

INFORMAL PROBATE

1

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

Part 1: The Application and Notice

(Instruction Packet)

SELF-SERVICE CENTER

**INFORMAL PROBATE
APPLICATION FOR APPOINTMENT AS PERSONAL
REPRESENTATIVE**

PART 1: The Application and Notice

This packet contains general information and instructions to file and give notice of an Application for Appointment as Personal Representative (whether there was a Will or not). 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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IMPORTANT NOTICE

TRAINING REQUIREMENTS

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, or within 30 days of a temporary or emergency appointment.

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 the accompanying “Forms” packet. You may also pick up a printout of the training materials in English or Spanish from the Self-Service Center. 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 from the Self-Service Center. If you have questions about the training, contact the Probate Clerk at 602-506-3668.

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PROCEDURES: HOW TO APPLY TO BE THE PERSONAL REPRESENTATIVE

WHAT TO DO BEFORE YOU COME TO COURT TO FILE ANYTHING:

1. Decide if you are asking for an appointment as Personal Representative for the person who died with no Will, or with a Will. If the person died with a Will, you will also be asking for the Will to be admitted into informal probate.
2. Decide if you are an appropriate person to be the Personal Representative. Generally, to file the Application you must be:
 - Over **18 years** of age **AND**
 - The surviving spouse of the decedent,
 - An adult 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**
 - You are a creditor and **45 days** have gone by since the person died.

Read the Application and all the other papers in this packet so you know what kind of information you will need to file to be appointed Personal Representative.

3. Determine who are all the other people who are entitled to be the Personal Representative. Also, you will need to determine who are the likely persons who will inherit property under the Will or to whom property will pass by law if there is no Will and who are creditors of the estate. If you are not sure about this, talk to a lawyer who can help you decide.
4. Complete the Application if you want to be appointed as Personal Representative. **Use Black Ink Only.**
5. Go to the people who could also be Personal Representatives. Ask them 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 a Waiver, have them sign the Waiver in this packet.
 - If the Waiver is signed, **mail or deliver** the Waiver to **all interested persons**. Interested persons are individuals who are heirs, devisees, children, spouse, creditors and others having a property right in or claim against the estate and persons having a priority for appointment as Personal Representative.
6. Estimate what you think is the total value of the estate of the decedent. Go to the people who are entitled to inherit the property under a Will, or to whom property will pass by law if there is no Will, and ask them 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. If the WAIVER OF BOND is signed by all interested persons, **mail or deliver** the Waiver to all interested persons.

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

- 7.** Fill out the Probate Cover Sheet, the Probate Information Sheet, the Application, and attach the **original Will**. Make enough copies for all interested persons. Decide in which court location you will file the Application. The choices are:

DOWNTOWN PHOENIX:
Old Courthouse, 1st Floor
125 West Washington
Phoenix, AZ 85003-2205

NORTHEAST PHOENIX
Northeast Court Facility
18380 North 40th St.
Phoenix, AZ 85032

SURPRISE:
Northwest Court Facility
14264 West Tierra Buena Lane
Surprise, Arizona 85374

MESA:
Southeast Court Facility
222 East Javelina Avenue, 1st Floor, Ste. 1350
Mesa, AZ 85210-6201

FILING YOUR PAPERS WITH THE COURT

- 1.** File the original Application and the original Will and have the copies conformed (stamped) by the Clerk and returned to you. (Conformed means that the original document was filed with the court and date-stamped.) **FEES:** A list of current fees is available from the Self Service Center and from the Clerk of 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) when you file your papers with the Clerk of the Court. Deferral Applications are available at no charge from the Self-Service Center.

- 2.** Complete the NOTICE OF APPLICATION. Mail or hand-deliver a **copy** of the NOTICE OF APPLICATION and the APPLICATION FOR INFORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE to everyone entitled to notice. Read the NOTICE OF APPLICATION in this packet to learn who must get notice.

If people are entitled to notice and you cannot find them even though you tried very hard to find them, you can publish notice. Read the documents in this packet on how to serve papers when you don't know where the other party lives. You must publish once a week for **3 consecutive weeks**. If you publish, be sure you complete the AFFIDAVIT OF CIRCUMSTANCES, and make sure the AFFIDAVIT OF PUBLICATION that you will get back from the newspaper is filed with the court.

- 3.** Complete the PROOF OF DELIVERY or MAILING OF NOTICE APPLICATION. **Use Black Ink Only.**

WHAT TO DO NEXT: See the *Procedures for Appointment of Personal Representative* in this packet.

SELF-SERVICE CENTER

PROCEDURES FOR APPOINTMENT OF PERSONAL REPRESENTATIVE AND ADMISSION OF WILL (if any) TO PROBATE

STEP 1 VIEW REQUIRED TRAINING MATERIALS **BEFORE** YOU FILE!

View the required training information so that you may turn in the **Certificate** (or "Declaration") 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>

STEP 2 BRING PAPERS TO COURT, PAY FILING FEE, and FILE:

Bring the documents listed below to the Filing Counter at the court location you choose for filing, and **pay the filing fee**. Cash, AMEX/VISA/MasterCard debit or credit cards, or money order made payable to the "Clerk of Superior Court" are acceptable forms of payment.

A list of current fees is available from the Self Service Center website or from the Clerk of 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) when you file your papers with the Clerk of the Court. Deferral Applications are available at no charge from the Self-Service Center.

The Clerk will accept the **originals** to be reviewed by the Probate Registrar or Deputy Registrar **within 3 business days** after the date of submission.

Make and present extra copies of all originals for the Probate Registrar to date-stamp and return to you as proof of filing.

REQUIRED DOCUMENTS:

- **PROBATE INFORMATION COVERSHEET**
- **APPLICATION FOR APPOINTMENT** (Signed and notarized original plus at least one copy)
- **Original WILL**, *if decedent had a Will*
- **NOTICE OF APPLICATION** (original plus at least one copy)
- **PROOF OF MAILING OF NOTICE OF APPLICATION** (original plus at least one copy)
- **DECLARATION SUPPORTING PUBLICATION** (includes **AFFIDAVIT OF PUBLICATION** (if you published) (original plus at least one copy)

- **STATEMENT OF INFORMAL APPOINTMENT** (original plus at least one copy)
 - **LETTERS and ACCEPTANCE OF APPOINTMENT** (Signed and notarized original plus at least one copy)
 - **ORDER TO PERSONAL REPRESENTATIVE** (Signed original plus at least one copy)
 - **CERTIFICATE (or "Declaration") OF COMPLETION OF TRAINING** (original plus copy)
- OPTIONAL DOCUMENTS:**

- Signed and notarized original **WAIVER OF RIGHT TO APPOINTMENT and CONSENT** (if anyone signed) (plus at least one copy)
- Signed and notarized original **WAIVER OF BOND** (if anyone signed) (plus at least one copy)

STEP 3 Before you make any copies, complete the **STATEMENT OF INFORMAL APPOINTMENT** except for the part about the bond and the signature of the Probate Registrar. **Use Black Ink Only.** Also, complete the caption of the **LETTERS**, and the caption of the **ORDER TO PERSONAL REPRESENTATIVE**, which includes the information about you and the decedent (the person who died).

STEP 4 If all is in order, the Probate Registrar will:

- Sign the **STATEMENT**,
- Submit the **WILL** (if there is one),
- Issue the **LETTERS OF APPOINTMENT, AND**
- Sign the **ORDER TO PERSONAL REPRESENTATIVE.**

STEP 5 Once reviewed by the Probate Registrar you will be contacted based upon information provided to us on the contact information sheet and notified that the documents are ready for pickup. If documents are deficient, you will be notified and you may resubmit upon correction of deficiencies.

Documents must be picked up within 24 hours (1 business day) of notification.

STEP 6 If you are required to post a bond, the Clerk **will not** issue the **LETTERS** until you have filed proof of the bond. After you file proof of the bond the **LETTERS** will be issued by the Clerk.

STEP 7 You will need to get a certified copy of the **LETTERS**, to prove you were appointed. There is a **certification fee plus a fee per page to make copies.** Also ask the Probate Registrar to date-stamp ("conform") a copy of the **STATEMENT OF INFORMAL APPOINTMENT** for you.

INFORMATION ON LEGAL NOTICE FOR PROBATE OF ESTATES AND WHAT TO DO AFTER YOU HAVE NOTIFIED ALL INTERESTED PERSONS

1. WHAT IS LEGAL NOTICE: After you have completed **AND** filed the probate papers with the Court, you must tell **all** “interested persons” about the papers. See **#3** below for definition of “interested persons”.

A. WHAT COURT DOCUMENTS DO I NEED TO GIVE NOTICE ABOUT IMMEDIATELY AFTER I HAVE FILED THE APPLICATION? To give Notice, you have to give copies of Court documents to those entitled to notice. The documents you need to give those entitled to notice at this time are:

- **APPLICATION FOR INFORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE** (when a person died with a Will or without a Will).
- **NOTICE OF APPLICATION** (in Informal Proceeding).

It is recommended that you give people entitled to notice copies of **all** documents you filed with the court so that you know you gave people copies of the correct documents. You then must list in the **PROOF OF NOTICE** (see section C, below) the people you gave the documents to, their address and the date the documents were mailed or delivered.

B. WHAT ARE THE WAYS TO GIVE LEGAL NOTICE?

- **“Personal Service”** means giving formal notice that is required in some cases for some persons. It requires that a registered process server or the sheriff serve the documents on interested persons or that a person accept service of the papers. When personal service is required, it means the law is written to make sure that a person who needs notice of a case gets the notice.
- **Mail or hand delivery** is a less formal but important way of giving notice to other persons in some cases. When you are required to give notice by mail, 1st class postage-prepaid mail is usually acceptable. Certified mail with return receipt is an extra step you can take to prove that the person you want to have notice received the notice.

Note: Service by **mail** or **hand-delivery** is only allowed in **SOME** cases, so make sure you read the instructions to see if you can use this method of service.

- **Publication of Notice** is used when you do not know the address of the person to whom you need to give notice. For publication, you need to try to find the person who is supposed to get notice, and prove to the Court you did everything you could to try to find the person or the person’s address. Then, you must publish the Notice at least **3 times** in a newspaper in the county where the case was filed.

Note: Remember that **Notice to Creditors** (if applicable) must be published **3 consecutive weeks**. (A.R.S. § 14-3801)

C. HOW DO I SHOW THAT I GAVE LEGAL NOTICE?

- **PROOF OF NOTICE** is the document you sign and file with the Court to prove you gave notice to **all** interested persons, and how you did it. You must fill out this form after you have served the documents on all interested persons (See **Step 3**). There are other documents that go with the **PROOF OF NOTICE** to show that service was made. These documents may include the following:

- 1) **AFFIDAVIT OF PUBLICATION,**
- 2) **AFFIDAVIT OF SERVICE** signed by the process server or sheriff, **OR**
- 3) **ACCEPTANCE OF SERVICE.**

- 2. TIME FRAMES TO GIVE LEGAL NOTICE:** Generally, you must give **all** interested persons notice of the court papers **immediately** after you file the documents with the court. If you do not know where the person lives and have tried to find them, you can give Notice by Publication.

Note: The newspaper will provide the **AFFIDAVIT OF PUBLICATION** to you **after** all **3 notices** to interested persons and/or to creditors have been published.

- 3. WHO IS ENTITLED TO LEGAL NOTICE:** You must give notice to **all “interested persons”**. **This includes, but is not limited to:**

- Any person that has filed a **Demand for Notice** with the court,
- Any Personal Representative of the decedent whose appointment has not ended,
- Any spouse,
- Any adult child(ren),
- Any parents, brothers and/or sisters of the decedent, **AND**
- Any person named as an heir in the Will of the decedent.

- 4. COMPLETE THE PROOF OF NOTICE:** After Notice is done, you must complete the **PROOF OF NOTICE** form. Be sure to list the names of the persons to whom you gave the copies, address, and the date you mailed or delivered the documents. If the person has an attorney, make sure you mail copies to the attorney, too. Then, **make 3 copies** of the **PROOF OF NOTICE**.

- 5. FILE THE PROOF OF NOTICE AND OTHER COURT PAPERS:** File the **PROOF OF NOTICE** and other court papers with the Clerk of the Court, Probate Registrar. These documents should be filed with the court **immediately** after you have notified all interested persons. See ***Procedures: How to Apply to be Personal Representative*** to find out what documents you should complete and file with the Probate Registrar. After you file the **PROOF OF NOTICE** and other court papers, mail or deliver a **copy** to all interested persons **immediately**.

- Take the **original and 2 copies** of the **PROOF OF NOTICE** and other court papers to the Probate Registrar who will file the original and stamp "copy" on each of the 2 copies and return them to you.
- **Keep a copy of each document for your records.**

- 6. NEXT STEPS:** See Packet number 2 concerning ***“The Appointment, Notice of Appointment, Inventory and Appraisal.”***

- 7. OTHER HELP:** If you still have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under “attorneys.” Also, the Self-Service Center has a list of lawyers who will help you help yourself. The list shows where the lawyers are located, how much they charge to look over the court papers or answer your questions, and what their experience is. **All forms referred to in these instructions are available at the Self-Service Center.**

SELF-SERVICE CENTER

PROCEDURES: HOW TO SERVE LEGAL PAPERS BY PUBLICATION

In matters of GUARDIANSHIP, CONSERVATORSHIP, PROBATE OF ESTATE, and the SALE OF REAL PROPERTY

(Arrange for service AFTER you have filed your papers in court.)

STEP 1 COMPLETE ATTACHED LETTER to NEWSPAPER describing the documents that need to be referenced by the newspaper, and submit copies of those documents along with the letter to the paper.

A. IF YOU HAVE A COURT ORDER WAIVING/DEFERRING COSTS of PUBLICATION, YOU MUST PUBLISH IN THE ARIZONA BUSINESS GAZETTE.

MAIL OR DELIVER the letter that is attached to this form, a copy of the documents you filed with the Clerk, and the **CERTIFIED ORDER WAIVING/ DEFERRING COSTS of PUBLICATION** to: **Arizona Business Gazette, Legal Advertising, P. O. Box 194, Phoenix, AZ 85001**. You may also **fax** the documents to **(602) 444-7364**, **or** leave your papers in the Gazette's drop box as described below.

- OR -

B. IF YOU ARE PAYING THE COST of PUBLICATION, YOU MAY USE ANY NEWSPAPER OF "GENERAL CIRCULATION" in this county. Note that:

1. There are **numerous** eligible publications **other than** those mentioned below;
2. The Arizona Corporation Commission maintains a list of eligible publications along with their contact information online at: <http://tinyurl.com/9fpwtof>;
3. **Fees vary**. You may call and ask for "Legal Advertising" to compare prices.

You may publish in **any** of the more than 15 newspapers listed on the web page referenced above, **including** the three listed below. **These three** maintain drop-boxes in the downtown Phoenix Superior Court complex where you may drop off your papers and **non-cash** payment. You may also make or arrange payment over the phone.

i. **THE ARIZONA BUSINESS GAZETTE**. Call **(602) 444-7315** to determine the cost of publishing your legal ad and to confirm how you wish to pay. Visa, MasterCard, Discover, and checks and money orders, are accepted.

- **Mail or deliver payment and papers as described in "A" above** (except for the Order Deferring/Waiving Costs).
- If you have already arranged payment, you may **fax** the documents to **(602) 444-7364**, **- OR -**
- Deposit papers and payment in the drop box maintained by the Gazette located in the Family Court filing area on the first floor of the Central Court Building at 201 W. Jefferson Street in downtown Phoenix.

ii. **THE RECORD REPORTER**. Call **(602) 417-9900** to determine the cost of publishing your legal ad and to confirm how you wish to pay. Visa, MasterCard, Discover, American Express, and checks or money orders made payable to the Record Reporter are accepted.

- **Mail or deliver payment and papers** (a copy of the documents you filed with the Clerk, and the letter that is attached to these instructions) to: **Record Reporter, Legal Advertising, 2025 N. Third Street, Suite 160, Phoenix, AZ 85004**. If you have already arranged payment, you may **fax** the documents to **(602) 417-9910** -
– OR –
 - Deposit your papers in the drop box maintained by the Reporter located in the Probate Court filing area on the first floor of the Old Court House at 125 W. Washington Street, in downtown Phoenix.
- iii. **ARIZONA CAPITOL TIMES**. Call **(602) 258-7026** to determine the cost of publishing your legal ad and to confirm how you wish to pay. Visa, MasterCard, Discover, American Express, and checks or money orders made payable to the **Capitol Times** are accepted.
- **Mail or deliver payment and papers** (a copy of the documents you filed with the Clerk, and the letter that is attached to these instructions) to: **Arizona Capitol Times, Legal Advertising, 1835 W. Adams, Phoenix, AZ 85007**. If you have already arranged payment, you may **fax** the documents to **(602) 258-2504**.
 - **Email scanned copies** of the documents in PDF or Word format to publicnotices@azcapitoltimes.com – OR –
 - Deposit your papers in the drop box maintained by the Capitol Times located in the Probate Court filing area on the first floor of the Old Court House at 125 W. Washington Street, in downtown Phoenix.

STEP 2 WHEN TO FILE:

- **Wait** (about **5 weeks**) for the newspaper to send you an **AFFIDAVIT OF PUBLICATION**, which will include the notice that was published, and the dates of publication. **Some** newspapers will file this document with the Court for you. If the newspaper sends you **TWO** copies or an original, it is intended for **you** to file one. Always verify with the Probate Clerk that the **AFFIDAVIT OF PUBLICATION gets filed**.

STEP 3 GATHER THE PAPERWORK: (Caution: Be aware of confusingly similar document names.)

- Complete the **DECLARATION SUPPORTING PUBLICATION** (PB25f), found in the Forms packet, to describe the efforts you made to locate and serve notice **before** resorting to publication.
- If the newspaper has **not** already filed the **AFFIDAVIT OF PUBLICATION**, **make sure it gets filed** by submitting it with the **DECLARATION SUPPORTING PUBLICATION**.
- **Copy** of both of the above (Affidavit and Declaration) documents for your records.

STEP 4 FILE YOUR DOCUMENTS WITH THE COURT:

- The original **DECLARATION SUPPORTING PUBLICATION**, and
- The original of **AFFIDAVIT OF PUBLICATION** (*unless the newspaper filed it for you*).

(And **bring a copy** of the **AFFIDAVIT OF PUBLICATION** to the hearing.)

LETTER TO NEWSPAPER

Print Your Name: _____

Your Address: _____

Date: _____

Name of Newspaper

Address

To Whom It May Concern:

I need to publish notice in the newspaper about the following matter: Probate Court Case No. _____,
which concerns the following: (check one box)

Guardianship and/or Conservatorship matter about (name of person with guardian and/or conservator)
_____, OR

Estate of _____, deceased, OR
Print Name

Sale of Real Property _____, Please Note: The first publication
Print street address of subject property

of this NOTICE must be published at least fourteen (14) days before the scheduled hearing, or by _____.
Print Date

Enclosed is a copy of the following documents stamped by the Clerk of Court (check all that apply):

- "Notice of Hearing" for matter about guardian and/or conservator, OR Petition, OR
- "Notice to Creditors" for probate of an estate, OR
- (If no Will) An **Application for Appointment of Personal Representative without a Will**, OR
- (If a Will) An **Application for Informal Probate of a Will and for Appointment of a Personal Representative**.

Please publish Notice in your newspaper about this court case once a week for three successive weeks. Also enclosed is (check one box)

- A check or money order in the amount of \$_____ for the cost of the publication as requested, OR,
- A certified copy of the Order from the court waiving/deferring the publication costs.

When you receive this letter, please call me at _____ to tell me when the first publication will occur. When all three weeks of publication have been completed, please file the original and send me one copy of the **Affidavit of Publication**.

Sincerely,

Your Signature

Enclosures