General Information for Filing a Petition for Determination of Heirship

Revised 02-2024
Probate Form: D12

A Petition for Determination of Heirship is statutorily authorized by §473.663 RSMo. A Petition for Determination of Heirship should be filed under the following circumstances:

1. Decedent died more than one year from the date of filing.
2. No administration of Decedent's estate was commenced within one year.
3. No Will of Decedent was presented for probate within one year.
4. Decedent died leaving property in this state. (Don't use this Petition for individuals who died in Missouri owning only real property in other states.)
5. The net value of the assets in the name of Decedent exceeds $40,000.
6. A Petition for Determination of Heirship may still be filed if the assets are less than $40,000.
    a. See Small Estate Affidavit and Spousal Refusal for options when assets are less than $40,000.

What happens once the Petition for Determination of Heirship is filed with the court?

1. The Petition will be reviewed timely after its acceptance. When the Petition is ready to be set for hearing, the clerk will automatically set a hearing date.
2. The attorney for the Petitioner will receive notice on Casenet that a date has been set and that publication is ready.
3. It is the attorney's responsibility to e-mail the publication notice to the attorney's chosen publication company and submit payment to the publication company.
4. At least ten days prior to the hearing, the attorney shall send a Notice of Hearing along with a copy of the Petition for Determination of Heirship by certified mail to all interested parties. The Notice of Hearing shall contain the date, time, and location of the hearing. If the hearing is virtual, the attorney shall provide the link for accessing the hearing in the notice.
5. The attorney shall file an Affidavit of Service regarding the Notice of Hearing and an Affidavit of Publication at least five days prior to the hearing.
    - The Affidavit of Service is not required if the attorney files a Waiver and Consent of Interested Person for each interested person at least five days prior to the hearing.
    - Publication may not be waived.

Frequently Asked Questions:

- May counsel get attorneys' fees ordered in this matter?
    - No. The Court does not have the authority to order attorneys' fees in this matter.
- The petitioner is unable to locate one of the heirs. How do they get notice?
    - Counsel must file an affidavit of due and diligent search which complies with the checklist of items contained in the packet.
- Will the Court appoint a receiver or agent to be able to liquidate Decedent's property?

- No. The Court only has the statutory authority to determine the heirs of the decedent and the shares of Decedent's property to which each heir is entitled.

1. Should I record the Judgment?
    - Yes, if there is real property in the decedent's name. *See* § 473.663.5 RSMo. ("A certified copy of the decree shall be recorded at the expense of the petitioner in each county in which any real property described in the decree is situated.")
2. What values should I use for bank accounts, brokerage accounts, stock, etc.?
    - Use the current value as of the time of filing of the Petition.
3. What values should I use for vehicles?
    - Either Kelly Blue Book or NADA Value is accepted.
4. What values should I use for real estate?
    - Please provide the value of a current appraisal, the county tax appraisal, or a broker's price opinion.
    - If you are including a mortgage value, please provide the mortgage statement.

Forms Contained in this packet

1. Confidential Filing Information Sheet
2. Petition for Determination of Heirship
3. Exhibit A – Assets
4. Exhibit B – Heirs
5. Sample Notice of Hearing and Affidavit of Service
6. Checklist for filing an affidavit as to unknown heirs
7. Sample Consent and Waiver

Checklist of Requirements to File and for Hearing a Petition for Determination of Heirship

Case Category – Probate – Decedent Estates
Case Type – Determination of Heirship

NOTE: Local Court Rule 72 governs specific requirements for electronic filing in the Probate Division. Documents shown in bold italics should be filed as separate documents.

COURT FORMS:

- ☐ ***Petition for Determination of Heirship***: *(Document Category – Petition to/for)*
- ☐ ***Exhibit A - Assets*** *(Document Category* – Filing Other/Misc *Document Type* – Financial Documents. This Exhibit MUST be filed under this Document Type in order to comply with COR-2.*)*
- ☐ ***Exhibit B - Heirs*** *(Document Category – File as Exhibit to Petition)*
- ☐ ***Confidential Filing Information Sheet*** *– Enter Parties with information required. Not required to be filed unless supplementing at later date. (Document Category – Filing Other/Misc Document Type – Confidential Filing Information Sheet)*
- ☐ Fill in all blanks and check boxes on all forms. If not applicable, please indicate by using N/A.

ADDITIONAL DOCUMENTS:

- ☐ Copy of ***Death Certificate*** to verify date of death and jurisdiction. *(Document Category – Certificate of).* In the event the death certificate does not list the address stated in the Petition, file an Affidavit of Domicile verifying Decedent's domicile.

FILING INSTRUCTIONS:

- ☐ Cannot be filed until 1 year AFTER date of death of DECEASED.
- ☐ After selecting the proper county for the Court location, select Probate – Decedent's Estates as the Case Category.
- ☐ Select Determination of Heirship as the Case Type.
- ☐ The Style of Case should state Decedent's Name only, Deceased. For example, the Style of the Case for Decedent John Doe would be "JOHN DOE, DECEASED".
- ☐ Filing Fees are typically listed on the Court's website linked below.
- ☐ Party Information for all parties must be entered into the e-filing system. This includes the Petitioner(s) and Decedent entered **with full social security numbers and birth dates**. The Party Type should be first the Petitioner and then the Decedent. If the Petitioner is also an heir, you do not need to enter the Petitioner again as a New Party. Simply leave them as the Petitioner. After entering the Petitioner's information, select Add New Party. If there is an additional Petitioner, enter and select Petitioner as the Party Type again. If there is only one Petitioner, select Add New Party and select Decedent and enter Decedent's information including the full social security number, date of birth, and date of death.

- ☐ After adding all parties, click continue and then select the Petitioner's name and click "ADD".
- ☐ Select Petition to/for in the Document Category and then Determination of Heirship for the Document Type.
- ☐ After selecting the document type, choose the Document Location on the computer. If unable to select Choose File, select the Petitioner's name and selected ADD at the top of the page. Then select the PDF executed copy of the Petition for Determination of Heirship, type Determination of Heirship as the Document Title and then select ADD.
- ☐ Exhibits A and B must be attached by selecting Choose File under the Attachment Location and locating the proper attachment. The Attachment Titles should be Exhibit A for the Assets and Exhibit B for the Heirs. After each attachment is located and titled, select Add.
- ☐ After attaching all relevant documents, click continue and then review all information provided prior to selecting submit.

PETITION REQUIREMENTS PER § 473.663.1 RSMO.

- ☐ Petitioner's name and relationship to Decedent
- ☐ Date of death of Decedent
- ☐ Age of Decedent
- ☐ Complete domicile address of Decedent
- ☐ Marital Status
- ☐ Names, addresses (must be street address – no post office boxes) and lineage of all heirs-at-law, including deceased heirs who left lineal descendants. Stated on Exhibit B.
- ☐ For minor heirs-at-law, indicate who is to be provided notice on behalf of the minor (e.g. parent, guardian, conservator, custodian). Minors receiving over $10,000 must have a conservatorship established to receive the assets.
- ☐ Description of assets with **current** values. Stated on Exhibit A.
- ☐ Real property - need **full** legal description as it appears on the deed including book and page numbers and street addressees. Valuation based on the ***county tax assessment, broker's price opinion,*** or ***real estate appraisal***.

FILING FEES:

- ☐ Click Link for Up To Date Fee Information
  Boone/Callaway County
  Greene County
  Jackson County
  St. Charles County
  St. Louis City
  St. Louis County

HEARING READINESS:

- ☐ 1. Type of Service – will be designated in Setting Memo:
  - ☐ Certified and Ordinary Mail.

- ☐ 10 days' notice to ALL interested parties
- ☐ Affidavit of Service – **MUST BE NOTARIZED per §472.110 RSMo.**
  - ☐ Filed five days before hearing date.
  - ☐ Affidavit of Service can be waived if Attorney files a Waiver and Consent of Interested Person for each interested person five days before hearing date.
- ☐ Publication – Attorney must e-mail publication notice to publication company immediately upon receiving the Court Date.
- ☐ Affidavit of Publication must be filed five days before hearing date and cannot be waived.

☐ 2. The Petitioner or other interested person must be present for the hearing and prepared to testify.

☐ 3. If the requirements for service have not been met, you will need to request a new hearing date.

- ☐ Contact the clerk for the hearing Judge to obtain the new hearing date.

CONFIDENTIAL CASE FILING INFORMATION SHEET – PROBATE

INSTRUCTIONS:

✓ Complete this form for all parties known at the time of filing. Place a check in the box next to the appropriate Case Type and Party Type. If additional space is needed, complete additional Confidential Case Filing Information Sheets.

✓ This Document is not required to be filed with the initial filing if inputting all information as to the parties but will need to be filed if providing additional information.

NOTE: Name; addresses; DOB; and Social Security Number should be listed for all parties on the case including heirs and interested parties if reasonably available. The **full** Social Security Number (SSN) is ***required*** pursuant to Missouri Supreme Court Operating Rule 4.07 for each party in the case that is reasonably available. This is a confidential document. This information is needed to open a case in the court's case management system. While cases deemed public under Missouri statutes can be accessed through Case.net, the day and month of birth, SSN, and confidential addresses are NOT provided to the public through Case.net.

Party Type Code: ☐ Petitioner

Name (if a person): (Last) _____ (First) _____ (Middle) _____

Organization (if non-person): _____

Address: _____

City: _____ State: _____ Zip: _____ Contact Telephone Number: _____

DOB _____ Gender: ☐ Male ☐ Female SSN: _____

Party Type Code: ☐ Co-Petitioner

Name (if a person): (Last) _____ (First) _____ (Middle) _____

Organization (if non-person): _____

Address: _____

City: _____ State: _____ Zip: _____ Contact Telephone Number: _____

DOB _____ Gender: ☐ Male ☐ Female SSN: _____

Party Type Code: ☐ Decedent

Name (if a person): (Last) _____ (First) _____(Middle Initial) _____

Organization (if non-person): _____

Address: _____

City: _____ State: _____ Zip: _____

DOB _____ DOD:_____ Gender: ☐ Male ☐ Female SSN: _____

Submitted by: _____ Bar ID (required if attorney): _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email Address: _____

*IMPORTANT: It is the parties' responsibility to keep the court informed of any change of address or employment. *

** It is not required to file this document in the event all relevant information is entered into the Party screen as instructed above.

IN THE CIRCUIT COURT OF _____ COUNTY
STATE OF MISSOURI
PROBATE DIVISION

In the Matter of:

Deceased.

PETITION FOR DETERMINATION OF HEIRSHIP

Comes now _____ ,_____ the _____ of the above-named Decedent, who died on _____, at the age of _____ and for this Petition for Determination of Heirship states:

1. That Decedent resided at _____, in the County of _____, State of Missouri, at the time of death.

At death, decedent was ☐ single;☐ married;☐ widowed – spouse's date of death _____; or ☐ divorced.

If married, Decedent's spouse ☐ is ☐ is not the parent of all of decedent's children.

2. That more than one year has elapsed since the death of decedent and no estate administration has been commenced in this State, nor has any Will been presented for probate in this State or any other State. Had probate been commenced within the statutory time period, the proper venue would have been _____ County.

3. That the total value of the real and personal property remaining in Decedent's name is $_____ and that a list of those assets is attached on Exhibit A and incorporated into this Petition for Determination of Heirship by reference.

4. The names and resident addresses of the heirs claiming any interest in Decedent's property at the time of his/her death as far as is known or can be diligently and reasonably ascertained by Petitioner are attached on Exhibit B and incorporated into this Petition for Determination of Heirship by reference.

WHEREFORE, Petitioner prays that this court enter a Judgment determining that the only heirs of Decedent are those stated in Exhibit B and authorizing the transfer of all assets stated in Exhibit A, as well as any additional assets that may be located in the future, to those known heirs.

Petitioner(s) state(s) that the foregoing is made on this _____of _____, _____, under oath or affirmation, and its representations are true and correct to the best of Petitioner's knowledge and belief, subject to penalties of making a false affidavit or declaration.

* All exhibits attached hereto and the attached verifications are incorporated by reference herein and shall be under the aforestated oath or affirmation.

Petitioner's Signature	Co-Petitioner's Signature
Petitioner's Name (Typed)	Co-Petitioner's Name (Typed)
Street Address	Street Address
City, State, Zip	City, State, Zip
Petitioner's Email	Co-Petitioner's Email

Attorney's Signature

Attorney's Name & Bar Number (Typed)

Street Address

City, State, Zip

Phone Number with Area Code

E-mail Address

In the Matter of:

Deceased.

EXHIBIT A
ASSETS
(Assets of Decedent)

PERSONAL PROPERTY:

Name of Bank	Type of Account (Checking, Savings, CD) with last four digits of account number	Current Value of Account
		$
		$
		$
Name of Financial Institution	Type of Account (Brokerage, 401(k), IRA, etc. with last four digits of account number)	Current Value of Account
		$
		$
List All Vehicles Year, Make, Model	VIN	Value of Vehicle
		$
		$
Checks	Check #	Check Amount
		$
		$
		$
Life Insurance	Policy Type with last four digits of policy number	Face Value
		$
		$
Other Personal Property		Value
		$
		$
	Total Personal Property	$ 0.00

REAL PROPERTY – MISSOURI ONLY:

Address	Full Legal Description	Value
		$
		$

In the Matter of:

Deceased.

EXHIBIT B - HEIRS

*Any information that is not applicable should be mark N/A on the name line.

SPOUSE OF DECEDENT:

Name _____ ☐ Deceased Date of Death _____

Address: _____

LIVING CHILDREN OF DECEDENT:

Name _____ Mutual child of Decedent and Spouse? ☐ Yes ☐ No

Address_____ Under Age 18? ☐ Yes ☐ No

Name _____ Mutual child of Decedent and Spouse? ☐ Yes ☐ No

Address_____ Under Age 18? ☐ Yes ☐ No

Name _____ Mutual child of Decedent and Spouse? ☐ Yes ☐ No

Address_____ Under Age 18? ☐ Yes ☐ No

Name _____ Mutual child of Decedent and Spouse? ☐ Yes ☐ No

Address_____ Under Age 18? ☐ Yes ☐ No

Name _____ Mutual child of Decedent and Spouse? ☐ Yes ☐ No

Address_____ Under Age 18? ☐ Yes ☐ No

DECEASED CHILDREN OF DECEDENT:

Name _____ Mutual child of Decedent and Spouse? ☐ Yes ☐ No

Date of Death: _____ Attach List of Descendants if Predeceased ☐ Yes ☐ N/A

List Personal Representative of Estate and Estate Number if Deceased Child Survived Decedent

_____

Name _____ Mutual child of Decedent and Spouse? ☐ Yes ☐ No

Date of Death: _____ Attach List of Descendants if Predeceased ☐ Yes ☐ N/A

List Personal Representative of Estate and Estate Number if Deceased Child Survived Decedent

_____

ONLY COMPLETE - If Decedent had no spouse or children/grandchildren:

MOTHER:

Name _____ ☐ Deceased Date of Death _____

Address _____

FATHER

Name _____ ☐ Deceased Date of Death _____

Address _____

LIVING SIBLINGS:

Name _____ Whole Sibling ☐ Yes ☐ No

Address_____ Under Age 18? ☐ Yes ☐ No

Name _____ Whole Sibling ☐ Yes ☐ No

Address_____ Under Age 18? ☐ Yes ☐ No

Name _____ Whole Sibling ☐ Yes ☐ No

Address_____ Under Age 18? ☐ Yes ☐ No

Name _____ Whole Sibling ☐ Yes ☐ No

Address_____ Under Age 18? ☐ Yes ☐ No

Name _____ Whole Sibling ☐ Yes ☐ No

Address_____ Under Age 18? ☐ Yes ☐ No

DECEASED SIBLINGS

Name _____ Whole Sibling ☐ Yes ☐ No

Date of Death: _____ Attach List of Descendants if Predeceased ☐ Yes ☐ N/A

List Personal Representative of Estate and Estate Number if Deceased Sibling Survived Decedent

_____

Name _____ Whole Sibling ☐ Yes ☐ No

Date of Death: _____ Attach List of Descendants if Predeceased ☐ Yes ☐ N/A

List Personal Representative of Estate and Estate Number if Deceased Sibling Survived Decedent

_____

***Attach additional sheets if necessary.**

If Decedent had no spouse, children, or grandchildren and Decedent's parents pre-deceased and Decedent had no siblings or Decedent's siblings pre-deceased without issue, provide the names, addresses, and the full blood relationship of any remaining heirs-at-law on a family tree attached to this form.

IN THE CIRCUIT COURT OF _____ COUNTY
STATE OF MISSOURI
PROBATE DIVISION

In the Matter of:

Cause No. _____

Deceased.

NOTICE OF HEARING

Please take notice that the Hearing of the enclosed Petition for Determination of Heirship for the above-referenced Decedent will be heard on at or as may be continued at the Probate Division of _____ Circuit Court located at _____.

IF WEBEX the notice shall contain the following language:

The hearing has been noticed for a virtual hearing via WebEx on _____ at _____. All parties must attend by video and the link to attend the hearing by video is https://mocourts.webex.com/meet/vcdiv67mtg

If this matter is an evidentiary hearing or any party objects to the hearing of this matter by WebEx, the Court my reset the matter for an in-person hearing. The Court strongly encourages parties to make any objections to WebEx hearings in writing, prior to the hearing, at the earliest possible time.

By: _____

AFFIDAVIT OF SERVICE

Comes Now, , and being duly sworn upon his/her oath, states that s/he has caused a copy of the foregoing Notice of Hearing and Petition for Determination of Heirship to be deposited into the U.S. First Class CERTIFIED Mail, postage prepaid, in a sealed envelope bearing the name and return address of the sender to the following parties as such as listed in Exhibit B of said Petition along with any persons having an interest in the assets stated in Exhibit A on this ___ day of _____ , 20____.

By:_____

Subscribed and sworn to me this _____ day of _____, 20____.

_____
Notary Public

AFFIDAVIT OF DUE AND DILIGENT SEARCH

If the whereabouts or identity of an heir is unknown, you must prepare an Affidavit of Due and Diligent Search setting forth your attempts to locate the heir. It must be titled as such and must be notarized.

Suggestions of inquiries that you may make and should be contained in an Affidavit of Due and Diligent Search. Some of the inquiries will not be relevant to the particular situation, but counsel should make every effort to locate a missing heir as is reasonably possible. The Affidavit should contain as much information as possible regarding counsel's efforts. The Affidavit should not summarize that efforts have been made to locate heirs.

1. Send a registered letter to the last known residence of the missing person with a request, if applicable, for any forwarding addresses.

2. An inquiry directed to family members and/or friends of the missing person, with an indication of who was questioned, where the questioning took place and when the said questioning occurred. (REQUIRED)

3. When was the petitioner(s) last contact(s) with the missing person, including where the contact(s) occurred? (REQUIRED)

4. An inquiry of personnel at the missing person's last known place of employment; or, an inquiry directed to the neighbors of the missing person at the last known residence.

5. An inquiry directed to the Bureau of Vital Statistics in the city and state of the last known residence of the missing person.

6. An inquiry utilizing REJIS or any other court system (including Missouri casenet) to ascertain whether there is any court case concerning the missing person. (REQUIRED)

7. An inquiry directed to the Board of Election Commissioner, Social Security Administration, local church affiliations, or marriage and divorce records bureaus maintained in the city and state of the last known residence for the missing person.

8. An inquiry directed to the Bureau of Motor Vehicle Department in the state of the last known residence of the missing person.

9. An inquiry directed to the Armed Forces of the United States concerning the missing person.

10. An inquiry utilizing a database search system concerning the missing person.

11. Review of obituaries and other commonly searched internet platforms.

11. Multiple searches of various social media platforms such as Facebook, White Pages, etc.

IN THE CIRCUIT COURT OF _____ COUNTY
STATE OF MISSOURI

PROBATE DIVISION

In the matter of:

Cause No. _____

Deceased.

WAIVER AND CONSENT OF INTERESTED PERSON

I, _____ , am entitled to Notice as defined under § 473.663 RSMo. By execution of this Waiver and Consent, I do hereby state the following:

☐ I have received a copy of the Petition for Determination of Heirship of the above-named Decedent.

☐ I waive any Notice of Hearing to which I may be entitled and further waive any hearing on the Petition for Determination of Heirship.

☐ I consent to the heirs and assets as stated in the Petition for Determination of Heirship and state that there are no other heirs known to me to the best of my knowledge.

Signed this _____ day of _____, _____.

_____