# PETITION TO PROBATE WILL IN SOLEMN FORM AND FOR LETTERS OF ADMINISTRATION WITH WILL ANNEXED

#### **INSTRUCTIONS**

#### I. Specific Instructions

- 1. This form is to be used when filing a combined Petition to Probate Will in Solemn Form pursuant to O.C.G.A. § 53-5-20 et seq., and for Letters of Administration with the Will Annexed pursuant to O.C.G.A. § 53-6-13 et seq.
- 2. It is permissible, but not mandatory, to use this form in connection with a petition to probate a copy of a will in lieu of a lost original pursuant to O.C.G.A. § 53-4-46, provided that appropriate interlineations are made, and additional information is given to overcome the presumption of revocation.
- 3. Signatures of heirs and 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 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.
- 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. 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).
- 6. O.C.G.A. § 53-5-22 (c) provides that service of notice, when made personally or by mail, shall include a copy of the Petition and of the Will for which probate is sought. The same is true when service is acknowledged. This form may, but is not required to, be used where service by registered or certified mail with return receipt requested, restricted delivery, is requested by the Petitioner(s) in lieu of personal service, in accordance with O.C.G.A. § 53-11-3 (e). Make appropriate changes in the Order for Notice, Notice, and Certificate of Service. If Petitioner(s) request(s) personal service by registered, certified, or statutory overnight delivery with return receipt requested and with delivery restricted to the addressee only and that service is unsuccessful, pursuant to O.C.G.A. § 53-11-3 (e) service must be made pursuant to O.C.G.A. § 53-11-3 (a).

- 7. 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 similar 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 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. § 53-7-1. [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.] Examples of such statements 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"; (c) "the Decedent's brother who died previously had no other children born, adopted, living or deceased, other than listed herein."
- 8. Paragraph 9. In the event there is a Testamentary Conservator named in the Will according to O.C.G.A. § 29-3-5 and the Decedent died leaving minor children, then the Consent to Serve should be completed. When a Testamentary Guardian is to be appointed, Supplement 5 (Testamentary Guardianship) should be included with this Petition, and the Petitioner(s) must provide full names and addresses for the minor children's adult siblings and grandparents. If there are no living adult siblings or grandparents, the Petitioner(s) must provide full names and addresses for the minor children's great-grandparents, aunts, uncles, great-aunts, or great-uncles, if any such relatives exist. If the minor children shared the same parents, the Petitioner(s) may complete one Supplement 5 for such similarly situated children. If the minor children did not share the same parents, a separate Supplement 5 must be filed for each minor. Contact the Probate Court in which the Petition will be filed for its policy as to the filing of Supplement 5 when there are multiple children.
- 9. Use Supplement 2 if the Court determines it is appropriate to appoint a special process server.
- 10. Use Supplement 3 when an additional certificate of service is necessary.
- 11. 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.
- 12. 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.
- 13. 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 ESTATE NO. **DECEASED** PETITION TO PROBATE WILL IN SOLEMN FORM AND FOR LETTERS OF ADMINISTRATION WITH WILL ANNEXED The Petition of [Full name(s) of Petitioner(s)] First Middle Last whose physical address(es) is/are City Zip Code County State and mailing address(es) is/are Street City County Zip Code State shows to the Court the following: 1. [Full name of Decedent] First Middle whose place of domicile was Street City County State , 20 . departed this life on 2. While alive, Decedent duly made and published a Last Will and Testament dated , (along with Codicil(s) dated ), which is herewith offered for probate in Solemn Form as Decedent's "Will". is/are named as the Executor(s). 3. Listed below are all of Decedent's heirs at law, with age or majority status, address and relationship to the Decedent set opposite the name of each: Name Age (or over 18) Address Relationship

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		4.
of the heirs of according to C of his or her instructions for method of given should be appeared to the Deceder	the Decedent are included and to D.C.G.A. § 53-2-1. Provide the note of Personal Representative, if any party and that notice to any party and that noticed for any party. If any heir seces of the Decedent, indicate the	information to enable the Court to conclude that all hat there are no heirs of the same or closer degree that ame of any deceased heirs, the name and address by, and include the date of death for each. [See tate here all pertinent facts that may govern the may determine whether or not a guardian ad litem is listed above as heirs are cousins, grandchildren, is deceased ancestor through whom they are related the Will has a priority equal to or higher than the time and reasons.]
including but there is a trus	not limited to a vested remainder	5. ies under said Will who have a present interest, interest but not including trust beneficiaries where administrator with Will Annexed or persons who have a present who have a present interest.
Name	Age (or over 18)	Address

6.

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

[Initial all t	that apply]				
(a)	The Decedent failed to nominate an executor in the Will.				
(b)	(b) The nominated Administrator has not reached age of majority.				
(c)	The nominated Executor is deceased.				
(d)	The nominated Executor has renounced or declined his/her right to serve as such. [Attach Renunciation as Exhibit ""]				
(e)	Other reason a testate estate is unrepresented				
	7.				
The Petition	ner(s) is/are entitled				
to be appointed Ad	ministrator 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 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 was 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.				

8.

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).

9.

[Initial all that apply; however, please note that this form may not be appropriate if the Petitioner(s) is/are seeking the appointment of a Testamentary Guardian, which requires notice to the relatives of the Decedent's minor child(ren) pursuant to O.C.G.A. § 29-2-4.]

	the time of the Decedent's death, and at this time, the Decedent left (a) minor and the Will names a Testamentary Conservator.
(a)	The Will names a Testamentary Conservator of (a) minor child(ren) of the Decedent. At the time of the Decedent's death, he/she had (a) minor child(ren) and there is/are no court-appointed Conservator(s); the following individual(s) is/are named as Testamentary Conservator(s) in the Decedent's Will:
	Name Address
(b)	The Will names a Testamentary Conservator of (a) minor child(ren) of the Decedent. At the time of the Decedent's death, he/she had (a) minor child(ren) and there is/are a court-appointed Conservator(s), who is/are identified as follows: [NOTE, if named Testamentary Conservator(s) and court-appointed Conservator(s) are different.]
	Name Address
[Initial one (a)	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
(b)	other state.  The probate of another purported Will of the Decedent is pending in the State of, in the County  Court. The name(s) and address(es) of the Propounder(s) and the name(s), address(es) and age(s) or majority status of the beneficiaries under the other purported Will to whom notice is required under O.C.G.A. § 53-5-22 (b) are listed on the attachment hereto, as Exhibit "," which
(c)	is expressly made a part hereof, as if fully set forth herein.  An Administration is pending in the State of
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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 far executor.]	iled to qualify, state here the name and address of such nominated		
WHEREFORE, Petitioner(s) pra	y(s):		
Leave to prove said Will (and Codicil(s)) in Solemn Form; That due and legal notice be given as the law requires; That said Will be admitted to record on proper proof; That Letters of Testamentary Conservatorship issue, if applicable; That Letters of Administration with Will Annexed issue; and That this Court order such other relief as may be 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 #		
	State Dat π		

#### **VERIFICATION**

GEORGIA,CO	DUNTY
state(s) that the facts set forth in the fore	e undersigned Petitioner(s) who, after being duly sworn egoing Petition to Probate Will in Solemn Form and for exed (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 COU  My Commission Expires	RT Printed Name of Petitioner

### IN THE PROBATE COURT OF \_\_\_\_\_ COUNTY STATE OF GEORGIA IN RE: ESTATE OF ESTATE NO. DECEASED ACKNOWLEDGMENT OF SERVICE, ASSENT TO PROBATE WILL IN SOLEMN FORM BY HEIRS, AND SELECTION BY BENEFICIARIES The undersigned, being 18 years of age or older, laboring under no legal disability and being an heir of the above-named Decedent or a beneficiary of the purported Will, hereby acknowledges service of a copy of Petition to Probate the Will in Solemn Form and for Letters of Administration with Will Annexed, purported Will, and notice, waives copies of same, waives further service and notice, and hereby assents to the probate of said Will in Solemn Form instanter and selects the Administrator with Will Annexed nominated in the Petition. Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_\_\_, 20\_\_\_\_\_ Signature of Heir/Beneficiary NOTARY/CLERK OF PROBATE COURT Printed Name of Heir/Beneficiary My Commission Expires \_\_\_\_\_ Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_\_\_, 20\_\_\_\_\_ Signature of Heir/Beneficiary NOTARY/CLERK OF PROBATE COURT Printed Name of Heir/Beneficiary My Commission Expires \_\_\_\_\_ Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_\_\_\_ Signature of Heir/Beneficiary NOTARY/CLERK OF PROBATE COURT Printed Name of Heir/Beneficiary

My Commission Expires

# IN THE PROBATE COURT OF **COUNTY** STATE OF GEORGIA IN RE: ESTATE OF **DECEASED TESTAMENTARY CONSERVATOR'S CONSENT TO SERVE** [To be completed only in the event a Testamentary Conservator is named in the Will] The undersigned, being 18 years of age or older, laboring under no legal disability and being named as Testamentary Conservator, hereby consents to serve. I understand that once appointed, I will have the rights, powers, and duties as set forth in O.C.G.A. § 29-3-5. Sworn to and subscribed before me this Signature of Testamentary Conservator Printed Name of Testamentary Conservator NOTARY/CLERK OF PROBATE COURT My Commission Expires \_\_\_\_\_ Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_\_\_, 20\_ Signature of Testamentary Conservator NOTARY/CLERK OF PROBATE COURT Printed Name of Testamentary Conservator

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 OF **DECEASED** ORDER FOR SERVICE OF NOTICE The foregoing Petition to Probate Will in Solemn Form and for Letters of Administration with Will Annexed having been filed, service is ordered as follows: [Initial all that apply] Notice together with a copy of the Petition and purported Will (and Codicil(s)) shall be served personally, 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 ten (10) days before the Will (and Codicil(s)) can be probated on the following interested parties who reside in Georgia: [If mailed, must be with return receipt requested, and restricted delivery to addressee only] Notice together with a copy of the Petition and purported Will (and Codicil(s)) shall be served by registered or certified mail, return receipt requested, or statutory overnight delivery pursuant to O.C.G.A. § 53-11-4, upon the following nonresident interested parties whose current residence addresses are known: Notice shall be published once a week for four (4) weeks in the legal organ of this County, before \_\_\_\_\_\_, 20\_\_\_\_\_, in order to serve by publication the following interested parties whose current residence addresses are unknown: SO ORDERED this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_\_\_\_.

GPCSF 7 [10] Eff. July 2017

Judge of the Probate Court

	IN THE PROBATE COURT OF	COUNTY
	STATE OF GEO	RGIA
IN R	E: ESTATE OF )	ESTATE NO.
DEC	EASED )	
	NOTICE	
IN RI Anne	E: Petition to Probate Will in Solemn Form and toxed	For Letters of Administration with Will
	[Strike any paragraph if no	ot applicable]
TO:	[List here all interested parties who reside in Georgia to be se	, rved personally or by certified mail or statutory overnight
	delivery with restricted delivery to the addressee, if specificall	
	This is to notify you to file objection, if there Court on or before the tenth (10th) day after the receipt.	•
TO:	[List here all interested parties having known addresses outside	, the continental US to be served by certified or registered
	mail or statutory overnight delivery with restricted delivery to t	
mailin howe (30) c	This is to notify you to file objection, if there court on or before the thirtieth (30th) day after ng of this Notice to you by certified or registere ever, that if a return receipt for such Notice is actually, the deadline for the filing of any objection slip on such return receipt.	, 20 (the date of the d mail, return receipt requested); provided, ally received by the Court within such thirty
TO:	[List here all interested non-resident parties having known adregistered mail or statutory overnight delivery with restricted Petitioner(s)]	
mailin howe thirtee	This is to notify you to file objection, if there Court on or before the thirteenth (13th) day afterng of this Notice to you by certified or registered ever, that if a return receipt for such Notice is a ten (13) days, the deadline for the filing of any objective shown on such return receipt.	r, 20 (the date of the d mail, return receipt requested); provided, actually received by the Court within such
TO:		
	[List here all interested parties having unknown addresses to	
this C	This is to notify you to file objection, if there is court on or before, 20	

BE NOTIFIED FURTHER: All obje	ctions to the Petition must be in writing, setting forth
the grounds of any such objections. All obje	ctions should be sworn to before a notary public or
	must be tendered with your objections, unless you
	Probate Court personnel for the required amount of
filing fees. If any objections are filed, a hear	ring 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		
STATE O	F GEOR	GIA
IN RE: ESTATE OF	)	ESTATE NO
DECEASED	)	
CERTIFICAT	E OF SE	RVICE
I certify that I have this date mailed proper postage affixed thereto for first-class		therwise noted) in an envelope with the livery copies of the
to the following parties at the addresses below:		
	Clark of	the Probate Court
	Address	

Telephone Number

IN THE P	PROBATE	COURT OF _			_ COUNTY
		STATE OF	GEOR	GIA	
IN RE: ESTATE O	F		)		
			)		
		,	)	ESTATE NO	)
DECEASED			)		
			OF AI		CODICIL(S)) IN ON WITH WILL
An alleged La	ast Will and	l Testament date	ed		
(and Codicil(s) dated	d			)	was/were propounded. as ded domiciled within, or
Petitioner requested	that the	Court appoint	:		as
further finds that all or acknowledged se	of the heirs rvice. The have been fu	at law and bene Court further f alfilled. The Cou	ficiaries inds tha art furth	s under the propo at no objection	bove County. The Court unded Will were served has been filed, and all ropounded Will (is self-
ACCORDING (and the Codicil(s) da Last Will and Testar	GLY, IT IS atednent of the	ORDERED that  Decedent ("the	t the Wi	ill dated) ent's Will"); that	is/are established as the the Will be admitted to
as Personal Represen	ntative(s) by shall issue. T	taking the requarthe Clerk shall s	ired oat	h, after which Le	as/have leave to qualify etters of Administration esentative(s) with copies
	ms of the I	Decedent's Will	and sh		nall disburse all property records of income and
IT IS FURTH	IER ORDEF	RED [initial all	that app	oly]	
(a)	An invento	ory shall be filed	l.		
(b)	Annual ret	turns shall be file	ed.		
(c)	Letters of	Testamentary C	onserva	torship shall issu	e to
(d)	Letters of	Testamentary G	uardian	ship shall issue to	· ) 
SO ORDERE	D this	day of		, 20	)

GPCSF 7 [14] Eff. July 2017

Judge of the Probate Court

### IN THE PROBATE COURT OF COUNTY STATE OF GEORGIA IN RE: ESTATE OF **DECEASED** LETTERS OF ADMINISTRATION WITH WILL ANNEXED [Bond Waived and/or Certain Powers Granted at Time of Appointment] 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 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 Administrator(s), having taken the oath of office and complied with all 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. In addition, this Court: [Initial all that apply] **POWERS GRANTED**: Grants to the Administrator(s) all of the powers (a) contained in O.C.G.A. § 53-12-261. (b) **REPORTS WAIVED**: Grants 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 beneficiaries at least annually, a statement of receipts and disbursements. **BOND WAIVED**: Waives the specific requirement to post bond. (c) 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 **DECEASED** LETTERS OF ADMINISTRATION WITH WILL ANNEXED [Not Relieved of Filing Returns] 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 to be the Decedent's Will and was admitted to record by order, be allowed and it was (further) ordered that 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 Deceased and of Administrator(s) with Will Annexed according to the Will and the law and is/are hereby required to render a true and correct inventory of all the goods, chattels, rights and credits of said Deceased, 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 of the anniversary date of appointment until the Administration with Will Annexed 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]

GPCSF 7 [16] Eff. July 2017

Clerk of the Probate Court

## IN THE PROBATE COURT OF COUNTY STATE OF GEORGIA **IN RE: ESTATE OF** DECEASED LETTERS OF TESTAMENTARY CONSERVATORSHIP OF MINOR [To be completed only in the event a Testamentary Conservator is named in the Will] TO: \_\_\_\_\_\_\_, Testamentary Conservator(s) RE: , Minor , Date of Birth Pursuant to the Last Will and Testament (and Codicil(s)) of the above-named Decedent, you have been appointed Testamentary Conservator(s) of the Minor's property. You have assented to this appointment by taking your oath. In general, your duties as Testamentary Conservator(s) are to protect and maintain the property of the Minor and utilize the Minor's property solely for the benefit of the Minor. Consult your attorney if you have any questions. These Letters of Testamentary Conservatorship empower the above Testamentary Conservator(s) to hold, for the Minor, only property that passed through the estate of the above-named Decedent. 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