

HOW DO YOU USE THE SAMPLE AFFIDAVIT OF HEIRSHIP?

This sample is *not* provided for you to fill in the blanks. It is meant to help you draw up your own affidavit of heirship. It is an example of the most common situations seen when drawing up an affidavit of heirship.

< > tells you the type of information needs to be filled.

() is a direction to let you know whether the paragraph applies.

If any of the information doesn't apply for your decedent, don't include it when drafting the affidavit. This sample was prepared for a hypothetical decedent who was married twice. The first spouse died, and the second marriage ended in divorce. If the decedent only had one marriage, leave out the information about the second spouse. If the decedent was married three times, then add a spouse.

The information will be different depending on whether the possible heir (that is, a spouse, child, or parent) is alive or dead. If the potential heir is dead, then *their* children related to your decedent must be listed. See an example of this in Paragraph 8. Paragraph 8a is an example of how that section should read for the decedent's living siblings. Paragraph 8b shows how that section should read for the decedent's siblings who have died.

Remember that this is just a template. Don't file it with real property records as it reads now.

AFFIDAVIT OF HEIRSHIP

Date: <DATE AFFIDAVIT WAS EXECUTED>

Decedent: <NAME OF PERSON WHO DIED AND WHOSE PROPERTY YOU ARE TRANSFERRING>

Property: <PHYSICAL ADDRESS AND LEGAL DESCRIPTION OF PROPERTY OWNED BY DECEDENT>

First Spouse: <NAME OF FIRST SPOUSE OF DECEDENT IF APPLICABLE>

Second Spouse: <NAME OF SECOND SPOUSE OF DECEDENT IF APPLICABLE>

Affiant: <NAME OF PERSON SWEARING TO THE FACTS OF THIS AFFIDAVIT>

Affiant, on oath, swears that the following statements are true and are within the personal knowledge of Affiant:

1. "My name is <NAME OF AFFIANT>, and I live at <PHYSICAL STREET ADDRESS OF AFFIANT>. I am personally familiar with the family and marital history of <NAME OF DECEDENT> and I have personal knowledge of the facts stated in this affidavit.

2. "I knew Decedent from on or about <YEAR AFFIANT KNEW DECEDENT> until <LAST DATE OF KNOWING DECEDENT, USUALLY DATE OF DEATH>. Decedent died on <DATE OF DEATH OF DECEDENT>. Decedent's place of death was <CITY, COUNTY AND STATE WHERE DECEDENT DIED>. At the time of Decedent's death, Decedent's residence was <ADDRESS OF DECEDENT'S RESIDENCE>.

3. "Decedent's marital history was as follows: Decedent was married <ZERO / ONE / TWO ... ETC.> times.

- a. Name: <NAME OF 1ST SPOUSE>
Date of marriage: on or about <DATE OF MARRIAGE>
Place of marriage: <CITY, STATE OF MARRIAGE>
Status of marriage: Terminated by death of spouse. <MARRIED AT DEATH, TERMINATED BY DEATH OF SPOUSE, OR TERMINATED BY DIVORCE>
Date of death: <DATE OF DEATH OF SPOUSE>
Place of death: <COUNTY AND STATE OF SPOUSE'S DEATH>
- b. Name: <NAME OF 2ND SPOUSE>
Date of marriage: on or about <DATE OF MARRIAGE>
Place of marriage: <CITY, STATE OF MARRIAGE>
Status of marriage: Terminated by divorce. <MARRIED AT DEATH, TERMINATED BY DEATH OF SPOUSE, OR TERMINATED BY DIVORCE>
Date of divorce: <DATE DIVORCE WAS FINALIZED>

4. Decedent had the following children:

- a. Name: <NAME OF DECEDENT'S FIRST CHILD>
Date of Birth: <DATE OF BIRTH OF DECEDENT'S FIRST CHILD>
Name of Other Parent: <NAME OF CHILD'S OTHER PARENT>

Current Address: <CURRENT PHYSICAL ADDRESS>

- b. Name: <NAME OF DECEDENT'S SECOND CHILD>
Date of Birth: <DATE OF BIRTH OF DECEDENT'S SECOND CHILD>
Name of Other Parent: <NAME OF CHILD'S OTHER PARENT>
Date of Death: <DATE THAT THIS CHILD OF DECEDENT DIED>
Names of descendants: <LIST NAMES OF CHILDREN OF THE DECEASED CHILD>

5. Decedent did not have or adopt any other children and did not take any other children into Decedent's home or raise any other children, except: <LIST ADOPTED CHILDREN, CHILDREN RAISED BY DECEDENT, OR STATE "NONE">

6. (Include if decedent was not survived by descendants) Decedent's mother was:
Name: <NAME OF DECEDENT'S MOTHER>
Date of Birth: <BIRTH DATE OF DECEDENT'S MOTHER>
Current Address or Date of Death: <IF STILL LIVING, INSERT CURRENT ADDRESS OF DECEDENT'S MOTHER, IF DECEASED THEN ENTER THE DATE OF HER DEATH>

7. (Include if decedent was not survived by descendants) Decedent's father was:
Name: <NAME OF DECEDENT'S FATHER>
Date of Birth: <BIRTH DATE OF DECEDENT'S FATHER>
Current Address or Date of Death: <IF STILL LIVING INSERT CURRENT ADDRESS OF DECEDENT'S FATHER, IF DECEASED THEN ENTER THE DATE OF HIS DEATH>

8. (Include if decedent was not survived by descendants or by both mother and father)
Decedent had the following siblings:

- a. Name: <NAME OF SIBLING>
Date of Birth: <BIRTH DATE OF SIBLING>
Current address: <CURRENT PHYSICAL ADDRESS OF SIBLING>
- b. Name: <NAME OF SIBLING>
Date of Birth: <BIRTH DATE OF SIBLING>
Date of Death: <DATE OF DEATH OF SIBLING>
Names of descendants: <LIST NAMES OF CHILDREN OF THE DECEASED SIBLING>

9. (Optional) The following person has knowledge regarding Decedent, the identities of Decedent's children, if any, parents, or siblings, if any:

a. <NAME OF PERSON OTHER THAN AFFIANT NAMED ABOVE THAT KNOWS THE FAMILY HISTORY OF DECEDENT>

b. <NAME OF PERSON OTHER THAN AFFIANT NAMED ABOVE THAT KNOWS THE FAMILY HISTORY OF DECEDENT>

10. Decedent died <"WITH" OR "WITHOUT"> leaving a written will.

11. There <HAS / HAS NOT> been AN administration of Decedent's estate.

12. Decedent left no debts that are unpaid at the time of death, except: <LIST UNPAID

EXPENSES AND DEBTS OF DECEDENT OR STATE "NONE">

13. There are no unpaid estate or inheritance taxes, except: <LIST UNPAID ESTATE OR INHERITANCE TAXES OR STATE "NONE">

14. To the best of my knowledge, Decedent owned an interest in the following real property:

<LEGAL DESCRIPTION OF PROPERTY>

15. (Optional) The following were the heirs of Decedent: <LIST ALL DESCENDANTS OF DECEDENT>

a. _____

b. _____

c. _____

<AFFIANT SIGNATURE>

<TYPE NAME OF AFFIANT>

SUBSCRIBED AND SWORN TO before me on _____, 20____, by
_____.

Notary Public, State of Texas
My commission expires: