

INFORMAL PROBATE

1

Application for Appointment as Personal Representative (known in other states as “executor”)

Part 1: The Application and Notice

(Forms and Instructions Packet)

Law Library Resource Center

Informal Probate

Appointment of personal representative and admission of will (if applicable)

Checklist

You may use the forms and instructions in this packet only if the following factors apply to your situation:

- ✓ You are related to a person who died, or you have a legal interest in the person's property.
- ✓ The person had a will *or did not* have a will.
- ✓ If the person did have a will, you have the original will, AND
- ✓ The person died more than 120 hours ago, *but less than 2 years ago*.*
- ✓ You want to file court papers to be appointed the Personal Representative of the estate.

*There are certain limited exceptions to the two-year limitation for informal probate listed in Arizona Revised Statutes (A.R.S.) Title 14 § 3108. An attorney may be of assistance in determining whether your situation qualifies for one of the exceptions or in handling the more complex "formal" probate process for which forms and instructions are not available from the court.

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, as well as a list of court-approved mediators can be found on the Law Library Resource Center website

Informal Probate

Application for appointment as personal representative

PART 1: The Application and Notice

Instructions and Forms

This packet contains court forms and instructions to file informal probate application for appointment as personal representative. Items in **bold** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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The documents you have received are copyrighted by the Superior Court of Arizona in Maricopa County. You have permission to use them for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

Important Notice

Training Requirements

Rule 38, Arizona Rules of Probate Procedure, generally requires that any person who is not a licensed fiduciary or a financial institution (as defined in A.R.S. § 14-5651) complete a training program approved by the Supreme Court before Letters of Appointment to serve as a guardian, conservator, or personal representative are issued by the Clerk of Superior Court. A temporary guardian and/or temporary conservator must complete the training within 30 days after the temporary appointment or before the appointment is made permanent, whichever is earlier.

Training should be completed before the court hearing.
Additional time may be granted for good reason.

You may access and complete the training free online at:

www.azcourts.gov/probate/Training.aspx

Go to the section for “Non-licensed Fiduciaries” and click on the link to access a narrated slide-show presentation of the materials applicable to your situation.

The required training manuals are included in this packet. You may also print the training materials in English *or Spanish* at the Law Library Self-Service Center for free. After reviewing the materials, you will need to inform the Court that you have completed the training by filing either the Certificate available at the end of the online training, or the Declaration of Completion form available in this packet and from the Law Library Self-Service Center. If you have questions about the training, contact the Law Library at 928-817-4165.

How to apply to be the personal representative

Procedures Part 1: Before you file

1. Decide if you are an appropriate person to be the personal representative. Generally, to apply, you must be over the age of eighteen (18) and be;
 - The spouse of the decedent,
 - A child of the decedent,
 - A parent of the decedent,
 - A brother or sister of the decedent,
 - A person entitled to property of the decedent,
 - A person who was named as personal representative by will, or
 - A creditor and forty-five (45) days have gone by since the person died.
2. View the required training information so that you may turn in the Certificates (or Declarations) of Completion of Training at the same time you file your Application and other papers for appointment as personal representative of the estate of the person who died ("the decedent"). See the "Notice Regarding Training Requirements" in this packet for more detailed information, but note that you may access and complete the training FREE online at:

<http://www.azcourts.gov/probate/Training.aspx>
3. Determine others who could be appointed personal representative, and if there is a will:
 - Identify others who meet the personal representative criteria described above.
 - Find out whether the decedent left a will. If there is a will, obtain the original will.

Note: If you are not sure about this, you may want to see a lawyer for assistance.
4. Ask for a Waiver:
 - Ask everyone entitled to be personal representative if they are willing to sign a waiver of appointment and will agree to your appointment as personal representative. If they are willing to sign, have them sign the waiver in this packet:
 - Waiver of Right to Appointment as Personal Representative
 - Estimate the total value of the decedent's estate. Ask people named in the will (if there is a will), or people who are heirs to the decedent's estate (if there is not a will), if they are willing to have you act as personal representative without a bond. If they are willing, ask them to sign the waiver of bond in this packet
 - Waiver of Bond

Note: a bond will be required unless it is waived by the will, in writing by all devisees/beneficiaries, or in writing by all heirs if there is no will.

5. Fill out the following forms in this packet IN FULL (black ink only):

- Probate Cover Sheet
- Probate Information Form
- Informal Checklist
- Declaration of Completion of Training
- Waiver of Right to Appointment as Personal Representative (filled out by person(s) waiving rights, if applicable)
- Waiver of Bond (filled out by person(s) waiving bond, if applicable)
- Application for Appointment of Personal Representative

Fill out the following forms in the packet AS DESCRIBED below (black ink only):

- Statement of Informal Appointment
 - Fill out in full EXCEPT leave the bond portion and the Probate Registrar's signature blank
- Letters of Appointment and Acceptance of Appointment
 - Fill out the Filing Person's information in the top left corner
 - Below that, fill in the Decedent's name
 - Sign at the end of the document, leave the signature line for the Deputy Clerk of the Superior Court blank
- Order to Personal Representative
 - Fill out the Filing Person's information in the top left corner
 - Below that, fill in the Decedent's name
 - Sign at the end of the document

6. Make Copies.

Use the chart below to see how many copies of each document you need to make and who to provide copies to. Bring all sets of copies with you when you file.

Procedures Part 2: Filing your documents

Set 1 - Originals for Clerk of Superior Court:	Set 2 - Copies for you:
• Probate Cover Sheet • Probate Information Form • Informal Checklist • Declaration of Completion of Training • <u>All</u> Waivers of Right to Appointment as Personal Representative (if applicable) • <u>All</u> Waivers of Bond (if applicable) • Application for Appointment as Personal Representative • Statement of Informal Appointment • Letters and Acceptance of Appointment • Order to Personal Representative • Will (if applicable)	• Declaration of Completion of Training • <u>All</u> Waivers of Right to Appointment as Personal Representative (if applicable) • <u>All</u> Waivers of Bond (if applicable) • Application for Appointment as Personal Representative • Statement of Informal Appointment • Letters and Acceptance of Appointment • Order to Personal Representative • Will (if applicable)

1. Bring all sets of copies to the filing counter at any Superior Court location in Yuma County.

Clerk of Superior Court
250 W. 2nd Street
Yuma, AZ 85364

Note on fees: A list of current fees is available from the Law Library Resource Center and from the Clerk of Superior Court's website. If you cannot afford the filing fee and/or the fee for having the papers served by the sheriff or by publication, you may request a deferral (payment plan) or waiver when you file your papers with the Clerk of Superior Court. Waiver and Deferral applications are available at no charge from the Law Library Resource Center.

Procedures Part 3: The appointment and proof of appointment

1. The Probate Registrar will either notify you that your documents are ready for pickup or, if there are problems, how to resubmit to correct those problems.
2. Pick up your documents once contacted by the Probate Registrar. Return to the location where you filed and visit the file counter where you submitted your application. Documents must be picked up within five (5) business days of notification.
3. There are two documents you must receive from the Probate Registrar:
 - (1) Statement of Informal Appointment
 - (2) Letters of Appointment and Acceptance of Appointment (certified copy)*
 - * Sometimes, you may not receive the Letters of Appointment until additional tasks are completed, such as posting a bond or completing training. The Probate Registrar will tell you what needs to be done.

If you receive BOTH (1) and (2): (1) Statement of Informal Appointment (2) Letters of Appointment You do <u>NOT</u> need to complete the following documents in this packet: • Notice of Application in Informal Proceeding • Proof of Delivery or Mailing Notice of Application in Informal Proceeding	If you receive ONLY (1): (1) Statement of Informal Appointment You must also complete and file the following documents in this packet: • Notice of Application in Informal Proceeding ○ You must send copies of this to all heirs or devisees within 30 days. • Proof of Delivery or Mailing Notice of Application in Informal Proceeding
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4. Continue to Packet 2 – The Appointment, Notice of Appointment, Inventory and Appraisal for the next steps you must take as the newly-appointed personal representative.
 - You must provide notice of your appointment to anyone who is entitled to inherit from the estate. (All heirs or devisees.)

**SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY**

FOR CLERK'S USE ONLY

PROBATE COVER SHEET

Case Number: _____

A person needing a guardian or conservator is the “ward.” A person who died is the “decedent.”

Name(s) of the Ward(s), Decedent(s), Trust(s), or Individual(s):

1. _____
2. _____
3. _____
4. _____

The person who is filing this case is the “petitioner.”

Name(s), Address(es), Telephone Number(s), and Email Address(es) of the Petitioner(s):

1. _____
2. _____
3. _____
4. _____

Information About Petitioner's Attorney: ☐ Petitioner is not represented by an attorney, or

Name: _____ BAR #: _____

Telephone: _____ Email: _____

☐ An Interpreter is needed for this language: _____

(List Name(s) of) Person(s) who need interpreter:

Name: _____

Name: _____

Name: _____

STAFF USE ONLY: REASON FEES NOT PAID: ☐ Government Charge ☐ Deferred ☐ Waived

NATURE OF ACTION: Place an "X" next to number which describes the nature of the case. Check only one.

200 ESTATE

- ☐ 201 Formal Appointment of Personal Representative
- ☐ 202 Informal Appointment of Personal Representative
- ☐ 203 Ancillary Administration
- ☐ 204 Affidavit of Succession to Realty
- ☐ 205 Trust Administration
- ☐ 206 Formal Probate of Will
- ☐ 207 Informal Probate of Will
- ☐ 208 Proof of Authority
- ☐ 210 Other _____
Specify
- ☐ 211 Single Transaction/Limited Conservatorship
- ☐ 212 Foreign Domiciliary

220 CONSERVATOR

- ☐ 221 Minor
- ☐ 222 Adult Incapacitated Person

230 GUARDIANSHIP

- ☐ 231 Minor
- ☐ 232 Adult (including those with Dementia, Alzheimer's)
- ☐ 233 Adult Requiring Inpatient Psychiatric Treatment

240 GUARDIANSHIP-CONSERVATOR COMBINATION

- ☐ 241 Minor
- ☐ 242 Adult (including those with Dementia, Alzheimer's)
- ☐ 243 Adult Requiring Inpatient Psychiatric Treatment

Today's Date: _____

Signature of Petitioner or Petitioner's Attorney

Notice: Submit this form with new cases only. If there is already a (Yuma County) Probate Court case number and you are filing in an existing Superior Court case in Yuma County, do not submit this form.

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for _____

SUPERIOR COURT OF ARIZONA YUMA COUNTY

In the Matter of:

Case Number: _____

Deceased.

PROBATE INFORMATION FORM FOR DECEDENT'S ESTATE

☐ **Updated** (Check this box if this is an updated form.)

Instructions:

1. Complete this form to the best of your knowledge and ability and then file it with your application or petition.
2. If you later learn of additional information that you omitted or if you later learn that any information in this form is incorrect, you must file an updated probate information form.
3. For purposes of this form, "Financial Institution" means a national banking association, a holder of a banking permit under Arizona law, a savings and loan association authorized to conduct trust business in Arizona, a title insurance company qualified to do business in Arizona, or a trust company holding a certificate to engage in trust business from the superintendent of financial institutions.
4. Items designated with an asterisk (*) constitute "contact information" under Rule 13, Arizona Rules of Probate Procedure. If contact information changes, you must file a notice of change of contact information.
5. This form is filed as a confidential document, so it is not available to the general public. In addition, you are not required to provide anyone with this form, other than the court.

A. Information about the Nominated Personal Representative / Special Administrator:

Name: _____

Is this person or entity an Arizona Licensed Fiduciary? ☐ Yes ☐ No

If Yes, write that person or entity's Licensed Fiduciary Number on the line below:

Mailing Address:* _____

Physical Address:* _____

Work Telephone Number:* _____

Email Address:* _____

If the nominated personal representative/special administrator is an Arizona Licensed Fiduciary or a Financial Institution, proceed to section B below. Otherwise, complete the remainder of section A.

Home Telephone Number:* _____

Cellular Phone Number:* _____

Date of Birth: _____

Social Security Number: _____

Race: _____

Height: _____

Weight: _____

Eye Color: _____

Hair Color: _____

Sex: _____

B. Information about the Decedent:

Name: _____

Date of Birth: _____

Date of Death: _____

Social Security Number: _____

I, _____ (your name), under the penalty of perjury, do hereby swear that the foregoing information is true and correct to the best of my knowledge and belief.

Date

Signature

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

Informal Probate checklist

Please complete the checklist below and include with the application. Applications missing any components listed will be rejected.	
Probate Cover Sheet and Information Form	
☐	Is the Probate Cover Sheet completely filled out and is the correct Nature of Action checked?
☐	Is the Probate Information Form for Decedent's Estate completely filled out and signed?
Original Will	
☐	Is the ORIGINAL WILL signed, with two (2) witnesses? Yes ☐ No ☐ - If you do not have the signed original will, you cannot go through the Informal process. The signed original will is needed on testate estates ONLY. Was the ORIGINAL WILL signed on or after October 1, 2019? Yes ☐ No ☐ - If the will was signed on or after October 1, 2019, and is not made self-proved as described in A.R.S. § 14-2504, are both of the witnesses disinterested (i.e., not a devisee and not related to a devisee by blood, marriage, or adoption)? If the answer to this question is not "yes," the will is not valid. (See A.R.S. § 14-2505.)
Application for Informal Appointment of Personal Representative	
☐	Is the <i>Application for Informal Appointment of Personal Representative</i> completely filled out with all questions answered? Is it signed and notarized?
☐	Is the Date of death completed (#3 on the <i>Application</i>)?
☐	Is the date of the will on the <i>Application</i> (#4 and #9,) the same as the date(s) on the Will?
☐	Are the surviving spouse, surviving children, heirs, and anyone entitled to take property listed (#5 on the <i>Application</i>)?
☐	Is the "tardy" language / restrictions included on <i>Application</i> (if applicable) (#13)? Only needed if it has been more than two (2) years since the date of death.
Statement of Informal Appointment	
☐	Is the <i>Statement of Informal Appointment</i> completely filled out?

☐	Is the date on the <i>Statement of Informal Appointment</i> (“ <i>THE PROBATE REGISTRAR FINDS</i> : #1, and “THEREFORE”, #2) the same as the date(s) on the Will?
☐	Is the “tardy” language / restrictions included on <i>Statement of Informal Appointment</i> (if applicable) (should be manually entered after “THEREFORE”, #4)
Letters and Acceptance of Appointment	
☐	Is the “tardy” language / restrictions included on the <i>Letters and Acceptance of Appointment</i> (if applicable)?
☐	Have you signed and dated page 2 of the <i>Letters and Acceptance of Appointment</i> ?
Other	
☐	Is the <i>Waiver of Bond</i> included, signed, and notarized (if applicable)?
☐	Are the <i>Waiver of Right to Appointment as Personal Representative and Consent to Appointment of Personal Representative</i> included, signed, and notarized (if applicable)?
☐	Is the <i>Order to Personal Representative and Acknowledgement and Information to Heirs/Devises</i> signed by the proposed Personal Representative?
☐	Is the Training Certificate for the proposed Personal Representative included? To complete the training, go to the following website: (English) http://www.azcourts.gov/educationservices/COJET-Classroom/Probate-Personal-Representative (Spanish) https://azcourthelp.org/finder/probate/conservatorship/28-conservatorship-form-training-english/file

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for _____

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

In the Matter of the Estate of:

Case Number: _____

_____ A ☐ Deceased or ☐ Protected Person

DECLARATION OF
COMPLETION OF TRAINING
for NON-LICENSED
FIDUCIARIES

INSTRUCTIONS: Fill out this Declaration completely and provide accurate information. Make at least one copy. You will need to file the original with the Clerk of Superior Court and provide a copy to the Probate Registrar before receiving any *permanent* letters of appointment.

Rule 38 of the Arizona Rules of Probate Procedure requires that a person to be appointed guardian, conservator, or personal representative of an estate, who is neither a state-licensed fiduciary nor a corporation, complete a training program approved by the Supreme Court of this state before permanent Letters of Appointment are issued, or within 30 days of a temporary or emergency appointment.

UNDER PENALTY OF PERJURY

I state to the Court that in accord with Rule 38 of the Arizona Rules of Probate Procedure, I have completed the required training for non-licensed, non-corporate fiduciaries, as indicated below: (Check all that apply and provide applicable information.)

- ☐ Unlicensed Fiduciary
☐ Conservatorship
☐ Personal Representative
☐ Guardianship

Date completed: _____
Date completed: _____
Date completed: _____
Date completed: _____

Date: _____

Signature

Printed Name

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing ☐ Self, without a Lawyer or ☐ Attorney for _____

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

Case Number: _____

In the Matter of the Estate of:

☐ an Adult ☐ a Minor, deceased

WAIVER OF RIGHT TO APPOINTMENT
AS PERSONAL REPRESENTATIVE AND
CONSENT TO APPOINTMENT OF
PERSONAL REPRESENTATIVE

THE UNDERSIGNED PERSON STATES AS FOLLOWS:

1. I am: (check one box)

- ☐ (Check only if there is NO Will) an heir of the decedent's estate without a Will or
☐ (Check only if there IS a Will) a person named in the decedent's Will.

2. I have priority for appointment as Personal Representative of this estate under A.R.S. 14-3203 because: (check which box applies)

- ☐ (Check only if there IS a Will) I am named as Personal Representative in the Will of the person who died;

Case No. _____

- ☐ (Check only if there IS a Will) I am the surviving spouse of the person who died and I am named in the Will;
- ☐ (Check only if there IS a Will) I am another person named in the Will of the person who died;
- ☐ I am the surviving spouse of the person who died;
- ☐ I am another person entitled to inherit the property of the person who died because (explain) _____
3. I waive and want to give up any right I have to appointment as the Personal Representative of this estate.
4. I consent to the appointment of (name) _____ as Personal Representative of the estate.

OATH OR AFFIRMATION AND VERIFICATION

I swear or affirm that the information on this document is true and correct under penalty of perjury.

Signature

Date

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____
(Date)

By: _____.

(Notarial Officer or Deputy Clerk's Stamp or Seal)

Notarial Officer or Deputy Clerk

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing ☐ Self, without a Lawyer or ☐ Attorney for _____

For Clerk's Use Only

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

Case No: _____

In the Matter of the Estate of:

WAIVER OF BOND

☐ an Adult ☐ a Minor, deceased

THE UNDERSIGNED PERSON STATES AS FOLLOWS:

1. I am: (check one box)

☐ (only if there is no Will) an heir of the decedent's estate without a Will or

☐ (only if there is a Will) person named in the decedent's Will.

2. The person applying to be the Personal Representative of the estate is:

(Name)_____.

Case No: _____

3. I waive any and all bond in connection with his or her appointment as Personal Representative. I ask that the court not require any bond in this proceeding.

Signature

Date

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed by me this: _____

Date

By: _____.

(Notarial Officer or Deputy Clerk's Stamp or Seal)

Notarial Officer or Deputy Clerk

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing ☐ Self, without a Lawyer or ☐ Attorney for _____

For Clerk's Use Only

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

In the Matter of the Estate of:

Case No: _____

☐ an Adult or ☐ a Minor, deceased

☐ APPLICATION FOR INFORMAL
APPOINTMENT OF PERSONAL
REPRESENTATIVE
(Person Died Without a Will – “Intestate
Estate”)

OR

☐ APPLICATION FOR INFORMAL
APPOINTMENT OF PERSONAL
REPRESENTATIVE
AND
FOR INFORMAL PROBATE OF WILL
(Person Died With a Will – “Testate
Estate”)

1. This is an application for: (check one box)

☐ Informal Appointment of Personal Representative because the person died without
a Will (“Intestate Estate”)

OR

☐ Informal Probate of Will and for Informal Appointment of Personal Representative
because the person died with a Will (“Testate Estate”).

2. I live in _____ (County) _____ (State), and I am entitled
to file this Application under A.R.S. 14-3301 because I am: (check the box that applies)

☐ The surviving spouse of the person who died;

- ☐ An adult child of the person who died;
- ☐ A parent of the person who died;
- ☐ A brother or sister of the person who died;
- ☐ (Check the box only if there is not a Will) A person entitled to property of the person who died under Arizona law;
- ☐ (Check the box only if there is a Will) A person who was nominated/named as Personal Representative by a Will;
- ☐ At least 45 days have passed since the person died, and I am a creditor.

3. The name of the person who died is: _____.
 This person died on _____, (date of death) at the age of _____ years. At the time of death, the person who died lived in the following county and state: _____, and 120 hours or more have passed since the time of death.

4. ☐ There is a Will, and the original of the Will of the person who died, dated: _____ is filed with this Application.

5. The person who died left behind the following persons who are the surviving spouse, children and others entitled to take property under Arizona law: (if you need more space, attach a separate page):

Name	Age	Relationship	Address
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

6. This is the correct county in which to file the probate because the person who died was a resident of this county or owned property in this county at the time of death.

7. To the best of my knowledge, (check one box)

☐ no personal representative for the estate has been appointed in this state or elsewhere

OR

☐ a personal representative for the estate has been appointed in this state or elsewhere:

_____ (name of the person)

_____ (name of state)

8. ☐ I have OR ☐ I have not received a demand for notice from any interested person, and

☐ I am OR ☐ I am not aware of any demand for notice by any interested person or any proceedings concerning the person who died, in this state or elsewhere.

9. ☐ I believe that the person who died had no Will. (Check the box only if there is not a Will.)

I exercised reasonable diligence, and I am not aware of any unrevoked Will, amendment to a Will, or a trust signed by the person who died that relates to property in this state.

OR

- ☐ I believe that the Will dated _____ was validly executed and is the last Will of the person who died. I exercised reasonable diligence, and I am not aware of any document that revokes the Will, or any amendment to the Will signed by the person who died.

10. I have priority for appointment as Personal Representative because there is a will and: (Check boxes that apply – *if* there is a will)

- ☐ I am named as personal representative in the Will of the person who died;
- ☐ I am the surviving spouse of the person who died and am named in the Will;
- ☐ I am another person named in the Will of the person who died;
- ☐ I am the surviving spouse of the person who died;
- ☐ I am another person entitled to inherit the property of the person who died because (explain):

11. The names, relationships and addresses of all parties who have a prior or equal right to appointment under A.R.S. 14-3203 are (if you need more space, attach a separate page):

- a. Name: _____
Relationship: _____
Address: _____
- b. Name: _____
Relationship: _____
Address: _____
- c. Name: _____
Relationship: _____
Address: _____

12. Bond Information: (Check one box)

- ☐ A bond is not required of the Personal Representative under A.R.S. 14-3603 because all the legal heirs have filed written waivers of bond. I request to be appointed Personal Representative to administer the estate without bond,

OR

- ☐ A bond is not required because the Will waives the bond for the Personal Representative. I request to be appointed Personal Representative to administer the estate without bond,

OR

Case No. _____

- ☐ A bond is required of the Personal Representative under A.R.S. 14-3603 because all the legal heirs have not filed written waivers of bond and my best estimate of the fair market value of all the property owned by the person who died and subject to the probate jurisdiction of the Court is as follows:

Personal Property	\$ _____
Real Property (less encumbrances)	\$ _____
Expected annual income of Estate	\$ _____
TOTAL	\$ _____

I request to be appointed Personal Representative to administer the estate with a bond as might be required.

13. The time for informal appointment has not expired under A.R.S. 14-3108 because:
(Check which box is true)

- ☐ Two years have not passed since the death of the person; OR
- ☐ Other (Explain) (See a lawyer to help with this, if more than 2 years have passed):

OATH or AFFIRMATION AND VERIFICATION OF APPLICANT

The Applicant states under oath or affirms that the statements in the Application are accurate and complete to the best of his or her knowledge and belief.

Signature of Applicant

Printed Name of Applicant

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____
(Date)

By:_____.

Deputy Clerk or Notarial Officer
(Deputy Clerk or Notarial Officer's Stamp or Seal)

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing ☐ Self, without a Lawyer or ☐ Attorney for _____

For Clerk's Use Only

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

In the Matter of the Estate of

Case No.: _____

NOTICE OF APPLICATION
IN INFORMAL PROCEEDING

☐ An Adult OR ☐ a Minor, deceased

This Notice is being sent to those persons who have, or may have, some interest in the Estate of the person named in the court caption above, who died on _____ (date).

NOTICE IS GIVEN that I have filed an informal proceeding relating to this Estate as follows (check one box):

☐ An Application for Appointment of Personal Representative Without a Will. (Check the box only if there is no will.) OR

☐ An Application for Informal Probate of a Will and for Appointment of Personal Representative. (Check the box only if there is a will).

The Application was filed with the Probate Registrar on _____
(date and time Application was filed) at the office of the Probate Registrar, Superior Court of Arizona in Yuma County.

Case No.: _____

LOCATION OF PAPERS: Documents relating to the Estate are on file with the Court, and available for your review at any Clerk of Superior Court records location:

Clerk of Superior Court
250 W. 2nd Street
Yuma, AZ 85364

COPY OF WILL (Only if there is a Will): A copy of the Will is attached to this notice for you.

If you wish to contest the probate, you have four (4) months from the date you receive this Notice to begin a formal probate case.

DATED: _____

Signature

Print Name

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing ☐ Self, without a Lawyer or ☐ Attorney for _____

For Clerk's Use Only

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

In the Matter of the Estate of

Case Number: _____

PROOF OF DELIVERY OR MAILING
NOTICE OF APPLICATION IN
INFORMAL PROCEEDING

☐ an Adult OR ☐ a Minor, deceased

1. I delivered or mailed by certified or registered mail, postage prepaid, a copy of the Notice of Application in Informal Proceeding on _____(date) according to the requirements of law as follows:
 - A. To any person who filed a written demand for notice with the Court as required by A.R.S. 14-3306.
 - B. To any person who has a prior or equal right to appointment unless he or she waived notice in writing, and it is filed with this Court.
2. I delivered or mailed the Notice of Application in Informal Proceedings to the following people on the following dates:

Name: _____

Address: _____

Date Mailed or Delivered: _____

Case No.: _____

Name: _____

Address: _____

Date Mailed or Delivered: _____

Name: _____

Address: _____

Date Mailed or Delivered: _____

Name: _____

Address: _____

Date Mailed or Delivered: _____

Name: _____

Address: _____

Date Mailed or Delivered: _____

Name: _____

Address: _____

Date Mailed or Delivered: _____

Name: _____

Address: _____

Date Mailed or Delivered: _____

(Attach additional pages if necessary.)

Print Name _____

Signature _____

Date _____

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing ☐ Self, without a Lawyer or ☐ Attorney for _____

For Clerk's Use Only

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

In the Matter of the Estate of:

Case No: _____

☐ STATEMENT OF INFORMAL
APPOINTMENT OF PERSONAL
REPRESENTATIVE (Person Died Without
A Will – "Intestate Estate")
OR

☐ an Adult or ☐ a Minor, deceased

☐ STATEMENT OF INFORMAL PROBATE
OF A WILL AND INFORMAL
APPOINTMENT OF A PERSONAL
REPRESENTATIVE (Person Died With a
Will – "Testate" Estate")

THE PROBATE REGISTRAR FINDS:

1. An Application for Informal Appointment of a Personal Representative has been submitted by _____, requesting the following:

- ☐ (Check the box only if there is no Will)
The appointment of _____ as the Personal Representative to
administer the estate of the person who died without a Will,
- ☐ (Check the box only if there is a Will) The admission to probate of the Will of
the person who died dated _____.

- ☐ (Check the box only if there is a Will) The appointment of _____ as the Personal Representative to administer the estate of the person who died with a Will.
2. ☐ The Probate Registrar has found compliance with A.R.S. 14-3303 and is satisfied that the Will is entitled to probate.
- ☐ The Probate Registrar has found compliance with A.R.S. 14-3308 and is satisfied that the person named below is entitled to appointment as Personal Representative under Arizona law.

THEREFORE:

1. (Name) _____, is appointed as Personal Representative of the estate of the person who died.
2. ☐ (Check the box only if there is a Will). The Will of the person who died, dated _____ is admitted to informal probate.
3. ☐ No bond is required OR ☐ the Personal Representative shall post a bond in the amount of \$_____ with this Court. Letters will be issued to the Personal Representative upon accepting and posting a bond (if required).
4. The Personal Representative shall immediately notify the Court in these proceedings of any change in his or her address and shall be responsible for the costs resulting from his or her failure to do so.

WARNING:

THIS APPOINTMENT IS NOT EFFECTIVE
UNTIL LETTERS HAVE BEEN ISSUED.

Date

Probate Registrar

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing ☐ Self, without a Lawyer OR ☐ Attorney for ☐ Petitioner OR ☐ Respondent

For Clerk's Use Only

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

In the Matter of the Estate of:

Case No.: _____

☐ an Adult OR ☐ a Minor, deceased

LETTERS OF APPOINTMENT
OF PERSONAL REPRESENTATIVE
AND ACCEPTANCE OF
APPOINTMENT AS PERSONAL
REPRESENTATIVE

LETTERS OF PERSONAL REPRESENTATIVE

_____ (name) is appointed as Personal
Representative of this Estate without restriction except as follows:

WITNESS: _____ (date)

CLERK OF SUPERIOR COURT

By _____
Deputy Clerk of Superior Court

Case Number: _____

ACCEPTANCE OF APPOINTMENT

I accept the duties of Personal Representative of the Estate of the above-named person who has died and do solemnly swear or affirm that I will perform the duties as Personal Representative according to law.

DATED: _____

Signature of Personal Representative

Printed Name

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing ☐ Self, without a Lawyer OR ☐ Attorney for _____

For Clerk's Use Only

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

In the Matter of the Estate of

Case Number: _____

Deceased

ORDER TO PERSONAL
REPRESENTATIVE

Warning: Your appointment is not effective until the Clerk of Superior Court has issued letters appointing you as personal representative.

You have asked the court to appoint you as the personal representative of the Estate of the deceased ("decedent"). While you serve as the Estate's personal representative, you will be under this court's authority and supervision.

This Order generally explains your duties to the Estate and this court. You may have additional duties imposed by statutes, rules, or the court. By separate order, the court may modify or excuse you from performing a specific duty described below.

In Arizona, beneficiaries and creditors of an estate are expected to protect their own interests in the Estate. You must provide them with sufficient information to enable them to protect their interests. However, the court may review or supervise your actions if an interested person files a written request asking the court to do so. In addition, the court may hold you personally liable and responsible for any damage or loss to the Estate resulting from a violation of your duties.

YOUR DUTIES AS PERSONAL REPRESENTATIVE

Chapter 3, Title 14 of the Arizona Revised Statutes (A.R.S.) sets forth the powers and duties of a personal representative. You are responsible for knowing and performing your duties according to these statutes. The following is an outline of some of your duties as personal representative.

1. General Fiduciary Duties. As a personal representative, you are a fiduciary and must observe the same standard of care applicable to trustees. A.R.S. § 14-3703(A). This means you have a legal duty of fairness and impartiality to the beneficiaries and the creditors of the Estate. *In re Estate of Fogleman*, 197 Ariz. 252, 258, ¶ 17, 3 P.3d 1172, 1178 (App. 2000). You must be cautious and prudent in dealing with Estate assets. The Estate assets do not belong to you, and you must never use them for your personal benefit or mix them with your assets or anyone else's assets. Arizona law prohibits a personal representative from participating in transactions that involve a conflict of interest between the personal representative's fiduciary obligations and the personal representative's individual interests. *See* A.R.S. § 14-3713. Other than receiving reasonable compensation for your services as personal representative, you may not profit from dealing with Estate assets.
2. Provide Required Notices.
 - (a) Mail a Copy of this Order. Within 30 days after the Clerk of Superior Court issues your letters of appointment, you must mail a copy of this Order to Personal Representative to all the decedent's heirs and devisees and to any other person who has filed a demand for notice.
 - (b) Notice of Appointment. Within 30 days after the Clerk of Superior Court issues your letters of appointment, you must mail notice of your appointment to the heirs and devisees whose addresses are reasonably available to you. If your appointment was made in a formal proceeding, you do not need to give notice to those persons who were given notice of the formal appointment proceeding. A.R.S. § 14-3705.
 - (c) Notice of Admission of Will to Probate. Within 30 days of the admission of the decedent's will to informal probate, you must provide all the decedent's heirs and devisees with both written notice of the will's admission to probate and a copy of the will. You must notify the heirs and devisees that they have 4 months from receipt of the notice to contest the probate. A.R.S. § 14-3306(B).
3. File Proof of Compliance. Within 45 days after the Clerk of Superior Court issues your letters of appointment, you must file with the court a sworn statement that you have complied with your obligations under paragraph 2. The statement must list the name and address of each person to whom you mailed the required document, the title of each document you sent that person, and the date you mailed the document to the person.
4. Notice to Creditors. Unless a predecessor personal representative already has fulfilled this duty or you were appointed more than two years after the decedent's date of death, you must publish a notice once a week for 3 consecutive weeks in a newspaper of general

circulation in this county. The notice must announce your appointment as personal representative, provide your mailing address, and advise the Estate's creditors that their claims will be barred unless the creditors present those claims within 4 months after the date the notice is first published. In addition, you must mail or personally deliver a similar notice to all known or reasonably ascertainable creditors of the Estate. A.R.S. § 14-3801(A) and (B); *Tulsa Prof. Collection Servs., Inc. v. Pope*, 485 U.S. 487, 491 (1988).

5. General Duty to Gather and Manage Estate Assets.

- (a) You must promptly identify and take possession of Estate assets and make proper arrangements to protect them. A.R.S. § 14-3709(A). Estate assets are property (real and personal) the decedent owned at the time of death. However, Estate assets do not include property that is nontestamentary in nature.
- (b) An asset may be nontestamentary in nature if a contractual provision controls the disposition of the assets after the decedent's death, such as a life insurance policy, an annuity, or a retirement account that has a beneficiary designation other than the Estate. In addition, an asset owned by the decedent as "joint tenants with right of survivorship," "pay on death," or "transfer on death" may be nontestamentary in nature if any joint tenant or designated beneficiary survives the decedent. *See* A.R.S. § 14-6101.
- (c) The Internal Revenue Service (IRS) requires each estate to have its own tax identification number because a decedent and that decedent's estate become two separate tax entities after the decedent's death. Thus, you will likely need to obtain a tax identification number for the Estate from the IRS.
- (d) If you take possession of any cash or cash equivalents on behalf of the Estate, you should open a bank account for the Estate. The bank most likely will require the Estate's taxpayer identification number and a certified copy of your Letters of Personal Representative before it will open the account. The name on the account should be either "Estate of (decedent's name), by (your name), Personal Representative" or "(your name), Personal Representative, Estate of (decedent's name)." When you sign any documents, including checks, in your capacity as personal representative, you should be certain to sign your name as follows: "(your name), Personal Representative, Estate of (decedent's name)." Deposit all income, cash, or other receipts into the Estate's account. Similarly, all disbursements from the Estate should be made from that same account. Do NOT use your personal accounts to transact Estate business.
- (e) Make all checks payable to a specific person or entity. Do NOT make any checks payable to "cash" or to "miscellaneous." You should make checks payable to yourself only to reimburse yourself for expenses or fees that have been itemized on a statement or receipt. You should make a note on each check describing its purpose (e.g., rent payment). In addition, you should keep all receipts or other evidence relating to the

payment. Likewise, be sure to keep all the monthly bank statements so they can be used to prepare the Estate accounting(s).

- (f) Do NOT title Estate assets in your name individually or anyone else's name, or as a joint account, trust account ("in trust for"), or payable on death ("POD") account. Do not mix any Estate assets with your own assets or anyone else's assets.
- 6. Restricted Assets. If the court has entered an order restricting an account, you must file Form 10, Proof of Restricted Account from Financial Institution, within 30 days after the court's order, or as otherwise ordered by the court. Form 10 must be signed by an authorized representative of the financial institution. Ariz. R. Prob. P. 36(b)(2). If the court has restricted your authority over any real property located in Arizona, within 10 court days after issuance of your letters of appointment, you must record a certified copy of those letters of appointment in the county where that real property is located and, no later than 45 calendar days after the county recorder has recorded your letters of appointment, you must file a copy of the recorded letters with this court. Ariz. R. Prob. P. 39(f).
- 7. Inventory. Unless a predecessor personal representative already has fulfilled this duty, within 90 days after your letters of appointment are issued, you must prepare an inventory that lists with reasonable detail the property the decedent owned at the time of death and the fair market value of each item as of the date of the decedent's death. A.R.S. § 14-3706(A); Ariz. R. Prob. P. 50(a). You must either:
 - (a) file the inventory with the court and mail a copy of it to all interested persons who request a copy, or
 - (b) not file the inventory with the court but mail a copy of the inventory to each of the heirs if the decedent died intestate or to each of the devisees if the decedent's will was admitted to probate, and to any other interested person who requests a copy of the inventory.

A.R.S. § 14-3706(B). If you do not file the inventory with the court, you must file a sworn document that identifies each person to whom you provided the inventory and how and when you provided them with the inventory. Ariz. R. Prob. P. 50(a)(3).

If you discover an additional asset or discover that the value of an asset listed on the inventory is erroneous or misleading, you must prepare a supplementary inventory. If you filed the original inventory with the court, you must file the supplementary inventory with the court. If you mailed or delivered a copy of the original inventory to the heirs or devisees, you must do the same for the supplementary inventory. A.R.S. § 14-3708; Ariz. R. Prob. P. 50(a)(4).

- 8. Determine Statutory Allowances. You must determine whether any individual is entitled to statutory allowances under A.R.S. §§ 14-2402, -2403, and -2404. Statutory allowances include a homestead allowance, exempt property allowance, and family allowance.

9. **Keep Detailed Records.** You must keep detailed records of your administration of the Estate. This includes a record of all funds and other assets you receive on the Estate's behalf and a record of all disbursements you make. You must keep receipts to prove out-of-pocket expenses.
10. **Taxes.** You must determine what, if any, tax returns must be filed for the decedent and the Estate, file any necessary returns, and pay any taxes owed.
11. **Pay Valid Claims and Expenses.** You must determine which claims against, and expenses of, the Estate are valid and should be paid. You must promptly provide written notice to any creditor whose claim is disallowed that the claim will not be paid or will not be paid in full. Failure to provide timely notice of the disallowance may result in allowance of the claim by default. *See* A.R.S. § 14-3806. If the Estate has enough assets to satisfy any statutory allowance and to pay all valid claims against the Estate, you must pay all valid claims against the Estate. If the Estate does not have enough assets to pay in full any statutory allowances and all allowed claims, you must determine the order in which the allowances and claims should be paid according to the law. *See* A.R.S. §§ 14-2402(B), 14-2403(D), 14-2404(B), and 14-3805. You may be personally liable if you pay an allowance or a claim that should not be paid.
12. **Distribute Remaining Assets.** After payment of any statutory allowances and all allowed claims against the Estate, you must distribute the remaining Estate assets as directed in the decedent's probated will, or, if the court did not admit a will to probate, to the decedent's heirs in accordance with Arizona's intestacy statutes. If the Estate does not have enough assets to make the devises set forth in the decedent's probated will, you must determine how Arizona law requires the distributions to be made. *See* A.R.S. § 14-3902. You may be personally liable if you improperly distribute Estate assets.
13. **Change of Address.** If your contact information changes during your appointment, you must file Form 13, Notice of Change of Fiduciary's Contact Information, no later than 10 court days after such a change occurs. Ariz. R. Prob. P. 13(c)(1)(A).
14. **Compensation for Services as Personal Representative.** If you are a licensed fiduciary, are related by blood or marriage to the decedent, or are nominated in the decedent's will to serve as personal representative, you may be entitled to compensation for your services as personal representative of the Estate. *See* A.R.S. §§ 14-3719 and 14-5651. If you wish to be compensated for your services as personal representative, you should keep detailed records of the time you spend performing your duties. The time records should include the date you perform each task, a description of the task, the amount of time you spent on the task, and the hourly rate you are charging for that task. Read Rule 33, Arizona Rules of Probate Procedure, and Arizona Code of Judicial Administration § 3-303 for more information about compensation for personal representative services.

15. Court Involvement. To reduce expenses, estates are administered, and estate claims and expenses are paid, with little court involvement. The court does not oversee the administration of a decedent's estate unless an interested person requests court intervention. *See* A.R.S. § 14-3704.
16. Close the Estate. After you have fully administered the Estate and the Estate assets have been distributed, the Estate must be closed, either formally or informally. To informally close the Estate, you must file a closing statement with the court and send a copy of it to all distributees and to all creditors or other claimants of whom you are aware whose claims are not fully paid or barred. A.R.S. § 14-3933(A). To formally close the Estate, you must file a petition, obtain a hearing date, and provide notice of that hearing. A.R.S. §§ 14-3931 and 14-3932. Usually, an estate should be completely administered and closed within two years after the initial appointment of a personal representative. If you have not closed the Estate within two years after the initial appointment of a personal representative, the court may issue a notice stating that the Estate will be administratively closed and your appointment as personal representative will be terminated without a discharge from liability unless further action is taken. Ariz. R. Prob. P. 51.
17. Legal Advice. You are responsible for obtaining proper legal advice about your duties. Failure to do so may result in personal financial liability for any losses. If you have any questions about the meaning of this order or the duties that the court's orders, statutes, and rules impose upon you by reason of your appointment as personal representative, you should consult an attorney or petition the court for instructions.
18. Forms. Forms referred to in this order and other forms are available at <https://www.azcourts.gov/probate>.

Warning: Failure to obey this order, the other orders of this court, or the statutory provisions or rules relating to personal representatives may result in your removal as personal representative and other penalties. In some circumstances, you may be held in contempt of court, and your contempt may be punished by confinement in jail, a fine, or both. Ariz. R. Prob. P. 48.
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Presiding Judge, Probate and Mental Health Department

ACKNOWLEDGEMENT

I (We), the undersigned, agree to be bound by the provisions of this order while serving as personal representative.

Date

Personal Representative Signature

Personal Representative Name (Type or Print Name)

Date

Personal Representative Signature

Personal Representative Name (Type or Print Name)

Date

Co-Personal Representative Signature (if any)

Co-Personal Representative Name (Type or Print Name)

PERSONAL REPRESENTATIVE TRAINING MANUAL



This program was developed under grant number SJI-11-E-008 from the State Justice Institute. The points of view expressed are those of the faculty and do not necessarily represent the official position or policies of the State Justice Institute.

IMPORTANT NOTICE
TRAINING REQUIREMENT
Effective September 1, 2012

The Arizona Supreme Court requires that any person who is not a state-licensed fiduciary (or a financial institution) must complete a training program approved by the Supreme Court **before** Letters of Appointment to serve as a guardian, conservator, or personal representative can be issued by the Clerk of the Court.

TRAINING SHOULD BE COMPLETED BEFORE THE COURT HEARING.

The fiduciary may for good reason request additional time to complete the training.

You may access and complete the training FREE online at:
<http://www.azcourts.gov/probate/Training.aspx>

Go to the section for “**Non-licensed Fiduciaries**” and click on the link to access a narrated slide-show presentation of the materials applicable to your situation.

AFTER reviewing the materials, you will need to inform the Court that you have completed the training by filing either the Certificate available at the end of the online training, or the Declaration of Completion form available at the end of this training manual, or from either the Probate Filing Counter or the Law Library Resource Center. If you have questions about the training, contact the Probate Clerk at 602-506-3668.

Personal Representative Training Manual

After viewing the contents of this manual you will be able to:

- Summarize the role of the Personal Representative
- Compare and contrast supervised vs. unsupervised probate administration
- Explain how handling an intestate differs from an estate with a Last Will and Testament
- Discuss the process for closing the estate

Supervised Administration v. Non-Supervised Administration

The intent of the probate court is to stay out of the affairs of a decedent (the deceased individual) estate as much as possible. The probate courts in Arizona take the position that the heirs, beneficiaries or devisees of an estate likely have the ability to protect their own interest in the estate and therefore, do not need the court monitoring the activities of a personal representative as they would for a guardianship or conservatorship.

➤ Unsupervised Personal Representative

Most probate administrations are not supervised by the court. This means the personal representative has the ability to liquidate property or make distributions without first seeking approval of the court. Any interested party may request the court “supervise” the activities of the personal representative. This can happen for a number of reasons. The interested party may be concerned that the personal representative is not acting for the benefit of the estate or the heirs, or one of the heirs or beneficiaries may be a minor or incapacitated, so the interested party believes additional court oversight is necessary.

➤ Supervised Personal Representative

When the court orders that a personal representative’s appointment is supervised this means the personal representative must petition the court for approval to take most actions. For example, the personal representative would need to seek the court’s approval before liquidating property, distributing property/cash, or closing the estate.

Intestate and Heirs

➤ If the estate is intestate, how do you determine heirs?

Arizona Revised Statutes §14-2103 outlines who should inherit the estate of the decedent if the person dies without leaving a will. According to this statute there is a prescribed order in which an estate passes on to the heirs. The order of inheritance is shown below:

Surviving spouse

If no surviving spouse:

The decedent’s children or their children,

If no children:
The decedent's surviving parent(s),

If no parents:
The decedent's sibling(s) or their children

If no sibling(s) or nieces/nephews:
The decedent's grandparents – one-half to the maternal side and one-half to the paternal side

If there are no relatives:
The State of Arizona

➤ **Determining Heirs**

Determining who may be the heirs and in what percentage can be complicated. You should seek the advice of legal counsel to ensure that you have identified all potential heirs. It is best to seek a professional who will conduct an heir search and provide you with a report as to who may be entitled to inherit from the estate. Once you have determined who you believe to be the heirs of the intestate estate, you will want to file a petition for determination of heirs with the court so that the court may confirm the heirs of the estate.

Providing Notice to Interested Parties

Interested parties are individuals or companies who may have a financial interest in the estate such as an heir, beneficiary or devisee. An interested party may also be an individual who has filed a demand for notice, such as a creditor. If you are dealing with an intestate estate, you will need to provide notice to the Arizona Attorney General as they may receive the estate proceeds if no relatives can be located.

Filing Informal Probate

If you are filing an informal probate you shall give notice to interested parties, of the fact that you were appointed as the personal representative, within thirty days from the date of appointment. You shall notify the parties of the court where the Will was filed or where the petition for appointment was filed. You shall also provide them with a copy of the Order to Personal Representative which outlines your duties and responsibilities as the personal representative.

Filing Formal Probate

If you are filing a formal probate proceeding, you shall give notice of the date and time of the hearing to all interested parties at least 14 days prior to the hearing.

Providing Notice to Creditors

Once you are appointed as the personal representative, you must give notice to all known and unknown creditors. A creditor is any individual or entity which may have been owed money by the decedent before their death or as a result of their death. Examples include mortgage companies, physicians, credit card companies, and tax authorities, among others.

➤ **Unknown Creditors**

In order to ensure you have notified all unknown creditors, you shall publish notice in a newspaper of general circulation in the county where you were appointed. The notification shall state that you were appointed as the personal representative and provide the address where creditor's claims may be sent. You shall publish this one time per week for three successive weeks.

➤ **Known Creditors**

A known creditor is some person or company you know the decedent owed money to before death, such as a personal physician or credit card company. You shall provide actual notice to all known creditors by providing them with a copy of the Notice to Creditors that you file with the court.

➤ **Creditor's Claim**

Once a potential creditor has been notified of the death, the creditor has 120 days to present a bill to the estate for payment. Some creditors will file a creditor's claim directly with the court; others will simply send you the bill. Both methods are acceptable for presenting the claim to the estate.

➤ **Time Frame for Claim**

The time frame for presentation of the creditor's claim is calculated in one of two ways:

For unknown creditors the 120 day countdown begins on the date of first publication. As an example, if the first date that the creditor's notice is published in the newspaper is February 1, the creditor has until May 31 to present their claim.

For known creditors who receive actual notice, the 120 day countdown begins on the day you sent out the notification.

➤ **When Creditor's Period Expires**

If you receive a creditor's claim after the creditor's period has expired you have an obligation to deny the claim. The notice to creditors notifies the creditor that if they do not present their claim within 120 days, their claim is barred. A creditor may petition the court to argue against the fact that you denied the claim. The court will then determine whether the creditor should be paid or if the claim should be denied.

Order of Payment

➤ **Who gets paid in what order?**

The state statutes outline how creditor's claims are to be paid in the order as follows.

Costs and expenses of administration. This means your fees and expenses as the personal representative and those of your attorney; Funeral expenses; Debts and taxes under federal law (Internal Revenue Service); Medical and hospital expenses related to the last illness of the decedent, including compensation to individuals providing care; Debts and taxes with preference under state law (Arizona Department of Revenue); all other claims. This means that all other debts of the decedent fall into the same category. If there is more than one creditor in a particular category, they are all treated equally and no one has priority over the other for payment.

Pro Rata Share

➤ What if the estate is not large enough to cover all debts?

If the estate is not large enough to cover all of the debts, the debts are paid in the order outlined in the state statute. If all creditors with the exception of creditors in the final category have been paid, the remaining creditors get a pro rata share of the remaining cash. A pro rata share is the percentage of debt the creditor represents in comparison to the entire value of the debt owed.

➤ Debt Example

As an example, there are 10 creditors with a total debt owing of \$100,000. Creditor 1 submitted a claim worth \$50,000. This means that Creditor 1 represents 50% of the total debt owed by the decedent. If there is only \$25,000 available to pay the remaining creditors, Creditor 1 would receive \$12,500 toward their bill as they represent 50% of the claims.

Marshal and Secure All Assets

As a personal representative, your first priority is to marshal and protect the assets of the decedent's estate. When the court tells you to marshal an asset, do you know what they mean? The court wants you to take control of the assets, on behalf and for the benefit of, the estate. There are a number of different ways that you can do this.

➤ “Certified” Letter

One of the first things you need to do is obtain a current “certified” copy of your letter of appointment. A certified copy is a copy issued by the Clerk of the Court in the county where your letter was issued. The certified copy states that it is a true and complete copy of the original letter on file with the issuing court, and that the letters of personal representative are currently in effect.

➤ Record Your Letter

Once you have obtained the certified copy of your letters of appointment (or letters of personal representative) you will need to record these with the county recorder in every county where the decedent owned property. By recording your letters of appointment you are putting the public on notice of your appointment. You are also creating a record should someone attempt to sell real property belonging to the estate that you are the only person entitled to transfer property on behalf of the estate.

➤ **Notice of Filing**

Once you have received the recorded copy of your letters of appointment back from the recorder's office (there will be a marking on the document that reflects it has been recorded and where that record can be found for future reference), you will need to file a Notice of Filing with the court to show that you have recorded the letters of appointment.

➤ **Marshal an Account**

In order to marshal a bank or brokerage account, you will need to notify the financial institution of your appointment. When you first meet with the financial institution be sure to bring the original, stamped letter or the certified copy of your letter of appointment with you. Most banks' legal department will want to see a certified copy of your letter of appointment in order to allow you access to the account. You should also have a copy of the decedent's death certificate and a copy of the letter from the Internal Revenue Service assigning the employer identification number of the estate.

How Should Assets Be Titled?

Once you have presented your letter of appointment, the account(s) will be re-titled to the name of the estate. The way the account is titled depends on the organization you are working with. Some will title it as "Estate of Jane Doe, by John Doe, Personal Representative"; others will title it as "John Doe, Personal Representative for the Estate of Jane Doe." The purpose of this is to notify the organization (bank, brokerage firm, Department of Motor Vehicles) that you are the only person who should be dictating how the asset is held, spent, or managed.

Recording Transactions

You should be very careful not to let any other individual have access to any bank accounts you manage. While there is no law that prohibits you from using a debit card or cash to transact business on behalf of the estate, it is best to avoid using a debit card or cash whenever possible. Debit cards can be easily accessed by another individual and it is difficult to prove that a cash transaction was used for the benefit of the estate. If it is necessary to use cash for a purchase be sure to keep all receipts to prove the purchase was for the benefit of the estate.

Re-Title Vehicles

You may also re-title vehicles in the name of the estate. In order to transfer the title of vehicles into the estate you will need to bring your letters of appointment with you. The Motor Vehicle Division typically requires a certified copy dated within 60 days from the date of the re-title request. Vehicles may be cars, motorcycles, boats, recreational vehicles or motor homes.

Obtain an EIN

An EIN is an employer identification number. This is similar to a Social Security Number and is the number that is used to report the estate income to the Internal Revenue Service. You may obtain an EIN online from the Internal Revenue Service's website at www.irs.gov

Inventory and Appraisal

Unlike a conservatorship that requires you file the Inventory and Appraisal with the court AND provide a copy to interested parties, in a probate proceeding you can choose. You may file

the inventory and appraisal with the court and notify the interested parties that you filed it and they may request a copy from the court. Alternatively, you are not required to file it with the court (unless the court has ordered you to do so) and you can mail a copy of the inventory and appraisal directly to the interested parties. You must do one or the other within 90 days from the date of your appointment.

Assets of the Estate

All assets of the probate estate should be listed on the inventory and appraisal. Assets to be included, but not limited to, are shown below:

- Bank accounts
- Brokerage accounts
- Annuities
- Life insurance policies (the cash surrender value)
- Real property (homes, vacant land, and burial plots)
- Automobiles
- Jewelry/Artwork/Antiques
- Household items
- Cash/Coins

How Much Detail

➤ How much detail should you include?

You should include as much detail as is necessary to reasonably identify the asset. For example, if the protected person has a checking account at Bank of America, you would document it as “Bank of America Checking” and provide the Account number.

➤ Documenting Assets

When documenting an automobile, you should include the make, model, year and vehicle identification number (VIN). You should include the address and parcel number for real estate.

Documenting household items on an inventory is a little more difficult. Some will include a lump sum value of miscellaneous household property and others will include details such as one sofa, one end table and one coffee table. No matter the amount of detail you choose to include for household items, you should always photograph or video tape the personal property.

➤ Date and Valuation of Assets

When dealing with a probate estate, the value of an asset on the inventory and appraisal is determined by its value on the date of death of the decedent. When listing a bank account, brokerage account or annuity, you will want to list the value as of the date of death. A reliable way to determine the value of an automobile would be to use the Kelley Blue Book valuation.

➤ Provide a Reasonable Estimate

Determining the value of other assets may be a little more difficult. Appraisals may be obtained for homes, jewelry, artwork or antiques. Appraisals can be very costly so if it is not your intent to

liquidate the asset in the very near future, it may be best to provide a reasonable estimate of the asset's value as the value can change significantly in a very short period of time, such as with real estate. If you provide an estimate for the value be sure to make note of this on the inventory.

➤ **In-Kind Distribution**

Additionally, some assets may be distributed to a beneficiary as an “in-kind” distribution. An in-kind distribution is when you give the individual the property just as it is, such as a ring. Instead of selling the ring and giving the individual the cash, you are giving them the actual asset. The statute requires that the personal representative obtain an appraisal of any property given “in-kind” within 30 days of distributing the property. This is another reason it may be best to wait on an appraisal as you do not want to waste estate assets getting multiple appraisals for the same piece of property.

Payable/Transfer on Death

➤ **What if you discover assets are “payable on death” or “transfer on death”?**

If you discover that an asset is “payable on death” or “transfer on death” you should notify the individual(s) named as the beneficiary and provide them with the information necessary for them to take possession of the asset. As the personal representative you do not have the authority to marshal a payable on death asset because it no longer belongs to the decedent or his estate after his death; the interest in the asset now belongs directly to the beneficiary.

Record Keeping

➤ **What types of records should you keep?**

You are required to keep records of all income and expenses you manage as the personal representative of the estate. You will need to keep copies of all bank statements, brokerage statements, invoices, receipts, and any other record you need to support your efforts as personal representative.

Invoices

One good practice is to attach a copy of a check used to pay an invoice to the copy of that invoice. This ensures all parties that the expenses you are making are for the benefit of the protected person.

Original Papers

You should maintain the original papers for all important documents, such as deeds, titles, birth certificates, death certificates.

Maintaining Records

The amount of time you maintain records can depend on a number of factors. It is recommended that you keep all records regarding your activities as personal representative for, at a minimum, as long as you are acting as personal representative. Keep in mind, other laws may recommend you keep records for longer periods of time.

The typical recommendation is to follow the record retention requirements outlined by the Internal Revenue Service. The most recent information from the IRS indicates you should keep records according to the following conditions shown on this page.

1. If you owe additional tax and situations (2), (3), and (4), below, do not apply to you; keep records for 3 years.
2. If you do not report income that you should report, and it is more than 25% of the gross income shown on your return; keep records for 6 years.
3. If you file a fraudulent return; keep records indefinitely.
4. If you do not file a return; keep records indefinitely.
5. If you file a claim for credit or refund* after you file your return; keep records for 3 years from the date you filed your original return or 2 years from the date you paid the tax, whichever is later.
6. If you file a claim for a loss from worthless securities or bad debt deduction; keep records for 7 years.
7. Keep all employment tax records for at least 4 years after the date that the tax becomes due or is paid, whichever is later.

Payment for Personal Representative

You are entitled to payment for your time as the personal representative. The court may review your fees at the time you close the estate. You are also entitled to reimbursement from the estate for any money you pay out of pocket for the estate's benefit. For example, if you pay for a filing fee with the court, you would be entitled to be reimbursed for that expense.

Attorney's Fees

➤ Can You Hire An Attorney?

You may hire an attorney and are entitled to have the fees for that attorney paid for by the estate as long as the court determines that the fees are reasonable and necessary.

Closing the Estate

Upon expiration of the creditor's claims period, you should be able to close the estate. If the assets of the estate are sufficient to pay all claims, then all claims should be paid. If you have reason to believe a claim on the estate is not valid you may deny that claim. However, if you do so, you will need to allow time for the creditor to challenge the denial.

➤ Final Tax Return

You may want to meet with a CPA to discuss the timing and process for filing the final estate tax return. To file the final return you will need to obtain an Internal Revenue Service Form W-9 from each heir, beneficiary or devisee. At the time of filing the final tax return, the CPA will prepare a document called a Form K-1 which will be provided to each beneficiary, heir or devisee.

➤ Supervised Personal Representative

You may close the estate in one of two ways depending on your appointment type. If you are operating under a supervised administration, you will be required to file a formal account with the court which outlines the starting value of assets (the inventory value), the income and expenses, the ending value of the estate and a proposal as to how you plan to distribute those funds to the individuals /entities who are to receive them.

➤ **Non-Supervised Personal Representative**

If you are not operating under a supervised administration, you may still choose to file a formal account with the court but you are not required to do so. Instead, you may provide the interested parties with a copy of your accounting and obtain a waiver and release from them. The waiver and release will typically indicate that they acknowledge receipt of the account, they have no issues with its contents, they agree to the distribution plan and waive you filing the account with the court.

Distributions to Heirs

Upon approval of the distribution plan by the court or receipt of all waivers and receipts from the heirs, beneficiaries or devisees, you may distribute the assets of the estate according to law, the terms of the Last Will and Testament and/or the distribution plan.

Distribution Receipts

It is good practice to send a receipt to the individual/entity receiving the distribution as you will want to supply a copy of the signed receipt to the court to prove that you have distributed the assets of the estate. It can be difficult sometimes to get beneficiaries, heirs or devisees to return the receipt. It is suggested to send the distribution via certified mail/return receipt requested. If you are unable to obtain the receipt back, you will at least have the certified mail receipt to show the court that you delivered the distribution.

Closing the Estate

Upon filing of the final tax return, providing an account to all interested parties, and receiving proof of distribution, you may close the estate.

➤ **Formal Closing of the Estate**

As with the account, you can do this in one of two ways. If you are operating under a supervised administration, you will be required to petition the court for permission to close the probate estate. If you are not operating under a supervised administration, you may still choose to file a formal petition for discharge with the court. The benefit to filing the formal petition is that, if you have a bond, you are able to obtain exoneration of the bond immediately.

➤ **Informal Closing of the Estate**

Keep in mind, any time a formal closing procedure is used, the costs to the estate are typically higher. This is why the court recommends an “informal” closing. With an informal closing you will file a closing statement with the registrar (Clerk of the Court) which will include the waivers and receipts you obtained from the heirs, beneficiaries or devisees. The registrar will then sign the closing statement which indicates that if no objections are filed within one year, the estate is closed and the bond may be exonerated.

Thank you for viewing this training manual. The welfare of the ward and/or protected person is of utmost importance to the court. For more information about Probate please visit the Judicial Branch website devoted to Probate at www.azcourts.gov/probate.

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

In the Matter of the Estate of:

Case Number PB: _____

A ☐ Deceased or ☐ Protected Person

DECLARATION OF COMPLETION OF TRAINING for NON-LICENSED FIDUCIARIES

Rule 27.1 of the Arizona Rules of Probate Procedure requires that a person to be appointed guardian, conservator, or personal representative of an estate, who is neither a state-licensed fiduciary nor a corporation, complete a training program approved by the Supreme Court of this state before permanent **Letters of Appointment** are issued, or within 30 days of a temporary or emergency appointment.

UNDER PENALTY OF PERJURY

I state to the Court that in accord with Rule 27.1 of the Arizona Rules of Probate Procedure, I have completed the required training for non-licensed, non-corporate fiduciaries, as indicated below: (Check all that apply and provide applicable information.)

- ☐ Unlicensed Fiduciary
- ☐ Conservatorship
- ☐ Personal Representative
- ☐ Guardianship

Date completed: _____

Date completed: _____

Date completed: _____

Date completed: _____

Date: _____

Signature

Printed Name

INSTRUCTIONS: Fill out this Declaration completely and provide accurate information. Make at least one copy. You will need to file the original with the Clerk of Court and provide a copy to the Probate Registrar before receiving any *permanent* letters of appointment.