

Re: Petition of Guardian for Leave to Sell Property at Private Sale

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used when a guardian requests leave to sell real or personal property at private sale pursuant to O.C.G.A. §29-2-7.
2. With regard to paragraph 3 of the petition, a recent appraisal should be used if available; otherwise, a copy of the most recent ad valorem tax statement should be provided. If the appraised value or tax value is higher than the selling price, explain the discrepancy on an additional sheet, and add a reference to this in paragraph 3 of the petition.
3. This petition is to be filed by the guardian of the property (or guardian of the person and property), and not by a guardian of the person only.
4. If the petition involves real property, it is highly desirable that the guardian ad litem be an attorney. The selection of the person to serve as guardian ad litem is within the discretion of the judge.
5. The attached form consists of 5 pages.

II. General Instructions

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

STATE OF GEORGIA
COUNTY OF

PETITION OF GUARDIAN FOR LEAVE TO SELL PROPERTY AT PRIVATE SALE

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

The petition of _____,
Guardian of _____, shows that:

1.

Petitioner desires to sell certain property belonging to the estate of petitioner's ward. The property and the ward's interest in said property are described as follows (give metes and bounds description, and street address if known, if real property):

2.

The purpose of said sale of said property is (check all which apply):

- ___ to pay the debts of said ward.
- ___ to maintain, support and educate said ward or those who are legally dependent upon said ward.
- ___ to invest the proceeds in other property when it is deemed in the best interests of the ward to do so.
- ___ other _____

3.

The petitioner desires to sell the property at private sale for the sum of \$_____. Petitioner desires leave to sell the property at private sale at said sum because it is the belief of petitioner that said property will not bring that amount if sold at public sale. A copy of the contract for sale is attached to this petition as Exhibit A. Also attached as Exhibit B is a copy of (a recent appraisal) (the most recent ad valorem tax statement) showing the current value of the property to be \$_____.

4.

At present, the guardian has a bond on file in this Court in the amount of \$_____. The net proceeds to the ward's estate from the sale of the subject property will be approximately \$_____. An additional bond in the amount of \$_____ to cover the amount by which the net proceeds from the sale, plus the amount of personal property currently in the estate, will exceed the current bond amount will be posted prior to the deadline for objections set forth in the citation.

WHEREFORE, petitioner prays for an order directing that citation be issued and served upon the ward, together with a copy of this petition, and if no cause be shown to the contrary, your petitioner be granted leave to sell said property as set forth above.

Signature of Attorney
(or petitioner if pro se)

Signature of Attorney
(or petitioner if pro se)

Address: _____

Address: _____

Telephone: _____

Telephone: _____

State Bar#: _____

State Bar #: _____

VERIFICATION

Personally appeared before me the undersigned petitioner(s) who on oath state(s) that the facts set forth in the foregoing petition are true.

Petitioner
Address: _____

Petitioner
Address: _____

Telephone: _____

Telephone: _____

Sworn to and subscribed before me, this _____ day of _____, _____.

Clerk, Probate Court Notary Public

ORDER FOR CITATION

The petition of _____ as guardian, requesting an Order from this Court authorizing the sale of certain real and/or personal property of the above-named ward having been read and considered, it is ordered that Citation issue and that a copy of the Citation and petition be served on the ward as follows:

- ___ personally if the minor or the incapacitated adult is in Georgia.
- ___ personal service or by registered or certified mail to the last known address of the minor or the incapacitated adult if the minor or the incapacitated adult is outside of Georgia or cannot be located.
- ___ by delivery of a copy of the petition and citation to the incapacitated adult by a member of the staff of the institution in which the incapacitated adult is confined and the staff member shall make a certificate of the delivery and return the same to the judge of the probate court issuing the citation, if the incapacitated adult is a patient in any hospital, medical facility, residential facility, or any similar institution located within or outside Georgia.

This _____ day of _____, _____.

Judge of the Probate Court

CITATION

PROBATE COURT OF _____ COUNTY

RE: PETITION OF GUARDIAN FOR LEAVE TO SELL PROPERTY AT PRIVATE SALE

TO: _____, Ward

_____, as your guardian, has filed a petition to sell real and/or personal property of your estate. This is to notify you that you must file your response to the petition with the Court by the later of: (a) ten days from the date the petition and Citation are personally served upon you or are delivered to you by a member of the staff of the institution in which you are confined; or (b) thirty days from the date copies of the petition and Citation were mailed to you by certified or registered mail, as shown by the certificate attached hereto; or (c) thirty days from the date copies of the petition and Citation were served upon the guardian ad litem, as shown by the certificate attached hereto. All objections to the petition must be in writing, setting forth the grounds of any such objections. If any objections are filed a hearing will be (held on _____) (scheduled for a later date). If no objection is filed, the petition may be granted without a hearing.

This _____ day of _____, _____.

JUDGE OF THE PROBATE COURT
By: _____
Clerk, Probate Court

ORDER APPOINTING GUARDIAN AD LITEM

PROBATE COURT OF _____ COUNTY

IT IS ORDERED that _____ is appointed guardian ad litem for _____, and that said guardian ad litem be duly served with a copy of the foregoing petition, Citation, this order and the certificate of mailing below, and that upon said guardian ad litem's acceptance of same, said guardian ad litem shall make answer hereto. This appointment is limited to this proceeding only and it shall cease when a final order is entered on this petition.

This _____ day of _____, _____.

Judge of the Probate Court

CERTIFICATE OF MAILING

This is to certify that I have this date mailed copies of the foregoing petition, Citation, order appointing guardian ad litem, and this certificate (to the ward, _____, who is outside of this state, by certified or registered mail and) to the guardian ad litem by first-class mail.

DATE

CLERK, PROBATE COURT

RETURN OF SERVICE

I have this day served _____ with a copy of the within petition, Citation, order appointing guardian ad litem and certificate of mailing.

This _____ day of _____, _____.

Deputy Sheriff, _____ County

ANSWER OF GUARDIAN AD LITEM

I hereby accept the foregoing appointment, acknowledge service and notice of said proceeding as provided by law, and for answer say:

Guardian Ad Litem

Address: _____

Telephone: _____

STATE OF GEORGIA

IN THE MATTER OF)	ESTATE NUMBER
ESTATE OF _____,)	
)	RE: PETITION FOR LEAVE TO
)	SELL PROPERTY AT PRIVATE SALE

FINAL ORDER

The petition of _____, as Guardian of the above-named ward, to sell at private sale certain property owned by said ward for the purpose stated in the petition, coming on regularly to be heard; and

IT APPEARING that citation was duly issued and that copies of the petition and citation were duly served upon the ward, and

IT APPEARING that the purpose of the transaction is lawful and that the proposed transaction is fair and is in the best interest of the ward, and the guardian ad litem having filed an answer approving said transaction;

IT IS HEREBY ORDERED that the said Petitioner, as Guardian of the property of said ward, is authorized to sell at private sale the property described in the petition upon the terms set forth in said petition.

IT IS FURTHER ORDERED that a report specifying the property sold, the purchasers, the amounts received, and the terms of the sale shall be furnished to this Court by petitioner.

Date

Judge of the Probate Court

**CERTIFICATE IN ACCORDANCE WITH
UNIFORM PROBATE COURT RULE 21(F)**

I certify that the content of the foregoing is identical in all material respects with Georgia probate court standard form entitled **Petition of Guardian for Leave to Sell Property at Private Sale**, except for additions or deletions indicated as required by the Uniform Probate Court Rules.

Date

Signature of Attorney
Address:

Telephone Number:
State Bar#: