

ITEMS AND DOCUMENTS NEEDED TO OPEN AN ESTATE

1. *A certified copy of the death certificate.* If the death certificate is not available, a copy of the obituary or funeral bill may be filed to open the estate, however the certified copy of the death certificate must be filed as soon as possible.
2. *The original Last Will and Testament,* (if one exists), and any and all Codicils or Memoranda.
3. *Picture ID* for the person(s) applying.
4. The completed *Probate Court Worksheets.* You are to retain a copy of the Worksheets for your file. (See Exhibit A and Exhibit B)
5. *Filing fees:* the initial filing fee and the advertising fee
 - The initial filing fee for a regular estate is \$25.00 (this is for tentative commissions; additional fees may apply, depending on the size of the estate). The filing fee for a small estate is determined based on the size of the estate (fees range from \$12.50 to \$45.00)
 - Advertising fee (subject to change): \$15.00 for *The Colletonian* OR \$15.00 for *The Press & Standard.* Checks should be made payable to the newspaper of your choice.
6. *Renunciations and or Nominations from persons of equal priority to serve as Personal Representatives.* (See Exhibit C)
7. *Deeds for all property located in South Carolina.*
8. *Funeral Home Program or Obituary.*

HELPFUL CONTACTS

Colleton County Probate Court

Post Office Box 1036

Walterboro, SC 29488-0031

Telephone (843) 549-7216 Facsimile: (843) 549-5571

E-mail: probate@colletoncounty.org

(for more information, please go to www.colletoncounty.org and click on "County Departments" and then select "Probate Court")

South Carolina Lawyer Referral Service

1-800-868-2284

(a service of the S.C. Bar Association. For more information, go to www.scbar.org)

Legal Services Telephone Intake Service

1-888-346-5592

(Available Monday through Friday, 1-4 p.m.; call if you would like to determine if you qualify for pro bono or legal services assistance. For more information, go to www.sclegal.org)

Internal Revenue Service (IRS) (www.irs.gov)

1-800-829-1040

SC Department of Motor Vehicles (www.scdmvonline.com)

Colleton Office: 538-7248

Colleton County Office:

102 Mable T. Willis Blvd.

Walterboro, SC 29488-4500

SC Department of Natural Resources (www.dnr.sc.gov) Boat Titling and Registration: 843-953-9301

Regional Office:

Street Address: 217 Ft. Johnson Road, Charleston, SC 29412

Mailing Address: P.O. Box 12559, Charleston, SC 29422

Social Security (www.ssa.gov)

1-800-772-1213

Colleton County Office:

502 Robertson Blvd.

Walterboro, SC 29488

Phone: 549-1801

M-F Hours: 8:30-3:30

Veterans Affairs (www.va.gov)

1-800-827-1000

South Carolina Department of Revenue (sctax.org)

Estate Tax Division:

1-803-898-5756



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Ashley H. Amundson
Probate Court Judge

To Whom It May Concern:

Please accept our sincere condolences on the loss of your loved one. We want to do all that we can to make the probate process as simple as possible for you. Below is some basic information regarding the probate process, and attached to this letter are several documents that we hope will be helpful as you open the estate of your loved one.

DO I NEED TO OPEN AN ESTATE?

1. **Regular Estate.** If the decedent owned any real property (home, real estate), or if he owned personal property (boat, car, mobile home, jewelry, furniture, etc.) worth *more than \$25,000*, someone will need to open a regular estate on behalf of the decedent.
2. **Small Estate.** If the total value of the decedent's belongings is *less than \$25,000, and if no real property is involved*, someone may file a small estate affidavit.
3. **Estate for Legal Actions.** Even if the decedent *had no belongings*, you may still need to open an estate if any legal action needs to be taken on behalf of the decedent (examples include medical malpractice cases, wrongful death cases).

If there is a will, the will should name who will be responsible for administering the estate (the "Executor" or "Personal Representative"). If there is not a will, South Carolina law determines who is "in line" to handle this responsibility. It is usually, but not always, the same as the person deemed next of kin to the decedent.

Having read this information, take a moment to answer the following questions. They will help you prepare and will direct you to the appropriate information below:

- I will be opening a (circle one) REGULAR ESTATE SMALL ESTATE
- If it is a regular estate, is there a will? (circle one) YES NO
- If yes, who does the will name as Executor or Personal Representative?
- If there is no will, who is the closest living relative to the decedent?

WHEN SHOULD I BEGIN?

Many people are eager to start as soon as possible; others are not emotionally prepared to begin this process. We understand that every family differs and do not set strict requirements as to when you must open the estate. Your answers to the first section above should guide you as to the appropriate time frame to begin the process.

- A regular estate should be opened within 30 days from the date of death, if possible. This guideline is used because state law requires that anyone possessing a valid will turn it over to the court within this amount of time. Any will held longer than 10 years becomes invalid. Regardless of whether there was a will, no estate may be opened more than 10 years after the decedent's death.
- The second type of estate, the small estate, applies only to those decedents who owned no real property, and whose entire assets are worth less than \$25,000. A small estate cannot be filed until more than 30 days have passed since the date of death.

HOW LONG WILL THIS PROCESS TAKE?

Small estates can be opened and closed in one day. The person paying the funeral expenses should contact the court and everything will be handled the day of the appointment. Remember, this procedure applies only when there is no real property, and the total of all personal belongings is less than \$25,000.

Regular estates must remain open until the expiration of the creditor claim period (one year from death or eight months from the date the first notice to creditors is published in the newspaper). Once this period expires and all required documents are filed and assets transferred, an estate may be closed.

WHAT HAPPENS NEXT?

Our office will be happy to assist you in preparation of the documents necessary to begin the estate. If you would like our assistance, please contact the Court for an appointment. Please bring your completed worksheets as well as the other items listed in this packet to your appointment.

If you live out of state or are unable to come in for appointment, you may mail or deliver your completed worksheets and other items to the Court, and we will assist you by mail.

If you wish to complete estate paperwork without the assistance of our office, you are welcome to do so. You may contact the attorney of your choice for assistance or you may complete the paperwork yourself. Please see below for a list of required items for uncontested cases. Forms are available at www.sccourts.org/forms.

Regular Estate:

1. Death Certificate, obituary, funeral program (if available);
2. Completed Application for Appointment/Probate of Will (Form 300ES);
3. \$25.00 tentative commissions;
4. Notice to creditors fee (for decedents whose death was within the last 12 months), payable to the newspaper of your choice;
5. Original Will, if one exists
6. Renunciations/nominations (Form 302ES, enclosed in packet), signed by any one with higher priority under the law for serving as Personal Representative;
7. Copy of photo ID of person applying.

Small Estate:

Without a Will:

1. Death Certificate, obituary, funeral program (if available);
2. Completed Affidavit for Collection of Personal Property Pursuant to Small Estate Proceedings (Form 420ES) [note: 30 days must have expired from date of decedent's death];
3. Copy of funeral bill;
4. Filing fee based on amount of assets (determined by S. C. Code §8-21-770)

With a Will:

1. Death Certificate, obituary, funeral program (if available);
2. Completed Affidavit for Collection of Personal Property Pursuant to Small Estate Proceedings (Form 420ES) [note: 30 days must have expired from date of decedent's death];
3. Copy of funeral bill;
4. Filing fee based on amount of assets (determined by S. C. Code §8-21-770);
5. Original Will;
6. Completed Application for Informal Probate of Will (Form 300ES); \$10.00 fee for probate of will;
7. Completed Information to Heirs and Devisees (305ES);
8. Completed Proof of Delivery (120PC), showing that you delivered Information to Heirs and Devisees.

* * * * *

In conclusion, we hope that this has provided a basic introduction into the beginning of the probate process in Colleton County. We look forward to assisting you with both the opening and closing of your loved one's estate. In the meantime, please know that our sympathy is with you and your family during this difficult time. Should you have any questions or need forms, please contact our office.

EXHIBIT A - Vital Statistics Worksheet

1. Please provide the following information about yourself:

Your full name: _____

Your mailing address: _____

Your physical address (if different from mailing address): _____

Your relation to Decedent: _____

Your work telephone number: _____

Your home telephone number: _____

Your cell phone number: _____

Your e-mail address*: _____

**Please note that we use e-mail as much as possible to cut down on postage and long-distance charges.*

2. Please provide the following information about the Decedent:

His/her full name (including all known names): _____

His/her date of birth: _____

His/her date of death¹: _____

His/her age at death: _____

His/her mailing address: _____

3. Please answer the following questions about the Decedent:

- Was the Decedent a resident of a nursing home, prison, or other residential facility at the time of his/her death? Yes _____ No _____ If you answered "yes," what was the last address of the Decedent prior to entering the facility? _____

- *Were any children born to Decedent after his/her death?* Yes _____ No _____

If so, give the name(s), address(es), and date(s) of birth of each child born **AFTER** Decedent died. (Note: The term "children" includes both children born in and out of wedlock.)

(Attach an additional sheet if necessary.)

- *Is it expected that any other children will be born to Decedent after his death?* Yes _____ No _____

If so, please give details including, but not limited to, the name and address of the mother and estimated month of birth. (Note: The term "children" includes both children born in and out of wedlock.)

- *Was the Decedent ever a patient in any non-private hospital or other facility operated by the S. C. Department of Mental Health?* Yes _____ No _____
- *Has a guardian or conservator ever been appointed for this person?* Yes _____ No _____

¹ If the decedent died more than ten (10) years ago, you need to discuss this with the Court before you complete the rest of this form as S.C. law prohibits the court from opening an estate for someone who has been dead for more than 10 years except in a few circumstances.

4. Has any Executor, Administrator, or any other type of Personal Representative been appointed for the estate of this Decedent in this or any other state or county? Yes _____ No _____

If yes, please explain. _____

5. To the best of your knowledge, has anyone filed a written "Demand for Notice," demanding that he/she/it be given notice of the appointment of a Personal Representative of this estate? Yes _____ No _____

If yes, please explain, giving details, including but not limited to the names and addresses of the person(s) or entity(ies) making such demands and the court(s) in which the demand(s) is/are filed.

6. What is your best estimate of the value of the personal estate of the Decedent? _____ (See Exhibit B for a worksheet to help you make this preliminary estimate.)

7. What is your best estimate of the value of the Decedent's real estate? _____

8. Did Decedent leave a will? Yes _____ No _____

If you answered "no" to Question 8, please answer the following questions and then skip to Question 19.

a. Have you made a thorough search for any will and any codicils (a document that amends a will) of the Decedent? Yes _____ No _____

If yes, after the completion of the search, do you have any reason to believe that there may be an unrevoked will and/or codicil of the Decedent that you have been unable to find? Yes _____ No _____

If you do, please explain: _____

If you have not made a complete search, please do so before presenting this form to the Court. Some places you might look include anywhere where Decedent kept important papers or personal effects, a safe deposit box, or at his/her attorney's office.

b. Does the Will refer to a Memorandum (list disposing of tangible personal property)? Yes _____ No _____ If so, please file with the Court.

9. Did Decedent get married AFTER signing the Will? Yes _____ No _____

If so, give date of marriage and name of spouse: _____

10. Did he/she have any marriage annulled, get a divorce, or was he/she a party to a valid proceeding concluded by an order purporting to terminate all marital property rights or confirming equitable distribution between spouses AFTER signing the will?

Yes _____ No _____

If you answered "yes," give date of annulment /divorce/court order, name of spouse, and name and location of the court. Provide a copy of the Court Order.

11. (a) Were any children born to Decedent AFTER signing the Will? Yes _____ No _____

If so, give the name(s), address(es), and date(s) of birth of each child born AFTER the will was signed. (Note: The term "children" includes both children born in and out of wedlock.)

(Attach an additional sheet if necessary.)

EXHIBIT B - COLLETON COUNTY PROBATE COURT WORKSHEET

This worksheet should be completed BEFORE your opening appointment. If you need additional space for any item, please attach additional sheets.

(Remember, it may be necessary to call to reschedule the appointment if you have not completed the required forms.)

A. REAL ESTATE (IN STATE AND OUT OF STATE)* - Bring copy of deed.

* For real estate held by joint tenants with right of survivorship, list in Section E below.

Name(s) in Which Property Held	Location of Property (Street, City, State)	# of Acres or Lots in Tract	Number of Buildings on Tract	Tax Map Number	Your Estimate of Value of Tract	Decedent's % of Ownership

CEMETERY PLOTS (Owned by decedent)

B. STOCKS, BONDS (in decedent's name alone or owned by decedent and someone who predeceased decedent)* - bring photocopies of all stocks and bonds.

*Remember to include any stocks for Coastal Electric Cooperative, Inc. (\$5.00) and Palmetto Rural Telephone, Inc. (\$10.00). If Decedent owned any stocks or bonds jointly with a right of survivorship please use Section E below.

Names in Which Stock/Bond Held	Description (Company or Series)	Face Amount	Appraised Value on Date of Death	Decedent's % Contribution

C. CASH, BANK ACCOUNTS*, NOTES (BEING PAID TO DECEDENT)

**For joint bank accounts with right of survivorship², list in Section E below unless joint owner predeceased this decedent.*

- Cash on hand at the time of death? Yes _____ No _____ If yes, amount: \$ _____
- Uncashed/undeposited paycheck? Yes _____ No _____ If yes, amount: \$ _____
 From: _____ Payable to: _____
- Refund checks? Yes _____ No _____ If yes, amount: \$ _____
 From: _____ Payable to: _____
 From: _____ Payable to: _____
- Mortgage due to decedent? (someone paying decedent on mortgage) Yes _____ No _____
 If yes, amount: \$ _____
 From: _____ Payable to: _____
- Inheritance to be received by decedent? Yes _____ No _____ If yes, describe:

- Bank account(s), Certificates of Deposit (CDs), etc. in decedent's name only (or in name of decedent and someone who died before decedent):

Exact Name(s) on Account	Type of Account (checking, savings, CD, etc.) and <u>Last 4 Digits</u> of Account Number	Bank/Company Name	Amount	Value of Decedent's Interest

- Other (include any benefit checks or other checks or instruments payable to decedent):

² An account is presumed to be a right-of-survivorship asset if it is (1) in the name of the decedent "OR" another person; or (2) owned by the decedent and another person as "joint tenants with right of survivorship" or "JTROS;" or (3) is owned by a husband and wife. Presumptions may be overcome by clear and convincing evidence.

D. PART 1 – INSURANCE PAYABLE TO THE ESTATE (or payable to a beneficiary who died before decedent):

BENEFICIARY NAME	COMPANY NAME & POLICY NUMBER	VALUE

PART 2 – INSURANCE PAYABLE TO A LIVING BENEFICIARY – OPTIONAL TO LIST

BENEFICIARY NAME	COMPANY NAME & POLICY NUMBER	VALUE

E. JOINTLY OWNED PROPERTY (WITH RIGHT OF SURVIVORSHIP) – OPTIONAL TO LIST

- *Jointly Owned Bank Accounts, Etc. (with Right of Survivorship).*

Exact Names on Account	Type of Account (e.g., checking, savings, CD)	Bank/Company Name	Amount	Value of Decedent's Interest

- *Jointly Owned Real Estate (with Right of Survivorship)*³ OPTIONAL. Bring copy of deed.

Name(s) in Which Property Held	Location of Property (Street, City, State)	# of Acres or Lots in Tract	# of Buildings on Tract	Tax Map #	Your Estimate of Value of Tract	Decedent's % of Ownership

- *Jointly Owned Stocks and Bonds* - OPTIONAL

Names in Which Stock/Bond Held	Description (Company or Series)	Face Amount	Appraised Value on Date of Death	Decedent's % Contribution

- Household Goods/Furnishings/Other Personal Property *if Decedent Died after June 24, 2010 and Left Surviving Spouse.*⁴ If decedent died before June 24, 2010 and/or did not leave a surviving spouse, list household goods/furnishings in Section F on the next page:

³ For real property to be joint with right of survivorship, the deed must have survivorship language, e.g., "to John Doe and Jane Doe and then to the survivor of the two of them." A deed to "John Doe and Jane Doe and their heirs and assigns forever" is NOT joint with survivorship and should be listed in Section A above.

⁴ For individuals with a date of death after June 24, 2010 who die leave a surviving spouse, State law now presumes that tangible personal property in the joint possession or control of the decedent and surviving spouse at the time of decedent's death is owned by decedent and surviving spouse as joint tenants with right of survivorship unless ownership is evidenced otherwise. Exceptions: tangible personal property acquired by either spouse before marriage, acquired by either spouse by gift or inheritance during marriage; used by decedent in trade or business in which surviving spouse has no interest; held for another; or devised in a written statement or list disposing of tangible personal property. This presumption may be overcome by a preponderance of the evidence. For more information, see S.C. Code Ann. § 62-2-805.

- Other Jointly Owned Property (vehicles, etc.):

- Any Jointly Owned Property owned with a former spouse:

F. MISCELLANEOUS

- *Household Goods & Furnishings* (if decedent died prior to 6/24/10 and/or left no surviving spouse) – include brief description and approximate value:

	Exact Name on Title	Year/Model	VIN, if applicable	Value
<i>Vehicles (auto, etc.)</i>				
<i>Boats, motors, and trailers</i>				
<i>Mobile Homes</i>				
<i>Farm Equipment</i>				

	Description	Approximate Value
<i>Business Owned</i>		
<i>Jewelry (of value)</i>		
<i>Collectibles</i>		
<i>Other (list)</i>		

G. TRANSFERS DURING DECEDENT'S LIFETIME

List here any of the following types of transfers that Decedent made during his lifetime:

- (1) Any substantial gift made within the last 3 years;
- (2) Any trust which will pay benefits to another after Decedent's death;
- (3) Any transfer of real estate in which Decedent transferred the real estate to another but retained a *life estate*;
- (4) Bank accounts, U.S. Government or corporate stocks or bonds that were in the name of the Decedent but are Payable on Death (or "P.O.D.") to another; or
- (5) Any other transfer which decedent made that was not intended to take effect until his death.

Description of Asset	Transferree(s)/Beneficiary(ies)	Value

H. POWERS OF APPOINTMENT

List here any real or personal property over which Decedent held a Power of Appointment. A "power of appointment" is the power to sell, mortgage, encumber, or otherwise exercise rights of ownership over some asset which is the property of another.⁵

- Did Decedent hold a Power of Appointment given by another? _____
If yes, bring a copy of the document creating the Power.
- Did Decedent hold any of the following titles at the time of death?

Guardian (court appointed)? Yes _____ No _____ If yes, for whom?

Custodian? Yes _____ No _____ If yes, for whom?

Conservator? Yes _____ No _____ If yes, for whom?

Trustee? Yes _____ No _____ If yes, for whom?

Estate Representative? Yes _____ No _____ If yes, for whom?

Other? (specify) _____ Yes _____ No _____ If yes, for whom?

I. ANNUITIES (You must list any owned by decedent and payable to estate; it is your option whether to include any accounts with a named beneficiary)

Beneficiary Name	Company Name	Value
IRA		

⁵ For example, if John Doe dies leaving a will in which he leaves his home to his wife Mary for life (a "life estate"), and at her death the property goes to their daughter Susan, but authorizes Mary to sell or mortgage the property during the lifetime if she believes it to be necessary, then the power to sell or mortgage the property is a power of appointment since Mary only owns a life estate in the property and the property is actually the property of daughter Susan.

Pension			
401(k)			
Keogh			
Other (describe)			

J. ENCUMBRANCES (Mortgages, Liens, Judgments, etc.) (House, Land, Auto, etc.)

Company Name/Lienholder	Description/Asset(s) Encumbered	Balance Due

STATE OF SOUTH CAROLINA)
)
COUNTY OF: COLLETON)
)
IN THE MATTER OF:)
)
(Decedent))

IN THE PROBATE COURT

**RENUNCIATION OF RIGHT TO ADMINISTRATION
AND/OR NOMINATION AND/OR WAIVER OF BOND**

CASE NUMBER: 20__-ES-15-00__

By renouncing my right to serve as Personal Representative, I am informing the Court that I do not want to be the Personal Representative to administer the estate. **I am not giving up any interest in the estate or inheritance rights by signing this document.**

The undersigned hereby (check all that apply):

renounces his/her right to serve as Personal Representative of the above-captioned estate.

renounces his/her right to serve as Personal Representative of the above-captioned estate so long as the following nominee serves as Personal Representative:

Name: _____
Address: _____

agrees to waive bond for the person(s) nominated above.

I understand this is effective only to the extent the law allows for nomination and waiver of bond.

Executed this _____ day of _____, 20____.

SWORN to before me this _____ day of _____ 20____

Notary Public for South Carolina
My commission expires: _____

Signature: _____
Print Name: _____
Address: _____

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

Relationship to Decedent/Estate: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF)
)
IN THE MATTER OF:)
)
(Decedent))

IN THE PROBATE COURT

WAIVER OF BOND

CASE NUMBER:

The undersigned states as follows:

I am the Proposed Personal Representative as well as an

- Heir or beneficiary of the Estate;
- Interested party other than a creditor of the Estate;

and, as such, I require no bond.

I am an

- Heir or beneficiary of the Estate;
- Interested party other than a creditor of the Estate;

and I hereby request that the Court:

- waive bond
- for any person appointed to administer this Estate
- for _____
(name of proposed Personal Representative)

Executed this day of , 20 .

SWORN to before me this day of , 20

Signature: _____
Print Name: _____
Address: _____

Notary Public for South Carolina
My commission expires:

Telephone (Work): _____
(Home): _____
(Cell): _____
Email: _____
Relationship to Decedent/Estate: _____

[Only for Personal Representatives who reside out-of-state]

STATE OF SOUTH CAROLINA

COUNTY OF: COLLETON

IN THE MATTER OF:

(Decedent)

)
)
)
)
)
)

IN THE PROBATE COURT

APPOINTMENT OF AGENT FOR SERVICE OF PROCESS

CASE NUMBER:

The undersigned hereby appoints the below-named person who is a resident of the State of South Carolina as his/her agent upon whom may be served all original or other lawful process in any action at law or equity related to the above estate.

The undersigned agrees that process served upon the agent herein appointed shall be of the same force and effect as if duly served upon the undersigned within the State of South Carolina.

Print Agent Name: _____
Address: _____

Telephone (Work): _____
(Home): _____
(Cell): _____
E-mail: _____

Executed this day of , 20 .

Proposed/Personal Representative Signature: _____
Print Name: _____
Address: _____

Telephone (Work): _____
(Home): _____
(Cell): _____
E-mail: _____

ACCEPTANCE

I accept the above appointment as Agent on this the day of , 20 .

Agent's Signature: _____
Print Name: _____

*Witness Signature: _____
Print Name: _____

*The Personal Representative is not allowed to serve as the witness.