











COVID-19 Safety Information >



District Courts of Harris County



JUDGE LATOSHA LEWIS PAYNE

 <p>Cases Case Information</p>	 <p>Local Rules Local Rules</p>	 <p>Jurors Information for Jurors</p>	 <p>FAQs Frequently Asked Questions</p>
 <p>Jobs Job Vacancies</p>	 <p>Dockets Court Docket Schedules</p>	 <p>Hearings Election Contest Hearings</p>	 <p>Locations <u>Court Locations and Phone Numbers</u></p>
 <p>Parking Parking</p>		 <p>Dining Dining</p>	

[Home](#) > [Courts](#) > [Civil](#) > [Judge Latosha Lewis Payne](#) > [Judge Latosha Lewis Payne](#)

COURT PROCEDURES

Judge Latosha Lewis Payne

55th District Court of Harris County, Texas
201 Caroline, 9th Floor
Houston, Texas 77002

55TH District Court Procedures

Harris County courts are still under Texas Supreme Court emergency orders to limit in-person court appearances due to COVID-19.

I. COURTROOM DECORUM

All litigants and counsel are expected to show respect for each other and the Court. Stand when the jury and the judge enters and exits the courtroom. Stand when talking to the judge. Request permission to approach the bench or the witness. Do not interrupt opposing counsel or witnesses. You will have a full opportunity to address the court. Address the judge, opposing counsel or witnesses professionally and respectfully. You may examine witnesses at the counsel table or from a podium. Address the witness as "Mr." or "Ms." Please read the attached Administrative Order and The Texas Lawyer's Creed a Mandate For Professionalism </JustexDocuments/3/Admin Order & Lawyer's Creed.PDF> and conduct yourself accordingly.

II. MOTIONS/HEARINGS

All motions and responses must include a proposed order. All responses should be filed at least 24 hours before the hearing. The failure to file a written response prior to the hearing or submission date may be considered a representation of no opposition. As a result, the Court may pass your hearing and rule accordingly on the motion before it.

Agreed motions are filed with the Court for consideration without the need for a hearing. If an agreed motion is denied without a hearing, you can request a subsequent oral hearing on the motion.

The Court appreciates courtesy copies for any motion or response that exceeds 20 pages. The Court does not need copies of exhibits.

ORAL DOCKET

All oral hearings are heard on Monday at 10:00 a.m. and 11:00 a.m. and Friday at 1:30 p.m. Discovery motions are heard at 8:30 a.m. on Thursday. Default motions are heard at 9:45 a.m. on Monday. Please contact the Clerk for an assignment of date and time. **In cases assigned for trial at Docket Call, no discovery or other non-trial related motions will be heard by the Court before trial.**

Once you call the Clerk and obtain a hearing date, please file a notice of oral hearing and serve it on all parties. The Court requires at least five (5) days written notice to all parties, unless otherwise shortened by the Court, agreed to by all parties, or the Texas Rules of Civil Procedure require different deadlines. **The failure to file a notice of hearing will result in the Court passing the hearing.**

Unless it is impractical to do so, motions involving self-represented individuals should be set for oral hearing with proper notice to all parties.

APPEARANCE BY PHONE

Appearance by phone is allowed in certain circumstances, including but not limited to accommodating out-of-town parties who wish to attend a hearing via telephone. If more than one person wants to appear by telephone at a scheduled hearing, the attorneys must conference in through the Harris County Conference Line. Please call the Clerk to obtain permission and instructions to appear by telephone.

SUBMISSION DOCKET

All motions set for submission are heard on Monday at 8:00 a.m. Motions set for submission must be noticed for submission at least ten (10) days from filing, except on leave of the Court. **Submission hearings set without timely notice will result in the Court passing the hearing.**

If a movant places a matter on the submission docket, the non-movant may object to consideration of the motion by submission

and request to have the matter heard by oral hearing.

Motions for reconsideration are generally placed on the submission docket first.

EMERGENCY/ EXPEDITED/ SPECIAL HEARINGS

If both sides agree to an emergency/expedited hearing, call the Clerk and set up a phone conference with the judge or an oral hearing. If only one side feels it is an emergency, e-file a motion for emergency/expedited hearing. Please send a courtesy copy directly to the Clerk who will then give it to the judge to review and set an expedited hearing or provide further guidance to the parties, as appropriate.

In the event that you are unable to secure a hearing date as soon as necessary on the Court's regular oral hearing docket, or if you require a special setting, please file a letter with the Court, and serve it on all parties, requesting a special setting with alternative dates that are convenient for all parties and the date by which you are requesting the matter be heard by the Court. Please send a courtesy copy of the letter to the Clerk who will then give it to the judge for review.

Motions requiring a significant amount of time and attention should request a special setting.

CERTIFICATE OF CONFERENCE

You must confer with opposing counsel prior to filing all motions and include a detailed certificate of conference, with the following exceptions: motions for default judgments, motions for summary judgment, motions to dismiss, plea to jurisdiction, motions to transfer venue, motions for voluntary dismissal/ nonsuits, post-verdict motions, and motions involving service of process. **Failure to comply may result in the Court passing the hearing.**

The Court requires compliance with Texas Rule of Civil Procedure 191.2, which states as follows:

“Parties and their attorneys are expected to cooperate in discovery and to make any agreements reasonably necessary for the efficient disposition of the case. All discovery motions or requests for hearings relating to discovery must contain a certificate by the party filing the motion or request that a reasonable effort has been made to resolve the dispute without the necessity of Court intervention and the effort failed.”

The Court does not consider the following statements, or the like, to comply with the Rule:

“Sent a letter...did not get a response”

“Left a message...don’t know if the other side agrees or disagrees.”

“The other side won’t return my phone calls.”

“I have attempted to resolve this matter by agreement but was unable to do so.”

The certificate of conference should include a detailed statement of the movant’s efforts to resolve the issues in the motion with opposing counsel/party prior to filing the motion. If a party was unable to reach the other side prior to filing the motion, the certificate should state the efforts to communicate with that party, and should always be supplemented as soon as possible after the parties have actually conferred and before the hearing on the motion. Failure to actually confer with the other side or adequately explain why after multiple attempts you were unable to confer before the hearing or submission date may result in your motion being removed from the docket.

DISCOVERY MOTIONS

The Court believes the parties can resolve most discovery disputes without court intervention. Attorneys must communicate with opposing counsel before filing any motion related to discovery. The motion should include the certificate of conference as discussed above. If parties have not conferred, the motion will be removed

from the docket. Parties with discovery motions pending on the oral hearing docket should arrive at least 15 minutes before their scheduled hearing to confer again with the other side prior to your case being called to the bench.

Discovery motions should specify each specific discovery response at issue and include a copy of the response(s) at issue as sub-documents when e-filing, or state verbatim the request and answer in the body of your motion.

Proposed orders should list each discovery issue separately so that the court may sign a specific order granting or denying the requested relief.

SPECIAL EXCEPTIONS

Attach a copy of the pleading you are excepting to as an exhibit (unless the exception is only to the amount of damages sought) or state verbatim which paragraphs you except to. Proposed orders should list each exception separately.

SEVERANCES

The party requesting the severance must specifically list all pleadings to be included in the severance order to be transferred to the new file.

SUBSTITUTED SERVICE

Motions for substituted service must be in strict compliance with Texas Rule of Civil Procedure 106. The motion should include an affidavit (a) detailing all efforts taken to verify that the defendant actually lives or works at the subject address, (b) multiple attempts of service at different times of day with the specific dates and times, (c) the identity of person(s) present at the subject address and what was said, (d) the identity of the owners of any cars in the driveway or other indications that defendant resides at the subject address. Motions should include the attached form order for

substituted service [here](#).

SERVICE BY PUBLICATION

Motions for service by publication must be in strict compliance with Texas Rule of Civil Procedure 109, 116 and 117. The motion should include an affidavit detailing (a) all efforts taken to verify that the residence of the defendant is unknown to the affiant and/or the defendant is a transient person; (b) attempts to locate the whereabouts of the defendant or that the defendant is absent from or is a non-resident of the State; and (c) for a nonresident defendant, that the party applying for citation has attempted to obtain personal service of the nonresident defendant as provided for in Rule 108 but has been unable to do so. Motions should include the attached form order for service by publication [here](#).

CONTINUANCES

Continuances should be filed early, but in any event at least 24 hours before the docket call for the case. Generally, the Court will allow one timely asserted continuance. After that, the Court requires a reasonable explanation for the request that takes into consideration the current age and status of the case and whether opposing party is prejudiced by further delay. A hearing will be required on any request for additional continuances.

DEFAULT JUDGMENTS

All motions for default require an oral hearing unless otherwise approved for a hearing by submission by the Court. Default motions are heard at 9:45 a.m. on Monday. A certificate of service providing proof of service of the notice of hearing on the default on non-movant(s) must be attached to all Default motions. Please submit the proper non-military affidavit by visiting the Defense Manpower Data Center's (DMDC) Military Verification service at <https://scra.dmdc.osd.mil>.

DAUBERT/ ROBINSON

A hearing should be requested pursuant to the DCO deadlines. All motions to exclude experts should be filed AND set for hearing well in advance of trial (at least 30 days). Do not wait until the eve of or morning of trial to file your motion.

WITHDRAW AS COUNSEL

Before consideration of a motion to withdraw that will leave a client as self-represented, the following must be filed:

1. Notice of hearing or submission.
2. A statement of the particular circumstances and disciplinary rules requiring withdrawal. A general statement of “irreconcilable conflicts” is not enough. Matters which are confidential may be filed under seal.
3. A certificate by the attorney of record of the client’s name, address, and telephone number, whether such information is current, or if not current, when it was last known to be current. If you also have an email address, please include that information as well. A copy of a letter from the attorney of record to the client giving notice: (a) that the attorney is withdrawing; (b) that the client is deemed to have knowledge of and is required to abide by the Texas Rules of Civil Procedure if the client proceeds pro se; (c) that all notices from the Court to the client’s current address will be deemed to have been received unless the client notifies the Court of any change of address; (d) that no continuances or extension will be granted to the pro se client in order to obtain other counsel; and (e) notice of submission or hearing at which the motion to withdraw will be considered.
4. In addition to the items described in #4 above, if the client is a corporation, the attorney must notify the client that a corporation cannot proceed pro se and if the corporation has not obtained new counsel within 30 days, a default judgment may be entered

against the corporation if it is a defendant or its claims will be dismissed if it is a plaintiff.

5. A signed acceptance of the terms of the letter described in item 4, if the client has agreed to the withdrawal. If the client has not agreed to the withdrawal, proof of service of the letter described in items 4 and 5 must be filed.

SANCTIONS

Sanctions should not be requested unless the opponent has violated a previous order and engaged in particularly egregious behavior.

TEMPORARY INJUNCTIONS

Temporary injunctions are set on Friday at 1:30 p.m. Please call the Clerk before the scheduled hearing. It is imperative that we know whether or not you are ready to proceed with the hearing and how long the hearing will take. We may need to reschedule your hearing and extend the TRO until a convenient time for the Court. **Do not bring your witnesses to Court until you have spoken to the Clerk.**

III. TRIAL

All cases are automatically set for trial after the answer of a defendant. If not reached at the first assigned trial setting, most cases are reset within 45 to 60 days. Docket Call is held 10 days before trial on Friday at 9:00 a.m. All parties must appear at Docket Call. **NO CONTINUANCES WILL BE GRANTED** after Docket Call and once a case is assigned for trial except in extraordinary circumstances that could not have been anticipated by the parties.

PRETRIAL

Pretrial conferences are held the morning of trial unless the parties believe more than 45 minutes is needed. If so, please let the Court

know at Docket Call or contact the trial coordinator to schedule additional time.

The parties should exchange motions in limine, exhibit lists, witness lists, deposition excerpts and any objections thereto at least five (5) days prior to the assigned trial. Discuss the matters among yourselves and attempt agreements. Be prepared to discuss which of your opponents' exhibits, witnesses, and limine issues you agree or do not agree upon. Advanced rulings on deposition excerpts are available by request, depending on the case. If you seek an advance ruling, please provide excerpts of deposition testimony with objections prior to pretrial conference.

Motions in Limine should be specific to the case. Do not duplicate items in your motions in limine. Your motion should be limited to only those items specific to the facts and circumstances in your case. Please refer to the court's Standing Order in Limine [here](#). The Order automatically applies to all trials held in the 55th District Court.

VOIR DIRE

Time for voir dire depends on the complexity of the case and will be discussed with the parties during pretrial. During voir dire, general contentions may be stated but the case should not be argued. After the general voir dire, individual jurors may be questioned at the bench for cause, if necessary.

All challenges for cause are ruled on between voir dire and peremptory strikes. Liberal with cause determinations and hardships are provided if I have enough on the panel to seat a jury. The Clerk shall prepare strike list for the lawyers to mark and sign their peremptory challenges.

QUESTIONNAIRES

Questionnaires are discouraged as they extend the length of voir dire. If the parties desire questionnaires, a hearing should be set to

discuss them in certain cases at an earlier date before the first day of voir dire.

PROPOSED JURY CHARGE

Drafts of proposed jury charges should be exchanged PRIOR to pretrial conference. Parties should email or bring a thumb drive with their proposed charge in Word format to the court coordinator, Justin Fitzgerald.

EXHIBITS

Use numbers for the exhibits, not letters. Have a list prepared for the Court and another for the court reporter. Also, parties should email or have a thumb drive of the exhibits for the court reporter.

LAW BRIEFS AND CASES

Please brief and/or bring cases on unusual legal and evidentiary issues before the pretrial conference.

HELPFUL RESOURCES



Judges



Attorneys

- Civil Ad Litem
- FDAMS Application
- FDAMS User Guide
- Standards and Procedures
- Vips Application
- Vips Support Documents and Useful Resource Links
- HCSO Inmate Visitation Info



Reporters

Court Reporter Case Management System



Media

Civil Electronic Media Rules



Employees

Microsoft Outlook Web Access
Accessing County Resources



Statistics

Civil
Criminal
Family
Juvenile



Career Opportunities

Job Vacancies
Externships
Internships
Volunteers

Harris County Links

Harris County | Texas

Harris County Community Supervision & Corrections Department

Harris County Pretrial Services

HC AZ

Court Agenda

County Directory

Employees

County Holidays

District Clerk

The Administrative Office of the District Courts

1201 Franklin, 7th Floor

Houston, Texas 77002

Thank you for visiting us

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