



Hon. Fransheneka “Fran” Watson

Associate Judge Lily U. Leal

HARRIS COUNTY PROBATE COURT FIVE

1115 Congress St, 5th Floor | Houston, TX 77002 | (832) 927-1405 Phone

PROBATING ORIGINAL WILL CHECKLIST:
SELF-PROVED, NOT SELF-PROVED, AND AS MUNIMENT OF TITLE

Procedures: The *Attorney of Record* is responsible for completing the checklist and ensuring *All* required documents are **Filed and Accepted** prior to setting. If this matter is uncontested, please use the Probate Court No. 5 [Online Scheduling Link](#) to set the matter for hearing. The hearing is set via zoom by default, if you are appearing In-Person, please let the court know at least 24 hours in advance of your hearing setting.

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 Probating a Will

- ✓ Application: Texas Estates Code §256.052
 - Title of Application must reflect what you are probating, e.g. Application to Probate Original Will, 1st and 2nd Codicil; Probate Original Will Annexed; Application to Probate Will as Muniment of Title; ...Prayer must reflect the same.
 - Provide name of executor(s) and decedent as stated in the Will, also provide a/k/a, f/k/a, etc. if applicable.
 - If named Independent Executor is unwilling to serve or is unavailable, the cause of the ineligibility must be plead in the Application and Proof. Submit a sworn Declination or Renunciation of Right to Serve for the named Executor and any Alternate Executors when possible. Need some proof if predeceased or not capable.
- ✓ Deliver Will to Probate Clerk’s Office within 3 business days. TEC §252.201.
- ✓ Citation issued by the Clerk, 10 day posting, and returned before hearing.
- ✓ Holographic Will (Will is wholly in Decedent’s handwriting). TEC §256.154
- ✓ If Will is not self-proved: Texas Estates Code 256.153 or 256.154.
 - One of the subscribing witnesses must prove by sworn testimony in open court and by Affidavit
 - If subscribing witness is unavailable, prove Will by sworn testimony of 2 disinterested witnesses in open court to the signature and/or handwriting OR
 - May do deposition by written questions as to signature and/or handwriting if witnesses are not available.

- ✓ Proof of Death:
 - If not self-proved, add there is proof by subscribing witness to Will or witnesses to the handwriting of a subscribing witness or the testator.
 - Include language if Holographic Will.
 - For Muniment of Title include Medicaid language and no debts owed.
 - ✓ Title of Order reflects what you are probating: Order Probating Holographic Will; Order Probating Will as Muniment of Title, etc.
 - ✓ E-file unsigned Affidavit for subscribing witness or witness for signature (if not self-proved and holographic) prior to setting a hearing. Live testimony is required.
 - ✓ E-file unsigned Proof of Death for review before setting a hearing.
 - ✓ E-file unsigned Oath before setting a hearing.
 - ✓ E-file Executed Oath of No Debts before setting a hearing; (Muniment of Title Only)
- Please note the following respect to Muniments of Title, in general, for Probate Court 5- Needs a MERP certification or, in lieu thereof, and if true, you are allowed to add the “No Medicaid Language” to the Oath of No Debts and file same EXECUTED before setting your hearing; the Court will also accept the original Application Sworn/Verified by Applicant that contains the Medicaid Statement.
- ✓ E-file the Proposed Order as a separate lead document for review and approval before setting a hearing. Order must refer to probating a Copy of a Will, testimony taken, etc.

Note: Probate Court 5 is accepting unredacted 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

SIGNING OF ORDERS

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