

# Instructions for Form (MPC 163) - Devises

## About This Form

**Form Use.** This form must be used to identify a Decedent's devisees. Devisees are persons, entities, charitable organizations, or trusts designated in a will to receive the Decedent's personal or real property. In the case of a devise to an existing trust or trustees, or to a trustee or trust established by the will, the trust or trustee is the devisee and the beneficiaries are not devisees. For additional information,

the Massachusetts Uniform Probate Code, G. L. c. 190B should be consulted.

**Filing Fee.** There is no fee to file this form.

**Filing with the Court.** This form must be filed with the petition to which it relates. **Failure to submit this form with the petition to which it relates will result in a delay in processing your case.**

## Top of the Form

<b>A</b> <b>DEVISEES</b> G. L. c. 190B, § 3-301 <input checked="" type="checkbox"/> Original Form <input type="checkbox"/> Amended Form	Docket No. <b>B</b>	Commonwealth of Massachusetts The Trial Court Probate and Family Court
Estate of: Donna First Name    Middle C    Smith Last Name Date of Death: April 1, 2016	Middlesex D Division	

### **A** Original or Amended Form

Put an "X" next to "Original Form" if this is the first time you are filing this form; put an "X" next to "Amended Form" if you have previously filed this form with the court and are now changing the information.

*Thereafter, a party may amend after an appearance has been filed only by leave of court or by written consent of all parties. See generally, Rules 3 and 7 of the Supplemental Rules of the Probate and Family Court and Rule 15 of the Mass.R.Civ.P.*



*There are specific rules that govern when a pleading can be amended. In an informal proceeding, an Informal Petition (MPC 150), Surviving Spouse, Children, Heirs at Law (MPC 162) or Devises (MPC 163) form may **only** be amended by a party **prior to allowance**. In a formal proceeding, a Formal Petition (MPC 160), Surviving Spouse, Children, Heirs at Law (MPC 162) or Devises (MPC 163) form may be amended by a party as **a matter of course** prior to an appearance being filed before 10:00 a.m. on the return day.*

### **B** Docket Number

If known, fill in the docket number assigned by the court or leave blank if not yet assigned.

### **C** Decedent's Name and Date of Death

Enter the name of the deceased and date of death.

D

**Division**

(Example: Suffolk Division, Middlesex Division, Plymouth Division, etc.).

Enter the name of the county Probate and Family Court where this form will be filed.

**Line 1 - Information Regarding Decedent's Will**

**ALL PETITIONERS MUST COMPLETE LINE 1.**

1. The Decedent left a will dated **A** **March 20, 2000** .  The dates of all codicils are: **December 1, 2014** . The will and any codicils are referred to as the will.

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**Date of Will and Codicil**

Enter the date of the Decedent's will filed for probate. Put an "X" in the box to indicate if a codicil is filed and enter the date(s) of all codicils.

**Line 2 - Information Regarding Surviving Devisees**

**ALL PETITIONERS MUST COMPLETE LINE 2.**

2. The following devisees named in the will to inherit personal or real property were living at the time of the Decedent's death. (Note: If the devisee is a trust, list the name of the trust and trustees. If any devisee is a charity, list the name of the charity and provide notice to the Massachusetts Attorney General. See G. L. c. 190B and Uniform Practice XXXIV).

NAME OF DEVISEE	ADDRESS (omit if since deceased)	RELATIONSHIP TO DECEDENT	A MINOR
Alaina Smith	1 Main Street Anywhere MA 00000	Daughter	<input type="checkbox"/> Yes
Smith Family Trust; Lee Smith, Trustee	1 Main Street Anywhere MA 00000	Spouse/Trustee	<input type="checkbox"/> Yes
<b>A</b>		<b>B</b>	<input type="checkbox"/> Yes

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**Name and Address**

Enter the name and complete address of all devisees named in the will to inherit personal or real property who were living at the time of the Decedent's death. If a devise is to an existing trust or trustees, or to a trustee or trust established by the will, enter the name of the trust and the names and complete address of the trustees. Do not enter the name of trust beneficiaries. If a devise is to a charity or entity, enter the name and complete address of the

charitable organization or entity. If a devise is to a class, enter the name and address of each member of the class.

If a devisee is no longer living at the time of this filing, you may omit the address. You must provide additional information regarding the **since deceased devisee in line 6** of this form.

**B Relationship to Decedent; Minor**

Identify the devisee's relationship to the Decedent (daughter, spouse, sister, friend, charity, trustee, etc.). If a devisee is a minor, you must check the "Yes" box. You must provide additional information regarding the **minor devisee in line 5** of this form.



*If any devisee is under a legal disability (a minor, an adjudicated or an alleged incapacitated or protected person, a person unborn or unascertained) you must provide additional information*

*regarding the devisee **in line 5** of this form.*

**Line 3 - Information Regarding Predeceased Devisees**

Complete Line 3 **ONLY** if there are devisees who died **before** the Decedent.

**A** 3.  The following devisees named in the will to inherit personal or real property **were not living** at the time of the Decedent's death.

NAME OF PREDECEASED DEVISEE	DATE OF DEATH	RELATIONSHIP TO DECEDENT
<b>B</b>		<b>C</b>

**A Predeceased Devisees**

Check this box **ONLY** if a devisee named in the Decedent's will died **BEFORE** the Decedent.

**C Relationship to Decedent**

Identify the devisee's relationship to the Decedent (daughter, spouse, sister, friend, etc.).

**B Name and Date of Death**

Enter the name and date of death of the **predeceased devisee**.

**Line 4 - Information Regarding Contingent Devisees**

Complete Line 4 **ONLY** if there are contingent devisees named in the will or if the anti-lapse statute (G. L. c. 190B, § 2-603 applies).

**A** 4.  If the will names one or more persons to take in place of the deceased devisee, or if the anti-lapse statute (G. L. c. 190B, § 2-603) applies, list the contingent devisee(s). Do not include residuary devisees named elsewhere.

NAME OF CONTINGENT DEVISEE	ADDRESS <small>(omit if since deceased)</small>	RELATIONSHIP TO DECEDENT	A MINOR
			<input type="checkbox"/> Yes
<b>B</b>			<input type="checkbox"/> Yes

**A Contingent Devisees**

Check this box **ONLY** if the will names one or more persons to take in place of the predeceased devisee named in line 3, or if the anti-lapse statute (G. L. c. 190B, § 2-603) applies. Do not include residuary devisees named elsewhere.

**C Relationship to Decedent; Minor**

Identify the contingent devisee’s relationship to the Decedent (daughter, spouse, sister, friend, charity, trustee, etc.). If a contingent devisee is a minor, you must check the “Yes” box. You must provide additional information regarding the **minor contingent devisee in line 5** of this form.

**B Name and Address**

Enter the name and date of death of the surviving **contingent devisee**. If a contingent devisee is no longer living at the time of this filing, you may omit the address. You must provide additional information regarding the **since deceased contingent devisee in line 6** of this form.



*If any devisee is under a legal disability (a minor, an adjudicated or an alleged incapacitated or protected person, a person unborn or unascertained) then you must provide additional information regarding the devisee **in line 5** of this form.*

**Line 5 - Information Regarding Devisees under a Legal Disability**

**ALL PETITIONERS MUST COMPLETE LINE 5, if applicable.**

5. **NONE** of the devisees are under legal disability **except for:**

NAME OF DEVISEE	<b>A</b> LEGAL DISABILITY	REPRESENTED BY <small>* (Guardian ad litem required unless waived. See instructions)</small>	NAME/ADDRESS OF REPRESENTATIVE <small>(Provide docket number or proof of appointment for any court appointed fiduciary.)</small>
	<input type="checkbox"/> Minor List age: <input type="text"/> <input type="checkbox"/> Incapacitated or protected person (adjudicated or alleged) <input type="checkbox"/> Unborn or unascertained	<input type="checkbox"/> Guardian <input type="checkbox"/> Conservator <input type="checkbox"/> Unrepresented*	<b>B</b>

**A Devisees under a Legal Disability**

Enter the name of any devisee under a legal disability. Check the appropriate box to identify the legal disability (a minor, an alleged incapacitated or protected person, a person unborn or unascertained).

**B Represented By**

Check the appropriate box to indicate if a devisee is represented by a guardian, conservator, or is unrepresented. Provide the name and complete address of the representative. Include the docket number or proof of appointment for any court appointed fiduciary.



An **informal proceeding** is **NOT** available if a **devisee is unborn or unascertained; or if a devisee is a minor or an adjudicated or an alleged incapacitated or protected person unless he or she is represented by a**

**conservator or a guardian who is not the petitioner.** A formal proceeding however may be commenced. Any request for parental or virtual representation can **ONLY** be made in a **formal proceeding**. To do so, the petitioner must submit a motion for court approval prior to the appointment of a Guardian ad Litem. A formal proceeding is always required when a **devisee** under a legal disability is **unrepresented**.

**Line 6 - Information Regarding Since Deceased Devisees**

**ALL PETITIONERS MUST COMPLETE LINE 6, if applicable.**

6. **NONE** of the devisees who survived the Decedent are deceased at the time of this filing except for:

NAME OF SINCE DECEASED DEVISEE	DATE OF DEATH	REPRESENTED BY	NAME/ADDRESS OF REPRESENTATIVE <i>(Provide docket number or proof of appointment for any court appointed fiduciary.)</i>
A		<input type="checkbox"/> Personal Representative <i>(Required for an informal proceeding)</i> <input type="checkbox"/> Unrepresented <i>(Formal proceeding required)</i>	

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**Since Deceased Devisees**

Enter the name and date of death of any devisee who **SURVIVED** the death of the Decedent but is no longer living at the time of this filing. Check the appropriate box to indicate if their estate is represented by a court appointed Personal Representative and provide the fiduciary's name and complete address. Include the docket number or proof of appointment for any court appointed fiduciary.



If a devisee is **since deceased** (i.e. died after the death of the decedent), a Personal Representative must be appointed for that estate in order to proceed **informally**. If no Personal Representative is appointed to represent the since deceased's estate, a **formal proceeding** must be filed.

**Bottom of Form – Petitioner Signature**

**ALL PETITIONERS MUST COMPLETE THIS SECTION.**

**\*\*Important Information – Please Read\*\***  
 Review the completed form for accuracy prior to filing it with the court. If you do not understand this form, do not sign it! Please consult an attorney for legal advice. Court staff cannot provide legal advice or instruct you as to the identity of devisees designated in any will filed for probate.

## SIGNED UNDER THE PENALTIES OF PERJURY

I certify under the penalties of perjury that the foregoing statements are true to the best of my knowledge and belief.

Date: **April 15, 2016**

Signature of Petitioner

**Mary Smith**  
(Print name)

**1 Jay Road**  
(Address)

**Concord** **MA** **00000**  
(City/Town) (State) (Zip)

Primary Phone #: **000-000-0000**

B.B.O. #

Email: **MSmith@provider.com**

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### Petitioner Signature Section

All Petitioners must complete this section and sign the form on the Petitioner signature line and date it in the appropriate space

### After You Have Finished

Once completed, you must file this form with the petition to which it relates in the proper division of the Probate and Family Court. **Failure to submit this form with the petition to which it relates will result in a delay in processing your case.**

### For Additional Information

A detailed description of each probate process can be found in the ***MUPC Estate Administration Procedural Guide: A Guide to Estate Administration Practices & Procedures in the Probate and Family Court***, located at:  
<http://www.mass.gov/courts/docs/courts-and-judges/courts/probate-and-family-court/mupc-procedural-guide.pdf>.