



BERKELEY COUNTY PROBATE COURT

KEITH W. KORNAHRENS, JUDGE OF PROBATE
CRYSTAL S. SMALLS, ASSOCIATE JUDGE OF PROBATE

SELLING REAL ESTATE WHILE IN PROBATE

***ALL SALES OF PROBATE REAL ESTATE MUST BE APPROVED BY THE PROBATE JUDGE UNLESS THE PERSONAL REPRESENTATIVE IS GIVEN PERMISSION PER THE LAST WILL AND TESTAMENT OF THE DECEDENT TO SELL REAL PROPERTY. ***

1. Filing:

- File a Civil Action Coversheet and a Lis Pendens in the Clerk of Court Office.
- File a Petition (FORM 430 ES) and Summons (FORM SCCA401PC) (www.sccourts.org) in Probate Court along with a \$150.00 filing fee (**CASH OR CHECK ONLY**).

2. Service:

- Serve a clocked copy of the Summons and Petition upon ALL interested persons (Personal Representative, devisees, heirs, GAL for minors or incapacitated adults or imprisoned persons, unpaid creditors, bondsman, co-owner of the real estate, etc.)
- File Proof of Service (original green card).

3. Answer:

- Written responses are to be filed with Probate Court within 30 days after the date of service.

4. Hearing:

- Contact Probate Court to set a hearing. A 20-day notice of the hearing to all parties is required. File Notice of Hearing (FORM 326ES) and Proof of Delivery (FORM 120 PC) with Probate Court.
At the hearing, a disinterested appraiser or licensed realtor must testify as to the fair market value of the property. *(If all parties are in agreeance, an original notarized affidavit may be submitted instead of the testimony).*

5. Order:

- After the hearing, the prevailing party or attorney will prepare an order for the Probate Judge to sign. Once the sale has taken place, file a copy of the recorded deed with Probate Court and a copy of the settlement statement. If applicable, have proper surety bond posted before releasing funds to the Personal Representative. Sales proceeds will need to be reflected on the Accounting form filed with the Probate Court.

*****To waive the 30 days, you must file an Answer that also waives the notice time from ALL interested parties along with the Summons and Petition. *****

*****To waive the hearing, file Answers from all interested parties that consent to the sale and waive the hearing, notarized affidavit of appraiser/realtor, Summons, Petition, filing fee, and proposed Order. *****

*****THE INVENTORY AND APPRAISEMENT FORM MUST BE FILED AT THE PROBATE COURT PRIOR TO SUBMITTING THESE DOCUMENTS. *****

Please note: If you need additional assistance, you may want to speak to a probate attorney.

STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

YOUR NAME)

Plaintiff(s))

vs.)

heirs or devisees (children, spouse), G.A. L. (for
minors, incapacitated adults, imprisoned persons, etc.),
unpaid creditors, bondsman, and any other interested
parties)

Defendant(s))

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2019-LP - 08- _____

Submitted By: _____

Address: _____

SC Bar #: _____

Telephone #: _____

Fax #: _____

Other: _____

E-mail: _____

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|--|--|--|
| <p>Contracts</p> <ul style="list-style-type: none"> <input type="checkbox"/> Constructions (100) <input type="checkbox"/> Debt Collection (110) <input type="checkbox"/> General (130) <input type="checkbox"/> Breach of Contract (140) <input type="checkbox"/> Fraud/Bad Faith (150) <input type="checkbox"/> Failure to Deliver/Warranty (160) <input type="checkbox"/> Employment Discrim (170) <input type="checkbox"/> Employment (180) <input type="checkbox"/> Other (199) _____ | <p>Torts - Professional Malpractice</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dental Malpractice (200) <input type="checkbox"/> Legal Malpractice (210) <input type="checkbox"/> Medical Malpractice (220) Previous Notice of Intent Case # 20__-Nl-__-__ <input type="checkbox"/> Notice/ File Med Mal (230) <input type="checkbox"/> Other (299) _____ | <p>Torts - Personal Injury</p> <ul style="list-style-type: none"> <input type="checkbox"/> Conversion (310) <input type="checkbox"/> Motor Vehicle Accident (320) <input type="checkbox"/> Premises Liability (330) <input type="checkbox"/> Products Liability (340) <input type="checkbox"/> Personal Injury (350) <input type="checkbox"/> Wrongful Death (360) <input type="checkbox"/> Assault/Battery (370) <input type="checkbox"/> Slander/Libel (380) <input type="checkbox"/> Other (399) _____ | <p>Real Property</p> <ul style="list-style-type: none"> <input type="checkbox"/> Claim & Delivery (400) <input type="checkbox"/> Condemnation (410) <input type="checkbox"/> Foreclosure (420) <input type="checkbox"/> Mechanic's Lien (430) <input type="checkbox"/> Partition (440) <input type="checkbox"/> Possession (450) <input type="checkbox"/> Building Code Violation (460) <input type="checkbox"/> Other (499) _____ |
| <p>Inmate Petitions</p> <ul style="list-style-type: none"> <input type="checkbox"/> PCR (500) <input type="checkbox"/> Mandamus (520) <input type="checkbox"/> Habeas Corpus (530) <input type="checkbox"/> Other (599) _____ | <p>Administrative Law/Relief</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reinstate Drv. License (800) <input type="checkbox"/> Judicial Review (810) <input type="checkbox"/> Relief (820) <input type="checkbox"/> Permanent Injunction (830) <input type="checkbox"/> Forfeiture-Petition (840) <input type="checkbox"/> Forfeiture—Consent Order (850) <input type="checkbox"/> Other (899) _____ | <p>Judgments/Settlements</p> <ul style="list-style-type: none"> <input type="checkbox"/> Death Settlement (700) <input type="checkbox"/> Foreign Judgment (710) <input type="checkbox"/> Magistrate's Judgment (720) <input type="checkbox"/> Minor Settlement (730) <input type="checkbox"/> Transcript Judgment (740) <input checked="" type="checkbox"/> Lis Pendens (750) <input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760) <input type="checkbox"/> Confession of Judgment (770) <input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780) <input type="checkbox"/> Other (799) _____ | <p>Appeals</p> <ul style="list-style-type: none"> <input type="checkbox"/> Arbitration (900) <input type="checkbox"/> Magistrate-Civil (910) <input type="checkbox"/> Magistrate-Criminal (920) <input type="checkbox"/> Municipal (930) <input type="checkbox"/> Probate Court (940) <input type="checkbox"/> SCDOT (950) <input type="checkbox"/> Worker's Comp (960) <input type="checkbox"/> Zoning Board (970) <input type="checkbox"/> Public Service Comm. (990) <input type="checkbox"/> Employment Security Comm (991) <input type="checkbox"/> Other (999) _____ |
| <p>Special/Complex /Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Medical (620) <input type="checkbox"/> Other (699) _____ <input type="checkbox"/> Sexual Predator (510) <input type="checkbox"/> Permanent Restraining Order (680) | | <ul style="list-style-type: none"> <input type="checkbox"/> Pharmaceuticals (630) <input type="checkbox"/> Unfair Trade Practices (640) <input type="checkbox"/> Out-of State Depositions (650) <input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660) <input type="checkbox"/> Pre-Suit Discovery (670) | |

Submitting Party Signature: SIGN YOUR NAME Date: _____

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)
IN THE MATTER OF:)
DECEASED PERSON, decedent.)

IN THE COURT OF COMMON PLEAS
2019-LP-08-

YOUR NAME, as Personal)
Representative, Petitioner)
Vs.)
heirs or devisees (children, spouse),
G.A. L. (for minors, incapacitated
adults, imprisoned persons, etc.),
unpaid creditors, bondsman, and any
other interested parties)
Respondent.)
_____)

LIS PENDENS

NOTICE IS HEREBY GIVEN that an action has been commenced and is now pending in the Berkeley County Court of Probate Court in the above referenced estate to allow Petitioner, as Personal Representative of the Estate of **DECEASED PERSON** **CASE NUMBER: 2019ES08-** to sell the decedent's interest in the below described real property, as follows:

TMS: _____ **Address:** **ADDRESS OF PROPERTY**

DATE

Moncks Corner, SC

SIGN YOUR NAME, Petitioner

Address: **YOUR ADDRESS**

Phone No.: **YOUR PHONE NUMBER**

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF: BERKELEY)

IN THE MATTER OF:)

DECEDENT)

CASE NUMBER: 2019ES08-

(Decedent))

YOUR NAME

Petitioner(s)

vs.

***PETITION FOR SALE OF REAL PROPERTY**

HEIRS OR DEVISEES (CHILDREN, SPOUSE), G.A. L. (FOR MINORS, INCAPACITATED ADULTS, IMPRISONED PERSONS, ETC.), UNPAID CREDITORS, BONDSMAN, AND ANY OTHER INTERESTED PARTIES

Respondent(s)

Petitioner alleges the following:

1. Interested parties to the estate that would be affected by the sale of the real property are as follows:

A. The names and addresses of the devisees in the Will, if any, and the dates of birth of any minors:

| Name | Year of Birth | Address | Relationship to Decedent |
|------|---------------|---------|--------------------------|
| | | | |
| | | | |
| | | | |

(use additional sheet if necessary)

B. If the Decedent died intestate (without a Will) or if the time to challenge the Decedent's Will admitted to probate has not expired, then the names and addresses of intestate heirs who are not devisees, if any, and the dates of birth of any minors:

| Name | Year of Birth | Address | Relationship to Decedent |
|------|---------------|---------|--------------------------|
| | | | |
| | | | |
| | | | |

(use additional sheet if necessary)

C. The names and addresses of all Creditors who have properly presented a claim(s) against the estate which remain(s) unresolved:

| Name | Address |
|------|---------|
| | |
| | |
| | |

(use additional sheet if necessary)

***NOTE: THIS IS A FORMAL PROCEEDING. IN ADDITION TO A PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC), PAY THE STATUTORY FILING FEE OF \$150.00, AND FILE A CLOCKED**

COPY OF THE LIS PENDENS. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.

D. The names and addresses of any other interested persons affected by this proceeding (including co-owners of real estate):

| Name | Year of Birth | Address | Relationship to Decedent |
|-------|---------------|---------|--------------------------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

(use additional sheet if necessary)

E. The name(s) and address(es) of the Personal Representative(s) of the estate (if not the Petitioner):

| Name | Address |
|-------|---------|
| _____ | _____ |
| _____ | _____ |

2. The real property needs to be sold because: **REASON WHY PROPERTY NEEDS TO BE SOLD.**
3. The real property of the Decedent's estate, which the Petitioner desires to sell, is described as follows:
 - a. Address: **ADDRESS OF THE PROPERTY**
 - b. Legal Description: (The Decedent's deed may be required by the Court)
 - c. Tax Map Sheet Number (TMS#) / Deed Book and Page:
4. The tax assessed value of the real property is: \$ _____. This value is based upon the most recent assessor's statement. The assessor's statement may be required by the Court.
5. The fair market value of the real property is: \$ _____. This value is based upon the opinion of a real estate agent based upon a comparative market analysis or the opinion of a real estate appraiser based upon an appraisal. The comparative market analysis or the appraisal may be required by the Court.

Executed this _____ day of _____, 20_____.

Signature: SIGN YOUR NAME
 Print Name: PRINT YOUR NAME
 Address: FILL OUT ALL OF THE INFORMATION BELOW

Telephone (Work): _____
 (Home): _____
 (Cell): _____
 Email: _____

Relationship to Decedent/Estate _____

Attorney: _____
 Address: _____

Telephone: _____
 Email: _____

STATE OF SOUTH CAROLINA,)

COUNTY OF BERKELEY)

YOUR NAME)

Petitioner,)

vs.)

heirs or devisees (children, spouse), G.A. L.)

(for minors, incapacitated adults,)

imprisoned persons, etc.), unpaid creditors,)

bondsman, and any other interested parties)

Respondent(s).)

IN THE PROBATE COURT

SUMMONS

CASE NO. 2019ES08-

TO THE RESPONDENT(S) ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Petition herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Petition upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Petition, judgment by default will be rendered against you for the relief demanded in the Petition.

MONCKS CORNER, South Carolina

YOUR SIGNATURE

Petitioner/Attorney for Petitioner

Dated:

Address:

YOUR ADDRESS