

Judge Win Graham

Young County Constitutional County Court
Young County Courthouse
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Court 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, *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 *Steele v. McDonald*, 202 S. W. 3d 926 (Tex. App. - Waco, 2006), and the authorities cited in that opinion. 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 *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 counsel.

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 you 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 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 (3) advise the client about the ongoing responsibilities of a fiduciary. Unless you are a lawyer, your 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?

A: 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. 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 properly.

Young County requires the assistance of an attorney for all other probates, including a muniment of title.



Win Graham, Presiding Judge
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Young County, Texas