

UNIFORM PROBATE COURT RULES

(as they pertain to Pleading and Filing, etc.)

**Access to all Uniform Probate Court Rules may be found at
<https://www.gasupreme.us/other-court-rules/>**

5.3 Pleadings and Filing

5.3.1 Preparation of documents

To the extent practical, all materials presented for filing in any probate court shall be typed, legibly written or printed in black ink suitable for reproduction, on opaque white paper measuring 8 1/2" x 11" of a good quality, grade, and weight, on only one side of the paper. Manuscript covers and backings shall be omitted whenever practical. Preparation of wills on 8 1/2" x 11" paper is encouraged but not mandatory. Any documents filed electronically shall conform to the provisions set forth in Rule 5.3.12.

5.3.2 Time of docketing

(A) Filing. The clerk, upon proper filing of the pleading or petition as set forth in Rule 5.3.12, shall promptly enter it on the court's docket.

(B) Electronic filing. An electronic document is presumed filed upon its receipt by the electronic filing service provider. A provider shall automatically confirm the fact, date, and time of receipt of such electronic document to the filing party. Absent evidence of such confirmation, there shall be no presumption of filing. 8

(C) System filing errors for electronic filing. If electronic filing or service is prevented or delayed because of a failure of the electronic filing system, a court shall provide for appropriate relief, including, but not limited to, the allowance of filings Nunc Pro Tunc or the provision of extensions to respond. 5.3.3 Caption. Every document or pleading presented for filing in a probate court shall bear a caption which sets out the exact nature of the pleading or the type of petition. 5.3.4 Signatures. All judgments, orders, pleadings, and other documents shall bear the signature of the responsible attorney or party who prepared the document, and his or her name, proper address, and telephone number shall be typed or printed underneath. If a party is represented in the matter by an attorney of record, that attorney must sign the document to be filed for the document to be eligible for filing. Any documents filed electronically shall conform to the provisions set forth in Rule 5.3.12 (B) 3.

5.9 Standard forms

(A) A form, including any instructions, shall be considered adopted when it has been approved by a majority of a quorum of probate judges present at a meeting of the Council of Probate Court Judges of Georgia. The forms committee members may approve changes to forms and instructions.

(B) The effective date of any such standard form shall be immediately following the date approved by the Supreme Court. Each newly-adopted form will either be published in full in an issue of such Advance Sheets or be available in each probate court of this state, at least one month prior to its effective date. Dissemination to each probate court may be accomplished electronically. A paper copy may be sent to any probate court upon request.

(C) These rules shall be construed to allow and facilitate the use of technology in electronic document preparation. No standard forms or these rules shall require the filing party to mark or identify any changes in such forms unless they are material. Changes in such forms which are grammatical, changes in gender, changes in singular and plural, omission of optional or alternative language and the inclusion of variable information such as names and addresses shall not be deemed material; however, the format and sequence of the forms shall be preserved as far as practical.

(D) Each court will have a supply of printed copies of adopted standard forms. Each standard form will have a title and will contain numbered paragraphs. When an available standard form is not used for a probate court procedure, then the content of the substituted pleading or other document must conform to the standard form, indicating all material information added to or deleted from the standard form. Each material addition must be underlined, placed in bold or all capital letters, or otherwise clearly indicated, and material deletions must be shown with a single strike through or otherwise clearly indicated. At the end of any such document, the attorney must sign the following statement: "I certify that the content of the foregoing is identical in all material respects with Georgia probate court standard form entitled, _____, except for additions or deletions indicated as required by the Uniform Probate Court Rules." For purposes of this paragraph, instructions shall not be deemed to be a part of any standard form. **Please find Certificate Attached.**

(E) With respect to any procedure for which a standard form has been adopted, the court may, in its discretion, process or decline to process any document not on an available standard form and which does not contain the certificate described above.

(F) Any document prepared in accordance with this rule and any other applicable rules shall be acceptable in any probate court in this state.

(G) For the purposes of this rule, any change or modification of a standard form which changes only the format in which dates are set forth shall not be considered to be the adoption of a new form, and any existing standard form may be modified or amended solely for the purpose of changing the format in which dates are set forth without affecting the effective date or otherwise changing the standard form. In the event such changes are made to a standard form, newly printed or created forms may be distributed to and by probate courts in lieu of older forms without such changes; however, older versions of standard forms not containing such changes shall be acceptable for filing in all probate courts until existing supplies are depleted. Any change or modification of a standard form which changes only the format in which dates are set forth shall not be considered to be a substituted document such as to require the certificate required under paragraph (D) of this rule.

(H) Minor changes in spelling, grammar, syntax, or punctuation which does not effect a procedural or substantive change to a form may be made by the standing Forms and Rules Committee of the Council of Probate Court Judges of Georgia and may be submitted to the Supreme Court for approval without action by a quorum of the full council.

5.3.12 Filing and Electronic Filing Requirements

(A) **Filing** Pleadings or petitions presented to the clerk for filing shall be filed only when accompanied by the proper filing fee, fee for sheriff service, or a pauper's affidavit, and, when applicable, any forms required by law or rule to be completed by the parties. ~~The attorney or party filing the petition shall furnish the necessary service copies.~~

(B) **Electronic filing** For electronic transmission of documents in electronic form to the court, all imaging must be in compliance with the imaging standards issued by the Judicial Council of Georgia. Filings submitted electronically shall

comply with all other provisions of paragraph (A) of this rule except the manner of filing.

1. Availability Electronic filing may be made available in probate court in conformity with statewide minimum standards and rules for electronic filing adopted by the Judicial Council of Georgia. However, special provisions are required for all matters which require special confidentiality, including, but not limited to, matters under OCGA Titles 29 or 37 and weapons carry license applications.

2. Documents that may be filed electronically Where electronic filing is available, a document may be electronically filed in lieu of paper by the court, the clerk, and any registered filer unless electronic filing is expressly prohibited by law, these rules, or court order. Electronic filing is expressly prohibited for documents that according to law must be filed under seal or presented to a court in camera or for documents to which access is otherwise restricted by law or court order. This includes, but is not limited to, a last will and testament, a surety bond, and documents necessary for service. The original last will and testament and/or codicil of a decedent shall be filed with the probate court within ten days of any electronic filings unless otherwise authorized under OCGA § 53-4-46 or pursuant to Georgia law. The original last will and testament and/or codicil shall be filed before final order and letters testamentary will issue. The original hard copy of the surety bond shall always be filed with the court. The petitioner or the petitioner's attorney is responsible for submitting to the court prepared documents and envelopes so that service can be perfected by the clerk in hard copy format (i.e., completed return of service for the sheriff's department and envelopes that are properly addressed and stamped with adequate postage). Documents to which public access is otherwise restricted by law, court order, or court rule, may be filed electronically. Once filed, access to such files shall be restricted from public access except by parties authorized by law, court order, or court rule.

3. Signatures

(a) An electronically filed document is deemed signed by the registered filer submitting the document. The filer agrees that submitting the documents electronically creates the same good faith obligations as the original signature creates on a paper document. By electronically filing the document, the filer verifies that the signatures are authentic.

(b) Documents of consent and acknowledgment of the petition signed by a party other than the petitioner shall be created with a wet signature and written initials, when required, and properly notarized and sealed. These documents may be uploaded through the electronic filing system. 10

4. Electronic service. Upon filing, an electronically filed document is deemed served on all parties and counsel who have waived any other form of service by registering with the electronic filing system to receive electronic service in the case, and who receive notice via the system of the document's filing.

5. Force and effect. Electronically filed court records have the same force and effect and are subject to the same right of public access as are documents filed by traditional means.

6. Self-represented parties. To protect and promote access to the courts, courts shall reasonably accommodate self-represented parties by accepting and then converting and maintaining in electronic form paper pleadings or other documents received from self-represented parties.

7. Procedure for handling misfiled or otherwise deficient or defective e-filings. Upon physical acceptance and review of an electronic filing and discovery that it was misfiled or is otherwise deficient or defective, a clerk shall as soon as practicable provide the filer notice of the deficiency or defect and an opportunity to cure or, if appropriate, reject the filing altogether. In any case, the clerk shall retain a record of the action taken by the court in response, including date, time, and reason. Such records shall be maintained until a case is finally concluded, including the exhaustion of all appeals. Absent a court order to the contrary, such records shall be accessible to the parties and public upon request without the necessity for a subpoena.

**CERTIFICATE IN ACCORDANCE WITH
UNIFORM PROBATE COURT RULE 5.9 (D)**

I certify that the content of the foregoing is identical in all material respects with Georgia probate court standard form entitled _____,
_____ ,
except for additions or deletions indicated as required by the Uniform Probate Court Rules.

Date

Signature of Attorney

Printed Name: _____

Address: _____

Telephone Number: _____

State Bar#: _____

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used when an available standard form is not used; the content of the substituted pleading or other document must conform to the standard form, indicating all material information added to or deleted from the standard form. Material additions must be underlined, placed in bold or all capital letters, or otherwise clearly indicated, and material deletions must be shown with a single strike through or otherwise clearly indicated. This certificate must be attached to said form.

II. General Instructions

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