

# Representing yourself. What you need to know.



*Important information about representing yourself, the civil court system, general deadlines and suggested resources.*

## Representing Yourself in Dallas County Civil Courts

This pamphlet is a general introduction to representing yourself (known as pro se representation), in a non-family civil lawsuit in Dallas County. Examples of a non-family civil lawsuit include lawsuits concerning debt collections, contract disputes, and personal injuries. This pamphlet does not address criminal, divorce, juvenile, probate or child-custody issues.

***This pamphlet does not offer legal advice and is not a substitute for legal representation by an attorney. Pro se litigants must follow the same rules as those who are represented by attorneys.***

The purpose of this pamphlet is to provide to someone representing himself or herself some basic information about the civil court system, and answer common questions, general deadlines, and suggested resources for further assistance. Do not rely on this pamphlet as legal authority. Rather, you must consult all relevant law, including the Texas Rules of Civil Procedure, the Texas Civil Practice and Remedies Code, and the Dallas County Civil Court Rules. You should also note that this pamphlet does not address many of the different rules that apply in the Dallas Justice of the Peace Courts.

## Understanding the Risks of Representing Yourself

Litigating a case can be complex and time consuming. If you represent yourself in court without a lawyer, you will be held to the same standards as attorneys with respect to the rules of evidence, court procedures, legal research, pleadings requirements and the law. One missed deadline or slight error in your pleadings can weaken or destroy your case or even result in money penalties being imposed against you. Your opponent may hire a licensed attorney with training and experience. Because judges and court staff must maintain their impartiality, they are not permitted to give you legal advice. You have the right to represent yourself in court. However, you should recognize that you place yourself at a disadvantage by choosing to represent yourself in court without a lawyer.

Even if you cannot afford an attorney, you should be aware of some alternatives to pro se representation. Some attorneys, for example, represent clients with limited resources at no charge (known as pro bono representation). Other attorneys represent clients on a contingency fee basis, which means they will be paid only out of any money damages recovered in the lawsuit. Some attorneys may be willing to accept an hourly fee to help guide pro se litigants through their cases without undertaking full representation, that is, without signing court papers or appearing in court. Finally, out-of-court arbitration and mediation may be faster, less expensive, and may produce more satisfying results than litigation. For further information on any of these alternatives, including those offering Spanish speaking attorneys, please consult the list of "Resources and References" at the back of this pamphlet.

This pamphlet deals only with some of the general rules and procedures. Other rules and exceptions, however, may be applicable to your case. Again, this pamphlet does not offer legal advice and is not a substitute for a lawyer.

## Parts of a Civil Lawsuit

### The Beginning

In order to begin a lawsuit, the person suing, called the Plaintiff, will file a document referred to as the Plaintiff's Original Petition, which sets out the facts that caused the Plaintiff to sue, the legal bases for the lawsuit and the relief requested from the court. It must be signed by the Plaintiff (if pro se) and filed with the district or county clerk together with a filing fee. The Plaintiff must request a Citation and have the Citation and Petition served on the other side, known as the Defendant, by a sheriff, constable, or other authorized person. Once served, the Defendant must timely file an Original Answer.

If the Defendant has a basis to challenge the fact that the Defendant is being sued in Texas (known as personal jurisdiction) or the fact that the Defendant is being sued in a particular county (known as venue), the Defendant must file that challenge before filing the Answer or in the body of the Answer as the first thing. The Answer could consist of a general denial, which puts the burden on the Plaintiff to prove the case. In some cases a general denial is not sufficient for all purposes. The Answer may also contain affirmative defenses and sworn defenses, which means that the Defendant admits to the allegations, but states a reason why the Defendant should not be held legally accountable for the Defendant's actions, i.e., an excuse. Whichever route the Defendant chooses to take, the Defendant must file a timely Answer with the court. Failure to file a timely Answer will be considered an admission of the Plaintiff's allegations and will result in a Default Judgment against the Defendant.

After the Defendant has answered, many courts will take some combination of the following actions: (1) set a pre-trial conference; (2) set a trial date; (3) issue a scheduling order; and/or (4) issue a mediation order. Courts often require or encourage the parties to try to settle the case through alternative dispute resolution ("ADR").

The most common ADR technique is mediation, where the parties meet with a neutral third-party mediator who assists the parties in reaching an agreed resolution. Mediation is non-binding, confidential and may be done at any time. The mediation expenses are shared among the parties.

### The Middle

The middle of the case is better known as the "pre-trial" stage and involves the preparation for the trial. Discovery is the name for certain procedures that allow each party to find out information about the case.

The most common forms of written discovery are Requests for Production (asking for documents), Requests for Admissions (asking the other side to admit to certain facts), Interrogatories (asking specific questions) and Requests for Disclosure (asking for certain disclosures). Generally speaking, if you receive one of these written discovery requests, you will have 30 days (33 if it was sent by mail) from the date it was sent to answer and object. Another form of discovery is a deposition, which involves taking out-of-court sworn testimony from a witness in the presence of a court reporter and all parties.

In addition to discovery, many other motions may be filed during the pre-trial stage. One of the most common motions is a Motion for Summary

Judgment, which allows either party to obtain a judgment without a trial when there are no disputed facts or when the other party has no evidence to support its contentions. If you are served with a summary judgment motion, you should file a written response with any copies of deposition testimony, affidavits, or other proper evidence at least seven days before the summary judgment hearing. For more information about the summary judgment motion and other motions, you should consult the Texas Rules of Civil Procedure, the Dallas County Civil Court Rules, and any scheduling orders issued by the court in which the lawsuit is pending.

#### The Trial

If the case is not settled by mediation or resolved by a pre-trial motion, the case will be called to trial. Courts schedule several trials for the same day and then conduct those trials in a certain order. In Dallas County, you must call the court administrator the week before your trial and make a trial announcement stating whether you are ready for trial. Even if you are not ready, you must appear for the trial unless the administrator tells you differently or unless the court grants a continuance, which usually requires a written Motion for Continuance. Failing to appear at trial or any other hearing may result in the case being dismissed for want of prosecution or a default judgment. If the Plaintiff wants to dismiss the case before trial, the Plaintiff can file a Nonsuit simply stating that the Plaintiff no longer wishes to pursue the case. If the Defendant has filed a Counterclaim, the Nonsuit will only eliminate the Plaintiff's claims and the lawsuit will go forward on Defendant's claims.

If you want a jury to hear your case, you must request a jury trial and pay the jury fee at least 30 days before trial. If either side has requested a jury trial and paid the fee, the first thing that occurs during the trial will be selection of a jury, which is called voir dire. During voir dire, both sides will have the opportunity to ask questions and to disqualify certain potential jurors. Next, the Plaintiff will give an opening statement, which is a summary of the case and what he or she intends to prove. Then the Defendant makes an opening statement. After the opening statements, the Plaintiff will introduce evidence, such as documents and testimony from witnesses, supporting the Plaintiff's case. After the Plaintiff has finished the first part of Plaintiff's case, the Defendant will have a turn to introduce Defendant's evidence. Each side will have the opportunity to cross-examine, or ask questions of the other side's witnesses.

In a jury trial, the parties will have a charge conference with the judge after all the evidence has been presented. During the charge conference, the parties will have an opportunity and may be required to propose the questions and instructions that the judge will read to the jury. After the judge has read the jury charge to the jury, the Plaintiff, followed by the Defendant, will give a closing argument. After the Defendant's closing argument, the Plaintiff will give a brief rebuttal (an argument responding to the Defendant's argument). The jury will then deliberate and return a verdict.

In a bench trial (a trial before only a judge and no jury), either side may request Findings of Fact and Conclusions of Law which will form the basis for the judge's decision. Following closing arguments, the judge will announce the court's decision.

#### The End

After the judgment is entered, various post-judgment motions may be filed, the most common of which is a Motion for New Trial, challenging the weight of the evidence. If your case is dismissed for want of prosecution, you may file a verified (sworn) Motion to Reinstate the Case. Both Motions for New Trial and Motions to Reinstate the Case must be filed within 30 days of the signing of the judgment.

Either side may appeal the judgment if the judge committed an error in the trial court. The first level of appeal from any Dallas County Civil District Court or any Dallas County Court at Law, is to the Fifth District Court of Appeals in Dallas. Appellate filing deadlines for the original notice of appeal have to be followed strictly or else the appeals court cannot hear the appeal. You must follow all rules for timely filing and briefing as outlined in the Texas Rules of Appellate Procedure.

### Important Rules and Deadlines

In a civil lawsuit rules and deadlines are important. Also, all documents filed with the court must be in the English language. Pro se litigants must follow the same rules as those who are represented by attorneys.

**Applicable Rules** - The Texas Rules of Civil Procedure govern all civil cases in Texas state courts. In general, the Texas Rules of Civil Procedure set forth rules regarding pleadings, discovery, and deadlines. In civil cases filed in Dallas County, these rules are supplemented by the Dallas County

Civil Court Rules. For more information, consult the "Resources and References" list described below.

**Answer Deadline** - If you have been sued, you must answer the lawsuit by filing an Original Answer by 10:00 a.m. on the next Monday, following the expiration of 20 days from the date the Plaintiff's Original Petition was served upon you. If you have been sued in Justice of the Peace Court, you must file an Original Answer by 10:00 a.m. on the next Monday, following the expiration of 10 days from the date the Petition was served upon you. If you fail to answer the lawsuit timely, after proper service, a Default Judgment may be taken against you, which is just as enforceable against you and your property as any other judgment.

**Verified Pleadings** - Some pleadings must be verified before being filed in the lawsuit. Verification is swearing, before a notary, that the contents of your pleading or particular parts of your pleading are true and correct. Failing to verify the particular types of claims that must be verified in a pleading may result in elimination of that claim completely. Please consult Texas Rule of Civil Procedure 93. As a general rule, if you receive a pleading from your opponent that is verified, it is likely that your response to that pleading will need to be verified.

**Discovery Deadlines** - You must respond to discovery requests within 30 days of receiving discovery requests, if they were hand-delivered to you. If the requests were mailed or faxed to you, the deadline is 33 days from the date the discovery was mailed or faxed, i.e., the postmark date or fax date or certificate of service (see the "Adding Three Days" subsection below). Your response can be mailed on the date of the deadline (see the "Service Mailbox Rule" subsection below service). If discovery was served with the Citation and Original Petition, then you must respond within 50 days. Failure to respond to the discovery within the stated deadlines can result in sanctions being imposed (see "Sanctions" subsection below).

**Summary Judgment Deadlines** - Summary judgments are extremely complicated and can make or break your case. When a Motion for Summary Judgment is filed against you, you should file a response, even though a response is not required because the motion must stand or fall based on the evidence presented with it; no oral hearing or record is required for the same reason, though hearings are customary. If a hearing is held, no witnesses, including yourself, will be allowed to testify in person. Your response in affidavit form is your testimony. You will be notified of a hearing date. As the responding party you are entitled to 21 days notice prior to the decision or hearing on the matter (counting backwards from the day of the hearing, including the day of the hearing). Three days are added to this deadline, if the motion and notice are mailed or faxed to you. Your response is due seven (7) days prior to the hearing (counting backwards from the day of the hearing, including the day of the hearing). It is considered timely filed if mailed on the due date, even if received inside of seven days prior to the hearing, per the Filing Mail Box Rule. The moving or filing party may file a reply to your response three (3) days prior to the hearing. At the hearing, the moving or filing party has the burden of proof based only upon the written evidence presented with the motion for summary judgment. If you fail to file a response prior to the above deadline, you cannot use evidence to argue against the motion. If you file a response timely, you may argue only the counter-evidence attached to your response and the evidence attached to the motion. If the motion is sufficient to support a judgment, failing to file a response can result in dismissal of your case or a judgment against you.

**Final Judgment Deadline** - A judgment becomes a Final Judgment 30 days after it is signed, unless certain post-trial motions are filed. The court loses its power to rule on your case or the judgment once this deadline passes. A party must comment on or complain about the judgment (its entry, form or substance) within this 30-day time period or the judgment cannot be altered. It is also an extremely important deadline because action must be taken within this 30-day time period in order to preserve your right to appeal. If certain steps are not followed during this 30-day time period, an appeal usually cannot be taken and any error by the trial court is waived. Please consult the Texas Rules of Appellate Procedure for more information regarding appeals.

**Dismissal for Want of Prosecution (DWOP)** - The court has the power to rid its docket of cases that are not being pursued earnestly. The court may issue a Notice of Dismissal for Want of Prosecution (a "DWOP") and allow the party or parties one last opportunity to appear and show the court that due diligence has been or is being taken in relation to the lawsuit sufficient

to allow it to continue on the court's docket. If the court takes action on the DWOP, it will dismiss the case without prejudice, which means that the case can be re-filed by filing a new petition unless the statute of limitations has expired.

**Statute of Limitations** - A lawsuit must be filed within the Statute of Limitations period applicable to the particular cause(s) of action. Generally, the Statute of Limitations is two years or four years from the accrual of the cause of action. If the lawsuit is filed after the Statute of Limitations has passed, it is forever barred from being pursued. Depending on the facts at issue, a party may be able to assert an exception to the Statute of Limitations, such as the "discovery rule" or fraudulent concealment. Please consult Chapter 16 of the Texas Civil Practice and Remedies Code regarding the Statute of Limitations.

**Filing Mailbox Rule** - There are two mailbox rules: one for service and one for filing. The service mailbox rule is explained below. The Filing Mail Box Rule provides that when a document is placed into a properly addressed, postage paid package and sent by first class United States Mail, it is considered received by the court on the date it is postmarked as long as it is received by the clerk within 10 days. Remember, the document must be sent through the United States Postal Service to take advantage of the mailbox rule. A document sent by any other delivery service (i.e. UPS or Federal Express) will be considered filed when it is received by the Court, not when it was sent.

**Service Mailbox Rule** - The Service Mail Box Rule provides that a document sent to another party by mail is considered served on the day it is mailed. The document must be sent by certified or registered mail, properly addressed to the other party at that party's last known address, mailed on or before the deadline, and include a Certificate of Service explaining how the document was sent. As with the Filing Mailbox Rule, the document must be sent through the United State Postal Service.

**Adding Three Days to a Deadline** - When a document is served by mail or fax and requires a response by a certain deadline, three days are added to the normal deadline, e.g., a 30-day deadline becomes 33-day deadline.

**Service by Fax** - A party may serve any document on another party by fax. If a document is served by fax after 5:00 p.m. local time of the recipient, the document is deemed received on the following day.

**Computation of Deadlines** - When computing deadlines, the date of service is not included. Begin counting the deadline on the day following receipt and the due date is included in the calculation, unless the due date falls on a Saturday, Sunday or legal holiday, in which case the due date is the next business day after the weekend or holiday.

**Sanctions** - Failure to comply with the court's rules, procedures, and deadlines can subject the parties to sanctions. Sanctions range from a fine, to restriction of evidence, to dismissal of the case, to jail time. Sanctions can have devastating consequences.

## Common Questions

### What are the Roles of the Judge, the Court Staff, and my Opponent's Lawyer?

**Judge** - Each court has an elected judge that presides over that court. In our system, the judge is required to be impartial and to base decisions on the law and evidence that is presented in the courtroom. For this reason, the judge will not speak with you or your opponent outside of the courtroom and cannot help you with your case. You should never attempt to contact the judge directly in person or on the telephone. If you write to the judge, send a copy to all other parties and understand that the judge may not respond to your letter.

**Court Coordinator** - This person works for the judge and handles the day-to-day business of the court. Because the coordinator is usually well-informed regarding the policies and procedures of each individual judge, you may wish to contact this person if you have questions about court appearances and similar matters. But the coordinator is not a lawyer and, cannot give you legal advice.

**Court Clerks** - The clerks assigned to each court do not work directly for the judge, but rather, for the county or district clerk's office. They process all paperwork and collect all fees and costs for the court at the filing desk for the district or county clerk. While the clerks are there to help you, they

cannot tell you how to draft pleadings or what deadlines apply; they cannot make free copies for you; and most importantly, they are not lawyers and cannot advise you on legal matters.

**Court Bailiff** - The bailiff is responsible for ensuring safety in the courtroom. The bailiff may also call the docket of the court and inform the judge whether all parties have appeared in court on the proper day and time.

**Court Reporter** - The court reporter, when present, creates a written transcript of what is said during a trial, hearing, or deposition. You may receive a copy of the transcript by paying a transcript fee to the court. If you are financially unable to pay the transcript fee, you may still receive a copy by filing an affidavit of inability that explains your situation.

**Opponent's Lawyer** - This lawyer represents your opponent, not you, and cannot give you legal advice or help you with your side of the case. But you must send a copy of everything you file with the court to your opponent's lawyer.

### What Needs to be Filed with the Court, and Will it Cost me Anything?

**What to File** - All pleadings and other requests for action by the court must be filed with the court clerk. You generally should not file discovery documents or everyday correspondence with the court. In addition, before filing any motion, you must contact opposing counsel and attempt to resolve the disputed matter. All motions must include at the end a Certificate of Conference, using one of the three forms set out in Dallas County Civil Court Rule 2.07(c).

A copy of every paper you file with the court must be sent to all parties in the case. In fact, every paper you file must have at the end a Certificate of Service, which is a signed statement that you have actually sent a copy of that paper to all parties on a specified date.

**Filing Fees** - You will need to pay a fee in order to file a lawsuit and serve notice of the lawsuit on the defendant. But for most papers that you file with the court, you will not be required to pay any fees. For more information about filing fees, you should check the Dallas County District Clerk's website at [www.dallascounty.org/html/citizen-serv/district-clerk/fees-civil.html](http://www.dallascounty.org/html/citizen-serv/district-clerk/fees-civil.html). If you are financially unable to pay the filing fee, you may still file your pleading, motion, or other paper with the court by attaching an affidavit of inability that explains your situation.

### How will I Receive Information about my Case?

You will receive information about the case by mail, fax, and by telephone from both the court and the Opponent's Lawyers. Therefore, you should be sure that all of them have your current address and telephone number on file at all times. You should also always return all telephone calls and accept delivery of all mail regarding your case. If you are going to be out of town for an extended period, you should notify the court coordinator and all parties with a "vacation letter" listing your dates of unavailability (subject to limitations of Local Rule 4.04).

### How can a Missed Deadline Affect my Case?

Throughout your case, you will encounter deadlines. There are deadlines, for example, for answering the Petition, for requesting discovery, for responding to discovery, and for responding to Summary Judgment motions. Deadlines cannot be ignored and should not be missed. A missed deadline can result in the dismissal of your case as the Plaintiff or a judgment against you as the Defendant.

To ensure that you do not miss deadlines, you should carefully review all notices you receive regarding your case. Some courts issue scheduling orders, which will list many of the deadlines in the case. You should always appear in court whenever notified to do so. When you receive pleadings, motions, and discovery requests, you should check the Texas Rules of Civil Procedure and the Dallas County Civil Court Rules to determine what deadlines apply to your response.

### What Should I Wear, and How Should I Behave in Court?

**Proper Clothes** - You should dress as though you were going to a job interview. Men should wear pants and a shirt with a collar. A suit, jacket or tie is always appropriate. Women should wear a dress, skirt, or pants that are not too tight, too short or low cut. It is never proper to wear shorts, t-shirts or sandals. Excessive make-up or jewelry also should not be worn.

Courtroom Behavior - All persons are expected to conduct themselves with civility, decorum and respect toward others. Before appearing in court for the first time, you should read the Dallas County Civil Court Rules, the Rules of Decorum and the Texas Lawyer's Creed, all of which may be found on the Dallas County District Court's website. In the courtroom, it is never proper to wear a hat, read a newspaper, eat, or chew gum. When speaking to the judge in court, you should speak clearly, politely, and loud enough to be heard. You should never interrupt the judge and if the judge asks you a question, your answer should end with "Sir," "Ma'am," or

"Your honor." By contrast, responses such as "Huh?" and "I dunno" are never appropriate. If the court reporter is making a transcript of any proceeding, all answers must be in words, not just "Uh-huh" or a nodding of the head.

Children and Court - While it may be helpful to have family members or friends present for court appearances, it is seldom, if ever, beneficial to have small children present. Keep in mind that children can be distracting to you, the judge, and other parties in the courtroom.

## Resources And References

Attorney Referrals and  
Pro Bono Representation

Dallas Bar Association -  
Lawyer Referral Service -  
referrals to attorneys charging \$20 for  
half-hour consultation  
(214) 220-7444

Legal Hotline for Older  
Texans - for Texans age  
60 and older (800) 622-2520

Legal Services of North Texas - for  
qualified low-income people  
(214) 748-1234 \*\*

Dallas Volunteer Attorney Program  
(DVAP) - for  
low-income Dallas residents  
(214) 742-5768

American Civil Liberties  
Union - for First Amendment and other  
constitutional issues  
(214) 939-8089

Housing Crisis Center -  
for eviction and housing issues  
(214) 828-4244

Catholic Charities  
Immigration Counseling Services - for  
immigration issues  
(214) 634-7182 \*\*

Lawyers for Affordable Housing -  
housing issues for low-income people  
(214) 748-1234

Mental Health Law Project -  
for persons with mental  
disabilities (214) 742-5768

Texas Accountants and  
Lawyers for the Arts - for  
low-income artists and charitable  
organizations (800) 526-8252

Legal Clinics

DVAP Neighborhood Legal Clinic  
(214) 742-5768

DVAP Debt Counseling Clinic  
(214) 742-5768

DVAP Pro Se Divorce Clinic  
(214) 742-5768

DVAP Legal Clinic for the Elderly  
(214) 742-5768

Dallas Bar Association  
(214) 220-7476 (5:15 - 8:00 p.m.  
on second and third  
Wed. only)

SMU Civil Legal Clinic  
(214) 768-2562

SMU Criminal Legal Clinic  
(214) 768-2562

SMU Tax Clinic  
(214) 768-2562

Homeless Law Project  
(214) 748-1234 (ext. 3224)

Family Violence Legal Line  
(800) 374-HOPE \*\*

Women's Advocacy Project  
(800) 777-FAIR \*\*

Legal Research

Dallas County Law Library  
600 Commerce Street  
Dallas, Texas 75202  
(214) 653-7481

SMU Law Library  
(214) 768-2562  
[www.law.smu.edu](http://www.law.smu.edu)

University of Texas Law Library  
[www.tarlton.law.utexas.edu](http://www.tarlton.law.utexas.edu)

Texas Judiciary Online  
[www.courts.state.tx.us](http://www.courts.state.tx.us)

Findlaw  
[www.findlaw.com](http://www.findlaw.com)

Other Issues

Dispute Mediation Service, Inc. - reduced-  
cost ADR services, such as mediation and  
settlement conferences (214) 754-0022 \*\*

Alcoholics Anonymous  
(800) 207-1264

The Family Place - counseling for battered  
women and children  
(214) 941-1991 \*\*

MHMR Center Dallas County - adult  
mental health services  
(214) 330-7722  
(emergency hotline)  
(214) 743-1200 \*\*  
(administration)

Protective Orders Division in District  
Attorney's Office  
(214) 653-3528 \*\*

Suicide and Crisis Center  
(214) 828-1000 \*\*

\*\* Abogados que hablan español.

**Nothing stated herein should be construed or interpreted to grant rights or remedies not otherwise granted under federal or state law.**

**This information is provided as a public service and is not intended as a substitute for legal advice or representation by a lawyer.**



FOR ADDITIONAL INFORMATION CONTACT:

The Dallas Bar Association - 214-220-7400  
Dallas Criminal Defense Lawyers Referral Service - 214-747-0986

We gratefully acknowledge the following for their assistance:  
Dallas Association of Young Lawyers  
The Dallas County Civil Judiciary

Cobie Russell, Series Editor

This printing has been generously underwritten by a grant from The Dallas Bar Foundation.