

PRE-TRIAL PROCEDURES FOR CIVIL CASES IN THE 435TH DISTRICT COURT

COURTROOM ETIQUETTE

Civil Litigants who appear in the 435th District Court shall observe these conventions of courteous and orderly conduct.

- A. Be punctual
- B. Remain in attendance until excused. All persons sitting before the bar shall remain there during each session and return after recess. Parties and counsel must remain in attendance during jury deliberations.
- C. Dress appropriately.
- D. Address others only by their titles and surnames, including lawyers, witnesses, and court personnel.
- E. Stand when the Court speaks to you; stand when you speak to the Court. Speak only to the Court, except for questioning witnesses and, in opening and closing, addressing the jury.
- F. Avoid approaching the bench. Counsel should anticipate the necessity for rulings and discuss them when the jury is not seated. When a bench conference is unavoidable, get permission first.
- G. Stand when the judge or jury enters or leaves the courtroom.
- H. Contact with the court staff is ex parte contact with the Court.
- I. Assist the summoning of witnesses from outside the courtroom. Furnish the clerk and bailiff with a list of witnesses showing the order they are likely to be called.
- J. Question witnesses while seated at counsel table or standing at the lectern. When it is necessary to question a witness about an exhibit, ask permission to approach the witness.
- K. Avoid disparaging remarks and acrimony toward counsel. Counsel must abstain from unnecessary references to opposing counsel.
- L. Make no sidebar remarks.
- M. Counsel is responsible for advising their clients and witnesses as well as their office staff about proper courtroom behavior.

PROFESSIONAL CONDUCT

- A. In fulfilling his or her primary duty to the client, a lawyer must be conscious of the broader duty to the judicial system that serves both attorney and client.
- B. A lawyer owes, to the judiciary, candor, diligence and utmost respect.
- C. A lawyer owes, to opposing counsel, a duty of courtesy and cooperation, the observance of which is necessary for the efficient administration of our system of justice and the respect of the public it serves.
- D. A lawyer unquestionably owes, to the administration of justice, the fundamental duties of personal dignity and professional integrity.
- E. Lawyers should treat each other, the opposing party, the Court, and members of the court staff with courtesy and civility and conduct themselves in a professional manner at all times.
- F. A client has no right to demand that counsel abuse the opposite party or indulge in offensive conduct. A lawyer shall always treat adverse witnesses with fairness and due consideration.
- G. In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feeling should not influence a lawyer's conduct, attitude, or demeanor towards opposing lawyers.
- H. A lawyer should not use any form of discovery, or the scheduling of discovery, as a means of harassing opposing counsel or counsel's client.
- I. Lawyers will be punctual in communications with others and in honoring scheduled appearances, and will recognize that neglect and tardiness are demeaning to the lawyer and to the judicial system.
- J. If a fellow member of the Bar makes a just request for cooperation, or seeks scheduling accommodation, a lawyer will not arbitrarily or unreasonably withhold consent.
- K. Effective advocacy does not require antagonistic or obnoxious behavior and members of the Bar will adhere to the higher standard of conduct which judges, lawyers, clients, and the public may rightfully expect.
- L. Lawyers who practice before this Court are required to act as mature and responsible professionals, and the minimum standard of practice shall be the Texas Disciplinary Rules of Professional Conduct.

COMMUNICATIONS WITH COURT

- A. There shall be no ex parte contact with the Court and the court staff. All communications with the Court and the court staff shall include all parties.
- B. Telephone calls shall include attorneys for both sides.
- C. E-mails shall copy opposing counsel.
- D. In-person conversations shall include attorneys for both sides. This includes communications in the courtroom and in the Court's offices.
- E. All requests for the status of court rulings and for copies of documents shall be directed to the district clerk's office after the Court has returned the file to the clerk's office. Copies of signed orders are now available online from the district clerk's webpage. The parties should check this site before calling the clerk assigned to the 435th for status and/or another copy.
- F. Attorneys and their staff are not permitted in the Court's offices and are not allowed to use the Court's office equipment (copier, fax, computers). Come to court prepared.
- G. All service copies will come from the district clerk's office after the Court returns the file. Copies cannot be obtained from the Court.
- H. No courtesy copies are to be sent to the Court.
- I. Jury strikes are to be made in the deposition room, hallway, and/or jury room.
- J. Record requests shall be made in writing (not by e-mail and not by text) and will be prepared in the order they are received. A copy of the request shall be sent to the other side. Record requests shall be very specific with date and title specific of the transcript you are requesting.
- K. The Court will not entertain pro se filings when an attorney represents a party. If the attorney is adopting the filing, a written statement stating this should be included. A cover page alone will not suffice.
- L. No verbal or e-mail confirmation of the setting will be given. Settings can be confirmed at http://www.mctx.org/courts/435th_district_court/index.html
- M. Notice to the Court of settings shall be faxed to the Court at 936-539-3619 with a copy to opposing counsel using the form provided by the Court.

SCHEDULING

- A. No approval from the Court is necessary prior to setting a hearing. A written notice, with at least three days notice, must be filed with the Court on an available date on the Court's oral hearing and submission calendar. The calendar is available on the Court's webpage.
- B. All hearings will be by submission unless the Texas Rules of Civil Procedure require otherwise. All references to "hearings" contained within these procedures also include matters to be ruled on by the Court by submission, that is, without an oral hearing.
- C. All new cases will have an initial scheduling conference on an available date provided by the Court's calendar. SPU shall file a notice of a new case scheduling conference at least three days prior to the scheduled date with a copy to SCFO. SPU will provide the cause number of the new filing to SCFO immediately upon receipt.
- D. Always consult with the opposing counsel before scheduling any motion related to discovery and include a certificate of conference. Be sure to attach a copy of the discovery response at issue or state verbatim the request and answer in the body of your motion. Proposed orders are required and should list each discovery issue separately. The Court requires complete compliance with TRCP 191.2, which states as follows:

"Parties and their attorneys are expected to cooperate in discovery and to make any agreements reasonably necessary for the efficient disposition of the case. All discovery motions or requests for hearings relating to discovery must contain a certificate by the party filing the motion or request that a reasonable effort has been made to resolve the dispute without the necessity of Court intervention and the effort failed." Please summarize your reasonable effort (Note: Sending a copy of a motion, without more, is not a conference. Sending e-mail or leaving a telephone message, without more, is not a conference. If opposing counsel refuses to return numerous phone calls or other messages, outline those attempts in your motion.)

CAUSE NO. _____

IN RE § IN THE DISTRICT COURT OF
THE COMMITMENT OF §
_____ § MONTGOMERY COUNTY, TEXAS
§
§ 435TH DISTRICT COURT

NOTICE OF ORAL HEARING

_____ (Name of party) respectfully gives notice that
_____ (name of motion) will be heard
on _____ (see list for available dates) at 8:30 a.m.

OR

NOTICE OF SUBMISSION

_____ (Name of party) respectfully gives notice
that _____ (name of motion) will be
considered by the Court without the benefit of an oral hearing on
_____ (submission hearings are held every Wednesday at
8:00 a.m.)

OR

NEW CASE SCHEDULING CONFERENCE

Respectfully gives notice that the New Case Scheduling Conference will be
held on _____ (see list for available dates) at 8:30 a.m.

**Please fax a copy of this form to 936-538-3619. ALL requests for
settings must be faxed to the Court at least three days prior to the
requested setting date. The setting will be scheduled on the Court's
docket after the request is received. A confirmation of the setting
will not be given. To confirm a setting, please check the Court's
website:**

http://www.mctx.org/courts/435th_district_court/index.html