

**IN THE SUPREME COURT OF TEXAS**

Misc. Docket No. 04-

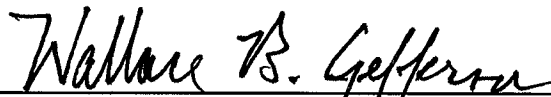
**9254**

**APPROVAL OF LOCAL RULES FOR  
CIVIL CASES IN GREGG COUNTY, TEXAS**

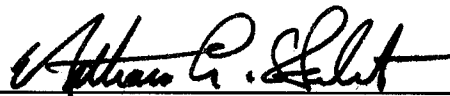
**ORDERED** that:

Pursuant to Texas Rule of Civil Procedure 3, the following Local Rules for Civil Cases in Gregg County, Texas, are approved.

In Chambers, this 21<sup>st</sup> day of October, 2004.



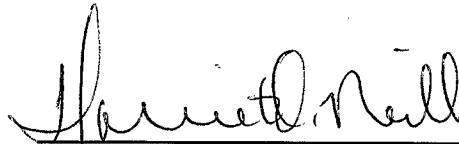
Wallace B. Jefferson, Chief Justice



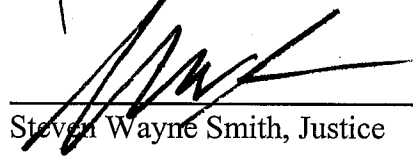
Nathan L. Hecht, Justice



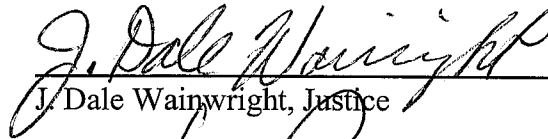
Priscilla R. Owen, Justice



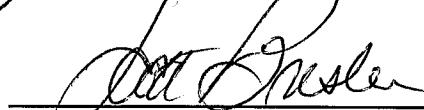
Harriet O'Neill, Justice



Steven Wayne Smith, Justice



J. Dale Wainwright, Justice



Scott Brister, Justice

# **LOCAL RULES OF COURT GREGG COUNTY, TEXAS *CIVIL CASES***

## **GREGG COUNTY WEB SITE**

The judges of Gregg County encourage all interested parties to take full advantage of the information presented on the County's web site. The web address is [www.co.gregg.tx.us](http://www.co.gregg.tx.us). The web site is best viewed with Internet Explorer version 5 or higher. Adobe Acrobat Reader is required to view PDF formatted documents such as dockets. A link is provided on the web site for downloading the Reader. The web site provides many useful features:

- News and Events
- Holiday Schedule
- Address, Telephone and Fax information for each department
- Online Arraignment Dockets
- Online Daily Calendars (Pre-Trial, Trial, Guilty Pleas, Revocations)
- Online Management Dockets
- Local Court Rules
- Civil Docket Calendar
- Trial Setting Calendar
- District Clerk Fee Schedule
- Judicial Records Search (Civil and Criminal)

Accessing the site map from the home page (click on the Site Map tab in the lower hand corner of the home page) provides a quick index of the items available on the site. Many questions related to court schedules, case data and contact information can be answered by reviewing the web site content. It is suggested that interested parties review the web site prior to contacting coordinators, the District Clerk or County Clerk for information. If you encounter problems with the web site, please contact the Gregg County Information Services Help Desk at (903) 234-3172.

## **CIVIL CASES FILED WITH DISTRICT CLERK**

### **Rule: 1**

All Petitions in civil cases shall be filed in the office of the District Clerk except for matters involving:

1. Probate and Guardianships;
2. Misdemeanor Bond Forfeitures;
3. Petitions for Minor Driver License; and
4. Petitions for Occupational Drivers License unless the license suspension was a result of a District Court action. If the drivers license suspension was a result of a District Court action, the case shall be filed in the Office of the District Clerk, and the clerk shall assign such case to the District Court in which the suspension occurred.

## **LEVEL 1 AND LEVEL 2 CASES: LITIGATION CONTROL ORDERS**

### **Rule: 2**

In each case in which the Original Petition filed by the Plaintiff designates discovery to be controlled by Discovery Control Plan (Level 1) or (Level 2), pursuant to Tex.R.Civ.P., 190.2 or Tex.R.Civ.P., 190.3, the Court, without consultation with counsel or the parties, will enter a Litigation Control Order which sets forth an appropriate schedule to control the litigation of that case. The Litigation Control Order for a Level 1 or Level 2 case will provide a definitive schedule by which the litigation must be conducted. Specifically, the Litigation Control Order for a Level 1 or Level 2 case will set specific dates for the pre-trial conference and trial, as well as dates by which the following items must be completed:

- a. Joinder of Additional Parties;
- b. Plaintiff Designation of Expert Witnesses and Compliance with Tex.R.Civ.P. 194.2(f);
- c. Defendant Designation of Expert Witnesses and Compliance with Tex.R.Civ.P., 194.2(f);
- d. Discovery;
- e. Mediation;

- f. The Filing of Dispositive Motions or any Motions Challenging an Expert Witness;
- g. The Response to a Dispositive Motion or any Motions Challenging an Expert Witness; and
- h. Parties to Amend Pleadings;

**Rule: 3**

The Litigation Control Order described in Rule: 2 will be issued by the Clerk of the Court, as soon as practicable after the first answer is filed by any Defendant in the case. The Clerk of the Court will file the Litigation Control Order and mail copies to all attorneys, and/or pro-se parties of record. The Litigation Control Order is designed to be self-explanatory.

If additional parties are joined subsequent to the Clerk issuing the Litigation Control Order, it is the responsibility of the party joining the additional party to provide the additional party with the Litigation Control Order in effect at that time.

**Rule: 4**

Unless otherwise specified in the Litigation Control Order, each case in which the Original Petition filed by the Plaintiff designates discovery to be controlled by Discovery Control Plan (Level 1) pursuant to Tex.R.Civ.P., 190.2, the amount of discovery to be conducted in the case is controlled by Tex.R.Civ.P., 190.2(c)(2),(3).

**Rule: 5**

Unless otherwise specified in the Litigation Control Order, each case in which the Original Petition filed by the Plaintiff designates discovery to be controlled by Discovery Control Plan (Level 2) pursuant to Tex.R.Civ.P., 190.3, the amount of discovery to be conducted in the case is controlled by Tex.R.Civ.P., 190.3(b)(2),(3).

**Rule: 6**

With the exception of the dates for the pre-trial conference and the trial, the parties may amend the Litigation Control Order by agreement. Any agreement to amend the Litigation Control Order must be in writing, signed and filed with the papers as part of the record, or unless it be made in open court and entered of record in accordance with Tex.R.Civ.P., 11.

**Rule: 7**

The pre-trial conference date and/or the trial date set forth in the Litigation Control Order may only be changed or amended (continued or expedited) by a party on motion showing good cause for the change or amendment. The Court will entertain all motions to change or amend the pre-trial conference date or the trial date as set forth in the Litigation Control Order filed at least 14 days preceding the trial date set forth in the Litigation Control Order. It is within the Court's

discretion to entertain motions to change or amend the pre-trial conference date or the trial date filed within 14 days of the trial date set forth in the Litigation Control Order.

This rule is specifically designed to prevent agreed passes and agreed continuances of cases. Such agreements will not be entertained by the Court.

Nothing in this rule prevents the Court from changing or amending (continuing or expediting) a trial date on its own motion. If the Court chooses to change or amend a trial date from that mandated by the Litigation Control Order, the Court will notify the parties in writing immediately.

### **LEVEL 3 CASES:**

#### **Rule: 8**

In any case in which a party files a motion pursuant to Tex.R.Civ.P., 190.4(a), seeking that discovery be conducted in accordance with a discovery control plan tailored to the circumstances of that specific case, the Court will set a Management Conference. The Court will notify all parties of the date, time and location, of the Management Conference. All pro-se parties and counsel for parties are required to attend the Management Conference.

#### **Rule: 9**

The purpose of the Management Conference is to create a Litigation Control Order tailored to the circumstances of that case. At the Management Conference, the Court and the parties will discuss issues relevant to achieving that end. The parties should be prepared to discuss issues relevant to creating a Litigation Control Order tailored to the circumstances of that specific case.

At the conclusion of the Management Conference the Court will enter a Litigation Control Order governing the case.

#### **Rule: 10**

All Litigation Control Orders issued by the Court as a result of a motion filed and a Management Conference held, must contain the following:

- a. A trial date;
- b. A pre-trial conference date;
- c. A discovery deadline, (The Court may either designate a date by which all discovery must be concluded or a date by which all discovery requests must be sent);
- d. Appropriate limits on the amount of discovery; and

- e. Deadline for joining additional parties;
- f. Deadline for amending or supplementing pleadings;
- g. Deadline for Plaintiff to designate expert witnesses; and
- h. Deadline for Defendant to designate expert witnesses.

Nothing in this rule shall prevent the Court from including additional items in the Litigation Control Order. To the contrary, the Court may include all items the Court deems necessary to create a Litigation Control Order tailored to the circumstances of that particular case.

The parties are urged to confer prior to a Management Conference and attempt to create an Agreed Litigation Control Order that is tailored to the circumstances of that case. If an Agreed Litigation Control Order is created by the parties, it may be presented to the Court at the Management Conference or prior thereto, for the Court's consideration. Creating and presenting an Agreed Litigation Control Order to the Court prior to the Management Conference does not relieve the parties from their obligation to attend the Management Conference. However, if an Agreed Litigation Control Order is presented to the Court prior to the Management Conference, the Court will consider a request by the parties to cancel the Management Conference.

**Rule: 11**

With the exception of the dates for the pre-trial conference and the trial, the parties may amend the Litigation Control Order by agreement. Any agreement to amend the Litigation Control Order must be in writing, signed and filed with the papers as part of the record, or unless it be made in open court and entered of record in accordance with Tex.R.Civ.P., 11.

**Rule: 12**

The pre-trial conference date and/or the trial date set forth in the Litigation Control Order may only be changed or amended (continued or expedited) by a party on motion showing good cause for the change or amendment. The Court will entertain all motions to change or amend the pre-trial conference date or the trial date as set forth in the Litigation Control Order filed at least 14 days preceding the trial date set forth in the Litigation Control Order. It is within the Court's discretion to entertain motions to change or amend the pre-trial conference date or the trial date filed within 14 days of the trial date set forth in the Litigation Control Order.

This rule is specifically designed to prevent agreed passes and agreed continuances of cases. Such agreements will not be entertained by the Court.

Nothing in this rule prevents the Court from changing or amending (continuing or expediting) a trial date on its own motion. If the Court chooses to change or amend a trial date from that mandated by the Litigation Control Order, the Court will notify the parties in writing immediately.

## **PRE-TRIAL MOTIONS**

### **Rule: 13**

Unless otherwise set forth in these rules or in a Litigation Control Order, all pre-trial motions, including, but not limited to, Motions In Limine, must be filed with the Clerk of the Court no later than 3 business days prior to the Pre-Trial Conference. A party must obtain leave of Court to file any pre-trial motions later than 3 business days prior to the Pre-Trial Conference.

## **PRE-TRIAL CONFERENCE**

### **Rule: 14**

At least three (3) business days prior to the Pre-Trial Conference each party is required to provide every other party in the case the following documents:

- a. List of Witnesses the party intends to call in their case in chief;
- b. List of Expert Witnesses the party intends to call in their case in chief;
- c. List of Exhibits the party intends to offer in evidence in their case in chief;
- d. The party's proposed jury charge or proposed jury instruction and jury questions; and
- e. All pre-trial motions, including motions in limine.

After having received the above documents, the parties are required to confer regarding any objections there may be to a party's witnesses, expert witnesses, exhibits, and pre-trial motions. The parties are urged to attempt to resolve as many objections to the above listed items as possible prior to the Pre-Trial Conference.

### **Rule: 15**

Each party, individually, or by and through the party's attorney of record, is required to attend the Pre-Trial Conference. At the Pre-Trial Conference, each party is required to deliver to the Court, the following documents:

- a. List of Witnesses the party intends to call in their case in chief;



- b. List of Expert Witnesses the party intends to call in their case in chief;
- c. List of Exhibits which the party intends to offer in their case in chief; and
- d. The party's proposed jury charge or proposed jury instruction and jury questions.

At the Pre-Trial Conference, the Court will discuss, and potentially make preliminary rulings on objections raised as to witnesses, expert witnesses, and exhibits. **THE COURT WILL MAKE RULINGS ON ALL PRE-TRIAL MOTIONS, INCLUDING MOTIONS IN LIMINE AT THE PRE-TRIAL CONFERENCE.**

The parties should also be prepared to discuss:

- a. The number of days the trial is expected to take to try;
- b. Issues of law and/or fact which are in dispute;
- c. Any cross-claims, counter-claims, or third-party claims which are pending;
- d. Any other matters the Court deems necessary to discuss prior to trial.

### **BANKRUPTCY PROCEEDINGS**

#### **Rule: 16**

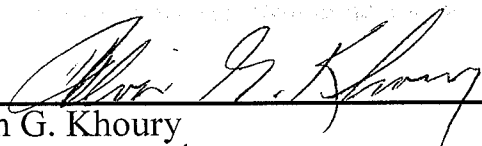
If proceedings are stayed by bankruptcy, it is the responsibility of the Plaintiff to schedule a management conference with the Court in which the case is pending once the stay has been lifted.


### **TAX SUITS, ASSET SEIZURES AND BOND FORFEITURES**


#### **Rule: 17**

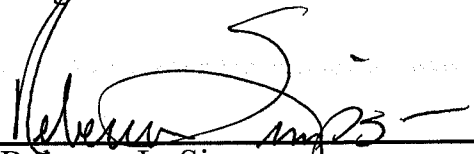
These local rules do not apply to tax suits, asset seizures, bond forfeiture cases, or family law cases filed in the 307<sup>th</sup> District Court.

Pursuant to Rule 3(a) of the Texas Rules of Civil Procedure, Article 200a-1, Sec. 5.003, VATS, and Rule 10 of the Rules of Judicial Administration, the district and statutory county court judges of Gregg County, Texas, hereby adopt the hereto attached amendment to local rules of administration governing trial settings and docket management of cases on file in the Office of the District Clerk of Gregg County, Texas. Such rules were adopted by unanimous vote of the undersigned at a meeting called for such purpose on this 23<sup>rd</sup> day of September, 2002. These rules are effective January 1, 2003, subject to approval by the Texas Supreme Court.

  
\_\_\_\_\_  
Alvin G. Khoury  
Judge of the 124<sup>th</sup> Judicial District of Texas  
Local Administrative Judge of Gregg County, Texas

  
\_\_\_\_\_  
David S. Brabham  
Judge of the 188<sup>th</sup> Judicial District of Texas

  
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Robin D. Sage  
Judge of the 307<sup>th</sup> Judicial District of Texas

  
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Rebecca L. Simpson  
Judge of the County Court at Law Number One of Gregg County, Texas

Cause No. \_\_\_\_\_

JOHN PLAINTIFF

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IN THE COUNTY COURT AT LAW

VS.

NO. 2

MARY DEFENDANT

GREGG COUNTY, TEXAS

### LITIGATION CONTROL ORDER


This matter has been assigned to the Level 1 Schedule for purposes of discovery. Unless otherwise directed below, this matter will be governed in accordance with Rule 190.2 of the Texas Rules of Civil Procedure. The parties may in accordance with Rule 11 of the Texas Rules of Civil Procedure change any of the deadline dates set out below with the exception of the trial date which will only be changed upon Motion and for good cause shown. Should the parties desire a trial date sooner than the date assigned below, the parties may request such earlier date by a written request.

The Court enters the following Discovery Control Plan:

1. \*(210 days) Joinder of additional parties.
2. (120 days) Plaintiff shall designate expert witnesses and comply with Rule 194.2 (f) of the Texas Rules of Civil Procedure.
3. (90 days) Defendant shall designate expert witnesses and comply with Rule 194.2 (f) of the Texas Rules of Civil Procedure.
4. (60 days) Deadline to file dispositive motions and/or to file any motion challenging an expert witness. Responses due not later than 7 days prior to the date of the hearing.
5. (45 days) Mediation deadline. While mediation is encouraged, this is not an order to mediate.

6. (30 days) Discovery deadline.
7. (20 days) Amended Pleadings.
8. (10 days) Responses to Amended Pleadings.
9. (date) Pre-trial conference to begin at 3:00 p.m.  
\* Failure to attend the Pre-Trial conference may result in sanctions pursuant to Rule 215 of the Texas Rules of Civil Procedure and the absent party shall be bound by the orders and rulings entered by the court.
12. (date) Jury selection to begin at 9:00 a.m.

SIGNED AND ORDERED this date: October 1, 2002

  
\_\_\_\_\_  
PRESIDING JUDGE

\* All days are days from the trial date.

Cause No. \_\_\_\_\_

JOHN PLAINTIFF

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IN THE COUNTY COURT AT LAW

VS.

NO. 2

MARY DEFENDANT

GREGG COUNTY, TEXAS

**LITIGATION CONTROL ORDER**

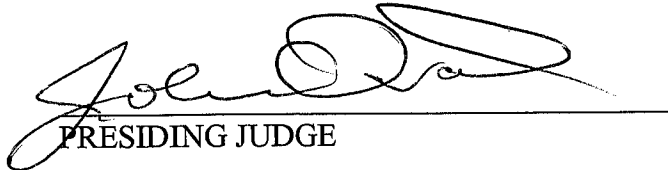
This matter has been assigned to the Level 2 Schedule for purposes of discovery. Unless otherwise directed below, this matter will be governed in accordance with Rule 190.3 of the Texas Rules of Civil Procedure. The parties may in accordance with Rule 11 of the Texas Rules of Civil Procedure change any of the deadline dates set out below with the exception of the trial date which will only be changed upon Motion and for good cause shown. Should the parties desire a trial date sooner than the date assigned below, the parties may request such earlier date by a written request.

The Court enters the following Discovery Control Plan:

1. \*(330 days) Joinder of additional parties.
2. (120 days) Plaintiff shall designate expert witnesses and comply with Rule 194.2 (f) of the Texas Rules of Civil Procedure.
3. (90 days) Defendant shall designate expert witnesses and comply with Rule 194.2 (f) of the Texas Rules of Civil Procedure.
4. (60 days) Deadline to file dispositive motions and/or to file any motion challenging an expert witness. Responses due 15 days after service on opposing party.
5. (45 days) Mediation deadline. While mediation is encouraged, this is not an order to mediate.


6. (30 days) Discovery deadline.
7. (20 days) Amended Pleadings.
8. (10 days) Responses to Amended Pleadings.
9. (date) Pre-trial conference to begin at 3:00 p.m.  
\* Failure to attend the Pre-Trial conference may result in sanctions pursuant to Rule 215 of the Texas Rules of Civil Procedure and the absent party shall be bound by the orders and rulings entered by the court.
12. (date) Jury selection to begin at 9:00 a.m.

SIGNED AND ORDERED this date: 9th of October 9, 2002

  
PRESIDING JUDGE

**CERTIFICATE OF APPROVAL**

The Local Rules of Court of Gregg County, Texas, adopted on September 3, 2003, are not inconsistent with any rule of the First Administrative Judicial Region and are approved for final action this 30<sup>th</sup> day of September, 2004.

  
John Ovard, Presiding Judge  
First Administrative Judicial Region