Administration of Estates and Guardianships

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Administration of Estates and Guardianships **Spring 2026**

Syllabus

Instructor: Judge Jason Cox
jason_a_cox@hotmail.com
713-416-6360

Course Description, Overview and Objectives, and Learning Outcomes:
Administration of Estates and Guardianships is a combined survey and skills-based course providing an in-depth study of the Texas Estates Code and its application in estate and guardianship administration. The course explores the statutory framework governing wills (the good, the bad, and the awful), intestate succession, dependent and independent administrations, and alternatives to formal probate. Students will analyze contested matters, creditor claims, and other procedural and ethical issues arising in estate practice.

The guardianship component examines the establishment, administration, and termination of guardianships of the person and estate, as well as less-restrictive alternatives and related proceedings such as mental health commitments.

Through lectures, case studies, and hands-on drafting exercises, students will gain practical familiarity with the pleadings, orders, and filings most commonly used in probate and guardianship practice. Active participation is expected.

Course Material:
Texas Estates Code (2025). Johanson's Texas Estates Code Annotated, 2025 ed. (Texas Annotated Code Series) is recommended.

Course supplement containing selected cases, pleadings, and other materials.

Assignments:
Students are expected to complete all assigned readings and be prepared to discuss the designated cases and statutory provisions for each class session. Case discussions are an integral part of the learning process and will be used to reinforce both doctrinal understanding and practical application.

Each student will be assigned specific cases for presentation or discussion. If a scheduling conflict arises and you are unable to attend on the date of your assigned case, it is your responsibility to arrange a swap with another student and to notify the instructor in advance.

Failure to arrange coverage or to participate in your assigned case discussion may result in a reduction of your final grade.

Office Hours:
I am available to students by phone, text, or email between **9:00 a.m. and 4:30 p.m., Monday through Thursday.** While my availability outside these hours and on weekends may be limited, I will make every effort to respond to messages in a timely manner.

I am also available to meet in person by appointment, as well as briefly before or after class as my schedule permits.

Inclement Weather:
In the event of inclement weather, we may opt to have class via Zoom unless the campus has closed. On potential "weather days," please monitor your e-mail so that you can be apprised of class status.

Class, Attendance, and Instructional Mode:
Each class session will combine in-person lecture, discussion of relevant case law and statutory provisions, and application of those concepts to practical problems. Students will review and analyze actual wills, pleadings, and filings drawn from Texas probate courts, focusing on materials that illustrate the topic under discussion. Instruction will emphasize both doctrinal understanding and real-world procedural practice.

Assessment and Grading:
Course grades will be based on a combination of written and examination components designed to evaluate both substantive understanding and practical application of the Texas Estates Code.

Midterm Examination (40% of final grade): A take-home drafting assignment to be completed individually. The midterm will assess students' ability to apply statutory requirements and procedural rules to fact-based scenarios and to produce professional-quality pleadings or documents.

Final Examination (60% of final grade): An in-class multiple-choice and true/false examination. Students may use a copy of the *Texas Estates Code* during the exam but may not consult notes, outlines, or other materials.

Adjustments to final grades may be made based on the quality and consistency of class participation in accordance with UHLC policy.

AI Generated Text and Work Product:
Your continuing enrollment in this course obligates you to not knowingly prompt, generate, or use any AI generated text in relation to any activity or assessment of this course. This obligation includes that your assessment materials in the course is without any contribution from AI generated text.

Recording of Class:
Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Justin Dart, Jr. Student Accessibility Center. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor's recordings for their own studying and notetaking. Instructor's recordings are not authorized to be shared with *anyone* without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

Syllabus Changes:
Please note that the instructor may need to make modifications to the course syllabus and may do so at any time. Notice of such changes will be announced as quickly as possible through e-mail.

Names and Pronouns:
Chosen names and preferred pronouns (including non-binary ones such as they/them/their) must be respected in the classroom. Please feel free to reach out to me at any time if you want to make me aware of your chosen name or preferred pronouns, or if you have concerns about how I or your classmates address you.

Inclusivity and Support:
If you observe religious or cultural holidays that will coincide with synchronous class sessions or conferences, please let us know as soon as possible, so that we may make arrangements.

If you anticipate or experience barriers based on a disability (including any chronic or temporary medical or mental health condition), please feel free to reach out to me so that we may discuss options. If you require any support services, you may contact Ms. Samantha Ary, Academic Records Coordinator. Ms. Ary is located in room 44A TU-II in the Office of Student Services suite, and she can be reached at sary@central.uh.edu or 713-743-7466. Requests for accommodation that involve graded assignments **must be directed to Ms. Ary** and should be made as soon as possible to allow adequate time to document and to process the request.

The Texas Lawyers' Assistance Program ("TLAP") also supports law students who are dealing with stress, anxiety, depression, substance abuse, and other mental health problems. You can reach TLAP at any time at 1-800-343-8527. TLAP's website includes a page with links to sources about mental health that are of interest to law students: https://www.tlaphelps.org/law-students.

Counseling and Psychological Services (CAPS):
CAPS can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling 713-743-5454 during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the "Let's Talk" program, a drop-in consultation service at convenient locations and hours around campus. www.uh.edu/caps/outreach/lets_talk.html .

The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday – Friday, 8am-4:30 to schedule an appointment.

The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being.

The Center for Student Advocacy and Community (CSAC) is where you can go if you need help but don't know where to start. CSAC is a " home away from home" and serves as a resource hub to help you get the resources needed to support academic and personal success. Through our Cougar Cupboard all students can get up to 30 lbs of FREE groceries a week. Additionally we provide 1:1 appointments to get you connected to on and off campus resources related to essential needs, safety and advocacy and more. The Cougar Closet is a registered student organization advised by our office and offers free clothes to students so that all Coogs can feel good in their fit. We also host a series of cultural and community-based events that fosters social communication and helps the cougar community come closer together. Visit the CSAC home page or follow us on Instagram @uh_CSAC and @uhcupbd.

Women and Gender Resource Center:
The mission of the WGRC is to advance the UH and promote the success of all students, faculty and staff through educating, empowering and supporting the UH community. The WGRC suite is open to you. Stop by the office for a study space, to take a break, grab a snack or check out one of the WGRC programs or resources. Stop by Student Center South room B13 from 9:00 am to 5:00 pm Monday through Friday

Sexual Misconduct Policy:
The University is committed to maintaining and strengthening an educational, working and living environment where students, faculty, staff, and visitors are free from discrimination and sexual misconduct. If you have experienced an incident of discrimination or sexual misconduct, there is a confidential reporting process available to you. For more information, please refer to the University system's Anti-Discrimination Policy SAM 01.D.07 and Sexual Misconduct Policy SAM 01.D.08, available here:
http://www.uhsystem.edu/compliance-ethics/uhs-policies/sams/01-general-information/index.php
http://www.uhsystem.edu/compliance-ethics/_docs/sam/01/1d7.pdf (antidiscrimination)
http://www.uhsystem.edu/compliance-ethics/_docs/sam/01/1d8.pdf (sexual misconduct)

Please be aware that under the sexual misconduct policy, SAM 01.D.08, faculty are required to report to the University any information received regarding sexual misconduct as defined in the policy. Please note that the reporting obligations under the sexual misconduct policy reach to employees and students. Also, as a required reporting party, Law Center employees and faculty members are not a confidential resource.

Title IX/Sexual Misconduct:
Per the UHS Sexual Misconduct Policy, your instructor is a "responsible employee" for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/.

Security Escorts and Cougar Ride:
UHPD continually works with the University community to make the campus a safe place to learn, work, and live. Our Security escort service is designed for the community members who have safety concerns and would like to have a Security Officer walk with them, for their safety, as they make their way across campus. Based on availability either a UHPD Security Officer or Police Officer will escort students, faculty, and staff to locations beginning and ending on campus. If you feel that you need a Security Officer to walk with you for your safety please call 713-743-3333. Arrangements may be made for special needs.

Parking and Transportation Services also offers a late-night, on-demand shuttle service called Cougar Ride that provides rides to and from all on-campus shuttle stops, as well as the MD Anderson Library, Cougar Village/Moody Towers and the UH Technology Bridge. Rides can be requested through the UH Go app. Days and hours of operation can be found at https://uh.edu/af-university-services/parking/cougar-ride/.

Resources for Online Learning:
The University of Houston is committed to student success, and provides information to optimize the online learning experience through our Power-On website. Please visit this website for a comprehensive set of resources, tools, and tips including: obtaining access to the internet, AccessUH, Blackboard, and Canvas; using your smartphone as a webcam; and downloading Microsoft Office 365 at no cost. For questions or assistance contact UHOnline@uh.edu.

Webcams:
Access to a webcam is required for students participating remotely in this course. Webcams must be turned on when class starts so that students can participate in class discussion.

Reasonable Academic Adjustments/Auxiliary Aids:
The University of Houston complies with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, pertaining to the provision of reasonable academic adjustments/auxiliary aids for disabled students. In accordance with Section 504 and ADA guidelines, UH strives to provide reasonable academic adjustments/auxiliary aids to students who request and require them. If you believe that you have a disability requiring an academic adjustments/auxiliary aid, please contact the Justin Dart Jr. Student Accessibility Center (formerly the Justin Dart, Jr. Center for Students with Disabilities).

Additional Helpful Information:

Coogs Care: https://uh.edu/dsa/coogscare/

Student Health Center: https://www.uh.edu/healthcenter/

Class Schedule and Reading Assignments

Date	Chapter	Assignments
1/20/2026	Chapter 1: Anatomy of a Will	Tex. Est. Code §§ 22.031, 101.001, 254.003, 251.104, 251.1045, 255.053-054, 401.002, 401.003, 351.102, 256.003, 256.052, 251.052, 256.152, 301.002, 201.101
1/22/2026	Chapter 2: Necessity of Administration, Unclaimed Property	Tex. Est. Code §§ 306.002(b)-(c), 551.051 Tex. Prop. Code § 74.501 *Pruett v. Berkeley*, 405 S.W.2d 433 (Tex. Civ. App. – Waco 1966, no pet.) *Meekins v. Wisnoski*, 404 S.W.3d 690 (Tex. App. – Houston [14th Dist.] 2013, no pet.) *Estate of Hines,* 2020 WL 5948803 (Tex. App. – Texarkana 2020, no pet.)
1/27/2026	Chapters 3 and 4: Suitability to Serve	Tex. Est. Code §§ 304.001, 304.003, 361.051, 361.052 Tex. Health & Safety Code § 711.002 *Dean v. Getz*, 970 S.W.2d 629 (Tex. App. – Tyler 1998, no pet.) *In re Estate of Ramsay*, 2008 WL 2941248 (Tex. App. – Corpus Christi 2008, no pet.) *Pine v. Deblieux*, 360 S.W.3d 45 (Tex. App – Houston [1st Dist.] 2012, no pet.) *Pine v. Deblieux*, 405 S.W.3d 140 (Tex. App. – Houston [1st Dist.] 2013, no pet.)

		In re Estate of Van Meter, 2009 WL 885955 (Tex. App. – Fort Worth 2009, no pet.) *Schwalbe v. Cooper*, 211 S.W.2d 585 (Tex. App. – Waco 1948, writ ref'd.) *In re Estate of Brimberry*, 2006 WL 861483 (Tex. App. – Tyler 2006, pet. denied) *Estate of Maupin*, 2019 WL 3331463 (Tex. App. – Corpus Christi-Edinburg 2019, pet. denied)
1/29/2026	Chapters 3 and 4: Suitability to Serve	(See above)
2/3/2026	Chapter 5: Jurisdiction and Venue	Tex. Est. Code §§ 31.001, 32.001, 33.001, 33.052, 152.001, 151.001-005, 252.201-204, 34.001, 152.051, 32.003, 51.054 Tex. Prop. Code § 92.0162 *Haga v. Thomas*, 409 S.W.3d 731 (Tex. App. – Houston [1st Dist.] 2013, pet. denied) *In re Graham*, 971 S.W.2d 56 (Tex. 1998) *In re Estate of Trevino*, 2013 WL 5950138 (Tex. App. – San Antonio 2013, no pet.)
2/5/2026	Chapter 6: Independent Administration, Dependent Administration, Safekeeping Agreements, and Lost Wills	Tex. Est. Code §§ 305.101, 305.151-305.155, 256.051-054, 257.051-054, 301.052, 256.151-204, 111.101-102, 351.051-052, 401, *et seq.* *Colonial American Cas. & Sur. Co. v. Scherer*, 214 S.W.3d 725 (Tex. App. – Austin 2007, no pet.)

		Geeslin v. McElhenney, 788 S.W.2d 683 (Tex. App. – Austin 1990, no pet.) *Lawyers Sur. Corp. v. Snell*, 617 S.W.2d 750 (Tex. Civ. App. – Houston [14th Dist.] 1981, no writ) *McInnis v. Corpus Christi Nat'l Bank*, 621 S.W.2d 451 (Tex. Civ. App. – Corpus Christi 1981, writ ref'd n.r.e.) *Estate of Catlin*, 311 S.W.3d 697 (Tex. App. – Amarillo 2010, pet. denied)
2/10/2026	Chapter 7: Muniments of Title, Alternative Probate, Accountings, and Inventories	Tex. Est. Code §§ 257.051-054, 258.051, 301.002-003, 203.001, 309.051-056, 205.001-003, 353.051, 359.001-003, 308.002-004, 153.003, 204.051, 202.001-206 Tex. Prop. Code §§ 41.002, 42.001-002 *Carter v. Campbell*, 427 S.W.3d 503 (Tex. App. – Austin 2014, no pet.) *US v. Reitano*, 862 F.2d 982 (1st Cir. 1988) *Ferreria v. Butler*, 575 S.W.3d 331 (Tex. 2019)
2/12/2026	Chapter 7: Muniments of Title, Alternative Probate, Accountings, and Inventories	(See above) Discuss Will Prove-Up exercise.
2/17/2026	Chapter 8: Intestacy	Tex. Est. Code §§ 22.026, 22.015, 101.001, 201.001-202.003, 202.051-202.057, 204.101-204.103, 202.151 *State of Texas v. Estate of Loomis*, 553 S.W.2d 166 (Tex. Civ. App. – Tyler 1977, writ ref'd.)

		Northwestern Nat'l Cas. Co. v. Doucette, 817 S.W.2d 396 (Tex. App. – Fort Worth 1991, writ denied) *Dampier v. Williams*, 493 S.W.3d 118 (Tex. App. – Houston [1st Dist.] 2016, no pet.)
2/19/2026	Chapter 9: Compensation, Disclaimers, Foreign Wills, Interviewing the Client	Tex. Est. Code §§ 352.001-352.004, 501.001-.006, 251.053, 256.152(b), 122.002 Tex. Prop. Code § 122 *In re Estate of Boren*, 268 S.W.3d 841 (Tex. App. – Texarkana 2008, pet. denied) *Drye v. US*, 528 US 49, 120 S.Ct. 474 (1999)
2/24/2026	Chapter 10: Creditor's Claims	Tex. Est. Code §§ 308.051-056, 355.060, 355.001-002, 355.004, 355.151, 355.152-154, 355.064, 355.063, 355.102-103, 355.051, 355.109, 403.051 *City of Austin v. Aguilar*, 607 S.W.2d 310 (Tex. Civ. App. – Austin 1980, no writ) *Dyer v. Eckols*, 808 S.W.2d 531 (Tex. App. – Houston [14th Dist.] 1991, writ dism'd) *Bailey v. Cherokee County Appraisal Dist.*, 862 S.W.2d 581 (Tex. 1993) *Cessna Fin. Corp. v. Morrison*, 667 S.W.2d 580 (Tex. App. – Houston [1st Dist.] 1984, no writ) *Mohseni v. Hartman*, 363 S.W.3d 652 (Tex. App. – Houston [1st Dist.] 2011, no pet.)

		Green Mach. Co. v. Smithee, 474 S.W.2d 279 (Tex. Civ. App. – Amarillo 1971, no writ)
2/26/2026	Chapter 10: Creditor's Claims	(See above)
3/3/2026	Chapter 11: Related Matters in Administration and Contested Matters	Tex. Est. Code §§ 256.204, 123.001, 353.051-052, 53.053, 361.051-052, 452.101, 360.001-002, 452.051, 452.101, 404.001-003, 405.001, 405.008, 353.106, 353.107, 102.004, 353.051, 353.053, 353.101-107, 53.052(b), 351.051-052, 452.001-003, 404.035, 257.101 Tex. Prop. Code §§ 42.001, 42.002 Tex. Civ. Prac. & Rem Code § 37.005 *In re Estate of Casida*, 13 S.W.3d 519 (Tex. App. – Beaumont 2000, no pet.) *Hill v. Hill*, 623 S.W.2d 779 (Tex. App. – Amarillo 1981, writ ref'd n.r.e.) *In re Estate of Hutchins*, 391 S.W.3d 578 (Tex. App. – Dallas 2012, no pet.) *Wassmer v. Hopper*, 463 S.W.3d 513 (Tex. App. – El Paso 2014, no pet.) *Estate of Nielsen*, 533 S.W.3d 39 (Tex. App. – Texarkana 2017, pet. denied) *Fletcher v. Whitaker*, 2018 WL 4924944 (Tex. App. – Fort Worth 2018, no pet.) *In re Estate of Hunt*, 597 S.W.3d 912 (Tex. App. – Houston [1st Dist.] 2020, no pet.)
3/5/2026	Chapter 11: Related Matters in Administration and Contested Matters	(See above) Will Prove-Up exercise.

		Discuss Mid-Term exams.
3/10/2026	Chapter 12: Pet Trusts, Non-Testamentary Transfers, Electronic Data and Estates	Tex. Est. Code §§ 113.001-004, 113.101-106, 113.151-158, 113.052, 351.106, 402.003 Tex. Prop. Code § 112.037 *Hicks v. State of Texas*, 419 S.W.3d 555 (Tex. App. – Amarillo 2014, pet. ref'd) *Virtual Marilyn, LLC v. Estate of Monroe*, No. 1:2014-CV-07938 (S.D.N.Y. 2014) *Coffey v. Bank of America*, 2013 WL 257363 (Tex. App. – Beaumont 2013, no pet.) *Egelhoff v. Egelhoff*, 532 US 141 (2001) *Factors Etc., Inc. v. Pro Arts, Inc.*, 579 F.2d 215 (2nd Cir. 1978) *Estate of Turpin*, 2023 WL 4610104 (Tex. App. – San Antonio 2023, no pet.)
3/12/2026	Chapter 12: Pet Trusts, Non-Testamentary Transfers, Electronic Data and Estates	(See above)
3/17/2026	SPRING BREAK	No reading.
3/19/2026	SPRING BREAK	No reading.
3/24/2026	Chapter 12: Pet Trusts, Non-Testamentary Transfers, Electronic Data and Estates	(See 3/10/2026 assignments)
3/26/2026	Chapter 13: Mental Health	Tex. Health & Saf. Code §§ 573.001, 573.004, 573.011-012, 573.021-022, 573.025, 574.001-004, 574.009, 574.034, 574.021-022, 574.024, 574.103, 574.106 *State of Texas v. AW*, 2014 WL 5499604 (Tex. App. – Tyler 2014, no pet.)

		State v. CB, 2014 WL 5500457 (Tex. App. Corpus Christi-Edinburg 2014, no pet.) *Bruce v. Guernsey*, 777 F.3d 872 (7th Cir. 2015)
3/31/2026	Chapters 14 and 15: Elder Law, Guardianships, Establishing a Guardianship	Tex. Health & Saf. Code §§ 166.002-033, 166.151-162 Tex. Est. Code §§ 752.001-051, 1155.202 *Jimmo v. Sebelius*, 2011 WL 5104355 (D.Vt. 2013) *Natho v. State of Texas*, 2014 WL 538787 (Tex. App. – Austin 2014, pet. ref'd) *Fanuiel v. State of Texas*, 2019 WL 546846 (Tex. App. – Houston [14th Dist.] 2019, pet. ref'd) Mid-Term Examinations due.
4/2/2026	Chapters 14 and 15: Elder Law, Guardianships, Establishing a Guardianship	Tex. Est. Code §§ 1002.017, 1055.001, 1054.001-056, 1054.151-153, 1103.001-004, 1101, *et seq.*, 1102.001-004, 1104.001-201, 1051.101-106, 1151.351, 1105.153-156, 1055.052, 1104.402 *Subia v. Tex. Dept. of Human Serv.*, 750 S.W.2d 827 (Tex. App. – El Paso 1988, no writ) *Adcock v. Sherling*, 923 S.W.2d 74 (Tex. App. – San Antonio 1996, no writ) *Guardianship of Henson*, 551 S.W.2d 136 (Tex. Civ. App. – Corpus Christi 1977, writ ref'd n.r.e.) *Phillips v. Phillips*, 511 S.W.2d 748 (Tex. Civ. App. – San Antonio 1974, no writ)

		In re Guardianship of Norman, 61 S.W.3d 20 (Tex. App. – Amarillo 2001, pet. denied) *Ortiz v. Guitierrez*, 792 S.W.2d 118 (Tex. App. – San Antonio 1990, writ dism'd) *In re Guardianship of AE*, 552 S.W.3d 873 (Tex. App. – Fort Worth 2018, no pet.)
4/7/2026	Chapter 16: Guardianships, Administration, Compensation	Tex. Est. Code §§ 1163.001-006, 1163.101-105, 1151.051, 1151.101-151, 1156.051, 1301.203, 1301.051-101, 1351.001-002, 1155.002-008, 1156.001, 1301.154, 1301.203, 1155.052, 1156.051, 1154.051, 1158.051, 1158.251, 1162.051-053, 1163.001-003, 1105.153-154, 158.101, 1151.056 Tex. Health & Saf. Code § 613.001-005 *Little v. Little*, 576 S.W.2d 493 (Tex. App. – San Antonio 1979, no writ) *Frazier v. Levi*, 440 S.W.2d 393 (Tex. Civ. App. – Houston [1st Dist.] 1969, no writ) *In re LCD*, 16 S.W.3d 153 (Tex. App. – Beaumont 2000, no pet.) *Stubbs v. Ortega*, 977 S.W.2d 718 (Tex. App. – Fort Worth 1998, pet. denied) *Tharp v. Blackwell*, 570 S.W.2d 154 (Tex. App. – Texarkana 1978, no writ) *Silbert v. Southern Nat'l Life Ins. Co.*, 326 S.W.2d 715 (Tex. Civ. App. – San Antonio 1959, writ ref'd) *Reed v. Valley Fed. Sav. & Loan*, 655 S.W.2d 259 (Tex. App. – Corpus Christi-Edinburg 1983, writ ref'd n.r.e.)

4/9/2026	Chapter 17: Contested Guardianship Guest Lecturer: Judge Georgia Akers	Tex. Est. Code §§ 1053.052, 1251.001-010, 1203.051-052, 1251.101-157, 1055.001, 1251.151, 1251.051 *In re Guardianship of Finley*, 220 S.W.3d 608 (Tex. App. – Texarkana 2007, no pet.) *In re Guardianship of Walzel*, 2010 WL 335686 (Tex. App. – Corpus Christi-Edinburg 2010, no pet.) *Franks v. Roades*, 310 S.W.3d 615 (Tex. App. – Corpus Christi-Edinburg 2010, no pet.)
4/14/2026	Chapter 17: Contested Guardianship Guest Lecturer: Judge Georgia Akers	(See above)
4/16/2026	Special Presentation Guest Lecturer: Judge Georgia Akers	(No reading assignment)
4/21/2026	Chapters 18 and 19: Alternatives to Guardianship, Restoration and Modification, Closing a Guardianship Estate Guest Lecturer: Judge Georgia Akers	Tex. Est. Code §§ 751, *et seq.*, 752, *et seq.*, 1104.152-153, 1301.051-102, 1202, *et seq.*, 1351.001-055, 1357, *et seq.*
4/23/2026	Chapters 18 and 19: Alternatives to Guardianship, Restoration and Modification, Closing a Guardianship Estate	Tex. Est. Code §§ 1204.001, 1204.101-109, 1204.051, 1204.151-152 *Carroll v. Carroll*, 893 S.W.2d 62 (Tex. App. – Corpus Christi 1994, no writ) *In re Guardianship of Bayne*, 171 S.W.3d 232 (Tex. App. – Dallas 2005, pet. denied) *In re Estate of Glass*, 961 S.W.2d 461 (Tex. App. – Houston [1st Dist.] 1997, pet. denied)

		In re Guardianship of Tischler, 505 S.W.3d 73 (Tex. App. – San Antonio 2016, no pet.)
4/28/2026	Chapter 20: Windup and Review	*Estate of Maberry*, 2020 WL 7863337 (Tex. App. – Eastland 2020, no pet.)
4/30/2026	Chapter 20: Windup and Review	(See above) Discuss Final exam.

Prepared by Gerry W. Beyer

Revised October 15, 2013

CONVERSION CHART
PROBATE CODE TO ESTATES CODE

Probate Code	Estates Code
2(a) (part)	21.006
2(c)	21.004
3 (part)	22.001
3(a)	22.002
3(b)	22.004
3(c)	22.005
3(d)	22.006
3(e)	22.007
3(f)	22.019
3(g)	22.007
3(h)	22.008
3(i)	22.009
3(j)	22.010
3(k)	22.011
3(l)	22.012
3(m)	22.013
3(o)	22.015
3(p)	22.016
3(q)	22.017
3(r)	22.018
3(s)	22.020, 22.021
3(t)	22.022
3(u)	22.023 repealed
3(v)	22.024
3(w)	22.025
3(x)	22.027
3(z)	22.028
3(aa)	22.031
3(bb)	22.029, 31.001
3(dd)	22.030
3(ee)	22.032
3(ff)	22.034
3(ii)	22.007
3(jj)	22.026

Probate Code	Estates Code
3(kk)	22.003
3(ll)	22.014
3(mm)	22.033
4A	32.001
4B	31.002
4C	32.002
4D	32.003
4E	32.004
4F	32.005
4G	32.006
4H	32.007
5B	34.001
5C	34.002
6	33.001
6A	33.002
6B	33.003
6C	33.004
6D	33.005
8(a)	33.051, 33.052, 33.055
8(b)	33.053, 33.101
8(c)(1)	33.102
8(c)(2)	33.103
8(d)	33.104
8(e)	33.054
9	54.002
10	55.001
10A(a)	55.051, 55.052
10A(b)	55.053
10B	55.101, 55.102
10C	54.001
11	52.051
11A	53.053
11B	53.054
12(a)	53.051

CONVERSION CHART – PROBATE CODE TO ESTATES CODE

Probate Code	Estates Code
12(b)	53.052
12(c)	53.052
13	52.001
13(e)	52.051
14	52.002
15	52.052
16	52.003
17	52.004
17A	52.053
18	54.052
19	53.101
20	53.102
21	55.002
22	51.203, 54.051
23	53.105 repealed
24	53.001
25	53.106
26	55.151, 55.152
27	55.201, 55.202, 55.203
28	351.053
29	351.002
31	55.251, 55.252
32	351.001
33(a)	51.001
33(b)	51.001
33(c)	51.002, 51.003
33(d)	51.151
33(e)	51.056
33(f)(1)	51.101, 51.051
33(f)(2)	51.053
33(f)(3)	51.054
33(g)	51.104
33(h)	51.102
33(i)	51.103
33(j)	51.202
34	51.055
34A	53.104
35	51.201
36(a)	351.352, 351.353,

Probate Code	Estates Code
	351.354
36(b)	351.355
36B	151.001
36C	151.002
36D	151.003
36E	151.004
36F	151.005
37	101.001, 101.003, 101.051
37A(a)	122.002
37A(b)	122.003
37A(c)	122.101
37A(d)	122.102
37A(e)	122.001
37A(f)	122.103
37A(g)	122.051
37A(h)	122.052-112.055
37A(i)	122.056
37A(j)	122.005
37A(k)	122.004
37A(l)	122.151, 112.152
37A(m)	122.153
37A(n)	122.104
37A(o)	122.105, 122.106
37A(p)	122.057
37B(a)	122.201
37B(b)	122.202, 122.203
37B(c)	122.204
37B(d)	122.205
37B(e)	122.206
37C(a)	255.101
37C(b)	255.102
38(a)	201.001
38(b)	201.002
39	201.102, 201.103
40	201.054
41(a)	201.056
41(b)	201.057
41(c)	201.060

CONVERSION CHART – PROBATE CODE TO ESTATES CODE

Probate Code	Estates Code
41(d)	201.058, 201.059, 201.061
41(e)	201.062
41(f)	201.062
42(a)	201.051
42(b)(1)	201.052
42(b)(2)	201.053
42(c)	102.001, 353.001
42(d)	201.055
43	201.101
44(a)	201.151
44(b)	201.151
44(c)	201.152
45	201.003
46(a)	101.002, 111.001
46(b)	111.002
47(a)	121.051-121.053
47(b)	121.151
47(c)	121.101, 121.102
47(d)	121.152
47(e)	121.153
47(f)	121.001
47A(a)	123.101
47A(b)	123.102
47A(c)	123.102
47A(d)	123.103
47A(e)	123.103
47A(f)	123.104
48(a)	202.001, 202.002, 202.003 repealed
48(b)	202.006
48(c)	202.003 repealed
49(a)	202.004, 202.005
49(b)	202.007, 202.008
50(a)	202.051, 202.054
50(b)	202.052
50(c)	202.053
50(d)	202.055
50(e)	202.056
51	202.101-202.103

Probate Code	Estates Code
52	203.001
52A	203.002
53(a)	202.151
53(b)	202.009
53(c)	202.009
53A(a)	204.051
53A(b)	204.052
53A(c)	204.053
53A(d)	204.053
53A(e)	204.054
53A(f)	204.055
53A(g)	204.056
53B(a)	204.101
53B(b)	204.102
53B(c)	204.103
53C(a)	204.151
53C(b)	204.152
53C(c)	204.152
53C(d)	204.153
53D	204.201
53E	204.001
54	202.201
55(a)	202.202, 202.203
55(b)	202.204
55(c)	202.205
56	202.206
57	251.001
58(a)	251.002
58(b)	251.002
58(c)	255.002, 255.003
58(d)	255.001
58a	254.001
58b	254.003
58c	255.351
59(a)	251.051, 251.052, 252.102, 251.103, 251.104
59(a-1)	251.1045
59(b)	251.101, 251.104, 251.105

CONVERSION CHART – PROBATE CODE TO ESTATES CODE

Probate Code	Estates Code
59(c)	251.102, 251.106
59A	254.004
60	251.052, 251.107
61	254.002
62	254.002
63	253.002
64	254.005
67(a)	255.052
67(a)(1)	255.053
67(a)(2)	255.054
67(b)	255.055
67(c)	255.051
67(d)	255.052
67(e)	255.056
68(a)	255.153, 255.154
68(b)	255.152
68(c)	255.152
68(d)	255.152
68(e)	255.151
69(a)	123.001
69(b)	123.001
69(c)	123.002
69A	253.001
70	255.201 repealed
70A(a)	255.252
70A(b)	255.253
70A(c)	255.251
71(a)	252.001, 252.003
71(b)	252.002
71(c)	252.004
71(d)	252.051, 252.052
71(e)	252.101-252.105
71(f)	252.151, 252.152
71(g)	252.153
71A(a)	255.301
71A(b)	255.302
71A(c)	255.303
72(a)	256.002, 301.001, 454.001, 454.002, 454.004, 454.051,

Probate Code	Estates Code
	454.052
72(b)	454.003
73	256.003
74	301.002
75	252.201-252.204
76	256.051, 301.051
77	304.001
78	304.003
79	304.002
80(a)	301.201
80(b)	303.201, 301.202
80(c)	301.203
81(a)	256.052, 256.053
81(b)	256.054
82	301.052
83(a)	256.101
83(b)	256.102
83(c)	256.103
84(a)	256.152
84(b)	256.153
84(c)	256.154
84(d)	256.155
85	256.156
87	256.157
88(a)	256.151, 301.151
88(b)	256.152
88(c)	301.152
88(d)	301.153
88(e)	301.154
89	256.201
89A(a)	257.051, 257.052
89A(b)	257.053
89B	257.054
89C(a)	257.001
89C(b)	257.101
89C(c)	257.102
89C(d)	257.103
90	256.202
91	256.203

CONVERSION CHART – PROBATE CODE TO ESTATES CODE

Probate Code	Estates Code
92	362.002
93	256.204
94	256.001
95(a)	501.001
95(b)	501.002, 501.003
95(c)	501.003, 503.002, 505.052
95(d)	504.003, 501.004, 501.005
95(e)	501.007
95(f)	501.008
96	503.001, 503.003
97	503.001
98	503.051
99	503.052
100(a)	504.001
100(b)	504.002, 504.004
100(c)	504.003
101	504.051, 504.052
102	504.053
103	502.001
104	502.002
105	501.006
105A(a)	505.001, 505.003
105A(b)	505.004, 505.005
105A(c)	505.002
105A(d)	505.002
105A(e)	505.006
106	505.051
107	505.052
107A(a)	505.101
107A(b)	505.101
107A(c)	505.102
107A(d)	505.103
108	152.001, 152.004
109	152.001
110	152.001
111(a)	152.002
111(b)	152.003
112	152.002

Probate Code	Estates Code
113(a)	152.051
113(b)	152.052
113(c)	152.054
113(d)	152.055
114(a)	152.053
114(b)	152.055
115(a)	152.101
115(b)	152.101
115(c)	152.102
115(d)	152.102
128(a)	258.001, 303.001
128(b)	258.002
128(c)	258.003, 303.002
128A(a)	308.001
128A(a-1)	308.0015
128A(b)	308.002
128A(c)	308.002
128A(d)	308.002
128A(e)	308.003
128A(f)	308.002
128A(g)	308.004
128A(h)	308.004
128B(a)	258.051
128B(b)	258.051
128B(c)	258.051
128B(d)	258.052
128B(e)	258.053
129A	258.101, 303.003
131A(a)	452.001, 452.003
131A(b)	452.002
131A(c)	452.003
131A(d)	452.004
131A(e)	452.005
131A(f)	452.006
131A(g)	452.006
131A(h)	452.006
131A(I)	452.007
131A(j)	452.008
132(a)	452.051

CONVERSION CHART – PROBATE CODE TO ESTATES CODE

Probate Code	Estates Code
132(b)	452.052
133	452.101, 452.102
134	452.151
135	452.152
137(a)	205.001-205.004
137(b)	205.008
137(c)	205.006
137(d)	205.005
138	205.007
139	451.001
140	451.002
141	451.003
142	451.004
143	354.001
145(a)	none
145(b)	401.001
145(c)	401.002, 401.003
145(d)	401.002
145(f)	401.004
145(g)	401.003
145(h)	402.001
145(i)	401.004
145(j)	401.004
145(k)	401.004
145(l)	401.004
145(m)	401.004
145(n)	401.004
145(o)	401.001
145(p)	401.005
145(q)	351.351, 401.007
145(r)	401.008
145A	401.006
145B	402.002
145C(a)	402.051
145C(b)	402.052
145C(c)	402.053
145C(d)	402.054
146(a)(1)	403.051
146(a)(2)	403.051

Probate Code	Estates Code
146(a)(3)	403.051
146(a)(4)	403.001
146(a-1)	403.051
146(b)	403.052
146(b-1)	403.053
146(b-2)	403.054
146(b-3)	403.055
146(b-4)	403.056
146(b-5)	403.056
146(b-6)	403.057
146(b-7)	403.058
146(c)	403.0585
147	403.059
148	403.060
149	404.002
149A	404.001
149B	405.001
149C	404.003
149D	405.003
149E	405.003
149F	405.003
149G	405.011
150	405.008
151(a)	405.004
151(a-1)	405.005
151(b)	405.006
151(c)	405.007
151(d)	405.007
151(e)	405.002
152	405.009
153	405.010
154	404.004
154A	404.005
154A(i)	351.351
155	101.052, 453.001, 453.002
156	101.052, 453.006
160(a)	453.003
160(b)	453.003, 453.004

Conversion Chart – Probate Code to Estates Code

Probate Code	Estates Code
160(c)	453.003, 453.004
168	453.006-453.008
176	453.005
177	453.009
178(a)	306.001
178(b)	306.002
178(c)	306.001
179	301.101
180	301.153
181	306.003
182	306.004
183	306.005
186	306.007
187	306.006
188	307.001
189	305.002
190(a)	305.051
190(b)	305.052
190(c)	305.053
190(d)	305.054, 305.055
192	305.003, 305.054
194	303.101, 305.106
194(1)	305.151
194(2)	305.151
194(3)	305.152
194(5)	305.154
194(6)	305.155
194(7)	305.156
194(8)(a)	305.157
194(8)(b)	305.156
194(8)(c)	305.156
194(8)(d)	305.156
194(8)(e)	305.158
194(9)	305.159
194(10)	305.201
194(11)	305.202
194(12)	305.201, 305.207
194(13)	305.153
194(14)	305.160

Probate Code	Estates Code
195	305.101
196	305.108
197	305.107, 305.109
198	305.103
199	305.104
200	305.105
201(a)	305.203
201(b)	305.204
201(c)	305.205
202	305.204
203	305.251
204	305.251
205	305.252
206(a)	305.252
206(b)	305.253
207	305.254
208	305.255
209	305.257
210	305.256
211	305.206
212	305.206
213	305.110
214	305.102
215	305.102
216	305.102
217	305.102
218	305.111
220(a)	361.102
220(b)	361.103
220(c)	361.104
220(d)	361.105
220(e)	361.106
220(f)	361.101
220(g)	361.151
221(a)	361.001
221(b)	361.002
221(c)	361.003
221(d)	361.004
221(e)	361.005

CONVERSION CHART – PROBATE CODE TO ESTATES CODE

Probate Code	Estates Code
221(f)	361.005
221A	56.001
221B	56.002
222(a)(1)	361.051
222(a)(2)	361.054
222(b)	361.052
222(c)	361.053
222A	361.054
223	361.152
224	361.153
225	361.153
226	361.154
227	361.155
230	351.101
232	351.102
233(a)	351.151
233(b)	351.152
233(c)	351.152
233(d)	351.152
233(e)	351.153
233A	351.054
234(a)	351.051
234(b)	351.052
235	351.103
238(a)	351.201
238(b)	351.202
238(c)	351.203
238(d)	351.203
238(e)	351.203
238(f)	351.202
238(g)	351.204
238(h)	351.205
238(i)	351.205
238A	351.104
239	351.301-351.303
240	307.002
241(a)	352.002-352.004
241(b)	352.001
242	352.051

Probate Code	Estates Code
243	352.052
244	352.053
245	351.003
248	309.001
249	309.003
250	309.051. 309.056
251	309.052
252	309.053
253	309.002
255	309.054
256	309.101
257	309.102
258	309.103
259	309.104
260	309.055
261	309.151
262	354.051
263	354.052
264	354.053
265	354.054
266	354.055
267	354.056
268	354.057
269	354.058
270	102.004
271	353.051
272	353.052
273	353.053
274	353.055, 353.056
275	353.054
277	353.151
278	353.152
279	353.153
280	353.154
281	353.155
282	102.002
283	102.003
284	102.005
285	102.006

Conversion Chart – Probate Code to Estates Code

Probate Code	Estates Code
286	353.101
287	353.102
288	353.101
289	353.103
290	353.104
291	353.105
292	353.106, 353.107
293	353.107
294(a)	308.051
294(b)	308.052
294(c)	308.051
294(d)	308.054
295	308.053
296	308.055
297	308.056
298(a)	355.001, 355.060
298(b)	355.061
299	355.008
301	355.004, 355.059
302	355.007
303	355.006, 355.062
304	355.005
306(a)	355.151
306(b)	355.152
306(c)	355.153
306(c-1)	355.153
306(d)	355.154
306(e)	355.155
306(f)	355.156
306(g)	355.157
306(h)	355.158
306(i)	355.158, 355.159
306(j)	355.158
306(k)	355.160
307	355.003
308	355.002
309	355.051
310	355.052
311	355.053

Probate Code	Estates Code
312(a)	355.054
312(b)	355.055
312(c)	355.056
312(d)	355.057
312(e)	355.058
313	355.064, 355.066
314	355.065
315	355.111
316	355.202
317	355.201
318	355.063
319	355.101
320(a)	355.103
320(b)	355.104
320(c)	355.105
320(d)	355.106
320A	355.110
321	355.108
322	355.102
322A(a)	124.001
322A(b)	124.005
322A(c)	124.006
322A(d)	124.006
322A(e)	124.006
322A()	124.006
322A(g)	124.007
322A(h)	124.008
322A(i)	124.009
322A(k)	124.010
322A(l)	124.003
322A(m)	124.010
322A(n)	124.014
322A(o)	124.015
322A(p)	124.004
322A(q)	124.011
322A(r)	124.012
322A(s)	124.001
322A(t)	124.013
322A(u)	124.015

Probate Code	Estates Code
322A(v)	124.016
322A(w)	124.017
322A(x)	124.002
322A(y)	124.018
322B	355.109
323	355.112
324	355.203
326	355.107
328	355.113
329(a)	351.251
329(b)	351.252
329(c)	351.252, 351.253
331	356.001
332	356.002
333	356.051
334	356.101, 356.102
335	356.151-356.155
336	356.103
337	356.104
338	356.201-356.203
339	356.105
340	356.257
341	356.251
342	356.252
344	356.253
345	356.254
345A	356.255
346	356.256
347	356.601, 356.602
348(a)	356.301, 356.302
348(b)	356.351-356.353
349(a)	356.401
349(b)	356.402
349(c)	356.403
349(d)	356.404
349(e)	356.405
350	356.451
351	356.501, 356.502
352(a)	356.651

Probate Code	Estates Code
352(b)	356.652
352(c)	356.653
352(d)	356.654
352(e)	356.655
353	356.551
354	356.553-356.555
355	356.552, 356.556
356	356.557
357	356.558
358	356.559
359	357.001
360	357.001
361	357.002
362	357.005
363	357.003
364	357.004
365	357.051
366	357.052
367(a)	358.001
367(b)	358.051
367(c)	358.051-358.060
368(a)	358.101
368(b)	358.102
369(a)	358.151
369(b)	358.151-358.155
370	358.201
371	358.251-358.254
373(a)	360.001
373(b)	360.001
373(c)	360.002
374	360.051
375	360.052
377	360.101
378	360.102
378A(a)	124.052
378A(b)	124.051
378B(a)	310.003
378B(b)	310.004
378B(c)	310.004

Conversion Chart – Probate Code to Estates Code

Probate Code	Estates Code
378B(d)	310.004
378B(g)	310.005
378B(h)	310.001, 310.006
378B(i)	310.002
379	360.251
380(a)	360.151
380(b)	360.152
380(c)	360.153
380(d)	360.154
380(e)	360.155
380(f)	360.156
380(g)	360.157
381(a)	360.201
381(b)	360.202
381(c)	360.202
381(d)	360.203
382	360.252
384	360.301
385	360.253
386	360.254
387	360.103
398A	351.105
399(a)	359.001
399(b)	359.002
399(c)	359.003, 359.004
399(d)	359.005
400	359.101
401	359.051-359.054
402	359.006
403	359.102
404	362.001
405	362.003, 362.004
405A	362.007
406	362.051
407	362.005
408(a)	362.006
408(b)	362.011
408(c)	362.012
408(d)	362.013

Probate Code	Estates Code
409	362.009
410	362.010
412	362.008
414	362.052
427	551.001-551.004
428	551.005
429	551.101
430	551.006
431	551.102
432	551.103
433(a)	551.051, 551.052
433(b)	551.052, 551.055
433(c)	551.052, 551.053
433(d)	551.054
436(1)	113.001
436(2)	113.001
436(3)	113.001
436(4)	113.004
436(5)	113.004
436(6)	113.003
436(7)	113.002
436(8)	113.001
436(9)	113.001
436(10)	113.004
436(11)	113.001
436(12)	113.001
436(13)	113.001
436(14)	113.004
436(15)	113.001
437	113.101
438(a)	113.102
438(b)	113.103
438(c)	113.104
438A(a)	113.004
438A(b)	113.105
438A(c)	113.105
438A(d)	113.154
438A(e)	113.105
438A(f)	113.206, 113.208

Probate Code	Estates Code
438A(g)	113.208
438B	113.106, 113.1541
439(a)	113.151
439(b)	113.152
439(c)	113.153
439(d)	113.155
439A(a)	113.051
439A(b)	113.052
439A(c)	113.053
439A(d)	113.053
440	113.156, 113.157
441	113.158
442	113.251-113.252
443	113.201
444	113.003, 113.005, 113.202
445	113.203, 113.207
446	113.204
447	113.205
448	113.209
449	113.210
450(a)	111.051, 111.052
450(b)	111.053
450(c)	111.051
451	112.051
452	112.052
453	112.151
454	112.152
455	112.054
456(a)	112.035, 112.101
456(b)	112.102
456(c)	112.103
456(d)	112.101
457	112.104
458	112.053, 112.105
459	112.106
460(a)	112.203
460(b)	112.204
460(c)	112.206

Probate Code	Estates Code
460(d)	112.205
460(e)	112.207
460(f)	112.201, 112.202
460(g)	112.208
461	112.251-112.253
462	112.002
471	123.051
472(a)	123.052
472(b)	123.053
473(a)	123.054
473(b)	123.055
481	751.001
482	751.002
483	751.004
484	751.051
485	751.052
485A	751.053
486	751.054
487	751.055-751.056
487A	751.057
488	751.058
489	751.151
489B(a)	751.101
489B(b)	751.102
489B(c)	751.103
489B(d)	751.104
489B(e)	751.104
489B(f)	751.103
489B(g)	751.105
489B(h)	751.106
489B(i)	751.005
489B(j)	751.006
490(a)	752.001-752.003, 752.051
490(b)	752.004
491	752.101
492	752.102
493	752.103
494	752.104

CONVERSION CHART – PROBATE CODE TO ESTATES CODE

Probate Code	Estates Code
495	752.105
496	752.106
497	752.107
498	752.108
499	752.109
500	752.110
501	752.111
502	752.112
503	752.113
504	752.114
505	752.115
506	751.003
601	1002.001
601(1)	1002.002
601(2)	1002.003
601(3)	1002.004
601(4)	1002.005
601(5)	1002.006
601(6)	1002.007
601(7)	1002.009
601(8)	1002.008
601(9)	1002.010
601(10)	1002.011
601(11)	1002.012
601(12)	1002.013
601(12-a)	1002.014
601(13)	1002.016
601(14)	1002.017
601(15)	1002.018
601(16)	1002.019
601(18)	1002.020
601(19)	1002.021
601(20)	1002.022
601(21)	1002.023
601(22)	1002.024
601(23)	1002.028
601(24)	1002.025
601(25)	1002.015
601(27)	1002.026

Probate Code	Estates Code
601(28)	1002.027
601(29)	1002.008
601(30)	1002.029
601(31)	1002.030
602	1001.001,1101.105
603(a)	1001.002
603(b)	1001.003
604	1022.002
605	1022.001
606 repealed	none
606A	1021.001
607 repealed	none
607A	1022.002
607B	1022.003
607C	1022.004
607D	1022.005
607E	1022.006
608	1022.007
609	1022.008
610	1023.001
611	1023.002
613	1023.004
614	1023.005
615	1023.006
616	1023.007
617	1023.008
618	1023.009
619	1023.010
621	1052.051
622(a)	1053.051
622(b)	1053.052
622(c)	1053.052
623(a)	1052.001
623(b)	1052.051
624	1052.002
625	1052.052
626	1052.003
627	1052.004
627A	1052.053

Probate Code	Estates Code
628	1055.102
629	1053.101
630	1053.102
632(a)	1051.001
632(b)	1051.001
632(c)	1051.002, 1051.003
632(d)	1051.201
632(e)	1051.056
632(f)(1)	1051.051
632(f)(2)	1051.053
632(f)(3)	1051.054
632(f)(4)	1051.052
632(g)	1051.154
632(h)	1051.152
632(i)	1051.153
632(j)	1051.252
633(a)	1051.101
633(b)	1051.102
633(c)	1051.103
633(d)	1051.104
633(d)	1051.104
633(e)	1051.105
633(f)	1051.104, 1051.106
633(g)	1051.101
634	1051.055
635	1051.251
636	1151.301
641	1055.002
642	1055.001
643	1055.052
644	1055.051
645(a)	1054.051
645(b)	1054.055
645(c)	1054.054
645(d)	1054.055
645(e)	1054.052
645(f)	1054.053
645A	1054.056
646(a)	1054.001, 1054.003

Probate Code	Estates Code
646(b)	1054.201
646(c)	1054.203
646(d)	1054.005
646(e)	1054.002
647	1054.004
647A(a)	1054.201
647A(b)	1054.201
647A(c)	1054.202
647A(d)	1054.203
647A(e)	1054.202
648(a)	1054.102, 1054.105
648(b)	1054.103
648(c)	1054.104
648(d)	1054.104
648(e)	1054.105
648(f)	1054.101
648A(a)	1054.151
648A(b)	1054.152
648A(c)	1054.153
648A(d)	1054.154
649	1051.253, 1055.101
650	1053.103
651	1053.001
653	1056.001
654	1056.051, 1056.052
655	1152.001
656	1152.002
657	1056.101, 1056.102
659(a)	1106.001
659(b)	1106.002
659(c)	1106.003
659(d)	1106.003
660	1106.005
661	1106.004
662	1151.002
663	1106.006
665(a)	1155.002
665(a-1)	1155.004
665(b)	1155.003

Probate Code	Estates Code
665(c)	1155.006, 1155.007
665(d)	1155.006, 1155.007
665 (d-1)	1155.007
665(g)	1155.002
665(e)	1155.008
665(f)	1155.005
665(h)	1155.001
665A	1155.051 [~~repealed~~]
665B	1155.054
665C(a)	1155.053
665C(b)	1155.053
665C(c)	1155.053
665C(d)	1155.102
665D	1155.052
666	1155.101
667	1155.103
668	1155.152
669	1155.151
670(a)	1155.201
670(b)	1155.202
670(c)	1155.202
671(a)	1201.001
671(b)	1201.002
671(c)	1201.002
671(d)	1201.002, 1201.003
671(e)	1201.004
672(a)	1201.052
672(b)	1201.053
672(c)	1201.053
672(d)	1201.054
672(e)	1201.051
673	1164.001
674	1164.002
675	1151.001
676(a)	1104.054
676(b)	1104.051
676(c)	1104.052
676(d)	1104.053
676(e)	1104.053

Probate Code	Estates Code
676(f)	1104.053
676(g)	1202.002
677(a)	1104.101, 1104.102
677(b)	1104.103
677(c)	1104.103
677(d)	1104.103
677(e)	1202.002
677A(a)	1104.152
677A(b)	1104.152
677A(c)	1104.152
677A(d)	1104.156
677A(e)	1104.160
677A(f)	1104.159
677A(g)	1104.153
677A(h)	1104.151
677A(i)	1104.154
677A(j)	1104.154
677B(a)	1104.157
677B(c)	1104.155
677B(d)	1104.158
677B(e)	1104.157
677B(f)	1104.157
678	1104.353
679(a)	1104.202
679(b)	1104.202
679(c)	1104.203
679A(d)	1104.209
679(e)	1104.207
679(f)	1104.202, 1104.212
679(g)	1104.210
679(h)	1104.211
679(i)	1104.204
679(j)	1104.201
679(k)	1104.205
679(l)	1104.205
679A(a)	1104.201
679A(b)	1104.208
679A(c)	1104.206
679A(e)	1104.208

Probate Code	Estates Code
679A(f)	1104.208
680	1104.054
681	1104.351-357
682	1101.001
682A(a)	1103.001, 1103.003
682A(a-1)	1103.002
682A(a-2)	1103.002
682A(b)	1103.004
683(a)	1102.001, 1102.004
683(b)	1102.002
683(c)	1102.005
683A	1102.003
684(a)	1101.101
684(b)	1101.101
684(c)	1101.101, 1101.102
684(d)	1101.154
684(e)	1101.106
685(a)	1101.051
685(b)	1101.052
685(c)	1101.051
686	1101.053
687(a)	1101.103
687(b)	1101.103
687(c)	1101.104
689	1104.002
690	1104.001
692	1101.155
693(a)	1101.151
693(b)	1101.152
693(c)	1101.153
693(d)	1101.153
693(e)	1101.153
694	1202.001
694A(a)	1202.051
694A(b)	1202.054
694A(c)	1202.054
694A(d)	1202.053
694A(e)	1202.055
694B	1202.052

Probate Code	Estates Code
694C(a)	1202.101
694C(b)	1202.101
694C(c)	1202.102
694D	1202.151
694E	1202.153
694F	1202.152
694G	1202.155
694H	1202.156
694I	1202.157
694J	1202.154
694K	1202.103
694L	1202.102
695(a)	1203.102
695A(a)	1203.151
695A(a-1)	1203.151
695A(b)	1203.152
695A(c)	1203.153
696	1104.301
696A	1104.251
696B	1104.253
697(a)	1104.302, 1104.303
697(b)	1104.303
697(c)	1104.304
697(d)	1104.305
697(e)	1104.306
697A(a)	1104.257
697A(b)	1104.258
697B(a)	1104.251
697B(b)	1104.255
697B(c)	1104.256
697B(d)	1104.254
697B(e)	1104.252
698(a)	1104.402
698(a-1)	1104.406
698(a-2)	1104.406
698(a-3)	1104.406
698(a-4)	1104.407
698(a-5)	1104.403
698(a-6)	1104.404

Conversion Chart – Probate Code to Estates Code

Probate Code	Estates Code
698(b-1)	1104.408
698(c-1)	1104.410
698(b)	1104.405
698(c)	1104.409
698(d)	1104.411
698(e)	1104.402
698(f)	1104.412
699	1105.002
700	1105.051
701	1105.003, 1105.052
702	1105.101
702A	1105.102
703(a)	1105.003, 1105.151
703(b)	1105.152
703(c)	1105.153
703(d)	1105.154
703(e)	1105.155
703(f)	1105.156
703(g)	1105.157
703(h)	1105.157
703(i)	1105.157
703(j)	1105.157
703(k)	1105.157
703(l)	1105.158
703(m)	1105.159
703(n)	1105.160
703(o)	1105.161
703(p)	1105.160, 1105.162
703(q)	1105.154
703(r)	1105.163
703(s)	1105.152
704	1105.109
705	1105.108, 1105.110
706	1105.104
707	1105.105
708	1105.106
708A	1105.107
709(a)	1105.201
709(b)	1105.202

Probate Code	Estates Code
709(c)	1105.203
710	1105.202
711	1105.251
712	1105.251
713	1105.252
714(a)	1105.252
714(b)	1105.253
715	1105.254
716	1105.255
717	1105.257
718	1105.256
719	1105.204
720	1105.204
721	1105.111
722	1105.103
723	1105.103
724	1105.103
725	1105.103
726	1105.112
727	1154.001
728	1154.003
729	1154.051
730	1154.052
731	1154.053
732	1154.002
733	1154.054
734	1154.101
735	1154.102
736	1154.103
737	1154.104
738	1154.055
739	1154.151
741(a)	1163.001
741(b)	1163.002
741(c)	1163.003, 1163.004
741(d)	1163.004
741(e)	1163.005
741(f)	1163.005
741(g)	1163.006

Probate Code	Estates Code
742(a)	1163.051
742(b)	1163.051
742(c)	1163.051
742(d)	1163.051
742(e)	1163.051
742(f)	1163.052-1163.054
743(a)	1163.101
743(b)	1163.101
743(c)	1163.103
743(d)	1163.104
743(e)	1163.104
743(f)	1163.104
743(g)	1163.101, 1163.102
743(h)	1163.102
743(i)	1163.102
743(j)	1163.105
744	1163.151
745	1204.001
746	1204.051
747	1204.108
748	1204.052
749	1204.101, 1204.102
750	1204.201
751	1204.105
752(a)	1204.106
752(b)	1204.109
752(c)	1204.151
752(d)	1204.152
753	1204.107
754	1204.053
755	1204.002
756	1204.103
757	1204.104
758	1204.202
759(a)	1203.102
759(b)	1203.103
759(c)	1203.104
759(d)	1203.105
759(e)	1203.106

Probate Code	Estates Code
759(f)	1203.101
759(g)	1203.201
759(h)	1203.107
760(a)	1203.001
760(b)	1203.002, 1203.102
760(c)	1203.004
760(d)	1203.005
760(e)	1203.006
760(f)	1203.006
760(g)	1203.003
760A	1057.001
760B	1057.002
761(a)	1203.051
761(b)	1203.056
761(c)	1203.052
761(c-1)	1203.052
761(d)	1203.053
761(e)	1203.057
761(f)	1203.054, 1203.102
761(g)	1203.055
762	1203.056
763	1203.202
764	1203.202
765	1203.203
767	1151.051
768	1151.101, 1151.151
769	1151.004
770(a)	1151.052
770(b)	1151.053
770(c)	1151.053
770(d)	1151.053
770A	1151.054
771	1151.152
776(a-2)	1156.003
776(a-3)	1156.003
772	1151.105
773	1151.104
774(a)	1151.102
774(b)	1151.103

Probate Code	Estates Code
775	1151.153
776(a)	1156.001
776(a-1)	1156.001
776(a-2)	1156.002
776(b)	1156.004
776A	1156.052
777	1156.051
778	1151.003
779	1151.155
780	1151.154
781(a)	1151.201
781(a-1)	1151.201
781(a-2)	1151.201
781(b)	1151.202
781(c)	1151.202, 1151.203
782(a)	1151.251
782(b)	1151.252
783(a)	1153.001
783(b)	1153.002
783(c)	1153.001
784(a)	1153.003
784(b)	1153.003
784(c)	1153.003
784(d)	1153.003
784(e)	1153.004
785	1153.005
786(a)	1157.001, 1157.060
786(b)	1157.061
787	1157.008
788	1157.004, 1157.059
789	1157.007
790	1157.006, 1157.062
791	1157.005
792	1157.102
793(a)	1157.151
793(b)	1157.151
793(c)	1157.152
793(d)	1157.153
794	1157.003

Probate Code	Estates Code
795	1157.002
796	1157.051
797	1157.052
798	1157.053
799(a)	1157.054
799(b)	1157.055
799(c)	1157.056
799(d)	1157.057
799(e)	1157.058
800	1157.063, 1157.065
801	1157.064
802	1157.107
803	1157.201
804	1157.101
805(a)	1157.103
805(b)	1157.103
805(c)	1157.105
806	1157.106
807	1157.202
808	1157.104
809	1157.108
811	1158.001
812	1158.051
813	1158.101, 1158.102
814(a)	1158.151
814(b)	1158.151, 1158.152
814(c)	1158.153-1158.155
815	1158.103
816	1158.104
817	1158.201-1158.203
818	1158.105
819	1158.257
820	1158.251
821	1158.252
823	1158.253
824	1158.254
824A	1158.255
825	1158.256
826	1158.601, 1158.602

CONVERSION CHART – PROBATE CODE TO ESTATES CODE

Probate Code	Estates Code
827(a)	1158.301, 1158.302
827(b)	1158.351-1158.353
828(a)	1158.401
828(b)	1158.402
828(c)	1158.403
828(d)	1158.404
828(e)	1158.405
829	1158.451
830	1158.501, 1158.502
831(a)	1158.651
831(b)	1158.652
831(c)	1158.653
831(d)	1158.654
832	1158.551
833	1158.552-1158.556
835	1158.557
836	1158.558
837	1158.559
839	1159.001
840	1159.001
841	1159.002
842	1159.005
843	1159.003
844	1159.004
845	1159.051
846	1159.052
847(a)	1160.001
847(b)	1160.051
847(c)	1160.051
847(d)	1160.052
847(e)	1160.053
847(f)	1160.054
847(g)	1160.055
847(h)	1160.056
847(i)	1160.056
847(j)	1160.057, 1160.058
847(k)	1160.059
847(m)	1160.060
848(a)	1160.101

Probate Code	Estates Code
848(b)	1160.102
849(a)	1160.151
849(b)	1160.151
849(c)	1160.152
849(d)	1160.153
849(e)	1160.154
849(f)	1160.155
850	1160.201
851	1160.251-1160.254
853(a)	1158.701
853(b)	1158.702,
853(c)	1158.703
853(d)	1158.704
853(e)	1158.705
853(f)	1158.706
854(a)	1161.001
854(b)	1161.007
854(c)	1161.007
855(a)	1161.002
855(a-1)	1161.002
855(b)	1161.003
855(c)	1161.004
855(d)	1161.004
855(e)	1161.004
855(f)	1161.004
855(g)	1161.005
855A	1161.006
855B(a)	1161.051
855B(a-1)	1161.051
855B(b)	1161.052
855B(c)	1161.053
855B(d)	1161.054
855B(e)	1161.052
857(a)	1161.101
857(b)	1161.102
857(c)	1161.104
857(d)	1161.103
857(e)	1161.103
857(f)	1161.106

Probate Code	Estates Code
857(g)	1161.103
857(h)	1161.105
857(i)	1161.104
857(j)	1161.106
858(a)	1161.202, 1161.203
858(b)	1161.202
858(c)	1161.205
858(d)	1161.203
858(e)	1161.203
858(f)	1161.203
858(g)	1161.204
860(a)	1161.151
860(b)	1161.152
860(c)	1161.153
860(d)	1161.151
861	1161.203
862	1161.204
865(a)	1162.001
865(b)	1162.002
865(c)	1162.008
865(d)	1162.002
865(f)	1162.004
865A(a)	1162.005
865A(b)	1162.005
865A(c)	1162.006
865A(d)	1162.006, 1162.007
865A(e)	1162.007
865A(f)	1162.008
865A(g)	1162.007
866(a)	1162.051
866(b)	1162.052
866(c)	1162.053
867(a)	1301.057
867(a-1)	1301.051
867(b)	1301.053
867(b-1)	1301.054
867(b-2)	1301.052
867(b-3)	1301.054
867(b-4)	1301.055

Probate Code	Estates Code
867(c)	1301.057
867(d)	1301.057
867(e)	1301.057
867(f)	1301.053, 1301.054, 1301.056
867A	1301.052
868(a)	1301.058, 1301.101
868(b)	1301.102
868(c)	1301.103
868(d)	1301.101
868(e)	1301.102
868(f)	1301.153
868A	1301.152
868B	1301.058
868C	1301.202
869	1301.201
869A	1301.155
869B	1301.002
869C	1301.151
870	1301.203
871	1301.154
872	1301.156
873	1301.204
874	1251.002
875(a)	1251.001
875(b)	1251.001
875(c)	1251.003
875(d)	1251.004
875(e)	1251.005
875(f)(1)	1251.006, 1251.008
875(f)(2)	1251.006
875(f)(3)	1251.006
875(f)(4)	1251.006
875(f)(5)	1251.007
875(f)(6)	1251.009
875(g)	1251.010, 1251.012
875(h)	1251.151
875(i)	1251.013
875(j)	1251.011

Probate Code	Estates Code
875(k)	1251.051
875(l)	1251.052
876	1251.101
877	1251.102
878	1251.152
879	1251.152, 1251.153
881(a)	1252.051
881(b)	1252.051
881(c)	1252.052
881(d)	1252.053
881(e)	1252.054
881A	1252.055
882	1252.001-1252.003
883(a)	1353.002, 1353.003
883(b)	1353.002, 1353.003
883(c)	1353.004
883(d)	1353.005
883(e)	1353.001
883(f)	1353.001
883(g)	1353.004, 1353.005
883(h)	1353.006
883A	1353.103
883B(a)	1353.051
883B(b)	1353.052
883B(c)	1353.051
883B(d)	1353.052
883B(e)	1353.052
883C(a)	1353.101, 1353.102
883C(b)	1353.102
883C(c)	1353.102
883D	1353.151
884	1353.054
884A	1353.053
885(a)	1354.001-1354.003
885(b)	1354.004
885(c)	1354.005
885(d)	1354.006
885(e)	1354.007
885(f)	1354.008

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885(g)	1354.009
887(a)	1355.001, 1355.051
887(b)	1355.052
887(c)	1355.102, 1355.103
887(d)	1355.104
887(e)	1355.002
887(f)	1355.105
887(g)	1355.151-1355.154
889(a)	1351.001, 1351.006
889(b)	1351.002
889(c)	1351.003
889(d)	1351.003
889(e)	1351.004
889(f)	1351.005
889A(a)	1352.001
889A(b)	1352.051, 1352.052, 1352.056
889A(c)	1352.053
889A(d)	1352.054
889A(e)	1352.055
889A(f)	1352.054
889A(g)	1352.057, 1352.058
889A(h)	1352.055
889A(i)	1352.055
889A(j)	1352.052
889A(k)	1352.059
890(a)	1351.051
890(b)	1351.052, 1351.053, 1351.057
890(c)	1351.053
890(d)	1351.054
890(e)	1351.054
890(f)	1351.055
890(g)	1351.056
890A(a)	1352.001
890A(b)	1352.101
890A(c)	1352.101, 1352.102, 1352.106
890A(d)	1352.103
890A(e)	1352.104

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Probate Code	Estates Code
890A(f)	1352.105
890A(g)	1352.104
890A(h)	1352.104
890A(i)	1352.107
890A(j)	1352.105
890A(k)	1352.108
891(a)	1253.001
891(b)	1253.002
891(c)	1253.003
891(d)	1253.003
892(a)	1253.051
892(b)	1253.052
892(c)	1253.055
892(d)	1253.053
892(e)	1253.053
892(f)	1253.053
892(g)	1253.053
892(h)	1253.056
893	1253.054 repealed
894(a)	1253.101
894(b)	1253.102
894(c)	1253.103
894(d)	1253.102
895(a)	1253.151
895(b)	1253.152
901	1356.001
902	1356.002
903(a)	1356.051, 1356.052
903(b)	1356.051
903(c)	1356.051
903(d)	1356.055
903(e)	1356.053
904(a)	1356.001
904(b)	1356.054
905	1356.056
910	1302.001
911	1302.002
912	1302.003
913	1302.004

Probate Code	Estates Code
914	1302.005
915	1302.007
916	1302.006

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Estates Code	Probate Code
21.001	new
21.002	new
21.003	new
21.004	2(c)
21.005	new
21.006	2(a)
22.001	3
22.002	3(a)
22.003	3(kk)
22.004	3(b)
22.005	3(c)
22.006	3(d)
22.007	3(e), (g), (ii)
22.008	3(h)
22.009	3(i)
22.010	3(j)
22.011	3(k)
22.012	3(l)
22.013	3(m)
22.014	3(ll)
22.015	3(o)
22.016	3(p)
22.017	3(q)
22.018	3(r)
22.019	3(f)
22.020	3(s)
22.021	3(s)
22.022	3(t)
22.023 repealed	3(u)
22.024	3(v)
22.025	3(w)
22.026	3(jj)
22.027	3(x)
22.028	3(z)

Estates Code	Probate Code
22.029	3(bb)
22.030	3(dd)
22.031	3(aa)
22.032	3(ee)
22.033	3(mm)
22.034	3(ff)
31.001	3(bb)
31.002	4B
32.001	4A
32.002	4C
32.003	4D
32.004	4E
32.005	4F
32.006	4G
32.007	4H
33.001	6
33.002	6A
33.003	6B
33.004	6C
33.005	6D
33.051	8(a)
33.052	8(a)
33.053	8(b)
33.054	8(e)
33.055	8(a)
33.101	8(b)
33.102	8(c)(1)
33.103	8(c)(2)
33.104	8(d)
34.001	5B
34.002	5C
51.001	33(a), (b)
51.002	33(c)
51.003	33(c)

Estates Code	Probate Code
51.051	33(f)(1)
51.052	33(f)(4)
51.053	33(f)(2)
51.054	33(f)(3)
51.055	34
51.056	33(e)
51.101	33(f)(1)
51.102	33(h)
51.103	33(i)
51.104	33(g)
51.151	33(d)
51.201	35
51.202	33(j)
51.203	22
52.001	13
52.002	14
52.003	16
52.004	17
52.051	11, 13(e)
52.052	15
52.053	17A
53.001	24
53.051	12(a)
53.052	12(b), (c)
53.053	11A
53.054	11B
53.101	19
53.102	20
53.103	23
53.104	34A
53.105 repealed	23
53.106	25
53.107	new
54.001	10C
54.002	9
54.051	22
54.052	18
55.001	10
55.002	21
55.051	10A(a)

Estates Code	Probate Code
55.052	10A(a)
55.053	10A(b)
55.101	10B
55.102	10B
55.151	26
55.152	26
55.201	27
55.202	27
55.203	27
55.251	31
55.252	31
56.001	221A
56.002	221B
101.001	37
101.002	46(a)
101.003	37
101.051	37
101.052	155, 156
102.001	42(c)
102.002	282
102.003	283
102.004	270
102.005	284
102.006	285
111.001	46(a)
111.002	46(b)
111.051	450(a), (c)
111.052	450(a)
111.053	450(b)
111.054	new
112.001	new
112.002	462
112.051	451
112.052	452
112.053	456(a), 458
112.054	455
112.101	456(a), (d)
112.102	456(b)
112.103	456(c)
112.104	457

Estates Code	Probate Code
112.105	458
112.106	459
112.151	453
112.152	454
112.201	460(f)
112.202	460(f)
112.203	460(a)
112.204	460(b)
112.205	460(d)
112.206	460(c)
112.207	460(e)
112.208	460(g)
112.251	461
112.252	461
112.253	461
113.001	436(1), (2), (3), (8), (9), (11), (12), (13), (15)
113.002	436(7)
113.003	436(6), 444
113.004	436(4), (5), (10), (14), 438A(a)
113.005	444
113.051	439A(a)
113.052	439A(b)
113.053	439A(c), (d)
113.101	437
113.102	438(a)
113.103	438(b)
113.104	438(c)
113.105	438A(b), (c), (e)
113.106	438B
113.151	439(a)
113.152	439(b)
113.153	439(c)
113.154	438A(d)
113.1541	438B(c)
113.155	439(d)
113.156	440
113.157	440
113.158	441

Estates Code	Probate Code
113.201	443
113.202	444
113.203	445
113.204	446
113.205	447
113.206	438A(f)
113.207	445
113.208	438A(f), (g)
113.209	448
113.210	449
113.251	442
113.252	442
113.253	442
121.001	47(f)
121.051	47(a)
121.052	47(a)
121.053	47(a)
121.101	47(c)
121.102	47(c)
121.151	47(b)
121.152	47(d)
121.153	47(e)
122.001	37A(e)
122.002	37A(a)
122.003	37A(b)
122.004	37A(k)
122.005	37A(j)
122.051	37A(g)
122.052	37A(h)
122.053	37A(h)
122.054	37A(h)
122.055	37A(h)
122.056	37A(i)
122.057 repealed	37A(p)
122.101	37A(c)
122.102	37A(d)
122.103	37A(f)
122.104	37A(n)
122.105	37A(o)
122.106	37A(o)

Estates Code	Probate Code
122.107	new
122.151	37A(l)
122.152	37A(l)
122.153	37A(m)
122.201	37B(a)
122.202	37B(b)
122.203	37B(b)
122.204	37B(c)
122.205	37B(d)
122.206	37B(e)
123.001	69(a), (b)
123.002	69(c)
123.051	471
123.052	472(a)
123.053	472(b)
123.054	473(a)
123.055	473(b)
123.101	47A(a)
123.102	47A(b), (c)
123.103	47A(d), (e)
123.104	47A(f)
124.001	322A(a), (s)
124.002	322A(x)
124.003	322A(l)
124.004	322A(p)
124.005	322A(b)
124.006	322A(c), (d), (e), (f)
124.007	322A(g)
124.008	322A(h)
124.009	322A(i)
124.010	322A(k), (m)
124.011	322A(q)
124.012	322A(r)
124.013	322A(t)
124.014	322A(n)
124.015	322A(o), (u)
124.016	322A(v)
124.017	322A(w)
124.018	322A(y)
124.051	378A(b)

Estates Code	Probate Code
124.052	378A(a)
151.001	36B
151.002	36C
151.003	36D
151.004	36E
151.005	36F
152.001	108, 109, 110
152.002	111(a), 112
152.003	111(b)
152.004	108
152.051	113(a)
152.052	113(b)
152.053	114(a)
152.054	113(c)
152.055	113(d), 114(b)
152.101	115(a), (b)
152.102	115(c), (d)
201.001	38(a)
201.002	38(b)
201.003	45
201.051	42(a)
201.052	42(b)(1)
201.053	42(b)(2)
201.054	40
201.055	42(d)
201.056	41(a)
201.057	41(b)
201.058	41(d)
201.059	41(d)
201.060	41(c)
201.061	41(d)
201.062	41(e), (f)
201.101	43
201.102	39
201.103	39
201.151	44(a), (b)
201.152	44(c)
202.001	48(a)
202.002	48(a)
202.003 repealed	48(a), (c)

Estates Code	Probate Code
202.0025	new
202.004	49(a)
202.005	49(a)
202.006	48(b)
202.007	49(b)
202.008	49(b)
202.009	53(b), (c)
202.051	50(a)
202.052	50(b)
202.053	50(c)
202.054	50(a)
202.055	50(d)
202.056	50(e)
202.057	new
202.101	51
202.102	51
202.103	51
202.151	53(a)
202.201	54
202.202	55(a)
202.203	55(a)
202.204	55(b)
202.205	55(c)
202.206	56
203.001	52
203.002	52A
204.001	53E
204.051	53A(a)
204.052	53A(b)
204.053	53A(c), (d)
204.054	53A(e)
204.055	53A(f)
204.056	53A(g)
204.101	53B(a)
204.102	53B(b)
204.103	53B(c)
204.151	53C(a)
204.152	53C(b), (c)
204.153	53C(d)
204.201	53D

Estates Code	Probate Code
205.001	137(a)
205.002	137(a)
205.003	137(a)
205.004	137(a)
205.005	137(d)
205.006	137(c)
205.007	138
205.008	137(b)
251.001	57
251.002	58(a), (b)
251.051	59(a)
251.052	59(a), 60
251.101	59(b)
251.102	59(a), (c)
251.103	59(a)
251.104	59(a), (b)
251.1045	59(a-1)
251.105	59(b)
251.106	59(c)
251.107	60
252.001	71(a)
252.002	71(b)
252.003	71(a)
252.004	71(c)
252.051	71(d)
252.052	71(d)
252.101	71(e)
252.102	71(e)
252.103	71(e)
252.104	71(e)
252.105	71(e)
252.151	71(f)
252.152	71(f)
252.153	71(g)
252.201	75
252.202	75
252.203	75
252.204	75
253.001	69A
253.002	63

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254.001	58a
254.002	61, 62
254.003	58(b)
254.004	59A
254.005	64
255.001	58(d)
255.002	58(c)
255.003	58(c)
255.051	67(c)
255.052	67(a), (d)
255.053	67(a)(1)
255.054	67(a)(2)
255.055	67(b)
255.056	67(e)
255.101	37C(a)
255.102	37C(b)
255.151	68(e)
255.152	68(b), (c), (d)
255.153	68(a)
255.154	68(a)
255.201 repealed	70
255.251	70A(c)
255.252	70A(a)
255.253	70A(b)
255.301	71A(a)
255.302	71A(b)
255.303	71A(c)
255.351	58c
256.001	94
256.002	72(a)
256.003	73
256.051	76
256.052	81(a)
256.053	81(a)
256.054	81(b)
256.101	83(a)
256.102	83(b)
256.103	83(c)
256.151	88(a)
256.152	84(a), 88(b)

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256.153	84(b)
256.154	84(c)
256.155	84(d)
256.156	85
256.157	87
256.201	89
256.202	90
256.203	91
256.204	93
257.001	89C(a)
257.051	89A(a)
257.052	89A(a)
257.053	89A(b)
257.054	89B
257.101	89C(b)
257.102	89C(c)
257.103	89C(d)
258.001	128(a)
258.002	128(b)
258.003	128(c)
258.051	128B(a), (b), (c)
258.052	128B(d)
258.053	128B(e)
258.101	129A
301.001	72(a)
301.002	74
301.051	76
301.052	82
301.101	179
301.151	88(a)
301.152	88(c)
301.153	88(d), 180
301.154	88(e)
301.155	new
301.201	80(a), (b)
301.202	80(b)
301.203	80(c)
303.001	128(a)
303.002	128(c)
303.003	129A

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304.001	77
304.002	79
304.003	78
305.001	new
305.002	189
305.003	192
305.004	new
305.051	190(a)
305.052	190(b)
305.053	190(c)
305.054	190(d), 192
305.055	190(d)
305.101	194, 195
305.102	214, 215, 216, 217
305.103	198
305.104	199
305.105	200
305.106	194
305.107	197
305.108	196
305.109	197
305.110	213
305.111	218
305.151	194(1), (2)
305.152	194(3)
305.153	194(4), (13)
305.154	194(5)
305.155	194(6)
305.156	194(7), (8(b), (c), (d))
305.157	194(8(a))
305.158	194(8(e))
305.159	194(9)
305.160	194(14)
305.201	194(10), (12)
305.202	194(11)
305.203	201(a)
305.204	201(b), 202
305.205	201(c)
305.206	211, 212
305.207	194(12)

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305.251	203, 204
305.252	205, 206(a)
305.253	206(b)
305.254	207
305.255	208
305.256	210
305.257	209
306.001	178(a), (c)
306.002	178(b)
306.003	181
306.004	182
306.005	183
306.006	187
306.007	186
307.001	188
307.002	240
308.001	128A(a)
308.0015	128A(a-1)
308.002	128A(b), (c), (d), (f)
308.003	128A(e)
308.004	128A(g), (h)
308.051	294(a), (c)
308.052	294(b)
308.053	295
308.054	294(d)
308.055	296
308.056	297
309.001	248
309.002	253
309.003	249
309.051	250
309.052	251
309.053	252
309.054	255
309.055	260
309.056	250(c), (d), (e)
309.057	new
309.101	256
309.102	257
309.103	258

Estates Code	Probate Code
309.104	259
309.151	261
310.001	378B(h)
310.002	378B(i)
310.003	378B(a)
310.004	378B(b), (c), (d)
310.005	378B(g)
310.006	378B(h)
351.001	32
351.002	29
351.003	245
351.051	234(a)
351.052	234(b)
351.053	28
351.054	233A
351.101	230
351.102	232
351.103	235
351.104	238A
351.105	398A
351.151	233(a)
351.152	233(b), (c), (d)
351.153	233(e)
351.201	238(a)
351.202	238(b), (f)
351.203	238(c), (d), (e)
351.204	238(g)
351.205	238(h), (i)
351.251	329(a)
351.252	329(b), (c)
351.253	329(c)
351.301	239
351.302	239
351.303	239
351.351	145(q), 154A(i)
351.352	36(a)
351.353	36(a)
351.354	36(a)
351.355	36(b)
352.001	241(b)

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352.002	241(a)
352.003	241(a)
352.004	241(a)
352.051	242
352.052	243
352.053	244
353.001	42(c)
353.051	271
353.052	272
353.053	273
353.054	275
353.055	274
353.056	274
353.101	286, 288
353.102	287
353.103	289
353.104	290
353.105	291
353.106	292
353.107	292, 293
353.151	277
353.152	278
353.153	279
353.154	280
353.155	281
354.001	143
354.051	262
354.052	263
354.053	264
354.054	265
354.055	266
354.056	267
354.057	268
354.058	269
355.001	298(a)
355.002	308
355.003	307
355.004	301
355.005	304
355.006	303

Estates Code	Probate Code
355.007	302
355.008	299
355.051	309
355.052	310
355.053	311
355.054	312(a)
355.055	312(b)
355.056	312(c)
355.057	312(d)
355.058	312(e)
355.059	301
355.060	298(a)
355.061	298(b)
355.062	303
355.063	318
355.064	313
355.065	314
355.066	313
355.101	319
355.102	322
355.103	320(a)
355.104	320(b)
355.105	320(c)
355.106	320(d)
355.107	326
355.108	321
355.109	322B
355.110	320A
355.111	315
355.112	323
355.113	328
355.151	306(a)
355.152	306(b)
355.153	306(c), (c-1)
355.154	306(d)
355.155	306(e)
355.156	306(f)
355.157	306(g)
355.158	306(h), (i)(1), (j)
355.159	306(i)(2)

Estates Code	Probate Code
355.160	306(k)
355.201	317
355.202	316
355.203	324
356.001	331
356.002	332
356.051	333
356.101	334
356.102	334
356.103	336
356.104	337
356.105	339
356.151	335
356.152	335
356.153	335
356.154	335
356.155	335
356.201	338
356.202	338
356.203	338
356.251	341
356.252	342
356.253	344
356.254	345
356.255	345A
356.256	346
356.257	340
356.301	348(a)
356.302	348(a)
356.351	348(b)
356.352	348(b)
356.353	348(b)
356.401	349(a)
356.402	349(b)
356.403	349(c)
356.404	349(d)
356.405	349(e)
356.451	350
356.501	351
356.502	351

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356.551	353
356.552	355
356.553	354
356.554	354
356.555	354
356.556	355
356.557	356
356.558	357
356.559	358
356.601	347
356.602	347
356.651	352(a)
356.652	352(b)
356.653	352(c)
356.654	352(d)
356.655	352(e)
357.001	359, 360
357.002	361
357.003	363
357.004	364
357.005	362
357.051	365
357.052	366
358.001	367(a); new
358.051	367(b), (c)
358.052	367(c)
358.053	367(c)
358.054	367(c)
358.055	367(c)
358.056	367(c)
358.057	367(c)
358.058	367(c)
358.059	367(c)
358.060	367(c)
358.101	368(a)
358.102	368(b)
358.151	369(a), (b)
358.152	369(b)
358.153	369(b)
358.154	369(b)

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358.155	369(b)
358.201	370
358.251	371
358.252	371
358.253	371
358.254	371
359.001	399(a)
359.002	399(b)
359.003	399(c)
359.004	399(c)
359.005	399(d)
359.006	402
359.051	401(a), (b), (c), (d)
359.052	401(e)
359.053	401(e)
359.054	401(e)
359.101	400
359.102	403
360.001	373(a), (b)
360.002	373(c)
360.051	374
360.052	375
360.101	377
360.102	378
360.103	387
360.151	380(a)
360.152	380(b)
360.153	380(c)
360.154	380(d)
360.155	380(e)
360.156	380(f)
360.157	380(g)
360.201	381(a)
360.202	381(b), (c)
360.203	381(d)
360.251	379
360.252	382
360.253	385
360.254	386
360.301	384

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361.001	221(a)
361.002	221(b)
361.003	221(c)
361.004	221(d)
361.005	221(e), (f)
361.051	222(a)(1)
361.052	222(b)
361.053	222(c)
361.054	222(a)(2), 222A
361.101	220(f)
361.102	220(a)
361.103	220(b)
361.104	220(c)
361.105	220(d)
361.106	220(e)
361.151	220(g)
361.152	223
361.153	224, 225
361.154	226
361.155	227
362.001	404
362.002	92
362.003	405
362.004	405
362.005	407
362.006	408(a)
362.007	405A
362.008	412
362.009	409
362.010	410
362.011	408(b)
362.012	408(c)
362.013	408(d)
362.051	406
362.052	414
401.001	145(b), (o)
401.002	145(c), (d)
401.003	145(c), (g)
401.004	145(f), (i), (j), (k), (l), (m), (n)
401.005	145(p)

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401.006	145A
401.007	145(q)
401.008	145(r)
402.001	145(h)
402.002	145B
402.051	145C(a)
402.052	145C(b)
402.053	145C(c)
402.054	145C(d)
403.001	146(a)(4)
403.051	146(a)(1)-(3), (a-1)
403.052	146(b)
403.053	146(b-1)
403.054	146(b-2)
403.055	146(b-3)
403.056	146(b-4), (b-5)
403.057	146(b-6)
403.058	146(b-7)
403.0585	146(c)
403.059	147
403.060	148
404.001	149A
404.002	149
404.003	149C
404.0035	new
404.0036	new
404.0037	new
404.004	154
404.005	154A
405.001	149B
405.002	151(e)
405.003	149D, 149E, 149F
405.004	151(a)
405.005	151(a-1)
405.006	151(b)
405.007	151(c), (d)
405.008	150
405.009	152
405.010	153
405.011	149G

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405.012	new
451.001	139
451.002	140
451.003	141
451.004	142
452.001	131A(a)
452.002	131A(b)
452.003	131A(a), (c)
452.004	131A(d)
452.005	131A(e)
452.006	131A(f), (g), (h)
452.007	131A(i)
452.008	131A(j)
452.051	132(a)
452.052	132(b)
452.101	133
452.102	133
452.151	134
452.152	135
453.001	155
453.002	155
453.003	160(a), (c)
453.004	160(b), (c)
453.005	176
453.006	156, 168
453.007	168
453.008	168
453.009	177
454.001	72(a)
454.002	72(a)
454.003	72(b)
454.004	72(a)
454.051	72(a)
454.052	72(a)
455.001	new
455.002	new
455.003	new
455.004	new
455.005	new
455.006	new

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455.007	new
455.008	new
455.009	new
455.010	new
455.011	new
455.012	new
501.001	95(a)
501.002	95(b)(1), (2), (c)
501.003	95(b)(1), (2)
501.004	95(d)(1), (2)
501.005	95(d)(1), (2)
501.006	105
501.007	95(e)
501.008	95(f)
502.001	103
502.002	104
503.001	96, 97
503.002	95(c)
503.003	96
503.051	98
503.052	99
504.001	100(a)
504.002	100(b)
504.003	95(d)(2), 100(c)
504.004	100(b)
504.051	101
504.052	101
504.053	102
505.001	105A(a)
505.002	105A(c), (d)
505.003	105A(a)
505.004	105A(b)
505.005	105A(b)
505.006	105A(e)
505.051	106
505.052	95(c), 107
505.101	107A(a), (b)
505.102	107A(c)
505.103	107A(d)
551.001	427

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551.003	427
551.004	427
551.005	428
551.006	430
551.051	433(a)
551.052	433(a), (b), (c)
551.053	433(c)
551.054	433(d)
551.055	433(b)
551.101	429
551.102	431
551.103	432
751.001	481
751.002	482
751.003	506
751.004	483
751.005	489B(i)
751.006	489B(j)
751.051	484
751.052	485
751.053	485A
751.054	486
751.055	487(a), (b), (c), (d)
751.056	487(e)
751.057	487A
751.058	488
751.101	489B(a)
751.102	489B(b)
751.103	489B(c), (f)
751.104	489B(d), (e)
751.105	489B(g)
751.106	489B(h)
751.151	489
752.001	490(a)
752.002	490(a)
752.003	490(a)
752.004	490(b)
752.051	490(a)
752.101	491

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752.102	492
752.103	493
752.104	494
752.105	495
752.106	496
752.107	497
752.108	498
752.109	499
752.110	500
752.111	501
752.112	502
752.113	503
752.114	504
752.115	505
1001.001	602
1001.002	603(a)
1001.003	603(b)
1002.001	601
1002.002	601(1)
1002.003	601(2)
1002.004	601(3)
1002.005	601(4)
1002.006	601(5)
1002.007	601(6)
1002.008	601(8), (29)
1002.009	601(7)
1002.010	601(9)
1002.011	601(10)
1002.012	601(11)
1002.013	601(12)
1002.014	601(12-a)
1002.015	601(25)
1002.016	601(13)
1002.017	601(14)
1002.018	601(15)
1002.019	601(16)
1002.020	601(18)
1002.021	601(19)
1002.022	601(20)
1002.023	601(21)

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1002.024	601(22)
1002.025	601(24)
1002.026	601(27)
1002.027	601(28)
1002.028	601(23)
1002.029	601(30)
1002.030	601(31)
1021.001	606A
1022.001	605
1022.002	605, 607A
1022.003	607B
1022.004	607C
1022.005	607D
1022.006	607E
1022.007	608
1022.008	609
1023.001	610
1023.002	611
1023.003	612
1023.004	613
1023.005	614
1023.006	615
1023.007	616
1023.008	617
1023.009	618
1023.010	619
1051.001	632(a), (b)
1051.002	632(c)
1051.003	632(c)
1051.051	632(f)(1)
1051.052	632(f)(4)
1051.053	632(f)(2)
1051.054	632(f)(3)
1051.055	634
1051.056	632(e)
1051.101	633(a), (g)
1051.102	633(b)
1051.103	633(c)
1051.104	633(d), (d-1), (f)
1051.105	633(e)

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1051.106	633(f)
1051.151	632(f)(1)
1051.152	632(h)
1051.153	632(i)
1051.154	632(g)
1051.201	632(d)
1051.251	635
1051.252	632(j)
1051.253	649
1052.001	623(a)
1052.002	624
1052.003	626
1052.004	627
1052.051	621, 623(b)
1052.052	625
1052.053	627A
1053.001	651
1053.051	622(a)
1053.052	622(b), (c)
1053.101	629
1053.102	630
1053.103	650
1053.104	new
1053.105	new
1054.001	646(a)
1054.002	646(e)
1054.003	646(a)
1054.004	647
1054.005	646(d)
1054.006	new
1054.007	new
1054.051	645(a)
1054.052	645(e)
1054.053	645(f)
1054.054	645(c)
1054.055	645(b), (d)
1054.056	645A
1054.101	648(f)
1054.102	648(a)
1054.103	648(b)

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1054.104	648(c), (d)
1054.105	648(a), (e)
1054.151	648A(a)
1054.152	648A(b)
1054.153	648A(c)
1054.154	648A(d)
1054.201	646(b), 647A(a), (b)
1054.202	647A(c), (e)
1054.203	646(c), 647A(d)
1055.001	642
1055.002	641
1055.051	644
1055.052	643
1055.053	new
1055.101	649
1055.102	628
1055.151	new
1056.001	653
1056.051	654
1056.052	654
1056.101	657
1056.102	657
1057.001	760A
1057.002	760B
1101.001	682
1101.002	new
1101.051	685(a), (c)
1101.052	685(b)
1101.053	686
1101.101	684(a), (b), (c)
1101.102	684(c)
1101.103	687(a), (b)
1101.104	687(c)
1101.105	602
1101.106	684(e)
1101.151	693(a)
1101.152	693(b)
1101.153	693(c), (d), (e)
1101.154	684(d)
1101.155	692

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1102.001	683(a)
1102.002	683(b)
1102.003	683A
1102.004	683(a)
1102.005	683(c)
1103.001	682A(a)
1103.002	682A(a-1), (a-2)
1103.003	682A(a)
1103.004	682A(b)
1104.001	690
1104.002	689
1104.051	676(b)
1104.052	676(c)
1104.053	676(d), (e), (f)
1104.054	676(a), 680
1104.101	677(a)
1104.102	677(a)
1104.103	677(b), (c), (d)
1104.151	677A(h), 677B(a)
1104.152	677A(a), (b), (c)
1104.153	677A(g)
1104.154	677A(i), (j)
1104.155	677B(c)
1104.156	677A(d)
1104.157	677B(b), (e), (f)
1104.158	677B(d)
1104.159	677A(f)
1104.160	677A(e)
1104.201	679(j), 679A(a)
1104.202	679(a), (b), (f)
1104.203	679(a), (c), (d)
1104.204	679(i)
1104.205	679(k), (l)
1104.206	679A(c)
1104.207	679(e)
1104.208	679A(b), (e), (f)
1104.209	679A(d)
1104.210	679(g)
1104.211	679(h)
1104.212	679(f)

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1104.251	696A, 697B(a)
1104.252	697B(e)
1104.253	696B
1104.254	697B(d)
1104.255	697B(b)
1104.256	697B(c)
1104.257	697A(a)
1104.258	697A(b)
1104.301	696
1104.302	697(a)
1104.303	697(a), (b)
1104.304	697(c)
1104.305	697(d)
1104.306	697(e)
1104.351	681
1104.352	681
1104.353	678, 681
1104.354	681
1104.355	681
1104.356	681
1104.357	681
1104.358	new
1104.401	new
1104.402	698(a), (e)
1104.403	698(a-5)
1104.404	698(a-6)
1104.405	698(b)
1104.406	698(a-1), (a-2), (a-3)
1104.407	698(a-4)
1104.408	698(b-1)
1104.409	698(c)
1104.410	698(c-1)
1104.411	698(d)
1104.412	698(f)
1105.001	new
1105.002	699
1105.003	701, 703(a)
1105.051	700
1105.052	701
1105.101	702

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1105.102	702A
1105.103	722, 723, 724, 725
1105.104	706
1105.105	707
1105.106	708
1105.107	708A
1105.108	705
1105.109	704
1105.110	705
1105.111	721
1105.112	726
1105.151	703(a)
1105.152	703(b), (s)
1105.153	703(c)
1105.154	703(d), (q)
1105.155	703(e)
1105.156	703(f)
1105.157	703(g), (h), (i), (j), (k)
1105.158	703(l)
1105.159	703(m)
1105.160	703(n), (p)
1105.161	703(o)
1105.162	703(p)
1105.163	703(r)
1105.201	709(a)
1105.202	709(b), 710
1105.203	709(c)
1105.204	719, 720
1105.251	711, 712
1105.252	713, 714(a)
1105.253	714(b)
1105.254	715
1105.255	716
1105.256	718
1105.257	717
1106.001	659(a)
1106.002	659(b)
1106.003	659(c), (d)
1106.004	661
1106.005	660

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1151.001	675
1151.002	662
1151.003	778
1151.004	769
1151.051	767
1151.052	770(a)
1151.053	770(b), (c), (d)
1151.054	770A
1151.101	768
1151.102	774(a)
1151.103	774(b)
1151.104	773
1151.105	772
1151.151	768
1151.152	771
1151.153	775
1151.154	780
1151.155	779
1151.201	781(a), (a-1), (a-2)
1151.202	781(b), (c)
1151.203	781(c)
1151.251	782(a)
1151.252	782(b)
1151.301	636
1152.001	655
1152.002	656
1153.001	783(a), (c)
1153.002	783(b)
1153.003	784(a), (b), (c), (d)
1153.004	784(e)
1153.005	785
1154.001	727
1154.002	732
1154.003	728
1154.051	729
1154.052	730
1154.053	731
1154.054	733
1154.055	738

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1154.101	734
1154.102	735
1154.103	736
1154.104	737
1154.151	739
1155.001	665(h)
1155.002	665(a), (g)
1155.003	665(b)
1155.004	665(a-1)
1155.005	665(f)
1155.006	665(c), (d)
1155.007	665(d), (d-1)
1155.008	665(e)
1155.051 [repealed]	665A
1155.052	665D
1155.053	665(C)(a), (b), (c)
1155.054	665A; 665B
1155.101	666
1155.102	665C(d)
1155.103	667
1155.151	669
1155.152	668
1155.201	670(a)
1155.202	670(b), (c)
1156.001	776(a), (a-1)
1156.002	776(a-2)
1156.003	776(a-2), (a-3)
1156.004	776(b)
1156.051	777
1156.052	776A
1157.001	786(a)
1157.002	795
1157.003	794
1157.004	788
1157.005	791
1157.006	790
1157.007	789
1157.008	787
1157.051	796
1157.052	797

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1157.053	798
1157.054	799(a)
1157.055	799(b)
1157.056	799(c)
1157.057	799(d)
1157.058	799(e)
1157.059	788
1157.060	786(a)
1157.061	786(b)
1157.062	790
1157.063	800
1157.064	801
1157.065	800
1157.101	804
1157.102	792
1157.103	805(a), (b)
1157.104	808
1157.105	805(c)
1157.106	806
1157.107	802
1157.108	809
1157.151	793(a), (b)
1157.152	793(c)
1157.153	793(d)
1157.201	803
1157.202	807
1158.001	811
1158.051	812
1158.101	813
1158.102	813
1158.103	815
1158.104	816
1158.105	818
1158.151	814(a), (b)
1158.152	814(b)
1158.153	814(c)
1158.154	814(c)
1158.155	814(c)
1158.201	817
1158.202	817

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1158.203	817
1158.251	820
1158.252	821
1158.253	823
1158.254	824
1158.255	824A
1158.256	825
1158.257	819
1158.301	827(a)
1158.302	827(a)
1158.351	827(b)
1158.352	827(b)
1158.353	827(b)
1158.401	828(a)
1158.402	828(b)
1158.403	828(c)
1158.404	828(d)
1158.405	828(e)
1158.451	829
1158.501	830
1158.502	830
1158.551	832
1158.552	834
1158.553	833
1158.554	833
1158.555	833
1158.556	834
1158.557	835
1158.558	836
1158.559	837
1158.601	826
1158.602	826
1158.651	831(a)
1158.652	831(b)
1158.653	831(c)
1158.654	831(d)
1158.701	853(a)
1158.702	853(b)
1158.703	853(c)
1158.704	853(d)

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1158.705	853(e)
1158.706	853(f)
1159.001	839, 840
1159.002	841
1159.003	843
1159.004	844
1159.005	842
1159.051	845
1159.052	846
1160.001	847(a); new
1160.051	847(b), (c)
1160.052	847(d)
1160.053	847(e)
1160.054	847(f)
1160.055	847(g)
1160.056	847(h), (i)
1160.057	847(j)
1160.058	847(j)
1160.059	847(k)
1160.060	847(m)
1160.101	848(a)
1160.102	848(b)
1160.151	849(a), (b)
1160.152	849(c)
1160.153	849(d)
1160.154	849(e)
1160.155	849(f)
1160.201	850
1160.251	851
1160.252	851
1160.253	851
1160.254	851
1161.001	854(a)
1161.002	855(a), (a-1)
1161.003	855(b)
1161.004	855(c), (d), (e), (f)
1161.005	855(g)
1161.006	855A
1161.007	854(b), (c)
1161.008	863

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1161.051	855B(a), (a-1)
1161.052	855B(b), (e)
1161.053	855B(c)
1161.054	855B(d)
1161.101	857(a)
1161.102	857(b)
1161.103	857(d), (e), (g)
1161.104	857(c), (i)
1161.105	857(h)
1161.106	857(f), (j)
1161.151	860(a), (d)
1161.152	860(b)
1161.153	860(c)
1161.201	858(h)
1161.202	858(a), (b)
1161.203	858(a), (d), (e), (f), 861
1161.204	858(g), 862
1161.205	858(c)
1162.001	865(a)
1162.002	865(b), (d)
1162.003	865(e)
1162.004	865(f)
1162.005	865A(a), (b)
1162.006	865A(c), (d)
1162.007	865A(d), (e), (g)
1162.008	865(c), 865A(f)
1162.051	866(a)
1162.052	866(b)
1162.053	866(c)
1163.001	741(a)
1163.002	741(b)
1163.003	741(c)
1163.004	741(c), (d)
1163.005	741(e), (f)
1163.006	741(g)
1163.051	742(a), (b), (cd), (d), (e)
1163.052	742(f)
1163.053	742(f)
1163.054	742(f)

Estates Code	Probate Code
1163.101	743(a), (b), (g)
1163.1011	new
1163.102	743(g), (h), (i)
1163.103	743(c)
1163.104	743(d), (e), (f)
1163.105	743(j)
1163.151	744
1164.001	673
1164.002	674
1201.001	671(a)
1201.002	671(b), (c), (d)
1201.003	671(d)
1201.004	671(e)
1201.051	672(e)
1201.052	672(a)
1201.053	672(b), (c)
1201.054	672(d)
1202.001	694
1202.002	676(g), 677(e)
1202.051	694A(a)
1202.052	694B
1202.053	694A(d)
1202.054	694A(b), (c)
1202.055	694A(e)
1202.101	694C(a), (b)
1202.102	694C(c), 694L
1202.103	694K
1202.151	694D
1202.152	694F
1202.153	694E
1202.154	694J
1202.155	694G
1202.156	694H
1202.157	694I
1202.201	new
1203.001	760(a)
1203.002	760(b)
1203.003	760(g)
1203.004	760(c)
1203.005	760(d)

Estates Code	Probate Code
1203.006	760(e), (f)
1203.051	761(a)
1203.052	761(c), (c-1)
1203.053	761(d)
1203.0531	new
1203.054	761(f)
1203.055	761(g)
1203.056	761(b), 762
1203.057	761(e)
1203.101	759(f)
1203.102	695(a), 759(a), 760(b), 761(f)
1203.103	759(b)
1203.104	759(c)
1203.105	759(d)
1203.106	759(e)
1203.107	759(h)
1203.108	695(c), (d), (e)
1203.151	695A(a), (a-1)
1203.152	695A(b)
1203.153	695A(c)
1203.201	759(g)
1203.202	695(b), 763, 764
1203.203	765
1204.001	745
1204.002	755
1204.051	746
1204.052	748
1204.053	754
1204.101	749
1204.102	749
1204.103	756
1204.104	757
1204.105	751
1204.106	752(a)
1204.107	753
1204.108	747
1204.109	752(b)
1204.151	752(c)
1204.152	752(d)
1204.201	750

Estates Code	Probate Code
1204.202	758
1251.001	875(a), (b)
1251.002	874
1251.003	875(c)
1251.004	875(d)
1251.005	875(e)
1251.006	875(f)(1), (2), (3), (4)
1251.007	875(f)(5)
1251.008	875(f)(1)
1251.009	875(f)(6)
1251.010	875(g)
1251.011	875(j)
1251.012	875(g)
1251.013	875(i)
1251.051	875(k)
1251.052	875(l)
1251.101	876
1251.102	877
1251.151	875(h)
1251.152	878, 879
1251.153	879
1252.001	882
1252.002	882
1252.003	882
1252.051	881(a), (b)
1252.052	881(c)
1252.053	881(d)
1252.054	881(e)
1252.055	881A
1253.001	891(a)
1253.002	891(b)
1253.003	891(c), (d)
1253.051	892(a)
1253.052	892(b)
1253.053	892(d), (e), (f), (g)
1253.054 repealed	893
1253.055	892(c)
1253.056	892(h)
1253.101	894(a)
1253.102	894(b), (d)

Estates Code	Probate Code
1253.103	894(c)
1253.151	895(a)
1253.152	895(b)
1301.001	new
1301.002	869B
1301.051	867(a-1)
1301.052	867(b-2), 867A
1301.053	867(b), (f)
1301.054	867(b-1), (b-3), (f)
1301.055	867 (b-4)
1301.056	867(f)
1301.057	867(a), (b-5), (c), (d), (e)
1301.058	868(a), 868B
1301.101	868(a), (d)
1301.102	868(b), (e)
1301.103	868(c)
1301.151	869C
1301.152	868A
1301.153	868(f)
1301.1535	new
1301.154	871
1301.155	869A
1301.156	872
1301.201	869
1301.202	868C
1301.203	870
1301.204	873
1302.001	910
1302.002	911
1302.003	912
1302.004	913
1302.005	914
1302.006	916
1302.007	915
1351.001	889(a)
1351.002	889(b)
1351.003	889(c), (d)
1351.004	889(e)
1351.005	889(f)
1351.006	889(a)

Estates Code	Probate Code
1351.051	890(a)
1351.052	890(b)
1351.053	890(b), (c); new
1351.054	890(d), (e)
1351.055	890(f)
1351.056	890(g)
1351.057	890(b)
1352.001	889A(a), 890A(a)
1352.051	889A(b)
1352.052	889A(b), (j)
1352.053	889A(c)
1352.054	889A(d), (f)
1352.055	889A(e), (h), (i)
1352.056	889A(b)
1352.057	889A(g)
1352.058	889A(g)
1352.059	889A(k)
1352.101	890A(b), (c)
1352.102	890A(c)
1352.103	890A(d)
1352.104	890A(e), (g), (h)
1352.105	890A(f), (j)
1352.106	890A(c)
1352.107	890A(i)
1352.108	890A(k)
1353.001	883(e), (f)
1353.002	883(a), (b)
1353.003	883(a), (b)
1353.004	883(c), (g)
1353.005	883(d), (g)
1353.006	883(h)
1353.051	883B(a), (c)
1353.052	883B(b), (d), (e)
1353.053	884A
1353.054	884
1353.101	883C(a)
1353.102	883C(a), (b), (c)
1353.103	883A
1353.151	883D
1354.001	885(a)

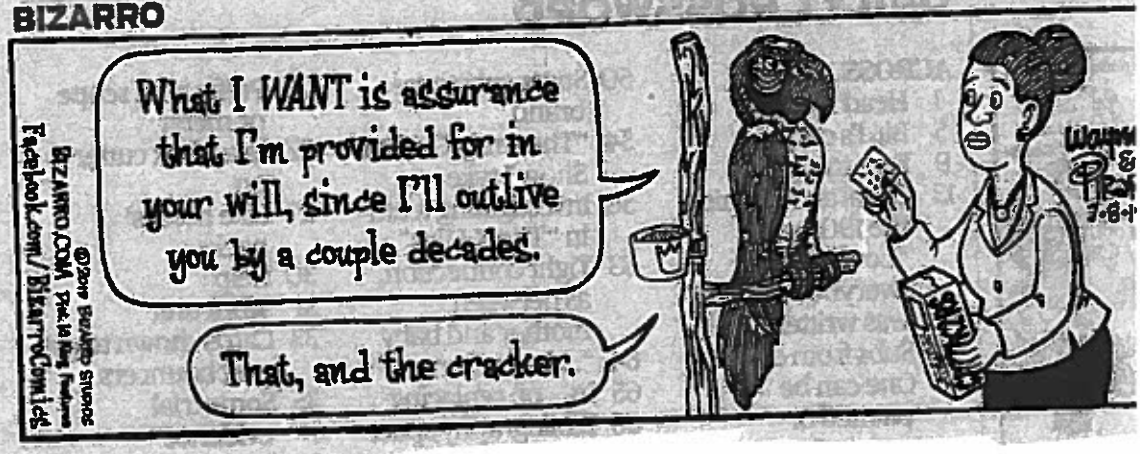
Estates Code	Probate Code
1354.002	885(a)
1354.003	885(a)
1354.004	885(b)
1354.005	885(c)
1354.006	885(d)
1354.007	885(e)
1354.008	885(f)
1354.009	885(g)
1355.001	887(a)
1355.002	887(e)
1355.051	887(a)
1355.052	887(b)
1355.101	new
1355.102	887(c)
1355.103	887(c)
1355.104	887(d)
1355.105	887(f)
1355.151	887(g)
1355.152	887(g)
1355.153	887(g)
1355.154	887(g)
1356.001	901, 904(a)
1356.002	902
1356.051	903(a), (b), (c)
1356.052	903(a)
1356.053	903(e)
1356.054	904(b)
1356.055	903(d)
1356.056	905

Chapter 1:

Anatomy of a Will

HOROSCOPES, ADVICE & COMICS

BIZARRO



INTRODUCTION

We are fortunate to have a great Estates Code that will cover almost every contingency that an attorney might encounter in administering an estate or guardianship and give the answers. So READ THE CODE SECTIONS THAT ARE LISTED!

The Code sections relate to the case law that you will be also reading in each chapter.

To be a good estate attorney, one must know the Estates Code, be methodical and a little obsessive compulsive!

CHAPTER 1

Before moving into administering an estate, attorneys must have the expertise to evaluate the decedent's last will and testament. The Will is the road map of an administration. The Will should give the attorney what will be necessary to open the estate. If the Will is flawed, then the attorney must look to the Estates code for direction.

Getting the estate open is the first step to administration.

We begin by looking at a Will and what is required in a well-drafted Will.

When people write own wills, problems follow

Q. I chatted briefly with a probate attorney and remarked, "You must make most of your money when people die intestate." She laughed and replied, "Not even close – it's when people do their documents themselves." Please elaborate. Do forms off the internet lack key provisions; and if so, which or what types? Also, why would having self-completed forms be more expensive than dying entirely intestate?

A. When people write their own wills, they usually make serious errors which cause the probate to be far more complicated than normal. Oftentimes, the poor drafting results in lawsuits where the beneficiaries fight over who gets which assets.

There is no way to list all the ways a will can get messed up, but here are a few of the most common.

RONALD LIPMAN

People often fail to give away all of their property. Attorneys typically write a will which makes a few bequests and then gives away the "rest" or "residue" of the estate to one or more people. But non-lawyers will mention a few assets, and then forget about everything else.

People often try to give away their property, but they do so in a way that is vague or even incomprehensible. It is unfortunate but true that many people are terrible writers. They don't write in complete sentences, and they use poor grammar. When people are unable to express clearly what they want to have happen with their property, the result is often litigation.

Lipman continues on B7

Sometimes people will give away their property, but then fail to address what happens if the property no longer exists or if the persons receiving the property have already died.

People often fail to name an executor, and even when they do, they fail to state that the person is to be an independent executor to serve without having to post bond. That means the lawyer handling the estate will need to go to extra work to try to have the estate administered without court supervision and without the need to purchase an expensive bond. Sometimes, an estate will need to be supervised by the court, and that is a much more costly and time-consuming probate.

People nearly always fail to use the proper self-proving affidavit, even though Texas has two statutory forms, either of which is acceptable. That also complicates the probate.

People also mess up the signing of the will. I have seen wills where the notar was also a witness, where the testator witnessed his own will, where there wer no witnesses but the nota did sign and stamp the las page, and where the nota part was left blank. There are countless ways to bot the signing of a will.

It is true that attorneys can and do make the sam mistakes mentioned abo but they do so far less oft than non-lawyers.

When a person dies w a properly drafted will, t probate is usually routin and is finished in a matt of weeks. When a perso dies without a will, the probate is more complic ed and takes longer, but there is typically no arg over who gets what. Th all decided by statute.

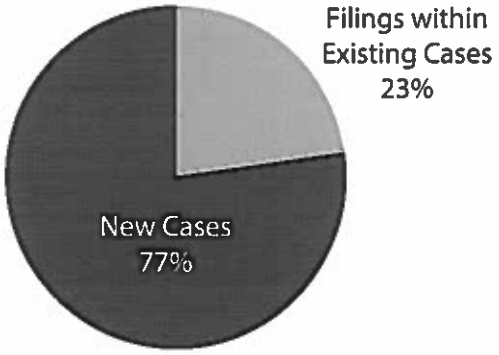
But when people wri their own wills, they oft create far more proble than they solve.

1-1

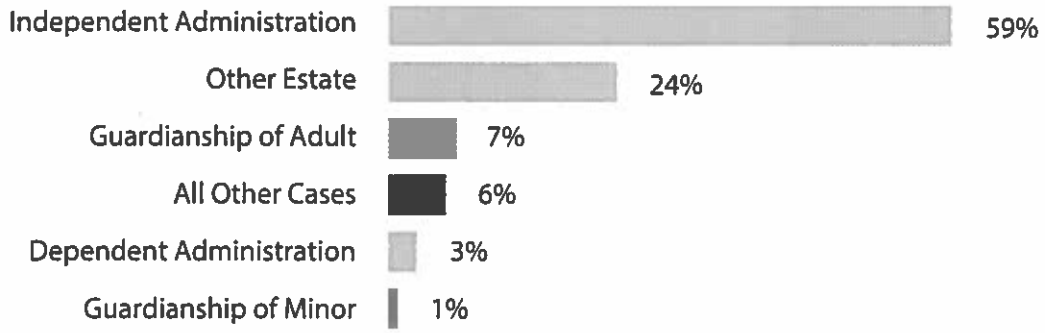
Statewide Trends

Probate and Guardianship Cases

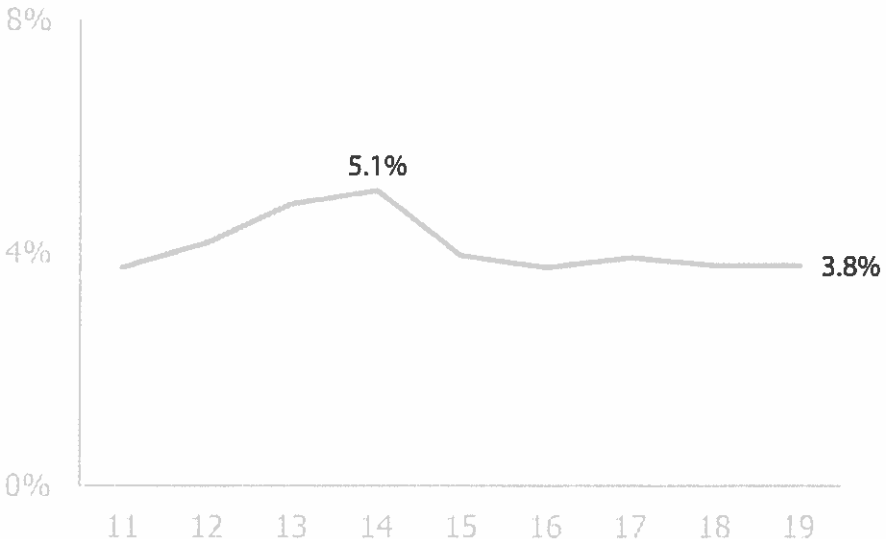
Approximately one-quarter of the probate and guardianship caseload in 2019 involved matters filed within already existing cases, including applications related to a guardianship or estate and post-judgment matters to compel compliance with statutory requirements.



Eighty-six percent of **new** cases filed in 2019 were estate cases—proceedings involving the handling or transfer of property by reason of the death of an individual. Guardianships accounted for 8 percent of new cases filed.



The plaintiff or petitioner who filed a case was **self-represented** at the time of filing in approximately 4 percent of cases.

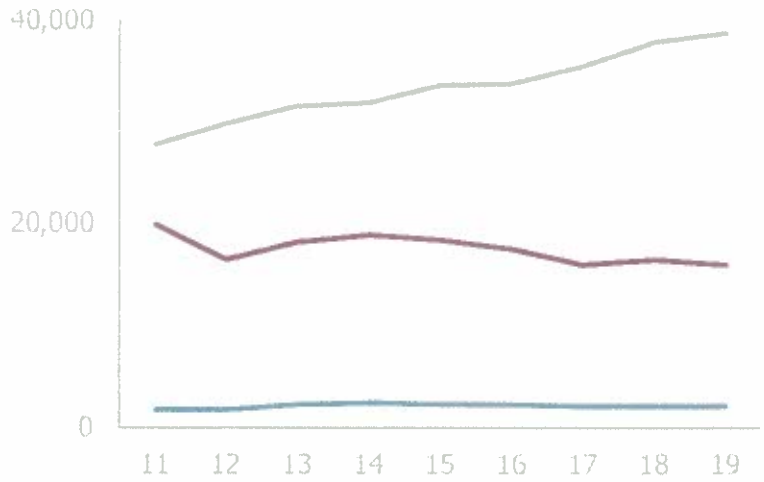


Estate Cases

In 2019, the number of new **estate** cases filed increased 1 percent from the previous year.

56,712
Estate

More than two-thirds of the estate caseload involved independent administrations, which have grown continuously.

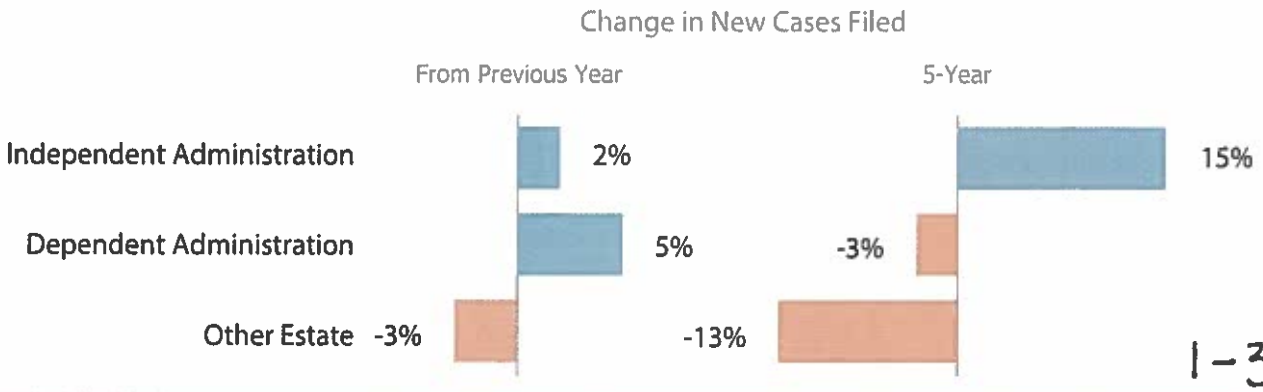


38,715
Independent Administration

15,904
Other Estate

2,093
Dependent Administration

Change in Filings



1-3

The 5 stages of grief explained

The five stages of grief: denial, anger, bargaining, depression and acceptance.

If you've ever read or talked to someone about grieving and loss, you likely have heard of the five stages of grief. This is an idea that people refer to when they talk about the way people often progress through the experience the grief cycle, from the first news of a loss through a wide range of emotional changes.

Psychiatrist Elisabeth Kübler-Ross developed the five stages of grief and introduced them in her 1969 book "On Death and Dying," then later refined them further with her coauthor David Kessler.

The five stages of grief were originally used specifically to talk about the way a person tends to react to news of a terminal illness. But they've come to be recognized as a normal part of grieving when talking about all kinds of loss, including death and dying.

Here are the stages of grief as commonly formulated:

1. Denial: This is a refusal to believe that the loss is real. "This isn't happening" "This can't be true," "It's a mistake" — those are all things a person might think or say upon hearing of a shocking loss. This is one way our brains try to absorb and process incredibly difficult news. Think of it as a defense mechanism to help cope with the loss when feeling overwhelmed.

Refusing to believe it gives the brain a little more time to take it in and begin to understand it.

2. Anger: Once we're willing to admit the loss has actually happened, we might proceed to a very strong emotion: anger. This anger can be directed at any number of targets. We might be angry at the person who died, or at the doctor who gave us the news, or at our higher power, or even at ourselves.

Sometimes this anger isn't white-hot fury, but more like frustration. "This isn't fair!" "Why is this happening to me/us?" "How could she leave us like this?"

The loss of a loved one can turn your world upside down in an instant and leave you feeling isolated from the world at large, but you are not alone.

3. Bargaining: This can take the form of trying to make a deal with our higher power, as in "I promise I will turn my life around and be a better person if you take this news back." This is especially common in reaction to news of a terminal illness.

But bargaining can also look like "if only" statements, in response to either a terminal illness or a loss. "If only he hadn't driven that route." "We should have gotten a second opinion." "If only I had quit smoking 20 years ago."

4. Depression: Once we've moved past refusing to believe the news, raging at the truth, and trying to get our higher power to take it back, reality sets in. The loss has really happened and our life is forever changed. There's a hole that once was filled, and this can lead to both sadness and real depression.

CatStudio/Shutterstock

Clinical depression takes many forms, and the depression stage can be long-lasting and include sentiments like "I don't even want to get out of bed," "My reason for living is gone," and "I'm just so tired all the time — I don't feel like doing anything."

5. Acceptance: Reaching acceptance of a loss doesn't mean grief is over. It's probably more manageable, as we're not fighting against the reality of the loss. We understand it has happened, and we know we can't change it. But grief doesn't turn off like a light, and accepting a loss doesn't mean feeling good about it. The acceptance stage, in the case of a terminal illness, is the point at which we're feeling able to acknowledge and prepare for death of a loved one — or our own.

In the case of a loss, acceptance is when intense emotion, frequent mood swings and tears begin to level out and we start to approach something like normal again — even though the feelings of grief are unlikely ever to leave us completely.

A newer model offers seven stages of grief, adding some key emotions that are not included in Kubler-Ross' work. The Seven Stages of Grief begins with shock and disbelief, and it also adds guilt, neither of which is included in the five stages.

The full seven stages of grief proceeds: shock and disbelief, denial, anger, bargaining, guilt, depression, acceptance. Other models offer four stages of grief (reeling, feelings, dealing, healing) and six stages of grief (shock, denial, anger, bargaining, depression, acceptance).

If you've ever been through a loss, or observed a friend who was grieving, you probably recognize the overwhelming emotions described in these stages.

But you might also be thinking that the grief you've experienced wasn't quite that tidy. The truth is that grief does not always follow any specific timeline and that people grieve differently.

As David Kessler of Grief.com points out, one person might move straight from denial to depression; another person might skip denial altogether.

If you were to draw a picture of your journey through grief, it would be unlikely to look like a straight line progressing through the stages of loss. In reality, it might look more a tangle as you progressed from denial to acceptance to bargaining, back to denial, on to anger and depression, and so on. You might also find yourself "stuck" in one of the stages.

Perhaps your anger or your depression is persistent, and you can't seem to move past it.

This is as normal as it is to bounce between the stages out of the order that Kubler-Ross created — though it certainly doesn't feel good, and it's something you can work through with the help of a therapist or health professional.

So the five stages of grief aren't intended to tell us exactly how our grief will go. Instead, the idea of the stages is to help us make sense of the emotions and impulses that are commonly felt during the grief process. If you're still feeling anger months after a loss, you shouldn't feel like there's something wrong with you and you must progress to bargaining right away.

The framework of the five stages isn't telling you what to do — it's just giving you language to help you understand what's happening in your head and your heart as you go through the grieving process.

Whether you're just beginning your grief journey, or you're "stuck" in depression, or you've proceeded through all five (or seven) stages and back again, you don't have to go through your grief alone. You can turn to others who have gone through a loss for support and commiseration, and you can talk to a professional grief therapist for help with moving through your grief. A grief support group is something you can attend online and/or in person — you can often find local grief support groups through a hospital or hospice.

They may also be able to help you find a grief counselor or therapist. And you don't have to choose one form of support if you're feeling overwhelmed — you can attend a grief support group in your town, visit a grief counselor, and check in on an online support group, if you find that all three help you. Visit https://www.legacy.com/advice/find-comfort-in-legacys-grief-support-groups/.

This content is from the February 2019 article, The Five Stages of Grief, by Linnea Crowther. Read the article online at Legacy.com.

TYPES OF ADMINISTRATIONS

Dependent Administration

Dependent Administration with Will Annexed

Temporary Administration — DEPENDENT

Temporary Administration pending Contest

Temporary Guardian

Temporary Guardian pending Contest

Guardian of the Estate

Guardian of the Person

Guardian of the Person and Estate

Trustee per Sec 1301

Independent Executor

Independent Administrator with Will Annexed — INDEPENDENT

Independent Administrator

Testamentary Trustee

WILL

OF

HARRIET ANNE HAMMOND

417871

PROBATE COURT 3

11212012:0926:G0007

SECTION ONE
INTRODUCTORY CLAUSE

That I, HARRIET ANNE HAMMOND, of the County of Travis and State of Texas, being of sound mind and memory, and above the age of twenty-one years, and desiring to provide for the proper disposition of my estate so that there may be no confusion concerning the same after my death, do hereby make, publish and declare this my Will, hereby revoking all Wills and Codicils by me at any time heretofore made.

SECTION TWO
IDENTITY OF TESTATOR'S FAMILY

I am married to KENNETH D. HAMMOND and all references in this Will to "my husband" are to him. I have three children now living, the same being MARTHA HAMMOND BAUER, DALE H. HAMMOND, and DAVID N. HAMMOND. All references in the Will to "my children" include not only the above children, but also any child or children later born to or adopted by me.

SECTION THREE
PAYMENT OF DEBTS AND EXPENSES

I direct that all of my legal debts, the expenses of my last illness and funeral, and the expenses of administering my estate shall be charged against my residuary estate and may be paid in the order and out of those assets of my residuary estate (including the income of my residuary estate) that my executor may deem best. My executor is specifically given the right to renew, refinance and extend, in any form that it deems best, any secured or unsecured debt or charge existing at the time of my death. Under no circumstances shall my executor be required to prepay any debt of mine.

SECTION FOUR
RESIDUARY ESTATE

I give my residuary estate to my husband, KENNETH D. HAMMOND, if he survives me. If he does not survive me, I give my residuary estate to my children in equal shares. If any child of mine shall predecease me but issue of such deceased child of mine survive me, the share of my estate that would otherwise pass to such deceased child of mine shall pass, per stirpes and not per capita, to the issue who survive me of the deceased child of mine. If any child of mine is deceased without leaving any surviving issue, no share shall be created on behalf of such deceased child.

Notwithstanding the preceding provisions of this Section, any portion of my residuary estate which would otherwise be distributed in fee simple to a child of mine who has not then attained the age of twenty-one (21) years, shall instead be held by my trustee, in trust, as the trust estate of a separate and distinct trust for such child until the child has attained this age and, upon reaching this age, the then remaining trust estate shall be distributed to such child in fee simple and free of trust. In the event the child dies prior to attaining this age, the then remaining trust estate shall be distributed to such child's surviving issue, per stirpes, or if the child has no then surviving issue, to my then surviving issue, per stirpes. If a trust created hereunder for any such person is then in existence, the share for such person will pass to such trust. During the term of or for the benefit of the child for whom the trust was created the Trustee shall distribute so much of the trust income and principal as will adequately provide the necessary or reasonable health, education, maintenance and support of the child, considering all other sources of income available to such child to the knowledge of the trustee.

I appoint my granddaughter, MOLLY E. HAMMOND, as my trustee and if she fails to qualify or ceases to act, I appoint my son, DALE H. HAMMOND, as successor trustee.

1-6

SECTION FIVE
EXECUTORS

I appoint my granddaughter, MOLLY E. HAMMOND, as my independent executrix. If she fails to qualify or ceases to act, I appoint my son, DALE H. HAMMOND, as my independent executor.

SECTION SIX
WILL CONTEST PROVISION

If any person, whether or not related in any way by blood to me, shall either directly or indirectly attempt to oppose or set aside the probate of this Will or to impair or invalidate any of the provisions of this Will, and such person shall establish a right to any part of my estate, I give and bequeath to such person the sum of one dollar($1) only and no further interest whatsoever in my estate.

SECTION SEVEN
DEFINITIONS

(a) Residuary Estate: The term "residuary estate" means all property in which I may have any interest (including lapsed gifts) which is not disposed of other than by the Section entitled "Residuary Estate." Any power of appointment which I have shall not be exercised by such Section.

(b) Beneficiaries: Unless the context indicates otherwise, the word "beneficiaries" means any beneficiary then eligible to receive distributions. If any beneficiary is a minor or under a disability irrespective of whether legally so adjudicated, then the parent, guardian, conservator, or person with whom the beneficiary resides shall act for the beneficiary for all purposes.

(c) Issue: The term "issue" means the lawful blood descedants in any degree of the ancestor designated and includes adopted children as above defined.

1-7

SECTION EIGHT
PRESUMPTIVE ORDER OF DEATHS

For all purposes of this will, if any beneficiary dies within thirty (30) days after my death, such person shall be deemed to have predeceased me.

SECTION NINE
GENERAL PROVISIONS AND POWERS

(a) Powers: I intend my executor to be independent as that term is used and defined under Texas law. I grant to all my Executors and Trustees discretion and complete power to administer my estate and I grant to all my Executors and Trustees all powers conferred on trustees by the Texas Trust Code.

In addition to those powers now or subsequently conferred by law, this grant shall include, without limitation, the following powers, all of which may be exercised without the necessity of securing the approval or order of any court: (1) to acquire, by purchase or otherwise, retain, invest, reinvest and manage, temporary or permanently, any realty or personality, without diversification as to kind, amount or risk of nonproductivity and without limitation by statute or rule of law; (2) to alter, improve, repair, replace, abandon and demolish assets; (3) to sell, exchange, encumber, lease for any period, or otherwise dispose of any asset of my estate, publicly or privately, with or without notice, wholly or partly for cash or credit, without appraisal, and to give options for those purposes; (4) to advance or borrow money, to hold, mortgage and pledge property for the repayment of same, and to renew and extend, any secured or unsecured debt or charge; (5) to purchase from, borrow from, sell to, and generally to deal with themselves individually and as a Executor or Trustee of any estate, or with partnerships, corporations and financial or business organizations in which they may own an interest; (6) to continue, invest in, or liquidate any partnership, corporation or business in which I may own an interest; (7) to abandon, compromise, contest and arbitrate claims; (8) to hold title in the name of a nominee; (9) to make distributions in kind, in money or partly in each, without requiring pro rata distribution of specific assets and without regard to differences in tax bases of any such property, at fair market value on the date of

distribution; (10) to carry out the terms of any valid agreement which I may have entered into during my lifetime concerning property which I may own at my death; (11) to determine all matters of estate accounting in accordance with generally accepted principles of estate accounting as established by controlling law or customary practices.

(b) Compensation: Each Executor or Trustee shall be entitled to reasonable compensation for services actually performed and to reimbursement for expenses necessarily incurred in the administration of my estate or any trust under my Will.

(c) Waiver of Bond: No Executor or Trustee shall be required to give bond in any jurisdiction, unless bond is required by law or court rule which cannot be waived, and in that event no surety shall be required.

(d) Acts of Prior Executor: No Executor or Trustee need examine the accounts, records or acts of any previous Executor or Trustee and an Executor or Trustee may accept as correct the statements of a prior Executor or Trustee or his personal representative as to the assets of the estate; an Executor or Trustee shall be responsible only for the assets actually delivered to it and shall not be responsible for the acts or omissions of any other Executor or Trustee.

(e) Texas law to Govern: All questions concerning the meaning and intention of any terms of this Will, its validity, or the exercise or administration of any powers created in this Will, shall be determined in accordance with the laws of the State of Texas.

(f) Will Not Contractual: This Will is not being executed pursuant to or as part of any contract, and I may revoke or change this Will at any time without breaching any agreement. Nothing in this Will shall be deemed to exercise any power of appointment which I might have.

(g) Effect of Inoperative, Invalid or Illegal Provision: If any provision of this Will or of any codicil thereto is held to be inoperative, invalid, or illegal, it is my intention that all of the remaining provisions thereof shall continue to be fully operative and effective as far as is possible and reasonable.

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(h) Headings: The headings above the various provisions of this Will have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing this Will or in ascertaining my intentions.

(i) Number and Gender Defined: As used in this Will, whenever the context so indicates, the masculine, feminine, or neuter gender, and the singular or plural number, shall be deemed to include the others.

SECTION TEN
TESTIMONIUM CLAUSE

IN TESTIMONY WHEREOF, I have hereunto signed my name this 9 day of August, 2001, in the presence of the undersigned witnesses who I have requested to sign the same as subscribing witnesses hereto, declaring to them that the foregoing is my Will

Harriet Anne Hammond
HARRIET ANNE HAMMOND

SECTION ELEVEN
ATTESTATION CLAUSE

We, the undersigned persons, of lawful age, have on this day at the request of HARRIET ANNE HAMMOND witnessed her signature to the foregoing Will , in the presence of us, and we have, at the same time and in her presence and in the presence of each other, subscribed our names hereto as attesting witnesses.

WITNESS:

Amy Benavides

ADDRESS:

606 W. 11th St, 78701

606 West 11th

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11212012:0926:G0013

SECTION TWELVE
SELF-PROVING AFFIDAVIT

THE STATE OF TEXAS ()
()
COUNTY OF TRAVIS ()
()

BEFORE ME, the undersigned authority, on this day personally appeared HARRIET ANNE HAMMOND, Jan McGill and Amy Benavides known to me to be the testatrix and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the said HARRIET ANNE HAMMOND, testatrix, declared to me and to the said witnesses in my presence, that said instrument is her Will; and that she had willingly made and executed it as her free act and deed for the purposes therein expressed; and the said witnesses, each on his oath stated to me, in the presence and hearing of the said testatrix, that the said testatrix had declared to them that said instrument is her Will, and that she executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said testatrix and at her request; that she was at that time eighteen (18) years of age or over and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

Harriet Anne Hammond
HARRIET ANNE HAMMOND
Testatrix

Amy Benavides
Witness

Jan McGill
Witness

FILED
2012 NOV 20 PM 3:31
Stan Stanart
COUNTY CLERK
HARRIS COUNTY, TEXAS

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ACKNOWLEDGED BEFORE ME by the said HARRIET ANNE HAMMOND, testatrix, and subscribed and sworn to before me by the said Jan McGill and Amy Benavides witnesses, this 9 day of August, 2001.

Mike Manos
Notary Public, State of Texas
My Commission Expires
MARCH 04, 2005

Mike Manos
Notary Public in and for
State of Texas

MIKE MANOS
Printed Name of Notary

My commission expires:

MARCH 4, 2005

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11/2/2013 0953 G0122

One Step Above UP

I, THERESA EILEEN DELAUP, as testator, after being duly sworn, declare to the undersigned witnesses and to the undersigned authority that this instrument is my will, that I have willingly made and executed it in the presence of the undersigned witnesses, all of whom were present at the same time, as my free act and deed, and that I have requested each of the undersigned witnesses to sign this will in my presence and in the presence of each other. I now sign this will in the presence of the attesting witnesses and the undersigned authority on Oct 23, 2013.

Theresa Eileen Delaup
THERESA EILEEN DELAUP, Testator

The undersigned, Jennifer J. McCaslin and Kendall S. Evans, each being above fourteen years of age, after being duly sworn, declare to the testator and to the undersigned authority that the testator declared to us that this instrument is the testator's will and that the testator requested us to act as witnesses to the testator's will and signature. The testator then signed this will in our presence, all of us being present at the same time. The testator is eighteen years of age or over (or being under such age, is or has been lawfully married, or is a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service), and we believe the testator to be of sound mind. We now sign our names as attesting witnesses in the presence of the testator, each other, and the undersigned authority on October 23, 2013.

Jennifer J. McCaslin
Witness Signature

1010 East 25th St Houston TX 77009
Address

Kendall Slz
Witness Signature

800 Bering Dr. Ste 200, Houston TX 77057
Address

Subscribed and sworn to before me by the said THERESA EILEEN DELAUP, the testator, and by the said Jennifer J. McCaslin and Kendall S. Evans, witnesses, on October 23, 2013.

SALLY S. ANDREWS
Notary Public, State of Texas
My Commission Expires
October 28, 2015

Sally S Andrews
Notary Public, State of Texas

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WILL
OF
MARY M. JONES

I, MARY M. JONES, of Harris County, Texas, make this my Will and I revoke all Wills and Codicils previously made by me.

ARTICLE I.
Identification

I have two sons, JOHN J. JONES and JAMES J. JONES. All references in this Will to "my children" are to them and to all children hereafter born to or adopted by me. In addition, all references in this Will to "my descendants" are to my children (as defined above) and to all of their respective descendants.

ARTICLE II.
Memorandum

I request that the beneficiaries of my estate and my Executor honor the provisions of any memorandum written by me directing the disposition of any portion of my personal and household effects.

ARTICLE III.
Specific Bequests

I give all of my interest in any motor vehicles, boats and personal watercraft, household goods, appliances, furniture and furnishings, pictures, silverware, china, glass, books, clothing, jewelry or other articles of personal use or ornament, and other personal property of a nature, use or classification similar to the foregoing, except as may be provided in a memorandum authorized by Article II, to those of my descendants who survive me per stirpes, with particular items to be allocated as they may agree, or if they cannot agree, as my Executor shall decide. If any beneficiary hereunder is a minor, my Executor may distribute such minor's share to such minor or for such minor's use to any person with whom such minor is residing or who has the care or control of such minor without further responsibility, and the receipt of the person to whom such minor's share is distributed shall be a complete discharge of my Executor. The cost of packing and shipping such property to any such beneficiary shall be charged against my estate

as an expense of administration.

ARTICLE IV.
Residue

I give all of the residue of my estate to those of my descendants who survive me per stirpes. If none of my descendants survives me, I give all of the residue of my estate to my heirs.

ARTICLE V.
Contingent Trusts

A. **Applicability.** Any share of my estate that is to be distributed to a person who is under the age of 25 or who is incapacitated (referred to herein as the "Beneficiary") shall be held by my Trustee as a separate trust for the benefit of such Beneficiary.

B. **Distributions.** My Trustee shall distribute to the Beneficiary of each trust such amounts of the income and principal of such trust as my Trustee, in my Trustee's reasonable discretion, deems desirable from time to time to provide for such Beneficiary's health, support, maintenance or education, directly and without the interposition of any guardian or conservator.

C. **Termination.** Each trust created by this Article for a Beneficiary who is under age 25 shall terminate when such Beneficiary attains that age. Each trust created by this Article for a person who is incapacitated shall terminate when the Beneficiary of such trust, in the reasonable discretion of my Trustee, is no longer incapacitated. Upon the termination of a trust created by this Article, the remaining property of such trust shall be distributed to the Beneficiary of such trust, but if a Beneficiary dies before the termination of such Beneficiary's trust, then upon such Beneficiary's death the remaining property of such trust shall be distributed to such Beneficiary's estate.

ARTICLE VI.
Executor and Trustee Appointments

A. **Executor and Trustee.** I appoint my sister, SUSAN S. SMITH, to be Independent Executor of my Will and estate and Trustee of all trusts created by my Will. If SUSAN S. SMITH fails to qualify, dies, resigns, becomes incapacitated, or otherwise ceases to serve, I appoint my sister, KAREN K. KING, to be Independent Executor of my Will and estate and Trustee of all trusts created by my Will.

B. **Bond; Independent Administration.** No bond or other security shall be

required of my Executor or of my Trustee in any jurisdiction. No action shall be required in any court in relation to the settlement of my estate other than the probating and recording of my Will and, if required by law, the return of an inventory, appraisement, and list of claims of my estate. An affidavit in lieu of inventory may be substituted for an inventory, appraisement, and list of claims if permitted by law.

C. **Expenses and Compensation.** Every Executor and Trustee shall be reimbursed for the reasonable costs and expenses incurred in connection with such Executor's or such Trustee's duties. Every Executor and Trustee shall be entitled to fair and reasonable compensation for services rendered by such Executor or such Trustee in an amount not exceeding the customary and prevailing charges for services of a similar character at the time and place such services are performed.

D. **Ancillary Executors and Trustees.** If my estate or any trust created by this Will contains property located in another state or a foreign jurisdiction and my Executor or Trustee cannot or chooses not to serve under the laws thereof, my Executor or Trustee shall have the power to appoint an ancillary individual or corporate Executor or Trustee of such property.

E. **Multiple Executors and Trustees.** Unless another meaning is clearly indicated or required by context or circumstances, the term "Executor" or "Trustee" shall also mean and include any Co-Executors, Co-Trustees, alternates, or successors. Except as otherwise specifically provided in this Will, if two or more Executors or Trustees are named or serving hereunder and any one or more, but not all, decline, fail or cease to serve for any reason, and no successor Executor or Trustee is named herein, then the remaining Executor or Trustee, or Co-Executors or Co-Trustees, as the case may be, shall be appointed or continue to serve in such capacity.

F. **Actions by Co-Executors and Co-Trustees.** In all matters relating to my estate or to any trust created by my Will, the decision of a majority of the Executors or Trustees then serving shall control. Any writing signed by the persons whose decision shall control shall be valid and effective for all purposes as if signed by all such Executors or Trustees.

ARTICLE VII.
Guardian Provisions

I appoint my sister, SUSAN S. SMITH, to be guardian of the persons and estates of those of my children who are under the age of legal majority at the time of my death, without requirement of bond or other security. If SUSAN S. SMITH dies, does not qualify, fails to serve, ceases to serve, or is unwilling or unable to serve for any reason, then I appoint my sister, KAREN K. KING, to be the first alternate guardian, without requirement of bond or other

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security. The provisions of this Article are intended to apply if the need to appoint a guardian arises following my death. I realize the responsibility of serving as guardian may impose a financial hardship on the guardian serving pursuant to this Article. I request that the Trustee of any trust or trusts created hereunder provide, as needed, financial assistance to the guardian to assist in obtaining appropriate housing accommodations, financing an addition to an existing residence, and providing for the costs of support, health care, insurance, and education for my children.

ARTICLE VIII.
Executor and Trustee Powers

Each Executor and Trustee shall, to the extent permitted by law, act independently and free from the control of any court as to my estate and as to every trust established under this Will (and as to all of the property of my estate and all of the property of every trust created under this Will). Each Executor and Trustee shall have and possess all powers and authorities conferred by statute or common law in any jurisdiction in which such Executor and Trustee may act, including all powers and authorities conferred by the Texas Trust Code and by any future amendments thereto, except for any instance in which such powers and authorities may conflict with the express provisions of this Will, in which case the express provisions of this Will shall control. In addition to such powers and authorities, each Executor and Trustee shall have and possess the following powers and authorities (each of which shall be exercisable in the discretion of such Executor or Trustee) with respect to my estate and every trust established hereunder, and the following provisions shall apply to my estate and every trust established under this Will:

(1) To retain, without liability for any depreciation or loss occasioned by such retention, any property which was owned by me when my Executor or Trustee determines that, because of the circumstances involved, my estate or a trust created hereunder would be better served by not diversifying the investment in such property;

(2) To exchange, sell or lease (including leases for terms exceeding the duration of all trusts created by this Will) for cash, property or credit, or to partition, publicly or privately, at such prices, on such terms, times and conditions and by instruments of such character and with such covenants as my Executor or Trustee deems proper, all or any part of the properties of my estate or any trust, including real property, and no vendee or lessee shall be required to look to the application of any funds paid to my Executor or Trustee;

(3) To borrow money from any source (including any Executor or

TCB

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Trustee) and to mortgage, pledge, or in any other manner encumber all or any part of the properties of my estate or any trust as may be advisable in the judgment of my Executor or Trustee for the advantageous administration of my estate or any trust;

(4) To make, in the discretion of my Executor or Trustee, any distribution required or permitted to be made to any beneficiary under this Will, or under any trust established by this Will, in any of the following ways when such beneficiary is a minor or is incapacitated: (i) to such beneficiary directly; (ii) to the guardian or conservator of such beneficiary's person or estate; (iii) by utilizing the same, directly and without the interposition of any guardian or conservator, for the health, support, maintenance, or education of such beneficiary; (iv) to a person or financial institution serving as custodian for such beneficiary under a uniform gifts to minors act or a uniform transfers to minors act of any state; (v) by reimbursing the person who is actually taking care of such beneficiary (even though such person is not the legal guardian or conservator) for expenditures made by such person for the benefit of such beneficiary; and (vi) by managing such distribution as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution; and the written receipts of the persons receiving such distributions shall be full and complete acquittances to my Executor or Trustee;

(5) To make divisions, partitions, or distributions in money or in kind, or partly in each, whenever required or permitted to divide, partition, or distribute all or any part of my estate or of any trust; and, in making any such divisions, partitions, or distributions, the judgment of my Executor or Trustee in the selection and valuation of the assets to be so divided, partitioned, or distributed shall be binding and conclusive; and, further, my Executor shall be authorized to make distributions from my estate on a non-pro rata basis;

(6) To invest and reinvest the properties of my estate or of any trust in any kind of property whatsoever, real or personal (including oil, gas and other mineral leases, royalties, overriding royalties and other interests), whether or not productive of income, and such investments and reinvestments may be made without regard to the proportion that such property or property of a similar character held may bear to my entire estate, or to the entire trust, if my Executor or Trustee determines that, because of the circumstances involved, my estate or such trust would be better served by not diversifying such investment or reinvestments; and in addition to make loans to any beneficiary of any trust with adequate security and at an adequate interest rate; provided further, the standard for assessing the investment performance of a Trustee who is an individual shall be the prudent investor rule in Section 117.004 of the Texas Uniform Prudent Investor Act, and such rule shall be applied to the investment performance of the entire portfolio, taking into account the purposes, terms and provisions stated herein, and not the investment performance of any single investment considered

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apart from the rest of the portfolio; and

(7) To enter into any transaction on behalf of my estate or of any trust (including loans to beneficiaries for adequate security and adequate interest) despite the fact that another party to any such transaction may be (i) a trust of which any Executor or Trustee under this Will is also a trustee, including any trust established by this Will; (ii) an estate of which any Executor or Trustee under this Will is also an executor, personal representative or administrator, including my estate; (iii) a business or trust controlled by any Executor or Trustee under this Will or of which any such Executor or Trustee, or any director, officer or employee of any such corporate Executor or corporate Trustee is also a director, officer or employee; or (iv) any beneficiary, Trustee, or Executor under this Will acting individually.

ARTICLE IX.
Miscellaneous

A. **Spendthrift Provisions.** Each trust created by this Will shall be a spendthrift trust to the fullest extent allowed by law. Prior to the actual receipt of property by any beneficiary, no property (income or principal) distributable under this Will or under any trust created by this Will shall, voluntarily or involuntarily, be subject to anticipation or assignment by any beneficiary, or to attachment by or to the interference or control of any creditor or assignee of any beneficiary, or taken or reached by any legal or equitable process in satisfaction of any debt or liability of any beneficiary, and any attempted transfer or encumbrance of any interest in such property by any beneficiary hereunder prior to distribution shall be void.

B. **Accounting.** Except as otherwise provided in this Section, all properties, books of account, and records of my estate and of each trust created by my Will shall be made available for inspection at all times during normal business hours by any beneficiary of my estate or such trust, or by any person designated by such beneficiary. Furthermore, except as otherwise provided in this Section, within 60 days of receiving a written request from a beneficiary of my estate or of a trust created by my Will, my Trustee shall furnish an accounting to such beneficiary. Any such accounting shall comply with the requirements of the Texas Trust Code and shall be deemed correct and binding one year after receipt by the requesting beneficiary. Notwithstanding the foregoing, with regard to each beneficiary of a trust who is under 25 years of age, my Trustee shall be relieved of the duty to keep such beneficiary reasonably informed concerning the administration of such trust and the material facts necessary for such beneficiary to protect such beneficiary's interest, and my Trustee shall have no duty to respond to a demand for an accounting.

C. **Survivorship Provisions.** No person shall be deemed to have survived me if

such person shall die within 90 days after my death; however, my Executor may make distributions from my estate within that period for the support of my children. Any person who is prohibited by law from inheriting property from me shall be treated as having failed to survive me.

D. **Payment of Debts.** I direct that all of my legal debts, funeral and testamentary expenses, costs and expenses of administration of my estate, and all estate, inheritance, transfer and succession taxes (Federal, State and others) upon or with respect to any property required to be included in my gross estate under the provisions of any law, and whether or not passing hereunder, shall be paid as soon after my death as in the opinion of my Executor is practical and advisable. If at the time of my death any of my property is subject to a mortgage, lien, or other debt, I direct that the devisee taking such property shall take it subject to such mortgage, lien, or other debt, and that such person shall not be entitled to have the obligation secured thereby paid out of my general estate. My Executor is specifically given the right to renew, refinance and extend, in any form that my Executor deems best, any secured or unsecured debt or charge existing at the time of my death. Under no circumstances shall my Executor be required to prepay any debt of mine.

E. **Descendants.** References to "descendant" or "descendants" mean lineal blood descendants of the first, second or any other degree of the ancestor designated; provided, however, such references shall include, with respect to any provision of this Will, descendants who have been conceived at any specific point in time relevant to such provision and who thereafter survive birth; and provided, further, an adopted child and such adopted child's lineal descendants by blood or adoption shall be considered under my Will as lineal blood descendants of the adopting parent or parents and of anyone who is by blood or adoption a lineal ancestor of the adopting parent or of either of the adopting parents.

F. **Incapacitated.** A beneficiary shall be deemed "incapacitated" if my Executor or Trustee, in my Executor's or Trustee's reasonable discretion, determines that such beneficiary lacks the ability, due to a physical or mental condition, to manage his or her own personal and financial affairs. My Executor or Trustee shall be deemed "incapacitated" if and for as long as (i) a court of competent jurisdiction has made a finding to that effect, (ii) a guardian or conservator of such Executor's or Trustee's person or estate has been appointed by a court of competent jurisdiction and is serving as such, or (iii) two physicians (licensed to practice medicine in the state where my Executor or Trustee is domiciled at the time of the certification, and one of whom shall be board certified in the specialty most closely associated with the cause of such Executor's or Trustee's incapacity) certify that due to a physical or mental condition my Executor or Trustee lacks the ability to manage his or her own personal and financial affairs. An incapacitated Executor or Trustee shall be deemed to have regained capacity if there is a finding to that effect

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by a court of competent jurisdiction or if two physicians (with the same qualifications described above) certify that the Executor or Trustee is capable of managing his or her personal and financial affairs.

G. **Heirs.** References to "heirs" are to those persons who would inherit separate personal property from the person designated under the statutes of descent and distribution of the State of Texas, if such person died intestate and single at such time.

H. **Governing Law.** The construction, validity and administration of each trust created under this Will shall be controlled by the laws of the State of Texas. My Trustee may designate the laws of another jurisdiction as the controlling law with respect to the administration of a particular trust if the primary beneficiary of such trust resides in such designated jurisdiction, in which case the laws of such designated jurisdiction shall apply to such trust as of the date specified in such designation. Any such designation shall be in writing and shall be delivered to each beneficiary of the affected trust.

I. **Right To Use Principal Residence.** Each beneficiary of a trust created hereunder who desires to qualify eligible real or personal property for the homestead exemption shall have the right to use and occupy such property owned by such trust as such beneficiary's principal residence rent free and without charge for life or until such trust terminates, whichever occurs first. Further, any such property (or any interest therein) shall be acquired by an instrument of title that describes the property with sufficient certainty to identify it and the interest acquired, and the instrument shall be recorded in the real property records of the county in which the property is located. It is my intention that each home owned by a trust created under my Will qualify for the homestead exemption and that the trust which owns such property is a "qualifying trust" as defined and described in Section 11.13(j) of the Texas Tax Code.

J. **Per Stirpes.** When a distribution is to be made to a person's descendants "per stirpes," property shall be divided into as many equal shares as there are (i) living children of such person, if any, and (ii) deceased children who left descendants who survive such person. Each living child shall receive one share, and the share that would have passed to each deceased child shall be divided in a similar manner (by reapplying the preceding rule) among his or her descendants who survive such person. For example, if a person has deceased children and surviving children when a distribution is to be made, the assets will be divided into equal shares at the child level and distributed per stirpes below that level; however, if the person has no surviving children at such time, that equal division will still be made at the child level and distributed per stirpes below that level. This definition is intended to override any conflicting or contrary common law definition.

IN TESTIMONY WHEREOF, I have placed my initials on each of the foregoing pages of this, my Last Will and Testament, and in the presence of two Witnesses, who are acting as witnesses at my request, in my presence and in the presence of each other, I hereunto sign my name, on June 5, 2014.

Mary Jones
MARY M. JONES, Testator

The foregoing instrument was signed by the Testator in our presence and declared by the Testator to be her Will, and we, the undersigned Witnesses, sign our names hereunto as witnesses at the request and in the presence of the Testator, and in the presence of each other, on June 5, 2014.

James Madison
Witness Signature

1234 Yoakum
Street Address

Houston TX
City, State and Zip Code

Mary Green
Witness Signature

6871 Mary Lane
Street Address

Houston TX
City, State and Zip Code

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THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared MARY M. JONES, James Madison and Mary Green, known to me to be the Testator and the Witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of such persons being by me duly sworn, the Testator declared to me and to the Witnesses in my presence that such instrument is her last will and testament, and that she had willingly made and executed it as her free act and deed; and the Witnesses, each on his or her oath stated to me, in the presence and hearing of the Testator, that the Testator had declared to them that such instrument is her last will and testament, and that she executed same as such and wanted each of them to sign it as a witness; and upon their oaths each Witness stated further that they did sign the same as witnesses in the presence of the Testator and at her request; that she was at that time 18 years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of the Witnesses was then at least 14 years of age.

Mary Jones
MARY M. JONES, Testator

James Madison
Witness Signature

Mary Green
Witness Signature

SUBSCRIBED AND SWORN TO before me by MARY M. JONES, Testator, and by James Madison and Mary Green, Witnesses, on June 5, 2014.

KEITH ANN MORRIS
August 16, 2016

Helen Morris

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VIII

RE: New §81

Requirements for Wills to Be Self-Proven in States Other Than Texas

~~Per Tex. Prob. Code §84(a) (2011)~~

Alabama	Code of Alabama 1975, §43-8-132
Alaska	Alaska Stat. §13.12.504
Arizona	A.R.S. §14-2504
Arkansas	A.C.A. §28-25-106
California	Cal Prob Code 6113 (Unif. Int'l Wills Act)
Colorado	C.R.S. 15-11-504
Connecticut	Code §45a-285
Delaware	12 Del. C. §1305
D.C.	*Not Allowed*
Florida	Fla. Stat. §732.503
Georgia	O.C.G.A. §53-4-24
Hawaii	HRS §560:2-504
Idaho	Idaho Statutes 15-2-504
Illinois	755 ILCS 5/6-4
Indiana	Burns Ind. Code Ann. §29-1-5-3
Iowa	Iowa Code §633.279
Kansas	K.S.A. §59-606
Kentucky	Kentucky Revised Statutes 394-225
Louisiana	*Not Allowed*
Maine	Maine Revised Statutes tit. 18-A, §2-504
Maryland	*Not Allowed*
Massachusetts	ALM GL ch. 190B, §2-504
Michigan	MCLS §700.2504
Minnesota	Minn. Stat. §524.2-504
Mississippi	Miss. Code Ann. §91-7-9
Missouri	Missouri Revised Statutes §474.337
Montana	Montana Code Annotated 2005, §72-2-524
Nebraska	State of Nebraska Statutes, §30-2329
Nevada	Nev. Rev. Stat. Ann. §133.050
New Hampshire	New Hampshire RSA 551
New Jersey	N.J. Stat. §3B:3-4
New Mexico	N.M. Stat. Ann. §45-2-504
New York	NY EPT §3-2.1; NY SCP §1406
North Carolina	G.S. §31-11.6
North Dakota	N. D. Cent. Code, §30.1-08-04
Ohio	*Not Allowed*
Oklahoma	O. S. §84-55
Oregon	Oregon Revised Statutes 112.232 (Unif. Int'l Wills Act)
Pennsylvania	2010 Pennsylvania Code, tit. 20 §3132.1
Rhode Island	R.I. Gen. Laws §33-7-26
South Carolina	South Carolina Code of Laws §62-2-503
South Dakota	S.D. Codified Laws §29A-2-504
Tennessee	Tennessee Code 32-2-110
Texas	Tex. Prob. Code §59
Utah	Utah Code Ann. §75-2-504
Vermont	*Not Allowed*
Virginia	Code of Virginia §64.1-87.1
Washington	Rev. Code Wash. (ARCW) §11.20.020
West Virginia	W. Va. Code §§41-1-1 to 41-5-15
Wisconsin	Wisconsin Statutes 853.04
Wyoming	Wyo. Stat. §2-6-114

Estates Code 251.053

Check 10 key points *in the Will*
to get all the paperwork right for letters testamentary

Key Points to Check	How to Check & How it Affects Paperwork, Related Testimony, etc.
1. Was the will **validly executed**?	Don't forget to check the obvious question of whether the will was validly executed. **Attested Will.** See requirements in Texas Estates Code ("EC") §251.051: Except as otherwise provided by law, a last will and testament must be: (1) in writing; (2) signed by: (A) the testator in person; or (B) another person on behalf of the testator: (i) in the testator's presence; and (ii) under the testator's direction; and (3) attested by two or more credible witnesses who are at least 14 years of age and who subscribe their names to the will in their own handwriting in the testator's presence. Remember that according to EC §251.105, "[a] signature on a self-proving affidavit is considered a signature to the will if necessary to prove that the will was signed by the testator or witnesses or both, *except that, in that case, the will may not be considered a self-proved will*." Emphasis added. See #4 below about self-proved wills. In addition, a will could be valid with only one "witness" *plus a notary who witnessed the signing of the will*. In that case, the Court strongly prefers that the notary be the subscribing witness in court. If the notary cannot appear in court, the court requires both (1) that the notary sign an affidavit with typical subscribing-witness information (modified to accurately state the notary's role) and *with an attached copy of the relevant log book* **and** (2) that the one subscribing witness testify in court (or two disinterested handwriting witnesses testify in court, with a motion & order for alternative proof). See #4 below about self-proved wills. **Holographic will.** "Notwithstanding Section 251.051, a will written wholly in the testator's handwriting is not required to be attested by subscribing witnesses." EC §251.052. **What if the "will" is not validly executed?** If a purported will was not validly executed – either as a valid attested will or as a valid holographic will – none of the rest of this list is relevant because an invalidly executed will cannot be probated. In that case, if probate is necessary, there will need to be a determination of heirship, or a small estate affidavit, or a probate of an earlier will, depending on the circumstances. Note that if there's *any* possible argument that a purported will was validly executed, the Travis County Probate Court requires that the beneficiaries have notice so they have an opportunity to argue the will is valid.
2. Is the will (and any codicil) an **original** and not a copy?	**How do you know?** In these days of good copiers – including color copiers – and notary stamps instead of raised seals, it's not always easy to tell whether a will is the original will. Do take time to look at *all pages* of the will and see whether all pages of the will are originals. As you see more originals and copies, you can develop a pretty good eye. Don't simply take the client's word; in Travis County, it's not unusual for clients to swear a will is an original – but then find the actual original elsewhere after being told that what they thought was an original is a copy. Some hints follow below, but no checklist will always lead you to a definitive answer: • A raised notary seal is proof for that page of the will, at least! • Most stamped notary seals will smear with a careful spit test, but be sure to check whether everything else smears, too: ✓ If *only* the seal smears, it's probably an original (or at least that page is). ✓ If *everything* smears or if *nothing* smears, there's a pretty good chance it's a copy – so carefully check the other hints. • Original signatures often can be felt on the front or back side of the paper (slightly raised or slightly indented – or both). • If all signatures are in black, take a second look. • Blue ink is more likely an original, but not definitely given color copiers.

Check 10 key points *in the Will*
to get all the paperwork right for letters testamentary

Key Points to Check	How to Check & How it Affects Paperwork, Related Testimony, etc.
2. Continued: Is the will (and any codicil) an **original** and not a copy?	• Copied signatures can look somewhat spotty– but that can also happen with different pens. • If different pages are on different types of paper, take a second look. **What if the will or a codicil is a copy?** When the will or a codicil is a copy, you will need to do a variety of things differently (unless an original codicil specifically republishes the will of which there is only a copy). a. **Additional information required in application, proof, and order.** See EC §256.054 (applications) and EC §256.156 (proof). • *The application* must state (a) the cause of the will's non-production, (b) that reasonable diligence has been used to locate the original will, and (c) that the testator did not revoke the will. • *The proof of death and other facts* must include testimony that proves each of the above three points. See *In re Estate of Wilson*, 252 S.W.3d 708 (Tex. App. – Texarkana 2008, no pet. h.), where evidence was insufficient to rebut the presumption of revocation. In addition, "the contents of the will must be substantially proved by the testimony of a credible witness who has read either the original or a copy of the will, has heard the will read, or can identify a copy of the will." EC § 256.156(b)(2). • *The order* must include a finding that the applicant has overcome the presumption that the original will has been revoked. b. **"Copy" mentioned in all paperwork. The text and the title** of the application and the order must indicate that a copy of a will (or codicil) is being probated. For example, "Order Admitting Original Will and Copy of First Codicil to Probate and Authorizing Letters Testamentary." **The text** of the proof and the oath also needs to mention the copy. c. By administrative order, the Court requires that, within three business days of filing the application, you ***physically file the will copy your client brought in to you.*** Having the actual document being offered for probate helps the Court properly evaluate the will copy. *The Court will not set a hearing until you file the will copy.* d. **Special form of Posting, plus either Personal Service or Waivers of Service.** EC §258.002 requires citation to all parties interested in the estate when there's a copy of a will, *which includes both heirs who would take if the lost will is not probated and devisees named in the will.* e. By administrative order, the Court requires (1) a special form of posting **and** (2) a special form of personal service on all of the decedent's intestate heirs and all devisees under the will who are not applicants **or** waivers from such individuals. The posting and personal service are special because the Clerk must attach to each citation a copy of the Court's special notice form, along with the copy of the application. (The notice is attached to the administrative order you can find on the Court's website.) If you are having some or all of the decedent's intestate heirs sign waivers, we recommend that you use the Court's notice form as a guide when drafting waivers since all waivers must clearly show that the heir signing the waiver knows about all of the points addressed in the notice. f. **Attorney ad Litem.** The Court will appoint an attorney ad litem to represent the interests of decedent's unknown heirs or heirs having a legal disability if any intestacy will result if the lost will is not admitted to probate. g. **Heirship testimony.** In addition to the testimony contained in the proof of death and other facts discussed above, the Court requires the testimony of one disinterested witness who can identify the decedent's heirs-at-law. This witness will testify in open court, and the applicant's attorney needs to prepare a written statement of the witness's testimony. Parts of EC §203.002 – phrased as testimony

Check 10 key points *in the Will*
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Key Points to Check	How to Check & How it Affects Paperwork, Related Testimony, etc.
	rather than as an affidavit – provide ideas for the type of testimony necessary to establish a testator's heirs; see numbers 1-5, and then 6-8 as needed given the facts. Also include a statement that the witness does not have an interest in the estate. h. **Hearing time**. When you schedule a hearing, tell the Court you are probating a copy of a will or codicil. Uncontested hearings for probate of a copy of a will or codicil are heard with other record cases on Thursdays at 9:15 a.m.
3. Are there any **codicils**?	If there are any codicils: a. Is anything in this checklist affected by what is in the codicil(s)? If so, follow the suggestions given. b. You must mention "Codicil" in **both the text and the title** of the application and the order. For example, "Order Admitting Will and Two Codicils to Probate and Authorizing Letters Testamentary." You also need to mention the codicil(s) in the **text** of the proof and the oath. c. The posted citation must mention all codicils. In the title of the application, be sure to specify accurately which instruments are being filed for probate. Otherwise, there is a risk that the clerk will not see the documents being filed and will post them incorrectly, which will require reposting – with resulting costs and delay.
4. Is the will **self-proved**?	**How do you know if the will is self-proved?** Before pleading a will is self-proved, be sure it is. The answer can depend on the date of decedent's death or the date of the will. Whatever the dates, a will is self-proved if it includes a self-proving affidavit in substantial compliance with EC §251.104. The following are common flaws that make wills not self-proved ***under §251.104***: ✓ Blank lines for the names of the testator and/or witnesses have not been filled in by the notary *in the notary's statement at the end of the affidavit.* ✓ The witnesses have not actually *signed* or otherwise subscribed the affidavit. (The notary cannot print their names on the signature line.) ✓ The witnesses have not ***sworn*** to the statement, thus preventing it from being an affidavit. ✓ The affidavit does not carry a notary seal. (Often a problem if you are probating a copy of an older will.) Even if a will is not self-proved under §251.104, it still might be self-proved depending on the date of the will (in all cases) and on the date of decedent's death (if the will was executed outside of Texas). **If the will was executed on or after September 1, 2011**, a will is also self-proved if it was simultaneously executed, attested, and made self-proved as provided by §251.1045 – the "one step" will execution procedure. Substantial compliance with the form set out in §251.1045 is required for the will to be self-proved under this section. **If the decedent died on or after September 1, 2011 AND the will was executed outside of Texas**, there are two other ways a will can be considered self-proved: (1) Under the above facts, a will is considered self-proved under §256.152(c) if the will or an affidavit attached to the will provides everything set out in §256.152(c) – which tracks the Uniform Probate Code requirements. A few of the *differences between §251.104 and §256.152(c):* ✓ §256.152(c) does not require *witness* ages ✓ §256.152(c) does not require a statement that the testator asked the witnesses to sign ✓ §256.152(c) requires the witnesses to state that the testator was under no

Check 10 key points *in the Will*
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Key Points to Check	How to Check & How it Affects Paperwork, Related Testimony, etc.
4. Continued: Is the will **self-proved**?	constraint or undue influence ✓ §256.152(c) requires the *testator* to state that he was 18 or over, of sound mind, and under no constraint or undue influence (2) Under the above facts, a will is considered self-proved if the will is self-proved according to the laws of the state or foreign country of the testator's domicile *at the time of execution*. See §256.152(b). *To show that a will is self-proved under this provision, you must do all of the following:* • *In your application or in a separate motion*, ✓ state the jurisdiction where the testator was domiciled at the time the will was executed, ✓ ask the Court to take judicial notice of the laws regarding self-proof of that jurisdiction *on the relevant date* (with a statutory citation), ✓ allege that the will is self-proved according to that law, and ✓ attach as an exhibit a copy of the statute regarding self-proof for that jurisdiction *on the date the will was executed*. The statute must indicate on its face that it is from the jurisdiction; in other words, it is not sufficient to simply type the text of the statute into a document. It would be sufficient to download the statute from Westlaw, Lexis, or another legal database or to photocopy a printed statute that includes reference to both the jurisdiction *and* the relevant date. • *In your proof of death and other facts*, prove that the testator was domiciled in the alleged jurisdiction at the time the will was executed. (As with all proofs, do **not** have the witness state that the will was self-proved; the Court will make that determination. Also do not request in the proof that the Court take judicial notice of the laws regarding self-proof of foreign jurisdiction.) • *In your proposed order*, make sure there isn't any inaccurate boilerplate language. **What if the will is not self-proved?** If the will is not self-proved, you need to do several things differently: a. Modify your standard forms to indicate that the will (or codicil) is not self-proved, but is validly executed (assuming, of course, that it is). b. In the application, also set out how you're going to prove up the will – either the live testimony of one subscribing witness to the will, or, if a subscribing witness is unable to attend the hearing, either the deposition of a subscribing witness or the testimony of two disinterested witnesses who are familiar with the signature of the decedent. ***If you won't have live testimony of a subscribing witness, you also need to e-file a motion for alternative proof and proposed order (unless it's a holographic will). The Court's website has templates for motions and orders.*** c. As soon as you set the hearing, email the Court your proposed testimony for proving up the will: *A subscribing witness must prove the following:* 1. What happened when the will was signed that proves the will was duly executed. (See EC §251.104 or EC §251.1045.) 2. At the time the will was executed, the testator was of sound mind. 3. At the time the will was executed, the testator was at least 18 years old (or had been lawfully married or a member of the armed forces). 4. At the time the will was executed, the witnesses were each at least 14 years old.

Check 10 key points *in the Will*
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Key Points to Check	How to Check & How it Affects Paperwork, Related Testimony, etc.
	Disinterested witnesses must prove the following: 1. At the time the will was executed, the testator was of sound mind. 2. At the time the will was executed, the testator was at least 18 years old (or had been lawfully married or a member of the armed forces). 3. The signature on the will was the decedent's. 4. The witness does not have an interest in the estate. d. Have the necessary witnesses testify at the hearing.
5. Is any devisee a **state**, a **governmental agency** of the state, or a **charitable organization**?	Again, modify your forms: don't use standard boilerplate when it's not accurate. If you list any such devisees, make sure to state there are no *other* such devisees other than the one(s) listed. It is helpful to also indicate whether the charity, etc., is named as contingent or direct devisee and, if a contingent devisee on the face of the will, whether the charity, etc., takes given the circumstances. (Absent a declaratory judgment, information about whether a contingent devisee takes cannot be included *in the order*.)
6. Is the person who will serve as **executor** the **first-named** executor in the will? If not, what happened to the executor(s) with priority?	When the person who will serve as executor is not the first-named executor in the will, your application and your proof must explain what happened to the first-named executor and all others who will not serve but who have priority over the executor(s) who will (and the order should include the information). If any executor is declining to serve, you need to have that person's notarized declination in the file before the hearing. For example, if you are seeking letters for the fourth-named executor, you might state that "X," the first-named executor, died on ___ date, with his will probated in Travis County Cause No. _____; "Y," the second-named executor, lacks capacity (which you'll need to prove at the hearing); and "Z," the third-named executor, will file a notarized declination to serve. The following are examples of the types of proof Travis County requires when any named executor with priority will not serve: • **Person is declining to serve**: need person's *filed* notarized declination. • **Person is dead**: The court prefers a copy of the death certificate of the named executor with priority. If the death certificate is not available, the applicant must provide either (1) the cause number and jurisdiction where the executor with priority died or (2) a published obituary. • **Person is convicted felon**: need sentencing order or other proof of conviction. • **Person is incompetent**: need guardianship cause number, if any, or letters from one or two doctors. (Only one letter required if the letter is sufficiently specific.) • **Person was divorced from decedent after the date of the will**: need divorce decree. • **Person is a minor**: need birth certificate.
7. As set out in the will, what, **exactly**, are the **names** of • **the decedent**? and • **the executor who will serve**?	In all pleadings, **always begin** with the **exact names as they appear in the will** for the **testator**, **executor**, and any beneficiaries mentioned in the pleadings. Then, if needed, put "A/K/A," "N/K/A," or "F/K/A" depending on the circumstances, **followed by** the additional or corrected name(s) that you need to include. **Even in the order, the executor's name as it is given in the will must come first, with even "now known as" names following.** Watch for spelling errors made in either the will or the documents your office prepares. If the testator misspelled a name, then all other documents must carry that mistaken name *first* with an "A/K/A" to correct the typo that the testator missed. Alias problems and spelling errors that you miss in the application can require reposting (depending on the circumstances), which could increase your cost and delay your hearing. Note that if you need to use A/K/A or similar acronyms in the application and order, you might also need to put on appropriate testimony about the different names unless the differences are self-explanatory.

Check 10 key points *in the Will* to get all the paperwork right for letters testamentary

Key Points to Check	How to Check & How it Affects Paperwork, Related Testimony, etc.
8. Does the will indicate that the executor seeking letters should be **independent**?	**Does the will make the executor seeking letters independent?** Check to see if the will indicates that the executor *for whom you are seeking letters* should be independent for *all* purposes (not just for some specific listed actions): • "no court action" • "independent" • "least possible court involvement" • etc. Definitely look at what the will says *about the executor who will serve*. It is not uncommon that a will makes the first-named executor independent, but does not make alternate executors independent (whether intentionally or not). **What if it doesn't?** If the will **does not** indicate that the executor who is seeking letters should be independent, start by modifying your forms so you are not using inaccurate boilerplate. If you are seeking independent administration when the will does not state that the executor who will serve should be independent, indicate the statutory basis of your request in your application, proof, and order. See EC Chapter 401. Then be sure to get sufficient sworn requests from **all** of the distributees. *If there's an intestacy, you'll also need an heirship determination to identify all the distributees.* If there is a minor distributee, the Court will not approve an independent administration under EC §401.002.
9. Does the will indicate that the executor seeking letters should serve **without bond**? "§ 305.101. Bond Generally Required; Exceptions. (a) Except as otherwise provided by this title, a person to whom letters testamentary or of administration will be issued must enter into a bond before issuance of the letters. (b) Letters testamentary shall be issued without the requirement of a bond to a person named as executor in a will probated in a court of this state if: (1) the will directs that no bond or security be required of the person; and (2) the court finds that the person is qualified. (c) A bond is not required if a personal representative is a corporate fiduciary."	**Does the will waive bond for the executor seeking letters?** Here, too, definitely look at what the will says about bond *for the executor who will serve*. It is not uncommon that a will waives bond for the first-named executor independent, but does not waive bond for alternate executors (again, whether intentionally or not). **What if it doesn't?** When the will does not waive bond, the statute that allows **the Court** to waive bond when the testator did not is EC §401.005. For applications filed before September 1, 2019, § 401.005 allows the Court to waive the bond **only** when an independent administration is created under 401.002 or 401.003 – and **not** when the independent administration is created *by the testator under 401.001*. However, in 2019, the law was changed to allow the Court to waive bond in both circumstances for all applications filed on or after September 1, 2019. Here's what that means if you have a will that does not waive bond for the personal representative who will serve: **A. When the will names an executor, but does not create an independent administration and does not waive bond,** proceed under EC § 401.002(a) & 401.005. Under 401.002(a), the court can appoint someone as an independent executor when all the distributees of the estate agree on the advisability of having an independent administration and consent to the nomination of the person named in the will. Under 401.005, the court can waive bond when an independent administration is created pursuant to 401.002(a). ***The procedure:*** All of the distributees of the will must consent to the named executor serving as the Independent Executor under 401.002(a). In the same consents, also have the distributees request a waiver of bond under 401.005. The consent must be in the form of a notarized affidavit. Don't forget to include waiver of citation language in this affidavit, see 401.004.

Check 10 key points *in the Will*
to get all the paperwork right for letters testamentary

Key Points to Check	How to Check & How it Affects Paperwork, Related Testimony, etc.
#9 Continued: Does the will indicate that the executor seeking letters should serve **without bond**?	**B. When the will does not name an executor and does not waive bond,** proceed under EC § 401.002(b) & 401.005. Section 401.002(b) applies "where no executor is named in the decedent's will, or in situations where each executor named in the will is deceased or is disqualified to serve as executor or indicates by affidavit filed with the application for administration of the decedent's estate his inability or unwillingness to serve as executor." ***The procedure:*** All of the distributees of decedent may collectively designate "a qualified person, firm, or corporation" to serve as independent administrator without bond under EC §§401.002(b) & 401.005. ***If you proceed under 401.002(b), you will be requesting "independent administration with will annexed."*** All of the paperwork should reflect the "will annexed" language. **C. When the will names an independent executor, but does not waive bond,** it gets more complicated – at least for applications filed before 9/1/2019. The law was recently changed to simplify this process, but this change applies only to applications filed on or after 9/1/19. For applications filed **before** September 1, 2019, the following applies: EC §401.005 does not allow the Court to waive bond when an independent administration is created *by the testator* under the will (401.001). Under 401.005, *the Court* may waive the bond only when an independent administration is created pursuant to one of the following sections: 401.002(a) – will names executor, but does not create independent administration 401.002(b) – will names no executor who can serve, and does not create independent administration 401.003 – intestacy To get bond waived here, therefore, you'll need to take steps so you fall within 401.002(b), since that is the only one of the three sections that could apply in this situation. ***The procedure, step 1:*** Have *all* named executors decline to serve. The declinations to serve must be in the form of a notarized affidavit. These declinations will take you to a blank slate so you are able to proceed under 401.002(b). ***The procedure, step 2:*** As with "B" above, all of the distributees of the will can then consent to someone serving as ***the Independent Administrator with Will Annexed*** under 401.002(b) and also request the person to serve without bond under 401.005. The distributees can choose anyone they want, including the person who was named in the will to serve as the independent executor. If they do choose the person who was named in the will, that person would simply decline to serve as executor *as named in the will* but would accept the appointment as independent administrator with will annexed. The consent must be in the form of a notarized affidavit. Do not forget to include waiver of citation language in this affidavit, see 401.004. For applications filed **on or after** September 1, 2019, the following applies: Newly revised EC §401.005 allows the Court - unless the court finds that it would not be in the best interest of the estate - to waive bond when the will fails to do so if all distributees agree to the waiver of the bond. As a result, you no longer need to

Check 10 key points *in the Will*
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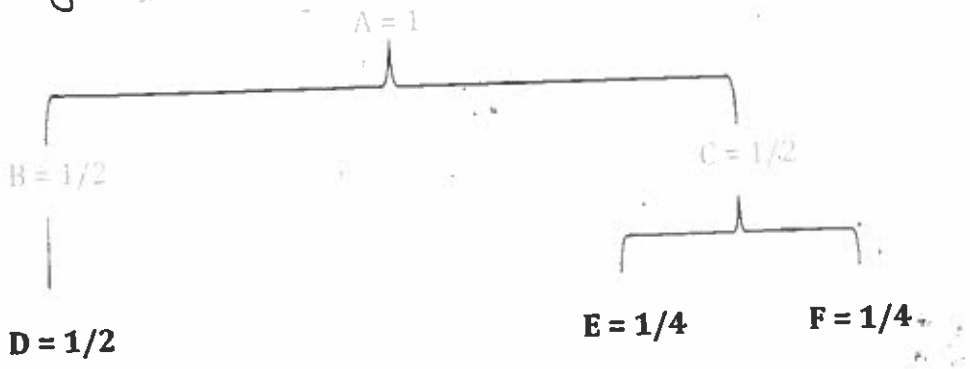
Key Points to Check	How to Check & How it Affects Paperwork, Related Testimony, etc.
#9 Continued: Does the will indicate that the executor seeking letters should serve **without bond**?	have all named executors decline to serve in order to get an independent executor appointed to serve without bond. ***The procedure:*** All of the distributees of the will must request a waiver of bond under 401.005(a-1). The waiver must be in the form of a notarized affidavit or in the application to probate the will. If you proceed under any of the above scenarios, be sure that the requests you prepare for the distributees include everything necessary. If any of the distributees are dead, or are minors, you may want to confer with the Court about how to proceed.
10. Will the probated will dispose of all property? Is there a partial **intestacy** because there is no residuary clause? *The partial-intestacy problem is more common with holographic wills, but we have seen it even with lawyer-prepared wills.*	If there is a partial **intestacy**, the best practice is to mention the intestacy. What you do next depends on the situation. • **When the will creates an independent administration for the executor who will serve**, the Travis County Probate Court allows the applicant to decide whether to seek an heirship to determine the heirs for the property that does not pass under the will, unless there is a total intestacy. Of course, if there is no heirship proceeding, the independent executor assumes the risk that the intestate property will be distributed incorrectly, and the lawyer assumes the risk of a malpractice action for not having done the heirship. If there is a total intestacy, the Travis County Probate Court requires that the applicant combine a determination of heirship with the will probate. • **When the applicant is requesting independent administration under EC §401.002**, the Travis County Probate Court requires that the applicant combine the will probate with an heirship proceeding to determine who receives the property that does not pass under the will and to determine the heirs who will need to join the beneficiaries in the §401.002 request(s). • **When there will be a dependent administration**, the Travis County Probate Court requires an heirship proceeding for the intestate property. The court prefers to hear the heirship proceeding and the will probate at the same time, with a combined order. The court will allow the will to be probated first if there's a need for administration before the heirship can be completed, but in that case the court requires that the heirship proceeding be heard within 60 days of the date letters are granted. In insolvent estates, an heirship may not need to be done, but the Travis County Probate Court will not waive the heirship until the insolvency is proved during the dependent administration. • **When you are probating the will as a muniment of title**, the Travis County Probate Court requires a declaratory judgment as provided by Chapter 37, Civil Practice & Remedies Code because the "person who is entitled to property under the provisions of the will cannot be ascertained solely by reference to the will." EC §257.101. The applicant needs to seek both (1) a declaration that there is a partial intestacy and (2) an heirship proceeding to determine the heirs that will take the property that passes by intestacy. An attorney ad litem needs to be appointed to represent unknown heirs. The return date for a declaratory judgment application is twenty days, not ten days.

EXAMPLE:

Per capita



KEY:

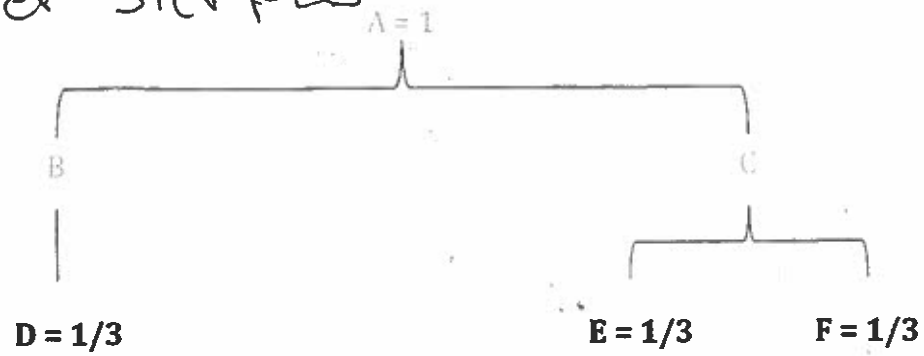
- The survivors are **BOLD**; all others are dead.

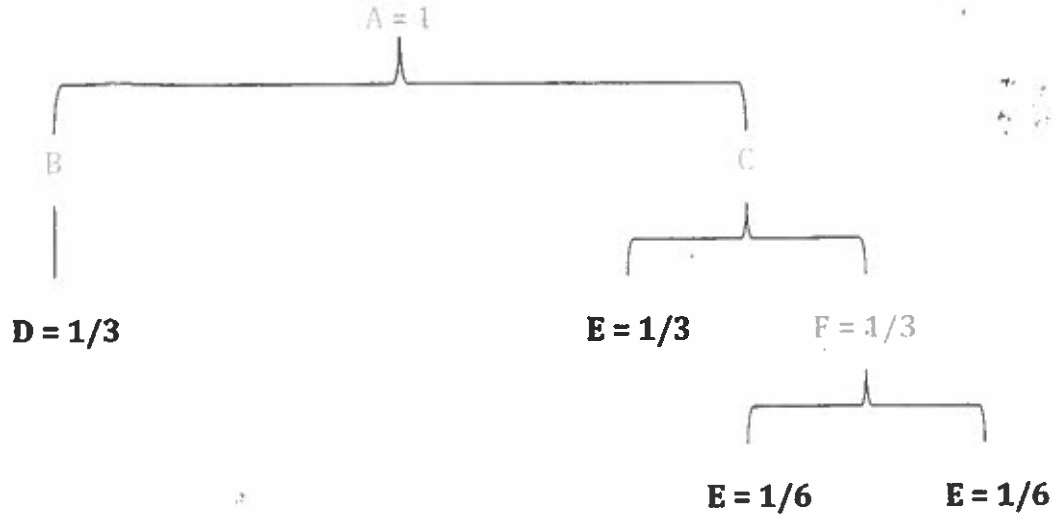
EXPLANATION:

- A's property is divided into two shares at the level of A's children.
- D takes B's one-half by representation and E and F split C's one-half by representation.
- Although this system produces unequal shares across the grandchildren (one-half for D versus one-fourth each for E and F), it produces equal shares across the decedent's lines of descent (each takes on-half).

EXAMPLE:

Per Stirpes





KEY:

- The survivors are **BOLD;** all others are dead.

EXPLANATION:

- Because B and C are dead, and because D, E, and F are all grandchildren and so of equal degree to A, A's estate is divided equally among D, E, and F in thirds.

1-25

- If F predeceased A, leaving descendants, F's descendants would represent F and take F's one-third.
- This system thus treats equally each line of descent beginning at the closest living generation – a form of vertical equality with horizontal equality at the closest living generation.
    - Two studies have indicated that an overwhelming majority of people prefer dividing the stocks at the closest generation in which someone is alive.

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THE ANATOMY OF A WILL: PRACTICAL CONSIDERATIONS IN WILL DRAFTING*

Authors:

STEVE R. AKERS
Bessemer Trust Company, N.A.
300 Crescent Court, Suite 800
Dallas, Texas 75201

BERNARD E. JONES
Attorney at Law
3555 Timmons Lane, Suite 1020
Houston, Texas 77027

R. J. WATTS, II
Law Office of R. J. Watts, II
9400 N. Central Expressway, Ste. 306
Dallas, Texas 75231-5039

State Bar of Texas
ESTATE PLANNING AND PROBATE 101 COURSE
June 25, 2012
San Antonio

CHAPTER 2.1

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PART 4.

APPENDICES

Appendix A Checklist for Will Review.

The following checklist summarizes this outline into a brief checklist for reviewing wills.

1. Preamble
   a. State name and domicile
   b. Revoke prior wills

2. Identification of Family and Property
   a. Identify spouse and children

   b. Make sure afterborn children are provided for or mentioned to avoid Section 67b

   c. Identify stepchildren and discuss whether included as beneficiaries

   d. Identify property being disposed of and whether any election intended

   e. Negate exercise of any powers of appointment (if no exercise intended)

3. Appointment of Fiduciaries

   a. Executor
      - Appoint independent executor(s), tracking Section 145(b) of Probate Code
      - Appoint successor independent executor(s)
      - Waive executor's bond

   b. Trustee
      - Appoint trustee(s)
      - Appoint successor trustee(s)
      - Consider income and estate tax effects to appointed trustees
      - Waive trustee's bond

   c. Guardian -- appoint guardian(s) – (co-guardians must be spouses, joint managing conservators or co-guardians under the laws of another state)

4. Specific Bequests

   a. Furnishings and personal effects
      - Include to qualify for Section 663(a)(1) treatment
      - Refer to large items if any possible confusion
      - Include casualty insurance
      - Any large outstanding encumbrances?
      - Alternate beneficiaries
      - Mechanics for allocating among multiple beneficiaries
      - Effect of reference to a separate list

   b. Specific tangible property items
      - Identify sufficiently
      - Alternate beneficiaries

   c. Residence or Other Real Estate
      - Identify sufficiently
      - Apply to replacement residence
      - Subject to existing encumbrance
      - Include insurance
      - Alternate beneficiaries
      - Consider backup bequest of sales proceeds or pecuniary legacy to avoid effect of ademption

   d. Pecuniary Legacies
      - Is estate large enough to accommodate
      - Right to interest or pecuniary amount

   e. Specific exemption equivalent bequest or marital deduction bequest
      - Consider tax effect of choice of exemption equivalent versus marital deduction specific bequest
      - In formula, exclude consideration of state death tax credit to the extent it increases the federal estate tax
      - Direct that only assets qualifying for marital deduction may be allocated to marital deduction specific bequest, or direct that nonqualifying assets be allocated to exemption equivalent specific bequest
      - For marital deduction specific bequest, assure Rev. Proc. 64-19 is satisfied (i.e., use fractional share, or use date of distribution values or minimum worth clause for pecuniary bequest)
      - Provide for disclaimer of marital deduction specific bequest
      - If a QTIP Trust is used (1) give directions or guidance and exonerate executor re: election, and (2) provide mechanics for payment of estate tax at spouse's subsequent death

   f. Charitable Bequests
      - Verify identity of beneficiaries and tax-exempt status
      - Tax allocation

1-28

g. Abatement clause if many specific bequests

5. Residuary Estate

a. Dispose of all property

b. Provide contingent trusts for minors or beneficiaries under specified age

c. Provide for alternate beneficiaries, ultimately to heirs or permanent organizations (any lapse may cause partial or total intestacy)

6. Apportionment of Debts, Expenses, and Taxes

a. Do not *require* payment of debts

b. Allocate away from marital deduction bequest or charitable bequest

c. Except out any taxes payable under Section 2044 attributable to QTIP Trusts

d. Except out generation-skipping transfer taxes

e. Specifically state whether taxes on nonprobate assets should be paid out of probate estate

7. Trust Provisions

a. Identify name of trust(s)

b. Identify beneficiaries

c. Standards for distributing income and principal; consider estate tax effects of distributional provisions

d. Discretionary powers workable and trustee exonerated (if desired) regarding distributions

e. Special distributions (to buy home, etc.)

f. Limited power of appointment

g. Termination provisions well-defined

h. Amounts passing on termination to alternate beneficiaries who are beneficiaries of another trust under the will pass to that trust

8. Trust and Executor Powers

Trust Code Powers -- Trust Code gives these powers unless negated:

a. Retain assets

b. Receive additional assets

c. Acquire remainder of undivided interests

d. Broad management and investment power

e. Investment in business entities

f. Power to sell -- including for credit

g. Lease real or personal property

h. Mineral investments (including exploration and development activities)

i. Power to borrow

j. Management of securities

k. Holding securities in nominee form

l. Employ agents

m. Compromise and settle claims

n. Abandon worthless property

o. Distribution for minor or incapacitated beneficiary

p. Provide residence for beneficiaries and pay funeral expenses

q. Ancillary trustee

r. Prudent man standard for investments

s. Principal-income allocations

t. Accountings

u. Liability of trustee

v. Compensation of trustee

Additional Trust Provisions

a. Perpetuities savings clause

b. Spendthrift provision (consider negating application to QTIP Trust)

c. Small trust termination

d. Consolidation of trust funds

e. Merger of trusts

f. Situs, changing trust situs, choice of law

g. Receipt and allocation of employee benefits and insurance proceeds

Additional Fiduciary Powers

a. Broadened investment powers; negate duty to diversity (if desired)

b. Power to give guarantee

c. Employ and rely on investment advisor

d. Power to lend

e. Delegation powers, especially for temporary absence

f. Hold assets (other than just securities) in nominee form

g. Broadened principal-income apportionment authority

h. Partition and division power

i. Business interests (exculpatory language, extra compensation, trustee can transact similar business individually)

j. Procedure for resignation

k. Exoneration of successor fiduciaries for breach by predecessor

l. Liability; exculpatory clause if desired

m. Compensation (especially, provide reasonable compensation for executors)

n. Removal provisions

o. Remove self-dealing restrictions (sales between trusts, sales or purchases to or by trustees and executors)

Special Executor Powers

a. Incorporate trustee powers

b. Authorize direct distributions to beneficiaries if trust terminated; loans or purchases by trust to estate

c. Give discretion re tax elections, consider equitable adjustments for tax elections

9. Miscellaneous Provisions

a. Definitions

- Issue and children (include afterborn and adopted children)
- Survival requirement or other simultaneous death provision
- *Per stirpes*

b. Will not contractual

c. Headings not used in construction

d. *In terrorem* clause if desired

10. Attestation clause and self-proving affidavit

11. Will appears to be properly executed

WILLS

1. Check Citation
   - 1.1 Is the name of the decedent the same as the name on the Will?
     - 1.1.1 Closeness counts, but if it is a common name it doesn't
   - 1.2 Is the return date on the citation before the hearing date?
   - 1.3 Is the name for the applicant the same as the named applicant on the application?

2 Check Application
   - 2.1 If the date of death within four (4) years of the hearing date?
     - 2.1.1 If no, check to see if the will is being probated as a **Muniment of Title**.
       - 2.1.1.1 Will can be probated as a Muniment of Title after 4 years, but the heirs at law must be notified per §128B. Check for notices to heirs or waivers from them.
       - 2.1.1.2 MoT application must explain the reason for the will not being probated within 4 years.
       - 2.1.1.3 MoT application must state "no unpaid debts" per §89A. (§89A contains all the required contents of an MoT App.)
       - 2.1.1.4 MoT application must include Medicaid language, per local rules: "Decedent did not apply for or receive Medicaid benefits on or after March 1, 2005."
       - 2.1.1.5 Check the number of devisees who will take under the will. (See §89(d))
         - 2.1.1.5.1 If only 1 devisee, make a note for Judge to "waive" the 181st Affidavit
         - 2.1.1.5.2 If more than 1 devisee, note "do not waive."
   - 2.2 Is the applicant a Texas resident?
     - 2.2.1 If no, check for the Designation of Registered Agent.
   - 2.3 Was the decedent domiciled in Harris County on the date of his death?
     - 2.3.1 If no, then check to see if other venue requirements are met per §6.
   - 2.4 Make sure the application mentions no after born children.
   - 2.5 Make sure the application mentions whether a state, agency of the state, or charitable organization is named as a devisee.

3 Check Will
   - 3.1 Make sure executor named in the will is to be "Independent" and "without bond.
     - 3.1.1 If no "Independent" language, then look for language that says "no court supervision."
     - 3.1.2 If will doesn't state independent without bond then the application must be amended under §145
     - 3.1.3 This is not an issue with Muniments
   - 3.2 Make sure executor named in the Will and applicant are the same
     - 3.2.1 If the first executor named isn't the applicant, check application to see if the first named executor pre-deceased or declined.
     - 3.2.2 If first executor declined, make sure there is a Declination signed by him
   - 3.3 Make sure testator signed the Will and that it was attested to by at least 2 witnesses
     - 3.3.1 Make sure the witnesses are not interested in the estate as a devisee or appointee (trustee or executor)
   - 3.4 Check the self-proving affidavit and make sure it complies with §59
     - 3.4.1 SPA must have the names of the testator and the witnesses in the body of the affidavit and in the jurat (notary statement)
       - 3.4.1.1 The testator and witnesses must sign the SPA
       - 3.4.1.2 The SPA must say the witnesses are over age 14 and the testator is over age 18
       - 3.4.1.3 Check to make sure the notary's commission hasn't expired and that the notary signed the affidavit
   - 3.5 Jurat must have "subscribed and sworn" in it.
     - 3.5.1 If jurat doesn't have "subscribed and sworn" check for substantial compliance with §59
     - 3.5.2 "Subscribed and acknowledged" with "subscribed and sworn is okay

ADMINISTRATIONS

SECTIONS 82, 145

1. JURISDICTION – see §6

2. PARTIES - §82, §145
   a. On dependent administration only surviving spouse must be noticed
      i. Exception: Creditor forced administrations (usually mortgage company)
      ii. Require notice on all Heirs when creditor files for administration
   b. On independent administrations the parties are the distributees under the Will (§145 (c) & (d) and the Heirs on a §145 (e) Independent Administration

3. APPLICATION- §82, & §145 (c) (d) & (e)
   a. Check to see if all information required by §82 (dependent admin); §81 (independent admin with Will annexed); &145 (e) (independent admin with Heirship)
   b. On §145 (c) (d) & (e) applications, check and see if applicant signed the application because a consent to independent administration will not be required

4. Citation - §128 (a)
   a. Make sure name for decedent on citation served is same as name on application
   b. Check return date on citation to make sure time has run for hearing to be set

5. Consents to Independent Administration - §145 (f)
   a. Make sure all distributees (§145 (c) & (d)) and Heirs (§145 (e) have signed consents to independent administration and waive notice of the proceedings

6. Time for Probate -§73 & § 74
   a. No will admitted four years after date of death of decedent (Muniment of Title is an exception)/statute of limitations
      i. In no case shall letters of testamentary be issued unless Will admitted within 4 years of date of death of decedent
   b. All applications for grant of letters testamentary or administration must be filed within 4 years of date of death/statute of limitations
      i. Exception is where administration is needed to receive funds due to the estate (usually PI lawsuit)

Trusts & Estates

Estate dispute caused by 'E-Z Legal Form' is a 'cautionary tale,' says justice

Posted Apr 3, 2014 11:34 AM CDT
By Debra Cassens Weiss

Ann Aldrich used an "E-Z Legal Form" when she made out her will in 2004, a decision that proved to be a good choice for two nieces who cited the document's lack of a residuary clause.

In a decision issued last week, the Florida Supreme Court ruled for the nieces, though they weren't mentioned in the will. The court said money acquired by Aldrich after the will was made out should be distributed under the laws of intestacy, which govern distribution of property for those who die without a will. The reason: The E-Z form did not have a residuary clause providing for the disposition of property not listed in the document. FlascBlog: The Florida Supreme Court Blog reports on the opinion (PDF).

Concurring Justice Barbara Pariente saw the ruling as a cautionary tale. "While I appreciate that there are many individuals in this state who might have difficulty affording a lawyer," Pariente said, "this case does remind me of the old adage 'penny-wise and pound-foolish.' ...

"I therefore take this opportunity to highlight a cautionary tale of the potential dangers of utilizing pre-printed forms and drafting a will without legal assistance. As this case illustrates, that decision can ultimately result in the frustration of the testator's intent, in addition to the payment of extensive attorney's fees—the precise results the testator sought to avoid in the first place."

Aldrich's will had left all her property to her sister, and then to her brother if her sister predeceased her. Because the sister died first, the brother had claimed he was entitled to the entire estate.

The will specifically said all "listed" items should go to Aldrich's brother, the Florida Supreme Court said in an opinion by Justice Peggy Quince. "Therefore, it is clear that the testator did not intend for any property not listed to be distributed by the will. Any other interpretation of the testator's actions would require this court to rewrite the will to include provisions regarding property for which the testator made none."

Aldrich had signed a handwritten note after her sister's death saying all her "worldly possessions" should pass to her brother, with the exception of certain bank accounts that

should pass to a niece, the brother's daughter. The document had just one witness—the niece who was to get the bank accounts—and was unenforceable under Florida law.

The nieces who asserted an interest in the estate were the daughters of a different brother who had already died.

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Chapter 2:

Necessity of Administration, Unclaimed Property

CHAPTER 2

Not all estates require an administration. Attorneys have to interview their client and determine if there is a necessity for administration. The Court will not grant an administration unless there is a necessity.

Query: Does this estate meet the legal requirements for opening an administration?

1

From: Kathryn M McLaughlin on 07/26/2001 02:39 PM
To: Shannon D. Rudd
cc:
Subject: Addition to Last Will & Testament

I, Kathryn M. McLaughlin, hereby bequeath my residence at 9311 Beverly Hill, Houston, Texas 77063 to Shannon Dale Rudd. Mr. Rudd is currently/temporarily residing at the referenced address. For further identification, his social security number is .

Kathryn M. McLaughlin

Kathryn M. McLaughlin

MARY A. MCKEE
Notary Public, State of Texas
My Commission Expires
June 11, 2002

Mary A McKee

expires: 6-11-2002

Is this a Codicil?

415236

PROBATE COURT 3

LAST WILL AND TESTAMENT

OF

ANDREA TAMAYO PEREZ

FILED

2012 AUG -7 AM 9:07

Stan Stanart

COUNTY CLERK

HARRIS COUNTY, TEXAS

08082012 G0096 TSD

THE STATE OF TEXAS

COUNTY OF HARRIS

This is to certify that I, ANDREA TAMAYO PEREZ, of the county of Harris, in the state of Texas, being of sound mind and disposing memory, and being more than eighteen (18) years of age, do hereby make, publish and declare the following to be my Last Will and Testament, hereby revoking all other wills heretofore made by me.

ARTICLE I.

It is my desire, and I direct that all my just debts, funeral, and testamentary expenses, including Federal Estate Taxes and State Inheritence Taxes be paid by Independent Executor, hereinafter named, as soon after my death as may be by him found convenient.

ARTICLE II.

All of my property, real, personal and / or mixed, wheresoever the same may be situated, I give, devise, and bequeath to my heir, JEFFREY JAMES PEREZ, his heirs and assigns forever.

ARTICLE III.

I nominate and appoint my son, JEFFREY JAMES PEREZ, as EXECUTOR of this MY LAST WILL AND TESTAMENT, and I direct that no bond or other security be required of him for the faithful performance of his duties as Executor.

I give my said Executor full power and authority to sell, convey, transfer, and /or assign, and any and all property belonging to my estate for any purpose, upon any terms and to any person my Executor may see fit, to settle, compromise any and all claims, either in favor of or against my estate, upon any terms my Executor may see fit, and to execute and deliver all necessary or proper conveyances, assignments,receipts, releases and discharges thereof; provided, however, that the foregoing enumeration of powers shall not be construed to prohibit my Executor from having and exercising any

and all additional powers and functions which Executors are or hereafter may be authorized to exercise under the laws of the State of Texas.

It is my desire, and I direct that no other action shall be had in the County Court or other Probate Court in relation to the settlement of my estate than the probating and recording of this my Will, and a return of an inventory and appraisement and a list of claims of my estate.

In Testimony whereof, I have hereunto signed my name in the presence of Notary Public on this 22nd day of October, 2011.

Andrea Tamayo Perez

Testatrix

Subscribed and acknowledged, before me, by the said ANDREA TAMAYO PEREZ, TESTATRIX, this the 22nd day of October, 2011, in the city of Pasadena, county of Harris, state of Texas.

ANA BADON
My Commission Expires
June 18, 2016

Notary Public, State of Texas

08082012 0857 G0097

Chapters 3 and 4:

Suitability to Serve

TXSWD 2/92

113514
LAST WILL AND TESTAMENT

PROBATE COURT 3

I, Marlee N. Dixon, of Harris County, Texas, being of lawful age and of disposing mind and memory, and not acting under any duress, menace, fraud, or undue influence whatsoever, hereby make and publish this as my Last Will and Testament, hereby revoking all other wills and codicils previously made by me.

3525201 G0176

ARTICLE I.
PAYMENT OF DEBTS AND EXPENSES

I direct that all of my legal debts, the expenses of my last illness and funeral, all taxes payable by reason of my death, and expenses of administering my estate shall be charged against my residuary estate. Any debts or expenses may be paid in the order and out of those assets of my residuary estate that my Executor may deem best. My Executor shall not be required to prepay any debt of mine. The proceeds of any life insurance policies insuring my life that are payable to any beneficiary other than my estate shall not be liable for any federal, state and foreign estate, transfer, inheritance or succession taxes payable by reason of my death, nor for any portion of the expense incurred in administering my estate.

ARTICLE II.
EXECUTOR

I appoint Daughter, Judith Lynn Wilson as Independent Executor of my Will and estate. I direct that no bond or other security shall be required of my Executor, and that no action shall be had in the probate or other court of jurisdiction in relation to the settlement of my estate other than the probating and recording of this Will and the return of an inventory, appraisement and list of claims of my estate and of all claims due and owing by me at my death.

ARTICLE III.
DISPOSITION OF PROPERTY

It is my intention herein to dispose of all property, of whatever character and nature, real and personal, which I have the right to dispose of by this Will, and to make provisions for all my descendants in the manner and to the extent I desire.

Specific Bequests. I give and bequeath specific items of property as follows:

to _____ I give _____;

to _____ I give _____.

Residuary Estate. I give all ~~the rest~~ and residue of my property as follows:

Residence at 1742 Nocturne Ln. - Houston - all antiques and furnishings - all jewelry - automobile - Bank accounts, both Checking & Savings, at Nationsbank - Bank and Holdings at Merrill Lynch, Dodge Hube, investment Americ- Corporation. H & R Block. Louis Lambert - 1-866-249-8251

ARTICLE IV.
ADMINISTRATIVE PROVISIONS

In addition to the powers given to my Executor by law, I grant to my Executor all powers conferred on trustees and executors by the Texas Trust Code and the Texas Probate Code, respectively, except to the extent that such powers may conflict with any of the provisions of this Will, in which event the provisions of this Will shall govern. My Executor may exercise such powers for any purpose and upon such terms, conditions, and limitations which my Executor shall deem to be in the best interest of my estate and the beneficiaries thereof, and without court supervision. My Executor shall be liable only for his own negligence or willful misconduct.

If any beneficiary of this Will is under a legal disability, my Executor may make a distribution to that beneficiary directly; or to the guardian, conservator, or other similar official of such person; to a relative of such beneficiary, to be expended by such relative for the benefit of the beneficiary; to a custodian under an applicable Uniform Gifts to Minors Act; to the Trustee of a trust established for the benefit of such person; or by my Executor expending the same directly for the benefit of such beneficiary. The Executor's determination of the minority, incapacity or other legal disability of any such person shall be final, and the fiduciary shall not be responsible for the application of any payment after the same has been made to any person in accordance with the provisions hereof.

No Executor named in this Will shall receive compensation for services as Executor, but any Executor serving under this Will shall be reimbursed for the reasonable costs and expenses incurred in connection with his or her fiduciary duties.

Should any doubt or obscurity arise in connection with the interpretation of the language of this Will, the determination of my Executor with respect thereto shall be binding.

ARTICLE V.
MISCELLANEOUS

Whenever the context so indicates, the gender of all words shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural forms thereof.

Any reference herein to "my child" and "my children" shall include not only my child or children who are living at the date this Will is signed, but also any child or children born to or adopted by me after the date of this Will.

A requirement that a person "survive" a specified individual or event shall mean survival by at least thirty (30) days.

All questions pertaining to the validity, construction, and administration of this Will shall be determined in accordance with the laws of the State of Texas. If any provision of this Will is held to be inoperative, invalid, or illegal, it is my intention that all of the remaining provisions thereof shall continue to be fully operative and effective as far as is possible and reasonable.

52012 G0177

TXSWO 2/92

STATE OF TEXAS)

COUNTY OF Harris)

SELF-PROVING AFFIDAVIT

BEFORE ME, the undersigned authority, on this day personally appeared *(print name of Testator:)* Marlee N. Dixon, and *(print names of witnesses:)* Roya Arfa and Kimberly Kriegel, known to me to be the Testator and the witnesses, respectively, whose names are subscribed to the foregoing instrument in their respective capacities, and all of said persons being by me first duly sworn, the Testator declared to me and to the said witnesses in my presence and in their presence that said instrument is his/her Last Will and Testament, and that it was willingly made and executed as his/her free act and deed for the purposes therein expressed; and the said witnesses, each upon his oath, stated to me in the presence and hearing of the said Testator that the Testator had declared to them that said instrument is his/her Last Will and Testament and that he/she executed same as such and wanted each of them to sign it as a witness; and upon their oaths, the witnesses further stated that they did sign the same as witnesses in the presence of the Testator and at his/her request; and that the Testator was at that time eighteen (18) years of age or over and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

J525201 2 96 G0179

x Marlee N. Dixon
Signature of Testator

Kimberly Kriegel
Signature of Witness

Roya F. Arfa
Signature of Witness

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

SUBSCRIBED, SWORN TO, AND ACKNOWLEDGED BEFORE ME by the above named Testator and witnesses on this 19th day of March, 1996.

CAROL COX
NOTARY PUBLIC
STATE OF TEXAS
My Comm Exp 11-9-95

Carol Cox
NOTARY PUBLIC, STATE OF TEXAS

THIS I MAKE AND PUBLISH as my Last Will and Testament, hereunto subscribing my name in the presence of the witnesses whose names are subscribed below, who have at my request and in my presence and in the presence of each other subscribed their names hereto as attesting witnesses on this 19 day of March, 1993

Marlee N. Dixon
Signature of Testator

In our presence, the above named Testator signed, published and declared this instrument to be his/her Last Will and Testament, and at the Testator's request and in the Testator's presence and in the presence of each other, we subscribe our names hereto as witnesses on this 19 day of March, 1993.

Signature of Witness: [signature]
Print address: 899 Frostwood
Houston, TX 77024

Signature of Witness: [signature]
Print address: [redacted] Frostwood
Houston, TX 77024

2012 MAY 24 PM 12:29

By RICK KIRKMAN & JERRY SCOTT

410 4+2

JANIE SMITH LOWNSBURY BARZOUKAS
2014 EAGLE Rock Dr.
HOUSTON, TX 77080
SEPTEMBER 12, 2008

PROBATE COURT 8

02272012 1018 G003

WITNESS: _____

WITNESS: _____

DATE: _____

Of SOUND MIND and faculties, I, Janie SMITH Lownsbury Barzoukas on September 12, 2008 bequeath and empower Lawrence Austin Beyer, ESQUIRE of 674 Lake Rd., Webster, N.Y. 14580, the EXECUTOR of My ESTATE. This includes all OWN - PERSONAL FINANCIAL, and any KIND of property. This will and TESTAMENT SUPERCEDES ANY other wills.. FILED or UNFILED with the Courts.

S: [redacted] JE1 - 3035
DL: 14190774
OWN NAME: JANIE SMITH LOWNSBURY
E OF BIRTH: TOLEDO OHIO 7-10

JANIE S. BARZOUKAS
Janie Smith Barzoukas

CHAPTERS 3 AND 4

The client has come to your office asking for assistance due to the death of a loved one.

One of the initial considerations is the suitability of the client to serve.

The Estates Code disqualifies certain persons from serving.

The Estates Code also determines who has higher priority to serve should a person dies intestate or if the Will does not name an executor.

WILLS AND PLEADINGS TO BE DISCUSSED IN CLASS 4

LAST WILL & TESTAMENT

of

BEAUTY M. HOWARD-JERNIGAN

I, BEAUTY M. HOWARD-JERNIGAN, of the County of HARRIS and the State of TEXAS, being in good health, of sound and disposing mind and memory, do make and declare this instrument to be my Last Will & Testament, hereby expressly revoking all former Wills and Codicils made by me at any time heretofore, and intending hereby to dispose of all the property of whatever kind and wherever situated which I own, or in which I have any kind of interest at the time of my death.

I.
IDENTITY OF THE FAMILY

I am not married and I have two adult children, namely, INGER HOWARD POTTS and JANICE HOWARD EDGLEY.

II.
PAYMENT OF EXPENSES

I direct that all the expenses of my last illness, my funeral expenses, and my just personal debts, including any inheritance taxes, transfer taxes, and estate taxes which may be levied by the United States Government or by any state by reason of my death, shall be paid by my Independent Executrix out of the residue of my estate as soon as conveniently may be done; provided that my Independent Executrix, in such Executrix's sole discretion, may distribute from time to time any real or personal property in my estate which at my death is subject to a lien securing an indebtedness upon it without discharging said indebtedness, if in my Independent Executrix's judgment, the condition of my estate so requires. The distributee shall then be considered as having received my estate's equity in the property.

III.
FUNERAL ARRANGEMENTS

I direct that my funeral be performed at Solid Rock Missionary Baptist Church and that my remains be buried in a wooden casket at Calvary Hill Home and Cemetery located at 21723 Aldine Westfield Road, Houston, Texas 77338 where I have prepaid for a plot and headstone for myself.

IV.
DISPOSITION OF ESTATE

Initials

UNOFFICIAL COPY

PURPORTED WILL

3-29

A. *Specific Bequests:*

i. I give, devise and bequeath $500.00 to my daughter JANICE HOWARD EDGLEY.

ii. I give, devise and bequeath my collection of silver dollars to my daughter INGER POTTS.

iii. I give, devise and bequeath my diamond wedding ring with three stones valued at $13,000 to my daughter INGER POTTS.

iv. I have advised my Insurance Company of the following: I give, devise and bequeath $5000 each to each of my grandchildren and step children listed below from the proceeds of my life insurance policy with Great Southern Insurance Company:

BEAUTY EDGLEY, ZENETTA POTTS, CRAIG EDGLEY JR., MARY EDGLEY, ZACHARY POTTS, ZELENNA POTTS, DEJUANA JERNIGAN and CLEMENT JERNIGAN JR.

v. I give, devise and bequeath $1000 to my grandson, CASEY EDGLEY, from the proceeds of my life insurance policy with Great Southern Insurance Company.

B. *Disposition of Real Property and Land*

I. I give, devise and bequeath the following real properties and land for the use, benefit and enjoyment of each family member as set out below:

1. My rental property to my daughter JANICE EDGELY
Physical Address: 8338 Rinn Street Houston, Tx 77078
Legal Description: *LT 1 BLK 3 GLENWOOD FOREST SEC 1*

2. My rental property to my daughter INGER POTTS
Physical Address: 6814 Moss Oaks Drive Houston, Tx 77050 –
Legal Description: *TRS 16B & 17A BLK 1 WINFIELD FOREST SEC 1*

3. My parcel of land to my granddaughter ZELENNA POTTS
Property Address: BENDING OAKS HOUSTON, TEXAS 77050
Legal Description: *LT 15 BLK 6 RIVERWOOD ESTATES SEC 1*

II. For the #6 property listed below on Aldine Bender Road, I give my current tenant who has been living in the home for the past 3 years, Ms. Shanda, the right to purchase the following real property or if she is unable or chooses not to purchase the property, she may remain a paying tenant until such time that she dies or moves out.

4. **Physical Address:** 5334 ALDINE BENDER ROAD HOUSTON, TX 77032

Initials

UNOFFICIAL COPY

3-30

Legal Description: *TR 4T ABST 601 T NORMENTS*

III. For the remainder of the properties that I have, as listed below, it is my wish that each property shall remain as rental properties and the funds from each property shall be for the use and enjoyment of my children and grandchildren to share in equal distributions on per capita basis. It is my wish that INGER POTTS shall maintain and operate each property and shall make such decisions as she sees fit for the benefit of the beneficiaries. INGER POTTS shall be responsible for the receipt of any and all rental payments and INGER POTTS shall make disbursements of all profits (income – costs/fees = profits) from each property on not less than a quarterly basis per capita to each child or grandchild of mine then living.

5. **Physical Address:** 10027 Rebel Road Houston, Tx 77016
   Legal Description: *LT 7 BLK 11 SCENIC WOODS*

6. **Physical Address:** 21505 Whispering Pines Humble, Tx 77338
   Legal Description: *LT 69 AMBERWOOD U/R ABST 139 A R BODMAN*

7. **Physical Address:** 7415 BOGGESS ROAD HOUSTON, TX 77016 -
   Legal Description: *LT 11 BLK 44 SCENIC WOODS*

8. **Physical Address:** 7419 BOGGESS ROAD HOUSTON, TX 77016
   Legal Description: *LT 12 BLK 44 SCENIC WOODS*

9. **Physical Address:** 7617 LAKEWOOD DRIVE HOUSTON, TX 77016
   Legal Description: *LT 22 BLK 16 SCENIC WOODS*

10. **Physical Address:** 7321 RHOBELL STREET HOUSTON, TX 77016
    Legal Description: *LT 6 BLK 52 SCENIC WOODS*

11. **Physical Address:** 6307 WINFIELD HOUSTON, TX 77050
    Legal Description: *TR 10B ABST 256 J A DUNN*

12. **Physical Address:** 8214 DARLINGTON DRIVE HOUSTON, TX 77028
    Legal Description: *LT 259 BLK 15 LARKSTONE PLACE*

13. **Physical Address:** 10314 LERA STREET HOUSTON, TX 77016
    Legal Description: *LT 7 BLK 89 SCENIC WOODS*

14. **Physical Address:** 6603 HARTWICK ROAD HOUSTON, TX 77016
    Legal Description: *LT 22 BLK 15 NORTHWOOD MANOR SEC 2*

BQ
Initials

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15. **Physical Address:** 10109 BRETTON DRIVE HOUSTON, TX 77016
Legal Description: *LT 652 BLK 23 FONTAINE PLACE SEC 5*

16. **Physical Address:** 7714 BIGWOOD HOUSTON, TX 77016
Legal Description: *LT 25 BLK 4 SCENIC WOODS*

C. *Disposition of Residual Estate*
I give, devise and bequeath all of the rest of my estate to my daughter, INGER POTTS.

D. Any other property of mine that has not been disposed of under any other provision of this Will shall go and be distributed to my heirs-at-law. Their identity and respective shares shall be determined in all respects as if my death had occurred immediately following the happening of the event requiring such distribution, and according to the laws of Texas then in force governing the distribution of the estate of an intestate.

V.
DEFINITION OF SURVIVAL

Any legatee, devisee, donee, person or beneficiary with respect to all or any part of my estate who shall not survive until ninety (90) days after the date of my death, or until this Will is probated, whichever occurs earlier, shall be deemed to have predeceased me, and shall be treated for all purposes herein as though such person had predeceased me. Any person who is prohibited by law from inheriting property from my estate shall be treated as having failed to survive me.

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VI.
APPOINTMENT OF EXECUTOR

A. I hereby nominate, constitute and appoint my daughter, INGER POTTS, as Independent Executrix of my estate.

B. If any individual Independent Executor becomes unable to discharge his or her duties under this Will because of accident, physical or mental illness or deterioration, or other cause and does not resign, then upon certification in a form sufficient for the recording of a deed in the State of Texas by two medical doctors (neither of whom is a beneficiary under this Will) affirming that each has examined the Independent Executor and that each has concluded, based on such examination, that the Independent Executor is unable to discharge his or her duties under this Will, the

Initials

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Independent Executor shall cease to serve, as if he or she had resigned, effective the date of the certification.

C. It is my will and desire and I hereby direct that in the administration of my estate, my Independent Executrix or any successor shall not be required to furnish any bond of any kind and that no action shall be had in any court in the administration of my estate other than the probating of this, my Will, and the filing of any required Inventory, Appraisement and List of Claims of my estate that may be required.

VII.
POWERS OF EXECUTOR

The estate created or arising by virtue of my death and this instrument, my Will, shall be governed by and administered in accordance with the following provisions:

A. I hereby grant unto my Independent Executrix or any successor named above, full power and authority over any and all of my estate and they are hereby authorized to sell, manage, and dispose of the same or any part thereof, and in connection with any such sale or transaction, make, execute and deliver proper deeds, assignments and other written instruments and to do any and all things proper or necessary in the orderly handling and management of my estate.

B. My Independent Executrix or any successor named above, shall have the power to access, use, control and dispose of any of my digital assets, wherever located, including but not limited to devices and on-line accounts and the authority to access, use, control or dispose of any electronic credentials including any passwords associated with any device or access.

C. My Independent Executrix or any successor named above, shall have full power and authority to compromise, settle and adjust any and all debts, claims and taxes which may be due from or owing by my estate.

D. My Independent Executrix or any successor named above, shall have full power and authority to deal with any person, firm, or corporation.

E. My Independent Executrix or any successor named above, shall have full power to borrow money at any time and in any amount from time to time for the benefit of my estate, from any person, firm, or corporation or from any bank or trust company and to secure the loan or loans by pledge, deed of trust, mortgage or other encumbrances on the assets of the estate and from time to time to renew such loans and give additional security.

Initials

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F. The Independent Executrix shall serve without compensation.

VIII.
SPENDTHRIFT PROVISION

No interest of any beneficiary in the corpus or income of my estate shall be subject to assignment, alienation, pledge, attachment, or claims of creditors of such beneficiary and may not otherwise be alienated or encumbered by such beneficiary, except as may be otherwise expressly provided herein.

IX.
IN TERROREM CLAUSE

If any beneficiary under this Will shall in any manner contest or attack this Will or any of its provisions, any share or interest in my estate given to such beneficiary under this Will is hereby revoked and shall be disposed of as part of the residue of my estate, unless in a court action determining whether the forfeiture clause should be enforced, the person who brought the action contrary to the forfeiture clause establishes by a preponderance of the evidence that just cause exists for bringing the action and the action was brought and maintained in good faith.

X.
DEFINITIONS AND INTERPRETATIONS

For purposes of interpretation of this, my Will, and the administration of the estate established herein, the following provisions shall apply:

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A. The words "child, children, descendants, issue," and similar terms shall be deemed only to include children born to, or adopted (on or before eighteen years of age) by me or my descendants.

B. The term "digital assets" includes the following:

(1) all desktops, laptops, tablets, peripherals, storage devises, cloud storage, any type of cellular phone, wearable technology and any similar devise existing now or developed in the future to access, use or control digital content; and

(2) all e-mail, e-mail accounts, digital music, digital photographs, digital videos, licensed software, social network accounts, on-line gaming accounts, on-line store accounts, domain registration, web hosting accounts and

Initials

PURPORTED WILL

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any other on-line account or similar digital item which exists now or is developed in the future.

C. When a distribution is directed to be made to any person's descendants "per stirpes," the division into stirpes shall begin at the generation nearest to such person that has a living member.

D. The use of the masculine, feminine or neuter genders shall be interpreted to include the other genders, and the use of either the singular or the plural number shall be interpreted to include the other number, unless such an interpretation in a particular case is inconsistent with the general tenor of this instrument. Any references herein relating to my Independent Executrix shall include her successors regardless of the gender of the successors.

E. This Will shall be probated in accordance with the laws of Texas, and should any provisions of the same be held unenforceable or invalid for any reason, the unenforceability or invalidity of said provision shall not affect the enforceability or validity of any other part of this Will.

I, BEAUTY M. HOWARD-JERNIGAN, as Testatrix, after being duly sworn, declare to the undersigned witnesses and to the undersigned authority that this instrument is my Will, that I have willingly made and executed it in the presence of the undersigned witnesses, all of whom were present at the same time, as my free act and deed, and that I have requested each of the undersigned witnesses to sign this Will in my presence and in the presence of each other. I now sign this Will in the presence of the attesting witnesses and the undersigned authority on this 5th day of June, 2019.

Beauty M. Howard-Jernigan
BEAUTY M. HOWARD-JERNIGAN, Testatrix

The undersigned Allen Ray Atkins Sr. and Johnny Freeman, each being above fourteen years of age, after being duly sworn, declare to the Testatrix and to the undersigned authority that the Testatrix declared to us that this instrument is

BMJ
Initials

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the Testatrix's Will and that the Testatrix requested us to act as witnesses to the Testatrix's Will and signature. The Testatrix then signed this Will in our presence, all of us being present at the same time. The Testatrix is eighteen years of age or over (or being under such age, is or has been lawfully married, or is a member of the armed force of the United States or of an auxiliary thereof or the Maritime Service), and we believe the Testatrix to be of sound mind. We now sign our names as attesting witnesses in the presence of the Testatrix, each other, and the undersigned authority on this 15 day of June, 2019.

Witness

Johnny Freeman
Witness

SUBSCRIBED AND SWORN TO BEFORE ME by the said BEAUTY M. HOWARD-JERNIGAN, Testatrix, and by the said Allen Ray Atkins Jr and Johnny Freeman, Witnesses, this 15 day of June, 2019.

AARON CORMIER
Notary Public, State of Texas
Comm. Expires 02-06-2022
Notary ID 129703212

Notary Public, State of TEXAS
Notary's Printed Name: Aaron Cormier
02-06-2022
My Commission Expires:

Initials
Page 8 of 9

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PREPARED IN THE OFFICE OF:
Jones Legal, PLLC
6464 Savoy Drive, Ste. 875
Houston, Texas 77036

FILED
2020 FEB 20 PM 2:25
COUNTY CLERK
HARRIS COUNTY, TEXAS

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RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

Initials

PURPORTED WILL

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Rhonda Howard Thomas

432251 PROBATE COURT 3

Rhonda:

In event something happens to me, every-
~~of~~ thing is yours.

If you sell this house, the proceeds all belong to you. Bill owed me money and instead of his paying me back, which would leave him with hardly any money, I told him I would take it out of the money I got for the house. I put down $40,000 in cash when I bought it and after paying off the loan and splitting the proceeds, it will total about what he owed me.

I would like for you to give Pat $35,000, and let her pick out something she would like from my jewelry.

Hope you don't need this letter, and I'll be able to get things in order later - including legally adopting you.

Love always,
Mom

Carolyn Howard

Carolyn Farrar Howard
7-13-10 3:30

07142014 1050 G0258

2014 JUL 11 PM 1:07

Tax Statement

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

PROBATE COURT 3

432265

LAST WILL AND TESTAMENT
of
CALVIN PRESTON

FILED
2014 AUG 11 PM 12:30
Stan Stanart
COUNTY CLERK
HARRIS COUNTY, TEXAS

[redacted]871
(Identification / Social Security Number/s)

Calvin Preston
7419 Fawnridge Houston Tx 77028
(Address)

08122014:0919:G0052

I, Calvin Preston, in my last will in testament, ask that my wife Shaketta V Preston, fulfill our dream of the business at 7418 Fawnridge , Houston, Texas 77028 with the proceeds from the insurance policy and carry on what we started. I also give her this property along with my 2010 Ford F150 and 2005 Toyota Sequoia. 2002 GT

I leave to my sons, Calvin Preston Jr, Prince Edward Preston, Terrance Preston the following properties: 7423 Fawnridge, Houston, Tx 77028, 7419 Fawnridge, Houston, TX 77028, 7415 Fawnridge, Houston, Tx 77028. I request that my son Price Edward Preston be named the overseer of these properties, and that he sells them, and divide the money amongst them, after any taxes or fees have been paid. I request that my daughter Sherrie receive an equal share .

All contents of my home and auto mechanic shop (Auto Solution) will be given to my boys listed above; Prince Edward will collect rent on the rental property along with being responsible for the maintaining and up keep until they are sold.

These are my requests per my hand written note dated 10/5/2013, given to my sister Janice Boone.

witness

Janice Boone

Calvin Preston

1-8-2014
Date

RAYFORD LEON MITCHELL SR
My Commission Expires
October 24, 2014

1-8-2014

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RAYFORD LEON MITCHELL SR
My Commission Expires
October 24, 2014

1-8-2014

Mary Ames comes to your office with the following document.

4/15/08

Dear Mary
I am going to die As we all will eventually.
When I die I wish for you to have my Ford Mustang. - Keep it properly serviced
Also you can have everything else I own when I die

Mark

The letter was in Mark's handwriting. Mark is deceased. Mary is concerned that Mark's ex-wife and his three adult children are upset with her. Nonetheless, she feels she wants to probate the document. She knows Mark had substantial cash assets. She wants you to tell her what to do. She is living in Mark's house, which she knows is only half paid for. She does not want to be evicted.

1. What questions would you ask Mary
2. What issues are raised and how would you resolve them?
3. Explain how you would proceed

3- [illegible]

123,456

Estate of

Ronald Doe

Probate Court No 3

Harris County, Texas

Application for Probate of Will and of Issuance of Letters Testamentary

Mary Doe (applicant) furnishes the following information to the court for the probate of the will of Ronald Doe and for letters testamentary.

1. Applicant is domiciled in Tarrant Coungy Texas
2. This court has jurisdiction over this matter
3. The deceased owned property
4. There is a will which has been filed
5. The will was witnessed according to the law and was made self proved
6. The decedent was divorced
7. A necessity exists for administration of this estate

Applicant prays that citation be issued and the will be admitted to probate.

Respectfully submitted

Donna Smith

Attorney for Applicant
203 Main St
Houston, Texas
(713)655-9000
Bar No 676899

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Health & Safety Code

711.002

Sec. 711.002. DISPOSITION OF REMAINS; DUTY TO INTER. (a) Except as provided by Subsection (l), unless a decedent has left directions in writing for the disposition of the decedent's remains as provided in Subsection (g), the following persons, in the priority listed, have the right to control the disposition, including cremation, of the decedent's remains, shall inter the remains, and in accordance with Subsection (a-1) are liable for the reasonable cost of interment:

(1) the person designated in a written instrument signed by the decedent;

(2) the decedent's surviving spouse;

(3) any one of the decedent's surviving adult children;

(4) either one of the decedent's surviving parents;

(5) any one of the decedent's surviving adult siblings;

(6) any one or more of the duly qualified executors or administrators of the decedent's estate; or

(7) any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.

(a-1) If the person with the right to control the disposition of the decedent's remains fails to make final arrangements or appoint another person to make final arrangements for the disposition before the earlier of the 6th day after the date the person received notice of the decedent's death or the 10th day after the date the decedent

died, the person is presumed to be unable or unwilling to control the disposition, and:

(1) the person's right to control the disposition is terminated; and

(2) the right to control the disposition is passed to the following persons in the following priority:

(A) any other person in the same priority class under Subsection (a) as the person whose right was terminated; or

(B) a person in a different priority class, in the priority listed in Subsection (a).

(a-2) If a United States Department of Defense Record of Emergency Data, DD Form 93, or a successor form, was in effect at the time of death for a decedent who died in a manner described by 10 U.S.C. Sections 1481(a)(1) through (8), the DD Form 93 controls over any other written instrument described by Subsection (a)(1) or (g) with respect to designating a person to control the disposition of the decedent's remains. Notwithstanding Subsections (b) and (c), the form is legally sufficient if it is properly completed, signed by the decedent, and witnessed in the manner required by the form.

(a-3) A person exercising the right to control the disposition of remains under Subsection (a), other than a duly qualified executor or administrator of the decedent's estate, is liable for the reasonable cost of interment and may seek reimbursement for that cost from the decedent's estate. When an executor or administrator exercises the right to control the disposition of remains under Subsection (a)(6), the decedent's estate is liable for the reasonable cost of interment, and the executor or administrator is not individually liable for that cost.

(b) The written instrument referred to in Subsection (a)(1) may be in substantially the following form:

APPOINTMENT FOR DISPOSITION OF REMAINS

I, ,

(your name and address)

being of sound mind, willfully and voluntarily make known my desire that, upon my death, the disposition of my remains shall be controlled by

(name of agent)

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in accordance with Section 711.002 of the Health and Safety Code and, with respect to that subject only, I hereby appoint such person as my agent (attorney-in-fact).

All decisions made by my agent with respect to the disposition of my remains, including cremation, shall be binding.

SPECIAL DIRECTIONS:

Set forth below are any special directions limiting the power granted to my agent:

AGENT:

Name:

Address:

Telephone Number:

SUCCESSORS:

If my agent or a successor agent dies, becomes legally disabled, resigns, or refuses to act, or if I divorce my agent or successor agent and this instrument does not state that the divorced agent or successor agent continues to serve after my divorce from that agent or successor agent, I hereby appoint the following persons (each to act alone and successively, in the order named) to serve as my agent (attorney-in-fact) to control the disposition of my remains as authorized by this document:

1. First Successor

Name:

Address:

Telephone Number:

2. Second Successor

Name:

Address:

Telephone Number:

DURATION:

This appointment becomes effective upon my death.

PRIOR APPOINTMENTS REVOKED:

I hereby revoke any prior appointment of any person to control the disposition of my remains.

RELIANCE:

I hereby agree that any cemetery organization, business operating a crematory or columbarium or both, funeral director or embalmer, or funeral establishment who receives a copy of this

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document may act under it. Any modification or revocation of this document is not effective as to any such party until that party receives actual notice of the modification or revocation. No such party shall be liable because of reliance on a copy of this document.

ASSUMPTION:

THE AGENT, AND EACH SUCCESSOR AGENT, BY ACCEPTING THIS APPOINTMENT, ASSUMES THE OBLIGATIONS PROVIDED IN, AND IS BOUND BY THE PROVISIONS OF, SECTION 711.002 OF THE HEALTH AND SAFETY CODE.

SIGNATURES:

This written instrument and my appointments of an agent and any successor agent in this instrument are valid without the signature of my agent and any successor agents below. Each agent, or a successor agent, acting pursuant to this appointment must indicate acceptance of the appointment by signing below before acting as my agent.

Signed this _____ day of _____, 20___.

(your signature)

State of _____

County of _____

This document was acknowledged before me on _____ (date) by _____ (name of principal).

_____

_____

_____

(signature of notarial officer)

(Seal, if any, of notary)

_____

_____

_____

(printed name)

My commission expires:

_____

_____

_____

ACCEPTANCE AND ASSUMPTION BY AGENT:

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I have no knowledge of or any reason to believe this Appointment for Disposition of Remains has been revoked. I hereby accept the appointment made in this instrument with the understanding that I will be individually liable for the reasonable cost of the decedent's interment, for which I may seek reimbursement from the decedent's estate.

Acceptance of Appointment:

(signature of agent)

Date of Signature:

Acceptance of Appointment:

(signature of first successor)

Date of Signature:

Acceptance of Appointment:

(signature of second successor)

Date of Signature:

(c) A written instrument is legally sufficient under Subsection (a)(1) if the instrument designates a person to control the disposition of the decedent's remains, the instrument is signed by the decedent, the signature of the decedent is acknowledged, and the agent or successor agent signs the instrument before acting as the decedent's agent. Unless the instrument provides otherwise, the designation of the decedent's spouse as an agent or successor agent in the instrument is revoked on the divorce of the decedent and the spouse appointed as an agent or successor agent. Such written instrument may be modified or revoked only by a subsequent written instrument that complies with this subsection.

(d) A person listed in Subsection (a) has the right, duty, and liability provided by that subsection only if there is no person in a priority listed before the person.

(e) If there is no person with the duty to inter under Subsection (a) and:

(1) an inquest is held, the person conducting the inquest shall inter the remains; and

(2) an inquest is not held, the county in which the death occurred shall inter the remains.

3-47

(f) A person who represents that the person knows the identity of a decedent and, in order to procure the disposition, including cremation, of the decedent's remains, signs an order or statement, other than a death certificate, warrants the identity of the decedent and is liable for all damages that result, directly or indirectly, from that warrant.

(g) A person may provide written directions for the disposition, including cremation, of the person's remains in a will, a prepaid funeral contract, or a written instrument signed and acknowledged by such person. A party to the prepaid funeral contract or a written contract providing for all or some of a decedent's funeral arrangements who fails to honor the contract is liable for the additional expenses incurred in the disposition of the decedent's remains as a result of the breach of contract. The directions may govern the inscription to be placed on a grave marker attached to any plot in which the decedent had the right of sepulture at the time of death and in which plot the decedent is subsequently interred. The directions may be modified or revoked only by a subsequent writing signed and acknowledged by such person. The person otherwise entitled to control the disposition of a decedent's remains under this section shall faithfully carry out the directions of the decedent to the extent that the decedent's estate or the person controlling the disposition are financially able to do so.

(h) If the directions are in a will, they shall be carried out immediately without the necessity of probate. If the will is not probated or is declared invalid for testamentary purposes, the directions are valid to the extent to which they have been acted on in good faith.

(i) A cemetery organization, a business operating a crematory or columbarium or both, a funeral director or an embalmer, or a funeral establishment shall not be liable for carrying out the written directions of a decedent or the directions of any person who represents that the person is entitled to control the disposition of the decedent's remains.

(j) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 707, Sec. 3, eff. June 17, 2011.

(k) Any dispute among any of the persons listed in Subsection (a) concerning their right to control the disposition, including

cremation, of a decedent's remains shall be resolved by a court of competent jurisdiction. A cemetery organization or funeral establishment shall not be liable for refusing to accept the decedent's remains, or to inter or otherwise dispose of the decedent's remains, until it receives a court order or other suitable confirmation that the dispute has been resolved or settled.

(l) A person listed in Subsection (a) may not control the disposition of the decedent's remains if, in connection with the decedent's death, an indictment has been filed charging the person with a crime under Chapter 19, Penal Code, that involves family violence against the decedent. A person regulated under Chapter 651, Occupations Code, who knowingly allows the person charged with a crime to control the disposition of the decedent's remains in violation of this subsection commits a prohibited practice under Section 651.460, Occupations Code, and the Texas Funeral Service Commission may take disciplinary action or assess an administrative penalty against the regulated person under that chapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 213, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 634, Sec. 2, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 967, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1385, Sec. 1, eff. Aug. 30, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 95 (H.B. 74), Sec. 1, eff. May 20, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 532 (H.B. 2495), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 707 (H.B. 549), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 707 (H.B. 549), Sec. 3, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1336 (S.B. 1167), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001 (28), eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 619 (S.B. 988), Sec. 2, eff. June 16, 2015.

Conrad, James (Probate Courts)

From: James Conrad <james.conrad1996@gmail.com>
Sent: Thursday, October 02, 2014 11:35 AM
To: Conrad, James (Probate Courts)
Subject: Decedent ashes

From Wealthmanagement.com

May He Rest In Pieces?

John T. Brooks
Jena L. Levin
Sep 24, 2014
Uncertainty in the laws governing the disposition of a loved one's remains

In *Wilson v. Wilson*, a Florida appellate court recently considered the awkward question of whether a decedent's ashes are considered property for the purposes of determining who has the right to decide on their final disposition and, specifically, whether they may be partitioned among a decedent's loved ones who have different opinions about what that final disposition should be.[1]

The facts of the *Wilson* case involved a divorced couple, at odds over where to bury the ashes of their 23-year-old son, who was killed in a tragic car crash when he was hit by a drunk driver. When he died, the son was single and had no children. He left no will or specific instructions for the disposition of his body. His parents, William and Lili, were the co-personal representatives and sole beneficiaries of his estate. They agreed on having his body cremated, but couldn't agree on what to do with the ashes.

Dividing the Ashes

William petitioned the Florida probate court to declare the ashes "property" to be partitioned between him and his ex-wife Lili as the beneficiaries of the estate under the probate code. If the ashes were partitioned, then each of them could dispose of their half as they pleased. However, for religious reasons, Lili didn't want the ashes divided and, thus, opposed the petition.

Lili argued that the ashes weren't property under the law and, therefore, not subject to ownership by anyone, let alone partition among multiple owners. She argued instead that heirs or legatees could have only a limited possessory right in a loved one's remains for the purposes of final disposition. Her position, with which the probate and appellate courts ultimately agreed, is in accord with how decedents' remains have typically been treated under the law.

Quasi-Property Rights in Dead Bodies

3 - 90

Although courts have pretty uniformly recognized that a person has right to dictate what should be done with his own body when he dies, neither probate nor intestate succession statutes typically govern what happens to the body of a decedent. This is because a person doesn't have a *property* interest in his own body while he's alive. Thus, a decedent's corpse has never been an asset of his estate when he dies. Nor has a corpse passed to a decedent's next of kin at common law.

However, some forms of quasi-property rights in dead bodies have been developed over time to allow spouses and next of kin to bury their loved one or dispose of the remains in some other lawful manner in accordance with the decedent's wishes or their own. The limited property right exists solely to aid them in getting the decedent to his final resting place and ensure proper handling and burial of the body along the way.

As Professor William Prosser aptly explained: "the courts have talked of a somewhat dubious 'property right' to the body, usually in the next of kin, which did not exist while the decedent was living, cannot be conveyed, can be used only for the one purpose of burial, and not only has no pecuniary value but is a source of liability for funeral expenses. It seems reasonably obvious that such 'property' is something evolved out of thin air to meet the occasion, and that it is in reality the personal feelings of the survivors which are being protected, under a fiction likely to deceive no one but a lawyer."[2]

The quasi-property right isn't a financial interest in the body, and once the body is interred, it's said to be in the custody of the law. Whatever quasi-property right had existed previously is gone. Aside from a few exceptions, there's simply no continuing property interest in the body once it's in the ground.

This of course means that the next of kin can't sell the body or any of its parts. And it also means that the next of kin has no cause of action in trespass, conversion or trover if someone else steals the body from its grave to make such an unsavory sale. That isn't to say that other causes of action are precluded, but the claims can't be based on the value of the body. This is probably for the best, as it would be unnecessarily awkward if judges or juries were required to put a dollar figure on the replacement value of Uncle Foley's molars or Aunt Lardner's gallbladder.

As recognized by the *Wilson* court, this framework dates all the way back to the 18th century when Sir William Blackstone commented "the heir has a property in the monuments and escutcheons of his ancestors, yet he has none in their bodies or ashes; nor can he bring any civil action against such as indecently at least, if not impiously, violate and disturb their remains, when dead and buried."[3] Blackstone's commentary was an extension of the English view that the courts would protect the tombstone, the casket and even the clothes and jewelry in which a person was buried, but the Church would guard the actual skull and bones.

State Laws Vary

But regardless of whether protected by the Church or the courts, deciding how and where one will ultimately lay to rest (and potentially for all eternity, no less) is extremely important for many people. Religious considerations were traditionally of the gravest import in these decisions. But as cremation has gained more widespread acceptance and popularity, more and more people are directing their ashes to be spread somewhere that holds an important place in their heart, irrespective of their faith. As previously mentioned, most courts find it uncontroversial that a person has the right to make this type of direction, but the laws governing how he actually accomplishes it and ensures it's honored aren't uniform from one jurisdiction to the next. While some states have enacted statutes that specifically provide for these types of directions, others haven't.

Even where these types of statutes have been enacted, they only matter if and when a person actually makes such a direction. And even if the decedent has done so, the statutes don't necessarily prevent a court from

considering extrinsic conflicting evidence. Nor are they much use in situations in which, similar to the case of a missing will, the decedent leaves his direction in writing, but the writing isn't found until after his body has already been interred.

In *Wilson*, for example, there was no evidence that the son ever told anyone – whether in writing or orally – what he wanted done with his body when he died. Because the court held that his ashes weren't property, they couldn't be partitioned and divided between his parents.

Need for Uniform Laws

While the historical bases for that rule and the court's holding are well-established, the resulting legal landscape doesn't really provide much guidance to the courts, nor to people like the Wilsons, as to what that ultimately means. So the ashes can't be owned. They can't be partitioned. Then what should be done? In the order appealed from in *Wilson*, the probate court had given the parents 30 days to try to reach an agreement about what to do and suggested that if they couldn't figure it out on their own, then the court might appoint a curator to make the decision for them. It would be a drastic and unfortunate result for the decision to be made only in hindsight by a disinterested third party, especially after both parents spent so much time, money and energy fighting for their respective positions. But because there is no Florida law specifically governing the disposition of bodily remains, there's not much else that the courts could do for them.

Based on the many sticky situations like the one in *Wilson*, many commentators are advocating for the adoption of specific state statutes to govern burial disputes and protect families against the heartache of litigating these sensitive issues.[4] Others have spoken out in support of uniform laws to provide default rules across the board for what to do in these tough situations.[5] Uniform laws adopted across multiple jurisdictions would certainly provide some additional stability in this area, especially given that people are increasingly moving between states for school, jobs, to be closer to family or for other reasons.

Endnotes

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[1] *Wilson v. Wilson*, 138 So. 3d 1176, 2014 Fla. App. LEXIS 7634 (Ct. App. Fla. May 21, 2014).

[2] Prosser, *The Law of Torts*, pp. 58-59 (4th Ed. 1971).

[3] *Wilson*, 138 So. 3d at 1177-78 *quoting* 1 Sir William Blackstone, *Commentaries on the Laws of England in Four Books* 429 (Philadelphia, J.B. Lippencott Co. 1893).

[4] For further discussion of the *Wilson* case and in-depth look at Florida law and the need for additional statutory protection, *see* Juan C. Antunez, Probate & Trust Litigation Blog, www.flprobatelitigation.com/2014/05/articles/new-probate-cases/practice-procedure/4th-dca-are-a-deceased-sons-ashes-property-and-thus-subject-to-5050-partition-between-his-divorced-parents/ (May 27, 2014).

Chapter 5:

Jurisdiction and Venue

416738

PROBATE COURT 3

Last Will and Testament

BE IT KNOWN that I, LZ BROWN (Testator), a resident of HOUSTON 8030 Observatory 77088, County of HARRIS In the State of TEXAS being of sound and disposing mind and memory and over the age of eighteen (18) years, and not being actuated by any duress, menace, fraud, mistake or undue influence, do make, publish and declare this to be my Last Will and Testament, hereby revoking all my prior Wills and Codicils at any time made.

I. Marriage and Children NEVER MARRIED / NO CHILDREN

I am married to ——, and all references in this Will to my —— (husband or wife) are references to —— (him or her). I have the following children:

Name: —— Date of Birth: ——
Name: —— Date of Birth: ——
Name: —— Date of Birth: ——
Name: —— Date of Birth: ——

II. Executor

I appoint CATHY PRIESTER of AUSTIN, TEXAS as Executor of this, my Last Will and Testament, and provide that if this Executor is unable or unwilling to serve, then I appoint —— of —— as alternate Executor. My Executor shall be authorized to carry out all provisions of this Will and pay my just debts, obligations and funeral expenses. I further provide my Executor shall not be required to post surety bond in this or any other jurisdiction, and direct that no expert appraisal be made of my estate unless required by law.

III. Guardian

In the event I shall die as the sole parent of minor children, then I appoint —— as Guardian of said minor children. If this named Guardian is unable or unwilling to serve, then I appoint —— as alternate Guardian.

IV. Bequests

I direct that after payment of all my just debts, my property be bequeathed in the manner following:

Name: CATHY PRIESTER Address: 13203 A SAXBY CT AUSTIN, TX 78729
Relationship: NIECE NPOA Property: 8030 Observatory HOUSTON, TEXAS 77088

Name: —— Address: ——
Relationship: —— Property: ——

FILED
2013 MAY -6 AM 9:06
COUNTY CLERK
HARRIS COUNTY, TEXAS

PURPORTED WILL

© 2008 Success Media, LLC

Name: _____ Address: _____

Relationship: _____ Property: _____

Name: _____ Address: _____

Relationship: _____ Property: _____

V. Simultaneous Death of Spouse

In the event that my _____ (husband or wife) shall die simultaneously with me or there is no direct evidence to establish that my _____ (husband or wife) and I died other than simultaneously, I direct that _____ (I or my husband or wife) shall be deemed to have predeceased _____ (me or my husband or wife), notwithstanding any provision of law to the contrary, and that the provisions of my Will shall be construed on such presumption.

VI. Simultaneous Death of Beneficiary

If any beneficiary of this Will, including any beneficiary or any trust established by this Will, other than my _____ (husband or wife), shall die within 60 days of my death or prior to the distribution of my estate, I hereby declare that I shall be deemed to have survived such person.

VII. All Remaining Property; Residuary Clause

I give, devise and bequeath all of the rest, residue and remainder of my estate, of whatever kind and character, and wherever located, to my _____ (husband or wife), provided that my _____ (husband or wife) survives me. I make no provision for my children, knowing that, as their parent, my _____ (husband or wife) will continue to be mindful of their needs and requirements. If my _____ (husband or wife) does not survive me, then I give, devise and bequeath all of the rest, residue and remainder of my estate, of whatever kind and character, and wherever located, to my children per share, but if any child predeceases me, then his or her share will pass, per share, to his or her lineal descendants, natural or adopted, if any, who survive me; but if there are none, then his or her share will lapse and pass equally as part of the shares of my other named children; but if none of my named children survives me or leaves a lineal descendant who survives me, then according to the order of intestate succession in the State of _____.

VIII. Additional Powers of the Executor

My Executor shall have the following additional powers with respect to my estate, to be exercised from time to time at my Executor's discretion without further license or order of any court: _____

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PURPORTED WILL

IX. Optional Provisions

I have placed my initials next to the provisions below that I adopt as part of this Will. Any unmarked provision is not adopted by me and is not part of this Will.

_____ If any beneficiary to this Will is indebted to me at the time of my death, and the beneficiary evidences this debt by a valid promissory note payable to me, then such person's portion of my estate shall be diminished by the amount of such debt.

_____ Any and all debts of my estate shall first be paid from my residuary estate. Any debts on any real property bequeathed in this Will shall be assumed by the person to receive such real property and not paid by my Executor.

_____ I direct that my remains be cremated and that the ashes be disposed of according to the wishes of my Executor.

_____ I direct that my remains be cremated and that the ashes be disposed of in the following manner: _____

_____ I desire to be buried in the PARADISE Cemetery cemetery in HARRIS County, State of TEXAS.

X. Severability and Survival

If any part of this Will is declared invalid, illegal or inoperative for any reason, it is my intent that the remaining parts shall be effective and fully operative, and that any court so interpreting this Will and any provision in it construe in favor of survival.

Testator's Initials: _____

Execute and attest before a notary.
Caution: Louisiana residents should consult an attorney before preparing a will.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of APRIL 2009, to this my Last Will and Testament.

Testator's Signature: L. D. Brown

XI. Witnessed

The Testator has signed this Will at the end and on each other separate page, and has declared or signified in our presence that it is his or her Last Will and Testament, and in the presence of the Testator and each other we have hereunto subscribed our names this 4th day of APRIL 2009.

Witness' Signature: NOTARY PUBLIC

Address: 6926 Constitution
Houston TX 77022

NOTARY PUBLIC STATE OF TEXAS

PURPORTED WILL

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Witness' Signature: _____

Address: _____

_____

Witness' Signature: _____

Address: _____

_____

Acknowledgment

State of _____)
County of _____)

We, _____, _____,
_____, and _____,
the Testator and the Witnesses, respectively, whose names are signed to the attached and foregoing instrument, were sworn and declared to the undersigned that the Testator signed the instrument as his or her Last Will and Testament and that each of the Witnesses, in the presence of the Testator and each other, signed the will as a witness.

Testator: _____ Witness: _____
Witness: _____
Witness: _____

On _____, 20____, before me, _____
appeared _____personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Signature of Notary

Affiant _____ Known _____ Produced ID

Type of ID _____
(Seal)

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, classified paper, etc. All blackouts, additions and changes were present at the time the instrument was filed and recorded.

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473322 PROBATE COURT 3

Will Of Julia L. Valles

FILED
2019 JAN 31 PM 1:20
COUNTY CLERK
HARRIS COUNTY, TEXAS

FULL NAME: Julia Lopez Valles
Entire Address: 219 Sidney Street
City/State/County/Zip: Houston, TX (Harris County) 77003
Phone Numbers: Home: 713 / 923-4173
Email(s): julia_valles@yahoo.com
Sex: F Date of Birth: 06/19/1931
Social Security Number: [redacted]032
Driver's License Number: Texas ID#[redacted]857

I acknowledge that the following 11 pages I have reviewed and answered all the questions. I am of sound mind and want to state that these are my wishes and no changes should be made to this by anyone.

Signature: Julia Lopez Valles
Date: 1-27-2013

State of Texas
County of Harris.

This instrument was acknowledged before me on 1/27/13 (date) by

_____ (name of principal)

Diane Madrid
Notary Public

seal

DIANE MADRID NOTARY PUBLIC STATE OF TEXAS EXPIRES APRIL 22, 2013

_____
(printed name)

My commission expires: 4/22/13

I. PROPERTY 219 Sidney Street, Houston, Texas 77003

WHO DO YOU WISH TO RECEIVE YOUR PROPERTY? (You may list more than one person. Indicate the percentage of your property that persons will receive (for example, 100% or equal share). **Note**: If you wish to have alternative persons receive the property if your first choice cannot receive the property (or if you wish to leave specific property to certain persons), see the following pages.)

☐ Relationship to you: Daughter 50%
Name: Barbara A. Valles
Address: 219 Sidney Street
City/State/County/Zip: Houston, Texas Harris County 77003
Phone Numbers: Home: 713 / 923-4173
Work: 713 / 743-2059
Mobile: 832 / 813-9951
Email(s): barbara.valles@yahoo.com

☐ Relationship to you: Daughter 50%
Name: Elizabeth V. Martinez
Address: 9701 Meyer Forest Drive Apt 9202
City/State/County/Zip: Houston, Texas Harris County 77096
Phone Numbers: Mobile: 832/ 640-0592
Email(s): _____

UNOFFICIAL COPY

II. PROPERTY 9 Altic Street, Houston, Texas 77011

WHO DO YOU WISH TO RECEIVE YOUR PROPERTY? (You may list more than one person. Indicate the percentage of your property that persons will receive (for example, 100% or equal share). **Note**: If you wish to have alternative persons receive the property if your first choice cannot receive the property (or if you wish to leave specific property to certain persons), see the following pages.)

☐ Relationship to you: Son 50%
Name: Lawrence T. Valles
Address: 9 Altic Street
City/State/County/Zip: Houston, Texas Harris County 77011
Phone Numbers: Mobile: 281 / 935-5538
Email(s): _____

☐ Relationship to you: Son 50%
Name: Ronald A. Valles
Address: 4816 Moore Street
City/State/County/Zip: Houston, Texas Harris County 77009
Phone Numbers: Mobile: 713/ 304-2440
Email(s): _____

UNOFFICIAL CO

III. EXECUTOR OF ESTATE

WHO DO YOU WISH TO BE THE EXECUTOR OF YOUR ESTATE?
(Who will be in charge of distributing your property as directed in the Will?)

☐ Relationship to you: Grandson
Name: Nathaniel J. Martinez
Address: 8843 Doak Lane
City/State/County/Zip: Houston, Texas Harris County 77075
Phone Numbers: Home: 713/987-1444
Mobile: 713/ 775-7111
Email(s): nathaniel-martinez@sbcglobal.net

WHO DO YOU WISH TO BE AN ALTERNATE EXECUTOR OF YOUR ESTATE?

☐ Relationship to you: Daughter
Name: Barbara A. Valles
Address: 219 Sidney Street
City/State/County/Zip: Houston, Texas Harris County 77003
Phone Numbers: Home: 713 / 923-4173
Work: 713 / 743-2059
Mobile: 832 / 813-9951
Email(s): barbara.valles@yahoo.com

IV. POWER OF ATTORNEY

WHO DO YOU WISH TO HAVE POWER OF ATTORNEY OVER YOUR ESTATE? (Who will take care of your business and financial affairs should you become incapacitated (incapable of making your own decisions while living)?)

☐ Relationship to you: Grandson
Name: Nathaniel J. Martinez
Address: 8843 Doak Lane
City/State/County/Zip: Houston, Texas Harris County 77075
Phone Numbers: Home: 713/987-1444
Mobile: 713/ 775-7111
Email(s): nathaniel-martinez@sbcglobal.net

WHO DO YOU WISH TO SERVE AS AN ALTERNATE POWER OF ATTORNEY OVER YOUR ESTATE?

☐ Relationship to you: Daughter
Name: Barbara A. Valles
Address: 219 Sidney Street
City/State/County/Zip: Houston, Texas Harris County 77003
Phone Numbers: Home: 713 / 923-4173
Work: 713 / 743-2059
Mobile: 832 / 813-9951
Email(s): barbara.valles@yahoo.com

WHEN DO YOU WANT THE DURABLE POWER OF ATTORNEY TO BECOME EFFECTIVE? Immediately or [upon your incapacity]

DO YOU WANT YOUR AGENT TO HAVE THE AUTHORITY TO MAKE GIFTS OF YOUR MONEY OR PROPERTY IN ORDER TO GAIN A TAX BENEFIT? YES [NO]

V. MEDICAL POWER OF ATTORNEY

WHO DO YOU WANT TO APPOINT AS YOUR AGENT FOR THE MEDICAL POWER OF ATTORNEY? (Who will express your health care decisions in the event you become incapacitated? Who will you designate to speak to your doctors and other health care providers regarding your care?)

☐ Relationship to you: Grandson
Name: Nathaniel J. Martinez
Address: 8843 Doak Lane
City/State/County/Zip: Houston, Texas Harris County 77075
Phone Numbers: Home: 713/987-1444
Mobile: 713/ 775-7111
Email(s): nathaniel-martinez@sbcglobal.net

WHO DO YOU WANT TO APPOINT AS ALTERNATE AGENT FOR THE MEDICAL POWER OF ATTORNEY?

☐ Relationship to you: Daughter
Name: Barbara A. Valles
Address: 219 Sidney Street
City/State/County/Zip: Houston, Texas Harris County 77003
Phone Numbers: Home: 713 / 923-4173
Work: 713 / 743-2059
Mobile: 832 / 813-9951
Email(s): barbara.valles@yahoo.com

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VI. AGENT OF MEDICAL RECORDS

WHO DO YOU WANT TO APPOINT AS AGENT(S) FOR THE MEDICAL RECORDS AUTHORIZATION? (Who will you authorize to request medical records? You may appoint more than one person.)

☐ Relationship to you: Grandson
Name: Nathaniel J. Martinez
Address: 8843 Doak Lane
City/State/County/Zip: Houston, Texas Harris County 77075
Phone Numbers: Home: 713/987-1444
Mobile: 713/ 775-7111
Email(s): nathaniel-martinez@sbcglobal.net

ALTERNATE AGENT OF MEDICAL RECORDS

☐ Relationship to you: Daughter
Name: Barbara A. Valles
Address: 219 Sidney Street
City/State/County/Zip: Houston, Texas Harris County 77003
Phone Numbers: Home: 713 / 923-4173
Work: 713 / 743-2059
Mobile: 832 / 813-9951
Email(s): barbara.valles@yahoo.com

VII. GUARDIAN OF YOUR PERSON

WHO DO YOU WANT TO APPOINT AS GUARDIAN OF YOUR PERSON? (Who will take care of your needs (feeding, bathing, clothing etc.), should a court of law rule you incapacitated?)

☐ Relationship to you: Grandson
Name: Nathaniel J. Martinez
Address: 8843 Doak Lane
City/State/County/Zip: Houston, Texas Harris County 77075
Phone Numbers: Home: 713/987-1444
Mobile: 713/ 775-7111
Email(s): nathaniel-martinez@sbcglobal.net

WHO DO YOU WANT TO APPOINT AS ALTERNATE GUARDIAN OF YOUR PERSON?

☐ Relationship to you: Daughter
Name: Barbara A. Valles
Address: 219 Sidney Street
City/State/County/Zip: Houston, Texas Harris County 77003
Phone Numbers: Home: 713 / 923-4173
Work: 713 / 743-2059
Mobile: 832 / 813-9951
Email(s): barbara.valles@yahoo.com

VIII. GUARDIAN OF YOUR ESTATE

WHO DO YOU WANT TO APPOINT AS GUARDIAN OF YOUR ESTATE? (Who will take care of your business affairs should a court of law rule you incapacitated?)

☐ Relationship to you: Grandson
Name: Nathaniel J. Martinez
Address: 8843 Doak Lane
City/State/County/Zip: Houston, Texas Harris County 77075
Phone Numbers: Home: 713/987-1444
Mobile: 713/ 775-7111
Email(s): nathaniel-martinez@sbcglobal.net

WHO DO YOU WANT TO APPOINT AS ALTERNATE GUARDIAN OF YOUR ESTATE?

☐ Relationship to you: Daughter
Name: Barbara A. Valles
Address: 219 Sidney Street
City/State/County/Zip: Houston, Texas Harris County 77003
Phone Numbers: Home: 713 / 923-4173
Work: 713 / 743-2059
Mobile: 832 / 813-9951
Email(s): barbara.valles@yahoo.com

IX. FUNERAL ARRANGEMENTS

WHO DO YOU WANT TO APPOINT AS AGENT TO HANDLE YOUR FUNERAL ARRANGEMENTS?

☐ Relationship to you: Daughter
Name: Barbara A. Valles
Address: 219 Sidney Street
City/State/County/Zip: Houston, Texas Harris County 77003
Phone Numbers: Home: 713 / 923-4173
Work: 713 / 743-2059
Mobile: 832 / 813-9951
Email(s): barbara.valles@yahoo.com

WHO DO YOU WANT TO APPOINT AS ALTERNATE AGENT TO HANDLE YOUR FUNERAL ARRANGEMENTS?

☐ Relationship to you: Grandson
Name: Nathaniel J. Martinez
Address: 8843 Doak Lane
City/State/County/Zip: Houston, Texas Harris County 77075
Phone Numbers: Home: 713/987-1444
Mobile: 713/ 775-7111
Email(s): nathaniel-martinez@sbcglobal.net

X. FUNERAL ARRANGEMENTS (CONT'D)

HAVE YOU MADE ARRANGEMENTS WITH A FUNERAL HOME? YES [NO]

IF YES, PLEASE PROVIDE THE FOLLOWING INFORMATION ABOUT THE ESTABLISHMENT:

Name: _____
Address: _____
City/State/County/Zip: _____
Phone Numbers: _____
Email(s): _____

DO YOU WANT TO BE CREMATED? YES [NO]

IF ANY APPOINTEE (EXECUTOR, AGENT, GUARDIAN) LIVES OUTSIDE OF TEXAS, NAME A PERSON WHO LIVES IN TEXAS TO RECEIVE SERVICE OF PROCESS. (Allows Texas Courts to maintain jurisdictional authority.)

☐ Relationship to you: _____
Name: _____
Address: _____
City/State/County/Zip: _____
Phone Numbers: _____
Email(s): _____

XI. MEDICAL TREATMENT IF DEATH IS IMMINENT.
DO YOU WANT LIFE SUPPORT IF DEATH IS IMMINENT AND LIFE SUPPORT WOULD ONLY SERVE TO ARTIFICIALLY PROLONG THE MOMENT OF DEATH? YES [NO]

DO YOU WANT TO GIVE YOUR AGENT FOR HEALTH CARE ANY OF THE FOLLOWING POWERS?

1. TO HAVE A FEEDING TUBE REMOVED? [YES] NO

2. TO HAVE IV's REMOVED? [YES] NO

3. TO HAVE A BREATHING MACHINE REMOVED? [YES] NO

DO YOU WISH TO SIGN AN "OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDER?" THE DOCUMENT INSTRUCTS HEALTH CARE PROFESSIONALS IN OUT-OF-HOSPITAL SETTINGS TO NOT USE "CPR" AND OTHER RESUSCITATION METHODS FOR MEDICAL TREATMENT. [YES] NO

DO YOU WANT TO DONATE ORGANS? YES [NO]

DO YOU HAVE A PREFERRED ORGANIZATION FOR YOUR DONATED ORGANS? YES [NO]

IF YES, PLEASE PROVIDE THE FOLLOWING INFORMATION ABOUT THE ESTABLISHMENT:

Name: _____
Address: _____
City/State/County/Zip: _____
Phone Numbers: _____

Email(s): _____

Witnessed by
Maria del C. Gonzalez

Date
1/27/2013
1/27/2013

Print name
Maria C. Lopez
Maria del C. González

CHAPTER 5

This chapter and many of the following chapters is a compilation of pre-administration/administration issues that attorneys may encounter.

1. Where do you file the will- What court has jurisdiction? What county has venue?

2. It takes a few weeks to open an administration but there is a body at the funeral home and a family needing closure. This sometimes requires pleadings to be filed even before the Will is filed or an administration is opened.

3. What if the decedent lived in a rental property and it is nearing the end of the month? The Estates Code has remedies to safeguard the personal property.

4. Where is the Will? What must be done if the Will is not readily obtainable?

These are situations that an attorney may encounter and must know how to respond.

DRAFTING PLEADINGS

John Brown is the son of Phillip Brown. He is the only son. Phillip was a resident of Harris County and lived at 4234 Oxford Houston Texas and died on March 10, 2022 in Houston. Phillip had told John he had a Will but he did not find it at his home. He did find a safety deposit box key. Phillip banked at Chase Bank on 1111 Dairy Ashford. He called the bank and they verified he had a box.

The Vice President at that bank is Mary Tompkins.

Prepare the pleading to open the box.

John went to plan the funeral at Forest Park which is where the family plot is and it will cost $8,000. He does not have the money but at Chase Bank his dad has an account with $30,000

Prepare the pleading to pay the funeral home

Susie Green is the daughter of Mary Green. Mary was a resident of Harris County and lived in a rental house at 1314 Grayson. She died on March 15,2022. The landlord, Tim Porter, is not cooperating about letting her in to get her mother's personal effects.

Prepare the pleading

OFFICE OF DIANE TRAUTMAN

COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE	§	DOCKET NO. _____
	§	
PROBATE COURT NO. _____	§	
	§	STYLE OF DOCKET: _____
HARRIS COUNTY, TEXAS	§	DECEASED

APPLICATION TO OPEN SAFE DEPOSIT BOX AND TO EXAMINE PAPERS

TO THE HONORABLE JUDGE OF PROBATE COURT NO. ___ , HARRIS COUNTY, TEXAS:

I, _____ , a resident of the County of _____

and State of _____ , and hereinafter called Applicant, furnishes the following information to the Court:

1. That _____ , hereinafter called decedent, was a resident of Harris County, Texas, and departed this life on _____ .

2. That _____ has in its possession and under its control papers of said decedent, of whose estate the Probate Court No. _____ of Harris County, Texas, has jurisdiction, and the decedent has leased from said Bank a safe deposit box and that such papers in such box may contain a Will of the decedent or policies of insurance on h_____ life, payable to named beneficiary, which Will, if any, should be filed for Probate, and which policies, if any, should be delivered to the beneficiary or beneficiaries thereof;

NOW, THEREFORE, Applicant prays that your Honor may make an order pursuant to §151.001 thru 151.005 of the Texas Estates Code, directing such Bank to permit Applicant to examine such papers and the contents of said deposit box in the presence of yourself, or your duly authorized representative, or a representative of the Comptroller, and an officer of such Bank, and to deliver said Will, if any, to the Clerk of the Probate Court No. _____ of Harris County, Texas, and said policies of insurance , if any, to the beneficiary or beneficiaries named therein.

Respectfully submitted,

_____

Address: _____

Phone No: _____

Sworn to and subscribed before me on _____ .

(Seal)

_____
Notary Public/Deputy County Clerk
Harris County, Texas

5-1

OFFICE OF DIANE TRAUTMAN

COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE	§	DOCKET NO. _____
	§	
PROBATE COURT NO. _____	§	
	§	STYLE OF DOCKET: _____
HARRIS COUNTY, TEXAS	§	DECEASED

POSSESSION ORDER FOR WILLS AND INSURANCE POLICIES

THE APPLICATION OF _____

hereinafter called Applicant, relating to the above numbered and styled docket; and having been presented to me; and it appearing that the facts stated therein are true;

IT IS THEREFORE ORDERED:

1. That the _____

permit the above named Applicant to examine such papers of _____

_____, Deceased,

as it may have in its possession and the contents of h___ safe deposit box, leased from said Bank, in the presence of

_____, the duly authorized representative of the undersigned, and of any Vice-President or Trust Officer of said Bank.

2. If there shall be found among such papers or in such box any Will of said Decedent or any policies of insurance on h___ life payable to a named beneficiary or beneficiaries, said Bank and the persons examining said papers pursuant to the terms hereof, are hereby advised and directed to deliver said Will to the Clerk of the Probate Court No._____ of Harris County, Texas, and said policies of insurance to the beneficiary or beneficiaries named therein; and to take receipts therefor if and when delivered.

Signed on _____.

_____

Judge of Probate Court No. _____

5-2

OFFICE OF DIANE TRAUTMAN
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE	§	DOCKET NO. _____
	§	
PROBATE COURT NO. _____	§	
	§	STYLE OF DOCKET: _____
HARRIS COUNTY, TEXAS	§	DECEASED

APPLICATION FOR EMERGENCY BURIAL EXPENSES

To the honorable Judge of said Court:

This Application seeks the emergency powers of this court as the result of the death of _____

_____, hereinafter called Deceased and it is respectfully submitted and is shown to the court the following:

1. That Deceased died on or about _____,
(DATE OF DEATH)

_____.
(PLACE OF DEATH)

2. That the domicile of the Deceased, at the time of death was _____,
(ADDRESS, CITY AND NAME OF COUNTY)
_____Texas.
3. That the principal assets of the decedent, at the time of death were located in _____

_____County, Texas.
4. That no petition for the appointment of a personal representative of the decedent's estate is pending or has been granted. Nor has any proceeding to determine heirship under Section 202.001 of the Texas Estates Code been filed.
5. That not more than ninety (90) days have elapsed since the date of death of the decedent.

6. That the purpose of this application is to seek funds in the amount of $_____ for the funeral and burial expenses of the Decedent. These funds for the payment of the funeral and burial costs are to be paid directly to the funeral and/or burial provider name herein for payment to all sources used in providing for the funeral, burial, and/or cremation expenses of the decedent, including but not limited to any funeral home cemetery association or other group for the purpose of funeral, burial and/or where appropriate cremation.
A copy of all service statements with the costs thereof are attached to this application.
7. Is there any written directives of the decedent as to the type or method of burial?

Answer: _____
(Where directives exist, attach the original of such directive to this application.)
8. The source for payment of funeral and burial expenses are:
(Please give name of person, company, or financial institution holding funds including any account numbers and balances. Should additional space be needed, attach a separate sheet. If more than one source is needed to pay for the expenses, list all sources.)
9. Where cremation is being sought, indicate the reason and whether all relatives of the decedent are in agreement. If any relative objects, state the name, address, and relationship of such relative to the decedent. In all cases, submit a statement signed by each relative who has agreed stating the name, address, phone number and relationship to the decedent of each relative and that they are in agreement.
Do all relatives agree to cremation? (Yes/No)

Answer: _____.
See Statement(s) attached.

10. Where burial is sought, the name and location of the cemetery where interment is to take place is: _____

_____

Had the decedent made prior funeral and/or burial arrangements?

Answer: _____. If yes, attach a copy of such arrangements and/or burial lot information.

11. The decedent's heirs (family members) to the best of Applicant's knowledge are as follows:
(Please furnish the names, relationship and addresses of all known heirs. If additional space is necessary, please attach separate sheets.)

12. Have all of the decedent's heirs been notified?

Answer _____.

If your answer is No, then you must furnish the name and addresses of those heirs who were not notified and the reason notice was not provided.

13. Have the decedent's heirs refused to care for the decedent's remains?

Answer: _____.

14. The reasons that the court's emergency intervention powers are necessary:
(If additional space is necessary, attach a separate sheet)

15. That the applicant is aware of the facts surrounding this application and states the following:
that Applicant(s) request this court to review this application and should the court find it proper to enter those orders necessary and authorized with regard to this emergency proceeding. Applicant states that he understands that by filing this Application, he has subjected himself to this Courts jurisdiction for all purposes.

Respectfully submitted,

_____
Applicant

_____
Address

_____
Telephone Number

Before me, the undersigned authority, on this day personally appeared _____ who being by me duly sworn upon oath states that all of the above and foregoing statements and representations made in this application are true and correct in every respect based on the applicant(s) knowledge, information and belief.

Sworn _____

_____
Notary Public for the State of Texas

5-4

OFFICE OF DIANE TRAUTMAN
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE §
§
PROBATE COURT NO. _____ §
§
HARRIS COUNTY, TEXAS §

DOCKET NO. _____

STYLE OF DOCKET: _____
DECEASED

APPLICATION FOR PROTECTION OF PERSONAL PROPERTY

To the Honorable Judge of said Court:

This Application seeks the emergency powers of this court as the result of the death of _____ _____, hereinafter called Decedent, and it is respectfully submitted and is shown to the Court the following:

1. That _____ died on or about _____

_____, _____
(PLACE OF DEATH)

2. That the domicile of the decedent, at the time of death was Harris County, Texas.
3. That the principal assets of the decedent, at the time of death were located in Harris County, Texas.
4. That no petition for the appointment of a personal representative of the decedent's estate is pending or has been granted. Nor has any proceeding to determine heirship under Section 202.001 of the Texas Estates Code been filed.
5. That not more than ninety (90) days have elapsed since the date of death of the decedent.
6. Access to the decedent's rented premises is being requested in this application.
   a. Where there is property of the decedent located in rental accommodations their total estimated values will not exceed:

   $_____.
7. That the following information is submitted with regard to the applicant.

   Name: _____

   Address: _____

   Phone Number: _____

   Social Security Number: _____

   Relationship to decedent: _____

The reasons that the court's emergency intervention powers are necessary:
(If additional space is necessary, attach a separate sheet.)

5-5

8. That the applicant is aware of the facts surrounding this application and states the following:
That Applicant(s) request this court to review this application and should the court find it proper, to enter those orders necessary and authorized with regard to this emergency proceeding. Applicant states that he understands that by filing this Application, he has subject himself to this Court's jurisdiction for all purposes.

Respectfully submitted,

_____
Applicant

_____
Address

_____
Telephone Number

Before me, the undersigned authority, on this day personally appeared_____

_____who being by me duly sworn upon oath states that all of the above and foregoing statements and representations made in this application are true and correct in every respect based on the applicant(s) knowledge information and belief.

Sworn and Subscribed to by the named applicant(s) on _____.

_____
Notary Public

5-6

OFFICE OF DIANE TRAUTMAN

COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE §
§
PROBATE COURT NO. _____ §
§
HARRIS COUNTY, TEXAS §

DOCKET NO. _____

STYLE OF DOCKET: _____
DECEASED

EMERGENCY INTERVENTION ORDER

On _____, came on to be considered the Application for Emergency

Intervention by _____, that the court has made a review of the application and all attachments and finds that a necessity exists for this court to intervene and issue emergency orders for the payment of funeral and burial expenses and/or the protection and storage of the decedent's personal property. The court further finds that the applicant shall be responsible for any action taken herein. Strike through any provisions that do not apply.

It is THEREFORE, ORDERED as follows: **[Strike through those portions of the Order which do not apply.]**

1. That _____

_____
[LIST THE NAMES, ACCOUNT NUMBERS, AND AMOUNTS THAT ALL PERSONS OR INSTITUTIONS ARE BEING ORDERED TO PAY FROM THE DECEDENTS FUNDS]

shall pay directly to _____
[THIS SHOULD NOT BE AN INDIVIDUAL]
who shall be responsible for providing for the disposition of the decedent's remains, including any and all funeral, burial, or preparation services; transportation services, cremation or any other reasonable or

necessary services in an amount not to exceed the total sum of $_____.

2. That _____
the funeral provider is authorized and instructed to pay for all transportation, funeral cremation or other reasonable or necessary expenses not to exceed the above stated amount.

3. That the decedent's remains are to be _____ and interred at
(BURIED/CREMATED)

_____.
(LOCATION OF REMAINS)

OR

4. That the applicant is authorized to inspect and inventory the decedent's personal property located at _____

_____.
[PROPERTY ADDRESS]

5. That _____ is ordered to participate in the [NAME OF LANDLORD OR REPRESENTATIVE] preparation of a detailed inventory to be filed with the county clerk in these proceedings.

6. That _____ is authorized to secure and to take [NAME OF LANDLORD OR REPRESENTATIVE] possession of any personal property of the decedent and to see that such property is stored at the applicants expense for ninety (90) days or until an estate representative has been appointed.

7. That all powers authorized under this order shall expire ninety (90) days from this date or upon the date a personal representative has qualified whichever first occurs.

8. That this order does not authorize the applicant to take any property into his or her possession except for any insurance policies which names the applicant as the beneficiary.

9. The applicant and _____ are further ordered to file [NAME OF LANDLORD OR REPRESENTATIVE] the inventory to be prepared not later than ten (10) business days following the signing of this order.

10. That _____ is ordered to file directly with the [NAME OF LANDLORD OR REPRESENTATIVE] county clerk in these proceedings any original Will, insurance policies or cash that may be located within the premises at the time of inspection.

SIGNED _____.

_____

JUDGE PRESIDING

5-8

OFFICE OF DIANE TRAUTMAN
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

Docket No. _____

IN MATTERS OF PROBATE §
§
HARRIS COUNTY, TEXAS §
§

PROBATE COURT NO. _____

STYLE OF
DOCKET: _____
Deceased

INVENTORY FOR EMERGENCY INTERVENTION PROCEEDINGS

That _____,

Applicant, and _____
(LANDLORD OR REPRESENTATIVE)
hereby state that the following assets were found in the rented premises of the decedent, at _____

_____after the date of death.
(ADDRESS)

(PLEASE IDENTIFY THE LOCATION WHERE THE PROPERTY WAS FOUND AND IDENTIFY ALL ASSETS IN AS MUCH DETAIL AS KNOWN. THE VALUE OF AN ASSET SHOULD BE SHOWN OR THE FAIR MARKET VALUE AND NOT REDUCED BY ANY DEBTS OWED. IF ADDITIONAL SPACE IS NEEDED, ATTACH A SEPARATE SHEET).

PROPERTY OF DECEASED

CASH AMOUNT: .....$
WILL (TENDERED WITH INVENTORY) ..... YES/NO
INSURANCE POLICIES (ATTACHED) ..... YES/NO
LIST AND IDENTIFY COMPANY AND POLICY NUMBER

BANK ACCOUNT: (LIST AND IDENTIFY)

OTHER PERSONAL PROPERTY: (LIST AND DESCRIBE)

FURNITURE, VEHICLES, ETC. (LIST AND DESCRIBE)

DEED TO CEMETERY LOTS:

5-9

DESCRIPTION OF ASSETS PLACED IN STORAGE:

STORAGE LOCATION:

THE APPLICANT(S) AND PREMISE OWNERS AND/OR AGENT HEREIN STATE THAT THE ABOVE INVENTORY AND VALUATION ARE FULL AND COMPLETE TO THE BEST OF THEIR KNOWLEDGE,

INFORMATION AND BELIEF AT THE TIME THIS INVENTORY WAS MADE ON _____

_____.

SIGNED _____.

_____
APPLICANT

_____
LANDLORD/REPRESENTATIVE

5-10

Texas Property Code

§ 92.0162
Right to Vacate and Avoid Liability Following Tenant's Death

(a) A representative of the estate of a tenant who dies before the expiration of the tenants lease and was, at the time of the tenants death, the sole occupant of a rental dwelling may terminate the tenants rights and obligations under the lease and may vacate the leased premises and avoid liability for future rent and any other sums due under the lease for terminating the lease and vacating the leased premises before the end of the lease term if:

(1) the representative provides to the landlord or the landlords agent written notice of the termination of the lease under this section;

(2) the deceased tenants property is removed from the leased premises in accordance with Section 92.014 (Personal Property and Security Deposit of Deceased Tenant)(c) or (d); and

(3) the representative signs an inventory of the removed property, if required by the landlord or the landlords agent.

(b) Termination of a lease under this section is effective on the later of:

(1) the 30th day after the date on which the notice under Subsection (a) was provided; or

(2) the date on which all of the conditions in Subsection (a) have been met.

(c) After receipt of the notice provided under Subsection (a), the landlord shall provide a copy of the written lease agreement to the person who provided the notice on written request of that person.

(d) This section does not affect the obligations or liability of the tenant or the tenants estate under the lease before the lease is terminated under this section, including the liability of the tenant or the tenants estate for:

(1) delinquent, unpaid rent; and

(2) damages to the leased premises not caused by normal wear and tear.

(e) A landlord or landlords agent who lawfully permits a person described by Subsection (a) to enter or facilitates the persons entry into the leased premises under this section is not liable for an act or omission that arises in connection with permitting or facilitating the entry.

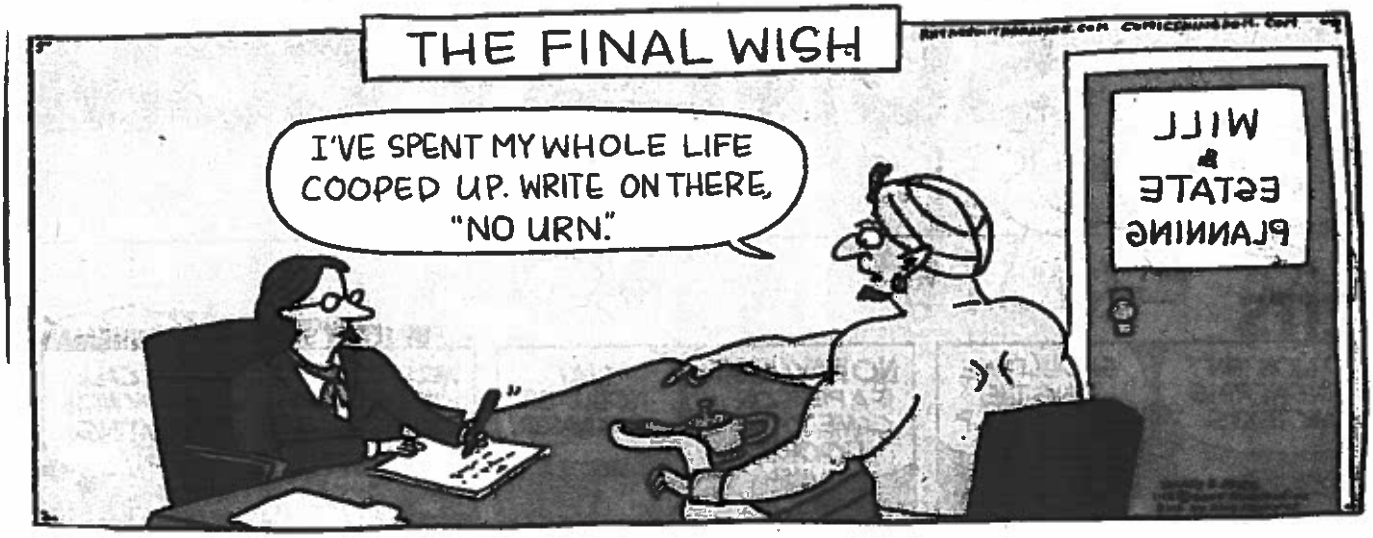
Added by Acts 2019, 86th Leg., R.S., Ch. 1349 (H.B. 69), Sec. 1, eff. January 1, 2020.

*Location:*https://texas.public.law/statutes/tex._prop._code_section_92.0162.

5-

Chapter 6:

Independent Administration, Dependent Administration, Safekeeping Agreements and Lost Wills


THE FINAL WISH
I'VE SPENT MY WHOLE LIFE COOPED UP. WRITE ON THERE, "NO URN."
WILL & ESTATE PLANNING

475414

LAST WILL AND TESTAMENT OF JOHNNIE M HICKS

I, Johnnie M Hicks, presently of Houston, Texas, declare that this is my Last Will and Testament.

PRELIMINARY DECLARATIONS

Prior Wills and Codicils

1. I revoke all prior Wills and Codicils

Marital Status

2. I am not married or in a common law relationship.

Current Children

3. I have the following living children:

   - Ronald W Hendrix; and
   - Kristie A Edwards.

4. The term 'child' or 'children' as used in this my Will includes the above listed children and any children of mine that are subsequently born or legally adopted.

EXECUTOR

Definition

5. The expression 'my Executor' used throughout this Will includes either the singular or plural number, or the masculine or feminine gender as appropriate wherever the fact or context so requires. The term 'executor' in this Will is synonymous with and includes the terms 'personal representative' and 'executrix'.

Appointment

6. I appoint Kristie Ann Edwards of Houston, Texas as the sole Executor of this my Will, but if Kristie Ann Edwards should predecease me, or should refuse or be unable to act or continue to act as my Executor, then I appoint Savannah N Edwards of Houston, Texas to be the sole Executor of this my Will in the place of Kristie Ann Edwards.

7. No bond or other security of any kind will be required of any Executor appointed in this my Will.

Powers of My Executor

8. I give and appoint to my Executor the following duties and powers with respect to my estate:

   a. To pay my legally enforceable debts, funeral expenses and all expenses in connection with the administration of my estate and the trusts created by my Will as soon as convenient after my death. If any of the real property devised in my Will remains subject to a mortgage at the time of my death, then I direct that the devisee taking that mortgaged property will take the property subject to that mortgage and that the devisee will not be entitled to have the mortgage paid out or resolved from the remaining assets of the residue of my estate;

   b. To take all legal actions to have the probate of my Will completed as quickly and simply as possible, and as free as possible from any court supervision, under the laws of the State of Texas;

   c. To retain, exchange, insure, repair, improve, sell or dispose of any and all personal property belonging to my estate as my Executor deems advisable without liability for loss or depreciation;

   d. To invest, manage, lease, rent, exchange, mortgage, sell, dispose of or give options without being limited as to term and to insure, repair, improve, or add to or otherwise deal with any and all real property belonging to my estate as my Executor deems advisable without liability for loss or depreciation;

   e. To purchase, maintain, convert and liquidate investments or securities, and to vote stock, or exercise any option concerning any investments or securities without liability for loss;

   f. To open or close bank accounts;

   g. To maintain, continue, dissolve, change or sell any business which is part of my estate, or to purchase any business if deemed necessary or beneficial to my estate by my Executor;

   h. To maintain, settle, abandon, sue or defend, or otherwise deal with any lawsuits against my estate;

i. To employ any lawyer, accountant or other professional; and

j. Except as otherwise provided in this my Will, to act as my Trustee by holding in trust the share of any minor beneficiary, and to keep such share invested, pay the income or capital or as much of either or both as my Executor considers advisable for the maintenance, education, advancement or benefit of such minor beneficiary and to pay or transfer the capital of such share or the amount remaining of that share to such beneficiary when he or she reaches the age of majority or, during the minority of such beneficiary, to pay or transfer such share to any parent or guardian of such beneficiary subject to like conditions and the receipt of any such parent or guardian discharges my Executor.

9. The above authority and powers granted to my Executor are in addition to any powers and elective rights conferred by state or federal law or by other provision of this Will and may be exercised as often as required, and without application to or approval by any court.

DISPOSITION OF ESTATE

Specific Bequests

10. To receive a specific bequest under this Will a beneficiary must survive me for thirty (30) days. Any item that fails to pass to a beneficiary will return to my estate to be included in the residue of my estate. All property given under this Will is subject to any encumbrances or liens attached to the property. My specific bequests are as follows:

a. I leave to Kristie A Edwards of Houston, Texas, if they shall survive me, for their own use absolutely, the following: I leave My 2010 Chevy Trail Blazer also my Home at 10334 S LaCrosse and all of my procession including all acess to my money bank accounts ect; and

b I leave to Savannah N Edwards of Houston, Texas, if they shall survive me, for their own use absolutely, the following: My Big screen Samsung in my bedroom.

Distribution of Residue

11. To receive any gift or property under this Will a beneficiary must survive me for thirty (30) days. Beneficiaries of my estate residue will receive and share all of my property and assets not specifically bequeathed or otherwise required for the payment of any debts owed, including but not limited to, expenses associated with the probate of my Will, the payment of taxes, funeral expenses or any other expense resulting from the administration of my Will. The entire estate

residue is to be divided between my designated beneficiaries with the beneficiaries receiving a share of the entire estate residue. All property given under this Will is subject to any encumbrances or liens attached to the property.

12. I direct my Executor to distribute the residue of my estate as follows ("Share Allocations"):

    a. All of the residue of my estate to Kristie A Edwards of Houston, Texas, for their own use absolutely.

Wipeout Provision

13. Should I leave no children, child, grandchildren or grandchild surviving me, or should they all die before becoming entitled to receive the whole of their share of my estate, then I direct my Executor to divide any remaining residue of my estate into one hundred (100) equal shares and to pay and transfer such shares as follows:

    a. 100 shares to be divided equally between my parents and siblings, or the survivors thereof, for their own use absolutely, if all or any of them is then alive. If any of these beneficiaries shall die before becoming entitled, in accordance with the terms of this my Will, to receive the whole of his or her share of my estate, but such beneficiary has a child or children which survive me, that beneficiary shall be deemed to have survived me for the purposes of this distribution.

TESTAMENTARY TRUST

Testamentary Trust For Minor Beneficiaries

14. It is my intent to create a testamentary trust (the "Testamentary Trust") for each minor beneficiary named in this my Will. I name my Executor(s) as trustee (the "Trustee") of any and all Testamentary Trusts required in this my Will. Any assets bequeathed, transferred, or gifted to a minor beneficiary named in this my Will are to be held in a separate trust by the Trustee until that minor beneficiary reaches the designated age. Any property left by me to any minor beneficiary in this my Will shall be given to my Executor(s) to be managed until that minor beneficiary reaches the age of majority.

Trust Administration

15. The Trustee shall manage the Testamentary Trust as follows:

    a. The assets and property will be managed for the benefit of the minor until the minor reaches the age set by me for final distribution;

    b. Upon the minor reaching the age set by me for final distribution, all property and assets remaining in the trust will be transferred to the minor beneficiary as quickly as possible; and

    c. Until the minor beneficiary reaches the age set by me for final distribution, my Trustee will keep the assets of the trust invested and pay the whole or such part of the net income derived therefrom and any amount or amounts out of the capital that my Trustee may deem advisable to or for the support, health, maintenance, education, or benefit of that minor beneficiary.

16. The Trustee may, in the Trustee's discretion, invest and reinvest trust funds in any kind of real or personal property and any kind of investment, provided that the Trustee acts with the care, skill, prudence and diligence, considering all financial and economic considerations, that a prudent person acting in a similar capacity and familiar with such matters would use.

17. No bond or other security of any kind will be required of any Trustee appointed in this my Will.

Trust Termination

18. The Testamentary Trust will end after any of the following:

    a. The minor beneficiary reaching the age set by me for final distribution;

    b. The minor beneficiary dies; or

    c. The assets of the trust are exhausted through distributions.

General Trust Provisions

19. The expression 'my Trustee' used throughout this Will includes either the singular or plural number, or the masculine or feminine gender as appropriate wherever the fact or context so requires.

(I) Powers of Trustee

To carry out the terms of my Will, I give my Trustee the following powers to be used in his or her discretion at any time in the management of a trust created hereunder, namely

a. The power to make such expenditures as are necessary to carry out the purpose of the trust;

b. Subject to my express direction to the contrary, the power to sell, call in and convert into money any trust property, including real property, that my Trustee in his or her discretion deems advisable;

c. Subject to my express direction to the contrary, the power to mortgage trust property where my Trustee considers it advisable to do so;

d. Subject to my express direction to the contrary, the power to borrow money where my Trustee considers it advisable to do so;

e. Subject to my express direction to the contrary, the power to lend money to the trust beneficiary if my Trustee considers it is in the best interest of the beneficiary to do so;

f. To make expenditures for the purpose of repairing, improving and rebuilding any property;

g. To exercise all rights and options of an owner of any securities held in trust;

h. To lease trust property, including real estate, without being limited as to term;

i. To make investments he or she considers advisable, without being limited to those investments authorized by law for trustees;

j. To receive additional property from any source and in any form of ownership;

k. Instead of acting personally, to employ and pay any other person or persons, including a body corporate, to transact any business or to do any act of any nature in relation to a trust created under my Will including the receipt and payment of money, without being liable for any loss incurred. And I authorize my Trustee to appoint from time to time upon such

terms as he or she may think fit any person or persons, including a body corporate, for the purpose of exercising any powers herein expressly or impliedly given to my Trustee with respect to any property belonging to the trust;

l. Without the consent of any persons interested in trusts established hereunder, to compromise, settle or waive any claim or claims at any time due to or by the trust in such manner and to such extent as my Trustee considers to be in the best interest of the trust beneficiary, and to make an agreement with any other person, persons or corporation in respect thereof, which shall be binding upon such beneficiary;

m. To make or not make any election, determination, designation or allocation required or permitted to be made by my Trustee (either alone or jointly with others) under any of the provisions of any local, state, federal, or other taxing statute, in such manner as my Trustee, in his or her absolute discretion, deems advisable, and each such election, determination, designation or allocation when so made shall be final and binding upon all persons concerned;

n. To pay himself or herself a reasonable compensation out of the trust assets; and

o. To employ and rely on the advice given by any attorney, accountant, investment advisor, or other agent to assist the Trustee in the administration of this trust and to compensate them from the trust assets.

The above authority and powers granted to my Trustee are in addition to any powers and elective rights conferred by statute or federal law or by other provision of this Will and may be exercised as often as required, and without application to or approval by any court.

(2) Other Provisions

a. Subject to the terms of this my Will, I direct that my Trustee will not be liable for any loss to my estate or to any beneficiary resulting from the exercise by him or her in good faith of any discretion given him or her in this my Will;

b. Any trust created in this Will shall be administered as independently of court supervision as possible under the laws of the State having jurisdiction over the trust; and

c. If any trust condition is held invalid, it will not affect other provisions that can be given effect without the invalid provision.

GENERAL PROVISIONS

Individuals Omitted From Bequests

20. If I have omitted to leave property in this Will to one or more of my heirs as named above or have provided them with zero shares of a bequest, the failure to do so is intentional.

Insufficient Estate

21. If the value of my estate is insufficient to fulfill all of the bequests described in this Will then I give my Executor full authority to decrease each bequest by a proportionate amount.

Additional Provisions

22. Rw and Trishia I do not forgive yall I spent my whole life for yall Rw you let that tramp cause hard feelings between us and you kept her in my home when i wanted her gone And Trishia shame on you Savannah I love you and Annie Harley the love of my life Be strong if anyone needs to suffer its RW and ~~Trishia~~ RW I ment nothing to yall I hope yall are happy Kristie do whatever you want with all this old stuff

No Contest Provision

23. If any beneficiary under this Will contests in any court any of the provisions of this Will, then each and all such persons shall not be entitled to any devises, legacies, bequests, or benefits under this Will or any codicil hereto, and such interest or share in my estate shall be disposed of as if that contesting beneficiary had not survived me.

Severability

24. If any provisions of this Will are deemed unenforceable, the remaining provisions will remain in full force and effect.

IN WITNESS WHEREOF, I have signed my name on this the 21st day of August, 2018, at Houston Tx, Texas, declaring and publishing this instrument as my Last Will, in the presence of the undersigned witnesses, who witnessed and subscribed this Last Will at my request, and in my presence.

Johnnie M Hicks (Testator) Signature

SIGNED AND DECLARED by Johnnie M Hicks on the 21st day of August, 2018 to be the Testator's Last Will, in our presence, at Houston Tx, Texas, who at the Testator's request and in the presence of the Testator and of each other, all being present at the same time, have signed our names as witnesses.

Witness #1 Signature	Witness #2 Signature	Witness #3 Signature
Melissa Post	Michael Moore	
Witness #1 Name (Please Print)	Witness #2 Name (Please Print)	Witness #3 Name (Please Print)
Melissa Post	Michael Moore	
10334 S. La Cross	5026 Clover Leaf St.	
Witness #1 Street Address	Witness #2 Street Address	Witness #3 Street Address
Houston, Tx	Houston, Tx 77015	
Witness #1 City/State	Witness #2 City/State	Witness #3 City/State

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FILED
2018 APR 23 PM 2:38
HARRIS COUNTY, TEXAS
COUNTY CLERK

AFFIDAVIT

STATE OF TEXAS
COUNTY OF Harris

Before me, the undersigned authority, on this day personally appeared ~~Johnnie~~ M Hicks, Johnnie Hicks Michael Moore and Melissa Post, known to me to be the Testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, Johnnie M Hicks, Testator, declared to me and to the said witnesses in my presence that said instrument is the Last Will of the Testator and that the Testator had willingly made and executed it as their free act and deed; and the said witnesses, each on his oath, stated to me in the presence and hearing of the Testator, that the Testator had declared to them that the instrument is the Testator's Last Will and that the Testator executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator and at the Testator's request; that the Testator was at that time eighteen years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

Johnnie M. Hicks
Testator

Melissa Post Michael Moore
Witness #1 Witness #2 Witness #3

Sworn to and subscribed before me by Johnnie M Hicks, the Testator, and sworn to and subscribed before me by Michael Moore and Melissa Post, witnesses, this 26 day of August, A.D. 20 18

(Seal)
(Signed) Cecil N. McBroom

(Official capacity of officer)

CECIL H MCBROOM
NOTARY ID #11338377
My Commission Expires
February 12, 2021

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40157

COPY

COPY

LAST WILL and TESTAMENT

of

CURTIS IRVIN

THE STATE OF TEXAS

COUNTY OF HARRIS

I, CURTIS IRVIN, S.S. No. [redacted] of Houston, Harris County, Texas, being of sound and disposing mind and memory, do hereby make, publish and declare this to be my LAST WILL AND TESTAMENT hereby revoking all Wills and Codicils heretofore made by me.

ARTICLE I

I hereby desire and direct that all my funeral arrangements and expenses, and all of my just debts, and all of the expenses incident to the probating of this my LAST WILL AND TESTAMENT to be paid by my Independent Executrix, hereinafter named, as soon as practically possible after my death.

ARTICLE II

I hereby name, constitute and appoint my wife, MAE IRVIN, Social Security No. [redacted] presently of Houston, Texas as Independent Executrix of this my LAST WILL AND TESTAMENT. If she fails to qualify or having qualified, fails to complete the administration of my estate, I appoint my daughter, ERICA NICOLE IRVIN, Social Security No. [redacted] in her place. No action shall be taken in any court, other than the probating and recording of this Will and the return of an inventory, appraisement and list of claims of this estate. The Independent Executrix of this my LAST WILL AND TESTAMENT, whether original, substitute, or successor, is hereinafter referred to as Executrix. No bond or other surety shall be required of any Executrix appointed in this WILL. The Executrix shall have, in extension and not in

PBT-2012-67916

limitation of the powers with respect to the settlement of my estate, to be exercised in the case from time to time in the discretion of the Executrix or without further order or license of any court.

ARTICLE III

I hereby desire and direct my Executrix to proceed to probate my LAST WILL AND TESTAMENT and to distribute my estate as soon as possible after my death and my Executrix is further authorized to distribute my estate subject to any and all indebtedness incurred by me or by my Executrix in the opinion of my Executrix need be first paid, and subject to any and all mortgages, deed of trust, or other liens created by me or by my Executrix.

ARTICLE IV

I hereby give, devise and bequeath my entire estate whether real or personal, community or separate, or mixed, where ever located to my wife, MAE IRVIN, to be her absolutely.

ARTICLE V

In the event my wife, MAE IRVIN and I die simultaneously, I hereby give my entire estate to whether real or personal community or separate, or mixed where ever located to our daughter, ERICA NICOLE IRVIN, to be hers absolutely.

ARTICLE VI

If any person, whether or not related in any way by blood, shall either directly or indirectly attempt to oppose or to set aside the probate of this Will, or to impair or invalidate any of the provisions hereof, and such person shall establish a right to any part of the estate, then such person is hereby given and bequeathed the sum of One ($1.00) Dollar only and no further interest in such estate.

ARTICLE VII

PBT-2012-67916

(1) If any provisions of this Will, or of any codicil thereto, is held inoperative, invalid, or illegal, it is my intention that all of the remaining provisions thereof shall continue to be fully operative and effective as far as is possible and reasonable.

(2) The heading above the various provisions of the Will have been included only in order to make it easier to locate the subject cover by each provision, and are not to be used in construing this Will or in ascertaining my intentions.

IN WITNESS WHEREOF, I hereby set my hand to this my LAST WILL AND TESTAMENT, which has been typewritten on three (3) pages, including an attestation clause, signature of witnesses and attached affidavit, I have written my name this 8th day of February A.D., 1998.

CURTIS IRVIN

PBT:2012-67916

THE STATE OF TEXAS

COUNTY OF BASTROP

BEFORE ME, the undersigned authority, on this day personally appeared CURTIS DYER, George R. Bar and George Barbarick known to me to be the Testator and Witness, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the said Testator declared to me and to the Witnesses in my presence that said instrument is his LAST WILL AND TESTAMENT and that he had willingly made and executed it as his free act and deed for the purposes therein expressed and the said Witnesses on their respective oaths stated to me, in the presence and hearing of the said Testator, that the said Testator had declared to them that said instrument is his LAST WILL AND TESTAMENT and that he executed the same as such and requested each of them to sign it as a Witness, and upon their oaths each Witness stated further that they did sign the same as Witnesses in the presence of said Testator and at his request, and that he was at that time over twenty-one (21) years of age and was of sound mind, and that each of said Witnesses was then at least fourteen (14) years of age.

George R. Bar

George Barbarick

CHAPTER 6

We continue with other issues that must be decided prior to filing for an administration.

1. The client only has a copy of the will. The original cannot be found. Can the attorney get a copy admitted to probate? What extra steps must be taken?

2. There are times when a dependent administration is the only avenue available. This means that the court is going to supervise the entire estate and court permission must be obtained before taking any action. What does the court require with a dependent administration? When is this the appropriate type administration to have? Can your client qualify as a dependent administrator?

3. Sometimes there is no will and the decedent has died intestate. Sometimes the Will is silent about who should serve as administrator or does not have the magic words “independent”. Can you still have an independent administration?

357448

No. 380,371

PROBATE COURT 3

IN THE GUARDIANSHIP OF

MARY HELEN HAMPTON,

AN INCAPACITATED PERSON

§ IN THE PROBATE COURT
§
§ NUMBER THREE (3) OF
§
§ HARRIS COUNTY, TEXAS

APPLICATION FOR SAFEKEEPING OF ASSETS

KATHLEEN LEE (the "Applicant"), as the Guardian of the Person and Estate of Mary Helen Hampton, An Incapacitated Person (the "Ward"), makes and files this application for permission to deposit assets in safekeeping pursuant to Section 703(f) of the Texas Probate Code and would show the Court as follows:

I.

Applicant was appointed Guardian of the Person and Estate of Ward by an Order of this Court dated January 16, 2009.

II.

The Ward's Estate includes assets which are comprised of cash or cash equivalents in the amount of $280,000.00. The Court set bond in this amount. Applicant requests authority to deposit the proceeds of the sale of real property in the approximate amount of $95,000.00 into account number 613-51643-14-615 at MORGAN STANLEY SMITH BARNEY in safekeeping, which shall be delivered to MORGAN STANLEY SMITH BARNEY from Huntsville Abstract and Title Company.

III.

No assets of this Estate are presently on deposit with the above-named depository. MORGAN STANLEY SMITH BARNEY is a full-service investment firm duly incorporated and qualified to act as such under the laws of the United States, with a branch office located at 717 Texas Avenue, Suite 3050, Houston, Texas 77002.

FILED
2009 JUN 19 AM 10:53

6-1

IV.

Attached hereto as Exhibit A and incorporated herein for all purposes is the Safekeeping Agreement that Applicant has proposed to MORGAN STANLEY SMITH BARNEY and which they have tentatively approved pending order of this Court authorizing same.

V.

Applicant requests that the Court enter an Order authorizing the Guardian to execute the proposed Safekeeping Agreement and deposit the aforementioned assets under a safekeeping agreement with the depository named above. Applicant requests that this Court issue an Order to not make any distributions from the account without approval of the Court.

Applicant requests the Court to enter an Order authorizing the deposit of the assets in safe-keeping with the depository named above to be held by the depository in a manner that will prevent the withdrawal of the assets without written Order of the Court. Applicant requests that the deposits of money be placed in an account of the depository and that the depository be ordered not to change the nature of the assets so received without further Order of the Court and authorized and instructed to add any income, dividends and interest as it is earned to the principal balance of this account, with said income, dividends and/or interest to become a part of the same account and placed under the same restrictions as imposed upon said account.

The funds to be deposited into this Safekeeping Account will be generated by the sale of real property owned by the Ward. The Guardian has confirmed the Title Company's willingness to comply with this Court's Order to deliver the proceeds directly to MORGAN STANLEY SMITH BARNEY, rather than to the Guardian directly, and the Title Company is willing to comply.

Based on the foregoing, the Applicant requests that this Court enter an Order authorizing the creation of a safe-keeping account as requested herein and that the Court enter any other and further orders as it may deem necessary.

6-2

I A ORD 357449

PROBATE COURT 3

No. 380,371

IN THE GUARDIANSHIP OF MARY HELEN HAMPTON, AN INCAPACITATED PERSON	§ § §	IN THE PROBATE COURT NUMBER THREE (3) OF HARRIS COUNTY, TEXAS

ORDER AUTHORIZING SAFEKEEPING OF ASSETS

On this day came to be considered the Application for Safekeeping of Assets filed by KATHLEEN LEE ("Applicant") pursuant to Section 703(f) of the Texas Probate Code, and after considering the evidence, and there being no objections, the Court finds that the deposit of assets for safekeeping is in the best interest of the Ward and her Estate; that MORGAN STANLEY SMITH BARNEY is a bank, duly incorporated and qualified to act as depository under the laws of this state; that said depository shall execute a Safekeeping Agreement with this Court; and that this application should be granted.

IT IS ORDERED that KATHLEEN LEE and MORGAN STANLEY SMITH BARNEY are authorized and ordered to execute a Safekeeping Agreement with this Court that will insure that the aforementioned assets shall be deposited in a manner that will prevent change of their current form, except as provided by Texas Probate Code section 855(b), and their withdrawal without written order of this Court. Additionally, any interest or dividends paid or accrued thereon as well as any subsequent deposits to said account shall not be distributed without written order of this Court.

IT IS FURTHER ORDERED, that the proceeds of the sale of real property owned by the Ward in the approximate amount of $95,000.00 will be deposited with MORGAN STANLEY SMITH BARNEY for safekeeping and that MORGAN STANLEY SMITH BARNEY is hereby approved as such a depository.

SIGNED this 16th day of June 2009.

FILED
2009 JUN 19 AM 10: 53
COUNTY CLERK
HARRIS COUNTY, TEXAS

6-3

960-50-3843

PROBATE COURT 3

No. 380,371

357450

IN THE GUARDIANSHIP OF	§	IN THE PROBATE COURT
	§	
MARY HELEN HAMPTON,	§	NUMBER THREE (3) OF
	§	
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

WC

SAFE-KEEPING AGREEMENT AND ACCEPTANCE OF DESIGNATION AS DEPOSITORY OF ASSETS

MORGAN STANLEY SMITH BARNEY, a bank located at 717 Texas Avenue, Suite 3050, Houston, Texas 77002, hereby accepts the designation as depository for the safe-keeping of intangible assets belonging to the ESTATE OF MARY HELEN HAMPTON, Incapacitated (the "Estate"), pursuant to the Order Authorizing Safe-Keeping of Assets of this Court.

The depository has established account number 613-51643.14.615 into which the Ward's assets will be transferred pursuant to the Court's Order, and upon receipt of said funds, MORGAN STANLEY SMITH BARNEY will issue a receipt therefore to be filed with this Court. The depository agrees to hold the assets received by it and all interest, dividends and principal collected by it on account thereof, agrees to not alter the nature of the assets received without Order of the Court and to hold the same in safekeeping and to invest, reinvest and disburse the assets in accordance with the instructions received by the Guardian authorized by Order of the Court and by such subsequent Orders of the Court as are directed to the Guardian. The depository agrees to prevent change of the current form of the assets, except as provided by Texas Probate Code section 855(b), or further order of this Court, and to prevent their withdrawal without written order of this Court. Additionally, the depository agrees not to distribute any interest, dividends paid or accrued thereon or any subsequent deposits without written order of this Court.

6-4

This acceptance of designation of depository of assets is executed in the name of the depository by one of its authorized officers.

Kathleen Lee as Guardian of the Estate of Mary Helen Hampton agrees by her signature below to be bound by the terms of this agreement.

SIGNED on this the 9 Day of June, 2009.

MORGAN STANLEY SMITH BARNEY,
Authorized Officer

KATHLEEN LEE, Guardian

ACCEPTED AND APPROVED on this the 16th Day of June, 2009.

JUDGE PRESIDING

FILED
2009 JUN 19 AM 10:53
COUNTY CLERK

APPROVED AS TO FORM:

Ford & Mathiason LLP

DON D. FORD III
5151 San Felipe, Suite 1950
Houston, Texas 77056
Ph.: 713-260-3926
Fx: 713-260-3903
TBA #24002101
Attorney for Guardian,
KATHLEEN LEE

FILED
2009 JUN 15 AM 9:36
COUNTY CLERK

6-5

665,045

ESTATE OF	PROBATE COURT
JOHN JONES	NUMBER 3
DECEASED	HARRIS COUNTY, TEXAS

APPLICATION TO PROBATE WILL AND ISSUE LETTERS TESTAMENTARY

TO THE HONORABLE JUDGE OF SAID COURT:

SUSIE JONES, (Applicant) furnishes the following information in support of this Application to Probate the Will of John Jones, decedent and for issuance of Letters Testamentary.

1. Applicant is an individual interested in this state in that she is the daughter of the deceased.
2. Decedent died in Houston, Harris County, at the age of 88.
3. Decedent owned property in excess of $19,000.
4. Decedent left a valid Will dated March 31, 2011, which was never revoked
5. After the date of the Will, no child was born or adopted by Decedent
6. No marriage was ever dissolved after the Will was made.
7. Decedent's Will named Margaret Jones to serve as independent executor without bond
8. No state or governmental agency is named in the Will as a devisee
9. The Will was self-proved in the manner prescribed by law and the subscribing witnesses to the Will are Johnny Marcus and Paul Hansen.

Wherefore, Applicant prays that citation be issued, that the Will be admitted to Probate, that Letters Testamentary be issued to Applicant and that all other Orders be entered as the Court may deem proper

Respectfully Submitted

Joshua Greenhorn
Attorney
1235 First St
Houston, Texas 77003
713-666-7777
josh@gmail.com

6-6

See PC # 82 - What is wrong with this Application?

A.J.

CAUSE NO. [redacted] PROBATE COURT 3

IN THE MATTER OF THE	§	IN THE _____ COURT
ESTATE OF EDUARDO CEJA REYES	§	OF
DECEASED	§	HARRIS COUNTY, TEXAS

Past 08-07-12

APPLICATION FOR ISSUANCE OF LETTERS OF ADMINISTRATION

COMES NOW Applicant AMPARO M. REYES, by and through his undersigned Attorney and to the Honorable Judge of said Court respectfully furnishes the following information:

1. EDUARDO CEJA REYES died without a will on April 10, 2012.

2. Letters of Administration need to be issued.

3. EDUARDO CEJA REYES died on April 10, 2012, a copy of his death certificate is hereto attached as Annex "A".

4. There is no need for the appointment of an executor which the wife of EDUARDO CEJA REYES by the name of AMPARO M. REYES will be the executor of the estate.

6-7

5. Decedent's wife AMPARO M. REYES will serve without bond or other security. Applicant is not disqualified by law from serving as Independent Executor and from accepting Letters of Administration, and Applicant is entitled to such Letters.

6. No service of citation is needed on the heirs at this time.

WHEREFORE, it is respectfully prayed that citation issue as required by law; that new Letters of Administration be issued to the Applicant and any other orders be entered which the Court may deem proper.

Respectfully submitted,

[redacted]

FILED
2020 AUG -7 PM 4:14
COUNTY CLERK
HARRIS COUNTY, TEXAS

6-8

Chapter 7:

Muniments of Title, Alternative Probate, Accountings and Inventories

481476 PROBATE COURT 3

FILED
2019 DEC 20 PM 2:48
COUNTY, TEXAS

LAST WILL & TESTAMENT

OF

CAROL ANN NORRIS

I, CAROL ANN NORRIS, a resident of the City of Houston, County of Harris and State of Texas, do make, declare, and publish this my Last Will and Testament, hereby revoking all former wills and codicils. By this will it is my intention to dispose of my entire interest in my separate property and my share only of any community property owned by me.

ARTICLE I
IDENTITY OF FAMILY

1.1 I am unmarried and I have no children. My parents are deceased. I have one sibling, a sister, Mary Elizabeth Norris Osborn, (hereafter referred to as "sister").

ARTICLE II
SPECIFIC BEQUESTS

2.1 Handwritten Memo. I may leave a memorandum, written entirely in my handwriting and signed by me, providing for the distribution of certain items of clothing, jewelry, personal belongings, household goods, all art objects, furniture, furnishings, and other personal effects. If such memorandum is found with this will, all such property shall be distributed in accordance with such memorandum.

2.2 Personal Effects. Subject to paragraph 2.1 above, I give all my clothing, personal belongings, household furnishings, furniture, automobiles and all other personal effects to my sister. If my sister shall predecease me, then I give all said personal effects to my sister's children, share and share alike.

(C.A.N.)

ARTICLE III
RESIDUARY ESTATE

3.1 Bequest of Residue. I give all of the rest and residue of my estate, wherever located, real, personal or mixed, which I may own at the time of my death to my sister. If my sister shall predecease me, I give the rest and residue of my estate to my sister's children, share and share alike.

ARTICLE IV
APPOINTMENT OF FIDUCIARIES

4.1 Appointment of Independent Executor. I appoint my sister as Independent Executor of this will and of my estate. If my sister is not living, or is unable to act, or having qualified chooses to resign, the successor Independent Executor shall be nephew, Christopher Osborn.

4.2 Rights and Liabilities. My Independent Executor shall have the following rights and liabilities:

(A) Freedom From Court Supervision. No proceedings shall be had in any court of any jurisdiction with respect to my estate other than the probating of this will and the filing of an inventory, appraisement and list of claims of my estate. Any executor appointed under this will shall be independent as that term is used and defined under Texas law.

(B) Waiver of Bond. No bond or other security shall be required in any jurisdiction of any executor named in this will. All other successor executors shall be required to post bond to secure performance of its duties.

(C) Limit of Liability. No executor appointed under this will shall at any time be held liable for any action or default of such executor if done in good faith and without gross negligence.

(D) Compensation. My executor shall be entitled to receive reasonable compensation for its services.

(E) Power of Sale. I give to my executor the authority to sell all or any part of my estate upon such terms and conditions as my executor deems proper, and to partition all or any property of my estate among the beneficiaries entitled thereto in such manner as he deems fair and equitable.

ARTICLE V
PAYMENT OF DEBTS AND EXPENSES

5.1 Debts. I direct that my executor pay out of my residuary estate all of my legal debts, the expenses of my last illness and funeral, and the expenses of administering my estate (including the cost of any ancillary administration). Any debts which are payable in installments or are not due until at least one (1) year from the date of my death need not be paid during the administration of my estate, but if the terms of such debts permit, may be paid according to such terms. My executor is specifically given the right to renew and extend, in any form that it deems best, any unsecured or secured debt or charge existing at the time of my death. Under no circumstances shall my executor be required to prepay any debt of mine.

6.2 Encumbered Property. If any property or interest in property passing under this will shall be encumbered by a mortgage or lien or shall be pledged to secure any obligation, such indebtedness shall not be charged to or paid from my estate, and the beneficiary receiving such property or interest in such property, shall take it subject to all encumbrances existing at the time of my death.

ARTICLE VI
GENERAL PROVISIONS AND DEFINITIONS

6.1 Survival. For purposes of all gifts under this will any beneficiary who dies within 120 days after my death shall be considered not to have survived me.

6.2 Final Disposition. If neither my sister, nor any of my sister's descendants survives me, I give all of my property and estate to my heirs at law. My heirs at law shall be determined by the statutes of descent and distribution for separate personal property in the State of Texas as determined 120 days after the date of my death, as though I had died on such date intestate, unmarried and without descendants.

6.3 Lapsed Bequests. In the event a person entitled to receive a specific bequest under this will fails to survive me, such specific bequest shall lapse and the properties thereof shall pass as part of my residuary estate under the other provisions of this will.

6.4 Will Not Contractual. This will is not being executed pursuant to or as a part of any contract, and I may revoke or change this will at any time without breaching any agreement.

6.5 Effect of Inoperative, Invalid or Illegal Provision. If any provision of this will or of any codicil thereto is held to be inoperative, invalid or illegal, it is my intention that all of the

remaining provisions thereof shall continue to be fully operative and effective as far as is possible and reasonable.

6.6 Texas Laws to Govern. All questions concerning the meaning and intention of any terms of this will, its validity, or administration of any powers created in this will shall be determined in accordance with the laws of the State of Texas.

6.7 Disclaimers. If any beneficiary under this will is not entitled to receive properties of my estate for any reason, including the filing of a disclaimer with respect to all or certain properties of my estate, as respects the property of my estate not passing to such beneficiary, said beneficiary shall be deemed to have predeceased me, and such property shall be distributed outright or in trust, according to the other provisions of this will.

6.8 Headings. The headings of the various provisions of this will have been included only in order to make it easier to locate the subjects covered by such provisions and are not to be used in construing this will or ascertaining my intentions.

6.9 Terms Used in this Will. Pronouns, nouns and terms as used in this will shall include the masculine, feminine, neuter, singular and plural form thereof wherever appropriate to the context. Whenever used in this will or any codicil to it:

(A) Descendants. The term "descendants" means the immediate and remote lawful, lineal descendants by blood or adoption of the persons referred to who are living at the time they must be determined in order to give effect to the reference to them.

(B) Executor. The term "executor" shall refer to the then acting executor or executors, whether original or successor, acting individually or with another, and regardless of gender.

(C) Children. The term "child" or "children," and "issue," and similar words in addition to their ordinary meaning, shall be deemed to include adopted children who were adopted before reaching age 16.

IN TESTIMONY WHEREOF, I hereunto sign my name to this my Last Will and Testament, consisting of this and four (4) preceding pages, all in the presence of the undersigned who witness the same at my request, on this the 20 day of November, 2019, at Houston, Harris County, Texas.

Carol Ann Norris
CAROL ANN NORRIS, Testatrix

On the 20 day of November, 2019, CAROL ANN NORRIS, declared to us, the undersigned, that the foregoing instrument was her last will and testament, and she requested us to act as witnesses to it and to her signature thereon. She then signed the will in our presence, we being present at the same time. We now, at her request, in her presence, and in the presence of each other, hereunto subscribe our names as witnesses, and each of us declares that in his or her opinion this Testatrix is of sound mind.

WITNESSES	ADDRESSES
John A. Greer	5321 Pocahontas Bellaire, TX 77401
Verna McCarty VERNA McCARTY	9429 Fondren Rd Houston, TX 77074

(C.A.N.)

UNOFFICIAL COPY

SELF PROVING AFFIDAVIT

City of Houston §

Harris County, Texas §

BEFORE ME, the undersigned authority, on this day personally appeared CAROL ANN NORRIS, JOHN A. CREER and VERNA MCCARTY, known to me to be the Testatrix and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the said CAROL ANN NORRIS, Testatrix, declared to me and to the said witnesses in my presence that said instrument is her Last Will and Testament, and that she had willingly made and executed it as her free act and deed for the purposes therein expressed; and said witnesses, each on their oath, stated to me, in the presence and hearing of the said Testatrix, that the said Testatrix had declared to them that said instrument is her Last Will and Testament, and that she executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as such witnesses in the presence of the said Testatrix and at her request; that she was at that time eighteen (18) years of age or over and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

Carol Ann Norris
CAROL ANN NORRIS, Testatrix

Witness JOHN A. CREER

Verna McCarty
Witness VERNA MCCARTY

SUBSCRIBED and SWORN TO before me by the said CAROL ANN NORRIS, Testatrix, and by the said JOHN A. CREER and VERNA MCCARTY Witnesses, this the 20 day of November, 2019.

VERNA MCCARTY
Notary ID # 7971607
My Commission Expires
May 3, 2022

Verna McCarty
Notary Public

(C.A.N.)

JLRy Bea

433217 PROBATE COURT 3

May 29, 1992

I, Phyllis Galbraith Fisher being of sound mind and body do hereby declare, in my own handwriting, this to be my last will and testament.

#1 I hereby bequeath, devise and bequest all property, personal and real, tangible & intangible of whatsoever nature that I own or in which I have an interest no matter where located, to my husband Donald Edward Fisher.

#2 This, my last will and testament supercedes and revokes any and all previous wills and codiciles, if any, executed by me.

Signed this day, May 29, 1992
Phyllis Galbraith Fisher

Phyllis Galbraith Fisher

FILED
STAN STANART
COUNTY CLERK
HARRIS COUNTY, TEXAS

08192014 1546 G0171

CHAPTER 7

In Chapter 2, we learned that not all administrations are opened. But there is always a necessity to determine who gets the personal and real property. What alternatives are available?

--alternatives when you have a will

--alternatives when you do not have a will

With all administrations, there are certain requirements that are legally mandated by the Estates Code. These include filing an inventory, certain notice requirements, etc.

Dependent Administrations have the above in addition to an annual accounting that must be filed every year until the administration is closed.

SC

FILED
3/31/2017 3:12:48 PM
Stan Stanart
County Clerk
Harris County
Harris County - County Probate Court No. 3

NO. 455025

IN THE ESTATE OF	§	IN THE PROBATE COURT
	§	
FRANCES BARKIN HERRICK,	§	NUMBER THREE (3) OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

CERTIFICATE OF COMPLIANCE WITH TEX. ESTATES CODE § 308.004

The sole beneficiary, JAMES SHEPHERD HERRICK, is the Independent Executor of this Estate and has made an appearance in this proceeding. The names and addresses of the remaining beneficiaries to whom notice was given are as follows:

Mr. Mark R. Herrick
1707 Olive St.
Bakersfield, CA 93301

Ms. Taylor Frances Swanson
226 Falling Hills
New Braunfels, Texas 78132

SIGNED this the 29th day of March, 2017.

W. TIMOTHY WEAVER
TBA #21014500
1330 Post Oak Blvd., Suite 2877
Houston, TX 77056
713-622-1075
713-621-0134 (telecopier)
Email: tweaver@wtimothyweaver.com

Attorney for JAMES SHEPHERD HERRICK, Independent Executor

7-1

PUBLISHER'S AFFIDAVIT: I solemnly swear that the attached notice was published in the DAILY COURT REVIEW, a daily newspaper published at Houston, Harris County, Texas, on the following date(s):

July 25, 2017

A printed copy of the notice is hereto affixed. The Daily Court Review, Inc. is a daily newspaper circulated in Harris, Montgomery, Galveston, Brazoria, Matagorda, Waller, Chambers, Liberty and Fort Bend Counties.

TOM M. MORIN, Publisher of the DAILY COURT REVIEW, INC., P.O. BOX 1889, HOUSTON, TEXAS 77251-1889, certifies the affixed document to be true and correct. Subscribed and sworn before the said Notary Public, this July 25, 2017 .

Thomas M Morin PUBLISHER'S SIGNATURE

Alaine Provine NOTARY PUBLIC, HARRIS COUNTY, TEXAS

ALAINE PROVINE
Notary Public, State of Texas
My Commission Expires
March 08, 2018

NOTICE TO CREDITORS

Cause Number 456,280

On the 24th day of July, 2017, Letters of Administration upon the Estate of Daniel McKenzie Tass, Deceased, were issued to Gail Burgess, Dependent Administrator by the Probate Court #4 of Harris County, Texas, in cause number 456,280 pending upon the docket of said Court. All persons having claims against said Estate are hereby required to present them within the time prescribed by law at the address shown below. The name where claims may be sent is Harold N. May, whose address is Two Riverway, 15th Floor, Houston, Texas 77056, Telephone: (281) 407-5609, Fax: (832) 201-7675, (s) Harold N. May, TX Bar Number: 13264800

7-2

Texas Department of Motor Vehicles

Affidavit of Heirship for a Motor Vehicle

(See important instructions on page 2.)

YEAR	MAKE	BODY STYLE	MODEL	LICENSE PLATE NUMBER

VEHICLE IDENTIFICATION NUMBER	TITLE/DOC NUMBER

THE STATE OF TEXAS COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared all the undersigned affiants, who, after having been by me duly sworn, on oath, each for himself and herself deposes and states that _____, the recorded owner of the above described motor vehicle, died on the _____ day of _____, year _____, at _____ in the county of _____, and the State of _____, that the deceased left (check one) **either** ☐ no will **or** ☐ a will, a court has determined that no administration is necessary or that no application for administration or probate has been filed; that there is no necessity for an administration upon the estate nor for probate of a will and all affiants having agreed that the will shall not be offered for probate; that affiants herein are the sole and only known heirs at law of the deceased and, if there is a will, all beneficiaries of the will are, therefore, authorized under the law to sell, transfer and assign the ownership to said motor vehicle described above, to wit; there are no other known heirs who have prior right to the estate of the deceased, and it is the decision of all of the undersigned that title to the above described motor vehicle be issued to

_____
NAME OF PURCHASER — ADDRESS — CITY — STATE — ZIP CODE

Or, if the lienholder recorded on the title is deceased and the lien is paid, title issued free and clear of lien to

_____
NAME OF RECORDED OWNER — ADDRESS — CITY — STATE — ZIP CODE

*** * * SIGNATURES OF AFFIANTS (HEIRS) * * ***

_____ _____

_____ _____

_____ _____

NOTARY SEAL

Subscribed and sworn to before me this the _____ day of _____, year _____

_____ _____ Texas
NOTARY PUBLIC — COUNTY

ODOMETER DISCLOSURE STATEMENT (only for vehicles less than 10 model years old)

FEDERAL AND STATE LAW REQUIRE THAT YOU STATE THE MILEAGE IN CONNECTION WITH THE TRANSFER OF OWNERSHIP. FAILURE TO COMPLETE OR PROVIDING A FALSE STATEMENT MAY RESULT IN FINES AND/OR IMPRISONMENT.

I certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:

_____
ODOMETER READING (NO TENTHS)

☐ 1. The mileage stated is in excess of its mechanical limits.
☐ 2. The odometer reading is not the actual mileage.
WARNING - ODOMETER DISCREPANCY.

_____
SIGNATURE OF SELLER/HEIR — PRINTED NAME (SAME AS SIGNATURE) — DATE OF STATEMENT

_____
SELLER/HEIR ADDRESS — CITY — STATE — ZIP CODE

I am aware of the above odometer certification made by the seller/heir.

_____
SIGNATURE OF PURCHASER — *PRINTED NAME (SAME AS SIGNATURE)* — *DATE OF STATEMENT*

HEIRSHIP PROCEDURE

1. If the estate has been probated, the executor or administrator may assign the title provided a certified copy of the probate proceedings or Letters Testamentary or Letters of Administration is attached. **Otherwise, the following procedures must be met in order to transfer ownership.**

2. If an heirship affidavit is used when a court has determined that no administration is necessary, the affiant(s) must attach the original or certified copy of the court document indicating no administration of the will is necessary and the portions of the will which specify that the will is in the deceased owner's name and indicates the name(s) of the heir(s).

3. Complete the information regarding the vehicle description.

4. **ALL HEIRS OF ESTATE** - If there has been no administration on the estate, and no administration is necessary, the heir or heirs should sign in the SIGNATURE OF AFFIANTS AREA. If all heirs cannot appear before one notary public on the same date, separate acknowledgments may be taken and attached to the form. If one of the heirs is a surviving spouse, only that heir need sign as an affiant, unless there are surviving children of the deceased with a parent who is other than the surviving spouse. If there is no surviving spouse, or if there are surviving children of the deceased with a parent who is other than the surviving spouse, all children of the decedent (if any) must sign as affiants. If the decedent left neither a spouse nor children, consult legal counsel as to who are the 'heirs at law."

   NOTE:
   1. Children born to or legally adopted by the deceased qualify for this procedure as "children" of the deceased.
   2. If there are surviving minor children of the deceased who are "heirs," a guardian must sign for the minor children and attach Letters of Guardianship.
   3. If there is no surviving spouse, a guardian should sign for any surviving minor children of the deceased and attach Letters of Guardianship.

Note: The foregoing is for information purposes only. If legal advice is required in any matter, the affiant(s) should make their own arrangements for the same.

5. **NOTARIZATION** - All signatures must be notarized.

6. **Errors** - Errors that have been lined through and explained may be corrected with a statement of fact. Erasures and significant alterations may require a new form to be completed.

7. **ODOMETER DISCLOSURE STATEMENT** - This section is required to be completed by the seller/heir and the purchaser on motorized vehicles with a year model of less than 10 model years old.

   NOTE: Only one seller/heir is required to execute the odometer disclosure statement.

The following additional documentation may be required in order for a title transfer to be processed by the County Tax Assessor-Collector in the name of the title applicant(s):

a. An Application for Texas Certificate of Title (Form 130-U);
b. A Title and Registration Verification or Current License Receipt;
c. A Release of Lien (if applicable);
d. An Affidavit of Physical Inspection (Form VTR-270);
e. A secure Dealer Reassignment of Title (Form VTR-41-A); and
f. Current Proof of Liability Insurance in the Title Applicant's Name(s).

WARNING: TRANSPORTATION CODE § 501.155, PROVIDES THAT FALSIFYING INFORMATION ON ANY REQUIRED STATEMENT OR APPLICATION IS A THIRD-DEGREE FELONY.

7-9

Annual Account Information

Mary is the dependent administrator of her brother's estate. You have been the estate attorney and it is now time to prepare the Annual Account. You have gotten court permission for all expenditures.

Last year the Cash Balance on hand was $175,000

Mary has collected the following:

Rental income 4 units at $1,000 per month

Sale of the decedents car $20,000

Income tax refund $4,000

Income OF note $600 per month

The estate consists of

A fourplex in Houston Heights $500,000

An owner financed note $75,000

100 shares of Apple Stock $300,000

Mary paid the following expenses:

Attorney's Fees $7,000

Property Taxes $8,000

Commission to Mary $10,000

Maintenance on the fourplex $2,000

Utilities $3600

A claim presented by Mastercard for $2,000 that was allowed and paid

Prepare the Annual Account

7-5

OFFICE OF STAN STANART

COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE §
§
PROBATE COURT NO. _____ §
§
HARRIS COUNTY, TEXAS §

DOCKET NO. _____

STYLE OF
DOCKET: _____
DECEASED/INCAPACITATED/MINOR

ANNUAL ACCOUNT

NOW COMES _____
of the above numbered and styled Estate, and presents herewith the Annual Account of said estate, covering the period

from _____ to _____.

RECAPITULATION OF CASH ITEMS

Balance of cash on hand last annual report	$ _____
Total receipts during the year	$ _____
TOTAL	$ _____
Total disbursements during the year	$ _____
TOTAL cash now on hand	$ _____

Have your bank certify that this is on deposit.

VALUE OF ALL PROPERTY NOW IN POSSESSION OF ESTATE

(Summary only)

Tracts of Real Estate	Total Value $ _____
Notes payable to estate	Total Value $ _____
Stock or bond certificates	Total Value $ _____
Cash: (as set out above)	Total Amount $ _____

RECEIPTS

List amounts received as income: From rental, pensions, interest, insurance and lawsuits; from sales of real estate, personal property, stocks, bonds, and notes; and from all other sources, with receipts of principal and income to be shown separately.

SOURCE FROM WHICH RECEIVED **AMOUNT**

(If more space is required, enclose additional sheets of paper.)

7-06

DISBURSEMENTS

List every expenditure of money by amount paid out, and for purpose for which expended.

Court Costs _____

Attorney's Fees _____

PROPERTY ADMINISTERED

A complete, accurate and detailed description of the property being administered, the condition of the property and the use being made thereof, and, if rented, the terms upon and the price for which rented.

CLAIMS

Lists of claims presented against the Estate within the period covered by this account, specifying which have been allowed, which have been paid, which have been rejected and the date when rejected, which have been sued upon, and the condition of the suit.

CLAIM OF AND REASON FOR	STATUS	AMOUNT

BONDS, NOTES, STOCKS, ETC.

List in detail description of personal property of the Estate (including Bonds, Notes, Stocks, and other Securities,) include the name of the obligor and obligee, or if payable to bearer, so state; in what manner the property is secured; and other data necessary to identify the same fully, and how and where held for safekeeping.

AMOUNT

7-07

OATH OF GUARDIAN

BEFORE ME, the undersigned Notary Public, on this day personally appeared _____ who, after first being sworn, on oath stated:

"I am the Guardian of the Estate of _____ (the Ward). I have reviewed the foregoing Annual Account filed in this case. The Account contains a correct ad complete statement of the matters pertaining to the estate of the Ward. The bond premium for the next accounting period for the Ward's estate has been paid; I have filed all tax returns in behalf of the Ward and paid all taxes owed by the Ward during this accounting period.

The taxes paid on behalf of Ward were as follows:

A. Amount of taxes: $ _____;

B. Date taxes paid: _____

C. Name of governmental entity to which taxes were paid: _____

Signed: _____
Guardian

_____
Address

_____
Telephone Number

SWORN TO AND SUBSCRIBED before me by _____

on this _____.

_____
Notary Public, State of Texas

Signature of Attorney: _____

State Bar I.D. No. _____

Address: _____

City, State, ZIP: _____

Telephone: _____

Telecopier: _____

7-8

OATH OF ADMINISTRATOR

BEFORE ME, the undersigned authority, on this day personally appeared _____
who being first duly sworn, states on oath that the within and foregoing account is a true, correct and complete statement

of the condition of the estate of _____,
Deceased, for the period stated therein.

Signed: _____

Address: _____

Telephone No.: _____

SWORN TO AND SUBSCRIBED BEFORE ME, on _____.

_____
Notary Public, in and for the State of Texas

BANK CERTIFICATE

This certificate must be obtained in every case where there is any cash in the Estate.

IT IS HEREBY CERTIFIED that, at the close of business on _____, unencumbered cash in the

amounts shown below was on deposit in this Bank to the credit of _____

as Guardian/Administrator of the Estate of _____.

Checking Account.....$

Savings Account .....$

_____, _____, _____.
(Name of Bank) (City) (State)

_____ _____
(Name of Officer Hand Printed or Typed) (Signature)

7-9

SAVINGS AND LOAN CERTIFICATE

This certificate must be obtained in every case where there is any money on a Savings & Loan Association account.

IT IS HEREBY CERTIFIED that, at the close of business on _____, unencumbered cash in the amount of $ _____ was on deposit in this Association to the credit of _____

as Guardian/Administrator of the Estate of _____.

_____, _____, _____

(S&L) (City) (State)

_____ _____

(Name of Officer Hand Printed or Typed) (Signature)

_____

(Title)

7-80

OFFICE OF STAN STANART
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE	§	DOCKET NO. _____
	§	
HARRIS COUNTY, TEXAS	§	ESTATE OF: _____

On _____, in the above described estate, came on to be heard the annual account of said estate as filed on _____, and recorded in the Probate Court Records of the County Clerk, of Harris County, Texas; and it appearing to the Court that said account has been on file the number of days required by law; and that said account is in the form, and sustained by proof, required by law; and that said account is correct.

It is therefore, ORDERED, ADJUDGED, AND DECREED that said annual account be, and is hereby, approved and ordered of record.

_____
Judge, Probate Court No. _____ ,
Harris County, Texas

7-Bell

DV

FILED
2/9/2015 12:00:00 AM
Stan Stanart
County Clerk
Harris County

OFFICE OF STAN STANART
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

PROBATE COURT 3

AFFIDAVIT OF DISTRIBUTEES ● SMALL ESTATE ● WITH JUDGE'S ORDER OF APPROVAL
CHAPTER 205 OF THE TEXAS ESTATES CODE

In Matters of Probate Probate Court No. 3 §
Harris County, Texas §

Docket No. 437312
Style of Estate: LUCINA ALVAREZ CORONADO Deceased

To the Honorable Judge of said Court:

This, the affidavit of all of the distributees of the estate of LUCINA ALVAREZ CORONADO, deceased, is respectfully submitted and shows:

1. That LUCINA ALVAREZ CORONADO (Name of Deceased) died on or about JANUARY 22, 2012 (Date of Death) without leaving a Will, in HOUSTON, TEXAS (City and State).

2. That the domicile of the decedent at the time of death was 11118 WHEATRIDGE, Houston, Harris County, Texas, or state other facts showing venue in this county.

3. That no petition for the appointment of a personal representative of the decedent's estate is pending nor has been granted.

4. That more than thirty days have elapsed since the death of the decedent.

5. That the value of the entire estate, not including homestead and exempt property, does not exceed fifty thousand dollars ($50,000.00).

6. That the assets of the decedent are as follows:

NOTE: **Community Property is that which is acquired during marriage other than by gift or inheritance.**
Separate Property is that which is owned before marriage or acquired by gift or inheritance during marriage.

Description of Asset(s)	Account Number Vehicle Identification Number Etc.	Indicate Community or Separate	Value
Example: Bank of America	*Act # 123456789*	*Community*	*$12,000*
Compass Bank Checking Account	Act #17333798	Community	$428
Compass Bank Savings Account	Act #2515975465	Community	$700.00

7-912

0209201515001-20047

7. The legal description of the decedent's homestead is: Lot SIX (6) Block FORTY-SIX (46)

Subdivision OAK FOREST SECTION FIVE, a subdivision in Harris County, Texas

Physical Address 1733 Dubarry Lane, Houston, Texas 77018

*** Chapter 205 of the Texas Estates Code does not affect the disposition of property under the terms of a Will or other testamentary document, nor does it transfer title to real property other than the Decedent's homestead.**

8. That all the known liabilities of the decedent's estate are as follows:

Description of Liabilities / Debts	Account Number	Indicate Community or Separate	Balance Due
Example: Capital One Credit Card	*Act # 123456789*	*Separate*	*$4,000*
NONE			

7-10

9. That the names, addresses, and telephone numbers of all distributees, and their right to receive money or property or to have such evidences of money, property or other rights, to the extent that the assets, exclusive of homestead and exempt property, exceed the known liabilities of the estate are as follows:

Names, addresses, and phone numbers of distributees (Inheritors)	Capacity in which claim is made	Portion of estate to which entitled (To be completed by court)	
Example: John Doe ● 1000 Main St. ● Houston, Texas 77000 (713) 755-6425	*Son*	Community Share	Separate Share
HECTOR E. CORONADO * 1733 DUBARRY LANE * HOUSTON, TEXAS 77918 (713) 956-7350	HUSBAND		

7-2013

02092015:1600:PG049

☐ If decedent was not survived by children or grandchildren, then complete.
Parents of Decedent ***(List both parents living or deceased)***:

Name	Address	Age or date of death	Alive or deceased

1. If decedent was not survived by his/her parents or only one parent, then complete.
Brother(s) and/or Sister(s) of Decedent ***(List all siblings living or deceased)***:

Name	Address	Age or date of death	Alive or deceased

2. If any brother(s) or sister(s) has predeceased decedent then complete.

Names of deceased brother/sister: NOT APPLICABLE

Children of Deceased Brother/Sister

Name	Address	Age or date of death	Alive or deceased

7-12

IV. Family History

(Check Box that Applies)

☐ Decedent had no children.

☒ Decedent had the following children by birth or adoption: ***(List all children living or deceased)***

Name	Address	Age or date of death	Alive or deceased
ANA ADELINA ORTIZ	6318 QUAIL MEADOW DR 77035	42	ALIVE
MARIA LUISA GUAJARDO	11118 WHEATRIDGE DR 77064	49	ALIVE
HECTOR MANUEL CORONADO	6018 GUM GROVE LN 77088	50	ALIVE
JORGE ARTURO CORONADO	20117 COTTON GLADE LN 7733[illegible]	48	ALIVE
JOSE FRANCISCO CORONADO	1335 DIAMANTE DR 77504	46	ALIVE
JAIME CESAR CORONADO	851 STAFFORDALE MANOR LN 7[illegible]	44	ALIVE

Decedent never adopted any children nor cared for any children in the home other than the above named children.

Is the surviving spouse the biological or adoptive parent of all children listed above? ■ Yes ☐ No

1. If any child of Decedent is deceased, list all children of the deceased child or children.

Name of Deceased Child: NOT APPLICABLE

Children of Deceased Child

Name	Address	Age or date of death	Alive or deceased

Name of Deceased Child: _____

Children of Deceased Child

Name	Address	Age or date of death	Alive or deceased

7-13

COUNTY OF HARRIS §
STATE OF TEXAS §

HEIRSHIP AFFIDAVIT

To be filled out and signed by two disinterested witnesses.
NOTE: A disinterested witness is someone who does not inherit from the decedent.

Before me, the undersigned authority, on this day personally appeared MARIA PENATE (First Disinterested Witness)

and NORA PATRICIA RYAN (Second Disinterested Witness), who being first by me duly sworn on oath state:

I. Witness Information

I, MARIA PENATE (First Disinterested Witness), reside at 16215 NEW FIELD DR (Address), HOUSTON (City), HARRIS (County) County, Texas (State). I am personally acquainted with the family history and facts of heirship of LUCINA ALVAREZ CORONADO (Name of Deceased), deceased, hereinafter called "Decedent" who was my FRIEND (Relationship to Decedent). I knew Decedent for 30 years.

I, NORA PATRICIA RYAN (Second Disinterested Witness), reside at 7919 SAWMILL TRL (Address), Houston (City), Harris (County) County, Texas (State). I am personally acquainted with the family history and facts of heirship of LUCINA ALVAREZ CORONADO (Name of Deceased), deceased, hereinafter called "Decedent" who was my FRIEND (Relationship to Decedent). I knew Decedent for 30 years.

II. Decedent Information

Decedent died on JANUARY 22, 2012 (Date of Death), in Houston, Harris, County, State of Texas, without leaving a Will.

III. Marital History

(Check Box that Applies)

[X] Decedent was married to HECTOR E. CORONADO (Surviving Spouse) on JULY 22, 1962 (Date of Marriage), and remained married until decedent's death and was never divorced.

[ ] Decedent was never married.

[ ] Decedent was not married at the time of death but was married to _____ (Name of Spouse) on _____ (Date of Marriage), and was widowed/divorced on _____ (Circle One) (Date of Termination of Marriage).

7-[illegible]15

02052015:1600:P0092

10. Wherefore the distributees of the estate pray that the court enter an order and approve the distribution of that part of the estate to which each distributees is entitled without awaiting the appointment of a personal representative.

Signatures of Distributees (Inheritors)	
Hector C. Coronado	

Before me, the undersigned authority, on this day personally appeared: *Print names of distributees (Inheritors)*	
Hector C. Coronado	

who being by me duly sworn upon oath states that the foregoing affidavit is true and correct in every respect. Sworn and subscribed to by the named distributees on: December 19th, 2014.
(Date)

YESENIA GARCIA
Notary Public, State of Texas
My Commission Expires
May 15, 2017

Notary Public in and for the State of Texas

7-16

The above statements are true and correct.

Executed on December 9th, 2014
(Date)

Signature of first disinterested witness

Signature of second disinterested witness

Subscribed and sworn to before me, by MARIA PENATE, first disinterested witness, on December 9th, 2014 (Date), to certify which witness my hand and seal of office.

YESENIA GARCIA
Notary Public, State of Texas
My Commission Expires
May 15, 2017

Notary Public in and for the State of Texas

Subscribed and sworn to before me, by NORA PATRICIA RYAN, second disinterested witness, on December 9th 2014 (Date), to certify which witness my hand and seal of office.

YESENIA GARCIA
Notary Public, State of Texas
My Commission Expires
May 15, 2017

Notary Public in and for the State of Texas

Note: If blanks are not sufficient for information, a separate sheet may be attached.

7-10-17

OFFICE OF STAN STANART
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE §
§
PROBATE COURT NO. Three (3) §
§
HARRIS COUNTY, TEXAS §

DOCKET NO. 437312

STYLE OF DOCKET: Lucina Alvarez Coronado
DECEASED

ORDER AND APPROVAL OF JUDGE FOR
AFFIDAVIT OF DISTRIBUTEES - SMALL ESTATES
(CHAPTER 205 OF THE TEXAS ESTATES CODE)

The foregoing affidavit of the distributees of the estate of Lucina Alvarez Coronado _____, deceased, is found to conform to Texas Estates Code §205, has been examined,

and is approved by the Court on this day of February 2015.

_____
Judge of Probate Court No. Three (3)

CERTIFICATE OF RECORD

I, the Clerk of the Probate Court No. _____ of Harris County, Texas, do hereby certify that the foregoing instrument is a true and correct record of said instrument as filed and recorded in the Probate Records of Harris County, as approved by the Judge of said Court for recording in the "Small Estate" Records of Harris County, Texas.

STAN STANART
County Clerk, Harris County, Texas

_____
DEPARTMENT HEAD

7-[illegible]18

20120001373
01/03/2012 ER $28.00

AFFT
N

RETURN TO
REID, STRICKLAND & GILLETTE
P.O. BOX 809
BAYTOWN, TX 77522

ER 029 - 22 - 0148

1EE

AFFIDAVIT OF HEIRSHIP

THE STATE OF TEXAS)(
)(
COUNTY OF HARRIS)(

BEFORE ME, the undersigned authority, on this day personally appeared MICHELLE HEFLEY, who being by me first duly sworn, on her oath did depose and say, as follows:

"My name is MICHELLE HEFLEY, and I reside at 2000 Key Harbour Drive, Lake St. Louis, MO, 63367, and I am a surviving child of DONNY KATHLEEN WALKER, Deceased.

DONNY KATHLEEN WALKER was born on October 3, 1934, in Iraan, Texas, and died on March 5, 1997, in Houston, Harris County, Texas.

DONNY KATHLEEN WALKER was married once and only once, and then to MICHAEL MAURICE HEFLEY, in November of 1953. Of such marriage, two (2) and only two (2) children were born, namely, MICHELLE HEFLEY, a girl, on September 12, 1955, and MICHAEL M. HEFLEY, a boy, born June 15, 1958. No other children were ever born to or adopted by DONNY KATHLEEN WALKER. DONNY KATHLEEN WALKER and MICHAEL MAURICE HEFLEY were never divorced.

As stated above, DONNY KATHLEEN WALKER died in Houston, Harris County, Texas, and at the time of her death her permanent place of residence was in Baytown, Harris County, Texas.

DONNY KATHLEEN WALKER died without a Will. There is no necessity for administration upon the said Decedent's estate as all debts and funeral expenses have been paid. The Decedent's estate was not of sufficient value to incur federal or state death taxes, or to require the filing of such death tax returns.

Further, Affiant saith not."

EXECUTED, this 28 day of October, 2011.

MICHELLE HEFLEY

(4)
1OR

1120116370

7-819

THE STATE OF TEXAS Mo

COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared JOHN BARMBY, who being by me first duly sworn, on his oath did depose and say, as follows:

"My name is JOHN BARMBY, my mailing address being 801 Palm Trail #8, Delray Beach, Florida, 33483. I was well and personally acquainted with the said DONNY KATHLEEN WALKER for approximately 8 years and am well acquainted with her family heirship and history.

I have read the above and foregoing affidavit of MICHELLE HEFLEY, and all facts stated therein are true and correct.

Further, Affiant saith not."

EXECUTED, this 28 day of October, 2011.

John Barmby

JOHN BARMBY

SWORN TO AND SUBSCRIBED BEFORE ME by the said JOHN BARMBY, this the 28 day of October, 2011.

Cindy Hohn

Notary Public, State of ~~Texas~~ Missouri

STATE OF TEXAS X
X
COUNTY OF HARRIS X

BEFORE ME, the undersigned authority, a Notary Public, on this day personally appeared JOHN BARMBY, known to me/proved to me through Driver's License, to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 28 day of October, 2011.

Cindy Hohn

Notary Public, State of ~~Texas~~ Missouri

CINDY HOHN
Notary Public-Notary Seal
State of Missouri, Lincoln County
Commission # 09423262
My Commission Expires Mar 28, 2013

3

ER 029 - 22 - 0150

10R

1

7-[illegible]20

SWORN TO AND SUBSCRIBED BEFORE ME by the said MICHELLE HEFLEY, this the 28 day of October, 2011.

Cindy Hohn, Missouri
Notary Public, State of

STATE OF x Missouri
x
COUNTY OF x St. Louis
x

BEFORE ME, the undersigned authority, a Notary Public, on this day personally appeared MICHELLE HEFLEY, known to me/proved to me through Driver's License, to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 28 day of October, 2011.

Cindy Hohn, Missouri
Notary Public, State of

CINDY HOHN
Notary Public-Notary Seal
State of Missouri, Lincoln County
Commission # 09423262
My Commission Expires Mar 29, 2013

ER 029 - 22 - 0149

2

7-

THE STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared JOHN R. MCMILLON, who being by me first duly sworn, on his oath did depose and say, as follows:

"My name is JOHN R. MCMILLON, my mailing address being 1505 Ward Rd., Apt. 208, Baytown, Texas, 77520. I was well and personally acquainted with the said DONNY KATHLEEN WALKER for approximately 42 years and am well acquainted with her family heirship and history.

I have read the above and foregoing affidavit of MICHELLE HEFLEY, and all facts stated therein are true and correct.

Further, Affiant saith not."

EXECUTED, this 26th day of October, 2011.

JOHN R. MCMILLON

2OR

SWORN TO AND SUBSCRIBED BEFORE ME by the said JOHN R. MCMILLON, this the 26th day of October, 2011.

TIFFANY M. CHRISTENSEN
Notary Public,
State of Texas
Comm. Exp. 01-15-12

Notary Public, State of Texas

STATE OF TEXAS X
X
COUNTY OF HARRIS X

BEFORE ME, the undersigned authority, a Notary Public, on this day personally appeared JOHN R. MCMILLON, known to me/proved to me through Driver's License, to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 26th day of October, 2011.

TIFFANY M. CHRISTENSEN
Notary Public,
State of Texas
Comm. Exp. 01-15-12

Notary Public, State of Texas

11-12/ds

ER 029 - 22 - 0151

7- 0022

ER 029-22-0152

20120001373
Pages 5
01/03/2012 12:45:48 PM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
STAN STANART
COUNTY CLERK
Fees 28.00

RECORDERS MEMORANDUM
This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.
THE STATE OF TEXAS
COUNTY OF HARRIS
I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.

Stan Stanart
COUNTY CLERK
HARRIS COUNTY TEXAS

7-[redacted]23

Small estates checklist- **TPC 137**

- Make sure the decedent was domiciled in Harris County, Texas
- Make sure that no application for the appointment of an administrator or executor is pending
- Make sure that the decedent died intestate
- Make sure that the decedent has been dead for at least 30 days
- Make sure all of the assets of the estate are listed (page one (1) of the HC Clerk form)
- Make sure all of the liabilities are listed
- Make sure that the person swearing out the affidavit is a distributee/heir of the estate
- Make sure that all of the distributees/heirs have signed and their names are listed (page two (2) of the HC Clerk's form)
- Make sure that the liabilities don't exceed the amount of the assets, excluding the amount of any homestead property secured by a lien, in the calculation of the assets and the liabilities
- Make sure that the assets don't exceed ~~$50,000~~ $75,000, excluding any homestead property and exempt property.
- Make sure that all of the information in the affidavit of heirship (pages 3-6 of the HC Clerk's form) matches the listing of the distributees/heirs (page 2 of the HC Clerk's form)
- Make sure that each signature, both the distributees/heirs and the disinterested witnesses, on the affidavit is notarized.
- Complete the respective shares portion (page 2 HC Clerk's form) based on the laws of intestacy (§ 38 & § 45 of the Texas Probate Code).
- Note: On most forms that are created by attorneys, you do not have to complete the respective shares of the distributees/heirs. However, you may have to correct their listing of the respective shares

effective Sept. 1, 2015
- make sure exempt property is designated
- make sure heirs are spouse, minor children or unseparated adult children

7- 2 LA

ASSIGNMENT

John Green has come to you for advice. His wife Mary died on June 14, 2015 without leaving a will.

The estate consists of:

a bank account that was in Mary's name with $25,000 at Wells Fargo

a house that was their homestead at 1234 Marigold, Houston, Harris County Texas worth $300,000

a 2012 Ford Escape worth $12,000

furnishings worth $5.000

She and John had two children Thelma and Joan

Prepare the appropriate pleading

1-2025

OFFICE OF STAN STANART
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

AFFIDAVIT OF DISTRIBUTEES ● SMALL ESTATE ● WITH JUDGE'S ORDER OF APPROVAL
CHAPTER 205 OF THE TEXAS ESTATES CODE

In Matters of Probate §
Probate Court No. _____§
Harris County, Texas §

Docket No. _____
Style of
Estate: _____
Deceased

To the Honorable Judge of said Court:

This, the affidavit of all of the distributees of the estate of _____, deceased, is respectfully submitted and shows:

1. That _____ died on or about _____
(Name of Deceased) (Date of Death)
without leaving a Will, in _____.
(City and State)

2. That the domicile of the decedent at the time of death was _____ County, Texas, or state other facts showing venue in this county.

3. That no petition for the appointment of a personal representative of the decedent's estate is pending nor has been granted.

4. That more than thirty days have elapsed since the death of the decedent.

5. That the value of the entire estate, not including homestead and exempt property, does not exceed fifty thousand dollars ($50,000.00).

6. That the assets of the decedent are as follows:

NOTE: <u>Community Property</u> is that which is acquired during marriage other than by gift or inheritance.
<u>Separate Property</u> is that which is owned before marriage or acquired by gift or inheritance during marriage.

Description of Asset(s)	Account Number Vehicle Identification Number Etc.	Indicate Community or Separate	Value
Example: Bank of America	*Act # 123456789*	*Community*	*$12,000*

7-2

7. The legal description of the decedent's homestead is: Lot_____ Block_____

Subdivision_____

Physical Address _____

*** Chapter 205 of the Texas Estates Code does not affect the disposition of property under the terms of a Will or other testamentary document, nor does it transfer title to real property other than the Decedent's homestead.**

8. That all the known liabilities of the decedent's estate are as follows:

Description of Liabilities / Debts	Account Number	Indicate Community or Separate	Balance Due
Example: Capital One Credit Card	*Act # 123456789*	*Separate*	*$4,000*

7-20127

9. That the names, addresses, and telephone numbers of all distributees, and their right to receive money or property or to have such evidences of money, property or other rights, to the extent that the assets, exclusive of homestead and exempt property, exceed the known liabilities of the estate are as follows:

Names, addresses, and phone numbers of distributees (Inheritors)	**Capacity in which claim is made**	**Portion of estate to which entitled** (To be completed by court)	
Example: John Doe ● 1000 Main St. ● Houston, Texas 77000 (713) 755-6425	*Son*	Community Share	Separate Share

7-28

10. Wherefore the distributees of the estate pray that the court enter an order and approve the distribution of that part of the estate to which each distributees is entitled without awaiting the appointment of a personal representative.

Signatures of Distributees (Inheritors)	

Before me, the undersigned authority, on this day personally appeared: ***Print names of distributees (Inheritors)***	

who being by me duly sworn upon oath states that the foregoing affidavit is true and correct in every respect. Sworn and subscribed to by the named distributees on: _____.
(Date)

_____
Notary Public in and for the State of Texas

7-06 29

COUNTY OF HARRIS §
STATE OF TEXAS §

HEIRSHIP AFFIDAVIT

To be filled out and signed by two disinterested witnesses.
NOTE: A disinterested witness is someone who does not inherit from the decedent.

Before me, the undersigned authority, on this day personally appeared _____
(First Disinterested Witness)

and _____, who being first by me duly sworn on oath state:
(Second Disinterested Witness)

I. Witness Information

I, _____, reside at _____
(First Disinterested Witness) (Address)

_____, _____County, _____. I am
(City) (County) (State)

personally acquainted with the family history and facts of heirship of _____,
(Name of Deceased)

deceased, hereinafter called "Decedent" who was my _____. I knew Decedent for _____ years.
(Relationship to Decedent)

I, _____, reside at _____
(Second Disinterested Witness) (Address)

_____, _____County, _____. I am
(City) (County) (State)

personally acquainted with the family history and facts of heirship of _____,
(Name of Deceased)

deceased, hereinafter called "Decedent" who was my _____. I knew Decedent for _____ years.
(Relationship to Decedent)

II. Decedent Information

Decedent died on _____, in _____, County,
(Date of Death)

State of _____, without leaving a Will.

III. Marital History

(Check Box that Applies)

☐ Decedent was married to _____ on
(Surviving Spouse)

_____, and remained married until decedent's death and was never divorced.
(Date of Marriage)

☐ Decedent was never married.

☐ Decedent was not married at the time of death but was married to _____
(Name of Spouse)

on_____, and was widowed/divorced on _____.
(Date of Marriage) (Circle One) (Date of Termination of Marriage)

7-2030

IV. Family History

(Check Box that Applies)

☐ Decedent had no children.

☐ Decedent had the following children by birth or adoption: ***(List all children living or deceased)***

Name	Address	Age or date of death	Alive or deceased

Decedent never adopted any children nor cared for any children in the home other than the above named children.

Is the surviving spouse the biological or adoptive parent of all children listed above? ☐ Yes ☐ No

1. If any child of Decedent is deceased, list all children of the deceased child or children.

Name of Deceased Child: _____

Children of Deceased Child

Name	Address	Age or date of death	Alive or deceased

Name of Deceased Child: _____

Children of Deceased Child

Name	Address	Age or date of death	Alive or deceased

7-2031

☐ If decedent was not survived by children or grandchildren, then complete.
Parents of Decedent ***(List both parents living or deceased)***:

Name	Address	Age or date of death	Alive or deceased

1. If decedent was not survived by his/her parents or only one parent, then complete.
Brother(s) and/or Sister(s) of Decedent ***(List all siblings living or deceased)***:

Name	Address	Age or date of death	Alive or deceased

2. If any brother(s) or sister(s) has predeceased decedent then complete.

Names of deceased brother/sister: _____

Children of Deceased Brother/Sister

Name	Address	Age or date of death	Alive or deceased

7-0932

The above statements are true and correct.

Executed on _____.
(Date)

_____
Signature of first disinterested witness

_____
Signature of second disinterested witness

Subscribed and sworn to before me, by _____, first disinterested witness, on

_____, to certify which witness my hand and seal of office.
(Date)

_____
Notary Public in and for the State of Texas

Subscribed and sworn to before me, by _____, second disinterested witness, on

_____, to certify which witness my hand and seal of office.
(Date)

_____
Notary Public in and for the State of Texas

Note: If blanks are not sufficient for information, a separate sheet may be attached.

7-[redacted]33

OFFICE OF STAN STANART
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE	§	DOCKET NO. _____
	§	
PROBATE COURT NO. _____	§	
	§	STYLE OF DOCKET: _____
HARRIS COUNTY, TEXAS	§	DECEASED

ORDER AND APPROVAL OF JUDGE FOR
AFFIDAVIT OF DISTRIBUTEES - SMALL ESTATES
(CHAPTER 205 OF THE TEXAS ESTATES CODE)

The foregoing affidavit of the distributees of the estate of _____

_____, deceased, is found to conform to Texas Estates Code §205, has been examined,

and is approved by the Court on _____.

_____
Judge of Probate Court No. _____

CERTIFICATE OF RECORD

I, the Clerk of the Probate Court No. _____ of Harris County, Texas, do hereby certify that the foregoing instrument is a true and correct record of said instrument as filed and recorded in the Probate Records of Harris County, as approved by the Judge of said Court for recording in the "Small Estate" Records of Harris County, Texas.

STAN STANART
County Clerk, Harris County, Texas

_____
DEPARTMENT HEAD

P.O. Box 1525 ● Houston, TX 77251-1525 ● 713-755-6411
www.cclerk.hctx.net

Form No. I-02-23 (Rev. 12/18/2013)

Curt was appointed administrator of his mom's estate. The estate consists of:

200 shares of Exxon stock worth $90,000 that pays $600 per year in dividends.

$145,000 cash in CD's and bank accounts

Homestead worth $450,000

A triplex worth $550,000 that rents for $1,000 each unit per month

Car worth $20,000

Furnishings worth $15,000

What should the court set for a bond?

Chapter 7 Assignments

1. Suzy Nelson has come to your office for advice. Her husband Tom passed away one year ago. They were married 25 years. They have one son Barney. There are no debts other than the mortgage on the house. The only assets are the house worth $210,000 and the car worth $23,000. Suzy's pension is large enough for her to continue to live in the house and make the payments but she is planning on selling the house and moving closer to Barney. Tom did not have a will.
2. Mark Jones has come to your office. His wife Mabel died two weeks ago. She did not have a will. The assets are a house that they live in worth $450k, a savings account of $5K, furnishings $10K, and a CD $20,000. There are no debts. Mark is the only heir.
3. Joan Andrews has come to your office. Her mother died in January of this year. There are debts of $50,000 and assets of $650,000. She has found her mother's will but also found her father's will too. Her dad died in 1994 and not probate administration was opened. Her mother was the sole beneficiary of her dad's will and she is the sole beneficiary of her mom's Will. She is named executor in her mom's will and was alternate executor in her dad's.
4. John Parkins has come to your office. His wife, Lola died 6 weeks ago. All the cash assets were joint tenancy with right of survivor. There is the house they lived in and an apartment complex. The total probate assets are $1 million. There are no debts.
5. Mark Jameson has come to your office. His mother died 5 years ago. The only assets in the house that Mark has lived in since his mom died worth $90K and a duplex worth $350k. He managed the duplex so he has been collecting the rents, paying the bills from the rents and splitting the profits with John his brother. Mark and his brother are the only heirs. There are no debts. There is no will.

Same as number 5 but there is a will.

P 7-31 to 7-34 deleted

2- [illegible] 3b

WHAT WOULD YOU ADVISE? WHAT WOULD YOU FILE?

1. Mary Jones comes to see you regarding the will of her brother Tom. The will, which is wholly in has handwriting says:

"I give my house in town to Mary and my beach house to my brother Bob."

Tom

Tom also had stocks and bonds worth $200k. Bob and Mary are his only heirs and are very close and harmonious.

2. Susie Gordon's husband Mark died on Feb. 1. It is now Feb 14. She is a cashier at Kroger. They have two minor children. The estate consists of $65k in personal property, a home they live in worth 300k and a retirement plan worth 200k of which Susie is the beneficiary. There is no debt other than the mortgage.

3. Sam Green's dad died in 2003. He had a will. His mom just recently died and in going through her papers he found his dad's will and her will. He is trying to sell the house and the title company won't close.

4. John, Margaret, and Steve's dad just died. There are no debts and because he lived with Margaret his only asset is a CD in his name only worth 300K. There is no will.

5. Helen Marcus died 5 years ago. She did not have a will. She has a house that her sister continued to live in after her death. Her sister recently died and the family has agreed on a distant relative living in it but are concerned that there will be no issue with title should they decide to sell it later.

6. Ray Jones' father just died. Ray is pretty sure his dad had a will and it is at the bank but they refuse to let him in his dad's safety deposit box even though he found the key.

7. Marcus Ramsey's son has died. The son Tom was living in an apartment. Tom was an antiques dealer and had valuable furnishings. It is May 20 and the rent is due June 1.

8. Harry Brown's son has been informed of his dad's death. He does not have the funds to bury him. His dad has a bank account with 50K in it as Bank of America.

9. Due to family discord your client Ryan Mitchell will have to be appointed Dependent Administrator. The cash/personal property assets are 400k in stocks bonds, and CDs and 100k in personal furnishings and autos. The court sets a bond of 500k. Your client can only get approved for 150K

10. Tookie Green died with a will but it does not name an executor. Both her husband Jimmy and her daughter Natalie want to serve. Who is the court likely to appoint.

GROUP ASSIGNMENT

Each group will be given a will/administration and asked to prepare to get your estate admitted into court

We will have a docket day and each group will appear before me, as Judge, and prove up your estate.

There will be the following estates:

A Will to appoint an independent executor

A Will to appoint an Independent Administrator

An Administration to appoint a Dependent Administrator

A Will Admitted as a Muniment of Title

An Heirship

On Court Day, you will approach , question your witness, and get the estate admitted to probate.

7-54

Probating a Will

Tracey Brainard has come to you with the original will of her friend Kathleen Morrow

She is the named executor

Kathleen died on Jan 10, 2013

She lived at 407 W. 10th St Houston Harris County Texas 77008

The estate value is $376,000

Kathleen was married once to John Jones. They were divorced in 1987

Prepare the appropriate pleadings and be prepared to prove it up.

FILED
2012 MAR -2 AM 8:07
STAN STANART
COUNTY CLERK
HARRIS COUNTY, TEXAS

411448

PROBATE COURT 3

LAST WILL AND TESTAMENT

Of

KATHLEEN TERESA McMORROW

3052012 0856 G0009

I, KATHLEEN TERESA McMORROW, of the County of Harris and the State of Texas, being in good health, of sound and disposing mind and memory, do make and declare this instrument to be my Last Will and Testament, hereby expressly revoking all former Wills and Codicils made by me at any time heretofore, and intending to dispose of all the property of whatever kind and wherever situated which I own, or in which I have any kind of interest at the time of my death.

I
IDENTITY OF THE FAMILY

I am single. I have no children. .

II
PAYMENT OF EXPENSES

I direct that all expenses of my last illness, my funeral expenses, and my just personal debts, including any inheritance taxes, transfer taxes, and estate taxes which may be levied by the United States or by any state by reason of my death, shall be paid by my Independent Executrix out of the residue of my estate as soon as conveniently may be done; provided that my Independent Executrix, in such Executrix's sole discretion, may distribute from time to time any real or personal property in my estate which at my death is subject to a lien securing an indebtedness upon it without discharging such indebtedness, if in my Independent Executrix's judgment, the condition of the estate so requires. The distributee shall then be considered as having received my estate's equity in the property.

III
DISPOSITION OF ESTATE

A. If my friend, HOWARD STEPHENS, survives me, I give, devise, and bequeath to HOWARD STEPHENS my Entertainment Center (Louis XVI) and contents.

B. If DR. MARGARET E. BRIDGES survives me, I give devise, and bequeath to DR. MARGARET E. STEPHENS my pink love seat.

K J Norman

7-56

C. If my niece MANDY McMORROW SWADLING survives me, I give, devise, and bequeath to MANDY McMORROW SWADLING my jewelry, consisting of gold bracelets (4), lapis cross and earrings, and fur jacket, and all other jewelry.

D. I give, devise, and bequeath all of the rest and residue of my estate of whatsoever kind and wheresoever situated in equal shares to the following devisees: my sister BRIDIE McMORROW COCHRANE, my sister MYRA McMORROW HICKS, and my brother, JOHN JAMES (SEAN) McMOROW, provided further, however, that if any of said devisees shall not survive me, the share of such non-surviving devisee shall pass and be given to the descendants of such non-surviving devisee per stirpes, or if such non-surviving devisee has no descendants, to devisees who survive me in equal shares.

03052012:0856:G0010

IV
DEFINITION OF SURVIVAL

Any legatee, devisee, donee, person, or beneficiary with respect to all or part of my estate who shall not survive me until sixty (60) days after the date of my death, or until this Will is probated, whichever occurs earlier, shall be deemed to have predeceased me, and shall be treated for all purposes herein as though such legatee, devisee, donee, person, or beneficiary had predeceased me.

V
APPOINTMENT OF EXECUTOR

A. I hereby nominate, constitute, and appoint TRACEY WEPPLER BRAINARD, as Independent Executrix of my estate. In the event TRACEY WEPPLER BRAINARD, shall predecease me or fail or refuse to qualify, or die, resign, or become unable to serve during the administration of my estate, I hereby nominate, constitute, and appoint JAMES WILLIAM BRAINARD, as Independent Executor, and all the powers, duties, and responsibilities granted to and imposed upon TRACEY WEPPLER BRAINARD shall devolve upon and be exercised by JAMES WILLIAM BRAINARD.

B. If any individual Independent Executor or Executrix becomes unable to discharge his or her duties under this Will because of accident, physical or mental illness or deterioration, or other cause, and does not resign, then upon certification in a form sufficient for the recording of a deed in the State of Texas by two (2) medical doctors (neither of whom is a beneficiary or appointee under this Will) affirming that each has examined the Independent Executor or Executrix and that each has concluded, based on such examination, that the Independent Executor is unable to discharge his or her duties under this Will, the Independent Executor or Executrix shall cease to serve, as if he or she had resigned effective the date of the certification.

7-57

C. It is my will and desire and I hereby direct that in the administration of my estate my Independent Executrix or any successor shall not be required to furnish any bond of any kind and that no action be had in any court in the administration of my estate other than the probating of this, my Last Will and Testament, and the filing of any Inventory, Appraisement, and List of Claims that may be required.

03052012:0852:G0011

VI
POWERS OF EXECUTRIX

The estate created or arising by virtue of my death and this instrument, my Last Will and Testament, shall be governed by and administered in accordance with the following provisions:

A. I hereby grant unto my Independent Executrix, or any successor named above, full power and authority over any and all of my estate and he or she is hereby authorized to sell, manage, and dispose of same or any part thereof, and in connection with any such sale or transaction, make, execute, and deliver proper deeds, assignments, and other written instruments, and to do any and all things proper or necessary in the orderly handling and management of my estate.

B. My Independent Executrix, or any successor named above, shall have full power and authority to compromise, settle, and adjust any and all claims and taxes which may be due from or owing by my estate.

C. My Independent Executrix, or any successor named above, shall have full power and authority to deal with any person, firm, or corporation.

D. My Independent Executrix, or any successor named above, shall have full power to borrow money at any time and in any amount from time to time for the benefit of my estate, from any person, firm, or corporation or from any bank or trust company and to secure the loan or loans by pledge, deed of trust, mortgage, or other encumbrances on the assets of the estate and from time to time to renew such loans and give additional security.

E. As compensation for services, my Independent Executrix, or any successor named above, shall be entitled, but not obligated, to charge fees up to amounts equaling the same fees customarily charged for the similar services in other estates at the time the services are rendered.

K J. mm

VII
IN TERROREM CLAUSE

If any beneficiary under this Will shall in any manner contest or attack this Will or any of its provisions, any share or interest in my estate given to such contesting beneficiary under this Will is hereby revoked and shall be disposed of as part of the residue of my estate as though such beneficiary had not survived me.

03052012:0956:G0012

VIII
DEFINITIONS AND INTERPRETATIONS

For purposes of interpretation of this, my Last Will and Testament, and the administration of the estate established herein, the following provisions shall apply:

A. The use of the masculine, feminine, or neuter gender shall be interpreted to include the other genders. And the use of either the singular or the plural number shall be interpreted to include the other number, unless such interpretation in a particular case is inconsistent with the general tenor of the instrument. Any references herein relating to "Independent Executor" or "Independent Executrix" shall include his or her successors regardless of the gender of his successors.

B. This Will shall be probated in accordance with the laws of Texas, and should any provisions of the same be held unenforceable or invalid for any reason, the unenforceability or invalidity of said provision shall not affect the enforceability or validity of any other part of this Will.

IN WITNESS WHEREOF, I, KATHLEEN TERESA McMORROW, hereby sign my name to this, my Last Will and Testament, on each page of which I have either signed my full name or my initials, on this 12TH day of DECEMBER, 2006 at Houston, Texas.

Kathleen Teresa McMorrow
KATHLEEN TERESA McMORROW, Testatrix

ATTESTATION

The foregoing instrument was signed in our presence by KATHLEEN TERESA McMORROW and declared by her to be her last Will. We, at the request and in the presence of KATHLEEN TERESA McMORROW and in the presence of each other,

RCL 9 7-59

have subscribed our names below as witnesses on this 12TH day of DECEMBER, 2006,

James N. Holland
Witness

JAMES N. HOLLAND
Witness Name Printed

10015 OVERBROOK
Street address

HOUSTON TX 77042
City, State, and Zip code

Alan M Burton
Witness

ALAN M BURTON
Witness Name Printed

607 BLUE WILLOW
Street Address

HOUSTON TX 77042
City, State, and Zip Code

J3052012:0956:G0013

SELF-PROVING AFFIDAVIT

STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared KATHLEEN TERESA McMORROW, and JAMES N. HOLLAND and ALAN M. BURTON known to me to be the Testatrix and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in

7-60

K J. Dom.

their respective capacities, and all of said persons being duly sworn, the said KATHLEEN TERESA McMORROW , Testatrix, declared to me and to the said witnesses in my presence that said instrument is her Last Will and Testament and that she had willingly made and executed it as her free act and deed; and the said witnesses, each on their oath stated to me, in the presence and hearing of the said Testatrix, that the said Testatrix had declared to them that said instrument is her Last Will and Testament, and that she executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testatrix and at her request; that said Testatrix was at that time eighteen years of age or over (or being under such age was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

03052012:0857:G0014

Kathleen Teresa McMorrow
KATHLEEN TERESA McMORROW, Testatrix

James R. Holland
Witness

Witness

SUBSCRIBED AND SWORN TO BEFORE ME by the said KATHLEEN TERESA McMORROW, Testatrix, and by the said JAMES N. HOLLAND and KELLY M. BURTON, Witnesses, this 12TH day of DECEMBER, 2006.

JOHN W. COOLIDGE
MY COMMISSION EXPIRES
JULY 18, 2009

Notary Public, State of Texas

11290601f9

7-61

Probate Will as a Muniment

Mrs. Joan Gray has retained you to probate the Will of her husband Roy Earl Gray.

He died on March 5, 2007 at the age of 62 years. They were originally from Conroe but lived in Houston Harris County at 3004 Baskin Street, Houston, Texas 77098

She did not know she had to probate the will since all the bank accounts were surviviorship accounts. She went to an attorney in the neighborhood who told her she did not have to worry about probating the will.

She has found a buyer for the house and the title company is requiring her to probate the will.

She and her husband had five children.

QRTL 7-62

415111

PROBATE COURT 3

08022012 1032 G0060

LAST WILL AND TESTAMENT

OF

ROY EARL GRAY

THE STATE OF TEXAS *
*
COUNTY OF MONTGOMERY * KNOW ALL MEN BY THESE PRESENTS:

I, ROY EARL GRAY, Testator, a resident of Montgomery County, Texas, do make, publish and declare this to be my Last Will, hereby revoking all wills and codicils previously made by me.

ARTICLE I.

IDENTIFICATION

1.1 My spouse's name is JOAN M. GRAY. All references in this Will to "my spouse" are to JOAN M. GRAY.

1.2 My spouse and I have five sons at the time of the execution of this Will, namely: GARY T. GRAY, born January 23, 1952; TIMOTHY R. GRAY, born May 25, 1953; BRUCE S. GRAY, born May 1, 1957; BRIAN A. GRAY, born May 1, 1957; and KEITH M. GRAY, born November 24, 1958.

ARTICLE II.

BEQUESTS

2.1 Specific Bequests. I devise and bequeath certain articles in accordance with a writing attached to this Will and signed by me for identification. In the event that no such writing

T.G.
Initial

9473 7-63

is attached to this Will, then my entire residual estate shall pass in accordance with the provisions of Article 2.2.

2.2 Residual Bequests. If my spouse survives me, I devise and bequeath to my spouse all of my interest in all of my property of any kind and description, both real and personal, community or separate.

2.3 If my spouse fails to survive me, I devise and bequeath such property as follows:

A. to my son, TIMOTHY R. GRAY, the sum of TEN DOLLARS ($10.00); and

B. to my sons, GARY T. GRAY, BRUCE S. GRAY, BRIAN A. GRAY, and KEITH M. GRAY, the remainder in equal shares, per capita.

2.4 If neither my spouse nor my children nor any of my descendants survive me, I give all the residue of my estate to those persons who are living sixty-one (61) days after the date of my death and who would have been my heirs at law had I died intestate and single at such time.

ARTICLE III.

FIDUCIARY PROVISIONS

3.1 Fiduciary Appointments. I appoint my spouse, JOAN M. GRAY, as Independent Executrix of this Will and of my estate. If JOAN M. GRAY should fail or cease to serve as Independent Executrix, then I appoint my son, BRIAN A. GRAY, as Independent Executor of this Will. If my spouse, JOAN M. GRAY, and my son,

RG.
Initial

7-64

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BRIAN A. GRAY should both fail or cease to serve as Independent Executrix or Independent Executor, then I appoint my son, BRUCE S. GRAY, as Independent Executor of this Will and of my estate. My Independent Executrix or Independent Executor, whether original, substitute, or successor, is herein called "Executor".

3.2 Limited Court Supervision. I direct that no bond or other security shall be required of my Executor in any jurisdiction and that no action shall be had in any probate or county court in relation to the settlement of my estate other than the probating and recording of my Will and the return of an inventory, appraisement and list of claims of my estate.

3.3 Fiduciary Compensation. All fiduciaries other than my family members shall receive fair and reasonable compensation for services rendered in an amount not exceeding the customary and prevailing charges for services of a similar character at the time and at the place such services are performed, and all my fiduciaries shall be reimbursed for the reasonable costs and expenses incurred in connection with their fiduciary duties.

ARTICLE IV.

ADMINISTRATIVE PROVISIONS

4.1 Survival Criteria. No person other than my spouse shall be deemed to have survived me if such person shall die within two (2) months after my death.

4.2 Taxes Paid From Estate Residue. All estate, inheritance

R.G.
Initial

8015 7-65

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5.2 Headings. The headings which have been used through this Will have been inserted for administrative convenience only and do not constitute matter to be construed in interpreting this Will.

IN WITNESS WHEREOF, I, ROY EARL GRAY, have placed my signature or my initials on each page of this, my LAST WILL AND TESTAMENT, typewritten on seven (7) sheets of paper, including an attestation clause, signatures of witnesses, and attached Affidavit, on this the 9th day of September, 1993.

Roy Earl Gray
ROY EARL GRAY, TESTATOR

The foregoing instrument was subscribed in our presence by ROY EARL GRAY, Testator, who declared in our presence that the same is his LAST WILL AND TESTAMENT; that thereafter we, the undersigned, each over fourteen (14) years of age, at the request of ROY EARL GRAY, Testator, in his presence and in the presence of each other, subscribed our names hereto as attesting witnesses on this the 9th day of September, 1993.

Yolanda Alvarez
WITNESS
Address: 1800 Bering Drive, #600
Houston, TX. 77057

RG
Initial

FILED
2012 AUG -1 AM 11:16

7466

08022012.1032.60063

Patricia R. Chambers
WITNESS

Address: 1800 Bering Drive
Houston, TX 77057

08022012 1032 G0064

9-77

FG
Initial

08022012 1032 G0065

THE STATE OF TEXAS *

Before me, the undersigned authority, on this day personally appeared ROY EARL GRAY, YOLANDA ALVAREZ, and PATRICIA N CHAMBERS, known to me to be the Testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the Testator, ROY EARL GRAY, declared to me and to the said witnesses in my presence that said instrument is his last Will and Testament, and that he had willingly made and executed it as his free act and deed for the purposes therein expressed; and the said witnesses, each on his or her oath stated to me, in the presence and hearing of the said Testator that the said Testator had declared to them that said instrument is his last Will and Testament, and that he executed the same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator and at her request; that he was at that time eighteen (18) years of age or over and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

Roy Earl Gray
ROY EARL GRAY

Yolanda Alvarez
Witness

Patricia N. Chambers
Witness

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

Subscribed and acknowledged before me by the said Testator, ROY EARL GRAY, and subscribed and sworn to before me by the said witnesses, YOLANDA ALVAREZ and PATRICIA N. CHAMBERS on this the 9th day of September, 1993.

Dorothy Threeton
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

DOROTHY THREETON
NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES
MAY 31, 1997

8-2-78 7-67

Initial

Dependent Administration

Johnny Green died on March 20, 2011 at the age of 63 years of age. He owned a house at 4683 Marblewood, Houston, Harris County Texas.

Citimark Mortgage has retained you because the mortgage has not been paid since the death of Johnny. The original mortgage was $75,000. The loan amount at present is $24,000. The FMV of the house is $95,000.

Green was not married at the time of his death. He had two sons. Wally and Evan Citimark got their names out of the obituary and has googled them. Their address is 4455 Passlewood, Conroe Texas 77776. They have contacted them and the sons are ignoring all correspondence.

They have come to you to get an administration opened.

7-68

Assignment: Independent Administration

Mr and Mrs Fontenot have come to see you. Their son died and they did not think an administration was necessary but have recently discovered that he had a life insurance policy for $100,000 that did not have any beneficiary designations. The insurance company has told them that they will only release it to the estate personal representative. They also discovered a few small debts.

They have brought you a copy of the order declaring themselves as the heirs and the application.

They both agree that the husband Paul should serve as the Independent Administrator

Prepare the appropriate pleadings and be prepared to prove them up in court

7-69

Ann

PROBATE COURT 3

No. 414066

IN THE ESTATE OF	§	IN THE PROBATE COURT
	§	
CRAIG MICHAEL FONTENOT,	§	NUMBER ___ OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

APPLICATION TO DETERMINE HEIRSHIP

Publ-DCR
6-20-12

The Applicants, Paul N. Fontenot and Jerrylene T. Fontenot, furnish the following information to the Court:

1. Craig Michael Fontenot ("Decedent") died on May 12, 2012, at the age of 38 years, in Ville Platte, Louisiana.

2. An administration is pending upon Decedent's Estate in the above entitled and numbered cause, and it is in the best interest of the Estate for the Court to determine who are the heirs and only heirs of the Decedent.

3. This Court has jurisdiction and venue is proper because this is the court in which a proceeding administering Decedent's Estate was most recently pending.

4. Applicants are the personal representatives of the Decedent's Estate.

5. The names and residences of all of Decedent's heirs, the relationship of each heir to Decedent and the true interest of the Applicants and of each of the heirs in the Estate of Decedent are as follows:

a. Name: Paul N. Fontenot
Address: P.O. Box 499, Ville Platte, Louisiana 70586
Relationship: Father
Share of Real Property: 1/2
Share of Personal Property: 1/2

b. Name: Jerrylene T. Fontenot
Address: P.O. Box 499, Ville Platte, Louisiana 70586
Relationship: Mother
Share of Real Property: 1/2
Share of Personal Property: 1/2

7-70

6. At the time of Decedent's death, Decedent owned real property in the State of Texas and personal property as follows:

REAL PROPERTY

Description: Homestead located at 2330 Braypark Lane, Katy Texas 77450
Type: Separate Property
Value: $136,000.00

PERSONAL PROPERTY

a. Description: Toyota 4-Runner
Type: Separate Property
Value: $5,000.00

b. Description: Household items and personal effects
Type: Separate Property
Value: $1,500.00

FILED
2017 JUN 20 PM

7. Decedent was not survived by any living child. Decedent was not predeceased by any child.

8. Decedent had never been married.

9. All children born to or adopted by Decedent have been listed. Each marriage of Decedent has been listed.

10. To the best of my knowledge, Decedent died intestate.

11. This Application does not omit any information required by the Texas Probate Code, Section 49.

12. There are no debts owed by Decedent that are not secured by liens upon real estate and there is a necessity for an administration of this Estate.

13. This Application contains all of the material facts and circumstances within the knowledge and information of the Applicants that might reasonably tend to show the time or place of death or the names or residences of all heirs, if the time or place of death or the names or residences of all the heirs are not definitely known to the Applicants.

Applicants pray that citation issue as required by law; that an attorney ad litem be appointed

7-7

to represent the interests of unknown heirs; that upon hearing hereof, this Court determine who are the heirs and only heirs of Decedent and their respective shares and interests in this Estate; and that a necessity exists for an administration of Decedent's Estate.

Respectfully submitted,

Paul N. Fontenot, Applicant

Jerrylene T. Fontenot, Applicant

GEOFFREY C. SANSOM, P.C.

By: Geoffrey C. Sansom
Attorney for Paul N. Fontenot and Jerrylene T. Fontenot
State Bar No.: 24033159
3100 Timmons Ln., Suite 310
Houston, Texas 77027
Telephone: (713) 238-7767
Facsimile: (713) 993-0452

STATE OF TEXAS §

COUNTY OF HARRIS §

I, Paul N. Fontenot, Applicant, having been duly sworn, hereby state on oath that insofar as is known to me, all of the allegations of the foregoing Application to Determine Heirship are true in substance and in fact and that no material fact or circumstance has, within my knowledge, been omitted from the Application.

Paul N. Fontenot, Applicant

853 7-72

SWORN TO AND SUBSCRIBED BEFORE ME BY Paul N. Fontenot, on the day of June 19, 2012, to certify which witness my hand and seal of office.

GEOFFREY C. SANSOM
Notary Public, State of Texas
My Commission Expires
August 15, 2013

Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF HARRIS §

I, Jerrylene T. Fontenot, Applicant, having been duly sworn, hereby state on oath that insofar as is known to me, all of the allegations of the foregoing Application to Determine Heirship are true in substance and in fact and that no material fact or circumstance has, within my knowledge, been omitted from the Application.

Jerrylene T. Fontenot, Applicant

SWORN TO AND SUBSCRIBED BEFORE ME BY Jerrylene T. Fontenot, on the day of June 19, 2012, to certify which witness my hand and seal of office.

GEOFFREY C. SANSOM
Notary Public, State of Texas
My Commission Expires
August 15, 2013

Notary Public, State of Texas

7-73

No. 414,066

IN THE ESTATE OF	§	IN THE PROBATE COURT
	§	
CRAIG MICHAEL FONTENOT,	§	NUMBER THREE (3) OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

JUDGMENT DECLARING HEIRSHIP

On this day came on to be heard the sworn Application to Determine Heirship of the Estate of Craig Michael Fontenot, Deceased, wherein Paul N. Fontenot and Jerrylene T. Fontenot are the Applicants and are heirs to Decedent's Estate, and Decedent's living heirs whose names and/or whereabouts are unknown are Defendants; and it appears to the Court, and the Court so finds that all parties interested in the Estate of Decedent have filed written waivers of service of citation, have appeared and answered herein, or have been duly and legally served with citation as required by law; that the Court appointed an Attorney Ad Litem to appear and answer and to represent Defendants and such Attorney Ad Litem did so appear and filed an answer for Defendants; that this Court has jurisdiction of the subject matter and all persons and parties; that the evidence presented and admitted fully and satisfactorily proves each and every issue presented to the Court; that Decedent died intestate; and that the heirship of Decedent has been fully and satisfactorily proved and the interest and shares of each of the heirs therein.

The Court finds and it is **ORDERED** and **DECREED** by this Court that the names and places of residence of the heirs of Decedent and their respective shares and interests in the real and personal property of Decedent are as follows:

a. Name: Paul N. Fontenot
Address: P.O. Box 499, Ville Plate, Louisiana 70586
Relationship: Father
Share of Real Property: 1/2
Share of Personal Property: 1/2

b. Name: Jerrylene T. Fontenot
Address: P.O. Box 499, Ville Plate, Louisiana 70586
Relationship: Mother

7-74

Share of Real Property: 1/2
Share of Personal Property: 1/2

SIGNED on the 24 day of Sept, 2012.

Georgia A Rees
JUDGE PRESIDING

APPROVED AS TO FORM:

GEOFFREY C. SANSOM, P.C.

By: Geoffrey C. Sansom
Attorney for Applicants
State Bar No.: 24033159
3100 Timmons Ln., Suite 310
Houston, Texas 77027
Telephone: (713) 238-7767
Facsimile: (713) 993-0452

Alex Lieber-Alessie
Attorney Ad Litem
State Bar No.: 12331500
2203 Hardy St.
Houston, Texas 77026
Telephone: (713) 224-4300
Facsimile: (713) 224-4301

2486 7-75

Steven James Hitt has come to see you regarding the death of this sister Sherri Diane Stamper. Sherri was not married at the time of death and had no children. Their parents are dead and Steven is her only brother.

She owed no debts. The only assets are car, personal property, a bank account, and retirement account where no beneficiary had been named.

Steven and his sister were close and she had planned to get a will done but never got around to going to a lawyer.

You have prepared a determination of heirship and Steven has brought long time friends of the family, Mark and Betty Green as disinterested witnesses.

Prove up the heirship with one of the disinterested witnesses.

@857 7-76

NO. 429038 PROBATE COURT 3

FILED
2/28/2014 1:07:48 PM
Stan Stanart
County Clerk
Harris County

ESTATE OF Data Entry Pick Up This Date	§	IN THE PROBATE COURT
SHERRI DIANE STAMPER,	§	NUMBER 3 OF
DECEASED	§	HARRIS COUNTY, TEXAS

PUBL-DCR

2-28-2014

APPLICATION TO DECLARE HEIRSHIP

STEPHEN JAMES HITT ("Applicant"), who resides at 3405 Nottingham Street, Pearland, Brazoria County, Texas 77581-5206, furnishes the following information to the Court:

1. SHERRI DIANE STAMPER, aka SHERRI DIANE GIESE and SHERRI DIANE GUNTER, ("Decedent") died at 1:30 a.m. January 26, 2014 at Houston, Harris County, Texas.

2. No administration is pending upon Decedent's estate, and none appears necessary. It is necessary and in the best interest of the estate for the Court to determine who are the heirs and only heirs of Decedent.

3. Applicant claims to be the owner of a part of Decedent's estate. The names and residences of all of Decedent's heirs, the relationship of each heir to Decedent, and the true interest of the Applicant and of each of the heirs in the estate of Decedent are as follows:

Names and Residences	Relationship	True Interest
STEPHEN JAMES HITT 3405 Nottingham Street Pearland, TX 77581-5206,	Brother	100%

4. At the time of Decedent's death, Decedent owned the following property:

   a. 1999 Ford Taurus Automobile

   b. JP Morgan Chase Bank, NA checking account
   Account # 91299111965

   c. Clothing & Personal Effects

   d. Retirement Account - Through Houston Municipal Employees Retirement System (HMERS)

C-PUBLICATION [illegible] - 5
C-PUBLICATION [illegible] - 3

7-77

5. Decedent's marital history is as follows:

   a. Married to Maurice Giese in approximately 1977, divorced on August 5, 1981, in the 308 District Court of Pierce County Texas, under Cause Number 80-56035.
   Such spouse has no interest in Decedent's estate.

   b. Married to John Stamper in approximately 1987, divorced on divorced on June 7, 1989 in the 257 District Court of Harris County Texas, under Cause Number 89-11352.
   Such spouse has no interest in Decedent's estate.

   c. Married to Michael Gunter in approximately 1995, divorced on October 27, 1993 and 309 District Court of Pierce County Texas, under Cause Number 93-55518.
   Such spouse has no interest in Decedent's estate.

6. No children were born to or adopted by Decedent during her lifetime.

7. All children born or adopted by Decedent have been listed. Each marriage of Decedent has been listed.

8. To the best of my knowledge, Decedent died intestate.

9. This application does not omit any information required by Texas Probate Code, Section 49.

10. There are no debts owed by Decedent that are not secured by liens on real estate, and there is no necessity for administration of this estate.

Applicant prays that citation issue as required by law; that upon hearing hereof, this Court determine who are the heirs and only heirs of Decedent and their respective shares and interests in this estate and that no necessity exists for an administration of Decedent's estate.

Respectfully submitted,

Charles Storer
Attorney for Applicant
State Bar No.: 19313100
6650 Fairfield Street
Houston, TX 77023-4002
Office: (713) 921-6070
Fax: 888-613-9501
email: charlesstorer@gmail.com

89 7-78

STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared STEPHEN JAMES HITT and, after being duly sworn, stated that:

Insofar as is known to me, all the allegations of the foregoing application are true in substance and in fact and that no material fact or circumstance has, within my knowledge, been omitted from the application.

STEPHEN JAMES HITT

SUBSCRIBED AND SWORN TO BEFORE ME by STEPHEN JAMES HITT on February 27, 2014.

KIRBY D BLEDSOE III
Notary Public, State of Texas
My Commission Expires
September 30, 2016

Notary Public, State of Texas

Notary's Name Printed:
Kirby Bledsoe

20130213 1044 P0127

0990 7499

DATA ENTRY
PICK UP THIS DAY: PROBATE COUR

NO. 429038

ESTATE OF	§	IN THE PROBATE COURT
	§	
SHERRI DIANE STAMPER,	§	NUMBER 3 OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

Judgment Declaring Heirship

On this day the Court heard the sworn Application to Declare Heirship of the Estate of **SHERRI DIANE STAMPER**, Deceased, ("Decedent"), wherein **STEPHEN JAMES HITT** is the applicant and Decedent's living heirs whose names are known are respondents and Decedent's heirs whose names or locations are unknown are defendants. It appears to the Court, and the Court so finds, that all parties interested in the estate of Decedent have been made parties to the application, have filed written waivers of service of citation, have appeared and answered herein, or have been duly and legally served with citation as required by law; that the Court appointed Fred M. Bosse as attorney ad litem to appear and answer and to represent the defendants, and such attorney ad litem did so appear and filed an answer for the defendants; that this Court has jurisdiction of the subject matter and all persons and parties; that the evidence presented and admitted fully and satisfactorily proves each and every issue presented to the Court; that Decedent died intestate and that the heirship of Decedent has been fully and satisfactorily proved, as well as the identity of the nature of Decedent's property as being separate or community and the interest and shares of each of the heirs therein; and that no administration is necessary.

The Court finds that the names and places of residence of the heirs of Decedent and their respective shares and interests in the real and personal property of Decedent are as follows:

Name and Place of Residence of Heir

STEPHEN JAMES HITT, brother of Decedent
3405 Nottingham Street
Pearland, TX 77581-5206

Share and Description of Real Property

100% of any Real Property, the nature of which is to be determined.

Share and Description of Personal Property

100% of Decedent's Personal Property, all of which is determined to be separate property to consist of personal effects, automobile, bank accounts, retirement account through the City of Houston and other death benefits through Decedent's previous employments.

7-80

0628201412230002

IT IS ORDERED AND DECREED that the Fred M. Bosse, the attorney ad litem appointed to represent the interests of the Defendants, is discharged from this case and is allowed a fee set forth in a separate order.

The Court finds that there exists no necessity for administration of the estate of Decedent, none is ordered, and upon payment of all costs of Court no further proceedings shall be had in this cause.

IT IS FURTHER ORDERED that the Application for Determination of Heirship of the Estate of Decedent, together with the evidence received in this preceding, be recorded in the judge's probate docket.

IT IS FURTHER ORDERED AND DECREED that the appointment of the Attorney Ad Litem is hereby terminated.

SIGNED on June 4 2014

Judge Presiding

APPROVED AND ENTRY REQUESTED:

June 19, 2014

Judge Rory R. Olsen

Charles Storer
Attorney for Stephen James Hitt
State Bar No.: 19313100
6650 Fairfield Street
Houston, TX 77023-4002
Office: 713-921-6070
Fax: 888-613-9501
e-mail: charlesstorer@gmail.com

FRED M. BOSSE
Attorney ad Litem
State Bar No.: 02679540
13410 Holly Park
Houston, Texas 77015
Office: (713) 453-7283
Fax: 713-453-5013

FILED
2014 JUN 10 AM 9:27

92 7-81

Chapter 8:

Intestacy

ZITS

I'M WASTING MY YOUTH IN SCHOOL.
THIS IS THE TIME I SHOULD BE OUT ENJOYING LIFE, SO I'LL TAKE MY INHERITANCE EARLY.
YOU CAN ACTUALLY STILL HEAR THEM LAUGHING.
LET'S CHANGE THE SUBJECT.

425242

PROBATE COURT 3

05072014 15:08:P0193

09172013:0043:00112

FILED

2013 SEP 16 PM 3:33

STAN STANART
COUNTY CLERK
HARRIS COUNTY, TEXAS

Last Will & Testament

Will of Percy Chatu Mungu

I, Percy Chatu Mungu, a resident of Harris County, State of Texas, declare that this is my last will and testament.

1. Revocation. I revoke all wills that I have previously made.

2. Marital Status. I declare that I am single.

3. Specific Gifts. I make the following specific gifts:
I leave Mungu Karate School located at 2602 Cleburne St, Houston, Texas,77004, along with all rights and privileges to my most outstanding student, Betty Bynum, or if she does not survive me, to my student Greg Harbin.

4. Residuary Estate. I leave my residuary estate, that is, the rest of my property not otherwise specifically and validly disposed of by this will, including all bank accounts, vehicles and lapsed or failed gifts, equally to my mother, Emma Wildridge Lee and to the Mungu Karate School or if my mother does not survive me, to the Mungu Karate School.

5. Beneficiary Provisions. The following terms and conditions apply to the beneficiary clauses of this will.

A. 45-Day Survivorship Period. As used in this will, the phrase "survive me" means to be alive or in existence as an organization on the 45th day after my death. Any beneficiary, except any alternate residuary beneficiary, must survive me to take property under this will.

B. Shared Gifts. If I leave property to be shared by two or more beneficiaries, it shall be shared equally by them unless this will provides otherwise.

If any beneficiary of a shared specific gift left in a single paragraph of the Specific Gifts clause, above, does not survive me, the gift shall be given to the surviving beneficiaries in equal shares.

If any beneficiary of a shared residuary gift does not survive me, the residue shall be given to the surviving residuary beneficiaries in equal shares.

C. **Encumbrances.** All property that I leave by this will shall pass subject to any encumbrances or liens on the property.

6. Executor. I name my student, Betty Bynum as executor, to serve without bond. If she does not qualify, or ceases to serve, I name my student, Greg Harbin as executor, also to serve without bond.

I direct that my executor take all actions legally permissible to probate this will, including filing a petition in the appropriate court for the independent administration of my estate.

I grant to my executor the following powers, to be exercised as the executor deems to be in the best interests of my estate:

A. To retain property, without liability for loss or depreciation resulting from such retention.

B. To sell, lease, or exchange property and to receive or administer the proceeds as a part of my estate.

C. To vote stock; convert bonds, notes, stocks, or other securities belonging to my estate into other securities, and to exercise all other rights and privileges of a person owning similar property.

D. To deal with and settle claims in favor of or against my estate.

E. To continue, maintain, operate, or participate in any business which is a part of my estate, and to incorporate, dissolve, or otherwise change the form of organization of the business.

F. To pay all debts and taxes that may be assessed against my estate, as provided under state law.

G. To do all other acts which in the executor's judgment may be necessary or appropriate for the proper and advantageous management, investment, and distribution of my estate. These powers, authority, and discretion are in addition to the powers, authority, and discretion vested in an executor by operation of law, and may be exercised as often as deemed necessary, without approval by any court in any jurisdiction.

05/17/2013 09:43:60114

Signature

I subscribe my name to this will this 20th day of August, 2011, at Harris County, State of Texas. I declare that it is my last will and testament, that I sign it willingly, that I execute it as my free and voluntary act for the purposes expressed, and that I am of the age of majority or otherwise legally empowered to make a will and under no constraint or undue influence.

Signature Percy C. Mungu

Witnesses

On this 20th day of August, 2011, the testator, Percy Chatu Mungu, declared to us, the undersigned, that this instrument was his will and requested us to act as witnesses to it. The testator signed this will in our presence, all of us being present at the same time. We now, at the testator's request, in the testator's presence and in the presence of each other, subscribe our names as witnesses and each declare that we are of sound mind and of proper age to witness a will. We further declare that we understand this to be the testator's will and that to the best of our knowledge the testator is of the age of majority, or is otherwise legally empowered to make a will, and appears to be of sound mind under no constraint or undue influence.

We declare under penalty of perjury that the foregoing is true and correct, this 20th day of August, 2011, Harris County, State of Texas.

Witness 1

Betty Bynum

Signature

Betty Bynum

Typed or printed name

Residing at

1602 Ashmore, Missouri City, TX 77489

City, State, zip

Witness 2

Deandreae Mosley

Signature

Deandreae Mosley

Typed or printed name

Residing at

5707 Farwell,Houston,TX 77035

City, State, zip

05072014 1506 P0202

09172013.0943.G0115

State of Texas
County of Harris

On the 20th of August, 2011, before me, Tracey E. Moore, Notary Public State of Texas, appeared Percy Chatu Mungu, proved to me on the basis of state of Texas driver license, 04610011, to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

TRACEY E. MOORE
08-20-2015

Tracey E. Moore
Signature of Notary

(SEAL)

CHAPTER 8

If a person dies without a will, the State of Texas will determine who gets what.

It is the attorney's job to determine who the heirs are and what property goes to which heir.

You have to know your fractions!

TEXAS DESCENT AND DISTRIBUTION

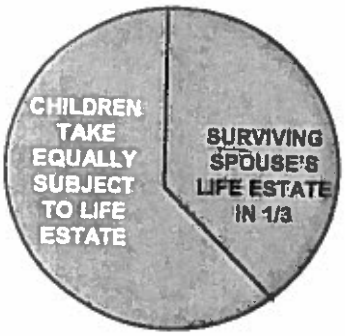
(THE LEGAL EFFECT OF NOT HAVING A WILL)

MARRIED PERSON

WITH CHILD[REN]

A. SEPARATE PROPERTY

REAL ESTATE



ALL REALTY IS OWNED BY DECEDENT'S CHILD[REN] WHEN SURVIVING SPOUSE DIES.

ALL OTHER PROPERTY

B. COMMUNITY PROPERTY

REAL ESTATE

ONLY APPLIES IF

ALL SURVIVING CHILD[REN] AND DESCENDANTS OF DECEDENT ARE ALSO CHILD[REN] OR DESCENDANTS OF SURVIVING SPOUSE.

ALL OTHER PROPERTY

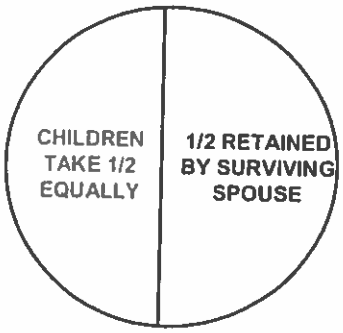
B. COMMUNITY PROPERTY

REAL ESTATE

ONLY APPLIES IF

THERE ARE CHILDREN FROM OUTSIDE OF THE EXISTING MARRIAGE ON THE DATE OF DEATH OF THE DECEASED. CHILD[REN] OF DECEASED CHILD[REN] TAKE THEIR PARENT'S SHARE SUBJECT TO ADVANCEMENTS.

ALL OTHER PROPERTY



SINGLE OR WIDOWED PERSON

WITH NO CHILD[REN]

FATHER AND MOTHER SURVIVING ONLY

ENTIRE ESTATE GOES TO PARENT IF NO SIBLINGS OR THEIR DESCENDANTS SURVIVE DECEDENT.

PARENT AND SIBLINGS SURVIVE

WIDOW[ER] WITH CHILD[REN]

REAL ESTATE

ANY CHILD[REN] TAKE THEIR SHARE SUBJECT TO ADVANCEMENTS.

ALL OTHER PROPERTY

A. SEPARATE PROPERTY

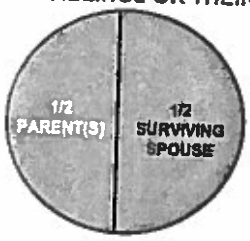
MARRIED PERSON WITH NO CHILD[REN]

REAL ESTATE

1. PARENTS SURVIVE

2. ONE PARENT SURVIVES

3. NO SIBLINGS OR THEIR DESCENDANTS



4. NO SURVIVING PARENT

5. NO SIBLINGS [DESCENDANTS] OR PARENTS

ALL OTHER PROPERTY

B. COMMUNITY PROPERTY: ALL REAL AND PERSONAL PROPERTY IS TAKEN BY SURVIVING SPOUSE

Caveat. See, Texas Probate Code §42, Inheritance Rights of Illegitimate Children; and, §47(a), Heirs Required Survival by 120 Hours.

marietas

PROBATE COURT 3

NO. 439,855

IN RE: ESTATE OF	§	IN THE PROBATE COURT
ROEL GARCIA,	§	NUMBER 3 OF
DECEASED	§	HARRIS COUNTY, TEXAS

JUDGMENT DECLARING HEIRSHIP

On this day, the Court heard and considered the Application by GUS TAMBORELLO, SUCCESSOR ADMINISTRATOR OF THE ESTATE OF ROEL GARCIA, DECEASED ("Applicant") to have the Court determine and declare the identity of the heirs of the Estate of ROEL GARCIA, Deceased ("Decedent"), and their respective shares and interests under the laws of the State of Texas in the Estate of Decedent, and the Court finds:

1. All parties interested in the Estate of Decedent have been duly and legally served with citation as required by law, or citation has been waived, or such parties have made an appearance herein;

2. Joy Kamani was appointed as attorney ad litem to appear for Decedent's living heirs whose names and/or whereabouts are unknown, answered on their behalf, and appeared at the hearing;

3. This Court has jurisdiction and venue because Decedent was domiciled and had a fixed place of residence in Harris County on the date of his death;

4. Decedent died on April 8, 2013 at the age of 64;

5. Decedent left no valid will;

6. Decedent was not married at the time of his death;

7. Decedent had no children, or other descendants, born to or adopted by him;

8-3

UNOFFICIAL COPY

8. Decedent's father, Jose Martinez Garcia, passed away on November 7, 1977;

9. Decedent's mother, Beatriz Beunteo, passed away in April 25, 1961;

10. Decedent's only sibling, Alma Garcia, passed away on October 13, 1977, without issue;

11. Both sets of Decedent's grandparents are deceased; and

12. Decedent's estate passes by way of two moieties, as is set out in Section 201.001 (f) & (g) of the Texas Estates Code, to various cousins of full and half blood. It is therefore

ORDERED, ADJUDGED, and DECREED that the names and places of residence of the heirs of Decedent, and their respective shares and interests in the estate of Decedent are as follows:

PATERNAL MOIETY:
DECEDENT'S GRANDPARENTS:
ANISETO GARCIA AND ADELINE MARTINEZ

Adela Ramirez Garcia Andy
1839 W. 85th St.
Los Angeles, CA 90047
Relation: First Cousin--Child of Decedent's Uncle Manuel Martinez Garcia
Share of Estate: 1/4 of paternal moiety or 1/8 (130/1040) of entire estate

Pedro Garcia
2005 Clearwater Grove Lane
Houston, Texas 77089
Relation: First Cousin--Child of Decedent's Uncle Pedro Garcia
Share of Estate: 1/4 of paternal moiety or 1/8 (130/1040) of entire estate

Lois Garcia Soto
7131 Holly Bay Court
Pasadena, Texas 77505
Relation: First Cousin--Child of Decedent's Uncle Pedro Garcia
Share of Estate: 1/4 of paternal moiety or 1/8 (130/1040) of entire estate

Maria Garcia Salazar
(Survived Decedent by more than 120 hours but died thereafter)
Relation: First Cousin--Child of Decedent's Uncle Pedro Garcia
Share of Estate: 1/4 of paternal moiety or 1/8 (130/1040) of entire estate

8-4

MATERNAL MOIETY
DECEDENT'S GRANDPARENTS:
BLAS BUENTELO AKA BUENTEO AND VICTORIA RIVERA

Ruben Buenteo
1740 Martinez Road
Yoakum, Texas 77995
Relation: First Cousin--Child of Decedent's Uncle Evaristo Buenteo
Share of Estate: 1/13 of maternal moiety or 1/26 (40/1040) of entire estate

Raymond Buenteo
8942 Klondike St.
Houston, Texas 77075
Relation: First Cousin--Child of Decedent's Uncle Evaristo Buenteo
Share of Estate: 1/13 of maternal moiety or 1/26 (40/1040) of entire estate

Carlos Buenteo
1212 Terry Street
George West, Texas 78022
Relation: First Cousin--Child of Decedent's Uncle Evaristo Buenteo
Share of Estate: 1/13 of maternal moiety or 1/26 (40/1040) of entire estate

Minernva ("Minnie") Buenteno Vera
(Survived Decedent by more than 120 hours but died thereafter)
Relation: First Cousin--Child of Decedent's Uncle Flavio Buenteo
Share of Estate: 1/13 of maternal moiety or 1/26 (40/1040) of entire estate

Elenora Buenteo Tijerina
2167 Old Gonzales Road
Cuero, Texas 77954
Relation: First Cousin--Child of Decedent's Uncle Flavio Buenteo
Share of Estate: 1/13 of maternal moiety or 1/26 (40/1040) of entire estate

Maria Gloria Buenteo Sims
P.O. Box 1599
Shiner, Texas 77984
Relation: First Cousin--Child of Decedent's Uncle Flavio Buenteo
Share of Estate: 1/13 of maternal moiety or 1/26 (40/1040) of entire estate

9-5

Oscar Buenteo
815 Iowa Street
South Houston, Texas 77587
Relation: First Cousin–Child of Decedent's Uncle Candelario Buenteo
Share of Estate: 1/13 of maternal moiety or 1/26 (40/1040) of entire estate

Evangeline ("Eve") Maria Buenteo Barber
30 Wood Cove Drive
Spring, Texas 77381
Relation: First Cousin–Child of Decedent's Uncle Candelario Buenteo
Share of Estate: 1/13 of maternal moiety or 1/26 (40/1040) of entire estate

Juan Carlos Buenteo
P.O. Box 1511
South Houston, Texas 77587
Relation: First Cousin–Child of Decedent's Uncle Candelario Buenteo
Share of Estate: 1/13 of maternal moiety or 1/26 (40/1040) of entire estate

James R. Buenteo
2905 Renshaw St.
Houston, Texas 77023
Relation: First Cousin–Child of Decedent's Uncle Candelario Buenteo
Share of Estate: 1/13 of maternal moiety or 1/26 (40/1040) of entire estate

Loraine Buenteo Gonzalez
286 Alamo Beach Road
Pipe Creek, Texas 78063
Relation: First Cousin Once Removed–Child of Decedent's First Cousin, Arturo Armando Buenteo, who was the son of Decedent's Uncle Candelario Buenteo
Share of Estate: 1/65 of maternal moiety or 1/130 (8/1040) of entire estate

Sherri Buenteo McNamara
1108 Houston St.
Georgewest, Texas 78022
Relation: First Cousin Once Removed–Child of Decedent's First Cousin, Arturo Armando Buenteo, who was the son of Decedent's Uncle Candelario Buenteo
Share of Estate: 1/65 of maternal moiety or 1/130 (8/1040) of entire estate

Jill Buenteo Kramer
19 Rosemont Drive
San Antonio, Texas 78201
Relation: First Cousin Once Removed–Child of Decedent's First Cousin, Arturo Armando Buenteo, who was the son of Decedent's Uncle Candelario Buenteo
Share of Estate: 1/65 of maternal moiety or 1/130 (8/1040) of entire estate

8-6

Lynda Buenteo Molstad
29798 Huan Rd., Suite 303
Sun City, CA 92586
Relation: First Cousin Once Removed–Child of Decedent's First Cousin, Arturo Armando Buenteo, who was the son of Decedent's Uncle Candelario Buenteo
Share of Estate: 1/65 of maternal moiety or 1/130 (8/1040) of entire estate

Michelle Buenteo
6202 Ridge Lake
San Antonio, Texas 78250
Relation: First Cousin Once Removed–Child of Decedent's First Cousin, Arturo Armando Buenteo, who was the son of Decedent's Uncle Candelario Buenteo
Share of Estate: 1/65 of maternal moiety or 1/130 (8/1040) of entire estate

Hilario M. Rivera
1760 Wilson Ave.
Upland, CA 91786
Relation: ½ First Cousin-Child of Decedent's ½ Uncle Pedro Rivera (born to Victoria Rivera prior to her marriage to Blas Buenteo
Share of Estate: 1/26 of maternal moeity or 1/52 (20/1040) of entire estate

Enedina Rivera Robles
163 Cherry Ridge Dr.
San Antonio, Texas 78213
Relation: ½ First Cousin-Child of Decedent's ½ Uncle Pedro Rivera (born to Victoria Rivera prior to her marriage to Blas Buenteo
Share of Estate: 1/26 of maternal moeity or 1/52 (20/1040) of entire estate

Frances Rivera Smith
300 Coronado Dr., No. 219
Denton, Texas 76209
Relation: ½ First Cousin-Child of Decedent's ½ Uncle Pedro Rivera (born to Victoria Rivera prior to her marriage to Blas Buenteo
Share of Estate: 1/26 of maternal moeity or 1/52 (20/1040) of entire estate

Vickie Garcia Hale
105 Fairside Dr., #2C
Lyndon, WA 98264
Relation: ½ First Cousin Once Removed- Child of Decedent's ½ First Cousin, Natalia Rivera, who was the child of Decedent's ½ Uncle Pedro Rivera
Share of Estate: 1/104 of maternal moiety or 1/208 (5/1040) of entire estate

UNOFFICIAL COPY

8-7

Diana L. Garcia Flores
438 Senova Dr.
San Antonio, Texas 78216
Relation: ½ First Cousin Once Removed- Child of Decedent's ½ First Cousin, Natalia Rivera, who was the child of Decedent's ½ Uncle Pedro Rivera
Share of Estate: 1/104 of maternal moiety or 1/208 (5/1040) of entire estate

James E. Garcia
1205 Cozby St. West
Benbrook, Texas 76126
Relation: ½ First Cousin Once Removed- Child of Decedent's ½ First Cousin, Natalia Rivera, who was the child of Decedent's ½ Uncle Pedro Rivera
Share of Estate: 1/104 of maternal moiety or 1/208 (5/1040) of entire estate

Jesse C. Garcia
9518 Diamond Cliff Dr.
Helotes, Texas 78023
Relation: ½ First Cousin Once Removed- Child of Decedent's ½ First Cousin, Natalia Rivera, who was the child of Decedent's ½ Uncle Pedro Rivera
Share of Estate: 1/104 of maternal moiety or 1/208 (5/1040) of entire estate

It is further

ORDERED that Joy Kamani is hereby discharged as attorney ad litem, and her fee will be addressed by separate order.

SIGNED this the 5 day of August, 2019.

JUDGE PRESIDING

FILED
2019 AUG -5 AM 11:21
COUNTY CLERK
HARRIS COUNTY, TEXAS

APPROVED AS TO FORM BY:

Gus G. Tamborello
~~SBN 19632000~~
GUS G. TAMBORELLO, P.C.
2900 Weslayan, Suite 150
Houston, Texas 77027
(713) 695-7777
(713) 659-7780 (fax)
Gus@TamborelloLaw.com

SUCCESSOR ADMINISTRATOR OF THE
ESTATE OF ROEL GARCIA, DECEASED

Joy Kamani
SBN24082493
1326 Tiny Tree Dr.
Missouri City, Texas 77489
(832) 699-6967
AttorneyKamani@gmail.com

ATTORNEY AD LITEM

8-8

UNOFFICIAL COPY

NO. 388321

ESTATE OF		
MARSHA A. CARLISLE	§	**IN THE PROBATE COURT**
	§	
	§	**NUMBER THREE OF**
DECEASED	§	
	§	**HARRIS COUNTY, TEXAS**

JUDGMENT DECLARING HEIRSHIP

On this day came on to be heard the sworn Application to Declare Heirship of the Estate of **MARSHA A. CARLISLE**, Deceased ("**Decedent**"), wherein **MEG G. RICE** is the applicant and Decedent's living heirs whose names are known are respondents and Decedent's unknown heirs, living heirs whose names and/or whereabouts are unknown, and heirs suffering legal disability are defendants. It appears to the Court, and the Court so finds, that all parties interested in the estate of Decedent have been made parties to the application, have filed written waivers of service of citation, have appeared and answered herein, or have been duly and legally served with citation as required by law; that the Court appointed **W. BRYANT RUSSELL** as attorney ad litem to appear and answer and to represent the defendants, and such attorney ad litem did so appear and filed an answer for the defendants; that this Court has jurisdiction of the subject matter and all persons and parties; that the evidence presented and admitted fully and satisfactorily proves each and every issue presented to the Court; that Decedent died intestate and that the heirship of Decedent has been fully and satisfactorily proved, as well as the identity of the nature of Decedent's property as being separate or community and the interest and shares of each of the heirs therein.

The Court finds, and it is **ORDERED** and **DECREED** by the Court, that the names and places of residence of the heirs of Decedent and their respective shares and interests in the real and personal property of Decedent are as follows:

Name and Place of Residence	Share and Description of Real Property	Share and Description of Personal Property
Shirley P. Gordon c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		3.1250%
Gay Lynn Gordon c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		3.1250%
Mildred Dattner Ganchan 4718 Hallmark Dr, Apt 906 Houston, TX 77056-3913		12.5000%
Marguerite Ann Gordon Whiting c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		3.1250%
Bonnie Jean Gordon Godinich c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		1.5625%
Carl Benedict Gordon c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		1.5625%
Deborah S. Burnette c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		2.5000%

8-10

Name and Place of Residence	Share and Description of Real Property	Share and Description of Personal Property
Susan E. Smith c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		2.5000%
Robert L. Carlisle c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		2.5000%
David M. Carlisle c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		2.5000%
Marcia Mills c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		2.5000%
Nancy Loggins Connell c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		2.5000%
Judith Loggins Ables c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		2.5000%
Jack Warren Spivey c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		2.5000%

8-1-11

Name and Place of Residence	Share and Description of Real Property	Share and Description of Personal Property
Linda Joan Boswell c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		2.5000%
Gayle Loggins Bowlin c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		0.8333%
Laura Loggins Bloomfield c/o David Dexel Attorney at Law P. O. Box 66790 Houston, Texas 77266		0.8333%
Michael Glenn Loggins ~~c/o David Dexel~~ ~~Attorney at Law~~ Unknown ~~P. O. Box 66790~~ Resident of Texas ~~Houston, Texas 77266~~		0.8333%
Estate of Alonzo McClellan (Buddy) Vought, Jr. 2518 Cherry Creek Circle Bryant, Arkansas 72022 Deceased (6/23/2009)		33.3333%
Estate of Alene Yahnke White Crestpark Room 123 116 November Dr. Helena, Arkansas 72342 Deceased: (2/22/2010)		16.6666%

8-612

It is **ORDERED** and **DECREED** that **W. BRYANT RUSSELL** of the firm of Wyckoff & Russell, the attorney ad litem appointed to represent the interests of the defendants, is allowed a fee of $ 8,216.00 to be paid out of the assets of Decedent. by separate fee order

The Court finds that upon payment of the ad litem and all costs of Court no further proceedings shall be had in this cause.

SIGNED on June 11, 2012.

Georgia Rees
JUDGE PRESIDING

APPROVED:

HAYS, McCONN, RICE & PICKERING, P.C.

By: Mark A. Padon
MARK A. PADON
State Bar No. 15406300
1233 West Loop South, Suite 1000
Houston, Texas 77027
(713) 654-1111

ATTORNEYS FOR APPLICANT,
MEG G. RICE

8-813

Alfred and Bobbi were avid baseball fans. They met at Astros 2012 spring training and were married the next year. In 2014, they had a son named Roger. Before the wedding, Alfred used a large royalty check to purchase a house in Seabrook. Alfred had producing mineral interests, in Dewitt County Texas in the Eagle Ford shale, through inheritance from her grandparents.

Alfred and Bobbi had a fine marriage. The loved to travel and had started a baseball memorabilia collection.

Alfred was driving to his job, at a petrochemical plant in Baytown, he stopped at a convenience store and bought a Powerball ticket, Dr. Pepper and a Moonpie. Leaving that convenience store and travelling along highway 146, Alfred was killed in a car accident. He fell asleep at the wheel and hit a telephone pole.

Alfred died without a will. After the funeral was filed, Bobbi's phone rang. The voice at the other end inquired about Alfred. The conversation ended with the revelation that Alfred has a son. After investigation was had, it was revealed that Alfred had travelled to Las Vegas for a convention in 2009, had a one-night stand, which resulted in a pregnancy. There was concrete evidence that Alfred is the father.

At date of death A's estate consisted of:

The home in Seabrook valued at $450,000
Life insurance through Alfred's work valued at $250,000 of which Bobbi was a beneficiary
Alfred was the only winner on the lotto -the jackpot was worth after taxes $25 million
His remaining salary check was $2,400
Mineral interest is valued at $300,000
Baseball memorabilia collection valued at $200,000

8-Jan 14

Sue Smith died without a will. She is survived by her husband of 25 years, Tony and her three children Susie, Tommy and Gretchen. Susie and Tommy are Tony's children also. Gretchen is Sue's child by Christopher, her first husband . All children are adults. Her estate consists of:

246 Hunter's Way, the home she and Tony purchased in 2000 and lived in. FMV 400K

$200,000 in an IRA savings account which Tony is the beneficiary of

$100,000 in another savings account that Sue had in her name only but was accumulated from her salary for the past 12 years

$200,000 in stocks and bonds that she inherited from her father

10 acres in Harris County that she inherited from her mother

Grandfather clock that she owned before her marriage to Tony

Sterling Silver that she purchased in 2009

There are five creditors which are credit cards that total $10,0000.

Who gets what? How would you advise Tony to administer this estate? He wants to be the representative.

8-[redacted]15

Intestacy Problems

Bill and sue married in 1991 and lived in Texas throughout their marriage. No children were born to or adopted during their marriage. Bill however acknowledged his son Ted who was born out of wedlock before marrying Sue. Sue's only living relative is her nephew Frank.

While on vacation, Bill and Sue died simultaneously in an automobile accident. Neither Bill or Sue had a will.

They had the following property:

A South Texas ranch that was acquired during the marriage

A $300 K joint savings account

A $15k diamond ring that Sue inherited from her Aunt

15 acres that Bill inherited from his father.

Who gets what?

Ted has a son. He owes a lot of money to creditors and realizes whatever he might get will go to them.

He has a son named Mark. What advice would you give him?

8-9 Hb

Joe Earl died last month. His wife Sarah who he married in 1964 died in 1998. Sarah and Joe Earl had two children from their marriage, Blanche and Curtis and an adopted child Rex. Rex died two years ago leaving three children Xavier, Yanni and Zoe.

At the time of this death, Joe Earl owned the following assets:

100K retirement account that names Blanche as beneficiary

500K life insurance that names Blanche and Curtis as beneficiaries

$25k CD held with Blanche as joint tenant with rights of survivorship

A fleet of antique automobiles worth $250K jointly held in the names of Robbie and Joe Earl and registered with right of survivorship with the State of Texas

75K in money market accounts

25 acres of land in Harris County

Furnishings and a truck

Who gets what?

8-[redacted]17

Mary Smith died without a will. She was never married and had no children. She is survived by her mother. Her father is deceased. She has three sisters: Amy, Diana and Sue. One sister Helen predeceased her but left a son and daughter, Bob and Brandy.

She has the following assets:

$50k in CDs

A house in harris county worth $250

Furnishings worth $30K

A life insurance policy worth $150K with no beneficiary designation

Who gets what?

8-18

Helen has come to your office. Her son Mike died of a heart attack. He was not married and had not children. His father John died in 2005. He had a brother Sam, a sister Amy and one sister, Mary, who predeceased him. Mary had two children Susie and Steve.

His estate consists of:

$250,000 in cash and CD's

A home worth $300,000

Furnishings worth $15,000

A car worth $30,000

There are no debts. Who gets what?

Heirships

1. Check Citation
   1.1. Is the name of the decedent the same as the name for the decedent listed in the application
      1.1.1. Closeness counts, but if it is a common name it doesn't
   1.2. Is return date on the citation before the hearing date
   1.3. Is the name for the applicant the same as the applicant name on the application
2. Check application §47
   2.1. Is the applicant an interested person
      2.1.1. Applicant must be heir, creditor or devisee
   2.2. Is the application verified by the applicant
   2.3. Was the decedent domiciled in Harris County on the date of his death
      2.3.1. If no, then check to see if other venue requirements are met per section §6 of the Probate Code
   2.4. Make sure application lists the name, address, relationship and respective share of each heir
      2.4.1. Respective shares must match the requirements set for the in the probate code for separate(§38) and community property(§45)
         2.4.1.1. Refer to pie chart handout
      2.4.2. Note: community property interests changed in 1993, refer to 1992 law for decedent who died in 1992 or earlier
   2.5. Make sure each heir has received notice of the application or have signed a waiver
      2.5.1. Any heir under 12 years old or younger is not required to receive notice
3. Check Publication
   3.1. Look for the "Publisher's affidavit" (usually Daily Court Review)
      3.1.1. If you can't find the "Publisher's affidavit", then look for the citation return on the posting of the heirship application
4. Check for the answer of the attorney ad litem

§ 47(a)(3) Sec 49

Must designate whether heir is Adult or minor - effective Sept 1, 2015

8-19-20

FILED
4/2/2015 8:41:37 AM
Stan Stanart
County Clerk
Harris County

Cause No. 435,268 PROBATE COURT 3

IN THE ESTATE OF	§	IN THE PROBATE COURT
	§	
VERNON McCARDELL, SR.	§	NO. 3
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

MOTION FOR GENETIC TESTING

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Cassandra Walsh (the "Movant"), in the above-styled and numbered cause, and files this, her Motion for Genetic Testing, and in support thereof would show the Court as follows:

I.
INTRODUCTION

1. Movant, Cassandra Walsh, is a practicing attorney in the State of Texas, having been appointed by this Court on January 7, 2015, as attorney ad litem for the unknown and non-resident heirs and for heirs who are suffering legal disability of Vernon McCardell, Sr., Deceased (the "Decedent").

II.
BACKGROUND

2. On or about November 10, 2014, Sandra McCardell (the "Applicant") filed her initial Application to Appoint Dependent Administrator of the Decedent's estate (the "Initial Application"). Pursuant to said Initial Application, the heirs were listed as Sandra McCardell, Tolaundria Clark, Vernon McCardell, Jr., and Eric Denson.

3. Following the filing of her Initial Application, on or about December 30, 2014, Applicant filed her First Amended Application to Appoint Dependent Administrator of the Decedent's estate (the "First Amended Application"). Pursuant to said First Amended Application, the only change that was made was the Decedent's age at the time of his death. No changes were made to the listing of heirs.

4. Finally, on or about January 23, 2015, Applicant filed her Second Amended Application to Appoint Dependent Administrator and her Second Amended Application for Determination of Heirship (the "Second Amended Application"). Pursuant to said Second Amended Application, Tolaundria Clark (hereinafter referred to as "Ms. Clark") was removed from the listing of heirs. Specifically, according to the Second Amended Application, "after some investigation and consideration, it is unknown by Applicant whether Decedent was in fact Ms. Clark's biological father."

8-Case 21

5. After reviewing the Initial Application, First Amended Application, and, now effective, Second Amended Application, Movant interviewed Ms. Clark in order to make a determination as to whether Ms. Clark is the biological daughter of the Decedent and as to whether Ms. Clark should be included in the listing of heirs.

6. Following the interviews conducted with Ms. Clark, Movant is unable to determine whether Ms. Clark is the biological daughter of the Decedent and as to whether Ms. Clark should be included in the listing of heirs. The Decedent is not listed as the father on Ms. Clark's birth certificate, and without genetic testing, there will be no way to conclusively prove whether Ms. Clark is the biological daughter of the Decedent and as to whether Ms. Clark should be included in the listing of heirs.

III.
MOTION FOR GENETIC TESTING

7. At this time, no blood, body fluid, or tissue samples of Decedent are available for testing. However, family reconstruction testing may reliably be performed by a laboratory accredited pursuant to Texas Estates Code Chapter 204 and Texas Family Code Chapter 160, and Movant believes that said testing would provide clear and convincing evidence as to whether Decedent was the biological father of Ms. Clark.

8. In this case, the need for genetic testing outweighs the legitimate interests of the individuals sought to be tested. However, Ms. Clark as well as Decedent's brother, Carl McCardell, have consented to such testing.

9. Movant requests that the Court, as soon as practicable, order the Decedent's brother, Carl McCardell, as well as Ms. Clark to submit to genetic testing by AnyLabTestNow, a testing laboratory accredited pursuant to Texas Estates Code Chapter 204 and Texas Family Code Chapter 160, that the persons named above remain at AnyLabTestNow at their scheduled appointment until the genetic testing is complete and, that the persons named above permit AnyLabTestNow or its agents or employees, to take blood, body fluid, or tissue samples sufficient for genetic testing.

10. Movant requests that the payment for these services provided by AnyLabTestNow be taxed as costs. Movant will advance the costs of testing and will seek reimbursement from the assets of the estate at a later time.

IV.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Movant, Cassandra Walsh, requests that the Court make the orders requested herein in order to establish with reasonable certainty whether Decedent is the father of Ms. Clark and that all other Orders be entered as the Court may deem proper.

8-[illegible] 22

Respectfully submitted,
O'DONNELL, FEREBEE & FRAZER, P.C.

/s/ Cassandra Walsh
Cassandra Walsh
Attorney Ad Litem
State Bar No.: 24093321
450 Gears Road, Suite 800
Houston, Texas 77067
Telephone: (281) 875-8200
Facsimile: (281) 875-4962
E-mail: cwalsh@ofmflaw.com

CERTIFICATE OF SERVICE

I certify that on April 2, 2015, a true and correct copy of this Motion for Genetic Testing was served on the following attorneys of record in accordance with the Texas Rules of Civil Procedure:

Thuy Thai Gottlieb
Attorney for Applicant
MACINTYRE MCCULLOCH STANFIELD & YOUNG, LLP
2900 Weslayan, Suite 150
Houston, Texas 77027
Facsimile: (713) 572-2902

Ryan B. Gross
Attorney for Tolaundria Clark
The Manginello Law Firm
8582 Katy Freeway, Suite 120
Houston, Texas 77024
Facsimile: (713) 529-4998

/s/ Cassandra Walsh
Cassandra Walsh

8-[illegible]23

Cause No. 435,268

IN THE ESTATE OF	§	IN THE PROBATE COURT
	§	
VERNON McCARDELL, SR.	§	NO. 3
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

ORDER FOR GENETIC TESTING

On this day, the Court considered the Motion for Genetic Testing filed herein by Cassandra Walsh, Attorney Ad Litem for the unknown and non-resident heirs and for heirs who are suffering legal disability of Vernon McCardell, Sr., Deceased, and the Court, after having considered the Motion and the applicable law and having heard the evidence and arguments of counsel, is of the opinion and finds that:

1. It is medically practical to take blood, body fluid, or tissue samples for genetic testing to determine the issue of parentage herein;

2. The need for genetic testing outweighs the legitimate interests of the individuals sought to be tested, although Tolaundria Clark and Carl McCardell have consented to such testing;

3. Good cause has been shown for the granting of such motion;

4. The court considers the circumstances to be just; and

5. Genetic testing is advisable and required by Texas Estates Code Chapter 204 and Texas Family Code Chapter 160.

IT IS THEREFORE ORDERED the following named persons present themselves, each with appropriate photographic identification, within thirty (30) days of the date of this Order, at a time, date, and place scheduled by AnyLabTestNow, the testing laboratory, to submit to scientifically accepted genetic tests by the following qualified expert in an accredited testing laboratory:

Brother of the Decedent:	Carl McCardell
Unknown Heir:	Tolaundria Clark
Testing Laboratory:	AnyLabTestNow
Location:	Houston, Harris County, Texas
Telephone:	(800) 384-4567

8-Dec-24

IT IS FURTHER ORDERED that the named testing laboratory shall perform testing to ascertain the possibility or probability of the Decedent's parentage of Tolaundria Clark.

IT IS FURTHER ORDERED that all persons named above shall remain at the named testing laboratory at their scheduled appointment until the genetic testing is complete and shall permit the testing laboratory or its agents or employees to take blood, body fluid, or tissue samples sufficient for genetic testing.

IT IS FURTHER ORDERED that the costs and expenses of the testing shall be advanced by Movant, that the costs of testing will be taxed as costs with the amount to be assessed by the Court at the trial of this cause; and that amounts of attorneys' fees and expenses will be assessed by the Court at the trial of this cause.

Signed _____, 2015.

_____
JUDGE PRESIDING

Ex. 25

Chapter 9:

Compensation, Disclaimers, Foreign Wills, Interviewing the Client

468188

Joan Anita Maniag

Joan Anita Maniag

PROBATE COURT 3

May 4, 2010

In the name of God, Amen. I, Joan Anita Maniag, of 10139 Fuqua Street, Houston, Harris County of the State of Texas, being of sober and sound mind and memory, but very much aware of the uncertainties of life, do hereby publish and declare this instrument as and for my last Will and Testament

I hereby revoke and void all testamentary instruments here to fore made and executed by me.

I hereby nominate, constitute and appoint my loving daughter, Deborah Ann Cole, presently residing in League City, Galveston County of the State of Texas. In the event the said Deborah Ann Cole should predecease me, or should refuse of be unwilling to act as my Executor for any reason what so ever, I hereby nominate, constitute and appoint my loving Son Kelly Lawrence Powell, present residing Houston, Harris County of the State of Texas as my Substitute Executor.

I hereby request that my Executor of my Will, be properly and fairly reimbursed for all expenses encountered during the exestuation and that the Executor my serve without posting Bond. Further more, all transactions shall be made transparent to all parties concerned.

I direct my executor to carefully examine all of my personal papers, books, letters, computer files, documents and records and to burn, shared, or destroy all or any of them as she/he deem advisable at her/his sole discretion.

I hereby request that the Executor of my Will be compensated for these responsibilities by monies from my estate which are customary under the applicable laws of the State of Texas.

I hereby request and instruct my Executor to pay for my just debts and funeral expenses as soon after my death as maybe practical.

End of Text page 1 of 3

COUNTY CLERK HARRIS COUNTY, TEXAS

FILED

2010 JUL -2 PM 1:40

UNOFFICIAL COPY

Joan Anita Maniag

Joan Anita Maniag

May 4, 2010

I hereby request that the Executor of my Will be compensated for these responsibilities by monies from my estate which are customary under the applicable laws of the State of Texas.

I hereby request and instruct my Executor to pay for my just debts and funeral expenses as soon after my death as maybe practical.

To unburden my Executor and loved one's from the ordeal, plight and discomfort of selecting a coffin, I hereby direct my Executor to select a simple wooded casket available through the funeral home, or through their channels, and make according arrangements for a modest funeral utilizing the facilities of the South Park Cemetery at 1310 North Main Street, Pearland, Texas 77581 Within a year of my death, suitable marker will be purchased and placed for my grave site.

I hereby request all religious rites to be performed with traditional Roman Catholic practices. I request my funeral mass be conducted at Saint Francis Cabrini Catholic Church, Houston, Texas.

The property known as 515 Eastlake, Houston, Texas, 77034 will be divided equally between my surviving children.

All other interests in real-estate holding will bequeathed to my husband, Richard M Maniag.

Ameritrade account 886-825892 will be divided equally between my surviving children.

Ameritrade account 886-822292 will be divided equally between my surviving children.

All of my interest in Ameritrade Account 881-766866 will bequeath to my husband Richard M. Maniag

End of Text, Page 2 of 3.

Joan Anita Maniag

May 4, 2010

All of my perceived interest in Ameritrade Account 788-382418 will bequeath to my Husband Richard M Maniag.

Chase Checking 3836 (5.9K) Will be used to settle my estate with the remains divided equally between my surviving children.

Chase CD 180 Day 6636 (15.8K) Will be used to settle my estate with the remains divided equally between my surviving children.

Chase Plus Saving 9096 (11.7 K) Will be used to settle my estate with the remains divided equally between my surviving children.

Chase Plus Saving 6570 (78.0K) Will be used to settle my estate with the remains divided equally between my surviving children.

American Hospital and Life Insurance Company (5K) Will be used to settle my estate with the remains divided equally between my surviving children.

Watches and Jewelry are bequeathed to my daughter Deborah Ann Cole.

Household goods are bequeathed to my Husband Richard M Maniag who will disperse of them at his sole discretion.

Signed sealed and declared to be the Last Will and Testament of Joan Anita Maniag.

Joan Anita Maniag Date: May 4, 2010

Witness One. Date 5 4 2010

Witness Two Date 5/4/2010

End of Text Page 3 of 3

PROBATE COURT 3

LAST WILL AND TESTAMENT

423876

07262013 1015 60197

KNOW ALL MEN BY THESE PRESENTS that I, Frances Marie Marks, whose address is 18100 Nassau Bay Drive, Apt. 51, Houston, Texas 77058, being of sound and disposing mind and memory, do make, publish, and declare the following to be my Last Will and Testament, hereby revoking all Wills made by me at any time heretofore.

FIRST:

I direct my Executrix, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of this instrument, and all my just debts.

SECOND:

I hereby appoint Timothy Wayne Willhelm, as executrix of this, my Last Will and Testament. I direct that no executor serving hereunder shall be required to post bond.

Third:

He has instructions on how I want my wished carried out.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at this ____ day of 28, April , 2013.

Frances Marie Marks, Testatrix

FILED
2013 JUL 25 PM 00

PURPORTED WILL

9

07262013:1015:60198

Witness

Printed Name: Mathilda A Fleming

M. A. Fleming

Address

1011 -12th Street N., Texas City, Texas 77598

Witness

Printed Name: Frank J. Fleming

Frank J. Fleming

Address

1011- 12st N. Texas City, Texas 77590

THE STATE OF TEXAS

COUNTY OF Harris

Before me, the undersigned authority, on this day personally appeared Frances Marie Marks, Mathilda A. Fleming and Frank J. Fleming, known to me to be the testatrix and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said Frances Marie Marks, testatrix, declared to me and to the said witnesses in my presence that said instrument is her last will and testament, and that she had willingly made and executed it as her free act and deed; and the said witnesses, each on his oath stated to me, in the presence and hearing of the said testatrix, that the said testatrix had declared to them that said instrument is her last will and testament, and that she executed

PURPORTED WILL

07262013:1015:60199

same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said testatrix and at her request; that she was at that time eighteen years of age or over and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

Frances Marie Marks

Witness

Witness

Subscribed and sworn to before me by the said Frances Marks testatrix, and by the said Mathilda Fleming and Frank J Fleming, witnesses, this 28 day of April A.D. 2013.

(SEAL)

(Signed)

Notary Public in and for

The State of Texas

M. ELIZABETH TAYLOR-WEST
MY COMMISSION EXPIRES
June 18, 2016

PURPORTED WILL

CHAPTER 9

A personal representative spends many ours administering an estate. They deserve to be paid for their time. The estate attorney has to calculate what that compensation will be. If the amount is low, the attorney assists in determining what the alternative should be.

Disclaimers-Sometimes it is better not to take an inheritance. Attorneys have to be able to advise their clients accordingly.

Foreign Wills- This does not mean a will from France. This is regarding the situation where the decedent lived in Ohio and an estate was opened in Ohio. But the decedent also had property in Texas. How do you administer the Texas property?

And now that you have some understanding about estates, what would be the questions that you would need to ask your client on the initial interview?

From: Mindi Bozeman Zagnowiak
Sprouse, Shrader & Smith PLLC

Five Things I Do to Humanize my Estate Administration Practice

1. **Read the obituary before an estate administration meeting.**
   When a client makes an appointment after a death, my assistant will locate the obituary and link it to the appointment calendar. I read it before the appointment in order to 1) get some background on the family 2) learn about the deceased. I mention to the client that I read the obituary, compliment the client on it, and mention and connect to something personal I learn about the deceased: whether it is where they were born, where they went to school, that they were a middle child (like me), their love of their grandchildren, their faith, their affinity for crossword puzzles. Anything that communicates: I took time to learn about your loved one and see the person you are grieving. This is one of many decedent's estates I may be working on, but it is their one spouse, father, mother, grandmother, etc.
2. **Refer to the deceased by name.**
   I am a farm kid. Manners were serious business in my house. I always refer to a deceased who is my elder by Mr. or Mrs. This communicates dignity and respect to the client. If the deceased is around my age or younger, I use their first name. If their common name differs from their legal name, I make note of that and refer to the deceased by their common name (i.e. Jimmy instead of James). If the obituary is for a father the client referred to as "Pa", I will communicate about the deceased in this way (i.e. "did Pa have a retirement plan or pension?"). The deceased is often a cherished individual they have loved a lifetime. For many clients, attending to the details of their loved one's death is often their final act of care for them. Referring to their loved one personally and respectfully is a way I can communicate I am joining them in that respect and care.
3. **Do well checks.**
   Once a week or once every two weeks I set aside an hour for administration "well checks". A short call that I do not bill for that I make for no other reason than to check in with the client. Sometimes it is just "I wanted to check in on you." Sometimes I know they have worked on a task that week and follow up specifically, "I know you put the house on the market this week" or "I know you were going to the bank to notify them".
4. **Listen to their stories.**
   Some clients have a vast support system. Some have none. I have found all enjoy talking about their loved one. I have heard countless stories of final days, first dates, proposals, wedding days, births of children, silly arguments, serious arguments, heartbreaks, and diagnosis stories. I have never regretted listening to one, and it means something to the client to be heard.
5. **Acknowledge "firsts".**
   The "first" everything is a hurdle when a loved one passes. At first I tried to calendar death anniversaries or birthdays. It became unmanageable. What I discovered that is manageable is sending a Christmas card to my estate administration clients with a personal note acknowledging how difficult the first Christmas must be without their loved one. A simple acknowledgment that I "see the hard" has been meaningful to clients.

Sec. 240.111. RECORDING OF DISCLAIMER.

If an instrument transferring an interest in or power over property subject to a disclaimer is required or authorized by law to be filed, recorded, or registered, the disclaimer may be filed, recorded, or registered as that instrument. Except as otherwise provided by Section 240.105(c)(2), failure to file, record, or register the disclaimer does not affect the disclaimer's validity between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

SUBCHAPTER D. DISCLAIMER BARRED OR LIMITED

Sec. 240.151. WHEN DISCLAIMER BARRED OR LIMITED.

(a) A disclaimer is barred by a written waiver of the right to disclaim.

(b) A disclaimer of an interest in property is barred if any of the following events occur before the disclaimer becomes effective:

(1) the disclaimant accepts the interest sought to be disclaimed by:

(A) taking possession of the interest; or

(B) exercising dominion and control over the interest;

(2) the disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the interest sought to be disclaimed or contracts to do so; or

(3) the interest sought to be disclaimed is sold under a judicial sale.

(c) The acceptance of an interest in property by a person in the person's fiduciary capacity is not an acceptance of the interest in the person's individual capacity and does not bar the person from disclaiming the interest in the person's individual capacity.

(d) A disclaimer, in whole or in part, of the future exercise of a power held in a fiduciary capacity is not barred by the previous exercise of the power.

(e) A disclaimer, in whole or in part, of the future exercise of a power not held in a fiduciary capacity is not barred by the previous exercise of the power unless the power is exercisable in favor of the disclaimant.

(f) A disclaimer of:

(1) a power over property that is barred by this section is ineffective; and

(2) an interest in property that is barred by this section takes effect as a transfer of the interest disclaimed to the persons who would have taken the interest under Subchapter B had the disclaimer not been barred.

(g) A disclaimer by a child support obligor is barred as to disclaimed property that could be applied to satisfy the disclaimant's child support obligations if those obligations have been:

(1) administratively determined by the Title IV-D agency as defined by Section 101.033, Family Code, in a Title IV-D case as defined by Section 101.034, Family Code; or

(2) confirmed and reduced to judgment as provided by Section 157.263, Family Code.

(h) If Subsection (g) applies, the child support obligee to whom child support arrearages are owed may enforce the child support obligation against the disclaimant as to disclaimed property by a lien or by any other remedy provided by law.

Added by Acts 2015, 84th Legislature, Ch. 562 (HB 2428), effective September 1, 2015. See transitional note following Sec.240.001.

9-1

Sec. 240.051. DISCLAIMER OF INTEREST IN PROPERTY.

(a) This section and Sections 240.0511 and 240.0512 apply to a disclaimer of an interest in property other than a disclaimer subject to Section 240.052 or 240.053.

(b) If an interest in property passes because of the death of a decedent:

(1) a disclaimer of the interest:

(A) takes effect as of the time of the decedent's death; and

(B) relates back for all purposes to the time of the decedent's death; and

(2) the disclaimed interest is not subject to the claims of any creditor of the disclaimant.

(c) If an interest in property passes because of an event not related to the death of a decedent:

(1) a disclaimer of the interest:

(A) takes effect:

(i) as of the time the instrument creating the interest became irrevocable; or

(ii) in the case of an irrevocable transfer made without an instrument, at the time of the irrevocable transfer; and

(B) relates back for all purposes to the time the instrument became irrevocable or the time of the irrevocable transfer, as applicable; and

(2) the disclaimed interest is not subject to the claims of any creditor of the disclaimant.

(d) A disclaimed interest passes according to any provision in the instrument creating the interest that provides for:

(1) the disposition of the interest if the interest were to be disclaimed; or

(2) the disposition of disclaimed interests in general.

(e) If the instrument creating the disclaimed interest does not contain a provision described by Subsection (d) and:

(1) if the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist; or

(2) if the disclaimant is an individual:

(A) except as provided by Section 240.0511, if the interest is passing because of the death of a decedent, the disclaimed interest passes as if the disclaimant had died immediately before the time as of which the disclaimer takes effect under Subsection (b); or

(B) except as provided by Section 240.0512, if the interest is passing because of an event not related to the death of a decedent, the disclaimed interest passes as if the disclaimant had died immediately before the time as of which the disclaimer takes effect under Subsection (c).

(f) A disclaimed interest that passes by intestacy passes as if the disclaimant died immediately before the decedent.

Disclaimers
Selected Statutes

CHAPTER 122. DISCLAIMERS AND ASSIGNMENTS

SUBCHAPTER A. [~~GENERAL PROVISIONS RELATING TO~~] DISCLAIMER OF INTEREST OR POWER

Amended by Acts 2015, 84th Legislature, Ch. 562 (HB 2428), effective September 1, 2015.

Sec. 122.001. DEFINITIONS.

In this subchapter [~~chapter, other than Subchapter E~~]:

(1) "Beneficiary" includes a person who would have been entitled, if the person had not made a disclaimer, to receive property as a result of the death of another person:

(A) by inheritance;

(B) under a will;

(C) by an agreement between spouses for community property with a right of survivorship;

(D) by a joint tenancy with a right of survivorship;

(E) by a survivorship agreement, account, or interest in which the interest of the decedent passes to a surviving beneficiary;

(F) by an insurance, annuity, endowment, employment, deferred compensation, or other contract or arrangement; or

(G) under a pension, profit sharing, thrift, stock bonus, life insurance, survivor income, incentive, or other plan or program providing retirement, welfare, or fringe benefits with respect to an employee or a self-employed individual.

Sec. 122.002. DISCLAIMER [~~WHO MAY DISCLAIM~~].

[~~(a)~~] A person who may be entitled to receive property as a beneficiary may disclaim the person's interest in or power over the property in accordance with Chapter 240, Property Code [~~who on or after~~

(2) "Disclaim means to refuse to accept an interest in or power over property, including an interest or power the person is entitled to:

(A) by inheritance;

(B) under a will;

(C) by an agreement between spouses for community property with a right of survivorship;

(D) by a joint tenancy with a right of survivorship;

(E) by a survivorship agreement, account, or interest in which the interest of the decedent passes to a surviving beneficiary;

(F) by an insurance, annuity, endowment, employment, deferred compensation, or other contract or arrangement;

(G) under a pension, profit sharing, thrift, stock bonus, life insurance, survivor income, incentive, or other plan or program providing retirement, welfare, or fringe benefits with respect to an employee or a self-employed individual; or

(H) by an instrument creating a trust.

Sec. 240.009. POWER TO DISCLAIM; GENERAL REQUIREMENTS; WHEN IRREVOCABLE.

(a) To be effective, a disclaimer must:

(1) be in writing;

(2) declare the disclaimer;

(3) describe the interest or power disclaimed;

(4) be signed by the person making the disclaimer; and

(5) be delivered or filed in the manner provided by Subchapter C.

(b) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property.

(c) A disclaimer is irrevocable on the later of the date the disclaimer:

(1) is delivered or filed under Subchapter C; or

(2) takes effect as provided in Sections 240.051-240.056.

(d) A disclaimer made under this chapter is not a transfer, assignment, or release.

Patricia was named independent executor of her mom's estate. The will is silent regarding compensation. She wants to know what her compensation should be.

The estate consists of:

Homestead FMV $375,000

Stocks $295,000

Owner Finance note $125,000

Car $22,000

Furnishings $10,000

Bank Accounts $375,000

Apartment Complex $750,000

She received the following into the estate:

Dividend checks from stock $2,000

Owner Finance note payments $6,500 principal and $2,500 interest

Interest on bank accounts $400

Rental Income $20,000

~~9-4 to 9-13 deleted~~

9-4

~~9-14~~

She paid:

Attorney Fees $8,000

Apartment Maintenance $4,000

Property Taxes $20,000

Apartment Utilities $12,000

Storage fees $2,400

Distribution to beneficiaries $200,000

What is her compensation?

If she considers the compensation not enough, what is your advice?

9-5 9-5

Accounting:

Steve is dependent administrator of his dad's estate. He has retained you to prepare the accounting.

Last year the final cash was $275,000

The estate consists of:

200 shares of Valero stock FMV $120,000

A four plex at $600 per month each worth $500,000

A house that was the homestead FMV $375,000

He also received:

$6,000 income tax refund

$1,200 dividends

He allowed a creditor claim for Mastercard of $8,000

He also paid the following with court approval:

Attorney Fees $10,000

Property Taxes $12,000

Maintenance $3,000

Utilities $4,500

Prepare the Annual Account

Calculate the compensation

OFFICE OF STAN STANART

COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE	§	DOCKET NO. _____
	§	
PROBATE COURT NO. _____	§	STYLE OF
	§	DOCKET: _____
HARRIS COUNTY, TEXAS	§	DECEASED/INCAPACITATED/MINOR

ANNUAL ACCOUNT

NOW COMES _____
of the above numbered and styled Estate, and presents herewith the Annual Account of said estate, covering the period

from _____ to _____.

RECAPITULATION OF CASH ITEMS

Balance of cash on hand last annual report	$ _____
Total receipts during the year	$ _____
TOTAL	$ _____
Total disbursements during the year	$ _____
TOTAL cash now on hand	$ _____

Have your bank certify that this is on deposit.

VALUE OF ALL PROPERTY NOW IN POSSESSION OF ESTATE

(Summary only)

Tracts of Real Estate	Total Value $ _____
Notes payable to estate	Total Value $ _____
Stock or bond certificates	Total Value $ _____
Cash: (as set out above)	Total Amount $ _____

RECEIPTS

List amounts received as income: From rental, pensions, interest, insurance and lawsuits; from sales of real estate, personal property, stocks, bonds, and notes; and from all other sources, with receipts of principal and income to be shown separately.

SOURCE FROM WHICH RECEIVED **AMOUNT**

(If more space is required, enclose additional sheets of paper.)

9-17 9-7

DISBURSEMENTS

List every expenditure of money by amount paid out, and for purpose for which expended.

Court Costs _____

Attorney's Fees _____

PROPERTY ADMINISTERED

A complete, accurate and detailed description of the property being administered, the condition of the property and the use being made thereof, and, if rented, the terms upon and the price for which rented.

CLAIMS

Lists of claims presented against the Estate within the period covered by this account, specifying which have been allowed, which have been paid, which have been rejected and the date when rejected, which have been sued upon, and the condition of the suit.

CLAIM OF AND REASON FOR	STATUS	AMOUNT

BONDS, NOTES, STOCKS, ETC.

List in detail description of personal property of the Estate (including Bonds, Notes, Stocks, and other Securities,) include the name of the obligor and obligee, or if payable to bearer, so state; in what manner the property is secured; and other data necessary to identify the same fully, and how and where held for safekeeping.

AMOUNT

9-18 9-8

OATH OF GUARDIAN

BEFORE ME, the undersigned Notary Public, on this day personally appeared _____ who, after first being sworn, on oath stated:

"I am the Guardian of the Estate of _____ (the Ward). I have reviewed the foregoing Annual Account filed in this case. The Account contains a correct ad complete statement of the matters pertaining to the estate of the Ward. The bond premium for the next accounting period for the Ward's estate has been paid; I have filed all tax returns in behalf of the Ward and paid all taxes owed by the Ward during this accounting period.

The taxes paid on behalf of Ward were as follows:

A. Amount of taxes: $ _____;

B. Date taxes paid: _____

C. Name of governmental entity to which taxes were paid: _____

Signed: _____

Guardian

_____

Address

_____

Telephone Number

SWORN TO AND SUBSCRIBED before me by _____

on this _____.

_____

Notary Public, State of Texas

Signature of Attorney: _____

State Bar I.D. No. _____

Address: _____

City, State, ZIP: _____

Telephone: _____

Telecopier: _____

9-9

OATH OF ADMINISTRATOR

BEFORE ME, the undersigned authority, on this day personally appeared _____
who being first duly sworn, states on oath that the within and foregoing account is a true, correct and complete statement

of the condition of the estate of _____,
Deceased, for the period stated therein.

Signed: _____

Address: _____

Telephone No.: _____

SWORN TO AND SUBSCRIBED BEFORE ME, on _____.

_____
Notary Public, in and for the State of Texas

BANK CERTIFICATE

This certificate must be obtained in every case where there is any cash in the Estate.

IT IS HEREBY CERTIFIED that, at the close of business on _____, unencumbered cash in the

amounts shown below was on deposit in this Bank to the credit of _____

as Guardian/Administrator of the Estate of _____.

Checking Account..... $

Savings Account ..... $

_____, _____, _____.
(Name of Bank) (City) (State)

_____ _____
(Name of Officer Hand Printed or Typed) (Signature)

9-10

SAVINGS AND LOAN CERTIFICATE

This certificate must be obtained in every case where there is any money on a Savings & Loan Association account.

IT IS HEREBY CERTIFIED that, at the close of business on _____, unencumbered cash in the amount of $ _____ was on deposit in this Association to the credit of _____

as Guardian/Administrator of the Estate of _____.

_____, _____, _____

(S&L) (City) (State)

_____ _____

(Name of Officer Hand Printed or Typed) (Signature)

_____

(Title)

9221 9-11

OFFICE OF STAN STANART
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE	§	DOCKET NO. _____
	§	
HARRIS COUNTY, TEXAS	§	ESTATE OF: _____

On _____, in the above described estate, came on to be heard the annual account of said estate as filed on _____, and recorded in the Probate Court Records of the County Clerk, of Harris County, Texas; and it appearing to the Court that said account has been on file the number of days required by law; and that said account is in the form, and sustained by proof, required by law; and that said account is correct.

It is therefore, ORDERED, ADJUDGED, AND DECREED that said annual account be, and is hereby, approved and ordered of record.

_____
Judge, Probate Court No. _____,
Harris County, Texas

9-12

What would you advise?

Sam has found out that his Uncle Mark left him a bequest of $50,000. He owes his evil ex-wife $49,000 in back child support. He wants to disclaim so she will not get the money.

Bob has been left a duplex by his Aund Mary. He has started receiving the rent payments and has told the tenant he is the new landlord. It is worth $200,000. He owes creditors over $220,000. He wants to disclaim so his son will get the duplex.

Mary is to receive $75,000 from her father. She owes the IRS $85,000

James and Anna are married. They have come to your office to discuss having a will drafted. List 5 questions you would ask them.

I

23 9-13

FOREIGN WILLS ADMITTED IN ANOTHER JURISDICTION
(ANCILLARY ADMINISTRATION-ESTATES CODE 501.005)

If the decedent was not domiciled in Texas at the time of death, the will is considered a foreign will.

The only issue for a Texas attorney would be if the decedent had property located in Texas and probate within Texas jurisdiction is necessary to transfer title.

If the will was probated in another state or country, it can be admitted in Texas.

If the only Texas property is real estate, a simple recording procedure will suffice.

If it is necessary to have the Independent Executor appointed in Texas and issue ancillary letters testamentary in order to recover property, an application and additional information will be required.

PROBATE BY RECORDING

The procedure of recording a foreign will can be used when there is no need for administration and the only issue is to have the Texas real property records show the ownership of the real estate bequeathed in a foreign will.

Requirements:

Obtain an authenticated copy of the foreign will and probate documents. Record them in the deed records of the Texas county where the real property is located. The application, will, and order admitting the will are the usual and customary documents required .

Should the will be in a foreign language, a certified translation is also included.

FOREIGN WILL TO BE ADMITTED IN TEXAS AND ANCILLARY ADMINISTRATION

A foreign will that would affect any real or personal property in Texas may be admitted upon proof that it was probated elsewhere. If ancillary administration is necessary in order to recover property in Texas, an application must be filed.

The attorney should review the will to determine if the executor is "independent". If the foreign jurisdiction allowed the personal representative to serve independently, the Texas court should also allow an independent administration. However, if the foreign jurisdiction, does not allow independent administration and independence is warranted, the procedure would be to obtain consent of all the distributees pursuant Texas Estates Code 401 et seq.

If the will was admitted to probate in the jurisdiction where the decedent was domiciled at the date of death, an application can request that the will be admitted in Texas.

~~9-14~~ 9-14

Requirements:

An application and order would be filed. The applicant must prove that he/she is not disqualified under Texas law from serving and that there is a necessity for administration in Texas. An authenticated copy of the application, will and order admitting the will should be attached to the application in addition to an order admitting the will and granting ancillary letters testamentary. Normally a hearing is not required but if necessary, an affidavit can be filed regarding the necessary facts.

[redacted] 9-15

RE: NEW 581

Requirements for Wills to Be Self-Proven in States Other Than Texas

Per Tex. Prob. Code §84(a) (2011)

Alabama	Code of Alabama 1975, §43-8-132
Alaska	Alaska Stat. §13.12.504
Arizona	A.R.S. §14-2504
Arkansas	A.C.A. §28-25-106
California	Cal Prob Code 6113 (Unif. Int'l Wills Act)
Colorado	C.R.S. 15-11-504
Connecticut	Code §45a-285
Delaware	12 Del. C. §1305
D.C.	*Not Allowed*
Florida	Fla. Stat. §732.503
Georgia	O.C.G.A. §53-4-24
Hawaii	HRS §560:2-504
Idaho	Idaho Statutes 15-2-504
Illinois	755 ILCS 5/6-4
Indiana	Burns Ind. Code Ann. §29-1-5-3
Iowa	Iowa Code §633.279
Kansas	K.S.A. §59-606
Kentucky	Kentucky Revised Statutes 394-225
Louisiana	*Not Allowed*
Maine	Maine Revised Statutes tit. 18-A, §2-504
Maryland	*Not Allowed*
Massachusetts	ALM GL ch. 190B, §2-504
Michigan	MCLS §700.2504
Minnesota	Minn. Stat. §524.2-504
Mississippi	Miss. Code Ann. §91-7-9
Missouri	Missouri Revised Statutes §474.337
Montana	Montana Code Annotated 2005, §72-2-524
Nebraska	State of Nebraska Statutes, §30-2329
Nevada	Nev. Rev. Stat. Ann. §133.050
New Hampshire	New Hampshire RSA 551
New Jersey	N.J. Stat. §3B:3-4
New Mexico	N.M. Stat. Ann. §45-2-504
New York	NY EPT §3-2.1; NY SCP §1406
North Carolina	G.S. §31-11.6
North Dakota	N. D. Cent. Code, §30.1-08-04
Ohio	*Not Allowed*
Oklahoma	O. S. §84-55
Oregon	Oregon Revised Statutes 112.232 (Unif. Int'l Wills Act)
Pennsylvania	2010 Pennsylvania Code, tit. 20 §3132.1
Rhode Island	R.I. Gen. Laws §33-7-26
South Carolina	South Carolina Code of Laws §62-2-503
South Dakota	S.D. Codified Laws §29A-2-504
Tennessee	Tennessee Code 32-2-110
Texas	Tex. Prob. Code §59
Utah	Utah Code Ann. §75-2-504
Vermont	*Not Allowed*
Virginia	Code of Virginia §64.1-87.1
Washington	Rev. Code Wash. (ARCW) §11.20.020
West Virginia	W. Va. Code §§41-1-1 to 41-5-15
Wisconsin	Wisconsin Statutes 853.04
Wyoming	Wyo. Stat. §2-6-114

9-16

AMM

FILED
8/24/2014 11:54:27 AM
Stan Stanart
County Clerk
Harris County

PROBATE COURT 3

NO. 431944

IN RE: ESTATE OF	§	IN PROBATE COURT
IRVIN J. BLUMENTHAL,	§	NO. ____
DECEASED	§	HARRIS COUNTY, TEXAS

APPLICATION TO PROBATE FOREIGN WILL AND ISSUANCE OF ANCILLARY LETTERS TESTAMENTARY

TO PROBATE COURT NO. __:

Applicant, RANDALL D. BLUMENTHAL, furnishes the following information to the Court for the probate of the foreign written Will of Irvin J. Blumenthal ("Decedent") and for issuance of Ancillary Letters Testamentary to the Applicant and shows the Court as follows:

1. Applicant, Randall D. Blumenthal, is an individual who resides at 22936 NE 15th Place, Sammamish, Washington 98074 and has been appointed as Personal Representative of Decedent's Estate in the Superior Court of the State of Arizona in and for the County of Maricopa in Case No. PB2014-002030, entitled *In the Matter of the Estate of Irvin J. Blumenthal, Deceased.*

2. Irvin J. Blumenthal (herein sometimes called "Decedent") died on February 17, 2014 in Buckeye, Maricopa County, Arizona at the age of 83 years.

3. Decedent was domiciled in Maricopa County, Arizona at his death.

4. This Application is brought pursuant to Section 501.002(a) of the Texas Estates Code. Probate is required on the basis of an authenticated copy of the foreign proceedings in which the Will was admitted to probate in the State of Arizona, Decedent's domicile at death.

5. Attached as Exhibit A and incorporated by this reference are authenticated copies of the following:

a. Petition for Formal Probate of Will and Appointment of Personal Representative (Testate Estate);

8/24 9-17

b. Certified copy of the Last Will and Testament of Irvin J. Blumenthal; and
c. Certified copy of the Order of Formal Probate of Will and Appointment of Personal Representative (Testate Estate).

6. No citation or notice is required pursuant to Section 501.003 of the Texas Estates Code.

7. Pursuant to Section 501.006 of the Texas Estates Code, Applicant requests that he be issued Ancillary Letters Testamentary. Applicant has qualified to serve as Personal Representative in Arizona where the Will was previously admitted to probate, as evidenced by the certified copy of Letters of Personal Representative attached hereto as Exhibit B, and he is not disqualified from serving in this state. Applicant will file a Designation of Resident Agent in this state.

WHEREFORE, PREMISES CONSIDERED, Applicant prays that pursuant to Section 501.004 of the Texas Estates Code, the Clerk of the Court record Decedent's Last Will and Testament and evidence its probate in the minutes of the Court; that pursuant to Section 501.006 of the Texas Estates Code, Ancillary Letters Testamentary be granted to Applicant; and for such other and further relief to which Applicant may show himself justly entitled.

Respectfully submitted,

CRAIN, CATON & JAMES
A Professional Corporation

By: Chasity Thomas
CHASITY W. THOMAS
(TBA #: 24050152)
cthomas@craincaton.com
1401 McKinney, 17th Floor
Houston, Texas 77010-4035
(713) 658-2323
(713) 658-1921 (fax)

Attorneys for Applicant

9-25 9-18

COPY

APR 08 2014

MICHAEL K. JEANES, CLERK
DAVID GUNN
DEPUTY CLERK

Alisa J. Gray – 014419
ajg@tblaw.com

Darren T. Case – 026214
dtc@tblaw.com

Nora L. Jones – 028872
nlj@tblaw.com

TIFFANY & BOSCO P.A.

Camelback Esplanade II, Third Floor
2525 East Camelback Road
Phoenix, Arizona 85016-4237
Telephone: 602/255-6093
Facsimile: 602/452-2717

Attorneys for the Applicant

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

In the Matter of the Estate of:

IRVIN J. BLUMENTHAL,

Deceased.

No. PB2014-002030

PETITION FOR FORMAL PROBATE OF WILL AND APPOINTMENT OF PERSONAL REPRESENTATIVE (Testate Estate)

1. This Petition is made by RANDALL D. BLUMENTHAL, who is entitled to file this Petition because he is nominated to serve as the Personal Representative for IRVIN J. BLUMENTHAL (the "Decedent") in Decedent's Will, dated April 21, 1995.

2. Decedent died on February 17, 2014 at the age of approximately 84 years. At the time of death, it is believed that the last legally established domicile of the Decedent was Buckeye, Maricopa County, Arizona. The Decedent was in the process of moving to the State of Texas upon his death, but it is not believed that domicile had been legally changed.

EXHIBIT A

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3. The original of Decedent's Will, dated April 21, 1995 is filed with this Petition.

4. Decedent left the following persons who are the surviving spouse, children, heirs, and devisees of Decedent:

Name and Address	Age (If minor)	Relationship To Decedent (Heir or Devisee)
Randall D. Blumenthal, Successor Trustee of the Irvin J. Blumenthal and Lela M. Blumenthal Trust Declaration, dated April 21, 1995 22936 NE 15th Place Sammamish, WA 98074	Adult	Devisee
Randall D. Blumenthal 22936 NE 15th Place Sammamish, WA 98074	Adult	Child / Heir /Devisee
Kenneth J. Blumenthal 22936 NE 15th Place Sammamish, WA 98074	Adult	Child / Heir / Devisee
Patsy Blumenthal c/o Walker Hanson, Esq. Weycer, Kaplan, Pulaski & Zuber, P.C. Eleven Greenway Plaza, Suite 1400 Houston, TX 77046	Adult	Spouse / Heir

5. Venue for this proceeding is in Maricopa County, because it is believed that the last legally established domicile of the Decedent was Buckeye, Maricopa County, Arizona at the time of death.

6. No Personal Representative for the Decedent's estate has been appointed in this State or elsewhere.

7. Petitioner has not received a demand for notice and is not aware of any demand for notice by any interested person of any proceedings concerning Decedent in this State or elsewhere.

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8. Petitioner believes that the Will dated April 21, 1995 was validly executed. After the exercise of reasonable diligence, Petitioner is unaware of any instrument revoking said Will. (The Petitioner has previously submitted to the Court a document executed by the decedent attempting to be an amend the Will dated April 21, 1995, but it is not believe to be validly executed.) Therefore, Petitioner believes it to be the Decedent's last Will.

9. The time for formal probate and appointment has not expired under A.R.S. § 14-3108 because less than two (2) years have passed since Decedent's death.

10. Petitioner states that RANDALL D. BLUMENTHAL, whose address is 22936 NE 15th Place, Sammamish, WA 98074, has priority for appointment as Personal Representative under the Will pursuant to the provisions of A.R.S. § 14-3203 because he is nominated under Article FOURTH of the Decedent's Will as the Personal Representative. Lela M. Blumenthal, the Decedent's former wife and first nominated personal representative under the Will, died on June 9, 1996. A copy of Lela M. Blumenthal's death certificate is attached hereto.

11. Bond is not required of the Personal Representative under A.R.S. § 14-3603, because it has been waived under Article FOURTH of the Decedent's Will.

WHEREFORE, Petitioner requests that this Court, after notice and hearing, issue a judicial Order, which:

(A) Makes the findings required by A.R.S. § 14-3409, including a finding that Decedent's Will, dated April 21, 1995, was validly executed, is Decedent's last Will, and has not been revoked.

(B) Admits said Will to probate.

(C) Appoints RANDALL D. BLUMENTHAL to serve as Personal Representative of Decedent's Estate without bond.

DATED this 4th day of April, 2014.

RANDALL D. BLUMENTHAL

9-21

STATE OF WASHINGTON)
)ss.
County of KING)

RANDALL D. BLUMENTHAL, being duly sworn, states that he is the Petitioner in the foregoing Petition, and that the statements in the Petition are accurate and complete to the best of his knowledge and belief.

RANDALL D. BLUMENTHAL

SUBSCRIBED AND SWORN TO before me this 4th day of April, 2014, by RANDALL D. BLUMENTHAL.

Notary Public

My Commission Expires: March 27, 2014

Notary Public
State of Washington
JOSEPH I HERMAN
My Appointment Expires Mar 27, 2018

TIFFANY & BOSCO
A Professional Association

By:
Alisa J. Gray
Darren T. Case
Nora L. Jones
2525 E. Camelback Rd., Third Floor
Phoenix, Arizona 85016-4237
Telephone: (602) 255-6097
Attorneys for Applicant

9-22

Revision to Will

Date: 09/19/2011

My request is that in the event of my death, my wife Patsy P. Blumenthal, at her disgression, remain in my house (20401 N 269th Dr., Buckeye, AZ 85396) for a period up to five years. When the house is sold (20401 N. 269th Dr., Buckeye, AZ 85396) Pat is to receive fifty (50%) of the net proceeds from the sale of the house with the remaining fifty (50%) divided equally between my two sons, Randall Blumenthal and Kenneth Blumenthal. Property taxes, homeowners insurance and repairs, until property is sold, will be paid fifty (50%) by Pat and 50% by my two sons at twenty (25%) each.

Pat is to have all furniture that she chooses and the remainder is to go to my two sons, Randall Blumenthal and Kenneth Blumenthal.

Irvin Jay Blumenthal

This certificate is attached to a 1 page document dated 9/19/11 entitled Revision to Will

ACKNOWLEDGMENT CERTIFICATE

State of Arizona
County of Maricopa

Before me, Lisa Arnett (Name of Notary Public)

day personally appeared Irvin Jay Blumenthal (Name of Signer(s))

to be the person(s) whose name(s) is/are subscribed to the foregoing instrument and acknowledged to me that he/she/they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 19 day of Sept. 2011 (Year)

Lisa Arnett
(Notary Public's Signature)

Lisa Arnett
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Commission Expires
August 28, 2014
(Seal)

Signer's Identity verified by:
☐ Personally known to me
☐ Identity proven on the oath of _____ (Name of Witness)
☑ Identity proven on the basis of Driver's License (ID)

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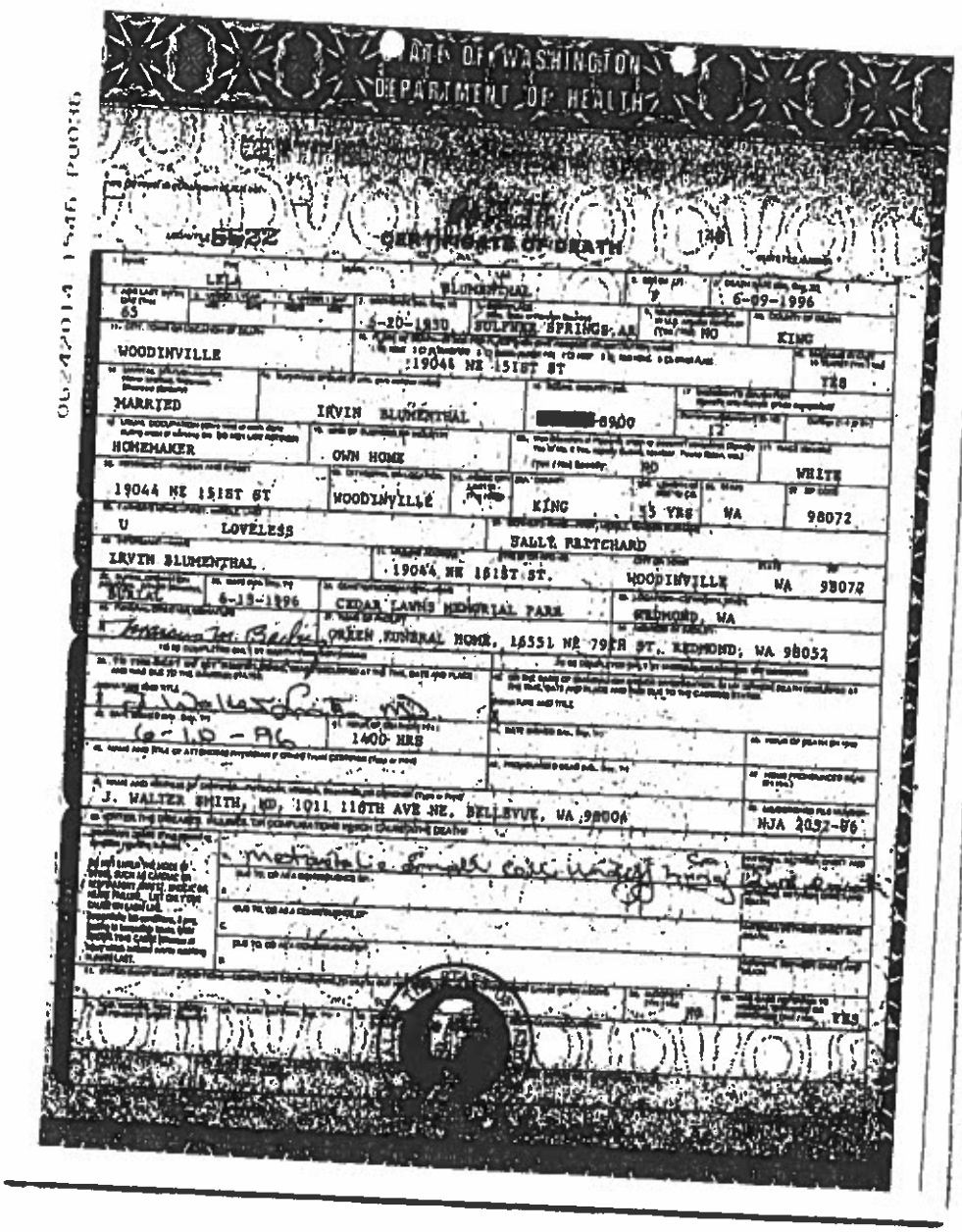
9-10 9-23



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

CERTIFICATE OF DEATH

LEE
BLUMENTHAL
6-09-1996
63
4-20-1930
SULPHUR SPRINGS, AR
NO
KING
WOODINVILLE
19044 NE 151ST ST
YES
MARRIED
IRVIN BLUMENTHAL
[redacted]-8900
HOMEMAKER
OWN HOME
NO
WHITE
19044 NE 151ST ST
WOODINVILLE
KING
35 YRS
WA
98072
U
LOVELESS
SALLY PRITCHARD
IRVIN BLUMENTHAL
19044 NE 151ST ST.
WOODINVILLE
WA
98072
6-13-1996
CEDAR LAWNS MEMORIAL PARK
REDMOND, WA
OAKES FUNERAL HOME, 16551 NE 79TH ST, REDMOND, WA 98052
6-10-96
1400 HRS
J. WALTER SMITH, MD, 1011 116TH AVE NE, BELLEVUE, WA 98004
NJA 2032-96
YES

9-24

ORIGINAL COURT DOCUMENT

PB2014-002030

14 APR-8 PM 3:43
FILED

LAST WILL AND TESTAMENT

OF

IRVIN J. BLUMENTHAL

Dated: April 21, 1995

9-32x 9-25

05-12-2014 15:46 F0030

LAST WILL AND TESTAMENT

OF

IRVIN J. BLUMENTHAL

I, Irvin J. Blumenthal, a resident of and domiciled in the State of Arizona, make, publish and declare this to be my Last Will and Testament, revoking all wills and codicils at any time heretofore made by me.

FIRST: I direct that the expenses of my last illness and funeral, the expenses of the administration of my estate, and all estate, inheritance and similar taxes payable with respect to property included in my estate, whether or not passing under this will, and any interest or penalties thereon, shall be paid out of my residuary estate, without apportionment. The provisions of this Article FIRST shall not apply to the extent that contrary provisions concerning the payment or apportionment of any such taxes have been or shall be made in any inter vivos instrument executed by me relating to any insurance, trusts, gifts or other transfers, jointly owned property or accounts, or property subject to power of appointment.

SECOND: I give all the rest, residue and remainder of my property and estate, both real and personal, of every kind and wherever located, to which I shall be in any manner entitled at the time of my death (collectively referred to as my "residuary estate"), to the trustee under the following trust to be held and disposed of in accordance with the terms, covenants and conditions of such trust: Trust Declaration, dated April 21, 1995, made by Irvin J. Blumenthal and Lela M. Blumenthal, Trustors; Irvin J. Blumenthal and Lela M. Blumenthal, Trustees; f/b/o Randall D. Blumenthal and Kenneth J. Blumenthal.

In connection with the preparation of any tax return for me or my estate, I authorize my personal representative: to determine whether to elect to qualify any property as qualified terminable interest property for Federal and/or State estate tax purposes; to make any election available under Section 2652(a)(3) of the Internal Revenue Code with respect to qualified terminable interest property as my personal representative may deem advisable; to make any election available with respect to Chapter 13 of the Internal Revenue Code and to allocate the same to property eligible for such allocation, whether or not such property is held hereunder, including property transferred by me during my life as to which I did not make an allocation prior to my death, in such amounts and proportions as my personal representative may deem advisable; to determine whether to include or exclude any item of property; to determine within permitted limits the date of valuation of my estate; to determine whether certain deductions

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shall be taken as income tax deductions or estate tax deductions; and to determine whether to adjust between principal and income.

THIRD: If any property of my estate vests in absolute ownership in a minor or incompetent, my personal representative, at any time and without court authorization, may: distribute the whole or any part of such property to the beneficiary; or use the whole or any part for the health, education, maintenance and support of the beneficiary; or distribute the whole or any part to a guardian, committee or other legal representative of the beneficiary, or to a custodian for the beneficiary under any gifts to minors or transfers to minors act, or to the person or persons with whom the beneficiary resides to use for the beneficiary. The receipt of the person to whom the distribution is so made shall release my personal representative from any liability with respect thereto, even though my personal representative may be such person. If such beneficiary is a minor, my personal representative may defer the distribution of the whole or any part of such property until the beneficiary attains the age of eighteen (18) years, and may hold the same as a separate fund for the beneficiary with all of the powers described in Article FIFTH hereof. If the beneficiary dies before attaining said age, any balance shall be paid and distributed to the estate of the beneficiary.

FOURTH: I appoint my wife Lela M. Blumenthal to be my personal representative. If my wife does not survive me, or shall fail to qualify for any reason as my personal representative, or having qualified shall die, resign or cease to act for any reason as my personal representative, I appoint my son Randall D. Blumenthal as my personal representative. If my son Randall D. Blumenthal shall fail to qualify for any reason as my personal representative, or having qualified shall die, resign or cease to act for any reason as my personal representative, I appoint my son Kenneth J. Blumenthal as my personal representative. I direct that no personal representative shall be required to file or furnish any bond, surety or other security in any jurisdiction.

FIFTH: I grant to my personal representative all powers conferred upon personal representatives and executors wherever my personal representative may act. I also grant to my personal representative power to retain, sell at public or private sale, exchange, grant options on, invest and reinvest, and otherwise deal with any kind of property for cash or on credit; to borrow money and encumber or pledge any property to secure loans; to pay any legacy or distribute, divide or partition property in cash or in kind, or partly in kind, and to allocate different kinds of property, disproportionate amounts of property and undivided interests in property among any parts, funds or shares, and to determine the fair valuation of the property so allocated, with or without regard to tax basis; to exercise all powers of an absolute owner of property; to compromise and release claims with or without considera-

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tion; and to employ attorneys, accountants and other persons for services or advice.

SIXTH: If any beneficiary under this will and I die in a common accident or under circumstances in which it is difficult or impractical to determine who survived the other, such beneficiary shall be deemed to have predeceased me.

IN WITNESS WHEREOF, I, Irvin J. Blumenthal, sign, seal, publish and declare this instrument as my last will and testament this 21st day of April, 1995.

Irvin J. Blumenthal

The foregoing instrument was signed, sealed, published and declared by Irvin J. Blumenthal, the above-named Testator, to be his last will and testament in our presence, all being present at the same time, and we, at his request and in his presence and in the presence of each other, have subscribed our names as witnesses on the date above written.

Debra L Ruspoli

residing at

10541 W. Sells Dr.
Peoria, AZ 85345

Brenda Fillmore

residing at

7305 N 45th Lane
Glendale AZ 85301

Marilyn W McBride

residing at

6147 N. 12th Way
Phx, AZ 85014

9-25 9-28

AFFIDAVIT

STATE OF ARIZONA)
) ss.:
COUNTY OF)
MARICOPA)

We, Irvin J. Blumenthal and , the Testator and the witnesses respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the Testator, Irvin J. Blumenthal, signed and executed said instrument in the presence of the witnesses as his last will and testament and that he signed willingly, and that he executed it as his free and voluntary act and deed for the purposes therein expressed, and that each of the witnesses at the request of the Testator, in the hearing and presence of the Testator and each other, signed the will as witness, and that to the best of his or her knowledge the Testator was at the time at least eighteen years of age, of sound mind and under no constraint, duress, fraud or undue influence.

Irvin J. Blumenthal
Testator

Debra B. Bispels
Witness

Brenda Fullmore
Witness

Charles W. McInnis
Witness

Subscribed, sworn to and acknowledged before me by the said Irvin J. Blumenthal, Testator, and subscribed and sworn to before me by the said as witnesses, this 21st day of April, 1986.

My commission expires:

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The foregoing will is a full, true and correct copy of the original on file in this office. I further certify that the decedent was/was not domiciled in this State and that the Probate was/was not adjudicated according to ARS 14-1308

Attest: MAY 22 20 14

MICHAEL K. JEANES, Clerk of the Superior Court of the State of Arizona, in and for the county of Maricopa.

By N. Kaphan Deputy

Ex 39 9-30

Alisa J. Gray – 014419
aig@tblaw.com

Darren T. Case – 026214
dtc@tblaw.com

Nora L. Jones – 028872
nlj@tblaw.com

TIFFANY & BOSCO P.A.

Camelback Esplanade II, Third Floor
2525 East Camelback Road
Phoenix, Arizona 85016-4237
Telephone: 602/255-6093
Telecopier: 602/452-2717

Attorneys for the Personal Representative

COPY FOR CERTIFICATION
MAY 07 2014 FILED 9:31am
MICHAEL K. JEANES, Clerk
By P Valenzuela Deputy

CERTIFIED COPY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

In the Matter of the Estate of:

IRVIN J. BLUMENTHAL,

Deceased.

No. PB2014-002030

ORDER OF FORMAL PROBATE OF WILL AND APPOINTMENT OF PERSONAL REPRESENTATIVE (Testate Estate)

Hearing Date: May 7, 2014
Hearing Time: 9:30 a.m.
Before: Commissioner Lori Horn

The Petition for Formal Probate of Will and Appointment of Personal Representative having been considered by the Court, the Court finds as follows:

1. Notice has been given as required by law.

2. Decedent IRVIN J. BLUMENTHAL ("Decedent") died on February 17, 2014. This proceeding was commenced within two years of the time of death.

3. Venue is proper in this county because the last legally established domicile of the Decedent at the time of his death was Buckeye, Maricopa County, Arizona.

4. Decedent died testate, leaving a Will, dated April 21, 1995. The original Will is on file with this Court. Said Will is valid, unrevoked, and the last Will of Decedent.

9-31

5. RANDALL D. BLUMENTHAL is entitled to appointment as Personal Representative of the Decedent's Estate.

6. Bond is not required.

IT IS THEREFORE ORDERED that:

(A) The Will of IRVIN J. BLUMENTHAL dated April 21, 1995 is admitted to probate.

(B) RANDALL D. BLUMENTHAL is appointed Personal Representative of Decedent's Estate, to serve without bond, and Letters shall be issued upon said Personal Representative accepting such appointment.

(C) The Personal Representative shall immediately notify the Court in these proceedings of any change of address and shall be responsible for all costs resulting from failure to do so.

WARNING: THIS APPOINTMENT IS NOT EFFECTIVE UNTIL THE LETTERS OF APPOINTMENT HAVE BEEN ISSUED BY THE CLERK OF THE SUPERIOR COURT.

DATED this 7th day of May, 2014.

Commissioner Lori Horn
Superior Court of Arizona in Maricopa County

Commissioner Lori Horn Bustamante

Non- licensed Fiduciary training required

WARNING: THIS APPOINTMENT IS NOT EFFECTIVE UNTIL LETTERS HAVE ISSUED.

9-29 9-32

The foregoing instrument is a full, true and correct copy of the original on file in this office.

ATTEST: MAY 07 2014

MICHAEL K. JEANES, Clerk of the Superior Court of the State of Arizona, In and For the County of Maricopa.

By _____ Deputy

9-30. 9-33

MICHAEL K. JEANES, CLERK
BY W Hanny DEP
FILED

14 MAY -7 AM 9:42

Alisa J. Gray – 014419
aig@tblaw.com

Darren T. Case – 026214
dtc@tblaw.com

Nora L. Jones – 028872
nlj@tblaw.com

TIFFANY & BOSCO P.A.

Camelback Esplanade II, Third Floor
2525 East Camelback Road
Phoenix, Arizona 85016-4237
Telephone: 602/255-6093
Telecopier: 602/452-2717

Attorneys for the Personal Representative

CERTIFIED COPY

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

In the Matter of the Estate of:

IRVIN J. BLUMENTHAL,

Deceased.

No. PB2014-002030

LETTERS OF PERSONAL REPRESENTATIVE (Testate Estate)

RANDALL D. BLUMENTHAL is hereby appointed Personal Representative of this Estate to serve without restriction and without bond.

WITNESS: MAY 07 2014, 2014.

MICHAEL K. JEANES, CLERK
Clerk of the Superior Court

CLERK OF THE SUPERIOR COURT

W Hanny
Deputy Clerk

4190960 / 18913-001

EXHIBIT B

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Docket: 15911 Page: 2

The foregoing instrument is a full, true and correct copy of the original on file in this office.
I further certify that the Order/Commitment appointing the Permanent Guardian/Conservator - Guardian was signed on MAY 07 2014, 20____ and that those letters have not been revoked.

WITNESS my hand and official seal this MAY 07 2014

JOSEPH K. [illegible], Clerk of the Superior Court of the State of Arizona, in and for the County of Maricopa.

By _____ Deputy

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blackouts, additions and changes were present at the time the instrument was filed and recorded.

9.33 9.35

NO. 431944

IN RE: ESTATE OF	§	IN PROBATE COURT
	§	
IRVIN J. BLUMENTHAL,	§	NO. 3
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

ORDER ADMITTING FOREIGN WILL TO PROBATE AND AUTHORIZING ANCILLARY LETTERS TESTAMENTARY

On this day came on to be considered the Application for Probate of Foreign Will and Issuance of Ancillary Letters Testamentary (the "Application") filed by Randall D. Blumenthal (herein sometimes called "Applicant"), for the ancillary probate of the Last Will and Testament of Irvin J. Blumenthal, Deceased (herein sometimes called "Decedent") and the Court finds as follows:

1. This Court has jurisdiction and venue over Decedent's Estate;
2. Decedent had no domicile or fixed place of residence in this State and died outside the limits of this State, and a portion of Decedent's Estate was located in Harris County, Texas at the time of his death;
3. An Application for Probate of Foreign Will and Issuance of Ancillary Letters Testamentary was filed with this Court on June 24, 2014;
4. This Application complies with Section 501.002 of the Texas Estates Code;
5. Decedent died on February 17, 2014;
6. Decedent's domicile at death was believed to be Maricopa County, Arizona;
7. The Last Will and Testament of Irvin J. Blumenthal dated April 21, 1995 ("Will") has been admitted to probate in the county and state of Decedent's domicile at death, namely the Superior Court of the State of Arizona in and for the County of Maricopa in Case No. PB2014-002030, entitled *In the Matter of the Estate of Irvin J. Blumenthal, Deceased.* A duly attested copy of the Petition of Formal Probate of Will and Appointment of Personal Representative, and the Last Will and Testament of Irvin J. Blumenthal dated April 21, 1995 ("Will"), and the Order of Formal Probate of Will and Appointment of Personal

9-623

9-316

Representative was filed with this Court on June 24, 2014, and that such attestation is in due form;

8. No objection to or contest of the ancillary probate of the Will has been filed with the Court;

9. That the necessary requirements for an ancillary probate under Section 501.002 of the Texas Estate Code have been met;

10. A necessity exists for the administration of Decedent's Estate;

11. Applicant, Randall D. Blumenthal, was named in said Will as Successor Personal Representative of Decedent's Estate to serve without bond and was appointed and qualified as Personal Representative of Decedent's Estate by the Maricopa County Superior Court of Arizona, and a duly attested copy of the Letters of Personal Representative were filed with this Court on June 24, 2014, and that such attestation is in due form;

12. Applicant is not disqualified by law to serve in such capacity in this state or from accepting ancillary Letters Testamentary;

13. Applicant filed an Appointment and Designation of Resident Agent with this Court on July 14, 2014; and

14. Applicant is entitled to such ancillary Letters and that the necessary prerequisites required to receive ancillary Letters Testamentary under Section 501.006 of the Texas Estates Code have been met. It is accordingly,

ORDERED, by the Court that said Will is hereby admitted to ancillary probate and said Application together with a copy of said Will and of the probate thereof duly attested to, that such attestation is in due form, and shall be recorded by the Clerk in the minutes of this Court.

It is ORDERED that no bond or other security is required and that upon the taking and filing of the Oath as required by law, Ancillary Letters Testamentary shall issue Randall D. Blumenthal, who is appointed as ~~Personal Representative~~ Administrator w. will annexed of the Decedent's Will and Estate. CT

9-37

9-37

SIGNED on this the 23 day of July, 2014.

Georgia Crews
JUDGE PRESIDING

APPROVED AS TO FORM ONLY:

CRAIN, CATON & JAMES
A Professional Corporation

By: Chasity Thomas
CHASITY W. THOMAS
(TBA #: 24050152)
cthomas@craincaton.com
1401 McKinney, 17th Floor
Houston, Texas 77010
(713) 658-2323
(713) 658-1921 Facsimile

Attorneys for Applicant

~~9-46 - 50~~
~~deleted~~

9-45

9-38

010020/000001
381 - 1077471v1

GROUP ASSIGNMENT

Each group will be given a will/administration and asked to prepare to get your estate admitted into court

We will have a docket day and each group will appear before me, as Judge, and prove up your estate.

There will be the following estates:

A Will to appoint an independent executor

A Will to appoint an Independent Administrator

An Administration to appoint a Dependent Administrator

A Will Admitted as a Muniment of Title

An Heirship

On Court Day, you will approach , question your witness, and get the estate admitted to probate.

9 - 59

Probating a Will

Tracey Brainard has come to you with the original will of her friend Kathleen Morrow

She is the named executor

Kathleen died on Jan 10, 2013

She lived at 407 W. 10th St Houston Harris County Texas 77008

The estate value is $376,000

Kathleen was married once to John Jones. They were divorced in 1987

Prepare the appropriate pleadings and be prepared to prove it up.

9-60

FILED
2012 MAR -2 AM 8:07
Stan Stanart
COUNTY CLERK
HARRIS COUNTY, TEXAS

411448

PROBATE COURT 3

LAST WILL AND TESTAMENT

Of

KATHLEEN TERESA McMORROW

3052012:0856G0009

I, KATHLEEN TERESA McMORROW, of the County of Harris and the State of Texas, being in good health, of sound and disposing mind and memory, do make and declare this instrument to be my Last Will and Testament, hereby expressly revoking all former Wills and Codicils made by me at any time heretofore, and intending to dispose of all the property of whatever kind and wherever situated which I own, or in which I have any kind of interest at the time of my death.

I
IDENTITY OF THE FAMILY

I am single. I have no children. .

II
PAYMENT OF EXPENSES

I direct that all expenses of my last illness, my funeral expenses, and my just personal debts, including any inheritance taxes, transfer taxes, and estate taxes which may be levied by the United States or by any state by reason of my death, shall be paid by my Independent Executrix out of the residue of my estate as soon as conveniently may be done; provided that my Independent Executrix, in such Executrix's sole discretion, may distribute from time to time any real or personal property in my estate which at my death is subject to a lien securing an indebtedness upon it without discharging such indebtedness, if in my Independent Executrix's judgment, the condition of the estate so requires. The distributee shall then be considered as having received my estate's equity in the property.

III
DISPOSITION OF ESTATE

A. If my friend, HOWARD STEPHENS, survives me, I give, devise, and bequeath to HOWARD STEPHENS my Entertainment Center (Louis XVI) and contents.

B. If DR. MARGARET E. BRIDGES survives me, I give devise, and bequeath to DR. MARGARET E. STEPHENS my pink love seat.

K J Norman

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C. If my niece MANDY McMORROW SWADLING survives me, I give, devise, and bequeath to MANDY McMORROW SWADLING my jewelry, consisting of gold bracelets (4), lapis cross and earrings, and fur jacket, and all other jewelry.

D. I give, devise, and bequeath all of the rest and residue of my estate of whatsoever kind and wheresoever situated in equal shares to the following devisees: my sister BRIDIE McMORROW COCHRANE, my sister MYRA McMORROW HICKS, and my brother, JOHN JAMES (SEAN) McMOROW, provided further, however, that if any of said devisees shall not survive me, the share of such non-surviving devisee shall pass and be given to the descendants of such non-surviving devisee per stirpes, or if such non-surviving devisee has no descendants, to devisees who survive me in equal shares.

03052012:0856:G0010

IV
DEFINITION OF SURVIVAL

Any legatee, devisee, donee, person, or beneficiary with respect to all or part of my estate who shall not survive me until sixty (60) days after the date of my death, or until this Will is probated, whichever occurs earlier, shall be deemed to have predeceased me, and shall be treated for all purposes herein as though such legatee, devisee, donee, person, or beneficiary had predeceased me.

V
APPOINTMENT OF EXECUTOR

A. I hereby nominate, constitute, and appoint TRACEY WEPPLER BRAINARD, as Independent Executrix of my estate. In the event TRACEY WEPPLER BRAINARD, shall predecease me or fail or refuse to qualify, or die, resign, or become unable to serve during the administration of my estate, I hereby nominate, constitute, and appoint JAMES WILLIAM BRAINARD, as Independent Executor, and all the powers, duties, and responsibilities granted to and imposed upon TRACEY WEPPLER BRAINARD shall devolve upon and be exercised by JAMES WILLIAM BRAINARD.

B. If any individual Independent Executor or Executrix becomes unable to discharge his or her duties under this Will because of accident, physical or mental illness or deterioration, or other cause, and does not resign, then upon certification in a form sufficient for the recording of a deed in the State of Texas by two (2) medical doctors (neither of whom is a beneficiary or appointee under this Will) affirming that each has examined the Independent Executor or Executrix and that each has concluded, based on such examination, that the Independent Executor is unable to discharge his or her duties under this Will, the Independent Executor or Executrix shall cease to serve, as if he or she had resigned effective the date of the certification.

9-67 9-62 King M

C. It is my will and desire and I hereby direct that in the administration of my estate my Independent Executrix or any successor shall not be required to furnish any bond of any kind and that no action be had in any court in the administration of my estate other than the probating of this, my Last Will and Testament, and the filing of any Inventory, Appraisement, and List of Claims that may be required.

03052012:0852:G0011

VI
POWERS OF EXECUTRIX

The estate created or arising by virtue of my death and this instrument, my Last Will and Testament, shall be governed by and administered in accordance with the following provisions:

A. I hereby grant unto my Independent Executrix, or any successor named above, full power and authority over any and all of my estate and he or she is hereby authorized to sell, manage, and dispose of same or any part thereof, and in connection with any such sale or transaction, make, execute, and deliver proper deeds, assignments, and other written instruments, and to do any and all things proper or necessary in the orderly handling and management of my estate.

B. My Independent Executrix, or any successor named above, shall have full power and authority to compromise, settle, and adjust any and all claims and taxes which may be due from or owing by my estate.

C. My Independent Executrix, or any successor named above, shall have full power and authority to deal with any person, firm, or corporation.

D. My Independent Executrix, or any successor named above, shall have full power to borrow money at any time and in any amount from time to time for the benefit of my estate, from any person, firm, or corporation or from any bank or trust company and to secure the loan or loans by pledge, deed of trust, mortgage, or other encumbrances on the assets of the estate and from time to time to renew such loans and give additional security.

E. As compensation for services, my Independent Executrix, or any successor named above, shall be entitled, but not obligated, to charge fees up to amounts equaling the same fees customarily charged for the similar services in other estates at the time the services are rendered.

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VII
IN TERROREM CLAUSE

If any beneficiary under this Will shall in any manner contest or attack this Will or any of its provisions, any share or interest in my estate given to such contesting beneficiary under this Will is hereby revoked and shall be disposed of as part of the residue of my estate as though such beneficiary had not survived me.

03052012:0956:G0012

VIII
DEFINITIONS AND INTERPRETATIONS

For purposes of interpretation of this, my Last Will and Testament, and the administration of the estate established herein, the following provisions shall apply:

A. The use of the masculine, feminine, or neuter gender shall be interpreted to include the other genders. And the use of either the singular or the plural number shall be interpreted to include the other number, unless such interpretation in a particular case is inconsistent with the general tenor of the instrument. Any references herein relating to "Independent Executor" or "Independent Executrix" shall include his or her successors regardless of the gender of his successors.

B. This Will shall be probated in accordance with the laws of Texas, and should any provisions of the same be held unenforceable or invalid for any reason, the unenforceability or invalidity of said provision shall not affect the enforceability or validity of any other part of this Will.

IN WITNESS WHEREOF, I, KATHLEEN TERESA McMORROW, hereby sign my name to this, my Last Will and Testament, on each page of which I have either signed my full name or my initials, on this 12TH day of DECEMBER, 2006 at Houston, Texas.

Kathleen Teresa McMorrow
KATHLEEN TERESA McMORROW, Testatrix

ATTESTATION

The foregoing instrument was signed in our presence by KATHLEEN TERESA McMORROW and declared by her to be her last Will. We, at the request and in the presence of KATHLEEN TERESA McMORROW and in the presence of each other,

have subscribed our names below as witnesses on this 12TH day of DECEMBER, 2006.

James G. Holland
Witness

JAMES N. HOLLAND
Witness Name Printed

10015 OVERBRAE
Street address

HOUSTON TX 77042
City, State, and Zip code

Alan M Burton
Witness

ALAN M BURTON
Witness Name Printed

607 BLUE WILLOW
Street Address

HOUSTON TX 77042
City, State, and Zip Code

J3052012:0956:G0013

SELF-PROVING AFFIDAVIT

STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared KATHLEEN TERESA McMORROW, and JAMES N. HOLLAND and ALAN M. BURTON known to me to be the Testatrix and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in

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K Y. Mm.

their respective capacities, and all of said persons being duly sworn, the said KATHLEEN TERESA McMORROW , Testatrix, declared to me and to the said witnesses in my presence that said instrument is her Last Will and Testament and that she had willingly made and executed it as her free act and deed; and the said witnesses, each on their oath stated to me, in the presence and hearing of the said Testatrix, that the said Testatrix had declared to them that said instrument is her Last Will and Testament, and that she executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testatrix and at her request; that said Testatrix was at that time eighteen years of age or over (or being under such age was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

03052012:0854:G0014

Kathleen Teresa McMorrow
KATHLEEN TERESA McMORROW, Testatrix

James N. Holland
Witness

Witness

SUBSCRIBED AND SWORN TO BEFORE ME by the said KATHLEEN TERESA McMORROW, Testatrix, and by the said JAMES N. HOLLAND and KEVIN W. BURTON, Witnesses, this 12TH day of OCTOBER, 2006.

JOHN W. COOLIDGE
MY COMMISSION EXPIRES
JULY 18, 2009

Notary Public, State of Texas

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Probate Will as a Muniment

Mrs. Joan Gray has retained you to probate the Will of her husband Roy Earl Gray.

He died on March 5, 2007 at the age of 62 years. They were originally from Conroe but lived in Houston Harris County at 3004 Baskin Street, Houston, Texas 77098

She did not know she had to probate the will since all the bank accounts were surviviorship accounts. She went to an attorney in the neighborhood who told her she did not have to worry about probating the will.

She has found a buyer for the house and the title company is requiring her to probate the will.

She and her husband had five children.

9-[illegible]

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LAST WILL AND TESTAMENT

OF

ROY EARL GRAY

08022012 1032 G0060

THE STATE OF TEXAS *
*
COUNTY OF MONTGOMERY *

KNOW ALL MEN BY THESE PRESENTS:

I, ROY EARL GRAY, Testator, a resident of Montgomery County, Texas, do make, publish and declare this to be my Last Will, hereby revoking all wills and codicils previously made by me.

ARTICLE I.

IDENTIFICATION

1.1 My spouse's name is JOAN M. GRAY. All references in this Will to "my spouse" are to JOAN M. GRAY.

1.2 My spouse and I have five sons at the time of the execution of this Will, namely: GARY T. GRAY, born January 23, 1952; TIMOTHY R. GRAY, born May 25, 1953; BRUCE S. GRAY, born May 1, 1957; BRIAN A. GRAY, born May 1, 1957; and KEITH M. GRAY, born November 24, 1958.

ARTICLE II.

BEQUESTS

2.1 Specific Bequests. I devise and bequeath certain articles in accordance with a writing attached to this Will and signed by me for identification. In the event that no such writing

T.G.
Initial

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is attached to this Will, then my entire residual estate shall pass in accordance with the provisions of Article 2.2.

2.2 Residual Bequests. If my spouse survives me, I devise and bequeath to my spouse all of my interest in all of my property of any kind and description, both real and personal, community or separate.

2.3 If my spouse fails to survive me, I devise and bequeath such property as follows:

A. to my son, TIMOTHY R. GRAY, the sum of TEN DOLLARS ($10.00); and

B. to my sons, GARY T. GRAY, BRUCE S. GRAY, BRIAN A. GRAY, and KEITH M. GRAY, the remainder in equal shares, per capita.

2.4 If neither my spouse nor my children nor any of my descendants survive me, I give all the residue of my estate to those persons who are living sixty-one (61) days after the date of my death and who would have been my heirs at law had I died intestate and single at such time.

ARTICLE III.

FIDUCIARY PROVISIONS

3.1 Fiduciary Appointments. I appoint my spouse, JOAN M. GRAY, as Independent Executrix of this Will and of my estate. If JOAN M. GRAY should fail or cease to serve as Independent Executrix, then I appoint my son, BRIAN A. GRAY, as Independent Executor of this Will. If my spouse, JOAN M. GRAY, and my son,

RJG
Initial

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BRIAN A. GRAY should both fail or cease to serve as Independent Executrix or Independent Executor, then I appoint my son, BRUCE S. GRAY, as Independent Executor of this Will and of my estate. My Independent Executrix or Independent Executor, whether original, substitute, or successor, is herein called "Executor".

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3.2 Limited Court Supervision. I direct that no bond or other security shall be required of my Executor in any jurisdiction and that no action shall be had in any probate or county court in relation to the settlement of my estate other than the probating and recording of my Will and the return of an inventory, appraisement and list of claims of my estate.

3.3 Fiduciary Compensation. All fiduciaries other than my family members shall receive fair and reasonable compensation for services rendered in an amount not exceeding the customary and prevailing charges for services of a similar character at the time and at the place such services are performed, and all my fiduciaries shall be reimbursed for the reasonable costs and expenses incurred in connection with their fiduciary duties.

ARTICLE IV.

ADMINISTRATIVE PROVISIONS

4.1 Survival Criteria. No person other than my spouse shall be deemed to have survived me if such person shall die within two (2) months after my death.

4.2 Taxes Paid From Estate Residue. All estate, inheritance

R. G.
Initial

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5.2 Headings. The headings which have been used through this Will have been inserted for administrative convenience only and do not constitute matter to be construed in interpreting this Will.

IN WITNESS WHEREOF, I, ROY EARL GRAY, have placed my signature or my initials on each page of this, my LAST WILL AND TESTAMENT, typewritten on seven (7) sheets of paper, including an attestation clause, signatures of witnesses, and attached Affidavit, on this the 9th day of September, 1993.

Roy Earl Gray
ROY EARL GRAY, TESTATOR

The foregoing instrument was subscribed in our presence by ROY EARL GRAY, Testator, who declared in our presence that the same is his LAST WILL AND TESTAMENT; that thereafter we, the undersigned, each over fourteen (14) years of age, at the request of ROY EARL GRAY, Testator, in his presence and in the presence of each other, subscribed our names hereto as attesting witnesses on this the 9th day of September, 1993.

Yolanda Alvarez
WITNESS
Address: 1800 Bering Drive #600
Houston, TX. 77057

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Initial

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Patricia R. Chambers
WITNESS

Address: 1800 Bluing Drive
Houston, TX 77057

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THE STATE OF TEXAS *

Before me, the undersigned authority, on this day personally appeared ROY EARL GRAY, YOLANDA ALVAREZ, and PATRICIA N. CHAMBERS, known to me to be the Testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the Testator, ROY EARL GRAY, declared to me and to the said witnesses in my presence that said instrument is his last Will and Testament, and that he had willingly made and executed it as his free act and deed for the purposes therein expressed; and the said witnesses, each on his or her oath stated to me, in the presence and hearing of the said Testator that the said Testator had declared to them that said instrument is his last Will and Testament, and that he executed the same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator and at her request; that he was at that time eighteen (18) years of age or over and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

Roy Earl Gray
ROY EARL GRAY

Yolanda Alvarez
Witness

Patricia N. Chambers
Witness

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

Subscribed and acknowledged before me by the said Testator, ROY EARL GRAY, and subscribed and sworn to before me by the said witnesses, YOLANDA ALVAREZ and PATRICIA N. CHAMBERS on this the 9th day of September, 1993.

Dorothy Threeton
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

DOROTHY THREETON
NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES
MAY 31, 1997

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RG
Initial

Dependent Administration

Johnny Green died on March 20, 2011 at the age of 63 years of age. He owned a house at 4683 Marblewood, Houston, Harris County Texas.

Citimark Mortgage has retained you because the mortgage has not been paid since the death of Johnny. The original mortgage was $75,000. The loan amount at present is $24,000. The FMV of the house is $95,000.

Green was not married at the time of his death. He had two sons. Wally and Evan Citimark got their names out of the obituary and has googled them. Their address is 4455 Passlewood, Conroe Texas 77776. They have contacted them and the sons are ignoring all correspondence.

They have come to you to get an administration opened.

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Assignment: Independent Administration

Mr and Mrs Fontenot have come to see you. Their son died and they did not think an administration was necessary but have recently discovered that he had a life insurance policy for $100,000 that did not have any beneficiary designations. The insurance company has told them that they will only release it to the estate personal representative. They also discovered a few small debts.

They have brought you a copy of the order declaring themselves as the heirs and the application.

They both agree that the husband Paul should serve as the Independent Administrator

Prepare the appropriate pleadings and be prepared to prove them up in court

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PROBATE COURT 3

No. 414066

IN THE ESTATE OF	§	IN THE PROBATE COURT
	§	
CRAIG MICHAEL FONTENOT,	§	NUMBER ___ OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

APPLICATION TO DETERMINE HEIRSHIP Publ-DCR 6 20-12

The Applicants, Paul N. Fontenot and Jerrylene T. Fontenot, furnish the following information to the Court:

1. Craig Michael Fontenot ("Decedent") died on May 12, 2012, at the age of 38 years, in Ville Platte, Louisiana.

2. An administration is pending upon Decedent's Estate in the above entitled and numbered cause, and it is in the best interest of the Estate for the Court to determine who are the heirs and only heirs of the Decedent.

3. This Court has jurisdiction and venue is proper because this is the court in which a proceeding administering Decedent's Estate was most recently pending.

4. Applicants are the personal representatives of the Decedent's Estate.

5. The names and residences of all of Decedent's heirs, the relationship of each heir to Decedent and the true interest of the Applicants and of each of the heirs in the Estate of Decedent are as follows:

a. Name: Paul N. Fontenot
Address: P.O. Box 499, Ville Platte, Louisiana 70586
Relationship: Father
Share of Real Property: 1/2
Share of Personal Property: 1/2

b. Name: Jerrylene T. Fontenot
Address: P.O. Box 499, Ville Platte, Louisiana 70586
Relationship: Mother
Share of Real Property: 1/2
Share of Personal Property: 1/2

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6. At the time of Decedent's death, Decedent owned real property in the State of Texas and personal property as follows:

REAL PROPERTY

Description: Homestead located at 2330 Braypark Lane, Katy Texas 77450
Type: Separate Property
Value: $136,000.00

PERSONAL PROPERTY

a. Description: Toyota 4-Runner
Type: Separate Property
Value: $5,000.00

b. Description: Household items and personal effects
Type: Separate Property
Value: $1,500.00

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7. Decedent was not survived by any living child. Decedent was not predeceased by any child.

8. Decedent had never been married.

9. All children born to or adopted by Decedent have been listed. Each marriage of Decedent has been listed.

10. To the best of my knowledge, Decedent died intestate.

11. This Application does not omit any information required by the Texas Probate Code, Section 49.

12. There are no debts owed by Decedent that are not secured by liens upon real estate and there is a necessity for an administration of this Estate.

13. This Application contains all of the material facts and circumstances within the knowledge and information of the Applicants that might reasonably tend to show the time or place of death or the names or residences of all heirs, if the time or place of death or the names or residences of all the heirs are not definitely known to the Applicants.

Applicants pray that citation issue as required by law; that an attorney ad litem be appointed

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to represent the interests of unknown heirs; that upon hearing hereof, this Court determine who are the heirs and only heirs of Decedent and their respective shares and interests in this Estate; and that a necessity exists for an administration of Decedent's Estate.

Respectfully submitted,

Paul N. Fontenot, Applicant

Jerrylene T. Fontenot, Applicant

GEOFFREY C. SANSOM, P.C.

By: Geoffrey C. Sansom
Attorney for Paul N. Fontenot and Jerrylene T. Fontenot
State Bar No.: 24033159
3100 Timmons Ln., Suite 310
Houston, Texas 77027
Telephone: (713) 238-7767
Facsimile: (713) 993-0452

STATE OF TEXAS §

COUNTY OF HARRIS §

I, Paul N. Fontenot, Applicant, having been duly sworn, hereby state on oath that insofar as is known to me, all of the allegations of the foregoing Application to Determine Heirship are true in substance and in fact and that no material fact or circumstance has, within my knowledge, been omitted from the Application.

Paul N. Fontenot, Applicant

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SWORN TO AND SUBSCRIBED BEFORE ME BY Paul N. Fontenot, on the day of June 19, 2012, to certify which witness my hand and seal of office.

GEOFFREY C. SANSOM
Notary Public, State of Texas
My Commission Expires
August 15, 2013

Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF HARRIS §

I, Jerrylene T. Fontenot, Applicant, having been duly sworn, hereby state on oath that insofar as is known to me, all of the allegations of the foregoing Application to Determine Heirship are true in substance and in fact and that no material fact or circumstance has, within my knowledge, been omitted from the Application.

Jerrylene T. Fontenot, Applicant

SWORN TO AND SUBSCRIBED BEFORE ME BY Jerrylene T. Fontenot, on the day of June 19, 2012, to certify which witness my hand and seal of office.

GEOFFREY C. SANSOM
Notary Public, State of Texas
My Commission Expires
August 15, 2013

Notary Public, State of Texas

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No. 414,066

IN THE ESTATE OF	§	IN THE PROBATE COURT
	§	
CRAIG MICHAEL FONTENOT,	§	NUMBER THREE (3) OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

JUDGMENT DECLARING HEIRSHIP

On this day came on to be heard the sworn Application to Determine Heirship of the Estate of Craig Michael Fontenot, Deceased, wherein Paul N. Fontenot and Jerrylene T. Fontenot are the Applicants and are heirs to Decedent's Estate, and Decedent's living heirs whose names and/or whereabouts are unknown are Defendants; and it appears to the Court, and the Court so finds that all parties interested in the Estate of Decedent have filed written waivers of service of citation, have appeared and answered herein, or have been duly and legally served with citation as required by law; that the Court appointed an Attorney Ad Litem to appear and answer and to represent Defendants and such Attorney Ad Litem did so appear and filed an answer for Defendants; that this Court has jurisdiction of the subject matter and all persons and parties; that the evidence presented and admitted fully and satisfactorily proves each and every issue presented to the Court; that Decedent died intestate; and that the heirship of Decedent has been fully and satisfactorily proved and the interest and shares of each of the heirs therein.

The Court finds and it is **ORDERED** and **DECREED** by this Court that the names and places of residence of the heirs of Decedent and their respective shares and interests in the real and personal property of Decedent are as follows:

a. Name: Paul N. Fontenot
Address: P.O. Box 499, Ville Plate, Louisiana 70586
Relationship: Father
Share of Real Property: 1/2
Share of Personal Property: 1/2

b. Name: Jerrylene T. Fontenot
Address: P.O. Box 499, Ville Plate, Louisiana 70586
Relationship: Mother

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Share of Real Property: 1/2
Share of Personal Property: 1/2

SIGNED on the 24 day of Sept, 2012.

Georgia Ackers
JUDGE PRESIDING

APPROVED AS TO FORM:

GEOFFREY C. SANSOM, P.C.

By: Geoffrey C. Sansom
Attorney for Applicants
State Bar No.: 24033159
3100 Timmons Ln., Suite 310
Houston, Texas 77027
Telephone: (713) 238-7767
Facsimile: (713) 993-0452

Alex Lieber-Alessie
Attorney Ad Litem
State Bar No.: 12331500
2203 Hardy St.
Houston, Texas 77026
Telephone: (713) 224-4300
Facsimile: (713) 224-4301

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Steven James Hitt has come to see you regarding the death of this sister Sherri Diane Stamper. Sherri was not married at the time of death and had no children. Their parents are dead and Steven is her only brother.

She owed no debts. The only assets are car, personal property, a bank account, and retirement account where no beneficiary had been named.

Steven and his sister were close and she had planned to get a will done but never got around to going to a lawyer.

You have prepared a determination of heirship and Steven has brought long time friends of the family, Mark and Betty Green as disinterested witnesses.

Prove up the heirship with one of the disinterested witnesses.

NO. 429038 PROBATE COURT 3

FILED
2/28/2014 1:07:48 PM
Stan Stanart
County Clerk
Harris County

ESTATE OF Data Entry Pick Up This Date	§	IN THE PROBATE COURT
	§	
SHERRI DIANE STAMPER,	§	NUMBER 3 OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

PUBL-DCR

2-28-2014

APPLICATION TO DECLARE HEIRSHIP

STEPHEN JAMES HITT ("Applicant"), who resides at 3405 Nottingham Street, Pearland, Brazoria County, Texas 77581-5206, furnishes the following information to the Court:

1. SHERRI DIANE STAMPER, aka SHERRI DIANE GIESE and SHERRI DIANE GUNTER, ("Decedent") died at 1:30 a.m. January 26, 2014 at Houston, Harris County, Texas.

2. No administration is pending upon Decedent's estate, and none appears necessary. It is necessary and in the best interest of the estate for the Court to determine who are the heirs and only heirs of Decedent.

3. Applicant claims to be the owner of a part of Decedent's estate. The names and residences of all of Decedent's heirs, the relationship of each heir to Decedent, and the true interest of the Applicant and of each of the heirs in the estate of Decedent are as follows:

Names and Residences	Relationship	True Interest
STEPHEN JAMES HITT 3405 Nottingham Street Pearland, TX 77581-5206,	Brother	100%

4. At the time of Decedent's death, Decedent owned the following property:

   a. 1999 Ford Taurus Automobile

   b. JP Morgan Chase Bank, NA checking account
   Account # 91299111965

   c. Clothing & Personal Effects

   d. Retirement Account - Through Houston Municipal Employees Retirement System (HMERS)

C-PUBLICATION Fees - $
C-PUBLICATION Fees - 3

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5. Decedent's marital history is as follows:

   a. Married to Maurice Giese in approximately 1977, divorced on August 5, 1981, in the 308 District Court of Pierce County Texas, under Cause Number 80-56035. Such spouse has no interest in Decedent's estate.

   b. Married to John Stamper in approximately 1987, divorced on divorced on June 7, 1989 in the 257 District Court of Harris County Texas, under Cause Number 89-11352.

   Such spouse has no interest in Decedent's estate.

   c. Married to Michael Gunter in approximately 1995, divorced on October 27, 1993 and 309 District Court of Pierce County Texas, under Cause Number 93-55518. Such spouse has no interest in Decedent's estate.

6. No children were born to or adopted by Decedent during her lifetime.

7. All children born or adopted by Decedent have been listed. Each marriage of Decedent has been listed.

8. To the best of my knowledge, Decedent died intestate.

9. This application does not omit any information required by Texas Probate Code, Section 49.

10. There are no debts owed by Decedent that are not secured by liens on real estate, and there is no necessity for administration of this estate.

Applicant prays that citation issue as required by law; that upon hearing hereof, this Court determine who are the heirs and only heirs of Decedent and their respective shares and interests in this estate and that no necessity exists for an administration of Decedent's estate.

Respectfully submitted,

Charles Storer
Attorney for Applicant
State Bar No.: 19313100
6650 Fairfield Street
Houston, TX 77023-4002
Office: (713) 921-6070
Fax: 888-613-9501
email: charlesstorer@gmail.com

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STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared STEPHEN JAMES HITT and, after being duly sworn, stated that:

Insofar as is known to me, all the allegations of the foregoing application are true in substance and in fact and that no material fact or circumstance has, within my knowledge, been omitted from the application.

STEPHEN JAMES HITT

SUBSCRIBED AND SWORN TO BEFORE ME by STEPHEN JAMES HITT on February 27, 2014.

KIRBY D BLEDSOE III
Notary Public, State of Texas
My Commission Expires
September 30, 2016

Notary Public, State of Texas

Notary's Name Printed:
Kirby Bledsoe

20140219 1001 AM 2014020810

9-80

9-85

DATA ENTRY
PICK UP THIS DAY

PROBATE COUR

NO. 429038

ESTATE OF	§	IN THE PROBATE COURT
	§	
SHERRI DIANE STAMPER,	§	NUMBER 3 OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

Judgment Declaring Heirship

On this day the Court heard the sworn Application to Declare Heirship of the Estate of **SHERRI DIANE STAMPER**, Deceased, ("Decedent"), wherein **STEPHEN JAMES HITT** is the applicant and Decedent's living heirs whose names are known are respondents and Decedent's heirs whose names or locations are unknown are defendants. It appears to the Court, and the Court so finds, that all parties interested in the estate of Decedent have been made parties to the application, have filed written waivers of service of citation, have appeared and answered herein, or have been duly and legally served with citation as required by law; that the Court appointed Fred M. Bosse as attorney ad litem to appear and answer and to represent the defendants, and such attorney ad litem did so appear and filed an answer for the defendants; that this Court has jurisdiction of the subject matter and all persons and parties; that the evidence presented and admitted fully and satisfactorily proves each and every issue presented to the Court; that Decedent died intestate and that the heirship of Decedent has been fully and satisfactorily proved, as well as the identity of the nature of Decedent's property as being separate or community and the interest and shares of each of the heirs therein; and that no administration is necessary.

The Court finds that the names and places of residence of the heirs of Decedent and their respective shares and interests in the real and personal property of Decedent are as follows:

Name and Place of Residence of Heir

STEPHEN JAMES HITT, brother of Decedent
3405 Nottingham Street
Pearland, TX 77581-5206

Share and Description of Real Property

100% of any Real Property, the nature of which is to be determined.

Share and Description of Personal Property

100% of Decedent's Personal Property, all of which is determined to be separate property to consist of personal effects, automobile, bank accounts, retirement account through the City of Houston and other death benefits through Decedent's previous employments.

9-86

9-86

06232014 1225 P0022

IT IS ORDERED AND DECREED that the Fred M. Bosse, the attorney ad litem appointed to represent the interests of the Defendants, is discharged from this case and is allowed a fee set forth in a separate order.

The Court finds that there exists no necessity for administration of the estate of Decedent, none is ordered, and upon payment of all costs of Court no further proceedings shall be had in this cause.

IT IS FURTHER ORDERED that the Application for Determination of Heirship of the Estate of Decedent, together with the evidence received in this preceding, be recorded in the judge's probate docket.

IT IS FURTHER ORDERED AND DECREED that the appointment of the Attorney Ad Litem is hereby terminated.

SIGNED on June 4 2014

Judge Presiding

APPROVED AND ENTRY REQUESTED:

June 19, 2014

Judge Rory R. Olsen

Charles Storer
Attorney for Stephen James Hitt
State Bar No.: 19313100
6650 Fairfield Street
Houston, TX 77023-4002
Office: 713-921-6070
Fax: 888-613-9501
e-mail: charlesstorer@gmail.com

FRED M. BOSSE
Attorney ad Litem
State Bar No.: 02679500
13410 Holly Park
Houston, Texas 77015
Office: (713) 453-7283
Fax: 713-453-5013

FILED
2014 JUN 10 AM 9:27

9-87

9-87

Chapter 10:

Creditor's Claims

CLEVER. HE WALKED INTO THE CREEK SO WE'D LOSE HIS TRAIL. THAT'S THE ONE PLACE CREDITORS CAN'T TRACK YOU.

433598 PROBATE COURT 3

Last Will and Testament

Dated: March 9th, 2010

Name: Senaida Melchor Nalley

age - 70 yrs. old

Address: 17415 Manforest Dr.

City and State - Houston, Texas, County of Harris

Date of birth: January 13, 1940

Place of birth: Hidalgo, Texas, County of Hidalgo

Parents: Agueda Melchor y Dominguez & Melchor (Chavez)

I, Senaida Melchor Nalley, being of sound mind and body on this Tuesday 9th day of March year of 2010 do bequeath all my worldly goods to my husband Walter Wayne Nalley Senior, My home on 17415 Manforest Dr. Houston, Texas, County of Harris and all its belongings, furniture, appliances, tools, utensils.

My costume jewelry I would like for Irene Cerda my daughter-in-law to sort them out & make sure what is gold is gold and what is silver is silver etc. I would like for Sherry Cerda my daughter-in-law to have my wedding rings if my husband Wayne Nalley does not object.

All of the past & present photos of family I would like for Jon my son to have and divide with his brother Victor & capt

PURPORTED WILL

for the benefit of my husband and myself that were acquired together.

FILED
2014 SEP -5 PM 1:33
Stan Stanart
COUNTY CLERK
HARRIS COUNTY TEXAS

RECORDER'S MEMORANDUM
This instrument was damaged at the time received for filing.

PURPORTED WILL

CHAPTER 10

Texas is not real kind to creditors.

Texas wants estates administered in an efficient, quick manner. It will not allow creditors extraordinary amounts of time to collect if the attorney has done his job in notifying creditors.

Texas also requires creditors to jump through hoops in a decedent's estate.

Read the first line again!

Notice to Creditors | Notice to Creditors

NOTICE TO CREDITORS

Notice is hereby given that original Letters Testamentary for the Estate of Joseph Robert Barnes, Jr., Deceased, were issued on August 9, 2022, in Cause No. 505773, pending in the Probate Court No: 1, Harris County, Texas, to: Lisa Gaye Hefner.

All persons having claims against this Estate which is currently being administered are required to present them to the undersigned within the time and in the manner prescribed by law.

c/o: Lisa Gaye Hefner
9814 Sumerlin
Houston, Texas 77075

DATED the 10th day of August, 2022.

/s/ Victor A. Sturm
Victor A. Sturm
Attorney for Lisa Gaye Hefner
State Bar No.: 19451500
2420 S. Grand Blvd.
Pearland, Texas 77581
Telephone: (281) 485-2011
Facsimile: (281) 485-5730
E-mail: victor@sturmlawfirm.com

NOTICE TO CREDITORS

Notice is hereby given that original Letters of Administration for the Estate of Charles William Stockdale, Deceased, were issued on August 10, 2022, in Cause No. PR42434, pending in the County Court-At-Law No: 1, Brazoria County, Texas, to: Charles William Stockdale, Jr..

All persons having claims against this Estate which is currently being administered are required to present them to the undersigned within the time and in the manner prescribed by law.

c/o: **Charles William Stockdale, Jr.**
C/O Victor A. Sturm
2420 S. Grand Blvd.
Pearland, Texas 77581

DATED the 10th day of August, 2022.

/s/ Victor A. Sturm
Victor A. Sturm
Attorney for Charles William Stockdale, Jr.
State Bar No.: 19451500
2420 S. Grand Blvd.
Pearland, Texas 77581
Telephone: (281) 485-2011
Facsimile: (281) 485-5730
E-mail: victor@sturmlawfirm.com

mmy

Chap 8
PROBATE COURT 3

CAUSE NO. 387,959

IN RE: THE ESTATE OF	§	IN THE PROBATE COURT
DONNA LAGRONE	§	
	§	NO. THREE (3) OF
DECEASED	§	
	§	HARRIS COUNTY, TEXAS

POST
2/23/2012

APPLICATION FOR DEPENDENT ADMINISTRATION

COMES NOW GMAC MORTGAGE, LLC, ITS SUCCESSORS AND ASSIGNS, ("Applicant"), and applies for the appointment of a Dependent Administrator to receive Letters of Administration of the Estate of DONNA LAGRONE, Deceased ("Decedent"), and respectfully shows the Court:

1. Applicant is a creditor interested in this Estate and is a corporation domiciled in and having its principal place of business at 1100 Virginia Drive Fort Washington, PA 19034, and is acting in this matter by and through its duly authorized representative, and is not related to Decedent.

2. DONNA LAGRONE died intestate in HARRIS County, Texas, on APRIL 8, 2009 at the age of 55 years.

3. This Court has jurisdiction and venue because Decedent was domiciled and had a fixed place of residence in this County on the date of death.

4. An Application for Probate of Will and Letters of Administration with Will Annexed was filed in this court on April 24, 2009. Pursuant to the Drop Order signed on June 7, 2010, the case was dropped from the court's docket.

5. It is unknown what real or personal property Decedent owned or the value thereof at the time of death other than the following described real property secured by a security instrument:

Probate/ 44-11-3854
Lagrone

10-1

C-POSTING

LOT 5, IN BLOCK 19, OF MEMORIAL CLUB TOWNHOUSES, SECTION ONE (1), A SUBDIVISION IN HARRIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 174, PAGE 82 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS.

And commonly known as 1223 COUNTRY PLACE DRIVE, HOUSTON, TX 77079 ("Property").

6. Applicant is the servicer for the secured party named in the security instrument.

7. The name, age, address and relationship of each alleged heir to Decedent known to Applicant is:

Name	Age	Relationship to Decedent	Address
Travis L, Lagrone	62	Spouse	1223 Country Place Dr. Houston, TX 77079
Andrew L. Kennedy	29	Son	1835 Kalorama Rd, NW, Apt.4 Washington, D.C. 20009
Lindsey E. Kennedy	26	Daughter	1451 Wood Hollow Dr, Apt. 28106 Houston, TX 77057

8. At the time of the filing of this Application it is unknown to Applicant whether Decedent ever divorced during Decedent's lifetime. It is unknown to Applicant if any children were adopted by Decedent. The interest of Decedent's Estate requires the immediate appointment of an Administrator because the indebtedness owing Applicant, a secured creditor or servicer for a secured creditor of Decedent is increasing. The rapid and substantial increase has resulted from the accrual of interest. The Estate has no means of discharging the indebtedness except to sell the security for the indebtedness at public or private sale pursuant to requirements of the Texas Probate Code. Moreover, the security for the indebtedness, i.e. residential real property, is deteriorating and suffering from waste. If immediate steps are not taken to maintain and preserve the real property, the value thereof will be substantially diminished.

9. Applicant asks the court to appoint W. Timothy Weaver, an attorney knowledgeable in probate law and practices in Harris County, Texas, at 1330 Post Oak Boulevard, Suite 2877,

Houston, Texas 77056, and is a proper person to be appointed Administrator of the Estate of DONNA LAGRONE, Deceased. W. Timothy Weaver is a suitable person and is not disqualified to serve in the stated capacity.

10. It may be necessary for an appraiser to be appointed to make an appraisal of the real property belonging to the Estate. Should the Court deem that an appraiser is necessary, Applicant requests that the Court appoint a suitable appraiser of this Estate.

WHEREFORE, PREMISES CONSIDERED, Applicant prays that W. Timothy Weaver be appointed Administrator of the Estate of DONNA LAGRONE, Deceased, upon oath and filing of bond as required by the Court. Applicant prays for all other relief to which it is entitled.

Respectfully submitted,

CODILIS & STAWIARSKI, P.C.

By: _____
Mary M. Spindel/TBN: 18908400
Robert L. Negrin/TBN: 14865550
Randall B. Clark/TBN: 04294900
650 N. Sam Houston Parkway E., Suite 450
Houston, Texas 77060
281-925-5227 (Fax) 281-925-5327
281-925-5208 (Fax) 281-925-5308
281-925-5210 (Fax) 281-925-5310
Attorney for GMAC MORTGAGE, LLC

FILED
2012 FEB 23 AM 9:41

Probate/ 44-11-3854
Lagrone

10-3

CAUSE NO. 387,959

IN RE: THE ESTATE OF	§	IN THE PROBATE COURT
	§	
DONNA LAGRONE	§	NO. THREE (3) OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

ORDER APPOINTING DEPENDENT ADMINISTRATOR

On this day, this Court heard and considered the Application for Dependent Administration filed by GMAC MORTGAGE, LLC, ITS SUCCESSORS AND ASSIGNS, ("Applicant"), and after hearing the evidence in support of the Application, the Court finds that DONNA LAGRONE, ("Decedent") is deceased, and four (4) years have not elapsed since the date of Decedent's death. This Court has jurisdiction and venue over this Estate, and the interest of this Estate requires the immediate appointment of a personal representative, that Application for Letters of Dependent Administration should be granted, and W. Timothy Weaver would be a suitable representative, is not disqualified from acting as such, and should be appointed Administrator of this Estate.

It is therefore ORDERED, ADJUDGED and DECREED that W. Timothy Weaver is hereby appointed Dependent Administrator of this Estate and shall give bond, personal or corporate, in the sum of $_____, conditioned as required by law; that unless this appointment is contested after service of citation, it shall be continued in force for such period of time as the Court shall deem in the interest of this Estate, that the Clerk of this Court shall issue Letters of Administration when the Dependent Administrator has qualified according to law pursuant to the requirements of the Texas Probate Code.

SIGNED this _____ day of _____, 2012.

_____
JUDGE PRESIDING

10-4

Probate/ 44-11-3854
Lagrone

OFFICE OF STAN STANART
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE §
PROBATE COURT NO. _____ §
§
HARRIS COUNTY, TEXAS §
§

DOCKET NO. _____

STYLE OF ESTATE: _____
DECEASED MINOR INCAPACITATED

SWORN STATEMENT SUPPORTING CLAIM AGAINST ESTATE

I, _____, hereinafter called Affiant, do solemnly swear that the foregoing and attached claim against the above numbered and styled Estate, amounting to the sum of _____ Dollars ($ _____)is a just claim, and that all legal offsets, payments, and credits known to Affiant have been allowed, and that the sum herein claimed is just and due.

*Affiant further states that he is cognizant of the facts contained in this Affidavit.

_____
Affiant

_____

_____
City State Zip

Sworn to and subscribed before me on _____

_____
Notary Public, in and for the State of Texas

* The last sentence should be stricken out if Affiant is the owner of the claim.

(* 308 Texas Probate Code requires this statement to be accompanied by an exhibit)

APPROVAL OR DENIAL OF CLAIM

The within Claim for $ _____ was presented to me on _____ and was denied/allowed on _____, as a claim against the above numbered and styled Estate.

_____

Title: _____

10-5

n No 1-02-35 (Rev 01/01/2011)

OFFICE OF STAN STANART
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE	§	DOCKET NO. _____
	§	
PROBATE COURT NO. _____	§	
	§	ESTATE OF: _____
HARRIS COUNTY, TEXAS	§	DECEASED/MINOR/INCAPACITATED

ORDER APPROVING CLAIM AGAINST ESTATE

THE CLAIM OF _____

against the above described Estate having been allowed by the _____

of the Estate; having been filed and recorded in the Probate Court No. _____ Records of the County Clerk of Harris County, Texas, under Film Code No. _____ through Film Code No. _____;

having been entered by said County Clerk in the Claim Docket of the Probate Court No. _____ Records of said County Clerk on _____, which is ten or more full days prior to the date of this Order; and having been examined by the Court and found to be correct;

SAID CLAIM IS HEREBY APPROVED by this Court for the sum of $ _____

as a valid claim against the Estate and is here now classified as a _____

Class Claim Against said Estate.

SIGNED: _____.

_____
Judge, Probate Court No. _____
Harris County, Texas

10-6

PROBATE COURT 3

CAUSE NUMBER 406,317

ESTATE OF

JAMES EDWARD BOYKIN A/K/A JAS E. BOYKIN, DECEASED

§ IN THE PROBATE COURT
§
§ NO. 3 OF
§
§ HARRIS COUNTY, TEXAS

AUTHENTICATED SECURED CLAIM OF JAMES B. NUTTER & COMPANY

James B. Nutter & Company (hereinafter referred to as "Claimant") presents this Claim to the Administrator of the above-captioned Estate, and shows:

1. This Claim is based on the execution of that certain Promissory Note dated July 16, 2008 with an original balance of $157,500.00 executed by James Edward Boykin, and payable to the order of Citizens Mortgage Corporation. The indebtedness evidenced by said Note is secured by a Deed of Trust of even date being recorded at Instrument Number 20080383288 of the Real Property Records of Harris County, Texas. The Deed of Trust creates a lien in favor of Claimant on that certain real property and all improvements thereon located at 2343 Campbell Road, Houston, TX 77080. Citizens Mortgage Corporation subsequently assigned the Deed of Trust to Claimant James B. Nutter & Company. True and correct copies of the Note, Deed of Trust and Assignment are attached hereto as Exhibits "A", "B" and "C", respectively, and incorporated herein by reference the same as if fully copied and set forth at length.

Claimant is the current holder of the Note that is the subject of this Claim.

2. As of October 25, 2011, the amount of this Claim is as follows:

PRINCIPAL BALANCE	76,650.86
INTEREST	101.19
COLLECTION FEES DUE	12,698.65
OTHER FEES	84.40
TOTAL CLAIM AMOUNT	$89,535.10

3. Claimant would further show that said Claim is just and that all legal offsets, payments and credits known to Claimant have been submitted to the Administrator for allowance.

4. Claimant desires to have the Claim allowed, approved, and fixed as a preferred debt and lien against the specific property described above securing the indebtedness evidenced by the Note, to be paid according to the terms of the Note secured by said liens.

WHEREFORE, PREMISES CONSIDERED, Claimant requests that the Claim described above be allowed by the Administrator of the above-captioned estate and approved and classified by the Court for its payment as a preferred debt and lien against the specific property securing the indebtedness by the Note, in the total amount reflected in Paragraph 2 above, plus any additional amounts which accrue or are incurred and are payable under the Note and Deed of Trust, together with any and all other and further relief to which Claimant may be entitled.

Respectfully submitted,

BRICE, VANDER LINDEN & WERNICK, P.C.

Selim H. Taherzadeh
State Bar No. 24046944
Attorneys and Counselors
9441 LBJ Freeway, Suite 250
Dallas, Texas 75243
(972) 643-6669
(972) 643-6699 (Telecopier)

ATTORNEYS FOR CLAIMANT

FILED
2012 JAN 26 AM 9:16

10-8

IN THE ESTATE OF

JAMES EDWARD BOYKIN a/k/a JAS E. BOYKIN

DECEASED

CAUSE NO. 406,317

§
§
§
§
§
§

PROBATE COURT 3

IN THE PROBATE COURT

NUMBER THREE (3) OF

HARRIS COUNTY, TEXAS

MEMORANDUM OF ALLOWANCE

The Authenticated Secured Claim of James B. Nutter & Company ("Claimant"), in the amount of $89,535.10 was presented to me on January 23, 2012. After examining it, I hereby ALLOW the Claim in full in the amount of $89,535.10, as a valid preferred debt and lien against real property of the Estate located at 2343 Campbell Road, Houston, Texas 77080, which secures the indebtedness to be paid according to the terms of the loan documents attached to Claimant's Claim.

Dated this 16th day of February, 2012.

HOWARD M. REINER
Administrator

FILED
2012 FEB 21 PM 3:42

10-9

CAUSE NO. 406,317

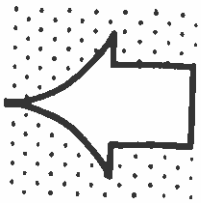
IN THE ESTATE OF	§	IN THE PROBATE COURT
JAMES EDWARD BOYKIN a/k/a JAS E. BOYKIN	§	NUMBER THREE (3) OF
DECEASED	§	HARRIS COUNTY, TEXAS

ORDER OF THE COURT

The Authenticated Secured Claim of James B. Nutter & Company ("Claimant"), having been duly presented and allowed by the personal representative of this Estate and entered upon the claims docket for a period of at least ten (10) days, has been examined by the Court. Being satisfied that the Claim is just, the Court hereby approves the Claim in full in the amount of $89,535.10 as a preferred debt and lien against the specific property that secures the indebtedness held by Claimant located at 2343 Campbell Road, Houston, Texas 77080,to be paid according to the terms and conditions of the loan documents attached to Claimant's Claim.

SIGNED this _____ day of _____, 2012.

_____
JUDGE PRESIDING



PLEASE SEND CONFORMED COPY TO:
HOWARD M. REINER
HOWARD M. REINER & ASSOCIATES
3410 Mercer Street
Houston, Texas 77027

10-10

After you pass away, who pays your debts?

WESLEY E. WRIGHT

MOLLY DEAR ABSHIRE

According to the Ramsey Solutions, 77% of American households are in debt, and the average American adult is $58,604 in debt. Many people plan to have no debt when they pass away, but that does not always happen. This frequently begs the question: "After death, who pays my debts?"

The simplest answer is your estate. Unfortunately, death does not release you from your debts, and they must be paid from your estate assets. Your estate is the property that you own at death. If there is not enough cash in your estate to pay all your debts, the executor of your estate may have to sell real or personal property to raise funds to pay all your debts. If you do not have enough assets in your estate to pay all debts (i.e., insolvent estate), your creditors may divide up your remaining estate and leave nothing to pass on to your beneficiaries or heirs.

However, the Texas legislature has adopted laws to prevent such harsh consequences from befalling the families of an indebted deceased person. First and most importantly, if you are married or have minor or adult incapacitated children and own a home at death, the homestead must be set aside for your surviving spouse's and/or children's use and benefit, and cannot be seized to pay debts. If you do not own a home at death, an allowance of $45,000 may be set aside for your surviving spouse and/or minor or adult incapacitated children.

In addition to the homestead and if you have a surviving spouse and/or minor or adult incapacitated children, other assets exempt from creditor's claims include but are not limited to: home furnishings, wearing apparel, jewelry, two firearms, one vehicle per licensed driver in the household, and any retirement accounts. If you do not own any other exempt property at death, an allowance of up to $30,000 may be set aside for your surviving spouse or minor or adult incapacitated children. Also, in addition to the above exemptions and allowances, the probate court may set aside a family allowance in the amount necessary for the maintenance of your surviving spouse and/or minor or adult incapacitated children for one year after the date of death.

It is commonly believed that designating a beneficiary on an account or making an account payable on death will prevent your creditors from reaching those funds because the account will pass outside of your probate estate as a "non-probate asset." However, under certain situations, Texas law allows creditors to access those non-probate assets to pay their claim for money against your estate. One exception to this rule is life insurance. Life insurance proceeds are fully exempt from seizure by any legal process used to pay a debt of either the insured person or a beneficiary under the policy — even if your estate is the beneficiary.

After your estate is probated, one technique that may be used to reduce the total amount of unsecured debt (not secured with collateral such as a mortgage or vehicle loan) is that the executor of your estate can contact your creditors and offer a settlement to reduce the debt owed in exchange for immediate payment. Creditors, particularly credit card companies, are often willing to s their debts to debt collecto for pennies on the dollar anyway, so they are likely also willing to settle your debt for less than the amount owed.

A well-qualified probat attorney can help navigate through the above rules ar techniques — and addition al strategies not discussed in this article — to settle a loved one's estate and max mize the inheritance that i passed on.

Creditor Claims/Administration Issues

Lonnie Loanshark has come to you on March 15, regarding a debt owed to him by Tommy Gambler. Tommy borrowed $25,000 from Lonnie to purchase a fishing boat and the debt is recognized on the boat title. Tommy just recently died in a boating accident where the boat hit a pier and exploded. Lonnie has received a notice to creditors from Timmy Gambler the administrator. He received the notice on Feb 23, what advice would you give him and how would you proceed?

Peggy Merrybucks has come to you regarding a notice she received on March 1, from the administrator of Sorry Bucks estate. She had loaned Sorry Bucks $15,000. It is now July 15; she has not taken any action. What advice do you give her? What if she has come to see you on June 15? Would the advice be different?

ABC Mortgage has hired you regarding the loan they gave Maxey Marble. They loaned him money to purchase his house at 123 Boxer Lane. The current loan amount is $75k. The FMV of the house is $200K. No one has done anything about opening an estate and the loan is six months in arrears.

What advice do you give the mortgage co?

Susie Maxwell comes to you regarding a debt that is owed to her in Tom's estate. She loaned Tom $20,000. She received notice on June 10 and filed a claim on July 10. The administrator has done nothing and it is now August 15. What should she do?

Molly Marble comes to you regarding a debt owed by the Green estate. She received notice on January 15 and filed a claim on February 10. It is now August 5. She has heard nothing from the administrator regarding her claim. What advice do you give her?

Sam Jones loaned the decedent $100,000 to purchase a Mercedes. The debt is secured by the car. The decedent died and he has received notice from the administrator. The car is worth $150K. What advice do you give Sam? What if the car was worth $40K but the estate is a solvent one?

Chapter 11:

Related Matters in Administration and Contested Matters

PROBATE COUR

103671 812804 382353

Houston T
March 25. 200
Time 5:40 pm
12-85-40

To whom it My Concern
In Case or my Death before My wife
Marth of Co. I want her and My two
kid by her to have every thing
I have and rest on this. I don't want
them to have nothing. funeral I don't
want any of them at my funeral. P. S
love all or them but I don't want t
there. Sign Floyd Cox
The statements above are true and correct
March 25 2006 time 5:55

On this 25th day of March 2006, Floyd Cox appeare
before me, made the above Statements, Presented his Texas
Identification and Signed before me a Notary Public for this
of Texas Joyce Marie Boyce

8026 Linda Vista
Houston, Texas
77028
713\635-2222

2008 AUG 14 AM 10:24
COUNTY CLERK
HARRIS COUNTY, TEXAS

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blackouts, additions and changes were present at the time the instrument was filed and recorded

440908 PROBATE COURT 3

07/02/2015 15:21:00061

LAST WILL AND TESTAMENT

OF

FIDEL VICTOR DIAZ ASCENCIO

I, ***FIDEL VICTOR DIAZ ASCENCIO***, declare this to be my Last Will and Testament ("Will") and revoke all former Wills and Codicils.

ARTICLE I
Identification of Family

In making this Will I have in mind my wife, ***Maria de Lourdes Martinez Segura***, and my children, ***Leticia Morales Martinez***, born 1967, ***Mario Cesar Diaz Martinez***, born 1969, ***Dante Diaz Martinez***, born 1971 and ***Jose Victor Diaz Martinez***, born 1984, but does not include any children hereafter born to or adopted by my wife and me. Any reference to a "child of mine" or "my children" shall include the persons, other than my wife, named or referred to in this Article.

ARTICLE II
Appointment of Fiduciaries

A. Appointment of Independent Executor and/or Personal Representative. I appoint my wife ***Maria de Lourdes Martinez Segura***, as Independent Executor of my Estate. If ***Maria de Lourdes Martinez Segura*** fails to qualify or ceases to serve, I appoint ***Leticia Morales Martinez*** as Independent Executor of my Estate. No action shall be held in any Court in relationship to the settlement of my Estate other than the probating and recording of this Will and the return of an inventory, appraisement, and list of claims of my Estate. My Independent Executor, whether original, substitute, or successor, is referred to in this instrument as my "Executor" or my "personal representative".

B. Bond. My Executor shall have the right to serve without bond.

C. Court Supervision. The Executor shall be independent from supervision of the probate court to the fullest extent permitted by law. The Executor shall have and may exercise, without first obtaining the approval of any Court, all of the powers of independent executors to the fullest extent permitted by the laws of the State of Texas.

ARTICLE III
Disposition of Residue

A. Provision for wife and children. I give 60% of all of my Estate, including but not limited to personal property, real property, monies, all household furnishings and effects (e.g. furniture, silver, works of art, etc.), all articles of personal use (e.g. jewelry, sporting goods, etc.), contracts and policies insuring me or my property, any and all lawsuits or legal claims filed on my behalf or inuring to my benefit, and residue of my Estate, wherever located, hereafter

 Initials: _____ Date: May 21, 2015

PURPORTED WILL

08122015:1353:P0180

67102015:1520:G0062

referred to in this Article as "Estate", to my wife ***Maria de Lourdes Martinez Segura*** if she survives me. I give 40% of all of my Estate, including but not limited to personal property, real property, monies, all household furnishings and effects (e.g. furniture, silver, works of art, etc.), all articles of personal use (e.g. jewelry, sporting goods, etc.), contracts and policies insuring me or my property, any and all lawsuits or legal claims filed on my behalf or inuring to my benefit, and residue of my Estate, wherever located, hereafter referred to in this Article as "Estate", to my children ***Leticia Morales Martinez, Mario Cesar Diaz Martinez, Dante Diaz Martinez*** and ***Jose Victor Diaz Martinez*** in equal parts if they survive me.

B. Provision for Descendants. If my wife does not survive me, then I give the entirety of my Estate to my children.

C. Provision for Others. If I am not survived by my wife, or by any of my children, then I give the entirety of my Estate to my heirs.

ARTICLE IV
Alternative Methods of Distribution

A. Purpose of Article. Recognizing that under certain circumstances the terms of this Will may direct that property be distributed outright to a person who is under twenty-one (21) years of age or under a legal disability. I make the following provisions to facilitate the distribution of property to such persons.

B. Alternative Methods. Whenever the terms of this Will direct my personal representative (referred to in this Article as the "fiduciary") to distribute property outright to a person who is then under twenty-one (21) years of age or under a legal disability, the fiduciary may retain pursuant to Paragraph C of this Article or distribute all or any portion of that property in any one or more of the following ways:

1. Delivery directly to the beneficiary;
2. Delivery to the parent or stepparent of the beneficiary;
3. Delivery to the guardian of the beneficiary's person or property;
4. Delivery to any Custodian for the beneficiary under the Uniform Gifts to Minors Act;
5. Delivery to any then existing trust created for the beneficiary;
6. Deposit in a financial institution in an account established in the name of the beneficiary alone pursuant to the laws of the State of Texas;
7. Storage of any tangible personal property in safekeeping with the costs of storage to be borne by the beneficiary; or

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8. Sale of any tangible personal property and delivery of the proceeds in any manner permitted by this Article.

Provided the fiduciary acts in good faith, upon delivery of any property in accordance with the provisions of this Article, the fiduciary shall be discharged from all responsibilities in connection with the property.

C. **Discretionary Trust.** Any property not distributed as provided in Paragraph B of this Article shall be retained by the fiduciary in trust for the beneficiary on the following terms and conditions: During any period in which the beneficiary is under a legal disability or under twenty-one (21) years of age, the fiduciary shall pay to or apply for the benefit of the beneficiary so much of the income and principal of the trust as the fiduciary, in its sole and absolute discretion, determines is advisable for the beneficiary's health, support, education and general welfare. At such time as the beneficiary is neither under a legal disability nor under twenty-one (21) years of age, the fiduciary shall distribute any remaining trust assets to the beneficiary. If the beneficiary dies before all of the trust assets have been distributed, the fiduciary shall distribute any remaining trust assets to the beneficiary's estate.

ARTICLE V
Administrative Provisions

A. **Powers and Duties of Personal Representative.** My personal representative shall have all of the powers and duties granted to or imposed upon personal representatives serving with non-intervention powers pursuant to the laws of the State of Texas.

B. **Debts and Expenses.** All expenses of administration chargeable to principal, the expenses of the disposition of my remains, and all of my legitimate debts, if and when paid, shall be paid from the principal of my residuary estate. No debt need be paid prior to its maturity in due course and except as otherwise provided in this Will no interest in any property passing under this Will need be exonerated.

C. **Taxes.** All estate, inheritance or other similar death taxes, together with any interest or penalties thereon, arising by reason of my death with respect to any property includable in my taxable estate, and any adjusted taxable gifts, whether passing under or outside of this Will, shall be paid from the principal of my residuary estate without reimbursement from the recipients or beneficiaries of such property, provided, however, that in the event any proceeds of insurance upon my life or any property over which I held a power of appointment are included in my Estate for purposes of determining the federal estate tax liability of my Estate, then the Estate shall be entitled to receive from the recipients of any such proceeds or property the portion of such federal estate tax liability attributable to such proceeds or property determined in accordance with IRC §§ 2206 and 2207.

D. **No Contest Clause.** If any beneficiary under this Will contests my Will or any of its provisions in any legal proceeding, any share or interest in my estate given to that contesting

PURPORTED WILL

11-B

beneficiary under my Will is revoked and shall be disposed of under the terms of my Will as if that contesting beneficiary had predeceased me without issue.

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ARTICLE VI
Miscellaneous

A. **Number and Gender.** Unless the context indicates a contrary intent, the plural and singular forms of words shall each include the other, and every noun and pronoun shall have a meaning that includes the masculine, feminine and neuter genders.

B. **Survival.** To "survive" me, as that term is used in this Will, a person must continue to live for thirty (30) days after my death.

C. **Descendants.** The "descendants" of an individual include only the following:

1. All such individual's biological descendants, except any person not born in lawful wedlock and his descendants, unless the biological parent who would otherwise cause him or her to be a descendant has acknowledged paternity or maternity in legitimation proceedings, or in an unambiguous signed writing identifying such person by name, or by raising such person in the same household; and

2. Persons adopted by such individual or one of his or her descendants, and their descendants.

If the parent, who would cause a person to be a descendant as defined above, is replaced in an adoption proceeding, such person shall remain a descendant unless such parent voluntarily consents to the relinquishment of his or her status as parent in connection with such adoption proceedings.

D. **Heirs.** The term "heirs" shall mean those persons entitled to inherit under the then applicable laws of the State of Texas governing the descent of an intestate's separate estate. They shall inherit in their statutory proportions. If the provisions of this Will call for a distribution of property to my heirs or the heirs of any other person and the event giving rise to the requirement for such distribution takes place at a time later than my death or the death of such person, the determination of the identity of such heirs shall be made as if I (or such other person) had died on the date of the event giving rise to such requirement for distribution.

E. **Exclusion of Pretermitted Heirs.** I specifically make no provision for any person (whether now living or hereafter born), other than a child named or referred to in Article I or a descendant of mine as defined in this Will, who may be entitled to claim an interest in my Estate under the laws of the State of Texas.

F. **Legal Disability.** A person is under a legal disability if my personal representative determines, in good faith, that the person is incapable of managing his property or

PURPORTED WILL

of caring for himself, or both, or is in need of protection or assistance by reason of physical injury or illness, mental illness, developmental disability, senility, alcoholism, excessive use of drugs, or other physical or mental incapacity.

G. **Title to Real Property.** Upon my death, title to any real property passing under this Will shall vest in my personal representative in his fiduciary capacity and shall remain so vested until my personal representative distributes or sells that property, at which time title shall vest in the distributee or purchaser.

H. **Disclaimer.** Except as may be otherwise specifically provided in this Will, in the event that any beneficiary disclaims an interest arising out of this Will or any trust created herein it is my intention that the interest disclaimed shall be distributed in the same manner and at the same time as if the disclaiming beneficiary had died immediately preceding the event pursuant to the laws of the State of Texas.

I. **Governing Law.** The provisions of this Will shall be interpreted in accordance with and in light of the laws of the State of Texas.

J. **Corporate Successors.** Whenever a corporation or other business entity is referred to herein, the reference shall include any successor organization.

K. **References to Statutes.** In this Will, the abbreviation "IRC" shall refer to the Internal Revenue Code of 1986 as amended.

PURPORTED WILL

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I have initialed and dated for identification purposes all pages of this, my Last Will, and have executed the entire instrument by signing this page on the 21st day of May, 2015.

FIDEL VICTOR DIAZ ASCENCIO

Attestation and Statement of Witnesses

Each of us declares under penalty of perjury under the laws of Texas that, ***FIDEL VICTOR DIAZ ASCENCIO***, the Testator, signed this instrument as his Last Will and Testament in our presence, all of us being present at the same time, and we now, at the Testator's request, in the Testator's presence, and in the presence of each other, sign below as the witnesses, declaring that the Testator appears to be of sound mind and under no duress, fraud, or undue influence.

[Witness Signature]

Reynaldo Fernandez
[Print Name]

Residing at 55 Waugh Drive
Houston, Tx 77007

[Witness Signature]

Nick H. Johnson
[Print Name]

Residing at 1659 South Blvd.
Houston, Tx 77006

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PURPORTED WILL

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Before me, the undersigned authority, on this day personally appeared, ***FIDEL VICTOR DIAZ ASCENCIO***, Reynaldo Fernandez, and Nick H Johnson, known to me to be the Testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said, ***FIDEL VICTOR DIAZ ASCENCIO*** Testator, declared to me and to the said witnesses in my presence that said instrument is his last will and testament, and that he had willingly made and executed it as his free act and deed, and the said witnesses, each on his oath stated to me in the presence and hearing of the said Testator, and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator and at his request; that he was at the time eighteen (18) years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

FIDEL VICTOR DIAZ ASCENCIO

[Witness Signature]

Reynaldo Fernandez
[Print Name]

Residing at 55 Waugh Drive
Houston TX 77007

[Witness Signature]

Nick H. Johnson
[Print Name]

Residing at 1657 South Blvd.
Houston, TX 77006

Section for Notary Public:
Subscribed, sworn and acknowledged before me by the said, ***FIDEL VICTOR DIAZ ASCENCIO***, and by the said Reynaldo Fernandez, and Nick H Johnson, witnesses, this 21st day of May, 2015.

[Signature of Notary]

[Print or stamp name of Notary]

ELISA DE CARRANZA
MY COMMISSION EXPIRES
September 11, 2018

PURPORTED WILL

11-6

CHAPTER 11

Not all families are harmonious.

Not all families trust the personal representatives.

Not all personal representatives are trustworthy.

What can you to to protect the family if they come to you with allegations against the personal representative?

BOND EXAMPLE

Duplex $200,000 Rent is $1,000 per month per side

Stocks and Bonds $500,000

Dividends $800 per month

Homestead $300,000

Savings $100,000

Car $15,000

What is the Bond?

Compensation

Assets

Savings Account $500,000

Stocks $250,000

Rent House $300,000 income is $2,000 per month

Home $400,000

Expenses Paid

Attorney $3500

Property Tax $9,000

Income Tax $3,000

Utilities and Maintenance $3,000

Distribution to beneficiaries $125,000

John Brown is one of the beneficiaries of his father's estate. His brother Jim is the other beneficiary and the independent executor of the estate. The estate has been open for 2 years but Jim has only given him $5,000 during this time and has not given him any information of what is going on. The estate value was $500K consisting of a house that was to be sold, stocks and bonds and bank accounts. There were a few debts to be paid but John does not know the status of if they have been paid. He wants to know why he hasn't gotten his share of the estate and what can you do to help him. He is pretty sure the house has been sold. He wants his brother removed and wants his money from the estate.

How would you proceed to help John get his inheritance and determine what has happened to the estate?. .

Mike and Julie Marshll have brought you their son's will. It is a holographic will. It says "This is my last will and testament. I give everything I own to my parents." How do you proceed?

Susie has brought you her mother's will. It left everything to her husband and then to her children. Her husband predeceased her mother. How do you proceed?

Mabel has brought her brother's will. It says "I give my house to my sister Mabel. I give my car to my nephew Bob." Her brother had a bank account and a small stock portfolio. How do you proceed?

Suzy has brought Tom, her husband's will and it has been admitted to probate . Suzy is a school teacher. Tom was the major bread winner. There are two minor children. There are $90,000 in debts, the house they lived in and the contents, and $110,000 in a savings account. What do you advise?

Mark has brought you his wife's will. They lived in an apartment. All that they had was the contents of the apartment and a car worth $35,000. There are $25,000 in debts. What do you advise?

Steve has brought you his wife's will and it has been admitted to probate. The only estate asset is the house that they lived in. There is $40,000 in debt. What do you advise?

Tom is the independent executor of his father's estate. His brother Jim and he are the sole beneficiaries. The estate has been opened approximately 9 months. Jim is filing documents pro se, setting hearings and constantly harrassing Tom regarding the estate. How would you proceed?

Leland is the beneficiary of his mother's will along with his brother Pete who was named independent executor. Pete qualified in January 2014. He will not tell Leland anything and has not given Leland any distribution from the estate. How would you proceed?

Chris is the beneficiary of his mother's will. His brother Tony was just appointed Independent Executor. Tony and Chris have never gotten along and Chris is afraid that Tony will take the entire estate. How would you proceed?

Sam is the beneficiary of his fathers will along with his sister Linda. Linda was appointed Independent Executor on August 2015. She refuses to tell Sam anything about the estate. How would you proceed?

Marcy Godding is the Independent Executor of her friend, Joan Spencer's estate. Joan's will had the following bequests:

To her good friend Tom Knight, Joan left:

All her Exxon Stock valued at $200,000

All her beef cattle valued at $35,000

To her brother, James Spencer, Joan left:

Her condo in Galveston valued at $75,000

Her ranch in Washington County valued at $350,000

Her vehicles valued at $25,000

Her personal furnishings valued at $15,000

This is all that is in Joan's estate.

Marcy has discovered that the debts total $275,000. What does she need to do?

Mark's will leaves 500 shares of Apple stock to his friend Amy. Upon his death there is only 100 shares of Apple stock. What does Amy get?

11-04

CPRC

Sec. 37.005. DECLARATIONS RELATING TO TRUST OR ESTATE. A person interested as or through an executor or administrator, including an independent executor or administrator, a trustee, guardian, other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust in the administration of a trust or of the estate of a decedent, an infant, mentally incapacitated person, or insolvent may have a declaration of rights or legal relations in respect to the trust or estate:

(1) to ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others;

(2) to direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity;

(3) to determine any question arising in the administration of the trust or estate, including questions of construction of wills and other writings; or

(4) to determine rights or legal relations of an independent executor or independent administrator regarding fiduciary fees and the settling of accounts.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 167, Sec. 3.08(a), eff. Sept. 1, 1987; Acts 1999, 76th Leg., ch. 855, Sec. 10, eff. Sept. 1, 1999.

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CHAPTER 42. PERSONAL PROPERTY

§ 42.001. Personal Property Exemption.
§ 42.002. Personal Property.
§ 42.0021. Additional Exemption for Certain Savings Plans.
§ 42.0022. Exemption for College Savings Plans.

Cross References

Life Insurance Benefits Exempt From Seizure, V.T.C.A., Insurance Code § 1108.001 et seq.

§ 42.001. Personal Property Exemption

(a) Personal property, as described in Section 42.002, is exempt from garnishment, attachment, execution, or other seizure if:

(1) the property is provided for a family and has an aggregate fair market value of not more than **$100,000** ~~$60,000~~, exclusive of the amount of any liens, security interests, or other charges encumbering the property; or

(2) the property is owned by a single adult, who is not a member of a family, and has an aggregate fair market value of not more than **$50,000** ~~$30,000~~, exclusive of the amount of any liens, security interests, or other charges encumbering the property.

(b) The following personal property is exempt from seizure and is not included in the aggregate limitations prescribed by Subsection (a):

(1) current wages for personal services, except for the enforcement of court-ordered child support payments;

(2) professionally prescribed health aids of a debtor or a dependent of a debtor;

(3) alimony, support, or separate maintenance received or to be received by the debtor for the support of the debtor or a dependent of the debtor; and

(4) a religious bible or other book containing sacred writings of a religion that is seized by a creditor other than a lessor of real property who is exercising the lessor's contractual or statutory right to seize personal property after a tenant breaches a lease agreement for or abandons the real property.

(c) Except as provided by Subsection (b)(4), this section does not prevent seizure by a secured creditor with a contractual landlord's lien or other security in the property to be seized.

(d) Unpaid commissions for personal services not to exceed 25 percent of the aggregate limitations prescribed by Subsection (a) are exempt from seizure and are included in the aggregate.

(e) A religious bible or other book described by Subsection (b)(4) that is seized by a lessor of real property in the exercise of the lessor's contractual or statutory right to seize personal property after a tenant breaches a lease agreement for the real property or abandons the real property may not be included in the aggregate limitations prescribed by Subsection (a).

Acts 1983, 68th Leg., p. 3522, ch. 576, § 1, eff. Jan. 1, 1984. Amended by Acts 1991, 72nd Leg., ch. 175, § 1, eff. May 24, 1991; Acts 1997, 75th Leg., ch. 1046, § 1, eff. Sept. 1, 1997; Acts 2007, 80th Leg., ch. 444, § 1, eff. Sept. 1, 2007; Acts 2015, 84th Leg., ch. 793 (H.B. 2706), § 1, eff. Sept. 1, 2015.

Cross References

Exempt Property to Be Set Aside, V.T.C.A., Estates Code § 353.051.
Unlimited Exemption of Insurance Benefits and Certain Annuity Proceeds From Seizure Under Process, V.T.C.A., Insurance Code art. 21.22.

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Commentary

2015 amendment

The limit on the value of tangible personal property exempt from creditors' claims was increased from $60,000 to $100,000 for a family, and from $30,000 to $50,000 for a single person. This affects the exempt personal property set-aside under Estates Code § 353.051, but not the allowance in lieu of exempt property under § 353.053, which stays at $30,000.

§ 42.002. Personal Property

(a) The following personal property is exempt under Section 42.001(a):

(1) home furnishings, including family heirlooms;

(2) provisions for consumption;

(3) farming or ranching vehicles and implements;

(4) tools, equipment, books, and apparatus, including boats and motor vehicles used in a trade or profession;

(5) wearing apparel;

(6) jewelry not to exceed 25 percent of the aggregate limitations prescribed by Section 42.001(a);

(7) two firearms;

(8) athletic and sporting equipment, including bicycles;

(9) a two-wheeled, three-wheeled, or four-wheeled motor vehicle for each member of a family or single adult who holds a driver's license or who does not hold a driver's license but who relies on another person to operate the vehicle for the benefit of the nonlicensed person;

(10) the following animals and forage on hand for their consumption:

(A) two horses, mules, or donkeys and a saddle, blanket, and bridle for each;

(B) 12 head of cattle;

(C) 60 head of other types of livestock; and

(D) 120 fowl; and

(11) household pets.

(b) Personal property, unless precluded from being encumbered by other law, may be encumbered by a security interest under Subchapter B, Chapter 9, Business & Commerce Code, or Subchapter F, Chapter 501, Transportation Code, or by a lien fixed by other law, and the security interest or lien may not be avoided on the ground that the property is exempt under this chapter.

Acts 1983, 68th Leg., p. 3522, ch. 576, § 1, eff. Jan. 1, 1984. Amended by Acts 1991, 72nd Leg., ch. 175, § 1, eff. May 24, 1991; Acts 1993, 73rd Leg., ch. 216, § 1, eff. May, 17, 1993; Acts 1997, 75th Leg., ch. 165, § 30.245, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 414, § 2.36, eff. July 1, 2001; Acts 1999, 76th Leg., ch. 846, § 1, eff. Aug. 30, 1999.

Cross References

Exempt Property to Be Set Aside, V.T.C.A., Estates Code § 353.051.

Unlimited Exemption of Insurance Benefits and Certain Annuity Proceeds From Seizure Under Process, V.T.C.A., Insurance Code art. 21.22.

§ 42.0021. Additional Exemption for Certain Savings Plans

(a) In addition to the exemption prescribed by Section 42.001, a person's right to the assets held in or to receive payments, whether vested or not, under any stock bonus, pension, annuity, deferred compensation, profit-sharing, or similar plan, including a retirement plan for self-

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1. IRC
2. Subtitle F
3. Chapter 64
4. Subchapter D
5. Part II
6. § 6334

Internal Revenue Code, § 6334. Property Exempt From Levy

I.R.C. § 6334(a) Enumeration — There shall be exempt from levy—

I.R.C. § 6334(a)(1) Wearing Apparel And School Books — Such items of wearing apparel and such school books as are necessary for the taxpayer or for members of his family;

I.R.C. § 6334(a)(2) Fuel, Provisions, Furniture, And Personal Effects — So much of the fuel, provisions, furniture, and personal effects in the taxpayer's household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed $6,250 in value;

I.R.C. § 6334(a)(3) Books And Tools Of A Trade, Business, Or Profession — So many of the books and tools necessary for the trade, business, or profession of the taxpayer as do not exceed in the aggregate $3,125 in value.

I.R.C. § 6334(a)(4) Unemployment Benefits — Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State, or of the District of Columbia or of the Commonwealth of Puerto Rico.

I.R.C. § 6334(a)(5) Undelivered Mail — Mail, addressed to any person, which has not been delivered to the addressee.

I.R.C. § 6334(a)(6) Certain Annuity And Pension Payments — Annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose namé has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 562), and annuities based on retired or retainer pay under chapter 73 of title 10 of the United States Code.

I.R.C. § 6334(a)(7) Workmen's Compensation — Any amount payable to an individual as workmen's compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation

law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico.

I.R.C. § 6334(a)(8) Judgments For Support Of Minor Children — If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his minor children, so much of his salary, wages, or other income as is necessary to comply with such judgment.

I.R.C. § 6334(a)(9) Minimum Exemption For Wages, Salary, And Other Income — Any amount payable to or received by an individual as wages or salary for personal services, or as income derived from other sources, during any period, to the extent that the total of such amounts payable to or received by him during such period does not exceed the applicable exempt amount determined under subsection (d).

I.R.C. § 6334(a)(10) Certain Service-Connected Disability Payments — Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code) disability benefit under—

I.R.C. § 6334(a)(10)(A) — subchapter II, III, IV, V, or VI of chapter 11 of such title 38, or

I.R.C. § 6334(a)(10)(B) — chapter 13, 21, 23, 31, 32, 34, 35, 37, or 39 of such title 38.

I.R.C. § 6334(a)(11) Certain Public Assistance Payments — Any amount payable to an individual as a recipient of public assistance under—

I.R.C. § 6334(a)(11)(A) — title IV or title XVI (relating to supplemental security income for the aged, blind, and disabled) of the Social Security Act, or

I.R.C. § 6334(a)(11)(B) — State or local government public assistance or public welfare programs for which eligibility is determined by a needs or income test.

I.R.C. § 6334(a)(12) Assistance Under Job Training Partnership Act — Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) from funds appropriated pursuant to such Act.

I.R.C. § 6334(a)(13) Residences Exempt In Small Deficiency Cases And Principal Residences And Certain Business Assets Exempt In Absence Of Certain Approval Or Jeopardy

I.R.C. § 6334(a)(13)(A) Residences In Small Deficiency Cases — If the amount of the levy does not exceed $5,000—

I.R.C. § 6334(a)(13)(A)(i) — any real property used as a residence by the taxpayer; or

I.R.C. § 6334(a)(13)(A)(ii) — any real property of the taxpayer (other than real property which is rented) used by any other individual as a residence.

I.R.C. § 6334(a)(13)(B) Principal Residences And Certain Business Assets — Except to the extent provided in subsection (e)—

I.R.C. § 6334(a)(13)(B)(i) — the principal residence of the taxpayer (within the meaning of section 121); and

I.R.C. § 6334(a)(13)(B)(ii) — tangible personal property or real property (other than real property which is rented) used in the trade or business of an individual taxpayer.

I.R.C. § 6334(b) Appraisal — The officer seizing property of the type described in subsection (a) shall appraise and set aside to the owner the amount of such property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, the Secretary shall summon three disinterested individuals who shall make the valuation.

I.R.C. § 6334(c) No Other Property Exempt — Notwithstanding any other law of the United States (including section 207 of the Social Security Act), no property or rights to property shall be exempt from levy other than the property specifically made exempt by subsection (a).

I.R.C. § 6334(d) Exempt Amount Of Wages, Salary, Or Other Income

I.R.C. § 6334(d)(1) Individuals On Weekly Basis — In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be the exempt amount.

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I.R.C. § 6334(d)(2) Exempt Amount — For purposes of paragraph (1), the term "exempt amount" means an amount equal to—

I.R.C. § 6334(d)(2)(A) — the sum of—

I.R.C. § 6334(d)(2)(A)(i) — the standard deduction, and

I.R.C. § 6334(d)(2)(A)(ii) — the aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which such levy occurs, divided by

I.R.C. § 6334(d)(2)(B) — 52.

Unless the taxpayer submits to the Secretary a written and properly verified statement specifying the facts necessary to determine the proper amount under subparagraph (A), subparagraph (A) shall be applied as if the taxpayer were a married individual filing a separate return with only 1 personal exemption.

I.R.C. § 6334(d)(3) Individuals On Basis Other Than Weekly — In the case of any individual not described in paragraph (1), the amount of the wages, salary, and other income payable to or received by him during any applicable pay period or other fiscal period (as determined under regulations prescribed by the Secretary) which is exempt from levy under subsection (a)(9) shall be an amount (determined under such regulations) which as nearly as possible will result in the same total exemption from levy for such individual over a period of time as he would have under paragraph (1) if (during such period of time) he were paid or received such wages, salary, and other income on a regular weekly basis.

I.R.C. § 6334(d)(4) Years When Personal Exemption Amount Is Zero

I.R.C. § 6334(d)(4)(A) In General — In the case of any taxable year in which the exemption amount under section 151(d) is zero, paragraph (2) shall not apply and for purposes of paragraph (1) the term "exempt amount" means an amount equal to—

I.R.C. § 6334(d)(4)(A)(i) — the sum of the amount determined under subparagraph (B) and the standard deduction, divided by

I.R.C. § 6334(d)(4)(A)(ii) — 52.

I.R.C. § 6334(d)(4)(B) Amount Determined — For purposes of subparagraph (A), the amount determined under this subparagraph is $4,150 multiplied by the number of the taxpayer's dependents for the taxable year in which the levy occurs.

I.R.C. § 6334(d)(4)(C) Inflation Adjustment — In the case of any taxable year beginning in a calendar year after 2018, the $4,150 amount in subparagraph (B) shall be increased by an amount equal to—

I.R.C. § 6334(d)(4)(C)(i) — such dollar amount, multiplied by

I.R.C. § 6334(d)(4)(C)(ii) — the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting "2017" for "2016" in subparagraph (A)(ii) thereof.

If any increase determined under the preceding sentence is not a multiple of $100, such increase shall be rounded to the next lowest multiple of $100.

I.R.C. § 6334(d)(4)(D) Verified Statement — Unless the taxpayer submits to the Secretary a written and properly verified statement specifying the facts necessary to determine the proper amount under subparagraph (A), subparagraph (A) shall be applied as if the taxpayer were a married individual filing a separate return with no dependents.

I.R.C. § 6334(e) Levy Allowed On Principal Residences And Certain Business Assets In Certain Circumstances

I.R.C. § 6334(e)(1) Principal Residences

I.R.C. § 6334(e)(1)(A) Approval Required — A principal residence shall not be exempt from levy if a judge or magistrate of a district court of the United States approves (in writing) the levy of such residence.

I.R.C. § 6334(e)(1)(B) Jurisdiction — The district courts of the United States shall have exclusive jurisdiction to approve a levy under subparagraph (A).

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I.R.C. § 6334(e)(2) Certain Business Assets — Property (other than a principal residence) described in subsection (a)(13)(B) shall not be exempt from levy if—

I.R.C. § 6334(e)(2)(A) — a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property; or

I.R.C. § 6334(e)(2)(B) — the Secretary finds that the collection of tax is in jeopardy.

An official may not approve a levy under subparagraph (A) unless the official determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceedings.

I.R.C. § 6334(f) Levy Allowed On Certain Specified Payments — Any payment described in subparagraph (B) or (C) of section 6331(h)(2) shall not be exempt from levy if the Secretary approves the levy thereon under section 6331(h).

I.R.C. § 6334(g) Inflation Adjustment

I.R.C. § 6334(g)(1) In General — In the case of any calendar year beginning after 1999, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

I.R.C. § 6334(g)(1)(A) — such dollar amount, multiplied by

I.R.C. § 6334(g)(1)(B) — the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting "calendar year 1998" for "calendar year 2016" in subparagraph (A)(ii) thereof.

I.R.C. § 6334(g)(2) Rounding — If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10.

(Aug. 16, 1954, ch. 736, *68A Stat. 784*; Aug. 28, 1958, Pub. L. 85-840, title IV, 406, 72 Stat. 1047; June 21, 1965, Pub. L. 89-44, title VIII, 812(a), 79 Stat. 170; Nov. 2, 1966, Pub. L. 89-719, title I, 104(c), 80 Stat. 1137; Dec. 30, 1969, Pub. L. 91-172, title IX, 945(a), 83 Stat. 729; Oct. 4, 1976, Pub. L. 94-455, title XII, 1209(a)-(c), title XIX, 1906(b)(13)(A), 90 Stat. 1709, 1710, 1834; Sept. 3, 1982, Pub. L. 97-248, title III, 347(a), 96 Stat. 638; July 18, 1984, Pub. L. 98-369, div. B, title VI, 2661(o)(5), 98 Stat. 1159; Oct. 22, 1986, Pub. L. 99-514, title XV, 1565(a), 100 Stat. 2763; Nov. 10, 1988, Pub. L. 100-647, title I, 1015(o), title VI, 6236(c), 102 Stat. 3572, 3738; Aug. 22, 1996, Pub. L. 104-193, title I, 110(l)(6), 110 Stat. 2105; Pub. L. 105-34, title III, X, Sec. 312(d)(1), 1025(a), Aug. 5, 1997, 111 Stat 788; Pub. L. 105-206, title III, Secs. 3431, 3445, title VI, Sec. 6005(e), July 22, 1998, 112 Stat. 685; Pub. L. 115-97, title I, Sec. 11002(d)(1)(II), 11041(d), Dec. 22, 2017, 131 Stat. 2054; Pub. L. 115-141, Div. U, title IV, Sec. 401(a)(283), Mar. 23, 2018, 132 Stat. 348.)

BACKGROUND NOTES

AMENDMENTS

2018--Subsec. (a)(10)(A). Pub. L. 115-141, Div. U, Sec. 401(a)(283), amended subpar. (A) by substituting "V," for "V,,".

2017 — Subsec. (d)(4). Pub. L. 115-97, Sec. 11041(d), amended subsec. (d) by adding par. (4).

Subsec. (g)(1)(B). Pub. L. 115-97, Sec. 11002(d)(1)(II), amended subpar. (B) by substituting "for 'calendar year 2016' in subparagraph (A)(ii)" for "for 'calendar year 1992' in subparagraph (B)".

1998--Subsec. (a)(2). Pub. L. 105-206, Sec. 3431(a), amended par. (2) by substituting "$6,250" for "$2,500".

Subsec. (a)(3). Pub. L. 105-206, Sec. 3431(b), amended par. (3) by substituting "$3,125" for "$1,250".

Subsec. (a)(13). Pub. L. 105-206, Sec. 3445(a), amended par. (13). Prior to amendment it read as follows:

"(13) Principal residence exempt in absence of certain approval or jeopardy

Except to the extent provided in subsection (e), the principal residence of the taxpayer (within the meaning of section 121)."

Subsec. (e). Pub. L. 105-206, Sec. 3445(b), amended subsec. (e). Prior to amendment it read as follows:

"(e) Levy allowed on principal residence in case of jeopardy or certain approval

Property described in subsection (a)(13) shall not be exempt from levy if--

"(1) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property, or

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PROBATE COURT 3

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IN THE ESTATE OF

SHIRLEY ANNETTE VRLA,

DECEASED

No. 407,032

§ IN THE PROBATE COURT

§ NO. THREE (3)

§ HARRIS COUNTY, TEXAS

APPLICATION FOR FAMILY ALLOWANCE

Applicant, Donald R. Markus, Administrator of this Estate, furnishes the following information to the Court:

1. The Court has approved the inventory, appraisement, and list of claims of this Estate on December 13, 2011.

2. Shirley Annette Vrla is survived by a spouse, Donald R. Markus, an adult child, David Raymond Markus (date of birth: 12/13/91), and two minor children, Andrew George Markus (date of birth: 10/18/94), and Catherine Nichole Markus (date of birth: 1/26/99), who do not have separate property adequate for the survivors' maintenance.

3. The amount of the family allowance should be determined by the facts and circumstances now existing and those anticipated to exist during the first year after Decedent's death, and such allowance should be in the amount of $126,420.00, to be paid in a lump sum, monthly installments from money out of the funds of the Estate, and/or by transfer of property belonging to the Estate. The monthly family expenditures and allowance are itemized as follows:

Purpose	Amount
Home Mortgage	$1,825.00
Transportation	$1,045.00
Household Utilities	$875.00
Entertainment	$180.00
Tuition	$2,520.00
Insurance	$300.00
Charity	$450.00
Debt	$1,600.00
Clothing and Hygiene	$325.00

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School Supplies	$175.00
Food	$850.00
Household necessities	$390.00
Total Monthly Expenses	$10,535.00
Total for Year	$126,420.00

4. The entire family allowance should be paid to the surviving spouse, Donald R. Markus, for the use of the surviving spouse and the following children of Decedent born to or adopted by Donald R. Markus:

the minor children: Andrew George Markus and Catherine Nichole Markus.

Applicant requests that the Court enter an Order setting the amount of the family allowance, and specifying the fund or other property from which such allowance should be paid.

Donald R. Markus, Administrator of the Estate of
Shirley Annette Vrla, Deceased

J. STEPHEN GREEN
Attorney for Donald R. Markus
State Bar No.: 08358250
Attorney At Law
101 West Phillips Street
Conroe, Texas 77301
Telephone: (936) 441-4222
Facsimile: (936) 756-4226

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PROBATE COURT 3

NO. 416,928

ESTATE OF GRADY BENTON BRANDT, a.k.a. BEN BRANDT DECEASED	§ § § § § § § §	IN PROBATE COURT NUMBER THREE (3) OF HARRIS COUNTY, TEXAS

MOTION TO SET ASIDE EXEMPT PROPERTY

GRADY BENTON BRANDT II, Administrator of the Estate of GRADY BENTON BRANDT, a/k/a BEN BRANDT, Deceased and files this *Motion to Set Aside Exempt Personal Property*, and shows the following:

As authorized by §271(a) of the Texas Probate Code, Applicant requests that the Court issue an order setting aside the following property as exempt from execution or forced sale by the constitution and laws of the State of Texas for the use and benefit of the surviving spouse of GRADY BENTON BRANDT, a/k/a BEN BRANDT, deceased.

2008 Dodge Ram 3500 VIN No. XXXXXXXXXXXXX1828	$27,950.00
Household Goods and Furnishings	$5,000.00

The above referenced property qualifies as exempt property as defined by §42.002 of the Texas Property Code and does not exceed a fair market value of $60,000.

WHEREFORE, PREMISES CONSIDERED, Applicant respectfully requests this Court set aside the requested property as exempt property as authorized by §271(a) of the Texas Probate Code; and that the Administrator be ordered to

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COUNTY CLERK

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deliver all of the exempt property to the Decedent's surviving spouse, CYNTHIA F. BRANDT.

Respectfully submitted,

GRADY BENTON BRANDT II,
Administrator of the Estate of
GRADY BENTON BRANDT, a/k/a
BEN BRANDT, Deceased
16327 Laurel Garden Street
Spring Hill, Florida 34610

APPROVED

WRIGHT ABSHIRE
Attorney for Applicant

WESLEY E. WRIGHT
TSB #22063500
4949 Bissonnet
Bellaire, Texas 77401
(713) 660-9595 Telephone
(713) 660-8889 Facsimile
Wes@wrightabshire.com

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PROBATE COURT 3

NO. 416,928

ESTATE OF	§	
	§	
GRADY BENTON BRANDT, a.k.a. BEN BRANDT	§	IN PROBATE COURT
	§	
	§	NUMBER THREE (3) OF
DECEASED	§	
	§	
	§	HARRIS COUNTY, TEXAS

MEMORANDUM SETTING APART HOMESTEAD FOR USE AND BENEFIT OF SURVIVORS

GRADY BENTON BRANDT II, Administrator of the Estate of GRADY BENTON BRANDT, a/k/a BEN BRANDT, Deceased hereby sets apart the homestead of the Decedent.

CYNTHIA F. BRANDT is the surviving spouse of the Decedent. The Decedent died on February 3, 2012, in Houston, Harris County, Texas, at the age of sixty-three (63) years. The following property was the homestead of the decedent: Lot Seventeen (17) in Block Six (6) of TURTLE HILL VILLAGE, an addition in Harris County, Texas, according to the map or plat thereof recorded in the Map Records of Harris County, Texas, more commonly known as 11511 Ridge Run Drive, Houston, Texas 77064. Pursuant to Texas Probate Code §146, CYNTHIA F. BRANDT is entitled to have the homestead property set apart for her use and benefit. Such homestead property is exempt from execution under the Constitution and laws of Texas.

Signed this 23rd day of Feb., 2013.

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COUNTY CLERK

GRADY BENTON BRANDT II,
Administrator of the Estate of
GRADY BENTON BRANDT, a/k/a
BEN BRANDT, Deceased
16327 Laurel Garden Street
Spring Hill, Florida 34610

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NO. 310,255

IN RE ESTATE OF	§	IN THE PROBATE COURT
SADIE RUTH ELMORE,	§	NUMBER TWO (2) OF
DECEASED	§	HARRIS COUNTY, TEXAS

APPLICATION FOR AUTHORITY TO ABANDON WORTHLESS PERSONAL PROPERTY

TO THE HONORABLE JUDGE OF THIS COURT:

GUS G. TAMBORELLO, ADMINISTRATOR OF THE ESTATE OF SADIE RUTH ELMORE, DECEASED ("Applicant" or "Administrator"), files this application for authority to abandon worthless personal property pursuant to Section 351.051(6) ~~234(a)(6)~~ of the Texas Probate Code and shows the Court as follows:

1. On the date of Applicant's qualification, there remained in the estate, among other property, five abandoned vehicles in three different locations. Those vehicles were as follows:

- 1964 Ford Truck
  (abandoned green truck situated on
  12121 Alief Clodine property);
- 1956 Chevrolet Truck
  (abandoned and situated on
  12121 Alief Clodine property);
- 1962 Ford Truck
  (abandoned and situated on
  San Jacinto County property);
- 1956 Chevrolet Truck
  (abandoned and situated on
  San Jacinto County property); and
- 1966 Thunderbird
  (Abandoned and situated at residence
  of Regina Kresta, one of estate beneficiaries)

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2. Applicant originally listed a 1984 Ford LTD among the items of personal property. However, Applicant recently learned that the 1984 Ford LTD had been disposed of prior to his appointment. Applicant has now filed a third amended inventory to so as to eliminate the 1984 Ford LTD.

3. Applicant previously disposed of the 1964 Ford Truck and the 1956 Chevrolet Truck as part of the sale of personal property at 12121 Alief Clodine Road. The "abandoned green truck" referenced in the previously filed report of sale refers to the 1964 Ford Truck. The 1956 Chevrolet Truck was also disposed of during the sale because it was determined to be of no value. Applicant failed to specifically reference this on the initial application to sell personal property and on his report of sale. Applicant requests that the Court ratify the disposal of the 1956 Chevrolet Truck.

4. There now remains in the estate the 1962 Ford Truck and the 1956 Chevrolet Truck, both of which are abandoned and situated on the San Jacinto County Property which has already been sold. There also remains the 1966 Thunderbird which is abandoned and situated at residence of Regina Kresta, one of estate beneficiaries. These vehicles have been determined to be without any value. Further, it would not be cost-effective for Applicant to expend the time of having the vehicles sold for scrap. The vehicles have been lying abandoned for a substantial period of time.

5. Applicant is attempting to wind down the estate and begin preparation of the account for final settlement. All of the real

property has been sold. The cemetery plots will be deeded out upon distribution of the estate. The remaining personal property has been sold. Therefore, in order to facilitate his preparation of the final account, Applicant requests that the Court authorize him to abandon the three referenced vehicles since they are worthless.

THEREFORE, GUS G. TAMBORELLO, ADMINISTRATOR OF THE ESTATE OF SADIE RUTH ELMORE, DECEASED requests an order consistent with the relief requested herein and any other relief to which he is entitled.

Respectfully submitted,

_____

GUS G. TAMBORELLO,
ADMINISTRATOR OF THE ESTATE OF
SADIE RUTH ELMORE, DECEASED

OF COUNSEL:

GUS G. TAMBORELLO
SBN 19632000
Gus G. Tamborello, P.C
Interfin Building
1400 Post Oak Blvd., Ste. 1150
Houston, Texas 77056-3005
(713) 659-7777
(713) 659-7780 fax

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NO. 310,255

IN RE ESTATE OF	§	IN THE PROBATE COURT
SADIE RUTH ELMORE,	§	NUMBER TWO (2) OF
DECEASED	§	HARRIS COUNTY, TEXAS

ORDER AUTHORIZING ABANDONMENT OF WORTHLESS PERSONAL PROPERTY

The Court has considered the application for authority to abandon worthless personal property pursuant to Section 234(a)(6) of the Texas Probate Code filed by GUS G. TAMBORELLO, ADMINISTRATOR OF THE ESTATE OF SADIE RUTH ELMORE, DECEASED ("Applicant" or "Administrator") and the Court finds that it is in the best interest of the estate for the 1962 Ford Truck, the 1956 Chevrolet Truck, and the 1966 Thunderbird to be abandoned because they are without value. It is therefore,

ORDERED that the Administrator shall have the authority to abandon the 1962 Ford Truck, the 1956 Chevrolet Truck, and the 1966 Thunderbird. It is further

ORDERED that Administrator's previous disposal of the 1956 Chevrolet Truck and the 1964 Ford Truck as part of the estate sale at 12121 Alief Clodine Road is hereby ratified.

SIGNED this ____ day of _____, 2003.

_____
JUDGE PRESIDING

APPROVED AS TO FORM:
GUS G. TAMBORELLO
SBN 19632000
1400 Post Oak Blvd., Ste. 1150
Houston, Texas 77056-3005
(713) 659-7777
(713) 659-7780 fax

11-620

NO. 203,594

GUARDIANSHIP OF THE ESTATE OF	§	IN THE PROBATE COURT
	§	
JOHNNY RAY MCCAIN,	§	NUMBER FOUR (4) OF
	§	
INCAPACITATED	§	HARRIS COUNTY, TEXAS

SUCCESSOR GUARDIAN'S APPLICATION FOR ABANDONMENT OF REAL PROPERTY PURSUANT TO SECTION §774 OF THE TEXAS PROBATE CODE

DAVID R. DEXEL, Successor Guardian of this Estate, files this Application for Abandonment of Real Property Pursuant to Section §774 of the Texas Probate Code and represents as follows:

1. The Inventory, Appraisement, and List of Claims of the Guardianship Estate was approved by this Court on July 31, 2002.

2. The description of the property sought to be abandoned is described below. This abandonment includes the ownership interest of Ward in the described real property.

REAL PROPERTY

Lot Eighteen (18) in Block "E" FONVILLE TERRACE, an Unrecorded Subdivision of 21.661 acres being all of Lot Sixty (60), the North 400 (N.400') of Lot Fifty-Nine (59) and part of Lot Sixty-One (61), of the LITTLE YORK SUBDIVISION, in the J.E. Durkee Survey, in Harris County, Texas, said Lot Eighteen (18) in Block "E", being more commonly known as 207 Tomlin Road, Houston, Texas 77037.

3. It is necessary, advisable, and in the best interest of this Estate to abandon an interest in property, as permitted by Section 774(6) of the Texas Probate Code because of the following:

   A. Bank One, N.A., former Trustee of the Johnny Ray McCain Section 867 Management Trust engaged the law firm of Cenatiempo & Ditta, L.P., of Houston, Texas, to prosecute a suit against defendants to rescind a Deed of Ward's interest in real property (the "property"). Plaintiff's Original Petition was filed in this Court.

B. Bank One, N.A., then resigned as Trustee of the Johnny Ray McCain Section §867 Management Trust. The Court then signed an Order permitting the assignment of the causes of action against the defendants to David R. Dexel, Successor Guardian of the Estate of Johnny Ray McCain. In a letter of September 30, 2002, to David R. Dexel, the law firm of Cenatiempo & Ditta advised efforts to resolve the law suit were not finalized because, in part, of the excess back taxes and Federal tax liens on the property (Exhibit "A"). An attempted sale of Ward's interest to Ann Crossno failed when the Federal tax liens were discovered.

C. Property taxes on this property are currently in excess of $2,550.00 (Harris County) and $2,500.00 (Harris County Independent School District). The Federal tax lien is $5,911.07 plus significant interest and penalties. The property is vacant and suffered severe flood damage in 2000. The house is uninhabitable. The appraisal report of March 30, 2002, details in the addendum the extensive poor condition of the property (Exhibit "B").

4. The §867 Trust has expended more than $8,700.00 in attorney fees to pursue this cause of action.

5. David R. Dexel as Successor Guardian of the Estate believes it is not in the best interest of Ward's estate to pursue any further litigation. Furthermore, Successor Guardian believes it is in the Ward's best interest to abandon this property because it is burdensome if not worthless to the Ward's Estate.

Applicant requests that, after the Court has had an opportunity to consider this Application, the Court enter an Order authorizing Successor Guardian of the Estate to abandon this property.

Respectfully submitted,

DAVID R. DEXEL, TBA 05671800
SUCCESSOR GUARDIAN OF THE ESTATE
CORPORATE PLAZA I
2600 Southwest Freeway, Suite 1080
Houston, Texas 77098
TELEPHONE: (713) 527-9377
FACSIMILE: (713) 527-9379

11-022

NO. 203,594

GUARDIANSHIP OF THE ESTATE OF	§	IN THE PROBATE COURT
JOHNNY RAY MCCAIN,	§	NUMBER FOUR (4) OF
INCAPACITATED	§	HARRIS COUNTY, TEXAS

SUCCESSOR GUARDIAN'S ORDER OF ABANDONMENT OF REAL PROPERTY

On this day, the Successor Guardian's Application for Abandonment of Real Property Pursuant to Section §774 of the Texas Probate Code was considered by the Court, and after considering the evidence presented in support of the Application, the Court finds as follows:

1. Citation upon this is found not to be required.

2. The Application meets the requirements of Section §774(6) of the Texas Probate Code.

3. A legal description of the real property to be abandoned is described below and made a part of this Order:

REAL PROPERTY

Lot Eighteen (18) in Block "E" FONVILLE TERRACE, an Unrecorded Subdivision of 21.661 acres being all of Lot Sixty (60), the North 400 (N.400') of Lot Fifty-Nine (59) and part of Lot Sixty-One (61), of the LITTLE YORK SUBDIVISION, in the J.E. Durkee Survey, in Harris County, Texas, said Lot Eighteen (18) in Block "E", being more commonly known as 207 Tomlin Road, Houston, Texas 77037

4. The abandonment sought in the foregoing Application is necessary and advisable.

5. The Successor Guardian's Application should be granted and the property should be abandoned.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the property described above shall be abandoned.

11-23

SIGNED this _____ day of _____, 2003.

_____

JUDGE PRESIDING

David R Dexel, TBN 05671800
CORPORATE PLAZA I
2600 Southwest Frwy , Suite 1080
Houston, Texas 77098

11-824

PROBATE COURT 3

Cause No. 411,251

IN THE ESTATE OF	§	IN THE PROBATE COURT
LILLIAN KATHLEEN LUPIEN WALLACE,	§	NUMBER THREE (3) OF
DECEASED	§	HARRIS COUNTY, TEXAS

ESTATE BENEFICIARY'S DEMAND FOR BOND

Under § 149 of the Texas Probate Code, Glen H. Wallace ("Estate Beneficiary") requests that the Court set the bond of the independent executor in an amount of at least $100,000.00. Estate Executor has made representations and disclosures, after his appointment, which are directly adverse to the interest of the Estate and its beneficiaries with regard to assets of the estate titled in the name of the Decedent.

As a result, the Estate Beneficiary respectfully requests that (i) the independent executor be cited to appear and show cause why he should not give a bond to safeguard the assets in the estate; (ii) the evidentiary hearing be transcribed by a certified court reporter; (iii) an appropriate bond be established for an amount greater than or equal to $100,000.00; and (iv) grant such other relief to which the Estate Beneficiary is entitled.

Respectfully Submitted,

By: _____
ROBYN R. HARLIN
State Bar No. 00797929
4001 N. Shepherd Drive, Suite 110
Houston, Texas 77018
(713) 697-5900–Telephone
(713) 697-5903Facsimile

ATTORNEY FOR GLEN H. WALLACE

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COUNTY CLERK
HARRIS COUNTY, TEXAS

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been served on all parties or their counsel as listed below on this 31ST day of August 2012.

Kenneth C. Courville
6942 FM 1960 Road East #145
Humble, Texas 77346-2706
Telephone 713-868-4357
Facsimile 713-456-7899

ROBYN R. HARLIN

11-80026

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

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PROBATE COURT 3

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NO. 388,466

ESTATE OF	§	IN THE PROBATE COURT
CLIFTON ALLEN TANNAHILL,	§	NUMBER THREE (3) OF
DECEASED	§	HARRIS COUNTY, TEXAS

APPLICATION FOR APPOINTMENT OF TEMPORARY ADMINISTRATOR PENDING CONTEST PURSUANT TO SECTION 132 OF THE TEXAS PROBATE CODE

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TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW THOMAS ALLEN TANNAHILL (hereinafter referred to as "Applicant"), the named Executor under the Last Will and Testament of Clifton Allen Tannahill, Deceased, previously filed for probate with this Court, and files this his Application for Appointment of Temporary Administrator Pending Contest Pursuant to Section 132 of the Texas Probate Code, and in support of such Application, would respectfully show unto the Court the following:

I.

Applicant is an individual interested in this Estate, as Applicant is the son of the Decedent and is named as Executor in the Last Will and Testament of Clifton Allen Tannahill, dated August 23, 2003 (the "Will"), such Will having been filed for probate in this Court on May 13, 2009. Applicant is a resident of Harris County, Texas, residing at 127 Saint Marks, Sugar Land, Harris County, Texas 77478. Applicant is the named Executor in the Will, as well as a beneficiary named in the Will. On or about May 21, 2009, Zora Strock-Tannahill ("Strock-Tannahill") filed a purported Last Will and Testament of Clifton Allen Tannahill, dated December 18, 2008, for probate.

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2.

On December 22, 2009, Applicant filed an Original Petition against Strock-Tannahill, wherein Applicant contests the probate of the purported December 18, 2008 Will and alleges multiple causes of action against Strock-Tannahill. Additionally, on January 14, 2010, Strock-Tannahill filed an Original Answer and Petition for Declaratory Judgment and Claim for Damages. Because of the contest on file, Applicant represents that there is an immediate necessity for the appointment of a Temporary Administrator to administer Decedent's Estate.

3.

Clifton Allen Tannahill (hereinafter the "Decedent") died on April 25, 2009, in Harris County, Texas at the age of 87 years.

4.

The Court has jurisdiction and venue because Decedent had a fixed place of residence in this County on the date of death and a majority of his assets are located in Harris County, Texas.

5.

Decedent left a valid written will ("Will"), dated August 26, 2003 which was never validly revoked in accordance with the law and wherein Applicant is named Independent Executor. The original Will cannot be produced in Court because the original cannot be located at this time. Applicant intends to provide the proof required by Section 85 of the Texas Probate Code.

6.

The names of the subscribing witnesses to the Will are:

Amy Hard
4205 Stanford Street
Houston, Texas 77006

Grace Hard
8514 Briar Forest
Houston, Texas 77063

11-20

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96-55-4728

7.

No child or children were born to or adopted by Decedent after the date of the Will.

8.

Decedent was married to Strock-Tannahill at the time of his death and Decedent was never divorced. Decedent was married previously to Gloria Marsh Tannahill, who predeceased the Decedent, and was the mother of Applicant.

9.

The Will was made self-proved in the manner prescribed by law.

10.

No state or governmental agency of the Estate is named as a devisee in the Decedent's Will. However, Boys and Girls Country, Inc. is named as a contingent beneficiary of a certain tract of real property.

11.

A competing Application to Probate of Will and to Issuance of Letters Testamentary (the "Opposition") has been filed in this cause by Strock-Tannahill, who resides in Harris County, Texas.

12.

To protect the interests of Decedent's Estate, it is necessary that a temporary administrator be immediately appointed for the handling of various items in Decedent's Estate, in particular to handle the income tax owed by the Estate, filing a final Form 1040 for the Decedent, and a form 1041 Fiduciary Return. Additionally, there are questions regarding whether a Form 706 Estate Tax Return will need to be filed and whether any taxes will be due. In fact, an accountant for the Decedent has contacted both parties and raised these various issues.

11-29

93-55-4274

Attached as **Exhibit "1"** is a true and correct copy of correspondence from Scott C. Mitchell, Certified Public Accountant.

13.

Pleading further, it is believed that the Decedent's assets include a number of marketable securities, oil and gas interests, interests in a family partnership and real estate holdings. There is concern that if a temporary administrator is not appointed at this time to preserve and protect the Estate's assets, the assets may diminish in value or be irreparably harmed. It is necessary to collect the assets to ensure that the value of such assets can be maintained and an administration initiated. To the best of Applicant's knowledge at this time, the assets are generally described as follows:

a. Marketable Securities;

b. Checking and Savings Accounts;

c. Oil and Gas Royalties (Approximate annual royalty receipts $500,000.00 in 2008 and $200,000.00 in 2009); and

d. Real Estate Holdings including a one-sixth (1/6) interest in a ranch partnership valued at $6 Million (one –sixth (1/6) interest of Decedent's total value = $990,000.00).

It is unknown at this time what the value of most of the assets are but it is believed that Decedent earned approximately $500,000.00 in the year 2008, and approximately $200,000.00 in the year 2009 from his oil and gas interests associated with the ranch partnership. Applicant has been able to derive this information from similar holdings but is without the authority to specify exact data. Further, a recent valuation of the partnership set its total value at $6,000,000.00 leaving Decedent's interest at approximately $990,000.00.

11-30

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96-55-4730

14.

The beneficiaries or persons entitled to one day receive money from the probate estate, as identified in the Will, include the following:

a. Zora Strock-Tannahill; and
b. Thomas Allen Tannahill (the Applicant).

15.

The Temporary Administrator of this Estate should be given the following powers:

a. Withdraw funds from bank accounts in Decedent's name in order to pay debts and expenses of the Estate.
b. Collect any accounts receivable, rents, royalty payments and any other income due to Decedent or the Estate.
c. To transfer delivery of Decedent's mail to the Temporary Administrator and to examine such mail.
d. To obtain the Decedent's papers, documents, tax returns, and records and to obtain information from individuals and institutions regarding the assets, claims, and liabilities of Decedent.
e. To employ accountants and lawyers to assist in the administration of the Estate and payment of any taxes.
f. To pay Court costs, fiduciary bond premiums, ad valorem taxes, personal income taxes, insurance premiums and all necessary expenses and attorney's fees.
g. To take possession of Decedent's real and personal property and to take steps to preserve and protect that property, including contracting for insurance.
h. To open a bank account in the name of the Estate and any securities accounts in the name of the Estate and to deposit any cash assets of the Decedent in such account.
i. To inventory, secure, protect, and take possession of the contents of any and all contents of the Decedent's safe deposit box[es].
j. To appraise and value the assets of the Estate, if necessary.
k. To take all other actions necessary to preserve and protect the assets of the Estate.
l. To allow and disallow claims and to have all the power and authority of a permanent administrator with respect to claims against the Estate.
m. To make such disbursements of estate funds as are authorized under applicable law and the orders of this Court.
n. To prepare and file such tax returns for the Decedent or Estate as my be required by law.

96-55-4731

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Applicant requests that this Court set a reasonable bond. Further, Applicant requests that the Court appoint a Temporary Administrator of the Estate of Clifton Allen Tannahill, Deceased to serve for a period of 180 days or until the contest is resolved, unless extended for a longer period of time by this Court, or until such time as the Temporary Administrator is discharged by Order of this Court.

WHEREFORE, PREMISES CONSIDERED, Applicant, THOMAS ALLEN TANNAHILL, the named Executor in Decedent's Will, requests that the Court appoint an independent third party as the Temporary Administrator with all rights, powers and duties described in the Application, and Applicant prays for all such other and further relief which the Court may deem proper.

Respectfully submitted,

MACINTYRE & McCULLOCH, LLP

By: _____

ROBERT S. MACINTYRE, JR
State Bar No. 12760700
JILL W. YOUNG
State Bar No. 00797670
ADRIANNE A. GRAVES
State Bar No. 24049999
3900 Essex Lane, Suite 220
Houston, Texas 77027
Phone: 713/572-2900
Fax: 713-572-2902

ATTORNEYS FOR APPLICANT
THOMAS ALLEN TANNAHILL

963-55-4232

11-[redacted]32

100400 000891 0013865

AFFIDAVIT AND VERIFICATION

STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned Notary Public, on this day personally appeared **THOMAS ALLEN TANNAHILL,** who being by me duly sworn on oath deposed and said that he is the named Executor in the Last Will and Testament of Clifton Allen Tannahill in the above-entitled and numbered cause, that he has read the above Application for Appointment of Temporary Administrator, which is incorporated herein as if restated in full; and that every statement contained in such Application for Appointment of Temporary Administrator; is within his personal knowledge and is true and correct.

THOMAS ALLEN TANNAHILL

SUBSCRIBED AND SWORN TO BEFORE ME on the 22nd day of January, 2010, to certify which witness my hand and official seal.

ADRIANNE ARCHER GRAVES
Notary Public, State of Texas
My Commission Expires
October 08, 2013

Notary Public in and for the State of TEXAS

963-55-4733

11-[redacted]33

100400 000891 0013865

Mitchell & Cavallo, P.C.
820 Gessner, Suite 1380
Houston, Texas 77024

E-mail: starscm@aol.com

Telephone 713.827.7500
Facsimile 713.827.1027

January 13, 2010

Darlene Payne Smith
Crain Caton & James
17th Floor
Five Houston Center
Houston, TX 77010-4035

Jill Young
MacIntytre & McCulloch
3900 Essex Lane, Suite 220
Houston, TX 77027

Re: Estate of Clifton A. Tannahill

Dear Ms. Smith and Ms. Young:

I was the CPA for Clifton and Zoe Tannahill, and I assume I will continue to be the CPA for Zoe Strock-Tannahill. I am aware of the dispute concerning various probate issues regarding the estate of Clifton Tannahill.

I was discussing the estimated tax payments due this year for Zoe. She mentioned that after April of 2009, the royalty payments from the Tannahill Ranch Partnership, Ltd. were not forthcoming, due to the dispute. A discussion of whether such funds ought to be factored into her estimated tax payments evolved into a general discussion of the estate income tax that may be owed by Clifton's estate. Please note this references the fiduciary income tax return, Form 1041, not the estate tax return, Form 706. (But in passing, with a date of death in April of 2009, his estate return, if required, would also be due in nine months from that date).

As you probably know, any income earned by an estate is subject to income tax just like a person. That would especially seem to be the case if certain funds owed to the estate are being retained pending resolution of this dispute. I suggest that an estate income tax return ought to be filed that would report the royalty income earned during 2009, and include any other estate income or deduction item. It would seem to me that avoiding unnecessary IRS penalties for non-filing and late payment is clearly in the interests of all parties.

11-2034

EXHIBIT
11

963-55-4734

An accounting should be done for all estate-related transactions in 2009. Then a fiduciary income tax return, Form 1041, should be filed by no later than April 15, 2010, if a calendar year end is elected for the estate.

It may be that arrangements have already been made to file these returns, in which case please disregard this letter.

If the 2009 accounting records are made available, a draft return could be prepared for inspection of both litigants. After that, payment of the tax from estate funds, and designation of some individual to sign the returns on behalf of the estate, could be handled through the probate court.

Please contact me if I can help.

Very truly yours,

Scott C. Mitchell

Scott C. Mitchell, C.P.A.

cc: Zoe Tannahill

Allan Howeth
Cantey & Hanger, L.L.P.
801 Cherry Street, Suite 2100
Ft. Worth, TX 76102-6821
(For the Tannahill Ranch Partnership, Ltd.)

353-55-4733
353-55-3696

11-2035

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was forwarded to the following via United States certified mail, return receipt requested, on this the 26 day of January, 2010:

Darlene Payne Smith
Crain Caton & James, P.C.
1401 McKinney, Suite 1700
Houston, Texas 77010
(713) 658-1921 (FAX)

Jeffery H. Kaplan
Jeffery H. Kaplan, P.C.
3120 Southwest Freeway, Suite 300
Houston, Texas 77098
(713) 522-3898 (FAX)

ROBERT S. MACINTYRE
JILL W. YOUNG
ADRIANNE A. GRAVES

963-55-4736

11-36

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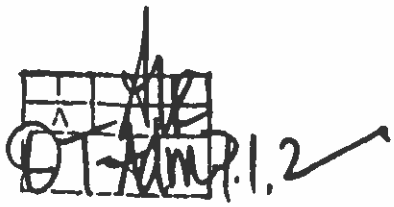

NO. 388,466

PROBATE COURT #3

ESTATE OF 561428

CLIFTON ALLEN TANNAHILL,

DECEASED

§ IN THE PROBATE COURT
§ NUMBER THREE (3) OF
§ HARRIS COUNTY, TEXAS
§

ORDER APPOINTING TEMPORARY ADMINISTRATOR PENDING CONTEST

On this day came on to be heard and considered the Application to Appoint Temporary Administrator filed by Thomas Allen Tannahill ("Applicant"), and after hearing the evidence in support of the Application, the Court finds that Clifton Allen Tannahill ("Decedent") is dead and four (4) years have not elapsed since the date of Decedent's death; that the Court has jurisdiction and venue over this Estate; and that the interest of this Estate requires the immediate appointment of a personal representative. It is therefore,

ORDERED, ADJUDGED, and DECREED, that:

1. James Wyckoff is hereby appointed Temporary Administrator of this Estate of Clifton Allen Tannahill, Deceased, for a period of 180 days from the date of this Order or until the pending contest is resolved by order of this Court, unless extended for a longer period of time by this Court, or until such time as the Temporary Administrator is discharged by Order of this Court; Pending Contest Pending Contest

2. The Temporary Administrator shall have the following powers:

   a. Withdraw funds from bank accounts in Decedent's name in order to pay debts and expenses of the Estate.

   b. Collect any accounts receivable, rents, royalty payments and any other income due to Decedent or the Estate.

   c. To transfer delivery of Decedent's mail to the Temporary Administrator and to examine such mail.

   d. To obtain the Decedent's papers, documents, tax returns, and records and to obtain information from individuals and institutions regarding the assets, claims, and liabilities of Decedent.

   e. To employ accountants and lawyers to assist in the administration of the Estate and payment of any taxes.

   f. To pay Court costs, fiduciary bond premiums, ad valorem taxes, personal income taxes, insurance premiums and all necessary expenses and attorney's fees.

   g. To take possession of Decedent's real and personal property and to take steps to preserve and protect that property, including contracting for insurance.

964-42-1716

11-2937

h. To open a bank account in the name of the Estate and any securities accounts in the name of the Estate and to deposit any cash assets of the Decedent in such account.

i. To inventory, secure, protect, and take possession of the contents of any and all contents of the Decedent's safe deposit box[es].

j. To appraise and value the assets of the Estate.

k. To take all other actions necessary to preserve and protect the assets of the Estate.

l. To allow and disallow claims and to have all the power and authority of a permanent administrator with respect to claims against the Estate.

m. To make such disbursements of estate funds as are authorized under applicable law and the orders of this Court.

n. To prepare and file such tax returns for the Decedent or Estate as my be required by law.

3. The Temporary Administrator shall give bond in the sum of $ 500,000.00 conditioned as required by law;

4. After the Temporary Administrator has filed the required bond and oath, the Clerk of this Court shall issue Temporary Letters of Administration to James Wyckoff Pending Contest; and

5. The Clerk shall post, on the courthouse door, a notice of this appointment to all interested persons.

SIGNED this 16th day of February, 2010.

JUDGE PRESIDING

APPROVED AS TO FORM:

MACINTYRE & MCCULLOCH, LLP

By: _____
ROBERT S. MACINTYRE, JR
State Bar No. 12760700
JILL W. YOUNG
State Bar No. 00797670
ADRIANNE A. GRAVES
State Bar No. 24049999
3900 Essex Lane, Suite 220
Houston, Texas 77027
Phone: 713/572-2900
Fax: 713-572-2902

ATTORNEYS FOR APPLICANT
THOMAS ALLEN TANNAHILL

100400 000891 0013865

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

FILED
2010 FEB 16 PM 4:23

964-42-1727

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Am

PROBATE COURT 3

NO. 414,334

IN RE ESTATE OF HAROLD J. WIESENTHAL, DECEASED	§ § §	IN THE PROBATE COURT AT LAW NUMBER ONE (1) HARRIS COUNTY, TEXAS

NO. 416,179

IN RE ESTATE OF DARRYL J. WIESENTHAL, DECEASED	§ § §	IN THE PROBATE COURT AT LAW NUMBER THREE (3) HARRIS COUNTY, TEXAS

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

Tammy Wiesenthal Winkler, Individually and as Beneficiary of the Estate of Harold Wiesenthal, Applicant for Administration of the Estate of Darryl Wiesenthal and heir at law ("Tammy"), Michael Wiesenthal Individually and claimed Beneficiary of Harold Wiesenthal, and as heir of law of Darryl Wiesenthal ("Michael"), the Estate of Harold Wiesenthal by and through its independent executors, the Estate of Darryl Wiesenthal by and through Tammy, and Eleanor Lonschein, heir of Darryl Wiesenthal execute this Settlement Agreement and Mutual Release ("Agreement") for good and valuable consideration expressed herein. This Agreement sometimes refers to Tammy, Eleanor, the Estate of Harold and the Estate of Darryl and Michael as the "Parties." The Parties acknowledge the sufficiency of all consideration referred to in this Agreement.

RECITALS

Harold Wiesenthal died on May 27, 2012, leaving behind a will executed in September 2010. On July 27, 2012, Michael filed a will contest asserting that Harold lacked capacity to execute the will. On August 1, 2012, Harold's will was admitted to probate after the contest was filed.

Darryl Wiesenthal died on June 9, 2012. Darryl left a will executed on August 6, 1996. The original has not been found. Michael filed an application to determine heirship on September 12, 2012 and an application for administration on September 13, 2012. Tammy filed a Contest and Application to Probate a Copy of the Will on September 25, 2012.

The Parties wish to resolve this dispute without further need for litigation.

Section 1. Settlement Agreement

The Estate of Harold Wiesenthal.

The Parties agree that Michael shall receive 42% of the net assets of Harold's Estate and all other residual beneficiaries shall receive only percentages of net assets. Net assets shall mean the

11-39

gross assets of Harold's Estate less all expenses. Expenses as used herein shall include, but not be limited to, funeral expenses, amounts owed to the Internal Revenue Service, medical costs, etc... Net assets shall encompass only those assets provided for in the will's residuary clause and shall not include (1) the special bequest to Jolene Nixon, (2) the special bequest to Libby Feingersh, (3) the special devise to Tammy Winkler and Darryl Wiesenthal. Michael's 42% share shall be comprised of his 33% share under the will and 9% of Tammy's share under the will. Distribution of the net assets will be made within a reasonable time after all assets are converted to cash and all expenses have been paid. Nothing herein shall prohibit partial distributions if such are appropriate.

The Parties agree to the following distribution under the will's residuary clause:

Michael: 42%
Tammy: 24%
The estate of Darryl Wiesenthal: 33%

A list of the gross assets in Harold's estate, as disclosed by Tammy, is attached herein as Exhibit "A."

Within seven days of the execution of this Agreement by both parties, Michael agrees to non-suit his contest of Harold's will with prejudice. Within three days of the Court's dismissal of Michael's claims with prejudice, Tammy agrees to pay Michael $10,200.00 by cashier's check. This check shall be delivered by Tammy's attorney to an attorney of Michael's designation.

Michael agrees to non-suit with prejudice the will contest alleging Harold lacked testamentary capacity to execute the will, Cause No. 414,334, *In re Estate of Harold J. Wiesenthal, Deceased*; in the Probate Court No. 1 of Harris County, Texas. Michael further agrees to the probate of Harold's will. Michael further agrees to not file any motion or initiate any proceeding challenging or contesting the probate of this will in any form or fashion.

The Estate of Darryl Wiesenthal.

The Parties agree to not probate the will of Darryl Wiesenthal. The Parties shall consent to the heirship filed in connection with Darryl's estate with Tammy serving as administrator upon posting of a sufficient bond. The Parties further agree to not contest the heirship of Darryl's estate and shall not file any motion or proceeding challenging or contesting the heirship proceeding in connection with Darryl's estate.

The Parties agree to the following distribution of the net assets of Darryl's estate including the 33 1/3% of the net assets residue from Harold's estate:

Michael: 18%
Tammy: 57%
Eleanor Lonschein: 25%

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A list of the gross assets in Darryl's estate, as disclosed by Tammy, is attached herein as Exhibit "A." Expenses as used herein shall include, but not be limited to, funeral expenses, amounts owed to the Internal Revenue Service, medical costs, etc... The Parties also agree to treat attorney ad litem costs incurred in connection with Darryl's estate as an expense of Darryl's estate. Net assets shall mean the gross assets of Darryl's estate less all expenses. Tammy agrees to distribute all assets as soon as is reasonable and this is consideration for settling at less than Michael's share as an heir at law.

Section 2. Mutual Release.

Upon the execution of this Agreement, Executors Jason Baker, Joel Sacks and Gerald Zlotnik, on behalf of themselves and the Estate of Harold, Tammy and their predecessors, successors, affiliates, and assigns, agree to release, discharge, and themselves hold Michael, and his respective agents, attorneys, employees, partners, predecessors, successors, affiliates, and assigns harmless from any and all claims, demands, or suits, known or unknown, alleged or that could have been alleged, fixed or contingent, liquidated or unliquidated, currently existing or arising in the future that have been or could have been asserted in Cause No. 414,334, *In re Estate of Harold J. Wiesenthal, Deceased*; in the Probate Court No. 1 of Harris County, Texas and Cause No. 416179, *In re Estate of Darryl J. Wiesenthal*; in the Probate Court No. 1 of Harris County, Texas, through the date of this Agreement.

Upon the execution of this Agreement, Michael, on behalf of himself and his predecessors, successors, affiliates, and assigns, agrees to release, discharge, and forever hold Executors Jason Baker, Joel Sacks and Gerald Zlotnik, on behalf of themselves and the Estate of Harold, Tammy and their respective agents, attorneys, employees, partners, predecessors, successors, affiliates, and assigns harmless from any and all claims, demands, or suits, known or unknown, alleged or that could have been alleged, fixed or contingent, liquidated or unliquidated, currently existing or arising in the future future that have been or could have been asserted in Cause No. 414,334, *In re Estate of Harold J. Wiesenthal, Deceased*; in the Probate Court No. 1 of Harris County, Texas and Cause No. 416179, *In re Estate of Darryl J. Wiesenthal*; in the Probate Court No. 1 of Harris County, Texas through the date of this Agreement.

The term Party as used in this Section includes all named Parties as well as Eleanor Lonschein.

Section 3. Covenants and Representations.

The Parties hereby covenant, represent and warrant to each other that

(a) Such Party is correctly described and named in this Agreement;

(b) Before executing this Agreement, such Party became fully informed of the terms, contents, provisions, and effect of this Agreement;

(c) The signatory to this Agreement signing on behalf of such Party is fully authorized and legally competent to execute this Agreement as the legal, valid and binding act and deed of such Party; and the execution and delivery of this Agreement by the signatory for such Party has been duly authorized and approved by the beneficiaries, board of directors, partners or other persons, if any, whose authorization or approval is required or necessary to authorize execution and delivery of this Agreement by such signatory as the binding act and deed of such Party;

(d) This Agreement is fully and forever binding on, and enforceable against, such Party in accordance with its terms.

(e) The execution, consummation, and delivery of this Agreement does not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, any material agreement or instrument to which such Party is a party or any provision of law, statute, rule or regulation applicable to such Party or any judicial or administrative order or decree by which such Party is bound;

(f) The claims asserted by the Parties or that could have been asserted by the Parties were, and are currently, owned solely by each Party. All of the claims released by this Agreement are free and clear of any and all claims, liens or other encumbrances of any kind or nature, of any other person, and there is no other person who could have or should have asserted such claims or joined in any settlement or compromise of such claims;

(g) Such Party has not assigned, pledged or in any other manner sold, transferred or hypothecated any right, title, interest, cause of action, or claim that arises out of or is provided to be released by such Party pursuant to this Agreement;

(h) In entering into and signing this Agreement, such Party has had the benefit of the advice of attorneys of such Party's own choosing, and enters into this Agreement freely by such Party's own choosing and judgment, and without duress or other influence;

(i) Each Party agrees that no duty exists between the Parties, whether as a fiduciary or otherwise, nor does any special relationship or any relationship of trust and confidence exist, in connection with the negotiation, execution, or effectuation of this Agreement, and such Party is not relying on any such relationship or any fiduciary or other purported duty between the Parties in any manner whatsoever, in connection with this Agreement, or any action taken pursuant to or in connection with this Agreement, or in any other matter related to this Agreement, and hereby expressly waives any such duty or relationship to the extent such is found to exist notwithstanding any or all of the foregoing;

(j) Such Party has made an investigation to such Party's satisfaction of all facts and reasons why such Party should enter into this Agreement and agrees, based upon such Party's knowledge, experience and investigation, that this Agreement is fair and just;

(k) This Agreement is duly executed by such Party with full knowledge and understanding of its terms and meaning, on such Party's own judgment and upon the advice of such Party's attorneys and financial and tax advisors;

(l) This Agreement and the obligations undertaken herein are not, and shall not be construed as, an admission of wrongdoing or liability by any Party. It is expressly understood and agreed that the terms of this Agreement are contractual and not merely recitals, and that the agreements contained herein and the consideration transferred is intended to compromise disputed claims, avoid and terminate litigation, and buy peace, and that no release or other consideration given by any Party shall be construed as an admission of wrongdoing or liability by any Party, all wrongdoing or liability being expressly denied by each Party;

(m) Such Party covenants that it will not in any manner challenge, or make any claim regarding, this Agreement or the negotiation, execution or performance of this Agreement, other than claims seeking to enforce the Party's rights under this Agreement. Such Party further agrees to execute, acknowledge and deliver all such further and other instruments and to do such further acts as may be reasonably necessary to accomplish the matters and results set forth and provided for in this Agreement; and

(n) After execution of this Agreement, if one or more disputes arise with regard to the drafting or interpretation or performance of this Agreement or any of its provisions, the Parties agree and designate Alvin L. Zimmerman ("Zimmerman") as binding arbitrator of any disputes in the language of this Agreement. Zimmerman as the arbitrator is granted permission to use, at his option, any information he obtained from the Parties during mediation. The Parties agree that the Parties shall pay their pro rata share of the arbitrator's fee upon receipt of an invoice from Zimmerman. Either Party may request Zimmerman to act in his capacity as arbitrator by notifying him and the other Party in writing of the exact nature of the dispute and the solution proposed. The other side(s) will have five (5) days to respond. Zimmerman, or any Party, may request a teleconference or live hearing on the dispute. Upon request from either Party, the time may be extended or shortened as decided by Zimmerman. The decision of Zimmerman shall be binding on the Parties.

(o) Each Party has been fully informed of the terms, contents, conditions and effect of this Agreement; that the terms, contents, and conditions of this Agreement were negotiated between the Parties and were a product of an arm's length transaction; that each Party was knowledgeable in the matters discussed in this Agreement; that the release language in this Agreement was clear; that in making this Agreement each Party had the benefit of counsel of its own choosing; and that no promise or representation of any kind has been made except as expressly stated in this Agreement and that neither Party is relying upon any such promise or representation in executing this Agreement. Each Party has relied solely and completely upon its own judgment and the advice of its counsel in making this Agreement. Each Party expressly waives any claim for fraud or fraudulent inducement in entering into this Agreement.

(p) This Agreement and the attached exhibits constitute the entire agreement of the Parties. No prior or subsequent oral agreement can modify the terms of this Agreement. This Agreement is binding on and shall inure to the benefit of the Parties and their respective heirs, personal representatives, successors, legal representatives, assigns, principals, officers, directors, shareholders and partners.

(q) This Agreement is made and performable in Harris County, Texas, and shall be construed in accordance with the laws of the state of Texas.

ADDENDUM TO SETTLEMENT AGREEMENT AND MUTUAL RELEASE

In connection with the above Agreement, and understanding that an opportunity to dispose of estate assets for the benefit of both Tammy and Michael has arisen, Tammy and Michael agree and enter into the following Addendum:

In connection with a proposed sale of the Fort Bend (Beachnut) Property listed as an Asset of the Estate of Harold Wiesenthal on Exhibit A of this Agreement ("Property"), Tammy and Michael, their predecessors, affiliates, and assigns consent to the sale of the Property. Furthermore, Tammy and Michael, their predecessors, affiliates, and assigns also agree to release, discharge, and themselves hold each other, the Estate of Harold Wiesenthal, and any executor(s) or executrix(es) currently appointed or appointed in the future harmless from any and all claims, demands, or suits, known or unknown, alleged or that could have been alleged, fixed or contingent, liquidated or unliquidated, currently existing or arising in the future in connection with the sale of the Property.

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AGREED TO BY:

Tammy Wiesenthal Winkler

Tammy Wiesenthal Winkler — Date 2/1/13

The Estate of Harold Wiesenthal

Jason Baker, Joel Sachs or Gerald Zlotnik, Independent Executors — Date 2/1/13

The Estate of Darrel Wiesenthal

Tammy Winkler Wiesenthal — Date 2/1/13

Eleanor Lonschein

Eleanor Lonschein — Date

AND

Michael Wiesenthal

Michael Wiesenthal — Date 2/20/13

Att
Cindy
or
Darline

11-[redacted]46

Dated this 21 day of February, 2013.

MICHAEL WIESENTHAL

STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on this February 21, 2013, by MICHAEL WIESENTHAL.

CHRISTOPHER WILLIAMS
Notary Public
STATE OF TEXAS
My Comm. Exp. 11-03-2014

Notary Public in and for the State of Texas

My commission expires: 11-03-2014

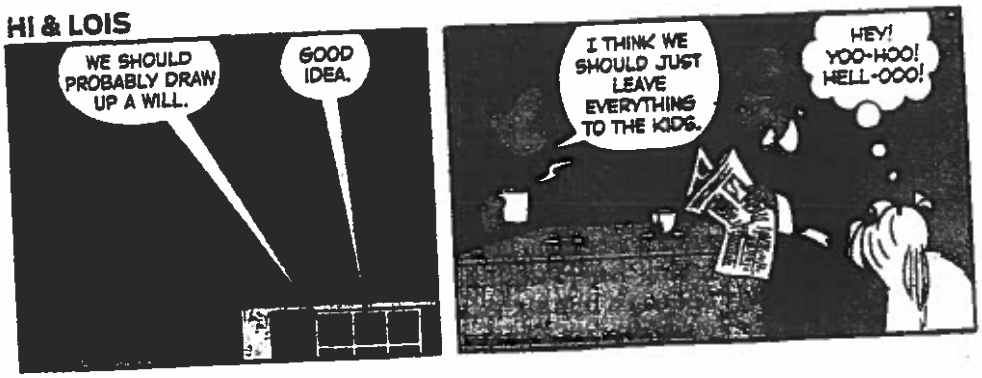
11-7047

Resignation of Co-Independent Executors and
Appointment of Successor Independent Executor

Chapter 12:

Pet Trusts, Non-Testamentary Transfers, Electronic Data and Estates

HI & LOIS



ZIGGY

BLONDIE
ARE YOU OKAY, HONEY?
OH, JUST TRYING TO GET THROUGH LOVE YOUR PET DAY
GET THROUGH IT? IT'S A HAPPY OCCASION TO CELEBRATE DAISY
OH, I KNOW, IT'S JUST THAT...
I THINK SHE'S MILKING IT FO
ALL IT'S WORT
DON'T WORRY, YOU'LL GET
YOUR COUCH
BACK TOMORRO
AND NOW... BACK TO "LASSIE"
2-20
www.Blondie.com

CHAPTER 12

Not New Issue in Administration: Non-Testamentary Transfers- Attorneys must be able to know what belongs in an estate and what does not belong to the estate.

New Issues in Administration

Pets- People love their pets and regard them as part of their family. They now recognize at death, there might be a pet left behind that needs care and protection. Pets have become part of estate administration.

Electronic Data- Attorneys must be able to advise their client regarding all the electronic data/social media that have been utilized by persons who die.

Virtual Images-Does a decedent have rights to their image after death??

JENNINGS WILL

The will is okay. These are the issues:

George has dementia, son in law Stan has a power of attorney

Kevin is deceased. He had no wife or children

Trust in Article III does not exist

Linda Wood does not want to serve. Wants Stan to serve

How would you proceed

LAST WILL AND TESTAMENT

of

PROBATE COURT 3

ALICE GENEVIEVE JENNINGS

438928

I, ALICE GENEVIEVE JENNINGS, domiciled in Harris County, Texas, being of sound and disposing mind and memory, do hereby make, publish and declare this to be my LAST WILL AND TESTAMENT, and hereby revoke any and all Wills and Codicils at any time heretofore made by me.

ARTICLE I: MARITAL AND FAMILY STATUS

I am married to GEORGE EDWARD JENNINGS and all references in this Will to "my husband" are to him. I have five (5) children now living, whose names and dates of birth are:

LINDA ANN WOOD	July 26, 1956
ROBERT KEVIN JENNINGS	May 13, 1958
KEVIN EDWARD JENNINGS	October 12, 1961
LAURA ALLISON GOODWIN	December 10, 1962
LISA MARIE PYE	April 16, 1964

The terms "my child" and "my children" as used in this Will shall include any other lawful children hereafter born to or adopted by me. They are to share equally with and be treated the same under this Will as the forenamed children. The term "descendants" as used in this Will shall mean the blood descendants in any degree of the ancestor designated; provided, however, that if a person has been adopted who was a minor at the date of adoption, that child or his descendants shall be considered as descendants of the adopting parent or parents and of anyone who is by blood or adoption an ancestor of the adopting parent or either of the adopting parents.

ARTICLE II: BEQUESTS

2.1 Personal and Household Articles. I give my jewelry, clothing, household furniture and furnishings, personal automobiles, and any other tangible articles of a personal nature, or my interest in any such property, not otherwise specifically disposed of by this Will, or in any other manner, together with any insurance on the property, to my spouse, if he survives me, and if my spouse does not, to my descendants who survive me, per stirpes, such descendants to take their shares as they shall agree, or as my Executor shall in my Executor's discretion determine if my descendants fail to agree unless I have directed otherwise in a written instrument signed by me and attached to or kept with this will or any codicil to this will.

Testatrix Initials A.J

PURPORTED WILL

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My Executor shall represent any beneficiary under age 18 in matters relating to any distribution under this Section 2.1, including selection of the assets that shall constitute that beneficiary's share, and my Executor may in my Executor's discretion sell for the beneficiary's account any part of the beneficiary's share. Any property or its proceeds distributable to a beneficiary under age 18 pursuant to this Section 2.1 may be delivered without bond to any suitable person with whom the beneficiary resides or who has care of the beneficiary.

I direct that the expense of packing, shipping, and delivering such property to said legatee, at said legatee's residence or place of business, shall be paid by my Executor as an administration expense of my estate.

2.2 Income in Respect of a Decedent. If my spouse survives me, each item or property constituting, in whole or in part, income in respect of a decedent for federal income tax purposes which I (and/or the trust referred to in ARTICLE III of this Will) may own or be entitled to receive as beneficiary at the time of my death, which is neither collected nor disclaimed by my estate (or trust) prior to distribution of this bequest, shall be distributed to the trust referred to in ARTICLE III hereof as follows:

A. One hundred percent (100%) thereof (exclusive of any such properties which, at the date of distribution would not qualify for the marital deduction) shall be distributed to the then acting Trustee or Trustees of the Marital Deduction Trust, provided, however, that, to the extent that satisfaction of this gift would cause the formula amount provided for in Section 3.04 of the trust referred to in ARTICLE III of my Will to be reduced below zero, this gift shall abate, it being my intent that this particular gift shall be effective only to the extent that it would cause a reduction in the death taxes intended to be saved by the formula allocation provided for in said Section 3.04; and

B. The balance thereof shall be distributed to the then acting Trustee or Trustees of the Family Trust.

In each case, the properties so given shall be added to the corpus of the trust involved and thereafter held, administered and disposed of as a part of the trust involved and thereafter held, administered and disposed of as a part of the corpus of such trust, all in accordance with and subject to the terms, conditions and provisions of said Trust Indenture as presently written and as hereafter amended. Furthermore, all of the provisions of ARTICLE III hereof applicable to the residuary gift to the trust referred to in that Article shall be equally applicable to these specific

PURPORTED WILL

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gift to the Marital Deduction and Family Trusts. This gift is intended to dispose only of properties constituting income in respect of a decedent within the meaning of Sec. 691(a) of the Internal Revenue Code. Insofar as it is practical to separate property constituting income in respect of a decedent, such separation shall be made in order to reduce to the greatest extent possible the properties disposed of by this Article.

2.3 Insurance Policies on Life of Spouse. I give all of my right, title and interest in and to any insurance policies that I may own on the life of my spouse in equal shares to my children who survive me; provided, however, that if any child of mine predeceases me, leaving descendants who survive me, those descendants shall take, per stirpes, the share that child would have taken had he or she survived me.

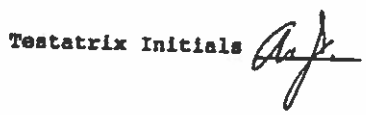
ARTICLE III: RESIDUARY BEQUESTS

3.1 Residue to Trust. I give, devise and bequeath the residue of my estate to my husband as a Trustee, of the trust designated as "THE GEORGE EDWARD JENNINGS AND ALICE GENEVIEVE JENNINGS REVOCABLE FAMILY TRUST" established earlier this day, of which my husband and I are the Grantors and the original Trustees. I direct that the residue of my estate shall be added to, administered and distributed as part of that trust, according to the terms of that trust and any amendments made to it before my death. To the extent permitted by law, it is not my intention to create a separate trust by this Will or to subject the trust or the property added to it by this Will to the jurisdiction of the Probate Court.

3.2 Incorporation by Reference. If the disposition in Section 3.1 is not operative or is invalid for any reason, or if the trust referred to in that Section fails or has been revoked, then I hereby incorporate by reference the terms of that trust, including any amendments thereto, and I give, devise and bequeath the residue of my estate to the Trustee named therein as Trustee, to be held, administered and distributed as provided in that instrument.

ARTICLE IV: EXECUTORS

4.1 Appointment of Executor. I nominate, constitute and appoint my spouse as Executor of this Will. If my spouse shall for any reason fail to qualify or cease to act as such Executor, then I nominate my son, KEVIN EDWARD JENNINGS as Executor, with power to act independently. In the event my son is unable to act as Executor, I appoint my daughter, LINDA ANN WOOD as Executrix, with power to act independently. The term "my executor" as used in this

Testatrix Initials 

PURPORTED WILL

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Will shall include any personal representative of my estate.

4.2 Waiver of Bond. No bond shall be required of any Executor/Executrix nominated in this Will.

4.3 Appointment of Ancillary Fiduciaries. Should ancillary administration be necessary or advantageous in any jurisdiction and should my Executor be unable and/or unwilling to act as my ancillary fiduciary, I nominate, constitute and appoint as ancillary fiduciary such qualified person or trust institution as my Executor shall from time to time designate (with retained right of removal) in a writing filed in the court having ancillary jurisdiction. Furthermore, all my ancillary fiduciaries shall at all times be subject to the directions of my Executor and the residuary estate of each ancillary administration shall be transmitted to my Executor as promptly as possible.

4.4 Election of Simplified Unsupervised Administration. If independent administration without certain court proceeding and supervision is to any extent permitted under the laws of any jurisdiction in which any part of my estate is being administered, I hereby elect such simplified mode(s) of administration and direct, to the greatest extent possible, settlement of my estate without the intervention of or accounting to any courts.

4.5 General Powers. In addition to, and not in limitation of the Executor's common law and statutory powers, and without order or approval of any court, I give and grant to my Executor the rights and powers to take any action desirable for the complete administration of my estate, including the power to determine what property is covered by general descriptions contained in this Will, the power to sell, with or without notice, at either public or private sale, and to lease any property belonging to my estate, subject only to such confirmation of court as may be required by law.

4.6 Power Regarding Tax Returns. My Executor is authorized to file an income tax return for me and to pay portions of the taxes due thereon. If any additional assessment shall be made on account of any income tax return which I have filed, my Executor is authorized to pay the additional assessment. The exercise of authority hereunder by my Executor shall be conclusive and binding on all persons.

4.7 Power to Make Tax Elections. My Executor has the authority to make the following choices or elections:

Testatrix Initials A.J.

PURPORTED WILL

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(a) Elect any valuation date for purpose of federal estate tax permitted by law which my executor deems to be to the best advantage of the family considered as a whole rather than the advantage of those interested only in my estate, even to the extent of making the electing in such a way that the federal estate tax is greater rather than less as a result of such election, provided that in my Executor's discretion such is likely to be for the best advantage, present and future, of the family taken as a whole.

(b) Choose the methods of payment of federal estate taxes or state or inheritance taxes.

(c) Determine whether any or all of the expenses of administration of my estate shall be used as federal estate tax deductions or as federal income tax deductions. No beneficiary under this Will shall have any right to recoupment or restoration of any loss the beneficiary suffers as a result of the use of such deduction for one or the other of those purposes.

(d) Join with my spouse or the estate of my spouse in filing a joint income or gift tax return or returns for any years for which I have not filed returns prior to my death.

(e) Consent that any gifts made by me or my spouse have been made one-half be me and one-half by my spouse for gift tax purposes, even thought these actions may subject my estate to additional tax liabilities.

(f) Elect, in my Executor's discretion, that any part or all of any amount passing under ARTICLE III hereof to the Trustees of my revocable family trust identified in that Article which is to be held and administered by said Trustees as part of the Marital Deduction Trust therein, be treated as qualified terminable interest property for the purposes of qualifying for the marital deduction allowable in determining the federal estate tax upon my estate. Without limiting the discretion contained in the foregoing sentence, it is my expectation that my Executor will make said election with respect to all of any such amount unless the timing of my spouse's death and mine and the computation of the combined death duties in our two estates render such an election inappropriate. In exercising such discretion, my Executor may, but need not, take into account all relevant factors, including but not limited to the potential benefits and detriments of reducing the federal estate tax on my estate and increasing such tax on the estate of my spouse, including the potential benefits of eliminating from my spouse's gross estate such appreciation in value of the marital deduction share as may occur after my death and prior to the death of my spouse. The discretion of my Executor

Testator Initials

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shall be absolute, notwithstanding any beneficial or adverse effect the making or not making of this election may have on my estate, my spouse's estate of the beneficiaries of either or both estates. my Executor shall not incur personal liability for the exercise or non-exercise of this election, and my estate shall hold my Executor harmless against all claims with regard to having or not having made the election.

(g) Allocate, in my Executor's sole discretion, any portion of my exemption under Sec. 2631(a) of the Internal Revenue Code, as amended, to any property as to which I am the transferor, including any property transferred by me during life as to which I did not make an allocation prior to my death.

(h) Exercise any other options or elections afforded by the tax law of the United States or of any other jurisdiction. My Executor may exercise this authority in my Executor's sole discretion, regardless of any other provisions in this Will or the effect on any other provisions of this Will or the effect on any person interested in my estate. No beneficiary under this Will shall be entitled to a compensating adjustment, even though the exercise of these tax powers affects the size or composition of my estate or of any disposition under this Will. The determination of my Executor with respect to the exercise of the election shall be conclusive upon all affected persons.

4.8 Power to Select Property to be Distributed. I authorize my Executor, on any preliminary or final distribution of property in my estate, to partition, allot, and distribute my estate in kind, including undivided interests in my estate or any part of it, or partly in cash and partly in kind, or entirely in cash, in my Executor's absolute discretion. Any distribution or division in kind may be made on a proportionate or a non-proportionate basis so long as the respective assets allocated or distributed have equivalent or proportionate fair market values.

4.9 Power to Employ. My Executor may employ and compensate from my estate accountants, brokers, attorneys, investment advisors, custodians and others whose services are, in my Executor's discretion, necessary or convenient to the administration of the estate created herein. My Executor is expressly authorized to employ and compensate my Executor for any services that are in my Executor's opinion necessary or convenient to the administration of my estate.

4.10 Continuance of Business. I further authorize my Executor either to continue the operation of any business belonging to my estate for such time and in such manner as my Executor may deem advisable and for the best interests of my estate, or to sell or liquidate the business at such time and on such terms as my

Executor may deem advisable and for the best interests of my estate. Any such operation, sale, or liquidation by my Executor in good faith, shall be at the risk of my estate and without liability on the part of my Executor for any resulting losses.

4.11 Distribution to Minors. In the event any person entitled to receive distributions hereunder shall be a minor, or an incompetent, the distributions to that person shall be to the natural guardian or the legally appointed guardian, conservator or other fiduciary of the person or estate of that person (including, but not limited to, a custodian for the beneficiary under the Uniform Transfers to Minors Act in the state in which the beneficiary or custodian resides or any other state of competent jurisdiction), to be held and used exclusively for the benefit of that person. My Executor shall not be required to see to the application of any funds so paid or applied and the receipts of that guardian, conservator or other fiduciary of the person or estate of that person shall be complete acquittance of my Executor.

4.12 Power to Disclaim. My Executor is authorized to disclaim all or any portion of any bequest, devise or trust interest provided for me under any will or trust instrument. In particular, I authorize my Executor to exercise this authority in order to obtain advantageous results considering, in the aggregate, the taxes to be imposed on my spouse's estate and mine, even though this may cause some beneficiaries of my estate to receive less than they would otherwise have received.

4.13 Power to Transact with Trusts. My executor is hereby authorized to purchase any property, and to make loans and advances to, or otherwise deal with, the Trustee of any trust, including, but not limited to, trusts wherein the Executor and Trustee shall be the same parties.

4.14 Power to Buy or Sell Life Estates, Estates for a Term of Years. My executor is authorized to hold, retain, purchase, or sell legal life estates, interests for a term of years, remainder interests, etc., whether or not they yield a reasonable rate of return or no current return, whether or not they result in the preservation of principal, and whether or not the same may be regarded by and statute, rule of law, or otherwise, as being proper. Such investments may be purchased from or made in conjunction with any persons notwithstanding that any such person may control such investment and/or may be, directly or indirectly, a beneficiary or a fiduciary hereunder. This power shall be exercised only with the written consent of my spouse, if my spouse survives me. My spouse shall not have responsibility to any beneficiary or beneficiaries in connection with giving or

Testator Initials

PURPORTED WILL

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withholding such consent. The purchase or sales price for any transactions hereunder may, but need not, be determined under the Treasury Department valuation tables contained in Treasury department Regulation Sec. 25.2515-9 as amended, or any successor regulation or tables.

ARTICLE V: GUARDIAN

If my spouse does not survive me and at my death any of my descendants are minors or incompetent, and no guardian has been appointed by a court of competent jurisdiction, I nominate, constitute and appoint Kevin Edwards Jennings Jr., as guardian of the person and estate of said minor child or children. No bond shall be required of any guardian nominated in this Will.

ARTICLE VI: TESTAMENTARY DECLARATIONS

6.1 Confirmation of Spouse's Community Interest and Intent to Dispose of all my Property. I confirm to my spouse's interest in our community property. It is my intention by this Will to dispose of all my separate property and of my one-half interest in our community property.

6.2 Non-exercise of Powers of Appointment. I refrain from exercising any testamentary power of appointment that I may have at the time of my death.

6.3 Presumption of Survivorship. For purposes of this Will, a beneficiary, other than my spouse, shall not be deemed to have survived me if that beneficiary dies within 90 days after my death.

6.4 Nonreciprocal Nature of Spousal Wills. Although my spouse may be executing a Will at about the same time as the execution of this, my Last Will and Testament, it is not intended that our Wills, be construed to be joint, mutual, or reciprocal, and each of us retains the right at any time to alter or revoke his or her respective Will.

6.5 Confirmation of Gifts. I hereby ratify and confirm all gifts made by me prior to my death, and I direct that none of those gifts should be deemed or construed to be an advancement to any beneficiary nor shall any gift be taken into account in the settlement of my estate.

ARTICLE VII: MISCELLANEOUS

7.1 Incontestability. In the event any person authorized to receive any property hereunder commences, prosecutes, promotes, intervenes in, contributes to or voluntarily participates in, directly or indirectly, or counsels or aids any other person to

Testatrix Initials

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commence, prosecute, promote, intervene in, contribute to or voluntarily participate in, directly or indirectly, any proceeding or action in any court, agency, tribunal or other forum wherein the person authorized to receive property or the counseled person (1) seeks to void, nullify or set aside all or any part of my Will; (2) seeks to void, nullify or set aside any trust of which I am a grantor or trustee, or both; or (3) makes a claim which is based upon any alleged act of omission by me, individually, or in my capacity as trustee, executor, partner, officer or director, or in any other capacity, then I revoke any share or interest in my estate given under this Will or in the trust referred to in ARTICLE III hereof to the person making the claim, to the counseling person, and to the descendants of each of them, and such share or interest shall be immediately disposed of by termination of the appropriate trust or trusts, or otherwise, as if such claimant or counseling person had predeceased me without descendants. This provision shall remain in effect from my death until no trust under the trust referred to in ARTICLE III hereof is existence, whether or not the administration of my estate has been completed. If any provision of this Article is held to be unenforceable or void for any reason, the remaining provisions shall be fully effective.

7.2 Tax Contribution. I direct that every specific and general gift, devise or bequest given under this Will or any Codicil hereto shall be delivered free of all estate and inheritance taxes and that such taxes be paid out of the residue of my estate. I further direct that no legatee, devisee or beneficiary hereunder, or beneficiary under any of my life insurance policies, or any surviving joint tenant, or any trustee of any private trust of mine which shall be in existence at the time of my death, shall be called upon to make any contributions toward the payment of any estate or inheritance taxes.

7.3 No Interest on Specific Bequests. I direct that no interest be paid in any specific bequest herein. The provision shall not apply to any marital deduction bequests provided in this Will.

7.4 Severability. If any part of this will shall be invalid, illegal or inoperative, it is my intention that the remaining parts shall stand and be effective and operative.

7.5 Gender and Number. As used in this Will, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

7.6 Headings. The headings, titles and subtitles in this Will have been inserted for convenient reference, and shall be ignored in its construction.

Testator Initials A.J

PURPORTED WILL

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ARTICLE VIII: DISTRIBUTION OF TRUST PROPERTIES

It is my intention to distribute my property held in the GEORGE EDWARD JENNINGS AND ALICE GENEVIEVE JENNINGS REVOCABLE FAMILY TRUST as follows:

8.1 Upon the death of my husband, it is my intention to distribute the property outright in equal shares to my children as follows:

a) the total trust property shall be distributed to all of my children per stirpes.

b) Should one or all of my children predecease my husband, then that bequest shall pass to the descendant(s) of the deceased child in accordance with the GEORGE EDWARD JENNINGS AND ALICE GENEVIEVE JENNINGS REVOCABLE FAMILY TRUST.

C) In the event I am not survived by my husband, children, or their descendants, then the trust estate shall be distributed as follows:

i) one-half (1/2) outright to my heirs at law per stirpes, and

ii) one-half (1/2) outright to my husband's heirs at law per stirpes.

Testatrix

ALICE GENEVIEVE JENNINGS,

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Testatrix Initials A.J.

PURPORTED WILL

12-011

On the date last above written, ALICE GENEVIEVE JENNINGS declared to us that the foregoing instrument, consisting of twelve (12) pages, including the affidavit signed by us as witnesses, was her Will, and requested us to act as witnesses to it. She thereupon signed this Will in our presence, all of us being present at the same time. We now, at her request, in her presence and in the presence of each other, subscribe our names as witnesses.

Witness

6 Black Cherry Ct.
The Woodlands Texas 77381
residing at

Witness

17100 Rolling Creek #155, Houston Tx
residing at 77090

Testatrix Initials

PURPORTED WILL

12-012

STATE OF TEXAS *
*
COUNTY OF HARRIS *

BEFORE ME, the undersigned authority, on this day personally appeared ALICE GENEVIEVE JENNINGS, Sherri Bentch and Robert C. Hardy Sr. known to me to be the Testatrix and the witnesses, respectively, whose names are subscribed to the annexed foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, in my presence ALICE GENEVIEVE JENNINGS, Testatrix, declared to me and to the said witnesses in my presence that said instrument is her Last Will and Testament, and that she had willingly made and executed it as her free act and deed for the purposes therein expressed; and the said witnesses, each on their oath stated to me, in the presence and hearing of the said Testatrix, that the said Testatrix had declared to them that said instrument is her Last Will and Testament, and that she had executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testatrix and at her request; and that she was over eighteen years of age and was of sound mind; and that each of the said witnesses was then at least fourteen years of age.

Testatrix — Alice Genevieve Jennings
ALICE GENEVIEVE JENNINGS,

Sherri Bentch
Witness

Robert C. Hardy Sr.
Witness

SUBSCRIBED AND ACKNOWLEDGED BEFORE ME BY THE SAID ALICE GENEVIEVE JENNINGS, Testatrix, and subscribed and sworn to before me by the said Sherri Bentch and Robert C. Hardy Sr., witnesses, this 22nd day of August, 1990 A.D.

DEVEREAUX MACY
NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES
AUGUST 31, 1992

NOTARY PUBLIC IN AND FOR
THE STATE OF T E X A S

My commission expires: 8-31-92

Testatrix Initials A.J.

PURPORTED WILL

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COMPENSATION/BOND COMPUTATION

BOND COMPUTATION:

Homestead at 1422 West Green Street FMV $450,000

Portfolio of Stocks and Bonds $200,000, annual income $4,000

Apartment Complex FMV $600,000 five units that rent for $1,000 per month

IRA account $350,000 the beneficiary is the wife

Life insurance policy $50,000 no beneficiary designation

Bank Account $75,000

FIDUCIARY COMPENSATION

The estate inventory had the following:

House FMV $500,000

Bank Accounts $200,000

IRA accounts $300,000 payable to the estate

Stocks and bonds $300,000, income of $6,000 per year

Fiduciary located money on the Texas Unclaimed Property web site $125,000

Fiducary paid out the following:

The house was sold using a realtor. The net proceeds were $450,000, closing costs were $30,000

A partial distribution to be beneficiaries of $400,000

Attorney fees $6,000

Property Taxes $10,000

Maintenance on the house prior to sale $3,000

Utilities on house prior to sale $500

PET PARENTS

Property Code

Sec. 112.037. TRUST FOR CARE OF ANIMAL. (a) A trust may be created to provide for the care of an animal alive during the settlor's lifetime. The trust terminates on the death of the animal or, if the trust is created to provide for the care of more than one animal alive during the settlor's lifetime, on the death of the last surviving animal.

(b) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if a person is not appointed in the terms of the trust, by a person appointed by the court. A person having an interest in the welfare of an animal that is the subject of a trust authorized by this section may request the court to appoint a person to enforce the trust or to remove a person appointed to enforce the trust.

(c) Except as provided by Subsections (d) and (e), property of a trust authorized by this section may be applied only to the property's intended use under the trust.

(d) Property of a trust authorized by this section may be applied to a use other than the property's intended use under the trust to the extent the court determines that the value of the trust property exceeds the amount required for the intended use.

(e) Except as otherwise provided by the terms of the trust, property not required for the trust's intended use must be distributed to:

(1) if the settlor is living at the time the trust property is distributed, the settlor; or

(2) if the settlor is not living at the time the trust property is distributed:

(A) if the settlor has a will, beneficiaries under the settlor's will; or

(B) in the absence of an effective provision in a will, the settlor's heirs.

(f) For purposes of Section 112.036, the lives in being used to determine the maximum duration of a trust authorized by this section are:

(1) the individual beneficiaries of the trust;

(2) the individuals named in the instrument creating the trust; and

(3) if the settlor or settlors are living at the time the trust becomes irrevocable, the settlor or settlors of the trust or, if the settlor or settlors are not living at the time the trust becomes irrevocable, the individuals who would inherit the settlor or settlors' property under the law of this state had the settlor or settlors died intestate at the time the trust becomes irrevocable.

Added by Acts 2005, 79th Leg., Ch. 148 (H.B. 1190), Sec. 6, eff. January 1, 2006.

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PROBATE COURT 3

FIRST CODICIL
TO
LAST WILL AND TESTAMENT
OF
DONALD GLENN SIMPSON

I, DONALD GLENN SIMPSON, a resident of Houston, Harris County, Texas, being of sound and disposing mind and memory, DO HEREBY MAKE, PUBLISH and DECLARE this a First Codicil to my Last Will and Testament that was heretofore executed by me on December 22, 1997 (said Last Will and Testament hereinafter referred to as "Will").

I.

I hereby amend my Will by adding the following new Article IIIA to my Will:

"ARTICLE IIIA

CARE OF MY PETS

"C. In the event that I am not survived by my Wife and I own companion animals at my death, I give to the Stevenson Companion Animal Life-Care Center (SCALC) at the College of Veterinary Medicine at Texas A&M University any of my animals which are covered under the terms of a Pet Owner Agreement and Authorization executed between me and the SCALC.

I give to the Texas A&M Foundation, a nonprofit corporation organized in accordance with the laws of the State of Texas for the purpose of supporting Texas A&M University, an educational institution located in College Station, Texas, Fifty Thousand and No/100 dollars ($50,000.00). If the amount passing to Texas A&M University needs to be increased for any reason, I give my Executor the discretion to increase said amount to the extent that my Executor, in his sole and absolute discretion, considers necessary.

The property comprising this gift may, for investment purposes, be merged with any of the general investment assets of the Texas A&M Foundation, but the gift shall be entered on the Foundation's books and records as Diane S. and Don G. Simpson - Class of 1949 - SCALC Endowed Fund, and shall always be so designated. The income from the Fund shall be used to provide support for the Stevenson Companion Animal Life-Care Center (SCALC) and the College of Veterinary Medicine at Texas A&M University. In the unlikely event that overall funding of the SCALC becomes insufficient to provide support for its needs, the Dean of the College of Veterinary Medicine, after due consultation with the Advisory Board of the SCALC, shall be authorized to invade the corpus of the Fund to satisfy all or any portion of those needs.

PURPORTED WILL

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If in the judgment of the Board of Trustees (the Board) of the Texas A&M Foundation, after consulting with the advisory Board of the SCALC and the Dean of the College of Veterinary Medicine, changed circumstances render the continuation of the Fund impracticable, unwise or inappropriate, then the Board shall use the Fund to further the objectives and purposes of the SCALC and the College of Veterinary Medicine at Texas A&M University."

II.

I hereby amend my Will by deleting the current Article VII of the Will in its entirety and substituting in lieu thereof the following new Article VII:

"ARTICLE VII

FAILURE OF WIFE TO SURVIVE TESTATOR

If my Wife does not survive me, I give, devise and bequeath my Residuary Estate in the following percentages to the following entities as set forth below:

1. Ninety percent (90%) to THE LAURA H. AND TRAVIS L. SMITH III Memorial Fund established on January 22, 2001, by the Vestry of the Church of St. John the Divine, Episcopal ("the Church"), 2450 River Oaks Blvd., Houston, Texas 77019.

2. Two and a half percent (2½%) to the Texas A&M Foundation, a non profit corporation organized in accordance with the laws of the State of Texas for the purpose of supporting Texas A&M University, an educational institution, located at College Station, Texas. (i) The property comprising this gift may, for investment purposes, be merged with any of the general investment assets of the Texas A&M Foundation, but this gift shall be directed to the Eternal Aggie Band Endowment Fund (Foundation account no. 04-57235) in order to increase the value of said account. (ii) This gift may be further restricted as to use by separate gift agreement between the Texas A&M Foundation and me. (iii) If, in the judgment of the Foundation Board of Trustees, changed circumstances should, at some future time, render the designated use of this fund impracticable, unwise or inappropriate, then the Board shall use the fund to further the objectives and purposes of Texas A&M

PURPORTED WILL

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University, giving consideration to my special interest as evidenced by the purpose described above.

3. Seven and a half percent (7½ %) to Austin YMCA in memory of Laura Housworth Smith to be delivered through Terry McDaniel, 2630 Exposition Blvd., Austin, Texas 78703."

III.

As amended by this First Codicil, my Last Will and Testament is hereby confirmed and republished, and the same, together with this First Codicil thereto, shall hereafter constitute my Last Will and Testament.

IN WITNESS WHEREOF, I have hereunto subscribed my name in the presence of Jean A Haws and William Haws, being credible persons aged more than fourteen (14) years, whom I hereby request to subscribe their names hereto as attesting witnesses this 29th day of August, 2001.

DONALD GLENN SIMPSON, Testator

The foregoing instrument was subscribed in our presence by DONALD GLENN SIMPSON who declared in our presence that the same is the First Codicil to his Last Will and Testament, and we, the undersigned, each aged more than fourteen (14) years, at his request, in his presence, and in the presence of each other, subscribe our names hereto as attesting witnesses, this 29th day of August, 2001.

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COUNTY CLERK
HARRIS COUNTY, TEXAS

Jean A Haws

William Haws

WITNESSES

PURPORTED WILL

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THE STATE OF TEXAS §
§
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared DONALD GLENN SIMPSON, Jean A. Haws and William Haws, known to me to be the Testator and the witnesses, respectively, whose names are subscribed to the foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said DONALD GLENN SIMPSON, Testator, declared to me and to the said witnesses in my presence that said instrument is the First Codicil to his Last Will and Testament and that he had willingly made and executed it as his free act and deed; and the said witnesses, each on his or her oath, stated to me, in the presence and hearing of said Testator, that the said Testator had declared to them that said instrument is the First Codicil to his Last Will and Testament and that he executed same as such and wanted each of the witnesses to sign it as a witness; and upon their oaths, each of the witnesses stated further that they did sign the same as witnesses in the presence of the said Testator and at his request, and in the presence of each other; that he was at that time eighteen (18) years of age or over and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

DONALD GLENN SIMPSON, Testator

Jean A. Haws

William Haws

WITNESSES

SUBSCRIBED AND SWORN TO BEFORE ME by the said DONALD GLENN SIMPSON, Testator, and by said Jean A. Haws and William Haws, witnesses, this 29th day of August, 2001.

DOUGLAS E. CLARKE
NOTARY PUBLIC, STATE OF TEXAS
MY COMMISSION EXPIRES
NOV. 18, 2004

Notary Public in and for the State of Texas

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PURPORTED WILL

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DIGITAL ASSETS

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PROBATE COURT 3

LAST WILL AND TESTAMENT
OF
EDWIN W. BROWN, JR.

I, Edwin W. Brown, Jr., of Houston, Texas, revoke my former Wills and Codicils and declare this to be my Last Will and Testament.

ARTICLE I
IDENTIFICATION OF FAMILY

I am not currently married to anyone.

The names of my children are Angela E. Gutierrez, Edwin W. Brown, III and Paul E. Brown. All references in this Will to "my children" are references to the above-named children.

ARTICLE II
PAYMENT OF DEBTS AND EXPENSES

I direct that my just debts, funeral expenses and expenses of last illness be first paid from my estate.

ARTICLE III
PET CARE DIRECTIVES

Notwithstanding any other provision of this Will, I further direct that:

A. **Pet Caretaker.** I give my following pet(s):

dog, 1. Bo 2. Pepe La Pew 3. Dante - 3 Pets total

and any other animals which I may own at the time of my death, to Angela E. Gutierrez, presently residing at 25450 Macedonia Road, Hockley, Texas 77447, with the request that (s)he treat them as companion animals. If (s)he is unable or unwilling to accept my animals, I give such animals to _____, presently residing at _____, with the request that (s)he treat them as companion animals. If (s)he is unable or unwilling to accept my animals, my Executor shall select an appropriate person to accept the animals and treat them as companion animals, and I give my animals to such person.

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COUNTY CLERK
FORT BEND COUNTY, TEXAS

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ARTICLE IV
DISPOSITION OF PROPERTY

Residuary Estate. I direct that my residuary estate be distributed to my children in equal shares. If a child of mine does not survive me, such deceased child's share shall be distributed in equal shares to the children of such deceased child who survive me, by right of representation. If a child of mine does not survive me and has no children who survive me, such deceased child's share shall be distributed in equal shares to my other children, if any, or to their respective children by right of representation. If no child of mine survives me, and if none of my deceased children are survived by children, my residuary estate shall be distributed to Italian Grey Hound Rescue, Houston, Texas. If such beneficiary does not survive me, my residuary estate shall be distributed to the following beneficiaries in the percentages as shown:

100% - None, _____, _____ If this person does not survive me, this share shall be distributed proportionately to the other distributee(s) listed under this provision.

100 *Percent Total*

ARTICLE V
NOMINATION OF EXECUTOR

I nominate Angela E. Gutierrez, of Hockley, Texas, as the Executor, without bond or security. If such person or entity does not serve for any reason, I nominate Gary E. Fish, of Houston, Texas, and Jesus Pena, of Cypress, Texas, as Co-Executors (the "Executor"), without bond or security.

ARTICLE VI
NOMINATION OF DIGITAL EXECUTOR

I nominate Angela E. Gutierrez, of Hockley, Texas, as the Digital Executor. If such person or entity does not serve for any reason, I nominate Gary E. Fish, of Houston, Texas, to be the Digital Executor. For the purposes of this Will, Digital Executor shall mean a designated executor assigned to manage the responsibilities for my digital assets after death.

ARTICLE VII
EXECUTOR POWERS

A. Power to Dispose of Property. My Executor, with respect to my estate, and my Trustee with respect to my trust, in addition to other powers and authority granted by law or necessary or appropriate for proper administration, shall have the following rights, powers, and authority without order of court and without notice to anyone:

B. Power to Administer Estate. My Executor shall have the right to administer my estate using "informal", "unsupervised", or "independent" probate or equivalent legislation designed to operate

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without unnecessary intervention by the probate court.

ARTICLE VIII
DIGITAL EXECUTOR POWERS

A. Digital Executor. My Digital Executor, in addition to other powers and authority granted by law or necessary or appropriate for proper administration, shall have the right and power to, including, but not limited to, manage, distribute, or terminate my digital assets in accordance with the Letter of Instructions incorporated by reference into this Will, without order of court and without notice to anyone. My Digital Executor's powers shall have, but not be limited to, the power to access, download, and backup digital assets, convert my file formats, access any and all devices necessary to manage digital assets, and clear computer caches and/or delete files. In addition, the Digital Executor shall also have the rights, powers and authority:

1. *Standard of Care*. To manage, distribute, or terminate digital assets, exercising the judgment and care, under the circumstances then prevailing, that persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their digital assets, considering the probable safety of their digital assets.

2. *Employ Professional Assistance*. To employ and compensate counsel and other persons deemed necessary for proper administration and to delegate authority when such delegation is advantageous to the estate or trust.

3. *Duration of Powers*. To continue to exercise the powers provided in this Article notwithstanding the termination of the trust until all the assets of the trust have been distributed.

4. *Compensation*. To receive reasonable compensation for their services under this Will and be exonerated from and to pay all reasonable expenses and charges of the estate and trust.

5. *Informal Administration*. My Digital Executor shall have the right to administer my digital assets using "informal", "unsupervised", or "independent" probate or equivalent legislation designed to operate without unnecessary intervention by the probate court.

ARTICLE IX
SPECIAL DIRECTIVES

I, hereby state, that in addition to the directives and bequests as set forth in this Will, it is my desire and wish to include the following special directives and last wishes: I am a Veteran, USN 5439847. I want to hold my funeral services at the Veteran Memorial Cemetery, Houston, Texas. I want to be cremated and placed in an appropriate urn and space at the Veterans Memorial. My intentions is to pay for funeral services prior to my death. If this does not occur, I would like for the reasonable and customary cost of my funeral services to be reimbursed to any and all persons that incurred, if possible.

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ARTICLE X
MISCELLANEOUS PROVISIONS

A. Paragraph Titles and Gender. The titles given to the paragraphs of this Will are inserted for reference purposes only and are not to be considered as forming a part of this Will in interpreting its provisions. All words used in this Will in any gender shall extend to and include all genders, and any singular words shall include the plural expression, and vice versa, specifically including "child" and "children", when the context or facts so require, and any pronouns shall be taken to refer to the person or persons intended regardless of gender or number.

B. Thirty Day Survival Requirement. For the purposes of determining the appropriate distributions under this Will, no person shall be deemed to have survived me unless such person is also surviving on the thirtieth day after the date of my death.

C. Liability of Fiduciary. No fiduciary who is a natural person shall, in the absence of fraudulent conduct or bad faith, be liable individually to any beneficiary of my estate, and my estate shall indemnify such natural person from any and all claims or expenses in connection with or arising out of that fiduciary's good faith actions or nonactions of the fiduciary, except for such actions or nonactions which constitute fraudulent conduct or bad faith. No successor trustee shall be obliged to inquire into or be in any way accountable for the previous administration of the trust property.

D. Compensation. The Executor is entitled to receive reasonable compensation for their services under this Will and be exonerated from and to pay all reasonable expenses and charges of the estate and trust.

E. Beneficiary Disputes. If any bequest requires that the bequest be distributed between or among two or more beneficiaries, the specific items of property comprising the respective shares shall be determined by such beneficiaries if they can agree, and if not, by my Executor.

IN WITNESS WHEREOF, I have subscribed my name below, this 24th day of March, 2013.

Testator Signature: Edwin W. Brown

Edwin W. Brown, Jr.

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We, the undersigned, hereby certify that the above instrument, which consists of 9 pages, including the page(s) which contain the witness signatures, was signed in our sight and presence by Edwin W. Brown, Jr. (the "Testator"), who declared this instrument to be his/her Last Will and Testament and we, at the Testator's request and in the Testator's sight and presence, and in the sight and presence of each other, do hereby subscribe our names as witnesses on the date shown above.

Witness Signature: _____
Name: _____
City: 2 TEAGUE S CALVERT
State: HOUSTON
TEXAS

Witness Signature: _____
Name: _____
City: _____
State: _____

Witness Signature: _____
Name: _____
City: _____
State: _____

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AFFIDAVIT

STATE OF TEXAS
COUNTY OF HARRIS

Before me, the undersigned, on this day personally appeared Edwin W Brown, Jr., Stephanie Calvert and Gabriela Lerma and _____ known to me to be the Testator and the witnesses, respectively, whose names are signed to the foregoing instrument. All of these persons were first duly sworn by me. Edwin W Brown, Jr., the Testator, declared to me and to the witnesses, in my presence, that the foregoing instrument is the Testator's Will and that the Testator willingly signed and executed such instrument in the presence of the witnesses, as the Testator's free and voluntary act for the purposes expressed in the instrument. Each of the witnesses declared in the presence and hearing of the Testator that the foregoing instrument was executed and acknowledged by the Testator as the Testator's Will in their presence and that they, in the Testator's presence, hearing and sight and at the Testator's request, and in the presence of each other, did subscribe their names to the instrument as attesting witnesses on the date of the instrument, and that to the best of the witness' knowledge, the Testator was eighteen years of age or older, of sound mind, under no constraint or undue influence, and the witnesses were of adult age and otherwise competent to be witnesses.

Edwin W Brown, Jr., Testator

Witness Signature: _____

Name: Stephen S. Calvert
City: Houston
State: Texas

Witness Signature: _____

Name: Gabriela Lerma
City: Cypress
State: TX

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Witness Signature: _____

Name: _____
City: _____
State: _____

Subscribed, sworn to and acknowledged before me by Edwin W Brown, Jr., the Testator; and subscribed and sworn to before me by [illegible] and [illegible] and _____, witnesses, this 24th day of [illegible], 2013.

_____
Notary Public, or other officer authorized to take and certify acknowledgements and administer oaths

Lakisha Wood
My Commission Expires
08/28/2016

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Schedule A

Name of Each Digital Asset and Digital Executor

Name of Digital Asset:

Juno Email

Additional Unknown Digital Assets

Name of Sole Digital Executor: Angela E. Gutierrez City: Hockley State: Texas

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Letter of Instructions
Residual Estate Digital Assets

Name of Digital Asset: Juno Email

Access information:

Where to Access: www.juno.com
Username: juno
Password: @junofool.com
Additional Information: _____

Name of Digital Asset: Additional Unknown Digital Assets

Access information:

Where to Access: _____
Username: _____
Password: _____
Additional Information: To the best of my ability known additional digital assets are known. If others arise after the fact, then I request the Agent to have access to any and all digital assets.

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THE TEXAS REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT: A PRIMER FOR ESTATE PLANNERS

Gerry W. Beyer
Texas Tech University School of Law
Lubbock, Texas
gwb@professorbeyer.com

Prudent professionals must address digital assets in all estates they plan or administer. The 2017 Texas Legislature enacted the Texas Revised Uniform Fiduciary Access to Digital Assets Act as Chapter 2001 of the Estates Code, which adds clarity to the steps you need to take when planning and administering estates. This article aims to provide the information you need to be well-informed about the cyberspace-estate planning interface.

What Terms of Art Do I Need to Know before We Start Our Discussion?

To have a common ground for discussing The Texas Revised Uniform Fiduciary Access to Digital Assets Act (TRUFADAA), you need to know the definitions of several key terms of art.

Digital assets are electronic records (think binary 1s and 0s) in which a person has a right or interest. The term "digital asset" is a very broad term which encompasses all electronically-stored information, including (a) information stored on a user's computer and other digital devices, (b) content uploaded onto websites, (c) rights in digital property, and (d) records that are either the catalogue or the content of an electronic communication. Examples include e-mails, text messages, photos, digital music and video, word processing documents, social media accounts (e.g., Facebook, LinkedIn, Twitter), online financial, utility, credit card, and loan accounts, and gaming avatars. The term does not include an underlying asset or liability unless the asset or liability is itself an electronic record. TEX. EST. CODE § 2001.002(8).

A ***fiduciary*** means a personal representative of an estate (executor or administrator), an agent under a nonmedical power of attorney, a guardian of an estate, and a trustee of a trust. TEX. EST. CODE § 2001.002(12).

A ***user*** is a person who has an account dealing with digital assets. In this context, the user would be the decedent, principal, ward, or trustee. TEX. EST. CODE § 2001.002(24).

The ***custodian*** is the person who carries, maintains, processes, receives, or stores a digital asset (e.g., the user's e-mail provider such as Yahoo, Google, or Suddenlink; the hosts of the user's social media accounts such as Facebook or LinkedIn; and the user's financial accounts maintained online in banks, brokerage firms, utility providers, credit card issuers, and mortgage companies). TEX. EST. CODE § 2001.002(6).

Why Does a Fiduciary Care about the Digital Assets of the Person Represented?

There are many reasons why a fiduciary would desire access to the user's digital assets.

(1) Many people forego paper statements for financial accounts such as bank accounts, retirement accounts, and brokerage accounts. A personal representative may seek access to the contents of the decedent's e-mail messages to ascertain where these accounts are located and to gain the information necessary to complete the estate inventory, pay bills, and distribute the funds appropriately. Likewise, an agent or guardian may need this information for similar purposes.

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(2) Many people forego paper statements for utilities, credit cards, car loans, and home mortgages. The fiduciary may need to give notice to and pay these creditors and thus, needs access to e-mail messages to determine the names of the creditors and the amounts owed.

(3) Some digital assets like domain names, customer lists, manuscripts, and compositions may have significant economic value. The personal representative needs access to these assets for management, inventory, and distribution purposes.

(4) Some digital assets like family photos and videos do not have monetary value but they have great sentimental value and need to be preserved or transferred to the proper heirs or beneficiaries.

Does It Matter When the Decedent Died, the Power of Attorney, Will, or Trust Executed, or Guardianship Opened?

No. TRUFADAA applies to a fiduciary regardless of when the decedent died, the power of attorney or will executed, the guardianship commenced, or the trust created. Acts 2017, 85th Leg., ch. 400 (S.B. 1193), § 7, eff. Sept. 1, 2017.

How is Priority for Access to a Decedent's Digital Assets Determined?

First priority is given to the user's instructions using the custodian's online tool, that is, the custodian's service that allows the user to provide directions for disclosure (or nondisclosure) of digital assets to a third person. TEX. EST. CODE § 2001.051(a). Examples include Google's Inactive Account Manager and Facebook's Legacy Contact.

Second priority is given to the user's instructions in the user's will, power of attorney, or trust. TEX. EST. CODE § 2001.051(b).

If the user has not provided instructions through an online tool or other writing or electronic record, then the service provider's terms of service agreement (the "I agree" button) will govern the rights of the decedent's personal representative. Typically, these provisions will prohibit access by third parties.

Is There Anything Special about "Access" That I Need to Know?

Yes! There is a major difference between two types of access. The first type is access to the contents of electronic communications, which refers to the substance or meaning of the communication such as the subject line and text of e-mail messages.

The second type of access encompasses both the catalogue of electronic communications (e.g., the name of sender, the e-mail address of the sender, and the date and time of the message but *not* the subject line or the content) and other digital assets (e.g., photos, videos, material stored on the user's computer, etc.).

I Am Drafting a Client's Will. How Do I Proceed with Regard to Digital Assets?

You need to address digital assets from two perspectives. First, you need to ascertain if your client owns any digital assets that are transferable upon death. If so, you need to determine who your client wants to receive them just as you would any other type of property. If you do not make a specific gift of digital assets, they will pass under the residuary clause.

Second, you need to find out your client's desires regarding the executor reading the substance of e-mail messages, texts, and private social media postings. If your client wants the executor to have this

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access, express language granting access must be included in the will.

I Am Drafting a Client's Durable Power of Attorney for Property. How Do I Proceed with Regard to Digital Assets?

You should ask your client whether the client wants the principal to have access to contents of electronic communications and/or the catalogue of those communications and other digital assets. Under the statutory durable power of attorney form (power "N"), the agent will have full access to digital assets including contents. TEX. EST. CODE § 752.051. If this is not the principal's intent, the principal should *not* initial powers "N" or "O" (the power that grants all powers listed on the form). The principal may also cross out clause N. If the principal wishes to grant partial access, you should include appropriate language in the "special instructions" section.

I Am Applying to the Court for My Client to be Appointed As the Guardian of the Estate of a Ward. How Do I Proceed with Regard to Digital Assets?

Public policy is in favor of a ward retaining as many rights as possible. Thus, the ward is presumed to retain a right to privacy in personal electronic communications. Accordingly, access to digital assets is not automatically granted to a guardian by virtue of the fact that the person is appointed as a guardian.

If there is a hearing on the matter, a court may grant a guardian complete access to the ward's digital assets, that is, the contents of electronic communications, the catalogue of electronic communications, and other digital assets in which the ward has a right or interest. TEX. EST. CODE § 2001.171(a).

Without a hearing, a guardian may obtain access to the catalogue and digital assets other than the content of electronic communications, but a court order is still required along with other specified required documentation including a certified copy of the court order that granted the guardian authority over the ward's digital assets. TEX. EST. CODE § 2001.171(b).

In addition, a guardian may also request that an account be terminated or suspended for good cause upon providing the custodian with a copy of the court order giving the guardian general authority over the protected person's property. TEX. EST. CODE § 2001.171(d).

I Am the Executor of a Decedent's Estate. How Do I Get Access to the Contents of the Decedent's Electronic Communications?

If a deceased user consented in the user's will, a custodian must disclose the contents of electronic communications to the personal representative of a deceased user's estate if the representative provides:

- a written request for disclosure,
- a certified copy of the deceased user's death certificate,
- a certified copy of letters testamentary or letters of appointment proving the representative's authority, and
- a copy of the documentation (typically, the will) in which the user consented to the disclosure of the content of electronic communications specifically (if not so provided pursuant to an online tool). TEX. EST. CODE § 2001.101(a).

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Before complying with the request, the custodian has the right to request additional information such as:

- information necessary to identify the user's account,
- evidence linking such account to the user, and
- a finding by the court that the account actually belonged to the decedent, the disclosure of the contents would not violate the Stored Communications Act and other federal laws, the user consented to disclosure, disclosure is permitted by TRUFADAA, and disclosure is reasonably necessary for estate administration. TEX. EST. CODE § 2001.101(b).

If the deceased user did not consent to the disclosure of contents (e.g., no express language in the will or died intestate), you will not be able to obtain access to the contents.

I Am the Executor of a Decedent's Estate. How Do I Get Access to the Catalogue of Decedent's Electronic Communications and Other Digital Assets?

The requirements for a personal representative to gain access to the catalogue and digital assets other than the content of electronic communications are less stringent. Unless prohibited by the user or court order, the personal representative is granted access to the catalogue and digital assets other than the content by default (upon providing the custodian with the specified required documentation, which is basically the same as is required to access contents except there is no requirement that the decedent's will be produced or that the decedent specifically consented to disclosure). TEX. EST. CODE § 2001.102.

Is There a Practical Problem for a Personal Representative to Gain Access to a Decedent's Digital Assets?

Yes! The ability of a custodian to request a court order under any circumstance makes access very burdensome for personal representatives as well as the courts. This author has heard from representatives of Google and Facebook that they will *always* require a court order. They want the security of a court order before releasing any information for fear of liability for improper disclosure.

Because of the likelihood that a custodian will require a court order before granting access, include the appropriate language in the earliest possible pleading in the administration of the estate of a deceased user such as the application for an independent administration, determination of heirship, or admission of a will as a muniment of title. (Note: It is uncertain how judges will react to being asked to make these findings in these proceedings.)

I Am an Agent for a Principal. How Do I Get Access to the Contents of the Principal's Electronic Communications?

The rules for agents under powers of attorney are similar to those for personal representatives of decedents' estates. Upon receiving the specified required documentation (a request in written or electronic form, the original or a copy of the power of attorney containing the express consent to disclose, and a certification under perjury that the power of attorney remains in effect), a custodian must disclose to the agent under a financial power of attorney the contents of electronic communications of the principal if the principal's power of attorney expressly grants the agent authority to access content. TEX. EST. CODE § 2001.131.

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I Am an Agent for a Principal. How Do I get Access to the Contents of the Catalogue of the Principal's Electronic Communications and Other Digital Assets?

Upon receiving the specified required documentation (basically the same as discussed above for access to contents), a custodian must disclose to the agent under a power of attorney (who has been granted specific authority over digital assets or general authority to act on behalf of the user) the catalogue and digital assets other than content unless otherwise ordered by the court, provided in the power of attorney, or directed by the principal. TEX. EST. CODE § 2001.132.

I Am a Trustee. How Do I Obtain Access to Digital Assets?

If the trustee is the original user, meaning that the trustee, in his or her capacity as the trustee, opened an online account or procured a digital asset, the custodian must provide the trustee with all content, catalogues, and digital assets of the trust. TEX. EST. CODE § 2001.151.

If the trustee is not the original user (for example, a settlor has a digital asset and then transfers it to a trust, either during life or at death), then different rules apply based on whether the trustee is requesting content or noncontent material.

A custodian (upon receiving the specified required documentation, including a certified copy of the trust agreement that grants disclosure of the content specifically and a certification by the trustee under penalty of perjury that the trust exists and the trustee is currently serving as the trustee) must disclose to a trustee the content of electronic communications unless otherwise directed by the user, provided for in the trust agreement, or ordered by the court. TEX. EST. CODE § 2001.152.

When the trustee is not the original user, a custodian (upon receiving the specified required documentation) must disclose to a trustee the catalogue and all digital assets other than the content unless otherwise directed by the user, provided for in the trust agreement, or ordered by the court. TEX. EST. CODE § 2001.153.

In both cases, the custodian may request additional information such as a number, user name, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account or evidence which links the account to the trust.

How Long Does the Custodian Have to Comply with My Disclosure Request?

The custodian must comply with a request to disclose not later than sixty days after receipt of a proper request along with the required documentation. TEX. EST. CODE § 2001.231(a).

If the User is Alive, Will the Custodian Notify the User of My Request?

The custodian may, but is not required to, notify the user, e.g., the principal or ward, that a fiduciary made a disclosure request. TEX. EST. CODE § 2001.231(c).

The custodian may properly deny a disclosure request if the custodian is aware of any lawful access to the account following the receipt of the request. In other words, if the principal or ward is still using the account, the custodian may properly deny your request for access. TEX. EST. CODE § 2001.231(d).

How Does a Custodian Disclose the Information I Requested?

When a custodian discloses digital assets, the custodian may at its sole discretion:

- grant the fiduciary full access to the user's account,

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- limit access to the access that is sufficient for the fiduciary's performance of designated tasks,
- provide the fiduciary with a paper or digital copy of a digital asset,
- assess a reasonable administrative charge for disclosing digital assets,
- withhold an asset deleted by a user, and/or
- make the determination that a request imposes an undue burden on the custodian, and if necessary, petition the court for an order.

TEX. EST. CODE § 2001.053.

The comments to the Uniform Act acknowledge that each custodian has a different business model, and some may prefer one method for disclosure over another. An example of the type of situation that is preemptively addressed by allowing the custodian to claim that a request imposes an undue burden is where a fiduciary requests disclosure of "any email pertaining to financial matters," which would require the custodian to sift through all emails and determine which ones were relevant or irrelevant. In such event, the custodian may decline the fiduciary's request, and either the fiduciary or the custodian may request guidance from a court. UNIF. FIDUCIARY ACCESS TO DIGITAL ASSETS ACT § 6 cmt.

What if the Custodian Ignores My Request or Refuses to Disclose?

A custodian incurs no penalty for failing to disclose within sixty days of a proper request.

If the custodian does not disclose, the fiduciary may apply to the court for an order directing compliance. TEX. EST. CODE § 2001.231(a). This court order must state that compliance is not in violation of 18 U.S.C. § 2702. The decedent's estate, principal, ward, or trust bears all the expenses of seeking and obtaining the court order such as attorney fees and court costs.

A custodian is immune from liability for disclosing or failing to disclose if done in good faith. TEX. EST. CODE § 2001.232. However, a custodian is likely to be liable if it fails to comply with a valid court order.

Once I Obtain Access, What Fiduciary Duties Do I Have with Regard to the Information?

The legal duties imposed on the fiduciary normally also apply to digital assets such as the duty of care, loyalty, and confidentiality. TEX. EST. CODE § 2001.201(a).

Once I Obtain Proper Access, Am I Treated as an Authorized User under the Law?

Yes. A fiduciary acting within the scope of the fiduciary's duties is deemed an authorized user "for the purpose of applicable computer fraud and unauthorized computer access laws, including all laws of [Texas] governing unauthorized computer access." TEX. EST. CODE § 2001.201(d).

Where Can I Get More Information about TRUFADAA?

The Uniform Act has extensive Comments which are very helpful. You may access them on the website of the Uniform Law Commission.

You Often Mention the Importance of Including Language in Wills and Powers of Attorney. You Also Mentioned Request Letters and Court Applications. How Do I Get Forms I May Use as a Starting Point for Drafting My Documents.

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Wills, Trusts & Estates Prof Blog

Monday, April 6, 2015

Digital Death

By Gerry W. Beyer

When Louise Palmer's 19-year-old daughter Becky passed away from a brain tumor, Louise continued to access her Facebook account to reconnect with her daughter. "[T]o be able to go on [to Facebook] and read not only what people have put on her wall, but private messages that people had sent as well. It was reassuring me that she wasn't going to be forgotten."

Shortly after Becky's death, Facebook locked or "memorialized" her account. Louise wrote to the company, expressing her desire to read the messages. Facebook responded and explained that because of their company policy for deceased users, they cannot make changes to the profile or provide login information to the account.

Louise's frustration is not uncommon. "People are just not reading the terms and conditions, and what we are seeing is a real increase in disputes between competing family members and the service providers." YouGov research found that 52 percent of individuals said that no one would be able to access their online accounts if anything should happen. Thus, it is now more important than ever that people leave clear instructions regarding what should happen to their social media and other online accounts after death. Having a list of online accounts will make it easier for family members, and allow the deceased's wishes to be fulfilled.

See Clive Coleman, *How Do We Protect Our Digital Legacy After Death*, BBC News, Apr. 6, 2015.

Special thanks to **Naomi Cahn** (Harold H. Greene Professor of Law, George Washington University School of Law) for bringing this article to my attention.

http://lawprofessors.typepad.com/trusts_estates_prof/2015/04/digital-death.html

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ADVERTISEMENT

How do we protect our digital legacy after death?

By Clive Coleman
Legal correspondent, BBC News

6 April 2015 UK

Becky Palmer died aged 19

In the old days we stored our treasured memories in photo albums and paper diaries.

Physical things which could be passed on in a will.

But now, in our online lives our memories - our thoughts, feelings and images - are scattered to the four winds of the internet, and stored on Facebook, Twitter, Instagram, and WhatsApp.

But who actually owns them?

And how do we ensure that the people we want to inherit them, our loved ones, actually do?

Louise Palmer knows only too well how difficult it can be.

12-36

Her 19-year-old daughter Becky loved sharing her life on Facebook.

When she fell terminally ill with a brain tumour, and lost speech and movement, Louise would log in with Becky to help her stay in touch with her friends.

There are no norms or standard practice among online providers for how digital assets are passed on to heirs

Becky died in 2010 but Louise continued to access her account to feel close to her daughter.

"It was really important," she told me.

"When you've lost a child, and losing a child is the worst loss there is.

"You become very, very fearful that other people are going to forget them.

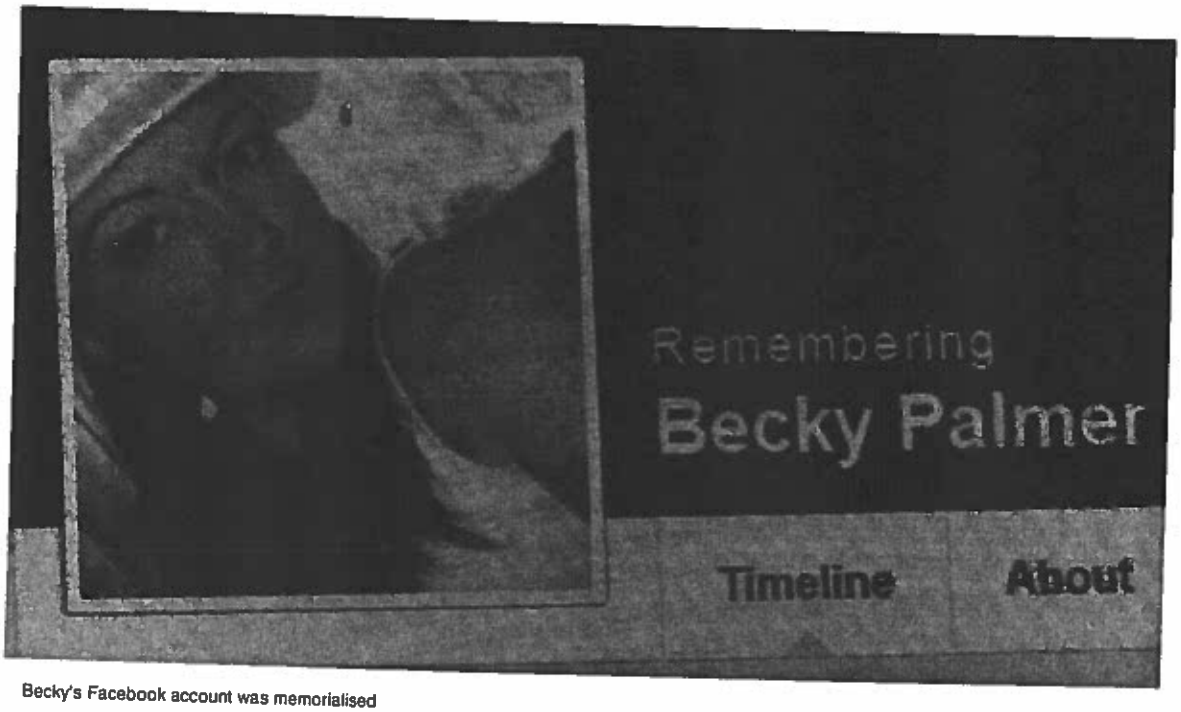
"So to be able to go on there and read not only what people have put on her wall, but private messages that people had sent as well.

"It was reassuring me that she wasn't going to be forgotten."

Memorialised account

But then Facebook locked or 'memorialised' Becky's account.

Louise wrote to them explaining the tragic circumstances of Becky's death and expressing her desire to read the private messages on her daughter's page and to keep it tidy.



Becky's Facebook account was memorialised

She received this reply: "Hi Louise, We are very sorry to hear about your loss. Per our policy for deceased users, we have memorialized this account.

"This sets the account's privacy so that only already confirmed friends can see the profile or locate it in Search.

"The Wall will remain, so friends and family can leave posts in remembrance.

"Unfortunately, for privacy reasons, we cannot make changes to the profile or provide login information for the account.

"We apologise for any inconvenience this may cause. Please let me know if you have any further questions. Thanks for contacting Facebook."

Lack of awareness

Louise then wrote to Facebook founder Mark Zuckerberg, but did not receive a reply.

New YouGov research commissioned by the law firm Mishcon de Reya reveals an alarming lack of knowledge of who owns our online material.

Around one in four simply have no idea, while one in three believe it belongs to Facebook after death.

Who do you think owns content?

YouGov asked 2,185 adults: In the event that a Facebook user passes away, who do you think, by default, owns their Facebook content?

36% said Facebook

20% said next-of-kin

17% said no-one

27% said they didn't know

So who does own our online content?

Mark Keenan, a partner at Mishcon de Reya says: 'It's a legal minefield, it's the new frontier.

"People are just not reading the terms and conditions, and what we are seeing is a real increase in disputes between competing family members and the service providers."

There are no norms or standard practice among online providers for how digital assets are passed on to heirs.

Clear instructions

Last year the Law Society warned people to leave **clear instructions** about what should happen to their social media, computer games and other online accounts after their death.

Louise Palmer: "When you've lost a child, you fear that other people will forget them"

It stressed that having a list of online accounts, such as email, banking, investments and social networking sites will make it easier for family members to piece together a loved one's digital legacy, and provide the best chance for the wishes of the deceased to be fulfilled.

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It is not only sentimental material that can be lost.

Digital assets can also include things with a real monetary value such as music, films, email accounts, computer game characters, domain names, air miles, reward points, PayPal and Bitcoin accounts.

And it is not just small change.

A virtual space station has been **sold for $330,000** on a game called Project Entropia - though whether that kind of asset could be passed on would depend on the game's terms and conditions.

Gary Rycroft, a member of the Law Society Wills and Equity Committee, said people should not assume family members know where to look online and to make details of their digital life absolutely clear.

Now that social networking and the internet are well past their infancy, it is surely prudent for us all to consider how to pass on our digital legacy

"If you have a Twitter account, your family may want it deactivated and - if you have left clear instructions - it will be easier for your executors to have it closed.

"If you have an online bank account, your executors will be able to close it down and claim the money on behalf of your estate.

"This is preferable to leaving a list of passwords or PINs as an executor accessing your account with these details could be committing a criminal offence under the Computer Misuse Act 1990.

"It is enough to leave a list of online accounts and ensure this is kept current."

Passwords remain secret

Not that many of us tell anyone what our passwords are.

The YouGov research found that 52% of us said that no-one, including friends and family, would be able to access our online accounts should anything happen to us.

Becky was very close to her mother

In February Facebook offered customers in the US the option of deleting an account when they die, or appointing a friend or relative to take control of some parts of it.

But that doesn't apply here.

In a statement they told me: "When a person passes away, their account can become a memorial to their life.

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"The Profile no longer appears in public spaces, so that grieving friends and family can continue to view the comments, photos and posts of their loved ones."

But that wouldn't include private messages on Becky Palmer's site, or allow Louise to manage it.

With many cherished memories of her daughter locked up online, Louise Palmer relies increasingly on a few home videos for comfort.

She understands that there are reasons for Facebook's privacy policy following a death - some people may r want anyone picking over details of their private life online.

But she says that there were no secrets between her and her daughter.

They shared everything in life.

She told me: "I'm her mum and this was her Facebook page, and its contents I felt were my legacy.

"Her online stuff should now be mine to be able to access."

Digital memories

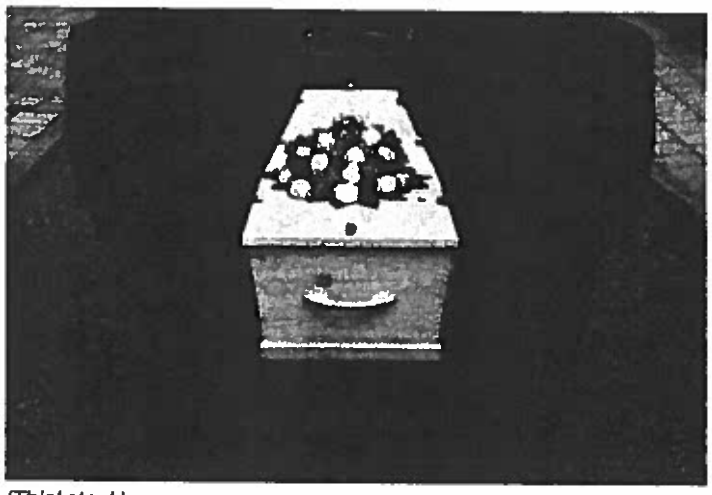
At their inception social networking sites were largely the province of the computer savvy young.

A deluge of personal material flowed online, and no one was thinking about what might happen to it after dea

Now that social networking and the internet are well past their infancy, it is surely prudent for us all to consid how to pass on our digital, as well as our earthly, legacy.

Here's What Happens to Your Data After You Die

Dan Tynan
Tech Columnist
November 3, 2014



(Thinkstock)

A couple of years ago. I logged on to one of my many social network accounts and encountered a familiar face under the People You May Know section: Emru Townsend.

Emru was indeed someone I knew. A talented writer, a good friend, and a true mensch, beloved by many. He was also dead. He had succumbed to leukemia a few years earlier at the age of 39.

Yet there he was, smiling at me just like he did in life. But it wasn't just a social media account that survived Emru. There's his personal blog, where he recounted in sometimes-painful detail his battle against cancer, and his professional one, featuring some of the hundreds of articles he wrote on technology and animation. There's his Flickr account, featuring photos of him in the hospital. There's the site his family set up in an effort to find a stem cell donor, which ultimately proved unsuccessful. Today, nearly seven years to the day of Emru's passing, he still receives email at his pobox.com account, maintained by his widow, Vicky.

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(Emru Townsend/Flickr)

In addition to leaving a mark on everyone he met, Emru also left a footprint on the Internet, which his family struggled to deal with because they did not have access to all of his accounts.

This is a problem all of us on the Internet will encounter eventually, whether we want to think about it or not.

What can go wrong? Lots. Your loved one may have died leaving photos and videos behind that you can't get to. He may have locked essential financial or other information away with passwords and not left those with you. She may have online financial accounts with money or credits leftover, or social media accounts that continue to generate painful reminders of her absence.

And, each year, the personal information of more than 2.5 million dead people is abused by identity thieves, according to ID Analytics.

Data of the dead

So you want to deal with this now, before you die and leave your family a mess of locked-down digital assets. There are three key things you need to do, says Evan Carroll, co-author of *Your Digital Afterlife*.

1. **Make an inventory of all your digital assets.** That includes the documents on your computer, the photos on your phone, any data stored on thumb drives or backup disks, and every online account, including the ones you no longer use. It's a big job, but you don't have to do it all at once, Carroll says. Start with the most important things and work your way down the list. Odds are your primary email account will be number one, since that's typically where online accoun

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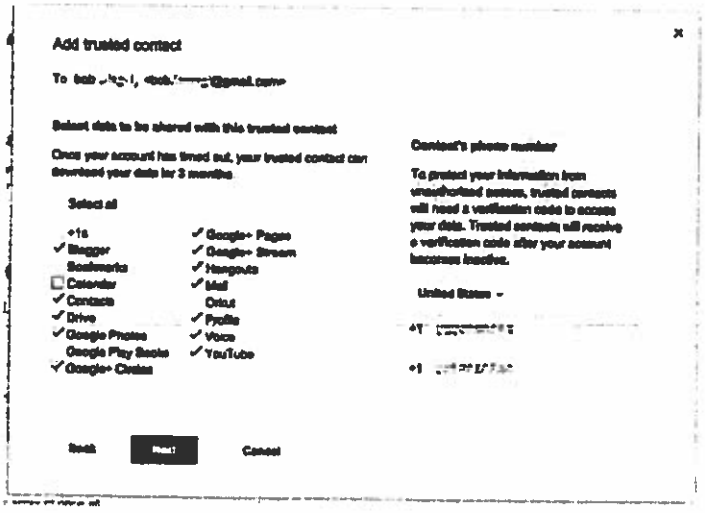
downloaded? There may be some things you don't want your loved ones to see. Decide now, and make your wishes known to those you care about.

3. **Assign someone to be your digital executor.** Be explicit in your will about what you want to happen to your assets. Don't assume your survivors automatically have a right to it all, because the law varies greatly from state to state, Carroll says. On his blog, The Digital Beyond, he offers some sample power-of-attorney language to include in your will.

And if like more than half of all Americans you don't have a will, it's time to whip one up. Will-making software starts around $30, and some extremely simple last-will-and-testament templates are available online for free.

Things to do on Google when you're dead

You also want to take a look at your online accounts. Of all the major online service providers, only **Google** lets you plan for the inevitable ahead of time. Using the innocuously named "Inactive Account Manager," you can designate a beneficiary who will inherit access to any or all of your Google accounts after a specified period of inactivity (the default is three months).



The beneficiary will then have an additional three months to download your data before it gets pulled offline for good. You can even set up an auto-responder from the grave, so to speak, to alert emailers of your passing.

Facebook is probably the next best at this, though your options are more limited. Once a family membe

As for the other main social accounts, some allow you to request that a deceased person's account be closed, once you provide proof of their demise. Others are totally silent on the matter. **LinkedIn** makes it pretty easy to delete a dead member's profile; you can fill out a DocuSign form, digitally sign it, and email it in. There's no way to preserve any blog posts or other material your loved one has shared, however.

You can ask **Twitter** to close the account of a deceased family member, but you'll have to mail it paper copies of your ID, the death certificate, a copy of the obituary (if you have one), and proof that the account actually belongs to the decedent if his Twitter handle doesn't match his legal name. If you want to remove images of your loved one posted by others, you can request that by emailing privacy@twitter.com (but Twitter makes no guarantees it will honor every request).

Sadly, **Yahoo's** death policy is rather stark. It will delete the account upon request and presentation of the death certificate. There are no options to download your loved one's email, blog posts, or photos, nor can you create a memorial. According to Yahoo's official policy statement, this is an effort to honor the original privacy choices of the deceased.

Still, that's better than **Amazon** or **Apple**, which offer no way to officially close an account post mortem. (An Amazon spokesperson says you can close the account of a deceased family member by contacting Amazon customer support.) Worse, you can't bequeath any of the music, videos, ebooks, and other digital materials a deceased customer paid for. That's because you don't actually buy these things, you *license* them; your right to them expires when you do.

Grave matters

As a practical matter, the best way to ensure that your digital assets pass into the right hands is to share them and your login data before you shuffle off this mortal coil.

(This may violate some terms of service agreements, but why should you care? You'll be dead.)

Don't insert login information into your will, advises Carroll; those documents usually become part of the public record, allowing any stranger to gain access to your accounts. Instead, indicate a secure place where your digital executor can find them, like a safe deposit box or an encrypted file in a service

they've chosen you to manage their online accounts in their absence using Legacy Locker for PasswordBox. You must accept this invitation to confirm that you are willing to accept this responsibility.

You can learn more about Legacy Locker for PasswordBox here.

Yes, I will be Dan's digital heir

- The PasswordBox Team

PasswordBox's Legacy Locker offers another option. This password manager lets you designate a "digital heir" who will inherit access to your Password Box account — and, by extension, all the logins contained in it. It can also store your credit card, driver's license, and membership card data and let you securely share your logins before you kick. The advantage here is that if your passwords change or you add accounts, your information is always up to date.

What happens if PasswordBox goes belly-up before you do? The company has secured enough funding and cloud storage to maintain users' account data "for years to come," a company spokesperson says.

Whatever you choose to do, start doing it now. Because you never know if your next log-in will be your last.

"Death is the final log off," Carroll says. "You don't have the opportunity to go back and fix it."

Related: Watch David Pogue on CBS News.

Questions, complaints, kudos? Email Dan Tynan at ModFamily1@yahoo.com.

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Tuesday, September 23, 2014

Yahoo Criticizes Digital Asset Legislation (http://lawprofessors.typepad.com/trusts_estates_prof/2014/09/yahoo-criticizes-digital-asset-legislation.html)

By Gerry W. Beyer

(http://a2.typepad.com/6a00e008d9ca4a883401b8d06f3782970c-pi)

Many questions arise when it comes to addressing what should come of our personal digital communications after we die? Should they be treated like physical letters for the purposes of a will?

Yahoo does not think so. The company is now criticizing new legislation that gives executors charged with carrying out the instructions in a person's will broad access to their online accounts. Delaware recently passed legislation titled the "Fiduciary Access to Digital Assets and Digital Accounts Act." The measure removes some of the red tape that an estate attorney or other fiduciary would otherwise have to go through to gain broad access to the deceased's online accounts.

In a recent blog post, Yahoo stated that the expanded access violates the initial agreement users entered into when they started using services. "When an individual signs up for a Yahoo account, they agree to our terms of service, which outlines that neither their account nor the contents of their private communications are transferrable at the time of death."

Yahoo's terms of service say it may delete an account and all of the data if it is shown a copy of the person's death certificate. The company argues that the new legislation does not offer the correct means to providing a family or fiduciary the information they need when dealing with the loss of a relative.

See Zach Miners, *Yahoo Slams New 'Digital Will' Law, Says Users Have Privacy When They Die* (http://www.pcworld.com/article/2683472/yahoo-slams-new-digital-will-law-says-users-have-privacy-when-they-die.html), PC World, Sept. 15, 2014.

Special thanks to Jim Hilhouse (Professional Legal Marketing (PLM, Inc.)) for bringing this article to my attention.

http://lawprofessors.typepad.com/trusts_estates_prof/2014/09/yahoo-criticizes-digital-asset-legislation.html

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Judge Upholds Uncontested Will Written on Android Tablet

By William Peacock, Esq. on June 28, 2013 12:07 PM

A probate court in Ohio addressed a novel issue of law earlier this week when it had to decide whether a will, drafted on a tablet, (no, not that kind of tablet, this kind) was valid under Ohio state law.

Javier Castro was told by doctors at the Mercy Regional Medical Center that he needed a blood transfusion to survive. As a Jehovah's Witness, he declined treatment. Before his death, however, he told two of his brothers that he wished to draft a will. Lacking pen and paper, the brothers drafted the will on a Galaxy Tablet. Later that day, Castro signed the will, using the tablet's stylus, with his brothers serving as witnesses, reports The Chronicle-Telegram.

Judge James Walther, while recognizing that the issue had not previously been decided, looked to the plain text of the statute, which merely requires that the will "shall be in writing, but may be handwritten or typewritten," be signed by the testator or his representative, and be witnessed. The will met all statutory requirements, even if it was "written" on an odd, new medium.

As the court noted, a written will is valid, whether it is drafted on an Android tablet or carved into a stone one.

The court's decision was made even easier by Castro's parents, who would have received his estate had he died intestate. They informed the court that regardless of the court's holding, they planned to comply with their son's wishes.

Though the court felt that the law dictated the result, and seemed to express no reservations in upholding the will, according to the Telegram-Chronicle, Judge Walther did state that he believed that the state should update their laws to address electronic wills.

Electronic wills certainly do have their pros and cons. While they may be easier to draft, and with cloud-storage backups, nearly impossible to lose or misplace, digital files and electronic signatures always present authentication problems. Have the files been manipulated? Is that "digital signature," actually that of the deceased?

A notarized paper copy is always going to be easier to authenticate than a PDF file.

Then again, isn't that why most states, including Ohio, have disinterested witness requirements? Multiple witnesses, who aren't beneficiaries of the will, should guard against most claims of fraud.

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Besides, how convenient would it be to handle all wills on a tablet? Have the client sign, email copies to both the client and the executor, keep a copy in your client files, and save a back-up copy in the cloud, all in a matter of seconds? Then, when the time comes, you won't be digging through boxes of dusty files because the client misplaced his paper copy before passing.

Related Resources

- SpiderOak Encrypted Zero-Knowledge Cloud Storage With Drawbacks (FindLaw's Technologist Blog)
- Study The Bigger Your Device, The More Assertive You Become (FindLaw's Technologist Blog)
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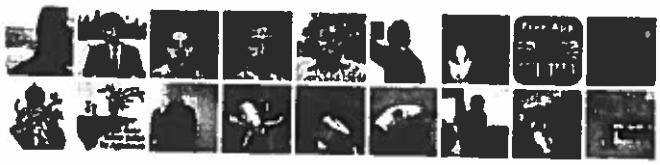

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About this Entry

This page contains a single entry by William Peacock, Esq. published on June 28, 2013 12:07 PM.

SpiderOak Encrypted Zero-Knowledge Cloud Storage With Drawbacks was the previous entry in this blog.

Mobile Lawyering: 3G/4G Data, Lessons From Working on the Road is the next entry in this blog.

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RIGHTS TO IMAGES AFTER DEATH

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

VIRTUAL MARILYN, LLC,

Plaintiff,

-against-

THE ESTATE OF MARILYN MONROE, LLC,

Defendant.

----------x

JUDGE SCHEINDLIN

Case No: _____

Date Filed: October 1, 2014

14 CV 7938

COMPLAINT

JURY TRIAL REQUESTED

FILED
U.S. DISTRICT COURT
2014 OCT -1 P 1:25
S.D.N.Y.

NATURE AND SUMMARY OF ACTION

This is a declaratory judgment action to adjudicate the rights and legal relations of the parties regarding, *inter alia*, their conflicting claims to ownership and use of different types of intellectual property rights involving the persona of the deceased human being Marilyn Monroe. In 2012, the United States Court of Appeals for the Ninth Circuit determined, *inter alia*, that (a) Marilyn Monroe's persona rights expired in 1962 when she died and, as a result, (b) Marilyn Monroe's Estate never inherited Marilyn Monroe's persona rights. *Milton H. Green Archives, Inc. v. Marilyn Monroe*, LLC, 692 F.3d 983, 999-1000 (9th Cir. 2012) (the "Persona Ruling"). Although the Persona Ruling indicates that Marilyn Monroe's persona rights fell into the public domain when she died in 1962, Marilyn Monroe's Estate, which is controlled by a commercial licensing company (not by her heirs), continues to assert ownership and use rights to Marilyn Monroe's persona. Indeed, notwithstanding the Persona Ruling, Defendant continues to extract (improperly) significant licensing fees from various persons and entities in return for Defendant "allowing" those persons and entities to use Marilyn Monroe's persona.

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Plaintiff is the current owner of a federally registered copyright in a fictional, computer-generated character called "VM2 - Virtual Marilyn" or "Virtual Marilyn" (the "Fictional VM Character"). The Fictional VM Character is described on its copyright registration as encompassing, *inter alia*, "audiovisual work and character artwork depicting a computer generated virtual actress adopting the persona of Marilyn Monroe." Plaintiff also is the current owner of a separate federally registered copyright in a fictional story called "VM2 and The Legion of Vactors" (the "Fictional VM Story"). The Fictional VM Story is described on its copyright registration as encompassing, *inter alia*, a "treatment for creation and exploitation of original computer generated characters adopting the personas of celebrated people."

On July 29, 2014, Defendant publically asserted that "The Monroe Estate is a premier brand development and licensing company with exclusive ownership of intellectual property rights related to Marilyn Monroe." Defendant has also asserted that (a) the "use and licensing of the Virtual Marilyn is an infringement of the Monroe Estate's rights in Ms. Monroe's identity and persona that is likely to confuse consumers as to the Monroe Estate's association with or endorsement of Virtual Marilyn and/or any goods or services with which 'she' is associated"; (b) the "use of Marilyn Monroe's identity and persona without the Monroe Estate's prior authorization constitutes unfair competition and false designation of origin"; and (c) the Monroe Estate "demands that [the copyright claimant] agree to cease all current, if any, and future use and licensing of Virtual Marilyn or any other marks, names, logos, designs, avatars, or the like based upon the identity and persona of Marilyn Monroe, and warns that it will seriously consider all

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courses of action, including filing a federal lawsuit, if you do, in fact, use or license Virtual Marilyn."

Plaintiff believes there are several independent legal reasons that provide Plaintiff with the right to use its federally registered copyrights in the Fictional VM Character and the Fictional VM Story - - as well as the right to use trademarks that derive from or relate to such federally registered copyrights - - without violating Defendant's asserted trademark rights in Marilyn Monroe's persona. For instance, due to the Persona Ruling, Plaintiff believes that Defendant does not have an enforceable trademark right to use and license Marilyn Monroe's persona.

Plaintiff, however, does not wish to be exposed to the risk of trademark damages to Defendant in the event the Court were to disagree with Plaintiff's position regarding the nature, scope and extent of Plaintiff's asserted rights. In a situation where, as here, the parties have conflicting claims to ownership and use of different types of intellectual property rights involving the persona of the deceased human being Marilyn Monroe, federal law authorizes the adjudication of those conflicting claims, issues and rights through a declaratory judgment action.

PARTIES

1. Plaintiff Virtual Marilyn, LLC ("Plaintiff"), a Delaware limited liability company, is the current copyright owner of the federally registered copyrights for the Fictional VM Character and the Fictional VM Story. Plaintiff also is the current owner of the right to use trademarks that derive from or relate to the Fictional VM Character and the Fictional VM Story.

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2. Upon information and belief, Defendant The Estate of Marilyn Monroe, LLC ("Defendant" or "Monroe Estate") is a Delaware limited liability company controlled by a commercial licensing company called The Authentic Brands Group, with a place of business located at 100 West 33rd Street, Suite 1007, New York, New York 10001. On July 29, 2014, Defendant publically asserted that "The Monroe Estate is a premier brand development and licensing company with exclusive ownership of intellectual property rights related to Marilyn Monroe." Defendant has also asserted that, notwithstanding the Persona Ruling, it remains the owner of various enforceable trademarks involving the persona of the deceased human being Marilyn Monroe. Defendant has also demanded the cessation of all use and licensing of the Fictional VM Character, "or any other marks, names, logos, designs, avatars, or the like based upon the identity and persona of Marilyn Monroe," failing which Defendant would consider such use and licensing to be "an infringement of the Monroe Estate's rights in Ms. Monroe's identity and persona that is likely to confuse consumers as to the Monroe Estate's association with or endorsement of Virtual Marilyn and/or any goods or services with which "she' is associated." Defendant has also asserted that "if you do, in fact, use or license Virtual Marilyn," then Defendant "will seriously consider all courses of action, including filing a federal lawsuit."

JURISDICTION AND VENUE

3. Since this action involves a determination of federally-created rights under the federal Copyright Act and the federal Lanham Act, subject matter jurisdiction is vested in this Court pursuant to 28 U.S.C. 1331 and 28 U.S.C. 1338, as part of this declaratory judgment action under 28 U.S.C. 2201-2202.

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4. Since this action involves federally-created copyrights and Defendant is subject to personal jurisdiction in New York, venue is proper in the Southern District of New York pursuant to 28 U.S.C. 1400. Venue also is proper in the Southern District of New York pursuant to 28 U.S.C. 1391 because Defendant has a place of business in the Southern District of New York and/or a substantial part of the events or omissions that form the basis of the claims against Defendant occurred in the Southern District of New York.

FACTUAL BACKGROUND

5. In 2012, the United States Copyright Office issued the following federal copyright registrations for the following Virtual Marilyn works to the original owner thereof:

Copyright Registration Number: PA0001773872
Effective Registration Date: February 23, 2012
Title of Copyrighted Fictional Character: VM2 – Virtual Marilyn
Copyright Registration refers to the Copyrighted Fictional Character as part of an "audiovisual work and character artwork depicting a computer generated virtual actress adopting the persona of Marilyn Monroe"
(the "Fictional VM Character Copyright")

-and-

Copyright Registration Number: TXu 1-827-427
Effective Registration Date: September 25, 2012
Title of Copyrighted Story: VM2 and The Legion of Vactors
Copyright Registration refers to the Copyrighted Story as part of a "treatment for creation and exploitation of original computer generated characters adopting the personas of celebrated people"
(the "Fictional VM Story Copyright")

(the Fictional VM Character Copyright and the Fictional VM Story Copyright are collectively defined herein as the "Virtual Marilyn Copyrights").

6. Pursuant to a written copyright assignment for the Virtual Marilyn Copyrights executed by the original owner thereof, Plaintiff purchased and acquired ownership of the

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Virtual Marilyn Copyrights, and Plaintiff became the assignee and transferee for the Virtual Marilyn Copyrights, effective as of August 15, 2014.

7. On August 22, 2014, Plaintiff notified Defendant by letter, *inter alia*, as follows:

(a) Plaintiff had acquired ownership of the Virtual Marilyn Copyrights;

(b) Plaintiff's legal research indicates "there is no legal impediment to the use, development and exploitation of the copyrightable expression involving the copyrighted Virtual Marilyn Character and such use, development and exploitation of the copyrighted Virtual Marilyn Character does not violate any purported 'persona rights' that the Monroe Estate may assert under trademark law";

(c) Since the Persona Ruling issued by the United States Court of Appeals for the Ninth Circuit indicates that Marilyn Monroe's persona is part of the Public Domain, and that the Monroe Estate never inherited Marilyn Monroe's persona rights, "the Monroe Estate would be legally unable to enforce any trademark registrations involving Marilyn Monroe's 'persona' to inhibit or impede" Plaintiff's copyright ownership rights involving the Virtual Marilyn Character; and

(d) Even if the Ninth Circuit had not issued the Persona Ruling against the Monroe Estate, there are independent legal grounds why Plaintiff's use, development and exploitation of the copyrighted Virtual Marilyn Character would not violate any purported "persona rights" that Defendant may assert under trademark law. One of those independent legal grounds is that "the Ninth Circuit and Second Circuit have previously ruled" that "an 'expressive work' (such as the copyrighted Virtual Marilyn Character) is entitled to 'First Amendment protection' and so long as a 'trademark or other identifying material is artistically relevant to the expressive work,' and such artistically relevant use does not 'explicitly mislead' consumers as to authorship, sponsorship or endorsement by the trademark holder, then the artistically relevant use does not violate the Lanham Act. *Brown v. Electronic Arts*, 724 F.3d 1235 (9th Cir. 2013); *Rogers v. Grimaldi*, 875 F.2d 994 (2d Cir. 1989)."

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8. Plaintiff's August 22, 2014 letter asked Defendant to communicate its position on the situation in an effort to avoid litigation. Defendant did not provide a substantive response to Plaintiff's August 22, 2014 letter.

9. On September 3, 2014, Plaintiff notified Defendant in a follow-up letter that if Plaintiff did not receive a substantive response by September 12, 2014, then Plaintiff "will have no choice but to conclude" that litigation would "likely be needed to resolve the precise nature and scope of the intellectual property rights to Marilyn Monroe's persona."

10. Plaintiff's September 3, 2014 letter notified Defendant, *inter alia*, as follows:

> (a) Since the Ninth Circuit's Persona Ruling determined that the Monroe Estate never inherited Marilyn Monroe's persona rights when she died in 1962, "it appears her persona rights fell into the public domain" and "we are at a loss to understand the legal basis from which the Monroe Estate, despite the Ninth Circuit's ruling, continues to assert a posthumous trademark interest in some commercial uses of Marilyn Monroe's persona";
>
> (b) "Significantly, the United States Supreme Court has indicated that (1) the public has a constitutionally-based right to copy and use intellectual property that falls into the public domain, for free and without attribution, once the time-period for private protection of such intellectual property has expired and (2) this federally-created, public domain right has the effect of limiting the length of private protection for a trademark to the time-period that governs the underlying copyright or patent from which the trademark interest derives. See *Dastar Corp. v. Twentieth Century Fox Film Corp.*, 539 U.S. 23, 33-34 (2003) (conflict between length of trademark protection and length of copyright protection); *TrafFix Devices, Inc. v. Marketing Displays, Inc.*, 532 U.S. 23, 29 (2001) (conflict between length of trademark protection and length of patent protection). Prior to these Supreme Court precedents, the United States Court of Appeals had reached a similar conclusion that the length of private protection for a trademark cannot exceed the time-period that governs the underlying intellectual property asset from which the trademark interest derives. See *Comedy III Productions, Inc. v. New Line Cinema*, 200 F.3d 593, 595 (9th Cir. 2000) ("[T]he Lanham Act cannot be used to circumvent copyright law. If material

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covered by copyright law has passed into the public domain, it cannot then be protected by the Lanham Act without rendering the Copyright Act a nullity [cit. om.]."). Accordingly, in view of these appellate precedents, it is difficult to fathom that the courts would somehow accord a longer period of private protection for a trademark than the time-period that governs the underlying publicity/persona rights from which the trademark interest derives."; and

(c) Plaintiff's intent to use, and obtain federal trademark protection for, the "branding rights" arising from use of the copyrighted Virtual Marilyn Character would not violate Defendant's purported trademark rights in Marilyn Monroe's persona - - not only for the reasons identified above but also because there is a "fractured ownership situation where different groups own different types of intellectual property rights involving Marilyn Monroe (see, e.g., *Universal City Studios, Inc. v. Ninetendo Co. Ltd.*, 578 F. Supp. 911 (S.D.N.Y. 1983) (Lanham Act liability rejected because different groups owned different types of intellectual property in the name and likeness of 'King Kong' and, therefore, the trademark did not connote a single source of origin to consumers) and appropriately highlighted disclaimers can always be used to make it clear to consumers that the Monroe Estate has no affiliation with the Virtual Marilyn character or the Virtual Marilyn brand."

11. Plaintiff's September 3, 2014 letter asked Defendant to communicate its position on the situation by September 12, 2014 in an effort to avoid litigation. Although Defendant's general counsel acknowledged receipt of Plaintiff's August 22, 2014 letter and Plaintiff's September 3, 2014 letter, Defendant did not provide a substantive response to Plaintiff's letters by September 12, 2014.

12. On September 15, 2014, Plaintiff notified Defendant in a follow-up letter, *inter alia*, that (a) Defendant had sent written statements to a prior owner of the Virtual Marilyn Copyrights in which Defendant asserted that the use thereof "would infringe [Defendant's] alleged trademark rights involving Marilyn Monroe's persona" whether for copyright purposes or trademark purposes; (b) "the conflicting positions of the parties shows there is a sufficient dispute and controversy that warrants judicial intervention to

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declare and adjudicate the rights and duties of the parties in connection with, *inter alia*, the intellectual property rights to Marilyn Monroe's persona"; and (c) if Defendant did not contact Plaintiff by September 19, 2014 in an effort to avoid litigation, then Plaintiff would proceed accordingly with the preparation of appropriate litigation papers to protect Plaintiff's rights. Defendant did not provide a substantive response to Plaintiff's letters by September 19, 2014. On September 24, 2014, Plaintiff provided Defendant with a draft complaint in contemplation of this declaratory judgment litigation and, in connection therewith, Plaintiff notified Defendant in an accompanying letter that if Defendant did not contact Plaintiff by September 30, 2014 in an effort to avoid litigation, then Plaintiff would file a complaint and pursue the declaratory judgment litigation. Defendant did not provide a substantive response to the draft complaint by September 30, 2014.

13. On July 29, 2014, Defendant filed a pleading seeking affirmative relief in enforcement of its alleged trademark rights in Marilyn Monroe's persona in connection with a separate action pending in this Court against other parties. See *The Estate of Marilyn Monroe, LLC (Defendant/Counter-Plaintiff) vs. A.V.E.L.A., Inc. (Plaintiff/Counter-Defendant) and Leo Valencia IPL, Inc., X One X Movie Archives Inc. and V. International Fine Arts Publishing, Inc. (Counter-Defendants)*, United States District Court, Southern District of New York, Case No: 12 Civ. 4828 (KPF)(JCF) (the "Monroe Estate Persona Allegations"). The Monroe Estate Persona Allegations are incorporated herein by reference and made a part hereof. The Monroe Estate Persona Allegations set forth the grounds on which Defendant bases its alleged trademark rights in Marilyn Monroe's persona.

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14. Upon information and belief, when Marilyn Monroe was alive, she never registered any aspect of her persona as a trademark. Such persona elements are intended to include, *inter alia*, Marilyn Monroe's name, image, likeness, signature, voice, etc.

15. Upon information and belief, when Marilyn Monroe was alive, she never authorized any aspect of her persona to be used, licensed or exploited after her death - - whether by her probate estate or heirs - - in an exclusive manner that would provide an exclusive monetary profit for her probate estate or heirs.

16. Upon information and belief, when Marilyn Monroe was alive, she intended for her persona to become part of the public domain upon her death and this intention is evidenced by, *inter alia*, her quoted statements that "I knew I belonged to the public and to the world, not because I was talented or even beautiful, but because I had never belonged to anything or anyone else" and "I am not interested in money. I just want to be wonderful."

17. Upon information and belief, when Marilyn Monroe was alive, she was photographed so widely by photographers, who hold separate copyrights in such photographic images, such that no particular image or likeness of Marilyn Monroe from her lifetime is capable of satisfying the trademark purposes of the Lanham Act.

18. As set forth above, Plaintiff believes there are several independent legal reasons that provide Plaintiff with the right to use its federally registered Virtual Marilyn Copyrights - - as well as the right to use trademarks that derive from or relate to the Virtual Marilyn Copyrights - - without violating Defendant's asserted trademark rights in Marilyn Monroe's persona. For instance, due to the Persona Ruling, Plaintiff believes that Defendant does not have an enforceable trademark right to use and license Marilyn

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Monroe's persona.

19. Plaintiff, however, does not wish to be exposed to the risk of trademark damages to Defendant in the event the Court were to disagree with Plaintiff's position regarding the nature, scope and extent of Plaintiff's asserted rights. In a situation where, as here, the parties have conflicting claims to ownership and use of different types of intellectual property rights involving the persona of the deceased human being Marilyn Monroe, federal law authorizes the adjudication of those conflicting claims, issues and rights through a declaratory judgment action.

FIRST CLAIM FOR RELIEF

(Declaration Of Non-Infringement: Pursuant To 28 U.S.C. 2201, Plaintiff's Use And Licensing Of Its Virtual Marilyn Copyrights Does Not (And Will Not) Infringe On Defendant's Alleged Trademark Rights In Marilyn Monroe's Persona)

20. Plaintiff repeats and realleges each and every allegation of paragraphs 1 to 19 above as though fully set forth herein.

21. Based upon one or more of the legal reasons set forth above, or any other legal reasons advanced by Plaintiff in this action, the Court should issue a declaratory judgment, pursuant to 28 U.S.C. 2201, determining that Plaintiff's use and licensing of its Virtual Marilyn Copyrights does not (and will not) infringe on Defendant's alleged trademark rights in Marilyn Monroe's persona.

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SECOND CLAIM FOR RELIEF

(Declaration Of Non-Infringement: Pursuant To 28 U.S.C. 2201, Plaintiff's Use And Licensing Of Trademarks That Derive From Or Relate To Plaintiff's Virtual Marilyn Copyrights Does Not (And Will Not) Infringe On Defendant's Alleged Trademark Rights In Marilyn Monroe's Persona)

22. Plaintiff repeats and realleges each and every allegation of paragraphs 1 to 21 above as though fully set forth herein.

23. Based upon one or more of the legal reasons set forth above, or any other legal reasons advanced by Plaintiff in this action, the Court should issue a declaratory judgment, pursuant to 28 U.S.C. 2201, determining that Plaintiff's use and licensing of trademarks that derive from or relate to Plaintiff's Virtual Marilyn Copyrights does not (and will not) violate Defendant's alleged trademark rights in Marilyn Monroe's persona.

THIRD CLAIM FOR RELIEF

(Declaration Of Unenforceability Of Defendant's Alleged Trademark Rights In Marilyn Monroe's Persona: Pursuant To 28 U.S.C. 2201, Defendant Does Not Have Any Enforceable Trademark Rights In Marilyn Monroe's Persona)

24. Plaintiff repeats and realleges each and every allegation of paragraphs 1 to 23 above as though fully set forth herein.

25. Based upon one or more of the legal reasons set forth above, or any other legal reasons advanced by Plaintiff in this action, the Court should issue a declaratory judgment, pursuant to 28 U.S.C. 2201, determining that Defendant does not have any enforceable trademark rights in Marilyn Monroe's persona.

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DEMAND FOR JURY TRIAL

26. Plaintiff respectfully requests a jury trial on any issues that are determined to be covered by Plaintiff's jury trial rights at any potential trial herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court (a) issue a declaratory judgment, pursuant to 28 U.S.C. 2201, determining that (1) Plaintiff's use and licensing of its Virtual Marilyn Copyrights does not (and will not) infringe on Defendant's alleged trademark rights in Marilyn Monroe's persona; (2) Plaintiff's use and licensing of trademarks that derive from or relate to Plaintiff's Virtual Marilyn Copyrights does not (and will not) infringe on Defendant's alleged trademark rights in Marilyn Monroe's persona; and (3) Defendant does not have any enforceable trademark rights in Marilyn Monroe's persona; (b) direct Defendant to pay for the reasonable amount of attorney's fees and costs incurred by Plaintiff, pursuant to the Copyright Act (17 U.S.C. 505) and the Lanham Act (15 U.S.C. 1117); and (c) award such other and further relief as the Court deems just and proper herein.

Respectfully submitted,

Dated: October 1, 2014
New York, New York

Law Offices of Michael B. Wolk, P.C.

By: _____
Michael B. Wolk
570 Lexington Avenue, 16th Floor
New York, New York 10022
Tel: 917-238-0576
Email: michael.wolk@wolkgroup.com
Attorneys for Plaintiff
Virtual Marilyn, LLC

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Have You Heard the Latest?

Celebrity Legacies: The Battle Over Marilyn Monroe's Iconic Legacy

Marilyn Monroe left a legacy that seems to grow brighter each year. Monroe's image and likeness were so valuable that a multi-million dollar lawsuit over her publicity rights raged on, more than fifty years after she died, until it was finally resolved by a federal court of appeals.

The second wife of *Marilyn Monroe*'s acting coach was in the center of it. Why did she — whom Monroe barely even knew — have control of the image and legacy of one of Hollywood's most beloved stars ever?

This is installment #10 of our Estate Planning Lessons From The Stars series, which is based on the ***Celebrity Legacies*** *TV show for which we provide commentary as the estate legal experts. See other articles in the series here.*

Marilyn Monroe, whose real name was Norma Jean Baker, had a difficult childhood. Her mother struggled with mental illness, and Monroe didn't know for sure who her father was, much less have a relationship with him. She was raised in a series of foster homes, until she was married for the first time at age 16.

When her first husband was serving overseas in the Merchant Marine during World War II, Monroe began modeling and acting. From age 19, Monroe tried to find refuge from her troubled life by becoming a star. The rest, of course, is history. Her fame grew and grew, even after her death from a drug overdose at the age of 36, in 1962.

Marilyn Monroe's Legacy Lives On Over 50 Years Later

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Much like her life, Monroe's legacy has been marred by troubles. Her business manager, Inez Melson, was suspicious from the start about Marilyn Monroe's will. The will included money to care for her mother (still struggling with mental illness), gifts to a few others, but left the bulk of her estate to her acting coach and her psychiatrist. The psychiatrist received 25% of the residue, using it to start a center to help those in need of psychiatric counseling.

Who Controls Marilyn Monroe's Estate?

All of Marilyn Monroe personal belongings and 75% of the residue (the majority of her estate) were left to Lee Strasberg, her acting coach. When he ultimately passed away, his second wife took over control of the Marilyn Monroe legacy, despite the fact that she had only met Monroe once in her life.

In 1996, Anna Strasberg used this control to sign a licensing deal with CMG Worldwide. In the next four years, this deal brought in more than $7.5 million for Strasberg, from a range of products, such as lighters, slot machines, and pet clothing.

Strasberg didn't stop there. She also sued Inez Melson's heirs, who were in possession of some of Monroe's belongings after Melson died. Strasberg won that lawsuit and turned Marilyn Monroe's personal belongings over to Christie's auction house to be sold. The sale, held in 1999, brought in more than $13.4 million.

In 2005, Strasberg and CMG teamed up to sue photographers who used Marilyn Monroe's image without permission. The court battle last for seven years and led to new legislation in California (which Strasberg pushed for) to allow non-relative heirs to control the publicity and image rights of a deceased celebrity.

Even this didn't stop the fight for control of Monroe's image, however, as a federal court of appeals ruled in 2012 that **Marilyn Monroe's estate** was governed by the laws of New York, not California. This meant that California's new law passed to protect Strasberg and Monroe's other heirs under her will did not help. Instead, New York law — which did not recognize a celebrity's publicity rights after death — dictated that anyone could use her image or likeness for commercial purposes without compensating the heirs.

Strasberg sold her interest in the estate for a reported $20 to $30 million. The figure undoubtedly would have been much higher if the litigation over control of Marilyn Monroe's image and legacy would have gone her way.

Anyone is now allowed to sell images of Marilyn Monroe and profit off of her likeness. As the 2012 appellate court found, this was a fitting end to the legacy of one so beloved, for so long. In Monroe's own words, "I knew that I belong to the Public and to the world, not because I was talented or even beautiful but because I had never belonged to anything or anyone else."

It's too bad that Marilyn Monroe's will was not written differently. She could have used her assets — as many celebrities do — to help charities and promote causes she wanted, placing those she trusted to manage one or more trusts. Her acting coach and psychiatrist could have served in those roles, without leaving the bulk of her assets outright to someone, who later remarried and passed the property and legacy into the hands of someone Monroe barely knew.

Too many people don't take the time to think through the "what-ifs". What if the person I name as executor or trustee is not able to do the job? What if the person I want to receive my property does not live long enough to enjoy it? Good estate planning takes care of all of these "what ifs", which are important for everyone, not just movie stars.

***Celebrity Legacies* is a documentary series airing on the Reelz cable channel featuring**

Elvis Presley Enterprises

From Wikipedia, the free encyclopedia

Elvis Presley Enterprises, Inc. (EPE) is a corporate entity created by "The Elvis Presley Trust" to conduct business and manage its assets, including Graceland.[1] EPE's business extends far beyond the Graceland operation, however, and includes worldwide licensing of Elvis-related products and ventures, the development of Elvis-related music, film, video, television and stage productions, the ongoing development of EPE's Internet presence, the management of significant music publishing assets and more.[1]

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- 1 Origins
- 2 Parker's dealings
- 3 Opening of Graceland
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Origins

After Elvis' death on August 16, 1977 at Graceland, his will appointed his father, Vernon Presley, as executor and trustee.[1] The beneficiaries of the trust were Vernon, Elvis' grandmother Minnie Mae Presley, and his nine year old daughter Lisa Marie Presley.[1] After Vernon's death in 1979, Elvis' ex-wife Priscilla Presley, as Lisa Marie's legal guardian, began comanaging the trust along with the National Bank of Commerce in Memphis, which was the bank Elvis and Vernon had done business with, and Joseph Hanks, who had been Elvis and Vernon's accountant for a number of years,[1] and formed EPE in 1979.[2] With Minnie Mae's passing in 1980, Lisa Marie became the only surviving beneficiary named in Elvis's will.[1]

Parker's dealings

Following Elvis' death, Parker had set up a licensing operation with Factors Etc. Inc, to control Presley merchandise and keep a steady income supporting his estate.[3] Due to an ill-advised agreement between Parker and Elvis which gave RCA sole ownership of all his recording royalties prior to 1973, the estate was relying heavily on the income from Factors Etc. Inc.[3] However, because Parker was still entitled to 50% of all Elvis' income, and after taxes were taken off, the overall amount going towards the upkeep of the estate was less than $1 million a year.[3]

By 1980 the cost of running the estate was estimated to be as much as $500,000 a year.[3] Priscilla and the Trust were prepared to let Parker continue to handle Elvis's business affairs, and petitioned the court to that end.[4] However, Judge Joseph Evans, aware that Lisa Marie Presley was still a minor, appointed attorney Blanchard E. Tual to investigate Parker's management.[3][4] His preliminary finding was that Parker's management deal of 50% was extortionate compared to the industry average of 15-20%.[3] He also noted

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that Parker's handling of Elvis's business affairs during his lifetime, including the decision to sell off past royalties to RCA for $5.4 million in 1973, were "unethical" and poorly handled.[4] During a second, more detailed investigation, all earnings were paid directly to the Trust instead of Parker.[3] By this time, with the IRS demanding almost $15 million in taxes, the estate was facing bankruptcy.[3]

On August 14, 1981 Judge Evans ordered EPE to sue Parker for mismanagement.[5] In response to this, Parker countersued.[5] The case against Parker was settled out of court in 1983, with the estate paying him $2 million,[5] and the termination of his involvement in any Elvis related earnings for five years.[3] He was also ordered to hand over any Elvis audio recordings or visual images that he owned.[3]

Opening of Graceland

During the court case Priscilla was advised to sell Graceland to avoid bankruptcy.[5] She decided against this because she had no plans to sell off her daughter's first home.[5] In late 1981, the estate hired Jack Soden, at the time a Missouri investment counselor, to plan and execute the opening of Graceland to the public and oversee the total operation. Graceland opened for tours on June 7, 1982.[1]

Interest in Graceland was such that EPE decided to expand its operation. In 1983, they acquired the shopping center plaza across the street from Graceland.[1] The plaza was built in the sixties, and had been a typical suburban strip shopping center. However, after Elvis' death, it became filled with Elvis souvenir shops, which carried mostly bootleg items not licensed by the Presley Estate.[1] In 1993, Graceland purchased the property and all the shops and attractions in what is now known as Graceland Plaza are owned and operated by EPE.[1]

By the mid-1980s EPE was interested in securing the rights to Elvis' image and intellectual property.[3] Following many court cases against business and private parties, EPE helped to push through new copyright and trademark legislation in the United States.[3]

In 1991, Graceland was placed on the National Register of Historic Places,[1] and in 1999 EPE purchased and redeveloped what became *The Elvis Presley Heartbreak Hotel*.[3]

According to Sean O'Neal, "Elvis is a cultural icon today, but he didn't become that way simply because of his talent and good looks. There was money to be made ... so a company was founded to create this icon, and it has controlled his image ... " The author describes EPE as a "well-run marketing machine" that runs on tight regulation of Elvis's images and lawsuits, when necessary. EPE, for instance, "absolutely refuses to license a product picturing an overweight Elvis." Since 1979 "EPE has filed more than a hundred lawsuits to assert the estate's exclusive right to Elvis's name and likeness."[6]

Later, EPE was wholly owned by the "Elvis Presley Trust" and Elvis' daughter, Lisa Marie Presley until February 2005, when Robert F.X. Sillerman and his new media and entertainment company "CKX, Inc." acquired an 85% interest in Elvis Presley Enterprises, Inc., including its physical and intellectual properties. "Core Media Group", the new name of "CKX, Inc.", sold its 85% interest in EPE to Authentic Brands Group on 19 November 2013.[7] Lisa Marie Presley retains a 15% ownership in the company and continues to be involved, as does her mother Priscilla Presley. Lisa Marie retained sole ownership of the mansion itself, as well as her father's personal effects.

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The company endeavors to turn Elvis Presley's former estate into an international tourist destination. Graceland is the second most visited private residence in the United States, behind the White House.

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Retrieved from "http://en.wikipedia.org/w/index.php?title=Elvis_Presley_Enterprises&oldid=653076730"

Categories: Elvis Presley | Companies based in Memphis, Tennessee | Entertainment companies of the United States

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NON PROBATE ASSETS

NON-TESTAMENTARY TRANSFERS

RECENT COURT CASE SCENARIO

Pat and Diane established a revokable trust with they being trustees and Pat's brother, John, as successor. The trust was funded with their vehicles, real property, equipment and tools from Pat's welding business and some financial accounts. The trust was established in 2009. They have no children.

The trust continued to hold title to such property until Pat's death.

In 2011 the couple executed a joint will drafted by John, a non lawyer and urged them to allow him to draft the will and provide them estate planning. The will names Pat's nieces and nephews and Pats nieces and nephews as primary beneficiaries depending upon which spouse dies first. The will identified several categories of assets but does not have a residuary clause. The will had the following clause:

It is our intention to dispose of all property (real, personal and mixed) which we have to right to dispose of ty Will per the categories in the manner described....**This will shall override any prior allocations described in trust documents or any financial documents such as annuities and certificates of deposit.**

John contends that this paragraph revokes the trust despite that neither Pat or Diane had taken any steps to transfer property out of the trust and into their names. Diane contends the trust became irrevocable upon Pat's death and the disputed property was not part of his estate.

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Query: which controls – the Will or the trust/financial documents?

Gordon v Gordon 03-22-00454 CV

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BANK of the OZARKS
Member FDIC

Account Number : 6901441983

UNIFORM SINGLE-PARTY OR MULTIPLE-PARTY ACCOUNT SELECTION FORM NOTICE

The type of account you select may determine how property passes on your death. Your will may not control the disposition of funds held in some of the following accounts. You may choose to designate one or more convenience signers on an account, even if the account is not a convenience account. A designated convenience signer may make transactions on your behalf during your lifetime, but does not own the account during your lifetime. The designated convenience signer owns the account on your death only if the convenience signer is also designated as a P.O.D. payee or trust account beneficiary.

Place your initials to the right of each section to acknowledge the different types. Select one of the following accounts by placing your initials to the left of the account selected.

Account Selection	Account Type Description	Initial to Acknowledge
	(1) SINGLE-PARTY ACCOUNT WITHOUT "P.O.D." (PAYABLE ON DEATH) DESIGNATION. The party to the account owns the account. On the death of the party, ownership of the account passes as a part of the party's estate under the party's will or by intestacy. Enter the name of the party: _____ Enter the name(s) of the convenience signer(s), if you want one or more convenience signers on this account: _____ _____	GJV SLA
	(2) SINGLE-PARTY ACCOUNT WITH P.O.D. (PAYABLE ON DEATH) DESIGNATION. The party to the account owns the account. On the death of the party, ownership of the account passes to the P.O.D. beneficiaries of the account. The account is not a part of the party's estate. Enter the name of the party: _____ Enter the name or names of the P.O.D. beneficiaries: _____ _____ Enter the name(s) of the convenience signer(s), if you want one or more convenience signers on this account: _____ _____	GJV SLA

Date: 05/02/2016 Branch: HOUSTON - POST OAK [1280] Employee: George Varian

12-[illegible] 12-74

Account Number : 6901441983

Account Selection	Account Type Description	Initial to Acknowledge
N/A	(3) MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP. The parties to the account own the account in proportion to the parties' net contributions to the account. The financial institution may pay any sum in the account to a party at any time. On the death of a party, the party's ownership of the account passes as a part of the party's estate under the party's will or by intestacy. Enter the names of the parties: _____ _____ _____ Enter the name(s) of the convenience signer(s), if you want one or more convenience signers on this account: _____ _____	GA SEA
GA SEA	(4) MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP. The parties to the account own the account in proportion to the parties' net contributions to the account. The financial institution may pay any sum in the account to a party at any time. On the death of a party, the party's ownership of the account passes to the surviving parties. Enter the names of the parties: SAM AKERS GEORGIA AKERS _____ _____ Enter the name(s) of the convenience signer(s), if you want one or more convenience signers on this account: _____ _____	GA SEA
	(5) MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND P.O.D. (PAYABLE ON DEATH) DESIGNATION. The parties to the account own the account in proportion to the parties' net contributions to the account. The financial institution may pay any sum in the account to a party at any time. On the death of the last surviving party, the ownership of the account passes to the P.O.D. beneficiaries. Enter the names of the parties: _____ _____ Enter the name or names of the P.O.D. beneficiaries: _____ _____ Enter the name(s) of the convenience signer(s), if you want one or more convenience signers on this account: _____ _____	GA SEA

12-[illegible] 12-15

Account Selection	Account Type Description	Initial to Acknowledge
N/A	(6) CONVENIENCE ACCOUNT. The parties to the account own the account. One or more convenience signers to the account may make account transactions for a party. A convenience signer does not own the account. On the death of the last surviving party, ownership of the account passes as a part of the last surviving party's estate under the last surviving party's will or by intestacy. The financial institution may pay funds in the account to a convenience signer before the financial institution receives notice of the death of the last surviving party. The payment to a convenience signer does not affect the parties' ownership of the account. Enter the names of the parties: _____ _____ Enter the name(s) of the convenience signer(s), if you want one or more convenience signers on this account: _____ _____	GA GEV
	(7) TRUST ACCOUNT. The parties named as trustees to the account own the account in proportion to the parties' net contributions to the account. A trustee may withdraw funds from the account. A beneficiary may not withdraw funds from the account before all trustees are deceased. On the death of the last surviving trustee, the ownership of the account passes to the beneficiary. The trust account is not part of a trustee's estate and does not pass under the trustee's will or by intestacy, unless the trustee survives all of the beneficiaries and all other trustees. Enter the name or names of the trustees: Enter the name or names of the trustees: _____ _____ Enter the name or names of the beneficiaries: _____ _____ Enter the name(s) of the convenience signer(s), if you want one or more convenience signers on this account: _____ _____ _____	GA SLP

12-76 12-76

	TYPE OF ACCOUNT	DURING LIFE	UPON DEATH
1	Single Party Account Without P.O.D. (Payable on Death) Designation	The party to the account owns the account.	On the death of the party, ownership of the account passes as a part of the party's estate under the party's will or by intestacy (to the party's heirs).
2	Single Party Account With P.O.D. (Payable on Death) Designation	The party to the account owns the account.	On the death of the party, ownership of the account passes to the P.O.D. beneficiaries of the account. The account is not a part of the party's estate.
3	Multiple Party Account Without Right of Survivorship	The parties to the account own the account in proportion to the parties' net contributions to the account. The financial institution may pay any sum in the account to a party at any time.	On the death of a party, the party's ownership of the account passes as a part of the party's estate under the party's will or, if no will, by intestacy (to the party's heirs).
4	Multiple Party Account With Right of Survivorship	The parties to the account own the account in proportion to the parties' net contributions to the account. The financial institution may pay any sum in the account to a party at any time.	On the death of a party, that party's ownership of the account passes to the surviving parties. On the death of last party to die, that party's ownership of the account passes as a part of the party's estate under the party's will or by intestacy (to the party's heirs).
5	Multiple Party Account With Right of Survivorship and P.O.D. (Payable on Death) Designation	The parties to the account own the account in proportion to the parties' net contributions to the account. The financial institution may pay any sum in the account to a party at any time.	On the death of a party, that party's ownership of the account passes to the surviving parties. On the death of the last surviving party, the ownership of the account passes to the P.O.D. beneficiaries.
6	Convenience Account	The parties to the account own the account. One or more convenience signers to the account may make account transactions for a party. A convenience signer does not own the account.	On the death of the last surviving party, ownership of the account passes as a part of the last surviving party's estate under the last surviving party's will or by intestacy (to the party's heirs). The financial institution may pay funds in the account to a convenience signer before the financial institution receives notice of the death of the last surviving party. The payment to a convenience signer does not affect the parties' ownership of the account.
7	Trust Account	The parties named as trustees to the account own the account in proportion to the parties' net contributions to the account. A trustee may withdraw funds from the account. A beneficiary may not withdraw funds from the account before all trustees are deceased.	On the death of the last surviving trustee, the ownership of the account passes to the beneficiary. The trust account is not a part of a trustee's estate and does not pass under the trustee's will or by intestacy (to the party's heirs), unless the trustee survives all of the beneficiaries and all other trustees.

Chapter 13:

Mental Health

INTRODUCTION PART 2

With Chapter 13 we transition from decedent's estates to those estates of persons suffering from incapacity who are not able to handle their affairs. They require assistance and this is part of estate administration but the person is still alive.

If they have met with an estate attorney and pre-planned, they have a plan in place that does not require court supervision or in many cases even an attorney..

However, if a person did not pre-plan, their estate will be court supervised under a guardianship and an attorney will be necessary to supervise the legal requirements.

CHAPTER 13

A family member or friend is severely depressed and is threatening to harm themselves or others. They refuse to recognize that they have a problem and refuse to get medical help.

What can you do to get the person the help they need?

What are the procedures?

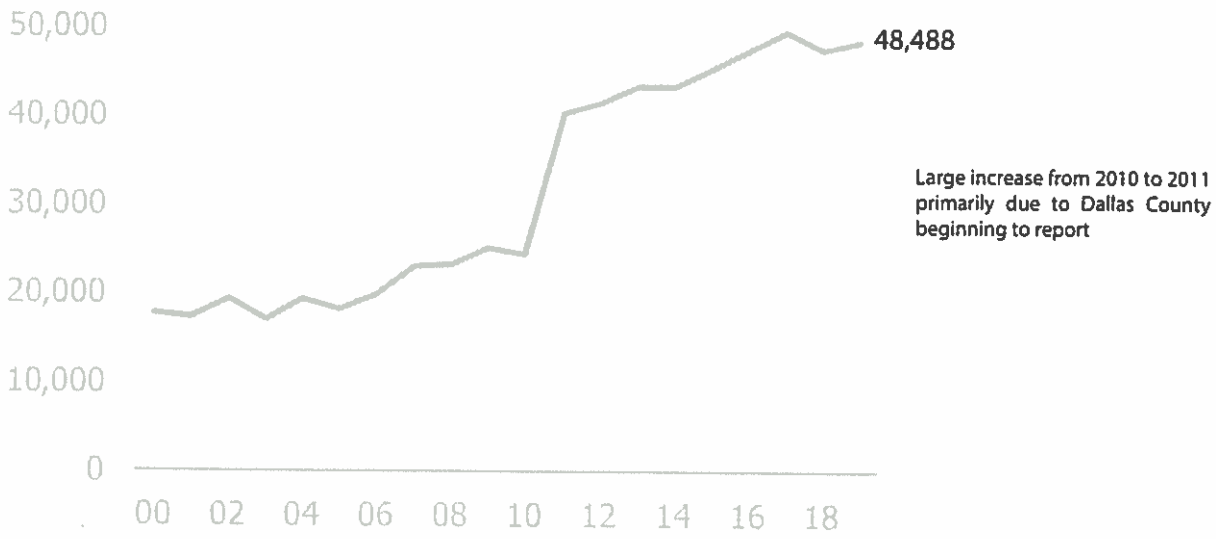
What are the procedures to protect their civil rights?

So we begin the transition with Civil Mental Health Commitments.

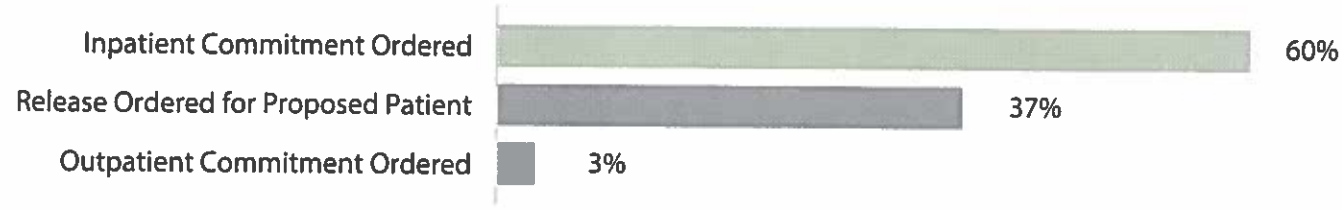
Statewide Trends

Applications for Mental Health Services

After declining in 2018, the number of applications filed for involuntary mental health commitment increased by 2 percent in 2019.

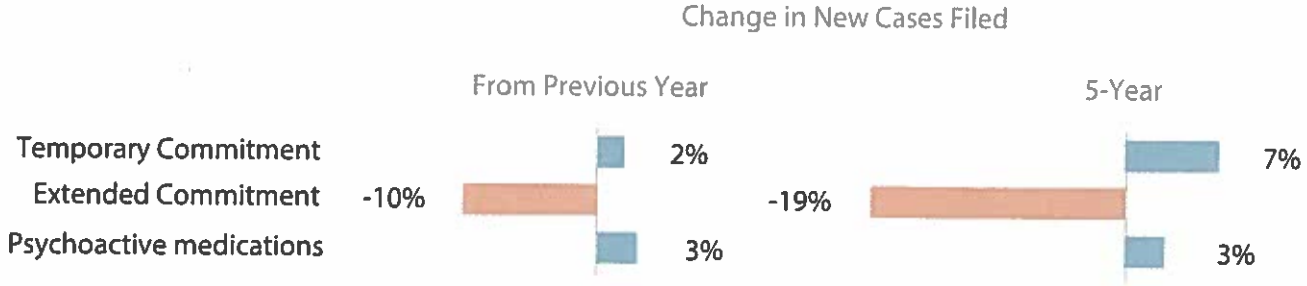


Inpatient commitment was ordered in 60 percent of cases that reached a final hearing.



Change in Filings

Applications for **temporary mental health commitments**, which account for 99 percent of applications filed, increased 7 percent over the last 5 years. The number of **extended commitments** declined for a fourth consecutive year.



Effective: September 1, 2013

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 573. Emergency Detention
Subchapter A. Apprehension by Peace Officer or Transportation for Emergency Detention by Guardian (Refs & Annos)

→→ § 573.001. Apprehension by Peace Officer Without Warrant

(a) A peace officer, without a warrant, may take a person into custody if the officer:

(1) has reason to believe and does believe that:

(A) the person is mentally ill; and

(B) because of that mental illness there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained; and

(2) believes that there is not sufficient time to obtain a warrant before taking the person into custody.

(b) A substantial risk of serious harm to the person or others under Subsection (a)(1)(B) may be demonstrated by:

(1) the person's behavior; or

(2) evidence of severe emotional distress and deterioration in the person's mental condition to the extent that the person cannot remain at liberty.

(c) The peace officer may form the belief that the person meets the criteria for apprehension:

(1) from a representation of a credible person; or

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(2) on the basis of the conduct of the apprehended person or the circumstances under which the apprehended person is found.

(d) A peace officer who takes a person into custody under Subsection (a) shall immediately transport the apprehended person to:

(1) the nearest appropriate inpatient mental health facility; or

(2) a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available.

(e) A jail or similar detention facility may not be deemed suitable except in an extreme emergency.

(f) A person detained in a jail or a nonmedical facility shall be kept separate from any person who is charged with or convicted of a crime.

<Text of subsec. (g), as added by Acts 2013, 83rd Leg., ch. 318 (H.B. 1738), § 1>

(g) A peace officer who takes a person into custody under Subsection (a) shall immediately inform the person orally in simple, nontechnical terms:

(1) of the reason for the detention; and

(2) that a staff member of the facility will inform the person of the person's rights within 24 hours after the time the person is admitted to a facility, as provided by Section 573.025(b).

<Text of subsec. (g), as added by Acts 2013, 83rd Leg., ch. 776 (S.B. 1189), § 1>

(g) A peace officer who takes a person into custody under Subsection (a) may immediately seize any firearm found in possession of the person. After seizing a firearm under this subsection, the peace officer shall comply with the requirements of Article 18.191, Code of Criminal Procedure.

CREDIT(S)

Added by Acts 1991, 72nd Leg., ch. 76, § 1, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 367, § 5, eff. Sept. 1, 2001; Acts 2013, 83rd Leg., ch. 318 (H.B. 1738), § 1, eff. Sept. 1, 2013; Acts 2013, 83rd Leg., ch. 776 (S.B. 1189), § 1, eff. Sept. 1, 2013.

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Effective: September 1, 2003

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 573. Emergency Detention
Subchapter A. Apprehension by Peace Officer or Transportation for Emergency Detention by Guardian (Refs & Annos)

→→ § 573.004. Guardian's Application for Emergency Detention

(a) After transporting a ward to a facility under Section 573.003, a guardian shall immediately file an application for detention with the facility.

(b) The application for detention must contain:

(1) a statement that the guardian has reason to believe and does believe that the ward evidences mental illness;

(2) a statement that the guardian has reason to believe and does believe that the ward evidences a substantial risk of serious harm to the ward or others;

(3) a specific description of the risk of harm;

(4) a statement that the guardian has reason to believe and does believe that the risk of harm is imminent unless the ward is immediately restrained;

(5) a statement that the guardian's beliefs are derived from specific recent behavior, overt acts, attempts, or threats that were observed by the guardian; and

(6) a detailed description of the specific behavior, acts, attempts, or threats.

(c) The guardian shall immediately provide written notice of the filing of an application under this section to the court that granted the guardianship.

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V.T.C.A., Health & Safety Code § 573.011

C

Effective:[See Text Amendments]

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 573. Emergency Detention
Subchapter B. Judge's or Magistrate's Order for Emergency Apprehension and Detention (Refs & Annos)

→→ § 573.011. Application for Emergency Detention

(a) An adult may file a written application for the emergency detention of another person.

(b) The application must state:

(1) that the applicant has reason to believe and does believe that the person evidences mental illness;

(2) that the applicant has reason to believe and does believe that the person evidences a substantial risk of serious harm to himself or others;

(3) a specific description of the risk of harm;

(4) that the applicant has reason to believe and does believe that the risk of harm is imminent unless the person is immediately restrained;

(5) that the applicant's beliefs are derived from specific recent behavior, overt acts, attempts, or threats;

(6) a detailed description of the specific behavior, acts, attempts, or threats; and

(7) a detailed description of the applicant's relationship to the person whose detention is sought.

(c) The application may be accompanied by any relevant information.

CREDIT(S)

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Westlaw.

V.T.C.A., Health & Safety Code § 573.012

Effective: September 1, 2011

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 573. Emergency Detention
Subchapter B. Judge's or Magistrate's Order for Emergency Apprehension and Detention (Refs & Annos)

§ 573.012. Issuance of Warrant

(a) Except as provided by Subsection (h), an applicant for emergency detention must present the application personally to a judge or magistrate. The judge or magistrate shall examine the application and may interview the applicant. Except as provided by Subsection (g), the judge of a court with probate jurisdiction by administrative order may provide that the application must be:

(1) presented personally to the court; or

(2) retained by court staff and presented to another judge or magistrate as soon as is practicable if the judge of the court is not available at the time the application is presented.

(b) The magistrate shall deny the application unless the magistrate finds that there is reasonable cause to believe that:

(1) the person evidences mental illness;

(2) the person evidences a substantial risk of serious harm to himself or others;

(3) the risk of harm is imminent unless the person is immediately restrained; and

(4) the necessary restraint cannot be accomplished without emergency detention.

(c) A substantial risk of serious harm to the person or others under Subsection (b)(2) may be demonstrated by:

(1) the person's behavior; or

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(2) evidence of severe emotional distress and deterioration in the person's mental condition to the extent that the person cannot remain at liberty.

(d) The magistrate shall issue to an on-duty peace officer a warrant for the person's immediate apprehension if the magistrate finds that each criterion under Subsection (b) is satisfied.

(e) A person apprehended under this section shall be transported for a preliminary examination in accordance with Section 573.021 to:

(1) the nearest appropriate inpatient mental health facility; or

(2) a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available.

(f) The warrant serves as an application for detention in the facility. The warrant and a copy of the application for the warrant shall be immediately transmitted to the facility.

(g) If there is more than one court with probate jurisdiction in a county, an administrative order regarding presentation of an application must be jointly issued by all of the judges of those courts.

(h) A judge or magistrate may permit an applicant who is a physician to present an application by:

(1) e-mail with the application attached as a secure document in a portable document format (PDF); or

(2) secure electronic means, including:

(A) satellite transmission;

(B) closed-circuit television transmission; or

(C) any other method of two-way electronic communication that:

(i) is secure;

(ii) is available to the judge or magistrate; and

(iii) provides for a simultaneous, compressed full-motion video and interactive communication of image

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and sound between the judge or magistrate and the applicant.

(h-1) After the presentation of an application under Subsection (h), the judge or magistrate may transmit a warrant to the applicant:

(1) electronically, if a digital signature, as defined by Article 2.26, Code of Criminal Procedure, is transmitted with the document; or

(2) by e-mail with the warrant attached as a secure document in a portable document format (PDF), if the identifiable legal signature of the judge or magistrate is transmitted with the document.

(i) The judge or magistrate shall provide for a recording of the presentation of an application under Subsection (h) to be made and preserved until the patient or proposed patient has been released or discharged. The patient or proposed patient may obtain a copy of the recording on payment of a reasonable amount to cover the costs of reproduction or, if the patient or proposed patient is indigent, the court shall provide a copy on the request of the patient or proposed patient without charging a cost for the copy.

CREDIT(S)

Added by Acts 1991, 72nd Leg., ch. 76, § 1, eff. Sept. 1, 1991. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 15, § 5.19, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 243, § 3, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 367, § 6, eff. Sept. 1, 2001; Acts 2007, 80th Leg., ch. 1145, § 1, eff. Sept. 1, 2007; Acts 2011, 82nd Leg., ch. 510 (H.B. 1829), § 1, eff. Sept. 1, 2011.

HISTORICAL AND STATUTORY NOTES

2010 Main Volume

Acts 2007, 80th Leg., ch. 1145 at the beginning of subsec. (a) inserted the exception and added subsecs. (h) and (i).

Prior Laws:

Acts 1957, 55th Leg., p. 505, ch. 243, § 27.

Acts 1961, 57th Leg., p. 1029, ch. 454, § 2.

Acts 1975, 64th Leg., p. 1913, ch. 616, § 1.

Acts 1977, 65th Leg., p. 1093, ch. 402, § 1.

Acts 1983, 68th Leg., p. 211, ch. 47, § 1.

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C

Effective: September 1, 2013

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 573. Emergency Detention
Subchapter C. Emergency Detention, Release, and Rights
→→ § 573.021. Preliminary Examination

(a) A facility shall temporarily accept a person for whom an application for detention is filed or for whom a peace officer files a notification of detention under Section 573.002(a).

(b) A person accepted for a preliminary examination may be detained in custody for not longer than 48 hours after the time the person is presented to the facility unless a written order for protective custody is obtained. The 48-hour period allowed by this section includes any time the patient spends waiting in the facility for medical care before the person receives the preliminary examination. If the 48-hour period ends on a Saturday, Sunday, legal holiday, or before 4 p.m. on the first succeeding business day, the person may be detained until 4 p.m. on the first succeeding business day. If the 48-hour period ends at a different time, the person may be detained only until 4 p.m. on the day the 48-hour period ends. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may, by written order made each day, extend by an additional 24 hours the period during which the person may be detained. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

(c) A physician shall examine the person as soon as possible within 12 hours after the time the person is apprehended by the peace officer or transported for emergency detention by the person's guardian.

(d) A facility must comply with this section only to the extent that the commissioner determines that a facility has sufficient resources to perform the necessary services under this section.

(e) A person may not be detained in a private mental health facility without the consent of the facility administrator.

CREDIT(S)

Added by Acts 1991, 72nd Leg., ch. 76, § 1, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 623, § 1,

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Effective: September 1, 2011

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 573. Emergency Detention
Subchapter C. Emergency Detention, Release, and Rights
§ 573.022. Emergency Admission and Detention

(a) A person may be admitted to a facility for emergency detention only if the physician who conducted the preliminary examination of the person makes a written statement that:

(1) is acceptable to the facility;

(2) states that after a preliminary examination it is the physician's opinion that:

(A) the person is mentally ill;

(B) the person evidences a substantial risk of serious harm to himself or others;

(C) the described risk of harm is imminent unless the person is immediately restrained; and

(D) emergency detention is the least restrictive means by which the necessary restraint may be accomplished; and

(3) includes:

(A) a description of the nature of the person's mental illness;

(B) a specific description of the risk of harm the person evidences that may be demonstrated either by the person's behavior or by evidence of severe emotional distress and deterioration in the person's mental condition to the extent that the person cannot remain at liberty; and

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(C) the specific detailed information from which the physician formed the opinion in Subdivision (2).

(b) A mental health facility that has admitted a person for emergency detention under this section may transport the person to a mental health facility deemed suitable by the local mental health authority for the area. On the request of the local mental health authority, the judge may order that the proposed patient be detained in a department mental health facility.

(c) A facility that has admitted a person for emergency detention under Subsection (a) or to which a person has been transported under Subsection (b) may transfer the person to an appropriate mental hospital with the written consent of the hospital administrator.

CREDIT(S)

Added by Acts 1991, 72nd Leg., ch. 76, § 1, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 842, § 1, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 367, § 7, eff. Sept. 1, 2001; Acts 2011, 82nd Leg., ch. 510 (H.B. 1829), § 2, eff. Sept. 1, 2011.

HISTORICAL AND STATUTORY NOTES

2010 Main Volume

Prior Laws:

Acts 1957, 55th Leg., p. 505, ch. 243, §§ 27, 28, 30.

Acts 1961, 57th Leg., p. 1029, ch. 454, §§ 2 to 4.

Acts 1975, 64th Leg., p. 1913, ch. 616, § 1.

Acts 1977, 65th Leg., p. 1092, ch. 401, § 1.

Acts 1977, 65th Leg., p. 1093, ch. 402, § 1.

Vernon's Ann.Civ.St. arts. 3193g, 3193h, 5547-26, 5547-27, 5547-28, 5547-30.

CROSS REFERENCES

Allocation of outpatient mental health services and beds in state hospitals, see V.T.C.A., Health and Safety Code § 533.051.

ADMINISTRATIVE CODE REFERENCES

Emergency detention, see 25 TAC §§ 411.462, 411.610, 412.176.

Rights of persons apprehended for emergency detention for inpatient mental health services (other than

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Effective: September 1, 2013

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 573. Emergency Detention
Subchapter C. Emergency Detention, Release, and Rights
→→ § 573.025. Rights of Persons Apprehended, Detained, or Transported for Emergency Detention

(a) A person apprehended, detained, or transported for emergency detention under this chapter has the right:

(1) to be advised of the location of detention, the reasons for the detention, and the fact that the detention could result in a longer period of involuntary commitment;

(2) to a reasonable opportunity to communicate with and retain an attorney;

(3) to be transported to a location as provided by Section 573.024 if the person is not admitted for emergency detention, unless the person is arrested or objects;

(4) to be released from a facility as provided by Section 573.023;

(5) to be advised that communications with a mental health professional may be used in proceedings for further detention;

(6) to be transported in accordance with Sections 573.026 and 574.045, if the person is detained under Section 573.022 or transported under an order of protective custody under Section 574.023; and

(7) to a reasonable opportunity to communicate with a relative or other responsible person who has a proper interest in the person's welfare.

(b) A person apprehended, detained, or transported for emergency detention under this subtitle shall be informed of the rights provided by this section and this subtitle:

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(1) orally in simple, nontechnical terms, within 24 hours after the time the person is admitted to a facility, and in writing in the person's primary language if possible; or

(2) through the use of a means reasonably calculated to communicate with a hearing or visually impaired person, if applicable.

(c) The executive commissioner of the Health and Human Services Commission by rule shall prescribe the manner in which the person is informed of the person's rights under this section and this subtitle.

CREDIT(S)

Added by Acts 1991, 72nd Leg., ch. 76, § 1, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 1512, § 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 692, § 10, eff. Sept. 1, 2003; Acts 2013, 83rd Leg., ch. 318 (H.B. 1738), § 4, eff. Sept. 1, 2013.

HISTORICAL AND STATUTORY NOTES

2010 Main Volume

Prior Laws:

Acts 1957, 55th Leg., p. 505, ch. 243, § 30.

Acts 1983, 68th Leg., p. 211, ch. 47, § 1.

Acts 1985, 69th Leg., ch. 70, § 12.

Vernon's Ann.Civ.St. arts. 3193g, 5547-30.

CROSS REFERENCES

Apprehension by peace officer without warrant, see V.T.C.A., Health & Safety Code § 573.001.

LAW REVIEW COMMENTARIES

Emergency mental health care: How to navigate in Harris County. Amy R. Parsons and Rory R. Olsen, 50-FEB Hous. Law. 26 (2013).

LIBRARY REFERENCES

2010 Main Volume

Mental Health ⚿ 37.1, 40.
Westlaw Topic No. 257A.
C.J.S. Mental Health §§ 53, 59 to 63.

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Effective: January 1, 2004

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 574. Court-Ordered Mental Health Services (Refs & Annos)
Subchapter A. Application for Commitment and Prehearing Procedures
→→ § 574.001. Application for Court-Ordered Mental Health Services

(a) A county or district attorney or other adult may file a sworn written application for court-ordered mental health services. Only the district or county attorney may file an application that is not accompanied by a certificate of medical examination.

(b) Except as provided by Subsection (f), the application must be filed with the county clerk in the county in which the proposed patient:

(1) resides;

(2) is found; or

(3) is receiving mental health services by court order or under Subchapter A, [FN1] Chapter 573.

(c) If the application is not filed in the county in which the proposed patient resides, the court may, on request of the proposed patient or the proposed patient's attorney and if good cause is shown, transfer the application to that county.

(d) An application may be transferred to the county in which the person is being detained under Subchapter B [FN2] if the county to which the application is to be transferred approves such transfer. A transfer under this subsection does not preclude the proposed patient from filing a motion to transfer under Subsection (c).

(e) An order transferring a criminal defendant against whom all charges have been dismissed to the appropriate court for a hearing on court-ordered mental health services in accordance with Subchapter F, [FN3] Chapter 46B, Code of Criminal Procedure, serves as an application under this section. The order must state that all charges have been dismissed.

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(f) An application in which the proposed patient is a child in the custody of the Texas Youth Commission may be filed in the county in which the child's commitment to the commission was ordered.

CREDIT(S)

Added by Acts 1991, 72nd Leg., ch. 76, § 1, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 770, § 4, eff. June 16, 1995; Acts 1997, 75th Leg., ch. 1086, § 38, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 35, § 10, eff. Jan. 1, 2004.

[FN1] V.T.C.A., Health & Safety Code § 573.001 et seq.

[FN2] V.T.C.A., Health & Safety Code § 573.011 et seq.

[FN3] Vernon's Ann.C.C.P. art. 46B.151.

REVISOR'S NOTE

2010 Main Volume

The revised law uses the term "proposed patient" to refer to a person for whom an application for court-ordered mental health services has been filed. This term is used inconsistently in the source law. The revised law uses this term for the purpose of consistency and to avoid any confusion concerning the person to whom the revised law refers.

HISTORICAL AND STATUTORY NOTES

2010 Main Volume

Section 55 of Acts 1997, 75th Leg., ch. 1086 provides:

"(a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1997.

"(b) The following sections of this Act take effect immediately and apply to a person in the custody of the Texas Youth Commission or committed to the custody of the Texas Youth Commission on or after the effective date of the section:

"(1) Section 51.0411, Family Code, as added by this Act;

"(2) Sections 574.001 and 593.041, Health and Safety Code, as amended by this Act;

"(3) Sections 61.077 and 61.093, Human Resources Code, as amended by this Act; and

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V.T.C.A., Health & Safety Code § 574.002

Effective: September 1, 2011

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 574. Court-Ordered Mental Health Services (Refs & Annos)
Subchapter A. Application for Commitment and Prehearing Procedures
→→ § 574.002. Form of Application

(a) An application for court-ordered mental health services must be styled using the proposed patient's initials and not the proposed patient's full name.

(b) The application must state whether the application is for temporary or extended mental health services. An application for extended inpatient mental health services must state that the person has received court-ordered inpatient mental health services under this subtitle or under Subchapter D [FN1] or E, [FN2] Chapter 46B, Code of Criminal Procedure, for at least 60 consecutive days during the preceding 12 months. An application for extended outpatient mental health services must state that the person has received:

(1) court-ordered inpatient mental health services under this subtitle or under Subchapter D or E, Chapter 46B, Code of Criminal Procedure, for a total of at least 60 days during the preceding 12 months; or

(2) court-ordered outpatient mental health services under this subtitle or under Subchapter D or E, Chapter 46B, Code of Criminal Procedure, during the preceding 60 days.

(c) Any application must contain the following information according to the applicant's information and belief:

(1) the proposed patient's name and address;

(2) the proposed patient's county of residence in this state;

(3) a statement that the proposed patient is mentally ill and meets the criteria in Section 574.034 or 574.035 for court-ordered mental health services; and

(4) whether the proposed patient is charged with a criminal offense.

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C

Effective:[See Text Amendments]

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 574. Court-Ordered Mental Health Services (Refs & Annos)
Subchapter A. Application for Commitment and Prehearing Procedures
→→ § 574.003. Appointment of Attorney

(a) The judge shall appoint an attorney to represent a proposed patient within 24 hours after the time an application for court-ordered mental health services is filed if the proposed patient does not have an attorney. At that time, the judge shall also appoint a language or sign interpreter if necessary to ensure effective communication with the attorney in the proposed patient's primary language.

(b) The court shall inform the attorney in writing of the attorney's duties under Section 574.004.

(c) The proposed patient's attorney shall be furnished with all records and papers in the case and is entitled to have access to all hospital and physicians' records.

CREDIT(S)

Added by Acts 1991, 72nd Leg., ch. 76, § 1, eff. Sept. 1, 1991.

REVISOR'S NOTE

2010 Main Volume

The revised law substitutes "proposed patient" for the source law term "person" for the reason stated in the revisor's note under Section 574.001.

HISTORICAL AND STATUTORY NOTES

2010 Main Volume

Prior Laws:

Acts 1957, 55th Leg., p. 505, ch. 243, § 43.

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V.T.C.A., Health & Safety Code § 574.004

C

Effective:[See Text Amendments]

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 574. Court-Ordered Mental Health Services (Refs & Annos)
Subchapter A. Application for Commitment and Prehearing Procedures
→→ § 574.004. Duties of Attorney

(a) An attorney representing a proposed patient shall interview the proposed patient within a reasonable time before the date of the hearing on the application.

(b) The attorney shall thoroughly discuss with the proposed patient the law and facts of the case, the proposed patient's options, and the grounds on which the court-ordered mental health services are being sought. A court-appointed attorney shall also inform the proposed patient that the proposed patient may obtain personal legal counsel at the proposed patient's expense instead of accepting the court-appointed counsel.

(c) The attorney may advise the proposed patient of the wisdom of agreeing to or resisting efforts to provide mental health services, but the proposed patient shall make the decision to agree to or resist the efforts. Regardless of an attorney's personal opinion, the attorney shall use all reasonable efforts within the bounds of law to advocate the proposed patient's right to avoid court-ordered mental health services if the proposed patient expresses a desire to avoid the services. If the proposed patient desires, the attorney shall advocate for the least restrictive treatment alternatives to court-ordered inpatient mental health services.

(d) Before a hearing, the attorney shall:

(1) review the application, the certificates of medical examination for mental illness, and the proposed patient's relevant medical records;

(2) interview supporting witnesses and other witnesses who will testify at the hearing; and

(3) explore the least restrictive treatment alternatives to court-ordered inpatient mental health services.

(e) The attorney shall advise the proposed patient of the proposed patient's right to attend a hearing or to waive the right to attend a hearing and shall inform the court why a proposed patient is absent from a hearing.

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(f) The attorney shall discuss with the proposed patient:

(1) the procedures for appeal, release, and discharge if the court orders participation in mental health services; and

(2) other rights the proposed patient may have during the period of the court's order.

(g) To withdraw from a case after interviewing a proposed patient, an attorney must file a motion to withdraw with the court. The court shall act on the motion as soon as possible. An attorney may not withdraw from a case unless the withdrawal is authorized by court order.

(h) The attorney is responsible for a person's legal representation until:

(1) the application is dismissed;

(2) an appeal from an order directing treatment is taken;

(3) the time for giving notice of appeal expires by operation of law; or

(4) another attorney assumes responsibility for the case.

CREDIT(S)

Added by Acts 1991, 72nd Leg., ch. 76, § 1, eff. Sept. 1, 1991.

REVISOR'S NOTE

2010 Main Volume

The revised law substitutes "proposed patient" for the source law term "person" for the reason stated in the revisor's note under Section 574.001.

HISTORICAL AND STATUTORY NOTES

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Prior Laws:

Acts 1983, 68th Leg., p. 211, ch. 47, § 1.

Acts 1985, 69th Leg., ch. 70, § 2.

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Vernon's Texas Statutes and Codes Annotated Currentness
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Subtitle C. Texas Mental Health Code
Chapter 574. Court-Ordered Mental Health Services (Refs & Annos)
Subchapter A. Application for Commitment and Prehearing Procedures
→→ § 574.009. Requirement of Medical Examination

(a) A hearing on an application for court-ordered mental health services may not be held unless there are on file with the court at least two certificates of medical examination for mental illness completed by different physicians each of whom has examined the proposed patient during the preceding 30 days. At least one of the physicians must be a psychiatrist if a psychiatrist is available in the county.

(b) If the certificates are not filed with the application, the judge or magistrate designated under Section 574.021(e) may appoint the necessary physicians to examine the proposed patient and file the certificates.

(c) The judge or designated magistrate may order the proposed patient to submit to the examination and may issue a warrant authorizing a peace officer to take the proposed patient into custody for the examination.

(d) If the certificates required under this section are not on file at the time set for the hearing on the application, the judge shall dismiss the application and order the immediate release of the proposed patient if that person is not at liberty. If extremely hazardous weather conditions exist or a disaster occurs, the presiding judge or magistrate may by written order made each day extend the period during which the two certificates of medical examination for mental illness may be filed, and the person may be detained until 4 p.m. on the first succeeding business day. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

CREDIT(S)

Added by Acts 1991, 72nd Leg., ch. 76, § 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 107, § 6.48, eff. Aug. 30, 1993.

REVISOR'S NOTE

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C

Effective: September 1, 2007

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 574. Court-Ordered Mental Health Services (Refs & Annos)
Subchapter B. Protective Custody
→→ § 574.021. Motion for Order of Protective Custody

(a) A motion for an order of protective custody may be filed only in the court in which an application for court-ordered mental health services is pending.

(b) The motion may be filed by the county or district attorney or on the court's own motion.

(c) The motion must state that:

(1) the judge or county or district attorney has reason to believe and does believe that the proposed patient meets the criteria authorizing the court to order protective custody; and

(2) the belief is derived from:

(A) the representations of a credible person;

(B) the proposed patient's conduct; or

(C) the circumstances under which the proposed patient is found.

(d) The motion must be accompanied by a certificate of medical examination for mental illness prepared by a physician who has examined the proposed patient not earlier than the third day before the day the motion is filed.

(e) The judge of the court in which the application is pending may designate a magistrate to issue protective custody orders, including a magistrate appointed by the judge of another court if the magistrate has at least the qualifications required for a magistrate of the court in which the application is pending. A magistrate's duty under

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this section is in addition to the magistrate's duties prescribed by other law.

CREDIT(S)

Added by Acts 1991, 72nd Leg., ch. 76, § 1, eff. Sept. 1, 1991. Amended by Acts 2001, 77th Leg., ch. 1278, § 1, eff. June 15, 2001; Acts 2007, 80th Leg., ch. 202, § 2, eff. Sept. 1, 2007.

REVISOR'S NOTE

2010 Main Volume

The revised law substitutes "proposed patient" for the source law term "person" for the reason stated in the revisor's note under Section 574.001.

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Section 4 of Acts 2007, 80th Leg., ch. 202 provides:

"The change in law made by this Act applies only to the detention and examination of a person admitted for a preliminary examination under Section 573.021, Health and Safety Code, on or after the effective date [Sept. 1, 2007] of this Act and to the filing of a motion for emergency detention under Section 574.021, Health and Safety Code, on or after the effective date of this Act. The detention and examination of a person admitted for a preliminary examination before the effective date of this Act is governed by the law in effect when the person was admitted, the filing of a motion for an order of protective custody is governed by the law in effect on the date the motion is filed, and the former law is continued in effect for those purposes."

Prior Laws:

Acts 1957, 55th Leg., p. 505, ch. 243, § 66.

Acts 1983, 68th Leg., p. 2, ch. 2, § 1.

Acts 1983, 68th Leg., p. 211, ch. 47, § 1.

Acts 1985, 69th Leg., ch. 70, § 16.

Acts 1987, 70th Leg., ch. 956, § 16.

Acts 1989, 71st Leg., ch. 271, § 3.

Vernon's Ann.Civ.St. arts. 3193g-1, 5547-36, 5547-66, 5561a.

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Effective:[See Text Amendments]

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 574. Court-Ordered Mental Health Services (Refs & Annos)
Subchapter B. Protective Custody
→→ § 574.022. Issuance of Order

(a) The judge or designated magistrate may issue a protective custody order if the judge or magistrate determ- ines:

(1) that a physician has stated his opinion and the detailed reasons for his opinion that the proposed patient is mentally ill; and

(2) the proposed patient presents a substantial risk of serious harm to himself or others if not immediately restrained pending the hearing.

(b) The determination that the proposed patient presents a substantial risk of serious harm may be demonstrated by the proposed patient's behavior or by evidence of severe emotional distress and deterioration in the proposed patient's mental condition to the extent that the proposed patient cannot remain at liberty.

(c) The judge or magistrate may make a determination that the proposed patient meets the criteria prescribed by Subsection (a) from the application and certificate alone if the judge or magistrate determines that the conclusions of the applicant and certifying physician are adequately supported by the information provided.

(d) The judge or magistrate may take additional evidence if a fair determination of the matter cannot be made from consideration of the application and certificate only.

(e) The judge or magistrate may issue a protective custody order for a proposed patient who is charged with a criminal offense if the proposed patient meets the requirements of this section and the facility administrator designated to detain the proposed patient agrees to the detention.

CREDIT(S)

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Effective:[See Text Amendments]

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 574. Court-Ordered Mental Health Services (Refs & Annos)
Subchapter B. Protective Custody
→→ § 574.024. Appointment of Attorney

(a) When a protective custody order is signed, the judge or designated magistrate shall appoint an attorney to represent a proposed patient who does not have an attorney.

(b) Within a reasonable time before a hearing is held under Section 574.025, the court that ordered the protective custody shall provide to the proposed patient and the proposed patient's attorney a written notice that states:

(1) that the proposed patient has been placed under a protective custody order;

(2) the grounds for the order; and

(3) the time and place of the hearing to determine probable cause.

CREDIT(S)

Added by Acts 1991, 72nd Leg., ch. 76, § 1, eff. Sept. 1, 1991.

REVISOR'S NOTE

2010 Main Volume

The revised law substitutes "proposed patient" for the source law term "person" for the reason stated in the revisor's note under Section 574.001.

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V.T.C.A., Health & Safety Code § 574.032

Effective:[See Text Amendments]

Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 574. Court-Ordered Mental Health Services (Refs & Annos)
Subchapter C. Proceedings for Court-Ordered Mental Health Services
→→ § 574.032. Right to Jury

(a) A hearing for temporary mental health services must be before the court unless the proposed patient or the proposed patient's attorney requests a jury.

(b) A hearing for extended mental health services must be before a jury unless the proposed patient or the proposed patient's attorney waives the right to a jury.

(c) A waiver of the right to a jury must be in writing, under oath, and signed and sworn to by the proposed patient and the proposed patient's attorney unless the proposed patient or the attorney orally waives the right to a jury in the court's presence.

(d) The court may permit an oral or written waiver of the right to a jury to be withdrawn for good cause shown. The withdrawal must be made not later than the eighth day before the date on which the hearing is scheduled.

(e) A court may not require a jury fee.

(f) In a hearing before a jury, the jury shall determine if the proposed patient is mentally ill and meets the criteria for court-ordered mental health services. The jury may not make a finding about the type of services to be provided to the proposed patient.

CREDIT(S)

Added by Acts 1991, 72nd Leg., ch. 76, § 1, eff. Sept. 1, 1991.

REVISOR'S NOTE

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Vernon's Texas Statutes and Codes Annotated Currentness
Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 574. Court-Ordered Mental Health Services (Refs & Annos)
Subchapter C. Proceedings for Court-Ordered Mental Health Services
→→ § 574.034. Order for Temporary Mental Health Services

(a) The judge may order a proposed patient to receive court-ordered temporary inpatient mental health services only if the judge or jury finds, from clear and convincing evidence, that:

(1) the proposed patient is mentally ill; and

(2) as a result of that mental illness the proposed patient:

(A) is likely to cause serious harm to himself;

(B) is likely to cause serious harm to others; or

(C) is:

(i) suffering severe and abnormal mental, emotional, or physical distress;

(ii) experiencing substantial mental or physical deterioration of the proposed patient's ability to function independently, which is exhibited by the proposed patient's inability, except for reasons of indigence, to provide for the proposed patient's basic needs, including food, clothing, health, or safety; and

(iii) unable to make a rational and informed decision as to whether or not to submit to treatment.

(b) The judge may order a proposed patient to receive court-ordered temporary outpatient mental health services only if:

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(1) the judge finds that appropriate mental health services are available to the patient; and

(2) the judge or jury finds, from clear and convincing evidence, that:

(A) the proposed patient is mentally ill;

(B) the nature of the mental illness is severe and persistent;

(C) as a result of the mental illness, the proposed patient will, if not treated, continue to:

(i) suffer severe and abnormal mental, emotional, or physical distress; and

(ii) experience deterioration of the ability to function independently to the extent that the proposed patient will be unable to live safely in the community without court-ordered outpatient mental health services; and

(D) the proposed patient has an inability to participate in outpatient treatment services effectively and voluntarily, demonstrated by:

(i) any of the proposed patient's actions occurring within the two-year period which immediately precedes the hearing; or

(ii) specific characteristics of the proposed patient's clinical condition that make impossible a rational and informed decision whether to submit to voluntary outpatient treatment.

(c) If the judge or jury finds that the proposed patient meets the commitment criteria prescribed by Subsection (a), the judge or jury must specify which criterion listed in Subsection (a)(2) forms the basis for the decision.

(d) To be clear and convincing under Subsection (a), the evidence must include expert testimony and, unless waived, evidence of a recent overt act or a continuing pattern of behavior that tends to confirm:

(1) the likelihood of serious harm to the proposed patient or others; or

(2) the proposed patient's distress and the deterioration of the proposed patient's ability to function.

(e) To be clear and convincing under Subdivision (b)(2), the evidence must include expert testimony and, unless waived, evidence of a recent overt act or a continuing pattern of behavior that tends to confirm:

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(1) the proposed patient's distress;

(2) the deterioration of ability to function independently to the extent that the proposed patient will be unable to live safely in the community; and

(3) the proposed patient's inability to participate in outpatient treatment services effectively and voluntarily.

(f) The proposed patient and the proposed patient's attorney, by a written document filed with the court, may waive the right to cross-examine witnesses, and, if that right is waived, the court may admit, as evidence, the certificates of medical examination for mental illness. The certificates admitted under this subsection constitute competent medical or psychiatric testimony, and the court may make its findings solely from the certificates. If the proposed patient and the proposed patient's attorney do not waive in writing the right to cross-examine witnesses, the court shall proceed to hear testimony. The testimony must include competent medical or psychiatric testimony. In addition, the court may consider the testimony of a nonphysician mental health professional as provided by Section 574.031(f).

(g) An order for temporary inpatient or outpatient mental health services shall state that treatment is authorized for not longer than 90 days. The order may not specify a shorter period.

(h) A judge may not issue an order for temporary inpatient or outpatient mental health services for a proposed patient who is charged with a criminal offense that involves an act, attempt, or threat of serious bodily injury to another person.

(i) Repealed by Acts 2013, 83rd Leg., ch. 1170 (S.B. 646), § 11.

CREDIT(S)

Added by Acts 1991, 72nd Leg., ch. 76, § 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 107, § 6.49, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 770, § 7, eff. June 16, 1995; Acts 1997, 75th Leg., ch. 744, § 5, eff. Sept. 1, 1997; Acts 2013, 83rd Leg., ch. 1170 (S.B. 646), § 11, eff. Sept. 1, 2013.

REVISOR'S NOTE

2010 Main Volume

The revised law substitutes "proposed patient" for the source law term "person" for the reason stated in the revisor's note under Section 574.001.

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V.T.C.A., Health & Safety Code § 574.103

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Health and Safety Code (Refs & Annos)
Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 574. Court-Ordered Mental Health Services (Refs & Annos)
Subchapter G. Administration of Medication to Patient Under Court Order for Mental Health Ser- vices
→→ § 574.103. Administration of Medication to Patient Under Court-Ordered Mental Health Services

(a) In this section, "ward" has the meaning assigned by Section 601, Texas Probate Code. [FN1]

(b) A person may not administer a psychoactive medication to a patient under court-ordered inpatient mental health services who refuses to take the medication voluntarily unless:

(1) the patient is having a medication-related emergency;

(2) the patient is under an order issued under Section 574.106 authorizing the administration of the medication regardless of the patient's refusal; or

(3) the patient is a ward who is 18 years of age or older and the guardian of the person of the ward consents to the administration of psychoactive medication regardless of the ward's expressed preferences regarding treatment with psychoactive medication.

CREDIT(S)

Added by Acts 1993, 73rd Leg., ch. 903, § 1.08, eff. Aug. 30, 1993. Amended by Acts 2003, 78th Leg., ch. 692, § 11, eff. Sept. 1, 2003; Acts 2013, 83rd Leg., ch. 1170 (S.B. 646), § 9, eff. Sept. 1, 2013.

[FN1] Repealed; see, now, V.T.C.A., Estates Code § 1002.001 et seq.

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Vernon's Texas Statutes and Codes Annotated Currentness
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Title 7. Mental Health and Mental Retardation
Subtitle C. Texas Mental Health Code
Chapter 574. Court-Ordered Mental Health Services (Refs & Annos)
Subchapter G. Administration of Medication to Patient Under Court Order for Mental Health Ser- vices
→→ § 574.106. Hearing and Order Authorizing Psychoactive Medication

(a) The court may issue an order authorizing the administration of one or more classes of psychoactive medication to a patient who:

(1) is under a court order to receive inpatient mental health services; or

(2) is in custody awaiting trial in a criminal proceeding and was ordered to receive inpatient mental health services in the six months preceding a hearing under this section.

(a-1) The court may issue an order under this section only if the court finds by clear and convincing evidence after the hearing:

(1) that the patient lacks the capacity to make a decision regarding the administration of the proposed medication and treatment with the proposed medication is in the best interest of the patient; or

(2) if the patient was ordered to receive inpatient mental health services by a criminal court with jurisdiction over the patient, that treatment with the proposed medication is in the best interest of the patient and either:

(A) the patient presents a danger to the patient or others in the inpatient mental health facility in which the patient is being treated as a result of a mental disorder or mental defect as determined under Section 574. 1065; or

(B) the patient:

(i) has remained confined in a correctional facility, as defined by Section 1.07, Penal Code, for a period exceeding 72 hours while awaiting transfer for competency restoration treatment; and

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(ii) presents a danger to the patient or others in the correctional facility as a result of a mental disorder or mental defect as determined under Section 574.1065.

(b) In making the finding that treatment with the proposed medication is in the best interest of the patient, the court shall consider:

(1) the patient's expressed preferences regarding treatment with psychoactive medication;

(2) the patient's religious beliefs;

(3) the risks and benefits, from the perspective of the patient, of taking psychoactive medication;

(4) the consequences to the patient if the psychoactive medication is not administered;

(5) the prognosis for the patient if the patient is treated with psychoactive medication;

(6) alternative, less intrusive treatments that are likely to produce the same results as treatment with psychoactive medication; and

(7) less intrusive treatments likely to secure the patient's agreement to take the psychoactive medication.

(c) A hearing under this subchapter shall be conducted on the record by the probate judge or judge with probate jurisdiction, except as provided by Subsection (d).

(d) A judge may refer a hearing to a magistrate or court-appointed associate judge who has training regarding psychoactive medications. The magistrate or associate judge may effectuate the notice, set hearing dates, and appoint attorneys as required in this subchapter. A record is not required if the hearing is held by a magistrate or court-appointed associate judge.

(e) A party is entitled to a hearing de novo by the judge if an appeal of the magistrate's or associate judge's report is filed with the court within three days after the report is issued. The hearing de novo shall be held within 30 days of the filing of the application for an order to authorize psychoactive medication.

(f) If a hearing or an appeal of an associate judge's or magistrate's report is to be held in a county court in which the judge is not a licensed attorney, the proposed patient or the proposed patient's attorney may request that the proceeding be transferred to a court with a judge who is licensed to practice law in this state. The county judge shall transfer the case after receiving the request, and the receiving court shall hear the case as if it had been originally filed in that court.

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(g) As soon as practicable after the conclusion of the hearing, the patient is entitled to have provided to the patient and the patient's attorney written notification of the court's determinations under this section. The notification shall include a statement of the evidence on which the court relied and the reasons for the court's determinations.

(h) An order entered under this section shall authorize the administration to a patient, regardless of the patient's refusal, of one or more classes of psychoactive medications specified in the application and consistent with the patient's diagnosis. The order shall permit an increase or decrease in a medication's dosage, restitution of medication authorized but discontinued during the period the order is valid, or the substitution of a medication within the same class.

(i) The classes of psychoactive medications in the order must conform to classes determined by the department.

(j) An order issued under this section may be reauthorized or modified on the petition of a party. The order remains in effect pending action on a petition for reauthorization or modification. For the purpose of this subsection, "modification" means a change of a class of medication authorized in the order.

(k) This section does not apply to a patient who receives services under an order of protective custody under Section 574.021.

(l) For a patient described by Subsection (a-1)(2)(B), an order issued under this section:

(1) authorizes the initiation of any appropriate mental health treatment for the patient awaiting transfer; and

(2) does not constitute authorization to retain the patient in a correctional facility for competency restoration treatment.

CREDIT(S)

Added by Acts 1993, 73rd Leg., ch. 903, § 1.08, eff. Aug. 30, 1993. Amended by Acts 1995, 74th Leg., ch. 770, § 12, eff. June 16, 1995; Acts 2005, 79th Leg., ch. 717, § 3, 4, eff. June 17, 2005; Acts 2009, 81st Leg., ch. 334, § 8, eff. Sept. 1, 2009; Acts 2009, 81st Leg., ch. 624, § 1, eff. June 19, 2009.

HISTORICAL AND STATUTORY NOTES

2010 Main Volume

Section 1.17 of Acts 1993, 73rd Leg., ch. 903 provides:

"(a) The changes in law made by this article apply only to consent for the administration of a medication, ther-

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A03 Application - Emergency Detention - Sec.28(a)

[redacted]

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF

[redacted] 44, W, M

APPLICATION FOR EMERGENCY DETENTION

Now comes [redacted], an adult person,(hereinafter called "Applicant") and respectfully presents this application for Emergency Detention and in support thereof respectfully shows unto the Court as follows

1. That [redacted], hereinafter referred to as the Proposed Patient, is a resident of/or may be found in Harris County of this state [redacted] in the city of **Kingwood**, Harris County, Texas.
2. That the Proposed Patient is (is not) charged with a criminal offense.
3. I have reason to believe and do believe that the Proposed Patient evidences a mental illness.
4. I have reason to believe and do believe that the Proposed Patient evidences a substantial risk of serious harm to himself/herself or others because of
   - Forced entry into the home with a sprayed a knife
   - Threatened my life
   - Has walked off of a 6 figure job twice and is the provider even to live and has been homeless for about 6 weeks
5. I have reason to believe and do believe that the risk of harm is imminent unless the Proposed Patient is immediately restrained.
6. My beliefs are based upon the following specific behavior, overt acts, attempts or threats made by the Proposed Patient are: He has stated if he is [illegible] he would take the
   - Forced entry into home with a sprayed a knife
   - Believes to have
   - Going between coherent and incoherent behavior
   - States he is tired and needs help to live
7. (If any) the following is evidence of the Proposed Patient's severe emotional distress and deterioration in his mental condition to the extent that the person cannot remain at liberty.
   - He goes between coherent to incoherent behavior
   - Has not slept in 3 days
   - Person homeless for at least 6 weeks while working
   - Has walked off of his job 2 times within 2 weeks
8. My relationship to the Proposed Patient is wife. I do hereby request the Court to issue a warrant for the Emergency Apprehension and Detention of [redacted]. was found walking around in a parking lot in confinement by a stranger & call authorities.

[redacted]

STATE OF TEXAS

COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared [redacted] who being by me duly sworn, on oath said that he/she is the applicant and has read the above and foregoing statements, and that every statement contained therein is within his/her personal knowledge and is true and correct.

Subscribed and sworn to before me on the **9th day of October, 2014**, to certify which witness my hand and official seal.

Stan Stanart, County Clerk

By: [illegible]
Deputy County Clerk

13-[redacted]

13-48

A03 Application - Emergency Detention - Sec 28(a)

NO. 141022

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF

[redacted]

APPLICATION FOR EMERGENCY DETENTION

Now comes [redacted] an adult person,(hereinafter called "Applicant") and respectfully presents this application for Emergency Detention and in support thereof respectfully shows unto the Court as follows:

1 That [redacted] hereinafter referred to as the Proposed Patient, is a resident of/or may be found in Harris County of this state, at [redacted] in the city of **Houston**, Harris County, Texas.

2 That the Proposed Patient is/~~is not~~ charged with a criminal offense.

3. I have reason to believe and do believe that the Proposed Patient evidences a mental illness.

4. I have reason to believe and do believe that the Proposed Patient evidences a substantial risk of serious harm to himself/herself or others because of

She wonders the streets in her vehicle, almost was hit by a truck on the Freeway. Patient says voices in her head. Unable to focus while driving, aggressive if I try to get the keys. Patient rarely eats won't sleep & can't consistently hygiene on herself. Physically hit my sister and myself

5. I have reason to believe and do believe that the risk of harm is imminent unless the Proposed Patient is immediately restrained.

6. My beliefs are based upon the following specific behavior, overt acts, attempts or threats made by the Proposed Patient are:

She ~~was~~ stopped on the railroad tracks crossing, wouldn't move until the rail hit her car, when stopped at a stop light almost causing an accident. Patient is really disoriented. Patient talks to herself like a prayer.

7. (If any) the following is evidence of the Proposed Patient's severe emotional distress and deterioration in his mental condition to the extent that the person cannot remain at liberty:

Patient is a danger to her self & others. Patient running from [illegible] in her vehicle, can't take care of herself in car, was unable to drive [redacted] we can't have in the road. Patient will get physical if you try to take her, may still attempt to elope

8. My relationship to the Proposed Patient is **daughter**. I do hereby request the Court to issue a warrant for the Emergency Apprehension and Detention of [redacted]r.

[redacted]

STATE OF TEXAS

COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appear[redacted] who being by me duly sworn, on oath said that he/she is the applicant and has read the above and foregoing statements, and that every statement contained therein is within his/her personal knowledge and is true and correct.

Subscribed and sworn to before me on the **9th day of October, 2014**, to certify which witness my hand and official seal.

Stan Stanart, County Clerk

By [redacted]
Deputy County Clerk

13-49

13-[illegible]

A20 Application - Emergency Detention - Sec.28(a)

NO. [redacted]

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF

[redacted], WM

APPLICATION FOR EMERGENCY DETENTION

Now comes [redacted], an adult person, (hereinafter called "Applicant") and respectfully presents this application for Emergency Detention and in support thereof respectfully shows unto the Court as follows:

1. That [redacted], hereinafter referred to as the Proposed Patient, is a resident of/or may be found in Harris County of this state, at 1 one - 1 a r, in the city of Houston, Harris County, Texas.
2. That the Proposed Patient is/is not charged with a criminal offense.
3. I have reason to believe and do believe that the Proposed Patient evidences a mental illness.
4. I have reason to believe and do believe that the Proposed Patient evidences a substantial risk of serious harm to himself/herself or others because of multiple verbal threats of physical harm in last 24 hours, reported escalation of irritability and agitation due to increase in volume and intensity of auditory hallucination. Patient is currently at Partial Hospitalization Program and is quickly decompensating.
5. I have reason to believe and do believe that the risk of harm is imminent unless the Proposed Patient is immediately restrained.
6. My beliefs are based upon the following specific behavior, overt acts, attempts or threats made by the Proposed Patient are: multiple threats to various persons of physical harm in last 24 hours, extensive psychiatric history, exacerbation in irritability due to increase in aggressive auditory hallucinations.
7. (If any) the following is evidence of the Proposed Patient's severe emotional distress and deterioration in his mental condition to the extent that the person cannot remain at liberty: Extensive psychiatric history with previous inpatient hospitalizations. Current diagnosis of Major Depressive Disorder with Psychotic Features.
8. My relationship to the Proposed Patient is therapist. I do hereby request the Court to issue a warrant for the Emergency Apprehension and Detention of [redacted].

[redacted], LPC-Intern, NCC
/Applicant

STATE OF TEXAS
COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared [redacted], known to me to be the person whose name is subscribed to the foregoing statements for the purposes therein expressed evidencing the same by his/her signature, to certify which I have affixed my hand and seal of office, this 9th day of October, 2014.

Kelly A McCarthy
Notary Public in and for the State of Texas

PSF# 010-1748

My C... Sept...

KELLY A MCCARTHY
y Commission Expires
eptember 27, 2018

KELLY A MCCARTHY
My Commission Expires
September 27, 2018

13-50

13-61

F11 Preliminary Medical – Section 27 (a)

NO. 140990

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF
a
[redacted]

PROBATE COURT
HARRIS COUNTY

CERTIFICATE OF PRELIMINARY MEDICAL EXAMINATION

I, the undersigned, a physician as defined in the Texas Health and Safety Code, Section 571.003(18), do hereby certify as follows:

1. That my name is Terrence Watley, MD
2. That my address is 6363 Fannin, Houston, TX 77030
3. This patient was warned by me as to the nonconfidential nature of this examination.
4. That I have made a preliminary examination of [redacted] (hereinafter referred to as the Proposed Patient) on the 7 day of October, 20 14.
5. That as a result of my examination of the proposed patient it is my medical opinion based upon reasonable medical probability that he/she is diagnosed as suffering from Psychotic Disorder
6. That it is my medical opinion that the Proposed Patient is mentally ill and as indicated by an "X" below that because of that mental illness evidences:
   - [X] a substantial risk of serious harm to himself/herself.
   - [X] a substantial risk of serious harm to others.
7. That the risk of harm is imminent unless the proposed patient is immediately restrained.
8. That the emergency detention is the least restrictive means by which the necessary restraint may be effected.
9. That the facts which form the basis for my medical opinion as to mental illness, risk of harm, and need for immediate restraint are: Patient is psychotic, AVH, paranoid, impaired in judgment and insight.

Signed this 7 day of October, 20 14.

Terrence Watley, MD
Examining Physician

STATE OF TEXAS

COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared Terrence Watley, MD known to me to be the person whose name is subscribed to the foregoing, and who being by me first duly sworn, on his/her oath made the above and foregoing statements for the purpose therein expressed evidencing the same by his/her signature, to certify which I have affixed my hand and seal of office, this the 7 day of October, 20 14.

Sara Pereyra
Notary Public in and for the State of Texas

SARA PEREYRA
Notary Public, State of Texas
My Commission Expires
December 17, 2017

13-68

13-51

A01 Warrant - Emergency Apprehension and Detention - Sec 28(e)

NO. 140990

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF

[redacted], 46, B, M
Methodist

EMERGENCY APPREHENSION AND DETENTION WARRANT

THE STATE OF TEXAS: TO ANY HEALTH OR PEACE OFFICER IN THE STATE OF TEXAS, GREETINGS:

You are hereby commanded to apprehend, and take into protective custody for his/her welfare and protection, or the protection of others, the person o[redacted] if he/she is to be found you are to immediately transport him/her to the **Cypress Creek Hospital** In-Patient Mental Health Facility for his/her admission for emergency detention, observation and examination.

HEREIN FAIL NOT, but of this Writ then and there make due return, showing how you have executed the same.

Given under my hand this 7th day of October, 2014.

_____
PRESIDING JUDGE, HARRIS COUNTY

DENIED-FACTUALLY INSUFFICIENT

OFFICER'S RETURN

RECEIVED the _____ day of _____,20____ and executed by apprehending the within named party, [redacted] and transporting him/her to **Cypress Creek Hospital** for admission.

DATE EXECUTED _____

TIME _____

ALAN ROSEN, CONSTABLE, PRECINCT 1, HARRIS COUNTY, TEXAS

BY _____
Deputy

UNIT NO._____

13-52

A03 Application - Emergency Detention - Sec. 28(a)

NO. 141072

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF

[redacted] 39, B, M

APPLICATION FOR EMERGENCY DETENTION

Now comes [redacted], an adult person,(hereinafter called "Applicant") and respectfully presents this application for Emergency Detention and in support thereof respectfully shows unto the Court as follows:

1. That [redacted], hereinafter referred to as the Proposed Patient, is a resident of/or may be found in Harris County of this state, at [redacted] in the city of **Houston**, Harris County, Texas.
2. That the Proposed Patient is/~~is not~~ charged with a criminal offense.
3. I have reason to believe and do believe that the Proposed Patient evidences a mental illness.
4. I have reason to believe and do believe that the Proposed Patient evidences a substantial risk of serious harm to himself/herself or others because of
Very aggressive, gets Angry, Argumentative. HAS hit Me, And) pushed Me down. Also very nervous And forgetful about direction-he should not be driving at this time. States voices Or telling him to do things
5. I have reason to believe and do believe that the risk of harm is imminent unless the Proposed Patient is immediately restrained.
6. My beliefs are based upon the following specific behavior, overt acts, attempts or threats made by the Proposed Patient are:
Cursing & very Argumentative to his own mother & to others picks fights, has hit & pushed me And also girlfriend when is handicap. thinks he's right, he Abusive to others, out of control.
7. (if any) the following is evidence of the Proposed Patient's severe emotional distress and deterioration in his mental condition to the extent that the person cannot remain at liberty:
Too aggressive with everyone. People who work at stores have asked him not to enter to store. Get 700.- /month has No Money in less than 12 days of Payment. very target, loses Kids, throws away food - clothes etc.
8. My relationship to the Proposed Patient is mother. I do hereby request the Court to issue a warrant for the Emergency Apprehension and Detention of [redacted].

[redacted]

STATE OF TEXAS

COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared [redacted], who being by me duly sworn, on oath said that he/she is the applicant and has read the above and foregoing statements, and that every statement contained therein is within his/her personal knowledge and is true and correct.

Subscribed and sworn to before me on the 14th day of October, 2014, to certify which witness my hand and official seal.

Stan Stanart, County Clerk

By: Valerie Garcia
Deputy County Clerk

13-[redacted]

13-53

F11 Preliminary Medical - Section 27 (a)

NO. [redacted]

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF

PROBATE COURT HARRIS COUNTY

[redacted] BF 10/16/1987

CERTIFICATE OF PRELIMINARY MEDICAL EXAMINATION

I, the undersigned, a physician as defined in the Texas Health and Safety Code, Section 571.003(18), do hereby certify as follows:

1. That my name is [redacted] M.D.
2. That my address is 1502 Taub Loop Houston, Texas 77030
3. This patient was warned by me as to the nonconfidential nature of this examination.
4. That I have made a preliminary examination of [redacted] (hereinafter referred to as the Proposed Patient) on the 9 day of October, 2014
5. That as a result of my examination of the proposed patient it is my medical opinion based upon reasonable medical probability that he/she is diagnosed as suffering from Psychosis, NOS
6. That it is my medical opinion that the Proposed Patient is mentally ill and as indicated by an "X" below that because of that mental illness evidences:
   - [X] a substantial risk of serious harm to himself/herself.
   - [X] a substantial risk of serious harm to others.
7. That the risk of harm is imminent unless the proposed patient is immediately restrained.
8. That emergency detention is the least restrictive means by which the necessary restraint may be effected.
9. That the facts which form the basis for my medical opinion as to mental illness, risk of harm, and need for immediate restraint are:
   PT REPORTS RECENT SUICIDAL IDEATIONS, PT IS SEEING AND HEARING DEMONS BELIEVING THEY TRYING TO TAKE HER TO HELL, PT IS OFF MEDS GROSSLY IMPAIRED INSIGHT AND JUDGMENT,NEEDS INPATIENT OBSERVATION

SIGNED this 9 day of October, 2014

Examining Physician

STATE OF TEXAS

COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared [redacted] known to me to be the person whose name is subscribed to the foregoing, and who being by me first duly sworn, on his/her oath made the above and foregoing statements for the purpose therein expressed evidencing the same by his/her signature, to certify which I have affixed my hand and seal of office, this the 9 day of October, 2014

Donna Fasullo
Notary Public in and for the State of Texas

Revision 5/14/99

Donna L. Fasullo
NOTARY PUBLIC
STATE OF TEXAS
Comm. Exp. 09-19-18

13-54

F11 Preliminary Medical - Section 27 (a)

NO. 141071

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF

[redacted] CF [redacted] 1939

PROBATE COURT · HARRIS COUNTY

CERTIFICATE OF PRELIMINARY MEDICAL EXAMINATION

I, the undersigned, a physician as defined in the Texas Health and Safety Code, Section 571.003(18), do hereby certify as follows:

1. That my name is [redacted]
2. That my address is 1504 Taub Loop Houston TX 77030
3. This patient was warned by me as to the nonconfidential nature of this examination
4. That I have made a preliminary examination of [redacted] (hereinafter referred to as the Proposed Patient) on the 14th day of October 2014
5. That as a result of my examination of the proposed patient it is my medical opinion based upon reasonable medical probability that he/she is diagnosed as suffering from Depressive Disorder NOS
6. That it is my medical opinion that the Proposed Patient is mentally ill and as indicated by an "X" below because of that mental illness evidences:
   - [X] a substantial risk of serious harm to himself/herself
   - [ ] a substantial risk of serious harm to others
7. That the risk of harm is imminent unless the proposed patient is immediately restrained.
8. That emergency detention is the least restrictive means by which the necessary restraint may be effected.
9. That the facts which form the basis for my medical opinion as to mental illness, risk of harm, and need for immediate restraint are:

Patient attempted suicide by ingestion of her prescription medications and by making deep vertical laceration to her left wrist

Signed this 14th day of October, 2014

Examining Physician

STATE OF TEXAS
COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally [redacted] known to me to be the person whose name is subscribed to the foregoing, and who being by me first duly sworn, on his/her oath made the above and foregoing statements for the purpose therein expressed evidencing the same by his/her signature, to certify which I have affixed my hand and seal of office, this 14th day of October, 2014

[redacted]
Notary Public in and for the State of Texas

Revision 5/14/99

DONALDSON R. GEITS
Notary Public, State of Texas
My Commission Expires
August 27, 2013

13-30

13-55

A20 Application – Emergency Detention – Sec. 28(a)

NO. 1410990

Transfer to Cypress Creek Hospital

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF

[redacted] BM

APPLICATION FOR EMERGENCY DETENTION

Now comes Terrance Watley, MD, an adult person, (hereinafter called "Applicant") and Respectfully presents this application for Emergency Detention and in support thereof respectfully shows unto the Court as follows:

1. That [redacted], hereinafter referred to as the Proposed Patient, is a resident of or may be found in Harris County or this state, at
2. Methodist Hospital Center in the city of Houston, Harris County, Texas.
3. That the Proposed Patient is is not charged with a criminal offense.
4. I have reason to believe and do believe that the Proposed Patient evidences a mental illness.
5. I have reason to believe and do believe that the Proposed Patient evidences a substantial risk of serious harm to himself/herself or others because of:
   Patient is psychotic and off his psych meds.
6. I have reason to believe and do believe that the risk of harm is imminent unless the Proposed Patient is immediately restrained.
7. My beliefs are based upon the following specific behavior, overt acts, attempts or threats made by the Proposed Patient are:
   Patient has auditory and visual hallucinations. Patient is paranoid, disorganized in behavior. Patient has not been taking his psych meds.
8. (If any) the following is evidence of the Proposed Patient's severe emotional distress and deterioration in his mental condition to the extent that the person cannot remain at liberty:
   Patient is psychotic and functionally impaired. Patient has poor judgment and insight.
9. My relationship to the Proposed Patient is ER Physician. I do hereby request the Court to issue a warrant for the Emergency Apprehension and Detention of [redacted]

Applicant
Address: 6565 Fannin Houston Zip Code: 77030
Telephone: 713-441-2245

STATE OF TEXAS
COUNTY OF HARRIS

Before my, the undersigned authority, on this day personally appeared Terrance Watley, MD, known to me to be the person whose name is subscribed to the foregoing statements for the purposes therein expressed evidencing the same by his/her signature, to certify which I have affixed my hand and seal of office, this 7 day of October, 20 14.

Notary Public in and for the State of Texas

SARA PEREYRA
Notary Public, State of Texas
My Commission Expires
December 17, 2017

PSF #010-1748

13-085

13.56

D06 Writ of Commitment - Temporary In-Patient - Sec 50

NO. [redacted]

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF

John A. [redacted]

PROBATE COURT · HARRIS COUNTY ·

WRIT OF COMMITMENT

TO Harris County Constables Office, Precinct One

WHEREAS by ORDER dated the **31st day of October, 2014** , in the the above entitled and numbered cause, **John A. [redacted]**, (hereinafter called "Patient") was ordered committed and transported to **Harris County Psychiatric Center** for observation and/or treatment for a period not to exceed ninety (90) days.

THEREFORE, you are hereby ordered and commanded to take charge of said Patient and to forthwith transport him/her to **Harris County Psychiatric Center**. You are further directed to deliver a copy of this Writ together with said Patient to the Head of **Harris County Psychiatric Center** and to receive therefrom a written acceptance acknowledging receipt of Patient and his/her personal property; and thereafter to file with the Clerk of this Court a copy of said written acceptance.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 20____.

STAN STANART, COUNTY CLERK, Harris County, Texas.

By _____
Deputy

ACCEPTANCE OF PATIENT

On this the _____ day of _____, 20____, the above named Patient, and a copy of the above Writ of Commitment was delivered to and accepted by **Harris County Psychiatric Center**, together with the following personal property, if any:

_____
_____
_____
_____

SIGNED this _____ day of _____, 20____.

_____
Signed

_____
Title

13-[redacted]

13-57

D05 Judgment - Non-Jury - Temporary In-Patient - Sec.50

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF

Joh[redacted]

N[redacted]

PROBATE COURT * HARRIS COUNTY *

JUDGMENT

On this **31st day of October, 2014**, came to be heard the application of [redacted], filed with the Clerk of this Court on the **21st day of October, 2014**, for Court-Ordered Mental Health Services in the above entitled and numbered cause alleging that **John A.** [redacted] (hereinafter called "Patient") is mentally ill and as a result of such mental illness, Patient is likely to cause serious harm to self; or is likely to cause serious harm to others; or will, if not treated, continue to suffer severe and abnormal mental, emotional, or physical distress and will continue to experience deterioration of his/her ability to function independently and is unable to make a rational and informed decision as to whether or not to submit to treatment.

No jury having been demanded, **David Stevens**, the Attorney for Patient and the Attorney for the State announced ready and all matters of fact and law were submitted to the Court.

The Court finds that all necessary parties have been served with a copy of the aforesaid Application and Notice of Hearing. It further appearing to the Court that **Nurun Shah,** and **X. Zhang,** are duly licensed to practice medicine in the State of Texas; or employed by an agency of the United States having a license to practice medicine in any state of the United States; that each timely filed in this Cause Certificates of Medical Examination for Mental Illness stating that Patient is mentally ill; and that said Certificates are in compliance with the provisions of the Texas Mental Health Code

The Court further finds that all the terms and provisions of the Texas Mental Health Code have been complied with; and after considering all the evidence, testimony and Certificates filed herein, the Court finds by clear and convincing evidence that the Patient is mentally ill and as indicated below, the result of that mental illness:

( ) is likely to cause serious harm to himself;
( ) is likely to cause serious harm to others;
( ) (i) is suffering severe and abnormal mental, emotional, or physical distress;
(ii) is experiencing substantial mental or physical deterioration of his ability to function independently, except for reasons of indigence, to provide for the proposed patient's basic needs; including food, clothing, health, or safety; and
(iii) is not able to make a rational and informed decision as to whether to submit to treatment.

Because of the findings stated immediately above, it is ORDERED, ADJUDGED and DECREED that Patient is hereby committed for Court-Ordered Temporary Mental Health Services to **Harris County Psychiatric Center** as an In-Patient for a period of time not more than ninety (90) days.

It is ORDERED, ADJUDGED and DECREED that the Clerk of this Court issue a Writ of Commitment in duplicate to the Constable, Precinct One of Harris County, Texas, authorizing and commanding said Constable to take charge of Patient and to transport said Patient to **Harris County Psychiatric Center**; and that the Clerk of this Court prepare a Certified Transcript with all available information concerning the medical, social and economic status and history of Patient and his/her family and transmit same with Patient to **Harris County Psychiatric Center.**

It is ORDERED, ADJUDGED and DECREED that **David Stevens**, attorney appointed by the Court to represent [redacted] is hereby awarded a reasonable compensation the sum of **$ 100.00** as attorney's fees in this Cause which sum shall be taxed as cost of court.

It is ORDERED, ADJUDGED and DECREED that the Head of **Harris County Psychiatric Center**, upon receipt of a copy of the Writ of Commitment; forthwith admit **John A.** [redacted] and issue to the person transporting Patient a written acknowledgement of acceptance of Patient and of his/her property; a copy of which shall be filed with the Clerk of this Court.

SIGNED this **31st day of October, 2014**.

PRESIDING JUDGE

13-75

13-58

F25 Certificate of Medical Examination with OPC - Temporary - Section 33

NO. _____

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF

_____

PROBATE COURT HARRIS COUNTY

CERTIFICATE OF MEDICAL EXAMINATION

I, the undersigned, a physician as defined in the Texas Health and Safety Code, Section 571.003(18), do hereby certify as follows that:

1. My name is _____
2. My address is _____
3. This patient was warned by me as to the nonconfidential nature of this examination.
4. I examined _____ (hereinafter referred to as Patient) on the _____ day of _____, 20____.
5. Patient's address is _____
6. Patient has been under my care for _____
7. The treatment, if any, given by me or administered at my direction to Patient is as follows: _____
8. My diagnosis of the physical and mental condition of Patient based upon reasonable medical probability is:
   Axis I _____
   Axis II _____
   Axis III _____
   Axis IV _____
   Axis V _____
9. I am of the opinion that Patient is mentally ill and as indicated by an "X" below as a result of that mental illness the examined person is:
   ( ) likely to cause serious harm to himself/herself;
   ( ) likely to cause serious harm to others; or is
   ( ) (i) suffering severe and abnormal mental, emotional, or physical distress;
   (ii) experiencing substantial mental or physical deterioration of his ability to function independently, except for reasons of indigence, to provide for the proposed patient's basic needs; including food, clothing, health, or safety; and
   (iii) not able to make a rational and informed decision as to whether to submit to treatment.

   Furthermore, the detailed factual basis of such opinion is as follows:
   _____
   _____
   _____
10. I am of the opinion that the Patient, because of his/her mental illness, presents a substantial risk of serious harm to self or others if not immediately restrained; that the detailed basis for such as follows:
    _____
    _____
    _____
11. Emergency detention is the least restrictive means by which the necessary restraint may be effected, that the facts which form the basis for my medical opinion as to Patient's imminent risk of harm unless immediately restrained are:
    _____
    _____
    _____

SIGNED this _____ day of _____, 20____.

_____
Examining Physician

STATE OF TEXAS
COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing, and who being by me first duly sworn, on his/her oath made the above and foregoing statements for the purpose therein expressed evidencing the same by his/her signature, to certify which I have affixed my hand and seal of office, this the _____ day of _____, 20____.

_____
Notary Public in and for the State of Texas

13-59

13-59

861 Petition for Order to Administer Psychoactive Medication MENHFM

NO. _____

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF

_____

PROBATE COURT HARRIS COUNTY

PETITION FOR ORDER TO ADMINISTER
PSYCHOACTIVE MEDICATION

TO THE HONORABLE JUDGE OF SAID COURT:

_____ M.D. OR D.O. ("Petitioner"), files this petition, pursuant to Texas Health & Safety Code Sec. 574.104, seeking an order to authorize the administration of psychoactive medication to _____("Patient") and respectfully shows that:

I.

Patient is subject to an order, dated the _____ day of _____, 20 _____, for court-ordered in-patient mental health services issued under:

____ Sec. 574.034 of the Texas Health & Safety Code (temporary)
____ Sec. 574.035 of the Texas Health & safety Code (extended)

II.

Petitioner has diagnosed Patient with the following condition(s):

_____

_____

_____

III.

Petitioner has determined that administration of the following class(es) of psychoactive medication marked with and "X" is the proper course of treatment for and in the best interest of Patient:

____ antidepressants
____ antipsychotics
____ anxiolytics/sedatives/hypnotics
____ monoamine oxidase inhibitors
____ mood stabilizers
____ stimulants

IV.

Petitioner believes Patient lacks the capacity to make a decision regarding administration of Psychoactive medication for the following reasons:

_____

_____

_____

V.

Petitioner believes that if Patient is treated with the class(es) of psychoactive medications, specified in paragraph III above, Patient's prognosis is:

_____

_____

_____

VI.

Petitioner believes that if Patient is not administered the class(es) of psychoactive medication, specified in paragraph III above, the consequences will be:

_____

_____

_____

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13-60

VII.

Petitioner has considered the following alternatives to psychoactive medications to treatment of Patient:

_____

_____

_____

VIII.

Petitioner has determined that the alternatives listed in paragraph VII will not be as effective as administration of psychoactive medication for the following reasons:

_____

_____

_____

WHEREFORE, Petitioner requests that the Court:

1. Appoint an attorney to represent Patient;
2. Set a hearing on this Petition to be held not later than the seventh day after the date this Petition is filed;
3. Direct the Clerk of the Court to issue a Notice of Hearing and copy of this Petition to be served upon Patient immediately after the time of the hearing is set;
4. Waive service of the Notice of Hearing to Petitioner;
5. Upon hearing, enter an order, pursuant to Texas Health & Safety Code Sec. 574.106, authorizing Dr._____ and _____ In-patient Mental Health Facility to administer the class(es) of psychoactive medication specified in paragraph III of this Petition to Patient, regardless of Patient's refusal.

Dated this the _____ day of _____, 20_____.

_____

Signature of Petitioner

_____

Printed Name of Petitioner

STATE OF TEXAS

COUNTY OF HARRIS

Before me, the undersigned Notary Public, on this day personally appeared _____, who, being by me duly sworn on oath, deposed and said that he/she is the petitioner in the above-entitled and numbered cause, that he/she has read the above and foregoing Petition for Order to Administer Psychoactive Medication, and that every statement contained therein is within his/her personal knowledge and is true and correct.

Subscribed and sworn to before me on the _____ day of _____, 20_____, to certify which witness my hand and official seal.

_____

Notary Public in and for the State of Texas

_____

Typed Name

My commission expires: _____

13-61

13-61

864 Order to Administer Psychoactive Medication MENHFM

NO. [redacted]

THE STATE OF TEXAS
FOR THE BEST INTEREST
AND PROTECTION OF

John A [redacted]

PROBATE COURT • HARRIS COUNTY •

ORDER TO ADMINISTER
PSYCHOACTIVE MEDICATION

On this the **31st day of October, 2014**, came to be heard a Petition for Order to Administer Psychoactive Medication in the above styled cause, alleging that **John A** [redacted] hereinafter called "Patient", is subject to an order, dated the **31st day of October, 2014**, for Court Ordered In-Patient Mental Health Services; , the attorney representing the Patient, announced ready, and all matters of fact and law were submitted to the Court, and the Court finds as follows:

That all necessary notices and copies of the Petition have been served as required by law and that all of the terms and provisions of the Texas Mental Health Code have been complied with.

That on file with the Court in this cause is a verified Petition by the Patient's physician who has examined the Patient and that the physician therein states his opinion and his detailed basis that the Patient is in need of psychoactive medication but lacks the capacity to make a decision regarding administration of said medication and it is in Patient's best interest to have psychoactive medication; and

That after considering all of the evidence, including the Petition and the expert, competent medical or psychiatric testimony, it appears to the Court that the allegations of the Petition are true and correct and are supported by clear and convincing evidence. It is therefore determined that treatment with the proposed medication is in the best interest of the Patient and the Patient lacks the capacity to make a decision regarding administration of said medication and that the same shall be ordered.

The Court relied on the following evidence:

_____

and makes its determination for the following reasons:

_____

Accordingly, it is ORDERED pursuant to Texas Health & Safety Code, Sec. 574.106, that Dr. **X. Zhang** and the **Harris County Psychiatric Center**In-patient Mental Health Facility is authorized to administer to the Patient the following class(es) of psychoactive medication:

____ antidepressants
____ antipsychotics
____ anxiolytics/sedatives/hypnotics
____ monoamine oxidase inhibitors
____ mood stabilizers
____ stimulants

It is also ORDERED that during the period this Order is valid, the dosage of the herein authorized class(es) of psychoactive medication can be increased or decreased, and restitution of medication authorized but discontinued and the substitution of a medication within the same class(es) are permitted.

It is further ORDERED that the above attorney, appointed to represent the Patient, be and is hereby allowed reasonable compensation of **$ $ 100.00** for attorney's fees in this case and said compensation shall be taxed as costs.

This Order expires on the expiration or termination date of the Order for ___ Temporary or _____ Extended Mental Health Services, dated the **31st day of October, 2014**.

A copy of this Order to the Patient and the Patient's attorney shall serve as written notification of the Court's determination.

SIGNED this the **31st day of October, 2014**

_____
JUDGE PRESIDING

13-789

13-62

Chapters 14 and 15:

Elder Law,
Guardianships,
Establishing a
Guardianship

409484 - for class

LAST WILL and TESTAMENT
of
HALLIE OWENS

I, HALLIE OWENS, of the County of Harris and the State of Texas, being in good health, of sound mind and disposing mind and memory, do make and declare this instrument to be my *Last Will and Testament*, hereby expressly revoking all former Wills and Codicils made by me at any time heretofore, and intending hereby to dispose of all the property of whatever kind and whatever situated which I own, or in which I have any kind of interest at the time of my death.

ARTICLE I - IDENTITY OF THE FAMILY

1.1 At the time of the execution of this Will, I am widowed and have not remarried. At the time of the execution of this Will, I have children and grandchildren. All references in my Will to "my children" (or to other similar phrases) are to such children and to my children subsequently born to or adopted by me, and any references in my Will to "my descendants" (or to other similar phrases) are to my children and their respective descendants.

ARTICLE II - PAYMENT OF EXPENSES

2.1 I direct that all the expenses of my last illness, my funeral expenses, and all of my just debts, including any inheritance taxes, transfer taxes, and estate taxes which may be levied by the United States Government or by any state by reason of my death, shall be paid by my Independent Executor as soon as conveniently may be done; provided that my Independent Executor, in such sole discretion, may distribute from time to time any real or personal property in my estate which at my death is subject to a lien

1

Testator Initials

FBF-2011-421NG

securing an indebtedness, if in my Independent Executor's judgment, the condition of my estate so requires. The distributee shall then be considered as having received my estate's equity in the property.

ARTICLE III - DEFINITION OF SURVIVAL

3.1 Any legatee, devisee, donee, person or beneficiary with respect to all or part of my estate who shall not survive until thirty (30) days after the date of my death, or until this Will is probated, whichever occurs earlier, shall be deemed to have predeceased me, and shall be treated for all purposes herein as though such person had predeceased me.

ARTICLE IV - APPOINTMENT OF INDEPENDENT EXECUTOR

4.1 I hereby nominate, constitute and appoint my daughter, HILLARY CLOYD as Independent Executor of my estate. If for any reason my daughter fails or ceases to act as Independent Executor, I nominate, constitute and appoint my daughter, MEAG HOLDER as Independent Executor of my estate. If for any reason both my daughters fail or cease to act as Independent Executor, I nominate, constitute and appoint my daughter, LEIGH TRAGNI, as Independent Executor of my estate.

4.2 If my Independent Executor becomes unable to discharge his or her duties under this Will because of accident, physical or mental illness or deterioration, or other cause and does not resign, then upon certification in a form sufficient for the recording of a deed in the State of Texas by two medical doctors (neither of whom who are beneficiaries under this Will) affirming that each has examined the Independent Executor, and each has concluded, based on such examination, that the Independent Executor is unable to discharge his or her duties under this Will, the Independent

Thomas Nichols

PBT-20114210

12062011 1454 P003

Executor shall cease to serve, as if he or she had resigned, effective the date of the certification.

4.3 It is my will and desire and I hereby direct that in the administration of my estate, my Independent Executor, or any successor, shall not be required to furnish any bond of any kind and that no action shall be had in any court in the administration of my estate other than the probating of this, my *Last Will and Testament*, and in the filing of any inventory, appraisement, and list of claims of my estate that may be required.

ARTICLE V - POWERS OF INDEPENDENT EXECUTOR

The estate created or arising by virtue of my death and this instrument, my *Last Will And Testament*, shall be governed by and administered in accordance with the following provisions:

5.1 I hereby grant to my Independent Executor or any successor named above, full power and authority over all of my estate and they are thereby authorized to sell, manage or dispose of the same or any part thereof, and in connection with any such sale or transaction, make, execute and deliver proper deeds, assignments and other written instruments and to do any and all things proper or necessary in the orderly handling and management of my estate.

5.2 My Independent Executor or any successor named above, shall have full power and authority to compromise, settle and adjust any and all debts, claims and taxes which may be due from or owing by my estate.

5.3 My Independent Executor or any successor named above, shall have full power and authority to deal with any person, firm or corporation, including any trusts or trust estate created by this, my *Last Will and Testament*.

T.P.
Thomas Pebbles

PBT-2011-42180

12062011 1454 P0032

5.4 My Independent Executor or any successor named above, shall have full power to borrow money at any time and in any amount from time to time for the benefit of my estate, from any person, firm, or corporation or from any bank or trust company and to secure the loan or loans by pledge, deed of trust, mortgage or other encumbrance on the assets of the estate, and from time to time to renew such loans and give additional security.

ARTICLE VI - SPECIFIC GIFTS

6.1 I give all of my interest in any club membership, automobiles, clothing, jewelry, watercraft, household good, furniture and furnishings, antiques, objects of art, paintings, pictures, photographs, books, sports and recreational equipment, guns, firearms, garden equipment, other articles of personal use or ornament, and other personal effects of a nature, use or classification similar to the foregoing to those persons who are designated in a memorandum to my Independent Executor written entirely in my own handwriting, signed by me and dated after the date of my Will which memorandum shall be deemed a codicil to my *Last Will and Testament*, and I give any of such property not described in any such memorandum to my children, in equal shares if they all survive me; otherwise, to those of my descendants who survive me, per stirpes, with the particular items to be allocated among such children or descendants, as the case may be, as they may agree, or if they can not agree, as my Independent Executor shall decide by drawing lots or some other equitable means.

ARTICLE VII - RESIDUARY ESTATE

7.1 I give all my residuary estate, including any funds from retirement plans, pensions, stocks, bonds, mutual funds or funds from any other type of investment, as well

PBI-2011-42180

as any property over which I might have a power of appointment, to my children in equal shares if they all survive me, otherwise to those of my descendants who survive me, per stirpes, in accordance with the manner of distribution by my Independent Executor as described above in Article 6.1.

ARTICLE VIII - INTERPRETATIONS

8.1 For the purposes of interpretation of this, my *Last Will and Testament*, and the administration of the estate and any trusts established herein, the following provisions shall apply:

This Will shall be produced in accordance with the laws of the State of Texas, and should any provisions of the same be held unenforceable or invalid for any reason, the unenforceability of said provision shall not affect the enforceability or validity of any other part of this Will.

IN WITNESS WHEREOF, I, HALLIE OWENS, hereby sign my name to this my last Will, in addition to each of the foregoing pages on which I have placed my initials, on this 11 day of June, 2008, in Houston, Texas.

Hallie Owens

Testator

H.O.

Witness Initials

ATTESTATION

The foregoing instrument was signed in our presence by HALLIE OWENS and declared by her to be her *Last Will and Testament*. We at the request and in the presence of HALLIE OWENS and in the presence of each other, have subscribed our names below as witnesses on this 20 day of June, 2008.

Witness
10423 SAGEVALE
Street Address
Houston TX, 77089
City and State

Witness
Street Address
City and State

PBT-2011-42180

20120111 1354 PUBLIC

PBT-2011-42180

STATE OF TEXAS

SELF-PROVING AFFIDAVIT

COUNTY OF Harris

BEFORE ME, the undersigned authority, on this day personally appeared HALLIE OWENS and Alejandra Villarreal Sr and Carlos Rocha known to me to be the Testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the said HALLIE OWENS, Testator, declared to me and to the said witnesses in my presence that said instrument is her *Last Will and Testament* and that she willingly made and executed it as her free act and deed; and the said witnesses, each on their oath stated to me, in the presence and hearing of said Testator, that said Testator had declared to them that said instrument is her *Last Will and Testament*, and that she executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witness in the presence of the said Testator and at her request; that said Testator was at that time eighteen years of age or over and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

Hallie Owens
Testator

Alejandra Villarreal Sr
Witness

Carlos Rocha
Witness

Subscribed and sworn to before me by the said HALLIE OWENS, Testator, and by the said Alejandra Villarreal Sr and Carlos Rocha, witnesses, this the 11th day of January, 2012.

Notary Public

REVIEW

Tom Jones comes to your office with his mother's will. She recently died. In going thru her records, he found the original will of his father. His father died 10 years ago. He has a brother who was only left $1,000 in his mom's will. Dad's will gave everything to his mom. How do you proceed?

Susie brings in her sister's will. It says "I wish Mark to have $100,000. Everything else I give to Susie. There is only $100,000 in the estate. Who gets what?

Mason died without a will. He leaves his wife Johanna and two children Alma and Sam by a previous marriage. His estate consists of the house that he and his wife bought, a boat that he owned prior to marriage and another house that he owned prior to marriage. Who gets what?

Hank died without a will. His wife Amy and his son Thomas have both stepped forward wanting to be named administrator of his estate. Both are equally qualified. Who is most likely to be appointed?

Bob's will gives his real property to his brother John valued at 1 million , his cash to his brother George valued at $300,000. There is no residuary property. There is 275,000 in debt. Who gets what?

George's Will says I give everything to my children. How do you proceed?

Mike's Will says I give Hank my real property and Joe my cash. There is other property. How do you proceed?

Marilyn comes to see you. Her brother Joshua was appointed Independent Executor of their father's estate. They have never had a good relationship and she is afraid he will cheat her our of her inheritance. What would you recommend?

Andrew is Executor of his mother's estate. His brother pro se keeps filing pleadings in the court just to harass his brother. How would you proceed?

Minerva died intestate 10 years ago. The only property is the homestead worth 500,000 which her husband lives in. All other property passed outside of probate. He now needs to sell it. How would you proceed?

Sherrie died 10 years ago. There is a house and $200k in a bank account. There are three children. Sherrie was a widow. How would you proceed?

Peter died 10 years ago. His heirs are his three children. There is a house. How would you proceed?

Candace brings in her mother's will leaving everything to her. It is typewritten and signed by her mother and notarized. How would you proceed?

Rory comes to your office. He is a creditor of James Susman's estate. No one has opened probate and he has found unencumbered property belonging to James. How do you proceed?

CHAPTER 14

With the aging of our society, a new area of the law was developed: Elder Law. It covers areas that concern our seniors that are not you typical Wills, Trusts, Estate law.

Most Elder Law attorneys are also Estates attorneys. But not all Estates attorneys are Elder Law attorneys.

Typical topics in Elder Law are medicaid, medicare, housing, elder abuse and exploitation.

National Council on Aging

Elder Abuse Facts

1.8K 2.1K

- What is elder abuse?
- How many older Americans are abused?
- Who are the abusers of older adults?
- What makes an older adult vulnerable to abuse?
- What are the warning signs of elder abuse?
- What are the effects of elder abuse?
- Are there criminal penalties for the abusers?
- How does a person make an elder abuse report?
- How can elder abuse be prevented?
- Where can I learn more?

What is elder abuse?

Elder abuse includes physical abuse, emotional abuse, sexual abuse, exploitation, neglect, and abandonment. Perpetrators include children, other family members, and spouses—as well as staff at nursing homes, assisted living, and other facilities.

- **Physical abuse** means inflicting physical pain or injury upon an older adult.
- **Sexual abuse** means touching, fondling, intercourse, or any other sexual activity with an older adult, when the older adult is unable to understand, unwilling to consent, threatened, or physically forced.
- **Emotional abuse** means verbal assaults, threats of abuse, harassment, or intimidation.
- **Confinement** means restraining or isolating an older adult, other than for medical reasons.
- **Passive neglect** is a caregiver's failure to provide an older adult with life's necessities, including, but not limited to, food, clothing, shelter, or medical care.
- **Willful deprivation** means denying an older adult medication, medical care, shelter, food, a therapeutic device, or other physical assistance, and exposing that person to the risk of physical, mental, or emotional harm—except when the older, competent adult has expressed a desire to go without such care.
- **Financial exploitation** means the misuse or withholding of an older adult's resources by another.

Learn more about the types of abuse from the National Center on Elder Abuse (NCEA).

How many older Americans are abused?

Approximately 1 in 10 Americans aged 60+ have experienced some form of elder abuse. Some estimates range as high as 5 million elders who are abused each year. One study estimated that only 1 in 14 cases of abuse are reported to authorities.

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Who are the abusers of older adults?

Abusers are both women and men. In almost 60% of elder abuse and neglect incidents, the perpetrator is a family member. Two thirds of perpetrators are adult children or spouses.

What makes an older adult vulnerable to abuse?

Social isolation and mental impairment (such as dementia or Alzheimer's disease) are two factors. Recent studies show that nearly half of those with dementia experienced abuse or neglect. Interpersonal violence also occurs at disproportionately higher rates among adults with disabilities.

What are the warning signs of elder abuse?

- **Physical abuse, neglect, or mistreatment:** Bruises, pressure marks, broken bones, abrasions, burns
- **Emotional abuse:** Unexplained withdrawal from normal activities, a sudden change in alertness, or unusual depression; strained or tense relationships; frequent arguments between the caregiver and older adult
- **Financial abuse:** Sudden changes in financial situations
- **Neglect:** Bedsores, unattended medical needs, poor hygiene, unusual weight loss
- **Verbal or emotional abuse:** Belittling, threats, or other uses of power and control by individuals

What are the effects of elder abuse?

Elders who have been abused have a 300% higher risk of death when compared to those who have not been mistreated. While likely under-reported, estimates of elder financial abuse and fraud costs to older Americans range from $2.9 billion to $36.5 billion annually.

14-3

Yet, financial exploitation is self-reported at rates higher than emotional, physical, and sexual abuse or neglect.

Are there criminal penalties for the abusers?

Most states have penalties for those who victimize older adults. Increasingly, across the country, law enforcement officers and prosecutors are trained on elder abuse and ways to use criminal and civil laws to bring abusers to justice. Review elder justice laws, statistics and other state resources compiled by the NCEA.

How does a person make an elder abuse report?

If an older adult is in immediate, life-threatening danger, call 911. Anyone who suspects that an older adult is being mistreated should contact a local Adult Protective Services office, Long-Term Care Ombudsman, or police. NCEA describes various scenarios and ways to Get Help, and more information is available from the Eldercare Locator online or by calling 1-800-677-1116.

How can elder abuse be prevented?

Educating seniors, professionals, caregivers, and the public on abuse is critical to prevention. If you're an older adult, you can stay safe by:

- Taking care of your health.
- Seeking professional help for drug, alcohol, and depression concerns and urging family members to get help for these problems.
- Attending support groups for spouses and learning about domestic violence services.
- Planning for your own future. With a power of attorney or a living will, you can address health care decisions now to avoid confusion and family problems later. Seek independent advice from someone you trust before signing any documents.

- Staying active in the community and connected with friends and family. This will decrease social isolation, which has been connected to elder abuse.
- Posting and opening your own mail.
- Not giving personal information over the phone.
- Using direct deposit for all checks.
- Having your own phone.
- Reviewing your will periodically.
- Knowing your rights. If you engage the services of a paid or family caregiver, you have the right to voice your preferences and concerns. If you live in a nursing home, call your Long Term Care Ombudsman. The ombudsman is your advocate and has the power to intervene.

Where can I learn more?

- Administration for Community Living (ACL): Protecting Rights and Preventing Abuse
- National Center on Law & Elder Rights
- USC Center on Elder Mistreatment and National Center on Elder Abuse
- CFPB Office of Financial Protection for Older Americans
- Department of Justice Elder Justice Initiative
- U.S. Government Accountability Office (GAO)
- Elder Justice Roadmap Project
- Savvy Saving Seniors®: Steps to Avoiding Scams
- Elder Justice Coalition

AGING PARENTS:

What to Expect and How to Plan

(From the Perspective of an Elder Law Attorney)

By THERESA A. CLARKE

As the U.S. population ages, more people find themselves caring for a spouse, parent, or other loved one who is elderly or disabled. The U.S. Census Bureau projects that for the first time, older adults will outnumber children under age 18 by 2034.[1] Currently, almost 17% of the U.S. population, or 56 million people, are over the age of 65. By 2035, that number will rise to 77 million. The number of people over the age of 85 is growing even faster and is expected to triple by 2060.

Given this reality, for those not already facing the challenge of caring for a loved one or planning for their care, many of us will encounter this situation at some point. Advanced planning can help ease the anxiety of that transition. At a minimum, crisis "planning" may be avoided. This article focuses on guiding lawyers as their parents age and need care.

When should someone start thinking about intervening or providing extra help to a parent? Age is not the only factor. A diagnosis of a serious illness requiring caregiving can happen at any age. And of course, some people live to old age without requiring much assistance at all. So, what are some of the signs that a parent needs help or that it's time to get serious about planning?

Determining gaps in caretaking is a first step. Observe parents at home: Are they steady on their feet? Are they taking medications as prescribed? Do they seem confused or mentally unstable? Is there enough food in the house? Are bills being paid? If they need assistance, begin establishing the support system they will need to continue living at home. For parents who do not live nearby, maintain contact with them by seeking help from neighbors, food providers, and caregivers. Many older adults, including the elderly, have smartphones or other access to technology. A search for "best online caregiving apps" yields many options. For elderly parents who don't have access to technology, remote caregivers can still arrange for groceries to be delivered to their parents, their house to be cleaned, and their yard to be maintained. Advance directives and powers of attorney can be lifesavers, and if parents do not have these documents, it is strongly suggested they hire an attorney to prepare them, along with estate planning documents.

The three Ds of geriatrics[2] are depression, dementia, and delirium. Misidentifying or failing to differentiate among these conditions can have significant consequences, and the conditions are not mutually exclusive. Depression is a mood disorder "characterized by feelings of loss, sadness, guilt and low self-esteem where the patient exhibits cognitive, physical and mood changes."[3] Depression is not uncommon among the elderly and is frequently undiagnosed because it often presents differently in the elderly than in younger people. Dementia, a general term describing a group of diseases affecting the brain, is characterized by a progressive, persistent loss of cognitive and intellectual functioning. The term includes Alzheimer's disease, Lewy Body dementia, vascular dementia, and fronto-temporal dementia. Between five and six million adults over age 65 have dementia. This number is expected to reach 14 million by 2060.[4] Delirium is often confused with dementia but is distinguishable due to its rapid onset, fluctuating course, and potential for recovery. It is usually caused by an acute medical condition such as pneumonia or a urinary tract infection.

It's important to understand that dementia is not a disease that eventually affects everyone who reaches old age. Loved ones need to pay attention to changes, ask questions, and listen carefully. Warning signs of dementia include an inability to carry out normal daily activities, hygiene decline, weight loss, poor cognitive skills, and loss of interest in social activities. Signs of depression overlap with those of dementia and can include irritability and agitation. Because of the difficulty for a lay person to discern among the three Ds, it may be necessary to arrange for and/or accompany the person to a physician specifically for a mental health checkup.

One-fifth of the current adult population provides unpaid care to family members or other loved ones, representing an increase of almost 10 million people between 2015 and 2020.[5] A significant portion of these people are managing care long distance. These caregivers can spend twice as much as those who live closer to their parents on support for their family members. A caregiver's role includes everything from

simply checking in to providing ongoing and almost constant help with bathing, toileting, dressing, and more. The more complex and chronic the medical conditions, the more complicated and stressful caregiving can be. Unsurprisingly, providing care within such complicated circumstances can lead to serious health issues for the caregiver, such as anxiety, heart disease, and depression.

Many of these issues can be mitigated through planning. Seniors and their adult children can work together to form a plan and secure arrangements before caregiving is needed. The family must consider financial aspects in the plan, including researching how much it would cost to pay a professional for assistance at home, ranging from basic housekeeping help to skilled nursing care, or to move into an assisted living facility or nursing home. Families should also discuss how responsibilities should be divided. Putting measures in place in advance to plan for nursing home care can ease the transition in the event it becomes necessary.

Aging in place is the desired goal for almost everyone, but staying at home may become impossible. Without advanced planning, children who find themselves having to make hasty decisions about their parents' living arrangements can end up with substandard care. With planning and communication, there is time to understand the options and consider the continuum of housing and care. In addition to staying at home and receiving paid or unpaid help or home healthcare, options include, but are not limited to, retirement communities; independent living communities with apartment-style buildings, social activities, and amenities; and assisted living facilities, which allow for private quarters while assisting residents with some activities of daily living, like help with meals, laundry, and the like.

If a medical condition exists that requires treatment by a medical professional, skilled nursing care may be necessary. If the condition is short-term, the person might require hospitalization, then move to a rehabilitation facility or nursing home, and later return to the previous living arrangement when skilled nursing is no longer needed. For persistent and long-term care requiring skilled medical care, a nursing home often becomes unavoidable, as long-term in-home nursing can be cost-prohibitive.

One of the most persistent myths about long-term nursing home care is that the cost is covered by Medicare. Medicare is the primary health insurance program for Americans over 65. Traditional Medicare does cover up to 100 days in a skilled nursing facility for skilled (not custodial) care. However, to be covered, the stay must be preceded by an inpatient hospital stay of three consecutive days, not including the day of discharge, and the person must enter the nursing facility within 30 days of the discharge from the hospital.[6] And even then, Medicare covers the full cost for only the first 20 days. For days 21–100, there is a copay.[7] After that, the person is responsible for all costs.

Average nursing home care costs range from $5,000 to $8,000 per month but can be much more expensive. A private room will be more expensive than a semi-private room. The national median cost of a semi-private room in a nursing home is $7,908.[8] If Medicare only covers the cost for a short period of time, how does one pay for long-term care in a nursing home? There are three ways to finance long-term care (LTC).

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This year, the teams at Houston-based firm Briggs & Veselka and its subsidiary, Pathway Forensics, joined Crowe LLP, a public accounting, consulting, and technology firm with offices around the world. Crowe offers a variety of services and solutions for legal departments and law firms.

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- Digital forensics and incident response services
- Legal management consulting

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Briggs & Veselka Co. team joins Crowe
CPAs and Business Advisors

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First, some seniors are able to pay the private pay rate out of pocket. This option may be viable if the person has built up a solid retirement nest egg. If one spouse needs nursing home care and the other will remain at home, the retirement funds will not last as long. Most individuals cannot afford the cost of a nursing home over several years, which may be needed if the person has Alzheimer's or other dementia. It is not uncommon for Texas nursing home residents to exhaust their resources and reach the poverty level after six months. Be aware: it is against federal law for a nursing home to require a resident's family member or friend to become financially liable for the nursing home bill if the resident runs out of funds.[9] The same law is codified in a bill of rights for nursing home residents.[10]

Second, individuals can purchase LTC insurance well in advance. The older the person, the higher the cost. And at some point, and after certain diagnoses, it is usually not possible to obtain a policy. Policies vary widely, and the level of coverage depends on the type of plan purchased. LTC policies are governed by the Texas Insurance Code.[11]

Third, individuals can apply for public benefits such as Medicaid. Medicaid is a publicly funded medical assistance program that pays LTC costs for people who meet the eligibility criteria. It is funded 60% by the federal government and 40% by the states. When Medicaid was enacted in 1965 along with Medicare, and as part of changes to the Social Security Act, it was associated with welfare and was, in fact, restricted to people with low incomes and limited resources. Throughout the decades, Medicaid has changed to cover more people in need of healthcare services, including long-term care services such as nursing home care. Given that most older adults cannot privately pay for nursing home care for an extended time and do not have LTC insurance, Medicaid is the default long-term care program in the U.S. and is a middle-class program.

There are dozens of Medicaid programs in Texas, including nursing home Medicaid, which is a focus of this article.[12] In Texas, it is administered by the Texas Health and Human Services Commission.[13] To qualify for long-term care Medicaid in Texas, the applicant must:

1. Be a U.S. citizen or a qualified alien;
2. Be a Texas resident;
3. Be 65 years of age or older, blind, or disabled;
4. Meet the "medical necessity" requirement;
5. Reside in a Medicaid certified facility and bed;
6. Receive less than the income cap established by the State; and
7. Remain under the asset limit of $2,000 of countable resources.[14]

The financial requirements need some unpacking. Texas is one of 12 states that puts a cap on income. In 2023, the income cap in Texas is $2,742, which means that for an individual to be eligible for long-term care Medicaid, his or her gross monthly income must fall below that amount (adjusted annually).[15] If both spouses apply, the income cap doubles. However, under federal law, a person whose income is over the cap can become income-eligible by directing income into a qualified income trust (QIT).[16] Income that is directed to the QIT during the same calendar month in which it is received is not tested against the cap, effectively reducing "countable" income to an amount that is under the cap. Regardless of whether a QIT is needed, once certified for Medicaid, a single person will have a copayment to the nursing home, with Medicaid covering the balance. A married person whose spouse stays in the community (not in a skilled nursing facility) may have a copayment, depending on the couple's combined income and allowable deductions.

The $2,000 asset limit is a minefield both for laypeople and attorneys who don't practice elder law. First, certain assets do not count against the $2,000 limit. For example, a single person can own a house with an equity value of $688,000 (in 2023). For a married person, there is no limit to the value of the homestead. Other non-countable assets include a vehicle, certain retirement accounts and life insurance policies, and a ranch or other business asset under certain conditions. Second, major changes in the 1980s relaxed the requirements for married people so that the spouse who does not need nursing care does not become impoverished due to paying all the couple's income to a nursing home.[17] Hundreds of specific and complicated rules relate to these examples. What works in one situation does not work for another.

For attorneys whose parents or loved ones are aging, an elder law attorney can help address estate and benefits planning, as well as numerous other legal issues and assistance. Beginning about 40 years ago, the need for highly specialized attorneys in elder law resulted in the formation of organizations like the National Academy of Elder Law Attorneys and the National Elder Law Foundation (NELF), as well as local groups such as the Houston-based Disability and Elder Law Attorneys Association. NELF is the only national organization accredited by the American Bar Association to certify practitioners of elder and special needs law. NELF's Certified Elder Law Attorney designation represents a lawyer's expertise in the practice of elder law.

Theresa A. Clarke is a senior associate attorney at Wright Abshire, Attorneys, PC, an elder law firm in Bellaire, Texas. She is listed in The Best Lawyers—Ones to Watch in America, Elder Law & Trusts and Estates, 2023.

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YOUR AGING PARENTS:

Protecting Them From Fraud

By JOSEPH FRANK

Life is busy. From raising children to a demanding career and everything else in between, if you're like me, you struggle just to keep your own life in order. All the while, your parents are aging. And as they age, they become increasingly vulnerable. To protect your aging parents from fraud, it is essential to communicate with them now and undertake important preventative measures.

For starters, every older adult needs (1) a will, (2) a financial power of attorney, (3) a medical power of attorney, and (4) an advanced directive, which specifies how one wants medical decisions about oneself to be made in the event of incapacity. Once your parents become incapacitated, it'll be too late. They won't be able to sign these documents. So talk to your parents now and make sure they have these documents in place while they are still mentally competent.

Of equal importance, ensure that your parents keep these documents where they can be found. The power of attorney documents should be shared with the person designated with the power of attorney. Financial power of attorney documents should also be put on file with the relevant financial institutions, and medical power of attorney and advance directive documents should be shared with each parent's primary care physician. Being prepared will make things easier down the road and could prove instrumental in mitigating a scam or preventing one altogether.

Technological advancements bring opportunities for fraud. For every scheme you warn your parents about, two more are certain to pop up. At a minimum, teach your parents to use two-factor authentication. Also, encourage your parents to use a credit card instead of a debit card or checks, as many credit cards have built-in fraud protections and—unlike debit cards and checks—are not directly linked to an underlying bank account.

Regarding their smartphones, some basic rules will help. First, don't answer calls from unknown numbers. Legitimate callers (such as a doctor or a bank) will leave a voicemail or send a text message. Second, don't click on links embedded in text messages or emails unless the source is known and trusted. Third, if a voicemail or text message seems at all fishy, contact the sender to verify. And when contacting the sender, look up the sender's contact information independently of the text or email, e.g., on the sender's official website. This is especially true for any message about an account being compromised. Fourth—and this cannot be emphasized enough—never click on an embedded link! If an email or text message says an account is compromised, go to the website like one normally would and only then change the password.

The variations of fraud are unlimited, and you cannot prepare your parents for them all. However, a little common sense can go a long way. If it sounds too good to be true, it is. You didn't win Publisher's Clearing House Sweepstakes, and you aren't the heir to the fortune of an estranged relative you never heard of. Similarly, if it sounds shockingly horrible, it's also not true. Your relative is not in jail in Mexico, and the IRS is not about to arrest you or a loved one unless you pay the "agent" on the phone. Con artists prey on emotions like fear, greed, trust, and loneliness. Tell your parents that if they are presented with anything that sounds too good or bad to be true, they should take a step back, think it through, and—most importantly—call you or another trusted family member before taking any action.

In short, a little preparation and some common sense guidance can help protect your aging parents from fraud.

Joseph Frank is an assistant district attorney assigned to the Elder Abuse Section of the Harris County District Attorney's Office.

14-9

Richmond woman accused of defrauding elderly man

By Natalie Weber
STAFF WRITER

A 40-year-old Richmond woman who faces two counts of fraud and two counts of false statements on Wednesday made her initial appearance in court before U.S. Magistrate Judge Frances H. Stacy.

Amy Anglin's indictment is related to an alleged fraud scheme, whose victim involves her now 94-year-old and legally blind client. He was a partially retired real estate developer.

Appearing in court in black yoga pants, a red tank top and a gray jacket, Anglin was scheduled to be released on a $100,000 unsecured bail. She will be required to wear a GPS ankle monitor and will not maintain employment.

According to the May 30 indictment, Anglin, who was assigned a public defender, began working for her then 91-year-old client, F.W., who hired her to help him manage his personal finances in 2015. In early 2016, she allegedly began to have F.W. sign checks to herself, knowing he could not see who the checks were made out to or the amount listed on the checks, the indictment said.

The document alleges Anglin used this method to obtain more than $275,000 during the 2017 and 2018 calendar years. She also allegedly used his credit cards for her own personal expenses and charged more than $200,000 to one of his credit cards between early 2016 and around November 2018, according to the document. Using this credit card, the indictment alleges, Anglin wired money to friends, family and acquaintances, through the Western Union Company.

She was convicted of embezzlement from insurer in Oklahoma in 2012, according to the indictment, and sentenced to one year and one day in federal prison, along with three years of supervised release. The court also ordered her to repay the $217,274.77 she defrauded from the private insurer, in payments of $200 per month.

According to the indictment, Anglin allegedly submitted false statements to both the Financial Litigation Unit of the Southern District of Texas and the Justice Department saying she was unemployed and did not have a salary. At the time both statements were signed, she was employed by F.W., the indictment alleges.

According to a U.S. attorney's press release, Anglin allegedly used money defrauded from F.W. to pay for vacations to Hawaii, Las Vegas and her hometown, as well as to fund a country club membership, overdue child support services, golf lessons and a hot tub, among other home additions.

The release said her client's family questioned some of the payments from his accounts, and subsequently discovered her alleged fraud scheme. According to the charges, Anglin was never authorized to make the alleged payments or transfer the money.

Anglin could face up to 20 years in federal prison for wire fraud and five years for making false statements, if convicted. Her trial is set for June 19 before United States District Court Judge Nancy Atlas.

natalie.weber@chron.com

6/6/19

14-10

4/2018

Marvel's Lee allegedly abused

LOS ANGELES — Los Angeles police are investigating reports of elder abuse against Marvel Comics' Stan Lee.

The investigation was revealed in a restraining order granted Wednesday against a man who has been acting as Lee's business manager and personal adviser.

The restraining order accuses Keya Morgan of taking advantage of the 95-year-old Lee's impaired hearing, vision and judgment, moving Lee from his longtime family home and preventing family and associates from contacting him.

Morgan was arrested Monday on charges of filing a false police report by calling 911 and saying burglars were in his house when in fact authorities were conducting a welfare check on Lee.

...e court.

Aldrin sues his children, alleges misuse of funds

ASSOCIATED PRESS

ORLANDO, Fla. — Apollo 11 moonwalker Buzz Aldrin is suing two of his children and a former business manager, accusing them of misusing his credit cards, transferring money from an account and slandering him by saying he has dementia.

Aldrin's lawsuit filed earlier this month in a Florida state court came a week after his children, Andrew and Janice, filed a petition claiming their father was suffering from memory loss, delusions, paranoia and confusion. They asked for the court to name them his legal guardians, saying Aldrin, 88, was associating with new friends who were trying to alienate Aldrin from his family and that he had been spending his assets at "an alarming rate."

Court-appointed mental health experts planned to evaluate Aldrin in Florida on Tuesday and Wednesday.

In April, the 88-year-old underwent his own evaluation conducted by a geriatric psychiatrist at UCLA, who said Aldrin scored "superior to normal" for his age on tests.

"I also believe that he is perfectly capable of providing for his physical health needs, food, clothing and shelter, and is substantially able to manage his finances and resist fraud and undue influence," said Dr. James Spar in a letter to Aldrin's attorney.

In Aldrin's lawsuit, the former astronaut asked a judge to remove Andrew Aldrin from control of his financial affairs, social media accounts and several nonprofit and business enterprises. Andrew Aldrin had been a trustee of his father's trust. Buzz Aldrin said in the complaint that despite revoking the power of attorney he had given his son, Andrew Aldrin continued making financial decisions for him.

Aldrin accused his daughter, Janice, in the lawsuit of not acting in his financial interests and conspiracy, and he accused his former manager, Christina Korp, of fraud, exploitation of the elderly and unjust enrichment. Also named in the lawsuit are several businesses and foundations run by the family.

Aldrin's oldest son, James, isn't involved in the legal fight.

In a statement, Andrew and Janice Aldrin said they're saddened by the "unjustifiable" lawsuit.

Aldrin was a member of the Apollo 11 crew which landed the first two humans on the moon.

14-11

AdChoices

Family of late black golf great accused of $1 million theft

AP

Associated Press

BY MARK GILLISPIE

16 hrs ago

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© Mark Duncan/AP In this Nov. 13, 2014, photo former PGA golfer Charlie Sifford sits in the dining room of his home in Brecksville, Ohio. Sifford was the first black professional golfer to hold a PGA tour card.

CLEVELAND (AP) The son and ex-daughter-in-law of late black golf pioneer Charlie Sifford were indicted Tuesday on charges they stole more than $1 million from him.

Sifford in 1961 became the first black golfer to earn full-time playing privileges on the PGA Tour, paving the way for minorities to compete at the sport's highest level. Craig and Sandra Sifford stole the money from him over a four-year period starting in 2010 and spent it on travel, dining, clothes, jewelry and landscaping, the state attorney general's office and the county prosecutor's office said.

Craig and Sandra Sifford, who divorced a few months ago, were charged in Cuyahoga County Common Pleas Court with crimes including theft, money laundering and unauthorized use of property. Sandra Sifford also was charged with receiving stolen property.

The prosecutor's office said an investigation into the thefts was ongoing when Charlie Sifford died at age 92 in February, not long after he suffered a stroke. Craig and Sandra Sifford's divorce decree was granted later that month.

The investigation by the state Bureau of Criminal Investigation, the county sheriff's department, the county adult protective services agency and the Internal Revenue Service began after a complaint to law enforcement that Craig Sifford was abusing a power of attorney for his father. The couple had a home in Brecksville, the Cleveland suburb where Charlie Sifford lived.

14-B3

Craig Sifford's attorney did not return messages seeking comment Tuesday, and it was unclear who represents Sandra Sifford. A home phone number listed for them rang unanswered.

Charlie Sifford's fame as a golfer was hard earned. He helped dismantle the PGA Tour's Caucasian only rule but continued to face discrimination from tournament organizers in the South after earning his tour card.

Sifford has been credited with opening the doors to other minority golfers. Tiger Woods called Sifford his grandfather and said that were it not for Sifford and other pioneers he might not have played the game.

Sifford was inducted into the World Golf Hall of Fame in 2004 and received an honorary doctorate degree from the University of St. Andrews in Scotland in 2006.

Last November, Sifford received the Presidential Medal of Freedom from President Barack Obama during a ceremony at the White House.

Despite having won two PGA Tour events and the 1975 PGA Seniors Championship, Sifford considered his six National Negro Open titles his most significant victories.

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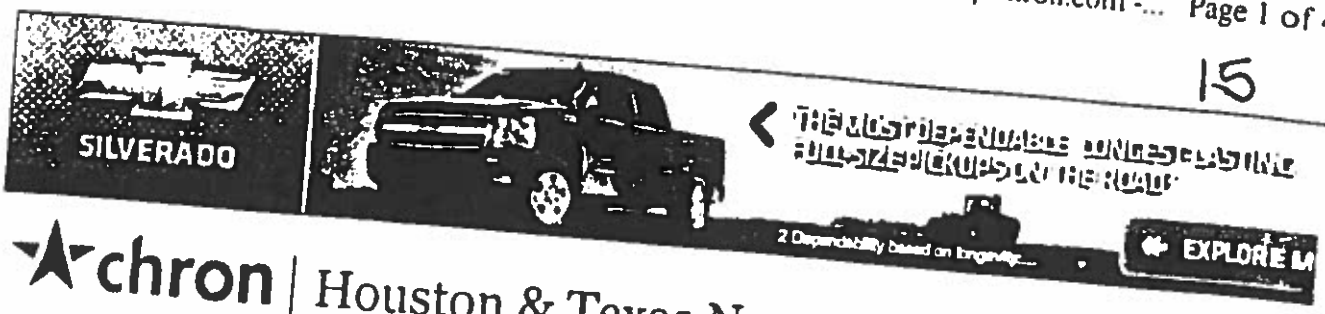

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Twins arrested after mother's body found in home

By ANITA HASSAN
Copyright 2011 Houston Chronicle
April 13, 2011, 7:29AM

1 2

The brothers were arrested early Tuesday morning. HPD

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Twin brothers Edward and Edwin Berndt were trying to watch the BCS Championship college football game in the living room of their southeast Houston home on Jan. 10 when their elderly mother interrupted them.

Sybil Berndt, 88, came in the room appearing delusional, ranting and raving that someone was going to break in to the house and steal their piano. That's what the 48-year-old twin brothers told police was happening when their mother allegedly fell down and did not get up.

The brothers — deciding they did not have money for medical treatment — told police they left their mother on the floor, without food or water. Three days later, she died, still lying on that floor.

For almost the next three months, the brothers continued to live in the home with their mother's body on the floor, decomposing more and more by the day. On Monday, both men were arrested and charged with felony murder.

"This was definitely a lot different than the average case that we get," said Houston Police Department Sgt. R. Torres, who is investigating the case.

Both men are being held in the Harris County jail on bail of $500,000 each. They are expected to appear in court today.

A/C was turned off

Sybil Berndt's body was discovered by an officer, who came to the family's home in the 8400 block of Glenscot around 4:30 p.m. Monday after a concerned neighbor, Jessica Delpino, called police to make a welfare check on the elderly woman.

Once the brothers let her inside, the officer found Berndt's body lying face-down in the front foyer. She was wearing only a nightgown pulled up just under her arms. Her body was in an advanced stage of decomposition.

Torres said the air conditioning had been turned off, creating a stagnant heat while the stench of rotting flesh filled the home. He described the scene as putrid and deplorable.

"You normally wouldn't be able to withstand that smell for more than one minute, two at the most, without heaving your insides out," he said.

Edwin and Edward, who were wearing matching flannel pajama bottoms when police arrived at the home, told investigators they had not left the house for the past three months, surviving on a junk food diet consisting of potato chips, candy and popcorn.

14-15

"They just stepped over her all day, everyday," Torres said.

Because they did not have money for a funeral, the brothers told police investigators they continued to leave her on the floor.

Died day after turning 89

Edwin Berndt told investigators that his mother was conscious and able to speak for about a day after she fell. He told investigators he remembers that his mother died Jan. 13 because it was a day after her 89th birthday.

"They didn't seem to have any real remorse for their mother," Torres said. "I think they were more concerned with what was going to happen to them."

Torres said both men spoke clearly with a bit of Southern drawl and seemed fairly intelligent. Both men graduated from high school - Edwin attended Milby High School, while Edward went to Lyndon B. Johnson High where he was in a program for gifted children.

When they spoke to investigators, they wore blank stares. Both men told investigators they never tried to help their mother, Torres said. When investigators asked them why, their reply: She never asked us to.

Residents of Meadowbrook Freeway, where the Berndts lived, were astonished to learn what had happened to Sybil Berndt, a woman they described as a kind-hearted person, who went out of her way to help others and would often spend hours with ill neighbors so their spouses could go run errands.

Many of the residents of the quiet neighborhood became concerned as they saw little activity at the one-story, ranch-style home over the last few months. Several neighbors called the house, but no one answered. Some came to the home, but they never received any reply to their knocks.

Delpino, the neighbor, eventually called Adult Protective Services, who recommended she call police. She, like others in the neighborhood, was shocked by what police found.

"It's kind of deranged that they were living in house with her dead like that," she said.

Mother had lots of money

Most residents said they knew little about the family. They would occasionally see Sybil Berndt at civic club events, which she attended less after her husband died from Alzheimer's in 2007.

Investigators found bank statements showing that Sybil Berndt had several hundred thousand dollars in her accounts. Neither Edwin nor Edward Berndt had held a job for several years. Torres said the family owned ranch property that they rented out, which made up most of their income.

Neighbors said they occasionally saw the twins in the front yard raking leaves and mowing the lawn, never bothering anyone. Neighbors were surprised to see the brothers, who were always clean cut and freshly shaven, clad with bushy dark beards and unkempt hair.

"I would have never expected this to happen because they seemed very docile," said 75-year-old Jim Scott, who lives across the street from the family.

Segundo Abrego III, 18, also said the brothers seemed harmless, always keeping to themselves.

He could tell something was wrong when he saw several police cars around the Berndts' home Monday afternoon.

"I didn't know what to expect," he said. "But I wasn't expecting this."

anita.hassan@chron.com

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ELDER SCAMS

Many times our elder citizens are the victims of scams perpertrated by unscrupulous persons whose only goal is financial gain. Some of the most common are listed below.

The Internet: The internet is a wonderful invention but just as it has been used for good, the criminals have also discovered its use. If you receive an email purportedly from any business, bank asking you for personal information do not reply. The email will look very official with company logos on the email but do not fall for it. If your bank or a business who you do business with really needs information, they will call you or if you get a request via the email. CALL THEM.

The other large internet scam is that you get an email from someone in a foreign country professing to having millions of dollars that they need to transfer to the U.S. and offering to share the proceeds if they can use your account or if you will pay a transfer fee. Many times these are from Nigeria. Do not respond to these. They are scams.

Auto Repair: Cars are the greatest blessing and a curse. Most person do not understand how they work or should be repaired. Recently, there has been a group of people intercepting the elderly in a parking lot saying the car needs repair and they can do it cheaply and immediately. They will take money and your car.

The most common scams are: flat tires (they poke a hole while you are being distracted); and leaking shock absorbers (they squirt oil under the car).

To keep this from happening: get recommendations from friends and neighbors

If not listed in the yellow pages be careful

Ask if they have been approved by any organization such as AAA

Ask if they have a charge for diagnosing the problem and will they give an written estimate before they repair.

Ask about warranties for their work and the parts. A good shop will stand behind their work.

Home Remodeling: Contractors in Texas are unlicensed and unregulated. However there are building ordinances that require city inspection. Some contractors do not pull permits and will tell the homeowner it will save money. It might save money but you do not have anyone reviewing the work to make sure it meets city code. Get recommendations prior to hiring a contractor. Does he have a regular place of business? Check with the Better Business Bureau to see if the contractor has been reported to them. Ask if they carry workman's compensation or liability insurance. Check with his previous customers. Remember your house is a very important asset and should be properly maintained.

Salesmen: Never buy anything but Girl Scout cookies. Do not buy steaks/seafood off a truck; leftover asphalt from "another job" or someone who knocks on your door saying he noticed that your roof needs repair or something else on your house needs repair. The prices will be exorbident and the repair work non-existent

Telemarketers: Do not buy over the phone. You do not know if it is someone trying to get your credit card information. If a charity, ask them to send you information and then you will decide if you wish to give or ask for a telephone number and you will return their call at a later time when you have had an opportunity to investigate the charity. The legitimate ones will be happy to send you information. Some of the most common scams are: Investing in precious metals or an oil well; selling time shares or real estate; selling work at home business opportunities. Remember if it sounds too good to be true it probably is.

Insurance and Investment: There are many professional sales persons in the insurance and investment business. But there are also those who are not committed to your best interest but committed to earning a commission or a bonus by selling investment and insurance products. The ones that might call are those who are just learning the business. If interested in investing in these products ask a friend, co-worker or estate attorney for recommendations. You may consider hiring a registered investment advisor that does not work on a commission but a fee basis.

Travel: Many elders are fortunate to be in good health and able to travel. If you are a traveler or plan to travel, please remember: do not just trust a brochure about the travel destination; do a little research; call hotel, rent car, transportation and confirm arrangements or use a reputable travel agent; pay with a credit card so you have some recourse should a dispute arise; ask about cancellation policies; consider insurance needs-if paying way in advance consider cancellation insurance; do not leave valuables in the car or hotel room-if the hotel room has a safe, use it; do not buy anything that you cannot carry home;

Purchases: When purchasing items, consider using a credit card and paying it off at the end of every month. Most credit cards offer the consumer protection should a dispute arise about the quality of the item purchased or repaired.

Who to Call. If you have been a victim please call the following persons to report it: U.S. Post Office if the mail was used; the attorney general's consumer fraud division: district attorney's consumer fraud division; securities board if securities were sold; state board of insurance if insurance policies were sold.

Remember-Do not give money up front and never sign any contract or sales agreement that you do not understand.

NURSING HOME RIGHTS

A resident of a nursing home has additional rights granted to them. Prior to residing in a nursing home, the admission agreement should be reviewed closely. The resident should be given a copy of Resident's Rights. These rights include but are not limited to the right to appropriate care, treatment and services without any physical abuse; the home is required to have a individual plan of care for each resident to describe how the home will meet the resident's needs. This plan should cover nursing, rehabilitation, social services, dietary and recreational. A resident should have the right to choose his/her own doctor, participate in the planning of care, the right to refuse treatment, and to be informed about their condition. The meals must be varied and include bedtime snacks. If assistance is needed to eat, the staff should help. The home should offer activities. The resident has the right to visitors, the right to vote, the right to privacy when examined (screens/curtains) and the right to receive their mail unopened. A nursing home must give 30 days notice before removing a resident for non-payment.

Archive Search Result

Nation
Crime
Education no protection in elder scams

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RALEIGH, N.C. - With their elderly parents seated across the table, Donna and Jim Parker were back in the kitchen they knew so well.

It was Christmastime, but this was no holiday gathering. Now, it was the parents who were in deep trouble, and this was an intervention.

For the past year, Charles and Miriam Parker, both 81, had been in the thrall of an international sweepstakes scam. The retired educators, with a half-dozen college degrees between them, had lost tens of thousands of dollars.

But money wasn't just leaving the Parker house. Strangely, large sums were now coming in, too.

Their four children were worried, but had been powerless to open their parents' eyes. Maybe, Donna thought, they'd listen to people with badges.

And so, joining them at the family table that day in 2005 were Special Agent Joan Fleming of the FBI and David Evers, from the North Carolina attorney general's telemarketing fraud unit.

The home was littered with sweepstakes mailers and "claim" forms, the cupboards bare of just about everything but canned soup, bread and crackers. Charles Parker acknowledged that he'd lost a lot of money, but expressed confidence that he and his wife would eventually succeed if they just kept "investing."

Evers and Fleming showed the couple a video of other elderly scam victims, then played a taped interview of a former con man describing how he operated. Charles was alarmed by what he was seeing and hearing, but his wife seemed to be barely paying attention.

With the couple's permission, Evers installed a "mooch line" on the kitchen phone so they could capture incoming calls. The Parkers pledged their cooperation.

After gathering up some of the mailings for evidence, the officers left, encouraged by what seemed hours well spent.

But in the coming months and years, things would only get worse for the Parker family - much worse.

The Parkers were hardly unsophisticated people, the type to be easily fooled.

Charles earned a doctorate in speech communications, and Miriam received a pair of master's degrees, one in special education. Along the way, Miriam gave birth to four children: Donna, Jim, Linda and Carole.

After other teaching stints, Charles Parker took a position in the English department at North Carolina State in Raleigh, from which he would eventually retire. In 1966, the couple built a split-level home, later converting the garage into a classroom for Miriam's special-needs pupils.

Through hard work and thrift, the Parkers were able to send all four children to college and pay off their home. Between their savings and Charles' pension, they were looking at a comfortable retirement.

Then the con man entered their lives.

Most victims 80 to 89

Older Americans lose $2.9 billion a year to fraud, according to a study last year by the National Committee for the Prevention of Elder Abuse and the Center for Gerontology at Virginia Tech. Most victims are between 80 and 89, and

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Using the latest technologies, "these criminals need not defraud their victims face-to-face," David Kirkman and Virginia Templeton wrote in a 2007 article for the journal Alzheimer's Care Today. From far away, "they can identify vulnerable seniors, contact them, and induce them to part with their savings."

A slowing down of brain function comes with normal aging, they noted. The elderly are susceptible to errors in judgment, particularly in situations where a snap decision is required - such as during a telemarketing call.

"Experience teaches us that those with mild dementia tend to be the most vulnerable," wrote Kirkman, an assistant attorney general in North Carolina, and Templeton, a gerontologist.

The Mayo Clinic defines "mild cognitive impairment" as an "intermediate stage between the expected cognitive decline of normal aging and the more pronounced decline of dementia."

The basis for a diagnosis in many cases: falling victim to repeated scams.

No one can say exactly how the trouble began in the Parkers' case.

Somehow, though, the couple ended up on what people in the industry call the "sucker list."

Then the scammers proceeded to "reload" them.

You've won this multimillion-dollar lottery, they'd say. All you need to do is send us money to cover taxes, and we'll send you your prize.

Bogus ticket to riches

So on Dec. 8, 2004, Miriam Parker - then 80 - drove herself to a nearby Walmart to send a MoneyGram to Montreal, Quebec.

Isolation from absent children is often a hallmark in cases like this. But that wasn't so with the Parkers. Sure, Jim had settled in Ohio, and Carole was living in Florida. But Linda and Donna were both just down the road in Cary.

Over a series of calls, the personable "Howard Clark" had learned enough personal information about Miriam to convince her that he was the family's ticket to riches.

Other MoneyGrams followed. Then, on Jan. 12, 2005, Miriam sent a Federal Express package to a "Mr. Stewart" on Papineau Street in Montreal. Inside, as instructed, was a magazine with $12,550 in cash sandwiched between its pages.

By May 2005, the Parkers had blown through their savings. They had tapped into their home equity line and had maxed out several credit cards. They were running out of things to give.

Unwittingly, their children had contributed to the problem. When Miriam asked Donna for a $7,000 loan, the daughter thought little of it.

Through most of their marriage, Charles Parker had taken care of the couple's finances. But in 1989, shortly after his retirement, he suffered a heart attack. That was followed by colon cancer. As his health declined, Miriam stepped to the fore.

That's when she became a "money mule."

Clark told Miriam that she'd been "hired" by the Canadian sweepstakes company.

On May 5, 2005, a package from Bloomingdale, N.J., containing $8,275 in cash arrived at the Parkers' home. Others followed and in about a week, Miriam Parker would receive and repackage $60,000 in cash for delivery to Mr. Stewart.

Sometimes, there would be two stacks of bills tucked into magazines. The smaller pile was Miriam Parker's "commission."

During visits, Jim noticed that she would race him to the phone, then prevent him from listening to the conversations.

And then there was the need for loans. When Donna asked what for, her parents were evasive.

Credit report shocker

When the children finally persuaded their mother to get a credit report, the news was jaw-dropping. Their thrifty parents were nearly $200,000 in debt.

Miriam Parker insisted that their ship was about to come in, and that she would soon repay the loans. So Donna gave her a deadline, explaining to her siblings in an email: "I told her that if the money was not there by Wednesday, July 6, the family would be forced to do things we do not look forward to."

The money did not come. It was time to get authorities involved.

Donna went to the state Attorney General's Elder Fraud Unit. Around that same time, she got a call from the FBI - her parents had popped up on their radar. When authorities realized that the Parkers weren't co-conspirators in the scam, the family staged the December intervention.

Eventually, the children were having to buy their parents' groceries.

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Calling in the Mounties

Attorneys could offer no help - the elder Parkers hadn't been deemed incompetent, and it was their money.

In April 2006, Jim Parker and his wife, Susan, were with his parents when the doorbell rang.

The FedEx driver handed Jim a crinkly envelope. He turned it over to Kirkman, head of the Elder Fraud Prevention Project in the AG's office.

In the envelope, authorities found an old issue of Martha Stewart Living magazine. It contained $5,725 in cash from a Visalia, Calif., widow.

When Kirkman got Federal Express to halt deliveries and pickups at the Parker home, the crooks just switched to United Parcel Service.

And now, in addition to money, they were delivering and picking up car tires, custom rims, and laptop computers worth thousands of dollars - all purchased by other elderly victims.

That's when state and federal authorities reached out to their counterparts in Canada.

On Aug. 2, 2006, officers of the Royal Canadian Mounted Police and Surete du Quebec paid a visit to Dave Stewart.

The Jamaican native acknowledged accepting packages from the American lady on behalf of a man he knew as "Roger." Stewart said he was paid $100 per package.

Professing ignorance of any illegal activity, Stewart agreed to cooperate.

Clark, meanwhile, gave Miriam a new forwarding address.

Turning the tables

On Aug. 17, 2006, laptops valued at more than $7,200 arrived from Hayward, Calif. She sent them to a "Joseph Reid" in the Montreal borough of Verdun. Parcels kept coming - from Texas and Massachusetts, South Carolina and Washington, Missouri and Maine.

In December 2006, the Parker kids got their parents to grant Donna a limited power of attorney. A month later, she accompanied them to the credit union, where they took out a 30-year, $179,000 mortgage on their home.

Miriam Parker had become a cog in Howard Clark's fraud machine. The FBI decided to turn the tables on him. The agency determined the pitch calls were coming from Montreal, and Mounties soon had a real name for "Howard Clark" - Clayton Atkinson, who had a record for assault, theft and weapons possession.

On April 13, 2007, the RCMP raided Atkinson's apartment and caught him with the "pitch phone."

In Raleigh, a federal grand jury handed up a 35-count indictment against Atkinson and two co-defendants - Dave Stewart and Jamaal McKenzie, aka "Joseph Reid." The three were charged with conspiracy, interstate transportation of stolen property, wire fraud and mail fraud.

Last year Atkinson and Stewart pleaded guilty to one count each of conspiracy and mail fraud. (McKenzie is awaiting trial in Canada on an unrelated assault charge.)

When Atkinson was sentenced on March 15, Miriam and Donna Parker were there. Charles Parker had died just a month earlier.

Atkinson got 12½ years in prison, Stewart 6½. They also were ordered to pay $840,705 in restitution - $84,350 of it to Miriam Parker.

So while she kept her home, Miriam Parker has lost most of her independence. Each month, Donna sends her a debit card with $500 on it, to pay for food and personal expenses. The daughter still screens the mail and pays the other bills.

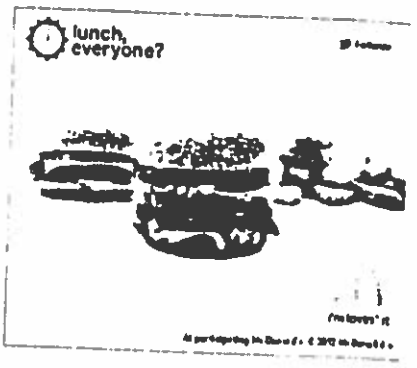
Caption: Allen Breed / Associated Press

Donna Parker, right, has been forced to keep an eye on her mother, Miriam Parker, after she and her late husband became the victims of a financial scam.

14-D 22

Disabled veterans in Texas fleeced by VA-appointed money managers

By Lise Olsen and Lindsey Wise
Updated 11:48 a.m., Monday, May 21, 2012



Already a convicted petty thief, Mildred Fedd had pressing bills to pay: parking tickets, a faulty sewage system, house payments and the impound lot holding her truck hostage. So she turned to the U.S. Department of Veteran Affairs and promised - for a small fee - to watch over an 82-year-old disabled veteran.

With his $5,000, she agreed to buy him a burial plot. Instead, the Houston caregiver paid her own bills - and got caught only after she had spent all his money and went back for more, Harris County records show.

The Veterans Affairs' Inspector General has repeatedly warned about a plague of fraud and theft in a national program that appoints family members and VA-approved fiduciaries to protect a whopping $3 billion in assets belonging to veterans the government considers too disabled to manage their own money.

In the past decade, twice as many Texans have been prosecuted for stealing from disabled veterans enrolled in the VA fiduciary program as in any other state, records obtained by the Houston Chronicle show. More than 20 veterans' family members and trusted members of the community - including a former police officer, a federal employee and optometrist - have been convicted and others, including two attorneys, face pending charges of stealing from disabled veterans whose assets they'd been assigned to protect, according to court records from across the state.

Waco optometrist David Fram took $126,250 from a veteran to help prop up his own private business, thefts meticulously documented in financial records later used against him, federal court records show. Charles D. Stange Jr., a former Bexar County sheriff's jailer and ex-military policeman, went to prison himself for stealing $272,000 he'd supposedly been safeguarding for his own disabled veteran dad.

Some victims infirm

And a Houston lawyer, Joe Phillips, and his wife, both in their 70s, allegedly stole $2 million from two dozen veterans in another pending case described as the largest rip-off ever reported in the VA fiduciary program - a case in which the perpetrators are accused of hiding thefts for years by forging bank officers' signatures, inventing fake money market accounts and shifting money between various Texas and out-of-state banks.

Phillips, whose trial is pending, has denied the allegations and refused interviews. His wife pleaded guilty to conspiracy and filing false income taxes in April.

Many sordid swindles were perpetuated on veterans too ill or disabled to report the crimes, records show. Some crimes went undetected for years before being uncovered through tips, thieves' confessions or the VA's own infrequent checks, interviews with attorneys and court records show.

One San Antonio disabled vet's daughter got suspicious when a bill collector called about delinquent payments for a new Ford Focus. Her dad, permanently hospitalized in a VA treatment center for his dementia, no longer drives and knew nothing about a car. A subsequent investigation revealed that his sister, Rosa Avila, and his niece had for five years stolen $180,000 of his money while telling the veteran "all his VA benefits were being saved" and never bringing him more than $20 at a time.

At least two Texans convicted in veteran scams had criminal records - but still got approved by the VA as fiduciaries. One Houston veteran's sister with prior petty theft convictions blew part of her brother's $30,000 in at least 20 casino trips, records show.

VA: Theft reports rare

In interviews and written statements, VA officials told the Chronicle that they have set up a new "hub system" to improve oversight: Texas fiduciaries will be overseen by a Nebraska office. VA now requires background and credit checks for newly appointed money managers, bans ATM withdrawals and reviews bank statements annually. Reports of theft remain rare, officials say, given that 96,000 fiduciaries assist veterans nationwide, about 6,200 in Texas.

David Autry, spokesman for the nonprofit organization Disabled American Veterans, called on the VA to exercise greater oversight and to punish anyone who financially exploits vulnerable veterans.

"It's an outrageous situation when someone takes advantage of veterans who have served and sacrificed for their county," he said. "I think that's one of the lowest things you can do."

Federal prosecutors in the Eastern and Western District of Texas each handled the six cases involving fiduciaries in the last decade - while their counterparts in the Northern and Southern Districts of Texas often declined to prosecute or referred cases to local DAs.

Alan Jackson, criminal chief of the Eastern District of Texas, said his office prosecutes even some small-time family scammers to try to deter others from dipping into cash or benefits rightfully belonging to the disabled. Jackson said the feds have more tools to help recover veterans' money than

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many rural county DAs, who often lack experience prosecuting corruption or in managing forfeitures.

'That's an invitation'

"My thought is if we don't prosecute them, that's an invitation to somebody else to think, 'I can do it,' " he said. "Your typical offender is not a repeat criminal sort of person - it's somebody who sees the opportunity and decides nobody is going to get hurt, and boom."

His district's most recent case involved Tiawa Braxton, a 31-year-old self-styled hip-hop recording artist from Texarkana who was convicted of stealing $45,000 from the VA after he failed to report his father's 2007 death and continued collecting benefits for two more years in the dead man's name.

Most VA fiduciary scams took at least two years to prosecute and perpetrators often received probation - conditional upon repaying stolen funds. Efforts to recover veterans' money have had mixed results.

As part of his federal probation, Fram, the Waco optometrist, last year finished repaying more than $120,000 he took from one of 15 veterans whose accounts he managed for years as a professional VA fiduciary.

$272,000 in 'loans'

Charles D. Stange Jr., a former jailor for the Bexar County Sheriff's Office and a Gulf War-era veteran himself, lost his house in a federal forfeiture action a judge ordered in an attempt to recover $272,000 in "loans" that Stange stole from the estate of his disabled veteran father. VA officials attempted to remove Stange as a fiduciary, but Stange refused to relinquish control, records show. Stange died last year after completing a 30-month prison term.

The VA has been forced to repay much of the $2 million allegedly taken from veterans by Phillips, who retains his law license two years after his 2010 indictment. Phillips, a former VA employee, declared bankruptcy and successfully argued in related civil suits that the government should repay veterans for their losses because of its lax oversight. His criminal trial is set for June.

Another Houston businessman, convicted in federal court in 2004 for stealing approximately $14,000 from a disabled veteran, subsequently failed to pay and had his probation revoked in 2008. The second time around, a judge ordered Bohdan S. Welch to pay $40,600 based on additional evidence. Angela Dodge, a spokeswoman for the Southern District of Texas, said she could not confirm whether Welch is paying now.

The most recent Texas conviction involved a 40-year-old Fort Worth woman who got approved to manage her father's VA benefits in July 2008, then stuck him in a nursing home and spent his money on herself. Yolanda R. Robinson got probation and was ordered to repay $9,305 in January 2012.

Justice came too late to help her disabled dad. He died in 2010.

Craig Kapitan and Eric Nalder contributed to this report.

lise.olsen@chron.com

lindsay.wise@chron.com

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14-24

Attorney pleads guilty to $2.3 million scam of disabled vets

Tuesday, September 4, 2012 | Updated: Tuesday, September 4, 2012 2:40pm

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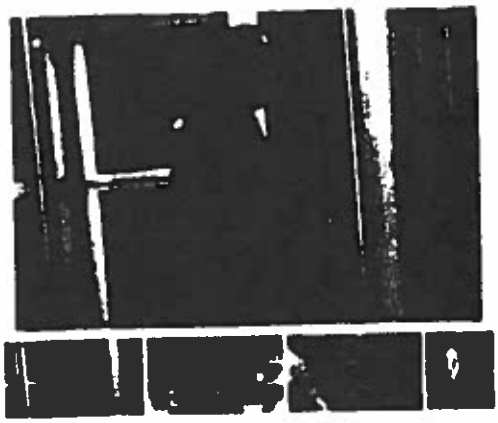

Disabled veteran Roy Wilson Swerczynski said he tried to blow the whistle on fiduciary Joe Phillips, pictured, for years before the Houston lawyer and his wife were implicated in the largest scam ever in the VA fiduciary program

Attorney Joe B. Phillips pleaded guilty in Houston federal district court Tuesday to charges that he and his wife jointly conspired to steal $2.3 million from 48 disabled veterans mostly from Southeast Texas and then deliberately hid their thefts by filing fake reports and a bogus income tax return in a scheme described as the largest rip-off ever reported in the U.S. Department of Veterans Affairs' fiduciary program.

Phillips' wife Dorothy, 72, who pleaded guilty in April, has described herself as a gambling addict in open court and previously admitted to misusing veterans' money to fund casino trips to Louisiana, where she gambled often at both the Auberge du Lac and Delta Downs, court records show. But Joe Phillips, 73, had insisted on his innocence until Tuesday - hours after jury selection for his trial had been scheduled to begin and after his attorneys warned him in open court that his wife's admissions to conspiracy would be damaging to his defense.

As part of his guilty plea to two of the 21 charges filed against him, Phillips admitted to transferring more than $1.36 million in veterans clients' bank accounts directly to a joint checking account he shared with his wife between 2003 and 2007 - and during the same period withdrawing about the same amount in cash, sometimes from ATMs inside casinos. And he admitted to signing false statements as a VA fiduciary and a bogus income tax return to help hide the thefts, which netted the Phillips an estimated $754,582 in illicit income that they failed to report, the government alleged in its indictment.

Phillips, who remains free on $100,000 bond, is expected to be sentenced in December. He refused comment on his plea.

Judge Lee Rosenthal warned Phillips that he faced a maximum 8-year sentence; a fine of $500,000 and restitution of at least $2.3 million, based on the government's estimates of losses to veterans. But Rosenthal told Phillips that he and his wife could face an even tougher sentence because of the number of victims, the vulnerability of the veterans who were fleeced and the amount of losses. Rosenthal promised the upcoming pre-sentence investigation will include a re-examination of the veterans' losses, which Phillips claims are less than the government reports.

In previous interviews, Phillips has repeatedly claimed he knew nothing of the thefts prior to the 2007 audit. In civil court filings, he has alleged that the VA itself was negligent for failing to protect veterans assets as required by federal law. Phillips told the Chronicle the VA only audited his records once in his more than 20 years as a VA-approved fiduciary.

The VA has never released a complete list of the amounts each individual veteran lost. Though some victims have been compensated by the federal government, others whose assets were overseen by Phillips and their families have told the Chronicle they have never been contacted at all.

Phillips, who lost his mother at age 6, paid his own way through school and obtained a law degree in 1965. He worked for the VA for several years and since the 1980s has dedicated most of his law practice to working with disabled veterans; his wife was his legal assistant. The couple reported an annual income of $100,000 to $145,000 in 2004-2007 and lived in a modest house, drove a Lexus, according to the indictment and a recently bankruptcy filing.

Beginning in the early 1980s, Phillips, a former VA employee, was approved to manage the money of as many as 50 disabled veterans at a time as both a VA-approved fiduciary and a payee under the Social Security Administration. In both roles, he received disabled veterans' benefit checks and also managed veterans' bank accounts and spending. In at least 26 cases, probate courts appointed him to oversee veterans' assets and over the years he also was appointed to dispose of dead veterans' estates.

The VA first found irregularities in his accounts in 2007 - including falsified balances, fake accounts and other oddities. Attorneys later appointed by probate judges to review 28 veterans' accounts found evidence that errors and fraud had gone undetected for at least a decade, according to related probate court records.

Phillips has always claimed that others engineered the thefts - but as a fiduciary he oversaw accountings and signed reports that got submitted annually to both the VA and to probate courts. In 2006 and 2007 alone, Phillips allegedly signed inaccurate verifications sent to the VA that indicated he'd safely deposited $275,000 of veterans' money in eight money market or savings accounts that did not exist and by provided inaccurate balances for two other accounts, according to specific examples detailed in the indictment.

Elgin Davis, a veteran in Livingston who acts as caregiver for his disabled veteran cousin, Nathaniel Holloman, who is one of the victims of the thefts, told the Chronicle they trusted Phillips for 20 years and told the Chronicle in a recent interview they were shocked to learn of problems in 2008 when probate judges ordered investigations. "Mr. Phillips had a good relationship with me and he communicated with me when I asked about stuff and when we disagreed, we hashed it out and he corrected it," Davis said.

But other veterans and caregivers told the Chronicle that Phillips was often testy and stingy with money and that they'd long felt suspicious of him.

"It was hard to believe what is going on with veterans who have no defense," said Shirley German, mother of Leland Spencer, a wheelchair-bound Houston Marine who had about $200,000 siphoned from his accounts. Though her son and other veterans have been compensated by the VA and by insurance settlements, German believes Phillips deliberately concealed thefts and wants him sent to prison.

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NEWS / TOP NEWS
See also: crime, theft, corruption

Sentencing in Dallas' 4949 Swiss Ave. estate looting case offers insight

July 28, 2012
5:30 PM MST

4949 Swiss Ave., Dallas

Alex Anderson

With yesterday's sentencing of antique dealer Mark McCay, Dallas' 4949 Swiss Ave. case involving the estate of Mary Ellen Bendtsen once again distinguished itself as an important example of the threats facing an unsuspecting public with regard to financial predators savvy at using probate venues and/or related legal instruments (wills, trusts, guardianships or powers of attorney) for their own enrichment by diverting assets from intended heirs and beneficiaries. **A June trial in which a jury of 10 women and two men found McCay guilty of attempted theft of more than $200,000 brought a conviction** with up to 20 years potential prison time. Instead, state District Judge John C. Creuzot handed down a sentence of four years probation, 30 days in the county jail and a $1,000 fine.

Don't mistake this sentence as reflective of a poor job on the part of Dallas County prosecutors. At issue is if McCay and two other defendants – his partner Justin Burgess and now-disbarred attorney Edwin Olsen – conspired to exploit Mary Ellen Bendtsen's declining

mental (and physical) state so as to have her sign a will leaving the Swiss Avenue house to McCay and Burgess instead of her daughter, Frances Ann Giron. Bendtsen died in March 2005.

Both in trial and at the sentencing, McCay's defense team provided a parade of witnesses testifying how McCay's penchant for making friends comes from being a "helper and pleaser," that "all he's ever tried to do is help people" and how his heart is "as big as the state of Texas."

His heart may be big as Texas, but per the Dallas County District Attorney's office, so also is his appetite for involving himself, Burgess and Olsen in the financial affairs of the people – often elderly – he befriends.

Rather than a relationship akin to mother/son as the defense contended, lead prosecutor Donna Strittmatter and her team offered testimony that McCay spent years cultivating his relationship with Bendtsen and how the pair were often seen as a much-younger man working to ingratiate himself in a questionable manner that prompted suspicions of ulterior motives.

Again at both trial and sentencing, the prosecution provided witnesses with experiences over the last two decades in which McCay befriended elderly people and a financial involvement – often involving probate issues – would occur.

Our columns **Mary Ellen Bendtsen estate case alleges conspiracy of exploitation, attempted 4949 Swiss Ave. theft by McCay, friends** and **Defense starts in 4949 Swiss Ave. estate case trial** detail testimony from many of the trial witnesses. The Dallas Morning News article entitled **Swindler gets 30 days, fine** provides an interesting overview of the sentencing hearing.

The mechanics of the 4949 Swiss Ave. case mirror estate looting actions seen across the country. Targeting vulnerable parties, inciting family conflict, using isolation as a tool, taking advantage of a major health downturn – all familiar patterns. Despite increasing numbers of questionable probate cases, this effort would have stayed largely unknown were it not for the flamboyance of Mary Ellen Bendtsen's life and the historic 4949 Swiss Ave. backdrop.

In most probate abuse cases, "justice" requires a trip to the pay-to-play civil court system which routinely becomes cost prohibitive for heirs or beneficiaries with financial means along with also subjecting them to a new avenue of potential legal abuse. Those without resources are largely left with no recourse. Probate abuse perpetrators understand this reality. The rarity of criminal prosecutions helps make such acts all the more appealing. That 4949 Swiss Ave. offered opportunity for a meaningful response to such crimes made it all the more important.

Prosecutors asked for a ten year prison sentence claiming McCay's past pattern of predatory

behavior makes him a risk for future actions. In regards to Bendtsen, he perpetrated a "theft of her dignity, theft of her right to die in peace, theft of her family's ability to say good-bye."

Bentdsen's family spent the last decade working first to protect Mary Ellen Bendtsen and later their interests from Mark McCay's intervention into their lives. Frances Ann Giron, Bendtsen's daughter, was moved to take legal action in the last months of her mother's life when McCay's seemingly predatory actions were perceived as escalating. Upon her mother's death, McCay's continued involvement even complicated the family's planning of funeral arrangements. In the years following, his pursuit of Bendtsen's estate ultimately yielded Giron's inheritance rights being upheld in the Texas Supreme Court, but this was not an inexpensive path. A court-appointed estate administrator generated an additional $120,000 expense for Bendtsen's estate though the amount was ultimately reduced to $90,000.

Prolonged litigation caused missed opportunities in the sale of the 4949 Swiss Ave. property. Between its ongoing decay and a downturned economy, the final sales price was considerably less than what it would have brought at the time of Bendtsen's death. As Bendtsen jointly owned the house with her sister and her late brother's heirs, the impact of this situation extended well beyond Bendtsen's immediate family.

The turmoil surrounding Bendtsen's death and the ongoing litigation undoubtedly created an emotional toll for all involved. Being targeted in an abusive probate action is a life-changing experience. Henry McClamrock, Bendtsen's nephew, testified to his own feelings of helplessness as events unfolded and how his mother stayed upset until her 2008 death over being kept from seeing Bendtsen during her sister's final days. The inability for closure with an estate brings additional strife. That helplessness along with the anger, the frustration, the realization that legal and financial protections are far less than often represented – an emotional paralysis emerges and often never really goes away.

Though many of Bendtsen's personal possessions along with antiques from the house reportedly disappeared upon her death, the defense postured for parole claiming McCay never received property from this offense. That he was simply trying to fulfill Bendtsen's wishes was all Mark McCay has ever been about. Justin Burgess, McCay's partner who also faces charges in the 4949 Swiss Ave. case, is in stage 4 throat cancer. With McCay as the primary caregiver, sentencing alternatives were in order. McCay's need for alcohol abuse treatment along with having no prior criminal charges or convictions as well as no extraneous civil actions were additional factors the court was asked to consider. While terming the state as pitching the worst case scenario, the defense countered that McCay has been on bond with the court for six years and that the court has had no problem.

One would have hoped that criminal prosecution in this matter would rise as a deterrent for

disgruntled family members, wannabe heirs or unscrupulous legal industry practitioners involved with or contemplating similar actions. Life isn't fair, bad things happen – but some are highly avoidable. Like probate abuse.

Prosecutors admirably did their job. The trial jury "got" what happened and gave the judge opportunity to demonstrate Dallas County's commitment to protecting its citizens' liberty and property. That commitment was communicated: four years probation, 30 days in the county jail and a $1,000 fine.

Dallas County residents, take note.

Lou Ann Anderson
Bell County Legal News Examiner

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Texas shuts down Houston dating site for elderly, disabled

By Robert Stanton | July 11, 2013 | Updated: July 11, 2013 12:16pm

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The Texas Attorney General's Office obtained a temporary restraining order and asset freeze against a specialized dating service that targeted senior citizens, disabled Texans and veterans, alleging the company misled customers about the nature of the services and violated state debt collection laws.

The state's enforcement action names as defendants Javier Luna and several entities – including Matchmaker, Sagejax Inc. and Monterrey Financial Services Inc., a debt collector. The service operated in the Houston and Beaumont areas.

According to investigators, the defendants made cold calls to select individuals to encourage them to join the fee-based dating service. During the calls, potential customers were falsely told that "thousands" of individuals were included in the dating service's database.

They also falsely claimed to have an endorsement from the Better Business Bureau, according to a press release issued Wednesday by Texas AG's Office.

Potential customers who expressed an interest in the dating service were encouraged to visit the defendants' office for an in-person consultation. The defendants charged between $3,000 and $10,000 for their services, according to court documents filed by the state.

Customers who elected not to join the service and pay the fee were told to pay a "termination fee" – or face a debt collection action by defendant Monterrey Financial. The action is illegal, state investigators said, because the debt collection company failed to file a bond as security, as required by state law.

The Attorney General's Office is seeking to freeze the company's assets to satisfy a future court judgment on behalf of senior citizens and others who were harmed by the defendants.

The enforcement action was initiated under the Texas Deceptive Trade Practices Act, the Telephone Solicitation Act, and the Finance Code for debt collection violations.

14-Dec 30

This content is generated by the Texas Center for Legal Ethics and is for informational purposes only.
Look for the detailed analysis behind the answers at legalethicstexas.com/ethics-question-of-the-month.

My Lips Are Sealed. UNLESS . . .

SAMANTHA IS A 30-YEAR ATTORNEY who provides a variety of legal services at her general practice in a midsize Texas city. Because of her diligence and reputation, many clients have been with her for decades.

Her longtime client Walter has operated a small business for 25 years. He makes an appointment with Samantha to make changes to his estate planning documents. During her interview of Walter, Samantha becomes concerned that he doesn't seem to remember the names of his children or the properties he owns. Samantha knows, for example, that he inherited some property outside the city, but when she asks Walter about it, he looks puzzled and says, "What property?"

Samantha is concerned about his mental status and wonders whether she should inform his family of their conversation, but she is concerned about her ethical obligation to maintain client confidentiality. Under the recent proposed amendments to the Texas Disciplinary Rules of Professional Conduct, which of the following is most accurate?

A. Samantha does not have enough evidence to speak to anyone about Walter's condition.

B. If Samantha reasonably believes that Walter lacks legal competence that endangers his legal security, she can initiate a guardianship or appointment of a similar legal representative as long as she does not reveal confidential information.

C. Samantha can disclose confidential information to Walter's spouse about his proposed changes to his estate planning documents if his spouse's community property is affected.

D. Samantha can disclose confidential information to Walter's spouse *and* children if both will be affected by any proposed changes to his estate planning documents.

E. Samantha may take reasonably necessary steps to protect Walter's interests, including making limited disclosures of confidential information and having informal consultations with individuals or entities who are in a position to protect Walter's interests.

14-31

MEDICAL POWER OF ATTORNEY
OF
JOHN DOE

I, JOHN DOE appoint:

Name:	JAIME DOE
Address:	2000 Linea Drive
	Houston, Texas 77077
Phone:	(713)123-4567

as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this document. This medical power of attorney takes effect if I become unable to make my own health care decisions and this fact is certified in writing by my physician.

DESIGNATION OF ALTERNATE AGENT

If JAIMER DOE unable or unwilling to make health care decisions for me, I designate the following person to serve as my agent to make health care decisions for me as authorized by this document:

Name:	JOHN DOE JR
Address:	1000 Reagan Terrace
	Houston, Texas 777004
Phone:	_____

ORIGINAL

The original of this document is kept at: _____

COPIES

The following individuals or institutions have copies of the signed originals:

Name:	JAIME DOE
Address:	2131 Linea Drive
	Houston, Texas 77077

Name:	JAMES DOE
Address:	1116 Reagan Terrace
	Houston, Texas 777004

14-32

DURATION

I understand that this power of attorney exists indefinitely from the date I execute this document unless I establish a shorter time or revoke the power of attorney. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent continues to exist until the time I become able to make health care decisions for myself. I do not wish to have this power of attorney end on a specified date.

PRIOR DESIGNATIONS REVOKED

I revoke any prior durable power of attorney for health care and any prior medical power of attorney.

DISCLOSURE STATEMENT

THIS MEDICAL POWER OF ATTORNEY IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

Except to the extent you state otherwise, this document gives the person you name as your agent the authority to make any and all health care decisions for you in accordance with your wishes, including your religious and moral beliefs, when you are unable to make the decisions for yourself. Because "health care" means any treatment, service, or procedure to maintain, diagnose, or treat your physical or mental condition, your agent has the power to make a broad range of health care decisions for you. Your agent may consent, refuse to consent, or withdraw consent to medical treatment and may make decisions about withdrawing or withholding life-sustaining treatment. Your agent may not consent to voluntary inpatient mental health services, convulsive treatment, psychosurgery, or abortion. A physician must comply with your agent's instructions or allow you to be transferred to another physician.

Your agent's authority is effective when your doctor certifies that you lack the competence to make health care decisions.

Your agent is obligated to follow your instructions when making decisions on your behalf. Unless you state otherwise, your agent has the same authority to make decisions about your health care as you would have if you were able to make health care decisions for yourself.

It is important that you discuss this document with your physician or other health care provider before you sign the document to ensure that you understand the nature and range of decisions that may be made on your behalf. If you do not have a physician, you should talk with someone else who is knowledgeable about these issues and can answer your questions. You do not need a lawyer's assistance to complete this document, but if there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.

The person you appoint as agent should be someone you know and trust. The person must be 18 years of age or older or a person under 18 years of age who has had the disabilities of minority removed. If you appoint your health or residential care provider (e.g., your physician or an employee of a home health agency, hospital, nursing facility, or residential care facility, other than a relative), that person has to choose between acting as your agent or as your health or residential care provider; the law does not allow a person to serve as both at the same time.

You should inform the person you appoint that you want the person to be your health care agent. You should discuss this document with your agent and your physician and give each a signed copy. You should indicate on the document itself the people and institutions that you intend to have signed copies. Your agent is not liable for health care decisions made in good faith on your behalf.

Once you have signed this document, you have the right to make health care decisions for yourself as long as you are able to make those decisions and treatment cannot be given to you or stopped over your objection. You have the right to revoke the authority granted to your agent by informing your agent or your health or residential care provider orally or in writing or by your execution of a subsequent medical power of attorney. Unless you state otherwise in this document, your appointment of a spouse is revoked if your marriage is dissolved, annulled, or declared void.

This document may not be changed or modified. If you want to make changes in this document, you must execute a new medical power of attorney.

You may wish to designate an alternate agent in the event that your agent is unwilling, unable, or ineligible to act as your agent. If you designate an alternate agent, the alternate agent has the same authority as the agent to make health care decisions for you.

THIS POWER OF ATTORNEY IS NOT VALID UNLESS:

(1) YOU SIGN IT AND HAVE YOUR SIGNATURE ACKNOWLEDGED BEFORE A NOTARY PUBLIC; OR

(2) YOU SIGN IT IN THE PRESENCE OF TWO COMPETENT ADULT WITNESSES.

THE FOLLOWING PERSONS MAY NOT ACT AS ONE OF THE WITNESSES:

(1) the person you have designated as your agent;
(2) a person related to you by blood or marriage;
(3) a person entitled to any part of your estate after your death under a will or codicil executed by you or by operation of law;
(4) your attending physician;
(5) an employee of your attending physician;
(6) an employee of a health care facility in which you are a patient if the employee is providing direct patient care to you or is an officer, director, partner, or business

office employee of the health care facility or of any parent organization of the health care facility; or

(7) a person who, at the time this medical power of attorney is executed, has a claim against any part of your estate after your death.

By signing below, I acknowledge that I have read and understand the information contained in the above disclosure statement.

I sign my name to this medical power of attorney on _____, 2018, at Harris County, Texas.

_____
JOHN DOE, Principal

STATE OF TEXAS §
§
COUNTY OF HARRIS §

This instrument was acknowledged before me on _____, 2024, by JOHN DOE.

_____
Notary Public, State of Texas

14-35

HIPAA RELEASE AND AUTHORIZATION
OF
JOHN DOE

I,JOHN DOE, hereby authorize the following persons to act as my agents with regard to the matters specified in this Release, with each such person being authorized to act alone as my agent:

Name:	JAIME DOE
Address:	2000 Linea Drive Houston, Texas 77077
Phone:	(713) 123-4567

and

Name:	JOHN DOE JR
Address:	6000 Reagan Terrace Houston Texas 77704
Phone:	_____

This Release and all of the provisions contained herein are effective immediately. I intend for my agent to be treated as I would be treated with respect to my rights regarding the use and disclosure of my individually identifiable health information and other medical records. This Release authority applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 USC 1320d and 45 CFR 160-164.

AUTHORIZATION

I hereby authorize any doctor, physician, medical specialist, psychiatrist, chiropractor, health-care professional, dentist, optometrist, health plan, hospital, hospice, clinic, laboratory, pharmacy or pharmacy benefit manager, medical facility, pathologist, or other provider of medical or mental health care, as well as any insurance company and the Medical Information Bureau Inc. or other health-care clearinghouse that has paid for or is seeking payment from me for such services (referred to herein as a "covered entity"), to give, disclose and release to my agent who is named herein and who is currently serving as such, without restriction, all of my individually identifiable health information and medical records regarding any past, present or future medical or mental health condition, including all information relating to the diagnosis and treatment of HIV/AIDS, sexually transmitted diseases, mental illness, and drug or alcohol abuse. Additionally, this disclosure shall include the ability to ask questions and discuss this protected medical information with the person or entity who has possession of the protected medical information even if I am fully competent to ask questions and discuss this matter at the time. It is my intention to give a full authorization to any protected medical information to my agent.

In determining whether I am incapacitated, all individually identifiable health information and medical records shall be released to my agent, including any written opinion

14-36

relating to my incapacity that my agent may have requested. This release authority applies to any information governed by HIPAA and applies even if my agent has not yet begun serving as my agent.

The authority given to my agent shall supersede any prior agreement that I may have made with my health-care providers to restrict access to or disclosure of my individually identifiable health information. The individually identifiable health information and other medical records given, disclosed, or released to my agent may be subject to redisclosure by my agent and may no longer be protected by HIPAA.

TERMINATION

This Release shall terminate on the first to occur of: (1) two years following my death, or (2) upon my written revocation actually received by the covered entity. Proof of receipt of my written revocation may be by certified mail, registered mail, facsimile, electronic mail, or any other receipt evidencing actual receipt by the covered entity. This Release shall not be affected by my subsequent disability or incapacity. There are no exceptions to my right to revoke this Release.

RELEASE

Each covered entity that acts in reliance on this Release shall be released from liability which may result from disclosing my individually identifiable health information and other medical records.

LEGAL ACTION

I authorize my agent to bring a legal action against a covered entity which refuses to accept and recognize this Release. No covered entity may condition treatment, payment, enrollment or eligibility for benefits on whether I sign this authorization when the prohibition on conditioning of authorizations in 45 CFR 164.508(b)(4) applies. Further, in order to fulfill my intent as expressed herein, I authorize my agent to sign any documentation that my agent deems necessary or appropriate in order to secure the disclosure of my individually identifiable health information and other medical records.

SUBSEQUENT DISCLOSURE OF INFORMATION

Any information disclosed to my agent pursuant to this Release may subsequently be disclosed to another party by my agent. My agent shall not be required to indemnify a covered entity or perform any act in the event information is subsequently disclosed by my agent.

COPIES AND FACSIMILES

Copies or facsimiles of this Release shall be as valid as the original Release.

I sign my name to this Release on _____, 2024, at Harris County, Texas.

_____

§JOHN DOE

STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on _____, 2024, by JOHN DOE

_____

Notary Public, State of Texas

14-38

This document supersedes all others. Joe

448003

PROBATE COURT 3

04142016:1311:G0122

The Last Will and Testiment of
Joe Mack Conway

Being of sound mind and body I will set down on paper my last Will and testiment to be carried out upon my demise.

To the most wonderful and fantastic lady on the face of the earth, my Leticia Flores, I leave All of my furniture, pictures, Kitchen Applancies, Dishes, silver ware, and Clothes, and bed clothes. She is also to resieve any and all funds that are in the banks, and from Social Security.

Leticia Flores is to be the ejecutor of my small estate.

To my Good friends Robert + Shari I would, and wish I had a lot to leave to you, but I don't. You two became true friends when I needed friends. You two never ask for anything and were always there when needed. I am hoping that Lettie will take Care of yourself.

Just notify my Brother that I have passed and I loved him to the end.

Now for my son, or I should say

PURPORTED WILL

04142016:1311:G0123

my stepson Johnny Mack Conway. The one that didn't Call to see how I was doing. I always had to call him, sometimes beg him just to take me to the store, laundry, hair Cut. He always had his hand out. Because of a terrible lie that his daughter told because she didn't get her way I suffred for it.

The only thing you are to do Johnny is to see to and take care of my funeral. No Cremation. I am a veteran Marine so go from there. Lettie is to get the flag from the casket. Lettie is also to recieve the family Bible.

To my daughter in law, you were lied to and you believed her, without even talking about it with me. Yes I have suffred for it. It was a lie because she was/was that she wouldn't get Derrys jewelry and I wouldn't buy her a Car. Even her Grandfather knew she was lying. Yes you accomplished what you wanted. You and Kara crushed me because I would'nt divorce Derry. Besides the sex wasn't that Good. Then you went to Johnny.

041420116:1311:G0124

There, I hope I have taken Care of every thing that needed to be taken Care of. Including, Clearing my soul of being lied about.

Thanks to a fantastic Lady my life Was wonderful. So thanks to my Lettie I leave this world a happy man.

Respectfully Submitted 10-13-2011
Joe Mack Conway

Witnesses
1. Robert Gardiner Sr. Date 10/15/2011
2. Shari Gardiner Date 10/15/2011

FILED
2015 APR 14 AM 9:31
COUNTY CLERK
BROWN COUNTY, TEXAS

PROBATE COURT 3

LAST WILL AND TESTAMENT

42975

KNOW ALL MEN BY THESE PRESENTS that I, Frances Marie Marks, whose address is 18100 Nassau Bay Drive, Apt. 51, Houston, Texas 77058, being of sound and disposing mind and memory, do make, publish, and declare the following to be my Last Will and Testament, hereby revoking all Wills made by me at any time heretofore.

FIRST:

I direct my Executrix, hereinafter named, to pay all my funeral expenses, administration expenses of my estate, including inheritance and succession taxes, state or federal, which may be occasioned by the passage of or succession to any interest in my estate under the terms of this instrument, and all my just debts.

SECOND:

I hereby appoint Timothy Wayne Wilhelm, as executrix of this, my Last Will and Testament. I direct that no executor serving hereunder shall be required to post bond.

Third:

He has instructions on how I want my wished carried out.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at the ____ day of 28, April, 2013.

Frances Marie Marks, Testatrix

FILED

2013 JUL 25 PM 03

PURPORTED WILL

Witness

Printed Name. Mathilda A Fleming

Address

1011 -12th Street N., Texas City, Texas 77590

Witness

Printed Name. Frank J Fleming

Address

1011- 12st N. Texas City, Texas 77590

CHAPTER 15

Guardianships are similar to a dependent administration in that they are court supervised. A guardian can take no action without getting court permission. Attorneys must work very closely with the guardian.

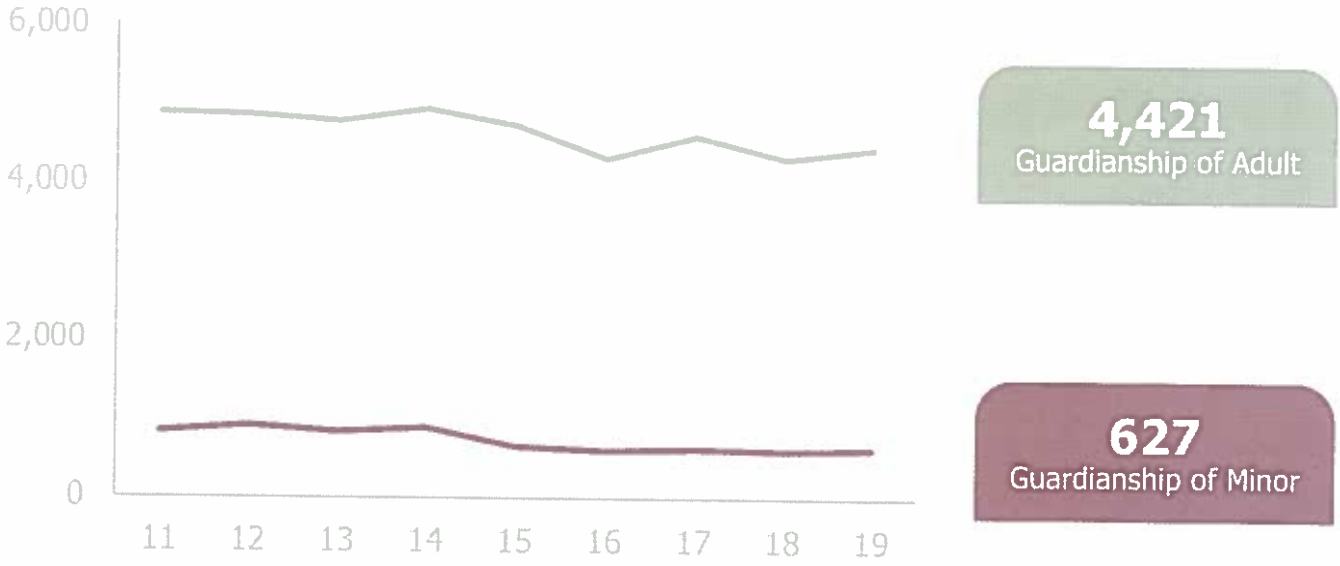
The guardian is totally responsible for the ward who has been declared incapacitated or partially incapacitated by a court.

The ward is totally dependent on the guardian for food, clothing and shelter in addition to managing what assets they might have.

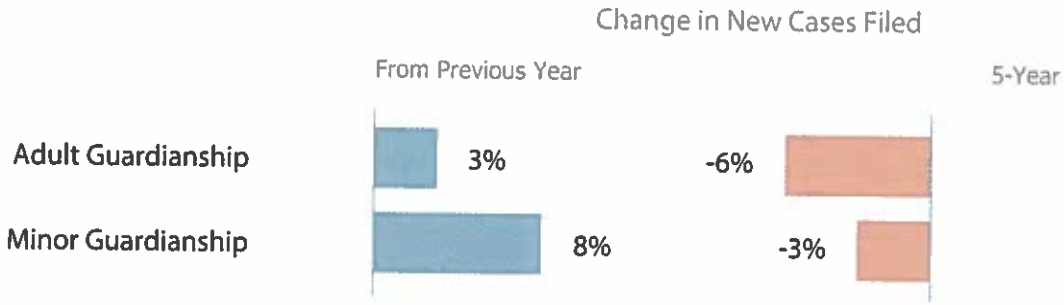
We start with how to establish a guardianship and what legal requirements are necessary.

Guardianship Cases

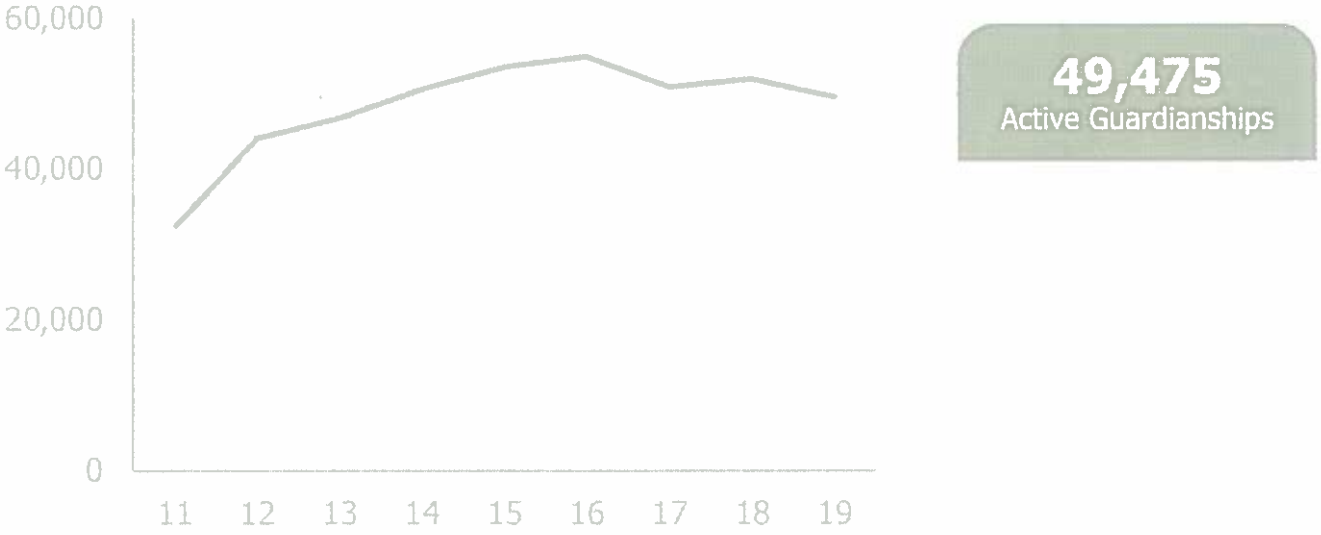
The number of new guardianship cases filed increased 3 percent from the previous year. Almost 90 percent of those cases were filed to establish a guardianship for an adult.



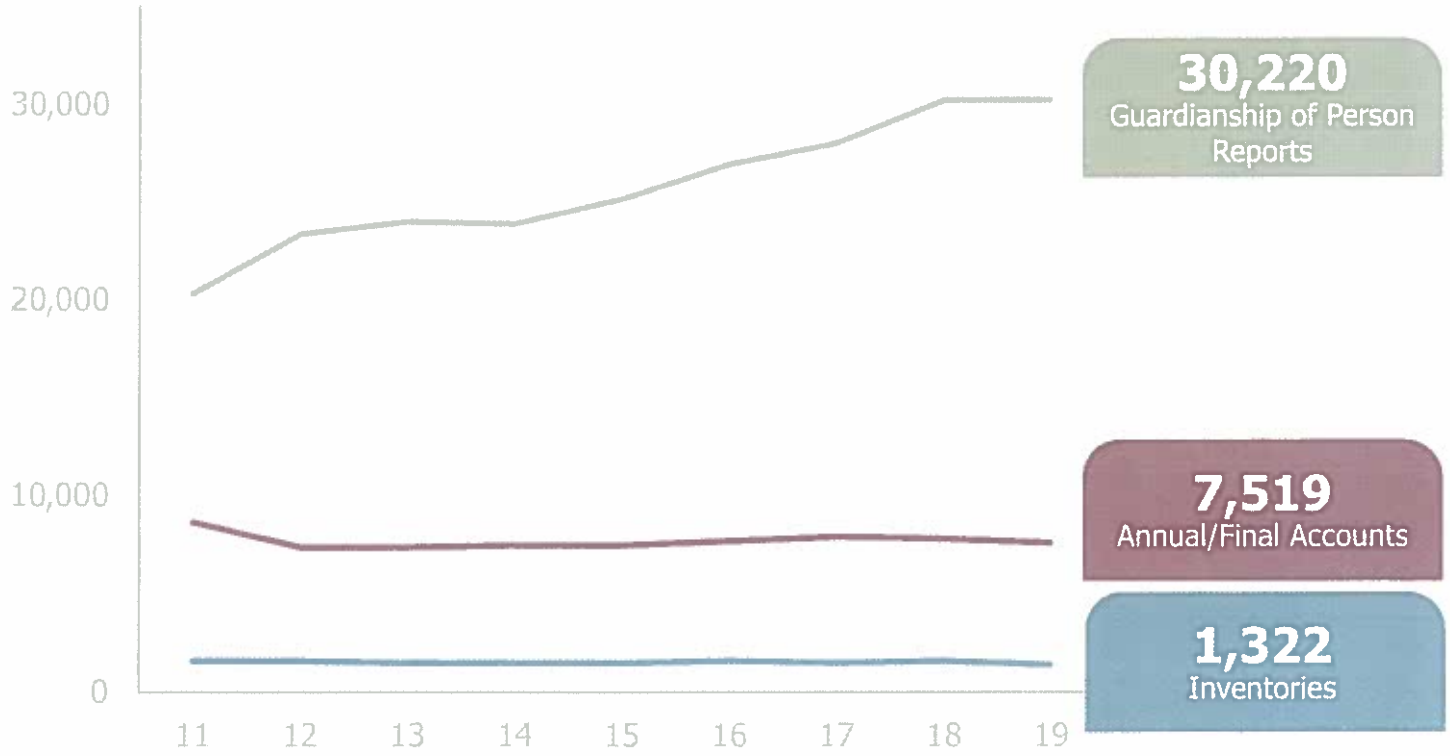
Change in Filings



Nearly 50,000 guardianship cases were reported as of the end of 2019 — a decrease of 5 percent from the previous year. The decline in the number of cases since 2016 has largely been the result of the closure of cases by counties participating in OCA's Guardianship Compliance Program which reviewed guardianship cases and identified cases in which the ward was deceased or was no longer a minor in need of guardianship.



While the reported number of inventories and annual or final accounts filed in guardianship cases remained essentially unchanged since 2011, the number of guardianship of the person reports increased 49 percent from 2011 to 2018 then leveled in 2019.



Physician's Certificate of Medical Examination

Revision October 2016

In the Matter of the Guardianship of

_____,

an Alleged Incapacitated Person

For Court Use Only
Court Assigned:_____

To the Physician

This form is to enable the Court to determine whether the individual identified above is incapacitated according to the legal definition (on page 3), and whether that person should have a guardian appointed.

1. General Information

Physician's Name _____ Phone: (_____)_____
Office Address _____
_____

☐ YES ☐ NO I am a physician currently licensed to practice in the State of Texas.

Proposed Ward's Name _____
Date of Birth _____ Age_____ Gender ☐ M ☐ F
Proposed Ward's Current Residence: _____

I last examined the Proposed Ward on _____, 20_____ at:
☐ a Medical facility ☐ the Proposed Ward's residence ☐ Other: _____

☐ YES ☐ NO The Proposed Ward is under my continuing treatment.
☐ YES ☐ NO Before the examination, I informed the Proposed Ward that communications with me would not be privileged.
☐ YES ☐ NO A mini-mental status exam was given. If "YES," please attach a copy.

2. Evaluation of the Proposed Ward's Physical Condition

Physical Diagnosis: _____
a. Severity: ☐ Mild ☐ Moderate ☐ Severe
b. Prognosis: _____
c. Treatment/Medical History: _____

3. Evaluation of the Proposed Ward's Mental Functioning

Mental Diagnosis: _____
a. Severity: ☐ Mild ☐ Moderate ☐ Severe
b. Prognosis: _____
c. Treatment/Medical History: _____

If the mental diagnosis includes dementia, answer the following:

☐ YES ☐ NO It would be in the Proposed Ward's best interest to be placed in a secured facility for the elderly or a secured nursing facility that specializes in the care and treatment of people with dementia.
☐ YES ☐ NO It would be in the Proposed Ward's best interest to be administered medications appropriate for the care and treatment of dementia.
☐ YES ☐ NO The Proposed Ward currently has sufficient capacity to give informed consent to the administration of dementia medications.

d. Possibility for Improvement:

☐ YES ☐ NO Is **improvement in the Proposed Ward's physical condition and mental functioning possible?**
If "YES," after what period should the Proposed Ward be reevaluated to determine whether a guardianship continues to be necessary? _____

4. Cognitive Deficits

a. The Proposed Ward is oriented to the following (check all that apply):

☐ Person ☐ Time ☐ Place ☐ Situation

b. The Proposed Ward has a deficit in the following areas (check all areas in which Proposed Ward has a deficit):

- ☐ Short-term memory
- ☐ Long-term memory
- ☐ Immediate recall
- ☐ Understanding and communicating (verbally or otherwise)
- ☐ Recognizing familiar objects and persons
- ☐ Solve problems
- ☐ Reasoning logically
- ☐ Grasping abstract aspects of his or her situation
- ☐ Interpreting idiomatic expressions or proverbs
- ☐ Breaking down complex tasks down into simple steps and carrying them out

c. ☐ YES ☐ NO The Proposed Ward's periods of impairment from the deficits indicated above (if any) vary substantially in frequency, severity, or duration.

5. Ability to Make Responsible Decisions

Is the Proposed Ward able to initiate and make responsible decisions concerning himself or herself regarding the following:

☐ YES ☐ NO Make complex business, managerial, and financial decisions

☐ YES ☐ NO Manage a personal bank account

If "YES," should amount deposited in any such bank account be limited? ☐ YES ☐ NO

☐ YES ☐ NO Safely operate a motor vehicle

☐ YES ☐ NO Vote in a public election

☐ YES ☐ NO Make decisions regarding marriage

☐ YES ☐ NO Determine the Proposed Ward's own residence

☐ YES ☐ NO Administer own medications on a daily basis

☐ YES ☐ NO Attend to basic activities of daily living (ADLs) (e.g., bathing, grooming, dressing, walking, toileting) without supports and services

☐ YES ☐ NO Attend to basic activities of daily living (ADLs) (e.g., bathing, grooming, dressing, walking, toileting) with supports and services

☐ YES ☐ NO Attend to instrumental activities of daily living (e.g., shopping, cooking, traveling, cleaning)

☐ YES ☐ NO Consent to medical and dental treatment at this point going forward

☐ YES ☐ NO Consent to psychological and psychiatric treatment at this point going forward

6. Developmental Disability

☐ YES ☐ NO Does the Proposed Ward have developmental disability?

If "NO," skip to number 7 below.

If "YES," answer the following question and look at the next page.

Is the disability a result of the following? (Check all that apply)

☐ YES ☐ NO Intellectual Disability?

☐ YES ☐ NO Autism?

☐ YES ☐ NO Static Encephalopathy?

☐ YES ☐ NO Cerebral Palsy?

☐ YES ☐ NO Down Syndrome?

☐ YES ☐ NO Other? Please explain _____

Answer the questions in the "Determination of Intellectual Disability" box below only if both of the following are true:

(1) The basis of a proposed ward's alleged incapacity is intellectual disability.

and

(2) **You are making a "Determination of Intellectual Disability" in accordance with rules of the executive commissioner of the Health and Human Services Commission governing examinations of that kind.**

If you are not making such a determination, please skip to number 7 below.

"DETERMINATION OF INTELLECTUAL DISABILITY"

Among other requirements, a Determination of Intellectual Disability must be based on an interview with the Proposed Ward and on a professional assessment that includes the following:

1) a measure of the Proposed Ward's intellectual functioning;
2) a determination of the Proposed Ward's adaptive behavior level; and
3) evidence of origination during the Proposed Ward's developmental period.

As a physician, you may use a previous assessment, social history, or relevant record from a school district, another physician, a psychologist, an authorized provider, a public agency, or a private agency if you determine that the previous assessment, social history, or record is valid.

1. Check the appropriate statement below. If neither statement is true, skip to number 7 below.
   - ☐ **I examined the proposed ward in accordance with rules of the executive commissioner of the Health and Human Services Commission governing Intellectual Disability examinations**, and my written findings and recommendations include a determination of an intellectual disability.
   - ☐ **I am updating or endorsing in writing a prior determination of an intellectual disability** for the proposed ward made in accordance with rules of the executive commissioner of the Health and Human Services Commission by a physician or psychologist licensed in this state or an authorized provider certified by the Health and Human Services Commission to perform the examination.
2. What is your assessment of the Proposed Ward's level of intellectual functioning and adaptive behavior?
   ☐ Mild (IQ of 50-55 to approx. 70) ☐ Moderate (IQ of 35-40 to 50-55)
   ☐ Severe (IQ of 20-25 to 35-40) ☐ Profound (IQ below 20-25)
3. ☐ Yes ☐ No Is there evidence that the intellectual disability originated during the Proposed Ward's developmental period?

Note to attorneys: *If the above box is filled out because a determination of intellectual disability has been made in accordance with rules of the executive commissioner of the Health and Human Services Commission governing examinations of that kind, a Court may grant a guardianship application if (1) the examination is made not earlier than 24 months before the date of the hearing or (2) a prior determination of an intellectual disability was updated or endorsed in writing not earlier than 24 months before the hearing date. If a physician's diagnosis of intellectual disability is not made in accordance with rules of the executive commissioner — and the above box is not filled out — the court may grant a guardianship application only if the Physician's Certificate of Medical Examination is based on an examination the physician performed within 120 days of the date the application for guardianship was filed. See Texas Estates Code § 1101.104(1).*

7. Definition of Incapacity

For purposes of this certificate of medical examination, the following definition of incapacity applies:

An "**Incapacitated Person**" is an adult who, because of a physical or mental condition, is substantially unable to: (a) provide food, clothing, or shelter for himself or herself; (b) care for the person's own physical health; or (c) manage the person's own financial affairs. Texas Estates Code § 1002.017.

8. Evaluation of Capacity

☐ YES ☐ NO Based upon my last examination and observations of the Proposed Ward, it is my opinion that the Proposed Ward is incapacitated **according to the legal definition in section 1002.017 of the Texas Estates Code, set out in the box above.**

If you indicated that the Proposed Ward is incapacitated, indicate the level of incapacity:

☐ **Total** The Proposed Ward is totally without capacity (1) to care for himself or herself and (2) to manage his or her property.

☐ **Partial** The Proposed Ward lacks the capacity to do some, but not all, of the tasks necessary to care for himself or herself or to manage his or her property.

Evaluation of Capacity (continued)

If you indicated the Proposed Ward's incapacity is partial, what specific powers or duties of the guardian should be limited if the Proposed Ward receives supports and services? _____

_____

_____

If you answered "NO" to all of the questions regarding decision-making in Section 5 (on page 2) and yet still believe the Proposed Ward is **partially** incapacitated, please explain: _____

_____

_____

If you answered "YES" to any of the questions regarding decision-making in Section 5 (on page 2) and yet still believe the Proposed Ward is **totally** incapacitated, please explain: _____

_____

_____

9. Ability to Attend Court Hearing

☐ YES ☐ NO The Proposed Ward would be able to attend, understand, and participate in the hearing.

☐ YES ☐ NO Because of the Proposed Ward's incapacities, I recommend that the Proposed Ward not appear at a Court hearing.

☐ YES ☐ NO Does any current medication taken by the Proposed Ward affect the demeanor of the Proposed Ward or his or her ability to participate fully in a court proceeding?

10. What is the least restrictive placement that you consider is appropriate for the Proposed Ward:

☐ Nursing home level of care ☐--- Assisted Living Facility

☐ Group Home ☐--- Memory care unit

☐ Own Home or with family ☐--- Other _____

11. Additional Information of Benefit to the Court: If you have additional information concerning the Proposed Ward that you believe the Court should be aware of or other concerns about the Proposed Ward that are not included above, please explain on an additional page.

_____ _____

Physician's Signature Date

_____ _____

Physician's Name Printed License Number

Revised September 2015

15-4

Guardianship Notice and Citation
Texas Probate Code § 633

What is included in a Texas Probate Code § 633(d) notice for certified mail delivery to certain persons in a proceeding to create a guardianship?

1. A statement that the application for guardianship was filed.
2. The name of the proposed ward.
3. The name of the applicant.
4. The name of the person to be appointed guardian as provided in the application, if that person is not the applicant.
5. The notice must state that all persons interested in the welfare of the proposed ward to appear at the time and place stated in the notice [Travis County Probate Court, Travis County Courthouse Room 217] if they wish to contest the application.
6. The notice must include a copy of the application for guardianship.

In a proceeding on a guardianship application, who gets notice or service, and by what means, pursuant to Texas Probate Code § 633?

PERSON TO RECEIVE SERVICE/NOTICE	PERSONAL CITATION BY CONSTABLE	CERTIFIED MAIL NOTICE BY APPLICANT	ELIGIBLE TO WAIVE SERVICE OR NOTICE
Proposed Ward 12 years or older	Yes	No	No
Spouse of Proposed Ward	Yes	No	Yes
Parents of Proposed Ward	Yes	No	Yes
Court Appointed Conservator or Person Having Control of the Care and Welfare of the Proposed Ward	Yes	No	Yes
Adult Children of Proposed Ward	No	Yes	Yes
Adult Siblings of Proposed Ward	No	Yes	Yes
Next of Kin (if none of the above family members survive or exist)	No	Yes	Yes
Facility Administrator or Operator	No	Yes	Yes
Agent under Power of Attorney (financial or medical) executed by Proposed Ward	No	Yes	Yes

PROBATE COURT 3

CAUSE NO. 429,786

IN THE GUARDIANSHIP OF:	§	IN THE PROBATE COURT
FRANCES E. STORSETH	§	NUMBER THREE (3) OF
INCAPACITATED	§	HARRIS COUNTY, TEXAS

COURT INVESTIGATOR REPORT

Tara Zinn, LMSW, NCG, Court Investigator in the above cause makes the following report to the court:

Translator Needed: ___Yes X___No

Language/Dialect: N/A.

FILED
2014 JUN 25 AM 9:48
Stan Stanart
COUNTY CLERK
HARRIS COUNTY, TEXAS

Date visited: 5/7/2014.

Ward's location: (current and prior addresses)

The Abbey 2865 Westminster Dr. Houston, TX 77082 (current).

725 Echo Lane Houston, TX (prior).

Date of birth/age: 1/28/1926/88.

Medicare Number: Not available at the writing of this report.

Medicaid Number: N/A.

15-6

06252014 1604 P0049

Person requesting guardianship and the relationship to proposed ward: Nancy McDonald, daughter.

Date of Doctor's Medical Examination: 3/22/2014.

Reasons given in the application for why the guardianship is requested: PW is allegedly unable to manage her own affairs.

Type of guardianship requested:

__X__Person _____Estate ____Person & Estate

Attending Physician: Dr. Jorge A. Raichman, MD, 713-772-6519.

Attending Professionals: Steven, Memory Unit Manager, 281-556-6020.

Living condition/home environment: The PW resides at The Abbey at Westminster. It is not clear whether this is the least restrictive environment at this time..

Diagnosis, mental and/or physical: Per doctor's letter; Dementia, HTN, HX CVA. Per facility (conglomerate from various doctors) Dementia, Psychosis, HTN, Hyperlipidemia, Breast Cancer, Degenerative Joint Disease, Glaucoma, Traumatic Brain Injury, Alcoholism, Osteoarthritis, Mood D/O.

08/25/2014 16:04 P0050

Medications: Including, but not limited to: Aspirin, Atorvastatin, Diovan, Exelon, Levothyroxin, Tab-A-Vite, Vitamin D, Claritin, Risperadol, Lumigan, Meclizine, Pilocarpine, Cosopt.

Behavioral indicators of diagnosis: Reported memory loss and aggression.

Medical prognosis for future health and well being of proposed ward: Guarded.

Present Educational/employment status: N/A.

Family members and interested parties(names in bold print):

Billy J. Storseth (husband/POA) 725 Echo Lane Houston, TX 77024.

Nancy McDonald (daughter/applicant/POA) 3606 Dorothy Lane Fort Worth, TX 76107 817-706-8763.

Vicki Cronin (daughter) 1552 S. Gessner Houston, TX 77063.

Is Proposed ward indigent? ____Yes __X__No

Is there a Power of Attorney? ____Yes ____No

If Yes, describe ___Statutory Durable, Nancy McDonald agent._____

05/23/2014 14:04 P005/1

Social Security Benefits:

__X__ Yes $900.00 Type/Amt _____ No

Current Payee: PW

Direct Deposit: _X_ Yes ___No

If Yes Bank Info: _____

If No, Mailing Address: _____

Claim # _____

Veterans Administration Benefits:

_____ Yes __X__ No

_____ Amount

Current Fiduciary: _____

Direct Deposit: ___Yes ___No

If Yes Bank Info: _____

If No, Mailing Address: _____

Claim # _____

Pension Benefits:

_____ Yes __X__ No

_____ Amount _____Claim Number

Current Fiduciary: _____

Direct Deposit: ___Yes ___No

If Yes Bank Info: _____

If No, Mailing Address: _____

Additional Income: None reported.

Any known assets of the ward: (Homestead, real property, bank accounts, pre-needs, stock, bonds, CDs, etc.—description, value and location)

Bank Account at Independent Bank approximate balance $140,000.00 per applicant.

Vehicle (make and model not available at the writing of this report).

Life Insurance Policy value not reported.

Property at 725 Echo Lane valued at $739,378.00 per HCAD (recently sold for $1,000,000.00 per applicant).

According to the PW: Bank accounts at Frost Bank and Compass Bank, 6 cemetery plots, Home at Echo Ln.

Proposed Ward's understanding of the concept of guardianship:
_X_ Good ____ Fair ____ Poor ___ Unable to determine

Proposed Ward's attitude toward guardianship:
____ Consenting _X_ Opposed ____ Unable to determine

Proposed Ward's preference regarding their appearance at the hearing:
_X_ Consenting ____ Opposed ____ Unable to determine

Proposed ward's preference for the appointment of guardian: The PW replied "either daughter but Nancy would be best."

Proposed ward' religious preference: (to include any of the PW's wishes regarding medical procedural issues, etc. that would be helpful to the applicant)
Not reported.

Recommendation of the Court Investigator

Is there a necessity for guardianship?
____ Yes _____ No *Unclear

Type of guardianship:

____ Person _____ Estate _____ Person & Estate

_____Temporary _____ Permanent

15-10

05252014 1604 P003

Basis for recommendation of Investigator: (description of pertinent information for the court and applicant)

I met the PW at the nursing facility where she was admitted to the memory care unit. The PW was dressed in slacks and a blouse and appeared to be in excellent hygiene. The PW expressed much concern about alleged incapacitation. The PW was able to report the correct date and year and was oriented to person and place. The PW stated that she does not have problems with her memory although she reports using a memory patch since she was admitted to the memory care unit at The Abbey. The PW provided the names of her family members, doctors, the APS caseworker and various staff at the facility. The PW said that she and her husband had gone through some difficulties due to grief and illness which, according to the PW, changed her husband's personality. The PW said that she was picked up at her home in March and taken to the hospital after an incident with her husband. The PW reported that the incident was very traumatic.

The PW related medical information regarding diagnoses and medications that were prescribed by Dr. Rosenbaum, the PW's doctor of many years. The PW said that Dr. Rosenbaum prescribed medications for blood pressure, high cholesterol, hypothyroidism and allergies. The PW also reported that she has had cataract surgery and a corneal transplant and is monitored routinely for eye care. The PW said that she had a conversation with Dr. Raichman, who saw her during a recent hospitalization, and he reportedly said that the PW "should not be here" (in the memory unit).

The PW reported that she and her husband own a home although she expressed concern that it may not be in her name anymore. The PW said that she worries that her husband "wants her out" so he can sell the house. The PW said that she has income from social security, a savings account at Frost, a checking account at Compass and several cemetery plots. The PW also mentioned a Living Trust.

2015201401 11:04:00 PM

I have been unable to speak with Dr. Rosenbaum or Dr. Raichman as of the writing of this report. According to the APS caseworker, the PW had been managing her finances and can "put everything together." The APS caseworker reported that the PW feels that "everyone is against her." APS said no abuse was validated and that both of the PW's daughters seem to have the PW's best interest in mind. According to the social worker, Inez, at West Houston where the PW was hospitalized, the PW is in denial about her dementia diagnosis. The social worker said that the PW was not belligerent or aggressive likely since she had no access to alcohol at the hospital. I asked the PW if she remembered who Inez was and she stated that she is the social worker at the hospital and may give a "negative report" about the PW.

There has been conflicting information reported regarding the PW's status at The Abbey. The applicant's attorney reports that The Abbey has requested that the PW leave however, The Abbey reports that the PW's family gave notice to the facility that they are moving the PW to Grandbury, TX. According to facility staff, there has been conflicting information from doctor's (Dr. Raichman and Dr. Karen Jacobson) regarding whether the PW is appropriate for memory care or assisted living.

The applicant reports that she has found a facility in Grandbury so that the PW can be close to where the applicant lives. The applicant also said that she understands she is supposed to remain in Harris County until the guardianship is finalized. I asked the applicant's attorney if they would be filing for guardianship in Grandbury or transferring the guardianship after the move and she stated that there has not been a final decisinn about relocating the PW.

The PW's husband plans to manage the PW's finances as community administrator and the applicant has Statutory Durable Power of Attorney. The PW has income from social security and partial interest in community property. The doctor's

05/20/2014 11:04 P005

letter alleges total incapacity though it states that the PW is able to vote in public elections. The PW may be moving to a facility in another county where family could potentially act as surrogate decision maker. Based on the aforementioned, it is not clear whether a guardianship is necessary at this time.

Tara Zinn, LMSW, NCG
Court Investigator
Probate Court Number Three

15-13

Guardianship

1. Check Citation
   1.1. Is the name of the proposed ward the same as the name for the proposed ward listed on the application
      1.1.1. Closeness counts, but if it is a common name it doesn't
   1.2. Is return date on the citation before the hearing date
   1.3. Is the name for the applicant the same as the applicant name on the application
   1.4. Does the type of guardianship (person & estate/person/estate) listed in the citation match the type of guardianship plead for in the application
2. Check application
   2.1. Is applicant a Texas resident
      2.1.1. If no, then check for appointment of a resident agent
   2.2. Make sure the application states whether the proposed ward's rights to vote and drive will be restricted
   2.3. Is the proposed ward domiciled or found in Harris County on the date the application is filed
      2.3.1. If no, then check to see if other venue requirements are met per section **§1021.001 & §1023.001 of the Texas Estates Code**
   2.4. Make sure application lists the persons required to receive service of citation pursuant to **§1051.103 *et seq.* of the Texas Estates Code**
      2.4.1. Parents of the proposed ward, any proposed ward over the age of 12 and the spouse of a proposed ward must be personally served by constable or private process server
         2.4.1.1. Note: The proposed ward must be served by constable or other officer
      2.4.2. Children and siblings can be served personally by certified mail
         2.4.2.1. Holders of a power of attorney and the administrator of a facility the proposed ward resides in must be served by certified mail
3. Check for waiver of proof of service upon the persons required to receive citation pursuant to **§1051.105**
      3.1.1. Parents of the proposed ward, any proposed ward over the age of 12 and the spouse of a proposed ward must be personally served by constable or private process server
         3.1.1.1. Note: The proposed ward must be served by constable or other officer
         3.1.1.2. Check to if the citation for personal service is returned
         3.1.1.3. The proposed ward cannot waive personal service, however, any competent adult may waive service
      3.1.2. Children and siblings can be served personally by certified mail
         3.1.2.1. Competent adults can waive service
         3.1.2.2. Only children and siblings over the age of 18 must be served
      3.1.3. Holders of a power of attorney signed by the proposed ward and administrators of facilities in which the proposed ward resides must be served by certified mail
4. Check the doctor's letter
   4.1. Any application filed after 9/1/2009 must comply with the requirements of the current law found in **§1101.103 *et seq.***

15-14

4.1.1. Note: All four courts have promulgated a doctor's form letter that meets the requirements of **§1101.103** ***et seq.*** and you should expect to see this form letter

4.2. Make sure the date of the doctor's letter is not greater than four months before the date which the application was filed with the clerk

4.3. Make sure that the date in which the doctor examined the proposed ward is not greater than four months before the date in which the application was filed with the clerk

5. Check to make sure the attorney ad litem has filed an answer

Effective 9/1/15
Applicants attorney must be certified
per Estates Code 1054.201

DATA ENTRY
PICK UP THIS DATE

FILED
3/3/2014 3:42:46 PM
Stan Stanart
County Clerk
Harris County

03042014 1516 P0164

No. 424126

IN THE GUARDIANSHIP OF	§	PROBATE COURT
	§	
JENNIFER MARIE GAONA	§	NO. 3
	§	
AN INCAPACITATED ADULT	§	HARRIS COUNTY, TEXAS

AFFIDAVIT OF DUE DILIGENCE

State of Texas §
§
County of Harris §

Maribel Gaona appeared in person before me today and stated under oath:

"My name is Maribel Gaona. I am competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

I am the Petitioner in this case. I seek to become the permanent guardian of my mentally incapacitated adult daughter, Jennifer Marie Gaona. I have submitted an application for guardianship in the above numbered cause.

I believe the father of my adult daughter, Jennifer Marie Gaona, is named Victor Rodriguez. I do not know where Victor Rodriguez is currently living or working. The last time I saw Victor Rodriguez was approximately 1996 when my daughter Jennifer was about 1 year old. He and I were not involved in a relationship, and I have not had any contact with him since 1996. Mr. Rodriguez was from Mexico, and I understand from acquaintances that he may have been deported back to Mexico although I do not know when or if this occurred.

I do not know any of the family members or friends of Victor Rodriguez. . I know of no relatives to contact.

The residence of Victor Rodriguez is unknown to me. In 1996, I believe he lived in Harris County but never knew his address at that time. I have exercised due diligence to locate

15-16

03/03/2014 15:16 FAX 016

the whereabouts of Victor Rodriguez so that my attorney can provide him with notice of my application of guardianship pursuant to Section 633 of Texas Probate Code, but have been unable to do so. I have also provided my attorney, Jamila M. Brinson, with all of the information I have regarding Victor Rodriguez's whereabouts and identifying information, and Ms. Brinson and/or the law firm of Jackson Walker L.L.P. searched www.tlo.com, an online investigative system, but was only able to narrow the search to 430 persons with the name Victor Rodriguez. Please see attached as Exhibit A the first ten of 300 pages of the aforementioned results of the search.

On March 3, 2014, Ms. Brinson searched the public online records for the Harris County Sheriff's Office (https://apps.jims.hctx.net/sopublic/Inquiry.do;jsessionid=1D3B055F6CEA9B31031A77812EB38356) and the Texas Department of Criminal Justice online offender search website (http://offender.tdcj.state.tx.us/POSdb2/index.jsp) for Victor Rodriguez. The Harris County Sheriff's Office had one entry for a Victor Rodriguez but that person appears to be too young to be the father of my daughter, Jennifer Marie Gaona, based on what I believed his age to be at the time she was conceived. Please see attached as Exhibit B the result of this search.

There are several men by the name of Victor Rodriguez who are listed as current inmates according to the Texas Department of Criminal Justice online offender search, but based on my belief that Mr. Rodriguez was deported back to Mexico, I do not believe any of those men is the father of my daughter, Jennifer Marie Gaona. I do not know any further information about Mr. Rodriguez to assist my attorney in narrowing down the search for him. Please see attached as Exhibit C the result of this search.

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03042014 1516 P016

Ms. Brinson also searched the Online Detainee Locator System available through the U.S. Immigration and Customs Enforcement but there were no entries under the name Victor Rodriguez. The Locator System will only provide exact matches to the name entered, and it is possible that Mr. Rodriguez had an additional last name, but I do not know what it could be. Please see attached as Exhibit D the result of this search.

Despite my best efforts, and the best efforts of my attorneys and the law firm Jackson Walker, L.L.P., the whereabouts of Victor Rodriguez are unknown and cannot be reasonably ascertained."

Further Affiant Sayeth Not.

Maribel Gaona
Petitioner

SIGNED under oath before me on the 3rd of March, 2014.

AMY E. MALONE
Notary Public, State of Texas
My Commission Expires
April 28, 2018

Notary Public, State of Texas

15-18

Mini Mental State Exam

Helen SiABU
MONDAY 10.14.13

Orientation:
What is today's date?

Day: 3 Date: ? Month: ? Year: ? Season: ?

0 Score (5 possible)

Where are we?

Hospital: — Floor: — City: —
County: — State: Michigan

0 Score (5 possible)

Registration:

Examiner will name 3 objects (1 second to say each), [illegible] all three used [illegible] each correct answer. Repeat as necessary until Subject learns all 3 (up to 6 trials).

No. of trials: ___ Words: A B H

3 Score (3 possible)

Attention and Calculation:

Ask Subject to count backwards from 100 by 7's (serial 7's) (93, 86, 79, 72, 65). One point for each correct number, max 5. If subject cannot or will not perform this task, ask Subject to spell "WORLD" backwards (D, L, R, O, W)

0 Score (5 possible) 100-7=70-7=? WORLD → DLROW

Recall: Ask Subject to repeat the three words learned in Registration.

Words: 0

0 Score (3 possible)

Language:

2 Show objects and ask Subject to name them:
? Pencil ✓ Watch — ~~Ask subject to repeat after Examiner: "No ifs, ands, or buts."~~

1 (3 pts) Examiner will give Subject a piece of paper, saying: "Take this paper in your right hand, fold it in half, and place it on the floor."

1 Examiner will take blank paper and print large enough for Subject to clearly see it: "Close your eyes." Ask Subject to read it and do what it says.

0 Ask Subject to write a sentance. (must have subject and verb, and must make sense.)

4 Ask Subject to copy design.

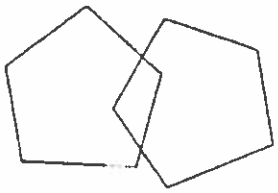
Score (9 possible)

7 TOTAL SCORE (30 possible)

15-19

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

STANDARDIZED MINI-MENTAL STATE EXAMINATION (SMMSE)

	QUESTION	TIME ALLOWED	SCORE
1	a. ***What year is this?***	10 seconds	/1
	b. ***Which season is this?***	10 seconds	/1
	c. ***What month is this?***	10 seconds	/1
	d. ***What is today's date?***	10 seconds	/1
	e. ***What day of the week is this?***	10 seconds	/1
2	a. ***What country are we in?***	10 seconds	/1
	b. ***What province are we in?***	10 seconds	/1
	c. ***What city/town are we in?***	10 seconds	/1
	d. ***IN HOME – What is the street address of this house?*** ***IN FACILITY – What is the name of this building?***	10 seconds	/1
	e. ***IN HOME – What room are we in? IN FACILITY – What floor are we on?***	10 seconds	/1
3	**SAY:** ***I am going to name three objects. When I am finished, I want you to repeat them. Remember what they are because I am going to ask you to name them again in a few minutes.*** Say the following words slowly at 1-second intervals - **ball/ car/ man**	20 seconds	/3
4	***Spell the word WORLD. Now spell it backwards.***	30 seconds	/5
5	***Now what were the three objects I asked you to remember?***	10 seconds	/3
6	**SHOW** wristwatch. **ASK:** ***What is this called?***	10 seconds	/1
7	**SHOW** pencil. **ASK:** ***What is this called?***	10 seconds	/1
8	**SAY:** ***I would like you to repeat this phrase after me: No ifs, ands or buts.***	10 seconds	/1
9	**SAY:** ***Read the words on the page and then do what it says.*** Then hand the person the sheet with CLOSE YOUR EYES on it. If the subject reads and does not close their eyes, repeat up to three times. Score only if subject closes eyes	10 seconds	/1
10	**HAND** the person a pencil and paper. **SAY:** ***Write any complete sentence on that piece of paper.*** (Note: The sentence must make sense. Ignore spelling errors)	30 seconds	/1
11	**PLACE** design, eraser and pencil in front of the person. **SAY:** ***Copy this design please.***  Allow multiple tries. Wait until person is finished and hands it back. Score only for correctly copied diagram with a 4-sided figure between two 5-sided figures.	1 minute	/1
12	**ASK** the person if he is right or left-handed. Take a piece of paper and hold it up in front of the person. **SAY:** ***Take this paper in your right/left hand*** (whichever is non-dominant), ***fold the paper in half once with both hands and put the paper down on the floor*** . Score 1 point for each instruction executed correctly.	30 seconds	
	Takes paper correctly in hand		/1
	Folds it in half		/1
	Puts it on the floor		/1
	TOTAL TEST SCORE		/30

Note: This tool is provided for use in British Columbia with permission by Dr. William Molloy. This questionnaire should not be further modified or reproduced without the written consent of Dr. D. William Molloy.

15 - 20

Provided by the Alzheimer's Drug Therapy Initiative for physician use.

GLOBAL DETERIORATION SCALE (GDS)

Stage	Deficits in cognition and function	Usual care setting
1	**Subjectively and objectively normal**	Independent
2	• Subjective complaints of mild memory loss. • Objectively normal on testing. • No functional deficit	Independent
3	**Mild Cognitive Impairment (MCI)** • Earliest clear-cut deficits. • Functionally normal but co-workers may be aware of declining work performance. • Objective deficits on testing. • Denial may appear.	Independent
4	**Early dementia** • Clear-cut deficits on careful clinical interview. Difficulty performing complex tasks, e.g. handling finances, travelling. • Denial is common. Withdrawal from challenging situations.	Might live independently – perhaps with assistance from family or caregivers.
5	**Moderate dementia** • Can no longer survive without some assistance. • Unable to recall major relevant aspects of their current lives, e.g. an address or telephone number of many years, names of grandchildren, etc. Some disorientation to date, day of week, season, or to place. They require no assistance with toileting, eating, or dressing but may need help choosing appropriate clothing.	At home with live-in family member. In seniors' residence with home support. Possibly in facility care, especially if behavioural problems or comorbid physical disabilities.
6	**Moderately severe dementia** • May occasionally forget name of spouse. • Largely unaware of recent experiences and events in their lives. • Will require assistance with basic ADLs. May be incontinent of urine. • Behavioural and psychological symptoms of dementia (BPSD) are common, e.g., delusions, repetitive behaviours, agitation.	Most often in Complex Care facility.
7	**Severe dementia** • Verbal abilities will be lost over the course of this stage. • Incontinent. Needs assistance with feeding. • Loses ability to walk.	Complex Care

Adapted by Dr. Doug Drummond from Reisberg B, Ferris SH, Leon MJ, et al. The global deterioration scale for assessment of primary degenerative dementia. American Journal of Psychiatry 1982;139:1136-1139.

15-21

Provided by the Alzheimer's Drug Therapy Initiative for physician use.

NO. «cause_no»

GUARDIANSHIP OF	§	IN PROBATE COURT
	§	
DOE, JOHN	§	NUMBER 3 OF
	§	
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

APPLICATION FOR GUARDIANSHIP OF THE PERSON AND ESTATE

Now comes the Harris County Guardianship Program, Applicant, and makes this Application for Guardianship and says:

WARD

John Doe, the proposed ward in the above captioned matter, is an adult male who was born on January 15, 1938. The proposed ward is residing at 1235 S. Shepherd, Houston, Texas 77019.

APPLICANT

Applicant, located at 2525 Murworth, Houston, Texas 77054, is not related to the proposed ward but has been designated by the Commissioners Court of Harris County as the Harris County Guardianship Program and requests appointment as guardian of the Person and Estate.

CITATION

Citation for personal service is necessary on the following individuals:

John Doe, proposed ward
1235 S. Shepherd
Houston, Texas 77019

Mary Doe, proposed ward's daughter
6787 Utah Street
Houston Texas 77035

15-22

INCAPACITY

Proposed ward is so incapacitated as to be unable to perform any of the activities necessary for self-care or estate management. Protection and assistance is required in all areas of proposed ward's life, including terminating proposed ward's right to vote, ward's ability to hold or obtain a driver's license, ward's right to own, possess, purchase, or use a firearm or ammunition, and make personal decisions regarding residence. A total restriction of rights is necessary to protect proposed ward's best interest. Alternatives to guardianship that would avoid the need for the appointment of a guardian have been considered and determined not to be feasible.

FACTS

The facts requiring that a guardian be appointed are set out in a letter from Dr. Juan Valdes, M.D., dated January 15, 2016, a copy of which is on file with this Court and incorporated herein by reference. Applicant's interest in this matter results from a referral for guardianship services.

EXISTING GUARDIANSHIPS

To the best of Applicant's knowledge, there is no guardianship of any kind existing for the proposed ward in any other state.

ESTATE

Proposed ward's estate consists of monthly benefits from social security in the amount of $2200.00 and real property valued at $65,000.

POWER OF ATTORNEY

No one currently holds a Power of Attorney executed by the proposed ward.

FAMILY

To the best of Applicant's knowledge proposed ward has no relatives other than those already mentioned in this application.

In the event a spouse or family member named above is found by the Court to be qualified and not disqualified, Applicant requests that the court give preference to said family member as provided for Section 1104.102, Texas Estates Code.

VENUE

This Court has venue over these proceedings because the proposed ward is located in Harris County.

WHEREFORE, Applicant prays for appointment of the Harris County Guardianship Program as guardian of the person and estate of John Doe, an incapacitated person, and for such other Orders as the Court may deem proper.

Respectfully submitted,

HARRIS COUNTY
GUARDIANSHIP PROGRAM

By: _____
«Mary Amers
Probate Court Liaison
P.O. Box 20605
Houston, Texas 77225-0605
Tel. (713) 363-2323
Fax (713) 363-2364

VINCE RYAN, SPN 99999939
County Attorney

By: _____

Assistant County Attorney
2525 Murworth, Ste. 103
Houston, Texas 77054
Tel. (713) 578-6654
Fax (713) 578-2195

15-24

NO. **CAUSE NO.**

GUARDIANSHIP OF	§	IN PROBATE COURT
	§	
NAME OF PROPOSED WARD,	§	NUMBER **COURT NO.** OF
	§	
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

ORDER APPOINTING GUARDIAN OF **PERSON AND/OR ESTATE**

On this day came on to be heard the **NAME OF APPLICANT'S** Application for Guardianship of the **PERSON AND/OR ESTATE** of **NAME OF PROPOSED WARD**, and the Court finds by clear and convincing evidence as follows:

1. **NAME OF PROPOSED WARD** is an incapacitated person.
2. it is in **NAME OF PROPOSED WARD'S** best interest to have this Court appoint a guardian.
3. **NAME OF PROPOSED WARD'S** rights and property will be protected by the appointment of a guardian.
4. **NAME OF POPOSED WARD** was notified of this hearing, was represented by the duly appointed Attorney Ad Litem, **NAME OF ATTORNEY AD LITEM**, and a personal appearance is not necessary.
   - ☐ **OR NAME OF PROPOSED WARD** was present at the hearing and was represented by the duly appointed Attorney Ad Litem, **NAME OF ATTORNEY AD LITEM**.
   - ☐ Guardian Ad Litem, **NAME OF GUARDIAN AD LITEM**, was appointed to represent the best interest of **NAME OF PROPOSED WARD** and has entered an appearance.
5. Alternatives to guardianship that would avoid the need for the appointment of a guardian have been considered and determined not to be feasible.
6. Supports and services available to the proposed ward that would avoid the need for the appointment of a guardian have been considered and it was determined that the supports and services were not feasible.

The Court further finds by a preponderance of the evidence as follows:

1. The Court has venue of this case and jurisdiction over this matter.

2. No eligible person with a superior right to be appointed as guardian has applied for guardianship and **NAME OF APPLICANT**, is a proper person to serve and entitled to appointment and to act as guardian.

3. **NAME OF PROPOSED WARD** is totally without capacity as provided by the Texas Estates Code for self-care or property management.

OR

3. **NAME OF PROPOSED WARD** lacks the capacity to do some, but not all, of the following tasks necessary to care for him/herself or to manage his or her property:

Y N

- ☐ ☐ Make complex business, managerial, and financial decisions
- ☐ ☐ Manage a personal bank account or funds in the amount of $_____
- ☐ ☐ Safely operate a motor vehicle
- ☐ ☐ Vote in a public election
- ☐ ☐ Make decisions regarding marriage
- ☐ ☐ Determine own residence
- ☐ ☐ Administer own medications on a daily basis
- ☐ ☐ Attend to basic activities of daily living (ADLS) (e.g., bathing, grooming, dressing, and walking)
- ☐ ☐ Attend to instrumental activities of daily living (e.g., shopping, cooking, traveling)
- ☐ ☐ Consent to medical and dental treatment, now or in the future
- ☐ ☐ Consent to psychological and psychiatric treatment, now or in the future

4. There ☐ is / ☐ is not a possibility for improvement in **NAME OF PROPOSED WARD'S** functioning. The NAME OF PROPOSED WARD should be reevaluated / should not be reevaluated to determine whether a guardianship continues to be necessary. If a reevaluation is required by this order, it should be completed by_____.

5. **NAME OF APPLICANT** has proven each element required by the Texas Estates Code to create a guardianship.

It is therefore ORDERED that **NAME OF APPLICANT** is hereby appointed Guardian of the **PERSON AND/OR ESTATE** of **NAME OF PROPOSED WARD**, until said ward may be restored by further order of this Court, with full authority over the ward.

It is further ORDERED that the ward's right to vote and ward's ability to obtain or hold a driver's license are hereby terminated.

It is further ORDERED that the ward shall no longer have the right to own, possess, purchase, or use a firearm or ammunition;

It is further ORDERED that the ward's rights to make decisions regarding marriage and residential placement decisions are terminated,

It is further ORDERED that any Statutory Durable Power of Attorney which may be held by any party is hereby null and void.

It is further ORDERED that any advanced healthcare directives appropriately executed by the proposed ward prior to incapacity will not be revoked by this Order.

It is further ORDERED that, should the guardian plan to move the ward to a more restrictive residential facility, notice shall be given to the court, the ward and any other person who has requested notice.

It is further ORDERED that the guardian shall qualify upon filing the Oath and posting bond in the amount of $_____ and the Clerk is directed to issue Letters of Guardianship to **NAME OF APPLICANT** upon said qualification.

It is further ORDERED, that the said Attorney Ad Litem is hereby discharged from further duty on this matter.

NOTICE TO ANY PEACE OFFICER OF THE STATE OF TEXAS: YOU MAY USE REASONABLE EFFORTS TO ENFORCE THE RIGHT OF A GUARDIAN OF THE PERSON OF A WARD TO HAVE PHYSICAL POSSESSION OF THE WARD OR TO ESTABLISH THE WARD'S LEGAL DOMICILE AS SPECIFIED IN THIS ORDER. A PEACE OFFICER WHO RELIES ON THE TERMS OF A COURT ORDER AND THE OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY AGAINST ANY CIVIL OR OTHER CLAIM REGARDING THE OFFICER'S GOOD FAITH ACTS PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE TERMS OF THIS ORDER THAT RELATE TO THE ABOVE-MENTIONED RIGHTS OF THE COURT-APPOINTED GUARDIAN OF THE PERSON OF THE WARD.

ANY PERSON WHO KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER THAT IS INVALID OR NO LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY BE PUNISHABLE BY CONFINEMENT IN JAIL FOR AS LONG AS TWO YEARS AND A FINE OF AS MUCH AS $10,000.

SIGNED this _____ day of _____, 2015.

_____
JUDGE PRESIDING

15-~~[illegible]~~ 28

CAUSE NO. 441,432

IN THE GUARDIANSHIP OF	§	IN THE PROBATE COURT
KELLY DENISE HOLLIER,	§	NUMBER THREE (3) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

ORDER APPOINTING GUARDIAN OF THE PERSON

On this day came on to be heard the *Application for Appointment of Guardian of the Person*, filed by **Thomas Allen Hollier** ("Applicant") in the Guardianship of **Kelly Denise Hollier**, and the Court finds by clear and convincing evidence as follows:

1. **Kelly Denise Hollier** is an incapacitated person.

2. It is in **Kelly Denise Hollier**'s best interest to have this Court appoint guardian of the person.

3. Proposed Ward's rights and property will be protected by the appointment of a guardian.

4. Proposed Ward's appearance was waived at the hearing and was represented by the duly appointed Attorney Ad Litem, **Cassandra Walsh**.

5. Alternatives to guardianship that would avoid the need for the appointment of a guardian have been considered and determined not to be feasible.

6. Supports and services available to the proposed ward that would avoid the need for the appointment of a guardian have been considered and it was determined that the supports and services were not feasible.

The Court further finds by a preponderance of the evidence as follows:

1. The Court has venue of this case and jurisdiction over this matter.

2. No eligible person with a superior right to be appointed as guardian has applied for guardianship and **Thomas Allen Hollier**, is entitled to appointment and to act as guardian.

3. **Kelly Denise Hollier** is totally without capacity as provided by the Texas Estates Code for self-care or property management.

4. There is not possibility for improvement in **Kelly Denise Hollier**'s functioning. A reevaluation to determine whether guardianship should continue is unnecessary because there is no possibility for improvement.

5. **Thomas Allen Hollier** has proven each element required by the Texas Estates Code to create a guardianship.

15-[illegible] 29

It is therefore ORDERED that **Thomas Allen Hollier** is hereby appointed Guardian of the Person of **Kelly Denise Hollier**, until said ward may be restored by further order of this Court, with limited authority over the ward.

It is further ORDERED that the ward's right to vote and ward's ability to obtain or hold a driver's license are hereby terminated.

It is further ORDERED that the ward shall no longer have the right to own, possess, purchase, or use a firearm or ammunition.

It is further ORDERED that the ward's rights to make decisions regarding marriage and residential placement decisions are terminated.

It is further ORDERED that any Statutory Durable Power of Attorney which may be held by any party is hereby null and void.

It is further ORDERED that any advanced healthcare directives appropriately executed by the proposed ward prior to incapacity will not be revoked by this Order.

It is further ORDERED that, should the guardian plan to move the ward to a more restrictive residential facility, notice shall be given to the court, the ward and any other person who has requested notice.

It is further ORDERED that the guardian will not place the ward in an unlicensed residential facility without further order of this Court.

It is further ORDERED that the guardian shall qualify upon filing their Oath posting bond in the amount of $ 25.00 and the Clerk is directed to issue Letters of Guardianship to **Thomas Allen Hollier** upon said qualification.

It is further ORDERED that the Attorney Ad Litem is paid by separate Order and is hereby discharged.

"NOTICE TO ANY PEACE OFFICER OF THE STATE OF TEXAS: YOU MAY USE REASONABLE EFFORTS TO ENFORCE THE RIGHT OF A GUARDIAN OF THE PERSON OF A WARD TO HAVE PHYSICAL POSSESSION OF THE WARD OR TO ESTABLISH THE WARD'S LEGAL DOMICILE AS SPECIFIED IN THIS ORDER. A PEACE OFFICER WHO RELIES ON THE TERMS OF A COURT ORDER AND THE OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY AGAINST ANY CIVIL OR OTHER CLAIM REGARDING THE OFFICER'S GOOD FAITH ACTS PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE TERMS OF THIS ORDER THAT RELATE TO THE ABOVE-MENTIONED RIGHTS OF THE COURT-APPOINTED GUARDIAN OF THE PERSON OF THE WARD. ANY PERSON WHO KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER THAT IS INVALID OR NO LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY BE PUNISHABLE BY CONFINEMENT IN JAIL FOR AS LONG AS TWO YEARS AND A FINE OF AS MUCH AS $10,000."

15-[redacted]30

SIGNED on _____, 2015.

_____
Judge Presiding

APPROVED:

HAYES & WILSON, PLLC

BY: **Lisa L. Wilson***
State Bar No. 00795723
lisa@hayeswilsonlaw.com
Hilary H. Lane*
State Bar No. 24087882
hilary@hayeswilsonlaw.com
1235 North Loop West, Suite 907
Houston, Texas 77008
(713) 880-3939 Telephone
(713) 880-9990 Facsimile
Attorneys for Applicants
**Certified pursuant to T.E.C.§1054.201*

BY: **Cassandra Walsh**
State Bar No. 24093321
1233 West Loop South, Suite 1000
Houston, Texas 77027
(713) 752-8325 Telephone
(713) 650-0027 Facsimile
Cassandra.Walsh@leclairryan.com
Attorney Ad Litem For
Kelly Denise Hollier, An Incapacitated Person

Deleted
15-25-28

15-[redacted]31

15

Jane a widow who lived in San Antonio died in a car wreck. She was survived by her 16 year old son Alan, her brother Mark and her sister Beth. Jane's will provided that in the event of her death, Mark should be appointed guardian of both the person and the estate of Alan. Jane's estate which she left entirely to Alan was valued at $2 million.

Mark who was married and working as a wholesale lumber salesman, had a modest but comfortable home and excellent job security. Previously Mark had worked as a trust officer in a local bank and had been fired for mismanaging a customer's trust account.

Beth was a single woman who worked as a highly successful securities brother specializing in the management of income producing investments for her client. Her work related travel took her out of town 4-5 days a week.

The court appointed Mark as Temporary guardian of Alan's person and estate. Mark immediately loaned himself $50k for use in remodeling his home.

When Beth learned about eh loan, she filed an action to have Mark removed as guardian and to have herself appointed guardian of Alan's person and estate. Beth's petition also sought to require Mark to restore to Alan's estate the $50k he borrowed.

Mark opposed Beth's petition asserting that the court was bound by the terms of Janes will. Mark also filed an affidavit signed by Alan stating that Alan did not like Beth and wanted to live with Mark and Mark's wife so he could graduate from high school with his friends.

Mark testified that he borrowed the $50 in good faith and his intent was to extensively remodel his home but about half the proceeds were spent to build a room to accommodate Alan's moving in. He claimed that he should not be penalized because shortly before her death, Jane had promised to lend him the money.

1. What should the court do regarding Jane's wish as stated in the will?
2. What options are available for the court to consider?
3. May a court order Mark to restore the $50k?

Be prepared to discuss

15-B 53

15

Harry and Wanda had one child Amy. They divorced in 1998. After the divorce harry had no further contact with Wanda or Amy

Wanda married Steve in 2000 and they raised Amy together until 2008 when Wanda was killed in an automobile accident. Shortly after Wanda's death, Steve filed an application with the Probate Court to be appointed the permanent guardian of Amy's person and estate. Harry filed an answer and competing application.

During the hearing, the court heard the following evidence:

A letter signed by Wanda declaring that in the event of her death she appoints Steve Amy's guardian

A letter signed by Amy who was now 12 years old, stating that she wanted Steve to be her permanent guardian and did want to live with Harry.

Testimony that Steve had been an attentive stepfather to Amy and was the owner of a successful business.

Testimony that Harry was a high school dropout had two felony convictions was unemployed and was burdened by a large amount of debt.

Harry argued that the Texas Probate Code mandates that he be appointed Amy's guardian because as Amy's only surviving parent, there was a presumption that his appointment as Amy's fuardian was her her best interest.

Did Wanda's letter have the effect of requiring the court to appoint Steve?

Could the court consider Amy's wishes?

Did the court err in appointed Steve?

Be prepared to discuss.

15-1854

Chapter 16:

Guardianships, Administration, Compensation

433652

LAST WILL AND TESTAMENT

OF

MARY BELL COKER VAUGHAN

PROBATE COURT 3

THE STATE OF TEXAS

COUNTY OF HARRIS

KNOW ALL MEN

BY THESE PRESENTS

THAT I, MARY BELLE COKER VAUGHAN OF THE COUNTY OF HARRIS, STATE OF TEXAS, BEING OF SOUND AND DISPOSING MIND, NOT ACTING BY REASON OF FRAUD, DURESS, OR UNDUE INFLUENCE OF ANY CHARACTER WHATSOEVER, AND DESIRING TO DISPOSE OF ALL MY PROPERTY, REAL, PERSONAL, AND MIXED, AND WHICH I MAY OWN AT THE TIME OF MY DEATH OR WHICH I MAY HAVE THE POWER TO DISPOSE OF BY WILL UNDER POWERS OF APPOINTMENT OR OTHERWISE, DO HEREBY MAKE, PUBLISH AND DECLARE THIS TO BE MY LAST WILL AND TESTAMENT, HEREBY REVOKING ALL PRIOR WILLS AND CODICILS HERETOFORE PREVIOUSLY MADE BY ME.

ARTICLE I

APPOINTMENT OF EXECUTOR

I HEREBY APPOINT LINDA LEE ELEDGE OF CONROE, TEXAS AS INDEPENDENT EXECUTOR OF MY WILL. IF LINDA LEE ELEDGE SHOULD NOT SURVIVE ME, OR SURVING ME, SHOULD FAIL TO BE UNABLE TO ACT AS SUCH OR SHOULD DIE, RESIGN OR BE REMOVED THEN IN SUCH EVENT, I DIRECT THAT JAMES RUSSELL ELEDGE ACT AS EXECUTOR.

PURPORTED WILL

I DIRECT THAT NO BOND OR OTHER SECURITY SHALL EVER BY REQUIRED OF MY EXECUTOR AT ANY TIME ACTING HEREUNDER AND NO ACTION SHALL BE HAD IN THE COUNTY COURT OR OTHER PROBATE COURT IN RELATION TO SETTLEMENT OF MY ESTATE OTHER THAN THE PROBATING OR RECORDING OF THIS MY WILL.

ARTICLE II

PAYMENT OF DEBTS AND TAXES

I DIRECT MY EXECUTOR AS SOON AFTER MY DEATH AS PRACTICABLE TO INVENTORY ALL OF MY JUST DEBTS, ANY EXPENSES IN REGARD TO THE DISPOSITION OF MY PHYSICAL REMAINS AND GENERAL TESTAMENTARY EXPENSES OF MY ESTATE, INCLUDING ALL ESTATE, INHERITANCE TRANSFER, LEGACY, SUCCESSION OR ANY OTHER FORM OF DEBT, TRANSFER TAXES OR DUTIES WHICH MAY BE ASSESSED OR LEVIED WITH RESPECT TO MY ESTATE OR ANY PORTION THEREOF. MY EXECUTOR IS SPECIFICALLY GIVEN THE RIGHT TO RENEW AND EXTEND, IN ANY FORM THAT SHE DEEMS BEST, ANY DEBT OR CHARGE EXISTING AT THE TIME OF MY DEATH.

FURTHERMORE, I HEREBY DECLARE THAT THERE WILL NOT BE AN ACCOUNTING OR EVALUATION OF ANY OF MY ASSETS UPON MY DEATH, BY MICHAEL JASTER OR ANY OTHER INDIVIDUAL.

ARTICLE III

REQUESTS AND DEVISES

I HEREBY GIVE, DEVISE AND BEQUEATH ALL OF MY PROPERTY OF EVERY KIND

AND CHARACTER, REAL, PERSONAL AND MIXED WHICH I OWN OR HAVE POWER OF APPOINTMENT OVER AT THE TIME OF MY DEATH TO MY BELOVED DAUGHTERS, LINDA VAUGHAN ELEDGE AND GLORIA VAUGHAN MCKELROY. THE EXCEPTION TO THIS SHALL BE MY AUTOMOBILE WHICH I LEAVE TO MICHELLE MOORE IF SHE HAS A DRIVERS LICENSE AND INSURANCE AND MY WEDDING RINGS.

I WANT IT KNOWN THAT THE REASON I AM DOING THIS IS BECAUSE OF THE WAY I HAVE BEEN TREATED BY DURWOOD VAUGHAN JR'S FAMILY AND MICHELLE MOORE AND MICHAEL JASTER.

Mary Belle Coker Vaughan 12-15-05

MARY BELLE COKER VAUGHAN

STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED MARY BELLE COKER VAUGHAN KNOWN TO ME TO BE THE TESTATOR OF THE FOREGOING LAST WILL AND TESTAMENT.

Robert H. Miller

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

ROBERT H. MILLER
Notary Public, State of Texas
My Commission Expires:
06/25/2015

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

FILED
2015 SEP -8 AM 11:51
STAN STANART
COUNTY CLERK
HARRIS COUNTY, TEXAS

PURPORTED WILL

CHAPTER 16

In Chapter 15, we studied what it takes to open a guardianship and get someone appointed and qualified. In this chapter, we will see the types of issues that may be encountered in a guardianship and what the typical legal pleadings that are required to get approved prior to taking any action.

A guardianship is very time consuming and the guardian deserves to be compensated. The Estates Code tells you what the compensation will be.

It is up to the attorney to advise the guardian on all matters regarding a guardianship and making sure the proper pleadings are filed with the court and approval is obtained.

In addition annual accounts are required.

FILED
9/12/2014 4:18:59 PM
Stan Stanart
County Clerk
Harris County

NO. 360,435

IN RE ESTATE OF	§	IN THE PROBATE COURT
JUDITH STIVERS,	§	NUMBER ONE (1) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

APPLICATION FOR PAYMENT OF GUARDIAN'S COMPENSATION

TO THE HONORABLE JUDGE OF THIS COURT:

WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON ("Applicant" or "Guardian") makes this Application for Compensation under Section 1155.002 of the Texas Estates Code for the period of July 10, 2013 through July 10, 2014, and, in support thereof, shows the Court as follows:

1. Section 1155.003 of the Texas Estates Code provides that the guardian shall be entitled to recover a commission in the amount equal to five percent of the gross income of the Ward's estate, excluding Department of Veteran Affairs or Social Security benefits, and five percent of all money paid out of the estate, excluding any money loaned, invested, or paid over on the settlement of the guardianship or a tax-motivated gift made by the Ward.

2. During the period of July 10, 2013 through July 10, 2014, in her effort to establish, preserve, safe-keep, and manage the estate, and to collect claims or debts of the estate, income was received and expenses were incurred. As is set forth in detail in her annual account on file herein, which is adopted by reference as if set forth fully herein, the income and expenses for the period

of July 10, 2013 through July 10, 2014, a percentage of which Guardian is entitled, are as follows:

A.	**GROSS ELIGIBLE INCOME**	
	Interest Income	$ 457.10
	Long Term Care Insurance Benefits	41,151.40
	Total Gross Income	**$ 41,608.50**
	5% OF GROSS INCOME	**$ 2,080.43**
B.	**MONEY PAID OUT OF ESTATE**	
	Assisted Living	$ 37,020.00
	Attorney Fees (per Ct. Order)	1,128.58
	Bond Premiums	1,364.00
	Cable TV	738.37
	Clothing	639.19
	Entertainment	288.79
	Food / Groceries	437.91
	Home Health Care Insurance	104.16
	Life Insurance Premiums	540.52
	Medical Expenses	5,813.77
	Medicare Supplement Insurance Premiums	3,617.80
	Miscellaneous	650.86
	Personal Grooming	865.00
	Prescriptions / OTC Medication	2,746.77
	Telephone	955.81
	Spending Money for Ward	2,964.00
	Total Money Paid Out of Estate	**$ (59,875.53)**
	5% OF MONEY PAID OUT OF ESTATE	**$ 2,993.78**
C.	**CALCULATION OF COMPENSATION**	
	Five Percent (5%) of Gross Income	$ 2,080.43
	Five Percent (5%) of Money Paid Out	$ 2,993.78
	TOTAL COMPENSATION	**$ 5,074.20**

3. Guardian would show that she has taken care of and managed the estate in compliance with the standards of the Texas Estates Code.

THEREFORE, WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON, requests approval of her compensation in the amount of $5,074.20, and an order authorizing payment to her for compensation in the amount of $5,074.20 out of the estate, and for any other relief to which Applicant is entitled.

Respectfully submitted,

Gus G. Tamborello
S.B.N. 19632000
GUS G. TAMBORELLO, P.C.
770 South Post Oak Lane, Suite 500
Houston, Texas 77056
(713) 659-7777
(713) 659-7780 fax
Gus@TamborelloLaw.com

ATTORNEY FOR WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON

NO. 360,435

IN RE ESTATE OF	§	IN THE PROBATE COURT
JUDITH STIVERS,	§	NUMBER ONE (1) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

ORDER GRANTING GUARDIAN'S COMPENSATION

The Court has considered the Application for guardian's compensation pursuant to Section 1155.002 of the Texas Estates Code filed by WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON ("Guardian") who was appointed by Judge Russell Austin on July 10, 2006, and the Court finds that Guardian has taken care of and managed the estate, for the period of July 10, 2013 through July 10, 2014, in compliance with the standards of the Texas Estates Code and that the Application should be GRANTED. It is therefore

ORDERED that WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON is entitled to compensation in the amount of $_____, payable from the funds of the estate.

SIGNED this _____ day of _____, 2014.

_____
JUDGE PRESIDING

APPROVED AS TO FORM:

_____
Gus G. Tamborello
S.B.N. 19632000
770 South Post Oak Lane, Suite 500
Houston, Texas 77056
(713) 659-7777
(713) 659-7780 (fax)
Gus@TamborelloLaw.com

ATTORNEY FOR WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON

16-4

FILED
8/13/2014 11:03:11 AM
Stan Stanart
County Clerk
Harris County

NO. 428,167 **PROBATE COURT 3**

IN RE GUARDIANSHIP OF	§	IN THE PROBATE COURT
DAPHENE BROWN NEVILL,	§	NUMBER THREE (3) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

APPLICATION FOR AUTHORITY TO EXPEND FUNDS FOR WARD'S CARE AND TO RATIFY PROPERTY RELATED EXPENDITURES

TO THE HONORABLE JUDGE OF THIS COURT:

GUS TAMBORELLO, TEMPORARY GUARDIAN PENDING CONTEST OF THE PERSON AND ESTATE OF DAPHENE BROWN NEVILL, AN INCAPACITATED PERSON ("Applicant" or "Guardian") files this Application for authority to expend funds for Ward's care and to ratify property related expenses, and shows as follows:

A. Background

1. Applicant was appointed as Temporary Guardian Pending Contest of the Person and Estate of the Ward on April 17, 2014, and is still serving in that capacity.

B. Expenditures relating to Ward's care and maintenance

2. Applicant intends to move Ward back to her home at 9907 Burntfork, Houston, Texas 77064. Ward's current Tempur-Pedic mattress poses a health risk due to its unsanitary and deplorable condition as evidenced by the picture attached hereto as Exhibit "A". Therefore, Applicant requests authority to expend funds up to the amount of $2,500.00 to purchase a new Tempur-Pedic mattress and protective mattress covers.

3. When Applicant previously re-located the Ward to the Hampton, he was assisted by GSL Care Management, LLC. That firm

16-05

submitted an invoice in the amount of $250.00 which is attached as Exhibit "B". Applicant requests authority to pay this invoice.

C. Expenses related to Ward's property

4. Applicant previously filed an application for authority to expend funds to repair Ward's property and other property related expenses, which the Court approved on June 30, 2014. Pursuant to that order, Applicant made the following expenditures:

A. Selph Made Fences replaced the entire back fence and side gate for a total cost of $1,717.00;

B. Gaitz Air Conditioning installed an entire new A/C system for a total cost of $5,500.00;

C. Applicant retained Merry Maids to perform a thorough cleaning of Ward's home. Due to the extent and amount of cleaning necessary, the services of two employees and five hours of work were required, for a total cost of $487.13; and,

D. Applicant retained Stanley Steemer to clean Ward's carpet for a total cost of $116.91.

Copies of receipts for the referenced services are attached herein as Exhibit "C".

5. The charges for two of the items (the fence and the house cleaning) were slightly more than the pre-approved charge. The charge for carpet cleaning was less than the pre-approved charge. In light of the differences, Applicant requests that these expenditures be ratified because they were made in the best interest of the Ward and her estate.

THEREFORE, GUS TAMBORELLO, TEMPORARY GUARDIAN PENDING CONTEST OF THE PERSON AND ESTATE OF DAPHENE BROWN NEVILL, AN INCAPACITATED PERSON requests authority to make the expenditures set forth

herein, ratify the expenditures set forth herein, and grant him any other relief, at law or in equity, to which he is entitled or which the Court finds to be in the best interest of the Ward.

Respectfully submitted,

GUS G. TAMBORELLO
SBN 19632000
GUS G. TAMBORELLO, P.C.
770 South Post Oak Lane, Suite 500
Houston, Texas 77056-6661
(713) 659-7777
(713) 659-7780 Fax
Gus@Tamborellolaw.com

OF COUNSEL:
Robert S. MacIntyre, Jr.
SBN 12760700
MacIntyre, McCulloch, Stanfield
& Young, LLP
2900 Weslayan, Suite 150
Houston, Texas 77027
(713) 572-2900
(713) 572-2902 fax
macintyre@mmlawtexas.com

ATTORNEYS FOR GUS TAMBORELLO,
GUARDIAN AD LITEM and TEMPORARY
GUARDIAN PENDING CONTEST OF THE PERSON
AND ESTATE OF DAPHENE BROWN NEVILL,
AN INCAPACITATED PERSON

16-07

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served on the following counsel of record in the manner provided on this 13 day of August, 2014:

C. Michael Black
C. Michael Black Law Office
1 Sugar Creek Center Blvd, #1080
Sugar Land, Texas 77478
Via fax - 713.522.2925
(Attorney Ad Litem for Daphene Brown Nevill)

Don D. Ford
T. Aaron Dobbs
Ford + Bergner LLP
700 Louisiana Street, 48th Floor
Houston, Texas 77002
Via fax - 713.260.3903
(Attorneys for Kimberly D'Ann Perez)

Jill McCarthy Arntz
Arntz Law Firm
2245 Texas Drive, Suite 300
Sugar Land, Texas 77479
Via fax - 832.550.0543
(Attorney for Mason Nevill, Jr.)

GUS G. TAMBORELLO

16-[redacted]8

GSL Care Management, LLC

GSL Care Management, LLC
PO BOX 8756
THE WOODLANDS, TX 77387

(281)444-1552
gingers lotto@yahoo.com

Invoice

Date
03 12 2014

Bill To

Gus Tamborello

Date	Service	Activity	Quantity	Rate	Amount
04 30 2014	Nevill	Find placement for ward, visit facility, several t e with guardian and facility Balance Forward	1	250.00	250.00

	Total
	$250.00

16-189

Exhibit "B"

Proposal

Page # _____ of _____ pages

Selph Made Fences
5019 Bowman Court
Spring, Texas 77388
281-733-6368
tonyselph@hotmail.com
selphmadefences.com

PROPOSAL SUBMITTED TO: ZienTek	JOB NAME	JOB # 56852972
ADDRESS 9907 Burnt Fork ST.	JOB LOCATION	
Houston Tx 77064	DATE 6/18/14	DATE OF PLANS
PHONE # 713-875-2469	FAX #	ARCHITECT

We hereby submit specifications and estimates for: Demo 74' of existing fence.
Reconstruct as follow:

1. New 4x4 Posts in fast Set Cement.
2. 2x6 beveled Rot board installed @ base.
3. 3 rail, 2x4 System attached w/ galvanized brackets
4. 1x6x6 Western Red Cedar pickets attached w/ hot dipped, galvanized, Ring shank nails.
5. Custom build (1) standard gate w/ new hardware.
6. Disposed of all fence related debrip except dirt.
7. Call 811 Utility locators for Safe digging.
8. 1 year labor free Warranty on all Workmanship.

All Labor & Materials $1680.-
* Cut to match existing height + 37 ea added to deposit.
* without Rot board $1634.-

Do Fence to match height of existing fence day I start & install Rotboard

We propose hereby to furnish material and labor – complete in accordance with the above specifications for the sum of:
$ 1680.-
with payments to be made as follows: $880. Deposit + $800. due on day of Completion. Dollars

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully submitted _____

Note — this proposal may be withdrawn by us if not accepted within _____ days.

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature _____

Date of Acceptance 7-7-14

Signature _____

16-19

Exhibit "C"

ALL WORK GUARANTEED %

GAITZ

AIR CONDITIONING & HEATING
4910 Oak Shadows Dr.
Houston, Texas 77091
(713) 688-8198
TACLB007208E
E-Mail: cagaitz@msn.com

Heating / Air Conditioning

Customer: DAPHNE NEVEL PO# _____ Date 7-8-14
Address: 9202 BURNT FORK Phone # _____
CHARGE TO: EKS TAMBORELLO GUARDIAN OF DAPHNE NEVEL
ADDRESS: _____
Service requested by: EKS TAMBORELLO Invoice # 070814
Model number: _____ Serial number _____
Location: ATT

Work done: REPLACED COND. UNIT, EVAP. COIL, RETURN R-8 AUX. DRAIN PAN, START CAPACITORS WITH DISCHARGE, FLUSHED LINES, CONNECTED TO NEW REFRIGERANT, INSTALLED PROPER BRACKET ARMS, GUARD, EKS, FLOOR FAN, NEW AUX. DRAIN LINE, NEW LOAD RELAYED, BAD CONTROL WIRE INSTALLED, LOOSE CONNECTIONS

Head pressure _____
Low pressure _____
Compressor amps _____
Return air temp _____
Discharge air temp _____
Filter _____
Cond. fan amps _____
Evap. fan amps _____
Oil fan _____
Ambient temp _____
Discharge cond. air _____

Mate

HXAE36KA100 MFG CODE/CODE DE FAB/CODIGO DE MF

SERIAL # / NUMERO DE SERIE / # DE SERIE

MFG CODE / CODE DE FAB / CODIGO DE MFG

SERIAL # / NUMERO DE SERIE / # DE SERIE

TOTAL _____
TAX _____

REMARKS

REGISTERED 2001348215366
PRES TEST NITROGEN 165 PSI NO LEAKS
VACUUMED DOWN MICRONS HOLD 20 MIN
NO LEAKS

LABOR _____

SERVICE MAN _____ TOTAL CHARGES 5500

I hereby acknowledge the man hours and material used as stated hereon subject to the terms on reverse side hereon and agree to pay this invoice on receipt. The man hours listed include travel time.

THIS IS YOUR INVOICE
CHARGES NET ON COMPLETION

CUSTOMER _____
BY _____ POSITION _____

16-0911

merry maids.

12010 Bammel - N. Houston
Suite L
Houston, TX 77066

Invoice

Invoice #
7120-8514
Date
8/4/2014

Bill To	For:
Ann Zientek 9907 Burntfork Houston, TX 77064	

Terms
Due on receipt

Item	Description	Qty	Rate	Amount
House Cleaning	cleaning services for 9907 Burntfork	5	90.00	450.00T

Thank you for your business.

Sales Tax (8.25%)	$37.13
Total	$487.13

Thanks for your service, we can be reached at 281-440-4366.

16-[redacted]12

STANLEY STEEMER

Chk. # 214

STANLEY STEEMER HOUSTON
13225 FM 529
Houston TX 77041

(713) 896-[illegible]
www.stanleysteemer.com

Truck: H216
Crew: ISAAC MCGHEE, EDRIC WHEELER
Arrival Time: 6:08 PM
Order Type: RES

Service Date: 8/1/14
Inv #: 330833
Pack Up Time: 7:03 PM

Ann Zientek
9907 Burntfork Dr
Houston, TX 77064

Acct#: 1059489
(713) 875-2489

Qty	Item/Products	Service	Price
1	Fuel Charge	Fuel Charge	$9.00
1	2 Areas LR,DR	Clean	$99.00

SubTotal:	$108.00
Tax(8.25%):	$8.91
Total:	$116.91

PAYMENT(S):
Visa (Sale) $116.91
Ann Zientek
Transaction Date: 8/1/14
Approva #: 000520
XXXXXXXXXXXX3546

Balance $0.00

WE DO NOT GUARANTEE TO REMOVE ALL STAINS AND ODORS. RIPPING CAN OCCUR DUE ONLY TO CARPETS BEING LOOSE PRIOR TO OUR CLEANING. WE CANNOT CONTROL SHRINKAGE OF AREA RUGS OR THE OPENING OF LOOSE SEAMS. SUNFADING, OXIDATION AND STAINS IN BOTH CARPET AND FURNITURE MAY BECOME MORE EVIDENT AFTER SOIL IS REMOVED BY CLEANING. MANUFACTURERS AND RETAILERS DO NOT GUARANTEE UPHOLSTERED FURNITURE OR DRAPERIES AGAINST FADING, SHRINKING, WEARABILITY, DRY ROTTING, COLORFASTING OR CLEANABILITY, THEREFORE WE AS CLEANERS WILL NOT BE RESPONSIBLE FOR ANY OF THE ABOVE. WE WILL ACCEPT NO RESPONSIBILITY FOR CONDITIONS THAT EXISTED PRIOR TO OUR CLEANING. ANY QUESTIONS REGARDING OUR WORKMANSHIP MUST BE REPORTED WITHIN 30 DAYS AFTER COMPLETION OF WORK. BE CAREFUL OF WALKING FROM THE CARPET TO HARD SURFACES AS BOTH AREAS MAY BE WET OR SLIPPERY. I HAVE BEEN ADVISED OF THE SAFETY INFORMATION AND ALL FURNITURE PROTECTORS ARE IN PLACE. I HAVE READ AND FULLY UNDERSTAND THE ABOVE.

A. Zientek

(Ann Zientek)

16-13

NO. 428,167

IN RE GUARDIANSHIP OF	§	IN THE PROBATE COURT
DAPHENE BROWN NEVILL,	§	NUMBER THREE (3) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

ORDER AUTHORIZING EXPENDITURE OF FUNDS FOR WARD'S CARE AND RATIFYING PROPERTY RELATED EXPENDITURES

On this day the Court considered the Application of GUS TAMBORELLO, TEMPORARY GUARDIAN PENDING CONTEST OF THE PERSON AND ESTATE OF DAPHENE BROWN NEVILL, AN INCAPACITATED PERSON for authority to expend funds for Ward's care and to ratify property related expenses. The Court finds that the expenditures are in the best interest of the Ward and her estate and that the application should be GRANTED. It is therefore

ORDERED that GUS TAMBORELLO, TEMPORARY GUARDIAN PENDING CONTEST OF THE PERSON AND ESTATE OF DAPHENE BROWN NEVILL, AN INCAPACITATED PERSON shall have the authority to expend funds for the following:

- up to the amount of $2,500.00 to purchase Ward a new Tempur-Pedic mattress and protective mattress covers; and
- $250.00 to GSL Care Management, LLC for assistance in re-locating Ward. It is further

ORDERED that the following payments made by GUS TAMBORELLO, TEMPORARY GUARDIAN PENDING CONTEST OF THE PERSON AND ESTATE OF DAPHENE BROWN NEVILL, AN INCAPACITATED PERSON for services performed at Ward's home and property are hereby RATIFIED and APPROVED:

16-0014

- Selph Made Fences in the amount of $1,717.00 for replacement of the back fence and side gate;
- Gaitz Air Conditioning in the amount of $5,500.00 for installation of new A/C system;
- Merry Maids in the amount of $487.13 for house cleaning; and
- Stanley Steemer in the amount of $116.91 for carpet cleaning.

SIGNED this _____ day of _____, 2014.

_____
JUDGE PRESIDING

APPROVED AS TO FORM:

GUS G. TAMBORELLO
SBN 19632000
GUS G. TAMBORELLO, P.C.
770 South Post Oak Lane, Suite 500
Houston, Texas 77056
(713) 659-7777
(713) 659-7780 Fax
Gus@Tamborellolaw.com

TEMPORARY GUARDIAN PENDING CONTEST

16-0015

FILED
8/7/2014 3:15:05 PM
Stan Stanart
County Clerk
Harris County

DM

PROBATE COURT 1

NO. 431,004

IN RE GUARDIANSHIP OF	§	IN THE PROBATE COURT
PAMELA ANN ANDREANO,	§	NUMBER ONE (1) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

APPLICATION FOR AUTHORITY TO SELL REAL ESTATE AND FOR AUTHORITY TO TRANSFER WARD'S INTEREST IN PROCEEDS

TO THE HONORABLE JUDGE OF THIS COURT: POST 8-8-2014

Applicant, ERNEST ANDREANO, PERMANENT GUARDIAN OF THE PERSON AND ESTATE OF PAMELA ANN ANDREANO, AN INCAPACITATED PERSON, files this application for authority to sell real estate pursuant to Section 1158.251 et seq. of the Texas Estates Code, and for authority to transfer Ward's interest in the sales proceeds, and shows the Court as follows:

1. Applicant was appointed as Permanent Guardian of the Ward's Person and Estate on July 19, 2014 and qualified on that date.

2. Ward's estate consists, in part, in an undivided one-half community property interest in the following real property:

LOT 3 BLOCK W8
SPRING SHADOWS SEC 9
SUBDIVISION OF HARRIS COUNTY, TEXAS
Property Address:
2811 BERNADETTE LN
HOUSTON TX 77043(the "Property").

3. Applicant believes it is in the best interest of the Ward and her estate to sell the Property. First, the Ward does not live in the Property and will not be able to return to the Property due to her physical and mental condition. Second, the Applicant no

16-2016

longer desires to live in the property. The Ward receives no benefit from the Property, and there are ongoing expenses for property taxes and insurance. Applicant has filed an application for Medicaid benefits for the Ward due to low income and the fact that he and the Ward have minimal cash assets.

4. Applicant understands that receipt of the Ward's interest in the sale proceeds will not disqualify Ward from Medicaid benefits if the Ward's half of the net proceeds are transferred to her husband. Therefore, so as not to jeopardize Ward's receipt of Medicaid benefits, Applicant also requests an order that the Ward's one-half of the net proceeds of sale can be transferred to him as the Ward's spouse. Applicant intends to apply the proceeds to the purchase of another home.

5. The present condition of the estate is as shown on the attached verified Exhibit "A", and provides the information set out in Section 1158.252 of the Texas Estates Code.

THEREFORE, Applicant ERNEST ANDREANO, PERMANENT GUARDIAN OF THE PERSON AND ESTATE OF PAMELA ANN ANDREANO, AN INCAPACITATED PERSON requests that citation be issued to all interested persons as required by Section 1158.253 of the Texas Estates Code; that he be authorized to sell the Ward's interest in the Property at a private sale; that Ward's interest in the proceeds be transferred to Applicant, and for any other relief to which Applicant is entitled.

16-2917

Respectfully submitted,

GUS G. TAMBORELLO
SBN 19632000
GUS G. TAMBORELLO, P.C.
770 South Post Oak Lane, Suite 500
Houston, Texas 77056-6661
(713) 659-7777
(713) 659-7780 Fax
Gus@Tamborellolaw.com

ATTORNEY FOR ERNEST ANDREANO, PERMANENT GUARDIAN OF THE PERSON AND ESTATE OF PAMELA ANN ANDREANO, AN INCAPACITATED PERSON

16-2018

VERIFIED EXHIBIT "A"

1. The condition of the estate.

   See Inventory of Estate. The Estate has insufficient cash to meet the Ward's ongoing needs. Applicant is applying for Medicaid benefits for the Ward.

2. Charges and claims that have been approved or established by suit, or that have been rejected and may be established later.

   None.

3. The amount of each claim that has been approved or established by suit, or that has been rejected but may be established later.

   None.

4. Property remaining on hand liable for the payment of claims:

   A. Cash

Deutsch Wealth Management and Assets Pamela Andreano [IRA] Acct. No. ****721	$11,291.83
Bank of America Pamela Andreano [IRA] Acct. No. ****-****-**-*191	10, 239.61
Bank of America Checking Account Acct. No. **** **** *737	1,933.80
Bank of America Checking Account for Crusader Graphics Acct. No. ****-****-*492	5,148.89
Bank of America/Merrill Edge Ernest Andreano [IRA] Acct. No. **** ***-**066	7,710.54
JP Morgan Chase Checking Account Acct. No. ****-****-****-594	277.68
JP Morgan Chase Checking Account for Crusader Graphics Acct. No. ****-****-****-890	171.36

16-0019

Bank of America Ernest Andreano [IRA] Acct. No. ****-****-**-*175	389.29
Total Cash	$36,602.35
TOTAL VALUE OF WARD'S UNDIVIDED ½ COMMUNITY INTEREST	**$18,301.17**

B. Real Estate

LOT 3 BLOCK W8 SPRING SHADOWS SEC 9 SUBDIVISION OF HARRIS COUNTY, TEXAS Property Address: 2811 BERNADETTE LN HOUSTON TX 77043 (2014 Market value per HCAD)	$ 206,519.00
Total Real Property	$ 206,519.00
TOTAL VALUE OF WARD'S UNDIVIDED ½ COMMUNITY INTEREST	**$ 103,259.50**

C. Personal Property

2004 Honda CRV VIN:jhlrd68424c003835 Condition: Good Mileage: 164,000 (Value per edmunds.com)	$ 4,500.00
1986 Ford Mustang VIN:1fabp28a6gf134764 Condition: Poor Mileage: 96,000 (Value per edmunds.com for 1990 vehicle)	1,000.00
Crusader Graphics (Family owned printing business operating under an assumed name and not as a legal entity) (Value represents the average annual income)	15,000.00
Miscellaneous household furnishings and personal effects	500.00
Total Miscellaneous Personal Property	$ 21,000.00

TOTAL VALUE OF WARD'S UNDIVIDED
½ COMMUNITY INTEREST $ 10,500.00

5. Any other facts showing the necessity for or advisability of the sale.

See application.

VERIFICATION

STATE OF TEXAS §

COUNTY OF HARRIS §

I, ERNEST ANDREANO, PERMANENT GUARDIAN OF THE PERSON AND ESTATE OF PAMELA ANN ANDREANO, AN INCAPACITATED PERSON do solemnly swear that the above Exhibit and foregoing Application contain the correct and complete matters to which they relate, to the best of my knowledge and belief.

Ernest Andreano
ERNEST ANDREANO

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority on this the 7th day of August, 2014.

Jessica A. Cervantes
Notary Public in and for
The State of Texas

JESSICA A. CERVANTES
Notary Public, State of Texas
My Commission Expires
April 16, 2018

16-[redacted]21

FILED
9/12/2014 4:18:59 PM
Stan Stanart
County Clerk
Harris County

NO. 360,435

IN RE ESTATE OF	§	IN THE PROBATE COURT
JUDITH STIVERS,	§	NUMBER ONE (1) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

APPLICATION FOR MONTHLY ALLOWANCE AND FOR AUTHORITY TO EXPEND FUNDS AND TO WAIVE GUARDIAN'S MANAGEMENT PLAN

TO THE HONORABLE JUDGE OF THIS COURT:

Applicant, WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON, files this Application for Monthly Allowance pursuant to Section 1156.001 of the Texas Estates Code for the period of July 10, 2014 to July 10, 2015, and for authority to expend funds, and to waive Guardian's Management Plan as set forth in Section 1161.001 *et seq.*, of the Texas Estates Code and shows the Court as follows:

1. Applicant was appointed by the Court and qualified as PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON on July 10, 2006, and is currently serving in that capacity.

2. From a review of the Ward's records and an evaluation of the Ward's needs and ongoing expenses, it appears that Ward will have monthly expenses in the amount of approximately $5,405.00. These expenses are detailed in the monthly budget attached as Exhibit "A" and incorporated by reference as if set forth fully herein.

3. Ward's monthly income is approximately $4,780.00 per month, consisting of social security benefits in the amount of $980.00 and

16-[redacted]22

approximately $3,800.00 per month reimbursement through a long-term care insurance policy. Ward's estate is valued at approximately $52,973.68 in cash. Accordingly, Ward's income, benefits, and corpus should be sufficient for the purposes of funding the proposed budget.

4. Applicant believes that the estimated expenses contained in the attached exhibit are in Ward's best interest and should be approved. In the event Ward's corpus were to become diminished, Guardian intends to apply for Medicaid benefits and, if appropriate, create a Miller Trust to receive Ward's income.

5. In light of the nature and amount of Ward's assets, Guardian requests that the Court waive the Guardian Management Plan set forth in Section 1161.001 *et seq.*, of the Texas Estates Code.

THEREFORE, WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON, requests that the Court approve the requested monthly budget, authorize Guardian to make such expenditures, and grant her any other relief to which she is entitled.

Respectfully submitted,

GUS G. TAMBORELLO,
SBN 19632000
Gus G. Tamborello. P.C.
770 South Post Oak Lane, Suite 500
Houston, Texas 77056
(713) 659-7777
(713) 659-7780 fax
Gus@TamborelloLaw.com

ATTORNEY FOR WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON

16-23

EXHIBIT "A"
PROPOSED MONTHLY BUDGET FOR
JUDITH STIVERS

	AMT. PER MONTH
I. LIVING EXPENSES	
Assisting Living	$ 3,400.00
Utilities (phone, cable tv, internet)	150.00
Ward's Spending Money (food, entertainment)	365.00
Grooming	150.00
Clothing	200.00
VA Benefits Repayment Plan	150.00
II. MEDICAL EXPENSES	
Doctor's expenses	120.00
Prescriptions/Medication	500.00
III. INSURANCE	
Medicare Supplement	310.00
Life Insurance	50.00
Home Health Care	10.00
TOTAL ESTIMATED MONTHLY EXPENSES . . . . . $	**5,405.00**

16-[redacted]24

NO. 360,435

IN RE ESTATE OF	§	IN THE PROBATE COURT
JUDITH STIVERS,	§	NUMBER ONE (1) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

ORDER APPROVING MONTHLY ALLOWANCE AND AUTHORIZING EXPENDITURES AND WAIVING GUARDIAN'S MANAGEMENT PLAN

The Court has considered the Application of WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON, for Approval of a Monthly Allowance and For Authority to Expend Funds pursuant to Section 1156.001 of the Texas Estates Code for the period of July 10, 2014 to July 10, 2015, and to waive Guardian's Management Plan, and the Court finds that the expenditures set forth in the proposed monthly allowance are in the best interest of the Ward and that the proposed monthly allowance should be approved and that the Guardian's Management Plan set forth in Section 1161.001 *et seq.*, of the Texas Estates Code should be waived. It is therefore

ORDERED that WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON shall have authority to make the following expenditures on a monthly basis for the period of July 10, 2014 to July 10, 2015:

LIVING EXPENSES	**AMT. PER MONTH**
Assisting Living	$ 3,400.00
Utilities (phone, cell phone, internet)	150.00
Ward's Spending Money (entertainment, food)	365.00
Grooming	150.00
Clothing	200.00
VA Benefits Repayment Plan	150.00

16-0825

MEDICAL EXPENSES	
Doctor's expenses	120.00
Prescriptions/Medication	500.00
INSURANCE	
Medicare Supplement	310.00
Life Insurance	50.00
Home Health Care	10.00
TOTAL ESTIMATED MONTHLY EXPENSES	**$ 5,405.00**

It is further

ORDERED that the Guardian's Management Plan set forth in Section 1161.001 *et seq.*, of the Texas Estates Code is hereby waived.

SIGNED this _____ day of _____, 2014.

_____
JUDGE PRESIDING

APPROVED AS TO FORM:

Gus G. Tamborello
SBN 19632000
Gus G. Tamborello, P.C.
770 South Post Oak Lane, Suite 500
Houston, Texas 77056
(713) 659-7777
(713) 659-7780 (fax)
Gus@TamborelloLaw.com

ATTORNEY FOR WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON

16-[redacted]26

FILED
8/25/2014 11:37:18 AM
Stan Stanart
County Clerk
Harris County

NO. 428,167

PROBATE COURT 3

IN RE GUARDIANSHIP OF	§	IN THE PROBATE COURT
DAPHENE BROWN NEVILL,	§	NUMBER THREE (3) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

APPLICATION FOR AUTHORITY TO RETAIN CARE MANAGER, TO APPROVE SERVICE AGREEMENT AND RELATED DOCUMENTS, AND FOR AUTHORITY TO PAY MONTHLY CARE MANAGEMENT EXPENSES

TO THE HONORABLE JUDGE OF THIS COURT: **W/C**

GUS TAMBORELLO, TEMPORARY GUARDIAN PENDING CONTEST OF THE PERSON AND ESTATE OF DAPHENE BROWN NEVILL, AN INCAPACITATED PERSON ("Applicant" or "Guardian") files this Application for authority to retain care manager, to approve Service Agreement and related documents, and for authority to pay monthly care management expenses incurred pursuant to the Service Agreement, and shows as follows:

1. Applicant was appointed as Temporary Guardian Pending Contest of the Person and Estate of the Ward on April 17, 2014, and is still serving in that capacity.

2. Applicant intends to move Ward back to her home at 9907 Burntfork, Houston, Texas 77064. Ward has been residing at a care facility and has had 24 hour caregivers. Guardian has selected LivHOME, a home care agency, to provide services to the Ward upon her move back to her home. LivHOME will assist with the transfer of the Ward back to her home, will provide caregivers on a 24 hour basis, and will provide continuing supervision of the Ward's care.

16-8027

3. LivHOME has provided Guardian with the following documents:

- Service Agreement;
- Consent for Services;
- Authorization to Release Information;
- Back up services agreement;
- Client Automobile User Agreement;
- Telephonic Time and Attendance consent; and
- Disaster Preparedness Survey.

True and correct copies of the foregoing documents are attached hereto.

4. Pursuant to the Service Agreement, LivHOME will charge $115.00 per hour for Professional Care Management Services. The caregivers will be employees of LivHOME, and charges for their services will be in the range of $20.00 - $24.00 per hour. There is no start-up fee.

5. Guardian requests that the Court authorize him to sign the referenced documents retaining LivHOME to provide care management services on the Ward's behalf and to pay monthly expenses associated with her care. The Ward desires to return home. Mason Nevill, Jr. is no longer living in the house. Guardian has taken steps to attempt to make the home environment suitable for Ward's return home. Retaining LivHOME will replace the current arrangement with the caregivers, who have been serving as independent contractors, and will eliminate the monthly charges at the care facility. Guardian believes this request is in the best interest of

the Ward and her estate.

THEREFORE, GUS TAMBORELLO, TEMPORARY GUARDIAN PENDING CONTEST OF THE PERSON AND ESTATE OF DAPHENE BROWN NEVILL, AN INCAPACITATED PERSON requests authority to retain care manager, to approve Service Agreement and related documents, for authority to pay monthly care management expenses incurred pursuant to the Service Agreement, and grant him any other relief, at law or in equity, to which he is entitled or which the Court finds to be in the best interest of the Ward.

Respectfully submitted,

GUS G. TAMBORELLO
SBN 19632000
GUS G. TAMBORELLO, P.C.
770 South Post Oak Lane, Suite 500
Houston, Texas 77056
(713) 659-7777
(713) 659-7780 Fax
Gus@Tamborellolaw.com

OF COUNSEL:
Robert S. MacIntyre, Jr.
SBN 12760700
MacIntyre, McCulloch, Stanfield
& Young, LLP
2900 Weslayan, Suite 150
Houston, Texas 77027
(713) 572-2900
(713) 572-2902 fax
macintyre@mmlawtexas.com

ATTORNEYS FOR GUS TAMBORELLO,
GUARDIAN AD LITEM and TEMPORARY
GUARDIAN PENDING CONTEST OF THE PERSON
AND ESTATE OF DAPHENE BROWN NEVILL,
AN INCAPACITATED PERSON

16-00829

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served on the following counsel of record in the manner provided on this 25 day of August, 2014:

C. Michael Black
C. Michael Black Law Office
1 Sugar Creek Center Blvd, #1080
Sugar Land, Texas 77478
Via fax - 713.522.2925
(Attorney Ad Litem for Daphene Brown Nevill)

Don D. Ford
T. Aaron Dobbs
Ford + Bergner LLP
700 Louisiana Street, 48th Floor
Houston, Texas77002
Via fax - 713.260.3903
(Attorneys for Kimberly D'Ann Perez)

Jill McCarthy Arntz
Arntz Law Firm
2245 Texas Drive, Suite 300
Sugar Land, Texas 77479
Via fax - 832.550.0543
(Attorney for Mason Nevill, Jr.)

GUS G. TAMBORELLO

16-[illegible]30

LivHOME
Live long. Live well. LivHOME.

CLIENT START – UP DOCUMENTS

To Sign:

- Consent for services/Client Service Agreement
- Authorization to Release information
- Back-Up Services
- Client Automobile Use Agreement
- Individual Service Plan (ISP)-to be signed at initiation of caregiver services
- The LivHOME, Inc, Telephonic Time and Attendance System
- Credit Card Charge Authorization (*If preferred payment method*)
- Disaster Preparedness Survey

For In-Home Folder:

- HIPAA Notification of Privacy Practices
- Client Information Pamphlet
- Emergency Preparedness & Triage
- Chapter 102-Rights of the Elderly
- Advance Directives Information Sheet
- Reportable Conduct: Abuse, Neglect & Exploitation
- Client Rights & Responsibilities
- Safety Tips
- Disclosure of Drug Testing Policy
- LivHOME Invoice (*Sample*)

By signing below, I acknowledge that I have received all of the documentation above.

Signature: _____ **Date:** _____

Name (Print): _____

16-3531

LivHOME
Live long. Live well. LivHOME.™

5373 W. Alabama St., Suite 260, Houston, TX 77056
Telephone (713)622-6200 Fax (713)713-622-6207 www.livhome.com/houston

Service Agreement

LivHOME is an equal opportunity employer, and is a provider of at-home assisted living services.

Dephene Neville (referred to as "Client") and _____, individually and on behalf of Client (referred to as the "Responsible Party" and, if applicable, together with Client, as "you"; provided, that in the absence of an additional Responsible Party, Client shall be the Responsible Party), and LivHOME, (referred to as "LivHOME", or "we"), agree as follows:

1. We will provide you with the services set forth below. The parties can mutually agree to change the terms of this Agreement as provided in this Agreement. Until any such change has been agreed upon by the parties or until this Agreement is terminated, the terms set forth below shall control, effective on the date of execution or first date services are provided.

2. **Caregiver Services:**
Our caregiver services include: assistance with bathing, dressing, personal care, meal preparation, light housekeeping, laundry, assistance with walking, transfers, medication reminders, transportation, errands, social activities and companionship.

3. **Professional Care Manager Services:**
We will provide and bill for professional Care Management, assessment, evaluation and support for Client and the family, including: in-home/residence visits, counseling, conference and consultations, medical appointments, outside activities, service coordination (*i.e.* routine calls, planning, follow up, and liaison with family, caregivers, health care professionals, and community resources), care coordination communication (*i.e.* telephone, e-mail, *etc.*), assistance with insurance verification and claims submission, documentation time and travel time. We provide routine caregiver support, skill matching and supervision at no additional charge.

4. **Our Charges:**
For the services above, we will charge and you agree to pay the following:
   A. Initial telephone consultation - NO CHARGE;
   B. Start-up fee - $ None ;
   C. Professional Care Management services - $ 115/HR / per hour;
   D. After hours Professional Care Management services - $ 115.00 X 1.5 / per hour;
   E. Live-Out caregiver (hourly) - $ 20 - 24 / per hour*;
   F. Live-In caregiver - $ N/A / per day*;
   G. Comfrere - $ N/A / per hour*;
   H. Two (2) week service deposit - $ None ;
   I. Other (specify) - _____ - $___
   J. Overtime Rate (where applicable) - $ _____;

Overtime pay is dictated by state and federal regulations and may be applicable in certain situations. When required by law to pay overtime, LivHOME will bill overtime accordingly. Each client's Plan of Care is evaluated to determine the applicability of overtime rates.

In the event of an emergency or disaster (e.g. earthquake, hurricane, fire, etc.), LivHOME reserves the right to pay and bill the applicable overtime rate for caregiving and care management services without prior authorization, when LivHOME staff are called upon to work additional hours to ensure the safety and well-being of clients.

5. **Holiday Hours:**

The services marked with an asterisk (*) above will be charged at one and one-half (1.5) times the normal rate on the following holidays:

New Years' Eve (day)	New Years' Day	Easter Sunday
Memorial Day	Independence Day	Labor Day
Thanksgiving Day	Christmas Eve (day)	Christmas Day

6. **Mileage:**

In addition to the above charges, whenever a LivHOME employee is required to drive his or her vehicle while on assignment (not including traveling to and from the assignment) an additional charge of $0.60 per mile will be billed in addition to the rates set forth above.

7. **Our Policy Regarding Cancellation of Requested Services or Termination of Agreement:**

If you cancel any of the agreed upon or requested services without giving us 24-hours notice, you will be billed for the services at the normal rate. Either one of us may terminate this Agreement for any reason by giving the other party 72-hours notice. Notices shall be in accordance with Paragraph 18 below.

8. **Medical/Health Insurance Reimbursement Assistance:**

We will assist you with insurance verification and submission of claims (such as long term care insurance, disability insurance, and other health insurance), but we will not accept assignment of benefits.

9. **Restriction on Hiring of LivHOME Employees:**

All LivHOME caregivers undergo comprehensive background checking, including drug screening, reference verification and criminal history checks, are covered by LivHOME's fidelity bond and workers' compensation insurance, and receive training and supervision from our professional Care Managers. In providing these services, LivHOME has made a significant investment in the training and supervision of its employees. You understand and agree that the caregivers and other personnel are employees of LivHOME and an on-going employment relationship exists between LivHOME, Inc. and the employees who are assigned to provide services to you or on your behalf. Therefore, if you or anyone acting on your behalf hires any: (a) LivHOME employee who provided services to you under this Agreement; or (b) LivHOME former employee who provided services to you under this Agreement (clauses (a) and (b) collectively "LivHOME Employee"); to furnish services to you during the time this Agreement is in effect, or at any time within six (6) months after this Agreement is terminated, LivHOME, Inc. will be damaged by your hiring of the LivHOME Employee. Therefore, if such an event occurs, since the actual damages which would result from any hiring of a LivHOME employee by you or anyone acting on your behalf are uncertain and would be extremely difficult to ascertain, you agree to pay as liquidated and agreed upon reasonable damages to LivHOME the greater of: (x) an amount equivalent to the last three (3) full months of fees that were charged to you by LivHOME during the term of the Agreement; or (y) $15,000.

Initials:_____

10. **Acknowledgment of Receipt of LivHOME Client Rights, Responsibilities and Consent:**

You acknowledge receipt of LivHOME's Client Rights, Responsibilities and Consent form and that you have read it. You agree that all of the responsibilities in the form are incorporated in this Agreement by reference, and, that as a result, a breach of any of these responsibilities could result in the termination of this Agreement by LivHOME.

11. **Payment Terms:**

In consideration of LivHOME providing you with the services described above, you agree to pay LivHOME directly for all services provided. The fees for these services are subject to change.

Payment is due upon receipt of an invoice from LivHOME. Balances past due over thirty (30) days are subject to a service charge of 1.5% per month.

In the event your account is more than thirty (30) days delinquent, you understand that LivHOME's services may be discontinued. LivHOME may refer the delinquent account to a third party agency for collection and that you will be liable for the costs of collection, including attorney's fees.

12. **Attorneys' Fees:**

If any action at law or equity is brought to enforce the provisions of this Agreement, the prevailing party will be entitled to reimbursement of its reasonable attorneys' fees and costs of litigation.

13. **Compliance with Applicable Laws:**

LivHOME and its employees are mandated reporters of suspected elder abuse and will report concerns as required by state law.

14. **Hold Harmless:**

You agree to release and hold LivHOME harmless from all actions or inactions of community resources or outside caregivers to which referrals are made so long as such community resources or caregivers are not employees of subsidiaries of or controlled by LivHOME, Inc.

15. **Venue and Applicable Law:**

This agreement is entered into and shall be interpreted in accordance with the laws of the State of Texas. We both agree that any dispute or any litigation shall be submitted to the jurisdiction of and venue in the County of Harris, State of Texas.

16. **Validity:**

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

17. **Paragraph Headings:**

Paragraph headings used in this Agreement are for convenience only and are not a part of this Agreement.

18. **Notices:**

All notices required or permitted under this Agreement should be in writing. For the purpose of providing notice under the Agreement, the correct address of each party is indicated below their signature. Any party may change his, her or its address for purposes of notice by sending a letter to the other party at the address indicated below that party's signature.

Client/Responsible Party acknowledges that he or she has read this Agreement and assumes responsibility for payment of services and to the payment terms described above.

Responsible Party Print Name _____ Signature _____ Date _____

Home Address _____ City _____ State _____ ZIP Code _____

Kelley Richard _____ _____ 8/22/14

Care Manager Print Name _____ Signature _____ Date _____

LivHOME

5373 W. Alabama St., Suite 250, Houston, TX 77056

Co-guarantor acknowledges that he or she has read this Agreement and assumes responsibility for payment of services and to the payment terms described above in the event of a default in payment.

Responsible Party Print Name _____ Signature _____ Date _____

Home Address _____ City _____ State _____ ZIP Code _____

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ACCREDITED

Consent for Services

☒ Personal Assistant Services (PAS) ☐ Licensed Home Health (LHH)

I, DAPHNE Nevil have been informed that LivHOME, Inc. ("LivHOME") is a home care agency licensed to provide Personal Assistant Services and Licensed Home Health services according to the ISP or Plan of Care, respectively. I accept services from LivHOME. I may call the company 24 hours a day regarding my services at 713-622-6200. I understand that this is not an emergency line. In the event of an emergency I will call 911. It is the policy of LivHOME to protect all client records against loss, defacement, tampering, and use by unauthorized persons. I authorize the company to release information about my care to my physician, the facility of my choice, guarantor, or accrediting/regulatory/consulting organizations, and others I authorize per the Release of Information as appropriate. I authorize the release of my health information to any health care facility to which I may be transferred or discharged. I have received the Notice of Privacy Practices and consent to the company's use and/or disclosure of protected health information for payment, treatment and health care operations.

I understand that a Care Manager will supervise all services and, if receiving services under Licensed Home Health, that a registered nurse will supervise all services. I understand and give consent that selected nursing and health related tasks may be delegated by an RN to unlicensed personal care assistants in accordance with the rules of the Texas Board of Nurse Examiners. I understand the frequency of services and that this frequency may change according to my needs.

I understand that it is my right and responsibility to be involved in my care and that I will be informed as to the nature and purpose of services provided me. I have been informed verbally and in writing regarding the following company policies: What to do in an emergency/natural disaster, Abuse, Neglect and Exploitation, Drug Screening, Hazardous Waste Disposal, Client Complaints, Back Up Services, Client Rights & Responsibilities, Advance Directives, including Out of Hospital DNR, and HIPAA.

I have received a copy and explanation of the Bill of Rights and Rights of the Elderly. I understand that I may direct a complaint to the Administrator or designee toll free at 866-961-1071. The investigation of the complaint will be initiated within 10 calender days and resolved within 30 calendar days of receipt.

I have also been notified of my right to voice a complaint and may direct that complaint to the Department of Aging and Disability Services, DADS' Consumer Rights and Services Division, P.O. Box 149030 Mail Code 9181, Austin, TX 78714-9030, or at 800-458-9858, 24 hours a day. This includes a complaint regarding advance directives.

I understand that I am responsible for paying LivHOME for services rendered, and that the company does not take assignment of benefits. Ranges of fees are based upon services as follows:

Live-In Caregiver:	____ days/week	$ ____	to	$ ____	$ ____	to	$ ____
Live-Out Caregiver:	7 days/week	$ 20	to	$ 24	$ ____	to	$ ____
Registered Nurse (RN):	____ days/week	N/A	N/A	N/A	$ ____	to	$ ____
Social Worker (SW):	____ days/week	N/A	N/A	N/A	$ ____	to	$ ____

Responsible Party: _____ Date: _____

Responsible Party Signature: _____ Date: _____

LivHOME Signature: _____ Date: 8/22/14

Reason Client is unable to sign: _____

Rev. 7/2013

16-0935

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Authorization to Release Information

I hereby authorize health providers (Doctor, Hospital, Agency, etc.) to exchange any information: social, medical, and/or psychiatric, regarding (Client) _____ Daphene Nevill _____ with LivHOME, Inc.

Authorized Name: _____ Date: _____

Authorized Signature: _____

Care Manager Signature: Kelley Richard Date: 8/22/14

I hereby authorize LivHOME, Inc. to exchange any information: social, medical, and/or psychiatric, regarding Daphene Nevill (Client) with:

_____
(List specific Doctor, Insurance Company, Health Care Provider, Legal or Financial Professional, or Family)

Authorized Name: _____ Date: _____

Authorized Signature: _____

Care Manager Signature: Kelley Richard Date: 8/22/14

Client Name: Daphene Nevill

Care Manager: Kelley Richard Date: 8/22/14

Rev. 3/08

16-4[illegible].36

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Client Responsibilities
Backup Services

In the event the scheduled personal assistant/caregiver is not available to deliver services, and all efforts to provide a relief personal assistant/caregiver have been exhausted, I Gus Tamborello (client / responsible party), agree to provide backup caregiver services for Daphenie Nevill (client name). in the capacity as guardian of Ms. Nevill only

Signature: _____ Date: _____

Name (print): _____

Rev. 4/07

16-00037

LivHOME
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Client Automobile Use Agreement

I agree to allow LivHOME employees to use my automobile during the course of their work with LivHOME, Inc. In accordance with this agreement, I hereby certify and agree to the following:

- The vehicle described below is properly licensed, registered, in safe and usable condition, and that the minimum insurance required by State law is carried on it, covering injuries to me and any employees of LivHOME who may transport me, as well as injuries to third parties.
- I understand that my insurance is primary coverage for injuries sustained by me or any third party, and that LivHOME does not provide coverage for damages to property resulting from the use of my automobile in the normal course of LivHOME employee duties.
- I agree to notify LivHOME within 24 hours concerning cancellation of my insurance should such an event occur.
- I understand that LivHOME employees are required to utilize the vehicle's safety restraints for myself and themselves at all times. I hereby release, indemnify and hold harmless LivHOME from any claims or actions which may arise concerning damages to person or property resulting from said use.
- I agree immediately to notify LivHOME of any changes in the information as noted below.
- I agree to provide evidence of personal auto liability insurance on the vehicle listed below in an amount equal to or exceeding the minimum coverage required by State law. I also confirm that my vehicle is in good mechanical condition.
- That LivHOME employees are required to follow State and local laws and LivHOME policy on the use of cell phones, and thus agree that I will not require them to utilize cell phones while transporting me except in case of emergency.
- I understand that LivHOME employees are entitled to mileage reimbursement in furtherance of their assignments with the company, and that mileage submitted by LivHOME employees will be included on my invoice.

Vehicle Make: _____ Vehicle Model: _____

License Plate Number: _____ Registration Mo/Year: _____

Signature: _____

Name (print): _____ Date: _____

Rev. 08/2008

16-[redacted]38

LIVHOME, INC.
CLIENT ASSESSMENT/INDIVIDUAL SERVICE PLAN (ISP)

INITIAL CASE UPDATE

Client Name (Last, First, MI)	Client No.	Telephone No.
Nevill, DAPHNE	52476	
Address	**County**	**Sex** / **Date of Birth**
9907 Burntlock, Hou TX 77064	Harris	F / 10/30/1937
Primary Physician / **Telephone No.**	**ISP Start Date**	**ISP End Date**
Planned date of service initiation	**Payment Source** $ aal HR	

Diagnoses and Status Reported By: (Self) Family Other: Guardian ad lit.

Primary Diagnoses:	Heart Disease - Pacemaker
Secondary Diagnoses:	Dementia
Mental Status:	
Functional Limitations: (comment)	Hearing Vision Communication Problem Behaviors
Drug Allergies:	
Food Allergies:	
Diet:	
Adv Dir. yes no	Location:
Out of Hospital DNR yes no	Location:

Describe living conditions; identify safety or health hazards:

List assistive devices or medical equipment in use:

Give dates and reasons for any hospitalization within the last three months:

Mobility Level: check all that apply

Goes outside independently	Goes outside independently with walker, cane, or wheelchair	Goes outside with help only	Moves around inside w/o help
Moves around inside only with help	Confined to chair and bed, or confined to bed	Needs help to transfer	Transfers independently, slowly.

Elimination - Bowel				
(Voluntary)	Occasionally Voluntary	Incontinent	Ostomy	
Elimination - Bladder				
(Voluntary)	Occasionally Voluntary	Incontinent	External Catheter	Internal Catheter
Assistant help needed to (Check all that apply):				
Change Ostomy bag	Empty catheter bag	Change catheter bag	NA	

Client Name: Daphne Nevill

Services Client is Receiving from other sources				
None	Skilled home health	Emergency Response Service	Hospice	Private or other agency caregiver

D = Daily CR = At Client's Request

Freq	Activities	Comments
	Bath: Tub	
	Bath: Bed	
	Bath: Chair	
CR	Shower	
CR	Brush Hair	
CR	Shampoo	
CR	Oral Care	
CR	Nail Hygiene: Clean/File (No Cutting)	
CR	Skin Care	
CR	Grooming	
CR	Assist with / Dress Client	
CR	Elimination / Bathroom Assist	
	Catheter Care	
	Ostomy Care	
CR	Medication Reminders	
CR	Equipment Care	
CR	Assist with Meal Preparation	
CR	Serve Meals	
	Assist with feeding	
CR	Laundry	
CR	Bed Change	
CR	Grocery Shop / Errands	
CR	Housekeeping	
	Pet Care	
CR	Ambulation Assist: Wheelchair Walker Cane	
CR	Reading / Television	
CR	Position / Turn in Bed	
CR	Transport PCA car Client car	
	Other:	

Freq./Duration of care services:

Freq. of Supv. Visits

Level of Supervisor:

Comments:

Signature — Client or client representative (print) — Date

Signature — Supervisor (print) — Date

Signature — Administrator / Designee (print) — Date 8/22/14

16-[redacted]40

LivHOME.
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Telephonic Time and Attendance System - Texas

LivHOME caregivers are required to utilize a telephonic system called to record caregiving hours through your home telephone.

To use the system, your caregiver(s) will call a **toll free** number from your home telephone upon arrival at the start of a shift. This will advise us that he/she is about to begin working. Later, when the caregiver is ready to leave, they will be calling this **toll free** number again to advise us that they have completed their tasks and are departing your home. These calls usually take less than a minute each and there will be no charges to your phone bill.

The system will assist in our continuing efforts to serve you with the highest standard of care. It allows us to monitor exactly when a caregiver has reported to their shift, when they have completed their shift and confirms where they are calling from, as each client has a unique telephone number that will be identified by the system.

All working hours as well as duties performed will be verified by our staffing personnel and they will be immediately notified with any exceptions to the caregiving plan and schedule.

In accordance with Texas licensing standards, you may choose to opt out of utilizing this timekeeping system. If you wish to do so, or have any questions about the system, please contact our office.

As always, we look forward to continuing to provide our clients with the best care and service possible.

Client Signature: _____

Client Name (print): _____ Date: _____

Issued: 11/07

Last Revised: 12/09

16-[redacted]41

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Disaster Preparedness Survey

LivHOME would like to make sure that each of our clients has a personalized plan in the event of a disaster in our area.

Client Name:_____

1. If the client is required to evacuate the immediate area or city, who will be responsible for transportation and where will the client go?

   Responsible Person:_____
   Destination:_____
   Contact number of responsible person:
   Home:_____
   Mobile:_____
   LivHOME will coordinate all plans. Yes_____ **No** _____

   LivHOME will coordinate plans and communicate to the above person any evacuation needs. The charge for the planning will be billed at time and a half if not done prior or pending or current disaster.

2. If the client plans on staying in the city, what would you like LivHOME to coordinate?

   Identify caregivers who could stay with you during this time with bill rate at time and a half.
   Yes_____ **No** _____

   Obtain appropriate supplies for the house and bill client.
   Yes_____ **No**_____

   LivHOME will work on developing an overall plan for staying in home or sheltering elsewhere.
   Yes _____ **No**_____

3. Please identify any other needs you foresee that you would like assistance from LivHOME.

4. If you would like to be registered with Texas 211 Registry will you register yourself
   Yes _____ **No**_____

5. I would like LivHOME to register me with Texas 211 Registry and have received information on this free public emergency state service.
   Date: LivHOME registered client with Texas 211Registry-_____

Signature: _____**Date:** _____

Name (Print): _____

16-4642

Answers to Frequently Asked Questions

- **What is 2-1-1 Texas and how does it work?**

  2-1-1 is a free, easy-to-remember phone number connecting callers with health and human services in their community.

  When you dial 2-1-1, you will talk to a trained resource specialist who has access to comprehensive database listings of nearly all health and human services that exists in Texas. This includes but is not limited to: rent and utility assistance, food, emergency shelters, where to get employment help, medical and mental health assistance, help with transportation, and trained suicide intervention counseling. You can also get information on affordable child care, information about caring for an aging relative, or help recovering from a disaster.

  Information and referral is available 24 hours a day, 7 days a week throughout the year. Information can be provided in over 90 different languages.

- **When is 2-1-1 available?**

  Information and Referral (option 1) is available 24 hours a day, 7 days a week throughout the year. Information can be provided in over 90 different languages.

  Eligibility Services/State Benefits (option 2) is available Monday through Friday from 8 am to 8 pm.

  The Office of Inspector General, to report waste, fraud, and abuse (option 3) is available Monday through Friday from 8 am to 5 pm.

  If you are calling from outside of Texas, or have technical difficulties when dialing 2-1-1 from your cell phone, voice-over-IP, or office location, please dial the toll free alternate access number at 1-877-541-7905.

- **Who is eligible to call 2-1-1?**

  Any individual looking for information or assistance to identify the services best suited to meet his or her needs is eligible to call. Case managers, church leaders, employers, teachers or other agencies calling on behalf of their clients, members, employees or students are also welcome.

NO. 428,167

IN RE GUARDIANSHIP OF	§	IN THE PROBATE COURT
DAPHENE BROWN NEVILL,	§	NUMBER THREE (3) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

ORDER AUTHORIZING RETENTION OF CARE MANAGER, APPROVING SERVICE AGREEMENT AND RELATED DOCUMENTS, AND FOR AUTHORIZING PAYMENT OF MONTHLY CARE MANAGEMENT EXPENSES

On this day the Court considered the Application of GUS TAMBORELLO, TEMPORARY GUARDIAN PENDING CONTEST OF THE PERSON AND ESTATE OF DAPHENE BROWN NEVILL, AN INCAPACITATED PERSON for authority to retain care manager, to approve Service Agreement and related documents, and for authority to pay monthly care management expenses incurred pursuant to the Service Agreement. The Court finds that the requests are in the best interest of the Ward and her estate and that the application should be GRANTED. It is therefore

ORDERED that GUS TAMBORELLO, TEMPORARY GUARDIAN PENDING CONTEST OF THE PERSON AND ESTATE OF DAPHENE BROWN NEVILL, AN INCAPACITATED PERSON shall have the authority to retain LivHOME to provide care management services to the Ward. It is further

ORDERED that the Service Agreement and Consent for Services, and related documents referenced in and attached to the Application are APPROVED, and Guardian shall have the authority to execute those documents. It is further

ORDERED that Guardian shall have the authority to pay the monthly expenses associated with the care management services or arising pursuant to the agreement with LivHOME.

SIGNED this _____ day of _____, 2014.

_____
JUDGE PRESIDING

APPROVED AS TO FORM:

GUS G. TAMBORELLO
SBN 19632000
GUS G. TAMBORELLO, P.C.
770 South Post Oak Lane, Suite 500
Houston, Texas 77056
(713) 659-7777
(713) 659-7780 Fax
Gus@Tamborellolaw.com

TEMPORARY GUARDIAN PENDING CONTEST

16-[illegible]45

FILED
9/12/2014 4:18:59 PM
Stan Stanart
County Clerk
Harris County

NO. 360,435

IN RE GUARDIANSHIP OF	§	IN THE PROBATE COURT
JUDITH STIVERS,	§	NUMBER ONE (1) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

APPLICATION TO RATIFY AND APPROVE PAYMENT OF EXPENDITURES

TO THE HONORABLE JUDGE OF THIS COURT:

WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON, ("Applicant" or "Guardian") files this Application to ratify and approve payment of expenditures, and shows as follows:

I. Procedural Background

1. Applicant was appointed and qualified as Guardian of the Estate of the Ward on July 10, 2006, and is still serving in that capacity.

II. Situation with Ward

2. Ward resides at Flower Mound Assisted Living Center ("Flower Mound"). In August 2013, Flower Mound informed Guardian that her mother was not bathing as necessary due to her fear of falling in the shower. In order for Flower Mound to provide individual assistance to help bathe Ward, an additional $500.00 per month or $6,000.00 annually would be required. Due to the limited cash assets of Ward's estate, as referenced in the annual account on file herein, Flower Mound agreed to forego those charges if Guardian would purchase and install a walk-in tub in Ward's residence. Because the cost for the walk-in tub and installation was significantly less than the additional $6,000.00 annual increase in Ward's rent, Guardian made the decision to purchase a walk-in tub

and have it installed for a one-time expense of Ward's funds in amount of $2,880.00.

III. Request for Ratification and Approval

3. Due to the nature of the situation, Applicant made payments to Texas Walk-In Tubs in the amount of $2,000.00 and Kenny Page Plumbin' in the amount of $880.00 for the purchase and installation of a walk-in tub for Ward. True and correct copies of receipts for the payments made are attached herein as Exhibit "A". Applicant would show that the expenditures were in the best interest of the Ward or her estate, and Applicant believes the expenditures would have been approved had there been time to obtain pre-approval. Therefore, Guardian requests that the Court ratify these expenditures.

THEREFORE, WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON, requests that the Court ratify and approve the expenditures set forth herein and for any other relief to which she is entitled or which the Court finds to be in the best interest of the Ward or her estate.

Respectfully submitted,

GUS G. TAMBORELLO
SBN 1963200
Gus G. Tamborello, P.C.
770 South Post Oak Lane #500
Houston, Texas 77056
(713)659.7777
(713)659.7780 fax
Gus@TamborelloLaw.com

ATTORNEY FOR WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON

16-8047

Texas Walk-in Tubs

Invoice

Sold To	Ship To
Wanda L Flores 21126 Park Tree Lane Katy, TX 77450 Phone: (972) 746-7535	Wanda L Flores 6051 Morriss Rd #36 Flower Mound, TX 75028

SO No.	Order Date	Sales Person	Estimated Arrival Date
16738	08/08/2013	Daniel Anzalone	08/22/2013

Product Desc	Long Desc	Quantity	Unit Price	Discount	Net Price	Amount
Envy Soaker Small Left Walk-in Tub	Loredo Soaker Small Left Walk-in Tub	1.00	2,000.00	0.00	2,000.00	2,000.00

EXHIBIT A

Notes

Subtotal	Discount	Shipping	Tax	Total Payment	Total Amount
$2,000.00	$0.00	$0.00	$0.00	$2,000.00	$2,000.00

16-10048

KENNY PAGE PLUMBIN'

712 Main Street • Lake Dallas, Texas 75065
(940) 321-9213 • Cell (214) 356-8434
Kenneth Page Jr. **M-12500**

M Olbanion Date 8-29 2013
Address 6051 Morris Rd #36 Phone 972 436-8998
City Flowers Mound State Tx

DESCRIPTION OF WORK	LABOR TOTAL	PARTS TOTAL
Install Walk-in Tub		
Provide water line		
connections with		
shutoff valves & flex		
lines.		
Quote: #980.00		
TOTALS		
PARTS & LABOR TOTAL	#980.00	

NATIONAL BREAST CANCER FOUNDATION

WANDA FLORES, GUARDIAN
FOR JUDITH A. STIVERS
21126 PARK TREE LANE
KATY, TX 77450
281-829-6486

35-2491/1130

1267

Date 8-31-13

Pay to the Order of Kenny Page Plumbin' $ 980 00

Nine hundred eighty & no/100 Dollars

CAPITAL ONE BANK
800-262-5699
870 S. MASON RD.
KATY, TX 77450

Memo install walk-in tub

Wanda Flores, guardian

⑈113024915⑈ 380231135⑈ 1267

1267 49

NO. 360,435

IN RE GUARDIANSHIP OF	§	IN THE PROBATE COURT
JUDITH STIVERS,	§	NUMBER ONE (1) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

ORDER RATIFYING AND APPROVING PAYMENT OF EXPENDITURES

On this day the Court considered the Application to Ratify and Approve Payment of Expenditures of WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON. The Court finds that the request is in the best interest of the Ward and her estate and that the application should be GRANTED. It is therefore

ORDERED that payments made to Texas Walk-In Tubs in the amount of $2,000.00 and Kenny Page Plumbin' in the amount of $880.00 for the purchase and installation of a walk-in tub for Ward, are hereby RATIFIED and APPROVED.

JUDGE PRESIDING

APPROVED AS TO FORM:

GUS G. TAMBORELLO
SBN 19632000
GUS G. TAMBORELLO, P.C.
770 South Post Oak Lane, Suite 500
Houston, Texas 77056-6661
(713) 659-7777
(713) 659-7780 Fax
Gus@Tamborellolaw.com

ATTORNEY FOR WANDA FLORES, PERMANENT GUARDIAN OF THE ESTATE OF JUDITH STIVERS, AN INCAPACITATED PERSON

16-50

FILED
8/7/2014 3:15:05 PM
Stan Stanart
County Clerk
Harris County

DM

PROBATE COURT 1

NO. 431,004

IN RE GUARDIANSHIP OF	§	IN THE PROBATE COURT
PAMELA ANN ANDREANO,	§	NUMBER ONE (1) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

APPLICATION FOR AUTHORITY TO SELL PERSONAL PROPERTY

TO THE HONORABLE JUDGE OF THIS COURT:

Applicant, ERNEST ANDREANO, PERMANENT GUARDIAN OF THE PERSON AND ESTATE OF PAMELA ANN ANDREANO, AN INCAPACITATED PERSON, files this application for authority to sell personal property (vehicle and interest in family business) pursuant to Section 1158.101 et seq. of the Texas Estates Code and shows the Court as follows:

1. Applicant was appointed as Permanent Guardian of the Ward's Person and Estate on July 19, 2014 and qualified on that date.

2. Ward's estate consists, in part, in an undivided one-half community property interest in the following personal property:

1986 Ford Mustang
VIN:1FABP28A6GF134764 ("Vehicle")

Crusader Graphics
(Family owned printing business operating under an assumed name and not as a legal entity)("Business")

3. Applicant believes it is in the best interest of the Ward and her estate to sell the Vehicle and the Business. The Vehicle is in poor condition and is not being used. The Business is no longer viable because Applicant is no longer able to operate the Business without the Ward's assistance. The Ward is no longer able to work

in the business due to her mental and physical condition. Funds are necessary to meet ongoing expenses of care and maintenance of the Ward and for administrative expenses.

4. The present condition of the estate is as shown on the attached verified Exhibit "A", and provides the information set out in Section 1158.252 of the Texas Estates Code.

THEREFORE, Applicant ERNEST ANDREANO, PERMANENT GUARDIAN OF THE PERSON AND ESTATE OF PAMELA ANN ANDREANO, AN INCAPACITATED PERSON requests that citation be issued to all interested persons; that he be authorized to sell the Ward's interest in the Vehicle and the Business at private sales; and for any other relief to which Applicant is entitled.

Respectfully submitted,

GUS G. TAMBORELLO
SBN 19632000
GUS G. TAMBORELLO, P.C.
770 South Post Oak Lane, Suite 500
Houston, Texas 77056-6661
(713) 659-7777
(713) 659-7780 Fax
Gus@Tamborellolaw.com

ATTORNEY FOR ERNEST ANDREANO, PERMANENT GUARDIAN OF THE PERSON AND ESTATE OF PAMELA ANN ANDREANO, AN INCAPACITATED PERSON

16-[illegible]52

VERIFIED EXHIBIT "A"

1. The condition of the estate.

   See Inventory of Estate. The Estate has insufficient cash to meet the Ward's ongoing needs. Applicant is applying for Medicaid benefits for the Ward.

2. Charges and claims that have been approved or established by suit, or that have been rejected and may be established later.

   None.

3. The amount of each claim that has been approved or established by suit, or that has been rejected but may be established later.

   None.

4. Property remaining on hand liable for the payment of claims:

   A. Cash

Deutsch Wealth Management and Assets Pamela Andreano [IRA] Acct. No. ****721	$11,291.83
Bank of America Pamela Andreano [IRA] Acct. No. ****-****-**-*191	10, 239.61
Bank of America Checking Account Acct. No. **** **** *737	1,933.80
Bank of America Checking Account for Crusader Graphics Acct. No. ****-****-*492	5,148.89
Bank of America/Merrill Edge Ernest Andreano [IRA] Acct. No. **** ***-**066	7,710.54
JP Morgan Chase Checking Account Acct. No. ****-****-****-594	277.68
JP Morgan Chase Checking Account for Crusader Graphics Acct. No. ****-****-****-890	171.36

Bank of America Ernest Andreano [IRA] Acct. No. ****-****-**-*175	
Total Cash	389.29
	$36,602.35
TOTAL VALUE OF WARD'S UNDIVIDED ½ COMMUNITY INTEREST	**$18,301.17**
B. Real Estate	
LOT 3 BLOCK W8 SPRING SHADOWS SEC 9 SUBDIVISION OF HARRIS COUNTY, TEXAS Property Address: 2811 BERNADETTE LN HOUSTON TX 77043 (2014 Market value per HCAD)	$ 206,519.00
Total Real Property	$ 206,519.00
TOTAL VALUE OF WARD'S UNDIVIDED ½ COMMUNITY INTEREST	**$ 103,259.50**
C. Personal Property	
2004 Honda CRV VIN:jhlrd68424c003835 Condition: Good Mileage: 164,000 (Value per edmunds.com)	$ 4,500.00
1986 Ford Mustang VIN:1fabp28a6gf134764 Condition: Poor Mileage: 96,000 (Value per edmunds.com for 1990 vehicle)	1,000.00
Crusader Graphics (Family owned printing business operating under an assumed name and not as a legal entity) (Value represents the average annual income)	15,000.00
Miscellaneous household furnishings and personal effects	500.00
Total Miscellaneous Personal Property	$ 21,000.00

TOTAL VALUE OF WARD'S UNDIVIDED
½ COMMUNITY INTEREST $ 10,500.00

5. Any other facts showing the necessity for or advisability of the sale.

See application.

VERIFICATION

STATE OF TEXAS §

COUNTY OF HARRIS §

I, ERNEST ANDREANO, PERMANENT GUARDIAN OF THE PERSON AND ESTATE OF PAMELA ANN ANDREANO, AN INCAPACITATED PERSON do solemnly swear that the above Exhibit and foregoing Application contain the correct and complete matters to which they relate, to the best of my knowledge and belief.

ERNEST ANDREANO

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority on this the 7th day of August, 2014.

JESSICA A. CERVANTES
Notary Public, State of Texas
My Commission Expires
April 16, 2018

Notary Public in and for
The State of Texas

16-59155

NO. 431,004

IN RE GUARDIANSHIP OF	§	IN THE PROBATE COURT
PAMELA ANN ANDREANO,	§	NUMBER ONE (1) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

ORDER APPROVING SALE OF VEHICLE AND INTEREST IN FAMILY BUSINESS

On this day, the Court considered the Application for Authority to Personal Property (the "Application"), which is incorporated herein by reference, filed by ERNEST ANDREANO, PERMANENT GUARDIAN OF THE PERSON AND ESTATE OF PAMELA ANN ANDREANO, AN INCAPACITATED PERSON ("Guardian") and the Court, after considering the Application, is of the opinion and finds that:

1. It has subject matter jurisdiction of this matter;

2. It has personal jurisdiction over the Guardian;

3. Citation on the Application has been completed;

4. There is no requirement for increase of bond at this time;

5. The Application is in order; and

6. It is in the best interest of the estate to sell the following personal property for the reasons set forth in the Application:

1986 Ford Mustang
VIN:1FABP28A6GF134764 ("Vehicle")

Crusader Graphics
(Family owned printing business operating under an assumed name and not as a legal entity) ("Business")

It is therefore

16-[redacted] 56

ORDERED that ERNEST ANDREANO, PERMANENT GUARDIAN OF THE PERSON AND ESTATE OF PAMELA ANN ANDREANO, AN INCAPACITATED PERSON, is hereby authorized to sell Ward's undivided one-half community interest in the Vehicle and the Business. It is further

ORDERED that such sales be made at private sales for cash and Guardian shall make a report of the sales to this Court and return such reports in accordance with the law. It is further

ORDERED that upon conclusion of the sales, the Ward's interest in the net proceeds of sales shall be paid directly to ERNEST ANDREANO, PERMANENT GUARDIAN OF THE PERSON AND ESTATE OF PAMELA ANN ANDREANO, AN INCAPACITATED PERSON.

SIGNED this ____ day of _____, 2014.

_____
JUDGE PRESIDING

APPROVED AS TO FORM BY:

GUS G. TAMBORELLO
SBN 19622000
GUS G. TAMBORELLO, P.C.
770 South Post Oak Lane, Suite 500
Houston, Texas 77056-6661
(713) 659-7777
(713) 659-7780 Fax
Gus@Tamborellolaw.com

ATTORNEY FOR GUARDIAN

16-[illegible]57

OFFICE OF STAN STANART
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE §
§
§
HARRIS COUNTY, TEXAS §

DOCKET NO. _____

ESTATE OF: _____
INCAPACITATED/MINOR

ANNUAL REPORT ON LOCATION, CONDITION AND WELL BEING OF WARD

I, the undersigned, represent that I am the guardian of the person of the above named Ward, and that I am / am not in control of the Ward's estate.

My annual report to the court for the period through _____ is as follows:

1. Name of Ward: _____

2. Present age of Ward: _____ Date of Birth: _____

3. Current residential address and phone number of Ward: _____

4. Current day location and phone number of Ward: _____

5. Ward's residence is (Circle One):

   Guardian's home — Nursing home

   Foster or boarding home — Relative's home

   Hospital or medical facility — Other: _____

6. Ward has been in present residence since (date): _____

   If moved within past year, state reason(s) for change: _____

7. Date the guardian most recently saw the Ward: _____

   How frequently the guardian has seen the Ward in the past year: _____

8. The guardian's evaluation of whether the Ward is content or unhappy with the Ward's living arrangements: _____

   (Circle One) Excellent Average

   Below Average. If below average, explain: _____

9. During the past year the Ward's mental health has (Circle One):

   Improved. Describe: _____

   Remained about the same

   Deteriorated. Describe: _____

10. During the past year the Ward's physical health has (Circle One):

    Improved. Describe: _____

    Remained about the same.

11-62 50

Deteriorated. Describe: _____

11. Ward is / is not under regular physician care. Doctor's name: _____

12. During the past year the Ward has been treated or evaluated by the following (Circle all that apply):

Physician name: _____

Psychiatrist name: _____

Social or other case worker. Name: _____

13. During the past year, has the Ward been hospitalized? If so, why? _____

14. Social conditions: During the past year the Ward has participated in the following activities: (Describe)

Recreational: _____

Educational: _____

Occupational: _____

None available or other: _____

15. As guardian, I believe my Ward has the following unmet needs: _____

_____.

16. I have received $ _____for the Ward's benefit from _____.

The money has been spent in the following manner: (if more space is needed, attach a statement): _____

_____

_____.

17. There continues to be a need for guardianship (Circle One): Yes No

Date: _____ Name: _____

Signature: _____

Address: _____

_____

Phone: _____

Sworn to and subscribed before me on:_____.

(Seal)

_____

Notary Public in for the State of Texas

16-[illegible] 50

DOCKET NO. _____

ESTATE OF:	§	IN THE PROBATE COURT NO. _____
	§	
_____	§	
Incapacitated / Minor	§	HARRIS COUNTY, TEXAS

ORDER APPROVING
ANNUAL REPORT ON LOCATION, CONDITION, AND WELL BEING OF WARD

On _____, came on to be considered the Annual Report of the Conditions, Welfare, and Well Being of _____, Ward, and The Court having examined said report, it is THEREFORE ORDERED entered of record.

Signed: _____

_____
JUDGE, PROBATE COURT NO. _____
Harris County, Texas

Howard Reiner is the Guardian of the Person and Estate of Franklin Jones. He qualified on July 12,2012.

It is now July 30, 2014 and he needs to file his 2013-2014 July 13 2013,-July 14 2014 account.

No claims have been paid by the estate. The value of the estate at his last account was $2157.65

He received $4,000 from Cadence Bank

The receipts he received totaled $2015.32

The disbursements were:

Moving Expenses to move ward's belongings $3,547.24

Clothing $500

Room and Board 4 months $540 per month

Myron Steves Bond Premium $100

Prepare the annual account

OFFICE OF STAN STANART
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE §
§
PROBATE COURT NO. _____ §
§
HARRIS COUNTY, TEXAS §

DOCKET NO. _____

STYLE OF
DOCKET: _____
DECEASED/INCAPACITATED/MINOR

ANNUAL ACCOUNT

NOW COMES _____
of the above numbered and styled Estate, and presents herewith the Annual Account of said estate, covering the period

from _____ to _____.

RECAPITULATION OF CASH ITEMS

Balance of cash on hand last annual report	$ _____
Total receipts during the year	$ _____
TOTAL	$ _____
Total disbursements during the year	$ _____
TOTAL cash now on hand	$ _____

Have your bank certify that this is on deposit.

VALUE OF ALL PROPERTY NOW IN POSSESSION OF ESTATE
(Summary only)

Tracts of Real Estate	Total Value $ _____
Notes payable to estate	Total Value $ _____
Stock or bond certificates	Total Value $ _____
Cash: (as set out above)	Total Amount $ _____

RECEIPTS

List amounts received as income: From rental, pensions, interest, insurance and lawsuits; from sales of real estate, personal property, stocks, bonds, and notes; and from all other sources, with receipts of principal and income to be shown separately.

SOURCE FROM WHICH RECEIVED	AMOUNT

(If more space is required, enclose additional sheets of paper.)

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16-

DISBURSEMENTS

List every expenditure of money by amount paid out, and for purpose for which expended.

Court Costs _____

Attorney's Fees _____

PROPERTY ADMINISTERED

A complete, accurate and detailed description of the property being administered, the condition of the property and the use being made thereof, and, if rented, the terms upon and the price for which rented.

CLAIMS

Lists of claims presented against the Estate within the period covered by this account, specifying which have been allowed, which have been paid, which have been rejected and the date when rejected, which have been sued upon, and the condition of the suit.

CLAIM OF AND REASON FOR	STATUS	AMOUNT

BONDS, NOTES, STOCKS, ETC.

List in detail description of personal property of the Estate (including Bonds, Notes, Stocks, and other Securities,) include the name of the obligor and obligee, or if payable to bearer, so state; in what manner the property is secured; and other data necessary to identify the same fully, and how and where held for safekeeping.

AMOUNT

OATH OF GUARDIAN

BEFORE ME, the undersigned Notary Public, on this day personally appeared _____ who, after first being sworn, on oath stated:

"I am the Guardian of the Estate of _____ (the Ward). I have reviewed the foregoing Annual Account filed in this case. The Account contains a correct ad complete statement of the matters pertaining to the estate of the Ward. The bond premium for the next accounting period for the Ward's estate has been paid; I have filed all tax returns in behalf of the Ward and paid all taxes owed by the Ward during this accounting period.

The taxes paid on behalf of Ward were as follows:

A. Amount of taxes: $ _____;

B. Date taxes paid: _____

C. Name of governmental entity to which taxes were paid: _____

Signed: _____

Guardian

_____

Address

_____

Telephone Number

SWORN TO AND SUBSCRIBED before me by _____

on this _____.

_____

Notary Public, State of Texas

Signature of Attorney: _____

State Bar I.D. No. _____

Address: _____

City, State, ZIP: _____

Telephone: _____

Telecopier: _____

OATH OF ADMINISTRATOR

BEFORE ME, the undersigned authority, on this day personally appeared _____
who being first duly sworn, states on oath that the within and foregoing account is a true, correct and complete statement

of the condition of the estate of _____,
Deceased, for the period stated therein.

Signed: _____

Address: _____

Telephone No.: _____

SWORN TO AND SUBSCRIBED BEFORE ME, on _____.

_____
Notary Public, in and for the State of Texas

BANK CERTIFICATE

This certificate must be obtained in every case where there is any cash in the Estate.

IT IS HEREBY CERTIFIED that, at the close of business on _____, unencumbered cash in the

amounts shown below was on deposit in this Bank to the credit of _____

as Guardian/Administrator of the Estate of _____.

Checking Account.....$

Savings Account .....$

_____, _____, _____.
(Name of Bank) (City) (State)

_____ _____
(Name of Officer Hand Printed or Typed) (Signature)

SAVINGS AND LOAN CERTIFICATE

This certificate must be obtained in every case where there is any money on a Savings & Loan Association account.

IT IS HEREBY CERTIFIED that, at the close of business on _____, unencumbered cash in the amount of $ _____ was on deposit in this Association to the credit of _____

as Guardian/Administrator of the Estate of _____.

_____, _____, _____

(S&L) (City) (State)

_____ _____

(Name of Officer Hand Printed or Typed) (Signature)

_____

(Title)

OFFICE OF STAN STANART
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

IN MATTERS OF PROBATE §
§
HARRIS COUNTY, TEXAS §

DOCKET NO. _____

ESTATE OF: _____

On _____, in the above described estate, came on to be heard the annual account of said estate as filed on _____, and recorded in the Probate Court Records of the County Clerk, of Harris County, Texas; and it appearing to the Court that said account has been on file the number of days required by law; and that said account is in the form, and sustained by proof, required by law; and that said account is correct.

It is therefore, ORDERED, ADJUDGED, AND DECREED that said annual account be, and is hereby, approved and ordered of record.

_____
Judge, Probate Court No. _____,
Harris County, Texas

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16-

Harry and Wanda had one child Amy. They divorced in 1998. After the divorce harry had no further contact with Wanda or Amy

Wanda married Steve in 2000 and they raised Amy together until 2008 when Wanda was killed in an automobile accident. Shortly after Wanda's death, Steve filed an application with the Probate Court to be appointed the permanent guardian of Amy's person and estate. Harry filed an answer and competing application.

During the hearing, the court heard the following evidence:

A letter signed by Wanda declaring that in the event of her death she appoints Steve Amy's guardian

A letter signed by Amy who was now 12 years old, stating that she wanted Steve to be her permanent guardian and did want to live with Harry.

not

Testimony that Steve had been an attentive stepfather to Amy and was the owner of a successful business.

Testimony that Harry was a high school dropout had two felony convictions was unemployed and was burdened by a large amount of debt.

Harry argued that the Texas Probate Code mandates that he be appointed Amy's guardian because as Amy's only surviving parent, there was a presumption that his appointment as Amy's guardian was her her best interest.

Did Wanda's letter have the effect of requiring the court to appoint Steve?

Could the court consider Amy's wishes?

Did the court err in appointed Steve?

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16 - [redacted]

[redacted]

Jane a widow who lived in San Antonio died in a car wreck. She was survived by her 16 year old son Alan, her brother Mark and her sister Beth. Jane's will provided that in the event of her death, Mark should be appointed guardian of both the person and the estate of Alan. Jane's estate which she left entirely to Alan was valued at $2 million.

Mark who was married and working as a wholesale lumber salesman, had a modest but comfortable home and excellent job security. Previously Mark had worked as a trust officer in a local bank and had been fired for mismanaging a customer's trust account.

Beth was a single woman who worked as a highly successful securities brother specializing in the management of income producing investments for her client. Her work related travel took her out of town 4-5 days a week.

The court appointed Mark as Temporary guardian of Alan's person and estate. Mark immediately loaned himself $50k for use in remodeling his home.

When Beth learned about eh loan, she filed an action to have Mark removed as guardian and to have herself appointed guardian of Alan's person and estate. Beth's petition also sought to require Mark to restore to Alan's estate the $50k he borrowed.

Mark opposed Beth's petition asserting that the court was bound by the terms of Janes will. Mark also filed an affidavit signed by Alan stating that Alan did not like Beth and wanted to live with Mark and Mark's wife so he could graduate from high school with his friends.

Mark testified that he borrowed the $50 in good faith and his intent was to extensively remodel his home but about half the proceeds were spent to build a room to accommodate Alan's moving in. He claimed that he should not be penalized because shortly before her death, Jane had promised to lend him the money.

1. What should the court do regarding Jane's wish as stated in the will?
2. What options are available for the court to consider?
3. May a court order Mark to restore the $50k?

Guardianship Compensation

Expenditures:

Caretakers $50,000

Nursing home $100,000

Doctor Bills $400

Insurance $3600

Clothing $700

Movies, Dinners $600

Receipts:

Dividends $50,000

Social Security $30,000

Rental Income $100,000

CD interest $20,000

Veterans Benefits $20,000

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HEALTH AND SAFETY CODE

TITLE 7. MENTAL HEALTH AND INTELLECTUAL DISABILITY

SUBTITLE E. SPECIAL PROVISIONS RELATING TO MENTAL ILLNESS AND MENTAL RETARDATION

CHAPTER 613. KIDNEY DONATION BY WARD WITH MENTAL RETARDATION

Sec. 613.001. DEFINITION. In this chapter, "ward with mental retardation" means a ward who is a person with mental retardation, as defined by Subtitle D.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 613.002. COURT ORDER AUTHORIZING KIDNEY DONATION. A district court may authorize the donation of a kidney of a ward with mental retardation to a father, mother, son, daughter, brother, or sister of the ward if:

(1) the guardian of the ward with mental retardation consents to the donation;

(2) the ward is 12 years of age or older;

(3) the ward assents to the kidney transplant;

(4) the ward has two kidneys;

(5) without the transplant the donee will soon die or suffer severe and progressive deterioration, and with the transplant the donee will probably benefit substantially;

(6) there are no medically preferable alternatives to a kidney transplant for the donee;

(7) the risks of the operation and the long-term risks to the ward are minimal;

(8) the ward will not likely suffer psychological harm; and

(9) the transplant will promote the ward's best interests.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 613.003. PETITION FOR COURT ORDER. The guardian of the person of a ward with mental retardation may petition a district court having jurisdiction of the guardian for an order authorizing the ward to donate a kidney under Section 613.002.

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Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 613.004. COURT HEARING. (a) The court shall hold a hearing on the petition filed under Section 613.003.

(b) A party to the proceeding is entitled on request to a preferential setting for the hearing.

(c) The court shall appoint an attorney ad litem and a guardian ad litem to represent the interest of the ward with mental retardation. Neither person appointed may be related to the ward within the second degree by consanguinity.

(d) The hearing must be adversary in order to secure a complete record, and the attorney ad litem shall advocate the ward's interest, if any, in not being a donor.

(e) The petitioner has the burden of establishing good cause for the kidney donation by establishing the prerequisites prescribed by Section 613.002.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 613.005. INTERVIEW AND EVALUATION ORDER BY COURT. (a) Before the eighth day after the date of the hearing, the court shall interview the ward with mental retardation to determine if the ward assents to the donation. The interview shall be conducted in chambers and out of the presence of the guardian.

(b) If the court considers it necessary, the court may order the performance of a determination of mental retardation, as provided by Section 593.005, to help the court evaluate the ward's capacity to agree to the donation.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 60, Sec. 17, eff. Sept. 1, 1993.

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Chapter 17:
Contested Guardianship

456108

Witnessed by Charleen Northey

Last Will and Testament

I, Susan Kay Bates, upon my death leave everything to Michael W. Bates, my husband. Upon his death to Austin Michael Bates, my son. Upon all our deaths to Jack + Jean Northey, Susan's brother & sister-in-law.

Susan K. Bates
3/8/2003

[redacted]

I, MICHAEL W. BATES, upon my death leave everything to SUSAN KAY BATES, my wife. Upon her death to AUSTIN MICHAEL BATES, my son. Upon all our deaths to JACK & JEAN NORTHEY, Susan's brother & sister-in-law.

NAME Michael W Bates
DATE MARCH 8, 2003

[redacted]

I, AUSTIN MICHAEL BATES, upon my death leave everything to Michael W. BATES, my father. Upon his death to SUSAN KAY BATES, my mother. Upon all our deaths to JACK & JEAN NORTHEY, Susan's brother & sister-in-law.

NAME Austin M. Bates
DATE MARCH 8, 2003

[redacted]

For purposes of this assignment Michael Alexander predeceased Richard Franz

LAST WILL
OF
RICHARD MYERS FRANZ
429625

PROBATE COURT 3

FILED
2014 MAR 26 AM 11:50
COUNTY CLERK
HARRIS COUNTY, TEXAS

I, Richard Myers Franz, a resident of Harris County, Texas, declare that this is my last will and I revoke any prior wills and codicils.

SECTION I

At the date of this will, I am single.

SECTION II

PAYMENT OF DEBTS AND EXPENSES

I direct that all of my legal debts, the expenses of my last illness and funeral, and the expenses of administering my estate shall be charged against my estate and may be paid in the order and out of those assets of my estate (including the income of my estate) that my executor may deem best. My executor is specifically given the right to renew, refinance and extend, in any form that it deems best, any accrued or unsecured debt or charge existing at the time of my death. Under no circumstances shall my executor be required to prepay any debt of mine.

SECTION III

GIFTS OF PERSONALTY

I give to Michael Edward Alexander all of my personal possessions of whatsoever nature and wheresoever situated and all contents of any safe deposit box registered in my name, all to be his absolutely. Any cost of packing and shipping this property shall be charged against my estate as an expense of administration.

RMF

PURPORTED WILL

05/27/2014 09:55 6006711

SECTION IV

GIFTS BY MEMORANDUM

I have made, or may from time to time make, a written memorandum in which I request that certain items of personalty be distributed to certain named persons. I urge the beneficiaries of my estate to respect these written requests.

SECTION V

GENERAL BEQUEST

I give my entire remaining estate to Michael Edward Alexander. In the event Michael Edward Alexander predeceases me, then I give my estate to my heirs at law according to the statutes of the State of Texas in effect at the time of my death..

SECTION VI

EXECUTORS

I appoint Michael Edward Alexander as my independent executor. If he fails to qualify or ceases to act, I appoint David J. Elliott as my independent executor.

To the extent permitted by law, no action shall be had in any court exercising probate jurisdiction in relation to the settlement of my estate other than the probating and recording of my will and the return of an inventory, appraisement and list of claims of my estate.

ARTICLE VII

TRUST PROVISIONS

If any share of my estate is otherwise provided to be distributed to a person who, in the absolute and uncontrolled judgment of my executor, is incapacitated by reason of legal incapacity or physical or mental illness or infirmity (such person is referred to as the "Ward"), I direct such share

RMF

PURPORTED WILL

shall pass instead to David J. Elliott, as Trustee, who shall hold such share in a separate trust for the benefit of the Ward. With respect to any property held in trust pursuant to this Section (such property, including all income, sometimes being referred to herein as the "trust estate"), when any Ward, in the absolute and uncontrolled judgment of the Trustee, becomes legally, mentally and physically capable of receiving such share, all remaining income and principal of such trust shall be distributed to such Ward and such trust shall terminate. Prior to termination of such trust, the Trustee shall utilize such amounts of trust income and principal as said Trustee, in said Trustee's absolute and uncontrolled discretion, deems desirable from time to time to provide for the welfare, comfort, health support, maintenance and education of such Ward, directly and without the interposition of any guardian; provided, however, that the Trustee may distribute to the Ward of such trust all or any part of the income of such trust as said Trustee deems desirable, without reference to any standard and without regard to other available funds. If such Ward dies before termination of such trust, the principal and all accumulated income of such trust shall be distributed to such Ward's executors or administrators for administration as a part of such Ward's estate; provided, however, should any person who would otherwise be entitled to any share of such deceased Ward's estate or who, in the absolute and uncontrolled judgment of the Trustee, is incapacitated by reason of legal incapacity or physical or mental illness or infirmity, I direct the trust estate of such deceased Ward be held by the Trustee in trust for such person and be governed by the provisions of this Article the same as if that person were an original Ward hereunder.

With reference to the trust estate created herein and every part thereof, the Trustee, whether original or successor, shall, in addition to the powers conferred upon the Trustee by this Will, have all the powers conferred upon trustees by the Texas Trust Code, as said Code now stands or as it may

RMF

PURPORTED WILL

hereafter be amended, and shall be bound by all the duties and responsibilities imposed upon trustees by the Texas Trust Code, as said Code now stands or as it may hereafter be amended, except for any instance in which the Texas Trust Code or any future amendments to the Texas Trust Code may conflict with the provisions of the trust created herein, in which case the provisions of such trust shall control.

No bond, surety or other security shall be required of the Trustee, whether original or successor, for the performance of duties as Trustee.

No Ward of such trust shall have any right or power to anticipate, pledge, assign, sell, transfer, alienate or encumber his or her interest in the trust in any way; nor shall any such interest in any manner be liable for or subject to the debts, liabilities or obligations of such Ward or claims of any sort against such Ward.

It is my intention by the foregoing provisions to insure maximum flexibility in the administration of each trust created hereunder, taking into consideration what is in the best interests of each Ward.

SECTION VIII

PRESUMPTIVE ORDER OF DEATHS

For all purposes of this will, if any beneficiary dies within thirty (30) days after my death, such person shall be deemed to have predeceased me.

SECTION X

GENERAL PROVISIONS AND POWERS

(a) Powers: I intend my executor to be independent as that term is used and defined under Texas law. I grant to all my fiduciaries discretion and complete power to administer my estate and

RMF

PURPORTED WILL

I grant to all my fiduciaries all powers conferred on trustees by the Texas Trust Code.

In addition to those powers now or subsequently conferred by law, this grant shall include, without limitation, the following powers, all of which may be exercised without the necessity of securing the approval or order of any court: (1) To acquire, by purchase or otherwise, retain, invest, reinvest and manage, temporarily or permanently, any realty or personalty, without diversification as to kind, amount or risk of non-productivity and without limitation by statute or rule of law; (2) to alter, improve, repair, replace, abandon and demolish assets; (3) to sell, exchange, encumber, lease for any period, or otherwise dispose of any asset of my estate, publicly or privately, without notice, wholly or partly for cash or credit, without appraisal, and to give options for those purposes; (4) to advance or borrow money, to hold, mortgage and pledge property for the repayment of same, and to renew and extend, any secured or unsecured debt or charge; (5) to purchase from, borrow from, sell to, and generally to deal with themselves individually and as a fiduciary of any estate, or with partnerships, corporations and financial or business organizations in which they may own an interest; (6) to continue, invest in, or liquidate any partnership, corporation or business in which I may own an interest; (7) to abandon, compromise, contest and arbitrate claims; (8) to hold title in the name of a nominee; (9) to make distributions in kind, in money or partly in each, without requiring pro rata distribution of specific assets and without regard to differences in tax bases of any such property, at fair market value on the date of distribution; (10) to carry out the terms of any valid agreement which I may have entered into during my lifetime concerning property which I may own at my death; (11) to determine all matters of estate accounting in accordance with generally accepted principles of estate accounting as established by controlling law or customary practices.

(b) *Compensation:* Each fiduciary shall be entitled to reasonable compensation for

RMF

PURPORTED WILL

services actually performed and to reimbursement for expenses necessarily incurred in the administration of my estate or any trust under my will.

(c) Waiver of Bond: No fiduciary shall be required to give bond in any jurisdiction, unless bond is required by law or court rule which cannot be waived, and in that event no surety shall be required.

(d) Acts of Prior Fiduciaries: No fiduciary need examine the accounts, records or acts of any previous fiduciary, and a fiduciary may accept as correct the statements of a prior fiduciary or his personal representative as to the assets of the estate; a fiduciary shall be responsible only for the assets actually delivered to it and shall not be responsible for the acts or omissions of any other fiduciary.

(e) Texas Law to Govern: All questions concerning the meaning and intention of any terms of this will, its validity, or the exercise or administration of any powers created in this will, shall be determined in accordance with the laws of the State of Texas.

(f) Will Not Contractual: This will is not being executed pursuant to or as part of any contract, and I may revoke or change this will at any time without breaching any agreement. Nothing in this will shall be deemed to exercise any power of appointment which I might have.

(g) Effect of Inoperative, Invalid or Illegal Provision: If any provision of this will or of any codicil thereto is held to be inoperative, invalid, or illegal, it is my intention that all of the remaining provisions thereof shall continue to be fully operative and effective as far as is possible and reasonable.

(h) Headings: The headings above the various provisions of this will have been included only in order to make it easier to locate the subject covered by each provision and are not to be used

RMF

PURPORTED WILL

in construing this will or in ascertaining my intentions.

(l) Number and Gender Defined: As used in this will, whenever the context so indicates, the masculine, feminine, or neuter gender, and the singular or plural number, shall be deemed to include the others.

SECTION X

TESTIMONIUM CLAUSE

I, Richard Myers Franz, in the presence of Stacy L. Stair and Allison Barker, hereby sign my name to this will on this the 22nd day of January, 1998.

Richard Myers Franz
Testator

SECTION XI

ATTESTATION CLAUSE

We, the undersigned persons, of lawful age, declare that the foregoing instrument was signed, published, and declared by Richard Myers Franz, the above-named Testator, as his last will, in our presence, and we, at his request, and in his presence and in the presence of each other, have subscribed our names to this instrument as attesting witnesses on the day and year last above written; and we certify that, in our opinion, the said Testator is of sound and disposing mind.

RMF

PURPORTED WILL

WITNESS:

Printed Name: Stacy L. Stair

ADDRESS:

2211 Norfolk St., #400
Houston, Texas 77098

Printed Name:

2211 Norfolk St., #400
Houston, Texas 77098

RMF

PURPORTED WILL

SECTION XII

SELF-PROVING AFFIDAVIT

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Richard Myers Franz, Stacy L. Stair and Allison Barker, known to me to be the testator and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said Richard Myers Franz, testator, declared to me and to the said witnesses in my presence that said instrument is his will, and that he had willingly made and executed it as his free act and deed for the purposes therein expressed; and the said witnesses, each on his/her oath stated to me, in the presence and hearing of the said testator, that the said testator had declared to them that said instrument is his will, and that he executed same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that he/she did sign the same as witnesses in the presence of the said testator and at his request, that he was at that time eighteen (18) years of age or over (or being under such age was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind, and that each of said witnesses was then at least fourteen (14) years of age.

Richard Myers Franz
Testator

Stacy L. Stair
Printed Name: Stacy L. Stair
Witness

Allison Barker
Printed Name: Allison Barker
Witness

STATE OF TEXAS
COUNTY OF HARRIS

SUBSCRIBED AND ACKNOWLEDGED BEFORE ME by the said Richard Myers Franz, testator, and subscribed and sworn to before me by the said Stacy L. Stair and Allison Barker, witnesses, this 22nd day of January, 1998.

Witn[illegible]

DAVID J. ELLIOTT
Notary Public, State of Texas
My Commission Expires 08-10-98

Notary Public, State of Texas

RMF

PURPORTED WILL

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County C
Harris Cou

NO. 429625

ESTATE OF	§	IN PROBATE COURT
	§	
RICHARD MYERS FRANZ,	§	NUMBER THREE (3) OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

PETITION FOR DECLARATORY JUDGMENT
(ANCILLARY TO APPLICATION FOR PROBATE OF WILL)

TO THE HONORABLE JUDGE OF SAID COURT:

ANDREW FREDERICK FRANZ, ("Applicant") files this petition for Declaratory Judgment ancillary to the probate of the written Will of his brother, RICHARD MYERS FRANZ ("Decedent"), pursuant to Sections 35.004 and 35.005 of the Texas Civil Practice and Remedies Code, seeking interpretation and designation of the term "heirs at law" as it appears in Decedent's Will, and respectfully asserts:

1. Applicant is an individual interested in this Estate, domiciled in and residing at 14715 Kellywood, Houston, Texas 77079.

2. Decedent died on February 7, 2014 in Houston, Harris County, Texas, at the age of 58 years.

3. This Court has jurisdiction and venue because Decedent was domiciled and had a fixed place of residence in this county on the date of death.

4. Decedent owned real and personal property described generally as a dwelling house, cash, securities, automobiles, household goods, personal effects, of a probable value in excess of $10,000.

5. Decedent left a valid written Will ("Will") dated January 22, 1998, which was never revoked and is filed herewith.

6. Section IV of Decedent's Will provides that Decedent could provide for specific bequests by written memorandum. No such memorandum has been found by his family.

7. Section V of Decedent's will provides "I give my entire remaining estate to Michael Edward Alexander. In the event Michael Edward Alexander predeceases me, then I give my estate to my heirs at law according to the statutes of the State of Texas in effect at the time of my death." There is no further definition of "heirs at law" in the will.

17-1

8. MICHAEL EDWARD ALEXANDER predeceased the Decedent, having passed away on March 8, 2004.

9. Decedent died unmarried and with no children or lineal heirs. Both natural parents. FREDERICK STEVENS FRANZ and MARILYN MYERS FRANZ, are alive, and Applicant asserts that they are the heirs at law and distributees of Decedent's Estate by virtue of Estates Code §201.001, in effect at the date of Decedent's passing.

10. Both parents have appeared in this case, have consented to the Applicant serving as Independent Executor and have waived service of the Application for Probate. Waivers and appearance will be filed in connection with this petition, as well.

WHEREFORE, Applicant prays that citation issue as required by law to all persons interested in this Estate; that the court enter judgment identifying the heirs at law of the Decedent; and that all other orders be entered as the Court may deem proper.

Respectfully Submitted,

VACEK & FREED, PLLC

Bernard Lilse Mathews, III
11777 Katy Freeway, Suite 300 South
Houston, Texas 77079
(281) 531-5800
(281) 531-5885 - Telefax
Bar Card No. 13187450

17-2

17-2

NO. 429625

ESTATE OF	§	IN PROBATE COURT
	§	
RICHARD MYERS FRANZ,	§	NUMBER THREE (3) OF
	§	
DECEASED	§	HARRIS COUNTY, TEXAS

DECLARATORY JUDGMENT

Came on this date to be considered the Petition of ANDREW FREDERICK FRANZ, ("Applicant") for Declaratory Judgment ancillary to the probate of the written Will of his brother, RICHARD MYERS FRANZ ("Decedent"), pursuant to Sections 35.004 and 35.005 of the Texas Civil Practice and Remedies Code, seeking interpretation and designation of the term "heirs at law" as it appears in Decedent's Will. The Court after hearing testimony of the Applicant and two disinterested persons in open court on issues of family history finds:

1. Decedent died on February 7, 2014 in Houston, Harris County, Texas, at the age of 58 years.

2. This Court has jurisdiction and venue because Decedent was domiciled and had a fixed place of residence in this county on the date of death.

3. Decedent left a valid written Will ("Will") dated January 22, 1998, which was never revoked and is filed herewith.

4. Section IV of Decedent's Will provides that Decedent could provide for specific bequests by written memorandum. No such memorandum has been found by his family.

5. Section V of Decedent's will provides "I give my entire remaining estate to Michael Edward Alexander. In the event Michael Edward Alexander predeceases me, then I give my estate to my heirs at law according to the statutes of the State of Texas in effect at the time of my death." There is no further definition of "heirs at law" in the will.

6. MICHAEL EDWARD ALEXANDER predeceased the Decedent, having passed away on March 8, 2004.

7. Decedent died unmarried and with no children or lineal heirs.

8. Both natural parents, FREDERICK STEVENS FRANZ and MARILYN MYERS FRANZ, are alive.

9. Pursuant to Estates Code §201.001, in effect at the date of Decedent's passing, a Decedent's parents would be his "heirs at law", in the absence of a specific beneficiary.

10. Both parents have appeared in this case, have consented to the Applicant serving as Independent Executor and have waived service of the Application for Probate. Waivers and appearance will be filed in connection with this petition, as well.

Accordingly, it is ORDERED:

1. That FREDERICK STEVENS FRANZ and MARILYN MYERS FRANZ are the Decedent's "heirs at law" as that term is used in the Will of Decedent; and

2. Said heirs shall inherit under the Decedent's will in the following proportions:

Heir	Percentage	Relationship
Frederick Stevens Franz 167 Dan Moody Trail Georgetown, Texas 78633	50%	father
Marilyn Myers Franz 167 Dan Moody Trail Georgetown, Texas 78633	50%	Mother

The Executor of Decedent's will shall make distributions accordingly.

SIGNED this 14th day of May, 2014.

JUDGE PRESIDING

CHAPTER 17

JUST AS IN DECEDENT'S ESTATES WE HAVE CONTESTS, SO DO GUARDIANSHIPS.

SIBLINGS, ALL THINKING THEY CAN TAKE THE BEST CARE OF THEIR PARENTS. SOME SIBLINGS SEEING HAVING CONTROL OF THE FUNDS, PROTECTS THEIR INHERITANCE.

AND THEN THE ARE THE SPOUSES FROM A SECOND MARRIAGE AND CHILDREN FROM THE FIRST.

AND AGAIN LIKE DECEDENT'S ESTATES, YOU HAVE BAD GUARDIANS THAT HAVE TO BE REPLACED.

HOWEVER, THERE IS ONE BIG DIFFERNCE: YOU HAVE A PERSON WHO IS ALIVE THAT NEEDS TO BE TAKEN CARE OF AS BEST POSSIBLE AND WITH THE UTMOST DIGNITY.

REALISTIC SOLUTIONS TO COMPLEX GUARDIANSHIPS

Presented By:

JEANNINE C. FLYNN
Attorney at Law
5616 Kirby, Suite 925
Houston, Texas 77005
Email: jeannineflynn@aol.com
(713) 521-3303 (Telephone
(713) 521-3322 (Facsimile)

CATHERINE H. GOODMAN
Shannon, Gracey, Ratliff & Miller, LLP
777 Main Street, Suite 3800
Fort Worth, Texas 76102
Email: cgoodman@shannongracey.com
(817) 877-8172 (Telephone)
(817) 336-9333 (Facsimile)

Written By:

CATHERINE H. GOODMAN
Shannon, Gracey, Ratliff & Miller, LLP
777 Main Street, Suite 3800
Fort Worth, Texas 76102
Email: cgoodman@shannongracey.com
(817)877-8172 (Telephone)
(817) 336-9333 (Facsimile)

R. DYANN MCCULLY
Bakutis, McCully & Sawyer, P.C.
500 W. 7th Street, Suite 725
Fort Worth, Texas 76102
Email: dmccully@lawbms.com
(817) 335-2208 (Telephone)
(817) 332-6532 (Facsimile)

State Bar of Texas
37th ANNUAL ADVANCED ESTATE PLANNING AND PROBATE COURSE
June 26-28, 2013
Houston

CHAPTER 14

17-b

A. John Wayne.

1. Problem.

John Wayne was a prominent and wealthy member of his community for over sixty (60) years. As part of his estate plan he gifted most of his wealth to his children, and retained a smaller amount of property to provide for his living expenses. After his wife died, he moved to an apartment for senior citizens. There he met a young lady who was employed by a neighbor to provide house cleaning services. John Wayne gave a six figure sum of money to the young lady after knowing her for a very short period of time. John Wayne's family, after several failed attempts to dislodge the young lady from John Wayne's life, sought a guardianship to protect him from further exploitation. John Wayne was furious, arguing that he was an experienced businessman who should be allowed to give gifts to his friends. He had no understanding of the limited resources available to him for his care, and that the gift to the young lady significantly depleted his resources. The gifts to the young lady and her friends continued to occur. However, his personal physicians could not agree as to John Wayne's level of capacity. Because one of the doctors stated John Wayne had capacity, John Wayne was adamant that he did not need a guardian.

B. Mr. and Mrs. "On Second Thought!"

1. Problem.

The wards (husband and wife) had multiple medical issues, no longer could drive, were unable to clean their home or cook meals, and were no longer managing their finances. When faced with a guardianship, and the possibility of having to move from their residence, wards agreed to guardianship, and specifically directed the attorney ad litem to agree to "anything to allow them to stay in the home." The attorney ad litem met with the wards at their residence, along with their children, where the wards agreed that they needed help managing their affairs to protect their property from grandchildren with "bad habits," and all parties agreed to the appointment of one child as guardian. After the hearing, and after the guardian began taking control of their finances, the wards placed numerous calls, and wrote letters to the court investigator saying they did not agree to the guardianship, and asking for it to be reversed.

C. The Mature Minor Ward.

The death of a parent of a minor child sometimes results in a guardianship of the estate for the minor. For example, if the deceased parent's insurance or retirement benefits name the minor child as the beneficiary, a guardianship of the estate may be necessary in order to collect and administer the funds until the child attains the age of majority. Or if a minor child is injured by the negligence of another, a guardian of the estate may be needed to pursue the minor's claims in litigation, as well as managing any recovery obtained for the minor.

1. Problem.

The guardian of a minor's estate settled claims of the minor against an investment company for losses caused by improper investments, resulting in recovery of approximately $225,000 to the guardianship estate. The minor's guardian ad litem filed an application to place the funds into a management trust until the ward reached age twenty-five (25) years, pursuant to Texas Probate Code Section 867. The minor ward, who was then seventeen (17) years of age, did not want a corporate trustee, did not want funds invested in anything other than certificates of deposit, and did not want to wait until age twenty-five (25) to receive her funds. The ward, a serious student with plans to go to college and medical school, believed she was mature enough to handle the funds. Accordingly, the ward's attorney ad litem objected to the creation of the management trust.

D. Elderly Mental Retarded Ward.

1. Problem.

An elderly ward with mental retardation and dementia, lived alone and unsupervised in an apartment. Ward's only income, being monthly Social Security payments, were being diverted by a "friend." The friend refused to pay the ward's rent. Ward was found wandering on busy streets in freezing temperatures. She refused to talk to the guardian ad litem, which prevented the guardian ad litem from being able to file an application for guardianship. When the guardian ad litem finally visited with the ward, she would not agree to be moved from her apartment to assisted living. Further, the ward would not open her door to accept service of the guardianship application.

F. The Divorcing Ward.

1. Problem.

While in the middle of a divorce, the family court judge realized that the ward might be incapacitated or suffering from mental illness, and appointed a guardian ad litem in the divorce proceeding for ward. The guardian ad litem, recognizing the ward's incapacities, wrote a letter to the probate courts pursuant to Section 683 of the Texas Probate Code. The guardian ad litem appointed by the probate judge initiated guardianship proceedings, but the ward refused to submit to an independent medical examination, and had not been under the regular care of a physician. Due to the ward's refusal, the probate judge held the ward in contempt until she submitted to an examination. A doctor examined her in jail and found her to have capacity; and the guardianship proceeding was closed. Ward continued to represent herself in the family court and the divorce was granted.

Years later, the ward went to the office of the probate court and requested that a guardian be appointed for her. She was living in the home granted to her in the divorce, but without utilities. Ward had no funds to spend on her daily needs, and was found eating food out of garbage dumpsters behind restaurants. Ward's home was due to be foreclosed for failure to pay ad valorem taxes and mowing liens. Although this time the ward requested a guardian, she continued to refuse to be examined by a physician.

IV. THE ALCOHOLIC WARD.

A. Problem.

The ward was slowly killing himself while living alone, not working, and abusing alcohol. The ward refused medical care or to allow family or friends to help him. The ward was eventually found unresponsive and hospitalized. The hospital's social worker reported the situation to probate court, which initiated a guardianship proceeding. Ward's friend became guardian of person and estate, as family members were unsuitable (and were providing the alcohol!) Ward remained hospitalized until finally released to an assisted living facility, where he became sober. Ward felt too young to live in the same facility as elderly persons and those of diminished capacity. Ward petitioned for restoration of his rights.

B. The Drug Abuser.

1. Problem.

Ward's mother passed away, leaving the ward as an heir at law due to inherit a small sum of money. Ward had suffered brain damage and incapacities due to drug abuse, and had a long criminal history. The ad litem attorney needed a workable solution to preserve ward's inheritance.

C. Kidnapped Ward.

1. Problem.

Child A of ward snuck ward from nursing home in neighboring state and brought ward to Texas, transferred substantial sums of ward into account solely in child's own name, and obtained medical power of attorney for ward. Child B of ward was not allowed contact with ward.

VII. THE WEALTHY WARD.

A. The Frugal Ward.

1. Problem.

An elderly woman, suffering from dementia, at first refused assistance from her relatives. This ward lived alone, never married, and had no children. Her estate was too large for management by a guardian of the person. The ward could not remain in her home due to its deterioration and years of neglect. A close "friend" of the ward (an attorney) claimed to have been named as agent under ward's powers of attorney, as well as executor (and beneficiary) of her will.

V. THE MENTALLY ILL WARD.

A. The Nurse.

1. Problem.

A sixty-(60) year old ward with a nursing background began to self-medicate, but was not doing a good job of it. She was combative and disagreed with all medical opinions, continuously refusing her family's help. This ward was diagnosed with *Clostridium difficile* (often called *C. difficile* or *C. diff*, a relatively unheard-of disease at the time, but it has since been reported to be the newest drug-resistant infection, similar to MRSA). The ward's finances were being depleted, due to home equity loans and sweepstakes. Her family members were in denial about the extent of her incapacities, and were also unwilling to help due to years of mental abuse from the ward. Due to extensive medical and mental history, as well as the communicable diseases, finding a placement for this ward was difficult. Ward was eventually referred to Adult Protective Services, which removed her from her home and started the guardianship process. However, the ward did not go without a fight, and directed her ad litem attorney to contest the proceedings.

X. THE FIGHTING FAMILY MEMBER.

A. Docket Control Conferences.

1. Problem.

Child A of ward filed an application for a guardian for ward, who had significant deficits in her memory, and who was being exploited by Child B. The parties agreed that the ward was incapacitated and needed a guardian, but Child B insisted that he should be appointed guardian. The ad litem attorneys and the attorney for Child A explained to Child B's attorney that Child B was disqualified to serve as guardian, as Child B had taken substantial funds from ward's bank account. Nevertheless, Child B's attorney continued to insist that his client be appointed guardian.

B. Attorneys Hired by Wards Lacking Capacity.

1. Problem.

The ward retained private counsel to defend ward in a guardianship proceeding where the court already appointed a guardian ad litem and an attorney ad litem for the ward. Several family members also retained counsel. The guardian ad litem and the attorney ad litem determined that the ward clearly lacked capacity, and needed a guardian to protect the ward from exploitation, but the ward's private counsel caused delays at every turn.

C. Ward Wants to Hire YOU.

1. Problem.

The ward received notice of an application for guardianship taken out against him. He met with an attorney and asked the attorney to represent him in the guardianship proceeding. The ward communicated clearly and appeared to understand the situation, but he was physically feeble. The attorney realized there was a risk in agreeing to represent the ward, i.e., not getting paid, but the attorney was certain that the ward had sufficient capacity to retain counsel.

E. The "Too Busy Doctor."

1. Problem.

You were appointed as an ad litem attorney by the court to either serve as guardian or attorney ad litem for the ward. You had all the records and conducted your investigation, but were unable to obtain the required for Doctor's Letter (Section 687), for numerous possible reasons, but let's just assume it kept getting lost! If you were guardian ad litem, you needed this letter in order to proceed. If you were attorney ad litem, this letter could possibly be used as support to either attempt to limit the effects of the guardianship, or to show that the ward was not incapacitated.

Chapters 18 and 19:

Alternatives to Guardianship, Restoration, Modification, and Closing

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Orig 6
PROBATE COURT 3

LAST WILL AND TESTAMENT
OF
GEORGIA Y. GRIGGS-MONTGOMERY

I, Georgia Y. Griggs-Montgomery, residing in Harris County, Texas, make, publish and declare this to be my Last Will, hereby expressly revoking all Wills and Codicils heretofore made by me.

ARTICLE I

I appoint Bernard Montgomery, my ex-husband, to be the Independent Executor of my estate. In the event that my ex-husband should predecease me or for any reason fails to qualify or ceases to act after qualifying, then I hereby appoint Gloria Griggs, my mother, to be the Independent Executrix of my estate. In the event that my mother should predecease me or for any reason fails to qualify or ceases to act after qualifying, then I hereby appoint Tosh R. Woodson, my cousin, to be the Independent Executrix of my estate. No bond or other security shall be required of the Independent Executor and such person shall act independently of the Court. No action shall be taken in any Court in the administration of my estate other than the probating and recording of this Will and the return of an inventory, appraisement and list of claims of each estate. I direct the person serving as Independent Executor to pay the debts of my estate and the debts of my last illness.

ARTICLE II

I hereby give, devise and bequeath my estate to Benjamin Montgomery, my son, and Alexis Montgomery, my daughter, share and share alike. In the event that one of my children should predecease me or we die simultaneously, then I hereby give, devise and bequeath my estate to my surviving child. In the event that both of my children should predecease me or we die simultaneously, then I hereby give, devise and bequeath fifty (50%) percent of my estate to Barnard Montgomery, my ex-husband, and fifty (50%) percent of my estate to Gloria Griggs, my mother.

In the event that Benjamin Montgomery and/or Alexis Montgomery is under eighteen (18) years of age at the time of my death, I hereby appoint Bernard Montgomery, my children's father, as the guardian for my children. His address is 419 Green Stone Court, Houston, Texas 77094. His telephone number is (832) 646-1098. In the event that Bernard Montgomery is unwilling or unable to act as guardian for my children, then I hereby appoint Gloria Griggs, my mother, as the guardian for my children. Her address is 5003 Baker, Austin, Texas 78724. Her telephone number is (512) 289-8449. In the event

Georgia Y. Griggs-Montgomery

PURPORTED WILL

that Gloria Griggs is unwilling or unable to act as guardian for my children, then I hereby appoint Dr. Gigi Wade, my ex-sister-in-law, as the guardian for my children. Her address is 4955 Bridge Oak Run, Mableton, GA 30126. Her telephone number is (770) 732-6171.

In the event that Benjamin Montgomery and/or Alexis Montgomery is under eighteen (18) years of age at the time of my death, my estate is to be held in trust and I name Bernard Montgomery, my children's father, to be the trustee for that trust. His address is 419 Green Stone Court, Houston, Texas 77094. His telephone number is (832) 646-1098. In the event that Bernard Montgomery is unwilling or unable to act as trustee for my children, then I hereby appoint Gloria Griggs, my mother, as the trustee for that trust. Her address is 5003 Baker, Austin, Texas 78724. Her telephone number is (512) 289-8449. In the event that Gloria Griggs is unwilling or unable to act as trustee for my child, then I hereby appoint Dr. Gigi Wade, my ex-sister-in-law, as the trustee for that trust. Her address is 134955 Bridge Oak Run, Mableton, GA 30126. Her telephone number is (770) 732-6171.

The said trustee(s) is to determine the amount needed to withdraw from said trust for the support of each child. Each child is to receive the proceeds of his/her trust when he/she has reached eighteen (18) years of age.

ARTICLE III

Subject to the distribution of the income and principal in the manner, to the person(s) and at the times herein designated by me, I give to my said trustee(s) all powers of management and control of each trust hereby created, and of disposal of trust property which the trustee(s) would have or could exercise if the trustee(s) was the absolute owner of the property constituting such trust estates. Without intending by specification of particular powers to qualify or limit the general powers thus conferred, I expressly authorize and empower my trustee(s) in respect of each trust estate hereby created:

A. To hold, possess, manage and control the property at any time constituting the trust estate and every part thereof and substitutions therefore and additions thereto and to receive, collect, sue for and recover the principal of the trust estate and the rents, dividends, interest, income, issue and profits thereof;

B. Without accountability for loss, whether through depreciation in value, unprofitable investment or reinvestment, failure to diversify or otherwise, except for loss resulting directly from the trustee(s)'s own actual fraud or willful misconduct, to retain at the trustee(s)'s discretion as investments of the trust estate any or all property, real, personal or mixed, that may come into the trustee(s)'s hands or which may be acquired by the trustee(s) either at the beginning of this trust or at any time thereafter;

Georgia Y. Griggs-Montgomery

PURPORTED WILL

C. To acquire or purchase real or personal property subject to mortgages, deeds of trust or other encumbrances and as part of the purchase price to assume payment of the indebtedness secured by said mortgages, deeds of trust or other encumbrances;

D. To take, hold, sell (at public or private sales), grant options upon, exchange, convey, mortgage, alter, manage, rent out, insure, lease for any term or terms (even extending beyond the termination of this trust), including terms of ninety-nine (99) years and terms with or without options for renewal or purchase or both, and to transfer and otherwise deal with and dispose of any or all of the property, real, personal or mixed, that may at any time belong to the trust estate, whenever and from time to time as the trustee(s) may deem wise, and upon such terms and for such consideration, and for cash or upon credit as to the trustee(s) may seem advantageous to the trust estate and to make contracts therefore, and to execute and deliver good and sufficient deeds, transfers and conveyance thereof;

E. To improve and repair any of the real estate that may at any time belong to the trust estate, to hold it for investment or contract with any person, persons or corporation for the management thereof;

F. To abandon property interests deemed to be of insignificant value;

G. To borrow money for the trust estate and to secure the payment of any money so borrowed, or any other obligation of the trust estate, by mortgages, deeds of trust estate;

H. To invest and reinvest from time to time, at the trustee's discretion, the principal of the funds at any time held in trust hereunder and the accumulated income of any trust not disbursed to the beneficiaries thereof in such a manner and in such bonds, stocks (preferred or common), debentures, notes, participation in a common fund, real estate mortgages, real estate investment trusts or other securities (including, in the case of any corporate trustee(s) or co-trustee(s), any bonds, stock, debentures, notes, participation in a common fund and/or securities, repurchase agreements, certificates of deposit and savings accounts issued by such corporate trustee(s) or co-trustee(s) and/or any subsidiary, parent or affiliate organization of which such corporate trustee(s) or co-trustee(s) are a part), real estate, improved and unimproved, mineral rights, oil rights, natural gas rights or other property, personal or real, domestic or foreign, and upon such terms and for such length of time as the trustee(s) shall deem necessary and proper; and the trustee(s)'s power and authority to do so shall not be limited or restricted by restrictions placed by law upon trustee(s), but said powers and authority shall be as broad as those possessed by individuals acting in their own right with regard to their own property;

Georgia Y. Griggs-Montgomery

PURPORTED WILL

I. To form or cause to be formed a corporation under the laws of any state of the United States, and to transfer and convey to such corporation all or any part of the property of the trust estate in payment for any or all of the shares of stock thereof, or to buy any or all of the shares of stock thereof;

J. To originate, retain, acquire and conduct or operate any business, ranch or farm as a sole proprietorship, in partnership, as a general or limited partner, or in a joint venture with other persons, corporations or fiduciaries; and to do all things necessary or convenient to that end, including the incorporation of such business, ranch or farm, and including the investment of additional capital, without liability for any loss resulting from the acquisition, retention, continuance or cooperation of any such business, ranch or farm except for such fiduciary's own actual fraud or willful misconduct, and to close out, sell or liquidate any such business, ranch, or farm, at any time and upon such terms as to the trustee(s) may deem advisable;

K. To acquire as an asset of the trust estate a life insurance policy on the life of any person to whom the income of the trust is then payable, or on the life of any person in whom such income beneficiary has an insurable interest, from such companies and in such amounts as the trustee(s) may deem advisable; to pay premiums on all such policies from income or principal, or both, as the trustee(s) may determine and any such insurance shall be payable to and all incidence of ownership shall be vested in the trustee(s).

To apply for and obtain insurance for the benefit of any trust beneficiary, providing hospitalization, health, and accident and major medical benefits, or any one or more of these, and to maintain in force such insurance or any similar pre-existing insurance. If, as a result of illness or accident, benefits shall accrue under any such policy, the proceeds collected by the trustee(s), if any, shall be applied, in the sole, absolute and uncontrolled discretion of the trustee(s), to reimburse the particular trust estate, the beneficiary or others for expenses advanced by them or any of them. It is understood that in the exercise of the trustee(s)'s discretion it will be necessary for the trustee(s) to determine whether the trust estate or income is adequate to warrant the acquisition of such insurance and also to determine what kind(s) of insurance and in what amounts such insurance should be purchased.

The trustee(s) shall incur no liability for any decision made by the trustee(s) in good faith. If insurance is obtained, the trustee(s) shall not be required to make any claim under any policy unless the trustee(s) shall have actual and timely written knowledge of facts giving the rise to a claim and in the event legal procedures are instituted to recover the proceeds of any such policy, the trustee(s) shall be indemnified to the trustee(s)'s satisfaction from the trust estate for any expense which the trustee(s) may incur in that connection.

Georgia Y. Griggs-Montgomery

L. To vote, either in person or by proxy, any or all stock at any time belonging to the trust estate, at all corporate meetings, for all corporate purposes, including the dissolution of any corporation or the sale, transfer or exchange of all of the assets thereof, or the increase or decrease of the capital stock thereof, or any change in the character or preference or par value of the stock thereof, or for any other amendment to the charter of any corporation, or for any reorganization of any corporation;

To exercise any conversion privilege or subscription right given to the trustee(s) as the owner of any security constituting a portion of the trust estate; to lodge or deposit any stock or securities of the trust estate with any protective committee(s), and delegate such discretionary powers to it or them to the same effect as if I were acting; and to vote any stock at any time held by the trust estate for the election of any person(s), including any person who shall then be a trustee(s) hereunder and any person who shall then be in the employ of, or an officer or director of any corporate trustee(s) of this trust, as director(s) or officer(s) or any corporation, to enter into any voting trust and deposit any stock required thereunder, and to waive notice of any corporate meetings, to do any and all of said things whenever, and from time to time as the same may deem to the trustee(s) to be to the advantage of the trust estate;

M. To participate in the registration of securities under any federal, state, municipal, or other law, to give or accept investment representations, to enter into underwriting, indemnity, insurance, guarantee, and other contracts in connection with the sale of securities, and to pay part or all of the commissions, underwriting expenses, taxes, insurance premiums, and other fees and expenses arising in connection with the registration and/or sale of securities;

N. To pay, with respect to any stock or other securities at any time belonging to the trust estate, any assessment(s), whether voluntary or otherwise, or to subscribe and pay for any stock or other securities issued or offered by any corporation(s) of which the trust estate shall be a stockholder or other security holder at the time of such issuance or offer, and regardless of whether or not the stock or other securities so issued or offered be of the same class as the stock or other securities so held by the trustee(s) or of a different class; or pursuant to any reorganization, consolidation, readjustment of the financial structure or sale of the assets of any corporation or other organization of which the trust estate shall be a stockholder or other security holder, to exchange any stock or other security so held by the trust estate for any stock and/or other securities issued or offered pursuant to any such reorganization;

O. To keep liquid, or nearly liquid, a reasonable portion of the trust principal, even though little or no income is earned thereon;

Georgia Y. Griggs-Montgomery

PURPORTED WILL

P. To keep any or all of the assets for securities that may at any time constitute part of the trust estate in the State of Texas, or in any other state of the United States, or in any foreign country, and to make contracts with respect to the deposit, custody and retention of such assets and securities or any part thereof; to keep any or all of such assets or securities in the custody of the trustee(s), or in the custody of any bank or trust company in any state of the United States, or in any foreign country, including the right to deposit funds with any corporate trustee(s) of this trust; to keep any or all of the real estate, property or securities of the trust estate registered in the name of the trustee(s), or in the name of any other person or corporation that the trustee(s) may designate, or to keep any or all of such securities unregistered or in bearer form, without disclosing any trust or fiduciary capacity; to pay customary compensation in connection with any or all of the foregoing;

Q. To compromise and adjust any and all claims that may arise in favor of or against the trust estate, or any of the property thereof, upon such terms and conditions as the trustee(s) may deem in the best interests of the estate, and to apply funds or property of the trust estate to the effectuation of any such adjustment, settlement or compromise;

R. To institute and carry on any partition proceeding with respect to real or personal property or any interest in either kind belonging to the trust estate, and any other legal proceedings whatsoever that in the judgment of the trustee(s) are necessary or convenient in the determination, segregation, proper management, preservation or protection of the trust estate, or any part thereof, and to purchase and buy in, on behalf of the trust estate and through the use of trust funds, any property sold as a result of any such partition to redeem the interest of the trust estate in the event of such a partition or other sale;

S. To defend against any and all suits or legal proceedings that may be brought affecting the trust estate or any property, real or personal, in which the trust estate is interested;

T. To (i) at all times employ and compensate appraisers, accountants, agents and such other advisors as the trustee(s) may deem advisable and to act upon their advice, without liability for the neglect, omission, misconduct or default of any such person, partnership or corporation, provided such person, partnership or corporation was selected and retained with reasonable care; (ii) at all times employ and compensate legal counsel, which counsel may be a member(s) of any law firm with which the trustee(s) or any of them may be associated (including, but not by way of limitation, for the purpose of representing the trustee(s) in any action which may be brought against them or any of them by the primary beneficiaries or any other person(s) arising out of the administration of the trust estate) and (iii) only at such time(s) as there is no corporate trustee(s) acting as a trustee(s) of a trust herein created, the individual trustee(s) of such trust is hereby

Georgia Y. Griggs-Montgomery

PURPORTED WILL

authorized to employ and compensate competent person(s), firm(s) or corporation(s) to keep the books and records of and perform other ministerial acts for such trust. Any amounts paid by the trustee(s) for any of the above shall be treated as expenses of the trust and shall not be payable out of the compensation payable to the trustee(s) thereof;

U. To determine whether any money or property coming into the trustee(s)'s hands shall constitute part of the principal or corpus of the trust estate or part of the income therefrom, and to apportion between principal and income any and all items of loss or disbursement, in such manner as the trustee(s) may deem just and equitable, the decisions of the trustee(s) with respect to such allocation or apportionment being binding and unimpeachable;

V. To adopt such method as the trustee(s) may deem just and equitable for the allocation of property or undivided interest therein to the various trusts created by this instrument and to various persons entitled to receive property from time to time, free from the trust, and to make such division or distribution in kind, partly in kind and partly in money, or completely in money, and to do so without regard to the income tax basis of the property so allocated or distributed, to sell the purpose of such division or distribution, by appraisal or otherwise, and to select a date for such valuation as the trustee(s) may deem most appropriate. All such determinations made by the trustee(s) in good faith shall be conclusive and binding on all parties in interest. After termination of any trust created hereunder, the trustee(s) may defer distribution of any trust created hereunder, the trustee(s) may defer distribution thereof until all matters pertaining thereto have been settled, and meanwhile to continue to exercise all powers of sale, investment and other powers herein conferred upon the trustee(s) until final distribution of such trust;

W. To leave on deposit with any insurance company which issued an insurance policy belonging to the trust estate, any amounts at any time due and payable under any of said policies upon such terms and conditions as said trustee(s) shall deem proper; and generally, at any time and from time to time, to do any act or thing in respect of any of said policies that could be done by the absolute owner thereof; to apply for, cause to be assigned to the trustee(s), hold and exercise any or all incidents of ownership in any policy of insurance on the life of any person and to pay the premiums thereon;

X. Generally, to do and perform any and all things and acts in connection with or in reference to the property of the trust estate, as effectively as the trustee(s) could do if the trustee(s) was the absolute owners thereof;

Y. In the event that there shall at any time be more than one trustee(s), the trustee(s), by written instrument, may provide that any one or more of their number may exercise any and all powers, duties and discretions vested in them, jointly, and any trustee(s), with the consent of his or its co-trustee(s), may be relieved of any and all

Georgia Y. Griggs-Montgomery

PURPORTED WILL

powers, authority, duties and discretion vested in or imposed upon his or it by delivering to the other trustee(s) or to his or its attorney-in-fact an instrument in writing delegating the same, or any part thereof, to such other trustee(s) or attorney-in-fact, and any act done or decision made pursuant to such written instrument shall be binding upon and not subject to question or challenge by any person(s) whomsoever;

Z. The trustee(s) may resign or refuse to act as trustee(s), at any time, by executing an instrument in writing, which instrument shall be acknowledged in the same manner as deeds to real estate are required to be acknowledged by the law in effect in the State of Texas at that time and shall be delivered to the co-trustee(s) of the resigning trustee(s), if any, and either (a) to the resigning trustee(s)'s successor or (b) if there be no successor trustee(s), then by delivering said instrument to all beneficiaries, or their legal representative(s), and by filing said instrument for record in the office of the Recorder of Deeds of the County of Harris, State of Texas.

Spendthrift

The interest of beneficiaries in the corpus of the trust created by this will shall not be subject to the claims of their creditors or assignees, nor to legal process, and may not be voluntarily or involuntarily alienated or encumbered in any way.

The statement and enumeration of certain powers vested in the trustee(s) are not intended to restrict or limit the full and plenary powers hereinabove vested in the trustee(s).

ARTICLE IV

I also direct that all of my just debts and funeral expenses, federal estate and state inheritance taxes, and all other taxes payable out of my estate, shall be paid as soon after my death as in the opinion of my Independent Executor named is practicable and advisable.

ARTICLE V

If any person, whether or not related in any way by blood either directly or indirectly attempts to oppose or set aside the probate of this Will or impair or invalidate any of the provisions hereof and such person shall establish a right to any part of the estate, then such person is hereby given and bequeathed the sum of one dollar ($1.00) only and no further interest whatsoever in such estate.

Georgia Y. Griggs-Montgomery

ARTICLE VI

If any provision of this Will or of any Codicil thereto is held to be inoperative, invalid or illegal, it is my intention that all of the remaining provisions thereof shall continue to be fully operative and effective so far as is possible and reasonable.

Georgia Y. Griggs-Montgomery

PURPORTED WILL

19 - [redacted]

I have signed this Will in Harris County, Texas, in the presence of Wanda Brown and Megan Cruse, who are acting as witnesses at my request, in my presence and in the presence of each other, on this the 13 day of April, 2011.

Georgia Y. Griggs-Montgomery, Testatrix

PURPORTED WILL

ATTESTATION CLAUSE

We, the undersigned, each being over the age of fourteen (14) years and each being credible witnesses, do hereby certify that on this the 21st day of Apr., 2011, the above and foregoing instrument was here and now signed in our presence by Georgia Y. Griggs-Montgomery and declared by her to be her LAST WILL AND TESTAMENT, and we have hereunto set our hands as subscribing witnesses in her presence, at her request, and in the presence of each other, and declare that said Testatrix is of sound mind and disposing mind and memory and lawful age.

Wanda Brown
Signature of Witness

Wanda Brown
Printed Name of Witness

15818 Conner Acres Dr. Spring, Tx. 77379
Address of Witness

8325126108
Telephone Number of Witness

FILED
2011 DEC 20 AM 11:38
COUNTY CLERK
HARRIS COUNTY, TEXAS

Megan Cruse
Signature of Witness

Megan Cruse
Printed Name of Witness

4107 Farmer St.
Address of Witness

832 518 7161
Telephone Number of Witness

Initials of Testatrix:

GM

PURPORTED WILL

SELF-PROVING AFFIDAVIT

STATE OF TEXAS)
COUNTY OF HARRIS)

BEFORE ME, the undersigned authority, on this day personally appeared Georgia Y. Griggs-Montgomery, Wanda Brown and Megan Cruse, known to me to be the Testatrix and Witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said Georgia Y. Griggs-Montgomery, Testatrix, declared to me and to the said Witnesses in my presence that the said instrument is her LAST WILL AND TESTAMENT, and that she had willingly made and executed it as her free act and deed; and the said Witnesses, each on her oath stated to me, in the presence and hearing of said Testatrix, that the said Testatrix had declared to them that the said instrument is her LAST WILL AND TESTAMENT, and that she executed same as such and wanted each of them to sign it as a Witness; and upon their oaths each Witness stated further that they did sign the same as Witnesses in the presence of said Testatrix and at her request; that she was at that time eighteen (18) years of age or over, (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said Witnesses was then at least fourteen (14) years of age.

Georgia Y. Griggs-Montgomery

Signature of Witness

Signature of Witness

SUBSCRIBED AND ACKNOWLEDGED before me by the said Georgia Y. Griggs-Montgomery, Testatrix, and subscribed and sworn to before me by the said Wanda Brown and Megan Cruse, witnesses, this 21st day of April 2011.

CATHERINE D. WELLS
MY COMMISSION EXPIRES
February 25, 2014

Signature of Notary Public

Catherine D. Wells
Typed or Printed Name of Notary

February 25, 2014
My Commission Expires:

PURPORTED WILL

454061

Codicils

PROBATE COURT 3

I, Georgia Y Griggs-Montgomery, residing in Harris County, Texas, make, publish and declare this to be my Last Will, hereby expressly revoking all Wills and Codicils heretofore made by me.

Article I

Remove Bernard Montgomery from this article as executor.

Article II

Remove Bernard Montgomery from this Article.

Article III & IV, V & VI

Okay

GM

Initials re Testatrix

PURPORTED WILL

FILED
2018 DEC 20 AM 11:08
Stan Stanart
COUNTY CLERK
HARRIS COUNTY, TEXAS

I have signed this Codicils in Katy, Texas in the presence of Latesia Harris and Dayne Williams who are acting as witnesses at my request in my presence and in the presence of each other, on the the 29th day of October 2016.

Georgia Y Griggs-Montgomery, Testatrix

GM

Initials of Testatrix

PURPORTED WILL

Attestation Clause

The undersigned, each being over the age of fourteen (14) years and being credible witnesses, do hereby certify that on this the 29th day October, 2021, the above and foregoing instrument was then and now signed in our presence by Gloria Y Griggs-Montgomery and declared by her to be her Codicil, and we have hereunto set our hands as subscribing witnesses in her presence, at her request, and in the presence of each other, and declare that said testatrix is of sound mind and disposing mind and memory and lawful age.

Latecia Hargis
Signature of Witness

Latecia Hargis
Printed Name of Witness

11213 Blackmoor Dr Austin, Tx 78754
Address of Witness

512 810-5740
Telephone number of Witness

Dayne Williams
Signature of Witness

Dayne Williams
Printed Name of Witness

11901 Dauphine Ln. Austin Tx 78754
Address of Witness

512 289-0158
Telephone number of Witness

Initials of Testatrix

GM

Self-Proving Affidavit

Estate of
Dorothy Harris

Before me, the undersigned authority, on this day personally appeared George Y Griggs-Montgomery, Latecia Hargis and Dayne Williams, known to me to be Testatrix and Witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all said persons being by me duly sworn, the said George Y Griggs-Montgomery, Testatrix, declared to me and to the said Witness in my presence that the said instrument is her Codicil, and that she had willingly made and executed it as her free act and deed; and the said Witnesses, each on their oath stated to me, in the presence and hearing of said Testatrix, that the said Testatrix had declared to them that the said instrument is her Codicil, and that she executed same as such and wanted each of them to sign it as a witness; and upon their oaths each Witness stated further that they did sign the same as witnesses in the presence of said Testatrix and at the request; that she was at that time eighteen (18) years of age or over (or being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said Witnesses was at least fourteen (14) years of age.

George Y Griggs-Montgomery

Latecia Hargis

Signature of Witness

Signature of Witness

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

Subscribed and acknowledged before me by George Y Griggs-Montgomery, Testatrix and subscribed and sworn to before me by the said Latecia Hargis and Dayne Williams, witnesses, this 29th day of October 2016.

Deborah Hargis
SIGNATURE OF NOTARY PUBLIC

DEBORAH HARGIS
Notary Public, State of Texas
My Commission Expires
August 11, 2018

Deborah Hargis
TYPED OR PRINTED NAME OF NOTARY

August 11, 2018

GM

Initials of Testatrix

PURPORTED WILL

P16

713-92-3138

652956

PROBATE COURT 3

To Whom it may concern —

These are my wishes in the

event of Sickness or Death

Tina Marie Kanik Mikeska

to receive one half of my

Estate (including all assets of Frank

Mikeska Watch Repair (the Building

(Tools) all stock (merchandise

Tools, all debts ~~this~~ or Bought

Debts

stock

SIGNED 12-25-00

FRANK MIKESKA

WITNESS TO SIGNATURE

David D. Stanek

823 Mossy St

LaPorte, Tx 77571

281-471-9206

FILED
2010 MAY 25 AM 11:16
COUNTY CLERK
HARRIS COUNTY, TEXAS

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All blackouts, additions and changes were present at the time the instrument was filed and recorded.

CHAPTER 18

The Estates Code emphasizes that a guardianhip is the last resort. That the courts should consider any lesser restrictive alternatives.

We will consider what those alternatives might be and how they may resolve an issue and make a guardianship unnecessary.

In keeping with the mandate that Texas has to make a guardianship as less restrictive as possible, we will review the modification statutes whereby a ward might be given certain authority over his person and/or estate and have the guardianship modified to give him more freedom even to the point of total restoration.

Appendix D:

LESS RESTRICTIVE ALTERNATIVES TO GUARDIANSHIP

I. AVOIDING GUARDIANSHIP OF THE PERSON

1. Emergency Protective Order ("EPO") or Emergency Order for Protective Services ("EOP") TEX. HUM. RES. CODE § 48.208 - A procedure to remove a person lacking capacity to consent to medical services from a situation posing an immediate threat to life or physical safety. Adult Protective Services files a verified petition and an Attorney Ad Litem is appointed. On a finding of probable cause by the probate court of the threat and lack of capacity, the person is removed to treatment and examined within 72 hours. The removal may last no longer than 72 hours unless extended by the court for up to 30 days. An application for temporary and permanent guardianship usually follows.

2. Surrogate Decision -Making ("SDM") – TEX. HLTH. & SAF. CODE § 313.001-.007 – For **non-emergency** medical decisions to be made for incapacitated individuals who are either in a hospital or nursing home without the necessity of a guardianship.

Decision–Maker Priority: 1) the patient's spouse; 2) an adult child of the patient with the waiver and consent of all other qualified adult children of the patient to act as the sole decision-maker; 3) a majority of the patient's reasonably available adult children; 4) the patient's parents; or 5) the individual clearly identified to act for the patient by the patient before the patient became incapacitated, the patient's nearest living relative, or a member of the clergy.

Limitations on consent: Surrogate decision-maker cannot consent to: 1) voluntary inpatient mental health services; 2) electro-convulsive treatment; 3) the appointment of another surrogate decision-maker; 4) emergency decisions; or 5) end-of-life decisions (extending or withdrawing life support).

SDM does not: 1) replace the authority of a guardian nor an agent under a medical power of attorney; 2) authorize treatment decisions for a minor unless the disabilities of minority have been judicially removed; 3) authorize patient transfers under Chapter 241 of the Health and Safety Code.

Withdrawal of Life Support: for provisions concerning withdrawal of life support where no Directive to Physicians has been executed, and in situations where there is no guardian, see TEX. HLTH. & SAF. CODE § 166.039.

3. Surrogate Decision Making for Intellectually Disabled (MR) - TEX. HLTH. & SAF. CODE § 597.041 – A more specialized form of surrogate decision-making, this statute allows SDM Committees to act for MR persons who reside in an intermediate care facility for the mentally retarded (ICF/MR) – Allows medical and non-medical decisions to be made by the committee.

4. Surrogate Decision Making for Minors When Parent Unavailable TEX. FAM. CODE § 32.001ff - consent to dental, medical, psychological, and surgical treatment of a child by persons authorized in statute.

5. Authorization Agreement for Non-Parent Relative – TEX. FAM. CODE Ch. 34 - A parent may authorize a grandparent, adult sibling or adult aunt or uncle to have decision-making authority for a minor child for: healthcare, insurance coverage, school enrollment, school activities, driver's education, employment and application for public benefits. This essentially authorizes the designee to do anything a guardian of the person could do.

The official form, promulgated by the Texas Department of Protective and Family Services and identified as "Form 2638", can be accessed at: www.dfps.state.tx.us/documents/Child_Protection/2638.pdf

6. Emergency Medical Treatment Act - TEX. HLTH. & SAF. CODE § 773.008 - In certain limited circumstances involving emergency situations, consent to medical treatment does not have to be given, it is implied. Hospital emergency rooms could not function if consent had to be secured beforehand.

Emergency treatment of minors - Consent is also implied for the treatment of a minor who is suffering from what reasonably appears to be a life-threatening injury or illness (even if they can communicate) if the minor's parents, conservator, or guardian is not present. TEX. HEALTH & SAFETY CODE § 773.008(3).

7. Managing Conservatorships TEX. FAM. CODE Ch. 153 - **Functional equivalent to Guardian of the Person** Especially for families involved in a divorce context, a conservatorship may be used in place of a guardianship of the person for a minor, but only when there is no issue of assets belonging to the minor children.

Check the small print - The divorce decree, if there is one, should be carefully examined regarding any management powers granted either spouse regarding property of the children. TEX. FAM. CODE §153.132 grants a parent appointed sole managing conservator essentially the full rights of a guardian of the person and in TEX. FAM. CODE §153.073, the right to manage the property of the child "to the extent that the estate has been created by the parent or the parent's family." The Family Code provides no monitoring mechanism for property management.

8. School Admission Procedures - TEX. EDUC. CODE §25.001(d) – Under §25.001(d) of the Education Code, a school district may adopt guidelines to allow admission of non-resident children to school without the need for a guardianship. You may want to find out who in the school district administration possesses this information before you need it.

9. School Admission Procedures - TEX. EDUC. CODE §

18-1

25.001(b)(9) – A school district may adopt guidelines to allow admission of non-resident children to school if a grandparent of the child resides in the school district and the grandparent provides "a substantial amount" of after-school care for the child. The local school board is to adopt guidelines to implement this provision. No cases yet as to how this might square with TEX. EDUC. CODE § 25.001(d) if there is a guardian, but the child wants to live with the grandparent.

10. Court-Ordered Mental Health Services - TEX. HLTH. & SAF. CODE §§ 462.001, 571.001, 574.001 – In the case of a chronically mentally ill person, a temporary involuntary commitment may well be preferable to a guardianship. A guardianship, with its attendant removal of functional rights, might well be much more restrictive once the patient/ward has become stabilized on medication. Commitment provisions for the chemically dependent, mentally retarded, persons with AIDS and tuberculosis are also available in limited circumstances.

11. Driving Issues: Katie's Law and the Re-Test Request - Effective September, 1, 2007, Texas drivers aged 79 or older can no longer renew a driver's license by mail or electronic means, but must renew the license in person at an authorized license renewal station. In addition, drivers aged 85 and older will now have to renew every two years, rather than every six years. TEX. TRANSPORT. CODE § 521.2711

"Re-Test Request" A potential ward who refuses to stop driving may be reported to the DPS by a physician, a family member, or even a stranger, if the person's driving capability is impaired. Although physicians are somewhat reticent to report their patients because of the physician-patient privilege and HIPAA, it is possible for the applicant in a guardianship or the ad litem to request the court to make a request to the Department of Public Safety for the proposed ward to be re-tested under DPS regulations to determine the proposed ward's suitability to continue to drive.

A relatively new concept is the "Family Driving Agreement" a type of advance directive for driving decisions. The driver agrees in writing to designate someone to advise him or her when it is time to "give up the keys." For more information, see keepingussafe.org.

12. Mental Illness Diversion Programs (Criminal Courts)

Persons with mental health issues are often jailed for crimes over which they had little or no control.

In a mental illness diversion program, individuals with a documented mental health problem are treated as patients, not criminals.

In the program, individuals are placed on a strict, supervised probation with regular court check-in dates to document and receive progress updates. Psychiatrists and other professionals develop a mental health treatment program, customized to meet the specific needs of the participants.

Following completion of the program, the charges are dismissed and may be eligible for expunction.

II. ADVANCED MEDICAL DIRECTIVES

The Federal Patient Self-Determination Act 42 USCA § 1395cc(f) requires health care providers, to be eligible for Medicare and Medicaid payments, to supply patients with information regarding Medical Powers of Attorney as well as Directives to Physicians. Patients are to be given information regarding their rights under Texas law to make decisions regarding medical care (including the right to accept or refuse treatment) and the right to formulate advance directives. TEX. HLTH. & SAF. CODE Ch. 166 consolidates the location of the law regarding the 1) the Medical Power of Attorney, 2) and the Directive to Physicians, and 3) the "Out of Hospital Do Not Resuscitate" form. The chapter also provides common definitions to be used among all three documents

13. Medical Power of Attorney - TEX. HLTH. & SAF. CODE § 166.151 The most commonly used tool to avoid guardianship, the Medical Power of Attorney (formerly the Durable Power of Attorney for Health Care) is a creature of statute and should be prepared and executed with close attention to the statutory scheme set out in the Health & Safety Code. Most prudent estate planners will include the Medical Power of Attorney along with a Will and Durable Power of Attorney in a basic estate plan.

The Medical Power of Attorney is not automatically revoked upon the appointment of a guardian. The court may choose to suspend or revoke the power of the agent or to leave the Medical Power of Attorney in place as a less restrictive alternative.

CAVEAT: Nursing homes and hospitals may be reluctant to accept Medical Powers of Attorney which are executed made close to the time they are needed, particularly if the patient's capacity is questionable.

14. Directive to Physicians and Family or Surrogates ("Living Will") – TEX. HLTH. & SAF. CODE § 166.031 – The newly revised and renamed form also now requires a disclosure statement (much like in the medical power of attorney), a place to indicate a choice between two treatment options, and a place for designation of an agent. The Directive interrelates to the Medical Power of Attorney in that it instructs the principal not to designate an agent on the Directive if a Medical Power has been executed. Unlike the new mandatory form for the Medical Power, the new Directive form is **permissive**.

Intractable Pain Treatment Act. - TEX. REV CIV. STATS Art. 4495c. This act, adopted in 1995, was the first state statute in the nation designed to protect doctors for prescribing morphine to terminal patients for pain management during end-stage treatments without fear of professional disciplinary action for addicting the patients. See www.medsch.wisc.edu/painpolicy, the website for the Pain & Policy Studies Group of the University of Wisconsin Medical School for additional information and discussion on pain management policy.

15. Out-of Hospital DNR ("EMT-DNR")- TEX. HLTH. &

18-2

SAF. CODE § 166.081 – requires the ambulance personnel to let you die if that is your expressed wish. The tricky thing is having the right document or indicator available. This is one form that you cannot prepare. The forms are actually printed by the Texas Department of Health. Only the officially printed forms (with red ink in the right places) will be honored by the EMTs. The Texas Department of Health has information on ordering the forms and necessary identifying bracelets at http://www.tdh.state.tx.us/hcqs/ems/index.htm#EMSRESOURCES.

16. End-Stage Planning: The Patient's Intent, If Known With or without legal assistance, a person may express his or her wishes and desires as to treatment decisions as disability or death approach. The oldest and most widespread of these is the "Five Wishes," a pamphlet developed in Florida and used in 33 states. It combines 1) surrogate decision making, 2) a medical power of attorney and 3) palliative care choices, many of which are sufficiently thought-provoking to promote some discussion on the topic with the one considering such choices.

CAVEAT: Because of the stringent witnessing requirements under the Advanced Medical Directives Act (TEX. HLTH. & SAF. CODE Ch. 166) and the mandatory nature of the form of the Texas Medical Power of Attorney, the universal *Five Wishes*™ pamphlet has not been implemented in Texas, however, Texas law does require that the patient's wishes, if known, are to be followed, (e.g.: TEX. HLTH. & SAF. CODE § 166.152(e)(1)). As a result, the Five Wishes may still function as a statement of the patient's intent. www.agingwithdignity.com

III. AVOIDING GUARDIANSHIP OF THE ESTATE

17. Common Law Power of Attorney

A common law power of attorney is an agency relationship created by contract between a principal and an attorney-in-fact (person to whom the principal gives power to act). Thus, anyone who has the legal capacity to create a valid contract may appoint an attorney-in-fact. See *Texas Transaction Guide* §92.21.

No writing required, but very limited application. Not available for minors or the incapacitated. Expires upon incapacity. If "coupled with an interest" may be irrevocable.

Don't seriously consider arguing this unless it is your only hope.

18. Durable Power of Attorney - TEX. EST. CODE § 751.001ff – provides for all acts done by the attorney in fact (agent) to have the same effect, inure to the benefit of, and bind the principal and the principal's successors in interest as if the principal were not disabled. The statutory form allows the grant of broad authority. If the Proposed Ward still has enough capacity to grant the power, this is virtually a "no-brainer".

Will the Bank accept it? If you have a client who is planning to use a durable power of attorney and you have some special provisions that have been requested, it is really a good idea to check with your client's banker, stockbroker and other people who are gatekeepers with respect to the client's assets. If they are not prepared to accept those special provisions, you probably want to go a different direction.

Other drawbacks – Because there are no real checks-and-balances on the attorney-in-fact, anecdotal evidence of fraud and abuse often comes "too little, too late" for effective relief. Amendments in 2001 impose a duty on the agent to inform and account to the principal of actions taken under the power and to maintain complete records of actions taken. TEX. EST. CODE § 751.101.

Patriot Act – Know Your Customer – A further complication hampering the use of Durable Powers of Attorney comes as a result of the "Know Your Customer" provisions of the "Patriot Act" (Public Law 107-56 – Oct. 26, 2001). Because the bank must aggressively verify identities, if the attorney in fact presents the power of attorney in question after the incapacity of the principal, there will most likely be insurmountable problems.

19. Convenience Accounts - TEX. EST. CODE § 113.102

- allows a depositor to name a co-signer on his or her account without giving the co-signer ownership rights before or after the depositor's death.
- creates a straightforward agency relationship for a potential ward to allow a family member or friend to help them pay bills and handle other banking business.
- a Convenience Signer cannot pledge the assets of the account. TEX. EST. CODE § 113.251.

Convenience Signer On Other Accounts TEX. EST. CODE § 113.106 – Account owner may designate "Convenience Signers" on other types of multi-party accounts such as joint tenancy with right of survivorship, pay-on-death and trust accounts.

Beware of unintended consequences.

20. Sophisticated Tax Planning

This alternative is included by way of issue recognition, rather than as an attempted exposition. Non-tax-planners might consult their tax planning brethren if a situation presents itself where there is a potential to employ tax planning as a part of disability planning/guardianship avoidance.

21. Inter Vivos ("Living") Trusts - TEX. PROP. CODE §§ 111-115 – Like any tool in the toolbox, a revocable inter vivos trusts has its particular applications. It is an excellent and highly flexible tool when drafted by a knowledgeable, competent estate planning lawyer, working with a full understanding of the client's needs, objectives, and circumstances, and when coordinated with other appropriate estate planning tools and techniques. The trustee can be given much more freedom that a guardian would enjoy, especially in such areas as investments and distributions.

Scam Trusts - IRS - The See IRS Pamphlet 2193 for the attempts of the IRS to educate the public about trust scams. It gives consumers some simple ways to help decide if the trust they are contemplating is "too good to be true."

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Irrevocable Trusts – To protect clients from themselves.

22. §142 Trusts – TEX. PROP. CODE § 142.005

In a suit in which a minor who has no legal guardian or an incapacitated person is represented by a next friend or an appointed Guardian Ad Litem, the court may, on application by the next friend or the Guardian Ad Litem and on a finding that the creation of a trust would be in the best interests of the minor or incapacitated person, order the clerk to deliver any funds accruing under the judgment to a trust company or a state or national bank with trust powers. TEX. PROP. CODE § 142.005.

Drawback: These trusts generally fail to provide for any accountability on the part of the trustee. A burgeoning number of fiduciary breach suits are being brought as a result.

Advance Planning: If the suit in question has not already gone to judgment, consider instituting a guardianship proceeding and requesting that the suit be transferred into the probate court.

If you are not in a statutory probate court, ask for a Statutory Probate Judge to be appointed under TEX. GOVT CODE § 25.0022. The Statutory Probate Judge brings with him or her all of the jurisdiction of a statutory probate court, including the transfer power under TEX. EST. CODE § 1022.007. TEX. GOVT CODE § 25.0022(n).

Once you are in the probate court, a Guardianship Management Trust may be created without the necessity of also creating a guardianship. TEX. EST. CODE § 1301.051.

23. Testamentary Trusts

Testamentary trusts can be used to avoid a guardianship for the Testator's spouse, any family members with special needs and children and grandchildren of the Testator. When combined with traditional disability and tax planning, the potential for avoiding guardianship (and most of probate altogether) is great. As always, getting the client in to start the planning process is the hardest part.

24. Guardianship Management Trusts – TEX. EST. CODE § 1301.051 - An effective property management tool while protecting the property from malfeasance.

- may be established whether a guardian is ultimately appointed or not.

- Applicants can include a guardian, an Attorney Ad Litem, a Guardian Ad Litem or a person interested in the welfare of the ward.

The ability to continue the administration of the trust until age 25 (TEX. EST. CODE § 1301.203) can be particularly advantageous to provide a few more years of professional money management during an extended "training wheels" period for the ward/beneficiary.

- **Distribution to Pooled Trust Subaccount** – In light of the global economic downturn since 2008, the Guardianship Management Trust assets can be transferred to a subaccount of a Master Pooled Trust for more economic management of assets that might otherwise be too modest for a bank trust department. TEX. EST. CODE §§ 1302.001ff. See *infra*.

25. Pooled Trust Subaccounts TEX. EST. CODE §§ 1302.001ff - As an alternative to a Guardianship Management Trust, funds otherwise appropriate for a Management Trust to be transferred to a pooled trust, such as that operated by the Association for Retarded Citizens (ARC). It will preserve Medicaid qualification. It requires that an annual report be filed, but not a guardianship-style accounting. The trustee may assess its standard fees against the subaccount.

26. Special Needs/ Medicaid Qualification Trusts - 42 USC 1396p (1)(d)(4)(A)

Medicaid is a federal, means-tested program health program for eligible individuals and families with low incomes and resources. It is jointly funded by the state and federal governments, and is managed by the states. In Texas, an individual whose resources or income exceed certain limits cannot qualify for Medicaid benefits. However, certain resources, or assets, do not count for Medicaid eligibility purposes.

The enabling statute, "OBRA 93", allows the use of very specific trusts which may be established with an individual's own assets, but which will not count against the resource limit for that individual for Medicaid purposes.

Although there are three types of such trusts, it is the trust for disabled persons under age 65, authorized pursuant to 42 U.S.C. § 1396p(d)(4)(A) which typically involves the courts. These are most often called "Special Needs Trusts" or "Supplemental Needs Trusts."

Personal injury attorneys are only recently appreciating the utility of these trusts in preserving assets for the permanently disabled client who will remain institutionalized.

Be aware of the potential exposure for an Attorney Ad Litem in a P.I. case who fails to consider the appropriate use of the supplemental needs trust, resulting in a much smaller net benefit for the disabled client.

27. Trusts for Intellectually Disabled (MR) Persons TEX. HLTH. & SAF. CODE § 593.081 - Up to $250,000 may be placed in a trust for the benefit of MR individuals in certain residential-care facilities without disqualifying them from receiving state benefits and without the need for a guardianship.

A copy of the trust must be provided to Texas Department of Aging and Disability Services.

DADS may request current financial statements.

Guardianship funds - Ch. 142 trusts, patient's trust fund's in a residential-care facility, child support, an interest in a decedent's estate, and funds in the registry of the court are not considered trusts and are not entitled to the exemption.

28. Community Administrator - TEX. EST. CODE § 1353.002 - Upon a declaration of incapacity of one spouse, the other spouse, in the capacity of "community administrator" (no the decedent's estates kind) has the power to manage, control and dispose of the entire community estate without the necessity of a guardianship upon a finding by the Probate Court that: 1) it is in the best interest of the ward for the capacitated spouse to mange the community

property, and 2) the capacitated spouse would not be disqualified to be appointed as guardian of the estate under §1104.351ff.

An ad litem may be appointed, the administrator required to return an inventory and accountings and a guardian of the estate may retain management rights over some specified varieties of real and personal property. These matters are considered in the context of a guardianship application and are not freestanding applications.

TEX. FAM. CODE § 3.301ff (the corollary provision to TEX. EST. CODE § 1353.002) was drastically amended in 2001. It is no longer possible to have the capacitated spouse manage or sell the community property under the Family Code, absent highly unusual circumstances.

29. Court Registry - TEX. EST. CODE § 1355.001 - This provision is often viewed as simply an administrative deposit mechanism and is often overlooked as an opportunity to avoid administration of a minor's or other incapacitated person's guardianship estate. Up to $100,000 may be deposited into the court's registry during the period of incapacity. The clerk is to bring the matter to the judge's attention and the funds are to be ordered invested in an interest-bearing account.

"Mini-administration:" Certain specified persons are permitted to withdraw all or a portion of the funds in the registry under bond to be expended for the benefit of the incapacitated person. After an accounting to the court, the bond may be released. This provides a very simple alternative to guardianship, particularly in a rural county. Upon attaining majority, minors are able to withdraw the funds upon proof of age and an order of the court. TEX. EST. CODE § 1355.105.

CAVEAT: TEX. LOC. GOVT. CODE §§ 117.054 & 117.055 authorize the county clerk to charge investment management fees on funds in the court's registry: a) 10% of any interest earned on interest-bearing accounts and b) 5% (but not to exceed $50.00) on non interest bearing accounts.

Where funds are interplead because of a settlement but no probate case is pending, make sure the order specifies that the funds are to be deposited in an interest-bearing account.

Institutionalized incapacitated individuals: TEX. EST. CODE § 1355.151ff allow funds being held for an incapacitated individual who is institutionalized by the State of Texas to be paid to the institution for a trust account for the benefit of the individual, up to a maximum of $10,000.

30. **Payment to Non-Resident Creditor** TEX. EST. CODE § 1355.002 Permits money payable to a non-resident minor, a non-resident adult ward or a non-resident former ward of a terminated Texas guardianship ("non-resident creditor") to be paid either to the guardian of the non-resident creditor in the domiciliary jurisdiction or to the county clerk where the non-resident creditor owns property or in the county of the debtor's residence.

30. Sale of Minor's Interest in Property - TEX. EST. CODE § 1351.001

This relatively simple procedure allows the interest of a minor in realty to be sold and deposited into the court's registry if the minor's interest is less than $100,000. The minor's interest needs to be cash only, so it sometimes is necessary to do a bit of structuring to "cash out" a minor's undivided interest.

The sworn application, which must contain the name of the minor and a legal description of the property, is filed and then is supposed to sit for five days. Citation is optional with the court. Most courts will want to see some indication of value beyond a contract and tax statement. Venue for this procedure is the same as for a guardianship. Court approval is subject to a 'best interest' test on behalf of the minor.

Upon approval by the court (check your local practice as to whether a hearing is actually required), the sale is closed and the proceeds deposited into the court's registry. The funds are available for withdrawal as described above.

31. Sale of Adult Incapacitated Ward's Interest in Property - TEX. EST. CODE § 1351.051

Until this section was enacted, adult incapacitated individuals with meager personal property but with undivided interests in real property were often required to have somewhat meaningless guardianships of the estate. This provision allows adult incapacitated individuals to proceed with a guardian of the person only where their interest in real property is valued at less than $100,000.

32. Mortgage of Minor Interest/ Minor Ward's Interest in Property - TEX. EST. CODE §§ 1352.051, 1352.101

These provisions allow the parents, managing conservator or guardian of the person (as applicable), to obtain a home equity loan secured by the minor's interest in homestead property for the payment of education and medical expenses, for repairs to the homestead property, and for repayment of the loan.

A bond set in twice the amount of the loan amount is required, as well as a hearing on the front end and annual accountings while the loan is being paid off.

33. Uniform Transfers to Minors Act - TEX. PROP. CODE § 141.001 et. seq. - The ability of a donor to make transfers of various types of assets to a minor by the donor's appointment of a custodian has broad coverage and far-reaching implications. The custodian has authority to invest and expend the transferred assets – without court order – for the support, education, maintenance and benefit of the minor.

Again, the lack of supervision may dictate against this as a vehicle of choice unless the custodian is sophisticated enough to really understand fiduciary responsibility.

34. Receivership TEX. EST. CODE § 1354.001, TEX. CIV. PRAC. & REM. CODE §§ 64.001ff, - Of particular interest is where the incapacitated person owns an interest in a going business or commercial property which is in danger of injury. The court may appoint a receiver, who is subject to the same compensation and bonding provisions under the Estates Code as a personal representative. The Receiver administers the property until the need for the receivership is over.

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In 1999, the provisions for guardianship for missing persons were repealed. Receivers are now to be appointed for missing persons.

35. Order of No Administration TEX. EST. CODE §§ 451.001ff

If your object is simply to transfer title to estate assets to a disabled surviving spouse or minor children and your facts meet the criteria specified, this somewhat archaic procedure, sort of an amalgamation of a small estate affidavit and an application for family allowance, may be employed if there is otherwise no necessity for administration. The court may dispense with notice or may prescribe the quality and quantity of notice required. TEX. EST. CODE § 451.002.

The court's order reads like the "facilitation of payment" language in a muniment of title proceeding and acts as authority to effect the transfer of the property involved. TEX. EST. CODE § 451.003. Such an order may be "undone" within one year if other information comes to light showing a necessity for administration. TEX. EST. CODE § 451.004.

36. Representative Payee 42 USC § 1383(a)(2)

A Representative Payee may be appointed by the Social Security Administration to manage Social Security benefits without the appointment of a guardian. Potentially available to all of the 50 million individuals receiving some sort of Social Security benefits, close to 7 million people currently receive Social Security benefits under the representative payee program. This is approximately ten times greater than all active court-supervised guardianships in the United States.

37. Veteran's Benefits Fiduciary - 38 USC § 5502(a)(1) Very similar to the Social Security rep payee program, the Department of Veteran's Affairs allows the appointment of a person to handle the administration of veteran's pension benefits without the appointment of a guardian. www.vba.va.gov/bln/21/Fiduciary/index.htm

38. Payment of Employees Retirement System Funds to Parent of Minor - Op. Tex. Att'y Gen. No. H-1214 - a parent may receive and manage a minor child's Texas Employees Retirement System (ERS) benefits without guardianship. This opinion relies on two propositions:

- a parent has authority to manage the estate of a minor child without court appointment of a guardian. TEX. FAM. CODE § 151.001(a)(4).
- A parent may also receive, hold, and disburse funds for the minor's benefit. TEX. FAM. CODE § 151.001(a)(8).

39. International Treaty

There is at least one international treaty between Mexico and the united States that provides for judgments benefitting minors who are Mexican Nationals to be paid to the Mexican Government to as trustee. E-mail from Judge Guy Herman, April 12, 2002 to Texas Probate Listserve www.texasprobate.net

Similarly, Memoranda of Understanding are frequently executed between governmental agencies providing for international cooperation regarding minors in cross-border situations. See Memorandum of Understanding Between the Monterey County Department of Social and Employment Services, Family and Children Services and the Consulate General of México in San José, California Regarding Consular Involvement in Cases Involving Minors www.12f.ca.gov/res/pdf/MontereyMOUMexicanconsulate.pdf Accessed February 16, 2011

40. Suit by Next Friend - TEX. RULES CIV. PROC. 44

A minor without a legal guardian may sue by next friend. A next friend has the same rights concerning such suits as guardians have. These rights include seeing that the funds or other property recovered is placed in the court's registry, placed in a § 142 Trust under the Property Code or a Guardianship Management Trust under the Estates Code.

Under no circumstances should a non-parent next friend be allowed to seeks to manage the funds personally, as neither the Property Code nor the Rules of Civil Procedure provide for any oversight mechanism for next friend management of a minor's property.

CAVEAT: Next Friends are subject to the same restrictions as guardians re contingent fee agreements. *Massey v. Galvan* 822 S.W.2d 309 (Tex. App. – Houston – [14th District] 1992, wr. den.) In *Stern v. Wonzer* 846 S.W.2d 939 (Tex. App. – Houston - [1st District] 1993, no pet.).

CAVEAT #2: When a P.I. case settles and little or no thought is given to the allocation of the award between the survival cause of action and the wrongful death cause of action, some sticky tax issues and angry creditors (and probate judges) may have to be faced. *Texas Health Insurance Risk Pool v. Sigmundik*, 315 S.W.3d 12 (Tex. 2010); *Elliott v. Hollingshead*, 327 S.W.3d 824 (Tex. App. Eastland, 2010, no pet.).

41. Social Service Agencies - Many social services agencies provide a variety of services specifically tailored to the needs of children, the disabled and elderly. A quick check of the yellow page listings under "social service agencies," will reflect literally dozens of organizations existing to this purpose. Many will have a particular emphasis toward a target group: veterans, the elderly, intellectually disabled, etc.

Beyond the Order for Emergency Protection (*supra*) the ability of either Adult Protective Services or Child Protective Services to investigate a potential exploitation or neglect situation is vital.

42. Geriatric Care Manager

A Geriatric Care Manager (GCM) is a health and human services professional, such as a gerontologist, social worker, counselor, or nurse, with a specialized body of knowledge and experience on issues related to aging and elder care issues.

GCMs are able to coordinate and manage eldercare services, which often includes conducting an assessment to identify problems, eligibility for assistance and need for services; coordinating medical services, including physician contacts, home health services and other necessary medical services; screening, arranging and monitoring in-home help

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or other services; reviewing financial, legal, or medical issues and offering appropriate referrals to community resources; providing crisis intervention; ensuring everything is going well with an elder person and alerting families to problems; and assisting with moving an older person to or from a retirement complex, care home, or nursing home.

While California has developed a state registry of Geriatric Care Managers, Texas does not yet have any central registry. The National Association of Professional Geriatric Care Managers, the non-profit association of these professional practitioners, has promulgated a Pledge of Ethics and Standards of Practice. Their website has a locator database. www.caremanager.org

IV. LIMITING THE EFFECT OF THE GUARDIANSHIP

43. Pre-Need Designation of Guardian For Self – TEX. EST. CODE § 1104ff

An adult with capacity may, by written declaration designate those persons whom the declarant wishes to serve as guardian of the person or of the estate of the declarant in the event of later incapacity. The declaration may be in any form adequate to clearly indicate the declarant's intention to designate a guardian for the declarant's self in the event of the declarant's incapacity. The designation may be holographic, acknowledged before a notary or attested to by two witnesses, age 14 years of age or older and who are not designees to be guardian. In the case of attestation, a self-proving affidavit should be executed and attached.

A declaration that is not written wholly in the handwriting of the declarant may be signed by another person for the declarant under the direction of and in the presence of the declarant.

The court is required to follow the designations in the declaration, unless the court finds such designee to be disqualified or their appointment not to be in the ward's best interest.

Pre-Need Disqualification - Perhaps more importantly, the declarant may also indicate those persons who are to be specifically disqualified from serving as guardian, either of the person or estate. Such a disqualification is binding on the court and is among the listed reasons for disqualification under TEX. EST. CODE § 1104.202.

Revocation/Nullification - The designation may be revoked by execution of another designation or by following the same formalities as revoking a will. Divorce will serve to nullify a designation of a former spouse.

44. Pre-Need Designation of Guardian by Parent - TEX. EST. CODE §§ 1104.103, 1104.151

Similarly, a parent may designate, either in by separate written declaration or in the parent's will, those persons (in preferential order) whom they desire to be guardian of the person and/or estate of their child or children. The designation may specify that the court waive bond as to a guardian of the person, but not as to a guardian of the estate. This designation may be for either minor children or for adult incapacitated children.

Like the designation for one's self, the designation for a child may be in any form adequate to clearly indicate the declarant's intention to designate a guardian for the declarant's child in the event of the declarant's death or incapacity.

Unlike the Pre-Need Designation for Self, the Pre-Need Designation of Guardian by Parent does not contain the provision to expressly disqualify others as guardian.

45. Pre-Need Declaration for Mental Health Treatment - TEX. CIV. PRAC & REM. CODE § 137.007

A capacitated adult may, by written declaration, indicate his or her preferences or instructions for mental health treatment, including the right to refuse such treatment. Such a declaration is effective on execution and expires on the third anniversary of its execution or when revoked, whichever is earlier.

Witnesses - The declaration is to be witnessed by two qualified witnesses (similar to other advanced directives). Physicians or other health care provider are to follow such declaration, however, as long as the declarant is capable for giving informed consent, such informed consent is to be sought.

Does not apply – The declaration is ineffective if the declarant, at the time of making the designation, is under a temporary or extended commitment and treatment is authorized under the Mental Health Code or in the case of an emergency when the declarant's instructions have not been effective in reducing the severity of the behavior that has caused the emergency.

46. Safekeeping or "Freeze" Agreements - TEX. EST. CODE § 1105.155 - Where the personal representative deposits estate cash or other assets in a state or national bank, trust company, savings and loan association, or other domestic corporate depository, to be held under an agreement that the depository will not allow withdrawal or transfer of the principal of the assets and/or interest on the deposit except on written court order. (See example in Appendix) The amount of the bond of the personal representative may then be reduced in proportion to the cash or other assets placed in safekeeping.

47. Restoration of Ward - TEX. EST. CODE § 1202.051 - A Guardian Ad Litem must be appointed and everyone noticed similar to the original grant of guardianship.

48. Annual Determination - TEX. EST. CODE § 1201.052 - Each year, the probate judge is required to review each guardianship file created after September 1, 1993,and may review annually any other guardianship files to determine whether the guardianship should be continued, modified, or terminated. This provision appears fairly innocuous, but is in reality very powerful. It was recently used in a very large guardianship with massive pending litigation to restore the ward's capacity and terminate the guardianship. Because the standards for the court are somewhat of a blank slate (i.e.

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discretionary), especially in courts other than statutory probate courts, this provision could be employed in a number of creative ways. Even though the procedure and standards for modification under § 1202.051 are fairly restrictive (see above), the annual determination under § 1201.052 contains no such procedural requirements.

49. Emancipation of Minor Ward - TEX. FAM. CODE § 31.01ff - Where a minor who is over 16, self-supporting (or married) and living apart from parents, a conservator or guardian may ask the court to legally remove the disabilities of minority for either limited or general purposes. The petition is decided on a "best interest" standard and the order is to specify whether the removal of disabilities is limited or general in scope and the purposes for which disabilities are removed.

50. Enumeration of Powers in Guardianship Order TEX. EST. CODE § 1101.151ff - If the guardianship is to be a plenary guardianship, it is perhaps best to simply reflect in the order that *"The guardian is to be granted all power and authority allowed under Texas law and the rights of the ward are limited to the extent not inconsistent therewith."* Otherwise, attempting to cover everything by an exhaustive listing may leave the guardian with specific deficits. Some attorneys feel that a listing of eight or ten powers is complete, while others can go on for pages.

However, if the ward is partially capacitated, a careful enumeration of those areas in which the ward's rights are not to be limited can have a great effect on the ward's functioning ability and self-esteem.

51. Interstate Guardianships TEX. EST. CODE § 1253.001ff - Where a guardianship exists in another state and the ward has been moved to this state, it can be advisable to allow a part of the guardianship to remain in the other state until affairs (pending litigation, etc) are resolved before all of the remnant is transferred.

52. Negligible Estate TEX. EST. CODE §§ 1204.001 - When the ward's estate is exhausted or when the foreseeable income accruing to a ward or his estate is so negligible that maintaining the guardianship would be a burden, the court may authorize the income to be paid to a parent or other person acting as guardian, to assist as far as possible in the maintenance of the ward, and without any liability for future accountings as to the income.

53. Minor Ward's Estate <$100,000 TEX. EST. CODE §§ 1204.001(d) & 1355.102 - Unlike the adult ward's estate, which is needed for the upkeep and maintenance of the ward, a minor ward's guardianship estate is less likely to be called upon for day-to-day living expenses. If the guardian of the estate is a parent of the ward, the court is usually going to want to see some proof that the guardian/parent cannot make the expenditures out of his/her own pocket rather than out of guardianship assets. The mindset here is more of asset preservation and maybe some college planning, assuming of course that the minor ward has no special needs to deplete the estate. If the estate cash falls below $100,000 (up from $50,000 in 2001), the guardianship of the estate may be closed and the remaining funds paid into the court registry. Withdrawals are then possible under the procedure set out under TEX. EST. CODE § 1355.102 above.

54. Mediation and Family Settlement Agreements TEX. EST. CODE § 1055.151 - Rarely on a guardianship contest is issue of incapacity the real issue. Most often, decades of unresolved conflict among the family members of the proposed ward spark the contests. Perceived favoritism, sibling rivalry, jealousy of a stepparent or step-children or step-siblings, unresolved grief, etc. are all manifested in the guardianship arena.

While resolution of a guardianship contest might remove the procedural obstruction in granting a guardianship, it rarely resolves the family disputes and wounded relationships which led to the contest. Mediation can provide a level playing field for the family to resolve those issues behind the guardianship fight. The long-standing "burrs under the saddle" that so often give rise to fights in the probate arena can be aired and often resolved. TEX. EST. CODE § 1055.151 allows those settlements to be made irrevocable.

"A family settlement agreement is a favorite of the law." *Shepherd v Ledford*, 962 S.W.2d 28 (Tex. 1998).

55. Mother Nature and Father Time -

Spontaneous Remission - It is not unusual - once a person gets adequate nutrition/ hydration/ socialization / therapy/ medication for a few weeks or months - for many symptoms of delirium/ confusion/ diabetic conditions to clear up. In some instances, it is a question of employing successive alternatives in an effort to forestay the inevitable, whether a guardianship or death.

It is rarely in the best interest of a terminally-ill proposed ward to go through successive independent medical examinations and for extensive litigation to exhaust an already beleaguered estate, only to have the ward die the day after letters are granted.

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NO. _____

IN RE INTEREST OF	§	IN THE PROBATE COURT
GARY HASSELFELD,	§	NUMBER _____ OF
A MINOR	§	HARRIS COUNTY, TEXAS

APPLICATION FOR SALE OF MINOR'S PROPERTY WITHOUT GUARDIANSHIP

TO THE HONORABLE JUDGE OF THIS COURT:

BONNIE HASSELFELD ("Applicant"), natural parent of GARY HASSELFELD ("Gary"), a minor, files this Application for Sale of Minor's Property Without a Guardianship pursuant to Section 889 of the Texas Probate Code, and shows the Court as follows:

1. Applicant is Gary's natural parent and resides at 1123 Sandwood, San Pedro, California 90731. Gary is a 15 years of age, born on April 23, 1994.

2. Gary is a beneficiary of the estate of his grandfather, Marvin Hasselfeld, whose estate is pending as *No. 390572; In re: Estate of Marvin Patterson Hasselfeld, Deceased; In the Probate Court Number One of Harris County, Texas*. On September 1, 2009, the Court entered an order admitting the Last Will of Marvin Hasselfeld dated July 30, 1981 (the "Will") to probate and declaring beneficiaries thereunder. A true and correct copy of the order is attached. Pursuant to the Will and the referenced Order, Gary owns a 1/8 interest in the estate of Marvin Hasselfeld.

3. At the date of his death, Marvin Patterson Hasselfeld owned an undivided one-half interest in the real property described as follows:

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Lot Six (6) in Block Five (5) of LAKECREST Section Eight (8), a subdivision in Harris County, Texas, according to the map or plat thereof recorded under Film Code 587226 of the Map Records of Harris County, Texas (the "Property").

4. Pursuant to the Will and the referenced order, Gary owns an undivided 1/16 interest in the Property. JOAN A. BIONDO, one of the other beneficiaries under the Will and an owner of an undivided three-fourths (3/4) interest in the Property, desires to purchase Gary's interest in the Property. Applicant desires to sell Gary's interest in the Property on his behalf.

5. Applicant believes that the sale is in Gary's best interest. The appraised value of the Property is approximately $160,000.00-$165,000.00. Therefore, a 1/16 interest would be valued at approximately $10,000.00. JOAN A. BIONDO has agreed to purchase Gary's interest for $10,000.00 in cash. All funds received by the Applicant shall be used for Gary's use and benefit.

THEREFORE, BONNIE HASSELFELD requests that a time for hearing on this application be set and that, upon final hearing, the court enter an order approving the sale of the minor's interest in the property, ordering that the proceeds due to the minor be deposited into the registry of the court for the benefit of the minor, and granting any other relief to which Applicant is entitled.

Respectfully submitted,

Bonnie Hasselfeld
1123 Sandwood
San Pedro, California 90731

18-10

STATE OF CALIFORNIA §

COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared Bonnie Hasselfeld, Applicant in the foregoing Application for Sale of Minor's Property Without a Guardianship pursuant to Section 889 of the Texas Probate Code, known to me to be the person whose name is subscribed to the above and foregoing Application and on her oath stated that such Application contains a correct and complete statement of the matters to which it relates and all contents thereof are true, complete, and correct to the best of her knowledge and belief.

_____
Bonnie Hasselfeld

SUBSCRIBED AND SWORN TO BEFORE ME on the _____ day of October, 2009.

_____
Notary Public in and for
The State of California

18-11

NO. _____

IN RE INTEREST OF	§	IN THE PROBATE COURT
GARY HASSELFELD,	§	NUMBER _____ OF
A MINOR	§	HARRIS COUNTY, TEXAS

ORDER APPROVING APPLICATION FOR SALE OF MINOR'S PROPERTY WITHOUT GUARDIANSHIP

The Court has heard and considered the Application of BONNIE HASSELFELD ("Applicant"), natural parent of GARY HASSELFELD ("Gary"), a minor, for Sale of Minor's Property Without a Guardianship pursuant to Section 889 of the Texas Probate Code, and the Court finds that:

1. Jurisdiction and venue are proper because the Gary's principal estate is situated in this county;

2. Gary is a beneficiary of the estate of his grandfather, Marvin Hasselfeld, whose estate is pending as *No. 390572; In re: Estate of Marvin Patterson Hasselfeld, Deceased; In the Probate Court Number One of Harris County, Texas;*

3. On September 1, 2009, the Court entered an order admitting the Last Will of Marvin Hasselfeld dated July 30, 1981 (the "Will") to probate and declaring beneficiaries thereunder. Pursuant to the Will and the referenced Order, Gary owns a 1/8 interest in the estate of Marvin Hasselfeld;

4. At the date of his death, Marvin Patterson Hasselfeld owned an undivided one-half interest in the real property described as follows:

18-12

Lot Six (6) in Block Five (5) of LAKECREST Section Eight (8), a subdivision in Harris County, Texas, according to the map or plat thereof recorded under Film Code 587226 of the Map Records of Harris County, Texas (the "Property");

5. Pursuant to the Will and the referenced order, Gary owns an undivided 1/16 interest in the Property;

6. Joan A. Biondo, one of the other beneficiaries under the Will and an owner of an undivided three-fourths (3/4) interest in the Property, desires to purchase Gary's interest in the Property for $10,000.00;

7. Applicant is Gary's natural parent; and

8. The sale is in Gary's best interest and should be approved.

It is therefore

ORDERED, ADJUDGED, AND DECREED that the Application of BONNIE HASSELFELD for Sale of Minor's Property Without a Guardianship pursuant to Section 889 of the Texas Probate Code is APPROVED. It is further

ORDERED, ADJUDGED, AND DECREED that BONNIE HASSELFELD shall have authority to transfer the interest of GARY HASSELFELD, a minor, in the Property to JOAN A. BIONDO. It is further

ORDERED, ADJUDGED, AND DECREED that the proceeds of the sale shall be deposited into the registry of the court by check made payable to Beverly Kaufman, Harris County Clerk, for the use and benefit of Gary Hasselfeld, a Minor ([redacted]2551, DOB 4-23-94).

SIGNED this _____ day of _____, 2009.

_____
JUDGE PRESIDING

18-13

DATE ENTRY
PICK UP THIS DATE

PROBATE COURT #3

IN THE ESTATE OF	No. ~~418993~~ 419992	IN THE PROBATE COURT
ROBERT ALAN PATE,	§	NUMBER THREE (3) OF
DECEASED	§	HARRIS COUNTY, TEXAS

UNOFFICIAL COPY

20172014:1503:P0008

JUDGMENT DECLARING HEIRSHIP

On this day came on to be heard the sworn Application to Determine Heirship of the Estate of ROBERT ALAN PATE, Deceased, wherein PAMELA ANNE PATE is the Applicant and is heir to Decedent's Estate, and Decedent's living heirs whose names and/or whereabouts are unknown are Defendants, and it appears to the Court, and the Court so finds that all parties interested in the Estate of Decedent have been duly and legally served with citation as required by law; that the Court appointed an Attorney Ad Litem to appear and answer and to represent Defendants and such Attorney Ad Litem did so appear and filed an answer for Defendants; that this Court has jurisdiction of the subject matter and all persons and parties; that the evidence presented and admitted fully and satisfactorily proves each and every issue presented to the Court; that Decedent died intestate and that the heirship of Decedent has been fully and satisfactorily proved and the interest and shares of each of the heirs therein; and that no administration is necessary.

The Court finds and it is **ORDERED** and **DECREED** by this Court that the names and places of residence of the heirs of Decedent and their respective shares and interests in the real and personal property of Decedent are as follows:

a. Name: MICHAEL PATE
Address: 3512 E. Broadway Street, Apt. #306, Pearland, Texas 77581
Relationship: Child

18-14

20172014 1503 P0009

Share of Real Property: 1/3 interest
Share of Personal Property: 1/3 interest in 2/3 share

b. Name: MARA PATE BERGMAN
Address: 801 N. Orange, Apt. 32, Alpine, Texas 79830
Relationship: Child
Share of Real Property: 1/3 interest in 2/3 share
Share of Personal Property: 1/3 interest in 2/3 share

c. Name: NATALIE ANNE PATE
Address: 12439 Gershwin Oak Street, Houston, Texas 77089
Relationship: child (mcrae)
Share of Real Property: 1/3 interest
Share of Personal Property: 1/3 interest in 2/3 share

d. Name: PAMELA PATE
Address: 12439 Gershwin Oak Street, Houston, Texas 77089
Relationship: Spouse
Share of Real Property: 1/3 life estate
Share of Personal Property: 1/3

IT IS ORDERED and DECREED that Andrew Martin, the Attorney Ad Litem appointed to represent the interests of the Defendants, is allowed a fee of $ 600.00 to be paid out of the assets of the Decedent.

SIGNED on the 1 day of July, 2014.

JUDGE PRESIDING

APPROVED AS TO FORM:

Kathleen M. McCumber
Attorney for Applicant
State Bar No.: 00791220
215 E. Galveston St.
League City, Texas 77573
Telephone: (281) 332-7630
Facsimile: (281) 332-7877
E-mail: kathleen@caglemccumber.com

July 1st, 2014
Date

Judge Mary R. Olsen

FILED
2014 JUL -7 AM 11:46

2

18-15

07172014:1503:P0010

Andrew Martin
Attorney for Defendants
P.O. Box [illegible]
Houston, Texas 77253
Telephone: (713) 675-7477
Facsimile: (713) 675-7489
State Bar No.: 24009347

RECEIVED

[illegible]'S MEMORANDUM

[illegible] recordation, this instrument was
[illegible] for the best photographic
[illegible] Register of Deeds, carbon or
[illegible] paper, etc. All blackouts,
[illegible] changes were present at the time
[illegible] filed and recorded.

3

18-16

ESTIMATED

7/9/2014 12:17:34 PM

A. Settlement Statement (HUD-1)

OMB Approval No. 2502-0265

B. Type of Loan			
1. ☐ FHA 2. ☐ RHS 3. ☒ Conv. Unins. 4. ☐ VA 5. ☐ Conv. Ins. ☐ Other	6. File Number: 1420183388	7. Loan Number: 504144381	8. Mortgage Insurance Case Number:

C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(POC)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. Name & Address of Borrower: Bao Cuong Chu, 12342 Gershwin Oak St., Houston, TX 77089

E. Name & Address of Seller: Pamela Pate

F. Name & Address of Lender: Top One Mortgage LLC, 7001 Corporate Drive Suite 100A, Houston, TX 77036

G. Property Location: 12339 Gershwin Oak Houston, Texas 77089
Lot 1, Block 1, College Place, Section 2, Harris County, Texas

H. Settlement Agent: Stewart Title Company, 601 S. Friendswood, Suite 103, Friendswood, TX 77546, (281) 619-4280
Place of Settlement: 601 S. Friendswood, Suite 103, Friendswood, TX 77546

I. Settlement Date: 7/15/2014 Proration Date: 7/15/2014 Disbursement Date: 7/15/2014

J. Summary of Borrower's Transaction		K. Summary of Seller's Transaction	
100. Gross Amount Due from Borrower		**400. Gross Amount Due to Seller**	
101. Contract sales price	$153,000.00	401. Contract sales price	$153,000.00
102. Personal property		402. Personal property	
103. Settlement charges to borrower (line 1400)	$2,004.50	403.	
104.		404.	
105.		405.	
Adjustments for items paid by seller in advance		**Adjustments for items paid by seller in advance**	
106. City/town taxes		406. City/town taxes	
107. County taxes		407. County taxes	
108. Assessments		408. Assessments	
109. Maintenance (350.00) 7/15/2014 to 1/1/2015	$163.01	409. Maintenance (350.00) 7/15/2014 to 1/1/2015	$163.01
110.		410.	
111.		411.	
112.		412.	
120. Gross Amount Due from Borrower	$155,167.51	**420. Gross Amount Due to Seller**	$153,163.01
200. Amounts Paid by or in Behalf of Borrower		**500. Reductions in Amount Due to Seller**	
201. Deposit or earnest money	$1,000.00	501. Excess deposit (see instructions)	
202. Principal amount of new loan(s)	$114,750.00	502. Settlement charges to seller (line 1400)	$10,154.95
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first mortgage loan to Wells Fargo B	$118,988.59
205.		505. Payoff of second mortgage loan	
206.		506.	
207. Option Fee	$100.00	507. Option Fee	$100.00
208. Sellers Paid Owners Title Policy & Gty Assmt f	$1,170.80	508. Sellers Paid Owners Title Policy & Gty Assmt f	$1,170.80
209. Sellers Paid Closing Costs	$3,000.00	509. Sellers Paid Closing Costs	$3,000.00
Adjustments for items unpaid by seller		**Adjustments for items unpaid by seller**	
210. City/town taxes		510. City/town taxes	
211. County taxes		511. County taxes	
212. Assessments		512. Assessments	
213. School taxes		513. School taxes	
214. MUD taxes		514. MUD taxes	
215. All taxes (4,228.96) 1/1/2014 to 7/15/2014	$2,259.31	515. All taxes (4,228.96) 1/1/2014 to 7/15/2014	$2,259.31
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. Total Paid by/for Borrower	$122,280.11	520. Total Reduction Amount Due Seller	$135,673.65
300. Cash at Settlement from/to Borrower		600. Cash at Settlement to/from Seller	
301. Gross amount due from borrower (line 120)	$155,167.51	601. Gross amount due to seller (line 420)	$153,163.01
302. Less amounts paid by/for borrower (line 220)	($122,280.11)	602. Less reductions in amount due seller (line 520)	($135,673.65)
303. Cash ☒ From ☐ To Borrower	$32,887.40	603. Cash ☒ To ☐ From Seller	$17,489.36

The Public Reporting Burden for this collection of information is estimated at 35 minutes per response for collecting, reviewing, and reporting the data. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. No confidentiality is assured; this disclosure is mandatory. This is designed to provide the parties to a RESPA covered transaction with information during the settlement process.
Previous editions are obsolete

18-17

ESTIMATED

7/9/2014 12:17:34 PM

File Number: 1420183348

L. Settlement Charges		Paid From Borrower's Funds at Settlement	Paid From Seller's Funds at Settlement
700. Total Real Estate Broker Fees based on price $183,000.00 @ 6.000000% = $9,180.00			$9,180.00
Division of commission (line 700) as follows:			
701. $4,590.00 to UTR- Texas Realtors			
702. $4,590.00 to Realty Associates (Pearland)			
703. Commission paid at settlement $9,180.00			
704.			
800. Items Payable in Connection with Loan			
801. Our origination charge	(from GFE #1)		
802. Your credit or charge (points) for the specific interest rate chosen	(from GFE #2)		
803. Your adjusted origination charges	(from GFE A)		
804. Appraisal fee	(from GFE #3)		
805. Credit report	(from GFE #3)		
806. Tax service	(from GFE #3)		
807. Flood certification	(from GFE #3)		
808.			
900. Items Required by Lender to Be Paid in Advance			
901. Daily interest charges from	(from GFE #10)		
902. Mortgage insurance premium for	(from GFE #3)		
903. Homeowner's insurance for	(from GFE #11)		
904. Flood insurance			
905. Windstorm Insurance			
1000.Reserves Deposited with Lender			
1001. Initial deposit for your escrow account			
1002. Homeowner's insurance	(from GFE #9)		
1003. Mortgage insurance			
1004. City property taxes			
1005. County property taxes			
1006. School taxes			
1007. MUD taxes			
1008. Flood Insurance			
1009. Windstorm Insurance			
1010. Aggregate Adjustment			
1100.Title Charges			
1101. Title services and lender's title insurance			
1102. Settlement or closing fee to Stewart Title Company	(from GFE #4) $250.00	$511.80	
1103. Owner's title insurance to Stewart Title Company	(from GFE #5) $225.00		$250.00
1104. Lender's title insurance to Stewart Title Company		$1,287.70	
1105. Lender's title policy limit $114,750.00			
1106. Owner's title policy limit $183,000.00			
1107. Agent's portion of the total title insurance premium to Stewart Title Company $1,510.00			
1108. Underwriter's portion of the total title insurance premium to Stewart Title Guaranty Company $0.00			
1109. Title Insurance Binder			
1110. Tax Certificate to Stewart Title Company			
1111. Messenger/Doc Delivery Fee to Stewart Title Company	$25.00		$64.95
1112. City Assmt Recoup Fee to Stewart Title City Assmt Recoup Fee	$1.80		$10.00
1113. City Assmt Recoup Fee to Stewart Title City Assmt Recoup Fee (included in 1103) $0.80			
1114. Attorney Fee for Document Preparation to <<Attorney>>			
1116. e-Recording Processing Fee to Stewart Title Company	$10.00		$125.00
1200.Government Recording and Transfer Charges			$5.00
1201. Government recording charges	(from GFE #7) $130.00	$130.00	
1202. Deed $40.00 Mortgage $90.00 Releases $60.00	(from GFE #8)		$60.00
1203. Transfer taxes			
1204. City/County tax/stamps			
1205. State tax/stamps			
1206.			
1300.Additional Settlement Charges			
1301. Required services that you can shop for			
1302.	(from GFE #6)		
1303. HOA Transfer fee to Marshall Management Group			
1304. Home Warranty fee to Home Warranty of America, Inc.		$75.00	$75.00
1305.			$385.00
1400. Total Settlement Charges (enter on lines 103, Section J and 502, Section K)		$2,004.50	$10,154.95

Items marked "POC" were paid outside the closing by: Borrower (POCB), Lender (POCL), Mortgage Broker (POCM), Other (POCO), Real Estate Agent (POCR), or Seller (POCS).

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432630

~~No. 419,092~~

IN THE ESTATE OF	§	
ROBERT ALAN PATE,	§	IN THE PROBATE COURT
	§	
DECEASED	§	NUMBER THREE (3) OF
	§	
	§	HARRIS COUNTY, TEXAS

ORDER FOR SALE OF REAL PROPERTY OF A MINOR

On this 5 day of December, 2014, the Application For Sale of Real Property of a Minor filed by PAMELA ANNE PATE was heard and considered by the Court, and after hearing the evidence in support of the Application, the Court finds that citation was waived by the court; that the real property to be sold is fully described in the Application and Exhibit "A" attached to and made a part of this Order; that the Application should be granted; and, that the sale of said property is in the best interest of NATALIE ANNE PATE.

IT IS ORDERED that the real property more fully described in the attached Application and Exhibit "A" shall be sold; that upon entry of this Order, ~~the purchaser of any property subject to this Order~~ escrow officer that Stewart Title shall pay the proceeds from the sale belonging NATALIE ANNE PATE into the court registry, and, that said proceeds from the sale shall be used for the use and benefit of NATALIE ANNE PATE, DOB 6/12/06 in the amount of

IT IS FURTHER ORDERED that an independent appraisal of the real property to be sold shall be conducted to establish the minimum sale price of said property.

SIGNED this ____day of _____, 2014.

JUDGE PRESIDING

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NO. 428,167

IN RE GUARDIANSHIP OF	§	IN THE PROBATE COURT
DAPHENE BROWN NEVILL,	§	NUMBER THREE (3) OF
AN INCAPACITATED PERSON	§	HARRIS COUNTY, TEXAS

MANAGEMENT TRUST AGREEMENT AND AGREEMENT OF TRUSTEE FOR THE DAPHENE BROWN NEVILL CHAPTER 1301 MANAGEMENT TRUST

This instrument establishes the terms of a management trust (the "Trust") created for the benefit of DAPHENE BROWN NEVILL (the "Beneficiary") pursuant to Order of Probate Court Number Three (3) of Harris County, Texas (the "Court") under the authority of Chapter 1301 of the Texas Estates Code.

I.
Guardianship, Creation of Trust

1.1 Cause No. 428,167 styled "Guardianship of DAPHENE BROWN NEVILL, An Incapacitated Person" (the "Guardianship"), has been pending before Probate Court Number Three (3) of Harris County, Texas, (the "Court"). On the 17th day of November, 2014, the Court entered its Order, *inter alia*, directing the acceptance of the assets set forth in Article IV by the Trustee named in Article III.

II.
Beneficiary

2. 1 The beneficiary of the Trust is DAPHENE BROWN NEVILL, an Incapacitated Person, currently age 76 years, having been born October 30, 1937, and whose Social Security Number is XXX-XX-2133. The Beneficiary is the Ward in the above described Guardianship. The Beneficiary resides at 9907 Burntfork, Houston, Harris County, Texas 77064.

III.
Trustee

3.1 Identification of Trustee. The sole original trustee of the Trust is and shall be BOKF, NA dba Bank of Texas with its office located in Houston, Texas (the "Trustee").

3.2 Commencement of Trust. Upon receipt of the funds constituting the corpus of this Trust, the Trustee's duties shall commence in accordance with the terms hereof.

3.3 Bond. No bond or other security is required of the Trustee nor of any Successor Trustee. However, the Trustee presently maintains a Financial Instititution Bond. The Trustee hereby

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agrees to maintain such bond, or a similar bond, subject to the reasonable commercial availability thereof. Trustee will promptly notify the Court if such bond is no longer available.

3.4 Resignation. The Trustee may not resign as Trustee of the Trust, nor shall another trustee be substituted in place of the present Trustee without receiving prior authority from the Court to do so. If the trusteeship should become vacant or upon the Trustee's submission of an application to resign, the power to appoint a successor trustee shall be exercisable by the Court alone. In the event of a resignation or removal of the Trustee, the estate of the Ward shall be managed by a successor trustee as appointed by the Court.

3.5 Removal. The Court may remove the Trustee on its own motion, or on the complaint of interested person, after the Trustee has been cited by personal service to answer at a time and place set in the notice if:

(1) sufficient grounds appear to support a belief that the Trustee has misapplied, embezzled, or removed from the state, or is about to misapply, embezzle, or remove from the state all or part of the Trust property;

(2) the Trustee fails to return any account that is required by law to be made;

(3) the Trustee fails to obey a proper order of the court that has jurisdiction with respect to the performance of the Trustee's duties;

(4) the Trustee is proved to have been guilty of gross misconduct or mismanagement in the performance of the Trustee's duties;

(5) the Trustee (a) becomes incapacitated, (b) is sentenced to the penitentiary; (c) becomes insolvent, or (d) from any other cause, becomes incapable of properly performing the duties of Trustee.

IV.
Trust Estate

4.1 Initial Trust Assets. The Trust shall be initially funded with the following assets:

A. All cash, cash equivalents, and publicly traded securities owned by or in the name of Beneficiary including, but not limited to, the following:

Remaining cash balance in Bank of America Checking #5499 (currently the guardianship checking account and which currently receives the Beneficiary's pension payment)

Remaining cash balance in Bank of America Checking #9105 (account which currently receives the Beneficiary's social security payment)

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Remaining cash and securities in Raymond James #3586 Bank Deposit Program

Remaining cash and securities in Raymond James IRA

Royal Dutch Shell (RDS.A) 3856 shares (held in certificate form)

Royal Dutch Shell (RDS.A) shares currently held in book form by BNY Mellon

B. The real estate located at:

LT 2 BLK 11 of the WINCHESTER COUNTRY SEC 7
a subdivision of Harris County, Texas, also known as
9907 BURNTFORK ST
HOUSTON TX 77064

C. The following personal property:

2006 Chevrolet Impala VIN 2G1WU581969223041

Miscellaneous household furnishings and personal effects

Such property shall constitute the initial principal of the Trust which, together with all other properties hereafter acquired by the Trust, and all income therefrom, shall constitute the Trust Estate of the Trust.

4.2 Periodic Rents, Distributions and Other Net Income To Be Paid to Trust. Trustee shall be entitled to receive all net income and other distributions related to the trust assets. The Trustee shall be the payee of all rents, net distributions and other payments.

4.3 Additional Contributions. Property may be added to the Trust with the consent of the Trustee, as authorized by Sections 112.006 and 113.004 of the Texas Trust Code.

V.
Purpose and Intent of Trust

5.1 This Trust is designed to safeguard the financial interests of the Beneficiary and the creation and provisions of this Trust, along with continued supervision of the Court, is intended to help secure the Beneficiary's future.

5.2 This is to be a Management Trust to assist the Beneficiary. It is the purpose and intent of this Trust to provide for the needs of the Beneficiary, and this Trust is being established at

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the direction of and with the approval of Probate Court Number Three (3) of Harris County, Texas, under the authority of Chapter 1301 of the Texas Estates Code.

5.3 It is the intention of the Court and the parties hereto to provide benefits for the Beneficiary.

VI.
Distributions

6.1 The Trustee shall pay to, or apply for the benefit of the Beneficiary, such amounts of the net income and/or principal (if income is insufficient) of the Trust as are reasonably necessary in the sole discretion of the Trustee to provide for the health, education, support, or maintenance of the Beneficiary.

6.2 In making any discretionary payments to the Beneficiary, the Trustee shall consider (i) the standard of living to which the Beneficiary shall have been accustomed prior to the creation of the Trust; (ii) any known resources of the Beneficiary; (iii) the ability of any person who is legally obligated to support the Beneficiary to do so; and (iv) any present or future Texas Estates Code provisions governing the use and expenditure of funds held in management trusts.

6.3 The Trustee may make any distribution required or permitted hereunder, without the intervention of any guardian or other legal representative, in any of the following ways:

A. To the guardian of the person of the Beneficiary or to any person who has physical custody of the Beneficiary; or

B. To any person furnishing care, education, support or maintenance to the Beneficiary; or

C. By utilizing the distribution directly for the benefit of the Beneficiary.

6.4 No distribution from the Trust shall be made to or for the benefit of the Beneficiary to satisfy any obligation if such obligation would otherwise be met from any federal or state assistance program if the Trust had not been created; provided, however, that the Trustee shall not be responsible for making such a determination nor shall the Trustee be held liable for any distribution made in good faith: (i) which results in the loss of any federal or state assistance; or (ii) pursuant to an order of any state agency requiring distribution for the benefit of the Beneficiary.

6.5 Any undistributed income shall be accumulated and added to the principal of the Trust.

6.6 Spendthrift Provision. Prior to the actual receipt of any distribution of any portion of the Trust estate by the Beneficiary, no property (whether income or principal) of the Trust shall be subject to anticipation or assignment by the Beneficiary, or to attachment by or to the interference or control of any creditor or assignee of the Beneficiary, or be taken or reached by any legal or

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equitable process in satisfaction of any debt or liability of the Beneficiary. Any attempted transfer or encumbrance of any interest in the Trust Estate of the Trust by the Beneficiary prior to the actual distribution thereof to the Beneficiary shall be wholly void. In addition to being applicable to the Beneficiary, the preceding provisions of this paragraph shall apply to anyone else, other than the Beneficiary, who may be entitled to any portion of the trust estate upon termination of the Trust.

VII.
Trustee Powers

In the administration of the Trust, the Trustee shall have the following powers:

7.1 To exercise all of the powers now or hereafter granted to trustees of express trusts by the Texas Trust Code or any corresponding statute, except in any instance in which the Texas Trust Code or such other statutory provision may conflict with the express provisions of this Trust instrument, or the provisions applicable to management trusts created under the Texas Estates Code, in which case, the provisions of this Trust instrument shall control.

7.2 To adjust, arbitrate, compromise, abandon, sue on or defend, and otherwise deal with and settle all claims in favor of or against the Trust; to engage and retain attorneys or accountants at any time when it may be reasonably necessary to do so in order to provide for the prudent management and preservation of the Trust.

7.3 To continue to act as Trustee of the Trust regardless of any change of name of the Trustee and regardless of any reorganization, merger or consolidation of the Trustee subject to the review and approval of the court which created the trust.

VIII.
Trustee Authority and Duties

8.1 Trustee's Investment Authority. The Trustee shall invest the trust estate in accordance with the standards now or hereafter set forth in Chapter 113 of the Texas Property Code (Texas Trust Code), as amended (or any subsequent applicable law), and the Trustee may also invest all or any part of the trust estate in a common trust fund now or hereafter established by the Trustee pursuant to the Texas Trust Code; provided, however, that such investments shall be in federally insured interest-bearing time or deposit accounts or obligations backed by the United States Government, or its agencies or instrumentalities, or in mutual funds comprised primarily of securities issued by the United States Government or its agencies or instrumentalities, which are managed by investment organizations having in excess of $10 billion in assets under management.

8.2 Records and Accounting. The Trustee shall keep books of account respecting the Trust and all transactions involving the Trust, and shall furnish to the guardian of the person, Mason Nevill, Jr., and Kimberly Perez (in the event she is no longer Guardian of the Person) statements at least quarterly showing receipts and disbursements of income and corpus of the Trust, and a list of assets held in the Trust. The Trustee shall prepare and file with the initial accounting required by

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Section 1301.1535 of the Texas Estates Code, regular annual accountings as required by Section 1301.154 of the Texas Estates Code and, upon the termination of the Trust, a final accounting. All such accountings shall be prepared and filed in the same manner and form that is required of a guardian of an estate under the Texas Estates Code. The Trustee shall provide copies of all such accountings to any then serving guardian of the person of the Beneficiary or to any then serving guardian of the Beneficiary's estate, if any. All such accountings are subject to Court review and approval in the same manner as provided in the Texas Estates Code. The Trustee shall not be responsible or liable to the Beneficiary or any other person on account of any actions that the Trustee may take or fail to take in the Trustee's good faith reliance on any order or proceeding of the Court.

8.3 Income Tax Returns. The Trustee shall coordinate with the Guardian of the Person of the Beneficiary with respect to the preparation and filing of the Beneficiary's personal income tax return(s). The Trustee is authorized to pay any income taxes and the fees of any certified public accountant or other tax preparer who assists in the preparation of such income tax returns out of the assets of the Trust.

8.4 Trustee Authority. No person or entity dealing with the Trustee hereunder shall be obligated to see to the application of any money or property paid or delivered to the Trustee, and no such person or entity shall be obligated to inquire into the expediency or propriety of any transaction or the authority of the Trustee to enter into and consummate the same upon such terms as the Trustee may deem reasonably appropriate.

8.5 Homestead. The Trustee shall have the power to retain the homestead exemption and over 65 exemption on the Homestead on behalf of the Beneficiary. This Trust is intended to by a "qualifying trust," as defined by and in accordance with Section 11.13(3) of the Texas Property Tax Code (and any successor provisions thereto or any other similar state statute in any state in which a homestead is claimed by Beneficiary) in that the Beneficiary of the Trust has the right to use and occupy, as Beneficiary's principal residence, residential property owned by the Trust, rent free without charge except for taxes and other costs and expenses specified in the Trust for life, or until the date the Trust is revoked or terminated by an instrument that describes the property with sufficient certainly to identify it and is recorded in the Real Property Records of the county in which the property is located. However, this provision is not intended to create a duty upon the Trustee to retain real property owned by the Trust if the Trust has insufficient assets to maintain such property. If the Homestead is later sold and another homestead is acquired by the Trustee, the terms of this paragraph shall apply to such residential property.

8.6 Funeral Expenses. The Trustee is authorized to pay expenses relating to the funeral and burial of the Beneficiary regardless of whether an administration of the Beneficiary's estate has been instituted.

18-25

IX.
Trustee Compensation

9.1 The Trustee shall be entitled to be paid at its option either annually, quarterly or monthly out of the Trust assets a fair and reasonable compensation for its services as trustee. Such compensation shall be in accordance with §§ 1155.003 to 1155.006 of the Texas Estates Code. The trustee shall be entitled to recover from the Trust all reasonable expenses incurred by the Trustee in administration of the Trust. The Court shall annually review all trustee fees and expenses incurred and paid. The Court may, on its own motion or at the instance of the Trustee or any other party interested in the welfare of the Beneficiary, take any action it deems proper with respect to such fees and expenses.

X.
Trust Revocation and Termination

10.1 Revocability. This Trust shall not be amended, altered or revoked by the Beneficiary or any guardian or other legal representative of the Beneficiary, but it shall remain subject to amendment, modification, or revocation by the Court only at any time prior to the termination of the Trust.

10.2 Termination. The Trust shall terminate if the Beneficiary is fully restored, has died, or upon the Court's determination that this matter shall be terminated, whichever occurs first. Upon termination and approval by the Court of the Trustee's final account, the Trustee shall pay and deliver to the Beneficiary, free of trust, all of the trust estate of the Trust remaining after payment of all expenses, taxes, debts and fees. If the Beneficiary is then deceased, the then remaining trust estate of the Trust shall be paid and delivered to the duly appointed personal representative of the Beneficiary's estate. The Trustee shall have a reasonable period of time after termination of the Trust in which to wind up the administration of the Trust and to distribute Trust assets. During this period of time the Trustee shall continue to have all of the powers granted to the Trustee under this Agreement until all provisions of the Trust are fully executed.

XI.
Miscellaneous Administrative Provisions

11.1 Governing Law. The Trust shall be governed in all respects by the laws of the State of Texas.

11.2 Jurisdiction. The court that created this management trust shall retain jurisdiction to hear all matters relating to the Trust.

11.3 In the event that any portion of this Trust Agreement is contrary to any applicable law, or to the applicable rules and regulations of any authority regulating the activities of the Trustee, the conflicting provision shall be deemed deleted, and there shall be substituted therefore a provision as nearly alike in tenor, effect and reading as will comply with such laws, rules and regulations.

18-27

There is no 18-26!

11.4 Headings. The headings appearing in this instrument are for convenience only and do not define or limit the scope or intent of the provisions to which they refer.

XII.
Inception of the Trust

12.1 This Trust shall become effective upon the completion of all of the following: (i) the entry of the Order approving the Trust Agreement, (ii) the transfer of the above described assets of the estate to the Trustee, and (iii) the Trustee's acceptance of the Trust which shall be evidenced by the signature below of the appropriate officer of BOKF, NA dba Bank of Texas

This Trust is created by operation of law as it is implemented by the court and to the extent permitted by law, neither the Beneficiary's Guardian nor the Court is the Grantor of this Trust.

AGREED TO AND ACCEPTED on this the _____ day of November, 2014.

BOKF, NA dba Bank of Texas

_____
Signature

_____
Printed Name

_____
Title

THE STATE OF TEXAS §

COUNTY OF HARRIS §

This instrument was acknowledged before me on the _____ day November, 2014, by _____ of BOKF, NA dba Bank of Texas, as Trustee, on behalf of said entity in the capacity of an officer of such entity and for the purposes and consideration therein expressed and in the capacity therein stated.

_____
Notary Public in and for
the State of Texas

18-28

Choose a good trustee SNT to help provide for child after parents die

Q: My wife and I have a 35-year-old disabled daughter who receives government benefits and will continue to do so for the rest of her life. However, her benefits don't cover all her living expenses such as room, board and clothing. We have established a supplemental needs trust (SNT) which will be funded after both of us have died. While we understand that

RONALD LIPMAN

funds from the SNT may be used for supplemental needs such as therapeutic horseback riding, education, vacations, etc., we have read that the trust is not to be used for her basic living expenses. Could you please clarify if property in the SNT can also be used for rent, food and clothing?

A: Your daughter will be eligible for continued government benefits as long as her income remains low enough. Certain distributions from her SNT will be treated as income, while other distributions will not.

The rule is that any distributions for food and shelter are income to her and will reduce her government benefits. Food includes dining out at restaurants. Shelter includes rent, mortgage payments if she owns a home, utilities, real estate taxes and garbage collection fees. If cash or even most types of debit cards are distributed to her, those count as income too.

However, there are many different types of distributions that can be made which will not be treated as income and will not reduce her benefits.

For instance, the trust can buy her clothing and other personal effects, and it can pay for her phone, cable, internet, cleaning services, school tuition, books, supplies and even a car if it is used to transport her or someone in her household. The trust can buy her medical equipment and pay for other medical and dental expenses which are not provided by her government benefits. And

Lipman continues on B7

18-282

LIPMAN

From page B1

it can also pay for her vacations, gym membership, movies, video games and museum trips. The trust can even pay all of her accounting and legal fees.

There are many other types of permissible distributions.

It will be the trustee's job to figure out what distributions to make and whether it is in your daughter's best interest for the trust to make disqualifying distributions. For instance, the trust might have millions of dollars of assets which generate tens or even hundreds of thousands of dollars of income each year. The trust might be able to pay for all of your daughter's expenses for decades and never run out of assets. Of course, if your daughter requires expensive medical care, then the trustee would need to be careful not to disqualify her.

Be sure the trustee you have named understands the importance of hiring a qualified elder law attorney to provide ongoing advice regarding the administration of the trust after you both have passed away. By then, the laws regarding supplemental needs trusts and government benefits might be very different than they are today.

The information in this column is intended to provide a general understanding of the law, not legal advice. Readers with legal problems, including those whose questions are addressed here, should consult attorneys for advice on their particular circumstances. Ronald Lipman of the Houston law firm Lipman & Associates is board-certified in estate planning and probate law by the Texas Board of Legal Specialization. Email questions to stateyourcase@lipmanpc.com

LAST WILL AND TESTAMENT
OF
MARY SMITH

ARTICLE 1
DECLARATIONS

I, ***MARY SMITH***, declare the following:

1.1 **Testamentary Intent:** This document is my Will, and I revoke all other Wills and Codicils that I have previously made.

1.2 **Family Declarations:**

Social Security #:
Date of Birth:
Residence: Harris County, State of Texas
Child: ***JOSE SMITH***, born on

1.3 **Property Scope:** I intend that this Will dispose of all property subject to my testamentary power. I do not intend to exercise any power of appointment under this Will.

1.4 **Debts:** I direct that all of my just debts and my funeral expenses be paid as soon as practicable after my death. Any debts which are payable in installments or are not due until at least one year from the date of my death need not be paid during the administration of my estate but may, if the terms of such debts permit, be continued and paid according to their terms. In the event that any property or interest in property passing under this Will by operation of law or otherwise by reason of my death (other than as a part of my residuary estate), shall be encumbered by mortgage or lien, or shall be pledged to secure any obligation (whether the property or interest in property so encumbered or pledged shall be owned by me jointly or individually), it is my intention that such indebtedness shall not be charged to or paid from my estate, but that the devisee, legatee, joint owner taking by survivorship or beneficiary receiving such property or interest in property shall take it subject to all encumbrances existing at the time of my death, except as otherwise specified.

ARTICLE 2
GIFTS

2.1 **Personal Effects:**

2.2 **Exception - Personal Bequests:** Notwithstanding the above, I may leave a signed and dated handwritten memo attached to this Will, which shall direct the distribution of certain personal non-titled effects. My Executor shall make such distributions in accordance with such signed handwritten memo and shall incur no liability for following such specific handwritten instructions. All expenses of packing, shipping, insuring and delivering any of these items to a beneficiary shall be paid by the Executor as an administration expense of my estate.

2.3 **Residue:** I gift, bequeath and devise the residue of my estate equally to ***THE SMITH***

18-29

SPECIAL NEEDS TRUST, or successor entity, and any child(ren), or descendants by representation, born or adopted after the execution of this Will. If a child born after the execution of this Will is a minor that share shall be held under the terms of Article 3.8 of this Will. If all my descendants predecease me, the residue of my estate will pass to my heirs at law under the statutes of descent and distribution of the State of Texas, or the state where I resided at my death. Except however, if a beneficiary has a disability and is receiving (private or public) 'needs tested' benefits based on that qualifying disability, that share will be held in trust under the terms of Article 2.3(a). The Trust will be known under that heir's first name and surname followed by "*Special Needs Trust*".

a. ***Special Needs Trust:*** ***The Smith Special Needs Trust*** shall be created if my son, ***JOSE SMITH***, survives me. This Trust interest is a purely discretionary *supplemental or special care fund* to own, manage and hold assets for the benefit of my son who currently has special needs; he is otherwise eligible for "needs tested" benefits on account of a qualifying disability under federal, state and private programs. ***The fund assets should not replace public or private financial assistance that may otherwise be available to my son.*** This Trust is not for my son's primary support; it is to supplement his special needs if he is on (public or private) programs on account of his qualifying disability that provide benefits due to his financial need. *The beneficiary has no entitlement to the income or corpus of this Trust, except as the Trustee, in the Trustee's sole and unfettered discretion elects to disburse.* The Trust administered under this section shall last for the lifetime of my son, or until he no longer has the qualifying "*needs tested*" disability. Upon the death of my son all the remaining income and principal of this Trust administered pursuant to this Article shall be distributed under the terms of this Article 2.3. The Executor of my estate shall serve as Trustee of *The Smith Special Needs Trust.*

2.4 **Death Taxes - Statutory Provisions:** I direct the Executor to charge and collect all federal death taxes for assets passing under this Will and outside this Will from those persons sharing in my taxable estate in accordance with the Texas Probate Code provisions for death tax apportionment and exoneration. However, I direct the Executor to pay from that portion of the residue, all federal death taxes chargeable to any gift under this Will designated as "free of all death taxes". I recognize and confirm that statutes provide that if a beneficiary's gift contributes to my taxable estate, the beneficiary must pay the pro rata share of the tax. Further, I direct the Executor to charge and collect all state death taxes in the same manner as the federal taxes and not as a general administration expense. To the extent other assets are available, the Executor is directed not to use any qualified retirement plan distribution excluded from federal estate tax under Internal Revenue Code of 1986, or successor code, Section 2039(c), or successor section, to pay taxes, debts, or other charges enforceable against my estate.

ARTICLE 3
OFFICE OF THE INDEPENDENT EXECUTOR/ TRUSTEE

3.1 **Nominations:** I nominate as Independent Executrix and as successor Independent Executor of this Will those persons named below. That individual shall also serve as Trustee under Article 2, or as custodian under the UTMA, as applicable. ***No action shall be had in any court of competent jurisdiction in relation to the settlement of my estate other than the probating and recording of this Will, return of an inventory or an affidavit in lieu thereof, any required***

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appraisement, and listing of claims of my Estate.

First:
Second: ***SUE SMITH***, my sister
Third: ***MARY JONES***, my friend

The Judge of the Court where my Will is probated, acting in his individual capacity, shall appoint a successor Executor if those nominated are unable or unwilling to serve.

3.2 **Bond - Waiver:** I request that the court not require bond of any Executor or Trustee named to serve under this Will.

3.3 **Ancillary Appointment:** I appoint as ancillary Fiduciary the person or corporation which my Executor shall appoint in writing. Unless prohibited by applicable law or court rule, my Executor may appoint himself as ancillary Fiduciary.

3.4 **Retain Assets and Exculpation:** The Executor or Trustee shall have the power to retain any asset of the Estate, including unproductive, speculative, or fluctuating assets. The Executor or Trustee shall not be liable for any resulting losses unless the Executor acted in bad faith, willful misconduct, or gross negligence.

3.5 **Sell Assets:** The Executor or Trustee shall have the power to sell, with or without notice, at either public or private sale, for cash or terms, any property of my Estate as the Executor or Trustee, in that fiduciary's reasonable discretion considers necessary for the proper administration and distribution of my Estate and Trust, as applicable.

3.6 **Lease Property:** The Executor and Trustee shall have the power to lease all or any property of my Estate on such terms as the Executor and Trustee considers proper.

3.7 **Distribution of Property - In Kind, Non-pro rata, Date of Distribution Values:** The Executor shall have the power to determine what property of my Estate shall be allocated to the shares, parts, or bequests in selecting property for distribution or satisfaction of any bequest. Further, the Executor may satisfy any general pecuniary bequest, except when specifically directed otherwise, by cash or in kind, or partly in each, with property distributed in kind valued at the date of distribution.

3.8 **Facility of Payment:** In making distributions to a minor, to a person under legal disability, or to a person not adjudicated incompetent, but who, by reason of illness or mental or physical disability, is in the opinion of the Executor unable to manage the distribution properly, then the Executor in its reasonable discretion shall pay such distribution in any of the following ways: a) to the beneficiary directly, b) to the legally appointed guardian or conservator of the beneficiary, c) *to the custodian of the beneficiary under the Uniform Transfers to Minors Act*, d) for the benefit of the beneficiary, or e) to an adult relative or friend in reimbursement for amounts properly advanced for the benefit of the beneficiary that are not within the legal requirements of support and maintenance for that beneficiary.

3.9 **Purchase of Estate Property by Beneficiary or Executor:** Any beneficiary of my Estate, even when acting as Executor or Trustee, shall have the power to purchase or exchange assets for assets of my Estate or Trust created herein or any fractional interest for adequate consideration.

3.10 **General Powers of Fiduciary:** In the administration of any property forming part of a Trust established under this instrument, the Trustee and Executor is authorized and empowered, without court authority, *to exercise all powers conferred by law upon trustees or executors with the most expansive interpretation in the jurisdiction where administered, or expressed in this instrument, as the Trustee in his discretion determines to be in the best interest of the beneficiary.* The Trustee can

maintain and defend any claim or controversy by or against the Trust without joinder or consent of any beneficiary. The Trustee shall have all rights, privileges and powers now or granted in the future, by legislation and regulation, to trustees in Texas. Generally the Trustee shall hold, manage, control, use, invest, reinvest and dispose of the Trust Estate to the same extent as if the Trustee were the fee simple owner thereof.

3.11 **Principal and Income Allotment**: The Trustee, in such Trustee's sole, reasonable discretion, shall allocate or apportion the revenues, receipts or proceeds of the Trust as to principal and income. The Trustee shall allocate or apportion the charge of disbursements, expenses, depreciation, depletion, amortization, obsolescence, and similar or related charges and accruals or losses of the Trust as to principal or income. The Trustee's determination need not necessarily be according to the provisions of the Texas Trust Code. In addition, the Trustee, in such Trustee's sole, reasonable discretion, shall determine whether to allocate capital gains realized on any transaction (i) to the Trust, or (ii) to the beneficiary of a Trust. If the Trustee does not exercise such Trustee's discretion, the provisions of the Texas Trust Code shall control.

3.12 **Rule Against Perpetuities**: Notwithstanding any other provision of this Will, any Trust created hereunder or pursuant to the exercise of a power of appointment granted herein shall terminate, if not sooner terminated, twenty-one (21) years after the date of death of the last surviving beneficiary hereunder who is in being at the time of my death. The property comprising the Trust estate of any Trust which shall terminate by reason of this paragraph shall pass and be delivered, free of Trust, to the beneficiary thereof.

3.12 **Final Arrangements**: Upon my death, I direct my Executor to arrange for simple funeral or memorial services and burial or disposal of my remains as specified in a letter to my Executor, or if no letter as my friends or Executor shall decide.

ARTICLE 4
NO CONTEST, DISINHERITANCE, DEFINITIONS

4.1 **No Contest - Contestant Disinherited**: Each benefit conferred herein is made on condition precedent that the beneficiary shall accept and agree to all of the provisions of this Will, and the provisions of the Will are an essential part of each and every benefit. If a beneficiary, or person claiming to be a beneficiary under this Will, in any manner contests, attacks or joins in a contest of this Will or fiduciary nominations and powers (or other legal proceeding), the share of my Estate given to that contesting beneficiary is revoked and shall be held and managed as if that beneficiary predeceased me.

4.2 **Disinheritance General and Specific**: Except as otherwise provided in this Will, I have intentionally omitted to provide herein for any of my heirs, or those claiming to be my heirs, living at the date of my death, whether or not known to me. I intentionally did not provide a direct gift to my son, Jose Smith, as other provisions have been implemented. I intend that this disinheritance specifically defeat the application of any statutory heirship interest.

4.3 **Survivorship Requirement**: For all the gifts under this Will, I require that the beneficiary survive me for thirty (30) days before entitlement to such gift.

4.4 **Definitions**: As used in this Will, the following terms shall mean:

(1) "Descendants" or "*issue*" shall mean lineal descendants in any degree of the ancestor designated.

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(2) "*Brothers and sisters*" or "*siblings*" shall include half-brothers and half-sisters if those persons are lineal descendants of mine, and shall include those individuals in the same degree who have been adopted by a common person.

(3) "*Death Taxes*" includes federal, foreign, state and local estate and inheritance taxes, including penalties and interest, but not generation-skipping and special use valuation recapture taxes.

(4) "*Disclaimer*" or "*qualified disclaimer*" has the same meaning that "qualified disclaimer" has under the Internal Revenue Code and supporting regulations.

(5) The masculine, feminine or neuter gender and the singular or plural number shall each include the others whenever the context indicates.

(6) Headings are for reading convenience and shall be disregarded for substantive construction.

I, ***MARY SMITH***, as Testatrix, after being duly sworn, declare to the undersigned authority that this instrument is my Will, that I have willingly made and executed it in the presence of the undersigned witnesses, all of whom were present at the same time, as my free act and deed, and that I have requested each of the undersigned witnesses to sign this Will in my presence and in the presence of each other. I now sign this Will in the presence of the attesting witnesses and the undersigned authority on _____, ***2012***. Each page of this Will has been initialed and dated by myself on this date.

_____

MARY SMITH

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MARY SMITH, Testatrix, and the undersigned witnesses, _____, each being above fourteen years of age, after being duly sworn, declare to the Testatrix and to the undersigned authority that the Testatrix declared to us that this instrument is the Testatrix's Will and that the Testatrix requested us to act as witnesses to the Testatrix's Will and signature. The Testatrix then signed this Will in our presence, all of us being present at the same time. The Testatrix is eighteen years of age or over *(or being under such age, is or has been lawfully married, or is a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service)*, and we believe the Testatrix to be of sound mind. We now sign our names as attesting witnesses in the presence of the Testatrix, each other, and the undersigned authority on ____, ***2012***.

_____ _____

Signature

_____ _____

Printed name Address

_____ _____

Signature

_____ _____

Printed name Address

STATE OF TEXAS)
)
HARRIS COUNTY)

Subscribed and sworn to before me by ***MARY SMITH***, Testatrix, and by _____ and _____, as witnesses, on _____, 2012.

_____

NOTARY PUBLIC in and for the State of Texas
Commission Expires:

1834

4/29043

any party acquiring an interest in the residence from my trustee shall not be required to ascertain whether my trustee has complied with this paragraph relating to the sale of the residence or the application of the proceeds of such sale. Any such party may assume that my trustee has the same powers with respect to the residence as with respect to any other property held in trust under this will.

3.18 Spendthrift Provision. No principal or income payable or to become payable under this will or under any trust created under this will shall be subject to anticipation or assignment by any beneficiary thereof or to attachment by or the interference by or control of any creditor of any the beneficiary or to be taken or reached by any legal or equitable process in satisfaction, of any debt or liability of the beneficiary prior to its actual receipt by any the beneficiary.

3.19 Substance Abuse & Mental Disorders. The following provisions shall apply to all trusts created under this will:

(A) Beneficiary's Condition. If my trustee reasonably believes that a beneficiary of any trust created under this instrument:

(i) routinely or frequently uses or consumes any illegal drugs or other illegal chemical substance so as to be physically or psychologically dependent upon that drug or substance, or

(ii) is clinically dependent upon the use or consumption of alcohol or any other legal drug or chemical substance that is not prescribed by a medical doctor or psychiatrist in a current program of treatment supervised by such doctor or psychiatrist, or

(iii) suffers from a mental disorder or a physical disorder that is associated with and produces a mental disorder or dysfunction,

and if my trustee reasonably believes that as a result of such use, consumption or disorder the beneficiary is incapable of appropriately caring for himself or herself or is likely to dissipate his or her financial resources, my trustee shall follow the procedures set forth below.

(B) Examination. My trustee shall request the beneficiary to submit to one or more examinations (including, without limit, laboratory tests of hair, tissue or bodily fluids) determined to be appropriate by a board certified medical doctor or psychiatrist selected by my trustee. My trustee shall request the beneficiary to consent to full disclosure by the examining doctor or facility to my trustee of the results of all such examinations. My trustee shall maintain strict confidentiality of those results and shall not disclose those results to any person other than the

PURPORTED WILL

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federal transfer tax exemption, deduction, or exclusion available with respect to that trust, or that are required to qualify the trust as a qualified subchapter S trust.

(G) Exculpation. My trustee (and any doctor or psychiatrist retained by my trustee) shall not be responsible or liable to anyone for a beneficiary's actions or welfare. My trustee shall have no duty to inquire whether a beneficiary has a mental or physical disorder or uses drugs or other substances as described in this Paragraph. My trustee (and any doctor or psychiatrist retained by my trustee) shall be indemnified from the trust estate and held harmless from any liability of any nature in exercising its judgment and authority under this Paragraph, including any failure to request a beneficiary to submit to medical examination and including a decision to distribute suspended amounts to a beneficiary.

PART FOUR

4.1 Miscellaneous. The following provisions shall apply to this will and any trust created under this will:

(A) Survivorship Requirement. A beneficiary under this will shall not be considered to survive and shall be considered (i) to predecease another person or (ii) to die before the occurrence of an event if such beneficiary dies within 90 days of the death of the other person or the occurrence of the event. It is provided, however, irrespective of any provision of law establishing a contrary presumption or requiring survivorship for a fixed period as a condition of taking property by inheritance, if the Revocable Trust Agreement is revoked or fails for any other reason prior to my death, and if my wife dies within 90 days following my death, or my wife and I die under circumstances so that the order of our deaths cannot be established by proof, my wife shall be deemed to have survived me only for the purposes of Paragraphs 2.4 (A) and 2.4(B).

(B) Merger of Trusts. If any person is the beneficiary of an existing trust created under this will at a time when pursuant to a provision of this will it is directed that any property be delivered to or held in a trust having terms identical to those of the previously existing trust for the benefit of such person, then notwithstanding any direction in this will to the contrary, such property shall be added to the trust estate of the previously existing trust and shall be held and administered as a part of that trust. If any person is the beneficiary of an existing trust created in the will of my wife, the terms of which are substantially identical to the terms of a trust created under this will for the beneficiary and the trustee of which is the same, (i) my trustee may, in its sole discretion, or (ii) my trustee shall, at the written request of the beneficiary of the trusts, merge, consolidate and combine the two trusts into one trust and administer the trust estates as a single trust.

PURPORTED WILL

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3.6 Discretionary Distribution Considerations. In addition to the general authorities and discretions provided in paragraph 3.5, in making discretionary distributions from a trust, the trustee may consider any reasonable circumstances and may impose any reasonable conditions. For example:

(a) Substance Use/Abuse. The trustee may take into consideration the fact (or even the mere risk or suspicion) that a beneficiary is abusing alcohol or drugs. As a condition of any distribution, the trustee may require a beneficiary to submit to random and regular drug tests (administered by a laboratory of the trustee's choosing). If the beneficiary refuses to take any test or if any test indicates abuse of any one or more drugs (including alcohol), the trustee may withhold or reduce any distribution and/or cancel or reduce any regular distributions for any reasonable period of time or until subsequent testing indicates that the beneficiary has been and remained sufficiently "clean" for a reasonable period of time. In addition, the trustee may require a beneficiary to participate in drug or other therapy as a condition of any distribution and may withhold and adjust distributions in a similar manner as for drug testing. The trustee, in the trustee's discretion, may choose to not require such testing and may chose to not limit, condition or terminate distributions even where authorized by the above whenever the trustee, in the trustee's discretion, determines that doing so might be in the best interests of the beneficiary and/or the beneficiary's descendants. The trustee shall never be required to independently verify the accuracy of a drug test or the benefit of therapy, but instead may rely on the representation of any providers or professionals.

(b) Medical and Other Professional Treatment. The trustee may take into consideration the fact (or even the mere risk or suspicion) that a beneficiary may require or benefit from medical, psychiatric or psychological services, including counseling, and prescribed medications. The trustee may require a beneficiary to obtain and participate in any of these services and/or take prescribed medications as a condition of any distribution and may withhold and adjust distributions in a similar manner as for drug testing. The trustee, in the trustee's discretion, may choose to not require such testing and may chose to not limit, condition or terminate distributions even where authorized by the above whenever the trustee, in the trustee's discretion, determines that doing so might be in the best interests of the beneficiary and/or the beneficiary's descendants. The trustee shall never be required to independently verify the need or benefit of any treatment or therapy or medication, but instead may rely on the representation of any providers or professionals.

(c) The Preceding is a Grant of Authority To, Not an Imposition of Obligation Upon the Trustee. It is my specific intention that the preceding provisions be a grant of authority and flexibility to the trustee, over and above the normal authority and flexibility a trustee typically has in the administration of a trust. I believe that the preceding provisions are appropriate because I believe the purposes of the trusts created herein can be achieved only if the trustee has extraordinary authority to act in the best interests of the Primary Beneficiary of each trust and such Primary Beneficiary's descendants without subjecting itself to liability for acting or from refraining to act.

18-36a

DSQ
Initials

ADMINISTRATION OF ESTATES: Written assignment

John Jones has died leaving a valid will naming his wife Susie as Independent Executor . They had been married from 1975 until his death in 2014. His estate consists of the following:

1999 Mercedes Benz VIN123456789, SLK 250 with 38,000 miles on it. Excellent condition. It was a gift from his best buddy Tommy Brown FMV $8,000

Bucking Bull named Bushwacker (for estate purposes valued at $300K) That was bought in 2000

Homestead 3345 Marshall Street, Green Acres Sect 1 Lot 5 Block 10, FMV $250K that was bought in 1978

Apt complex 4455 White Street, Pinemont Acres Sec 3, Lots 6-9 Block 6 FMV 700k. He inherited this from his father

Bank Account, Compass Bank $250,0000 that was in John's name only

Joint Bank Account, Wells Fargo Bank $75,000 joint tenant with right of survivorship with Susie and John's name on it

Life insurance policy- beneficiary was Susie and Mark $100k

Household furnishings FMV $15K

He loaned his friend Sam Johnson $75,000 and there is a signed promissory note. The remaining balance is $62,000. No interest was charged.

He has a mortgage on the apartment complex which is $95,000 to Bank One 6%, payments of $1200 per month to mature in 2020.

He has credit card debt of $15,000 to Mastercard.

He had bought new appliances at Sears and owed $8,000

Your Assignment is to prepare the inventory.

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OFFICE OF STAN STANART
COUNTY CLERK, HARRIS COUNTY, TEXAS
PROBATE COURTS DEPARTMENT

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §
§

DOCKET NO. _____

ESTATE OF: _____
deceased

INVENTORY AND APPRAISEMENT OF THE ESTATE
Must be filed within 90 days from appointment

Of _____, Deceased

produced before the undersigned Appraisers on _____, by

_____ Executor/Administrator of said Estate.

SEPARATE PROPERTY OF DECEASED

(1) Cash belonging to the Estate:		
(2) Personal Property belonging to the Estate as follows:		
(3) Real Property belonging to the Estate as follows:		

COMMUNITY PROPERTY

(1) Cash belonging to the Estate:		
(2) Personal Property belonging to the Estate as follows:		
(3) Real Property belonging to the Estate as follows:		

AFFIDAVIT OF APPRAISERS

We, the undersigned appraisers, do solemnly swear that the foregoing is a full and fair appraisement of the Estate of

, Deceased, produced before us by _____

, Executor/Administrator

APPRAISERS	ADDRESSES
_____	_____
_____	_____
_____	_____

Sworn to and subscribed before me on: _____

(Seal)

_____

Notary public in and for the State of Texas

LIST OF CLAIMS OWING TO ESTATE

I do solemnly swear that the foregoing Inventory and List is a full and complete inventory and list of Property and Claims of _____, Deceased, that have come to my knowledge, and that the true amount of cash belonging to said Estate is correctly stated therein.

_____

Executor/Administrator

Sworn to and Subscribed before me on: _____.

(Seal)

_____

Notary Public in and for the State of Texas

ORDER APPROVING

On _____, came to be considered the report of the inventory, appraisement, and list of claims of the Estate of _____, Deceased, and the court having examined said report, it is therefore ordered by the court that the same be, and it is hereby, in all respects, approved and ordered entered of record.

_____

Judge, Probate Court No. _____
Harris County, Texas

Sec. 166.032. WRITTEN DIRECTIVE BY COMPETENT ADULT; NOTICE TO PHYSICIAN. (a) A competent adult may at any time execute a written directive.

(b) Except as provided by Subsection (b-1), the declarant must sign the directive in the presence of two witnesses who qualify under Section 166.003, at least one of whom must be a witness who qualifies under Section 166.003(2). The witnesses must sign the directive.

(b-1) The declarant, in lieu of signing in the presence of witnesses, may sign the directive and have the signature acknowledged before a notary public.

(c) A declarant may include in a directive directions other than those provided by Section 166.033 and may designate in a directive a person to make a health care or treatment decision for the declarant in the event the declarant becomes incompetent or otherwise mentally or physically incapable of communication.

(d) A declarant shall notify the attending physician of the existence of a written directive. If the declarant is incompetent or otherwise mentally or physically incapable of communication, another person may notify the attending physician of the existence of the written directive. The attending physician shall make the directive a part of the declarant's medical record.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 209, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 291, Sec. 1, eff. Jan. 1, 1998. Renumbered from Sec. 672.003 and amended by Acts 1999, 76th Leg., ch. 450, Sec. 1.03, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 461 (H.B. 2585), Sec. 3, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 435 (H.B. 3074), Sec. 3, eff. September 1, 2015.

Sec. 166.033. FORM OF WRITTEN DIRECTIVE. A written directive may be in the following form:

DIRECTIVE TO PHYSICIANS AND FAMILY OR SURROGATES

Instructions for completing this document:

This is an important legal document known as an Advance Directive. It is designed to help you communicate your wishes about medical treatment at some time in the future when you are unable to make your wishes known because of illness or injury. These wishes are usually based on personal values. In particular, you may want to consider what burdens or hardships of treatment you would be willing to accept for a particular amount of benefit obtained if you were seriously ill.

You are encouraged to discuss your values and wishes with your family or chosen spokesperson, as well as your physician. Your physician, other health care provider, or medical institution may provide you with various resources to assist you in completing your advance directive. Brief definitions are listed below and may aid you in your discussions and advance planning. Initial the treatment choices that best reflect your personal preferences. Provide a copy of your directive to your physician, usual hospital, and family or spokesperson. Consider a periodic review of this document. By periodic review, you can best assure that the directive reflects your preferences.

In addition to this advance directive, Texas law provides for two other types of directives that can be important during a serious illness. These are the Medical Power of Attorney and the Out-of-Hospital Do-Not-Resuscitate Order. You may wish to discuss these with your physician, family, hospital representative, or other advisers. You may also wish to complete a directive related to the donation of organs and tissues.

DIRECTIVE

I, _____, recognize that the best health care is based upon a partnership of trust and communication with my physician.

My physician and I will make health care or treatment decisions together as long as I am of sound mind and able to make my wishes known. If there comes a time that I am unable to make medical decisions about myself because of illness or injury, I direct that the following treatment preferences be honored:

If, in the judgment of my physician, I am suffering with a terminal condition from which I am expected to die within six months, even with available life-sustaining treatment provided in accordance with prevailing standards of medical care:

_____ I request that all treatments other than those needed to keep me comfortable be discontinued or withheld and my physician allow me to die as gently as possible; OR

_____ I request that I be kept alive in this terminal condition using available life-sustaining treatment. (THIS SELECTION DOES NOT APPLY TO HOSPICE CARE.)

If, in the judgment of my physician, I am suffering with an irreversible condition so that I cannot care for myself or make decisions for myself and am expected to die without life-sustaining treatment provided in accordance with prevailing standards of care:

_____ I request that all treatments other than those needed to keep me comfortable be discontinued or withheld and my physician allow me to die as gently as possible; OR

_____ I request that I be kept alive in this irreversible condition using available life-sustaining treatment. (THIS SELECTION DOES NOT APPLY TO HOSPICE CARE.)

Additional requests: (After discussion with your physician, you may wish to consider listing particular treatments in this space that you do or do not want in specific circumstances, such as artificially administered nutrition and hydration, intravenous antibiotics, etc. Be sure to state whether you do or do not want the particular treatment.)

After signing this directive, if my representative or I elect hospice care, I understand and agree that only those

treatments needed to keep me comfortable would be provided and I would not be given available life-sustaining treatments.

If I do not have a Medical Power of Attorney, and I am unable to make my wishes known, I designate the following person(s) to make health care or treatment decisions with my physician compatible with my personal values:

1. _____
2. _____

(If a Medical Power of Attorney has been executed, then an agent already has been named and you should not list additional names in this document.)

If the above persons are not available, or if I have not designated a spokesperson, I understand that a spokesperson will be chosen for me following standards specified in the laws of Texas. If, in the judgment of my physician, my death is imminent within minutes to hours, even with the use of all available medical treatment provided within the prevailing standard of care, I acknowledge that all treatments may be withheld or removed except those needed to maintain my comfort. I understand that under Texas law this directive has no effect if I have been diagnosed as pregnant. This directive will remain in effect until I revoke it. No other person may do so.

Signed_____ Date_____ City, County, State of Residence _____

Two competent adult witnesses must sign below, acknowledging the signature of the declarant. The witness designated as Witness 1 may not be a person designated to make a health care or treatment decision for the patient and may not be related to the patient by blood or marriage. This witness may not be entitled to any part of the estate and may not have a claim against the estate of the patient. This witness may not be the attending physician or an employee of the attending physician. If this witness is an employee of a health care facility in which the patient is being cared for, this witness may not be involved in providing direct patient care to the patient. This witness may not be an officer, director, partner,

or business office employee of a health care facility in which the patient is being cared for or of any parent organization of the health care facility.

Witness 1 _____ Witness 2 _____

Definitions:

"Artificially administered nutrition and hydration" means the provision of nutrients or fluids by a tube inserted in a vein, under the skin in the subcutaneous tissues, or in the gastrointestinal tract.

"Irreversible condition" means a condition, injury, or illness:

(1) that may be treated, but is never cured or eliminated;

(2) that leaves a person unable to care for or make decisions for the person's own self; and

(3) that, without life-sustaining treatment provided in accordance with the prevailing standard of medical care, is fatal.

Explanation: Many serious illnesses such as cancer, failure of major organs (kidney, heart, liver, or lung), and serious brain disease such as Alzheimer's dementia may be considered irreversible early on. There is no cure, but the patient may be kept alive for prolonged periods of time if the patient receives life-sustaining treatments. Late in the course of the same illness, the disease may be considered terminal when, even with treatment, the patient is expected to die. You may wish to consider which burdens of treatment you would be willing to accept in an effort to achieve a particular outcome. This is a very personal decision that you may wish to discuss with your physician, family, or other important persons in your life.

"Life-sustaining treatment" means treatment that, based on reasonable medical judgment, sustains the life of a patient and without which the patient will die. The term includes both life-sustaining medications and artificial life support such as mechanical breathing machines, kidney dialysis treatment, and

artificially administered nutrition and hydration. The term does not include the administration of pain management medication, the performance of a medical procedure necessary to provide comfort care, or any other medical care provided to alleviate a patient's pain.

"Terminal condition" means an incurable condition caused by injury, disease, or illness that according to reasonable medical judgment will produce death within six months, even with available life-sustaining treatment provided in accordance with the prevailing standard of medical care.

Explanation: Many serious illnesses may be considered irreversible early in the course of the illness, but they may not be considered terminal until the disease is fairly advanced. In thinking about terminal illness and its treatment, you again may wish to consider the relative benefits and burdens of treatment and discuss your wishes with your physician, family, or other important persons in your life.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 209, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 291, Sec. 2, eff. Jan. 1, 1998. Renumbered from Sec. 672.004 and amended by Acts 1999, 76th Leg., ch. 450, Sec. 1.03, eff. Sept. 1, 1999.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 435 (H.B. 3074), Sec. 4, eff. September 1, 2015.

Sec. 166.034. ISSUANCE OF NONWRITTEN DIRECTIVE BY COMPETENT ADULT QUALIFIED PATIENT. (a) A competent qualified patient who is an adult may issue a directive by a nonwritten means of communication.

(b) A declarant must issue the nonwritten directive in the presence of the attending physician and two witnesses who qualify under Section 166.003, at least one of whom must be a witness who qualifies under Section 166.003(2).

(c) The physician shall make the fact of the existence of the directive a part of the declarant's medical record, and the names of the witnesses shall be entered in the medical record.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Renumbered from Sec. 672.005 and amended by Acts 1999, 76th Leg., ch. 450, Sec. 1.03, eff. Sept. 1, 1999.

Sec. 166.164. FORM OF MEDICAL POWER OF ATTORNEY. The medical power of attorney must be in substantially the following form:

MEDICAL POWER OF ATTORNEY DESIGNATION OF HEALTH CARE AGENT.

I, _____ (insert your name) appoint:

Name:_____

Address:_____

Phone_____

as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this document. This medical power of attorney takes effect if I become unable to make my own health care decisions and this fact is certified in writing by my physician.

LIMITATIONS ON THE DECISION-MAKING AUTHORITY OF MY AGENT ARE AS

FOLLOWS:_____

_____

DESIGNATION OF ALTERNATE AGENT.

(You are not required to designate an alternate agent but you may do so. An alternate agent may make the same health care decisions as the designated agent if the designated agent is unable or unwilling to act as your agent. If the agent designated is your spouse, the designation is automatically revoked by law if your marriage is dissolved.)

If the person designated as my agent is unable or unwilling to make health care decisions for me, I designate the following persons to serve as my agent to make health care decisions for me as authorized by this document, who serve in the following order:

A. First Alternate Agent

Name:_____

Address:_____

Phone _____

B. Second Alternate Agent

Name:_____

Address: _____

Phone _____

The original of this document is kept at:

_____

_____

_____

The following individuals or institutions have signed copies:

Name: _____

Address: _____

_____

Name: _____

Address: _____

_____

DURATION.

I understand that this power of attorney exists indefinitely from the date I execute this document unless I establish a shorter time or revoke the power of attorney. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent continues to exist until the time I become able to make health care decisions for myself.

(IF APPLICABLE) This power of attorney ends on the following date: _____

PRIOR DESIGNATIONS REVOKED.

I revoke any prior medical power of attorney.

ACKNOWLEDGMENT OF DISCLOSURE STATEMENT.

I have been provided with a disclosure statement explaining the effect of this document. I have read and understand that information contained in the disclosure statement.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY. YOU MAY SIGN IT AND HAVE YOUR SIGNATURE ACKNOWLEDGED BEFORE A NOTARY PUBLIC OR YOU MAY SIGN IT IN THE PRESENCE OF TWO COMPETENT ADULT WITNESSES.)

SIGNATURE ACKNOWLEDGED BEFORE NOTARY

I sign my name to this medical power of attorney on _____ day of _____ (month, year) at

_____

(City and State)

_____

(Signature)

_____

(Print Name)

State of Texas
County of _____
This instrument was acknowledged before me on _____ (date) by _____ (name of person acknowledging).

_____
NOTARY PUBLIC, State of Texas
Notary's printed name:

_____
My commission expires:

_____

OR

SIGNATURE IN PRESENCE OF TWO COMPETENT ADULT WITNESSES

I sign my name to this medical power of attorney on _____ day of _____ (month, year) at

_____

(City and State)

_____

(Signature)

_____

(Print Name)

18-49

STATEMENT OF FIRST WITNESS.

I am not the person appointed as agent by this document. I am not related to the principal by blood or marriage. I would not be entitled to any portion of the principal's estate on the principal's death. I am not the attending physician of the principal or an employee of the attending physician. I have no claim against any portion of the principal's estate on the principal's death. Furthermore, if I am an employee of a health care facility in which the principal is a patient, I am not involved in providing direct patient care to the principal and am not an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility.

Signature:_____

Print Name:_____ Date:_____

Address:_____

SIGNATURE OF SECOND WITNESS.

Signature:_____

Print Name:_____ Date:_____

Address:_____

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 3.02(a), eff. Aug. 26, 1991. Renumbered from Civil Practice & Remedies Code Sec. 135.016 and amended by Acts 1999, 76th Leg., ch. 450, Sec. 1.05, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 134 (S.B. 651), Sec. 1, eff. January 1, 2014.

18.50

CHAPTER 19

Eventually a ward will die or become an adult. When either of these events happen, the guardianship must be closed according to law.

There are procedural steps that must be followed in closing a guardianship estate.

473235

LAST WILL AND TESTAMENT **PROBATE COURT 3**

OF

CORANDO R BALDERAZ

RECITAL

I, Corando R Balderaz, a resident of Harris County within the State of Texas, make, publish and declare this to be my Last Will and Testament, thereby revoking any and all previous Wills and Codicils made by me.

RELATIVES

I, Corando R Balderaz, attest that I am single.

I have 1 child. The name and birth date of my child are as follows:

CHILD NAME	BIRTH DATE	LIVING OR DECEASED
Angelita B Ybarra	06/13/1977	Living

All references in this Will to my "child" or "children" are to the aforementioned children, as well as any children subsequently born to or adopted by me.

All references in this Will to the Descendants of any person shall mean their naturally born children and/or legally adopted children, unless otherwise indicated, as well as any of their children's naturally born and/or legally adopted children throughout the generations to come.

BURIAL

All costs and expenses associated with my burial requests shall be paid from the life insurance, if any, and/or proceeds of my estate.

DEBTS & EXPENSES

Any and all my debts due and payable, including funeral, memorial and burial expenses, the expenses of the administration of my estate, all estate, inheritance and similar taxes payable with respect to property included in my probate estate, including any interest and/or penalties thereon, shall be paid out of my estate pursuant with the laws of the State of Texas, without apportionment or right of reimbursement from any beneficiary herein named in my Will.

REAL PROPERTY

I bestow and bequeath any interest which I may have in my home, including the real property and improvements, located at 2613 Kingsdale Dr, Deer Park, Texas 77536 owned by me at the time of my death along with all insurance policies upon my home, subject to any loans, mortgages or other encumbrances pursuant to the attached Schedule - Beneficiary Designations.

PERSONAL PROPERTY

I bestow all of my tangible personal property owned by me at the time of my death, including, without limitation, personal effects, clothing, jewelry, furniture, furnishings, household goods, automobiles and other vehicles, along with all insurance policies upon such tangible property, in accordance to those designated in the attached Schedule - Beneficiary Designations, and if any of them shall be under the age of eighteen (18) years, then it shall be held in trust until such time as (s)he becomes of age.

As per the attached Schedule - Beneficiary Designations to this Will, signed by me and identifying certain personal property which is to be bestowed upon the persons named therein, I direct my Executor to distribute such property in accordance with the terms and provisions contained herein.

The reasonable fee of delivering such property shall be paid by my Executor as an expense of my estate.

CASH, BANK ACCOUNTS, INVESTMENTS

I bestow and bequeath any interest which may belong to me at the time of my death in accordance to and in conjunction with the attached Schedule - Beneficiary Designations and a separately prepared account listing that details checking and savings accounts, certificates of deposit, cash, checks, notes and/or promissory notes designees.

RESIDUARY ESTATE

I bestow and bequeath all the rest, residue and remainder of my property and estate, both real and personal, of whatever kind and wherever located, including any inheritance I may be entitled to as well as any lapsed or void legacy or devise under this Will, that I own or am in any manner entitled to at the time of my death (collectively referred to as my "residuary estate"), to be divided among those as designated in the attached Schedule - Beneficiary Designations. If they are or if any of them shall be under the age of eighteen (18) years, then it shall be held in trust until such time as s/he becomes of age.

If there should be no living beneficiary under the above provisions to receive the assets in my residuary estate, then my residuary estate shall be distributed to the persons who would be entitled thereto under the laws of descent and distribution pursuant to the laws of the State of Texas, as if I had died intestate at that time owning such property in fee simple

TESTAMENTARY TRUST

Any property, assets or other distributions from my estate intended for a beneficiary under18 years of age at the time of distribution is to be made, shall not be paid or distributed outright to such beneficiary, but rather shall be held in trust by my Trustee, or if I have not named a Trustee, by my Executor in the capacity of a Trustee, upon the following terms and conditions.

The Trustee shall hold, manage, invest and reinvest the property of such beneficiary in a

separate trust and shall distribute to or for the benefit of the beneficiary so much or all of the net income or principal thereof as the Trustee, in the Trustee's sole discretion, shall deem necessary to provide for such beneficiary's health, education, maintenance and support, taking into consideration any other resources available to such beneficiary. Any net income not so paid shall be accumulated and added to principal at least annually and thereafter shall be held, administered and disposed of as a part thereof.

When such beneficiary reaches years of age, the Trustee shall distribute 100% of the assets then held in trust to such beneficiary; and if and when such beneficiary reaches years of age, the Trust shall automatically terminate and the Trustee shall distribute all remaining principal and income to such beneficiary. Notwithstanding any provisions herein to the contrary, my Trustee may determine it is in the best interests of the beneficiary to terminate the trust prior to such beneficiary reaching years of age and distribute all trust assets directly to such beneficiary or into a custodial account established for such beneficiary, and my Trustee shall have no liability therefore.

If such beneficiary dies prior to receiving all of the assets in his/her trust, the principal and income in such beneficiary's trust shall be paid and distributed to such beneficiary's living Descendants, if any; and if none, then to my living Descendants, provided, however, that if any such Descendant is a beneficiary of another trust under this Will, such property otherwise distributable to such beneficiary shall be held in accordance with such trust. If I have no living Descendants, such property shall be distributed to the beneficiaries of my residuary estate as provided in this Will, or if there are none, to the persons who would be entitled thereto under the laws of descent and distribution of the State of Texas if I had died intestate at that time owning such property in fee simple.

SPECIAL NEEDS TRUST

Any property, assets or other distribution from my estate intended forBelinda Martinez, Sibling, shall not be paid or distributed outright to such beneficiary but shall instead be held in trust by my Trustee, or if I have not named a Trustee, by my Executor in the capacity of a Trustee, upon the following terms and conditions.

The Trustee shall hold, manage, invest and reinvest such trust property, and may distribute to or for the benefit of the beneficiary so much or all of the net income or principal thereof as the Trustee, in the Trustee's sole and absolute discretion, may deem necessary or advisable, taking into consideration all factors the Trustee deems pertinent, including any benefits such beneficiary otherwise receives or may receive as a result of any handicap or disability from any local, state or federal government or agencies, or from any private agencies which provides services or benefits to handicapped persons. Any income not paid out or used currently shall be accumulated and added to the principal of the trust.

It is my desire that this trust provide such beneficiary with a higher quality of life than that provided by entitlement and other assistance programs, and that such beneficiary receive distributions from this trust in addition to any benefits received as a result of any handicap or disability from any local, state or federal government or agency, or from any private agencies which provides services or benefits to handicapped persons. The Trustee shall be guided by this consideration in determining the amounts to be distributed to such beneficiary hereunder, and

any trust distributions will supplement, rather than supplant, any benefits which such beneficiary receives or may receive from any government or agency. The Trustee shall take into consideration the applicable resource and income limitations of any public and private entitlement and assistance programs for which such beneficiary is or may be eligible in deciding whether to make any discretionary distributions hereunder, and shall undertake a comprehensive annual review of any such programs for which such beneficiary is or may be eligible.

In the event the Trustee is request by any department or agency to release principal or income of this trust to or on behalf of my child or beneficiary, to pay for equipment, medication or services that any such organizations or agencies are authorized to provide, or in the event the Trustee is requested by any department or agency administering such benefits to petition a court or any other administrative agency for the release of trust principal or income for this purpose, the Trustee is authorized to deny such request and is authorized to defend, at the expense this trust, any challenge or other attack of any nature on the assets in this trust.

The Trustee shall consult periodically with those persons or institutions, if any, providing such beneficiary with professional or personal services, including, but not limited to, health care, developmental, therapeutic and educational services, regarding such beneficiary's development and capabilities. Such periodic consultations shall form the basis for any adjustments which need to be made in the amount and frequency of distributions from the trust to or for the benefit of such beneficiary to reflect any changes in my child's or beneficiary's physical and mental development.

The Trustee may also distribute to such beneficiary that portion of the principal which the Trustee believes the beneficiary is capable of managing outside the trust, if the Trustee deems such an exercise of management powers by the beneficiary over such property to be in the beneficiary's best interest. The Trustee shall carefully consider the effect of any distribution hereunder on the beneficiary's eligibility for local, state or federal entitlement and assistance programs which provide services or benefits to handicapped persons.

If such beneficiary dies before receiving all of the assets held in trust, the principal and income in such beneficiary's trust shall be paid and distributed to such beneficiary's living Descendants, if any; and if none, then to my living Descendants, provided, however, that if any such Descendant is a beneficiary of another trust under this Will, such property, otherwise distributable to such beneficiary shall be held in accordance with such trust. If I have no living Descendant, such property shall be distributed to the beneficiaries of my residuary estate as provided in this Will, or if there are none, to the persons who would be entitled thereto under the laws of descent and distribution of the State of Texas as if I had died intestate at that time owning such property in fee simple.

AVOIDANCE OF CONSERVATORSHIP

If any property of my estate vests in absolute ownership in a minor or incompetent, my Executor, at any time and without court authorization, may:

a) distribute the whole or any part of such property to the beneficiary;

b) hold such property in trust and use the whole or any part for the health, education, maintenance and support of the beneficiary;

c) distribute the whole or any part to a guardian, conservator, committee or other legal representative of the beneficiary;

d) distribute the whole or part to a custodian for the beneficiary under any gifts or transfers to minors act; or

e) distribute the whole or part to the person or persons with whom the beneficiary resides.

Evidence of any such distribution or the receipt therefor executed by the person to whom the distribution is made shall be a full discharge of my Executor from any liability with respect thereto, even though my Executor may be such person.

If such beneficiary dies before receiving all of the assets held in conservancy, the principal and income in such beneficiary's trust shall be paid and distributed to such beneficiary's living Descendants, if any; and if none, then to my living Descendants. If I have no living Descendants, such property shall be distributed to the beneficiaries of my residuary estate, as provided in this Will, or if there none, to the persons who would be entitled thereto under the laws of descent and distribution of the State of Texas as if I had died intestate at that time owning such property in fee simple.

SPENDTHRIFT PROVISION

The interest of any beneficiary of any trust created under this Will shall not be transferred, assigned or conveyed, and shall not be subject to the claims of any creditors of such beneficiary, or of any local, state or federal government or agency, or of any private agencies, and the Trustee, or if I have not named a Trustee, by my Executor in the capacity of a Trustee, shall continue distributing trust property directly to or for the benefit of such beneficiary as provided for herein, notwithstanding any transfer, assignment, conveyance or action by creditors governments or agencies. If the Trustee is prevented by any transfer, assignment or conveyance or by any proceeding brought by any creditor, government or agency or by any bankruptcy, receivership or other proceeding, from distributing property directly to or for the benefit of any beneficiary, the Trustee shall hold and accumulate the property which would otherwise have been distributed until the Trustee is able to distribute such property directly to or for the benefit of such beneficiary, or until the death of such beneficiary, whichever first occurs; and on the death of such beneficiary any such property so held and accumulated shall become a part of the principal of the trust and shall be disposed of accordingly.

APPOINTMENT OF EXECUTOR/TRUSTEE

I appoint Belinda Martinez, Sibling, to serve as Executor of my Will. If my Executor is unwilling or unable to serve, I appoint Rosario Noyola, Sibling, to serve as the Alternate Executor of my Will.

I appoint Belinda Martinez, Sibling, to serve as Trustee of any trust created under this Will. If my Trustee is unwilling or unable to serve, I appoint Rosario Noyola, Sibling, to serve as Alternate Trustee of any trust created under this Will.

I appoint Belinda Martinez, Sibling, to serve as Digital Executor of my Will. If my Digital Executor is unwilling or unable to serve, I appoint Rosario Noyola, Sibling to serve as the Alternate Digital

Executor of my Will.

BONDS/AUDITS NOT REQUIRED

The term "Fiduciary" shall mean any Executor, Trustee or successor qualifying and serving under this Will.

No Fiduciary shall be required to file or furnish any bond, surety or other security in any jurisdiction, nor shall any Fiduciary hereunder be required to file any inventory or other reports with any court.

No Fiduciary shall be required to inquire into or audit the acts or doings of any predecessor Fiduciary or to make claim against any such predecessor or their estate.

POWERS OF EXECUTORS/TRUSTEES

Any Executor or Trustee serving under this Will shall be a Fiduciary granted all the powers conferred by Texas laws, as amended.

Any successor Fiduciary shall have and may exercise all of the powers, privileges, immunities and exemptions conferred upon the predecessor Fiduciary as fully and to the same extent as if such successor had originally been named as a Fiduciary. Any Fiduciary serving hereunder shall keep full accounts and shall make and furnish statements of all receipts and disbursements at least annually to each person then eligible to receive income from my estate or any trust created hereunder and shall at any time, upon reasonable request of such person, provide full information to such person as to the condition of my estate, including amounts received and disbursements made.

Any Fiduciary under this Will may resign without the order of any officer or court and without consent of any beneficiary of any provision of this Will by giving such Fiduciary's successor and all persons then entitled to receive income hereunder, or the guardians of such persons, thirty (30) days advance written notice of such intent to resign, or at any time resign by instrument in writing signed by such Executor or Trustee and delivered to the persons then entitled to the income from my estate or such trust. In the case of an Executor, the Fiduciary must also give notice to the Court having jurisdiction over the administration of my estate; and upon properly accounting for all estate property received and disbursed, shall be discharged from any and all further liabilities. In the case of a Trustee, the Fiduciary must deliver the trust property to the successor Trustee and upon properly accounting for all trust property received and disbursed, shall be discharged from any and all further liabilities.

If a successor Fiduciary is unable or unwilling to serve, they may appoint a second successor Fiduciary to serve in their place, by sending a signed instrument appointing a successor delivered to each living beneficiary under my Will making express reference to this power and the second successor Fiduciary may exercise powers upon a prospective and contingent basis until effective:

To compensate counsel and to employ other persons who may be deemed necessary for proper administration and to delegate authority when delegation is advantageous to the trust or estate.

To exercise and continue the power provided in this section notwithstanding the termination of the trust until all assets of the trust has been distributed.

The right to receive reasonable compensation for services rendered with regards to this Will, and to be exonerated from and to pay all reasonable expenses and charges of the estate and trust.

POWERS OF DIGITAL EXECUTOR

My Digital Executor shall have the power granted by law for proper administration to manage, distribute, handle, download, backup digital assets, convert my file format, access any and all devices necessary to manage digital assets, clear computer caches and distribute and dispose of my digital assets in accordance with this Will without order of court and without notice to anyone. In additional, the Digital Executor shall also have the rights, powers and authority as follows:

Standard of Care

The customary "Standard of Care" shall include, but is not limited to, the distribution, management, or termination of digital assets, the exercising of care and judgment, under the circumstance then current and prevailing, of persons of cautiousness, acumen and good judgment in the exercise and management of their own affairs, with regards to the handling of their own personal digital assets, and taking into consideration the plausible safety of their digital assets.

Engage Professional Assistance

The Executor shall have the appropriate power and mandate to hire, employ, or dismiss, and compensate any professional assistants deemed necessary, or to hire and employ any other persons which may become necessary in order to ensure the proper administration of this Will, as well as the power to delegate authority to another when such delegation would be deemed beneficial to the management and distribution of the estate and/or trust.

Extent of Power

The Executor shall have the power and authority to implement and maintain the rights provided hereunder this Will, despite any dissolution or cessation of any trust which may be allocated herein, until such time as all assets of the trust have been distributed accordingly.

Compensation

The right and authority to be exonerated from, to pay all reasonable expenses and charges of the estate and/or trust and to receive reasonable compensation for services rendered under and in accordance to this Last Will and Testament.

Informal Administration

The herein named Digital Executor shall have all rights and authority to control and manage the digital assets, if any, to the extent allowable by law without any undue or unnecessary intervention or interference by the probate court.

APPOINTMENT OF DIGITAL EXECUTOR

Distributed digital assets, in accordance to this Will, shall include any and all files stored on my digital devices, including but not limited to, desktops, laptops, tablets, peripherals, storage

devices, mobile telephones, smartphones, and any similar digital device which currently exists or may exist as technology develops or such comparable items as technology may develop in the future. The term "digital assets" also includes but is not limited to emails, received and sent, email accounts, digital music, digital photographs, digital videos, software licenses, social network accounts, file sharing accounts, financial accounts, domain registrations, DNS service accounts, web hosting accounts, tax preparation service accounts, online stores, affiliate programs, other online accounts and similar digital items which currently exist or may exist as technology develops or such comparable items as technology may develop in the future, regardless of the ownership of the physical device upon which the digital item is stored.

I appoint Belinda Martinez, of , , as Digital Executor. In the event that Belinda Martinez declines to serve for any reason, I then wish to appoint Rosario Noyola, of , to serve as my Digital Executor.

SURVIVORSHIP

I direct that, for purposes of this Will, a beneficiary shall be deemed to predecease me unless such beneficiary survives me by more than thirty (30) days.

CONTESTS DISALLOWED

Should any beneficiary contest or initiate proceeding to contest the validity of this Will or to prevent any provision herein from being carried out in accordance with its terms (whether or not in good faith and with probable cause), then all the benefits provided for such contesting beneficiary in this Will, including their Descendants, shall be revoked and annulled.

The share to which such contesting beneficiary would otherwise have been entitled shall be distributed to such persons and in such manner as if such contesting beneficiary and all of such beneficiary's Descendants had died immediately prior to such division without exercising any power of appointment which they might otherwise have under this Will.

If all of the persons who are beneficiaries of this Will join in such contest or proceeding, my estate shall be distributed to any of those persons who are not contesting beneficiaries and who would otherwise be entitled thereto under the laws of descent and distribution of the State of Texas, as if I had died intestate at that time owning such property in fee simple.

10/31/18 ***IN WITNESS WHEREOF***, I have set my hand and seal on this date of _____.

LUIS RENDON
Notary ID # 130936923
My Commission Expires
December 16, 2020

(Testator Signature)

TESTATION CLAUSE

The foregoing instrument was signed, sealed, published and declared by Corando R Balderaz, the above named Testator to be such Testator's Last Will and Testament in our presence, all being at the same time, and we, at such Testator's request and in such Testator's presence and in the presence of each other, have subscribed our names as witnesses on the aforementioned date above.

(First Witness Signature)
Jennifer Morgan
11245 West Rd Apt 916
Houston Texas 77065
7138068756

(Second Witness Signature)
Margaret Bilski
1022 Curtin St
Houston Texas 77018
7134984035

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SELF-PROVING AFFIDAVIT

STATE OF TEXAS

COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared the Testator, Corando R Balderaz, and the witnesses, Jennifer Morgan and Margaret Bilski, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and all of said individuals being duly sworn, the Testator declared to me and to the witnesses in my presence that said instrument is the Last Will and Testament of the Testator and that the Testator had willingly made and executed it as the Testator's free act and deed for the purposes expressed therein. The witnesses, each on oath, stated to me in the presence and hearing of the Testator that the Testator had declared to them that the instrument is the Testator's Last Will and Testament and that the Testator executed the instrument as such and wished each of them to sign it as it as a witness; and under oath each witness stated further that the witness had signed the same as witness in the presence of the Testator and at the Testator's request; that the Testator was of sound mind and body.

Corando R Balderaz
(Testator Signature)

Jennifer Morgan
(First Witness Signature)

(Second Witness Signature)

Sworn to and subscribed before me by the Testator, Corando R Balderaz, and witnesses, Jennifer Morgan and Margaret Bilski, on this date of 10/21/18.

LUIS RENDON
Notary ID # 130936923
My Commission Expires
December 16, 2020

(Notary Public Signature)

My Commission Expires Dec 16th 2020

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SCHEDULE - BENEFICIARY DESIGNATIONS

BENEFICIARY NAME	RELATIONSHIP	BEQUEATHED INHERITANCE	INHERITANCE PERCENTAGE
Belinda Martinez	Sibling	all assets	100%

(Testator Signature)

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HARRIS COUNTY, TEXAS

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Woman conceals past convictions to access granddaughter's estate

By Bruce Vielmetti
MILWAUKEE JOURNAL SENTINEL

MILWAUKEE — Probate courts generate plenty of stories about bad guardians, people appointed by a court to look after a ward's well-being or finances when they are too young or otherwise unable to take care of themselves.

Then there's Betty Coleman.

Prosecutors say she lied about her criminal past to be named guardian of her own granddaughter's suddenly flush estate. The girl, under 14 at the time, had been left $50,000 when Coleman's ex-husband died.

Within five months, according to civil and criminal charges, Coleman had spent all the money, and not for the girl's best interests. It went for alcohol, cigarettes, wigs, back rent and dozens of cash withdrawals.

Coleman, 56, even spent some of the money on her current husband — who is serving a prison sentence for sexually assaulting the same girl years earlier.

Meanwhile, the girl was living in an unfurnished room with another relative, and sleeping on an uninflated air mattress.

Coleman's misdeeds were first uncovered in probate court in 2013, and her granddaughter won a default judgment for $150,000 against Coleman in 2014 on claims of theft, conversion, fraud, breach of fiduciary duty and other claims.

Last month, prosecutors charged Coleman with embezzlement and contempt of court. She pleaded not guilty and is currently free on $500 bail and working on a plea deal, according to court records.

According to the complaint and civil court records:

After Coleman's ex-husband died in 2012, it was learned that a life insurance policy paid $50,000 to Coleman's granddaughter. Coleman and the man (who is not being named to protect the identity of the girl) divorced in 2007.

In 2013, Coleman applied to Milwaukee County Probate Court to be appointed guardian of the girl's new estate. Under oath she disclosed that she was convicted in 1998 of using her parents' credit card without their consent.

But she did not reveal four other convictions — for theft, forgery and identity theft — she had under another name.

She was appointed guardian in April and got two checks in May totaling $50,000. But despite specific orders that $20,000 be deposited and not touched until the girl turned 18, and that the other money be managed for the girl's interests, Coleman immediately began spending the money on herself.

19-a

REVIEW

Mary needs advice. Her mother suffers from dementia. Her doctor has told you that she can no longer handle her affairs but will not give her a doctor's letter due to HIPPA concerns. How would you proceed?

Susie's only asset is her Social Security funds. She is not paying her bills. How would you proceed?

John has come to see you. He is 80 years old. His son lives with him.He tells you that his son threatens to put him in a nursing home and has not fed him from time to time when the son doesn't get his way.

Mary come to see you. She is a young 70 but is concerned that she may have the beginnings of dementia. What would you recommend?

Joan comes to see you. Her 10 year old daughter has just inherited a house that belonged to her uncle. She now owns 1/5 of it. It is valued at $200k. The rest of the heirs want to sell it.

Norma is starting to travel a lot since she retired. She is concerned about her bills being paid. She has a daughter who is very close to her.

Jack is grandfather to Jim who has Autism. He wants to leave Jim $50k in his will. How would you proceed?

Minnie has just inherited $600,000 due to the death of her father. Her mother works at WalMart. You have been appointed Ad Litem because the mother has filed for guardianship. What would you recommend?

Suzie has come to see you about establishing a guardianship of the person and estate for her mother. The estate is $250k but the bond company will only insure Suzie for $50K. What do you do?

Martha is having you do her estate planning. She is concerned should she need a guardianship that Lester might want to be her guardian. She does not want Lester to serve and wants Mandy. How do you proceed?

Robert has a $3 million estate. $1 million is land in Oklahoma. He wants you to advise him. What would you advise him to do?

Dan has a $5 million estate which consists of a lot of rental property. He is concerned that should he become incapacitated that his wife Dixie would not be able to manage the estate. Also upon his death she would not be able to manage the estate. What would your advice be?

Sam has been under a guardianship for over a year. He had a stroke. However with rehabilitation treatment, he is almost back to normal. What would you do?

Chapter 20:

Review

479588 PROBATE COURT 3

LAST WILL AND TESTAMENT
OF
NANCY REDDIN KIENHOLZ

I, NANCY REDDIN KIENHOLZ, of Harris County, Texas, make this my Last Will and Testament, and I revoke all Wills and Codicils previously made by me. I am a citizen of the United States of America.

ARTICLE I.
Identification

A. **Marital Status.** I am the widow of **Edward Kienholz**.

B. **Children.** I have one biological child, **Christine Kienholz Kerr**. My late husband had two children from a previous marriage, **Jennette Eaton Kienholz** and **Noah Lawrence Kienholz**. I adopted Jennette Eaton Kienholz and Noah Lawrence Kienholz as my children. All references in this Will to "my children" are to Christine Kienholz Kerr, Jennette Eaton Kienholz, and Noah Lawrence Kienholz, and all references to "my descendants" are to them and all of their children.

C. **Grandchildren**. I have two grandchildren **Leah Kerr** and **Nicholas Doyle**.

ARTICLE II.
Memorandum and Cremation Direction

A. **Memorandum.** I request that the beneficiaries of my estate and my Executor honor the provisions of any memorandum written by me directing the disposition of any portion of my personal and household effects.

B. **Cremation Direction**. I direct that my remains be cremated and that my ashes be placed in the automobile in which my predeceased husband is buried.

ARTICLE III.
Specific Bequests

A. **Tangible Personal Property.** I give all of my interest in any motor vehicles, household goods, appliances, furniture and furnishings, pictures, silverware, china, glass, books,

473187

LAST WILL AND TESTAMENT

THE STATE OF TEXAS
COUNTY OF HARRIS

KNOW ALL MEN BY THESE PRESENTS:

I, ABDUL HANNAN KHAN, a resident of 13719 NEILS BRANCH DR. HOUSTON, TX-77077 County of HARRIS State of TEXAS, above the age of 18 years, hereby declare this instrument to be my Last Will and Testament, hereby revoking all wills made by me before this date.

Preamble

I bear witness that there is no deity worthy of worship besides Allah, the One, the Merciful, Almighty God—Creator of the Heavens and the Earth and all therein—God of Ibrâhim (Abraham), Musa (Moses), Isa (Jesus), Muhammad and all the other Prophets, may peace be upon them all; and I bear witness that Muhammad, peace be upon him, is His servant and His Rasool and is the last of the chain of the Prophets.

This is my counsel to my relatives and friends, my Muslim brothers and sisters, and all those who remain after me: that they should strive to be true Muslims. They should worship Allah alone as He should be worshiped and fear Him as He should be feared in conducting their affairs. They should love Him and His Prophet Muhammad, peace be upon him, with a complete love. Let them obey Him and hold fast to His Shari'ah. Let them spread and firmly establish His Deen of Al-Islam, and let them die only in a state of complete submission to His will as a Muslim.

Finally, I ask all my relatives, friends and all others - whether they choose to believe as I believed or not - to honor my Constitutional Rights to these beliefs. I ask to honor this document which I have made, and not to change it in any way. Rather, let them see that I am buried as I have asked to be buried and let my properties be divided as I wanted them to be divided.

Article I
Funeral and Burial Rites

I ordain that no autopsy or embalmment be done on my body unless required by law, that without unjustified delay my body be washed, wrapped with cloth free of any

 Abdul Khan

ornaments and other articles, pray Salat-ul Janaza and then buried, which should be done by Muslims in compliance with the Religion of Al-Islam.

A. I hereby nominate and appoint RUSHMAT ARA KHAN

Social Security # ——— Driving License or I.D. # ———
to execute these and other necessary provisions for my proper Islamic funeral and burial. In the event that he/she is unwilling or unable to execute,

I nominate and appoint RIDWAN KHAN

Social Security #. ——— Driving License or I.D. # ———
to execute these provisions. And in the event that both of them are unwilling or unable to execute, I nominate and appoint the local Muslim community in the area where I died to execute these provisions of funeral and burial.

B. In the event of legal difficulties in the execution of this Article, I direct the above-named persons to seek counsel form the Islamic Society of North America (ISNA) or the Islamic Society of Greater Houston (ISGH), 3110 Eastside St., Houston Texas 77098.

C. I ordain that absolutely no non-Islamic religious service or observance shall be conducted upon my death, or on my body.

D. I ordain that my body shall be buried without casket or any other encasement that separates the wrapped body from the surrounding soil. In the event that the local laws require casket encasement, I ordain that such encasement be of the simplest, most modest, and least expensive type possible.

E. I ordain that my grave be level with the ground or slightly mounded with no construction of any kind. The marking, if necessary, should be a simple rock, merely to indicate the presence of a grave.

Article II

Debts and Expenses

A. I direct that all trust properties shall be returned to the rightful owners. I further direct that my executor hereinafter named first apply the assets of my estate to the payment of all my legal debts—including such expenses incurred by my last illness and burial as well as the expenses of the administration of my estate. I direct said executor to pay any outstanding "obligations to Allah" (Huqúq Allah) which are binding on me including unpaid Zakah, Kaffarat or unperformed Hajj.

B. I direct that all inheritance, estate and succession taxes (including interest and penalties thereon) payable by reason of my death shall be paid out of and be charged generally against the principal of my residuary estate .

Article III

Charitable Contributions and Testamentary Transfer

I direct my executor to pay the Testamentary awards and charitable contributions to the following named persons and organizations. I further direct that the combined total in these categories must not exceed 1/3rd of the net estate after deducting the payments stated in Article #II above. If the award in this article exceed 1/3rd, then each award should be reduced proportionately:

A. Name of Person/s _____

_____

_____

_____

B. Organization/s _____

_____

_____

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HARRIS COUNTY, TEXAS

Article IV
Distribution of Remainder of My Estate

A. I direct and bequeath t[redacted]der of my estate after the execution of Articles II and III be distributed to my following heirs, provided these heirs survive me, as follows:

	Name	Relationship	Share
1.	RUSHMAT ARA KHAN.	WIFE	12.5%
2.	RIDWAN KHAN.	SON	35%
3.	RUBANA KHAN.	DAUGHTER	17.5%
4.	HAMZAH RASHAAD KHAN.	SON	35%

B. Should I die as a result of murder, I direct that the adjudged murderer, principal or accessory in the murder, shall be disqualified to receive any part or share of my estate.

C. I direct that any fetus, conceived before my death, whose relationship to me qualifies it to be an heir according to this Article shall be considered an heir if the fetus is born alive within a maximum of 355 days of my death. I further direct that, whenever there exists a fetus who may become an heir according to this section, the whole distribution of the residue and remainder of my estate after the execution of Articles II and III, shall be delayed until after the birth of the fetus, and distribution of the remainder of my estate be adjusted in accordance with Exhibit 'A' attached herewith.

D. I direct and ordain that any bequest that lapse due to the fact that a legatee predeceased me or any bequest that is disclaimed or refused by any of the legatees named or referred to in this Last Will and Testament shall be given to The Islamic Center/Society of _____ for Islamic Education, Da'wah or Endowment Fund.

Article V
Separability

I direct and ordain that if any part of this Last Will and Testament is determined invalid by a court of competent jurisdiction, the other parts shall remain valid and enforceable.

Article VI
Executor and Guardian

I hereby nominate and appoint RUSHMAT ARA KHAN

Social Security # [redacted]421 Driving License or I.D. # _____
to be the executor of this, my Last Will and Testament.

In the event that he/she is unwilling or unable to act as executor, I nominate and appoint RIDWAN KHAN.

Social Security # _____ 37 Driving License or I.D. # _____
to be the executor of my Will.

I give my executor herein named power to settle any claim for or against my estate for this purpose if need arises I give my executor the power to sell any property, real, personal or mixed, in which I have an interest, without court order and without bond. I direct that no bond or surety for any bond be required from my executor in the performance of his/her duties.

If my spouse RUSHMAT ARA KHAN should not survive me,

I appoint RIDWAN KHAN

Social Security # [redacted]437 Driving License or I.D. #
as guardian, if a guardian be necessary during the minority or other disability of any of my child, and I direct that no bond shall ever be required of any such guardian.

SIGNED at Houston TX on the 20 day of DECEMBER 20 06
in the presence of the undersigned witnesses who have attested this instrument at my request.

Testator ABDUL HANAN KHAN

The above instrument is published this 20th day of December 20 06
as the last Will and Testament and signed by ABDUL HANAN KHAN,
the testator, in our presences, and we in the presence of one another, sign our names.

Witness #1 MOHAMMAD AJNAL HAQUE — Name — Signatures

Witness #2 Mahidur R. Chowdhury — Name — Signatures

Witness #3 AMINA CHOWDHURY — Name — Signatures

THE STATE OF TEXAS
COUNTY OF HARRIS

Before me, the undersigned authority, on this day personally appeared

ABDUL HANAN KHAN [redacted] (testator), and
Name D.L. or I.D.#

MOHAMMAD AJNAL HAQUE TDL [redacted] Witness #1),
Name D.L. or I.D.#

Mahidur R. Chowdhury [redacted] (Witness #2),
Name D.L. or I.D.#

AMINA CHOWDHURY [redacted] (Witness #3),
Name D.L. or I.D.#

whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said testator, declared to me

and the said witnesses in my presence that said instrument is his/her Last Will and Testament, and that he/she had willingly made and executed it as his/her free act and deed for the purposes therein expressed; and the said witnesses, each on their oath stated to me in the presence and hearing of said testator, that the said testator had declared to them that the said instrument is his/her Last Will and Testament, and that he/she executed the same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said testator and at his/her request ; that he/she was at the time eighteen years of age or over (or, being under such age, was or had been lawfully married, or was then a member of the armed forces of the United States or of an auxiliary thereof or of the Maritime Service) and was of sound mind; and that each of said witnesses was then at least fourteen years of age.

Testator: _____

Witness #1 _____

Witness #2 _____

Witness #3 _____

Subscribed and acknowledged before me by the said Testator, and
Subscribed and sworn to before me by the said Witnesses

this 20 day of December, 2006 A.D.

SHARON E. MORGAN
NOTARY PUBLIC
(Seal)
STATE OF TEXAS
EXPIRES
10-23-2009

_____
Notary Public HARRIS County, TEXAS

Printed Name of Notary Public: SHARON E. MORGAN

This document is made in three copies, all the same and all original.
One copy is with me, one is deposited with

_____

and one with the Executor.

Sixth Page of My Last Will and Testament _____

UNOFFICIAL

EXHIBIT 'A'

THE ISLAMIC LAW OF INHERITANCE

Allah's Commandment in the Holy Qur'an

In the name of Allah, the Compassionate, the Merciful.

"For every parent and relative We have appointed the rightful heirs to inherit what they leave. As for those with whom you have made firm agreements, give them their share. Surely Allah is a Witness to every thing". 4: [33]

"Allah commands you concerning your children: that the share of a boy shall be twice that of a girl. In case where there are more than two girls, their share will be two thirds of the estate; but if there is only one girl, her share will be one half of the estate. If the deceased left children, each of the parents shall get one sixth of the estate; but if the deceased left no children and parents are the only heirs, the mother shall get one-third of the estate; but if the deceased left brothers and sisters, then the mother will get one-sixth. *(The distribution in all cases shall be)* after fulfilling the terms of the Will and the payment of Debts. With regards to your parents and children, you do not know who is more beneficial to you, therefore, Allah issued this ordinance. Indeed Allah is the Knowledgeable, Wise. You shall inherit one-half of your wives estate if they leave no child, but if they leave a child then you will get one-fourth of their estate; after fulfilling the terms of their Will and the payment of Debts. Your wives shall inherit one-fourth if you leave no child; but if you leave a child then they shall get one-eighth of your estate; after fulfilling the terms of your Will and the payment of Debts. If a man or a woman leave neither ascendant nor descendants but has left a brother or a sister, they shall each inherit one-sixth; but if they are more than two they shall share one-third of the estate; after fulfilling the terms of the Will and the payment of debts; without prejudice to the rights of the heirs. Thus is the commandment of Allah. Allah is the Knowledgeable, Forbearing". 4: [11-12]

"They ask you for a legal decision *(relating to inheritance in the case of a childless person)*. Say: Allah gives you His decision about those who leave no descendants or ascendant as heirs. If a man dies childless and leaves behind a sister, she shall inherit one-half of his estate. If a woman dies childless, her brother will inherit all of her estate. If the childless person leave behind two sisters, they both shall inherit two-thirds of his estate; but if he leaves more than two brothers and sisters, the share of each male shall be equal to that of two females. Thus Allah make His commandments clear to you lest you go astray. Allah has perfect knowledge of every thing". 4: [176]

In a case where an assistance in the interpretation of the above Law of Inheritance is needed, the Executor shall seek guidance from:
The Islamic Society of North America (ISNA) - or - The Islamic Society of Greater Houston (ISGH)

 Ali Allen mz

438092

PROBATE COURT 3

LAST WILL AND TESTAMENT
OF
LYNN STEWART REED

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS §

That I, **LYNN STEWART REED**, residing and being domiciled in Harris County, Texas, being of sound and disposing mind and over the age eighteen (18) years, and not being actuated by any duress, menace, fraud, mistake, or undue influence, do make publish and declare this to be my last Will and Testament, hereby expressly revoking all Wills and Codicils previously made by me.

ITEM I
EXECUTORSHIP

A. **Executor:** I hereby appoint my daughter, **BELINDA RAMIREZ** as Independent Executrix of this Will and of my estate. Should **BELINDA RAMIREZ** fail to qualify or serve as my Independent Executrix, then in that event and only in that event I appoint my son-in-law, **JULIO RAMIREZ**, as my Independent Alternate Executor. My Independent Executrix or Independent Alternate Executor, whether original, substitute, or successor, is referred to as my "Executor" in this instrument.

Lynn Stewart Reed
LYNN STEWART REED, Testator

1.

PURPORTED WILL

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B. **COMPENSATION and BOND.** My Independent Executor shall receive no compensation for acting as Executor, and no Executor shall be required to furnish bond or any other security.

C. **Powers.** Whether or not my estate is indebted to any person, I give unto my Executor from the date of granting letters until my estate has been entirely distribute, the same rights, powers, authority, privileges and duties that are given to trustees by the provisions of the **Texas Probate Code and Texas Property Code**, in addition to all other given to Independent Executors by law.

D. **Limitation of Court Supervision.** I direct that no other action shall be in the County Court in relation to the settlement of my estate other than probating and recording of my Last Will and the return of the Inventory, Appraisement and List of Claims of my estate.

E. **Time and Method of Distribution.** I direct my Executor to distribute my estate as soon as possible after my death and my Executor is authorized to make such distribution in cash or in kind or partly in cash and partly in kind, and my Executor is further authorized to distribute my estate subject to any and all indebtedness incurred by me and by my Executor which in the opinion of my Executor need not first be paid, and subject to any and all mortgages, deeds of trust or other liens created by me or by my Executor.

Lynn Stewart Reed
LYNN STEWART REED, Testator

PURPORTED WILL

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ITEM II
DISPOSITION OF ESTATE

I give, devise, and bequeath my estate as follows:

2. A. $10,000.00 to each sibling:

to my daughter, BELINDA RAMIREZ

to my daughter, BARBARA WEATHERSPOON

to my daughter, DEBORAH ANDERSON

to my daughter, PATRICIA GOODENOUGH

to my son, FRANCIS REED

2.B. to my granddaughter, ANITA HAMILTON (20% at my death, and 20% per year thereafter, till the $10,000.00 is depleted).

2.C to my grandson , DANIEL HAMILTON (20% at my death, and 20% per per year thereafter, till the $10,000.00 is depleted).

2.D to my daughter, CASSANDRA BAUMANN, I give my house located at 2211 San Jacinto, Pasadena, Texas. Contents of house to be shared equally to all my siblings.

2.E to all my siblings, my lake house in Livingston, Texas, share and share alike, including the expense of up keep to the property, and taxes owed each year.

LYNN STEWART REED, Testator

PURPORTED WILL

ITEM III
MISCELLANEOUS PROVISIONS

A. **Invalid provisions.** If any part of this Will shall be invalid, illegal, or inoperative, for any reason, it is my intention that the remaining parts, so far as possible and reasonable, shall be effective and fully operative. My Executor may seek and obtain Court instructions for the purpose of carrying out as nearly as may be possible the intention of this Will as shown by the terms hereof, including the term held invalid, illegal or inoperative.

B. **Headings.** The headings which have been used throughout this Will have been inserted for administrative convenience only and do not constitute matter to be construed in interpreting this Will.

C. **Incontestability Clause.** Should anyone contest this Will or distribution of my estate under this Will, then it is my intention that that person not share in the distribution of my estate and shall be expressly disinherited.

Lynn Stewart Reed
LYNN STEWART REED, Testator

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PURPORTED WILL

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ITEM IV

IN WITNESS WHEREOF, I the said **LYNN STEWART REED,** hereby set my hand to this, my Last Will, typewritten on seven (7) sheets of paper (including an attestation clause, signature of witnesses and attached affidavit) upon each one of which my name this 3rd **day of April, 2007.**

On this 3rd **day of April, 2007, LYNN STEWART REED,** declared to us, the undersigned LISA M. THEROUX **and** DONALD K. MICHAEL being over the age of sixteen (16) years, that the foregoing was his Last Will and he requested us to act as witnesses to the same and to his signature thereon. He thereupon signed said Will in our presence, we being present at the same time, and we now at his request and in his presence and in the presence of each other do hereunto subscribe our names as witnesses. We and each of us declare that we believe **LYNN STEWART REED** to be of sound mind and memory.

Lynn Stewart Reed
LYNN STEWART REED, Testator

Lisa M. Theroux
Witness - LISA M. THEROUX
Address - 2402 BURKERD, PRANKLIN, TX 77502

Donald K Michael
Witness - DONALD K. MICHAEL
Address - 5242 BERRY CREEK, HOUSTON, TX 77017

PURPORTED WILL

STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared LYNN STEWART REED, LISA M THEROUX and DONALD K. MICHAEL known to me to be the Testator and witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their capacities, and all said persons, being by me duly sworn, the said Testator declared to me and the witnesses, in my presence, that said instrument is his Last Will and Testament and that he had willingly made and executed it as his free act and deed for the purposes therein expressed, and the said witnesses on their respective oaths, stated that he had willingly made and executed it as his free act and deed for the purposes therein expressed, and the said witnesses, on their respective oaths, stated to me in the presence and hearing of the said Testator, that the said Testator had declared to them said instrument is his Last Will and Testament and that he executed the same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of the said Testator and at his request, and that he was at the time over eighteen (18) years of age and was of sound; mind and that each of said witnesses was then at least (16) years of age.

Lynn Stewart Reed
LYNN STEWART REED, Testator

Lisa M. Theroux
Witness - LISA M THEROUX

Donald K. Michael
Witness - DONALD K. MICHAEL

PURPORTED WILL

SUBSCRIBED AND SWORN TO BEFORE ME by the said LYNN STEWART REED, Testator, and subscribed and sworn to before me by the said LISA M. THERIOT and DONALD K. MICHAEL witnesses, on the 3rd day of April, 2007.

BETTY R. CRUMPLER
Notary Public, State of Texas
My Commission Expires
February 17, 2008

Betty R Crumpler
Notary Public - State of Texas

03122015 0071 60147

PURPORTED WILL

Joe has been appointed guardian of his father John. The assets consist of

Stocks worth 200k

House worth 500K

Annuities worth 300K which bring in $700 per month income

Pension which provided $4000 per month in income

SS $1250 per month income

What should the bond be? What if Joe can only qualify for $50,000?

Lenore is guardian of her mother. The annual account shows the following?

Pension Income $25,000

SS $13,000

Rental Houses income $45,000

Expenses of:

Atty fees $6k

Maintenance of Rental Houses $20,000

Caretaker $12,000

Residential home mom is in $3,000 per month.

What should Lenore's compensation be? Lenore's mother is high maintenance and a pain in the neck. What else can Lenore do?

Sally is 14 years old. Her uncle has left her an inheritance of $300k. The parents have come to you. What do you advise? What if the inheritance was $50K

Steve brings you his father's will. It names his good friend Art as Ind Ex. Art is deceased. The will leaves everything to Steve and his sister Sally. Sally wants Steve to take are of everything. What do you advise?

Joan has a child who is Autistic. She has a modest estate of $50K which she wants to leave to her child. What do you advise?

Susie is elderly and is beginning to have memory issues. She is concerned she might need help in the future. She only trusts her daughter Linda. She does not trust her other children William and Mary. What do you advise?

Gwen is taking care of her mother. Her mother had a stroke and is incapacitated. The only asset that her mother has is her social security of $900 per month. What do you advise?

Cal brings you his mother's will. It says everything to her husband Victor but if Victor is dead then to her children. Victor predeceased his mom and the children are Cal, Shirley and Trey. How do you proceed? Cal is named the Independent Executor.

Top Ten Perils for Probate Executors and Administrators

By GUS G. TAMBORELLO

An executor or administrator of an estate assumes all duties of a fiduciary as a matter of law.[1] An independent executor has the same responsibilities and duties as does an administrator acting under the direction of the probate court.[2] The fiduciary duties of a personal representative of an estate are the same as the fiduciary duties of a trustee.[3] A fiduciary has a duty to protect the beneficiaries' interests by dealing in good faith and with integrity.[4] Therefore, a representative must be aware of the many pitfalls associated with serving in that capacity.

1. Failing to prepare or file an inventory and list of claims

A representative must prepare and file an inventory and list of claims within 90 days after the representative qualifies, unless the time period is extended by the court.[5] If there are no unpaid debts, except for secured debts, taxes and administration expenses, at the time the inventory is due, a representative may file an affidavit in lieu of the inventory but must nonetheless provide a complete inventory to the beneficiaries.[6]

The inventory must list all of the property that has come to the representative's "knowledge or possession," and shall include all real property in the State of Texas and all personal property of the estate wherever situated.[7] The list of claims must include a list of all claims due and owing to, not by, the estate.[8] The inventory must be verified by the personal representative as a true and complete statement of the property and claims of the estate that have come to his or her knowledge.[9]

One purpose of an inventory is to provide notice to beneficiaries and creditors of the estate of what the representative claims to be the estate assets and claims. A holder of a secured claim may want to know if there are sufficient liquid assets to pay his claim so that he will know whether to elect to have his claim treated

as a matured secured claim or as preferred debt and lien.[10] Likewise, a holder of an unsecured claim may want to know if the estate has sufficient assets with which to pay his claim in light of the fact that his claim is the last in priority to be paid.[11] The beneficiaries want to know what assets the executor claims are in the estate.

A representative who fails to file an inventory may be removed.[12] In 2013, the Texas Legislature added a provision taking effect on January 1, 2014, which will also allow the court to fine the representative up to $1,000 for failure to timely file the inventory or an affidavit in lieu of it.[13]

2. Failing to prepare or file a correct inventory or properly value estate assets

In addition to listing assets and claims belonging to the estate, the inventory must include an appraisement of the fair market value of each asset or claim as of the date of death of the decedent, and state whether the property was the separate or community property of the decedent.[14] The court may appoint appraisers to assist the representative with the determination of fair market value.[15]

Any interested person may attack the inventory by showing that property contained in it does not belong to the estate, or that property belonging to the estate has not been included in it.[16] Any interested person may also challenge the inventory if it is believed to be unjust or erroneous.[17] A representative should carefully examine the decedent's papers and records to determine the nature and extent of the assets, and, if necessary, obtain an appraiser to assess the fair market value of the property. An appraisal is especially prudent if it appears the estate is going to be a taxable estate that must file an estate tax return. Valuation is also important because assets receive a change in tax basis upon death.[18]

A common point of contention is the representative's characterization of property as separate or community, particularly when the decedent has a surviving spouse and children from a prior marriage. The executor spouse may characterize an asset as community property when the children believe it was their parent's separate property. Likewise, the executor child may characterize an asset as separate property when the spouse believes it is community property.[19] If there is a challenge to the inventory on the basis of such a characterization, and if it is not cost-prohibitive, the representative may have to employ a forensic accountant to trace the origin of the property.

3. Prematurely distributing estate assets

Many beneficiaries mistakenly believe they are immediately entitled to their share of the estate upon the decedent's death. Although title "vests" in the beneficiaries or heirs upon the decedent's death, inheritance is subject to the estate's administration.[20] The representative has the right and duty to take possession of the estate's assets before they are distributed to the heirs,[21] and must address the decedent's debts and claims before making any distribution of the assets. Often, the heirs will converge upon the decedent's house shortly after the decedent's death and begin "dividing" the decedent's property, but the representative should avoid the temptation to appease the beneficiaries and keep possession of the property until the overall condition of the estate is better understood.

The representative must move cautiously before distributing the property. If there is a will, one or more of the beneficiaries may file a contest contending the will is invalid, and may offer for probate a previous will that leaves the property in a different manner than the "last" will. If the decedent dies without a will, the heirship proceeding may not be straightforward, and could present issues concerning common-law spouses and persons claiming to be a child of the decedent. The representative should keep in mind that a beneficiary cannot compel a distribution of estate assets until two years from the date the representative was appointed.[22]

4. Mishandling the decedent's debts

Most people die with some debt. There may be both secured creditors, such as mortgage companies, and unsecured creditors, such as credit card companies. A representative is required to give certain notices to creditors. Within one month of being appointed, a representative must publish in a newspaper a general notice to creditors.[23] Within two months after appointment, the representative must send actual notice to any secured creditor by certified mail.[24] If the representative fails to give the required notices, the representative and the surety on the representative's bond shall be liable for any damage for failure to give the required notice, unless it appears that the individual otherwise had notice.[25]

Many representatives believe that all debts must be paid, and some begin paying the decedent's bills right away. This is usually a bad decision because Texas law also allows for "permissive notice" to unsecured creditors.[26] The representative may send unsecured creditors a notice by certified mail notifying them that they must present their claims in a certain manner before the 121st day after the date of the receipt of the notice, and their failure to do so will result in their claims being barred, even when the general statute of limitations would not bar them.[27] The permissive notice process is a powerful tool for avoiding payment of some unsecured claims that is often overlooked by representatives. Keep in mind that the representative owes a fiduciary duty to the beneficiaries of the estate,[28] and holds the property in trust for the benefit of the title holders, rather than the creditors.[29]

5. Failing to acknowledge the rights of the surviving spouse or dependent children

The most common conflict in estates is between the decedent's surviving spouse and the decedent's children from a prior marriage. Often, those children will attempt to force the decedent's surviving spouse out of their parent's house. Nevertheless, the decedent's surviving spouse and minor children have a homestead right in the house regardless of the char-

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acterization of the property,[30] and the representative is required to set apart the homestead for the surviving spouse's benefit.[31] Furthermore, the homestead passes free of claims against the decedent's estate, except as provided by statute.[32]

If the decedent died without a will and the homestead was the decedent's separate property, the surviving spouse is entitled to a life estate in one-third of the property.[33] Therefore, although the children of the decedent may own the underlying interest in the property, their interest is subject to the surviving spouse's life estate. Although similar to a homestead right, the life estate is a separate legal interest that has a monetary value based upon the value of the property and the life expectancy of the surviving spouse.

6. Failing to give beneficiaries proper notice and failing to keep them informed

No later than the 60th day after the date of an order admitting a will to probate, the representative shall give notice to each beneficiary by certified mail that the will was probated and provide a copy of the will or a summary of the gifts to the beneficiary.[34] Failure to provide the notice can subject the representative to removal.[35]

Further, the fiduciary duties owed to the beneficiaries include disclosure of all material facts known to the representative that might affect the beneficiaries' rights.[36] This fiduciary relationship requires the representative to disclose fully and fairly to the beneficiaries matters pertinent to the estate.[37] If challenged, the representative has the ultimate burden of showing that he or she acted fairly and informed the beneficiaries of all material facts.[38]

After 15 months have passed from the issuance of letters, the beneficiaries may make a demand for a formal accounting by the independent executor.[39] If demand is made, the independent executor must provide a signed and sworn written statement of account within 60 days or his or her compliance can be compelled by the court.[40] Moreover, failure to file a required accounting may be a ground for removal.[41] A dependent administrator is required to file annual accountings and a final accounting without demand by the beneficiaries.[42]

7. Failing to collect or protect estate property

The representative shall take care of estate property just as a prudent person would treat his or her own property.[43] The representative must maintain any real property in good repair, unless directed not to do so by court order.[44] The representative shall take possession of the personal property and records of the estate.[45] The executor should sell any property that is liable to perish, waste or deteriorate in value, or that will be a disadvantage to the estate if kept.[46]

A representative must be diligent in collecting all claims and debts due the estate, and recovering property belonging to the estate, provided that there is a reasonable prospect of collecting such claims or of recovering such property.[47] If a representative willfully neglects to use such diligence, the representative and the surety on the bond may be liable for the value of the property that has been lost by the representative's neglect.[48]

A representative may be removed if proven to have been guilty of gross misconduct or mismanagement in the performance of his or her duties.[49] A representative may also be subject to a suit for breach of fiduciary duty.

8. Commingling estate funds with personal funds

A representative is prohibited from commingling estate funds with any personal funds or any other non-estate assets.[50] Although an estate in Texas is not a legal entity, it is considered to be a separate taxpayer by the Internal Revenue Service (IRS). Therefore, the representative should obtain a tax identification number (Form SS-4) for the estate. The representative must then place the funds in an estate bank account. If the executor was a joint account holder with the decedent prior to the decedent's death, the proceeds of the account belong to the estate unless the account was set up as *joint with right of survivorship or payable on death*.[51] Therefore, the joint account holder/executor should close the decedent's account and transfer it to an account under the estate's tax identification number.

A representative can be removed for misapplying estate property.[52] A representative may also be subject to a suit for breach of fiduciary duty for commingling funds.

9. Failing to pay taxes or file tax returns

The representative must file a final income tax return (Form 1040) on behalf of the decedent for the year of death and any returns not filed for preceding years.[53] Furthermore, because an estate is a separate taxable entity, the representative must file an estate income tax return (Form 1041) if the income exceeds $600.[54] Any accounting of a dependent administrator must contain verification that tax returns due during the accounting period have been filed and that all taxes due and owing have been paid.[55]

If the decedent's gross estate (which includes probate and non-probate assets) exceeds the amount of the applicable exclusion amount on the date of the decedent's death, the representative must file an estate tax return (Form 706) within nine months after that date, unless the time period is extended.[56] A willful failure to file the estate tax return or to pay the tax constitutes a misdemeanor and subjects the representative to a fine.[57] Further, the IRS will impose a penalty for failure to timely file the return or pay the tax.[58]

A claim of the United States Government must be paid before the decedent's other debts are paid.[59] A personal representative who does not give priority to the claims of the United States can be held personally liable.[60]

10. Receiving compensation when none is allowed or receiving too much

Most wills have a provision addressing executor compensation. The executor is bound by the compensation provision in the will.[61] If there is no will, or if the will

does not address compensation, the representative's compensation is governed by statute.[62] The statute provides the representative shall be entitled to receive a commission of five per cent cash received and five per cent on sums paid out in cash on a finding that the representative has taken care of and managed the estate in compliance with the Texas Probate Code.[63] The court may modify the compensation amount if the statutory formula results in an amount which is "unreasonably low."[64] The court may deny a representative's commission if the representative has not taken care of the property prudently or has been removed.[65]

Conclusion

There is an aphorism which states, "no good deed goes unpunished." The job of a personal representative is fraught with many potential hazards. Therefore, the representative should take his or her job seriously and make every effort to fulfill his or her duties and treat the estate with utmost care.

Gus G. Tamborello specializes in probate law and is a frequent author and speaker on subjects relating to estates, trusts, and guardianships. He also serves as a mediator in probate cases and has taught as an adjunct professor at the University of Houston Law Center.

Endnotes

1. *Punts v. Wilson*, 137 S.W.3d 889, 892 (Tex. App.—Texarkana 2004, no pet.).
2. *Walling v. Hubbard*, 389 S.W.2d 581, 590 (Tex. Civ. App.—Houston 1965, writ dism'd w.o.j.).
3. *In re Roy*, 249 S.W.3d 592, 596 (Tex. App.—Waco 2008, pet. denied) (citing *Humane Society, Etc. v. Austin Nat'l Bank*, 531 S.W.2d 574, 577 (Tex. 1975)).
4. *Id.*
5. TEX. PROB. CODE ANN. § 250(a) (West 2013) [TEX. ESTATES CODE § 309.051(a)].
6. TEX. PROB. CODE ANN. § 250(c) (West 2013) [TEX. ESTATES CODE § 309.056(b)].
7. TEX. PROB. CODE ANN. § 250(a) (West 2013) [TEX. ESTATES CODE § 309.051(a)].
8. TEX. PROB. CODE ANN. § 251 (West 2013) [TEX. ESTATES CODE § 309.052].
9. TEX. PROB. CODE ANN. § 252 (West 2013) [TEX. ESTATES CODE § 309.053].
10. TEX. PROB. CODE ANN. § 146(b) (West 2013) [TEX. ESTATES CODE § 403.052]; TEX. PROB. CODE ANN. § 306(a) (West 2013) [TEX. ESTATES CODE § 355.151(a)].
11. TEX. PROB. CODE ANN. § 322 (West 2013) [TEX. ESTATES CODE § 355.102] (unsecured claims are Class 8 claims).
12. TEX. PROB. CODE ANN. § 149C(a)(1) (West 2013) [TEX. ESTATES CODE § 404.0035].
13. TEX. ESTATES CODE § 309.057.
14. TEX. PROB. CODE ANN. § 250(b) (West 2013) [TEX. ESTATES CODE § 309.051(a)(2), (b)].
15. TEX. PROB. CODE ANN. § 250(a) (West 2013) [TEX. ESTATES CODE § 309.051(b)(2)].
16. *Moore v. Wooten*, 280 S.W. 742, 746 (Tex. Comm'n App. 1926); TEX. PROB. CODE ANN. §257 (West 2013) [TEX. ESTATES CODE § 309.102].
17. TEX. PROB. CODE ANN. § 258 (West 2013) [Tex. Estates Code § 309.103].
18. 26 U.S.C. § 1014.
19. Property possessed by either spouse on dissolution of the marriage is presumed to be community property. TEX. FAM. CODE ANN. § 3.003(a) (West 2013). The presumption can be overcome only by clear and convincing evidence. TEX. FAM. CODE ANN. § 3.003(b) (West 2013).
20. TEX. PROB. CODE ANN. § 37 (West 2013) [TEX. ESTATES CODE §§ 101.001-101.003].
21. TEX. PROB. CODE ANN. § 232 (West 2013) [TEX. ESTATES CODE § 351.102 (the representative shall immediately take possession of the estate property)].
22. TEX. PROB. CODE ANN. § 149B (West 2013) [TEX. ESTATES CODE § 405.001].
23. TEX. PROB. CODE ANN. § 294(a) (West 2013) [TEX. ESTATES CODE § 308.051]; TEX. PROB. CODE ANN. § 146(a)(1) (West 2013) [TEX. ESTATES CODE § 403.051(a)(1)].
24. TEX. PROB. CODE ANN. § 295(a) (West 2013) [TEX. ESTATES CODE § 308.053]; TEX. PROB. CODE ANN. § 146(a)(1) (West 2013) [TEX. ESTATES CODE § 403.051(a)(1)].
25. TEX. PROB. CODE ANN. § 297 (West 2013) [TEX. ESTATES CODE § 308.056].
26. TEX. PROB. CODE ANN. § 294(d) (West 2013) [TEX. ESTATES CODE § 308.054(b)(1)]; TEX. PROB. CODE ANN. §146(a)(2) (West 2013) [TEX. ESTATES CODE § 403.051(a)(2)].
27. TEX. PROB. CODE ANN. § 146(b-4) (West 2013) [TEX. ESTATES CODE §§ 403.051, 403.056].
28. *Mohseni v. Hartman*, 363 S.W.3d 652, 657 (Tex. App.—Houston [1st Dist.] 2011, no pet.).
29. *Id.* at 658.
30. TEX. PROB. CODE ANN. § 271 (West 2013) [TEX. ESTATES CODE § 353.051].
31. TEX. PROB. CODE ANN. § 272 (West 2013) [TEX. ESTATES CODE § 353.052].
32. TEX. PROB. CODE ANN. § 270 (West 2013) [TEX. ESTATES CODE § 102.004].
33. TEX. PROB. CODE ANN. §38(b) (West 2013) [TEX. ESTATES CODE § 201.002].
34. TEX. PROB. CODE ANN. §128A (West 2013) [TEX. ESTATES CODE §§ 301.001-308.004].
35. TEX. PROB. CODE ANN. §149C(a)(4) (West 2013) [TEX. ESTATES CODE § 404.0035]; TEX. PROB. CODE ANN. §222(b)(7) (West 2013) [TEX. ESTATES CODE § 361.052].
36. *Montgomery v. Kennedy*, 669 S.W.2d 309, 313 (Tex. 1984).
37. *In re Roy*, 249 S.W.3d 592, 597 (Tex. App.—Waco, 2008, pet. denied).
38. *See Lesikar v. Rappeport*, 33 S.W.3d 282, 298 (Tex. App.—Texarkana 2000, no pet.).
39. TEX. PROB. CODE ANN. § 149A (West 2013) [TEX. ESTATES CODE § 404.001].
40. *Id.*
41. TEX. PROB. CODE ANN. § 149C(a)(3) (West 2013) [TEX. ESTATES CODE § 404.0035(b)].
42. TEX. PROB. CODE ANN. § 399 (West 2013) [TEX. ESTATES CODE §§ 359.001-359.005]; TEX. PROB. CODE ANN. § 405 (West 2013) [TEX. ESTATES CODE §§ 362.003-362.004].
43. TEX. PROB. CODE ANN. §230 (West 2013) [TEX. ESTATES CODE § 351.101].
44. *Id.*

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COACHING AN OLYMPIC SPRINTER: GUIDING A PERSONAL REPRESENTATIVE IN DISTRIBUTING A DECEDENT'S ESTATE

PAMELA D. ORSAK, *Victoria*
The Law Office of Pamela D. Orsak

State Bar of Texas
48TH ANNUAL
ADVANCED ESTATE PLANNING & PROBATE
June 12-14, 2024
Houston

CHAPTER 7

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COACHING AN OLYMPIC SPRINTER: GUIDING A PERSONAL REPRESENTATIVE IN DISTRIBUTING A DECEDENT'S ESTATE

I. INTRODUCTION

With the 2024 Olympics in Paris starting in roughly fifty days, it seems appropriate to compare the training of an athlete to the training of a personal representative. U.S. sprinter Noah Lyles has declared he will take "all the medals." At the 2023 World Athletics Championships in Budapest, Lyles became the first man since Usain Bolt to win gold in the 100 meter, the 200 meter, and the 4x100 meter relay. While we as spectators tend to view the sprinter as the one who will accomplish the amazing feat, the sprinter's coach merits accolades as well. Unlike football coaches and basketball coaches, whose name many Americans may be familiar with, the coaching GOATs (greatest of all time) of the sprinting world such as Tom Telliz, Charlie Francis, Bud Winter, and Bob Kersee, may be virtually unknown to everyone reading this paper. A sprinter does not just wake up and run as fast as he or she can on race day but must be coached to achieve greatness.

Like a sprinter, many personal representatives[1] want to just run fast. Our job is to coach them to run their best race. This article will set out the steps to coach the personal representative of a decedent's estate including: (1) focusing on the big picture, (2) teaching the fiduciary duties, (3) how to not get stuck in paying off claims and allowances, (4) determining to whom to distribute, (5) funding testamentary trusts, (6) dealing with certain challenging assets, and (7) documenting the distribution. As a dependent personal representative has many required steps, this paper will focus on coaching the independent personal representative which may require a little more finesse. I hope to give each of you a new tool to take back to your practice to coach each of your personal representatives not only to "Olympic gold" but to avoid getting sued.

II. DISCUSSING THE BIG PICTURE

There are four parts to a sprint: (1) the start, (2) the acceleration, (3) the drive, and (4) the deceleration. During the start, the sprinter is in the iconic four point stance with his/her feet in the starting blocks. The center of gravity is low on the leading leg. During the acceleration, the sprinter leans forward to a 40 to 50 degree angle to achieve minimal contact with the ground at the same time as the sprinter is getting maximum force production into the ground. The drive is when the sprinter achieves top speed and is fully vertical with his/her eyes locked on the finish line while ensuring his/her foot strikes under his/her hip at each stride to minimize braking force. The drive is usually between 40 meters to 80 meters. The deceleration phase is not on purpose as the sprinter should not slow down until after the finish line. But in the last 20 meters, the sprinter's body is running low on power and fighting off fatigue. This is where many races are won or lost. Coaching a sprinter requires focusing on each phase and not just saying run fast and then faster.

Likewise, the coach for the personal representative must coach the personal representative through the same phases. The start is at the courthouse. Many personal representatives come out of the blocks strong although some will stumble immediately in getting bonded or in thinking he/she can handle it from here. During the acceleration, the personal representative will begin the collecting or gathering of the assets. During the drive, the personal representative is discovering the debts and expenses and getting them paid or barred. The deceleration is when the personal representative cannot gas out but must push through to distribution. Just as a sprinter cannot go from phase one to four without going through phase two and three, the personal representative must also go through phases two and three. Coaching the personal representative through each phase will give him or her the tools to succeed.

III. THE START – FIDUCIARY DUTIES

After the hearing where the Will is admitted to probate and the personal representative is appointed, most probate attorneys will meet with their clients to drill down into the phases of the administration and the duties. First and foremost, the probate attorney should emphasize that the personal representative is a statutory agent of the court and any rights, powers, or duties are established by statute and common law. Translation: the personal representative cannot do whatever he/she wants to get to distribution.

The Texas Supreme Court has held an executor to the same fiduciary standard in his administration of the estate as a trustee even though the provision of the Trust Code are not applicable to estate administration unless provided otherwise in the Will. *Humane Society of Austin and Travis County v. Austin Nat. Bank*, 531 S.W.2d 574, 577 (Tex. 1975).

[1] Rather than use the term executors and administrators, the author will refer to personal representative herein.

A. Duty of Care

The personal representative has a duty of care which means he/she must take reasonable care of all estate property as a prudent person would do. TEX ESTATES CODE §351.101. If any buildings belong to the estate, the personal representative shall keep those buildings in good repair, except for extraordinary casualties. *Id.*

To satisfy this duty, the personal representative must first discover all the assets in order to take care of them. The personal representative may come in with little knowledge of what the estate assets are. In this digital world where statements may no longer come in the mail and even bills come electronically, this duty is sometimes a reason our clients stumble. Getting into the decedent's e-mail may help, but now even e-mail has become somewhat obsolete. Checking the bookmarks in a web browser and the apps on a decedent's smart phone may provide some guidance on the financial assets the decedent had. While advising a personal representative to insure the buildings and vehicles may seem pretty obvious, many buildings may not be insurable and many insurance companies will not insure an estate vehicle. In 2023 and 2024, many insurance companies are no longer writing homeowners' policies in Texas and those that are have drastically increased their rates. A personal representative will need to collect rejection letters or e-mails from different insurance companies.

For the vehicles, the personal representative should contact the insurer to confirm if the policy allows the personal representative to drive the car for maintenance and possibly sale reason. Some policies may cover the legal representative of the decedent which is called "extended non-owned." However, other insurers will not allow the policy to stay open. The personal representative should get the insurer to put the refusal to change the insured to the personal representative or the estate. While, the personal representative can shop around with other insures to see if a policy can be issued for the vehicle, the personal representative may be forced to add the vehicles to his/her personal policy, which will give the heirs or beneficiaries an argument that he/she has breached his/her duties, or to start a new insurance policy individually just for the estate vehicles. Again, getting communication from the insurer in writing will assist with this stumbling block. If the personal representative knows the estate is liquid, getting rid of the vehicle by distribution pursuant to a specific bequest, by sale, or by distribution to a residuary beneficiary may be the most prudent course of action. But beware when several heirs or beneficiaries want the vehicle that is in the residue.

B. Duty to Collect Personal Property and Records

The personal representative has a duty to collect and take possession of the estate's personal property, record books, title papers, and other business papers. TEX. ESTATES CODE §351.102. Often this can be a challenge when a child of the decedent is the personal representative but a surviving spouse who is not the child's parent is in the house. Banks will sometimes inform the personal representative that he/she is not entitled to a copy of the account agreement and bank statement showing the value as of the date of death. Even if the bank will provide records, sometimes it will charge a fee that is provided for in the account agreement your personal representative is trying to get access to. While arguably a personal representative can show cause the surviving spouse who has the estate papers to get this information pursuant to section 252.202 of the Texas Estates Code, it is possible that the papers have been destroyed before death or after death leaving the personal representative with nothing to show for it. However, if the judge is satisfied that the surviving spouse had custody of the papers at the time the complaint was filed, the judge may arrest the surviving spouse and confine the spouse until the spouse delivers the papers. TEX. ESTATES CODE §252.203. Additionally, the personal representative can recover damages from the surviving spouse or other party holding estate papers. TEX. ESTATES CODE §252.204.

C. Duty of Good Faith and Loyalty/Impartiality

A personal representative owes the beneficiaries or heirs an unwavering duty of good faith, fair dealing, loyalty, and fidelity. *Herschbach v. City of Corpus Christi*, 883 S.W.2d 720, 735 (Tex. App. – Corpus Christi 1994, writ denied). The duty of loyalty requires a fiduciary to act in the best interests of the beneficiaries above the fiduciary's own interests, while remaining fair and impartial to all of the beneficiaries. *See Slay v. Burnett Trust*, 187 S.W.2d 377 (Tex. 1945). While this duty seems basic, the duty of loyalty can be difficult when there are income beneficiaries and principal beneficiaries or life estate and remainder interests.

D. Duty of Full and Complete Disclosure

Personal representatives owe beneficiaries and heirs a fiduciary duty of full disclosure of all material facts known to them that might affect the rights of the beneficiary/heir. *Montgomery v. Kennedy*, 669 S.W.2d 309, 313 (Tex. 1984); *Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996). Texas law is well established that the mere existence of a strained relationship between parties does not lessen the duty of full and complete disclosure. *Montgomery*, 669 S.W.2d at 313. The duty to disclose is a common law duty.

IV. THE ACCELERATION - GATHERING AND SECURING THE ASSETS

This phase may be the shortest phase in many administrations when the assets of the decedent are largely in banks or brokerage accounts. Securing real property, manufactured homes, vehicles, and stock are some of the assets that can slow the administration down.

Sometimes, the personal representative will need to evict a tenant who is no longer paying rent or remove a tenant whose presence is endangering the estate. If the estate is in danger, the proceeding should be able to be brought in the probate case. Even more problematic than a rental property can be the homestead. Even if the decedent was not ceremonially married at death, a common law marriage claim may be asserted by the live-in partner. If the decedent bought the property with someone else, a personal representative may have to start a partition suit to sell the property when a joint owner does not have the assets to buy out the estate and refuses to sell.

In administrations involving a manufactured home, the personal representative may need to fix issues that existed during the life of the decedent. If the land on which the manufactured home sits is owned by the decedent, the decedent can elect to treat the manufactured home as real property. Treating the property as real property will protect it from creditors of the decedent during life and at death as well as reduce the property tax burden as the manufactured home can be treated as a homestead. The personal representative can complete Form 1023, an Application for Statement of Ownership from the Texas Department of Housing and Community Affairs and pay $55 to fix these issues during administration. If the decedent had not elected to treat the manufactured home as real property, can the personal representative do so now for a surviving spouse who has a life estate? Does helping an elderly surviving spouse breach the duty of impartiality as the benefit is only to the surviving spouse and not to the remaindermen kids who do not plan to move into the house at the death of the surviving spouse?

In administrations where there may be numerous vehicles and the personal representative has no titles, he/she may have to start by sending a letter to the Texas Department of Motor Vehicles ("DMV") inquiring whether the decedent is the owner of a list of vehicles. This can take several weeks to get a response. If the DMV confirms the decedent owned certain vehicles, the personal representative will then request a copy of the title.

Securities which the decedent has certificates for can pose issues for the personal representative. The personal representative may struggle to find the originals. While affidavits of lost stock can be completed, they do not make the process move faster. Also, many companies do not want to transfer the securities into the estate which may be necessary to pay debts and expenses of administration. Further, the personal representative may be best served by moving the securities out of the estate as quickly as possible due to the ups and downs of the stock market. However, the beneficiaries may refuse to sign the paperwork which the security company needs in order to transfer the securities to the beneficiaries. Ensure your personal representative sends a written request for the beneficiaries to sign paperwork such as a letter, e-mail, text, or snap to try to protect your client from the downside of the market.

V. THE DRIVE – PAYING DEBTS AND EXPENSES

Your personal representative may feel he/she is hitting his/her stride and can handle things now without you. This is likely true for a personal representative who is the surviving spouse or familiar with the debts or when there really are no debts. However, if the personal representative is not familiar with the debts and liabilities of the decedent, this phase may take some time. While running the notice to creditors in the paper may flush out some creditors, often the personal representative is still in the dark. While the postal service used to greatly assist a personal representative who was not familiar with all of a decedent's assets or debts, the postal service is of less use for decedent who is under sixty. If the personal representative does not have access to the decedent's e-mail, computer, or smartphone, he or she may be driving blind on debts. A letter to one of the credit reporting bureaus to not only inform the bureau of the decedent's death and the appointment of the personal representative but also to request a credit report may help the personal representative in identifying creditors. More detail on coaching your personal representative through paying debts and expenses will be discussed in Article VI, infra.

VI. STUCK IN STEP THREE – PAYING CLAIMS, ALLOWANCES, AND EXPENSES

A. Immediate Vesting...But Wait

When a person dies, all of his or her estate vests immediately in the devisees, if a will exists, or in the heirs at law, if no will exists. TEX. ESTATES. CODE § 101.001. However, a personal representative has the right to possession of the estate as it existed at death to pay estate debts and court ordered child support payments that are delinquent on the date of the decedent's death. TEX. ESTATES. CODE § 101.003 & 101.051.

Oftentimes, the claims of the decedent can devour most or even all of an estate. When this occurs, a personal representative needs a lot of coaching.

B. Who Pays the Claims

1. Classify and Prioritize

In deciding how to pay the claims, the personal representative must first classify and prioritize them. Section 355.101 of the Texas Estates Code sets out the classification and order of priority of payment. While tax liens are a Class 3 claim, federal tax liens do not fall in this category as will be discussed in Section C, infra.

2. Read the Will

Now that the personal representative has categorized the claims, with the assistance of the coach of course, he/she should look at the Will to determine who should pay them. Many Wills will dictate what assets should be used first. The generic boilerplate generally states the debts and expenses should be paid from the residue. If the Will is silent on what assets pay the debts first, the personal representative must follow the statutory abatement of bequests as set out in section 355.109 of the Texas Estates Code.

A decedent's property is liable for debts and expenses of administration, other than estate taxes, and bequests abate in the following order:

(1) Property not disposed of by a Will, but passing by intestacy;
(2) Personal property of the residuary estate;
(3) Real property of the residuary estate;
(4) General bequests of personal property;
(5) General devises of real property;
(6) Specific bequests of personal property; and
(7) Specific devises of real property.

TEX. ESTATES CODE 355.109(a). If a secured creditor elects to have its claim continued as a preferred debt and lien against specific property, the personal representative cannot pay another debtor with that specific property.

Unfortunately, there is no clear guidance on what is a general devise of real property versus the residuary real estate. The Texas Supreme Court held that a bequeath of one-half of the decedent's mineral interest was a specific devise of real property at the same time it held a devise of "all real estate not specifically bequeathed" in earlier clauses of the Will was a real property residuary clause. *Hurt v. Smith*, 744 S.W.2d 1, 4-5 (Tex. 1987).

While there are four categories of bequests/devises, *i.e.*, specific, demonstrative, general, and residuary, the statute does not mention demonstrative legacies. *Id.* at 4. A demonstrative legacy is a bequest of a sum of money, or of a quantity or amount having a pecuniary value and measure, not in itself specific, which the testator intended to be charged primarily to a particular fund or piece of property. *Id.* at 4. An example of a demonstrative devise would be "$50,000 to my son from the sale of my home." Such classification depends upon the intent of the testator as shown by the entire Will. *Id.* at 4. The court should look at the entire dispositive scheme to determine intent rather than classifying based on certain language. *Id.* at 4.

While there is no court case addressing where a demonstrative legacy fits in the abatement statute, prior to the abatement statutes enactment, a court decided that demonstrative legacies are to be treated as "true specific legacies" if the asset to pay the demonstrative legacy is in existence as part of the testator's estate at death. *Houston Land & Trust Co. v. Campbell,* 430 S.W.2d 430, 433 (Tex. Civ. App. – El Paso 1937, writ ref'd).

3. Bringing in the Non-Probate Assets

If probate assets are insufficient, certain non-probate property is subject to pay debts of the decedent, other taxes of administration other than estate taxes, expenses of administration, and statutory allowances. Multiple party accounts and real property passing pursuant to a transfer on death deed ("TODD") are available to pay the claims of creditors if the probate property is insufficient to do so. TEX. ESTATES CODE §§ 113.252(b) & 114.105. A personal representative has two years from the decedent's date of death to commence a proceeding to assert liability against a beneficiary of non-probate property. TEX. ESTATES CODE §§ 113.252(c)(2) & 114.106(e). While a personal representative may only commence a proceeding to assert liability against a co-owner or beneficiary of a multiple party account if he/she receives a "written demand" by a surviving spouse, creditor, or person acting on behalf of a minor child of the decedent, no such written demand is mentioned in the statutes to commence a proceeding under a TODD. *Id.* at §§ 113.252(c) & 114.106. No guidance on what satisfies the requirement of a "written demand" is given in the statute. Is merely filing a claim in the probate matter in the manner required by law sufficient to be a written demand of a creditor or must the creditor specifically request that all multiple party accounts be used to satisfy its debts if the probate assets are insufficient? If a personal representative does not commence a proceeding to enforce liability against the beneficiary of a TODD within ninety days after the date the personal representative receives a demand for payment, a creditor, distributee of the estate, surviving spouse of the decedent, guardian or other appropriate person of minor child or adult incapacitated person, or taxing authority may bring suit to enforce the liability against

the TODD beneficiary. TEX. ESTATES CODE §114.106(c). No similar exception applies to multiple party accounts.

4. Nobody Gets Paid but the Creditors

Probate proceedings may be necessary to stop theft or to stop squatters from taking over real property which could cause liability for the estate. There may be little left for the beneficiaries/heirs in those situations where there is no solvent defendant to pursue.

In one case I had, the decedent had died without a will nearly twenty years prior to one of the decedent's son coming into my office. Apparently, the only remaining asset of the decedent was a house, and another son was renting the house out to a third party and not sharing the money with the other heirs. Additionally, he was not paying property taxes so the house was in danger of foreclosure, and he was not repairing the house so there was also the danger of losing the house in a lawsuit. After filing a determination of heirship and then an eviction, the proceeds from the sale of the house left about $2,000 per heir. While some heirs might balk at moving forward if they only stand to receive about $2,000, theft and liability can be powerful motivators for personal representatives, beneficiaries, and heirs with a strong moral compass.

C. Who Pays the Estate Taxes

While the estate tax may be just another debt of the decedent, the federal government is not an ordinary creditor. Rather, it is a super creditor. Accordingly, special rules apply to estate taxes. If the Will does not provide otherwise, the personal representative shall charge each person interested in the estate a portion of the total estate tax. TEX. ESTATE CODE § 124.005. However, property that qualifies for a marital deduction or that qualifies for a charitable deduction is not included in the apportionment of the tax as those gifts are not subject to estate taxation. TEX. ESTATES CODE §§124.005 & 124.007. The tax is apportioned among both probate and non-probate assets. *Id.* at 124.001(2).

1. Read the Will Carefully

In determining which assets should pay estate taxes, the Texas Supreme Court took a holistic view in holding that a specific bequest of "all cash, checking accounts, certificates of deposit, savings certificates, and money market certificates" would be utilized for the payment of estate taxes before using the general bequests of certain sums of cash. *Hurt*, 744 S.W.2d at 5. This was likely due to the language in the Will stating that the specific bequeath of cash, checking accounts, etc. would be used to pay just debts, funeral expenses, expenses of last illness, and costs and expenses incurred in the probate of the Will. *Id.* at 5. So a strict reading of the Will should be tempered against the intent of the testator that is discernable.

2. Liability of Non-Probate Assets

Federal law requires the personal representative to pay the estate taxes regardless of the fact that part or nearly all of the tax may come from assets over which the personal representative does not have control. 26 U.S.C. § 2002; Treas. Reg. §20.2002-1.

The personal representative has the right to recover against any person who receives non-probate property that creates a tax liability. TEX. ESTATES CODE § 124.014; *see also* TEX. ESTATES CODE §113.525(a)(1)(A) (survivor on a multiple party account, POD payee, or beneficiary of the account is responsible). Due to timing, the personal representative may be better off to pay the IRS solely from probate assets if the beneficiary of a non-probate asset does not willingly turn over his/her share of the estate taxes. If the personal representative has to bring a lawsuit, that lawsuit will not likely be resolved by the time the estate tax is due. Remember that even if the timing to file the estate tax return has been extended to fifteen months, the personal representative must pay the tax owed by nine months after the decedent's death. 20 CFR § 20.6081-1.

If the personal representative determines in good faith that an attempt to recover the amount owed from one or more non-probate beneficiaries is economically impractical, he or she shall apportion the amount not collected among the other persons interested in the estate who are subject to apportionment. TEX. ESTATES CODE §§ 124.014(b) & 124.015(b). Those beneficiaries who pay an apportioned amount of another beneficiary's estate tax obligation may enforce the right to reimbursement against that beneficiary. TEX. ESTATES CODE § 124.015(c).

The personal representative may not be required to file suit to recover the unpaid amount of estate tax apportioned to persons interested in the estate until the expiration of the ninetieth day after the date of the final determination of estate tax due by the Internal Revenue Service. TEX. ESTATES CODE § 124.016. The personal representative who initiates an action within a reasonable time after the expiration of the ninety-day period is not subject to any liability or surcharge because a portion of the estate tax apportioned to a person interested in the estate was collectible during a certain time after the death of the decedent but thereafter becomes uncollectible. *Id.* Conversely, if a personal representative does not initiate the suit to recover within a reasonable time of the ninety-day period, he or she may be subject to liability or surcharge? This section seems to run counter to section 124.015(a) which does not require a representative to

recover if he/she determines in good faith that an attempt to recover the amount would be economically impractical. So if the personal representative files the estate tax return fifteen months after the decedent dies believing no estate tax is due, the IRS does not assess an estate tax until nearly three years later and there is a period of negotiating the tax, it is entirely possible that a beneficiary no longer has funds to pay his/her share of the estate tax. If the personal representative determines an attempt to recover the unpaid amount is economically impractical but a beneficiary does not like this decision, will the beneficiary just wait for seven months or so to pass after the final determination of the estate tax by the IRS and then sue the personal representative arguing the converse of section 124.016(b)?

In a suit to recover estate taxes from a beneficiary to whom estate taxes were apportioned, the court shall award necessary expenses, including reasonable attorney's fees, to the prevailing party. TEX. ESTATES CODE § 124.018.

D. The Taxman Cometh: Personal Liability for the Personal Representative

Getting out of phase three quickly may be tempered by the fact that the Department of the Treasury may hold the personal representative personally liable to pay federal taxes.

1. Paying Other Creditors First

Federal law requires the United States to be paid first if a decedent's estate is insufficient to pay all of the decedent's debts. 31 U.S.C. §3713(b). If the personal representative pays any part of a debt prior to paying a claim of the United States government, the personal representative can be held personally liable to the extent of the unpaid claim of the government. *Id.* For purposes of this section of the Code, distributions to beneficiaries qualify as "debts." Treas. Reg. §20.2002-1; *Want v. Comm'r*, 280 F.2d 777 (2nd Cir. 1960). Therefore, the personal representative can be held personally liable for any distribution made in the amount of unpaid taxes.

However, a personal representative may pay certain expenses prior to paying the Internal Revenue Service. Government claims do not take priority over funeral and administrative expenses as they are not debts of the decedent. *United States v. Weisburn*, 48 F. Supp. 393 (E.D. Pa 1943); *see Champlin v. Comm'r*, 6 T.C. 280, 285 (1946) (exception for estate administration expenses); Rev. Rul. 80-112, 1980-1 C.B. 306 (exceptions for funeral expenses and widows' allowance). However, one cannot state that class 1 and 2 claims can be paid prior to the United States as expenses of last illness are debts of the decedent and so cannot be paid prior to the United States. Rev. Rul. 80-112.

Further, courts generally recognize that the personal representative must have actual or constructive knowledge of the government's tax claim when the estate had sufficient assets and choses to pay other debts first. *See U.S. v. Coppola*, 85 F.3d 1015 (2nd Cir. 1996); *Want v. Comm'r*, 280 F.2d 777 (2nd Cir. 1960); *Viles v. Comm'r*, 233 F.2d 376 (6th Cir. 1956); *Leigh v. Comm'r*, 72 T.C. 1105, 1109 (1979). A personal representative has constructive knowledge if he/she has notice of facts that would put a reasonably prudent person on inquiry of the existence of unpaid claim.

2. Time to Assess and Collect

With personal liability on the line, the personal representative should be concerned with how long the IRS has to assess the tax and how long the IRS has to collect the tax.

a. *Statute of Limitations*

Generally, the IRS has three years after a return is filed to assess tax or to file suit against the taxpayer to collect the tax. 26 U.S.C. § 6501(a). However, there is no statute of limitation on a false or fraudulent return with the intent to evade tax or on not filing a return. 26 U.S.C. §6501(c). After the tax is assessed, the IRS may collect the tax by levy or by a court proceeding so long as the levy is made or the proceeding begins within ten years after the assessment of the tax. 26 U.S.C. 6502(a). The ten-year statute of limitation runs from the date the tax was assessed against the estate and not from the date of the assessment against the personal representative. *United States v. Motsinger*, 123 F.2d 585 (4th Cir. 1941).

b. *Requesting Prompt Attention or Shortening the Statute of Limitations*

Generally, the personal representative may file a written request after the return is filed to have the tax assessed and any proceeding in court without assessment for collection of the tax to begin within eighteen months rather than three years for all taxes other than estate taxes. 26 U.S.C. §6501(d). The personal representative may file this written request by filing Form 4810 or by submitting a written request with all the information required on the form. Treas. Reg. §301.6501(d)-1(b).

c. *Request Closing Letter*

While the personal representative cannot shorten the statute of limitations on the estate tax, he/she can request a closing letter and pay the fee. The closing letter cannot be requested until nine months after the estate tax return has been filed. Pay.Gov (May 4, 2024, 10:04 am),

https://www.pay.gov/public/form/start/940783687. If the return is under examination, the request for a closing letter cannot be made until thirty days after the completion of the examination. *Id.* However, the personal representative can go ahead and submit the form and pay the fee of $67. *Id.* If the request for the closing letter is made before the TC 421 appears on the transcript (signifying the return was accepted as filed or if the return was examined, the examination has concluded), the request will be held and monitored every sixty days until the TC 421 posts. *Frequently Asked Questions on the Estate Tax Closing Letter* (May 4, 2024, 10:10 am), https://www.irs.gov/businesses/small-businesses-self-employed/frequently-asked-questions-on-the-estate-tax-closing-letter. A personal representative can instead request an account transcript in lieu of a closing letter to confirm that the return has been accepted as filed or an IRS examination is completed and closed, which is indicated by transaction code 421. I.R.S. Notice 2017-12.

3. Discharging the Personal Representative

The personal representative may request a discharge from personal liability for income, estate, and gift tax liability.

For income and gift taxes, the personal representative makes a written application for discharge under section 6905. 26 U.S.C. §6905(a). The IRS *may* notify the personal representative of the amount of taxes due. *Id.* Of course, the tax return has to have been filed. *Id.* Once the personal representative pays the amount the IRS notifies is due or, if the IRS does not notify the personal representative, nine months after the application is filed, the personal representative is discharged from personal liability for any deficiencies later found. *Id.* The personal representative is entitled to a receipt or writing showing the discharge. *Id.*

For estates taxes, the personal representative makes a written application for the determination of the amount of the tax and discharge from personal liability under section 2204. 26 U.S.C. § 2204(a). Once the application is made, the Secretary shall notify the personal representative of the amount of the tax as soon as possible but within nine months after the application is made. *Id.* However, if the application is made before the estate tax return is filed, the Secretary shall notify the personal representative of the amount of the tax within nine months after the return is filed but not after the expiration of the period prescribed for the assessment of the tax in section 6501. *Id.* On payment of the amount of which the personal representative is notified and on furnishing any bond required for any amount for which the time to pay is extended, the personal representative shall be discharged from personal liability for any deficiency in tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge. *Id.*

The personal representative may file a Form 5495 to request a discharge under sections 2204 or 6905. However, the form must be filed in the office where the original return was required to be filed and a separate form must be sent to discharge liability for each type of tax. However, the same address is used for seeking discharge for both gift and estate tax liability. *Where to File Form 5495* (May 4, 2024 10:30 am), https://www.irs.gov/pub/irs-pdf/f5495.pdf.

E. Personal Liability for Creditors

As the United States government can hold the personal representative personally liable for distributing the estate prior to paying it, may other creditors do the same? While it is true the United States government is a creditor, it is really a super creditor since it leaps ahead of all debts of the decedent. Further, there is a statute authorizing its ability to assess personal liability against a personal representative. There is no similar statute for creditors under Texas law. Further, personal representatives do not owe duties to creditors as they do to the beneficiaries and heirs so trying to use common law to assess liability seems remote. Just last year the Texas Supreme Court cleared up any confusion over whether a personal representative owes fiduciary duties to creditors of the decedent. The court rejected the contention of the appellant that an independent executor owes a fiduciary duty to the estate's creditors which confirmed the assessment of the Fifth Circuit Court of Appeals in *United States v. Marshall*, 798 F.3d 296. 315 (5th Cir. 2015). *Austin Tr. Co. v. Houren*, 664 S.W.3d 35, 46 (Tex. 2023). While in the context of an independent administration, the reasoning the court used in finding no language in the statutes indicating the executor holds the estate's assets in trust for the benefit of creditors should indicate there is no duty in a dependent administration either. *See id.* Without statutory authorization and without a duty to creditors, I believe it would be unlikely for a court to find a personal representative personally liable for distributing the estate prior to paying a creditor.

F. Temporarily Insolvent Estate with Expenses – Slow Pay?

What happens when there are no liquid assets in the estate but there is a modest income stream. Can the personal representative use this stream to pay debts, funeral expenses, taxes, and family allowances?

Generally, the principal of the estate is to be used to pay debts, funeral expenses, taxes, and family allowances. TEX. ESTATES CODE § 310.003. However, income accruing after death and before distribution,

including income from property used to discharge liabilities, shall be (1) determined according to the rules applicable to a trustee under the Texas Trust Code and (2) distributed as provided by Subsections (b) and (c) and by Chapter 116 of the Property Code. TEX. ESTATES CODE § 310.004(a). Section (b) provides income from property devised to a specific devisee shall be distributed to the devisee after deducting property taxes, other taxes, including taxes imposed on income that accrues during the period of administration and that is payable to the devisee, ordinary repairs, insurance premiums, interest accrued after the testator's death, and other expenses of management and operation of the property. *Id.* at § 310.004(b). Section (c) provides the balance of net income shall be distributed to all other devisees after reduction for the balance of property taxes, ordinary repairs, insurance premiums, interest accrued, other expenses of management and operation of all property from which the estate is entitled to income, and taxes imposed on income that accrues during the period of administration and that is payable or allocable to the devisees, in proportion to the devisees' respective interests in the undistributed assets of the estate. *Id.* at § 310.004(c). Chapter 116 of the property code provides that a fiduciary shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in Subchapters C, D, and E which apply to trustees and the rules in subdivision (5). TEX. PROP. CODE § 116.051(1). The fiduciary shall determine the remaining net income of a decedent's estate under the rules in Subchapters C, D, and E which apply to trustees and by: (A), including in net income all income from property used to discharge liabilities; (B) paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction; and (C) paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate by the Will or applicable law. TEX. PROP. CODE § 116.051(2).

So if the principal is sold at current fair market value and is not enough to pay the debts and funeral expenses, can the personal representative continue to hold the asset until the income pays those off if there are no separate income beneficiaries?

In one case, decedent owned only mineral interests and personal items with little to no value at her death and said mineral interests were paying under $1,000 a year. Decedent's Will left everything to her grandchildren, skipping her only child. The grandchildren were all minors, and the Will included a contingent trust until the beneficiaries each turn twenty-one. The executor and her sister had paid for the funeral as well as the cost for probate. While the minerals had some value, they would not be enough to reimburse the sisters of decedent who had paid for the funeral and administrative expenses. Further, selling the minerals would likely turn the minor beneficiaries into plaintiffs. Instead, the executor received the royalty income until she was able to reimburse her sister and herself. Two of the minors turned twenty-one around that time so instead of funding a trust for them, they received their interest in the mineral estate outright. Due to funeral expenses and administrative expenses, the estate was open for over five years.

What if instead, the Will provided a bequest for a certain amount in cash and the remainder to the grandchildren. After the funeral expenses and administration expenses were paid, should the personal representative have to sell the mineral interests to fund the cash bequest? The bequest of cash is a general bequest and so the doctrine of ademption does not apply. Rather than sell the mineral interest and leave the grandchildren nothing, could the personal representative continue to receive the royalty payments until the cash bequest was funded? Will the beneficiary of the cash bequest have an argument that the personal representative is breaching his/her duty of impartiality by not selling right away and possibly extending the estate for five to ten years to fund the bequest?

What if instead the Will provided a bequest of $100,000 to one beneficiary, a bequest of the royalty income for life to another beneficiary, and the remainder of the royalty and remaining mineral estate to still another beneficiary. Can the personal representative who only has the mineral estate in the probate estate use the royalty income to fund the $100,000 bequest?

G. Allowances for Surviving Spouse and/or Children

Although not a debt, any allowance to a decedent's surviving spouse and/or children must be satisfied right after Class 1 claims. TEX. ESTATES CODE § 355.103. The allowance in lieu of a homestead may not exceed $45,000 and the allowance in lieu of other exempt property may not exceed $30,000. TEX. ESTATES CODE § 355.053. Property specifically devised to another may be sold to raise cash to pay the allowance in lieu of exempt property if other estate

property is insufficient to pay the allowance. *Id.* at § 353.056(c).

Additionally, a surviving spouse, minor child, or adult incapacitated child can receive a family allowance sufficient for maintenance for one year from the date of the decedent's death. *Id.* at § 353.101. A family allowance may not be made for the surviving spouse if he/she has separate property adequate for his/her maintenance; similarly, a family allowance may not be made if a minor child or adult incapacitated child have property adequate for his/her maintenance. *Id.* at § 353.101(d). Like the prior allowances, only Class 1 claims shall be paid prior to the family allowance. *Id.* at § 353.104. The irony of the family allowance is a surviving spouse can be a multi-millionaire after the death of the decedent due to receiving life insurance proceeds and the 401K of the decedent and may still receive a family allowance. *Barnett v. Barnett*, 985 S.W.2d 520, 532 (Tex. App. – Houston [1st Dist.] 1998), *rev'd on other grounds*, 67 S.W.3d 107 (Tex. 2001) (finding wife entitled to family allowance even though she received pension and savings plan from deceased husband's employer). The Supreme Court agreed with the court of appeals that the assertion that funds the wife received after her husband's death were separate property had no merit. Funds received after the death of the spouse are not "separate property" as that term is used in connection with a family allowance in the Texas Estates Code. *See Estate of Wolfe*, 268 S.W.3d 780, 783 (Tex. App. – Ft. Worth 2008, no pet.).

H. "To Everything, There is a Season"

As the reader may be starting to understand, a personal representative can easily get stuck in step three for years. While it is true that to everything there is a season and a time to every purpose under heaven, many beneficiaries and heirs do not seem to get the meaning of that bible verse or 1965 song performed by the Byrds. Coaching your client to continue careful communication with the beneficiaries during this time, perhaps quarterly, will hopefully keep your personal representative from getting sued.

For example, if there is an estate tax liability, getting to a final determination with the Internal Revenue Service may take three or more years after the death of the decedent. Then several more years may pass as the personal representative tries to recover the unpaid amount of estate tax apportioned against the beneficiaries of non-probate assets.

However, even when there is no estate tax due, there can be long delays. I am still working to resolve a matter where the Internal Revenue Service owes the decedent's estate an income tax refund. The decedent died in August of 2018. One of the beneficiaries filed the 2017 income tax return for the decedent after his death in 2018 and prior to the personal representative getting appointed. When the personal representative filed an income tax return a week or two later, the IRS marked the returns as fraudulent. The personal representative had sent the IRS Form 1310, a death certificate, and the letters testamentary in 2019 and again in January of 2020. Then COVID-19 happened; once the IRS began working remote, finding anyone to answer the phone became an issue. The IRS did not respond to the personal representative's numerous attempts to get the refund. Finally, the IRS admitted to the taxpayer advocate the income tax return had been deleted. My last communication from the taxpayer advocate indicates the IRS has finally processed the 2017 income tax return but now "more work must be done" before the refund issues. This estate was solvent and large distributions have been made. However, the refund has held up the final distribution of the estate for soon to be six years and some of the beneficiaries are and understandably not happy.

VII. TO WHOM TO DISTRIBUTE

Once the personal representative has secured the assets and paid all debts and expenses, it is time to consider distribution. As the personal representative enters the first meter of the 20 meter distribution phase, the attorney of the personal representative may need to constantly refocus the personal representative. The personal representative is tired and ready to be done and likely just wants to run at the top speed to the finish line. However, if he/she loses his/her form, a perfectly administered estate up to this point can fall apart.

A. The Will

The first refocus opportunity will be to review the Will again. While this may seem basic, it is critical to not misstep. Of course, the personal representative should almost have the Will memorized at this point as he/she should have reviewed it in detail prior to becoming the personal representative and throughout the administration while paying debts and estate taxes. The Will may have specific instructions on the timing of a distribution, the manner in which a distribution will be made, and contingencies that must be met prior to distributions.

Additionally, while the Will may distribute personal property, there may be something outside the Will indicating a different disposition. For instance, the decedent may have taped a slip of paper on an item indicating to whom he/she wants the property to go. Sometimes there is a writing indicating how the property goes. Often the individuals named are not the one who will get the property under the Will. The personal representative should study the writing carefully to determine if it constitutes a holographic Will. See TEXAS ESTATES CODE § 251.052. If so, the writing should be offered for probate. Of course, ideally

that would have occurred prior to the initial application but often the additional writing may be discovered later. If the writing does not constitute a holographic will, the personal representative should raise the issue with the beneficiaries of the estate to see if they agree to honor the precatory writings. Often the Will states such a writing may exist and asks that the executor and beneficiaries honor it. If the beneficiaries agree to honor the precatory writing, the personal representative should get an agreement of the same in writing before distributing the items. If not, then the personal representative should disregard the precatory writing.

B. "I Will Survive"

An heir or beneficiary must survive the decedent to receive a distribution from an estate. A person who does not survive the decedent by 120 hours is considered to have predeceased the decedent for purposes of a homestead allowance, exempt property, and intestate succession. TEX. ESTATES CODE § 121.052. If the Will does not state differently, a devisee must survive the decedent by 120 hours to receive estate property. TEX. ESTATES CODE § 121.101. If the Will specifically addresses simultaneous death, death in a common disaster, requires the devisee to survive the testator, or defines the length of time a beneficiary must survive the testator, then the terms of the Will apply. *Id.* Therefore, if a Will states "to my daughter Jane if she survives me," then Jane will take if she survives her mother, whether it is by one minute or 121 hours. Similarly, if the Will states "any beneficiary must survive by ninety days" and Jane merely survives by 120 hours, then Jane's estate will not get any share of her mother's estate. If property is to go to a beneficiary only if he/she survives another person, the beneficiary will only receive the property if he/she survives the other person by 120 hours. *Id.* at §121.102.

C. Partial Intestacy

Of course, the Will may not dispose of all of the property passing through probate so there may be partial intestacy. Depending on the dynamics between the personal representative, beneficiaries, and heirs, this may be as simple as applying chapter 201 of the Texas Estates Code and getting a written settlement agreement. Alternatively, the personal representative may need to file a proceeding to declare heirship within the same cause number. TEX. ESTATES CODE §202.002(2). While the idea of another probate proceeding may frustrate your already flagging personal representative, you must refocus him or her on the potential liability of not going through the proper steps.

D. Income Tax Concerns in Distribution

While we often focus a lot of our energy on estate and gift tax, the income tax ramifications of decisions the personal representative will make must be considered prior to distribution.

1. Gains and Losses

With certain exceptions, the decedent's estate receives a basis adjustment at death equal to: (1) the fair market value of the property on the decedent's date of death; (2) in the event that the personal representative elects to use the alternate valuation date, the value of the property six months after the decedent's date of death; and (3) in the event that the personal representative elects to use special use valuation, the property's value for special use valuation purposes. 26 U.S.C. §1014(a).

However, since it may take some time to administer the estate, the value at the time of distribution may be different from the decedent's adjusted basis. While generally no gain or loss is recognized from distributing to a beneficiary, if the personal representative distributes an in-kind asset to satisfy a bequest of a specific dollar amount, the gain or loss may be recognized by the estate. Treas. Reg. § 1.661(a)-2(f). For example, if the Will leaves $10,000 to Jane but the personal representative distributes $10,000 worth of securities with a $9,000 basis to satisfy the bequest, the estate will recognize a $1,000 gain. This makes sense because if the personal representative had sold the securities and paid the proceeds to Jane, the estate would have recognized a $1,000 gain.

Additionally, formula pecuniary bequests are treated as a specific dollar amount in determining whether gains or losses are recognized by the estate when the gift is funded in-kind rather than with cash. Treas. Reg. § 1.1014-4(a)(3); Rev. Rul. 60-87, 1960-1 CB 286.

2. Non-pro rata distributions

Non-pro rata distributions can also lead to income tax consequences. Unless authorized, the IRS will treat any non-pro rata division of property as if it were a pro rata distribution followed by an exchange of interests by the distributes. *See* Rev. Rul. 69-486, 1969-2 CB 159. Prior to September 1, 2017, the Will had to expressly state that non-pro rata distributions were allowed. Since then, an independent executor may make non-pro rata distributions of property not specifically devised that the independent executor is authorized to sell unless the Will or court provide otherwise. TEX. ESTATES CODE § 405.0015.

Non-pro rata distributions related to community property may be problematic as there is no clear guidance on whether this will lead to gain recognition.

Extrapolating from technical advice memoranda in the divorce context suggests a tax-free division is permissible if the personal representative and surviving spouse agree although the most recent ruling indicates the division must be permitted by the governing instrument or by local law. *See* TAM 8016050; TAM 9422052.

Texas law may permit non-pro rata distributions of community property as section 453.009 of the Texas Estates Code allows a personal representative to administer the entire community estate if the surviving spouse waives any right to exercise powers as community survivor and section 360.253 allows a surviving spouse to apply to the court for a partition of the community property into two equal moieties. However, others disagree that Texas law permits non-pro rata distribution asserting that a surviving spouse's community property interest is not automatically available for a non-pro rata distribution as it is not an estate asset.

For a more thorough discussion of income taxation issues for estates, see Davis & Willms, "Income Tax Issues in Estate Planning," State Bar of Texas Advanced Estate Planning & Probate Course (2019).

VIII. WHO TOOK THE FUN OUT OF FUNDING TESTAMENTARY TRUSTS

As the personal representative is flagging, he/she is now faced with what could be the most complicated part of the administration. Often if there are testamentary trusts involved, there may be a need to file an estate tax return. So prior to funding the trusts, the personal representative will need a lot of additional information. For instance, he/she will need to know what gifts the testator made prior to death, know what the non-probate assets are, know who the non-probate asset went to and what the value was, identify the formula gift, if any, calculate the amount of the formula gift, determine how to fund the trust, choose a funding date, determine the asset value for funding purposes, and consider the objective of the trust and how the assets chosen for funding impacts the objective.

A. Identifying the Formula Clauses

In trying to identify the type of formula clause used, the personal representative and his/her coach will be pleased that despite numerous ways to write a formula clause, they are all either pecuniary formula clauses or fractional share formula clauses.

1. Pecuniary Formulas

Pecuniary formulas are common in dividing an estate between the bypass share and the marital share and send a specific dollar amount to one trust. There are three types of pecuniary formulas that result in a marital deduction for the estate. *See* Rev Proc. 64-19, 1964 CB 682.

a. *True Worth (Date of Distribution) Formulas*

A "true worth" formula specifies that assets distributed in satisfaction of the formula gift must be valued at the date or dates of distribution. Texas law provides that pecuniary bequests are funded using date of distribution values unless the Will provides otherwise. TEX. ESTATES CODE § 124.051. This funding method requires the personal representative to revalue the assets as of the distribution date or distribution dates The pros for this formula are: (1) it is relatively simple to administer as the personal representative only has to revalue the assets distributed to satisfy the gift, (2) the personal representative has flexibility in deciding which assets to distribute, and (3) this formula freezes the value of the formula bequest, shifting all gain or loss to the other bequest. The cons of this formula is if the gift is funded with assets which have appreciated in value during administration, the estate will have a taxable gift. For assets with "income in respect of a decedent" ("IRD") such as pensions, IRAs, 401Ks, etc., the IRD will be accelerated to the estate. For non-IRD assets, this con can be mitigated by funding shortly after the date of death.

b. *Minimum Worth Formulas*

Formulas which provide for "minimum worth" funding states that once the amount of the gift has been computed, assets to be used to fund the gift are valued at the lesser of the estate tax value or the date of distribution value. The pro of this formula is distribution of appreciated assets should not result in taxable income to the estate. The cons to this formula are that the burden of depreciating assets falls on the residuary estate and the personal representative can overfund the formula gift thereby possibly breaching the duty of impartiality.

c. *Fairly Representative Formulas*

Formulas that are fairly representative will state that assets distributed in satisfaction of the pecuniary gift be valued at their estate tax values, but that the fiduciary must select assets which are "fairly representative" of the appreciation and depreciation in value from the date of death to the date or dates of distribution. Texas law provides that if the personal representative is authorized to satisfy a pecuniary devise or transfer in trust in kind with assets at estate tax values, then the formula is fairly representative unless the Will states otherwise. TEX. ESTATES CODE § 124.052. The pros for this approach are: (1) the estate should not have taxable income from funding with this formula and (2) there is a more balanced sharing of appreciation and depreciation among the beneficiaries.

So this formula will be easier for the personal representative to fulfill the duty of impartiality. The con of this formula is the personal representative has to revalue all estate assets to determine what is fairly representative of appreciation and depreciation.

2. Fractional Share Formulas

A fractional share formula describes each portion of the estate as a fractional share of the remainder. Although initially these formulas envisioned fractional share of each asset funding the different trust, generally language now allows non-pro rata funding once the fractions have been used to establish the date of distribution values. The pros of this formula are (1) no taxable gain is realized when the trusts are funded[2] and (2) as with fairly representative formulas, the beneficiaries share the appreciation and depreciation of assets. Notably, this formula will cause the distributees to recognize gain unless the Will expressly authorizes non-pro rata distributions. *See* Rev. Rul 69-486, 1969-2 CB 159. The con with this formula is computing and distributing assets in accordance with this fraction. Every time there is a distribution, income is accumulated, or administration expenses paid, the fraction must presumably be recomputed.

B. Determining the Funding Date

Most of the time when the personal representative is ready to fund the testamentary trusts, he/she will have to revalue the assets. As the personal representative will not know the value of the assets on the actual date of funding, an effective date of funding will be chosen. Often having the effective date of funding at the end of a month, quarter, or year makes the determination of assets easier. Any income earned and change in value or in form of any asset after the effective funding date is credited to the distributee.

C. Crunching the Numbers

Preparing a funding spreadsheet will allow the attorney and personal representative to see the difference of using different assets in the funding of each gift. This spreadsheet shows the value of the assets at the time of the decedent's death, the value on the effective funding dates, changes that have occurred since death such as consolidating accounts, establishing estate accounts, and asset sales, and the division of assets. The spreadsheet may also reflect the swapping of assets between the surviving spouse and personal representative.

IX. PROBLEMS WITH CERTAIN ASSETS

Certain assets present distinct problems for distribution which the personal representative must consider.

A. Securities

A devise of securities may seem like it would be easy. However, dividends, stock splits, mergers, and reorganizations are some of the challenges a securities devise may pose. If the Will devises securities owned on the date of the testator's death to a certain devisee, unless the Will states otherwise, the personal representative will distribute the following additional securities subsequently acquired by the testator: (1) all securities of the same organization acquired because of an action initiated by the organization or any successor, related, or acquiring organization, including stock splits, stock dividends, and new issues of stock acquired in a reorganization, redemption, or exchange, other than securities acquired through the exercise of purchase options or through a plan of reinvestment and (2) all securities of another organization acquired as a result of a merger, consolidation, reorganization, or other distribution by the organization or any successor, related, or acquiring organization, including stock splits, stock dividends, and new issues of stock acquired in a reorganization, redemption, or exchange, other than securities acquired through the exercise of purchase options or through a plan of reinvestment. TEX. ESTATES CODE § 255.252. So if the decedent has purchase options for Exxon Mobil stock, the purchase options will not go to the devisee who is to receive "all Exxon Mobil stock." The personal representative should consider exercising those purchase options, but those may then be part of the residuary estate. Further, any cash distribution that accrued prior to the testator's death are not included in the devise of the securities regardless of whether the distribution is paid after the testator's death absent contrary language in the Will. *Id.* at § 255.253.

B. Firearms

In many circumstances, the personal representative cannot just distribute a firearm to the beneficiary under the Will. The personal representative cannot distribute a firearm to a minor nor can he/she distribute a firearm to a beneficiary or heir who is a convicted felon.

Firearms regulated by the National Firearms Act, such as machine guns, suppressors and silencers, short barrel rifles and shotguns, and destructive devices, require the personal representative to jump through a couple of extra hoops in distribution. The personal

[2] Pursuant to Rev. Rul. 60-87, 1960-1 CB 286

representative must submit a form to the Bureau of Alcohol, Tobacco, and Firearms to transfer and register the firearms to the beneficiaries of the estate.

For a thorough discussion of the issues involved with firearms in the estate, see Craig S. Adams, *Granny Had a Gun – Firearms in Estate Administration* (44th Annual Advanced Estate Planning and Probate Course 2020).

C. Closely Held Business Entities with Discounts

As estate planners set up LLCs and FLPs in the hopes of estate tax minimization or elimination along with numerous other reasons, the personal representative may face some issues in distributing such interests. While an undiscounted interest in a family limited partnership may be worth $1,000,000, due to lack of transferability and lack of control, the discounted value is $700,000. If there are three beneficiaries of the estate who are to receive equivalent shares, the estate consists of a family limited partnership and cash, and one beneficiary is not interested in the family limited partnership, should the personal representative value the partnership at discounted values or not? If the estate is taxable, the personal representative should probably not assert a discount on the 706 and not include the discount at distribution. However, if the estate is not taxable, is it fair to the beneficiary not receiving the partnership to value the partnership with the discount? Does discounting the partnership breach the duty of impartiality by putting the interest of the beneficiaries receiving the partnership over the beneficiary receiving just cash? What if there is only one beneficiary receiving the discounted entity? Since he/she can easily remove the restrictions on control and transferability, is it fair to give him/her the entity at the discounted value used on the 706?

D. Property the Distributees Think Is Worth More

Short of cash and stocks and bonds, valuing most assets in an estate is subjective. There is a range of possible values, but until an item is actually sold, the exact value is debatable. It is not uncommon for beneficiaries to disagree with the value the personal representative puts on certain assets. It may be wise to advise the personal representative to get more than one appraisal in a contentious estate. The personal representative can provide the appraisals to the distributes prior to distribution.

X. DOCUMENTING THE DISTRIBUTION

The personal representative has finally made it. He/she has come up with the distribution plan. Now he/she must prepare the documents to effectuate the distribution and share that planned distribution with the distributees.

A. Documents Effectuating the Plan

Depending on what assets are left, there can be many documents needed to effectuate the distribution plan or there may be few. In an estate that has been liquidated to cash, checks may be all the personal representative needs. However, most estates will require more. Some of the possible documents needed include special warranty deeds for real property, transfer applications for stocks and bond, Form 130-U from the Department of Motor Vehicles to transfer title for automobiles, Form 1023 from the Department of Housing and Community Affairs to transfer ownership of a manufactured home, Form PWD 143 from the Department of Parks and Wildlife to transfer title for boats and Form PWD 144 to transfer title to motors, assignments of ownership for closely held business, and change of ownership forms for life insurance the decedent owned insuring someone else.

B. Sharing the Plan with the Distributees and Avoiding Liability

Unless the personal representative is the sole beneficiary, he/she will need to share the plan with the distributees. While in a dependent administration, your personal representative will be absolved from liability by the court after filing his/her account for final settlement, this step is not required in an independent administration. Of course, that does not mean you do not want your independent executor or administrator to be absolved from liability as the last thing he/she wants is to give the distributees the war chest to turn around and sue him/her for the trouble he had administering the estate. Even if the personal representative did everything right, it is possible a disgruntled distributee who wanted the estate to be wrapped up sooner will find an attorney to file suit. So how can you coach your client to avoid that possibility in an independent administration?

1. Receipt and Release

While a personal representative can require a receipt prior to distributing estate property, he/she cannot require a release. TEX. ESTATES CODE § 405.001. In an independent administration, the personal representative may want to send a detailed letter to the distributes advising that the estate administration is about wrapped up except for the final income tax return and final administrative expenses. The letter can offer to wrap things up easily if all beneficiaries will sign the attached receipt and release which discharges the personal representative and all of his/her agents of liability. The letter will recognize the distribute is under no obligation to sign it, but if it is not signed, the personal representative will likely avail himself/herself of the opportunity for a judicial discharge under section 405.003. The personal representative should include

with this letter either an informal accounting or bank statements with descriptions of what the debits and credits are for the entire estate or the time period since he/she last provided an accounting to the distributees. Remember, the personal representative still has a duty of disclosure so the information provided must actually impart enough information to the distributees so that they know what occurred during the administration and could object. An argument can be made that most bank statements, without copies of checks attached or descriptions written in, are insufficient to provide full disclosure.

2. Judicial Discharge

If the distributees will not sign a Receipt and Release, the personal representative should consider filing a petition for judicial discharge. *See* TEX. ESTATES CODE § 405.003. This is a lawsuit and all distributees will have to be served with the petition unless they waive issuance and service of citation. The court may require the personal representative to file a final account. Of course, since the distributees will be served, they may choose to file a counterclaim against the personal representative. This is definitely an expensive remedy but may be necessary when the distributees will not absolve the personal representative from liability.

3. Closing Report or Notice of Closing Estate

If the personal representative cannot get a Receipt and Release but does not want to risk the counterclaim or pay the fees for a judicial discharge action, he/she may choose instead to file a closing report or notice of closing estate. *See id.* at § 405.004. He/she must distribute before filing. *Id.*

XI. CONCLUSION

Coaching your personal representative through the steps of administration can be harrowing. Most of the personal representatives want to skip all the early stages of administration and even shortcut the distribution phase. While the administration can often bog down for one reason or another, helping your personal representative stave off fatigue and avoid potentially unhappy distributees from calling a false start will lead to a happy client who does not get sued. May you succeed in your quest in coaching your personal representatives to Olympic Gold and becoming a GOAT of estate administration.

NO MAN'S LAND:
THE DETAILS BETWEEN DEATH AND ADMINISTRATION

MINDI BOZEMAN ZANOWIAK, *Amarillo*
Sprouse Shrader Smith PLLC

State Bar of Texas
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CHAPTER 6

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NO MAN'S LAND: THE DETAILS BETWEEN DEATH AND ADMINISTRATION

I. WHAT IS NO MAN'S LAND?

"No man's land" in this paper refers to two main ideas: 1) that span of time after a death, but before a personal representative qualifies and 2) those areas clients confront while attending to the details of death that may be outside the rudimentary scope of probate or trust administration counsel.

II. IMMEDIATE CONCERNS

The first set of areas discussed are those that may arise in closest proximity to death, including the body and burial, death certificates, locating important documents, the care of minors and pets, and safeguarding assets.

A. Body & Burial

Dealing with the body and burial is the most immediate concern. While it may seem straight forward, there are many avenues to navigate including declarations of death, custody and transportation of the body, authority to deal with the body, burial plots, burial for a Veteran or family member of a Veteran, and cremation.

1. Legal Pronouncement of Death

A legal pronouncement of death is the first necessity after someone dies. If an individual dies in a medical or nursing facility, a physician as well as a registered nurse, including an advanced practice registered nurse, or physician assistant (under certain conditions) can provide a legal pronouncement of death. TEX. HEALTH & SAFETY CODE §671.001. If an individual does not die in a medical or nursing facility or under hospice care where a legal pronouncement of death can be made, a coroner or medical examiner will make the legal pronouncement of death. Local emergency officials can be called and will arrange for the legal pronouncement.

A coroner typically refers to an elected official, who serves as the authority for death verification and investigation, but may not have medical training. Thus, a coroner typically has a contract with a forensic pathologist or medical examiner office in a nearby jurisdiction to perform autopsies when an autopsy is required. In Texas, the coroner's role falls to the Justice of the Peace.

A medical examiner is a licensed physician whose role is to identify and explain both the cause and manner of death in cases where the death has occurred unattended or unexplained or where the death is due to unnatural cause; they are appointed officials. Any county having a population of more than 2.5 million shall establish and maintain the office of medical examiner. TEX. CRIM. PROC. CODE. art. 49.25 Sec 1. Two or more counties may enter into an agreement to create a medical examiners district. *Id* Sec. 1-a.

There are 14 medical examiners in Texas and 1 medical examiner district:

- Bexar County Medical Examiner's Office
- Collin County Medical Examiner's Office
- Dallas County Institute of Forensic Sciences
- Ector County Medical Examiner's Office
- El Paso Medical Examiner's Office
- Fort Bend County Medical Examiner's Office
- Galveston County Medical Examiner's Office
- Harris County Institute of Forensic Sciences
- Johnson County Medical Examiner's Office
- Lubbock County Medical Examiner's Office
- Montgomery County Forensic Services
- Nueces County Medical Examiner's Office
- Tarrant County Medical Examiner District (serves Tarrant, Parker, Denton and Johnson counties)
- Travis County Medical Examiner's Office (serves 45 surrounding counties on a fee basis)
- Webb County Medical Examiner's Office

2. Organ Donation and Anatomical Gifts

If the deceased has consented to be an organ donor (or if the family is willing to consent to organ donation) and the individual dies in a hospital or similar care facility, the staff should be notified immediately that the person is a potential organ donor as time is of the essence.

Each hospital in Texas is required to enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts. TEX. HEALTH & SAFETY CODE § 962A.015. Each hospital must have a protocol that ensures its maintenance of an effective donation system in order to maximize organ, tissue, and eye donation. Among other things, the protocol must establish a procedure for the timely notification to an organ procurement organization of individuals whose death is imminent or who have died in the hospital. *Id* § 962A.015(2). "Timely notification" means notification of an imminent death to the organ procurement organization within one hour of the patient's meeting the criteria for imminent death and before the withdrawal of any life sustaining therapies. *Id* § 692A.002(33). With respect to cardiac death, timely notification means notification to the organ procurement organization within one hour of the cardiac death. *Id.*

3. Custody & Transportation of the Body

Licensed funeral directors have the authority to take custody of a body. Once the body is released (after

a legal pronouncement of death), if family members are present, they may know which funeral home is to be called to pick up the body. If the person died in a medical or nursing facility, the facility will obtain the information and call the appropriate funeral home. If a decision has not been made, each city and county typically has a list of companies to call that will pick up and store the body until a decision can be made. If an ambulance is involved and knows a dead body is involved, the funeral director still has the duty to take charge of the body after a legal pronouncement of death. TEX. OCCUP. CODE § 651.001. Unless a person dies in an ambulance, an ambulance typically does not transport a dead body.

Prior to transportation of a body, the funeral director, or person acting as such, must file or complete a report of death with the Texas Department of State Health Services. 25 TEX. ADMIN. CODE § 181.2. Within 24 hours, the report is transmitted to the county clerk or local registrar where the death occurred or where the body was found. *Id.*

4. Authority to Deal with the Body

It is important to know whether the decedent has a prepaid funeral contract or other instrument in place such as an Appointment for Disposition of Remains outlining their wishes related to their remains.

Unless such written directions are in place, the Texas Health & Safety Code provides a statutory priority for who has the right to control the disposition of remains, who shall inter the remains, and who is liable for the reasonable cost of interment:

1) The person designated in a written instrument signed by the decedent;
2) The decedent's surviving spouse;
3) Any one of the decedent's surviving adult children;
4) Either one of the decedent's surviving parents;
5) Any one of the decedent's surviving adult siblings;
6) Any one or more of the duly qualified executors or administrators of the decedent's estate; or
7) Any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.

TEX. HEALTH & SAFETY CODE § 711.002(a).

A person listed in priority may not control the disposition of the decedent's remains if the person has been arrested or an arrest warrant has been issued for the person for a crime under Chapter 19, Penal Code, that involves family violence against the decedent in connection with the decedent's death or the decedent has filed an application for a protective order against or with respect to the person, or an order has been issued against or with respect to the person. *Id* § 711.002(l).

5. Burial Plots

The Texas Health and Safety Code, along with the contract signed with the cemetery association which governs the cemetery where the plots are located, controls who receives unused burial plots upon death.

A "plot" means a space in a cemetery owned by an individual or organization that is used or intended to be used for interment, including a grave or adjoining graves, a crypt or adjoining crypts, a lawn crypt or adjoining lawn crypts, or a niche or adjoining niches. *Id* § 711.001(31). A plot in which the exclusive right of sepulture is conveyed is presumed to be the separate property of the person named as grantee in the certificate of ownership or other instrument of conveyance. *Id* § 711.039(a). An "exclusive right of sepulture" is your exclusive right to have your remains buried in a particular location. During lifetime, a plot owner who has the exclusive right of sepulture in a plot and who is interred in that plot may make a specific disposition of the plot by express reference to the plot in the owner's will. *Id* § 711.039(e). Alternatively, the owner may execute a written declaration with the same specificity and file it of record it in the cemetery association's office. *Id.*

If neither of these occur, then the burial plots pass pursuant to the statutory right of interment. Interment means the permanent disposition of remains by entombment, burial, or placement in a niche. *Id* § 711.001(21). A place in the plot is first reserved for the surviving spouse, and the owner's children have the right to be interred in any remaining spaces. *Id* § 711.039(e). The spouse and child(ren) may waive their right of interment in favor of a relative of the owner of the plot or a relative of the owner's spouse. *Id* § 711.039(f). If a plot owner with the exclusive right of sepulture is not interred in the plot, he or she may make a specific disposition of the plot; otherwise, the right of sepulture in at least one space is reserved for the surviving spouse, and any remaining spaces vests in the decedent's heirs at law at the plot owner's death. *Id* § 711.039(h).

If a burial plot in a private cemetery is unoccupied and abandoned for failure to maintain or pay assessments for maintenance for ten years, the ownership or right to be buried reverts to the cemetery on a finding of abandonment by a court. *Id* § 714.003. The presumption of abandonment may be rebutted by the owner or the successor owners. *Id.*

6. Burial for a Veteran or Family Member of a Veteran

If burial plans are being made for a Veteran, or spouse or dependent family member of a Veteran, consider whether they wish to be buried in a private

cemetery with military honors or whether they wish to be buried in a national or state veterans cemetery.

a. *Burial in Private Cemetery*

If a Veteran is buried in a private cemetery, next of kin can request to have a funeral with military honors.

(1) *Military Funeral Honors*

By law, an honor guard detail for the burial of an eligible Veteran consists of at least two members of the U.S. Armed Forces, and at least one member of the detail must be a representative from the deceased veteran's service branch. 10 U.S.C. § 1491. The honor detail performs a ceremony that includes the playing of taps and the folding and presentation of the American flag to the next of kin. A funeral director can assist with the request for military funeral honors.

(2) *Memorial Items*

Memorial items to honor a Veteran or Reservist are available for those buried in a private cemetery. Items include: a Government headstone, marker or medallion, a burial flag, and a Presidential Memorial Certificate. These are provided at no cost to the family. Some Veterans may also be eligible for burial allowances. Spouses and dependent children buried in a private cemetery are not eligible for a headstone or marker, but they may be eligible for an inscription on the Veteran's headstone or marker in a private cemetery.[1] Application for memorial items can be submitted online, by mail, or by fax.[2]

b. *Burial in National or State Veterans Cemetery*

Texas State Veterans Cemeteries are built through a partnership between the state of Texas and the U.S. Department of Veterans Affairs (VA) and are managed by the Texas Veterans Land Board. They are located in Abilene, Corpus Christi, Killeen, and Mission. They complement the six national cemeteries which are located in Dallas-Ft. Worth, El Paso, Houston, Kerrville and San Antonio (2). Burial benefits at Texas State Veterans Cemeteries are identical to those for VA National Cemeteries.

(1) *Is There a Pre-Need Eligibility Letter?*

If the Veteran had a pre-need eligibility letter, next of kin or the funeral director can call the National Cemetery Scheduling Office at 800-535-1117 to request a burial. Keep in mind that the pre-need decision letter does not identify a specific cemetery or gravesite, since it is not possible to reserve these in advance. Eligibility will be reviewed again at the time of death, as laws and circumstances may have changed since the pre-need application. A pre-need eligibility letter can be applied for by the Veteran, legally married spouse or surviving spouse of a service member or Veteran at https://www.va.gov/burials-and-memorials/pre-need/form-10007-apply-for-eligibility/introduction.

(2) *If There is No Pre-Need Eligibility Letter.*

If there is no pre-need eligibility letter, the client or funeral director will need to take certain steps to schedule the burial:

- Gather the information and documents needed to identify the deceased when calling the National Cemetery Scheduling office. Among those needed for a Veteran are: DD214 or other discharge documents and identifying information about the decedent such as social security number and Veteran ID. If for a spouse or dependent child, documents verifying a relationship to the Veteran may include a death certificate, letter from a doctor, statement from the SSA, or other such document.
- Decide on burial details and gather all related information such as the preferred cemetery for burial, the type of burial (casket or cremation), the preferred type of gravesite memorial (headstone, grave marker, or medallion), and any inscription on the headstone or marker. Memorial items and military funeral honors can also be requested at this time.
- Contact the National Scheduling Office at 866-900-6417.

7. Cremation

Remains may be taken to a crematory to be held until cremation, but the remains may not be cremated earlier than 48 hours after the time of death on the death certificate unless waived by the justice of the peace, medical examiner, or by court order. TEX. HEALTH & SAFETY CODE §§ 716.0035, .004. Additionally, the remains cannot be cremated until the crematory receives a signed authorization form and a death certificate or death record indicating that the remains may be cremated. *Id* § 716.051. The authorization form is not required, however, if a decedent left written directions to be cremated and the authorizing agent refuses to sign the form, as long as the costs are paid and the agent provides written identification that the remains are those of the decedent. *Id* § 716.054. The funeral home is otherwise responsible for certifying that the remains are those of the decedent. *Id* § 716.104.

[1] https://www.cem.va.gov/burial_benefits/private_cemetery.asp (accessed April 20, 2024)

[2] https://www.va.gov/burials-memorials/memorial-items/ (accessed April 20, 2024)

Once cremation occurs, the crematory must identify the cremains with an identification label on the outside of the container and some other disc or bracelet inside the container. *Id* § 716.103.

Remains may be released to the funeral home that delivered the initial remains, in person or shipped to the authorizing agent, or in accordance with written directions from the decedent. *Id* § 716.156. No special permit is required to transport cremains in Texas. *Id* § 716.301. The cremains may be disposed of in a crypt, grave, or scattering area at a dedicated cemetery; or by scattering them over uninhabited public land, sea, or other public waterways or on private property with the consent of the property owner, as long as the remains are first removed from the container or the container is biodegradable. *Id* §§ 716.302(e), .304.

B. Death Certificates

A death certificate is a permanent legal record of an individual's death. Information recorded on a death certificate provides evidence of the fact of death. It also provides important information data on mortality that is used in a variety of medical and health-related research efforts.

State and local registrars maintain vital records, including death records. TEX. HEALTH & SAFETY CODE §§ 191.026, .032; 25 TEX. ADMIN. CODE § 181.23. The state registrar is the Unit Director of the Vital Statistics Unit of the Texas Department of State Health Services. The justice of the peace, county clerk, or municipal clerk may be the local registrar. TEX. HEALTH & SAFETY CODE § 191.022.

1. Registration Requirements

A Certificate of Death (VS-112) must be filed within ten (10) days of the date of death for every death in Texas. It must be filed with the local registrar in the district where the death occurred or the body was found *Id* §193.003(a). The funeral director, or person acting as such, shall obtain an electronically filed report of death through the Texas Electronic Vital Events Registrar (TxEVER) registration system or complete a report of death before transporting the body. The report of death shall be mailed or otherwise transmitted to the local registrar of the district in which the death occurred or in which the body was found within 24 hours. A copy of the completed or electronically filed report of death as prescribed by the Vital Statistics Section shall serve as authority to transport or bury the body or fetus within this state. 25 TEX. ADMIN. CODE §181.2(a).

2. Responsibility for Filing

The death certificate must be filed electronically, as specified by the state registrar, by the person in charge of interment or disposition, or by the person in charge of removing the body from the registration district for disposition. TEX. HEALTH & SAFETY CODE §193.002. When arrangements for disposition of a body are made through a funeral home, a death certificate should be completed and filed by the funeral director. When a body has been donated to a hospital, medical school, or mortuary school for scientific or educational purposes, the institution is responsible for completing and filing the Certificate of Death.

3. Confidentiality of Information

The fact of death (name, date, place) of an individual is public knowledge; however, the death certificate is not. A death certificate is a confidential record for the first 25 years after the date of death and may be released only to a properly qualified applicant. *Id* §191.051; TEX. GOV'T CODE §552.115.

4. Obtaining a Copy

A "properly qualified applicant" has the right to obtain a certified copy of a death certificate from the state registrar. TEX. HEALTH & SAFETY CODE § 191.051, 25 TEX. ADMIN. CODE § 181.28. Properly qualified applicants include immediate family members either by blood, marriage, or adoption and legal agents or representatives of the registrant (i.e., the individual named on the death certificate). 25 TEX. ADMIN. CODE § 181.1(22). The Texas Department of State Health Services has narrowly defined these immediate family members to include the spouse of the decedent, and a child, parent, sibling, and grandparent of the decedent but not a spouse of these latter persons. A legal agent or representative must provide documentation showing the relationship in order to obtain a certified copy.

5. Requesting Changes or Corrections

Only the following individuals can request changes or corrections to a death record:

- Funeral director named on the death certificate;
- Informant named on the death certificate (i.e., the person who provided information to the funeral director);
- Surviving spouse named on the death certificate; and
- Surviving parent named on the death certificate.

An application to correct a death record can be submitted to the Texas Department of State Health Services using Form VS-172.

6. Information Relating to Veterans

If a decedent served in a war, campaign, or expedition of the United States, was the spouse of such a person, or if the decedent at the time of death was in the service of the United States, then the funeral director (or the person in charge of the disposition of

the body) shall provide the following information on the reverse side of the death certificate:

- The organization in which service was rendered;
- The serial number on the discharge papers or the adjusted service certificate; and
- The name and mailing address of the decedent's next of kin or next friend.

TEX. HEALTH & SAFETY CODE §193.006.

When the death certificate is filed locally, the local registrar shall immediately notify the nearest congressionally chartered veterans organizations. When the death certificate is filed with the vital statistics unit, the state registrar shall notify the Texas Veterans Commission. *Id.*

7. Death Outside of Texas

If a person died in a state other than Texas and a death certificate needs to be obtained, the National Center for Health Statistics, a division of the Centers for Disease Control and Prevention, has a webpage "Where to Write for Vital Records" with a list of each state and territory's agency, contact information, cost, and requirements which can be found at https://www.cdc.gov/nchs/w2w/index.htm.

C. Locating a Will and Other Important Documents

Locating, organizing, and safeguarding important items and documents is essential in the early days and weeks after death.

1. If a Will is Found

If a will is found, it should be delivered to the named executor in the will. It is wise to keep a copy, but take care not to take apart a will for reproduction.

2. Other Documents to Look For

Other documents to set aside for review with the personal representative and an attorney include: deeds, income tax returns, copies of wills and any prior original wills, financial statements, bills, divorce decrees, pre and post nuptial agreements, property tax statements, stock certificates, and entity paperwork. If the document sheds light on an asset or liability, it should be preserved and organized for delivery to the personal representative or attorney.

3. Accessing and Examining Safe Deposit Boxes

Important documents may be in a safe deposit box of the decedent. Next of kin should look for any safe deposit box keys, agreements, or call any banks where the decedent had accounts to locate such boxes. Access to a safe deposit box prior to an administration being opened can be granted with or without a court order.

a. *Without a Court Order*

The statute allows the decedent's spouse, parent, descendant who is over 18 years of age, or the person who is named as executor in the decedent's will (if the person is able to produce a copy of the will), to access the decedent's safe deposit box without a court order. TEX. EST. CODE § 151.003.

The statute grants access for examination of the contents only. *Id.* However, delivery of the following documents found in a safe deposit box is permitted to the following individuals without a court order:

- Will: to the clerk of the court that has probate jurisdiction and is located in the county in which the decedent resided; or a person named in the document as an executor of the decedent's estate;
- Deed to Burial Plot: to the person conducting the examination;
- Burial Instructions: to the person conducting the examination;
- Insurance Policy: to a beneficiary named in the policy.

TEX. EST. CODE § 151.004.

A document above cannot be delivered to a person examining the safe deposit box unless the person both 1) requests delivery of the document and 2) issues a receipt for the document to the person delivering the document. *Id* § 151.004(c).

b. *With a Court Order*

The statute allows a judge to order examination of a safe deposit box or documents of the decedent by a court representative named in the order if it is shown that the person may possess or control the documents or that the person leased the safe deposit box to the decedent and that the documents or safe deposit box may contain: a will of the decedent, a deed to a burial plot in which the decedent is to be buried, or an insurance policy issued in the decedent's name and payable to a beneficiary named in the policy. TEX. EST. CODE § 151.001. The examination shall be in the presence of the judge (or an agent of the judge) and the person in possession or control of the documents or who leased the safe deposit box. *Id* 151.004(b).

Delivery of the following documents is permitted to the following individuals with a court order:

- Will: to the clerk of the court that has probate jurisdiction and is located in the county as the court of the judge who ordered the examination;
- Deed to Burial Plot: to the person designated by the judge in the order for the examination;
- Insurance Policy: to a beneficiary named in the policy.

TEX. EST. CODE § 151.002.

D. Minors With Deceased Parent(s)

If a minor child's parents pass away, what happens to the child in the immediate aftermath? Consider the safest place for the children (emotionally and physically). If both custodial parents pass away, often this is with grandparents, relatives, or close family friends. This will just be a temporary arrangement until formal custody of the child can be determined by the court. If there is a surviving non-custodial parent, typically the surviving parent will have rights to immediate possession. If there is no surviving parent or temporary caretaker available or willing, Child Protective Services will place them in temporary housing until either 1) a temporary caretaker can be identified or 2) the court determine custody.

Consider these unique situations:

- Termination of parental rights in a legal proceeding:
  If a noncustodial parent's parental rights were legally terminated, this is binding, and the terminated parent would not have a right to immediate possession of the child.
- What if the deceased custodial parent remarried and the new stepparent legally adopted the child?
  If the child was legally adopted by the stepparent and the noncustodial parent had waived their parental rights, the stepparent would have a right to immediate possession of the child.
- What if the noncustodial parent has acknowledged parentage, but paternity has not been established?
  In this instance, the noncustodial parent without established paternity might still be identified as a temporary caretaker, but to be entitled to custody of the child, the father would then need to establish paternity.

E. Pets

If a pet owner dies, what happens to pets in the immediate aftermath? One option is to locate a trusted caretaker. This could be a family member, friend, or neighbor. If there is no trusted caretaker available immediately, consider boarding the pet until a trusted caretaker can be identified.

A pet in Texas is personal property. This stems from the 1897 U.S. Supreme Court holding that dogs are personal property. *Sentell v. New Orleans & Carrollton R.R. Co.*, 166 U.S. 698 (1897). This has since been the prevailing law throughout the U.S., including Texas. *Arrington v. Arrington*, 613 S.W.2d 565 (Tex. Civ. App.—Fort Worth Mar. 16, 1981, no writ). In the 1981 *Arrington v. Arrington* divorce case, the appellate court determined that, because a dog is personal property, it is not subject to managing conservatorship, adding that "[d]ogs involved in divorce cases are luckier than children in divorce cases in that they do not have to be treated as humans. The office of 'managing conservator' was created for the benefit of human children, not canine." *Id.* Although managing conservatorship of a pet is not available in a Texas divorce case, a court may determine whether a pet is community property (acquired during marriage) or separate property (owned before marriage or acquired by gift or inheritance). In the *Calder v. Calder* case, for example, the only issue at trial was the ownership of Clementine the Chihuahua. *Calder v. Calder*, No. 03-09-00614-CV (Tex. App.—Austin Aug. 25, 2010, no pet.) (mem. op.).

What happens with pets in the long term? Once a personal representative is appointed, the pet will pass to the beneficiaries of personal property under the will or intestacy law. It may be that the beneficiaries do not desire to become pet owners. If they are unable or unwilling to care for the pet and identifying another trusted caretaker is not an option, consider placement with a rescue organization, animal sanctuary, or local shelter.

F. Safeguarding Assets

In the immediacy of death, especially if the decedent lived alone, it is important to secure the real and personal property of the decedent, including not allowing mail or packages to accumulate.

1. Access to Property; Security of Valuables and Firearms

Securing the property of the decedent is essential. If the decedent owned a residence, next of kin should ensure the premises are locked and that any keys outstanding in third parties or that may be hidden outside the property are secured. It is unlikely that a locksmith will change the locks without proper authority. Next of kin should locate any valuables and firearms and secure them until a personal representative is appointed. It is wise to make a list of serial numbers of the firearms. Next of kin should also ensure vehicles are locked and in a secure, protected parking area.

2. Mail

Next of kin should make arrangements for a trusted person to check and secure the mail of the decedent. Mail should be reviewed for bills, account statements, and other relevant information. Long term arrangements for mail is discussed further at Section II.C.1, below. In particular, account statements should be reviewed for bills that are automatically debited from the account, premium payments debited from the account, and automatic deposits.

III. ONGOING CONCERNS.

A. Notifying Appropriate Parties

1. Employer

The decedent's employer should be promptly notified. This will not only assist with addressing the decedent's final paycheck, but will also prompt conversations about any death benefits the decedent may have through employment, as well as conversations surrounding retirement accounts and health coverage options.

2. Financial Institutions

Notifying financial institutions should be handled with caution. While notification can be important to prevent unauthorized access and fraud, clients should be aware that if the accounts do not have a surviving owner, the accounts will be frozen until appropriate collection proof is presented. This can disrupt automatic bill payments and automatic deposits. However, an account freeze may be exactly the result that is needed, particularly if it is not a nuclear family with a surviving spouse, which is why counseling the client about the potential consequences of notification is essential. Collecting financial accounts with survivorship features is discussed further at Section II.B.2.a(1) and II.B.2.a(2), below.

3. Credit Cards

Likewise, notifying credit card companies should be handled with caution. While notification can be important to prevent unauthorized access and fraud, clients should be aware that the accounts will be closed. This can disrupt authorized users and automatic bill payments. This may be exactly the result that is needed, particularly if one is uncertain about who has access to the cards or what is automatically charged to the cards. It can be particularly upsetting, however, for a surviving spouse who is an authorized user if they are unaware of this result.

Once credit card companies have been notified, it is prudent to notify at least one of the three major credit bureaus (Equifax, Experian, and TransUnion) and put a credit freeze on the decedent's account. This should prevent anyone from opening new accounts or credit cards in the decedent's name.

4. Social Security

Social Security should be notified as soon as possible. In most cases, the funeral home will report the person's death. Reporting a death to social security cannot currently be done online. Instead, it can be done by calling 1-800-772-1213 or by contacting the local social security office.

If the decedent was receiving Social Security benefits, the benefit received for the month of death and any later months must be returned. How the benefits are returned depends on how the deceased received benefits:

- For funds received by direct deposit, in most instances, Social Security will automatically debit the benefits after notification.
- Benefits received by check must be returned as soon as possible. Do not cash any checks received for the month in which the person dies or later.

Social security benefits are discussed further at Section II.F.3, below.

5. Veterans Affairs

A survivor of a deceased Veteran, or their legal representative, should contact Veterans Affairs as soon as possible to report the death. This will stop any benefit payments the Veteran was receiving. Death can be reported to the Veterans Affairs via phone at Phone at 800-827-1000 (TTY: 711); [select 5], or in person at a VA regional office.

The Texas Veterans Commission was created in 1927 to assist Texas veterans and their families. Their purpose is to act as the state appointed advocate of Texas veterans as they secure benefits. They assist with claims counseling and assist veterans and survivors of veterans in completing claims forms and appealing claim denials. They can be contacted at 1-800-252-8357, or their website: https://texvet.org. Benefits for survivors of veterans or service members are discussed further at Section II.F.4, below.

6. Medical and Life Insurance

Notifying medical and life insurance companies as soon as possible will stop any premium payments.

B. Collecting Assets of the Decedent

1. Final Paycheck

The final pay for a deceased employee is the property of the deceased's estate. Thus, the final pay would go to the personal representative of the deceased employee's estate. For a deceased employee who was married at the time of death, the payment may be made to the surviving spouse if that person presents a suitable affidavit that the individual is the surviving spouse and that no personal representative has been appointed. TEX. EST. CODE § 453.004. The requirements for a "suitable affidavit" are not specified in Section 453.004 of the Texas Estates Code or in Texas Workforce Commission guidelines, but at a minimum, it would involve a sworn and officially notarized statement of those facts. Note that the statute specifies that a surviving spouse is answerable to a person having a prior right and is accountable to a personal representative who is appointed. *Id.* A surviving spouse is also liable for any damage or loss to a person that

arises from a payment or delivery made in reliance on the affidavit. *Id.*

2. Beneficiary Designation Assets

A majority of clients have beneficiary designation assets such as life insurance and retirement accounts. Sometimes, clients have preconceived notions about the "horrors of probate" or have had conversations with bankers or brokers (or friends or neighbors) that result in beneficiary designation assets. Sometimes, outside of "probate hysteria" and "next of friend" counsel, a client has thoughtfully planned beneficiary designation assets such as a household account providing immediate access to a surviving spouse or child, a fund immediately available for funeral expenses, or real property outside of Texas with avoidance of ancillary probate as a priority. These are assets that pass outside a probate administration.

a. *Types of Beneficiary Designation Assets*

(1) *Joint Accounts, Payable on Death (POD)/Transfer on Death (TOD) Accounts, Multiple Party Accounts*

Chapter 113 of the Texas Estates Code governs multiple-party accounts. This includes joint accounts and POD accounts. Section 113.001(a) defines an "account" as a contract of deposit of funds between a depositor and a financial institution, and includes a checking or savings account, certificate of deposit, share account, or similar arrangement. Chapter 113 addresses rights of survivorship, ownership during life, and ownership at death for multiple party accounts. There are special rules that govern accounts consisting of community property, however; rules addressing how community property accounts pass with rights of survivorship are found in Chapter 112 of the Texas Estates Code. Sections 113.151 through 113.158 and 113.052 of the Texas Estates Code provide the requirements for establishing a right of survivorship in accounts other than community property accounts. If a writing exists, Chapter 113 and Subchapter B of Chapter 111 of the Texas Estates Code control, or, with regard to community property, Chapter 112 of the Texas Estates Code controls.

Without any survivorship features on a joint account, when one party to a joint account dies, the decedent's interest in the account does not belong to the other party, but rather passes as part of the decedent's probate estate.

Financial institutions typically require a death certificate and proof of the beneficiary's identity to collect an account with survivorship features. A copy of the account agreement should be requested to review whether the accounts pass pursuant to rights of survivorship, POD or TOD designations, as not all financial institutions use the specific language provided in the uniform account form provided in Section 113.052 of the Texas Estates Code.

(2) *Securities and Contracts Other than Funds on Deposit (Retirement Plans, Life Insurance)*

Section 111.052 of the Texas Estates Code covers a variety of contracts, including insurance policies, employment contracts, promissory notes, retirement accounts, securities, and accounts with financial institutions. Section 113.001 of the Texas Estates Code defines financial institutions to include brokerage firms. For the aforementioned contracts, the Texas Estates Code will not invalidate any provision in a written agreement related to these contracts that makes the account nontestamentary because of a right of survivorship, forgiveness of debt, or beneficiary designation. TEX. EST. CODE § 151.052.

If a decedent fails to name a beneficiary on a contract, the assets will be subject to the company's contract with the decedent. Not all contracts provide the decedent's estate is the default recipient; some provide decedent's spouse (or children) are the default recipients.

(3) *Health Savings Accounts (HSA)*

An HSA is a type of savings account that allows money to be set aside on a pre-tax basis to pay for qualified medical expenses. Contributions to an HSA are only allowed if one has a HSA eligible plan. An HSA may earn interest and other earnings which are not taxable.

Upon the death of an HSA account holder, any amounts remaining in the HSA transfer to the beneficiary named in the HSA beneficiary designation form. If a beneficiary is not named, the funds transfer according to the terms of the HSA trust or custodial account agreement. The HSA is then treated in one of two ways, depending upon whether the beneficiary is the account holder's surviving spouse or a person other than the surviving spouse.

- *Surviving Spouse.* If the beneficiary is the deceased account holder's surviving spouse, the spouse becomes the HSA account holder, and the transfer of ownership is not taxable. *See* IRS Publication 959: Health Savings Accounts and Other Tax-Favored Health Plans. Distributions from the HSA will continue to be subject to income tax only to the extent they are not used for qualified medical expenses. Like any other HSA account holder, the surviving spouse may designate a beneficiary to receive any amounts remaining in the HSA upon the spouse's own death, roll over (or directly transfer) some or all of the HSA's account balance into another HSA (or an Archer MSA), and add to the HSA through rollovers, transfers, and contributions if applicable requirements are satisfied.

- *Other Person.* If the beneficiary is someone other than the deceased account holder's surviving spouse, the HSA ceases to be an HSA, and an amount equal to the fair market value of the account assets as of the date of the account holder's death is includible in the beneficiary's gross income (or, if the beneficiary is the deceased account holder's estate, this amount is includible in the decedent's gross income for the year in which the death occurred). *Id.* A non-spouse beneficiary (other than the deceased account holder's estate) may reduce the includible amount by the amount of any payments made from the HSA for qualified medical expenses incurred by the deceased account holder before death, but only if the payments are made within one year after death.

(4) *Peer-to-Peer (P2P) Payment Platforms and Online Only Financial Accounts*

- P2P Payment Platforms
  P2P payment platforms such as Venmo, Cash App, Zelle, and Paypal have become a popular method of paying for goods and services. P2P payments are digital payments between two individuals. Funds are transferred from the payor's financial account to the platform's account then ultimately transferred to the payee's account. Some platforms will allow a balance to accumulate in the payee's platform account until a transfer is initiated by the payee to the payee's financial account.

  If the account holder of a P2P payment platform account dies and a survivor does not have the username and password of the payment platform account, transferring funds to another person or entity will depend on the specific policies of the platform and the instructions left by the account holder. The first step is to contact the platform's customer support team and report the account holder's passing. The platform will likely require documentation such as a death certificate and proof of authority to authorize any account transactions. If the account holder left instructions in their estate plan for transferring funds from their account after their passing, provide these instructions as well. Finally, the payment platform may have specific policies and procedures for transferring funds from a deceased owner's account.

A summary of the policies of some popular P2P payment platforms follows:

- Venmo
  The author could not locate a published policy with Venmo regarding funds transfers after death. A call to customer service to request deactivation of the account and funds transfer is necessary.
- Cash App
  Cash App's website acknowledges that each state has unique rules regarding distributing a decedent's funds. They require certain documentation (including a selfie of the requestor with their driver's license!) and make mention of the probate process, small estate affidavits, "or equivalent legal document" for transfer.[3]
  In a separate section of its site, Cash App also makes mention of beneficiary designations for Cash App Investing accounts.
- Zelle
  Zelle's platform does not allow for accumulation of funds. Reporting a death can be done through Zelle's customer support team at 844-428-8542.
- Paypal
  PayPal will only take instructions from the personal representative of a deceased account holder's estate to close an account. Once the appropriate documentation is provided to deceasedaccounts@paypal.com, the documents will be reviewed for account closure. Appropriate documentation includes: a cover sheet identifying the Paypal account by the primary email address and requesting the account to be closed, the requestor's email address, a copy of the death certificate, a copy of a government issued ID of the requestor, legal documentation identifying the personal representative, and a W9 of the estate.
  Money remaining in the account can be distributed in one of the following ways: 1) the requestor will request a check in the name of the deceased account holder through the PayPal account. The check will issue in the name of the deceased account holder; or 2) the requestor will have access to the deceased customer's bank account to transfer the balance to the bank account linked to the

[3] https://cash.app/help/US/EN-US/6496-deceased-customer-estate (accessed May 8, 2024)

PayPal account. After the transfer, PayPal will close or lock the account.[4]

- Online Only Financial Accounts
  Most online-only financial accounts allow for a beneficiary designation and electronic submission of the appropriate documentation to collect an account after the owner's passing. Transferring funds from an online-only financial account which does not have a beneficiary designation to another person after the account owner has died will depend on the specific policies of the financial institution, as well as any instructions left by the account owner in their estate plan. In most cases, the first step is to contact the financial institution where the account is held and inform them of the account owner's passing. They will likely require documentation to authorize any account transactions. If the account owner left instructions in their estate plan for transferring funds from their online-only financial account after their passing, these instructions should be provided. The financial institution may have specific policies and procedures for transferring funds from a deceased account owner's account.

(5) *Real Property Transfers (TOD Deeds, Lady Bird Deeds, Right of Survivorship Deeds)*

Real property transferred via beneficiary designation is typically done in one of three ways:

–***Enhanced Life Estate Deeds***. Enhanced life estate deeds, also known as Lady Bird Deeds in Texas, are utilized to transfer real property outside of probate. The property owner transfers legal title immediately to the transferee, but retains certain rights, generally to retain the right to use and profit from the property during their lifetime.

–***Joint Tenancy with Right of Survivorship Deeds***. These deeds operate similarly to joint bank accounts with rights of survivorship. This type of deed allows for two or more people to exist as co-owners with equal property rights. Then, when one of the owners dies, the remaining owner or owners automatically receive the deceased person's ownership interests in the property. As with the other deeds discussed in this section, they must include specialized language and adhere to strict execution requirements.

–***Transfer on Death Deeds***. In 2015, the Texas legislature created a new way to transfer real property—the transfer on death deed. It allows a person to name a beneficiary who will receive their property automatically at death outside of probate as discussed below.

Since 2015 when Texas enacted the Texas Real Property Transfer on Death Act (TRPTDA), found in Chapter 114 of the Texas Estates Code, nontestamentary transfers of real property have become more common. The TRPTDA authorizes a transfer on death deed (a "TODD"). A TODD transfers an individual's interest in real property to one or more beneficiaries effective on the death of the transferor. TEX. EST. CODE § 114.051.

Subject to Section 13.0001 of the Texas Property Code, a beneficiary takes the real property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the real property is subject at the transferor's death. *Id.* § 114.104(a). The recording of the transfer on death deed must occur before death but is considered to have occurred at the transferor's death. *Id* § 114.055(3).

If a personal representative has been appointed for the transferor's estate, an administration of the estate has been opened, and the real property transferring under the TODD is subject to a lien or security interest, including a deed of trust or mortgage, the personal representative must give notice to the creditor of the transferor as the personal representative would any other secured creditor. TEX. EST. CODE § 114.104(b). The creditor must then make an election under Section 355.151 of the Texas Estates Code within the prescribed amount of time to have the claim treated as a matured secured claim or a preferred debt and lien claim, and the claim is then subject to the claims procedures of Section 114.104. *Id.*

If the transferor's estate is insufficient to satisfy a claim against the estate, expenses of administration, any estate tax owed by the estate, or an allowance in lieu of exempt property or family allowance, property passing under a TODD may be liable for those claims and expenses to the same extent it would be if it were part of the probate estate. TEX. EST. CODE § 114.106(a). The transferred property is not considered property of the probate estate for any other purpose. *Id* § 114.106(b). If a personal representative receives a demand for payment from a third party and does not commence a proceeding to enforce liability against the property within 90 days of the demand for payment, then a creditor, distributee of the estate, surviving spouse of the decedent, guardian or other appropriate person on behalf of a minor child or adult incapacitated child of the decedent, or any taxing authority may bring

[4] https://www.paypal.com/us/cshelp/article/how-do-i-close-the-paypal-account-of-a-deceased-relative-help220 (accessed May 8, 2024)

a proceeding to enforce the liability. *Id* 114.106(c). A proceeding must be commenced not later than the second anniversary of the transferor's death. *Id* 114.106(e). If more than one real property interest is transferred by one or more TODD or if there are nonprobate assets that may be liable for the claims, expenses, and other payments specified, the liability may be apportioned among TODD interests and other liable nonprobate assets in proportion to their net values at the transferor's death. *Id* 114.106(c).

(6) *Motor Vehicles Held with Survivorship*

The Texas Department of Motor Vehicles has promulgated forms to create rights of survivorship between joint owners (Form VTR-122) and to transfer a motor vehicle to a beneficiary on the owner's death (Form VTR-121).

If a vehicle is titled in Texas in the names of multiple owners, the bottom section of the title contains an agreement that can be signed and dated by the co-owners to create rights of survivorship between them. TEX. TRANS. CODE § 501.031(d). If that portion of the title is completed and signed, the parties agree that the ownership of the vehicle described in the title shall from that day forward be held jointly, and in the event of death of any of the persons named, the ownership of the vehicle shall vest in the survivor(s). If the vehicle is not titled or registered in the names of all persons who intend to own the vehicle jointly with rights of survivorship, then rights of survivorship may also be created by the completion of a Texas Department of Motor Vehicles Form VTR-122, Rights of Survivorship Ownership Agreement for a Motor Vehicle. After the death of any persons named in the agreement, the survivor(s) may obtain a new Texas title by submitting a new Application for Texas Title and/or Registration (Form 130-U) in the name of the survivor(s) supported by a copy of the deceased person(s) death certificate and an Affidavit of Motor Vehicle Gift Transfer (Form 14-317).

In 2017 it became possible for the owner of a motor vehicle to transfer the owner's interest to a sole beneficiary at the owner's death by designating a beneficiary as provided by Section 501.0315 of the Texas Transportation Code. TEX. EST. CODE § 115.002(a). The owner must be an individual, not an entity such as a business or trust. If a motor vehicle that is the subject of a beneficiary designation is owned by joint owners with right of survivorship, the beneficiary designation must be made by all of the joint owners, and the survivorship agreement must be recorded with the department. *Id* § 115.003(a). The beneficiary will only have a claim to the motor vehicle after the death of the last surviving owner. In order for a beneficiary to be designated, changed or revoked, a Beneficiary Designation for a Motor Vehicle (Form VTR-121) must be submitted with an Application for Texas Title and/or Registration (Form 130-U) before the owner's death. TEX. TRANS. CODE § 501.0315(e). At the death of the owner of the motor vehicle, the beneficiary must submit a Form 130-U not later than the 180th day after the date of the owner's death or, if the vehicle is owned by joint owners, the last surviving owner's death, as applicable, along with the death certificate of the owner(s). *Id* § 501.0315(d). An Affidavit of Motor Vehicle Gift Transfer (Form 14-317) should also be included.

b. *Cautions When Collecting*

While beneficiary designation assets can be collected relatively quickly after death, whether they should be collected quickly is another question entirely. Thought should be given as to apportionment if estate taxes will be payable, whether the asset was community property, whether designations were updated post-divorce, whether creditors of decedent may be in play, and whether disclaimers are advisable.

(1) *Apportionment*

Texas adopts the "equitable apportionment" rule, with respect to estate taxes. *Absent contrary provision*, the personal representative must charge each person receiving property by probate or nonprobate transfer with a pro rata portion of the total of estate taxes paid. TEX. EST. CODE § 124.005. The statute addresses not only the allocation of taxes, interest and expenses, but also the allocation of deductions and credits and the method of enforcement by the personal representative. Section 124.015 of the Texas Estates Code imposes an obligation on the personal representative to recover tax from persons who receive assets that do not come into the hands of the personal representative (such as life insurance proceeds, IRA and annuity benefits, or other nonprobate assets).

A personal representative may not be required to initiate necessary actions to recover tax until at least 90 days after the date of the final determination of the amount of estate tax by the IRS. TEX. EST. CODE § 124.016. Since receiving a final determination can be a lengthy process, the timing of a personal representative's recovery efforts can be long after nonprobate assets are collected (and spent). Additionally, in instances where an estate has insufficient liquidity to pay an estate tax bill, a personal representative may need to collect from nonprobate assets prior to the initial filing.

(2) *Community Property*

In Texas, if a client is married, the nonprobate assets in his or her name are often community property (if acquired during the couple's marriage while residing in Texas). Even though a nonprobate asset may be community property, only the owner of a life insurance policy (usually the insured) or the participant in the

retirement plan has the right to designate the beneficiary. *See* TEX. FAM. CODE § 3.102, TEX. INS. CODE § 1113.001. Federal law mandates that for certain employer sponsored qualified retirement plans, the non-participant spouse must give his or her consent to the beneficiary designation when the participant names someone other than the non-participant spouse as the beneficiary. 29 U.S.C. § 1055(a). If the non-insured or non-participant spouse is not named as the beneficiary, the community property interest of the non-insured or non-participant spouse must be taken into account. If the beneficiary is the surviving spouse, these issues become less material. Provisions in the deceased spouse's Will or other instrument providing for the non-pro rata division of community property assets can also mitigate these issues.

(3) *Divorce*

"Divorce revokes" in Texas, meaning a decree of divorce revokes appointments, bequests, and designations in favor of a former spouse, and in some instances, certain relatives of a former spouse. If a decedent has designated his or her spouse as a beneficiary of a life insurance policy or retirement plan and fails to update the beneficiary designation after divorce, The Texas Family Code provides guidance.

If a decree of divorce or annulment is rendered after a person has designated his or her spouse as a beneficiary under a life insurance policy, individual retirement account, employee stock option plan, stock option, or other form of savings, bonus, profit-sharing, or other employer plan or financial plan of an employee or a participant which was in force at the time of the divorce or annulment, a provision in favor of the former spouse is not effective unless (1) the divorce decree designates the former spouse as the beneficiary; (2) the person redesignates the former spouse as the beneficiary after the divorce; or (3) the former spouse is designated to receive the proceeds in trust for, on behalf of, or for the benefit of a child or a dependent of either the person or the former spouse. TEX. FAM. CODE §§ 9.301, .302. If either of those sections acts to revoke a designation of the former spouse as a beneficiary, the proceeds or benefits are payable to the named contingent beneficiary, or, if there is no named contingent beneficiary, to the estate of the deceased spouse. *Id.*

It is essential that the insurer or a business entity, employer, pension trust, insurer, financial institution, or other person obligated to pay retirement benefits or proceeds of a financial plan receive written notice at the home office or principal office of the payor that the beneficiary designation is not effective as payors are only liable for payment of the proceeds to the named alternative beneficiary or deceased's estate, as applicable, if such notice is received *before* payment of the proceeds to the designated beneficiary. *See* TEX. FAM. CODE §§ 9.301(c), .302(c).

In 2015, the "divorce revokes" rule was extended to survivorship designations on POD accounts and multiple-party accounts. Section 123.151(b) of the Texas Estates Code provides that if a decedent established a multiple-party account and the decedent's marriage was later dissolved by divorce, annulment, or a declaration that the marriage is void, any payable on death designation or survivorship agreement with respect to that account in favor of the decedent's former spouse or a relative of the former spouse (who is not also a relative of the decedent) is not effective unless: (1) the divorce decree designates the former spouse or the former spouse's relative as the payee on death or beneficiary or reaffirms the survivorship agreement in favor of the former spouse or former spouse's relative; (2) after the marriage was dissolved the decedent redesignated the former spouse or former spouse's relative as the payee on death or beneficiary or reaffirmed the survivorship agreement in writing; or (3) the former spouse or former spouse's relative is designated to receive the proceeds or benefits in trust for, on behalf of, or for the benefit of a child or a dependent of either the decedent or the former spouse. Unlike the rules for life insurance and retirement plans, this provision extends to any relative of the former spouse if the person is not also a relative of the decedent. If a POD or survivorship provision is revoked by the statute, then the account is payable to the named alternative POD payee or beneficiary, or if an alternative POD or beneficiary is not named, to the estate of the decedent. TEX. EST. CODE § 123.515(c).

The transfer on death deeds statutes also contain a "divorce revokes" provision. Divorce of the transferor and the designated beneficiary will result in the revocation of the TODD if notice of the final divorce decree is recorded before the transferor's death in the deed records in the county clerk's office of the county where the TODD is recorded. *Id* § 114.057(c).

(4) *Creditors*

Most assets that are administered as part of the probate estate will be exposed to creditors of the deceased. But what about nonprobate assets?

- Life Insurance and Annuities
  The Texas Insurance Code provides that benefits under life insurance and certain annuity contracts are exempt from garnishment, attachment, execution, or other seizure by creditors. TEX. INS. CODE §§ 1108.001, .051. It also makes clear that this is true if a Trustee of an inter vivos, testamentary trust, or the insured's estate is the beneficiary. *See* TEX. INS. CODE §1104.23, 1108.52.

- Retirement Plans and Other Qualified Savings Plans
  Section 42.0021 of the Texas Property Code provides that a person's right to the assets held in or to receive payments under certain retirement plans and other qualified savings plans is exempt from attachment, execution, and seizure for the satisfaction of debts to the extent the retirement plan or account is exempt from federal income tax, or to the extent federal income tax on the person's interest is deferred until actual payment of benefits to the person pursuant to certain provisions of the Internal Revenue Code. These plans and accounts include stock bonus, pension, annuity, deferred compensation, profit-sharing, health, education, or similar plans or accounts, including: a retirement plan sponsored by a private employer, government, or church; a retirement plan for self-employed individuals; a simplified employee pension plan; an individual retirement account or annuity, including an inherited individual retirement account or annuity; a Roth IRA, including an inherited Roth IRA; a health savings account; a Coverdell education savings account; a plan or account established under Subchapter F, Chapter 54, Education Code, including a prepaid tuition contract; a plan or account established under Subchapter G, Chapter 54, Education Code, including a savings trust account; a qualified tuition program of any state that meets the requirements of Section 529, Internal Revenue Code of 1986; a qualified ABLE program of any state that meets the requirements of Section 529A, Internal Revenue Code of 1986; and an annuity or similar contract purchased with assets distributed from a plan or account described above (collectively herein referred to as "qualified savings plans"). This statute was amended in 2013 to explicitly include Roth IRAs and inherited Roth IRAs and was amended in 2019 to include certain education accounts and ABLE accounts. The statute makes clear that the interest of a person in a qualified savings plan acquired by reason of the death of another person is exempt to the same extent that the decedent's interest was exempt on the date of the decedent's death. TEX. PROP. CODE § 42.0021(c).
- Accounts with Survivorship Features
  An account with survivorship features such as rights of survivorship, POD, or TOD may still be subject to the debts of a deceased account holder. A multiple-party account is not effective against an estate of a deceased party to transfer to a survivor the amounts of estate taxes and expenses charged under Subchapter A, Chapter 124, to the deceased party, P.O.D. payeee, or beneficiary of the account. TEX. EST. CODE § 113.252(a)(1)(A). Or, if other assets of the estate are insufficient, it is not effective as to amounts needed to pay debts, other taxes, and expenses of administration, including statutory allowances to the surviving spouse and minor children; or the claim of a secured creditor who has a lien on the account. *Id* §§ 113.252(a)(1)(B), (2).
  A party receiving payment of an account with survivorship features must account to the personal representative for amounts the deceased party owned beneficially immediately before the party's death to the extent necessary to discharge these claims and expenses, but only up to the amount that he or she received. *Id* § 113.252(b).
  The personal representative of the decedent may only bring a proceeding to assert liability if the personal representative receives a written demand by a surviving spouse, a creditor, or a person acting on behalf of a minor child of the decedent, and they must commence the proceeding on or before the second anniversary of the death of the decedent. *Id* § 113.252(c).
- TODD Property
  The beneficiary of a TODD takes title to the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor's death. *Id* § 114.104(a). Additionally, if the transferor's estate is insufficient to satisfy a claim against the estate, expenses of administration, any estate tax owed by the estate, or an allowance in lieu of exempt property or family allowance, then property passing under a TODD may be liable for those claims and expenses to the same extent it would be if it were part of the probate estate. *Id* § 114.106(a).

(5) *Disclaimers*

Sometimes a lack of estate planning or do-it-yourself estate planning leads to nonprobate transfers with less than desirable consequences. Other times as a result of advice of financial institutions/planners, or lack of estate planning follow through, nonprobate transfers thwart established estate plans. Still other times, post mortem tax planning for the decedent or a beneficiary is needed. In all of these instances, disclaimers may provide a second look.

A disclaimer is a complete renunciation of property, and to be valid in Texas must be made in accordance with Chapter 240 of the Texas Property Code which sets out the Texas Uniform Disclaimer of Property Interests Act (TUDPIA). For the disclaimer to be a qualified disclaimer for federal purposes, the disclaimer must also be made in accordance with

Section 2518 of the Internal Revenue Code. In 2015, the TUDPIA replaced prior disclaimer statutes found in the Texas Estates Code and Texas Property Code, which were largely based on the federal disclaimer provisions. As the TUDPIA differs significantly from the federal provisions now, each should be carefully reviewed to ensure compliance with both if a qualified disclaimer for federal purposes is desired.

It is imperative to review the advisability of a disclaimer before collecting a nonprobate asset, as to not run afoul of the provision in both the Texas disclaimer statute regarding taking possession or exercising dominion or control of the property and the federal disclaimer provision regarding accepting the interest or any of the benefits of the property. *See* TEX. EST. CODE § 240.151(b)(1); IRC § 2518(b)(3). A disclaimer might be helpful to fund trusts established in a will, to pass assets to alternate takers without gift tax consequences, or for a beneficiary facing bankruptcy, and more.

3. 529 Plans

College savings plans such as 529 plans are an often used savings device for clients' loved ones. A qualified tuition program, also referred to as a section 529 plan, is a program established and maintained by a state or an agency or instrumentality of a state, that allows a contributor either to prepay a beneficiary's qualified higher education expenses at an eligible educational institution or to contribute to an account for paying those expenses. These plans are governed by Internal Revenue Code Section 529 and account agreements with the institution where the account is located. Many such accounts only allow one account owner. If the owner dies, a successor account owner can be designated by the account owner during his or life. If one is not so designated, the individual plan agreements control.

In a review of the Texas College Savings Plan, their "July 2023 Update to the Texas College Savings Plan Description and Savings Trust Agreement" provides that if a successor account owner is not designated, ownership of the account will pass according to the terms of the owner's will or by operation of law.[5]

4. Rewards Programs

Loyalty rewards programs are popular in today's culture. They offer incentives for continued patronage. Two of the most common are airline miles and credit card points.

After death, rewards can be tricky. If there is a will with a specific gift of the loyalty rewards, the rewards must be preserved and distributed to the beneficiary of the specific gift. If the rewards are part of the decedent's estate with no specific gift or no will, the personal representative will need to gain access to the rewards and distribute them as part of the estate. As a practical matter, with or without a personal representative and with or without a specific gift, collection and transfer of the rewards are difficult and most of the time limited to the options in the rewards agreement. Often times, a survivor is limited to accessing the rewards with the deceased's username and password and using the benefits before they expire.

A sampling of some loyalty programs and how they handle rewards when a member dies follows.

a. *Airline Miles*

(1) *Southwest Airlines Rapid Rewards*

From their Help Center webpage "What are the Rapid Rewards Rules and Regulations?":

> "Points may not be transferred to a Member's estate or as part of a settlement, inheritance, or will. In the event a Member's account is closed upon death, any points will be forfeited."[6] However, if the survivor, beneficiary, or personal representative has the ability to access the deceased member's account (which they use to book flights with the points, or transfer points for a fee), it appears they can do so. The account will become inactive after 24 months from the last earning date.

(2) *American Airlines AAdvantage Rewards*

From their "AAdvantage Terms and Conditions" found on their website:

> Accrued AAdvantage® Rewards and Benefits do not constitute property of an AAdvantage® member or their estate, do not have any residual property rights value, and except as expressly permitted by American Airlines in its sole discretion, are not transferable upon their death.
> Unless otherwise permitted by American Airlines, upon the death of an AAdvantage® member, such AAdvantage® member's account will be terminated and their AAdvantage® miles and Loyalty Points forfeited. However, under certain limited

[5] https://www.texascollegesavings.com/wp-content/uploads/dlm_uploads/2023/07/TCSP_PDS_Final_7.28.23.pdf (p. 3, accessed May 8, 2024)

[6] https://support.southwest.com/helpcenter/s/article/rapid-rewards-rules-and-regulations (accessed May 7, 2024)

> situations and upon receipt of documentation satisfactory to American Airlines and payment of any applicable fees, American Airlines may elect to, in its sole discretion and on a one-time basis only, credit accrued AAdvantage® Rewards and Benefits of the deceased AAdvantage® member to persons specifically identified in documentation satisfactory to American Airlines, which may include (i) a declaration in support of request for transfer, (ii) a copy of the member's death certificate, and (iii) a copy of an official document establishing the legal authority of the individual in applicable circumstances. Notwithstanding the foregoing, American Airlines may require a minimum period of at least 6 months to learn of any other claims to the account and to conduct its internal review and process all submitted documentation ("Review Period"). This Review Period will commence as of the submission date of all requested documentation to American Airlines and may be extended in American Airlines' sole discretion.
>
> In the event of any disputes or conflicting claims relating to the accrued AAdvantage® Rewards and Benefits of the deceased AAdvantage® member, American Airlines may in its sole discretion require an additional Review Period to settle any and all disputes or claims prior to transferring such accrued AAdvantage® Rewards and Benefits to the identified persons.[7]

(3) *Delta Airlines SkyMiles*

From their "Membership Guide and Program Rules" found on their website:

> "Under the SkyMiles Mileage Expiration policy, miles do not expire. Delta reserves the right to deactivate or close an account (and accordingly remove all miles in the account) under the following circumstances:
>
> …
>
> A Member is deceased.
>
> …
>
> Medallion Status, benefits, and/or miles in the SkyMiles account will be forfeited when an account is closed."[8] In practice it appears that one can continue to book with the deceased's miles if one has the username and password to the account.

(4) *United Airlines MileagePlus*

From their "Rules for the MileagePlus Program" found on their website:

> "Awards and benefits, including accrued mileage, Premier (and/or Million Miler) status levels, Premier (and/or Million Miler) benefits, PlusPoints, Premier Qualifying Credits and certificates do not constitute property of the Member and are not transferable except as set forth herein. Accrued mileage may be transferred to another MileagePlus account through United's Transfer Miles Program. Members must comply with the Transfer Miles Program Terms and Conditions found on united.com. In the event of the death or divorce of a Member, United may, in its sole discretion, credit all or a portion of such Member's accrued mileage to authorized persons upon receipt of documentation satisfactory to United and payment of applicable fees."[9]

b. *Credit Card Rewards*

(1) *American Express Member Rewards*

From their "Membership Rewards Terms & Conditions" found on their website:

> "If we cancel any of your Products for any reason (including your death, insolvency or bankruptcy), you'll lose all the points in your Rewards Account. However: If you die, the executor of your estate or personal representative may be able to make a one-time points redemption, depending on your Product, by calling 1-800-AXP-EARN (297-3276)."[10]

(2) *Capitol One Rewards*

Though their published policy is limited to review by accountholders, it is the author's understanding that if the primary accountholder died, and there was no secondary accountholder, one was limited to having the

[7] https://www.aa.com/i18n/aadvantage-program/aadvantage-terms-and-conditions.jsp (accessed May 7, 2024)

[8] https://www.delta.com/us/en/skymiles/program-resources/program-rules (accessed May 8, 2024)

[9] https://www.united.com/en/us/fly/mileageplus/rules.html (accessed May 8, 2024)

[10] https://www.americanexpress.com/content/dam/amex/us/rewards/membership-rewards/mr-terms-conditions-05.01.2024.pdf (accessed May 8, 2024)

rewards balance converted into a statement credit for cash back on the statement.

(3) *Chase Ultimate Rewards*

From their "Ultimate Rewards Program Agreement" found on their website: "If we're notified of your death, your points will be automatically redeemed for cash in the form of an account statement credit."[11]

c. *Hotel Rewards*

(1) *Hilton Honors (HH)*

HH has a death transfer affidavit available for members to use with no fee. The HH account number is needed.[12]

(2) *IHG One Rewards (includes among others Crowne Plaza, Holiday Inn, Regent Hotels)*

From their Terms and Conditions found on their website:

> "When an IHG One Rewards Member passes away, the Member's Points may be transferred to the IHG One Rewards account(s) of the Member's beneficiary(ies). The request for transfer should be sent to IHG Customer Care by the personal representative of the decedent's estate, along with court documents showing authority, or by a sole beneficiary, along with copies of the decedent's will and death certificate. The request must be received within one (1) year of the date of death. Transfer fees will be waived."[13]

(3) *Marriott Bonvoy*

From their Terms and Conditions found on their website:

> "In the event of a Member's death, the Company may, in its sole discretion, allow unredeemed Points from the deceased Member's Account to be transferred to a family member or a friend who is an active Member upon the Company's receipt and review of all requested documentation and communications. Awards, hotel stays, Elite Membership Status, Lifetime Membership Status, and the related benefits, including, without limitation, Elite Night Credit, will not transfer to the recipient of the Points."[14]

5. Social Media and Digital Data Platforms

Social media accounts and digital data platforms are also prevalent in today's culture. Many social media assets provide for a legacy contact to be designated. A legacy contact is a person you choose to manage your account after you pass away. One issue is discovering whether the decedent had a legacy contact in place. This typically is found in the user profile to which a survivor may not have access without the decedent's stored login information.

For social media assets where a legacy contact has not been designated, the decedent's stored login information can be utilized to access their accounts if the social media provider is unaware of the decedent's death. If neither the legacy contact nor the login information is available, the personal representative can reach out to the social media provider with proof of death and authorization to receive limited or temporary access to the social media account. This method can be time consuming, and the personal representative may be limited in the types of social media assets the representative is able to gain access to before such assets are permanently deleted.

a. *Some highlights from common digital data platforms follows.*

(1) *Apple's Legacy Contact*

Starting in iOS 15.2, iPadOS 15.2, and macOS 12.1, Apple users can add a Legacy Contact for their Apple ID. This gives someone access to the data stored in an Apple account after death.

A Legacy Contact needs both the unique access key created when they were added as a Legacy Contact and a death certificate. A request for access can be started on the contacts Apple device or on the Digital Legacy –Request Access page: https://digital-legacy.apple.com/. [15]

If there is no Legacy Contact access key, a requesting for access to a deceased person's Apple ID and data can be achieved with a court order that names the requestor as "rightful inheritor" of the deceased's personal information. Apple provides that the court order needs to specify:

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[11] https://static.chasecdn.com/content/dam/card/rulesregulations/en/RPA0444_0477.pdf (accessed May 8, 2024)

[12] https://www.hilton.com/modules/assets/documents/Hilton-Honors-Worldwide-LLC-Death-Transfer-Affidavit-0628.pdf (accessed May 7, 2024)

[13] https://www.ihg.com/content/us/en/customer-care/member-tc#rewardnights (accessed May 7, 2024)

[14] https://www.marriott.com/loyalty/terms/default.mi (accessed May 7, 2024)

[15] https://support.apple.com/en-us/102431 (accessed May 8, 2024)

- The name and Apple ID of the deceased person.
- The name of the next of kin who is requesting access to the decedent's account.
- That the decedent was the user of all accounts associated with the Apple ID.
- That the requestor is the decedent's legal personal representative, agent, or heir, whose authorization constitutes "lawful consent."
- That Apple is ordered by the court to assist in the provision of access to the decedent's information from the deceased person's accounts. The court order should be addressed to the relevant Apple entity.[16]

(2) *Google Inactive Account Manager*

Google allows for the designation of an "Inactive Account Manager" This is a way for users to share parts of their account data or notify someone if they've been inactive for a certain period of time. In the event of death, this feature helps manage the user's digital assets. An account is considered inactive if the user has not signed in or used Gmail or other Google tools for a length of time the user chooses.[17] Google's current inactive account policy provides that if an account has not been used within a 2 year period, it will be deleted.[18]

(3) *Dropbox*

Dropbox's website first points someone to look in the user's Dropbox folder on their computer. If they are unable to access the folder or computer with the folder, a request for access will have to go to Dropbox directly. To request access, they provide that a support ticket will need to be created and documentation attached to the ticket which includes: full name of decedent, email address associated with the Dropbox account, requestor's name, address, email, relationship to decedent, copy of a government issued ID, and their legal right to access the person's files under applicable laws.[19]

b. *Some highlights from common social media platforms follows.*

(1) *Instagram*

Instagram allows options to memorialize or remove an account. To report an account to be memorialized, they require proof of death, such as a link to an obituary or news article.[20] There appears to be no restriction on who can request an account be memorialized. Verified immediate family members or personal representatives can submit a request for removal with proof of verification such as: the decedent's birth certificate or the decedent's death certificate, or proof of appointment as a personal representative.[21]

(2) *Facebook*

Facebook allows for a legacy contact for your main profile to look after a memorialized main profile or have an account permanently deleted from Facebook. A legacy contact cannot log into the account, read messages, remove friends, or make no friend requests.[22]

C. Protecting Decedent's Property

1. Mail

a. If Address Shared with Decedent

If the client shared a mailing address with the decedent and continues to receive that mail, the client can: 1) continue to open and manage the deceased mail as needed, 2) forward the deceased's mail to a different address, or 3) forward individual pieces of mail to a personal representative by crossing out the address, printing "forward to the new address on the envelope" and leaving the envelope in the mailbox for carrier pickup or taking it to a post office lobby drop.[23]

b. *If Address Not Shared with Decedent*

If the client did not share a mailing address with the decedent and desires to forward mail to a different address, the client must go to a Post Office location to submit a change of address request in person. A death certificate and documented proof of appointment as a personal representative is needed.[24]

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[16] *Id.*

[17] https://guidebooks.google.com/online-security/protect-your-google-account/inactive-account-manager (accessed May 8, 2024)

[18] https://support.google.com/accounts/answer/12418290?hl=en (accessed May 8, 2024)

[19] https://help.dropbox.com/account-settings/access-account-of-someone-who-passed-away (accessed May 8, 2024)

[20] https://help.instagram.com/264154560391256 (accessed May 8, 2024)

[21] *Id.*

[22] https://www.facebook.com/help/1568013990080948 (accessed May 8, 2024)

[23] https://www.usps.com/manage/mail-for-deceased.htm (accessed May 8, 2024)

[24] *Id.*

c. *Advertising Mail*

The Data and Marketing Association maintains a Deceased Do Not Contact List (DDNC). Within 3 months of registering the deceased's name with DDNC, advertising mail should decrease. Deceased Do Not Contact Registration can be completed at: https://www.ims-dm.com/cgi/ddnc.php.

2. Essential Bills Relating to Property of Decedent

a. *Utilities*

For residential and commercial properties, utilities will need to be kept on and their payments kept current in order to safekeep the property. The client should gather all billing statements to identify service providers. The decedent may not receive paper statements so a review of bank and credit card records should be conducted to see if these are auto debited. A list should be made so that the bills can ultimately be transferred to the appropriate person (a personal representative, a TODD beneficiary, or the devisee). If there is a surviving spouse who receives the property and shared the property with the decedent or an estate, most service providers will simply update the billing name. Otherwise, they will most often close the decedent's account and open a new account in the transferee's name.

b. *Auto Insurance*

Maintaining insurance on a decedent's property is an important part of safekeeping the property. An insurance company should be notified of a policyholder's death and arrangements made for the policy.

If a decedent is an insured driver on an account of which the decedent is not a policy holder, the insurance company should be notified of the death to remove the decedent as an insured driver.

If a decedent is a policy holder and no other insured drivers are on the account, the insurance company should be notified of the death in order to explore policy options. If a beneficiary designation is in place (or other mechanism proving beneficial status such as an Affidavit of Heirship), a new policy will be required. If a personal representative is appointed, many companies will issue an endorsement to the insurance policy naming the personal representative as the insured party.

If a decedent is a policy holder with other insured drivers on the policy and one of the other insured drivers is a surviving spouse, the policy will often be updated and maintained. If the other insured drivers are not a surviving spouse, new policies will need to be obtained for the other drivers and the deceased policy holder's account cancelled.

c. *Homeowner's Insurance*

Maintaining insurance on real property is also an essential matter. While formally transferring ownership will happen in time (whether through a TODD, an Affidavit of Heirship, or a distribution from an estate), insurance will need to be maintained in the interim.

Investigating the policy period, how and when premiums are paid, and the owner(s) of the policy is the first step.

If a beneficiary plans to occupy the house before ownership is formalized and can prove beneficial status, the beneficiary may be able to maintain the existing coverage until a new policy is obtained in the transferee's name. If the beneficiary is a surviving spouse who already occupied the property, he or she is likely already a holder on the policy, and it will simply be updated. However, if the property will be subject to administration with plans to sell or the administration is a lengthy process, a phone call to the insurance company to explore options will be necessary. Some options include temporary insurance for probate (though premiums will be higher) or an administration rider. Vacancy insurance may be a necessity if the home will be unoccupied.

3. Nonessential Bills

The client should review bills, auto debits on bank statements, and automatic billings on credit card statements and make a list of nonessential services (Netflix, etc.) that can be cancelled and note how these bills are paid. This list should be given to a personal representative. If there is a surviving spouse who desires to continue using these services, billing should be updated with the provider.

If one of the nonessential bills is a cell phone service, note that two factor authentication is employed by many online service providers. The client should take care to not prematurely cancel cell phone service as to avoid disrupting the accessibility of two-factor authentication.

D. Obligations of Decedent

1. Credit Cards

The client should organize credit card obligations by gathering and safeguarding or destroying the physical cards and reviewing any statements, for how these bills have been paid (electronically, automatic payment, minimum payment, or paid in full each statement period). A copy of a credit report can be obtained if there is uncertainty about what credit cards may be outstanding. All of this information should be provided to the personal representative. The client should also look specifically for recurring charges that need to be cancelled or rerouted. Finally, the cards should not be used. Even authorized users should not make further charges on the credit cards. If an

authorized user only, the surviving spouse should obtain his or her own card.

2. Income Taxes

A final income tax return must be prepared for a decedent, reporting all income up to the date of death. If the deceased has not filed income tax returns for prior years, those also must be filed.

This paper will not address all of the details regarding filing. The IRS issues a publication, Publication 559, Survivors, Executors, and Administrators which thoroughly addresses income tax filing for decedents. However, some items of special note from this publication follows.

a. *Who Must File the Return?*

The personal representative must file the final income tax return of the decedent for the year of death and any returns not filed for preceding years. If the decedent was married, generally, the personal representative and the surviving spouse can file a joint return for the decedent and the surviving spouse. However, the surviving spouse alone can file the joint return if no personal representative has been appointed before the due date for filing the final joint return for the year of death. This also applies to the return for the preceding year if the decedent died after the close of the preceding tax year and before filing the return for that year. The income of the decedent that was includible on the decedent's return for the year up to the date of death and the income of the surviving spouse for the entire year must be included on the final joint return. A final joint return with the decedent cannot be filed if the surviving spouse remarried before the end of the year of the decedent's death. The filing status of the decedent in this instance is married filing a separate return.

b. *What if you Do Not Know Filing Status or History?*

A personal representative may request the following information from the IRS along with proof of authorization which includes: the full name of decedent, their last address, and social security number, a copy of the death certificate, and a copy of Letters approved by a court or Form 56, Notice Concerning Fiduciary Relationship, including a copy of Letters approved by a court:

- Prior income tax returns through Form 4506, Request for Copy of Tax Return,
- Tax transcript-If this is requested online, it will be mailed to the decedent's address of record. If a personal representative wants it mailed to their address, Form 4506-T, Request for Transcript of Tax Return must be submitted.
- Payoff information (if decedent has a balance due); and
- Change of address.

c. *The Surviving Spouse may be a "Qualifying Surviving Spouse"*

If the decedent died within 2 years preceding the year for which a surviving spouse's return is being filed, the surviving spouse may be eligible to claim the filing status of qualifying spouse with dependent child and qualify to use the married filing jointly tax rates. Requirements may be met if the surviving spouse:

- Was entitled to file a joint return with the decedent for the year of death, whether or not they actually filed jointly;
- Did not remarry before the end of the current tax year;
- Has a child, stepchild, or foster child who qualifies as a dependent for the tax year; and
- Provides more than half the cost of maintaining the home, which is the principal residence of that child for the entire year except for temporary absences.

3. Estate Taxes

The estate tax is a tax on the right to transfer property at death. It consists of an accounting of everything a decedent owns or has certain interests in at the date of death. The fair market value of these items is used, not necessarily what was paid for them or what their values were when acquired. The total of all of these items is the gross estate. Once the gross estate is accounted for, certain deductions are allowed to arrive at the taxable estate. These deductions may include mortgages and other debts, estate administration expenses, and property that passes to surviving spouses and qualified charities. After the net amount is computed, the value of lifetime taxable gifts is added in and the tax is computed. The tax is then reduced by the available unified credit. A filing is required via Form 706 if the gross estate of the decedent, increased by adjusted taxable gifts and specific gift tax exemption, is valued at more than the filing threshold for the year of the decedent's death.

4. Medical Bills and Other Bills

Any medical bills and other bills received should be organized and delivered to the personal representative. If no personal representative will be appointed and there is a surviving spouse, the spouse may be personally liable for some of the bills if they were for the "necessaries" of the other spouse. *See* TEX. FAM. CODE §§ 2.501, 3.201(a)(2).

E. Miscellaneous Items Relating to Decedent

1. Ongoing Businesses

If the decedent had a sole proprietorship or participated in another business entity, records need to be reviewed to determine the decedent's role as authorized signer on accounts, officer or director positions, registered agent, and ownership interests. A careful review of the companies' agreements needs to be conducted to determine the procedure for electing new officers and directors, as well as the procedure for transferring any ownership interests.

2. Professional and Occupational Licensing & Records

If the decedent held a professional or occupational license or owned a business that handles protected client records, additional care should be taken to review the profession's requirements regarding inactivation of those licenses and proper handling of client records.

A sampling of the requirements for select professions and occupations follows.

a. *Certified Public Accountants*

Rule 513.16 of the Texas Administrative Code provides:

(a) Upon written authorization from the executive director, a firm with only one CPA owner may continue to operate for a period of up to 15 months following the death or incapacitation of the sole CPA owner. The executive director, subject to ratification at the next board meeting, may permit the continued operation of the firm when he has been provided with:

(1) In the event of the death of the sole CPA owner:

(A) a certified copy of the sole CPA owner's death certificate;
(B) a copy of the power of attorney from the sole CPA owner's executor, administrator, or heir along with a document from the executor, administrator or heir designating a Texas CPA in good standing with the board with the authority and intention to manage the sole CPA owner's firm; and
(C) written evidence that a disruption in the continuation of the sole CPA owner's firm would jeopardize the survivability of the firm.

(2) In the event of the incapacitation of the sole CPA owner:

(A) an affidavit from the sole CPA owner's physician stating that the sole CPA owner, because of a severe ongoing physical, mental impairment or medical condition is not able to perform the day-to-day tasks necessary for the continued operation of the firm;
(B) a copy of a power of attorney or a court ordered guardianship along with a document from the holder of the power of attorney or the guardian designating a Texas CPA in good standing with the board with the authority and intention to manage the sole CPA owner's firm; and
(C) written evidence that a disruption of the continuation of the sole CPA owner's firm would jeopardize the survivability of the firm.

(b) Upon the death of a co-owner of a firm with a surviving CPA owner, the firm may continue to operate during the period the owner's estate is being probated. The firm's resident manager shall notify the board in the firm's next annual licensing application of the status of the firm's ownership.

b. *Physicians/Chiropractors*

- Physicians Licensed by the Texas Medical Board (TMB)

  - Under TMB rules, medical records must be maintained for a minimum of seven years from the date of the last treatment of the patient (or, if the patient is a minor, until the patient reaches the age of 21 *or* seven years from the date of the last treatment, whichever longer). TEX. ADMIN. CODE Rule §165.1. If medical records are "abandoned" for more than two weeks by the physician's estate, the Texas Medical Board may appoint a temporary or permanent custodian for the records. TEX. ADMIN. CODE Rule §165.4. Thus, it is important that the medical records be transferred to someone who will be able to properly maintain them immediately.
  - Although not specifically addressing death of a doctor, Rule 165.5 of the Texas Admin. Code addresses what must occur with patient medical records "when a physician retires, terminates employment, or otherwise leaves a medical practice." Rule 165.5 requires that patients receive notification as to where they

can obtain their medical records and/or how they may arrange for the records to be transferred to another provider. Rule 165.5 also lists appropriate ways in which to give patients notice. Additionally, copies of the posted notices must be provided to the Texas Medical Board within 30 days of the termination or sale of a medical practice.

- Chiropractors Licensed by the Texas Board of Chiropractic Examiners (TBCE)
    - Pursuant to TBCE Rules, chiropractors must maintain patients' records for six years after the date of the last treatment with the patient (or, if the patient is a minor, until the patient reaches the age of 21 *or* six years from the date of the last treatment, whichever longer). TEX. ADMIN. CODE Rule §76.2.
    - The TBCE does not specifically state what must happen with patient medical records upon the death of a chiropractor. However, Rule 76.2 states, "All licensed chiropractors shall observe and comply with all documentation laws pertaining to health care providers under state and federal law." Thus, it is advisable to follow the same requirements regarding medical records as prescribed by the TMB (above).

c. *Licensed Marriage and Family Therapists*

In private practice, the licensee must establish a plan for the custody and control of the licensee's client mental health records in the event of the licensee's death or incapacity or the termination of the licensee's professional services. 22 TEX. ADMIN. CODE § 801.48(h).

d. *Dentists*

The name of a deceased or retired dentist shall not be used at such location more than one (1) year after the death or retirement of the dentist. 22 TEX. ADMIN. CODE § 108.4(d).

e. *Veterinarians*

On the death of a veterinarian, the veterinarian's practice ownership and patient records become the property of the veterinarian's heirs to dispose of as necessary not later than the second anniversary of the date of the veterinarian's death. 22 TEX. OCC. CODE § 801.360.

3. Assets for Which the Decedent Served as Custodian

a. *Coverdell Education Savings Accounts (Coverdell ESA)*

A Coverdell ESA is a trust or custodial account set up solely for paying qualified education expenses for the designated beneficiary of the account. This benefit applies not only to qualified higher education expenses, but also to qualified elementary and secondary education expenses. They are governed by 26 U.S.C. § 530. The trust or custodian is the party that establishes and controls the funds in the Coverdell ESA for the beneficiary. Funds within the account are not considered to be owned by the custodian nor by the beneficiary unless they are the same individual. All funds must be distributed to the beneficiary before the age of 30, but the custodian may name a new beneficiary of the account before such time in order to preserve the account. A custodian can name a successor custodian in the event of death. If no successor is named, the individual plan agreements control.

In a review of Ameriprise Financial's their "Your guide to Coverdell Education Savings Accounts-Coverdell Education Savings Account Disclosure Statement and Custodial Agreement", it provides that if no successor is designated, the successor responsible individual shall be determined in the following order: 1) the designated beneficiary's legal guardian; or 2) the designated beneficiary, if the designated beneficiary has reached the age of majority under state law.[25]

b. *UTMA Accounts*

Under the Uniform Transfers to Minors Act (UTMA), found in Chapter 141 of the Texas Property Code, a person may make an irrevocable transfer to a custodian for a minor's benefit. The custodian shall take control of the custodial property, register or record title to custodial property if appropriate, and collect, hold, manage, sell, convey, invest, and reinvest custodial property. TEX. PROP. CODE § 141.013(d). A custodian may deliver or pay to the minor or expend for the minor's benefit as much of the custodial property as the custodian considers advisable for the use and benefit of the minor without court order. *Id* § 141.015(a). The custodian shall transfer the custodial property to the minor on the date the minor attains the age of 21. *Id* § 141.021(1).

If a custodian dies without having effectively designated a successor and the minor is at least 14 years of age, the minor may designate as successor custodian an adult member of the minor's family, a guardian of the minor, or a trust company. *Id* § 141.019(d). If the

25 https://www.ameriprise.com/binaries/content/assets/ampcom/wcm/AMP_24044.pdf (p. 13, accessed May 8, 2024)

minor is younger than 14 years of age or fails to act within 60 days after the death of the custodian, the minor's guardian becomes successor custodian. *Id.*

F. Items Relating to a Survivor

1. Ad Valorem Exemptions.

a. *Homestead Exemption*

The Residence Homestead Exemption Application (Form 50-114-A) provided by the Texas Comptroller provides that "heir property is property owned by one or more individuals, where at least one owner claims the property as a residence homestead, and the property was acquired by will, transfer on death deed, or intestacy. An heir property owner not specifically identified as the residence homestead owner on a deed or other recorded instrument in the county where the property is located must provide the appraisal district:

- an affidavit establishing an ownership interest in the property;
- a copy of the prior property owner's death certificate;
- a copy of the property's most recent utility bill; and
- a citation of any court record relating to the applicant's ownership of the property, if available.

Each heir property owner who occupies the property as a principal residence, other than the applicant, must provide an affidavit that authorizes the submission of the application."[26]

b. *Surviving Spouses of Age 65 or Older or Disabled Persons*

For persons age 65 or older or disabled, Tax Code Section 11.13(c) requires school districts to provide an additional $10,000 residence homestead exemption. Tax Code Section 11.13(d) allows any taxing unit to adopt a local option residence homestead exemption. This local option exemption cannot be less than $3,000.

To qualify for the age 65 or older residence homestead exemption, the individual must be age 65 or older, have an ownership interest in the property and live in the home as his or her principal residence. TEX. TAX CODE §11.13(c),(d). A surviving spouse age 55 or older may be eligible for their deceased spouse's age 65 or older exemption if the deceased spouse dies in a year that they qualified for the exemption and lives in the home as his or her primary residence. TEX. TAX CODE § 11.13(q).

A disabled person must meet the definition of disabled for the purpose of receiving disability insurance benefits under the Federal Old-Age, Survivors and Disability Insurance Act administered by the Social Security Administration. Disability benefits from any other program do not automatically qualify for the exemption. To prove eligibility, the appraisal district may need to be provided with supporting documents regarding disability.

An eligible disabled person age 65 or older may receive both exemptions in the same year but not from the same taxing units. *Id* § 11.13(h).

c. *Surviving Spouses of Disabled Veterans*

Texas provides for a disabled veteran exemption if the property and property owner meet the qualifications. *See Id* §11.131(b). A disabled veteran exemption can exempt a portion of the total property value. An exemption amount is determined by the disability rating issued by the U.S. Veterans Administration or the branch of the armed services in which the veteran served. Certain disabled veteran exemptions apply to a qualifying residence homestead, while others can be applied to any one property owned by the qualifying individual.

Tax Code Section 11.22 provides a partial exemption for any one property owned by a disabled veteran. The amount of the exemption varies depending on the disabled veteran's disability rating. The surviving spouse who remains unmarried and surviving children of a disabled veteran may also qualify for an exemption under this section. The application for the exemption under Tax Code Section 11.22 is Form 50-135, Disabled Veteran's or Survivor's Exemption Application (PDF).

Tax Code Section 11.132 provides a partial exemption for a residence homestead donated to a disabled veteran by a charitable organization which may also extend to the surviving spouse of the disabled veteran who has not remarried if the property was the residence homestead of the surviving spouse when the qualifying deceased spouse died and the property remains his or her residence homestead. The amount of the exemption is based on the disabled veteran's disability rating. The application for the exemption under Tax Code Section 11.132 is Form 50-114, Residence Homestead Exemption Application (PDF).

Tax Code Section 11.133 entitles a surviving spouse of a member of the U.S. armed services killed or fatally injured in the line of duty to a total property tax exemption on his or her residence homestead if the surviving spouse has not remarried since the armed services member's death. The application for the exemption under Tax Code Section 11.133 is Form 50-

[26] The Residence Homestead Exemption Application can be found at https://comptroller.texas.gov/taxes/property-tax/forms/ (accessed May 10, 2024)

114, Residence Homestead Exemption Application (PDF).

Tax Code Section 11.131 entitles a disabled veteran awarded 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployability to a total property tax exemption on the disabled veteran's residence homestead, as determined by the U.S. Department of Veterans Affairs. The application for the exemption under Tax Code Section 11.131 is Form 50-114, Residence Homestead Exemption Application (PDF).

This exemption extends to a surviving spouse who was married to a disabled veteran who qualified or would have qualified for this exemption if it has been in effect at the time of the veteran's death provided:

- the surviving spouse has not remarried;
- the property was the surviving spouse's residence homestead when the veteran died; and
- the property remains the surviving spouse's residence homestead.

The application for the surviving spouse exemption under Tax Code Section 11.131 is Form 50-114, Residence Homestead Exemption Application (PDF).

d. *Surviving Spouses of First Responders Killed in the Line of Duty*

Tax Code Section 11.134 entitles a surviving spouse of certain first responders killed or fatally injured in the line of duty to a total property tax exemption on his or her residence homestead if the surviving spouse has not remarried since the first responder's death. The application for the exemption under Tax Code Section 11.134 is Form 50-114, Residence Homestead Exemption Application (PDF).

2. Income Tax Basis

Basis adjustment at death is an important item to advise clients about, particularly when a formal administration is not necessary. Perhaps there is no Inventory prepared and/or estate tax return filed. The new cost basis of property inherited from a decedent is generally the fair market value of the property on the date of the decedent's death. If a decedent is married and has community property, the total value of the community property receives a basis adjustment upon the death of the first spouse. *See* IRS Publication 551: Basis of Assets. This is valuable information for heirs and distributees.

3. Portability

Beginning January 1, 2011, estates of decedents survived by a spouse may elect to pass any of the decedent's unused gift and estate tax exemption to the surviving spouse. This election is made on a timely filed estate tax return for the decedent with a surviving spouse.

4. Social Security Benefits

Social Security benefits may be available for certain survivors. For benefits purposes, Social Security considers a survivor to be the spouse, child, or parent of a worker who dies. The deceased must have worked long enough under Social Security for a survivor to be eligible for benefits. The Social Security Administration's website, "Planning for Your Survivors"[27] has a thorough discussion of survivors benefits. The information in this section is derived from this site.

a. *Lump Sum Death Payment*

A surviving spouse or child may receive a special lump-sum death payment of $255 if they meet certain requirements.

Generally, the lump-sum is paid to the surviving spouse who was living in the same household as the worker when they died. If they were living apart, the surviving spouse can still receive the lump-sum if, during the month the worker died, they met one of the following: 1) were already receiving benefits on the worker's record, or 2) became eligible for benefits upon the worker's death.

If there's no eligible surviving spouse, the lump-sum can be paid to the worker's child (or children) if, during the month the worker died, the child met one of the following: 1) was already receiving benefits on the worker's record, or 2) became eligible for benefits upon the worker's death.

If the eligible surviving spouse or child is not currently receiving benefits, they must apply for this payment within 2 years of the date of death.

b. *Benefits After Death*

(1) *Surviving Spouse*

A surviving spouse of a decedent who worked long enough under Social Security can:

- Receive reduced benefits as early as age 60.
  If a surviving spouse is eligible for retirement benefits on their own record, they can switch to their own retirement benefit as early as age 62.

27 https://www.ssa.gov/benefits/survivors/onyourown.html#h0 (accessed May 8, 2024)

- Begin to receive benefits as early as age 50 if the surviving spouse has a disability and the disability started before or within 7 years of the decedent's death.
  If a surviving spouse who is caring for the decedent's children receives Social Security benefits, they are still eligible if their disability starts before those payments end or within 7 years after they end.
- Receive survivors benefits at any age, if the survivor has not remarried and takes care of the decedent's child who is under age 16 or has a disability and receives child's benefits.

Some special situations for surviving spouses:

- If a surviving spouse remarries after reaching age 60 (age 50 if disabled), remarriage will not affect eligibility for survivors benefits.
- If a surviving spouse already receive benefits as a spouse, their benefit will automatically convert to survivors benefits after Social Security receives the report of death.
- If a surviving spouse is also eligible for retirement benefits but has not applied yet, they can apply for retirement or survivors benefits after their spouse's death and switch to the other (higher) benefit later.
- For those already receiving retirement benefits, you can only apply for benefits as a surviving spouse if the retirement benefit you receive is less than the benefits you would receive as a survivor. Additionally, if a surviving spouse became entitled to retirement benefits less than 12 months before a spouse's death, they may be able to withdraw their retirement application and apply for survivors benefits only then reapply for the retirement benefits later when they will be higher.

(2) *Surviving Divorced Spouse*

A divorced spouse of a decedent can get benefits the same as a surviving spouse, provided that the prior marriage lasted 10 years or more. Benefits paid to a surviving divorced spouse will not affect the benefit amount for other survivors getting benefits on the decedent's record. If a surviving divorced spouse remarries after reaching age 60 (age 50 if disabled), remarriage will not affect eligibility for survivors benefits.

A surviving divorced spouse caring for a child of the decedent who is under age 16 or who has a disability and receives benefits on the record of the decedent does not have to meet the length-of-marriage rule. The child must be the former spouse's natural or legally adopted child.

(3) *Minor or Disabled Child*

An unmarried child under age 18 (up to 19 if attending secondary school full time) of a decedent is eligible to receive Social Security survivors benefits. A child with a qualifying disability that began before age 22 can get benefits at any age.

(4) *Dependent Parent*

A dependent parent of a decedent who is at least age 62 may be eligible to receive Social Security survivors benefits. The dependent parent must have been receiving at least half of their support from the decedent and must not be eligible to receive a retirement benefit that is higher than the benefit paid on the decedent's record. Generally, the dependent parent must not have married after their deceased child's death.

(5) *Maximum Family Amount*

There's a limit to the amount that family members can receive each month. The limit varies, but it is generally equal to between 150% and 180% of the basic benefit rate. If the sum of the benefits payable to family members is greater than this limit, the benefits will be reduced proportionately. Any benefits paid to a surviving divorced spouse based on disability or age will not count toward this maximum amount.

5. Veteran or Service Member Benefits

A surviving spouse or dependent child of a Veteran or service member may qualify for certain benefits, like health care, life insurance, or money to help pay for school or training, help with burial costs and survivor compensation. Potential benefits include:

a. *TRICARE*

A family member of an active-duty, retired, or deceased service member, National Guard soldier, Reservist, or Medal of Honor recipient, may qualify for the TRICARE program. TRICARE provides comprehensive health coverage, including health plans, prescription medicines, dental plans, and programs for people with special needs. The Department of Defense's Defense Health Agency manages this program. More information about eligibility can be found at https://www.va.gov/VADODHEALTH/TRICARE.asp .

b. *VA Home Loan Programs*

To get a VA-backed home loan as the surviving spouse of a Veteran, a Certificate of Eligibility (COE) is needed to show the lender that you qualify for this benefit. A COE can be requested online https://www.va.gov/housing-assistance/home-loans/how-to-request-coe/.

c. *VA Dependency and Indemnity Compensation (VA DIC)*

Surviving spouses, children, and parents of a service member who died in the line of duty, or the survivor of a Veteran who died from a service-related injury or illness may be able to get VA DIC, a tax-free monetary benefit. More information about qualifications and the amount of this benefit can be found at https://www.va.gov/disability/dependency-indemnity-compensation/.

d. *VA Survivors Pension*

A VA Survivors Pension offers monthly payments to qualified surviving spouses, unmarried dependent children, and disabled children of wartime Veterans who meet certain income and net worth limits set by Congress. A surviving spouse may be eligible for this benefit if they have not remarried after the Veteran's death, and if the deceased Veteran did not receive a dishonorable discharge and their service meets at least one of these requirements:

- The Veteran entered active duty on or before September 7, 1980, and served at least 90 days on active military service, with at least 1 day during a covered wartime period, **or**
- The Veteran entered active duty after September 7, 1980, and served at least 24 months or the full period for which they were called or ordered to active duty (with some exceptions), with at least 1 day during a covered wartime period **or**
- The Veteran was an officer and started on active duty after October 16, 1981, and hadn't previously served on active duty for at least 24 months.

More information about covered wartime periods can be found at https://www.va.gov/pension/survivors-pension/#what-wartime-periods-do-you-re.

IV. HOPES FOR NO MAN'S LAND

The details of death are many. Confronting them in the fog of grief is daunting. As counselors at law, we can not only provide valuable counsel to clients as they wade through formal administration waters, but we can equip them with information to get through the other details of death as well.