**IN RE: Estate of**

**Case No:** **PRDL**

 **Deceased Division:**

# WORKSHEET

# PETITION TO DETERMINE HOMESTEAD

**Pursuant to FL Probate Rule 5.405 Petition may be filed by any interested person**

**Intestate -**

* Surviving spouse and lineal descendants (children, grandchildren, etc.) whether or not they are also descendants of the spouse (e.g. step-children of the spouse) - **life estate to the spouse**, **vested remainder to the lineal descendants of the** decedent. The spouse has the option to file an Election to take ½ Interest in the property with the remaining half of property being divided in equal shares with the children.

### Testate

* **Spouse entitled to a life estate, regardless of the will.**
* If there is a minor child, then the homestead cannot be willed to anyone. If No minor child, homestead can be willed to the spouse.

### Miscellaneous - PR shall promptly send notice and promptly publish for creditors so 30 days is a reasonable amount of time for these items to be filed.

 **Type of Administration:** **[ ]  Summary Administration** **[ ]  Formal Administration**

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| --- | --- | --- |
| **Petition To Determine Homestead** | **YES** | **N/A** |
| Contain the name of the surviving spouse, if any? If no spouse mark N/A  |     |     |
| Contain the decedent’s date of death? **Date of death is**    |     |  |
| State the county and state of decedent’s **domicile**? |     |  |
| Provide the names of lineal descendants, **and** year of birth of any who are minor? |     |  |
| Is the Petition a verified statement? (signed under penalty of perjury)  |     |  |
| Does the petition contain the **legal description** of the property? |     |  |
| Statement as to **how the property was owned** at the time of the decedents death (effective11/4/2021)  |     |  |
| Does the petition state the decedent **owned and resided** on the property at time of death? |     |  |
| **Is decedent’s death certificate filed? Rule 5.205(6)**  |     |  |
|  **Formal Administration** - Death Certificate to be filed within three (3) mo. after date of 1st publication of NTC. **Notice to Creditors** **date of 1st Publication:**     **.** (mark N/A if Summary Admn. or dead more than 2 yrs  |     |     |
| Have creditors who are easily identified been given notice of the petition? (claims have been filed) Mark N/A if no claims have been filed at the time of this review.  |     |     |
| Have **ALL heirs or beneficiaries been given notice** of this petition **or are consents filed**? Not required when ALL heirs/benef. are receiving full distributive share (mark N/A)  |     |     |
| **Formal Administration – Has Notice of Administration been served per Rule 5.240 or waivers filed.**  |     |  |
| **Testate Estate**- - The Will has been admitted to probate. Mark N/A if intestate (No Will being probated)  |     |     |
| **NOTES:** **.** |

**[ ]  The spouse has filed Election to Take ½ Interest in the Homestead in Lieu of Life Estate. Document #**

 **Relation of person(s) receiving the property -** **.**

 **If willed to a Trust the trust beneficiaries have been identified** **[ ]  YES** **[ ]  NO**

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| --- | --- | --- |
| **Order To Determine Homestead** | **YES** | **N/A** |
| Does the **order contain a legal description** of the real property? |     |  |
| Does the order state the property **is protected**  **homestead** or cite **Article X Section 4 of constitution**? Mark N/A when declaring the property is NON-HOMESTEAD.  |     |     |
| Does the **homestead order** identify the person(s) who is to receive the homestead and define each person’s interest (SHARE AMOUNT)? Mark N/A if the order is only declaring the real property as Non-Homstead  |     |     |

**Note to review clerk re:** Summary Admn. - The order of summary passes title to the real property. The proposed homestead order may only provide a declaration of the property as homestead and will not always define each person’s interest.

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| **NOTES**:  |