

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



December 14, 2011

To be Effective January 1, 2012

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 brought before the Justice Courts of Wood County. They are to be interpreted consistent with this objective.

1.2 Scope.

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

1.3 Jurisdiction.

The Justice Courts of Wood County hear;

- (a) Civil cases in which the amount in controversy is \$10,000 or less.
- (b) Eviction cases, both residential and commercial including writs of reentry.
- (c) Administrative Hearings involving revocation and suspension of drivers license, concealed handgun permits.
- (d) Criminal offenses which are punishable by fine only, both traffic and Class C Misdemeanors.
- (e) Cases involving animal cruelty and neglect
- (f) Peace Bonds

1.4 Organization

Each Justice Court in Wood County has a specific venue. Precinct One serves the northwest portion of Wood County including Lake Fork, the City of Alba and the City of Quitman. Precinct Two serves the southwest portion of the County generally between Lake Fork Creek and the Sabine River including the City of Mineola.

Precinct Three serves the southeast portion of the County including the City of Hawkins and Holly Lake Ranch. Precinct Four covers the northeast portion of the County including the portion of the City of Winnsboro located in Wood County.

Each Court has its own court clerk(s) 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 generally will be available as indicated by these rules and the calendar. In the absence, disqualification or recusal of the judge of the Court, 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 the Court.

Visiting judges may be scheduled to help with the heavy workload or crowded dockets. Notice of the assignment of visiting judges will be posted as soon as is practical.

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, Municipal and County Courts.

Chapter 2

CIVIL CASES

2.1 Filing Cases

All civil cases should be filed in the Justice Court where one or both of the defendants may reside, except as otherwise provided by law. Eviction cases should be filed in the Justice Court where the leased premises are located.

2.2 Mediation

It is the policy of the Wood County Justice Courts to encourage the peaceful resolution of disputes and early settlement of pending cases. Each Court shall determine which of its cases to refer to mediation and shall determine to which mediation service to refer a case.

Any party receiving referral to mediation has 10 days from the date of notice to file a motion objecting to the referral. If any party to a case files a motion objecting to mediation, and the court finds there is a reasonable basis for the objection, the case may be excused from the referral. If either party fails to attend mediation or if no resolution is reached, the case is to be promptly set for trial.

2.3 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 will address any applicable matters.

Each Justice Court shall be responsible for the setting of hearings and applicable notices in that Court.

2.4 Demands 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 10th day before trial. The jury fee shall be paid upon filing the request.

2.5 Preferential Settings

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

2.6 Continuances

Motions for Continuance must be filed in writing. The notice and pleading requirements of law must be followed.

2.7 Matters Preliminary to Trial on the Merits

Except for motions for continuances, 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.

For non-jury cases, all exceptions, motions and pleas must be filed three days before the scheduled trial.

A movant shall deliver a copy of each pleading or motion 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 Hearings Conducted by Telephone

At the discretion of the judge, a party or attorney may appear by telephone conference call. Requests by parties for such an arrangement must be made in advance. In rare cases, in the interest of justice, the Court may permit a witness to appear by telephone conference call.

2.9 Dismissal for Want of Prosecution by the Court

2.9.1 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 12 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.

2.9.2 Notice

The Court Clerk shall give notice that certain cases will be dismissed for want of prosecution.

2.9.3 Docket Settings

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

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

- (a) Motions to Retain should be filed with the court at least 10 working days prior to the date specified in the Notice of Dismissal for Want of Prosecution.

- (b) Any party filing a Motion to Retain must state in writing the factual and legal basis why the case should not be dismissed for want of prosecution.
- (c) Objections to Motions to Retain must state in writing the basis for the objection within 3 days of service of the Motion to Retain.
- (d) The Court shall notify all parties in the case of the Court's ruling on the Motion.

2.9.5 Cases Not Requiring Oral Arguments

Oral arguments on Motions to Retain or objections to those motions may be permitted by the Court.

2.9.6 Cases Requiring Oral Argument

The Court shall notify the parties to the case of the Court's decision to permit oral argument and shall notify the parties of any hearing on a Motion to Retain.

2.9.7 Retained Cases

In the event the Court retains a case, the case will be set for trial at the convenience of the Court and the Court will notify the parties of the setting.

2.9.8 Includes all Pending Claims

References in these procedures to a "case" include all pending claims in the case.

2.10 Drafts of Judgments and Orders

So far as practicable, every draft of a judgment or order to be signed by the judge in the case should be approved as to form by attorneys for all parties before it is presented to the judge.

2.11 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 if the moving attorney:

- (a) Files written consents to the withdrawal signed by all parties or their attorneys, and
- (b) Includes in the Motion a specific statement of the circumstances that justifies the withdrawal and the circumstances that prevent the moving attorney from obtaining the client's written consent; and

(c) Files a statement of the last known mailing address of the client.

If all the 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.

2.12 Holidays

When any date mentioned in these rules is on a Court holiday, the applicable date shall be the first business day following the holiday.

Court holidays shall be published and posted at the Court.

2.13 Authorization to Serve Citation (Rule 103)

A person wishing to be authorized by written order of the court to serve citations and other notices may file a written affidavit in application for authorization. Upon approval of the application the Court may authorize service by the applicant in all appropriate suits pending in the Court. Anyone filing return of service under such authorization shall also file an affidavit that he/she is not a party to and has no interest in the suit. The affidavit may be part of the verified return required by Rule 107.

Chapter 3

Criminal Cases

3.1 Filing Cases

Justice Court cases should be filed in the precinct where the offense is alleged to have occurred, except for cases of Failure to Attend School and Parent Contributing to Failure to Attend, which may be filed in any precinct in the county where the school is located.

Offenses alleged to have been committed in more than one precinct may be filed in any precinct that the offense or portion of the offense is alleged to have occurred.

3.2 First Appearance

Unless otherwise directed, defendants will appear or contact the Justice Court in which the case is filed according to the date and location written on the citation or summons. Subsequent contact with the Court will be scheduled by the Court.

3.3 Setting Cases

Court Clerks are authorized to give the following settings; all others must be approved by the judge.

(a) Pretrial

Pretrial conferences are normally conducted in Class C Misdemeanor cases on the day of trial. Special pre-trial settings must be approved by the Court. Pre-trial motions must be filed and served on the District Attorney 21 days prior to the pretrial hearing.

All pretrial hearings will be held on the day set unless a written State or defense Motion for Continuance is granted.

(b) Trial Before the Court

All cases shall be tried when set unless a written State or defense Motion for Continuance is granted.

(c) Jury Trial

Defendant or his/her attorney shall appear at the scheduled jury setting. State and defense must either announce ready for trial or file a written Motion for Continuance. If the defendant waives 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 nolo contendere at any time until judgment is rendered, with or without a plea agreement. Each Justice Court shall maintain a list of “standard” fines for various offenses. Defendants entering either of these pleas may address the judge regarding punishment.

3.5 Appointment of Counsel

Indigent defendants are not entitled to request 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/her name on pleadings or motions involving the case. He/she remains the 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 to the withdrawal in writing.

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 Court session, the bailiff shall direct all people to their seats and shall call the courtroom to order. As the judge enters the courtroom the bailiff shall state "All Rise"

While everyone is standing the bailiff shall announce "Justice Court Precinct _____ of Wood County is now in session, Judge _____ presiding. Please be seated."

4.2 Recess

When the judge announces a recess the bailiff shall state "All rise." All shall remain standing until the judge leaves the courtroom whereupon the bailiff shall announce that the Court is now in recess.

In reconvening, the bailiff shall call the courtroom to order and request everyone to rise as the judge enters and shall state "Please be seated."

When a jury trial is recessed, the jury will be excused and all other people shall remain seated while the bailiff conducts the jury from the courtroom to the jury

room. When the Court is reconvened the bailiff shall call the courtroom to order and request everyone to rise as the judge enters. The jury shall be returned to the jury box from the jury room upon instruction from the judge.

4.3 General Rules of Courtroom Conduct

All participants in a trial shall promptly enter the courtroom before the scheduled time for the Court session. The bailiff shall call the Court to order.

All Rules of Courtroom Conduct apply to both adults and juveniles, and males and females. Failure to comply may result in removal from the courtroom, or in some cases, contempt of court charges.

In the courtroom there shall be:

- (a) no tobacco use including snuff and other smokeless tobacco
- (b) no chewing gum
- (c) no excessively short pants, bare midriffs, sleeveless shirts, tank tops, clothing displaying offensive wording or pictures, or any other apparel that may be considered offensive
- (d) no reading of newspapers, e-readers, or other information media
- (e) no use of cell phones, PDAS, or other electronic or hand held devices used. All such devices shall be turned “off”. The use of such devices will result in confiscation of the device(s) until Court is concluded.
- (f) no bottles, cups or beverage containers except water pitchers and cups as permitted by the Judge
- (g) no edibles
- (h) no propping of feet on tables or chairs
- (i) no talking or noise that interferes with Court proceedings

The judge, attorneys, plaintiffs, defendants and other officers of the Court will refer to and address each other respectfully and impersonally. Appropriate titles and surnames shall be used, not first names or nicknames.

All officers of the Court should dress appropriately in Court sessions.

4.4 Attorneys

Attorneys should observe the letter and spirit of all canons of ethics including those dealing with discussing of cases with the media, and those concerning improper ex parte communications with the Judge.

Attorneys should advise their clients and witnesses of the applicable Local Rules of Decorum.

All objections, arguments, and other comments by counsel shall be directed to the judge or jury and not to opposing counsel.

While another attorney is addressing the judge or jury, an attorney should not stand except to make an appropriate motion, request or objection to the Court.

Attorneys should not approach the bench without leave of Court and must never lean on the bench.

Attorneys shall remain seated at the counsel tables except when the judge enters or leaves, when addressing the judge or jury, and whenever it may be proper to handle documents, exhibits or other evidence.

Attorneys should anticipate the need to move furniture, appliances or easels and should make advance arrangements with the court.

4.5 Broadcast Media

Requests to broadcast Court sessions must be approved by the judge on a case by case basis after consulting with the parties involved.

Chapter 5

Transfer of Cases

5.1 Civil Cases

A Justice Court in one precinct may transfer a pending civil case to another precinct if the both judges have no objection

The parties in the case have no standing to request or to contest such a transfer.

Once transferred, the case proceeds as if it was originally filed in the Court to which it is transferred.

5.2 Criminal Cases

A judge may transfer a pending misdemeanor case to another Justice Court if the receiving Judge has no objections.

The defendant has 10 days to object in writing to the transfer.

Once transferred, the case proceeds as if it was originally filed in the Court to which it is transferred.

Approved this 14th day of December, 2011

_____ Hon. Alice Tomerlin, Wood Co. Pct. 1

_____ Hon. Neil Moseley, Wood Co. Pct. 2

_____ Hon. Clarence Holmes, Wood Co. Pct. 3

_____ Hon. Cindy Weems, Wood Co. Pct. 4