

BEXAR COUNTY PROBATE COURT NO. 2

Judge Veronica Vasquez
Bexar County Courthouse, Room 123
100 Dolorosa
San Antonio, Texas 78205



January 20, 2019

Court Policy Regarding how do you get documents to the Court for review and how do you set matters for hearing?

See below and the next page for the typical procedures for getting pleadings or proposed orders to the Court for review in the following situations:

1. Procedures for all will prove-ups. See #1 below.
2. Procedures for heirships. See #2 below.
3. Procedures for all will prove-ups more than four (4) years after Decedent's death or for copies of wills. See #3 below.
4. Procedures when you think a proposed order can be signed without a hearing. See #4 below.
5. All other procedures. See #5 below.

1. Procedures for all will prove-ups

It is the Court's policy to review, before the hearing, documents for probate prove-up hearings – not only for uncontested-docket hearings, but also for most regular-docket probate prove-ups. By reviewing documents in advance, the Court can ensure that hearings go more efficiently for participants who are already dealing with the stress of someone's death. Attorneys also benefit from smoother hearings and can avoid having errors pointed out to them in front of their clients. Additionally, some errors may not be cured on the day of the hearing and the Court prefers not want to waste the Attorney and their client's valuable time. Because the Court hears numerous probate prove-ups every week, we ask that you help by submitting documents timely, which will enable us to review the file and get back to you timely.

1. Do when you e-file the application.

- Along with your application (with exact title), e-file a copy of the will, proof of death and other facts, oath (with exact title), order (with exact title), and additional documents for wills that are not self-proved (if applicable). If not, and your matter is assigned to Probate Court No. 2, the Clerk will notify that you will need to e-file such documents.
 - For a muniment of title, e-file a copy of the will, proof of death and other facts (include testimony about no debts and medicaid), and order (with exact title)
- Deliver the Decedent's original death certificate to the Clerk's Office along with the original Will. If you do not have the death certificate yet, please bring with you to the hearing.
- Make sure your application has the exact title. If you are probating a will more than four years after the decedent's death, a copy of a will, or codicil(s), make sure that is included in your title. If more than one codicil exists, be specific in your title.

2. Do within 3 business days after e-filing application to probate a Will.

- TRCP Rule 21(f)(12) *requires* that any original Will *must* be physically filed in the Clerk's office within three business days after the application is electronically filed.

3. Do before your probate prove-up hearing.

E-file everything else the Estates Code or the Court requires before an order can be signed. For example:

1. Hearing documents if not e-filed when the application was first e-filed (earlier definitely preferable, but no later than 3 days before your hearing)
2. Declinations of executors with priority
3. Consents or waivers (for example, if the Will does not name an independent executor without bond)
4. Appointments of resident agents
5. Deposition answers

4. Day of the hearing

Do not forget to bring the following: proof of reason other executors with priority cannot serve (e.g., death certificate, letter from physician, signed/notarized declination, etc.)

The uncontested probate docket for Probate Court No. 2 is Monday at 2:00pm, unless the Monday falls on a holiday, in which case the hearing will be heard the following day that the Courthouse is open. If you cannot appear on the date provided to you by the Clerk's office upon filing of your application, you can attend any Monday thereafter; however, it is helpful to call the Court so that they can have the file ready on the date you anticipate attending.

2. Procedures for Heirships

1. Do when you e-file the application.

Follow the instructions in item #1 above for those items that apply. Make sure you file a separate motion and order to appoint an attorney ad litem. **Note:** The Court will not appoint an attorney ad litem until the citation by publication is returned to the Court.

2. Do before your hearing.

E-file everything else the Estates Code or the Court requires before an order can be signed. For example:

1. Service of citation on – or waiver from – all non-applicant heirs and other persons requiring notice under Texas Estates Code § 202.008.
2. Consents from all heirs if seeking independent administration.
3. Affidavit of citation by publication. (Clerk prepares citation; you publish and then file affidavit, if not filed by the publisher.)
4. Section 202.057 affidavit or certificate
5. Attorney ad litem report
6. Call the court coordinator to get a hearing date set for this docket.

3. Day of the hearing.

The Court requires the applicant and witnesses attend the hearing. If any of the witnesses cannot attend, please see Texas Estates Code § 202.151. **The uncontested heirship docket for Probate Court No. 2 is Monday at 3:00pm, unless the Monday falls on a holiday, in which case the hearing will be heard the following day that the Courthouse is open. You will need to call the Court Coordinator to obtain a setting.**

3. Procedures for all will prove-ups more than four (4) years after Decedent's death or for copies of wills

1. Do when you e-file the application.

In addition to the requirements in item #1 above, make sure your application has the exact title. For example, if you are attempting to probate a will as muniment of title more than four years after the decedent's death you will need to make sure the title of the application and all hearing documents reflect such. If you are probating a copy, that needs to be in the title as well and in all corresponding hearing documents.

2. Do before your hearing.

E-file everything else the Estates Code or the Court requires before an order can be signed. For example:

1. Service of citation on – or waiver from – all non-applicant heirs and other persons requiring notice under Texas Estates Code § 258.051
 - a. If the address of any of the testator's heirs cannot be ascertained by the application with reasonable diligence, § 258.052 requires the court to appoint an attorney ad litem to protect the interests of the unknown heirs. *Make sure you file a separate motion and order to appoint an attorney ad litem.*
2. Service of citation on – or waiver from – all non-applicant beneficiaries and other persons requiring notice under Texas Estates Code § 258.053
3. Call the court coordinator to get a hearing date set for this docket.

3. Day of the hearing.

Matters involving applications for probate more than four years after the decedent's death, copies of a will, or in other matters where the Court requests a special setting the Court will hear these cases Tuesday at 2:00pm, unless the Tuesday falls on a holiday, in which case the hearing will be heard the following second day that the Courthouse is open. You will need to call the Court Coordinator to obtain a setting.

4. Procedures when you think a proposed order can be signed without a hearing

When you file a pleading, you need to e-file a proposed order using the procedures set out immediately below. If you don't e-file a proposed order, the Court may not know the pleading has been filed.

- E-file in the same e-filing envelope both (1) the motion/application that seeks to have the Court sign an order and (2) the proposed order. You may file an additional copy of the order for conforming, but you will need to make that note on the order.
- If the Court needs to change an order, the Court may later ask you to email the proposed order to the Court.

When Can an Order Be Signed Without a Hearing?

There is no comprehensive list of orders that can be signed without a hearing, nor is there a comprehensive list of orders that can never be signed without a hearing. For example, even if it's a type of pleading that can usually be acted on without a hearing, the Court will require a hearing if someone has filed an objection to the pleading.

5. All other procedures

If you are unsure regarding the requirements to set a hearing, please call the court coordinator.