

2017 Bench Book
Civil Courts Questionnaire
Court Rules and Procedures
67th District Court of Tarrant County, Texas

Scheduling Orders / Court Settings

Does the Court use a specific scheduling order? What specific dates are included in the scheduling order and are there specific time periods used (e.g. mediation set at 6 months from filing, trial date set at 10 months from filing). Is the scheduling order used in all cases or just in level 3 cases?

This Court prefers its specific Scheduling Order forms (Level 2 and 3 cases) found on Tarrant County's 67th District Court website; however, the Court does accept any agreed submitted form as long as such form follows the Court's required deadlines. All major dates are included in the Scheduling Order forms. After receipt of the last Defendant's answer, the Court will set a Scheduling Conference requiring that the attorneys submit an Agreed Scheduling Order to avoid attendance at the scheduled conference. Final trial dates can easily be obtained from the Court's Coordinator.

Does the Court have any settings such as DWOP, mediation, trial dates, others that are set and noticed automatically upon filing suit or some other triggering date?

Trial dates can be obtained by contacting the Court's Coordinator. Mediation dates are set by attorney agreement; it is rare that the Court will set a mediation date. Please refer to the Court's Scheduling Order form regarding the Court's requirements for expert witness challenges before trial. The Court's Coordinator does review newly filed cases at least 90-120 days after filing and may inquire with attorneys as to status if no answer has been filed. Failure to follow the status of a recently filed case could result in a "Dismissal Without Prejudice ("DWOP") notice setting the case on the Court's dismissal docket. The Court does maintain a monthly dismissal docket.

Emergency Relief Needed

What is your preferred procedure for contacting the court in a true emergency? What if the emergency occurs after hours?

With all true emergencies, do not hesitate to contact the Court's Coordinator for assistance. Every reasonable effort will be made to accommodate attorneys with

true emergencies. As for “after hour” emergencies, the Court has not set policies. However, if such possibility for an emergency is known during regular court hours, contact the Court’s Coordinator to discuss potential solutions.

Can the court be contacted by e-mail or fax? If so, what is the number or address?

All court communication should be directed to the Court’s Coordinator using the information given on court page.

Discovery

Describe your expectations or specific requirements of parties bringing discovery disputes before the Court. How does the Court handle discovery disputes that arise during a deposition? Can the attorneys contact the Court directly? If the Court is not available can the attorneys contact the master and, if so, who? Does the Court refer all discovery disputes to the master initially?

Tarrant County Civil District Courts do not have a master to resolve discovery disputes. These disputes can be set for hearing before the Court after filing a motion; a Certificate of Conference must be attached to each filed motion. The Court highly prefers that discovery disputes be submitted without the need for an oral hearing but oral hearings can be set with preset time limits of approximately 20 minutes per side. The Court often requires an additional conference between the attorneys before the scheduled hearing to attempt resolution. To avoid lengthy bantering between attorneys on such disputes, it is not uncommon for the Court to have made its decisions on various disputed issues prior to the hearing. For disputes during depositions, the Court does not prefer hearing such over the phone. It is not uncommon for the Court to require depositions to take place in the Court’s jury room if the Court anticipates conflict during depositions.

Pleadings & Motions

Describe any specific requirements of the Court regarding filing pleadings or motions with the Court? Is there any specific time or other requirement for filing responsive or reply motions prior to the hearing (other than summary judgment motions)? How soon before a hearing should all responses be filed for the Court to have the opportunity to review the response?

With E-filing now required, attorneys should be aware that the Court no longer receives a “hard copy” of a filed document. Last minute e-filed documents will not be available for the Court’s review prior to, or during, the hearing. The Court makes every effort to review all responsive documents at least 24-48 hours prior to the scheduled hearing so related documents should be filed timely for the Court’s consideration. A reasonable request to respond to a last minute filed

responsive pleading will most likely be granted. Copies of case law should never be e-filed. If an attorney desires to submit cases for the Court's review, deliver case copies to the Court Coordinator.

How do you like briefs to be organized?

Check with the Court Coordinator.

Does the court accept filings by fax or e-mail? If available, is this filing limited to the District Clerk or can fax filings be made directly with the Court's clerk?

All filings must be made directly to the Tarrant County District Clerk through the e-file system. Courtesy copies for the Court's review and accommodation can be made by submitting such to the Court Coordinator.

What is your preferred procedure for contacting the court or court staff regarding the status of motions (e.g. rulings on motions taken under advisement)?

Always contact the Court Coordinator by telephone or email.

Pre-trial hearings / Hearing Docket

Describe any specific policies of the Court relating to hearings, scheduling hearings, days of the week set aside for hearings, certain types of hearing on certain days or at certain times of the day (e.g. default judgment, discovery disputes, special exceptions, sanctions, severance/ consolidation, summary judgment, others).

Trials are presently set to begin on Monday of each week. The Court's motion docket usually begins on Wednesday of each week. The Court's weekly trial and motion docket can be found on the Court's website located on the Tarrant County main webpage. Every effort is made to keep this docket current as of the Thursday before the following week. The Court Coordinator will use every reasonable effort to schedule a hearing within a requested time parameter.

When and how should motions be set for submission or oral hearing? (i.e., does the Court automatically set hearings and notify the parties or should the movant contact the coordinator to set the hearing?)

The Court prefers that all summary judgment motions and responses and most motions be submitted for consideration by the Court without oral hearing. The Court does not automatically set a motion for hearing; all oral hearings must be requested by email or telephone to the Court Coordinator. It is the attorneys' obligation to insure that all Scheduling Order deadlines, except final trial dates, are met.

Does the Court automatically allow oral hearings if requested? What procedures should be followed to obtain an expedited hearing?

Any oral hearing should be requested from the Court Coordinator. The Court does not deny a request for oral hearing. If a Court Reporter is needed, then such request should be made at the time that a hearing date is set, or, as soon as possible after such hearing date is set by the Court Coordinator.

Do you allow telephone conferences for the resolution of motions? If so, who arranges them and when and how are they scheduled?

The Court allows telephone conferences to resolve many simple motions when such conferences are practical and cost efficient to do so. If a record of the hearing is desired, the Court will not conduct a hearing by telephone. Arrangements for such telephonic conferences must be with the Court Coordinator.

What is your preference on cases attached to briefs or motions? Do you prefer pertinent provisions of the cases to be highlighted?

Do not e-file case law with any pleadings. The Court routinely accepts case law binders and has no problem with an attorney's efforts to focus the Court's attention to highlighted portions of the submitted case law.

How are attorneys or parties notified of rulings on motions not made during the hearing?

Court rulings/decisions are also e-filed and delivered to the attorneys by the District Clerk through email.

Masters / Visiting Judges

Describe the Court's policy on the use of masters, visiting judges, visiting judges and masters the Court uses, for what purposes or types of matters, and the Court's policy on the parties objecting to the use of masters or visiting judges.

The Court utilizes visiting judges and will timely notify the attorneys when a visiting judge will be sitting in the 67th. Visiting judge assignments are made by the 8th Administrative Region Judge, David L. Evans, when requested. One objection can be timely made to the assignment per side as allowed by statute.

Masters are rarely used in the 67th District Court.

Alternative Dispute Resolution

What is the Court's policy on appointing mediators and setting mediation deadlines? What is the Court's policy on referring cases to alternative dispute resolution? Under what circumstances do you order mediation, when is it ordered, and how is the mediator chosen? Is the Court amicable to the parties agreeing on and using a mediator other than the one appointed by the Court? Is a motion to substitute mediators required before the Court will allow the use of an alternate mediator or may the parties simply agree on and use another mediator? What if the Court has already appointed a mediator?

The Court highly recommends mediation to occur as soon as practicable before final trial; however, the Court does not always mandate that mediation be undertaken even when the Court's Scheduling Order form includes a space for a completed mediation date. The Court prefers that the attorneys amicably identify a mediator and will assign one if no such agreement can be reached.

Trials

What is the Court's procedure for setting a trial? How are cases that are not reached reset? Do you grant special trial settings, and, if so, under what circumstances (e.g. lengthy trials, witnesses or parties with handicaps or serious health conditions, out of town parties or witnesses). How should they be requested?

All requested trial setting dates must be directed to the Court Coordinator. The Court's Scheduling Order form requires trial date assignments to be obtained from the Court Coordinator. Requests for preferential trial settings are reviewed but rarely granted; however, consideration is given for cases involving lengthy trial schedules and out of town and/or designated expert witness issues. Cases are presently set on a one (1) week trial docket.

Cases not reached for trial will be reset by the Court Coordinator after consultation with the attorneys involved.

When and in what form do you want proposed jury charges or findings of fact and conclusions of law presented (e.g., prior to trial, first day of trial, charge conference)?

The Court's Scheduling Order form includes deadline dates for certain trial documents, including proposed jury charge, witness and exhibit lists to be submitted by the attorneys. The proposed jury charge and/or findings of fact and

conclusions of law, all in Word format, must be emailed to the Court Coordinator by no later than start of the trial.

What is your procedure for continuing trials? How early or late will you grant/deny a request and how early do you want the request made? Is a first motion for continuance usually granted if requested at a reasonable time prior to trial? Are agreed motions for continuance usually granted?

If a Scheduling Order has been entered in a case, the Court will not consider any continuance motion without a proposed Amended Scheduling Order submitted with the continuance motion. A first continuance motion is rarely denied. However, any continuance must be granted the Court. A continuance motion must be filed timely, per Tarrant County Local Rule 3.02, by no later than the Wednesday preceding the trial date and must be heard by the Court before 2:00 PM on the Thursday preceding the trial date. The failure to obtain a hearing, for any reason, is not grounds for an automatic granting of the motion. Agree motions for continuance are not automatically granted and may require a hearing.

Trial Motions

When should parties present motions for continuance, motions to exclude, motions in limine, Robinson/Daubert motions, or any other specific trial motion? What is the Court's policy on hearing such motions? Do you have any particular rules governing pre-trial exhibits, motions, or orders (i.e. witness lists, draft jury charges, etc.)? Is a form available? When is it presented?

Hearing dates for these types of motions are identified and set within the Scheduling Order form. It is important to note that a Robinson/Daubert motion must be heard well in advance of trial since the Court does not consider such motion during trial. Failure to obtain a hearing date on a Robinson/Daubert challenge before the start of trial is considered a waiver of such challenge

Requirements for exhibit and witness lists, as well as pre marking such exhibits can be found on the Scheduling Order form or on the Court's Order Setting Case for Final Trial.

Voir Dire

Describe the Court's specific policies on conducting voir dire. Does the Court conduct any portion of the voir dire and, if so, describe what the Court does. What is the Court's policy on setting time limits on voir dire? Does the Court have specific time limits for certain types of cases and, if so, what are they? (e.g. MISTI cases) What are the Court's procedures for striking jurors (peremptory, for cause – i.e. during voir dire outside the presence of the panel, en masse after completion of voir dire, other

matters)?

The Court will review its voir dire policies with the attorneys during pretrial. The Court does set time parameters for voir dire. The Court does not conduct voir dire and assumes the role only of informing the jury of the Court's instructions regarding juror conduct. The Court does describe the burden of proof requirements as well as identifies the parties and their attorneys. The Court may inform the jury of general, stipulated facts of the case prior to questioning. Challenges for cause are addressed outside the presence of the jury panel and may require limited individual questioning of a specific juror by all attorneys prior to a challenge being heard.

Some cases may require the use of a juror questionnaire. The Court will entertain a reasonable request to use such questionnaire if the request and a copy of the proposed questionnaire is submitted to the Court and all counsel at least 30 days prior to trial.

Opening Statements

Describe any specific requirements the Court has regarding opening statements. Does the Court impose specific time limits? What are they? Do they vary by type of case? Give examples of typical time limits, if any, for common cases.

The Court imposes time parameters for opening statements. Court consideration before setting such parameters can include voir dire length and complexity of the case.

Questioning of Witnesses

Describe any specific policies on direct and cross examination. For example - do you require attorneys to stand, sit, use a podium, or use microphones.

All witness examinations and motion presentation must be conducted from the podium.

Closing Statements

Describe any specific requirements the Court has regarding closing statements. Does the Court impose specific time limits? What are they? Do they vary by type of case? Give examples of typical time limits for common cases.

The Court imposes time parameters on closing remarks. Court consideration before settings such parameters will include complexity of the case.

Audio/Visual Equipment

Does the Court provide its own blackboard, easel, Elmo, overhead projector, video equipment, or other presentation equipment? What arrangements must be made to use them? What arrangements can be made to become familiar with them or prepare them before trial?

Attorneys should contact the Court Coordinator to arrange an opportunity to visit the new courtroom and test the equipment available during trial. The Court will use best efforts to accommodate all requests for equipment usage after communication and coordination with the Court Coordinator and Reporter

Trial Exhibits

Prior to trial, attorneys should contact the Court Reporter to determine rules and procedures necessary to present exhibits to the Court as well requirements to play video depositions during trial.

Trial Docket

What is the Court's procedure for notifying parties of assignment to trial? Describe any specific policies of the Court relating to its trial docket, scheduling trials, continuances, days of the week set aside for trials versus hearings. Does the Court set aside certain days, weeks, or months for certain types of cases (e.g. MISTI cases, complex commercial litigation, others).

The Court Coordinator routinely notifies all attorneys at least 2 weeks in advance of trial of the likelihood that their case may be called to trial on the scheduled trial calendar. A follow up communication will be made no later than the Monday before the scheduled trial week. Trials are presently set to begin at 8:15 AM on Monday of each week. The Court's motion docket usually begins on Wednesday of each week. The Court's weekly trial and motion docket can be found on the Court's website located on the Tarrant County main webpage. Every effort is made to keep this docket current as of the Thursday before the following week.

Every reasonable effort will be made by the Court to accommodate an attorney's schedule; however, each attorney must be aware of the dates outlined in a completed Scheduling Order or Order Setting Case for Final Trial.

Ad Litem Appointments

What are the Court's procedures and criteria for court appointments of ad litem?

The Court uses the "wheel" system as required under Chapter 37 of the Texas Government Code.

Miscellaneous Information

Anything the Court would like attorneys practicing before it to know that is not covered above. For example: Do you have any special rules governing courtroom decorum? (e.g., addressing the court, opposing counsel or witnesses, requirement that counsel use only podium, approach the witness, talking or passing notes at the counsel table, beverages allowed at the counsel table).

E filing of a TRO request is not automatically forwarded to the Court. Personal attention and communication of a TRO request directly to the Court is necessary.

All motions must be accompanied with a proposed Order.

Presently the Tarrant County Local Rules are 18 years old. Efforts to amend these rules will be undertaken soon but until such time, every attorney should be familiar with such rules.

The 67th District Court will continue to review and update its court procedures and rules and will ensure that any changes to such will be available through the Court's webpage on the Tarrant County website (www.tarrantcounty.com)

The Court requests that all attorneys be familiar with the Texas Lawyers' Creed prior to entering the 67th Judicial District Court of Tarrant County, Texas.

Lastly, should an attorney have a question, simply contact the Court Coordinator who is more than happy to help answer any question or additionally happy to locate an answer from another source.