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District Courts of Harris County



JUDGE ROBERT SCHAFFER

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COURT PROCEDURES

COURT POLICIES AND PROCEDURES

1. Contacting the Court

For matters relating to filing documents or scheduling pre-trial matters such as hearings on motions contact the clerk, Katina Williams at 832.927.2425

For matters relating to trials and scheduling of trials contact the trial coordinator, Nalani Callico at 832.927.2434.

2. Mandatory E-Filing

By order of the Supreme Court of Texas all courts are now mandatory E-File Court. All documents must be filed electronically with the Harris County District Clerk. Documents should not to be hand-delivered or faxed directly to the court. If documents are delivered directly to the court for filing, the clerks will not accept the documents. The clerks of the 152nd District Court are not responsible for ensuring that any documents sent directly or by fax become part of the court's file. It is counsel's responsibility to ensure that documents which they intend to become part of the court's record are e-filed with the District Clerk's Office.

Please do not file courtesy copies of a motion/response unless the motion/response will not be in the court's file in time for the court to review it.

3. Motions and/or orders

Every motion must be set for consideration either by submission or by oral hearing unless it is an agreed or unopposed motion. Unopposed means that either opposing counsel or party was contacted and stated that they were not opposed to a particular motion. (An attorney's motion to withdraw is an exception to this. See subpart 3 d.)

The court follows the rules of civil procedure and local rules. When preparing motions please leave jury argument, hyperbole and personal criticism of your opponent out of the motion. Just tell the court what you want and why you believe you are entitled to the relief you are seeking.

Always attach a proposed order whether you are the movant or nonmovant.

a. Certificates of Conference

The certificates of conference required by the Texas Rules of Civil Procedure are extended to all motions, pleas and special exceptions except summary judgments, default judgments, agreed judgments, motions for voluntary dismissal or non-suit, post-verdict motions and motions involving service of citation. Harris County Local Rule 3.3.6.

You must confer person to person with opposing counsel before the court will consider a motion which requires a conference. If such a motion is set for submission without a proper certificate of conference stating that you have actually talked to opposing counsel or give reasons why you have not been able to get opposing counsel on the telephone to discuss the motion, the court will not consider the motion until the moving counsel files an proper certificate of conference. If such a motion is set it for an oral hearing without a proper certificate of conference stating the lawyers have actually discussed the motion, when you come in for the oral hearing the court will not hear the motion until the lawyers have actually discussed the motion outside the courtroom. A certificate of conference stating that you sent a letter or email to opposing counsel and he/she did not respond is not a proper certificate of conference.

b. Motions for Summary Judgment

Motions can be set on the submission docket at 8:00 a.m. on the first Monday following 21 days following filing the motion. An oral hearing can be obtained by contacting the court clerk by telephone. Plan ahead and do not wait until the last minute to file a MSJ or request a hearing. (See Paragraph 3 below.)

When proving damages in a motion for summary judgment, show the court how you calculated the damage figure and provide evidence to support your calculation. For instance, if you are suing for breach of a credit card or mortgage agreement, provide the court evidence as to how you calculated the amount due by the defendant/debtor.

When proving attorney's fees in a motion for summary judgment, in your affidavit provide the court with evidence to support your claim for attorney's fees. At a minimum you should show (1) your experience, (2) the work you did on the lawsuit, (3) how long it took you to do it and (4) your hourly rate.

c. Motions to Dismiss/Nonsuit

File motions to dismiss/nonsuit with an order. No hearing is required.

d. Motion to Withdraw as Attorney of Record

Motions to withdraw as attorney of record require strict compliance with Rule 10 of the Texas Rules of Civil Procedure and must include home and business telephone numbers and email addresses for the pro se

party(ies). Motions, regardless of whether they are agreed to by opposing counsel, must be set for submission or oral hearing with notice to the client. Motions to withdraw are generally not granted if filed within 60 days of a dispositive event such as a trial setting or a hearing on a motion for summary judgment. If the withdrawing attorney represents a corporation, he/she must notify the corporate party that corporations cannot proceed pro se in Texas courts and that if the corporation has not obtained counsel within 30 days of the order of withdrawal, either its claims may be dismissed if it is the plaintiff or the pleadings struck and a default judgment may be entered if it is the defendant.

e. Motion to Sever

The party requesting the severance must identify all pleadings that need to be transferred to the new file. You must obtain certified copies of all pleadings. Coordinate with the clerk on the procedure. A less cumbersome and less expensive alternative in some cases is to ask for abatement of one cause of action or separate trial on a cause of action.

f. Motion for Default Judgments

Default judgments asking for liquidated damages can be set for submission or oral hearing. Default judgments asking for unliquidated damages require an oral hearing.

When proving damages in a motion for default judgment, show the court how you calculated the damage figure and provide evidence to support your calculation. For instance, if you are suing for breach of a credit card or mortgage agreement, provide the court evidence as to how you calculated the amount due by the defendant/debtor.

When proving attorney's fees in a motion for default judgment, in your affidavit provide the court with evidence to support your claim for attorney's fees. At a minimum you should show (1) your experience, (2) the work you did on the lawsuit, (3) how long it took you to do it and (4) your hourly rate.

g. Agreed Protective Order

An Agreed Protective Order which contains a provision that states that any documents filed in the records of the court shall be sealed and not open for viewing by the general public must be changed in order to comply with Rule 76a of the Texas Rules of Civil Procedure. The Agreed Protective Order must contain the following paragraph or something similar to it:

The party seeking to maintain the confidentiality of a document containing confidential information shall, within 30 days from the date the document containing confidential information is filed in the court records, file a motion in compliance with Rule 76a of the Texas Rules of Civil Procedure, provide all notices required by Rule 76a and set the motion for an oral hearing on the earliest available date.

If such a motion is not filed by the 30th day after the document containing confidential information is filed in the court records, then the confidential information shall no longer remain sealed and will be open for full viewing by the general public.

h. Motion for Substitute Service

All motions for Substituted Service under Rule 106 must be accompanied by an affidavit that includes efforts taken to verify that defendant actually lives or works at the subject address. You must make at least four attempts of service at different times of day with the specific dates and times when a working person would most likely be home, include the identity of person(s) present at the subject address and what was said, the identity of the owners of any cars in the driveway or other indications that defendant resides at the subject address. All Rule 106 motions must be filed with the attached order. Do not make any changes to the attached order without permission from the Court.

[Standing Order.Rule 106.doc](#)

4. Setting motions for submission or oral hearing

The court follows the rules of civil procedure and local rules.

Submission. Motions may be considered by written submission. Motions shall state Monday at 8:00 a.m. following 10 days as the date for written submission. This date shall be at least 10 days from filing, except on leave of court. Responses shall be filed at least two working days before the date of submission, except on leave of court.

Oral Hearings. Oral hearings are given upon request. All you have to do is call the clerk and ask for an oral hearing. Do not request an oral hearing in your motion or response because the clerks do not read the motions. Oral hearings take place on Fridays with settings at 9:00 a.m. (for motions for summary judgment), 10:00 a.m. and 11:00 a.m. Settings for oral hearings

should be requested from the court clerk. Harris County Local Rule 3.3.4. If you request an oral hearing on a motion or matter that requires taking evidence or that you otherwise know will take longer than hearings generally take during a Law Day docket, you should request a hearing on a day and time that will allow for additional time to consider the issues raised in the motion.

If you anticipate needing an oral hearing, please do not wait until the last minute to make your request. The court schedules a specific number of hearings during each hour on Fridays. For instance, if you want a hearing on a motion for summary judgment and you wait until four weeks before the trial setting you, in all likelihood, will not be able to get a hearing before the trial setting. Therefore, please plan ahead.

5. Contacting the court or court staff regarding the status of motions

You may contact the court clerk by telephone regarding the status of motions.

6. Expedited hearings

For expedited or emergency hearings, you may contact the court staff by telephone or make your request in writing.

7. Dismissal docket and motions to retain

If you receive a notice that a case is going to be dismissed for want of prosecution (DWOP), file a motion to retain according to the rules of procedure and local rules before the deadline date and set it for submission or request an oral hearing.

8. Remote Appearance/Testimony

Witness, parties, lawyers, etc., may no longer routinely appear by Zoom (or other remote means), absent prior consent or order from the Court.

Telephone or video conferences are handled by the court staff to accommodate counsel in special circumstances. Arrangements can be made for lawyers to appear at non-evidentiary hearings by telephone or by video.

If a party would like to request permission from the Court to have a witness appear for trial or an evidentiary hearing via Zoom, a motion requesting

leave for this purpose should be filed and set for oral hearing. The motion must contain a certificate conference showing that the parties have actually conferred about the matter. (Sending a letter or an email with no response does not constitute conferring.) The motion must also include a sworn statement from the attorney presenting the witness that:

- a. They have ensured that the witness has available electronic equipment sufficient to host such testimony and that the attorney and witness have personally tested the equipment to ensure it works and everyone involved knows how to use the equipment;
- b. The witness will be testifying in a neutral setting with no room decoration within view of the camera;
- c. The witness will be the only person in the room; and
- d. A complete set of all exhibits (or select exhibits as agreed upon by all counsel in cases with more than 50 total exhibits), in hard copy, have been delivered to the witness, and that the witness will have all exhibits available for testimony.

If any of the following conditions are not observed, the witness may be struck.

9. Status conferences

If you feel you need a status conference in your case contact the court clerks. If you send in a letter requesting a status conference you should follow the letter up with a telephone call to the court clerks.

10. Court appointments of Guardian/Attorney Ad Litem

Disposition of all cases involving minors must be approved by the court. There are no exceptions.

A motion for appointing a Guardian Ad Litem (GAL) or Attorney Ad Litem (AAL) is required. The parties may not select the GAL. The GAL shall, in all cases, be selected by the Court to insure the independence of the GAL.

If you need a GAL that speaks a specific language other than English, please point that out in your motion. Appointments are made taking into consideration the complexity of the case and qualifications of the GAL. To qualify to serve as a GAL, attorneys must participate in an ad litem CLE

course. Ad Litem fees are based on the work done and actual hours required of the ad litem. The complexity of the matter and the experience of the ad litem may also be factored into the determination of the fee to be paid to the GAL. The parties are encouraged to reach an agreement on the ad litem's fee. If an agreement cannot be reached, the court will assess the fee based upon the criteria listed above. The ad litem must maintain a time and expense record and should be prepared to present it when requested.

11. Courtesy copies of motions or copies of cases attached to briefs/motions

Do not provide a courtesy copy without first contacting the court to see if one is needed. This court is a paperless court. So long as motions, responses and briefs are filed timely, there is no need for a courtesy copy and the court requests that none be filed unless we ask you to. If you cannot resist the urge to provide a courtesy copy, please do so on a CD or USB flash drive.

You may attach cases to briefs/motions. Highlighting is encouraged but please limit the attached cases to the most important cases.

For trial matters such as exhibit lists, courtesy copies should be provided. The court's charge and findings of fact and conclusions of law should be provided on CD or USB flash drive in Word format.

For appellate matters such as an petitions for writ of mandamus, if you are required to serve copies on the Court, please do so on a CD or USB flash drive.

12. Notice given to parties of rulings of the court

The district clerk will inform you of the court's rulings. You may call the court to check on the status of rulings on motions.

13. Referring cases to ADR

The Docket Control Order sets a date for the parties to submit the name of a mediator and for the completion of mediation. The parties may object to mediation by filing a motion and setting the motion for submission or an oral hearing. If the parties fail to comply with this order, the court may appoint a mediator.

The parties shall to agree on the mediator. It makes more sense that the mediation be conducted by a mediator known by the parties. If the parties cannot agree on the mediator, then the judge will make the selection.

14. Setting a case for trial

Once an answer is filed the court will issue a Docket Control Order with a trial setting. If a case is not reached, the case will be reset for a later date available on the court's docket.

15. Preferential trial settings

A request for a preferential trial setting is rarely granted unless there are extremely unusual circumstances.

16. Trial Preparation Orders (i.e. Exhibit Lists, Motions in Limine, Deposition Offers, Proposed Jury Charges, etc.)

A trial preparation order is sent to all counsel or pro se parties approximately 30 days before trial. The trial preparation order requires the parties to file, among other things, exhibit lists, motions in limine, witness lists, deposition offers and draft jury charges or findings of fact and conclusions of law. All trial preparation information must be filed at least two weeks before the trial date.

17. Pre-Trial Conference

A pre-trial conference is held at the time of trial. At that time the court will review, among other things, the motions in limine, exhibit lists and objections to deposition offers. If the parties believe more than an hour or so is needed for the pre-trial conference, contact the trial coordinator so additional time can be scheduled.

a. Exhibit Lists

Exhibit lists should be exchanged and exhibits made available for review and copying before appearing for the pre-trial conference. At the pre-trial conference the parties need to be able to inform the court which trial exhibits can be pre-admitted.

b. Motions in Limine

Motions in Limine should be exchanged prior to appearing for the pre-trial conference. This court has adopted a standing Order in Limine applicable to all cases. Do not duplicate these items in your motions in limine. Your

motion should be limited to only those items specific to the facts and circumstances in your case. Attached is the courts standing Order in Limine.

[Standing Order.Motion in Limine.doc](#)

c. Deposition Offers

If you intend to offer portions from video depositions at trial, you must get rulings on any objections at least one day before the day you intend to play the video deposition so that each side can get their respective offers edited. If you intend to offer a video deposition on the first day of trial, you must inform the court coordinator of this so arrangements can be made to obtain rulings on any objections to the depositions prior to the first day of trial.

d. Proposed Jury Charge/Findings of Fact and Conclusions of Law

Bring your proposed jury charge or findings of fact and conclusions of law with you in Word format on CD, DVD or flash drive or you can email it to my Trial Coordinator, Nalani Callico.

18. Notifying parties of assignment to trial

You do not need to come to the courthouse for trial until you are called and assigned to trial by the trial coordinator.

Assignment to Trial. A case is assigned to trial when counsel are called to the court to commence the jury or non-jury trial on the merits. Harris County Local Rule 3.4.3. The parties will be contacted at least 24 hours before the actual day the trial is expected to begin. Docket positions are available on the courts website under Trial Docket Inquiry.

When called to trial, please do not decide that you are not going to show up without giving the court some advance notice so another case can be called in your place. Otherwise another case in which the parties want to go to trial may lose that opportunity because of lack of courtesy and sufficient time remaining in that docket period.

19. Challenges to Experts (i.e., qualifications, *Robinson*, etc.)

The deadline date for filing challenges to experts is given in paragraph 8 of the Docket Control Order. If you file a challenge to an expert on the day of trial, you will need to explain why this was not done in compliance with the Pre-Trial Order. Challenges to experts should be resolved early enough in the case that the party whose expert was successfully challenged has a reasonable opportunity to find another expert without having to file a motion for continuance.

20. Trial Disclosure/Production Disputes

During the trial there often are disputes relating what has or has not been disclosed in discovery. You should bring your responses to Interrogatories, Request for Disclosure, Request for Production and Request for Admissions to the courthouse. For instance, if, during the trial there is a disagreement regarding what you disclosed in a fact witness or damages disclosure, you should have whatever form of discovery you used to make that disclosure.

21. Voir Dire (time periods per side, procedures for striking jurors)

The length of voir dire will depend upon the complexity of the case. Time limits will be discussed with attorneys before trial. General contentions may be stated but the facts of the case should not be argued. Written questionnaires will be considered but only if all parties agree to the questions in the questionnaire. You should ask the court to use a written questionnaire before you come in for the pre-trial conference. Challenges for cause will take place at the bench at the conclusion of voir dire outside the presence of all other panel members.

22. Court Provided Equipment

Our courtroom provides technology that will allow you to present evidence from a laptop computer, DVD or document camera. We do not have a blackboard (I doubt if anyone does anymore) but we do provide a chart stand, easel and projector.

No prior arrangements are needed to use the court's equipment. The court's electronic equipment is user friendly and easy to use but you must familiarize yourself with the equipment before trial. **DO NOT WAIT UNTIL THE FIRST DAY OF TRIAL TO DO THIS.** That is a recipe for disaster. The last thing you want is to not be able to operate the court's electronic equipment in front of the jury. Contact the court coordinator to make these arrangements.

23. Trial Continuances

If you are going to request a continuance, please do so as far in advance of the trial setting as possible. This is not only done as a courtesy to the court so it can plan its trial schedule but also to those cases set behind yours that want to go to trial because they have to make plans too. A lawyer filing a motion for continuance on the day of trial, if granted, may determine whether another case on that two week docket that wants a trial will get a trial. A continuance for a case that is 3 years or older needs to be set for a hearing.

24. Rules governing courtroom decorum

Common courtesy is always expected. Proper courtroom demeanor and décorum is always expected. Stand up when the jury and the judge enter and exit the courtroom. Stand up when talking to the judge. Request permission to approach the bench or the witness. Do not interrupt opposing counsel or witnesses. Address the judge, opposing counsel or witnesses professionally and respectfully. You may examine witnesses at the counsel table or from a podium.

HELPFUL RESOURCES



Judges



Attorneys

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



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

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