

STATE OF NEW MEXICO COUNTY OF BERNALILLO SECO
COURT

Case Number: D-202-PB-201100653

IN THE MATTER OF THE ESTATE OF: ELIZABETH WILLIAMS NAYLOR, Deceased

PETITION TO REOPEN PROBATE, COMPEL DISTRIBUTION OF ESTATE ASSETS, AND ORDER FINAL ACCOUNTING

COMES NOW, Petitioner, Elizabeth Ann Naylor Owens, a beneficiary of the Estate of Elizabeth Williams Naylor, and respectfully petitions this Court for relief to enforce the proper administration and distribution of estate assets in accordance with New Mexico probate law.

This petition is not a civil lawsuit but an enforcement action within the Court's continuing probate jurisdiction, requiring judicial intervention to:

- Enforce final distribution of estate assets pursuant to NMSA 1978, § 45-3-1003;
- Appoint an independent trustee if necessary;
- Order a new, accurate inventory and appraisal of the estate's assets.
- Compel a final and accurate accounting of all financial transactions related to the estate.

I. JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to **NMSA 1978, § 45-1-302**, which grants probate courts continuing authority over estate administration.

2. Venue is proper in this Court pursuant to **NMSA 1978, § 45-3-201**, as the Decedent was domiciled in Bernalillo County at the time of her passing.
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II. STATEMENT OF FACTS

A. The Estate Remains Incomplete Due to the Co-Trustees' Failure to Distribute Assets

3. The Decedent, Elizabeth Williams Naylor, passed away on November 24, 2011.
4. Guy Markley Naylor was appointed as the Personal Representative, and both Mr. Naylor and Dr. Dale Gunn serve as co-trustees of the 2011 Trust.
5. Despite the estate being administratively closed in February 2018, **no tangible estate assets have been distributed to the beneficiaries, contrary to NMSA 1978, § 45-3-1003.**
6. The Non-Judicial Settlement Agreement (NJSA), executed in 2022, was signed by Petitioner under financial duress because co-trustees conditioned a personal loan on immediate execution.
7. Petitioner was unaware at the time that co-trustees were not legally permitted to use the spendthrift trust as collateral for a loan, nor of financial wrongdoing.
8. *Even within the NJSA, assets were listed, but no actual distributions have been made to the beneficiaries.*

B. The Co-Trustees Have Not Provided a Complete and Accurate Accounting

9. The co-trustees' response relies heavily on the NJSA to claim that the estate has been settled but fail to acknowledge that **no estate assets have actually been distributed** as required under NMSA 1978, § 45-3-1003.

10. The co-trustees have not provided a full and accurate accounting of the estate's assets, transactions, and distributions, as mandated under NMSA 1978, § 45-3-706.

11. Their response does fail to include:

- Proof of completed asset distribution.
- An inventory of the remaining tangible personal property.
- An explanation for the continued delay (more than thirteen years) in asset distribution.

C. The Estate's Inventory and Appraisal Were Not Performed Accurately

12. The co-trustees have not conducted a professional appraisal of the estate's valuable assets, including artwork and antiques, which require a USPAP-certified appraiser to determine fair market value.

13. The inventory submitted in 2012 was incomplete and inaccurate, failing to provide proper valuations for high-value items.

14. The 2012 inventory and 2022 NJSA contain an inventory list without photographs or detailed descriptions, instead listing vague categorizations such as "two (2) landscapes" to describe paintings, which does not comply with probate standards.

15. To ensure equitable asset distribution, a new professional inventory and appraisal must be conducted.

III. LEGAL BASIS FOR RELIEF

A. Probate Court Retains Jurisdiction Over the Estate

16. Under NMSA 1978, § 45-1-302, probate courts retain jurisdiction when an estate remains open due to incomplete asset distribution.
17. The NJSA does not override the co-trustees' statutory obligations to complete estate administration and provide full distribution to beneficiaries.
18. The Court retains jurisdiction to enforce the estate's administration, compel asset distribution, and remove noncompliant fiduciaries.

B. The Co-Trustees Have Breached Their Fiduciary Duties

19. Under NMSA 1978, § 45-3-703, personal representatives and trustees must exercise reasonable care in administering and distributing estate assets.
20. The co-trustees have failed to:
 - Distribute estate assets to the beneficiaries.
 - Provide an accurate, complete inventory of estate property.
 - Conduct a proper appraisal for the fair distribution of valuable assets.
 - **Provide a full and accurate final accounting of all financial transactions related to the estate.**

20. Their failure to administer the estate in compliance with probate law warrants judicial intervention and, if necessary, removal.

C. An Independent Trustee Is Necessary to Complete the Estate's Administration

21. Given the co-trustees' failure to distribute estate property despite the estate's administrative closure, an independent trustee should be appointed to oversee and finalize the distribution.

IV. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that this Court:

1. Declare that probate remains open and within this Court's jurisdiction due to the co-trustees' failure to complete estate administration.
2. Order a new professional appraisal of all estate assets, including valuable artwork and antiques, to be conducted by a USPAP-certified appraiser within four (4) weeks.
3. Order a full accounting of all financial transactions from November 24, 2011, to the present, including bank statements, expenditures, asset distributions, within twenty-one (21) days of this Order.
4. Compel the distribution of all remaining estate assets in equal accordance with the Decedent's Will within fifteen (15) days following the completion of the appraisal.
5. Appoint an independent trustee to oversee final distribution if the co-trustees fail to comply.
6. Retain jurisdiction over the estate to ensure compliance.

Respectfully submitted this **19th** day of **February**, 2025.

Elizabeth Ann Naylor Owens, Petitioner, Pro Se



CERTIFICATE OF SERVICE

COMES NOW, Petitioner, **Elizabeth Ann Naylor Owens**, and hereby certifies that on this **19th day of February, 2025**, a true and correct copy of the **Petition to Compel Distribution of Estate Assets and Appoint an Independent Trustee** was served upon the following interested parties as required by **Rule 1-005(E) NMRA**:

Served Parties:

1. **Guy Markley Naylor & Dr. Dale Gunn**

[REDACTED]

Method of Service: Certified Mail

2. **Kurt A. Sommer, Esq.**
Sommer Udall Law Firm, P.A.

[REDACTED]

Method of Service: Certified Mail

3. **E. Vaughn Thomas**

[REDACTED]

Method of Service: Certified Mail

I declare under penalty of perjury under the laws of the State of New Mexico that the foregoing is true and correct.

Dated this **19th day of February, 2025**.

Respectfully submitted,

Elizabeth Ann Naylor Owens, Petitioner, Pro Se

[REDACTED]