



# Harris County Civil Court at Law No. 1

## Judge George Barnstone

## Court Procedures

Last revision: 12-09-2016

### COURT STAFF

#### Clerks:

*Information about the filing of documents, entry of orders, request for hearing and case status*

Kelli Ramirez – (713) 274-1345

Kayla Meyers – (713) 274-1345

#### Trial Coordinator:

Information regarding trial settings

Melissa Hammond: (832) 927-1711

[Melissa\\_hammond@ccl.hctx.net](mailto:Melissa_hammond@ccl.hctx.net)

#### Court Reporter:

Requests for transcripts

Lettie Witter (832) 927-1713

[Lettie\\_witter@ccl.hctx.net](mailto:Lettie_witter@ccl.hctx.net)

#### Bailiff:

Information regarding audio/visual and courtroom security and decorum

Kenneth Henderson: (832) 927-1701

**\* Please check-in with court staff at least 10 minutes before the docket start time.**

### SERVICE OF PROCESS

All cases shall be subject to dismissal for want of prosecution pursuant to Local Rule 3.6 if service (including alternate Rule 106(b) service) is not perfected and the **Return of Service of Citation** filed within **180** days.

### SETTLEMENTS

Parties are strongly encouraged to resolve their disputes without court intervention if possible, including entering into an Agreed Judgment or Confession of Judgment when appropriate (i.e., when there is no dispute as to liability or the amount of damages).

Upon settlement of any case, Plaintiff's counsel or self-represented (pro se) parties should immediately notify the trial coordinator in writing (e.g., via email – with a copy to all parties).

Cases that have settled will be placed on the Entry Docket (no appearance necessary) in approximately 15-30 days to allow ample time for parties to submit final documents.

## TRIAL SETTINGS

**NON-JURY** – Non-jury trials are set on Mondays beginning at **9:30 am**, unless preferentially set in advance. There are *no* docket positions for bench trials; all parties should be ready for trial. For bench trials estimated to take longer than 30 minutes, please contact the court coordinator for a specific preferential setting later in the day.

**Statutorily Expedited Cases:** Forcible entry and detainer (Eviction) cases are heard **Monday and Tuesday** beginning at 10:30 am (unless there is already a prior preferential jury trial setting on that day of the week).

Additional Due Process: Trial setting notices for expedited cases should also be served by the Plaintiff on the Defendant via certified mail, regular mail, **and** to any electronic delivery address on file with Plaintiff, proof of which should be submitted at trial.

**JURY** – Jury trials are set on a two (2) week docket. The Court shall notify each party of the specific trial date at the pre-trial conference, which will be scheduled between 9:00 am on the **Friday** before your 2-week Monday trial docket setting. Failure to appear for the pre-trial conference (and exchange required documents as ordered) will subject the case to dismissal for want of prosecution or other appropriate sanctions.

- **If the case settles prior to trial, please have the Plaintiff contact the Trial Coordinator (Melissa Hammond) 832-927-1711 at your earliest convenience. [Melissa\\_hammond@ccl.hctx.net](mailto:Melissa_hammond@ccl.hctx.net)**

**PRE-TRIAL PROTOCOL** – All pre-trial documents (specifically listed in your “Order for Trial Setting”) must be exchanged by the parties before the date of the pre-trial conference (or bench trial on non-expedited matters). Please refer to the Court’s “[Order for Trial Setting](#)” and the Court’s website for complete instructions related to the pre-trial conference. Prior to the pre-trial conference, the attorneys must have exchanged appropriate information (including witness lists, proposed jury charge questions and instructions, copies of anticipated demonstrative exhibits) *and* confer regarding the following:

- 1) agreed pre-admission exhibits
- 2) witness lists
- 3) agreed factual stipulations
- 4) agreed motion in limine items (for jury trials)
- 5) *joint* proposed charge (for jury trials) and findings of fact and conclusions of law (for bench trials) --.

**Exclusion of Expert Witness Testimony** -- Daubert Motions to exclude expert witness testimony should be filed well in advance of trial (unless there is good cause). In a case requiring expert testimony as a matter of law, plaintiff should be given a *reasonable* opportunity to retain a qualified expert for trial.

**TRIAL CONTINUANCES** -- Trial settings are typically 6 months from filing. The Court must honor a timely-filed vacation letter if the case has not already been preferentially set for trial. To give notice to the Court, please file a motion for continuance, with your vacation letter attached.

To be considered, all continuances should be filed at least 2 weeks prior to the trial date. The Court will routinely grant the first *30-day* continuance if it is uncontested. Any further continuance will require a showing of *good cause*, a certificate of conference, and an oral hearing.

## ORAL HEARING DOCKETS

Oral Hearing Dockets: Tuesdays and Wednesdays at 9:30 a.m.

- Minimum of 5 business days' notice is required.
- Any party needing an oral hearing must file a written notice of oral hearing and serve all counsel and pro se parties with same.
- Any motion to be heard on the Oral Hearing Docket must be filed prior to or along with the Notice of Oral Hearing.

The Court allows 15 minutes for late calls or to check in to go to another court. Anything later than 20 minutes will need to be re-set.

- **Petitions for Occupational Licenses** are heard **Thursdays** at **9:00 am** with proper notice to the Court and to the County Attorney. Before sending a notice of hearing, please contact the court clerk to check for availability. The court clerk must have a copy of SR 22 and proof of Insurance by the Monday before the hearing. Suspensions for ALR, DWI or DUI with pending criminal cases will not be considered by the court.
- For **Complex oral hearings** such as **Daubert Motions to exclude expert witness testimony** estimated to take more than 45 minutes, please contact the court clerk to schedule your hearing.

Submission hearing notices should be filed with the clerk's office at least ten (10) calendar days prior to the hearing date pursuant to Local Rule 3.3.2 **AND** be served on all self-represented (*pro se*) parties by hand delivery OR certified mail and regular mail. Oral hearing notices should be filed with the clerk's office at least five (5) business days prior to the hearing date *AFTER E-FILING in order to ALLOW AN EXTRA TWO (2) DAYS TO PROCESS THE FILINGS.*

## OFF DOCKET MOTIONS

The following may be filed *without* setting a hearing if filed at least 2 weeks before any trial setting. The court may request an oral hearing if needed. Pursuant to Local Rule 3.3.1, all motions must be accompanied by a proposed order.

### Agreed Motions

Agreed motions do not require a hearing or to be placed on the Submission Docket. Simply file the motion as "agreed" or "joint" along with the appropriate documents with County Clerk's office for consideration by the Court. The court may ask for a hearing if necessary. It is not necessary to contact the clerks regarding off-docket motions.

### Motions for Default Judgment

Motions for Default Judgment do not require a hearing The following must be included in your motion:

- Affidavit proving up damages (include the last statement or invoice).
- Affidavit of attorney's fees including some estimate of time or description of the actions taken on the case. On contingencies, also state the percentage of the contract.
- Certificate of last-known address
- Non-military affidavit with a copy of the search results from [www.militarylocator.com](http://www.militarylocator.com) , printed within 30 days

If any of the foregoing is missing or if service is not perfected, your case will be put on the status conference docket 30 days out to allow time to submit the proper documents. If proper documents are not received on or before the status conference date, your case will be dismissed. It is the responsibility of the movant to follow up on motions for default to check the status.

### Rule 106 Motions for Substituted Service

Rule 106 motions must be filed with the Clerk's office and do not require a hearing. All Rule 106 motions for substituted service must be accompanied by an affidavit that includes the following:

- All efforts taken to verify that the Defendant actually lives or works at the subject address (e.g., Appraisal District Records, vehicle registration, factual affidavit)
  - Each attempt at service, including the date and time, Sufficient Attempts (6 if Private, 4 if Constable or proof of avoidance of service)
  - The identity of persons who were present at the subject address and what was said
  - The identity of cars in the driveway or other indications that the defendant resides or works at the subject address.
- \* For corporate agents for service that cannot be found at the registered office of the entity with reasonable diligence, please follow the procedures in Business and Organizations Code Section 5.251.**

### Motions to Appear Pro Hac Vice

All pro hac vice motions must comply with TEX. GOV'T CODE § 82.0361.

## SUBMISSION DOCKET

The following matters may be placed on our Friday 9:30 am Submission Hearing Docket (no oral hearing required) -- with at least 10 days written notice to the all parties:

- Applications to revive dormant judgments (CPRC 31.006)
- By special permission of the clerk for matters where an oral hearing would not be helpful
- Application to Close Receivership

## ADDITIONAL DUE PROCESS AND PROCEDURAL REQUIREMENTS

### PRE-JUDGMENT REMEDIES

Pleadings requesting pre-judgment remedies (e.g., garnishment, attachment/repossession, sequestration) must be accompanied by verified facts and non-military affidavits in compliance with the Soldiers and Sailors Relief Act (as required by law).

Proposed orders should set out the amount of bond calculated to protect the interests of the parties (both the creditor and debtor), which should typically be the market value of any levied property. The bond amount for the debtor should merely be the amount owed *if less than* the market value.

## COURTROOM AUDIO/VIDEO EQUIPMENT

All courtrooms have audio/VIDEO equipment, including an ELMO (document camera), computer inputs, projectors, TV screens, AND VCR & DVD players. Attorneys should provide their own output cables for any laptop connection. *Attorneys are encouraged to use the ELMO to present exhibits to the jury.* If you are unfamiliar with its use, arrange with the bailiff to come to the courtroom early and learn. Please refer to the attached Web link for detailed instructions on use of the audiovisual equipment:

<http://www.justex.net/Courts/Civil/CivilTechnology.aspx>

## COURTROOM DECORUM

### General:

- Please wear clothing that would be appropriate for business (no shorts please).
- Only drinks with lids are permitted in the courtroom.
- Please check in with staff 10 minutes in advance.
- Turn all electronic devices and cell phones on silent before entering the courtroom.
- No recording of courtroom proceedings without permission. Tex. R. Civ. P. 18c.
- Please be courteous and respectful to everyone.
- As a general rule, please stand when addressing the Court.
- Please speak one at a time.
- Direct all remarks and objections to the bench and not opposing counsel.
- Attorneys and Self-Represented (pro se) Parties should support each legal argument with any relevant case law.

### Trial and Hearings:

- Compliance with Gov. Code 82.037(a)(4) will be expected from all counsel and self-represented (pro se) parties: "Conduct oneself with integrity and civility in dealing and communicating with the court and all parties."
- Except during settlement conferences, please address all remarks to the court instead of opposing party
- Please follow TRCP 613 when impeaching witnesses.
- Please stand each time the jury enters or exits the courtroom.