



CASEY BLAIR

District Judge

86th JUDICIAL DISTRICT COURT

Kaufman County

469-376-4671

Sunni Tilson
Court Administrator
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Beth Woods
Court Reporter
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Court Rules and Procedures

Motions that need hearing

It is the responsibility of the party filing the motion to contact the court for dates to set your motion. You must then efile a separate notice of hearing and include a certificate of conference to have your motion set.

eFiling Orders

Motions that are not agreed need to be set for a hearing. The order needs to be efiled five (5) business days before the hearing. If the order is efiled 30 days or more before the hearing it will be rejected.

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.*

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. Writ of attachment;
- d. Writ of garnishment;
- e. Order for any kind of injunctive relief;
- f. Protective order; and
- g. Order extending TRO

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

Notice is given that a hearing on _____ is set in the 86th District Court located on the 3rd Floor at 1902 E US Hwy 175, Kaufman, Texas 75142 on the ____ day of _____, 202__.

Administrator of Court

Certificate of Conference (**REQUIRED ON ALL NOTICES**)

I the undersigned attorney certify that on _____(date) I reached out to all parties regarding setting a hearing on _____(motion) and all parties are in agreement with the above stated date and time OR the parties have not responded within ____ days and I am asking that the court set the hearing.

(Attorney requesting hearing)

By the Administrator's signature, on the above Notice of Hearing, the Court Administrator shall set matters for hearing, without a Judge's signature.

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.

- b. Final hearings may be set by parties with an agreed scheduling order that must include mediation. (templates can be found on our website)
- c. Mediation must be completed at least 5 weeks before trial.

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.

Motions for Summary Judgment

Motions for summary judgment **must be set**, in person or by submission, by the filing party once the motion is filed.

Scheduling Conferences

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 (state whether bench or jury),
- date for which mediation should be completed (Must be completed at least 5 weeks prior to trial)
- mediator,
- date for which discovery should be completed,
- anticipated time for trial

A final trial date is required to be scheduled at the time that temporary orders are entered. Mediation is required to be completed 5 weeks before 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. The Court DOES NOT require pretrial hearings unless requested by the parties.

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. All parties 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, 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 60 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 may remove the matter from its dismissal docket if counsel for either side files a motion to retain and the order is granted.
- 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 email a written notice of such dismissal to all parties or their counsel of record. If no email is on file then the Clerk shall mail a written notice of such setting.

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

You may contact the court by phone or email to get a pretrial date and file a notice of hearing. 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.

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

The party presenting any Temporary Restraining Order or other ex parte relief shall:

1. Notify the opposing party and
2. Provide the party with a copy of the application and proposed order at least **2 hours** before the application and proposed order are to be presented to the Court for decision.

Compliance with the above provision is not required if a verified certificate of the party or a certificate of counsel is filed with the application and states that:

1. Irreparable harm is imminent and there is insufficient time to notify the opposing party.

2. To notify the opposing party would impair or annul the Court's power to grant relief because the subject matter of the application could be accomplished or property removed, secreted or destroyed , if notice were required.

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 _____, 202__ (date) in the 86th District Court and invited them to attend and be heard prior to signing (DATE MUST BE RECEIVED BY THE COURT ADMINISTRATOR); 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 _____, 202__ (date) in the 86th 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 86th District Court, 1902 E US HWY 175, Kaufman, Texas, 75142 or through efile.

Motions for Continuance

Motions for continuance are to be submitted in writing as soon as the filing party is aware of the situation that constitutes the motion. One continuance may be granted by agreement. All other motions for continuance must be set for a hearing at the earliest date available to all parties. Please contact the Court for dates to reset your case to be included in the motion. A certificate of conference is required.

Zoom Hearings

Any evidentiary hearing that is set on zoom must have previous court approval. All evidentiary exhibits and trial-related documents are to be sent via email to the court reporter two days before the hearing by email where possible. Evidentiary exhibits that cannot be e-mailed shall be delivered to the Court at least two days before any hearing or trial. The Court Reporter will not print or give the Judge any of your documents. Those are just for her records. You must be able to submit your evidence through zoom, usually through screen share.

No hearing will be changed from in person to zoom hearings less than three days prior to court.

Attire

Appropriate professional attire is required for all appearances whether in person or on Zoom. Proceedings that transpire shall be treated as an official court proceeding. No tank tops, torn jeans, sandals, flipflops, t-shirts with explicit or graphic emblems will be allowed. No hats, dark sunglasses, unless medically or religiously required shall be allowed. No food, or gum chewing is allowed. All electronic devices must be on silent at all times.

Criminal Docket

All defendants are required to attend every setting. Defendant's appearances cannot be waived by agreement with the State. No criminal case will be set on zoom.

Temporary Orders Hearings

Trial dates need to be selected and added to the temporary orders or a scheduling order needs to be submitted along with the temporary orders. Mediation is required before trial.

Audio/Visual Accommodations and requirements

We ask if you are set for a jury trial, and are not familiar with our system, for you to contact the court to review the equipment before the jury trial date. We have a projector in the courtroom for physical documents and an app you can download to project from your computer. Please be aware of our audio/visual standing order that can be found on our website before submitting any evidence to the Court.