



BEXAR COUNTY PROBATE COURT # 1

Oscar J. Kazen, Judge
Bexar County Courthouse
100 Dolorosa STE 117
San Antonio, Texas 78205-3002

September 10, 2020

Court Policy Regarding “Pro Se” Applicants

Persons who represent themselves before the court are called “pro se” or “self-represented” litigants. You are not required to have an attorney in order to file documents or to participate in a case but the court will hold you to the same standards as it does attorneys practicing before the court. That being said though, a pro se individual may not represent others. **Under Texas law, only a Texas licensed attorney may represent the interests of third party individuals or entities, including wards under guardianship or pending guardianship and probate estates either under a Last Will and Testament or under intestacy** (persons dying without a will). See *In re: Guetersloh*, 326 S.W.3d 737 (Tex. App.-Amarillo, 2010), *Steele v. McDonald*, 202 S.W. 3D 926 (Tex. App. Waco, 2006) and *Estate of Maupin* 13-17-00555-CV, 2019 WL 3331463 (Tex. App.- Corpus Christi-Edinburg), and the authorities cited therein. As a result, individuals who apply for letters testamentary, letters of administration in intestate circumstances, determinations of heirship, and guardianships of the person and estate must be represented by a licensed attorney.

Frequently Asked Questions

Q: What is meant by “pro se”?

A: A pro se is an individual who has not hired an attorney and appears in court to represent themselves and no one else.

Q: Can I still serve as an administrator, executor or guardian even though I am not an attorney?

A: Yes, but the executor, administrator or guardian must be represented by an attorney.

Q: But I’m the only beneficiary under the will and/or all the beneficiaries will agree that I can do this. Isn’t that enough?

A: No, because an executor or administrator represents the interests of not only the beneficiaries but also has a responsibility to the creditors of the estate. That responsibility and the legal obligations it imposes requires the expertise of an attorney who can assist you in fulfilling these responsibilities

Q: But I have seen forms on the internet and other places (forms at office supply stores) that say that these forms are perfectly legal. Why can't I just fill them out and file them? Isn't that what an attorney would do?

A: An attorney does more than just fill out forms. The attorney determines the best course of action in a particular case from many options available, creates the pleadings to be filed with the court and of course advises the client of the continuing obligations and responsibilities that the particular course of action chosen entails.

Q: So what can I, as a pro se individual do in Probate Court?

A: You can, along with all of a decedent's other heirs work together to file a small estate affidavit with the court if a small estate affidavit is the appropriate course of action. You may file contests to Wills or applications for Guardianship or Determinations of Heirship but only on your behalf and not on the behalf of anyone else. You may, if the circumstances permit and subject to the applicable provisions of the Texas Estates Code, file an application for entry into a safe deposit box of a deceased individual. You may, if the circumstances permit and subject to the applicable provisions of the Texas Estates Code, file an application for emergency intervention to obtain funds from a decedent's financial to bury said decedent or gain access to their apartment to retrieve personal belongings of a decedent. Finally, you may, if the circumstances permit, and subject to the applicable provisions of the Texas Estates Code, file an application for probate of a Will as a Muniment of Title (no executor is appointed, no letters are issued and third parties do not always recognize or are willing to honor said order). As to this option, please contact the court's staff attorney at 210 335-0490 or at his email address at mcollins@bexar.org with questions as to its availability for your particular situation.