

Bernalillo County New Mexico



Historical Perspective

Court of Wills, Estates & Probate



Court of Wills, Estates & Probate



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Court of Wills, Estates & Probate

CONTENTS

HISTORY OF COURT	1
PROBATE COURT HISTORY	2
THE HONORABLE WILLOW MISTY PARKS	3
Bernalillo County Probate Judges	
Willow Misty Parks, 2011-current	
Merri Rudd, 2001-2010	4
Ira S. Robinson, 1999-2000	
Thomas J. Mescall, 1989-1998	
Robert Hayes Scott, 1985-1989	
Hunter Geer, 1983-1984	5
Gerard W. Thomson, 1981-1982	
John J. Carmody, Jr., 1979-1980	5
Mary Walters, 1977-1978	5
Scott H. Mabry, 1975-1976	5
Robert L. Christensen, 1973-1974	5
Scott H. Mabry 1971-1972	5
Robert L. Christensen, 1967-1970	5
John E. Brown, 1965-1966	5
Oliver B. Cohen, 1959- 1964	6
James A. Maloney, 1959	6
Gerald D. Fowlie, 1957-1958	6
James A. Maloney 1953-1956	6
Addison Strong, 1951-1952	
Eleanor Farina DeCola, 1950	
Ramona Montoya, 1950	7
W. T. Harris, 1949-1950	
Addison Strong, 1947-1946	
Neil McNerney, 1943-1946	
Herminio S. Chavez, 1941-1942	7
Benjamin Osuna, 1937-1940	
D. Á. MacPherson, Jr., 1933-1936	7
Linus L. Shields, 1929-1932	
Desiderio Montoya, 1927-1928	
W. W. McLellan, 1923-1926	
Ricardo Sanchez, 1921-1922	

CONTENTS

BERNALILLO COUNTY PROBATE JUDGES
Juan Antonio Garcia y Sanchez, 1917-1920 8
John Baron Burg, 1913-1916
Julius Staab, 1912-1913
Filomeno Mora, 1910-1911
Jesus Romero, 1903-1909
Manuel Baca, 1903 (February 2 to March 2) 9
Esquipula Baca, 1901-1902
Cornelio M. Sandoval, 1899-1900
Frank A. Hubbell 1897-1898
Policarpio Armijo, 1895-1896
Jesus Armijo y Jaramillo, 1889-1894 10
Jesus M. Chavez, 1887-1888
Justo R. Armijo, 1885-1886
Tomas C. Gutierres, 1883-1884
Justo R. Armijo, 1879-1882
Mariano S. Otero, 1872-1878
Nestor Montoya, 1869-1871
Tomas C. Gutierres, 1868
M. F. Chavez, 1867
Thomas C. Gutierrez, 1866
Ambrosio Armijo, 1863-1865
Julian Perea, 1862
Rafael Armijo, 1860-1861
Jesus M. Baca, 1859-1860
Rafael Armijo, 1853-1858
Probate Court History Highlights
Jesus Romero
Ambrosio Armijo
Frank Hubbell
Mary Walters
Julius Staab
Ramona Montoya
BERNALILLO COUNTY CENTENNIAL EVENTS 17, 18

HISTORY OF COURT

American founding father Benjamin Franklin once wrote: "In this world nothing can be said to be certain, except death and taxes." With that in mind, Bernalillo County's Court of Wills, Estates & Probate is dedicated to helping people face a sometimes difficult and painful situation--settling the estates of their deceased loved ones.

"Probate" comes from the Latin word probāre which means "to inspect" and it is the probate court's main function to carefully examine each case and guide clients through the legal process of distributing the assets of a decedent's estate to the rightful recipients. These can include heirs, people or agencies named in a valid will, and creditors. Of course, it's always easier to do this if there is a valid will that everyone agrees with. But, unfortunately, that's not always the case and contested estates are often handled by district court.

Bernalillo County's Court of Wills, Estates & Probate currently processes more than 600 cases a year. And, there are benefits to working with this court. It only charges \$30 to conduct legal proceedings that determine outcomes such as who will serve as executor or personal representative over an individual's estate. District Court charges \$132. The Court of Wills, Estates & Probate also helps with research requests, sells probate forms packets, makes certified copies, conducts wedding ceremonies, and participates in free legal fairs for low-income families. The court keeps files back to the 1880s that are accessible for public review.

The Court of Wills, Estates & Probate is located on the sixth floor of the Albuquerque/Bernalillo County Government Center at One Civic Plaza, NW. For more information about the court, go to www. bernco.gov/probate-judges-office or call the Court of Wills, Estates & Probate at 505-468-1232.

PROBATE COURT HISTORY

Probate courts in New Mexico haven't always operated the way they do now. In September, 1850, the U.S. Congress passed the Organic Act which established the Territory of New Mexico and fixed the judicial powers of all its courts. Regarding probate courts, things were very different. For example, probate courts in 1850—and for many years later—could also rule on civil and criminal matters—acting as a sort of intermediary between the justice of the peace courts and the district courts.

Here's what the act said:

"The probate courts shall have jurisdiction in civil suits upon open and liquidated accounts, replevin, debts of any nature, when the sum claimed does not exceed five hundred dollars. Said courts shall also have jurisdiction in all criminal cases which pertain to the jurisdiction of justices of the peace, having concurrent jurisdiction with them in such causes, and shall receive appeals according to and under the same restrictions as now provided by law relative to appeals, touching such crimes, taken from justices of the peace to said probate courts."

Eventually, however, probate courts no longer handled civil and criminal cases. Under the current probate code, their jurisidction is limited to informal probate cases. Each of New Mexico's 33 counties has a probate judge.



THE HONORABLE WILLOW MISTY PARKS

The Honorable Willow Misty Parks is Bernalillo County's current probate court judge. She has served as Probate Judge since January 2011. Judge Parks' priority has been to

offer the community professional, friendly and efficient service. In order to fully serve the increasing number of customers, the staff has increased and more training has been implemented. Additionally, to more clearly communicate the services offered by the court, Judge Parks implemented a name change to the Court of Wills, Estates & Probate. She has increased outreach to county residents, courts and the legal community. As a result, the court has had an increase of over 10% new cases every year: 612 in 2011. Moreover, over 300 of those cases were customers that represent themselves. So far, this year, Bernalillo County's Court of Wills, Estates & Probate has processed 96 more probate cases than district court over the same period of time.

Probate and wills cases are only a portion of what the court does. On a yearly basis, the court makes over 8,000 contacts with the public through phone calls, emails and in-person communication. The court staff helps with research requests, sells probate forms packets, makes certified copies, conducts wedding ceremonies and participates in community outreach such as free legal fairs for low-income families.

In addition, many classes take tours of the court. In an effort to make the court files even more accessible to the public and to preserve the historic nature of the court's records, the court is scanning cases back to the 1880s. Judge Parks looks forward to continuing to lead the court to improve and expand services to the community.

2011-current Willow Misty Parks

is the fourth female probate judge in Bernalillo County. Judge Parks is licensed to practice in New Mexico, Federal District Court and the U.S. Supreme Court.

2001 - 2010 Merri Rudd

Judge Rudd was the third female probate judge in Bernalillo County. Judge Rudd was instrumental in implementing a docketing system for the court and making the docket information for court available online. She also compiled the probate court judges' training manual and has published several updates to her book, "Life Planning in New Mexico."

1999 - 2000 Ira Robinson

was elected to the Court of Appeals before the end of his term as probate judge.

1989 - 1998 Thomas J. Mescall

was a metro court judge and district court judge prior to being elected as probate judge. Judge Mescall was the last probate judge to be elected to a two year term and the first to be elected to a four year term. After completing his terms as probate judge, Judge Mescall moved to Chicago and became a Roman Catholic priest.

1985 - 1989 Robert Hayes Scott

became a district court judge and was appointed to be a U.S. Magistrate. Judge Scott remembers the court being in the old Sears Building on Central Avenue during his term in office. He was the judge on the infamous McDonald's hot coffee case in 1994 while serving at the Second Judicial District Court of Bernalillo County, N.M.

1983 - 1984 Hunter Geer

was also a district court judge.

1981 - 1982 Gerard W. Thomson

also served as a district court judge. He later moved to Washington, D.C., where his wife, Gloria Tristani, served from 1997 to 2001 as the first Hispanic female member of the Federal Communications Commission.

1979 - 1980 John J. Carmody, Jr.

served one term as probate judge and continues his law practice in Albuquerque.

1977 - 1978 Mary Walters

was a transport pilot during WWII and was the second female to serve as probate judge. She later served on the New Mexico Court of Appeals and was the New Mexico Supreme Court's first female justice.

1975 - 1976 Scott M. Mabry

was the son of former New Mexico Governor Thomas Mabry.

1973 - 1974 Robert L. Christensen

1971 - 1972 Scott H. Mabry

1967 - 1970 Robert L. Christensen

1965 - 1966 John E. Brown

was appointed as the state's first full-time children's court judge. Judge Brown was instrumental in creating CASA, a program to aid abused and neglected children. The Juvenile Justice Center is named after Judge Brown.

1959 - 1964 Oliver B. Cohen

continued to practice law for many years after the end of his term as probate judge.

1959 James A. Maloney

After his final term as probate judge, Judge Maloney served as a district court judge.

1957 - 1958 Gerald D. Fowlie

served during the Nuremberg trials after World War II and later helped found the Albuquerque Bar Association. After his term as probate judge, Judge Fowlie served three terms as a district court judge.

1953 - 1956 James A. Maloney

Prior to serving as probate judge, Judge Maloney was a municipal court judge and State Attorney General.

1951 - 1952 Addison Strong

was licensed to practice law in Texas, New Mexico, and before the U.S. Supreme Court.

1950 Eleanor Farina DeCola

was appointed by the county commission to fill out the term of W.T. Harris. She was the county's first female probate Judge. Prior to moving to New Mexico, as prosecutor she issued warrants for prohibition era bootleg raids in the period when the late Eliot Ness as public safety director headed the police department. After her term as probate judge, she went on to serve as a small claims court judge and municipal court judge. After 50 years, Judge DeCola was still practicing law in 1975.

1950 Ramona Montoya

On May 31, 1950, under a statute providing that the county clerk may serve as a probate judge in an emergency, Ramona Montoya "Acting for and at the request of W.T. Harris, Probate Judge" signed case #6463 and entered four wills into probate.

1949 - 1950 W.T.Harris

who at times had served as acting police chief, died during his term in office at the age of 51.

1947 - 1948 Addison Strong

was licensed to practice law in Texas, New Mexico, and before the U.S. Supreme Court.

1943 - 1946 Neil McNerney

also owned and operated the McNerney Funeral Home.

1941 - 1942 Herminio S. Chavez

worked as a laborer at the beginning of the Great Depression, then as a musician, and finally became a justice of the peace until he was elected as probate judge. After his tenure as probate judge, Judge Chavez worked as a city policemen, at a filling station, and in various grocery businesses for the remaining 35 years of his life.

1937 - 1940 Benjamin Osuna

was the son of a medical doctor. He left his position as probate judge to fight in the U.S. Armed Services in WWII.

1933 - 1936 D.A. MacPherson, Jr.

After his two terms as probate judge, Judge MacPherson served as a district court judge.

1939 - 1932 Linus L. Shields

was born in Jemez Springs in 1881 and died in 1932.

1927 - 1928 Desiderio Montova

1923 - 1926 W. W. McLellan

Prior to serving as probate judge, Judge McLellan was Justice of the Peace and Police Judge. The McClellan Park, across from the Federal Court house, is named in memory of his wife. He was also president of the Appolo Music Co.

1921 - 1922 J. Ricardo Sanchez

1917 - 1920 Juan Antonio Garcia y Sanchez

Prior to becoming probate judge, Judge Garcia y Sanchez was a well-respected merchant and mortician. He was elected to the office of county commissioner three times and twice as probate judge.

1913 - 1916 John Baron Burg

was appointed to fill the vacancy created by the death of Judge Julius Staab. Prior to his appointment as probate judge, Judge Burg had been a territorial delegate from New Mexico in Congress and was elected to the first state legislature from Bernalillo County in 1911.

1912 - 1913 Julius Staab

A member of the prominent Staab family of Santa Fe, Julius graduated from Harvard University and went on to study law at Columbia University, after which he began practicing law in Chicago. Upon his return to New Mexico, he served as Assistant District Attorney, a member of the commission to revise the laws of New

Mexico and a member of the Law Board of Bar Examiners. Judge Staab was elected probate judge in 1911; the first election after New Mexico became a state. Judge Staab served until within a few days of his death, when ill-health prompted his resignation.

1910 - 1911 Filomeno Mora

1903 - 1909 Jesus Romero

Prior to serving as probate judge, Judge Romero served as a coroner, and then as a county commissioner from 1989-1899. Judge Romero owned a store in Old Town in the early 1900s. After his term as probate judge ended, Judge Romero served as sheriff from 1909 to 1913.

1903 Manuel Baca (February 2 to March 2)

1901 - 1902 Esquipula Baca

1899 - 1900 Cornelio M. Sandoval

1897 - 1898 Frank A. Hubbell

was a member of the well-known Hubbell family. Judge Hubbell founded the Frank A. Hubbell Co., general merchants and livestock dealers, and was the director of the Occidental Life Insurance Co. He was half owner of the Albuquerque Water Company until the city bought him out.

1895 - 1896 Policarpio Armijo

Prior to becoming probate judge, Judge Armijo was a firefighter who traveled to many areas of the state and was one of the most prominent businessmen in the sheep industry, contributing largely to the commercial development and prosperity of New Mexico. After his term as probate judge, he went on to serve as county commissioner and found his chief source of recreation in motoring.

1889 - 1894 Jesus Armijo y Jaramillo

was instrumental in obtaining confirmation of the Atrisco land grant.

1887 - 1888 Jesus M. Chavez

1885 - 1886 Justo R. Armijo

Prior to his first term as probate judge, Judge Armijo was actively involved in the sheep industry. After his second term as probate judge, Judge Armijo continued to be active in public service, serving two terms as county commissioner. He also served as a member of the board of penitentiary commissioners, county treasurer and collector.

1883 - 1884 Tomas C. Gutierres

1879 - 1882 Justo R. Armijo

Prior to his first term as probate judge, Judge Armijo traveled extensively, making several voyages from New York to Vera Cruz as purser on the Red D Line of steamers; seeking further knowledge of the West Indies and its inhabitants, he spent 18 months as a bookkeeper in a hotel in Havana, Cuba.

1872 - 1878 Mariano S. Otero

Prior to becoming probate judge, Judge Otero was a member of the territorial assembly and a delegate to the U.S. Congress.

1869 - 1871 Nestor Montoya

1868 Tomas C. Gutierres

1867 M. F. Chavez

1868 Tomas C. Gutierres

1867 M. F. Chavez

1866 Thomas C. Gutierrez

1863 - 1865 Ambrosio Armijo

is said to have made a sheep drive to California in 1852 and returned with \$10,000 in six-sided gold coins sewn into the lining of his vest. During the Civil War, he was a colonel in the militia. During his term as probate judge, Judge Armijo's wagon train was robbed on its way to Santa Fe. He was also a Bernalillo County Treasurer in 1864. Judge Armijo had the second floor added to what is now the La Placita Restaurant and a walnut staircase leading to it for his daughter, Teresa's, wedding in 1872. Judge Armijo went to the Centenniel Exposition in Philadelphia in 1876 as a merchant and continued in merchandising in Albuquerque until at least 1880.

1862 Julian Perea

1860 - 1861 Rafael Armijo

represented Bernalillo County in the legislative house in 1847 and 1853. Judge Armijo and his brother, Manuel, were wealthy native merchants, who upon Confederate General Sibley's arrival in Albuquerque in 1862, boldly announced their support of the Confederate cause, and placed their stores containing \$200,000 worth of goods at Sibley's disposal; when Sibley retreated, they left Albuquerque with him and settled in San Antonio, Texas. The Union confiscated their store, flour mill and ranches and sold them at auction. By 1882 they had returned to Albuquerque.

1859 - 1860 Jesus M. Baca

1853 - 1858 Rafael Armijo

was a prefect from 1853 until becoming probate judge in 1858.

PROBATE COURT HISTORY HIGHLIGHTS

Only four of Bernalillo County's 55 probate judges have been women. They include Willow Misty Parks, Merri Rudd, Mary Walters, and Eleanor Farina DeCola,

Many of Bernalillo County's probate judges are recognized as having played significant roles in New Mexico's history. They include:

JESUS ROMERO served a lengthy tenure as probate judge from 1903 to 1909. Judge Romero was born in Old Albuquerque on February 8, 1859, the son of Manuel A. Romero and Aniceta Garcia. He attended the Christian Brothers' school in Old Albuquerque and in 1875 St. Michael's College in Santa Fe. For a number of years he lived with his widowed mother. Between 1886-9, he opened a store in the former old Central Bank building in Old Town. In 1891 he served as coroner for Bernalillo County, and in 1897-8 as a Bernalillo County Commissioner. In 1901 he lived on the west side of the Old Town Plaza and ran a market there. In 1903 he began his nearly six years as probate judge. After this, he served from 1909 to 1913 as Sheriff of Bernalillo County. His wife was Mary Springer (b. 1866), daughter of Henry Springer. In 1923 the Romeros were still living on the west side of the Old Town Plaza.

AMBROSIO ARMIJO served as Bernalillo County probate judge from 1863 to 1865. He was born between 1817 to 1820 at Ranchos de Albuquerque. He was the son of Juan Armijo and Rosalie Ortega. Juan Armijo's brother, General Manuel Armijo, was the last provincial governor of New Mexico under the Mexican Republic (1837-46). Ambrosio married twice: first to Candelaria Griego; second to Maria Candelaria Otero (b. 2/6/1827 to Vicente Otero and Gertrudes Chavez of Tome). This second wife was the sister of Antonio J. Otero, one of three Superior Court Justices appointed by General Stephen

PROBATE COURT HISTORY HIGHLIGHTS

W. Kearny at the beginning of his military government of the New Mexico Territory, September 22, 1846. Maria was also a paternal aunt of Mariano S. Otero who later became Bernalillo County Probate Judge (1872-78).

Donald Dreesen's Nineteenth Century Pioneers of Albuquerque identifies Ambrosio further, stating that in 1844-5 he bought his first house in Albuquerque. It was located east of the present La Placita. The sala of the house was to the right of the carriage way (apparently when viewed from the street and facing east from the Old Town Plaza). The front of the house was about 100 feet long including an adjoining store. The house had a placita and ironwork guarding the windows.

In 1852, Ambrosio is said to have made a sheep drive to California and returned with \$10,000 in six-sided gold coins sewn into his vest. In 1860 he contributed to the expansion of San Felipe Church on the north side of the Plaza. During the Civil War, he was a colonel in the militia. Subsequently, he became Bernalillo County Probate Judge. In 1864, his wagon train was robbed on its way to Santa Fe. He was also Bernalillo County Treasurer that year.

In 1872, for his daughter Teresa's wedding, he added a second floor to what is now the La Placita Restaurant and a walnut staircase. He moved from Los Poblanos to this house.

On May 28, 1874, he noted: "The County of Bernalillo is being completely annihilated by rushing waters. A body of land 12 miles long and 2 miles wide embracing the fields and houses from Alameda above to Los Barelas below is a watery waste; and the loss must be at least two million dollars, for all the towns and settlements within that area must be swept away. Albuquerque proper, the river has not yet reached -- but the place must be abandoned."

PROBATE COURT HISTORY HIGHLIGHTS CONT'D

In 1876, Ambrosio went to Philadelphia as a merchant of the Centenniel Exposition there. In 1879 and 1880, he is known still to have been merchandising in Albuquerque. In June, 1880, he bought five lots on Central Avenue, where the Armijo House was built. In 1882 he was a cattle and sheep dealer. He died April 9, 1882, a widower, in Albuquerque. It is believed that he was one of the richest men in the New Mexico Territory.

FRANK HUBBELL served as Bernalillo County probate judge from 1897 to 1898. He was known not only in Albuquerque, but all over the Southwest. His father, Santiago Hubbell, had assembled a company of New Mexico volunteers during the Civil War. Frank attended public school in Albuquerque, and graduated from St. Michael's in Santa Fe in 1881. He became the founder of the Frank A. Hubbell Co., general merchants and livestock dealers, and for years was the director of the Occidental Life Insurance Co. He was half owner in the Albuquerque Water Company until the city bought him out. He married Trinidad Garcia on September 15, 1885.

MARY WALTERS served as Bernalillo County probate judge from 1977 to 1978. She was appointed upon Bernalillo County Probate Judge Scott Mabry's death to complete his second term as judge in that office. Before taking the probate judgeship, she had served in District Court. After finishing the term as Probate Judge, she served as a judge on the New Mexico Court of Appeals, and then, as a justice on the New Mexico Supreme Court.

JULIUS STAAB served as Bernalillo County probate judge from 1912 to 1913. He is remembered by his classmates as a man of small stature, but of an unusually quick and active mind.

PROBATE COURT HISTORY HIGHLIGHTS CONT'D

Upon graduating from Harvard, Staab studied law at Columbia Univ ersity, after which he began practicing law in Chicago where he remained for two years. He then, to use his own words, "wandered Westward Ho," to New Mexico, the place of his birth, and settled in Albuquerque, where up to the time of his death, a dozen years later, his life was one of continuous accomplishment, marked by plain living and high thinking and by close application to the legal problems of his native state. During these years he held the following positions: Assistant District Attorney for the Second Judicial District of New Mexico; member of the Commission to revise the laws of New Mexico; member of the Law Board of Bar Examiners.

In 1911, in the first election after New Mexico became a state, Julius Staab was chosen Judge of the Probate Court of Bernalillo County. He held that position until a few days before his death, when ill-health prompted his resignation. Following the death of Judge Staab, memorial services were held in his honor by the Court of the Second Judicial District; and a committee appointed by the Bernalillo County Bar Association presented a eulogy on his life and character, together with a set of formal resolutions of sorrow and regret at his untimely death. In the resolutions, it was stated that as a citizen, lawyer and judge Julius Staab merited and received the respect of the entire community in which he lived and worked and, that up until the time of his death, his career had given every promise of becoming more and more useful and distinguished as the years went by.

RAMONA MONTOYA, a county clerk, served as temporary probate judge for a short period in 1950 before the current Probate Judge W.T. Harris' death.

PROBATE COURT HISTORY HIGHLIGHTS CONT'D

This is part of the article that was published in the Albuquerque Tribune on June 1, 1950, announcing the event:

"Mrs. Montoya sat as probate judge in the absence of W. T. Harris who became ill. Four wills were admitted to probate. Statutes provide that the county clerk may serve as probate judge in such an emergency."

The day after that article, Judge W. T. Harris died and the Bernalillo County Commission, meeting in a special session, voted unanimously to appoint Eleanor F. DeCola to serve as probate judge for the remainder of the deceased judge's term (i.e. until January 1, 1951).

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BERNALILLO COUNTY CENTENNIAL EVENTS

New Mexico's cultural heritage is, indeed, special. Bernalillo county is helping the state celebrate its Centennial by sponsoring several events and projects in 2012-2013. The most important ongoing project is the family history project which is designed to allow people to tell a story, send a photograph or provide a famly tree that will become part of a larger presentation.

Bernadette Miera, Cultural Services Manager for Bernalillo County, said the county wants to be part of the Centennial for many reasons. "For one, what we do now is going to help preserve the culture for the future," Miera said. "Historians and others are going to be looking at what we do with the family history project down the



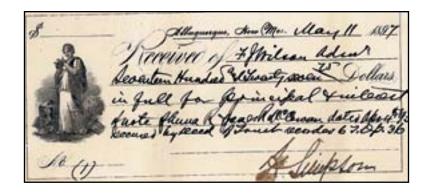
road. We have families who have been here for generations and others who only recently moved here, but plan to be here in 30, 40, 50 years or more. It all fits into what we are trying to do to preserve our diverse cultures."

From now until October 31, 2012, anyone who wants to contribute can go online at www.bernco.gov and click

BERNALILLO COUNTY CENTENNIAL EVENTS CONT'D

on the "Family Histories" link. Also, if you would like to submit your stories via email you can send them to bmiera@bernco.gov. You can provide a one page family history and up to three photographs to tell your family's story. The compilation of histories can be viewed on-line as it progresses.

At the end of the project, a book will be created and given to the state archives as the county's contribution to the centennial celebration. For more information contact Cultural Services at 468-1279.





Page 18

Court of Wills, Estates & Probate



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