

TAX COURT PROTOCOL

Pre-trial Procedure

Service

In addition to any service requirements imposed by the Texas Rules of Civil Procedure, all parties must provide proof of service of any motions or judgment submitted to the court. If a party is not able to provide proof of electronic service, then the party must present proof of service through another means of service under the rules, such as fax, certified mail, return receipt requested, or hand-delivery.

All parties must receive notice of all hearings, trials, and default motions regardless of whether the party has filed an answer with the court. The notice should be sent to the last known address of the party or the party's attorney.

All motions and judgments shall be submitted with a master's report.

All motions should clearly state the relief requested and the basis for the motion.

Trial

Notice of Trial/Default

Plaintiffs' counsel shall give notice to all parties, including defaulting parties, for any trial setting or motion for default. Notice must be sent at least 14 days before the default hearing or trial unless additional time is required by the Rules of Civil Procedure or law.

Plaintiffs' counsel is responsible for sending notice of trial and/or default to all parties, even if the court has also provided notice of the trial. If the court has provided a trial notice to the parties, Plaintiffs' counsel must forward a copy of the notice to the parties, including defaulting parties.

If the property is occupied, or if it is unclear whether the property is occupied, notice of trial or default must be sent to the property in addition to all other parties.

Proof of Ownership

In cases in which the certified delinquent tax statement fails to prove ownership, Plaintiffs' counsel shall provide proof of ownership.

Judgments

All information contained in the judgment must be typed, including amounts of delinquent taxes for all parties.

Each property owner listed shall be labeled on the certificate of service as “defendant.”

All numbers for delinquent taxes and liens in the judgment and master’s report shall match the evidence submitted.

If any party is in default, Plaintiff must file a default checklist for all defaulting defendants—even if only some of the parties are in default.

Both the default checklist and the master’s report shall include the trial date.

All judgments submitted must be final judgments unless prior approval for a partial judgment is obtained from the Court. All final judgments shall be labeled “Final Judgment.”

Supporting Documents

In an effort to speed up the review of judgments by the tax masters, Plaintiffs’ counsel shall submit the following documents with the judgment:

- Evidence supporting Plaintiffs’ and Intervener’s claims, including ownership allegations
- Answer
- Citation Returns
- Ad litem answer, affidavit, and order appointing the ad litem
- Proof that notice was sent
- Trial Notice
- Cost Judgment – 3 collection attempts made approximately 30 days apart and sent by regular and certified mail before setting it for a hearing

Attorneys Ad Litem

Appointment of Attorney Ad Litem

Motions to appoint attorney ad litem must be filed within 10 days of receiving the return of citation with the court. The motion should be set within 15 days of filing the motion. A motion to reappoint or motion to appoint an attorney ad litem must clearly state the relief requested and the basis for the motion.

Duties of Plaintiffs’ Counsel

When an attorney ad litem has been appointed, Plaintiffs’ counsel shall provide a copy of the file, including all title work to the attorney ad litem within 10 days after the appointment of the attorney ad litem.

Duties of Attorney Ad Litem

An attorney ad litem must file an answer for all parties for which the attorney ad litem has been appointed within the time limit of the Texas Rules of Civil Procedure. The answer and affidavit must list all defendants by name.

When an attorney ad litem locates heirs or other potential parties to a suit, the attorney ad litem shall file a notice identifying the heirs or other parties and serve the notice on all parties as soon as practical, but no later than 7 days after locating the heirs or potential parties.

The attorney ad litem must file his or her affidavit with the court 15 days before trial.

Unless otherwise specified by the judge, attorneys ad litem must appear at trial.

Plaintiff's counsel will confer with the attorney ad litem at least 7 days before trial to determine if the case is ready for trial. If the case is not ready for trial, the parties must tell the court what additional work needs to be done and approximately how much additional time is needed to complete the work.

Affidavit

The attorney ad litem shall use the form affidavit, attached as Exhibit A. The attorney ad litem is not precluded from adding additional information to the affidavit in the specified section.

The affidavit filed by the attorney ad litem shall state the following:

- The names of the parties that the ad litem was appointed to represent
- The work performed to locate each party the ad litem was appointed to represent
- The results of the site visit, including whether the property was occupied
- The fee requested

Attorney Ad Litem Fees

In cases in which an attorney ad litem has been appointed, the ad litem shall be entitled to \$1,000 base fee. Usually, this fee covers work done for up to 3 defendants. If additional work is performed by the ad litem, or if the ad litem was appointed for more than 3 defendants and had to do more work because of the number of appointed defendants, the ad litem shall be allowed request additional fees. Fees for the additional work shall be charged at a rate of \$150 an hour. Unless excessive out-of-pocket costs are incurred, costs for mail, electronic filing fees, and other work performed by the attorney ad litem are included in the base fee.

If an ad litem anticipates performing additional work or appearing at additional settings, the ad litem shall keep the court and Plaintiffs' counsel apprised of the work and the fees incurred. On occasion, prior approval may be required for additional work or fees. Whenever more than the base amount is requested, the ad litem shall provide an invoice or detailed description of the work performed.

Motions

A certificate of conference is required on all motions in compliance with Harris County Local Rule 3.3.6.

Post-Judgment

Excess Proceeds

Parties seeking excess proceeds must file a motion clearly stating why they are entitled to the funds they are seeking. If other parties are listed in the judgment, the motion should explain why the other parties are either not entitled to receive excess proceeds or state how and why the excess proceeds should be divided between the parties listed in the judgment. When more than one party seeks excess proceeds, only one order for excess proceeds should be presented to the court when possible.

When filing a motion for excess proceeds, the moving party must provide proof that District Clerk's letter to the property owner was sent pursuant to §34.03 or §34.04 of the Texas Property Code. If the § 34.03 or §34.04 letter is unavailable, the moving party must send the notice of the hearing to all parties in the final judgment at least 60 days before the hearing.

When filing a motion for excess proceeds, the moving party must show the Court the amount of funds that are in the registry. Each motion should specify how much money is owed to the moving party and to the other parties. The motion should state the amount requested, the date of judgment and sale, and the statutory authority for the motion. The moving party must submit orders granting and denying the motion in addition to a master's report.