



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

## **GALVESTON DIVISION RULES OF PRACTICE**

Your attention is directed to these rules which apply to cases before Judge Jeffrey V. Brown in the Galveston Division of the Southern District of Texas.

Plaintiffs must serve a copy of these rules on each defendant with the summons and complaint. A party removing a case to this court must serve a copy of these rules on all other parties with the removal papers. Proof reflecting service of these rules must be filed with the U.S. District Clerk. A certificate of service form for use in removed cases can be found on Judge Brown's homepage. Judge Brown's homepage can be found at <https://www.txs.uscourts.gov/page/united-states-district-judge-jeffrey-v-brown>.

Parties may, at their option, proceed with civil cases before United States Magistrate Judge Andrew M. Edison. A consent form for parties who consent to proceed before Judge Edison can be found on Judge Brown's homepage. Interested parties should refer to the "Notice of the Right to Try a Civil Case Before a Magistrate Judge," which is also available on Judge Brown's homepage.

These rules are to be used in conjunction with the Local Rules for the Southern District of Texas and not as a substitute for them, except where expressly noted. The local rules for the Southern District can be found at [www.txs.uscourts.gov/page/local-federal-rules](http://www.txs.uscourts.gov/page/local-federal-rules).

### **1. Contact with Court Personnel**

The court expects parties to file documents through the Case Management/Electronic Case Filing (CM/ECF) System. See Southern District Local Rule 5.1 and the District's Administrative Procedures for CM/ECF (as amended and available at [www.txs.uscourts.gov](http://www.txs.uscourts.gov)). *Pro se* parties who are not

granted access to CM/ECF may file their documents in person at the clerk's office on the fourth floor of the Galveston courthouse.

Case-related inquiries should be made to the case manager, George Cardenas, at 409-766-3737 or at [george\\_cardenas@txs.uscourts.gov](mailto:george_cardenas@txs.uscourts.gov).

Information about the status of documents, entry of orders, or docket entries should be obtained from CM/ECF or PACER or, if absolutely necessary, from the U.S. District Clerk's office (409-766-3530).

## **2. Rule 16 Conferences and Docket-Control Orders**

Rule 16 conferences will be scheduled by the court and handled by Judge Edison. At least one attorney for each party must attend.

A Joint Discovery/Case Management Plan, in the form found on Judge Brown's homepage, must be filed at least 10 days before the Rule 16 conference. At the Rule 16 conference, Judge Edison will issue a docket-control order, the form of which is also on Judge Brown's homepage.

If new parties are joined after entry of the docket-control order, the party causing such joinder shall provide to the new parties copies of both the operative docket-control order and these rules.

## **3. Continuances of Docket-Control Deadlines and Trial Settings**

The parties may agree to extensions of discovery deadlines without seeking court approval, so long as the extension does not affect the dispositive-motion deadline or the docket-call date. Continuing the dispositive-motion deadline or the docket-call date requires a motion. Agreed motions for continuance are not binding on the court.

The court's trial settings are firm. Continuances will rarely be granted, and even more rarely because of a failure to complete discovery. A trial will not be continued because of the unavailability of a witness.

Vacation requests will be respected if they are made well in advance of a trial setting or hearing date.

## **4. Appearances by Telephone**

Though the court prefers that counsel attend proceedings in person, it does conduct some hearings and conferences by telephone. Out-of-town counsel wishing to appear by telephone should make a request to the case manager as far in advance as reasonably possible. The court will attempt to accommodate such requests, if feasible.

## 5. Motion Practice

- a. The court generally follows the written-motion practice described in the Southern District Local Rules. But if counsel believes an oral hearing would assist the court, a request for oral hearing may be made. The case manager will notify counsel if the court decides to convene an oral hearing.
- b. A party should not file a motion and separate “Memorandum of Law.” The motion should include the party’s argument supporting the relief sought.
- c. All non-dispositive motions should include a proposed order. Proposed orders must relate to the substance of the filed motion, be more than a mere “Grant/Deny” form, and include Judge Brown’s signature block. Motions for continuance and motions to revise the docket-control order must include proposed dates.
- d. The court will strike non-dispositive motions that do not include a certificate of conference. *See* Southern District Local Rule 7.1; *but see infra* Rule 6.
- e. If a party wishes to file a pleading, motion, or exhibit under seal, it must be accompanied by a motion to seal. The item will then be admitted under seal if the court deems such filing to be necessary.
- f. Filings must be double-spaced and in 13-point or larger font. Absent leave of court, any motion or response shall be limited to 30 pages. Replies are limited to 15 pages. A filing that contains more than 10 pages of argument must contain a short statement of the nature and stage of the proceeding, a short summary of the argument, and a table of authorities. Filings should substantially comply with *The Bluebook: A Uniform System of Citation*, the Texas Law Review’s *The Greenbook: Texas Rules of Form and Manual on Usage & Style* (a.k.a. “The Whitebook”), and Bryan Garner’s *The Redbook: A Manual on Legal Style*. Conflicts between *The Bluebook* and *The Greenbook* should be resolved in *The Greenbook*’s favor. Any citation to these rules should follow this example: Gal. Div. R. Prac. 6.
- g. Responses to motions must be filed within 21 days unless the court orders otherwise. Replies must be filed within 7 days of the date the response is filed. Any extension of these deadlines must be obtained by motion; though the court would be pleased to see that such a motion is unopposed, a mere agreement between the parties will be insufficient to extend the deadline.
- h. A party wishing to file a surreply, or a sur-surreply, must first obtain leave of court by motion. The court will strike unauthorized surreplies and sur-surreplies. Surreplies and sur-surreplies, if allowed, are limited to 10 pages.

- i. Any late filing must be accompanied by a motion for leave to file, otherwise the court may strike it. The motion must provide an adequate excuse for why the party failed to request an extension of time in advance of the relevant deadline.
- j. Exhibits to motions, responses, and other briefs and pleadings should be readily distinguishable from both the document to which they are appended and each other. Each exhibit should be individually attached and descriptively labeled on CM/ECF. Exhibits consisting of sound or video files should be sent to the court in USB thumb drives—not on CDs.
- k. A motion to suppress in a criminal case must be filed before the pretrial conference unless otherwise ordered by the court. *See* Fed. R. Crim. P. 12.

## **6. Special Requirement for Motions to Dismiss under Rule 12(b)**

The court will provide parties an opportunity to amend their pleadings once before entertaining a Rule 12(b) motion to dismiss. To advance the case efficiently and minimize the costs of litigation, the court requires a party intending to file a motion to dismiss under Rule 12(b) to confer with opposing counsel concerning the expected motion's basis. The party seeking dismissal shall further inform the respondent, by letter, of the right to amend the pleadings under these rules and Fed. R. Civ. P. 15(a)(1)(B), specifying that the amended pleading must be filed within 21 days of the date of the letter. This letter functions as "service of a motion under Rule 12(b)" within the meaning of Fed. R. Civ. P. 15(a)(1)(B).

The motion to dismiss may be filed (1) after the amended complaint is filed, (2) after the respondent informs the movant of their intent not to amend, or (3) if neither of the preceding occur, as early as the 22nd day after the letter is presented.

Fed. R. Civ. P. 12(a) prescribes time requirements for the filing of answers and for the filing of motions under Rule 12. For the purposes of these time requirements, a letter to opposing counsel sent in accordance with this rule shall be considered the equivalent of filing the motion itself.

The motion to dismiss should contain a certificate of conference expressly stating that the movant has complied with this rule. Once the motion to dismiss is filed, the non-movant shall not be allowed to amend its pleading until disposition of the motion to dismiss and upon leave from the court.

If the movant does not follow this rule before filing a motion to dismiss, the court will *sua sponte* grant an opportunity to amend.

## **7. Discovery Disputes**

The court expects that the parties will make a serious attempt to resolve all discovery issues without court intervention. When those earnest and valiant attempts prove unsuccessful, the parties should file a **joint** letter not to exceed two pages outlining the dispute, each side's position, and the efforts made to resolve the dispute. Typically, the court will then convene a telephone conference to resolve the issue as quickly as possible. Parties should not file a motion to compel without first exhausting this procedure.

## **8. Settlements**

Parties contemplating settlement may advise the court by calling the case manager and suggesting that the court postpone consideration of any pending motions. If the parties succeed in settling the case, they must inform the court immediately.

The court will order conditional dismissal—without prejudice to the right of any party to move to reinstate within 60 days—on all settlement announcements.

Upon settlement of a suit involving a minor plaintiff, counsel should jointly move for appointment of a guardian *ad litem* if there is a potential conflict of interest between the parent(s) and the minor. The parties may (but are not required to) submit the names of proposed guardians *ad litem* upon whom they agree. The court will consider any names submitted but may appoint as guardian *ad litem* a person whose name has not been submitted by counsel.

## **9. Docket Calls and Trial Settings**

The docket-control order will include a docket-call date. The docket call is a final pretrial conference and parties should be prepared to discuss any pending matters. At the docket call, the court will set the case for trial on a date certain within the next 60 days.

## **10. Pretrial Filings in Jury Cases**

The parties should not file a joint pretrial order. Instead, at least 24 hours before the docket call, each party should file the following, each as a separate document: exhibit list, witness list, proposed *voir dire* questions, proposed jury instructions, motions *in limine*, and deposition designations and objections. Each party should also submit to the court a tabbed binder containing these filings and a separate tabbed binder containing its exhibits.

The parties should exchange proposed motions *in limine*, exhibit lists, and deposition designations at least one week before docket call. Before docket call, they should confer and narrow the issues to be presented to the court.

#### **11. Trial Exhibits**

The court follows Southern District Local Rules 44 and 46, which require pretrial objections to the authenticity and admissibility of exhibits. Counsel is reminded that Fed. R. Civ. P. 11 applies to authenticity objections. The court will typically address evidentiary objections before trial and will seek to early-admit as many exhibits as possible.

#### **12. Voir Dire**

The court generally conducts a preliminary examination of the jury panel. Following the court's examination, each side may be allowed to examine the panel briefly, provided that proposed *voir dire* questions were properly submitted in accordance with these rules.

#### **13. Deposition Use at Trial**

The court will accept the parties' agreement to use a deposition at trial even though the witness is available.

#### **14. Bench Trials**

For cases to be tried to the bench, parties should follow Galv. Div. R. Prac. 10 regarding exhibit lists, witness lists, and deposition designations and objections. In lieu of closing arguments, the court may allow the parties to file post-trial briefs. Whether post-trial briefs are filed or not, the parties must file proposed findings of fact and conclusions of law. On a cases-by-case basis, the court may require proposed findings and conclusions to be filed before trial.

#### **15. Emergency Motions and TROs**

A party intending to seek an expedited ruling on an application for TRO, a motion for preliminary injunction, or any other motion it believes to be an emergency must notify the case manager in advance of the impending filing.

For hearings on preliminary injunctions, parties should follow Gal. Div. R. Prac. 10 regarding exhibit lists, witness lists, and deposition designations and objections. The parties should exchange these materials at least 72 hours before the hearing and confer beforehand to narrow evidentiary objections.

## **16. Cases With No Factual Nexus to the Galveston Division**

Occasionally, plaintiffs file matters in the Galveston Division with no factual nexus to the division. The court will screen for such situations at the initial scheduling conference. In any case with no obvious factual nexus to the Galveston Division, the court will order the plaintiff, within 14 days, to explain the case's connection to the division and how the court should weigh the *In re Volkswagen* private- and public-interest factors. *See* 545 F.3d 304, 315–18 (5th Cir. 2008) (en banc). The defendant will have 7 days to respond. The court will then determine whether, for the convenience of the parties and witnesses and in the interest of justice, it should transfer the case to a more appropriate division under 28 U.S.C. § 1404. The court will also entertain parties' motions to transfer such cases under § 1404, whether filed before or after the initial scheduling conference.