

BEXAR COUNTY PROBATE COURT NO. 2

Judge Veronica Vasquez
Bexar County Courthouse, Room 123
100 Dolorosa
San Antonio, Texas 78205



December 1, 2023

CHECKLIST FOR PROBATING A WILL AS A MUNIMENT OF TITLE FOUR YEARS AFTER DEATH

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.2 Online Scheduling Portal to set up your matter. The completed checklist and Death Certificate will be uploaded to the portal. FIAT is required, please download the template located on PC2 Website.

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 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.

Case No. _____ Estate of _____

Checklist for Muniment of Title After 4 Years

- ☐ Title of the document must reflect what you are probating, e.g. *Application to Probate Will as a Muniment of Title Four Years After Death*. If you are probating a copy of a Will or a non-self-proving Will, follow Texas Estates Code.
- ☐ Application states date of death and affirmatively states more than four years passed since the date of death.
- ☐ Statement how the person offering a Will is not in default for probating after 4 years and why they are not in default. Must overcome the presumption.
- ☐ Affirm Decedent **did not** apply for and receive Medicaid benefits after March 1, 2005.
 - ☐ If received Medicaid benefits, need proof of release of MERP claim
 - ☐ Affirm Decedent died before age 55, or
 - ☐ Spouse is still alive, or
 - ☐ There is a child under 21 years of age.
- ☐ Citation Returned (posting).
- ☐ Notice must be given by **service of process** to each of the testator’s heirs whose address can be ascertained with reasonable diligence (must use Sheriff or if out of Texas can use private process server). Texas Estates Code §258.051
- ☐ File proof of service of process to each of the testator’s heirs OR Affidavit Waiving Process and Waiving Objection.

E-filed on _____ (Provide Date).

___ Waiver of Process ___ Waiver of Objection ___ Return of Process

- ☐ Reasonable diligence to ascertain address is unsuccessful, request alternative service, such as publication in last known location of heir. The appointment of an attorney and item may be necessary. See TEC 258.051, 258.052, 258.101. Also see TRCP 109, 109a.
- ☐ If another Will is accepted into probate, notify the beneficiaries of the admitted Will.

- ☐ E-file the Proposed Order for review and approval as a separate lead document before requesting a hearing date that includes proper title and language on Probating Will as Muniment of Title More Than 4 Years After Death.

E-filed on _____ (Provide Date).

- ☐ E-file unsigned Proof of Death for review before requesting a hearing date.

E-filed on _____ (Provide Date).

- ☐ E-file unsigned Oath of No Debts for review before requesting a hearing date.

E-filed on _____ (Provide Date).

- ☐ E-file statement of facts regarding heirs from 2 disinterested witnesses – witnesses do not need to appear if properly executed, e-filed, and accepted by the clerk before requesting a hearing date.

E-filed on _____ (Provide Date).

- ☐ Provide your client with a copy of “A Guide for Muniment of Title” (Forms are located on the PC2 Website)

Attorney Verification

I, _____ confirm that all required documents for the hearing I am requesting in Cause No. _____ **-PC2-** _____ are correct and have been e-filed and accepted by the Bexar County Probate Clerk’s office.

Signed: _____ Date: _____

Additional Information

For questions about citations, please contact the Bexar County Probate Clerk’s Office at (210)335-2241 for further assistance. For questions about return of service please contact the Sheriff’s Department.