

NEW MEXICO PROBATE JUDGES MANUAL 2013

SAMPLE FORMS AND CHECKLISTS

This list includes sample forms and checklists that may be used by the Probate Court, including the judge and clerk. It does not include forms used by other courts or individuals.

These forms and checklists are provided as samples only.

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(over)

10.16.1 Sample Affidavit Form: Transfer of Homestead to Surviving Spouse Pursuant
to NMSA Section 45-3-1205 [DO NOT MODIFY]

Additional Probate Court Forms from the New Mexico Rules Annotated

4B-103 Order of informal appointment of personal representative (*no will*)

4B-104 Order of informal probate of will and appointment of personal
representative (*will*)

4B-106 Letters of administration (*no will*)

4B-107 Letters testamentary (*will*)

3.1.5 Sample Order Appointing a Successor Personal Representative

IN THE PROBATE COURT
COUNTY OF _____
STATE OF NEW MEXICO

No.

IN THE MATTER OF THE ESTATE OF
_____, DECEASED

ORDER APPOINTING SUCCESSOR PERSONAL REPRESENTATIVE

This Court has received an Application for Informal Appointment of Successor Personal Representative that seeks an Order appointing a successor personal representative. The Court FINDS:

1. Sections 45-3-303(F) and 45-3-613, NMSA 1978 govern the appointment of a successor personal representative of an estate.
2. The Court has reviewed the Application for Informal Appointment of Successor Personal Representative.
3. The personal representative _____, appointed by the Court on _____, 20____, has submitted a written resignation to the Court. [or can modify to say "Proof of the death of personal representative _____ has been submitted to the Court."]
4. _____ has priority to be appointed as successor personal representative and has submitted paperwork asking to be appointed. OR

_____ has consented in writing to the appointment of _____ as successor personal representative. NMSA 1978, Section 45-3-203.

THEREFORE, THIS COURT ORDERS that:

- A. The Application is granted;
- B. The appointment of _____ as personal representative of the estate is terminated due to his/her resignation [or death--modify order as needed];
- C. _____ shall deliver decedent's assets, receipts, accountings and other information pertaining to the estate to the successor personal representative;
- D. _____ is informally appointed as the successor personal representative of the estate of the decedent, without bond, in an unsupervised administration;

E. Letters of Administration [or Letters Testamentary] shall be issued to _____ upon his/her acceptance of the office of successor personal representative.

THE HONORABLE _____

_____ County Probate Judge

3.2.1 Sample Order for Informal Appointment of Special Administrator

STATE OF NEW MEXICO
IN THE PROBATE COURT
COUNTY OF _____

No.

IN THE MATTER OF THE ESTATE OF
_____, DECEASED

ORDER APPOINTING SPECIAL ADMINISTRATOR WITH LIMITED POWERS

Upon the application of _____, a person known to be interested in this estate, for the appointment of a special administrator pending the appointment of a general personal representative; date of death being confirmed by review of decedent's death certificate; and upon good cause shown, the Court finds that a special administrator should be appointed.

Judges can enter relevant reason(s) above, for example:

- *five days have not elapsed since decedent's death, but an immediate appointment is necessary to arrange decedent's burial/cremation; or,*
- *all written consents to the appointment of personal representative have not yet been obtained, but the appointment is necessary to preserve decedent's estate; or,*
- *an appointment is necessary to secure decedent's home or apartment; or,*
- *any other reason that shows "good cause."*

IT IS, THEREFORE, ORDERED that _____ is hereby appointed special administrator of the estate of _____, deceased, to collect and manage the assets of the estate, to preserve them, to account for and deliver such assets to the general

personal representative, once he or she is appointed by the Court, and until further order of this Court.

_____ shall not have the full powers of a personal representative, but shall have the power to:

[JUDGES MAY LIMIT OR MODIFY THIS LIST AS NEEDED]

1. access and secure the decedent's home;
2. search for and notify heirs of decedent;
3. locate and preserve, including storage, other assets of decedent;
4. access and handle decedent's mail;
5. pay decedent's debts, including but not limited to credit card debts, as they become due;
6. access decedent's bank accounts for the purpose of paying decedent's debts as they become due;
7. communicate with the Social Security Administration about decedent's benefits and the proper termination thereof;
8. communicate with taxing authorities, including, but not limited to, the Internal Revenue Service and New Mexico Taxation and Revenue Department;
9. access and acquire copies of decedent's medical records from hospitals or other health care institutions in accordance with HIPAA privacy regulations;
10. transfer title to decedent's vehicle with the New Mexico Department of Motor Vehicles; and
11. such other powers as may be necessary to preserve and protect decedent's estate.

_____ shall not have the power to liquidate or distribute decedent's assets. _____ shall keep and provide a full accounting of expenditures and income of the estate to all interested persons.

Optional, if needed: The Court shall treat _____'s Acceptance to serve as personal representative as an Acceptance to serve as special administrator of the estate of

_____.

The Court shall issue Letters of Special Administration to _____ upon applicant's acceptance of the office of special administrator.

THE HONORABLE _____

_____ County Probate Judge

3.2.2 Sample Letters of Special Administration

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

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

LETTERS OF SPECIAL ADMINISTRATION

TO WHOM IT MAY CONCERN:

Notice is now given _____ has been appointed to serve as the special administrator of the estate of _____, and has qualified as the decedent's special administrator by filing with the court a statement of acceptance of the duties of that office.

_____ shall not have the full powers of a personal representative, but shall have the power to:

Judges can list specific powers granted to the special administrator in the Order Appointing the Special Administrator in this space.

_____ shall not have the power to distribute decedent's assets, but shall collect and manage the assets of the estate, preserve them, account for and deliver such assets to the general personal representative, once he or she is appointed.

Issued this ____ day of _____, 20__.

Clerk of the Probate Court

(Seal)

by: _____
Deputy Clerk

**3.2.3 Sample Order for Informal Appointment of Special Administrator,
Medical Records Only**

STATE OF NEW MEXICO
IN THE PROBATE COURT
COUNTY OF _____

No.

IN THE MATTER OF THE ESTATE OF
_____, DECEASED

ORDER APPOINTING SPECIAL ADMINISTRATOR WITH LIMITED POWERS

Upon the application of _____, a person known to be interested in this estate, for the appointment of a special administrator pending the appointment of a general personal representative; date of death being confirmed by review of decedent's death certificate; and upon good cause shown, the Court finds that a special administrator should be appointed.

IT IS, THEREFORE, ORDERED that _____ is hereby appointed special administrator of the estate of _____, deceased. _____ shall not have the full powers of a personal representative, but shall have only the power to:

Access and acquire copies of decedent's medical records from hospitals, health care providers, and other health care institutions or facilities that provided treatment of the decedent prior to death and to be treated as a "personal representative" in accordance with HIPAA privacy regulations for the sole purpose of obtaining decedent's medical records. **[Judge can list specific health institution(s) if known.]**

_____ shall **not** have the power to access, liquidate or distribute any other assets of decedent.

The Court shall treat _____'s Acceptance to serve as personal representative as an Acceptance to serve as special administrator of the estate of _____. The Court shall issue Letters of Special Administration to _____ upon entry of this order.

THE HONORABLE _____

_____ County Probate Judge

3.2.4 Sample Letters of Special Administration, Medical Records Only

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

IN THE MATTER OF THE ESTATE OF _____, DECEASED.

No. _____

LETTERS OF SPECIAL ADMINISTRATION

TO WHOM IT MAY CONCERN:

Notice is now given _____ has been appointed to serve as the special administrator of the estate of _____, and has qualified as the decedent's special administrator by filing with the court a statement of acceptance of the duties of that office.

_____ shall not have the full powers of a personal representative, but shall have the power to:

Access and acquire copies of decedent’s medical records from hospitals, health care providers, and other health care institutions or facilities that provided treatment of the decedent prior to death and to be treated as a “personal representative” in accordance with HIPAA privacy regulations for the sole purpose of obtaining decedent’s medical records. **[Judge can list specific health institution(s) if known.]**

_____ shall not have the power to distribute decedent’s assets, but shall collect and manage the assets of the estate, preserve them, account for and deliver such assets to the general personal representative, once he or she is appointed.

Issued this ____ day of _____, 20__.

Clerk of the Probate Court

(Seal)

by: _____
Deputy Clerk

4.1.4 Docketing Checklist

PROBATE COURT DOCKETING CHECKLIST

- | |
|------------------------------|
| Expedite?
Issues? |
|------------------------------|
- Name of decedent
 - Applicant's name
 - Statement of applicant's relationship to decedent
 - Date of decedent's death and age at time of death
 - Statement of domicile is in _____ County **OR**
 - Decedent did not live in New Mexico, but owned property in _____ County and 30 days or more have elapsed since decedent's death (Section 45-3-307(A))
 - Death Certificate has been submitted **or will be submitted** _____
 - Information regarding domicile, marital status, date of death and age at time of death matches information provided in Application **or can be corrected**
 - Spouse, children, heirs and devisees are listed (**even if incomplete addresses**)_
 - If there is a will, the date the will was executed
 - If a will is submitted, submitted will is **original**, not a copy
 - The heirs and devisees listed in the will match the heirs and devisees listed in the application **or information can and will be corrected**
 - Demand for Notice box is checked **or can be checked by court**
 - Five days (120 hours) have elapsed since decedent's death (if not, case can be docketed, but judge **cannot** sign order appointing PR until 120 hours after death)
 - No more than 3 years have elapsed since decedent's death; if there is no will and it has been more than 3 years, application needs to contain a statement that he/she is opening probate to confirm title to property
 - Probate Court has jurisdiction to act, and case does not involve determination of heirs, missing heirs, trusts, formal probate (*see* Section 45-1-302)
 - Any required consents are attached **or can be obtained**
 - Application is signed by applicant or attorney
 - Application includes a notarized verification with applicant's signature
 - Docket fee is submitted or waived for indigence by the court (judge only)

If any of the above is NOT true, judges should not docket the case, but should inform the attorney, runner, or *pro se* applicant of the problem.

If a case meets the above requirements, judges should docket the case even if it contains any of the following technical errors:

- Lack of conformity of form, such as margins, style, etc.
- Technically deficient pleading
- Wrong forms, intestate instead of testate or vice versa
- Wrong court caption
- Ages of minor heirs/devisees/children missing
- Personal Representative failed to list self on application
- Incomplete addresses for heirs/devisees, etc.

4.3.2 Certificate Acknowledging Receipt and Review of Death Certificate

STATE OF NEW MEXICO
IN THE PROBATE COURT
COUNTY OF _____

NO.

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

*CERTIFICATE ACKNOWLEDGING RECEIPT AND
REVIEW OF DEATH CERTIFICATE*

I, _____, _____ County Probate Judge, acknowledge having reviewed the death certificate in the above-captioned probate action, having confirmed the date of decedent’s death listed on the application is correct, and having returned said death certificate to the personal representative or attorney for the estate.

[In some cases, a death certificate is not available pending an investigation by the Office of the Medical Investigator into the cause of decedent’s death. In those cases judges can modify the language to read: I, _____, _____ County Probate Judge, acknowledge having reviewed the Pending Letter from the Office of Medical Investigator in the above-captioned probate action, having confirmed the date of decedent’s death listed on the application is correct, and having returned said Letter to the personal representative or attorney for the estate.]

WITNESS my hand and seal of the Probate Court on this _____ day of _____,
20____.

THE HONORABLE _____

(SEAL)

_____ County Probate Judge

4.8 Probate Case Checklist—Things to Watch For

1. Does the court caption say Probate Court and not District Court?
2. Does the name of the decedent match the name on the death certificate and will, if any?
3. Is the personal representative with highest priority to serve asking for appointment?
 - If there is a will, is the personal representative who is applying named as first choice?
 - If no, have proper renunciations/consents been filed?
 - If no will, are there several people who have equal priority?
 - If yes, have they **all** signed proper renunciations and concurrences?
 - If not, have they signed the “I consent to the appointment of the personal representative listed above” section of the do-it-yourself forms?
4. Is decedent’s date of death and age at time of death correct?
5. Was decedent domiciled in your county or own property in your county?
6. Are all people required to be listed, spouse, children, heirs and devisees, listed with complete addresses? Ages of minor children should also be listed. If personal representative is spouse, child, heir or devisee, he/she should list himself/herself.
7. If a will was submitted, is it original or an authenticated copy probated in another jurisdiction?
 - If no, must go to formal probate, *see* Section 45-3-402(A)(B).
 - Does date on will match date of will stated in application? (It is not required that a will be dated, but a date can help distinguish which will is the most recent if an issue arises.)
 - Is will signed by testator or someone in the testator’s conscious presence and by the testator’s direction?
 - Did two witnesses also sign?
IF WILL IS VALID, ADMIT IT TO PROBATE (see Sec. 4.5.1, paragraph 8 for details)
8. Has it been more than three years since decedent’s death? If so, probate court only has jurisdiction for **intestate** estates.
9. Is the application properly verified (signed by applicant in presence of notary public or signed by attorney)?

If all of the above items are correct, the judge can **sign the order** appointing the personal representative. If the judge does not like the order submitted by the applicant, he or she can draft his or her own order, using Form 4B-103 or Form 4B-104.

Has personal representative submitted a signed, notarized Acceptance of Appointment, Form 4B-105? If so, the judge or staff can **issue Letters Testamentary (will) or Letters of Administration (no will)**. See Probate Judges Manual Section 4.7 for details about Letters.

After the judge signs the order and issues Letters, his/her responsibility in the case usually ends unless a dispute arises. The personal representative or attorney often files other paperwork in the case—notice, inventory, verified statement, but the judge does not usually sign further paperwork unless updated Letters need to be issued or a successor personal representative needs to be appointed. If a dispute arises, the judge should transfer the case to the district court for a formal proceeding, using the information in Chapter 7 of the Probate Judges Manual.

4.10 Checklist of Informal Probate and Appointment Pleadings

(open and close informally; can file informal proceedings in probate court or district court)

Informal Probate (testate)

- 4B-102. Application for Informal Probate of Will and for Informal Appointment of Personal Representative, Section 45-3-301 (must attach **original** will)
- 4B-104. Order for Informal Probate of Will and for Informal Appointment of Personal Representative, Section 45-3-303, -308
- 4B-107. Letters Testamentary and
4B-105. Acceptance, Section 45-3-103, -601
- 4B-201. Notice of Informal Probate of Will and Appointment of Personal Representative (within **ten** days of Personal Representative's appointment), Section 45-3-306, -705; see also Section 45-1-401
- 4B-202. Proof of Notice (notarized), Section 45-1-401C
- 4B-301. Notice to Known Creditors (within **three months** of Personal Representative's appointment), Section 45-3-801***
- 4B-302. Notice to Creditors (published)
- 4B-401. Inventory and Appraisal (Personal Representative must prepare **within three months** of appointment; must give to any interested person who requests it; **may** file with court, not required), Section 45-3-706
- 4B-501. Accounting, Section 45-3-1003(A)(3)
- 4B-502. Verified Statement of Personal Representative,
Section 45-3-1003
- 4B-503. Application for Certificate of Full Administration, Section 45-3-1007, **optional**, must wait one year after Verified Statement is filed to apply for this
- 4B-504. Certificate of Full Administration
- 4B-601. Affidavit of poverty and indigency
- 4B-602. Order Allowing Free Process (rare)

Informal Appointment (intestate)

- 4B-101. Application for Informal Appointment of Personal Representative, Section 45-3-301
- 4B-103. Order for Informal Appointment of Personal Representative, Section 45-3-303, -308
- 4B-106. Letters of Administration and
4B-105. Acceptance, Section 45-3-103, -601
- 4B-201. Notice of Informal Appointment of Personal Representative (within **ten** days of Personal Representative's appointment), Section 45-3-306, -705; see also Section 45-1-401
- 4B-202. Proof of Notice (notarized), Section 45-1-401C
- 4B-301. Notice to Known Creditors (within **three months** of Personal Representative's appointment), Section 45-3-801***
- 4B-302. Notice to Creditors (published)
- 4B-401. Inventory and Appraisal (Personal Representative must prepare **within three months** of appointment; must give to any interested person who requests it; **may** file with court, not required), Section 45-3-706
- 4B-501. Accounting, Section 45-3-1003(A)(3)
- 4B-502. Verified Statement of Personal Representative,
Section 45-3-1003
- 4B-503. Application for Certificate of Full Administration, Section 45-3-1007, **optional**, must wait one year after Verified Statement is filed to apply for this
- 4B-504. Certificate of Full Administration
- 4B-601. Affidavit of poverty and indigency
- 4B-602. Order Allowing Free Process (rare)

*** Creditor then has **two months** to present claims, Section 45-3-801. Personal representative then has **60 days** to allow or disallow creditor's claim. **Silence (failure to disallow within 60 days) = allowance!!!** Section 45-3-806; creditor has **60 days** to file request for allowance after claim is disallowed, Section 45-3-804.

6.3.6 Sample Log

**Public Access to Probate Court Files
Required Information plus Government-issued ID
NMSC Rule 1-079(D)(3)**

#	Date	Name	Address	Phone Number (area code) -	File No. or Public Terminal	Gov. Issued ID
1.				() -		
2.				() -		
3.				() -		
4.				() -		
5.				() -		
6.				() -		

7.			() -		
8.			() -		
9.			() -		
10			() -		
11			() -		
12			() -		
13			() -		

7.3.2 Sample Form of Transmittal Memorandum for Transfer to District Court

STATE OF NEW MEXICO
IN THE PROBATE COURT
COUNTY OF BERNALILLO

Probate Court No. _____
District Court Case # _____

IN THE MATTER OF THE ESTATE

OF _____, Deceased

TRANSMITTAL MEMORANDUM

I, _____ Clerk of the Probate Court and Ex-Officio Recorder of the County of _____, New Mexico, pursuant to an order of the (*select one*) [_____ *County Probate Court*] OR [_____ *Judicial District Court*] entered _____ (date of order), do hereby transmit to the Clerk of the _____ Judicial District Court the following papers, which comprise all of the **ORIGINAL RECORDS** filed in the Probate Court relating to said Estate; to wit:

<u>Document</u>	<u>Date Filed</u>
Application for Informal Probate of Will and for Informal Appointment of Personal Representative	Oct. 20, 2000
Last Will and Testament of _____	Oct. 20, 2000
Clerk's Certificate of Judgment Approving Last Will and Testament	Oct. 20, 2000
Certificate of Review of Death Certificate	Oct. 20, 2000
Order for Informal Probate of Will and for Informal Appointment of Personal Letters Testamentary and Acceptance	Oct. 20, 2000
Notice to Creditors	Nov. 21, 2000
Notice of Denial of Claims	Dec. 1, 2000
Affidavit of Publication	Jan. 8, 2001
Petition for Transfer to District Court	Feb 17, 2000
Order Transferring Cause to District Court	Feb. 19, 2000

WITNESS MY HAND AND SEAL OF THE PROBATE COURT THIS _____ DAY

OF _____, 20__.

CLERK OF THE PROBATE COURT

By: _____
Deputy Clerk

Received from the Clerk of the Probate Court, the papers listed above. Witness my hand and seal of the District Court this _____ day of _____, 20__.

CLERK OF THE DISTRICT COURT

By: _____
Deputy Clerk

7.3.3 Sample Order for Permanent Transfer to District Court

STATE OF NEW MEXICO
IN THE PROBATE COURT
COUNTY OF _____

No.

IN THE MATTER OF THE ESTATE
OF _____, DECEASED

TRANSFER ORDER

This matter came before the Court on review of the file. The Probate Court of _____ County, New Mexico has determined that it is declining to oversee this case due to the fact that there is a dispute between family members concerning the distribution of the estate [or insert other reasons/findings]. The Probate Court finds that this case should be transferred from the Probate Court of _____ County to the _____ (insert number of the district court, such as Second, Thirteenth, etc.) Judicial District Court for _____ County, New Mexico for a formal proceeding. This transfer is subject to any District Court docket fee or other fees that may apply.

IT IS HEREBY ORDERED that the case In the Matter of the Estate of _____, Deceased, Probate # _____ filed in the Probate Court of _____ County be transferred to the _____ (insert number of the district court, such as Second, Thirteenth, etc.) Judicial District Court of _____ County, New Mexico, for a formal proceeding.

Judge's Name

County Probate Judge
Address
City/State/Zip

7.3.4 Sample Order of Recusal and Transfer to District Court

STATE OF NEW MEXICO
IN THE PROBATE COURT
COUNTY OF _____

No.

IN THE MATTER OF THE ESTATE
OF _____, Deceased

TRANSFER ORDER

This matter came before the Probate Court on review of the file. _____, Probate Judge, recuses himself/herself from the above-referenced cause.

The Probate Court finds that this case should be transferred from the Probate Court of _____ County to the _____ (insert number of the district court, such as Second, Thirteenth, etc.) Judicial District Court for _____ County, New Mexico.

IT IS HEREBY ORDERED that the case In the Matter of the Estate of _____, Deceased, Probate # _____ filed in the Probate Court of _____ County be transferred to the _____ (insert number of the court, such as Second, Thirteenth, etc.) Judicial District Court for _____ County, New Mexico.

Judge's Name
_____ County Probate Judge
Address
City/State/Zip

7.3.5 Sample Order for Transfer to District Court with Remand to Probate Court after Resolution of Dispute

STATE OF NEW MEXICO
IN THE PROBATE COURT
COUNTY OF _____

No.

IN THE MATTER OF THE ESTATE
OF _____, Deceased

TRANSFER ORDER

This matter came before the Probate Court on review of the file. The Probate Court of _____ County, New Mexico has determined that it has lost jurisdiction due to the fact that there is a dispute concerning the distribution of the estate. The Probate Court finds that this case should be transferred from the Probate Court of _____ County to the _____ (insert number of the district court, such as Second, Thirteenth, etc.) Judicial District Court for _____ County, New Mexico for the determination of all disputed issues.

IT IS HEREBY ORDERED that the case In the Matter of the Estate of _____, Deceased, Probate # _____ filed in the Probate Court of _____ County be transferred to the _____ (insert number of the district court, such as Second, Thirteenth, etc.) Judicial District Court for _____ County, New Mexico for determination of all disputed issues, subject to remand back to the Probate Court for completion following resolution of the disputed issues.

Judge's Name

County Probate Judge
Address
City/State/Zip

7.3.6 Sample Order to Decline Jurisdiction “for any reason”

STATE OF NEW MEXICO
IN THE PROBATE COURT
COUNTY OF _____

No.

IN THE MATTER OF THE ESTATE
OF _____, Deceased

TRANSFER ORDER

This matter came before the probate court on review of the file. The probate court of _____ County, New Mexico has determined that it should exercise its statutory right to decline the application pursuant to Sections 45-3-305 and 45-3-309, NMSA 1978. The probate court finds that this case should be transferred from the probate court of _____ County to the _____ (insert number of the district court, such as Second, Thirteenth, etc.) Judicial District Court for _____ County, New Mexico for a formal probate proceeding.

In support of this order, the probate court finds:

Judge may insert facts and cites to statutes here that will help the district judge understand the reasons why the probate judge is declining to act. Number each finding with a separate number.

IT IS HEREBY ORDERED that the case in the matter of the estate of _____, deceased Probate # _____ filed in the probate court of _____ County be transferred to the _____ (insert number of the district court, such as Second, Thirteenth, etc.) Judicial District Court for _____ County, New Mexico for a formal probate proceeding.

Judge's Name

County Probate Judge
Address
City/State/Zip

7.3.7 Sample Order of Recusal for “ex parte” Communications

STATE OF NEW MEXICO
IN THE PROBATE COURT
COUNTY OF _____

No.

IN THE MATTER OF THE ESTATE
OF _____, Deceased

TRANSFER ORDER

This matter came before the probate court on review of the file. The probate court of _____ County, New Mexico is declining the application due to repeated attempts by _____ (name of person initiating ex parte communications) at ex parte communications with the judge. _____, Probate Judge, recuses himself/herself from the above-referenced cause.

The probate court finds that this case should be transferred from the probate court of _____ County to the _____ (insert number of the district court, such as Second, Thirteenth, etc.) Judicial District Court for _____ County, New Mexico for a formal probate proceeding.

In support of this order, the probate court finds:

1. _____ (name of person who initiated ex parte communications) has made or attempted to make ex parte communications with the court.
2. These communications make it impossible for the court to preside over this case in a fair and impartial manner, as required by law.
3. Under Section 34-7-9, NMSA 1978, whenever the probate judge shall, for any reason, be interested or disqualified from acting in any proceeding coming within the jurisdiction of the probate court, he shall upon his own motion or that of any interested party, forthwith enter an order transferring such proceeding to the district court having jurisdiction in that county and directing the probate clerk to deposit forthwith within the office of the clerk of said district court a certified copy of said order together with all original.

IT IS THEREFORE ORDERED that the probate court recuses itself from hearing this matter.

IT IS FURTHER ORDERED that the case in the matter of the estate of _____,
deceased Probate # _____ filed in the probate court of _____ County
be transferred to the _____ (insert number of the district court, such as Second,
Thirteenth, etc.) Judicial District Court for _____ County, New Mexico for a formal
probate proceeding.

Judge's Name

County Probate Judge
Address
City/State/Zip

10.14 Sample Authentication Form

STATE OF NEW MEXICO)

)ss.

COUNTY OF _____)

I, _____, County Clerk and Ex-Officio Clerk of the Probate Court of the State of New Mexico, within and for the County of _____, do hereby certify the following to be a true, correct and complete copy of (insert name and # of Estate and list of pleadings attached (or state that it is a complete copy of the file starting with 1st document filed on xx date and ending with last document, filed on xx date_____

as the same remains on file and of record in my said office.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of said Court this _____ day of _____, 20____.

Signature of _____ County Clerk

(Affix seal here)

UNITED STATES OF AMERICA

STATE OF NEW MEXICO

COUNTY OF _____

I, _____, Judge of the Probate Court of the State of New Mexico, within and for the County of _____, do hereby certify that _____ (insert name of County Clerk) _____, whose name is subscribed to the foregoing Certificate of Attestation, now is, and was at the time of the signing and sealing of the same, the County Clerk and Ex-Officio Clerk of the Probate Court of the State of New Mexico, within and for the County of _____, and keeper of the seal and records thereof, duly elected, commissioned and qualified to office; that full faith and credit are and of right ought to be given to

(his/her) official acts as such, in all Courts of Record in the United States and elsewhere, and that (his/her) attestation is in due form of law and by the proper officer.

IN WITNESS WHEREOF, I have set my and affixed the seal of said Court at (insert name of City), in said County of _____ and State of New Mexico, this _____ day of _____, 20____.

(affix seal here)

Signature of Judge of the Probate Court of
the State of New Mexico within and for
the County of _____

UNITED STATES OF AMERICA
STATE OF NEW MEXICO
COUNTY OF _____

I, (insert name of county clerk), County Clerk and Ex-Officio Clerk of the Probate Court of the State of New Mexico, within and for the County of _____, do hereby certify that (insert name of probate judge), whose name is subscribed to the foregoing Certificate of Attestation, now is, and was at the time of signing and sealing the same, Judge of the Probate Court of the State of New Mexico, within and for the County of _____, and was duly elected, commissioned and qualified to office; that full faith and credit are and of a right ought to be given to all (his/her) official acts as such, in all Courts of Record in the United States and elsewhere, and that (his/her) attestation is in due form of law and by the proper officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court at (insert name of City), in said County of _____ and state of New Mexico, this _____ day of _____, 20____.

(Affix seal here)

Signature of _____ County Clerk

10.15.1 Sample Affidavit Form [DO NOT MODIFY]

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

AFFIDAVIT OF SUCCESSOR IN INTEREST TO
_____ (Name of Decedent)

_____, the affiant herein, having been duly sworn, states upon oath:

1. The affiant(s) is/are the successor(s) of _____ (name of decedent), deceased.
2. The value of the entire estate of the decedent, wherever located, less liens and encumbrances, does not exceed \$50,000.
3. Thirty days have elapsed since the death of the decedent.
4. No application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction.
5. Pursuant to NMSA Section 45-3-1201 (2012 Cum. Supp.), the affiant(s), as successor(s) of the decedent, is/are entitled to the payment of any sums of money due and owing to the decedent, to the delivery of all tangible personal property belonging to the decedent and in the possession of another, and to the delivery of all instruments evidencing a debt, obligation, stock or chose in action belonging to the decedent.

DATED: _____, 20__.

AFFIANT*

*Each affiant should sign on a separate line and also sign a separate acknowledgement below.

_____, Affiant, being first duly sworn, states on oath that all of the representations in this affidavit are true as far as affiant knows or is informed, and that such affidavit is true, accurate and complete to the best of affiant's knowledge and belief.

AFFIANT*

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20__
by _____, Affiant.

NOTARY PUBLIC

My Commission Expires:

4B-103. Order of informal appointment of personal representative (*no will*)

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 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

4B-104. Order of informal probate of will and appointment of personal representative (*will*)

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

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

**ORDER OF INFORMAL PROBATE OF WILL AND
APPOINTMENT OF PERSONAL REPRESENTATIVE
(*WILL*)**

This matter comes before the court on the application for informal probate of the will of the decedent and for informal appointment as personal representative of the estate. The court having considered the application, FINDS THAT:

1. The Application for Informal Probate of Will and 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, this court has venue;
5. An original, duly executed and apparently unrevoked will of the decedent is in the possession of this court;
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 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 and from the contents of the will, 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 will of the decedent is informally probated;
- C. The applicant _____ (*name of applicant*) is informally appointed as the personal representative of the estate of the decedent, without bond, in an unsupervised administration;
- D. Letters Testamentary 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

4B-106. Letters of administration (*no will*)

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 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*)

4B-107. Letters testamentary (will)

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

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

**LETTERS TESTAMENTARY
(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 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)