



**HOPKINS COUNTY POLICY IN ALL CASES
REQUIRING A DETERMINATION OF HEIRSHIP**

Effective for cases filed on or after April 1, 2023.

FILED
AT 11:00 o'clock A.M.
1 MAR 23 2023

TRACY SMITH
COUNTY CLERK
HOPKINS COUNTY, TEXAS

Background. Generally, when a person dies intestate, an ownership interest in the decedent's property vests in the decedent's heirs immediately upon death. *See* Tex. Est. Code 101.001(a)(3). The vesting of this interest does not, however, generate any documentary evidence identifying the decedent's heirs or the property to which they are entitled. To establish who the heirs are and the property which they are entitled to, a person must apply for a judicial determination of heirship. *See* Tex. Est. Code 202.001. Once a judgment declaring heirship has been obtained, third parties can rely on it and are protected in their dealings with the estate's personal representative or the decedent's heirs. *See* Tex. Est. Code 202.204.

Service of Citation by Publication. Citation must be published in both the county where the proceeding is commenced and the county of the decedent's last residence (if different). *See* Tex. Est. Code 202.052. Citation by publication is required in all heirship proceedings, even if there is no evidence that an unknown heir exists. *See* Tex. Atty. Gen. Op. No. KP-0074.

Service of Citation by Mail. Citation in a proceeding to declare heirship must be served by registered or certified mail on (1) each distributee who is 12 years of age or older and whose name and address are known or can be ascertained through the exercise of reasonable diligence and (2) the parent, managing conservator, or guardian of each distributee who is younger than 12 years of age if the name and address of the parent, managing conservator, or guardian are known or can be reasonably ascertained. Tex. Est. Code. 202.051.

Personal Service of Citation. The court may in its discretion require that service of citation be made by personal service on some or all of those named as distributees in the application for proceeding to declare heirship. Tex. Est. Code 202.054.

Attorney Ad Litem. An attorney ad litem is required in all heirship proceedings. Texas Estates Code 202.009 mandates that the court "shall appoint an attorney ad litem in a proceeding to declare heirship to represent the interests of heirs whose names or locations are unknown."

The attorney ad litem's duties are as follows:

1. Review all relevant pleadings and citations;
2. Communicate with the applicant's attorney as appropriate;
3. Independently investigate whether potential unknown heirs exist;
4. File an answer on behalf of their clients;
5. Submit a letter to the court with their findings;
6. Attend any hearings (this will generally be done remotely);
7. Submit a proposed order for payment/discharge upon completion of duties.


Applicant's attorney. It shall be the responsibility of the applicant's attorney, at the time of filing the initial pleading in the heirship proceeding, to (1) deposit \$500.00 into the registry of the court and (2) e-file a proposed order appointing the attorney ad litem (name left blank). The applicant's attorney shall promptly communicate with and fully cooperate with the court-appointed attorney ad litem in the heirship investigation.

Proposed Orders. Until required citation has been accomplished and the attorney ad litem has filed their report with the court, no attorney may submit a proposed order to the court which would have the effect of determining heirship or otherwise deciding the issue on the merits.

Signed on March 22, 2023.

A handwritten signature in cursive script, appearing to read "Robert Newsom", written over a horizontal line.

**HON. ROBERT NEWSOM
HOPKINS COUNTY JUDGE**

A handwritten signature in cursive script, appearing to read "Clay Harrison", written over a horizontal line.

**HON. CLAY HARRISON
JUDGE, HOPKINS COUNTY COURT-AT-LAW**