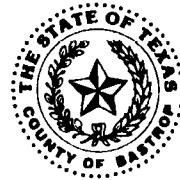


BASTROP COUNTY COURT AT LAW



BENTON ESKEW
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County Policy Regarding “Pro Se” Applicants (Applicants without an Attorney)

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 in court. You have a right to represent yourself. **However, a pro se litigant 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 Steele v. McDonald, 202 S. W. 3d 926 (Tex. App.- Waco, 2006), and the authorities cited in that opinion. Therefore, individuals applying for guardianship of the person or estate and any filings after an estate has been established (i.e. Inventory, Appraisement and List of Claims, etc.) 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 litigant?
A: A pro se litigant 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 counsel, including filing an Inventory, Appraisement and List of Claims.**

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 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 and assists you in representing those 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 (3) advise the client about the ongoing responsibilities of a fiduciary. Unless you are a lawyer, you are creating legal pleadings while acting as a fiduciary which would constitute the unauthorized practice of law.

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

A: 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. This procedure can be a viable option in some situations but not in others. You may represent yourself in probate procedures until an estate is established. For example, once letters have been issued, you cannot finish up the case by filing your own Inventory, Appraisement and List of Claims. You would need to have this part filed by a lawyer.

Q: What procedures should I follow if I want to probate a will?

A: The correct type of 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 an attorney, you will need to research the requirements and draft all the documents that your lawyer typically would. Court staff can give you information about procedural requirements, but you will need to create all documents.