

2021-1

ADMINISTRATIVE ORDER § IN THE PROBATE COURTS
§
2021-1 § OF
§ DALLAS COUNTY, TEXAS

ADMINISTRATIVE ORDER RESPECTING POLICY
REGARDING LITIGANTS NOT REPRESENTED BY COUNSEL

The undersigned presiding judges of the Probate Courts of Dallas County, Texas, find that additional information and clarification should be provided to litigants not represented by counsel, as well as otherwise be made available for access by the general public. It is therefore

ORDERED, ADJUDGED, AND DECREED that the current information provided to litigants not represented by counsel be and is hereby replaced by the attached Dallas County Probate Courts' Policy Regarding Litigants Not Represented by Counsel (the "Policy"). It is further

ORDERED, ADJUDGED, AND DECREED that the Policy shall be uploaded and replace the information currently provided on the "Pro Se Policy" page of the Dallas County Probate Courts' website. It is further

ORDERED, ADJUDGED, AND DECREED that paper copies of the Policy shall be maintained by the Probate Courts and Probate Clerk's Office to be provided to individuals indicating that they are not represented by counsel and are considering representing themselves in the Probate Courts.

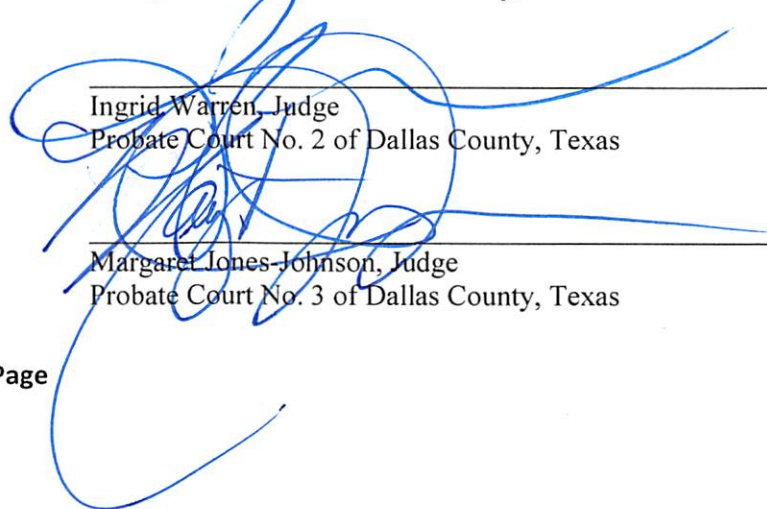
SIGNED 10th day of February, 2021



Brenda Hull Thompson, Judge
The Probate Court of Dallas County, Texas



Ingrid Warren, Judge
Probate Court No. 2 of Dallas County, Texas



Margaret Jones-Johnson, Judge
Probate Court No. 3 of Dallas County, Texas

DALLAS COUNTY PROBATE COURTS
POLICY REGARDING LITIGANTS NOT REPRESENTED BY COUNSEL

General Principles

Generally, only an attorney licensed in the State of Texas may represent a third person or entity in a Texas judicial proceeding. People who represent themselves are called “pro se” or “self-represented” litigants.

In most probate or guardianship cases, an individual who does not have an attorney is not just representing himself or herself, but is attempting to represent another person or persons such as beneficiaries, heirs, creditors, or the estate of another person. Unless the individual is a licensed attorney, representation of others constitutes the unauthorized practice of law and will not be allowed by the Court.

Representation by Counsel Required

An individual is restricted in his or her ability to participate in Court proceedings. An individual must be represented by an attorney if the individual:

- (1) Is applying to serve as an executor or administrator of an estate;
- (2) Is applying for a guardianship for another;
- (3) Wishes to represent a third party, such as a beneficiary, heir, creditor, or estate representative who seeks relief from the Court; or
- (4) In the opinion of the Court, requires counsel.

Permissible Circumstances for Self-Representation

The only time a self-represented person may proceed in Court is when the person is truly representing only himself or herself. The circumstances in which an individual may appear before the Court without counsel are limited, that is, when he or she is:

- (1) A non-corporate creditor of a probate or guardianship estate;
- (2) A non-corporate party in an ancillary civil action;
- (3) A distributee of an estate appearing pursuant to a small estate affidavit or the sole beneficiary of a will offered for probate as a muniment of title;
- (4) A guardian filing an Annual Report of the Person; or
- (5) Otherwise permitted to do so by the Court.

Participation of a self-represented person in any of the foregoing five categories is not automatic, but is still subject to court approval and discretion.

Standards Applicable to Self-Represented Litigants

If an individual is authorized to act pro se in a matter before the Court, he/she is held to the same standards as a lawyer and is subject to the Dallas County Local Rules, Texas Rules of Civil Procedure, Texas Rules of Evidence, and Texas Estates Code. The Rules of Appellate Procedure may also apply in a particular case. The Court will not provide legal advice or guidance to a self-represented individual. Counsel will be appointed for litigants only where mandated by state law, for example, in guardianship, trust, and mental health proceedings. The Court does not appoint counsel for litigants because of indigency.

Self-represented litigants must provide their current addresses, telephone numbers, and email addresses so that Court personnel and opposing counsel can reach them. Failure to accept delivery or pick up mail addressed to an address provided by a self-represented litigant is considered constructive receipt of the mailed or delivered

document and may be proved by a postal service receipt for certified or registered mail or comparable delivery document.

Immediately upon filing any document with the Court, a pro se litigant is required to provide copies of such document to all other parties or to their attorneys if the parties are represented by counsel.

Frequently Asked Questions

Q: What is the definition of “pro se”?

A: A pro se litigant is an individual who has not hired a lawyer and appears in Court to represent himself or herself and no other person or entity. “Pro se” is a Latin phrase meaning “for oneself.”

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

A: Yes. A person does not have to be a lawyer to serve as an executor, administrator, or guardian. **However, a lawyer must represent the executor, administrator, or guardian.**

Q: But I’m the only one that needs letters testamentary or letters of administration. As executor or administrator, why would I represent the interests of others?

A: As executor or administrator of a decedent’s estate, you don’t represent only yourself. An executor or administrator 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 require legal expertise. The attorney you hire represents you in your capacity as executor or administrator 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: You can file documents. The Probate Clerk will allow you to do that. Lawyers, however, 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 (3) advise the client about the ongoing responsibilities. Unless you are a lawyer, your action of creating legal pleadings while acting as a fiduciary would constitute the unauthorized practice of law. You might end up filing the wrong documents.

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

A: The only proceedings you can handle as a pro se are the ones listed on the first page of this policy. Certain requirements must be satisfied in connection with a small estate affidavit or will offered for probate as a muniment of title. A checklist for small estate affidavits may be found at the “Probate Court Forms” tab at the Dallas County Probate Courts Internet page: <https://www.dallascounty.org/government/courts/probate/>

Q: If I would like to obtain a lawyer’s legal assistance in a probate or guardianship matter for free or at a reduced rate and/or would like to access law books and other legal resources, where do I go for help?

A: Court staff cannot guide you or advise what you should or should not do in your case. Various agencies and organizations exist, however, that are available to help citizens pursue legal remedies. Each agency handles specific types of cases, but together they provide a wide range of services, including advocacy, dispute mediation, and referrals. Minimal fees apply in some instances. You might like to contact them. Attached as Attachment A is a list of ones that help in probate and guardianship matters. Links are also provided for additional resources for self-help litigants.

ATTACHMENT A
POTENTIAL SOURCES OF LEGAL ASSISTANCE IN PROBATE AND GUARDIANSHIP MATTERS

Agencies and Offices

Legal Aid Society of Northwest Texas
(For qualified low-income people)
1515 Main Street
Dallas, Texas 75201
Phone: (214) 748-1234

or

Legal Aid Pro Se Assistance
(Legal advice only; Income limits apply)
5th Floor, George L. Allen, Sr., Courts
Building, Suite 575
600 Commerce Street
Dallas, Texas 75202
Phone: (214) 653-6102

Dallas Volunteer Attorney Program ("DVAP")
(For qualified low-income people)
1515 Main Street
Dallas, Texas 75201
Phone: (214) 748-1234

Dallas County Law Library
(Books and legal resources)
George L. Allen, Sr., Courts Building
600 Commerce Street, 2nd Floor
Dallas, Texas 75202
Phone: (214) 653-7481

UNT College of Law Community
Lawyering Center
(For qualified low-income people)
Downtown at City Walk
511 N. Akard, Suite 102
Dallas, Texas 75201
Phone: (214) 855-7892

or

Frazier
4716 Elsie Fay Heggins Street
Dallas, Texas 75210
Phone: (469) 351-0024 or (469) 351-0025

SMU Legal Clinics
(Income-based services for Dallas
County residents)
3315 Daniel Avenue
Dallas, Texas 75205
Phone: (214) 768-2562

Dallas Bar Association Lawyer Referral Service
(Referrals to lawyers, including reduced fee panel)
2101 Ross Avenue
Dallas, Texas 75201
Phone: (214) 220-7444

Potentially Helpful Links

Supplemental Instructions for Self-Represented (Pro Se Litigants):
www.txcourts.gov/media/658799/SupplementalInstructionsForSRLs.pdf

Self-Help:
www.txcourts.gov/programs-services/self-help/

Texas Law Library:
<https://www.sll.texas.gov>

Pro Se Litigant Guide (for appellate process):
<https://www.txcourts.gov/media/752166/Pro-Se-Litigant-Guide.pdf>

Information regarding the Fifth District Court of Appeals (Dallas):
www.txcourts.gov/media/1443148/5th-court-of-appeals-iop.pdf

Medicaid Recovery:
<https://hhs.texas.gov/laws-regulations/legal-information/your-guide-medicaid-estate-recovery-program>