

# Formal Probate (With A Will)



**Use these forms and instructions only if the following factors apply to your situation:**

- You are related to the person who died or you have a legal interest in the person's property
- The person had a will
- The person has been dead for less than three years
- No prior probate or administration proceeding was started in Minnesota, except an informal administration
- You want to file court papers to have someone appointed to administer the estate of the person who died

**If you are not sure that these forms and instructions apply to your situation, see a lawyer for help.**

## **FORMAL PROBATE (WITH A WILL)**

### **What to do before you come to court to file anything:**

1. Determine if the person who died has been dead for less than three years.
2. Determine if a probate or administration proceeding was previously started in Minnesota.
3. Decide if you are an appropriate person to sign and submit the Petition. To do this, read the Petition and other forms in this packet, it will help you know what the law requires.
4. Complete the Petition. It is very important that the Petition be completed thoroughly and accurately. You must accurately list all of the heirs and devisees of the person who died.
5. Complete the following documents. (NOTE: Leave the dates and time of the hearing and signatures blank. These will be filled in by the Court Administrator when you file the papers with the Probate Court.):
  - Order and Notice of Hearing
  - Acceptance of Appointment and Oath by Individual (a court deputy can notarize your signature when you come to court)
  - Order of Formal Probate of Will and Formal Appointment of Personal Representative
  - Letters Testamentary
6. Make a copy of the completed forms for your own records.

### **What to do next:**

1. Mail or bring the completed forms and a check for the filing fee (credit cards are accepted) to:  
Ramsey County Probate Court  
650 Courthouse  
15 West Kellogg Boulevard  
St. Paul, MN 55102
2. After the clerk's office completes and signs the Notice and Order for Hearing on Petition for Formal Probate of Will and Appointment of Personal Representative and Notice to Creditors, a copy will be mailed to you. **You must make copies of this notice and mail a copy to each of the heirs and devisees you listed on your Petition. The notice must be mailed at least 14 days prior to the scheduled hearing.**
3. Complete the Affidavit of Mailing in this packet and file it with the Probate Court. (Remember to have your signature notarized.)
4. Publication of the Notice of Hearing on Petition for Formal Probate of Will and Appointment of Personal Representative and Notice to Creditors must be made once a week for two consecutive weeks in a legal newspaper in the county. The clerk's office will send the notice directly to the St. Paul Legal Ledger for publication. You will receive an invoice for the publication cost from the St. Paul Legal Ledger, and it is your responsibility to pay the publication fee directly to the St. Paul Legal Ledger.
5. **You are responsible for paying the newspaper for publication costs.**

6. You must appear at the scheduled hearing and you must be prepared to testify to the facts stated in your petition. If your petition is approved by the judge at the hearing, the Order of Formal Probate of Will and Formal Appointment of Personal Representative will be signed.

7. The Judge will sign the Letters Testamentary after the Acceptance of Appointment and Oath by Individual, Affidavit of Mailing, Affidavit of Publication, and Bond (if required by the judge) are filed with the Court Administrator.

8. You will probably need one or more certified copies of the Letters Testamentary to prove that you have the authority to administer the estate of the person who died. You will need to ask the Court Administrator for a certified copy. There is a charge for each certified copy.

9. Court personnel are prohibited by law from giving legal advice. Therefore, it is the responsibility of the personal representative to prepare and mail the inventory and final account and otherwise comply with the law for administration of the estate and distribution of assets. Any questions regarding how to properly administer the estate need to be directed to an attorney.

## **Examples of Negative Allegations For Decedents Dying AFTER DECEMBER 31, 1995**

- 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.'"
- Example 5** "Where only grandparents survive, the application should state 'that the decedent left surviving no spouse; issue; parents; brothers or sisters or issue thereof; and no paternal grandparent other than herein named; and no maternal grandparent other than herein named.'"
- Example 6** "Where the nearest surviving descendants of the paternal grandparents are first cousins; and the nearest surviving descendants of the maternal grandparents are first cousins once removed, the applications should state:  
'that the decedent left surviving no spouse; issue; parents; brothers or sisters or issue thereof; grandparents; aunts or uncles; and no paternal first cousins other than herein named; and no maternal first cousins once removed other than herein named.'"

**In all cases, the petition should state either:**

- (a) That all heirs-at-law survived the decedent for 120 hours or more; or
- (b) That all the heirs-at-law survived the decedent for 120 hours or more except the following: (name or names).

**In all cases where a spouse and children survive, the petition should state either:**

- (a) That all of the issue of either the decedent or the decedent's surviving spouse are common to both of them; or
- (b) That one or more of the issue of either the decedent or the decedent's surviving spouse are not common to both of them.

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT  
PROBATE DIVISION  
SECOND JUDICIAL DISTRICT

Court File No. \_\_\_\_\_

Estate of

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

\_\_\_\_\_,

**Decedent**

I, \_\_\_\_\_, state:

1. My address is:
  
2. I am an interested person as defined by Minnesota law because I am:
  
3. Decedent was born on \_\_\_\_\_, at \_\_\_\_\_.
4. Decedent died on \_\_\_\_\_, at \_\_\_\_\_.
5. Decedent at the time of death resided in \_\_\_\_\_ County, at (address):
  
6. The names and addresses of Decedent's spouse, children, heirs, devisees and other persons interested in this proceeding so far as known or ascertainable with reasonable diligence by the Petitioner are:

Name and Mailing Address	Relationship and Interest (list all)	Birthdate of Minors
-----------------------------	--	------------------------

(attach separate schedule, if necessary)

7. Negative Allegation Statement (see Minn. Gen. R. Prac. 408(a)):
  
8. All persons identified as heirs have survived the Decedent by at least 120 hours.

9.  Decedent left no surviving spouse.  
 Decedent left no surviving issue.  
 All issue of Decedent are issue of Decedent's surviving spouse except for:

There are issue of the surviving spouse who are not issue of the Decedent.

10. Venue for this proceeding is in this County of the State of Minnesota because:

The Decedent was domiciled in this County at the time of death and was the owner of property located in the State of Minnesota.

or

Though not domiciled in the State of Minnesota, the Decedent was the owner of property located in this County at the time of death.

11. I estimate the Decedent's assets and indebtedness are as follows:

**Probate Assets**

Homestead \$ \_\_\_\_\_  
 Other real estate \$ \_\_\_\_\_  
 Cash \$ \_\_\_\_\_  
 Securities \$ \_\_\_\_\_  
 Other \$ \_\_\_\_\_

**Non-Probate Assets**

Joint Tenancy \$ \_\_\_\_\_  
 Insurance \$ \_\_\_\_\_  
 Other \$ \_\_\_\_\_

**Approximate Indebtedness** \$ \_\_\_\_\_

12. There is no personal representative of the Decedent appointed in Minnesota or elsewhere whose appointment has not been terminated, except (state any exceptions):

13.  I have not received a demand for notice and am not aware of any demand for notice of any probate or appointment proceeding concerning the Decedent that may have been filed in Minnesota or elsewhere.

or

Proper notice has been given to those persons who have filed a demand for notice.

14. Decedent's Will is comprised of the following:

Last will dated \_\_\_\_\_.

Codicil(s) dated \_\_\_\_\_.

Separate writing(s) under Minn. Stat. 524.2-513 dated \_\_\_\_\_.

(check if applicable) The Will refers to a separate writing, but none has been found.

15. To the best of my knowledge and belief, the Will has been validly executed.

16. Having conducted a reasonably diligent search, I am unaware of any instrument revoking the Will or of any other unrevoked testamentary instrument.

17. The documents comprising the Will:

accompany this Application.

are in the Court's possession.

have been probated elsewhere and an authenticated copy of the Will and statement or order probating the same accompany this Application.



**STATE OF MINNESOTA**  
**COUNTY OF RAMSEY**

**DISTRICT COURT**  
**PROBATE DIVISION**  
**SECOND JUDICIAL DISTRICT**

Court File No. \_\_\_\_\_

**Estate of**

\_\_\_\_\_ ,

**Decedent**

**RENUNCIATION OF PRIORITY FOR  
APPOINTMENT AND RIGHT TO  
NOMINATE  
PERSONAL REPRESENTATIVE**

I, \_\_\_\_\_, state:

1. My address is:
  
2. I have priority for appointment as the personal representative of this Estate and/or a right to nominate the personal representative of this Estate because I am:
  
3. I renounce any right for appointment as a personal representative of this Estate.
  
4. I renounce any right to nominate a personal representative of this Estate.

Under penalties for perjury, I declare or affirm that I have read this document and to the best of my knowledge or information, its representations are true and complete.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Attorney for \_\_\_\_\_  
Name:  
Firm:  
Street:  
City, State, ZIP:  
Attorney License No.:  
Telephone:                      FAX:

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT  
PROBATE DIVISION  
SECOND JUDICIAL DISTRICT

Court File No. \_\_\_\_\_

Estate of

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

\_\_\_\_\_ ,

**Decedent**

The Petition for Formal Probate of Will and Formal Appointment of Personal Representative, signed by \_\_\_\_\_, came before the Court on \_\_\_\_\_. The Court, having heard and considered the Petition, determines the following:

1. The Court has jurisdiction and venue in this County is proper.
2. The Petition is complete.
3. The Petitioner has declared or affirmed that the representations contained in the Petition are true to the best of Petitioner's knowledge or belief.
4. The Petitioner is an interested person as defined by Minnesota law.
5. Any notice required by Minnesota law has been given.
6. Decedent died on \_\_\_\_\_.
7. Decedent's Will is comprised of the following:
  - Last will dated \_\_\_\_\_.
  - Codicil(s) dated \_\_\_\_\_.
  - Separate writing(s) under Minn. Stat. 524.2-513 dated \_\_\_\_\_.
  - (check if applicable) The Will refers to a separate writing, but none has been found.
8. The documents comprising the Will:
  - are in the Court's possession.
  - have been probated elsewhere, and an authenticated copy of the Will and statement or order probating the same are on file with this Court.
  - are unavailable, but a Statement of Contents of Lost, Destroyed or Otherwise Unavailable Will is in the Court's possession.
9. It appears from the Petition that the proceeding was commenced within the time limitation prescribed by Minn. Stat. 524.3-108.
10. The Petition indicates that there is no personal representative appointed in this or any other county of Minnesota whose appointment has not been terminated, except:
11. The Petition does not indicate the existence of a possible unrevoked testamentary instrument which may relate to property subject to Minnesota law, and which is not filed for probate in this Court.

12. The person appointed below has priority and is entitled to be appointed personal representative, and is not disqualified to serve as personal representative.

13. The Will specifies:

Bond:  No bond  
 Minimum bond  
 \$ \_\_\_\_\_ bond  
 Unspecified

Administration:  Undesignated  
 Unsupervised  
 Supervised

14. Decedent's heirs under Minnesota law are:

as identified in the Petition commencing this proceeding;

or

as follows:

15. All persons identified as heirs have survived the Decedent by at least 120 hours.

16. (Check appropriate boxes)

Decedent left no surviving spouse.

Decedent left no surviving issue.

All issue of Decedent are issue of Decedent's surviving spouse except for:

There are issue of the surviving spouse who are not issue of the Decedent.

17. No objections to the Petition have been asserted.

IT IS ORDERED:

1. The Petition is granted.

2. The Will is formally probated.

3. \_\_\_\_\_ is formally appointed as the personal representative of the Decedent's Estate, with \_\_\_\_\_ bond, in an unsupervised a supervised administration.

4. Upon filing any required bond and statement of acceptance and oath, letters testamentary will be issued.

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

\_\_\_\_\_  
Date

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT  
PROBATE DIVISION  
SECOND JUDICIAL DISTRICT

Court File No. \_\_\_\_\_

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

Estate of

\_\_\_\_\_,  
**Decedent**

It is Ordered and Notice is given that on \_\_\_\_\_ at \_\_\_\_\_ (a.m.)(p.m.), a hearing will be held in this Court at Room 650, Ramsey County Courthouse, 15 West Kellogg Boulevard, St. Paul, Minnesota, for the formal probate of an instrument purporting to be the will of the Decedent, dated \_\_\_\_\_, and codicil dated \_\_\_\_\_, and separate writing under Minn. Stat. 524.2-513 ("Will"), and for the appointment of: \_\_\_\_\_, whose address is:

as personal representative of the Estate of the Decedent in a/an  SUPERVISED  UNSUPERVISED administration. Any objections to the petition must be filed with the Court prior to or raised at the hearing. If proper and if no objections are filed or raised, the personal representative will be appointed with full power to administer the Estate including the power to collect all assets, to pay all legal debts, claims, taxes and expenses, to sell real and personal property, and to do all necessary acts for the Estate.

Notice is also given that (subject to Minn. Stat. 524.3-801) all creditors having claims against the Estate are required to present the claims to the personal representative or to the Court Administrator within four months after the date of this Notice or the claims will be barred.

District Court Judge, Probate Division

Court Administrator

By: \_\_\_\_\_  
Deputy Court Administrator Date

Attorney for Applicant  
Name:  
Firm:  
Street:  
City, State, ZIP:  
Attorney License No.:  
Telephone:                      FAX:

NOTE: If notice to creditors has been previously given, delete the notice to creditors.  
NOTE TO PUBLISHER: Do not publish the text of Notes.



STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT  
PROBATE DIVISION  
SECOND JUDICIAL DISTRICT

Court File No. \_\_\_\_\_

Estate of

ACCEPTANCE OF APPOINTMENT  
AS PERSONAL REPRESENTATIVE  
AND OATH BY INDIVIDUAL

\_\_\_\_\_,  
Decedent

STATE OF MINNESOTA

COUNTY OF RAMSEY

I, \_\_\_\_\_,  
residing at:

as a condition to receiving letters as Personal Representative in this Estate, (1) accept the duties of the office, (2) agree to be bound by the provisions of the statutes relating to the office, (3) submit to the jurisdiction of the Court in any proceeding relating to this Estate, and (4) swear that I will faithfully perform all duties of the office that I now assume to the best of my ability.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

\_\_\_\_\_  
Affiant Date  
Signed and sworn to (or affirmed) before me on  
(date) \_\_\_\_\_ by  
(name of affiant) \_\_\_\_\_,

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Attorney for \_\_\_\_\_  
Name:  
Firm:  
Street:  
City, State, ZIP:  
Attorney License No.:  
Telephone: FAX:

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT  
PROBATE DIVISION  
SECOND JUDICIAL DISTRICT

Court File No. \_\_\_\_\_

Estate of

\_\_\_\_\_ ,

**Decedent**

**LETTERS  
TESTAMENTARY**  
 **OF GENERAL ADMINISTRATION**

1. The Decedent died on \_\_\_\_\_.

2. \_\_\_\_\_ has been appointed  
Personal Representative of Decedent's Estate in

- an unsupervised
- a supervised administration

and is now qualified to act as Personal Representative of the Estate and has authority to administer the Estate according to law.

(COURT SEAL)

\_\_\_\_\_  
Judge Date



