

61st DISTRICT COURT PROCEDURES

1. CONTACTING THE COURT

For matters relating to hearings and motions, contact the Clerk of the Court:

Tiffany Jefferson
832-927-2625
Tiffany.jefferson@hcdistrictclerk.com

Contact the clerk for the status on any agreed or unopposed orders submitted to the Court.

To determine whether the Court has ruled on a motion, please check the case docket sheet at the District Clerk's [website](#) for any comments or contact the Court for status.

For matters relating to trials, contact:

Jonathan Patton
832-927-2626
Jonathan_patton@Justex.net

For matters relating to transcripts, contact:

Jessica Chang
832-927-2627
Jessica_chang@justex.net

2. E-FILING

The Rules of Civil Procedure require litigants to electronically file documents and pleadings with the Harris County District Clerk. **Litigants need prior authorization from the Court before hand-delivering or faxing documents directly to the Court.** The District Clerk will not accept documents delivered directly to the court for filing. Litigants are responsible for ensuring that documents become part of the Court's record by e-filing the documents.

2.1 E-FILING INSTRUCTIONS

Please ensure that there is one lead document per envelope (usually a motion/response/reply/certificates/subpoena/citation, etc.) and that all related documents (notices of hearing/submission, orders, exhibits, cover letters) are filed as attachments to the lead document, not as additional lead documents.

An affidavit must be filed as a supporting document.

If you have more than one exhibit, they must be separated, labeled, and filed as individual attachments to the lead document.

The complete title of your lead document must be entered as it appears on your pleading, or as close as possible, without add-ons or abbreviations.

This information is generally entered where you save your PDF documents. Please call the clerk for any questions you have about filing procedures to ensure that there are no returns for corrections.

3. MOTIONS

3.1 CERTIFICATES OF CONFERENCE

The Court **requires** a detailed certificate of conference on all motions, pleas, and special exceptions except for:

- summary judgments;
- default judgments;
- motions for voluntary dismissal or non-suit;
- post-verdict motions; and
- motions involving service of citation.

The movant must confer person-to-person with opposing counsel before the Court will consider a motion that requires a conference. The Court will pass motions that do not have a certificate stating (1) that the movant has actually talked to opposing counsel, or (2) why counsel have not been able to discuss the motion.

A certificate of conference stating that counsel has sent a letter or email to opposing counsel but that counsel has not received a response is **not** a proper certificate of conference.

3.2 ORDERS

File orders with all motions and responses. The Court will pass motions filed without proposed orders. On occasion the Court may require parties to email longer or more complex proposed orders in Word format to the court clerk.

When submitting a proposed order after a hearing, include a cover letter and indicate whether the order is agreed to as to form.

3.3 AGREED MOTIONS

Agreed or unopposed motions are presented to the judge for signature upon filing, and generally do not need to be placed on the Court's docket.

All unopposed or agreed motions should be titled as such.

Agreed motions must contain the appropriate signatures.

Unopposed motions must contain a certificate of conference.

If the Court denies an agreed or unopposed motion, a litigant may request an oral hearing on that motion.

3.4 MOTION RESPONSES

E-file motion responses at least 48-hours or two business days before the hearing and include a proposed order.

3.5 COURTESY COPIES

Please do not submit courtesy copies to the Court unless specifically requested by the Court.

3.6 DISCOVERY MOTIONS

The Court expects that parties will make every effort to resolve all discovery issues without court intervention. If such attempts prove unsuccessful, litigants may request a hearing on a Motion to Compel. The complaining party should file a certificate of conference detailing all attempts to resolve the disputes, including

- a brief description of dispute;
- the date, time, and place the parties have had out of-court discovery discussions;
- the names of all counsel participating in the discussions.

Motions to compel must contain, in the body of the motion, the discovery requests and responses at issue and the legal argument supporting the movant's position for each discovery request.

All discovery motions requiring a hearing should be set for Mondays at 8:00 am, after 10 days notice. Please contact the clerk to schedule your hearing.

Proposed orders should list each discovery issue separately.

Both the movant and non-movant need to submit a proposed order.

3.7 SUMMARY JUDGMENTS

Motions for Summary Judgment are heard **by submission only** unless otherwise requested by the parties.

PER RULE 166A: Motions for Summary Judgment must be heard within 60 days of filing. If a Motion for Summary Judgment is not set or heard within 60 days, it will be automatically denied without prejudice.

Hearings and submission settings for Motions for Summary Judgment cannot be passed via e-mail or phone call. If a party wishes to withdraw their pending motion for summary judgment and cancel the hearing, they must file a notice withdrawing the motion and a proposed order granting the withdrawal. If a party wishes to reset an oral hearing or submission setting on a Motion for Summary Judgment, they must file an affidavit or declaration indicating why the hearing needs to be moved.

If the reset is granted, the motion MUST be heard within 90 days of filing, or the motion will be automatically denied without prejudice.

Do not wait until the last minute to file your motion or request a hearing. (See Texas Rules of Court 166a(c) for notice requirements.)

Summary judgments must be heard at least one month before trial. Late-filed summary judgments will be addressed at the Court's discretion.

Motions and responses should identify specific deposition testimony relied upon to support a position, rather than simply attaching a deposition.

Proposed orders granting summary judgments should include all relief requested. Motions should show how damages are calculated and provide supporting evidence. For example, in a case involving a breach of a credit card agreement, the plaintiff should provide evidence showing how the plaintiff calculated the amount due by the debtor.

A hearing may be requested on Summary Judgment motions by any party by filing a written request with the Court.

3.8 CONTINUANCES

File motions for continuances as early as practicable.

Continuance motions filed after docket call, except in emergent situations, may be subject to denial.

In the early stages of a case, hearings are generally not required for agreed continuances unless the Court decides otherwise. If, however, your case is two years or older, joint or agreed motions for continuance must be scheduled for an oral hearing. These motions must include sufficient details and show substantial need for continuance.

If the parties agree to a summer setting, they must also agree to waive vacation letters.

Any lead counsel actively engaged in a matter may seek an automatic continuance of up to 180 days for any of the following situations:

- the birth or adoption of a child;
- care for an immediate family member (spouse, child, or parent) with a serious health condition; and
- medical leave when the employee is unable to work because of a serious health condition.

3.9 DEFAULT JUDGMENTS

Movants must **attach all evidence** supporting the motion and damages to the motion for default or the Court will pass the hearing.

The Court sets default judgments on the Monday oral hearing docket.

When proving damages in a motion for default judgment, the movant should provide evidence to support the damage calculation and show how the damages were calculated.

The court will permit appearance(s) by Zoom of any healthcare witness testifying regarding causation in support of a default motion, and will accept the testimony at any time when said witness can be available. The court will also accept affidavits of healthcare witnesses regarding causation.

All default judgments **must** include the following language:

“If you are an individual (not a company), your money or property may be protected from being taken to pay this judgment. Find out more by visiting www.texaslawhelp.org/exempt-property. *Si usted es una persona física (y no una compañía), su dinero o propiedad pudieran estar protegidos de ser embargados como pago de esta deuda decretada en juicio en contra suya. Obtenga mayor información visitando el sitio www.texaslawhelp.org/exempt-property.*”

3.10 SUBSTITUTED-SERVICE MOTIONS

Affidavits supporting motions for substituted service under Rule 106 must:

- describe the efforts taken to verify that defendant actually lives or works at the subject address;
- list at least four attempts of service at different times of day with the specific dates and times;
- detail the identity of person(s) present at the subject address and states what was said;

- if possible, provide the identity of the owners of any cars in the driveway;
and
- include any other indications that defendant resides at the subject address.

File an order with all Rule 106 motions. Movants can find a form order [here](#).

3.11 PROTECTIVE ORDERS

Protective Orders containing a provision stating that any documents filed in the records of the court shall be sealed and not open for viewing by the general public must be changed to comply with Rule 76a of the Texas Rules of Civil Procedure. Litigants can find a form Agreed Protective Order on the court's website under "Forms."

3.12 MOTION TO WITHDRAW

Motions to withdraw as attorney of record require strict compliance with Rule 10 of the Texas Rules of Civil Procedure. Motions in which the party will be *pro se* after the attorney withdraws must include:

- the party's telephone number;
- the party's address;
- the party's email address;
- a statement regarding consultation with the party regarding the motion;
and
- current deadlines and trial settings.

Orders on motions to withdraw also must include contact information for the *pro se* party.

The Court does not generally grant motions to withdraw that are filed within 60 days of a dispositive event, such as a trial setting or a hearing on a motion for summary judgment.

If the withdrawing attorney represents a corporation, counsel must notify the corporate party that corporations cannot proceed *pro se* or self-represented in Texas courts.

Motions to substitute counsel must indicate whether the attorney being replaced has agreed to the substitution and have the appropriate certificates of conference and service.

3.13 MOTIONS TO RETAIN

After the Court has retained a case four times or more, the movant must set the motion to retain for oral hearing or the Court will dismiss the case.

3.14 SPECIAL EXCEPTIONS

Movants must either (1) attach a copy of the pleading being excepted to (unless the exception is only to the amount of damages sought) or (2) state verbatim the paragraph being except to. Proposed orders should list each exception separately.

3.15 MOTIONS FOR SEVERANCE

The Court does not routinely grant motions to sever.

Motions to sever must state the basis for the severance and be set for oral hearing.

The order of severance must include the following information:

- Style of the case;
- Case number, i.e. 2006-54321-A;
- Parties to be included in the severed case;
- Documents to be included in the severed case;
- Whether the severed order disposes of the severed case or if the case shall remain active; and
- The party paying for the costs of court and severance.

3.16 SANCTIONS

Sanctions should not be requested unless the opponent has violated a previous order. Instead, you may request for reimbursement of your costs in the form of attorney fees, which may be awarded at the discretion of the court.

4. HEARINGS

4.1 YOUNG LAWYERS

The Court encourages opportunities for young lawyers (*i.e.*, lawyers practicing for less than seven years) to participate in hearings and trials, particularly when the young lawyer drafted or contributed significantly to the underlying motion or response. Providing substantive speaking opportunities to young lawyers benefits the profession, the lawyers, and the clients.

4.2 ORAL HEARING DOCKET

All motions, other than Summary Judgment motions, which are not agreed or unopposed may be on the Court's oral hearing docket.

The Court conducts oral hearings on Mondays. Call the clerk for a hearing date and time. Do not request a hearing in your motion. Discovery motions are heard at 8:00 am only.

Parties must file and serve the notice of the hearing along with the motion and order within 48 hours after obtaining the setting or the Court may pass the setting without further notice.

Movants must provide ten-day notice for hearings.

When passing a hearing, call the court clerk and all parties as soon as possible.

Counsel who live outside Harris County and its' contiguous counties may attend by Zoom **if** arrangements are made with the court before noon on the Friday prior to the hearing.

Please advise if the hearing will take longer than 30 minutes. Longer hearings, or hearings of multiple motions in the same case, will be scheduled on Monday afternoons.

4.3 SUBMISSION DOCKET

The Court permits most motions to be presented to the court via submission. In order to set a matter on the Court's submission docket, a Notice of Submission must be filed with the Court. The Court's submission docket is held on every Monday at 8 am after proper notice.

4.4 TEMPORARY INJUNCTIONS

Temporary injunctions are set on Fridays at 1:30 p.m.

Before scheduling Temporary Injunction hearings, movants should call the Court and advise (1) the readiness to proceed with the hearing, and (2) the estimated length of the hearing. Depending on trial schedules and the length of the hearing, the Court may find it necessary to extend the TRO and reschedule the temporary-injunction hearing. Parties should not bring witnesses to court until checking with the court clerk.

4.5 MINOR SETTLEMENTS

The Court must approve the disposition of all cases involving minors.

Hearings on Minor Settlements are conducted on Mondays at 10:00 am.

In motions requesting the appointment of a guardian ad litem, please advise the Court if the guardian or attorney ad litem should be fluent in a language other than English. The Court will appoint ad-litem based on the complexity of the case and the ad-litem's experience.

Parties who live outside Harris County and its' contiguous counties may attend by Zoom if arrangements are made with the court before noon on the Friday prior to the hearing.

4.6 EXPEDITED HEARINGS

Any party requesting an expedited or emergency hearing must file a detailed request. If the request is agreed to by both sides, please contact the clerk so that the court may schedule an expedited hearing. If the request is opposed, it will be presented to the Judge for consideration, but may be subject to denial.

4.7 FAXES AND EMAILS

The Rules of Civil Procedure require pleadings and documents to be e-filed. Do not fax or email documents to the Court without express authorization. Faxing and emailing does not replace the e-filing requirement. The clerk may destroy unauthorized faxed or emailed documents.

5. TRIALS

File, **exchange, and conference** all exhibit lists, motions in limine, deposition offers, proposed jury charges, and/or proposed findings of facts and conclusions of law with the Court **one week before trial**. Please refer to the Court's [Standing Trial Preparation Order](#).

Cases are automatically set for trial when a defendant files an answer. If the Court does not reach a case during the first setting, it will be reset.

Docket call will be conducted on Fridays at 9:00 am, ten days prior to the first day of the two week trial docket. Notice of the specific date of docket call will be sent to the parties prior to your trial setting. Once notified by the Court Coordinator of your docket call setting, the parties are expected to appear at docket call **in person** unless arrangements are made with the court prior to your docket call date, or if instructed otherwise by the court. If you do not receive notice to appear for Docket Call, you will receive an e-mail from the Court Coordinator the week prior to your trial setting with a brief questionnaire about your case. Please respond in a timely manner. If you do not respond, the Court will assume that you are announcing ready for trial.

It is not necessary to appear while your case is on the two-week trial docket, unless you have been **assigned** to trial. All cases are **on call** for the entire two-week docket.

5.1 STATUS AND PRE-TRIAL CONFERENCES

If a party anticipates needing more than 40 potential jurors for a jury panel, the party must set a status conference with the Court at least 60 days in advance.

On the day of trial, the Court allots 30 minutes per side for pre-trial matters.

If a party anticipates needing more than 30 minutes for pre-trial, the party must schedule a status conference at least 60 days in advance so the Court can schedule enough time for pre-trial matters, including expert-witness challenges, rulings on exhibits, and rulings on deposition excerpts. Pre-trial Conferences requiring more than 1 hour generally will be conducted on Monday afternoons prior to the start of trial.

5.2 MOTIONS IN LIMINE

The Court has issued a standing [motion in limine](#) for all cases. For case specific motions in limine, the parties must exchange their motions before the pre-trial conference. Limit your motion in limine to the specific facts and circumstances in your case.

5.3 EXPERT WITNESS CHALLENGES

Parties must file expert witness challenges by the deadline set out in the docket control order. Parties shall set all motions to challenge experts for hearing **before** the trial date.

5.4 JURY CHARGE

The parties must use the Court's proposed jury charge [form](#).

The parties must file their proposed jury charge with the Court and email the proposed charge in Word format to [Jonathan Patton](#), or provide a jump drive to the court with the proposed charge in Word Format.

5.5 VOIR DIRE

Time for voir dire depends on the complexity of the case.

If the parties want to employ a jury questionnaire, they need to discuss the matter with the Court at a status conference before the first day of trial.

Counsel should not ask questions to commit the juror.

The Court discourages argument during voir dire and will sustain objections to argument.

Counsel should challenge jurors outside the presence of the panel and the juror.

5.6 FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Parties should file their proposed findings of fact and conclusions of law with the Court.

Parties should also email proposed findings of fact and conclusions of law in Word form to [Jonathan Patton](#) or the Court clerk.

5.7 REMOTE TESTIMONY

Witness, parties, lawyers, etc., may no longer appear by Zoom (or other remote means), absent prior approval from the Court. If a party would like to request permission from the Court to have a witness appear for trial or an evidentiary hearing via Zoom, a motion requesting leave for this purpose should be filed and set for oral hearing. The motion must include a sworn statement from the attorney presenting the witness that:

- They have ensured that the witness has available electronic equipment sufficient to host such testimony and that the attorney and witness have personally tested the equipment to ensure it works and everyone involved knows how to use the equipment;
- The witness will be testifying in a neutral setting with no room decoration within view of the camera;
- The witness will be the only person in the room; and
- A complete set of all exhibits (or select exhibits as agreed upon by all counsel in cases with more than 50 total exhibits), in hard copy, have been delivered to the witness, and that the witness will have all exhibits available for testimony.

If any of the following conditions are not observed, the witness may be struck.

5.8 DEMONSTRATIVE EXHIBITS AND POWER POINT

All demonstrative exhibits and Power Point presentations must be shown to all parties before being shown to the jury or jury panel.

5.9 MEDIATION

The Court does not require mediation in every case. It may, however, order mediation on a case-by-case basis.

5.10 COURTROOM AUDIO/VIDEO EQUIPMENT

All courtrooms have audio-visual equipment, including and ELMO (document camera), computer jacks, projectors, TV screens and DVD players. We encourage you to use the ELMO to present exhibits to the jury. If you are unfamiliar with its use, you may visit our courtroom to test the equipment. Please contact the Court's bailiff to schedule a technology visit. For detailed instructions on use of the audio-visual equipment, please visit the following web link: [Audio/Video Instructions](#)

5.11 LIVESTREAM

The court permits livestreaming of trials upon request of the parties, if all are in agreement.

5.12 DAILY TRANSCRIPT REQUESTS

If you are requesting a daily copy of any transcript in the trial, please send a two week notice via email to the Court Reporter at Jessica_chang@justex.net.