

Judge John C. Bullock

Young County Constitutional County Court
Young County Courthouse
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For decedents who die with a will on or after September 1, 2007, notice must be given to certain beneficiaries. Texas Estates Code, Chapter 308 outlines the procedures for a personal representative of this Court requires that applicants for probate of a will as a muniment of title also comply with the 308 requirements.

Orders: Letters Testamentary or Letters of Administration with Will Annexed

When a decedent died on or after September 1, 2007, the Court requires that attorneys modify their proposed order forms to include something like the following, unless the personal representative or the applicant is the sole beneficiary:

“It is ORDERED that no bond or other security is required and that, upon the taking and filing of the oath required by law, Letters Testamentary shall issue to JOHN DOE, who is appointed as Independent Executor of Decedent’s will and estate, and that no other action shall be had in this Court other than the return of an inventory, appraisement, and list of claims as required by law, **and the filing of an affidavit or certificate concerning notice to beneficiaries as required by Chapter 308 of the Texas Estates Code.** (Emphasis added only to designate the new language.)”

Orders: Muniment of Title

When a decedent died on or after September 1, 2007, the Court requires that attorneys add language similar to the following to any proposed order admitting a will to probate as a muniment of title, unless the applicant is the sole beneficiary:

“The applicant shall comply with Texas Estates Code, Chapter 308.”

Notice or waivers

Chapter 308, Texas Estates Code, outlines who must receive notice and how.

Affidavit or Certificate

When it comes to compliance, the Court will check **the sworn affidavit or certificate** that is required to be filed and not the actual waivers or the notices that personal representatives

send to the beneficiaries. (The filing copies of notices, waivers, green cards, etc., is not, by itself, in compliance with the statute.) Attorneys should be sure that the required affidavit or certificate includes all of the information required by the statute; if it does not, the Court will require an amended affidavit or certificate.

Although Chapter 308 does not waive the requirement of an affidavit or certificate when the applicant is the sole beneficiary, this Court will not monitor the filing of an affidavit or certificate in those cases.

John C. Bullock, Presiding Judge
Young County Constitutional County Court
Young County, Texas