|  |  |  |  |
| --- | --- | --- | --- |
| State of Minnesota |  |  | District Court |
| County of: |  | Judicial District: |  |
|  |  | Court File Number: |  |
|  |  | Case Type: | Probate |

|  |  |  |
| --- | --- | --- |
| In Re the Estate of:  | **PETITION FOR DETERMINATION OF DESCENT**  |  |
|  |  |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,Decedent (Deceased person)  |  |
|  |  |
|  |  |
|  |  |

**Information about the Petitioner:**

1. My name is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. My legal interest to the Decedent is: (Check all that apply)

[ ]  Spouse

[ ]  Child

[ ]  Other family member: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Devisee (beneficiary of the Will)

[ ]  Heir

[ ]  Creditor

[ ]  Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Information about the Decedent:**

1. Decedent was born on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the city of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and state of .
2. Decedent died on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, which is more than three years ago, in the city of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and state of .
3. Domicile (address of legal residence) of Decedent at the time of death:

Street Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
City, State, and Zip Code: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

County: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Did Decedent live in MN at the time of death? [ ]  Yes [ ]  No

If No, did Decedent own property in MN at the time of death? [ ]  Yes [ ]  No

 If yes, what county? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Information about the Will and Personal Representative:**

1. I have made a reasonable, diligent search for any Will. The Decedent: (check all that apply)

[ ]  Died intestate (without a Will).

[ ]  Died testate (with a Will). The Decedent’s Will is made up of the following:

 [ ]  A Will dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Codicil(s) (amendments) dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]  Separate writing(s) gifting personal property under Minn. Stat. § 524.2 -513 dated:

[ ]  A separate writing referred to in Will but not found or attached to Will

The original documents checked above are: (check all that apply)

[ ]  Filed with this Petition.

[ ]  In possession of the Court.

[ ]  Have been mailed to the Court separately.

[ ]  Probated elsewhere and an authenticated copy of the Will and statement or order probating the Will are filed with this Application.

[ ]  Unavailable, but:

[ ]  a copy of the Will is attached to the Statement of Contents of Lost, Destroyed or Otherwise Unavailable Will that accompanies this Petition.

[ ]  Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

To the best of my knowledge and belief, these documents have been validly executed.

After a reasonable diligent search, I am unaware of any document revoking the Will, and I believe this is the last Will of Decedent.

1. There is no personal representative of the Decedent appointed in Minnesota or elsewhere whose appointment has not been terminated.
2. Check one:

[ ]  I have not received a demand for notice and am not aware of any demand for notice of any probate or appointment proceeding concerning the Decedent that may have been filed in Minnesota or elsewhere. **OR**

[ ]  Proper notice has been given to those persons or entities who have filed a demand for notice.

**Information about Decedent’s family and/or interested persons:

Carefully read through the Instructions for definitions and examples of who needs to be included as an interested party below. Not including all interested persons may delay the probate.**

1. Check all that apply:

[ ]  Decedent left no surviving spouse.

[ ]  Decedent left no surviving issue (generally, children by blood or adoption; for other examples, see Instructions or get legal advice).

[ ]  All issue of Decedent are issue of Decedent’s surviving spouse.

[ ]  There are issue of Decedent that are not issue of the surviving spouse.

[ ]  There are issue of the surviving spouse who are not issue of the Decedent.

1. The names and addresses of Decedent’s spouse, children, heirs, devisees, and other persons interested in this proceeding so far as known or found with reasonable diligence by the Applicant are:

| **Name and Mailing Address****(one name per box)** | **Familial Relationship** | **Legal Interest** | **Birth Date of Minor / Date of Death if deceased Heir or Divisee** |
| --- | --- | --- | --- |
|  | [ ]  Spouse[ ]  Child (minor or adult)[ ]  Other family member: \_\_\_\_\_\_\_\_\_\_\_\_ (relation) | [ ]  Devisee (beneficiary of the Will)[ ]  Heir (next of kin who would inherit without a Will)[ ]  Nominated Personal Representative[ ]  Creditor[ ]  Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |
|  | [ ]  Spouse[ ]  Child (minor or adult)[ ]  Other family member: \_\_\_\_\_\_\_\_\_\_\_\_ (relation) | [ ]  Devisee (beneficiary of the Will)[ ]  Heir (next of kin who would inherit without a Will)[ ]  Nominated Personal Representative[ ]  Creditor[ ]  Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |
|  | [ ]  Spouse[ ]  Child (minor or adult)[ ]  Other family member: \_\_\_\_\_\_\_\_\_\_\_\_ (relation) | [ ]  Devisee (beneficiary of the Will)[ ]  Heir (next of kin who would inherit without a Will)[ ]  Nominated Personal Representative[ ]  Creditor[ ]  Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |
|  | [ ]  Spouse[ ]  Child (minor or adult)[ ]  Other family member: \_\_\_\_\_\_\_\_\_\_\_\_ (relation) | [ ]  Devisee (beneficiary of the Will)[ ]  Heir (next of kin who would inherit without a Will)[ ]  Nominated Personal Representative[ ]  Creditor[ ]  Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |
|  | [ ]  Spouse[ ]  Child (minor or adult)[ ]  Other family member: \_\_\_\_\_\_\_\_\_\_\_\_ (relation) | [ ]  Devisee (beneficiary of the Will)[ ]  Heir (next of kin who would inherit without a Will)[ ]  Nominated Personal Representative[ ]  Creditor[ ]  Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |

*Use another sheet of paper if you need more space for #10.*

1. Have all interested persons listed as heirs lived longer than at least 120 hours after Decedent’s date of death? [ ]  Yes [ ]  No

If No, list the name of the heir - \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Statement specifically eliminating all heirs or devisees other than listed [see Minn. Gen. R. Prac. 408(a)]:

Start at (1) and check all boxes that apply moving down the list. Stop when directed.

The Decedent left:

1. [ ]  I have listed all Devisees.
2. [ ]  If Decedent has a living spouse, I have listed the spouse.
3. [ ]  If Decedent has children, I have listed them all (this includes adopted children but not step-children).
4. [ ]  If Decedent has deceased children, I have listed all of the deceased child’s children.

**STOP:** If boxes 3 or 4 are checked you do not have to continue. If not checked, move to box 5. Be sure all names of those included above are listed as interested persons in 18.

1. [ ]  If Decedent has no descendants, I have listed Decedent’s parents.

	1. [ ]  If Decedent has no living parents, I have listed all Decedent’s siblings.
	2. [ ]  If Decedent has deceased siblings, I have listed all the deceased siblings’ descendants (nieces, nephews, grandnieces, grandnephews, etc.)

**STOP:** If box 5 is checked you do not have to continue. If not checked, move to box 6. Be sure all names of those included above are listed as interested persons in 18.

1. [ ]  If Decedent’s parents have no descendants, I have listed Decedent’s grandparents (both maternal and paternal).
2. Maternal Grandparents
	1. [ ]  If both of Decedent’s maternal grandparents are deceased, I have listed Decedent’s mother’s siblings (Aunts and Uncles).
	2. [ ]  If Decedent’s mother has deceased siblings, I have listed all of her deceased sibling’s children (1st cousins).
	3. [ ]  If Decedent has no living maternal cousins, I have listed the surviving children of cousins.
3. Paternal Grandparents
	1. [ ]  If both of Decedent’s paternal grandparents are deceased, I have listed Decedent’s father’s siblings (Aunts and Uncles).
	2. [ ]  If Decedent’s father has deceased siblings, I have listed all of his deceased sibling’s children (1st cousins).
	3. [ ]  If Decedent has no living paternal cousins, I have listed the surviving children of cousins.

**STOP:** If any boxes 6-8 are checked, be sure all names of those included above are listed as interested persons in 18. Attach a family tree to this Application.

1. [ ]  Other (attach family tree and list as interested persons in 18).

Other than specifically listed above, there are no other heirs or devisees.

**Information about Decedent's Property:**

1. More than three years have passed since the Decedent’s death and there has been no probate proceeding or administration proceeding started in Minnesota.
2. At the time of death, Decedent was the owner of certain property described and valued at the date of death as detailed in Attachments A and B.
3. The property on hand for distribution is as listed in this document and should be distributed to the following persons in the following proportions or parts:

|  |  |
| --- | --- |
| Name | Proportion |
|  |  |
|  |  |
|  |  |
|  |  |

1. The Decedent’s property:

[ ]  Has already been claimed or occupied, according to the Will, by the devisee or the devisee’s successors and assigns.

[ ]  Has already been claimed or occupied, according to the intestacy laws that were in place at the time of Decedent’s death, by the heirs or successors and assigns.

[ ]  Was not claimed or occupied by anyone during the time period for testacy proceedings (three years).

1. [ ]  Check box if the property described involves descent through multiple decedents.

**Based on the above, I ask the Court to schedule a hearing on this Petition and enter an order formally:**

1. Finding that venue is proper.
2. Finding that the Decedent died more than three years ago.
3. Determining Decedent’s domicile at death.
4. Determining Decedent’s testacy status.
5. [ ]  Determining Decedent’s heirs.

or

[ ]  Probating the valid and unrevoked Will of Decedent.

1. Issuing a decree of distribution assigning the Estate to the persons entitled to the Estate.
2. Granting such other relief as may be proper.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116

|  |  |  |
| --- | --- | --- |
| Dated |  | Signature of Petitioner |
|  |  | Name: |  |
|  |  | Address: |  |
| County and state where signed |  | City/State/Zip: |  |
|  |  | Telephone: |  |
|  |  | Email: |  |

|  |
| --- |
| ⬜ Attorney for Personal Representative:Name: Firm: Address:  Attorney License No.: Email: Telephone:  |

**Attachment A: Real Estate**

Fill out “Attachment A” even if the Decedent did not own any real estate in Minnesota.

There are pieces of real estate in Minnesota that are part of the Estate. For each piece of real estate in Decedent’s Estate, I am providing the following information:

|  |  |  |  |
| --- | --- | --- | --- |
|  | Description of Property | **County Assessor’s Market Value** | **Fair Market Value** |
| 1 | Homestead in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ CountyLegal Description: | $ | $ |
| 2 | Other real estate in \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ CountyLegal Description: | $ | $ |
|  |  |  |  |
| Attachment A: Real Estate | **Total:** | $ |

*Use another sheet of paper if you need more room to write.*

**Attachment B: Personal Property**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  | **A** | **B** |  |
|  | Description of Property | **Number of Units** | **Fair Market of Value of Each Unit** | **Total Fair Market Value** |
| 1 |  |  | $ | $(A x B) |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
| Attachment B: Personal Property |  | **Total:** | $ |

*Use another sheet of paper if you need more room to write.*