

CIVIL RULES

RULE CV 1. Assignment of Cases

1. Initial Assignment of Trial Division

Assignment of civil cases shall be made by random computer function except in those cases required by statute or court rule to be assigned to specific judges or divisions of the court.

Every case shall continue to be handled by the assigned judge, ex: Temporary Order to Final Order or Judgment.

Attorneys must indicate the judge assignment next to the case number on all subsequent filings in the case, for example, CJ-95-1-Shallcross.

2. Refiling of Cases Dismissed Without Prejudice

Any case previously assigned to a division of the court and thereafter dismissed without prejudice, if refiled, shall be assigned by the Court Clerk at the time of refileing or by the Presiding Judge, if reassigned after filing, to the same Judge in the division of the Court in which it was pending at the time it was dismissed.

3. Record of Assignments

The Court Clerk shall keep a separate record of all case assignments and show the name of the assigned Judge on the court file, the appearance docket and computer records. On the day following the filing of the case, the Clerk shall provide a copy of case assignments to each Judge.

RULE CV 2. Transfers and Reassignments

a. Any case which requires reassignment to the Civil Division, whether within the Civil Division or from outside the Civil Division, including consolidations, recusals or disqualifications, shall be transferred by the assigned Judge to the Presiding Judge. The Presiding Judge shall reassign the case to the next available Judge on the transfer list maintained by the Presiding Judge as provided below. Except as provided in (d.) below, a Judge shall be assigned one case for each case transferred by that Judge.

b. The Presiding Judge shall maintain a transfer list of judges. When a case is transferred, the transferring Judge's name shall be added to the list; when a case is reassigned, the name of the receiving Judge shall be removed from the list.

c. If the transferring Judge's name is the only name on the transfer list, the Presiding Judge shall assign a number to each of the remaining Civil District Judges and shall then draw one of these numbers randomly to whom the case shall then be assigned. The newly assigned Judge shall then transfer by transfer order a comparable case on his/her docket to the transferring Judge and notify counsel in the comparable case.

d. The above provisions shall not apply to:

1. Transfers made pursuant to 12 O.S. § 83
2. Refiling of cases as stated in Rule CV 1(2) above
3. Cases transferred to Special Judges
4. Cases consolidated only for discovery purposes
5. Cases transferred only for trial where both transferring and receiving judges agree that this rule shall not apply.

e. A separate record of all transfers and reassignments shall be furnished to the Court Clerk who shall show the name of the reassigned Judge on the court file, the appearance docket and computer records. A copy of each transfer or reassignment shall be furnished to each Judge affected by it and to counsel of record by the transferring Judge.

RULE CV 3. Consolidation

All questions of consolidating two or more cases, or having one Judge of the Court handle two or more cases pending before different judges, shall be presented by motion. All such motions shall be determined by the Judge who would be taking the transferred or consolidated cases, generally the Judge having the earliest case number. If it is ordered that cases be consolidated or assigned to the same Judge, then the other case or cases shall be reassigned by the Presiding Judge to the Judge taking the case or cases, generally the Judge with the earliest case number.

RULE CV 4. Emergency Orders

Applications for Temporary Restraining Orders, Temporary Injunctions, Receivers and Other Emergency Orders

Applications for Temporary Restraining Orders, Temporary Injunctions, Receivers and other Emergency Orders shall be presented only to the Judge to whom the case is assigned (20 O.S. § 95.7) unless otherwise provided by these rules.

If the assigned Judge is absent from the Courthouse, then in that event only, matters may be presented to the Chief Judge of the Civil Division. If the Chief Judge is absent from the Courthouse, then these matters may be presented to the Presiding Judge.

When presenting an application for an order as described in this Rule, counsel shall attach a verified statement setting forth:

1. Whether the opposition is represented by counsel and, if so, by whom, and
2. That the opposition has been given adequate notice of the presentation of the application at a date and time certain.

Counsel requesting temporary restraining orders must also comply with 12 O.S. § 1384.1(B).

RULE CV 5. Reassignment of Injunction Cases

If an issue involving the interpretation, validity, modification or vacation of an injunction (temporary or permanent) or Temporary Restraining Order entered in the case by another Judge arises before the hearing for a permanent injunction, then the Presiding Judge shall reassign the case in the permanent injunction hearing to the Judge who entered the previous order.

RULE CV 6. Forcible Entry and Detainer Actions

Forcible Entry and Detainer actions shall be heard by the Small Claims Court for determination of the right to possession, regardless of the underlying amount in controversy. When the issue of possession is concluded, the case shall be returned to the original Judge for further proceedings, unless the parties agree otherwise in writing.

RULE CV 7. Special Judge Assignments

The following matters shall be presented only to the CS Special Judge(s):

1. Default Judgments (where no motion is required).

Default judgments, not involving publication service, where no motion is required and Civil Warrants pursuant to asset hearings shall be presented to the CS Special Judge's for entry by leaving the *court file* with the prepared judgment or order with the clerk. Counsel seeking default judgments based on publication service must appear in person with the court file to comply with Rule 16 of the Supreme Court Rules for the District Courts.

The Judge will reject all default judgments submitted with incorrect court files, with files showing pleadings making default inappropriate, or without proof of service.

A Motion or Petition to Vacate Default Judgment shall be presented to the Special Judge who signed the Journal Entry.

2. Friendly Suits

Friendly suits are heard by making arrangements with the clerks in Room 124 or 507.

3. Orders of Restraint under 12 O.S. § 1571 3C.

4. All post-judgment collection matters, including but not limited to Orders to Appear and Answer as to Assets, Garnishment Orders and Applications to Exempt Earnings.

Orders to Appear and Answer as to Assets should be left with a copy of the *file-stamped* application with the clerk in Room 110. A pro se plaintiff's or plaintiff's attorney's name, address and phone number should be on all orders and applications.

Orders of Restraint under 12 O.S. § 1571 3C, Claims for Exemption from Garnishment and Garnishment Orders shall be presented to the clerk in Room 124 or Room 507.

All files left with pleadings or orders shall be picked up and returned to court records.

5. Applications and affidavits to file in forma pauperis.

a. Plaintiff or petitioner seeking to file in forma pauperis must complete a form to proceed in forma pauperis available from the Court Clerk.

b. An in forma pauperis application by an inmate must include a certificate executed by an authorized officer of the inmate's penal institution stating (1) the amount of money or securities currently on deposit to the inmate's credit in any account (which must be separately identified) and (2) the average monthly deposits made to each account during the previous 6 months.

c. The affidavit to proceed in forma pauperis must be presented to a Civil Special Judge for hearing to determine the party's eligibility to proceed with the case without costs. [In Re Sindham, 498 U.S. 177 (1991); Walters v. Cowley, 902 P.2d 1109 (Okla. Cr. 1995)]

RULE CV 8. Cover Sheets and Bar Association Number

All parties shall furnish a completed Cover Sheet to the Court Clerk when a petition is filed in CJ and CS cases.

If a case is refiled after previous dismissal, this shall be disclosed on the Cover Sheet and to the Court Clerk at the time of refiling.

Attorneys shall include their bar association number, name, address and phone number on all pleadings. This shall also apply to decrees, orders and journal entries which are approved as to form by counsel.

RULE CV 9. Cases Transferred to and from Tulsa County

Actions transferred pursuant to 20 O.S. § 642 shall be accompanied by the appropriate filing fees unless waived by the Court. The plaintiff shall be responsible for advancing the fees unless otherwise directed by the Court.

RULE CV 10. Pleadings Sent by Mail for Filing

If pleadings or other documents are mailed to the Court for filing, the Court Clerk will not return stamped copies unless copies are provided and a self-addressed envelope large enough to accommodate the mailing with sufficient postage attached is enclosed.

RULE CV 11. Service of Pleadings or Process

After summons is issued, the original shall be returned and filed in the case with the Court Clerk. In those cases where the Court has issued contempt or restraining orders, or granted injunctive relief or in other extraordinary proceedings requiring personal notice to the party affected, the original order shall be filed with the Court Clerk after its issuance, and certified copies thereof shall be used for service on the parties.

RULE CV 12. Dismissal for Lack of Service

Under 12 O.S. § 2004 (I) of the Pleading Code, after the Court has examined the court file and docket sheet of a case and determined that more than 180 days have elapsed without service being made on a named defendant, the Court may notify the plaintiff and/or plaintiff's attorney with notice to all parties or counsel of record to file a pleading to show cause why the action should not be dismissed as to that defendant. If good cause is not shown or response is not made, the Court may dismiss the case without prejudice.

RULE CV 13. Frivolous Pleadings

If a pleading is found to be frivolous, the Court may, on its own motion or on the oral or written Motion of the opposing party, tax costs in the case or a portion of the costs up to and including the frivolous pleading, against the party filing it. The Court may make subsequent Orders to insure compliance with the Court's findings.

Prisoners proceeding pro se should familiarize themselves with 12 O.S. § 2003.1 (1995) and 57 O.S. § 566 et seq.

RULE CV 14. Extensions Of Time

All requests for extensions of time must contain the following:

1. The original due date for the response.
2. The amount of additional time requested.
3. The reason for the request.
4. The current status of the case (including when hearings, if any, have been scheduled.)
5. A statement that opposing counsel has been contacted regarding the extension and either consents or objects to the extension.

Requests which do not comply with this rule shall not be considered.

RULE CV 15. Ex Parte Requests to Amend, Supplement or File Out-Of-Time

Counsel wishing to file amended or supplemental pleadings, applications, motions, responses or briefs requiring leave of court or requesting to file out-of-time must advise the Court of:

1. The case's current status AND
2. Whether opposing counsel, having been contacted, objects to the filing.
3. Requests to amend pleadings must also state the nature of the new matter or amendment.

An application without this information will not be considered.

RULE CV 16. Settlement Conferences

The Court will set a case for settlement conference or mediation on joint request of the parties. Joint application forms available from the Judges' minute clerks should be completed and returned to the assigned Judge's minute clerk. The mediation or settlement conference order will be issued by the assigned Judge.

All court-ordered settlement conferences and mediations will be arranged and administered through Early Settlement, 200 Civic Center, Room 601-L, Tulsa, Oklahoma 74103.

RULE CV 17. Motions

- A. All motions in civil cases must comply with Rule 4 of the Supreme Court Rules for the District Courts (Okla. Stat., Title 12, Ch. 2 App.)
- B. Counsel shall deliver a copy for the assigned Judge of each motion, application, response and brief to the Court Clerk's office at the time the original is filed.
- C. The Court shall determine whether oral argument will be entertained on a motion and shall provide attorneys of record with notice of the specific hearing date and time.

RULE CV 18. Briefing

All motions, applications, responses and briefs must be filed in accordance with applicable statutes and deadlines and must comply with Oklahoma Supreme Court Rule 1.11(a), 12 O.S. Ch. 15, App. 1.

Each brief shall be clearly styled to show whether it is in support of a motion, in opposition to a motion, or a reply brief, the particular application or proceeding to which it relates, and the party or parties on whose behalf it is presented.

All motions and applications and responses to them, including briefs if required, shall not exceed twenty (20) pages in length without prior permission of the Court.

Reply briefs are permitted only by leave of Court by application stating the reason for filing a reply brief. Reply briefs should not be attached to the application but should be filed separately within five days after permission is granted. No reply brief may exceed five (5) pages in length. No further briefs shall be filed without prior permission of the Court.

RULE CV 19. Responses to Interrogatories and Requests for Admission or Production

Each answer or objection to an interrogatory, request for admission, or request for production of documents or things pursuant to 12 O.S. §§ 3233, 3234 and 3236 shall be immediately preceded by the interrogatory or request to which response is being made.

RULE CV 20. Discovery Not to be Filed

Depositions, interrogatories, requests for admissions, requests for documents and things, and responses to these shall not be filed with the Court Clerk except as attachments to a motion or response to a motion or are ordered by the judge to be filed. A motion to compel discovery or discovery motion for protective order shall include either a verbatim recitation or a copy of the interrogatory, question, request, answer, response or objection which is the subject of the motion.

RULE CV 21. Disputed Discovery Motions

The Court will refuse to set or hear any discovery dispute unless counsel for the movant advises the Court in the motion that the lawyers have conferred either in person or by telephone with each other in good faith about the dispute but have been unable to resolve it. Correspondence alone will not satisfy this requirement.

RULE CV 22. Discovery Code Protective Orders

Counsel or parties requesting the Court to seal or remove pleadings, records or materials from the public record are required to follow the procedures set forth in 12 O.S. § 3226 (C)(2-7).

RULE CV 23. Trial Exhibits

Copies of all exhibits to be offered at trial must be marked by number and exchanged with opposing counsel before the pretrial conference and provided to the Court at the pretrial conference, unless waived by the Court. Anatomical models and enlargements of marked exhibits may be excluded from those provided to the Court but must be shown to opposing counsel.

RULE CV 24. Jury and Court Reporter Fees

The jury and court reporter fees specified in 28 O.S. § 152.1 must be paid by the requesting party no later than pretrial. No pretrial order will be filed without payment of the jury and/or court reporter fees.

RULE CV 25. Pretrial Order

Only one pretrial order shall be submitted.

Plaintiff's counsel shall initiate the preparation of the pretrial order by submitting a proposed pretrial order to opposing counsel no later than 15 days before the pretrial conference hearing. If Plaintiff's counsel fails to do so, then at least 10 days before the pretrial conference hearing, Defendant's counsel shall submit a proposed pretrial order to Plaintiff's counsel. If plaintiff is pro se, the first named represented party shall initiate its preparation. Opposing counsel and pro se parties must cooperate with the preparing party in the completion of the pretrial order and shall return the completed pretrial order to opposing counsel no later than 5 days before the pretrial hearing.

Failure to comply with these requirements may result in sanctions, including those provided in Supreme Ct. Rule 5.

RULE CV 26. Videotaped Depositions

Counsel must confer to resolve objections in videotaped depositions to be used at trial. To avoid delay at trial, those objections not resolved by counsel shall be marked on a copy of the transcript and presented to the Court no later than commencement of the trial.

RULE CV 27. Withdrawal of Counsel

When submitting an Application or Motion to Withdraw and an Order Allowing Withdrawal, counsel must comply with both of the following:

A. Every **Application to Withdraw** as counsel in a civil case must contain the following:

1. Statement of grounds for withdrawal.
2. Current status of the case (including when hearings, if any, have been scheduled).
3. Whether new or substitute counsel has been obtained by the client and entered an appearance.
4. A certificate of mailing to the client showing last known mailing address and to all other attorneys of record in the case.

No Application to Withdraw will be considered unless submitted to the assigned judge no later than 20 days before the date on which a hearing or trial is scheduled.

B. Every **Order Allowing Withdrawal** must contain:

1. A statement of the case's current status, including when hearings, if any, have been scheduled AND
2. A certificate of mailing to the client showing last known mailing address and to all other attorneys of record in the case.

RULE CV 28. Judgments for Minors

The Judge entering a judgment or order regarding payment of money for a minor pursuant to 12 O.S. § 83 shall immediately transfer the case to the Presiding Judge for re-assignment to the Probate Division.

RULE CV 29. Journal Entries, Orders and Decrees

Every order pertaining to an assigned case is to be presented to the Judge to whom the case is assigned.

Every journal entry, order, decree or other judgment shall contain the full style of the case naming all parties.

Every journal entry, order, decree or other judgment presented to the Court

for signature shall contain the approval as to form by the attorneys for each of the parties, unless waived by the Judge.

If counsel cannot settle the journal entry or order, then the attorney proposing it shall give notice to opposing counsel of the time of presentation of the journal entry or order for signature by the Judge.

Journal entries, orders and decrees must be prepared and submitted to the Court and filed within 20 days of the verdict or Court's ruling.

When a decree in a Family case is to be entered by the Court, unless otherwise designated by the Trial Judge, the attorney for the plaintiff shall prepare a journal entry and present it to the Judge for signature and to the Court Clerk for filing within twenty (20) days from the date the decree is entered.

RULE CV 30. Final Orders

Any final order or judgment must so specify on the order or journal entry of judgment. If the order or journal entry does not so state in its title, it will be filed and docketed by the Court Clerk as a non-final order or judgment.

RULE CV 31. Orders with Special Instructions

A party or attorney filing an order containing instructions for special handling by the Court Clerk's office must notify the Court Clerk, the First or Second Deputy, or the appropriate department head of these instructions upon filing. Failure to do so may result in the Court Clerk's inability to comply with the Court's directions due to lack of proper notice.

RULE CV 32. Interest On Court-Deposited Funds

When a Court requires funds on deposit in a case with the Court Clerk to be deposited in interest-bearing accounts, unless statutes otherwise specify, the party seeking deposit shall present an order to the Court in which the Court shall order the County Treasurer to deposit the funds in a specified institution and for a specified term.

RULE CV 33. Costs In Foreclosure Actions

In foreclosure of real property cases, all outstanding court costs and fees shall be due and payable at the time of the Sheriff's return of sale. If accrued court costs have not been paid when the Sheriff tenders his return of sale, the Court Clerk shall receive the return and shall stamp on its face "Received" and the date. However, the return shall not be filed in the case until the outstanding costs are paid. The Clerk shall not file for a party owing costs any further pleadings in the case until that party pays the costs owed.

RULE CV 34. Writs of Assistance - Forcible Entry & Detainer and Foreclosure

All Forcible Entry and Detainer actions proceeding under 12 O.S. 1148 *et seq.*, and all civil foreclosure actions in which Writs of Assistance for the possession of real property are sought shall be governed by the following procedure:

1. The prevailing party, in whose favor a Writ of Assistance or execution for restitution of premises is issuable pursuant to a judgment, shall provide the District Court Clerk with a completed Execution Instruction Form prior to the issuance of execution process. The Execution Instruction Form shall be substantially similar to the one set out below.
2. On the completed Execution Instruction Form, the party seeking execution shall indicate whether he desires restitution of the premises only, or whether both restitution and a levy of execution on the goods and chattels of the judgment debtor is required.
3. In the event that a party seeking a Writ of Execution does not require execution on the goods and chattels of the judgment debtor, the party seeking execution shall so state on the Execution Instruction Form, and shall further state the requested method of restitution for the Sheriff to perform, as follows:
 - a. Removal of persons only from the restored premises; or
 - b. Removal of all persons and removal of their personal property from the restored premises to the nearest city curb line; or
 - c. Removal of all persons and removal of all of their possessions from the restored premises by using the following mover (to be arranged by plaintiff)

Name _____

Address _____

Telephone _____

4. In the event that the party seeking the execution requires both restitution of the premises and a levy of execution of the personal property located therein (to be advertised and sold at Sheriff's Sale, as provided by law), that party shall indicate the number of rooms of the premises to be restored to such party's possession, including living rooms, dining rooms, kitchens, but excluding hallways, bathrooms and closets.

Upon completion of the form, the Court Clerk shall collect court costs and/or anticipated fees, as follows:

a. Statutory fees for the Clerk, Sheriff, sale, notice, publication, etc., as provided by law; and

b. The anticipated cost of inventory, packing, transportation and storage of the personal property upon which levy is sought, in accordance with the anticipated costs structure which is a part of Exhibit "A" incorporated herein by reference. After levy has been completed and the property held has been sold at Sheriff's Sale as provided by law, and upon application of the party seeking the levy of execution, the Court Clerk shall make a refund of any unexpended court costs and/or fees. In the event that the anticipated cost deposit collected by the Clerk is insufficient to cover the expenses incurred in the inventorying, packing, transportation and storage of the property upon which levy is sought, the party requesting the levy shall be required to make an additional deposit with the Clerk to make up the difference between the amount of actual costs incurred and the amount of the anticipated cost deposit initially made by the party.

5. All statements made by a party seeking the issuance of execution by the Court Clerk shall be considered as representations to the Court, and that party shall insure the accuracy of these statements.

6. No execution under this Rule shall be issued until the party seeking execution shall have first completed the Execution Instruction Form and deposited with the Court Clerk all applicable costs and anticipated costs.