



TARRANT COUNTY
FORT WORTH, TEXAS 76196-7752

BROOKE ALLEN
JUDGE, PROBATE COURT NO. 2

100 WEATHERFORD
AREA CODE 817.884.1415

**CHECKLIST FOR ATTORNEYS AD LITEM
FOR UNKNOWN HEIRS IN DETERMINATIONS OF HEIRSHIP**

You have been appointed by this Court pursuant to Sections 53.104 and 202.009 of the Texas Estates Code (TEC) to represent various parties in an heirship determination. Please read these Sections so you have an understanding of your duties and responsibilities. TEC 201.001-201.003 describe those persons entitled to intestate inheritance. A proper determination of the parties you represent requires an understanding these Sections. The other sections in Chapter 201 of the Texas Estates Code can change the heirs in certain specific situations, so you should also be familiar with those situations in which they apply.

As an Attorney Ad Litem (AAL) appointed to represent unknown heirs, you should perform at least the following tasks:

1. Review the pleadings and call the applicant's attorney to obtain contact information for the applicant and two disinterested persons knowledgeable of the facts of heirship. Request a death certificate, obituary, and any other helpful information or documents. (In general, this Court wants an heirship to be heard within six weeks of filing. Consequently, if you are not able to obtain the necessary information within 28 days of your appointment, please contact Court Administrator, Steve Fields, at 817.884.1049 or sdfields@tarrantcounty.com.)
2. Contact the applicant and at least two disinterested persons with knowledge of the facts of heirship, preferably back to the decedent's adolescence. **The Attorney for the applicant must present two disinterested and credible witnesses in open court, by deposition in accordance with EC 51.203, or in accordance with TRCP.**
3. Verify the heirs listed on the Application. However, it is not your job to perform the work for the attorney of the applicant. If you feel the attorney has not performed an adequate investigation prior to filing the Application, discuss this with the attorney for the applicant.
4. Determine if any heirs of the decedent who were not listed in the application (unknown heirs) or any heirs of the decedent who may or may not be listed in the application but who are minors or who suffer from incapacity (incapacitated heirs) or any heirs of the decedent who you and the applicant's attorney have not been able to locate (missing heirs). **Check decedent's obituary to verify heirship listing.**

5. File an answer on behalf of the potential unknown heirs, incapacitated heirs or missing heirs.
6. Send a letter by certified mail, return receipt requested, to any potential unknown heir(s) you have located that informs them they may have an interest in the decedent's estate, and they should hire an attorney to protect their interest.
7. File a report with the court. This report should:
 - a) list the persons you contacted to verify your findings;
 - b) state that you have filed an answer; and EITHER
 - c1) confirm the application facts; OR
 - c2) list the name, address and phone number of any additional potential unknown heir(s) you have located, attach a copy of your letter to them, and provide a brief description identifying any additional potential missing or incapacitated heir(s) you did not locate, with a proposed share of the estate to be provided to all heirs (if there is a contest, it is not your job to agree or disagree with the contestant – you may file a report showing the heirs if the contestant succeeds and showing the heirs should the contestant fail); OR
 - c3) if you agree to the heirs listed in the application, but not in the division of the estate provided by the applicant, list the shares that you believe each heir should receive. TEC Section 201.101 describes how an inheritance is split if not all heirs are from the same generational level, so please read the Section.

** A word version of a draft report is provided at Probate Court Number 2's page of Tarrant County's Website under "Decedent's Estate Forms" at <http://www.tarrantcounty.com/en/probate-courts/probate-court-2/decedent-s-estates-forms.html>.

8. File a copy of your report and send to the applicant's attorney when you have completed your investigation and have complied with the steps listed above. Confer with applicant's attorney for a hearing date.
9. Appear at the hearing, cross-examine the applicant's witnesses as necessary, and make an oral report to the court at the close of the applicant's testimony. At this hearing, you represent incapacitated heirs, missing heirs, and any unknown heirs that you have not been able to locate. You do not represent unknown potential heirs that you have located and that you have instructed to obtain their own counsel.
10. Prepare an Appointee Fee Order on the attached form and e-file it prior to your hearing. A sample form may also be found on the website.

AALs are paid a flat fee of \$400.00. If you believe you have been appointed on an unusual case in which you should receive more than the flat fee or a genealogist is needed, you must file a motion to be paid hourly or hire a genealogist and set your motion prior to the heirship hearing. If your motion is agreed by the applicant, it may be heard by submission if requested.