



## **EL PASO COUNTY LOCAL RULES For Civil Courts**

### **PART ONE – GENERAL RULES**

#### **RULE 1.01            SCOPE, AUTHORITY, AND APPLICATION OF LOCAL RULES**

- (A) These rules are the Local Rules of the Courts of El Paso County, Texas. They shall govern proceedings in the District Courts, Specialty Courts, and the Statutory County Courts at Law of El Paso County, Texas, for the purpose of securing uniformity and fairness in those proceedings and to promote justice.
- (B) These rules are adopted by the trial judges of the district and county courts at law acting in council pursuant to the inherent power of courts to control and guide the trial and disposition of causes, and pursuant to the provisions of the Supreme Court’s order of February 4, 1987, as amended, the Regional Rules of Judicial Administration, and to the provisions of the Court Administration Act, Section 74.093, Government Code, as they now exist, or as they may be hereafter amended.
- (C) These rules are standing orders of all district and statutory county courts of this county, now existing or as may be created hereafter. Knowing or intentional violation of these rules may be punished by contempt or other sanctions authorized by law or by rules of procedure as the trial judge may deem appropriate.
- (D) If any provisions in these rules are found to conflict with any statutes or other statewide rules, the statutes or statewide rules shall prevail.

#### **RULE 1.02            SELF-REPRESENTED LITIGANTS**

- (A) Any natural person proceeding on their own behalf without an attorney shall be expected to read and follow these Local Rules, the Texas Rules of Civil Procedure, the Texas Rules of Evidence, the Texas Code of Criminal Procedure, and the Texas Rules of Appellate Procedure, as may be appropriate in the particular case. Failure to comply may be sanctioned or punished in accordance with applicable provisions of all these rules. Self-represented litigants shall be responsible for providing the clerk with current addresses, email addresses, and telephone numbers, and shall also be responsible for providing copies of all papers filed to all other parties or attorneys. Such filed papers shall always contain the current address, email address, and phone number of the self-represented party. The

clerks of the courts shall provide a self-represented party a copy of this Rule 1.02 at the time a petition or an answer is filed. Courts may use video conferencing for remote hearings.

- (B) Resources to assist self-represented litigants may be found online or in the law library located at the Enrique Moreno County Courthouse. For those seeking the assistance of lawyers, it may also be helpful to contact the local El Paso Bar Association.

**RULE 1.03                    PRIVATE SERVICE OF PROCESS:**

Process service must be handled in accordance with Rule 103 of the Texas Rules of Civil Procedure.

**RULE 1.04                    COURT SECURITY:**

All persons entering the courtroom or suite of offices assigned to a court are subject to search by the bailiff or anyone else responsible for security. All counsel and parties shall be alert to security risks and shall notify the court or bailiff of any security concerns.

**RULE 1.05                    EMERGENCY AND SPECIAL SESSIONS; TEMPORARY ORDERS:**

- (A) Except in emergencies, when the clerk's office is not open for business, no application for immediate or temporary relief shall be presented to a judge until it has been filed and assigned to a court as is provided in these rules.
- (B) If the judge of the court to which such case is assigned is absent or is occupied with other matters, such application may be heard by any other district or county court at law judge who may sit for the judge of the court in which the case is pending and who shall make all orders, writs and process returnable to the court to which the case is assigned.
- (C) Hearings on applications for temporary injunctions, temporary receiverships, and the like, shall be set in the court to which the case has been originally assigned by consulting with that court in compliance with these local rules.
- (D) All applications for ex parte relief shall state whether, within the knowledge of applicant and applicant's attorney, the opposing party is represented by counsel and, if so, the name of such counsel, and whether or not such counsel/party has been apprised of the application for ex parte relief.
- (E) Except for cases filed under the Texas Family Code, the party requesting such temporary relief shall be present in court at the time such relief is requested, unless the court waives this requirement for good cause shown.
- (F) Whenever immediate action of a judge is required in an emergency when the clerk's office is not open for business, the case shall, nevertheless, at the earliest practicable time be

docketed and assigned to a court as provided by these rules, and all writs and process shall be returnable to the assigned court.

- (G) Family cases are not governed by this Rule 1.05. See Part Four of these Local Rules.

**PART TWO – LOCAL ADMINISTRATION AND LOCAL ADMINISTRATIVE JUDGE**

- (A) The Local Administrative Judge shall be selected by the majority of vote of members of the Council of Judges at the regular meeting for the month of March of each odd-number year and shall serve terms of two years. A separate policy on the election process shall be passed by the majority of the Council of Judges.
- (B) The terms of office shall be from April 1 to March 31.
- (C) The Local Administrative Judge will perform the duties as outlined in Texas Government Code Sec. 74.092 and Rules 9 and 10(d) of the Rules of Judicial Administration.
- (D) The local administrative judge or a majority of the judges will call meetings of the judges at least once each month (generally the last Thursday of each month), and as needed. The local administrative judge shall preside over such meetings and in his/her absence the district or county presiding judge shall serve as temporary chair.
- (E) In order to give effect to the El Paso Council of Judges' policy of maintaining the status quo of existing dockets upon the change of the presiding judge of any court, the local administrative judge, upon a majority vote of the Council of Judges, shall have the authority to transfer any one or any number of cases from any court to another court of equal jurisdiction randomly selected by the Council of Judges or by the Regional Administrative Judge.
- (F) VEXATIOUS LITIGANTS –
1. An individual deemed a vexatious litigant pursuant to Texas Civil Practices & Remedies Code Sec. 11.101 is prohibited from filing new litigation as a self-represented litigant unless the person obtains permission to file litigation from the local administrative judge.
  2. The clerk of the court, upon receipt of a petition for permission to file by a vexatious litigant, shall immediately deliver the petition to the local administrative judge.

### **PART THREE – CIVIL CASES**

The rules under Part Three are applicable in all civil cases in all courts. County courts at law in El Paso County have the same civil jurisdiction provided by the Constitution and by general law for district courts. Tex. Gov't Code § 25.0732.

#### **RULE 3.01            HEARINGS**

- (A) In any civil action, the court may set a status hearing within 180 days after the initial filing, or as soon as practicable. At such hearing, the court may issue a scheduling order or trial setting. The court may also direct the parties to submit a Discovery Control Plan or similar document.
- (B) Any pre-trial conference shall be attended by the self-represented litigant or attorney expected to try the case or familiar with the case and fully authorized to state the party's position on the law and facts, make stipulations, and enter into settlement negotiations as trial counsel.

#### **RULE 3.02            E-FILING REQUIREMENT FOR SERVICE CONTACTS**

If a party is represented, the attorney for that party will designate at least one email address in the Service Contacts tab on the Texas E-File system upon the party's first filing in the case.

#### **RULE 3.03            REQUEST FOR HEARINGS, NON-JURY TRIAL SETTINGS, AND OTHER NON-JURY APPEARANCES**

- (A) All requests for the scheduling of hearings, non-jury trial settings, and other non-jury appearances (collectively, "non-jury matters") before the court will be made by contacting the court coordinator who will arrange an appropriate time to appear before the court. Before requesting a date and time for a non-jury matter, the requesting party shall make reasonable efforts to ascertain availability from the other parties and then inform the court coordinator of potential conflicts in the attorneys' schedules and the estimated length of time needed for the non-jury matter. Alternatively, the parties may also schedule hearings by conference call with the court coordinator.
- (B) The requesting party shall then promptly serve all other parties with notice of the date, time, and manner of the hearing and of the particular matter which will be considered at such time and shall file a copy of such notice with the clerk.
- (C) Any party who has an objection to the date, time, or manner of the non-jury matter, which cannot be resolved by conference with other parties and the court coordinator, shall as soon as is reasonably possible file a written objection, stating the grounds therein, for the court's discretionary resolution.

**RULE 3.04                    PRESENTATION OF ORDERS**

- (A) A party requesting a written order on any matter shall provide directly to the court, either by hand delivery or email, based on the court's preference, a copy of the pleading supporting that request and a proposed order.
- (B) Parties shall timely provide directly to the court, either by hand delivery or email, based on the court's preference, a copy of motions, responses, replies, and pertinent supporting documents before the hearing.
- (C) Any order presented for the court's signature must reflect approval as to form or substance of the opposing counsel or party. Absent such approval, a motion for entry or order may be heard before the court will sign the order.
- (D) Parties shall prepare an electronic copy of admitted trial exhibits which are to be provided to the court reporter for preparation of the reporter's record.
- (E) Parties shall provide a hard copy and an editable electronic version of the proposed jury charge including any special issues or requested special instructions that are reasonably anticipated.

**RULE 3.05                    REQUEST FOR JURY TRIAL**

- (A) A request for a jury trial setting shall be made in writing (with a copy to all other attorneys) with the court coordinator of the court in which the case is filed, at any time after jury has been demanded, the jury fee has been paid, and the certificate of readiness has been filed in the case.
- (B) The court may order a scheduling conference(s) or pretrial conference(s) pursuant to Rule 166 of the Texas Rules of Civil Procedure, if the court deems necessary.

**RULE 3.06                    CONFLICTING SETTING AND ASSIGNMENTS OF COUNSEL**

This rule governs the assignment of conflicting settings when an attorney is assigned to multiple courts for the same date:

- (A) Any attorney who receives a setting that is in conflict with another setting shall promptly provide advance notice to the courts and opposing counsel of such conflict. The attorney shall indicate in such notice any priority by indicating the order of settings by date or any other priority as provided for in Rule 3.06 (B). Where such notice of a conflicting setting is not timely provided, the court may choose to refuse a motion for continuance.
- (B) Insofar as practicable, judges should attempt to agree on which case has priority, otherwise, the following priority shall be observed by the judges of the respective courts:

1. Criminal cases and juvenile cases.
2. Cases given preference by statute.
3. Cases that are given a preferential or special setting based on their circumstances.
4. Cases that are the oldest.

(C) Any disagreement between judges as to preference shall be decided by the Local Administrative Judge.

**RULE 3.07                    CONTINUANCES**

- (A) The unavailability of a particular attorney in a firm will generally not be considered grounds for a continuance of any case where other attorneys in the firm have had significant involvement in the case, such as signing pleadings, making court appearances, or attending depositions.
- (B) Upon notice to the court, attorneys may be excused from appearing for any purpose at any time when also scheduled to appear before any federal or state appellate court.
- (C) Any ground for continuance of the trial setting known by the attorney or the party shall be presented to the court at least 14 days prior to the trial setting or at the pretrial conference, if any, whichever shall occur first, or may be waived. This rule does not apply if a deadline is set separately under the governing scheduling order or as set by standing order of the presiding court.

**RULE 3.08                    ASSIGNMENT AND TRANSFER OF CASES**

- (A) Except as provided hereafter in these rules, all cases shall be filed with the County Clerk or District Clerk, where appropriate, and shall be assigned in random order, or in the manner prescribed by the Council of Judges, insofar as practicable, in a fair and equitable manner among the courts.
- (B) Any future transfers shall be assigned in random order, or in the manner prescribed by Texas Government code §74.121 and by these rules, insofar as practicable, in a fair and equitable manner among the courts
- (C) Every garnishment suit or bill of review shall be assigned to the court in which the principal suit is or was pending, and if the principal suit is transferred to another court, the garnishment shall be transferred likewise.
- (D) If a nonsuit of a party is taken, any refile of the suit by the same party shall be assigned to the original court. Prior to the refile, the filing party or the party's attorney shall inform

the clerk by way of copy of the prior nonsuit so that the case can be filed properly.

- (F) Whenever any pending case is so related to another case pending in another court, the judge of the court in which the earliest filed case is pending may, upon motion (including the judge's own motion) and notice, transfer the case to the court in which the earlier case is filed.
- (G) If a case is required to be stayed pursuant to any law, such as protection under the bankruptcy laws, suggestion of death, the Servicemembers Civil Relief Act, or abatement, the party must promptly file a notice of stay describing in detail the grounds for the stay. Once the grounds for stay are discharged or concluded, the party who filed the initial notice of stay must file a notice in writing to the affected courts.

**RULE 3.09                    DISCOVERY CONFERENCE**

- (A) Prior to the filing of any discovery motion, the parties are expected to comply with Rule 191.2 of the Texas Rules of Civil Procedure.
- (B) After the filing of any discovery motion, but prior to a hearing, the court may order the parties to appear for a mandatory conference. The Court will not participate in this conference but expects the parties to cooperate and make any agreements reasonably necessary for the efficient disposition of the substance of the motion.

**RULE 3.10                    ALTERNATIVE DISPUTE RESOLUTION**

It is the policy of the El Paso Council of Judges to encourage the amicable settlement of all civil cases. No jury or non-jury trial shall be conducted until all contested issues have been referred to mediation unless the court has ruled otherwise.

- (A) The mediation proceedings are to take place no later than 30 days before trial.
- (B) The court may decide that mediation would not be appropriate in a particular case and may therefore, on its own motion, withdraw the case from court-ordered mediation. Any party may file a motion objecting to the referral to mediation. If the court finds good cause for the objection, the court may excuse the matter from court-ordered mediation.
- (C) The court may appoint a mediator pursuant to section 154.021 of the Texas Civil Practice and Remedies Code or the parties may agree to mediate before a qualified mediator. The mediator shall provide to the court a report as to whether or not a settlement was obtained.
- (D) Mediation shall be attended by the self-represented litigant or attorney fully authorized to enter into settlement negotiations who is expected to try the case or is familiar with the party's position on the law and facts.

- (E) This rule does not apply to cases filed under the Texas Family Code. Cases filed under the Texas Family Code shall be governed by the applicable provisions therein and Part Four of the Local Rules.

**RULE 3.11**                    **ATTORNEYS AD LITEM AND GUARDIANS AD LITEM**

Appointments of attorneys ad litem or guardians ad litem shall be made in accordance with section 37.004 of the Texas Government Code. Individuals who are qualified to serve as an attorney ad litem or guardian ad litem can contact the court coordinator of each court for more information on the registration process to be included on the court's list pursuant to Chapter 37 of the Texas Government Code.