

CHAPTER 155 - NOTICES, ORDERS, PROCEDURE AND APPEALS

NOTICES

<u>SECTION 155.010</u>	Method of giving notice; notice to certain persons required; court may dispense with notice; proof; waiver of notice.
<u>SECTION 155.020</u>	Method and form for notices.
<u>SECTION 155.030</u>	Request for special notice: Filing by interested person after issuance of letters; filing by interested person in testamentary trust.
<u>SECTION 155.040</u>	Personal notice by citation.
<u>SECTION 155.050</u>	Service of citation.
<u>SECTION 155.060</u>	Time for service of citation.
<u>SECTION 155.070</u>	Number of publications; extension or shortening of time.
<u>SECTION 155.080</u>	Methods of proving publication or service of notice.
<u>SECTION 155.090</u>	Clerk may give notices and certain citations without court order.

ORDERS

<u>SECTION 155.100</u>	Entry of minutes by clerk.
<u>SECTION 155.110</u>	Transcripts of minutes or copies of order and certificate of clerk have same force as letters.
<u>SECTION 155.123</u>	Temporary restraining orders or injunctions issued to protect assets of estate or trust.
<u>SECTION 155.127</u>	Order nunc pro tunc to correct previous order: Issuance; form; use of original order; manner of correction.

PROCEDURE

<u>SECTION 155.130</u>	Proceedings concerning estate are proceedings of record.
<u>SECTION 155.140</u>	General rules: Contents of pleading; effect of certain orders binding persons; notices; appointment of guardian ad litem or attorney.
<u>SECTION 155.150</u>	Issues of fact and questions of costs.
<u>SECTION 155.160</u>	Responses and objections to proceedings.
<u>SECTION 155.170</u>	Depositions of absent witnesses.
<u>SECTION 155.180</u>	Applicability of laws and rules regulating civil actions and appeals.
<u>SECTION 155.185</u>	Facsimile of petitions, notices, objections and other papers may be filed.

APPEALS

<u>SECTION 155.190</u>	Appealable orders.
<u>SECTION 155.195</u>	Effect of appeal of order.
<u>SECTION 155.200</u>	No undertaking on appeal required of personal representative.
<u>SECTION 155.220</u>	Reversal of order appointing personal representative.

NOTICES

SECTION 155.010 Method of giving notice; notice to certain persons required; court may dispense with notice; proof; waiver of notice.

1. Except as otherwise provided in a specific statute relating to the kind of notice required or otherwise ordered by the court in a particular instance, a petitioner shall cause notice of the time and place of the hearing of a petition to be given to each interested person and to every other person entitled to notice pursuant to this title or his attorney if he has appeared by attorney or requested that notice be sent to his attorney. Notice must be given:

(a) By mailing a copy thereof at least 10 days before the time set for the hearing by certified, registered or ordinary first-class mail addressed to the person being notified at the post office address given in his demand for notice, if any, or at his office or place of residence, if known, or by personally delivering a copy thereof to the person being notified at least 10 days before the time set for the hearing; or

(b) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing at least once a week for 3 consecutive weeks a copy thereof in a newspaper having general circulation in the county where the hearing is to be held, the last publication of which must be at least 10 days before the date set for the hearing.

2. The court, for good cause shown, may provide for a different method or time of giving notice for any hearing, or may dispense with the notice otherwise required to be given to a person under this title.

3. Proof of the giving of notice must be made on or before the hearing and filed in the proceeding.

4. A person entitled to notice may, in writing, waive notice of the hearing of a petition.

SECTION 155.020 Method and form for notices.

1. Notice of a petition for the probate of a will and the issuance of letters and the notice to creditors must be given to:

(b) The public, including creditors whose names and addresses are not readily ascertainable, by publication on three dates of publication before the hearing, and if the newspaper is published more than once each week, there must be at least 10 days from the first to last dates of publication, including both the first and last days.

2. Every publication required by this section must be made in a newspaper published in the county where the proceedings are pending, but if there is not such a newspaper, then in one having general circulation in that county.

3. The notice of the hearing upon the petition to administer the estate must be in substantially the following form:

**NOTICE OF THE HEARING UPON THE PETITION TO
ADMINISTER THE ESTATE**

Notice is hereby given that has filed in this court a petition for the probate of a will and for letters testamentary, or for letters of administration, of the estate of, deceased, and a hearing has been set for the day of the month of....., of the year....., at (a.m. or p.m.) at the courthouse of the above-entitled court. All persons interested in the estate are notified to appear and show cause why the petition should not be granted.

Dated

4. As soon as practicable after appointment, a personal representative shall, in addition to publishing the notice to creditors, mail a copy of the notice to those creditors whose names and addresses are readily ascertainable as of the date of first publication of the notice and who have not already filed a claim. The notice must be in substantially the following form:

NOTICE TO CREDITORS

Notice is hereby given that the undersigned has been appointed and qualified by the (giving the title of the court and the date of appointment) as personal representative of the estate of, deceased. All creditors having claims against the estate are required to file the claims with the clerk of the court within (60 or 90) days after the mailing or the first publication (as the case may be) of this notice.

Dated

5. If before the last day for the filing of a creditor's claim under [SECTION 147.040](#), the personal representative discovers the existence of a creditor who was not readily ascertainable at the time of first publication of the notice to creditors, the personal representative shall immediately mail a copy of the notice to the creditor.

SECTION 155.030 Request for special notice: Filing by interested person after issuance of letters; filing by interested person in testamentary trust.

1. At any time after the issuance of letters in the estate of a decedent, an interested person or his attorney may serve upon the personal representative or his attorney, and file with the clerk of the court wherein administration of the estate is pending, a written request stating that he desires special notice and a copy of any further filings, steps or proceedings in the administration of the estate.

2. The request must state the post office address of the requester or his attorney, and thereafter a brief notice of the filing of any returns, petitions, accounts, reports or other proceedings, together with a copy of the filing, must be addressed to that person or his attorney, at his stated mailing address, and deposited with the United States Postal Service with the postage thereon prepaid, within 2 days after each is filed, or personal service of the notice may be made on the person or his attorney within the 2 days, and the personal service is equivalent to deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of the proceeding.

3. If, upon the hearing, it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order and the order is final and conclusive upon all persons.

4. An interested person in a testamentary trust or its property, or the attorney for that person, may serve upon the trustee or his attorney, and file with the clerk of the court wherein administration of the trust is pending, a written request stating that he desires notice of the filing of accounts and petitions in connection with the trust. The provisions of subsections 2 and 3 apply to such a request.

5. On the filing of an inventory or a inventory or a supplementary inventory, the personal representative shall mail a copy to each person who has requested special notice.

SECTION 155.040 Personal notice by citation. If personal notice is required by this title to be given to any person in the matter of an estate or testamentary trust, and no other mode of giving notice is prescribed, it must be given by citation, issued by the clerk and directed to the person to be served, and must command the person to appear before the court at a time and place to be named in the citation. The nature or character of the proceedings must be briefly stated in the citation, and a copy of the petition, if any, must be attached.

SECTION 155.050 Service of citation. The citation described in [SECTION 155.040](#) is to be served in the same manner as the personal service of summons. If personal service cannot be made upon the person to be served, the citation may be served by leaving a copy with his attorney of record or in such other manner as the court may direct.

SECTION 155.060 Time for service of citation. If no other time is specially prescribed, a citation must be served at least 10 days before the day of the hearing, but the court may, for good cause shown, shorten the time to no less than 1 full judicial day before the day of the hearing.

SECTION 155.070 Number of publications; extension or shortening of time. If publication is required, the publication must be made daily, or otherwise, as often during the prescribed period as the newspaper is regularly issued, unless otherwise provided in this title. The court, however, may prescribe less publications during the period for publication, and the court may, for good cause shown, extend or shorten any of the times prescribed in this title.

SECTION 155.080 Methods of proving publication or service of notice. All proofs of publication or other mode or modes of giving notice or serving papers may be made by the certificate or affidavit of any person competent to be a witness. The certificate or affidavit must be filed, and constitutes prima facie evidence of publication or service. Proof of service may also be made in any manner permitted by the Nevada Rules of Civil Procedure.

SECTION 155.090 Clerk may give notices and certain citations without court order. All notices required to be given by this title may be given by the clerk of the court without an order from the court, and, when so given, for the time and in the manner required by law, they are as legal and valid as though made upon an order from the court. If use of a citation is authorized or required by statute, the citation may be issued by the clerk of the court on the request of a party or his attorney, without a court order, unless an order is expressly required by the statute.

ORDERS

SECTION 155.100 Entry of minutes by clerk. The clerk shall enter a minute of all proceedings in matters of estates, as in other actions.

SECTION 155.110 Transcripts of minutes or copies of order and certificate of clerk have same force as letters.

1. A transcript from the minutes of court, or a copy of the signed order of the court, showing the appointment of any person as personal representative, together with the certificate of the clerk that the person has given bond, if required, and has been qualified, and that letters have been issued to him, and have not been revoked, has the same effect in evidence as the letters themselves.

2. A copy of the letters, with like certificate, has the same effect.

SECTION 155.123 Temporary restraining orders or injunctions issued to protect assets of estate or trust. In accordance with the provisions of [SECTION 33.010](#) and the Nevada Rules of Civil Procedure, and upon such terms and conditions as the court deems just and appropriate, the court may issue a temporary restraining order or an injunction to preserve and protect assets of the estate or trust.

SECTION 155.127 Order nunc pro tunc to correct previous order: Issuance; form; use of original order; manner of correction.

1. If through inadvertence or mistake an order entered fails to state correctly the order made by the court, and the inadvertence or mistake is brought to the attention of the court by petition or the court acts on its own motion, the court may enter an order nunc pro tunc correcting the previous order.

2. The order nunc pro tunc must be in the form of an amended order and bear the caption "Amended Order of" The body of the amended order must be identical to the order being corrected, except for the correction, and conclude with language substantially as follows: "This is an order nunc pro tunc correcting the previous order of, dated"

3. If the order to be amended is many pages in length, the court may cause to be filed a document captioned "Amendment to Order of" which addresses only the correction, together with sufficient language to identify the correction, and concludes with the same language as an amended order. Such an amendment to an order must be accompanied by a verified petition, or an affidavit of counsel, specifying the reasons for the correction.

4. The original order may not be physically changed, but must be used in conjunction with the order nunc pro tunc correcting it. In making corrections in the amendment document, a complete clause or sentence must be stricken and replaced, even if the only change is to correct a single word or figure.

PROCEDURE

SECTION 155.130 Proceedings concerning estate are proceedings of record. All proceedings in matters of estate shall be proceedings of record as other actions and proceedings.

SECTION 155.140 General rules: Contents of pleading; effect of certain orders binding persons; notices; appointment of guardian ad litem or attorney.

1. In a proceeding involving the estate of a decedent or a testamentary trust:

(a) Interests to be affected must be described in pleadings that give reasonable information to owners by name or class, by reference to the instrument creating the interest or in another appropriate manner.

(b) An order binding the sole holder or all co-holders of a power of revocation or presently exercisable general power of appointment, including a power of amendment, binds other persons to the extent their interests, as objects, takers in default or otherwise, are subject to the power.

(c) To the extent there is no conflict of interest between them or among persons represented:

(1) An order binding a guardian of the estate binds the person whose estate he controls.

(2) An order binding a guardian of the person binds the ward if no separate guardian of his estate has been appointed.

(3) An order binding a trustee binds beneficiaries of the trust in a proceeding to probate a will establishing or adding to the trust, to review the acts or accounts of a previous fiduciary, or involving creditors or other third parties.

(4) An order binding a personal representative binds persons interested in the undistributed assets of the estate of a decedent in an action or proceeding by or against the estate.

(d) If there is no conflict of interest and no guardian of the estate has been appointed, a parent may represent his minor child.

(e) An unborn or unascertained person who is not otherwise represented is bound by an order to the extent his interest is adequately represented by another person having a substantially identical interest in the proceeding.

(f) Notice as prescribed by this title must be given to every interested person or to one who can bind an interested person under subsection (b), (c) or (d). Notice may be given both to a person and to another who can bind him.

(g) Notice is given to unborn or unascertained persons who are not represented under subsection (b), (c) or (d) by giving notice to all known persons whose interest in the proceeding is substantially identical to that of the unborn or unascertained persons.

(h) At any stage of a proceeding, the court may appoint a guardian ad litem or an attorney to represent the interest of a minor, an incapacitated, unborn or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest would otherwise be inadequate. If not precluded by conflict of interest, a guardian ad litem or an attorney may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a guardian ad litem or an attorney as a part of the record of the proceeding.

2. If an attorney has been appointed for minors or other interested persons, the attorney, until another may be appointed, shall represent the person or persons for whom he has been appointed in all subsequent proceedings.

SECTION 155.150 Issues of fact and questions of costs.

1. All issues of fact in matters of an estate must be disposed of in the same manner as is by law provided upon the trial of issues of fact in a common-law action, but all matters must be tried by the court except as otherwise provided in [SECTION 137.020](#).

2. All questions of cost may be determined by the court, and execution may issue therefor in accordance with the order of the court.

SECTION 155.160 Responses and objections to proceedings.

1. An interested person may appear and make a response or objection in writing at or before the hearing.

2. An interested person may appear and make a response or objection orally at the hearing. The court may hear and determine the response or objection at the hearing or grant a continuance to allow the response or objection to be made in writing.

3. If the court is not in session at the time set for the hearing of any matter concerning the settlement of the estate of a decedent, anyone opposing the petition therein made may file objections thereto with the clerk.

SECTION 155.170 Depositions of absent witnesses. The testimony of a witness or witnesses in other Reservation or State, or in other jurisdictions of the United States, or in foreign countries, may be taken by deposition as provided in the Nevada Rules of Civil Procedure.

SECTION 155.180 Applicability of laws and rules regulating civil actions and appeals. Except as otherwise specially provided in this title, all the provisions of law and the Nevada Rules of Civil Procedure regulating proceedings in civil cases apply in matters of probate, when appropriate, or may be applied as auxiliary to the provisions of this title. The Nevada Rules of Appellate Procedure regulating appeals in civil cases apply to appeals taken pursuant to [SECTION 155.190](#).

SECTION 155.185 Facsimile of petitions, notices, objections and other papers may be filed. If a petition, notice, objection, consent, waiver or other paper may be filed, a true and correct facsimile of it may be filed, if the original is filed within a reasonable time.

APPEALS

SECTION 155.190 Appealable orders. In addition to any order from which an appeal is expressly permitted by this title, an appeal may be taken to the Inter Tribal Court of Appeals within 30 days after the notice of entry of an order:

1. Granting or revoking letters testamentary or letters of administration.
2. Admitting a will to probate or revoking the probate thereof.
3. Setting aside an estate claimed not to exceed \$50,000 in value.
4. Setting apart property as a homestead, or claimed to be exempt from execution.
5. Granting or modifying a family allowance.
6. Directing or authorizing the sale or conveyance or confirming the sale of property.
7. Settling an account of a personal representative or trustee.
8. Instructing or appointing a trustee.
9. Instructing or directing a personal representative.
10. Directing or allowing the payment of a debt, claim, devise or attorney's fee.
11. Determining heirship or the persons to whom distribution must be made or trust property must pass.
12. Distributing property.
13. Refusing to make any order mentioned in this section or any decision wherein the amount in controversy equals or exceeds, exclusive of costs, \$5,000.
14. Granting or denying a motion to enforce the liability of a surety filed pursuant to [SECTION 142.035](#).
15. Granting an order for conveyance or transfer pursuant to [SECTION 148.410](#).

SECTION 155.195 Effect of appeal of order. Unless otherwise ordered by the court, an appeal pursuant to [SECTION 155.190](#) does not stay any order or proceeding in the estate or trust. The court may grant a stay, pending the appeal, of an order from which the appeal was taken, upon such bond, undertaking or conditions as it deems just or appropriate.

SECTION 155.200 No undertaking on appeal required of personal representative. An appeal by a personal representative who has given an official bond as provided in this title is complete and effectual without an undertaking on appeal.

SECTION 155.220 Reversal of order appointing personal representative. If an order appointing a personal representative is reversed on appeal, all lawful acts in administration of the estate performed by him are as valid as if the order had been affirmed.