

**LOCAL RULES OF PROCEDURE  
AND  
RULES OF DECORUM  
FOR  
THE JUSTICE OF THE PEACE COURTS  
ERATH COUNTY, TEXAS**

## Chapter 1

### GENERAL

#### 1.1 Objective.

These rules are promulgated to provide a uniform system for the fair, impartial, and prompt disposition of matters properly before the Justice Courts of Erath County. They are to be interpreted consistent with this objective.

#### 1.2 Scope.

These rules govern cases filed in the Justice Courts of Erath County, Texas. They are promulgated pursuant to Section 27.061 of the Texas Government Code.

#### 1.3 Jurisdiction.

The Justice Courts of Erath County hear:

- (a) Civil cases in which the amount in controversy is \$10,000.00 or less.
- (b) Eviction cases, both residential and commercial, including writs of re-entry.
- (c) Administrative hearings involving revocation of drivers licenses, concealed handgun permits, etc.
- (d) Criminal offenses which are fine only, both traffic and Class C.
- (e) Cases involving animal cruelty and neglect.

#### 1.4 Calendar.

Each Justice Court will keep a docket of scheduled hearings and trials. A weekly docket shall be available to the public for each week's proceedings.

The elected judges will generally be available as indicated by these rules and the calendar. However, when a judge is on vacation, at a judicial or educational conference, or has medical or dental needs, it is the policy of the Justice Courts to obtain a visiting judge, whenever possible, so that there will be no interruption in the work of each court. Visiting Judges are also scheduled to help with heavy workload or crowded dockets. Notice of the assignment of a visiting judge will be posted as soon as is practical.

#### 1.5 Jury Selection.

The Justice Courts utilize the electronic method of selecting names of persons assigned for jury service. Jury impaneling is conducted in cooperation with the District, Municipal and County Courts.

## Chapter 2

### CIVIL CASES

#### **2.1 Filing Cases.**

All civil cases shall be filed in the Justice Court where one or more defendants may reside, except as otherwise provided by law. Eviction cases shall be filed in the Justice Court where the leased premises are located.

#### **2.2 Setting Cases.**

All civil cases are to be brought to trial or final disposition as promptly as practicable.

Each Justice Court shall be responsible for the setting of hearings and trials in each court and for the notices thereof.

#### **2.3 Demand for Jury.**

A party requesting a civil jury trial shall file a written request with the court in which the case is filed not later than the 10<sup>th</sup> day before trial. The jury fee shall be paid upon filing the request.

#### **2.4 Preferential Settings.**

Preferential settings may be obtained at the discretion of the judge.

#### **2.5 Dismissal for Want of Prosecution by the Court**

##### **2.5.1 Case Selection.**

The following cases are eligible for dismissal for want of prosecution *sua sponte* by the Court:

- (a) Cases on file for more than 120 days in which no answer has been filed;
- (b) Cases that have been on file for more than 12 months that are not set for trial and have had no filings or settings within 180 days;
- (c) Any other case designated by the Court.

### **2.5.2 Notice.**

The court clerk shall give notice that certain cases will be dismissed for want of prosecution. Such matters will be dismissed on the date indicated in the notice of dismissal unless the Court orders it retained.

### **2.5.3 Docket Settings.**

Only the Court may make a setting in cases set for dismissal.

### **2.5.4 Procedures for Retaining Cases and Objecting to Motions to Retain.**

(a) Motions to retain shall be filed with the Court at least 10 working days prior to the date specified in the notice of dismissal for want of prosecution.

(b) Any party who files a motion to retain shall state in writing the factual and legal bases why the case should not be dismissed for want of prosecution.

(c) Parties objecting to a motion to retain shall state in writing the basis for any objection to the motion to retain within 3 days of service of a motion to retain.

(d) The Court shall notify all parties of the Court's ruling on a motion to retain.

### **2.5.5 Cases Not Requiring Oral Argument.**

Oral arguments on motions to retain or objections to motions to retain, may be permitted by the Court.

### **2.5.6 Cases Requiring Oral Argument.**

The Court shall notify the parties of the Court's decision to permit oral argument, and shall notify the parties of any hearing on motion to retain.

A party wanting to argue a motion to retain or an objection to retention may appear on the date and time set for dismissal of the case.

### **2.5.7 Retained Cases.**

If the Court decides to retain the case, the Court will set the case for trial at the convenience of the Court. The Court will notify the parties of the setting. At the setting, the case will be tried or dismissed.

### **2.5.8 Includes All Pending Claims.**

References in this chapter to a "case" include all pending claims in the case.

## **2.6 Drafts of Judgments and Orders.**

So far as practicable, every draft 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.

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.

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.

## Chapter 3

### CRIMINAL CASES

#### 3.1 Filing Cases.

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.

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.

#### 3.2 Setting Cases.

Cases are set at the request of defense attorneys or defendants in the Justice Court in which the case is docketed.

Attorneys or defendants may reset cases no later than the day before the current setting in accordance with court rules.

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

(a) Pre-Trial 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) Trial Before the Court (TBC)

Attorneys and defendants should not set a case for TBC 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.

(c) 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 docket call, a written waiver, signed by counsel and/or defendant must be presented.

### **3.3 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.

### **3.4 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.

### **3.5 Motions to Withdraw or Substitute.**

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.

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.

## Chapter 4

### TRANSFER OF CASES

#### 4.1 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 Erath 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.

#### 4.2 Criminal Cases.

(a) A judge may transfer a pending misdemeanor case to another Justice of the Peace court in Erath 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.