

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

ATTORNEY FILING
PATRICIA FERGUSON
815 W 5TH ST
CLIFTON, TX 76634

THE STATE OF TEXAS

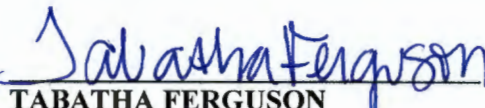
TO ALL PERSONS INTERESTED IN THE ESTATE OF **HUBERT B. NUTT JR**, deceased, Docket No. **P08527** County Court at Law Bosque County, Texas, **KIMBERLY NUTT SMITH** filed in the County Court at Law of Bosque County, Texas, on the **4th day of March, 2024** an **ORIGINAL PETITION FOR DECLARATORY JUDGMENT**. Said petition 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 **18th day of March, 2024** at the County Court at Law Judicial Annex in **MERIDIAN, TEXAS**.

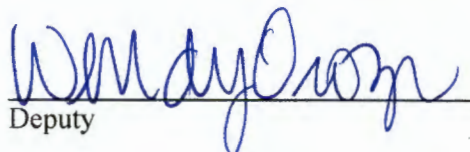
All persons interested in said estate are hereby cited to appear before said Honorable Court at said above mentioned time and place by filing a written answer contesting such application should they desire to do so.

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 **4th day of March, 2024**.





TABATHA FERGUSON
Bosque County Clerk


Deputy

OFFICER'S RETURN ON CITATION

Came to hand on the 41 day of March, 2024, at
4:24 o'clock P M. and executed on the 41 day of March, 2024
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 3/4, 2024, through 3/18,
2024 inclusive.


CONSTABLE
BOSQUE COUNTY, TEXAS

Printed name: Scott Ferguson

No. P08527

ESTATE OF § IN THE COUNTY COURT
HUBERT B. NUTT, JR., § AT LAW OF
DECEASED § BOSQUE COUNTY, TEXAS

ORIGINAL PETITION FOR DECLARATORY JUDGMENT

In accordance with the *Texas Uniform Declaratory Judgments Act, Chapter 37* of the *Texas Civil Practice and Remedies Code*, Plaintiff **Kimberly Nutt Smith, Independent Executor of the Estate of Hubert B. Nutt, Jr.**, files this *Original Petition for Declaratory Judgment* to show the Court the following:

1. Plaintiff. Plaintiff **Kimberly Nutt Smith, Independent Executor of the Estate of Hubert B. Nutt, Jr.**, is an individual petitioning in her capacity as Independent Executor of the Estate of Hubert B. Nutt, Jr., pending in this cause, whose address is 461 FM 217, Valley Mills, Bosque County, Texas. The last three digits of Plaintiff's Social Security and driver's license numbers are 606 and 060.

2. Defendants. Defendants are the beneficiaries of the Will probated in this cause:
Hannah Cauley, residing at 2626 Throckmorton #1318, Dallas, Dallas County, Texas 75219;
Riley Cauley, residing at 2112 Nichols Road, Little Rock, Pulaski County, Arkansas 72205;
Owen Cauley, residing at 339 CR 1630, Clifton, Bosque County, Texas 76634;
Chris Vigneau, residing at 1054 Mesquite Tree Road, Waco, McLennan County, Texas 76705;
Tony Splvey, residing at 135 Valley View Drive, Whitney, Hill County, Texas 76692;
Barbara Brown, residing at P. O. Box 771, Valley Mills, Bosque County, Texas 76689;

Darci Jernigan, a minor, residing with her parents, Kirk and Rhonda Jernigan, at 631 CR 3505, Valley Mills, Bosque County, Texas 76689;

Elisa Gayle Nutt Campbell, residing at 252 CR 1630, Clifton, Bosque County, Texas 76634;

Mary Renee Cauley, residing at 339 CR 1630, Clifton, Bosque County, Texas 76634, and represented in this matter by Addison Eubank Scott, Rainey & Rainey, 3809 West Waco Drive, Waco, Texas 76710;

First Baptist Church of Valley Mills, 302 Avenue C, P. O. Box 627, Valley Mills, Bosque County, Texas 76689.

3. **Discovery.** Plaintiff requests that the Court and parties waive the requirement of disclosure in the interest of justice and economy.

4. **Jurisdiction.** This Court has jurisdiction over this matter because Hubert B. Nutt, Jr., *Decedent*, was a resident of Texas, his assets are in Texas and the probate is pending in this Court.

5. **Venue.** Venue is proper in this county in that the events giving rise to this cause of action occurred within Bosque County.

6. **Facts.** Decedent's May 2, 2022, Will, probated in this cause, makes the following gifts:

Hannah Cauley	\$ 25,000.00
Riley Cauley	\$ 25,000.00
Owen Cauley	\$ 25,000.00
Chris Vigneau	\$ 10,000.00
Tony Spivey	\$ 10,000.00
Kimberly Nutt Smith: farm consisting of approximately 137 acres, cattle and farm equipment plus	\$200,000.00
Barbara Brown	\$100,000.00
Darci Jernigan, a minor (in Trust)	\$100,000.00
Elisa Gayle Nutt Campbell	\$200,000.00
Mary Renee Cauley	\$200,000.00
First Baptist Church of Valley Mills: remainder	

The specific gift cash payments above total \$895,000.00. After the payment of debts, taxes, attorney fees related to this action and closing the estate, the estate will have approximately \$800,000.00 in cash. That amount is insufficient to make the specific and residuary gifts.

Plaintiff requests the Court's order to distribution the estate's cash to the specific gift beneficiaries based on their percentages of the cash remaining after payment of all debts, attorney's fees and taxes. :

Hannah Cauley	2.793296%
Riley Cauley	2.793296%
Owen Cauley	2.793296%
Chris Vigneau	1.117318%
Tony Spivey	1.117318%
Kimberly Nutt Smith (plus farm, cattle & equipment)	22.346368%
Barbara Brown	11.173184%
Darci Jernigan, a minor (in Trust)	11.173184%
Elisa Gayle Nutt Campbell	22.346368%
Mary Renee Cauley	22.346368%
First Baptist Church of Valley Mills (no assets remaining for residuary gift)	

7. Conditions Precedent. All conditions precedent to the Plaintiff's claim for relief have been performed or have occurred.

8. Requested Relief. Plaintiff requests a declaratory judgment to distribute the estate's funds in percentages as set out above. If the Court were to grant declaratory judgment, it would end the genuine controversy that exists between the parties. Plaintiff requests the Court enter declaratory judgment as follows:

9. Attorney's Fees and Costs. Pursuant to *Section 37.009, Texas Civil Practice and Remedies Code*, Plaintiff hereby requests the recovery of reasonable and necessary attorney's fees and all costs of court incurred by the Estate, which will be proven based upon attorney's invoices and testimony, as well as including all fees necessary in the event

of an appeal of this cause of action to the Court of Appeals and the Supreme Court of Texas, as the Court deems just and equitable.

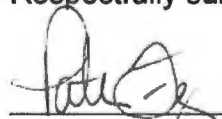
Prayer

Plaintiff prays that Defendants be cited to appear and answer this petition.

Plaintiff further prays that the Court

- Waive the requirement of disclosure;
- Grant this *Petition for Declaratory Judgment*;
- Award Plaintiff set out above, reasonable and necessary attorney's fees and expenses, and all costs of Court as are equitable and just;
- Award all other relief to which Plaintiff is entitled both in equity and law.

Respectfully submitted,



Patricia Ferguson
Attorney for Plaintiff
State Bar No. 06918400
pferguson@bosquelaw.com
Patricia Ferguson & Associates, LLC
815 West 5th Street
Clifton, Texas 76634-1519
Telephone: 254/675-8663
Facsimile: 254/675-4567

(cont'd on next page)

Verification

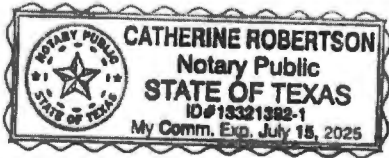
State of Texas
County of Bosque

Before me, the undersigned Notary Public, on this day personally appeared **Kimberly Smith, individually and as Independent Executor of the Estate of Hubert B. Nutt, Jr.**, and after being duly sworn stated that she is the Plaintiff in the above-entitled and numbered cause; that she has read the above and foregoing *Original Petition for Declaratory Judgment*; and that its material allegations are within her personal knowledge and true and correct.



Kimberly Smith

SUBSCRIBED AND SWORN TO BEFORE ME on March 1, 2024.





Notary Public, State of Texas

(cont'd on next page)

Certificate of Service

I certify that a true and correct copy of this petition was sent on March 4, 2024, by certified mail, return receipt requested to

Hannah Cauley, 2626 Throckmorton #1318, Dallas, Texas 75219-3919;

Riley Cauley, 2112 Nichols Road, Little Rock, Arkansas 72205-7038;

Owen Cauley, 339 CR 1630, Clifton, Texas 76634-4553;

Chris Vigneau, 1054 Mesquite Tree Road, Waco, Texas 76705;

Tony Spivey, 135 Valley View Drive, Whitney, Hill County, Texas 76692-4733;

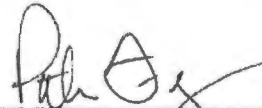
Barbara Brown, P. O. Box 771, Valley Mills, Bosque County, Texas 76689-0771;

Darci Jernigan, a minor, residing with her parents, Kirk and Rhonda Jernigan, at 631 CR 3505, Valley Mills, Bosque County, Texas 76689;

Elisa Gayle Nutt Campbell, residing at 252 CR 1630, Clifton, Bosque County, Texas 76634;

Mary Renee Cauley, c/o Addison Eubank Scott, Attorney at Law, Rainey & Rainey, 3809 West Waco Drive, Waco, Texas 76710-7105;

First Baptist Church of Valley Mills, P. O. Box 627, Valley Mills, Bosque County, Texas 76689-0627.



Patricia Ferguson
Attorney for Plaintiff

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Jane Rhodes on behalf of Patricia Ferguson
Bar No. 6918400
jane@bosquelaw.com
Envelope ID: 85159212
Filing Code Description: Counter Claim/Cross
Action/Interpleader/Intervention/Third Party/Contest
Filing Description: Original Petition for Declaratory Judgment
Status as of 3/4/2024 1:50 PM CST

Associated Case Party: Kimberly Smith

Name	BarNumber	Email	TimestampSubmitted	Status
Patricia D. Ferguson		pferguson@bosquelaw.com	3/4/2024 1:14:53 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Libby Robertson		libby@bosquelaw.com	3/4/2024 1:14:53 PM	SENT