

BEXAR COUNTY PROBATE COURT NO. 3

Judge Barbie Scharf-Zeldes
Bexar County Courthouse
100 Dolorosa, Ste. 1.20
San Antonio, Texas 78205



HEIRSHIPS & ADMINISTRATIONS CHECKLIST

Procedures: Please e-file all appropriate documents for your case with the Bexar County Probate Clerk's office, including Proposed Orders, Judgments, Affidavits of Heirship, and Proof of Death for review.

Once the checklist is fully completed with all documents e-filed. The applicant's attorney will contact the Court's paralegal to review and approve. Upon approval, the attorney may set this matter for hearing with the Court Coordinator.

A FIAT is required. Please use the template on the Probate Court 3 website or you will be given a proposed FIAT by the court's court coordinator after a date is selected. The case will be re-reviewed by a staff attorney after it has been set for hearing. If there are concerns with the case, the staff attorney will make every effort to contact the filing attorney in a timely fashion, but if the issue is not resolved prior to the hearing, the case will have to be re-set.

Please cross through actions that do not apply

Note: This court uses the following explanation of "disinterested witness" for purposes of determining heirs: A disinterested individual is a person who has no interest in the estate, no interest in the outcome of the proceeding, and is familiar with the decedent's family history. In the event a disinterested witness is simply not available, please state the circumstances in a Motion/Order.

Case Number _____ Estate of _____

Checklist for Heirship

- ☐ Sworn Heirship Application in compliance with *Texas Estates Code §202.005 and §202.007*.
- ☐ Please list the heirs' interests as fractions, not percentages.
 - ☐ All names (Decedent, Applicant(s), Heir(s), etc.) need to match exactly in all documents filed.
- ☐ Citation by Publication completed (review to ensure no errors)
 - ☐ Publisher's Affidavit filed, and the publisher has been paid (the publisher has a separate fee from the fee when e-filing the citation by publication, and the publisher will not file the return until their fee is paid.) – contact the County Clerk for questions or corrections
 - ☐ OCA Affidavit filed – check your case at: <https://topics.txcourts.gov/CitationsPublic> - contact the County Clerk for questions
- ☐ Motion and Order to Appoint Attorney Ad Litem. The court's court coordinator will appoint an attorney ad litem once the Citation by Publication is properly completed and reflected in the Court's system. A courtesy copy of the signed order will be emailed directly to the ad litem and the attorney listed on the Motion to Appoint Attorney Ad Litem. If you have questions about citations, please

contact the Bexar County Probate Clerk's Office at (210)335-2241 for further assistance.

- ☐ Waivers by heirs who are at least age 16, Proof of Qualified Delivery Method to all known or ascertainable distributees 12 years of age or older, or service. *Tex. Est. Code §§202.051-202.056.*
- ☐ Affidavit of Service of Citation in compliance with *Tex. Est. Code §202.057.*
- ☐ **Statement of Facts or Affidavits of Heirship Regarding Identity of Heirs signed by 2 Disinterested Witnesses** (They will need to appear at the hearing.). The affiants must identify all heirs of the estate. Per *Tex. Est. Code §203.002*, state whether decedent died with or without leaving a written will. E-file signed/notarized Statements of Fact/Affidavits of Heirship prior to requesting a hearing. The Statements of Fact/Affidavits of Heirship must explain how the affiant knew the Decedent.

If the decedent was pre-deceased by an heir or an heir of decedent has subsequently died, proof regarding that heir shall be provided as follows:

1. Your application should identify the deceased heir, if the deceased heir's estate has been probated, the name of any appointed executor/administrator, the cause number and the county where filed. If it's an out-of-county heirship, please include a copy of the heirship judgment.
 2. All heirs of a predeceased heir will need to sign waivers and consents, or the heirs must be served with notice per the notice requirements as listed above.
 3. If an heir post-deceased (survived the Decedent by 120 hours per *Tex. Est. Code §121.052*) then citation or notice must comply with *Tex. Est. Code §51.057*.
 - a. If notice by citation by publication is required under *Tex. Est. Code §51.057*, you must file a motion describing the circumstances requiring the citation by publication and a proposed order. Please let the staff attorneys know when the motion and order are accepted.
 4. The two disinterested witnesses or a Court approved genealogist report must identify the pre-deceased and/or post-deceased heir, the relationship to the decedent, and the deceased heir's date of death.
 5. It's the Court's preference that an obituary or death certificate of the deceased heir be provided to the Court prior to setting. If neither are obtainable, please contact the staff attorneys for further guidance.
- ☐ Proposed Judgment Declaring Heirship e-filed for review prior to requesting a review (this should be separate from the Order of Administration.) Prior to e-filing the proposed judgment, please send it to your AAL for review and approval. Once approved, all attorneys must sign the Judgment prior to e-filing to the probate clerk's office.

_____ Verify distribution shares are correct based on the chart published on PC3 website.
_____ Attorney ad Litem fee (leave blank if more than \$600)
_____ Discharging Attorney ad Litem

- ☐ An Original or Copy of the Death Certificate emailed to paralegal and both staff attorneys.

- ☐ It's the Court's preference that attorney ad litem fees are paid in advance of the hearing or trial. In the event fees are not paid in advance, the Court will refrain from signing judgments declaring heirship and administration orders until attorney ad litem fees are paid.
- ☐ Anyone who signs a Proof of Death, Affidavits, or Statement of Facts must appear at the hearing to testify.

ATTORNEY AD LITEM IS RESPONSIBLE

- ☐ Answer of Attorney Ad Litem
- ☐ Report of Attorney Ad Litem
- ☐ Reviewing and signing of the proposed Judgment declaring heirship
- ☐ *Ad Litem Pink Sheet filed. Ad Litem's fees and expenses over \$600 must include an application; an attorney's billing affidavit providing attorney's information, how many years they have been practicing, and that fees are necessary and reasonable; a statement indicating date, time, description/action, hourly fee and total; and pink sheet.*

Checklist for Administration

- ☐ Application filed. Please be sure to notate whether you are asking for Independent Administration or Dependent Administration within the title and body of the application – if you just include only the word "Administration" in the title and body of your application, and if notice posts that way, the Court will only grant your applicant a Dependent Administration.
 - ☐ All names (Decedent, Applicant(s), Heir(s), etc.) need to match exactly in all documents filed.
- ☐ If the Applicant resides outside of the State of Texas, the applicant must designate a Resident Agent. *Tex. Est. Code §304.003.*
- ☐ Posted Notice and the return is on file.
- ☐ Sworn Distributee Consent to Independent Administration signed by all heirs (no independent if minors are involved); See instructions above for post-deceased and predeceased regarding obtaining consents.
 - ☐ Bond waived
 - ☐ Right to Sell Real Property
- ☐ Proposed Order establishing either Independent or Dependent Administration
- ☐ Signed and notarized Proof of death e-filed prior to hearing. Please ensure that there is crucial language detailing if the applicant is/is not a convicted felon.
- ☐ Unsigned Oath.
- ☐ An Original or Copy of the Death Certificate emailed to paralegal and both staff attorneys (only one if already submitted with heirship proceeding)

☐ Attorney provided client with a copy of “A Guide for the Texas Independent Administrator” or “Court Instructions for Dependent Administrator” (Forms are located on the PC3 Website).

☐ Anyone who signs a Proof, Affidavit, or Statement of Facts must appear at the hearing to testify.

Attorney Verification

I, _____, confirm that all required documents for the hearing I am requesting in Cause No. _____ **-PC3-** _____ are correct and have been e-filed and accepted by the Bexar County Probate Clerk’s office.

Signed: _____ Date: _____