

LOCAL RULES OF PROCEDURE,
RULES OF DECORUM AND BENCH
EXCHANGE AGREEMENT FOR
THE JUSTICE OF THE PEACE COURTS
RUSK COUNTY, TEXAS

EFFECTIVE 2/7/2019

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 Rusk County. They are to be interpreted consistent with this objective.

1.2 Scope.

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

1.3 Jurisdiction.

The Justice Courts of Rusk County hear:

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

1.4 Organization.

Each Justice Court in Rusk County has a specific geographical area of jurisdiction. Precinct One serves the Northwestern portion of Rusk County; Precinct Two serves the Northeastern part; Precinct Three serves the Southeastern; Precinct Four

serves the Southern; Precinct Five serves the central part of the county. Each court has its own court 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 other Justice Courts Judges to visit that court, 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 903-657-1353.

Chapter 2
CIVIL CASES

2.1 Filing Cases.

All civil cases shall be filed in the Justice Court where one or more defendants may reside, except as otherwise provided by law. Eviction cases shall be filed in the Justice Court where the leased premises 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. 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 on the merits of each individual case. The notice and pleading requirements of law must be followed.

2.6 Matters Preliminary to Trial on the Merits.

Except for motions for continuance based on new circumstances, all motions in limine, exceptions and all pre-trial motions and pleas in each jury case shall be presented and heard at pre-trial hearing. All such exceptions, motions, and pleas not presented and heard at scheduled pre-trial hearings will be deemed waived, except upon a showing of good cause. For non-jury cases all exceptions, motions and pleas must be filed three days before the scheduled trial before the court.

2.7 Hearings Conducted by Telephone.

At the discretion of the judge, a party or attorney may appear by telephone conference call. A request by a party for such an arrangement must be made in writing in advance. In rare cases in the interest of justice, the court may permit a witness to appear by telephone conference call. A judge will not initiate a conference call. All arrangements with telephone operators must be made by the requesting party. At any time, even after the completion of a conference call, a judge may determine that a hearing by telephone will not be sufficient and may require a hearing in court upon notice to all parties. 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.

2.8 Dismissal for Want of Prosecution by the Court.

2.8.1 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 no answer has been filed;

(b) Cases that have been on file for more than 6 months that are not set for trial and have had no filings or settings within 180 days;

(c) Any other case designated by the Court.

(d) 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. 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.

2.8.2 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 dismissal unless the Court orders it retained.

2.8.3 Docket Settings.

Only the Court may make a setting in cases set for dismissal.

2.8.4 Procedures for Retaining Cases and Objecting to Motions to Retain.

- (a) Rule 505.3a - A plaintiff whose case is dismissed may file a motion to reinstate the case no later than the 14 days after the dismissal order is signed. The plaintiff must serve the defendant with a copy of the motion no later than the next business day using a method approved under Rule 501.4. The court may reinstate the case for good cause shown.
- (b) 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.
- © The Court shall notify all parties of the Court's ruling on a motion to retain.

2.8.5 Cases Not Requiring Oral Argument.

Oral arguments on motions to retain or objections to motions to retain, may be permitted by the Court.

2.8.6 Cases Requiring Oral Argument.

The Court shall notify the parties of the Court's decision to permit oral argument, and shall notify the parties of any hearing on a motion to retain. A party wanting to argue a motion to retain or an objection to retention may appear on the date and

time set for dismissal of the case.

2.8.7 Retained Cases.

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

2.8.8 Includes all Pending Claims.

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

2.9 Drafts of Judgments and Orders.

So far as practicable, every draft of a judgment or order to be signed by a judge should be approved as to form by attorneys for all parties before it is presented to the judge. A draft of an order shall not be typed on the same page with a pleading, motion, certificate of service, or any part thereof, and each such draft shall have a heading showing the cause number, the style of the case, and the court in which it is pending. The word "entered" should not be used in the line provided immediately above the judge's signature to show the date on which a judgment or order is signed.

2.10 Motions to Withdraw as Attorney.

Except as provided in Rules 8 and 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 client's 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.

2.11 Holidays.

When any date mentioned in these rules falls on a court holiday then the applicable date shall be the first date following the holiday. The court holidays shall be published.

Chapter 3

Criminal Cases

3.1 Filing Cases.

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.

3.2 First Appearance.

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 as scheduled by the Court.

3.3 Setting Cases.

Cases may be set at the request of defense attorneys or defendants in the Justice Court in which the case is docketed. Attorneys or defendants may request reset cases no later than the day before the current setting in accordance with court rules. Court clerks are authorized to give the following settings; all others must be approved by the Judge.

(a) Announcement Docket

Defendants may discuss their cases with a prosecutor, plead guilty or no contest to resolve the case, or reset the case for trial.

(b) Pretrial

All pretrial hearings will be held on the day set unless a written State or Defense motion for continuance is granted.

(c) Jury Trial

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

3.4 Plea of Guilty or Nolo Contendere.

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 no contest and address the Judge regarding punishment.

3.5 Appointment of Counsel.

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

3.6 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. 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 receipt requested. Motions to substitute counsel will be granted without hearing so long as the scheduling of trial will not be delayed by the change in counsel.

Chapter 4

Rules of Decorum

4.1 Opening Procedure.

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 Rusk County, Texas is now in session, Judge _____ presiding. Please be seated".

4.2 Recess.

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 into the Jury room. 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 instruction of the Judge.

4.3 General Rules of Courtroom Conduct.

All officers of the court, except the Judge and jurors, and all other participants,

except witnesses 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 excessively short pants or bare midriffs;
- (d) no reading of newspapers;
- (e) no audible cell phones or pagers;
- (f) no bottles, cups or beverage containers except court water, pitchers and cups 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 proceedings.

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.

4.4 Attorneys.

- (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) Attorneys should advise their clients and witnesses of Local Rules of Decorum.

that may be applicable.

(c) All objections, arguments, and other comments by counsel shall be directed to the Judge or jury and not to opposing counsel.

(d) While another attorney is addressing the Judge or jury, an attorney should not stand for any purpose except to make an appropriate motion, request or objection to the Court.

(e) Attorneys should not approach the bench without leave of court and must never lean on the bench.

(f) Attorneys shall 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.)

(g) Attorneys should 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 Court.

Chapter 5

Transfer of Cases

5.1. Civil Cases.

(a) At the Judge's discretion, a Justice of the Peace court in one precinct may transfer a pending civil case to another Justice of the Peace court in Rusk County, provided that the receiving Judge has no objection to the transfer.

(b) The parties lack standing to contest or request the transfer.

(c) Once transferred, the case proceeds as if it arose originally in the court to which it was transferred.

5.2. Criminal Cases.

(a) A judge may transfer a pending misdemeanor case to another Justice of the Peace court in Rusk 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

Exchange of Benches

6.1 Criminal Cases - Article 15.17 (Duties of Arresting Officer Magistrate)

In accordance with Code of Criminal Procedure Article 15.17, "Duties of Arresting Officer Magistrate" and with the intent to remain efficient, we, the undersigned, do hereby agree to exchange benches for arraignments of class C misdemeanors filed with the Justice of the Peace Courts of Rusk County, Texas.

6.2 Criminal Cases – Articles 45.045 (Capias Pro Fine), 45.046 (Commitment), and Section 27.054 (Exchange of Benches)

In accordance with Texas Code of Criminal Procedure Article 45.045 (*Capias Pro Fine*), 45.046 (Commitment) and Section 27.054 of the Texas Local Government Code (Exchange of Benches), and with the intent to maintain the prompt and efficient administration of justice, we, the undersigned Justices of the Peace for Rusk County, Texas, do hereby agree to exchange benches for the purpose of conducting hearings on a defendant's indigent status in accordance with Article 45.046 prior to issuing a "Commitment." In compliance with Article 45.045 of the Texas Code of Criminal Procedure any peace officer detaining the defendant on a *Capias Pro Fine* shall take the defendant before the court issuing the *Capias Pro Fine* immediately or place the defendant in jail until the business day following the date of the defendant's arrest if the defendant cannot be brought before the court immediately.