

# COMPLETING THE INTERESTED PARTY LIST FOR PROBATE APPLICATION

November 2023

Completing the Interested Party List correctly is an integral part of whether or not your application for informal probate will be approved by the Registrar. The list of persons or entities are those that will receive the Notice of Informal Probate from the Personal Representative.

DO NOT BE AFRAID TO MAKE A SEPARATE LIST IF INSUFFICIENT SPACE ON FORM

Relationship (familial interest) to decedent and Legal Interest two categories that must be completed for each person on the interested party list.

- **List all “heirs”**
  - **Registrar makes a finding re: heirs in every order**
    - **HEIRS MUST BE LABELLED** with word “heir”
  - A person has to survive the decedent by 5 days to be an heir
  - An entity cannot be an heir – must be a living breathing human being
  - If heirs are listed due to an interest by “right of representation” list who died to make them an heir
    - Example – nieces and nephews – break out all of decedent’s siblings and indent their surviving issue so we can account for all the issue of the decedent’s parents
  - Cousin level **MUST** be separated into maternal and paternal sides of the decedent’s family
    - Child of a first cousin is a “first cousin once removed”
  - NO right of representation at the parent level
    - Only one parent survives – siblings do NOT step up to replace the predeceased parent
      - **Siblings cannot be heirs if a parent survives**
      - Provide the full name and date of death of a predeceased parent in an intestate application where the sole heir is the other surviving parent
  - Step parent/ Step child is NOT an heir
  - List all persons at level where heirship is found if a right of representation and one or more heirs has predeceased state whether or not any issue survived.
    - Do NOT leave that person off list because they had no issue
      - Example – John Smith brother/predeceased “no issue”

**INTESTATE ESTATES - ONLY AN HEIR CAN BE APPOINTED IN INFORMAL PROCESS**

**Basic Rule of Thumb** – anyone named in a Will needs to be on the Interested Party List unless

a contingent devisee and the contingency has lapsed and the party has no other legal interest.

- **List ALL Legal Interest (s)**
  - Label the nominated personal representative – if an alternate so state as “nominated alternate personal representative”
  - Specific devisees especially important to identify if it is a charitable entity
  - List all devisees in Will, Codicil(s) and Separate Writing (s)
    - Pour over Will – Trustee is the devisee
      - Be sure to file pertinent trust pages or a Certificate of Trust
      - Do NOT list trust beneficiaries unless it is a testamentary trust
  - List a predeceased named devisee and label “deceased and d/o/d”
    - Do NOT skip over a person just because they are deceased if named in the Will to take a devise – court needs to know what happened to that person
    - Court also needs to know if the person pre or post deceased decedent
    - Per MN Statutes devisee has to survive 5 days to take devise
  - List specifically omitted persons
    - The person needs notice in case he/she wants to object
  - List any and all demandants
  - Extended survivorship time frame in Will
    - Filing an application prior to expiration of time frame requires a listing of all contingent beneficiaries
  - Foreign Consul if registered with MN Secretary of State when decedent born in a foreign country and/or a devisee/heir resides in a foreign country
    - Go to website and search for a current list of Countries and contact information