

PETITION TO ESTABLISH LOST OR DESTROYED WILL

ESTATE OF:	_____
CASE NO.:	_____
DATE:	_____
ATTORNEY:	_____

See, F.S. §733.207 & PR 5.510; *Stewart v. Johnson*, 601 So. 2d 1266 (Fla. 3d DCA 1992) (presumption of revocation if original cannot be found).

- ___ Statement of facts constituting grounds for relief [5.510(b)]
- ___ Petition includes copy of will or its substance [733.207, 5.510(b)]
- ___ Testimony of each witness reduced to writing and filed [733.207, 5.510(c)]
- ___ Formal notice to those who, but for the will, would be entitled to the property thereby devised [5.510(d)]
- ___ Contents proved by two disinterested witnesses [733.207] OR
- ___ If a correct copy is provided, proved by one disinterested witness [733.207]
- ___ Order admitting will recites full terms of will, or attaches copy [5.510(e)]
- ___ Allegations of petition are sufficient to overcome presumption that if the “lost” Will was not in possession of testator prior to death and if the “lost” Will cannot be located subsequent to death, the “lost” Will is presumed destroyed by testator with intention of revoking it. Requires competent and substantial evidence to overcome this presumption. *Stewart v. Johnson*, 194 So. 869 (Fla. 1940), *Walton v. Walton*, 601 So. 2d 1266 (Fla. 3d DCA 1992), *Daul v. Goff*, 754 So. 2d 847 (Fla. 2d DCA 2000), *In Re Estate of Washington* 56 So. 2d 545 (Fla. 1952).

Testate Beneficiaries	Intestate Beneficiaries

COMMENTS: _____

RECOMMENDATION: _____

(Updated: July 2007)