

Ellis County Court at Law No. 1

JUDGE JIM CHAPMAN
Ellis County Courts Building
109 S. Jackson
Waxahachie, TX 75165



Updated October 2023

PROBATE/HEIRSHIP UNCONTESTED HEARING REQUEST FORM/CHECKLIST

Today's Date: _____ Estate of _____

Cause # _____ Ad Litem's name: _____

Type of hearing requested: _____

Requested Date and Time: _____

Email address where the Court can reach you: _____

Counselors,

This form must be submitted with your request for an uncontested prove-up hearing on a probate or heirship matter. No hearing date will be set unless this form signed by the attorney, and all the required documents from this checklist, have been submitted via email to the Court Coordinator, Tianta Schwartz, at ec11coordinator@co.ellis.tx.us. This process will allow the Court to review the case prior to the hearing and identify issues that may need to be addressed before the hearing, thus reducing the possibility of you and your client not achieving your desired outcome at the prove-up hearing because of procedural issues. This Checklist should be used in conjunction with the Court's Probate Guide and Heirship Guide that are available on the Court's website, fail to consult them at your own peril.

If, after review, the Court determines that the case is ready to be set, we will contact you to confirm your requested time or offer the next available dates if the date you requested is not available. If there are issues that need to be addressed, the Court Coordinator will notify counsel. Note that no hearing is considered set until the Court contacts you via email with a confirmed date and time; please inform witnesses an expected hearing date is not firm until after you've received confirmation from the Court.

Select the appropriate category for your requested hearing below and submit all the requisite information, listed in the check boxes below the category title, along with your setting request. Check each box as complete or write "NA" beside the box if it does not apply to your case.

Jim Chapman, Judge Presiding

ORIGINAL WILL WHERE AN ADMINISTRATION IS BEING SOUGHT

Proposed Order

Death Certificate, Death Verification (available from County Clerk) or a published obituary

Oath

Proof of Death and Other Facts

If not self-proven, Proof of Handwriting from one subscribing witness or two disinterested witnesses familiar with the Decedant's handwriting

If Holographic, Proof of Handwriting from two disinterested witnesses familiar with the Decedent's handwriting

Waiver from or Death Verification for all named executors with higher priority than applicant

If independent administration provision is not included in Will, but desired, consents from all beneficiaries to an independent administration

If bond is not waived in the Will, but desired, consent from all beneficiaries to the waiver of bond

If a Power of Sale is not included in the Will, but desired, consents from all the beneficiaries to the granting of a Power of Sale

Return of Citation

Appointment of Registered Agent (If proposed representative lives outside Texas)

If a Dependent Administration is necessary, information about the nature, extent and value of the estate's assets should be provided for bonding purposes. Also, the Dependent Administrator Instructions, which are available on the Court's website, should be signed by the proposed Dependent Administrator and counsel.

ORIGINAL WILL THAT IS BEING OFFERED AS A MUNIMENT OF TITLE ONLY

Proposed Order

Death Certificate, Death Verification (available from County Clerk) or a published obituary

Oath of No Debts

Proof of Death and Other Facts

If not self-proven, Proof of Handwriting from one subscribing witness or two witnesses familiar with the Deceased's handwriting

Waiver from or Death Verification for all named executors with higher priority than applicant

Return of Citation

There is no partial intestacy

COPY OR LOST WILL (In addition to all the Requirements listed above for an Original Will)

Special form of posting was accomplished

Waivers from or Personal Service on (with returned citations) all devisees and all heirs who would take in the event of intestacy

Ad Litem has been appointed and the \$500 deposit paid

The Application contains the name, age, marital status, and address of each devisee named in the Will and each of Decedent's heirs.

Testimony of one disinterested witness who can identify the Decedent's heirs at law

If a lost Will, with no copy, a witness who can testify about the contents of the Will

WILL OFFERED FOR PROBATE MORE THAN FOUR YEARS AFTER DEATH OF TESTATOR

(In addition to all the Requirements listed above for an Original Will)

Special form of posting was accomplished

Waivers from or Personal Service on (with returned citations) all devisees and all heirs who would take in the event of intestacy

Ad Litem has been appointed and the \$500 deposit paid

The Application contains the name, age, marital status, and address of each devisee named in the Will and each of Decedent's heirs

Testimony of one disinterested witness who can identify the Decedent's heirs at law

Testimony of why the Applicant is not in default for failure to probate the Will within four years

WILL WITH SPECIAL CONSIDERATIONS SUCH AS A PARTIAL INTESTACY, ADOPTIONS BY ESTOPPEL, COMMON LAW MARRIAGES, PROPERTY CHARACTERIZATION ISSUES OR WILL CONSTRUCTION

Consult the Court's Probate Guide and Heirship Guides as the complexity of these situations defy a simple checklist

INTESTACY – APPLICATION TO DETERMINE HEIRSHIP - ADMINISTRATION

Proposed Order(s), with heirship chart in the format set forth in the Heirship Guide

Proof of Death and Other Facts

Death Certificate, Death Verification (available from County Clerk) or a published obituary

Oath (If Administration is being sought)

Appointment of Registered Agent (If proposed representative lives outside Texas)

Testimony of two disinterested witnesses who can identify the Decedent's heirs at law

Affidavit of Service of Citation required by Estates Code §202.057

Publisher's Affidavit has been filed

Attorney Ad Litem's report has been filed or will be filed prior to the hearing

Every Heir has been personally serviced with citation by the Sherriff/Constable or has filed a waiver, see the Heirship Guide for the particulars on service/waiver for minors

If Independent Administration is sought, every heir has filed a consent for independent administration

If waiver of bond is sought within an Independent Administration, every heir has filed a consent for waiver of bond

If a Dependent Administration is necessary, information about the nature, extent and value of the estate's assets should be provided for bonding purposes. Also, the Dependent Administrator Instructions, which are available on the Court's website, should be signed by the proposed Dependent Administrator and counsel.

Certification of Applicant's Attorney: By my signature below, I certify to the Court and its staff that, before signing this request, I completed all the checked items as indicated above, and I verified all the checked items as indicated above.

Applicant's Attorney (Printed Name)

Applicant's Attorney (Signature)