



MINNESOTA FAMILY SUPPORT & RECOVERY COUNCIL

2018 ANNUAL CONFERENCE

## Estate Recovery and Probate Basics

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### MA Collections Basic Concepts



- Government pays for someone's medical care while the person is alive
- Government is reimbursed from the person's estate when the person dies
- Can only recover for certain programs
- County keeps about 25% of all collections
- Minn. Stat. § 256B.15 controls

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### Challenges of MA Collections



- Potential for unreported assets when determining MA eligibility
- Assets can come to the County's attention years after a person dies
- Family doesn't want to cooperate or is unresponsive
- Proceedings can be lengthy

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**Laws Governing MA Claims:**

- Minnesota Statutes, Section §256B.15
- Estates Subject to Claim:
  - Recipient's estate who is single at time of death
  - Estate of surviving spouse (including claims against predeceased spouse)
  - No recovery against deceased recipient if survived by a spouse
- File claims in the District Court with jurisdiction to probate the estate (or issue a decree of descent) 256B.15 subd. 1a.
  - NOTE: Most claims barred if not presented (filed) within one year after the death of the decedent. See 524.3-803 **This does not apply to MA claims filed under M.S. 256B.15**; however, counties should be proactive or there may be dissipation of assets the longer the claim is delayed.

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**Probate vs. Non-probate Assets**

**Probate Assets**

- Real Estate: homestead, land, vacation property
- Contracts for Deed
- Bank Accounts
- Vehicles, RVs, boats
- Securities, stocks/bonds, annuities
- Life Insurance (payable to estate)

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**Probate vs. Non-probate Assets**

**Non-probate Assets**

- Assets with joint tenancy or survivorship interests
- POD or TOD accounts
- Life insurance (w/beneficiary)
- Life Estates
- Pensions/Retirement (w/beneficiary)
- "Other" assets: Living Trust, Royalties

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What is the "Estate" for MA Recovery Purposes?

The diagram consists of two ovals on the left: a yellow one labeled 'Almost all probate assets' and a green one labeled 'Some non-probate assets'. A plus sign is between them, and an arrow points to a larger blue circle on the right labeled 'MA Estate'. The slide includes the FSRC logo and footer text: '9/25/2018 MFSRC Annual Conference 7'.

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Examples of Expanded Estate Recovery

Avoiding Probate Does Not Mean Avoiding Estate Recovery!  
**Non-Probate assets that may be included in the MA Estate:**

- **Pension/Retirement/"Other" benefits:** When the assets become part of the estate
  - Ex:// Teachers' Retirement Account; Writer's Guild Royalties
- **Multi-party accounts:** When the MA recipient has an ownership interest (POD, JT accounts, etc.)
- **Trusts** (revocable); Living Wills
- **Real Estate Interests:** Life Estate and Joint tenancies (256B.15 subd. 6)

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Small Estate Collections (No real estate)

- Use to collect funds from MA recipient's bank accounts, securities, cash held in safe deposit boxes, royalties, etc.
- Authority to collect under Minn. Stat. 524.3-1201, so long as assets in the estate do not exceed \$75,000
- Serve Affidavit for Collection form on person, bank, or business that has the property
- Confirm MA recipient's ownership interests
- Vehicle transfers require the affidavit for collection, with death certificate attached, delivered to motor vehicle division
- Investigation / follow-up / payment instructions

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**Is it Worthwhile to Probate the Real Estate?**

- **Valuation of the property**
  - Assessment data
  - Market analysis, broker opinion of value
  - Appraisal
- **Encumbrances**
  - Mortgage, 2<sup>nd</sup> mortgage
  - Back Taxes
  - Liens or other indebtedness
- **Value of MA claim in relation to potential sale proceeds**
- **Other issues:**
  - Tenants in home
  - Condition of property
  - Pending forfeiture / foreclosure
  - Multi-party ownership



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**Underwater Estates**

“Underwater Estates” are probate or trust estates where the MA claim exceeds the gross value of the estate

- **Common Example:**
  - Estate consists of a \$185,000 house
  - MA claim is \$235,000
- **Common because the MA recipient’s homestead is the only major asset that is exempt when determining MA eligibility**




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**Underwater Estates**

- Estate beneficiaries have no incentive to probate/administer Underwater Estates
- Underwater Estates go unprobated/unadministered for years




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### Impact of Underwater Estates



- Property taxes can go unpaid for years
- City utility bills and costs go unpaid for years
- Homes are unoccupied, become dilapidated, and eventually unsafe
- Cities incur high nuisance abatement costs

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### Impact of Underwater Estates



- Decrease the value of surrounding properties, negatively effecting area's property tax basis
- Can attract crime/suspicious activity
- Become a blight on the neighborhood
- Cause pollution/negative environmental impacts
- County receives less money from MA collections
- Limits housing inventory in County

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### Underwater Estates



#### What happens to Underwater Estates?

- With mortgage
  - Foreclosure
  - County's MA claim is wiped out
- Without mortgage
  - Tax forfeiture
  - Unpaid property taxes and MA claim are wiped out
  - Process takes 3-5 years

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### Resolving Underwater Estates



- Counties can probate/administer Underwater Estates
- Provides a method for recovering assets that are discovered years after the MA recipient's death
- The process can bring great value on many levels

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### Probate Basics



- 45 days after the death of the decedent, any creditor can petition the district court to be appointed personal representative
  - Minn. Stat. § 524.3-203
- This allows a county with a medical assistance claim to be appointed personal representative of Underwater Estates

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### Probate Basics



Personal representative fees

- Personal representative has statutory right to reasonable fees for administrating the estate
  - Minn. Stat. § 524.3-719
- Personal representative fees are an administrative expense that have priority over other claims
  - Minn. Stat. § 524.3-805
- Allows county to charge personal representative fees

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**Probate Basics**

**Attorney fees**

- An attorney performing services for the estate has a statutory right to have her/his reasonable attorney fees paid from the estate
  - Minn. Stat. § 525.515(a)
- Attorney fees are an administrative expense that have priority over other claims
  - Minn. Stat. § 524.3-805
- Allows CAO to be paid reasonable attorney fees



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**Probate Process – Preliminary Work**

- Obtain death certificate(s)
- Search for an obituary
  - Websites like familytreenow.com can find addresses
- Search for will and any codicils
  - Try to get original
  - Check with court to see if filed for safe-keeping (may require court order)



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**Probate Process – Preliminary Work**

- Search property records for mortgages or other liens existing on estate property
- Contact children, relatives, or friends to gauge interest in probating the estate
  - Give them information about the process
- Call probate court to see whether any demands for notice were filed



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**Probate Process**



Type of probate administration dictated primarily by two questions:

- Is there a properly executed will?
  - Determines whether there will be a testacy or intestacy proceeding
- When did the decedent die?
  - More than three years after death, the probate will be a determination of descent proceeding under Minn. Stat. § 525.31.
  - Minn. Stat. § 524.3-108
- Probates should be formal (petition vs. application)

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**Probate Process Overview – Stage 1**



- County petitions the court to be appointed Personal Representative
  - Usually a supervisor signs the petition on behalf of the county
- Notice of the hearing on the petition is sent to all the heirs/interested persons
  - Notice of the hearing is also published
- Court conducts hearing and appoints the supervisor as personal representative

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**Process Overview – Stage 2**



- The PR liquidates the estate assets and reduces estate to cash
- PR gets an EIN for the estate and opens a bank account in the name of the estate
- Cash proceeds from the estate are deposited into the estate account
- Costs, expenses, and claims are paid from the estate by check
  - Files full/partial satisfaction of claim

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Process Overview – Stage 3

- County creates final account showing all credits and debits to the estate
- The County petitions the court to allow the final account and discharge the PR
- Notice of a hearing on the petition is sent to all heirs/interested persons
- Court conducts hearing on the final account, approves it, and discharges the personal representative of the estate



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# SUCCESS STORIES



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## Estate of Jane Doe

Background

- Jane Doe died in May, 2016
  - Her home was a flophouse for criminals, drunks, and drug users
  - In 2006 police were called to her house many times



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### Estate of Jane Doe



- MA claim of \$149,530.20
- Only asset of the estate was a house in West St. Paul
  - Property tax assessed value of \$149,200
- Family had no interest in probating the estate

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### Estate of Jane Doe



- The house was in a serious state of disrepair
- While the property sat vacant for months, people broke into the large shed in the back, stole whatever they could, and scattered junk and litter around the back yard and onto the driveway
  - City of WSP had spent hundreds of dollars on nuisance abatement
  - No mortgages meant the house would eventually go into tax forfeiture

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### Estate of Jane Doe



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Estate of Jane Doe



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Estate of Jane Doe



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Estate of Jane Doe



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Estate of Jane Doe

- As Personal Representative of the Estate of Jane Doe, the County sold the home "as-is" to an investor for \$68,000
  - Received multiple offers from several investors
- Closing took place in Spring of 2017
- After closing, the investor began renovating the house immediately



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Estate of Jane Doe



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Estate of Jane Doe



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Estate of Jane Doe



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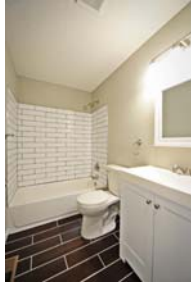
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Estate of Jane Doe



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Estate of Jane Doe



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Estate of Jane Doe



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Estate of Jane Doe

House was listed for sale at \$234,900

- Before probate, tax assessed value of \$149,200
- Sold by estate for \$68,000



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Estate of Jane Doe

Results of the Jane Doe Probate

- County recovered \$48,900 of its MA Claim
  - \$12,225 to Dakota County (25%)
- E&EA received \$1,510 in Personal Representative Fees
- County Attorney's Office received payment from the estate for reasonable attorney fees



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Estate of Jane Doe

Results of the Jane Doe Probate (continued)

- Home was renovated
- Property tax basis was increased
  - Likely to increase value/property tax basis of similar surrounding homes
- Nuisance was abated
- Blight on neighborhood removed



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**Estate of Jane Doe**

Results of the Jane Doe Probate (continued)

- Delinquent property taxes, interest, and penalties were paid at closing
- House was brought up to code
- City was alleviated from the time and expense of nuisance abatement
- Junk was removed from the property




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**Probate Process Results**

- Increase in amounts recovered for MA claims
  - More money to the County, E&EA, and CAO
- Increase the property tax basis of houses
- Delinquent property taxes are paid
- Delinquent city utility bills are paid
- Cleanup of environmental/nuisance problems with properties
- Reduces number of vacant houses, lowering crime
- Revitalizes neighborhoods and increases property values for the area
- Strengthen ties with cities, particularly cities in County
  - Reduces city costs for nuisance abatement (snow shoveling, mowing, weed whipping, etc.)
- Strengthens relationship with DHS
- Makes houses in the County safe and livable again
- Increases housing inventory in the County




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**Other Success Stories: Real Estate**

<p><b>Unresponsive Heirs</b></p> <ul style="list-style-type: none"> <li>• Probate proceeding</li> <li>• Disallowance of claim filed</li> <li>• Petition for allowance granted</li> <li>• Estate attorneys withdrew</li> <li>• PR and heirs unresponsive</li> <li>• Successor PR appointed</li> <li>• Property saved from condemnation, listed for sale</li> <li>• MA claim to be paid in full</li> </ul>	<p><b>MA Claims Have Priority</b></p> <ul style="list-style-type: none"> <li>• Decree of Descent</li> <li>• Sole heir to estate (and spouse) had federal income tax liens</li> <li>• Tax liens recorded against real estate</li> <li>• County claimed MA claim of estate superior to debts of heirs</li> <li>• Case proceeded in district court, federal court, remanded to state</li> <li>• Court found MA claim was in priority to heir's tax liens; case appealed; U.S. attorneys dismissed appeal</li> </ul>
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**Other Success Stories: Real Estate**

**Postponing Foreclosure**

- Attorney withdrew and family decided to walk away from property
- Property facing foreclosure; Sheriff's sale scheduled
- Assessor inspected home; selected comparables for value range
- Probate opened and Special Administrator appointed
- Mortgage company contacted; foreclosure postponed for 4 months
- Property listed for sale
- Anticipating approx. \$50,000 toward MA claim, after mortgage and all closing expenses are paid

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**Resources and Links**

- **MN Courts website:**  
<http://www.mncourts.gov/GetForms.aspx?c=31>  
(Probate forms with instructions are available here, as well as resources on various probate topics.)
- **DHS Estate Recovery site:**  
<https://mn.gov/dhs/people-we-serve/adults/health-care/health-care-programs/programs-and-services/estate-recovery.jsp>  
(Explore topics on estate recovery and liens)
- **DHS MA Estate Recovery Manual:**  
[https://www.dhs.state.mn.us/main/idcplg?IdcService=GET\\_DYN\\_AMIC\\_CONVERSION&RevisionSelectionMethod=LatestRelease&dDocName=SRU-Home](https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYN_AMIC_CONVERSION&RevisionSelectionMethod=LatestRelease&dDocName=SRU-Home)

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**Appendix**

Sample Dakota County probate procedure for formal probate of will and appointment of personal representative

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QUESTION?



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# PROB-810      PROBATING AN ESTATE (WITH A WILL)

Created: October 2016

## Background

Occasionally, it may be advantageous to have the County probate the estate and serve as the Personal Representative of the estate of the person who received medical assistance (e.g., the County's claim equals or exceeds the total value of the estate). This process involves three steps:

- Step 1** Gathering information.
- Step 2** Preparing and filing the Probate Documents.
- Step 3** Provide notice as required by law.

**Step 2** will always require preparing the following ("Probate Documents"):

- § The Petition ([PROB-P810-1](#)) [MSBA Form PBT - 300]
- § Notice and Order for Hearing and Notice to Creditors ([PROB-P810-2](#)) [MSBA Form PBT - 302]
- § Proposed Order ([PROB- P810-3](#)) [MSBA Form PBT - 304]
- § Proposed Letters Testamentary ([PROB- P810-4](#)) [MSBA Form PBT - 455]
- § Oath and Acceptance ([PROB- P810-5](#)) [MSBA Form PBT - 265]
- § Certificate of Representation ([PROB- P810-6](#)) [MSBA Form CIV - 230]
- § Supporting Affidavit ([PROB- P810-7](#))
- § Confidential Information Form ([PROB- P810-8](#)) [MSBA Form CIV - 11]
- § Affidavit of Service by U.S. Mail ([PROB- P810-9](#)) [MSBA Form CIV - 106]

The purpose of this procedure is to provide guidance and support in preparing probate documents and accomplishing notice and service correctly. The general process of initiating a probate of an estate with a will is as follows:

## STEP 1 Gathering information.

It is necessary to obtain the following information before preparing the probate documents. This information will be used in the documents and when providing notice of the probate to interested persons. It is important that you thoroughly document your attempts to gather the following information.

1. The Last Known Will and Testament of the Decedent.  
This includes any codicils (amendments to a will) or separate writings dictating specific beneficiaries of specific pieces of personal property (i.e., a wrist watch, diamond ring, etc.).
2. Death Certificate.  
Every probate requires filing the death certificate of the decedent. You should contact the Employment and Economic Assistance caseworker to request the decedent's death certificate.

3. Find out Information About Decedent.

You will need the following information for the probate documents. Most of this information you can obtain from the death certificate, will, or the Dakota County Employment and Economic Assistance caseworker:

- The Decedent/MA Recipient's birthday and date of death;
- The Decedent's domicile at the time of death (i.e., the place the person lived and intended to live);
- The assets owned by the Decedent at the time of death and their estimated value (use tax assessor's value of real property/homestead).

4. Find the Names and Addresses of Everyone Named in the Will.

Minnesota law requires that all persons named in the will as a beneficiary or personal representative must be given notice of the probate. The attorney will usually provide you with a copy of the will.

5. Find the Names and Addresses of Everyone who is a child, sibling, parent, and heir.

**Heir:** A person who would inherit from the estate if the decedent died without a will. Minn. Stat. § 524.1-201(27). They are almost always blood relatives of the decedent, such as siblings, children, parents, etc. The following resources should be used to determine who is an heir:

- Obituary;
- Dakota County Employment and Economic Assistance caseworker file;
- The Decedent's medical assistance application;
- Known family members.

**TIP:** Make sure to include children that pre-deceased the Decedent, if any.

6. Find the Name and Address of Decedent's Creditors

The County must make an effort to ascertain potential creditors of the estate. This may be done by having the Employment and Economic Assistance caseworker contact family or those who played an active role in the decedent's life. Generally, the County should assume that hospitals and other facilities that provided care for the decedent are creditors. For corporate entities, the address should be the registered office as listed in the Minnesota Secretary of State's website: <http://www.sos.state.mn.us/>

## **STEP 2 Prepare the probate documents.**

Once you have the above information you will be ready to prepare the following documents using the information you collected in Step 1 where indicated and as appropriate. All of these documents should be reviewed by the attorney prior to filing them in district court.

**The Petition ([PROB-P810-1](#))**

1. Caption. Perform and MGA/Odyssey search for the Decedent's name. If a demand for notice has been filed, the Court may have already give the file a name and court file number. If a demand for notice has been filed, use the case name and court file number listed in MGA/Odyssey. If no demand for notice has been filed, use the name of the decedent and leave the court file number blank. This caption will be the same on all pleadings created using this procedure.
2. Essential Paragraphs. Several boxes in form PROB-P801-1 are already checked. Do not change these pre-checked boxes. Complete the rest of the paragraphs using the information you collected in Step 1. The paragraphs in PROB-P801-1 should not be altered except where indicated and as appropriate.

**Notice and Order for Hearing and Notice to Creditors ([PROB-P810-2](#))**

1. The Proposed Notice and Order for Hearing and Notice to Creditors. The Petition, proposed letters testamentary, the signed oath and acceptance, certificate of representation, supporting affidavit, confidential information form, and proposed order are filed in the estate with a proposed Notice and Order for Hearing and Notice to Creditors. The space in the proposed Notice and Order for Hearing and Notice to Creditors where the date and time of the hearing will appear **should be left blank when filed with the Court**.
2. Signed Notice and Order for Hearing. The Court Administrator will schedule a date and time for the hearing on the Petition and return the completed Notice and Order for Hearing and Notice to Creditors to you signed by a judge. **DO NOT SERVE ANY DOCUMENTS UNTIL YOU RECEIVE THIS SIGNED NOTICE**. After you receive the Notice and Order for Hearing and Notice to Creditors signed by the judge, you must immediately serve the Petition, proposed letters testamentary, the signed oath and acceptance, certificate of representation, supporting affidavit, confidential information form, proposed order, and the Notice and Order for Hearing and Notice to Creditors that is signed by the judge on all interested parties listed in the Petition.

**Proposed Order ([PROB- P810-3](#))**

Check the will to make determine whether a bond is requires a bond or specifies whether the administration should be supervised or unsupervised. The default is an unsupervised administration, which may need to be changed based on the will.

**Proposed Letters Testamentary ([PROB- P810-4](#))**

The default is an unsupervised administration, which may need to be changed based on the will. Do not change anything without first consulting with an attorney.

**Oath and Acceptance ([PROB- P810-5](#))**

**Certificate of Representation ([PROB- P810-6](#))**

**Supporting Affidavit ([PROB- P810-7](#))**

The Decedent's social security number should be redacted. This information is provided to the Court using the Confidential Information form.

**Confidential Information Form ([PROB- P810-8](#))**

The Decedent's social security number should be listed in the Confidential Information form.

**Affidavit of Service by U.S. Mail ([PROB- P810-9](#))**

Copies of all documents filed with the Court (except the confidential information form) should be served upon all interested persons by U.S. Mail at his or her address as listed in the Petition. After service by U.S. Mail, the Affidavit of Service by U.S. Mail must be filed with the Court.

### **STEP 3 Provide notice as required by law.**

**Publish Notice in Legal Newspaper**

After receiving the Notice and Order for Hearing and Notice to Creditors signed by the judge, you should **immediately** arrange for publication of the Notice and Order for hearing in a Legal Newspaper for Dakota County. A list of Legal Newspapers for Dakota County can be found at <http://www.sos.state.mn.us/business-liens/start-a-business/legal-newspapers/>. Call around and find the best price. The invoice should be sent to and paid by Dakota County Community Services, Employment and Economic Assistance Department. This cost is reimbursed from the estate after the estate is reduced to cash.

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Initial Effective Date:  
Revision Dates:  
Reacknowledge Date:

In Re: Estate of  
[Decedent's Name],

Decedent.

PETITION FOR FORMAL PROBATE OF  
WILL AND FORMAL APPOINTMENT OF  
PERSONAL REPRESENTATIVE

I, [Proposed Personal Representative Name and title], on behalf of Dakota County Community Services, Employment and Economic Assistance Department, state the following:

1. **Information about the Petitioner.** I am the petitioner in this proceeding. My address is 1 Mendota Road West, West St. Paul, MN 55118.

I am an interested person as defined by Minnesota law because:

- I am a creditor of the Decedent's estate.  
 I have a property right in or claim against the Decedent's estate.

2. **Information about the Decedent.** The Decedent was born on [Birth Date] in [Birth City], [Birth State or Birth Country].

The Decedent died on [Death Date] in [Death City], in [Death State]. At the time of death, the Decedent was domiciled in [Domicile County] in [Domicile State], at [Domicile Address].

More than 120 hours *(check only one)*

- but not more than three (3) years have passed since the Decedent's death.  
 and more than three (3) years have passed since the Decedent's death. This proceeding should be allowed pursuant to the following exception in Minn. Stat. § 524.3-108:

[Provide details of exception]

3. **Venue.** Venue in this proceeding is proper because, at the time of death: *(check only one)*

- the Decedent was domiciled in this County; or  
 though not domiciled in Minnesota, the Decedent owned property located in this County.

4. **Information about Spouse, Children, Heirs, and Other Interested Persons.** As best as I know or can ascertain with reasonable diligence, the names, addresses, relationships, and ages, if minors, of the Decedent's spouse, children, heirs, [devisees,] and others interested in this proceeding, are set forth in **Exhibit A: Interested Persons.**

5. **Decedent's Assets and Indebtedness.** The estimated value of the Decedent's probate and non-probate assets and the estimated indebtedness of the Decedent, are set forth in **Exhibit B: Decedent's Assets and Indebtedness.**

6. **Negative Allegation Statement (Minn. Gen. R. Prac. 408/409).** *(choose only one and edit as appropriate)*

**Only the Spouse Survive Decedent.** The Decedent left no surviving descendants (including adopted descendants); and was not in the process of adopting an individual at the time of the Decedent's death.

**Only children Survived Decedent.** The Decedent left surviving no spouse; no children (including adopted children) other than those named in this petition; and no descendants of any deceased children.

**Spouse and Children Survived Decedent.** The Decedent left surviving no children (including adopted children) other than those named in this petition; and no descendants of any deceased children; and was not in the process of adopting an individual at the time of the Decedent's death.

**Only Brothers or Sisters Survived Decedent.** The Decedent left surviving no spouse; descendants; parents; brothers or sisters other than those named in this petition; and no descendants of deceased brothers or sisters.

**Only First Cousins Survived Decedent.** The Decedent left surviving no spouse; descendants; parents; brothers or sisters or descendants thereof; grandparents; aunts or uncles; and no first cousins other than those named in this petition.

If the Decedent is survived by a spouse and children: *(check only one)*

All descendants of the Decedent are also descendants of the surviving spouse.

There are descendants of the Decedent [and][or] the Decedent's surviving spouse who are not descendants of both the Decedent and Decedent's surviving spouse.

7. **Survival of Heirs.** All the heirs survived the decedent by 120 hours or more [except the following:.

Provide details of exception]

8. **Information about the Personal Representative.**



(check only one)

- The Will nominates [Nominee in Will] as personal representative:
- [Nominee in Will] is willing to serve and is not disqualified to serve as personal representative.
  - (check only one)  [Nominee in Will] is unwilling or unable to serve as personal representative.
- The Will does not nominate a personal representative.

The name and address of the nominated personal representative are listed in **Exhibit A: Interested Persons**.

There is no other personal representative of the Decedent's estate appointed anywhere whose appointment has not been terminated.

9. **Priority of Personal Representative.** The nominated personal representative has statutory priority because the nominee is [nominated as the personal representative in the Decedent's Will][the surviving spouse of the Decedent][a devisee of the Decedent][an heir of the Decedent][other explanation].

10. **Testamentary Documents.** The Decedent's last testamentary documents are comprised of the following: (check all that apply)

- Will dated [Will Date]
- Codicil dated [Codicil Date]
- Separate Writing under Minn. Stat. § 524.2-513 dated [Separate Writing Date]
- Other: [Provide details]

[The Decedent's Will dated [Will Date] allows a Separate Writing but no Separate Writing has been found.]

11. **Execution of Will.** To the best of my knowledge and belief, the Decedent's Will was validly executed.

12. **Due Diligence.** After exercising reasonable diligence, I am not aware of any instrument that revokes the Will. I believe the documents described in this petition are the Decedent's last Will.

13. **Location or Disposition of Testamentary Documents.** (check only one)

- The original documents constituting the Decedent's last Will, Codicil, and any Separate Writing(s) are already in the Court's possession.
- The original documents constituting the Decedent's last Will, Codicil, and any Separate Writing(s) accompany this petition.
- Authenticated copies of the Decedent's last Will, Codicil, and any Separate Writing(s), as probated in [Other Jurisdiction], accompany this petition.

- The Decedent's Will is lost and cannot be found. A copy of the Will, together with a Statement of Contents Lost, Destroyed or Otherwise Unavailable Will, accompanies this petition.
- The Decedent's Codicil is lost and cannot be found. A copy of the Codicil, together with a Statement of Contents Lost, Destroyed or Otherwise Unavailable Codicil, accompanies this petition.

**14. Administration.** The Decedent's Will: *(check only one)*

- specifies that the administration of the Decedent's estate is to be supervised.
- specifies that the administration of the Decedent's estate is to be unsupervised.
- does not specify that administration of the Decedent's estate is to be supervised or unsupervised.

**15. Bond.** The Decedent's Will: *(check only one)*

- specifies that a bond is to be posted in the amount of \$[bond amount].
- specifies that no bond is to be posted.
- does not specify whether bond is required.

**16. Demands for Notice.** *(check only one)*

- Proper notice has been given to those persons who have filed a Demand for Notice.
- I am not aware of any Demand for Notice concerning the Decedent's estate that may have been filed in Minnesota or elsewhere that has not otherwise been waived.

WHEREFORE, I request the Court fix a time and place for a hearing and enter an order to formally:

1. Find that venue is proper;
2. Find that Petitioner commenced this proceeding within the time limitations prescribed by Minnesota law;
3. Determine the Decedent's domicile at death;
4. Determine the Decedent's heirs;
5. Determine that the Decedent died testate;
6. Determine the Will is valid and unrevoked;

7. Probate the Decedent's Will;
8. Appoint [Personal Representative Name] as personal representative with [a \$ bond][no] bond, in [an unsupervised][a supervised] administration;
9. Authorize issuance of Letters Testamentary to [Personal Representative Name] upon qualification and acceptance;
10. Grant other appropriate relief.

I declare under the penalties for perjury that this petition, including all attached exhibits, has been examined by me and that its contents are true, accurate, and complete to the best of my information, knowledge, and belief.

Dated: \_\_\_\_\_

\_\_\_\_\_  
**[Petitioner Name], Petitioner**  
On behalf of  
Dakota County Community Services  
Employment & Economic Assistance

Dated: \_\_\_\_\_

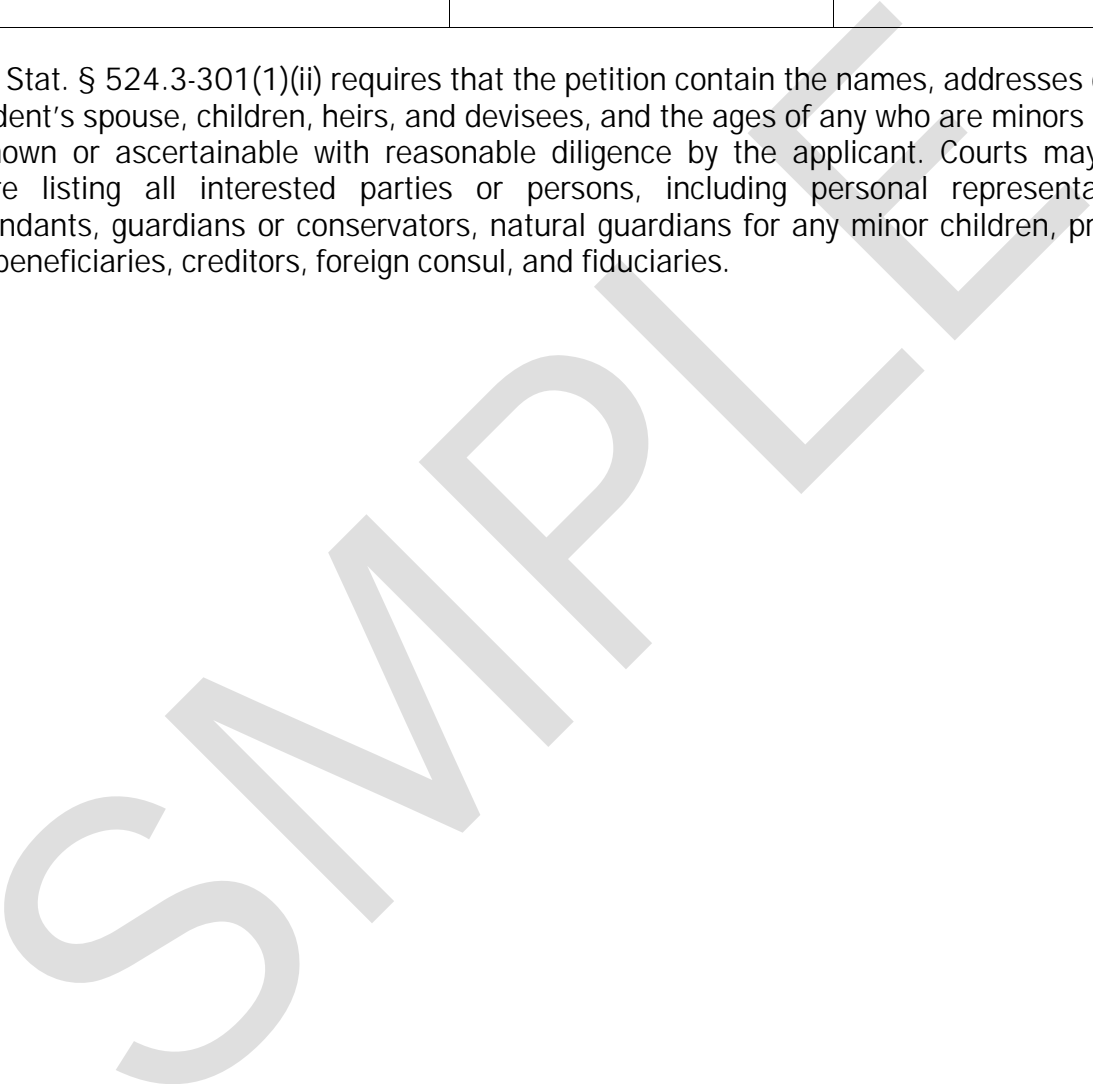
\_\_\_\_\_  
Joseph E. Trojack (#0388836)  
Assistant County Attorney  
Dakota County Attorney's Office  
1560 Highway 55  
Hastings, MN 55033  
Telephone No. (651) 438-4438  
Fax No. (651) 438-4479  
[civilecourt@co.dakota.mn.us](mailto:civilecourt@co.dakota.mn.us)

**ATTORNEY FOR PETITIONER**

**Exhibit A: Interested Persons**

Name and Address	Relationship and Interest	Adult/Deceased or Age (if minor)

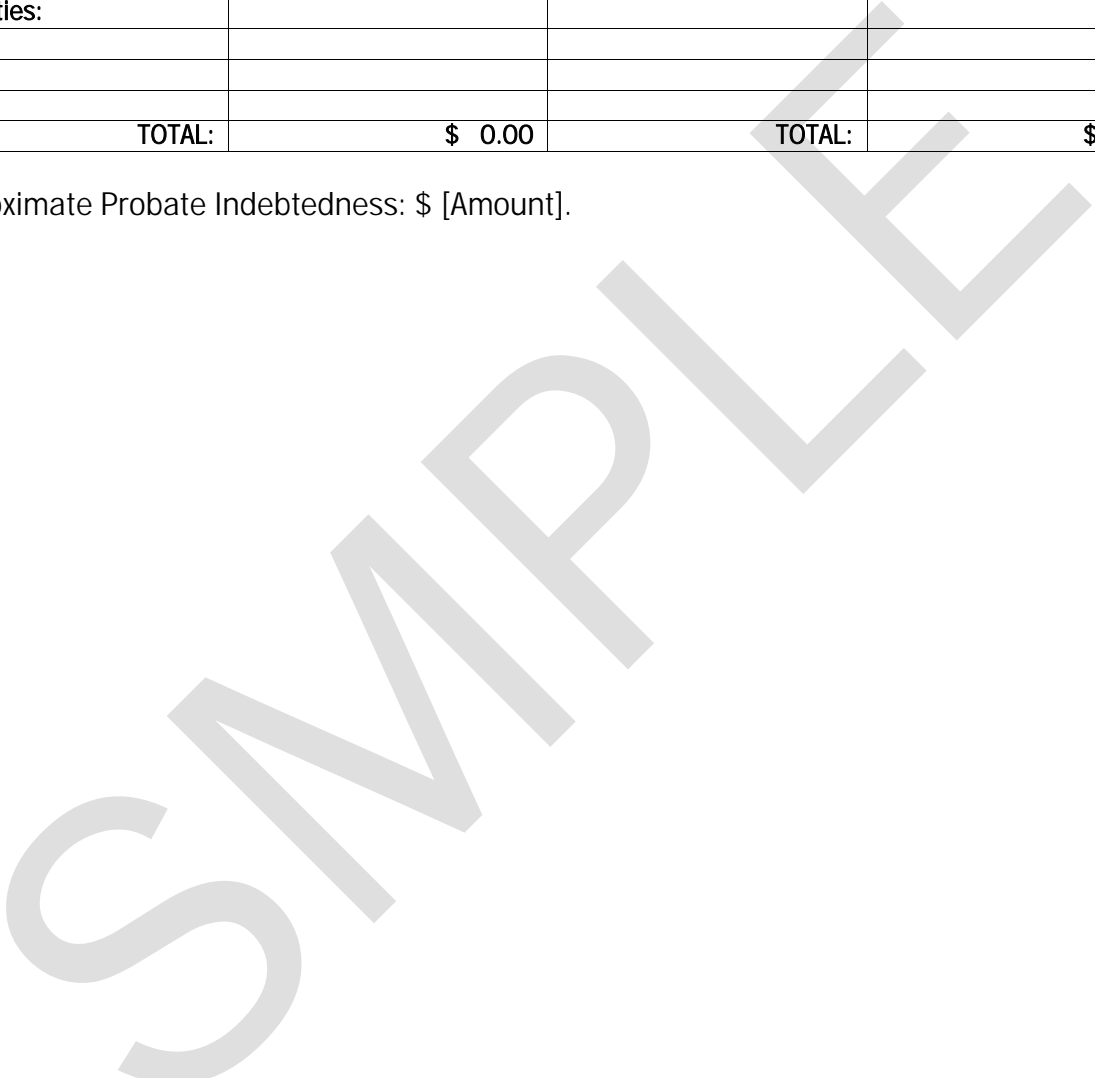
Minn. Stat. § 524.3-301(1)(ii) requires that the petition contain the names, addresses of the Decedent’s spouse, children, heirs, and devisees, and the ages of any who are minors so far as known or ascertainable with reasonable diligence by the applicant. Courts may also require listing all interested parties or persons, including personal representatives, demandants, guardians or conservators, natural guardians for any minor children, primary trust beneficiaries, creditors, foreign consul, and fiduciaries.



**Exhibit B: Decedent's Assets and Indebtedness**

Probate Assets		Non-Probate Assets	
Homestead:		Joint Tenancy:	
Other Real Estate:		Insurance:	
Cash:		Other:	
Securities:			
Other:			
<b>TOTAL:</b>	<b>\$ 0.00</b>	<b>TOTAL:</b>	<b>\$ 0.00</b>

Approximate Probate Indebtedness: \$ [Amount].



STATE OF MINNESOTA  
COUNTY OF DAKOTA

DISTRICT COURT  
FIRST JUDICIAL DISTRICT  
PROBATE DIVISION  
Court File No.: [Court File No.]

In Re: Estate of  
[Decedent's Name],

Decedent.

NOTICE OF AND ORDER FOR HEARING  
ON PETITION FOR FORMAL PROBATE  
OF WILL AND APPOINTMENT OF  
PERSONAL REPRESENTATIVE AND  
NOTICE TO CREDITORS

It is Ordered and Notice is given that on \_\_\_\_\_ at \_\_\_\_\_,  
a hearing will be held in this Court at 1560 Highway 55, Hastings, MN 55033, on a petition  
for the formal probate of an instrument purporting to be the Decedent's Will dated [Will  
Date][, and Codicil dated [Codicil Date]][, and Separate Writing pursuant to Minn. Stat.  
§ 524.2-513 dated [Separate Writing Date]], and for the appointment of [Personal  
Representative Name and Title], on behalf of Dakota County Community Services, whose  
address is One Mendota Road West, West St. Paul, MN 55118, as personal representative  
of the Decedent's estate in an unsupervised administration.

Any objections to the petition must be raised at the hearing or filed with the Court prior to  
the hearing. If the petition is proper and no objections are filed or raised, the personal  
representative will be appointed with the full power to administer the Decedent's estate,  
including the power to collect all assets; pay all legal debts, claims, taxes, and expenses; sell  
real and personal property; and do all necessary acts for the Decedent's estate.

Notice is further given that, subject to Minn. Stat. § 524.3-801, all creditors having claims  
against the Decedent's estate are required to present the claims to the personal  
representative or to the Court within four (4) months after the date of this notice or the  
claims will be barred.

BY THE COURT

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of District Court

Dated: \_\_\_\_\_

\_\_\_\_\_  
Court Administrator

Joseph E. Trojack (#0388836)  
Assistant Dakota County Attorney  
1560 Highway 55  
Hastings, MN 55033  
Telephone No. (651) 438-4438  
[civilecourt@co.dakota.mn.us](mailto:civilecourt@co.dakota.mn.us)  
ATTORNEY FOR PETITIONER

---

STATE OF MINNESOTA  
COUNTY OF DAKOTA

DISTRICT COURT  
FIRST JUDICIAL DISTRICT  
PROBATE DIVISION  
Court File No.: [Court File No.]

In Re: Estate of  
[Decedent],

Decedent.

ORDER OF FORMAL PROBATE OF WILL  
AND FORMAL APPOINTMENT OF  
PERSONAL REPRESENTATIVE

---

The Petition for Formal Probate of Will and Formal Appointment of Personal Representative, signed by [Proposed Personal Representative Name and title], on behalf of Dakota County Community Services, Employment and Economic Assistance Department ("Petitioner"), came before this Court on \_\_\_\_\_. After considering the petition, the Court determines the following:

1. **Petition and Verification.** The petition is complete. The Petitioner has made oath or affirmation that the statements contained in the petition are true to the best of the Petitioner's knowledge and belief.
2. **Information about the Decedent's Domicile.** At the time of death, the Decedent was domiciled in [Domicile County] at [Street Address].
3. **Interest of Petitioner.** The Petitioner appears from the petition to be an interested person as defined by Minnesota law.
4. **Venue.** Based on the statements in the petition, venue is proper.
5. **Notice.** Any notice required by Minnesota law has been given.
6. **Testamentary Documents.** The Decedent's last testamentary documents are comprised of the following documents: *(check all that apply)*
  - Will dated [Will Date]
  - Codicil dated [Codicil Date]
  - Separate Writing under Minn. Stat. § 524.2-513 dated [Separate Writing Date]
  - Other: [Provide details].

[The Decedent's Will dated [Will Date] allows for a Separate Writing, but no Separate Writing has been found.]

7. **Location or Disposition of Testamentary Documents.** *(check only one)*
  - The original documents constituting the Decedent's Will are in the Court's possession.

- An authenticated copy of the Decedent's Will, as probated in [Other Jurisdiction], accompanied the petition and is in the Court's possession.

The petition does not indicate the existence of a possible unrevoked testamentary instrument that may relate to property subject to the laws Minnesota, and that is not filed for probate in this Court.

It appears from the petition that the time limit for original probate and appointment proceedings has not expired.

8. **Decedent's Death.** The Decedent died on [Date of Death]. Petitioner commenced this proceeding within the time limitations prescribed by Minnesota law.

9. **Survival of Heirs.** All persons identified as heirs have survived the Decedent by at least 120 hours. *(check appropriate boxes)*

The Decedent left no surviving spouse.

The Decedent left no surviving descendants.

All descendants of the Decedent are descendants of the Decedent's surviving spouse.

There are descendants of the Decedent [and][or] the Decedent's surviving spouse who are not descendants of both the Decedent and Decedent's surviving spouse.

10. **Information about the Personal Representative.** [Proposed Personal Representative Name and title], on behalf of Dakota County Community Services, Employment and Economic Assistance Department, seeks appointment as personal representative. From the statements in the petition, [Proposed Personal Representative Name and title], on behalf of Dakota County Community Services, Employment and Economic Assistance Department is entitled to the appointment, has not been disqualified, and has not renounced appointment.

The petition indicates that no personal representative has been appointed in another county of Minnesota whose appointment has not been terminated.

11. **Administration.** The Decedent's Will: *(check only one)*

specifies that the administration of the Decedent's estate is to be supervised.

specifies that the administration of the Decedent's estate is to be unsupervised.

does not specify that administration of the Decedent's estate is to be supervised or unsupervised.

12. **Bond.** The Decedent's Will: *(check only one)*



- specifies that a bond is to be posted in the amount of \$[bond amount].
- specifies that no bond is to be posted.
- does not specify whether bond is required.

13. **Determination of Heirs.** The Decedent's heirs under Minnesota law are as identified in the petition.

14. **Objections.** There are no objections to the petition.

IT IS ORDERED:

1. The petition is granted.
2. The Decedent's Will is formally probated.
3. The Decedent's heirs under Minnesota law are as identified in the petition.
4. [Personal Representative Name], on behalf of Dakota County Community Services, Employment and Economic Assistance Department, is formally appointed as the personal representative of the decedent's estate, with no bond in an unsupervised administration.
5. Letters Testamentary will issue after [Personal Representative Name] on behalf of Dakota County Community Services, Employment and Economic Assistance Department, files a statement of acceptance and oath and posts any required bond.

**BY THE COURT**

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of District Court

STATE OF MINNESOTA  
COUNTY OF DAKOTA

DISTRICT COURT  
FIRST JUDICIAL DISTRICT  
PROBATE DIVISION  
Court File No.: [Court File No.]

In Re: Estate of

LETTERS TESTAMENTARY

[Decedent's Name],

Decedent.

1. The Decedent died on [Death Date].
2. [Proposed Personal Representative Name], on behalf of Dakota County Community Services, Employment and Economic Assistance Department, has been appointed and has authority to act as personal representative of the Decedent's estate and to administer the estate according to Minnesota law.
3. The Personal Representative is immediately authorized and empowered to sell, encumber, lease, or distribute any interest in real estate without notice, hearing, or order of court. When so exercised, this power shall transfer good title to the transferee to the same extent that decedent had title thereto.
4. Administration of the Decedent's estate is unsupervised.

BY THE COURT

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge of District Court

Approved as to Form: \_\_\_\_\_

Joseph E. Trojack (#0388836)  
Assistant County Attorney  
Dakota County Attorney's Office  
1560 Highway 55  
Hastings, MN 55033  
Telephone No. (651) 438-4438  
Fax No. (651) 438-4479  
[civilecourt@co.dakota.mn.us](mailto:civilecourt@co.dakota.mn.us)

ATTORNEYS FOR PETITIONER

PROB-P810-4

SAMPLE

STATE OF MINNESOTA  
COUNTY OF DAKOTA

DISTRICT COURT  
FIRST JUDICIAL DISTRICT  
PROBATE DIVISION  
Court File No.: [Court File No.]

In Re: Estate of  
[Decedent's Name],

ACCEPTANCE OF APPOINTMENT AS  
PERSONAL REPRESENTATIVE

Decedent.

Dakota County Community Services, Employment and Economic Assistance Department is a Political Subdivision under the laws of Minnesota with offices at One Mendota Road West, West St. Paul, MN 55118. I am [Proposed Personal Representative Name], a [Title] of Dakota County Community Services, Employment and Economic Assistance Department.

Dakota County Community Services, Employment and Economic Assistance Department accepts the duties of the office of the personal representative of the Decedent's estate. As a condition to receiving letters as Personal Representative, Dakota County Community Services, Employment and Economic Assistance Department agrees to be bound by the provisions of Minnesota law relating to the office and submits to the jurisdiction of the Court in any proceeding relating to this estate.

**Dakota County Community Services,  
Employment and Economic Assistance  
Department**

Dated: \_\_\_\_\_

By: [Proposed Personal Representative Name]  
Its: [Title]

Subscribed and sworn to (affirmed) before me

this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public or Other Official

COURT FILE NO. [Court File No.]

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT

**CERTIFICATE OF REPRESENTATION AND PARTIES**

(ONLY THE INITIAL FILING LAWYER/PARTY NEEDS TO COMPLETE THIS FORM)

**In Re: Estate of [Decedent], Deceased**

**COURT FILE NO. \_\_\_\_\_**

Pursuant to Rule 104 of the General Rules of Practice for District Courts, this form must be completed and filed with the Court Administrator's Office at the time the case is filed. The Court Administrator shall, upon receipt of the completed certificate, notify all parties or their lawyers of the date of filing the action and the file number assigned.

**LIST ALL LAWYERS/PRO SE PARTIES INVOLVED IN THIS CASE.**

**LAWYER FOR PETITIONER**

**LAWYER FOR INTERESTED PERSON**

*Party:* Dakota County Community Services,  
Employment and Economic Assistance  
Department  
*Attorney:* Joseph Trojack  
*Attorney ID:* 0388836  
1560 Highway 55  
Hastings, Minnesota 55033  
*Telephone:* 651-438-4438  
[civilecourt@co.dakota.mn.us](mailto:civilecourt@co.dakota.mn.us)

*Party:* [Party Name]  
*Attorney:* [Attorney Name or Pro Se]  
*Attorney ID:* [Attorney ID or NA]  
  
[Attorney or Party Address]  
*Telephone:* [Attorney or Party Phone]

Dated: \_\_\_\_\_

\_\_\_\_\_  
Joseph Trojack, Assistant Dakota County Attorney

STATE OF MINNESOTA  
COUNTY OF DAKOTA

DISTRICT COURT  
FIRST JUDICIAL DISTRICT  
PROBATE DIVISION  
Court File No.: [Court File No.]

In Re: Estate of  
[Decedent's Name],

Decedent.

AFFIDAVIT IN SUPPORT OF PETITION  
FOR FORMAL PROBATE OF WILL AND  
FORMAL APPOINTMENT OF PERSONAL  
REPRESENTATIVE

STATE OF MINNESOTA  
COUNTY OF DAKOTA

[Affiant Name], [being first duly sworn on oath states][affirms under penalties of perjury],  
that:

1. Attached hereto is a copy of a certified copy of Death Certificate of [Decedent] with Social Security Number redacted.
2. Attached hereto is the Decedent's last known will and testament and all codicils and Separate Writing pursuant to Minn. Stat. § 524.2-513, if any.

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Dated: \_\_\_\_\_

Affiant

Its: [Type of Authority/Title]

On behalf of Dakota County Community Services  
Employment & Economic Assistance

STATE OF MINNESOTA  
COUNTY OF DAKOTA

Minn. Gen. R. Prac. 11  
DISTRICT COURT  
FIRST JUDICIAL DISTRICT  
CASE TYPE: PROBATE

Court File No. [Court File No.]  
Assigned Judge: [Judge Name]

In Re: Estate of  
[Decedent's name],

Deceased

**CONFIDENTIAL INFORMATION FORM**

The information on this form is confidential and shall not be placed in a publicly accessible portion of the file.

Party	Account or Name of Item	Social Security Number, Employer Identification Number and Financial Account Numbers
[Decedent's name]	Social Security Number	XXX-XX-XXXX

Information supplied by: Petitioner

**JAMES C. BACKSTROM**  
**DAKOTA COUNTY ATTORNEY**

Date: \_\_\_\_\_

By: /s/ \_\_\_\_\_  
Joseph E. Trojack (#0388836)  
Assistant County Attorney  
Attorney for Petitioner  
Dakota County Judicial Center  
1560 Highway 55  
Hastings, Minnesota 55033  
Telephone: (651) 438-4438  
[civilecourt@co.dakota.mn.us](mailto:civilecourt@co.dakota.mn.us)

**MINN. STAT. § 549.211**  
**ACKNOWLEDGMENT**

If the requirements of good faith pleadings set forth in Minn. Stat. § 549.211 are breached, the undersigned acknowledges that the court may impose sanctions, including reasonable attorneys' fees to opposing parties.

Date: \_\_\_\_\_

/s/ \_\_\_\_\_  
Joseph E. Trojack (#0388836)

---

STATE OF MINNESOTA  
COUNTY OF DAKOTA

DISTRICT COURT  
FIRST JUDICIAL DISTRICT  
PROBATE DIVISION  
Court File No.: [Court File No.]

In Re: Estate of  
[Decedent's Name],

**AFFIDAVIT OF SERVICE BY U.S. MAIL  
AND ATTACHED SERVICE LIST**

**Decedent.**

---

STATE OF MINNESOTA  
COUNTY OF DAKOTA

[Affiant Name], [being first duly sworn on oath states][affirms under penalties of perjury], that on [Date of Service], I served the following [attached] document(s):

[...]

by placing a true and correct copy of each document in an envelope, separately addressed as applicable, and mailing the envelope(s) from [City, State], by United States mail, postage prepaid, to the last known address for each person listed on the attached service list.

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Dated: \_\_\_\_\_  
**Affiant**



**SERVICE LIST**

[Name and Address]

[Name and Address]

[Name and Address]

[Name and Address]

SAMPLE