



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

GALVESTON DISTRICT COURT 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 these rules on all defendants with the summons and complaint. A party removing a case to this court has the same obligation as a plaintiff filing an original complaint. 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.

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). *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.

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).

At the court's discretion, law clerks may contact counsel; however, they will not discuss matters other than the subject of the call. Lawyers must not attempt to contact the law clerks unless they are returning a call.

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 in person.

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 procedures.

3. Continuances

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 usually 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. No counsel may appear by telephone at the Rule 16 conference.

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 it seeks.
- c. Except for dispositive motions, all motions should include a proposed order.
- 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, the party must first obtain leave of court by motion. 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 for extended briefing, any motion or response shall be limited to 30 pages. Per the Southern District Local Rules, responses should be filed within 21 days unless the court orders otherwise. Replies should be filed within 7 days of the date the response is filed and must not exceed 15 pages. If a filing exceeds these page limits, but a motion for leave is granted, the filing will be deemed to have been filed as of the original date it was filed. The time for filing the response will then run from the date of the order on the motion for leave.
- g. 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. Ideally, each exhibit should be both clearly labeled and given an individual “jump cite” within the main document’s CM/ECF docket entry.
- h. Parties should provide the court a courtesy copy of any filing of 50 pages or more in length, inclusive of any exhibits and attachments. Exhibits and other attachments should be tabbed for ready access. Courtesy copies may be delivered or mailed, but not faxed, to either the court’s chambers on the sixth floor or the U.S. District Clerk’s office on the fourth floor.

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 procedures, specifying that the amended pleading must be filed within 14 days of the date of the letter. If the pleading is not so amended, the motion to dismiss may be filed. In such a case: (1) a certificate of conference shall accompany the motion to dismiss expressly stating that the movant has complied with this rule and noting that the non-movant did not timely amend its pleading; and (2) the non-movant shall not be allowed to amend its pleading unless the non-movant's case survives the motion and the non-movant obtains leave to amend from the court.

Rule 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.

If a party 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

If the parties are seriously contemplating settlement, they should advise the court by calling the case manager and suggesting that the court postpone consideration of any pending motions until the parties advise the court as to whether a settlement has been reached. If the parties succeed in settling the case, they should inform the court immediately.

The court will order 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 *ad litem*s 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. Orders of Dismissal for Want of Prosecution

Any defendant upon whom service has not been perfected within 90 days after the complaint is filed will be dismissed for want of prosecution in accordance with Fed. R. Civ. P. 4(m).

10. 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.

11. Pretrial Filings

The parties should not file a joint pretrial order. Instead, at least one day 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.

12. 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.

13. Voir Dire

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

14. Depositions

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