

DISCOVERY – LOCAL RULES

**JUSTICE COURTS
OF
TARRANT COUNTY, TEXAS**

EFFECTIVE: JULY 1, 2015

TARRANT COUNTY JUSTICE COURTS – LOCAL RULES FOR DISCOVERY

OBJECTIVES

In accordance with law, the Justice Courts conduct proceedings to ensure the fair, expeditious, and inexpensive resolution of all cases and matters under its jurisdiction. In addition, these Rules are intended to provide a limited, yet not all inclusive resource for litigants and those who appear before these Courts.

DISCOVERY GUIDELINES

In an attempt to have uniformity and save litigants time and expense resulting from hearings on discovery matters the following guidelines will generally be followed by the Justice Courts on matters pertaining to discovery request.

The grant of discovery is limited by the legitimate interests of the opposing party to avoid overly broad requests, harassment, or disclosure of privileged information.

THE GENERAL SCOPE OF DISCOVERY ORDERS

The scope of discovery is within the trial court's discretion, and the trial court will make an effort to impose reasonable discovery limits.

“In general, a party may obtain discovery regarding any matter that is not privileged and is relevant to the subject matter of the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party.”

[Note: In an attempt to maintain fairness and consistency, this rule is drawn in part from the Texas Rule of Civil Procedure (TRCP) 192.3]

REFERENCES

- I. **Part V of the Texas Rules of Civil Procedure (TRCP) 500.2** - Discovery is defined as:

TRCP 500.2 (k) “Discovery” is the process through which parties obtain information from each other in order to prepare for trial or enforce a judgment. The term does not refer to any information that a party is entitled to under applicable law.

- II. **TRCP 500.3 “Application Of Rules In Justice Court Cases”**

TRCP 500.3 (e) “Application of Other Rules”

The other Rules of Civil Procedure and the Rules of Evidence do not apply except:

(1) when the judge hearing the case determines that a particular rule must be followed to ensure that the proceedings are *fair to all* parties; or

(2) when otherwise specifically provided *by law* or these rules.

- III. **TRCP 500.9 – “Discovery”**

TRCP 500.9 (a) “Pretrial Discovery”

- Pretrial discovery is limited to that which the judge considers reasonable and necessary.
- Any requests for pretrial discovery must be presented to the court for approval by written motion.
- The *motion* must be served on the responding party.
- Unless a hearing is requested, the judge may rule on the motion without a hearing.
- The discovery request must not be served on the responding party unless the judge issues a signed order approving the request.
- Failure to comply with a discovery order can result in sanctions, including dismissal of the case or an order to pay the other party's discovery expenses.

TRCP 500.9 (b) “Post- judgment Discovery”

- Post-judgment discovery is not required to be filed with the court.
- The party requesting discovery must give the responding party at least 30 days to respond to a post-judgment discovery request.
- The responding party may file a written objection with the court within 30 days of receiving the request.
- If an objection is filed, the judge must hold a hearing to determine if the request is valid.
- If the objection is denied, the judge must order the party to respond to the request.
- If the objection is upheld, the judge may reform the request or dismiss it entirely.

GENERALLY ACCEPTABLE PRE-TRIAL DISCOVERY REQUESTS

General Disclosure Request:

The following discoverable information is acceptable and considered to be a General Disclosure Request for Pre-Trial Discovery requests, and no objection or assertion of work product is permitted to a request under this general disclosure Rule.

A party may request any or all of the following:

- (a) The correct names of the parties to the lawsuit;
- (b) The name, address, and telephone number of any potential parties;
- (c) The legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial);
- (d) The amount and any method of calculating economic damages;

(e) The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;

(f) For any testifying expert:

(1) the expert's name, address, and telephone number;

(2) the subject matter on which the expert will testify;

(3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;

(4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:

(A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and

(B) the expert's current resume and bibliography;

(g) Any written or otherwise recorded statements of a witness, who is a person with knowledge of relevant facts;

(h) In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills;

(i) The name, address and telephone number of any person who may be designated as a responsible third party.

[Note: In an attempt to maintain fairness and consistency, this rule is drawn in part from the Texas Rule of Civil Procedure 194 – Requests for Disclosure]

DISCOVERY - TIME PERIODS and LIMITATIONS

The court, on its own motion or initiative, may limit the discovery methods if the court determines that:

(a) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; or

(b) The burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.

[Note: In an attempt to maintain fairness and consistency, this rule is drawn in part from the Texas Rule of Civil Procedure (TRCP) 192.4]

Additionally, in an attempt to have uniformity and save litigants time and expense resulting from discovery matters the following time periods and limitations will generally be followed by the Justice Courts:

1. Pre-trial Discovery Period – All discovery must be conducted during the discovery period which begins when the judge issues a signed order approving the discovery request and concludes the earlier of a date set by the court or no later than 30 days before trial.
2. Each party may have no more than six (6) hours in total to examine and cross-examine all witnesses in oral depositions.
3. A party may serve on any other party no more than fifteen (15) written Interrogatories. Each discrete subpart of an interrogatory is considered a separate interrogatory.
4. A party may serve on any other party no more than fifteen (15) Requests for Production. Each discrete subpart of a Request for Production is considered a separate Request for Production.

5. A party may serve on any other party no more than fifteen (15) Requests for Admissions. Each discrete subpart of a Request for Admission is considered a separate Request for Admission.

[Note: In an attempt to maintain fairness and consistency, this rule is drawn in part from the Texas Rule of Civil Procedure (TRCP) 190.2 –Level 1 Discovery]

PRE-TRIAL DISCOVERY: DUTY TO TIMELY AMEND OR SUPPLEMENT WRITTEN DISCOVERY, AND EXCLUSION OF EVIDENCE AND EXCEPTIONS

If a party learns that their response to written pre-trial discovery was incomplete or incorrect when made, or although complete or correct when made, is no longer complete or correct, the party must, within a reasonably prompt time after such is discovered, amend and supplement their response.

Generally, a reasonably prompt time is considered to be within 14 days of the party discovering their response needs amending or supplementing, and no later than 21 days before trial.

PRE-TRIAL DISCOVERY: FAILURE TO TIMELY RESPOND – EFFECT ON TRIAL

A party who fails to make, amend or supplement a pre-trial discovery response in a reasonably prompt time may not be permitted introduce in evidence the material or information that was not timely disclosed, or offer the testimony of a witness (other than a named party) who was not timely identified unless the court finds that:

- (1) There was good cause for the failure to timely make, amend, or supplement the discovery response; or
- (2) The failure to timely make, amend, or supplement the discovery response will not unfairly surprise or unfairly prejudice the other parties.

(3) Even if a party seeking to introduce evidence or call a witness fails to meet the burden of (1) or (2) above, the court within its broad discretion and to ensure fairness to all parties, may grant a continuance of the trial to allow responses to be made, amended, or supplemented and to allow opposing parties to conduct discovery regarding any new information presented by that response.

[Note: In an attempt to maintain fairness and consistency, this rule is drawn in part from the Texas Rule of Civil Procedure 193.6 – Failure to Timely Respond – Effect on Trial]

DISPUTES - PRE-TRIAL and POST-JUDGMENT DISCOVERY

The parties shall attempt to resolve any discovery question, problem or dispute before intervention by the court. Any discovery motion shall contain a *Certificate of Discovery Conference* by the requesting party or counsel filing the same.

CERTIFICATE of DISCOVERY CONFERENCE (3 Examples)

Example #1 - Where ALL of Discovery is Agreed to:

Certificate of Discovery Conference: I hereby certify that reasonable efforts were made by the Movant to resolve all disputes without the necessity of court intervention, and the parties (movant and party or counsel for the parties) were able to confer and reach agreement as to the Discovery request(s) of the Movant/defendant/parties. The parties therefore ask the court to enter such Agreed Discovery Order as to the items agreed to.

Example #2 - Where PART of Discovery is Agreed to and Court is to Rule Only on Items in Dispute:

Certificate of Discovery Conference: I hereby certify that reasonable efforts were made by the Movant to resolve this dispute without the necessity of court intervention, and the parties (movant and party or counsel for the parties) were able to confer and reach agreement as to the Discovery request(s) of the Movant/defendant/parties. The parties have reached agreement to all Discovery requests submitted by the Movant/Parties except the following: The parties therefore ask the court to enter such order as to some items agreed to and rule on the Discovery items in dispute.

Example #3 – A Discovery Conference was Not Held

Certificate of Discovery Conference: A discovery conference was not held with (name of opposing party or opposing attorney) on the merits of this motion because (explanation of your inability to confer.)

DISPUTES – HEARINGS by TELEPHONIC or ELECTRONIC MEANS

On written request of a party and with consent of the Judge, a matter involving Justice Court discovery may be conducted by telephone or other electronic means. The moving party shall be responsible for advising opposing parties of the method and time of hearing and; if so notified by the court, shall be responsible for arranging the conference call.

POST-JUDGMENT DISCOVERY- GENERALLY

Generally, for post-judgment discovery matters, the parties should refer to the Texas Rules of Civil Procedure, TRCP 190-205.

POST-JUDGMENT DISCOVERY – WRITTEN OBJECTIONS AND OTHER ISSUES BEFORE the COURT

When post-judgment discovery, written objections and other issues are brought before the court, the court may take into consideration: party representation or non-representation and witnesses; and, TRCP 500.3 “Application Of Rules In Justice Court Cases,” and TRCP 500.6 “Judge to Develop the Case” to ensure a correct judgment and speedy disposition, and TRCP 500.9 “Discovery” as these rules pertain to discovery being limited to what the judge considers reasonable and necessary, and within the court’s broad discretion, whenever necessary, to ensure fairness to all parties.

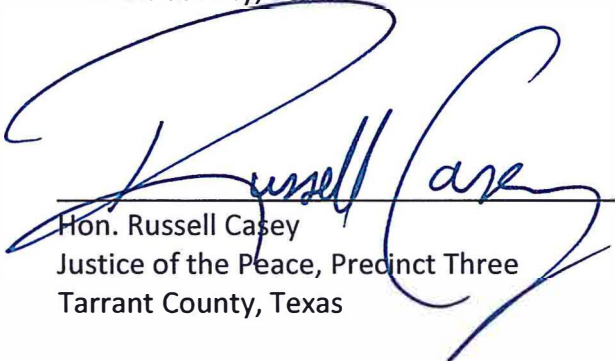
APPROVED



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Hon. Mary Tom Curnutt
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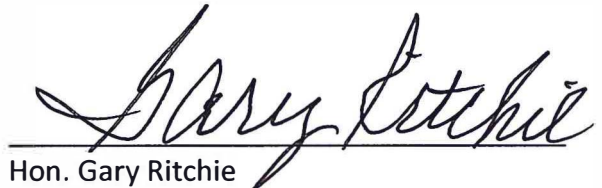
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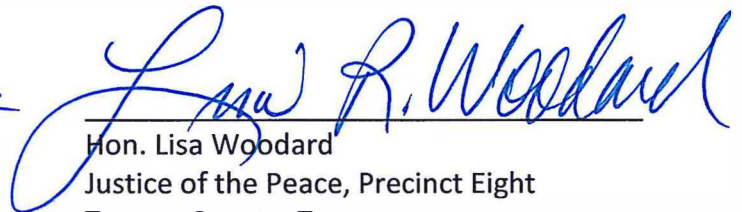
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