



Formal Petition

If no Will has ever been probated for the Decedent, check “Testacy.” If you are also seeking appointment as a Personal Representative, check “Appointment.”

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Page 1, Section I(1) and I(2)

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Applicant/Petitioner(s):	
Address:	
Telephone (Work):	
(Home):	
(Cell):	
Email:	
Relationship to Decedent:	

2. Decedent Information:

Full Legal Name (including all known names):	
Date of Birth:	
Date of Death:	
Age at Date of Death:	

*Applicant's Information*

*Information about the person who died ("the Decedent")*

Complete Section I(1) with **YOUR** information: Full legal name (including any a/k/a's), mailing address, work, home, and cell phone numbers (as applicable); e-mail address; and **your** relationship to the Decedent (i.e. spouse, child, aunt/uncle, niece/nephew, significant other, nominated Personal Representative).

Complete Section I(2) with information about the person who died – **THE DECEDENT'S** information: Full legal name (including any a/k/a's), date of birth, date of death, and age at death.

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Page 1, Section I(3)

3. Venue for this proceeding is proper in this County because:

Decedent was domiciled in this County at date of death:  
Address: \_\_\_\_\_ County: \_\_\_\_\_ State: South Carolina.

Decedent was **not** domiciled in **South Carolina**, but property of Decedent was located in this County at date of death at:  
Address: \_\_\_\_\_ County: \_\_\_\_\_ State: South Carolina

Decedent has a right to take legal action in this County because: \_\_\_\_\_

If the above address is the address of a nursing home, prison, or other residential facility, please give the last address of the Decedent prior to entering a facility: \_\_\_\_\_

*Choose the appropriate checkbox and include additional information as indicated.*

*Be sure to include the Decedent's address prior to entering a nursing home, prison, or other residential facility if applicable.*

Choose the appropriate checkbox for Section I.3. Be sure to include addresses in the appropriate spaces if the first or second checkbox is selected. If selecting the third checkbox, be sure to include an explanation of the Decedent's right to take legal action in Horry County. **Failure to provide adequate information in response to the inquiries on this form could result in delays with the processing of your estate paperwork and/or denial of your Application.**

4(a). Names and addresses of beneficiaries (devisees) named in the Will.

Full Legal Name (including all known names)	Year of Birth	Full Address	Email Address	Relationship to Decedent

See attached for additional devisees (check if applicable).

Check here if you need additional space, and attach Form 301ES, Additional Devisees/Heirs/Successors

Section I.4(a) should include information for all beneficiaries entitled to inherit pursuant to Decedent’s Last Will and Testament. **If the Decedent died without a Will, skip this section and proceed to Section I.4(b).** Note the following:

- Do not list contingent beneficiaries if the primary beneficiary is still living. (i.e. Decedent’s Will states “my entire estate to my husband, but if my husband is not living at the time of my death, then my entire estate goes to my children.” Do not list the children if the husband is still living as he would be the beneficiary under the Will. In this situation, the children would be listed in Section I.4(b).
- If the primary beneficiary under Decedent’s Will is deceased, list the primary beneficiary and indicate “deceased and the date of death” under “Full Address” and list any contingent beneficiaries. The Court will have to determine whether that beneficiary’s issue (lineal descendants) will have to be listed in this section. See S.C. Code Ann. § 62-2-603.
- If you need additional space, check the box “See attached for additional devisees” and attach Form 301ES, Additional Devisees/Heirs/Successors to your Application.
- **Year of Birth:** include this information for **all** devisees who are individuals. “Over 18” or “adult” is not an acceptable response unless the devisee is a trust or charity.
- **Trusts:** If the devisee under the Will is a trust, under “Full Legal Name” include the following: “[Name of Trustee], as Trustee/[Successor Trustee] of the [Name of Trust]”. Include the address and e-mail address for the Trustee and file a Memorandum of Trust or Certificate of Trust with your Application.

4(b). Names and addresses of intestate heirs who are not devisees (persons who inherit if Decedent left no Will).

Full Legal Name (including all known names)	Year of Birth	Full Address	Email Address	Relationship to Decedent

See attached for additional intestate heirs (check if applicable).

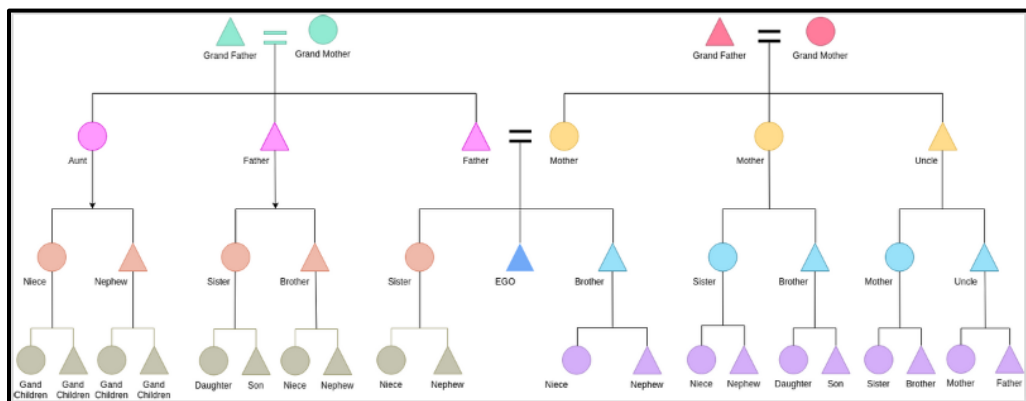
Check here if you need additional space, and attach Form 301ES, Additional Devisees/Heirs/Successors

If the Decedent **did not have a Will**, list all intestate heirs in Section I.4(b).

If the Decedent **did have a Will**, the names of any intestate heirs who do not inherit under the Will should be listed in this section.

To determine who are the Decedent's intestate heirs, complete the Intestate Heirs Chart.

- Rules for South Carolina intestate succession can be found in S.C. Code Ann. §§ 62-2-102 and 62-2-103. Generally, intestate heirs are as follows:
  - Spouse (1/2 of estate) and children (or their lineal descendants if the child has predeceased) (1/2 of estate);
  - If no spouse, then all to the children (or their lineal descendants if a child has predeceased);
  - If no children, then all to the spouse;
  - If Decedent was not married and had no children, grandchildren, or great-grandchildren (or other lineal descendants of children), then to Decedent's parents
    - If survived by both parents, Father receives 50% and Mother receives 50%;
    - If survived by only one parent, the surviving parent receives 100%.
  - If Decedent was not married, had no children or issue of children surviving him/her, and both of Decedent's parents were predeceased, then to Decedent's siblings (including half-siblings) (or their lineal descendants – Decedent's nieces/nephews – if the sibling has predeceased the Decedent).
  - If the Decedent was not married, had no children or issue of children surviving him/her, both parents were predeceased, and Decedent had no siblings or issue of siblings surviving him/her, then to Decedent's grandparents, if living, or if predeceased, to their issue (aunts/uncles, cousins) (50% to maternal grandparent side and 50% to paternal grandparent side or all to one side if no heirs identified on other side).
  - If no living heirs are identified in the prior familial lines, then go to the great-grandparents and issue of great-grandparents (great-aunts/great-uncles; second cousins) (50% to maternal family members and 50% to paternal family members or all to one side if no heirs identified on other side)
  - If there is still no living heirs (going out to the great-grandparent line), then the estate will escheat to the State of South Carolina.



Examples for Section I.4(b):

- The Will leaves the entire estate to a trust. The Trustee would be listed in Section I.4(a), and the Decedent's spouse and children, or other intestate heirs would be listed in Section I.4(b).
- Decedent left no Will and was survived by her spouse and three children. All four individuals would be listed in Section I.4(b).
- Decedent left no Will and was survived by his spouse. He also had two children, one of whom predeceased him leaving three children (Decedent's grandchildren). Spouse, Living Child, and three Grandchildren would be listed in Section I.4(b). For the Court's reference, indicate if a grandchild's parent predeceased the Decedent under relationship. (i.e. "child of predeceased son, John Smith")
- If an heir survived the Decedent, but later died, that heir's estate should be listed in Section I.4(b) (i.e. Jane Smith, Personal Representative for the Estate of Jacob Smith).
- If you need additional space, check the box "See attached for additional devisees" and attach Form 301ES, Additional Devisees/Heirs/Successors to your Application.
- **Year of Birth**: include this information for all devisees. "Over 18" or "adult" is not an acceptable response.

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Page 2, Section I.4(c)

4(c). Did all of the above persons survive one hundred and twenty (120) hours since the death of Decedent? <input type="checkbox"/> YES <input type="checkbox"/> NO If no, please explain on page 4.
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Make selection here.

If you answer "no," be sure to include an explanation on Page 4.

**Make the proper selection. If you answer "no," include an explanation on Page 4. Failure to provide adequate information in response to the inquiries on this form could result in delays with the processing of your estate paperwork and/or denial of your Application.**

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Page 2, Section I.5 through I.9

<p>5. Did Decedent have any change of marital status or the birth or adoption of any children after execution of this Will, if one exists, or has any child of the Decedent been born since his/her death, or is any birth of a child of the Decedent anticipated? (This includes illegitimate children.)</p> <p><input type="checkbox"/> NO <input type="checkbox"/> YES If yes, please explain, on page 4.</p> <p>6. To the best of your knowledge, was the Decedent a patient in a non-private State of South Carolina mental health facility during his/her lifetime?</p> <p><input type="checkbox"/> NO <input type="checkbox"/> YES If yes, please explain, on page 4.</p> <p>7. Has a Guardian or Conservator ever been appointed by a Court for this person?</p> <p><input type="checkbox"/> NO <input type="checkbox"/> YES If yes, please explain on page 4.</p> <p>8. Has a Personal Representative of the Decedent been appointed prior to this date by a Court in this state or elsewhere?</p> <p><input type="checkbox"/> NO <input type="checkbox"/> YES If yes, please state details, including name and address of such Personal Representative on page 4.</p> <p>9. Have you received or are you aware of any Demands for Notice (FORM #111ES) of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere?</p> <p><input type="checkbox"/> NO <input type="checkbox"/> YES If yes, please state details, including names and addresses on page 4.</p>
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Selections must be made for each of these questions. If you answer “no” for any question, **include explanations for any answers as indicated on Page 4. Failure to provide adequate information in response to the inquiries on this form could result in delays with the processing of your estate paperwork and/or denial of your Application.**

Page 3, Section I.10 through I.12

10.	Have more than ten (10) years passed since the Decedent's death?	<input type="checkbox"/> NO <input type="checkbox"/> YES	If yes, please state circumstances authorizing the delay.
11(a).	Did the Decedent own probate real estate?	<input type="checkbox"/> NO <input type="checkbox"/> YES	If yes, an approximate value of \$_____ (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)
11(b).	Did the Decedent own probate personal property?	<input type="checkbox"/> NO <input type="checkbox"/> YES	If yes, an approximate value of \$_____ (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)
11(c).	Are you seeking appointment as Personal Representative of the Decedent's estate? Is there a civil litigation attorney?	<input type="checkbox"/> NO <input type="checkbox"/> YES	If yes, please provide the name of the civil litigation attorney: _____
11(d).	At the time of Decedent's death, was he or she involved in any pending civil litigation?	<input type="checkbox"/> NO <input type="checkbox"/> YES	If yes, please state the circumstances and name of attorney on page 4.
11(e).	If you answered NO to questions 11(a) - 11(d) above, but are seeking the appointment of a Personal Representative, please explain why the appointment is requested on page 4.		
12.	Have you made a diligent search for a Will of the Decedent?	<input type="checkbox"/> YES <input type="checkbox"/> NO	If no, please explain on page 4.

Choose “yes” or “no” for all questions.

Include estimated fair market value of all real property here.

Include estimated fair market value of all personal property here.

Name of Civil Litigation Attorney

Section I.10: The proper selection must be made. If you answer “yes,” include requested information on Page 4.

Section I.11(a): Choose “yes” or “no”. **Include estimated fair market value of real property in space provided.**

Section I.11(b): Choose “yes” or “no”. **Include estimated fair market value of personal property in space provided.**

Section I.11(c): Choose “yes” or “no”. **If “yes,” include name of civil litigation attorney.**

Section I.11(d): Choose “yes” or “no”. **If “yes,” include additional information as requested on Page 4.**

**PLEASE NOTE:** If you answer “no” to questions 11(a) through 11(d), complete Section I.11(e).

Section I.12: Choose “yes” or “no” and **include explanation on Page 4 if “no” is selected.**

**Failure to provide adequate information in response to the inquiries on this form could result in delays with the processing of your estate paperwork and/or denial of your Application.**

Page 3, Section II

If the Decedent had a Will, complete this section. Otherwise, continue to Page 4.

II. IF A WILL EXISTS, PLEASE COMPLETE THIS SECTION.

1. Regarding the Decedent's Will:

- The original is attached.
- The original is in the Court's possession.
- An exemplified (authenticated) copy of a Will probated in another jurisdiction is attached.
- An exemplified (authenticated) copy of a Will not probated in another jurisdiction is attached.
- The original of the Will is lost, destroyed, or otherwise unavailable, however, a copy or a description of its contents is attached. (for formal proceeding, explain below or attach supplemental pleadings)

2. The execution date of the Will was:   
Codicil(s):

3. Is there a memorandum that disposes of tangible personal property pursuant to 62-2-512?

NO  YES If yes, attach hereto.

4. To the best of your knowledge, do you believe the Will listed above is the Decedent's validly executed last Will?

YES  NO If no, please explain on page 4.

5. To the best of your knowledge, is any witness to the will an "interested witness" (i.e., does the will make any devise to a witness, a witness's spouse, or a witness's issue)?

NO  YES If yes, please explain on page 4.

Choose one.

Choose "yes" or "no" for questions 3-5.

List date of Will and codicil(s), if any.

Section II.1: Make the proper selection. If you choose "the original of the Will is lost, destroyed, or otherwise unavailable . . ." **you must proceed with a Formal Summons and Petition. You cannot probate a copy of a Will informally.**

Section II.2: Include date of the Will and any codicil(s).

Section II.3: Choose "yes" or "no" and **attach memorandum if "yes"**.

Section II.4: Choose "yes" or "no" and **explain "no" answer on Page 4.**

Section II.5: Choose "yes" or "no" and **explain "no" answer on Page 4.**

**Failure to provide adequate information in response to the inquiries on this form could result in delays with the processing of your estate paperwork and/or denial of your Application.**

Page 4, Explanations

COMPLETE EXPLANATION(S) FOR QUESTIONS IN SECTIONS I and II HERE.

(If more space is required, use additional sheets.)

If your answer to any question on Pages 2 or 3 required an explanation or additional information, this is where those explanation(s) and/or additional information should be included.

**Failure to provide adequate information in response to the inquiries on this form could result in delays with the processing of your estate paperwork and/or denial of your Application.**



Page 4, Section III

III. IF APPLYING FOR INFORMAL OR FORMAL APPOINTMENT, PLEASE COMPLETE THE FOLLOWING.

1. If the Applicant/Petitioner is not the proposed Personal Representative(s), list name and address of the person you are proposing be appointed as the fiduciary:  
[Redacted] Name and address of proposed Personal Representative (if not the Applicant).

2. Priority for appointment of the proposed Personal Representative:  
Choose one.

- named as Primary Personal Representative in Will
- named as Alternate Personal Representative in Will
- nominee of Primary Personal Representative in Will
- nominee of Alternate Personal Representative in Will
- surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
- other devisee of Decedent (describe): [Redacted] or nominee of said devisee
- surviving spouse of Decedent or nominee of said spouse
- other heir of Decedent (describe): [Redacted] or nominee of said heir
- creditor (forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached
- other (describe): [Redacted] Include description of relationship to Decedent.

3. List below the name(s) of any other person(s), if any, having an equal or higher priority to serve as Personal Representative:  
[Redacted] List any individuals with equal or higher priority to serve as Personal Representative. See S.C. Code Ann. § 62-3-203.

Page 4, Section IV

The Applicant must sign where indicated on Page 4 in the presence of a notary. **Failure to submit a properly notarized Application will result in delays with the processing of your estate paperwork and/or denial of your Application.**

Page 5 is for court use only.

Page 6, Qualification and Statement of Acceptance

If you are not seeking appointment of a Personal Representative, skip this Section.

If you are seeking appointment of a Personal Representative, this section must be completed with all required contact information.

**Failure to submit a properly notarized Application will result in delays with the processing of your estate paperwork and/or denial of your Application.**



**QUALIFICATION AND STATEMENT OF ACCEPTANCE**

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.

Signature of proposed Personal Representative and contact information.

Signature:	
Print Name:	
Address:	
Telephone (Work):	
(Home):	
(Cell):	
Email:	

Attorney Information, if represented by Counsel.

Signature:	
Print Name:	
Address:	
Telephone (Work):	
(Home):	
(Cell):	
Email:	

*Attorney:	
Address:	
Telephone:	
Email:	

If you are seeking appointment of a Personal Representative, the Applicant or Proposed Personal Representative (if that is not the Applicant) must sign here. Complete all required contact information.