

***FOURTH JUDICIAL DISTRICT COURT  
HENNEPIN COUNTY - PROBATE DIVISION***

**C-400, Government Center  
300 South Sixth Street  
Minneapolis, MN 55487**



**JUDGE OF DISTRICT COURT**

**JAY M QUAM**

**PROBATE REGISTRARS:**

**JULIE PETERSON 612-348-8783**

**ALONNA WARNS 612-348-8784**

***GUIDE TO INFORMAL PROBATE  
IN HENNEPIN COUNTY***

The following information on informal/unsupervised probate is not intended to be a manual or a comprehensive instruction guide. It is intended to be a short and simple informational statement about basic forms and requirements. More complete information about informal and formal probate may be found in Minnesota Statutes, Chapters 524 and 525, Probate Court Rules, or from an attorney experienced in probate practice.

It is YOUR responsibility to read and familiarize yourself with the information in this guide. Call **(612) 348-3244** for an appointment AFTER COMPLETING YOUR FORMS as determined by the following instructions.

## TO HELP YOU UNDERSTAND INFORMAL PROBATE

**Many people come to the Informal Probate Guide after being asked for “Letters”. Letters are the authority the court can grant to an individual or a corporate entity to act on behalf of a now deceased person.** Informal/unsupervised probate is only one of several procedural options available to obtain Letters and thereby settle the estate of a deceased person. Estates probated informally come before the Probate Registrar in an administrative process. Informal probates are not supervised by Probate Court.

The Probate Court/Registrar does not just hand out Letters. Letters are not free. There is a legal process that needs to be completed prior to the court issuing the Letters. This process involves document preparation, an appearance at the court, filing fees and publication costs.

**Informal probate** is designed for estates in which no court orders and no court supervision are needed, and only for estates without uncertainties, legal disputes, or complex administrative requirements. Estates with such problems are not suitable for informal probate, and the Registrar may decline an application for informal probate for failure to meet statutory requirements or if the estate is deemed to be unsuitable for informal probate. This does not preclude appointment in formal proceedings before the court.

### **The Registrar cannot help you decide on the appropriate probate procedure.**

The acceptance by the Registrar of an application for informal probate means only that the application meets statutory requirements, and does not constitute a recommendation of the informal procedure for that estate. The selection of informal probate or of an alternative procedural option is the responsibility of the attorney and/or the applicant.

With or without the advice of an attorney, the representative **IS PERSONALLY RESPONSIBLE** for probating the estate completely, correctly and according to statute, and to bring it to its prompt conclusion. **Minnesota Statute 524.1-307 expressly prohibits the Registrar of Probate Court from giving counsel or advice, or assisting with forms preparation.** Thus, most personal representatives engage an attorney to handle the informal probate, though in some cases the personal representative may proceed alone or with only the partial assistance of an attorney.

\* \* \* \* \*

Once you have determined that your situation is suitable for informal probate you must then **purchase and complete** the necessary forms. All forms must be completed by typing or printed legibly in **BLACK INK**. Fourth Judicial District **DOES NOT provide forms**. Generally, stationers who sell other legal forms will also stock the probate forms. If you cannot find the forms in your community, they may be purchased from the following company using the form numbers indicated:

**Miller-Davis Company, the only known supplier of legal forms in the Metro area**

Main Store and Office  
310 4<sup>th</sup> Ave S, Suite 1100

Minneapolis MN 55415

Phone Orders (612) 312-1570

1-800-752-4221

Bloomington Store (Limited Forms)  
9349 Penn Avenue South

Bloomington MN 55420

952-888-7743

To be appointed as P.R. of an estate a person must apply to the Probate Registrar. **You must present your completed forms (see list of forms) to the Probate Registrar in person, by appointment. To set up an appointment with the Registrar, call (612) 348-3244.** Appointments are available downtown; and at the suburban locations, on a limited basis, Ridgedale, Brookdale and Southdale .

**There is only one “in person” appointment with the Registrar and that is to present the application for appointment.**

Checklist of forms to bring to appointment with the Registrar:

- application (testate or intestate)
- proof of death (certified copy of death certificate, if not available, can bring obituary or funeral receipt)
- nominations/renunciations
- original will, codicil, separate writing (if testate)
- notarized acceptance and oath
- filing fee check for \$322 made payable to the District Court Administrator

Prior to meeting with the Registrar go to the public access website **[www.mncourts.gov/publicaccess](http://www.mncourts.gov/publicaccess)** to check for any wills or demands for notice from creditors that have been filed with the court. If a demand for notice is found contact court staff at 612-348-3244 for procedure to handle demand. If there is any question about the decedent or a predeceased spouse of the decedent having received economic assistance, contact should be made with Maytia Lee at Hennepin County Department of Human Services 612-596-9387 to see if a claim will be filed or a bond demanded.

**Following is a list of the forms to commence an informal probate estate and to obtain “Letters” of appointment as personal representative.** Additional forms may be desirable for some estates, as requested by the Registrar, or used optionally at the discretion of the attorney or P.R.

**Titles** of the forms are in bold print, and the probate **form number** (useful to know when you purchase the forms) is set out in the column to the right of each form.

### Miller Davis Form

#### Required(\*):

#### \*Application

**Application for Informal Probate of Will  
and for Informal Appointment of Personal  
Representative, or** P-100

**Application for Informal Appointment of  
Personal Representative (no will)** P-103

**\*Acceptance of Appointment and Oath by  
Individual** P-001

#### Supporting documents:

**Renunciation of Right to Appointment or  
to Nominate** P-006

**Nomination of Personal Representative by  
Person Entitled to Priority** P-005

### WHAT TO EXPECT AT THE APPOINTMENT WITH THE REGISTRAR:

- Plan on spending ½ hour at the appointment
- Registrar will review the documents you have prepared and any will, codicil (s), separate writings
- Registrar will ask questions about information on the application
- Registrar will take the testimony of a ProSe applicant
- Registrar will check for any demands for notice from creditors
- Upon approval of the application a court file number will be assigned
- Be prepared to present photo identification
- Be prepared to give the Registrar a daytime phone number where you can be reached

**Estates with real property:**

To protect marketable title and to avoid burdensome corrective measures, the sale or distribution of real estate from a decedent's estate should be handled by an attorney experienced in probate real estate conveyances.

The Personal Representative may not sell, encumber, lease or distribute real estate for 30 days from date of issuance of the letters.

The Personal Representative may not purchase real estate from the estate without a court order.

**FOLLOWING APPOINTMENT WITH THE REGISTRAR:**

The Registrar will prepare:

- Statement of Informal Probate of Will and Order of Informal Appointment of Executor, or
- Order of Informal Appointment of Administrator, and
- Letters Testamentary or Letters of General Administration.

**Attorney/Applicant** needs to handle preparation of the notice and publication of the notice.

Testate notice:

**Notice of Informal Probate of Will and Appointment of Personal Representative and Notice to Creditors** P-120

Intestate notice:

**Notice of Informal Appointment of Personal Representative and Notice to Creditors** P-123

The attorney/applicant must arrange for the notice to be published **once a week for two consecutive weeks** in a legal newspaper for Hennepin County.

Most commonly used legal newspapers in Hennepin County:

**Finance & Commerce**: 730 Second Ave. South, #100, Minneapolis, MN 55402;

Phone: 612-333-4244; Fax: 612-333-3243; Email: [publicnotice@finance-commerce.com](mailto:publicnotice@finance-commerce.com)

**Sun Newspapers:** 10917 Valley View Road, Eden Prairie, MN 55344;

Phone: 952-392-6829; Fax: 952-392-6871; Email: [sunlegals@acnpapers.com](mailto:sunlegals@acnpapers.com)

**(There is a charge by the newspaper for this service.)**

Applicant must mail either a copy of the notice or a newspaper clipping of the notice to all interested parties.

**Attorney/applicant MUST SEND A COPY OF THE NOTICE TO THE REGISTRAR**

**Attorney/applicant** needs to prove to the Registrar that the notice of informal probate has been mailed to the interested parties. This is done by filing an affidavit of mailing.

**Affidavit of Mailing Order or Notice**

**P-015**

The affidavit is a one page form. Attach to the affidavit the following items in order for the document to be acceptable for filing. **AFFIDAVIT MUST BE NOTARIZED.**

- a copy of the notice that you mailed
- a list of the names and addresses of the people that the notice was sent to

**Additional Notice Forms:**

**Notice to Spouse and Children:** The Registrar will always require this notice to be mailed to the surviving spouse even if that person is the personal representative and to minor children. Notice to the adult children may or may not be required depending on the case. If you need to prepare this notice the form is:

**Notice to Spouse and Children**

**P-016**

**Affidavit of Notice to the Commissioner:** This affidavit of notice is required if there is probate real estate that will not be sold during the administration of the estate. It is also required if the decedent and/or their spouse received medical assistance or other assistance from any state or county agency.

Affidavit form:

**Affidavit of Service of Notice to  
the Commissioner of Human Ser-  
vices**

**98-M**

To be acceptable for filing the affidavit must:

- \* be notarized
- \* have a copy of form 99-M attached
- \* have a copy of the notice of informal probate attached

The affidavit of notice is a way of proving that you sent form 99-M to the Commissioner of Human Services.

Notice to the Commissioner form:

**Notice to Commissioner of Human  
Services**

**99-M**

The address for the Commissioner is on form 98-M. Serving the notice on the Commissioner begins a 70 day period during which time the Commissioner will search his records to determine whether or not the decedent or any predeceased spouse of the decedent ever received any benefits that have not been reimbursed.

**Publisher's duties:**

Once the publisher receives the notice prepared by the attorney/applicant they will set the notice for publication according to the directions received. A **proof of publication** will be sent, by e-mail, to the Registrar normally within 3 days of receipt of the notice.

At the end of the second publication the publisher will send to the court and the attorney/applicant an **affidavit of publication**. The affidavit is the proof that the publisher has completed their part in the informal process.

## “LETTERS”

**Issuance of Letters.** Everything that has happened to this point is all for the purpose of issuing Letters Testamentary or Letters of General Administration.

In order for the Registrar to issue the Letters, in the usual case, the following items need to be filed following the appointment :

1. Proof of publication (comes from the publisher to the court)
2. Affidavit (s) of mailing
3. Copy of the notice of informal probate
4. Any required bond

Once Letters have issued they may be purchased for \$14.00 each. Letters are proof of the Personal Representative’s appointment.

Upon issuance of the Letters the Registrar’s/Court’s involvement in the Informal Probate process ceases. **The court will administratively close the file.**

The Personal Representative’s duties are just beginning. The principal duties of the personal representative (hereafter P.R.) of a decedent's estate are to:

- collect, inventory, and appraise the assets,
- provide interested parties with an inventory of estate assets,
- monitor for creditors’ claims (check court website for formal claims [www.mncourts.gov/publicaccess](http://www.mncourts.gov/publicaccess))
- protect and preserve the assets,
- pay the taxes and debts of the decedent and his/her estate,
- provide distributees with an accounting,
- distribute the remaining assets to the proper parties according to law, and
- may close the estate by the filing of a closing statement.

### **3 helpful attachments:**

- Glossary of probate terms
- Sample negative allegations for completing the application form
- Pro Se waiver of legal advice

## GLOSSARY

<b>Codicil:</b>	a legal instrument that modifies a will.
<b>Creditor:</b>	a person or party to whom a debt is owed.
<b>Devise:</b>	disposition of property by will.
<b>Devisee:</b>	person or organization designated by will to receive property.
<b>Distributee:</b>	person, other than a creditor or a purchaser, who receives property of a decedent from the personal representative.
<b>Estate:</b>	all of the property of the decedent.
<b>Heirs:</b>	persons entitled to the property of the decedent under the laws of intestate succession.
<b>Informal Proceedings:</b>	unsupervised proceedings conducted before the Probate Registrar.
<b>Interested person:</b>	includes heirs, devisees, children, spouse, creditors, and any others having a property right in or claim to the estate of the decedent.
<b>Intestate:</b>	estate with no will.
<b>Non-Probate assets:</b>	assets owned by the decedent not requiring probate to effect transfer of ownership (most often assets payable on death or held jointly between decedent and another living person).
<b>Personal Representative (P.R.):</b>	individual in charge of handling the estate of the decedent.
<b>Probate Assets:</b>	assets owned <b>SOLELY</b> by the decedent.
<b>ProSe:</b>	acting without legal counsel.
<b>Registrar:</b>	the official of the court who administers informal probate.
<b>Separate writing:</b>	documents or lists, as referenced in a will, that dispose of only tangible personal property.
<b>Testate:</b>	estate with a will.
<b>Will:</b>	a written instrument, legally executed, by which a person makes disposition of their estate to take effect after death.

## **Examples of Negative Allegations – Use appropriate allegation to fill in #8 of application**

### **Most common examples**

#### Example 1

"Where only the spouse survives the application should state 'that the decedent left no surviving issue, natural or adopted, legitimate or illegitimate.'"

#### Example 2

"Where only children survive, the application should state 'that the decedent left surviving no spouse; no children, natural or adopted, legitimate or illegitimate, other than herein named; and no issue of any deceased children.'"

#### Example 3

"Where the spouse and children survive, the application should state 'that the decedent left surviving no children, natural or adopted, legitimate or illegitimate, other than herein named and no issue of any deceased children.'"

#### Example 4

"Where only brothers or sisters of decedent survive, the application should state 'that the decedent left surviving no spouse; issue; parents; brothers or sisters; other than herein named; and no issue of deceased brothers or sisters.'"

See Minnesota Trust and Probate Court Rule 408(a)

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT COURT  
PROBATE/MENTAL HEALTH DIVISION

In Re: Estate of

Court File No. 27-PA-PR-\_\_-\_\_\_\_

\_\_\_\_\_  
Deceased

**WAIVER OF LEGAL ADVICE**

I, \_\_\_\_\_, being appointed personal representative in the above-named estate, do hereby:

1. acknowledge having reviewed the pamphlet entitled "**Guide to Informal Probate**",
2. acknowledge that I am requesting an informal probate of the estate;
3. acknowledge that by accepting appointment as personal representative I am responsible for the complete administration of the estate, for the filing of all required documents in a timely manner, for the payment of all valid claims against the estate, for the proper distribution of all assets, including real estate title, if any, and for completing all requirements to close the estate; and
4. acknowledge also that I am aware that neither the Probate Registrar nor Court personnel can act as my legal counsel, and that if I need legal assistance, clarification, interpretation, or advice to complete the informal administration of this estate or to convert it to a supervised administration that I should consult an attorney.

\_\_\_\_\_  
Personal Representative      Date