PETITION OF PERSONAL REPRESENTATIVE FOR LEAVE TO SELL PROPERTY

INSTRUCTIONS

I. Specific Instructions

- 1. This form is to be used when a personal representative petitions for leave to sell real or personal property pursuant to O.C.G.A. § 53-8-13, or when a temporary administrator petitions to show good cause for being granted leave to sell real or personal property pursuant to O.C.G.A. § 53-8-10 (b).
- 2. If the petition is by a temporary administrator, this form should be altered as follows: The term "temporary administrator" should be placed wherever the term "personal representative" or "administrator" appears throughout the entire form. Also, if the form is used for a temporary administrator, the final order may need to be amended, especially if the original order of appointment did not give the power to sell property.
- 3. With regard to paragraph 6 of the petition, a recent appraisal should be used if available; otherwise, a copy of the most recent ad valorem tax statement should be provided. If the appraised value or tax value is higher than the selling price, explain the discrepancy on an additional sheet and add a reference to this in paragraph 4 of the petition. In addition, if there is a sales contract, a copy of the contract should be attached as an exhibit and labeled appropriately.
- 4. In the event the assets are to be distributed according to a will, only the beneficiaries need to be listed in paragraph 2. In the event the decedent died intestate (without a will), paragraph 3 requires that a definitive statement be made to show to the court that the persons named in paragraph 2 constitute all of the heirs of the decedent and that there are no heirs of the same or closer degree according to O.C.G.A. § 53-2-1. Provide the date of death for any deceased heirs. The personal representative of a deceased heir is authorized to consent on behalf of that heir. [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"; and (c) "Decedent's brother who died previously had no other children born, adopted, living, or deceased, other than listed herein."
- 5. Signatures of heirs or 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 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. It is not necessary that all acknowledgments appear on the same page.
- 6. 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. When a party to a proceeding in the probate court is a deceased heir whose estate has no personal representative, such post deceased heir's estate may be represented in the proceeding by a guardian. If a guardian ad litem is necessary because a party is not sui juris, use GPCSF Supplement 1.
- 7. The service of this petition is in accordance with Chapter 11 of Title 53 per O.C.G.A § 53-8-13 (b).
- 8. Use GPCSF Supplement 2 if the Court determines it is appropriate to appoint a special process server.
- 9. Use GPCSF Supplement 3 when an additional certificate of service is necessary.
- 10. Exhibits should be labeled 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. 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 **DECEASED** PETITION FOR LEAVE TO SELL PROPERTY [Full name(s) of petitioner(s)] First The petition of Middle Last whose physical address(es) is/are City County Zip Code State City County State as the duly appointed and qualified personal representative of the estate of the above-named decedent, shows to the Court the following: 1. [Full name of decedent] First Middle Last whose place of domicile was _____ Street City County State departed this life on , 20 . If decedent died intestate [without a will], list below all of the decedent's heirs at law. Otherwise, beneficiaries shall be listed below. Each listing should include the name, age or majority status, address, and relationship to decedent. All those listed are sui juris [having the legal ability to manage one's own affairs] unless otherwise noted. Name Age (or over 18) Address Relationship

3.
[Initial one](a) A will has been probated so no definitive statement is required.
(b) The decedent died intestate [without a will]; therefore, a definitive statement is made below.
Required : [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, the name and address of his or her personal representative, if any, 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 above are cousins, grandchildren, nephews, or nieces of the decedent, indicate the deceased ancestor through

whom they are related to the decedent.]

4.

Petitioner(s) desire(s) to sell certain real and/or personal property of said estate. The property and the estate's interest in said property are described as follows [give metes and bounds description, and street address if known, if real property]:

5.

The specific purpose of said sale of said property is [initial all that apply]:

(a)	To pay the debts of the estate; and/or
(b)	To make distributions to the (heirs)(beneficiaries);
(c)	Other:

6.

The petitioner(s) desire(s) to sell said real and/or personal property upon the following terms and conditions [explain the proposed date, place and method of sale, including any minimum sales prices, and attach and label copies of any applicable contracts]:

	(a)	Attached hereto as "Exhibit" is a copy of the contract for sale of real
		estate.
	(b)	Attached hereto as "Exhibit" is a copy of the most recent ad valorem tax
		or appraisal showing the current value of the property to be \$
		7.
	At present,	the petitioner(s) has/have a bond on file in this Court in the amount of
\$		The net proceeds to the estate from the sale of the subject property will be
appro	ximately \$. An additional bond in the amount of \$
to cov	ver the amoun	t by which the net proceeds from the sale, plus the amount of personal property
curre	ntly in the esta	te, will exceed the current bond amount will be posted prior to the deadline for
objec	tions set forth	in the notice.
		8.

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

omission.]

1. 2.	An order directing notice be issued and served as the law requires; and If no cause be shown to the contrary, your petitioner(s) be granted leave to sell said proper as set forth above.		
Signa	ature of Petitioner		
Print	ed Name		
Mail	ing Address		
Telep	phone Number		
Si	gnature of Attorney:		
Pr	rinted Name of Attorney:		
A	ddress:		

State Bar #_____

WHEREFORE, petitioner(s) pray(s):

Telephone Number:

VERIFICATION

GEORGIA,	COUNT	Y
• 11	n in the foregoing	ersigned petitioner(s) who, after being duly sworn petition of personal representative for leave to sell and correct.
Sworn to and subscribed befo	ore me this	
day of	, 20	
		Signature of Petitioner
NOTARY/CLERK OF PRO	BATE COURT	Printed Name of Petitioner
My Commission Expires:		

IN THE PROBATE COURT OF			COUNTY
	STATE O	F GEORGIA	
	E: ESTATE OF))) ES	TATE NO
DEC	TEASED ,)	
	ACKNOWLEDGM AND CONSENT		
RE:	PETITION OF	F THE ABOVE	FOR LEAVE -NAMED DECEDENT
petiti	The undersigned, being over 18 years of or beneficiaries of the above-named deced on and notice, waive copies of same, waive etition.	lent, hereby ack	nowledge service of a copy of the
	rn to and subscribed before me this, 20	SIGNATURE	C(S) OF (HEIRS)(BENEFICIARIES)
		Signature of	Heir/Beneficiary
	ARY/CLERK OF PROBATE COURT	Printed Nam	e of Heir/Beneficiary
My C	Commission Expires:		
	n to and subscribed before me this day of, 20		
		Signature of	Heir/Beneficiary
NOT	ARY/CLERK OF PROBATE COURT	Printed Nam	e of Heir/Beneficiary
My C	Commission Expires:		
	n to and subscribed before me this day of, 20		
		Signature of	Heir/Beneficiary
NOT	ARY/CLERK OF PROBATE COURT	Printed Nam	e of Heir/Beneficiary
My	Commission Expires:		

NOTICE

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

SEE UNIFORM PROBATE COURT RULE 5.6 (A).

IN THE PROBATE COURT OF **COUNTY** STATE OF GEORGIA **IN RE: ESTATE OF DECEASED** ORDER FOR SERVICE OF NOTICE The foregoing petition of personal representative for leave to sell property having been filed, it is ordered that: [Initial all that apply] Notice must be served personally, together with a copy of the petition, or by registered or certified mail or statutory overnight delivery, as requested by the petitioner(s) pursuant to O.C.G.A. § 53-11-3 at least 30 days before the deadline for objections on the following (heirs)(beneficiaries) who reside in Georgia and have not acknowledged service: Notice must be served by registered or certified mail, return receipt requested, together with a copy of the petition, upon nonresident (heirs)(beneficiaries) whose current residence addresses are known: Notice must be published once a week for four weeks in the legal organ of this County, before______, 20_____, in order to serve by publication the following (heirs)(beneficiaries) whose current residence addresses are unknown: SO ORDERED this _____ day of ______, 20____.

Judge of the Probate Court

IN THE PROBATE COU	RT OF	COUNTY
\mathbf{S}^{r}	TATE OF GEO	RGIA
IN RE: ESTATE OF)	ESTATE NO.
DECEASED		ESTATE NO.
	NOTICE	
		. 11
estate having been duly filed,	sentative for leav	ve to sell property in the above-referenced
[Strike any paragraph if not applicable.]		
statutory overnight delivery with restrict. This is to notify you who are re	ed delivery to the addrequired to be ser	served personally or by registered or certified mail or ressee, if specifically requested by the petitioner(s)] wed personally, to file an objection, if there 30th day after the date you are personally
TO:		
[List here all heirs having known address		ental U.S. to be served by registered or certified mail or essee, if specifically requested by the petitioner(s)]
before the 30th day after certified or registered mail, return rec	, 20 (the ceipt requested); the Court within	re is any, to the petition, in this Court on or date of the mailing of this notice to you by provided, however, that if a return receipt such 30 days, the deadline for the filing of shown on such return receipt.
		dresses in the continental U.S. to be served by registered delivery to the addressee, if specifically requested by the
		re is any, to the above-referenced petition,
in this Court on or before the 30th d	ay after	, 20 (the date of the l mail, return receipt requested); provided,
-		be 30 days from the date of receipt shown
	Judge	of the Probate Court
A.11	By: _	Clerk of the Probate Court
Address	C	Clerk of the Probate Court
Telephone Number		

IN THE PROBATE COURT OF STATE	FCOUNTY OF GEORGIA
IN RE: ESTATE OF)) ESTATE NO
DECEASED	<u> </u>
N	OTICE
The petition of personal representative estate having been duly filed,	e for leave to sell property in the above-referenced
[For use if an interested party is required to be served	by publication]
TO: [List here all interested parties having unknown as	ddresses to be served by publication]
This is to notify you to file an objection this Court on or before	on, if there is any, to the above-referenced petition, 20
the grounds of any such objections. All objections a probate court clerk, and filing fees qualify to file as an indigent party. Contact filing fees. If any objections are filed, a he	ections to the petition must be in writing, setting forth ections must be sworn to before a notary public or must be tendered with your objections, unless you probate court personnel for the required amount of earing will be (held on
	Judge of the Probate Court
	_
Address	By: Clerk of the Probate Court
Telephone Number	

IN THE PROBATE COURT OF _ STATE O	F GEORGIA COUNTY
IN RE: ESTATE OF))) ESTATE NO
DECEASED ,)
CERTIFICAT	TE OF SERVICE
proper postage affixed thereto for First-Class	unless otherwise noted) in an envelope with the Mail delivery copies of the petition of personal rder for service of notice, including any attached at the addresses below:
This day of	_, 20
	Clerk of the Probate Court
	Address

Telephone Number

IN THE PROBATE COURT OF	COUNTY
STATE O	F GEORGIA
IN RE: ESTATE OF)) ESTATE NO
DECEASED ,) ESTATE NO
FINAI	L ORDER
The Court finds that all of the (heirs)(benefici Court further finds that no objection has been fi The Court further finds that the purpose of	, as personal ned decedent, for leave to sell property was filed. aries) were served or acknowledged service. The led and all requirements of law have been fulfilled. the transaction is lawful and that the proposed ne estate (and the guardian ad litem having filed an
	at the said petitioner, as personal representative(s) described in the petition upon the terms set forth in
	chorization is conditioned upon the personal s Court a surety bond in the amount of
	port of the sale authorized by this order shall be port shall specify the property sold, the purchasers,
SO ORDERED this day of	, 20
	Judge of the Probate Court