

**ELLIS COUNTY COURT AT LAW NO. 1
ADMINISTRATIVE ORDER**

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IN THE ELLIS COUNTY

2025-1

COURT AT LAW NO. 1

**ORDER REGARDING APPLICATIONS TO PROBATE A COPY OF A LOST
WILL OR A LOST WILL WITHOUT A COPY**

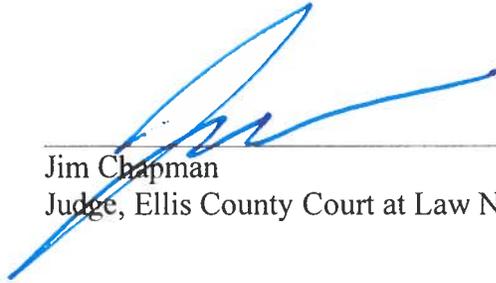
The Court finds that the statutorily required citation is insufficient to advise heirs of their right to object to an application to probate lost original will, whether such will is lost entirely or a copy is offered. As authorized by Texas Estates Code §51.151, explicit notice of their right to object should be given to all heirs, either attached to all citations prepared by the Clerk or included as part of all waivers of citation.

IT IS THEREFORE ORDERED that when an application is filed to probate a lost will:

1. The Clerk must attach to each citation issued under Texas Estates Code §258.002 the “Notice of Application to Probate Copy of Lost Will or Codicil or Lost Will of Codicil without a Copy” that is attached to this Order, informing all persons interested in the estate of their right to object to the probate.
2. All persons who are named as devisees in the lost will must be personally served with citation under §258.002 or must execute an affidavit waiving citation.
3. All persons who would inherit as an heir of the testator if the lost will is not admitted to probate must be personally served with citation under §258.002 or must execute an affidavit waiving citation. If the lost will is a codicil to an original will, the beneficiaries of the testator’s original will – instead of the testator’s heirs – must be personally served with citation under §258.002 or must execute an affidavit waiving citation.
4. When an heir or devisee executes an affidavit waiving citation, the affidavit itself must explicitly include in its’ body all points addressed in the “Notice of Application to Probate Copy of Lost Will or Codicil or Lost Will or Codicil

without a Copy' attached to this Order. It is not sufficient for the affidavit to refer to an attached notice.

Ordered this 25th day of April, 2025



Jim Chapman
Judge, Ellis County Court at Law No. 1

Notice of Application to Probate Copy of Lost Will or Codicil or Lost Will or Codicil without a Copy

You are notified that an application has been filed in this Decedent's estate to probate a written will or codicil even though the applicant cannot produce the original will. The application filed in this estate seeks either to probate a copy of a lost will or codicil or to probate a lost will or codicil without a copy (all referred to below as "lost will").

When an original will cannot be produced, the law presumes that the testator (the person who wrote the will) revoked the will before the testator's death. The Court will not grant the application in this case unless the applicant offers sufficient evidence to rebut that presumption and proves to the Court that the will was not revoked, even though only a copy has been filed.

If no will is admitted to probate, Decedent's property will pass to Decedent's heirs. If a lost codicil to a valid original will is not admitted to probate, Decedent's property will pass to the devisees (beneficiaries) named in the valid will. Therefore, your rights to inherit property may be affected by the probate of the lost will either (1) as an heir of the Decedent, or (2) as someone who is named as a devisee in the lost will, or (3) as a devisee in a valid will when there is a lost codicil to that will.

If you want to object to the probate of the lost will, you must file a written objection with the Clerk. The Clerk's citation, which is attached to this notice, indicates the date by which you should file a written objection. Note that the citation does not indicate a specific hearing date.

If you sign an affidavit waiving citation, you are indicating to the Court that you do not object to the probate of the lost will.

You should consult an attorney if you have any questions about your rights in this probate matter.