# PETITION FOR ORDER DECLARING NO ADMINISTRATION NECESSARY

***INSTRUCTIONS***

1. Specific Instructions
   1. This form is to be used when filing a Petition for an Order Declaring No Administration Necessary, pursuant to O.C.G.A. § 53-2-40 et seq., and should only be used when the Decedent died intestate (without a Will).
   2. Unanimous consent of the heirs at law to the agreed upon division is required according to O.C.G.A. § 53-2-40 (b).
   3. Signatures of heirs who acknowledge service must be sworn to before a notary public or the Clerk of any Probate Court of this State. It is not necessary that all acknowledgments appear on the same page. An attorney at law may acknowledge service on behalf of an heir; however, the attorney must certify that he or she currently represents that heir 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.

* 1. 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.
  2. O.C.G.A. § 53-2-40 (c) provides that the personal representative of a deceased heir is authorized to agree to the division of property.
  3. A signed original agreement setting out the heirs’ agreed upon distribution of the estate must be attached to the Petition. The legal description included in the agreement must sufficiently identify the property in order to pass good title.
  4. Paragraph 4 requires sufficient factual information for the Court to conclude that those listed in Paragraph 3 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
  5. same or closer degree who have not been listed. Provide the date of death of any deceased heirs and the name 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. § 53-6-30. [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.](http://www.gaprobate.gov/)] Examples of such statement would be:
     1. “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.”

* 1. Use Supplement 2 if the Court determines it is appropriate to appoint a special process server.
  2. Use Supplement 3 when an additional certificate of service is necessary.
  3. 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.
  4. 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.

1. General Instructions

General instructions applicable to all Georgia Probate Court Standard Forms are available in each Probate Court or at [www.gaprobate.gov,](http://www.gaprobate.gov/) labeled GPCSF 1.