



Harris County Civil Court at Law No. 4

Judge Miryeya Ayala

Court Procedures

COURT STAFF

Clerks:

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

Tonya Garza: 713-274-1358

Ashley Shapiro: 713-274-1358

Trial Coordinator:

Information regarding trial settings

Rick Wilson: 832-927-1742

Rick_Wilson@ccl.hctx.net

Court Reporter:

Requests for transcripts

Alex McDaniel: 832-927-1743

Alex_McDaniel@ccl.hctx.net

Bailiff:

Information regarding audio/visual and courtroom security and decorum

Valerie Jenkins: 832-927-1744

*** Please arrive and check-in with Court staff at least 10 minutes before the docket start time.**

MOTION DOCKETS

Oral Hearing Dockets:

Tuesdays at 9:00 a.m., 10:00 a.m. and 11:00 a.m. (Please confirm docket availability with the Court Clerks.)

Minimum of 5 business days' notice is required.

Any party requesting an oral hearing should file a written Notice of Oral Hearing with a Certificate of Service 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.

Records are taken by request only.

*** Please arrive and check-in with Court staff at least 10 minutes before the docket start time.**

Inform the Clerk if you have an appearance in another court and in what court so we can locate you if necessary.

If you are requesting a record, please fill out a Record Request Form and return to the Court Reporter prior to the start of docket call.

Petitions for Occupational Licenses are heard **Wednesdays at 9:00 a.m.** with proper notice to the Court and to the Harris County Attorney. Before sending a Notice of Hearing, please contact the Court Clerk to check for availability and for procedures and requirements regarding petitions for an occupational license.

Complex Oral Hearings: For complex oral hearings estimated to take more than 45 minutes, such as *Daubert* Motions to exclude expert witness testimony, please contact the Court Clerk to schedule your hearing.

Minor Settlement Hearings must be heard on the Court's Oral Hearing Docket **Tuesdays or Wednesdays at 9:00 a.m.** If your case is set on the entry docket please schedule an oral hearing, as indicated above prior to your entry date.

Submission Dockets:

Tuesdays and Fridays at 9:00 a.m. (Please read instructions below.)

SUBMISSION DOCKET

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 (i) hand delivery OR (ii) 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.**

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 to 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) within 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 (and in the case of holidays, on Tuesdays), unless preferentially set in advance. **All parties should be ready for trial.** For bench trials estimated to take longer than 30 minutes, please contact the Trial Coordinator for a specific preferential setting later in the day. There are **no** docket positions for bench trials.

Statutorily Expedited Cases: Forcible entry and detainer (Eviction) cases are heard **Monday thru Wednesday** beginning at 10:30 a.m. (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 – Please appear at Pretrial on the designated date and time at which time a Trial date will be assigned by the Court.

- **If the case settles prior to trial, please have the Plaintiff contact the Trial Coordinator (Rick Wilson) at your earliest convenience. 832-927-1742, Rick.Wilson@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
***Please bring an extra copy of your exhibits for the Judge. Exhibits should be in a 3 ring binder and tabbed.**
- 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 six (6) months from filing. The Court will 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 Motions for Continuance should be filed at least seven (7) days prior to the trial date. The Court will routinely grant the first continuance, if it is uncontested. Any additional continuances on cases in excess of 200 days since filing will require a showing of *good cause*, a certificate of conference, and an oral hearing.

OFF DOCKET MOTIONS

The following may be filed *without* setting a hearing if filed at least two (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, and do not need 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.

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 the attorney’s time and a description of the actions taken on the case. On contingencies, please also include the percentage of the contract;
- Certificate of last-known address; and
- Non-military affidavit with a copy of the search results from www.militarylocator.com , printed within thirty (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 thirty (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 (approximately at least five (5) attempts if Private, at least four (4) attempts if Constable or proof of avoidance of service).
 - The Court will review not only the number of attempts but also the degree of detail that establishes reasonable, good faith attempts to serve the Defendant.
 - The identity of persons who were present at the subject address and what was said
 - The identity of cars in the driveway or other indicators, such as Harris County Appraisal District (HCAD) documentation, 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 Texas 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.

Off Docket Motions:

Rule 106 Motions for Substitute Service	Motion to Appoint Guardian Ad litem
Motion and Order to Withdraw as Counsel of Record	Motion to Appoint Attorney Ad litem
Motion and Order to Substitute Counsel of Record	Motion for Show Cause
Nonsuits	Application for Sequestration
Motion for Default	Tax Warrants
Agreed Judgments	Application to Close Receivership
Installment Agreements	

SUBMISSION DOCKET

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Matters such as the following may be placed on our Friday 9:00 a.m. Submission Hearing Docket (no oral hearing required) -- with at least ten (10) days written notice to the all parties:

- Applications to revive dormant judgments (CPRC 31.006)
- 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:

- Wear clothing that would be appropriate for business (no shorts please).
- Only water is permitted in the courtroom.
- Check in with staff at least ten (10) minutes in advance.
- Place all electronic devices on silent before entering the courtroom.
- No recording of courtroom proceedings without permission. Tex. R. Civ. P. 18c.
- Be courteous and respectful to everyone. Do not interrupt or speak over others.
- Direct all remarks and objections to the bench and not opposing counsel.
- As a general rule, stand when addressing the Court.
- 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 Tex. R. Evid. 613 when impeaching witnesses.
- Please stand each time the jury enters or exits the courtroom.
- **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 is not filed within 180 days.**