

LOCAL RULES OF PROCEDURE

AND

RULES OF DECORUM

FOR

THE JUSTICE OF THE PEACE COURTS

PARKER COUNTY, TEXAS

EFFECTIVE JANUARY 1, 2012
1st revision January, 2015

Chapter 1

GENERAL

1.1 OBJECTIVE

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

1.2 SCOPE

These rules govern cases filed in the Justice Courts of Parker County, Texas and are promulgated pursuant to Section 27.061 of the Texas Government Code. These rules shall be effective on January 1, 2012, and thereafter until subsequently modified, changed or amended by order of these courts. A copy of the rules is filed with the Parker County Clerk and is available to all parties having litigation in these courts. These rules shall be construed and interpreted, in addition to, in conformity with and not as superseding the constitution and laws of the State of Texas or the Texas Rules of Civil Procedure Part V or the Code of Criminal Procedure. The Rules of Practice in Justice Court are available for viewing at the office of each Court.

1.3 JURISDICTION

The Justice Courts of Parker County, hear, but are not limited to:

- (a) or other relief allowed by law in which the amount in controversy is \$10,000.00 or less, excluding statutory interest and court costs by including attorney's fees, if any.
- (b) Debt Claim cases brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution Small Claims cases for the recovery of money damages, civil penalties, personal property, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$10,000.00, excluding statutory interest and court costs but including attorney fees, if any.
- (c) Eviction cases, both residential and commercial to recover possession of real property, often by a landlord against a tenant, and related matters. 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, excluding statutory interest and court costs but including attorney fees, if any.
- (d) Repair and Remedy cases to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary

tenant. The relief sought can be for no more than \$10,000.00, excluding statutory interest and court costs but including attorney fees.

- (e) Deed Restriction cases to enforce deed restriction of a residential subdivision that does not concern a structural change to a dwelling.
- (f) Petition for Occupational Driver's License to seek an occupational driver's license for essential needs.
- (g) Administrative hearings involving revocation of driver's license, concealed handgun permits, etc.
- (h) Criminal offenses which are Class C Misdemeanors punishable by fine only,
- (i) Cases involving animal cruelty and neglect,
- (j) Peace bonds,
- (k) Property hearings to determine possession of seized property,
- (l) Tow hearings

1.4 ORGANIZATION

Each Justice Court in Parker County has a specific geographical area of venue which is generally described as follows: Precinct One – Northeast; Precinct Two – Northwest; Precinct Three – Southwest; and Precinct Four – Southeast. Each court has its own court clerks responsible for setting cases on the individual docket of the court.

1.5 CALENDAR

Each Justice Court in Parker County 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 the judge is unavailable and whenever possible, it is the policy of the Justice Courts in Parker County to obtain a visiting judge so there will be no interruption in the work of each court. Each of the Parker County Justices of the Peace can act as a visiting judge for a judge who is unavailable.

1.6 JURY SELECTION

The Justice Courts of Parker County utilize the electronic method of selecting names of persons assigned for jury service. Jury impaneling is conducted in cooperation with the District Clerk. Questions about the jury impaneling process and jury service may be addressed to the jury office at 817-568-6114.

1.7 PARTIES PROCEEDING PRO-SE

Any natural person proceeding on his own behalf without a lawyer shall be expected to read and follow these local rules and the Texas Rules of Civil Procedure, Part V, the Texas Rules of Evidence, the Code of Criminal Procedure, and the Texas Rules of Appellate Procedure as may be appropriate in the particular case. Failure to comply may result in the pro-se party being sanctioned, fined or punished as in other cases. Pro-se parties shall be responsible for providing the clerk with current addresses and telephone numbers.

Chapter 2

CIVIL CASES

2.1 FILING CASES

All civil cases shall be filed in the Justice Court where one or more defendants reside, or where the cause of action occurred, except as otherwise provided by law. Eviction cases shall be filed in the Justice Court where the premises in question are located.

2.2 SETTING CASES

All civil cases are to be brought to trial or final disposition as promptly as practicable.

At any time the court may order a pre-trial conference. The court may enter an order or orders following each pre-trial conference, which would address any applicable matters.

Each Justice Court shall be responsible for the setting of hearings and trials in each court and for the notices thereof.

2.3 DEMAND FOR JURY

A party requesting a civil jury trial shall file a written request with the court in which the case is filed not later than the 14th day before trial. This does not apply to eviction cases which are governed by TRCP 744. The jury fee shall be paid upon filing the request.

2.4 PREFERENTIAL SETTINGS

Preferential settings may be obtained at the discretion of the judge.

2.5 CONTINUANCES

Continuances will be heard at such time as scheduled by the court. The notice and pleading requirements of law must be followed.

2.6 MATTERS PRELIMINARY TO TRIAL ON THE MERITS

All motions, exceptions and pleas in each case, jury and non-jury, must be filed no later than three days before the scheduled trial on the merits and will be heard prior to the trial. All motions, exceptions and pleas not presented and heard at the pre-trial hearing will be deemed waived, except upon a showing of good cause. A movant shall deliver a copy of each pleading to any opposing party and to the court in the manner and within the time provided by the Texas Rules of Civil Procedure.

2.7 DISMISSAL BY THE COURT FOR WANT OF PROSECUTION

2.7.1 Case Selection

The following cases are eligible for dismissal for want of prosecution sua sponte by the Court:

- (a) Cases on file for more than 120 days in which defendant has not been served;
- (b) Cases that have been on file for more than 12 months that are not set for trial and have had no filings or settings within 180 days; and
- (c) Any other case designated by the court.

2.7.2 Notice

The court clerk shall give notice that certain cases will be dismissed for want of prosecution. Such matters will be dismissed on the date indicated in the notice of the dismissal docket unless the court orders it retained.

2.7.3 Docket Settings

Only the court may make a setting in cases set for dismissal for want of prosecution.

2.7.4 Procedures for Retaining Cases and Objecting to Motions to Retain

- (a) Motions to retain shall be filed with the court at least 10 days prior to the date specified in the notice of dismissal for want of prosecution.
- (b) Any party who files a motion to retain shall state in writing the factual and legal basis why the case should not be dismissed for want of prosecution.
- (c) Parties objecting to a motion to retain shall state in writing the basis for any objection to the motion to retain within 3 days of service of a motion to retain.
- (d) A party wishing to argue a motion to retain or an objection to retention may appear on the date and time set for the dismissal hearing in the case.

2.7.5 Retained Cases

If the court decides to retain the case, the court will set the case for trial at the convenience of the court, and the court will notify the parties of the setting. At the setting, the case will be tried or dismissed.

2.7.6 Includes all Pending Claims

References in this chapter to a case include all pending claims in the case.

2.8 MOTIONS TO WITHDRAW AS ATTORNEY

An attorney of record shall not be permitted to withdraw from any case without complying with the requirements of Rule 10, Texas Rules of Civil Procedure. A motion to withdraw will be granted without a hearing only if the moving attorney:

- (a) Files written consents to the withdrawal signed by attorneys for all parties, and
- (b) Files a written consent to the withdrawal signed by the client, or includes in the motion a specific statement of the circumstances that justify the withdrawal and the circumstances that prevent the moving attorney from obtaining the clients written consent, and
- (c) Files a certificate stating the last known mailing address of the client.

If all requirements above are not satisfied, a motion to withdraw or to substitute another attorney must be presented at a hearing after notice to the client and to all other parties.

2.9 HOLIDAYS

When any date mentioned in these rules falls on a Saturday, Sunday or legal holiday, then the applicable date shall be the next day which is not a Saturday, Sunday or legal holiday. The legal holidays shall be posted.

Chapter 3

CRIMINAL CASES

3.1 FIRST APPEARANCE

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 Court.

3.2 SETTING CASES

(a) Cases are set at the request of defense attorneys or defendants in the Justice Court in which the case is docketed.

(b) The first setting is on the pretrial docket, unless the defendant waives pretrial in writing and requests jury or bench trial. At pretrial, defendants or their attorney may discuss their case with the prosecutor, plead guilty or no contest to resolve the case, or reset the case for jury trial or bench trial.

(c) Defense attorney and defendant must appear at the scheduled jury trial or bench trial. State and Defense must announce ready or file a written motion for continuance.

3.3 PLEA OF GUILTY OR NOLO CONTENDERE

Defendants may enter a plea of guilty or nolo contendere at any time, with or without a plea agreement. Each Justice Court shall maintain a list of "acceptable" fines for various offenses.

3.4 APPOINTMENT OF COUNSEL

Indigent defendants are not entitled to a court appointed attorney, as a matter of law, when charged with a Class C Misdemeanor punishable by fine only.

3.5 MOTIONS TO WITHDRAW OR SUBSTITUTE

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.

Motions to withdraw which include a specific statement of the circumstances that justify the withdrawal or to substitute counsel will be considered without hearing so long as the scheduling of trial will not be delayed and the attorney has complied with TRCP Rule 10.

CHAPTER 4

RULES OF DECORUM

4.1 GENERAL RULES OF COURTROOM CONDUCT

- (a) All attorneys, parties, jurors and all other participants, except witnesses who have been placed under the rule, shall promptly enter the courtroom when summoned by the bailiff. When the bailiff calls the court to order, complete order should be observed.
- (b) In the courtroom there shall be
 - (1) no tobacco used,
 - (2) no chewing gum,
 - (3) no short pants or bare midriffs,
 - (4) no reading of newspapers,
 - (5) no audible cell phones or pagers,
 - (6) no bottles, cups or beverage containers except water, pitcher and cups provided by the court or as otherwise permitted by the judge,
 - (7) no edibles,
 - (8) no propping of feet on tables or chairs,
 - (9) no noise or talking that interferes with court proceedings, and
 - (10) no handguns, knives or other weapons.
- (c) The judge, the attorneys and pro se parties 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.
- (d) All attorneys, pro se parties, and all other participants should dress appropriately for court sessions.

4.2 SPECIFIC RULES OF COURTROOM CONDUCT

- (a) Attorneys should observe the letter and spirit of all canons of ethics, including those dealing with discussion of cases with representatives of the media and those concerning improper ex-parte communications with the judge.
- (b) Advise your clients and witnesses of Local Rules of Decorum that may be applicable.
- (c) All objections, arguments and other comments shall be directed to the judge or jury and not to the opposing side.
- (d) While another attorney or pro se party is addressing the judge or jury, do not stand for any purpose except to make an appropriate motion, request or objection to the court.
- (e) Do not approach the bench without leave of court.
- (f) Do not lean on the bench.

- (g) Remain seated at the counsel tables at all times except:
 - (1) when the judge enters and leaves
 - (2) when addressing the judge or jury, and
 - (3) whenever it may be proper to handle documents, exhibits, or other evidence (leave of court is not required).
- (h) Anticipate any need to move furniture, appliances, or easels and should make advance arrangements with the court. Tables should not be moved during court sessions, unless approved by the judge.
- (m) Premark exhibits and make sufficient copies for the court and the opposing parties.

4.3 MEDIA

Requests to broadcast, video or record court proceedings in any way shall not be permitted. For good cause shown, a judge on a case by case assessment after consultation with all the parties to a case may permit said recordings.

Chapter 5

TRANSFER OF CASES

5.1 CIVIL CASES

- (a) Upon motion by defendant pursuant to TRCP Rule 502.4(d) or for other reason permitted by law, a Justice of the Peace Court in one precinct may transfer a pending civil case to another Justice of the Peace Court in Parker County, provided that the receiving judge has no objection to the transfer.
- (b) Once transferred, the case proceeds as if it arose originally in the court to which it was transferred.
- (c) This provision does not apply to Evictions.

5.2 CRIMINAL CASES

- (a) Upon motion by the state of defendant, a judge may transfer a pending Class C Misdemeanor case to another Justice of the Peace Court in Parker County, provided that the receiving judge has no objection to the transfer.
- (b) The defendant has 10 days to object in writing to the transfer.
- (c) Once transferred, the case proceeds as if it arose originally in the court to which it was transferred.

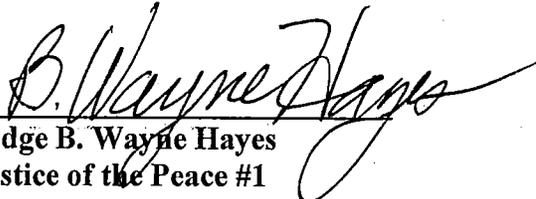
CHAPTER 6

RECORDS REQUESTS

Texas courts are expressly exempt from the Public Information Act (formerly Open Records Act), Texas Government Code, 552.003(B). Court records, including those of the Justice of the Peace Courts, are governed by Rule 12 of the Rules of Judicial Administration promulgated by the Supreme Court of Texas.

Any request for records must be submitted in writing to the Custodian of Records of the Court and state with specificity which record is requested and the requestors full name, address and phone number. The requestor will then be notified in writing if the request can be granted and the costs of copies, if applicable.

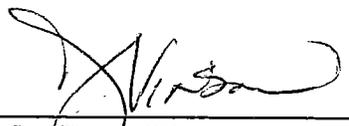
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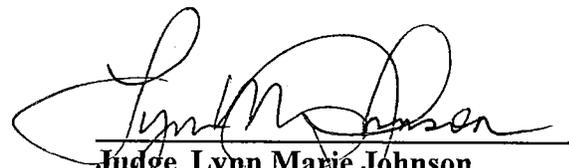
Judge B. Wayne Hayes
Justice of the Peace #1



Judge Kelly Green
Justice of the Peace #2



Judge Dusty Vinson
Justice of the Peace #3



Judge Lynn Marie Johnson
Justice of the Peace #4