

OPINION

- The opinions expressed in this presentation are those of the speaker and the speaker alone. They are not approved, endorsed, adopted, agreed to or recognized by any current or past judge of any court.
- The opinions expressed in this presentation do not constitute legal advice in any way shape or form.

“MOMMA’S BABY DADDY’S MAYBE”

TEC § 201.052

TFC § 160.204

MOMMA'S BABY DADDY'S MAYBE REDUX

- OFFSPRING OF PREDECEASED MALE HEIR
- ESSENTIALLY NESTED DETERMINATIONS OF HEIRSHIP
- REQUIRE THE SAME PROOF AS A FULLLED DETERMINATION OF HEIRSHIP.

**“COMMON LAW”
FORMAL MARRIAGE
VS
INFORMAL MARRIAGE**

- TFC Chapter 2 sections 2.001 – 2.032
- TFC § 2.401 – 2.404

“EVERYBODY’S DEAD”

- When you only have 1 witness to testify to the heirs at law.
- TEC § 202.151(c)
- MUST BE PLED!
- MUST BE PROVED!
- JUDGMENT REQUIRES SPECIAL FINDINGS!
- RECOMMEND A MOTION FOR AUTHORITY TO UTILIZE A PROFESSIONAL GENEALOGIST

“WHO’S THE DADDY” NO KNOWN FATHER

- State v. Estate of Loomis, 553 S.W.2d 166, 170 (Tex. Civ. App. 1977 writ ref’d)
- Kilpatrick v. Estate of Kane, 743 S.W.2d 371, 374 (Tex. App. 1988)

“TO AMEND OR TO SUPPLEMENT THAT IS THE QUESTION”

- Amend:

Minor corrections:

- To correct the date of death
- To correct the place of death
- To correct date(s) of marriage(s)
- To correct date(s) of divorce(s)
- To correct the fractional interest(s) of the listed heirs

Supplement:

Major Changes that need NOTICE!

NEW Heirs

“WHO’S SIDE ARE YOU ON?”

- TEC § 202.009
- (a) Ad litem appointed to represent unknown heirs
- (b) Ad Litem appointed to represent minor/incapacitated heirs
- Opinion:
- Part (b) is an abomination
- Attorney should **NEVER** accept dual representation.
- Courts should require a second Ad Litem deposit and appoint a separate Ad Litem in cases with minor heirs

JUDGMENTS

Name And Relationship	Separate Personal Property	Separate Real Property	Community Property
Spouse	1/3	Life Estate in 1/3	None
Child 1	1/3	½ Subject to the life estate in the surviving spouse	½
Child 2	1/3	½ Subject to the life estate in the surviving spouse	½

JUDGMENTS PART 2

Name and Relationship	Interest in Estate
Sibling 1	1/2
Sibling 2	1/2