

Court's Order Ending Family Allowance To Decedent's Wife Was Reversed Due To A Lack Of Notice To The Wife

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In *In re Estate of Clark*, a trial court entered an order allowing a family allowance for the decedent's wife. No. 02-20-00211-CV, 2021 Tex. App. LEXIS 5685 (Tex. App.—Fort Worth July 15, 2021, no pet. history). After the wife was removed as the administrator of the estate, the court entered another order ending the family allowance. The spouse appealed, arguing that she was never given notice of the trial court's consideration of ending the allowance and other issues. The court of appeals reversed the order because the spouse did not receive notice:

Here, there is no recitation of notice in the order vacating the family allowance. Also, although this is not a default situation, a party had rights—which were established by an order entered months earlier—adjudicated so that they no longer existed. The circumstances before us present a unique situation where a court has entered an order sua sponte that divests Clark of rights provided in an order entered months earlier, and neither the clerk's record nor the order itself provides any suggestion that Clark was given notice that this action might be taken. We conclude that this combination of unique circumstances provides some competent evidence that the county court took its action without notice to Clark.

Id.

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