

**PETITION FOR LETTERS OF ADMINISTRATION WITH WILL ANNEXED
(WILL PREVIOUSLY PROBATED)**

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used in connection with a Petition for Letters of Administration with Will Annexed when the Will has been previously probated pursuant to O.C.G.A. § 53-6-15 (b). In the event the will has not been previously probated, Form 7, Petition for Letters of Administration with Will Annexed, should be used.
2. Signatures of 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 a beneficiary; however, the attorney must certify that he or she currently represents that 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.
3. O.C.G.A. § 53-6-15 (b) provides that the petition shall be served on the beneficiaries of the Will and the Executor, if any, of any deceased Executor whose death created the vacancy in the manner described in Chapter 11 of Title 53. O.C.G.A. § 53-11-3 (a).
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. 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.
8. An oath must be administered by a Probate Judge or Clerk (the oath cannot be administered by a notary public). Use Georgia Probate Court Supplement 4 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.

9. 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 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.

3.

Petitioner(s) further show(s) that the circumstances giving rise to the need for an Administrator with Will Annexed (Will previously probated) are as follows:

[Initial all that apply]

- ____ (a) The appointed Executor is deceased.
- ____ (b) The appointed Executor has renounced or declined his/her right to serve as such. *[Attach Renunciation as Exhibit “ ____.”]*
- ____ (c) Other reason a testate estate is unrepresented: _____

4.

The Petitioner(s) _____ is/are entitled to be appointed Administrator(s) with Will Annexed by reason of:

[Initial (a) or (b) and complete (b) if initialed]

- ____ (a) Having been unanimously selected by the beneficiaries of the Will, which was previously probated, who are capable of expressing a choice. If the sole beneficiary is the Decedent’s Surviving Spouse, no action for divorce or separate maintenance was pending at the time of death of the Decedent.
- ____ (b) Appointment of the Proposed Administrator(s) with Will Annexed named above will best serve the interest of the estate and the Proposed Administrator(s) with Will Annexed is/are:
 - _____ (1) A beneficiary or the trustee of any trust that is a beneficiary under the Will.
 - _____ (2) A surviving spouse and no action for divorce or separate maintenance were pending or completed at the time of the Decedent’s death.
 - _____ (3) An eligible person as defined in O.C.G.A. § 53-6-1.
 - _____ (4) A creditor of the estate. *[Evidence of such indebtedness is attached as Exhibit “ ____.”]*
 - _____ (5) The county administrator.

5.

The proposed Administrator(s) with Will Annexed should be allowed to qualify without the necessity of posting bond, since only Personal Representatives of intestate estates and Temporary Administrators are normally required to post bond. See O.C.G.A. § 53-6-50 (a).

6.

To the knowledge of the Petitioner(s), no other proceedings with respect to this estate are pending, or have been completed, in any other Probate Court in this state or any other state.

7.

Additional Data: *[Where full particulars are lacking, state here the reason for any such omission or any special circumstances. If the Propounder is not an heir or a beneficiary under the Will, state how the Propounder is interested in the administration of the estate. If it is alleged that a nominated executor has failed to qualify, state here the name and address of such nominated executor.]*

WHEREFORE, Petitioner(s) pray(s):

1. That due and legal notice of this Petition be given as the law requires;
2. That Letters of Administration with Will Annexed, Will previously probated, issue to the proposed Administrator(s) with Will Annexed named above;
3. That this Court grant such other and further relief as it deems 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(s) who, after being duly sworn, state(s) that the facts set forth in the foregoing Petition for Letters of Administration with Will Annexed (Will Previously Probated) (and the attached Exhibits(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

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)

NOTICE

IN RE: Petition for Letters of Administration with Will Annexed (Will Previously Probated)

[Strike any paragraph if not applicable.]

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 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.

TO: _____
[List here all interested parties 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 having known addresses in 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 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 interested parties having unknown addresses to be served by publication]

This is to notify you to file objection, if there is any, to the above referenced Petition, 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 must 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)

ORDER

The foregoing petition for Letters of Administration with Will Annexed (Will Previously Probated) having been duly filed,

And it appearing that the Will of the Decedent was previously probated in this Court,

And it also appearing that _____
has/have leave to qualify as Administrator(s) with Will Annexed,

The Court further finds that all of the beneficiaries of the Will were served or acknowledged service. The Court further finds that no objection has been filed, and all requirements of law have been fulfilled.

ACCORDINGLY, IT IS ORDERED that that the person(s) found above has/have leave to qualify as Administrator(s) with Will Annexed by taking the required oath, after which Letters of Administration with Will Annexed shall issue. The Clerk shall serve the Administrator(s) with Will Annexed 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 all that apply]*

_____ (a) An inventory shall be filed.

_____ (b) Annual returns shall 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)

LETTERS OF ADMINISTRATION WITH WILL ANNEXED
[Relieved of Filing Returns and/or Certain Powers Granted at Time of Appointment]

At a regular term of the 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)(Common Form) and was admitted to record by order, and it was further ordered that _____ be allowed to qualify as Administrator with the Will Annexed, and that upon doing so, Letters of Administration with the Will Annexed be issued to said individual(s).

NOW, THEREFORE, the Administrator, having taken the oath of office and complied with all the necessary prerequisites of the law, is/are legally authorized to discharge all the duties and exercise all the powers of Executor(s) under the Will of said deceased and of Administrator(s) with the Will Annexed according to the Will and the law.

IT IS FURTHER ORDERED that the undersigned judge does hereby

[Initial all that apply]

- _____ (a) **POWERS GRANTED:** Grant to the Administrator(s) all of the powers contained in O.C.G.A. § 53-12-261.
- _____ (b) **REPORTS WAIVED:** Grant to the Administrator(s) the specific power to serve without making and filing inventory, and without filing any annual or other returns or reports to any court; but the fiduciary(ies) shall furnish to the heirs, at least annually, a statement of receipts and disbursements.
- _____ (c) **BOND WAIVED:** Waive the specific requirement to post bond.

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

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

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

LETTERS OF ADMINISTRATION WITH WILL ANNEXED
[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)(Common Form) to be the Decedent's Will and was admitted to record by order, and it was further ordered that _____ be allowed to qualify as Administrator(s) with Will Annexed, and that upon doing so, Letters of Administration with Will Annexed be issued to said individual(s).

THEREFORE, the said Administrator(s), having taken the oath of office and complied with all the necessary prerequisites of the law, is/are legally authorized to discharge all the duties and exercise all the powers of Executor(s) under the Will of said Decedent and of Administrator(s) with Will Annexed according to the Decedent's Will and the law and is/are hereby required to render a true and correct inventory of 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 or final return with this Court each year within sixty (60) days after the anniversary date of appointment until the Administration is fully discharged.

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