

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

ATTORNEY FILING
DYLAN SCHULTZ
BELLAMY & SCHULTZ PLLC
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AUSTIN TX 78731

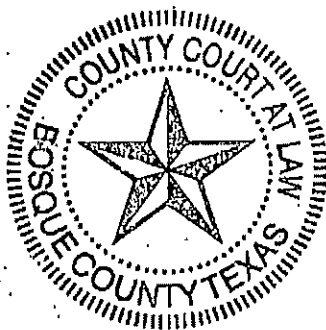
THE STATE OF TEXAS


TO ALL PERSONS INTERESTED IN THE ESTATE OF MARY FRANCES JONES SPURWAY, deceased, Docket No. P08528 County Court at Law Bosque County, Texas, HK REO LLC filed in the County Court at Law of Bosque County, Texas, on the 24th day of January, 2023 an APPLICATION TO DETERMINE HEIRSHIP. 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 6th day of FEBRUARY, 2023 at the County Courthouse Judicial Annex 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 24th day of January, 2023.





TABATHA FERGUSON
Bosque County Clerk

Deputy

OFFICER'S RETURN ON CITATION

Came to hand on the 24 day of JAN, 2023, at
4:47 o'clock P M. and executed on the 24 day of JAN, 2023
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 1/24, 2023, through 2/6,
2024, inclusive.



CONSTABLE
BOSQUE COUNTY, TEXAS

Printed name: Scott Ferguson

CAUSE NO. _____

IN THE ESTATE OF	§	IN THE PROBATE COURT
	§	
MARY FRANCES JONES SPURWAY	§	NUMBER ONE OF
	§	
DECEASED	§	BOSQUE COUNTY, TEXAS

APPLICATION TO DETERMINE HEIRSHIP

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, HK REO, LLC (“Applicant”), a Texas Limited Liability Company that does business in Bosque County, and furnishes the following information to the Court:

I. BACKGROUND

1. Mary Frances Jones Spurway (“Decedent”) was born on or about September 27, 1937 and died on or about March 12, 2015 at the age of seventy-seven (77) years. She was domiciled at 87 Homer Folkes Rd. Seminary, MS 39479-4444 (Covington County, MS) at the time of her death, but, at the time of her death, possessed a partial ownership interest in real property located in Bosque County, Texas, hereinafter referred to as ‘the Subject Property’, further described as:

LEGAL DESCRIPTION: CEDAR SHORES BLOCK U1 LOT 66, 67, 68; also described as Lot Number Sixty Six (66), Sixty Seven (67) and Sixty Eight (68), of Unit One (1) of CEDAR SHORES ESTATES, a Subdivision of said Survey as more fully shown by map or plat of same recorded in Volume 185, Page 433 of the Deed Records of Bosque County, Texas, to which reference is here made for all purposes;
STREET ADDRESS: 457 County Road 1524, Morgan, TX 76671; and
ACCOUNT NUMBER: R13026.

No administration is pending upon Decedent’s Estate in Mississippi or Texas, and none appears necessary. It is necessary and in the best interest of the Estate for the Court to determine who are the heirs and only heirs of the Decedent.

2. Applicant purchased the Subject Property at a foreclosure sale and thereby received the Deed Under Order of Sale in Delinquent Tax Suit recorded as Doc. No. 2020-03283 in the Official Public Records of Bosque County, Texas. Mary Frances Jones Spurway’s sole heir, Debra Carroll Kunkel, was named as a defendant in rem only in the underlying delinquent tax

suit, Cause No. CV-17357, styled Tarpon Hunters, LLC vs. Debra Ann Williams and Charlie Williams before the 220th Judicial District County in Bosque County, Texas, and, therefore, Debra Carrol Kunkel's inherited partial ownership interest in the Subject Property was extinguished by said foreclosure. *See Kothari v. Oyervidez*, 373 S.W.3d 801 (Tex. App.—Houston [1st Dist.] 2012, pet. denied). However, no court has ever ordered that Debra Carrol Kunkel is the sole heir of Mary Frances Jones Spurway, and there are no affidavits of heirship filed in the Official Public Records of Bosque County, Texas. For this reason, Applicant seeks a court order determining that Debra Carrol Kunkel is the sole heir of Mary Frances Jones Spurway to cure a apparent but illegitimate title issue in chain of title for real property situated in Bosque County, Texas.

II. JURISDICTION, STANDING AND AUTHORITY FOR APPLICATION

3. This Court has jurisdiction and venue pursuant to Tex. Estates Code Secs. 202.002 and 202.205. Tex. Estates Code Sec. 202.002 states:

CIRCUMSTANCES UNDER WHICH PROCEEDING TO DECLARE HEIRSHIP IS AUTHORIZED. A court may conduct a proceeding to declare heirship when:

- (1) *a person dies intestate owning or entitled to property in this state and there has been no administration in this state of the person's estate;*
- (2) there has been a will probated in this state or elsewhere or an administration in this state of a decedent's estate, but:
 - (A) property in this state was omitted from the will or administration; or
 - (B) no final disposition of property in this state has been made in the administration; or
- (3) it is necessary for the trustee of a trust holding assets for the benefit of a decedent to determine the heirs of the decedent.

(emphasis added). Applicant has standing to bring this application as a claimant as to the ownership of part of the decedent's estate. Tex. Estates Code Sec. 202.004. Tex. Estates Code Sec. 202.205 further states:

APPLICATION FOR PROCEEDING TO DECLARE HEIRSHIP. A person authorized by Section 202.004 to commence a proceeding to declare heirship must file an

application in a court specified by Section 33.004 to commence the proceeding. The application must state:

- (1) the decedent's name and date and place of death;
- (2) the names and physical addresses where service can be had of the decedent's heirs, the relationship of each heir to the decedent, whether each heir is an adult or minor, and the true interest of the applicant and each of the heirs in the decedent's estate or in the trust, as applicable;
- (3) if the date or place of the decedent's death or the name or physical address where service can be had of an heir is not definitely known to the applicant, all the material facts and circumstances with respect to which the applicant has knowledge and information that might reasonably tend to show the date or place of the decedent's death or the name or physical address where service can be had of the heir;
- (4) that all children born to or adopted by the decedent have been listed;
- (5) that each of the decedent's marriages has been listed with:
 - (A) the date of the marriage;
 - (B) the name of the spouse;
 - (C) the date and place of termination if the marriage was terminated; and
 - (D) other facts to show whether a spouse has had an interest in the decedent's property;
- (6) whether the decedent died testate and, if so, what disposition has been made of the will;
- (7) a general description of all property belonging to the decedent's estate or held in trust for the benefit of the decedent, as applicable; and
- (8) an explanation for the omission from the application of any of the information required by this section.

III. GROUNDS FOR APPLICATION

4. Decedent died on or about March 12, 2015 in Covington County, MS.

5. Based on information and belief derived from Skip Trace Reports and information from Decedent's family, the Decedent's sole heir is named Debra Carroll Kunkel. She can be served at the physical address of 87 Homer Folkes Road, Seminary, MS 39479. Debra Carroll Kunkel is an adult, over the age of eighteen (18). As stated above, Debra Carroll Kunkel inherited Debra

Carroll Kunkel's interest in the Subject Property, as her sole heir, which was extinguished by the aforesaid foreclosure.

6. Based on information and belief derived from Skip Trace Reports and information from Decedent's family, all children born to or adopted by the Decedent have been listed in paragraph 5, above. Debra Carroll Kunkel is the Decedent's only child.

7. Based on information and belief derived from Skip Trace Reports and information from Decedent's family, Decedent was married once during her lifetime to Robert Adair Spurway, who predeceased Decedent on March 29, 2012 at the age of seventy-two (72).

8. Based on information and belief from information gathered from Decedent's family, Decedent died intestate and did not leave a will.

9. Applicant is not aware of any other property belonging to the Decedent's estate or held in trust for the benefit of the Decedent, as applicable.

10. The only information contemplated by Estates Code Sec. 202.205 that Applicant omitted above is the date of the marriage between Decedent and Robert Adair Spurway. Applicant has not been able to ascertain that information, however, such information is moot, and not material to the order sought by this application, because Robert Adair Spurway predeceased Decedent.

11. This Application does not omit any information required by Tex. Est. Code § 202.005 other than described above.

WHEREFORE, PREMISES CONSIDERED, Applicant prays as follows:

1. That citation be issues to all parties in these proceedings as required by the Texas Estates Code unless waived;
2. That, this Court determine and declare who are the heirs of Decedent and their respective shares and interests of such heirs in the Estate of Decedent under the laws of descent and distribution of the State of Texas, and issue an final order, finding, adjudicating, ordering and decreeing same;
3. That an attorney ad litem be appointed to represent the interests of any heirs whose names and whereabouts are unknown or who are suffering from a legal disability;
4. That this Court issue its Order for such other and further relief to which Applicant may show himself herself justly entitled and as to the Court may seem necessary and proper.

Respectfully submitted,


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By: /s/ Dylan Schultz
Brian S. Bellamy
Dylan Schultz
State Bar No. 24103529

ATTORNEYS FOR APPLICANT

THE STATE OF TEXAS §
COUNTY OF TRAVIS §

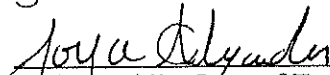
I am over the age of twenty-one (21) and have never been convicted of a crime. My name is Dylan Schultz, and I am the Attorney for HK REO, LLC. I state insofar as is known to me, all the allegations of the foregoing Application to Determine Heirship are true in substance and in fact and that no material fact or circumstance has, within my knowledge, been omitted from such Application.



Dylan Schultz, as Attorney for
HK REO, LLC

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, by Dylan Schultz in his capacity as Attorney for HK REO, LLC, on January 4, 2023, to certify which witness my hand and seal of office.

(seal)



Notary Public, State of Texas
My Commission Expires:
6/21/2025

