

MONTGOMERY COUNTY RULES OF ADMINISTRATION FOR PROBATE CASES

Purpose

The primary purpose of the Rules of Administration for Probate Cases is the management of the court dockets sensibly, efficiently and fairly. These rules are to be an aid to the just disposition of cases without unnecessary delay or expense.

Authority

These Rules of Administration for Probate Cases are made pursuant to Texas Government Code Section 74.093, Rule 10 of the Texas Rules of Judicial Administration and Texas Rules Civil Procedure Rule 3a.

Definitions

“Board of Judges” shall be comprised of the Judges of the District Courts and the Judges of the County Courts of Law of Montgomery County.

“Probate Trial Judges” shall mean those Judges who preside over the County Courts of Law of Montgomery County and who, pursuant to the then current orders of assignment as referenced in Rule 2.1 and Rule 2.2, regularly receive more than 25% of the probate cases (not including mental health cases and Chapter 48 removals).

Rule 1

General

1.1 These rules shall be applicable to all probate cases filed in the County Courts at Law of Montgomery County. These Rules and their subparts are adopted in order to achieve the time standards of Rule 3 of the SECOND ADMINISTRATIVE JUDICIAL REGION OF TEXAS REGIONAL RULES OF ADMINISTRATION and Rule 6 of the Supreme Court Rules of Judicial Administration, as well as to meet the requirements of Rules 7, 9, and 10 of the Supreme Court Rules of Judicial Administration.

1.2 Each numbered or lettered paragraph of these Rules of Administration for Probate Cases shall be considered to be separate and distinct from all other portions hereof. If any portion should be declared by a higher court to be improper, such declaration will not affect any other portion not declared to be improper.

Rule 2
Exchange of Cases

The courts may at any time exchange cases and benches to accommodate their dockets or to expedite the court's trials.

Rule 3
Previous Judgments or Filing

Any claim for relief based upon a previous judgment shall be assigned to the court in which the case is currently filed that contains the previous judgment.

Rule 4
Consolidation of Cases

4.1 A motion to consolidate cases shall be heard in the court where the lowest numbered case is pending. If the motion is granted, the consolidated case will be given the number of the lowest numbered case and assigned to that court.

Rule 5
Severance

5.1 Unless otherwise specified in the order of severance, if a severance is granted, the new case will be assigned to the court where the original case is pending and the clerk of the court will assign a new file date and a new cause number to the now severed case upon payment of all clerk fees by the party which sought the severance.

5.2 A severance order which is granted remains interlocutory and subject to being vacated, even if a new case is created because a severance is conditionally filed, unless and until any applicable clerk's filing fees are paid by the party requesting the severance.

Rule 6
Presiding For Another Judge

6.1 In all cases where a judge presides for another court, the case shall remain pending in the original court; however, the judge of the court shall file a designation of presiding judge in the matter and the clerk of court shall reflect the name of the presiding judge in the case filing system.

6.2 If the Board of Judges has established an on call judge system, and if the judge to whom a case is assigned is not available to consider an emergency or exigent matter, then the litigant may take the matter to the on call judge. The calendar for the on call judges is on the Office of Court Administration website and is updated quarterly.

Rule 7
Fair Distribution of Cases

The Administrative County Court at Law Judge may transfer cases between County Courts at Law if he/she finds that a court has an inequitable burden due to illness, complex litigation, trial schedule, or other sufficient reasons.

Rule 8
Clerk Transfer of Cases

8.1 The Probate Trial Judges recognize that at times a case may be misfiled by the District Clerk or County Clerk to the wrong Court, contrary to Statute, Local Rules, Case Allocation Orders, Standing Orders or any other such Administrative Orders issued by the Board of Judges. If citation in the misfiled case has not issued, the County Clerk shall automatically transfer any such misfiled cases to the proper Court in accordance with the proper statute, rule, or order.

Rule 9
Docket Control & Citations

9.1 Each court may generate docket control orders including such deadlines as the Court issuing the docket control order deems appropriate for the case.

9.2 Each court may hold dismissal dockets as the court in its discretion deems necessary.

9.3 In each case where a will is offered for probate, service shall be in the identical name of the deceased contained in the will. In addition, all information on the citation shall be accurate.

9.4 In addition to all requirements of law for sale of property, the requirement for posting of citation on the application shall be met when the document has been posted for 10 days.

9.5 Each attorney of record, except ad litem attorneys, remains attorney of record until the case is closed, unless allowed to withdraw by order of the court.

Rule 10
Hearings on Pre-Trial Motions

10.1 Contested motions and responses shall be in writing and shall be accompanied by a proposed order granting or denying the relief sought. The proposed order shall be a separate instrument.

10.2 Movant shall schedule with the court a date and time for consideration of the motion. Movant shall serve written notice on all parties of the date and time of consideration as well as whether the consideration will be via oral or submission hearing.

10.3 Responses shall be in writing. Responses shall be filed at least 24 hours before the date and time of consideration by the court, unless leave for late filing is granted by the court. Leave is assumed granted if the Court rules without further setting on the motion.

10.4 Unless the law and/or the Texas Rules of Civil Procedure require an oral hearing, it is in the sound discretion of the court whether to set a motion for submission or a hearing.

Rule 11
Guardians Ad Litem and Attorneys Ad Litem

11.1 A guardian *ad litem* or attorney *ad litem* wishing to apply to the Court for fees shall in addition to making an appropriate fee request file with the Court the Court promulgated order form when requesting fees of \$1,000.00 or more.

Rule 12
Alternate Dispute Resolution and Mediation

12.1 In order to encourage the early settlement of disputes and to carry out the responsibilities of the courts, the Probate Trial Judges strongly encourage the use of appropriate alternative dispute resolution procedures.

12.2 The courts encourage mediation in order to facilitate the settlement of disputes and litigation. It is in the sound discretion of the court when and whether to order mediation. A personal appearance by each party and their attorney (if represented) is required at mediation unless otherwise indicated by leave of court.

Rule 13
Entry of Final Orders

In the event that the court renders an oral final order, the prevailing party shall prepare a written final order complying with the court's ruling and file the order by the date of entry. The party preparing the order shall attempt to obtain approval as to form from the opposing counsel or *pro se* litigant. Unreasonable refusal to approve such an order may result in sanctions imposed by the court *sua sponte*.

Rule 14
Adoption, Approval and Amendment of These Rules of Administration for Probate Cases

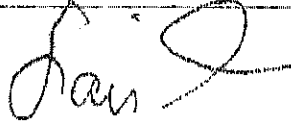
14.1 These Rules of Administration for Probate Cases are adopted by the Probate Trial Judges for all purposes. Upon the signature of the Judge of Second Administrative Region and a majority of Probate Trial Judges these Rules of Administration for Probate Cases shall become effective immediately after posting in conformity with Texas Rule of Civil Procedure 3a, and so long thereafter until amended, repealed, or modified.

14.2 These Rules of Administration for Probate Cases may be amended, repealed, or modified by a vote of ½ of the Probate Trial Judges.

14.3 The County Clerk are directed to record these Rules of Administration for Probate Cases in the Probate Minutes of all of the County Courts at Law of Montgomery County, Texas, and all additional County Courts at Law thereafter created.

14.5 The County Clerk are directed to furnish a copy of these Rules of Administration for Probate Cases to the Supreme Court of Texas pursuant to Rule 3 (a) of the Texas Rules of Civil Procedure.

These Montgomery County Rules of Administration for Probate Cases for the County Courts at Law of Montgomery County, Texas are adopted and approved this the 7th day of December, 2022.

A handwritten signature in cursive script, appearing to read "Claudia Laird".

JUDGE CLAUDIA LAIRD, PRESIDING JUDGE
COUNTY COURT AT LAW NUMBER TWO