

A COURT APPOINTED ADMINISTRATOR HAS BEEN APPOINTED TO MANAGE DECEDENT'S ESTATE

A loved one died without a will and you, or another individual, filed a petition to be appointed as administrator of the estate in Fulton County Probate Court because your loved one either lived in or owned real property in Fulton County, Georgia at the time of his or her death. If your loved one was not domiciled in Georgia at the time of his or her death, you may have filed a petition in any Georgia county where he or she owned property. When a person dies without a will, his or her estate property left over after debts are paid off is divided and distributed according to the intestacy laws of Georgia pursuant to the Official Code of Georgia Annotated, O.C.G.A. §53-2-1.

If you filed a Petition for Administration for your loved one's estate and no agreement was reached to determine who would act as Administrator or to distribute the assets, the court has appointed a neutral administrator to represent the estate in an administrative manager capacity.

What is a Court Appointed Administrator?

1. May or may not be an attorney.
2. Represents the decedent's estate assets only.
3. Does not represent the heirs.
4. Is bonded by surety as a fiduciary.
5. Is paid by decedent's estate pursuant to O.C.G.A. §29-3-50.

What are the Administrator's duties?

1. Notify the creditors and debtors of the estate via publishing.
2. Apply for necessary tax forms and tax identification number.
3. Ascertain and gather the assets by any means possible.
4. Take possession of the assets.
5. Evict non-paying tenants.
6. Charge rents where applicable.
7. File inventory with the court.
8. Ascertain and assess the liabilities.
9. Pay bills and other debts including filing and paying taxes.
10. Obtain acknowledgment and consent to discharge the estate.
11. Disburse the remaining assets to heirs and discharge the estate.
12. File petition to discharge administrator.
13. Close the estate.

The Administrator's duties

Identifying the Heirs of An Estate

Heirs and beneficiaries may not be the same people. Heirs are determined by law at the time of death and are the persons who would inherit from the estate when someone dies without a will. Beneficiaries are the people or organizations in a will to receive your property. When an

administrator is appointed, there is no will and, therefore, no beneficiaries but all heirs should have been determined and/or lineage tested where necessary prior to appointment. However, petitioner failed to include decedent's natural born heirs in the petition, regardless of whether you have a personal relationship with them, now is the time to come forward with the names and contact information. At this point, DNA analysis may be necessary. If so, you, the heirs will pay this expense out of pocket and not the estate. An Heirs Determination worksheet is available at www.gaprobate.gov or probate.georgiacourts.gov.

Notice to Creditors

When an administrator is appointed, the law requires that creditors of the deceased receive public notification and are given the opportunity to establish a claim against the estate. Creditors typically have three months from the last day of the four-week publishing run to submit a claim for payment to the Administrator.

Real Property and Rents

If you or any heir continued to live in the decedent's property upon decedent's death, you or the occupant are responsible for rental payments on the property regardless of your relationship to the decedent, even if decedent was your mother or father. You will be charged the Fair Market Value of rent based on comparable rents in the area for the period you occupied the premises. Such rents are payable to the estate and/or heirs and will be deducted from your distributable share in accordance with O.C.G.A. §53-1-12(c)(1).

Closing An Estate

When all debts, taxes, and expenses of administration have been paid, all tax returns have been filed and audited (if required), and all remaining assets have been distributed, the court administrator applies to the Probate Court for discharge from office and all liability. This is done by filing a Petition for Discharge. A discharge formally closes the estate and terminates any further requirement of filing returns, discharges the personal representative (the administrator) from office, and discharges the personal representative and the surety on the personal representative's bond, if any, from liability. Absent your signature, no disbursements can be made.

What is your role as an heir of the estate or claimant against the estate?

- If you are the PETITIONER, please obtain and provide two (2) original certificates from the Dept of Vital Statistics if you have not already done so. The cost is \$30 for two. Email (or mail) a list of estate assets in your possession and control including real property, furniture, jewelry, cars, cash, checks, bank accounts, etc. to our office@grahamestateplanning.com and reference decedent's name and your relationship in the subject. We will not call you or return your call. We will respond via email only.

Law Office of Stephanie P. Graham LLC

Mailing Address: 6595 Roswell Road, Box G790, Atlanta, GA 30328

By Appointment: 5447 Roswell Road, Atlanta, GA 30342

Phone/Fax/Text: 1-888-41WILLS (1-888-419-4557)

www.grahamestateplanning.com

- If you are an heir and you have additional information, email (or mail) a list of estate assets in your possession and control including real property, furniture, jewelry, cars, cash, checks, bank accounts, etc. to our office@grahamestateplanning.com.
- Only assets without a beneficiary or joint owner are considered estate assets for this purpose.
- You should provide receipts demonstrating debts the estate owes you, such as funeral expenses, death certificates, storage fees, lawn maintenance, mortgage, insurance, utilities and any other payments you made to protect and/or maintain decedent's estate.
- Only debts you acquired solely to maintain the estate AFTER the decedent passed away may be reimbursed. These debts are paid and subtracted from the estate assets before any distribution to heirs.
- Any personal monies you spent on or for decedent while decedent was alive are considered gifts to the decedent and are not reimbursable by the estate.
- Any property owned by the decedent, removed, sold, or commandeered without unanimous consent of the heirs will be charged as an advance on your distributable share and your share will be reduced accordingly pursuant to O.C.G.A. §53-1-12(c)(1).
- Failure to disclose assets or the fraudulent transfer of assets of the decedent can result in a motion to disinherit any heir found responsible for wrongdoing.
- All records should be provided via office@grahamestateplanning.com or by mail to Graham Estate Planning, 6595 Roswell Road, Atlanta, Georgia 30328.
- Your cooperation will help determine the creditors, debtors, and assets such as bank accounts, pensions, investments and the like which must be reported to the probate court.
- Reports are made only to the court with copies served via email only to estate heirs.
- We provide inventory within 6 months of appointment and status reports to the court every six months thereafter unless the estate is ready to be closed by petition for discharge.
- **A county administrator was appointed because heirs could not agree on a family administrator or the distribution of assets. To remain neutral and reduce the number of emails, we will not engage in back-and-forth emails with heirs or their lawyers.**
- It takes an average of 12-24 months to disburse funds and/or close out the estate.
- It depends on you and your cooperation or lack thereof as we will charge the estate for any extraordinary expenses such as excessive emails, calls, motions, travel, etc.
- All communications regarding assets/debts should be provided to us via email or mail.
- Reports will be made only to the court with copies to you until the estate is closed.
- As a reminder, we report only to the Fulton County Probate Court, every six months.
- We will not engage in "he said, she said" unless it directly affects assets and/or debts.
- We will not engage in accusations and gossip as that is beyond the scope of our duties.
- Thank you in advance for your cooperation and support to make this a smooth process.

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