



## **CASEY BLAIR**

District Judge

86th JUDICIAL DISTRICT COURT

Kaufman County

972-932-0251

Katie Griffin  
Court Administrator  
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## **Court Rules and Procedures**

### **SETTING HEARINGS**

#### **Certificates of Conference**

No motion or special exceptions will be set for a hearing until the moving party has communicated with opposing counsel to determine whether a contemplated motion will be opposed. If not opposed, the moving party shall accompany the motion with a proposed order signed by all counsel indicating approval of same. If the motion will be opposed, the following certificate shall be attached to the motion and signed by the attorney in charge (or party pro se):

#### **Certificate of Conference**

I, the undersigned attorney (or party pro se), hereby certify to the Court that:

1. I have conferred with opposing counsel in an effort to resolve the issues contained in this motion without the necessity of Court intervention.

OR

2. At \_\_\_\_\_ (time) on \_\_\_\_\_ (date), I attempted to reach opposing counsel and left a specific message that the purpose of my call was to attempt to resolve the issues contained in this motion without the necessity of Court intervention or could not leave a message because \_\_\_\_\_.

Such efforts have been unsuccessful, and it is necessary to set a hearing on this motion.

*\*All Ex Parte orders must follow a separate procedure which is outlined further below.*

#### Motions/Orders Requiring Judge's Signature

The following documents require the approval of a Judge before it can be set by the Court Administrator for hearing:

- a. Show cause order on contempt;
- b. Order granting a writ of habeas corpus;
- c. Motion to modify filed within one year;
- d. Any motion to modify in which a request for temporary orders is made at the time the motion to modify is filed;
- e. Writ of attachment;
- f. Writ of garnishment;
- g. Application for any kind of injunctive relief;
- h. Application for protective order;
- i. Order Extending TRO;
- j. Motion for continuance; and
- k. Motion to reinstate

#### Notice For All Other Hearings

The following form should be used to set hearings on all matters (except as otherwise required by law):

### Notice of Hearing

The above motion is set for hearing on the docket of the 86<sup>th</sup> Judicial District Court at \_\_\_\_\_ o'clock \_\_\_\_ .m. on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Administrator of Court

By the Administrator's signature, on the above Notice of Hearing, the Court Administrator shall set the following matters for hearing, without a Judge's signature, Associate Judge's approval or certificate of conference:

- a. Motion for summary judgment;
- b. Rule 13 motions for sanctions;
- c. Motion to Show authority;
- d. Motion to extend TRO;
- e. Motion to transfer venue;
- f. Special appearance;
- g. Plea in bar;
- h. Plea to the subject matter jurisdiction of the court;
- i. Motion for new trial or to correct, modify or amend an order;
- j. Motion for rehearing;
- k. Appeal from associate judge's recommendation;
- l. Motion for entry of order, with order sought attached if transmittal letter provided;
- m. "Trial motions" (Motion in limine; motion affecting order of proceeding; motion related to strikes or challenges of jurors);
- n. Motion for temporary orders; and
- o. Motion for pretrial hearing

### Removal/Reset of Hearings

A party or counsel setting a non-final or non-special set hearing may remove or reset such setting only (1) upon agreement of all opposing sides or (2) after reasonable notice to all opposing sides per Texas Rules of Civil Procedure Rule 21. Failure to comply with this rule may result in costs being assessed.

### Final Hearings

- a. An Administrator may set final hearings on the merits without a certificate of conference or fiat.
- b. Any person who obtains a setting for a final hearing before a District Judge shall have the duty to send all opposing parties written notice of such setting within two (2) business days of the date they obtained such setting. This rule does not change the obligations for notice in the Texas Rules of Civil Procedure, including but not limited to Rules 12, 21, 21a, 166a and 245.

### Motions To Be Heard Ten or More Days Before Trial

Dilatory pleas, special exceptions and other motions or exceptions (excluding motions in limine and other trial motions) shall be heard no less than ten(10) days before the date on which the case is set for final hearing, provided that the pleadings to which same are directed are on file.

## **SCHEDULING CONFERENCE**

### Who shall attend?

After a reasonable amount of time, all cases will be set for a scheduling conference. All parties are required to attend unless an Agreed Scheduling Order is submitted prior to the date of the conference.

### Contents of Scheduling Order

The scheduling order should contain at least:

- a trial date,
- pre-trial conference date,
- date for which mediation should be completed,
- mediator,
- date for which discovery should be completed,
- anticipated time for trial

# **PRE-TRIAL CONFERENCE**

## Purpose of Pre-Trial Conference

Counsel or parties pro se will be expected at pre-trial to advise the Court which issues will be disputed and to be familiar with the authorities applicable to the questions of law raised at pre-trial. Failure to conform to this rule shall be ground for postponement of the trial, setting of further pre-trial hearings, or other appropriate action.

## Who Shall Attend Pre-Trial Conference

Counsel attending the pre-trial shall either be the attorney in charge or shall be familiar with the case and be fully authorized to state the party's position on the law and the facts and to make stipulations of fact. Counsel may not send to pre-trial in his stead a legal assistant, paralegal, investigator, secretary or other non-attorney. Parties appearing pro se must attend pre-trial in person.

## Consequences For Failure to Attend Pre-trial Conference

When counsel or a party pro se, after notice, fails to appear at pre-trial the Court may:

- a. Rule on all motions, dilatory pleas and exceptions in absence of such person;
- b. Declare any motions, dilatory pleas, or exceptions of such absent party waived;
- c. Advance or delay the trial setting according to the convenience of persons present;
- d. Pass and reset the pre-trial;

## Conflicting Engagement of Counsel

- a. Where counsel for either party has a conflicting trial or appeal setting, the Court may hold the case over until the trial or appeal has been completed.
- b. If counsel is engaged in trial or appeal in another court, counsel shall be obligated to advise the Administrator of the Court in which he is set for trial or which is holding the case over of counsel's availability immediately upon completion of such other trial or appeal.
- c. Mediation settings confirmed by letter from the Mediator and presented to the Court at docket call should take precedence over all cases except those cases previously given a special setting.

# **DISMISSAL FOR WANT OF PROSECUTION (DWOP)**

## Actions Resulting In A Case Being Dismissed For Want Of Prosecution

- a. Failure of a party to request a setting or take other appropriate action after notice from the Court Administrator that the case has been pending without action for more than 180 days, provided that upon giving the first notice (which shall be at least 30 days in advance of the date set for dismissal) of intent to dismiss for want of prosecution, the Court shall remove the matter from its dismissal docket if counsel for either side does contact the Court in person.
- b. Failure of moving party or his counsel to appear for trial, pre-trial or other preliminary hearing.
- c. For any other reason provided for by these rules and/or the Texas Rules of Civil Procedure.

Subject to other provisions of these rules, the Clerk shall mail a written notice of such dismissal to all parties or their counsel of record.

## To retain a case on the docket after receiving a DWOP notice

You may contact the court by phone or email. The case will then be immediately set for pre-trial in which all parties must attend unless an agreed scheduling order is submitted setting the case for trial prior to the date of the pre-trial. Counsel wishing to retain the case on the docket can contact the court administrator and have the case set for pre-trial. You will then need to provide notice to opposing counsel or pro-se litigants.

## DWOP After Rendition Or Announced Settlement

Unless ordered otherwise, within thirty days after rendition or announced settlement by the parties, they shall cause decisions or settlements of any kind to be reduced to writing. Upon failure to furnish the Court Clerk/Administrator with such a judgment or order finally disposing of a case, or to request extension of the filing or to set a motion for entry, the Court shall enter an order of dismissal without prejudice with costs taxed at the Judge's discretion.

The Court will not sign an order that does not contain either the signature of all attorneys as to form or proof of notice that said order has been presented to all attorneys of record requesting the same to file written objections within ten (10) days.

# WITHDRAWAL/SUBSTITUTION OF COUNSEL

## Circumstances Under Which Attorney May Withdraw

No attorney of record shall be permitted to withdraw from any case without presenting a motion and obtaining from the Court an order granting leave to withdraw pursuant to Texas Rules of Civil Procedure 10. The letter required under TRCP shall be sent to the client advising that the client has ten (10) days after the date of mailing the letter to make any objection to such withdrawal to the Court, in writing, and that if not done and no objection raise, the motion shall be granted. A copy of the motion shall be delivered or mailed to opposing counsel. No such motion shall be presented within thirty (30) days of the trial date or at such time as to require delay of the trial. After leave is granted, the withdrawing attorney shall send his client, the Court and opposing counsel a letter notifying of the last known mailing address of his client and of any settings. Notice to the client shall be by certified and regular mail.

## EX PARTE ORDERS

### Presenting Ex Parte Orders

All applications of ex parte orders shall first be presented for determination to the Court in which the case is pending, and only if the Court is unavailable to promptly review same may it be presented to another Court.

### Certificates to Ex Parte Orders

Prior to presentment, all applications for ex parte orders shall certify in writing, signed by the party or attorney, one of the following:

I hereby certify as follows: (check off and fill in blanks as required)

1. To the best of my knowledge, there is no attorney of record representing any opposing party at this time; or
2. Prior to presenting this matter to a Judge for approval, I contacted all attorneys of record, transmitted a copy of the pleadings and proposed order in this matter, and notified them that I was requesting such ex parte relief, and:

- A. After conferring, no attorney of record wishes to be heard prior to the presentment of this request for ex parte relief; or,
- B. We were unable to reach an agreement, at which time I notified all attorneys of record that I would present this matter to the Judge at \_\_\_\_\_(time) on \_\_\_\_\_, 2016 (date) in the 86<sup>th</sup> District Court and invited them to attend and be heard prior to signing; or,
- C. I was unable to speak with the opposing attorney(s) and I left word with a staff person for each attorney that I would present this matter to the Judge at \_\_\_\_\_(time) on \_\_\_\_\_, 2016 (date) in the 86<sup>th</sup> District Court and invited them to attend and be heard prior to signing; or,
- D. After diligent attempts, I was unable to reach the opposing attorney(s) and was further unable to leave any message with counsel's office regarding the presentment of this matter to the Judge.

## **10 DAY LETTERS**

Presentment of orders to the court by 10 day letter must notify all parties of their right to object to the entry of the proposed order by objecting in writing to the court. The case may then be set for a Motion to Enter should any party to the suit file an objection to the entry of the order within the 10 day period. Language sufficient to satisfy the requirement of this rule is as follows:

### NOTICE TO ADVERSE PARTIES

If you object to the language or terms set forth in the (choose one) Temporary Orders/Decree/Judgment attached to this (choose one) Motion/letter, you should state your objections by letter to the Court within ten days of the (choose one) filing of this Motion/date of this letter. If you do not, it is the policy of the Court to sign the Orders as presented with this (choose one) Motion/letter. Any objection should be sent to the Court Coordinator of the 86<sup>th</sup> District Court, 100. W. Mulberry, Kaufman, Texas, 75142.