Probate Forms
No Will

Diana Bustamante, Probate Judge

DOÑA ANA COUNTY

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4B-001. Probate court forms; short title; limited purpose of forms; cautions regarding use of these forms.

A. **Probate forms.** These forms may be used in the probate courts of this state. These forms may be cited by NMRA form number, as Probate Form 4B-____. These forms are available in word processing format in the Supreme Court's web site. A law librarian can assist you in how to access and download copies of these forms.

B. **Limited purpose of forms.** The New Mexico Supreme Court has approved these forms for use in probate court by people who are representing themselves in the process. The forms serve a useful, but limited purpose. They will assist you in completing the paperwork necessary to complete most uncontested probate cases.

C. **Issues not addressed.** The probate forms do not address many issues including the following:

(1) how to collect information regarding the debts, if any, of the deceased person;

(2) how to determine if the debts are valid;

(3) what to do if you believe that a debt is not valid;

(4) how to determine what, if any, taxes may be owed by the estate and if you need to get a tax identification number for the estate;

(5) how to locate and collect the assets of the deceased person, including payments under insurance policies and retirement accounts;

(6) how to determine who is entitled to the assets of the estate; and

(7) how to correctly transfer these assets to the appropriate people (for example, what type of deed to use to transfer land).

D. **Specific examples of issues not covered by these forms.** You will need to address all issues necessary to complete the probate of the estate that you are working on. For example, many estates have both state and federal tax issues that must be addressed. You must address these issues with the appropriate authorities. Other estates require deeds to transfer property. You must have the appropriate documents prepared to do this and record the documents properly.

E. **Role of judge and clerk.** Neither the judge nor the court clerk will assist you with the issues discussed above and other similar kinds of issues. It is your

responsibility to determine what needs to be done and take the necessary action.

F. **Seek advice of an attorney.** Personal representatives may get the help they need from an attorney experienced in probate or other appropriate professional during the process.

[Approved, effective September 15, 2000.]

4B-002. Probate definitions.

A. **General.** The following is a list of simplified definitions of certain legal terms that you may need to understand in your probate action. Under certain circumstances you may need more than the simplified definitions listed below. In those cases, you may need to consult an attorney or review the New Mexico law to more fully understand the terms listed below. Section 45-1-201 NMSA 1978 also includes definitions of terms used in the Uniform Probate Code.

"NMSA 1978" refers to the New Mexico Statutes Annotated 1978, which is the official compilation of New Mexico statutory law. The first number listed is the chapter, the second number listed is the article and the third number is the specific section of law enacted by the legislature. The Uniform Probate Code is published in the NMSA 1978 as Chapter 45 NMSA 1978. A law librarian can guide you to sources for reviewing or obtaining a copy of the Uniform Probate Code as well as a copy of these forms.

B. **Definitions.** As used in these instructions and forms:

(1) "administration of an estate" means to go through the process of managing and settling the estate of a deceased person. This usually involves four steps:

(a) collecting the assets of an estate;

(b) paying the valid debts of an estate and expenses of administration;

(c) paying any taxes owed; and

(d) distributing the remainder of the estate to those who are entitled to it;

(2) "applicant" means a person who makes a written request to the probate court for an informal probate or appointment. If you need more information on an "applicant", *see* Section 45-1-201(2) NMSA 1978;

(3) "application" means a written request to the probate court for an informal probate or appointment. If you need more information on an Application, *see* Section 45-1-201(2) NMSA 1978;

(4) "beneficiary" is a person who is given a gift by a will. The probate code uses a different word, "devisee", to mean the same thing. The forms use the word "devisee" rather than "beneficiary" because the probate code uses

"devisee";

(5) "bond" means a financial security provided to the court by the personal representative and a bonding company to ensure that the personal representative of the estate faithfully does the job of personal representative. A bond is usually not required in an informal probate proceeding. However, a bond may be required if the will requires it, or if a person with an interest in the estate asks the court to require it and the court orders that a bond be posted. If you need more information on bonds, *see* Sections 45-3-603 to 45-3-606 NMSA 1978;

(6) "claim" means a debt of the decedent that can arise before or after the death of the decedent, including the last medical bills and the funeral costs. The time period during which a claim can be made

against the estate can be shortened from one year from the death of the decedent to two (2) months after a Notice to Creditors is published in a newspaper. (*See* Step 3 of Probate Form 4B-012 NMRA for more information on shortening the time period for making a claim. *See also* Probate Form 4B-302 NMRA. If you need more information on claims, *see* Sections 45-1-201(6), 45-3-801, 45-3-802 and 45-3-803 NMSA 1978;

(7) "claimant" means a person who is making a claim. Also called a "creditor";

(8) "creditor" means a person to whom a debt is owed by the decedent. The decedent would be the "debtor". In order to collect against an estate, the creditor files a "claim" as described above. The time period during which a creditor can make a claim against the estate can be shortened from one (1) year from the death of the decedent to two (2) months after a Notice to Creditors, Probate Form 4B-301 NMRA, is sent to a known creditor or published in a newspaper. *See* Step 3 of the instructions in Probate Form 4B-012 NMRA, for more information on shortening the time period for making a claim;

(9) "decedent" means the person who has died and whose will is being probated or whose estate is being administered;

(10) "descendant" means all of the children, grandchildren, great-grandchildren, etc. of a decedent. If you need more information on a Descendant, *see* Section 45-1-201(8) NMSA 1978;

(11) "demand for notice" means a written document filed in the district court where a probate is or should be filed. The document must state the name of the decedent, the nature of the filing person's interest in the decedent's estate and that person's address. A personal representative filing an action in Probate Court *must* ask the district court clerk for that county if any person has filed a demand for

notice relating to the decedent's estate. If someone has filed a demand for notice, you must send a copy of everything you file and every order the judge signs to the person who has demanded notice. If you need more information on a demand for notice, *see* 45-3-204 NMSA 1978;

(12) "devise", if used as a noun, means a gift of land (also called "real property") or other assets (also called "personal property") given by a will. If used as a verb, "devise" means to give a gift by a will of land or other assets. If you need more information on a devise, *see* Section 45-1-201(9) NMSA 1978.

(13) "devisee" means a person listed in a will to receive assets from an estate. If you need more information on a devisee, *see* 45-1-201(10) NMSA 1978. A common word for "devisee" is "beneficiary." The forms use the word "devisee" rather than "beneficiary" because the probate code uses "devisee";

(14) "distributee" means any person who receives property from a decedent who is not a creditor or purchaser. If you need more information on a distributee, *see* Section 45-1-201(11) NMSA 1978;

(15) "estate" means all property of the decedent that is subject to the Uniform Probate Code, Chapter 45 NMSA 1978. For the purposes of probate, an estate generally does not include things that pass automatically to a listed beneficiary, such as land held as joint tenants, life insurance proceeds or retirement benefits that have a beneficiary designation. If you need more information on an estate, *see* Section 45-1-201(12) NMSA 1978;

(16) "fiduciary" includes a person serving as a personal representative, who acts primarily for another's benefit in matters connected with that role. A fiduciary is held to the highest degree of good

faith in performing the duties of the fiduciary. A personal representative is a fiduciary. *See* Section 45-1-201(14) NMSA 1978 for the definition of "fiduciary";

(17) "heirs", means those persons who are entitled to the property of the decedent if the decedent dies intestate. The priority of the people who are entitled to the property is listed in Sections 45-2-102 to 45-2-108 NMSA 1978;

(18) "intestate" means to die:

(a) without leaving a will;

(b) without leaving a valid will; or

(c) with an incomplete will;

(19) "notice" or "giving notice" means the process of sending written information to people interested in the estate telling them about events occurring that relate to the estate. The courts operate under a principle that people are entitled to "notice and an opportunity to be heard". This means that people are entitled to know what is happening in a case and are then given an opportunity to tell a judge what that person wants the judge to know about a case. When you complete the notice requirements in a case, you have told people about the important events happening in a case. Generally, if you mail a copy of everything that is filed with the court on the same day as you file the document with the court to the correct address for:

(a) all the heirs or devisees of an estate;

(b) persons who have or may have an interest in the estate of the decedent;

(c) anyone who asks for notice; and

(d) anyone who has filed a demand for notice you will have met your notice obligations. *See* Section 45-3-705 and Sections 45-3-306 and 45-3-310 NMSA 1978;

(20) "personal representative" means the person appointed by the court to pay claims of the estate and distribute the estate according to the will or to the heirs if there is no will. This person may be called an "executor" or an "executrix" or "administrator" in a will;

(21) "personal property" means property that is not land, real estate or real property. Examples of personal property include bank accounts, stocks, bonds, insurance policies, pension plans, jewelry, furniture and motor vehicles. Some personal property may have a designation regarding who receives the property after death (a "beneficiary designation") and is not governed by a will. A common example is an insurance policy;

(22) "probate" technically means the court procedure by which a will is proved to be valid or invalid. Common usage of this term now means all matters relating to the administration of an estate;

(23) "real property" includes land, houses, farms, ranches, leases, mineral, water and timber rights;

(24) "revoked", when used with these forms, means a will or other document that the decedent

has canceled. If a will is revoked, it has no effect;

(25) "testate" means to die leaving a valid will;

(26) "testator" means someone who has made a will or someone who dies leaving a valid will. A "testatrix" is a female testator, although this term is no longer used in the Uniform Probate Code;

(27) "unrevoked", when used in these forms, means a will or other document that the decedent has not canceled;

(28) "venue" means the place where the case should be filed. Generally, either the probate court or the district court in the county where the decedent died or, if the decedent did not live in New Mexico, it is the probate court in the county where the decedent owned property. If you need more information on venue, *see* Section 45-3-201 NMSA 1978; and

(29) "will" means a document done according to certain formalities that usually distributes the assets of a person's estate upon death. A will also typically designates a personal representative and can appoint a guardian for minor children. A will is sometimes referred to as "last will and testament". If you need more information on a will, *see* Section 45-1-201(53) NMSA 1978.

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4B-003. General instructions for probate forms.

A. **The different types of probate cases.**

(1) **Routine simple cases**. These forms are intended for routine probates. If you run into a problem or the estate you are probating is *not* routine, it is best to seek the advice of an attorney.

(2) **Cases that do not need to be probated.** Certain estates that are worth less than thirty thousand dollars ($30,000) (forty-five thousand dollars ($45,000) in some cases) and that have no real property (usually land) may not need to be probated at all and can be done in a less formal way. Also certain estates with a house worth under one-hundred thousand dollars ($100,000) that will pass to a surviving spouse also may not require a probate. (*See* Section 45-3-1201 NMSA 1978 and following sections.) If you believe that the estate you are working on might not need to be probated, please consult with an attorney. If the estate does not need to be probated, you may still need an attorney's help but may not need these forms.

(3) **Difficult or complex cases.** Certain estates contain difficult or complex issues that should be reviewed by an attorney with probate experience. An example of a difficult or complex case might be one in which there is real property (land) involved and deeds need to be drafted or a large estate that might have to file an estate tax return. It may not be appropriate to file in probate court or the probate action may require more forms than provided here.

B. **Use of these forms.** The Supreme Court has approved these forms for use in probate court by people who are representing themselves in the process. The forms serve a useful, but *limited* purpose. They will assist you in completing the paperwork necessary to complete most uncontested probate cases.

These forms are for use by people who are willing and qualified to act as a "personal representative". This is the person who will collect the assets of the estate, pay the debts of the estate and distribute the remaining assets. A personal representative is a fiduciary who has special obligations to the estate. The court holds a personal representative to a high legal standard. If you are willing to undertake this job, you should do it with extreme care, and caution and pay very careful attention to the necessary details. Because of the fiduciary role that you will be undertaking, it is a good idea to get the help you need from a lawyer experienced in probate.

You should fill out the forms carefully. Several of the forms have statements in them that do not require you to fill in a blank. However, before you sign the form or submit it to the judge, you must be sure that the statements are true in your case. If not, change the form as needed. When you sign the forms, you are telling the judge that the information is true. **Please check each form you sign to make sure that it is true.**

If you have questions about issues that these forms do not address, you should consult with an attorney. Alternatively, the public libraries often have resource materials that may help you answer your questions. For example, there is a publication entitled *Life Planning in New Mexico* by Merri Rudd that is available in some libraries that may answer some of your questions.

C. **Demand for notice.** Occasionally someone may file a demand for notice. If you know of a demand for notice, you must send a copy of everything you file and every order the judge signs to the person who has demanded notice.

D. **How to get help.** The court clerks are not attorneys and cannot give you advice on how to fill out the forms or give you advice on the issues that the forms do not address. The court clerks can give you information regarding the process of filing the paperwork. Because each probate court in the state operates differently, you should find out the exact filing procedure from the court staff.

The judge determines key issues in your case, but is not an advocate representing you. The judge cannot and will not give you advice about how to complete the probate. When you act as a self-represented person, you are your own lawyer.

The court has prepared a list of simplified definitions of certain legal terms. It may help you. You may get a copy from the court clerk.

The letters "NMSA" refer to the New Mexico Statutes Annotated 1978, which is the official compilation of New Mexico statutory law. The first number listed is the chapter, the second number listed is the article and the third number is the specific section of law. You may find it helpful to look at the statutes.

Finally, it may be necessary to consult with an attorney during the process.

GET THE HELP YOU NEED BEFORE YOU SUBMIT THESE FORMS.

[Approved, effective September 15, 2000.]

4B-011. General instructions for probates when there is no will.

A. **Determine if there is a will.** First, determine whether the deceased person had a will or not. Different probate forms are used if there is a will (and the person died "testate") and if there is not a will (and the person died "intestate"). This set of instructions should be used if you have not been able to find a will signed by the deceased person.

B. **Overview of steps.** There are essentially six steps to an informal probate:

(1) start the process and have the court appoint you as personal representative;

(2) send out notice that you have been appointed as personal representative and that a probate action is in process;

(3) notify creditors that you are in the process of probating the estate. To do this you must send a notice to creditors of whom you are aware. In addition, if you want to shorten the time period that unknown creditors have to make claims, you may publish a notice in the newspaper. You *must* notify the creditors that you know of and *may* publish a notice in the newspaper;

(4) gather and list the assets of the estate;

(5) determine the debts of the estate and pay the valid ones. Distribute the remaining assets of the estate to the decedent's heirs; and

(6)close the estate and probate action.

C. **Completion and filing of forms.**

(1) **Print or type information.** Please print or type the information on all forms. You will want to keep copies of all documents that you file in the court file and that the judge orders in the case. If typewritten, type or print using pica (10 pitch) type style or a twelve (12) point typeface. All forms and other papers filed with the court shall be: clearly legible; printed on one side of the page, on good quality white paper eight and one-half by eleven (8 1/2 x 11) inches in size.

(2) **Copies you will need.** Remember to take with you an original and as many copies as you want to have when you file papers or take an order to the judge to sign. The court clerk will stamp each copy as "Endorsed" (which shows it is a copy of the original), but only at the time of filing. If you do not get an endorsed copy at the time of filing, you will likely have to pay a fee for a copy later.

(3) **Required filing fee.** There is a filing fee that you must pay to start the case. In very limited situations the judge may waive the filing fee. If you want to ask the judge to waive the filing fee, ask the court clerk for the appropriate forms.

4B-012. Explanation of forms and how to complete; specific steps if no will has been found.

A. **Step 1. Start the process and have the court appoint you as personal representative.** In order to begin the probate process, you must file the following forms in the probate court in the county where the deceased person lived, or where that person owned property. For Step 1 you will need to use Probate Forms 4B-101, 4B-103, 4B-105 and 4B-106 NMRA.

(1) **Probate Form 4B-101 NMRA. Application for Informal Appointment of Personal Representative; No Will ("Application")** (*See* Sections 45-3-203 and 45-3-301 NMSA 1978). This form generally shows the judge that:

(a) the case is ready to be probated;

(b) the case is appropriate for probate court; and

(c) you are the appropriate person to act as personal representative.

Before you file the application, Probate Form 4B-101 NMRA, you must go to the district court in the district where the deceased person lived and ask if anyone has filed a demand for notice. If someone has filed a demand for notice, that person is entitled to get a copy of all documents you file in the case, including the application and all orders signed by the judge.

If you were married to the deceased person and are not disqualified to act as personal representative, you have the first priority to act as personal representative. If you were not married to the deceased person and you are not an heir or are not the only heir, each of the other heirs must consent to your appointment as personal representative. For example, if you have two brothers, your mother is no longer living and you want to probate your father's estate, each of your brothers must sign the consent section of the application, Probate Form 4B-101 NMRA. If any of the heirs object to your appointment as personal representative, a formal proceeding is required. (*See* Section 45-5-205 NMSA 1978.) If a formal proceeding is required you may not use these forms and should seek the advice of an attorney.

(2) **Probate Form 4B-103 NMRA, Order of Informal Appointment of Personal Representative (No Will).** You must submit the Probate Form 4B-103 NMRA, Order of Informal Appointment of Personal Representative (No Will), for the judge's consideration. If the judge approves the application, the judge will sign this order. (*See* Section 45-3-308 NMSA 1978.) The Order of Informal Appointment of Personal Representative (No Will):

(a) appoints you as the personal representative; and
(b) allows the probate to begin once you have accepted your appointment.

(3) **Probate Form 4B-105 NMRA, Acceptance of Appointment as Personal Representative (Will) (No Will).** This form proves that you agree to follow the law when you act as personal representative. You must sign this form in the presence of a notary public. You may submit this form at the same time you submit your application and order. After the judge has signed and filed the Order of Appointment of Personal Representative, (No Will), Probate Form 4B-105 NMRA, the court will file your notarized acceptance and issue Letters of Administration (No Will), Probate Form 4B-105 NMRA, to you.

(4) **Probate Form 4B-106 NMRA, Letters of Administration (No Will).** The court clerk will issue this form after you submit it. This form has two general purposes:

(a) to begin officially your appointment as personal representative; and

(b) to prove to others that the judge has appointed you as personal representative and that you are qualified to make decisions about the decedent's estate.

You may want to have several copies of the Letters of Administration (No Will), Probate Form 4B-106 NMRA. This is the document that shows people that you are the personal representative. You might even consider getting several certified copies of this document. A "certified copy" is a document in which the court clerk formally indicates on the document that it is the same as the original. There is typically a charge to get a certified copy.

B. **Step 2. Send out notice that you have been appointed as personal representative and that a probate action is in process.** Section 45-3-705 NMSA 1978. For Step 2 use Probate Forms 4B-201 and 4B-202 NMRA.

(1) **Probate Form 4B-201 NMRA. Notice of Informal Appointment of Personal Representative.** Once the judge has appointed you as personal representative, you must send out Probate Form 4B-201 NMRA, Notice of Informal Appointment of Personal Representative, within ten (10) days to the heirs of the deceased person.

(2) **Probate Form 4B-202 NMRA. Proof of Notice.** Once you have completed the mailing, complete and file Probate Form 4B-202, Proof of Notice. *See* Subsection D of Section 45-3-705 NMSA 1978.

C. **Step 3. Notify creditors that you are in the process of probating the case.** Sections 45-3-801, 45-3-802 and 45-3-803 NMSA 1978. For Step 3 use Probate Forms 4B-301 and 4B-302 NMRA.

(1) **Probate Form 4B-301 NMRA, Notice to Known Creditors.** Within three (3) months after your appointment as personal representative, you must mail a notice to all creditors that you know of or that you can reasonably find out about. The notice must tell the creditors to present a claim within two (2) months of the later of the mailing to the creditor or the optional publication in the newspaper.

A known creditor who does not receive notice has one (1) year from the date of the decedent's death to present a claim.

(2) **Probate Form 4B-302 NMRA, Notice to Creditors.** An unknown creditor also has one (1) year to submit a claim unless you publish notice in the newspaper. If you publish a notice in the newspaper in the county that notifies creditors to submit their claims, the time period is shortened from one (1) year after death to two (2) months after the first day you publish the notice. *See* Section 45-3-801 NMSA 1978. In order to shorten the time period for claims of unknown creditors, 4B-302 NMRA, Notice to Creditors must:

(a) be published once a week for two (2) successive weeks

(b) in a newspaper of general circulation in the county.

Once you publish the notice to creditors in the paper for two (2) weeks and pay the newspaper for the publication, the newspaper will give you an affidavit of publication that indicates that the notice was published. This affidavit of publication is given to the probate court clerk for filing.

You should not give any notice to creditors if it is over one (1) year from the date of the decedent's death. If these claims have not been paid, it is too late to have them paid.

D. **Step 4. Gather and list the assets of the estate, pay debts and distribute assets.** For Step 4 use Probate Form 4B-401 NMRA for the inventory. The other two parts of the fourth step in the probate process are the primary steps that the forms do not address. Because these steps are at the heart of the probate process, you should ensure that they are properly completed. You should consider seriously consulting with an attorney knowledgeable about the probate process about these steps. Additionally, your local library may have resources for you to look at about this process.

(1) **Probate Form 4B-401 NMRA, Inventory.** Within ninety (90) days of your appointment as personal representative, you must prepare an inventory of the assets of the estate. Sections 45-3-706 to 45-3-708 NMSA 1978. Probate Form 4B-401 NMRA, Inventory, is provided as a model. The inventory must list the items owned by the decedent in reasonable detail and give the estimated value on the date of death of the decedent for each item. It must also give the type and amount of any debt owed for the item, such as debt secured by a lien or mortgage. The personal representative mails the inventory to interested people who request it. *See* Section 45-3-706 NMSA 1978. You do not need to file this document with the court if you want to keep this information private and not part of the public record unless the court orders you to file it.

(2) **Pay debts.** Determine the debts of the estate and pay the valid ones. Distribute the remaining assets of the estate to the appropriate heirs. Within ninety (90) days of your appointment as personal representative, you must determine the debts of the estate and pay the valid ones. If a creditor makes a claim that you do not think is valid, there is a specific process for objecting to the claim with specific time deadlines. Section 45-3-801 NMSA 1978 *et seq*. It is best to seek the advice of an attorney in this case, because you may be forced to pay an invalid claim if you do not go through the process correctly.

(3) **Distribute assets.** When you have paid all of the decedent's debts, you should distribute the assets that are left to the heirs of the decedent. The heirs and the proper share that each gets are described in Sections 45-2-101 to 45-2-104 NMSA 1978. Distribution of real estate (land) requires a deed from the personal representative to the distributee. It is best to seek a lawyer's advice about how to prepare a deed.

E. **Step 5. Close the estate and probate action.** Section 45-3-1003 NMSA 1978. For Step 5 use Probate Forms 4B-501, 4B-502, 4B-503 and 4B-504 NMRA. Once you have completed all of your work as personal representative and it is at least three (3) months since the appointment of the personal representative, you may close the estate. In order to do this first you must:

(1) **Probate Form 4B-501 NMRA, Accounting.** Send an accounting of everything

that you did in your administration of the estate to all of the deceased person's heirs. Probate Form 4B-501 NMRA, Accounting, is provided as a model. The accounting should list all assets in and all assets out of the estate. Therefore, the list of assets and cash into the estate should equal a list of distributions from the estate. You do not need to file this document with the court if you want to keep this information private and not part of the public record unless the court orders you to file it.

(2) **Probate Form 4B-502 NMRA, Verified Statement of the Personal Representative.** Complete and mail a copy of Probate Form 4B-502 NMRA, Verified Statement of Personal Representative, to all heirs and to any creditors or other claimants whose claims are neither paid nor barred; and file the verified statement, Probate Form 4B-502 NMRA, with the court.

(3) **Probate Form 4B-503 NMRA, Application for Certificate of Full Administration and Release of Property Lien.** Your appointment as personal representative will automatically terminate in one (1) year if there are no pending proceedings involving you as personal representative.

(a) **Taxes.** You should ensure that you have complied with all state and federal tax requirements. Closing of the estate with the court does not necessarily close the estate with the tax authorities. Contact a tax advisor, the Internal Revenue Service or the New Mexico Taxation and Revenue Department about this issue.

(b) **Bond.** If you have given the court a lien on your property instead of filing a bond as personal representative and a year has passed since you filed the Verified Statement of the Personal Representative that closed the estate, you may file Probate Form 4B-503 NMRA, Application for Certificate of Full Administration and Release of Property Lien.

(4) **Probate Form 4B-504 NMRA, Certificate of Full Administration and Release of Property Lien.** At the time you file Probate Form 4B-503 NMRA, Application for Certificate of Full Administration and Release of Property Lien, you should also provide the judge with a completed copy of Probate Form 4B-504 NMRA, Certificate of Full Administration and Release of Property Lien. Once the judge signs Probate Form 4B-504 NMRA, Certificate of Full Administration and Release of Property Lien, you should obtain a certified copy of the certificate from the court clerk and record it with the clerk of the court where your property is located.

4B-101

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

IN THE MATTER OF THE ESTATE OF No. _____
_____, DECEASED.

APPLICATION FOR INFORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE (NO WILL)[1]

I, _____, state that:

1. I had the following relationship with _____, the person who died (the decedent), that qualifies me to act as personal representative of the estate;

(Choose one. Note: Review the priorities for appointment set out in the instructions to this form, step 1, Probate Form 4B-012 NMRA.)

[ ] I am the surviving spouse of the decedent; or

[ ] I am one of the heirs of the estate; or

[ ] I am an interested person, including a creditor of the decedent, and forty-five (45) days have elapsed since the date of death of the decedent.

Because of this relationship, I have an interest in the estate, and I am willing to serve as personal representative of the decedent's estate. I am not disqualified to act as personal representative. I do not know of anyone else who is interested in serving as personal representative who has priority to serve.

(Check if applicable)
[ ] Anyone who has equal or higher priority to serve has consented below to my appointment by signing this form.

2. The decedent died on _____ *(date)*, at the age of _____. At death, the decedent *(choose one)*
[ ] (a) lived in _____ County, New Mexico or

[ ] (b) did not live in New Mexico, but lived in _____ County, State of _____ and owned property in _____ County, New Mexico.

3. I have carefully searched for all of the names and addresses of the decedent's spouse, children and other heirs [including myself][2]. I have discovered the following information:

Name	Full Address	Relationship to Decedent	Age (*if minor*)
_____	_____	_____	____
	_____		
_____	_____	_____	____
	_____		
_____	_____	_____	____
	_____		
_____	_____	_____	____
	_____		

4. I have looked carefully and thoroughly for a will of the decedent and did not find one. I believe that the decedent died without a will.

5. A personal representative has not been appointed in New Mexico or anywhere else.

6. I do not know of any other probate action either in New Mexico or anywhere else.

7. (*Choose one*)

[ ] I have checked with the district court about a demand for notice and found no such demand. I have not received, and do not know of, any demand from anyone for notice of any probate or related proceeding; or

[ ] I am aware of a demand for notice and have sent the required notice to each person who demanded notice;

8. [ ] The decedent died more than one-hundred twenty (120) hours ago and less than three (3) years ago.

[ ] The decedent died more than three (3) years ago, but an informal appointment is necessary to confirm title in the successors to the estate.

WHEREFORE, I ask this court to:

A. Appoint me as the personal representative of the decedent's estate;

B. Allow me to serve without posting a bond, in an unsupervised administration;

C. Ask the court clerk to issue Letters of Administration to me; and

D. Order such other relief as this court believes to be appropriate.

_____
Signature of applicant

_____
Printed name

_____
Address

_____
City/State/Zip Code

_____
Telephone number

STATE OF NEW MEXICO)
) ss.
COUNTY OF _____)

I, _____, am the applicant. I state, upon oath, that the application, and the statements in it, are true and correct as far as I know and believe.

_____
Signature of applicant

SIGNED AND SWORN TO before me this ____ day of _____, 20_____ by _____.

_____
Notary Public

(Seal) My commission expires:

_____

(If anyone has an equal or higher priority than you for appointment as personal representative, as discussed in the instructions for this form, Step 1, have each sign below to show that person's consent to your serving as personal representative.)

I consent to the appointment of the personal representative listed above.

Name: _____
Signature: _____
Relationship to decedent: _____
Street Address: _____
City, state and zip code: _____

Name: _____
Signature: _____
Relationship to decedent: _____
Street Address: _____
City, state and zip code: _____

Name: _____
Signature: _____
Relationship to decedent: _____
Street Address: _____
City, state and zip code: _____

Name: _____
Signature: _____
Relationship to decedent: _____
Street Address: _____
City, state and zip code: _____

USE NOTE

1. *See* Section 45-3-203 NMSA 1978 for priority among persons seeking appointment as personal representative and Section 45-3-301 NMSA 1978 for informal appointment of a personal representative.

2. If the applicant is an "heir", as defined in 4B-002 NMRA, use the bracketed language.

4B-103

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

No. _____

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

ORDER OF INFORMAL
APPOINTMENT OF PERSONAL REPRESENTATIVE
(NO WILL)[1]

This matter comes before the court on the Application for Informal Appointment of Personal Representative of the Estate and the court having considered the application, FINDS THAT:

1. The Application for Informal Appointment of Personal Representative is complete;

2. The applicant has made oath or affirmation that the statements contained in the application are true to the best of the applicant's knowledge and belief;

3. On the basis of the statements in the application, this court has jurisdiction;

4. On the basis of the statements in the application, venue is proper;

5. Applicant has made oath or affirmation that after the exercise of reasonable diligence, applicant is unaware of any unrevoked last will and testament or other testamentary instrument relating to property in this state or under the laws of New Mexico, and the request for the appointment does not relate to any will;

6. On the basis of the statements in the application, the applicant gave notice of the filing of the application to each person demanding notice, if any;

7. It appears from the application that this proceeding was commenced within the time limitations prescribed by the laws of the State of New Mexico;

8. The applicant is an interested person as defined by law, and is not disqualified to serve as personal representative of the estate of the decedent;

9. From the statements in the application, the applicant has priority entitling applicant to be appointed as personal representative of the estate of the decedent;

10. According to the application, no other personal representative has been appointed in New Mexico or in any other state.

THEREFORE, THIS COURT ORDERS that:

A. The application is granted.

B. The applicant _____ *(name of applicant)* is informally appointed as the personal representative of the estate of the decedent, without bond, in an unsupervised administration.

C. Letters of Administration shall be issued to applicant upon applicant's acceptance of the office of personal representative.

_____
Probate Judge

Submitted by:

_____
Signature of applicant

_____
Printed name

_____
Street address

_____
City, state and zip code

_____
Telephone number

USE NOTE

1. *See* Section 45-3-308 NMSA 1978 for proof and findings required prior to appointment of personal representative and Section 45-3-307 NMSA 1978 for informal appointment of personal representative.

4B-105

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

No. _____

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

ACCEPTANCE OF
APPOINTMENT AS PERSONAL REPRESENTATIVE
(WILL) (NO WILL)[1]

STATE OF NEW MEXICO)
)ss.
COUNTY OF _____)

I, _____, accept the duties of personal representative of the Estate of _____ *(name of decedent)*, and agree to perform the duties of the office to the best of my abilities according to the law.

_____
Signature of applicant

_____
Printed name

_____
Street address

_____
City, state and zip code

_____
Telephone number

SIGNED AND SWORN TO before me this ____ day of _____, ____ by _____.

_____
Notary Public

My commission expires:
_____

(Seal)

USE NOTE

1. *See* Section 45-3-307 NMSA 1978 and Section 45-3-601 NMSA 1978 for acceptance of appointment of personal representative.

4B-106

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

No. _____

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

LETTERS OF ADMINISTRATION
(NO WILL)[1]

TO WHOM IT MAY CONCERN:

Notice is now given that _____ *(name of personal representative)*, has been appointed to serve as the personal representative of the estate of _____, and has qualified as the decedent's personal representative by filing with the court a statement of acceptance of the duties of that office.

The personal representative has all of the powers and authorities provided by law and specifically, by Section 45-3-715 NMSA 1978.

Issued this ____ day of _____, _____.

_____
Clerk of the Probate Court

By: _____
Deputy Clerk

(Seal)

USE NOTE

1. *See* Section 45-3-103 NMSA 1978 and Section 45-3-601 NMSA 1978 for issuance of letters.

STOP HERE

The Remaining Documents Should Not Be Completed Until After the Court Has Appointed You as Personal Representative of the Estate

Once a case number has been assigned, make sure you use it on all documents you file with the Court.

For Return Copies by Mail, enclose a self-addressed stamped envelope.

4B-201

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

No. _____

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

NOTICE OF INFORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE[1]

YOU ARE HEREBY NOTIFIED THAT:

1. This notice is being sent to the heirs and devisees of the decedent.

2. On _____, _____ *(date)*, _____ *(personal representative's name)* was appointed the personal representative of the estate of the decedent in an informal proceeding under the Uniform Probate Code.

3. No bond has been filed.

4. All documents relating to the estate are on file with the Probate Court of _____ County. They are available for your inspection.

5. The estate is being administered by the personal representative according to the terms of the Uniform Probate Code without supervision from the court. You are entitled to information regarding the administration of the estate from the personal representative. You may also petition the Court in any matter relating to the estate, including distribution of assets and expenses of administration.

Dated: _____, _____.

_____
Signature of personal representative

_____
Printed name

_____
Street address

_____
City, state and zip code

_____
Telephone number

USE NOTE

1. *See* Section 45-3-705 NMSA 1978 for notice of appointment of personal representative.

4B-202

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

No. _____

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

PROOF OF NOTICE[1]

I, _____, am the personal representative of the estate of _____. I have mailed a copy of the Notice of Informal Appointment of Personal Representative to the following people at the addresses listed below *(list all persons named in the will, if there is a will, and all heirs, even if not named in a will)*:

Heirs and devisees

Name	**Address**
_____	_____
_____	_____
_____	_____
_____	_____

People who have demanded notice

Name: _____
Address: _____

Name: _____
Address: _____

Dated: _____, _____

_____
Signature of personal representative

_____
Printed name

_____
Street address

_____
City, state and zip code

_____
Telephone number

USE NOTE

1. *See* Section 45-3-705 NMSA 1978 for proof of notice of appointment.

4B-301

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

No. _____

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

NOTICE TO KNOWN CREDITORS[1]

NOTICE IS HEREBY GIVEN that the undersigned has been appointed personal representative of this estate. All persons having claims against this estate are required to present their claims within two (2) months after the date of the first publication of any published notice to creditors or the date of mailing or other delivery of this notice, whichever is later, or the claims will be forever barred. Claims must be presented either to the undersigned personal representative at the address listed below, or filed with the Probate Court of _____ County, New Mexico, located at the following address:
_____, _____.

Dated: _____, _____.

_____
Signature of personal representative

_____
Printed name

_____
Street address

_____
City, state and zip code

_____
Telephone number

USE NOTE

1. *See* Sections 45-3-801 to 45-3-803 NMSA 1978 for notice to creditors.

4B-302

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

No. _____

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

NOTICE TO CREDITORS[1]

NOTICE IS HEREBY GIVEN that the undersigned has been appointed personal representative of this estate. All persons having claims against this estate are required to present their claims within two (2) months after the date of the first publication of this notice, or the claims will be forever barred. Claims must be presented either to the undersigned personal representative at the address listed below, or filed with the Probate Court of _____, County, New Mexico, located at the following address:
_____, _____.

Dated: _____, _____.

_____
Signature of personal representative

_____
Printed name

_____
Street address

_____
City, state and zip code

_____
Telephone number

USE NOTE

1. *See* Sections 45-3-801 to 45-3-803 NMSA 1978 for notice to creditors.

4B-401

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

No. _____

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

INVENTORY[1]

I, _____, the personal representative of the estate, have prepared an inventory of the property of the estate.

I am sending a copy of this document to the interested people who have requested it. The inventory is as follows:

Item		Estimated Value on Date of Deathor	Mortgage Lien
1.	_____	$_____	$_____
2.	_____	$_____	$_____
3.	_____	$_____	$_____
4.	_____	$_____	$_____
5.	_____	$_____	$_____
6.	_____	$_____	$_____

_____
Signature of personal representative

_____
Printed name

_____
Street address

_____
City, state and zip code

_____
Telephone number

USE NOTE

1. *See* Sections 45-3-706 to 45-3-708 NMSA 1978 for preparation of inventory of property owned by the decedent.

4B-501

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

No. _____

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

ACCOUNTING

I, _____, the personal representative of the estate, have prepared an accounting of the administration of the estate.

I am sending a copy of this document to the distributees whose interests are affected by this accounting. The accounting is as follows:

Cash and Other Assets in the Estate

A. Items from Inventory *(not sold)*	**Value**
1. _____	$_____
2. _____	$_____
3. _____	$_____
4. _____	$_____
5. _____	$_____
6. _____	$_____

B. Items Received Since the Making of Inventory *(not sold)*	**Value**
1. _____	$_____
2. _____	$_____
3. _____	$_____
4. _____	$_____
5. _____	$_____

C. Items Sold	**Sales Price**	**Sales Expense**	**Net Amount Received**
1. _____	$_____	$_____	$_____
2. _____	$_____	$_____	$_____
3. _____	$_____	$_____	$_____
4. _____	$_____	$_____	$_____
5. _____	$_____	$_____	$_____
6. _____	$_____	$_____	$_____

D. Income Received	**Amount**

1. _____ $_____
2. _____ $_____
3. _____ $_____
4. _____ $_____
5. _____ $_____

Total of Cash and Other Assets: $_____

Payments and Distributions

A. Payments to Creditors and for Expenses of AdministrationAmount Paid

1. _____ $_____
2. _____ $_____
3. _____ $_____
4. _____ $_____
5. _____ $_____
6. _____ $_____

B. Distributions to Devisees or Heirs **Value of Distribution**

1. _____ $_____
2. _____ $_____
3. _____ $_____
4. _____ $_____
5. _____ $_____
6. _____ $_____

Total of Payments and Distributions: $_____
(Total of Cash and Other Assets should equal Total of Payments and Distributions.)

_____
Signature of personal representative

_____
Printed name

_____
Street address

_____
City, state and zip code

_____
Telephone number

4B-502

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

IN THE MATTER OF THE ESTATE OF No. _____
_____, DECEASED.

VERIFIED STATEMENT OF THE PERSONAL REPRESENTATIVE[1]

I, _____, state that:

1. I am the personal representative of the decedent's estate;

2. The probate was filed more than three (3) months ago and the time for the presentation of creditor's claims has expired;

3. I have completed my work on this estate. In order to do this, I:

A. inventoried and estimated the value in writing of all of the decedent's property and encumbrances on this property;

B. resolved all claims that were presented to me, either by paying them or otherwise taking care of them;

C. paid all the expenses of administration;

D. paid federal and state taxes that were due, including estate tax, inheritance or other death taxes and income taxes; and

E. distributed all the remaining assets, including decedent's real property, if any, to the people who were entitled to receive them, taking into account the family and personal property allowances allowed by law. The distributions were in the appropriate amounts;

4. I mailed a copy of this document to anyone entitled to a distribution from the estate. I also mailed a copy of the accounting of this estate to anyone entitled to a distribution from this estate whose interests were affected by the accounting;

5. As far as I know, there are no other actions pending in any court;

6. By this closing statement, I am indicating to the court that I am closing the estate.

_____
Signature of personal representative

_____
Printed name

_____
Street address

_____
City, state and zip code

_____
Telephone number

STATE OF NEW MEXICO)
)ss.
COUNTY OF _____)

I, _____, am the personal representative. I state, upon oath, that the document set forth above, and the statements in it, are true and correct as far as I know and believe.

_____
Signature of personal representative

SIGNED AND SWORN TO before me this ___ day of _____, ____ by
_____

_____
Notary Public

(Seal) My commission expires: _____

USE NOTE

1. WARNING: do not submit this form to the court until you have completed ALL estate work. Once this form is filed with the court, the personal representative no longer has authority to act on behalf of the decedent's estate.

4B-503

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

No. _____

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

APPLICATION FOR CERTIFICATE OF FULL ADMINISTRATION

Over one (1) year has passed since the applicant has filed applicant's Verified Statement of the Personal Representative, and the appointment of applicant as personal representative has terminated. As far as applicant knows, there is no action concerning this estate pending in any court.

Applicant requests that the court issue its Certificate of Full Administration and Release of Property Lien discharging any lien against applicant's property given to secure the obligation of the personal representative in lieu of bond or any surety.

_____
Signature of personal representative

_____
Printed name

_____
Street address

_____
City, state and zip code

_____
Telephone number

STATE OF NEW MEXICO)
)ss.
COUNTY OF _____)

I, _____, being first duly sworn, on oath state that I have read the foregoing application and that the statements in it are true to the best of my knowledge.

_____
Applicant

SUBSCRIBED AND SWORN TO before me this ____ day of _____, _____ by _____.

(Seal)

_____

Notary Public

My commission expires: _____

4B-504

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

No. _____

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

CERTIFICATE OF FULL ADMINISTRATION AND RELEASE OF PROPERTY LIEN

The personal representative has filed an application stating that the appointment of the personal representative of this estate has terminated, no action concerning this estate is pending in any court and one (1) year has passed since the personal representative filed the closing statement. The court certifies that the personal representative appears to have fully administered this estate.

This certificate discharges any lien on any property given to secure the obligation of the personal representative in lieu of bond or any surety, but does not preclude action against the personal representative or the surety.

_____
Probate Judge

Submitted by:

_____
Signature of personal representative

_____
Printed name

_____
Street address

_____
City, state and zip code

_____
Telephone number