

LOCAL RULES OF PROCEDURE
AND RULES OF DECORUM
FOR
THE JUSTICE OF THE PEACE COURTS

NAVARRO COUNTY,
TEXAS

UPDATED 10/28/2015

Chapter 1

GENERAL

1.1 **Objective**

These rules are promulgated to provide a uniform system for the fair, impartial, and prompt disposition of matters properly before the Justice Courts of Navarro County. They are to be interpreted consistent with this objective.

1.2 **Scope**

These rules govern cases filed in the Justice Courts of Navarro County, Texas.

1.3 **Jurisdiction**

The Justice Courts of Navarro County hear but are not limited to:

- (a) Civil cases in which the amount in controversy is \$10,000.00 or less.
- (b) Eviction cases, both residential and commercial, including writs of re-entry and writ of restorations.
- (c) Administrative hearings involving revocation of drivers licenses, concealed handgun permits, and occupational driver's license.
- (d) Criminal offenses which are fine only, both traffic and Class C.
- (e) Cases involving animal cruelty and neglect.

1.4 **Organization**

There are four Justice Courts serving in Navarro County. Each has a specific geographical area of jurisdiction. Each court has its own court clerks responsible for setting cases on the individual docket of the court.1.5

Calendar.

Each Justice Court will keep a docket of scheduled hearings and trials. A monthly docket shall be available to the public for each month's proceedings.

The elected judges will generally be available as indicated by these rules and the calendar. Judges will exchange benches, and take pleas so that there will be no interruption in the work of each court.

1.6 **Jury Selection.**

The Justice Courts utilize the electronic method of selecting names of persons assigned for jury service. Jury impaneling is conducted in cooperation with the District, Municipal and County Courts.

Chapter 2

CIVIL CASES

Pending & filed after August 31, 2013
will proceed with Justice Court rules

2.1 Filing Cases

(a) Applicable Law. Laws specifying the venue-the county and precinct where a lawsuit may be

brought – are found in Chapter 15, Subchapter E of the Texas Civil Practice and Remedies Code, which is available online and for examination during the court’s business hours.

(b) General Rule. Generally, a defendant in a small claims case as described in Rule 500.3(a) or a debt claim case as described in Rule 500.3(b) is entitled to be sued in one of the following venues.

(1) the county and precinct where the defendant resides;

(2) the county and precinct where the incident, or the majority of incidents, that gave rise to the claim occurred;

(3) the county and precinct where the contract or agreement, if any, that gives rise to the claim was to be performed; or

(4) the county and precinct where the property is located, in a suit to recover personal property.

(c) Non-Resident Defendant; Defendant’s Residence Unknown. If the defendant is a non-resident of Texas, or if defendant’s residence is unknown, the plaintiff may file the suit in the county and precinct where the plaintiff resides.

2.2 Setting Cases

All 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.

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

Each Justice Court may determine which of its cases to refer to mediation.

2.2(a) All motions must be made in writing.

2.3 **Demand for Jury**

A party requesting a civil jury trial shall file a written request with the court in which the case is filed not later than the 3rd day before trial. The jury fee shall be paid upon filing the request. Jury request for evictions will be no later than the 14th day before trial.

2.4 **Continuances**

Continuances shall be made in writing at least 24 hours prior to the scheduled court date. The justice for good cause shown, supported by affidavit, may continue any suit pending before him to the next regular term of his court, or postpone the same to some other day of term.

2.5 **Uncontested Docket**

Uncontested matters and routine matters of very short duration may be heard at the docket as scheduled by each court.

2.6 **Matters Preliminary to Trial on the Merits**

Except for motions for continuance based on new circumstances, all motions in limine, exceptions and all pre-trial motions and pleas in each jury case may be presented and heard at pre-trial hearing.

For non-jury cases all exceptions, motions and pleas must be filed three days before the scheduled trial before the court.

A movant shall deliver a copy of each pleading to any opposing party and to

the court in the manner and within the time provided by the Texas Rules of Civil Procedure.

2.6 (a) Discovery conducted according to 500.9 TRCP.

2.7 **Hearings Conducted by Telephone**

At the discretion of the judge, a party or attorney may appear by telephone conference call. A request by a party for such an arrangement must be made in advance. In rare cases in the interest of justice, the court may permit a witness to appear by telephone conference call.

All arrangements with telephone operators must be made by the requesting party.

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

2.8 **Dismissal for Want of Prosecution by the Court**

Notice

The court clerk shall give notice that certain cases will be dismissed for want of prosecution. Such matters will be dismissed on the date indicated in the notice of dismissal unless the Court orders it retained.

2.8.3 **Docket Settings**

Only the Court may make a setting in cases set for dismissal.

2.8.4 **Procedures for Retaining Cases and Objecting to Motions to Retain**

Motions to retain shall be filed with the Court at least 5 working days prior to the date specified in the notice of dismissal for want of prosecution.

2.8.5 Retained Cases

If the Court decides 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.

2.8.6 Includes all Pending Claims

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

2.9 Motions to Withdraw as Attorney

Except as provided in Rules 8 and 10, Texas Rules of Civil Procedure, a motion to withdraw will be granted without a hearing only if the moving attorney:

- (a) Files written consents to the withdrawal signed by attorneys for all parties. and
- (b) Files a written consent to the withdrawal signed by the client, or includes in the motion a specific statement of the circumstances that justify the withdrawal and the circumstances that prevent the moving attorney from obtaining the client's written consent; and
- c) Files a certificate stating the last known mailing address of the client.

If all requirements above are not satisfied, a motion to withdraw or to substitute another attorney must be presented at a hearing after notice to the client

and to all other parties.

2.10 Holidays

When any date mentioned in these rules falls on a court holiday or the court closes before 5 then the day after that is not a Saturday, Sunday or holiday.

The court holidays shall coincide with County holidays.

2.11 Authorization to Serve Citation (Rule 501.2)

A person wishing to be authorized by written order of the court to serve citations and other notices may file a written affidavit in application for authorization on a form supplied by the Court or a similar suitable application. The Court may, upon approval of the application, authorize service by the applicant in all appropriate suits pending in that Justice Court. Prior to, or in conjunction with the filing of return of service in any suit, the person verifying the return shall also file an affidavit that he or she is not a party to and has no interest in said suit.

Chapter 3

Criminal Cases

3.1 **Filing Case**

Cases shall be filed in the precinct of the presiding judge on call.

3.2 **First Appearance**

Unless otherwise directed, defendants will appear at the Justice Court in which the case is filed, according to the date and location written on their citation or summons.

Subsequent appearances will be as scheduled by the Court. Cases shall be tried in the precinct where the offense is alleged to have occurred except for cases involving school attendance, which may be tried in any precinct in the county.

3.3 **Setting Cases**

Cases are set at the request of defense attorneys or defendants in the Justice Court in which the case is docketed.

Attorneys or defendants may request to reset cases no later than the day before the current setting in accordance with court rules.

Court clerks are authorized to give the following settings:

(a) **Pretrial**

Pretrials are normally conducted in Class C cases. Any preliminary matters must be filed before or at pre-trial. They will not be allowed to be raised or filed thereafter, except by permission of the court and for good cause shown.

All pretrial hearings will be held on the day set unless a written State or Defense motion for continuance is granted.
Any defendant under the age of 15 will be set on the pretrial docket and require appearance with parent/guardian.

(b) **Trial before the Court**

Attorneys and defendants should not set a case for trial before the court 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.

(c) **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. If the defendant waives jury at the docket call, a written waiver, signed by counsel and/or defendant must be presented.

3.4 Plea of Guilty or Nolo Contendere

Defendants may enter a plea of guilty or no contest at any time, with or without a plea agreement. Each Justice Court shall maintain a list of "standard" fines for various offenses. Defendants may also elect to enter a plea of guilty or no contest and address the Judge regarding punishment.

3.5 Appointment of Counsel

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

3.6 Motions to Withdraw or Substitute

An attorney becomes attorney of record in a misdemeanor case by listing his or her name on pleadings or by setting or resetting the case. He or she remains attorney of record until relieved by written order of the Court.

An attorney's motion to withdraw will be heard at any time when the defendant has had notice to appear or whenever the defendant agrees in writing. Adequate notice is by certified mail, return receipt requested.

Motions to substitute counsel will be granted without hearing so long as the scheduling of trial will not be delayed by the change in counsel.

Chapter4
Rules of Decorum

4.1 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.

4.2 General Rules of Courtroom Conduct

All officers of the court, except the Judge and jurors, and all other participants, except witnesses who have been placed under the rule, 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.

In the courtrooms there shall be:

- (a) no tobacco used;
- (b) no chewing gum;
- (c) no excessively short pants or bare midriffs;
- (d) no reading of newspapers;
- (e) no audible cell phones or pagers;
- (f) no bottles, cups or beverage containers except court water, pitchers and cups or as otherwise permitted by the Judge;
- (g) no edibles;
- (h) no propping of feet on tables or chairs;
- (i) no noise or talking that interferes with court proceedings.

The Judge, the attorneys, and other officers of the court will refer to and address other court officers and other participants in the proceedings respectfully and impersonally, as by using appropriate titles and surnames rather than first names.

All officers of the court should dress appropriately for court sessions.

4.3 Attorneys

(a) 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.

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

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

(d) 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.

(e) Attorneys should not approach the bench without leave of court and must never lean on the bench.

(f) Attorneys shall remain seated at the counsel tables at all times except:

(1) when the Judge enters and leaves;

(2) when addressing the Judge or jury; and

(3) whenever it may be proper to handle documents, exhibits, or other evidence (leave of court is not required.)

(g) 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 the Court.

4.4 Broadcast Media

Requests to broadcast court proceedings shall be determined by each Judge on a case by case assessment after consultation with all the parties to a case.

Chapter 5

CREMATION REQUEST

5.1 Cremation Request

Persons requesting a waiver of the 48 hour period for Cremation will submit the following:

1. Signed Death Certificate completed with the cause of death stated.
2. Request for Cremation form with the authorization signature of the person or persons making the request.

A request for waiver of the 48 hour period may be waived by the following:

1. Justice of the Peace in the county in which the death occurred.
2. By Court Order

Chapter 6
TRUANCY CASES

6.1 NAVARRO COUNTY TRUANCY POLICY

Effective September 1, 2015

Justice Courts of Navarro County will accept referrals from all schools in Navarro County.

All will be conducted under Education Code Chapter 25 and Family Code Chapter 65.

To initiate referring a student to Truancy Court all schools must file a referral.

Referral case is transferred to the District Attorney's Office.

- If the case is accepted, District Attorney must file a petition.
- If the case is not accepted, the District Attorney will notify the court and the school. The court will send an order to destroy all records (FC65.203) as well as destroying any records the court has.

Once the case is docketed the court will check:

- the date to make sure the case was filed within 5 days
- the elements for truant behavior are properly alleged
- the truancy prevention measures and/or special education certification is not missing
- there is no substantial defect

If any of the above are found the court will dismiss the case as being defective.

An adjudication hearing will be set no sooner than 11 days from the date the case is filed with the court. There will be one truancy docket per month. The District Attorney's Office will be notified by e-mail of the date of this hearing.

Summons is then issued and served in one of the following manners as instructed by the Judge:

- mail
- by constable
- served by other designated by the court

At the hearing:

- rights will be explained to the group in English and Spanish, if needed, and the student will then be given a rights & answer sheet
- the answer sheet will be collected as each case is heard, unless it was received earlier
 - if their answer is not true, the case will be set for a jury trial unless the jury is waived in writing, and they will be notified of the court date at a later date
 - if their answer is true, the court will proceed with a finding of truant behavior and issue them a remedial order setting forth what the court orders

If there is a finding of truant behavior, a finding of truant conduct and remedial order will be given and saved in our system.

If the court or jury finds that the child has not engaged in truant behavior, the case will be dismissed and a finding entered that the defendant was NOT TRUANT will be issued

The case will be monitored at regular intervals to make sure the student is complying with the orders. If compliance is not being made there will be a hearing set to show cause why orders have not been complied with. Parents will be required to appear with the student. Noncompliance may result in a finding of contempt. On the third finding of contempt a child may be referred to Juvenile Probation.

At the end of the school year, or 180 days (whichever is later) the case will be called for final docket and if the child has complied the case will show a judgment satisfied.