of disposition of the remains of Decedent: _____.

7.

Disagreement exists among those persons named in Paragraph 3 above as to the location, manner and conditions of disposition of the remains of the Decedent and/or as to the arrangement for funeral goods and services to be provided.

WHEREFORE, Petitioner prays:

1. that a hearing be held by the Court, at a time and on a date set by the Court, after such notice as the Court deems reasonable and practical under the circumstances of this matter;

2. that the Court determine the person to be the most fit and appropriate to carry out the right of disposition and make decisions regarding the remains of the Decedent, upon consideration of the factors set forth in O.C.G.A. § 31-21-7 (d) (2); and

3. that an appropriate order issue in accordance with the Court's determination of the right of disposition of the remains of the Decedent.

_____
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 Determination of Right of Disposition of Remains of a Decedent (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** | ) | |

**PETITION FOR DETERMINATION OF RIGHT OF DISPOSITION OF REMAINS OF A DECEDENT**

**ACKNOWLEDGMENT AND CONSENT**

I, the undersigned, being among those persons named in Paragraph 3 of the Petition for Determination of Right of Disposition of Remains of Decedent, do hereby acknowledge service of notice of the filing of the Petition and consent to the determination by the Court of the right of disposition of the remains of Decedent and acknowledge that it is our responsibility to contact the Court to determine the date and time of the hearing.

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

_____
Signature

_____
NOTARY/CLERK OF PROBATE COURT

_____
Printed Name

My Commission Expires _____

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

_____
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 NO. _____** |
| **DECEASED** | ) | |

**PETITION FOR DETERMINATION OF RIGHT OF DISPOSITION OF REMAINS OF A DECEDENT**

**ORDER FOR SERVICE OF NOTICE**

The Petition for Determination of Right of Disposition of Remains of a Decedent having been filed, read, and considered, and it appearing to the Court that disagreement exists among two or more persons with the same relationship to the Decedent for purposes of the right to dispose of the remains as set forth in O.C.G.A. § 31-21-7,

**IT IS ORDERED** that a hearing on the Petition shall be held on _____, 20_____ at _____ a.m./p.m.. in Courtroom ___, _____ County courthouse.

**IT IS ORDERED** that notice of the time and date of the hearing be issued and served upon the following: *[initial all that apply]*

____ those persons, other than the Petitioner, if applicable, with the same relationship to the Decedent for purposes of the right to dispose of the remains as set forth in O.C.G.A. § 31-21-7 named in Paragraph 3 above (including)(excluding) those persons named in Paragraph 5 of the Petition above. Notice shall be by hand delivery to an employee of the funeral home having possession of the remains of Decedent (unless the funeral home is the petitioner) and to any of those persons named in Paragraph 3 of the Petition who are present in this county, whether as residents of this county or otherwise, and by first-class mail to any of said persons who are not present in this county not less than ten (10) days prior to the hearing. Petitioner shall be responsible for any service by hand delivery and shall attest by sworn affidavit the fact of such hand delivery; the Clerk shall be responsible for service by mail and shall certify the completion of same.

____ the funeral home in present custody of the remains of the Decedent;

notifying him/her/them of the right to be and appear at the hearing and to be heard concerning the right of disposition of the remains of the Decedent.

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** | ) | |

**PETITION FOR DETERMINATION OF RIGHT OF DISPOSITION OF REMAINS OF A DECEDENT**

**NOTICE**

GEORGIA, _____ COUNTY PROBATE COURT

TO: *[all persons upon whom the Court has ordered service of notice of the hearing]* _____

_____

**BE NOTIFIED THAT**:_____ has filed a Petition for the Court to determine the right of disposition of the remains of the Decedent named above. A hearing has been set by the Court on _____, 20_____ at _____ a.m./p.m. in Courtroom ___, _____ County courthouse. Those persons upon whom service has been ordered may be and appear before the Court at such hearing and be heard concerning the right of disposition of the remains of the Decedent.

_____
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** | ) | |

**PETITION FOR DETERMINATION OF RIGHT OF DISPOSITION OF REMAINS OF A DECEDENT**

**CERTIFICATE OF HAND DELIVERY OF NOTICE**

I, the Petitioner in the foregoing proceeding, do hereby certify under oath that I have this day hand delivered in person a copy of the Notice in this matter to:

*[initial all that apply]*

_____(a) an employee of the funeral home having possession of the remains of Decedent;

_____(b) each of the following persons named in Paragraph 3 of the Petition who is present in this county but has not acknowledged service of notice:

_____

_____.

_____
Date

_____
Signature of Petitioner

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

_____
Printed Name of Petitioner

_____
NOTARY/CLERK OF PROBATE COURT

My Commission Expires _____

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

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

## CERTIFICATE OF MAILING

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 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 NO. _____** |
| **DECEASED** | ) | |

**PETITION FOR DETERMINATION OF RIGHT OF DISPOSITION OF REMAINS OF A DECEDENT**

**FINAL ORDER**

The Petition of _____ for Determination of the Right of Disposition of the Remains of the Decedent named above having been filed, and

The same having come before the Court at the time and on the date set by the Court, and

Upon hearing and considering the evidence presented to the Court, taking into account those factors set forth in O.C.G.A. § 31-21-7 (d) (2), the Court finds that _____ is the most fit and proper person to make decisions concerning the disposition of the remains of the Decedent.

**WHEREUPON, IT IS ORDERED** that_____ shall have the sole and exclusive right to make all decisions concerning the disposition of the remains of the Decedent, including but not limited to the location, manner and conditions of disposition of the remains of the Decedent and/or as to the arrangement for funeral goods and services to be provided; provided, however, that expenses and costs of same shall not exceed a reasonable amount under the circumstances of the Estate of the Decedent and the ability of the Estate to bear such expenses and costs.

**IT IS FURTHER ORDERED** that the Clerk shall serve a copy of this Order upon each interested party present at the hearing; shall, if no employee of the funeral home was present at the hearing, notify the funeral home by telephone that a copy of the Order may be obtained from the court, which copy may, upon request, be transmitted by facsimile or by attachment to electronic mail; and shall mail a copy of the Order to all interested persons named in the petition who were not present at the hearing.

*[Initial if applicable]*

_____ **IT IS FURTHER ORDERED** that the costs of these proceedings and the reasonable attorney fees for the filing of same that were incurred and paid by the funeral home may be added to the cost of final disposition of the remains of the Decedent.

**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** | ) | |

**PETITION FOR DETERMINATION OF RIGHT OF DISPOSITION OF REMAINS OF A DECEDENT**

**CERTIFICATE OF MAILING**

I do hereby certify that I have this day: *[initial all that apply]*

_____ hand delivered a copy of the foregoing Order to the following persons who were present in court at the hearing: _____

_____ *[if an employee of the funeral home was not present at the hearing]* notified the funeral home by telephone that a copy of the Order may be obtained from the Court (and, at the request of the funeral home,) (transmitted a copy of the Order by facsimile) (transmitted a copy as an attachment to electronic mail).

_____ mailed by first-class mail a copy of the Order to each person upon whom service of notice was ordered who was not present at the hearing by placing a copy of same in an envelope, properly addressed and with adequate postage thereon, and deposited in the U.S. Mail, with the return address of this Court thereon.

_____
Date

_____
Clerk of the Probate Court

_____

_____
Address

_____
Telephone Number