

**LOCAL RULES
OF THE
MUNICIPAL COURT OF RECORD NO. 1
OF THE
CITY OF FORNEY, TEXAS**

BE IT KNOWN that on this, the 1st day of June, 2018, pursuant to statute and regulation, the Municipal Court of Record No. 1 of the City of Forney, Texas has adopted its LOCAL RULES OF COURT, in order to provide efficiency, uniformity, fairness and justice in conducting the business of the Court.





Margaret E. Spain
Presiding Judge

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Rules of the Court

Rule One: Authority

1.1 Authority for Rules

Under the inherent power and duty of all Texas courts as codified in Section 21.001 of the Texas Government Code, the following Local Rules of the Municipal Court of Record No. 1 of the City of Forney, Texas (hereinafter “Local Rules”) are promulgated and shall apply and govern any and all proceedings held within any Municipal Court of Record No. 1 of the City of Forney, Kaufman County, Texas. These rules are adopted for the purpose of securing uniformity in those proceedings and in order to promote justice.

1.2 Application

The Local Rules apply to attorneys and their staff members, to each Defendant representing himself/herself (hereinafter “pro se Defendants”), to all court staff, to witnesses and observers. Failure to comply with these rules may result in the imposition of sanctions, including contempt.

1.3 Effective Date

These Local Rules are effective June 1, 2018 and supersede all previous Local Rules of the Forney Municipal Court of Record No. 1.

1.4 Availability

A copy of these Local Rules shall be available in the courtroom and on the City of Forney website, which can be accessed at www.cityofforney.org

1.5 Citation Form

These Local Rules shall be known as the Local Rules of the Municipal Court of Record No. 1 of the City of Forney, Texas and each rule may be cited as “Forney Local Rule ___” or “FLR ___”.

1.6 Authority of Municipal Court Judges

The Municipal Court of Record No. 1 of the City of Forney is one Court, separated into Courtroom locations, each referred to as a “Court”. Each Judge, whether a full-time Judge, a part-time Judge, or a substitute Judge sitting for a Judge, has all authority within the Court in which he/she is sitting and in the Forney Municipal Court of Record No. 1 in general as does any Municipal Judge of a Court of Record in the State of Texas. Each Municipal Judge,

whether full-time, part-time, or substitute, is also a Magistrate for Kaufman County and has all authority as a Magistrate in Kaufman County as set forth in state law.

1.7 Hours of Operation

The hours of operation of each Court location shall be posted at the front entry, and on the City of Forney website at www.cityofforney.org . Any exception to said hours shall be for City observed holidays or as determined by order of the City Manager.

Rule Two: Courtroom Decorum

2.1 Formal Opening

Each session of the Court shall be brought to order by formal announcement by the Bailiff of the Court, requiring all present in the Courtroom to rise as the Judge takes the Bench. The Bailiff shall remain in the Courtroom at all times while the Court is in session unless excused by the Judge.

2.2 Conduct Required of All Persons Attending Court

Court is in session whenever the Judge is on the Bench. While the Court is in session, unless the Judge directs otherwise the following conduct must be observed:

1. No smoking or use of tobacco products, including snuff or chewing tobacco.
2. No reading of any materials, other than court documents, including books, magazines or newspapers and any electronic forms of such materials.
3. No propping feet or sitting on tables, railings or the backs of benches or chairs.
4. No loud noises. Any children brought into the Courtroom must be quiet or they must be removed from the Courtroom.
5. No eating, drinking or gum chewing.
6. No standing in the Courtroom, except when addressing the Court or by direction of the Judge or when necessitated by the business of the Court.
7. No gestures, facial expressions or sounds indicating approval or disapproval of a ruling by the Court or a comment on testimony of a witness.
8. All persons, whether lawyers, parties, witnesses, jurors, or spectators, conducting business, participating in trials, or otherwise attending proceedings in a courtroom of the Municipal Court of Record No. 1 of the City of Forney, Texas, shall be dressed appropriately so as to maintain the dignity, integrity, decorum, seriousness and professional atmosphere of the Court and the administration of justice. As such, no

inappropriate attire, including short shorts, tank tops, sleeveless shirts, jeans with holes or cut-outs, low pants with underwear showing or inappropriate "message" shirts, or sunglasses shall be allowed. Shirts are to be tucked in. No shorts are allowed unless part of an official uniform. No hats or head coverings including scarves, bandanas or do-rags shall be worn in the Courtroom, unless such item is of a religious nature or for medical reasons.

9. No unattended children in the Courtroom. Children under the age of 8 and children 8 and older, who cannot sit alone, cannot be brought to a courtroom without an adult or older responsible child, who can accompany them out of the Courtroom, if necessary.
10. No cellular telephones, tablets, iPads, pagers, or other electronic devices capable of recording are allowed in the Courtroom. ALL cell phones must be powered off at all times, except by express permission of the Judge. Possession of cellphones is prohibited at all times in the jury room. Electronic tablets or laptop computers may not be used in the Courtroom, except by attorneys, their staffs and pro se Defendants, while processing a case or docket. Any device which rings or otherwise makes noise may be taken by the Bailiff and not returned until the conclusion of the court proceeding.
11. At no time is filming allowed in any form without permission from the Judge.
12. Absolutely no illegal weapons shall be brought into the courtroom, with the exception of those intended to be offered as evidence. The Bailiff or another Forney Police Officer may bring weapons into the courtroom. The Judge shall have the discretion to have any object removed from the courtroom.
13. At the discretion of the Judge, a person may be asked to leave the Courtroom for any reason. In this situation, if said person is a defendant, he or she will be rescheduled for another court date.

2.3 Conduct Required of all Attorneys and pro se Defendants

Attorneys shall observe both the letter and the spirit of all Canons of Ethics and the Texas Disciplinary Rules of Professional Conduct, including those Canons concerning improper ex parte communication with the Judge and those dealing with discussion of cases with representatives of the media. In addition:

1. Attorneys shall advise their clients and witnesses of all of the Local Rules that may be applicable, and shall ensure that their clients and witnesses follow and fully adhere to all such rules.
2. Pro se Defendants (Defendants acting as their own attorney) shall conform their behavior to all provisions of the Canons of Ethics applicable to licensed Attorneys. Pro se Defendants shall not attempt to converse with the Judge about their cases unless the prosecuting attorney is present.

3. Attorneys and pro se Defendants shall be dressed appropriately while in Court. See Rule 2.2 above.
4. All parties shall be prompt in arriving for Court and attending to Court business. Attorneys, Defendants represented by Attorneys and pro se Defendants shall be on time and if the Attorney is required to be in another Court, he/she shall notify the Clerk of the Court specifying where the attorney is and when he/she anticipates being present. Any attorney with such a conflict shall notify the Court at least 24 hours before the Court setting, unless the delay could not be anticipated.
5. Failure of a represented Defendant or pro se Defendant to appear as scheduled may result in a warrant being issued. An Attorney who fails to appear timely may be subject to sanctions, up to and including contempt.
6. During trial or any hearing, any objections, arguments and comments shall be directed to the Judge and not to opposing counsel or to pro se Defendants. Any objections which have been raised during a hearing or trial shall be supported by a legal basis for such objection.
7. During trial or any hearing, all participants in the proceedings shall address each other and members of the Jury, if any, without familiarity. The use of first names shall be avoided. While addressing the Court, Attorneys and pro se Defendants shall rise and remain standing at their position at the counsel table unless directed otherwise by the Judge.
8. During trial or any hearing, Attorneys and pro se Defendants shall not approach the bench except after requesting and receiving permission from the Judge or as directed by the Judge.

2.4 The Media

The media will not be allowed to record any court proceedings inside the courtroom. Any exception may be made by the Judge presiding in each particular case. Broadcast media wishing to film proceedings from outside the Courtroom must position equipment so as not to impede ingress or egress to or from the Courtroom.

Rule Three: Appearance, Bonds and Pleas

3.1 Appearance

An attorney must make an appearance in a case in writing filed with the Clerk of the Court in which the case is pending.

3.2 Plea by Defendant

A plea of not guilty, guilty or no contest must be filed with the Clerk of the Court within fifteen (15) days following the issuance of the citation. All pleas not entered in open court must be in writing. Payment in full of a case shall constitute a guilty/no contest plea. A payment in full sent through the mail with no plea attached shall be deemed a no contest plea. No partial payments shall be accepted without a plea entered in person. A timely plea of not guilty by a pro se Defendant will result in a pre-trial setting. The Defendant shall inform the court whether he/she desires a jury trial or a bench trial (a trial without a jury).

3.3 Requests for Assistance

A party desiring the services of an interpreter should make the request as soon as possible, in writing in the case of a written plea or in open court in case of a verbal plea. Requests for assistance from persons with disabilities should be made at the time the plea is entered.

Rule Four: Notice

4.1 Responsibility

It is the responsibility of all persons with business before the Court to:

- a. determine the date, time, location and nature of each setting of the case(s) and,
- b. update or notify the Court of any changes of address of the Defendant or of Counsel for the Defendant.

4.2 Notice

Notice of the date, time, location and nature of each setting shall be given by the Court to a pro se Defendant in person or by mail at the last known address. Notice of the date, time, location and nature of each setting shall be given by the Court to Counsel for Defendants in person, by mail, by email or report directed to the last known address of the Attorney.

4.3 Verbal Representations

Reliance by any party upon verbal representations from any Court staff or a police officer concerning any matters shall not be binding as grounds for continuance, setting aside a warrant or judgment, dismissal of any case or any other relief.

4.4 Complaint

A copy of the Complaint will be made available to the Defendant or counsel for the Defendant upon request to the Court Clerk, no later than 24 hours prior to a scheduled trial.

Rule Five: Motions

5.1 Motions for Continuance

Motions for Continuance require good cause and will not be granted for delay purposes. A Motion for Continuance shall be filed with the Court as soon as the Attorney for the Defendant or the State or pro se Defendant is aware of the necessity for seeking a continuance. An attorney seeking continuance from an Attorney Plea Docket shall contact the Court to determine if there is another time that he/she could be present to process the Plea Docket before the scheduled date, in lieu of asking that cases be reset.

5.1.1 Code

Continuances are governed by Chapter 29 of the Texas Code of Criminal Procedure. This Rule 5.1 is intended to supplement and not to replace the provisions of the Code of Criminal Procedure.

5.1.2 Form

1. All Motions for Continuance shall be in writing and shall be filed with the Court Clerk at least five (5) working days prior to the scheduled court date.
2. Each Motion for Continuance shall contain:
 - A. The Cause Number;
 - B. The name of the Defendant;
 - C. The date and time of the setting for which the continuance is sought;
 - D. The specific facts justifying the continuance. If the reason for the continuance is a conflict with a setting in another court, the Motion shall contain the Style and Cause Number of the other case, as well as the Court Number and time of the conflict;
 - E. A certificate of conference indicating the agreement or disagreement of the opposing party;
 - F. An oath attesting to the truth of the matters contained in the Motion; and
 - G. A proposed order for the Judge to designate whether the motion is "Granted" or "Denied."

5.1.3 Emergency Motions

Where the underlying facts (good cause) which form the basis for a Motion for Continuance were not discovered and could not have been discovered through the exercise of due diligence, an emergency Motion for Continuance may be filed. Such Motion may be filed at any time prior to the respective Court proceeding and will be ruled on by the Judge at the call of the docket.

5.1.4 Factors

With the exception of continuances on Constitutional or Statutory grounds, the following factors will be considered in the determining whether the Motion shall be granted or denied:

1. The specific nature of the conflict in scheduling;

2. The age of the case;
3. The number of previous continuances granted to each party;
4. The timeliness of the filing of the Motion, including the date on which the scheduling conflict, if any, become known to the Movant; and
5. Any other matter relevant to the Motion.

5.1.5 Forum

A Motion for Continuance shall be presented to the Court in which the case is set to be heard. In all cases, the ruling on a Motion for Continuance shall be at the discretion of the Judge of the Court where the case is set to be heard.

5.1.6 Denied Motions

If a Defendant's Motion for Continuance is denied, in order for the Defendant to avoid a warrant, a bond in the amount set by the Court may be required to be posted, at the discretion of the Judge denying the Motion. It is the responsibility of the pro se Defendant or the Counsel for Defendant to determine whether the Motion was granted or denied and to determine whether a bond is required. If a State's Motion for Continuance is denied, the case will proceed to trial, plea or other disposition.

5.2 Motions to Withdraw

Any attorney who makes an appearance on behalf of a Defendant shall continue to be considered by the Court as the attorney of record for that Defendant until a written Motion to Withdraw is filed by that attorney and is granted by the Court or the case is disposed of by trial, plea, deferred disposition or driver safety granted, dismissal or substitution of counsel.

5.2.1 Withdrawal without a Hearing

A Motion to Withdraw as Counsel for Defendant may be granted without a hearing only if the moving attorney files a verified certificate stating the last known mailing address of the Defendant and describes what efforts have been made to locate the Defendant or if Counsel files along with the Motion a written consent to the withdrawal signed by the client which consent acknowledges that the Defendant has been advised of all future court settings.

5.2.2 Withdrawal with a Hearing

If the requirements of Rule 5.2.1 are not satisfied, a Motion to Withdraw must be presented to the Court at a hearing after notice to the Defendant and to all other parties.

5.2.3 Substitution of Counsel

A Motion to Substitute Counsel shall be signed by the attorney who currently represents the Defendant as well as the attorney who wishes to undertake representation of the Defendant. The Motion must include an affirmative statement that the Defendant has consented to the substitution. If a Motion to Withdraw as Counsel for Defendant also contains a Motion to Substitute Counsel and a Notice of Appearance by another attorney, and a written agreement by the State, that appearance will satisfy the requirements of Rule 5.2.1 and the attorney named in the Motion to Substitute will thereafter be considered by the Court as attorney of record for the Defendant.

5.2.4 Affidavit of Intent to Surrender and Affidavit of Surrender

Any attorney wishing to be removed from the bond of a Defendant shall file the appropriate Affidavit under either Article 17.19 CCP (for Defendants who are not incarcerated) or Article 17.16 CCP (for Defendants who are incarcerated). Such Affidavit may be presented at any time prior to or at a setting of the case.

5.2.5 Motions for Discovery, Pre-trial, Trial and Post-Trial Motions

All other Motions shall be filed with the Clerk of the Court in which the case is set.

All pro se Defendants who have requested a jury trial, or a trial before the Judge, will be scheduled for a Pre-trial Conference. The purpose of the conference is to provide the pro se Defendant with information regarding procedures and processes used in the Court during jury trials.

All pre-trial motions shall be filed at least 14 days prior to trial date and responses thereto, if any, shall be filed at least 7 days prior to trial date. If a pretrial Motion has not been ruled on before trial date, such Motion shall be heard on the date of trial. Each Motion or Response shall contain a certificate of service signed by the Movant or Respondent indicating that a copy of such Motion or Response has been served upon the opposing party, the manner of service and the date of service.

Rule Six: Court Files and Documents

6.1 Files and Documents

Defendants and their attorneys shall have access to Court files and documents during regular hours of the Court Clerk. The Clerk shall not release imaged documents to anyone except Court personnel, Attorneys of Records or their staffs, or the Defendant unless the documents are released pursuant to the Open Records Act or some other legal means.

Rule Seven: Off-Docket Procedures

7.1 Off-Docket Motions

An off-docket motion is any motion filed in a case not set on docket, in which case, the attorney shall file the motion at the Clerk's window.

Rule Eight: Trial Settings

8.1 Docket Order

Subject to the discretion of the Judge calling the docket, the order of cases actually proceeding to trial, whether bench trial or jury trial, shall be as follows:

1. Preferential settings
2. Cases set according to age, oldest first
3. Other circumstance as determined by the Court in the interest of justice.

All cases not reached for trial and not otherwise disposed of on a docket, will be noted as a Court's reset unless a reset was requested by a party and granted by the Court.

8.2 Preferential Setting

To receive a preferential setting, subject to the Judge's approval, a party must meet one of the following criteria:

1. Reside more than two hundred (200) miles outside the city limits of Forney;
2. Have a condition, illness or injury that would necessitate an expedited disposition of the case;
3. Have an outside witness who has appeared at at least one prior trial setting without the case having been reached.

8.3 Defendant Attendance

Every Defendant shall be present at the call of every trial docket, unless his/her attorney has filed and been granted a Motion for Continuance. Every pro se Defendant shall be present at the call of his/her trial docket, unless he/she has filed and been granted a Motion for Continuance. The Judge shall issue a Warrant for Failure to Appear for any Defendant who fails to appear without having been granted a continuance.

Rule Nine: Juvenile Proceedings and Minors

9.1 Juvenile Defined

A juvenile is a Defendant who is at least 10 years of age and is younger than 17 years of age.

9.1.2 Parent's Presence Required

A parent's presence is required for all juvenile court proceedings. A parent (including a person standing in parental relation, a managing conservator, or a custodian) is required to be present with a juvenile at all Court proceedings.

9.2 Entering a Plea

A juvenile must enter his/her plea in open court with a parent or guardian present.

9.3 Notice of Current Address

The parents and the juvenile have a continuing obligation to give written notice of their current address and any change of address.

9.4 Minor in Possession and other Alcoholic Beverage Code Violations

A minor (anyone under the age of 21 years at the time of the alleged violation) may only enter a plea to an Alcohol Beverage Code violation in open court.

Rule Ten: Post-Trial Proceedings

10.1 Admonishment

Pro se Defendants are admonished, due to the inherent complexities of appellate law, to seriously consider retaining counsel to represent them on appeal.

10.2 Inability to Pay Fine

If a Defendant does not appeal the Court's decision, but claims indigency, the Defendant may request an indigency hearing. At that hearing Defendant shall be required to show cause why he/she cannot discharge the fine by making payments or performing community service hours in lieu of payment.

10.3 Indigency Upon Appeal

If a Defendant is indigent and unable to pay either the Appeal Bond or to pay for the transcript, he/she may file an Affidavit of Indigency with the Court and file a Motion to Waive Costs on forms approved by the Court. Such Affidavit of Indigency and/or Motion to Waive Costs must be filed within the ten (10) day statutory period to file an appeal Bond. A hearing on the Motion to Waive Costs shall then be scheduled by the Judge who entered the Order being appealed.

Rule Eleven: Severability and Construction

11.1 Severability

If any provision of these Rules or the application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or application of these Rules, which can be given effect without the invalid or unconstitutional provision or application, and this end the provisions of the Rules are severable.

11.2 Construction

These Rules shall not be construed so as to enlarge, diminish, modify or alter the jurisdiction, power or authority of the Municipal Court of Record No. 1 of the City of Forney.