

<input checked="" type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court Pueblo County, Colorado Court Address: 320 West 10th Street Pueblo, CO 81003	FILED IN THE OFFICE OF THE CLERK OF THE DISTRICT / COUNTY COURT
IN THE MATTER OF THE ESTATE OF:	
Donald E. Skadeland, Deceased	MAR 24 2003
Attorney or Party Without Attorney (name and address):	PUEBLO COUNTY, COLORADO
Catherine L. Clamp, <u>pro se</u> 7665 Patrick Street Fort Lupton, CO 80621	▲ COURT USE ONLY ▲
Phone #: (303)857-1499 E-mail: clamp@bwn.net FAX #: (303)857-1421 Atty. Reg. #: N/A	Case Number: 01 PR 291
	Division: C Courtroom:
MOTION FOR INTERIM ACCOUNTING	

Catherine L. Clamp, pro se, an heir of the Deceased in the within action, (herein "Petitioner") hereby moves this honorable court to demand an Interim Accounting of the assets of the Estate from the Personal Representative, Barbara A. Robbins, and as grounds therefore, states as follows:

1. Donald E. Skadeland, the Deceased, died intestate on July 16, 2001, leaving a total of three heirs. The within Probate was filed on or about August 2, 2001.
2. Barbara A. Robbins was appointed without contest as Personal Representative of the Estate on August 13, 2001.
3. On December 5, 2001, John M. Stinar, Esq, attorney for the Estate, prepared a "Decedent's Inventory Worksheet," which divided the items comprising the Estate into categories. The Personal Representative filled out the form in hand. The Inventory Worksheet is attached hereto as Exhibit A. Because the decedent died intestate, the heirs understood that the initial inventory was estimated and could only be completed after all of the assets were located and valued.

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4. Since the date of the initial Inventory, the Petitioner believes that all of the assets have been located. The majority of assets of the Estate have been divided among the heirs, including all Real Estate, some of the Securities, some of the Bank Accounts, all of the Insurance and Annuities, all of the IRAs and Retirement Plans, all of the Motor Vehicles, and all of the Personal Property.

5. Some of the assets listed on the Inventory have not been distributed, nor has the status of those assets been communicated to the heirs. After repeated request, on April 29, 2002, Petitioner received a copy of the appraisals of the Real Property as well as bank statements from Park State Bank & Trust, for the months September, 2001; October, 2001; November, 2001; and December, 2001. This bank account was established to manage the affairs of the Estate. Petitioner forwarded these documents to Deborah George (n/k/a Deborah Bamesberger), the other heir, as well as to the attorney for the Estate, who had not been in contact with the Personal Representative for a number of months, despite repeated attempt. No further information regarding the Estate account has been received to date.

6. The heirs have made repeated verbal and written attempts to ascertain information, but the Personal Representative has failed or refused to provide this information. Including in the assets for which no information has been provided are the following:

a. Under the "Securities" heading, the proceeds of the Goldman-Sachs Growth Fund, held by Piper Jaffrey, in the amount of \$17,546.00.

b. Under the "Securities" heading, Petitioner was entitled to the sum of \$86,000.00 from the sale of stocks held by Wachovia Securities (formerly First Union), Petitioner has received \$60,000.00. Petitioner agreed to loan \$14,000.00 to the Estate for the purpose of, repairing the Rental Properties pending sale. Petitioner requests an accounting of the expenses paid for repairs to date, including copies of cancelled checks or credit statements, the balance still held by the Estate, and the status of the remaining \$6,000.00 owed to Petitioner.

c. Under the "Notes Receivable" heading, all of the Notes, which consisted of Seller Carry-Back Promissory Notes on properties sold by the decedent, in the amount of \$174,000.00.

d. Under the "Bank Accounts" heading, the proceeds of the Community First checking account, in the amount of \$4,628.00, and the Cresco State Bank Certificate of Deposit, in the amount of \$19,583.00.

e. Under the "Unlisted Securities" heading, the proceeds of the Pueblo Investment Group account, in the amount of \$2,017.00.

7. While the Petitioner admits that there are certain initial and on-going expenses of the Estate, there has been no accounting to the heirs regarding the nature and amounts of those expenses.

8. In addition, there has been no accounting to the heirs as to reimbursement to the Personal Representative for services to the Estate. The Petitioner believes that an accounting of these services based on §15-12-721, C.R.S., is necessary, due to the varied matters engaged in by the Personal Representative. Specifically, Petitioner believes that the services should be determined as follows:

“(2) Factors to be considered as guides in determining the reasonableness of a fee include the following:

- (a) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the service properly; . . .
- (c) The fee customarily charged in the locality for similar services;
- (d) The amount involved and the results obtained;
- (e) The time limitations imposed by the personal representative or by the circumstances; . . .”

In Chase v. Lathrop, 74 Colo. 559, 223 P.54 (1924), one of the questions in fixing compensation was answered, “What service was rendered? The fact that he [the personal representative] is recognized as a member of some profession is immaterial, but whatever skill . . . which the estate was in need and of which it secured the benefit, is the proper element to be considered.” Therefore, cleaning services, routine bookkeeping services, and tax preparation would all be charged at different rates.

9. The real estate owned by the decedent included rental property (herein the “Rental Properties”). Until transfer to the heirs on July 2, 2002, the income from the Rental Properties was deposited into the Estate bank account to pay expenses. Since that time, funds have been withdrawn from the Property Manager, Jones-Healy Realty, at the discretion of the Personal Representative. This money has not been accounted for. In addition, payment of several large expenses, including property insurance and repairs, were paid by Petitioner and Deborah Bamesberger, from personal funds. Despite repeated request, Petitioner has not be reimbursed by the Estate for payment of the property insurance for 2001 or 2002, in the amount of \$2,486.00.

10. Upon information and belief, more than \$3,000.00 of the funds held by Jones-Healy Realty, was recently withdrawn by the Personal Representative, purported to be used to pay property taxes.

11. However, according to the Pueblo County Treasurer, as of March 10, 2003, property taxes for 2001 remain unpaid and delinquent, and taxes for 2002, while not yet due in full, are unpaid.

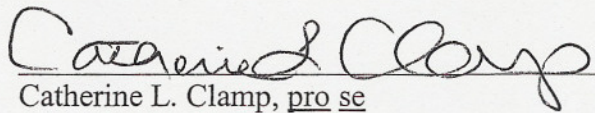
12. Robert B. Keyser, Esq., presently the attorney for the Estate, has made repeated attempt to finalize the probate, to no avail. An accounting is required for the attorney to prepare closing paperwork for the probate, and complete distribution of the assets. Upon information and

belief, the Personal Representative has been uncooperative and uncommunicative with the attorney for the Estate.

13. In addition, upon information and belief, funds were withdrawn by the Personal Representative from the Jones-Healy account in earlier months to pay the attorney. However, payment for services rendered to the Estate by the attorney have not been received, in an amount in excess of \$4,400.00. The last payment received by the attorney for the Estate was in August, 2001.

WHEREFORE, Petitioner prays that the Court make demand on the Personal Representative to fully account for all of the assets of the Estate so that the probate may be closed in an expeditious manner.

Respectfully submitted this 24th day of March, 2003.


Catherine L. Clamp, pro se


CERTIFICATE OF MAILING

The undersigned certifies that she did, on this 24th day of March, 2003, mail a true and correct copy of the above and foregoing MOTION FOR INTERIM ACCOUNTING and proposed ORDER FOR INTERIM ACCOUNTING in the United States certified mail, return receipt requested, postage prepaid, addressed as follows:

Barbara A. Robbins
Personal Representative
Estate of Donald A. Skadeland
6640 Foxdale Circle
Colorado Springs, CO 80919

Deborah Bamesberger
P.O. Box 11966
Aspen, CO 81612

Robert B. Keyser, II, Esq.
Stinar Zendejas & McQuitty, LLC
102 N. Cascade, Suite 350
Colorado Springs, CO 80903


Catherine L. Clamp

X District Court ☐ Denver Probate Court
Pueblo County, Colorado
Court Address:
320 West 10th Street
Pueblo, CO 81003

IN THE MATTER OF THE ESTATE OF:

Donald E. Skadeland,

Deceased

Attorney or Party Without Attorney (name and address):

Catherine L. Clamp, pro se
7665 Patrick Street
Fort Lupton, CO 80621

Phone #: (303)857-1499 E-mail: clamp@bwn.net
FAX #: (303)857-1421 Atty. Reg. #: N/A

FILED IN THE OFFICE OF THE CLERK
OF THE DISTRICT / COUNTY COURT

MAR 24 2003

PUEBLO COUNTY, COLORADO

▲ COURT USE ONLY ▲

Case Number: 01 PR 291

Division: C **Courtroom:**

**MOTION FOR REMOVAL AND APPOINTMENT
OF SUCCESSOR CO-PERSONAL REPRESENTATIVES,
FOR TEMPORARY RESTRAINING ORDER, AND FOR FORTHWITH HEARING**

Catherine L. Clamp, pro se, an heir of the Deceased in the within action (herein "Petitioner") prays that this Honorable Court remove Barbara A. Robbins as Personal Representative for the Estate, and appoint a Successor Personal Representative. Petitioner further requests that the Court impose a Temporary Restraining Order on the Personal Representative to prevent removal of the assets of the Estate until a hearing can be held. As grounds therefore, the Petitioner states as follows:

1. Donald E. Skadeland, the Deceased, died intestate on July 16, 2001, leaving a total of three heirs. The within Probate was filed on or about August 2, 2001.
2. Barbara A. Robbins was appointed without contest as Personal Representative of the Estate on August 13, 2001.
3. On December 5, 2001, John M. Stinar, Esq, attorney for the Estate, prepared a "Decedent's Inventory Worksheet," which divided the items comprising the Estate into categories.

The Personal Representative filled out the form in hand. The Inventory Worksheet is attached as Exhibit A to the Motion for Interim Accounting filed contemporaneously herewith. Because the decedent died intestate, the heirs understood that the initial inventory was estimated and could only be completed after all of the assets were located and valued.

4. The location and value of the assets have long been established. While Petitioner recognizes that the Personal Representative has had an on-going series of personal issues, including a pending divorce and business lawsuits, the continued delay in distribution of the assets of the estate is becoming unreasonable. §15-12-703(1) states that the Personal Representative is "under a duty to settle and distribute the estate of the decedent . . . as expeditiously and efficiently as is consistent with the best interests of the estate."

5. A draft estate tax return, as well as the personal return of the decedent for 2001, was prepared by Christopher Holden, Esq., then attorney for the Estate, as early as January, 2002. Certain information regarding alternate valuation was required to be given to the attorney by the Personal Representative. When the information was not received in time, an extension to file the Estate Tax Return was prepared by the attorney and forwarded to the Internal Revenue Service, extending the date to file and pay taxes to October 16, 2002.

6. To date, neither the Estate Tax Return nor the decedent's personal tax return have been signed and filed. A recent conversation with Robert B. Keyser, Esq., present attorney for the Estate, indicates that he has not been able to reach the Personal Representative by phone, that telephone messages are not returned, and letters not responded to. No deposits have been made to the Internal Revenue Service, and penalties and interest continue to mount. The heirs are unable to complete this task because of lack of standing to sign for the Estate, and the lack of information regarding the assets. C.R.S. §15-12-709 requires that the "personal representative shall pay taxes on and take all steps reasonably necessary for the management, protection and preservation of the estate." Continued failure to file and non-payment of taxes diminishes the assets of the heirs.

7. Upon information and belief, no pleadings or documents have been filed with this Court since inception of the action in August, 2001.

8. The Personal Representative has not accounted for or distributed certain of the assets of the Estate (see Motion for Interim Accounting). Until filing of an Interim Accounting, Petitioner requests that a Temporary Restraining Order be placed on the Personal Representative, so that assets can be properly determined. Due to the on-going expenses of the Rental Properties of the Estate, a forthwith hearing is requested so that bills do not remain unpaid for too long a period while the restraining order is in effect.

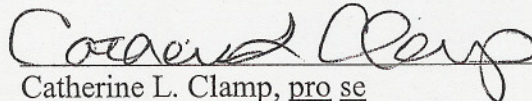
9. Petitioner believes that the personal issues affecting the Personal Representative prevent her from properly completing her duties as Personal Representative and that for the benefit of the heirs, removal of the Personal Representative would allow her to concentrate on those personal matters which require her attention.

10. The other two heirs, Petitioner and Deborah Bamesberger, are willing to succeed the Personal Representative as Co-Personal Representatives if appointed.

WHEREFORE, Petitioner prays for the following relief:

1. That a temporary restraining order be placed on the Personal Representative until an Interim Accounting of the assets of the Estate is filed with the Court.
2. That a forthwith hearing be had for Barbara A. Robbins to appear and show cause why she should not be removed as Personal Representative.
3. That the Court order that at such hearing, the records of the Estate be brought before the Court for review, to be turned over to any successor Personal Representative or Co-Personal Representatives as may be appointed by the Court if the Personal Representative is removed.

Respectfully submitted this 24th day of March, 2003.


Catherine L. Clamp, pro se

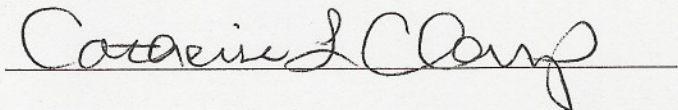
CERTIFICATE OF MAILING

The undersigned certifies that she did, on this 24th day of March, 2003, mail a true and correct copy of the above and foregoing **MOTION FOR REMOVAL AND APPOINTMENT OF SUCCESSOR CO-PERSONAL REPRESENTATIVES, FOR TEMPORARY RESTRAINING ORDER, AND FOR FORTHWITH HEARING** and proposed ORDER FOR FORTHWITH HEARING and TEMPORARY RESTRAINING ORDER in the United States certified mail, return receipt requested, postage prepaid, addressed as follows:

Barbara A. Robbins
Personal Representative, Estate of Donald A. Skadeland
6640 Foxdale Circle
Colorado Springs, CO 80919

Deborah Bamesberger
P.O. Box 11966
Aspen, CO 81612

Robert B. Keyser, II, Esq.
Stinar Zendejas & McQuitty, LLC
102 N. Cascade, Suite 350
Colorado Springs, CO 80903


Catherine L. Clamp