

LOCAL RULES FOR
THE JUSTICE OF THE PEACE COURTS
TARRANT COUNTY, TEXAS

EFFECTIVE 01/01/2012

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.

General Overview of the Justice of the Peace Courts Responsibilities

Justices of the Peace serve as a judge for three different kinds of civil lawsuits, as a criminal trial court judge for Class-C misdemeanors and fineable only offenses, and as an administrative court judge for a variety of miscellaneous court proceedings.

The Tarrant County Justice of the Peace Courts have six main areas of responsibility:

1. Small Claims Court Cases
2. Justice Court Cases
3. Forcible Entry and Detainer and Forcible Detainer (Eviction) Court Cases
4. Administrative Court Cases
5. Misdemeanor Criminal Court Cases
6. Magistration Duties

Scope

These rules govern cases filed in the Justice Courts of Tarrant County, Texas. They are promulgated pursuant to Section 27.061 of the Texas Government Code, and in accordance with Chapters 27 and 28 of the Texas Government Code.

These local rules are divided into five broad sections:

- I. General Rules
- II. Civil Suits – both Justice Court Cases and Small Claims Court Cases
- III. Criminal Cases
- IV. Administrative Jurisdiction
- V. Additional Duties of the Justice of the Peace

I. General Rules:

A. General Rules of Courtroom Conduct/Decorum

(Note: These General Rules apply, unless the individual Justice of the Peace Court has its own dress/conduct code published in writing)

- 1) All officers of the court, except the Judge and jurors, and all other participants, except witnesses who have been placed under the rule, shall promptly enter the courtroom at the scheduled time, when called for each court session. When the bailiff calls the Court to order, complete order should be observed.
- 2) In the courtrooms there shall be:
 - (a) No tobacco used;
 - (b) No chewing gum;
 - (c) No shorts or excessively short pants, exposed cleavage or bare midriffs;
 - (d) No pants below the waistline and shirt tails must be tucked in.
 - (e) No reading of newspapers;
 - (f) No cell phones or pagers in use;
 - (g) No bottles, cups or beverage containers except court water, pitchers and cups or as otherwise permitted by the Judge;
 - (h) No edibles;
 - (i) No propping of feet on tables or chairs;
 - (j) No noise or talking that interferes with court proceedings.
- 3) The Judge, the attorneys, and other officers of the court will refer to and address other court officers and other participants in the proceedings respectfully and impersonally, as by using appropriate titles and surnames rather than first names. When addressing the Court, participants should refer to the Justice of the Peace as Judge or Your Honor.
- 4) All officers of the court should dress appropriately for court sessions.

B. Attorneys

(a) Attorneys should observe the letter and spirit of all canons of ethics, including those dealing with discussion of cases with representatives of the media and those concerning improper ex-parte communications with the Judge.

(b) Attorneys should advise their clients and witnesses of these Local Rules of Decorum.

(c) All objections, arguments, and other comments by counsel shall be directed to the Judge or jury and not to opposing counsel.

(d) While another attorney is addressing the Judge or jury, an attorney should not stand for any purpose except to make an appropriate motion, request or objection to the Court.

(e) Attorneys should not approach the bench without leave of court and must never lean on the bench.

(f) Attorneys shall remain seated at the counsel tables at all times except:

(1) When the Judge enters and leaves;

(2) When addressing the Judge or jury; and,

(3) Whenever it may be proper to handle documents, exhibits, or other evidence (leave of court is not required.)

(g) Attorneys should anticipate any need to move furniture, appliances, or easels, or utilize audio visual equipment and should make advance arrangements with the Court. Tables should not be moved during court sessions, unless approved by the Court.

C. Broadcast Media

Requests to broadcast court proceedings shall be determined by each Judge on a case by case assessment after consultation with all the parties to a case.

II. Civil Suits

A. Applicable Rules – General Statements

B. Justice Court Cases

C. Small Claims Court Cases

D. Forcible Entry and Detainer Suits, and Forcible Detainer Suits (Eviction proceedings)

E. Miscellaneous Civil Trial Matters

A. Applicable Rules – General Statements:

Rules concerning the three broad areas of civil jurisdiction in Justice Court may be found within the following texts: Texas Rules of Civil Procedure (TRCP); Texas Government Code (TGC); Texas Property Code (TPC); and Texas Civil Practices and Remedies Code (TCPRC).

Additionally, all rules governing the district and county courts shall govern the Justice Courts, insofar as they can be applied, except where otherwise specifically provided by law or the Texas Rules of Civil Procedure. TRCP 523

*****Note: The above listing of resources and the below listing of Applicable Rules are not intended to be and are not all inclusive.**

*****The Justice Courts recommend that litigants seek legal advice.**

B. Applicable General Rules for Justice Court Cases:

Texas Rules of Civil Procedure with emphasis on *Part V - Rules of Practice in Justice Court*

Texas Government Code with emphasis on Chapter 27 Justice Courts

Texas Civil Practice and Remedies Code with emphasis on Chapter 15 - Venue; Chapter 16 - Limitations; and, Chapter 41- Damages

C. Applicable General Rules for Small Claims Court Cases:

Texas Government Code with emphasis on Chapter 28 - Small Claims Courts

Texas Civil Practice and Remedies Code with emphasis on Chapter 15 - Venue; Chapter 16 - Limitations; and, Chapter 41- Damages

D. Applicable General Rules for Forcible Entry and Detainer, and Forcible Detainer Suits (Eviction proceedings):

Texas Property Code with emphasis on the following Chapters:

Chapter 24 - Forcible Entry and Detainer;

Chapter 91 - Provisions Generally Applicable to Landlords and Tenants;

Chapter 92 – Residential Tenancies;

Chapter 93 – Commercial Tenancies;

Chapter 94 - Manufactured Home Tenancies

Texas Rules of Civil Procedure - Section 3, TRCP 738 - 755

Texas Civil Practice & Remedies Code with emphasis on 15.084

E. Miscellaneous Civil Trial Matters (***not intended to be and are not all inclusive***):

1) Civil – Jurisdiction

Justice Court Cases: Texas Government Code (TGC) with emphasis on section 27.031 and 27.033 and 27.034

Small Claims Court Cases: Texas Government Code (TGC) Chapter 28 with emphasis on TGC 28.003

2) Civil – Institution of Suit:

Justice Court Cases: Texas Rules of Civil Procedure (TRCP) Chapter 5 with emphasis on TRCP 524 – 536(a)

Small Claims Court Cases: Texas Government Code (TGC) Chapter 28 with emphasis on TGC 28.003, 28.12; 28.013

3) Civil – Appearance and Trial:

Justice Court Cases: Texas Rules of Civil Procedure (TRCP) Chapter 5 with emphasis on TRCP 537 – 555; TRCP 94

Small Claims Court Cases: Texas Government Code (TGC) Chapter 28 with emphasis on Subchapter C – Hearing, TGC sections 28.031- 28.035

All Civil Cases: TRCP 4 - Computation of Time; TRCP 7 - May Appear By Attorney

4) Civil – Venue

Justice Court Cases: Texas Civil Practices and Remedies Code (TCP RC) with emphasis on section TCP RC 15.082; and, Texas Rules of Civil Procedure -TRCP 86

Small Claims Court Cases: Texas Government Code (TGC) Chapter 28 with emphasis on TGC 28.011

5) Civil - Rules of Evidence

Justice Court Cases: Texas Rules of Evidence (TRE)

Small Claims Court Cases: Texas Government Code (TGC) Chapter 28 with emphasis on TRE 101; TGC 27.060

6) Civil – Discovery

Justice Court Cases: Texas Rules of Civil Procedure (TRCP) with emphasis on TRCP 190 – 215

Small Claims Court Cases: Texas Government Code (TGC) Chapter 28 with emphasis on TGC 28.033

7) Civil - ADR (Alternate Dispute Resolution, with emphasis on Mediation)

All Civil Cases: Texas Civil Practices and Remedies Code (TCP RC – Chapters 152 and 154, with preference for 154.023 (Mediation)

As trial courts, the Justice of the Peace Courts fully support the policy of the State of Texas to encourage the peaceable resolution of disputes, with special consideration given to the early settlement of pending litigation through voluntary settlement procedures.

8) Civil - Relief from Judgment

Justice Court Cases: Texas Rules of Civil Procedure (TRCP) Chapter 5 with emphasis on Section 5 – New Trial - TRCP 566 – 570; and, Section 6 – Appeal – TRCP 571-574b

Small Claims Court Cases: Texas Government Code (TGC) Chapter 28 with emphasis on Subchapter C – Hearing, TGC sections 28.052

All Civil Cases: Texas Rules of Civil Procedure – TRCP 571 (Appeal); TRCP 572 (Affidavit of Inability); TRCP 45 (Affidavit on Indigency); and, TRCP 329b(f) (Bill of Review); and, Texas Government Code – TGC 51.001(Appeals From justice Courts)

9) Civil - Post Judgment actions:

Justice Court Cases:

- (a) Abstract of Judgment - Texas Property Code Chapter 52
- (b) Execution of Judgment - Texas Rules of Civil Procedure - TRCP Section 3 - beginning with TRCP 621
- (c) Garnishment - TRCP Section 4 - beginning with TRCP 657
- (d) Receivers - TRCP Section 7 TRCP 695
- (e) Sequestration - TRCP Section 8 beginning with TRCP 696
- (f) Turnover Order - Chapter 31 CPRC and Chapter 42 TPC
- (g) Rules of Discovery - TRCP 190 – 215

Small Claims Court Cases:

- (a) Texas Government Code (TGC) Chapter 28, section 28.054

10) Hearings Conducted by Telephone

- (a) At the discretion of the judge, a party or attorney may appear by telephone conference call. A request by a party for such an arrangement must be made in advance, and in writing. In rare cases in the interest of justice, the court may permit a witness to appear by telephone conference call. A request by a party for such an arrangement must be made in advance.
- (b) A judge will not initiate a conference call. All arrangements with telephone operators must be made by the requesting party.
- (c) At any time, even after the completion of a conference call, a judge may determine that a hearing by telephone will not be sufficient and may require a hearing in court upon notice to all parties.

11) Drafts of Judgments and Orders

- (a) So far as practicable, every draft, prepared by an Attorney for a party, of a judgment or order to be signed by a judge should be approved as to form by attorneys for all parties before it is presented to the judge.
- (b) A draft of an order shall not be typed on the same page with a pleading, motion, certificate of service, or any part thereof, and each such draft shall have a heading showing the cause number, the style of the case, and the court in which it is pending.
- (c) The word "entered" should not be used in the line provided immediately above the judge's signature to show the date on which a judgment or order is signed.

12) Motions to Withdraw as Attorney

- (a) Except as provided in Rules 8 and 10, Texas Rules of Civil Procedure, a motion to withdraw will be granted without a hearing only if the moving attorney:
 - (1) Files written consents to the withdrawal signed by attorneys for all parties; and,
 - (2) Files a written consent to the withdrawal signed by the client, or includes in the motion a specific statement of the circumstances that justify the withdrawal and the circumstances that prevent the moving attorney from obtaining the client's written consent; and,

- (3) Files a certificate stating the last known mailing address of the client.
- (b) If all 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.

13) Transfer of Civil Cases.

- (a) At the Judge's discretion, a Justice of the Peace Court in one precinct may transfer a pending civil case to another Justice of the Peace Court in Tarrant County, provided that the receiving Judge has no objection to the transfer.
- (b) The parties lack standing to contest or request the transfer.
- (c) Once transferred, the case proceeds as if it arose originally in the court to which it was transferred.
- (d) The receiving Judge may hear the case in his/her own courtroom or in the courtroom of the Justice of the Peace who transferred the case.

14) Holidays

- (a) When any date mentioned in these rules falls on a court holiday, then the applicable date shall be the first date following the holiday.
- (b) Court holidays are published and can be found at the Tarrant County website www.tarrantcounty.com

III. Criminal Cases – (Fineable Only Criminal Offenses)

A. Jurisdiction Overview

1) Justice of the Peace Courts adjudicate Criminal, Class –C Misdemeanor and fineable only cases which are filed by the various state and local county law enforcement agencies, which are authorized to write citations, i.e., Texas Department of Public Safety, Sheriff's Department, Constables Office, Game Wardens, Cosmetology Commission, Health and Water Departments, Plumbing Board, etc.

2) Additionally, Justice of the Peace Courts conduct criminal hearings on Failure to Attend School, and Parent Contributing to a Child's Failure to Attend School cases (more commonly referred to as Truancy cases) that are filed by local school districts.

3) Reference sources for these type offenses can be found within the following resources (not all inclusive):

- (a) Texas Penal Code

- (b) Texas Code of Criminal Procedure
- (c) Texas Transportation Code
- (d) Texas Family Code
- (e) Texas Education Code
- (f) Texas Alcoholic Beverage Code

B. Criminal Cases – General Information

1) Filing Cases

- (a) Justice Court cases shall be filed in the precinct where the offense is alleged to have occurred, except for cases involving school attendance, which may be filed in any precinct in the county.
- (b) Offenses alleged to have been committed in more than one precinct may be filed in any precinct that the offense, or any portion of the offense, is alleged to have occurred.

2) First Appearance/Docket Call

- (a) Unless otherwise directed, defendants will appear at the Justice Court in which the case is filed, according to the date and location written on their citation or summons. If the defendant waives jury at the docket call, a written waiver, signed by counsel and/or defendant must be presented.
- (b) A plea of nolo contendere (no contest) or guilty, made by an adult, can be accepted by the clerks of the court at any time. Subsequent appearances will be as scheduled by the Court.

3) Setting Cases

- (a) Cases are set by the clerks of the Justice Court in which the case is docketed. Each court maintains their criminal dockets, which are available at each respective court.
- (b) Attorneys or defendants may request reset of cases no later than 24- hours before the current setting in accordance with court rules.

4) Court clerks are authorized to give the following settings; all others must be approved by the Judge.

- (a) Pretrial Docket - Defendants may discuss their cases with a prosecutor, plead guilty or no contest to resolve the case, or reset the case for trial.

(b) Pretrial - All pretrial hearings will be held on the day set unless a written State or Defense motion for continuance is granted. If the defendant waives jury at the docket call, or at pretrial, a written waiver, signed by counsel and/or defendant must be presented.

5) Trial by Judge

Attorneys and defendants should not set a case for trial by judge unless the defendant and the State intend to waive jury. All cases shall be tried when set unless a written State or Defense motion for continuance is granted.

6) Jury Trial

Defense attorney and/or defendant shall appear at the scheduled jury setting. State and Defense must either announce ready, or file a written motion for continuance. If the defendant waives jury at the time of trial, a written waiver, signed by counsel and/or defendant must be presented.

7) Plea of Guilty or Nolo Contendere.

Defendants may enter a plea of guilty or no contest at any time, with or without a plea agreement. Each Justice Court shall maintain a list of "standard" fines for various offenses. Defendants may also elect to enter a plea of guilty or no contest and address the Judge regarding punishment at Docket Call.

8) Appointment of Counsel

Indigent defendants are not entitled to a court appointed attorney, as a matter of law, when charged with a fine-only offense.

9) Motions to Withdraw or Substitute

(a) An attorney becomes attorney of record in a misdemeanor case by listing his or her name on pleadings or by setting or resetting the case. He or she remains attorney of record until relieved by written order of the Court.

(b) 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 in writing. Adequate notice is by certified mail, return receipt requested. 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.

10) Transfer of Criminal Cases

(a) A judge may transfer a pending misdemeanor case to another Justice of the Peace court in Tarrant County provided that the receiving Judge has no objection to the transfer.

- (b) The defendant has 10 days to object in writing to the transfer.
- (c) Once transferred, the case proceeds as if it arose originally in the court to which it was transferred.
- (d) The receiving Judge may hear the case in his/her own courtroom or in the courtroom of the Justice of the Peace who transferred the case.

IV. Administrative Jurisdiction

A. Judges of the Justice of the Peace Courts serve as Administrative Court Judges adjudicating a variety of miscellaneous administrative court proceedings such as:

- 1) Driver's license suspension and revocation hearings (filed by Texas Department of Public Safety)
- 2) Hearing on suspensions or denials of handgun license (filed by Texas Department of Public Safety)
- 3) Emergency mental health detention hearings (filed by applicants)
- 4) Disposition of seized/stolen property hearings
- 5) Towed vehicle determination hearings (filed by vehicle owners)
- 6) Disposition of cruelly Treated animals hearing

B. Reference sources for these type administrative cases can be found within the following resources (not all inclusive):

- 1) Texas Transportation Code
- 2) Texas Government Code
- 3) Texas Health and Safety Code
- 4) Texas Code of Criminal Procedure
- 5) Texas Penal Code
- 6) Texas Occupations Code

V. Additional Duties of the Justice of the Peace

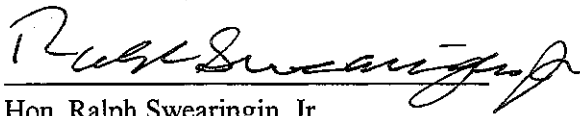
A. Ex Officio Notary Public

As authorized by the Texas Constitution and Texas Government Code, a Justice of the Peace is an ex officio notary public having statewide jurisdiction to perform such notary functions within the boundaries of the State of Texas.

B. Magistration

As a magistrate, the Justice of the Peace can act to order arrests; issue search and arrest warrants; find probable cause; warn persons accused of crimes; admit persons to bail; commit persons to jail; appoint legal counsel if so designated; issue emergency protective orders; and carry out other important duties within the criminal justice system.

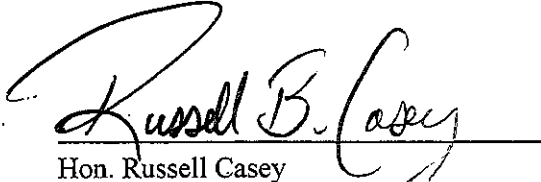
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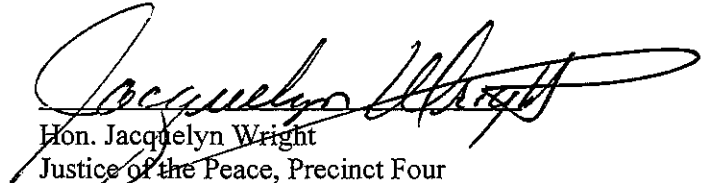
Hon. Ralph Swearingin, Jr.
Justice of the Peace, Precinct One
Tarrant County, Texas



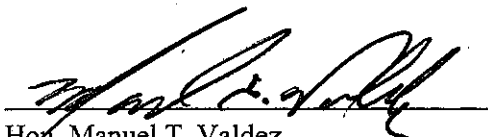
Hon. Linda Bierman-Davis
Justice of the Peace, Precinct Two
Tarrant County, Texas



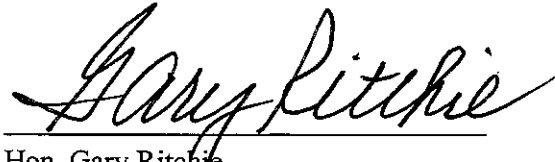
Hon. Russell Casey
Justice of the Peace, Precinct Three
Tarrant County, Texas



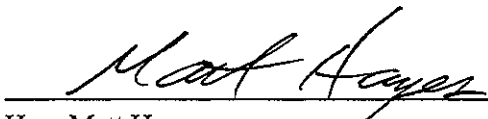
Hon. Jacquelyn Wright
Justice of the Peace, Precinct Four
Tarrant County, Texas



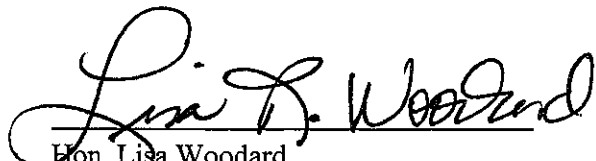
Hon. Manuel T. Valdez
Justice of the Peace, Precinct Five
Tarrant County, Texas



Hon. Gary Ritchie
Justice of the Peace, Precinct Six
Tarrant County, Texas



Hon. Matt Hayes
Justice of the Peace, Precinct Seven
Tarrant County, Texas



Hon. Lisa Woodard
Justice of the Peace, Precinct Eight
Tarrant County, Texas