LUNA COUNTY PROBATE COURT
700 S. SILVER AVE
PO BOX 1838
DEMING, NM 88030
575-546-0491 OR 575-543-6614

TESTATE (WITH A WILL)
FORMS PACKET

LUNA COUNTY PROBATE COURT

CHECKLIST FOR SUBMITTING INFORMAL PROBATE

1. **Information That Must Be Included in the Application (48-302)**
    - Your name and relationship to the deceased person (also called the "decedent") also to include heir or devisee
    - Statement of domicile (primary residence of person at the time of their death)
    - Names and full mailing addresses (including yourself if you are an heir or devisee)
        - 1) Current Marital Status i.e. widowed, divorced, etc.
        - 2) Children; living, deceased children, children of deceased children
        - 3) Other heirs (even if they are not entitled to receive anything); named & identified
        - 4) Devisees (anyone named in the will, including churches, schools, etc.)
    - Ages of any minor children of the deceased person.
        - You do not need to list alternate beneficiaries (who would inherit if primary-named beneficiaries have died) unless the primary beneficiary has died.
    - Date of decedent's death
    - Written consent of anyone with equal or higher priority for appointment as personal representative
        - The court will accept e-mailed consents from the heirs and devisees if sent directly from the person consenting e-mail address to the Diana_Diaz@lunacountynm.us e-mail address.
    - Contact district court at (575) 546-9611 to see if a demand for notice has been filed on the deceased.
    - Full signature of applicant with **Sworn Affirmation of Perjury**
        - Name, complete address with city, state & zip code, phone number and e-mail

    FAILURE TO PROVIDE ALL REQUIRED INFORMATION WILL DELEY THE PROCESS

YOU WILL ALSO NEED TO SUBMIT THE FOLLOWING DOCUMENTS AT THE TIME OF FILING THE APPLICATION:

2. **Proof of Death (which will be returned to you)**
    a. The Court will also accept the following types of proof of death.
    -Death Certificate -Letter from Funeral Home
    -Letter from OMI -Report of Casualty
    *All forms must include: Name of Deceased, Date of Birth, Date of Death, Marital Status and Domicile (County deceased lived in)

3. **Original will (due to statutory requirements the original Last Will and Testament will NOT be returned to you and will Permanently retained by the court)**

4. **Order of Informal Appointment of Personal Representative (4B-304)**
    - Signed; name, complete address, telephone number and e-mail address

5. **Acceptance of Appointment (4B305) with Sworn Affirmation of Perjury**
    - Signed; name, complete address, telephone number and e-mail address

6. **Letters of Administration (no will) (4B-307)**

If you are mailing in your documents to the court please include a self-addressed stamped envelope so that your copies may be returned to you.

DO NOT FILL OUT ANY OF THE OTHER FORMS UNTIL YOU HAVE BEEN APPOINTED PERSONAL REPRESENTATIVE

The original document **WILL NOT** be returned to you. You should submit the original and at least one set of copies of the form you are filing so that the court can endorse file stamp your copies for your records. You may want to submit extra copies of the Letters Testamentary.

You will need to submit a $30.00 docket fee at the time you file the probate documents

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FORMS TO COMPLETE TO OPEN PROBATE

4B-302. Application for Informal Probate of Will and for Informal Appointment of Personal representative (will)
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STOP HERE (COVER SHEET)

FORMS TO COMPLETE AFTER APPOINTMENT AS PERSONAL REPRESENTATIVE (Bring with you when picking up completed forms)

4b-401. Notice of Informal Appointment of Personal Representative
*This form is a required to be filed with the court within 30 days of your appointment as the personal representative.
4B-402. Proof of Notice
4B-501. Notice to Creditors by Publication and Notice to Creditors by written notice (mailing or other delivery)
*an endorsed copy by the court may be required by the publisher
4B-601. Inventory
4B-602. Accounting

STOP HERE (Cover Sheet)

FORM TO COMPLETE TO CLOSE THE PROBATE

4B-701. Verified closing statement of the personal representative
[for use with Rules 1B-304, 1B-306 and 1B-601 NMRA]
*This form can only be filed after at least 6 months have passed from the date of appointment as Personal Representative and should only be filed after all matters concerning the estate have been fully settled.

Probate Court staff is prohibited from providing

LEGAL ADVICE or other LEGAL SERVICES*

This includes, however not limited to:

1. Assisting customers in filling out forms, other than to provide general information regarding what information is required.

2. Providing any forms other than the NM Supreme Court approved probate forms

3. Reviewing or interpreting an existing deed, or assisting a customer with what type of deed to use or assisting them with filling out or recording any type of deed or conveyance of property

4. Explaining court orders from our court or commenting on proceedings in another court or before another judge.

5. Providing personal or legal advice regarding the payment of claims against an estate or the distribution of the estate

6. Engaging in ex-parte** communications with parties to an estate.

7. Providing information or advice on how to proceed with a case or properly administer an estate once a personal representative has been appointed

8. Determining whether to close a case

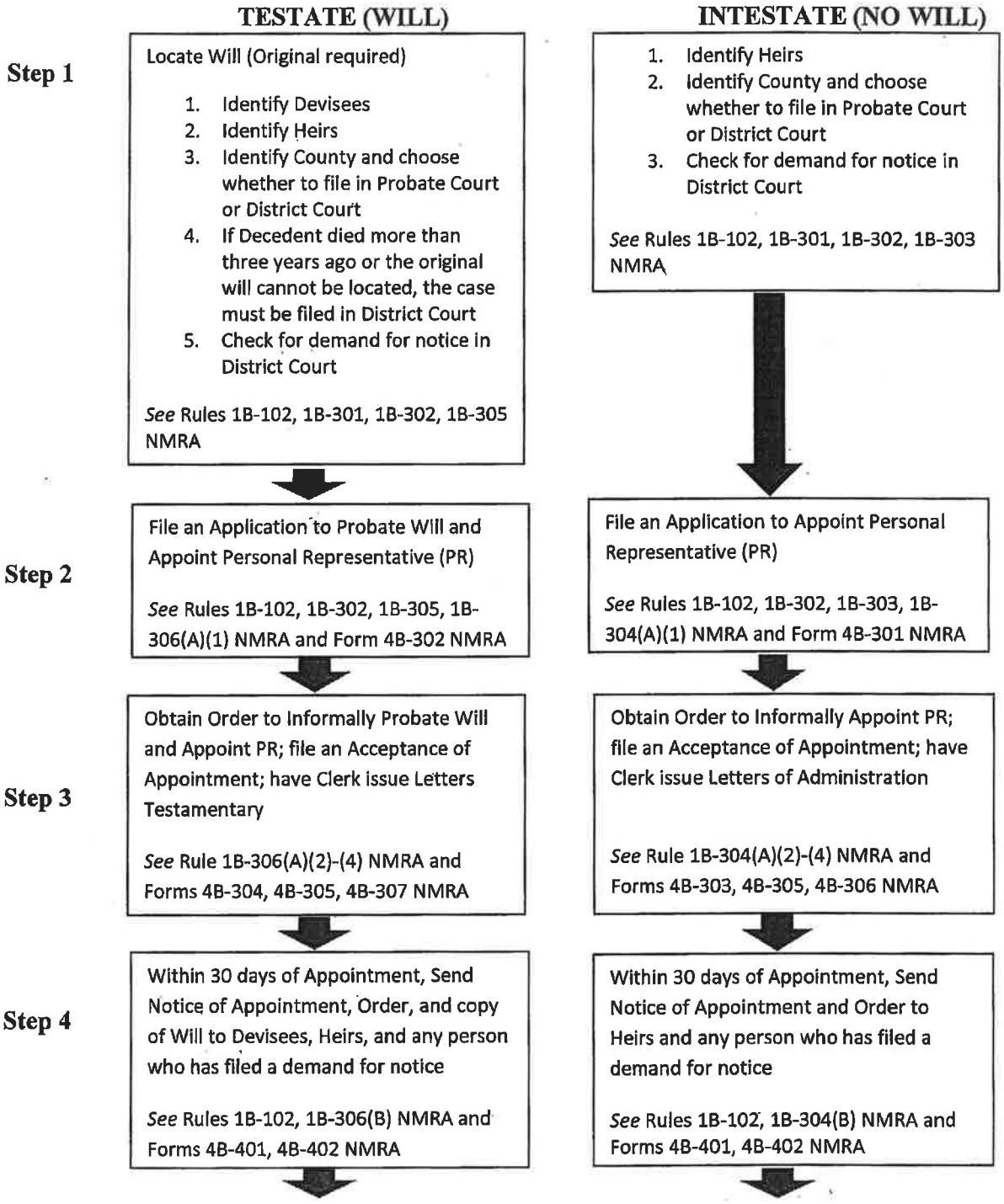
If you require more assistance than we can provide it is highly recommended that you seek Competent Legal Advice

Thank you in advance for your understanding

*NM Supreme Court Rule Prohibiting legal advice NMRA 23-113
**Ex-parte communications is talking to one party to a case outside the presence of the other parties

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

OPENING AND CLOSING A PROBATE COURT CASE



	TESTATE (WILL)	INTESTATE (NO WILL)
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	Pay the Family Allowance ($30,000) and Personal Property Allowance ($15,000) if required *See* Rules 1B-102, 1B-303, 1B-304(E) NMRA
Step 8	Pay costs and expenses of administration *See* Rules 1B-102, 1B-305, 1B-306(F)(1) NMRA	Pay costs and expenses of administration *See* Rules 1B-102, 1B-303, 1B-304(F)(1) NMRA
Step 9	Pay Creditors or Dispute Claims *See* Rules 1B-102, 1B-305, 1B-306(F)(2)-(4) 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-306(F)(2) 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	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 *See* Rules 1B-305, 1B-306(C)(1) NMRA	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 *See* Rules 1B-303, 1B-304(C)(1) NMRA
Step 10	Prepare an Accounting of Administration, which does not have to be filed with the court, send the Accounting to Devisees and those who filed a demand for notice, and distribute remaining assets to Devisees *See* Rules 1B-102, 1B-306(H)(1) NMRA and Form 4B-602 NMRA	Prepare an Accounting of Administration, which does not have to be filed with the court, send the Accounting to Heirs and those who filed a demand for notice, and distribute remaining assets to Heirs *See* Rules 1B-102, 1B-304(H)(1) NMRA and Form 4B-602 NMRA
Step 11	Close probate and estate when you meet the requirements in the Verified Statement *See* Rule 1B-306(H)(2), (3) NMRA and Forms 4B-701, 4B-702 NMRA	Close probate and estate when you meet the requirements in the Verified Statement *See* Rule 1B-304(H)(2), (3) NMRA and Forms 4B-701, 4B-702 NMRA

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

With Will

1B-101. Scope of rules; probate court jurisdiction; title; citation form.

A. **Scope.** These rules govern procedures in all informal probate proceedings in the probate courts of New Mexico. While probate cases may also be opened in district court, these rules specifically govern probate cases opened in the county probate courts. The rules shall be construed and enforced to ensure the prompt and efficient resolution of probate proceedings. Probate courts shall make no other rules to govern the conduct of probate proceedings. If no procedure is specifically prescribed by rule or statute, a probate court may proceed in any lawful manner not inconsistent with these rules or the Probate Code.

B. **Probate court jurisdiction.**

(1) In uncontested, informal probate proceedings, all relevant information may be considered by the probate court.

(2) A probate case shall be transferred to district court in accordance with Rule 1B-701 NMRA if

(a) a formal appointment of personal representative is requested;

(b) a formal closing of the estate or administration is required by the Probate Code or requested by any interested party;

(c) a contest arises as to the administration of an estate or probate of a will;

(d) a determination of testacy or heirship is requested by any interested party;

(e) a hearing is required to determine a matter involving the estate or the administration of an estate; or

(f) transfer is requested by any interested party or ordered by the probate judge.

C. **Title.** These rules shall be known as the Probate Court Rules.

D. **Citation form.** These rules shall be cited by set and rule number of the New Mexico Rules Annotated, "NMRA," as Rule 1B-___ NMRA. [Approved by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-102. Probate definitions.

A. **General.** The following is a list of simplified definitions of certain legal terms that you, as the personal representative, may need to understand in your probate action. Under certain circumstances you may need to understand more than the simplified definitions listed below. In those cases, you may need to consult a lawyer or review the New Mexico law to more fully understand the terms listed below. Section 45-1-201 NMSA 1978 also includes definitions of terms used in the Uniform Probate Code (Probate Code). "NMSA 1978" refers to the New Mexico Statutes Annotated 1978, which is the official compilation of New Mexico statutory law. The first number listed is the chapter, the second number listed is the article, and the third number is the specific section of law enacted by the Legislature. The Probate Code is published in the NMSA 1978 as Chapter 45 NMSA 1978. "NMRA" refers to the New Mexico Rules Annotated, which contains rules, forms, and jury instructions of the New Mexico courts. Probate forms are included in the NMRA and are also available electronically through the New Mexico Supreme Court website. Additional information may be obtained from your county probate court.

B. **Definitions.** As used in the Probate Court Rules, Rules 1B-101 to 1B-701 NMRA, and the Probate Court Forms, Forms 4B-101 to 4B-1001 NMRA

(1) "accounting" means any written statement that sets forth accurately the assets of an estate, the liabilities of an estate, and the receipts and disbursements for an estate;

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

(a) collecting and valuing the assets of an estate;
(b) paying the family and personal property allowances;
(c) paying the costs and expenses of administration and the valid debts of the estate, including all taxes; and
(d) distributing the remainder of the estate to those who are entitled to it;
(3) "applicant" means a person who makes a written request to the probate court for an informal probate or appointment;
(4) "application" means a written request to the probate court for an informal probate or appointment. If you need more information on an application, *see* Section 45-1-201(A)(2) NMSA 1978;
(5) "beneficiary" is a person who is given a gift (devise) by a will. The Probate Code uses a different word, "devisee," to mean the same thing. The forms use the word "devisee" rather than "beneficiary" because the Probate Code uses "devisee." If you need more information on a beneficiary, *see* Section 45-1-201(A)(4) NMSA 1978;
(6) "bond" means a financial security provided to the court by the personal representative and a bonding company to ensure that the personal representative of the estate faithfully does the job of personal representative. A bond is usually not required in an informal probate proceeding. However, a bond may be required if the will requires it, or if a person with an interest in the estate requests the court to require it and the court orders that a bond be posted. If you need more information on bonds, *see* Sections 45-3-601 and 45-3-603 to 45-3-606 NMSA 1978;
(7) "claim" means a debt of the decedent that can arise before or after the death of the decedent, including the last medical bills and funeral costs;
(8) "claimant," also called "creditor," means a person who is making a claim;
(9) "creditor" means a person to whom a debt is owed. The debt might be owed by the decedent or the estate, also called the "debtor." In order to collect against an estate, the creditor files a "claim";
(10) "decedent" means the person who has died and whose will is being probated or whose estate is being administered;
(11) "descendant" means all of the children, grandchildren, great-grandchildren, etc., of a decedent. If you need more information on a descendant, *see* Section 45-1-201(A)(9) NMSA 1978;
(12) "demand for notice" means a written document filed in the district court where a probate is or should be filed requesting notice of any order or filing pertaining to a decedent's estate. The document must state the name of the decedent, the nature of the filing person's interest in the decedent's estate, and the filing person's address or the address of the filing person's lawyer. You, as the personal representative, filing an action in probate court, must contact the district court clerk in the county where the decedent was domiciled and ask if any person has filed a demand for notice relating to the decedent's estate. If someone has filed a demand for notice, you must send a copy of everything you file and every order the judge signs to the person who has demanded notice. If you need more information on a demand for notice, *see* Section 45-3-204 NMSA 1978;
(13) "devise," if used as a noun, means a gift of land (also called "real property") or other assets (also called "personal property") given by a will. If used as a verb, "devise" means to give a gift by a will of land or other assets. If you need more information on a devise, *see* Section 45-1-201(A)(10) NMSA 1978;

(14) "devisee" means a person listed in a will to receive assets from an estate. A common word for "devisee" is "beneficiary." The forms use the word "devisee" rather than "beneficiary" because the Probate Code uses "devisee." If you need more information on a devisee, *see* 45-1-201(A)(11) NMSA 1978;
(15) "distributee" means any person who receives property from a decedent who is not a creditor or purchaser. If you need more information on a distributee, *see* Section 45-1-201(A)(12) NMSA 1978;
(16) "domicile" means the last place the decedent had a true, fixed home, in a permanent establishment to which the decedent intended to return after an absence, and it is the place where the decedent voluntarily fixed his or her home with the intention of making it permanent;
(17) "estate" means all property of the decedent that is subject to the Probate Code. For the purposes of probate, an estate generally does not include property that passes automatically to a listed beneficiary, such as land held as joint tenants, land subject to transfer on death deeds, life insurance proceeds, payable on death accounts, transfer on death accounts, or retirement benefits that have a beneficiary designation. If you need more information on an estate, *see* Section 45-1-201(A)(15) NMSA 1978;
(18) "family allowance" means an allowance of thirty thousand dollars ($30,000) from the decedent's estate to which the decedent's surviving spouse is entitled. If there is no surviving spouse, then the family allowance is payable to the decedent's minor and dependent children. This allowance is exempt from and has priority over all claims against the estate. The family allowance must be paid if the estate has sufficient assets. *See* Section 45-2-402 NMSA 1978;
(19) "fiduciary" includes a person serving as a personal representative, who acts primarily for another person's benefit in matters connected with that role. A fiduciary is held to the highest degree of good faith in performing the duties of the fiduciary. A personal representative is a fiduciary. *See* Section 45-1-201(A)(17) NMSA 1978 for the definition of "fiduciary";
(20) "formal proceeding" means a proceeding that must be conducted before a district court judge with notice to interested persons;
(21) "heirs" means those persons who are entitled to the property of the decedent if the decedent dies intestate. The priority of the people who are entitled to the property is listed in Sections 45-2-101 to 45-2-107 NMSA 1978;
(22) "informal proceeding" means a proceeding commenced before the probate court without prior notice to interested persons for probate of a will or appointment of a personal representative, except as provided in Section 45-3-306 NMSA 1978;
(23) "intestate" means to die
(a) without leaving a will;
(b) without leaving a valid will; or
(c) with an incomplete will;
(24) "notice" or "giving notice" means the process of sending written information to people interested in the estate telling them about events occurring that relate to the estate or administration of the estate. *See also* the specific requirements for notice to creditors in Paragraph (B)(25) below. The courts operate under a principle that people are entitled to "notice and an opportunity to be heard." This means that people are entitled to know what is happening in a case and are then given an opportunity to tell a judge what that person wants the judge to know about a case. When you complete the notice requirements in a case, you have told people

about the important events happening in a case. You will meet your notice obligations if you mail a copy of everything that is filed with the court on the same day the document is filed with the court to the correct address for the following:
(a) all the heirs or devisees of an estate;
(b) persons who have or may have an interest in the estate of the decedent;
(c) anyone who asks for notice; and
(d) anyone who has filed a demand for notice. *See* Sections 45-3-705, 45-3-306, and 45-3-310 NMSA 1978;
(25) "notice to creditors" or "giving notice to creditors" means notifying creditors that you are in the process of probating the estate. If you choose to give notice to creditors, you may publish notice in the newspaper, deliver written notice by mail or other delivery, or both. *See* Section 45-3-801 NMSA 1978;
(26) "personal representative" means the person appointed by the court to administer the estate as defined in Paragraph (B)(2) above. This person may be called an "executor," an "executrix," or an "administrator" in a will;
(27) "personal property" means property that is not land, real estate, or real property. Examples of personal property include bank accounts, stocks, bonds, insurance policies, pension plans, jewelry, furniture, and motor vehicles. Some personal property may have a designation regarding who receives the property after death (a "beneficiary designation") and is not governed by a statute of distribution or by a will. A common example is an IRA or pension plan;
(28) "personal property allowance" means an allowance valued at fifteen thousand dollars ($15,000) or less from the decedent's estate in household furniture, automobiles, furnishings, appliances, and personal effects, to which the decedent's surviving spouse is entitled. If the value of such items is less than the personal property allowance of fifteen thousand dollars ($15,000), the value of the personal property allowance shall be paid from other assets to make up any deficiency. If there is no surviving spouse, then the personal property allowance is payable to the decedent's children who are devisees under the will or who are entitled to a share of the estate under Section 45-2-302 NMSA, or if there is no will, the allowance is payable to the decedent's intestate heirs. This allowance is payable in all events, if the estate has sufficient assets remaining after the family allowance has been paid. *See* Section 45-2-403 NMSA 1978;
(29) "probate" technically means the court procedure by which a will is proved to be valid or invalid. Common usage of this term now means all matters relating to the administration of an estate;
(30) "probate case" means a court case originally commenced for one or more of the following purposes:
(a) to informally administer a decedent's estate;
(b) to informally appoint a personal representative or special administrator; or
(c) to provide for proof of authority for a domiciliary foreign personal representative;
(31) "Probate Code" means the Uniform Probate Code, Chapter 45 NMSA 1978;
(32) "real property" includes land, houses, farms, ranches, leases, minerals, water rights, and timber rights;
(33) "revoked," when used with these forms, means a will or other document that the decedent has canceled. If a will is revoked, it has no effect;
(34) "testate" means to die leaving a valid will;
(35) "testator" means someone who has made a will or someone who dies leaving a valid will. A "testatrix" is a female testator, although this term is no longer used in the Probate Code;

(36) "unrevoked," when used in these forms, means a will or other document that the decedent has not canceled;
(37) "venue" means the place where the case should be filed. Generally, the case should be filed in either the probate court or the district court in the county where the decedent was domiciled at the time of death, or, if the decedent did not live in New Mexico, the probate court or the district court in the county where the decedent owned real property. If you need more information on venue, *see* Section 45-3-201 NMSA 1978; and
(38) "will" means a document prepared and executed according to certain formalities that usually describes the distribution of the decedent's probate assets upon death. A will also typically designates a personal representative and may appoint a guardian for minor children. A will is sometimes referred to as "last will and testament." If you need more information on a will, *see* Section 45-1-201(A)(57) NMSA 1978. [Approved, effective September 15, 2000; 4B-002 recompiled and amended as 1B-102 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-201. Commencement of a probate proceeding.
The probate courts shall accept applications for informal probates of wills and administrations and informal applications for special administrations of estates.
A. **Filing of application or proof of authority.** A probate proceeding is commenced by filing any of the following with the court:
(1) an application for informal appointment of a personal representative or for informal probate of a will under Section 45-3-301 NMSA 1978;
(2) an application for informal appointment of a special administrator under Section 45-3-614 NMSA 1978; or
(3) a proof of authority for a domiciliary foreign personal representative under Section 45-4-204 NMSA 1978. A death certificate shall not be required by the probate court. The probate court's determination to grant or deny the relief requested shall be based on the information provided in the application or proof of authority.
B. **Prompt action required.** When an application or a proof of authority is filed, the probate court shall act promptly.
C. **Opposition; transfer.** If any interested person opposes the relief requested in an application for informal probate of a will, administration of an estate, appointment of a personal representative or special administrator, or a proof of authority, the probate court shall transfer the case to the district court in the county where the probate case is pending under Rule 1B-701 NMRA. [Approved by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-202. Probate court pleadings; identification of party and lawyer.
All documents presented or filed by a lawyer shall bear the name, address, email address, and telephone number of the lawyer. For self-represented parties, the name and address are required, while the email address and telephone number are optional. [Approved by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-203. Notice of minors or persons under legal disability.

If any person with an interest in the subject matter of an application for the probate of a

will or the administration of an estate is under the age of eighteen (18) years, under a legal disability, or incapable of adequately representing the person's own interest, the application shall state that fact, including the name and age of the person if known, and the name and address of the guardian, conservator, or personal representative, if any has been appointed.
[Approved by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-204. Use of approved probate forms.

In proceedings under the Probate Code, the forms approved by the New Mexico Supreme Court may be used where applicable. Any document submitted to the court should substantially include the content of the approved form. In all probate proceedings, pleadings that are acceptable to the probate court may be used. Except as otherwise provided in these rules and the Probate Code, the form and presentation of pleadings, motions, and instructions shall be governed by these rules. [Approved by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-205. Unsworn affirmations under penalty of perjury.

Any written statement in a pleading, paper, or other document that is not notarized shall have the same effect in a probate court proceeding as a notarized written statement, provided that the statement includes the following:
(1) the date that the statement was given;
(2) the signature of the person who gave the statement; and
(3) a written affirmation under penalty of perjury under the laws of the State of New Mexico that the statement is true and correct. [Adopted by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]
Committee commentary. — This rule is consistent with the 2014 amendments to Rule 1-011 NMRA of the Rules of Civil Procedure for the District Courts and Rule 23-115 NMRA of the Supreme Court General Rules, which both provide that an unsworn, written affirmation has the same effect in a court proceeding as a notarized written statement as long as the affirmation satisfies the enumerated requirements. [Adopted by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

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-305. General instructions for probates (*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 found 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 will probated and the court appoint you as personal representative;

(2) within thirty days of your appointment send out notice to the decedent's devisees and heirs that the will has been probated, 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 devisees of the estate listed in the decedent's will; 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-021 recompiled and amended as 1B-305 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-306. Explanation of forms and how to complete; specific steps (*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-302 and 4B-304 NMRA.
(1) ***Form 4B-302 NMRA, Application for informal probate of a will and for informal appointment of personal representative (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 are designated in the will to act as personal representative, you have the first priority to act as personal representative. If you are not the first person designated

in the will or are not listed in the will to act as personal representative, the person nominated in the will to be personal representative and each of the devisees must consent to your appointment as personal representative. For example, if you are the second person listed to act as personal representative but every person listed in the will wants you to act as personal representative, each person with a higher priority to serve as personal representative must sign the consent section of Form 4B-302 NMRA, Application. If any person with an equal or higher priority to serve as personal representative does not consent to your appointment as personal representative, a formal proceeding in district court is required. *See* Section 45-3-203 NMRA 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-304 NMRA, Order of informal probate of will and appointment of personal representative (will).*** You must submit Form 4B-304 NMRA, Order of informal probate of will and appointment of personal representative (*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 probate of will and appointment of personal representative (*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 testamentary 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 probate of will and appointment of personal representative (*will*), Form 4B-304 NMRA, the court will file your acceptance and issue Letters testamentary (*will*), Form 4B-307 NMRA, to you.

(4) ***Form 4B-307 NMRA, Letters testamentary (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 testamentary (*will*), Form 4B-307 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, the devisees of the estate, 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, and 45-3-803 NMSA 1978. For Step 3 use Probate 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 about the probate process. Additionally, check with 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, even if the spouse is disinherited under the decedent's will. 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 children who are devisees under the decedent's will or who are entitled to a share of the estate under Section 45-2-302 NMSA 1978. 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 devisees of the estate listed in the decedent's will.** When you have paid all of the decedent's debts, you should distribute the assets that are left to the devisees listed in the will. 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 devisees 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 devisees or 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 devisees 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 NewMexico 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. 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-022 recompiled and amended as 1B-306 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-401. Notice; filing required.

Any notice required under the Probate Code shall be filed with the probate court. [Approved 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.]

1B-601. Closing probate; verified statement.

A personal representative or special administrator may commence closing an informal probate by filing a verified statement under Section 45-3-1003 NMSA 1978 or Section 45-3- 1204 NMRA. [Approved by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-602. Compensation.

Generally, personal representatives, special administrators, and professionals they employ, are entitled to reasonable compensation for duties performed. [Approved by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-701. Transfer from probate court to district court.

If transfer is required under Rule 1B-101(B)(2) NMRA, the probate court shall transfer the case to the district court in the county where the probate case is pending. Whether the transfer is initiated by the probate court or on request of an interested party or an attorney, the probate court shall make a copy of the file to retain in the probate court and the probate court shall send

the original file to the district court along with the transfer order. Unless otherwise ordered by the court, the person initiating the transfer shall check with the district court clerk about any fee that may be required. [Approved by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-102. Probate definitions.

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

"NMSA 1978" refers to the New Mexico Statutes Annotated 1978, which is the official compilation of New Mexico statutory law. The first number listed is the chapter, the second number listed is the article, and the third number is the specific section of law enacted by the Legislature. The Probate Code is published in the NMSA 1978 as Chapter 45 NMSA 1978. "NMRA" refers to the New Mexico Rules Annotated, which contains rules, forms, and jury instructions of the New Mexico courts. Probate forms are included in the NMRA and are also available electronically through the New Mexico Supreme Court website. Additional information may be obtained from your county probate court.

B. **Definitions.** As used in the Probate Court Rules, Rules 1B-101 to 1B-701 NMRA, and the Probate Court Forms, Forms 4B-101 to 4B-1001 NMRA

(1) "accounting" means any written statement that sets forth accurately the assets of an estate, the liabilities of an estate, and the receipts and disbursements for an estate;

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

(a) collecting and valuing the assets of an estate;

(b) paying the family and personal property allowances;

(c) paying the costs and expenses of administration and the valid debts of the estate, including all taxes; and

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

(3) "applicant" means a person who makes a written request to the probate court for an informal probate or appointment;

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

(5) "beneficiary" is a person who is given a gift (devise) by a will. The Probate Code uses a different word, "devisee," to mean the same thing. The forms use the word "devisee" rather than "beneficiary" because the Probate Code uses "devisee." If you need more information on a beneficiary, *see* Section 45-1-201(A)(4) NMSA 1978;

(6) "bond" means a financial security provided to the court by the personal representative and a bonding company to ensure that the personal representative of the estate faithfully does the job of personal representative. A bond is usually not required in an informal probate proceeding. However, a bond may be required if the will requires it, or if a person with an interest in the estate requests the court to require it and the court orders that a bond be posted. If you need more information on bonds, *see* Sections 45-3-601 and 45-3-603 to 45-3-606 NMSA 1978;

(7) "claim" means a debt of the decedent that can arise before or after the death of the decedent, including the last medical bills and funeral costs;

(8) "claimant," also called "creditor," means a person who is making a claim;

(9) "creditor" means a person to whom a debt is owed. The debt might be owed by the decedent or the estate, also called the "debtor." In order to collect against an estate, the creditor files a "claim";

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

(11) "descendant" means all of the children, grandchildren, great-grandchildren, etc., of a decedent. If you need more information on a descendant, *see* Section 45-1-201(A)(9) NMSA 1978;

(12) "demand for notice" means a written document filed in the district court where a probate is or should be filed requesting notice of any order or filing pertaining to a decedent's estate. The document must state the name of the decedent, the nature of the filing person's interest in the decedent's estate, and the filing person's address or the address of the filing person's lawyer. You, as the personal representative, filing an action in probate court, must contact the district court clerk in the county where the decedent was domiciled and ask if any person has filed a demand for notice relating to the decedent's estate. If someone has filed a demand for notice, you must send a copy of everything you file and every order the judge signs to the person who has demanded notice. If you need more information on a demand for notice, *see* Section 45-3-204 NMSA 1978;

(13) "devise," if used as a noun, means a gift of land (also called "real property") or other assets (also called "personal property") given by a will. If used as a verb, "devise" means to give a gift by a will of land or other assets. If you need more information on a devise, *see* Section 45-1-201(A)(10) NMSA 1978;

(14) "devisee" means a person listed in a will to receive assets from an estate. A common word for "devisee" is "beneficiary." The forms use the word "devisee" rather than "beneficiary" because the Probate Code uses "devisee." If you need more information on a devisee, *see* 45-1-201(A)(11) NMSA 1978;

(15) "distributee" means any person who receives property from a decedent who is not a creditor or purchaser. If you need more information on a distributee, *see* Section 45-1-201(A)(12) NMSA 1978;

(16) "domicile" means the last place the decedent had a true, fixed home, in a permanent establishment to which the decedent intended to return after an absence, and it is the place where the decedent voluntarily fixed his or her home with the intention of making it permanent;

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

(18) "family allowance" means an allowance of thirty thousand dollars ($30,000) from the decedent's estate to which the decedent's surviving spouse is entitled. If there is no surviving spouse, then the family allowance is payable to the decedent's minor and dependent children. This allowance is exempt from and has priority over all claims against the estate. The family allowance must be paid if the estate has sufficient assets. *See* Section 45-2-402

NMSA 1978;

(19) "fiduciary" includes a person serving as a personal representative, who acts primarily for another person's benefit in matters connected with that role. A fiduciary is held to the highest degree of good faith in performing the duties of the fiduciary. A personal representative is a fiduciary. *See* Section 45-1-201(A)(17) NMSA 1978 for the definition of "fiduciary";

(20) "formal proceeding" means a proceeding that must be conducted before a district court judge with notice to interested persons;

(21) "heirs" means those persons who are entitled to the property of the decedent if the decedent dies intestate. The priority of the people who are entitled to the property is listed in Sections 45-2-101 to 45-2-107 NMSA 1978;

(22) "informal proceeding" means a proceeding commenced before the probate court without prior notice to interested persons for probate of a will or appointment of a personal representative, except as provided in Section 45-3-306 NMSA 1978;

(23) "intestate" means to die

(a) without leaving a will;

(b) without leaving a valid will; or

(c) with an incomplete will;

(24) "notice" or "giving notice" means the process of sending written information to people interested in the estate telling them about events occurring that relate to the estate or administration of the estate. *See also* the specific requirements for notice to creditors in Paragraph (B)(25) below. The courts operate under a principle that people are entitled to "notice and an opportunity to be heard." This means that people are entitled to know what is happening in a case and are then given an opportunity to tell a judge what that person wants the judge to know about a case. When you complete the notice requirements in a case, you have told people about the important events happening in a case. You will meet your notice obligations if you mail a copy of everything that is filed with the court on the same day the document is filed with the court to the correct address for the following:

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

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

(c) anyone who asks for notice; and

(d) anyone who has filed a demand for notice.

See Sections 45-3-705, 45-3-306, and 45-3-310 NMSA 1978;

(25) "notice to creditors" or "giving notice to creditors" means notifying creditors that you are in the process of probating the estate. If you choose to give notice to creditors, you may publish notice in the newspaper, deliver written notice by mail or other delivery, or both. *See* Section 45-3-801 NMSA 1978;

(26) "personal representative" means the person appointed by the court to administer the estate as defined in Paragraph (B)(2) above. This person may be called an "executor," an "executrix," or an "administrator" in a will;

(27) "personal property" means property that is not land, real estate, or real property. Examples of personal property include bank accounts, stocks, bonds, insurance policies, pension plans, jewelry, furniture, and motor vehicles. Some personal property may have a designation regarding who receives the property after death (a "beneficiary designation") and is

not governed by a statute of distribution or by a will. A common example is an IRA or pension plan;

(28) "personal property allowance" means an allowance valued at fifteen thousand dollars ($15,000) or less from the decedent's estate in household furniture, automobiles, furnishings, appliances, and personal effects, to which the decedent's surviving spouse is entitled. If the value of such items is less than the personal property allowance of fifteen thousand dollars ($15,000), the value of the personal property allowance shall be paid from other assets to make up any deficiency. If there is no surviving spouse, then the personal property allowance is payable to the decedent's children who are devisees under the will or who are entitled to a share of the estate under Section 45-2-302 NMSA, or if there is no will, the allowance is payable to the decedent's intestate heirs. This allowance is payable in all events, if the estate has sufficient assets remaining after the family allowance has been paid. *See* Section 45-2-403 NMSA 1978;

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

(30) "probate case" means a court case originally commenced for one or more of the following purposes:

(a) to informally administer a decedent's estate;

(b) to informally appoint a personal representative or special administrator; or

(c) to provide for proof of authority for a domiciliary foreign personal representative;

(31) "Probate Code" means the Uniform Probate Code, Chapter 45 NMSA 1978;

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

(33) "revoked," when used with these forms, means a will or other document that the decedent has canceled. If a will is revoked, it has no effect;

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

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

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

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

(38) "will" means a document prepared and executed according to certain formalities that usually describes the distribution of the decedent's probate assets upon death. A will also typically designates a personal representative and may appoint a guardian for minor children. A will is sometimes referred to as "last will and testament." If you need more information on a will, *see* Section 45-1-201(A)(57) NMSA 1978.

[Approved, effective September 15, 2000; 4B-002 recompiled and amended as 1B-102 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-201. Commencement of a probate proceeding.

The probate courts shall accept applications for informal probates of wills and administrations and informal applications for special administrations of estates.

A. **Filing of application or proof of authority.** A probate proceeding is commenced by filing any of the following with the court:

(1) an application for informal appointment of a personal representative or for informal probate of a will under Section 45-3-301 NMSA 1978;

(2) an application for informal appointment of a special administrator under Section 45-3-614 NMSA 1978; or

(3) a proof of authority for a domiciliary foreign personal representative under Section 45-4-204 NMSA 1978.

A death certificate shall not be required by the probate court. The probate court's determination to grant or deny the relief requested shall be based on the information provided in the application or proof of authority.

B. **Prompt action required.** When an application or a proof of authority is filed, the probate court shall act promptly.

C. **Opposition; transfer.** If any interested person opposes the relief requested in an application for informal probate of a will, administration of an estate, appointment of a personal representative or special administrator, or a proof of authority, the probate court shall transfer the case to the district court in the county where the probate case is pending under Rule 1B-701 NMRA.

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

1B-202. Probate court pleadings; identification of party and lawyer.

All documents presented or filed by a lawyer shall bear the name, address, email address, and telephone number of the lawyer. For self-represented parties, the name and address are required, while the email address and telephone number are optional.

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

1B-203. Notice of minors or persons under legal disability.

If any person with an interest in the subject matter of an application for the probate of a will or the administration of an estate is under the age of eighteen (18) years, under a legal disability, or incapable of adequately representing the person's own interest, the application shall state that fact, including the name and age of the person if known, and the name and address of the guardian, conservator, or personal representative, if any has been appointed.
[Approved by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-204. Use of approved probate forms.

In proceedings under the Probate Code, the forms approved by the New Mexico Supreme Court may be used where applicable. Any document submitted to the court should substantially include the content of the approved form. In all probate proceedings, pleadings that are acceptable to the probate court may be used. Except as otherwise provided in these rules and the Probate Code, the form and presentation of pleadings, motions, and instructions shall be governed by these rules.

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

1B-205. Unsworn affirmations under penalty of perjury.

Any written statement in a pleading, paper, or other document that is not notarized shall have the same effect in a probate court proceeding as a notarized written statement, provided that the statement includes the following:

(1) the date that the statement was given;

(2) the signature of the person who gave the statement; and

(3) a written affirmation under penalty of perjury under the laws of the State of New Mexico that the statement is true and correct.

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

Committee commentary. — This rule is consistent with the 2014 amendments to Rule 1-011 NMRA of the Rules of Civil Procedure for the District Courts and Rule 23-115 NMRA of the Supreme Court General Rules, which both provide that an unsworn, written affirmation has the same effect in a court proceeding as a notarized written statement as long as the affirmation satisfies the enumerated requirements.

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

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-305. General instructions for probates (*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 found 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 will probated and the court appoint you as personal representative;

(2) within thirty days of your appointment send out notice to the decedent's devisees and heirs that the will has been probated, 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 devisees of the estate listed in the decedent's will; 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-021 recompiled and amended as 1B-305 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-306. Explanation of forms and how to complete; specific steps (*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-302 and 4B-304 NMRA.

(1) ***Form 4B-302 NMRA, Application for informal probate of a will and for informal appointment of personal representative (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 are designated in the will to act as personal representative, you have the first priority to act as personal representative. If you are not the first person designated in the will or are not listed in the will to act as personal representative, the person nominated in the will to be personal representative and each of the devisees must consent to your appointment as personal representative. For example, if you are the second person listed to act as personal representative but every person listed in the will wants you to act as personal representative, each person with a higher priority to serve as personal representative must sign the consent section of Form 4B-302 NMRA, Application. If any person with an equal or higher priority to serve as personal representative does not consent to your appointment as personal representative, a formal proceeding in district court is required. *See* Section 45-3-203 NMRA 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-304 *NMRA, Order of informal probate of will and appointment of personal representative (will).*** You must submit Form 4B-304 NMRA, Order of informal probate of will and appointment of personal representative (*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 probate of will and appointment of personal representative (*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 testamentary 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 probate of will and appointment of personal representative (*will*), Form 4B-304 NMRA, the court will file your acceptance and issue Letters testamentary (*will*), Form 4B-307 NMRA, to you.

(4) ***Form 4B-307 NMRA, Letters testamentary (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 testamentary (*will*), Form 4B-307 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, the devisees of the estate, 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, and 45-3-803 NMSA 1978. For Step 3 use Probate 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 about the probate process. Additionally, check with 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, even if the spouse is disinherited under the decedent's will. 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 children who are devisees under the decedent's will or who are entitled to a share of the estate under Section 45-2-302 NMSA 1978. 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 devisees of the estate listed in the decedent's will.** When you have paid all of the decedent's debts, you should distribute the assets that are left to the devisees listed in the will. 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 devisees 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 devisees or 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 devisees 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. 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-022 recompiled and amended as 1B-306 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

1B-401. Notice; filing required.

Any notice required under the Probate Code shall be filed with the probate court. [Approved 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.]

1B-601. Closing probate; verified statement.

A personal representative or special administrator may commence closing an informal probate by filing a verified statement under Section 45-3-1003 NMSA 1978 or Section 45-3-1204 NMRA.

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

1B-602. Compensation.

Generally, personal representatives, special administrators, and professionals they employ, are entitled to reasonable compensation for duties performed.

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

4B-302. Application for informal probate of will and for informal appointment of personal representative (*will*).
[For use with Rule 1B-306 NMRA]

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

No. _____

APPLICATION FOR INFORMAL PROBATE OF WILL AND FOR INFORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE (*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 decedent[1]:

(*Choose one*)

(*Review the priorities for appointment set out in Section 45-3-203(A) NMSA 1978 and Rule 1B-306 NMRA.*)

[ ] I have been nominated in the will of the decedent.

[ ] I am the surviving spouse of the decedent and am listed in the will as a devisee.

[ ] I am one of the devisees of the estate of the decedent as listed in the will.

[ ] I am the surviving spouse of the decedent, but am not listed in the will as a devisee.

[ ] I am one of the heirs of the estate of the decedent, but am not listed in the will as a devisee.

[ ] 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.

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 am filing the original of the will of the decedent, dated _____, at the same time I am filing this application. I believe that this is the current and correct will.

4. The following is a list of the devisees named in the will, [including myself][2], together with a list of the decedent's spouse, children, and heirs who may not be named in the will, if any:

Name	Address	Relationship To Decedent	Age (if minor)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

5. I believe that this will has been validly executed.

6. I have carefully searched for a document that revokes this will and have not found such a document.

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

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

9. (*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.

10. The decedent died more than one hundred twenty (120) hours ago. It has not been more than three (3) years since the decedent=s death.

WHEREFORE, I ask this court to

A. Enter an order informally probating the will of the decedent;

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

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

D. Ask the court clerk to issue Letters Testamentary to me; and

E. 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 Rule 1B-306 NMRA, 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: _____

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 Aheir,@ 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-102 recompiled and amended as 4B-302 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

4B-304. Order of informal probate of will and appointment of personal representative (*will*).
[For use with Rule 1B-306 NMRA]

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

No. _____

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 of the decedent. 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 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, 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 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 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; and

D. Letters Testamentary 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-104 recompiled and amended as 4B-304 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
_____, DECEASED.

No. _____

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-307. Letters testamentary (*will*).
[For use with Rule 1B-306 NMRA]

STATE OF NEW MEXICO
IN THE PROBATE COURT
_____ COUNTY

IN THE MATTER OF THE ESTATE OF
_____, DECEASED.

No. _____

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 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-107 recompiled and amended as 4B-307 by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]

DO NOT complete the remaining documents until the Court has appointed you as the Personal Representative of the Estate.

Make sure to use the assigned case number on all documents you file with the 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
_____, DECEASED.

No. _____

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 Adevisee.@
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
_____, DECEASED.

No. _____

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.]

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
_____, DECEASED.

No. _____

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 Amont 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.]

DO NOT complete the following document until you have fulfilled your duties as Personal Representative of the estate and all business of the estate is done and you are ready to close the estate.

**This document CANNOT be filed before 6 months from the date of your appointment as Personal Representative has passed.

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.]