

KANSAS JUDICIAL COUNCIL BULLETIN

JULY, 1956

PARTS 1-2—THIRTIETH ANNUAL REPORT



WILLIAM J. WERTZ
Justice, Supreme Court of Kansas

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FOREWORD

Justice William J. Wertz of the Supreme Court, whose photograph is on the cover of this issue of the BULLETIN, has written an article entitled "Preparation of Abstract and Brief for Appellate Court," which the Council believes will be of interest to the bench and bar. Justice Wertz had many years of trial practice in Wichita prior to his service as district judge in Sedgwick county. He has been a justice of the Supreme Court since March 1, 1950.

In our BULLETINS for April, 1946, and April, 1950, we printed a set of forms for use in the administration of an estate in the probate court, prepared by the late Randal C. Harvey, then secretary of the Judicial Council. Their popularity was so great that the supply of those issues is now exhausted. Margaret McGurnaghan, a member of the Topeka bar, and whose photograph appeared on the cover of the July, 1949, issue of the BULLETIN, has compiled a new set of forms, following closely those previously published and taking into consideration subsequent amendments to the probate code. We are glad to print this compilation, together with an introduction by Miss McGurnaghan, in this issue.

On May 15, 1956, the bar of the state sustained a great loss in the death of Claude I. Depew, former president of the Bar Association of the State of Kansas. Mr. Depew's photograph appeared on the October, 1954, issue of the BULLETIN, and in that issue we printed an article prepared by him.

Preparation of Abstract and Brief for Appellate Court

By WILLIAM J. WERTZ, Justice of the Supreme Court

The rules of the Supreme Court relating to appellate procedure, while not statutory law are authorized by G. S. 1949, 60-3825, and are printed in G. S. 1949 as 60-3826, *et seq.*, and in our Supreme Court Reports from time to time, the last publication appearing in 174 Kan. xi, for the convenience of all concerned. Hence, it is essential that every lawyer, before preparing an abstract and writing a brief, should again carefully read the rules to ascertain the requirements and limitations imposed by the Rules and Practices of the Court.

Neither time nor space will permit the writing of an exhaustive article on how to prepare an abstract and brief for the appellate court. Learning the hard way, I shall make a few suggestions designed to facilitate the preparation of a better record. I pass them on, not with any thought that what follows is either a proved solution or the last word on the subject, but solely with the view that what has helped one lawyer may similarly help another. I am not unmindful of the fact that there is nothing new in the material here presented. I am not at all hopeful of setting a standard for preparing an abstract and brief on appellate review. I shall not attempt to outline all of the points to be followed in such preparation, for the texts are voluminous with such outlines and they are readily available to all concerned. I shall attempt only to emphasize some of the fundamental things we all know but which in the rush of preparation we fail to give due consideration.

ABSTRACT OF RECORD

Inasmuch as I desire to place particular emphasis on the importance of the contents of the briefs, I shall limit my remarks to the abstract, without minimizing its importance. The preparation of the abstract of record requires meticulous work on the part of counsel, as it is the vehicle containing essential material upon which the opinion is to be based. In the preparation of this instrument, counsel must have a thorough knowledge of the entire record in his case, and be able to relate in chronological order that portion of the record necessary to meet the questions presented on appeal, and reduce to a minimum that which does not aid in determining the controversy. Counsel must be able to deal fairly with everything material to the controversy, deleting nothing of consequence, whether it be favorable or unfavorable, so that the necessity of filing counter and supplemental abstracts might be avoided. The abstract should be so carefully prepared that it will not be necessary to make an examination of the files and the transcript of the lower court. So far as possible, the evidence of witnesses should be reduced to a narrative form, telling the story in the words of the witness, making frequent references to the pages of the transcript to support the statements. However, in matters of importance where it is desired to place particular emphasis, the original question and answer may be set forth. In abstracting this evidence, care should be used to make clear at what stage of the case it appears, whether on direct or cross examination, keeping in mind the major objective is to make such evidence tell an accurate story in a clear

and chronological order. Even though the story appears to be against the writer, it will impress the reader with its frankness, and foster confidence in counsel. It is not advocated that the entire record of the lower court be incorporated in the abstract, but rather that the material presented be carefully chosen, *i. e.*, where there are just two questions of law presented to the appellate court, the record should be reduced to the point where only the necessary pleadings and evidence dealing with these questions need be incorporated. Dates of filing of all pleadings, and orders of the trial court, including any memorandum opinion, should be shown. The exhibits, where pertinent, should be identified and plainly marked. Sketches and plats are desirable, showing at a glance the situation, where clarity is otherwise difficult. These drawings need not be to scale. It is important and advisable to include the notice of appeal, and mandatory to set forth the specifications of error, clearly set out, separately stated and numbered.

A very important portion of the abstract is the index. It should be arranged in such a manner that anything incorporated in the abstract may be found at a glance. Where exhibits are referred to, it would be helpful if the following form were used:

Exhibit 1—(Deed from Smith to Jones).

Exhibit 5.—(Plat of land), etc.

THE BRIEF

Having again familiarized yourself thoroughly with the facts step by step from the inception of the case to its conclusion, having considered the pleadings and the questions of law involved, and a thorough research of the applicable law, particularly an examination of the statutes which might govern some or all of the questions, you have arrived at the threshold of writing the brief. The object of the brief is, of course, to persuade the judicial mind, so put yourself in the court's place. What would the court want to know about the case and in what order would its curiosity be satisfied? The court would want to know who the parties are, which of them is submitting the brief, what kind of case we are dealing with, what did the pleadings involve. Also, was it a trial by the court or the jury; what happened in the court below; what part of the judgment is not satisfactory; what are the questions involved; how do they arise; what the facts are; have there been any similar cases and, if so, what has our court held on the subject, and what are the applicable statutes which might control the question.

The brief is to the lawyer what the easel and canvas are to the artist. Remember the appellate court has heard nothing of your lawsuit. You start with a clean canvas. As you paint, you unfold the story and determine your masterpiece. Legal battles are not won in the oral argument, in the abstract or your office, but in the brief. It goes with the judges into their chambers, their homes, and conference room. It tells the story from beginning to end, and upon which the judges must reach their final conclusion. The quality of the brief many times determines the quality of the opinion. Do not let bad briefs make hard cases of a simple matter. When the case is long, difficult and ill-prepared, it becomes a laborious task for the appellate court. Be not unmindful of the fact that during the month you present your case, the court has twenty-five to thirty other cases of equal importance to be disposed of within the month, and that time is valuable to every member of the court.

Long hours are required, but these may be shortened by a well-written and analytical brief. Bear in mind that judges are not people with strange powers, seeing and knowing all. Their minds are not equipped with meat cleavers which can butcher through a mass of material sufficiently, cleanly cutting the meat from the bone. They have no radar brains which can easily spot the issue when engrossed in a fog of mumbo jumbo and irrelevant matter. Judges are lawyers. They still think the same. They do not upon election day suddenly know more than all the other members of their profession.

In preparing the brief, you should first state the nature of the case such as:

NATURE OF ACTION

This was an action for the specific performance of a written contract for the sale of a farm and for an accounting of rents and profits because of an alleged wrongful refusal of defendants to convey the property and to surrender possession according to the terms of the contract. Judgment was for plaintiffs, and defendants appeal.

After stating the nature of the action, it should be followed by a list of the questions involved, separately stated and numbered. These questions should be closely keyed to the specifications of error, and should be discussed separately in the body of the brief, each under its proper heading. No two or more should be discussed under one heading unless they are so closely related that the law applicable to one is applicable to the other, and then utmost clarity should be made in such discussion. After advising the court of the nature of the action and the legal questions to be discussed, then follow with the statement of facts.

STATEMENT OF FACTS

There can be no disagreement among the bench and bar that the statement of facts is the most important part of the brief. It is a comprehensive outline employed by a lawyer. Its purpose is to furnish a chart to direct the process of litigation from its inception to its close. If expense requires the shortening of a brief, my suggestion is that you do not detract from the statement of facts, but from the argument. Brevity is often important, but do not substitute it for completeness and accuracy. You cannot afford to risk your case upon an incomplete set of facts. The greatest mistake any lawyer can make after he has prepared a fine brief on the law is his failure to write any statement of facts or an incomplete dry statement of such facts, and hurriedly send it to the printer. Daniel Webster said: "The power of clear statement is the greatest power at the bar." Judge Dillon, speaking from a very long experience, once said:

"The importance of a concise but complete statement of a case is to be found in the fact that perhaps nine out of ten are practically decided when the case is stated."

The great Chancellor Kent said:

"My practice (as Chancellor of New York State) was first to make myself perfectly and accurately *master of the facts.*"

Accuracy is as necessary as clearness and conciseness. When knowledge of the pleadings is necessary to enable the court to understand the questions involved upon the appeal, there should be an accurate résumé of those pleadings in the statement, being mindful that when you write a statement of facts

you are assisting the minds of others. Therefore, state the case as you would wish to read it when published in opinion form. Never use argument in your statement of facts. Indicate the conflict in the evidence and take whatever advantage you can of the disputed facts, but save your argument for separate headings in your brief. Present your facts accurately, and try to make the most favorable impression with the facts you have. Write your statement from beginning to end with one thought before you, to write it so that the court will want to decide the case in your favor after reading just that portion of your brief. Make frequent references in your statement to pages of the abstract so that opposing counsel and the court may verify such statement with the record. It may be said in another way. You tried the case below. Tell the appellate court as much of the pleadings and the facts as you told the trial court and the jury when you tried the case there. It is a talent, indeed, to sit down and mold the facts of a lawsuit into an interesting story, but it is a challenge worth accepting and worth acquiring. Some of my fellow members of the bar may think I am placing too much emphasis upon the statement of facts. However, from my observation and experience, this is an impossibility. The facts are the door opener to the case and its law. Unless you open wide the gate, your entry may be in vain. The books are replete with rules of law, many of which cannot be questioned. Yet, if you have no facts upon which to base those rules of law, you are as a ship at sea without a rudder. Too many briefs reach this court either with an insufficient statement of facts or none, and although the questions of law are well discussed, we are at a loss for facts upon which to apply such law, with the result that the members of the court must spend long hours wading through a voluminous abstract of pleadings and testimony in order to ferret out the issues raised by the pleadings, and the facts which are well known to counsel who tried the case below and prepared the record on appeal.

Lawyers are officers of the court and it is their obligation to be helpful to the court by preparing their records on appeal in compliance with the rules carefully laid down by this court over a long period of time. These rules were intended to be helpful to counsel as well as the court. If I have accomplished nothing more in this article than to impress upon counsel in preparing their briefs to summarize the pleadings and facts necessary to determine the issues raised, then I will consider my time and effort well spent. The lawyer who does not tell the court *at once* what the case is about and what the controverted issues are, but leaves the members of the court to grope in the dark and guess the questions which they are asked to decide, does not carry the burden imposed upon him by his client.

When a client you have never seen before walks into your office with a piece of important litigation, you don't contemplate what kind of a case he has and start dictating a petition. You sit down and carefully go over the facts as a basis for the pleading you are about to file. Inasmuch as your cause of action in the appellate court is new to the court, we must first know the facts before we write the opinion. The statement of facts will be followed by the

ARGUMENT AND AUTHORITIES

The average case calls for a discussion of several questions of law. The first problem is to determine the order in which discussion of them is likely to be most convincing. These questions should be discussed in the order of their

importance. No one would contend but that every point deemed essential to the client's cause should be argued in the brief. Most appeals follow a chronological arrangement of points of law involved and, after the story is actually and fully told, if the contentions are so arranged that they appear to answer the questions presented, in the order in which they are presented, then the brief will read smoothly.

The legal questions involved should be numbered consecutively and each separate point should have a heading printed in bold-faced type of the proposition which counsel intends to demonstrate in that point. It is to the point headings that one turns for a quick statement of the legal question relied upon, and they should be carefully and persuasively stated. It should be possible to formulate the proposition so that it states not only the legal conclusion for which it is contended, but also enough of the factual setting to indicate that the contention has merit and cannot be disregarded. A mere statement of a proposition of law supported by authorities is not a proper way to argue your case. The most efficient way is for the brief writer to demonstrate that the proposition of law, supported by authority, is applicable to the specific facts in his case. For this reason, a mere quotation from a case is usually insufficient. One should give a brief, clear and pointed statement of the facts demonstrating that the case is analogous to the one on appeal. It is not necessary to state elementary propositions of law supported by a long list of authorities. In briefing your case, you should first determine whether there are any applicable statutes which might control, then our own authorities should be next exhausted. If necessary to go outside our state for authority to answer the question, it should be correctly cited by title, and should carry both the state and reporter system citations. In citing any case in point, the citator should be used in order to determine whether there are any recent cases on the subject.

I wish to reiterate that the most effective matter in a well-written brief is a statement of facts fully advising the court at the outset of the pertinent issues framed by the pleadings and the facts supporting them, upon which the law is to be applied to the respective specifications of error. So, I conclude with the proposition that a really effective brief is one that wins your case and persuades the court to follow your analysis of the problems and rely upon the authorities.

There is nothing more encouraging and rewarding to a brief writer than to read in the final opinion of the court, excerpts taken from the logic and writings of his brief.

THE DOE AND ROE ESTATES

Introduction by MARGARET MCGURNAGHAN

The Doe and Roe estates were included in the KANSAS JUDICIAL COUNCIL BULLETIN of April, 1950. This compilation was made by Mr. Randal C. Harvey, Secretary of the Council and now deceased, who had previously prepared for the April, 1946, BULLETIN forms for an intestate estate. In part, Mr. Harvey in his introduction called attention to the fact that the Probate Code became effective in July, 1939; to the forms printed in Volume 3 of Bartlett's Probate Law and Practice, and the edition of McCamish Kansas Forms published in 1941. He also calls attention to the fact that as the years go by the state will have an increasing number of graduates who have made studies of the statutes and decisions but have not had the actual experience of handling estates; and that it is helpful to examine the files of actual estates which have been administered under the Code.

As stated by Mr. Harvey, the following intestate and testate estates and the proceedings to determine the descent of property in the Estate of Richard Roe are presented in these mythical estates from the filing of petitions to the final orders and discharges. These mythical proceedings are actual transcripts from probate court cases with changes in geographical location and in names and dates, but in each instance an actual case, taken through the probate court is presented.

The forms we believe contain all necessary and jurisdictional details of a simple probate proceeding and have been checked with the sections of the Code applicable thereto.

Proceedings for the sale of real estate are included because such sale may be necessary in smaller estates (sometimes in larger ones). The notes annexed in each case are not claimed to be complete, but they furnish a quick reference to further study.

The supply of the April, 1950, BULLETIN is now exhausted; calls for the BULLETIN are coming in from attorneys over the state, some in practice for a number of years and others shortly out of law school and with their first probate matter before them. We have been asked to revise the different proceedings for reprinting in this BULLETIN. In doing so, the proceedings have been left in their original forms, with changes of dates, some necessary corrections and the calling of attention to amendments to statutes originally cited.

**Proceedings in the Estate of John Doe, Deceased
(Intestate)**

(1)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

PETITION FOR APPOINTMENT OF ADMINISTRATOR

The petitioner, Mary Doe, alleges that she is a resident of Apache county, Kansas, and that her correct post office address is Route 1, Hometown, Kansas; that she is the widow and one of the heirs of the decedent named herein and as such has an interest in said estate; that the decedent, John Doe, died intestate at Hometown, Kansas, on the 15th day of December, 1954; that at the time of his death he was a resident of Apache county, Kansas, and a citizen of the United States; that the decedent is survived by the following named persons who are all of his heirs:

<i>Name, Age and Relationship</i>	<i>Address and Residence</i>
Mary Doe, Wife	Route 1, Hometown, Kansas
Theodore R. Doe, Son	1120 Main Street, Metropolis, Kan.
Alice Doe Smith, Daughter	Grand Hotel, Lake George, Tex.

that all of said heirs are of full legal age.

Petitioner further alleges that the decedent had no spouse or children or adopted children or issue of deceased children, natural or adopted, who survived him, other than the persons above named.

Petitioner further alleges that the general character and probable value of the decedent's estate are:

A homestead of the value of \$8,000.00;

Other real estate of the value of \$1,000.00;

Personal property of the value of \$1,500.00;

that the appointment of an administrator of said estate is necessary for the conservation, collection, and administration of said property according to law; and that Theodore R. Doe, who is a resident of Apache County, Kansas, and whose post office address is 1120 Main street, Metropolis, Kansas, is a proper and suitable person to whom to grant letters of administration; that petitioner waives her right to administer said estate.

WHEREFORE, the petitioner asks that letters of administration be granted to Theodore R. Doe as administrator of said estate.

MARY DOE, *Petitioner.*

STATE OF KANSAS, APACHE COUNTY, SS:

Mary Doe, of lawful age, being first duly sworn, upon her oath says that she is the petitioner above named; that she has read the above and foregoing

petition for appointment of administrator and is familiar with the contents thereof, and that all of the statements therein made are true.

MARY DOE.

Subscribed and sworn to before me this 4th day of January, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Filed January 4, 1955. A. L. MANN, *Probate Judge*.

Reference: 59-705, 59-2204, 59-2219, 59-2221. 3 Bartlett, 86; McCamish (2) 584.

Time: Any time after death if intestate. By creditor, in time to secure appointment in one year. (59-2239.)

Testate estates: Not applicable. See petition for probate of will, form (102). A special administrator may be appointed, if necessary, pending appointment of executor or administrator. (59-710, 59-2204.)

(2)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of

John Doe, Deceased.

No. 1296

ORDER FOR HEARING

On this 4th day of January, 1955, it is ordered that the petition filed herein of Mary Doe for appointment of administrator of the Estate of John Doe, deceased, be heard on the 31st day of January, 1955, at ten o'clock, A. M., by this court in the courthouse at Metropolis in said county and state, and that notice of the time and place of said hearing be given pursuant to section 59-2209, G. S. 1949.

(SEAL)

A. L. MANN, *Probate Judge*.

Reference: 59-2204, 59-2208, 59-2222. 3 Bartlett 87, McCamish (2) 587.

Time: At time of filing of petition. (In fixing time for hearing, conform to 59-2209, as follows: Ascertain when first publication can be legally made in newspapers selected; allow for second publication one week thereafter, and third publication second week thereafter, set date for hearing between seven and fourteen days after third publication.)

Testate estates: Same, see form (103).

Waiver: Notice may be waived (59-2208, 59-2223) by all interested parties, in which case order would be immediate hearing. See form (104). Heirs must be of legal age and not under disability.

(3)

(First published in Hometown Bugle, January 6, 1955)

STATE OF KANSAS, APACHE COUNTY, SS:

IN THE PROBATE COURT OF SAID COUNTY AND STATE

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

NOTICE OF HEARING

The State of Kansas to all persons concerned:

You are hereby notified that a petition has been filed in said court by Mary Doe, widow and heir at law of John Doe, deceased, praying for the appointment of an administrator of the estate of John Doe, deceased, and you are hereby required to file your written defenses thereto on or before the 31st day of January, 1955, at 10 o'clock A. M., of said day, in said court, in the city of Metropolis, in said county and state, at which time and place said cause will be heard. Should you fail therein, judgment and decree will be entered in due course upon said petition.

MARY DOE, *Petitioner.*W. B. PLEADER, *Attorney for Petitioner.*

Reference: 59-2209, 59-2210.

This form is statutory and should be followed. (Statute was slightly amended since publication of form books elsewhere referred to.)

Time: Once a week for three consecutive weeks. First publication within ten days after order for hearing. (59-2209.)

Testate estates: Same general form. See (105) for notice on petition for probate of will.

(4)

PROOF OF PUBLICATION

STATE OF KANSAS, APACHE COUNTY, SS:

N. H. Greeley being first duly sworn, says that he is manager of the Hometown Bugle, and that he knows that it is a weekly newspaper which has been continuously and uninterruptedly published in Apache county, for one year prior to the first publication of the attached notice, and which is of general circulation in said county and state; and has been admitted to the mails as second class matter in said county and that the notice, of which the attached is a true copy, was published for 3 insertions in said newspaper, as follows: 1st insertion January 6, 1955; 2d insertion January 13, 1955; 3d insertion January 20, 1955.

N. H. GREELEY.

Subscribed and sworn to before me this 24th day of January, 1955.
(SEAL) HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Approved: A. L. MANN, *Judge* (SEAL).

Filed January 26, 1955. A. L. MANN, *Probate Judge*.

NOTE: Usually prepared and filed by publisher, but attorney should check and secure approval of court.

Reference: 59-2209, 59-2211, 64-101, 3 Bartlett 89.

Time: File before hearing. (59-2211.)

Testate estates: Same.

(5)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

AFFIDAVIT OF MAILING

STATE OF KANSAS, APACHE COUNTY, ss:

W. B. Pleader, of lawful age, being first duly sworn, on oath says:

That he is attorney for the petitioner herein; that he mailed notice of hearing on petition for appointment of administrator herein, copy of which notice is hereto attached, by depositing copy of such notice in the United States mail, postage prepaid, on January 10, 1955, and within seven days after the first publication of said notice, addressed to each of the following persons:

Theodore R. Doe, 1120 Main Street, Metropolis, Kansas;

Alice Doe Smith, Grand Hotel, Lake George, Texas;

such persons being all of the heirs of John Doe, deceased, other than the petitioner, and all persons who have any interest in said proceeding, whose names and addresses are known to the petitioner or to affiant.

W. B. PLEADER.

Subscribed and sworn to before me this 12th day of January, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Filed January 13, 1955.

Reference: 59-2209, 59-2211.

Time: Mail within seven days after first publication. (59-2209.) File before hearing (59-2211).

Testate estates: Same but include "devisees and legatees" as well as heirs (59-2209).

In either testate or intestate estates include all guardians and wards, if any of the interested parties are under guardianship.

(6)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased

No. 1296

ORDER APPOINTING ADMINISTRATOR

Now on this 31st day of January, 1955, this matter comes on upon the petition of Mary Doe, for the appointment of administrator, said petitioner appearing in person and by W. B. Pleader, her attorney, and Theodore R. Doe appearing in person. The court finds that notice of said hearing has been given by publication and mailing as provided by law and by the order of this court. Thereupon, evidence is presented on said petition, and the court finds that the said John Doe died intestate on December 15, 1954, being a resident of Apache county, Kansas, at the time of his death, and leaving an estate to be administered herein, and that Theodore R. Doe, a resident of Apache county, Kansas, is a proper person to be appointed administrator of said estate.

IT IS THEREFORE BY THE COURT ORDERED that Theodore R. Doe be and he is appointed administrator of the estate of John Doe, deceased, and that, upon the filing of his oath and bond in the amount of \$2,000.00, letters of administration issue to him.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-2232, 3 Bartlett 93.

Time: On date fixed in order for hearing, or any adjournment therefrom.

Testate estates: Not applicable. See form (118) for order admitting will to probate and appointing executor.

(7)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

OATH OF ADMINISTRATOR

STATE OF KANSAS, APACHE COUNTY, ss:

I, Theodore R. Doe, do solemnly swear that I will faithfully and impartially and to the best of my ability discharge all the duties of my trust according to law as administrator of the estate of John Doe, deceased; that I am acting on my own behalf and not on behalf of any bank or corporation organized or having its principal place of business outside this state. So help me God.

THEODORE R. DOE.

Subscribed and sworn to before me this 31st day of January, 1955.

(SEAL)

A. L. MANN, *Probate Judge.*

Filed January 31, 1955. A. L. MANN, *Probate Judge.*

Reference: 59-1702, 3 Bartlett 94, McCamish (2) 592.

Time: Within ten days after appointment. (59-2227.)

Testate estates: Substantially same. See form (119).

The clause commencing "that I am acting on my own behalf, etc." is required. (59-1702.)

(8)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of

John Doe, Deceased.

No. 1296

BOND OF ADMINISTRATOR

Know All Men by These Presents:

That we Theodore R. Doe as principal and N. M. Hanna as surety are held and firmly bound unto the state of Kansas in the sum of Two Thousand and no/100 Dollars (\$2,000.00) to the payment of which, well and truly to be made, we bind ourselves, our executors, and administrators, firmly by these presents.

The condition of the above obligation is such that whereas, the above bounden Theodore R. Doe has been duly appointed by the probate court in and for the county of Apache, and State of Kansas, administrator of the estate of John Doe, deceased;

Now if Theodore R. Doe, the said administrator, shall faithfully discharge all the duties of his trust according to law, then this obligation shall be void; otherwise shall remain in full force and effect.

Dated, signed and sealed by us, this 31 day of January, 1955.

THEODORE R. DOE,
N. M. HANNA

VERIFICATION OF SURETY

STATE OF KANSAS, APACHE COUNTY, ss:

N. M. Hanna being duly sworn, says that he is worth, over and above all liabilities and legal exemptions, the sum of \$4,000.00.

N. M. HANNA.

Subscribed and sworn to before me, this 31st day of January, 1955.

(SEAL)

A. L. MANN, *Probate Judge*

The above bond taken and approved by me, this 31st day of January, 1955.

(SEAL)

A. L. MANN, *Probate Judge*

Reference: 59-1101. 3 Bartlett 94, McCamish (2) 590.

Time: Within ten days after appointment. (59-2227.)

Testate estates: Substantially same except where bond not required.

Sometimes a separate order is issued approving bond and directing the issuance of letters. (3 Bartlett 95.)

(9)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

LETTERS OF ADMINISTRATION

Know All Men by These Presents:

That Theodore R. Doe, having been appointed and having qualified as administrator of the estate of John Doe, deceased, the said Theodore R. Doe is hereby granted letters of administration of said estate; with full power and authority in the premises, as provided by law.

IN TESTIMONY WHEREOF, I, the undersigned, judge of the probate court in and for Apache county, Kansas, have hereunto subscribed my name and affixed the seal of said court this 31st day of January, 1955.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-2227; 3 Bartlett 95, McCamish (2) 589.

Time: As soon as oath and bond are filed and approved.

Testate estates: See letters testamentary, form (121).

(10)

(First published in Hometown Bugle, February 10, 1955)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

NOTICE OF APPOINTMENT OF ADMINISTRATOR

Notice is hereby given to the creditors, heirs, devisees and legatees of John Doe, deceased, and all others concerned, that on the 31st day of January, 1955, the undersigned was by the probate court of Apache county, Kansas, duly appointed and qualified as administrator of the estate of John Doe, deceased, late of Apache county, Kansas.

All parties interested in said estate will take notice and govern themselves accordingly. All creditors are notified to exhibit their demands against the said estate within nine months from the date of first publication of this notice as provided by law, and if their demands are not thus exhibited they shall be forever barred.

THEODORE R. DOE, *Administrator.*W. B. PLEADER, *Attorney for Administrator.*

Reference: 59-709, 59-2236. 3 Bartlett 97. McCamish (2) 591.

Time: Within thirty days after qualification (59-709).

Testate estates: Substantially same. See form (122).

The words "devisees" and "legatees" are inappropriate in an intestate estate, and are sometimes omitted, but it is desirable to have the notice conform to the statute (59-2236).

(11)

PROOF OF PUBLICATION

NOTE: Publisher should file proof of publication substantially same as form (4). Attorney should check and submit to court for approval.

Reference: 59-2211, 64-101, 3 Bartlett 89.

Time: After last publication (no specific provision).

Testate estates: Same.

(12)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, deceased.

No. 1296

ORDER APPOINTING APPRAISERS

Now on this 23d day of February, 1955, upon the files, records and proceedings herein, It Is ORDERED that R. E. Dealer, A. G. Broker and S. N. Neighbor, be and they are hereby appointed appraisers herein to appraise all the real and personal property of the decedent according to law, at such time and place as may be designated by Theodore R. Doe, Administrator of said estate.

(SEAL)

A. L. MANN, *Probate Judge*.

Reference: 59-1202, as amended 1951, 3 Bartlett 105, McCamish (2) 593.

Time: Within 30 days after appointment of administrator. (59-1202.)

Testate estates: Substantially same.

(13)

OATH OF APPRAISERS

STATE OF KANSAS, APACHE COUNTY, SS:

The undersigned appraisers, being duly sworn, each for himself, deposes and says:

I will faithfully and justly perform all the duties of the office and trust which I now assume as appraiser to make an appraisement of the estate of John Doe, deceased. So help me God.

R. E. DEALER,
A. G. BROKER,
S. N. NEIGHBOR.

Subscribed and sworn to before me this 23rd day of February, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Filed February 23, 1955. A. L. MANN, *Probate Judge*.

Reference: 59-1202, as amended 1951, 3 Bartlett 106, McCamish (2) 593.

Time: Before making appraisement.

Testate estates: Same.

Sometimes a written notice is given to appraisers of their appointment (3 Bartlett 106).

(14)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

INVENTORY AND APPRAISEMENT

Date of death: December 15, 1954.

Inventory of all the property of John Doe, deceased, made and returned by Theodore R. Doe, administrator, and appraisement of the property comprised in said inventory made and returned by the appraisers appointed by the court.

<i>Inventory</i>	<i>Value as found</i>
<i>Homestead:</i>	<i>by appraisers</i>

The S.W. ¼ of Section 37, Township 75, Range 80, West of the 15th P.M., in Apache County, Kansas	\$8,000.00
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Other Real Estate:

Lot 21 on Main street, in Ponzi's Fourteenth Addition to the city of Metropolis, in Apache county, Kansas	1,000.00
--	----------

Furniture, Household Goods, and Wearing Apparel:

Furniture and household goods	250.00
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Corporate Stocks:

Certificate No. 1442 for 10 shares of common stock of Metropolis Development Company, Inc., a Kansas corporation, par value \$10.00 per share	150.00
1 share common stock of Hometown Country Club, Certif. No. 33,	1.00

Bonds, Mortgages, Notes, Written Evidences of Debt:

1 Series "E" U. S. Savings Bond No. 1000001E issued June 6, 1954, \$500 maturity value	375.00
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Other Personal Property:

Money on deposit in Hometown State Bank (checking account) ..	942.00
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Partnership Property:

None	None
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Total Appraisement	\$10,718.00
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The foregoing inventory dated and signed this 1st day of March, 1955.

THEODORE R. DOE, *Administrator.*

Comment: In view of the present inheritance and federal estates taxes, all property held in joint tenancy should be listed, indicated as such and appraised. This will be of value when these tax reports are prepared and filed.

VERIFICATION OF INVENTORY

STATE OF KANSAS, APACHE COUNTY, SS:

Theodore R. Doe, being first duly sworn, on oath says:

That he is the administrator of the estate of John Doe, deceased; that he has read the foregoing inventory subscribed by him; and knows the contents thereof; and that the same is a true and correct inventory of all the estate of the decedent that has come to his possession or knowledge.

THEODORE R. DOE.

Subscribed and sworn to before me this 1st day of March, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

CERTIFICATE OF APPRAISERS

STATE OF KANSAS, APACHE COUNTY, SS:

We, the undersigned appraisers, being first duly sworn upon our respective oaths, hereby depose and certify that we have appraised at its full and fair value according to law all of the property described and mentioned in the above inventory as of December 15, 1954, the date of the death of said decedent, and set the value thereof opposite each item contained in said inventory.

R. E. DEALER,

A. G. BROKER,

S. N. NEIGHBOR,

Appraisers.

Subscribed and sworn to before me this 3rd day of March, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires: December 7, 1957.

Filed March 3, 1955, A. L. MANN, *Probate Judge*.

References: 59-1201, 59-1202, as amended 1951, 3 Bartlett 109-111; McCamish (2) 594-596.

Time: Inventory should be made and appraisers appointed within thirty days after appointment of administrator (59-1201) and appraisement made within sixty days thereafter (59-102).

Testate estates: Same. See form (127).

Appraisement should be made as of date of death.

(15)

TAX REPORTS—FEDERAL AND STATE

After the inventory and appraisal have been filed in Probate Court, the property and assets should be again listed in an Inventory and Appraisal for the State Commission of Revenue and Taxation, Inheritance Tax Division, Form No. IH-12, which will be transmitted by the Probate Court. This form differs slightly in arrangement from the probate code inventory, form (14), and should also include *jointly owned property and property conveyed without consideration within one year preceding date of death*. In due course

the State Commission of Revenue and Taxation will issue its order and transmit same to the probate court. If any state inheritance tax is found to be due, it should be paid to the county treasurer, and receipt filed in the probate court before final settlement. (See 79-1511, 79-1517, 79-1518, and 79-1506.)

If the value of the estate is over \$60,000.00, a federal estate tax return must be filed. Preliminary notice, Form 704, should be given within two months from the date the administrator qualifies, and return on Form 706 must be filed within fifteen months from date of death. If marital deduction is claimed, this should include Form 706MD insert. Forms may be obtained from U. S. Collector of Internal Revenue.

Administrator should ascertain whether decedent filed federal income tax return for year preceding death, and file one for him if he has not done so. In doubtful cases, administrator should also notify Collector of death and request an immediate audit of returns for preceding years. Administrator must also file return for decedent for part year in which death occurred, and fiduciary returns showing income received by administrator.

Administrator should also pay all outstanding personal taxes, and make personal tax return to the county assessor of money and property in his hands on March 1st of each year. This is easy to overlook when final settlement is made between March and November. The statute provides for payment in advance in such cases.

This is only a brief summary of tax problems which are likely to arise in every estate. Many others will arise in special cases. Every fiduciary should be tax conscious or he is likely to become personally liable for unpaid taxes after the assets have all been distributed.

See "Comment" on preceding form concerning property held in joint tenancy.

(16)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

PETITION TO SET APART HOMESTEAD AND STATUTORY ALLOWANCES

Comes now Mary Doe, the surviving spouse of John Doe, deceased, and shows to the court that she is the widow of said John Doe; that the following described real estate, to-wit:

The SW $\frac{1}{4}$ of Section 37, Township 75, Range 80, West of the 15th P. M., in Apache County, Kansas, was the homestead of John Doe and the petitioner, his wife, at the time of his death, and has continued to be and is the homestead of the petitioner herein since the date of the death of decedent, and that she desires said homestead set apart to her. Petitioner further shows that she selects personal property allowed in G. S. 1949, 59-403, consisting of the furniture and household goods, set out in the inventory filed herein, and the sum of \$750.00.

WHEREFORE, petitioner prays that the homestead above described and the

personal property above designated be set apart to petitioner, free and clear of the payment of any of decedent's debts or other demands against his estate.

MARY DOE, *Petitioner*.

STATE OF KANSAS, APACHE COUNTY, ss:

Mary Doe, of lawful age, being first duly sworn, on oath says:

That she is the petitioner above named; that she has read the above and foregoing petition and knows the contents thereof, and that all the statements therein made are true.

MARY DOE.

Subscribed and sworn to before me this 21st day of March, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Filed March 21, 1955. A. L. MANN, *Probate Judge*.

Reference: 59-403, 59-2235. 3 Bartlett 144, McCamish (2) 596.

Time: After inventory and appraisement filed.

Testate estates: Substantially same (see 59-404); also surviving spouse should file election, see form (124).

(17)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

ORDER SETTING APART HOMESTEAD AND STATUTORY ALLOWANCES

Now, on this 21st day of March, 1955, this matter comes on upon the petition of Mary Doe, widow of John Doe, deceased, to set apart homestead and personal property, and the court finds that said petition should be heard without notice. Thereupon, evidence is produced upon said petition, and, after consideration of the evidence, the court finds that the allegations of said petition are true; that the real estate hereinafter described was the homestead of decedent and petitioner prior to the death of decedent and is and has been the homestead of petitioner since said date; that the same should be set aside to petitioner as such homestead, and that the petitioner should be granted an allowance under the provisions of G. S. 1949, 59-403.

IT IS THEREFORE ORDERED AND ADJUDGED BY THE COURT that the following described real estate:

The SW $\frac{1}{4}$ of Section 37, Township 75, Range 80, West of the
15th P. M., in Apache County, Kansas,

be and the same is set apart and assigned to Mary Doe, the widow of John Doe, deceased, as her homestead, free and clear of all debts and other demands against his estate.

IT IS BY THE COURT FURTHER ORDERED that the following described personal property be set aside to Mary Doe as her widow's allowance under G. S. 1949, 59-403: furniture and household goods, utensils and implements used in the home, and the sum of Seven Hundred Fifty Dollars (\$750.00) cash, to be hers absolutely.

(SEAL)

A. L. MANN, *Probate Judge*.

Reference: 59-403, 59-2235, 3 Bartlett 148, McCamish (2) 596.

Time: Any time after filing petition, unless notice required.

Testate estates: Same (see 59-404).

Note that title to homestead passes the same as other property (59-401) and is assigned in final settlement. (59-2235.)

(18)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

PETITION FOR ALLOWANCE OF DEMAND

Comes now the petitioner, Sunnyside Funeral Home, whose place of business and address is 400 Main Street, Metropolis, Kansas, and shows to the court that the petitioner is a creditor of the estate of John Doe, deceased, having a just and valid claim against the said estate for funeral services, an itemized statement of which is hereto attached, in the amount of \$265.70, after deducting all credits and offsets, and is entitled to the allowance thereof in this estate.

WHEREFORE, petitioner prays that the said demand be allowed against said estate in the amount of \$265.70, and that the same be assigned to the first class of demands.

SUNNYSIDE FUNERAL HOME,

By Z. Z. SMITH, *Petitioner.*

STATE OF KANSAS, APACHE COUNTY, ss:

I do solemnly swear that I am manager of the above named claimant, and have had the management and transaction of the business out of which the above demand originated, and that I have had the means of knowing, personally, the facts above set forth, and that I have given credit to said estate for all payments and offsets to which it is entitled, and that the balance of \$265.70, claimed is justly due said claimant, to the best of my knowledge and belief.
So help me God.

Z. Z. SMITH.

Subscribed and sworn to before me this 18th day of April, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public.*

My commission expires December 7, 1957.

(Attach itemized statement.)

Filed April 18, 1955. A. L. MANN, *Probate Judge.*

Reference: 59-2237, 59-2239, 3 Bartlett 149, McCamish (2) 602.

Time: Within nine months after first publication of notice of appointment.
(59-2239.)

Testate estates: Same.

(19)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of

John Doe, Deceased.

No. 1296

PETITION FOR ALLOWANCE OF DEMAND

Comes now The Hometown State Bank, a banking corporation organized and existing under the laws of the state of Kansas, whose address and place of business is 100 East Broadway St., Hometown, Kansas, and shows to the court that it is a creditor of the above entitled estate, having a just and valid claim against said estate in the amount of Five Hundred Dollars (\$500.00), with interest at six percent (6%) per annum from December 1, 1954, upon the promissory note hereinafter described.

Petitioner further shows that on the 1st day of December, 1954, the said John Doe, for a valuable consideration, made, executed and delivered to petitioner his promissory note, a true and correct copy of which is as follows:

"\$500.00
Hometown, Kansas, December 1, 1954
Ninety days after date I promise to pay to the order of THE HOMETOWN STATE BANK, at The Hometown State Bank, 100 E. Broadway, Hometown, Kansas, the sum of Five Hundred Dollars (\$500.00), with interest at six percent per annum after date. Value Received. (Signed) JOHN DOE."

Petitioner further shows that the said note is wholly due and unpaid; that petitioner is the owner and holder thereof; that there are no credits or offsets against the amount due on said note; and that petitioner holds no security for its claim.

WHEREFORE, petitioner prays that its demand against said estate be allowed in the sum of Five Hundred Dollars (\$500.00) with interest at six percent per annum from December 1, 1954, and that said demand be assigned to the fourth class.

THE HOMETOWN STATE BANK,

By N. P. MORGAN, *Cashier, Petitioner.*

STATE OF KANSAS, APACHE COUNTY, ss:

N. P. Morgan, of lawful age, being first duly sworn, on his oath says that he is cashier of the petitioner above named; that he has had the management and transaction of the business out of which the above demand originated; that he personally knows the facts concerning the same; that he has read the above and foregoing petition and that all the statements therein made are true; that he has given credit to the estate for all payments and offsets to which it is entitled; and that the balance above stated is justly due to said claimant, to the best of his knowledge and belief.

N. P. MORGAN.

Subscribed and sworn to before me this 2nd day of May, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public.*

My commission expires December 7, 1957.

Filed May 2, 1955. A. L. MANN, *Probate Judge.*

Reference: 59-2237, 59-2239, 3 Bartlett 149. McCamish (2) 602.

Time: Within nine months after first publication of notice of appointment.
(59-2239.)

Testate estates: Same.

For classification of demands, see 59-1301.

(20)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

ORDER FOR HEARING ON DEMANDS

Now on this 23d day of May, 1955, this matter comes on for an order of the court fixing the time for hearing on certain demands against said estate, and the court finds that the same should be assigned for hearing and notice given as hereinafter set out.

IT IS THEREFORE BY THE COURT ORDERED that the petitions for allowance of the demands against the said estate, filed by the following creditors in the following amounts:

Sunnyside Funeral Home.....	\$265.70
Hometown State Bank.....	\$500.00 and interest

be and they are assigned for hearing before the court on the 6th day of June, 1955, and the administrator is directed to give notice to all interested persons by mail at least ten days before said date of hearing.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-2237, 3 Bartlett 150.

Time: When requested by creditor or executor or administrator or ordered by court. (59-2237.) The former rule in *Estate of Whittelsey*, 156 Kan. 157, requiring demand to be *set for hearing* within nine months from notice of appointment, was changed by 1943 amendment to 59-2237.

Testate estates: Same.

(21)

NOTICE OF HEARING ON DEMANDS

NOTE: When notice is required by mailing only, no particular form of notice is provided, but statutory form (59-2210) is usually convenient. As to time of mailing, comply with order of court. Mail to other creditors as well as to heirs. It is usually convenient to have all uncontested demands set at the same time, to avoid duplication of notices. Demands under \$50 may be allowed without hearing (59-2237).

Reference: 59-2237. 3 Bartlett 151, McCamish (2) 603.

Time: As may be ordered by court. (59-2237.)

Testate estates: Same.

(22)

AFFIDAVIT OF MAILING

NOTE: Follow generally form (5) with modifications to identify notice and show mailing within time fixed. Attach copy of notice.

Reference: 59-2237, 3 Bartlett 151.

Time: Mail notice when required by court order. (59-2237.) File affidavit before hearing. (59-2211.)

Testate estates: Same.

(23)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

ORDER ALLOWING DEMANDS

Now on this 6th day of June, 1955, this matter comes on upon the petitions of certain creditors hereinafter named for the allowance of their demands against the said estate, the petitioners appearing in person and the administrator appearing by W. B. Pleader, his attorney. The court finds that notice of said hearing has been given in accordance with the order of this court, and proof thereof has been duly filed and is approved. Thereupon, said petitions are submitted to the court, and evidence produced thereon. After consideration thereof, the court finds that the said petitions should be granted and that the said demands against the said estate should be allowed and classified as hereinafter set out.

IT IS THEREFORE BY THE COURT ORDERED that the following demands against the estate of John Doe, deceased, be and the same are allowed in the following amounts, classified as follows, to-wit:

Sunnyside Funeral Home, \$265.70 first class;

Hometown State Bank, \$500.00 with interest at 6 percent from December 1, 1954, until paid, fourth class.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-2237, 59-1301, 3 Bartlett 152.

Time: On date provided in order for hearing or adjournment therefrom.

Testate estates: Same.

Verification of demand is prima facie evidence of its validity. (59-2237.)

Demands \$50.00 or less may be allowed without petition or notice. (59-2237.)

(24)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

PETITION FOR AUTHORITY TO SELL PERSONAL PROPERTY

Comes now Theodore R. Doe, administrator herein, and shows to the court that he has on hand certain personal property listed in the inventory and appraisal as follows to-wit:

Certificate No. 1442 for 10 shares of common stock of Metropolis Development Company, Inc., Par value \$10.00 per share, appraised at \$150.00;

1 share common stock of Hometown Country Club, Certificate No. 33, appraised at \$1.00;

Also, 1 series "E" U. S. Savings Bond No. 1000001E issued June 6, 1954 maturity value \$500.00 appraised value \$375.00.

Said administrator further shows that the proceeds of said securities are needed to pay debts, taxes and expense of administration and it is to the best interests of the estate that the same be converted into cash.

WHEREFORE, petitioner prays that he be authorized to sell and convert into cash the stocks above described and to execute all papers required to transfer the ownership thereof, and to surrender the U. S. savings bond for its cash value.

THEODORE R. DOE, *Administrator*.

STATE OF KANSAS, APACHE COUNTY, ss:

Theodore R. Doe, of lawful age, being first duly sworn, on oath says:

That he is the administrator above named; that he has read the above and foregoing petition for authority to sell personal property and knows the contents thereof, and that the statements therein made are true.

THEODORE R. DOE.

Subscribed and sworn to before me this 11th day of July, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Filed July 11, 1955. A. L. MANN, *Probate Judge*.

Reference: 59-1407, 59-2242, 3 Bartlett 159, McCamish (2) 599.

Time: Whenever necessary or desirable under 59-1407.

Testate estates: Same, unless will gives authority, in which case no procedure is required. See forms (136), (137) and (139).

May be heard with or without notice.

(25)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

ORDER FOR SALE OF PERSONAL PROPERTY

Now on this 11th day of July, 1955, this matter comes on upon the petition of Theodore R. Doe, administrator, for authority to sell and convert into cash certain securities described in said petition. The court finds that no notice of hearing on said petition is necessary or required to be given, and the court further finds that the proceeds of said securities are needed to pay expense of administration and demands allowed against said estate and it is to the best interests of the estate that the same be sold and converted into cash.

IT IS THEREFORE ORDERED AND ADJUDGED BY THE COURT that Theodore R. Doe, administrator of the estate of John Doe, deceased, be and he is authorized and directed to sell at private sale according to law for not less than three-fourths their appraised value, the following described securities which are a part of the estate of John Doe, deceased, to-wit:

10 shares of common stock of Metropolis Development Company, Inc., represented by Certificate No. 1442; and

1 share of stock of Hometown Country Club represented by Certificate No. 33.

IT IS BY THE COURT FURTHER ORDERED that the administrator be directed to surrender U. S. Savings Bond, Series E, No. 1000001E, for its cash value of \$375.00.

IT IS BY THE COURT FURTHER ORDERED that the said administrator be authorized and directed to execute such papers as may be necessary to carry out the provisions of this order.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-2242, 3 Bartlett 160.

Time: Without notice, on filing of petition, or *with* notice, *at such time as the court may order.* (59-2242.)

Testate estates: Same, except where will gives authority, see (136), (137) and (139).

(26)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

REPORT OF SALE OF PERSONAL PROPERTY

Theodore R. Doe, administrator of said estate, reports that, pursuant to the order of sale made herein on July 11, 1955, he sold to Z. Z. Smith 10 shares of the common stock of the Metropolis Development Company, Inc., for the sum of \$125.00, and sold to A. S. Climber, 1 share of stock in the Hometown

Country Club for the sum of \$65.00, being in each case more than three-fourths of the appraised value thereof. Said administrator further shows that said sales were made after diligent effort; that the price obtained was the best price obtainable for said property, and that said administrator did not directly or indirectly acquire any beneficial interest in said property and is not interested in the property sold except as stated in this report.

Said administrator further reports that he has surrendered United States Savings Bond, Series E, No. 1000001E, for its cash value of \$375.00 in accordance with the order of this court.

Dated this 21st day of July, 1955. THEODORE R. DOE, *Administrator*.

STATE OF KANSAS, APACHE COUNTY, ss:

Theodore R. Doe, of lawful age, being first duly sworn, on his oath says:

That he is the administrator above named; that he has read the above report of sale and is familiar with the contents thereof, and that the statements therein made are true.

THEODORE R. DOE.

Subscribed and sworn to before me this 21st day of July, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Filed July 21, 1955, A. L. MANN, *Probate Judge*.

Reference: 59-2245, 3 Bartlett 160.

Time: Within thirty days after sale. (59-2245.)

Testate estates: Same. Where will gives authority to sell, report is probably unnecessary, *but is desirable to complete record*. See form (136).

In some cases, the court issues an order confirming sale, but statute has no express requirement.

(27)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of

John Doe, Deceased.

No. 1296

PETITION OF THEODORE R. DOE, ADMINISTRATOR, FOR AUTHORITY TO SELL REAL ESTATE

Your petitioner, Theodore R. Doe, shows to the court that he is a resident of Apache county, Kansas; that his post office address is 1120 Main street, Metropolis, Kansas; that he is the duly appointed, qualified and acting administrator of the estate of John Doe, deceased; that letters of administration were issued to him on January 31, 1955; and that he has published notice of his appointment as provided by law.

Petitioner further shows that certain demands have been allowed against said estate as shown by the files and records in this court, and that there is not sufficient cash and personal property in said estate to pay the debts, taxes and expenses of administration.

Petitioner further shows that John Doe, deceased, died seized and possessed of the following described real estate:

Lot 21 on Main Street in Ponzi's Fourteenth Addition to the City of Metropolis in Apache County, Kansas;
that the sale of the real estate above described is necessary to pay the debts, taxes, and expense of administration in this estate; that said real estate is not a homestead and is subject to sale for such purposes; that in the opinion of your petitioner the said real estate can be sold to best advantage at private sale.

WHEREFORE, your petitioner prays that an order of this court be made, authorizing and directing him to sell the real estate hereinbefore described, on such terms as the court may direct, for the purpose of paying the debts of said estate and the expenses of administration.

THEODORE R. DOE,

*Administrator of the estate of John Doe,
deceased, Petitioner.*

STATE OF KANSAS, APACHE COUNTY, ss:

Theodore R. Doe, of lawful age, being first duly sworn, on oath says:

That he is the duly appointed, qualified and acting administrator of the estate of John Doe, deceased, and the petitioner above named; that he has read the above and foregoing petition for authority to sell real estate, and knows the contents thereof, and that the allegations and statements therein contained are true.

THEODORE R. DOE.

Subscribed and sworn to before me this 12th day of September, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public.*

My commission expires December 7, 1957.

Filed September 12, 1955. A. L. MANN, *Probate Judge.*

Reference: 59-1410, 59-2303. 3 Bartlett 171-172. McCamish (2) 604.

Time: Whenever necessary under 59-1410.

Testate estates: Same except where will gives authority to sell real estate, in which case no proceedings are required, but have sale approved by court. (See form 136.)

Some lawyers prefer to elaborate the necessity for sale by showing amount of debts, etc., and amount of personal assets available.

(28)

ORDER FOR HEARING ON PETITION TO SELL REAL ESTATE

NOTE: Substantially same as form (2) except nature of petition.

(29)

(First published in The Hometown Bugle, September 15, 1955.)

STATE OF KANSAS, APACHE COUNTY, SS:

IN THE PROBATE COURT OF SAID COUNTY AND STATE

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

NOTICE OF HEARING

The State of Kansas to all persons concerned:

You are hereby notified that a petition has been filed in said court by Theodore R. Doe, administrator of the estate of John Doe, deceased, praying for an order for the sale of the following described real estate belonging to said estate, for the purpose of paying the debts of said estate and taxes and expense of administration to-wit:

Lot 21 on Main street in Ponzi's Fourteenth Addition to the City of Metropolis, in Apache County, Kansas,
and you are hereby required to file your written defenses thereto on or before the 10th day of October, 1955, at ten o'clock A.M. of said day, in said court, in the city of Metropolis, Apache County, Kansas, at which time and place said cause will be heard. Should you fail therein, judgment and decree will be entered in due course upon said petition.

THEODORE R. DOE,
*Administrator of the estate
of John Doe, Deceased.*

W. B. PLEADER, *Attorney for Administrator.*

Reference: 59-2304, 59-2209, 59-2210.

Use statutory form (59-2210).

While 59-2304 does not specifically require real estate to be described in notice it is *prudent to describe same*, as *title examiners are not agreed on this question.*

Time: First publication within ten days after order for hearing. See notes on (2) and (3).

Testate estates: Same, except where will gives authority to sell real estate. (59-1413. 1951 amendment.)

(30)

PROOF OF PUBLICATION

NOTE: Publisher should prepare and file affidavit of publication similar to form (4). Attorney should check and secure approval of court.

Reference: 59-2211, 64-101. 3 Barlett 173.

Time: File before hearing.

Testate estates: Same when real estate sold to pay debts.

(31)

AFFIDAVIT OF MAILING

NOTE: Follow generally form (5) after mailing within seven days after first publication. Attach copy of notice to affidavit, and file.

Reference: 59-2209, 59-2211, 59-2304, 3 Bartlett 173.

Time: Mail notice within seven days after first publication (59-2209). File affidavit before hearing (59-2211).

Testate estate: Same when real estate sold to pay debts.

(32)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

JOURNAL ENTRY OF PETITION TO SELL REAL ESTATE

Now on this 10th day of October, 1955, at ten o'clock A. M. this matter comes on to be heard on the petition of Theodore R. Doe, administrator of said estate, for an order directing him to sell the real property hereinafter described for the payment of the debts of said John Doe, deceased, and to pay taxes and expense of administration. The said administrator appears in person and by his attorney, W. B. Pleader, and there are no other appearances.

The court finds that said administrator has given notice of the time and place of this hearing by publication and mailing as provided by law and heretofore ordered by the court, proof of which publication and mailing is duly filed herein and approved by the court.

Thereupon, evidence is produced in support of said petition, and the court, after consideration of the evidence and being fully advised in the premises, finds that the allegations of the petition are true, and that it is necessary to sell the real estate described in said petition and hereinafter described, to pay the debts of said deceased, taxes and costs of administration; that the said real estate is not a homestead and is subject to sale for such purposes, and that said real estate can be sold to best advantage at private sale.

The court further finds that no additional bond is required to be given by the administrator.

IT IS THEREFORE ORDERED AND ADJUDGED BY THE COURT that the said administrator proceed to sell the following described real estate:

Lot 21 on Main Street in Ponzi's Fourteenth Addition to the
City of Metropolis, in Apache County, Kansas,
after appraisalment thereof as provided by law, at private sale, for the highest

and best price obtainable but in no case for less than three-fourths of the appraised value thereof, said sale to be made for cash.

IT IS FURTHER ORDERED AND ADJUDGED BY THE COURT that the sale hereunder shall not be made more than one year after this date unless the said property shall be reappraised under order of this court within three months preceding the sale, and that the administrator apply the proceeds arising from said sale of said property to the payment of the demands allowed herein, and taxes and expense of administration.

IT IS BY THE COURT FURTHER ORDERED that the administrator be authorized to pay for certificate and expense of bringing abstract of title to date.

(SEAL)

A. L. MANN, *Probate Judge*.

Reference: 59-2305, 3 Bartlett 174, McCamish (2) 605.

Time: On date fixed in published notice, or adjournment thereof. (From seven to fourteen days after last publication. 59-2209.)

Testate estates: Same except when will gives authority to sell real estate. (59-1413, 1955 Supp.)

For forms for public sale see 3 Bartlett 174.

Sometimes a separate order of sale is issued. (3 Bartlett 175.)

Additional bond may be required. (59-2306, 3 Bartlett 175-176, McCamish (2) 606.) On abstract expense, see 59-2313. Real estate commission may be authorized. (59-2312.)

(33)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

ORDER APPOINTING APPRAISERS IN CONNECTION WITH SALE OF REAL ESTATE

Now on this 10th day of October, 1955, this matter comes on for an order appointing appraisers to appraise the real estate directed to be sold by the administrator by the order of this court entered on this date.

IT IS THEREFORE BY THE COURT ORDERED that R. E. Dealer, A. G. Broker, and S. N. Neighbor, three disinterested persons of the county of Apache, State of Kansas, be and they are hereby appointed to appraise the following described real estate situated in the County of Apache, State of Kansas, to-wit:

Lot 21 on Main Street in Ponzi's Fourteenth Addition to the
City of Metropolis, in Apache County, Kansas;

for the purpose of the sale of said real estate under the provisions of the order of this court.

(SEAL)

A. L. MANN, *Probate Judge*.

Reference: 59-2307, 3 Bartlett 174, McCamish (2) 606.

Time: After order directing sale (59-2307.)

Testate estates: Same except where will gives authority to sell real estate. (59-1413, 1955 Supp.)

Sometimes appointment of appraisers is included in order directing sale. (3 Bartlett 174.)

Appraisers may be the same or different persons from those who made general appraisement, but must be residents of county where real estate is situated. (59-2307.)

Appraisement required only for private sale. (59-2307.)

(34)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

OATH AND REPORT OF APPRAISERS

STATE OF KANSAS, APACHE COUNTY, ss:

The undersigned appraisers appointed by the court on October 10, 1955, to appraise certain real estate ordered to be sold by the administrator of said estate, being first duly sworn, severally upon their oath say that they will truly, honestly and impartially, according to the best of their abilities, view and appraise the real estate to them shown by said administrator, and deliver to said administrator report thereof duly signed by each of them.

R. E. DEALER,

A. G. BROKER,

S. N. NEIGHBOR.

Subscribed and sworn to before me this 10th day of October, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

REPORT OF APPRAISERS

STATE OF KANSAS, APACHE COUNTY, ss:

We, the undersigned appraisers appointed for the purpose of appraising the real estate hereinafter described for sale by the administrator in accordance with the order of the court dated October 10, 1955, being first duly sworn upon our respective oaths, do hereby certify that we have viewed the said real estate and do, on our oaths, appraise the same at its full and fair value, as follows, to-wit:

Appraised Value

Lot 21 on Main street in Ponzi's Fourteenth Addition
to the City of Metropolis, in Apache County, Kansas... \$1,000.00

R. E. DEALER,

A. G. BROKER,

S. N. NEIGHBOR,

Appraisers.

Subscribed and sworn to before me this 12th day of October, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Filed October 12, 1955, A. L. MANN, *Probate Judge*.

Reference: 59-2307, 3 Bartlett 177, McCamish (2) 606.

Time: No specific time fixed but see 59-2305 last sentence.

Testate estates: Same except where will gives authority to sell real estate.
(59-1413, 1955 Supp.)

Appraisement required only for private sale. (59-2307.)

(35)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

REPORT OF THE SALE OF REAL ESTATE AND PETITION FOR
CONFIRMATION THEREOF

The Petitioner, Theodore R. Doe, administrator of the estate of John Doe, deceased, shows to the court that pursuant to an order heretofore made in this court on the 10th day of October, 1955, directing the sale of the real estate herein described, he caused the said real estate to be appraised as provided by law and did on the 12th day of October, 1955, sell at private sale the following described real estate, situated in Apache County, Kansas, to-wit:

Lot 21 on Main street in Ponzi's Fourteenth Addition to the
City of Metropolis, in Apache County, Kansas;
to D. H. Hunter for the sum of One Thousand, Four Hundred Dollars
(\$1,400.00), being the highest price offered and obtainable and more than
three-fourths of the appraised value of the said real estate.

Petitioner further shows that the said real estate is not liable for any charge, mortgage, lien or other encumbrance thereon except unpaid taxes and the cost of bringing abstract to date; the said sale being for cash upon furnishing abstract showing merchantable title, all past due taxes to be paid by the administrator.

The petitioner further states that he did not, directly or indirectly, acquire any beneficial interest in the said real estate, and is not directly or indirectly interested in the property sold except as stated herein, and that the said sale was fairly conducted and legally made.

The report and certificate of appraisement is filed herewith.

WHEREFORE, the petitioner prays that the said sale be confirmed and that he be directed to execute and deliver to the purchaser a deed of conveyance according to law, upon the purchaser's compliance with the terms and conditions of the sale.

THEODORE R. DOE, *Petitioner*.

STATE OF KANSAS, APACHE COUNTY, ss:

Theodore R. Doe, of lawful age, being first duly sworn, on oath says:

That he is the petitioner above named; that he has read the above and

foregoing report of sale and petition for confirmation thereof, and that the statements therein made are true.

THEODORE R. DOE.

Subscribed and sworn to before me this 12th day of October, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Filed October 12, 1955. A. L. MANN, *Probate Judge*.

Reference: 59-2309, 3 Bartlett 179, McCamish (2) 608.

Time: No specific time fixed, but see 59-2305.

Testate estates: Same except where will gives authority to sell real estate.
(59-1413, 1955 Supp.) See form (136).

(36)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

ORDER OF CONFIRMATION OF SALE OF REAL ESTATE

Now on this 12th day of October, 1955, the above entitled matter comes on for hearing before the court upon the report of Theodore R. Does, administrator of the estate of John Doe, deceased, of the sale of real estate and the petition of the said administrator for confirmation of sale. The said report shows that the said administrator sold the following described real estate situated in Apache County, Kansas, to-wit:

Lot 21 on Main street in Ponzi's Fourteenth Addition to the city
of Metropolis;

to D. H. Hunter for the sum of One Thousand, Four Hundred Dollars (\$1,400.00), to be paid in cash on delivery of administrator's deed, taxes for 1954 and prior years to be paid and abstract furnished by the administrator. The court, after hearing the evidence and being fully advised in the premises, finds that the statements made in said report and petition are true and that said sale was fairly conducted and legally made, and should be confirmed.

IT IS THEREFORE BY THE COURT ORDERED that the said sale be and the same is hereby confirmed and that the said administrator be and he is directed to execute and deliver to the purchaser his administrator's deed according to law, upon the purchaser's compliance with the terms and conditions of the sale; and that the administrator be authorized to furnish abstract and pay taxes as above set out, from the proceeds of said sale.

(SEAL)

A. L. MANN, *Probate Judge*.

Reference: 59-2309, 3 Bartlett 180.

Time: Any time after filing of report. No requirement of notice of hearing (59-2309).

Testate estates: Same except where will gives authority to sell real estate. (59-1413, 1955 Supp.) See form (137).

Title expense authorized by 59-2313.

Real estate commission may be authorized by court prior to sale. (59-2312.)

(37)

ADMINISTRATOR'S DEED

Know All Men by These Presents:

That whereas, on the 10th day of October, 1955, the Probate Court of Apache County, Kansas, on the petition of Theodore R. Doe, administrator of the estate of John Doe, deceased, after due and legal notice given, entered its order directing said administrator to sell at private sale the following described real property situated in the County of Apache and State of Kansas, to-wit:

Lot 21 on Main street in Ponzi's Fourteenth Addition to the
City of Metropolis;

and whereas, on the 12th day of October, 1955, the said real estate was duly appraised for the purpose of such sale as provided by law at the sum of \$1,000.00, which appraisement is on file in said court; and

Whereas, on the 12th day of October, 1955, the said Theodore R. Doe, administrator of the estate of John Doe, deceased, did, under the said order of the court, sell said real property to D. H. Hunter for the sum of \$1,400.00, being more than three-fourths of the appraised value thereof; and

Whereas, on the 12th day of October, 1955, a report of said sale was duly filed and the said court approved, ratified and confirmed said sale and ordered said administrator to make, execute and deliver to the purchaser at said sale a good and sufficient deed conveying to him all the right, title and interest of the deceased in and to the said real property;

NOW THEREFORE, I, Theodore R. Doe, administrator of the estate of John Doe, deceased, in consideration of the sum of One Thousand, Four Hundred Dollars (\$1,400.00) to me paid, do hereby grant, bargain, sell and convey unto D. H. Hunter, his heirs and assigns, all of the interest of John Doe, deceased, discharged from liability for his debts, in the following described real estate situated in the county of Apache, State of Kansas, to-wit:

Lot 21 on Main street in Ponzi's Fourteenth Addition to the
City of Metropolis;

to have and to hold the same, with all the appurtenances and hereditaments thereunto belonging, forever.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of October, 1955.

THEODORE R. DOE,

Administrator of the estate of John Doe, Deceased.

(\$1.65 Revenue Stamps.)

STATE OF KANSAS, APACHE COUNTY, ss:

BE IT REMEMBERED that on this 14th day of October, 1955, before me, the undersigned, a notary public in and for the county and state aforesaid,

came Theodore R. Doe, administrator of the estate of John Doe, deceased, who is personally known to me to be the same person who executed the above administrator's deed, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal, the day and year last above written.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

The foregoing deed is hereby approved by the Probate Court of Apache County, Kansas, this 17th day of October, 1955.

(SEAL)

A. L. MANN, *Probate Judge*.

Reference: 59-2309, 59-2311. 3 Bartlett 181; McCamish (2) 609. Sometimes a separate order is issued, approving deed.

Time: After confirmation of sale and payment of purchase price.

Testate estates: Same except where will gives authority to sell real estate, in which case see form (138).

(38)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

PETITION FOR FINAL SETTLEMENT

Comes now Theodore R. Doe, administrator of the estate of John Doe, deceased, and shows to the court that he was duly appointed as such administrator on the 31st day of January, 1955, and duly qualified as such; that he gave notice of his appointment as required by law, as shown by the files and records of this court, and that time for filing demands against said estate has expired; that the estate of said John Doe has been fully administered according to law and it is no longer necessary to continue said administration, and your petitioner desires to make final settlement and to be discharged from his trust.

A final and complete account of the receipts and disbursements of said administrator is hereto attached and made a part hereof.

Petitioner further shows that the decedent, John Doe, died intestate on the 15th day of December, 1954; that at the time of his death he was a resident of Apache County, Kansas, and a citizen of the United States; that the decedent was survived by the following named persons who are all of his heirs:

Mary Doe, his widow, address, Route No. 1, Hometown, Kansas;

Theodore R. Doe, his son, address, 1120 Main street, Metropolis, Kansas;

Alice Doe Smith, his daughter, address, Grand Hotel, Lake George, Texas.

Petitioner further shows that the decedent had no spouse or children or adopted children or issue of deceased children, natural or adopted, who survived him, other than the persons above named.

Petitioner further shows that all taxes and debts of the said estate have

been paid in full; that the said estate is not subject to federal estate taxes nor to state inheritance taxes.

Petitioner further shows that the decedent owned the following described real estate at the time of his death:

Lot 21 on Main street in Ponzi's Fourteenth Addition to the City of Metropolis in Apache County, Kansas;

which real estate has been sold by the petitioner as administrator under order of sale issued herein on October 10, 1955, to D. H. Hunter, which sale was duly reported to and approved by this court, all as shown by the files and records herein, and the proceeds of said real estate are accounted for in the account attached to this petition.

Petitioner further shows that the decedent also owned the following described real estate at the time of his death:

The Southwest Quarter (SW $\frac{1}{4}$) of Section 37, Township 75, Range 80, West of the 15th P. M., in Apache County, Kansas;

that the said real estate was set aside for the use of Mary Doe, widow of decedent, by order of this court dated March 21, 1955, and that the title to said real estate should be assigned to the heirs of John Doe, above named, subject to the homestead rights of the widow above named.

Petitioner further shows that he has performed services in said estate and has employed W. B. Pleader as his attorney herein and that allowance should be made out of the said estate, to said administrator for his services and attorney's fees.

WHEREFORE, the petitioner prays that his account be settled and allowed, and that final settlement be had of said estate as provided by law, and that the court determine and adjudge who are the heirs of said decedent, and that the real estate last above described and all other real estate owned by decedent at the time of his death, subject to any lawful disposition thereof heretofore made, be assigned as above set out, and that the court order and direct the administrator as to the disbursement and distribution of the remaining assets and property of said estate; that allowance be made to said administrator in such amount as the court may find reasonable for his services and attorney's fees; and that, upon the filing of receipts evidencing the disbursement and distribution of said remaining assets and property, an order be made and entered closing said estate and discharging said administrator and the surety on his bond from all further duties and liabilities herein.

THEODORE R. DOE, *Administrator*.

STATE OF KANSAS, APACHE COUNTY, ss:

Theodore R. Doe, of lawful age, being first duly sworn, on oath says:

That he is the duly appointed, qualifying and acting administrator of the estate of John Doe, deceased, and is the petitioner above named; that he has read the above and foregoing petition for final settlement, and that all the statements therein made are true, and that the attached account is a full, true and correct account of his receipts and disbursements as such administrator.

THEODORE R. DOE.

Subscribed and sworn to before me this 12th day of March, 1956.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Filed March 12, 1956. A. L. MANN, *Probate Judge*.

Reference: 59-1501, 59-1502, 59-1503, 59-2247. 3 Bartlett 227; McCamish (2) 615.

Time: Whenever estate has been fully administered but order of final settlement should be *at least one year after appointment and over nine months after publication of notice of appointment*, whichever is later. As a practical matter, the earliest time for filing petition for final settlement is slightly over eleven months after appointment.

Testate estates: Conform with 59-2247, see form (140).

Above verification includes attached account.

On compensation and attorneys fees, see 59-1717, and same may be requested by separate petition. (3 Bartlett 225.)

(38-A)

FIRST AND FINAL ACCOUNT OF RECEIPTS AND DISBURSEMENTS OF THEODORE R. DOE, ADMINISTRATOR OF THE ESTATE OF JOHN DOE, DECEASED, FROM
JANUARY 31, 1955, TO MARCH 12, 1956.

(Attached to and filed with petition for final settlement.)

1955		Received	Disbursed
Jan. 31	Cash in bank per inventory	\$942.00	
Feb. 7	Received from G. W. Rochester (January rent)	5.00	
Mar. 24	Paid to Mary Doe, widow's allowance		\$750.00
Mar. 24	Paid to R. E. Dealer—appraiser's fee and mileage		6.80
Mar. 24	Paid to A. G. Broker—appraiser's fee and mileage		6.80
Mar. 24	Paid to S. N. Neighbor—appraiser's fee and mileage		5.20
Apr. 11	Rec'd from G. W. Rochester (Feb. rent)...	5.00	
May 11	Rec'd from G. W. Rochester (Mar., April, and May rent)	15.00	
June 1	Rec'd from G. W. Rochester (June rent) ..	5.00	
July 19	Rec'd from Z. Z. Smith for stock in Metropolis Development Co.	125.00	
July 19	Rec'd from A. S. Climber for stock in Hometown Country Club	65.00	
July 19	Rec'd from surrender of U. S. Series "E" bond	375.00	
Aug. 2	Paid to Sunnyside Funeral Home in full demand allowed		265.70
Oct. 12	Rec'd from D. H. Hunter, sale of real estate, ..	1,400.00	
Oct. 14	Paid to appraisers on sale of real estate		6.00
Oct. 14	Paid to County Treasurer, taxes on real estate sold		12.85
Oct. 14	Paid to Metropolis Abstract Co.		8.75
Oct. 14	Revenue stamps on deed		1.65
Nov. 1	Paid to Hometown State Bank in full payment of demand allowed and interest ...		517.74

Dec. 14	Paid to County Treasurer, 1955: Personal property tax in full		6.72
	Totals	\$2,937.00	\$1,588.21
1956			
Mar. 12	Balance on hand		\$1,348.79

Reference: 59-1502. Account must be verified separately if not made a part of verified petition.

Time: At time of final settlement and at such other times as the court may require.

Testate estates: Same.

NOTE: Many courts do not include appraisers' fees in court costs. Administrator pays them and charges them in final account.

(39)

ORDER FOR HEARING ON PETITION FOR FINAL SETTLEMENT

NOTE: Follow generally form (2).

Reference: 59-2204, McCamish (2) 615.

Time: Upon filing of petition. In fixing time for hearing, calculate time of publication and hearing to conform to 59-2209.

Testate estates: Same.

(40)

(First published in Hometown Bugle, March 15, 1956)

STATE OF KANSAS, APACHE COUNTY, SS:

IN THE PROBATE COURT OF SAID COUNTY AND STATE

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

NOTICE OF HEARING

The State of Kansas to all persons concerned:

You are hereby notified that a petition has been filed in said court by Theodore R. Doe, administrator of the estate of John Doe, deceased, praying for final settlement of said estate, approval of his accounts as administrator, allowances for his services, attorney's fees and expenses, also that the court determine the heirs of said decedent and assign to them the real estate and personal property remaining in said estate, and you are hereby required to file your written defenses thereto on or before the 9th day of April, 1956, at 10 o'clock A. M. of said day, in said court, in the City of Metropolis, at which time and place said cause will be heard. Should you fail therein, judgment and decree will be entered in due course upon said petition.

THEODORE R. DOE, Administrator, Petitioner.

W. B. PLEADER, Attorney for Administrator.

Reference: 59-2209, 59-2210.

Time: First publication within ten days after order for hearing, weekly thereafter. Third and last publication 7 to 14 days before hearing. (59-2209.)

Testate estates: See form (143).

This notice is jurisdictional and must describe all matters which will be submitted to the court in connection with final settlement. (*In re Estate of Grove*, 158 Kan. 444.)

(41)

PROOF OF PUBLICATION

NOTE: Publisher should file affidavit conforming generally with form (4). Attorney should check and secure approval of court.

Reference: 59-2211, 64-101, 3 Bartlett 173.

Time: Must be filed before hearing. (59-2211.)

Testate estates: Same.

(42)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

AFFIDAVIT OF MAILING AND OF NON-MILITARY SERVICE

STATE OF KANSAS, APACHE COUNTY, ss:

W. B. Pleader, of lawful age, being first duly sworn, on oath says:

That he is attorney for Theodore R. Doe, administrator herein; that he mailed notice of hearing on petition for final settlement, copy of which notice is hereto attached, by depositing copy of said notice in the United States mail, postage prepaid, on March 19, 1956, and within seven days after the first publication thereof, addressed to each of the following persons:

Mary Doe, Route 1, Hometown, Kansas;

Alice Doe Smith, Grand Hotel, Lake George, Texas,

such persons being all of the heirs of John Doe, deceased, other than the petitioner, and all persons who have any interest in said proceeding, whose names and addresses are known to petitioner or affiant.

Affiant further states that he is personally acquainted with the said Mary Doe and knows that she is residing on her homestead in Apache County, Kansas, and is personally acquainted with Alice Doe Smith and knows she is in civilian employment as cashier of the Grand Hotel at Lake George, Texas, and that neither of them nor any other person interested in said estate is in the military service of the United States as defined by the Soldiers' and Sailors' Civil Relief Act of 1940 as amended.

W. B. PLEADER.

Subscribed and sworn to before me this 20th day of March, 1956.

(SEAL)

HELEN H. WATERS, Notary Public.

My commission expires December 7, 1957.

Filed March 22, 1956. A. L. MANN, Probate Judge.

Reference: 59-2209, 59-2211.

Time: Mail notice within seven days after first publication (59-2209). File affidavit before hearing. (59-2211.)

Testate estate: Same.

Affidavit of nonmilitary service, when applicable, should be filed at some time during proceedings as long as Soldiers' and Sailors' Civil Relief Act is in effect. May be combined with affidavit of mailing.

(43)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

JOURNAL ENTRY OF FINAL SETTLEMENT

Now on this 9th day of April, 1956, this matter comes on upon the petition of Theodore R. Doe, administrator, for final settlement of said estate. The said administrator appears in person and by his attorney, W. B. Pleader, and there are no other appearances. The court finds that notice of said hearing has been given by publication and mailing as provided by law and by the orders of this court and that proof thereof has been duly filed in this court, and the said notice and the proof thereof are examined and approved by the court.

Thereupon, the said petition for final settlement is submitted to the court and evidence produced thereon, and the court finds that the said John Doe died intestate on the 15th day of December, 1954, being a resident of Apache County, Kansas, and a citizen of the United States, and leaving as his sole heirs the following persons:

Mary Doe, his widow, whose address is Route No. 1, Hometown,
Kansas;

Theodore R. Doe, his son, whose address is 1120 Main street,
Metropolis, Kansas;

Alice Doe Smith, his daughter, whose address is Grand Hotel,
Lake George, Texas.

The court further finds that letters of administration were granted to Theodore R. Doe as administrator of said estate, on January 31, 1955, and that he published his notice of appointment on February 10, 1955; that more than nine months have expired since the publication of such notice and more than one year has expired since the date of appointment; and that the time for filing claims against said estate has expired.

The court further finds that the said estate has been fully administered; that all demands of creditors allowed against said estate have been paid in full by the administrator; that no inheritance taxes are due to the State of Kansas and no estate taxes due to the United States; and that the said administrator has filed his account showing his receipts and disbursements, which account is examined and approved by the court.

The court further finds that said administrator has on hand the sum of \$1,348.79, and that there are costs due in this court in the amount of \$41.62, and that the said administrator has performed services which are reasonably

worth the amount of \$200.00, and has employed an attorney whose services are reasonably worth the sum of \$250.00, and that allowance should be made to the administrator in said amounts for his services and attorney's fees.

The court further finds that the said John Doe owned the following described real estate at the time of his death:

Lot 21 on Main street in Ponzi's Fourteenth Addition to the City of Metropolis, in Apache County, Kansas;

that the said real estate has been sold by the administrator to D. H. Hunter, for the payment of debts, taxes and expenses of administration; that said sale has been confirmed and the purchase price fully paid and administrator's deed executed by the administrator and approved by this court and delivered to the purchaser, and that this estate has no further interest in the said real estate.

The court further finds that the said John Doe also owned the following described real estate at the time of his death:

The Southwest Quarter (SW $\frac{1}{4}$) of Section Thirty-seven (37), Township Seventy-five (75), Range Eighty (80) West of the Fifteenth Principal Meridian, in Apache County, Kansas;

and that the said real estate was set aside for the use of Mary Doe, widow of decedent, as her homestead, by order of this court dated March 21, 1955, and that title to said real estate should be assigned to the heirs above named, subject to the homestead rights of said widow.

The court further finds from the affidavit of the administrator filed herein and other evidence submitted to the court that neither Mary Doe, nor Alice Doe Smith, nor any other person interested in this estate, is in the military service of the United States as defined by the Soldiers' and Sailors' Civil Relief Act of 1940 as amended.

IT IS THEREFORE BY THE COURT ORDERED that the accounts of Theodore R. Doe, as administrator of the estate of John Doe, deceased, be allowed and approved, and that the administrator be allowed the sum of \$200.00 for his services, and the sum of \$250.00 for his attorneys' fees to be paid to W. B. Pleader, for his services as attorney for the said administrator, and that said administrator distribute the moneys in his hands as follows:

To the payment of the costs in this court in the amount of \$41.62;

To the said administrator, allowance for his services, in the amount of \$200.00, and allowance for his attorneys' fees to be paid to W. B. Pleader, his attorney, in the amount of \$250.00, leaving a balance of \$857.17 to be distributed to the heirs of John Doe, deceased, in the following proportions and amounts:

To Mary Doe, one-half.....	\$428.59
To Theodore R. Doe, one-fourth	\$214.29
To Alice Doe Smith, one-fourth.....	\$214.29

IT IS BY THE COURT FURTHER ORDERED that title to the following described real estate, to-wit:

The Southwest Quarter (SW $\frac{1}{4}$) of Section Thirty-seven (37), Township Seventy-five (75), Range Eighty (80) West of the 15th Principal Meridian, in Apache County, Kansas;

and all other property, real and personal, owned by decedent at the time of his death, subject to any lawful disposition thereof heretofore made, be assigned to the heirs of John Doe, deceased, according to their interest as above

set out, to-wit: To Mary Doe, an undivided one-half interest therein, to Theodore R. Doe, an undivided one-fourth interest therein, to Alice Doe Smith, an undivided one-fourth interest therein; all subject to the homestead rights of Mary Doe, as widow of John Doe, deceased.

IT IS BY THE COURT FURTHER ORDERED that, upon the filing of receipts showing the distribution of the funds in his hands in accordance with the provisions of this order, the said Theodore R. Doe, be discharged as administrator of the estate of John Doe, deceased, and that he and his surety be relieved from further liability on his bond.

(SEAL)

A. L. MANN, *Probate Judge*.

Reference: 59-2249, 3 Bartlett 226, 229, 230, McCamish (2) 616.

Time: At least one year after appointment and at least nine months after first publication of notice of appointment, whichever is later. (Sec. 59-617, 59-2239.) Also on date fixed in published notice, or any adjournment therefrom.

Testate estates: Assign real estate and distribute personal property to devisees and legatees in accordance with will, otherwise substantially same. See form (146).

Allowance of attorney's fees should be made to *administrator*, not attorney. (*In re Estate of Eyth*, 157 Kan. 268.)

Note that title to homestead passes the same as other property (59-401) and is included in order of final settlement. (59-2235.)

(44)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the matter of the estate of
John Doe, Deceased.

No. 1296

RECEIPTS

Received of Theodore R. Doe, Administrator of the estate of John Doe, deceased, \$428.59 in full payment of my distributive share in said estate, per order of final settlement.

MARY DOE.

Filed April 16, 1956.—A. L. MANN, *Probate Judge*.

NOTE: Similar receipts to be filed by Theodore R. Doe and Alice Doe Smith for distributive shares, by Theodore R. Doe for allowance to administrator, and by W. B. Pleader for attorney's fees.

Reference: 59-1718, 3 Bartlett 238.

Time: After order of final settlement.

Testate estate: Same.

(45)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
John Doe, Deceased.

No. 1296

JOURNAL ENTRY OF FINAL DISCHARGE

Now on this 16th day of April, 1956, comes Theodore R. Doe, administrator of the estate of John Doe, deceased, and files his receipts showing that he has fully complied with the order of final settlement entered on April 9, 1956, in said estate, and the court finds that he should be finally discharged herein.

IT IS THEREFORE BY THE COURT ORDERED that Theodore R. Doe be and he is finally discharged as administrator of the estate of John Doe, deceased, and he and his surety are released from any further liability upon his bond.

(SEAL)

A. L. MANN, *Probate Judge*.

Reference: 59-1718, 3 Bartlett 238.

Time: Whenever receipts filed, and order of final settlement is complied with in other respects.

Testate estates: Same.

**Proceedings to Determine the Descent of the Property of
Richard Roe, Deceased**

(51)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Richard Roe, Deceased.

No. 1411

PETITION FOR DETERMINATION OF DESCENT

Your petitioner, Sarah Roe, whose residence and address is Route 1, Hometown, Apache County, Kansas, represents and shows to the court:

That Richard Roe, a resident of Apache County, Kansas, and a citizen of the United States, died on the 3rd day of March, 1955; that at the time of his death he was the owner of the following described real estate in Apache County, Kansas, to-wit:

East Half (E½) of Southeast Quarter (SE¼) of Section 37,
Township 75, Range 80;

That no will of the said Richard Roe has been admitted to probate nor administration had of his estate; that the said Richard Roe died intestate, and that all the debts of the said Richard Roe have been paid.

That the said Richard Roe left surviving him as his sole heirs-at-law the following persons, to-wit:

Sarah Roe, his wife; the petitioner.

Woodrow W. Roe, adult son; whose residence and post office address is 1918 South Broadway, Metropolis, Kansas;

Franklin D. Roe, minor son; residing with petitioner;

Eleanor Roe, minor daughter; residing with petitioner;

That the decedent had no spouse or children or adopted children or issue of deceased children, natural or adopted, who survived him, other than the persons above named.

That petitioner is interested in this matter as the widow and one of the heirs of Richard Roe, and as the owner of an interest in the real estate hereinbefore described.

WHEREFORE, petitioner prays that the court fix a time and place for the hearing of this petition, and provide for giving notice thereof, and that the court, upon hearing as provided by law, determine the descent of the real estate hereinbefore described and all other property owned by the said Richard Roe at the time of his death, and assign it to the persons entitled thereto in accordance with such determination.

SARAH ROE, *Petitioner*.

W. B. PLEADER, *Attorney for Petitioner*.

STATE OF KANSAS, APACHE COUNTY, ss:

Sarah Roe, of lawful age, being first duly sworn, on oath says:

That she is the petitioner above named; that she has read the above and foregoing petition to determine descent, and knows the contents thereof, and that all the statements therein made are true.

SARAH ROE.

Subscribed and sworn to before me this 2nd day of April, 1956.

(SEAL)

A. L. MANN, *Probate Judge*.

Filed April 2, 1956, A. L. MANN, *Probate Judge*.

Reference: 59-2250, 3 Bartlett 239, McCamish (2) 617.

Time: After one year from the date of death.

Testate estates: Not applicable.

(52)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Richard Roe, Deceased.

No. 1411

ORDER FOR HEARING

On this 2d day of April, 1956, IT IS ORDERED that the petition filed herein by Sarah Roe for determination of descent of the property of Richard Roe, deceased, be heard on the 1st day of May, 1956, at ten o'clock, a. m., by this court, at the courthouse in Metropolis in said county and state, and that notice of the time and place of said hearing be given pursuant to Section 59-2209, G. S. 1949.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-2251, 3 Bartlett 240, McCamish (2) 617.

Time: Upon filing of petition. Conform to 59-2209.

Testate estates: Not applicable.

(53)

TAX REPORTS

NOTE: In an intestate estate, where no administration has been had, it is provided that no decree of descent shall be entered until after the determination and payment of inheritance taxes. (59-2251.) Such determination can be procured by making report on Inheritance Tax Division form IH-27. If such report is filed before the descent proceedings are commenced, use form IH-22. These forms can be procured from the State Commission of Revenue and Taxation, Topeka, Kansas. In due course, the Commission will issue its order, which will be mailed to the heirs or attorney and the probate court. If the estate is found taxable, payment should be made to the county treasurer and receipt filed in the Probate Court before the decree of descent is entered.

Other tax reports are required, the same as in an estate which is administered (15), and such reports should be filed by the principal heirs who take over the property in the estate; otherwise, they may be charged with delinquent taxes and penalties.

(54)

(First published in The Metropolis World, April 5, 1956)

STATE OF KANSAS, APACHE COUNTY, SS:

IN THE PROBATE COURT OF SAID COUNTY AND STATE

In the Matter of the estate of
Richard Roe, Deceased.

No. 1411

NOTICE OF HEARING

The State of Kansas to all persons concerned:

You are hereby notified that a petition has been filed in said court by Sarah Roe, as widow and one of the heirs-at-law of Richard Roe, deceased, praying for the determination of the descent of the following described real estate in Apache County, Kansas, to-wit:

East Half (E½) of Southeast Quarter (SE¼) of Section 37,
Township 75, Range 80;

and all other property, real and personal, or interests therein, owned by the said Richard Roe at the time of his death; and you are hereby required to file your written defenses thereto on or before the 1st day of May, 1956, at ten o'clock a. m., of said day, in said court, in the City of Metropolis, in Apache County, Kansas, at which time and place said cause will be heard. Should you fail therein, judgment and decree will be entered in due course upon said petition.

SARAH ROE, *Petitioner.*W. B. PLEADER, *Attorney for Petitioner.*

Reference: 59-2251, 59-2209, 59-2210.*Time:* Once a week for three consecutive weeks. (Conform to 59-2209.)*Testate estates:* Not applicable.

(55)

PROOF OF PUBLICATION

NOTE: Proof of publication similar to form (4) should be prepared and filed by the publisher. Attorney should check same and submit to the court for approval.

Reference: 59-2211, 64-101. 3 Bartlett 89.*Time:* File before hearing (59-2211).*Testate estates:* Not applicable.

(56)

AFFIDAVIT OF MAILING

NOTE: Affidavit of mailing in same general form as form (5) should be executed and filed. Mail to heirs named, including minors, and also to Sarah Roe, mother and natural guardian of Franklin D. Roe and Eleanor Roe, minors.

Reference: 59-2209, 59-2211. 3 Bartlett 241.

Time: Mail notice *within seven days after first publication* (59-2209). File affidavit before hearing (59-2211).

Testate estates: Not applicable.

(57)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the estate of
Richard Roe, Deceased.

No. 1411

AFFIDAVIT OF NON-MILITARY SERVICE

STATE OF KANSAS, COUNTY OF APACHE, ss:

Sarah Roe, of lawful age, being first duly sworn, on oath says:

That she is personally acquainted with Woodrow W. Roe, Franklin D. Roe and Eleanor Roe, the children and heirs of Richard Roe, deceased, all of whom reside in Apache County, Kansas; and affiant personally knows that none of the said heirs or any persons interested in this estate are in the military service of the United States as defined in the Soldiers' and Sailors' Civil Relief Act of 1940 as amended.

SARAH ROE.

Subscribed and sworn to before me this 1st day of May, 1956.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Filed May 1, 1956. A. L. MANN, *Probate Judge*.

Reference: Federal statutes. There is some question whether this affidavit is still required by law, but it is safer to include it under present conditions.

See, also, form (42), combining affidavit of mailing and of non-military service.

Time: File before hearing.

Testate Estates: Same, see (145).

(58)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Richard Roe, Deceased.

No. 1411

DECREE OF DESCENT

Now, on this 1st day of May, 1956, comes on for hearing the petition of Sarah Roe to determine the descent of the property of Richard Roe, deceased. The petitioner, Sarah Roe, appears in person, and by W. B. Pleader, her attorney, and said Sarah Roe also appears as mother and natural guardian of Franklin R. Roe and Eleanor Roe, minors, and the court finds that it is not necessary to appoint a guardian *ad litem* for said minors. There are no other appearances. The court finds that said petitioner has given notice of the time and place of this hearing as provided by law and the orders of this court, proof of which notice and the publication and mailing thereof is duly filed herein, and is approved by the court.

Thereupon evidence is produced upon said petition and after consideration

of the evidence and being fully advised, the court finds that the allegations of said petition are true; that Richard Roe, a resident of Apache County, Kansas, and a citizen of the United States, died on the 3rd day of March, 1955; that at the time of his death he was the owner of the following described real estate in Apache County, Kansas, to-wit:

East Half (E½ of Southeast Quarter (SE¼) of Section 37,
Township 75, Range 80;

that no will of the said Richard Roe has been admitted to probate nor administration had of his estate; that the said Richard Roe died intestate, and that all of the debts of the said Richard Roe have been paid. The court further finds that it has been determined by the Inheritance Tax Division of the State Commission of Revenue and Taxation of the State of Kansas that no tax liability attached to any property of the said Richard Roe which changed ownership by reason of his death, and that his estate is not subject to inheritance tax, and the order of said commission has been filed in this court.

The court further finds that the said Richard Roe left surviving him as his sole and only heirs at law the following persons, whose names and respective shares in his estate were as follows:

Sarah Roe, his wife, one-half
Woodrow W. Roe, his son, one-sixth;
Franklin D. Roe, his son, one-sixth;
Eleanor Roe, his daughter, one-sixth.

The court further finds that the said Richard Roe had no spouse or children or adopted children or issue of deceased children, natural or adopted, who survived him, other than the persons above named.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED BY THE COURT that the title to all of the interest of Richard Roe, in and to the following described real estate:

East Half (E½) of Southeast Quarter (SE¼) of Section 37,
Township 75, Range 80, in Apache County, Kansas;

and all other property owned by the said Richard Roe, descended from him on the 3rd day of March, 1955, the date of his death, to his heirs at law as follows:

Sarah Roe, his wife, one-half;
Woodrow W. Roe, his son, one-sixth;
Franklin D. Roe, his son, one-sixth;
Eleanor Roe, his daughter, one-sixth;

and the title thereto is assigned to the said heirs as of said date, subject to any lawful disposition thereof heretofore made.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-2251, 3 Bartlett 241, McCamish (2) 618.

Time: At time fixed in notice, or adjournment therefrom.

Testate estates: Not applicable.

Appointment of guardian *ad litem* is discretionary. (59-2205. See 1955 Supp.)

See article by Samuel E. Bartlett in JUDICIAL COUNCIL BULLETIN, October, 1942. (Vol. 16, Part 3, pages 91, 93.)

For appointment of guardian *ad litem*, where necessary, see forms (108), (109) and (110).

**Proceedings in the Estate of Theodore R. Doe, Deceased
(Testate)**

(100)

WILL OF THEODORE R. DOE

I, Theodore R. Doe, of the City of Metropolis, in Apache County, Kansas, do make, publish and declare this my last will and testament; expressly revoking all wills previously executed by me.

1. I direct my executor to pay all my just debts, including my funeral expenses and the expenses of a suitable monument, to cost not less than \$1,000.

2. I devise and bequeath to my mother, Mary Doe, my one-fourth interest in the home place, described as the Southwest Quarter of Section Thirty-seven (37), Township Seventy-five (75), Range Eighty (80), West of the Fifteenth P. M., in Apache County, Kansas, if she survives me. If my mother does not survive me, the said real estate shall become a part of my residuary estate.

3. I bequeath to my sister, Alice Doe Smith, of Lake George, Texas, my Ford automobile and enlarged crayon portrait of myself, with gold frame.

4. I bequeath to my daughter Annabel Lee Howe the modernistic bedroom set in the room she occupied before she left my home; also her promissory note for the \$1,500 I loaned her to pay lawyers' fees in her divorce case (which note I hereby cancel and release); and the additional sum of \$25 cash.

5. I devise and bequeath all of the rest and residue of my property, both real and personal, to my wife, Carrie N. Doe, to have and to hold during her natural life, for her comfort and support, and authorize my said wife to sell any or all of my property as she shall deem necessary for such purpose; and upon her death, I give, devise and bequeath the remainder of my estate, both real and personal, to my son, Jesse J. Doe.

6. I appoint my wife, Carrie N. Doe, as executor of this will, without bond, and authorize and empower said executor to sell and convey any real estate and personal property in my estate without being required to secure the approval of any court.

In witness whereof, I have subscribed my name to this will, and have declared this to be my last will and testament at Metropolis, in Apache County, Kansas, in the presence of the persons whose names are signed as witnesses hereto and they have signed their names as such witnesses in my presence and in the presence of each other, all on this 3d day of November, 1948.

THEODORE R. DOE, *Testator*.

We, the undersigned, do hereby certify that Theodore R. Doe signed the above and foregoing instrument and declared the same to be his last will and testament in our presence, and we have signed our names as witnesses thereto in his presence and in the presence of each other, all at the same time, on the day and year above written; and we further certify that the said Theodore

R. Doe was of legal age and of sound mind and not under any restraint at the time of the execution of this will.

RUTH V. TRUEHEART,
A. B. JURIST,
Z. Z. SMITH,

Witnesses.

Reference: 59-601 to 59-609, inc.; 3 Bartlett 4-40; McCamish (2) 1613-1620. Only two witnesses are required (59-606) but it is often convenient to have a third witness, in the hope that two will be available at time of probate (59-2224).

(101)

CONSENT OF WIFE

I, Carrie N. Doe, wife of Theodore R. Doe, have read the above and foregoing will of Theodore R. Doe dated November 3d, 1948, and fully understand the same, and I am fully informed and advised of my rights under the laws of Kansas; and I do hereby agree and consent to the said will and all of the provisions thereof.

IN WITNESS WHEREOF, I have signed this consent in writing and have acknowledged the same to be my free and voluntary act in the presence of the witnesses whose names are signed hereto on this 3d day of November, 1948.

CARRIE N. DOE, *Wife of Testator.*

We, the undersigned, do hereby certify that Carrie N. Doe signed the above consent to the will of Theodore R. Doe in our presence on the day and year above written, and that said Carrie N. Doe was of legal age and of sound mind and not under any restraint at the time she executed the same, and that she acknowledged the same as her free and voluntary act.

A. B. JURIST,
RUTH V. TRUEHEART,
Z. Z. SMITH,

Witnesses.

Reference: 59-602; 59-603 Amended June 20, 1951. McCamish (2) 1621-1622.

This form of consent is more elaborate than is required by law, but it is desirable to negative undue influence and avoid future litigation.

(102)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

PETITION FOR PROBATE OF WILL

The petitioner, Carrie N. Doe, alleges that she is a resident of Apache

County, Kansas, and that her correct post office address is 1120 Main street, Metropolis, Kansas; and further alleges:

That Theodore R. Doe, a resident of Apache County, Kansas, and a citizen of the United States, died testate at Metropolis, Kansas, on the 1st day of February, 1955.

That the said Theodore R. Doe is survived by the following named persons who are all of his heirs who would inherit under the laws of descent and distribution:

Carrie N. Doe, his wife, adult, whose address and residence is 1120 Main Street, Metropolis, Kansas;

Annabel Lee Howe (formerly Annabel Lee Doe) also known as Ann Howe, his daughter, adult, whose present address and place of residence is: General Delivery, Hollywood, California;

Jesse J. Doe, his son, a minor, twelve years of age, whose address and residence is 1120 Main Street, Metropolis, Kansas.

The decedent had no spouse or children or adopted children or issue of deceased children, natural or adopted, who survived him, other than the persons above named.

Petitioner files herewith an instrument in writing, dated November 3, 1948, and alleges that the same is the last will and testament of Theodore R. Doe; that the said will was duly executed according to law on the date it bears and is genuine and valid; that at the time of the execution of said will, the testator was of legal age and of sound mind and not under any restraint; and that the said will was in full force and effect at the time of the death of the testator.

That the petitioner, Carrie N. Doe, wife of the testator, consented to the said will in writing executed in the presence of three competent witnesses, which written consent is attached to said will and filed herein.

That the said Theodore R. Doe is survived by the following named persons who are all of the legatees and devisees under his will:

Carrie N. Doe, his wife, adult, whose address and residence is set out above;

Annabel Lee Howe, his daughter, adult, whose address and residence is set out above;

Jesse J. Doe, his son, minor, whose address and residence is set out above;

Mary Doe, his mother, adult, whose address and residence is Route 1, Hometown, Kansas;

Alice Doe Smith, his sister, adult, whose address and residence is Grand Hotel, Lake George, Texas.

That the general character and probable value of decedent's estate are:

Real estate of the value of \$27,000;

Personal property of the value of \$10,000;

That petitioner has an interest in this estate as one of the heirs, devisees and legatees of the said Theodore R. Doe, and as the executor named in his will.

That the appointment of an executor of the will of the decedent is necessary for the conservation, collection and administration of said property according to law, and that Carrie N. Doe, the petitioner herein, is named as executor in said will, without bond, and is a suitable and proper person to whom to grant letters testamentary.

WHEREFORE, petitioner prays that the will of Theodore R. Doe, dated November 3, 1948, be admitted to probate, and that letters testamentary be issued to Carrie N. Doe, as executor thereof, without bond.

CARRIE N. DOE, *Petitioner.*

PLEADER, PLEADER & TRYOR,
Attorneys for Petitioner.

STATE OF KANSAS, COUNTY OF APACHE, ss:

Carrie N. Doe, of lawful age, being first duly sworn, on her oath says:

That she is the petitioner above named; that she has read the above and foregoing petition for probate of will and knows the contents thereof, and that all the statements therein made are true.

CARRIE N. DOE.

Subscribed and sworn to before me this 15th day of February, 1955.

(SEAL)

GLORIA JEANNE PINUP, *Notary Public.*

My commission expires September 23, 1958.

Filed February 15, 1955.

Reference: 59-2219, 59-2220, 59-2221, 59-617; 3 Bartlett 54, McCamish (2) 585.

Executor has sufficient interest to file petition for probate (*In re Estate of Smith*, 168 Kan. 210).

Time: Must be filed and set for hearing within one year after the death of testator (*In re Estate of Reed*, 157 Kan. 602, 612-613, construing 59-617 and 59-2204).

Intestate estates: Not applicable. Compare petition for appointment of administrator, Form (1).

(103)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

ORDER FOR HEARING ON PETITION FOR PROBATE OF WILL

On this 15th day of February, 1955, it is ordered that the petition filed herein by Carrie N. Doe for the probate of the will of Theodore R. Doe, deceased, and for the appointment of Carrie N. Doe, as executor thereof, without bond, be set for hearing on the 14th day of March, 1955, at ten o'clock A. M. and that notice of the time and place of said hearing be given pursuant to G. S. 1949, 59-2209.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-2204, 59-2208, 59-2222, 3 Bartlett 55, McCamish (2) 587.

Time: Any time after petition is filed and within one year after death of testator. See note on form (102).

Intestate estates: See form (2).

(104)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

WAIVER OF NOTICE OF HEARING

Comes now Mary Doe, whose address and residence is Route 1, Hometown, Kansas, one of the devisees under the will of Theodore R. Doe dated November 3, 1948, and enters her appearance herein, and waives notice of hearing on the petition of Carrie N. Doe for the admission of said will to probate, and consents that the said petition may be heard at any time which may be fixed by the court, without further notice to her.

Dated February 14, 1955.

MARY DOE.

STATE OF KANSAS, APACHE COUNTY, ss:

BE IT REMEMBERED that on this 14th day of February, 1955, before me, a Notary Public in and for the county and state aforesaid, personally appeared Mary Doe, who is known to me to be the same person who executed the above and foregoing waiver, and acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year above written.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Filed February 15, 1955.

Reference: 59-2208, 59-2223, 3 Bartlett 57, McCamish (2) 588.

If all of the heirs, devisees and legatees sign waivers, notice is unnecessary upon a petition for probate of will (59-2223) but formal published notice should be given at some stage of the proceedings, particularly on petition for final settlement. Must be of full legal age and not under disability.

Time: At or after filing of petition.

Intestate estate: Waivers may be used on petition for administration (59-2223) and various other proceedings in either testate or intestate estates (59-2208).

(105)

(First published in The Metropolis World, February 17, 1955)

STATE OF KANSAS, APACHE COUNTY, ss:

IN THE PROBATE COURT OF SAID COUNTY AND STATE

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

NOTICE OF HEARING ON PETITION FOR PROBATE OF WILL

The State of Kansas to all persons concerned:

You are hereby notified that a petition has been filed in said court by Carrie N. Doe, as widow, heir-at-law, legatee and devisee of Theodore R. Doe, deceased, and as executor named in the will of said decedent, praying for the

admission to probate of the will of Theodore R. Doe dated November 3, 1948, which is filed with said petition, and for the appointment of Carrie N. Doe as executor of said will, without bond, and you are hereby required to file your written defenses thereto on or before the 14th day of March, 1955, at ten o'clock a. m. of said day, in said court, in the city of Metropolis, in Apache County, Kansas, at which time and place said cause will be heard. Should you fail therein, judgment and decree will be entered in due course upon said petition.

CARRIE N. DOE, *Petitioner.*

PLEADER, PLEADER & TRYOR,
Attorneys for Petitioner.

Reference: 59-2209, 59-2210, 3 Bartlett 56, McCamish (2) 587-588. This form is statutory and should be followed.

Time: Once a week for three consecutive weeks. First publication within ten days after order for hearing.

Intestate estates: Use form (3) *supra*.

(106)

PROOF OF PUBLICATION

NOTE: Publisher should prepare affidavit of publication, in same form (4) as shown in intestate estate, and the same should be filed before the hearing and approved by the court.

Reference: 59-2209, 59-2211, 64-101, 64-102, 3 Bartlett 89, McCamish (2) 415.

Time: File before hearing.

Intestate estates: Same, see form (4).

(107)

AFFIDAVIT OF MAILING

NOTE: Copies of published notice should be mailed within seven days after first publication, as provided in 59-2209, and affidavit of mailing, substantially the same as form (5) should be prepared and filed before hearing, in conformity with 59-2211. Notice must be mailed to heirs-at-law, as well as legatees and devisees and to the guardian of any of them who may be under guardianship. (In this estate it would be prudent to mail to Carrie N. Doe as mother and natural guardian of Jesse J. Doe, as well as to the minor himself.) Affidavit of mailing in testate estate should always show mailing to all "heirs, legatees and devisees," etc., and, when appropriate, add "guardians and wards" (59-2209, 59-2211). This affidavit of mailing may also include a statement of non-military service. See Forms (42) and (57) and Note (145). If the petitioner knows the military status of the heirs, as well as the devisees and legatees, it is recommended that the same be shown by this or a separate affidavit filed at the time the will is admitted to probate.

Reference: 59-2209, 59-2211, 3 Bartlett 58.

Time: Mail within seven days after publication. File before hearing.

Intestate estates: Same, see form (5).

(108)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

PETITION FOR APPOINTMENT OF GUARDIAN AD LITEM

Comes now the petitioner, Carrie N. Doe, and shows to the court that Jesse J. Doe, is under legal disability in that he is a minor twelve years of age; that said Jesse J. Doe has substantial rights in this proceeding as an heir, legatee and devisee of Theodore R. Doe; that said Jesse J. Doe has no legally appointed guardian, and that a guardian *ad litem* should be appointed for the said Jesse J. Doe, in this matter.

WHEREFORE, petitioner prays that the court appoint a guardian *ad litem* to represent and defend the said Jesse J. Doe in this proceeding.

CARRIE N. DOE, *Petitioner.*

PLEADER, PLEADER & TRYOR,
Attorneys for Petitioner.

STATE OF KANSAS, APACHE COUNTY, ss:

W. B. Pleader, of lawful age, being first duly sworn, on his oath says that he is one of the attorneys for the petitioner above named; that he has read the above and foregoing petition for the appointment of guardian *ad litem*; and that all the statements therein made are true.

W. B. PLEADER.

Subscribed and sworn to before me this 10th day of March, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public.*

My commission expires December 7, 1957.

Filed March 10, 1955. A. L. MANN, *Probate Judge.*

Reference: 59-2205 as amended June 30, 1951, compare McCamish (2) 16-17 and 3 Bartlett (pocket part) 69-70.

The appointment of a guardian *ad litem* is discretionary and is unnecessary in mere formal matters. Here the will makes a different provision for the minor than is provided by law and a guardian *ad litem* is needed to determine whether any of the rights of the minor will be adversely affected, and act accordingly.

Time: None fixed by law, but obviously at or before time of hearing.

Intestate estates: Same wherever appropriate, but less likely to be necessary. Here the will makes a different provision for the minor than the law of intestate succession, and his interests should be carefully protected.

(109)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

ORDER APPOINTING GUARDIAN AD LITEM

Now, on this 10th day of March, 1955, this matter comes on upon the petition of Carrie N. Doe for the appointment of guardian *ad litem*. The petitioner appears in person and by Pleader, Pleader & Tryor, her attorneys. Evidence is produced on said petition, and the court finds that Jesse J. Doe is under legal disability in that he is a minor, twelve years of age; that the said Jesse J. Doe has substantial rights in this proceeding, and that the said Jesse J. Doe has no legally appointed guardian and that a guardian *ad litem* should be appointed to represent him in this proceeding.

IT IS THEREFORE BY THE COURT ORDERED that G. I. Joseph, a member of the bar of Apache County, Kansas, be and he is appointed as guardian *ad litem* to represent and defend the said Jesse J. Doe upon the hearing of the petition for probate of will and in all further proceedings in this estate.

(SEAL)

A. L. MANN, *Probate Judge*.

Reference: G. S. 1949, 59-2205, McCamish (2) 630, 3 Bartlett (pocket part) 70. When a guardian *ad litem* is appointed in a decedent's estate, it is usually desirable to have the appointment cover all further proceedings in the estate and to give the guardian *ad litem* notice of all proceedings thereafter.
Time: Whenever facts sufficient to justify appointment are brought to the attention of the court.

Intestate estates: Same, wherever appropriate.

(110)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

ANSWER OF GUARDIAN AD LITEM

Comes now G. I. Joseph, guardian *ad litem* for Jesse J. Doe, a minor, and for answer to the petition of Carrie N. Doe, for probate of will, the said guardian *ad litem*, on behalf of said minor, denies each, every, all and singular, the allegations of said petition which are adverse to the interests of the said minor.

G. I. JOSEPH, *Guardian ad litem*.Filed March 11, 1955. A. L. MANN, *Probate Judge*.

Reference: 59-2205, 60-406, 3 Bartlett (pocket part) 71-72.

In proceedings concerning homestead of insane spouse, see 59-2317.

Time: At or before hearing. If guardian *ad litem* needs more time for full investigation, he should request continuance.

Intestate estates: Same where guardian *ad litem* is appointed.

(111)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

PETITION FOR ISSUANCE OF COMMISSION TO TAKE DEPOSITION OF
SUBSCRIBING WITNESS

Comes now Carrie N. Doe, petitioner for the probate of the will of Theodore R. Doe, deceased, and shows to the court that A. B. Jurist, one of the subscribing witnesses to the said will, is a nonresident of this county and state, that his present address and residence is Rabbit Patch in McCoy County, Missouri, and that the attendance and testimony of said witness cannot be secured in this county and state.

WHEREFORE, petitioner prays for an order of this court for issuance of a commission to a qualified officer in McCoy County, Missouri, to take the testimony of said witness by deposition.

CARRIE N. DOE, *Petitioner.*

By PLEADER, PLEADER & TRYOR,

Her Attorneys.

STATE OF KANSAS, APACHE COUNTY, ss:

Perry M. Tryor, of lawful age, being first duly sworn, on oath says:

That he is one of the attorneys for the petitioner above named; that he has read the about and foregoing petition and knows the contents thereof, and that the statements therein made are true.

PERRY M. TRYOR.

Subscribed and sworn to before me this 15th day of February, 1955.

(SEAL)

GLORIA JEANNE PINUP, *Notary Public.*

My commission expires Sept. 23, 1958.

Filed February 15, 1955. A. L. MANN, *Probate Judge.*

Reference: 59-302 (3), see also 59-2212 and 60-2824.

This and the following forms (112), (113), (114) and (115) are applicable where one of the subscribing witnesses is absent from the county or state.

Where two or more subscribing witnesses are present in court, form (117) may be used for both.

Time: Allow ample time for deposition to be taken and returned before hearing.

Intestate Estate: In any proceeding where it is appropriate under 59-302 (3).

(112)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

ORDER FOR ISSUANCE OF COMMISSION

Now, on this 15th day of February, 1955, comes on for hearing the petition of Carrie N. Doe for the issuance of a commission to take the testimony of A. B.

Jurist, subscribing witness to the will of Theodore R. Doe, deceased, the petitioner appearing by Pleader, Pleader & Tryor, her attorneys.

The court, after consideration of said petition and the evidence produced thereon, finds that said subscribing witness is a non-resident of this county and state and now resides in McCoy County, Missouri, and that his present address is Rabbit Patch, Missouri. The court further finds that F. F. Hatfield, Probate Judge of McCoy County, Missouri, is a duly qualified officer of said county and state and is a proper person to whom to issue such commission.

It Is THEREFORE BY THE COURT ORDERED that a commission be issued to F. F. Hatfield, Probate Judge of McCoy County, Missouri, to take the deposition of A. B. Jurist as subscribing witness to the will of Theodore R. Doe, deceased, by interrogatories to be prepared by the attorneys for petitioner, approved by this court, and transmitted with the said commission.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-302 (3), 3 Bartlett 62. See also 59-2212, 60-2824 and 60-2826.

Interrogatories provide a convenient method for taking depositions where the attorney does not intend to appear personally. Commissions can be issued to officers other than the probate judge of the county where the witness resides, but it is usually true that the probate judge is more familiar with the procedure and less likely to make errors in taking and transmitting the deposition.

Time: Allow ample time before hearing.

Intestate estates: When appropriate.

(113)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

COMMISSION TO TAKE DEPOSITION

*To F. F. Hatfield, Probate Judge of McCoy County, Missouri, Court House,
Muletrain, Missouri:*

You are hereby appointed commissioner of this court to take the deposition of A. B. Jurist, of Rabbit Patch, Missouri, subscribing witness to the last will and testament of Theodore R. Doe, deceased, dated November 3, 1948, photostatic copy of which will is transmitted herewith. You will cause the said witness to come before you at a time and place designated by you, and will cause said witness to be sworn or affirmed to testify the truth, the whole truth and nothing but the truth, and exhibit to said witness the said photostatic copy of the said will, and will thereupon propound to the said witness the interrogatories transmitted herewith, reduce to writing the answers of said witness to said interrogatories, and submit the same to the witness for his verification and signature, and immediately thereafter return such deposition, signed by such witness and certified by you, together with this commission and attached copy of will, by United States mail to A. L. Mann, Probate Judge, Court House, Metropolis, Apache County, Kansas.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said court, at Metropolis, in said county and state, this 15th day of February, 1955.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-302 (3), 59-2212, 60-2824, 3 Bartlett 62, McCamish (2) 1623.

Often the original will is transmitted with the commission, but it is quite undesirable to send the original will out of the county or state before it is admitted to probate. *In most instances a photostatic copy will serve the purpose for a deposition.*

Time: Allow ample time for deposition to be taken and returned before hearing.

Intestate estates: Whenever depositions are appropriate.

(114)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

INTERROGATORIES PROPOUNDED TO SUBSCRIBING WITNESS

Interrogatories propounded to A. B. Jurist, subscribing witness to the will of Theodore R. Doe, deceased, upon the taking of the deposition of said A. B. Jurist before F. F. Hatfield, Probate Judge of McCoy County, Missouri, under commission issued by the Probate Court of Apache County, Kansas, under date of February 15, 1955, which interrogatories are transmitted with the said commission, and propounded to said witness upon his oath or affirmation, and his answers thereto reduced to writing and entered after the respective interrogatories, subscribed by the witness and certified by the commissioner in accordance with said commission:

Interrogatory No. 1. What is your name?

Answer: *Alfonse Barton Jurist.*

Interrogatory No. 2. Where do you reside?

Answer: *At Rabbit Patch, in this county.*

Interrogatory No. 3. What is your occupation?

Answer: *I'm a retired lawyer.*

Interrogatory No. 4. Please examine this photostatic copy of instrument dated November 3, 1948, with the heading: "Will of Theodore R. Doe." Did you sign your name as a witness on the original document, of which this is a photostatic copy, on the last page?

Answer: *Yes.*

Interrogatory No. 5. Did Theodore R. Doe sign the original of this document and declare it to be his will, in your presence and in the presence of the other witnesses whose names appear thereon?

Answer: *Yes, he did.*

Interrogatory No. 6. Did you and the other witnesses, Ruth V. Trueheart and Z. Z. Smith sign your names as witnesses to this will of Theodore R. Doe in his presence and in the presence of each other?

Answer: *Yes.*

Interrogatory No. 7. At that time was Theodore R. Doe of sound mind?

Answer: *He definitely was.*

Interrogatory No. 8. At that time did Theodore R. Doe know what property he owned, and its nature and extent?

Answer: *Yes.*

Interrogatory No. 9. Did he know the names and relationship of his family and natural heirs, and their claims upon his bounty?

Answer: *He certainly did.*

Interrogatory No. 10. Was he under any restraint of any kind?

Answer: *None whatever.*

Interrogatory No. 11. Did this all take place on the date mentioned in the will, November 3, 1948?

Answer: *To the best of my recollection. I remember that it was the day after election.*

I have read over my answers to the above interrogatories and the same are correctly recorded.

A. B. JURIST.

The above interrogatories were propounded to the witness, who was first duly sworn, and the above answers were given by him under his oath, reduced to writing, and subscribed and sworn to before me, at Muletrain, Missouri, this 21st day of February, 1955.

(SEAL)

F. F. HATFIELD, *Probate Judge.*

McCoy County, Missouri.

Reference: 59-302 (3), 59-2212, see also 60-2824, 60-2826, 3 Bartlett 60-61, McCamish (2) 425.

Time: Allow ample time before hearing.

Intestate estates: Same when any deposition is taken by interrogations.

(115)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

COMMISSIONER'S CERTIFICATE TO DEPOSITION

STATE OF MISSOURI, COUNTY OF MCCOY, ss:

I, F. F. Hatfield, Probate Judge of McCoy County, Missouri, and commissioner appointed by the Probate Court of Apache County, Kansas, under the annexed commission, do hereby certify that I executed the said commission by causing the said A. B. Jurist to appear before me at my office in Muletrain, Missouri, on the 21st day of February, 1955, at which time and place I took the deposition of said witness in accordance with the directions of the said commission. I first placed said witness under oath to tell the truth, the whole truth, and nothing but the truth, and exhibited to him the photostatic copy of the will of Theodore R. Doe, which was transmitted with the said commission, and thereupon propounded to the said witness each of the interrogatories annexed thereto, reduced to writing his answers thereto, and submitted the same to the said witness for his verification and signature, and the same were ap-

proved and signed and sworn to by the witness. In accordance with said commission I return the same herewith, together with the photostatic copy of said will and the said interrogatories with the answers thereto, duly verified, signed and sworn to by said witness. I further certify that I am not a relative or attorney of any party to this proceeding, or otherwise interested in the event of the proceeding, or clerk or stenographer of either party or attorney of either party.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of this court, in Muletrain, in McCoy County, in the State of Missouri, on this 22d day of February, 1955.

(SEAL)

F. F. HATFIELD,

Probate Judge of McCoy County, Missouri,
and Commissioner to take deposition.

Fees:

Commissioner's fee	\$10.00
Witness fee	1.50
Mileage	6.80

Filed February 24, 1955. A. L. MANN, *Probate Judge*.

Reference: 59-302 (3), 59-2212, 60-2825, 3 Bartlett 63-64, McCamish (2) 423, 425.

Time: Allow ample time before hearing.

Intestate estates: Same when appropriate.

(116)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

PROOF OF SIGNATURE OF SUBSCRIBING WITNESS AND OF TESTATOR

Doris J. Pine, being called as witness for the petitioner on the petition for probate of the will of Theodore R. Doe, deceased, being first duly sworn, testified as follows:

I am well acquainted with the handwriting and signature of Z. Z. Smith, whose name appears as subscribing witness to the instrument dated November 3, 1948, which has been offered for probate as the Will of Theodore R. Doe. I worked as secretary for the said Z. Z. Smith over a period of four years, prior to December 31, 1948, on which date the said Z. Z. Smith left for parts unknown. Said Z. Z. Smith is now out of the jurisdiction of the court and his present whereabouts are unknown and cannot be ascertained with reasonable diligence. The testimony of said Z. Z. Smith cannot be obtained within a reasonable time. I have carefully examined the signature affixed to the said will purporting to be the signature of Z. Z. Smith, and know that the said signature is the true and genuine signature of Z. Z. Smith.

I am also well acquainted with the signature of the testator, Theodore R. Doe, having worked as a stenographer in his office for two years before I was employed by Mr. Smith. I have carefully examined the signature of

Theodore R. Doe to the said will and know that it is his true and genuine signature.

DORIS J. PINE.

The above and foregoing testimony was given under oath in open court, and was thereupon reduced to writing and signed by the witness on this 14th day of March, 1955.

(SEAL)

A. L. MANN, *Probate Judge*.

Reference: 59-2224, 3 Bartlett 62.

Witness may testify to signature of testator or of subscribing witness, or to both as in this form. Signature of subscribing witness may be proved when witness is deceased, incompetent or otherwise unavailable.

Time: Upon hearing of petition for probate or by deposition taken in advance, as in forms (112) to (116), inc.

Intestate estates: Not applicable.

(117)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

TESTIMONY OF SUBSCRIBING WITNESS

(Taken in open court)

Ruth V. Trueheart, being called as a witness for the petitioner on the petition for probate of the will of Theodore R. Doe, deceased, being first duly sworn, testified on her oath as follows:

I am of legal age, and was present at the execution of the instrument now before me, bearing date of November 3, 1948, and designated as "Will of Theodore R. Doe." At that time, Theodore R. Doe signed the said instrument and declared it to be his last will and testament, in my presence and in the presence of A. B. Jurist and Z. Z. Smith, the other subscribing witnesses. I subscribed my name thereto as a witness at the request of the testator, in his presence and in the presence of the other subscribing witnesses above named. All three of the subscribing witnesses signed their names in the presence of the testator and in the presence of each other. Said testator, Theodore R. Doe, was, at the time of the execution of said will, of legal age, and of sound mind and memory and not under any restraint.

RUTH V. TRUEHEART.

The above testimony was taken in open court and reduced to writing in narrative form and subscribed and sworn to before me this 14th day of March, 1955.

(SEAL)

A. L. MANN, *Probate Judge*.

Reference: 59-2224, 3 Bartlett 61, McCamish (2) 1622-1623.

This is the usual method of recording the testimony of subscribing witnesses who are called as witnesses in open court on the hearing of an uncontested petition for probate of will. Forms (112) to (116), inclusive, show other

methods commonly used when the testimony of the subscribing witnesses cannot be produced in open court, but in a majority of estates the above form can be used for the testimony of each of the subscribing witnesses. Only two are required to be called (59-2224).

Time: At hearing upon petition for probate.

Intestate estate: Not applicable.

(118)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

ORDER ADMITTING WILL TO PROBATE

Now, on this 14th day of March, 1955, comes on for hearing the petition of Carrie N. Doe for the probate of the will of Theodore R. Doe, deceased, and for the issuance of letters testamentary thereunder. The petitioner appears in person and by Pleader, Pleader & Tryor, her attorneys. G. I. Joseph, guardian *ad litem* for Jesse J. Doe, appears on behalf of said minor. There are no other appearances. The court finds that notice of this hearing has been given by publication and mailing in accordance with law and the order of this court, and the said notice, and the proof of publication and mailing thereof, are examined and approved by the court.

Thereupon, petitioner produces evidence in support of said petition, including the testimony of two of the subscribing witnesses to the said will, Ruth V. Trueheart and A. B. Jurist (testimony of the latter having been taken by deposition under commission issued by this court), and other evidence, and the court, after consideration of the evidence, finds that the allegations of said petition are true; that the said Theodore R. Doe died testate on the 1st day of February, 1955, at Metropolis, Kansas, being a resident of Apache County, Kansas, and a citizen of the United States at the time of his death, leaving an estate in this county and state; that the instrument, bearing date of November 3, 1948, was duly executed according to law and is the last will of the said Theodore R. Doe; that at the time of the execution of said will the decedent was of legal age and of sound mind and not under any restraint, and that the said will should be admitted to probate. The court further finds that Carrie N. Doe is named as executor in the said will, without bond, and is a competent and proper person to be appointed as such executor.

IT IS THEREFORE BY THE COURT ORDERED AND ADJUDGED that the said instrument, dated November 3, 1948, is adjudged to be the last will of Theodore R. Doe, and the same is admitted to probate.

IT IS FURTHER ORDERED that Carrie N. Doe be and she is appointed executor of the said will; that she be not required to give bond, and that, upon the filing of her oath, letters testamentary issue to her.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-2224, 59-2227; 3 Bartlett 65.

Some lawyers still prefer to use the word "executrix" when a woman is appointed. Court may require bond, even when will provides otherwise.

(59-1104.) In this estate it was unnecessary to prove the consent of the wife because she admitted it in her petition, form (102), and later elected to take under the will, form (124).

Time: Upon date fixed in notice or adjournment therefrom to a later date.

Intestate estates: Not applicable, but see order appointing administrator, form (6).

(119)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

OATH OF EXECUTOR

STATE OF KANSAS, APACHE COUNTY, SS:

I, Carrie N. Doe, do solemnly swear that I will faithfully and impartially and to the best of my ability discharge all of the duties of my trust according to law as executor of the will of Theodore R. Doe, deceased, and that I am acting on my own behalf and not on behalf of any bank or corporation organized or having its principal place of business outside this state. So help me God.

CARRIE N. DOE.

Subscribed in my presence and sworn to before me this 15th day of March, 1955.

JOHNIE F. BLUEBONNET, *Justice of the Peace*,

Cochise Township, Apache County, Kansas.

Reference: 59-1702, 3 Bartlett 67, McCamish (2) 592.

The clause commencing "that I am acting on my own behalf," etc., is required by statute (59-1702). Oath may be taken before any officer having power to administer oaths, but many probate judges prefer that fiduciary appear personally and take oath before the judge.

Time: Within ten days after appointment (59-2227).

Intestate estates: See oath of administrator, form (7).

(120)

BOND OF EXECUTOR

NOTE: In this estate no bond is required under the provisions of the will and the order admitting will to probate. When bond is required follow, generally, form (8).

Reference: 59-1101, 59-2227, 3 Bartlett 94, McCamish (2) 590.

Court may require bond, for sufficient cause, although will provides otherwise. (59-1104.)

Time: Within ten days after appointment. (59-2227.)

Intestate estate: See form (8).

(121)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

LETTERS TESTAMENTARY

Know All Men by These Presents:

That Carrie N. Doe, a resident of Apache County, Kansas, named as executor of the will of Theodore R. Doe, deceased, having been duly appointed and qualified as executor thereof, is hereby granted letters testamentary in the said estate, with full power and authority in the premises as provided by law and the said will.

IN WITNESS WHEREOF, I, A. L. Mann, Probate Judge of said county and state, have hereunto subscribed my name and affixed the seal of said court at Metropolis, in said county and state, this 17th day of March, 1955.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-701, 59-706, 59-2227, 3 Bartlett 69, McCamish (2) 590.

Executor must be resident of Kansas. (59-706.)

Time: Upon filing of oath and bond (if bond required).

Intestate estate: Substitute letters of administration, Form (9).

(122)

(First Published in the Metropolis World, March 25, 1955)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

NOTICE OF APPOINTMENT OF EXECUTOR

To the Creditors, Heirs, Devisees and Legatees of Theodore R. Doe, deceased, and all others concerned:

You and each of you will take notice that on the 14th day of March, 1955, Carrie N. Doe was appointed executor of the will of Theodore R. Doe, deceased, and duly qualified as such executor and letters testamentary were issued to her on March 17, 1955, by the Probate Court of Apache County, Kansas.

All parties interested in said estate will take notice and govern themselves accordingly. All creditors are notified to exhibit their demands against the said estate within nine months from the date of the first publication of this notice as provided by law, and if their demands are not thus exhibited they shall be forever barred.

CARRIE N. DOE,

*Executor of the will of Theodore
R. Doe, deceased.*

PLEADER, PLEADER & TRYOR,
Attorneys for Executor.

Reference: 59-709, 59-2236, 3 Bartlett 72, McCamish (2) 591.

The names of attorneys are not required on this and other published notices, but are often included for obvious reasons.

Time: Within thirty days after qualification.

Intestate estates: Substantially same. See form (10).

(123)

PROOF OF PUBLICATION

NOTE: Proof of publication of notice of appointment of executor will be made and filed by publisher substantially the same as form (4), and should be approved by the court. This is one notice which does not have to be mailed. It must be published once a week for three consecutive weeks (59-709).

Reference: 59-2211, 64-101, 3 Bartlett 89.

Time: No specific provision, but proof should be filed and approved within a reasonable time after last publication.

Intestate estates: Substantially the same.

(124)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of

Theodore R. Doe, Deceased.

No. 1318

ELECTION TO TAKE UNDER WILL

I, Carrie N. Doe, widow of Theodore R. Doe, late of Metropolis, in Apache County, Kansas, hereby elect to accept and abide by the terms of the last will and testament of Theodore R. Doe, deceased, dated November 3, 1948, and filed for probate in this court on February 15, 1955, and I make this election after being fully advised of my rights under the law.

Dated this 11th day of April, 1955.

CARRIE N. DOE.

STATE OF KANSAS, APACHE COUNTY, ss:

BE IT REMEMBERED, that on this 11th day of April, 1955, before the undersigned, a notary public in and for the county and state aforesaid, came Carrie N. Doe, who is personally known to me to be the same person who executed the above and foregoing election to take under the will, and duly acknowledged the execution of the same as her free and voluntary act.

(SEAL)

GLORIA JEANNE PINUP, *Notary Public.*

My commission expires September 23, 1958.

Filed April 11, 1955. A. L. MANN, *Probate Judge.*

Reference: 59-603 as amended in 1951, 59-2233, 59-2233a—Laws 1951, also see 59-2234. McCamish (2) 6393.

If election is made before appraisement, it may be set aside within thirty days after appraisement (59-2233). Where wife consents to will, election is not required (59-603) but is desirable to eliminate all question of validity of consent.

Time: Within six months after probate (59-2233).

Intestate estates: Not applicable.

(125)

ORDER APPOINTING APPRAISERS

NOTE: Same as in intestate estates, Form (12), substituting name of executor.

Reference: 59-1202, 3 Bartlett 105, McCamish (2) 593.

Time: Within 30 days after appointment of administrator.

Intestate estates: Substantially same, see Form (12).

(126)

OATH OF APPRAISERS

NOTE: Same as in intestate estates, Form (13).

Reference: 59-1202, 2 Bartlett 106, McCamish (2) 593.

Time: Before making appraisement.

Intestate estates: Same, see form (13).

(127)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

INVENTORY AND APPRAISAL

Inventory of all property of Theodore R. Doe, deceased, made and returned by Carrie N. Doe, executor of the will of Theodore R. Doe, and appraisement of the said property made and returned by James W. Solon, P. J. William, and W. A. Mann, the appraisers appointed by the court, as of February 1, 1955, the date of the death of decedent.

<i>Inventory</i>	<i>Value</i>
<i>Homestead:</i>	<i>as found</i>
	<i>by appraisers</i>
Lots 61, 62, 63 and 64 on Main Street in the City of Metropolis, in Apache County, Kansas.....	<u>\$15,000.00</u>
<i>Other real estate:</i>	
Lot 7 on Frederick Street, in Foster's Addition to the city of Metropolis, in Apache County, Kansas.....	2,500.00
The South Half of Section 41, Township 77, Range 79, West of the 15th p. m., in Apache County Kansas.....	9,000.00
An undivided one-fourth interest in the Southwest Quarter of Section 37, Township 75, Range 80, West of the 15th p. m., in Apache County, Kansas	<u>5,000.00</u>
Subtotal, other real estate	<u>\$16,500.00</u>
<i>Furniture, Household Goods, and Wearing Apparel:</i>	
1 White modernistic bedroom suite (specifically bequeathed to Annabel Lee Howe)	\$500.00
Other furniture	200.00
1 automatic electric washer	400.00
1 gas stove	15.00
1 ice box	10.00
1 carpet sweeper	7.50
1 power lawn mower	50.00
1 crayon portrait and frame (specifically bequeathed to Alice Doe Smith)	2.50
Wearing apparel	<u>10.00</u>
Subtotal.....	<u>\$1,195.00</u>
<i>Corporate Stocks:</i>	
None	None
<i>Bonds, Mortgages, Notes, Written Evidence of Debt:</i>	
1 promissory note dated July 4, 1954, for \$1,500.00, due 30 days after date, with interest at 6½ percent, signed "Ann Howe" (Specifically bequeathed to Annabel Lee Howe).....	<u>\$1.00</u>
<i>Other Personal Property:</i>	
Balance in checking account at Metropolis National Bank.....	99.00
Balance in savings account at Hometown State Bank.....	<u>5,000.00</u>
1 1955 Tucker super deluxe model, sport sedan, serial No. 000002, motor No. 1,000,013; Kansas certificate of title No. 86,423	<u>2,000.00</u>
1 1926 Ford Model T touring car (specifically bequeathed to Alice Doe Smith)	<u>25.00</u>
Subtotal	<u>\$7,124.00</u>

Partnership Property:

An undivided one-half interest in assets of partnership of Theodore R. Doe and Patrick O'Riley, doing business as Atomic Vending Agency:

A separate inventory of the assets of the said partnership estate and the value found by the appraisers is as follows:

77 vending machines	\$9,000.00
Tools, parts and supplies	1,000.00
Total value found by appraisers	\$10,000.00
One-half interest of deceased	\$5,000.00

Recapitulation:

Homestead	\$15,000.00
Other real estate	16,500.00
Furniture, household goods and wearing apparel	1,195.00
Corporate stocks	None
Bonds, mortgages and written evidences of debt	1.00
Other personal property	7,124.00
Partnership property	5,000.00

Total appraisement \$44,820.00

The foregoing inventory dated and signed this 18th day of April, 1955.

CARRIE N. DOE, *Executor*.

VERIFICATION OF INVENTORY

STATE OF KANSAS, APACHE COUNTY, ss:

Carrie N. Doe, being first duly sworn, on her oath says that she is executor of the will of Theodore R. Doe, deceased, and that the above is a full, true and correct inventory of all of the property owned by Theodore R. Doe on the date of his death which has come into her possession or of which she has knowledge.

CARRIE N. DOE.

Subscribed and sworn to before me this 18th day of April, 1955.

(SEAL)

GLORIA JEANNE PINUP, *Notary Public*.

My commission expires September 23, 1958.

CERTIFICATE OF APPRAISERS

STATE OF KANSAS, APACHE COUNTY, ss:

We, the undersigned appraisers, each being first duly sworn, do hereby certify upon our oaths that we have appraised at its full and fair value all of the property of Theodore R. Doe, deceased, which has been exhibited to us by Carrie N. Doe, executor as described in the above and foregoing inventory, as of February 1, 1955, the date of the death of said decedent, and have set the value thereof opposite each item in said inventory; that we have made the said appraisement honestly and impartially and to the best of our ability and the same is true and correct.

JAMES W. SOLON,
P. J. WILLIAM,
W. A. MANN.

Subscribed and sworn to before me this 25th day of April, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Filed April 25, 1955, A. L. MANN, *Probate Judge*.

Reference: 59-1201, 59-1202, 3 Bartlett 109-111, McCamish (2) 594-596.

Appraisement should be made as of date of death (59-1202). Debt discharged by will must be included. (59-1204.)

Where deceased is a member of partnership, the inventory shall contain separate inventory of partnership estate (59-1201) and may be administered separately (59-1001 to 59-1005, inclusive).

In this estate the executor avoided these problems by selling to surviving partner, as shown in forms (136, 137) and (139).

Time: Inventory should be filed and appraisers appointed within 30 days after appointment of executor (59-1201) and appraisement made within 60 days thereafter (59-1202).

Intestate Estate: Substantially same, see form (14).

(128)

TAX REPORTS

NOTE: After the inventory and appraisal have been filed in Probate Court, the property and assets should be again listed in an Inventory and Appraisal for the State Commission of Revenue and Taxation, Inheritance Tax Division, Form No. IH-12, which will be transmitted by the Probate Court. This form differs slightly in arrangement from the probate code inventory form (127), and should also include jointly owned property and property conveyed without consideration within one year preceding date of death. In due course the State Commission of Revenue and Taxation will issue its order and transmit same to the probate court. If any state inheritance tax is found to be due, it should be paid to the county treasurer, and receipt filed in the probate court before final settlement. (See 79-1511, 79-1517, 79-1518, and 79-1506).

If the value of the estate is over \$60,000.00, a federal estate tax return must be filed. Preliminary notice, Form 704, should be given within two months from the date the executor qualifies, and return on Form 706 must be filed within fifteen months from date of death. If marital deduction is claimed, this should include Form 706 MD insert.

Executor should ascertain whether decedent filed federal income tax return for year preceding death, and file one for him if he has not done so. In doubtful cases, executor should also notify collector of death and request an immediate audit of returns for preceding years. Executor must also file return for decedent for part year in which death occurred, and fiduciary returns showing income received by executor.

Executor should also pay all outstanding personal taxes, and make personal tax return of money and property in his hands on March 1st of each year.

This is easy to overlook when final settlement is made between March and November. The statute provides for payment in advance in such cases.

This is only a brief summary of tax problems which are likely to arise in every estate. Many others will arise in special cases. Every fiduciary should be tax conscious or he is likely to become personally liable for unpaid taxes after the assets have all been distributed.

(129)

PETITION TO SET APART HOMESTEAD AND FOR STATUTORY ALLOWANCES

NOTE: Use same form as in intestate estates. The widow does not waive her rights by consenting to the will or electing to take under the will, unless it clearly appears otherwise. (59-404). In this estate, form (16) will need some modification, since there are both a widow and a minor child. Note the last sentence of 59-403 where the minor child is not living with the surviving spouse.

Reference: 59-403, 59-404, 59-2235, 3 Bartlett 144-145, McCamish (2) 596.

Time: After inventory and appraisal filed (59-2235).

Intestate estates: Generally the same, see form (16).

(130)

ORDER SETTING APART HOMESTEAD AND STATUTORY ALLOWANCES

NOTE: Same as in intestate estates. In this estate, the order would differ somewhat from form (17) because there is a minor child as well as a widow. Also the furniture bequeathed to Annabel Lee Howe, and the automobile and portrait bequeathed to Alice Doe Smith should be excepted, because the widow consented to the will containing these specific bequests and elected to take under it (see 59-404).

Reference: 59-403, 59-404, 59-2235, 3 Bartlett 148, McCamish (2) 596.

Time: Any time after filing petition, unless notice required (59-2235).

Intestate estates: Generally the same, see form (17).

(131)

PETITIONS FOR ALLOWANCE OF DEMANDS

NOTE: Same as in intestate estates, see forms (18) and (19) and footnotes on same.

(132)

ORDER FOR HEARING ON DEMANDS

NOTE: Same as in intestate estates, see form (20) and footnotes.

(133)

NOTICE OF HEARING ON DEMANDS

NOTE: Same as in intestate estates, see note at (21).

(134)

AFFIDAVIT OF MAILING NOTICE OF HEARING ON DEMANDS

NOTE: Same as in intestate estates, see (22).

(135)

ORDER ALLOWING DEMANDS

NOTE: Same as in intestate estates, see form (23) and footnotes.

(136)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

REPORT OF SALES OF REAL ESTATE AND PERSONAL PROPERTY

Comes now Carrie N. Doe, executor of the will of Theodore R. Doe, deceased, and shows to the court that under the will of Theodore R. Doe the executor was granted the power to sell real estate and personal property and that in accordance therewith the said executor has sold to G. W. Rochester the following described real estate, to-wit:

Lot 7 on Frederick street, in Foster's Addition to the City of
Metropolis, in Apache County, Kansas;

for the sum of \$2,750.00, cash, and has executed her executor's deed to the said real estate, which deed is submitted herewith.

Said executor further shows that she has sold to Patrick O'Riley certain personal property consisting of an undivided one-half interest in the assets of the partnership of Theodore R. Doe and Patrick O'Riley, doing business as Atomic Vending Agency, for the sum of \$4,000 under the terms of a bill of sale duly executed by the said executor and submitted herewith.

Said executor further shows that each of the said sales was made by her in good faith in the exercise of her powers under said will and in the performance of her duties as executor thereof, and that she did not directly or indirectly acquire any beneficial interest in the property sold and that she is not interested in the said property, except as stated in this report.

Dated September 12, 1955.

CARRIE N. DOE,

*Executor of the Will of
Theodore R. Doe, Deceased.*

STATE OF KANSAS, APACHE COUNTY, SS:

Carrie N. Doe, of lawful age, being first duly sworn, on oath says:

That she is the duly appointed, qualified and acting executor above named; that she has read the above and foregoing report of sales of real estate and personal property, and that the statements therein made are true.

CARRIE N. DOE.

Subscribed and sworn to before me this 12th day of September, 1955.

(SEAL)

HELEN H. WATERS, *Notary Public*.

My commission expires December 7, 1957.

Filed September 12, 1955. A. L. MANN, *Probate Judge*.

Reference: 59-1413, see, also, 59-2309.

NOTES: (1) This report is probably not necessary, *but is good practice*. Where the will gives power to sell the executor may exercise such power without any order of the court (59-1413), *but he has a general duty to report his proceedings to the court and to account for the money and property of the estate* (59-1502). *By reporting his sales under the will, he can secure the approval of the court endorsed on the deed, which is much preferred by most purchasers.*

(2) Where the will gives no power to sell real estate, it can only be sold to pay debts, as in intestate estates, forms (27) to (37), inclusive.

(3) Few purchasers will accept title under the power of sale in a will until the expiration of one year after death, because of the possibility that a later will may be offered for probate (59-2226), and most purchasers also insist upon a showing that the estate is solvent and that all taxes have been determined and paid. These difficulties may sometimes be avoided by placing deed and purchase price in escrow.

Time: Any time after probate of will and before final discharge, but see note 3 above.

Intestate estates: Not applicable.

(137)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

ORDER APPROVING SALES UNDER WILL

Now, on this 12th day of September, 1955, comes Carrie N. Doe, executor of the will of Theodore R. Doe, deceased, and files her report of sales of certain real estate and personal property and the court after examination of the said report finds that the said sales were legally made under the power granted to the executor in the said will.

IT IS THEREFORE BY THE COURT ORDERED that the court endorse its approval upon the deed to the real estate and the bill of sale to the personal property described in said report.

(SEAL)

A. L. MANN, *Probate Judge*.

Reference: 59-1413. See notes on form (138).

Time: Any time after report.

Intestate estates: Not applicable. On sales of real estate to pay debts see form (36).

(138)

EXECUTOR'S DEED

Know All Men by These Presents that whereas on the 1st day of February, 1955, one Theodore R. Doe, a resident of Apache County, Kansas, died testate, leaving a will which was duly admitted to probate in the probate court of Apache County, Kansas, on March 14, 1955, wherein Carrie N. Doe was named as executor and said Carrie N. Doe was duly appointed by said court as such executor, and letters testamentary were issued to her on March 17, 1955, which letters are in full force and effect; and

WHEREAS the said will of Theodore R. Doe authorizes and empowers said executor to sell and convey any real estate in the said estate; and

WHEREAS said executor has sold the real estate, which is hereinafter described, to G. W. Rochester for the consideration hereinafter set out, which consideration has been paid in full.

Now, THEREFORE, I, Carrie N. Doe, executor of the will of Theodore R. Doe, deceased, in consideration of the sum of Two Thousand, Seven Hundred Fifty Dollars (\$2,750.00), the receipt whereof is hereby acknowledged, do grant, bargain, sell and convey unto G. W. Rochester, his heirs and assigns, all of the interest of Theodore R. Doe in the following described real estate in the county of Apache and State of Kansas, to-wit:

Lot 7 on Frederick street, in Foster's Addition to the City of
Metropolis;

to have and to hold the same, with all the appurtenances and hereditaments thereunto belonging, forever.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of September, 1955.

CARRIE N. DOE,

Executor of the Will of Theodore R. Doe, Deceased.

STATE OF KANSAS, APACHE COUNTY, ss:

BE IT REMEMBERED, That on this 9th day of September, 1955, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Carrie N. Doe, executor of the will of Theodore R. Doe, deceased, who is personally known to me to be the same person who executed the above executor's deed, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

(SEAL)

HELEN H. WATERS, *Notary Public.*

My commission expires December 7, 1957.

The foregoing deed is hereby approved by the probate court of Apache County, Kansas, this 12th day of September, 1955.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-1413, 3 Bartlett Pocket Part 63-64; see, also, McCamish (2) 1151-1152.

Time: Upon payment of consideration.

Intestate estates: Not applicable. On sale of real estate to pay debts, see form (37).

(139)

BILL OF SALE

Know All Men by These Presents that I, Carrie N. Doe, executor of the will of Theodore R. Doe, deceased, for and in consideration of the sum of \$4,000.00, the receipt whereof is hereby acknowledged, do sell, bargain, assign, and convey to Patrick O'Riley all of the interest of Theodore R. Doe in the property and assets of the partnership previously existing between Theodore R. Doe and Patrick O'Riley, doing business as Atomic Vending Agency, to-wit:

33 Model 605 Atomic Automatic Aspirin Vending Machines
(5 cent 1-tablet model),

44 Model 606 Atomic Automatic Aspirin Vending Machines
(10 cent 3-tablet model),

5 boxes repair parts,

1 Kit repair tools,

47,698 Aspirin tablets,

together with all franchises, good will and other assets, tangible and intangible, of the said Atomic Vending Agency.

TO HAVE AND TO HOLD all and singular the said goods and chattels forever; and the said vendor hereby covenants with the said vendee that she is the duly appointed, qualified and acting executor of the will of Theodore R. Doe, deceased, and is empowered by the said will to sell and convey all of the interest of Theodore R. Doe in the above described property.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of September, 1955.

CARRIE N. DOE,

Executor of the Will of Theodore R. Doe, Deceased.

STATE OF KANSAS, APACHE COUNTY, ss:

BE IT REMEMBERED that on this 9th day of September, 1955, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Carrie N. Doe, executor of the estate of Theodore R. Doe, deceased, who is personally known to me to be the same person who executed the above bill of sale, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my official seal, the day and year last above written.

(SEAL)

HELEN H. WATERS, *Notary Public.*

My commission expires December 7, 1957.

The foregoing bill of sale is hereby approved by the probate court of Apache County, Kansas, this 12th day of September, 1955.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: McCamish (2) 951.

Time: When consideration paid.

Intestate estates: Modify form to show compliance with 59-1407 and 59-2242.
Same in testate estates where power is not granted by will.

(140)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

PETITION FOR FINAL SETTLEMENT

Comes now Carrie N. Doe, executor of the will of Theodore R. Doe, deceased, and shows to the court that letters testamentary were issued to her on March 17, 1955, and that she thereafter gave notice of her appointment as provided by law; that more than one year has expired since the date of her appointment, and that the said estate has been fully administered and petitioner desires to make final settlement of said estate.

Petitioner further shows that the said Theodore R. Doe died testate on the 1st day of February, 1955; that at the time of his death he was a resident of Apache County, Kansas, and a citizen of the United States, and that said Theodore R. Doe was survived by the following named persons who are all of his heirs who would inherit under the laws of intestate succession:

Carrie N. Doe, his wife, whose address and residence is 1120

Main street, Metropolis, Kansas;

Annabel Lee Howe (formerly Annabel Lee Doe), also known

as Ann Howe or Annie Howe, his daughter, whose present
address is c/o Harold's Annex, Palm Springs, California;

Jesse J. Doe, his minor son, whose address and residence is 1120

Main street, Metropolis, Kansas.

The decedent had no spouse or children or adopted children or issue of deceased children, natural or adopted, who survived him, other than the persons above named.

Petitioner further shows that the will of decedent dated November 3, 1948, was duly admitted to probate in this court on March 14, 1955, as the last will and testament of said Theodore R. Doe; that no appeal has been taken from the order admitting said will to probate; that no later will has been offered for probate or come to the knowledge of petitioner, and that the following named persons are all of the legatees and devisees under the said will:

Carrie N. Doe, his wife, whose address and residence is stated
above;

Annabel Lee Howe, his daughter, whose address and residence
is stated above;

Jesse J. Doe, his minor son, whose address and residence is
stated above;

Mary Doe, his mother, whose address and residence is Route 1,
Hometown, Kansas;

Alice Doe Smith, his sister, whose address and residence is Grand
Hotel, Lake George, Texas.

Petitioner further shows that, by the terms of the said will, the testator devised to the said Mary Doe certain real estate, hereinafter described; bequeathed to the said Alice Doe Smith certain personal property, consisting of Ford automobile and crayon portrait, described in the inventory filed here; bequeathed to the said Annabel Lee Howe certain furniture and note, described in said inventory, and \$25 in cash; devised and bequeathed to the said Carrie N. Doe the residue of his estate, real and personal, for life, with the power of disposal; and devised and bequeathed to the said Jesse J. Doe the remainder of said residuary estate after the death of the said Carrie N. Doe; all as more fully set out in said will.

Petitioner further shows that Carrie N. Doe, wife of the testator, consented in writing to the said will and has filed her election to accept the provisions thereof.

Petitioner further shows that the State Commission of Revenue and Taxation, Inheritance Tax Division, of the State of Kansas, has issued its order, which is filed herein, determining that no state inheritance taxes are due in this estate; and further shows that this estate is not subject to federal estate tax, and that all taxes due to the United States and the State of Kansas have been paid in full.

Petitioner further shows that all just debts of the decedent have been paid, and that all demands filed herein have been fully and finally adjudicated, and the executor has paid in full all demands which have been allowed against this estate; and that the time for filing demands has expired.

Petitioner further shows that in accordance with the provisions of the said will, the petitioner has caused a monument to be erected at the grave of the decedent, at a cost of \$1,021.02 and that the cost of the same has been paid by the executor.

Petitioner further shows that the decedent owned at the time of his death the following described real estate in Apache County, Kansas:

Lot Seven (7) on Frederick street in Foster's Addition to the City of Metropolis;

which real estate has been sold by the executor under the power granted to her in said will, and the proceeds have been fully accounted for.

Petitioner further shows that the decedent owned at the time of his death the following described real estate:

An undivided one-fourth ($\frac{1}{4}$) interest in the Southwest Quarter of Section Thirty-seven (37), Township Seventy-five (75), Range Eighty (80) West of the 15th P. M., in Apache County, Kansas,

which real estate was specifically devised to Mary Doe, mother of Theodore R. Doe, and should be assigned to the said Mary Doe in the final settlement of this estate.

Petitioner further shows that the decedent owned at the time of his death the following described real estate in Apache County, Kansas, to-wit:

The South Half ($S\frac{1}{2}$) of Section Forty-one (41), Township Seventy-seven (77), Range Seventy-nine (79) West of the 15th P. M.;

and also:

Lots 61, 62, 63 and 64 on Main street, in the City of Metropolis;

which real estate is a part of the residue of the said estate and should be

assigned in accordance with the terms of the will of Theodore R. Doe, deceased, subject to homestead rights in the last described tract.

Petitioner further shows that she has on hand all of the personal property described in the inventory and appraisal filed herein, except the partnership property which was sold by the executor under the power of sale granted to her by the said will, the proceeds of which have been fully accounted for. Petitioner further shows that certain items of personal property were specifically bequeathed to individual legatees by the terms of the said will and should be assigned and delivered to such legatees, and that the remainder of such personal property, together with any cash balance remaining in the hands of the executor, should be assigned under the residuary clause of said will.

Petitioner attaches hereto and files herewith a full, true, and correct account of her receipts and disbursements as such executor, showing a balance in her hands of \$9,521.18.

Petitioner waives compensation for her services as executor, and shows that she had employed Pleader, Pleader & Tryor as her attorneys and that said attorneys have performed services in said estate, as appears from the files and records in this court, and that allowance should be made to her, to be paid to the said attorneys, for their services, in such amount as the court may find reasonable.

WHEREFORE, petitioner prays that her accounts, acts and proceedings as executor be approved by the court, and that final settlement be had of said estate; that the court determine the heirs, devisees and legatees entitled to the estate and assign the same to them according to the will of said decedent; that the court make such allowance as may be reasonable to the executor for attorneys' fees as above set out, and that the court order and direct the distribution and assignment of the remaining cash, personal property and real estate in the said estate in accordance with the terms of the will of Theodore R. Doe, deceased, and that, upon the filing of receipts showing disbursements and distribution in accordance with the said order, the petitioner be finally discharged as executor of the said will.

CARRIE N. DOE, *Petitioner*.

PLEADER, PLEADER & TRYOR,

By V. P. PLEADER, *Attorneys for Petitioner*.

STATE OF KANSAS, APACHE COUNTY, SS:

Carrie N. Doe, of lawful age, being first duly sworn, upon her oath says:

That she is the petitioner above named; that she has read the above and foregoing petition for final settlement, and knows the contents thereof, and that all the statements therein made are true; and that the final account attached hereto is in all respects a full, true and correct account of her receipts and disbursements as executor of the last will and testament of Theodore R. Doe, deceased.

CARRIE N. DOE.

Subscribed and sworn to before me this 25th day of April, 1956.

(SEAL)

GLORIA JEANNE PINUP, *Notary Public*.

My commission expires September 23, 1958.

Filed April 25, 1956.

Reference: 59-2247, 59-1502, 59-1717, 59-2249; 3 Bartlett 227; McCamish (2) 615. See, also, Notes on form (38).

Allowance for services of executor is taxable income and is often waived when executor is residuary legatee.

Time: See note on form (38).

Intestate estates: See form (38).

(141)

FINAL ACCOUNT OF EXECUTOR

NOTE: Compile and attach final account of receipts and disbursements as in Form (38A). This may be verified by separate affidavit or by inclusion in verification to petition for final settlement as in Form (140). If intermediate account has previously been filed, the final account may commence with balance shown on previous account. In many courts, appraiser's fees and also fees of witnesses to will are not included in court costs, but executor pays them and accounts for them in final account.

Reference: 59-1502, 3 Bartlett 227.

Time: At time of petition for final settlement, and at other times if required by court.

Intestate estates: Same, see form (38A).

(142)

ORDER FOR HEARING ON PETITION FOR FINAL SETTLEMENT

NOTE: Follow Form (103) but refer to petition for final settlement.

Reference: 59-2204, 59-2247.

Time: After petition filed.

Intestate estates: See (39).

(143)

(First published in The Metropolis World, April 26, 1956.)

STATE OF KANSAS, APACHE COUNTY, ss:

IN THE PROBATE COURT OF SAID COUNTY AND STATE

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

NOTICE OF HEARING ON PETITION FOR FINAL SETTLEMENT

The State of Kansas to all persons concerned:

You are hereby notified that a petition has been filed in said court by Carrie N. Doe, executor of the will of Theodore R. Doe, deceased, praying for a final

settlement of said estate, approval of her acts, proceedings and accounts as executor, allowance for attorneys' fees, and expenses; and also praying that the court determine the heirs, devisees and legatees entitled to the estate and the proportion or part thereof to which each is entitled and distribute and assign the same to them in accordance with the will of Theodore R. Doe, deceased; and you are hereby required to file your written defenses thereto on or before the 21st day of May, 1956, at ten o'clock A. M., on said day, in said court, in the City of Metropolis, at which time and place said cause will be heard. Should you fail therein, judgment and decree will be entered in due course upon said petition.

CARRIE N. DOE, *Petitioner*.

PLEADER, PLEADER & TRYOR,
Attorneys for Petitioner.

Reference: 59-2247, 59-2209, see, also, 59-2249. See note on form (40).

Time: First publication within ten days after order for hearing, weekly thereafter. Third and last publication within seven to fourteen days before hearing. (59-2209.)

Intestate estates: See form (40) and notes.

(144)

AFFIDAVIT OF PUBLICATION

NOTE: To be furnished by publisher in form similar to (4), and filed and approved by the court.

Reference: 59-2209, 59-2211, 3 Bartlett 89.

Time: File before hearing.

Intestate estates: Same.

(145)

AFFIDAVIT OF MAILING AND OF NON-MILITARY SERVICE

NOTE: Follow generally Form (42), after mailing to devisees and legatees and also to any heirs who are not otherwise included, also to guardian *ad litem*. Include the words "heirs, devisees, legatees, guardians and wards" in affidavit. There is some question among lawyers as to whether it is still necessary to comply with the Soldiers' and Sailors' Civil Relief Act, but it is safer to do so where real estate is involved. Showing of non-military service should be made at least once in a probate proceeding, and it is best that this be done at the time of final settlement. Separate affidavit, such as Form (57), may be used if preferred.

Reference: 59-2209, 2211.

Time: Mail within seven days after first publication (59-2209).

File affidavit before hearing (59-2211).

Intestate estates: See form (42) and notes.

(146)

IN THE PROBATE COURT OF APACHE COUNTY, KANSAS

In the Matter of the Estate of
Theodore R. Doe, Deceased.

No. 1318

JOURNAL ENTRY OF FINAL SETTLEMENT

Now on this 21st day of May, 1956, this matter comes on upon the petition of Carrie N. Doe, executor of the will of Theodore R. Doe, deceased, for a final settlement of said estate. The executor appears in person and by her attorneys, Pleader, Pleader & Tryor. Jesse J. Doe appears by G. I. Joseph, his guardian *ad litem*. Alice Doe Smith appears by L. M. Owl, her attorney. There are no other appearances. The court finds that notice of hearing upon said petition has been given by publication and mailing as provided by law and the order of this court; that proof thereof has been duly filed in this court, and the said notice and the proof of publication and mailing thereof are approved by the court. The court further finds that none of the heirs, legatees, devisees, or other persons interested in this estate, is in the military service of the United States as defined by the Soldiers' and Sailors' Civil Relief Act of 1940 as amended.

Thereupon, the said petition for final settlement is presented to the court and evidence produced thereon, and the court, after consideration of the evidence, finds that the allegations of the said petition are true. The court further finds that the said Theodore R. Doe died testate on the 1st day of February, 1955, being a resident of Apache County, Kansas, and a citizen of the United States, leaving a will dated November 3, 1948, which will was duly admitted to probate in this court on March 14, 1955; that no appeal has been taken from the order admitting said will to probate and that the time for such appeal has expired, and that no later will has been offered for probate and that the time therefor has expired.

The court further finds that Carrie N. Doe, wife of the testator, consented in writing to the said will and has filed herein her election to accept the provisions thereof.

The court finds that the names and residences of the heirs, devisees and legatees who are entitled to the estate under the said will are as follows, to-wit:

Carrie N. Doe, wife of decedent, whose address and residence is 1120 Main street, Metropolis, Kansas;

Annabel Lee Howe (formerly Annabel Lee Doe, also known as Ann Howe), daughter of decedent, whose present address and residence is c/o Harold's Annex, Palm Springs, California;

Jesse J. Doe, minor son of decedent, whose address and residence is 1120 Main street, Metropolis, Kansas;

Mary Doe, mother of decedent, whose address and residence is Route 1, Hometown, Kansas;

Alice Doe Smith, sister of decedent, whose address and residence is Grand Hotel, Lake George, Texas.

The court further finds that the said Carrie N. Doe was named executor in the said will and was duly appointed and qualified as such executor, and letters testamentary were issued to her by this court on March 17, 1955; that she thereafter gave notice of her appointment as provided by law; that more than nine months have expired since the first publication of such notice, and more than one year has expired since the date of her appointment; that the said estate has been fully administered and that final settlement should be made in this estate.

The court further finds that the petitioner has filed herein a full and complete account of her receipts and disbursements as such executor, which is summarized as follows:

Receipts	\$11,849.00
Disbursements	2,327.82
Balance on hand	\$9,521.18

and the court, after examination of said account, finds that the same is true and correct, and further finds that all of the acts and proceedings of the said executor have been in accordance with law and the orders of this court, and the same are approved.

The court further finds that all demands of creditors against the said estate have been finally adjudicated; that all demands which have been allowed against said estate have been paid in full; that the time for filing demands against said estate has expired; that the executor has carried out the direction of the said will for the purchase of monument, and that the cost of the same has been paid; that the said estate is not subject to federal estate tax and that the State Commission of Revenue and Taxation, Inheritance Tax Division, of the State of Kansas, has issued its order, which is on file in this court, determining that no state inheritance taxes are due in this estate; and that all taxes due to the United States and the State of Kansas have been paid in full.

The court further finds that the said Carrie N. Doe has waived compensation for her services as executor; that said executor has employed Pleader, Pleader & Tryor as her attorneys in this estate, and that the services of said attorneys are reasonably worth the sum of \$1,700.00, and that allowance should be made to said executor for attorneys' fees in said amount; that G. I. Joseph was appointed guardian *ad litem* herein for Jesse J. Doe, a minor, and has performed services as such guardian *ad litem*, and that such services are reasonably worth the sum of \$50.00, and that allowance should be made to him in said amount; that there are costs due in this court in the amount of \$71.25.

The court further finds that the decedent owned at the time of his death the following described real estate in Apache County, Kansas:

Lot 7 on Frederick street in Foster's Addition to the City of Metropolis,

which real estate has been sold by the executor under the power granted to her in said will, and the proceeds have been fully accounted for.

The court further finds that the decedent owned at the time of his death the following described real estate in Apache County, Kansas, to-wit:

Lots 61, 62, 63 and 64 on Main street, in the City of Metropolis, which real estate has been set apart to the said Carrie N. Doe and Jesse J. Doe, as their homestead, and which real estate (subject to such homestead right) is a part of the residue of the said estate.

The court further finds that the decedent owned in fee simple at the time of his death the following described real estate in Apache County, Kansas, to-wit:

The South Half ($S\frac{1}{2}$) of Section Forty-one (41), Township Seventy-seven (77), Range Seventy-nine (79), West of the 15th p. m.

which real estate is a part of the residue of said estate.

The court further finds that the decedent owned at the time of his death the following described real estate in Apache County, Kansas, to-wit:

An undivided one-fourth ($\frac{1}{4}$) interest in the Southwest Quarter ($SW\frac{1}{4}$) of Section Thirty-seven (37), Township Seventy-five (75), Range Eighty (80) West of the 15th p. m.

and that the same was specifically devised to Mary Doe, by the will of Theodore R. Doe, deceased.

The court further finds that under the will of Theodore R. Doe, deceased, the said Alice Doe Smith is legatee of certain personal property, consisting of Ford automobile and crayon portrait, described in the inventory filed herein.

The court further finds that under the will of Theodore R. Doe, deceased, the said Annabel Lee Howe is legatee of certain personal property, consisting of the white modernistic bedroom suite described in the inventory, and promissory note for \$1,500.00, dated July 4, 1954, which note is cancelled and released by the terms of the said will, and the sum of \$25 cash.

The court further finds that under the will of Theodore R. Doe, deceased, the said Carrie N. Doe is the devisee and legatee of all of the residue of the estate, real and personal, for her use and comfort, during her natural life, with the power to sell and dispose of the same as provided in said will, and that Jesse J. Doe is the devisee and legatee of the remainder of said residuary estate after the death of the said Carrie N. Doe.

IT IS THEREFORE ORDERED AND ADJUDGED BY THE COURT that the prayer of the said petition be granted and that final settlement be had in this estate.

IT IS FURTHER ORDERED AND ADJUDGED BY THE COURT that all of the acts and proceedings and accounts of Carrie N. Doe as executor of the will of Theodore R. Doe, deceased, be and the same are approved.

IT IS FURTHER ORDERED AND ADJUDGED BY THE COURT that no allowance be made to the executor for her services, on account of her waiver thereof; that the executor be allowed the sum of \$1,700.00 for the services of her attorneys, Pleader, Pleader, and Tryor; that G. I. Joseph be allowed the sum of \$50.00 for his services as guardian *ad litem*; that the executor pay the said allowances out of the moneys in her hands; that the executor also pay the sum of \$71.25 court costs; that after the payment of such amounts and the \$25 cash bequest to Annabel Lee Howe, there will remain in the hands of the executor a balance of \$7,674.93 to be distributed with the residue of the estate as hereinafter provided.

IT IS BY THE COURT FURTHER ORDERED AND ADJUDGED that the said executor deliver to Alice Doe Smith the personal property bequeathed to her and described above.

IT IS BY THE COURT FURTHER ORDERED AND ADJUDGED that the said executor deliver to Annabel Lee Howe the personal property bequeathed to her and described above; including the said promissory note for \$1,500.00 which note shall be cancelled and released by the executor and delivered to the said Annabel Lee Howe; and that the executor also distribute to said Annabel Lee Howe the cash bequest of \$25 as above provided.

IT IS BY THE COURT ORDERED AND ADJUDGED that the title to the following described real estate:

An undivided one-fourth ($\frac{1}{4}$) interest in the Southwest Quarter (SW $\frac{1}{4}$) of Section Thirty-seven (37), Township Seventy-five (75), Range Eighty (80) West of the 15th p. m., in Apache County, Kansas,

be and the same is assigned to Mary Doe, as of the date of death of Theodore R. Doe, subject to any lawful disposition thereof heretofore made by her.

IT IS BY THE COURT FURTHER ORDERED AND ADJUDGED that the title to the following described real estate:

Lots 61, 62, 63 and 64 on Main street, in the City of Metropolis, in Apache County, Kansas, (subject to homestead rights),

and also:

The South Half (S $\frac{1}{2}$) of Section Forty-one (41), Township Seventy-seven (77), Range Seventy-nine (79), West of the 15th p. m., in Apache County, Kansas;

and all other real estate owned by the decedent at the time of his death, subject to any lawful disposition thereof heretofore made, be and the same is assigned to Carrie N. Doe, for life, with power of disposal as provided in said will, with the remainder to Jesse J. Doe; and the said executor shall also deliver to said Carrie N. Doe, the balance of \$7,674.93 cash and all personal property remaining in her hands after the payments and distribution above provided, to be held and used or disposed of during her life, in accordance with the terms of said will, and any part remaining at the time of the death of Carrie N. Doe shall become the property of Jesse J. Doe.

IT IS BY THE COURT FURTHER ORDERED that, upon the filing of receipts showing the payments and distribution above provided for, the said Carrie N. Doe shall be finally discharged as executor of the will of Theodore R. Doe, deceased.

(SEAL)

A. L. MANN, *Probate Judge.*

Reference: 59-2249. McCamish (2) 616.

Sometimes the settlement of accounts and allowances are handled by separate orders. 3 Bartlett 226, 229-230.

Time: At time fixed in notice, or any adjournment therefrom.

Intestate estates: See Form (43).

(147)

RECEIPTS

NOTE: Same as (44). In this estate, there should be filed receipts from Annabel Lee Doe for \$25 and bequest of personal property (describe); from Alice Doe Smith for bequest of personal property (describe); from Pleader, Pleader and Tryor for \$1,700.00 attorneys' fees; and from G. I. Joseph for \$50.00 for fee of guardian *ad litem*. The court records show the payment of court costs.

(148)

JOURNAL ENTRY OF FINAL DISCHARGE

NOTE: Substantially same as form (45) substituting executor for administrator. In this estate last clause of form (45) may be omitted since there is no bond.

Reference: 59-1718, 3 Bartlett 238.

Time: When order of final settlement complied with and receipt filed.

Intestate estate: Same, see form (45).

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* Indicates forms which may also be used in intestate estates.



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PRINTED BY
FERD VOILAND, JR., STATE PRINTER
TOPEKA, KANSAS

1956



26-4303