

CAUSE NO. _____

VS.

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IN THE COUNTY COURT

AT LAW NO. 1

ELLIS COUNTY, TEXAS

SCHEDULING ORDER
With Pretrial Instructions
& Final Pretrial Submission Form
(Updated June 2024)

1. **This is the required Scheduling Order Form for this Court. The parties may not use their own form, but may add supplemental deadlines in the blank spaces provided on the form.** A fillable copy of this Scheduling Order is available on the Court’s website. The parties should provide the Court Coordinator with requested trial dates (more and earlier dates are available for a trial to the Court than for a trial to a jury) and the Court shall select the date, taking into account the parties’ requests and the Court’s schedule and inform the parties of the trial date and any other deadlines set by the Court. The parties should then complete the form, filling in any dates that have been left to the discretion of the parties, sign the proposed Scheduling Order, and submit it for consideration by the Court without a hearing. If the parties are unable to agree on a Scheduling Order, the matter may be set for hearing before the Court. If the parties fail to act within one year of the initial responsive pleading filed in the case the parties have not requested a trial date, the Court may place this case on the DWOP docket or set this case for trial at its discretion.

2. The following instructions, pretrial schedule and form must be utilized and observed by the parties. No changes or modifications may be made except by written order of this Court.
 - a. **WRITTEN DISCOVERY:** Objections to written discovery must have a legally arguable basis in law and fact or must be warranted by a good faith argument for the extension, modification, or reversal of existing law. Written discovery must be supplemented promptly by the parties as new information and/or documents are received.

 - b. **EXPERT DISCOVERY:** The name, address, telephone number, occupation and area of expertise of each and every expert retained by the party to provide expert testimony

or opinions at the trial of the case or whose work product, opinions or impressions have been reviewed by any testifying expert, must be disclosed and a report prepared and served upon each opposing counsel and non-represented party as required by the pertinent T.R.C.P. If any conflict exists between this Order and a statute or rule, the statute or rule will apply.

- c. MEDIATION: Mediation is required prior to a contested final hearing. Parties may submit an agreed written order designating their own mediator within thirty days of receipt of this Scheduling Order. If an agreed order is not submitted within that time frame, the Court may appoint a mediator.
- d. FINAL PRETRIAL SUBMISSION (FPTS): The Final Pretrial Submission form is obtained on the Court's website. Every party must file a Final Pretrial Submission either jointly or separately no later than 5:00 o'clock p.m. on the deadline indicated in this Scheduling Order. **Failure by a party to timely file their Final Pretrial Submission, or if such submission is timely filed but the attorney for that party fails to attend the Pretrial hearing, where another party has timely filed their Final Pretrial Submission and that party's attorney attends the Pretrial Hearing, may result in the exclusion of the delinquent party's witnesses and exhibits and/or in the complete or partial postponement of the Final Pretrial Conference and the award of attorney's fees for the continued hearing against the non-compliant party and/or attorney.** The trial setting may be removed by the Court if all parties fail to file timely Final Pretrial Submissions.
- e. FINAL PRE-TRIAL CONFERENCE (FPTC): A Final Pretrial Conference will be held on this case at the time indicated in the Scheduling Order. **The Attorney in charge for each party must be in attendance in person, unless expressly excused by the Court, with full authority to make decisions on behalf of the client or if lacking such authority, the client with such authority must attend in person.** Matters to be considered and ruled upon by the Court are set forth hereafter in paragraph i.
- f. JURY SELECTION & TRIAL: **The parties must appear in person at jury selection and trial, failure to do so may result in the absent party being held in contempt and/or an instruction from the Court to the jury that even though the party was required to appear for jury selection and/or trial that the absent party failed to do so.** Jury selection for jury cases will begin at the time indicated in the Scheduling Order. The Court anticipates no delays in the process since all pretrial matters will have been disposed of in the Final Pretrial Conference. The parties must assume that this case will go to trial and be first on the docket. The number of jurors used in this Court vary by case type. Family law and Child Protective Services cases require 12 jurors. Probate, Eminent Domain and Mental Health cases require 6 jurors. Civil cases that involve an amount in controversy of \$250,000 or more require 12 juror while Civil cases that involve less than \$250,000 require 6 jurors. (Certain exceptions may apply, but these are the general rules)

- g. SETTINGS & HEARINGS: The Court Coordinator sets hearings in consultation with the Court. By agreement of the parties and the Court, hearings can be eliminated, and rulings made solely upon the written records.
- h. ATTORNEY CONFERENCE REQUIRED: Motions requesting a hearing may only be set after reasonable attempt to confer with opposing counsel and a filing of a certificate of conference attesting to the attempt to resolve the matter without action by the Court. The Court may set hearings at any time *sua sponte*.
- i. PRETRIAL PROCEEDINGS: All evidentiary matters will be ruled upon by the Court at pretrial. At Final Pretrial Conference all contested matters not previously disposed of will be considered and ruled upon. At that time the Court will also determine which witnesses the Court will permit to testify and the legal theories under which the case will be tried. These rulings will include all known evidentiary conflicts for which there are objections and any and all other matters called to the attention of the Court such as the Motion in Limine described in paragraph j.
- j. MOTIONS IN LIMINE: Abusive and detailed Motions in Limine that seek rulings on common evidentiary matters that are controlled by clear and undisputed rules of evidence will not be considered by the Court. However, to prevent prejudicial matters from being placed before the jury without proper foundation, the Court urges the parties to file limine motions aimed at deterring prejudicial actions that are unique to their case so that pretrial rulings can be made.
- k. AMENDMENTS TO SCHEDULING ORDER: This Scheduling Order may not be changed except by Order of this Court.
- l. TIME LIMITS: The Court may impose reasonable time limits upon the parties in all proceedings; any such time limits will be announced to the parties prior to the commencement of any hearing and at the Final Pretrial Conference for the trial itself.
- m. THE TEXAS LAWYER'S CREED: The mandates for professionalism set forth in the Texas Lawyer's Creed and all other disciplinary rules must be observed by all attorneys practicing before this Court in default of which disciplinary action may result either within this Court or within the State Bar or Texas.
- n. JUSTICE: The Court will amend the terms of this Scheduling Order as may be necessary in order to prevent manifest injustice.
- o. PRETRIAL DEADLINE DATES: The schedule and deadlines for pretrial procedures are as follows:

ON OR BEFORE

MATTER TO BE COMPLETED

Date: _____

I. JOINDER OF ALL PARTIES

Date: _____

II. EXPERTS DESIGNATED AND REPORTS FURNISHED

Date: _____

**III. DISCOVERY COMPLETE
FINAL PLEADINGS FILED
MOTIONS FOR SUMMARY
JUDGMENT FILED**

Date: _____

IV. MEDIATION DEADLINE

Date: _____

V. _____

Date: _____

VI. _____

Date: _____

**VII. FINAL PRETRIAL
SUBMISSION (FPTS) FILED**
(7 days before final pretrial conference)

Date: _____

**VIII. OBJECTIONS TO EVIDENCE
AND WITNESS FILED**
(4 days before pretrial conference)

Date: _____

**IX. FINAL PRETRIAL
CONFERENCE (FPTC)**
(14 days before trial date)

Time: _____

IF FOR BENCH TRIAL,

Date: _____

X. TRIAL DATE IF BENCH TRIAL
(Receive date from Court)

Time: _____

IF FOR JURY TRIAL

Date: _____

XI. JURY SELECTION DATE
(Receive date from Court)

Time: _____

Date: _____

XII. TRIAL DATE IF JURY TRIAL
(Receive date from Court)

Time: _____

SIGNED AND ENTERED THIS _____ DAY OF _____, 20__.

JUDGE PRESIDING

Agreed:

Attorney for Plaintiff

Attorney for Defendant