



# Justice Court An Overview

Justice Court Precinct 1  
Tarrant County

# Meet Your Presenter

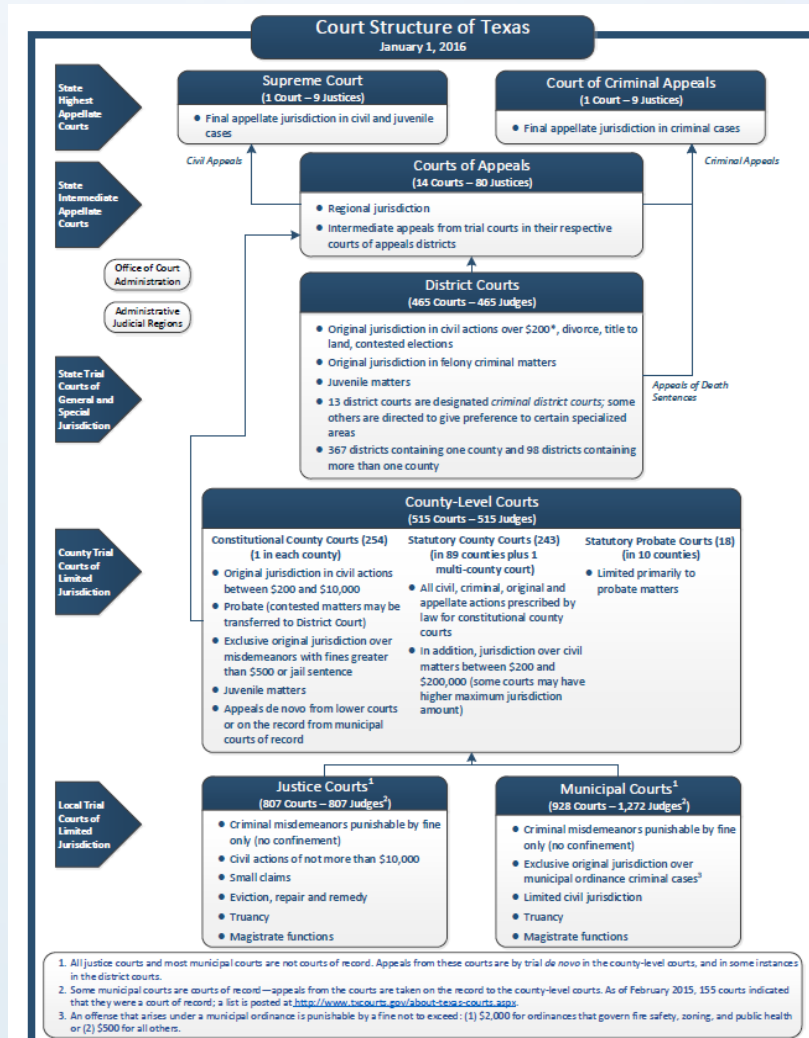


## Judge Ralph Swearingin

Justice Court, Precinct 1, Tarrant County

- 12 Years Judge
- 24 Years Attorney
- 30 Years Law Enforcement

# Texas Courts Overview



<http://www.txcourts.gov/media/1439552/court-structure-chart-jan-2018.pdf>

# Justice Courts General Information

- The Texas Constitution of 1876 established the Court of the Justice of the Peace
- Elected to 4 year terms
- Elected by voters in the precinct – partisan elections
- Eight Precincts in Tarrant County
- About 830 Judges in Texas
- The busiest and most diverse courts
- Justice Court suits are \$10,000 or less

# Qualifications

- Qualifications
  - U.S. Citizen
  - Not determined mentally incompetent by a court
  - Not a felon
  - 12 months in Texas, 6 months in the precinct
  - Not required to be an Attorney (5% of the 830 Judges are Attorneys)

# Civil, Criminal and Administrative Authority

- **Civil Cases – 4 Basic Types**

1. Small Claims
2. Debt Claims
3. Repair and Remedy
4. Evictions

- **Criminal Cases**

- Fine- Only Misdemeanor Criminal Cases; traffic offenses
- Other Criminal Authority;
  - Capias pro fine warrant
  - Arrest warrant
  - Search warrant

- **Judicial Authority Contempt powers**

- Constructive contempt (violate court order)
- Direct contempt (disrespect the court directly)

- **Some other Civil**

- Enforcement of Deed Restrictions- HOA
- Bill of Review TRCP 329b
- Medical Liability TCPRC Chapter 74
- Writ of Retrieval TPC 24A

## Cont. - Civil, Criminal and Administrative Authority

- Administrative
  - Dangerous dog
  - Cruelly treated animals
  - DL suspension/revocation
  - LTC handgun suspension/denial/revocation
  - Disposition of stolen property
  - Emergency mental health commitments/warrants
  - Occupational driver license
  - Towing/booting

# Justice Courts Jurisdiction Excludes:

- Defamation- libel or slander
- Suit to determine title to real property
- Family Law- divorce and custody; etc.
- Suit to enforce a lien on land
- A suit on behalf of the State to recover penalties, forfeitures or escheats
- Where the amount in controversy exceeds \$10,000
  - Cannot “cookie cut” your case to fit the court’s jurisdiction



# Justice Courts governed by Texas Rules of Civil Procedure – Sec. 500 which include:

## **TRCP Rule 500-507 - General, Administrative and Small Claims Cases**

- Includes definitions for each type of case, computation of time, bringing a suit, service and citation, venue, answer, default judgment, trial, jury trial, appeal and administrative rules.
- All cases are governed by Rules 500-507; however, Debt Claim, Repair and Remedy and Eviction cases have particular rules that are also applied to those type cases.

## **TRCP Rule 508 - Debt Claims Cases**

- To the extent of any conflict between Rule 508 and 500-507, Rule 508 applies.

## **TRCP Rule 509 - Repair and Remedy Cases**

- To the extent of any conflict between Rule 509 and 500-507, Rule 509 applies.

## **TRCP Rule 510 - Eviction Cases**

- To the extent of any conflict between Rule 510 and 500-507, Rule 510 applies.

# Representation In Justice Court- TCRP 500.4

(a) **Representation of an Individual.** An individual may:

- (1) represent himself or herself;
- (2) be represented by an authorized agent In an eviction case; or
- (3) be represented by an attorney.

(b) **Representation of a Corporation or Other Entity.** A corporation or other entity may:

- (1) be represented by an employee, owner, officer, or partner of the entity who is not an attorney;
- (2) be represented by a property manager or other authorized agent in an eviction case; or
- (3) be represented by an attorney

(c) **Assisted Representation.**

The court may, for good cause, allow an individual representing himself or herself to be assisted in court by a family member or other individual who is not being compensated.

# Justice Court Judges have wide discretion

- TRCP 500.3 The other Rules of Civil Procedure and the Rules of Evidence **do not** apply except:
  - (1) when the judge hearing the case determines that a particular rule must be followed to ensure that the proceedings are fair to all parties; or
  - (2) when otherwise specifically provided by law or these rules.
    - Some Examples : Bill of Review: Post-Judgement Discovery, Medical Liability, HOA and Deed Restrictions.
- TRCP 500.6 Judge to Develop the Case
  - In order to develop the facts of the case, a judge may question a witness or party and may summon any person or party to appear as a witness when the judge considers it necessary to ensure a correct judgment and a speedy disposition.

# Filing your case; Petition, Answer & Trial Dates

## Petition: TRCP 500.2

Requires a formal written application filed stating a party's claims and requesting relief from the court. This is the 1<sup>st</sup> document filed with the court to begin a lawsuit.

## Answer: TRCP 502.5

In Small Claim, and Debt Claim cases a defendant must file a written answer to a lawsuit as directed by the citation, which is 14 days from the date the defendant is served.

\*\*In Eviction, and Repair and Remedy cases a defendant may file but is not required to file a written answer with the court, but must appear in court on the "appearance date" listed on the citation, which is the trial date.

## Cont. - Filing your case; Petition, Answer & Trial Dates

### Trial Dates:

- Trial dates for Eviction and Repair and Remedy cases are set at no less than 10 days and no more than 21 days after the petition is filed.
- For Small Claims, Debt Claims and other civil cases, trial dates can not be set for any sooner than 45 days from the date of the defendant's Answer. TRCP 503.3

# Small Claims



# Small Claims

A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, or personal property or other relief allowed by law.

The claim can be for no more than \$10,000 excluding statutory interest and court costs but including attorney fees, if any.

## Where Can You Turn if:

- Your customer won't pay the \$3600 balance on the services or goods you provided
- Slipped on the wet floor at a store and got hurt
- Auto Accident - The person who hit you won't pay for car repairs
- Appeal – Must be filed within 21 days of the day the Judgment was signed. Bond is 2X Judgment amount plus Court Costs.

# Debt Claims





# Debt Claims

A debt claim case is a lawsuit brought to recover a debt:

1. By an assignee of a claim,
2. A debt collector or collection agency,
3. Financial institution, or
4. A person or entity primarily engaged in the business of lending money at interest.

The claim can be for no more than \$10,000 excluding statutory interest and court costs but including attorney fees, if any.

Debt Claim cases are governed by Rules 500-507 and 508. To the extent of any conflict between Rule 508 and 500-507, Rule 508 applies.

Appeal – Must be filed within 21 days of the day the Judgment was signed. Bond is 2X Judgment amount plus Court Costs.

# Repair and Remedy



# Repair and Remedy

A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant.

The relief sought can be for no more than \$10,000, excluding statutory interest and court costs, but including attorney fees, if any.

The Justice Court must hold a hearing not earlier than the 6<sup>th</sup> day and no later than the 10<sup>th</sup> day after the defendant is served.

There are no Counter-Claims in a Repair and Remedy case.

To the extent of any conflict between Rule 509 and 500-507, Rule 509 applies.

Appeal – Must be filed within 21 days of the day the Judgment was signed.  
There is no appeal bond required but Court Costs must be payed

# Eviction



# Eviction

An eviction case is a lawsuit brought to recover possession of real property under Chapter 24 of the Texas Property Code, often by a landlord against a tenant.

A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.

Residential Tenancies are found in Chapter 92 of the Texas Property Code.

- Interruption of Utilities TPC 92.008, 92.0091
- Unlawful Lockout and Tenant's Rights of Reentry TPC 92.0081, 92.009
- Repair and Remedy TPC 92.051- 92.062
- Security Deposits TPC 92.101- 92.110
- Retaliation by landlord TPC 92.331 – 92.335

# Eviction - Continued

There are no Counter-Claims in a Repair and Remedy case.

Commercial Tenancies are covered in Chapter 93 of the Texas Property Code.

Manufactured Home Tenancies are covered in Chapter 94 of the Texas Property Code.

To the extent of any conflict between Rule 510 and 500-507, Rule 510 applies.

Appeal – Must be filed within 5 days of the day the Judgment was signed. Bond is 2X Judgment amount plus Court Costs.

# Pre-Trial

- Pre-Trial 1<sup>st</sup> (then Trial) –can cost you money and delay the actual trial – yet it may be your opportunity to settle and save money in the long run
- Some Pre-Trial Motion Examples:
  - Venue – a hearing is required
    - Generally a suit is filed in the county and precinct where the defendant resides or the cause of action occurred. TRCP Section 15.081-15.100 and TRCP 502.4
    - Eviction Suits must be filed in the precinct where the property is located.
      - TPC 24.004 and TRCP 510.3
  - Not the proper party (PLTF / DEFN)
    - Sued John Smith but proper DEFN should have been Smith Plumbing LLC

# Cont. - Pre-Trial

- Motions
  - Plea to the Jurisdiction- TRCP 85
    - Challenges the courts subject matter jurisdiction- without it a court must dismiss the claim
  - Motion to Clarify Pleadings TRCP 502.7
  - Discovery TRCP 500.9 and TRCP 190's
    - Tool box to get answers and documents
  - Writ of Sequestration
    - CPRC Chapter 62
    - TRCP 696-719
  - Pre-Trial Mediation TRCP 503



# Discovery (Tool Box)

- TRCP 500.9 Discovery is - A way to have an opposing party to answer questions and provide documents.

## **(a) Pre-Trial Discovery. TRCP 190-215**

- Pretrial discovery is limited to what the judge considers reasonable and necessary.
- Any requests for pretrial discovery must be presented to the court for approval by written motion.
- The motion must be served on the responding party. Unless a hearing is requested, the judge may rule on the motion without a hearing.
- The discovery request must not be served on the responding party unless the judge issues a signed order approving the request.
- Failure to comply with a discovery order can result in sanctions, including dismissal of the case or an order to pay the other party's discovery expenses.

# Discovery (Tool Box)- Cont.

## (b) **Post-Judgment Discovery. TRCP 500.9 and TRCP 190-215**

- Post-judgment discovery is not required to be filed with the court.
- The party requesting discovery must give the responding party at least 30 days to respond to a post-judgment discovery request.
- The responding party may file a written objection with the court within 30 days of receiving the request.
- If an objection is filed, the judge must hold a hearing to determine if the request is valid. If the objection is denied, the judge must order the party to respond to the request. If the objection is upheld, the judge may reform the request or dismiss it entirely.

# Trial – TRCP 503.6 and 504

- Bench Trial – Trial by Judge
- Jury Trial – (6 Person Panel)
  - Written demand made. No later than 14 days before case is set for trial (civil)
  - 3 days for Eviction, and Repair and Remedy Cases
  - Must Pay Jury fee, or file Statement of Inability to Pay (SIP)
  - 3 Juror Challenges for each side (Peremptory challenges)
  - Judge must not “charge” the jury

# Appeal TRCP 506

Generally a party may appeal a judgment by:

1. Filing a bond,
  2. Making a cash deposit, or
  3. Filing a Statement of Inability to Afford Payment of Court Costs. (SIP)
- If the appeal is filed for non-payment of rent by SIP then the appellant must pay one months rent into the registry of the court within 5 days of the appeal.
  - An appeal is perfected when a bond, cash deposit, or SIP is filed with the court.
  - When an appeal has been perfected the judge must stay all further proceedings and submit a certified copy of all documents to the County Court at Law.
  - The case is tried de novo in the county court, as if there has been no previous trial.
  - No bond for Repair and Remedy Filing.

# Some Post Judgement Actions:

## 1. Post Judgment Discovery

- Justice Court 1 website has a local rule for Discovery

[http://www.tarrantcounty.com/content/dam/main/justices-of-the-peace/Documents/Justice\\_Court\\_Discovery\\_Local\\_Rules\\_with\\_Signatures.pdf](http://www.tarrantcounty.com/content/dam/main/justices-of-the-peace/Documents/Justice_Court_Discovery_Local_Rules_with_Signatures.pdf)

## 2. Abstract of Judgment - Filing in the County's Real Property Records

## 3. Writ of Execution on Judgments - CPRC Chapter 34

## 4. Writ of Attachment – CPRC Chapter 61/ TRCP 592-620

## 5. Writ of Garnishment- CPRC Chapter 63 / TRCP 657

## 6. Application for Turnover and Appointment of Receivership – CPRC Chapter 31

- Collection of Judgment through court proceeding

# Justice Court One

- In-Court Pretrial Mediation Program
- Moving to Paperless Initiative
- Accepts new and subsequent filings and motions through E-File Texas, and E-File “Self-Help” also known as “Guide and File”.
- Tarrant County Website
  - Provides direct access to Rules
  - Local Discovery
  - Court Forms
- 1<sup>st</sup> and now in the planning stages for ODR (Online Dispute Resolution)

# Hot Topics/Helpful Points

- Small Claims

- Know and read the TRCP
- Documents
- Be prepared
- Organized
- Take a Trial Notebook
- Witnesses

- Eviction

- Notice to vacate
- Documents Proof
  - Lease
  - Receipts
  - Ledger
  - Agreement
  - Witnesses

- Other Points

- Know and read the TRCP
- Strongly Consider Legal advise or representation

# 11<sup>th</sup> Hour Tips to be Successful in Court

1. Be Prepared- Preparation is critical
2. Be on time
3. Be organized –(trial notebook; exhibits marked, etc.)
4. Write out your story – **Be Honest**
5. Go over it with someone
6. Make sure your story/testimony follows a natural sequence of events and covers the necessary elements of your legal cause of action or your defense



## Cont. - 11<sup>th</sup> Hour Tips to be Successful in Court

7. Anticipate what questions you may be asked
8. Look at strengths & weaknesses of your case and review documents from the other side's view
9. Be respectful of everyone
10. If you're unhappy with the outcome – you have a right to appeal
11. Consider seeking legal advice and representation

# Helpful Justice Court 1 Links

## Local Rules and Statues

<http://www.tarrantcounty.com/en/justice-of-the-peace-courts/justice-1/local-rules-and-statutes.html?linklocation=lwantto&linkname=Local Rules & Statues>

## Forms

<http://www.tarrantcounty.com/en/justice-of-the-peace-courts/justice-1/forms.html?linklocation=lwantto&linkname=Forms>

## Self- Help Resources

<http://www.tarrantcounty.com/en/justice-of-the-peace-courts/justice-1/resources-for-litigants.html?linklocation=lwantto&linkname=Self-Help Resources>

## File your case Online

<http://www.tarrantcounty.com/en/justice-of-the-peace-courts/justice-1/e-filing.html?linklocation=lwantto&linkname=File Your Case Online>

Q&A



# Contact Information



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