



## **THIRD DIVISION COURT PROCEDURES**

In addition to the Texas Rules of Civil Procedure (TRCP) and Business Court Local Rules (the Local Rules), the following procedures apply to cases in the Third Division of the Texas Business Court. These procedures may be updated from time to time.

### **I. Court Contact Information**

Parties may reach out to the Third Division's case manager with questions or to obtain dates available for hearings. Erin Hurley: [erin.hurley@txcourts.gov](mailto:erin.hurley@txcourts.gov) (512) 463-1589.

Court information, rules, and forms can be found on the [Business Court's website](#).

### **II. Case Management**

**A. Scheduling Conference.** The Local Rules require parties to confer on and jointly file a proposed scheduling order using the form provided. The ["Proposed Scheduling Order"](#) form can be found on the [Third Division page of the Court's website](#). The Court will set a scheduling conference, after which the Court will issue a scheduling order.

**B. Status Conferences.** The Court may set telephone or video status conferences as needed. Issues that are causing delay should be brought to the Court's attention promptly, after reasonable efforts to resolve the issue without court intervention.

**C. Pretrial Conference.** The scheduling order will provide a date for a pretrial conference. At this conference, parties should be prepared to address any outstanding issues, pretrial admission of evidence, voir dire, motions in limine, handling evidence at trial, the time needed for trial, notice of daily witness expectations, court reporting, and conducting trial. The

“Proposed Pretrial Order” form can be found on the [Third Division page of the Court’s website](#).

### III. Discovery

- A. Discovery Generally.** Discovery limitations and deadlines will be governed by the scheduling order in this case, the Local Rules, and the Texas Rules of Civil Procedure. All documents produced must be marked with a unique Bates Number.
- B. Protective Orders.** The parties must make a serious and reasonable effort to agree on any requested protective order. Example protective orders will be posted on the [Third Division page of the Court’s website](#). Parties may use or modify an example order or create their own. **A protective order cannot supersede TRCP 76a**, and proposed orders must address notice and sealing of court records in compliance with TRCP 76a, [Local Rule 9](#), and Rule IV(C), below.
- C. Electronically Stored Information (ESI).** Parties must make a serious and reasonable effort to agree on an ESI protocol, including the format in which ESI will be produced and procedures for determining search terms and custodians.
- D. Discovery by Agreement.** If the parties would like to implement additional agreed discovery procedures (such as the [Trial by Agreement](#) procedures), they should notify the Court at the scheduling conference of their request.
- E. Discovery Motions.** Parties must consult and comply with [Local Rule 4](#) when filing any discovery motion, including all prerequisites to filing. Additionally, motions to compel must attach the discovery request and any objection or response to the request, and should identify the element(s) of any claim(s) or defense(s) that will be aided by the requested information.

### IV. Motion Practice

- A. Tables.** All filings of 3,000 words or more should include a table of contents.
- B. Default Deadlines.** Unless otherwise provided by law, the Court, or a briefing schedule, responses to motions must be filed no later than 5 business days before the motion is set, and replies must be filed no later than 2 business days before the motion is set.

**C. Confidential or Protected Information.** Filings containing information that is confidential or otherwise protected by law or order (hereafter, Protected Information) must comply with [Local Rule 9](#) and the following procedures:

1. All Protected Information should be redacted so that the filing does not disclose it.
2. The filing party shall simultaneously serve an unredacted version of the filing (except for information required by law to remain redacted) on counsel for all parties.
3. All parties have five days after the date of filing to move to seal the Protected Information.
  - (a) If no motion to seal is timely filed, the filing party will file the unredacted version of the filing.
  - (b) If a motion to seal is timely filed, the filing party will wait until the Court rules on the motion to seal, then file the unredacted version of the filing under seal or not under seal, as dictated by the Court's ruling.
  - (c) Documents containing Protected Information that is the subject of a pending motion to seal may be provided to the Court for *in camera* review pursuant to [Local Rule 9\(b\)](#).
4. If the parties agree that any or all of the redacted material in a filing is not needed for the resolution of the matter, that information may remain redacted, will not become part of the Court's record, and will not be considered by the Court.

**D. Proposed Orders.** [Local Rule 5\(b\)](#) requires that motions and responses be accompanied by a proposed order. Proposed orders must be emailed to Erin Hurley ([erin.hurley@txcourts.gov](mailto:erin.hurley@txcourts.gov)) in a Word (not PDF) format.

## **V. Hearings & Submission**

**A. Settings Not Required.** Orders on unopposed motions, other than those seeking continuance of a trial date, may be entered without the necessity of a setting. Opposed motions must be set for hearing or written submission before a party is entitled to a ruling.

**B. Settings & Notice.**

1. To set a matter for written submission, parties should contact the case manager to request available submission dates. The case manager will provide available dates, unless the Court requests that the matter be set for oral hearing.
2. To set a matter for oral hearing, parties should confer with the other parties to determine whether oral testimony will be presented, and if so, whether all parties agree to remote proceedings. The setting party should then call or email the case manager to request available hearing dates, informing the case manager of the matter(s) to be heard, the expected duration of the hearing, and whether the hearing must be held in person under TRCP 358.
3. Promptly after obtaining available dates from the case manager, the setting party must serve a notice of hearing or notice of submission under TRCP 21(b).

## **VI. Trial**

- A. Trial Time.** Trials will generally be subject to time limitations, to be set at the pretrial hearing. Parties should be prepared to address the time needed for their case calculated in hours, per side.
- B. Final Judgment.** Within 5 business days after a jury verdict or notice of the Court's rulings in a bench trial, the parties must e-file either a single judgment agreed as to form or competing versions for the Court's consideration. The parties may request an oral hearing on the form of the judgment any time before judgment is entered.

## **VII. Settlement**

Parties seeking to extend deadlines or court settings based on settlement or settlement negotiations should file an agreed motion with the Court.