

LOCAL RULES OF PROCEDURE  
AND  
RULES OF DECORUM  
FOR  
THE JUSTICE OF THE PEACE COURTS  
BRAZORIA COUNTY, TEXAS  
  
EFFECTIVE JANUARY 21, 2014  
THROUGH CURRENT DATE

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## **Chapter 1**

### **GENERAL**

#### **1.1 Objective**

In accordance with provisions of Section 27.061 of the Texas Government Code, requiring the justices of the peace in each county to adopt local rules of administration and Section 15.0821 of the Texas Civil Practice and Remedies Code, requiring the transfer of pending civil case from one precinct to a different precinct, and Article 4.12 of the Texas Code of Criminal Procedure, requiring the justices of the peace in each county to adopt local rules of administration regarding the transfer of a pending misdemeanor case from one precinct to a different precinct, the Justices of the Peace in Brazoria County adopt local rules to provide for administration of cases and for the 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 properly before the Justice Courts of Brazoria County. They are to be interpreted consistent with this objective.

#### **1.2 Scope**

These rules govern cases filed in the Justice Courts of Brazoria County, Texas. They are promulgated pursuant to Section 27.061 of the Texas Government Code.

#### **1.3 Jurisdiction**

The Justice Courts of Brazoria County hear:

- (a) Justice Civil cases [including debt claim cases, small claim cases, (residential and commercial) eviction cases, and repair and remedy cases] in which the amount in controversy is \$20,000.00 or less.
- (b) Requests for Occupation Driver's License hearings
- (c) Administrative hearings (as listed in Chapter 4 of Local Rules)
- (d) Inquest investigations

- (e) Criminal offenses which are fine only, both traffic and Class C misdemeanors
- (f) Cases involving animal cruelty and neglect
- (g) Peace Bonds

#### **1.4 Organization**

Each Justice Court in Brazoria County has a specific geographical area of jurisdiction. Precinct One serves the south and southeastern part; Precinct Two serves the central part; Precinct 3 serves the northern part; Precinct Four serves the western part. 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. You may contact the court to inquire about the court's docket.

The elected Justice of the Peace will generally be available as indicated by these rules and the calendar. However, when a judge is on vacation, at a judicial or educational conference, or has medical or dental needs, it is the policy of the Justice Courts to have another Brazoria County Justice of the Peace, exchange benches whenever possible, so that there will be no interruptions in the work of each court.

#### **1.6 Jury Selection**

The Justice Courts, like the County and District courts, use an electronic method of selecting names of the persons assigned for jury service. In most instances, Juror Summonses are sent to individuals by regular mail via the U.S. Postal Service. In some instances when jury requests are made and the court is under short time restrictions, it may provide the Brazoria County Constable's office in the precinct in which the trial is to be held with Juror Summonses for hand delivery to individuals chosen at random from public places in the county, who are determined to reside in Brazoria County.

## Chapter 2 JUSTICE CIVIL CASES

### **2.1 Filing of Cases**

All justice civil cases shall be filed in accordance with the Part V of the Texas Rules of Civil Procedure (TRCP), *Rules of Practice in Justice Courts*. There are four justice civil case types: Small Claims Cases, Debt Claim Cases, Repair and Remedy Cases, and Eviction Cases. All case filings must be accompanied by a Case Information Sheet, in accordance with TRCP.

### **2.2 E-Filing**

Brazoria County Justices of the Peace Courts do not currently provide e-filing services. Rules for this service will be developed when applicable.

### **2.3 Setting Cases**

All justice 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.

### **2.4 Provision and Costs 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.

The Court may assess fees to the party who fails to comply with TRCP, in order to provide necessary copies of documents to parties being served. Fees for copies are \$1.00 for a titled document's first page and \$0.25 for each additional page.

## **2.5 Provision of Self-Addressed, Postage-Paid Envelopes**

A party desiring to have file-stamped copies of any documents returned to them by mail, shall include with the original document to be filed an extra copy of the document and a self-addressed, postage-paid envelope for the court's return.

## **2.6 Postponing Trial/ Continuances**

When practicable, prior to filing a motion for postponement (continuance), the party seeking a postponement (continuance) in a justice civil case should attempt to confer with the opposing party or parties in an *effort* to secure an agreement to the delay. Requests for postponements (continuances) must be submitted in writing to the court at least three (3) business days preceding the date of the trial or hearing, unless it may be shown that the grounds for the request arose thereafter. Motions for postponement (continuance) may be granted or denied with or without a hearing by the court.

## **2.7 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 case number and the court in which the conflicting case is being tried. When informed that an attorney is in trial, the Court will verify the assignment. The case will be placed on "hold" or reset, depending upon the circumstances.

If the attorney is not actually in trial or scheduled for trial as represented by the attorney or agent, the case may be tried without further notice.

Attorneys assigned to trial in two Justice Courts in Brazoria 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 agree 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

**2.8 Withdrawal or Substitution of Counsel**

An attorney of record may withdraw from representation of a party only upon written motion for good cause shown. If another attorney is to be substituted as attorney for the party, the motion must provide the contact information for the substituting attorney. If no other attorney is to be substituted, the motion must be delivered to the party and contact information for the party must be provided in the motion.

**2.9 Recording or Broadcasting of Court Proceedings**

Unless written permission is obtained from the Justice of the Peace, recording or broadcasting of court proceedings is prohibited.

**2.10 Assignment and Transfer of Cases**

Notwithstanding other provisions of law regarding venue, a justice civil case, 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:

- (1) transfer the case to another Justice Court either in same Precinct and County, or another Precinct or County having proper venue and jurisdiction
- (2) if the Justice of the Peace is disqualified to hear the case, assign the case to the nearest qualified Justice of the Peace in the county by exchanging benches

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 suit.



## **2.11 Dismissal for Want of Prosecution by the Court**

### **2.11.1 Case Selection**

The following cases are eligible for dismissal for want of prosecution *sua sponte* by the Court:

- (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 that are not set for trial and have had no filings or settings within the prior 180 days;
- (3) Any other case designated by the Court.

### **2.11.2 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.

### **2.11.3 Procedures for Retaining Cases and Objecting to Motions to Retain**

- (a) Motions to retain shall be filed with the Court at least 10 business days prior to the date specified in the notice of dismissal for want of prosecution.
- (b) 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.
- (c) Parties objecting to a motion to retain shall state in writing the basis for any objection to the motion to retain within 3 days of service of a motion to retain.
- (d) The Court may rule on the motion with or without a hearing; parties wanting to provide oral argument shall request a hearing in their motion or objection
- (e) The Court shall notify all parties of the Court's ruling on the motion.

#### **2.11.4 Retained Cases**

If the Court decided 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.

#### **2.11.5 Includes All Pending Claims**

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

#### **2.12 Drafts of Judgments and Orders By Parties in a Suit**

So far as practicable, every draft of a judgment or order to be signed by a judge should be approved as to form by attorneys for all parties before it is presented to the judge.

A draft of an order shall not be typed on the same page with a pleading, motion, certificate of service, or any part thereof, and each such draft shall have a heading showing the cause number, the style of the case, and the court in which it is pending.

The word "entered" should not be used in the line provided immediately above the judge's signature to show the date on which a judgment or order is signed.

The court may choose to use its own order.

#### **2.13 Holidays and other Temporary Closures**

When any date mentioned in these rules falls on a court holiday or a date when the court is temporarily closed, then the applicable date shall be the first business date following the holiday or temporary closure.

## Chapter 3 CRIMINAL CASES

### 3.1 Filing Cases

Justice Court cases shall generally be filed:

1. in the precinct where the offense is alleged to have occurred, or
2. in the precinct in which the defendant or any of the defendants reside

Offenses alleged to have been committed in more than one precinct may be filed in any precinct that the offense, or any portion of the offense, is alleged to have occurred.

The Justice of the Peace Court may transfer a school attendance case to the Brazoria County Juvenile Court whenever a defendant also has pending juvenile cases with that court.

### 3.2 Transfer of Pending Criminal Cases

Unless otherwise provided by a more specific Local Rule, the transfer of a criminal case from a Brazoria County Justice of the Peace to another Brazoria County Justice of the Peace in the precinct in which the 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.

If a Justice of the Peace is disqualified from presiding in a criminal case, the Justice of the Peace will:

- (2) transfer the case to the other Justice of the Peace in the same Precinct; or
- (3) if the Justice of the Peace is disqualified to hear the case, assign the case to a qualified Justice of the Peace in the county by exchanging benches

### **3.3 Order of Transfer**

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.

### **3.4 First Appearance**

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

Subsequent appearances will be scheduled by the Court.

### **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 Withdrawal or Substitution of Counsel**

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 of record may withdraw from representation of a party only upon written motion for good cause shown. If another attorney is to be substituted as attorney for the party, the motion must provide the contact information for the substituting attorney. If no other attorney is to be substituted, the motion must be delivered to the party and contact information for the party must be provided in the motion.

### **3.7 Recording or Broadcasting of Court Proceedings**

Unless written permission is obtained from the Justice of the Peace, recording or broadcasting of court proceedings is prohibited.

### **3.8 Jury Selection**

The Justice Courts, like the County and District courts, use an electronic method of selecting names of the persons assigned for jury service. In most instances, juror summonses are sent to individuals by regular mail via the U.S. Postal Service. In some instances when jury requests are made and the court is under short time restrictions, it may provide the Brazoria County Constable's office in the precinct in which the trial is to be held with juror summonses for hand delivery to individuals chosen at random from public places in the county, who are determined to reside in Brazoria County.

### **3.9 Setting Cases**

Each Justice of the Peace court maintains its criminal docket, which are available at each respective court.

Attorneys or defendants may request reset of cases no later than 24 hours before the current setting, unless the circumstances justifying the request for reset occur thereafter.

Each Justice of the Peace Court may have its own rules about reset allowances for certain case types. Contact the applicable Justice of the Peace Court to learn about its specific rules.

#### **3.9.1 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 case number and the court in which the conflicting case is being tried. When informed that an attorney is in trial, the Court will verify the assignment. The case will be placed on "hold" or reset, depending upon the circumstances.

If the attorney is not actually in trial or scheduled for trial as represented by the attorney or agent, the case may be tried without further notice.

Attorneys assigned to trial in two Justice Courts in Brazoria 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 agree 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

### **3.9.2 Pretrial**

Upon request by a defendant or defense attorney, upon a plea of *not guilty*, or for any reason determined appropriate by the Justice of the Peace, a case will be set for a Pretrial. Pretrial conferences are set on the Court's docket once per month, or if the court finds necessity, twice per month.

### **3.9.3 Jury Trial**

Defense attorney and/or defendant shall appear at the scheduled jury setting. If the defendant waives jury at the docket call, a written waiver, signed by counsel and/or defendant must be presented.

### **3.10 Plea of Guilty or Nolo Contendere {No Contest}**

Defendants may enter a plea of guilty or nolo Contendere (no contest) at any time, with or without a plea agreement. Brazoria County Justices of the Peace will maintain a "standard" fine assessment for offenses, in accordance with statutory provisions. Defendants may also elect to enter a plea of guilty or no contest and address the Judge regarding punishment.

### **3.11 Holidays and other Temporary Closures**

When any date mentioned in these rules falls on a court holiday or a date when the court is temporarily closed, then the applicable date shall be the first business date following the holiday or temporary closure.

### **3.12 Magistration**

As a magistrate, the Justice of the Peace can act to order arrests; issue search and arrest warrants; find probable cause; warn person accused of crimes; set bail amounts and implement conditional terms of bail; commit

persons to jail; issue emergency protective orders; and carry out other important duties within the criminal justice system.

## Chapter 4 ADMINISTRATIVE JURISDICTION

### **4.1 Driver's License Suspension and Revocation Hearings**

These cases are filed by the Texas Department of Public Safety. The Department of Public Safety, after consulting the Court, will provide the original hearing date and time to the driver's license holder. Requests for a reset of your hearing must be made in writing and submitted to the court within 24 hours of the scheduled hearing, unless a given situation arises that prevents the timeliness of the requests. The Judge's ruling on a reset request will be provided in writing; if a request is granted a new court date and time will be provided by the court.

### **4.2 Rights of Owners and Operators of Stored Vehicles (Tow Hearings)**

These cases are filed by vehicle owners or operators under Section 2308.452 of the Texas Occupations Code to determine whether probable cause existed for the removal and placement of a vehicle in a vehicle storage facility following the vehicle's removal without the consent of the owner or operator. A proper request filed under this section with the applicable filing fees will trigger a hearing. The case is docketed by the court clerk and notice of hearing is mailed to the filing party and all other respondents listed in the petition (i.e. towing company, vehicle storage facility, person/entity/law enforcement agency who authorized the towing, etc.).

### **4.3 Other Administrative Jurisdiction**

- (1) Emergency mental health detention hearings
- (2) Disposition of stolen/seized property hearings
- (3) Disposition of cruelly treated animals hearings
- (4) Suspensions or denials of handgun license hearings



## **Chapter 5**

### **ADDITIONAL DUTIES OF THE JUSTICES OF THE PEACE**

#### **5.1 Death Investigations/ Inquest**

In the absence of a county medical examiner, the Justice of the Peace performs death investigation/ inquests of unattended deaths. The Justice of the Peace will authorize transport of bodies to the Galveston County Medical Examiner's office (if necessary, to assist in determining cause of death); pronounce date and time of death (based on facts or evidence found at the scene of death); determine cause of death; and certify medical-related facts on the death certificate in the absence of a doctor's certification.

#### **5.2 Officiate Wedding Ceremonies**

Marriage licenses are obtained at the county clerk's office. Justices of the Peace have authority to officiate wedding ceremonies. Specific information regarding these services is available from each individual Justice of the Peace, who determines pricing and scheduling.

## Chapter 6

### RULES OF DECORUM

#### 6.1 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.

As to all persons in the courtroom, there shall be:

- (1) no tobacco used;
- (2) no chewing gum;
- (3) no excessively short pants, bare midriffs, tank tops, or hats;
- (4) shirt tails shall be tucked into pants
- (5) no audible cell phones or pagers (except cell phone(s) belonging to the presiding Judge);
- (6) no bottles, cups or beverage containers except court provided water, pitchers and cups or as otherwise permitted by the Judge;
- (7) no edibles;
- (8) no propping of feet on tables, chairs, railings or other courtroom furniture or architectural features and fixtures;
- (9) no weapons of any kind;
- (10) 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, nicknames or terms of endearment.

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

## **6.2 Attorneys**

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.

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

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

While another party is addressing the Judge or jury, an attorney shall not stand for any purpose except to make an appropriate motion, request or objection to the Court.

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

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

- (1) when the Judge enters and leaves the courtroom;
- (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)

Attorneys should anticipate any need to use or move furniture, easels, or other equipment, and should make advance arrangements with the Court. Tables should not be moved during court sessions, unless approved by the Judge.

APPROVED



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Hon. Jack Brown  
Justice of the Peace, Pct. 1, Pl. 1  
Brazoria County, Texas



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Hon. Robin Rape  
Justice of the Peace, Pct. 1, Pl. 2  
Brazoria County, Texas



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Hon. John Vasut  
Justice of the Peace, Pct. 2, Pl. 1  
Brazoria County, Texas



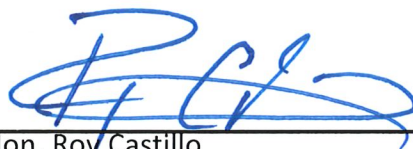
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Hon. Richard Davis  
Justice of the Peace, Pct. 2, Pl. 2  
Brazoria County, Texas




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Hon. Mike Merkel  
Justice of the Peace, Pct. 3, Pl. 1  
Brazoria County, Texas



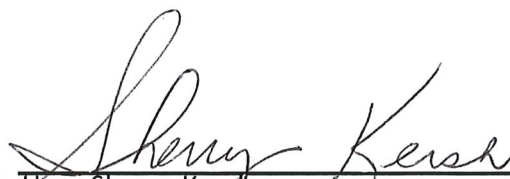
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Hon. Roy Castillo  
Justice of the Peace, Pct. 3, Pl. 2  
Brazoria County, Texas



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Hon. Sarah Linder  
Justice of the Peace, Pct. 4, Pl. 1  
Brazoria County, Texas



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Hon. Sherry Kersh  
Justice of the Peace, Pct. 4, Pl. 2  
Brazoria County, Texas