



Justice Courts of Brewster County

Rules of Administration and Decorum

These Rules of Administration and Court Decorum are hereby adopted by the
Justice Court Judges of Brewster County.

Adopted January 20, 2023

Approval

Judge J. Scott Wassermann
Justice of the Peace, Precinct 1
Brewster County

Judge Paul Rashott
Justice of the Peace, Precinct 2
Brewster County

Judge Susana Gonzales
Justice of the Peace, Precinct 3
Brewster County

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Section 1 General

1.1 Objective

Whereas, Section 27.061, Texas Government Code, requires that the Justices 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 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 Courts of Brewster 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 hearing within the Justice Courts of Brewster County, Texas.

1.3 Jurisdiction

The Justice Courts of Brewster County hear all cases over which they have statutory or constitutional authority. 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 are three Justice Courts in Brewster County. Each court presides over specific geographical area of the county. Precinct 1 serves the City of Alpine and the

general northwest third of the county. Precinct 2 serves Study Butte/Terlingua and the general southern third of the county. Precinct 3 serves the City of Marathon and the general northeastern third of the county. See Appendix A for a map of specific jurisdictions. Each court is a separate entity with individual dockets.

1.5 Calendar

Each Justice Court will keep a docket of scheduled hearings and trials. Dockets shall be made available to the public.

Each judge is responsible for informing the other judges of their absences for vacation, extended illness, training, or other reason and ensure, when required, another Judge performs the duties of the absent Judge through a bench exchange.

1.6 Bench Exchange

Any judge of a Justice Court in Brewster County may act as the judge of any other Justice Court in Brewster County. This may occur for 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 Within Brewster County

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 Justice Court with the proper venue.

1.7.2 Eviction Cases

Eviction cases must be heard in the precinct in which the property is located. In the instance that the presiding judge cannot hear an eviction case in their precinct, a bench exchange (Rule 1.6) shall apply.

1.7.3 Civil Cases

Civil cases shall be heard in the precinct in which they are filed, 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 justice court in Brewster 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 initial adoption by the Justices of the Peace of Brewster 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. Persons found violating this policy may be held in contempt of court.

Section 2

Rules of Decorum

2.1 General Rules of Conduct

All officers of the court, except 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 shall show common decency and respect to the court and other participants by remaining quiet and not disrupting the proceedings.

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 shall dress appropriately; this includes:

1. No bare midriffs or tank tops
2. No hats
3. No shorts
4. Shoes must be worn
5. No sunglasses
6. No gum or tobacco products

2.3 Electronic Devices

Handheld electronic devices should not be used during court proceedings, unless required for use during a hearing. Devices including, but not limited to, laptop computers, tablets, cellular telephones, and smart watches.

Section 3

Civil Cases

3.1 Filing of Civil Cases

All civil cases filed in Brewster County Justice Courts 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.

3.2 Setting of Cases

All justice court cases are to be brought to trial or final disposition as quickly as practicable.

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

3.3 Demand for Jury

A party requesting a civil jury shall file a written notice 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 non-refundable.

3.4 Provision and Cost 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.

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

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.

3.6 Postponing Trial and Continuances

When practicable, prior to filing a motion for continuance, the party seeking the continuance 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 conflicting case 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 enduring the motion was granted by the presiding judge.

An attorney assigned to a trial in two separate courts in Brewster County for the same date must inform both courts of the conflict, in writing, as soon as the conflict becomes apparent. The Justices 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 Justice Court in Brewster County, or another County and Precinct having proper venue and jurisdiction;
or

If the presiding judge is disqualified from hearing the case, transfer the Justice of the Peace in Brewster County 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 ponte* 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 and are not set for trial and have had no filings or settings within the previous 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 ten business days prior to 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 three 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 Judgements

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 judgement shall be 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 judgements, or prepare their own.

Section 4

Criminal Cases

4.1 Filing Criminal Cases

Justice Court cases shall generally be filed:

In the precinct where the offense is alleged to have occurred, or

In the precinct in which the defendant resides

4.2 Transfer of Pending Criminal Cases

Unless otherwise provided by a more specific Local Rule, the transfer of a criminal case from one Justice Court to another Justice Court within Brewster County in which the alleged offense was committed or in which the defendant resides, may be made by the Justice of the Peace court in which the case is pending.

4.3 Order of Transfer

In the instance that a case is transferred under Rule 4.2, 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 and/or their attorney of record.

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. 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 docket.

4.7 Setting of Cases

Each Justice Court in Brewster County maintains its own criminal docket, which are available from each respective 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.

Each Justice Court may stipulate its own rules as to the number of resets allowed on specific types of cases.

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 Courts of Brewster County utilize the same jury selection process as the Brewster County Court and the 394th District Court. When this process does not yield a appropriate number of jurors to build a pool, the presiding judge may order the

Constable in the precinct to hand deliver jury summons to Brewster County residents chosen at random in public places in Brewster 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 conflicting case 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 enduring the motion was granted by the presiding judge.

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