



## SAN MATEO COUNTY LAW LIBRARY

### RESEARCH GUIDE #4

#### **PETITION FOR LETTERS OF SPECIAL ADMINISTRATION** **(FOR USE WHILE PETITION FOR PROBATE IS IN PROCESS)**

This resource guide only provides guidance, and does not constitute legal advice. If you need legal advice you need to speak with an attorney. To find an attorney to assist you, you may contact the San Mateo County Lawyer Referral Service at (650) 369-4149.

#### **WHAT ARE “LETTERS OF SPECIAL ADMINISTRATION?”**

It generally takes four to six weeks from the time a petition for probate is filed until Letters can be issued to the personal representative. If an emergency situation exists so that appointment is urgently needed before the Petition for Probate can be heard by the Probate Judge, you may file a separate Petition for Letters of Special Administration. Letters of Special Administration are temporary Letters that can be approved by the Probate Judge for a specific purpose on an ex-parte basis (without a hearing).

Typical situations where Letters of Special Administration would be appropriate include where the decedent owned a business, and a legal representative must be appointed to run the business and sign payroll checks. Letters of Special Administration could also be issued if the decedent sold real property and opened an escrow but died before the escrow was closed.

#### **WHAT TO DO:**

**NOTE:** These instructions are for the most common cases, if you have a unique situation, we advise you to talk with an attorney.

#### **STEP 1: Make sure you file a Petition for Probate**

A Petition for Letters of Special Administration will not be approved unless a Petition for Probate is also filed. In San Mateo County, you can do both at the same time, using the Petition for Probate form, Judicial Council Form [DE-111](#). Include an Attachment [MC-025](#) under Section 3.f.(3) specifying the reason why Letters of Special Administration are needed and the specific powers needed.

## **STEP 2: Fill out Ex Parte paperwork**

You will need to complete an [Ex Parte Application](#), which includes a Declaration and Memorandum, and a [Proposed Order](#). This is used to explain the facts of the case, and why the matter is so urgent it should be heard ex parte.

You may need to include a “Declaration re Notice” explaining if and how you give notice to the other parties included in the original Petition for Probate. (Sometimes this is combined with the Declaration of the facts of the case.)

You may also need to fill out the form [DE-150](#).

<http://www.smclawlibrary.org/Forms/ExParteApplication.docx>

## **STEP 3: File paperwork with Clerk**

In San Mateo County, all ex-parte orders being requested are usually presented in court at the Redwood City Hall of Justice between 1:30 p.m. and 3:30 p.m. However, due to the current public health emergency, starting April 1, 2020, all ex parte probate matters will be temporarily heard at 10am as part of the morning calendar. Please provide your documents in advance by emailing them to: [probate@sanmateocourt.org](mailto:probate@sanmateocourt.org).

**NOTE:** The Probate Court Investigator’s office is only involved with Guardianship and Conservatorship cases.

The Probate Examiner will review the documents to make sure they are properly completed and that they are clear as to the specific authority needed. The Probate Examiner will then present the Petition for Letters of Special Administration to the Probate Judge.

If the Probate Judge approves the petition, you can pick up the signed Order and Letters at the Probate Filing Window. If you would like certified copies of the Letters, a separate fee will need to be paid.

Letters of Special Administration are valid only for a limited period of time, generally until the hearing date on the Petition for Probate. During the period when the Letters of Special Administration are in effect, the personal representative will be referred to as a Special Administrator, even though he or she may be nominated in the decedent's Will as executor.

In addition, Letters of Special Administration will ordinarily be approved only for the specific purpose requiring immediate attention, and the Order Appointing Special Administrator must include an attachment identifying the specific powers given to the Special Administrator. A Special Administrator will be given general powers of a personal representative only in rare situations where a general personal representative cannot be appointed for a lengthy period of time (for example, because of a Will contest or litigation over who should be appointed as personal representative).