



Hon. Fransheneka “Fran” Watson  
Associate Judge Lily U. Leal

HARRIS COUNTY PROBATE COURT FIVE  
1115 Congress St, 5<sup>th</sup> Floor | Houston, TX 77002 | (832) 927-1405 Phone

**HEIRSHIP & ADMINISTRATION CHECKLIST**

**Procedures:** The *Attorney of Record* is responsible for completing the checklist and ensuring **ALL** required documents are filed prior to setting. If this matter is **uncontested**, please use the Probate Court No. 5 [Online Scheduling Link](#) to set the matter for hearing.

**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 or in the outcome of the proceeding and the witness must be familiar with the decedent’s family history. In the event a disinterested witness is simply not available, please state the circumstances.

**Checklist for Heirship**

- ✓ Sworn Heirship Application in compliance with 202.007.
- ✓ Citation by Publication Completed (review to ensure no errors)
  - ✓ Publisher’s Affidavit filed – contact the County Clerk for questions or corrections.  
Daily Court Review- Used by Harris County
  - ✓ OCA Affidavit filed – check your case at: <https://www.txcourts.gov/judicial-data/citation-by-publication/> - contact the County Clerk for questions.
- ✓ Motion and Order to Appoint Attorney Ad Litem.
- ✓ Sworn Waivers (16 years of age or older; if 16 years of age or younger, parent, etc. may waive) or Qualified Delivery proof from all known or ascertainable distributees 12 years of age or older. See Tex. Estates Code §§ 202.051, 202.052 and 202.056
- Proof of Service or Waivers on file**
- ✓ Affidavit of Service of Citation in compliance with Tex. Estates Code § 202.057, **mandatory** for jurisdiction and must be filed prior to hearing.
- ✓ Disinterested Witnesses notified and present to testify at the hearing.

**Note:** If any disinterested witness *cannot* testify in person, the witness may testify by deposition on written questions pursuant to Tex. Estates Code § 51.203

**Sworn witness testimony reduced to writing *after* hearing and e-filed – mandatory.**

- ✓ E-file Unsigned Witness Testimony before setting a hearing. (e.g. affidavits of heirship, statement of facts)

- ✓ E-file Unsigned Proof of Death before setting a hearing.
- ✓ E-file the Proposed Judgment Declaring Heirship Order before setting a hearing. (cannot be combined with an Order of Administration.) **Order must include the following:**
  - ✓ Use fractional interests, not decimals for shares. Include all forms of property – real, personal, separate, and community.
  - ✓ Discharge Attorney Ad Litem
  - ✓ Must be signed by both the Attorney of Record and Attorney Ad Litem.
  - ✓ Do not include fee amount for ad litem; include language that Ad Litem fees are paid under separate order.

## Ad Litem Is Responsible

*The **Attorney of Record is responsible** for following up with the Attorney Ad Litem to confirm the following items have been efiled before setting a hearing.*

- ✓ Answer of Attorney Ad Litem
- ✓ Ad Litem Fee Order Ad Litem's fees and expenses over \$700.00 must include an attorney's *billing affidavit, itemized timekeeping and a request for an in person hearing on the ancillary docket.*
- ✓ Confirmed Hearing Availability

## Checklist for Administration

- ✓ Application filed.
- ✓ Posted Notice and the return is on file.
- ✓ Sworn consent(s) to Independent Administration from all distributees established through the judgment of heirship (no independent if minors are involved)  
     \_\_\_ Bond waived      \_\_\_ Consent to Sell Real Property
- ✓ E-file Unsigned Proof of Death (only one if simultaneous with heirship proceeding)
- ✓ E-file Unsigned Oath stating Independent or Dependent with Bond
- ✓ E-file the Proposed Order establishing either Independent or Dependent Administration with bond; e-filed for review prior to hearing. Enumerate powers if necessary for dependent administration.

**Note:** Probate Court 5 is accepting unsworn declarations in lieu of notarized signatures for the following documents: Oaths of Executors; Oaths of Administrators; Proof of Death and Other Facts; Witness statements for Estates; Witness statements for Heirships; Inventories, Annual Reports and Annual Accounts. Unsworn declarations must substantially conform to the language in Texas Civil Practice and Remedies Code 132.001.

## **SIGNING OF ORDERS**

Probate Court 5 will sign the Order(s) after the Executed Proof of Death and Other Witness Testimony (Statement of Facts) have been e-filed and accepted by the Clerk's Office. Once the Order is signed, the Oath may be taken.