

## INSTRUCTIONS FOR PETITION FOR ORDER OF COMPLETE SETTLEMENT

These general instructions are for informational purposes only and do not constitute legal advice. Please consult an attorney if you have specific questions. Court staff cannot provide legal advice or assist you with legal decisions.

### GENERAL INFORMATION

A petition for order of complete settlement is a formal proceeding. A personal representative or any interested person may petition for an order of complete settlement of the estate. No petition may be filed until the time for presenting creditor claims has expired (i.e., one year from the decedent's date of death). Thereafter, the personal representative may file a petition at any time. Any other interested person may file a petition after one year from the appointment of the original personal representative.

The final account of a personal representative may be allowed by the court ONLY if requested by filing a petition for order of complete settlement along with the account. A petition filed to formally close the estate shall request approval of the final account.

In addition to the allowance of a final account, a petition for order of complete settlement may request that the court:

- 1) make a final determination of testacy, if not previously formally determined, and within statutory time limits;
- 2) make a final determination of the decedent's heirs at law, if not previously formally determined;
- 3) approve a proposed distribution;
- 4) approve a proposed construction of a will;
- 5) other requests as authorized by G. L. c. 190B, § 3-1001.

A petition for order of complete settlement may be necessary when:

- the personal representative or any other interested person wants the protection of a formal decree allowing the personal representative's final account;
- a personal or corporate surety wants the protection of a formal decree to discharge the personal representative and the surety from the bond and from any further liability;
- an informal proceeding was used to open the estate and a formal determination of the heirs at law or of testacy is desired when closing the estate;
- there is a question as to who estate assets should be distributed to and in what amount;
- the personal representative is serving in a supervised administration, is a public administrator, or is otherwise court ordered to close the estate under the formal procedure;
- a judge must sign a decree.

### FILING FEE

The fee to file a Petition for Order of Complete Settlement (MPC 855) is **\$75.00**. See also "Other Fees" noted below.

**FEE ALERT:** Failure to submit the proper filing fee(s) will result in a delay in processing your case.

### OTHER FEES

Any or all of the following fees may be required:

- Final Account fee = see the category “Accounts” in the Probate and Family Court Uniform Fee Schedule. This fee is in addition to the \$75.00 Petition for Order of Complete Settlement fee.
- Citation fee, if applicable = \$15
- Publication fee, if applicable = this fee is determined by the newspaper of publication. The court is not responsible for collecting or establishing the publication fee.

## COMMON TERMS

**Docket Number:** The number the court assigns to your case.

**Petitioner:** Interested persons identified by Massachusetts law who can file a petition.

**Decedent:** The person who died.

**Heirs at Law:** At the time of the decedent’s death, persons who are entitled to receive the decedent’s property under the intestacy succession laws if there is no will. For more information, see the Intestate Succession Charts at the end of these instructions.

**Devisees:** 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.

**Probate Estate:** All of the real and personal property the decedent owned in his or her name alone on the date of death that is subject to probate.

**Interested Persons:** Persons identified by Massachusetts law who can file a petition and who also must be notified of a court proceeding. The term may include a surviving spouse, children, heirs at law, devisees, creditors, fiduciaries representing interested persons and persons having priority for appointment as personal representative, depending on the circumstances.

**Intestate:** An estate in which the decedent did not leave a will.

**Testate:** An estate in which the decedent did leave a will.

**Personal Representative:** A person at least 18 years of age who has been appointed to administer the estate of the decedent.

## FORMS

Forms may be obtained:

- 1) from the registry in each county Probate and Family Court; or
- 2) from the MUPC Hub located on the Probate and Family Court’s website at <http://www.mass.gov/courts/forms/pfc/pfc-mupc-forms-generic.html>

You may complete a form online and print or you may print the form and type or print legibly in black or blue ink. The following court approved forms or documents that are required or may be needed to formally close an estate are:

**PERSONAL REPRESENTATIVE'S  
PETITION FOR ORDER OF COMPLETE SETTLEMENT  
CHECKLIST**

DECEDENT DIED WITH OR WITHOUT A WILL	
Form/Document Name	Required or May Need
<input type="checkbox"/> Petition for Order of Complete Settlement (MPC 855)	<b>REQUIRED</b>
<input type="checkbox"/> Proposed Decree and Order on Petition for Order of Complete Settlement (MPC 790)	<b>REQUIRED</b>
<input type="checkbox"/> Citation – Return of Service (MPC 570)	<b>REQUIRED</b> (unless the petition is assented to by all interested persons and publication is not required)
<input type="checkbox"/> Military Affidavit (MPC 470)	<b>REQUIRED</b> (unless the petition is assented to by all interested persons)
<input type="checkbox"/> Final Account (MPC 853 or MPC 853a)	<b>REQUIRED</b> (if requesting the allowance of PR's final account)
<input type="checkbox"/> Inventory (MPC 854 or MPC 854a)	<b>REQUIRED</b> (if requesting allowance of PR's final account)
<input type="checkbox"/> Surviving Spouse, Children, Heirs at Law (MPC 162)	<b>REQUIRED</b> (if requesting a formal determination of heirs)
<input type="checkbox"/> Devisees (MPC 163)	<b>MAY NEED</b> (if requesting a formal determination of testacy and the decedent died testate (with a will). This form must be already on file or accompany the Petition.)
<input type="checkbox"/> Statement of proposed will construction	<b>MAY NEED</b> (if requesting will construction)
<input type="checkbox"/> Affidavit - as to execution (MPC 480), domicile (MPC 485), or no conflict of a Conservator	<b>MAY NEED</b>
<input type="checkbox"/> Assent and Waiver of Notice/Renunciation/Nomination/ Waiver of Sureties (MPC 455)	<b>MAY NEED</b>
<input type="checkbox"/> Copy of Trust and Affidavit re: Trust Beneficiaries	<b>MAY NEED</b> (if the PR and the trustee are identical and there is no independent trustee, the PR must submit an affidavit identifying each trust beneficiary, including whether any are unborn, unascertained or under a legal disability)
<input type="checkbox"/> Proof of Guardianship/Conservatorship	<b>MAY NEED</b>
<input type="checkbox"/> Motion by Petitioner and Affidavit of parent, virtual or other G. L. c. 190B, § 1-403 representative to request waiver of the appointment of a Guardian ad Litem (GAL)	<b>MAY NEED</b> (if an heir or devisee who has an interest in the proceeding is under a legal disability and not otherwise represented)
<input type="checkbox"/> Motion by Petitioner and Affidavit of G. L. c. 190B, § 3-915 representative to request waiver of the appointment of a Guardian ad Litem (GAL)	<b>MAY NEED</b> (For PR distributions only: if an heir or devisee who has an interest in the proceeding is under a legal disability and not otherwise represented)
<input type="checkbox"/> Copy of Power of Attorney OR other document	<b>MAY NEED</b> (For PR distributions only: to confirm authority to receive property pursuant to G. L. c. 190B, § 3-915)
<input type="checkbox"/> Motion of the accounting PR and Affidavit of a non-accounting co-fiduciary to request waiver of the appointment of a Guardian ad Litem (GAL) pursuant to Uniform Practice XVIA (16A)	<b>MAY NEED</b> (to request the waiver of a GAL when there is an independent co-fiduciary to represent persons interested who are under a legal disability)

MPC 972 (2/1/17)

## STEPS TO FILING YOUR CASE

### STEP 1: COMPLETE THE PETITION FOR ORDER OF COMPLETE SETTLEMENT (MPC 855)

Complete the **Petition for Order of Complete Settlement (MPC 855)** as follows:

#### CAPTION

1. Pay careful attention to the form's caption. Enter the full name and date of death of the decedent, the docket number assigned to the case by the court, and the division (i.e., the county) where the estate is being probated.
2. 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. For more information, see generally, Chapter 4, **section 4.20**, of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition**.

#### I. GENERAL INFORMATION

1. Complete line 1 by entering the name, address (or mailing address, if different), and phone number of the petitioner. Put an "X" in the appropriate box to indicate if the petitioner is the personal representative ("PR") or other interested person. If the petitioner is the PR, enter the date of appointment (i.e., the date of the approved bond). If the petitioner is any other interested person, enter the relationship.
2. Read line 2 for important statutory filing requirements.
3. Read line 3 for important statutory filing requirements.

#### II. PERSONS INTERESTED IN THE ESTATE

#### III.

4. Complete the table in line 4 as follows:

- (a) In column 1, enter the name of each person interested in the proceeding. Persons who are interested in the proceeding may vary depending on the specific relief requested.
- (b) In column 2, enter the address for each interested person. If an interested person is deceased at the time of filing the petition, omit the address and complete #6 of the form.
- (c) In column 3, identify the specific interest.

**Practice Alert:** In the case of a devise to an existing trust or trustee, or to a trustee or trust established by the will, the trustee/trust is the devisee and must be listed on the petition. **The beneficiaries are not devisees and do not need to be listed on the petition.** See the Practice Alert below for additional requirements.

**Practice Alert:** When the PR is also a trustee, the PR must identify him/herself as a trustee on the petition. If the PR is the **sole** trustee, the PR must also provide the court with a **copy of the trust** and an **affidavit** identifying each trust beneficiary and stating whether there are unborn or unascertained beneficiaries and whether any named beneficiary is under a legal disability. **The beneficiaries are not devisees and do not need to be listed on the petition.** The trust and the affidavit shall be returned upon entry of the decree. **Neither the trust nor the affidavit shall be entered on the docket or scanned unless otherwise ordered by the court.** For more information, see Chapter 10, **section 10.7**, of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition**. See STEP 4 of these instructions for important notice requirements when the PR is the **sole** trustee.

5. If applicable, complete the table in line 5 as follows:

- (a) In column 1, enter the name of any interested person identified in #4 that is under a legal disability. A person is under a legal disability if they are a minor or an adjudicated or an alleged incapacitated or protected person.
- (b) In column 2, put an "X" in the appropriate box to indicate the legal disability. If a minor, enter the current age.

(c) In column 3, put an “X” in the appropriate box to indicate if the interested person under a legal disability is **unrepresented or only represented by the accountant** and therefore in need of representation (i.e., a court appointed guardian ad litem, “GAL”); **OR** is represented by:

- (1) a court appointed independent guardian (i.e., someone other than the PR);
- (2) a court appointed independent conservator (i.e., someone other than the PR);
- (3) a parent of a minor pursuant to G. L. c. 190B, § 1-403\*;
- (4) a holder of a general power of appointment pursuant to G. L. c. 190B, § 1-403\*; or
- (5) a virtual representative pursuant to G. L. c. 190B, § 1-403\*. Enter the relationship of any virtual representative.

**\*For (3)–(5) above, see the Practice Alerts below for additional motion and affidavit filing requirements.**

**FOR DISTRIBUTIONS PURSUANT TO § 3-915 ONLY:**

If the proceeding involves **ONLY** a request for the allowance of a final account, and the PR is distributing to a person under a legal disability as authorized by G. L. c. 190B, § 3-915,\* or to a non-accounting co-fiduciary pursuant to Uniform Practice XVIA, put an “X” in the appropriate box. Attach a copy of proof of authority where applicable.

**\*For distributions pursuant to § 3-915 and Uniform Practice XVIA above, see the Practice Alerts below for additional motion and affidavit filing requirements.**

(d) In column 4, enter the name and address of any representative identified in column 3. Provide the docket number for any court appointed fiduciary. If appointed from another division or from a court outside of Massachusetts, then the petitioner must present certified copy of Letters of the appointment or other evidence of appointment.

**Practice Alert:** To request a waiver of the appointment of a GAL based on G. L. c. 190B, § 1-403 (i.e., parental, holder of a general power of appointment or virtual representative) or based on § 3-915, or for any other reason, a **motion** to waive the appointment of a GAL must be filed by the petitioner and supported by an **affidavit of the representative**. An affidavit from counsel for the petitioner is not sufficient. A motion to waive the appointment of a GAL supported by an affidavit may be allowed without a hearing in the discretion of the court; provided, however, that the filer shall be given an opportunity to be heard before such motion is denied. For more information on permissive waivers of a GAL, see Chapter 10, section 10.7 et. seq., of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition**.

**Practice Alert:** For requests to waive the appointment of a GAL based on G. L. c. 190B, § 3-915, the court shall require a copy of any necessary document to confirm the identity and authority of the representative/recipient of the distribution (e.g., Power of Attorney or UTMA/UCTA account). If requested, the document shall be returned upon entry of the decree. **The document shall not be scanned unless otherwise ordered by the court.**

**Practice Alert:** To the extent there is no conflict of interest, orders binding an independent trustee bind beneficiaries of the trust in proceedings to review the acts or accounts of a prior fiduciary. MUPC at § 1-403. Despite the language in § 1-403, if the PR is one of the trustees, many courts will still require the petitioner to adhere to the requirements of Uniform Practice XVIA to waive the appointment of a GAL. For requests to waive the appointment of a GAL pursuant to Uniform Practice XVIA, a **motion** of the **accountant** (i.e., the PR/trustee) must be filed and supported by an **affidavit** of the **non-accounting co-fiduciary** (i.e., co-trustee). For more detailed information, see Chapter 10, section 10.7.5 of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition or Uniform Practice XVIA**.

Please note that if the PR is the **sole** trustee and the affidavit of the PR/sole trustee indicates that there are unborn/unascertained or legally disabled beneficiaries of the trust, the appointment of a GAL would appear to be required **UNLESS** the court waives the appointment upon motion and affidavit of the PR/sole trustee.

**Practice Alert:** For other requests to waive the appointment of a GAL based on Uniform Practice XVIA, a **motion** of the **accountant** (e.g., PR/conservator) must be filed and supported by an **affidavit** of the **non-accounting co-fiduciary** (e.g., co-conservator). For more information, see Chapter 10, section 10.7.5 of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition or Uniform Practice XVIA**.

6. If applicable, complete the table in line 6 as follows:

- (a) In column 1, enter the name of any interested person who survived the decedent but is deceased **at the time of this filing.**
- (b) In column 2, enter the date of death.
- (c) In column 3, put an “X” in the appropriate box to indicate if the estate is unrepresented or is represented by a PR.
- (d) In column 4, enter the name and address of the PR. Provide the docket number or proof of appointment. If appointed from another division or from a court outside of Massachusetts, then the petitioner must present certified copy of Letters of the appointment or other evidence of appointment.

**Practice Alert:** If an heir at law or devisee is deceased at the time court proceedings are commenced, notice must be given to the PR of the **since deceased person’s estate**. If no PR has been appointed, **publication is required**. Assents of the presumptive heirs at law are **NOT** sufficient. In addition to notice by publication, the court may appoint a GAL or take other appropriate action.

### **III. ALLOWANCE OF THE FINAL ACCOUNT**

(Complete only if requesting)

7. In line 7, put an “X” in the box if requesting the allowance of the final account. In the space provided, indicate if the account is the 1<sup>st</sup> and final account, 2<sup>nd</sup> and final account, or 45<sup>th</sup> – 48<sup>th</sup> and final account, etc. A petition for order of complete settlement filed to close an estate **MUST** request approval of the final account. **The following forms must be filed with the petition:**

- ✓ **Final Account (MPC 853 or MPC 853(a))**
- ✓ **Inventory (MPC 854 or MPC 854(a))**

### **IV. DETERMINATION OF TESTACY**

(Complete only if requesting; you must also complete Section V)

8. In line 8, put an “X” in the box **ONLY** if requesting that the court formally determine the testacy status of the estate. A formal determination of testacy may **ONLY** be requested if the time limits under § 3-108 or other applicable statute have not expired **AND** the court has **NOT** formally determined testacy. For more information, see Chapter 10, **section 10.6.3**, of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition**.

9. Complete line 9 by putting an “X” in the appropriate box to indicate if the decedent died intestate (no will) or testate (with a will). If the decedent died “testate”, enter the date of the decedent’s last will and the date of any codicils. If the will was informally probated, check the box and enter the date of the Informal Order admitting the will to probate.

**If the Decedent died testate (with a will), the following form must be filed with the petition, unless it is already on file with the court:**

- ✓ **Devises (MPC 163)**

**Practice Alert:** If the petition requests a formal determination of in/testacy, the petitioner must also complete section V of the petition (Determination of Heirs at Law).

#### **V. DETERMINATION OF HEIRS**

(Complete only if requesting or if Section IV is completed)

10. In line 10, put an “X” in the box if Section IV is completed (Determination of Testacy) OR if requesting that the court formally determine the heirs at law of the estate. A formal determination of the decedent’s heirs at law may **ONLY** be requested if the court has **NOT** formally determined the heirs at law. Check the second box in line 10 if there are heirs at law who are not known to the Petitioner. For more information, see Chapter 10, **section 10.6.4**, of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition**.

**The following form must be filed with the petition even if it was filed to open the estate:**

- ✓ **Surviving Spouse, Children, Heirs at Law (MPC 162)**

#### **VI. OTHER REQUESTS AS AUTHORIZED BY G. L. c. 190B, § 3-1001**

(Complete only if requesting)

11. In line 11, put an “X” in the box **ONLY** if requesting approval of a proposed distribution. A request for a proposed distribution may be necessary if there is a question as to who estate assets should be distributed to and in what amount. Do **NOT** check this box if you have filed a final account and you are requesting approval of the distributions as stated in the final account.

Complete the table in line 11 as follows:

- (a) In column 1, enter the name of each proposed distributee.
- (b) In column 2, enter the interest of the proposed distributee.
- (c) In column 3, enter the distribution as proposed. Provide as much detail as possible for the court to consider and approve the proposed distribution.

**The following form must be filed with the petition:**

- ✓ **Inventory (MPC 854 or MPC 854(a))**

12. In line 12, put an “X” in the box **ONLY** if requesting that certain provisions of the will be construed (i.e., interpreted). A request for a construction of the will may be necessary if there is a question as to the interpretation of a certain provision or term used in the will.

The following document must be filed with the petition:

✓ **Statement of Proposed Will Construction**

13. In line 13, put an “X” in the box ONLY if requesting additional relief as authorized by G. L. c. 190B, § 3-1001. In the space provided, include specific details as to the additional statutory relief requested.

**VII. RELIEF REQUESTED**

In this section, do NOT put an “X” in a box UNLESS the specific relief was requested in the body of the petition.

The Petitioner must sign and date the petition. If represented by an attorney, the attorney must sign the petition in the space provided. Enter the name of the attorney, address, phone number, Board of Bar Overseers number and email address.

**STEP 2: COMPLETE A PROPOSED DECREE (MPC 755)**

In all cases, the petition must be accompanied by the following:

✓ **Decree and Order on Petition for Order of Complete Settlement (MPC 755)**

This form must be submitted in ALL cases prior to allowance.

The petitioner is required to complete all applicable sections in preparation for the court’s signature.

**STEP 3: FILE PAPERS WITH THE COURT**

- Provide the court with the required forms and documents completed above.
- Review the notice requirements in STEP 4 to determine if a citation is necessary.
- Pay the correct filing fee, including any citation fee.
- **Be sure to make a copy of all forms and documents before filing with the court.**

**\*\*Important Information – Please Read\*\***

**Review all completed forms for accuracy prior to filing with the court. If you do not understand any form, do not sign it! Please consult an attorney for legal advice. Court staff cannot provide legal advice or assist you with legal decisions.**

**STEP 4: NOTICE REQUIREMENTS**

The petitioner must provide notice to ALL persons interested in the proceeding. A person entitled to notice (or his/her attorney, if represented) including a GAL, conservator or other fiduciary, may waive their statutory right to notice by filing a written assent and waiver of notice (see form MPC 455, below). A minor or an incapacitated or protected person **may not** waive notice.

For a list of possible persons who may be interested in a proceeding for order of complete settlement and entitled to statutory notice, see Chapter 10, **section 10.8.1**, of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition**. Persons interested in the proceeding **may vary** depending on the particular relief requested.

**Practice Alert: Publication** SHALL be required if a person’s whereabouts, address or identity is unknown. Publication shall also be required if a Petition for Order of Complete Settlement requests a **formal determination of testacy** or a **formal determination of the decedent’s heirs at law**. For more information, see Chapter 10, **section 10.6.3, section**

**10.6.4 and section 10.8 et., seq., of the MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition.**

**Practice Alert:** If a devisee is a trust, notice must be given to the **trustee**. An independent trustee represents the beneficiaries of the trust. MUPC at § 1-403. If the PR is the **sole** trustee, the PR must give notice to **all trust beneficiaries**, unless waived by the beneficiary using form MPC 455.

After the filing of the petition, the court shall fix a return date and issue a citation UNLESS the written assents and waivers of notice of ALL person interested in the proceeding **are filed with the petition** (see form MPC 455, below) and publication is not otherwise required.

**Practice Alert:** If the ONLY relief requested in the Petition for Order of Complete Settlement is the allowance of the **final account**, Rule 72 of the Supplemental Rules of the Probate and Family Court applies and no citation need be issued if the written assents and waivers of notice of all persons interested in the account **are filed with the petition** (see form MPC 455, below).

✓ **Assent and Waiver of Notice/Renunciation/Nomination/Waiver of Sureties (MPC 455)**

This form must be filed **if** a person entitled to notice wants to assent and waive his/her statutory right to notice. See Section I of the form and the **Instructions (MPC 941)**. For more information on who may be entitled to statutory notice, see Chapter 10, **section 10.8**, of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition**.

**STEP 5: HOW TO PROVIDE CITATION NOTICE (MPC 570)**

The petitioner must give notice of the proceeding as provided in the citation's **Order of Notice**. **Review the Order of Notice carefully!** The return date listed in the citation is **NOT** a hearing date. It is the deadline date by which an interested party must file his or her written appearance if he or she wishes to contest the petition. For more information on contesting the allowance of an account or a petition for order of complete settlement, see Chapter 10, **section 10.9**, et. seq., of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition**.

In general, notice of the citation (MPC 570) must be provided to all persons interested (who have not assented and waived their statutory right to notice in writing) as follows:

**a. Service within Massachusetts**

Service of a citation within Massachusetts shall be given by delivering in hand or by mailing by certified, registered or ordinary first class mail at least fourteen (14) days before the return date.

**b. Service outside of Massachusetts**

If it shall appear from the petition that there is anyone interested who is outside of Massachusetts in any part of the United States, its Commonwealths or territories, service of the citation shall be given by delivering in hand or by mailing by certified, registered or ordinary first class mail at least fourteen (14) days before the return day; if in other parts, one (1) month.

**c. Service when Whereabouts are Unknown**

If it shall appear from the petition that a person is of parts unknown, service of the citation shall be given by delivery or mailing to the last known address at least one (1) month before the return day. See also Service by Publication below.

**d. Service by Publication**

In addition to the service requirements above, publication SHALL be required if a person's whereabouts, address or identity is unknown. **Publication SHALL also be required if a Petition for Order of Complete Settlement requests a formal determination of testacy or a formal determination of the decedent's heirs at law** (see Chapter 10, **section 10.6.3** and **section 10.6.4** of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition**). A copy of the citation shall be published once in a newspaper designated by the Register of Probate at least seven (7) days before the return day.

✓ **Return of Service**

The petitioner must file with the court proof of notice by filing a copy of the citation with a completed Return of Service on or before the return day. Proof of publication (if any) should be filed.

✓ **Military Affidavit (MPC 470)**

This form must be filed **UNLESS** the written assents and waivers of notice (MPC 455) of all interested persons are filed. For more information, see the Military Affidavit section found in Chapter 3, **section 3.10.2**, of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition**.

## **STEP 6: ADDITIONAL FORMS THAT MAY BE NEEDED PRIOR TO ALLOWANCE**

✓ **Affidavit of Witness to Will (MPC 480)**

This form must be filed **if** requesting a formal determination of testacy and evidence concerning the execution of the will is necessary and this form is not already on file with the court. For more information, see Chapter 1, **section 1.14.3**, of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition**.

✓ **Affidavit of Domicile (MPC 485)**

This form must be filed **if** requesting a formal determination of testacy and the address of the decedent is incorrectly listed on the death certificate and this form is not already on file with the court. For more information, see Chapter 3, **section 3.11.4.2**, of the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition**.

## **WHAT TO EXPECT NEXT**

- If the petition is uncontested, the court may enter appropriate orders after the return date on the strength of the pleadings if satisfied that all conditions are met or the court may conduct a hearing and require proof of the matters necessary to support the order sought.
- If the petition is contested, the petitioner must file a Request for a Case Management Conference or other applicable form. The division's judicial case manager may be consulted for further information regarding the scheduling of a hearing date.
- Once approved or denied, a copy of the formal decree will be provided to the petitioner by mail or in-person.

## **WHERE CAN I FIND MORE INFORMATION?**

For more information see the **MUPC Estate Administration Procedural Guide 2<sup>nd</sup> Edition: A Guide to Estate Administration Practices & Procedures in the Probate and Family Court**.



**Massachusetts Uniform Probate Code (G. L. c. 190B)**  
**Intestate Succession**  
(for dates of death on or after March 31, 2012)

	<b>If the Decedent is survived by:</b>	<b>The intestate estate passes to:</b>	<b>Share of Estate:</b>
1.	Spouse and Children (or the descendants of any pre-deceased child) and...  all surviving children are also children of the surviving spouse and the surviving spouse has no surviving children who are not children of the decedent.	<ul style="list-style-type: none"> <li>Spouse <b>Only</b>.</li> </ul>	<ul style="list-style-type: none"> <li>Spouse is entitled to the entire intestate estate.</li> </ul>
2.	Spouse and Children (or the descendants of any pre-deceased child) and...  not all surviving children of the Decedent are also children of the surviving spouse; OR  the surviving spouse also has surviving children who are not children of the Decedent.	<ul style="list-style-type: none"> <li>Spouse <b>AND</b> decedent's surviving children (and surviving descendants of any pre-deceased child).</li> </ul>	<ul style="list-style-type: none"> <li>Spouse is entitled to the first \$100,000, plus <math>\frac{1}{4}</math> of any balance of the intestate estate.</li> </ul>
3.	Spouse and <b>NO</b> Children	<ul style="list-style-type: none"> <li>Spouse <b>ONLY</b>, if <b>no</b> surviving parents; <u>OR</u></li> <li>Spouse <b>AND</b> decedent's surviving parent(s).</li> </ul>	<ul style="list-style-type: none"> <li>Spouse is entitled to the entire intestate estate; <u>OR</u></li> <li>Spouse is entitled to the first \$200,000, plus <math>\frac{1}{4}</math> of any balance of the intestate estate.</li> </ul>
4.	Children (or descendants of any pre-deceased child) and <b>NO</b> Spouse	<ul style="list-style-type: none"> <li>Surviving Children <b>ONLY</b> (and surviving descendants of any pre-deceased child).</li> </ul>	<ul style="list-style-type: none"> <li>Decedent's Surviving Children (and surviving descendants of any pre-deceased child) entitled to the entire intestate estate, <b>per capita at each generation</b>.</li> </ul>
5.	Parents, and <b>NO</b> Spouse and <b>NO</b> Children	<ul style="list-style-type: none"> <li>Surviving Parent(s) <b>ONLY</b>.</li> </ul>	<ul style="list-style-type: none"> <li>Surviving Parents entitled to the entire intestate estate, <b>equally</b>.</li> </ul>
6.	Siblings (or descendants of any pre-deceased sibling), and <b>NO</b> Spouse, <b>NO</b> Children, and <b>NO</b> Parents	<ul style="list-style-type: none"> <li>Surviving Siblings <b>ONLY</b> (and surviving descendants of any pre-deceased sibling).</li> </ul>	<ul style="list-style-type: none"> <li>Decedent's Surviving Siblings (and surviving descendants of any pre-deceased sibling) entitled to the entire intestate estate, <b>per capita at each generation</b>.</li> </ul>
7.	Kin and <b>NO</b> Spouse, <b>NO</b> Children, <b>NO</b> Parents, <b>NO</b> Siblings	<ul style="list-style-type: none"> <li>Surviving closest relative according to degrees of kindred (see § 2-103(4)).</li> </ul>	<ul style="list-style-type: none"> <li>Surviving closest relative according to degrees of kindred, <b>equally</b>.</li> </ul>
8.	No Taker	<ul style="list-style-type: none"> <li>Commonwealth or</li> <li>Soldiers Home (see § 2-105).</li> </ul>	<ul style="list-style-type: none"> <li>Commonwealth or Soldier's Home is entitled to the entire intestate estate.</li> </ul>