

Florida Probate Information

DISCLAIMER: THE MATERIAL IN THIS PACKET IS INTENDED TO BE FOR INFORMATIONAL PURPOSES ONLY. AS IN ALL MATTERS INVOLVING LEGAL ISSUES, IT IS RECOMMENDED THAT YOU OBTAIN THE SERVICES OF A LAWYER. IT IS IMPORTANT FOR YOU TO UNDERSTAND THAT *THE COURT AND PROGRAM STAFF DOES NOT REPRESENT YOU, YOU REPRESENT YOURSELF*. ALTHOUGH YOU ARE NOT REQUIRED TO HAVE AN ATTORNEY FOR CERTAIN PROBATE PROCEEDINGS, ONLY AN ATTORNEY CAN GIVE LEGAL ADVICE. IF YOU CHOOSE TO PROCEED WITHOUT AN ATTORNEY, AT ANY TIME IN YOUR CASE YOU MAY OPT TO HIRE ONE.

What is probate?

Probate is the legal process through which a deceased person's estate is properly distributed to heirs and designated beneficiaries and any debt owed to creditors is paid. The court oversees the process to ensure that the estate is properly administered.

What law is involved in probate proceedings?

Probate proceedings are primarily controlled by the Florida Probate Rules, as well as Chapters 731 through 735 of the Florida Statutes. For access to the Florida Probate Rules, as well as all Florida Rules of Court Procedure, — You may view the entire library of Florida Statutes.

Where is a probate case filed?

All probate cases must be filed in the court where venue lies. Proper venue depends on the facts of the case. Venue for probate cases is determined by the following:

1. If the decedent was a Florida resident, the case must be filed in the county where they were domiciled, that is, where they were an official resident. You may reference the decedent's death certificate to confirm which county is listed as the official county of last residence.
2. If the decedent was *not* a Florida resident, then the case may be filed in any county where the decedent's property is located. For example, if a Georgia resident owned property in both Gainesville and Tallahassee, the probate proceeding could be filed in either Alachua County or Leon County, but not in any other county.

Do I need an attorney?

This entirely depends on the type of probate proceeding you intend to file. Florida Probate Rule 5.030(a) requires that a personal representative in a formal administration of an estate *must* be represented by an attorney. For other proceedings that do not require formal administration, such as summary administration, disposition of personal property without administration, or disposition without administration in small estates, you are not required to be represented by an attorney. However, probate procedures can be highly complex, **therefore you are strongly encouraged to consult with and/or retain an attorney before proceeding.**

Is a will needed to probate an estate?

No. There are two types of estates—testate, meaning the decedent left a will, and intestate, where the decedent died without a valid will. Both testate and intestate estates may be probated. However, the existence of a will may impact who must be notified of the case, as well as the manner in which any estate assets are distributed.

How much does it cost to open a probate case?

The filing fees vary by type of proceeding, as well as the cost of any certified copies or other documents you may need to obtain. Please contact the specific county's clerk of court for additional information on filing fees, petitions for civil indigency, or other matters:

Alachua	https://alachuacounty.us/depts/clerk/pages/clerk.aspx	(352) 374-3682
Baker	http://www.bakerclerk.com/	(904) 259-8113
Bradford	https://www.bradfordcountyfl.gov/circuit_court	(904) 966-6280
Gilchrist	https://www.gilchristclerk.com/	(352) 463-3170
Levy	https://www.levyclerk.com/	(352) 486-5266
Union	https://unionclerk.com/	(386) 496-3711

What documents are needed to file a probate case?

In addition to the specific petitions and information required for each type of proceeding, you will also be required to file the following in every case:

1. Certified copy of decedent's death certificate
2. Affidavit of Heirs
3. The **original** last will and testament and any codicils (if applicable)
4. Proof of service of formal notice of the petitions, *or* joinder, waiver, and consent to the petition by all interested parties

How do I file my case?

Self-represented (pro se) litigants may file petitions or other pleadings or documents in person with the Clerk of Court, by mail, or electronically using the Florida E-Filing Portal. Contact the specific county's Clerk of Court for additional information.

What are the different types of probate proceedings?

Formal Administration

A formal administration may be filed when the estate assets exceed \$75,000, and/or it is necessary to appoint a personal representative to act on behalf of the estate. At the time of appointment, Letters of Administration are issued to the personal representative by the Court giving them the authority to complete the administration of the estate. The appointed personal representative is then responsible for the estate, paying all debts of the decedent and distributing the balance of the estate to the rightful beneficiaries, and the Court oversees the administration of the estate to ensure the decedent's debts are paid and that correct distribution to the heirs and/or beneficiaries. **Florida Probate Rule 5.030(a) requires that every personal representative be represented by an attorney unless they are the sole interested person in the case. If there are circumstances in which you need to be appointed as a personal representative, you are strongly encouraged to consult with and/or retain an attorney before proceeding further.**

Summary Administration

Summary administration may be filed when the value of the entire estate does not exceed \$75,000, excluding exempt property, or when the decedent has been deceased for more than two years. **A personal representative is not appointed in a summary administration.**

Disposition of Personal Property without Administration

This type of proceeding allows reimbursement to a person who paid for the decedent's final expenses. Any expenses paid must be out-of-pocket funds, prepaid funeral plans and bills paid by insurance do not qualify. Final expenses include funeral costs up to \$6,000 or medical bills that incurred in the last 60 days of the decedent's life.

Disposition without Administration of Intestate Property in Small Estates

This extremely narrow proceeding may only be filed by direct lineal heirs in an estate where the decedent died without a will (intestate), has been deceased for at least one year, and only seeks to distribute certain exempt property and non-exempt personal property up to \$10,000.

STATUTE REFERENCES

CHAPTER 732 - INTESTATE SUCCESSION AND WILLS

Intestate Succession - ss. 732.101-732.111
Elective Share of Surviving Spouse; Rights in Community - ss. 732.201-732.228
Pretermitted Spouse and Children - ss. 732.301, 732.302
Exempt Property and Allowances - ss. 732.401-732.403
Wills - ss. 732.501-732.518
Rules of Construction - ss. 732.6005-732.616
Contractual Arrangements Relating to Death - ss. 732.701-732.703
General Provisions - ss. 732.802-732.806)
Production of Wills - s. 732.901

CHAPTER 733 - ADMINISTRATION OF ESTATES

General Provisions - ss. 733.101-733.109
Commencing administration - ss. 733.201-733.213
Preference in appointment and qualifications of personal representative - ss. 733.301-733.3101
Fiduciary Bonds - ss. 733.402-733.406
Curators; Resignation and Removal of Personal Representatives - ss. 733.501-733.509
Duties and Powers of Personal - ss. 733.601-733.620
Creditor Claims - ss. 733.701-733.710
Special Provisions for Distribution - ss. 733.801-733.817
Closing Estates - ss. 733.901, 733.903

CHAPTER 735 – SMALL ESTATES

Summary administration; nature of proceedings - 735.201
May be administered in the same manner as other estates – 735.202
Petition for summary administration – 735.203
Filing of petition – 735.2055
Summary administration distribution – 735.206
Notice to creditors – 735.2063
Disposition without administration – 735.301
Income tax refunds in certain cases – 735.302

IN THE CIRCUIT COURT OF THE _____ 8th _____ JUDICIAL CIRCUIT,
IN AND FOR _____ LEVY _____ COUNTY, FLORIDA

Case No.: 38- _____

Division: _____

Petitioner,

and

Respondent.

DESIGNATION OF PARTY INFORMATION AND COPY OF LICENSE

I, {full legal name} _____, being sworn, certify that

my current mailing address is: {Street} _____

{City} _____ {State} _____ {Zip} _____

{Telephone No.} _____ {Fax No.} _____

I designate as my current e-mail address(es): _____

Social Security Number: _____ Date of Birth: _____

I understand that I must keep the clerk's office and the opposing party or parties notified of my current mailing and e-mail address(es) and that all future papers in this lawsuit will be served at the email address on record at the clerk's office.

Dated: _____

Signature of Party

*****Please attach a copy of Drivers License/ID*****

Disposition of Personal Property without Administration

What is Disposition of Personal Property without Administration?

This type of proceeding allows reimbursement to a person who paid for the decedent's final expenses. Any expenses paid must be out-of-pocket funds, prepaid funeral plans and bills paid by insurance do not qualify. Final expenses include funeral costs up to \$6,000 or medical bills that incurred in the last 60 days of the decedent's life. If you are a surviving spouse or child of the decedent, you may make a claim for Exempt Property (see § 732.402), which may include two cars and certain household items valued up to \$20,000.

Who may file a Petition for Disposition of Personal Property without Administration?

This type of proceeding may only be filed by a person seeking **reimbursement** for final expenses paid on behalf of a decedent, or by a surviving spouse, or if no surviving spouse, children of the decedent.

What Can Be Included?

The Court can only distribute certain items in this proceeding:

1. Specific exempt personal as defined in § 732.402
2. Reimbursement not to exceed \$6,000 in funeral expenses
3. Reimbursement for medical/hospital expenses incurred in the last 60 days of the decedent's life

This proceeding is limited in scope: If you are attempting to distribute a home, real estate, or non-exempt property that exceeds the amount of the final expenses, or if you are attempting to distribute financial accounts without seeking reimbursement for authorized funeral, medical, or hospital expenses, your petition will be denied, and you will be directed to file a different type of petition and pay all associated filing fees.

What must be included in the Petition for Disposition of Personal Property without Administration?

The petition must include the following:

- ☐ Description and value of the exempt property
- ☐ Description and value of other assets of the decedent
- ☐ The most recent documentation showing ownership of the property to be distributed or transferred (bank statement, insurance policy, retirement accounts, etc.); documents must show the correct name and account numbers
- ☐ The amount of preferred funeral costs up to \$6,000 or medical bills that incurred in the last 60 days of the decedent's life actually paid by petitioner
- ☐ Receipts and invoices for all expenses for which petitioner is requesting reimbursement showing the amount actually paid and who made the payment
- ☐ Proposed distribution of exempt property

What other documents must I provide?

- ☐ Certified copy of death certificate
- ☐ Affidavit of Heirs
- ☐ Receipts and invoices for all expenses for which you are requesting reimbursement showing the amount paid and who made the payment
- ☐ The most recent documentation showing ownership of the asset(s) to be distributed or transferred (bank statement, insurance policy, retirement accounts, etc.); documents must show the correct name and account numbers

Who do I need to provide notice to?

As outlined above, you must provide *formal notice* of the petition to all interested parties, including all heirs, beneficiaries, and/or creditors. Once you have provided each party with formal notice, you must file a proof of service of formal notice and attach any receipts or other confirmation to that document. Alternatively, if the interested parties are in agreement with the filings in the probate proceeding, they may file a joinder, waiver, and consent to the petition(s). The filing of these documents alleviates the obligation to serve a party with formal notice.

What happens after I file my Petition for Disposition of Personal Property without Administration?

Once the Petition for Disposition of Personal Property is filed and appropriate fees paid, the Clerk will assign a case number and forward the filing to a case manager for review. Please allow no less than 14 days for review of your documents. The case manager will notify the Petitioner if any additional information is need or you may receive notice to appear at a hearing.

Upon verification of all the information in the filing, a Probate Judge will sign an order granting or denying the Petitioner's request, and a copy of the order will be mailed to you. The Petitioner must then provide a copy of the order to the appropriate bank, insurance companies, or any individuals in possession of decedent's assets for disbursement. You may request certified copies of the order by contacting the Clerk of Court.

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT

IN AND FOR _____ COUNTY, FLORIDA

IN RE: THE ESTATE OF

CASE NUMBER:

Probate Division

Deceased.

PETITION FOR DISPOSITION WITHOUT ADMINISTRATION

(Verified Statement)

Petitioner(s), _____, alleges:

1. Petitioner, whose address is _____

is *[relationship to decedent]* _____

of *[decedent name]* _____,

the Decedent, who died on *[date of death]* _____ a resident of *[county and state of residence]* _____.

Decedent, whose last known address was _____,

and, if known, whose age at the time of death was _____, *[check one]* _____ *left a will, the original of which is attached to this petition, or* _____ *died intestate (without a will)*. If the decedent left a will, the will is either in the possession of the court or accompanies this petition.

2. So far as is known, the names of the beneficiaries of Decedent's estate and of the decedent's surviving spouse, if any, their addresses and relationships to Decedent, and the dates of birth of any who are minors are:

Name of Beneficiary	Age and DOB if Minor	Address	Relationship of Beneficiary to Decedent

3. The estate of decedent consists only of personal property exempt from the claims of creditors under section 732.402, Florida Statutes, or the Constitution of Florida, and non-exempt personal property the value of which does not exceed the sum of the amount of preferred funeral expenses and reasonable and necessary medical and hospital expenses of the last 60 days of the decedent's last illness, all being described as follows:

Exempt Property

Description of Property	Value

Non-Exempt Property

Description of Property	Value

Preferred Funeral Expenses (Statement or Receipt Attached)

Services By	Amount	Paid or Due

Medical and Hospital Expenses for Last 60 Days of Last Illness (Statement or Receipt Attached)

Services By	Type of Service	Amount	Paid or Due

Other Debts of Decedent (Statement or Receipt Attached)

Creditor	Goods or Services (How Debt Incurred)	Amount

4. Applicant requests that the Court issue a letter or other writing under the seal of the Court authorizing payment, transfer or disposition of the property to:

Name	Property	Amount or Value

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

NOTE: Before this petition can be processed, you must file a complete affidavit of heirs all interested parties must sign a joinder, waiver and consent or be served by formal notice.

Signature of Petitioner

Printed Name of Petitioner

Address

Email Address

Phone Number

Statement made before

Deputy Clerk

Clerk of the Circuit Court
(Seal)

OR

STATE OF _____
COUNTY OF _____

The foregoing instrument was sworn to, subscribed and acknowledged this ____ day of _____, 20__, by _____, who is () personally known to me or () produced _____ as identification.

Notary

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR LEVY COUNTY, FLORIDA
PROBATE DIVISION

In re: The ESTATE OF

Case Number _____

Division _____

Deceased.

CONSENT AND WAIVER OF NOTICE
(Disposition of Personal Property Without Administration)

The undersigned, whose name and address are _____

whose social security or tax identification number is _____,

and who has an interest in the above estate as _____

acknowledges receipt of a copy of the Petition for Disposition of Personal Property Without Administration, heretofore filed in this proceeding, hereby waives hearing and notice of hearing thereon, and consents to the entry of an order pursuant to the prayer of the petition without notice or hearing.

Signed on _____

[Print or Type Names Under All Signature Lines]

Summary Administration Checklist

Does the estate qualify?

1. Did the deceased live in Levy County?
 - ☐ If yes, go to question 2.
 - ☐ If no, the petition must be filed in the county where the deceased lived.
2. Are the estate's assets, both real and personal, equal to or less than \$75,000?
 - ☐ If yes, the estate qualifies.
 - ☐ If no, go to question 3.
3. Has the decedent been deceased more than 2 years?
 - ☐ If yes, the estate qualifies.
 - ☐ If no, the estate does not qualify.

Are you ready to file?

1. Do you have a certified copy of the death certificate?
 - ☐ If yes, go to question 2.
 - ☐ If no, please provide the proper documentation.
2. Have you completed the required Affidavit of Heirs?
 - ☐ If yes, go to question 3.
 - ☐ If no, please complete before moving forward.
3. Did the deceased leave a will?
 - ☐ If yes, go to question 4.
 - ☐ If no, skip to question 5.
4. Do you have the original will?
 - ☐ If yes, go to question 5.
 - ☐ If no, please file the original will.
5. Is the entire petition completed, including correct beneficiaries, all assets and values, any creditors, and proposed distribution of assets?
 - ☐ If yes, go to question 6.
 - ☐ If no, please complete the petition in its entirety.
6. Is the estate indebted (any claims on the estate)?
 - ☐ If yes, go to question 7.
 - ☐ If no, skip to question 8.
7. Have you formally noticed the creditors through certified mail and received proof of service such as a green card?
 - ☐ If yes, go to question 8.
 - ☐ If no, please see information on formal notice on our website or contact the case manager.
8. For intestate estates (without a will), are there any individuals or beneficiaries, such as children or siblings of the deceased, that should be made aware of this petition?
 - ☐ If yes, go to question 9.
 - ☐ If no, skip to question 10.
9. Have they reviewed the petition and signed a Joinder/Waiver form?
 - ☐ If yes, go to question 10.
 - ☐ If no, please see information on formal notice on our website or contact the case manager.

10. If you wish to distribute personal property such as bank accounts, insurance policies, or stocks, have you provided a recent statement reflecting the current amount or value?
- ☐ If yes or not applicable, go to question 11.
 - ☐ If no, please provide the proper documentation. If you are unable to obtain this documentation, please see the case manager for more information.
11. If you wish to distribute personal property such as a vehicle, have you provided the title or documentation including the VIN?
- ☐ If yes or not applicable, go to question 12.
 - ☐ If no, please provide the proper documentation.
12. If you wish to distribute real property, have you provided the deed with a full legal description?
- ☐ If yes or not applicable, you have provided all the required information.
 - ☐ If no, please provide the proper information.

If you have answered yes to all questions that applies to the estate, then you are ready to file.

If you have any further questions, please refer to our website www.circuit8.org or contact the case manager at probate@circuit8.org

Please remember that providing all required information does not guarantee that your petition will be granted. The court will review the filings and may require additional information.

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT

IN AND FOR _____ COUNTY, FLORIDA

IN RE: THE ESTATE OF _____,

CASE NUMBER: _____

Probate Division

Deceased.

PETITION FOR SUMMARY ADMINISTRATION

Intestate (No Will) _____ or Testate (Will) _____

[If the deceased left a will, the original will must be filed with the petition]

1. Petitioner(s), _____ states:

2. Petitioner's address and phone number are:

3. Petitioner's relation to the decedent: _____

4. Decedent's address was: _____

5. Decedent's age was _____ on Decedent's date of death _____

6. Decedent was domiciled in _____ County at the time of death.

7. Decedent's Beneficiaries: their names, addresses, and age (DOB if minor).

Name	Address	Relationship to Decedent	Age and DOB if minor

An Affidavit of Heirs must be filed along with the petition.

8. Venue is in Alachua County because: _____

9. The estate qualifies for summary administration because:

- a. _____ The value of the estate, less than the value of the property exempt from claims of creditors, is less than \$75,000, OR
- b. _____ The Decedent has been dead for more than 2 years.

10. Proceedings concerning Decedent's estate _____ are or _____ are not pending in another state or country. If Proceedings are pending, the name and address of the personal representative / executor and the court in which the proceedings are pending are:

11. According to Petitioner's best knowledge, information, and belief, Decedent left the following property:

- a. Personal Property (Cash and Tangible Property)

Asset	Value

For any bank account, insurance accounts, or other financial assets, you must provide a recent statement reflecting on the current value.

- b. Real Property (Legal Description, Physical Address, and Parcel Number)

Please also attach a deed or other complete legal description of property. Please note that property appraiser's records generally will not include a full legal description.

12. With respect to the claim of creditors *[check any that apply]*

- a. _____ Creditor claims are barred because the decedent has been dead for more than 2 years or the publication period has expired

OR

- b. _____ The Petitioner has made a diligent search and reasonable inquiry for any known or reasonably ascertainable creditors. To the extent known to petitioner, the names and addresses of all known or reasonably ascertainable creditors of decedent, with the amounts owing to each of the creditors respectively, are as follows:

Name of Creditor	Address of Creditor	Amount of Debt	Has full payment been made to the Creditor? If so, by whom?

Formal notice of the petition must be served on the creditors listed above by certified mail and file proof of service with the court.

OR

- c. _____ The Petitioner has made a diligent search and reasonable inquiry for any known or reasonable ascertainable creditors and the estate is not indebted.

1. WHEREFORE, Petitioner(s) requests to distribute the estate as follows:

Name	Asset / Property	Share or Amount

All interested parties must either 1) sign the petition and have their signature notarized, 2) sign a joinder, waiver and consent, or 3) be served formal notice and proof of notice filed with the court. Add additional pages as needed.

2. Petitioner acknowledges that the recipients of the decedent's property under this Order of Summary Administration shall be personally liable for a pro rata share of all lawful claims against the estate of the decedent, but only to the extent of the value of the estate of the decedent actually received by each recipient, exclusive of the property exempt from claims of creditors under the constitution and statutes of Florida. Any known or reasonably ascertainable creditor who did not receive notice and for whom provision for payment was not made may enforce the claim, and if the creditor prevails, shall be awarded reasonable attorney's fees as an element of costs against those who joined in the petition.

BEFORE YOU SUBMIT THIS FORM HAVE YOU:

- ☐ Included an original or a certified copy of the Death Certificate?
- ☐ Completed the Affidavit of Heirs?
- ☐ Completed Joinder/Waivers for all interested parties or had them sign this petition?
- ☐ For any real property, included a deed showing the property was owned by the deceased with a full legal description?
- ☐ For all other assets, included a complete recent statement?

Signatures on next page...

Under penalties of perjury, I declare that I have read the foregoing Petition for Summary Administration, and the facts alleged therein are true, to the best of my knowledge and belief. (Attach additional pages as necessary).

Petitioner 1 Signature

Printed Name

Date

STATE OF _____
COUNTY OF _____

The foregoing instrument was sworn to, subscribed and acknowledged this ____ day of _____, 20__, by _____, who is () personally known to me or () produced _____ as identification.

Notary or Deputy Clerk

Petitioner 2 Signature

Printed Name

Date

STATE OF _____
COUNTY OF _____

The foregoing instrument was sworn to, subscribed and acknowledged this ____ day of _____, 20__, by _____, who is () personally known to me or () produced _____ as identification.

Notary or Deputy Clerk

Petitioner 3 Signature

Printed Name

Date

STATE OF _____
COUNTY OF _____

The foregoing instrument was sworn to, subscribed and acknowledged this ____ day of _____, 20__, by _____, who is () personally known to me or () produced _____ as identification.

Notary or Deputy Clerk

Affidavit of Heirs

When an individual dies without a will (intestate), the Court must make a determination of who the decedent's surviving heirs are for purposes of distributing the state assets. In order to do that, an Affidavit of Heirs must be filed.

An Affidavit of Heirs is a sworn document that lists **ALL RELATIVES OF THE DECEDENT. This includes blood relatives and legally adopted relatives** regardless of whether or not they survived the decedent. In this document, you must list all relatives, including yourself. If the relative was deceased at the time of the decedent's death, please provide the deceased relative's name, indicate that they are deceased, and their date of death. Answering with not applicable or any other such designation is inappropriate for this document. You must be clear with responses to all categories; if there is no person in the respective category ((i.e., the decedent was an only child, and therefore had no sibling(s)), please indicate "None." When appropriate, you must indicate if the relationship is that of a half-relative (i.e., half-brother or half-sister).

Important note: just because a person is listed in the Affidavit of Heirs, it does not mean they will be entitled to receive any share of the decedent's estate. By completing this form, you are essentially providing the Court with a family tree of the decedent to assist the judge in determining who gets what assets.

A sample Affidavit of Heirs is provided in the subsequent links on this webpage.

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT

IN AND FOR _____ COUNTY, FLORIDA

IN RE: THE ESTATE OF

CASE NUMBER:

Probate Division

_____,
Deceased.

AFFIDAVIT OF HEIRS
(§ 732.103, Fla. Stat.)

For purposes of this document, you must list ALL RELATIVES of the decedent, including yourself, if applicable. If the relative was deceased at the time of the decedent's death, please provide the deceased relative's name, indicate deceased, and date of death. Answering with n/a, not applicable, or any other such designation is inappropriate for this document. If there is no person in the respective category, please indicate "None." When appropriate you must indicate if the relationship is that of a half-relative (i.e., half-brother or half-sister).

I, the undersigned, _____ (your name), do hereby state the
decedent _____ (name) died on _____ (date of death)

and that as of the Decedent's date of death, the Decedent had the following heirs:

1. Spouse of the Decedent. (Provide name, age, and address; or if deceased, provide name, indicate deceased, and date of death).

1. Spouse

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	

Did the spouse have children who were not also children of the deceased?

_____ Yes _____ No

2. No Surviving Spouse _____

2. Children of the Decedent. Please list the name of each child born or legally adopted by the deceased. You must provide their name, age, and address, and if deceased, and date of death. You must also provide the name of each child's legal parents.

The Deceased had No Children _____

1. Child 1

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	
Name of Parents:	

2. Child 2

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	
Name of Parents:	

3. Child 3

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	
Name of Parents:	

4. Child 4

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	
Name of Parents:	

5. Child 5

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	
Name of Parents:	

(Attach additional pages as needed)

3. Children of the Deceased Children. If a child of the deceased has passed away, please provide the name, age, and address. (Or if deceased, provide name, indicate deceased, and date of death). This only applies to Decedent's grandchildren who are heirs of any of Decedent's children who predeceased Decedent.

There are no children of deceased children _____

1. Grandchild 1

Name:	
Age/DOB:	
Address:	
Parent:	

2. Grandchild 2

Name:	
Age/DOB:	
Address:	
Parent:	

3. Grandchild 3

Name:	
Age/DOB:	
Address:	
Parent:	

4. Grandchild 4

Name:	
Age/DOB:	
Address:	
Parent:	

5. Grandchild 5

Name:	
Age/DOB:	
Address:	
Parent:	

6. Grandchild 6

Name:	
Age/DOB:	
Address:	
Parent:	

4. Parents of the Decedent. (Provide name, age, and address; or if deceased, provide name, indicate deceased, and date of death).

1. Parent 1

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	

a. Parent 2

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	

5. Siblings of the Decedent. (Provide name, age, and address; or if deceased, provide name, indicate deceased, and date of death).

1. Sibling 1

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	

b. Sibling 2

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	

c. Sibling 3

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	

d. Sibling 4

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	

(Attach additional pages as needed)

6. Children of Deceased Siblings—Nephews/Nieces. If a sibling of the deceased has passed away, please provide the name, age, and address of their children. (Or if deceased, provide name, indicate deceased, and date of death).

1. Nephew/Niece 1

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	
Parents:	

2. Nephew/Niece 2

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	
Parents	

3. Nephew/Niece 3

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	
Parents:	

4. Nephew/Niece 4

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	
Parents:	

7. Grandparents of the Decedent. (Provide name, age, and address; or if deceased, provide name, indicate deceased, and date of death).

1. Grandparent 1

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	

2. Grandparent 2

Name:	
Age/DOB:	
Address:	

If deceased, DOD:	
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3. Grandparent 3

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	

4. Grandparent 4

Name:	
Age/DOB:	
Address:	
If deceased, DOD:	

8. Kindred of the last deceased spouse (ONLY IF filing intestate and is not previously listed above). (Provide name, age, and address; or if deceased, provide name, indicate deceased, and date of death).

Name:	
Relationship	

Name:	
Relationship	

Name:	
Relationship	

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief. Executed on _____ (date).

Signature _____ Print Name _____

Phone Number _____ Email address: _____

Mailing Address _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was sworn to, subscribed and acknowledged this ____ day of _____, 20____, by _____, who is () personally known to me or () produced _____ as identification.

(stamp)

Notary

Interested Parties, Formal Notice, & Waivers

In addition to completing the appropriate forms, you must provide all interested parties with formal notice of the documents you have filed. Determining who is an interested party varies by the facts of each case, however, the definition is:

“Interested person” means any person who may reasonably be expected to be affected by the outcome of the particular proceeding involved. In any proceeding affecting the estate or the rights of a beneficiary in the estate, the personal representative of the estate shall be deemed to be an interested person. In any proceeding affecting the expenses of the administration and obligations of a decedent’s estate, or any claims described in s. 733.702(1), the trustee of a trust described in s. 733.707(3) is an interested person in the administration of the grantor’s estate. The term does not include a beneficiary who has received complete distribution. The meaning, as it relates to particular persons, may vary from time to time and must be determined according to the particular purpose of, and matter involved in, any proceedings.

Generally speaking, this includes all lineal descendants/heirs where there is no will (an intestate estate), all named beneficiaries in a will (a testate estate), and creditors of the estate. Because the people who fall into these categories “may reasonably be expected to be affected by the outcome” of the probate proceeding, they are entitled to formal notice of the filings in the proceeding.

Formal notice is the manner in which you verify to the Court that the documents were not only provided to those interested parties but were *actually received*. This is crucial to ensure all parties are aware of the court proceedings. The most common method of providing formal notice is through USPS Certified Mail or by using a commercial delivery service that requires a signed receipt or any other form of confirmation of receipt. Once formal notice has been provided, it is your responsibility to file proof of service of formal notice with the court. You may do this by filing the “green card” confirming certified mail service, tracking information from commercial delivery services confirming receipt, or other similar proof. *Note:* documents that do not clearly demonstrate formal notice and receipt by the intended recipient (i.e., mail returned undeliverable, mail left at door/with another person) will not be sufficient.

Alternatively, if the interested parties are in agreement with the filings in the probate proceeding, they may file a joinder, waiver, and consent to the petition(s). The filing of these documents alleviates the obligation to serve a party with formal notice.

Sample formal notice, proof of service of formal notice, and joinder, waiver, and consent forms are provided in the subsequent links on this webpage.

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR _____ COUNTY, FLORIDA

IN RE: THE ESTATE OF

CASE NUMBER:

Deceased

Probate Division

JOINDER, WAIVER AND CONSENT

The undersigned, whose name is _____, and who has
an interest in this estate as _____,
_____, acknowledges receipt of a copy of
_____, joins in
the petition, waives hearing and notice of hearing thereon, and consents to the entry of an order
granting the relief requested in the petition.

Signed on this _____ day of _____, _____.

Signature

Printed Name

Address

Email Address

Phone Number

STATE OF _____
COUNTY OF _____

The foregoing instrument was sworn to, subscribed and acknowledged this _____ day of
_____, 20____, by _____, who is () personally known to me or
() produced _____ as identification.

Notary

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT

IN AND FOR _____ COUNTY, FLORIDA

IN RE: THE ESTATE OF

CASE NUMBER:

_____,

Probate Division

Deceased.

_____/

FORMAL NOTICE

To: _____

YOU ARE NOTIFIED that a _____

_____ has been filed in this Court, a copy of which accompanies this Notice. You are required to serve written defenses on the undersigned within 20 days after service of this Notice, exclusive of the day of service, and to file the original of the written defenses with the clerk of the above Court either before service or immediately thereafter. Failure to serve and file written defenses as required may result in a judgment or order for the relief demanded in the pleading or motion, without further notice.

Signed on this _____ day of _____, _____.

Petitioner Name

Petitioner Address

Petitioner Email Address

Petitioner Phone Number

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT

IN AND FOR _____ COUNTY, FLORIDA

IN RE: THE ESTATE OF

CASE NUMBER:

Probate Division

Deceased.

PROOF OF SERVICE OF FORMAL NOTICE

Under penalties of perjury, I swear or affirm that on _____,
a copy of _____
and a copy of the formal notice thereof filed in the above proceeding were mailed by United States
registered or certified mail, return receipt requested, by commercial delivery service with
receipt of delivery, or were delivered in a manner permitted by Florida Probate Rule 5.040(a), to:

Signed receipts or other evidence that service was made on each addressee or the address's
agent are attached.

Signed on this _____ day of _____, _____.

Petitioner Name

Petitioner Address

Petitioner Email Address

Petitioner Phone Number

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT

IN AND FOR _____ COUNTY, FLORIDA

IN RE: THE ESTATE OF

CASE #: _____

Probate Division

_____,
Deceased.

PETITION TO DETERMINE HOMESTEAD STATUS OF REAL PROPERTY
(standalone petition)

Petitioner, _____, alleges:

1. The decedent, _____, died on _____,
domiciled in _____ County, Florida, and was survived by: (check next
to each statement that is applicable)
 - a. ☐ A spouse who has not waived their homestead rights.
 - b. ☐ A spouse who has waived their homestead rights. (attach a copy)
 - c. ☐ One or more descendants
 - d. ☐ One or more heirs at law who are neither a spouse nor a lineal descendant
of the decedent.
2. The deceased (check one)
 - a. ☐ Had a will which has been filed in this probate
 - b. ☐ Did not have a will.

3. At the time of the decedent's death, the decedent owned and resided on the real property located at (address of property)

Please also attach a deed or other complete legal description of the property

Please note that the property appraiser's records generally will not include a full legal description.

4. At the time of the decedent's death the property was (check all as applicable)

☐ the deceased's primary residence

☐ located inside the city of the city of _____ or ☐ outside the city limits

☐ consisted of approximately _____ acres (required)

5. The name of the decedent's surviving spouse, if any, and the names and dates of birth of heirs of the decedent having an interest in the decedent's estate, if any, and their respective relationships to the decedent are:

<u>NAME</u>	<u>RELATIONSHIP</u>	<u>DATE OF BIRTH</u>

(attach additional pages as needed)

6. With respect to the claims of creditors: (check each statement that is applicable)

a. ☐ All creditor claims are barred as decedent is deceased for more than 2 years

b. ☐ The Petitioner has made a diligent search and reasonable inquiry for any known or reasonably ascertainable creditors and:

i. ☐ The estate is not indebted.

ii. ☐ The estate is indebted and the names, addresses, and amount of each claim is set forth below:

Creditor Name	Nature of Claim	Amount

(Attach additional pages as needed)

c. All creditors ascertained to have claims must be properly served with a copy of this petition and the proof of formal service must be filed with the court prior to the entry of the Order Determining Homestead. Petitioner acknowledges that any known or reasonably ascertainable creditor who did not receive notice of this petition and for whom provision for payment was not made may enforce the claim and, if the creditor prevails, shall be awarded reasonable attorney fees as an element of cost against those who joined in the petition.

7. The only asset in this estate is the referenced real property that the Petitioner seeks to have determined as Homestead Property. There are no other assets available to this

estate, other than the decedent's Homestead real property and exempt personal property to satisfy any debts, taxes, claims, or expenses of the administration of this estate. The Petitioner does not anticipate receiving any other assets in the future.

8. The Property constituted the homestead of the decedent within the meaning of Section 4 of Article X of the Constitution of the State of Florida, and petitioner believes that upon decedent's death, title to the Property descended to and the constitutional exemption from claims of decedent's creditors inured to (list the beneficiaries of the property):

Name of Beneficiary	Age and DOB if Minor	Address	Relationship of Beneficiary to Decedent	Share

Note that each beneficiary must either 1) join in this petition 2) file a consent to the petition and waive formal notice or 3) must be sent formal notice of the petition by certified mail and proof of service filed with the court.

9. The only persons having an interest in this proceeding other than the beneficiaries and creditors listed above, are:

Name	Address	Nature of Interest

Attach additional pages as needed. Each interested party must either 1) join in this petition, 2) file a consent to the petition and waive formal notice or 3) must be sent formal notice of the petition by certified mail and proof of service filed with the court.

WHEREFORE, Petitioner requests that an order be entered determining that the Property constituted the exempt homestead of the decedent, title to which, upon decedent's death, descended and the constitutional exemption from claims inured as set forth in paragraph 5.

Before the relief can be granted all interested parties must either: 1) sign this petition and have their signature notarized, 2) sign a joinder, waiver and consent that is filed with the court, or 3) be served by formal notice with a copy of the return of service filed with the court. Add additional pages as needed.

An Affidavit of Heirs must be completed along with this form.

Under penalties of perjury, I declare that I have read the petition to Determine Homestead of Real Property, and the facts alleged are true, to the best of my knowledge and belief. I join in this petition and waive further notice.

Signature _____ Print Name _____

Phone Number _____ Email address: _____

Mailing Address _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was sworn to, subscribed and acknowledged this ____ day of _____, 20____, by _____, who is () personally known to me or () produced _____ as identification.

(stamp)

Notary

Additional Petitioners should sign this petition in the presence of a notary.

Attach additional pages as needed.

Under penalties of perjury, I declare that I have read the petition to Determine Homestead of Real Property, and the facts alleged are true, to the best of my knowledge and belief. I join in this petition and waive further notice.

Signature _____ Print Name _____

Phone Number _____ Email address: _____

Mailing Address _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was sworn to, subscribed and acknowledged this ____ day of _____, 20____, by _____, who is () personally known to me or () produced _____ as identification.

(stamp)

Notary

Under penalties of perjury, I declare that I have read the petition to Determine Homestead of Real Property, and the facts alleged are true, to the best of my knowledge and belief. I join in this petition and waive further notice.

Signature _____ Print Name _____

Phone Number _____ Email address: _____

Mailing Address _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was sworn to, subscribed and acknowledged this ____ day of _____, 20____, by _____, who is () personally known to me or () produced _____ as identification.

(stamp)

Notary