

INSTRUCTIONS FOR PETITION TO PROVE WILL AND SET ASIDE ESTATE WITHOUT ADMINISTRATION

Nevada law allows a process called the "set aside" for estates that are less than \$100,000.00 in value (the sum of the decedent's assets minus his/her liabilities). (NRS 146.070.) The "set aside" process can begin 30 days after the decedent's death and requires mailed notice to the decedent's heirs, devisees, and creditors. The "set aside" process does require a court hearing, but generally requires fewer hearings than the probate administration processes of larger estates.

In order to request that the court prove the will and set aside the estate without administration, follow these 12 steps:

Step 1: Decide if this is the right process for you.

If you can answer "yes" to the following questions, the "set aside" process might be the process for you:

- Have at least 30 days passed since the death?
- Is the gross value of the estate (the sum of the decedent's assets minus his/her liabilities) less than \$100,000?
- Are you entitled to the decedent's estate pursuant to the will or do you wish for the estate to be distributed the way the will says it should be distributed?

Once you have determined that the "set aside" process is the one for you, then move on to the following steps for the set aside.

Step 2: Gather information.

Collect the following information and documents:

1. Specific descriptions of all the property of the decedent. This includes bank accounts, CDs, stock certificates, etc. Gather names of the institutions where property is held (*i.e.*, bank names) and account numbers. For example, gather the year, make and model of the vehicles and their VINs (vehicle identification numbers), furniture, jewelry, and cash. For real property, gather the street address, legal description of the property, and the assessor's parcel number (APN). Legal descriptions and APNs can be found on the Clark County Assessor page (www.clarkcountynv.gov/assessor).
2. Proof of all the liens and mortgages of record at the time of decedent's death. This includes all secured debt--debt where if the payments are not made, the lender can take

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property back. Home mortgages and car loans are the most common types of secured debt. Collect the most recent statements from the lienholders or banks.

3. An estimate of the value of the property. You can use Kelly Blue Book for car estimates and Zillow for real property. You will need to print out value estimates of the property and attach these to your petition as exhibits.
4. Proof of the known debts of the decedent. This can include credit card bills, medical bills, and any statements that show what the decedent owed.
5. The names, ages, and addresses of any heirs or devisees to the decedent's estate. This includes every person named in the will as a devisee, and any person who would have a right to the property if there was no will. If there is a surviving spouse or minor child, you will need their information. If you cannot find this information after doing your best research, you will have to explain to the judge why you do not have this information in an affidavit in Step 4.

Step 3: Fill out the packet.

Fill out the attached packet and complete all the forms carefully, providing all the requested information in all blanks. You, the person completing the packet, are the petitioner. Since you already collected all your information in Step 2, you will plug in a lot of that information into the petition. Do not forget to sign the petition and verification.

Step 4: Fill out declaration, if necessary.

Refer back to your list of family members that you compiled in Step 2. Each family member must be listed in your documents with their addresses. If you don't have a complete name or address, an explanation for each of those family members needs to be provided in an affidavit/declaration. Also think about any creditors or interested people whose complete names or address you don't know. An explanation for those parties will have to be provided as well. You will explain to the judge why you do not have the names or addresses of certain devisees or heirs (e.g., no one knows how to contact the decedent's son, who has been estranged for 20 years, etc.), as well as any creditors or interested parties. You can pick up a blank Affidavit/Declaration from the Civil Law Self-Help Center or get one from www.civillawselfhelpcenter.org.

Step 5: Complete fee waiver, if necessary.

The fee to file a Petition to Prove Will and Set Aside without Administration is generally \$284.50, unless you think the value of the estate is between \$2500.01 and \$20,000.00, then the filing fee is \$185.50. If the estate is valued at less than \$2,500.00, then there is no fee to file. If you cannot afford to pay the filing fee, you can ask the court to waive that fee by filing an Application to Proceed in Forma Pauperis (usually called a "fee waiver application"). If the court grants your fee waiver application, the fee will be waived. However, if the fees are not waived,

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you will receive a call from the court clerk, who will ask you to pay the filing fee if you want the petition to move forward.

The Application to Proceed In Forma Pauperis, or fee waiver, is available free of charge at the Civil Law Self-Help Center, or you can print one out from www.civillawselfhelpcenter.org.

Step 6: Attach documents to the packet.

After the packet is completed, attach the following documents behind the appropriate Exhibit sheets:

1. The decedent's death certificate.
2. A copy of the will.
3. A copy of your picture ID.
4. Proof of the values of the estate property that you collected in Step 1.
5. Proof of the decedent's liens and mortgages that you collected in Step 1.
6. Proof of the decedent's debts that you collected in Step 1.
7. An affidavit explaining why you do not have the names, ages, or addresses for any of the devisees or heirs, if necessary (Step 4).

Step 7: File packet and get hearing date.

After you complete the packet and you have all the necessary attachments to it, submit everything to the Eighth Judicial District Court. The clerk's office where you can submit the packet is on the 3rd floor of the Regional Justice Center at 200 Lewis Avenue, Las Vegas, NV 89155.

When you are at the clerk's office, the clerk will fill out the blanks on the page in your packet called the "Notice of Hearing" with the date and time of your hearing. Make sure you make a note of that hearing date and time and remember it. If you completed Step 4 because there is a family member whose name or address you don't know, you will have to publish notice (Step 9). If you have to publish notice, ask the clerk for a later hearing date so that you will have time to publish.

Step 8: Mail Notice and publish, if necessary.

After your packet is filed and the clerk gives you back the "Notice of Hearing" with the hearing date and time, find the page of your packet titled "Certificate of Service." You should have filled out those lines on the "Certificate of Service" with the names and addresses of the decedent's

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heirs, devisees, and creditors in Step 3. The number of lines you have filled out in the "Certificate of Service" is the number of copies of the "Notice of Hearing" you will need to make.

Make copies of the "Notice of Hearing" and mail to each person or entity listed on your "Certificate of Service" list. This includes mailing notice to the State of Nevada Department of Health & Human Services, Medicaid Estate Recovery, which is already included on the Certificate of Service. The State of Nevada Department of Health & Human Services, Medicaid Estate Recovery must be noticed of this petition whether or not you think the decedent owed anything to Medicaid or had Medicaid.

If you completed Step 4 because there is a family member whose name or address you don't know, or if there is a creditor or interested person whose name or address you don't know, you will have to publish notice of the hearing. If you have to publish, the publication must run once a week for 3 weeks, and the last publication has to run at least 10 days before the date set for your hearing.

To get the Notice of Hearing published, contact a newspaper directly. Newspapers commonly used in Clark County are Nevada Legal News (702-382-2747) and the Las Vegas Review-Journal and the Las Vegas Sun (702-383-0383). You will have to give them your Notice of Hearing. The newspaper will usually file an Affidavit of Publication once complete. If they do not, be sure to bring the affidavit to the courthouse for filing.

Step 9: Check status of case.

After filing your petition, you should continuously check the court docket to see if anyone has filed an objection. You can go to the Eighth Judicial Court website (<https://www.clarkcountycourts.us/Anonymous/default.aspx>) and search under "Family Records" by the decedent's name to see if anyone has filed an objection. If an objection gets filed, you can go to the clerk's office on the third floor of the Regional Justice Center where you filed your documents to get a copy of the objection. It will be important to review any objections before the hearing.

The week of your hearing, you should also continuously check the probate court's "Friday Probate Calendar List" to check the status of your case and see how the court might rule if no one objects at the hearing. Go to the probate webpage (www.clarkcountycourts.us/departments/probate/) and click on the link for "The District Court Friday Probate Calendar List." Search for the decedent's name under the column "Name of the Estate" then follow it to the "Notes" column. If no objections have been filed, you will see

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the list will reflect "OK," and that means the judge will hear your case and probably grant your petition if no objections appear at the hearing.

Step 10: Appear at the hearing.

Your hearing will be held at the time and place listed in your Notice of Hearing. Remember to arrive early and wait patiently in the gallery of the courtroom. If no objections have been filed, then at the beginning of the hearing, you'll likely hear the probate judge call a list of names and cases in which no objections have been filed. This is called the "Approved List." Listen for the name of your case, which will be called by the decedent's name, not your name. The judge will instruct all the people involved in the cases he called to pick up their orders. When the judge has finished calling the Approved list, wait in line for the clerk to hand you the order.

If objections have been filed in your case, both sides will have to make their arguments before the judge. Wait for your matter to be called, then walk up to the tables in front of the judge.

Step 11: File the order.

If there were no objections in your case, and the clerk handed you an order, then take that order up to the third floor at the clerk's office to have it filed. Ask the clerk for certified copies of the order.

If there were objections in your case, the judge might ask you or the other side to prepare the order. If you are required to prepare it, you will need to draft and prepare the order with the specifics of what the judge ordered. You can visit the Civil Law Self-Help Center or www.civillawselfhelpcenter.org for generic orders to fill out. Prepare one and submit it with the court for the judge's signature, and after the judge signs it, you will need to file it with the court.

Step 12: Take order to appropriate places.

If your petition is granted, and you get the estate set aside to you, you can take that order to the places where you need property transferred over to you. For example, if the estate included a home that was set aside to you, you can take the order to the Clark County Recorder's Office to change title. You can also take the order to the banks to have them turn over bank accounts over to you. Because some financial institutions might request to see a certified copy of the order, make sure you get one from the court clerk's office at the Regional Justice Center.