

ALTERNATE METHOD OF PROVING D'S WILL

	NA	L	S	DATE	INITIALS
54. If the witness will not be available to testify in court, determine an alternate method of proving D's will. If proving D's will by written interrogatories, do the following after D's original will has been filed with clerk of court:					
a. For a subscribing witness, prepare Direct Interrogatories to Be Propounded to Subscribing Witness (Form 9). For a witness testifying to the signature of D or that of a subscribing witness, prepare Direct Interrogatories to Be Propounded to Witness (Form 139). For a witness testifying to the handwriting and signature of D to prove a holographic will, prepare Direct Interrogatories to Be Propounded to Witness (Form 141). Place in file folder entitled "Court Proceedings."					
b. Prepare Notice of Intent to Take Deposition on Written Questions (Form 13), make and attach a copy of the Direct Interrogatories to Be Propounded to Subscribing Witness (Form 9) or Direct Interrogatories to Be Propounded to Witness (Form 139 or Form 141) to each copy of the Notice of Intent to Take Deposition on Written Questions (Form 13), and place in file folder entitled "Court Proceedings."					
c. Prepare Interrogatories and Answers of Witness to Interrogatories (Form 10 for subscribing witness, Form 140 for witness to signature, or Form 142 for witness for holographic will) and place in file folder entitled "Court Proceedings."					
d. Prepare and send Letter 15 to the witness to forward copies of D's will and the Interrogatories and Answers of Witness to Interrogatories (Form 10, Form 140, or Form 142), to be certain that the witness can testify properly.					
e. When you are satisfied that the witness can testify properly, do the following:					
(1) Determine amount of filing fee for Notice of Intent to Take Deposition on Written Questions (Form 13), arrange for payment, and charge to client's account.					
(2) File Notice of Intent to Take Deposition on Written Questions (Form 13) with clerk of court. If there is no opposing party or attorney of record on whom to serve notice and copies of interrogatories, request citation by posting, pay the required fee, and charge to client's account.					
(3) Order a certified copy of D's purported will (the one you recently filed) from clerk of court.					

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(4) Determine charge for certified copy, arrange for payment, and charge to client's account.					
f. When you have received the certified copy of D's purported will, send copies of Notice of Intent to Take Deposition on Written Questions (Form 13) to applicant.					
g. Obtain a deposition envelope and do the following:					
(1) Complete all information on the Deposition Envelope (FF 3).					
(2) Make a photocopy of the completed deposition envelope to send to witness as an instruction sample. Use colored pen to complete the instruction copy of the envelope as shown in the Instruction Sample (FF 4).					
(3) If you cannot locate a deposition envelope, copy the details from FF 3 on a large envelope. Complete all the information except the two signature lines reserved for the officer/notary. <i>Note:</i> Some courts prefer tamper-evident envelopes for transmitting interrogatories. Contact the clerk for specific requirements.					
h. Contact the witness to discuss the procedure that will be expected and have the witness arrange for a notary.					
i. Assemble the following items to send to witness:					
(1) Certified copy of D's purported will					
(2) Original copy of Interrogatories and Answers of Witness to Interrogatories (Form 10, Form 140, or Form 142)					
(3) Deposition envelope					
(4) Instruction sample of deposition envelope that you prepared					
j. Provide witness with all items listed in Item 54i of this Checkplan. If mailing, send Letter 16 to witness to forward those documents by certified or registered mail.					
(1) Attach mailing receipt to file copy of Letter 16.					
(2) When received, attach return receipt to file copy of Letter 16.					
k. Ensure that deposition envelope and its contents are received by clerk.					
l. Schedule the date and time for hearing, enter as Items 6.24 and 6.24A of MIL and Item 24 of SDL, and complete Item 25 of SDL.					
m. If IA, return to Item 19/ of this Checkplan.					

- n. If MT, return to Item 22k of this Checkplan.
- o. If ADE, return to Item 29m of this Checkplan.
- p. If AWA, return to Item 32m of this Checkplan.
- q. If TBA, return to Item 38o of this Checkplan.

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