

TOM GREEN COUNTY JUSTICE COURT PRECINCT 4
RULES OF COURT

1. GENERAL

Jurisdiction/Duties of The Justice Courts:

Civil cases (Small Claims/ Debt Claims) in which the amount in controversy is \$20,000.00 or less.

Eviction cases, both residential and commercial, including writs of reentry.

Repair and Remedy \$20,000.00 or less.

Administrative hearings involving revocation of driver's licenses, occupational license, unlawful towing, emergency mental health, disposition of stolen/seized property, suspension or denial of handgun license, disposition of cruelly treated and dangerous animals, dangerous animals, environmental cases, etc.

Criminal offenses which are fine only, both traffic and Class C misdemeanors.

Peace Bonds

Mental Health Cases

Juvenile Cases

School Attendance Cases

Inquests

Magistration

All other cases permissible under Texas law, including Section 27.031-27.034 of the Texas Government Code.

Jury Selection

The Justice Court utilizes an electronic method of selecting names administered by the Jury Administrator with the Tom Green County District Clerk's office. Questions about the jury impaneling process and jury service may be addressed to the Jury Administrator at 325 659-6579.

2. CIVIL CASES

Justice Court Civil Cases

All justice civil cases shall be filed in accordance with the Part V of the Texas Rules of Civil Procedure (TRCPJ, *Rules of Practice in Justice Courts*). There are four justice civil case types: Small Claims Cases, Debt Claim Cases, Repair and Remedy Cases, and Eviction Cases.

E-Filing

Justices of the Peace Precinct 4 currently provides e- filing services.

Setting Cases

All justice civil cases are to be brought to trial or final disposition as promptly as practicable. At any time, the Court may order a pre-trial conference. The court may enter an order or orders following each pre-trial conference, which would address any applicable matters.

Transfer of Pending Civil Cases

Transfer of cases will follow the procedures listed the Rules of Administration for Tom Green County Justices of the Peace.

Mediation

It is the policy of the Court to encourage the peaceful resolution of disputes and the settlement of pending litigation. The court shall determine which, if any, of its cases to refer to mediation. The court may refer the case for mediation. If the court does not designate a mediator in its order, the parties will receive a list of mediation services and will be required to agree on which mediation service will be used and report back to the court their choice. Any party receiving notice of a referral to mediation has 10 days from date of notice to file a motion objecting to the referral. If any party to a case files a motion objecting to the referral to mediation, and the Court finds that there is a reasonable basis for the objection, the case may be excused from the referral. If either party fails to appear for mediation or if no resolution is reached, the case is to be promptly set for trial.

Demand for Jury

A party requesting a civil jury trial shall file a written request and shall conform to the applicable rule to the court no later than 14 days before the date a case is set for trial. Either party shall be entitled to a trial by jury. The jury fee shall be paid at the time the request is submitted to the court.

A party requesting a jury trial in an eviction must make a demand three (3) business days prior to the trial setting.

Continuances

Motions for Continuance should be filed not later than Thursday of the week preceding the hearing/trial and will be heard at the discretion of the court. The notice and pleading requirements of law must be followed. Continuances may not be heard thereafter unless they allege grounds which arose only after that time.

Hearings Conducted by Video Conference

At the discretion of the judge, a party or attorney may appear by video conference. A request by a party for such an arrangement must be made by a motion filed with the court **three (3) business days** in advance of the hearing and state reason for the request.

At any time, even after the completion of a conference call, a judge may determine that a hearing by video conference will not be sufficient and may require a hearing in court upon notice to all parties.

Provision and Costs of Copies

In accordance with Part V of the Texas Rules of Civil Procedure (TRCP), parties in Justice Court suits are responsible for providing an adequate number of copies of petitions and accompanying documents filed with the court for all parties being served.

The Court may assess fees to the party who fails to comply with TRCP, in order to provide necessary copies of documents to parties being served. Fees for copies are \$1 .00 for a titled document's first page and \$0.25 for each additional page payable by check or credit card only.

Provision of Self-Addressed, Postage-Paid Envelopes

A party desiring to have file-stamped copies of any documents returned to them by mail, shall include with the original document to be filed an extra copy of the document and a self-addressed, postage-paid envelope for the court's return.

Postponing Trial/ Continuances

When practicable, prior to filing a motion for postponement (continuance), the party seeking a postponement (continuance) in a justice civil case should attempt to confer with the opposing party or parties in an *effort* to secure an agreement to the delay. Requests for postponements (continuances) must be submitted in writing to the court at least three (3) business days preceding the date of the trial or hearing, unless it may be shown that the grounds for the

request arose thereafter. Motions for postponement (continuance) may be granted or denied with or without a hearing by the court.

Conflicting Engagements of Attorneys

An attorney who is, or is scheduled, to be in trial in another court, will, in writing and as soon as the conflict becomes apparent, inform the Justice Court of the case number and the court in which the conflicting case is being tried. When informed that an attorney is in trial, the Court will verify the assignment. The case will be placed on "hold" or reset, depending upon the circumstances. If the attorney is not actually in trial or scheduled for trial as represented by the attorney or agent, the case may be tried without further notice.

Withdrawal or Substitution of Counsel

An attorney of record may withdraw from representation of a party only upon written motion for good cause shown. If another attorney is to be substituted as attorney for the party, the motion must provide the contact information for the substituting attorney. If no other attorney is to be substituted, the motion must be delivered to the party and contact information for the party must be provided in the motion.

Recording or Broadcasting of Court Proceedings

Unless written permission is obtained from the Justice of the Peace, recording or broadcasting of court proceedings is prohibited.

Assignment and Transfer of Cases

Notwithstanding other provisions of law regarding venue, a justice civil case, shall be heard by the court in which the case was filed, unless presented with a proper motion by a party in accordance with Part V of the Texas Rules of Civil Procedure, at which time the motion will be set for a hearing, if required by the court. If the motion is granted, The Justice of the Peace will:

- (1) transfer the case to another Justice Court either in same Precinct and County, or another Precinct or County having proper venue and jurisdiction
- (2) if the Justice of the Peace is disqualified to hear the case, assign the case to the nearest qualified Justice of the Peace in the county by exchanging benches

An Order transferring the case shall identify the Court to which the case is being transferred and a copy of the Order shall be delivered to each party or their attorney of record. If the motion is denied, the case will be heard in the court in which the plaintiff initially filed suit.

Dismissal for Want of Prosecution by the Court

Case Selection

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

- (1) Cases on file for more than 45 days in which service has not been perfected or no answer has been filed;
- (2) Cases that have been on file for more than 6 months that are not set for trial and have had no filings or settings within the prior 60 days;
- (3) Any other case designated by the Court.

Notice

The court clerk shall give notice that certain cases will be dismissed for want of prosecution and a hearing will be set.

Procedures for Retaining Cases and Objecting to Motions to Retain

- (a) Motions to retain shall be filed with the Court at least 10 business days prior to the date of the hearing for dismissal for want of prosecution.
- (b) Any party who files a motion to retain shall state in writing the factual and legal basis 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 may rule on the motion with or without a hearing; parties wanting to provide oral argument shall request a hearing in their motion or objection
- (e) The Court shall notify all parties of the Court's ruling on the motion.

Retained Cases

If the Court decided 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.

Includes All Pending Claims

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

Drafts of Judgments and Orders by Parties in a Suit

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.

The court may choose to use its own order.

Agreed Motions

All agreed motions submitted to the court shall be signed by all parties in the case.

Holidays and other Temporary Closures

When any date mentioned in these rules falls on a court holiday or a date when the court is temporarily closed, then the applicable date shall be the first business date following the holiday or temporary closure.

3. CRIMINAL CASES

Filing of Criminal Cases

Justice Court cases shall generally be filed:

- (1) In the precinct where the offense is alleged to have occurred; or
- (2) In the precinct in which the defendant resides.

Transfer of Pending Criminal Cases

Transfer of cases will follow the procedures listed the Rules of Administration for Tom Green County Justices of the Peace.

Court Appearance

Unless otherwise directed by the court, defendants shall appear at the Justice Court in which the case is filed, according to the date and time specified on their citation or summons. Subsequent appearances will be scheduled by the court in which the case is pending.

Plea of Guilty or Nolo Contendere (No Contest)

Defendants, or their attorney of record, may enter a plea of guilty or nolo contendere at any time, with or without a plea agreement. Guilty and nolo contendere pleas may be made in person, at the bench, by mail, or other correspondence designated as acceptable by the presiding judge. In accordance with Article 27.14(c) of the Code of Criminal Procedure when a

defendant makes a payment in full that payment constitutes a plea of nolo contendere by the defendant, even without a written plea.

Plea of Not Guilty

Defendants, or their attorney of record, may enter a plea of not guilty at any time. Upon entering a plea of not guilty the defendant may be set to either a pretrial docket or a trial docket.

a) Announcement/Pre-Trial Docket. Defendants/Attorneys may discuss their cases with a prosecutor, plead guilty or no contest to resolve the case, or reset the case for trial.

b) Pretrial Motions. Pretrial hearings are normally conducted in Class C cases on the day set by the individual court. Special pretrial settings must be requested and approved by the Court. Pretrial motions must be filed with the court 21 days prior to any pretrial hearing. The court will provide the motions to the county attorney. All pretrial hearings will be held on the day set unless a written State or Defense motion for continuance is granted.

c) 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, or the judge resets for any reason within the court's discretion.

d) 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. A continuance should be filed at least the week prior to trial. If the defendant waives jury at the docket call, a written waiver, signed by counsel and/or defendant must be presented.

An appearance bond (personal bond only) may be required by the presiding judge at the time such plea is entered.

A defendant who refuses to enter a plea shall be deemed to have entered a plea of not guilty and set to a pretrial or trial docket.

Setting of Cases

The Justice Court in maintains its own criminal docket, which is available from the court. Attorneys or defendants may request a reset of an appearance no later than 72 hours before the setting, unless the circumstances justify the request for reset occur thereafter as determined by the presiding judge. The Justice Court may stipulate rules as to the number of resets allowed on specific types of cases. Court clerks are authorized to give the first request for continuance by either party, all others must be approved by the Judge.

Pretrial

Pretrials may be conducted in fine only offenses on any day prior to trial. Pretrial settings must be requested and approved by the Court. Pretrial motions must be filed and served on the County Attorney twenty-one (21) days prior to any pretrial hearing. All pretrial hearings will be held on the day set unless a written State or Defense motion for continuance is granted. All defendants must appear, in person, whether or not represented by an Attorney, per Texas Code of Criminal Procedure 28.01.

Court Appointed Attorneys

Indigent defendants are not entitled to a court appointed attorney, as a matter of law, when charged with an offense punishable by fine only.

Withdrawal or Substitution of Counsel

An attorney becomes an attorney of record in a misdemeanor case by listing his or her name on pleadings, by correspondence with the court indicating such, or by setting or resetting the case. He or she remains the attorney of record until relieved by written order of the court. If an attorney is to be substituted as an attorney for the party, the court must receive written notification of the substitution prior to continuing with the case. The notification shall include the original attorney's information, the substitute attorney's information, and the defendant's information for whom the substitution is occurring.

Agreed Motions

All agreed motions submitted to the court shall be signed by all parties in the case.

Conflicting Engagements of Attorneys

An attorney who is, or is scheduled, to be in trial in another court, will, in writing and as soon as the conflict becomes apparent, inform the Justice Court of the cause number and the court in which the conflicting case is being tried. When informed that an attorney is in trial, the Court will verify the assignment. The case will be reset upon confirmation. If the attorney is not actually in trial as represented by the attorney or agent, the case may be tried without further notice. An attorney who requests a reset under this rule is responsible for ensuring the motion was granted by the presiding judge.

Jury Trial

Defense attorney and /or defendant shall appear at the scheduled jury trial 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.

4. DECORUM

Order

All persons entering the courtroom are required to behave in a dignified and respectful manner. All persons shall refrain from any action that may be disruptive or any facial expressions, shaking or nodding of head or any other conduct that may express approval or disapproval of any testimony, statement or transaction in the courtroom. Order will be maintained at all times.

Weapons are prohibited in the courtroom except for approved law enforcement personnel. Law enforcement officers that are a party to the case outside of their normal duties will not be permitted to have weapons in the courtroom.

All persons entering the courtroom are subject to search.

Violations of any rule may result in a reprimand from the judge, expulsion from the courtroom, or a finding of contempt punishable by three days in jail and/or a \$100 fine.

Opening Procedure

Immediately before the scheduled time for the first court session on each day the bailiff shall direct all persons present to their seats and shall cause the courtroom to come to order. As the Judge enters the courtroom the bailiff or the court clerk shall state: "All rise."

While everyone is still standing, the bailiff shall announce: " Tom Green County Justice of the Peace Court, Precinct 4 of is now in session, Judge " _____ " presiding. Please be seated. "

Recess

When the Judge announces a recess, the bailiff shall state: "All rise".

The bailiff shall remain standing until the Judge leaves the courtroom, whereupon the bailiff shall announce: "The Court is now in recess".

In reconvening after a recess, the bailiff shall call the courtroom to order and request everyone to rise as the Judge enters and shall state: "Please be seated."

General Rules of Courtroom Conduct

All participants are expected to be in the courtroom before the scheduled time for the court session. When the bailiff calls the Court to order, complete order should be observed.

The Judge or bailiff(s) shall have the right to remove or eject persons who fail to comply with these rules of conduct and decorum from the courthouse.

As to all persons in the courtroom, there shall be:

- no tobacco, tobacco substitute, vaping products/electronic cigarette use;
- no chewing gum;
- no excessively short pants, bare midriffs, tank tops, sunglasses, clothing that allows underwear/lingerie to be seen, bare feet or hats;
- no untucked shirt tails;
- no audible cell phones or electronic devices except cell phones approved by the court for evidentiary purposes or cell phones belonging to the presiding judge or bailiff(s);
- no bottles, cups or beverage containers except court provided water, pitchers and cups or as otherwise permitted by the Judge;
- no edibles;
- no propping of feet on tables, chairs, railings, or other courtroom furniture or architectural features and fixtures;
- no noise or talking that interferes with court proceedings;
- no tape recorders, cameras or other electronic devices for recording proceedings without prior approval of the Judge, and any devices allowed in will be turned off;
- no racist, sexist, obscene or profane language unless it is pertinent to a case and is elicited and quoting from facts in the case.
- no packages, suitcases, boxes, shopping bags or containers without prior approval of the bailiff.

The Judge, the attorneys, and other officers of the court will refer to and address the court officers and other participants in the proceedings respectfully and impersonally, as by using appropriate titles and surnames rather than first names, nicknames or terms of endearment. All officers of the court should dress appropriately for court sessions.

Attorneys

Attorneys should observe the letter and spirit of all canons of ethics, including those dealing with discussion of cases with representatives of the media and those concerning improper ex parte communications with the Judge.

Attorneys should advise their clients and witnesses of Local Rules of Decorum that may be applicable.

All objections, arguments and other comments by counsel shall be directed to the Judge or jury and not to opposing counsel or parties.

Attorneys shall not attempt to reprimand witnesses, but rather request that the Judge reprimand a witness if the attorney feels a reprimand is necessary.

While another party is addressing the Judge or jury, an attorney shall not stand for any purpose except to make an appropriate motion, request or objection to the Court.

Attorneys should not approach the bench without leave of the court and must never lean on the bench. Any document(s) to be passed to the court shall be handed to the bailiff.

Attorneys shall remain seated at the counsel tables at all times except: when the Judge enters and leaves the courtroom; when addressing the Judge or jury; and whenever it may be proper to handle documents , exhibits, or other evidence as approved by the court.

Attorneys should anticipate any need to use or move furniture, easels, or other equipment, and should make advance arrangements with the Court.

Tables should not be moved during court sessions, unless approved by the Judge.

Self-Represented/Pro Se Litigants

Individuals representing themselves without an attorney are to abide by the same rules of procedures and decorum as attorneys appearing before the Court. You must read and follow the Local Rules and Texas Rules of Civil Procedure, Part V, Rules of Practice in Justice Courts. This includes, but is not limited to, providing notice of filings to other parties in your case as outlined in Rule 501.4 of the Texas Rules of Civil Procedure.

Self-represented litigants are required to provide address, email, and telephone numbers at which they can be reached by Court personnel and opposing counsel. Failure to accept delivery or to pick up mail addressed to the address provided by a self-represented litigant will be considered constructive receipt of the mailed or delivered document and may be established by a postal service receipt for certified or registered mail or comparable proof of delivery.

By proceeding without an attorney before the Court, individuals understand that the Judge may not, nor any Court personnel may not give legal advice. It is the responsibility of each individual to do their own legal research or seek out legal advice before coming before the Court.

Electronic Devices

Handheld electronic devices should not be used during court proceedings, other than those required for use during a hearing. This includes, but is not limited to, laptop computers, tablets, cellular phones and other devices such as smart watches, video games or devices used to play audio.

Videography, photography, and audio recording are prohibited without permission from the presiding Judge during all court proceedings. This includes handheld devices such as tablets, cellular phones, and smart devices.

A lockbox is provided for storage of these devices prior to entrance to the courtroom.

Persons found violating this Rule may be held in contempt of court. The device may be confiscated by the Bailiff.