

LOCAL RULES OF PROCEDURE
AND
RULES OF DECORUM
FOR
THE JUSTICE OF THE PEACE COURTS
GRAYSON COUNTY, TEXAS

REVISED 10/28/2016

GENERAL

1.1 Objective.

These rules are promulgated to provide a uniform system for the fair, impartial and prompt disposition of matters before the Justice Courts of Grayson County. They are to be interpreted consistent with this objective.

1.2 Scope.

These rules govern cases filed in the Justice Courts of Grayson County, Texas. They are promulgated pursuant to Section 27.061 of the Texas Government Code.

1.3 Jurisdiction.

The Justice Courts of Grayson County hear:

- (a) Civil cases in which the amount in controversy is \$10,000.00 or less.
- (b) Eviction cases, both residential and commercial, include writs of re-entry and order of retrieval .
- (c) Administrative hearings involving revocation of driver's licenses, concealed handgun permits, etc.
- (d) Criminal offenses which are fine only, both traffic and Class C.
- (e) Cases involving animal cruelty and neglect.
- (f) Peace Bonds

1.4 Organization.

Each Justice Court in Grayson County has a specific geographical area of jurisdiction. Each court has its own clerks responsible for setting cases on the individual docket of the court.

1.5 Calendar.

Each Justice Court will keep a docket of scheduled hearings and trials. A weekly docket shall be available to the public for each week's proceedings. The elected judges will generally be available as indicated by these rules and the calendar. However, when a judge is on vacation, at a judicial or educational conference, or has medical or dental needs, it is the policy of the Justice Courts to obtain a visiting judge, whenever possible, so that there will be no interruption in the work of each court.

1.6 Jury Selection.

The Justice Courts utilize the electronic method of selecting names of persons assigned for jury service. Jury impaneling is conducted in cooperation with the District and County Courts. Questions about the jury impaneling process and jury service may be addressed to the jury office at 903-813-4326

1.7 EfileTexas and EfileTexas Self help

FILE YOUR COURT CASE ON THE INTERNET

- (a) If you are representing yourself in court, you can now create and file many court forms using the EFile Texas Self- help website. This website can help you prepare legal documents. Like popular tax preparation software, you will be guided through a series of questions. Your answers will help automatically prepare and file your court forms online.

CIVIL CASES

2.1 RULE 500. GENERAL RULES

RULE 500.1. CONSTRUCTION OF RULES

Unless otherwise expressly provided, in Part V of these Rules of Civil Procedure:

- (a) the past, present, and future tense each includes the other;
- (b) the term "it" includes a person of either gender or an entity; and
- (c) the singular and plural each includes the other.

RULE 500.2. DEFINITIONS

In Part V of these Rules of Civil Procedure:

- (a) "Answer" is the written response that someone who is sued must file with the court after being served with a citation.
- (b) "Citation" is the court-prepared document required to be served upon a party to inform the party that it has been sued.
- (c) "Claim" is the legal theory and alleged facts that, if proven, entitle a party to relief against another party in court.
- (d) "Clerk" is a person designated by the judge as a justice court clerk, or the judge if there is no clerk available.
- (e) "Counterclaim" is a claim brought by a party who has been sued against the party who filed suit, for example, a defendant suing a plaintiff.
- (f) "County court" is the county court, statutory county court, or district court in a particular county with jurisdiction over appeals of civil cases from justice court.
- (g) "Cross-claim" is a claim brought by one party against another party on the same side of a lawsuit. For example, if a plaintiff sues two defendants, A and B, A can seek relief against B by means of a cross-claim.
- (h) "Default judgment" is a judgment awarded to a plaintiff when the defendant fails to answer and dispute the plaintiff's claims in the lawsuit.
- (i) "Defendant" is a party who is sued, including a plaintiff against whom a counterclaim is filed.
- (j) "Defense" is an assertion by a defendant that the plaintiff is not entitled to relief from the court.

(k) "Discovery" is the process through which parties obtain information from each other in order to prepare for trial or enforce a judgment. The term does not refer to any information that a party is entitled to under applicable law.

(l) "Dismissed without prejudice" means a case has been dismissed but has not been finally decided and may be refiled.

(m) "Dismissed with prejudice" means a case has been dismissed and finally decided and may not be refiled.

(n) "Judge" is a justice of the peace.

(o) "Judgment" is a final order by the court that states the relief, if any, a party is entitled to or must provide.

(p) "Jurisdiction" is the authority of the court to hear and decide a case.

(q) "Motion" is a request that the court make a specified ruling or order.

(r) "Notice" is a document prepared and delivered by the court or a party stating that something

(s) "Party" is a person involved in the case that is either suing or being sued, including all plaintiffs, defendants, and third parties that have been joined in the case.

(t) "Petition" is a formal written application stating a party's claims and requesting relief from the court. It is the first document filed with the court to begin a lawsuit.

(u) "Plaintiff" is someone who sues, including a defendant who files a counterclaim.

(v) "Pleading" is a written document filed by a party, including a petition and an answer, that states a claim or defense and outlines the relief sought.

(w) "Relief" is the remedy a party requests from the court, such as the recovery of money or the return of property.

(x) "Serve" and "service" are delivery of citation as required by Rule SO 1.2, or of a document as required by Rule 501.4.

(y) "Sworn" means signed in front of someone authorized to take oaths, such as a notary, or signed under penalty of perjury. Filing a false sworn document can result in criminal prosecution.

(z) "Third party claim" is a claim brought by a party being sued against someone who is not yet a party to the case.

RULE 500.3. APPLICATION OF RULES IN JUSTICE COURT CASES

(a) Small Claims Case. A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, or personal property. The claim can be for no more than \$10,000 excluding statutory interest and court costs but including attorney fees, if any. Small claims cases are governed by Rules 500-507 of Part V of the Rules of Civil Procedure.

(b) Debt Claim Case. A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$10,000 in damages, excluding statutory interest and court costs but including attorney fees, if any. Debt claim cases in justice court are governed by Rules 500-507 and 508 of Part V of the Rules of Civil Procedure. To the extent of any conflict between Rule 508 and the rest of Part V, Rule 508 applies.

(c) Repair and Remedy Case. A repair and remedy case is a lawsuit brought to seek judicial remedy for the alleged failure of a landlord to remedy or repair a condition as required by Chapter 92 of the Texas Property Code. The relief sought can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any. Repair and remedy cases are governed by Rules 500-507 and 509 of Part V of the Rules of Civil Procedure. To the extent of any conflict between Rule 509 and the rest of Part V, Rule 509 applies.

(d) Eviction Case. An eviction case is a lawsuit brought to recover possession of real property under Chapter 24 of the Texas Property Code, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, including costs and attorney fees, if any. Eviction cases are governed by Rules 500-507 and 510 of Part V of the Rules of Civil Procedure. To the extent of any conflict between Rule 510 and the rest of Part V, Rule 510 applies.

(e) Application of Other Rules. The other Rules of Civil Procedure and the Rules of Evidence do not apply except:

(1) when the judge hearing the case determines that a particular rule must be followed to ensure that the proceedings are fair to all parties; or

(2) when otherwise specifically provided by law or these rules.

(f) Examination of Rules. The court must make the Rules of Civil Procedure and the Rules of Evidence available for examination, either in paper form or electronically, during the court's Business hours.

RULE 500.5. COMPUTATION OF TIME; TIMELY FILING

(a) Computation of Time. To compute a time period in these rules:

- (1) exclude the day of the event that triggers the period;
- (2) count every day, including Saturdays, Sundays, and legal holidays; and
- (3) include the last day of the period, but

(A) if the last day is a Saturday, Sunday, or legal holiday, the time period is extended to the next day that is not a Saturday, Sunday, or legal holiday; or

(B) if the last day for filing falls on a day during which the court is closed before 5:00p.m., the time period is extended to the court's next business day.

(b) Timely Filing by Mail. Any document required to be filed by a given date is considered timely filed if deposited in the U.S. mail on or before that date, and received within 10 days of the due date. A legible postmark affixed by the United States Postal Service is evidence of the date of mailing.

(c) Extensions. The judge may, for good cause shown, extend any time period under these rules except those relating to new trial and appeal.

RULE 500.6. JUDGE TO DEVELOP THE CASE

In order to develop the facts of the case, a judge may question a witness or party and may summon any person or party to appear as a witness when the judge considers it necessary to ensure a correct judgment and a speedy disposition.

RULE 500.9. DISCOVERY

(a) Pretrial Discovery. Pretrial discovery is limited to that which the judge considers reasonable and necessary. Any requests for pretrial discovery must be presented to the court for approval by written motion. The motion must be served on the responding party. The discovery request must not be served on the responding party unless the judge issues a signed order approving the request after notice to the responding party and a hearing. Failure to comply with a discovery order can result in sanctions, including dismissal of the case or an order to pay the other party's discovery expenses.

(b) Post-judgment Discovery. Post-judgment discovery is not required to be filed with the court. The party requesting discovery must give the responding party at least 30 days to respond to a post-judgment discovery request. The responding party may file a written objection with the court within 30 days of receiving the request. If an objection is filed, the judge must hold a hearing to determine if the request is valid. If the objection is denied, the judge must order the party to respond to the request. If the objection is upheld, the judge may reform the request or dismiss it entirely.

VENUE – A LAWSUIT MAY BE BROUGHT

APPLICABLE LAW

- (a) Laws specifying the venue – the county and precinct where a lawsuit may be brought – are found in Chapter 15, Subchapter E of the Texas Civil Practice and Remedies Code, which is available online and for examination during the court’s business hours.

GENERAL RULE

- (b) Generally, a defendant in a small claims case as described in Rule 500.3(a) or a debt claim as described in Rule 500.3 (b) is entitled to be sued in one of the following venues;

- (1) The county and precinct where the defendant resides;
- (2) The county and precinct where the incident, or the majority of incidents, that gave rise to the claim occurred;
- (3) The county and precinct where the contract or agreement, if any, that gave rise to the claim was to be performed; or
- (4) The county and precinct where the property is located, in a suit to recover personal property.

NON – RESIDENT DEFENDANT; RESIDENCE UNKNOWN

- (c) If the defendant is a non-resident to Texas, or if defendant’s residence is unknown, the plaintiff may file the suit in the county and precinct where the plaintiff resides.

MOTION TO TRANSFER VENUE

- (d) If a plaintiff files suit in a improper venue, a defendant may challenge the venue selected by filing a motion to transfer venue. The motion must be filed before trial, no later than 21 days after the day the defendant's answer is filed, and must contain a sworn statement that the venue chosen by the plaintiff is improper and a specific county and precinct of proper venue to which transfer is sought. If the defendant fails to name a county and precinct , the court must instruct the defendant to do so and allow the Defendant 7 day to cure the defect. If the defendant fails to correct the defect, the motion will be denied, and the case will proceed in the county and precinct where it was originally filed.

PROCEDURE

- (a) Judge to Set Hearing. If a defendant files a motion to transfer venue, the judge must set a hearing on the motion.
- (b) Response. A plaintiff may file a response to a defendant's motion to transfer venue.
- (c) Hearing. The parties may present evidence at the hearing. A witness may testify at a hearing, either in person or, with permission of the court, by means of telephone or an electronic communication system.
- (d) Judge's Decision. If the motion is granted, the judge must sign an order designating the court to which the case will be transferred. If the motion is denied, the case will be heard in the court in which the plaintiff initially filed suit.
- (e) Review. Motions for rehearing and interlocutory appeals of the judge's ruling on venue are not permitted.
- (f) Time for Trial of the Case. No trial may be held until at least the 14th day after the judge's ruling on the motion to transfer venue.

CRIMINAL CASES

FILING CASES

- (a) Justice Court cases shall be filed in the precinct where the offense is alleged to have occurred. Offenses alleged to have been committed in more than one precinct may be filed in any precinct that the offense, or any portion of the offense, is alleged to have occurred.

FIRST APPEARANCE

- (b) Unless otherwise directed defendants will appear at the Justice Court in which the case is filed, according to the date and location written on their citation or summons. Subsequent appearances will be scheduled by the Judge.

SETTING CASES

- (c) Attorneys or defendants may request a case to be reset no later than the day before the current setting in accordance with court rules. Court clerks are authorized to give the following setting; all other must be approved by the Judge.

ACCOUNCEMENT DOCKET

- (d) Defendant may discuss their cases with a prosecutor, plead guilty or no contest to resolve the case, or reset the case for trial.

PRETRIAL

- (e) Special pretrial setting must be requested and approved by the Court. Pretrial motions must be filed and served on the County Attorney 21 day prior to any pretrial hearing. All pretrial hearing will be held on the day set unless a written State or Defense motion for continuance is granted.

TRIAL BEFORE THE COURT (TBC)

- (f) Attorneys and defendants should not set a case for TBC unless the defendant and the State intend to waive a jury. All cases shall be tried when wet unless a written State or Defense motion for continuance is granted.

JURY TRIAL

- (g) Defense attorney and/or defendant shall appear at the scheduled jury setting. State and Defense must either announce ready or file a written notion for continuance. If the defendant waives jury at the docket call, a written waiver, signed by counsel and/or the defendant must be presented.

PLEA OF GUILTY OR NOLO CONTENDERE

- (h) Defendants may enter a plea of guilty or no contest at any time, with or without a plea agreement. Each Justice Court shall maintain a list of “standard” fines for various offenses. Defendants may also elect to enter a plea of guilty or not contest and address the Judge regarding punishment.

APPOINTMENT OF CONSEL

- (i) Indigent defendants are not entitled to a court appointed attorney, as a matter of law, when charged with a fine-only offense.

MOTIONS TO WITHDRAW OR SUBSTITUTE

- (j) An attorney becomes attorney of record in a misdemeanor case by listing his or her name on pleadings or by setting or resetting the case. He or she remains attorney of record until relieved by written order of the Court. An attorney's motion to withdraw will be heard at any time when the defendant has had notice to appear or whenever the defendant agrees in writing. Adequate notice is by certified mail, return mail requested. Motions to substitute counsel will be granted without hearing so long as the scheduling of the trial will not be delayed by the change in counsel.

RULES OF DECORUM

OPENING PROCEDURE

- (a) Immediately before the scheduled time for the first court session on each day the bailiff shall direct all persons present to their seats and shall cause the courtroom to come to order. As the Judge enters the courtroom the bailiff or the court clerk shall state:

"ALL RISE,"

And while everyone is still standing, the bailiff shall announce: "Justice of the Peace Court, Precinct ____ of Grayson County, Texas is now in session, Judge _____

Presiding." Please be seated.

RECESS

(b) When the Judge announces a recess, the bailiff shall state: " All rise." And all shall remain standing until the Judge leaves the courtroom, whereupon the bailiff shall announce: " The Court is now in recess." In reconvening after a recess, the bailiff shall call the courtroom to order and request everyone to rise as the Judge enters and shall state'

Please be seated

Before a recess of a jury trial, the jury will be excused and all other persons present shall remain seated while the bailiff conducts the jury from the courtroom. After a recess, the bailiff shall direct all jurors to the jury room and shall call the courtroom to order and request everyone to rise as the Judge enters, as in non-jury trials. The jury shall be returned to the jury box from the jury room, upon the instructions of the Judge.

GENERAL RULES OF COURTROOM CONDUCT.

All officers of the court, except the judge and jurors and other participants, except witness who have been placed under the rule, shall promptly enter the courtroom before the scheduled time for each court session. When the bailiff calls the Court to order, complete order should be observed.

IN THE COURTROOMS THERE SHALL BE:

- (a) No tobacco used;
- (b) No chewing gum;
- (c) No short pants or bare midriffs, and no tank tops;
- (d) No reading of newspapers when Court is in session;
- (e) No audible cell phones or pagers;
- (f) No bottles, cups or beverage containers except court water pitchers and cup or as otherwise permitted by the judge;
- (g) No edibles;
- (h) No propping of feet on tables or chairs;
- (i) No noise or talking that interferes with court proceeding.

The judge, the attorneys and other officers of the court will refer to and address other court officers and other participants in the proceedings respectfully and impersonally, as by using appropriate titles and surnames rather than first names.

All officers of the court should dress appropriately for court sessions.