

**FILED**

**BELL COUNTY DISTRICT COURT LOCAL RULES**

2014 NOV 24 PM 3:31

SHELIA NORMAN  
DISTRICT COURT  
BELL COUNTY, TX

*Shelia Norman*

## **TITLE 1. RULES GOVERNING ALL PROCEEDINGS**

### **RULE 1.1. CONDUCT AND COURTROOM DECORUM**

a. Policy

Judges and attorneys have a duty to uphold the highest standards of conduct and to earn and promote public respect for the judiciary, the legal profession and the American system of justice.

b. The Texas Lawyer's Creed

The Standards of Professional Conduct in Section IV of The Texas Lawyer's Creed, as promulgated by the Texas Supreme Court and the Texas Court of Criminal Appeals are adopted and incorporated herein by reference as guidelines for participating in litigation in the District Courts of Bell County, Texas.

c. Conduct Required of Counsel

1. Counsel shall timely appear before the court at each setting and following each recess.
2. Counsel shall be appropriately attired for all court proceedings.

Male attorneys shall be dressed neatly in business suits or sportcoats, with slacks, dress shirt and tie. The shirt collar shall be buttoned. Blue jeans, sportswear and similar clothing are not considered appropriate courtroom attire.

Female attorneys shall be dressed in conservative dress or business attire. Blue jeans, sportswear and similar clothing are not considered appropriate courtroom attire.

3. Counsel shall rise and remain standing while addressing the Court, unless otherwise instructed.
4. Counsel shall address all statements, requests, and objections to the Court and not to opposing counsel.
5. Counsel shall not argue objections in the presence of the jury without prior leave of court.
6. Counsel shall not interrupt or talk over opposing counsel, except to state formal objections.

7. Counsel shall remain behind counsel table while examining witnesses, except with leave of court. If requested by counsel, counsel may stand at a podium while examining witnesses.
8. Counsel shall neither make nor insinuate derogatory or insulting remarks about opposing counsel.
9. Counsel shall address the Court as "Your Honor" or "Judge" and except with leave of court, shall refer to all counsel, parties and witnesses (except children) by their surnames, using such titles as Mr., Mrs., Miss, Ms., Dr., etc., as appropriate, and not by first names or nicknames, or any discriminatory or inappropriate classification.
10. Counsel shall request leave of court before approaching the bench or to approach the witness when necessary to work with documentary or tangible evidence.
11. Counsel shall not lean on the bench except as may be necessary to prevent jurors from overhearing bench conferences. Counsel shall not engage in personal discussions with the Court or each other during trial while in the presence of jurors, parties, or witnesses.
12. Counsel shall not use profanity in the courtroom.
13. Counsel shall advise counsel's clients, witnesses and others subject to counsel's control of these rules of conduct and courtroom decorum.

d. Conduct Required of All Persons

All persons in the courtroom during trials and other proceedings shall be attentive to the proceedings and shall refrain from any action which may disrupt the proceedings.

Therefore, all persons shall comply with the following:

1. All persons shall be appropriately attired for court proceedings.  
  
All persons entering the courtroom shall be dressed in clothing reasonably befitting the dignity and solemnity of court proceedings. Tank tops, T-shirts, shorts, flip flops, and clothing that is tattered or soiled are among those items of clothing not considered appropriate courtroom attire. No hats, caps, sunglasses, or telephone ear-pieces shall be worn in the courtroom without prior approval.
2. No tobacco use in any form is permitted.
3. No bottles, beverage containers, paper cups or edibles are allowed in the courtroom, except as permitted by the Court.
4. No gum chewing is permitted.
5. No propping feet on tables or chairs is permitted.
6. No talking or unnecessary noise is permitted which interferes with the court proceeding.

7. No person may, by facial expression, shaking or nodding of the head, or by any other conduct, express approval or disapproval of any testimony, statement or transaction in the courtroom.
8. All persons shall rise when the judge enters the courtroom, and at such other times as the bailiff shall instruct.
9. No person shall bring packages, suitcases, boxes, duffel bags, shopping bags or containers into the courtroom without the prior approval of the bailiff.
10. No person shall be permitted any verbal or physical contact with a prisoner without the prior approval of the bailiff.

c. Enforcement

The bailiff of the court shall enforce the rules of conduct and courtroom decorum.

## RULE 1.2. REQUESTS FOR CONTINUANCE OR POSTPONEMENT

a. Consent or Notice Required

No request for a continuance, to pass, postpone or reset any trial, pretrial, or other hearing shall be granted unless the Court and counsel for all parties consent, or unless all parties not joining in such request have been notified and have had an opportunity to object.

b. Contents of Motion

Unless counsel for all parties consent in writing to the request for a continuance and the same is approved by the Court, a motion must be filed pursuant to Rule 251, et seq. of the Texas Rules of Civil Procedure, as amended or Article 29.01, Texas Code of Criminal Procedure, as applicable, and the motion must be accompanied by an order setting the motion for a hearing. Any motion that does not meet these requirements will be denied without prejudice to the right to refile.

## RULE 1.3. CONFLICT IN TRIAL SETTINGS

a. Duty of Counsel to Notify Court

Whenever an attorney has two or more cases on trial dockets for trial at the same time, it shall be the duty of the attorney to bring the matter to the attention of the courts concerned immediately upon learning of the conflicting settings.

b. Priority of Cases In Event of Conflict

Insofar as practicable, the affected courts shall attempt to agree upon which case shall have priority. Absent such agreement, conflicting trial settings shall be resolved in the following priority:

1. Federal cases
2. Cases given statutory preference
3. Criminal Cases against defendants who are detained in jail pending trial
4. Temporary injunctions
5. Preferentially set cases
6. The earliest set case

## **TITLE 2. RULES GOVERNING CIVIL PROCEEDINGS**

### **RULE 2.1. APPLICATION FOR EX PARTE ORDERS**

By presenting any application for an ex parte order, counsel is deemed to represent to the Court that:

- a. to the best of counsel's knowledge, the party against whom the relief is sought is not represented by counsel; or
- b. if the party against whom the relief is sought is represented by counsel, that (i) such counsel has been notified of the application and does not wish to be heard by the Court thereon; or (ii) counsel presenting the application has diligently attempted to notify opposing counsel, has been unable to do so, and the circumstances do not permit additional efforts to give such notice.

### **RULE 2.2. PRETRIAL AND TRIAL SETTINGS**

- a. At any time after the filing of an answer or entry of an appearance by the opposing party, any party may request a setting for a trial on the merits or, where applicable, a pretrial hearing, by (i) filing with the Court a motion requesting a hearing, and an order setting the hearing, accompanied by a certificate of service to opposing counsel; or (ii) orally requesting the Court to schedule the hearing and confirming the setting by letter addressed to the Court, a copy of which shall be served on opposing counsel in accordance with Rule 21a of the Texas Rules of Civil Procedure, as amended. All requests for a setting shall include an estimate of the amount of court time required for the hearing.
- b. Prior to requesting a setting, counsel shall attempt to coordinate a setting with opposing counsel.



## RULE 2.3. WITHDRAWAL OF COUNSEL

### a. Withdrawal

Withdrawal of counsel shall be governed by Rule 10 of the Texas Rules of Civil Procedure, as amended, and the following rules.

### b. Notice to Client

If another attorney is not to be substituted as attorney for the party or if the party does not consent to the motion to withdraw, the withdrawing attorney shall notify the client in writing that the Court will be requested to sign an order granting the withdrawal on or after ten (10) days following the date of such notice. Notice shall be sent by certified mail, return receipt requested.

### c. No Delay of Trial

Unless allowed in the discretion of the Court, no motion to withdraw shall be granted that is presented within thirty (30) days of the trial date or at such time as to require a delay of trial.

## RULE 2.4. ALTERNATIVE DISPUTE RESOLUTION

### a. Policy

It shall be the policy of the courts of Bell County, Texas to encourage the peaceable resolution of disputes and early settlement of pending civil litigation, excluding family law litigation, expedited cases, and delinquent tax cases, by referral to alternative dispute resolution (ADR) pursuant to the Texas Alternative Dispute Resolution Procedures Act, Texas Civil Practice and Remedies Code, Chapter 154.

### b. ADR Mandatory

No trial on the merits shall be conducted in any civil litigation case until all contested issues have been referred to an ADR procedure, ADR has been unsuccessful, or the Court has determined that ADR is inappropriate for the case.

### c. Manner of Referral

It is anticipated that the parties shall cooperate in referring such issues to an ADR procedure under terms and conditions as are mutually agreeable, without the need for court intervention. If the parties are unable to cooperate or agree to a referral

of such issues to an ADR procedure, then upon written notification to the Court by one of the parties that efforts to coordinate a referral have been unsuccessful, the Court, without a hearing, shall enter an order of referral to an ADR procedure, and under such terms and conditions selected by the Court.

d. Objection to Referral

If the Court enters an order of referral to an ADR procedure, any party may object to such referral pursuant to Texas Civil Practice and Remedies Code, Chapter 154. Upon the filing of an objection, the Court shall schedule a hearing. If the Court finds that there is a reasonable basis for the objection, the Court may, in its discretion, order that the case not be referred to an ADR procedure and order the case set for trial on the merits.

## RULE 2.5. DISMISSAL FOR WANT OF PROSECUTION

a. Procedure

The Court, on its own motion, may dismiss a case for want of prosecution. The procedure provided in Rule 165a of the Texas Rules of Civil Procedure, as amended, shall apply.

b. Reasons For Dismissal

A case may be dismissed for want of prosecution for any of the following reasons:

1. Failure of a party seeking affirmative relief to take appropriate action when the case has been pending without action for six months.
2. Failure of counsel for a party seeking affirmative relief to appear for a pretrial or preliminary hearing, particularly if there has been a previous failure to appear or no motion has been timely filed to meet the exceptions previously sustained.
3. Failure of a party seeking affirmative relief to make an announcement as scheduled when the case has been set for trial.

## RULE 2.6. ORDERS AND DECREES

a. Reduction to Writing Within Ninety (90) Days

Within ninety (90) days after rendition, announcement of the Court's ruling, or announcement of settlement by counsel, counsel shall cause all judgments, decrees or orders of any kind to be reduced to writing, forwarded to opposing counsel for approval as to form, and delivered to the Court for signing.

b. Dismissal if Written Order Not Furnished

Upon failure to furnish the Court with a judgment, order or decree disposing of the case within the ninety (90) day period, the Court may place the case on the next regularly scheduled dismissal docket, whereupon the case may be dismissed and costs may be taxed at the Court's discretion.

c. Procedure for Entry of Order

If counsel is unable to secure all opposing counsel's approval as to form, counsel may:

1. File a motion for entry of the proposed judgment, order or decree and secure a hearing for the same, with notice to all opposing counsel pursuant to Rule 21a, Texas Rules of Civil Procedure. At a hearing, the Court may assess costs and attorney's fees within the Court's discretion; or
2. Present the Court with the proposed judgment, decree or order, together with a letter requesting the Court to sign the same if the Court has not received a written objection from opposing counsel within ten (10) days from the date of the letter. Each party who submits a proposed judgment for signature shall serve the proposed judgment and a copy of the letter on all other parties who have appeared and remain in the case, in accordance with Rule 21a, Texas Rules of Civil Procedure. If the Court receives a written objection from opposing counsel within the stated time, the proponent of the judgment, decree or order shall schedule a hearing for entry of the same pursuant to subdivision 1 of this rule.

### **TITLE 3. RULES GOVERNING TRANSFER OF CASES AMONG COURTS**

**RULE 3.1.** Any judge of a district court in Bell County may act as the judge of any other district court in Bell County without formal order. The authority of this subsection applies to an active or retired judge assigned to a court as provided by law.

**RULE 3.2.** The transfer of cases between district courts of Bell County may be done by written order upon consent of the judges of those courts participating in the transfer.

**RULE 3.3.** All transfers not specifically provided for in Title 3 and its subsections shall be made only by the administrative judge of Bell County for the fair and equitable division of case loads. No case shall be transferred by the administrative judge unless the cases transferred are within the jurisdiction of the court to which the cases are transferred.

## **TITLE 4. TIME STANDARDS**

### **RULE 4.1. TIME STANDARDS FOR CASE DISPOSITION**

Pursuant to Article 5, Section 31 of the Texas Constitution, Sections 22.004., 72.002 (2) and 74.024 of the Texas Government Code, Title 3 of the Texas Family Code, Rule 6 of the Rules of Judicial Administration, and Rules [1,3,4 and 5] of the Regional Rules of Judicial Administration, time standards have been established to which reference is made for all purposes, as they now exist, or as they may be hereafter amended.

## **TITLE 5 LOCAL ADMINISTRATIVE JUDGE**

### **RULE 5.1. POWERS AND DUTIES OF LOCAL ADMINISTRATIVE JUDGE**

- a. Election of the Administrative Judge.
  - 1. Pursuant to Section 74.091 of the Texas Government Code a majority of the District Judges will elect a Local Administrative District Judge for a two-year term at the January meeting in 2014 and at the January meeting of each second year thereafter.
  - 2. The Local Administrative District Judge will have all duties and the responsibility for attending to emergency and special matters of the District Courts pursuant to Rule 9 and 10 (d) Rules of Judicial Administration.
- b. Meetings of the Judges of the County.
  - 1. The Local Administrative District Judge or a majority of the Judges will call meetings of the Judges once each month or as needed.
  - 2. The Local Administrative District Judge shall preside over such meetings and in his or her absence a temporary Chairman may be elected by a majority of the quorum.

## **TITLE 6. ADOPTION, AMENDMENT, NOTICE**

### **RULE 6.1. ADOPTION, AMENDMENT, NOTICE**

These rules may be amended by majority vote of the District Judges, provided:

- a. that any proposed rule or amendment shall not be inconsistent with rules adopted by the Supreme Court of Texas or with any rule of the Administrative Judicial District in which the Court is located; and,

- b. any proposed rule or amendment shall not become effective until it is submitted and approved by the Supreme Court of Texas; and
- c. any proposed rule or amendment shall not become effective until at least thirty (30) days after its publication in a manner reasonably calculated to bring it to the attention of attorneys practicing before the court or courts for which it is made; and,
- d. all rules adopted and approved in accordance herewith are made available upon request to members of the Bar and the public.

#### **Adoption**

Subject to the approval by the Supreme Court of Texas, these rules shall become effective [REDACTED] and so long thereafter until amended, repealed or modified by order of the District Courts. All existing Local Rules previously governing the management of the Court dockets that are inconsistent with these rules shall be repealed on the effective date of these rules. Each numbered or lettered paragraph of these rules shall be considered to be separate and distinct from all other portions hereof, and if any portion should be declared by a higher Court to be improper, such declaration will not affect any other portion not so declared to be improper.


The District Clerk is directed to furnish a copy of these rules to the Supreme Court of Texas, pursuant to Rule 3a of the Texas Rules of Civil Procedure, and to record these rules in the Civil Minutes of the 27<sup>th</sup>, 146<sup>th</sup>, 169<sup>th</sup>, 264<sup>th</sup> and 426<sup>th</sup> District Courts.

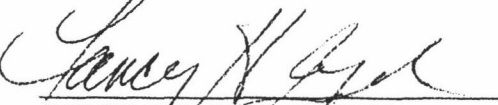
Adopted this the 12 day of Dec., 2013 to become effective on April 1, 2014 or upon approval by the Supreme Court of Texas, whichever is later.

  
JUDGE JOHN GAUNTT  
27<sup>th</sup> District Court

  
JUDGE JACK JONES  
146<sup>th</sup> District Court

  
JUDGE GORDON G. ADAMS  
169<sup>th</sup> District Court

  
JUDGE MARTHA J. TRUDO  
264<sup>th</sup> District Court

  
JUDGE NANCY H. JEZEK  
426<sup>th</sup> District Court

# IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 14-9233

## APPROVAL OF AMENDED LOCAL RULES FOR THE DISTRICT COURTS OF BELL COUNTY

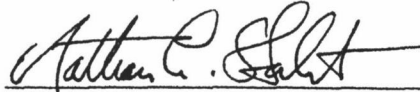
**ORDERED** that:

Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court approves the following local rules for the District Courts of Bell County.

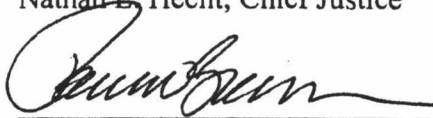
Dated: November 24, 2014.

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SHELLIA NORMAN  
DISTRICT COURT  
BELL COUNTY, TX  
*Shelia Norman*

FILED



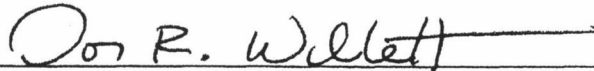
Nathan L. Hecht, Chief Justice



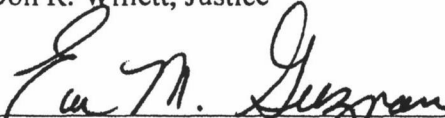
Paul W. Green, Justice



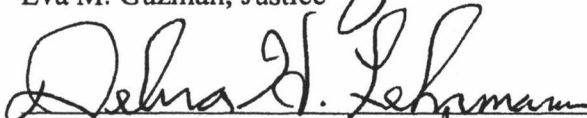
Phil Johnson, Justice



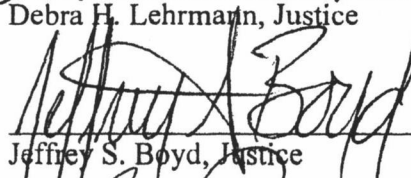
Don R. Willett, Justice



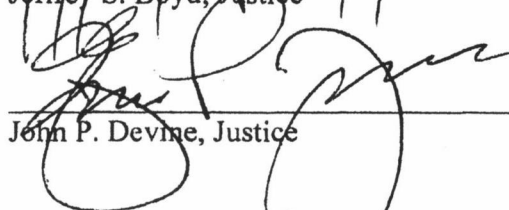
Eva M. Guzman, Justice



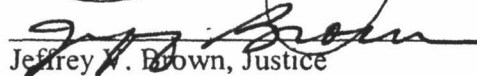
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey W. Brown, Justice

# IN THE SUPREME COURT OF TEXAS

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Misc. Docket No. 16-9033

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## APPROVAL OF LOCAL RULES FOR THE BEXAR COUNTY CIVIL DISTRICT COURTS

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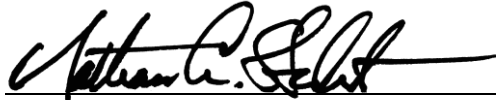
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**ORDERED** that:

Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court approves the following local rules for the Bexar County Civil District Courts.

Dated: March 22, 2016

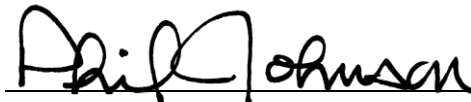




Nathan L. Hecht, Chief Justice



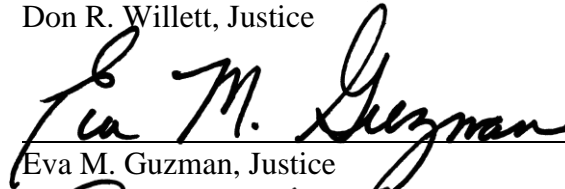
Paul W. Green, Justice



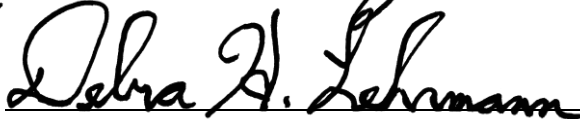
Phil Johnson, Justice



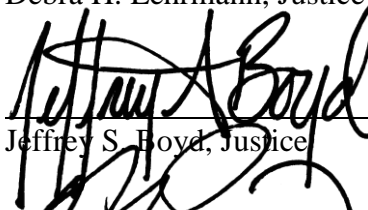
Don R. Willett, Justice



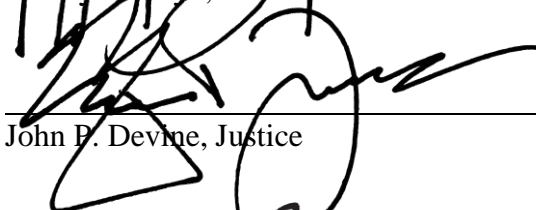
Eva M. Guzman, Justice



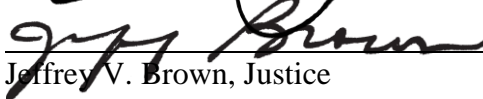
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice

**PART 3**  
**CIVIL DISTRICT COURT RULES (Revised)**

**1. Introduction**

Every trial and hearing in civil district court is scheduled on one of the following dockets: (a) the Nonjury Docket administered by the Presiding Civil Judge; (b) the Jury Docket administered by the Monitoring Judge and the Jury Assignment Clerk; (c) the ADR docket administered by the ADR coordinator; or (d) another docket established by the Civil District Judges.

**2. Allocation of Judges**

The civil district judges rotate monthly as Presiding Civil Judge ["Presiding Judge"]. Each week a fixed number of judges, as determined by the Civil District Judges, are assigned to assist the Presiding Judge with the nonjury docket. The other judges are assigned to try jury cases (and nonjury trials of more than two days or as referred by the Presiding Judge). The judges trying jury cases assist the Presiding Judge with nonjury matters from 8:30 to 9:30 and resume their jury trials at 9:30. When the jury docket for the week has been completed, the available judges assist the Presiding Judge for the rest of the week.

**3. Nonjury Docket (Presiding Civil District Court)**

The Presiding Civil District Court hears all nonjury matters, including pretrial matters in cases set for a jury trial, with the exception of issues allocated to the Monitoring Judge under Rule 4.

**A.** Each morning, and most afternoons, the Presiding Civil District Judge calls several dockets. Settings on all dockets are handled by the Presiding Civil District Clerk: 210-335-2000.

**(1) The 8:30 Docket.** The 8:30 docket includes discovery hearings, summary judgments, pleading disputes, and other matters that do not require witnesses.

**(2) The 9:00 Docket.** The 9:00 docket includes nonjury trials on the merits, temporary orders, injunctions, family law protective orders, special appearances, venue hearings, and other matters that may require significant court time or involve witnesses.

**(3) The 10:00 Docket.** Each Tuesday, Wednesday, and Thursday, the State's protective order docket is called.

**(4) The 2:00 Docket.** The tax docket is heard two times each month on Wednesdays. The cost docket is heard the last Thursday of each month. The expunction docket is heard every Thursday.

**B. Presiding Court Announcements.** When each case is called at docket call, parties shall announce whether they are ready or not ready, whether they want to confer, or whether the matter will be dropped, reset by agreement, or disposed of by agreed order. Parties are also expected to provide an accurate estimate of the amount of court time contested hearings will require including appropriate time for judges to review briefing and authorities. Where time announcements prove to be inaccurate, the Presiding Judge or the Judge to whom the case is assigned shall have the option to confer with the attorneys and parties regarding an accurate announcement and reassign the case for hearing to another court and/or on another day. When no announcement is made, the setting on the matter will be dropped.

**C. Multiple Announcements by an Attorney.** When an attorney has more than 2 civil, criminal, or other settings either on the Presiding docket or which conflict with settings on the Presiding docket, the Presiding Judge shall have discretion as to how those cases set on the Presiding docket are assigned. Judges will ordinarily, in the exercise of their discretion, give preference to federal settings, criminal settings, and court-ordered special settings. If an attorney has more than 2 settings, the attorney must confer with all counsel on all cases at least two days prior to the date of the settings. The scope of this conference is to notify counsel of the multiple settings, discuss resetting, and to provide opposing counsel with a cell number or other contact information. If an agreement as to how to resolve the conflict cannot be reached, it is the responsibility of the attorneys involved to advise the Presiding Judge of same when the case is called for hearing. The Presiding Judge will then direct the attorneys as to how to proceed. It is the responsibility of the attorney, not the attorney's client, to make announcements in Presiding Court. Failure to comply with this section may result in the settings of the case(s) on the presiding docket being dropped or such other action as the Presiding Judge deems appropriate.

**D. Discovery Hearings.** When setting a discovery hearing, attorneys and pro se litigants must comply with Rule 191.2, T.R.C.P., which requires a statement that the parties have tried to resolve the discovery dispute by agreement before resorting to court.

**E. Computation of Time.** Consistent with rules 4, 21, and 21a, T.R.C.P., the courts will not count Saturdays, Sundays, or legal holidays when calculating any three-day notice period, except when the period has been extended because notice was given by mail. In both Presiding Court and in Monitoring Court, the day of filing the notice is not counted and the date of the hearing is counted for the required 3-day notice.

## **F. Orders**

1. *Separate Documents.* Except in the case of motions and orders setting hearings, all orders and judgments must be filed separately from any motion or other document.

2. *Approval Blocks Required.* Unless otherwise ordered by the Court, all orders and judgments presented for a judge's signature must have appropriate signature blocks for the attorney presenting the Order and all other attorneys of record indicating their approval as to form and substance or approval as to form, as appropriate. If a local attorney is presenting an order on behalf of an out-of-county attorney, the order should bear the signature block of the local and out-of-county attorneys. A full signature block consists of the attorney's signature, printed name, mailing address, email address, bar number, telephone number, and fax number.

3. *Agreed Orders.* If the Order deals with a matter that is agreed to by the attorneys of record, the order must bear full signature blocks for all attorneys of record and state "Agreed" or "Agreed as to Form and Substance."

4. *Limited Ruling on Submission.* Bexar County District Judges do not ordinarily rule on submission. A hearing must be set with the Presiding Clerk or an agreed order bearing a full signature block of all attorneys of record may be presented. All default judgments must comply with the Servicemembers' Civil Relief Act, 50 U.S.C. *Appendix*, section 521.

5. *Preparation of Orders.* Unless otherwise ordered by the Court, orders made by the Court must be reduced to writing, presented to the court for entry not later than two weeks from the date of hearing, and must bear the approval blocks for all attorneys of record and self-represented parties. If a proponent of the order is unable to secure the approval of the other attorney/party, a Motion to Enter the Order must be filed and set in the Court which heard the motion. A copy of the Judges' Notes for the hearing at which the Judge rendered the order or a copy of the court reporter's notes for the hearing should accompany all Motions to Enter.

6. *Severance Orders.* Any severance order must state the style of the case and list the names of the plaintiffs and defendants and the attorneys of record in the severed case. When a severance order is entered, a new cause number will be assigned to the severed case

**G. Policies (General).** The Presiding Judge will adhere to the following policies:

1. *Telephone Hearings (non-inmate).* If an attorney or a self-represented litigant is in need of a hearing by telephone, a Motion for Telephonic Hearing must be filed and set with the Presiding District Clerk on three days' notice to the opposing party/attorney. Alternatively, if all parties agree that the telephone hearing can take place, a Rule 11 Agreement must be submitted for filing prior to the date that the hearing will take place. If no agreement can be reached, a telephonic or other hearing on the motion will take place as designated by the Presiding Judge or the Judge to whom the case is assigned.

2. *Telephone Hearings (Inmates).* If a party to any proceeding is incarcerated and has filed an answer or has been notified of a hearing but the time for filing an answer has not yet passed, or the inmate or their counsel has otherwise requested a hearing, the incarcerated party shall have the right to participate in the scheduled hearing by telephone, or, if the inmate is in the Bexar County Jail, a bench warrant may be issued. The decision to schedule a telephone hearing with a Bexar County inmate or to bench warrant the inmate shall be made by the Presiding District Judge. All telephone hearings are processed by the Staff Attorney's Office, (210) 335-2123.

3. *Foreign Language and Sign Language Interpreters.* All interpreters are scheduled through the Office of the Civil District Court General Administrative Counsel (210) 335-2300. A party that needs an interpreter other than a Spanish language interpreter should, to the extent possible, call the office to arrange for the interpreter at least two weeks in advance of the hearing. If the party requesting the interpreter determines that the interpreter is no longer required, the party must notify the Office of the Civil District Court General Administrative Counsel immediately. Spanish language interpreters are generally available on a daily basis and no advance request is required.

4. *Copies of Documents.* All persons requesting copies of documents by mail from the District Clerk must furnish the clerk a return, self-addressed, stamped envelope.

5. *Mediation Rules.* The Bexar County Civil District Judges have adopted rules for mediation, which are available on the district clerk's website. Mediation may be ordered in a non-jury case by a judge at the judge's discretion. Mediation is required in jury cases pursuant to Rule 8 of these local rules.

**H. Policies (Family Law).** These policies are not intended to, and shall not, modify or supersede the Texas Rules of Civil Procedure or the Texas Family Code.

1. *Standing Order Regarding Children, Property and Conduct of the Parties in Divorce Suits and Suits Affecting the Parent-Child Relationship.* Bexar County District Courts require that in every divorce case and in suits affecting the parent-child relationship, the Petitioner shall attach to the original petition and to each copy of the petition a copy of the Bexar County Standing Order Regarding Children, Property and Conduct of the Parties.

2. *Required Education.* Unless otherwise ordered by the Court, all parties involved in divorces with minor children must complete the Helping Children Cope with Divorce, KIDS (Kids in Divorce Situations), or some similar education before their divorce will be granted.

3. *Testimony by Minors.* The Courts discourage calling minor children as witnesses to testify in court in family law matters involving

their parents. If a minor child's testimony is absolutely required, children are not to be brought to court to testify until such time as their testimony is scheduled by the judge.

4. *Default Divorces.* On entry of default divorce decrees, all parties shall comply with the requirements of Texas Rules of Civil Procedure 239 and 239a including the requirement that a certificate of last known address of the defaulting party be filed. Pursuant to the Servicemembers' Civil Relief Act, all default judgments must be accompanied by a non-military affidavit with sufficient facts for the Court to determine the military status of the defaulting party or with a Military Status Report from the Department of Defense Manpower Data Center attached.

5. *Social Studies and Psychological Evaluations.* When the Court orders a social study or a psychological evaluation, the parties shall not appear for a contested final hearing until the social study or psychological evaluation has been completed. If there is difficulty obtaining the social study or psychological evaluation, or some reason that the study or evaluation is no longer warranted, the parties must seek relief from the order requiring the social study or psychological evaluation before appearing for trial. All social studies and psychological evaluations shall be completed within 90 days absent leave of the court.

6. *Divorce Trials.* Unless waived by the Court, all litigants appearing for trial involving property or liability issues shall present the Court with a sworn Inventory & Appraisement substantially in the format of the sample posted to the district clerk's website, which shall contain an itemization including values of all contested items of property and all indebtednesses.

7. *Trials and Hearings Relating to Support.* Unless otherwise waived by the Court, all litigants involved in trials or hearings relating to child support or spousal support shall present the Court an itemization or summary of all of their income and expenses, substantially in the format of the sample posted to the district clerk's website, as well as a minimum of the prior 3 months of wage and income information and a tax return from the previous year, if child support and/or spousal support is an issue in the trial or hearing.

8. *Domestic Relations Office.* In cases involving children, the Court may, on its own motion, request that the Domestic Relations Office assist the Court. If the parties to a proceeding wish to involve the Domestic Relations Office in the case, a motion must be filed and a hearing set before the Presiding Civil District Judge. The Presiding Judge will determine if the involvement of the Domestic Relations Office is appropriate. No orders, including orders agreed to by the parties, will be signed unless the Presiding Judge has determined at a hearing that the involvement of the Domestic Relations Office will assist the Court.

**Comment:**

***The following comments carry the same force and enforceability as the rules:***

**Rule 3. Non-jury Docket**

*8:30 Docket.* The 8:30 docket was created in the 1980's to serve three purposes: (1) it clears out shorter matters early in the morning before the general docket is called at 9:00; (2) it gives the Presiding Court the early-morning assistance of the judges who are trying jury cases; and (3) it helps minimize conflicts for lawyers who have pretrial hearings but are in trial elsewhere in the courthouse by releasing them from their jury cases until 9:30.

*Computation of Time.* Under rules 4, 21, and 21a, T.R.C.P. weekends and holidays are not counted when calculating three-day notice periods and therefore notice must be given by Wednesday for a motion hearing on Monday. Three days are added to the notice periods when notice is given by mail.

*It is helpful to understand how the Presiding Judge will interpret the common announcements at docket call and what action the judge will take:*

*No announcement by other side.* If the opposing party does not answer, the judge will call you to the bench after the docket has been called and will review the file to confirm notice and to discuss with you the relief to be granted. In certain situations, the judge may ask you to telephone the other lawyer and find out why he or she did not come to court. This practice helps avoid time-consuming motions for rehearing.



*Ready. If you have already conferred with opposing counsel, the matter cannot be resolved by agreement, and you need a hearing, you should announce ready. Once you have made a time announcement with the Presiding Court, you should not leave Presiding Court until you are assigned. Your failure to be present in Presiding Court when the case is to be assigned to the trial court will result in your matter not being assigned at that time.*

*Not ready. This means you have conferred, you are not ready, and you want to postpone the hearing. Presumably, the other side will not agree to a continuance; otherwise the setting would be dropped or reset by agreement.*

*Conferring. Frequently you will want to talk with opposing counsel in the hall or a conference room, but you want to keep your setting and be assigned to a court in the event you cannot reach an agreement. Judges want lawyers to confer because many disputes can be resolved when the lawyers talk face-to-face. Frequently, in family law cases there has been no opportunity to talk. The suit has just been filed, and the petitioner does not know whether the respondent will appear, or whether he has retained an attorney or is pro se. In such cases the judge will want both sides to confer, at least briefly. After you have conferred, if there is no agreement and you need a ruling, you should return to court and give your announcement and time estimate to the clerk or the judge. If you are still conferring at 11:00 A.M., you must report this to the clerk so the case will be kept on the docket while you continue to confer.*

*Dropped settings. In many cases you have not been able to serve or notify the other side, or you have your opponent's agreement to drop the setting and try to work things out informally, or perhaps you and your opponent have resolved your matter by agreement but do not intend to have a written order signed. In these situations you should ask that the setting be dropped. You have no right to drop a setting over your opponent's objection, even when it is your setting.*

*Agreed resets. This means you and opposing counsel both want the matter reset. If you are ready and have conferred but cannot agree to the other side's request for a reset, you should announce ready and let your opponent seek a continuance.*

*Agreed orders. When the issues set for hearing have been settled, a written agreed order should be submitted later. Be sure to state whether*

*you need to present proof (e.g., in divorce settlements) or make a record pursuant to Rule 11, T.R.C.P.*

*Time estimates. Attorneys are expected to make realistic estimates of the time they think will be needed for the entire hearing.*

#### **4. Jury Docket (Monitoring Court and Jury Assignment Clerk)**

**A. General.** Trials on the merits in all jury cases and in nonjury cases referred by the Presiding Judge are scheduled and assigned through the Jury Assignment Clerk. Each week, the Jury Assignment Clerk assigns jury trials (and referred non-jury matters) to courts as they become open. Jury cases are set for a specific week. Cases not reached during the week of the setting are automatically reset for trial during carry-over week — the last week of the month — without further notice. Each quarter of the year, a different civil district judge serves a rotation as Monitoring Judge. Motions on jury cases affecting trial settings — such as motions for continuance, motions for special setting, motions for pretrial scheduling order, motions to designate a case as complex, and motions to modify or extend a deadline in a scheduling order — are heard by the Monitoring Judge.

**B. Procedures.** Each week's jury docket is handled in the following manner.

1. *Friday.* By Friday, the Jury Assignment Clerk assigns cases to specific courts for trial, beginning with DFPS cases, followed by family-law cases and special settings, and working through the docket in numerical order, taking the older cases first. The clerk telephones lawyers and notifies them to which court they are assigned for trial on Monday. Motions in Limine, Motions to Realign Parties, Motions to Equalize Peremptory Challenges, and proposed Jury Charges are to be filed and exchanged the last business day before the jury trial date.

2. *Monday.* The cases remaining on the docket after the assignments on Friday are called for announcements at 8:30 on Monday morning in Monitoring Court. Lawyers are expected to announce whether they are ready for trial (with the estimated trial time), not ready and filing a motion for continuance, or that the case has been settled. When the Monday morning docket has been called, the clerk will tell lawyers where their case

ranks numerically on the list of remaining cases. Every case will be subject to assignment through Thursday. Cases not reached and assigned to a court by Thursday will automatically be placed on the docket for carry-over week (the last week of the month) for trial at that time.

3. *Tuesday, Wednesday, and Thursday.* During the middle of each week, the Monitoring Judge hears motions for continuance, motions to designate cases as complex, motions for special setting, and motions for pretrial scheduling orders. Settings on all jury matters except dismissals for want of prosecution are obtained through the Jury Assignment Clerk's office. Call 210-335-2520 for available hearing dates.

**C. Policies.** The Monitoring Judge will adhere to the following policies:

1. *Agreed Continuances.* When a continuance is agreed or unopposed, a motion must be presented to the Monitoring Court so that if the motion is granted the judge can select a reset date that is available for additional settings and reasonably acceptable to all lawyers. In certain situations a hearing may be required. Questions should be directed to the Jury Assignment Clerk, (210) 335-2520.

2. *Special Settings.* The Monitoring Judge may grant a special setting, which will place the case at the beginning of a week's docket before the ordinary settings. This decision requires a motion and hearing in Monitoring Court, even if all parties agree.

3. *Complex Cases.* The Monitoring Judge has the discretion to remove a case from the central docket for assignment to one judge for all further pretrial matters and trial on the merits. A motion and hearing in Monitoring Court is required even if all parties agree. If the motion is granted, the Jury Assignment Clerk and the Monitoring Judge will use a predetermined random procedure to determine which judge will preside over the case to its conclusion.

4. *Dismissal Docket.* Periodically the District Clerk sets older cases for dismissal for want of prosecution and notifies the

parties of the dismissal setting in Monitoring Court. Cases are set for dismissal docket the second and fourth Tuesdays of each month at 8:30 A.M. If no one appears at the hearing to ask that the case be retained on the docket, it will be dismissed. The Monitoring Judge decides which cases to retain on the docket and hears any motions to reinstate cases that have been previously dismissed for want of prosecution. It is the responsibility of the attorney or the party, if self-represented, to notify the Dismissals Clerk that a final order has been signed on a case which is set on the dismissal docket. The Dismissals Clerk may be reached at (210) 335-2120. Failure to notify the clerk of the signing of the final order may result in dismissal of the cause. Any case set on the dismissal docket cannot be set on the jury docket until a hearing is held before the monitoring judge and an order allowing the jury setting is obtained.

**Comment:**

***The following comments carry the same force and enforceability as the rules:***

**Rule 4.**

*Limits on weekly settings. Years of experience with this system have proven that no week should be overloaded with jury settings because if too many cases are set at one time the courts will not be able to try all of them. If this were allowed to happen, the system would lose the predictability that is one of its main strengths. For this reason, the Jury Assignment Clerk sets limits on the number of weekly jury settings. Most of the time, each case is reached and disposed of during the week of the initial setting. Any remaining cases are invariably reached and tried during carry-over week.*

*“Longer non-jury cases” are removed from the Presiding Court docket and assigned with the jury cases because the Presiding Court cannot afford to devote any of its assisting judges to a long case.*

*“Carry-over week” is an important part of the system because it adds certainty to the trial settings earlier in the month: Lawyers and litigants*

*know that any cases not reached earlier in the month will be tried during the last week of the month, and this knowledge promotes settlement.*

*“Special settings” are given only when there are several out-of-town witnesses or parties, or when the litigants and witnesses have significant scheduling problems. In addition, they are sometimes granted in cases that will require two weeks or more to try. Within one week after a case has been given a special setting, the attorneys are expected to submit an agreed pretrial scheduling order or, if agreement is not reached, to set the matter for hearing.*

*“Complex Cases.” The central docket is not designed to handle those rare cases which are very complicated and require repeated pretrial hearings. In such cases, the central docket can produce inconsistent rulings, as lawyers constantly have to “reinvent the wheel” with each new judge who is assigned a hearing.*

## **5. Scheduling Hearings**

**A. Non-jury Settings.** A party may schedule a nonjury trial or hearing by filing a motion to set on a specific date and time with the Presiding Civil Court (210-335-2000), and serving a copy of the motion and a conformed copy of the order on all other parties. If the non-jury matter is expected to last longer than two days, a Motion for Referral to Jury Assignment Clerk must be filed and set at 8:30 A.M. in Presiding Court. The Presiding Judge will decide if the matter will be referred to the Jury Assignments Clerk for a setting.

**B. Jury Settings.** A party may schedule a jury trial by obtaining a date and time from the Jury Assignment Clerk (210-335-2520), providing the clerk a motion to set and an order, and serving a copy of the motion and a conformed copy of the order on all other parties. When a case is set for jury trial, the parties are scheduled for a hearing on the ADR docket. The jury fee must be paid prior to the setting or at the time of setting a case on the jury docket.

### **Comment:**

***The following comments carry the same force and enforceability as the rules:***

## **Rule 5.**

*The notice of hearing or fiat that sets the matter for trial or other hearing must contain a short order at the end of the motion and a certificate of service signed by the attorney or self-represented party indicating that a copy of the notice has been sent to all opposing attorneys or self-represented parties.*

## **6. Ex Parte Requests**

**A. General.** Every request for relief from a civil district court must be presented to the Presiding Court, with the exception of the uncontested matters specified in Subsection B.

**B. Uncontested Matters.** The following matters may be presented to any available district judge: agreed and waiver divorces; agreed orders; nonsuits; friendly suits; uncontested adoptions; and uncontested requests for change of name.

**C. Temporary Restraining Orders.** All temporary restraining orders must be presented by an attorney or a self-represented party to Presiding Court for decision or for assignment to another judge. The attorney or party, if self-represented, making the request shall state in writing that: (1) to the best of his knowledge the respondent is not represented by counsel, (2) he has tried and has been unable to contact opposing counsel about the application, (3) opposing counsel has been notified of the application and does not wish to be heard, or (4) notifying the respondent or his counsel would cause irreparable harm to the movant.

**D. Other Extraordinary Relief.** Other requests for extraordinary relief, such as requests for writs of habeas corpus, sequestration, attachment, and garnishment, and requests for family law protective orders, must be presented by an attorney or a self-represented party to the Presiding Judge for decision or assignment to another judge. When any judge has denied such a request, the matter may not be presented to a different judge without assignment by the Presiding Court. In the case of ex parte and final protective orders, there are two forms which must be attached to all said orders. The forms are entitled "Schedule A" and "Data Entry Form for Texas Crime Information Center" and are available in the Bexar County District Clerk's Office and on the Bexar County District Clerk's website.

**Comment:**

***The following comments carry the same force and enforceability as the rules:***

**Rule 6.**

*Temporary Restraining Orders. Except as set out in Rule 6C of these rules, if an attorney is aware that another party is represented by counsel or is reasonably sure that the other party has counsel, the proponent of the temporary restraining order must give notice to opposing counsel that the TRO will be presented to the Presiding Judge at a specific date and time. When relying on rule 6(C)(2), the applicant should describe with reasonable particularity the unsuccessful efforts to contact opposing counsel.*

**7. Post-Trial Hearings**

**A. Contested Trials and Hearings.** With the exception of post-judgment discovery and enforcement proceedings and family-law motions to modify or clarify a final order, after a contested trial on the merits all motions must be scheduled with and heard by the judge who presided over the trial. Motions to enter a judgment, order, or decree should be scheduled directly with the judge who made the ruling at issue.

**B. Default Judgments.** Motions to set aside or modify no-answer default judgments must be set before the Presiding Court in the same manner as other non-jury matters. Motions to set aside or modify post-answer default judgments (e.g., after failure to appear for trial or after the granting of sanctions) must be set before the judge who granted the judgment.

**8. ADR Docket**

**A. ADR Hearing.** Each month one judge will be responsible for deciding whether cases should be referred for alternate dispute resolution. All jury cases will be scheduled for an ADR hearing before trial. At the ADR hearing it will be presumed that mediation should be ordered, but the ADR judge may decide that mediation would not be appropriate in a particular case. In most cases the court will order mediation and appoint a mediator. If no one appears at the ADR docket, and a written agreement has not been presented, the court will order mediation and select a mediator at random from a list

of qualified mediators. If the parties do not mediate in accordance with the court's order, it is within the discretion of the Monitoring Court to impose sanctions.

**B. Mediation Agreements.** The court will honor agreements that choose a particular mediator. Agreements must state the mediator's name, how the fee will be split, and the deadline for mediation, and must contain a provision authorizing sanctions for noncompliance.

**C. Pro Bono Mediations.** Any agreement to use a Pro Bono mediator must be approved by the ADR Judge after a showing of the inability to pay by one of the parties to the suit.

## **9. Vacations and Other Unavailability**

**A. Notice.** Attorneys who plan to take a vacation, or who know that they will be unavailable for hearings, and who wish to prevent the scheduling of hearings during their absence must give written notice to the Bexar County District Clerk and to the attorneys-in-charge for other parties in the cases affected at least two weeks before the vacation or period of unavailability will begin. The notification letter must provide an address, telephone number, and telecopier number for service of notice and in family-law cases must designate alternate counsel in the event an emergency arises during the vacation or period of unavailability.

**B. Existing Settings.** Existing settings will not be dropped, postponed, or rescheduled solely on the basis of a vacation or unavailability letter. Attorneys who desire to take a vacation or otherwise be unavailable must reschedule existing hearings by agreed order or by motion for continuance and ruling from the Presiding Court.

## **10. Attorney General Involvement and Right to Notice**

**A. Orders for Child Support.** Each order or decree which provides for child support to be paid through the Texas State Disbursement Unit shall be deemed to include an application for IV-D child support services provided through the Office of the Attorney General, pursuant to Texas Family Code section 231. Unless required to accept such services pursuant to other laws, a person entitled to receive IV-D child support services may decline such services by



filing a written Refusal of Child Support Services with the Bexar County District Clerk. Refusal of IV-D Child Support Services does not preclude that person from making a subsequent written application for such services.

**B. Orders Adjudicating Parentage.** All timely proceedings to adjudicate parentage and suits in which a denial of parentage has been filed and an order for genetic testing has been entered shall, upon filing, be deemed to include an application for Title IV-D services provided by the Office of the Attorney General of Texas pursuant to Chapter 231 of the Texas Family Code. The Office of the Attorney General is thereby a party entitled to notice of proceedings pursuant to Section 102.009(d) of the Texas Family Code. Unless required to accept such services pursuant to other laws, a person entitled to receive IV-D child support services may decline such services by filing a written Refusal of Child Support Services with the Bexar County District Clerk. Refusal of IV-D Child Support Services does not preclude that person from making a subsequent written application for such services.

**C. Paternity Testing.** The Office of the Attorney General shall coordinate genetic testing through the accredited and state approved and contracted vendor laboratory in all cases in which parentage is an issue to be determined and adjudicated by the Court, unless the parties agree to an adjudication of parentage, a valid acknowledgement of paternity has been filed, or the time limitation to bring the suit to adjudicate parentage has expired. Unless required to accept such services pursuant to other laws, a person entitled to receive IV-D child support services may decline such services by filing a written Refusal of Child Support Services with the Bexar County District Clerk. Refusal of IV-D Child Support Services does not preclude that person from making a subsequent written application for such services.

## **11. Applicability**

These rules supersede and replace Part 3 (Civil District Court Rules) of the *Rules of Practice, Procedure and Administration in the District Courts of Bexar County* (\_\_\_\_20\_\_).

**Administrative Offices.** The administrative offices of the Civil District Courts may be contacted as follows: *Presiding Civil District Court:* (210)

335-2000; *Civil District Courts General Administrative Counsel*: (210) 335-2300; *Jury Assignment Clerk*: (210) 335-2520; *ADR Coordinator*: (210) 335-3930; *Dismissals Clerk*: (210) 335-2120; Staff Attorney, Bexar County Civil District Courts: (210) 335-2123.

## ADOPTION OF RULES

The foregoing "Local Rules, Bexar County Civil District Courts" are hereby adopted by the undersigned Civil District Judges in Bexar County, Texas on the 7<sup>th</sup> day of November, 2012, and submitted to the Supreme Court of Texas for approval. These rules shall become effective on the 31<sup>st</sup> day after approval by the Supreme Court of Texas.

  
DAVID BERCHELMANN  
37<sup>TH</sup> DISTRICT COURT

  
BARBARA NELLERMOE  
45<sup>TH</sup> DISTRICT COURT

  
ANTONIA ARTEAGA  
57<sup>TH</sup> DISTRICT COURT

  
RENEE MCELHANEY  
73<sup>RD</sup> DISTRICT COURT

  
JOHN GABRIEL  
131<sup>ST</sup> DISTRICT COURT

  
JANET LITTLEJOHN  
150<sup>TH</sup> DISTRICT COURT

  
MARTHA TANNER  
166<sup>TH</sup> DISTRICT COURT

  
DAVID PEEPLES  
JUDGE, 4<sup>TH</sup> ADMINISTRATIVE  
JUDICIAL REGION

  
CATHLEEN STRYKER  
224<sup>TH</sup> DISTRICT COURT

  
PETER SAKAI  
225<sup>TH</sup> DISTRICT COURT

  
RICHARD PRICE  
285<sup>TH</sup> DISTRICT COURT

  
SOLOMON CASSEB, III  
288<sup>TH</sup> DISTRICT COURT

  
KAREN POZZA  
407<sup>TH</sup> DISTRICT COURT

  
LARRY NOLL  
408<sup>TH</sup> DISTRICT COURT

  
VICTOR NEGRON  
438<sup>TH</sup> DISTRICT COURT

# IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 12- 9035

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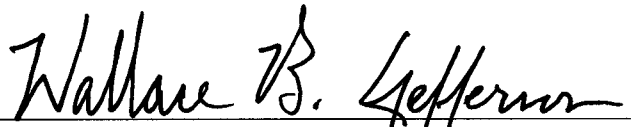
## APPROVAL OF LOCAL RULES FOR THE DISTRICT AND COUNTY COURTS OF WILLACY AND CAMERON COUNTIES

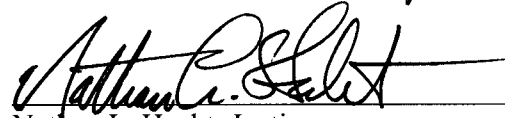
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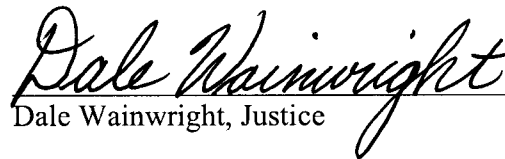
**ORDERED** that:

Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court approves the following local rules for the District and County Courts of Willacy and Cameron Counties.

Dated: March 5, 2012.

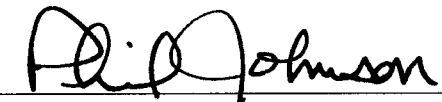
  
Wallace B. Jefferson, Chief Justice

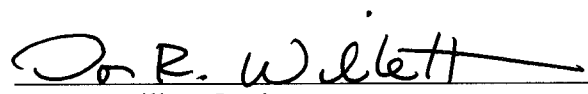
  
Nathan L. Hecht, Justice

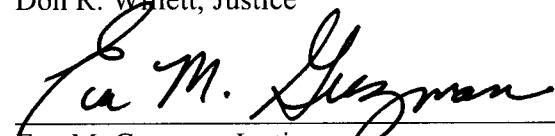
  
Dale Wainwright, Justice

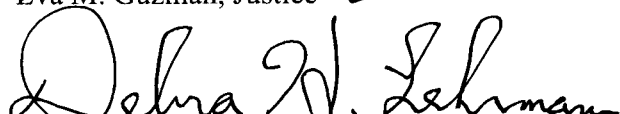
\_\_\_\_\_  
David M. Medina, Justice

\_\_\_\_\_  
Paul W. Green, Justice

  
Phil Johnson, Justice

  
Don R. Willett, Justice

  
Eva M. Guzman, Justice

  
Debra H. Lehrmann, Justice

CAMERON COUNTY LOCAL RULES  
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CAMERON COUNTY CIVIL COURT RULES  
PART ONE  
PRACTICE IN CIVIL CASES – DISTRICT COURT

1.1 FILING, ASSIGNMENT AND TRANSFER

(a) All civil cases, except as otherwise provided herein or by court order, shall be filed in the District Courts (and any district court hereafter created) in random order.

(b) Every suit or proceeding, in the nature of a bill or review or otherwise, seeking to attack, avoid, or set aside any judgment, order, or decree of a District Court of Cameron County shall be assigned to the court in which such judgment, order or decree was rendered.

(c) Every ancillary garnishment suit shall be assigned to the court in which the suit to which the garnishment is ancillary is pending. Every garnishment after judgment shall be assigned to the Court which rendered the judgment upon which the garnishment is founded.

(d) Except as hereinafter provided, after assignment to a particular court, every case shall remain pending in such court until final disposition, unless transferred pursuant to these rules, state statute, or court order.

(e) Every motion for consolidation or joint hearing of two or more cases shall be filed in the earliest case filed.

(f) Transfer of cases:

(1) Pursuant to V.T.C.A. Government Code, Court Adm. Act §74.092(1), the local administrative judge shall implement and execute the local rules of administration, including the assignment, docketing, transfer and hearing of cases.

(2) Whenever any pending case is related to another case previously filed in or disposed of by another District Court of Cameron County, any party with knowledge of that relationship must file a Motion to Transfer in the earlier case's Court seeking to have the second case transferred into the earlier case's Court. All such Motions shall be decided by the earlier case's Court. If a Motion to Transfer is improperly filed in the later case's Court, the Motion shall be stricken. The Judge of the Court in which a later case is or was pending shall, on notice and hearing, transfer the later case to the earlier case's Court, if the Court determines that the transfer of the later case to the earlier case's court would

facilitate order and efficient disposition of the litigation. Whether a case is “earlier” or “later” as those terms are used in this rule will be determined by the date-stamp from the District Clerk’s office on the face of the first pleading filed in the case, and if necessary, any time of filing endorsed on that stamp. Where no time of filing is endorsed on the stamp the time filed will be assumed to have been 4:59 p.m.

(3) The following type of cases, though not comprehensive, are by definition cases which would require transfer into the earlier case’s Court to “facilitate order and efficient disposition of the litigation”:

(a) Any case arising out of the same transaction or occurrence as an earlier case, particularly if the earlier case was dismissed by plaintiff at any time before final judgment.

(b) Any case involving a plea that a judgment in the earlier case is conclusive of any of the issues of the later case by way of res judicata or estoppel by judgment, or any pleading that requires a construction of the earlier judgment or a determination of its effect.

(c) Any suit for declaratory relief concerning a liability insurer’s duty to defend or indemnify a party to another pending suit;

(d) Any suit concerning a liability insurer’s duty to defend or indemnify a party in a separate prior or pending suit.

(4) This rule does not apply to any case in which the presiding judge has determined that he or she must recuse him/herself. In such a case, the administrative judge for the Cameron County District Courts may transfer the case without notice or hearing. If a motion to recuse has been filed by any party and the presiding judge has not determined that he or she must recuse him/herself, the motion to recuse must be resolved pursuant to the requirements of the Texas Rules of Civil Procedure before any action can be taken on the Motion to Transfer. An oral motion to recuse is not recognized by the courts and is automatically denied. A motion to recuse must be in writing in order to be considered by the court.

(5) Whenever a case is transferred to Cameron County by a Court of another county, or is appealed, and the order of transfer or the appeal specifies the particular court to which the case is transferred, such specification shall be disregarded and the case shall be assigned to a court in the manner provided in subdivision (a) of these rules, except for cases transferred to a specific court pursuant to State MDL Rules (Rule 13, Texas Rules of Judicial Administration).



## 1.2 TEMPORARY ORDERS

Except in emergencies when the District Clerk's office is not open for business, no application for immediate or temporary relief shall be presented to a Judge until it has been filed and assigned to a court as provided in Rule 1.1. If the Judge of the court to which such case is assigned is absent or is occupied with other matters, such application may be presented to any District Judge, who may sit for the Judge of the court in which the case is pending and shall make all writs and process returnable to the court to which the case is assigned by the clerk. Where a temporary order requires a subsequent hearing pursuant to the Texas Rules of Civil Procedure and/or substantive law, including all cases in which a temporary restraining order has been granted, a date and time for the required hearing must be obtained from the court coordinator of the court in which the case has been assigned before the temporary order can be issued or considered enforceable. If a Judge does sign a Temporary Order for another court while the Judge and staff of the other court is on vacation, the Court or its staff shall notify the other court of the date given the Temporary Order for hearing. The party obtaining the temporary order must serve notice of the date and time of the required hearing with the temporary order.

## 1.3 EX PARTE ORDERS

(a) All applications for ex parte orders shall be presented in accordance with Rule 1.2.

(b) The standards for presenting applications for *ex parte* orders in family law cases do not apply in other civil cases. Counsel presenting any application for an ex parte order shall at the time the application is presented certify in writing to the court that:

(1) to the best of his knowledge the party against whom the relief is sought is not represented by counsel in the matter made the basis of the suit in which the relief is sought; or

(2) if such party is so represented by counsel, that (i) such counsel has been notified of the application and does not wish to be heard by the court thereon; or (ii) that counsel presenting the application has diligently attempted to notify such counsel and has been unable to do so and the circumstances do not permit additional efforts to give notice.

(c) Counsel presenting any application for an ex parte order shall at the time the application is presented further certify in writing that to the best of his or her knowledge, the case in which the application is presented is not subject to transfer under Rules 1.1 (f) . Or, if the case is subject to such a transfer, counsel shall fully advise the court of the circumstances, particularly as to whether there has been any previous

application for the same or similar relief or whether the relief sought will conflict with any previous order, and the Judge to whom the application is presented may decline to act and refer the application or the entire case pursuant to these rules to the Judge of the court to which the earlier related case is assigned.

#### 1.4 TEMPORARY AND PROTECTIVE ORDERS IN FAMILY LAW MATTERS

(a) Requests for *ex parte* Temporary Restraining Orders in family law matters shall not include any request that the Court exclude a party from a joint residence or that party's own residence and any and all requests that one party be awarded exclusive possession of a residence shall be made only after notice and hearing except as otherwise specifically provided by the Texas Family Code.

(b) Requests for Protective Orders or for a Writ of Habeas Corpus for obtaining possession of a child in a family law matter shall not be submitted without an affidavit as specified in the Texas Family Code.

(c) Counsel seeking Protective Orders in family law matters must have a bona fide belief that any alleged family violence has in fact occurred and must not use a request for a Protective Order as means to obtain possession of a residence or of children absent that bona fide belief. An affidavit stating the bona fide belief is mandatory.

#### 1.5 SEVERANCE

Motions to sever are not favored and will be granted only on a showing that a severance is necessary to protect substantial rights or to facilitate disposition of the litigation.

#### 1.6 SETTING FOR TRIAL AND PRE-TRIAL

(a) At any time after the filing of an answer and on the request or motion of any party or on the Judge's own motion, the Court Coordinator, acting on direction of the Judge, may set a docket control conference with all counsel in order to set the case for trial on the merits.

(b) A party shall request a pre-trial hearing where there are substantial pre-trial motions which are likely to take up the time of the Court on the date the case is otherwise set for trial. The Court, in its discretion, will then determine if a pre-trial hearing is needed to resolve those pretrial motions and shall issue notice of the date and time of the pre-trial hearing. The Court may always on its own Motion set a pre-trial hearing by issuing notice of the date and time of same to all parties

(c) Counsel attending a pre-trial hearing shall be either the counsel who expects to be lead attorney at trial or an attorney who has full authority to state the client's position of the law and facts on pending matters, to make stipulations, and to enter into settlement negotiations.

#### 1.7 OTHER SETTINGS

(a) Counsel who request a hearing, pre-trial and/or trial date and who receives notice of same from the court and/or the court coordinator shall have the duty to give all other parties in the case written notice immediately of such setting and to furnish a copy of such notice to the clerk of the Court in which the case is pending. If a party receives his copy of notice by written order mailed to parties from the clerk's office, the party is excused from providing duplicative notice to all parties.

(b) No hearing shall be set on less than three (3) days' notice, and no party shall request a hearing on less than three (3) days' notice unless that party has filed a motion for emergency hearing, and has provided specific reasons for same. If filing a motion requesting an emergency hearing, counsel must provide a copy of the motion and written notice of the requested and/or any awarded hearing date by hand-delivery, telefax, electronic transmission, or other similar means most likely to insure that opposing counsel receives that notice. Counsel seeking the emergency hearing must also make a good faith effort to contact all opposing counsel's offices to confirm that the opposing counsel has received the written notice.

(c) No setting is required for a hearing on a default requiring no record or proof; however if there are any other parties to the case, notice to all such parties must be given before any attempt is made to approach the court to obtain a default. If other parties indicate a desire to be present, they must be given the opportunity to or be present, or a setting with at least three (3) days' notice must be obtained

(d) Testimony for defaults requiring proof shall be scheduled with the Court Coordinator of the Court in which the case is pending, and notice given to all parties.

#### 1.8 SPECIAL SETTINGS

Special preferential settings may be made by the Judge when, because of unusual circumstances, more than ordinary difficulty would be encountered in having all counsel and witnesses available when the case is reached in regular order. Cases specially set shall take precedence over all other matters, except matters entitled to preference by law and matters commenced but not completed in the preceding week. Other engagements of counsel shall not be grounds for postponement of a case specially set, unless good cause is shown on motion and notice filed more than ten days before the date set for trial. No more than one case shall be specially set in any Court in any particular week.

## 1.9 GENERAL PLEADINGS

(a) An order sustaining a special exception or requiring a party to amend that party's pleading shall be deemed to require the amended pleading to be filed within 20 days after the order is signed or seven (7) days before trial commences, whichever dates comes first. Such orders may specify a different time limit. If special exceptions are granted or other orders of the court entered which would require amendment of pleadings within seven (7) days, the court shall specify at the time it makes its ruling the date on which the amended pleading necessitated by that ruling shall be due.

(b) Any order permitting a party to amend that party's pleading during trial shall be deemed to require the amended pleading to be filed no later than commencement of the charge conference. Such orders may specify a different time limit.

(c) All cases in which a court order is entered specifying pre-trial deadlines are Level 3 cases even if the words "Level 3" are not used in the Order. Whenever a Court's docket control order provides that expert designation obligations shall be handled pursuant to or by "the Rules," the dates in this subsection shall govern. If the docket control order does not specify dates on which each party's experts are to be designated, nor dates for disclosure information under Tex.R.Civ.P. 194 to be provided, the dates for such disclosures shall be as follows:

For Plaintiffs'/Third Party Plaintiffs' experts – 90 days prior to trial  
For Defendants'/Third Party Defendants' experts – 60 days prior to trial

If a party is both a Defendant and a Third Party Plaintiff, Cross-Plaintiff and/or Counter-Plaintiff, then as to all issues on which it is seeking affirmative relief from another party, the expert designation date is the date for Plaintiffs'/Third Party Plaintiffs' experts.

## 1.10 INITIAL PRETRIAL CONFERENCE

(a) No later than the 90<sup>th</sup> day after suit is filed, Plaintiff shall request and any other party may request an initial pre-trial conference.

(b) Counsel for each party who has answered or otherwise entered an appearance with authority to speak for that party shall attend the initial pre-trial conference. The court may permit appearance by phone.

(c) At the initial pre-trial conference, the court and parties may address the following:

- (1) whether all parties have been served
- (2) any need to join additional parties
- (3) pending related cases, if any, filed in Cameron County
- (4) special exceptions
- (5) all pending motions or dilatory pleas, or scheduling hearing on said motions
- (6) a discovery schedule, including setting the discovery level, the scope and pace of discovery, setting deadlines for designating experts, and deadlines to complete discovery
- (7) alternative dispute resolution
- (8) agreements to serve documents electronically
- (9) the entry of a docket control order and setting a trial date
- (10) any other matter that may aid in the efficient disposition of the case

(d) Unless otherwise agreed by the parties, requesting or appearing at an initial pretrial conference is not deemed to waive a special appearance or motion to transfer venue. Unless otherwise by the parties, approval of a docket control or discovery order shall not be deemed to waive or compromise the deadlines for reports required by Texas Civil Practices and Remedies Code, chapter 74 and 90, as amended.

#### 1.11 DILATORY PLEAS

(a) Rule 1.10 does not apply to special appearances, motions to transfer venue, pleas to the jurisdiction, motion to dismiss based on sovereign, governmental, or official immunity, motions to compel arbitration, or motions concerning class certification. The parties are encouraged to set such pleas and motions so that they may be resolved as early as practicable before trial.

(b) If pleadings have been on file thirty (30) days before trial is scheduled to commence, any dilatory pleas and special exceptions to those pleadings are deemed waived unless timely filed and presented to the court for ruling ten (10) days before the date the case is scheduled to commence trial.

(c) If pleadings have been on file more than seven days but less than thirty (30) days before trial is scheduled to commence, any dilatory pleas and special exceptions to those pleadings are deemed waived unless timely filed and presented to the court at any scheduled pre-trial conference; if there is no scheduled final pre-trial conference, or it is not held, such pleas and exceptions shall be presented to the court before trial commences.

(d) If pleadings have been on file seven (7) or fewer days before trial is scheduled to commence, any dilatory pleas and special exceptions to those pleadings shall be presented to the court before trial commences.

## 1.12 DISCOVERY

(a) Any motion for discovery or for protection under the Texas Rules of Civil Procedure must contain a certificate of conference completed by the party filing same which certifies that said party has made a good faith effort as required under Tex.R.Civ.P. 191.2 to resolve the discovery issues without court intervention. If an objection has been made under Tex.R.Civ.P. 193.2(a), the parties will follow the procedure outlined in Tex.R.Civ.P. 193.4.

(b) If a discovery dispute regarding claims of privilege has arisen, under 193.3(a) and the party asserting privilege has been properly asked to provide privilege log information under Tex.R.Civ.P. 193 and has done so, the claims of privilege hearing will follow Tex.R.Civ.P. 193.4. Where the party disputing claims of privilege has not requested a privilege log under Tex.R.Civ.P. 193(b) and /or has not specified which items on the privilege log are still in dispute, that failure permits the Court to deny the Motion to Compel without prejudice to refile after such steps are taken.

## 1.13 APPEARANCE IN COURT FOR HEARINGS, ANNOUNCEMENTS AND/OR TRIAL

(a) All professionals know what is generally expected in the way of courtroom decorum. The court shall in its discretion enforce specific standards of decorum in the courtrooms.

(b) Each court shall set a time for announcements of readiness for trial and shall notify all parties of the announcement date and time when providing notice of the trial setting.

(1) When no announcement is made on behalf of Plaintiff at the time scheduled, the case may be dismissed for want of prosecution.

(2) When no announcement is made on behalf of a Defendant at the time scheduled, the Court will be entitled to assume that Defendant to be ready.

(c) At the time of announcements, counsel shall submit to the court proposed questions and instructions for the jury charge. They will also advise the judge of anticipated conflicting engagements during the week of trial that may affect counsel's ability to attend trial. They will also advise the court whether settlement discussions are exhausted and of discussions on stipulations.

## 1.14 DISMISSAL FOR WANT OF PROSECUTION

A case may be dismissed for want of prosecution for any of the following reasons:

(a) Failure of Plaintiff to request a setting or take other appropriate action within thirty (30) days of notice from the Court that the case is subject to being dismissed for want of prosecution.

(b) Failure of Plaintiff's counsel to appear for pre-trial, or failure to appear for Final Hearing, Trial or any other hearing where there has been a previous failure to appear and/or no indication has been given to the court for the reason counsel has not yet appeared, or failure to timely file pleadings to meet the exceptions previously sustained.

Subject to other provision of these rules the clerk shall mail a written notice of such dismissal to all parties or their counsel of record.

#### 1.15 WITHDRAWAL OF COUNSEL

No attorney of record shall be permitted to withdraw from any case without presenting a Motion pursuant to Tex.R.Civ.P. 10, including all requirements of same, obtaining a ruling and a signed Order granting withdrawal, and complying with the notice requirements for the former client under said Rule.

#### 1.16 FILING OF PAPERS AND/OR ELECTRONIC FILING WITH THE DISTRICT CLERK

(a) All pleadings, Motions, Orders, and other papers, including exhibits attached thereto, when offered for filing or entry, shall be descriptively titled and pre-punched at the top of the page to accommodate the Clerk's 2 3/4" center to center flat-filing system. Each page of each instrument shall, in the lower margin thereof, be numbered and titled, e.g., Plaintiff's Original Petition – page 2. Orders and Judgments shall be completely separated from all other papers.

(b) Notices of Discovery shall not be filed.

(c) To the extent telefax and electronic filing is permitted and additional Local Rules for telefax and electronic filing have been adopted, they are incorporated by reference as if set forth herein, and they are to be followed. Facsimile filings are NOT accepted by specific courts. If the District Clerk allows facsimile filings, a telephone number where the document is to be sent should be obtained by calling 956/544-0838.

#### 1.17 WITHDRAWAL AND COPYING OF FILES

(a) No file, pleadings or paper belonging to the files of the Court shall be taken from the office or custody or the Clerk except on order of the Judge of that Court. No order for such withdrawal shall be granted except for good cause shown. The order shall state the time within which the same shall be returned to the Clerk.

(b) A receipt specifying the pleadings or papers withdrawn shall be given to the Clerk by the Party withdrawing them. Statement of facts desired shall be obtained in the usual way from the Court Reporter. Except as elsewhere required, the Court Reporter shall not be required to undertake the making of a typed transcript without the deposit of an adequate indemnity nor to furnish such statement of facts prior to the payment therefor.

#### 1.18 ORDERS AND JUDGMENTS

Unless the court directs otherwise, counsel shall submit proposed orders, decisions, and judgments to the Court for approval and signature within thirty (30) days after rendition or announcements of settlement. Counsel shall serve copies on all counsel. Failure to submit timely a proposed judgment or order disposing of the entire case may be considered as grounds to dismiss for want of prosecution under Rule 1.14.

### PART TWO COUNTY COURTS AT LAW

#### 2.1 RULES APPLICABLE TO COUNTY COURTS AT LAW

(a) These rules are applicable to the County Courts at Law of this County in all cases on the Civil and Probate Dockets of said Courts.

(b) The rules governing the practice in civil cases in the District Court of Cameron County, as contained in part one of these rules, shall apply to the County Courts of Law. In such cases, references to the District Clerk shall apply to the County Clerk.

### PART THREE GENERAL AND MISCELLANEOUS

#### 3.1 AUTHORITY FOR RULES

These rules are adopted under and by virtue of Texas Rule of Civil Procedure 3a, and the constitutional, statutory, and inherent powers of the Courts to regulate proceedings before them and to provide for the orderly and efficient dispatch of litigation.

#### 3.2 REPEAL OF FORMER RULES



All previous local rules governing practice in the Civil District Courts and County Courts at law of Cameron County are hereby repealed, other than the Local Rules for telefax and electronic filing referenced in Local Rule 1.15(c), which remain in effect

### 3.3 TITLE AND CITATION

These rules shall be known as the "Cameron Civil District Court and County Court at Law Rules," and particular rules may be cited thus: "Cameron Civil Court Rule 3.3."

### 3.4 PARTIAL CIVIL INVALIDITY

In the event any of the foregoing rules or any part thereof is held to be invalid for any reason, such invalidity shall not affect the validity of the remaining rules and parts of rules, all of which have been separately considered and adopted.

### 3.5 "COUNSEL", "LAWYERS", "ATTORNEY OF RECORD"

The terms, "Counsel", "Lawyer", and "Attorney of Record" as used in these rules shall, in the event a party appears pro se, i.e. without counsel, apply to individual litigants in the same fashion as if they were members of the Bar of the State of Texas.

### 3.6 CONDUCT OF THE GENERAL PUBLIC

The general public, witnesses, jurors, and parties attending court shall not:

- a. bring food or beverages into the courtroom.
- b. smoke in the courthouse.
- c. prop feet on the furniture.
- d. walk through the courtroom while the court is in open session.
- e. by facial gesture or other nonverbal conduct exhibit approval or disapproval of witness, testimony, counsel's argument, the judge's ruling, or other events of proceedings.
- f. have in their possession cell phones, pagers, PDA's, or personal music devices able or emit audible sounds in the courthouse.

### 3.7 CONDUCT OF COUNSEL

Counsel shall:

- a. address their statements to the Court and not each other during court proceedings, except by leave of Court.
- b. be prompt in attending Court.

- c. dress appropriately in the decorum of the court.
- d. prevent their cell phones, pagers, PDA's or personal music devices to ring or emit audible sounds in the courtroom.
- e. not address each other or the judge by their first name or nicknames.
- f. stand while addressing the judge, preferable from counsel table. Counsel and their staff shall remain at counsel table while examining witnesses, except when necessary to handle or display evidence.
- g. refrain from inviting clients or witnesses to the judge's chambers, except by the judge's permission.
- h. observe the disciplinary rules and ethical canons concerning *ex parte* contact with the court and its staff concerning pending cases, discussions with the media concerning pending cases, and civility to opposing counsel.
- i. avoid leaning on the bench during court proceedings and conferences.
- j. advise clients and witnesses of proper court decorum.
- k. not interrupt the judge or opposing counsel, except when necessary to make a proper objection or otherwise protect a party's rights.
- l. avoid "speaking objections" or legal arguments on objections before the jury, except by leave of court.
- m. not address a juror directly or individually after voir dire until after the jurors are released from service, except by the court's permission.
- n. because they are potentially disruptive of court proceedings and pose possible security risks, telephones, beepers, cameras, recording devices or other electronic devices shall not be brought into the courtroom without the expressed permission of the Court. Anyone that brings these items into the courtroom without the expressed permission of the Court is in violation of this order and subject to direct contempt of the Court and possible forfeiture of said item.

### 3.8 CONDUCT OF OFFICERS OF THE COURT, INCLUDING COUNSEL

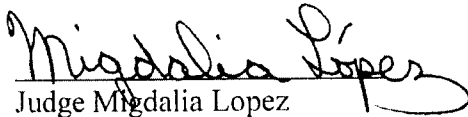
- a. All counsel are admonished to respect the letter and spirit of all canons of ethics, including particularly those dealing with testimony by counsel participating in the trial, discussion of cases with representatives of the press, T.V. or radio and discussion of the facts or law of the case with the Court outside of the Courtroom and not in the presence of opposing counsel. The Court may enforce the same by appropriate action.
- b. The lawyers, the Judge, and all officers of the Court shall be prompt at all sessions and in dispatch of all Court business.
- c. All lawyers and Court officials shall dress in keeping with proper Courtroom decorum and all male lawyers and Court officials shall wear coats and ties while in attendance of the Court; provided, however, that Judicial Discretion be exercised otherwise in special situations. No attorneys may wear jeans while in attendance of the Court.

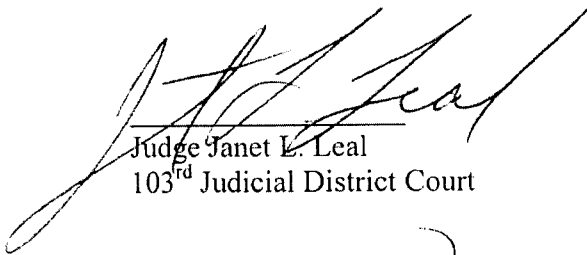
- d. While the Court is in session, all remarks of counsel shall be addressed to the Court, and not to opposing counsel or to the Judge as an individual.
- e. In addressing the Judge, lawyers shall at all times rise and remain standing to address the Judge from the position at the counsel table. They shall remain standing to address the Judge from their position at the counsel table. They shall remain at counsel table while interrogating witnesses, except as may be necessary in handling or displaying of exhibits or demonstrating evidence.
- f. The Judge shall be respectfully and properly addressed at all times; all objections and legal arguments by counsel shall be directed to the Judge and not to opposing counsel, and counsel shall be impersonal in addressing the Judge.
- g. All counsel are requested to use the conference room for consultation with clients and witnesses and are further requested to refrain from inviting clients and witnesses into the Court Clerk's office and the Chambers except upon the discretion of the Judge. The telephone in the lawyers' lounge is provided for the attorneys to use on Court business only.
- h. When the Judge addresses counsel it shall be impersonally, as by "Counsel" or by the last name, rather than by first name.
- i. Lawyers shall never lean on the bench or engage the Judge in a confidential manner.
- j. Lawyers shall advise their clients and witnesses of the proper courtroom decorum and attire, and seek their full cooperation therewith. This will prevent possible embarrassment to the Judges as well as to the lawyers and laymen.
- k. After jury voir dire, no attorney shall ever address the jury or a juror individually or by name without having first obtained leave of Court. During trial, attorneys should not exhibit familiarity with witnesses, jurors or opposing counsel, and to this end, the use of first names should be avoided. During jury argument, no attorney should ever address a juror individually or by name.
- l. The trial attorney should refrain from interrupting the Court or opposing counsel until the statement being made is fully completed, except when necessary to protect his client's rights on the record, and should respectfully await the completion of the Court's statement or opinion before undertaking to point out objectionable matter.
- m. There will be no arguments on objections in the presence of the Jury. If counsel desire to argue his or her point after making objection, or being overruled on an objection, he or she shall ask the Court to exclude the jury before proceeding with such argument. However, argument will be permitted on objections at the discretion of the Court.


### 3.9 ADOPTION AND EFFECTIVE DATE

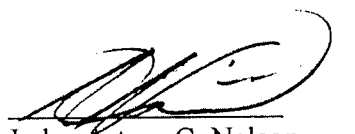
These rules shall be effective in all Courts to the extent applicable on and after the 27th of September, 2011.

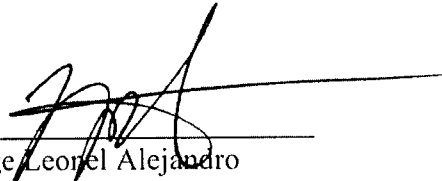
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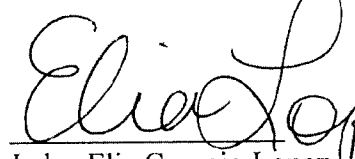
  
Judge Migdalia Lopez  
197<sup>th</sup> Judicial District Court

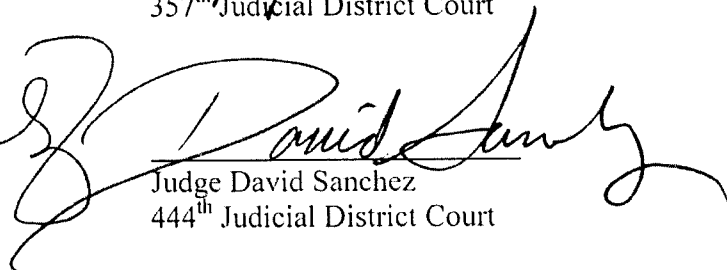
  
Judge Janet L. Leal  
103<sup>rd</sup> Judicial District Court


  
Judge Benjamin Euresti, Jr.  
107<sup>th</sup> Judicial District Court

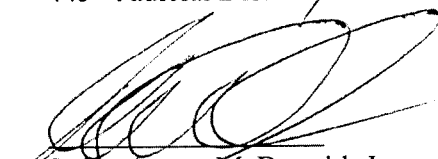
  
Judge Arturo C. Nelson  
138<sup>th</sup> Judicial District Court

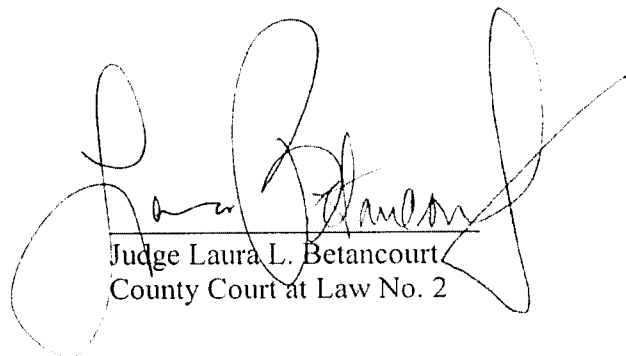
  
Judge Leonel Alejandro  
357<sup>th</sup> Judicial District Court

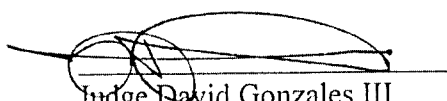
  
Judge Elia Cornejo Lopez  
404<sup>th</sup> Judicial District Court

  
Judge David Sanchez  
444<sup>th</sup> Judicial District Court

  
Judge Rolando Olvera  
445<sup>th</sup> Judicial District Court

  
Judge Arturo McDonald, Jr.  
County Court at Law No. 1

  
Judge Laura L. Betancourt  
County Court at Law No. 2

  
Judge David Gonzales III  
County Court at Law No. 3

FILED AND RECORDED

SUPREME COURT APPROVAL

# WILLACY COUNTY CIVIL RULES

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WILLACY COUNTY CIVIL COURT RULES  
PART ONE  
PRACTICE IN CIVIL CASES – DISTRICT COURT

1.1 FILING, ASSIGNMENT AND TRANSFER

(a) All civil cases, except as otherwise provided herein or by court order, shall be filed in the District Courts (and any district court hereafter created) in random order.

(b) Every suit or proceeding, in the nature of a bill or review or otherwise, seeking to attack, avoid, or set aside any judgment, order, or decree of a District Court of Willacy County shall be assigned to the Court in which such judgment, order or decree was rendered.

(c) Every ancillary garnishment suit shall be assigned to the Court in which the suit to which the garnishment is ancillary is pending. Every garnishment after judgment shall be assigned to the Court which rendered the judgment upon which the garnishment is founded.

(d) Except as hereinafter provided, after assignment to a particular Court, every case shall remain pending in such Court until final disposition, unless transferred pursuant to these rules, state statute, or court order.

(e) Every motion for consolidation or joint hearing of two or more cases shall be filed in the earliest case filed.

(f) Transfer of cases:

(1) Pursuant to TV.T.C.A. Government Code, Court Adm. Act §74.092(1), the local administrative judge shall implement and execute the local rules of administration, including the assignment, docketing, transfer and hearing of cases.

(2) Whenever any pending case is related to another case previously filed in or disposed of by another District Court of Willacy County, any party with knowledge of that relationship must file a Motion to Transfer in the earlier case's Court seeking to have the second case transferred into the earlier case's Court. All such Motions shall be decided by the earlier case's Court. If a Motion to Transfer is improperly filed in the later case's Court, the Motion shall be stricken. The Judge of the Court in which a later case is or was pending shall, on notice and hearing, transfer the later case to the earlier case's Court, if the Court determines that the transfer of the later case to the earlier case's Court would

facilitate order and efficient disposition of the litigation. Whether a case is “earlier” or “later” as those terms are used in this rule will be determined by the date-stamp from the District Clerk’s office on the face of the first pleading filed in the case, and if necessary, any time of filing endorsed on that stamp. Where no time of filing is endorsed on the stamp the time filed will be assumed to have been 4:59 p.m.

(3) The following type of cases, though not comprehensive, are by definition cases which would require transfer into the earlier case’s Court to “facilitate order and efficient disposition of the litigation”:

(a) Any case arising out of the same transaction or occurrence as an earlier case, particularly if the earlier case was dismissed by plaintiff at any time before final judgment.

(b) Any case involving a plea that a judgment in the earlier case is conclusive of any of the issues of the later case by way of res judicata or estoppel by judgment, or any pleading that requires a construction of the earlier judgment or a determination of its effect.

(c) Any suit for declaratory relief concerning a liability insurer’s duty to defend or indemnify a party to another pending suit;

(d) Any suit concerning a liability insurer’s duty to defend or indemnify a party in a separate prior or pending suit.

(4) This rule does not apply to any case in which the presiding judge has determined that he or she must recuse him/herself. In such a case, the administrative judge for the Willacy County District Court may transfer the case without notice or hearing. If a motion to recuse has been filed by any party and the presiding judge has not determined that he or she must recuse him/herself, the motion to recuse must be resolved pursuant to the requirements of the Texas Rules of Civil Procedure before any action can be taken on the Motion to Transfer. An oral motion to recuse is not recognized by the Court and is automatically denied. A motion to recuse must be in writing in order to be considered by the Court.

(5) Whenever a case is transferred to Willacy County by a Court of another county, or is appealed, and the order of transfer or the appeal specifies the particular Court to which the case is transferred, such specification shall be disregarded and the case shall be assigned to a court in the manner provided in subdivision (a) of this rule, and such case shall thereafter be subject to the provisions of these rules, except for cases transferred to a specific court pursuant to State MDL Rules (Rule 13, Texas Rules of Judicial Administration).



## 1.2 TEMPORARY ORDERS

Except in emergencies when the District Clerk's office is not open for business, no application for immediate or temporary relief shall be presented to a Judge until it has been filed and assigned to a Court as provided in Rule 1.1. If the Judge of the Court to which such case is assigned is absent or is occupied with other matters, such application may be presented to any District Judge, who may sit for the Judge of the Court in which the case is pending and shall make all writs and process returnable to the Court to which the case is assigned by the clerk. Where a temporary order requires a subsequent hearing pursuant to the Texas Rules of Civil Procedure and/or substantive law, including all cases in which a temporary restraining order has been granted, a date and time for the required hearing must be obtained from the Court Coordinator of the Court in which the case has been assigned before the temporary order can be issued or considered enforceable. If a Judge does sign a Temporary Order for another Court while the Judge and staff of the other Court is on vacation, the court or its staff shall notify the other court of the date given the Temporary Order for hearing. The party obtaining the temporary order must serve notice of the date and time of the required hearing with the temporary order.

## 1.3 EX PARTE ORDERS

(a) All applications for ex parte orders shall be presented in accordance with Rule 1.2.

(b) The standards for presenting applications for *ex parte* orders in family law cases do not apply in other civil cases. Counsel presenting any application for an ex parte order shall at the time the application is presented certify in writing to the Court that:

(1) to the best of his knowledge the party against whom the relief is sought is not represented by counsel in the matter made the basis of the suit in which the relief is sought; or

(2) if such party is so represented by counsel, that (i) such counsel has been notified of the application and does not wish to be heard by the Court thereon; or (ii) that counsel presenting the application has diligently attempted to notify such counsel and has been unable to do so and the circumstances do not permit additional efforts to give notice.

(c) Counsel presenting any application for an ex parte order shall at the time the application is presented further certify in writing that to the best of his or her knowledge, the case in which the application is presented is not subject to transfer under

Rules 1.1 (f) . Or, if the case is subject to such a transfer, counsel shall fully advise the Court of the circumstances, particularly as to whether there has been any previous application for the same or similar relief or whether the relief sought will conflict with any previous order, and the Judge to whom the application is presented may decline to act and refer the application or the entire case pursuant to these rules to the Judge of the court to which the earlier related case is assigned.

#### 1.4 TEMPORARY AND PROTECTIVE ORDERS IN FAMILY LAW MATTERS

(a) Requests for *ex parte* Temporary Restraining Orders in family law matters shall not include any request that the Court exclude a party from a joint residence or that party's own residence. Any and all requests that one party be awarded exclusive possession of a residence shall be made only after notice and hearing except as otherwise specifically provided by the Texas Family Code.

(b) Requests for Protective Orders or for a Writ of Habeas Corpus for obtaining possession of a child in a family law matter shall not be submitted without an affidavit as specified in the Texas Family Code.

(c) Counsel seeking Protective Orders in family law matters must have a bona fide belief that any alleged family violence has in fact occurred and must not use a request for a Protective Order as means to obtain possession of a residence or of children absent that bona fide belief. An affidavit stating the bona fide belief is mandatory.

#### 1.5 SEVERANCE

Motions to sever are not favored and will be granted only on a showing that a severance is necessary to protect substantial rights or to facilitate disposition of the litigation.

#### 1.6 SETTING FOR TRIAL AND PRE-TRIAL

(a) At any time after the filing of an answer and on the request or motion of any party or on the Judge's own motion, the Court Coordinator, acting on direction of the Judge, may set a docket control conference with all counsel in order to set the case for trial on the merits.

(b) A party shall request a pre-trial hearing where there are substantial pre-trial motions which are likely to take up the time of the Court on the date the case is otherwise set for trial. The Court, in its discretion, will then determine if a pre-trial hearing is needed to resolve those pretrial motions and shall issue notice of the date and time of the

pre-trial hearing. The Court may always on its own Motion set a pre-trial hearing by issuing notice of the date and time of same to all parties.

(c) Counsel attending a pre-trial hearing shall be either the counsel who expects to be lead attorney at trial or an attorney who has full authority to state the client's position of the law and facts on pending matters, to make stipulations, and to enter into settlement negotiations.

#### 1.7 OTHER SETTINGS

(a) Counsel who request a hearing, pre-trial and/or trial date and who receives notice of same from the Court and/or the Court Coordinator shall have the duty to give all other parties in the case written notice immediately of such setting and to furnish a copy of such notice to the clerk of the Court in which the case is pending. If a party receives his copy of notice by written order mailed to parties from the clerk's office, the party is excused from providing duplicative notice to all parties.

(b) No hearing shall be set on less than three (3) days' notice, and no party shall request a hearing on less than three (3) days' notice unless that party has filed a motion for emergency hearing, and has provided specific reasons for same. If filing a motion requesting an emergency hearing, counsel must provide a copy of the motion and written notice of the requested and/or any awarded hearing date by hand-delivery, telefax, electronic transmission, or other similar means most likely to insure that opposing counsel receives that notice. Counsel seeking the emergency hearing must also make a good faith effort to contact all opposing counsel's offices to confirm that the opposing counsel has received the notice.

(c) No setting is required for a hearing on a default requiring no record or proof; however, if there are any other parties to the case, notice to all such parties must be given before any attempt is made to approach the Court to obtain a default. If other parties indicate a desire to be present, they must be given the opportunity to or be present, or a setting with at least three (3) days' notice must be obtained.

(d) Testimony for defaults requiring proof shall be scheduled with the Court Coordinator of the Court in which the case is pending, and notice given to all parties.

#### 1.8 SPECIAL SETTINGS

Special preferential settings may be made by the Judge when, because of unusual circumstances, more than ordinary difficulty would be encountered in having all counsel and witnesses available when the case is reached in regular order. Cases specially set shall take precedence over all other matters, except matters entitled to preference by law and matters commenced but not completed in the preceding week. Other engagements of

counsel shall not be grounds for postponement of a case specially set, unless good cause is shown on motion and notice filed more than ten days before the date set for trial. No more than one case shall be specially set in any court in any particular week.

## 1.9 GENERAL PLEADINGS

(a) An order sustaining a special exception or requiring a party to amend that party's pleading shall be deemed to require the amended pleading to be filed within 20 days after the order is signed or seven (7) days before trial commences, whichever date comes first. Such orders may specify a different time limit. If special exceptions are granted or other orders of the Court entered which would require amendment of pleadings within seven (7) days, the Court shall specify at the time it makes its ruling the date on which the amended pleading necessitated by that ruling shall be due.

(b) Any order permitting a party to amend that party's pleading during trial shall be deemed to require the amended pleading to be filed no later than commencement of the charge conference. Such orders may specify a different time limit.

(c) All cases in which a court order is entered specifying pre-trial deadlines are Level 3 cases even if the words "Level 3" are not used in the Order. Whenever a court's docket control order provides that expert designation obligations shall be handled pursuant to or by "the Rules," the dates in this subsection shall govern. If the docket control order does not specify dates on which each party's experts are to be designated, nor dates for disclosure information under Tex.R.Civ.P. 194 to be provided, the dates for such disclosures shall be as follows:

For Plaintiffs'/Third Party Plaintiffs' experts – 90 days prior to trial

For Defendants'/Third Party Defendants' experts – 60 days prior to trial

If a party is both a Defendant and a Third Party Plaintiff, Cross-Plaintiff and/or Counter-Plaintiff, then as to all issues on which it is seeking affirmative relief from another party, the expert designation date is the date for Plaintiffs'/Third Party Plaintiffs' experts.

## 1.10 INITIAL PRETRIAL CONFERENCE

(a) No later than the 90<sup>th</sup> day after suit is filed, Plaintiff shall request and any other party may request an initial pre-trial conference.

(b) Counsel for each party who has answered or otherwise entered an appearance with authority to speak for that party shall attend the initial pre-trial conference. The Court may permit appearance by phone.

(c) At the initial pre-trial conference, the Court and parties may address the following:

- (1) whether all parties have been served
- (2) any need to join additional parties
- (3) pending related cases, if any, filed in Willacy County
- (4) special exceptions
- (5) all pending motions or dilatory pleas, or scheduling hearing on said motions
- (6) a discovery schedule, including setting the discovery level, the scope and pace of discovery, setting deadlines for designating experts, and deadlines to complete discovery
- (7) alternative dispute resolution
- (8) agreements to serve documents electronically
- (9) the entry of a docket control order and setting a trial date
- (10) any other matter that may aid in the efficient disposition of the case

(d) Unless otherwise agreed by the parties, requesting or appearing at an initial pretrial conference is not deemed to waive a special appearance or motion to transfer venue. Unless otherwise agreed by the parties, approval of a docket control or discovery order shall not be deemed to waive or compromise the deadlines for reports required by Texas Civil Practices and Remedies Code, chapter 74 and 90, as amended.

#### 1.11 DILATORY PLEAS

(a) Rule 1.10 does not apply to special appearances, motions to transfer venue, pleas to the jurisdiction, motion to dismiss based on sovereign, governmental, or official immunity, motions to compel arbitration, or motions concerning class certification. The parties are encouraged to set such pleas and motions so that they may be resolved as early as practicable before trial.

(b) If pleadings have been on file thirty (30) days before trial is scheduled to commence, any dilatory pleas and special exceptions to those pleadings are deemed waived unless timely filed and presented to the Court for ruling ten (10) days before the date the case is scheduled to commence trial.

(c) If pleadings have been on file more than seven (7) days but less than thirty (30) days before trial is scheduled to commence, any dilatory pleas and special exceptions to those pleadings are deemed waived unless timely filed and presented to the Court at any scheduled pre-trial conference; if there is no scheduled final pre-trial conference, or it is not held, such pleas and exceptions shall be presented to the Court before trial commences.

(d) If pleadings have been on file seven (7) or fewer days before trial is scheduled to commence, any dilatory pleas and special exceptions to those pleadings shall be presented to the Court before trial commences.

#### 1.12 DISCOVERY

(a) Any motion for discovery or for protection under the Texas Rules of Civil Procedure must contain a certificate of conference completed by the party filing same which certifies that said party has made a good faith effort as required under Tex.R.Civ.P. 191.2 to resolve the discovery issues without court intervention. If an objection has been made under Tex.R.Civ.P. 193.2(a), the parties will follow the procedure outlined in Tex.R.Civ.P. 193.4.

(b) If a discovery dispute regarding claims of privilege has arisen, under 193.3(a) and the party asserting privilege has been properly asked to provide privilege log information under Tex.R.Civ.P. 193 and has done so, the claims of privilege hearing will follow Tex.R.Civ.P. 193.4. Where the party disputing claims of privilege has not requested a privilege log under Tex.R.Civ.P. 193(b) and /or has not specified which items on the privilege log are still in dispute, that failure permits the Court to deny the Motion to Compel without prejudice to re-filing after such steps are taken.

#### 1.13 APPEARANCE IN COURT FOR HEARINGS, ANNOUNCEMENTS AND/OR TRIAL

(a) All professionals know what is generally expected in the way of courtroom decorum. The Court shall in its discretion enforce specific standards of decorum in the courtrooms.

(b) Each court shall set a time for announcements of readiness for trial and shall notify all parties of the announcement date and time when providing notice of the trial setting.

(1) When no announcement is made on behalf of Plaintiff at the time scheduled, the case may be dismissed for want of prosecution.

(2) When no announcement is made on behalf of a Defendant at the time scheduled, the Court will be entitled to assume that Defendant to be ready.

(c) At the time of announcements, counsel shall submit to the Court proposed questions and instructions for the jury charge. They will also advise the judge of anticipated conflicting engagements during the week of trial that may affect counsel's ability to attend trial. They will also advise the Court whether settlement discussions are exhausted and of discussions on stipulations.

#### 1.14 DISMISSAL FOR WANT OF PROSECUTION

A case may be dismissed for want of prosecution for any of the following reasons:

(a) Failure of Plaintiff to request a setting or take other appropriate action within thirty (30) days of notice from the Court that the case is subject to being dismissed for want of prosecution.

(b) Failure of Plaintiff's counsel to appear for pre-trial, or failure to appear for Final Hearing, Trial or any other hearing where there has been a previous failure to appear and/or no indication has been given to the Court for the reason counsel has not yet appeared, or failure to timely file pleadings to meet the exceptions previously sustained.

Subject to other provision of these rules the clerk shall mail a written notice of such dismissal to all parties or their counsel of record.

#### 1.15 WITHDRAWAL OF COUNSEL

No attorney of record shall be permitted to withdraw from any case without presenting a Motion pursuant to Tex.R.Civ.P. 10, including all requirements of same, obtaining a ruling and a signed Order granting withdrawal, and complying with the notice requirements for the former client under said Rule.

#### 1.16 FILING OF PAPERS AND/OR ELECTRONIC FILING WITH THE DISTRICT CLERK

(a) All pleadings, Motions, Orders, and other papers, including exhibits attached thereto, when offered for filing or entry, shall be descriptively titled and pre-punched at the top of the page to accommodate the Clerk's 2 3/4" center to center flat-filing system. Each page of each instrument shall, in the lower margin thereof, be numbered and tilted, e.g., Plaintiff's Original Petition – page 2. Orders and Judgments shall be completely separated from all other papers.

(b) Notices of Discovery shall not be filed.

(c) To the extent telefax and electronic filing is permitted and additional Local Rules for telefax and electronic filing have been adopted, they are incorporated by reference as if set forth herein, and they are to be followed.

#### 1.17 WITHDRAWAL AND COPYING OF FILES

(a) No file, pleadings or paper belonging to the files of the Court shall be taken from the office or custody or the Clerk except on order of the Judge of that Court. No order for such withdrawal shall be granted except for good cause shown. The order shall state the time within which the same shall be returned to the Clerk.

(b) A receipt specifying the pleadings or papers withdrawn shall be given to the Clerk by the party withdrawing them. Statement of facts desired shall be obtained in the usual way from the Court Reporter. Except as elsewhere required, the Court Reporter shall not be required to undertake the making of a typed transcript without the deposit of an adequate indemnity nor to furnish such statement of facts prior to the payment therefor.

#### 1.18 ORDERS AND JUDGMENTS

Unless the Court directs otherwise, counsel shall submit proposed orders, decisions, and judgments to the Court for approval and signature within thirty (30) days after rendition or announcements of settlement. Counsel shall serve copies on all counsel. Failure to submit timely a proposed judgment or order disposing of the entire case may be considered as grounds to dismiss for want of prosecution under Rule 1.14.

### PART TWO COUNTY COURT

#### 2.1 RULES APPLICABLE TO COUNTY COURT

(a) These rules are applicable to the County Court of this County in all cases on the Civil and Probate Dockets of said Court.

(b) The rules governing the practice in civil cases in the District Court of Willacy County, as contained in part one of these rules, shall apply to the County Court. In such cases, references to the District Clerk shall apply to the County Clerk.



PART THREE  
GENERAL AND MISCELLANEOUS

3.1 AUTHORITY FOR RULES

These rules are adopted under and by virtue of Texas Rule of Civil Procedure 3a, and the constitutional, statutory, and inherent powers of the Courts to regulate proceedings before them and to provide for the orderly and efficient dispatch of litigation.

3.2 REPEAL OF FORMER RULES

All previous local rules governing practice in the Civil District Courts and County Court of Willacy County are hereby repealed, other than any Local Rules for telefax and electronic filing referenced in Local Rule 1.15(c).

3.3 TITLE AND CITATION

These rules shall be known as the "Willacy Civil District Court and County Court Rules," and particular rules may be cited thus: "Willacy Civil Court Rule 3.3."

3.4 PARTIAL CIVIL INVALIDITY

In the event any of the foregoing rules or any part thereof is held to be invalid for any reason, such invalidity shall not affect the validity of the remaining rules and parts of rules, all of which have been separately considered and adopted.

3.5 "COUNSEL", "LAWYERS", "ATTORNEY OF RECORD"

The terms, "Counsel", "Lawyer", and "Attorney of Record" as used in these rules shall, in the event a party appears pro se, i.e. without counsel, apply to individual litigants in the same fashion as if they were members of the Bar of the State of Texas.

3.6 CONDUCT OF THE GENERAL PUBLIC

The general public, witnesses, jurors, and parties attending court shall not:

- a. bring food or beverages into the courtroom.
- b. smoke in the courthouse.
- c. prop feet on the furniture.
- d. walk through the courtroom while the court is in open session.

- e. by facial gesture or other nonverbal conduct exhibit approval or disapproval of witness, testimony, counsel's argument, the judge's ruling, or other events of proceedings.
- f. have in their possession cell phones, pagers, PDA's, or personal music devices able or emit audible sounds in the courthouse.

### 3.7 CONDUCT OF COUNSEL

#### Counsel shall:

- a. address their statements to the Court and not each other during court proceedings, except by leave of Court.
- b. be prompt in attending Court.
- c. dress appropriately in the decorum of the Court.
- d. prevent their cell phones, pagers, PDA's or personal music devices to ring or emit audible sounds in the courtroom.
- e. not address each other or the judge by their first name or nicknames.
- f. stand while addressing the judge, preferable from counsel table. Counsel and their staff shall remain at counsel table while examining witnesses, except when necessary to handle or display evidence.
- g. refrain from inviting clients or witnesses to the judge's chambers, except by the judge's permission.
- h. observe the disciplinary rules and ethical canons concerning *ex parte* contact with the Court and its staff concerning pending cases, discussions with the media concerning pending cases, and civility to opposing counsel.
- i. avoid leaning on the bench during court proceedings and conferences.
- j. advise clients and witnesses of proper court decorum.
- k. not interrupt the judge or opposing counsel, except when necessary to make a proper objection or otherwise protect a party's rights.
- l. avoid "speaking objections" or legal arguments on objections before the jury, except by leave of Court.
- m. not address a juror directly or individually after voir dire until after the jurors are released from service, except by the Court's permission.
- n. because they are potentially disruptive of court proceedings and pose possible security risks, telephones, beepers, cameras, recording devices or other electronic devices shall not be brought into the courtroom without the expressed permission of the Court. Anyone that brings these items into the courtroom without the expressed permission of the Court is in violation of this order and subject to direct contempt of the Court and possible forfeiture of said item.

### 3.8 CONDUCT OF OFFICERS OF THE COURT, INCLUDING COUNSEL

- a. All counsel are admonished to respect the letter and spirit of all canons of ethics, including particularly those dealing with testimony by counsel participating in the trial, discussion of cases with representatives of the press, T.V. or radio and discussion of the facts or law of the case with the Court outside of the Courtroom and not in the presence of opposing counsel. The Court may enforce the same by appropriate action.
- b. The lawyers, the Judge, and all officers of the Court shall be prompt at all sessions and in dispatch of all Court business.
- c. All lawyers and Court officials shall dress in keeping with proper Courtroom decorum and all male lawyers and Court officials shall wear coats and ties while in attendance of the Court; provided, however, that Judicial Discretion be exercised otherwise in special situations. No attorneys may wear jeans while in attendance of the Court.
- d. While the Court is in session, all remarks of counsel shall be addressed to the Court, and not to opposing counsel or to the Judge as an individual.
- e. In addressing the Judge, lawyers shall at all times rise and remain standing to address the Judge from the position at the counsel table. They shall remain standing to address the Judge from their position at the counsel table. They shall remain at counsel table while interrogating witnesses, except as may be necessary in handling or displaying of exhibits or demonstrating evidence.
- f. The Judge shall be respectfully and properly addressed at all times; all objections and legal arguments by counsel shall be directed to the Judge and not to opposing counsel, and counsel shall be impersonal in addressing the Judge.
- g. All counsel are requested to use the conference room for consultation with clients and witnesses and are further requested to refrain from inviting clients and witnesses into the Court Clerk's office and the Chambers except upon the discretion of the Judge. The telephone in the lawyers' lounge is provided for the attorneys to use on Court business only.
- h. When the Judge addresses counsel it shall be impersonally, as by "Counsel" or by the last name, rather than by first name.
- i. Lawyers shall never lean on the bench or engage the Judge in a confidential manner.
- j. Lawyers shall advise their clients and witnesses of the proper courtroom decorum and attire, and seek their full cooperation therewith. This will prevent possible embarrassment to the Judges as well as to the lawyers and laymen.
- k. After jury voir dire, no attorney shall ever address the jury or a juror individually or by name without having first obtained leave of Court.

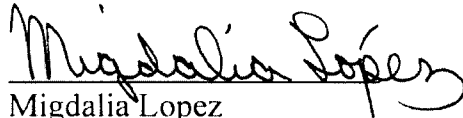
During trial, attorneys should not exhibit familiarity with witnesses, jurors or opposing counsel, and to this end, the use of first names should be avoided. During jury argument, no attorney should ever address a juror individually or by name.

- l. The trial attorney should refrain from interrupting the Court or opposing counsel until the statement being made is fully completed, except when necessary to protect his client's rights on the record, and should respectfully await the completion of the Court's statement or opinion before undertaking to point out objectionable matter.
- m. There will be no arguments on objections in the presence of the Jury. If counsel desire to argue his or her point after making objection, or being overruled on an objection, he or she shall ask the Court to exclude the jury before proceeding with such argument. However, argument will be permitted on objections at the discretion of the Court.

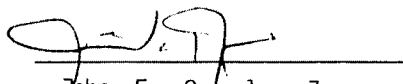
### 3.9 ADOPTION AND EFFECTIVE DATE

These rules shall be effective in all Courts to the extent applicable on and after September 28, 2011.

SIGNED



Migdalia Lopez  
Presiding Judge, 197<sup>th</sup> Judicial District Court  
(Cameron & Willacy Counties)



John F. Gonzales, Jr.  
County Judge

FILED AND RECORDED

SUPREME COURT APPROVAL

**IN THE SUPREME COURT OF TEXAS**

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Misc. Docket No. 14-**9023**

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**APPROVAL OF AMENDED LOCAL RULES FOR  
THE CIVIL COURTS OF DALLAS COUNTY**

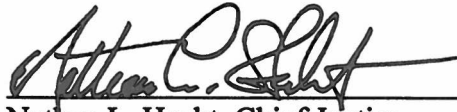
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**ORDERED** that:

Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court approves the following amended local rules for the Civil Courts of Dallas County.

Dated: January 15, 2014



Nathan L. Hecht, Chief Justice



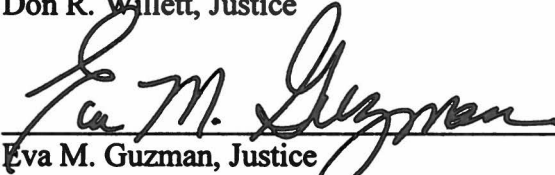
Paul W. Green, Justice



Phil Johnson, Justice



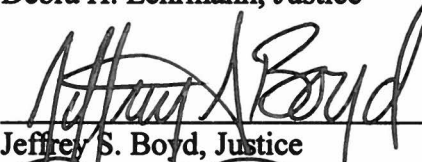
Don R. Willett, Justice



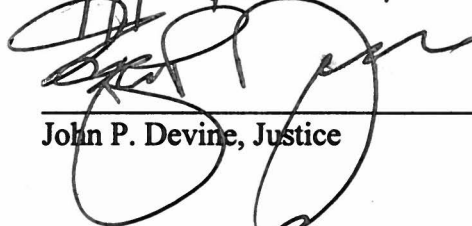
Eva M. Guzman, Justice



Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice

**LOCAL RULES of THE CIVIL COURTS OF DALLAS COUNTY, TEXAS--  
including revisions approved by the Texas Supreme Court**

**PART I - FILING, ASSIGNMENT AND TRANSFER**

- 1.01. RANDOM ASSIGNMENT**
- 1.02. COLLATERAL ATTACK**
- 1.03. ANCILLARY PROCEEDINGS (revised)**
- 1.04. MOTION TO CONSOLIDATE**
- 1.05. TRANSFER BY LOCAL ADMINISTRATIVE JUDGE**
- 1.06. RELATED CASES**
- 1.07. CASES SUBJECT TO TRANSFER (revised)**
- 1.08. DISCLOSURE REGARDING CASES SUBJECT TO TRANSFER**
- 1.09. SEVERANCE**
- 1.10. SEVERANCE OF MULTIPLE PLAINTIFFS**
- 1.11. TRANSFER OR APPEAL TO SPECIFIC DALLAS COURT INEFFECTIVE**
- 1.12. PAYBACK OF TRANSFERRED CASES**
- 1.13. SUGGESTION OF BANKRUPTCY**

**PART II- MOTIONS AND DISCOVERY**

- 2.01. FILING WITH THE COURT IN EMERGENCY ONLY (revised)**
- 2.02. APPLICATION FOR TRO AND OTHER EX PARTE ORDERS**
- 2.03. JUDGMENTS AND DISMISSAL ORDERS**
- 2.04. FILING OF PLEADINGS (revised)**
- 2.05. SERVICE OF PAPERS FILED WITH THE COURT**
- 2.06. UNCONTESTED OR AGREED MATTERS (revised)**
- 2.07. CONFERENCE REQUIREMENT (revised)**
- 2.08. SUBMISSION OF PROPOSED ORDERS BY COUNSEL (revised)**
- 2.09. BRIEFS (revised)**
- 2.10. DEFAULT PROVE-UPS**
- 2.11. NOTICE OF HEARING (new)**
- 2.12. EFFECT OF MOTION TO QUASH**

**DEPOSITION PART III - TRIALS**

- 3.01. REQUESTS TO CONTINUE TRIAL DATE (revised)**
- 3.02. ANNOUNCEMENTS FOR TRIAL**
- 3.03. CONFLICTING ENGAGEMENTS OF COUNSEL**
- 3.04. CARRYOVER CASES**
- 3.05. COUNSEL TO BE AVAILABLE**

**PART IV- ATTORNEYS**

- 4.01. ATTORNEY CONTACT INFORMATION (revised)**
- 4.02. WITHDRAWAL OF COUNSEL**



- 4.03. APPEARANCE OF ATTORNEYS NOT LICENSED IN TEXAS
- 4.04. VACATION LETTERS
- 4.05. SELF-REPRESENTED/PROSE LITIGANTS (revised)
- 4.06. GUARDIAN AD LITEM
- 4.07. LOCAL RULES AND DECORUM (revised)
- 4.08. PRO BONO MATTERS

#### **PART V- COUNTY COURT AT LAW MODIFICATIONS**

- 5.01. CLERK OF THE COURTS
- 5.02. RANDOM ASSIGNMENT
- 5.03. EMINENT DOMAIN CASES
- 5.04. COUNSEL TO APPEAR AT TRIAL

#### **PART VI-FAMILY, JUVENILE, CRIMINAL, & PROBATE COURTS**

- 6.01. RULES FOR OTHER COURTS

### **DALLAS CIVIL COURT RULES**

#### **PART I- FILING, ASSIGNMENT AND TRANSFER**

##### **1.01. RANDOM ASSIGNMENT**

All civil cases filed with the District Clerk shall be filed in the Civil District Courts in random order.

##### **1.02. COLLATERAL ATTACK**

Every proceeding seeking to attack, avoid, modify, or set aside any judgment, order or decree of a Civil Court of Dallas County shall be assigned to the Court in which such judgment, order or decree was rendered.

##### **1.03. ANCILLARY PROCEEDINGS (revised)**

Every proceeding ancillary to a civil action shall be assigned or transferred to the Court in which the suit to which the proceeding is ancillary is pending.

##### **1.04. MOTION TO CONSOLIDATE**

Every motion for consolidation or joint hearing of two or more cases under Texas Rules of Civil Procedure ("TRCP") Rule 174(a), shall be filed in the earliest case filed with notice to the later filed Court and all parties in each case.

##### **1.05. TRANSFER BY LOCAL ADMINISTRATIVE JUDGE**

The Local Administrative Judge may, upon request of a Court, transfer any case from that Court to any other Court having subject matter jurisdiction of the case. The selection of the transferee Court shall be by random or serial selection.

#### **1.06. RELATED CASES**

Whenever any pending case is so related to another case previously filed in or disposed of by another Court of Dallas County having subject matter jurisdiction that a transfer of the later case to such other Court would facilitate orderly and efficient disposition of the litigation, the Judge of the Court in which the earlier case is or was pending may, upon notice to all affected parties and Courts, transfer the later case to such Court.

#### **1.07. CASES SUBJECT TO TRANSFER (revised)**

Without limitation, the following types of cases shall be subject to transfer under Local Rule 1.06:

- a. Any case arising out of the same transaction or occurrence as an earlier case, particularly if the earlier case was dismissed by plaintiff before final judgment.
- b. Any case involving a plea that a judgment in the earlier case is conclusive of any of the issues of the later case by way of res judicata or estoppel by judgment, or any pleading that requires a construction of the earlier judgment or a determination of its effect.
- c. Any suit for declaratory judgment regarding the alleged duty of an insurer to provide a defense for a party to the earlier suit.
- d. Any suit concerning which the duty of an insurer to defend was involved in the earlier suit.
- e. Any application for approval of a transfer of structured settlement payment rights in which the original settlement pertained to a suit in a court of Dallas County, or in which a previous application involving the same transferor was filed in a court of Dallas County.

#### **1.08. DISCLOSURE REGARDING CASES SUBJECT TO TRANSFER**

The attorneys of record for the parties in any case within the categories of Local Rule 1.07 must notify the Judges of the respective Courts in which the earlier and later cases are assigned of the pendency of the later case. The attorney filing a case that is so related to another previously filed case shall disclose in the original pleading or in a separate simultaneous filing that the case is so related and identify by style, case number and Court the related case. If no such disclosure is made, the signature of the attorney filing the case on the original pleading shall be that attorney's certification that the case is not so related to another previously filed case. The attorney answering any filed case shall point out in the original defensive pleading or in a separate simultaneous filing any failure of the attorney filing the case to have made a proper and accurate disclosure. In the absence of any such plea, the signature of the attorney filing the original defensive pleading shall be that attorney's certificate either that the disclosure of the attorney filing the case was accurate, or, if no disclosure was made by the attorney filing the case, that the case is not so related to a prior filed or disposed of case.

#### **1.09. SEVERANCE**

Whenever a motion to sever is sustained, the severed claim shall be filed as a new case in

the same Court and shall be given the next number available at the filing desk in the office of the Clerk. Unless otherwise ordered, the Court assignment otherwise designated by that number shall be disregarded. Before the severed claim is assigned a new cause number, the attorney for plaintiff in the new cause shall meet the Clerk's requirement concerning deposit for costs.

#### **1.10. SEVERANCE OF MULTIPLE PLAINTIFFS**

If a single pending case with multiple plaintiffs includes causes of action that do not arise out of a common nucleus of operative facts, the Court may on its own motion or the motion of any party order that the claims be severed in accordance with Local Rule.

#### **1.11. TRANSFER OR APPEAL TO SPECIFIC DALLAS COURT INEFFECTIVE**

Whenever a case is transferred to Dallas County by a Court of another county, or is appealed, and the order of transfer or the appeal specifies the particular Court to which the case is transferred, such specification shall be disregarded and the case shall be assigned in the manner provided in Local Rule 1.01, and shall thereafter be subject to the provisions of this Part.

#### **1.12. PAYBACK OF TRANSFERRED CASES**

Any Court receiving a case transferred by judicial order may transfer a case of comparable age and complexity to the transferor Court.

#### **1.13. SUGGESTION OF BANKRUPTCY**

Any party to a pending case shall promptly notify the Court of the filing by any other party of a petition in bankruptcy. Such notice shall be made by filing a Suggestion of Bankruptcy with the clerk of the Court and serving copies on all counsel of record. The Suggestion of Bankruptcy shall be filed as soon as practicable, but in no event more than 20 days after a party receives notice of the filing of a petition in bankruptcy by any other party.

### **PART II - MOTIONS AND DISCOVERY**

#### **2.01. FILING WITH THE COURT IN EMERGENCY ONLY (revised)**

a. Except in emergencies when the Clerk's office is not open for business, no application for immediate or temporary relief shall be presented to a Judge until it has been filed and assigned to a Court as provided in Local Rule 1.01.

b. Whenever immediate action of a Judge is required in an emergency when the Clerk's office is not open for business, the case shall nevertheless at the earliest practicable time be docketed and assigned to a Court as provided in Local Rule 1.01 and all writs and process shall be returnable to that Court. Any Judge taking such emergency action shall notify the Court in which such case is docketed at the earliest convenient and practical time.

#### **2.02. APPLICATION FOR TRO AND OTHER EX PARTE ORDERS**

a) Counsel presenting any application for a temporary restraining order or other ex parte relief shall notify the opposing party's counsel, or the opposing party if unrepresented by counsel in the present controversy, and provide opposing counsel or party with a copy of the application and proposed order at least 2 hours before the application and proposed order are to be presented to the Court for decision, except as provided in subparagraph b) hereof.

b) Compliance with the provisions of subparagraph a) hereof is not required if a verified certificate of a party or a certificate of counsel is filed with the application,

1) That irreparable harm is imminent and there is insufficient time to notify the opposing party or counsel; or

2) That to notify the opposing party or counsel would impair or annul the court's power to grant relief because the subject matter of the application could be accomplished or property removed, secreted or destroyed, if notice were required.

c) Counsel presenting any application for a temporary restraining order shall at the time the application is presented further certify that to the best of counsel's knowledge, the case in which the application is presented is not subject to transfer under Local Rule 1.06. If the case is subject to transfer, counsel shall fully advise the Court of the circumstances, particularly as to whether there has been any previous application for the same or similar relief *or* whether the relief sought will conflict with any other previous order, and the Judge to whom the application is presented may decline to act and refer the application or the entire case to the Judge of the Court to which the earlier related case is assigned.

## **2.03. JUDGMENTS AND DISMISSAL ORDERS**

Within 30 days after the Court has announced a verdict or judgment or the Court receives a written announcement of settlement from either party or from a mediator, counsel shall submit to the Court a proposed judgment or dismissal order, unless ordered otherwise. Failure to so furnish the Court with such a proposed judgment or dismissal order will be interpreted to mean that counsel wish the Court to enter an Order of Dismissal with prejudice with costs taxed at the Judge's discretion.

## **2.04. FILING OF PLEADINGS, MOTIONS, BRIEFS, ORDERS, AND OTHER PAPERS (revised)**

All pleadings, motions, briefs, orders and other papers, including exhibits attached thereto, when offered for filing or entry, shall be descriptively titled. Each page of each instrument shall, in the lower margin thereof, be consecutively numbered and titled; e.g., "Plaintiffs Original Petition- Page 2." Page numbers should continue in sequential order through the last page of any attachments or exhibits (i.e. should not re-start with each succeeding document). Any reference to an attachment shall include the sequential page number where the reference can be found. Orders and Judgments shall be separate documents completely separated from all other papers. If documents not conforming to this Local Rule are offered, the Clerk before receiving them shall require the consent of a

Judge.

## **2.05. SERVICE OF PAPERS FILED WITH THE COURT**

Other than original petitions and any accompanying applications for temporary restraining order, any documents filed with the Court that relate to requests for expedited relief or to matters set for hearing within seven days of filing must be served upon all opposing parties in a manner that will ensure receipt of the papers by them on the same day the papers are filed with the Court or Clerk.

## **2.06. UNCONTESTED OR AGREED MATTERS (revised)**

The Court does not require a separate motion or hearing on agreed matters, except for continuances in cases over one year old or as otherwise provided. All uncontested or agreed matters should be presented with a proposed form of order and should reflect the agreement of all parties either (a) by personal or authorized signature on the form of order, or (b) in the certificate of conference on the motion. This Rule does not apply to cases involving financial settlements to minors.

## **2.07. CONFERENCE REQUIREMENT (revised)**

a. No counsel for a party shall file, nor shall any clerk set for hearing, any motion unless accompanied with a "Certificate of Conference" signed by counsel for movant in one of the forms set out in Rule 2.07(c).

b. Prior to the filing of a motion, counsel for the potential movant shall personally attempt to contact counsel for the potential respondent to hold or schedule a conference to resolve the disputed matters. Counsel for the potential movant shall make at least three attempts to contact counsel for the potential respondent. The attempts shall be made during regular business hours on at least two business days.

c. For the purpose of Rule 2.07(a), a "Certificate of Conference" shall mean the appropriate one of the following four paragraphs (verbatim):

(1)

"Counsel for movant and counsel for respondent have personally conducted a conference at which there was a substantive discussion of every item presented to the Court in this motion and despite best efforts the counsel have not been able to resolve those matters presented.

Certified to the Day of \_\_, 20\_\_ by"

, or (2)

"Counsel for movant has personally attempted to contact the counsel for respondent to resolve the matters presented as follows:

(Dates, times, methods of contact, results)

Counsel for the movant has caused to be delivered to counsel for respondent and counsel for respondent has received a copy of the proposed motion. At least one attempt to contact the counsel for respondent followed the receipt by counsel for respondent of the proposed motion. Counsel for respondent has failed to respond or attempt to resolve the matters presented.

Certified to the Day \_ of \_ , 20     by”

(3)

“Counsel for movant has personally attempted to contact counsel for respondent, as follows:

(Dates, times, methods of contact, results)

An emergency exists of such a nature that further delay would cause irreparable harm to the movant, as follows:

(details of emergency and harm).

Certified to the Day of \_ , 20     by”

, or (4) I, the undersigned attorney, hereby certify to the Court that I have conferred with opposing counsel in an effort to resolve the issues contained in this motion without the necessity of Court intervention, and opposing counsel has indicated that he does not oppose this motion.

Certified to the Day of \_ , 20     by”

d. Sections (a) and (b) of this Rule do not pertain to dispositive motions, motions for summary judgment, default judgments, motions to confirm arbitration awards, motions to exclude expert testimony, pleas to the jurisdiction, motions to designate responsible third parties, motions to strike designations of responsible third parties, motions for voluntary dismissal or nonsuit, post-verdict motions and motions involving service of citation.

## **2.08. SUBMISSION OF PROPOSED ORDERS BY COUNSEL**

Counsel seeking affirmative relief shall be prepared to tender a proposed order to the court at the commencement of any hearing on any contested matter.

Should the court notify counsel of its decision at any time following the hearing on any contested matter and direct counsel to prepare one or more orders for submission to the court any such order shall be tendered to opposing counsel at least two working days before it is submitted to the court.

The opposing party must either approve the proposed order as to form or file objections in writing with the court. If an order is not approved as to form and no objections are

filed within five days of the submission of the proposed order to the court, the proposed order is deemed approved as to form. Nothing herein prevents the court from making its own order at any time after the hearing in accordance with the Texas Rules of Civil Procedure.

#### **2.09. BRIEFS, RESPONSES AND REPLIES (revised)**

Except in case of emergency, briefs, responses and replies relating to a motion (other than for summary judgment) set for hearing must be served and filed with the Clerk of the Court no later than three working days before the scheduled hearing. Briefs in support of a motion for summary judgment must be filed and served with that motion; briefs in opposition to a motion for summary judgment must be filed and served at or before the time the response is due; reply briefs in support of a motion for summary judgment must be filed and served no less than three days before the hearing. Briefs not filed and served in accordance with this paragraph likely will not be considered. Any brief that is ten or more pages long must begin with a summary of argument.

#### **2.10. DEFAULT PROVE-UPS**

Upon request by the Court, default prove-ups may be made through affidavits and without hearing.

#### **2.11. NOTICE OF HEARING (new)**

A party who sets for hearing any motion or other matter must serve written notice of such setting on all parties, with a copy to the Clerk of the Court, within one business day of receipt of such setting. Nothing in this rule shall be construed to shorten any notice requirement in the Texas Rules of Civil Procedure or other rule or statute.

#### **2.12. EFFECT OF MOTION TO QUASH DEPOSITION**

a. For purposes of this rule, the date of delivery of a notice of deposition or motion to quash a notice of deposition is the date of actual delivery to counsel or a party, unless received after 5:00 p.m. in which case the date of delivery is deemed to be the next day on which the courthouse is open. Delivery by mail is presumed to be the third business day following mailing.

b. The filing of a motion to quash a deposition with the district clerk and service on opposing counsel or parties in accordance with Local Rule 2.05, if done no later than the third day the courthouse is open after delivery of the notice of deposition, is effective to stay the deposition subject to determination of the motion to quash. The filing of a motion to quash does not otherwise stay a deposition.

c. The parties may, by Rule 11 agreement, agree to proceed with a partial deposition while still reserving part or all of the objections made in the motion to quash.

### **PART III- TRIALS**

#### **3.01. REQUESTS TO CONTINUE TRIAL DATE**

a. Unless otherwise permitted by Court policy, no request to pass, postpone or reset any trial shall be granted unless counsel for all parties consent, or unless all parties not joining in such request or their counsel have been notified and have had opportunity to object; provided, however, that failure to make an announcement under Local Rule 3.02 shall constitute that party's consent to pass, postpone, reset or dismiss for want of prosecution any case set for trial the following week.

b. After a case has been on file for one year, it shall not be reset for a party except upon written motion for continuance, personally approved by the client in writing, and granted by the Court. Except as provided by statute, no party is entitled of right to a "pass" of any trial setting.

### **3.02. ANNOUNCEMENTS FOR TRIAL**

a. In all cases set for trial in a particular week, counsel are required to make announcements to the Court Administrator on the preceding Thursday and in any event, no later than 10:30 A.M. on the preceding Friday concerning their readiness for trial. Such announcement shall include confirmation of compliance with Local Rule 2.08, if such compliance is required in the case. Any unqualified announcement of "ready" or "ready subject to" another Court engagement may be made to the Court Administrator in person or by telephone.

b. If Plaintiff does not make an announcement by 10:30 A.M. on Friday preceding the week in which the case is set for trial, the Court may dismiss the case for want of prosecution.

c. If one or more Defendants do not make an announcement by 10:30 A.M. on Friday preceding the week in which the case is set for trial, the Court may deem said Defendant(s) to be ready and may proceed with the taking of testimony, with or without the presence of said Defendant or Defendants or their respective counsel.

d. Counsel shall notify all parties of their announcement.

e. An announcement of "ready" shall be taken as continuing throughout the week in which the case is set for trial except to the extent that such announcement is qualified when it is made or later by prompt advice to the Clerk.

f. Whenever a non-jury case is set for trial at a time other than Monday, counsel are required to appear and make their announcements at the day and hour specified in the notice of setting without further notification.

### **3.03. CONFLICTING ENGAGEMENTS OF COUNSEL**

a. Where counsel has more than one trial setting in a case on call in the Courts of Dallas County in the same week, the Court in which the case is first reached for trial shall have priority. If cases are reached in more than one Court at the same time and day, any case specially set case has priority; if no case is specially set, the older case shall have priority.



b. Where counsel for either party has a conflicting trial setting in another county, the Court may, in its discretion, defer to the out of county court and hold the case until the trial in the other county is completed.

c. Where counsel has a conflicting engagement in any Court of the United States or in any Appellate Court, the case in Dallas County may be held until such engagement has been completed.

### **3.04. CARRYOVER CASES**

If a case is not tried within the week, the Court may with prior written notice carry the case from week to week. Counsel are required to answer concerning their readiness for trial in these cases in the normal manner for the subsequent week.

### **3.05. COUNSEL TO BE AVAILABLE**

Unless released by the Court, during the week a case is set for trial counsel are required to be available upon a telephone call from the Court Administrator. Telephone notice to counsel's office or such other telephone number as counsel may provide to the Court Administrator will be deemed actual notice that a case is called for trial. Counsel shall promptly advise the Court Administrator of any matter that arises during the week that affects counsel's readiness or availability for trial. If counsel is engaged during the week in trial in another Court, whether in Dallas County or elsewhere, counsel shall advise the Court Administrator upon completion of such other trial.

## **PART IV - ATTORNEYS**

### **4.01. ATTORNEY CONTACT INFORMATION (revised)**

Every pleading of a party shall include the information required by Tex. R. Civ. P. 57. Attorneys are required to notify the District Clerk of any change in address, email address, telephone, or fax number. Any notice or communication directed to the attorney at the address, telephone, or fax number indicated in the records of the District Clerk will be deemed received.

### **4.02. WITHDRAWAL OF COUNSEL**

No attorney of record shall be permitted to withdraw from any case without presenting a motion and obtaining from the Court an order granting leave to withdraw. When withdrawal is made at the request of or on agreement of client such motion shall be accompanied by the client's written consent to such withdrawal or a certificate by another lawyer that he has been employed to represent the client in the case. In the event the client has not consented, a copy of such motion shall be mailed by certified and regular first class mail to the client at his last known address, with a letter advising that the motion will be presented to the Court on or after a certain hour not less than ten days after mailing the letter, and that any objection to such withdrawal should be made to the Court in writing before such time. A copy of such letter shall be attached to the motion. A copy of the motion shall be served upon all counsel of record. Unless allowed in the discretion of the Court, no such motion shall be presented within 30 days of the trial date or at such

time as to require delay of the trial. After leave is granted, the withdrawing attorney shall send the client a letter by regular mail with a copy of the order of the withdrawal, stating any settings for trial or other hearings and any pending discovery deadlines, and advising him to secure other counsel, and shall forward a copy of such letter to all counsel of record and to the Clerk of the Court in which the case is pending. The requirements of this Local Rule are supplemental to, and not in place of, the requirements of TRCP Rule 10.

#### **4.03. APPEARANCE OF ATTORNEYS NOT LICENSED IN TEXAS**

A request by an attorney not licensed to practice law in the State of Texas to appear in a pending case must comply with the requirements of Rule XIX of the Rules Governing Admission to the Bar.

#### **4.04. VACATION LETTERS**

Any attorney may reserve up to three weeks in any calendar year for vacations by sending a "vacation letter" for each case (with appropriate cause number and style) to the Court Coordinator and opposing counsel, reserving weeks in which no hearings, depositions, or trials are set as of the date of the letter. Once a letter is on file, no hearings, depositions, or trials may be set during the reserved weeks except upon notice and hearing.

#### **4.05. SELF-REPRESENTED/PRO SE LITIGANTS (revised)**

All requirements of these rules applicable to attorneys or counsel apply with equal force to self-represented litigants. Self-represented litigants are required to provide address, email, and telephone listings at which they can be reached by Court personnel and opposing counsel. Failure to accept delivery or to pick up mail addressed to the address provided by a self-represented litigant will be considered constructive receipt of the mailed or delivered document and may be established by a postal service receipt for certified or registered mail or comparable proof of delivery. Wherever "counsel" is used it includes a party not represented by an attorney.

#### **4.06. GUARDIAN AD LITEM**

When it is necessary or appropriate for the Court to appoint a guardian ad litem for minor or incompetent parties or an attorney ad litem for absent parties, independent counsel, not suggested by any of the parties or their counsel, will be appointed.

#### **4.07. LOCAL RULES AND DECORUM (revised)**

All counsel and any self-represented person appearing in the civil courts of Dallas County shall by entering an appearance acknowledge that he or she has read and is familiar with these Local Rules, the Rules of Decorum set forth in Appendix 2, and The Texas Lawyers Creed set forth in Appendix 3.

Every attorney permitted to practice in these courts shall familiarize oneself with and comply with the standards of professional conduct required of members of the State Bar of Texas and contained in the Texas Disciplinary Rules of Professional Conduct, V.T.C.A. Government Code, Title 2, Subtitle G-Appendix and the decisions of any court

applicable thereto, which are hereby adopted as standards of professional conduct of these courts.

Counsel, witnesses under their control, and parties should exercise good taste and common sense in matters concerning dress, personal appearance, and behavior when appearing in court or when interacting with court personnel. All lawyers should become familiar with their duties and obligations as defined and classified generally in the Lawyers Creed, Disciplinary Rules, common law decisions, the statutes, and the usages, customs, and practices of the bar.

#### **4.08. PRO BONO MATTERS**

The civil courts of Dallas County encourage attorneys to represent deserving clients on a pro bono basis. An attorney representing a pro bono client on a matter, set for hearing on a docket for which multiple other cases are also set, may inform the appropriate court staff of his or her pro bono representation. The court will then attempt to accommodate that attorney by moving the matter towards the beginning of the docket, subject to the other scheduling needs of the court.

### **PART V- COUNTY COURT AT LAW MODIFICATIONS**

#### **5.01. CLERK OF THE COURTS**

In all matters before the County Courts at Law wherever "District Clerk" is used, "County Clerk" is substituted.

#### **5.02. RANDOM ASSIGNMENT**

Except as required in Local Rule 6.03, all civil cases filed with the County Clerk shall be filed in the County Courts at Law in random order.

#### **5.03. EMINENT DOMAIN CASES**

The County Clerk shall assign eminent domain cases to the County Courts at Law sequentially, pursuant to statute.

#### **5.04. COUNSEL TO APPEAR AT TRIAL**

Notwithstanding Rule 3.05, in all cases in the County Courts at Law, all parties and counsel are expected to be present at all trial settings, unless advised otherwise by the Court Administrator or the Judge. Failure to so timely appear may result in the rendering of a default judgment or in dismissal or in other action required by justice and equity.

### **PART VI- FAMILY, JUVENILE, CRIMINAL, & PROBATE COURTS**

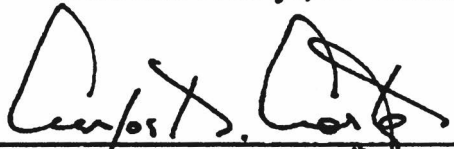
#### **6.01. RULES FOR OTHER COURTS**

"Civil District Courts" as used herein shall mean the 14th, 44th, 68th, 95th, 101st, 116th, 134th, 160th, 162nd, 191st, 192nd, 193rd, 298th District Courts and any district courts created hereafter for Dallas County which are designated to give preference to the trying of civil cases.

**“County Courts at Law” as used herein shall mean the County Court at Law No. 1, County Court at Law No. 2, County Court at Law No. 3, County Court at Law No. 4, County Court at Law No. 5, and any County Courts at Law created hereafter for Dallas County.**

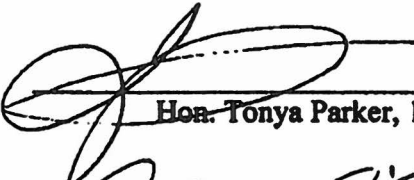
**The Dallas Civil Court Rules set forth herein govern and affect the conduct of the Civil District Courts and the County Courts at Law only. Nothing in these Local Rules shall repeal, modify, or affect any currently existing or subsequently adopted rules of the FAMILY, JUVENILE, CRIMINAL, or PROBATE COURTS of Dallas County.**

 9/5/12  
Hon. Eric V. Moyé, 14<sup>th</sup> District Court

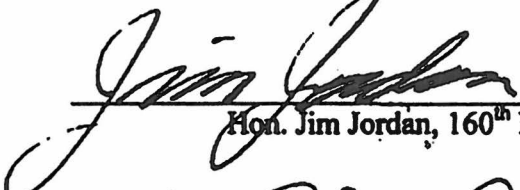
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Hon. Carlos Cortez, 44<sup>th</sup> District Court

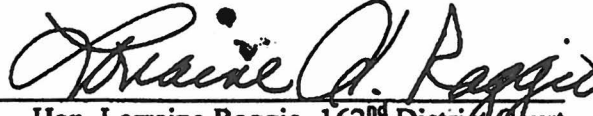
 9-5-12  
Hon. Martin Hoffman, 68<sup>th</sup> District Court


 Sept. 5 2012  
Hon. Ken Molberg, 95<sup>th</sup> District Court

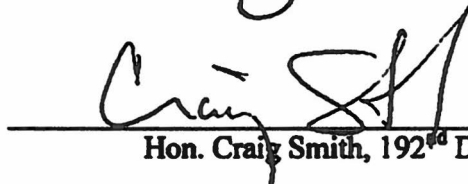
 9-05-12  
Hon. Tonya Parker, 116<sup>th</sup> District Court

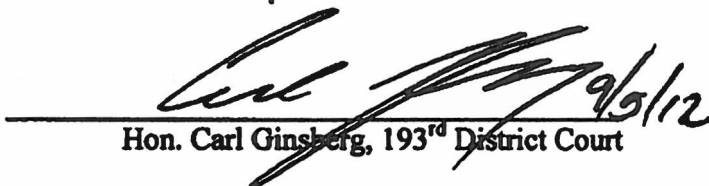
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Hon. Dale Tillery, 134<sup>th</sup> District Court

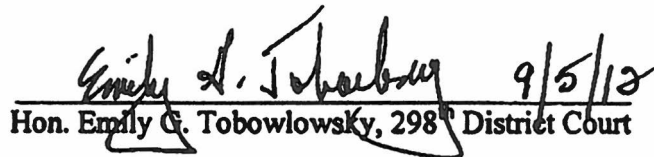
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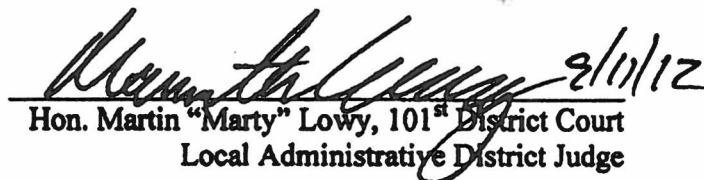
 9/5/12  
Hon. Lorraine Raggio, 162<sup>nd</sup> District Court

 9.5.12  
Hon. Gena Slaughter, 191<sup>st</sup> District Court

 9/5/12  
Hon. Craig Smith, 192<sup>nd</sup> District Court


 9/5/12  
Hon. Carl Ginsberg, 193<sup>rd</sup> District Court

 9/5/12  
Hon. Emily G. Tobowlowsky, 298<sup>th</sup> District Court

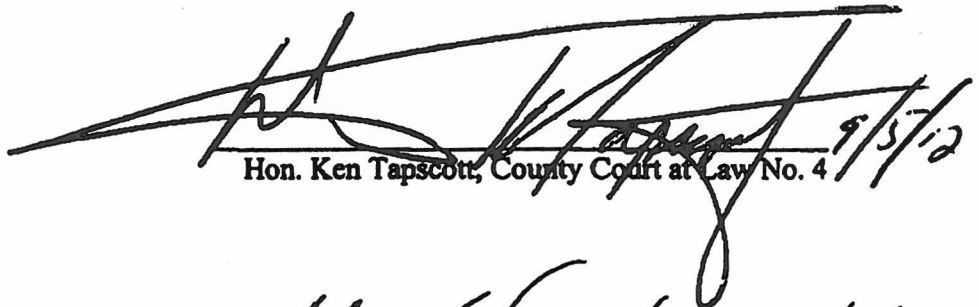
 9/11/12  
Hon. Martin "Marty" Lowy, 101<sup>st</sup> District Court  
Local Administrative District Judge

 9/11/12  
Hon. John D. Ovard, Regional Administrative Judge

  
Hon. D'Metria Benson, County Court at Law No. 1

  
Hon. King Efe, County Court at Law No. 2

  
Hon. Sally Montgomery, County Court at Law No. 3

  
Hon. Ken Tapscott, County Court at Law No. 4

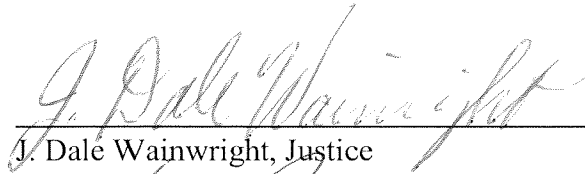
  
Hon. Mark Greenberg, County Court at Law No. 5

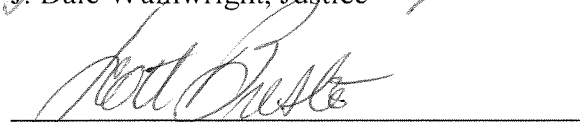
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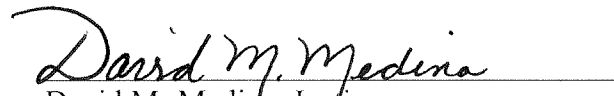
3122


Harriet O'Neill, Justice

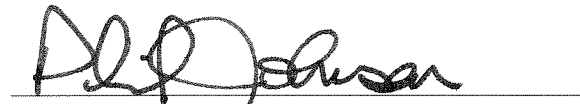


  
J. Dale Wainwright, Justice

  
Scott Brister, Justice

  
David M. Medina, Justice

  
Paul W. Green, Justice

  
Phil Johnson, Justice

\_\_\_\_\_  
Don R. Willett, Justice

**EDWARDS, KINNEY, TERRELL AND VAL VERDE**

63<sup>rd</sup> Judicial District  
Val Verde County Judicial Center  
P.O. Drawer 1089  
Del Rio, Texas 78841

District Clerk

830-774-7538

Local Rules Of Practice For The 63<sup>rd</sup>  
District Courts of Texas

**PART ONE: RULES OF CONDUCT AND DECORUM**

**Rule**

1. Addressing the Court.
2. Leaning on the bench.
3. Dress Code.
4. Attorneys instructions to clients of formalities of court.
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# LOCAL RULES OF PRACTICE FOR THE 63<sup>RD</sup> DISTRICT COURTS OF TEXAS

Pursuant to the authority granted District Courts under Rule 3a, T.R.C.P., and art. 33.08, C.C.P., to promulgate Rules of Practice for conducting the business of District Courts, the rules, suggestions and procedures set out below will be in effect in these courts unless subsequently modified, changed or amended.

## **PART ONE: RULES OF CONDUCT AND DECORUM**

**Rule 1.** When addressing the Court, lawyers shall at all times promptly rise and remain standing at their position at the counsel table, and shall not approach the bench except with permission or on request of the Court. Lawyers shall remain seated at counsel table while interrogating a witness, except as may be necessary in the handling or display of exhibits or demonstrative evidence. Any person who is physically disabled to the extent that he/she can not comply with this rule shall be excused therefrom.

**Rule 2.** Leaning on the bench will not be permitted.

**Rule 3.** In the Courtroom, all attorneys and court officials shall dress in keeping with the dignity required for court proceedings. Parties, and all men attending court shall tuck in their shirts, and remove their hats, and women are to wear a dress, slacks or other appropriate clothing.

**Rule 4.** Lawyers shall advise their clients of the formalities of the court and obtain cooperation therewith, thereby avoiding embarrassment to the court as well as to other persons.

**Rule 5.** Judges and opposing counsel should be respectfully addressed at all times. All objections and legal arguments by counsel shall be directed to the judge and not to opposing counsel.

**Rule 6.** All lawyers shall be prompt in attendance at all court sessions. All lawyers should make whatever arrangements are necessary to comply with this rule.

**Rule 7.** During court sessions and recesses between sessions of Court no broadcasting, television, recording(audio or visual) or photographic (nor equipment capable of doing the same)

06 - 9129 all be allowed in the Courtroom or on the same floor where the courtroom is located, unless the

Court grants permission to possess and use such equipment at such time and place.

**Rule 8.** All pagers and cell phones must be turned off upon entering the Courtroom.

**Rule 9.** No reading of newspapers, magazines and/or books will be allowed in the courtroom, except for officers of the Court, and only then, inside the bar.

**Rule 10.** No food or drinks are allowed in the Courtroom, except for officers of the Court, and then only coffee or water will be allowed.

## **PART TWO: CIVIL RULES**

### **SECTION ONE-SETTINGS**

**Rule 1.** All cases, contested or uncontested, MUST be set by way of WRITTEN MOTION WITH ORDER ATTACHED. Attorneys requesting settings will notify the opposing counsel of such motion by certified mail or by hand delivery at least ten (10) days before the date of such setting. In addition, said request shall include an estimated length of time necessary for the hearing. If opposing counsel cannot go to trial on such date, he/she shall immediately notify the Court coordinator in writing stating the reason he/se cannot go to trial.

ONLY the Judge or Court Coordinator can set a case. Motions to Set should be sent to the Court at P.O. Drawer 1089, Del Rio, Texas 78841-1089.

**Rule 2.** A contested case may be set for trial on the merits or for pre-trial hearing by agreement of counsel and approved by the Court, or may be set by order of the Court.

**Rule 3.** All cases shall be set in the same sequence as the dates of the orders setting the cases are filed, provided, however, for good cause, after motion and hearing, a case may be advanced on the docket by order of the Court.

### **SECTION TWO-JURY CASES**

**Rule 4.** A jury demand must be filed and a jury fee paid prior to obtaining a setting on the

jury docket.

**Rule 5.** Unless waived by the Judge, a Certificate of Completion of Mediation must be on file no later than the Thursday prior to the date the jury is to report .

**Rule 6.** In all contested civil jury cases, before announcements of "Ready", counsel shall furnish the Court with all written questions anticipated for the charge of the Court.

### **SECTION THREE-DOMESTIC RELATIONS**

**Rule 7.** A certificate of completion of a court mandated Family Stabilization Seminar or pre-approved divorce seminar must be on file prior to the parties obtaining a divorce. The course is required for both parties in domestic relations cases involving minor children, filed after May 1, 2005. Court mandated divorce seminars include "For Kids Sake" "Putting Kids First" "Kids in Divorce Situations" or any other program approved by the District Court.

#### **Rule 8.**

Before any contested trial or hearing involving child support or temporary spousal alimony, each party shall prepare and file with the Court a financial information statement.

Unless waived by the Court, all child support payments shall be made through the Child Support Disbursement Unit, San Antonio, Texas and forwarded to the Obligee. Temporary spousal support is to be made through the office of the District Clerk.

#### **Rule 9.**

Arrangements for the preparation of a social study shall be made in all adoptions before the case will be set for trial.

In contested domestic relation cases involving custody of children wherein a social study is requested, the anticipated costs of preparation must be deposited with the District Clerk or other satisfactory arrangements made to guarantee payment to the person preparing the social study.

Without such arrangements, the preparation of a social study will not be ordered.

## **SECTION FOUR-JUDGMENTS**

**Rule 10.** All judgments should be approved by all attorneys involved in the case before being presented to the Court for signature.

**Rule 11.** When a party prepares a judgment and submits the judgment for approval by the Court, a copy of that judgment must be sent to opposing counsel. If no objection to the judgment is filed with the Court by opposing counsel within ten (10) days, the judgment will be signed.

## **PART THREE: CRIMINAL RULES**

### **SECTION ONE-SETTINGS**

**Rule 1.** All criminal cases shall be set ONLY by Court Order or by administrative notice of setting by the Court Coordinator. If for good cause defense counsel cannot go to trial on such date, he shall, file a Motion For Continuance within five (5) days of receipt of the setting notice, and advise the Court Coordinator in writing stating such reason for continuance.

### **SECTION TWO-PRETRIAL**

**Rule 2.** All cases shall be set for a pretrial hearing. Non-evidentiary pretrial matters will be heard but not recorded by a court reporter, unless the court orders that a record be made.

Evidentiary pretrial motions will be heard prior to trial unless otherwise ordered by the Court. A record will be made of all evidentiary pre-trial hearings.

**Rule 3.** All pretrial motions shall be filed in accordance with the Code of Criminal Procedure.

All plea papers shall be prepared in advance of trial settings.

### **SECTION THREE-JURY TRIAL**

**Rule 4.** After pretrial hearing, all cases will be set for jury trial unless the defense attorney

request a court trial or a date for a plea of guilty.

#### **SECTION FOUR-TRIAL BEFORE THE COURT**

**Rule 5.** If defense request a court trial, a jury waiver must be filed with the court. Said waiver is to be signed and sworn to by defendant and approved by the Court.

#### **SECTION FIVE-JUDGMENTS**

**RULE 6.** The Court shall prepare all judgments in criminal cases.

#### **PART FOUR: GENERAL RULES**

##### **SECTION ONE-DOCKET CALL**

**Rule 1.** The trial dockets of the 63<sup>rd</sup> District Court of Edwards, Kinney, Terrell and Val Verde are to be in accordance with the published schedule on file and available for copying in the offices of the District Judge and as posted at the District Courtroom.

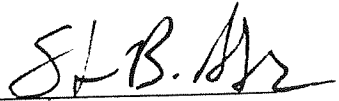
**Rule 2.** Docket call is at 9:00 a.m. in Val Verde and Kinney Counties, 9:30 a.m. in Edwards County, and 10:00 a.m. in Terrell County unless otherwise noticed in writing.

##### **SECTION TWO-REMOVAL OF CASE FROM DOCKET SETTING**

**Rule 3.** Except as provided herein, after a case is set by written order or administrative notice of setting, it cannot be removed from the docket unless a written Motion for Continuance is filed five (5) days prior to setting date and approved by the Court, by written mutual agreement, by dismissal, or by other agreed final disposition filed with the District Clerk prior to the setting date.

**Rule 4.** If a case is set by written order or by administrative notice of setting, and not otherwise removed from the docket setting by the rules established herein, the Court will call the case and if no appearance or announcement is made, the case will be dismissed for want of prosecution.

Approved:



Stephen B. Ables  
Presiding Judge, Sixth Administrative District

Approved:

\_\_\_\_\_  
Texas Supreme Court



COPY

VAL VERDE COUNTY JUDICIAL CENTER  
100 E. BROADWAY, 2<sup>ND</sup> FLOOR  
P.O. DRAWER 1089  
DEL RIO, TEXAS 78841-1089



OFFICE NO. 830-774-7523  
TELEFAX NO. 830-774-1359

**JUDGE THOMAS F. LEE**  
**63<sup>RD</sup> JUDICIAL DISTRICT OF TEXAS**  
**EDWARDS, KINNEY, TERRELL, and VAL VERDE COUNTIES**

June 20, 2006

Mr. Jody Hughes  
Rules Clerk  
Supreme Court of Texas  
P.O. Box 12248  
Austin, Texas 78711-2248

Re: Texas Rules of Court-Local

Dear Mr. Hughes:

Pursuant to our conversation last Thursday, concerning local rules to be applied in the counties of the 63<sup>rd</sup> Judicial District, I enclose those rules for your examination. These rules have been approved by Judge Ables, Administrative Judge for the Sixth Administrative Region. Under the provisions of Rule 3a of the Texas Rules of Court-State, the local rules must be approved by the Texas Supreme Court before they go on to West Publishing Company and for that reason I am submitting them to you for examination. If I can provide any additional information on the matter, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Thomas F. Lee".

Thomas F. Lee  
63<sup>rd</sup> District Judge

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# Harris County District Courts

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## RULES of the CIVIL TRIAL DIVISION

### Harris County District Courts

**4/28/2014**

#### Rule 1. OBJECTIVE OF RULES.

The objective of the rules of the Civil Trial Division of the District Courts of Harris County is to obtain a just, fair, equitable and impartial adjudication of the rights of litigants under established principles of substantive law and established rules of procedural law. To the end that this objective may be attained with as great expedition and dispatch and at the least expense, both to the litigants and to the state, as may be practicable, the rules shall be applied to ensure that, so far as reasonably possible, all matters are brought to trial or final disposition in conformity with the following standards:

- (a) Civil jury cases within 18 months from appearance date;
- (b) Civil non-jury cases within 12 months from appearance date.

#### Rule 2. REPORTS TO ADMINISTRATIVE JUDGE.

The district clerk shall supply to the Administrative Judge of the Civil Trial Division, on a monthly basis, information concerning the number of filings, dispositions, trials and other judicial activities in each court in the Civil Trial Division.

#### Rule 3. FLOW OF CASES.

**3.1 FILING AND ASSIGNMENT.** On being filed, a case in the Civil Trial Division shall be assigned randomly to the docket of one of the courts in that Division. Once assigned to a court, a case will remain on

the docket of that court for all purposes unless transferred as provided in Rule 3.2.

#### 3.2 TRANSFER.

**3.2.1 Prior Judgment.** Any claim for relief based upon a prior judgment shall be assigned to the court of original judgment.

**3.2.2 Prior filings.** Any matter filed after a non-suit, dismissal for want of prosecution, or other disposition of a previous filing involving substantially-related parties and claims shall be assigned by the Administrative Judge of the Civil Trial Division to the court where the prior matter was pending.

### 3.2.3 Consolidation.

(a) *Consolidation of Cases.* Subject to subpart c, a motion to consolidate cases must be heard in the court where the first filed case is pending. If the motion is granted, the consolidated case will be given the number of the first filed case and assigned to that court.

(b) *Consolidation of Discovery.* Subject to subpart c, a motion to consolidate discovery in separate cases must be heard in the court where the first filed case is pending. If the motion to consolidate discovery is granted, the case will not transfer, but the case management will be conducted by the consolidating court.

(c) *Consolidation to Special Dockets.* Special dockets for the management of multi-court cases may be created by order of the Administrative Judge of the Civil Trial Division according to policies approved by the judges of the Civil Trial Division.

3.2.4 *Severance.* If a severance of a claim or a defendant in a case is ordered, the new case will be assigned to the court where the original case pends, bearing the same file date and the same number as the original case with a letter designation. If a severance of multiple plaintiffs or intervenors in a case is ordered, the new case(s) may be randomly reassigned by the Administrative Judge of the Civil Trial Division. If not randomly reassigned, the case(s) will stay in the same court. When a severed case has previously been consolidated from another court, the case shall upon severance be assigned to the court from which it was consolidated.

3.2.5 *Agreement.* Any case may be transferred from one court to another court by written order of the Administrative Judge of the Civil Trial Division or by written order of the judge of the court from which the case is transferred; provided, however, that in the latter instance the transfer must be with the written consent of the court to which the case is transferred.

3.2.6 *Presiding for Another.* In all cases where a court presides for another court, the case shall remain pending in the original court. If available, the judge who signed an order shall preside over any motion for contempt of that order, except as otherwise provided in Sec. 21.002, Tex. Gov. Code.

3.2.7 *Administrative Transfers.* The Administrative Judge of the Civil Trial Division may transfer cases between courts or may assign cases from one court to another court for hearing due to illness, trial schedule, or other sufficient reasons.

3.2.8 *Improper Court.* If a case is on the docket of a court by any manner other than as prescribed by these rules, the Administrative Judge of the Civil Trial Division shall transfer the case to the proper court.

## 3.3 MOTIONS.

3.3.1 *Form.* Motions shall be in writing and shall be accompanied by a proposed order granting the relief sought. The proposed order shall be a separate instrument, unless the entire motion, order, signature lines and certificate of service are all on one page.

3.3.2 *Response.* Responses shall be in writing and shall be accompanied by a proposed order. Failure to file a response may be considered a representation of no opposition.

3.3.3 *Submission.* Motions may be heard by written submission. Motions shall state Monday at 8:00 a.m. as the date for written submission. This date shall be at least 10 days from filing, except on leave of court. Responses shall be filed at least two working days before the date of submission, except on leave of court.

3.3.4 *Oral Hearings.* Settings for oral hearings should be requested from the court clerk. The notice of oral hearing shall state the time and date.

3.3.5 *Unopposed Motions.* Unopposed motions shall be labeled "Unopposed" in the caption.

3.3.6 *Extension of Certificates of Conference.* The certificates of conference required by the Texas Rules of Civil Procedure are extended to all motions, pleas and special exceptions except summary judgments, default judgments, agreed judgments, motions for

voluntary dismissal or non-suit, post-verdict motions and motions involving service of citation.

### **3.4 TRIALS.**

3.4.1 *Manner of Setting.* Cases shall be set for trial by order of the court.

3.4.2 *Date of Setting.* Cases shall be set for trial for a date certain. If a case is not assigned to trial by the second Friday after the date it was set, whether because of a continuance or because it was not reached, the court shall reset the case to a date certain. Unless all parties agree otherwise, the new setting must comply with all requisites of T.R.C.P. 245.

3.4.3 *Assignment to Trial.* A case is assigned to trial when counsel are called to the court to commence the jury or non-jury trial on the merits. For purposes of engaged counsel, no court may have more than one case assigned to trial at any one time.

3.4.4 *Dead Weeks.* Except with the consent of all parties, no court will assign cases to trial on the merits, or set oral hearings on motions, during:

- (a) The week of the spring state or regional judicial conference
- (b) The week of the State Bar Convention;
- (c) The week of the Conference of the Judicial Section (September); and
- (d) Any December week or weeks where the Monday of that week begins with the dates, Dec. 22-31.

### **3.5 ANCILLARY DOCKET.**

3.5.1 *Ancillary Docket.* The ancillary docket consists of the following :

- a) Applications for temporary restraining orders;
- b) Motions to dissolve or modify temporary restraining orders;
- c) Motions to modify the bond for a temporary restraining order;
- d) Motions to authorize emergency medical treatment;
- e) Requests before any suit has been filed to appoint umpires or arbitrators;
- f) The following matters, when brought under Chapter 81 of the Texas Health & Safety Code:
  - i. Motions for orders of protective custody;
  - ii. Motions for orders of temporary protective custody;
  - iii. Motions for orders for temporary detention pending a hearing on a motion to modify an order for outpatient treatment;
  - iv. Appointment of attorneys for persons subject to protective custody or detention orders; and
  - v. Probable cause hearings.

3.5.2 *Ancillary Judge.* The Ancillary Judge is responsible for hearing all matters on the ancillary docket. Each judge will serve as Ancillary Judge for one-half of a calendar month according to a schedule adopted by the judges of the Civil Trial Division. The Ancillary Judge will be available at the courthouse on business days during regular business hours, and will provide the county switchboard with the means to locate the Ancillary Judge at all other times.

If not available to serve at any time during the term, the Ancillary Judge will designate, in writing, another judge to serve ad interim, and will notify the Administrative Judge of the Civil Trial Division, the ancillary clerk, and the county switchboard of that designation.

In the absence or unavailability of the Ancillary Judge or designee under the rule, matters requiring judicial attention will be presented to the Administrative Judge of the Civil Trial Division for ruling or assignment to another judge for ruling.

**3.5.3 Authority to Grant Ancillary Relief.** No judge other than the Ancillary Judge may grant ancillary relief without a written order from the Ancillary Judge or Administrative Judge of the Civil Trial Division. However, either the Presiding Judge or the Ancillary Judge may grant an extension of a temporary restraining order. In requests for ancillary relief, the Ancillary Judge shall hear the matters as "Judge Presiding" for the court in which the case is pending.

**3.6 DISMISSAL DOCKETS.** The following cases are eligible for dismissal for want of prosecution pursuant to T.R.C.P. 165a:

- (a) Cases on file for more than 120 days in which no answer has been filed or is required by law;
- (b) Cases which have been on file for more than eighteen months and are not set for trial;
- (c) Cases in which a party or his attorney has failed to take any action specified by the court.

<b>Rule 10.      CONFLICTING ENGAGEMENTS.</b>
---

**10.1 INTER-COUNTY.** The Rules of the Second Administrative Judicial Region control conflicts in settings of all kinds between a Harris County court and a court not in Harris County. The Rules of the

Second Administrative Judicial Region are available in the District Clerk's office.

**10.2 INTRA-COUNTY.** Among the trial courts sitting in Harris County:

- (a) Trial/Non-Trial. Trial settings take precedence over conflicting non-trial settings; and
- (b) Trial/Trial. A trial setting that is assigned takes precedence over a conflicting trial setting not yet assigned.

**10.3 WAIVER.** The court with precedence may yield.

**10.4 LEAD COUNSEL.** This rule operates only where lead counsel, as defined by T.R.C.P. 8, is affected, unless the court expands coverage to other counsel.

<b>Rule 11. VACATIONS OF COUNSEL.</b>
---------------------------------------

**11.1 DESIGNATION OF VACATION.** Subject to the provision of subparts .2 and .3 of this Rule, an attorney may designate not more than four weeks of vacation during a calendar year as vacation, during

which that attorney will not be assigned to trial or required to engage in any pretrial proceedings. This rule operates only where lead counsel, as defined by T.R.C.P. 8, is affected, unless the trial court expands coverage to other counsel.

**11.2 SUMMER VACATIONS.** Written designation for vacation weeks during June, July, or August must be filed with the district clerk by May 15. Summer vacation weeks so designated will protect the

attorney from trials during those summer weeks, even if an order setting the case for trial was signed before the vacation designation was filed.

**11.3 NON-SUMMER VACATIONS.** Written designation for vacation in months other than June, July, or August must be filed with the district clerk by February 1. Non-summer vacation weeks may not run

consecutively for more than two weeks at a time. Non-summer vacation weeks so designated will not protect an attorney from a trial by an order signed before the date the designation is filed.

**Rule 12. ADMINISTRATIVE JUDGE OF THE CIVIL TRIAL DIVISION.**

**12.1 ELECTION.** The Administrative Judge of the Civil Trial Division shall be elected for a term of one calendar year by the judges of the Civil Trial Division at the regular December meeting of the judges of

the Civil Trial Division. No judge may serve more than two consecutive terms as Administrative Judge. If a vacancy occurs in the office of Administrative Judge, the judges of the Civil Trial Division must

hold an election to fill the vacancy at their next monthly meeting.

**12.2 DESIGNEE.** The Administrative Judge of the Civil Trial Division may by written order designate any other judge of the Division to act for the judge when the Administrative Judge is absent or unable to

act. The judge so designated shall have all the duties and authority granted by these Rules to the Administrative Judge of the Civil Trial Division during the period of the designation.

**Rule 15. UNIFORMITY.**

**15.1 TRIAL AND DISMISSAL DOCKETS.** The judges of the Civil Trial Division shall only use those docket management form letters and form orders which have been approved by the judges of the Civil

Trial Division.

**15.2 APPOINTEE FEE REPORT.** Each person appointed by a judge in the Civil Trial Division to a position for which any type of fee may be paid shall file the designated uniform report before any judgment,

dismissal, or nonsuit is signed. This report is required for every appointment made whether or not a fee is charged.

**15.3 RECORDING AND BROADCASTING OF COURT PROCEEDINGS.** Recording or broadcasting court proceedings in the Civil Trial Division is governed by uniform rules adopted by the judges of the

Civil Trial Division.

**Rule 16. MEETINGS.**

The judges of the Civil Trial Division shall meet regularly on the first Tuesday of each month from 12:15 until 1:15 p.m. The Administrative Judge of the Civil Trial Division may call a special meeting by written notice distributed at least 72 hours in advance of the meeting. Any special meeting called will state an ending time for the meeting. The judges may vote to reschedule or cancel any monthly meeting. No more than two meetings in any calendar year may be canceled.

**Rule 17. EFFECTIVE DATE.**

Effective October 20, 1987; amended 1/22/90; 7/1/90; 8/31/91; 1/3/96; 7/2/97; 4/27/98; 5/26/99; 5/4/04, 4/28/14



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Harris County Administrative Offices of the District Courts

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LOCAL ADMINISTRATIVE RULES  
of the  
DISTRICT COURTS  
and  
COUNTY COURTS-AT-LAW  
of  
LUBBOCK COUNTY, TEXAS

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## RULE 1 - GENERAL

### Rule 1.10 Court Sessions, Annual Calendars, Holidays

- (A) The district courts and the county courts-at-law shall each publish annually a joint calendar setting out a schedule for jury and non-jury weeks for each respective court. Copies of such calendar will be kept in the district clerk's office and the county clerk's office and will be furnished upon request.
- (B) The courts will observe those holidays set by consensus of the county public officials and published by the Commissioners Court of Lubbock County.

### Rule 1.11 Hours of Court Proceedings

Court shall be held at such times as may be determined expedient by the judge of each court.

## RULE 2 - LOCAL ADMINISTRATIVE JUDGE

### Rule 2.10 Powers and Duties of Local Administrative Judge

- (A) The local administrative judge shall have duties prescribed in Section 74.092, Texas Government Code.
- (B) The judges of the District Courts, County Courts-at-Law and County Court of Lubbock County shall elect a district judge for a term of two (2) years.
- (C) The local administrative judge shall call for a meeting of the judges at least once monthly.

### Rule 2.20 Court Divisions

- (A) The District Courts of Lubbock County are General Jurisdiction Courts, but each court will primarily hear either civil or criminal cases according to the following table:

72 <sup>nd</sup> District Court:	Civil
99 <sup>th</sup> District Court:	Civil
237 <sup>th</sup> District Court:	Civil
137 <sup>th</sup> District Court:	Criminal
140 <sup>th</sup> District Court:	Criminal
364 <sup>th</sup> District Court:	Criminal

- (B) Each of the District Courts shall continue to hear family and tax cases.
- (C) The County Courts at Law of Lubbock County are General Jurisdiction Courts,

but each court will primarily hear either civil or criminal cases according to the following table:

County Court at Law No. One:	Criminal
County Court at Law No. Two:	Criminal
County Court at Law No. Three:	Civil

- (D) The judges by their annual calendar shall provide for the district judge to be assigned to the central jury pool for each week. Other matters such as extradition hearings and emergency matters shall be heard by the judge presiding in the central jury pool for that week.

### RULE 3 - CIVIL CASES

#### Rule 3.10 Policy Statement

It is the purpose of the Board of Judges of Lubbock County, Texas to provide a system of effective case flow for all civil cases filed in these courts. Taking into account the rights of litigants, their attorneys, the costs associated with cases filed, the responsibility of ensuring all parties a fair and timely resolution of their disputes, and numerous other factors and case management studies, the Board of Judges of Lubbock County will implement rules and procedures to accomplish this purpose.

It is to be noted that the Board of Judges has asked for and received suggestions from the Lubbock County Bar and has adopted many of the suggestions provided by committees named by the Bar for this specific purpose. It is the responsibility of the courts to establish procedures for the timely and effective disposition of civil cases. In fulfilling its responsibility, the Board of Judges wishes to build continuing respect by the community for the established judicial system of government available to all people.

These rules are not intended to conflict with any applicable promulgated statute or rule, and in the event of such conflict, the promulgated rule or statute shall prevail.

#### Rule 3.20 Policy Goals

The goals of the Lubbock County Board of Judges with respect to the courts hearing civil matters are:

- (A) To provide an effective and fair procedure for the timely disposition of civil cases.
- (B) To provide a mechanism to gather needed case information in order to make appropriate judicial management decisions.
- (C) To establish reasonable rules and policies to require the disposition of cases

without unnecessary delays or interruptions.

- (D) To establish early judicial intervention with attorney input in order to have an orderly and speedy proceeding.
- (E) To provide parties and their respective attorneys a clear understanding of the specific chronological order and requirements of scheduled events in their respective case.

#### Rule 3.30 Case Level and Deadlines for Disposition

In order to effectuate the above goals, it is the intent of the Lubbock County Board of Judges to differentiate between cases according to their anticipated complexity and length. In the discretion of the courts and in accordance with established rules of procedure, cases will be generally assigned according to levels as follows:

##### (A) Level One

These cases will be concluded at the trial level no later than 12 months from the date of filing. 90% of these cases will be concluded within 8 months. 98% will be concluded within 10 months. 100% will be concluded within 12 months.

##### (B) Level Two

These cases will be concluded at the trial level no later than 18 months from the date of filing. 90% will be concluded within 14 months. 98% will be concluded within 16 months. 100% will be concluded within 18 months.

##### (C) Level Three

These cases will be concluded within 24 months. 90% will be concluded within 20 months. 98% will be concluded within 22 months. 100% will be concluded within 24 months.

The Board of Judges realizes that there may be extenuating circumstances and each court retains the right to schedule cases as it sees appropriate in accomplishing the goals as set out herein above.

#### Rule 3.40 Case Level Definitions and Time Frames

##### (A) Level One:

Suits in which plaintiffs seek only monetary relief of \$50,000.00 or less. (See Tex. R. Civ. P. 190.1. Changes to this rule will be made in accordance with the rules of procedure, i.e. monetary amount, if necessary.) These cases shall be tried no later than 12 months from time of filing. The trial date shall be set at the discretion of the court, taking into consideration the complexity of the case.

(1) Scheduling Orders:

Within 20 days from the date of first answer filed in a case, counsel are to confer as to the content of a scheduling order. If counsel agree on content and deadline dates, the plaintiff named first in the lawsuit shall submit a scheduling order to the court within 30 days from first answer date. If counsel do not agree, a hearing must be requested and the request received by the court within 23 days from first answer date. A hearing will be held and an order entered within 30 days from first answer date. If no hearing is requested within the designated time or if an agreed order is not submitted, the court will enter its own order at 5:00 o'clock p.m. 30 days from the date of first answer. (See the attached Court's Default Scheduling Order)

(2) Joinder of Parties, etc.:

Joinder of Parties, Plaintiff's Designation of Expert Witnesses, Defense Designation of Expert Witnesses, Discovery Deadlines, and any other matter, except those matters outlined in Rule 3.40(A)(3), (4), (5) and (6) will be done by agreement of counsel, or by the court if no agreement is reached, as outlined in Rule 3.40(A)(1). Any agreement by the attorneys shall not conflict with the assigned trial date or other events set by the court.

(3) Filing of Dispositive Motions:

All dispositive motions shall be filed and necessary hearings requested no later than 105 days before trial date. If the court fails to rule within 30 days, and upon the request of one of the parties, a hearing will be held for the specific purpose of assessing the remainder of the scheduling order and trial date.

(4) Challenges to Experts:

All challenges to expert witnesses or objections to expert witnesses shall be filed as follows:

Challenge to the Plaintiff's expert witnesses shall be filed at least 120 days before the trial date. If the court strikes the expert the Plaintiff shall have 30 days to designate a new expert. During those 30 days, the court will not consider any motions for summary judgment as concerns expert witnesses. If a new expert is designated, the opposing parties will have 30 days to designate any rebuttal experts.

Challenge to Defense expert witnesses shall be filed at least 90 days before trial date. If the court strikes the expert, the Defense will have 30

days to designate a new expert. During those 30 days, the court will not consider any motions for summary judgment as concerns expert witnesses.

(5) Alternative Dispute Resolution:

ADR shall take place no later than 30 days before trial. ADR may take place at any earlier time to which the parties may agree or at a time designated by the court, whichever is sooner. Cases will automatically be sent to the Dispute Resolution Center or a Neutral Mediator, selected by the parties, to be set at least 30 days before trial, unless the attorneys agree to an earlier date and that date is available with the Center. The court may designate a date prior to the 30 days if it deems it necessary to accomplish the purpose and goals of the Lubbock County Board of Judges.

(6) 30 Days Prior To Trial:

During this 30 day period, the court at its discretion may set a Trial Management Conference, a Scheduling Conference (the court may set other scheduling conferences throughout the proceeding of the case and prior to this 30 day period), a Settlement Conference, or any other hearing or matter the court deems appropriate to accomplish the purpose and goals of the Lubbock County Board of Judges.

(B) Level Two:

All cases as outlined in Tex. R. Civ. P. 190.3. These cases shall be concluded within 18 months from the date of filing. The trial date shall be set at the discretion of the court, taking into consideration the complexity of the case.

(1) Scheduling Orders:

Within 30 days from the date of first answer filed in a case, counsel are to confer as to the content of a scheduling order. If counsel agree on content and deadline dates, the plaintiff named first in the lawsuit shall submit a scheduling order to the court within 40 days from first answer date. If counsel do not agree, a hearing must be requested and the request received by the court within 33 days from first answer date. A hearing will be held and an order entered within 40 days from first answer date. If no hearing is requested within the designated time or if an agreed order is not submitted, the court will enter its own order at 5:00 o'clock p.m. 40 days from the date of first answer. (See the attached Court's Default Scheduling Order)

(2) Joinder of Parties, etc.:

Joinder of Parties, Plaintiff's Designation of Expert Witnesses, Defense Designation of Expert Witnesses, Discovery Deadlines, and any other matter, except those matters outlined in Rule 3.40(B)(3), (4), (5) and (6). will be done by agreement of counsel or by the court if no agreement is reached as outlined in Rule 3.40(B)(1). Any agreement by the attorneys shall not conflict with the assigned trial date or other events set by the court.

(3) Filing of Dispositive Motions:

All dispositive motions shall be filed and necessary hearings requested no later than 105 days before trial date. If the court fails to rule within 30 days, and upon the request of one of the parties, a hearing will be held for the specific purpose of assessing the remainder of the scheduling order and trial date.

(4) Challenges to Experts:

All challenges to expert witnesses or objections to expert witnesses shall be filed as follows:

Challenge to the Plaintiff's expert witnesses shall be filed at least 120 days before the trial date. If the court strikes the expert the Plaintiff shall have 30 days to designate a new expert. During those 30 days, the court will not consider any motions for summary judgment as concerns expert witnesses. If a new expert is designated, the opposing parties will have 30 days to designate any rebuttal experts.

Challenge to Defense expert witnesses shall be filed at least 90 days before trial date. If the court strikes the expert, the Defense will have 30 days to designate a new expert. During those 30 days, the court will not consider any motions for summary judgment as concerns expert witnesses.

(5) Alternative Dispute Resolution:

ADR shall take place no later than 30 days before trial. ADR may take place at any earlier time to which the parties may agree or at a time designated by the court, whichever is sooner. Cases will automatically be sent to the Dispute Resolution Center or Neutral Mediator, selected by the parties, to be set at least 30 days before trial, unless the attorneys agree to an earlier date and that date is available with the Center. The court may designate a date prior to the 30 days if it deems it necessary to accomplish the purpose and goals of the Lubbock County Board of Judges.

(6) 30 Days Prior To Trial:

During this 30 day period, the court at its discretion may set a Trial



management Conference, a Scheduling Conference (the court may set other scheduling conferences throughout the proceeding of the case and prior to this 30 day period), a Settlement Conference, or any other hearing or matter the court deems appropriate to accomplish the purpose and goals of the Lubbock County Board of Judges.

(C) Level Three:

All cases as outlined in Tex. R. Civ. P. 190.4. These cases shall be tried no later than 24 months from date of filing. The trial date shall be set at the discretion of the court, taking into consideration the complexity of the case.

(1) Scheduling Orders:

Within 45 days from the date of first answer filed in a case, counsel are to confer as to the content of a scheduling order. If counsel agree on content and deadline dates, the plaintiff named first in the lawsuit shall submit a scheduling order to the court within 60 days from first answer date. If counsel do not agree, a hearing must be requested and the request received by the court within 50 days from first answer date. A hearing will be held and an order entered within 60 days from first answer date. If no hearing is requested within the designated time or if an agreed order is not submitted, the court will enter its own order at 5:00 o'clock p.m. 60 days from the date of first answer. (See the attached Court's Default Scheduling Order)

(2) Joinder of Parties, etc:

Joinder of Parties, Plaintiff's Designation of Expert Witnesses, Defense Designation of Expert Witnesses, Discovery Deadlines, and any other matter, except those matters outlined in Rule 3.40(C)(3), (4), (5) and (6) will be done by agreement of counsel or by the court if no agreement is reached as outlined in Rule 3.40(C)(1). Any agreement by the attorneys shall not conflict with the assigned trial date or other events set by the court.

(3) Filing of Dispositive Motions:

All dispositive motions shall be filed and necessary hearings requested no later than 105 days before trial date. If the court fails to rule within 30 days, and upon the request of one of the parties, a hearing will be held for the specific purpose of assessing the remainder of the scheduling order and trial date.

(4) Challenges to Experts:

All challenges to expert witnesses or objections to expert witnesses shall

be filed as follows:

All challenges or objections to expert witnesses shall be made within 45 days following the latter of the following dates: 1) Designation; 2) Furnishing of written report and curriculum vitae; or 3) Deposition. Neither of these dates or events may conflict with Rule 3.40(C)(6) below. If the court strikes the Plaintiff's expert, the Plaintiff shall have 30 days to designate a new expert. During those 30 days, the court will not consider any motions for summary judgment as concerns expert witnesses. If a new expert is designated, the opposing parties will have 30 days to designate any rebuttal experts. If the court strikes the Defense's expert, the Defense will have 30 days to designate a new expert. During those 30 days, the court will not consider any motions for summary judgment as concerns expert witnesses.

(5) Alternative Dispute Resolution:

ADR shall take place no later than 30 days before trial. ADR may take place at any earlier time to which the parties may agree or at a time designated by the court, whichever is sooner. Cases will automatically be sent to the Dispute Resolution Center or a Neutral Mediator, selected by the parties, to be set at least 30 days before trial, unless the attorneys agree to an earlier date and that date is available with the Center. The court may designate a date prior to the 30 days if it deems it necessary to accomplish the purpose and goals of the Lubbock County Board of Judges.

(6) 30 Days Prior To Trial:

During this 30 day period, the court at its discretion may set a Trial Management Conference, a Scheduling Conference (the court may set other scheduling conferences throughout the proceeding of the case and prior to this 30 day period), a Settlement Conference, or any other hearing or matter the court deems appropriate to accomplish the purpose and goals of the Lubbock County Board of Judges.

Rule 3.50      Definitions

- (A) Dispositive Motions: These motions include Motions to Transfer Venue, Motions to Dismiss, Pleas to the Jurisdiction, Pleas in Bar, Motions for Summary Judgment and Pleas in Abatement. (Summary Judgment Motions will be heard by submission of briefs only unless oral arguments have been requested and granted by the trial court.)
- (B) ADR: Alternative Dispute Resolution
- (C) DCM: Differentiated Case Management

- (D) TMC: Trial Management Conference

Rule 3.55 Filings

- (A) The District Clerk will file all new civil cases, other than family law and tax cases, on a random basis among the 72<sup>nd</sup> District Court, the 99<sup>th</sup> District Court and the 237<sup>th</sup> District Court, utilizing a computer software program designed for this purpose. Said software program will ensure that each of the three (3) said District Courts will be assigned an equal number of civil cases on a random basis. The District Clerk will continue to assign Tax cases to each of the six (6) District Courts on a random basis as is currently being done. The District Clerk will continue to assign Family law cases to each of the six (6) District Courts and three (3) County Courts at Law on a random basis as is currently being done.
- (B) The County Clerk will file all new civil cases in County Court at Law # 3.
- (C) A "Case Information Sheet" must be filed along with a new petition, and a "Response Information Sheet" must be filed along with an original answer. The District Clerk and County Clerk will accept filings on new cases without a completed "Case Information Sheet" being attached, however, the clerks will inform the filing party that the "Case Information Sheet" must be filed within ten (10) days of the date of filing the petition or the case will be placed on a "Dismiss for Want of Prosecution" docket by the court. The District Clerk and County Clerk will accept answers for filing without a completed "Response Information Sheet", but will inform the filing party that a completed "Response Information Sheet" must be filed within ten (10) days of the filing of the answer.

RULE 4 - FAMILY LAW CASES

Rule 4.10 Parental Notification

An application for an order under Section 33.003, Family Code , may be filed in a district court, a county court-at-law, or a court having probate jurisdiction. The application must be filed with the district clerk of Lubbock County, who will assign the application to a court as provided by these local rules. If the county clerk receives an application under this rule, the application must be accepted, but the county clerk must then transfer it instantner to the district clerk, and must advise the person tendering the application where it is being transferred.

The district clerk will assign the application to the appropriate court utilizing a rotating system. Each of the eligible courts will be assigned applications under this section for a period of one calendar month pursuant to the following schedule:

Month 1: 72<sup>nd</sup> District Court

Month 2: 99<sup>th</sup> District Court  
 Month 3: 137<sup>th</sup> District Court  
 Month 4: 140<sup>th</sup> District Court  
 Month 5: 237<sup>th</sup> District Court  
 Month 6: 364<sup>th</sup> District Court  
 Month 7: County Court at Law No. 1  
 Month 8: County Court at Law No. 2  
 Month 9: County Court at Law No. 3  
 Month 10: County Court  
 Month 11: 72<sup>nd</sup> District Court  
 Month 12 and beyond: repeat rotation

If the judge of the assigned court is unavailable, then the district clerk shall assign the application to a judge selected by the local administrative judge.

#### Rule 4.20 Policy Statement

It is the goal of these rules that case disposition in family law matters shall be accomplished as effectively and efficiently as possible, in a just and timely manner. To achieve this goal, cases will be assigned a level according to the anticipated complexity of the case. The Judges recognize that family law cases have peculiarities which require special consideration such as reconciliation efforts and counseling. Each court retains the right to schedule a case as it deems appropriate and must do so when the interest of justice requires, taking into consideration the complexity and circumstances of the case pursuant to Rule 190.5 of the Texas Rules of Civil Procedure, as amended.

These rules are not intended to conflict with any applicable statute or the Texas Rules of Civil Procedure. In the event of such conflict, the applicable statute or Texas Rules of Civil Procedure shall prevail.

#### Rule 4.25 Case Level and Time Standards for Case Disposition

##### (A) Level One:

Any suit for divorce not involving children in which a party pleads that the value of the marital estate is more than zero but not more than \$50,000 should be concluded at the trial level within three months from the answer due date.

##### (B) Level Two:

Any suit brought under Title 1, 2, or 5 of the Texas Family Code and/or substantial property issues should be concluded at the trial level no later than nine months from the answer due date.

##### (C) Level Three:

Any suit brought under Title 1, 2, or 5 of the Texas Family Code and/or

substantial property issues, and/or complex legal or factual issues should be concluded at the trial level no later than 12 months from the answer due date.

Rule 4.30      Scheduling Conference and Order

(A)      Scheduling Conference

A scheduling conference will be set approximately 30 to 60 days after the answer due date. Prior to the scheduling conference, the parties may seek temporary orders, proceed with discovery, set the case for hearings or final trial in accord with the Texas Rules of Civil Procedure and these rules.

(B)      Scheduling Order

At the time of the scheduling conference, or by agreement prior to the date of the scheduling conference, a scheduling order will be entered scheduling the case for trial and setting forth deadlines and agreements of the parties necessary to prepare the case for trial.

If an attorney or a pro se party fails to appear at a scheduling conference without good cause, the scheduling order may be entered in his or her absence.

Rule 4.35      Ancillary Proceedings, Temporary Orders and Emergency Matters

(A)      An associate judge has been duly appointed for the district courts and county courts-at-law of Lubbock County and the following will be heard originally by the associate judge:

- (1)      motions to modify child support;
- (2)      motions to modify visitation orders;
- (3)      motions for temporary restraining orders and motions for temporary orders in suits for divorce or annulment;
- (4)      motions for temporary restraining orders and motions for temporary orders in suits affecting the parent-child relationship;
- (5)      a habeas corpus proceeding;
- (6)      motions to enforce child support;
- (7)      hearings requested pursuant to Title 4 of the Texas Family Code;
- (8)      hearings required by Chapter 262 and 263 of the Texas Family Code;

- (9) motions to transfer;
  - (10) motions to withdraw;
  - (11) motions to dismiss;
  - (12) any other matter referred to the associate judge by the presiding judge.
- (B) All motions on ancillary proceedings, temporary orders and emergency matters shall be presented to the court coordinator of the associate judge for scheduling for hearing before the associate judge. A request for hearing document shall accompany the order setting hearing. Orders setting hearings are to be signed by the associate judge or trial judge. Proper notice or service shall be the responsibility of the moving attorney or pro se party. A scheduling order shall not be required for hearings set out above unless ordered by the Judge.

Rule 4.40 Referral to Master

- (A) A master has been duly appointed for the district courts and county courts-at-law of Lubbock County and the following will be heard originally by the master:
- (1) All cases filed pursuant to Title IV-D of 42 U.S.C. Sections 651, et seq., by direction of § 201.101 et seq. of the Family Code;
  - (2) All support, contempt, and visitation matters in which the Texas Department of Human Resources is represented by the Texas Attorney General's Office;
  - (3) Any other matter referred to a master by the presiding judge.
- (B) Time for Disposition of Title IV-D Cases
- Title IV-D cases must be completed in accordance with § 201.110 of the Texas Family Code.

Rule 4.45 Alternative Dispute Resolution

- (A) Policy

In family law matters, it shall be the policy of the Board of Judges of Lubbock County, Texas to encourage the peaceable resolution of disputes and early settlement of pending litigation, including family law litigation, by referral to alternative dispute resolution (ADR) pursuant to the Texas Alternative Dispute Resolution Procedures Act, Texas Civil Practice and Remedies Code, Chapter 154.

(B) ADR Mandatory

No jury or nonjury trial shall be conducted in any case (except juvenile delinquency cases) until all contested issues have been referred to an ADR procedure and ADR has been unsuccessful, or the Court has determined that ADR is inappropriate for the case. ADR shall be completed no later than 30 days before trial.

(C) Manner of Referral

It is anticipated that the parties shall cooperate in an ADR procedure, under the terms and conditions ordered by the Court. After a date of completion for ADR is provided in the scheduling order, the Dispute Resolution Center (DRC) shall contact the parties by letter regarding the scheduling of mediation. Should the parties agree to use a selected neutral for this case, they shall notify the DRC and court within seven (7) days naming a neutral of their choice. The case will proceed according to the scheduling order. The selected neutral shall report the outcome of the ADR procedure to the DRC and court consistent with the provisions of the Tex. Civ. Prac. & rem. Code Ann. Section 154.

(D) Objection to Referral

If the court enters an order of referral to an ADR procedure, any party may object to such referral pursuant to Texas Civil Practice and Remedies Code, Chapter 154. Upon the filing of an objection, the court shall schedule a hearing. If the Court finds that there is a reasonable basis for the objection, the court shall order that the case not be referred to an ADR procedure and order the case set for trial on the merits.

Rule 4.55 Documents Required

- (A) A "Case Information Sheet" must be filed along with a new petition, and a "Response Information Sheet" must be filed along with an original answer. The District Clerk and County Clerk will accept filings on new cases without a completed "Case Information Sheet" being attached, however, the clerks will inform the filing party that the "Case Information Sheet" must be filed within ten (10) days of the date of filing the petition or the case will be placed on a "Dismiss for Want of Prosecution" docket by the court. The District Clerk and County Clerk will accept answers for filing without a completed "Response Information Sheet", but will inform the filing party that a completed "Response Information Sheet" must be filed within ten (10) days of the filing of the answer.
- (B) In all cases in which support of a spouse and/or child(ren) is in issue, whether temporary or final, each party shall be required to furnish to the court and opposing party:

- (1) A statement of monthly income and expenses.
  - (2) Copies of that party's federal income tax returns for the two calendar years prior to the hearing.
  - (3) All payroll statements, pay stubs, W2 forms, and 1099 forms which evidence that party's earnings for the calendar year prior to the hearing and from January 1 of the current year through the date of the hearing.
  - (4) Copies of any financial statements filed by that party with any financial institution in the two years prior to the hearing.
- (C) In all suits involving child support, each party who is a parent shall furnish to the court the information described for determination of child support set out in Section 154.063, Texas Family Code, as amended.
- (D) Inventory and Appraisement
- (1) Inventory and Appraisement Required

In all cases in which the character, value or division of property or debts is in issue, each party shall file, not less than thirty (30) days prior to final hearing, a sworn inventory and appraisal of all of the separate and community property owned or claimed by the parties and all debts and liabilities owed by the parties.
  - (2) Composite Inventory and Appraisement

After each party's sworn inventory and appraisal has been filed, the parties shall file a composite inventory and appraisal, which will include all items on each party's sworn inventory and appraisal. The petitioner shall initiate the composite inventory and forward it to the respondent for completion not less than seven (7) days prior to trial. The respondent shall complete and file the composite inventory with the court and serve a copy of the same on the petitioner not less than three (3) days prior to trial. On the composite inventory, each party will indicate in the space provided any asset or liability he or she requests as an award from the court. All values assigned by the parties will be assumed by the court to fairly represent the value each party assigns to the asset or liability described.
  - (3) Sanctions for Failure to File

If a party or the parties fail to prepare and/or file the initial inventory as required, the court may conduct a pretrial hearing and make such orders with regard to the failure as are just, including but not limited to, sanctions



pursuant to Rule 215(2)(b) of the Texas Rules of Civil Procedure, as amended.

Rule 4.60      Duration of Orders

No temporary order shall exceed one year in duration from the date the order is signed, except by agreement of the parties or order of the court.

Rule 4.65      Parent Education and Family Stabilization Course

(A)      Seminar Mandatory

(1)      All parties in original suits affecting the parent-child relationship or in suits to modify existing orders of conservatorship or possession shall attend and complete an educational seminar. The content of the seminar or course shall include, but not be limited to:

- (a)      the emotional effects of divorce on parents;
- (b)      the emotional and behavioral reactions to divorce by young children and adolescents;
- (c)      parenting issues relating to the concerns and needs of children at different developmental stages;
- (d)      stress indicators in young children and adolescents;
- (e)      conflict management;
- (f)      family stabilization through development of a co-parenting relationship;
- (g)      the financial responsibilities of parenting;
- (h)      family violence, spousal abuse, and child abuse and neglect; and
- (i)      the availability of community services and resources.

(2)      A course taken in compliance with Section 105.009 of the Texas Family Code, as amended, satisfies the requirements of this rule. A list of approved programs and dates and times for such programs can be obtained from the Associate Judge's office at 904 Broadway, Room 306. Parties who wish to satisfy the requirement with another program may submit information regarding the program to the Associate Judge for approval prior to enrollment in the program. The requirement of a parenting program may be waived by the referring court for good cause shown.

(3)      Fees

Each party shall attend the seminar or approved service of equal value at that party's sole cost and expense. The fee shall be payable to the service provider prior to the program date. The fee for the seminar shall be reduced or waived in cases of indigency as determined by the court.

(4)      Deadline for Completion

The seminar shall be initiated within thirty days from the answer due date, and evidence of completion filed with the court at least seven days prior to the final hearing.

(5) Verification of Attendance

Each party completing the seminar shall be provided with a certificate of attendance which that party shall present to the court prior to final hearing of the case.

(6) Sanctions

The court may take appropriate action with regard to a party who fails to attend or complete a course or seminar ordered by the court, including holding the party in contempt of court, striking pleadings, or invoking any sanction provided by Rule 215, Texas Rules of Civil Procedure, as amended.

Rule 4.70 Dismissal for Want of Prosecution

(A) Dismissal Docket

The court may set a “Try or Dismiss” Docket. All cases which have been on file for more than one (1) year may be dismissed for want of prosecution unless retained on the docket by order of the court.

(B) Other Dismissals for Want of Prosecution

The court, on its own motion, may dismiss a case for want of prosecution. The procedure provided in Rule 165a of the Texas Rules of Civil Procedure, as amended shall apply.

## RULE 5 - CRIMINAL CASES

Rule 5.10 Policy Statement

It is the responsibility of the courts to establish procedures for the timely and effective disposition of criminal cases. The courts are charged with the responsibility of ensuring both the State of Texas and all defendants a fair and timely resolution of criminal accusations, and the courts are in the best position to establish neutral rules and policies without adversely affecting either side’s right to a fair trial. Effective management of the judicial system will build continuing respect by the community for government, minimize the costs and maximize the probability that cases will be timely resolved. It is the purpose of these rules to establish such procedures.

These rules are not intended to conflict with any applicable statute or rule, and in the

event of any such conflict, the statute or rule shall prevail.

Rule 5.15 Policy Goals

- (A) The goals of the Lubbock County Board of Judges with respect to the courts hearing criminal matters are:
  - (1) To provide an effective and fair procedure for the timely disposition of criminal cases;
  - (2) To provide a mechanism to gather needed case information in order to make appropriate judicial management decisions; and
  - (3) To establish reasonable rules and policies to require that cases be disposed of without unnecessary delays or interruptions.
- (B) In order to effectuate these goals, it is the intent of the Board of Judges to differentiate between cases according to their anticipated complexity and length. In the discretion of the courts, cases will be generally assigned, under these policies and rules, into one of the following levels:
  - (1) Level One: Level One cases are defined as felony cases with an estimated length of trial of two days or less and/or presenting no complex legal issues. It is expected that these cases will reach disposition in no more than nine (9) months from the date of arraignment.
  - (2) Level Two: Level Two cases are defined as felony cases with an estimated length of trial of more than two but less than six days, and/or presenting significant legal or factual issues. It is expected that these cases will reach disposition in no more than twelve (12) months from the date of arraignment.
  - (3) Level Three: Level Three cases are defined as felony cases with an estimated length of trial of more than five (5) days and/or presenting complex legal and/or factual issues. It is expected that these cases will reach disposition in no more than eighteen (18) months from the date of arraignment.
  - (4) Misdemeanors: Misdemeanor cases are expected to reach disposition in no more than six (6) months from the date of arraignment.
- (C) The courts recognize that an early and amicable disposition will minimize costs to the taxpayers and defendants. The courts will encourage early disposition of cases without the necessity of a trial whenever possible.

Rule 5.20 Criminal Case Management: From Case Filing to Disposition

- (A) An Initial Appearance will be conducted pursuant to Article 15.17, Code of Criminal Procedure, for all defendants in jail within 24 - 48 hours of their arrest.
- (B) A defendant in jail longer than 72 hours will be appointed an attorney within the next 24 hours, i.e., all defendants in jail should have an attorney appointed within 96 hours of their arrest.
- (C) The courts will encourage the Criminal District Attorney to make a filing decision or present a case to a Grand Jury within 30 days of a defendant's arrest.
- (D) Felony Arraignments will be held within 10 days of indictment.
- (E) Misdemeanor Arraignments will be held within 30 days of complaint.
- (F) An attorney hired by a defendant will immediately file a Notice of Appearance with the appropriate clerk's office and notify the Criminal District Attorney's Office and the appropriate court coordinator by forwarding to them a copy of said Notice.
- (G) The First Scheduling Conference in felony cases will be held within 30 - 45 days of the arraignment. In misdemeanor cases, the First Scheduling Conference will be set as soon as possible after the 30<sup>th</sup> day after the arraignment. The Criminal District Attorney shall make a plea bargain offer, or announce that no offer will be made, at least 10 days prior to the first scheduling conference. At the first scheduling conference, it is not necessary for the defendant to be present, as long as the defense attorney is in contact with his client, and the attorney is in a position to either accept or reject the offer made by the state. If subsequent scheduling conferences are necessary, the defendant must be present at each one. The purpose of the scheduling conference is to determine whether the defendant accepts or rejects the plea bargain offer; if rejected, whether the defendant will plead guilty to the court or to a jury; if the plea is not guilty, whether a jury trial will be required, and if so, how long the trial is estimated to last. If a trial is required, a trial date will be assigned by the court, along with a pre-trial hearing date, which will be at least ten (10) days prior to the trial date.
- (H) Each court will determine the trial settings according to their schedule, but all cases will receive a specific date and time, in writing, for any setting from the court, at each scheduling conference.

Rule 5.25 Management of the Trial

(A) Pre-Trial Matters

All pre-trial matters should be concluded at the pre-trial conference prior to the trial date. If any new matters arise after the pre-trial conference, they should be brought to the trial court's attention as soon as they are discovered.

(B) Witnesses

The attorneys shall arrange for all witnesses to be immediately available as needed in order that there shall be no interruptions or delays. Any scheduling problems shall be brought to the attention of the court immediately. The attorneys shall instruct all witnesses not to discuss any aspect of the case in or around the courtroom or in the vicinity of any prospective juror and not to communicate in any fashion with any prospective juror or sworn juror.

The attorneys shall remain seated at counsel table at all times while questioning witnesses unless permission has been granted by the trial judge to approach the witness for showing them an exhibit, etc., or as otherwise directed by the trial judge. Counsel are expected to stand while addressing the court.

(C) Paperwork Following Trial

Immediately following a trial, the district attorney's office will prepare any required paperwork, i.e., judgment of guilt, judgment of not guilty, etc., and present all such paperwork to the court for signature.

Rule 5.30 Filings/Return of Indictments

- (A) The District Clerk will file all new criminal cases, other than capital murder cases, on a random basis among the 137<sup>th</sup> District Court, the 140<sup>th</sup> District Court, and the 364<sup>th</sup> District Court, utilizing a computer software program designed for this purpose. Said software program will ensure that each of the said three (3) District Courts will be assigned an equal number of criminal cases on a random basis. Capital Murder indictments will be assigned to the three (3) District Courts above on a rotating basis.
- (B) The County Clerk will file all new criminal cases on a rotating basis between County Court at Law No. 1 and County Court at Law No. 2.

Rule 5.35 Withdrawal or Substitution of Counsel

- (A) Subject to Rule 5.35(B), no attorney will be allowed to withdraw from a case without a hearing to (1) determine the reason, and (2) advise the defendant of his rights if the motion is granted.
- (B) Substitution of counsel may be granted without a hearing if a motion is filed with the joint signatures of the attorney of record, the substituted attorney and the defendant.

Rule 5.40 Bond and Bond Forfeiture

- (A) In all cases, the bond set by a magistrate shall remain in effect after indictment or

complaint unless the judge in whose court the case is pending resets the bond.

- (B) Bond forfeiture will be promptly initiated upon a defendant's failure to appear for any hearing for which he/she is required to appear.

## RULE 6 - JURY MANAGEMENT

### Rule 6.10 Management of Juries

- (A) Lubbock County has adopted an Electronic Jury Selection Plan as authorized by law.
- (B) The Joint Annual Calendar of the District Courts will show the district judge presiding in the central jury pool. Judges may substitute for each other as the need may arise.

## RULE 7 - JUDICIAL VACATION

### Rule 7.10 Judicial Vacation

The judge of each court shall receive thirty (30) days vacation each year.

### Rule 7.15 Notification of Local Administrative Judge

Notice of vacation or periods of absence longer than four days shall be provided to the local administrative judge at least four (4) weeks prior to the date of such vacation period or periods when possible. This rule shall not apply to judicial conferences and educational events.

### Rule 7.20 Requests for Visiting Judge

In order to efficiently allocate resources, i.e., judges, courtrooms, court reporters, etc., all requests for a visiting judge shall go through the Local Administrative Judge.

## RULE 8 - NON-JUDICIAL PERSONNEL

### Rule 8.10 Non-Judicial Personnel

The Local Administrative Judge of Lubbock County shall supervise the court administration program and shall be responsible for all administrative matters peculiar to the courts (as distinguished from judicial matters), subject to Section 72.002(2) of the Texas Government Code and the Rules of Judicial Conduct. The

Local Administrative Judge shall periodically review the case flow procedures and operations of the court administration program and shall recommend necessary changes to the board of judges.

Rule 8.15      Qualifications of Non-Judicial Personnel

The board of judges shall determine the qualification of personnel in the administrative office.

RULE 9 - ATTORNEYS IN COURT

Rule 9.10      Conduct and Decorum of Counsel

- (A) All lawyers shall dress in keeping with proper courtroom decorum, and all male lawyers shall wear coats and ties while in the attendance of the Court.
- (B) While the court is in session all remarks of counsel shall be addressed to the Court and not to opposing counsel or the judge as an individual.
- (C) In addressing the judges, lawyers shall at all times rise and remain standing to address the judge from their position at the counsel table, unless permission has been granted to approach the bench.
- (D) Counsel shall remain seated at the counsel table while interrogating witnesses, except as may be necessary in handling or displaying exhibits or demonstrating evidence, or as otherwise directed by the court.
- (E) Lawyers shall advise their clients and witnesses of proper courtroom decorum and seek their full cooperation therewith.

Rule 9.15      Requests for Continuance

(A) Contents of Motion

Unless counsel for all parties consent in writing to the request for a continuance and the same is approved by the Court, a motion must be filed pursuant to Rule 251, et seq. of the Texas Rules of Civil Procedure, as amended. The motion must be accompanied by an order setting the motion for a hearing. Any motion that does not meet these requirements will be denied without prejudice to the right to refile.

Rule 9.20      Conflict in Trial Settings

(A) Duty of Counsel to Notify Court

- (1) Whenever an attorney has two or more cases on trial dockets for trial at the same time, it shall be the duty of the attorney to bring the matter to the attention of the courts concerned immediately upon learning of the conflicting settings.

- (2) Priority of Cases in Event of Conflict

Insofar as practicable, the affected courts shall attempt to agree upon which case shall have priority.

#### Rule 9.25 Attorney Withdrawal

- (A) Withdrawal of counsel shall be governed by Rule 10 of the Texas Rules of Civil Procedure, as amended, and the following rules.

- (1) Notice to Client

If another attorney is not to be substituted as attorney for the party, or if the party does not consent to the motion to withdraw, the withdrawing attorney shall notify the client in writing and set the motion to withdraw for a hearing with notice of the date and time of the hearing provided to the client and counsel for any parties.

- (2) Orders

All orders granting withdrawal of counsel shall require withdrawing counsel to notify his or her client of all pending settings and deadlines known to withdrawing counsel.

- (3) No Delay of Trial

Unless allowed in the discretion of the Court, no motion to withdraw shall be granted when it is presented within thirty (30) days of the trial date or at such a time as to require a delay of trial.

### RULE 10 - MISCELLANEOUS LOCAL RULES

#### Rule 10.10 Settlement Week

Settlement Weeks shall be scheduled for the weeks of the West Texas Judicial Conference and the Annual Judicial Conference as designated on the courts' calendar, so far as is practical; otherwise they will be scheduled by the local administrative judge.

#### Rule 10.15 Miscellaneous Local Rules



Any local rule or order heretofore jointly entered by the courts shall remain in full force and effect unless in conflict with these adopted rules.

Rule 10.20 Judicial Budget Matters

- (A) The district courts shall submit budgets to the commissioners court in a timely fashion for all departments within their jurisdiction.
- (B) The county courts-at-law shall submit budgets to the commissioners court in a timely fashion for all departments within their jurisdiction.

Rule 10.25 Relationship With Other Governmental Bodies, The Public and The News Media

The board of judges shall at least once each year review their relationship with other governmental bodies, the public and the news media.

Rule 10.30 Forms

Forms required by these rules are available from the District Clerk's Office, the County Clerk's Office, the Administrative Office of the District Courts, the Administrative Office of the County Courts at Law and the Associate Judges' Court.

RULE 11

Rule 11.10 Procedure for Adoption and Amendment of Local Rules

Amendment of these local rules may be determined by the Board of Judges by majority vote at any Board of Judges' meeting upon three (3) days prior notice of presentation of amendments.

APPROVED:

J. Blair Cherry, Jr., Judge Presiding  
72<sup>nd</sup> District Court

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Mackey K. Hancock, Judge Presiding  
99<sup>th</sup> District Court

Cecil G. Puryear, Judge Presiding  
137<sup>th</sup> District Court

---

Jim Bob Darnell, Judge Presiding  
140<sup>th</sup> District Court

Sam Medina, Judge Presiding  
237<sup>th</sup> District Court

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Bradley S. Underwood, Judge Presiding  
364<sup>th</sup> District Court

Rusty Ladd, Judge Presiding  
County Court at Law # 1

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Drue Farmer, Judge Presiding  
County Court at Law # 2

Paula Lanehart, Judge Presiding  
County Court at Law # 3

# Pecos County

112<sup>th</sup> Judicial District

Courthouse:	Judicial Center 400 S. Nelson Fort Stockton, TX 79735	
Judge	Brock Jones 907 Ave. D P.O. Drawer C Ozona, TX 76943	325-392-5225 Fax 325-392-3434
District Clerk	Lisa Villarreal 400 S. Nelson Fort Stockton, TX 79735	432-336-8201 Fax 432-336-6437
Court Administrator	Cathy Carson 907 Ave. D P.O. Drawer C Ozona, TX 76943	325-392-5225 Fax 325-392-3434

## **RULE 1. CIVIL CASES**

### **RULE 1.10 SETTINGS – JURY CASES**

*When setting a civil case for pre-trial, jury, non-jury or post trial hearing, please call the Court Administrator in Ozona, Texas prior to sending your Motion and Order Setting to obtain available hearing dates. After you have available dates, please contact opposing counsel to obtain a date that is agreeable to both parties. Once you have an agreed date, fill that date in on your Order Setting and forward both your Motion and Order, along with a statement that the date is an agreed date, to the Court Administrator in Ozona, Texas for entry with the Court.*

### **RULE 1.11 REQUEST FOR SETTING – JURY CASES**

A setting for trial on the merits will be made in response to a written Request for Setting submitted directly to the Court Administrator in Ozona, Texas. The party requesting a setting should not file the Request for Setting with the Clerk of Pecos County.

The Request for Setting shall contain the following:

- 1.) The style and number of the case, and the county where the case is pending.
- 2.) The name, address and telephone number of the attorney making the request and the party represented by said attorney;

- 3.) Whether discovery is intended to be conducted under level 1, 2 or 3 according to Rule 190, T.R.C.P.;
- 4.) The date on which the jury fee was paid;
- 5.) A statement that the pleadings of the party requesting the setting are in order;
- 6.) A statement that mediation has been completed or none is required.
  - (a) Pending mediation, all discovery is abated unless otherwise ordered by the Court.
- 7.) A statement that all discovery has been completed or none is desired.
  - (a) If discovery is pending the request shall contain the date on which discovery is expected to be completed;
- 8.) A statement that all pre-trial matters have been disposed of or none is pending.
  - (a) If pre-trial matters are pending the request for setting shall state the nature of same, the party asserting same, the estimated time for hearing same and possible dates for a pre-trial hearing which have been cleared with opposing counsel;
- 9.) A statement that the party requesting the setting has made a good-faith effort to negotiate a settlement of the case and further efforts appear futile.
- 10.) Possible dates for the trial of the case which have been cleared with opposing counsel.
  - (a) If opposing counsel will not agree to a date for trial, the dates proposed and the reason for opposing counsel's refusal to agree to same;
- 11.) The estimated time of trial;
- 12.) A certificate that a copy of the Request for Setting has been served on all counsel in the case, the name and address of each attorney and the date of service;
- 13.) The signature of the attorney making the Request.

14.) A blank Order Setting which should be attached to the Request.

**RULE 1.12 ORDER SETTING – JURY CASES**

- a. In response to a Request for Setting, the Court will enter an Order setting the case for trial on the merits and deliver a copy of the same to the District Clerk to certify who will then deliver a certified copy to each attorney. If item 8.(a) in the Request for Setting is applicable, please send an Order Setting and the Court will set a pre-trial hearing.
- b. *At the bottom of all ORDER SETTINGS, please list all the parties who need to be notified. If the parties are represented by attorneys, please list the attorney's fax numbers. If they are pro se litigants, please give their addresses.*

**RULE 1.13 PROPOSED JURY QUESTIONS – JURY CASES**

At the time the parties announce ready, each party shall submit to the Court proposed jury questions.

**RULE 1.20 SETTINGS – NON-JURY CONTESTED CASES**

*When setting a civil case for pre-trial, non-jury or post trial hearing, please call the Court Administrator in Ozona, Texas prior to sending your Motion and Order Setting to obtain available hearing dates. After you have available dates, please contact opposing counsel to obtain a date that is agreeable to both parties. Once you have an agreed date, fill that date in on your Order Setting and forward both your Motion and Order, along with a statement that the date is an agreed date, to the Court Administrator in Ozona, Texas for entry with the Court.*

**RULE 1.21 REQUEST FOR SETTING – NON-JURY CONTESTED CASES**

A setting for trial on the merits will be made in response to a written Request for Setting submitted directly to the Court Administrator in Ozona, Texas. The party requesting a setting should not file the Request for Setting with the Clerk of Pecos County. The contents of the Request for Setting shall be the same as a Request for Setting for jury trial except for item 4.

**RULE 1.22 ORDER SETTING – NON-JURY CONTESTED CASES**

- a. The same procedure will be followed as for Jury Trial.
- b. A setting will be made only in response to a proper written Request for Setting.
- c. *At the bottom of all ORDER SETTINGS, please list all the parties who need to be notified. If the parties are represented by attorneys, please list the attorney's fax numbers. If they are pro se litigants, please give their addresses.*

RULE 1.23 FAILURE TO AGREE ON SETTING – NON-JURY CONTESTED CASES

If the parties fail to agree on a hearing date, the Court will set matters for trial based on the Court's schedule.

RULE 1.30 DISMISSAL DOCKET: INVOLUNTARY DISMISSAL

At least once each year, each divorce case which has been on file for more than one year, and each civil case, other than divorce cases, which have been on file more than two years, may be set for hearing for all parties to show cause why same should not be dismissed for want of prosecution without further notice. Nothing in this rule shall prevent any court from adopting local rules governing the dismissal docket with shorter or longer pendency periods for dismissal.

RULE 1.40 UNCONTESTED AND DEFAULT MATTERS

When requesting a setting for uncontested divorces, agreed divorces, defaults or adoptions, you do not need to send an Order Setting. These matters can be set by contacting the Court Administrator in Ozona, Texas.

RULE 1.50 TEMPORARY RESTRAINING ORDERS AND PROTECTIVE ORDERS

- a. An application for a Temporary Restraining Order and/or Protective Order, to be granted without notice to the adverse party, will be considered only upon the applicant's verified complaint or affidavit accompanying the application, and no testimony will be heard. No Temporary Restraining Order or Protective Order will be granted without notice to the adverse party unless the applicant's verified complaint or affidavit accompanying the application contains "specific facts," as required by Rule 680, T.R.C.P., and "a plain and intelligible statement of the grounds for such relief," as required by Rule 682, T.R.C.P. No such Temporary Restraining Order shall be granted upon a complaint or affidavit containing mere conclusions, even if verified.
- b. Ex Parte Orders in family law matters must meet the requirements of the Family Code.

RULE 1.60 PUBLIC INFORMATION

The names and addresses of all parties to civil action filed with the County and District Clerks shall remain public information and shall not be confidential by law other than 30.015 of the Texas Civil Practices and Remedies Code.

## **RULE 2. CRIMINAL CASES**

### **RULE 2.10    CONTINUANCES**

All continuances shall be in accordance with Arts. 29.01 through 29.13, C.C.P. and Art. 30.003, Tx. Civil Prac. & Rem. Code.

### **RULE 2.11    AGREED CONTINUANCES**

If you have a continuance that is agreed to by all parties, please contact the Court Administrator in Ozona, Texas and advise her of this and she will consult with the Judge prior to removing the matter from the docket. **Continuances are not automatic upon agreement by the parties. Mere filing of a Motion for Continuance does not mean the continuance will be granted.**

### **RULE 2.12    RESETTINGS**

- a. To obtain a resetting date, please contact the Court Administrator in Ozona, Texas for available dates, then contact opposing counsel to obtain a date that is available and agreeable to all counsel.
- b. Send an Order Resetting with a cover letter advising the Court Administrator in Ozona, Texas of the date the parties have agreed on.

### **RULE 2.13    SETTINGS/SCHEDULING:**

Criminal cases will be set for trial at the request of the District Attorney. Should a defendant desire a trial for which the District Attorney has not requested a setting, the case will be set in response to the defendant's request. A pre-trial hearing, as provided by Art. 28.01, C.C.P., will be conducted in each case prior to trial.

### **RULE 2.14    PAYMENT OF COURT APPOINTED ATTORNEYS:**

All court appointed attorneys shall submit an Attorney Fee Voucher, which can be obtained from the Court Administrator in Ozona, Texas.

## **RULE 3. FAMILY LAW CASES**

### **RULE 3.10    CASES INVOLVING CHILDREN**

The trial of family law cases involving children will be given preference over the trial of other civil cases.

### **RULE 3.11    INCOME AND EXPENSE STATEMENTS**

The attorneys in all contested hearings concerning support shall prepare complete written income and expense statements as to their respective clients and present same to the Court prior to the hearing.

### **RULE 3.12    WRITTEN INVENTORY**

In all contested cases involving the division of property the attorney shall prepare a complete written inventory of the assets and liabilities of the marital estate and of the separate estate of their respective client and submit same to the Court prior to trial.

RULE 3.13 CHAPTER 33 CASES

All cases filed involving Chapter 33 of the Texas Family Code, shall be filed with the District Clerk and docketed in the 112<sup>th</sup> District Court. The District Clerk will immediately notify the Court Administrator of the 112<sup>th</sup> District Court of a filing involving Chapter 33 of the Texas Family Code. All hearings required under Chapter 33 of the Texas Family Code, shall be conducted by the Judge of the 112<sup>th</sup> District Court, or a Judge sitting by Assignment in the 112<sup>th</sup> District Court.

RULE 3.14 FORM VS-165

All divorces and annulments are reported to the Bureau of Vital Statistics, using Form VS-165 provided by the bureau. Per Sec. 194.002 of the Health and Safety Code, the clerk shall file with the Bureau a completed report for each divorce or annulment granted during the preceding calendar month. The Attorney General and any attorney of record, in a case involving a divorce, an annulment, or any suit affecting the parent-child relationship shall complete the form and present it to the presiding judge upon the filing of the decree or judgment. No decree or judgment will be signed until said document is submitted.

## RULE 4. GENERAL RULES

The following rules apply to all cases:

RULE 4.10 CERTIFICATE OF SERVICE

*At the end of all MOTIONS, please include the opposing counsel's name, address, phone number and fax number under the Certificate of Service. Please do not put "...a copy has been sent to all opposing counsel." (This will let the Court know who the attorneys are since we do not have immediate access to all files in every county).*

RULE 4.11 AVAILABLE COURT DATES

When setting or resetting a case for trial, pre-trial, etc., please contact the Court Administrator in Ozona, Texas for available dates. Then, contact all other counsel and obtain a date that everyone is available.

- a. Submit an Order Setting to the Court, with a Request for Setting when obtaining a trial date, or a letter when obtaining a pre-trial date, stating the date the parties have agreed to.



- b. If you cannot obtain a date that is agreeable to all counsel, send your order Setting with a letter stating the dates that were given to opposing counsel and their reasons for not agreeing.
- c. **ALWAYS ADVISE THE COURT IN YOUR REQUEST OR COVER LETTER THAT YOU HAVE CONTACTED THE OPPOSING COUNSEL AND THAT THEY ARE AVAILABLE FOR HEARING ON THE DATE YOU HAVE REQUESTED.**

RULE 4.12 **ESTIMATED TIME FOR HEARING**

When setting or resetting a case for trial, pre-trial, etc., please advise the Court the estimated time you will need for the hearing.

RULE 4.13 **COURT FILES**

The Court will set your case for hearing as quickly as possible. In an effort to do so, the Court may set your case in another county within the District, other than the county the case is filed in (Crockett, Sutton, Pecos, Reagan and Upton Counties). When a case is heard out of county, but within the district, it is the attorney's responsibility to transport the case file to the judge in the County for which the hearing will be held. The attorney shall contact the District Clerk in the county for which the case is filed to let them know they will be picking the file up to transport it to another county for hearing. It is the attorney's responsibility to return the file to the District Clerk's Office the same day, unless prior arrangements are made with the District Clerk.

RULE 4.14 **CANCEL HEARINGS**

If for any reason, you have to cancel a hearing, please contact the Court Administrator in Ozona, Texas as soon as possible.

RULE 4.15 **TELEPHONE CONFERENCE**

Hearings conducted by telephone conference call are acceptable and encouraged by the Court.

RULE 4.16 **FAX AND ANSWERING MACHINE AVAILABILITY**

Any attorney practicing in the 112<sup>th</sup> District Courts, if practicable, shall have access to a fax machine and answering machine that will be operative 24 hours a day, seven days a week. Said numbers shall be provided to the Courts, the Clerks of Court, and all opposing counsel. All communications between the Courts and attorneys sent via fax to the numbers provided shall be deemed received. This does not include filing documents with the District Clerk, unless the District Clerk has implemented an Electronic Filing Plan.

RULE 4.17 PARTIAL CIVIL INVALIDITY

In the event any of the foregoing rules or any part thereof is held to be invalid for any reason, such invalidity shall not affect the validity of the remaining rules and parts of rules, all of which have been separately numbered and adopted.

RULE 4.18 CONSTRUCTION OF RULES

Unless otherwise expressly provided, the past, present or future tense shall each include the other; the masculine, feminine or neuter gender shall each include the other; and the singular and plural shall each include the other.

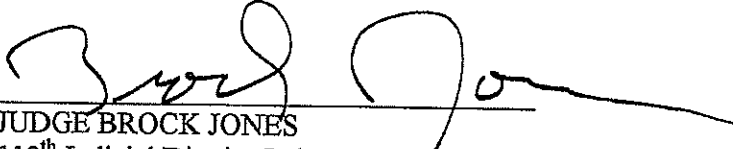
RULE 4.19 AUTHORITY FOR RULES

The foregoing rules of Practice are promulgated pursuant to rule 3A, T.R.C.P. and a copy of same has been furnished to the Supreme Court of Texas.

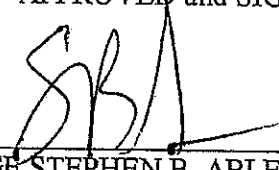
RULE 4.20 APPLICATION OF RULES

These rules shall supersede any prior local rules of practice. These rules shall become effective upon approval by the Texas Supreme Court.

SIGNED AND ORDERED FILED in the Minutes of the District Court in Pecos County this the 27 day of October, 2004.

  
JUDGE BROCK JONES  
112<sup>th</sup> Judicial District Judge

APPROVED and SIGNED this the 1 day of Nov, 2004.

  
JUDGE STEPHEN B. ABLES  
6<sup>th</sup> Administrative Judicial Region

# IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 06-


**9034**

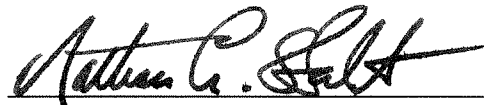
## APPROVAL OF LOCAL RULES FOR THE DISTRICT COURTS OF MADISON COUNTY

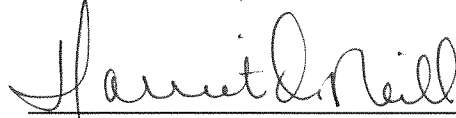
**ORDERED** that:

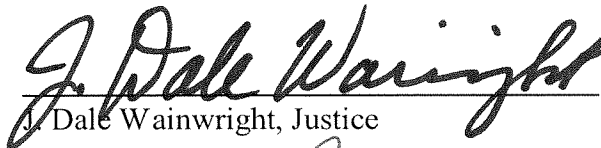
Pursuant to Texas Rule of Civil Procedure 3a, the following Local Rules for the District Courts of Madison County are approved.

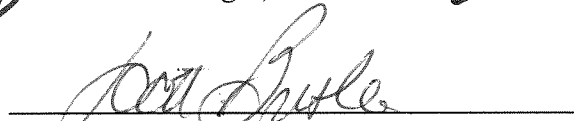
In Chambers, this 22<sup>nd</sup> day of February, 2006.

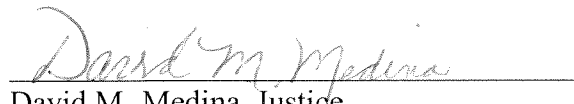
  
Wallace B. Jefferson, Chief Justice

  
Nathan L. Hecht, Justice

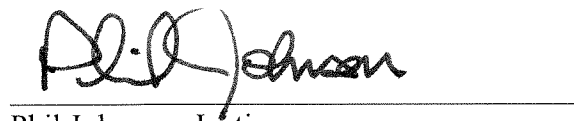
  
Harriet O'Neill, Justice

  
J. Dale Wainwright, Justice

  
Scott Brister, Justice

  
David M. Medina, Justice

  
Paul W. Green, Justice

  
Phil Johnson, Justice

  
Don R. Willett, Justice



## Second Administrative Judicial Region of Texas

Olen Underwood

Presiding Judge

*Kassi Cranfill*  
*Regional Administrator*

*Nathan Jensen*  
*Regional Assistant*

February 15, 2006

Honorable Nathan L. Hecht  
Justice, Supreme Court of Texas  
Attn: Jody Hughes, Rules Attorney  
P.O. Box 12248  
Austin, Texas 78711

Re: Local Rules of the District Courts of Madison County, Texas

Dear Judge Hecht:

Pursuant to, and in accordance with Rule 3a, Texas Rules of Civil Procedure, and Rule 8, Regional Rules of Administration, Second Administrative Judicial Region of Texas, I am requesting approval by the Justices of the Supreme Court for the Local Rules of the District Courts of Madison County, Texas.

I hereby approve this addition of the Local Rules of the District Courts of Madison County, Texas. Please advise this office of the Courts actions.

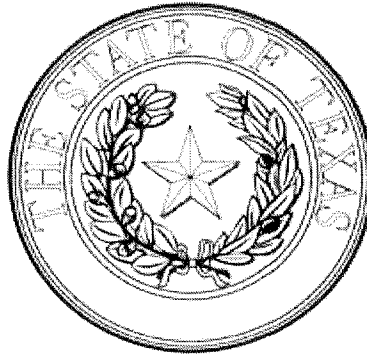
Thank you for your usual courtesies.

Sincerely,

A handwritten signature in black ink, reading "Olen Underwood".

Olen Underwood  
OU/kc

cc: Honorable Kenneth Keeling, 278<sup>th</sup> District Court



LOCAL RULES OF THE DISTRICT COURTS  
OF  
MADISON COUNTY, TEXAS

12<sup>th</sup> AND 278<sup>th</sup> JUDICIAL DISTRICTS



**LOCAL RULES OF THE DISTRICT COURTS**

**OF**

**MADISON COUNTY, TEXAS**

**12<sup>TH</sup> & 278<sup>TH</sup> JUDICIAL DISTRICTS**

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# **Local Rules of the District Courts of Madison County**

## **PURPOSE**

**The Local Rules of the District Courts of Madison County have as their primary purpose the management of the court dockets in a fair, just, equitable and impartial manner. These rules are designed to be an aid in achieving that goal and to do so in a timely and economical manner.**

## **RULE 1**

### **APPLICATION, JURISDICTION AND ASSIGNMENT OF CASES**

#### **RULE 1.1 APPLICATION**

These rules apply to all cases, civil, criminal, and family, of which the District Courts have exclusive jurisdiction in Madison County.

#### **RULE 1.2 JURISDICTION**

Exclusive jurisdiction of District Courts encompasses matters defined by the constitution, statute or case law as the sole province of District Courts.

#### **RULE 1.3 ASSIGNMENT OF CASES**

The District Clerk shall assign cases equally among the District Courts on a mandatory rotation basis unless specifically instructed otherwise by these rules or by the Board of Judges.

## **RULE 2**

### **LOCAL ADMINISTRATIVE DISTRICT JUDGE, BOARD OF JUDGES AND RULES OF DECORUM**

#### **RULE 2.1 POWERS AND DUTIES OF LOCAL ADMINISTRATIVE DISTRICT JUDGE**

##### **A. Election of the Administrative Judge**

Pursuant to Section 74.091 of the Texas Government Code, a majority of the District Judges will elect a Local Administrative District Judge for a one-year term at the December meeting of each year to commence on January 1st of the following year.

## **B. Duties**

The Local Administrative District Judge will have the duties and responsibilities provided in Rule 9 of the Rules of Judicial Administration, the Regional Administrative Rules and these rules.

### **RULE 2.2 BOARD OF JUDGES**

The Board of Judges shall consist of the Judges of the District Courts. The board shall meet to discuss and resolve questions that are of common concern to all of the members thereof. The Local Administrative District Judge or any member of the Board of Judges may call meetings of the board as needed. The Local Administrative District Judge shall preside over such meetings; and in his absence, a temporary Chairperson may be elected by a majority of the quorum.

### **RULE 2.3 RULES OF DECORUM**

The Judges have a duty to maintain order and proper decorum in the courtroom. The Board of Judges have adopted the Rules of Decorum set forth in **Addendum 1** to these rules which shall apply to all attorneys and others appearing in the courtrooms of Madison County. The rules may be enforced by contempt or referral to the State Bar of Texas for grievance proceedings, or both, as the judge deems proper.

## **RULE 3**

### **CIVIL CASES**

#### **RULE 3.1 GENERAL**

All civil cases which the District Courts of Madison County have exclusive jurisdiction shall be filed in the District Clerk's office located at the County Courthouse, 101 West Main, Rm. 226, Madisonville, Texas 77864. Even numbers shall be assigned to cases filed in the 12<sup>th</sup> District Court and odd numbers shall be assigned to cases filed in the 278<sup>th</sup> District Court.

#### **RULE 3.2 TRANSFER OF CASES; DOCKET EXCHANGE; BENCH EXCHANGE**

##### **A. Transfer**

After assignment to a particular court, a case may be transferred to another court by order of the Judge of the court in which the case is pending with the consent of the Judge of the court to which it is transferred.

##### **B. Exchange of Cases**

The courts may at any time exchange cases and benches to accommodate their dockets or to expedite the court's trials, as permitted by law.

##### **C. Previous Judgment or filing**

Any claim for relief based upon a previous judgment shall be assigned to the court of original judgment. If a case is filed in which there is a substantial identity of parties and causes of action in a previously non-suited case, the later case shall be assigned to the court where the prior case was pending.

#### **D. Consolidation**

A motion to consolidate cases shall be heard in the court where the lowest numbered case is pending. If the motion is granted, the consolidated case will be given the number of the lowest numbered case and assigned to that court.

#### **E. Severance**

If a severance is granted, the new case will be assigned to the court where the original case is pending; however, a new file date and a new cause number will be assigned to the now severed case.

#### **F. Presiding for another Judge**

In all cases where a judge presides for another court, the case shall remain pending in the original court.

#### **G. Prove-up Divorce Cases and Default Cases**

Uncontested divorce cases, default judgments, or other uncontested matters, may be heard by either of the District Judges or the Judge of the County Court at Law, if the Judge assigned the case is unavailable, subject to the requirements of jurisdiction.

### **RULE 3.3 SERVICE OF PROCESS**

The Courts have adopted a blanket order permitting private service of process pursuant to Rule 103 of the Texas Rules of Civil Procedure. Applications for approval to be added to the list shall be presented to the local administrative judge. A list of approved private process servers is maintained in the District Clerk's Office.

### **RULE 3.4 REQUESTS OF THE DISTRICT CLERK**

#### **A. Written Requests**

All parties desiring copies of documents from the District Clerk shall furnish the clerk return envelopes properly addressed and stamped. Except as provided elsewhere in these rules, no conformed copies shall be made or furnished nor shall searches or research be performed for counsel or the public, free of charge. All mail received with postage due will be returned to sender.

#### **B. Telephone Requests**

The court clerk shall limit response to telephone requests for information to the following:

If answer has been filed.

Existence of case on file.

Return of service and date.

Correct style of case when correct case number is supplied.

If an order has been signed.

Whether or not a jury fee has been paid and date of payment.

Whether or not a specific document has been filed. But this does not authorize a fishing expedition.

### **RULE 3.5 GUARDIANS AND ATTORNEYS AD LITEM**

When it is necessary for the court to appoint a guardian ad litem for minor or incompetent parties or an attorney ad litem for absent parties, independent counsel, not suggested by any of the parties or their counsel, will be appointed. However, the court may appoint an attorney who is already counsel of record for one of the parties if the court finds that no conflict of interest or other circumstances exist which would prevent such attorney from providing adequate representation for such minor, incompetent or absent defendant.

### **RULE 3.6 DOCKET SETTINGS**

#### **A. Court Coordinator/Administrator**

Each court shall appoint a court coordinator/administrator. It shall be the duty of each court coordinator/administrator to:

Provide the court, the clerk assigned to that particular court and the general public with a printed docket of the cases set for a hearing for each day of court;

Notify all counsel of settings and rulings of the court as is provided by these rules or at the direction of the court;

Prepare scheduling orders for cases assigned to their court;  
Coordinate all setting requests; and

Coordinate with the District Clerk's office concerning jury trials and jury requirements.

#### **B. Requests for Settings**

Requests for hearings and trials in the District Courts shall be made in writing to the court in which the matter is pending, and the attorneys making such request shall serve all counsel and parties appearing pro se with notice of the setting request. The setting request shall be in the form set forth in **Addendum 2**, attached to these rules. If the setting request is approved, the court coordinator will confirm the setting in writing.

#### **C. Docket Control Orders**

Each court may generate docket control orders for each civil case pending. The order shall contain a trial setting, cut off date for discovery, pretrial conference date and any other requirements as established by each individual court.

#### **D. Calendars**

Court calendars are established by the 12<sup>th</sup> and 278<sup>th</sup> Judicial District Courts for each calendar year that set forth the availability of the respective courts for trials or other hearings in the counties of Madison, Walker, Grimes and Leon. Copies of these calendars may be obtained from the District Clerk or Court Coordinator.

### **RULE 3.7 Pre-Trial Motions**

#### **A. Pre-Trial Motions (Non Summary Judgment)**

##### **Form**

Motions and responses shall be in writing and shall be accompanied by a proposed order granting or denying the relief sought. The proposed order shall be a separate instrument.

### **Response**

Responses shall be in writing. Responses shall be filed before the hearing date. Failure to file a response may be considered a representation of no opposition. A reply may be filed at any time after a response is filed prior to the court's ruling.

### **Certificate of Conference**

Opposed motions and responses shall contain a Certificate of Conference indicating that the counsel involved have attempted to resolve the dispute prior to filing of the motion or response, the date of such attempt and the manner of communication of such an attempt, or any other requirement of the court.

## **B. Pre-Trial Motions (Summary Judgment Rule 166(c) TRCP)**

### **Motion**

The motion shall state the specific grounds thereof in numerical order and shall state the specific facts relied upon in each ground, identify the source of those facts, and specify where in the summary judgment evidence the facts are found. The motion shall contain a clear and concise argument for each ground with appropriate citations to authorities relied upon and specific references to the summary judgment evidence.

### **Response**

The response shall address the motion in the same numerical order established in the motion for summary judgment. The response shall state the specific facts relied upon, identify the source of those facts, and specify where in the summary judgment evidence the facts are found. The response shall set out a clear and concise argument with appropriate citations to authorities relied upon and specific references to the summary judgment evidence.

## **RULE 3.8 ALTERNATE DISPUTE RESOLUTION AND MEDIATION**

### **A. Alternate Dispute Resolution**

In order to encourage the early settlement of disputes and to carry out the responsibilities of the courts as set out in Chapter 154 of the Texas Civil Practices and Remedies Code, appropriate alternative dispute resolution procedures will be encouraged and utilized.

### **B. Mediation**

The courts encourage mediation in order to facilitate the settlement of disputes and litigation. Each court shall adopt a procedure for the use of mediation in all civil cases. It is in the sound discretion of the trial court whom to use as a mediator and the procedures for same.

## **RULE 3.9 CONTINUANCES**

Any motion for continuance of the trial setting shall be presented to the court pursuant to the Texas Rules of Civil Procedure. The proposed order granting or denying such motion shall contain a provision for resetting the case for trial on a specific date and time.

## **RULE 3.10 SETTLEMENTS**

All trial counsel are required to make a bona fide effort to settle cases at the earliest possible date before trial. The



court will expect counsel to confer with his/her client and with opposing counsel concerning settlement offers. When an attorney settles or dismisses a case that is set for trial, he shall give notice to the court as soon as possible.

### **RULE 3.11 MOTIONS IN LIMINE**

The **Standing Order in Limine** attached hereto as **Addendum 3** shall apply to all civil cases tried in the District Courts of Madison County and should counsel desire that additional matters be included a motion will be required.

### **RULE 3.12 JURY CHARGE, DEFINITIONS, INSTRUCTIONS AND QUESTIONS**

Each party shall prepare in proper written form and present to the court prior to trial or the jury selection all jury charge definitions, instructions and questions which are expected to be raised by the pleadings and evidence and upon which the party has an affirmative burden. The charge shall be provided in both written form and on a 3.25 computer disc, CD-ROM, or other pre-approved media.

### **RULE 3.13 VOIR DIRE**

The District Clerk shall align the Juror Information Cards in numerical order and seat the panel in numerical order. The Judge will qualify the panel and accept or reject any excuses. After the final panel is determined, the attorneys must make their decision on whether or not a shuffle will be requested. The court will recess the panel to give the clerk time to copy the jury cards and to make a new list of names of jurors, either in shuffled order or in numerical order. When the new list is completed and cards copied the clerk will re-seat the jury according to the list and voir dire will begin. The attorneys and judge will be furnished a copy of the list and jury information cards.

Challenges for cause will be made after all parties are completed with their voir dire examination of the panel. After all counsel have completed their voir dire examination, the attorneys will be asked to approach the Bench. Counsel will be asked in turn for the Juror Number of the jurors whom they wish to challenge for cause. If, in the opinion of the Court, sufficient evidence has been adduced to support a ruling, the challenge will be granted or denied without further questions. Otherwise, the panel member will be called to the Bench and each counsel will be allowed a few questions. The panel member will then be excused to return to their seat, and the challenge will be ruled on outside the presence of the panel member.

If any panel member responds to questions during voir dire examination in a manner which makes it clear that they possess such strong opinions that a challenge for a cause will clearly be good, and there exists a possibility that further responses may "poison" the entire panel, counsel should diplomatically terminate the inquiry and avoid further inquiries in the presence of the panel. If adverse counsel has a good-faith belief that the panel member can be rehabilitated, it will be pursued on an individual basis after the general voir dire examination.

Counsel will be allowed to tell the panel what their contentions are in order to provide a context for their voir dire examination. Detailed recitations of facts should be reserved for opening statement.

If panel members ask counsel about the existence of insurance or any other specific factual matter, counsel should direct the question to the Court.

### **RULE 3.14 DISMISSAL DOCKET; INVOLUNTARY DISMISSALS**

#### **A. Time Standards for Civil Case Dispositions**

##### **A. Civil Jury Cases**

All civil jury cases shall be tried or dismissed within 18 months from appearance date.

### **B. Civil Non Jury Cases**

All civil non-jury cases shall be tried or dismissed within 12 months from appearance day.

### **B. Dismissal Dockets**

All cases not brought to trial or otherwise disposed of which have been on file for more than the specified time period as established by these rules shall be placed on the dismissal docket by the Court.

### **C. Notice**

When a case has been placed on the dismissal docket, the court shall promptly send notice of the court's intention to dismiss for want of prosecution to each attorney of record and pro se party whose address is shown in the clerk's file. A copy of such notice shall be filed with the papers of the cause.

### **D. Motion to Retain**

Unless a written motion to retain has been filed prior to the dismissal date as set forth in the notice of intention to dismiss, such case shall be dismissed. Notice of the signing of the order of dismissal shall be given as required by Rule 165a of the Texas Rules of Civil Procedure. Failure to mail notices as set out above shall not affect any of the periods mentioned in Rule 306a of the Texas Rules of Civil Procedure except as provided in that rule.

### **E. Motion for Reinstatement**

A motion for reinstatement after dismissal shall follow the procedure and be governed by the provisions of Rule 165a of the Texas Rules of Civil Procedure relating to reinstatement.

## **RULE 4**

### **FAMILY LAW CASES**

#### **RULE 4.1 GENERAL**

The filing, assignment, and transfer of cases under the Family Code shall be in accordance with Rule 1 of these rules. All cases filed pursuant to the Family Code, shall be governed by Rule 3 and 4 of these rules.

#### **RULE 4.2 TIME STANDARDS FOR FAMILY LAW CASE DISPOSITION**

Cases shall be tried or dismissed within 6 months from the appearance date or within 6 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later. Cases not concluded within these time periods will be placed on the Dismissal For Want of Prosecution Docket.

#### **RULE 4.3 JUVENILE CASES**

The Juvenile Board of Madison County has designated the County Court as the Juvenile Court of Madison County. Rules for the disposition of juvenile cases will be adopted by the Juvenile Court in conformity with Rule 1 of the Second Administrative Judicial Region of Texas Regional Rules of Administration and Title 3 of the Texas Family Code. These cases shall be filed in the District Clerks office pursuant to rules established by the Juvenile Judge and District Clerk, copies of these rules may be obtained from the Juvenile Judge.

**RULE 4.4 DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES CASES** (Child Protective Services)

Disposition of Texas Department of Family and Protective Services {CPS} cases shall be in conformity with those provisions set forth in Title 5 of the Texas Family Code. These cases shall be filed in the District Courts of Madison County in accordance with Rule 1 of these Rules.

**RULE 4.5 TEMPORARY ORDERS**

**A.** Except in emergencies when the District Clerks office is not open for business, no application for immediate or temporary relief shall be presented to a judge until it has been filed and assigned to a Court. If the judge of the court to which such case is assigned is absent or is occupied with other matters, the coordinator of the assigned court shall insert a date and hour for hearing in any form of a proposed order before such application may be presented to any other Judge, who may sit for the Judge of the court in which the case is pending and shall make all writs and process returnable to the assigned court.

**B.** Whenever immediate action of a Judge is required in an emergency when the clerk's office is not open for business, the case shall at the earliest practicable time be docketed and assigned to a court, and all writs and process shall be returnable to the assigned court. If the Judge of such court is not available to hear the application for temporary relief at the time set, any court with jurisdiction may preside in this case.

**RULE 4.6 EX PARTE ORDERS**

**A.** All applications for ex parte relief shall be presented to the court to which the case is assigned, unless emergency circumstances exist and then shall be presented in accordance with Paragraph 4.5.B.

**B.** In any case in which counsel of record for the nonmoving party has been designated, said application shall be presented to said counsel by fax, hand delivery, or other method of service designed to give opposing counsel immediate notification, in addition to the requirements of Rule 21a TRCP.

**RULE 4.7 STANDING TEMPORARY RESTRAINING ORDERS**

**A.** The court hereby ORDERS that in all divorce suits filed, a Standing Temporary Restraining Order in the form attached hereto as **Addendum 6** is imposed on all parties to the suit. All petitions for Divorce shall contain a statement signed by the Petitioner evidencing receipt of a copy of the Standing Temporary Restraining Order, and in the absence of such paragraph, it shall be **DEEMED** that Petitioner, by invoking the Court's jurisdiction, has constructive notice of the Standing Temporary Restraining Order and subjects himself or herself to it.

**B.** The clerk of this court shall attach, to each citation to be served, a copy of the Standing Temporary Restraining Order. Said Standing Temporary Restraining Order shall become effective on the Respondent when citation is served, a waiver of citation is signed, or actual notice in some other manner is received.

**C.** The Standing Restraining Order remains effective until the temporary hearing, if any, or if a temporary hearing is not requested by either party, until the final hearing. Should a temporary hearing be requested by either party, then the court shall determine whether the Standing Temporary Order shall remain in effect until the final hearing and absent a ruling of the court to the contrary, the Standing Restraining Order shall remain effective until the final hearing.

#### **RULE 4.8 PROPOSED PROPERTY DIVISIONS AND PROPOSED SUPPORT DECISIONS**

##### **A. Filing**

**Proposed Property Division Statements** shall be filed in all domestic relations cases related to divorce. **Proposed Support Decision Statements** shall be filed in all cases involving modification of conservatorship, support or periods of possession. These proposals shall be furnished in the format set forth in **Addendum 4 and 5** attached to these rules as set forth in paragraphs B. and C.

##### **B. Temporary Orders**

In any hearing for temporary orders in which child support or spousal support is an issue, completion and exchange of **Proposed Support Decision Statements** is required prior to commencement of the hearing in the form set forth in **Addendum 5** attached to these rules.

##### **C. Trial**

A party's final Proposed Support Decision Statements regarding child support and a Proposed Property Division Statement shall be exchanged no later than ten (10) days before trial, or as required by the docket control order, and filed with the court before the commencement of trial. This proposed division of assets and liabilities and the proposed findings regarding support shall be furnished in the format set forth in **Addendum 4 and Addendum 5** attached to these rules.

##### **D. Failure to file Proposed Property Division and Proposed Support Decision Statements.**

Failure of either party to file Proposed Property Division and Support Division Statements may result in the court adopting as stipulated the information filed by the complying party. The non-complying party will be prohibited from contesting the accuracy of the information presented by the complying party. If both parties fail to comply with these rules, the court may dismiss the case from the docket.

#### **RULE 4.9 PARENT EDUCATION AND COUNSELING**

Referral may be made in suits affecting the parent-child relationship requiring the parents' attendance at an educational program for divorcing parents. In the discretion of the court, such a referral may also be made for parents involved in modification or enforcement litigation. Counseling may also be ordered in appropriate cases as authorized by the Family Code, including referral to a family violence program pursuant to a protective order under Chapter 71 of the Family Code.

#### **RULE 4.10 DISCOVERY**

In all cases the following items shall be exchanged within thirty days, without objection, upon a written request of counsel. Failure to exchange these items may result in sanctions being imposed on the attorney, or party, or both, as the court deems proper, to wit:

Income tax returns for the previous two years.

Copies of all insurance policies, including home, auto, life and medical.

Copies of all promissory notes, deeds of trust and deeds evidencing ownership of real estate, including contract for deeds and time sharing contracts.

Copies of all stocks, mutual fund participation and investment portfolios held by the party, in the name of

the parties, or for the benefit of either parties.

Copies of all documents concerning employee benefits, retirement benefits and pension funds.

The preceding six (6) months statements for all credit card accounts in the name of the parties, or either party.

Wage statements or statement showing year to date earnings of the party.

**RULE 4.11 CHILD SUPPORT LOCAL REGISTRY**

Pursuant to § 154.241 of the Texas Family Code, the District Clerk of Madison County is designated as the Local Registry to receive a court ordered child support payment or payment otherwise authorized by law.

## RULE 5

### CRIMINAL CASES

#### RULE 5.1 GRAND JURIES AND ASSIGNMENT OF CASES

##### **A. Grand Juries**

The 12<sup>th</sup> Judicial District Court shall select and impanel the Grand Jury for the January term of court and the 278<sup>th</sup> Judicial District Court shall select and impanel the Grand Jury for the July term of court. The grand juries shall hold all of their meetings in the Madison County Courthouse, in the grand jury room. The commissioner method of selection shall be utilized.

##### **B. Grand Jury Minute Book**

The rules regarding presentment of indictments by a Grand Jury to the District Court are set forth in Articles 20.21 and 20.22 of the Code of Criminal Procedure. Article 20.21 requires that the Foreperson of the Grand Jury shall deliver the indictments to the Judge or District Clerk and that at least nine members of the grand jury must be present when the delivery is made. Article 20.22 requires that the fact of presentment be entered upon the minutes of the court. The “minutes of the court” are contained in the Grand Jury Minute Book. The Grand Jury Minute Book shall remain in the custody of the District Clerk at all times except when the Grand Jury is in session. The Grand Jury Minute Book is not a secret book or document.

When the grand jury begins a session, the District Clerk shall have all members present sign the Grand Jury Minute Book as proof of their presence at the session and to make a record of the fact that a quorum was present at the session. The District Clerk shall then deliver the book to the Secretary of the Grand Jury. When a true bill of indictment is voted in the affirmative by at least nine members of the Grand Jury, the following information shall be entered by the Secretary of the Grand Jury in the Grand Jury Minute Book, and nothing else, to wit:

1. the date of the session;
2. name of the person indicted;
3. offense; and
4. names of the witnesses upon which the indictment is founded.

If the defendant is not in custody or under bond at the time of the presentment of the indictment, upon request of the District Attorney, the entry of the name of the defendant in the book may be delayed until such time as the capias is served and the defendant is placed in custody or under bond, at which time the name of the defendant will be entered in the book by the District Clerk. It is the duty of the District Clerk to verify that the indictments delivered to the clerk conform with the information contained in the Grand Jury Minute Book. If there is a variance, it should be called to the attention of the Secretary, Foreperson and District Attorney immediately.

When a defendant is “no-billed”, meaning that a case was presented to the grand jury regarding an individual and less than nine affirmative votes were given for a true bill of indictment, a **Certificate of No-Bill** shall be signed by the Foreperson certifying that the case was presented to the Grand Jury and that a no-bill was returned. The District Clerk shall handle the certificates as follows:

**A. Defendant Under Arrest:** If the defendant is under arrest, a copy of the certificate shall be delivered to the Sheriff and the Defendant immediately.

**B. Defendant Under Bond:** A copy of the certificate shall be delivered to the

surety (bondsman) and the defendant immediately.

C. All other certificates shall be held by the clerk under seal, unless ordered released by the District Court.

#### **C. Assignment of Cases After Indictment**

Except as otherwise provided in this Rule, the Clerk shall equally distribute every criminal case filed by indictment into the two District Courts. Even numbered cases shall be assigned to the 12<sup>th</sup> District Court and odd numbered cases shall be assigned to the 278<sup>th</sup> District court.

Capital cases shall be assigned on an independent, rotational basis among the District Courts.

#### **D. New Indictments After Assignment**

After assignment, the clerk shall assign any new indictment against a defendant to the same court.

#### **E. Re-indictments**

The clerk shall assign any re-indictment of the same defendant to the same court in which the prior indictment was assigned.

#### **F. Co-Defendant Indictment**

The clerk, after random assignment of an indictment to a court shall assign any co-defendant subsequently indicted to the same court in which the first co-defendant's indictment was assigned.

#### **G. Information to the District Clerk**

The District Attorney shall note on a non-substantive part of the indictment the following information:

Whether there are other pending indicted cases on the defendant;

Whether the indictment is a re-indictment and;

The names of any co-defendants not named in the indictment.

The District Attorney shall also furnish the clerk information in writing as to whether or not a non-standard bond will be sought by the State and the factors supporting same. Failure to furnish the information will result in a bond amount in accordance with the Bond Schedule.

### **RULE 5.2 STANDING BOND SCHEDULES**

Bonds will be set on each criminal case in accordance with the Bond Schedule attached hereto as **Addendum 7** unless the District Attorney furnishes information in writing to the court justifying an exception. The court may also, in a proper case, dispense with the requirement of sureties and require only the personal recognizance of the defendant, with or without conditions.

### **RULE 5.3 BOND SURRENDER**

Sureties requesting a release on their liability on a Bail Bond must complete the Affidavit to Release Surety and present the completed affidavit to the District Judge that the Defendants case is assigned to. The form and requirements for release is attached hereto in **Addendum 8**. The District Attorney shall be served with a copy of the Affidavit.

#### **RULE 5.4 BOND FORFEITURE**

Bonds will be forfeited on all defendants who do not appear in court when scheduled or otherwise ordered to appear in court. The name of the Defendant will be called three times at the courtroom door by the Bailiff and if there is no answer the bond will be forfeited and a capias issued by the clerk for his arrest. It is the duty of the District Clerk to prepare a Judgment Nisi with the aid of the District Attorney. The Judgment Nisi proceedings will be docketed as a civil matter in the court that ordered the forfeiture and the defendant and his sureties shall be served with citation. After the surety files an answer or defaults, the district clerk shall notify the proper court coordinator for a trial setting to be docketed. The sureties shall be given forty-five days advance notice of any trial setting.

#### **RULE 5.5 POST CONVICTION PROCEEDINGS**

The clerk shall file any motion to revoke probation or any post-conviction application for writ of habeas corpus in the court having granted probation or entered the judgment in the case.

#### **RULE 5.6 ARRAIGNMENT**

Defendants shall be arraigned at the earliest possible time after indictment. Presence of the defendant is mandatory at arraignment unless excused by the court. At arraignment a scheduling order shall be entered setting discovery deadlines, dates of pretrial hearing, docket call and trial date.

#### **RULE 5.7 SCHEDULING ORDER**

Each court will adopt a scheduling order that shall be delivered to the defendant and counsel at arraignment. The defendant and his counsel and counsel for the state shall sign the scheduling order.

#### **RULE 5.8 STANDING DISCOVERY ORDER**

A standing discovery order is entered in each case at time of arraignment. The discovery order shall set forth procedures for the exchange of information, evidence inspection, expert designations and deadlines to comply with the discovery order. The Standing Discovery Order is set forth in **Addendum 9**, attached hereto.

#### **RULE 5.9 PRETRIAL HEARING**

The pretrial hearing shall be held within sixty (60) days from date of arraignment. All matters preliminary to actual trial on the merits must be brought to the attention of the court at this hearing.

#### **RULE 5.10 DOCKET CALL**

The court coordinator shall prepare a list of all cases on the trial docket. The defendant and his counsel shall be present and announce ready or not ready. An announcement of "not ready" must be accompanied by a motion for continuance.

#### **RULE 5.11 MOTIONS FOR CONTINUANCE**

All motions for continuance, whether filed by the State or the Defendant, must comply with the applicable law contained in the Code of Criminal Procedure and must be presented to and considered by the court in accordance with the scheduling order. Except for good cause shown and upon compliance with these rules, the court shall not consider any motion for continuance on the scheduled trial date.



**RULE 5.12 PLEA BARGAINS**

If a plea bargain is made on a case set for trial, the plea must be submitted to the court prior to the date jury selection is to commence. The courts will not approve a plea bargain that is not submitted and completed prior to date of jury selection.

**RULE 5.13 STANDING ORDER IN LIMINE**

The Standing Order in Limine attached hereto as **Addendum 10** shall apply in all felony jury trials in the District Courts of Madison County.

**RULE 5.14 VOIR DIRE**

The District Clerk shall align the Juror Information Cards in numerical order and seat the panel in numerical order. The Judge will qualify the panel and accept or reject any excuses. After the final panel is determined, the attorneys must make their decision on whether or not a shuffle is requested. The court will recess the panel to give the clerk time to copy the jury cards and to make a new list of names of jurors, either in shuffled order or in numerical order. When the new list is completed and cards copied the clerk will re-seat the jury according to the list and voir dire will begin. The attorneys and judge will be furnished a copy of the list and jury information cards.

Challenges for cause will be made after all parties are completed with their voir dire examination of the panel. After all counsel has completed their voir dire examination, the attorneys will be asked to approach the Bench. Counsel will be asked in turn for the Juror Number of the jurors whom they wish to challenge for cause. If, in the opinion of the Court, sufficient evidence has been adduced to support a ruling, the challenge will be granted or denied without further questions. Otherwise, the panel member will be called to the Bench and each counsel will be allowed a few questions. The panel member will then be excused to return to their seat, and the challenge will be ruled on outside the presence of the panel member.

If any panel member responds to questions during voir dire examination in a manner which makes it clear that they possess such strong opinions that a challenge for a cause will clearly be good, and there exists a possibility that further responses may “poison” the entire panel, counsel should diplomatically terminate the inquiry and avoid further inquiries in the presence of the panel. If adverse counsel has a good-faith belief that the panel member can be rehabilitated, it will be pursued on an individual basis after the general voir dire examination.

**RULE 5.15 TIME STANDARDS**

Criminal cases shall be completed within 12 months from earliest date of arrest or indictment.

**RULE 5.16 FAIR DEFENSE ACT**

The rules adopted by Madison County concerning the Fair Defense Act may be obtained from the Local Administrative Judge.

**RULE 6**

**CONFLICTING ENGAGEMENTS OF ATTORNEYS**

**A. Attorney already in trial in another court.**

When informed that an attorney is presently in trial, the Court will determine where and when assigned. This information will be verified upon request of opposing counsel. The case will be placed on “hold” or reset, depending upon when the attorney will be released. If the attorney is not actually in trial as represented by the attorney or his agent, the case will be tried without further notice.

**B. Attorney assigned to two courts for the same date:**

It is the duty of every attorney to call the affected Judges attention to all dual settings as soon as they are known. Insofar as is practicable, Judges should attempt to agree on which case has priority, otherwise the following priorities shall be observed by the Judges of the respective courts:

Criminal cases

Cases given preference by statute

Preferentially set cases

Case set at earliest date

Case with earliest filing date

Cases in Metropolitan areas should yield to courts in rural areas

If the conflict cannot be resolved between the two judges, the Local Administrative Judge or the Regional Presiding Judge will resolve the conflict.

**C. Designation of Attorney in Charge**

Every case shall have an attorney in charge designated.

**RULE 7**

**ATTORNEY VACATIONS**

**A. DESIGNATION OF VACATION**

Subject to the provisions of subparts B and C of this rule, an attorney may designate not more than four weeks of vacation during a calendar year as vacation, during which that attorney will not be assigned to trial or required to engage in any pretrial proceedings. This rule operates only where lead counsel, as defined by T.R.C.P., is affected, unless the trial court expands coverage to other counsel.

**B. SUMMER VACATIONS**

Written designation for vacation weeks during June, July, or August must be filed with the District Clerk by May 15. Summer vacations so designated will protect the attorney from trials during those summer weeks, even if an order setting the case for trial was signed before the designation was filed.

**C. NON-SUMMER VACATIONS**

Written designations for vacations in months other than June, July, or August must be filed with the District Clerk by February 1. Non-summer vacation weeks may not run consecutively for more than two weeks at a time. Non-summer vacation weeks so designated will not protect an attorney from a trial by an order signed before the date the designation is filed. (Source Rule 11 Second Region)

## RULE 8

### JUDGES VACATION

If a Judge will be out of the District for a month or more, for vacation, attending a seminar or illness he/she shall notify the Local Administrative Judge and the Presiding Judge of the Second Administrative Region so that the business of the court can be taken care of during any such absence.

## RULE 9

### LAWYER'S CREED

The Lawyer's Creed is applicable in all cases tried in the District Courts or County Court at Law of Madison County. A copy is attached hereto as Addendum 11.

## RULE 10

### ADOPTION, APPROVAL AND NOTICE

#### RULE 10.1 ADOPTION

These rules are adopted by the District Judges for all purposes. All previous rules of the District Court of Madison County are hereby repealed.


#### RULE 10.2 APPROVAL

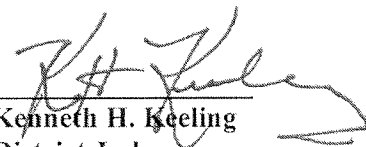
Upon approval by the Judge of the Second Administrative Region and the Supreme Court of Texas, these rules shall become effective immediately, and so long thereafter until amended, repealed or modified. Each numbered or lettered paragraph of these rules shall be considered to be separate and distinct from all other portions hereof, and if any portion should be declared by a higher court to be improper, such declaration will not affect any other portion not so declared to be improper.

#### RULE 10.3 NOTICE

The District Clerk is directed to furnish a copy of these rules to the Supreme Court of Texas pursuant to Rule 3 (a) of the Texas Rules of Civil Procedure and to record these Rules in the Civil Minutes of the 12th and 278th District Courts of Madison County, Texas.

Approved on this the 17<sup>th</sup> day of January 2006.

  
William L. McAdams  
District Judge  
12<sup>th</sup> Judicial District

  
Kenneth H. Keeling  
District Judge  
278<sup>th</sup> Judicial District

**APPROVAL BY THE SECOND ADMINISTRATIVE REGIONAL JUDGE**

Approved on the \_\_\_\_ day of January 2006 by Judge Olen Underwood, Regional Judge for the Second Administrative Judicial Region of the State of Texas.

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**Judge Olen Underwood**  
**Presiding Judge**

## **ADDENDUM 1**

### **RULES OF DECORUM**

#### **RULE 1: OPENING PROCEDURE**

Immediately before the scheduled time for the first court session on each day, the bailiff shall direct all persons present to their seats and shall cause the courtroom to come to order. As the Judge enters the courtroom, the bailiff shall state:

“Everyone rise, please.”

And while everyone is still standing, the bailiff shall announce:

“The \_\_\_\_\_ District Court of Madison County, Texas is now in session, Judge \_\_\_\_\_ presiding. Be seated, please.”

#### **RULE 2: RECESS**

When the Judge announces a recess, the bailiff shall state:

“Everyone rise, please.”

And all shall remain standing until the Judge leaves the courtroom, whereupon the bailiff shall announce:

“This Court is recessed until \_\_\_\_\_ (a certain time.)”

In reconvening after a recess, the bailiff shall call the courtroom to order and request everyone to rise as the Judge enters, and shall then state:

“Be seated, please.”

Before a recess of a jury trial, the jury will be excused, and all other persons present shall rise while the bailiff conducts the jury from the courtroom into the jury room.

After a recess, the bailiff shall direct all jurors to the jury room and shall call the courtroom to order and request everyone to rise as the Judge enters, as in non-jury trials. After everyone is reseated, the jury shall be returned to the jury box from the jury room and everyone except the judge will rise again until the jury is seated.

#### **RULE 3: GENERAL RULES OF COURTROOM CONDUCT**

All officers of the court except the Judge, and jurors, and all other participants except witnesses, who have been placed under the rule, shall promptly enter the courtroom before the scheduled time for each court session. When the bailiff calls the court to order, complete order should be observed.

In the courtrooms, there shall be:

**No tobacco used.**

**No chewing gum used.**

**No reading of newspaper or magazines.**

**No bottles, cups or beverage containers except court water pitchers and cups.**

**No edibles.**

**No propping of feet on tables or chairs.**

**No noise or talking that interferes with court proceedings.**

The Judge, the attorneys, and other officers of the court will refer to and address other court officers or participants in the proceedings respectfully and impersonally, as by using appropriate titles and surnames rather than first names. The form of address toward the Judge shall be ("Judge," or "Your Honor").

The oath will be administered in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth.

All officers of the court shall dress appropriately for court sessions.

#### **RULE 4: CONDUCT OF ATTORNEYS**

Attorneys should observe the letter and spirit of all canons of ethics, including those dealing with discussion of cases with representatives of the media and those concerning improper *ex parte* communications with the Judge.

Attorneys should advise their clients and witnesses of local Rules of Decorum that may be applicable to them.

All objections, arguments, and other comments by counsel shall be directed to the Judge, or jury and not to opposing counsel.

While another attorney is addressing the Judge, or jury, an attorney should not stand for any purpose except to claim the right to interrupt the attorney who is speaking.

Attorneys should not approach the bench without leave of court and must never lean on the bench.

Attorneys shall remain seated at the counsel tables at all times except:

- a) When the Judge enters or leaves; and**
- b) When addressing the Judge, or jury; and whenever it may be proper to handle documents, exhibits, or other evidence. (Leave of court is not required)**

Attorneys should anticipate any need to move furniture, appliances, or easels, and should make advance arrangements with the bailiff. Tables should not be moved without leave of court.

Only attorneys and parties are permitted to sit at the counsel tables. All secretaries, paralegals, investigators and other personnel must remain outside the bar unless granted specific leave of court to enter.

**TYPE OF SETTING REQUESTED:**

**REQUESTED DATE OF SETTING:** \_\_\_\_\_

**ESTIMATED AMOUNT OF COURT TIME REQUIRED:** \_\_\_\_\_

**REQUESTING ATTORNEY:**

**Name:** \_\_\_\_\_ **(plaintiff/defendant)**  
**Address:** \_\_\_\_\_ **(petitioner/respondent)**  
 \_\_\_\_\_ **(SPECIFY ONE)**  
**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**ALL OTHER ATTORNEYS OF RECORD (or unrepresented parties):**

**Name:** \_\_\_\_\_ **(plaintiff/defendant)**  
**Address:** \_\_\_\_\_ **(petitioner/respondent)**  
 \_\_\_\_\_ **(SPECIFY ONE)**  
**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**Name:** \_\_\_\_\_ **(plaintiff/defendant)**  
**Address:** \_\_\_\_\_ **(petitioner/respondent)**  
 \_\_\_\_\_ **(SPECIFY ONE)**  
**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**I certify that discussions of the matter to be set have been held or would not be productive, and thus without requesting a setting a disposition will not likely occur.**

**I certify that a copy of this setting request has been mailed/delivered to all other attorneys/parties of record.**

Date: \_\_\_\_\_

Name of Requesting Attorney

State Bar No. \_\_\_\_\_

**Original to District Court Coordinator: Copy to District Clerk.**

### ADDENDUM 3

#### STANDING ORDER IN LIMINE FOR TRIAL OF CIVIL JURY CASES

During the trial of any civil jury case in the District Court, unless and except to the extent that the operation of this order shall have been suspended with reference to such specific trial, no attorney shall make mention, refer to or suggest any of the matters hereinafter set forth in the presence or hearing of the jury, the venire, or of any member of either without first approaching the bench and securing a ruling from the Court authorizing such reference. In addition, each attorney shall admonish the client, client's representatives and all non-adverse witnesses the attorney may call to testify similarly to refrain from any such statement, reference or suggestion unless same is essential to respond truthfully to a question asked by opposing counsel.

The matters to which reference is prohibited by this order are as follows:

1. **Insurance.** Unless an insurance company is a named Defendant, that the Defendant is or is not protected, in whole or in part, by liability insurance, or that defense counsel was retained by, or all or any part of the costs of defense, or of any resulting judgments, are or will be paid by an insurance company, or any other matter suggesting an involvement of any insurance company with the defense of the case.

2. **Jurors' Connection with Insurance Industry.** Inquiring of potential jurors as to their present or past employment or connection with the insurance industry, or present or past connection of any family member with the insurance industry, except that:

- a) If a potential juror's juror information card discloses employment in the insurance industry, such potential juror may be questioned concerning same.
- b) inquiry may be made of potential jurors concerning their experience (or that of members of their family), if any, reviewing, adjusting or allowing/disallowing claims, as long as no express reference is made to "insurance."

3. **Liability or Non-Liability for Judgment.** That the named Defendant may or may not have to pay any resulting judgment.

4. **Collateral Source.** That any portion of the damages sought by Plaintiff have been, or will be, paid by any collateral source, including but not limited to:

- a) health and accident or disability insurance.
- b) any employee benefit plan, formal or informal, including payment of wages for time not actually worked.
- c) social security or welfare.
- d) veterans or other benefits.
- e) provisions of medical services free of charge or for less than reasonable and customary charges, provided that the foregoing does not prohibit reference to unpaid charges of any health care provider who actually testifies for Plaintiff (or whose medical records are offered by Plaintiff), or to any letter of protection securing any such charges.



5. **Retention of Attorney.** The time or circumstances under which either party consulted or retained an attorney provided that if any attorney referred a party to a health care provider who testifies in the case (or whose medical records are introduced by such party) such fact may be a subject of inquiry.

6. **Attorney's Fees.** That any party will have to pay attorneys' fees, or any reference to the amount or basis of any attorneys' fees, unless a claim for recovery of attorneys' fees in the case will be submitted to the jury.

7. **Income Taxes.** That any recovery will or will not be subject to income taxes, in whole or in part.

8. **Independent Medical Examination.** That the plaintiff offered to, or was or is willing to, undergo an examination by an independent physician or psychologist.

9. **Criminal Offenses.** That any party of witness has been suspected of, arrested for, charged with or convicted of any criminal offense unless there is evidence of a specific conviction that the Court has previously ruled is admissible in the case.

10. **Alcohol or Drug Use.** That any party or witness uses or abuses alcohol, tobacco, or any controlled substance, unless and until such alleged use or abuse is shown to be specifically relevant to the matters in controversy.

11. **Settlement Negotiations or Mediation.** Any negotiations, offers or demands with respect to any attempted settlement or mediation.

12. **Discovery Disputes.** Any reference to discovery disputes that arose during the preparation of the case for trial, any position taken by any party with respect thereto, or to the Court's rulings thereon.

13. **Prior Suits or Claims.** That any party has been a party to any prior lawsuit, or has asserted any prior claim, or that any prior claim, has been asserted against a party; provided that this clause does not prohibit inquiry about a prior injury that may have been the subject of a claim, as distinguished from the claim, suit or settlement with reference thereto, if the nature of injuries claimed in the present suit make the same relevant.

14. **Ex Parte Statements of Witnesses.** Any reference to any ex parte statement of any witness or alleged witness, other than an adverse party or agent of an adverse party, unless and until such witness has been called to testify and has given testimony conflicting with such ex parte statement. A deposition or a statement in business or medical records that have been approved up as required by the Rules of Evidence is not an ex parte statement.

15. **Testimony of Absent Witness.** Any statement or suggestion as to the probable testimony of any witness or alleged witness who is unavailable to testify, or whom the party is expected to testify by deposition, this provision does not apply to testimony contained in the deposition expected to be offered.

16. **Hearsay Medical Opinions.** Any hearsay statement offered for the truth of the statement by an allegedly injured person concerning any diagnosis or medical opinions communicated to such person by a physician or other health care provider.

17. **Photographs and Visual Aids.** Showing any documents, photographs or visual aids to the jury, or displaying same in such manner that the jury or any member thereof can see the same, unless and until the same has been tendered to opposing counsel, and has been admitted in evidence or approved for admission or use before the jury, either by the Court or by all Counsel.

18. **Requests for Stipulations.** Any request or demand in the presence of the jury for a stipulation to any fact, or that counsel admit or deny any fact.

19. **Requests for Files.** Any request or demand in the presence of the jury that opposing counsel produce any document or thing, or that opposing counsel or any party or witness exhibit, turn over or allow examination of the contents of any file or briefcase (except that a party may demand to see a document used by a witness on the stand to refresh his/her recollection, or that a witness testifies that he/she has used previously to refresh his/her recollection).

20. **Discrimination.** Any argument that a party should be treated more or less favorably because of such party's race, gender, national origin, nationality, religion, marital status, occupation, or financial status (except in the second phase of a bifurcated trial).

21. **Social Cost of Award.** Any argument or suggestion that an award of damages will affect insurance premiums, the price of any goods or services, or the level of taxation.

22. **Hardship or Privation.** Any argument or suggestion that a failure to award damages will cause a Plaintiff privation or financial hardship.


23. **Golden Rule.** Any argument or suggestion that the jurors should put themselves in the position of a party.


24. **Counsel's Opinion of Credibility.** Any expression of counsel's personal opinion regarding the credibility of any witness.

25. **Effect of Answers to Jury Question.** Any argument that any finding or failure to find in response to a particular jury question will, or will not result in a judgment favorable to any party. This provision does not bar argument by counsel that a particular jury question should be answered in a particular way.

26. **Evidence Not Produced in Discovery Response to a Proper Request.** Calling any witness, or offering any document in evidence, if the identity of such witness or the document has not been disclosed in response to a proper discovery request. If a party has a good faith basis to urge that such witness or document should be received either because (a) no discovery request properly called for its disclosure, or (b) good cause existed for failure timely to disclose, such party shall first approach the bench and secure a ruling thereon. Counsel are advised that to the extent possible or predictable, such matters should be addressed and a ruling sought at pretrial once the case is assigned for trial.

27. **Objections to Evidence Not Produced In Discovery.** Any objection based on failure to disclose evidence in pre-trial discovery. Any party desiring to urge any such objection shall request to approach the bench and urge such objection outside the hearing of the jury. To the extent possible or predictable, such matters should be addressed and a ruling sought at pretrial once the case is assigned for trial, although the objection may be urged for the record outside the hearing of the jury at the time such evidence is offered in the event the Court has overruled the objection at pretrial.

  
**W.L. McAdams**  
**District Judge**  
**12<sup>th</sup> Judicial District**

  
**Kenneth H. Keeling**  
**District Judge**  
**278<sup>th</sup> Judicial District**

**ADDENDUM 4**

NO. \_\_\_\_\_

IN THE MATTER OF  
THE MARRIAGE OF

§

IN THE DISTRICT COURT

§

12<sup>th</sup>/278<sup>th</sup> JUDICIAL DISTRICT

AND

§

MADISON COUNTY, TEXAS

**PROPOSED PROPERTY DIVISION****PROPOSED COMMUNITY PROPERTY DIVISION**

Property	Fair Market Value	Secured Debt Balance	To Wife Net Value	To Husband Net Value
1	\$	\$	\$	\$
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				

20

21

22

23

24

25

26

27

28

29

30

**TOTAL  
COMMUNITY  
PROPERTY**

\$

\$

\$

\$

**PROPOSED DIVISION OF UNSECURED COMMUNITY DEBTS**

Creditor	Debt Balance	To Wife	To Husband
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			

15

16

17

<b>TOTAL UNSECURED COMMUNITY DEBTS</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>NET COMMUNITY</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>PERCENTAGES</b>	<b>100.00%</b>	<b>%</b>	<b>%</b>

**SEPARATE PROPERTY OF WIFE**  
(list)

**SEPARATE PROPERTY OF HUSBAND**  
(list)

**PROPOSED DISPOSITION OF OTHER ISSUES**  
(list)

**AFFIDAVIT**

I, \_\_\_\_\_, do hereby state upon my oath that I have read the above and foregoing document and that same is true and correct.

\_\_\_\_\_  
Signature of Party

Sworn to and subscribed before me on this the \_\_\_\_ day of \_\_\_\_\_ 200\_\_.

---

Notary Public  
State of Texas

**Certificate of Service**

I, \_\_\_\_\_, do hereby certify that a true and correct copy of the above and foregoing was served by certified mail (or hand delivery) on opposing counsel on this the \_\_\_\_ day of \_\_\_\_\_ 200\_\_.

---

Signature of Attorney

**ADDENDUM 5**

NO. \_\_\_\_\_

IN THE MATTER OF	§	IN THE DISTRICT COURT
THE MARRIAGE OF	§	
_____		12 <sup>th</sup> /278 <sup>th</sup> JUDICIAL DISTRICT
AND	§	
_____		
AND IN THE INTEREST OF	§	MADISON COUNTY, TEXAS
_____		

**PROPOSED SUPPORT DECISION AND INFORMATION**

OF \_\_\_\_\_

**GROSS MONEY EARNED PER MONTH:**

(1) Gross wages and salary income	\$
(2) Commissions, tips and bonuses	
(3) Self-employment income (net of expenses Other than depreciation and tax credits)	
(4) Rental income (net of expenses other than Depreciation)	
(5) All other income actually received (specify)	

<b>GROSS MONEY EARNED PER MONTH</b>	<b>\$</b>	<b>(A)</b>
-------------------------------------	-----------	------------

**ACTUAL DEDUCTIONS PER MONTH: (Attach most recent pay stub from each employer)**

(1) Income tax withholding	
(2) FICA (Social Security)	
(3) Medicare	
(4) Health Insurance	
(5) Union Dues	
(6) Other (specify):	

<b>TOTAL ACTUAL DEDUCTIONS PER MONTH</b>	<b>\$</b>	<b>(B)</b>
--	-----------	------------

<b>NET MONEY ACTUALLY RECEIVED PER MONTH SUBTRACT (B) FROM (A)</b>	<b>\$</b>	<b>(C)</b>
--	-----------	------------

STATUTORY NET RESOURCES DEDUCTIONS ALLOWED PER MONTH:

(1) Income tax withholding for a single person Claiming one personal exemption and standard deduction.
(2) FICA ( Social Security)
(3) Medicare
(4) Health Insurance attributable to the children
(5) Union Dues

<b>STATUTORY NET RESOURCES DEDUCTIONS ALLOWED PER MONTH</b>	<b>\$</b>	<b>(D)</b>
---	-----------	------------

<b>STATUTORY NET RESOURCES PER MONTH. SUBTRACT (D) FROM (A)</b>	<b>\$</b>	<b>(E)</b>
---	-----------	------------

**TOTAL MONEY NEEDED PER MONTH BY ME AND MINOR CHILD(REN)  
LIVING WITH ME: (For items that are not paid monthly,  
express the amount as a monthly average.)**

(1) Rent or house payment
(2) Real property taxes (omit if part of house payment)
(3) Residence maintenance (repairs, yard)
(4) Insurance-home or renters (omit if part of house payment)
(5) Utilities--Gas
(6) Utilities--Electric and water
(7) Telephone (including average long distance)
(8) Utilities--Garbage service
(9) Groceries and household items
(10) Meals away from home
(11) School lunches
(12) Dental and orthodontia
(13) Medical and prescriptions
(14) Laundry and dry cleaning
(15) Car payment
(16) Gas and vehicle maintenance
(17) Clothing and shoes
(18) Insurance--Car



(19) Insurance--Life  
-----  
(20) Insurance--Health (omit if payroll deduction)  
-----  
(21) Child care  
-----  
(22) Children's activities  
-----  
(23) Entertainment  
-----  
(24) Haircuts  
-----  
(25) Cable TV and newspaper  
-----  
(26) Total monthly payments on debts (list below at  
G and show total here)  
-----  
(27) Other (specify)  
-----

---

**TOTAL MONEY NEEDED PER MONTH**

**\$**

**(F)**

---

**MONTHLY PAYMENTS ON DEBTS:**

[illegible]

**I, \_\_\_\_\_, would testify under oath in open court that the foregoing information is true and correct. I understand that at such a court hearing I may be required to prove these amounts by testimony and by records such as pay vouchers, cancelled checks, receipts, and bills.**

SIGNED this \_\_\_\_ day of \_\_\_\_\_ 200\_.

\_\_\_\_\_  
Signature of Party

I intend to ask the court to set support at \$\_\_\_\_\_ per month.

Signed this \_\_\_\_ day of \_\_\_\_\_ 200\_.

\_\_\_\_\_  
Signature of Party or Attorney

#### Certificate of Service

I, certify that a true copy of the above was served on opposing counsel, via certified mail (or hand delivery) on the \_\_\_\_ day of \_\_\_\_\_ 200\_.

\_\_\_\_\_  
Signature of Attorney

## ADDENDUM 6

### STANDING RESTRAINING ORDER

#### STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES

**No party to this lawsuit has requested this order. Rather, this order is a standing order of the Madison County District Courts that applies in every divorce suit and every suit affecting the parent-child relationship filed in Madison County. The District Courts of Madison County have adopted this order because the parties and their children should be protected and their property preserved while the lawsuit is pending before the court. Therefore, it is ORDERED:**

1. **NO DISRUPTION OF CHILDREN.** Both parties are ORDERED to refrain from doing the following acts concerning any children who are subjects of this case:
  - 1.1 Removing the children from the State of Texas, acting directly or in concert with others, without the written agreement of both parties or an order of this Court.
  - 1.2 Disrupting or withdrawing the children from the school or day-care facility where the children are presently enrolled, without the written agreement of both parents or an order of this Court.
  - 1.3 Hiding or secreting the children from the other parent or changing the children's current place of abode, without the written agreement of both parents or an order of this Court.
  - 1.4 Disturbing the peace of the children.
  
2. **CONDUCT OF THE PARTIES DURING THE CASE.** Both parties are ORDERED to refrain from doing the following acts:
  - 2.1 Using vulgar, profane, obscene, or indecent language, or a coarse or offensive manner, to communicate with the other party, whether in person, by telephone, or in writing.
  - 2.2 Threatening the other party in person, by telephone, or in writing to take unlawful action against any person.
  - 2.3 Placing one or more telephone calls, at an unreasonable hour, in an offensive or repetitious manner without a legitimate purpose of communication, or anonymously.
  - 2.4 Opening or diverting mail addressed to the other party.
  
3. **PRESERVATION OF PROPERTY AND USE OF FUNDS DURING DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:
  - 3.1 Destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of one or both of the parties.
  - 3.2 Misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount, or location of any property of one or both of the parties.
  - 3.3 Damaging or destroying the tangible property of one or both of the parties, including any document that represents or embodies anything of value.
  - 3.4 Tampering with the tangible property of one or both of the parties, including any document that represents or embodies anything of value, and causing pecuniary loss to the other party.
  - 3.5 Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of either party, whether personal property or real estate property, and whether separate or community, except as specifically authorized by this order.
  - 3.6 Incurring any indebtedness, other than legal expenses in connection with this suit, except as specifically authorized by this order.
  - 3.7 Making withdrawals from any checking or savings account in any financial institution for any

- purpose, except as specifically authorized by this order.
    - 3.8 Spending any sum of cash in either party's possession or subject to either party's control for any purpose, except as specifically authorized by this order.
    - 3.9 Withdrawing or borrowing in any manner for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account, except as specifically authorized by this order.
    - 3.10 Signing or endorsing the other party's name on any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividends, or attempting to negotiate any negotiable instrument payable to the other party without the personal signature of the other party.
    - 3.11 Taking any action to terminate or limit credit or charge cards in the name of the other party.
    - 3.12 Entering, operating, or exercising control over the motor vehicle in the possession of the other party.
    - 3.13 Discontinuing or reducing the withholding for federal income taxes on wages or salary while this suit is pending.
    - 3.14 Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual services, such as security, pest control, landscaping, or yard maintenance at the other party's residence or in any manner attempting to withdraw any deposits for service in connection with such services.
  4. **PERSONAL AND BUSINESS RECORDS IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:
    - 4.1 Concealing or destroying any family records, property records, financial records, business records or any records of income, debts, or other obligations.
    - 4.2 Falsifying any writing or record relating to the property of either party.
    - 4.3 "Records" include e-mail or other digital or electronic data, whether stored on a computer hard drive, diskette or other electronic storage device.
  5. **INSURANCE IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:
    - 5.1 Withdrawing or borrowing in any manner all or any part of the cash surrender value of life insurance policies on the life of either party, except as specifically authorized by this order.
    - 5.2 Changing or in any manner altering the beneficiary designation on any life insurance on the life of either party or the parties' children.
    - 5.3 Canceling, altering, or in any manner affecting any casualty, automobile, or health insurance policies insuring the parties' property of persons including the parties' minor children.
  6. **SPECIFIC AUTHORIZATIONS IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are specifically authorized to do the following:
    - 6.1 To engage in acts reasonable and necessary to the conduct of that party's usual business and occupation.
    - 6.2 To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit.
    - 6.3 To make expenditures and incur indebtedness for reasonable and necessary living expenses for food, clothing, shelter, transportation and medical care.
    - 6.4 To make withdrawals from accounts in financial institutions only for the purposes authorized by this order.
  7. **SERVICE AND APPLICATION OF THIS ORDER.**  
**The Petitioner shall attach a copy of this order to the original petition and to each copy of the petition. At the time the**

petition is filed, if the Petitioner has failed to attach a copy of this order to the original petition and any copy of the petition, the Clerk shall ensure that a copy of this order is attached to the petition and every copy of the petition presented.

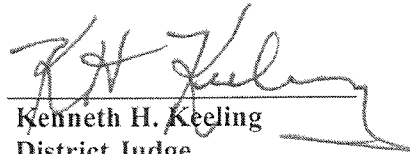
This order is effective upon the filing of the original petition and shall remain in full force and effect as a temporary restraining order for fourteen days after the date of the filing of the original petition. If no party contests this order by presenting evidence at a hearing on or before fourteen days after the date of the filing of the original petition, this order shall continue in full force and effect as a temporary injunction until further order of the court. This entire order will terminate and will no longer be effective once the court signs a final order.

8. EFFECT OF OTHER COURT ORDERS. If any part of this order is different from any part of a protective order that has already been entered or is later entered, the protective order provisions prevail. Any part of this order not changed by some later order remains in full force and effect until the court signs a final decree.
9. PARTIES ENCOURAGED TO MEDIATE. The parties are encouraged to settle their disputes amicable without court intervention. The parties are encouraged to use alternative dispute methods, such as mediation, to resolve the conflicts that may arise in this lawsuit.

THIS MADISON COUNTY STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES SHALL BECOME EFFECTIVE ON THE DATE AND TIME A PARTY RECEIVES NOTICE HEREOF.



William L. McAdams  
District Judge  
12<sup>th</sup> Judicial District



Kenneth H. Keeling  
District Judge  
278<sup>th</sup> Judicial District

All Capital Felonies.....	No Bond
First Degree Felony.....	\$20,000
Prior Conviction.....	\$30,000
More than One Prior.....	\$50,000
Second Degree.....	\$ 7,500
Prior Conviction.....	\$15,000
More Than One Prior.....	\$25,000
Third Degree.....	\$ 3,500
Prior Conviction.....	\$ 7,500
More Than One Prior.....	\$15,000
Fourth Degree (State Jail).....	\$ 1,500
Prior Conviction.....	\$ 3,000
More Than One Prior.....	\$10,000
All Class A & B Misdemeanors.....(Madison County Residents).....	\$ 500
(Non-Residents).....	\$1,000
Motions To Adjudicate or Revoke.....	Discretionary

**ADDENDUM 8**

CAUSE NO. \_\_\_\_\_

STATE OF TEXAS	§	IN THE DISTRICT COURT
VS.	§	12 <sup>th</sup> /278 <sup>th</sup> JUDICIAL DISTRICT
_____	§	MADISON COUNTY, TEXAS

**AFFIDAVIT TO RELEASE SURETY**

To the Honorable Judge of Said Court:

Comes now, \_\_\_\_\_ and respectfully shows to the Court that he/she is the surety on the appearance bond of the defendant in the above entitled and numbered cause, wherein the said defendant has been charged with the offense of \_\_\_\_\_, a felony and has been released on a bond in the sum of \$\_\_\_\_\_, and your applicant would show the Court that the defendant is within the State of Texas and within the jurisdiction of this Court and that your applicant desires to surrender the said defendant to the Court and to be relieved upon the appearance bond herein.

Your applicant would further show that said bond was made on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and the defendant has paid a fee of \$\_\_\_\_\_, and the reason for the surrender of the defendant is because:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Wherefore applicant prays the Court to direct the Clerk of this Court to prepare a warrant of arrest directing the Sheriff of Madison County, Texas or any other proper officer of this State to re-arrest said defendant and that upon such re-arrest the applicant herein be relieved of all further obligations and responsibility as surety upon said appearance bond.

\_\_\_\_\_  
 Surety

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
 Notary Public In and For the State of Texas



# CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Affidavit To Release Surety has been personally served upon the defendant's attorney of record \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(or)

I hereby certify that a true and correct copy of the foregoing Affidavit To Release Surety was mailed, by Certified Mail, Return Receipt Requested, to the defendant's attorney of record, \_\_\_\_\_, at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(or)

After due inquiry, I certify that the said defendant is not represented by an attorney.

\_\_\_\_\_  
Surety

Copy To: District Attorney

## ORDER

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, came on to be heard the application of \_\_\_\_\_, surety on the bond of the defendant herein, and the Court being of the opinion that such application should be granted, it is therefore Ordered, Adjudged, and Decreed by the Court that the Clerk be, and is hereby directed to prepare a warrant of arrest to be signed by the judge of this court for the re-arrest of the defendant, and further that \_\_\_\_\_, surety upon the bond of the defendant, be, and is hereby relieved of all further responsibilities and obligations as surety upon said bond of the defendant herein of and from such time as the defendant shall be re-arrested under the warrant herein ordered, and after the payment by said surety of all necessary and reasonable expenses incurred in re-arresting said defendant.

\_\_\_\_\_  
Judge Presiding

**ADDENDUM 9****CAUSE NO. \_\_\_\_\_**

<b>THE STATE OF TEXAS</b>	<b>§</b>	<b>IN THE DISTRICT COURT OF</b>
	<b>§</b>	
<b>VS.</b>	<b>§</b>	<b>MADISON COUNTY, TEXAS</b>
	<b>§</b>	
	<b>§</b>	<b>12<sup>TH</sup> / 278<sup>TH</sup> JUDICIAL DISTRICT</b>

**STANDING DISCOVERY ORDER IN CRIMINAL CASES**

This Court hereby adopts the following Standing Discovery Order that shall apply in all criminal cases in this Court until specifically ordered otherwise:

**State is Ordered to Furnish:**

1. Written list of all anticipated trial witnesses, including experts, and their addresses, to be supplemented as others are discovered.
2. All written or recorded statements of the defendant, along with all confessions or statements whether verbal or otherwise, made pursuant to Art. 38.22 C.C.P.
3. Written notice of intent to use extraneous offense evidence at trial. (Rule 404(b) Texas Rules of Evidence).
4. Inspection of:
  - a. All items seized from the defendant;
  - b. All items seized from any co-defendant or accomplice;
  - c. All physical objects to be introduced as part of the State's case;
  - d. All documents and photographs and investigative charts or diagrams to be introduced at trial;
  - e. All contraband, weapons, implements of criminal activity seized or acquired by the State or its agents in the investigation of the alleged offense;
  - f. All records of conviction which may be admissible in evidence or used for impeachment of the defendant; and

- g. All tangible items of physical evidence collected by the State or its agents concerning the alleged offense; to include latent fingerprints, footprints, hairs, fibers, fingernail scrapings, body fluids, tire tracts, paint scrapings, etc.
5. All promises of benefit or lenience afforded to any accomplice or prospective witness in connection with his proposed testimony or other cooperation with regard to the alleged offense.
  6. All known convictions which are admissible for impeachment concerning any of the State's proposed witnesses.
  7. All known convictions, pending charges or suspected criminal offenses concerning any accomplice proposed to be used as a witness by the State.
  8. Copies of all complaints, search warrants (related affidavits), autopsy reports and laboratory reports of all examinations of contraband, fluids, hairs, fingerprints, blood samples, ballistics, soil, fibers and paints.
  9. Inspection and copy of all business records or governmental records expected to be introduced by the State.
  10. All exculpatory evidence pursuant to *Brady v. Maryland* and related cases.
  11. It is to be understood that the State will furnish all of such above items which are in the possession of the State's attorneys or which are known to be in the possession of the investigating officers or other agents of the State.
  12. In appropriate cases, the State is encouraged to furnish offense reports and witness statements in addition to the above items. However, such reports and statements are normally work product of the State and are therefore protected from mandatory disclosure unless the contents are exculpatory. Such statements and reports must of course be tendered to the Defense for cross-examination on proper request under *Gaskin* or related requirements.
  13. In the event that photographs, diagrams or models are prepared as "jury aids" at the direction of the State's attorneys before trial, such items will be considered work product unless the Defense demonstrates a "particularized need" for inspection thereof.
  14. This order will dispose of any and all pretrial discovery motions heretofore filed. Because of the extensive nature of the discovery herein ordered, it will be considered that such Order is acceptable to the Defense pending the review of evidence and documents as ordered. In the event that further particularized discovery is considered necessary, the Defense will thereafter file a written Motion for Discovery, addressing only matters not covered in this Order, and such Motion will be presented to the Court at the earliest practical opportunity before trial.
  15. The State is ordered to furnish the above inspection and copying on or before the date required by the Criminal Docket Scheduling Order or other order entered in each respective case. If the State discovers or learns of any new additional matter after the

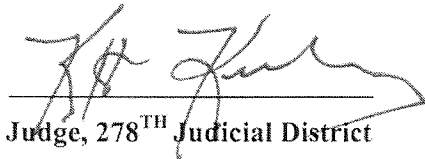
Pre-Trial Hearing that are subject to disclosure under this Order, the State shall advise the Defense and furnish same for inspection and copying as soon as practicable. It is understood that the Defense should exercise reasonable diligence to contact the State's attorney and arrange a mutually convenient time for the appointment.

16. If a written request is made by the Defense, the State is ordered to prepare a list of exhibited or furnished items to be filed among the papers of this cause on or before the start of trial.

**ORDERED** and **ENTERED** on date of arraignment, and the State is **ORDERED** to comply herewith by date stated in scheduling order or 30 days from date of arraignment whichever is first.



Judge, 12<sup>TH</sup> Judicial District



Judge, 278<sup>TH</sup> Judicial District

## **ADDENDUM 10**

### **STANDING ORDER IN LIMINE FOR TRIAL OF CRIMINAL JURY CASES**

During the trial of any criminal jury case in the District Court, unless and except to the extent that the operation of this order shall have been suspended with reference to such specific trial, no attorney shall make mention, refer to or suggest any of the matters hereinafter set forth in the presence or hearing of the jury, the venire, or of any member of either without first approaching the bench and securing a ruling from the Court authorizing such reference. In addition, each attorney shall admonish the client, client's representatives and all non-adverse witnesses the attorney may call to testify similarly to refrain from any such statement, reference or suggestion unless same is essential to respond truthfully to a question asked by opposing counsel.

**WARNING:** Violations of this order may result in contempt of court proceedings or referral to the State Bar for grievance proceedings, as the court deems proper.

The matters to which reference is prohibited by this order are as follows:

1. The facts of the case during voir dire. (May talk about allegations in indictment).
2. The fact that the defendant has or has not applied for probation.
3. The range of punishment, if the judge is to assess punishment.
4. Do not ask commitment questions on voir dire.
5. Do not argue your case during voir dire or opening statement.
6. The state shall not make any reference to the defendants right to silence at any stage of the trial.
7. The **enhancement portions of an indictment** shall not be mentioned or referred to during voir dire or opening statements and that portion of the indictment shall not be read to the jury during the guilt stage of the trial.
8. **Ex Parte Statements of Witnesses.** Any reference to any ex parte statement of any witness or alleged witness unless and until such witness has been called to testify and has given testimony conflicting with such ex parte statement.
9. **Testimony of Absent Witness.** Any statement or suggestion as to the probable testimony of any witness or alleged witness who is unavailable to testify.

**10. Hearsay Medical Opinions.** Any hearsay statement offered for the truth of the statement by an allegedly injured person concerning any diagnosis or medical opinions communicated to such person by a physician or other health care provider.

**11. Photographs and Visual Aids.** Showing any documents, photographs or visual aids to the jury, or displaying same in such manner that the jury or any member thereof can see the same, unless and until the same has been tendered to opposing counsel, and has been admitted in evidence or approved for admission or use before the jury, by the Court.

**12. Requests for Stipulations.** Any request or demand in the presence of the jury for a stipulation to any fact, or that counsel admit or deny any fact.

**13. Counsel's Opinion of Credibility.** Any expression of counsel's personal opinion regarding the credibility of any witness.

**14. Witnesses Comment On Credibility Of Another Witness.** Any question that asks a witness to comment or testify that some other witness lied or is not credible except as provided in Rules 404 and 405, Texas Rules of Evidence.

**15. Counsel's Opinion of Guilt or Innocence.** Any expression of state or defense counsel's personal opinion as to the guilt or innocence of the defendant.

**16. Evidence Not Produced in Discovery Response.** Calling any witness, or offering any document in evidence, if the identity of such witness or the document has not been disclosed in response to the Standing Discovery Order or other court order. If a party has a good faith basis to urge that such witness or document should be received either because good cause existed for failure timely to disclose, such party shall first approach the bench and secure a ruling thereon. Counsel are advised that to the extent possible or predictable, such matters should be addressed and a ruling sought at pretrial once the case is assigned for trial.

**17. Objections to Evidence Not Produced In Discovery.** Any objection based on failure to disclose evidence in pre-trial discovery. Any party desiring to urge any such objection shall request to approach the bench and urge such objection outside the hearing of the jury. To the extent possible or predictable, such matters should be addressed and a ruling sought at pretrial once the case is assigned for trial, although the objection may be urged for the record outside the hearing of the jury at the time such evidence is offered in the event the Court has overruled the objection at pretrial.

**20. Polygraph Exams.** No mention shall be made about the taking of, or offering to take, a polygraph exam.

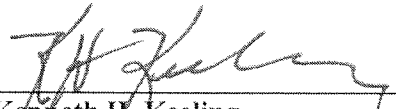
**21. Extraneous Offenses.** Prior approval of the court is required before any mention is made of any extraneous offenses whether adjudicated or not, unless the prior adjudicated offense is an element of the primary offense that is on trial.

22. **Objections.** Do not argue your objections unless argument is invited by the court.

23. **Retention of Attorney.** The time or circumstances under which the defendant retained or was appointed an attorney.



W.L. McAdams  
District Judge  
12<sup>th</sup> Judicial District



Kenneth H. Keeling  
District Judge  
278<sup>th</sup> Judicial District

**ADDENDUM 11**  
**THE SUPREME COURT OF TEXAS**  
**AND**  
**THE COURT OF CRIMINAL APPEALS**

**THE TEXAS LAWYER'S CREED--A MANDATE FOR  
PROFESSIONALISM**

**I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this creed for no other reason than it is right.**

**I. OUR LEGAL SYSTEM**

**A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.**

- 1. I am passionately proud of my profession. Therefore, "My word is my bond."**
- 2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.**
- 3. I commit myself to an adequate and effective pro bono program.**
- 4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.**
- 5. I will always be conscious of my duty to the judicial system.**

**II. LAWYER TO CLIENT**

**A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.**

- 1. I will advise my client of the contents of this creed when undertaking representation.**
- 2. I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible.**



3. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.
4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.
5. I will advise my client of proper and expected behavior.
6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.
7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.
8. I will advise my client that we will not pursue tactics which are intended primarily for delay.
9. I will advise my client that we will not pursue any course of action which is without merit.
10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.
11. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

### **III. LAWYER TO LAWYER**

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

1. I will be courteous, civil, and prompt in oral and written communications.
2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance.
3. I will identify for other counsel or parties all changes I have made in documents submitted for review.
4. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon

or omit provisions which are necessary to reflect the agreement of the parties.

5. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are canceled.

6. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.

7. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.

8. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.

9. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.

10. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.

11. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.

12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the Court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.

13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.

14. I will not arbitrarily schedule a deposition, court appearance, or hearing until a good faith effort has been made to schedule it by agreement.

15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

16. I will refrain from excessive and abusive discovery.

17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.

18. I will not seek Court intervention to obtain discovery that is clearly improper and not discoverable.

19. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

#### **IV. LAWYER AND JUDGE**

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.

2. I will conduct myself in Court in a professional manner and demonstrate my respect for the Court and the law.

3. I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility.

4. I will be punctual.

5. I will not engage in any conduct that offends the dignity and decorum of proceedings.

6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.

7. I will respect the rulings of the Court.

8. I will give the issues in controversy deliberate, impartial and studied analysis and consideration.

9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.