

Rules of Administration and Court Decorum
Justice Court of Clay County



Adopted January 1, 2023

Approval

A handwritten signature in blue ink that reads "Lanny R. Evans". The signature is written over a horizontal line.

Judge Lanny R. Evans

Justice of the Peace, Precinct 1

Clay County, Texas

January 1st, 2023

Date of Approval

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Section 1

General

1.1 Objective

Whereas, Section 27.061, Texas Government Code, requires that the Justice of the Peace in each county adopt local rules of administration; and Section 15.0821 of the Texas Civil Practice and Remedies Code requires the transfer of pending civil cases from one precinct to a different precinct; and Article 4.12 of the Texas Code of Criminal Procedure requires the Justices of the Peace in every county to adopt local rules of administration regarding the transfer of a pending misdemeanor case from one precinct to a different precinct, the Justice of the Peace of Clay County does hereby adopt the following local rules of administration to provide for the administration, assignment, docketing, transfer, and hearing of cases. These rules are promulgated to provide a uniform system for the fair, impartial, and prompt disposition of matters before the Justice Court of Clay County in accordance with the Texas statutes. Any interpretation of the following rules should be consistent with this objective.

1.2 Scope

These rules govern cases and hearings within the Justice Court of Clay County, Texas.

1.3 Jurisdiction

The Justice Court of Clay County hears all cases over which it has statutory or constitutional powers. Those civil cases within statutory limits, criminal cases where the punishment is fine only, administrative hearings, inquests, peace bond hearings, and any other hearings or cases over which a justice court has statutory or administrative authority.

1.4 Organization

There is one Justice Court in Clay County. The Court presides over the entire geographical area of Clay County and Justice Court Dockets referenced in Rule 1.3.

1.5 Calendar

The Justice Court will keep a docket of scheduled hearings and trials. Dockets shall be made available to the public. The Judge is responsible for informing other Judges in the County of their

absences for vacation, extended illness, training, or other reason and ensure that, when required, another judge preforms the duties of the absent judge. This can be accomplished through a bench exchange agreement with other Justice Courts in neighboring counties if necessary.

1.6(A) Hours and Place to Hold Court

Court shall be held at such times as determined by the Justice of the Peace. The Justice Court follows the holiday schedule as determined and published by the Clay County Commissioners Court. Any Court setting that falls on a holiday will move to the first business day after the holiday.

Court shall be held at the Clay County Courthouse Annex, 214 N. Main, Henrietta, Texas, 76365. If it is necessary to move the court location, notice will be posted at the Annex Courtroom door.

1.6 Bench Exchange

A Bench Exchange agreement may be executed between the Justice Court of Clay County and a Justice Court in a neighboring county. This may occur for a recusal of the original judge, temporary absence of the original judge, or other reason deemed necessary by the original judge.

1.7 Transfer of Cases

1.7.1 Criminal Cases

In a criminal case where the venue has been challenged by the defendant and the presiding judge has granted a change of venue to the proper court or the defendant and the state have a written agreement to change the venue to the court, the case shall be transferred to the Court with proper venue.

1.7.2 Civil

Civil cases shall be heard in the Justice Court of Clay County unless a transfer has been ordered under Rule 3.12 of these rules. In a case where the judge cannot hear the case, the presiding judge may either transfer the case to another court in Clay County or request another judge hear the case by bench exchange under Rule 1.6 of these rules.

1.8 Review

These rules shall be reviewed every four years from the date of the initial adoption by the Justice of the Peace of Clay County.

1.9 Recording or Broadcasting of Court Proceedings

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

Section 2

Rules of Decorum

2.1 General Rules of Conduct

All officers of the court, except for the Judge and jurors, and all other participants shall promptly enter the courtroom before the scheduled time for each court session. When the bailiff calls the Court to order, complete order should be observed. During court proceedings all participants shall refer to all other participants respectfully and impersonally, proper titles and surnames shall be used rather than first names, nicknames, or other names.

During court proceedings all participants should show common decency and respect to the court and other participants by remaining quiet and not disrupt proceedings. Gestures, sounds or facial expressions indicating approval or disapproval of any aspect of the Court proceedings will not be allowed. Eating, drinking, chewing gum, use of tobacco products or reading of newspapers, magazines, etc. is not allowed. No propping of feet on tables, chairs or benches.

2.1(A) Attorneys Rules of Conduct

1. 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.
2. Attorneys should advise their clients and witnesses of Local Rules of Decorum that may be applicable.
3. All objections, arguments, and other comments by counsel shall be directed to the Judge or jury and not to opposing counsel.
4. Attorneys shall not attempt to reprimand witnesses, but rather request that the Judge reprimand a witness if the attorney feels a reprimand is necessary.
5. While another attorney is addressing the Judge or jury, an attorney should not stand for any purpose except to make an appropriate motion, request or objection to the Court.
6. Attorneys should not approach the bench without leave of court and must never lean on the bench.
7. Attorneys shall remain seated at the counsel tables at all times except:
 - a. When the Judge enters or leaves;
 - b. When addressing the Judge or Jury; and

- c. Whenever it may be proper to handle documents, exhibits, or other evidence (leave of the court is not required).
8. Attorneys should anticipate any need to move furniture, appliances, or easels, and should make advance arrangements with the Court. Tables should not be moved during court sessions, unless approved by the Court.

2.2 Dress Code

Proper attire shall be worn to all court proceedings. All officers of the Court are expected to dress appropriately and professionally. Court participants should dress appropriately, including:

1. No bare midriffs or tank tops
2. No hats or caps
3. Shorts should not be worn
4. Shoes must be worn
5. No sunglasses

2.3 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.

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

Section 3 Civil Cases

3.1 Filing of Civil Cases

All civil cases filed in Clay County Justice Court shall be filed in accordance with Part V of the Texas Rules of Civil Procedure (TRCP), Rules of Practice in Justice Courts. It is the responsibility of the party filing a case to ensure the case is filed in the proper court.

3.1(A) Mediation

It is the policy of the Clay County Justice Court to encourage the peaceful resolution of disputes and the early settlement of pending litigation. The court shall determine which, if any, of its cases to refer to mediation and shall determine to which mediation service to refer a case. 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.

3.2 Setting Cases

All justice court cases are to be brought to trial or final disposition as promptly as practicable. The Justice Court shall be responsible for the setting of hearings and trials and for the notices thereof. Preferential settings may be obtained at the discretion of the judge.

3.3 Demand for Jury Trial

A party requesting a civil jury trial shall file a written request to the court no later than 14 days before the date a case is set for trial. If the demand is not timely, then the right to a jury trial is waived, unless the late filing is excused by the presiding judge for good cause. Jury fees are to be paid at the time the request is submitted to the court. Once either party requests a jury trial, that request cannot be withdrawn without written approval of both parties. Jury fees are nonrefundable.

3.4 Provision and Cost of Copies

In accordance with Part V of the Texas Rules of Civil Procedure (TCRP), 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.

A Court may assess fees to the party who fails to comply with TCRP in order to provide necessary copies of documents to parties. Fees may include up to \$1.00 for a titled documents first page and \$0.25 for each additional page of the document.

3.5 Provision of Self-Addressed, Postage-Paid Envelopes

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

3.6 Postponing Trial / Continuances

When practicable, prior to filing a motion for continuance, the party seeking a 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 continuance must be submitted to the court in writing at least three business days preceding the date of the trial or hearing, unless it may be shown that the grounds for the request arose thereafter. The notice and pleading requirement of law must be followed. Motions for continuance may be granted or denied with or without a hearing by the court.

3.7 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.

An attorney assigned to trial in two separate courts in Clay County for the same date must inform both courts of the conflict, in writing, as soon as the conflict becomes apparent.

The Justice of the Peace will confer on which case has priority, with consideration given to the following:

- (1) Jury Trials
- (2) Criminal Cases
- (3) Cases given preference by statute
- (4) Cases with the earliest filing date

3.8 Assignment and Transfer of Cases

Notwithstanding other provisions of law regarding venue, a civil case in justice court 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:

Transfer the case to another County and Precinct having proper venue and jurisdiction; or
if the presiding judge is disqualified from hearing the case, transfer the case to another Justice of the Peace by bench exchange.

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 the suit.

3.9 Dismissal for Want of Prosecution by the Court

3.9.1 Case Selection

The following cases are eligible for dismissal for want of prosecution sua sponte by the Court in which the case is filed:

- (1) Cases on file for more than 120 days in which no answer has been filed;
- (2) 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 the prior 180 days;
- (3) Any other case designated by the court that has not had sufficient activity to remain on the docket.

3.9.2 Procedures for Retaining Cases and Objecting to Motions to Retain

Motions to retain shall be filed with the Court at least 10 business days prior to the date specified for the dismissal for want of prosecution. 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. Parties objecting to a motion to retain shall provide the Court and the opposing party in writing the basis for any objection to the motion to retain within 3 days of service of a motion to retain. If either party wishes to provide oral arguments, they must request so in their motion or objection. The Court may rule on the motion with or without a hearing.

3.10 Drafts of Orders and Judgments

As far as practicable, every draft of an order or judgment to be signed by a judge should be approved as to form by attorneys for all parties prior to being presented to the judge. A draft of an order or judgment shall have its own page and not typed on the same page as a pleading, motion, certificate of service, or any part thereof. Each draft shall have a proper heading including the cause number, the style of the case, and the court in which the case is pending. The court may decide to use the presented orders and judgments or prepare their own.

Section 4 Criminal Cases

4.1 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.

4.2 Transfer of Pending Criminal Cases

Since Clay County has one Justice of the Peace, this section does not apply at this time.

4.3 Order of Transfer

Since Clay County has one Justice of the Peace, this section does not apply at this time.

4.4 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.

4.5 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.

4.6 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. 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.

4.7 Setting of Cases

The Justice Court in Clay County maintains its own criminal docket, which is available from the court. Attorneys or defendants may request a reset of an appearance no later than 24 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 following settings: all others must be approved by the Judge.

- 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 district 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.

4.7 (A) 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.

4.8 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.

4.9 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.

4.10 Jury Selection

The Justice Court of Clay County utilizes the same jury selection as the County Court of Clay County and the 97th District Court. When this process does not yield an appropriate number of jurors to build a pool, the presiding judge may order the Constable in the precinct to hand deliver jury summons to Clay County residents chosen at random in public places in Clay County.

4.11 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. An attorney be assigned to trial in two separate courts in Clay County for the same date must inform both courts of the conflict, in writing, as soon as the conflict becomes apparent. The Justice of the Peace will confer on which case has priority, with consideration given to the following:

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- (2) Cases given preference by statute
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