

PROBATE COURT OF GALVESTON COUNTY, TEXAS
ADMINISTRATION ORDER 2022-7

IT IS ORDERED that the Probate Court of Galveston County hereby adopts the Court Policy regarding pro se applicants (Exhibit "A") and ORDERS that Dwight D. Sullivan, County Clerk of Galveston County, or his designated deputy clerk, shall deliver a copy of this Court Policy to any individuals filing pleadings *pro se*. This order will replace Administrative Order 2011-2.

This Order is effective as of the date it is entered

Signed: December 14, 2022

Kimberly Sullivan
Judge Presiding

FILED
2022 DEC 16 AM 10:18
Dwight D. Sullivan
COUNTY CLERK
GALVESTON COUNTY, TEXAS

GALVESTON COUNTY PROBATE COURT

Galveston County Justice Center
600 59th Street, Suite 2305
Galveston, Texas 77551-4180

Court Policy Regarding “Pro Se” Applicants

People who represent themselves in court are called “pro se” or “self-represented” litigants. You are not required to have a lawyer to file papers or to participate in a case. You have a right to represent yourself. However, a pro se may not represent others. Under Texas law, only a licensed attorney may represent the interests of third party individuals or entities, including guardianship wards and probate estates. See *In re: Guetersloh*, 326 S.W.3d 737 (Tex. App.—Amarillo, 2010) and *Steele v. McDonald*, 202 S.W.3d 926 (Tex. App.—Waco, 2006), and the authorities cited. Therefore, individuals applying for letters testamentary, letters of administration, determinations of heirship, and guardianships of the person or estate must be represented by a licensed attorney. The only time a pro se applicant may proceed in court is when truly representing only himself or herself.

Frequently Asked Questions

Q: What is a pro se?

A: A pro se is an individual who has not hired a lawyer and appears in court to represent himself and no other person or entity.

Q: Can I still serve as an executor, administrator, or guardian even though I’m not a lawyer?

A: Yes. One need not be a lawyer to serve as an executor, administrator, or guardian. **However, the executor, administrator, or guardian must be represented by a lawyer.**

Q: But I’m the only one that needs letters testamentary. As executor, how would I be representing the interests of others?

A: As executor of a decedent’s estate, you don’t represent only yourself. An executor represents the interests of beneficiaries and creditors. This responsibility to act for the benefit of another is known as a fiduciary relationship. It gives rise to certain legal obligations and responsibilities that legal expertise. The lawyer you hire represents you in your capacity as executor and assists you in representing those for whom you are responsible.

Q: If I get the paperwork from a law library or the Internet, can I fill it out and file it? Isn’t that what lawyers do?

A: Lawyers don’t just fill out forms. Lawyers (1) determine what method of probate or guardianship is appropriate in a particular situation, (2) create or adapt any necessary paperwork, and – importantly – (3) advise the client about the ongoing responsibilities of a fiduciary. If you are not a lawyer, you’re creating legal pleadings while acting as a fiduciary would constitute the unauthorized practice of law.

Q: As a pro se, what proceedings **can** I do on my own in Probate Court?

A: In Probate Court or any other court, the only proceedings you can handle as a pro se are those in which you truly would be representing **only** yourself. For example, a pro se applicant may probate a will as a muniment of title when he or she is the sole beneficiary under the will, and there are no debts against the estate other than those secured by liens against real estate. Note, though, that probating a will as a muniment of title is not always a good option even if there are no debts and the applicant is the sole beneficiary. **Whether a muniment of title is the best probate procedure for a particular situation is a legal decision best made by a lawyer.**

As another example, all of a decedent’s heirs may work together without a lawyer to file a small estate affidavit in the limited situations in which a small estate affidavit might be appropriate. For further information, see Texas Estates Code Chapter 205. The complexity of the Code poses many pitfalls for non-lawyers attempting to comply with the requirements for a small estate affidavit. An attorney’s assistance in drafting a small estate affidavit may

prevent the denial of an Affidavit where it would have been an appropriate probate procedure if the Affidavit had been prepared correctly.

Q: What procedures should I follow if I decide to probate a will as a muniment of title as a pro se applicant?

A: As stated above, whether a muniment of title is the best probate procedure for a particular situation is a legal decision best made by a lawyer; Court staff cannot guide you or advise what you should do in your case. If you decide to proceed with your case without a lawyer, the County Law Library has reference materials that may be helpful. If you proceed with an application to probate a will as a muniment of title, note the following:

Must swear no debts. To probate a will as a muniment of title, applicant must be able to swear on personal knowledge that there are no debts against the estate other than those secured by liens against real estate – that includes credit card balances, doctor's bills, utility bills, Medicaid estate recovery claims, etc. – *anything* owed by decedent and not paid off. Anyone falsely swearing that the estate has no creditors is subject to a perjury charge.

Needed documents to be file with the County Clerk's Office:

1. Application to Probate Will as Muniment of Title
2. Original Will
3. Order Probating Will as Muniment of Title (for the Judge to sign)
4. Proof of Death
5. Merp Form
6. Copy of Death Certificate

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