



## **JUDGE MARGARET O'BRIEN**

### **PRE-TRIAL INFORMATION FOR JUSTICE COURT 2-1**

Due to COVID-19 we no longer have an in-person Pre-Trial Docket. The purpose of the pre-trial meeting was to encourage parties to resolve their legal issues prior to trial, hear motions and educate pro-se litigants on the rules of the court (see Texas Rules of Civil Procedure Rule 166). This document is a summary of some of the important highlights for your trial, but, this document does not cover every detail for your trial and filings.

**IF ENGLISH IS NOT YOUR FIRST LANGUAGE, YOU WILL NEED TO COORDINATE WITH THE CLERK TO GET A CERTIFIED INTERPRETER FOR YOUR TRIAL. PLEASE CONTACT THE CHIEF CLERK TO SCHEDULE AN INTERPRETER THROUGH THE COUNTY WITH ACCESS LANGUAGE PROGRAM.**

**SI INGLES NO ES SU PRIMER IDIOMA, NECESITARA CORDINAR CON LA CORTE EL SERVICIO DE UN INTERPRETE CERTIFICADO PARA SU JUICIO. FAVOR DE PONERSE EN CONTACTO CON LA CORDINADORA DE LA CORTE PARA PROGRAMAR ESTE SERVICIO CON EL PROGRAMA ACCESS LANGUAGE DEL CONDADO.**

The Court does not give legal advice because we cannot favor either party. For legal assistance you may call Legal Aid of Northwest Texas 214-748-1234.

The Justice Court has a specific set of rules that it follows called the Texas Rules of Civil Procedure (TRCP). The Justice Court has a copy available at the front desk for review as well as a link on its website. The rules explain how the Justice Court responds when something is filed with the court. There is a link below.

Texas Rules of Civil Procedure (TRCP) Part V – 500 Rules of Practice in Justice Courts

<https://www.txcourts.gov/rules-forms/rules-standards/>

We do have a helpful webpage [www.JudgeMO.org](http://www.JudgeMO.org) and it has a section at the bottom for “Self Represented Litigants”. By clicking on that link, you will find helpful information packets and templates for justice court filings.

#### **ELEMENTS IN A CIVIL CASE**

Texas Causes of Action by O'Connor's outline the elements for each civil case type. Non-attorneys or “pro se” litigants (a party not represented by an attorney but representing themselves) are not required to plead a specific cause. The Court's copy of Texas Causes of Action book is available by requesting it from a clerk.

**140 N. Garland Avenue Garland, TX 75040 Phone (214) 643-4773 Fax (214) 643-4772**

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For example the Court recognizes a pleading that states “I got in a car wreck” as a negligence claim; “they took something that belonged to me” as a conversion or theft claim, and “they didn’t pay me” as a breach of contract and/or quantum meruit claim. Texas Causes of Action will define legal claims such as a negligence claim, theft claim and breach of contract claim.

If it is unclear as to what the party is seeking, the opposing party may submit a motion asking the party to amend their claim under the rules of the court to understand what the suit is about.

### **JUSTICE OF THE PEACE COURT JURISDICTION (TRCP 500.3)**

Be aware that a justice court may ONLY give a money judgment and/or the return of personal property. If you are seeking a judgment for money, you must be able to prove the amount of money that you are seeking. The jurisdictional limits of the Justice Court was \$10,000. For cases filed on or after September 1, 2020, the jurisdictional limit increased to \$20,000.

### **JUDGES DUTY TO DEVELOP THE CASE (TRCP 500.6)**

The Judge’s duty is to develop the case to get to the truth of the matter asserted. The Judge may ask questions to gather additional facts of the case.

### **SERVICE OF DOCUMENTS (TRCP 501.4)**

Any document delivered to the Court **MUST** be delivered to the opposing party and/or the opposing party’s attorney via TRCP 501.4(a)5. The Court will allow for document(s) to be sent regular mail. The Court **DOES NOT** send forms filed by each party to the opposing party.

CERTIFICATE OF SERVICE – Each document should have a “certificate of service” pursuant to Texas Rules of Civil Procedure (TRCP). A certificate of service is a statement that a document was sent to the opposing party and a description of how it was sent, where it was sent, and to whom it was sent. A sample is as follows:

Example: I certify that on (date), I served a copy of (name of document) on the (party/parties) listed below by (specify method of service, e.g. certified U.S. Mail, fax to fax (number), personal delivery):

### **MOTIONS (TRCP 502.1) - DUE TO COVID-19 PLEASE SUBMIT ALL MOTIONS IN WRITING TO THE COURT**

Examples of types of motions are; Motion for Discovery (500.9), Motion for Summary Disposition (503.2), Motion for Transfer of Venue (502.4), etc. The written motions may be mailed, email, or faxed. You must send a copy to the opposing party with a certificate of service (how you sent it to the other party TRCP 501.4). We will hear these motions via teleconference or web meeting. Evidence must be submitted to the court at least 3 days prior to your hearing by mail, fax 214-643-4772 or email [jp21court@dallascounty.org](mailto:jp21court@dallascounty.org).

### **DISCOVERY (TRCP 500.9)**

Discovery is a process by which the other party produces evidence and/or answers questions about what will be presented at trial. The Court generally does not grant lengthy discovery

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requests unless all parties agree. The parties may agree to produce discovery without the court's involvement.

## **EVIDENCE**

**BRING YOUR EVIDENCE TO TRIAL!** At trial, it is important that the parties bring all of the evidence necessary to prove their case. This includes documents, photographs, repair estimates, contract, exhibits, and correspondence between parties or individuals who are to give testimony (or it could be a written affidavit from a witness). The Court does not provide devices for viewing or hearing recordings. The Court does not reset a case because you failed to bring your evidence to trial.

## **MEDIATION (TRCP 503.5)**

If it is apparent that mediation would best serve the parties the court can order mediation to resolve the matter.

## **SAMPLE TRIAL**

Jury Selection (Voir Dire)

Opening – The parties will make an opening statement.

Plaintiff - Today I'm going to show the court that XX happened and why I should recover XX amount.

Defendant – Today I'm going to show the court that XX happened and why the plaintiff should not receive what they are seeking.

Plaintiff Testimony/Evidentiary Phase

Plaintiff – Plaintiff will present their evidence and testimony about what they are seeking. The Court does not follow the rules of evidence. If the document looks reliable, the court may allow it.

Defendant – Cross examination

Second witness, third witness, etc.

Defendant Testimony/Evidentiary Phase

Defendant – Defendant will present their evidence and testimony about what they are seeking. The Court does not follow the rules of evidence. If the document looks reliable, the court may allow it.

Plaintiff – Cross examination

Second witness, third witness, etc.

Closing Statements

Plaintiff will give their closing. Today I showed the court XXX and ask you to award me XX.

Defendant closing

Plaintiff Rebuttal Closing

Judgment is rendered on the Court's decision or a jury's verdict.

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