Dallas County, Texas
Probate Cases
1846 – Early 1900's

Case Number 2514

Dallas Genealogical Society
Founded 1955

www.dallasgenealogy.org

2514

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

In the Matter of the Estate of
James T. Elam, Deceased. / In the County Court of
W. B. Elam, Executor / Dallas County, Texas.

To All persons interested in the Estate of James T. Elam, deceased:

You will please take notice that five days after the service hereof I will apply to the County Clerk of Dallas, County, Texas, for a Commission to take the deposition of W. E. Williams and T. W. Hankinson, resident of Bandera County, Texas, in answer to the hereto attached interrogatories, propounded to them in the above matters, when taken to be used as proof of the execution of the last will and Testament of J. F. Elam, to prove and establish same for probate in said Court.

M. T. Conner, Attorney
for W. B. Elam, Executor.

Interrogatories propounded to W. E. Williams and T. W. Hankinson:

1st: State your name, age, business or occupation, and where you now reside? How long have you been living at the place you now reside?

2nd. State whether or not you were acquainted with James T. Elam in his lifetime, if yes, how long have you known him.

3rd. ~~This is a proceeding to probate the last will and testa~~ ment of James T. Elam, deceased. State whether or not the said Elam made a written will, if, yes, when and where was said will made, and who were the subscribing witnesses thereto?

4th: If you have stated James T. Elam Made a written will and that you witnessed same Now state as near as you can the age of the testator at the time said will was made? And is said testator now dead? State whether or not said Elam was of sound mind at the time of the execution of said will?

5th. State whether or not the said J. T. Elam was acquainted with the contents of said will at the time he executed the same. if yes, state how you know?

6th. State how you came to sign as a witness to said will? And name each and every person present when said will was executed, and state whether or not you saw said Elam sign same and whether or not he saw you sign as one of the subscribing witnesses?

7th. State whether or not you recognise the instrument hereto attached as the will you witnessed for said Elam? If yes place a mark upon it and state in your answer what mark you put upon same, so the same may be identified by the mark.

M. T. Conner, Attorney for
W. B. Elam, Extr.

Filed the 2 day of Oct. 1901. A. S. Jackson, Clerk Co.Court,
By A. B. Rawlins, Deputy.

The State of Texas
County of Dallas:-------: I, A. S. Jackson, Clerk of the County Court of Dallas County, Texas, do hereby certify that the above and foregoing is a true and correct copy of the Interrogatories to be propounded to the witnesses W. E. Williams and T. W. Hankinson, by the Proponent in the above named Estate, as the same appear on file in my office among the papers in said Estate.

Given under my hand and seal of office this 2nd day of Oct. 1901.

A. S. Jackson, Clerk Co. Court.
By A. B. Rawlins Deputy.

The State of Texas }
County of Dallas } To whom this may come.

I J. F. Elam Being of sound mind and memory and in reasonably good health. And realizing that death is certain and life uncertain. Being desirous to dispose of my property before I die do hereby make and publish this my last will and testament hereby revoking all others by me at any time heretofore made.

First I direct that all my Debt shall be by my Executor paid

Second. I desire that I have a decent burial

Third. I hereby give bequeath and devise to my Brother William B Elam all my property real personal and mixed without reservation except as herein after explained.
The same to vest in him and be held by him in trust for the benefit of my three children namely Willie Bulah Elam Luther Elam and Winnie Elam and to be turned over to them at the age of majority.

Fourth I give and bequeath unto my Brother Wm B Elam fifty acres of land to be taken out of the one Hundred and Eighty acres that I own situated in Dallas county Texas. To be cut out of the north

Clerk County Court, Dallas County, Texas.

By A B Rawlins Deputy.

© THE ANCEST. GENEALOGICAL SOCIETY-1978

part of said tract.

Fifth. I direct that my said Brother Wm B Elam divide said remaining portion of my land as follows to cut off fifty acres adjoining the fifty acres hereby bequeathed to him for my son Luther Elam and then divide the remaining eighty equally between my said two daughters Beulah Elam and Winnie Elam

Sixth" I hereby direct that out of the rents of my real estate there shall be paid to my wife Mary Elizabeth Elam each year twenty five per cent of the net proceeds from same for her own benefit so long as she shall remain unmarried the payments however not to commence until after the expiration of the lease now existing on said real estate shall expire which lease will not expire until the year 1910 I having heretofore by written contract and lease signed by me leased unto William B Elam all my real estate situated in Dallas County Texas for a term of ten years from 1900 to 1910, and have received from said lessee in advance the full payment of said lease for ten years. And he is entitled to possession and use of said real estate and all profits arising therefrom until said lease terminates

Seventh I direct that my Executor use the

Seventh I direct that my Executor use the money realized from the rents after the termination of said lease of ten year for the Support and Education of my said three children and I direct that he use it as to him may seem best and proper for the welfare of said children

Eighth" I direct and hereby Will and bequeath to my wife. Mary Elizabeth Clark all my House hold and Kitchen furniture

Ninth It is my desire and I do direct that no further action be taken by the County Court in the administration of my Estate Except to Prove up and Probate and record this my last Will and Testament and to return an inventory and Appraisement and list of claims as directed by law, And I authorize and empower my executor to Sell any or all personal property at either public or private Sale as he may deem best to be used for the purpose of paying any debts or for the Support of my said wife and children he to exercise his best judgement in the premises

Tenth. I hereby nominate and Appoint my Brother Wm B. Clark to be Executor of this my last Will and Testament without Bond.

In Witness whereof I have hereunto set my

Clerk County Court, Dallas County, Texas.

By A. B. Rawlins Deputy.

my hand This the 8th day of Nov. AD 1900.
In the presence of.

who attest the same in my presence and at my request. J. F. Elam

The above instrument was now here subscribed by J. F. Elam the testator in our presence and we at his request and in his presence sign our names as witnesses

W. E. Williams
W. W. Hutchison

30977
Will

FILED for 25 day of Oct 1901
A. M. JACKSON, Clerk Co. Court, Dallas Co.
By W. W. Hutchison

Recorded F/165

THE STATE OF TEXAS,
COUNTY OF DALLAS.

Commission to Take Deposition.

To any Clerk of the District Court, Judge or Clerk of the County Court, or any Notary Public in and for the County of Dallas

THE STATE OF TEXAS,
COUNTY OF DALLAS.

Commission to Take Deposition.

To any Clerk of the District Court, Judge or Clerk of the County Court, or any Notary Public in and for the County of Bandera, *State of Texas—GREETING:*

YOU ARE HEREBY AUTHORIZED AND EMPOWERED to cause to come before you W. E. Williams & T. W. Hankinson, residents of your County, at such time and place as you may appoint; and that you then and there carefully and fully examine them upon their oath, first to be taken before you, touching the annexed Interrogatories:

1. That you reduce their answers, so taken, to writing, in proper form, and cause the same to be subscribed and sworn to by said witness.

2. That you certify, under your hand and seal of office, that said answers were sworn to and subscribed before you.

3. That you seal up in an envelope the answers so taken, together with the annexed interrogatories and this commission, with your name written across the seal.

4. That you endorse on the envelope the names of the parties to this suit, and the name of said witness.

5. That you direct the package to the "Clerk of the County Court of Dallas County, Dallas, Texas."

6. That if said package is sent by mail, the postmaster, or his deputy, shall endorse thereon that he received it from your hands, and sign his name thereto; or, if you entrust it to private conveyance, as provided by the statute, you will apprise the person receiving it that it must be delivered to the Clerk of this Court by himself in person; which evidence, so taken as above, is to be used on the trial of a suit now pending in the County Court of said County of Dallas, ~~wherein~~ in the matter of the application of W. B. Elam ~~plaintiff~~ for probate of the will of J. T. Elam, deceased, ~~and~~ ~~defendant~~ No. 3097, on the Probate Docket of said Court.

HEREIN FAIL NOT, but make due return of this writ.

Witness, A. S. JACKSON, Clerk of the County Court of Dallas County, and the seal of said Court, at office in the City of Dallas, this, the 7th day of October A. D. 190[illegible]

A. S. JACKSON,
Clerk County Court, Dallas County, Texas.

By A B Rawlins Deputy.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

In the Matter of the Estate of James T. Elam, Deceased, W. B. Elam, Executor. No. —

Pending in the County Court of Dallas Co. Texas

answers and depositions of T. W. Hankinson of Sandera, Sandera Co. Texas, to the accompanying interrogatories propounded to him in the above entitled cause taken before J. A. Currie Clerk County Court in and for Sandera County, Texas, in accordance with the accompanying commission

Answers of the Witness T. W. Hankinson:

To the first interrogatory he answers,
"My name is T. W. Hankinson; I am 47 years old; I am an Atty. at Law. I reside in the town of Sandera and have so resided for two years."

To the second interrogatory he answers,
"I was slightly acquainted with James T. Elam in his lifetime; I think the second time I ever saw him was in Kerrville at the time I wrote the will for him."

To the third interrogatory he answers,
"James T. Elam made a written will dated November 8, 1900; said will was written in the town of Kerrville at Chas. Schreiner's on said November 8, 1900; the subscribing witnesses thereto were T. W. Hankinson and W. E. Williams."

To the fourth interrogatory he answers,
I have no knowledge of his age, but would guess him to be about 30 years old; I can ~~I have no information to~~ only answer from

GENEALOGICAL SOCIETY-1978

[illegible] November; I supposed him to be ~~in~~ of sound mind, at the time I wrote the Will, he dictated to me the disposition he wanted to make of his property."

To the fifth interrogatory he answers,
"I read the Will over to him carefully and asked him if he wanted any ~~t~~ changes made on it if it suited him, And he said 'No, it is just as I want it.'"

To the sixth interrogatory he answers,
I signed the will at his request and in the presence of James F. Elam, testator, W.B. Elam, ~~being~~ and W. E. Williams; I saw him sign it and he saw me sign it."

To the seventh interrogatory he answers,
yes; I put a + on it, below the file"

T. W. Hankinson

Sworn to and subscribed before me this the 1st day of November 1901

J. A. Currie, Clerk County Court in and for Bandera Co. Texas.

The State of Texas,
County of Bandera, } I, J. A. Currie, Clerk County Court in and for Bandera County, Texas, do hereby certify that the foregoing answers of T. W. Hankinson, the witness before named, were made before me on the 1st. day of November, 1901, by the said witness.

Given under my hand and official seal this the 1st. day of November A.D. 1901.

J. A. Currie, Clerk Co. Court in and for Bandera Co. Texas.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

In Matters of the Estate of James F. Elam deceased W. B. Elam Executor

In County Court to Probate Will.

Now at this time comes W. B. Elam and moves the Court to strike out the petition of Mary E. Elam herein filed to modify and set aside certain provisions in the will of James F. Elam deceased for following reasons to wit

1st Because the petition is premature and can only be heard after probate of Will.

2nd Because the Court is without jurisdiction to hear same until will is probated

3rd Because no citation has been issued and served according to law on the executor herein.

W. J. Cannon
Attorney
for W. B. Elam

No 3097

In matter of the
probate of will
of James Adam
deceased

Motion to strike
from record
petition of Mary
Adam

FILED Nov 9 1901
A. S. JACKSON,
County Clerk, Dallas County, Tex.
By B J Collins
DEPUTY.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

GICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

No. 3097.

In the Matter of the Estate of James F. Elam, deceased } In the County Court of Dallas County, Texas In matters Probate.

On this day personally appeared before me, the undersigned authority, Mary E. Elam who being, by me, first duly sworn on oath says that she is applying in the above styled and numbered cause to have a homestead set apart to her out of said Estate & as fully appears from her Petition on file in said Cause; and that she is too poor to pay the costs of Court in the matter of such application and that she is unable to give security therefor.

Mary E. Elam

Sworn to and subscribed before me, by the said Mary E. Elam, on this the 14th day of February A.D. 1902 - as witness my hand and seal of office.

A. Jackson. Clerk Co Court
Dallas County Texas
By B. J. Gallow. Deputy

No. 3097.

In the Matter of the Estate of James H. Elam, deceased.

Affidavit of Mary E. Elam of inability to pay or secure the Costs.

Feb 14 1902

FILED
J. S. McCORD
By L J Quillan

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

-1978

In Matters of the
Estate of James H Elam
deceased
W. B. Elam executor

In County
Court of Dallas
County Texas

To All persons interested in the estate of James H Elam deceased

You will please take notice that five days after the service hereof I will apply to the County Clerk of Dallas County Texas for a Commission to take the deposition of W. C. Williams and T. W. Hankinson - resident citizens of Rusk Co County Texas in answer to the hereto attached interrogatories propounded to them in the above Matters which are to be used as proof of the execution of the last will and testament of J. H. Elam to prove and establish same for probate in said Court

W. J. Carter
Attorney for
W. B. Elam Exctr.

Interrogatories propounded to W. C. Williams and T. W. Hankinson -

1st State your name age business or occupation and where you ~~resides~~ now reside? ~~Where did you~~ How long have you been living at the place you now reside?

2nd State whether or not you were acquainted with James H Elam in his life time if yes How long have you known him?

3rd This is a proceeding to probate the last will and testament of James H Elam State whether or not said Elam made a written will if yes when and where was said will made and

FILMED BY THE DALLAS GENEALOGICAL SOCIETY 1978

who were the subscribing witnesses thereto?

4th If you have stated James H. Elam made a written will and that you witnessed same now state as near as you can the age of the testator at the time said will was made? Is said testator now dead? State whether or not said Elam was of sound mind at the time of the execution of said will?

5th State whether or not the said J. H. Elam was aquainted with the contents of said will at the time he executed same? If yes state how you know?

6th ~~State you have stated that with the~~ State how you came to sign as a witness to said will? And name each and every person present when said will was executed. And state whether or not you saw said Elam sign same and whether or not ~~you~~ he saw you sign as one of the subscribing witnesses?

7th State whether or not you recognize the instrument hereto attached as the will you witnessed for said Elam? If yes please a mark upon it and state in your answer what mark you put upon same so that same can be identified by the mark.

W. J. Clemmer
Attorney for
W. B. Elam exter

3097

In Matters of the
Estate of James
F. Eelam deceased
W. B. Eelam Exta.

Interrogatories to
Mr E. Williams and
J. M. Hawkinson

FILED the 2 day of
Oct 1901
A. S. JACKSON Clerk Co. Court,
By A B Rawlins Deputy

100 pd

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

The State of Texas } In Matters of Estate
Collin County } of J. F. Elam
Deceased

To Hon. County Court of Collin County Texas

Your petitioner W. B. Elam a resident citizen of Collin County Texas respectfully shows to the Court that on the 23rd day of September A.D. 1901 J. F. Elam who at and before his death resided in the County of Collin and State of Texas and died at the time of his said death resident in Collin County Texas

That at the time of his death he was seized and possessed of real and personal property of the probable value of $360.00 and left a certain will duly executed and herewith filed in which your petitioner was appointed ~~administrator~~ executor

That there is a necessity for administration upon his estate aforesaid

That your petitioner is not disqualified ~~from~~ by law from accepting letters testamentary

Wherefore your petitioner prays that citation be issued to all parties interested in said estate as required by law that said will be admitted to probate and that letters testamentary be issued to petitioner according to law and that such other and further orders be made as the Court may deem proper

W. B. Elam

8

No 3097

In Matter of the
estate of
J. F. Clarke deceased

FILED this 25 day of
Sept 1901
A. M. JACKSON, Clerk Co. Court
By A M Rawlins
Deputy

Recorded 7/444

W. F. Cowan
Atty and applicant

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

SOCIETY-1978

No. 3077

County Court,
Dallas County, Texas.

In the Matter of the
Estate of James F. Elam
deceased

DEPOSITION OF
T. N. Hankins
Sandera
Andrews County
Witness

Received this package on the 1st day of November 1901, from the hands of J. R. Currie Clerk Co Court the officer before whom the deposition was taken, and forwarded same the 2nd day of November 1901, by due course of mail as directed.

M. S. Barnes
Postmaster at Sandera Tex
By
Deputy Postmaster at

Received this package from the Post Office at Dallas Texas, on the 4 day of Nov 1901, and filed the same on the 4 day of Nov 1901

A S Jackson Clerk,
County Court, Dallas County.
By A M Rawlins Deputy

This package is opened the 4 day of Nov 1901, at the request of M. J. Connell

Attorney for the W B Elam et al
A S Jackson Clerk,
Co Court Dallas Texas.
By A M Rawlins Deputy

Blanks & Courts, Stationers, Printers, Lithographers, Detroit.

No. 47. A. N. Abbott & Co. Stationers and Printers, Dallas, Texas.

File No. 3077

County Court,
Dallas County, Texas.

Mary Elizabeth Elam
No 3077
vs.
W. B. Elam Executor

DEPOSITION OF
Mrs. Mary Elam
Witness for Deft

Received this package on the 4 day of Feb 1902, from the hands of Chas Noolen the officer before whom they were taken, ~~and forwarded same~~ ~~by due course of mail as directed~~

A S Jackson Clerk
Postmaster
By
Deputy Postmaster at

Received this package from the Post Office at Texas, on the day of 1, and filed same on the day of A. D. 1

Clerk Court County
By Deputy

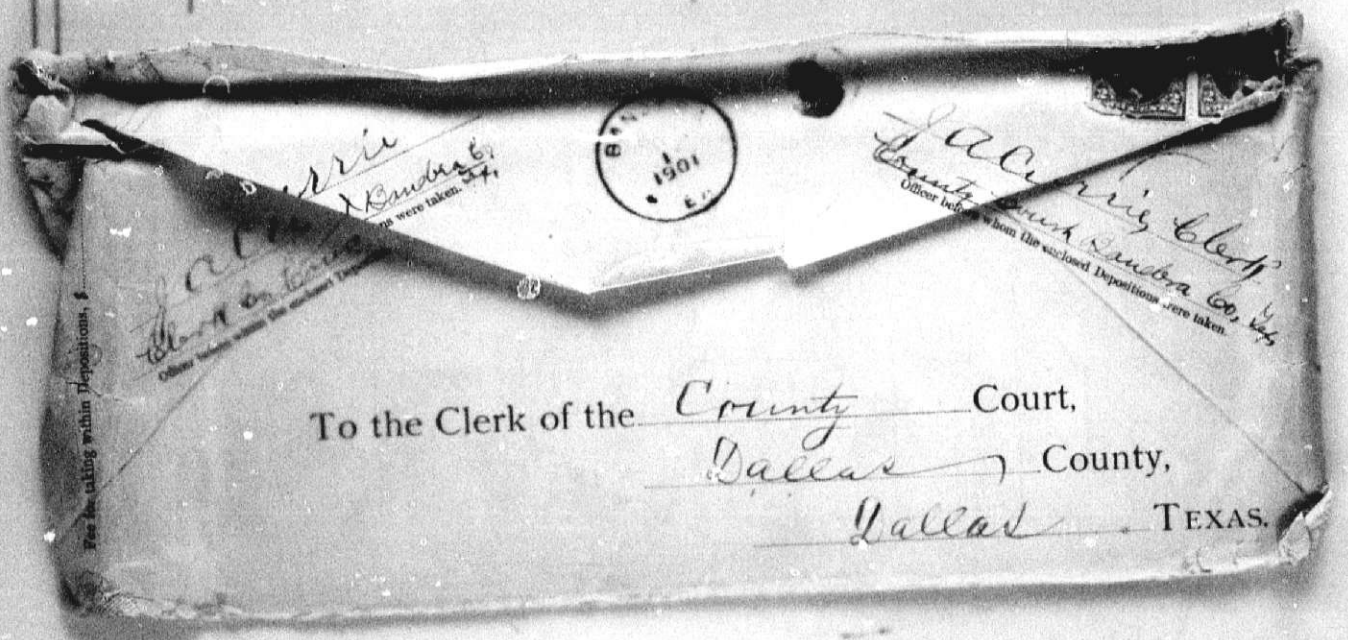
This package is opened the 7 day of Feb 1902, at the request of

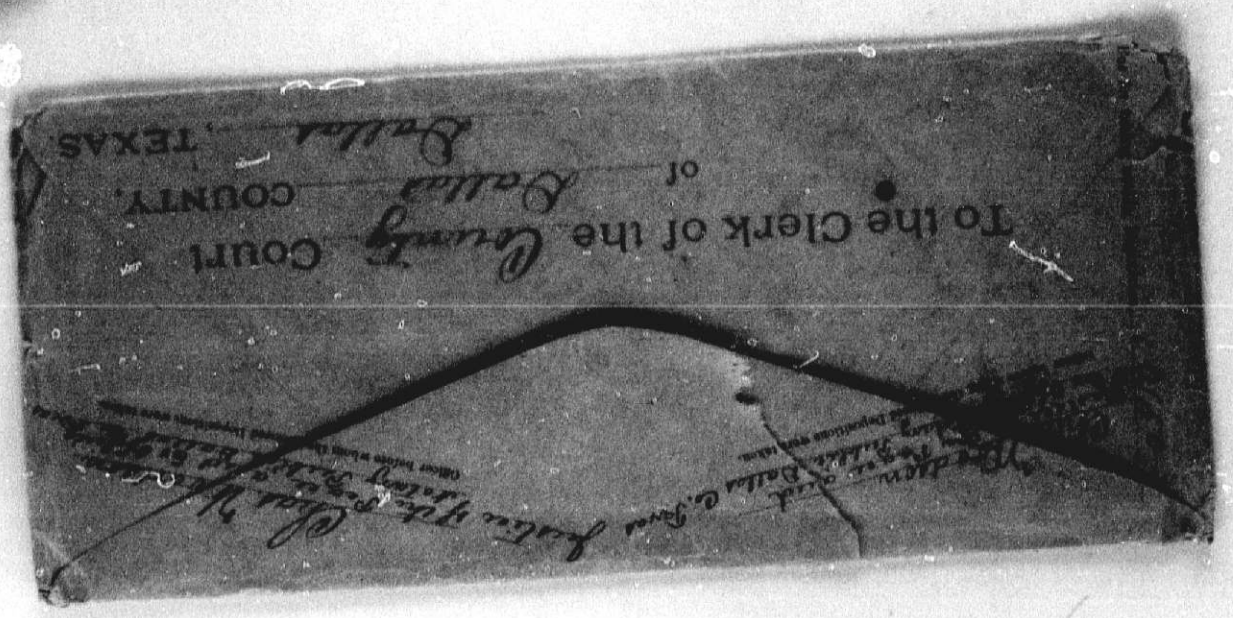
Attorney for the Deft

A S Jackson
Clerk Court Dallas County
By A M Rawlins

Filed the 4 day of Feb 1902
A S Jackson Clerk,
Deputy.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978





FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

WITNESS AFFIDAVIT—CRIMINAL.

~~THE STATE OF TEXAS~~ vs. Est J J Elam Decd

No. 3097

THE STATE OF TEXAS,
COUNTY OF DALLAS.

County Court, Term, 190

I, the undersigned, do solemnly swear that I was duly Subpœnaed as a Witness in the case wherein ~~THE STATE OF TEXAS~~ Mary E Elam is Plaintiff, and W B Elam Exr is Defendant, on the part of said pltff and that I have served 3 days, and traveled ____ miles in obedience to said Subpœna. W T Moore

Subscribed and sworn to before me, this ____ day of ____ 190

A. S. JACKSON,
Clerk County Court.

No. ____ By ____ D. C.

WITNESS AFFIDAVIT—CIVIL.

Est. of J J Elam
No. 3099 — Decd

THE STATE OF TEXAS,
COUNTY OF DALLAS.

County Court, Term, 190

I, the undersigned, do solemnly swear that I was duly Subpœnaed as Witness in the case wherein W B Elam is Plaintiff, and Mary E Elam is Defendant, on the part of said Deft, and that I have served 3 days and traveled ____ miles, in obedience to said Subpœna. Rufus Blair

Subscribed and sworn to before me, this 24 day of Aug 190 3

By W J Cullum Deputy.

FRANK R. SHANKS,
Clerk County Court.

WITNESS AFFIDAVIT—CIVIL.

Elam
No. 3097 vs.
Elam

THE STATE OF TEXAS,
COUNTY OF DALLAS.

County Court, May Term, 1903

I, the undersigned, do solemnly swear that I was duly Subpœnaed as Witness in the case wherein Mary E. Elam is Plaintiff, and W. B. Elam Executor is Defendant, on the part of said Executor, and that I have served 2 days and traveled 36 miles, in obedience to said Subpœna. C. H. Thompson

Subscribed and sworn to before me, this 5" day of June 190 3

By M R Rawlins Deputy.

FRANK R. SHANKS,
Clerk County Court.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

WITNESS AFFIDAVIT--CIVIL.

THE STATE OF TEXAS,
COUNTY OF DALLAS,

No. vs. County Court, Term, 189

I, the undersigned, do solemnly swear that I was duly Subpœnaed as Witness in the case wherein Mary E Elam is Plaintiff, and W B Elam is Defendant, on the part of said pltf and that I have served one days, and traveled 15 miles, in obedience to said Subpœna. W. C. Slater

Subscribed and sworn to before me, this 11 day of Jan 1902

A. S. JACKSON.
Clerk County Court.

No. By B H Allen D. C.

WITNESS AFFIDAVIT--CIVIL.

Mary E Elam
Est No. 3097 vs.
W B Elam

THE STATE OF TEXAS,
COUNTY OF DALLAS,

County Court, Term, 189

I, the undersigned, do solemnly swear that I was duly Subpœnaed as Witness in the case wherein Mary E Elam is Plaintiff, and W B Elam is Defendant, on the part of said Deft and that I have served one days, and traveled 15 miles, in obedience to said Subpœna. G. F. Scott

Subscribed and sworn to before me, this 11 day of Jan 1902

A. S. JACKSON.
Clerk County Court.

No. By B F Cullom D. C.

SUBPŒNA—CRIMINAL INSTANTER.

THE STATE OF TEXAS,

To the Sheriff or any Constable of Dallas County—Greeting:

YOU ARE HEREBY COMMANDED to summon Ben Speer & tender him $1.00

To be and appear before the Honorable County Court of Dallas County, Texas, to be held at the Court House of said County, on the 14 day of Feb 1902 at 9 o'clock, A. M., then and there to testify as witness in behalf of the Executor in a criminal action pending in said Court, wherein ~~THE STATE OF TEXAS~~ Mary E Elam is Plaintiff, and W B Elam, Estate Defendant, and there remain from day to day and from term to term until discharged by due course of law.

HEREIN FAIL NOT, but of this Writ make due return, showing how you have executed the same.

WITNESS MY OFFICIAL SIGNATURE, at office in the City of Dallas, Texas, this 13 day of Feb A. D. 1902

A. S. JACKSON,
Clerk County Court Dallas County, Texas.

By B F Cullom Deputy.

-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

SUBPŒNA—CIVIL.

THE STATE OF TEXAS,

To the Sheriff or any Constable of Dallas County—GREETING:

YOU ARE HEREBY COMMANDED to summon Mrs. X McCullough - Elam Ben Speer - Lawson Chas. X Staton & Chas. X Newman - Elam

To be and personally appear before the Honorable County Court of Dallas County, Texas, at the Court House in the City of Dallas, County aforesaid, instanter, on Thursday, Feb 13th A. D. 1902, at 9 o'clock, A. M., at the instance of the Executor Mary E. Elam then and there to give evidence in a case wherein ..... is ~~Plaintiff~~, and W B Elam, Executor ..... is Defendant, and remain from day to day and from term to term until discharged by the Court.

HEREIN FAIL NOT, but due service and return hereof make, as the law requires.

WITNESS MY HAND, at office in Dallas, this 6 day of Feb A. D. 1902

A. S. JACKSON.
Clerk County Court, Dallas County, Texas.

By B F Cullum Deputy.

No. 3097

~~THE STATE OF TEXAS~~

vs.

Ex X J. F. Elam Dec'd

SUBPOENA.

CRIMINAL—INSTANTER.

Issued this 13 day of Feb A. D. 1902 A. S. JACKSON, Clerk.

By B F Cullum Deputy.

Came to hand the 13 day of A. D. 1902 and executed the 13 day of Feb A. D. 1902 by reading the within Subpoena in the presence and hearing of Ben Speer Lawson Chas. X Staton Chas. X Newman Elam witnesses mentioned in the within named witnesses.

J. ROLL JOHNSON, Sheriff,
Dallas County, Texas.

By J. H. Wilson Deputy.

SHERIFF'S FEES:

Summoning 4 Witnesses	$ .50
Mileage 2 miles at 5 cts.	.10
Total	$ .60

JOHN WILLIAMSON PRINTER DALLAS TEXAS

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

SUBPŒNA—CIVIL.

THE STATE OF TEXAS,

To the Sheriff or any Constable of Dallas County—GREETING:

YOU ARE HEREBY COMMANDED to summon W. B. Gill - night watchman at Brewery - See Ex Taylor

To be and personally appear before the Honorable County Court of Dallas County, Texas, at the Court House in the City of Dallas, County aforesaid, ~~instanter,~~ on Feb 13th (Thursday) A. D. 190 2 at 9 o'clock, A. M., at the instance of the Executor then and there to give evidence in a case wherein Mary E. Elam contestant is ~~Plaintiff~~, and W B Elam. Executor is Defendant, and remain from day to day and from term to term until discharged by the Court.

HEREIN FAIL NOT, but due service and return hereof make, as the law requires.

WITNESS MY HAND, at office in Dallas, this 6 day of Feb A. D. 190 2

A. S. JACKSON,
Clerk County Court, Dallas County, Texas.

By B F Cullum Deputy.

No. 3097

COUNTY COURT.

SUBPOENA.
(CIVIL.)

Est. J. F. Elam, dec'd

Issued 6 day of Feb 190 2

A. S. JACKSON, CLERK.

By B F Cullum Deputy.

W. B. Gill 1 2 00
40 Miles 2 00
4 00

the within named witnesses.

Returned on this the 8 day of Feb A. D. 190 2

John Johnson Sheriff Dallas County, Texas.

By John Taylor Deputy.

SHERIFF'S RETURN.

CAME TO HAND this the 6 day of February A. D. 190 2 and executed on this the 8 day of Feb A. D. 190 2 by rounding the within Subpoena in the hands of Wm. McCullough. Geo. Ogden. Geo. Ogden. Chas. Newman.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

SUBPŒNA—CRIMINAL INSTANTER.

THE STATE OF TEXAS,

To the Sheriff or any Constable of Dallas County—Greeting:

YOU ARE HEREBY COMMANDED to summon Lon Reeves

To be and appear before the Honorable County Court of Dallas County, Texas, to be held at the Court House of said County, on instanter the 12 day of ..... 190..., at 9 o'clock, A. M., then and there to testify as witness ..... in behalf of the pltff in a criminal action pending in said Court, wherein Mrs. M E Elam ~~THE STATE OF TEXAS~~ is Plaintiff, and W B Elam, Estate Defendant, and there remain from day to day and from term to term until discharged by due course of law.

HEREIN FAIL NOT, but of this Writ make due return, showing how you have executed the same.

WITNESS MY OFFICIAL SIGNATURE, at office in the City of Dallas, Texas, this 13 day of Feb A. D. 190 2

A. S. JACKSON,
Clerk County Court, Dallas County, Texas.
By B F Allen Deputy.

SHERIFF'S RETURN.

CAME TO HAND this the 6 day of Feb A. D. 190 2, and executed on this the 11 day of Feb A. D. 190 2 by reading the within Subpœna in the hearing of

W. B Gill

the within named witnesses.

Returned on this the 11 day of Feb A. D. 190 2

By L D Wright Deputy.

J R Johnson
Sheriff Dallas County, Texas.

Ex No. 3097

COUNTY COURT.

SUBPOENA. (CIVIL.)

Est J. J. Elam, decd

Issued 6 day of Feb 190 2

A. S. JACKSON, CLERK.

By B F Allen Deputy.

Fee Summons 1 witness 50
mile 50
1.00

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

SUBPŒNA—CIVIL.

THE STATE OF TEXAS,

To the Sheriff or any Constable of Dallas County—GREETING:

YOU ARE HEREBY COMMANDED to summon Jas. Humphries, John Humphries, J. D. Bridow, John Moore, (all for near Elam Sta.; Barnum Beaver; Hiram Henry; Bill Stacy, - near Elam Sta.; Frank Scott, Elam Sta.; Dr. Henry, Horton, at Elam Sta.; Archie Co. Surveyor, at Seguin; and render to said Archie $1.00 his witness fees

To be and personally appear before the Honorable County Court of Dallas County, Texas, at the Court House in the City of Dallas, County aforesaid, instanter, on Saturday January 11th A. D. 1902, at 9 o'clock, A. M., at the instance of the Applicant - Mrs. Elizabeth Elam

then and there to give evidence in ~~a case wherein~~ the matter of the application of Mrs. Elizabeth Elam to set aside homestead of the ~~Plaintiff~~ in favor of William B. Elam Executor of the Estate of James Elam deceased ~~Defendant~~, and remain from day to day and from term to term until discharged by the Court.

HEREIN FAIL NOT, but due service and return hereof make, as the law requires.

WITNESS MY HAND, at office in Dallas, this 6th day of January A. D. 1902.

A. S. JACKSON.
Clerk County Court, Dallas County, Texas.

By W. H. Jawins Deputy.

No. 2097

THE STATE OF TEXAS vs. Est. J. B. Elam Dec'd

SUBPOENA.

CRIMINAL—INSTANTER.

Issued this 13 day of Feb. A. D. 1902 A. S. JACKSON, Clerk.
By B. F. Eller Deputy.

Came to hand the 13 day of Feb. A. D. 1902 and executed the 13 day of Feb. A. D. 1902 by reading the within Subpoena in the presence and hearing of Dan Quinn

the within named witnesses.

J. ROLL JOHNSON, Sheriff,
Dallas County, Texas,
By J. M. Kennedy Deputy.

SHERIFF'S FEES:
Summoning 1 Witnesses - $ .65
Mileage miles at 5 cts. - .10
Total - - - - - - $ .60

JESSE WILLIAMSON PRINTER DALLAS TEXAS

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

NOTICE OF APPLICATION FOR PROBATE OF WILL AND LETTERS.

THE STATE OF TEXAS,

To all Persons Interested in the Estate of J. F. Elam, Deceased:

W. B. Elam has filed in the County Court of Dallas County, State of Texas, an application for the Probate of the last Will of said J. F. Elam, deceased, and for Letters Testamentary, which application will be heard and acted upon by said Court, at the next term thereof, to be held at the Court House in the City of Dallas, County of Dallas, State aforesaid, and commencing on the first Monday in November A. D. 1901, at which time and place all persons interested in said Estate shall appear and contest said application, should they desire to do so.

WITNESS: A. S. JACKSON, County Clerk of Dallas County, Texas.

GIVEN UNDER MY HAND and the seal of said Court, at office in the City of Dallas, this 25 day of Sept A. D. 1901

A. S. JACKSON,
County Clerk, Dallas Co., Texas.

By A B Lawlins Deputy.

SHERIFF'S RETURN.

CAME TO HAND this the 6 day of January A. D. 1902, and executed on this the 7 day of January A. D. 1902, by reading the within Subpœna in the hearing of Fay Umphries John Umphries J. D. Britton Jem Moore Bill Staton Parson Sam Hiram Boston Frank Scott Dr. Henry and Mr Arghes as surveyor who was tendered one dollar which he refused to accept.

the within named witnesses.

Returned on this the 8 day of January A. D. 1902.

J. R. Johnson
Sheriff Dallas County, Texas.

By J. R. Rylie Deputy.

No. 7097

COUNTY COURT.

SUBPOENA. (CIVIL.)

Est. James Elam Dec'd

—VS—

Issued 6th day of Jany 1902

A. S. JACKSON, CLERK.

By A B Lawlins Deputy.

10 witnesses	1.00
Mileage	2.00
Total	$7.50

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

EXECUTOR'S BOND.

The State of Texas, } **Estate of**

COUNTY OF DALLAS.

KNOW ALL MEN BY THESE PRESENTS, That we, _____ and _____ as Principal, and _____ as Sureties, are held and firmly bound unto the County Judge of said County of Dallas, and his successors in office, in the sum of _____ Dollars; conditioned that the above bound _____ who has been appointed _____ shall well and truly perform all the duties required of him under said appointment.

WITNESS our hands and seals, this _____ day of _____ 189_

_____ (SEAL)

_____ (SEAL)

_____ (SEAL)

I DO SOLEMNLY SWEAR that the writing which has been offered for probate, is the last will of J. F. Elam deceased, so far as I know or believe; and that I will well and truly perform all the duties of Executor of said will.

W. B. Elam

Sworn to and subscribed before me this 13 day of Nov 1901

A S Jackson
County Clerk, Dallas County, Texas.

By A M Lawless Deputy.

No. 3097

COUNTY COURT.

ESTATE OF

J. F. Elam

Deceased.

Notice of Application for Probate of Will and Letters.

Issued this 8 day of Oct 1901

A. S. JACKSON, Clerk.

By A M Lawless Deputy.

SHERIFF'S RETURN.

Came to hand the 23 day of Sept 1901, and executed the 24 day of Sept 1901, by posting up three copies hereof, one of which at three public places in Dallas County, one of which was at the Court House door of said County, and no two of which were in the same town or city.

J. W. Johnson Sheriff, Dallas County.

By _____ Deputy.

Jesse Williamson, Printer, Dallas.

Posting 3 Notices 3.00

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

McCORMICK & SPENCE,
Attorneys and Counsellors at Law
DALLAS, TEXAS

November 15,1901.

Mr.A B.Rawlins,
Deputy County Clerk,
Dallas,Texas.

Dear Sir:-

In the matter of the Estate of Jas.F.Elam,deceased,Will Elam, Executor,in your probate Court,will you please issue citation to the Executor upon the application of Mrs.Mary Elizabeth Elam to have certain provisions and directions of the will suspended,and to have an allowance of homestead and other exemptions made to her and her minor children? Please issue this citation under the terms of Articles 1891 and 1993 of the Revised Statutes,both inclusive. Your kind and careful attention to this matter will be much appreciated. Please be careful to have the citation sufficiently full in accordance with the requirements of Art. 1993.

Respectfully yours,

McCormick & Spence

W.S.

No.

COUNTY COURT,
DALLAS COUNTY.

EXECUTOR'S COURT,

ESTATE OF
J. F. Elam
Dec'd

Filed Nov. 12" 1901
A. J. Lasker, Clerk.
By A B Rawlins Deputy

Approved this day of
189

County Judge, Dallas County.

A. D. Aldridge & Co., Stationers, Printers and Binders, Dallas.

Recorded 2/139

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

INVENTORY AND APPRAISEMENT

OF THE PROPERY, REAL AND PERSONAL, BELONGING TO THE ESTATE OF

James F. Edom deceased which consist of the following.

One Hundred and eighty acres of land Situated lying and being in Dallas County Texas out of the Wm B Edom survey of 640 acres valued at $70.00 per acre $3600.00

One Cedar log house in Bandera County Texas valued at 50.00

House hold and Kitchen furniture in Bandera County Texas as follows

One Cook stove	valued at	5.00
" Matress	" "	1.00
" Bed stead	" "	2.00
" Feather bed	" "	7.00
" Clock	" "	3.00
" Bureau	" "	2.50
" Kitchen safe	" "	2.00
dishes knives forks spoons &c.		2.00
4 chairs at 75 cts each		1.00
Total property real personal		$3675.00

ETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

No. 3097

COUNTY COURT.

ESTATE OF

James F. Edward

deceased

Inventory and Appraisement.

Filed 12 day of Nov 1901

A S Jackson County Clerk.

By A M Rawlins Deputy.

Examined and Approved this 12 day of Nov 1901

E S Lankersheim County Judge.

Jesse Wilkinson, Printer, Dallas.

Recorded 1/95

THE STATE OF TEXAS, COUNTY OF DALLAS, } I, Wm B Elam Executor of the above named Estate do solemnly swear that the foregoing is a true, full and complete Inventory of all the property, real and personal, belonging to said Estate, that has come to my knowledge.

W. B. Elam

Sworn to and subscribed before me, this the 12 day of Nov A. D. 1901

A S Jackson Clerk County Court.

By A M Rawlins Deputy.

THE STATE OF TEXAS, COUNTY OF DALLAS. } Before the Undersigned Authority, this day personally appeared T. B. Blair S A Murdock and W. A. Humphries Appraisers of the above named Estate, heretofore appointed by the Court, and each being duly sworn, says that the above and foregoing is a just and true Appraisement of the property pointed out to them as belonging to said estate.

T. B. Blair

S A Murdock

W. A. Humphries

Sworn to and subscribed before me, this the 12 day of Nov A. D. 1901

A S Jackson Clerk County Court.

By A M Rawlins Deputy.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

In Matters of the Estate of J J Elam deceased
W. B. Elam Extr.

In County Court of Dallas County Texas

To Hon Ed S Sandendale County Judge of Dallas County Texas

Your petitioner would respectfully show to the Court that heretofore on day of Sept. A.D. 1901 He made application to probate the written will of J J Elam deceased in which your petitioner W. B. Elam is named as executor

That said will was executed in the presence of W. C. Williams and T. M. Hendrickson in Bundera County Texas that the said Williams and Hendrickson signed said will as subscribing witnesses That deceased died in Dallas Co. Texas and all property he died seized and possessed of lies in Dallas Co. That he is desirous of proving the execution of said will by said witnesses and will have to take their depositions to that end. Wherefore he prays leave of the Court to withdraw (temporarily) from the files of the Court said will which may be attached to the interrogatories propounded to said witnesses that they may identify same and that petitioner may prove the execution of said will as in duty bound will ever pray etc.

W. F. Carmen
Attorney for W. B. Elam
executor

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

In Matter of the
Estate of A. J. Elam
deceased
W. B. Elam extor

Application to with
draw Will for proof
of Same

FILED the 2 day of
Oct 1901
A. S. JACKSON, Clerk Co. Court,
By A B Rawlins Deputy

Oct 2nd 1901 within
application granted upon
condition that applicant
have certified copy of will
recorded in Probate Ed. Lunenburg
Co Texas

M. T. Cannon
Attorney for
Extor

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

-1978

PLOWMAN & BAKER,
DALLAS, TEXAS

Mary E. Elam
No. 3097 -vs-
W. B. Elam, Executor

In the County Court of Dallas County, sitting as a Court of Probate.

In the matter of the suit of Mary E. Elam vs. W. B. Elam, executor, to annul certain provisions of the will of James F. Elam, deceased.

Now comes W. B. Elam, executor of the estate of James F. Elam, deceased, in his own behalf and shows that, whereas on the 15th day of February, A. D. 1902, in the said County Court of Dallas County, sitting as a court of probate, in cause No. 3097 on the Probate Docket of said Dallas County, Mary E. Elam, plaintiff, recovered a judgment in said cause against W. B. Elam, executor, which judgment is recorded in Minute Book "R", p. 105, of the Probate Minutes of Dallas County, Texas, to which reference is here made as a part of the description thereof, annulling certain provisions of the will of James F. Elam, deceased, to-wit: the provision in relation to a lease to W. B. Elam and appointing him trustee for said decedent's minor children and giving him possession of the 180 acres of land therein described; and, setting aside said 180 acres of land therein described, being out of the W. B. Elam survey in Dallas County, as a homestead for said Mary E. Elam; and,

Whereas, said W. B. Elam, executor, as such executor, appealed from said judgment, and desires individually and personally to appeal from said judgment and to remove the same to the District Court of Dallas County, and the said W. B. Elam, being duly sworn, deposes and says, under oath, that he is unable to give the appeal bond to appeal said case and that he has made diligent efforts to give said bond and is unable to do so by reason of his poverty.

Wherefore he makes and files this oath, in writing, and prays that his appeal in said cause be in all respects perfected in respect to the matter of costs, all of which he is ready to verify.

W. B. Elam

Subscribed and sworn to before me this the 25th day of February, A. D. 1902.

Rhodes A. Baker
Notary public, Dallas County, Texas.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

(6)

No. 50977

Mary E. Elam,

-vs-

W. B. Elam, Executor.

Affidavit in lieu of Appeal Bond.

Filed February 26, 1900
A. J. Jackson Clerk

PLOWMAN & BAKER,
Attorneys at Law.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

No. 3097

SUIT PENDING IN THE COUNTY COURT OF DALLAS CO., TEXAS.

Est. of James F. Elam Deceased

Mary E. Elam, Contestant
vs.
W. B. Elam, Executor

THE STATE OF TEXAS.

To the Sheriff or any Constable of Dallas County--GREETING.

YOU ARE HEREBY COMMANDED That you serve

Mary E. Elam

the Contestant *in the above stated cause, or* McCormick & Spence *Esqs. Attorneys of Record, with the accompanying Notice and certified copy of Interrogatories propounded by the* Executor, W. B. Elam *in said cause to* Mary E. Elam, *who resides in the County of* Dallas *in the State of* Texas,

HEREIN FAIL NOT, but of this Writ, and how you have executed the same, make due return, within five days after service

WITNESS, A. S. Jackson ~~L. H. HUGHES,~~ *Clerk of the County Court of Dallas County.*

Given under my hand and the seal of said Court, at office in the City of Dallas, this the 8th *day of* January *A. D. 1902.*

A. S. Jackson
~~L. H. HUGHES.~~
Clerk, County Court, Dallas Co., Texas.

By W. B. Rawlins *Deputy.*

8

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

No. 3097

Est. of Jas. T. Elam - Decd.

Mary E. Elam,

vs. Contestant

W. B. Elam, Extr.

PRECEPT.

Issued this 8th day of Jany. 1902

Jany. A. Jackson

Clerk County Court, Dallas County, Texas.

By A. B. Rawlins Deputy.

Came to hand Jan 8th 1902 and executed the Jan 9th 1902, by delivering to W. Spencer Elam, a true and correct copy of the accompanying citation with the seal of said court affixed thereto, and at the same time I exhibited the original citation to the said W. Spencer Elam.

Fees — 7.50
Mile — 1.95
Total

By R. Johnson Sheriff
Dallas Co.
By R. L. Cornwell
Dy

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

CITATION.

THE STATE OF TEXAS,

To the Sheriff or any Constable of Dallas County—GREETING:

YOU ARE HEREBY COMMANDED to sum[illegible] Wm B. Elam,

to appear before the Honorable County Court of Dallas County, State of Texas, at a regular term thereof, to be held at the Court House of said County, in the City of Dallas, on the first Monday in January 1902, then and there to answer the petition of Mary Elizabeth Elam widow of James F. Elam, deceased,

filed in said Court on the 5 day of Nov, 1901, against the said Wm B. Elam as Executor of the Will of said James F. Elam, deceased, in the matter of the Estate of said deceased No. 3097, pending on the probate Docket of said Court,

~~for suit, said suit being numbered~~ ~~demand~~ petition, the nature of which is as follows, to-wit:

Petition to set aside and annul the provisions of said will in so far as the said will attempts to bequeath to the alleged Executor the 180 acres of land therein mentioned in trust for the benefit of the testator's children and so far as said will recognizes an alleged lease for ten years of said 180 acres of land to Executor Wm B. Elam, and in so far as said will undertakes to place the said property in the possession of the said Wm B. Elam.

The said Wm B. Elam being hereby directed to refrain from executing the provisions and directions in said will objected to in said petition of Mary Elizabeth Elam until such petition has been heard and decided by the Court.

and you will deliver to the said Wm B. Elam,

a true copy of this Citation.

HEREIN FAIL NOT, but due service and return hereof make, showing how you have executed the same.

ATTEST: A. S. JACKSON, Clerk of the County Court of Dallas County.

GIVEN UNDER MY HAND and seal of office, at Dallas, this 16th day of November 1901.

A. S. JACKSON,
Clerk County Court, Dallas County, Texas,

By A B Rawlins Deputy.

Original

CITATION.

No. 3097

COUNTY COURT,

Dallas County, Texas.

Est. of
James F. Elam
Decd

W. B. Elam
Executor

ISSUED

this 16 day of Nov. 1901

S. JACKSON, Clerk,

By A B Rawlins Deputy.

JESSE WILLIAMSON PRINTER DALLAS TEXAS

Jim Ryle

SHERIFF'S RETURN.

CAME TO HAND on the 18 day of December 1901, and executed on the 19 day of December 1901, by delivering to

Mrs. W. B. Elam

the within named defendant in person, a true copy of this writ.

FEES:

Serving Cop . . . $ .75

Mileage 1.00

Total . . . $ 1.75

Sheriff, Dallas County, Texas

By Jim Ryle Deputy.

FILED IN THE DALLAS COUNTY COURT 1-1978

FILED IN THE DALLAS COUNTY COURT 1-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

A 172—PROOF OF WILL—Class 4* Clarke & Courts, Stationers, Printers, Lithographers, Galveston.

No. 3097

PROOF OF WILL.

THE STATE OF TEXAS, County of Dallas

ESTATE OF J F Elam Deceased.

Proof of Last Will and Testament of J F Elam Deceased.

This day personally appeared in open Court J J Elam who, being duly sworn as a witness in the above entitled matter, and examined on behalf of the applicant to prove said Will, says: I was well acquainted with J F Elam deceased, during his lifetime; I knew the above decedent ~~for about~~ all his life ~~before~~ death; ~~the signature of the said deceased to the instrument now shown to me, and offered for probate~~ as ____ last Will and Testament, filed in this Court on the ____ day of ____ A. D. 189__ and bearing date on the ____ day of ____ A. D. 189__, was made by the deceased on said last named date at ____ in presence of myself ____ and ____ the other subscribing witness; all of said witnesses being over the age of fourteen years. At the time of the making of said Will the testator was of sound and disposing mind and memory, and ____ declared the said Will so made by ____ to be ____ Last Will and Testament, and I thereupon signed my name as a witness, together with ____ at the request of the said testator, in ____ presence and in the presence of each other. The said deceased at the time of the execution of said instrument was ____ ~~years of age~~; the said J F Elam ____ departed this life on the or about 25th day of September A. D. 1897 ~~about~~ ____ after making ~~said Will~~, in the County of Dallas in the State of Texas, where and at which time his ~~residence and~~ principal estate was situated. at the time of his death he was about 85 years of age.

J J Elam

Sworn to and subscribed before me, this 9 day of Nov A. D. 1897, in open Court.

A Jackson Clerk

County Court Dallas County, Texas.

By B F Cullom Deputy.

A 172

No. 3097

PROOF OF WILL.

THE STATE OF TEXAS,

County of _____

_____ Term, 189__

ESTATE OF

J F Elam

Deceased

Filed the 9 day of

Nov A. D. 1897

and recorded the _____ day

of _____ A. D. 189__, in the

Probate Minutes of _____

County, in Volume _____ Page _____

A J Jackson

County Clerk.

By B F Cullum Deputy.

Recorded 5/169

Clarke & Courts, Stationers, Galveston.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

PLOWMAN & BAKER,
DALLAS, TEXAS.

In the matter of the estate of
Jas.F.Elam, deceased, Mary E. Elam
vs.
W. B. Elam

In County Court,
Dallas County, Texas.

Now comes the defendant, W. B. Elam, executor of the estate of James F. Elam, deceased, and demurs to plaintiff's petition and says that the same is insifficient in law and of this prays judgment of the Court.

M S Conner
Plowman & Baker
attys for Deft

Defendant excepts to said petition and says:

1st. The court has no jurisdiction to set aside any homestead to plaintiff and to determine the question of annuling the will.

2nd. Defendant specially excepts to said petition in that the same seeks to set aside and annul a lease of land of which this court has no jurisdiction.

3rd. Defendant specially excepts to said petition in that the same does not allege that the said James F. Elam, deceased, had not mental capacity to legally dispose of his property.

4th. Defendant further specially excepts, in the event the court should entertain jurisdiction of this case, that there is a defect in parties plaintiff in that the children of plaintiff and decedent are necessary and proper parties.

5th. Defendant specially excepts to said petition in that the same does not set forth any fact giving the County Court jurisdiction upon which the provisions of the will should be annuled.

Of all which special exceptions, defendant prays judgment of the court.

Defendant further answering herein says says that he denies all and singular the allegations in said petition contained and of this puts himself upon the country.

M S. Conner
Plowman & Baker
attys for Deft

6th. And further answering herein, if need be, said executor says that it is true that said property is now rented and in the possession of one Will Staton and has been in his possession for the past two years,

8

the first year as a tenant of deceased and since that time as a sub-tenant of this contestant; and that said Staton has now and did have from respondent herein, a written lease for said property for the year 1902, which lease was made and executed long prior to dededent's death and with his full knowledge and approval.

7th. That said James F. Elam, deceased, on account of his ill health and long prior to his said death and on the advice of his ~~ex~~ physician ceased to occupy and use the premises herein in dispute as his home and had made his home in Bandera county, Texas, where he had erected himself a house and where he resided and had so resided for the past two years and where he intended to live the remainder of his life, and in furtherance of his said intention he, on 12th day of September, 1900, leased to respondent herein the property in controversy for a term of ten years; that he was only temporarily in Dallas County, at the date of his death, brought here by process from the Criminal District Court, as an attached witness, and while in attendance on said court his health was so impaired that he was confined to his bed at the home of his brother/ J.J.Elam and was never again able to leave same, wherefore respondent herein, executor of the estate of James F. Elam, deceased, prays that if the court should hold its juriddiction to try and fully determine any matters appertaining to said lease which respondent denies, then he prays said lease be established according to its terms.

8th. And further answering herein, if need be, the executor says that said deceased gave and bequeathed unto your respondent, the said W. B. Elam, his heirs and assigns forever 50 acres of said land off the north end of same. That he, in said will, directed how the remainder of his property should be divided between his said three children. That said land does not lie in a body as stated in petition of Mary E. Elam, but in two separate tracts, wherefore he prays should the court set aside any portion of said Will or its provisions, that said bequest to respondent be recognized and established, and that Mary E. Elam, if granted homestead rights in same, that her homestead be designated on the part set aside in the Will to decedent's children.

9th. And further answering herein, if need be, the executor of the estate of James F. Elam, deceased, says that long prior to the death of said James F. Elam, deceased, said contestant Mary E. Elam, did without fault on the part of deceased and against his will and earnest entreaties that she stay by his side and do and perform the duties of a wife to him

until his death, xxx voluntarily left his bed and board and abandoned him and refused to go and live with him, and taking advantage of his ill health and weakened condition, she took his children from him and deprived him of their society and comfort, and lived xxx separate fr and apart from him until his death. That said contestant, after deceased was confined to his bed, which afterwards proved to be his death bed, on xxxgx being informed of his critical condition and the early expectation of his death and being at the same time admonished that he was her husband and her place was by his bedside and she ought to go and see him anyhow, she refused to go to see him and said she hoped she would never see his face again. That she did afterwards come to see him two or three times, after having been repeatedly sent for, that decedent might have a last look at and enjoy the society of his children; that she refused to stay by deceased until his death, and was not present and would not allow his children to be with him when he died.

The premises considered, the executor says, said contestant herein has no homestead right in the property of deceased; wherefore he prays that said petition of contestant be not granted and that the provisions of the will be carried out according to the wishes and directions of testator thereof, and for all relief, both general and special, either in law or equity, respondent may in the judgment of the court be entitled, as in duty bound will ever pray.

M. T. Conner
Hourman & Butler
attys for Deft

3097

In re estate of Chas. F. Elam, Deceased.

Mary E. Elam
vs.
W. S. Elam

FILED this 7 day of Jan 1902
B F Cuson

PLOWMAN & BAKER,
Attorneys at Law.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

[redacted]

LAW OFFICES
OF
McCORMICK & SPENCE.

In the matter of	()	
the Estate of	()	
James F.Elam, Deceased.	()	In the County Court of
No.3097, Probate,	()	Dallas County,Texas.
Wm.B.Elam, Executor	()	
named in the Will.	()	

---------cOc--------

Now comes Mary Elizabeth Elam,widow of James F.Elam,deceased, the Testator herein,and files this her First Amended Application to have her homestead & other Exemptions, set apart to her,and her Opposition to certain provisions of the will herein admitted to probate,and she pleads anew,as follows:

TO THE HONORABLE JUDGE OF SAID COUNTY COURT:

Now in the above Probate proceeding,comes Mary Elizabeth Elam, widow of James F.Elam,deceased,the testator herein,and shows that she is interested in said estate. That there are provisions and directions of the alleged will now here exhibited for probate which ought not to be executed,but should be annulled or suspended,--in so far as the said will attempts to bequeath to the alleged Executor the 180 acres of land therein mentioned,in trust for the benefit of the Testator's children; and so far as said will recognizes an alleged lease for ten years of said 180 acres of land to the Executor,William B.Elam; and so far as the said will undertakes to place the said property in the possession of the said William B. Elam, and bequeath any part thereof to him.

For this:

The said Mary Elizabeth Elam shows:

1. That she and James F.Elam,deceased,were legally married in Dallas County,Texas about eight years ago,and they lived together as husband and wife upon the said 180 acres of land mentioned in the will aforesaid,which said land was actually used,occupied and enjoyed by the said James F.Elam and your petitioner,Mary Elizabeth Elam,his wife, as their homestead for the full period of seven years. That while they resided on said 180 acres as their homestead,there were born to them three children who still

survive and who are living with your petitioner, their mother; their names and ages being as follows: Bulah Elam, a girl about seven years of age; Luther Elam, a boy about five years of age, and Winnie Elam, a girl about three years of age. That during the latter part of the year 1899, and at a time when the said 180 acre tract of land was the homestead of James F. Elam and your petitioner and their said children, as it had for many years been, the said James F. Elam being in poor health, temporarily left said homestead and went to Bandera County, Texas, on account of his health. And your petitioner with her children, accompanied him. But your petitioner by no means abandoned her homestead rights in said 180 acres of land. The said land was thereafterward rented to one Will Staton for the year 1900 by a mere temporary lease. During that year the said James F. Elam, accompanied by his family, returned to Dallas County. Thereafterward, in the fall of 1900, said James F. Elam again went to Bandera County where he hoped to regain his health. But your petitioner and her children did not accompany him, but they continuously since resided, as they still reside, in Dallas County, Texas. The said 180 acres of land was also rented to the said Will Staton for the current year 1901, but your petitioner at no time in any wise abandoned the said 180 acres, or any part thereof as her homestead; nor did she in any wise ever relinquish or forfeit her homestead rights therein. But on the contrary, she at all times has claimed and asserted her homestead rights in and to said 180 acres of land. Petitioner avers that if said homestead place--being the 180 acres of land aforesaid--was ever rented to William B. Elam as recited in said will, this petitioner avers that she was never a party to any such lease. And she further avers that if such lease was ever made to William B. Elam, or to any other person, the same was made, if at all, without her knowleige or consent, and in violation of her existing homestead rights in and to said property. And the same, if made, was and is a fraud upon your petitioner's homestead rights in and to said lands. Petitioner avers and shows to the Court that said 180 acres of land is well adapted for a family homestead, in that, as much as 80 acres thereof are in a state of actual cultivation as same have been for many years,

The Office of McCormick & Sheehy

and the remainder thereof consists of pasture and woodland, and all of the 180 acres is in one body of land. That same has upon it, improvements consisting of a residence and connected outhouses and lots; and also a small rental house. That said improvements were made after petitioner's marriage aforesaid, with community funds. And, as aforesaid, all of the said 180 acres were for a long period of time, to-wit: as much as seven years, devoted by the said James F. Elam to his homestead purposes; and his homestead and that of his family (consisting of your petitioner and his said three children) was actually established upon said tract of land, and same was never abandoned as such homestead. That same was, and is, the only lands owned by the said James F. Elam at the time of his death, and long prior thereto. Your petitioner, with said minor children, never left said homestead with any intention on the part of your petitioner of abandoning the same, or in any wise relinquishing her homestead rights therein. And the renting of the same for the years 1900 and 1901 to said Staton as aforesaid, was but a temporary renting, and in no wise operated to deprive your petitioner of her rights to a homestead therein for herself and her said minor children. That said lands are now in the actual occupancy of said Will Staton who was lessee for the year 1901; but his lease expired at the expiration of the said year 1901, as far as said lease was made to him by James F. Elam, deceased. And petitioner is now entitled to the possession of said lands comprising the said homeplace. Your petitioner shows that the said James F. Elam left no other homestead at his death. That your petitioner herself owns no other lands, and has no other homestead in her own right. She shows that the Executor herein, William B. Elam, has studiously endeavored to deprive her of her homestead rights aforesaid; and to that end he now claims that said homestead was rented to him for a term of ten years from the year 1900 to the year 1910, as recited in the alleged will which he now offers for probate. But petitioner avers that said alleged lease, if ever made, is wholly void as to your petitioner, because in violation of her homestead rights in and to said property. That said alleged lease, if ever made, was made at a time when James F. Elam was in the last stages of consumption, and when he knew, and when the Executor, William B. Elam, well knew that the said James F. Elam

THE ALLEN GENEALOGICAL SOCIETY-1973

could live only a few months. And said alleged lease, if ever made, was made for the deliberate purpose of defrauding your petitioner and her children out of their homestead rights in and to said tract of land.

2. The premises considered, your petitioner therefore now prays that at the proper time in the administration of this estate that an order of this Court be made, withdrawing the said homestead (being the 180 acres of land mentioned in said will, and more particularly described in that deed from John J. Elam to the said James F. Elam, dated September 7, 1901, and recorded in Book 267, pp. 383 to 385 inclusive, of the Deed Records of Dallas County, Texas, reference to which deed is here specially made) from further administration herein. That the said alleged lease thereof, as recited in said alleged will, be declared null and void as to your petitioner, and that said tract of land be set apart for the use and benefit of your petitioner and her said three minor children as their homestead, to the end that your petitioner and her said minor children shall have the exclusive right to the possession thereof; and to the use and enjoyment and benefit thereof as their homestead; and that the Executor be ordered to deliver the said homestead to your petitioner and her said minor children for her homestead use. And your petitioner prays that inquiry be made by this Court, in respect to her exclusive right to the possession and occupancy of said 180 acres of land as her homestead for herself and her said minor children, and that proper orders of this Court be made protecting your petitioner in her homestead rights therein.

3. Your petitioner further prays in the alternative:

That in the event the Executor should make good his contention herein and prove that the said 180 acres of land was not the homestead of your petitioner, her minor children and her deceased husband at the time of his death, then your petitioner shows that in that event there is not among the effects of the deceased, any homestead; and in that event that the said James F. Elam left no homestead in kind, and your petitioner, his widow, and his minor children above named, have no homestead.

Therefore, if it should be found that the said 180 acres of land above described were not the homestead of said deceased and your petitioner and her minor children at the death of said James F. Elam, then your

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

petitioner and her said minor children are entitled to an allowance in lieu of a homestead not found in kind among the property and effects of the said deceased. Therefore, your petitioner prays that if the Executor shall succeed in his contention that there is no homestead in kind among the property of the estate of said deceased, then that the Court make an allowance not to exceed $5000.00 in lieu of a homestead, and that proper orders be made requiring the Executor to pay to your petitioner the said allowance thus to be fixed by the Court in lieu of homestead.

Further, your petitioner shows:

That there are not among the effects of the deceased any of the specific articles exempt to petitioner and her said minor children under the laws of the State of Texas, to-wit: There is no household and kitchen furniture; there are no implements of husbandry; there is no library or family portraits, nor pictures. There are no milch cows, nor their calves; there are no work oxen; there are no horses, nor wagons; there is no carriage nor buggy; there is no gun; there are no hogs; there are no sheep; there are no saddles, bridles, nor harness necessary for the use of the family. None of the said exempt articles is named in the Inventory herein returned showing the property of said estate.

Wherefore, your petitioner prays that the Court now make to her and her minor children a reasonable allowance in lieu of the said specific articles of exempt property not found in kind among the effects of said deceased, as your petitioner will ever pray. And your petitioner prays for all further and other relief, and such further orders in the premises as to the Court under the facts and the law may seem proper.

Respectfully submitted.

M Lawrence & Spence

Attorneys for Plaintiff.

Mrs Elizabeth Elam

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

survive and who are living with your petitioner, their mother; their names and ages being as follows: Bulah Elam, a girl about seven years of age; Luther Elam, a boy about five years of age, and Winnie Elam, a girl about three years of age. That during the latter part of the year 1899, and at a time when the said 180 acre tract of land was the homestead of James F. Elam and your petitioner and their said children, as it had for many years been, the said James F. Elam being in poor health, temporarily left said homestead and went to Bandera County, Texas, on account of his health. And your petitioner with her children, accompanied him. But your petitioner by no means abandoned her homestead rights in said 180 acres of land. The said land was thereafterward rented to one Will Staton for the year 1900 by a mere temporary lease. During that year the said James F. Elam, accompanied by his family, returned to Dallas County. Thereafterward, in the fall of 1900, said James F. Elam again went to Bandera County where he hoped to regain his health. But your petitioner and her children did not accompany him, but they continuously since resided, as they still reside, in Dallas County, Texas. The said 180 acres of land was also rented to the said Will Staton for the current year 1902, but your petitioner at no time in any wise abandoned the said 180 acres, or any part thereof as her homestead; nor did she in any wise ever relinquish or forfeit her homestead rights therein. But on the contrary, she at all times has claimed and asserted her homestead rights in and to said 180 acres of land. Petitioner avers that if said homestead place--being the 180 acres of land aforesaid--was ever rented to William B. Elam as recited in said will, this petitioner avers that she was never a party to any such lease. And she further avers that if such lease was ever made to William B. Elam, or to any other person, the same was made, if at all, without her knowledge or consent, and in violation of her existing homestead rights in and to said property. And the same, if made, was and is a fraud upon your petitioner's homestead rights in and to said lands. Petitioner avers and shows to the Court that said 180 acres of land is well adapted for a family homestead, in that, as much as 80 acres thereof are in a state of actual cultivation as same have been for many years,

Law Offices of McCormick & Berry

and the remainder thereof consists of pasture and woodland, and all of the 180 acres is in one body of land. That same has upon it, improvements consisting of a residence and connected outhouses and lots; and also a small rental house. That said improvements were made after petitioner's marriage aforesaid, with community funds. And, as aforesaid, all of the said 180 acres were for a long period of time, to-wit: as much as seven years, devoted by the said James F. Klam to his homestead purposes; and his homestead and that of his family (consisting of your petitioner and his said three children) was actually established upon said tract of land, and same was never abandoned as such homestead. That same was, and is, the only lands owned by the said James F. Klam at the time of his death, and long prior thereto. Your petitioner, with said minor children, never left said homestead with any intention on the part of your petitioner of abandoning the same, or in any wise relinquishing her homestead rights therein. And the renting of the same for the years 1900 and 1901 to said Staton as aforesaid, was but a temporary renting, and in no wise operated to deprive your petitioner of her rights to a homestead therein for herself and her said minor children. That said lands are now in the actual occupancy of said Will Staton who was lessee for the year 1901; but his lease expired at the expiration of the said year 1901, as far as said lease was made to him by James F. Klam, deceased. And petitioner is now entitled to the possession of said lands comprising the said homeplace. Your petitioner shows that the said James F. Klam left no other homestead at his death. That your petitioner herself owns no other lands, and has no other homestead in her own right. She shows that the Executor herein, William B. Klam, has studiously endeavored to deprive her of her homestead rights aforesaid; and to that end he now claims that said homestead was rented to him for a term of ten years from the year 1900 to the year 1910, as recited in the alleged will which he now offers for probate. But petitioner avers that said alleged lease, if ever made, is wholly void as to your petitioner, because in violation of her homestead rights in and to said property. That said alleged lease, if ever made, was made at a time when James F. Klam was in the last stages of consumption, and when he knew, and when the Executor, William B. Klam, well knew that the said James F. Klam

TEXAS GENEALOGICAL SOCIETY-1978

could live only a few months. And said alleged lease, if ever made, was made for the deliberate purpose of defrauding your petitioner and her children out of their homestead rights in and to said tract of land.

2. The premises considered, your petitioner therefore now prays that at the proper time in the administration of this estate that an order of this Court be made, withdrawing the said homestead (being the 180 acres of land mentioned in said will, and more particularly described in that deed from John J. Elam to the said James F. Elam, dated September 7, 1901, and recorded in Book 267, pp. 383 to 385 inclusive, of the Deed Records of Dallas County, Texas, reference to which deed is here specially made) from further administration herein. That the said alleged lease thereof, as recited in said alleged will, be declared null and void as to your petitioner, and that said tract of land be set apart for the use and benefit of your petitioner and her said three minor children as their homestead, to the end that your petitioner and her said minor children shall have the exclusive right to the possession thereof; and to the use and enjoyment and benefit thereof as their homestead; and that the Executor be ordered to deliver the said homestead to your petitioner and her said minor children for her homestead use. And your petitioner prays that inquiry be made by this Court, in respect to her exclusive right to the possession and occupancy of said 180 acres of land as her homestead for herself and her said minor children, and that proper orders of this Court be made protecting your petitioner in her homestead rights therein.

3. Your petitioner further prays in the alternative:

That in the event the Executor should make good his contention herein and prove that the said 180 acres of land was not the homestead of your petitioner, her minor children and her deceased husband at the time of his death, then your petitioner shows that in that event there is not among the effects of the deceased, any homestead; and in that event that the said James F. Elam left no homestead in kind, and your petitioner, the widow, and his minor children above named, have no homestead.

Therefore, if it should be found that the said 180 acres of land above described were not the homestead of said deceased and your petitioner and her minor children at the death of said James F. Elam, then your

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

petitioner and her said minor children are entitled to an allowance in lieu of a homestead not found in kind among the property and effects of the said deceased. Therefore, your petitioner prays that if the Executor shall succeed in his contention that there is no homestead in kind among the property of the estate of said deceased, then that the Court make an allowance not to exceed $5000.00 in lieu of a homestead, and that proper orders be made requiring the Executor to pay to your petitioner the said allowance thus to be fixed by the Court in lieu of homestead.

Further, your petitioner shows:

That there are not among the effects of the deceased any of the specific articles exempt to petitioner and her said minor children under the laws of the State of Texas, to-wit: There is no household and kitchen furniture; there are no implements of husbandry; there is no library or family portraits, nor pictures. There are no milch cows, nor their calves; there are no work oxen; there are no horses, nor wagons; there is no carriage nor buggy; there is no gun; there are no hogs; there are no sheep; there are no saddles, bridles, nor harness necessary for the use of the family. None of the said exempt articles is named in the Inventory herein returned showing the property of said estate.

Wherefore, your petitioner prays that the Court now make to her and her minor children a reasonable allowance in lieu of the said specific articles of exempt property not found in kind among the effects of said deceased, as your petitioner will ever pray. And your petitioner prays for all further and other relief, and such further orders in the premises as to the Court under the facts and the law may seem proper.

Respectfully submitted.

M. Lawrence McCormick

Attorneys for Plaintiff.

Mrs Elizabeth Elam

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

Estate of James T. [illegible]

[illegible] Thirteenth Ward, [illegible] homestead set out of the estate, and to hold a trial [illegible] visions of the will herein submitted to probate.

FILED [illegible]

A. D. JACKSON,

[illegible] Clerk.

By [illegible] Deputy

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

PLOWMAN & BAKER,
DALLAS, TEXAS.

In the matter of the estate of / In County Court, sitting as a
James F. Elam, deceased. / Court of Probate.

Mary Elizabeth Elam /
No. 3097 -vs- /
Wm. B. Elam, Executor /

Now comes the defendant, W. B. Elam, executor of the estate of Jas. F. Elam, deceased, and by leave of the court first had and obtained amends his original answer filed herein on Jan. 7, 1902, and in lieu of the same files this his first amended original answer, and says:

1. Defendant avers that this court has no jurisdiction in this cause, for that, by the terms of the will of Jas.F.Elam, deceased, duly executed and probated in this court, it appears that it was expressly stipulated in said will that no further action be taken in the County Court in the administration of his estate, except to prove and probate and record his last will and testament and return an inventory and appraisement [redacted], as directed by law; all of which defendant avers has been done, and said defendant was also appointed executor, without bond, and has qualified as such; for that, said petition shows and this defendant avers the fact to be that the only property that was owned by the said estate was the alleged homestead or a claim or interest in the land in question; and for that, said petition seeks to set aside a lease and try the title and ownership of said land and determine the right to the possession of same, which issues defendant avers, under the Constitution and laws of Texas, can only be tried and determined in the District Court, and the District Court of Dallas County, Texas, alone, has jurisdiction of the subject matter of this controversy, all of which defendant is ready to verify. W. B. Elam

Affidavit by W. B. Elam, sworn to the matters set forth in the foregoing plea and sworn to before me this the 28th day of Feb. 1902. Thos. D. Baker N.P. Dallas Co. Texas

2. Defendant demurs generally to plaintiff's petition and says the same is insufficient in law, and on this prays judgment of the court.

W. T. Connor
Plowman & Baker
Attys. for deft. W.B.Elam.

3. Defendant specially excepts to plaintiff's petition and assigns the following special demurrers:

FILED BY THE DALLAS ABSTRACTING CO. 1978

The County Court has no jurisdiction to determine the question of annulling the will of the decedent, James F. Elam, for that, the said petition shows that only a homestead is involved, which is not a subject matter of administration, and by the Statute is withdrawn from administration, and which by the will of said decedent is also withdrawn from said administration, and for that said petition seeks to annul a lease made by said decedent, and for that the County Court has no power ~~either~~ or authority to try and determine the question of lease of land and the right to same as between plaintiff and this defendant.

4. Defendant specially excepts to said petition and avers that the same shows that this court has no jurisdiction to try and determine the question as to right or possession of the land in controversy, as between plaintiff and this defendant.

5. Defendant further specially excepts, in the event the court should entertain jurisdiction in this case, that there is a defect in the parties plaintiff, in that, the children of plaintiff and decedent are necessary and proper parties.

6. Defendant further specially excepts to plaintiff's petition, for that, the same shows that this is not a subject matter of probate proceedings, but in the nature of a suit to recover the property claimed by plaintiff and defendant, respectively, and the same is not a subject matter of probate proceedings.

7. Defendant further specially excepts to plaintiff's petition, for that, it does not set forth the will or terms of the will sought ti be annulled.

8. Defendant further specially excepts to plaintiff's petition, for that, it does not set forth any facts showing any right or ground to annul said will.

9. Defendant further specially excepts to plaintiff's petition, in that, it does not show that the land in question was owned in fee simple by plaintiff and decedent, or describe same or show the value of same, or what right or title they had to same, but does show that by the terms of the will that the right and possession of same is now in W. R. Elam, and also in him by the terms of a lease made by decedent in his lifetime.

10. Defendant further specially excepts to plaintiff's petition, on page 2, wherein she alleges: "That if the lease was made, it was a

fraud upon her homestead rights in and to said lands," for that said allegation is vague, indefinite, sets forth a conclusion and no facts showing any fraud.

11. Defendant further specially excepts to said petition wherein it is alleged "That were improvements upon said land, which were made after plaintiff's marriage, with community funds", for that said petition does not describe said improvements, nor state their value.

12. Defendant further specially excepts to that portion of plaintiff's petition, wherein she avers: "That the lands in question were the only lands owned by James F. Elam, at the time of his death", for that the question of ownership is a mixed question of law, and for that it does not set forth the title of James F. Elam, nor how he owned same.

13. Defendant further specially excepts to that portion of plaintiff's petition, wherein it is alleged "That the defendant has studiously endeavored to deprive her of her homestead rights," for that the same sets forth no facts showing wherein nor how he endeavored to deprive her of her homestead rights.

14. Defendant further specially excepts to that part of plaintiff's petition, wherein plaintiff alleges: "That the alleged lease, if ever made, was made at a time when James F. Elam was in the last stages of consumption, and when he and the defendant knew he could live only a few months", for that, said allegations are vague, indefinite, and constitute no cause of action.

15. Defendant further specially excepts to that part of the plaintiff's petition, wherein she alleges: "That the lease, if ever made, was made for the deliberate purpose of defrauding plaintiff and her children of their Homestead rights in and to said lands", for that said allegation is vague, indefinite and uncertain and sets forth no facts showing any fraud on the part of this defendant.

16. Defendant demurs generally to plaintiff's second count in her said petition and says the same is insufficient in law.

17. Defendant specially demurs to said count and says that the court has no jurisdiction to try and determine the matters set up in said count.

18. Defendant specially demurs to said second count and says the

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

same is inconsistent with her first count and contradictory and multifarious.

19. Defendant further specially excepts to said petition, because the same does not show that there is any property out of which said allowances could be made, but in fact shows that there is no property out of which an allowance could be made to plaintiff and her children.

20. Defendant further specially excepts to said second count, in that, said count does not state the value of the exempt articles, in lieu of which plaintiff asks an allowance.

21. Defendant further specially excepts to said petition, for that, it prays that the executor herein be required to pay the plaintiff the allowance in lieu of a homestead, and does not pray that said ~~xxx~~ allowance should be made out of the property of said estate.

Of all which general and special exceptions hereinabove made, defendant prays judgment of the court, and as in duty bound, will ever pray.

M T Cannon
Plowman & Bond'er
Attys. for Deft. W.B. Elam.

Defendant further answring, if need be, denies, all and singular, the allegations in plaintiff's said petition contained, and of this puts himself upon the Country.

Defendant specially answering says that the decedent, James F. Elam, and this defendant were children of William B. Elam, deceased, and his wife, Mary Elam; that at the time of the death of the said Wm. B. Elam, he and his said wife had settled with all the heirs of his estate and advanced them their share, except James F. Elam and John J. Elam. That the said James F. Elam, deceased, and John J. Elam own in fee simple an undivided interest, with their mother, in all of the unsold lands of ~~the~~ William B. Elam survey, of Dallas Co Tex, which comprise the land in question, containing about 360 acres. That of said land, their mother, Mary Elam, owned in fee as homestead property 160 acres, and the said James F. Elam and John J. Elam each owned in fee as heirs of their father 80 acres. That on the 16th day of August, A.D. 1888, said Mary Elam, the widow of William B. ~~xxx~~ Elam, executed a deed of conveyance whereby she conveyed to John J. Elam and James F. Elam all her undi-~~xxxd~~ vided ~~half~~ community interest in and to the community estate owned and held

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

by herself and William B. Elam, her deceased husband, at the time of his death; the consideration of said deed being love and affection and the further consideration that said John J. Elam and James F. Elam were to pay her the sum of $200 each and every year during her natural life, the said sum of money to be paid quarterly, and for the payment of which a lien was retained upon the lands therein conveyed, and it was provided in said ~~xxxx~~ deed that in event of default in the payment of said installments or any of them, the aid John J. Elam and James F. Elam, their heirs and assigns, were to ~~xx~~ pay all costs and reasonable attorney fees for the enforcement of the payment of the same, and all of which should be a lien upon said lands. That the said lands hereby conveyed consisted of 360 acres out of the said W. B. Elam survey. Deft further shows that after the death of Jas F Elam said Mary Elam rescinded and set aside said conveyance & for a valuable consideration conveyed said lands to J J Elam who now owns same in fee simple

Defendant further shows that on the 7th day of September, 1901, James F. Elam and John J. Elam divided said lands between them, the same being the separate property of said James F. Elam and John J. Elam, whereby John J. Elam conveyed to James F. Elam all his interest in the land referred to in plaintiff's petition, consisting of 180 acres of land, and more particularly described in said deed of partition between said James F. Elam and John J. Elam, and which said ~~xxxxxxx~~ partition has been acquiesced in and consented to by said Mary Elam; that said James F. Elam has never paid any portion of the said purchase price of said land, for the interest of Mary Elam, which is a lien upon the said lands claimed by plaintiff and the possession of which is now claimed by this defendant as devisee under said will, of 50 acres, and the balance under a lease, which was executed by the decedent James F. Elam to this defendant W. B. Elam on the 1st of Sept, 1900, which said lease was duly acknowledged and delivered, during the lifetime of said decedent, James F. Elam, whereby said James F. Elam, for valuable consideration, leased all of his interest in said land to this defendant for a ~~xxx~~ period of ten years; that said defendant entered into possession of said property under said lease.

Defendant further shows that by the terms of said will of James F. Elam the said decedent bequeathed and devised to this defendant 50 acres of said land to be taken out of the North part of said tract of 180 acres and directed that he cut off 50 acres ~~xxxxxxxx~~ adjoining the

50 acres aforesaid, for his son Luther, and to divide the remaining portion, 80 acres, equally between his said two daughters, Bulah and Winnie.

Defendant further shows that he is in possession of said lands thru his tenant Will Stalton and claims the same by virtue of said lease and the terms of said will, and avers that this court has no jurisdiction to try and determine the question of the right and possession and title to this land between the plaintiff and defendant, nor his tenant & this Court has the right or the power to annul the said lease made by the decedent James F. Elam, to this defendant, and that the District Court of Dallas County, Texas, alone, has jurisdiction to try these questions. That the said will of said decedent has been duly probated and has not been set aside .

Defendant further shows that the said plaintiff ought not to have and maintain her suit herein, for that, the said decedent in his lifetime had a right to lease said lands in question to this defendant, which he did as hereinbefore stated, and that the said decedent abandoned said property as his home, prior to his death, and with the intention of abandonment and of not returning to same, which he had a right to do, and which was and is binding in law upon the plaintiff herein and his heirs. That the said decedent, long prior to his death, ceased to occupy and use the premises in dispute as his home, and moved to Bandera County with his family and made his home in said County, where he erected for hi self a house and where he resided and did reside for two years prior to his death, and where he intended to live, as he stated, the remainder of his life. That the lease made to this defendan was because of the fact that he could not live and determined not to reside in Dallas County, Texas.

Defendant further answering herein says that long prior to the death of James F. Elam, deceased, aid contestant Mary E. Elam, di without fault on the part of deceased and against his will and earnest entraties that she stay by his side and do and perform the duties of a wife to him until his death, voluntarily left his bed and board and abandoned him and refused to go and live with him, and taking advantage of his ill health and weakened condition, she took his children from him and deprived him of their society and comfort, and lived separate and apart from him until his death. That said plaintiff , after deceased was confined to his bed, which afterwards proved to be

his death bed, on being informed of his critical condition and the early expectation of his death and being at the same time admonished that he was her husband and her place was by his side and she ought to go and see him anyhow, she refused to go to see him and said she hoped she would never see his face again. That she did afterwards come to see him two or three times, after having been repeatedly sent for, that the decedent might have a last look at and enjoy the society of his children; that she refused to stay by deceased until his death, and was not present and would not allow his children to be with him when he died.

The premises considered, the defendant says said contestant herein has no homestead right in the property of deceased; therefore, he prays that said petition of contestant be not granted and that the provisions of the will be carried out and according to the wishes and directions of testator thereof, and for all relief, both general and special, either in law or equity, respondent may in the judgment of the court be entitled, as in duty bound will ever pray.

M. T. Conner
Plowman & Baker
Attys. for Deft. W. B. Elam.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

In the matter of the estate
of Jesse H. Ellis, deceased.

Mary E. Ellis
-vs-
[illegible]

Defendant's First Amended Original
Cross Answer.

Filed [illegible] 1903
[illegible]
[illegible]

PLUNKAR & BAKER,
Attorneys at Law.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

Estate of James F Elam
3097 Deed
Wm B Elam Executor

LAW OFFICES OF MCCORMICK & SPENCER

In the matter of the Estate of)(
James F.Elam, Deceased,)(February 15,1902.
Wm.B.Elam,Executor,)(
No.3097, Probate.)(

Wednesday February 14th 1902
Entered February 15th 1902

This day,in the administration of the above named estate,came on to be heard the Application of Mrs.Mary Elizabeth Elam,surviving widow of James F.Elam,deceased,for an order of this Court,annulling those certain provisions of the will of the said James F.Elam,deceased,heretofore admitted to probate in so far as the said will attempts to bequeath to the Executor,William B.Elam,the 180 acres of land belonging to said estate as set out in the Inventory thereof,in trust,for the benefit of the said Testator's children,and in so far as said will recognizes an alleged lease for ten years to the said William B.Elam as Lessee of the said 180 acres of land,and in so far as the said will undertakes to place the said property in the possession of the said William B.Elam and bequeath any part thereof to him. By which Application said Mary Elizabeth Elam,widow,also prays that said 180 acres of land be set apart to her by this Court,as her homestead for herself and her minor children,to-wit: Bulah Elam,a girl about seven years of age; Luther Elam,a boy about five years of age and Winnie Elam,a girl about three years of age,being the minor children of said Applicant and her deceased husband,James F.Elam, now residing with their said mother.

And it appearing to the Court that citation has been duly issued and served herein upon the said William B.Elam,Executor of said estate,commanding him to appear at this term of the court and answer said application,and to refrain from executing the provisions and directions of said will which are objected to as above set out. And now the said William B.Elam appearing herein by his counsel,and having filed his answer to said widow's Application:

The issues raised by the pleading of the said parties herein, both of fact and of law,are by the said parties submitted to the Court. And first,the demurrers,general and special,of the said Executor to the

FILMED BY THE HELLS GENEALOGICAL SOCIETY-1978

said widow's Application, being presented to the Court are by the Court overruled, in so far as said exceptions deny the jurisdiction of this court to hear and determine the said widow's application to have the said provisions and directions of the will of James F. Klam annulled, and to have the said lands set apart to her as her homestead, --but the exceptions of the said Executor, Nos. 10 and 11, as set out in his first amended original answer are sustained.

And then the issues raised by the said pleadings of the said parties were submitted to the Court for determination upon the merits. And the Court having heard the evidence adduced by the parties and the argument of counsel thereon, is of the opinion that the law is for the Applicant in so far as she seeks to have said provisions and directions of the will of James F. Klam, deceased, annulled, and to have said lands above mentioned set apart to her as her homestead for the benefit of herself and her said minor children. And the Court is of the opinion that said widow is entitled to have the said lands set apart to her as her homestead for herself and her said minor children, and that the terms of the will inconsistent therewith ought to be annulled.

Therefore, it is now by the Court ordered and so adjudged and decreed that the provisions of the will of James F. Klam, deceased, herein admitted to probate, in so far as the same attempts to bequeath to the said Executor, William B. Klam, the said 180 acres of land therein mentioned, in trust, for the benefit of the said testator's children, and in so far as said will recognizes an alleged lease for ten years to the said William B. Klam as lessee of said 180 acres of land, and in so far as said will undertakes to place the said property in the possession of the said William B. Klam, Executor, be and the same are hereby annulled, vacated and for naught held:

And further, that the said 180 acres of land belonging to said estate and mentioned in the inventory thereof as herein filed, the same being more particularly described in that deed from John J. Klam to the said James F. Klam, dated September 1901 and recorded in Book 267, pp. 383 to 385 inclusive of the Deed Records of Dallas County, Texas, reference to which said deed is here specially made, be and the same are hereby set apart for the use and benefit of the said Mary Elizabeth Klam, widow of

James F.Elam,deceased,and their said minor children,Bulah Elam, Luther Elam and Winnie Elam,as their homestead,the same having constituted the homestead of the said James F.Elam and his said wife and children during the lifetime of said James F.Elam and at the time of his death,the same being hereby set apart to them,the said widow and minor children,as property of the said estate exempt to them from execution or forced sale by the Constitution and laws of this State:

And further it is ordered by the Court and so adjudged,that the said 180 acres of land with all improvements thereon,be forthwith delivered over to the said widow,Mary Elizabeth Elam,by the said Executor, William B.Elam. And he is hereby ordered to place her in actual possession thereof. That this disposition of the said homestead shall continue during the lifetime of the said widow,Mary Elizabeth Elam,or so long as she may elect to use or occupy the same as a homestead,or so long as the guardian of the said minor children of the said deceased,James F.Elam,may be permitted under order of the proper court having jurisdiction to so use and occupy the same. But after said use and occupancy shall cease, then the said homestead tract as above described shall then become subject to the operation and terms of the said will in so far as same shall then be consistent with this order. And it is further ordered by the Court and so adjudged,that the said Applicant,Mary Elizabeth Elam,do have and recover of and from the said William B.Elam as Executor of said estate of James F.Elam,deceased,all costs herein expended and incurred.

~~County Judge.~~

To all of which said Executor W B Elam excepts and in open court gives notice of appeal to the District Court of Dallas County Texas

OK Ed. A Lundsdale
Co Judge

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

James P.Kem,deceased,on their said minor children,Sulah Kem, Luther Kem and Vinnie Kem,as their heirs,the time being constituted the homestead of the said James P.Kem and his said wife and children during the lifetime of said James P.Kem and at the time of his death,the same shall thereby be apparent to them,the said widow and minor children,as provided by the said estate, [illegible] execution as forced sale by the administration and [illegible] of the said:

And further it is ordered by the Court and so adjudged,that the said [illegible] of land with [illegible] improvements thereon be forthwith delivered over to the said widow, Mary Elizabeth Kem,by the said Executor, [illegible] Kem.

And [illegible] hereby ordered to place her in actual possession [illegible] That the homestead of the said Homestead shall continue during the lifetime of the said widow,Mary Elizabeth Kem,or so long as she may elect to live or reside [illegible] the time as a homestead,or so long as the

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

LAW OFFICES
OF
McCORMICK & SPENCE.

In the Estate of Jas.F.Elam,deceased. In the matter of the Application of Mrs.Mary Elizabeth Elam,surviving widow for an Order setting apart her homestead out of said Estate.	No._____Probate. In the County Court of Dallas County,Texas.

Now comes Mrs.Mary Elizabeth Elam,the Applicant in the above entitled Probate proceeding by her attorneys,and pursuant to the notice served upon her herein,propounds to Mrs.Mary Elam,witness for the Executor,the following cross interrogatories,reserving all exceptions and objections to the form and substance of the direct interrogatories and of the answers of the said witness.

CROSS INTERROGATORIES to the Executor's witness,Mrs.Mary Elam:

1. Are you the surviving widow of W.B.Elam,Sr.? and are you the mother of Jas.F.Elam,deceased,and John J.Elam and W.B.Elam,the Executor of Jas.F.Elam,deceased?

2. Do you know the tract of about 180 acres of land which is in controversy in this suit? If yes,state whether said land was ever owned by W.B.Elam,Sr. in whole or in part? Was said land acquired as the community property of W.B.Elam,Sr.and yourself?

3. What is community property?

4. When W.B.Elam,Sr.died did he leave any will? State all that you may know about any will that he left? and if he left any will state what was done with it and how you know?

5. Is it not true that Jas.F.Elam now deceased,and his brother John J.Elam acquired title to 360 acres of land,and did not Jas.F.Elam afterward move on said tract of land,claiming one half of it; and did he not establish his home with his family thereon?

6. Do you remember when Jas.F.Elam married? If yes,when was it?

7. Afyer his marriage where did Jas.F.Elam reside with his family as his homestead,and for how long a time did he actually remain with his family on such home place? Describe the home place.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

8. What title within your knowledge did Jas.F.Elam have to this home place? Was a deed made to him,or to him and John J.Elam? If no deed was made to Jas.F.Elam,then state how he acquired his title to his home place? Answer fully and state how you know?

9. You are asked in the direct interrogatories about a supposed conveyance which is claimed was made by you to John J.Elam and Jas. F.Elam upon condition that they should pay you $200 each year of your life in quarterly instalments,the payments to be secured by lien upon the lands conveyed:

Now when was any such conveyance made? Where is that conveyance? Who made that conveyance? Was it in writing? Before whom was it executed or acknowledged? Can you produce that original conveyance or a copy of it? If you,do so and attach ~~xxxxxxxxxx~~ the same as a part of your answer to this question.

10. What particular land was described in the supposed conveyance about which you are interrogated in direct interrogatory No.8,and in the last preceding cross interrogatory? Answer fully.

11. Now as a matter of fact,did John J.Elam and Jas.F.Elam or either one of them,pay you $200 each and every year from the date of said conveyance to the present time? Name each year when such a payment was made to you by John J.Elam and Jas.F.Elam,or either one of them? and state the total amount they paid to you pursuant to any such conveyance?

12. Is it not true that John J.and Jas.F.Elam did not pay you the sum of $200 in money for any year as the consideration for the land, a part of which is now in controversy? If you say they did,then state again just how much money was paid by them to you as the consideration for the conveyance of any land which you may have conveyed to them? For how many years was such payment made? When and where was each payment made?

13. Is it not true that Jas.F.Elam lived on the land and now in controversy for many years with his family as his homestead?

14. During the time that Jas.F.Elam resided on his home place with his family in Dallas County,is it not true that he did not pay you anything as the consideration for said home place? If you say he did,

THE DALLAS GENEALOGICAL SOCIETY-1978

Law Offices
of
McCORMICK & SPENCE.

state just how much he paid you as the consideration for said home place? For what years he paid it, and in what amount he made the payments, and state how each payment was made?

15. Is it not true that during the year 1899 Jas.F.Elam was in bad health? Did he not in that year go to Bandera County for the benefit of his health?

16. Did not Jas.F.Elam return to Dallas County in the summer or early fall of the year 1900? Did not his family return with him?

17. What did Jas.F.Elam do with his home place when he left it in the year 1899? What contract did he make for renting the place for the year 1900? Answer fully and state how you know.

18. Did not Jas.F.Elam again return to Bandera County for his health in the fall of 1900? And did he not return to Dallas County in the Spring of 1901?

19. What contract did Jas.F.Elam make in regard to his home place for the year 1901? Answer fully and state how you know.

20. Did not Jas.F.Elam die in the month of September, 1902? If not, when did he die?

21. What family did Jas.F.Elam leave at the time of his death? Answer fully and give the names and ages and sexes of his children?

22. What property did Jas.F.Elam leave at his death? Describe the property that he left, both real and personal.

23. What contract did Jas.F.Elam make in regard to his home place during the year 1901 after his return to Dallas County, and prior to his death. Did he rent out his home place for ten years and get the rents paid in advance? Did he not rent to Bill Staten for the year 1900 and the year 1901?

24. Did not Jas.F.Elam always state that if his health improved in Bandera County that he would return to his home in Dallas County, Texas? When he left Dallas County in 1899 did he not then declare that if his health improved he would come back and would then want his home place again?

25. Did Jas.F.Elam's wife ever agree to give up her homestead on Jas.F.Elam's farm in Dallas County, Texas?

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

Law Offices
of
McCormick & Spence

26. Did Jas.F.Elam's wife ever know that her husband had in any wise abandoned his home place in Dallas County and had given it up as his home?

27. What other home had Jas.F.Elam ever acquired or owned after he rented out his home place in Dallas County, Texas, which is in controversy herein? Describe the other home place that Jas.F.Elam acquired.

28. Was the land on which Jas.F.Elam fixed his homestead acquired by you and your husband after your marriage, and was it community property between you and your husband?

29. At the death of your husband what heirs did he leave?

30. What provision was made by your husband and yourself for each of your children?

31. Is it not true that Jas.F.Elam acquired his home place in Dallas County where he lived for many years with his family absolutely and by perfect title? How did he acquire title to his homeplace?

32. Who has talked to you about your evidence in this case?

33. Who has helped you to form your answers in this case?

34. Where have you been while answering these questions?

35. Who has been present while you have been giving your answers.

36. If you say that Jas.F.Elam abandoned his home place in Dallas County and left no homestead at his death, then state exactly how and when he abandoned his homeplace and lost his homestead rights therein?

37. State all that you know on which you base your statement that Jas.F.Elam abandoned his homeplace and had given it up as a homestead before his death?

McCormick & Spence
Atty for Applicant
Mrs Mary E. Elam

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

36. Did Jas.P.Ham's wife ever know that her husband had in any wise abandoned his home place in Dallas County and had given it up as his home?

37. What other home had Jas.P.Ham ever acquired or owned after he rented out his home place in Dallas County,Texas,which is in controversy herein? Describe the other home place that Jas.P.Ham acquired.

38. Was the land on which Jas.P.Ham fixed his homestead acquired by you and your husband after your marriage,and was it community property between you and your husband?

39. At the death of your husband what notable property owned by him was made by your husband and you jointly for community or your children?

40. What provision was made by your husband and you jointly for the support of your children?

41. Is it correct that Jas.P.Ham acquired his home place in Dallas County where he lived for many years with his family absolutely

FILED
JUL 14 1902
Mrs. Mary Hamilton
Clerk District Court
Dallas Co. Texas

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

Law Offices
of
McCormick & Spence.

In the matter of the Estate of James F.Elam,deceased, No. 3097 Probate. Wm.B.Elam,Executor named in the will.	In the County Court of Dallas County,Texas.

TO THE HONORABLE JUDGE OF SAID COUNTY COURT:

Now in the above probate proceeding,comes Mary Elizabeth Elam, widow of James F.Elam,deceased,the testator herein,and shows that she is interested in the said estate. That ~~the~~ then are provisions and directions of the alleged will,now here exhibited for probate which should not to be executed, but should be annulled or suspended, in so far as the said will attempts to bequeath to the alleged executor the 180 acres of land therein mentioned in trust for the benefit of the testator's children; and so far as said will recognizes an alleged lease for ten years of said 180 acres of land to the Executor,Wm.B.Elam,and in so far as said will undertakes to place the said property in the possession of the said Wm.B.Elam.

For this:

The said Mary Elizabeth Elam shows:

1. That she and James F.Elam,deceased,were legally married in Dallas County,Texas about eight years ago; and they lived together as husband and wife upon the said 180 acres of land mentioned in the will aforesaid,which said land was actually used,occupied and enjoyed by the said James F.Elam and your petitioner,Mary Elizabeth Elam,his wife,for the full period of seven years. That while they resided on said 180 acres as their homestead,there were born to them three children,who still survive and who are living with your petitioner,their mother; their names and ages being as follows: Eulah Elam,a girl about seven years of age; Luther Elam,a boy about five years of age and Winnie Elam,a girl about three years of age. That during the latter part of the year 1899,and at a time when the said 180 tract of land was the homestead of James F. Elam and your petitioner and their said children as it had for many years been,the said James F.Elam being in poor health,temporarily left said homestead and went to Bandera County,Texas on account of his health. And your petitioner with her children accompanied him. But your petitioner by no

means abandoned her homestead rights in said 180 acres of land. The said land was thereafterward rented to one Will Staten for the year 1900 by a mere temporary lease. During that year the said James F.Elam, accompanied by his family, returned to Dallas County. Thereafterward, in the fall of 1900, said James F.Elam again went to Bandera County where he hoped to regain his health. But your petitioner and her children did not accompany him, but they continuously since resided, as they still reside, in Dallas County, Texas. The said 180 acres of land was also rented to the said Will Staten for the current year 1901, but your petitioner at no time in any wise abandoned the said 180 acres or any part thereof as her homestead; nor did she in any wise ever relinquish or forfeit her homestead rights therein. But on the contrary, she at all times has claimed and asserted her homestead rights in and to said 180 acres of land. Petitioner avers that if said homestead place, being the 180 acres of land aforesaid, was ever rented to Wm.B.Elam as recited in said will, this petitioner avers that she was never a party to any such lease. And she further avers that if such lease was ever made to Wm.B.Elam, or to any other person, the same was made, if at all, without her knowledge or consent, and in violation of her existing homestead rights in and to said property. And the same ~~being~~ if made, was and is a fraud upon your petitioner's homestead rights in and to said lands. Petitioner avers and shows to the court that said 180 acres of land is well adapted for a family homestead, in that as much as 80 acres thereof are in a state of actual cultivation, as same have been for many years. And the remainder thereof consists of pasture and woodland, and all of the 180 acres is in one body of land. That same has upon it improvements, consisting of a residence and connected outhouses and lots; and also a small rental house. That said improvements were made after petitioner's marriage aforesaid, with community funds. And, as aforesaid, all of the said 180 acres were for a long period of time, to-wit: as much as seven years, devoted by the said James F.Elam to his homestead purposes, and his homestead and that of his family, consisting of your petitioner and his said three children was actually established upon said tract of land, and same was never abandoned as such homestead. That the same was and is the only lands owned by the said James F.Elam at the time of his death, and long prior thereto. Your petitioner, with said minor children never left said homestead with any intention on the part of your petitioner of abandoning the same or in any wise relinquishing her homestead rights therein. And the renting of the same for the

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

years 1900 and 1901 to said Staton as aforesaid, was but a temporary renting and in no wise operated to deprive your petitioner of her rights to a homestead therein for herself and her said minor children. That said lands are now in the actual occupancy of the said Will Staton as lessee for the current year. But his lease thereof will expire at the expiration of this current year, and your petitioner will then be entitled to the possession of said lands comprising the said homeplace. Your petitioner shows that the said James F. Elam left no other homestead at his death. That your petitioner herself owns no other lands and has no other homestead in her own right She shows that the Executor herein, Wm. B. Elam, has studiously endeavored to deprive her of her homestead rights aforesaid, and to that end he now claims that said homestead was rented to him for a term of ten years from the year 1900 to the year 1910 as recited in the alleged will which he now offers for probate. But petitioner avers that said alleged lease of record is wholly void as to your petitioner, because in violation of her homestead rights in and to said property.

2. The premises considered, your petitioner therefore now prays that at the proper time in the administration of this estate that an order of this court be made withdrawing the said homestead (being the 180 acres of land mentioned in said will, and more particularly described in that deed from John J. Elam to the said James F. Elam, dated September 7, 1901 and recorded in Book 267, pp. 383 to 385 inclusive of the Deed Records of Dallas County, Texas, reference to which deed is here specially made) from further administration herein. That the said alleged lease thereof, as recited in said alleged will, be declared null and void as to your petitioner and that said tract of land be set apart for the use and benefit of your petitioner and her said three minor children as their homestead, to the end that your petitioner and her said minor children shall have the exclusive right to the possession thereof, and to the use, enjoyment and benefit thereof as their homestead; and that the Executor be ordered to deliver the said homestead to your petitioner and her said minor children, for her homestead use. And your petitioner prays that inquiry be made by this court in respect to her exclusive right to the possession and occupancy of said 180 acres of land as her homestead for herself and her said minor children, and

DALLAS GENEALOGICAL SOCIETY-1978

that proper orders of this court be made protecting your petitioner in her homestead rights therein. And your petitioner prays for all further and other relief to which she may be entitled.

3

Respectfully submitted,

McCormick & Spence

Attorneys for Mary Elizabeth Elam,
widow of James P.Elam,deceased.

Personally appeared before the undersigned authority on this day,Mrs.Mary Elizabeth Elam,who being first duly sworn,upon oath states:

That she is the surviving widow of James P.Elam,deceased,whose will is now offered for probate in the above entitled and numbered probate proceeding.

That the matters contained and the facts stated in the foregoing petition in respect to her homestead rights in property of the estate as therein described,are true in substance and in fact.

_____

Sworn to and subscribed before me by Mrs.Mary Elizabeth Elam, this the_____day of November,A.D.1901.

_____

Notary Public,Dallas County,Texas.

Da

No. 3097 Probate.

Estate of James F. Elam, deceased, and Opposition of Mary Elizabeth Elam, widow, to certain provisions of the will now offered for probate, and application to have her homestead set apart, etc.

FILED 5 day of Nov 1
A.D. 1
By A R Rawlins

Decree

Compromise order filed

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

In the matter of the estate of
James F. Elam, deceased.
In the suit of Mary E. Elam,
Surviving wife of James F. Elam, dec'd

No.3097--vs

W.B.Elam Executor

In the County Court,
Dallas County, Texas.

To Mary E. Elam or her attorneys of record, McCormick & Spence,

You will please take notice that five days service of the accompanying interrogatories, application will be made the Clerk of the County Court of Dallas County, Texas, for a commission to take the depositions of Mary E.Elam, who resides in Dallas County, Texas, which deposition when taken will be read in evidence by the defendant on the trial of the above entitled cause.

M.T. Conner
Plowman & Baker
Attys for W.B. Elam, Executor.

Direct interrogatories to the witness Mary E. Elam.

1.

State your name, age and residence.

2.

State when and where you were married, to whom you were married, and with whom you came to Texas.

3.

After you came to Texas, state if you and your husband acquired any property; if so, state what you so acquired.

4.

If you say you married W.B. Elam, Sr., state whether he is living or dead, if dead, when he died and who he left surviving him.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

5.

State whether or not you and your husband had any settlement withyour children in his lifetime, and if you did not have a settlement with any of them, state with whom you did have a settlement and what did you do.

6.

On the 15th of August,1888, what property did you own and what ddd you do with same, and describe the same as fully as you can.

7.

If you say you conveyed 360 acres of the W.B. Elam survey to John J. Elam and James F. Elam, state what was the consideration for said conveyance ?

8.

If you say the consideration for said conveyance was love and affection that you bore to your sons, John J. Elam, and James F. Elam, and with the distinct understanding and agreement; 1st. That you were to reserve the tenement house on said W.B. Elam survey for your use as a home during your natural life and that John J. Elam and James F. Elam were to keep the same in good state of repair; and 2nd. That the said John J. Elam and James F. Elam, were to pay to you the sum of $200. each every year during your natural life, the said sum of money to be paid to you quarterly and for the repayment of which a lien was reserved on the lands conveyed; 3rd. That the event default should be made in the payment of any installments of any of them, then the said John J. Elam and James F. Elam, or their heirs or assigns were to pay all costsand reasonable attorneys fees for the enforcement of the payment of the same, which costs and attorneys fees were to be a lien on said land, we ask you to state whether or not said James F. Elam has carried out his contract and agreement with you. State you much has been paid you by James F. Elam, or his heirs in consideration of said

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

ded and state whether or not John J. Ela m has complied with said agreement and deed.

9.

State whether or not you have ever waived your right or interest in said lands in favor of said James F. Elam, or his heirs.

10.

Where did James F. Elam reside on Sept /1 1900 and state where the wife of James F. Elam, Mary E. Elam, resided at that time.

11.

Where was the home of James F. Elam in September, October and November of 1900.

12.

If you say he resided in Bannera County, state whether or not said residence was tempoary, or with the intention of returning or not returning to his former residence in Dallas County ?.

1/8/2

M.T. Conner

Plowman & Ba ker,

Attys for W.E. Elam, Executor.

Filed the 8th day of January 1902.

A.S. Jackson, Clerk Co. Court

By A.B. Rawlins, Deputy.

The State of Texas

County of Dallas:----: I A S Jackson, County Clerk of Dallas County Texas, hereby certify that the above and foregoing is a true and correct copy of Direct interrogatories propounded to witness Mary E. Elam, by the Ex ecut r in the above entitled and numbered cause as the same now appears on file in my office among the original papers in said cause. Given under my hand and seal of office this 14th day of January A D. 1902.

A.S. Jackson, County Clerk, Dallas County Texas.

By S L Stewart Deputy.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

In the Estate of Jas.F. Elam, deceased | No._____ Probate

In the matter of the application of | In the County Court of

Mrs Mary Elizabeth Elam, surviving | Dallas County, Texas.

widow for an order setting apart her

homestead out of said estate.

Now comes Mrs Mary Elam, the applicant in the above entitled probate proceeding by her attorneys, and pursuant to the notice served upon her herein, propounds to Mrs Mary Elam, witness for the Executor, the following cross- interrogatories, reserving all exceptions and objections to the form and substance of the direct interrogatories and of the answers of the said witness.

CROSS INTERROGATORIES to the Executor's witness, Mrs Mary Elam:

1.- Are you the surviving widow of W.B. Elam, Sr.? and are you the mother of Jas.F. Elam, deceased, and John J. Elam and W.B. Elam the executor of Jas.F. Elam, deceased ?

2.. Do you know the tract of about 80 acres of land which is in controversy in this suit ? If yes, state whether said land was ever owned by W.B. Elam, Sr. in whole or in part ?

Was said land acquired as the community property of W.B. Elam Sr. and your self.

3.. Was it community property ?

4.. When W.B. Elam, Sr. died did he leave any will ? State all that you may know about any will that he left ? and if he left any will state what was done with it and how you know?

5.. Is it not true that Jas.F. Elam, now deceased, and his brother John J. Elam, acquired title to 360 acres of land, and did not Jas.F. Elam afterwards move on said tract of land, claiming one half

of it; and did he not establish his home with his family thereon ?

6.. Do you remember when Jas.F. Elam, married? If yea when was it?

7... After his marriage where did Jas.F. Elam, reside with his family as his homestead, and for how long a time did he actually remain with his family on such homeplace ? Describe the homeplace.

8.... What title within you knowledge did Jas.F. Elam have to this homeplace ? Was a deed made to him, or to him and John J. Elam ? If no deed was made to Jas.F. Elam, then state how he acquired title to his homeplace ? Answer fully and state how you know ?

9... You are asked in the direct interrogatories about a supposed conveyance which is claimed was made by you to John J. Elam and Jas.F. Elam, upon condition that they should pay you $200. each year of your life in quarterly instalments, the payments to be secured by lien upon the lands conveyed;

Now when was any such conveyance made ? Where is that conveyance ? Who made that conveyance ? Was it in writing ? Before whom was it executed or acknowledged ? Can you produce that original conveyance or a copy of it ? If yea, do so and attach the same as a part of your answer to this question.

10... What particular land was described in the supposed conveyance about which you are interrogated in direct interrogatory No.8 and in the last preceding cross interrogatory ? Answer fully.

11...Now as a matter of fact, did John J. Elam and Jas.F. Elam or either one of them, pay you $200 each and every year from the date of said conveyance to the present time ? Name each year when such a payment was made to you by John J. Elam and Jas.F. Elam or either one of them? and state the total amount they paid to you purshant to any such conveyance ?

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

12... Is it not true that John J. and Jas.F. Elam did not pay you the sum of $200 in money for any year as the consideration for the land, a part of which is now in controversy ? If you say they did then state again just how much money was paid by them to you as the consideration for the conveyance of any land which you may have conveyed to them? For how many years was such payment made ? When and whrre was each payment made ?

13..Is it not true that Jas.F. Elam lived on the land and now in controversy for many years with his family as his homestead ?

14.. During the time that Jas.F. Elam resided on his home-place with his family in Dallas County, is it not true that he did not pay you anything as the consideration for said homeplace ? If you say he did, state just how much he paid you as the consideration for said homeplace ? For what years he paid it and in what amount he made the payments, and state how each payment was made ?

15 Is it not true that during the year 1899, Jas.F. Elam was in bad health ? Did he not in that year go to Bandera County for the benefit of his health ?

16.. Did not Jas.F. Elam return to Dallas County in the summer or early fall of the year 1900? Did not his family return with him?

17... What did Jas.F. Elam do with his homeplace when he left it in the year 1899 ? What contract did he make for renting the placefor the year 1900? Answer fully nd state how you know.

18... Did not Jas.F. Elam again return to Bandera County for his health in the Fall of 1900? and did he not return to Dallas County in the Spring of 1901?

19.. What contract did Jas.F. Elam make in regard to his homeplace for the year 1901. Answer fully and state how you know.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1973

20.. Did not Jas.F. Elam die in the month of September,1901 ? If not, when did he die?

21..What family did Jas.F. Elam leave at the time of his death ? Answer fully and give the names and ages and sexes of his children?

22.. What property did Jas.F. Elam leave at his death ? Describe the property that he left, both real and personal.

23.. What contract did Jas.F. Elam make in regard to his homeplace during the year 1901 after his return to Dallas County, and prior to his death. Did he rent out his homeplace for ten years and get the rents paid in advance ? Did he not rent it to Bill Staton for the year 1900 and the year 1901?

24... Did not Jas.F. Elam always state that if his health improved in Bandera County that he would return to his home in Dallas County,Texas? When he left Dallas County in 1899 did he not then declare that if his health improved he wouldcome back and would then want his home place back again ?

25...Did Jas.F. Elams wife ever agree to give up her homestead on Jas.F. Elams farm in Dallas County, Texas ?

26.... Did Jas.F. Elams wife ever know that her husband had in anywise abandoned his homeplace in Dallas County and had given it up as him homeplace ?

27...What other home had Jas.F. Elam ever acquired or owned after he rented out his homeplace in Dallas County, Texas, which is in controversy herein? Describe the other homeplace that Jas.F. Elam acquired .

28.. Was the land on which Jas.F. Elam fixed his homestead acquired by you and your husband after your marriage,(and was it community property between you and your husband ?

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1973

29..... At the death of your husband what heirs did he leave?

30... What provisions was made by your husband and yourself for each of your children?

31.... Is it not true that Jas.F. Elam acquired his home-place in Dallas County, where he lived for many years with his family absolutely and by perfect title ? How did he acquire title to his homeplace ?

32... Who has talked to you about your evidence in this case ?

33.. Who has helped you to form your answers in this case ?

34.. Where have you been while answering these questions ?

35... Who has been present while you have been giving your answers?

36.. If you say that Jas.F. Elam abandoned his homeplace in Dallas County and left no homestead at his death, then state exactly how and when he abandoned his homeplace and lost his homestead rights therein ?

37..State all that you know on which you base your statement that Jas.F. Elam abandoned his homeplace and had given it up as a homestead before his death ?

McCormick & Spence Attys for applicant

Mrs Mary E. Elam.

Filed January 14th 1902,

A.S. Jackson, County Clerk,

By S.L. Stewart, Deputy.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

The State of Texas

County of Dallas:----: I, A.S. Jackson, County Clerk of Dallas County, Texas, hereby certify that the above and foregoing is a true and correct copy of Cross interroga tories propounded by Mrs Mary Elizabeth Elam, applicant in the above styled and numbered cause to Mrs Mary Elam a witness for the executor, as the same now appear on file in my office among the original pap ers in said cause.

Given under my hand and seal of office this 14th day of January AD. 1902.

A.S. Jackson, County Clerk, Dallas County, Texas.

By S.L. Stewart Deputy.

In the matter of the Estate

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1973

THE STATE OF TEXAS,
COUNTY OF DALLAS.

Commission to Take Deposition.

To any Clerk of the District Court, Judge or Clerk of the County Court, or any Notary Public in and for the County of Dallas, *State of Texas—GREETING:*

YOU ARE HEREBY AUTHORIZED AND EMPOWERED to cause to come before you Mrs. Mary Elizabeth Elam, a resident of your County, at such time and place as you may appoint; and that you then and there carefully and fully examine her upon her oath, first to be taken before you, touching the annexed Interrogatories:

1. That you reduce her answers, so taken, to writing, in proper form, and cause the same to be subscribed and sworn to by said witness.

2. That you certify, under your hand and seal of office, that said answers were sworn to and subscribed before you.

3. That you seal up in an envelope the answers so taken, together with the annexed interrogatories and this commission, with your name written across the seal.

4. That you endorse on the envelope the names of the parties to this suit, and the name of said witness.

5. That you direct the package to the "Clerk of the County Court of Dallas County, Dallas, Texas."

6. That if said package is sent by mail, the postmaster, or his deputy, shall endorse thereon that he received it from your hands, and sign his name thereto; or, if you entrust it to private conveyance, as provided by the statute, you will apprise the person receiving it that it must be delivered to the Clerk of this Court by himself in person; which evidence, so taken as above, is to be used on the trial of a suit now pending in the County Court of said County of Dallas, ~~wherein~~ In the matter of the Estate ~~plaintiff and~~ of James F. Elam Decd ~~defendant~~.

HEREIN FAIL NOT, but make due return of this writ.

Witness, A. S. JACKSON, Clerk of the County Court of Dallas County, and the seal of said Court, at office in the City of Dallas, this, the 16th day of January A. D. 1902

A. S. JACKSON,
Clerk County Court, Dallas County, Texas.

By L. L. Stewart Deputy.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

(1514)

No. 3097

In the Matter of the
Estate of Jas. F. Elam
Deceased

Commission to Take Deposition

Of Mrs. Mary Elizabeth
Elam

Issued the 14th day of Jany
A. D. 1902

A. S. JACKSON,
Clerk County Court, Dallas County, Texas.

By L. Stewart Deputy.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

Deposition of Mary E. Elam in case of
Mary E. Elam, wife of James F Elam deceased
No 3097 vs W B Elam Executor

1st My name is Mary E. Elam, I am 77 years old. I reside near Elam Station, Dallas County Texas

2nd I was married in 1840 in Newton county Mo. to Wm B. Elam: came to Texas with my husband, Wm B Elam and two children, Artimesa and Isaac in the year 1844

3rd We acquired two ~~acres~~ of land known as the Wm B. Elam Survey in Dallas County Texas and 640 acres of the Jesse Elam Survey.

4th He is dead, he died in 1888, July 11th of that year. He left surviving him myself, Isaac N Elam, A. J. Elam, Artimisa, Gill, California, Ayers, the children of Rosa Brown, ~~George and~~ viz: Josie, Willie, Mattie and Mary Brown, George and Thomas Elam, Wm B. Elam, Mary Seals, deceased, she left one child, John Cook, by her first husband, Margaret Moor, J. J. Elam and James F Elam

5th We made a settlement with all the children named in my answer to fourth interrogatory, Except J. J. Elam and James F Elam

6th On 15th day of August, 1888 I owned my community interest in the undivided ~~of part of the~~ Wm B Elam Survey amounting to about 360 acres, on that day I made

1978

a deed to J.J. Elam and James T. Elam of my community interest in that 360 acres.

7th Love and affection and the premise by them to pay me $200.00 per year during my natural life. I reserved the tenement house, that is the house where me and my husband had made our home for myself. I also retained a vendor's lien on this 360 acres to secure the payment of this $200.00 per year which was to be paid quarterly. I also reserved the right to foreclose the lien and they were to pay all costs and attorney's fees in the event default was made in the payment of said moneys

8th No; neither James T Elam or his heirs ever paid me anything for said land. John J. Elam has always paid his part and complied with his agreement with me

9th No, I have never waived my right or interest in the lands in favor of James T Elam or his heirs

10th In September 1900 James T Elam resided in Bandera County: his wife lived at her mother's Mrs White, at that time in Dallas County

11th At that time his home was in Bandera County Texas

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

12th His residence in Bandera County was not temporary. His intention, as declared to me by him was that he intended permanently to reside in Bandera County as he could not live in Dallas County and that he had been advised by his Doctor to make Bandera County his home.

her
Mary E. x Claus
mark

Sworn to and subscribed before me this the 1st day of February A.D. 1902

Chas. Woodson J.P.
& Ex Officio Notary Public
Dallas County Texas

x 1st Yes — yes

x 2nd I know the tract of land in controversy
Yes the land was community between
myself and Wm B Elam Sr. It was.

x 3rd Yes

x 4th No, he left no will

x 5th The title acquired by them was as I
have stated in answer to direct interrogatory
No 7. Yes James T Elam lived on the
N. W. Corner of it.

x 6th No. He married, I think, in 1894.

x 7th He first lived on South side of this 360
acres, then he moved up to the N. W. Corner.
He lived there untill 1899 when he
and family moved to Bandera County.
Description is the E. half of Wm B. Elam
survey, a tract of land one mile long
by ½ mile wide, with 40 acres on West
side, all under fence. The house three
small rooms, a small stable or barn
with horse lot, with cistern for house

x 8th None except as stated in answer to direct
interrogatory No 7 and the interest he would
have in his fathers estate. I made a deed
to him as before stated in my answer to
No 7 direct. I know this because I was his
mother.

BY THE HALLEN GENEALOGICAL SOCIETY-1978

x 9th About the middle of August 1888. I did. I dont remember. I cannot produce it or give a copy but it is on record in Clerk's office of Dallas County Texas

x 10th My community interest in the balance undisposed of part, of the Wm B Elam survey. You will find the deed as recorded describes the land by metes and bounds. I cannot do so from memory.

x 11th No. James T. Elam never paid me a cent in any way. John J. Elam has paid me all he owes so far, and has paid the same in money and my support from August 1888 down to the present time. The total amount paid by John J. Elam I am unable to give, but he has paid and settled with me each year since I made the deed to him.

x 12th James T. Elam paid me nothing in any way I answered as to John J Elam in answer to cross interrogatory No 11. Each payment or settlement was made by John J. Elam each year and at the home of John J Elam with whom I live

x 13th Yes. He lived there from the time he married until he moved off 1899.

x 14th To all this interrogatory I answer Yes. James T. Elam never paid me anything as the consideration for said place.

x 15th Yes. Yes, to make his home there

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

x16th He returned with his family about the last of August of that year.

x17th It was occupied by a tenant, I know nothing about any contract.

x18th He returned to Bandera County to make his home there, and he was brought back, so I understood, from him, as a witness in the Spring of 1901.

x19th I dont know anything about any contract

x20th Yes.

x21st His wife Lizzie Elam, and his daughter Beula his son, Luther, and another daughter Winnie, Ages not remembered.

x22 I dont know what personal property he left but he did leave his interest in the 360 acres above stated

x23rd I dont know

x24th He did not. No.

x25th I dont know

x26th I dont know

x27th I heard him say he built him a house in Bandera County, and was going to take up 80 acres of school land to live on

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

x28th Yes, the land on which he lived after his marriage was community property, between me and my husband

x29th I have named them all in my answer to No 4 direct interrogatory

x30th He gave all the boys 80 acres apiece except John J. and James T, and all the girls 40 acres apiece

x31st He did not. I have stated how he acquired the interest in this land

x32nd No one.

x33rd No One

x34th At home

x35th The Officer taking the answers

x36th When he moved to Bandera County in 1899 with the purpose, as he declared to me of making his home there.

x37th His physician told him to go so he told me and he further stated that he was not going to live here in Dallas County again but would make his home in Bandera county the remainder of his life

Mary E. x Elam
her mark

Sworn to and subscribed before me this the 1st day of February A.D. 1902

Chas. Woodson J.P.
x Ex Officio Notary Public
Dallas County Texas

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

PLOWMAN & BAKER,
DALLAS, TEXAS

In the matter of the estate of
James F. Elam, deceased.
In the suit of Mary E. Elam,
surviving wife of James F. Elam, dec'd.
No. 3097 vs.
W. B. Elam, Executor.

In the County Court,
Dallas County, Texas.

To Mary E. Elam, or her attorneys of record, McCormick & Spence:-

You will please take notice that five days after service of the accompanying interrogatories, application will be made the Clerk of the County Court of Dallas County, Texas, for a commission to take the depositions of Mary E. Elam, who resides in Dallas County, Texas, which deposition when taken, will be read in evidence by the defendant on the trial of the above entitled cause.

M. T. Conner
Plowman & Baker
Attys. for W.B.Elam, Executor.

Direct interrogatories to the witness Mary E. Elam.

-1-

State your name, age and residence.

-2-

State when and where you were married, to whom you were married, and with whom you came to Texas.

-3-

After you came to Texas, state if you and your husband acquired any property; if so, state what you so acquired.

-4-

If you say you married W. B. Elam, Sr., state whether he is living or dead, and if dead, when he died and who he left surviving him.

-5-

State whether or not you and your husband had any settlement with your children in his lifetime, and if you did not have a settlement with any of them, state with whom you did have a settlement and what did you [illegible]

-6-

TY-1973

On the 15th of August, 1888, what property did you own and what did you do with same, and describe the same as fully as you can.

-7-

If you say you conveyed 360 acres of the W. B. Elam survey to John J. Elam and James F. Elam, state what was the consideration for said conveyance?

-8-

If you say the consideration for said conveyance was love and affection that you bore to your sons, John J. Elam and James F. Elam, and with the distinct understanding and agreement; 1st. That you were to reserve the tenement house on said W. B. Elam survey for your use as a home during your natural life and that John J. Elam and James F. Elam were to keep the same in good state of repair; and 2nd. That the said John J. Elam and James F. Elam were to pay to you the sum of $200 each and every year during your natural life, the said sum of money to be paid you quarterly and for the payment of which a lien was reserved on the lands conveyed; 3rd. That the event default should be made in the payment of any installments, of any of them, then the said John J. Elam and James F. Elam, or their heirs or assigns were to pay all costs and reasonable attorney's fees for the enforcement of the payment of same, which costs and attorneys fees were to be a lien on said land, we ask you to state whether or not said James F. Elam has carried out his contract and agreement with you. State you much has been paid you by James F. Elam or his heirs in consideration of said deed and state whether or not John J. Elam has complied with said agreement and deed.

-9-

State whether or not you have ever waived your right or interest in said lands in favor of said James F. Elam, or his heirs.

-10-

Where did James F. Elam reside on Sept/ 1, 1900, and state where the wife of James F. Elam, Mary E. Elam, resided at that time.

-11-

Where was the home of James F. Elam in September, October and November of 1900.

-12-

If you say he resided in Bandera County, state whether said residence was temporary, or with the intention of returning or not returning

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

to his former residence in Dallas County?

1/8/2

M. T. Lanier

Plemmons & Baker

Attys. for W.B.Flam, Executor.

We have this day rec'd a copy of the within interrogatories, and waive further notice & consent that five days after this date Commission may issue on the foregoing originals & the direct & cross interrogatories filed herein.

Dallas Texas J. Mey 1902

No. 3097.

In re estate of

James J. Hlam, deceased.

Mary E. Hlam

vs.

Wm. Hlam Ex'r

Direct Interrogatories

propounded to witness

Mrs. Mary E. Hlam.

Filed the 8th day of

January 1902

A. R. Rawlins

Clerk

PLOWMAN & BAKER,

Attorneys at Law.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978