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.

II. General Instructions

General instructions applicable to all Georgia probate court standard forms are available in each probate court.

IN THE PROBATE COURT OF BIBB COUNTY

STATE OF GEORGIA

IN RE:	)	**ESTATE NO. _____**
	)	
	)	**PETITION FOR DETERMINATION OF**
_____,	)	**RIGHT OF DISPOSITION OF REMAINS**
DECEDENT	)	**OF DECEDENT**

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

The petition of _____ whose physical address(es) is/are _____, and whose mailing address(es) is/are _____ shows:

1.

_____, whose
First Middle Last Name

domicile was_____,
Street City County State

departed this life on _____, 20_____.

2.

Petitioner is: (initial as applicable)

_____ 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:

_____ a. had an advanced directive that addressed the disposition of the principal's body and is attached as Exhibit "A" .

_____ b. did not have an advanced 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 as applicable)

_____ 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 First Petitioner	Signature of Second Petitioner, if any
_____	_____
Printed Name	Printed Name
_____	_____
Address	Address
_____	_____
_____	_____
Telephone Number	Telephone Number

Signature of Attorney: _____

Typed/printed name of Attorney: _____
Address: _____
_____
Telephone: _____ State Bar # _____

VERIFICATION

GEORGIA, BIBB COUNTY

Personally appeared before me the undersigned petitioner(s) who on oath state(s) that the facts set forth in the foregoing petition are true.

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

_____
Petitioner

_____
NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

_____
Printed Name

IN THE PROBATE COURT OF BIBB COUNTY

STATE OF GEORGIA

IN RE:	)	**ESTATE NO. _____**
	)	
	)	**PETITION FOR DETERMINATION OF**
_____,	)	**RIGHT OF DISPOSITION OF REMAINS**
DECEDENT	)	**OF DECEDENT**

Acknowledgement and Consent

We, the undersigned, being among those persons named in paragraph 3. of the foregoing petition, 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.

SIGNATURE(S) OF INTERESTED PARTIES

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

_____ _____
NOTARY/CLERK OF PROBATE COURT Printed Name
My Commission Expires_____

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

_____ _____
NOTARY/CLERK OF PROBATE COURT Printed Name
My Commission Expires_____

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

_____ _____
NOTARY/CLERK OF PROBATE COURT Printed Name
My Commission Expires_____

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

_____ _____
NOTARY/CLERK OF PROBATE COURT Printed Name
My Commission Expires_____

Petition for Determination of Right of Disposition of Remains of a Decedent

NOTICE:

THE FOLLOWING PAGES ARE TO BE COMPLETED BY THE PETITIONER UNLESS OTHERWISE DIRECTED BY THE COURT. SEE PROBATE COURT RULE 5.6 (A).

IN THE PROBATE COURT OF BIBB COUNTY

STATE OF GEORGIA

IN RE:	)	**ESTATE NO. _____**
	)	
	)	**PETITION FOR DETERMINATION OF**
_____,	)	**RIGHT OF DISPOSITION OF REMAINS**
DECEDENT	)	**OF DECEDENT**

ORDER FOR SERVICE OF NOTICE

The foregoing petition 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 as applicable)

____ 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 on _____, 20____.

_____
Sarah S. Harris Probate Judge

IN THE PROBATE COURT OF BIBB COUNTY

STATE OF GEORGIA

IN RE:	)	**ESTATE NO. _____**
	)	
	)	**PETITION FOR DETERMINATION OF**
_____,	)	**RIGHT OF DISPOSITION OF REMAINS**
DECEDENT	)	**OF DECEDENT**

NOTICE

GEORGIA, BIBB 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.

_____
PROBATE JUDGE

By: _____
PROBATE CLERK/DEPUTY CLERK

_____
ADDRESS

_____

_____
TELEPHONE NUMBER

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 as applicable)

_____ a. an employee of the funeral home having possession of the remain of Decedent;

_____ b. each of the following persons named in paragraph 3 of the petition who are present in this county but have not acknowledged service of notice: _____ _____.

_____ _____
Date Petitioner

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

_____
Notary/Clerk of Probate Court

CERTIFICATE OF MAILING

I do hereby certify that I have this day mailed by first-class mail a copy of the Notice in this matter to each person upon whom service of notice was ordered who was/were not served by the petitioner or who has/have not acknowledged service by placing a copy of same in an envelope, properly addressed and with adequate postage thereon, and deposited in the United States Mail, with the return address of this Court thereon.

_____ _____
DATE PROBATE CLERK/DEPUTY CLERK

IN THE PROBATE COURT OF BIBB COUNTY

STATE OF GEORGIA

IN RE:	)	**ESTATE NO. _____**
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	)	**PETITION FOR DETERMINATION OF**
_____,	)	**RIGHT OF DISPOSITION OF REMAINS**
DECEDENT	)	**OF 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.

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

FILED
_____
Date
_____
_____
Dep. Clerk

SO ORDERED on _____, 20____.

_____
Sarah S. Harris Probate Judge

CERTIFICATE OF MAILING

I do hereby certify that I have this day:

_____ 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 United States Mail, with the return address of this Court thereon.

_____ _____

DATE PROBATE CLERK/DEPUTY CLERK