

**BEXAR COUNTY PROBATE COURT
ADMINISTRATIVE ORDER NUMBER 2016-03**

IN RE:	§	IN THE PROBATE COURT
	§	
ADMINISTRATIVE ORDER NO. 2016-03	§	
	§	
	§	BEXAR COUNTY, TEXAS

ADMINISTRATIVE ORDER ON FILE ADMINISTRATION AND FILE MANAGEMENT

The Court finds that there is an inconsistent file management and administration for probate, guardianship and other related cases. Specifically, the court finds that there are multiple claims and causes of action filed as contested matters by and against different parties to probate and guardianship proceedings. The multiple filings within a single cause of action creates confusion and causes additional administrative work on the part of the various parties.

The Honorable Judge Guy Herman, Presiding Judge Statutory Probate Courts of Texas has issued the Presiding State Statutory Probate Judge Administrative Order 2016-01, dated April 5, 2016, amending Administrative Order 2006-14, signed October 23, 2006.

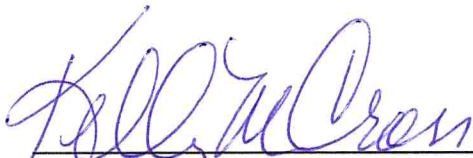
The Statutory Probate Judges of Bexar County have determined that the uniform file administration and file management proceedings adopted by Presiding Judge Statutory Probate Courts of Texas has issued the Presiding State Statutory Probate Judge Administrative Order 2016-01, dated April 5, 2016, amending Administrative Order 2006-14, signed October 23, 2006 would provide efficiency and clarity in the administration of causes in the statutory probate courts and provide for an efficient file management system.

A copy of the uniform file administration and file management proceedings has issued by the Presiding State Statutory Probate Judge in Administrative Order 2016-01, dated April 5, 2016, amending Administrative Order 2006-14, signed October 23, 2006 is attached to this Administrative Order and incorporated by reference as if it was fully set forth verbatim.

IT IS, THEREFORE, ORDERED that the Clerk of Statutory Probate Court Nos. 1 and 2 and all litigants in the Bexar County Statutory Probate Courts shall comply with the file administration and management procedures provided in the Presiding State Statutory Probate Judge Administrative Order 2016-01, dated April 5, 2016, amending Administrative Order 2006-14, signed October 23, 2006

IT IS, THEREFORE, ORDERED that this order shall be effective for all cases and causes of action commenced on or after May 1, 2016.

Signed April 27, 2016.



Judge Kelly M. Cross
Presiding Judge
Bexar County Probate Court No. 1



Judge Tom Rickhoff,
Presiding Judge
Bexar County Probate Court No. 2

**Presiding State Statutory Probate Judge
Administrative Order 2016-01**

Amending Administrative Order 2006-14, signed October 23, 2006

In October 2006, the Statutory Probate Judges of the State of Texas found that there should be uniformity in approach in the file management of cases involving probate and guardianship proceedings throughout the State of Texas, including, but not limited to, the proper classification of ancillary matters and the proper filing and numbering of contested probate and guardianship proceedings.

Therefore, in Administrative Order 2006-14, the undersigned Presiding State Statutory Probate Judge ORDERED that no later than January 1, 2007 the Clerks of all Statutory Probate Courts file all original probate and guardianship proceedings and related matters according to the instructions that were attached to Administrative Order 2006-14 and that the Clerks give to each ancillary probate or guardianship proceeding either (1) an ancillary sub-docket designation of the main cause number with a new alphabetic or numeric suffix or (2) a new cause number linked to the main cause number under a related case filing system.

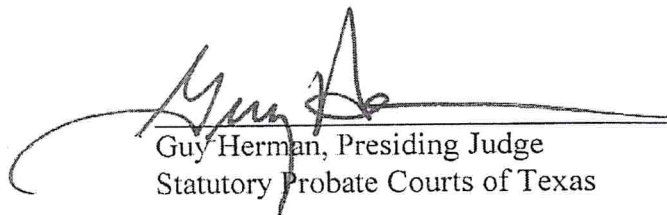
On this day, the undersigned Presiding State Statutory Probate Judge finds there is need to amend Administrative Order 2006-14 to refer to the Texas Estates Code and to increase the clarity of the examples included in those instructions.

It is therefore **ORDERED** that the Clerks of all Statutory Probate Courts shall file all original probate and guardianship proceedings and related matters according to the attached updated instructions and shall give to each ancillary probate or guardianship proceeding either (1) an ancillary sub-docket designation of the main cause number with a new alphabetic or numeric suffix or (2) a new cause number linked to the main cause number under a related case filing system.

At each Court's discretion, any other matter related to a probate or guardianship proceeding may be severed as an ancillary proceeding and given a new sub-docket designation or new, related cause number as indicated above.

Costs, if any, for this filing are waived.

Signed April 5, 2016.


Guy Herman, Presiding Judge
Statutory Probate Courts of Texas

**Instructions for Filing Probate and Guardianship Proceedings,
Related Matters, and Ancillary Proceedings:
Attachment to Presiding State Statutory Probate Judge Administrative Order 2016-01**

Guy Herman, Presiding State Statutory Probate Judge

The purpose of these instructions is to describe which actions should be filed in a principal probate or guardianship file and which other actions are ancillary and should be placed in a new file. While any stage of a probate or guardianship proceeding can be contested, it is usually the contested matters *that bear no direct relationship to the administration of the estate* that are “ancillary” and must be given a new cause number. By way of illustration and not definition, the following lists are examples of matters that belong in the principal file and examples of matters that belong in an ancillary file:

A. Core matters that belong in the principal file (“base case”). Matters that are principally concerned with the administration of the estate are “core” matters and should be filed under the main cause number.

Examples include:

1. Appointment of guardian; probate of will; determination of heirship (with or without request for administration).
After the death of a ward, any probate proceedings must be filed in a new cause and cannot be filed in the guardianship case, whether the ward died testate or intestate.
2. **Contest to will, heirship, administration, or guardianship – *before or after* grant of letters.**
3. **Contest or objection to actions during administration (sales, fees, accountings, etc.).**
4. **Declaratory Judgments to construe/interpret provisions of a will before the will is admitted to probate.**
In a Muniment of Title proceeding, the following actions *must* be filed as part of the base case and heard contemporaneously with the admission of the will to probate: A Declaratory Judgment to construe who the distributees under the will are, and any Heirship Determination to resolve a partial intestacy under the will.
5. An action to construe and interpret provisions of a Testamentary Trust *before* will has been admitted to probate.
6. All claims pursuant to claims-presentation process.
7. Removal of personal representative.
8. §34.001/§1022.007 motions to transfer an ancillary case (but if the transfer comes in, it will go in an ancillary-case file).
9. Release of the Independent Executor pursuant to Estates Code §405.003 (declaratory judgment).

Any of the proceedings described as belonging in the “base case” may be severed as an ancillary proceeding at the court’s discretion. This severance would be appropriate for proceedings that are potentially voluminous, for example.

B. Ancillary matters that belong in a different file with a new cause number (“ancillary case”).

Contested matters that bear no direct relationship to the administration of the probate estate and that would have the possibility of becoming an independently-tried lawsuit (each potentially with its own docket control and discovery schedules, etc.) should be filed in a new cause number.

Examples include:

1. **Declaratory Judgments to construe/interpret provisions of a will after the will is admitted to probate.**
2. An action to construe and interpret provisions of a Testamentary Trust *after* the will has been admitted to probate.
3. Any action involving a Testamentary Trust *other than* construction issues (e.g. removal of a trustee).
4. Intervivos Trust Action (settlor is decedent in probate pending in subject court).
5. All applications to establish a court-created trust (under Estates Code Chapter 1301 or otherwise) must be filed in a new cause number, whether or not the trust is related to a base case.
6. Foreclosure of preferred debt and lien.
7. Actions for the trial of title to land and enforcement of liens thereon.
8. Actions for the trial of right to property.
9. Interpleader actions (funds tendered into registry during administration).
10. Divorces, child custody, paternity actions.
11. Claims such as personal injury claims or suits on a claim that was rejected in its entirety or in part.
12. In addition, a Bill of Review should be filed in an ancillary cause number (even though it has a direct relationship to the administration).