



The Texas Probate System: A New Edition for a New Code

Approved for State Bar College Credit and Texas Board of Legal Specialization Credit in **Estate Planning & Probate Law and Tax Law**.

Live Webcast!

Thursday, June 19th

2:00 p.m. to 3:30 p.m.

MCLE Credit: 1.50 hrs

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Join editors James E. Brill and Russell W. Hall for a guided tour.

Learn what's behind the tabs and how the various parts of this expanded System work together to incorporate the new Estates Code and to guide you to the proper procedures for every estate.

With or without your own hard copy of this revised System, you easily can follow along with the speakers as they explain its workings and give examples.

You will learn more efficient and effective ways to handle both substantive and administrative procedures in your probate practice.

Registration

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FACT SITUATION: Donald H. Cox, age 61 years, was killed in an automobile accident in Your City, Texas on February 28, 2012. He is survived by his widow, Elaine M. Cox, and by two adult children. He had a self proved will that he signed in the presence of Ronald Knox and Mary Ann Green on May 29, 2000, leaving all of his estate to his wife, naming her Independent Executrix of his Estate, and waiving bond.

Mrs. Cox resides 789 Olive Street, Your City, Your County, Texas. After the funeral, she calls the law office of I. M. Lawyer to make an appointment and to find out what she must bring with her. The attorney makes the appointment and follows up by sending her a list of the items that she is to locate and bring to their meeting.

At this first meeting, we learn that Mr. and Mrs. Cox have lived in Texas all of their lives and that all of his estate is composed of community property. Mr. Cox, an engineer, was employed by and was a small stockholder in John Doe, Inc. Mr. and Mrs. Cox owned a home, had 3 bank accounts, some stock, a mutual fund, a car, miscellaneous personal property, and had some life insurance and retirement accounts. He had an outstanding bank loan and balances on three credit cards. The total estate is over \$2,000,000.00 but will not be taxable.

CHECKPLAN

LEGEND: NA-NOT APPLICABLE L-LAWYER S-SUPPORT STAFF

INITIAL CONTACT

1. Do the following upon **initial contact** and learning of D's death—
 - a. Determine immediate needs concerning—
 - (1) Performance of an autopsy
 - (2) Donation of body and/or organs for medical use (check D's driver's license and with Living Bank)
 - (3) Disposition of body
 - (4) Special burial, cremation, or donation instructions
 - (5) Selection of funeral home
 - (6) Funeral arrangements
 - (7) Information to complete death certificate and prepare obituary notice. Be particularly careful concerning exact dates of death and birth.
 - (8) Pallbearers
 - (9) Fraternal organizations (such as Masons, K. of C., VFW) to be contacted
 - (10) Care of minor or incapacitated children
 - (11) Flag from VA if D was a veteran
 - (12) Notification of clergyman, friends, relatives, and business associates
 - (13) Care of livestock, pets, plants, and other perishable property
 - (14) Security at home of D

[illegible]

	NA	L	S	DATE	INITIALS
(15) Security at homes of D's relatives					
(16) Termination of home deliveries					
(17) Continued employment and compensation of appropriate household and business employees					
(18) Notification of professional organizations and alumni associations					
b. Advise family members to safeguard D's residence and to keep accurate records of all expenses incurred for the funeral, in notifying friends and relatives, and for other immediate arrangements.					ML
c. Recommend a thorough search of D's home and place of business for hidden assets.					ML
d. Recommend a thorough search of D's home and place of business for credentials to digital assets, including user IDs, passwords, and challenge questions. See Special Instruction 83—Digital Assets.					ML
e. Explain the Probate Information List (Form 1) (see Special Instruction 1—Probate Information List for explanation of Form 1).					ML
f. Make a prompt appointment to meet with client and members of the family.					
g. Consider sending flowers, contributions, or letters of sympathy.					
h. Open office file.					
i. <u>Prepare and send Letter 1</u> to the person who will be responsible for gathering the documents and information together with a <u>copy of the Probate Information List (Form 1)</u> and provide a copy of your policy notice as required by Gramm-Leach-Bliley Act (form not provided in this System).			SS		

LETTER 1—PROBATE INFORMATION LIST TO CLIENT

The attorney is to furnish the information necessary to complete this letter. Enclose a copy of the Probate Information List (Form 1).

[Today's date]

[Addressee name and address]

Dear [name]:

Thank you for calling. I am sorry to learn of the death of your [relationship, name].

You have no doubt heard that probate is a very complicated, time-consuming, and expensive proposition. To some extent it can be all these things, but with proper handling these drawbacks can be minimized.

Getting all the facts is the number one problem faced by the survivors and by their attorney. Without all appropriate information, nothing can be done. The family will not know the extent of the estate, the lawyer cannot prepare the necessary documents, and the assets cannot be distributed to the proper persons.

It is rare that all the required information can be obtained at one time or at the outset of the proceedings. In fact, different people rarely have the same assets or liabilities and definitely do not have the same personal and family histories.

To assist you and me in gathering and acting on the proper information, I am enclosing a list of items and information for you to locate. There is no estate to which all items will apply, but you should begin now to obtain as many of the items and as much of the information as possible. Do not be discouraged by the length of the list or your inability to locate some items.

I. M. LAWYER
987 Brown Street, Your City, Texas 77777
555/555-555 or imlawyer@email.com

March 14, 2014

Mrs. Elaine M. Cox
789 Olive Street
Your City, Texas 77777

Dear Mrs. Cox:

Thank you for calling. I am sorry to learn of the death of your husband, Donald H. Cox.

You have no doubt heard that probate is a very complicated, time-consuming, and expensive proposition. To some extent it can be all these things, but with proper handling these drawbacks can be minimized.

Getting all the facts is the number one problem faced by the survivors and by their attorney. Without all appropriate information, nothing can be done. The family will not know the extent of the estate, the lawyer cannot prepare the necessary documents, and the assets cannot be distributed to the proper persons.

It is rare that all the required information can be obtained at one time or at the outset of the proceedings. In fact, different people rarely have the same assets or liabilities and definitely do not have the same personal and family histories.

To assist you and me in gathering and acting on the proper information, I am enclosing a list of items and information for you to locate. There is no estate to which all items will apply, but you should begin now to obtain as many of the items and as much of the information as possible. Do not be discouraged by the length of the list or your inability to locate some items. You cannot be expected to be a probate expert. Please begin gathering as much of the information and as many of the documents as you can and have it with you at our meeting on March 21, 2014.

Please let us collect all life insurance benefits, since it is mandatory for us to obtain certain information directly from the companies. Also, please provide us with photocopies of any checks that were undeposited on the date of death, and do not deposit those or any other checks without consulting us first.

Thank you for letting me have this opportunity to help. I look forward to working closely with you. Kindest regards.

Yours very truly,

I. M. Lawyer

Enclosure

Probate Information List

FORM 1—PROBATE INFORMATION LIST

Probate Information ListFull Name of Decedent (D) DONALD H. COXDate of Death FEBRUARY 28, 2014

Please obtain as many of the following described items and as much of this requested information as possible. If an item definitely applies to this estate and you have obtained all documents and/or have furnished all information requested, so indicate by a check mark. Do not be surprised if you cannot complete all items.

Please let us collect all life insurance benefits, since it is mandatory for us to obtain certain information directly from the companies. It also will make our job easier if you will not transfer any assets or pay any of decedent's bills before our first appointment.

Please assemble the items in the order below, fill in the answers to the questions, and bring this list and the assembled materials to my office. When you have as much as you can furnish, please call my secretary to make an appointment.

Items to locate and bring with you:

Please assemble the items in the following order.

Note: To obtain Social Security, Medicare, railroad retirement, and veterans benefits, you may need to locate and furnish D's birth certificate, marriage license, adoption and divorce documents, and military discharge certificate.

Note: In the event of an audit of D's death tax returns, it will be necessary to have D's check registers, bank statements, canceled checks, savings account records, and brokerage records for the three years before and two months following D's death.

CHECK WHEN COMPLETED

- _____ 1. All signed copies of D's wills and codicils and memoranda concerning disposition of personal property; copies of all trusts created by or for the benefit of D or D's spouse; current financial statement for each of those trusts and a list of all beneficiaries with their birth dates; D's death certificate (one for each policy of insurance on D's life, plus one additional for our file); copy of D's obituary notice and any newspaper articles if D's death was not from natural causes; documents relating to travel clubs, automobile associations, and other organizations if D's death was accidental; copies of will and codicils of D's spouse. (1.0; 2.0)
- _____ 2. If D served in military, bring certificate of discharge or separation and other documents relating to military benefits. (1.0)
- _____ 3. Deeds and contracts for deeds to all real estate, including time shares, owned or being purchased by D or D's spouse (including oil, gas, and other mineral interests) and, if owned with others, the names and addresses of all co-owners. If purchased within five years of D's death, a copy of the closing statement. If the property was leased, bring copies of all leases. If survey plats, street addresses of the properties, copies of all appraisals made within five years of D's death, property tax receipts for most current year, and title policies are available, bring them, too. Also, please bring any documents where D created any easements, disposed of portions of the original property, or was involved in any condemnation proceedings. If real estate was not paid for, bring loan number, payment book and/or loan amortization schedule, and address of mortgage company or other note holder and copies of notes, mortgages, and other documents. If loan(s) paid off, bring release of lien. Bring listing agreements and contracts for the purchase or sale of real estate by D or D's spouse pending at the date of D's death. (7.0)

- _____ 4. Original debentures and bonds, including government bonds and stock certificates owned or registered in the name of D or D's spouse or in combination with others and information regarding phantom stock, stock appreciation rights, and stock options. If securities are held for safekeeping or in an account by a broker or a custodian, please furnish most recent statement and name and address of firm where held. Information regarding phantom stock, stock appreciation rights, and stock options. If D or D's spouse owned stock in a closely held corporation, please furnish income tax returns, balance sheets, and profit-and-loss statements for the five most recent years. In all instances, please provide copies of all restrictions on transfer of these securities. (8.0; 9.0; 10.0)
- _____ 5. Partnership, "buy-sell," employment, noncompete, franchise, stock purchase, stock option, and other agreements signed by either D or D's spouse. If D or D's spouse owned an interest in a partnership, please furnish income tax returns, Schedule K-1 for IRS Form 1065 for each partnership, balance sheets, and profit-and-loss statements for the five most recent years. (10.0; 16.0)
- _____ 6. Statements, checks, and deposits for month before, month of, and month following D's death and checkbooks for one year before D's death for each bank, savings and loan, or credit union checking or savings account of D or D's spouse; all passbooks and actual certificates of deposit; statements for agency accounts for the benefit of D or D's spouse; receipts for safekeeping of valuables; traveler's checks and checks payable to D or D's spouse uncashed at date of D's death—especially Social Security and VA checks; keys to safe deposit boxes; name of D's officer or other person to contact; copies of signature cards and all agreements signed by D that relate to any of the foregoing accounts and certificates of deposit. (4.0; 11.0)
- _____ 7. All notes, accounts, and judgments payable to D or D's spouse, loan amortization schedules, and the name and address of each debtor. (12.0)

- _____ 8. All unpaid premium notices and all policies of insurance and all endorsements, including life, accident, burial, disability, homeowner's, automobile, personal property, fire and extended coverage, casualty, and medical and health insurance in which either D or D's spouse was an owner, beneficiary, or insured, either individually or in combination with others, including any policy on the life of another (such as spouse or children). (13.0; 14.0; 15.0)
- _____ 9. Royalty agreements, including oil and gas royalties, owned by or paid to D or D's spouse. Bring as much additional information as you can locate, including leases, division orders, financial statements, check stubs for the twelve months before D's death, and statements from royalty payers. (7.0; 16.0)
- _____ 10. Titles to all automobiles, boats, airplanes, and other motor vehicles and mobile homes registered in the name of D or D's spouse and, if subject to a lien, a copy of the note, the loan number, payment book, and name and address of each lienholder. (17.0)
- _____ 11. All documents relating to annuities and franchises. Copies of copyrights, patents and patent applications, trademarks, literary works, and musical compositions. (19.0)
- _____ 12. Copies of D's personal financial statements for the last three years and copies of all notes payable by D or D's spouse; guaranty agreements signed by D or D's spouse. (21.0)
- _____ 13. Copy of funeral bills, including cemetery lot, monuments, obituary notices, long-distance telephone charges, floral offerings, memorial services, visitation, and any other related expenses. (22.0)
- _____ 14. Information concerning any estate from which D inherited any property in the last ten years and all documents (particularly the federal estate tax return and audit adjustments for that estate) related to the inheritance. (24.0)

- _____ 15. Copies of last three income tax returns (federal, state, and city) filed by D or D's spouse; information regarding pending tax refunds and audits; copy of worksheet for current estimated income tax for D or D's spouse and evidence of payment of past installments; Schedule H for IRS Form 1040 for household help; and copies of *all* gift tax returns ever filed by D or D's spouse and complete details of all unreported gifts aggregating more than \$10,000 to any one person in a single year. (20.0; 26.0)
- _____ 16. Agreements between D and D's spouse, such as partition, premarital, and community survivorship agreements; copies of property settlement agreements and decrees of divorce or other legal dissolution relating to D's prior marriages. (3.0; 21.0)
- _____ 17. All documents relating to pensions and profit-sharing plans. Booklets and other information describing present and past employment benefits for D and D's spouse, including most recent account statements of D's individual accounts; all information relating to individual retirement accounts, HR-10 (Keogh) plans, 401(k) and similar plans for D or D's spouse; all information relating to Social Security benefits being received by or payable to D or D's spouse; all information relating to military, civil service, or railroad retirement benefits being received by or payable to D or D's spouse; all information relating to annuities being received by or payable to D or D's spouse; all information relating to deferred compensation, pensions, and profit-sharing plans of D or D's spouse. (19.0)
- _____ 18. Powers of attorney given by D to anyone.
- _____ 19. Copies of pleadings filed in suits in which D or D's spouse was a party at the time of D's death.
- _____ 20. Published articles, photographs, or descriptions of home furnishings, art work, collections, or other items shown in newspapers, magazines, and other publications.
- _____ 21. If D was killed while on a common carrier, locate receipt for ticket charged to a credit card and provide full details regarding card issuer, its address, and its phone number.

- _____ 22. Statements from airlines, hotels, and other entities that offer “miles” or other incentives.
- _____ 23. Copies of judgments and tax liens filed against D or D’s spouse.

Information to be completed:

CHECK WHEN COMPLETED

- _____ 24. Date and place of D’s birth _____
- D’s residence address at time of death _____
- Approximate date on which D became a Texas resident _____
- If D and D’s surviving spouse had not resided in Texas during the entirety of their marriage, list all places of residence and approximate dates _____
- D’s citizenship if not U.S. _____
- D’s Social Security number _____
- D’s Medicare number _____
- D’s military identification number _____
- D’s VA identification number _____
- Dates and branch of D’s military service _____
- D’s occupation at date of death and the name, address, and phone number of employer and of person to contact concerning benefits _____
- _____
- If D was self-employed, list D’s trade name and business address and the employer identification number of D’s business _____
- _____
- If D was retired, give D’s former occupation, employer, and nature of business _____
- _____

_____ 25. Club, fraternal, and lodge memberships of D or D's spouse (1.0) _____

_____ 26. Names, addresses, and phone numbers of the witnesses to D's most recent will and all
 codicils (2.0) _____

Name, address, and phone number of each executor, trustee, and guardian (including
 alternates) named in D's will (2.0) _____

_____ 27. If D was not survived by either spouse or children, or if D's will provides benefits to
 institutions or to persons other than the surviving spouse and children, please furnish
 name, address, phone number, date of birth, Social Security number, marital status and
 name of that person's spouse, and relationship to D for each of those institutions or per-
 sons and also for D's surviving parents (3.0) _____

- _____ 28. Date and place of marriage to and name, address, phone number, date of birth, Social Security number, and citizenship of D's surviving spouse (3.0) _____

Same information with respect to all D's prior spouses, especially dates and places of those marriages and of termination of prior marriages and whether terminated by death, divorce, or other legal dissolution (3.0) _____

- _____ 29. Name, address, phone number, date and place of birth, Social Security number, marital status, and name of spouse of *all* children ever born to or adopted by D, whether presently living or not, and identification of the other parent. If D was not survived by either a spouse or children, check here _____

- _____ 30. Name and address of each bank at which D maintained or had access to or kept items in a safe deposit box, the box number(s), and the name, address, and relationship of all other persons having access to those boxes (4.0) _____

_____ 31. Name, address, and phone number of D's personal secretaries, attorneys, accountants, tax return preparers, stockbrokers, life insurance agents, casualty insurance agents, health and accident insurance agents, bankers, and other professional advisors (5.0; 9.0; 13.0; 14.0; 15.0) _____

_____ 32. Description of any improvements to or crops growing on real estate (7.0) _____

_____ 33. Style of account, account number, and name and location of bank, savings association, and credit union for each checking or savings account or certificate of deposit in the name of D or D's spouse or on which D could sign, and name of officer, if known (11.0)

_____ 34. Detailed description of all motor vehicles, including make, model, year, body type, mileage, major equipment, and accessories (17.0) _____

_____ 35. General description of all other property owned by D or D's spouse, including club memberships, livestock, farm products, leasehold interests, jewelry, household goods, and personal effects. With respect to furs, precious metals, wine and liquor collections, pets, jewelry, household goods and personal effects, guns, and other sporting equipment, itemize only those items of considerable value (\$1,000 or more) and for collections, only those valued at \$10,000 or more. Bring as much additional information as you can locate, including insurance policies and financial statements, related to these items (18.0) _____

_____ 36. List outstanding accounts, charge or credit card purchases (including account numbers) made but not yet billed, and other debts and charitable pledges owed by D or D's spouse on the date of D's death and names, addresses, and phone numbers of those creditors (21.0) _____

_____ 37. Name, address, and phone number of funeral home (22.0) _____

- _____ 38. List of expenses of last illness (unpaid at D's death), including names of payees and amounts paid for physicians, nurses, hospitals, drugs, sick-room equipment, etc. (23.0)

- _____ 39. If there is insurance on life of D that is payable to D's company, partners, fellow stockholders, or employees, give their names, addresses, and telephone numbers and furnish complete details (13.0)

AFTER INITIAL INTERVIEW

5. **Immediately after the initial interview**, do the following:
- a. Meet with your staff assistant(s) to:
 - (1) Review all items in this Checkplan to get an overview of this estate and to assign responsibilities for future actions.
 - (2) Complete Items 1 through 17 of SDL (Significant Date List). Complete as much of MIL as possible from information provided by client. Remember to enter additional information in MIL as it becomes available. Enter estate on Probate Chart (Worksheet 15). As additional information becomes available, remember to enter it on Probate Chart (Worksheet 15).
 - (3) Review all items on SDL to become aware of due dates and deadlines and enter critical dates into office reminder system and on Probate Chart (Worksheet 15).
 - b. Write to client to confirm representation and to outline services and fee.
 - (1) If IA, prepare and send Letter 3 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (2) If AWA or ADE, prepare and send Letter 59 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (3) If MT, prepare and send Letter 64 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (4) If TDA, prepare and send Letter 74 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (5) If RDA, prepare and send Letter 83 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (6) If PDH, prepare and send Letter 85 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (7) If SE, prepare and send Letter 87 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (8) If TBA, prepare and send Letter 106 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (9) If IBA, prepare and send Letter 107 together with a copy of the Texas Lawyer's Creed (Form 99).

[illegible]

REMEMBER: When date for future action has been determined, be sure to enter it in your calendar or other tickler system. Those marked with an asterisk (*) are critical dates. We recommend that you also prepare reminders for one month, one week, and one day before due dates for the inventory and for estate and income tax returns. As a date is determined, it should also be entered at the indicated place in the Master Information List (MIL) and on the Probate Chart (Worksheet 15).

SIGNIFICANT DATE LIST (SDL)

NAME OF DECEDENT (D) DONALD H. COX

Determination of Date of Document, Event, or Action

Actual Date

1. Date of will—as shown on will itself (Item 2.02 of MIL).

MAY 29, 2000

Item 1 is not applicable to RDA, IBA, or PDH

2. Date of codicil—as shown on codicil itself (Item 2.17 of MIL).

Note: **Item 2 is not applicable to RDA, IBA, or PDH**

3. Date of death—as shown on death certificate (Item 1.07 of MIL).

FEB. 28, 2014

4. Date exactly ten years before date of D's death—This is the beginning date of the period for credit for previously taxed property.

FEB. 28, 2004

5. Date exactly three years before date of D's death—This is the beginning date for including taxable gifts made by D, and the gift tax thereon, in the gross valuation of D's estate for federal estate tax purposes.

FEB. 28, 2011

6. Date five days (actually one hundred and twenty hours) after date of D's death—This is the date to which D's heirs and beneficiaries (including life insurance beneficiaries) must have survived or they will be deemed to have predeceased D unless D's will directs otherwise.

MAR 5, 2014
FEB.

7. Date thirty days after date of D's death—This is the earliest date on which the small estate affidavit may be filed with clerk of court.

MAR 28, 2014

- 7A. Date three months after D's death—This is the date by which D's spouse, children, or parents must bring an action for wrongful death.

MAY 28, 2014

8. Date six months after date of D's death—Enter this date as Item 26.22 of MIL. This is the date for—

AUG. 28, 2014

a. Determining the alternate valuation of D's assets for federal estate tax purposes.

b. Beginning to prepare United States Estate (and Generation-Skipping Transfer) Tax Return.

c. Determining whether necessary to prepare and file Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes (FF 11).

If requesting an extension to pay the tax, this application should be filed at least forty days before due date (Item 26.28 of MIL). If requesting only an extension to file the return, the application may be filed on or before the due date.

- *9. Date nine months after date of D's death—Enter this date as Item 26.28 of MIL. This is the date for—

NOV. 28, 2014

Significant Date List

- a. Filing a disclaimer or renunciation of bequest or inheritance by a beneficiary other than a charitable or governmental entity and *receipt* of copy by each executor or administrator.
 - b. Filing the United States Estate (and Generation-Skipping Transfer) Tax Return and paying the taxes unless an extension is granted.
 - (1) First extended date (Item 26.29 of MIL).
 - c. Filing D's final gift tax return unless due on an earlier date (refer to Items 59 and 60 of this SDL).
10. Date one year from last day of calendar month before date of D's death—This is the last possible date for the end of the first fiscal year for D's estate. **JAN. 31, 2015**
11. Date of fiscal year end for estate—as established by executor or administrator and as used on initial federal income tax return filed for estate on IRS Form 1041 (Item 26.14 of MIL).
12. Date sixty-five days after fiscal year end—This is the date by which an executor or administrator may elect to have certain distributions made during these first sixty-five days treated as having been made on the last day of the previous fiscal year.
13. Date one year from end of first fiscal year for D's estate—If D's estate has not been closed by this date, estimated income tax payments may be required for all future years.
14. Date one year after date of D's death—This is the last date for obtaining family allowance and the earliest date on which the statutes of limitation are no longer suspended for suits by or against D. **FEB. 28, 2015**
- 14A. September 30 of year following D's death—This is the beneficiary finalization date for individual retirement arrangement. **SEP. 30, 2015**
- 14B. December 31 of year following D's death—This is the deadline for creating separate IRA accounts. **DEC. 31, 2015**
15. Date two years after date of D's death—Payment of estimated income taxes by estate will be required for all fiscal years ending after this date. **FEB. 28, 2016**
16. Date three years and nine months after date of D's death—This is the date on which the statute of limitations runs with respect to an unextended, timely filed United States Estate (and Generation-Skipping Transfer) Tax Return. **NOV. 23, 2017**
17. Date four years after date of D's death—This is the last date on which original letters testamentary (IA, TBA, or ADE) or letters of administration (AWA, TBA, IBA, or RDA) can be authorized, the last date on which a request can be filed for the court to determine whether a necessity for administration exists (PDH), and the last date for filing D's will as a muniment of title unless good cause can be shown. **FEB. 28, 2018**
- 17A. Date four years and nine months after date of D's death—This is the date on which the statute of limitations runs with respect to an extended, timely filed United States Estate (and Generation-Skipping Transfer) Tax Return. **NOV. 23, 2018**
18. Date of filing application (IA, TBA, IBA, MT, PDH, ADE, AWA, or RDA) or small estate affidavit and order (SE)—as shown on receipt issued by clerk of court (Item 6.23 of MIL).

Note: For SE, this date must be after the date shown in Item 7 of this SDL.

TEXAS PROBATE SYSTEM MASTER INFORMATION LIST (MIL)

CLIENT ELMINE M. COX
 ESTATE OF DOMAND H. COX
 DATE OF DEATH February 28, 2012
 COURT DOCKET NUMBER _____

 COURT OF
YOUR COUNTY

TYPE OF PROCEEDINGS:

☒ Testate

- ☒ INDEPENDENT ADMINISTRATION
- ☐ INDEPENDENT ADMINISTRATION BY AGREEMENT
- ☐ MUNIMENT OF TITLE
- ☐ ADMINISTRATION WITH WILL ANNEXED
- ☐ ADMINISTRATION WITH DEPENDENT EXECUTOR

☐ Intestate

- ☐ SMALL ESTATE
- ☐ PROCEEDINGS TO DECLARE HEIRSHIP
- ☐ TEMPORARY DEPENDENT ADMINISTRATION
- ☐ REGULAR DEPENDENT ADMINISTRATION
- ☐ INDEPENDENT ADMINISTRATION BY AGREEMENT

PERSONS TO RECEIVE COPIES OF DOCUMENTS:

(1) Name _____
 Address _____
 City, state, zip _____
 E-mail _____
 Phone no. _____
 Fax no. _____

(2) Name _____
 Address _____
 City, state, zip _____
 E-mail _____
 Phone no. _____
 Fax no. _____

(3) Name _____
 Address _____
 City, state, zip _____
 E-mail _____
 Phone no. _____
 Fax no. _____

Check box when section is completed. Cross through those that do not apply.

- ☐ Decedent (D) 1.0
- ☐ D's Will, Estate, and Personal Representatives 2.0
- ☐ D's Family and Devises 3.0
- ☐ Safe Deposit Box 4.0
- ☐ D's Professional Advisors 5.0
- ☐ Court Proceedings 6.0
- ☐ Real Estate 7.0
- ☐ U.S. Government Savings Bonds 8.0
- ☐ Marketable Securities 9.0
- ☐ Closely Held Corporations 10.0
- ☐ Cash 11.0
- ☐ Judgments, Notes, Accounts Receivable, and Sales under Contract for Deed 12.0
- ☐ Insurance on D's Life 13.0
- ☐ Insurance on Life of Others 14.0
- ☐ Other Insurance 15.0
- ☐ Unincorporated Business Interests 16.0
- ☐ Transportation Equipment 17.0
- ☐ Personal, Household, and Miscellaneous Assets 18.0
- ☐ Employee and Government Benefits and Annuities 19.0
- ☐ Taxable but Unusual Items 20.0
- ☐ Debts and Claims 21.0
- ☐ Funeral Expenses 22.0
- ☐ Expenses of Last Illness 23.0
- ☐ Previously Taxed Property 24.0
- ☐ Expenses of Administration 25.0
- ☐ Taxes for D and for D's Estate 26.0

This Master Information List (MIL) has spaces to record all information necessary to prepare all documents to be filed in court, various tax forms, and a simple federal estate tax return; to transfer assets to ultimate beneficiaries; and to prepare related correspondence.

EXCERPTS FROM MASTER INFORMATION LIST (MIL)

- 1.01 D's name as shown on Will Donald H. Cox
- 1.07 Date of D's death February 28, 2014
- 1.09 Place of death:
Address _____
City Your City County Your County State Texas Zip 77777
- 1.10 D's age at death 61
- 2.01 Did D leave a Will? ☒ Yes ☐ No
- 2.02 Date of D's Will May 29, 2000
- 2.03 Is Will holographic? ☐ Yes ☒ No
- 2.09 Is Will self proved? ☒ Yes ☐ No
- 2.10 Is Will attested by witnesses? ☐ Yes ☐ No
- 2.11 Name (A) Ronald Knox (B) Mary Ann Green
- 2.13 Address _____
- 2.14 City, State, Zip _____
- 2.15 Phone No. _____
- 2.27 Did D (or at time of filing application will D's estate) owe any debts which are not secured by liens on real estate? ☒ Yes ☐ No
- 2.28 Is D's Will to be filed as a MUNIMENT OF TITLE ONLY? ☐ Yes ☒ No
- 2.45 If Will is not to be filed as a Muniment of Title, does D's Will provide for an independent executor? ☒ Yes ☐ No
- If yes, complete the following:
- 2.45 Name Elaine M. Cox
- 2.47 Address 789 Olive Street
- 2.48 City, State, Zip Your City, Texas 77777
- 2.49 Phone No. _____
- 2.52 County of Domicile Your County
- 2.53 Qualified? ☒ Yes ☐ No
- 2.57 Bond Required? ☐ Yes ☒ No
- 3.20 Had a marriage of D ever been dissolved by divorce, annulment, or a declaration that the marriage was void? ☐ Yes ☒ No
- 3.51 Were any children born to or adopted by D after the date of D's Will? ☐ Yes ☒ No

D's ATTORNEY - FOR PROBATE PROCEEDINGS

- 5.01 Name of Firm I. M. Lawyer
- 5.05 Address 987 Brown Street
- 5.06 City, State, Zip Your City, Texas 77777
- 5.07 Phone No. _____
- 5.08A Email IMLAWYER@IML.com
- 6.02 D's name to be used in probate proceeding Donald H. Cox
- 6.03 Name of Court in which filed Local
- 6.04 County in which Court is located Your County
- 6.05 What description is to be used to describe the nature of D's Estate?
A. Both real and personal property described generally as home, cash, securities,
automobiles, household goods, and personal effects
- 6.10 D's estate has a probable value in excess of \$ 5,000.00

WORKSHEET 15—PROBATE CHART FOR ALL ACTIVE ESTATES REPRESENTED BY THIS FIRM

Name of Decedent Docket Number & Court Employer Identification Number	Type (1)	L/S (2)	DOD (3)	Hearing (4)	Qual. (5)	Notice (6)	Aff./Cert. of Notice (7)	Inv. or Aff. (8)	BF (9)	CSA (10)	Pending Items
DONALD H. COX	1A	3/5	2-28-14								

(1) IA = Independent Administration; MT = Muniment of Title; ADE = Administration with Dependent Executor; AWA = Administration with Will Annexed; PDH = Proceeding to Determine Heirship; SE = Small Estate; TDA = Temporary Dependent Administration; TBA = Testate IA by Agreement; IBA = Intestate IA by Agreement. (2) Initials of responsible lawyer and staff members. (3) DOD = Date of death. (4) Hearing = Date of hearing or, if no hearing, date judge signs order. (5) Qual. = Qualification date for executor or administrator. (6) Notice = Notice to testamentary beneficiaries—60 days after Will probated. (7) Aff./Cert. of Notice = Affidavit or certificate of notice—90 days after Will probated. (8) Inv. or Aff. = Due date for inventory or affidavit in lieu of inventory—90 days after qualification (after Will probated, if muniment of title). (9) BF = Beneficiary finalization date for individual retirement arrangement—September 30 of the year following participant's death. (10) CSA = Deadline for creating separate IRA accounts—December 31 of the year following participant's death.

Pending Items: Note here other deadlines (or that lawyer and staff are not responsible for these items)—FYE = Fiscal year end of estate. AVD = Alternate valuation date—6 months after death. Est. Tax = Federal estate tax return—9 months after death or as extended. D's Tax = D's income tax return—April 15 of applicable year(s) or as extended. Fid. Tax = Fiduciary income tax return—15th day of 4th month following fiscal year end (April 15 if fiscal year is calendar year) or as extended. Dis. = Disclaimer—9 months after date of death.

DETERMINING PROPER PROBATE PROCEDURE

4. Complete Worksheet 1 to determine proper probate procedure.
- a. If temporary dependent administration (TDA) appears to be the proper procedure, enter "TDA" on cover page of MIL and on Probate Chart (Worksheet 15).
 - b. If muniment of title (MT) appears to be the proper procedure, enter "MT" on cover page of MIL and on Probate Chart (Worksheet 15).
 - c. If independent administration (IA) appears to be the proper procedure, determine identity and qualification of proposed executor(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter "IA" on cover page of MIL and on Probate Chart (Worksheet 15).
 - d. If administration with dependent executor (ADE) appears to be the proper procedure, determine identity and qualification of proposed executor(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter "ADE" on cover page of MIL and on Probate Chart (Worksheet 15).
 - e. If administration with will annexed (AWA) appears to be the proper procedure, determine identity and qualification of proposed administrator(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter "AWA" on cover page of MIL and on Probate Chart (Worksheet 15).
 - f. If a small estate proceeding (SE) appears to be the proper procedure, enter "SE" on cover page of MIL and on Probate Chart (Worksheet 15).
 - g. If a proceeding to declare heirship (PDH) appears to be the proper procedure, enter "PDH" on cover page of MIL and on Probate Chart (Worksheet 15).
 - h. If regular dependent administration (RDA) appears to be the proper procedure, determine identity, qualification, and priority rights of proposed administrator(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter "RDA" on cover page of MIL and on Probate Chart (Worksheet 15).

NA	L	S	DATE	INITIALS
				IML
I				
	✓			IML

WORKSHEET 1—PROPER PROBATE PROCEDURE (PROBATE PATHFINDER)

Estate of DONALD H. COX

Circle the correct answer to the following questions. The instructions under each question will direct you to materials concerning a specific type of administration that may apply to this estate.

1. Is there an URGENT AND IMMEDIATE need for a personal representative of the estate?

If the answer is **YES** go immediately to Special Instruction 57—Temporary Dependent Administration (TDA).

If the answer is **NO** go on to the next question.

2. Is there a will?

If the answer is **NO** go to Question 7.

If the answer is **YES** go on to the next question.

3. Is there a need for administration, and are there debts that are not secured by real estate?

If the answer is **NO** see Special Instruction 73—Muniment of Title (MT).

If the answer is **YES** go on to the next question.

4. Is there an “INDEPENDENT EXECUTOR WITHOUT BOND” named in the will who is alive, willing, and qualified?

If the answer is **YES** see Special Instruction 68—Independent Administration (IA).

If the answer is **NO** go on to the next question.

5. Will there be a testate independent administration by agreement?

If the answer is **YES** see Special Instruction 88—Independent Administration by Agreement Where D Left a Will (TBA).

If the answer is **NO** see Special Instruction 17—Testate and Intestate Dependent Administration and then go on to the next question.

6. Is there an executor named in the will who is alive, willing, and qualified but who is not designated in the will as “independent executor without bond”?

If the answer is **YES** see Special Instruction 65—Administration with Dependent Executor (ADE).

If the answer is **NO** see Special Instruction 67—Administration with Will Annexed (AWA).

7. Will there be an intestate independent administration by agreement?

If the answer is **YES** see Special Instruction 89—Independent Administration by Agreement Where There Is No Will (IBA).

If the answer is **NO** go on to the next question.

8. Are you familiar with proceedings in lieu of administration?

If the answer is **YES** go on to the next question.

If the answer is **NO** see Special Instruction 29—Procedures in Lieu of Administration and then go on to the next question.

9. Is the estate equal to or less than \$50,000 exclusive of homestead and exempt property, and do the nonexempt assets exceed all liabilities exclusive of those liabilities secured by homestead and exempt property?

If the answer is **YES** see Special Instruction 63—Small Estates (SE).

If the answer is **NO** go on to the next question.

10. Is there a need for administration, and are there debts that are not secured by real estate?

If the answer is **NO** see Special Instruction 60—Proceedings to Declare Heirship (PDH).

If the answer is **YES** see Special Instruction 69—Regular Dependent Administration (RDA).

SPECIAL INSTRUCTION 5—QUALIFICATION OF AND PRIORITY RIGHTS TO BE APPOINTED ADMINISTRATOR OR EXECUTOR

An executor named in a will or an interested person (including decedent's heirs, devisees, spouse, or creditors) may be the applicant for an order admitting the will to probate, for the appointment of the executor named in the will, or for the appointment of an administrator if there is no will or if an executor is not named or cannot qualify. Estates Code, Sections 22.018, 256.051, and 301.051.

The order or priority of appointment of qualified persons, as provided in Estates Code, Section 304.001, is as follows:

1. The person named executor in decedent's will
2. Decedent's surviving spouse
3. The principal devisee under decedent's will
4. Any devisee under decedent's will
5. Decedent's next of kin in nearest order of descent, including a person who adopted decedent or who was adopted by decedent
6. A creditor of decedent
7. Any person of good character who applies to serve and resides in the county where the application is filed
8. Any other person not disqualified under Estates Code, Section 304.003
9. Any appointed public probate administrator

If persons are equally entitled to letters testamentary or of administration, the court shall grant letters to the person who is most likely to administer decedent's estate advantageously or, in a proper case, to more than one of those persons. Estates Code, Section 304.001(c).

Minors, incompetents, convicted felons who have not been pardoned or had civil rights restored, nonresidents of Texas who have not properly appointed a resident agent for service of process, corporations that are not authorized to act as fiduciaries in Texas, and persons found unsuitable by the court are disqualified to serve as executors or as administrators. Estates Code, Section 304.003.

If another person's priority is higher than the applicant's, it may be necessary to obtain and file a written renouncement from the person with the higher priority or have that person renounce in open court. Estates Code, Section 304.002. The exact method is governed by local practice.

SPECIAL INSTRUCTION 68—INDEPENDENT ADMINISTRATION (IA)

Independent administration is the administration of an estate without supervision by a court.

Independent administration is far more convenient, efficient, and inexpensive than any other kind of administration. There is more flexibility in the management of the estate, and there usually will be substantial savings in court costs and attorney's fees. However, if the estate is insolvent or potentially insolvent, an independent administration might not be the best procedure.

Following decedent's death, the independent executor named in the will files the will for probate, has it admitted, and takes and files the oath. On filing the oath, the independent executor is qualified and, unless limited by the will, has the power to perform any act necessary to settle the estate that might be done under the authority of a court in an administration where no will existed. In addition to those powers, the independent executor has any additional discretionary authority granted by the will. Estates Code, Section 401.006, enables a power of sale by agreement. Although there is no provision for a representative's consent, Property Code, Section 114.032(c), may permit a parent to agree for a minor.

Note: Estates Code, Section 401.006, omits reference to Estates Code, Section 401.001 (Expression of Testator's Intent in Will), suggesting that the power of sale by agreement under Section 401.006 is available when independent administration is created under Estates Code, Sections 401.002 and 401.003, but not under Section 401.001. That omission is an error and should be disregarded. The Estates Code is a nonsubstantive codification of the Probate Code. Section 145A of the Probate Code authorized the power of sale by agreement in all three cases.

After a will naming an independent executor has been probated and the executor has qualified by taking the oath, the executor must prepare and ordinarily must file an inventory, appraisal, and list of claims, to be approved by the court. Estates Code, Section 309.051. Alternatively, in some circumstances for the estate of a decedent who died on or after September 1, 2011, the independent executor still must prepare the inventory but may file an affidavit in lieu of filing the

inventory. Estates Code, Section 309.056. Estates Code, Section 402.001, provides that after such approval or filing, as long as the estate is represented by an independent executor, there is no further action of any nature to be taken in court except where the Estates Code specifically provides for some other action. Estates Code, Chapters 308 and 404, are exceptions to that rule.

Most of the general Estates Code provisions for giving notice to creditors and for establishing claims against an estate apply to independent administrations. These provisions require an independent executor to observe all provisions of the Estates Code regarding notice to creditors and classification and priority of claims once such claims have been presented. Similarly, the Code requires an independent executor to set aside and deliver exempt property and allowances as if under court order. See Estates Code, Chapter 403.

Dependent administration is the default procedure in Texas, but opportunities for an independent administration have been expanded.

Independent administration is available when provided for in the will. Estates Code, Section 401.001. It may be created by agreement in a testate estate where the will did not provide for independent administration or where it did but no named executor is available or willing to serve. Estates Code, Section 401.002. See Special Instruction 88—Independent Administration by Agreement Where D Left a Will (TBA). It may also be created in an intestate estate by agreement. Estates Code, Section 401.003. See Special Instruction 89—Independent Administration by Agreement Where There Is No Will (IBA).

Under Section 401.001, a will provides for an independent administration if it states that "no other action shall be had in the probate court in relation to the settlement of the person's estate than the probating and recording of the will, and the return of any required inventory, appraisal, and list of claims of the person's estate." Less formal language can suffice—for example, naming a person "independent executor" or "executor without bond or any legal requirements." *In re Dulin's Estate*, 244 S.W.2d 242, 244 (Tex. Civ. App.—Galveston 1951, no writ); *Long v. Long*, 169 S.W.2d 763 (Tex. Civ. App.—San Antonio 1943, writ

ref'd). If the named executor or alternate will not serve or fails to qualify, independent administration under Section 401.001 is not available. *Boone v. LeGalley*, 29 S.W.3d 614 (Tex. App.—Waco 2000, no pet.).

If there is a will but there is no unanimous agreement for an independent administration or if no executor can qualify and if an administration is necessary, the proper procedure to use is administration with will annexed. More detailed information about these proceedings appears in Special Instruction 67—Administration with Will Annexed (AWA).

Even though the will provides for an independent executor, it is not always necessary to subject the estate to administration. If there are no debts or special

assets to transfer, an alternative procedure is to probate the will as a muniment of title. When using this procedure, refer to Special Instruction 73—Muniment of Title (MT).

However, if there is a choice between an independent administration and a muniment of title proceeding, we lean toward the independent administration. If there are securities to be transferred, the independent administration is the preferred method. For more information, see “Estate Administration from A to Z” by Sarah Patel Pacheco et al., 2012 Building Blocks of Wills, Estates and Probate Course, State Bar of Texas.

Procedures for independent administration other than by agreement begin at Item 19 of the Checkplan.

INDEPENDENT ADMINISTRATION (IA)

WARNING: Requirements of e-filing may modify or supersede the following procedures.

19. If **independent administration (IA)** is not the proper probate procedure, mark Items 19 through 21 of this Checkplan as not applicable and go to Item 22. If IA is the proper probate procedure, go to Items 22 through 43 and indicate that they are not applicable, and return here to do the following:

- a. See Special Instruction 68—Independent Administration (IA).
- b. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor to determine that applicant qualifies to serve as executor.
- c. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Probate of Will and Issuance of Letters Testamentary (Form 5) and Civil Case Information Sheet (FF 16).
- d. Prepare Waiver and Renunciation of Right to Letters Testamentary (Form 96) for those preferentially entitled to serve as executor who do not wish to serve and arrange for proper signature before a notary.
- e. Determine amount of filing fee, arrange for payment, and charge to client's account.
- f. File D's original will and codicil(s), original Application for Probate of Will and Issuance of Letters Testamentary (Form 5), and Civil Case Information Sheet (FF 16) with clerk of court. If original will cannot be located, see Special Instruction 85—Lost Wills. If Waiver and Renunciation of Right to Letters Testamentary (Form 96) was prepared and has been signed, file original with clerk of court. Enter date of this filing as Item 6.23 of MIL and complete Items 18 and 19 of SDL.

Note: When Application for Probate of Will and Issuance of Letters Testamentary (Form 5) and Civil Case Information Sheet (FF 16) are filed with the clerk of court, they must be accompanied by D's original will and codicil(s), but the will and codicil(s) are left in their own manuscript covers or "blue backs" and are not put in the same manuscript cover with the Application for Probate of Will and Issuance of Letters Testamentary (Form 5).

NA	L	S	DATE	INITIALS
X				
		✓		
		✓		
		✓		

SPECIAL INSTRUCTION 87—CAPTIONS AND TITLES

Pleadings begin with the cause number, the parties, the court, the county, and a title.

The caption contains the cause number, parties, court, and county.

The title identifies the document—for example, *Original Application for Probate of Will and Issuance of Letters Testamentary*. If supplemented or amended, the title must reflect the change, so the court and other parties can order the pleadings—for example, *First Supplemental Original Application for Probate of Will and Issuance of Letters Testamentary*, or *First*

Amended Application for Probate of Will and Issuance of Letters Testamentary. Texas Rules of Civil Procedure, Rules 78, 64, and 83.

In some courts the form is prescribed by law—for example, divorce or adoption in the family courts. Family Code, Sections 6.401(a) and 102.008(1). In probate, custom and the local rules are the main guides.

A basic format for the caption and title in uncontested probate matters:

	No.	6-01 _____
	§	
IN THE ESTATE OF	§	
	§	_____
6-02 , DONALD H. COX	§	IN THE 6-03 OF
	§	
	§	YOUR
	§	6-04 COUNTY, TEXAS
DECEASED	§	

ORIGINAL APPLICATION FOR PROBATE OF WILL AND ISSUANCE OF LETTERS TESTAMENTARY

FORM 5—APPLICATION FOR PROBATE OF WILL (IA)

This is a combination form that is not to be completely copied; rather, appropriate alternative paragraphs are to be selected. Each application *must* have paragraphs that are numbered 1 through 11, *but* only one of each numbered paragraph is to be used.

Leave blanks in the caption unless the docket number and court assignment appear on prior pleadings or orders of the court.

If the will cannot be produced in court, supplement this application as instructed in Special Instruction 85—Lost Wills.

[Caption. See Special Instruction 87.]

Application for Probate of ~~Will~~ ~~Will and Codicil~~ and Issuance of Letters Testamentary

~~ELAINE M. COX~~
[Name[s] of applicant[s], see 2.45(A), 2.45(B), 2.66(A)] (“Applicant”) furnishes ~~“Applicants”~~ furnish the following information to the Court for the probate of the ~~will~~ ~~will and codicil~~
~~DONALD H. COX~~
of ~~1-84~~ (“Decedent”) and for issuance of letters testamentary to Applicant ~~1-84~~:

~~¶1—Refer to 2.45 and 2.66(A) of MIL. If only one individual is named as executor, select the first alternative; if a corporate fiduciary is named as sole executor, select the second alternative; if two individuals are named as co-executors, select the third alternative; if an individual and a corporate fiduciary are named as co-executors, select the fourth alternative. For names, addresses, and counties of domicile, refer to 2.45–2.52 and 2.66(A) of MIL.~~

1. Applicant is an individual interested in this estate, domiciled in and residing at ~~789 OLIVE STREET, YOUR CITY, YOUR~~
[address], [county] County, Texas, the physical address at which service can be had on Applicant.



1. Applicant is interested in this estate and is a [bank/trust company] domiciled in and situated at [address], [county] County, Texas, the physical address at which service can be had on Applicant, and is acting herein by and through its duly authorized representative.

Or

1. [Name] is an individual interested in this estate, domiciled in and residing at [address], [county] County, Texas, the physical address at which service can be had on [name], and [name] is an individual interested in this estate, domiciled in and residing at [address], [county] County, Texas, the physical address at which service can be had on [name].

Or

1. [Name] is an individual interested in this estate, domiciled in and residing at [address], [county] County, Texas, the physical address at which service can be had on [name], and [name] is interested in this estate and is a [bank/trust company] domiciled in and situated at [address], [county] County, Texas, the physical address at which service can be had on [name], and is acting herein by and through its duly authorized representative.

2. Decedent died on ~~1-07~~ ^{FEBRUARY 8, 2012} in ~~1-09~~ ^{YOUR CITY, YOUR} County, ~~1-09~~ ⁴, at the age of ~~4-10~~ ⁶ years.

Use the following as ¶13 if the answer to 6.08 of MIL is yes; if the answer is no, refer to Special Instruction 15 and substitute the appropriate paragraph.

3. This court has jurisdiction and venue because Decedent was domiciled and had a fixed place of residence in this county on the date of death.

4. Decedent owned ~~personal~~ real and personal ~~property~~ ^{AND} described generally as ~~6-09~~ ^{5,000.} ~~home, cash, securities, automobiles, livestock, household goods, personal effects,~~ ¹ of a probable value in excess of \$~~6.10~~.

5. Decedent left a valid will ("Will") dated ~~2-02~~, which was never revoked and ~~is~~ filed herewith ~~was previously delivered to the clerk of this Court.~~ ~~Include if applicable: Decedent~~

~~left a valid codicil ("Codicil") dated 2.17, which was never revoked and [is filed herewith/was previously delivered to the clerk of this Court].]~~

~~¶6—There are three separate paragraphs, but only the first two are numbered. Refer to 6.11 of MIL. Use the first alternative if 6.11C is applicable; use the second alternative if 6.11B is applicable. Then refer to 6.12 of MIL and, if the answer is yes, add the unnumbered paragraph; if the answer is no, omit the unnumbered paragraph. If there is a codicil, information should be added here, but substituting "Codicil" for "Will."~~

6. The names of the subscribing witnesses to the Will are ~~2.11 [list all such witnesses]~~

RONALD KNOX and
MARGARET GREEN

Or

6. The Will was wholly in the handwriting of Decedent, and Decedent's signature is subscribed thereto.

Include the following paragraph if applicable.

The Will was made self-proved in the manner prescribed by law.

~~¶7—Refer to 6.13 of MIL. Use the first alternative if 6.13B is applicable; use the second alternative if 6.13E is applicable.~~

7. No child or children were born to or adopted by Decedent after the date of the Will.

Or

7. After the date of the Will 3.52 who survived Decedent, [was/were] [born to/adopted by] Decedent.

~~¶8—Refer to 6.14 of MIL. Use the first alternative if 6.14A is applicable or if 6.14B is applicable and the answer to 3.25B is no; use the second alternative if 6.14B is applicable and the answer to 3.25B is yes. Repeat the second alternative if required for additional dissolved marriages.~~

8. After the date of Decedent's Will, no marriage of Decedent was dissolved.

Or

8. On or about **3.25A**, which date is after the date of Decedent's Will, Decedent's marriage to **3.21** was dissolved.

9. A necessity exists for the administration of this estate.

¶10—Refer to 2.42 of MIL. Use the first alternative if 2.42 is answered *no*; use the second alternative if 2.42 is answered *yes*. In both instances, refer to D's will, select the appropriate designation(s) as used in the will, and select the appropriate alternative. If the second alternative is selected, add the optional last sentence only if the language selected from that alternative is "desires to waive the right to be so appointed."

10. The ~~[Will/Codicil]~~ named Applicant ~~[2]~~ to serve without bond or other security as independent ~~[executor/executrix/executors/co-executors/executor and independent executrix, respectively/executrices]~~, and Applicant ~~[3]~~ would not be disqualified by law from serving as such or from accepting letters testamentary, and Applicant ~~[4]~~ would be entitled to such letters.

Or

10. The [Will/Codicil] named **2.43** and **2.45(A)** [include if applicable: and **2.45(B)**] to serve without bond or other security as independent [executor/executrix/executors/co-executors/executor and independent executrix, respectively/executrices], **2.43** [is deceased/is unable to serve as such/is not willing to serve as such/is unqualified to serve as such] [include if applicable: and desires to waive the right to be so appointed], and, by virtue thereof, Applicant[s] should be appointed as independent executor[s]. [Include if applicable: The written waiver of the right of **2.43** to be appointed as independent executor will be filed with the clerk of this Court.]

¶11—Refer to 3.53 of MIL. If the answer is *no*, use the first alternative; if the answer is *yes*, use the second alternative. Repeat the second alternative if required for multiple devisees.

11. The ~~Will/Will and Codicil~~ did not name either the State of Texas, a governmental agency of the State of Texas, or a charitable organization as a devisee.

Or

11. The [Will/Codicil] named ~~3.58, 3.61C~~, [the State of Texas/a governmental agency of the State of Texas/a charitable organization], as a devisee.

Include ¶12 only if D's will does not provide power of sale. See Special Instruction 47 and Special Instruction 48.

12. The Will does not contain a power of sale or language sufficient to grant the executor[s] that authority. [Applicant requests/Applicants request] that the court grant the executor[s] general authority to sell property without the further consent of Decedent's distributees. All Decedent's distributees agree to this request. Each distributee's consent will be filed with the clerk of this Court.

~~Applicant~~ prays/~~Applicants pray~~ that citation issue as required by law to all persons interested in this estate; that the ~~Will/Will and Codicil~~ be admitted to probate; that letters testamentary be issued to Applicant~~s~~; and that all other orders be signed as the Court may deem proper.

Respectfully submitted,

Add signature block. See Special Instruction 86—Signature Blocks. On this form you are attorney(s) for Applicant(s).

SPECIAL INSTRUCTION 86—SIGNATURE BLOCKS

Pleadings signed by attorneys must name the attorney and identify the attorney's State Bar number, address, phone, and fax. Texas Rules of Civil Procedure, Rules 57 and 191.3(a)(1).

If the pleading is e-filed, the attorney's e-mail address is also required. Texas Rules of Civil Procedure, Rule 21(f)(2).

E-filed documents may be signed with either (1) an electronic or scanned digital image of the signature or (2) "/s/" and name typed in the space where the signature would otherwise appear. Texas Rules of Civil Procedure, Rule 21(f)(7).

A basic format for the solo attorney's e-filing signature block:

/s/ ~~5.02~~ *J.M. Lawyer*
5.02 J.M. LAWYER
 Attorney for Applicant
 State Bar No. ~~5.03~~ **2222222**
5.08A JMLAWYER@JML.COM
5.05 987 BROWN STREET
5.06 YOUR CITY, TEXAS
5.07 555-555-5555
 Fax ~~5.08~~ **555-555-5566**

Some documents must still be signed by hand. Even if e-filing, "/s/" and a typed name do not suffice for notarized or sworn documents. Texas Rules of Civil Procedure, Rule 21(f)(7)(A).

Basic formats for signature blocks for a law firm and for a solo attorney appear below.

As the client's role (applicant, movant, executor, and so forth) changes, so should the description of the client in the signature block. Refer to each form to determine the appropriate description.

A basic format for the law firm's e-filing signature block:

5.01

By: /s/ **5.02**

5.02

Attorneys for Applicant

State Bar No. **5.03**

5.08A

5.05

5.06

5.07

Fax **5.08**

NO. _____

IN THE ESTATE OF

DONALD H. COX,

DECEASED

§
§
§
§
§

IN THE _____ OF

YOUR COUNTY, TEXAS

Application for Probate of Will and Issuance of

Letters Testamentary

ELAINE M. COX (“Applicant”) furnishes the following information to the Court for the probate of the will of DONALD H. COX (“Decedent”) and for issuance of letters testamentary to Applicant:

1. Applicant is an individual interested in this estate, domiciled in and residing at 789 Olive Street, Your City, Your County, Texas, the physical address at which service can be had on Applicant.

2. Decedent died on February 28, 2014 in Your City, Your County, Texas, at the age of 61 years.

3. This court has jurisdiction and venue because Decedent was domiciled and had a fixed place of residence in this county on the date of death.

4. Decedent owned real and personal property described generally as home, cash, securities, automobiles, household goods, and personal effects of a probable value in excess of \$5,000.00.

5. Decedent left a valid will (“Will”) dated May 29, 2000, which was never revoked and is filed herewith.

6. The names of the subscribing witnesses to the Will are RONALD KNOX and MARY ANN GREEN.

The Will was made self-proved in the manner prescribed by law.

7. No child or children were born to or adopted by Decedent after the date of the Will.

8. After the date of Decedent's Will, no marriage of Decedent was dissolved.

9. A necessity exists for the administration of this estate.

10. The Will named Applicant to serve without bond or other security as independent executrix and Applicant would not be disqualified by law from serving as such or from accepting letters testamentary, and Applicant would be entitled to such letters.

11. The Will did not name either the State of Texas, a governmental agency of the State of Texas, or a charitable organization as a devisee.

Applicant prays that citation issue as required by law to all persons interested in this estate; that the Will be admitted to probate; that letters testamentary be issued to Applicant; and that all other orders be signed as the Court may deem proper.

Respectfully submitted,

I. M. LAWYER
Attorney for Applicant
State Bar No. 2222222
IMLAWYER@iml.com
987 Brown Street
Your City, Texas 77777
555/555-5555
Fax 555/555/5566

FURNISHED FORM 16—CIVIL CASE INFORMATION SHEET

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: <u>J. M. LAWYER</u> Email: <u>JMLAWYER@JML.COM</u> Address: <u>987 BROWN STREET</u> Telephone: <u>555-555-5555</u> City/State/Zip: <u>YOUNG CITY, TX 7777</u> Fax: <u>555-555-5566</u> Signature: <u>J.M. Lawyer</u> State Bar No: <u>22222222</u>		Names of parties in case: Plaintiff(s)/Petitioner(s): <u>ELAINE M. COX</u> Defendant(s)/Respondent(s): _____ [Attach additional page as necessary to list all parties]		Person or entity completing sheet is: <input checked="" 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: _____						
2. Indicate case type, or identify the most important issue in the case (select only 1):										
Civil <table border="1"> <tr> <td> Contract <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: Foreclosure <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: </td> <td> Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation Malpractice <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 Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: </td> <td> 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: </td> </tr> </table>			Contract <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: Foreclosure <input type="checkbox"/> Home Equity—Expedited <input 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Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocals (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: </td> </tr> </table>			Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <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 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Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax			Probate & Mental Health <table border="1"> <tr> <td> Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input checked="" type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings </td> <td> <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: </td> </tr> </table>			Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input checked="" 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:			
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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						
4. Indicate damages sought (do not select if it is a family law case): <input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000										

Rev 2/13

HOW TO USE THIS SYSTEM

IF ALL ELSE FAILS

Read the Instructions!