

COURT:

136TH JUDICIAL DISTRICT COURT

JUDGE'S NAME:

HON. BAYLOR WORTHAM

COURT ADDRESS:

1085 PEARL STREET, ROOM 204, BEAUMONT, TX 77701

Phone: (409) 835-8481

Fax: (409) 784-5814

Email: 136thclrk@co.jefferson.tx.us

Website: <https://co.jefferson.tx.us/distcrts/136th.htm>

STAFF:

Michelle LaBrie, Court Coordinator
Cayla Calamia, Official Court Reporter
Arthur Louis, Bailiff
Susan Truss, Tax Docket Coordinator

JUDGE'S PROFILE:

Date Licensed: May 4, 2006

Year Elected/Appointed: November 8, 2016 (Elected)

Previous legal experience/area of practice before becoming a judge and with whom:

April 2006 - Sept. 2009 - Asst. District Attorney, Jefferson County DA's Office

Sept. 2009 - Nov. 2012 - Special Asst. U.S. Attorney, Eastern District of Texas

Nov. 2012 - Oct. 2015 - Asst. U.S. Attorney, Eastern District of Texas

Oct. 2015 - Nov. 2016 - Solo Practitioner

1. Can the court be contacted by e-mail or fax? If so, what is the number or address?

Yes, please see the Court's contact information above.

Does the court accept filings by fax or e-mail?

No, all court filings must be submitted via efile.

2. What is your preferred procedure for contacting the court in a true emergency?

Contact the court coordinator at 409-835-8481.

PRETRIAL:

3. What are the court's procedures for level 3 cases controlled by Rule 190.4?

The Court will first provide the parties with an opportunity to draft a mutually agreed discovery control plan that best adheres to the needs and circumstances of their particular suit. If the parties are unable to agree on a discovery control plan, then the Court shall issue a standardized discovery control plan upon request by either party. With the exception of the trial setting, any deadline may be subsequently modified by the parties via Rule 11 agreement.

4. Do you have any particular rules governing motions and orders? When should proposed orders be submitted with the court?

a. Discovery motions

When filing a discovery motion, attorneys should contact the court coordinator to schedule a hearing date. Attorneys are expected to confer with opposing counsel on any discovery related issue prior to filing the motion. The Court demands strict compliance with TRCP 191.2 and requires a certificate of conference to be included on all discovery motions. Attorneys are expected to present a good faith effort in conferring with opposing counsel. Merely sending a copy of your motion to opposing counsel, without more, is not a conference, nor is merely sending an email or leaving a telephone message. If opposing counsel refuses to respond after repeated calls or messages, attorneys should be prepared to outline all of their efforts to confer with counsel in their motion or at the hearing. Attorneys are warned that clear abuses of discovery or frivolous discovery objections will result in sanctions.

Responses/Replies:

If a response, a reply, or legal brief is filed shortly before a scheduled court hearing, the filing party should promptly notify the court coordinator at 409-835-8481 or 136thclrk@co.jefferson.tx.us so that Judge Wortham can review the document before the hearing. The filing party should also bring an additional paper copy to the hearing to provide to opposing counsel.

b. Motions for summary judgment

Attorneys should contact the court coordinator in order to schedule a hearing date. Always attach a proposed order, regardless of whether you are the movant or nonmovant. Unless the parties otherwise agree, “no evidence” summary judgment motions will not be heard until all essential discovery has been completed.

c. Motions to dismiss/nonsuit (D.W.O.P.)

When a motion to dismiss is filed by the plaintiff, the dismissal order may be signed without a hearing. When filed by a defendant, the motion must be set for a hearing unless it is unopposed. Any notice of nonsuit filed by a plaintiff must be timely noticed to all counsel of record as well as the Court. Cases set on the trial docket as “try or dismiss” will be dismissed for want of prosecution if a party fails to make a timely announcement of “ready” at docket call.

d. Motions in limine (i.e., when presented — day of voir dire or before)

Absent a showing of good cause, all pretrial motions (including Motions in Limine) must be filed and heard at the pretrial conference. The pretrial conference is ordinarily conducted the week prior to the trial setting.

- e. Other motions (special exceptions, sanctions, severance/consolidation, default judgment, etc.)

Generally the Court will grant each party their first motion for continuance, provided that the motion is sought in good faith and the opposing party is not unfairly prejudiced. (As a courtesy, the Court will give deference to the nonmoving party on selecting the date of the continued trial or hearing.) For each subsequent motion for continuance, the parties must appear and show good cause as to why a continuance should be granted.

- 5. When and how should motions be set for submission/oral hearing? (i.e., set on a particular date or time, amount of notice to opposing parties for oral hearing other than summary judgments, etc.)? Do you automatically allow oral hearings if requested?**

To schedule a hearing before the Court, contact the court coordinator at 409-835-8481 or 136thclrk@co.jefferson.tx.us. Hearings may be set throughout the week between 8:30 am - 4:30 pm, subject to availability. When in trial, hearings are typically conducted only between 8:00-9:00 am and 1:00-1:30 pm. Cases will ordinarily be allotted only 15 minutes per hearing. If additional time is required, you must notify the coordinator when scheduling the hearing.

- 6. What is your preferred procedure for contacting the court or court staff regarding the status of motions? What procedures should be followed to obtain an expedited hearing?**

The easiest way to contact the Court is by telephone or email. If an expedited hearing is necessary, notify the Court's staff of your particular circumstances. If appropriate, the Court can conduct an emergency hearing within 24 hours of the request.

- 7. What requirements do you have concerning the dismissal docket and motions to retain?**

Cases set on the trial docket as "try or dismiss" will be dismissed for want of prosecution if a party fails to make a timely announcement of "ready" at docket call. Motions to retain may be filed before docket call and set for a hearing unless otherwise indicated by the court coordinator.

- 8. What are your procedures and requirements for court appointments of ad litem? What criteria do you use in choosing a guardian ad litem and granting guardian ad litem fees?**

Unless the parties mutually agree to a particular ad litem, the appointment will be randomly drawn from a pool maintained by the Jefferson County Administrative Judge. To be added to the ad litem appointment pool, a written request must be submitted with a copy of your ad litem certification to this Court or to the Administrative Judge's Office. The reasonableness of ad litem fees will be determined based upon the extent of the lawyer's professional experience, the complexity of the case, the actual hours required of the ad litem, and any other relevant circumstances. The Court will also consider the factors contained in Rule 1.04 of the Texas Rules of Professional Conduct in approving ad litem fees.

- 9. Do you prefer copies of cases attached to briefs/motions? If so, do you prefer pertinent provisions of the cases to be highlighted?**

Yes, although the printed material should be limited to include only the most relevant cases. Submissions containing copious or voluminous amounts of case law are unlikely to be thoroughly reviewed by the Court.

10. Is notice of rulings given by the court in writing? By telephone? On party inquiry only?

Most rulings will typically be made by the Judge orally in open court before the conclusion of a hearing. If a matter is taken under advisement by the Court, written orders and letter rulings are ordinarily issued by the Court at a later date and published via efile. Rulings on complex or novel legal matters may require a considerable amount of time for the Court to rule upon.

11. Do you allow telephone conferences for the resolution of motions or any other matters? If so, who arranges them and when are they scheduled?

Telephonic hearings are permitted for emergency hearings and other special circumstances, however these hearings are NOT capable of being transcribed by the court reporter and therefore will not be on the record. Attorneys should contact the court coordinator if they believe a telephonic hearing is warranted.

ALTERNATIVE DISPUTE RESOLUTION:

12. What are your procedures for referring cases to alternative dispute resolution? Under what circumstances do you order mediation, when is it ordered, and how is the mediator chosen?

The Court will order mediation if any party to a suit believes it will help reach a settlement, or at a minimum, help narrow the disputed issues of the case. The Court will allow the parties to select the mediator of their choice, however if a mutual agreement cannot be reached, the Court will appoint a mediator independently.

What is your preference regarding mediation or other ADR prior to trial or to get a trial setting? If an objection to ADR is required, when should it be filed?

There is a strong preference by the Court that the parties attempt to mediate their case prior the first trial setting. Even if settlement is unlikely, mediation can help narrow the contested issues and save both parties valuable time and expense at trial. If there is an objection to ADR, it must be filed with the Court and subsequently set for a hearing.

TRIAL:

13. What is your procedure for setting a trial? How are cases that are not reached reset?

Once an answer has been filed in a level 3 discovery case, either attorney may contact the court coordinator and request a trial setting. The Court will notify the parties of their trial date, and it is also published on an upcoming monthly docket. The docket sheets for each month are posted on the Court's website (<https://co.jefferson.tx.us/distcrts/136th.htm>). If neither party requests a trial date after a case is two years old, the Court will *sua sponte* set the case on the trial docket with a "try or dismiss" designation. The trial date issued by the Court will ordinarily be the date that jury selection begins, however multiple cases are often set for trial on the same day and will receive a priority ranking of #1, #2, #3, etc. The day of docket call is on a Friday, two weeks before the monthly docket

begins. This is a non-appearance docket call, so attorneys may make their announcement to the Court via telephone, email, fax, or letter. Announcements are encouraged to be submitted to the Court prior the docket call date, but must be received no later than 4:00 pm on the day of docket call. If an announcement is not timely received on a case designated as "try or dismiss," then Court will dismiss the case for want of prosecution.

14. Do you give preferential trial settings, and, if so, under what circumstances?

Preferential settings may be given upon request, however deference will typically be given older cases and complex litigation.

15. Do you have any particular rules governing pre-trial orders (e.g. witness lists, draft jury charges, etc.)? Is a form available? When is it presented?

At the pretrial hearing, the attorneys should be ready to present all pretrial matters, including motions in limine, proposed jury instructions, jury questionnaires, exchanging exhibit lists, actual exhibits, witness lists, and deposition excerpts. Summary judgment motions, challenges to expert witness, special exceptions, and other potentially dispositive motions must be heard prior to the pretrial conference and will not be considered by the Court on the eve of trial. Absent exceptional circumstances, the Court will not entertain motions for continuance at the pretrial conference.

16. What is your procedure for notifying parties of assignment to trial?

The Court's monthly trial dockets are posted on our website. Email notification is sent to all counsel. Trial dockets are updated following docket call and reposted on our website with your case's placement for that month. After that time, the court coordinator will call cases on an individual basis.

17. When should Motions in Limine be filed?

Prior to the pretrial conference. Attorneys should also attempt to confer prior to the hearing as to which requests may be mutually agreed upon.

18. What is your procedure regarding challenges to experts (e.g. qualifications, *Robinson*, etc.)?

Objections or challenges to experts should be made as early as possible. The objecting party must schedule the matter for a hearing well in advance of trial.

19. What are your procedures for jury voir dire (time periods per side, procedures for striking jurors)?

The Court will set reasonable time limits for jury voir dire, however the allotted time will vary depending on the complexity of the case. Attorneys may use visual aids including charts, power point slides, etc. Proposed jury questionnaires must be presented to the Court at the pretrial conference.

20. When and in what form do you want proposed jury questions and/or findings of fact and conclusions of law presented (e.g. prior to trial, first day of trial, etc.)?

Proposed jury questions should be efiled prior to pre-trial conference. Counsel should also bring a copy on a flash drive to trial. Upon conclusion of a bench trial, proposed findings of fact and

conclusions of law will be requested and a deadline given at that time.

21. What is your procedure for continuing trials? How early will you grant/deny a request and how early do you want the request made?

Continuances should be promptly filed once it becomes reasonably apparent that a continuance is needed. Generic boilerplate motions for continuance are unacceptable and should include specific details as to why a continuance is necessary. If additional time is needed to conduct discovery, the motion should identify the specific discovery yet to be resolved and the anticipated amount of time necessary to fully resolve them. If the trial setting conflicts with settings in other courts, the motion should identify the style of the conflicting case (or cases), the cause number, and the specific court.

GENERAL:

22. Does the court provide its own blackboard? Chart stand? Overhead projector? Video equipment? What arrangements must be made to use them?

The courtroom is equipped with (public) wifi, a digital overhead projector system, Elmo, DVD/VHS player, easel stand for charts and exhibits, dry erase board, and dry erase markers. The Court's projector system does not broadcast audio, therefore attorneys should bring speakers with them if any audio files need to be played from personal computers in court. Only DVDs that are played from the bench will go through the courtroom speaker system. Because of the configuration of the courtroom, the court's projector screen is not visible to the jury during voir dire. Therefore attorneys should bring a portable projector and drop down screen with them if digital slides or exhibits need to be used in your voir dire presentation. A portable projector and screen may be rented for a nominal fee from the Jefferson County Bar Association by calling (409) 835-8647.

23. Do you have any special rules governing courtroom decorum (e.g., addressing the court, opposing counsel or witnesses, requirement that counsel use only podium, approach the witness, talking or passing notes at the counsel table, beverages allowed at the counsel table, attire)?

Always be considerate of opposing counsel. Do not talk over other attorneys during a hearing, avoid improper sidebar comments, and always be respectful while in the courtroom. Unprofessional conduct by any attorney will result in admonishment by the Court, and repeated violations will result in sanctions. Lawyers have the discretion speak from the podium or remain at counsel table when addressing the court or examining witnesses. Food is not permitted in the courtroom while the court is in session, however water and coffee are permitted at counsel table. Cell phones are permitted in the courtroom but must be placed on silent.

24. When, if ever, do you want a court (courtesy) copy of a pleading?

If a document is filed shortly before a hearing, a courtesy copy should be brought to court for opposing counsel.

25. Are there special practices or procedures lawyers appearing before you should know about?

Two private workrooms are available for attorneys to use upon request, and are located outside of the courtroom. The sound proof workrooms offer a quiet place to work or privately confer with clients or

witnesses and contain a desk, chairs, (public) wifi, and a power source. The workrooms may be reserved on a first come, first serve basis.

26. Any pet peeves? What are they?

Refrain from interrupting the Judge, opposing counsel, or a witness unless it is necessary to raise an objection or assert a privilege. Promptly notify the court if you will be late to a hearing or unable to attend a hearing. Always be polite and courteous to the Court's staff, and provide them with the same level of respect that you would the Judge.

27. Any special suggestions, admonitions or recommendations you would make to lawyers appearing before you?

The 136th is a lawyer friendly courtroom, and the Court seeks to project a comfortable atmosphere for attorneys and their clients. However, attorneys appearing in the 136th should be on time, adequately prepared for court, always be honest and candid when addressing the Court.