



Probate Forms (No Will)



Honorable Cordilia Montoya
Santa Fe County Probate Judge
Probate Court

240 Grant Avenue
Santa Fe, New Mexico 87501
Telephone: (505) 992-1636

Ex-Officio Probate Clerk
Katharine E. Clark, Santa Fe County Clerk
Probate Records Requests
Probate Packets – Probate Filing

Santa Fe County Clerk's Office
240 Grant Avenue
Santa Fe, New Mexico 87501
Telephone: (505) 986-6280

Probate Filing Fee \$30.00

Fee for Copy of Probate Packet \$10.00

or available free of charge online at
<http://www.santafecountynm.gov/probate>

Please fill out paperwork up to the STOP sign page.
You must bring the ORIGINAL Will and the ORIGINAL Death
Certificate with your completed packet to start a probate filing.

Turn to the next page for further information.

Probate Forms (No Will)

Effective January 1, 2019

Note: You can purchase this Probate Packet from the Clerk's Office for **\$10.00** or you can download these forms at www.nmcourts.gov/forms.aspx

The "*Do-It Yourself Forms*" are prepared to assist you to file an uncontested probate case. Each form is self-explanatory, but if you have any questions the answers can be found in the detailed instructions and definitions at the back of this packet. I recommend that you talk to an attorney if you have questions.

FIRST STEP: Look over the Probate Packet and forms. To start the process, make an appointment with the Probate Judge. On the day of your appointment, make sure you bring a Death Certificate to the Judge's office. Have the following forms already filled out as indicated below:

4B-301 - Application for informal appointment of Personal Representative (*No Will*).

4B-303 - Order of informal appointment of Personal Representative (*No Will*).

4B-305 - Acceptance of appointment as Personal Representative (*No Will*).

4B-306 - Letters of Administration (*No Will*). [**Do not fill in the date.**]

Note: Please fill out paperwork up to the **STOP sign page.**

PAYMENT: Pay the \$30.00 filing fee at the Santa Fe County Clerk's Office.

SECOND STEP: If the Probate Judge approves your application, then you will be appointed as the Personal Representative, and the probate may begin once you accept your appointment. After you have been appointed as Personal Representative by the Probate Court, then you can fill out the remaining forms in the packet that are applicable to your situation:

4B-401 - Notice of informal appointment of Personal Representative. [Must sent out to heirs within 30 days]

4B-402 - Proof of notice. [Once completed and mailed out, this form must be filed with the Probate Court]

4B-501 - Notice to creditors. [Must mail to all known creditors. **PLEASE NOTE:** Print in a local newspaper is optional]

4B-601 - Inventory. [Must be prepared within 90 days and must be provided to all interested persons]

4B-602 - Accounting. [Include sufficient information to place the interested party(ies) on notice to all transactions]

THIRD STEP: Pay all valid debts of the estate including any taxes. After the debts are paid, distribute the remaining assets to the heirs. Create an accounting of all assets IN and all assets OUT of the Estate. Distribute the accounting to all heirs. File a closing statement after all assets have been distributed.

4B-701 - Verified closing statement of the personal representative. [File a closing statement after all assets have been distributed]

1B-301. Probate court forms; short title; limited purpose of forms; cautions regarding use of forms.

A. **Probate forms.** The Probate Court Forms may be used in the probate courts of this state. The forms may be cited by NMRA form number, as Form 4B-___ NMRA. The forms are available on and may be downloaded from the Supreme Court's website. Additional information about the forms may be obtained from your county probate court.

B. **Limited purpose of forms.** The New Mexico Supreme Court has approved the 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. While you also have the option of opening a probate case in district court, the forms are specifically tailored to assist with probate matters in the county probate courts.

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 decedent;
- (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 decedent, 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 the forms.** You will need to address all issues necessary to complete the probate of the estate that you are handling. 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 you must 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 a lawyer. Personal representatives may seek the help they need from a lawyer experienced in probate or other appropriate professional during the process.

[Approved, effective September 15, 2000; 4B-001 recompiled and amended as 1B-301 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-302. General instructions for probate forms.

A. The different types of probate cases.

(1) ***Routine simple cases.*** The 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 a lawyer.

(2) ***Cases that do not need to be probated.*** Certain estates that are worth less than fifty thousand dollars (\$50,000) and that have no real property (usually land) may not need to be probated at all and can be handled in a less formal way. Also, certain estates with a house worth under five hundred thousand dollars (\$500,000) that will pass to a surviving spouse also may not require a probate. See Sections [45-3-1201](#) to [45-3-1206](#) NMSA 1978. If you believe that the estate you are working on might not need to be probated, you should consult with a lawyer. If the estate does not need to be probated, you may still need a lawyer's help but may not need the forms.

(3) ***Difficult or complex cases.*** Certain estates contain difficult or complex issues that should be reviewed by a lawyer with probate experience. Examples of difficult or complex cases may include one in which there is real property (land) involved and deeds need to be drafted, or one in which there is a large estate and an estate tax return needs to be filed. It may not be appropriate to file such an action in probate court, or the action may require more forms than are provided in the probate forms.

B. Use of forms. The Supreme Court has approved forms for use in probate court by people who are representing themselves in the process. The forms are available at your county probate court and on the New Mexico Supreme Court website. The forms serve a useful, but limited, purpose. They will assist you in completing the necessary paperwork for most routine, simple probate cases.

The forms are for use by people who are willing and qualified to act as a personal representative. This is the person who will collect and value 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, creditors, heirs, and devisees. The court holds a personal representative to a high legal standard. If you are willing to undertake this position, 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 seek help 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 under penalty of perjury under the laws of the State of New Mexico, that the information is true and correct. **Please check each form you sign to make sure that it is true and correct.**

If you have questions about issues that the forms do not address, you should consult with a lawyer. Alternatively, the public libraries often have resource materials that may help you answer 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 probate court clerks are not lawyers 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. You should contact court staff for filing procedures.

The probate court judge 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 Supreme Court has approved a list of simplified definitions of certain legal terms, contained in Rule [1B-102](#) NMRA. The list may be helpful to you. You may get a copy of the rule and approved forms from the probate court or obtain them electronically through the New Mexico Supreme Court website.

Finally, it may be necessary to consult with a lawyer during the process. **SEEK THE HELP YOU NEED BEFORE YOU SUBMIT THESE FORMS.**

[Approved, effective September 15, 2000; 4B-003 recompiled and amended as 1B-302 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-303. General instructions for probates (*no will*).

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

B. **Overview of steps.** There are essentially the following eight steps to an informal probate:

- (1) file an application to start the process and have the court appoint you as personal representative;
- (2) within thirty days of your appointment send out notice to the decedent's heirs that you have been appointed as personal representative and that a probate action is in process;
- (3) during the first year following the decedent's death, if you want to shorten the time period that creditors have to make claims, you may notify creditors that you are in the process of probating the estate by publishing a notice in the newspaper or mailing or delivering written notice to creditors. You may also choose to notify creditors by both means, publishing and providing written notice;
- (4) gather, value, and list the assets of the estate and determine the debts of the estate;
- (5) distribute the family and personal property allowances;
- (6) pay the costs and expenses of administration and the valid debts of the estate, including all taxes;
- (7) distribute the remaining assets of the estate to the decedent's heirs; and
- (8) 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 orders that the judge signs in the case. All forms and other papers filed with the court shall be clearly legible and 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 for the judge's signature. The court clerk will stamp each copy as "Endorsed" (which shows it is a copy of the original filed document), 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 open the case. In very limited situations, you may apply to the judge for a waiver of the filing fee. See Forms [4B-201](#) and [4B-202](#) NMRA, Affidavit of poverty and indigency and Order allowing free process.

[Approved, effective September 15, 2000; as amended by Supreme Court Order No. 07-8300-005, effective March 1, 2007; 4B-011 recompiled and amended as 1B-303 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-304. Explanation of forms and how to complete; specific steps (no will).

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 decedent was domiciled, or where that person owned real property. For Step 1 use Forms 4B-301, 4B-303, 4B-305, and [4B-306](#) NMRA.

(1) **Form [4B-301](#) 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 the following:

- (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.

You must sign and date this form and affirm in writing under penalty of perjury under the laws of the State of New Mexico that the statements are true and correct. Before you file the form, you must contact the district court clerk in the district where the decedent was domiciled or owned real property 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 decedent 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 decedent and you are not an heir or are not the only heir, each of the other heirs, including the decedent's spouse, if any, 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 Form [4B-301](#) NMRA, Application. If any of the heirs do not consent to your appointment as personal representative, a formal proceeding in district court is required. See Section [45-3-203](#) NMSA 1978. If a formal proceeding is required you may not use the forms and you should seek the advice of a lawyer.

(2) **Form [4B-303](#) NMRA, Order of informal appointment of personal representative (no will).** You must submit Form [4B-303](#) 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) serves the following purposes:

- (a) appoints you as the personal representative; and

(b) allows the probate to begin once you have accepted your appointment and letters of administration have been issued to you.

(3) **Form [4B-305 NMRA](#), *Acceptance of appointment as personal representative (no will) (will)*.** This form proves that you agree to follow the law when you act as personal representative. You must sign and date this form and affirm in writing under penalty of perjury under the laws of the State of New Mexico that the statements are true and correct. 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 informal appointment of personal representative (*no will*), Form [4B-303 NMRA](#), the court will file your acceptance and issue Letters of administration (*no will*), Form [4B-306 NMRA](#), to you.

(4) **Form [4B-306 NMRA](#), *Letters of administration (no will)*.** After the judge has signed and filed the order and the court has filed your acceptance, you should complete this form and submit it to the court clerk to issue. This form has the following two general purposes:

(a) to officially begin 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*), Form [4B-306 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 on which the court clerk formally indicates that it is a true and correct copy of 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. See Section [45-3-705 NMSA 1978](#). For Step 2 use Forms [4B-401](#) and [4B-402 NMRA](#).

(1) **Form [4B-401 NMRA](#), *Notice of informal appointment of personal representative*.** Once the judge has appointed you as personal representative, you must send out Form [4B-401 NMRA](#), Notice of informal appointment of personal representative, within thirty (30) days to the heirs of the decedent and any person who has filed a demand for notice as described in Paragraph (A)(1) of this rule.

(2) **Form [4B-402 NMRA](#), *Proof of notice*.** Once you have completed the mailing, complete and file Form [4B-402](#), Proof of notice. See Section [45-3-705\(D\) NMSA 1978](#).

C. Step 3. Notify creditors that you are in the process of probating the estate (optional). During the first year following the decedent's death, if you want to shorten the time period that creditors have to make claims, you may notify creditors that you are in the process

of probating the estate by publishing notice to creditors in the newspaper or mailing or delivering written notice to creditors. You may also choose to notify creditors by both means, publishing and providing written notice. See Sections [45-3-801](#), [45-3-802](#), [45-3-803](#) NMSA 1978. For Step 3 use Form [4B-501](#) NMRA. Do not pay any claims until you read Steps 4-7 below.

(1) **Form [4B-501](#) NMRA, Notice to creditors by publication and notice to creditors by written notice (mailing or other delivery).** A creditor has one (1) year from the date of the decedent's death to submit a claim unless you publish notice in a newspaper. If you publish notice in the newspaper in the county where the probate proceeding is filed that notifies creditors to submit their claims, the time period is shortened from one (1) year after death to four (4) months after the first day you publish notice. In order to shorten the time period for claims, notice to creditors must be published once a week for three (3) consecutive weeks in a newspaper of general circulation in the county. If you publish the notice to creditors in the newspaper for three (3) consecutive weeks, the newspaper will give you an affidavit of publication that indicates that the notice was published. Give the affidavit to the probate court clerk for filing. The only method for shortening the time to known creditors or to those creditors that can be reasonably ascertained is to provide such creditors with actual written notice.

If you know who the creditors are, you may deliver written notice to known creditors. Form [4B-501](#) NMRA provides the option of delivering written notice to known creditors in addition to providing notice by publication. If notice is published and written notice is also provided, a creditor has the greater of four (4) months from the date of first publication or sixty (60) days from the mailing or other delivery of the notice to present its claim.

Claims that have not been presented within one (1) year of the decedent's death shall not be paid.

(2) **Secured creditors.** Secured creditors are creditors of the decedent that have a mortgage, deed of trust, secured loan, or security interest in property of the decedent, such as a lien on a vehicle, for example. See Sections [45-1-109](#) and [45-3-104](#)(B) NMSA 1978. Consider seeking the advice of a lawyer with respect to secured creditors of the decedent.

D. Step 4. Prepare an inventory, meaning gather, value, and list the assets of the estate, and determine the debts of the estate. For Step 4 use Form [4B-601](#) NMRA, Inventory. Within ninety (90) days of your appointment as personal representative, you must prepare an inventory of the assets of the estate. See Sections [45-3-706](#) to [45-3-708](#) NMSA 1978. Form [4B-601](#) 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. You must mail the inventory to interested people who request

it. See Section [45-3-706](#) NMSA 1978. Unless ordered by the court to file this document, you are not required to do so, and you are free to keep the information private and out of the public record.

E. Step 5. Distribute the family and personal property allowances. This Step, along with Steps 6 and 7, are at the heart of the probate process, and you should ensure that they are properly completed. In doing so, you should seriously consider consulting with a lawyer knowledgeable in the probate process. Additionally, check your local library for available resources.

(1) ***Distribute the family allowance.*** You must pay the family allowance of thirty thousand dollars (\$30,000) to the surviving spouse. Unless the surviving spouse affirmatively waives the right to the family allowance, the spouse is entitled to the family allowance. If there is no surviving spouse, you must pay the family allowance to each minor child and to each dependent child of the decedent. The family allowance is to be divided equally among all the minor and dependent children. See Section [45-2-402](#) NMSA 1978.

(2) ***Distribute the personal property allowance.*** After payment of the family allowance, you must distribute the personal property allowance, in a value not to exceed fifteen thousand dollars (\$15,000), to the surviving spouse from household furniture, automobiles, furnishings, appliances, and personal effects. If there is no surviving spouse, the personal property allowance must be distributed to the decedent's intestate heirs. If the value of these items is less than the personal property allowance of fifteen thousand dollars (\$15,000), the remaining value of the personal property allowance shall be paid from other assets to make up any deficiency, if there are assets remaining after you pay the family allowance. See Section [45-2-403](#) NMSA 1978.

F. Step 6. Pay the costs and expenses of administration and the valid debts of the estate, including all taxes.

(1) ***Pay costs and expenses of administration.*** After the family allowance and personal property allowance are paid, you should next pay the costs and expenses of administration. Those costs and expenses typically include any filing fees you have paid, payment for your time spent working on estate matters, and payment of anyone you employed to assist you with estate matters. There is no set hourly rate for personal representative fees, and you should consider consulting with a lawyer to determine an appropriate, reasonable fee for your services.

(2) ***Pay remaining claims and debts of the estate, including all taxes.*** After you have paid the allowances and costs and expenses of administration, you must pay the remaining valid claims and debts of the estate. If the estate does not have sufficient funds to pay all of the valid claims and debts owed, you must pay the claims and debts in the order approved by law. See Section [45-3-805](#) NMSA 1978. If there are sufficient assets in the estate and you, as the

personal representative, fail to pay the valid claims and debts of the estate, including federal and state taxes, you may be personally liable for any valid claims and debts that remain unpaid.

(3) ***Disputing debts.*** 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. See Section [45-3-806](#) NMSA 1978. In this case, it is best to seek the advice of a lawyer, because you may be forced to pay an invalid claim if you do not go through the process correctly.

(4) ***Exception to requirement to pay debts.*** There is an exception to the requirement that the personal representative pay the valid debts of the estate. This is when the estate is considered a "small estate." To determine if the estate you are probating is a small estate, see Sections [45-3-1203](#) and [45-3-1204](#) NMSA 1978 and Paragraph (H)(3) of this rule. It is best to seek a lawyer's advice about whether an estate qualifies under this exception. Use Form [4B-702](#) NMRA.

G. Step 7. Distribute the remaining assets of the estate to the decedent's heirs. When you have paid all of the decedent's debts, you shall distribute the assets that are left to the heirs of the decedent. The heirs and the proper share that each receives are described in Sections [45-2-101](#) to [45-2-107](#) NMSA 1978. Distribution of real estate (land) requires a deed from the personal representative to the distributee. If you have any question about the form of a deed or how to prepare a deed, seek a lawyer's advice.

H. Step 8. Close the estate and probate action. For Step 8 use Forms [4B-602](#) and [4B-701](#) NMRA. Once you have completed all of your work as personal representative and at least six (6) months have passed since the appointment of the personal representative if notice to creditors is given, or one (1) year has passed if no notice to creditors is given, you may close the estate. See Section [45-3-1003](#) NMSA 1978. In order to do this you must first do the following:

(1) ***Form [4B-602](#) NMRA, Accounting.*** Send an accounting of everything that you did in your administration of the estate to all of the decedent's heirs and those persons who filed a demand for notice. Form [4B-602](#) NMRA, Accounting, is provided as a model. The accounting should list all assets and liabilities of the decedent, receipts and disbursements made by the personal representative, and remaining assets of the estate. The list of assets and cash into the estate should equal a list of payments and distributions from the estate. The list of payments and distributions includes payments to creditors, payments for administrative expenses, and distributions to heirs. Unless ordered by the court to file this document, you are not required to do so, and you are free to keep the information private and out of the public record.

(2) ***Form [4B-701](#) NMRA, Verified closing statement of the personal representative.*** Complete and mail a copy of Form [4B-701](#) NMRA, Verified closing statement of

the personal representative, to all heirs and to any creditors or other claimants whose claims are neither paid nor barred, and file the verified closing statement with the court.

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 resolve pending matters with any 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 closing statement of the personal representative that closed the estate, you may wish to obtain a release of the property lien. See Section [45-3-1007](#) NMSA 1978.

(3) ***Form [4B-702](#) NMRA, Verified small estate closing statement of the personal representative***. When the value of the entire estate, less liens and encumbrances, does not exceed the family allowance, personal property allowance, costs and expenses of administration, reasonable necessary medical and hospital expenses of the last illness of the decedent, and reasonable funeral expenses, the estate is considered a small estate. There are two steps you must take to close a small estate.

(a) *Distribute assets*. Distribute the estate's assets to the persons entitled thereto. You may do this without giving notice to creditors. See Section [45-3-1203](#) NMSA 1978.

(b) *Prepare closing statement*. Complete and mail a copy of Form [4B-702](#) NMRA, Verified small estate closing statement of the personal representative, to anyone entitled to a distribution from the estate and to all creditors or other claimants whose claims are not paid or barred, including all taxing authorities. Also send a copy of the accounting for the estate to anyone entitled to a distribution from the estate whose interests are affected by the accounting. File the Verified small estate closing statement of the personal representative, Form [4B-702](#) NMRA, with the court. See Section [45-3-1204](#) NMSA 1978.

[Approved, effective September 15, 2000; as amended by Supreme Court Order No. 07-8300-005, effective March 1, 2007; 4B-012 recompiled and amended as 1B-304 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-501. Inventories and accountings.

Inventories and accountings are required to be prepared in the probate of an estate, but are not required to be filed with the probate court.

A. **Inventories.** An inventory of the estate shall be prepared within ninety (90) days of the appointment of the personal representative and must be provided to all interested people who request it. The inventory must contain the following:

- (1) a list of the items owned by the decedent in reasonable detail;
- (2) the estimated value of each item on the date of death of the decedent; and
- (3) the type and amount of any debt owed by the decedent.

B. **Accountings.** Accountings shall contain sufficient information to place the interested parties on notice as to all significant transactions affecting administration during the accounting period. The accounting must contain the following:

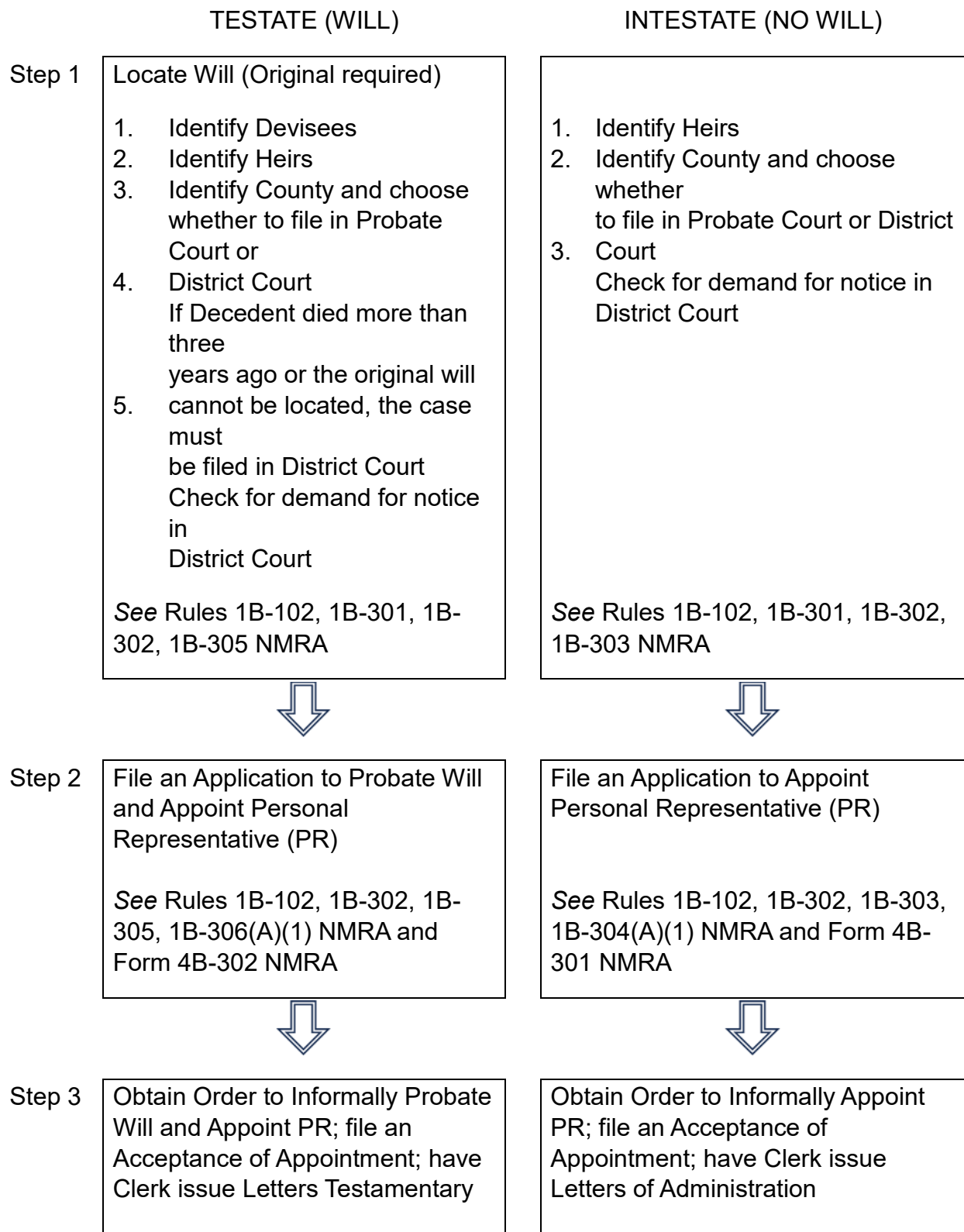
- (1) the receipts and disbursements for the period covered by the accounting, with reasonable detail;
- (2) the assets remaining at the end of the period; and
- (3) a description of all significant transactions affecting administration during the accounting period.

C. **Objections.** If objections are made to an inventory or an accounting, the probate court shall transfer the case to the district court for final determination and closing under Rule [1B-701](#) NMRA, unless the objections may be resolved by the probate court without an evidentiary hearing.

[Approved by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

4B-101. Opening and closing a probate court case (Flow chart).

OPENING AND CLOSING A PROBATE COURT CASE



See Rule 1B-306(A)(2)-(4) NMRA and Forms 4B-304, 4B-305, 4B-307 NMRA



See Rule 1B-304(A)(2)-(4) NMRA and Forms 4B-303, 4B-305, 4B-306 NMRA



Step 4

Within 30 days of Appointment, Send Notice of Appointment, Order, and copy of Will to Devisees, Heirs, and any person who has filed a demand for notice

See Rules 1B-102, 1B-306(B) NMRA and Forms 4B-401, 4B-402 NMRA



Within 30 days of Appointment, Send Notice of Appointment and Order to Heirs and any person who has filed a demand for notice

See Rules 1B-102, 1B-304(B) NMRA and Forms 4B-401, 4B-402 NMRA



Step 5

Decide whether to Notify Creditors
If Creditors will be notified,
(a) send notice,
(b) publish notice, OR
(c) both

See Rules 1B-102, 1B-305, 1B-306(C) NMRA and Form 4B-501 NMRA



Decide whether to Notify Creditors
If Creditors will be notified,
(a) send notice,
(b) publish notice, OR
(c) both

See Rules 1B-102, 1B-303, 1B-304(C) NMRA and Form 4B-501 NMRA



Step 6

Collect/Inventory Assets of the Decedent, Value Assets (within 3 months of appointment), and Determine Debts of the Decedent

Inventory does not have to be filed with the court

See Rules 1B-305, 1B-306(D) NMRA and Form 4B-601 NMRA

Collect/Inventory Assets of the Decedent and Value Assets (within 3 months of appointment), and Determine Debts of the Decedent

Inventory does not have to be filed with the court

See Rules 1B-303, 1B-304(D) NMRA and Form 4B-601 NMRA



Step 7

Pay the Family Allowance (\$30,000) and Personal Property Allowance (\$15,000) if required

See Rules 1B-102, 1B-305, 1B-306(E) NMRA



Step 8

Pay costs and expenses of administration

See Rules 1B-102, 1B-305, 1B-306(F)(1) NMRA



Step 9

Pay Creditors or Dispute Claims

See Rules 1B-102, 1B-305, 1B-306(F)(2)-(4) NMRA



If you did not deal with Creditors, you should wait a year from date of death to distribute assets, or you may owe unpaid Creditors

See Rule 1B-306(F)(2) NMRA

Or

If you published notice to Creditors, sent notice to known Creditors, and paid all Creditors with allowed claims, and if the time for Creditors to make their claims has elapsed, you may distribute assets



Pay the Family Allowance (\$30,000) and Personal Property Allowance (\$15,000) if required

See Rules 1B-102, 1B-303, 1B-304(E) NMRA



Pay costs and expenses of administration

See Rules 1B-102, 1B-303, 1B-304(F)(1) NMRA



Pay Creditors or Dispute Claims

See Rules 1B-102, 1B-303, 1B-304(F)(2)-(4) NMRA

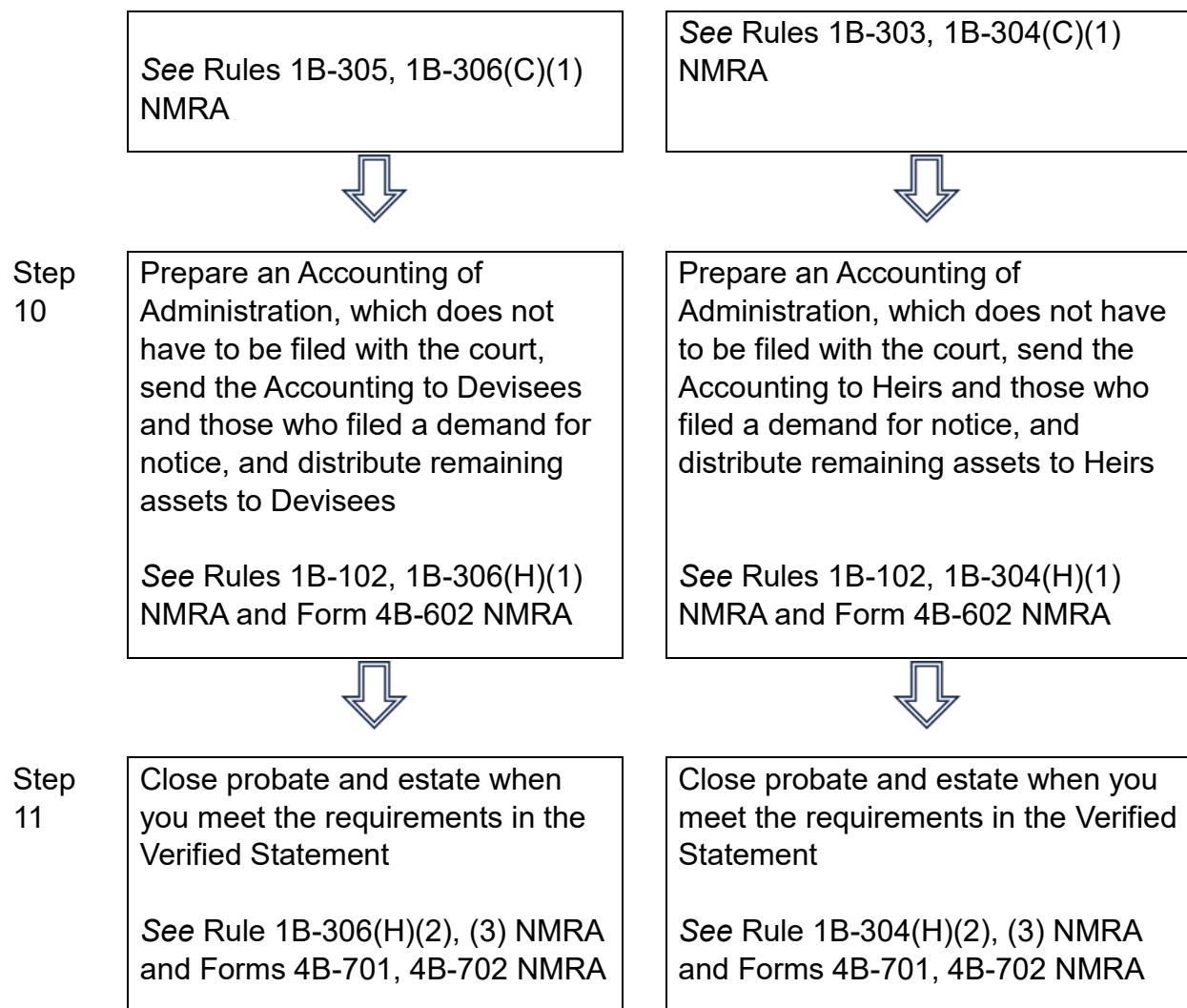


If you did not deal with Creditors, you should wait a year from date of death to distribute assets, or you may owe unpaid Creditors

See Rule 1B-304(F)(2) NMRA

Or

If you published notice to Creditors, sent notice to known Creditors, and paid all Creditors with allowed claims, and if the time for Creditors to make their claims has elapsed, you may distribute assets



[Adopted by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

4B-301. Application for informal appointment of personal representative (*no will*).
[For use with Rule 1B-304 NMRA]

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 of the decedent¹:

(Choose one)

(Review the priorities for appointment set out in Section 45-3-203(A) NMSA 1978 and Rule 1B-304 NMRA.)

☐ I am the surviving spouse of the decedent.

☐ I am one of the heirs of the estate of the decedent.

☐ 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 of the decedent, and I am willing to serve as personal representative of the estate of the decedent. 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)

☐ lived in _____ County, New Mexico.

☐ 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	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 clerk 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.

☐ I am aware of a demand for notice and have sent the required notice to each person who demanded notice.

8. (Choose one)

☐ 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 of the decedent.

WHEREFORE, I ask this court to

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

- 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 any other relief as this court believes to be appropriate.

I affirm under penalty of perjury under the laws of the State of New Mexico that all of the above statements are true and correct.

Signature of applicant

Printed name

Date

Street address

City, state, and ZIP code

Telephone number (optional)

Email address (optional)

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

2. If the applicant is an “heir,” as defined in Rule 1B-102 NMRA, use the bracketed language.

[Approved, effective September 15, 2000; as amended by Supreme Court Order No. 07-8300-005, effective March 1, 2007; 4B-101 recompiled and amended as 4B-301 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

4B-303. Order of informal appointment of personal representative (*no will*).

[For use with Rule 1B-304 NMRA]

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

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

**ORDER OF INFORMAL
APPOINTMENT OF PERSONAL REPRESENTATIVE
(*NO WILL*)**

This matter comes before the court on the Application for Informal Appointment of Personal Representative of the estate of the decedent and the court having considered the application, FINDS that

1. The Application for Informal Appointment of Personal Representative is complete;
2. The applicant has affirmed under penalty of perjury under the laws of the State of New Mexico that the statements contained in the application are true and correct;
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. The applicant has affirmed under penalty of perjury under the laws of the State of New Mexico that after the exercise of reasonable diligence, the 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 the applicant to be appointed as personal representative of the estate of the decedent; and
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 and

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

Probate Judge

Submitted by:

Signature of applicant

Printed name

Date

Street address

City, state, and ZIP code

Telephone number (optional)

Email address (optional)

USE NOTE

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

[Approved, effective September 15, 2000; as amended by Supreme Court Order No. 07-8300-005, effective March 1, 2007; 4B-103 recompiled and amended as 4B-303 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

4B-305. Acceptance of appointment as personal representative (*no will*) (*will*).

[For use with Rules 1B-304 and 1B-306 NMRA]

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

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

**ACCEPTANCE OF
APPOINTMENT AS PERSONAL REPRESENTATIVE
(*NO WILL*) (*WILL*)**

I, _____, accept the duties of personal representative of the estate of the decedent, and agree to perform the duties of the office to the best of my abilities according to the law.

I affirm under penalty of perjury under the laws of the State of New Mexico that all of the above statements are true and correct.

Signature of applicant

Printed name

Date

Street address

City, state, and ZIP code

Telephone number (optional)

Email address (optional)

USE NOTE

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

[Approved, effective September 15, 2000; as amended by Supreme Court Order No. 07-8300-005, effective March 1, 2007; 4B-105 recompiled and amended as 4B-305 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

4B-306. Letters of administration (*no will*).

[For use with Rule 1B-304 NMRA]

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

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

**LETTERS OF ADMINISTRATION
(*NO WILL*)**

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 personal representative of the estate of the decedent 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

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

[Approved, effective September 15, 2000; as amended by Supreme Court Order No. 07-8300-005, effective March 1, 2007; 4B-106 recompiled and amended as 4B-306 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

STOP HERE



The remaining documents should ***not*** be completed until after the court has appointed ***YOU*** as the Personal Representative of the Estate.

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

For return copies by mail, enclose a **self-addressed & stamped envelope**.

4B-401. Notice of informal appointment of personal representative.

[For use with Rules 1B-304, 1B-306, and 1B-401 NMRA]

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

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

**NOTICE OF INFORMAL APPOINTMENT OF
PERSONAL REPRESENTATIVE**

YOU ARE HEREBY NOTIFIED THAT

1. This notice is being sent to the heirs [and devisees]¹ 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 Probate Code.
3. No bond has been filed.
4. All documents relating to the estate of the decedent are on file with the probate court of _____ County. They are available for your inspection.
5. The estate of the decedent is being administered by the personal representative according to the terms of the Probate Code without supervision from the court. You are entitled to information regarding the administration of the estate of the decedent from the personal representative. You may also petition the court in any matter relating to the estate of the decedent, including distribution of assets and expenses of administration.

Dated: _____, _____.

Signature of personal representative

Printed name

Street address

City, state, and ZIP code

Telephone number (optional)

Email address (optional)

USE NOTE

1. If the decedent had a will, use the bracketed language. *See* Rule 1B-102 NMRA for the definition of a “devisee.”

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

[Approved, effective September 15, 2000; as amended by Supreme Court Order No. 07-8300-005, effective March 1, 2007; 4B-201 recompiled and amended as 4B-401 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

4B-402. Proof of notice.

[For use with Rules 1B-304, 1B-306, and 1B-401 NMRA]

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

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

PROOF OF NOTICE

I, _____, am the personal representative of the estate of the decedent. 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

_____	_____
_____	_____
_____	_____
_____	_____

Dated: _____, _____.

Signature of personal representative

Printed name

Street address

City, state, and ZIP code

Telephone number (optional)

Email address (optional)

USE NOTE

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

[Approved, effective September 15, 2000; as amended by Supreme Court Order No. 07-8300-005, effective March 1, 2007; 4B-202 recompiled and amended as 4B-402 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

4B-501. Notice to creditors by publication and notice to creditors by written notice (mailing or other delivery).

[For use with Rules 1B-304, 1B-306, and 1B-401 NMRA]

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

No. _____

NOTICE TO CREDITORS

NOTICE IS HEREBY GIVEN that the undersigned has been appointed personal representative of the estate of the decedent. All persons having claims against the estate of the decedent are required to present their claims within four (4) months after the date of the first publication of any published notice to creditors or sixty (60) days after 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

Address

City, state, and ZIP code

Telephone number (optional)

Email address (optional)

USE NOTE

See NMSA 1978, Sections 45-3-801 to 45-3-803 for notice to creditors provisions.

[Approved, effective September 15, 2000; as amended by Supreme Court Order No. 07-8300-005, effective March 1, 2007; 4B-301 recompiled and amended as 4B-501 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

STOP HERE



The remaining documents are the final steps in administering this probate estate. These documents should be completed after *ALL* expenses have been paid, *ALL* income has been received, and *ALL* property has been transferred to the heirs or devisees.

Make sure to use the Court Number on ALL filings.

For return copies by mail, enclose a **self-addressed & stamped envelope.**

4B-601. Inventory.

[For use with Rules 1B-304, 1B-306, and 1B-501 NMRA]

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

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

INVENTORY

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

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 Death	Mortgage or Lien
1. _____	\$ _____	\$ _____
2. _____	\$ _____	\$ _____
3. _____	\$ _____	\$ _____
4. _____	\$ _____	\$ _____
5. _____	\$ _____	\$ _____
6. _____	\$ _____	\$ _____

Signature of personal representative

Date

Printed name

Street address

City, state, and ZIP code

Telephone number (optional)

Email address (optional)

USE NOTE

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

[Approved, effective September 15, 2000; as amended by Supreme Court Order No. 07-8300-005, effective March 1, 2007; 4B-401 recompiled and amended as 4B-601 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

4B-602. Accounting.

[For use with Rules 1B-304, 1B-306, and 1B-501 NMRA]

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

IN THE MATTER OF THE ESTATE OF _____
_____, DECEASED.

No. _____

ACCOUNTING

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

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 Administration****Amount 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

Date

Street address

City, state, and ZIP code

Telephone number (optional)

Email address (optional)

[Approved, effective September 15, 2000; as amended by Supreme Court Order No. 07-8300-005, effective March 1, 2007; 4B-501 recompiled and amended as 4B-602 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

4B-701. Verified closing statement of the personal representative.

[For use with Rules 1B-304, 1B-306, and 1B-601 NMRA]

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

No. _____

VERIFIED CLOSING STATEMENT OF THE PERSONAL REPRESENTATIVE

I, _____, state that

1. I am the personal representative of the estate of the decedent;
2. The probate was filed more than six (6) months ago and the time for the presentation of creditor's claims has expired;
3. I have completed my work on the estate of the decedent. 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 of the decedent. 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; and
6. By this closing statement, I am indicating to the court that I am closing the estate.

I affirm under penalty of perjury under the laws of the State of New Mexico that the above statements are true and correct.

Signature of personal representative

Printed name

Date

Address

City, state, and ZIP code

Telephone number (optional)

Email address (optional)

USE NOTE

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.

[Approved, effective September 15, 2000; as amended by Supreme Court Order No. 07-8300-005, effective March 1, 2007; 4B-502 recompiled and amended as 4B-701 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]