

2017-6490

Amy Kaiser

No. \_\_\_\_\_

IN THE ESTATE OF § IN THE COUNTY COURT  
GERALD EUGENE WILLHELM, §  
DECEASED § OF  
§ LEON COUNTY, TEXAS

**APPLICATION TO PROBATE WILL AND  
FOR ISSUANCE OF LETTERS TESTAMENTARY**

TO THE HONORABLE JUDGE OF SAID COURT:

CHRISTINE E. BAIN ("Applicant"), furnishes the following information to the Court in support of this Application for the probate of the Will of GERALD EUGENE WILLHELM ("Decedent"), and for issuance of Letters Testamentary:

1. Applicant, CHRISTINE E. BAIN, is an individual interested in this Estate, being domiciled in and residing in Texas. CHRISTINE E. BAIN's address for service of citation is 5343 FM 811, Centerville, Texas 75833. The last three digits of the social security number of CHRISTINE E. BAIN are 028. The last three digits of the driver's license number of CHRISTINE E. BAIN are 087.

2. Decedent died on or about April 17, 2017, at Centerville, Leon County, Texas, at the age of 71 years. Decedent's domicile at the time of his death was Centerville, Leon County, TX.

3. This Court has jurisdiction and venue is proper because Decedent was domiciled in Texas and had a fixed place of residence in this County on the date of his death.

4. Decedent owned property described generally as real estate, cash, personal effects and household goods of a probable value in excess of \$50,000.00.

5. Decedent left a valid Will dated December 9, 2011, which was never revoked. A true and correct copy of the Will is attached. The Will will be delivered to the County Clerk pursuant to the Texas Rules of Civil Procedure.

6. A necessity exists for the administration of the Estate.

7. After the date of the Will, no child was born to or adopted by Decedent.

8. No marriage of the Decedent was ever dissolved after the will was made.

9. Decedent's Will named CHRISTINE E. BAIN to serve as Independent Executor to act independently without bond or other security. CHRISTINE E. BAIN resides in Centerville, Leon County,

Texas. CHRISTINE E. BAIN is not disqualified by law from serving as such or from accepting Letters Testamentary, and is entitled to such letters.

10. CHRISTINE E. BAIN may sell the property of Decedent upon the consent of the beneficiaries who are to receive any interest in the property.

11. No state, governmental agency of the state, nor charitable organization is named by the Will as a devisee.

12. The Will was made self-proved in the manner prescribed by law and the subscribing witnesses to the Will are Ruth E. Sullivan, and Joy E. Scates.

WHEREFORE, Applicant prays that citation issue as required by law to all persons interested in this Estate; that the Will be admitted to probate; that Letters Testamentary be issued to CHRISTINE E. BAIN; and that all other Orders be entered as the Court may deem proper.

Respectfully submitted,

The Law Offices of Charley Johnson  
Post Office Box 1378  
117 N. Cass Street  
Centerville, TX 75833  
Tel: (903) 536-2185

By: /s/ Charley Johnson  
Charley Johnson  
State Bar No. 10693500  
charleyjohnsonlaw@gmail.com  
Attorney for CHRISTINE E. BAIN

**LAST WILL AND TESTAMENT  
OF  
GERALD EUGENE WILLHELM**

THE STATE OF TEXAS

\*

\* **KNOW ALL MEN BY THESE PRESENTS:**

COUNTY OF LEON

\*

That I, **GERALD EUGENE WILLHELM**, a resident of Leon County, Texas, being in good health and of sound mind and memory, and above the age of majority, do make and publish this my Last Will and Testament, hereby revoking all wills by me at any time heretofore made.

**I.**

**Administration of Estate**

**A. Executorship.** I designate and appoint **CHRISTINE E. BAIN** as Independent Executrix of this my Will and Estate. And if she is unable or unwilling to act to continue to act in that capacity for any reason, then I appoint **DEDI KYLE** as Independent Executrix of this my Will and Estate. No Executor named herein shall be required to furnish bond nor shall my Executor receive compensation for so serving. My Independent Executor or Executrix, whether original, substitute or successor, is herein after referred to as my "Executor".

**B. Court Supervision.** I direct that no other action shall be had in the County Court in relation to the settlement of my estate than the probating and recording of this my Will and the return of an inventory, appraisalment and list of claims of my Estate.

**C. Payment of Debts and Distribution.** I direct that my Executor distribute my estate as soon as possible after my death, and such distribution may be made in cash or in kind, or partly in cash or in kind. I further direct that my Executor pay all of my debts and funeral expenses after my death as soon as practicable and all federal estate and inheritance taxes prior to making any disposition herein.

**D. Executor Powers.** My Executor shall have, in extension and not in limitation of the powers with respect to the settlement of my estate, to be exercised in each case from time to time in the discretion of my Executor without further order or license of any court:

- (1) To sell and convey any and every portion of the property, be it real, personal or mixed, on hand in my estate at the time of my death, or otherwise received by me estate, for cash, at public or private sale, and for such price and upon other such conditions as my Executor deems advisable and may determine;
- (2) To manage, control, improve and repair real and personal property belonging to my estate, to ready the same for sale;
- (3) To enforce any deed of trust, mortgage or pledge held by my estate and to purchase at any sale thereunder any property subject to any such hypothecation;
- (4) To borrow money for the payment of expenses of administration, claims and/or taxes, and to pledge any of the assets of my estate, real, personal or mixed, to secure re-payment of the indebtedness.
- (5) To commence or defend at the expense of my estate any litigation affecting my estate deemed advisable by my Executor;
- (6) To invest or reinvest any and all cash in his hands pending distribution of such terms of advantage to my estate, but without unduly extending the term of the settlement of my estate;
- (7) To employ any attorney, investment advisor, accountant, broker, tax specialist, or any other agent deemed necessary by my Executor; and to pay for my estate reasonable compensation for all services performed by any of them.
- (8) My executor shall have all of the powers granted trustees under the Texas Trust Code in effect at the time of my death.

All of the above powers may be exercised from time to time in the discretion of my Executor without further court order or license.

## II. Disposition of Estate

A. I give, devise and bequeath unto **CHRISTINE E. BAIN** all of my interest, undivided or otherwise, in and to all oil, gas and other minerals and mineral royalty in, under and that may be produced from any real property wheresoever situated, to have and to hold as her property in fee simple absolute.

B. All of the rest, residue and remainder of my property and estate, of whatever kind and character and wheresoever situated, I give, devise and bequeath unto **DEDI KYLE** to have and to hold as her property in fee simple absolute.

C. If I am predeceased by either of the above named devisees, the share or portion of my estate which would have passed to such deceased devisee shall instead pass to and vest in her children and descendants by right of representation. But if I am predeceased by either of the above devisees who is not survived by children and descendants, the share or portion of my estate which would have passed to such deceased devisee of mine shall instead pass to and vest in the surviving devisee, or her children and descendants living at the time of my death, by right of representation.

### III. Exclusionary Provision

Should any person entitled to share in my estate either as heir-at-law or as a legatee or devisee under this Will contest or oppose or seek to set aside this will or establish any legal right to share in my estate other than as approved and provided in this Will, I give and bequeath to each such person the sum of **ONE DOLLAR (\$1.00)** only and expressly direct that he or she shall receive no other or further share in my estate and the share to which the person might otherwise have been entitled had he or she not participated in such contest or opposition or to which he or she might have been entitled had I died intestate, I give, devise, and bequeath equally, share and share alike, to the other legatees and devisees mentioned in this Will who may not have joined in the contest or opposition. Should all such devisees and legatees join in opposition of this Will, then the shares of each such one which would otherwise have gone to him or her under this will I give, devise, and bequeath to my heirs-at-law according to the law of succession of the State of Texas then in force, excluding each and all of such contesting heirs, devisees, and legatees.

### IV, Miscellaneous

**A. Invalid Provisions.** If any part of this Will shall be invalid, illegal or inoperative for any reason, it is my intention that the remaining parts, so far as possible and reasonable, shall be effective and fully operative. My Executor or my Trustee may seek and obtain court instructions for the purpose of carrying out as nearly as may be possible the intention of this instrument as shown by the terms hereof, including any term held invalid, illegal or operative.

**B. Headings.** The headings which have used throughout this Will have been inserted for administrative convenience only, and do not constitute matter to be construed in interpreting this

Will.

C. "Children" means the legitimate natural born, legally adopted, or posthumously born children of the person designated. Only an adopted person who is legally adopted before having attained age 18 shall be considered to be a child hereunder.


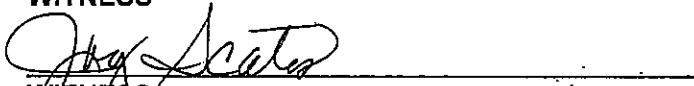
D. "Descendants" means the legitimate natural born, legally adopted, or posthumously born children of the person designated, and the legitimate natural born, legally adopted, or posthumously born descendants of such children. Only an adopted person who is legally adopted before having attained age 18 shall be considered to be a child or descendant hereunder. A posthumous child shall be considered as living at the death of the child's parent. The descendants of the person designated shall share in a gift or a distribution to them on the basis of the property being divided into as many shares as there are then living children of that person and deceased children of that person who have left descendants who are then living. Each living child, if any, shall take one share, and the share of each deceased child, if any, shall be further divided among the deceased child's then living descendants in the same manner.

E. "Estate" means all of the properties in which I own an interest at my death; whether real, personal or mixed, and wheresoever situated.

This I make and publish as my Last Will, hereunto signing and subscribing my name, this the 9<sup>th</sup> day of December, 2011, in the presence of Ruth E. Sullivan and Joy Scates, who attest the same at my request.

  
GERALD EUGENE WILHELM

The above instrument was now here published as his Last Will and signed and subscribed by **GERALD EUGENE WILHELM**, the Testator, in our presence, and we at his request, in his presence, and in the presence of each other, sign and subscribe our names thereto as attesting witnesses.

  
WITNESS  
  
WITNESS

THE STATE OF TEXAS \*

COUNTY OF LEON \*

BEFORE ME, the undersigned authority, on this day personally appeared GERALD EUGENE WILLHELM, Ruth E. Sullivan and Joy Scates, the Testator and witnesses respectively, whose names are subscribed to the annexed and foregoing instrument in their respective capacities, and all of said persons being by me duly sworn, the said GERALD EUGENE WILLHELM, Testator, declared to me and to the said witnesses in my presence that said instrument is his Last Will and Testament, and that she had willingly made and executed it as his free act and deed; and the said witnesses, each on his oath stated to me, in the presence and hearing of the said Testator, that the said instrument was his Last Will and Testament, and that he had executed same as such and wanted each of them to sign as witnesses; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of said Testator and at his request, that he was at that time eighteen (18) years of age or over and was of sound mind; and that each of said witnesses were at least fourteen (14) years of age.

Gerald Eugene Willhelm  
GERALD EUGENE WILLHELM

Ruth E. Sullivan  
WITNESS

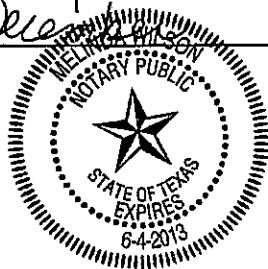
Joy Scates  
WITNESS

FILED

APR 19 2017

CHRISTIE WAKEFIELD  
CLERK COUNTY COURT  
BY \_\_\_\_\_  
LEON COUNTY, TEXAS

SUBSCRIBED AND SWORN TO BEFORE ME by the said GERALD EUGENE WILLHELM, Testator, and subscribed and sworn to before me by Ruth E. Sullivan and Joy Scates, the said witnesses, this the 9th day of December, 2011.



Melinda Wilson  
NOTARY PUBLIC  
STATE OF TEXAS