

CLERK OF THE COURT  
TABATHA FERGUSON  
BOSQUE COUNTY CLERK  
MERIDIAN, TEXAS

ATTORNEY FILING  
JAMES L. ROBERTSON  
P.O. BOX 200215  
ARLINGTON, TEXAS 76006

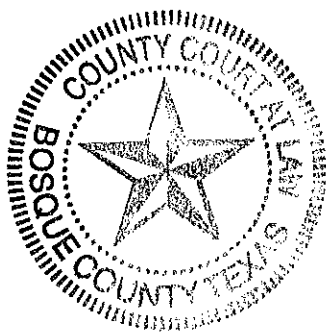
**THE STATE OF TEXAS**

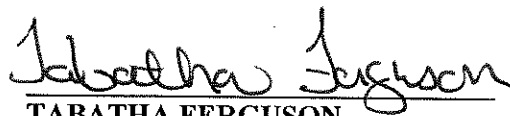
TO ALL PERSONS INTERESTED IN THE ESTATE OF **MARY ALMA THOMAS**, deceased, Docket No. **P08430** County Court at Law Bosque County, Texas, **JAMES WILHITE** filed in the County Court at Law of Bosque County, Texas, on the **08<sup>th</sup> day of DECEMBER, 2021** an **OBJECTION TO THE APPLICATION TO PROBATE 2002 WILL FILED BY SUSAN DIANE WINTERS AND JAMES WILHITE'S APPLICATION TO FILE 2020 WILL**. Said application will be heard and acted on by said Court **no earlier than** 10:00 am on the **first Monday** next after the expiration of ten days, from the date of posting this citation, the same being the **20<sup>th</sup> DAY OF DECEMBER, 2021** at the County Courthouse in **MERIDIAN, TEXAS**.

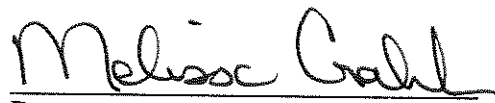
All persons interested in said estate are hereby cited to appear before said Honorable Court at said above mentioned time and place by filing a written answer contesting such application should they desire to do so.

The officer executing this citation shall post the copy of the citation at the Courthouse Door of the county in which proceedings are pending, or at the place in or near said Courthouse where public notices customarily are posted, for not less than 10 days before the return day thereof, exclusive of the date of posting and return the original copy of this citation to the Clerk stating in a written return thereon the time when and the place where he posted such copy.

**GIVEN UNDER MY HAND AND THE SEAL OF SAID COURT** in Meridian, Texas. This the **8<sup>th</sup> day of DECEMBER, 2021**.



  
TABATHA FERGUSON  
Bosque County Clerk

  
Deputy

**OFFICER'S RETURN ON CITATION**

Came to hand on the 9 day of Dec, 2021, at  
12:45 o'clock A M. and executed on the 9 day of Dec, 2021  
by posting a copy of the within citation for ten days, exclusive of the day of posting,  
before the return day hereof, at the County Courthouse door of Bosque County,  
Texas, or at the place in or near the said courthouse where public notices customarily are  
posted, that is from 12/9, 2021, through 12/20,  
2021, inclusive.

  
CONSTABLE  
BOSQUE COUNTY, TEXAS

Printed name: Scott Ferguson

Cause Number P 08430

IN RE THE ESTATE OF                                    §        IN THE COUNTY COURT  
MARY ALMA THOMAS,                                    §        OF LAW  
DECEASED    §        BOSQUE COUNTY, TEXAS

**OBJECTION TO THE APPLICATION TO PROBATE 2002 WILL FILED  
BY SUSAN DIANE WINTERS and JAMES WILHITE'S  
APPLICATION TO FILE 2020 WILL**

NOW COMES James Wilhite and files this OBJECTION AND APPLICATION and for cause would respectfully show this court as follows:

1. The Will tendered by Susan Diane Winters is dated April 18, 2002. Subsequent to that date, the deceased, Mary Thomas, executed a new Will dated September 18, 2020 that revoked all previous Wills and Codicils. A copy of that newer Will is attached hereto. All references herein to Decedent's Will refer to that September 18, 2020 Will.

**JURISDICTION AND RECITALS**

2. Decedent died on October 10, 2021 in Dallas County Texas at the age of 82 years. Her domicile at the time of her death was in Meridian, Bosque County, Texas. The last three digits of her social security number are 435.
3. Jurisdiction and venue is correct in this Court because the deceased was domiciled, and had a fixed place of residence. in Bosque County at the time of her death.
4. At the time of her death Decedent owned cash, and real and personal property in the approximate value of \$700,000.00..
5. Decedent left a valid Will dated September 18, 2020 which has never been revoked.
6. Decedent had no children born to or adopted after the date of her Will, and was not ever divorced after the date of her Will.
7. Four years have not passed since the date of death.
8. The witnesses to the Will are:

- a. Rebecca Clift whose address is 2666 FM 182, Clifton, Texas 76634; and
  - b. Victoria Perez, whose address is 606 N Bosque St. Meridian, Texas 76665.
9. The Will is made Self-Proven as provided by law.
10. The Will did not name the State of Texas, an agency of the State of Texas or any charitable organization as a devisee.
11. There exists a need for an administration of the estate.
12. The named devisees under the Will are, or – in the event of intestacy – the heirs at law of the deceased are:
  - a. Linda Gail Barr, who is an adult child of the deceased and who resides at 1383 CR 1110, Meridian, Texas 76665; and
  - b. Susan Diane Winters who is an adult child of the deceased and who resides at 17988 N County Road 3015, Lindsay, Oklahoma 73052.

## **RELEVANT DIFFERENCES IN THE TWO WILLS**

13. In the 2002 Will Applicant Susan Winters is named as one co-executor and Brett Thomas is named as the other. Brett Thomas was not joined with Susan Winters in the application filed by Susan Winters herein, but no reason is stated therefore.
14. In the 2020 Will Susan Winters is named as Executrix and James Wilhite is named as the alternate.
15. In the 2002 Will, Mary Thomas left her estate equally to her two living children, Linda Barr and Susan Winters and to her two step children, Brett Thomas and Donna Henry. In the 2020 Will she left her estate only to her two living children. One half goes outright to Susan Winter and the other half has provisions for a life estate to Linda Barr with the remainder to Linda Barr's children, one of whom is James Wilhite, Applicant herein.

## **OBJECTION TO APPOINTMENT OF SUSAN WINTERS**

16. Susan Winters has, since Decedent was hospitalized, consistently behaved im bad faith and in a manner inconsistent with good fiduciary practice and integrity. The following actions are indicative of her handling of the interactions since Mary Thomas' injury and subsequent death.

17. Applicant herein, James Wilhite, represents to the Court, based on information and good faith belief, that Susan Winters, at a time after the Deceased, Mary Thomas, was hospitalized with burns over 60% of her body and was on significant medication for pain, caused the Deceased to sign a Durable Power of Attorney naming Susan Winters as attorney in fact. James Wilhite believes that Mary Thomas was not able to make such legal decisions and was induced to ignore her, Mary Thomas', existing Powers of Attorney – both medical and durable.
18. Susan Winters' sister, Linda Barr, also lived in the home that was destroyed by the explosion that killed Mary Thomas. Susan knew that Linda was also hospitalized with back injuries by the force of the explosion. On information and good faith belief, James Wilhite states that he believes that another family member sent Susan Winters \$2,000.00 to help Mary Thomas and Linda Barr out with the expenses caused by the explosion and that Susan Winters kept that money for herself, causing the family member to have to send an addition \$1,000.00 to help Linda Barr;
19. During the month of Mary Thomas' hospitalization but prior to her death, Susan Winters refused to give other family members the necessary codes to get information about Mary Thomas' medical condition from the hospital;
20. At one time, Linda Barr had gone to the hospital to see, Mary Thomas – her own mother. When Susan Winters learned that Linda Barr was visiting Susan Winters contacted the hospital and had Linda Barr removed from the visit;
21. Susan Winters did not consult with or discuss with Linda Barr, her own sister and Mary Thomas' other daughter, about removing Mary Thomas from life support, she merely removed her;
22. Susan Winters did not consult with anyone else in the family including her own sister, Linda Barr, about any of the funeral arrangements, she merely made all of the decisions and instructed the funeral home not to coordinate with, provide information to, or discuss details with, anyone else in the family;
23. In her affidavit in support of her Ex Parte Temporary Restraining Order she stated that two weeks after the explosion that hospitalized and ultimately killed Mary Thomas, her mother, she went to get Mary Thomas's tractor, car, and other property intending to take them with her to her home in Oklahoma, removing them from this Court's jurisdiction. The Bosque

County Sheriff's office was called and Susan Winters was told that she could not take the property without a Court Order.

24. Applicant, on information and belief, believes that prior to the Decedent's death, Susan Winters removed substantial amounts of cash from the Deceased's bank accounts in Bosque County and transferred the money into her own bank account in Oklahoma.
25. Further, on information and belief, Susan Winters, before Mary Thomas' death, took insurance proceeds which now would be part of the estate and deposited those funds into her own bank account and has not properly preserved them as required of a fiduciary Attorney in Fact. The real property was insured for \$186,000.00 and the contents of the home for another \$111,000.00.
26. Linda Barr had lived with and cared for the Decedent at the home that was destroyed for 11 years. Everything Linda owned was destroyed in the explosion and fire that destroyed the home, but Susan has made no effort to sort out what insurance monies belong to the estate and what belongs to Linda Barr.
27. On December 1, 2021, Counsel herein notified counsel for Susan Winters that James Wilhite would be going onto the property to hunt before the close of deer season, and supplied her a copy of the hunting lease. This was done in order to try to deescalate some of the hostility between the parties.
28. In spite of James Wilhite having a valid hunting lease for the property signed by Mary Thomas and never challenged by anyone, Susan Winters, in her affidavit for her second Ex Parte Temporary Order asked for, and got, a restraining order based such bizarre hearsay falsehoods that James Wilhite had told the Sheriff that "[he, Wilhite,] could enter the property and remove and sell whatever [he] wanted."
29. Susan Winters, personally or by an agent, called the Bosque County Sheriff who ultimately went to the lease property and made James Wilhite leave, calling it a "Criminal Trespass" although no paperwork other than the second Ex Parte TRO has been given to anyone.
30. It should be clear from the behavior of Susan Winters, that she does not intend to protect anyone else's interests and would not be morally inclined to nor interested in, protecting the estate for its ultimate distribution.

31. WHEREFORE PREMISES CONSIDERED, APPLICANT JAMES WILHITE, respectfully requests and prays that this Court:

- a. Deny probate of the 2002 Will Tendered by Susan Winters;
- b. Admit the attached 2020 Will to probate;
- c. Order Susan Winters to account for the insurance proceeds which are believed to be \$297,000.00 plus bank account proceeds and which are believed to be in Susan Winters' name, alone, in her own bank in Oklahoma.
- d. To pay over any sums of cash or insurance proceeds belonging to the estate that are in her possession to the Court until further Order of this Court;
- e. Require Susan Winters to account for all property, real and personal, of Mary Thomas or her estate that has come into her possession since September, 6, 2021, the date Mary Thomas was incapacitated leading to her death;
- f. Find that Susan Winters is not suitable to serve as Executor of this estate;
- g. Appoint James Wilhite as Independent Executor of this estate under the 2020 Will; or
- h. In the alternative to an immediate appointment of an executor, to appoint a temporary Administrator of the estate to investigate the nature of the estate and the handling of the estate prior to the date of this hearing and to report back to the Court with a recommendation regarding the further needs of this estate;

RESPECTFULLY SUBMITTED

/S/ James L Robertson

JAMES L. ROBERTSON, Attorney for  
Applicant, Texas Bar Card Number 17061050  
P.O. Box 200215 Arlington, Texas 76006  
JimRobertsonsemail@gmail.com  
Voice 817-821-4150 Facsimile 817-394-0541

CERTIFICATE OF SERVICE

This is to certify that in filing the above matter, electronic service will be requested to all notice parties in this case.

/S/ James L Robertson

JAMES L. ROBERTSON