

Notice Regarding Filing of Small Estate Affidavits In El Paso County Probate Courts

By Administrative Order dated August 14, 2014, Effective October 1, 2014, The El Paso County Probate Courts Will ONLY approve Small Estate Affidavits that transfer Property between:

A Deceased Spouse and a Surviving Spouse;

A Decedent and an unmarried Adult child living in the Homestead.

All other Small Estate Affidavits will be DENIED.

Aviso De Cambios Relacionados A Declaraciones Juradas De Sucesion De Los Tribunales Testamentarios Del Condado de El Paso, Texas:

Por Orden Administrativa, De la Fecha 14 de Agosto del 2014 y efectivo a partir del 1 de Octubre del 2014, los Tribunales de Sucesion Testamentarias del condado de El Paso, TX, solo aceptaran Declaraciones Juradas De Sucesion que Transfieran Propiedad Y/O Bienes Entre:

El Conyuge Difunto Y El Conyuge Sobreviviente;

El difunto y su descendiente soltero de mayor edad que viva en El Hogar Del Difunto.

Su documento NO SERA APROBADO si no cumple con los requisitos nombrados anteriormente.

CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): _____ COURT (FOR CLERK USE ONLY): _____

STYLED _____

(e.g., John Smith v. All American Insurance Co, In re Mary Ann Jones, In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet: Name: _____ Email: _____ Address: _____ Telephone: _____ City/State/Zip: _____ Fax: _____ Signature: _____ State Bar No: _____	Names of parties in case: Plaintiff(s)/Petitioner(s): _____ Defendant(s)/Respondent(s): _____ _____ _____ _____ _____	Person or entity completing sheet is: <input type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____
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[Attach additional page as necessary to list all parties]

2. Indicate case type, or identify the most important issue in the case (select only 1):

Civil		Family Law			
Contract <i>Debt Contract</i> <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ <i>Foreclosure</i> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <i>Malpractice</i> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: _____ <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <i>Product Liability:</i> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <i>Divorce</i> <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	Post-judgment Actions (non-Title IV-D) <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____	
Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	Other Civil <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____				
Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	Probate & Mental Health <i>Probate Wills/Intestate Administration</i> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____				

3. Indicate procedure or remedy, if applicable (may select more than 1):

<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action	<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment	<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover
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4. Indicate damages sought (do not select if it is a family law case):

Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees
 Less than \$100,000 and non-monetary relief
 Over \$100,000 but not more than \$200,000
 Over \$200,000 but not more than \$1,000,000
 Over \$1,000,000

**TEXAS MEDICAID ESTATE RECOVERY PROGRAM (MERP)
AUTHORIZATION AND MERP CERTIFICATION**

FROM: Name: _____
Company/Firm: _____
Address: _____
Phone Number: _____ **Fax Number:** _____

RE: Deceased Owner's Name: _____ **Date of Death:** _____
Deceased Owner's Medicaid ID and/or Social Security Number: _____
Complete Property Address: _____

**SECTION 1:
Authorization to Obtain MERP Claim Information
(To be Completed by Heirs/Beneficiaries or Estate Representative)**

The undersigned heir/beneficiaries or Estate Representative of the Deceased Owner are unable to certify that the estate of the Deceased Owner is exempt or is not subject to a MERP claim, and hereby authorizes MERP to complete Section 2 of this form below and provide same or any other information related to a MERP claim against Deceased Owner to the requestor above.

By: _____ **By:** _____
 (Signature) (Signature)

Printed Name: _____ **Printed Name:** _____

**SECTION 2
CERTIFICATION BY MERP
(To be Completed by MERP)**

<input type="checkbox"/>	initial	Based on the Social Security Number provided, there is no pending MERP Claim against the Deceased Owner's estate and the State of Texas does not intend to file a MERP Claim against the Deceased Owner's estate.
<input type="checkbox"/>	initial	There is a MERP Claim filed against the Deceased Owner's estate in amount of \$ _____, as evidenced by the attached document.
<input type="checkbox"/>	initial	MERP intends to file a MERP claim against the Deceased Owner's estate in the amount of \$ _____.

This is not a dismissal of any other claim the State may have against this estate. Estate representatives of deceased Medicaid recipients whose estates may include assets such as, but not limited to, qualified income trusts, other trusts, annuities, torts, or private insurance policies, should also check with the Health and Human Services Commission's Provider Recoupments and Holds department by calling: (512) 438-2200, #4 to determine if HHSC may have other claims on this estate.

TEXAS MERP REPRESENTATIVE

Signature **Date**

Printed Name **Title**

FAX OR MAIL COMPLETED FORM TO: HMS – The Texas Medicaid Estate Recovery Contractor
 5615 High Point Drive, Suite 100
 Irving, Texas 75038
 Phone: 1-800-641-9356 Fax: 214-560-3918

Judge Patricia B. Chew
Probate Court No. 1
500 E. San Antonio, 12th Floor
El Paso, Texas 79901

Judge Eduardo A. Gamboa
Probate Court No. 2
500 E. San Antonio, 4th Floor
El Paso, Texas 79901

Court Policy Regarding *Pro Se* Applicants

Under Texas law, individuals applying for letters testamentary, letters of administration, determinations of heirship, and guardianships of the person or estate must be represented by a licensed attorney. This rule follows from the requirement that only a licensed attorney may represent the interests of third-party individuals or entities. The only time a *pro se* applicant may proceed in court is when truly representing only himself or herself.

Frequently Asked Questions

- Q: What is a *pro se*?
- A: A *pro se* is an individual who has not retained a lawyer and appears in court to represent himself and no other person or entity.
- Q: Can I still serve as an executor, administrator, or guardian even though I'm not a lawyer?
- A: Yes. You do not need to be a lawyer to serve as an executor, administrator, or guardian. **However, the executor, administrator, or guardian must be represented by counsel.**
- Q: But I'm the only one that needs letters testamentary. As executor, how would I be representing the interests of others?
- A: As executor of a decedent's estate, you don't represent only yourself. An executor represents the interests of beneficiaries and creditors. This responsibility to act for the benefit of another is known as a fiduciary relationship. It gives rise to certain legal obligations and responsibilities that require legal expertise. The attorney you hire represents you in your capacity as executor and assists you in representing those for whom you are responsible.
- Q: If I get the paperwork from a law library or the Internet, can I fill it out and file it? Isn't that what lawyers do?
- A: Lawyers don't just fill out forms. Lawyers (1) determine what method of probate or guardianship is appropriate in a particular situation, (2) create or adapt any necessary paperwork, and (3) advise the client about the ongoing responsibilities of a fiduciary. Unless you are a lawyer, you are creating legal pleadings while acting as a fiduciary would constitute the unauthorized practice of law.
- Q: **As a *pro se*, what proceedings can I do on my own?**
- A: The only proceedings that you can handle as a *pro se* are those in which you truly would be representing only yourself. For example, a *pro se* may apply to probate a will as a muniment of title when he or she is the sole beneficiary under a will and there are no debts against the estate other than those secured by liens against real estate. This procedure can be a viable option in some situations, but not in others. **Whether a muniment of title is the correct probate procedure for a particular situation is a legal decision that is best made by a lawyer.** Note that anyone falsely swearing that the estate has no creditors is subject to a perjury charge.

Name Printed

Signature

Date: _____

No. _____

Estate of

Statutory Probate Court No. _____

_____ ,

§
§
§
§
§

of

Deceased.

El Paso County, Texas

Small Estate Affidavit

On the dates indicated below, all of the Distributees of this estate and two disinterested witnesses personally appeared and, on their oath, did swear or affirm to the accuracy of the following facts, pursuant to Chapter 205 of the Texas Estates Code:

- A. Decedent, _____, died on the _____ day of _____, 20____ in _____ County, Texas. A copy of Decedent's death certificate will be provided when requested by this Court.
- B. More than 30 days have elapsed since Decedent's death.
- C. Decedent was a resident of and domiciled at _____ in _____ County, Texas, at the time of death. *[If not El Paso County, the affidavit must include facts supporting venue in El Paso County.]*
- D. Decedent died without a will.
- E. No administration is pending or has been granted in Decedent's estate and none appears necessary.
- F. The total value of Decedent's estate assets on the date of this affidavit, not including homestead and exempt property is \$75,000.00 or less,
- G. The total value of Decedent's estate assets, not including homestead and exempt property, exceeds the total value of known liabilities.
- H. Medicaid - check the accurate box:
 - The Decedent did not apply for and receive Medicaid benefits on or after March 1, 2005.
 - OR**
 - Decedent did apply for and receive Medicaid benefits on or after March 1, 2005, and the Medicaid Estates Recovery Program claim is listed as a liability in section "J" below.
 - OR**
 - The Decedent did apply for and receive Medicaid benefits on or after March 1, 2005, but there is no Medicaid claim against the estate. *[If this box is checked, applicant(s) **must** either (1) file a Medicaid Estate Recovery Program (MERP) certification that decedent's estate is not subject to a MERP claim or (2) include additional information providing that a MERP claim will not be filed]*