

**Administrative Order**

**2019-1**

§  
§  
§  
§  
§  
§

**In the Probate Courts**

**of**

**Harris County, Texas**

**Administrative Order Regarding Electronic Filing and  
the Filing of Copies of Wills for the Probate of Wills not Producing in Court**

**I. FINDINGS**

**A. Rules and Previous Orders**

1. On December 13, 2013, the Supreme Court of Texas adopted new Texas Rule of Civil Procedure (TRCP) 21(f) regarding Electronic Filing, effective January 1, 2014.
  - a. Rule 21(f)(1) provides: "Except in juvenile cases under Title 3 of the Family Code, and truancy cases under Title 3A of the Family Code, attorneys must electronically file documents in courts where electronic filing has been mandated. Attorneys practicing in courts where electronic filing is available but not mandated and unrepresented parties may electronically file documents, but it is not required."
  - b. Rule 21(f)(4)(A) provides: "Wills are not required to be filed electronically."
  - c. Rule 21(f)(9) provides: "Unless required by a local rule, a party need not file a paper copy of an electronically filed document."
  - d. Rule 21(f)(12) provides: "When a party electronically files an application to probate a document as an original will, the original will must be filed with the clerk within three business days after the application is filed."
2. On May 1, 2019, the judges of all four Harris County Probate Courts signed and adopted the *Third Amended Administrative Order Regarding the Texas Supreme Court's Adoption of Mandatory E-Filing and Texas Rules of Civil Procedure 21c*, amending Administrative Order 2014-1.

**B. Need to Update Rules**

3. The Harris County Probate Courts find that there is need for a new administrative order supplanting Administrative Order 2014-1 to update and clarify the local rules for electronic filing.

### **C. Filing of Applications to Probate a Will**

4. **Original Wills.** Pursuant to Rule 21(f)(12), the Harris County Probate Courts will require that the original will sought to be admitted to probate be filed with the Clerk within three business days after the application to probate the will is filed. Because the Court must have time to inspect the will prior to a hearing, parties will not be permitted to set a hearing unless the original will is on file with the clerk.

5. **Wills not Producible in Court – Physical Copy.** Pursuant to Rule 21(f)(9), the Harris County Probate Courts find that there is need for an administrative order requiring that any physical (non-digital) document purporting to represent the contents of a lost will and being offered for probate be physically filed in the Harris County Clerk's office within three business days after the application is electronically filed. The courts are obligated and must have an opportunity to properly inspect and evaluate such document purporting to represent the contents of a lost will.

a. The electronically filed Application to Probate a Will Not Producible in Court (lost will) shall include a copy of the document purporting to represent the contents of a lost will for two primary reasons: 1) to enable the application to be posted with a copy of the document to avoid confusion regarding the posting date; and 2) to enable the clerk to match up the physically filed document with the copy of such document that accompanied the application and confirm that the application goes with the correct document.

b. The Harris County Probate Courts will not permit the applicant for the probate of a lost will to schedule a hearing until the physical document purporting to represent the contents of a lost will has been filed with the Harris County Clerk.

6. **Wills not Producible in Court – Digital Copy.** When applying to probate a digital copy of a document purporting to represent the contents of a lost will, the application shall state that the document relied upon is a digital copy and no physical copy exists. The applicant shall file the digital copy in a format complying with Rule 21(f)(8) with the electronically filed Application to Probate a Will Not Producible in Court. The Applicant will not be required to file the original digital file with the Clerk.

### **D. Updated Electronic Filing Rules for Harris County Probate Court 1**

7. Beginning July 1, 2019, all proposed orders, and all documents to be signed by applicants or witnesses such as the Proof of Death and Other Facts, Statement of Witness, Oaths, etc. may be filed electronically in Probate Court 1. Probate Court 1 has the ability to show documents to applicants and witnesses and capture their signatures electronically.

## II. ORDERS

### A. Filing of Original Will with the Harris County Clerk

8. IT IS THEREFORE ORDERED that when a party electronically files an application to probate an original will, a copy of such will shall be filed electronically along with the application. The original will shall be filed with the Harris County Clerk within three business days after the application is filed. The appropriate probate court will allow the applicant to schedule a hearing only after the original will has been filed with the clerk.

### B. Filing of Copy of Will not Produced in Court

9. **Filing Requirement.** IT IS FURTHER ORDERED that when a party electronically files an application to probate a lost will or a will not producible in court, a copy of the document conforming to Rule 21(f)(8) purporting to represent the contents of such lost will shall be electronically filed along with the application.

10. **Physical Copy.** IT IS FURTHER ORDERED that if the copy relied upon is an existing physical copy, then that same physical copy shall be filed with the Harris County Clerk within three business days after the application is filed. The appropriate probate court will allow the applicant to schedule a hearing only after such document purporting to represent the contents of such lost will has been filed with the clerk.

11. **Digital Copy.** IT IS FURTHER ORDERED that if the document relied upon in an application to probate a lost will or will not producible in court is a digital copy, the Application shall state that the copy of the will exists only in digital format and that the applicant is not relying upon an already existing physical copy. The applicant shall not be required to file the digital file containing the copy of the will.

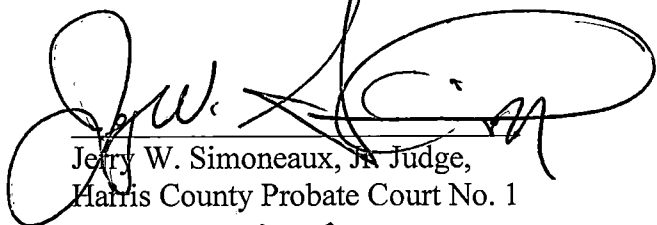
### C. Uncontested Probate Hearings in Probate Courts 2, 3, and 4

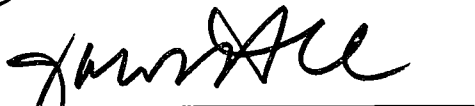
12. IT IS FURTHER ORDERED that effective immediately, the following original documents shall be presented on the date of the hearing in an uncontested probate matter to the judge in Probate Courts 2, 3, and 4: Order Probating Will or Appointing Administrator, Judgment Declaring Heirship, Proof of Death and Other Facts, Statement of Facts, Proof by a Subscribing Witness, Oath of Personal Representative;


### D. All Matters Filed in Probate Court 1

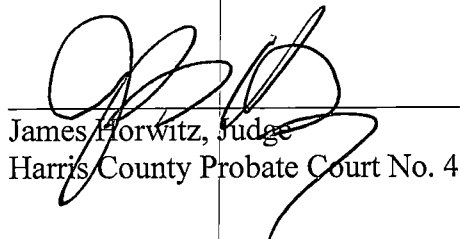
13. IT IS FURTHER ORDERED THAT, effective July 1, 2019, all proposed orders for all matters and all documents to be signed in court, including Proof of Death and Other Facts, Statement of Facts, Proof by a Subscribing Witness, and the Oath of Personal Representative in Probate Court 1 may be filed electronically pursuant to TRCP 21(f). These orders and documents may also be brought to Court for signing manually.

Signed this 4 day of June, 2019

  
Jerry W. Simoneaux, Jr. Judge,  
Harris County Probate Court No. 1

  
Jason Cox, Judge  
Harris County Probate Court No. 3

  
Michael Newman, Judge  
Harris County Probate Court No. 2

  
James Horwitz, Judge  
Harris County Probate Court No. 4

  
OLIVIA  
COUNTY CLERK  
HARRIS COUNTY, TEXAS

2019 JUN -5 PM 2:44

FILED