

**Presiding State Statutory Probate Judge  
Administrative Order 2006-14**

WHEREAS it has been brought to the attention of the Presiding Statutory Probate Court Judge that the lack of uniformity of the file management of probate and guardianship proceedings by the County Clerks of the Statutory Probate Courts of Texas has caused difficulties and confusion for litigants and lawyers in some counties; and

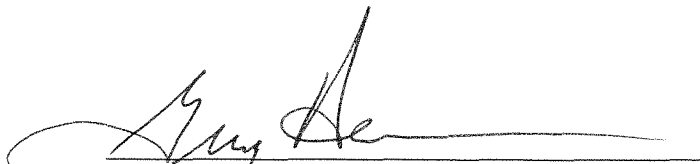
WHEREAS the Statutory Probate Judges believe there should be uniformity in approach in the file management of cases involving probate and guardianship proceedings including, but not limited to, the proper classification of ancillary matters and the proper filing and numbering of contested probate and guardianship proceedings;

It is therefore **ORDERED** that no later than January 1, 2007, the Clerks of all Statutory Probate Courts shall file all original probate and guardianship proceedings and related matters according to the attached instructions and shall give to each ancillary probate or guardianship proceeding either (1) an ancillary sub-docket designation of the main cause number with a new alphabetic or numeric suffix or (2) a new cause number linked to the main cause number under a related case filing system.

At each Court's discretion, any other matter related to a probate or guardianship proceeding may be severed as an ancillary proceeding and given a new sub-docket designation or new, related cause number as indicated above.

Costs, if any, for this filing are waived.

Signed on the 23rd day of October 2006.

  
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Guy Herman, Presiding Judge  
Statutory Probate Courts of Texas

**Instructions for Filing Probate and Guardianship Proceedings,  
Related Matters, and Ancillary Proceedings:  
Attachment to Presiding State Statutory Probate Judge Administrative Order 2006-14**

Guy Herman, Presiding State Statutory Probate Judge

The purpose of these instructions is to describe which actions should be filed in a principal probate or guardianship file and which other actions are ancillary and should be placed in a new file. While any stage of a probate or guardianship proceeding can be contested, it is the contested matters *that bear no direct relationship to the administration of the estate* that are “ancillary” and must be given a new sub-docket designation or new, related cause number. By way of illustration and not definition, the following types of actions may be considered as belonging either in the principal file or in an ancillary file:

**A. Core matters that belong in the principal file.** Those matters that are principally concerned with the administration of the estate are “core” matters and should be filed under the main cause number.

- Examples:**
1. Probate of wills, issuance of letters testamentary, administration, and guardianship
  2. Determination of heirship
  3. **Contest to will, heirship, administration, or guardianship (before or after grant of letters)**
  4. **Contest or objection to actions during administration (sales, fees, accountings, etc.)**
  5. Construction and interpretation of wills and testamentary trusts
  6. All claims pursuant to claims-presentation process
  7. Removal of personal representative
  8. § 5B/§ 608 motions to transfer an ancillary case (but if the transfer comes in, it will go in an ancillary-case file)
  9. Heirship determination with a guardianship or dependent administration
  10. Release of the Independent Executor pursuant to 149E (declaratory judgment)
  11. Heirship determination or declaratory judgment as part of a Muniment of Title proceeding
  12. Testamentary Trust Action involving court interpretation or construction of the trust

As noted in the related Order, any of the proceedings described as “core matters” may be severed as an ancillary proceeding at the court’s discretion. This severance would be appropriate for proceedings that are potentially voluminous, for example.

**B. Ancillary matters that belong in a different file with an ancillary or related-case designation.** Those contested matters that bear no direct relationship to the administration of the probate estate and that would have the possibility of becoming an independently-tried lawsuit (each potentially with its own docket control and discovery schedules, etc.).

- Examples:**
1. Foreclosure of preferred debt and lien
  2. Actions for the trial of title to land and enforcement of liens thereon
  3. Actions for the trial of right to property
  4. Testamentary Trust Actions other than construction issues
  5. Intervivos Trust Action (settler is decedent in probate pending in subject court)
  6. Declaratory Judgments *after* will admitted to probate
  7. Interpleader actions (funds tendered into registry during administration)
  8. Divorces, child custody, paternity actions
  9. Claims such as personal injury claims or suits on a claim that was rejected in its entirety or in part