

JUDGE ELIZABETH LOCKETT, TAX MASTER
TAX COURT RULES & PROCEDURES
COURTS: 55TH 113TH 129TH 151ST 157TH 164TH 189TH 215TH 269TH 333RD

REFER TO THE TAX COURT PROTOCOL:

<https://www.justex.net/JustexDocuments/65/TaxCourtProtocolOCT2014.pdf>. When there is a conflict between these Rules and the Tax Court Protocol, these Rules control.

JUDGMENTS

- All information contained in the judgment must be typed, including amounts (no white outs or mark outs by parties), EXCEPT the amount awarded to the attorney ad litem. The Tax Master will write in the amount awarded to the attorney ad litem.
- If the court generates the notice of trial, Plaintiffs' counsel is responsible for sending the notice to all parties, including defaulting parties, within 3 days of receiving the notice.
- For defaulting parties, Plaintiff counsel shall include a Default Checklist, Certificate of Last Known Address, and Non-Military Affidavit.
- For cases with AAL appointments, include the Supreme Court of Texas Fee Report and Statement of Evidence.

JUDGE'S PACKET

When submitting a final judgment, please include the following items in addition to any evidence introduced during the trial or default hearing:

1. Answers
2. Citation returns
3. Ad litem answer, affidavit, and order appointing the ad litem
4. Proof that trial or default notices were sent to all parties, including defaulting parties, via certified mail (PS Form 3877 or 3817 or copies of the green cards) and regular mail. If a party is represented by counsel, include proof that counsel received notice electronically or in any other manner acceptable under TRCP 21a. The proof must be electronically filed at least 3 days before trial.
5. Trial Notice
6. Evidence supporting Plaintiffs' and Intervener's claims, including ownership allegations
7. Cost Judgment – 3 collection attempts made approximately 30 days apart and sent by regular and certified mail before setting it for a hearing

ATTORNEY AD LITEM (AAL)

Appointment of Attorney Ad Litem

- Within 14 days from the date of the Trial Setting Order, all taxing units shall supply their entire files, including any answers or Attorney Ad Litem reports filed in previous tax lawsuits involving the defendant(s) to the Attorney Ad Litem appointed in the case.
- Within 90 days from the date of the Trial Setting Order, the Taxing Units shall file amended pleadings naming any additional parties.

- If this is an older case that does not have a Trial Setting Order, then time begins to run from the date of the Order Appointing or Reappointing Attorney Ad Litem.

Duties of Attorney Ad Litem

- On or before 10:00 a.m. on the Monday next after the expiration of 20 days after the date of the Trial Setting Order, the Attorney Ad Litem shall file an answer in this case.
- Within 75 days from the date of the Trial Setting Order, the Attorney Ad Litem shall notify all party taxing units of any additional heirs located by the Attorney Ad Litem's due diligence efforts.
- No more than 120 days from the date of the Trial Setting Order but at least 20 days before trial, the Attorney Ad Litem appointed by the Court shall file his/her Attorney Ad Litem affidavit following the approved format for such affidavit.
- The Attorney Ad Litem MUST appear at trial in person, via telephone, or via Zoom unless excused from appearing on the record or in writing by the Tax Master or Presiding Judge. The Attorney Ad Litem must notify the Court's Clerk at least three days before trial that the Attorney plans to appear via telephone or Zoom.
- If this is an older case that does not have a Trial Setting Order, then time begins to run from the date of the Order Appointing or Reappointing Attorney Ad Litem.
- An Attorney Ad Litem who fails to comply with the time deadlines may be removed from the case and a substitute Attorney Ad Litem may be appointed.
- In cases in which an attorney ad litem has been appointed, the ad litem shall be entitled to \$1,500 base fee. Usually, this fee covers work done for up to 3 defendants.
- The Attorney Ad Litem's affidavit must state the number of hours worked on the case.
- Whenever more than the base amount is requested, the ad litem shall provide an invoice, time records, or a detailed description of the work performed.

EXCESS PROCEEDS

- If there are no conflicting petitions filed, then all petitions for excess proceeds may be filed on the Thursday submission docket at 10:00 a.m. along with a Proposed Joint Order.
- If conflicting petitions are filed, then all petitions for excess proceeds must be set on the oral hearing docket.
- Parties seeking excess proceeds must provide proof that the District Clerk's letter to the property owner was sent pursuant to § 34.03 or § 34.04 of the Texas Property Tax Code.
- If the § 34.03 or § 34.04 letter is unavailable, then parties seeking excess proceeds must send notice of the hearing/submission to all parties in the final judgment at least 60 days before the hearing/submission docket. The 60 days' notice requirement can be waived if all parties to the final judgment or their successors-in-interest sign a Proposed Joint Order.
- Submit proof that notice of the hearing was sent out (PS Form 3877 or 3817 or copies of the green cards), fax confirmation, or e-service confirmation.
- Petitions should state
 - the amount of funds that are in the registry;
 - why the other parties listed in the judgment are not entitled to receive excess proceeds OR how and why the excess proceeds should be divided between the parties listed in the judgment;

- the amount owed to the moving party AND to the other parties;
- the amount requested;
- the date of judgment and sale; and
- the statutory authority for the motion.
- An heir, lienholder, or assignee or transferee must provide documentation proving entitlement to excess proceeds under Texas Property Tax Code § 34.04.
- If more than one party seeks and is entitled to proceeds from the registry, the parties should confer and submit one order, if possible.
- Movants must submit orders Granting and Denying the motion and a Master in Chancery's Report to the District Court.

CERTIFICATES OF SERVICE

- List name of Certifying Attorney.
- List names, addresses, and fax number or e-mail address of parties served.
- Note method of service (electronic service, certified return receipt number, fax, etc.) for each party.
- If the party is represented by an attorney, note which party the attorney represents.

MOTIONS

- Submit an order AND a Master's Report granting or denying the motion with each motion filed.
- Certificates of conference required by the Texas Rules of Civil Procedure are extended to all motions, pleas, and special exceptions except summary judgments, default judgments, agreed judgments, motions for voluntary dismissal or non-suit, post-verdict motions, and motions involving service of citation. (Per Local Rule 3.3.6)
- The certificate of conference MUST state the results of the conference, e.g. agreed, unopposed, opposed, unable to confer, etc.
- Motions should clearly state the relief requested and the basis for the motion.
- Motions for continuance must be verified or contain an affidavit or be agreed to and signed off by all parties. (Per TRCP 251)
- Motions for continuance must be filed at least three days before the trial setting. Parties must be prepared to argue the merits of any motion that has not been granted before the date of the trial setting.

MOTIONS FOR NONSUITS OR DISMISSALS

All Motions or Notices need to have the following items:

- An order with the following items on the order:
 - Reason why,
 - If court costs and Tax Master Fees are still owed and by whom, and
 - Ad litem signature for all cases in which an Attorney Ad Litem has been appointed.
- A Master in Chancery Report to the District Court is required.

- When possible, a Joint Order should be prepared when there are multiple parties dismissing their claims.

DOCKET SCHEDULE DURING PANDEMIC

Thursday

10:00 AM Submission Docket (NO ORAL HEARINGS)
Motions for the Appointment of an Attorney Ad Litem
Rule 106 Motions
Excess Proceeds (no conflicting petitions)
Pretrial Motions not requiring a hearing
Post-trial Motions not requiring a hearing

Friday

Motions for Default Judgment (Submission, NO ORAL HEARINGS)
9:30 AM 55th, 113th, and 129th cases
10:00 AM 129th, 151st, 157th, 164th cases
11:00 AM 189th, 215th, 269th, and 333rd cases

THE DOCKET SCHEDULE WILL BE UPDATED WHEN TAX COURT RESUMES TRIALS AND CONTESTED ORAL HEARINGS.

Published July 1, 2020