

97TH JUDICIAL DISTRICT COURT
LOCAL RULES



TITLE 1. GENERAL RULES GOVERNING ALL PROCEEDINGS

RULE 1. CONDUCT AND COURTROOM DECORUM

1.1 Decorum. All persons with business before the Court shall be prompt and conduct themselves with dignity at all times.

- (a) No one shall sit upon railings, tables, desks or chair arms; nor shall anyone place feet on furniture or fixtures nor shall anyone prop chairs or lean or rest on the bench.
- (b) No person shall make gestures, facial expressions or sounds indicating approval or disapproval of any ruling, person or conduct.
- (c) No one shall eat, drink, smoke, use tobacco, chew gum or read newspapers in the courtroom.
- (d) Pagers, beepers and cellphones must be turned off when a person enters the courtroom. If a devise can be left on without making a sound except for vibration, it may remain on if kept in that mode. Failure to follow this Rule may result in a finding of contempt, a fine or other sanction, including confiscation of the devise.
- (e) Absent medical necessity or religious observance, the following shall not be permitted in the courtroom: hats, bandanas or other headgear, shorts, bare midriffs, tank tops or tattered or dirty clothing. Persons violating this Rule may be ordered by the Court to remove themselves from the courtroom.
- (f) Under no circumstances shall outbursts, disturbances, threats, obscene language or gestures be permitted in the courtroom at any time. Violation of this Rule may result in immediate expulsion of the person or a finding of contempt, a fine or other sanction.
- (g) A party or client has no right to insist that a lawyer conduct himself or herself in a manner disrespectful to other counsel, opposing parties or the Court.
- (h) Counsel shall instruct parties and witnesses that they shall not contact the Judge concerning pending matters, and shall also advise clients, witnesses and others attending court in support of them of appropriate courtroom

conduct.

1.2. Pro Se Litigants.

All Rules and requirements applicable to attorneys apply equally and with full force to pro se litigants. Pro se litigants are required to provide contact information in Rule 57 of the Texas Rules of Civil Procedure

RULE 2. FILING AND MAILING PROCEDURES

2.1 Mail.

All mail shall be properly addressed and have adequate postage affixed. A current directory of court personnel is provided on the Court's website.

2.2 Mail Delivery

All mail, including original orders for settings not electronically filed which require the District Judge's attention or signature shall be delivered to the Court Coordinator at the address listed on the Court's website.

2.3. Original Documents.

Original documents to be filed, other than those electronically filed, which do not require the District Judges signature shall be mailed to the respective District Clerk. The Court Coordinator will not file documents. The Court Coordinator will not forward documents to the District Clerks within the 97th Judicial District unless counsel complies with Rule 3.4 below.

- 2.4.** If items are to be forwarded by the District Judge or District Court Coordinator to a District Clerk or are to be returned to the sender, then the sender shall provide an envelope of appropriate size, properly addressed with sufficient postage affixed for such forwarding. If time is of the essence in meeting filing deadlines, the original motion or other document should be sent directly to the District Clerk at that Clerk's address as listed in the current Texas Legal Directory and a separate order or fiat should be sent to the District Court Coordinator at the address listed for the District Court Coordinator in the current Texas Legal Directory.

RULE 3. SETTING PREFERENCES.

The Court will attempt to accommodate conflicting settings of counsel. Priorities, as they relate to such conflicts shall be consistent with the requirements of Article

32A.01 of the Texas Code of Criminal Procedure and the primary and secondary trial priorities set out in the Texas Government Code Sections 23.101 and 23.102, and shall include:

- (a) Criminal cases in which the alleged victim is less than 14 years of age;
- (b) Criminal cases in which the Defendant is confined in jail;
- (c) Cases set for any purpose following appearance on a dismissal docket;
- (d) All other criminal cases;
- (e) Special or preferential settings;
- (f) Cases in which the Court of another court will be without an available case for trial or will have to disband a jury panel;
- (g) Earlier cases filed;
- (h) Regular settings;
- (i) Pretrial settings.

Rule 4. COURT CALENDAR

4.1 Setting Requests.

Requests for settings shall be made in writing and timely delivered to the District Court Coordinator and to opposing counsel or pro se parties. The request shall:

- (a) Advise that the case is either a hearing, a non-jury trial or a jury trial and state the estimated time of the entire hearing, non-jury trial or jury trial;
- (b) Advise which, if any, discovery and other pretrial matters remain unresolved; and
- (c) Certify that a copy of the request has been delivered to all opposing counsel and pro se parties.

4.2. Estimates of Time.

Estimates of time felt by opposing counsel to be erroneous shall be brought to the attention of opposing counsel and the District Court Coordinator in writing. Counsel are cautioned that estimates of too much time may cause as many

problems as those calling for too little. Counsel should be prepared to dispose of all requested relief sought in the hearing or trial within his or her time estimate.

4.3. Conference Required.

Before filing any motion, counsel for a moving party shall confer with counsel for all parties affected by the requested relief to determine whether or not the contemplated motion will be opposed. Such a conference is required for all motions, except motions to dismiss the entire action or indictment, motions for summary judgment and motions for new trial.

- (a) All motions shall contain a certificate by the party filing the same that efforts to resolve the dispute without Court intervention have been attempted and failed.
- (b) Any motion omitting such certificate shall not be set for hearing until such certification has been filed.

4.4. Summary Docket.

- (a) Regular non-jury (summary docket) days in each calendar month shall be as follows:

Archer County:	First Monday of each month
Clay County:	Third Monday of each month
Montague County:	Second Monday of each month (civil preference)
Montague County:	Fourth Monday of each month (criminal preference)
Montague County:	Fourth Tuesday of each month (civil preference)

- (b) When a summary docket is a legal holiday recognized by the Court, then the next regular business day shall be the summary docket day for the pertinent county. Counsel shall see that the District Clerk has the file and the docket sheet at the bench before the time set for hearing.
- (c) All non-jury settings, except as otherwise set by court order shall begin at 9:00 a.m., then all cases on the docket will be called and the order of trial determined. Except for hearings on temporary orders, announcements stating a need to Atalk to the opposing side@ may be deemed insufficient by the Court. All such Atalks@ or conferences with the opposing side should take place prior to the setting date, and such announcements may result in the case being passed to another setting or dismissed by the Court.

- (d) In Archer and Clay Counties, preference shall be given to criminal cases.
- (e) In Montague County, civil matters shall have preference on the second Monday and fourth Tuesday settings and criminal matters shall have preference on the fourth Monday settings.

4.5. Grand Jury Settings.

The Grand Jury shall meet in Archer County on the first Monday of each month, in Montague County on the second Monday of each month and in Clay County on the third Monday of each month and at such other times as directed by the Court.

4.6. Jury Terms.

Jury terms in each county within the 97th Judicial District shall be scheduled by the Court from time to time and an annual calendar shall be published and provided by the District Court Coordinator and the District Clerks. When a case is scheduled for a particular jury term but is not reached, it shall automatically be carried forward to the docket of the next jury term in that County, unless specially set by the Court.

4.7. Jury Dockets.

(a) A jury docket will be sent by the District Court Coordinator to all counsel and pro se parties having a case on the docket for a particular jury term approximately thirty (30) days prior to the first day of the jury term.

(b) Written announcements of “ready” or “not ready” must be made by each attorney in charge in each case and received by the District Court Coordinator at least ten (10) full days prior to the first day of the jury term. All announcements of “not ready” must state specific reasons therefore and shall be accompanied by a detailed and proper motion for continuance. “Subject to” announcements are not permitted. Failure to announce or announcement not strictly in compliance with these rules will be considered by the Court as an announcement of ready. All written announcements of “ready” shall contain the following information:

- (I) In a civil case, a statement that the announcing party has made a bona fide offer of settlement that has been rejected and that all reasonable efforts to settle have been attempted,
- (ii) An estimate of the time required for trial,
- (iii) A statement that all pretrial matters have been disposed of and that all pretrial orders and the Local Rules have been complied with.

- (iv) A certificate that the person signing the announcement is the attorney in charge of the case and that the information set out therein is true.

4.8. Non-Jury Dockets.

Non-jury cases requiring more time than is available on the summary docket (See Rule 5.3) shall be set by a request to the District Court Coordinator pursuant to Rule 5.1. Such settings shall be considered Aspecial settings@ and strict adherence to all Rules, time estimates and court orders in connection with the case is required.

4.9. Attorney Vacations.

Counsel wishing to avoid assignment to trial during a vacation period not exceeding four (4) consecutive weeks must advise the District Clerk and District Court Coordinator at least forty-five (45) days prior to the beginning of the vacation. Such notice will not be taken by the Court as grounds for resetting cases already set or those carried forward pursuant to these Rules.

RULE 5. SETTLEMENT AUTHORITY IN CIVIL CASES

Unless counsel has full settlement authority (within the pleadings and applicable law), parties with such authority shall be present in court for all proceedings. If a party is not in hull control of settlementBsuch as when counsel is employed by an insurer or suretyBa representative of the entity in control of settlement, with full settlement authority, shall be present at all proceedings.

RULE 6. WITHDRAWAL OF COUNSEL

Withdrawal of counsel in both civil and criminal cases shall be governed by Rule 10, Texas Rules of Civil Procedure, except for withdrawal of appointed counsel in criminal cases, which shall comply with Texas Code of Criminal Procedure Art. 26.04.

RULE 7. CASE DISPOSITION

7.1 Timely Disposition.

Disposition of civil cases shall be pursuant to the Rules of Judicial Administration. Disposition of Criminal cases shall be as provided by law.

7.2. Dismissal Notice.

The procedure for dismissal of civil cases not timely disposed of shall be pursuant to Rule 165a, Texas Rules of Civil Procedure.

7.3. Continuances and Passing of Civil Cases

There shall be no "agreed," "first" or "automatic" continuances or passes of cases set for hearing. All motions for continuance must be specific and presented at least ten (10) days before the scheduled hearing or trial. If the basis for a continuance is a conflict in settings, the specific style, docket number, court, date of case filing, date of case setting, and the judge scheduled to hear the case will be included in the motion, together with the name, address and telephone number of the person with the other court to be contacted for information regarding the case.

RULE 8. CRIMINAL CASES

8.1. Service of Indictments

Immediately following the return of an indictment, the District Clerk, District Attorney and Sheriff of the pertinent County shall cause a certified copy thereof to be served on the accused.

8.2. Court Coordinator's Docket

After an indictment is returned, the District Attorney shall, within three (3) days thereafter furnish the District Court Coordinator with a list of all pending criminal cases in each county that have been indicted at the session of the Grand Jury in which the indictment was returned, indicating whether the accused is in custody, is free on bail or is a fugitive. Each such list shall contain the names and address of the accused, his or her attorney and his or her bondsman. All changes in status, personnel or address shall be timely furnished to the District Court Coordinator by the District Attorney.

8.3. Arraignments.

Arraignments shall be held at 9:00 a.m. on the regular non-jury summary docket day in Archer and Clay Counties and at 9:00 a.m. on the fourth Monday of each month in Montague County.

- (a) Each defendant and counsel, if any, shall appear in person for arraignment unless prior to the date set for arraignment, counsel has appeared of record by filing a written waiver of arraignment.

- (b) Each surety on a defendant=s bail bond shall be responsible for the appearance of the defendant at arraignment and shall provide the defendant=s email address to the Court prior to his or her first appearance.

8.4. Indigency and Appointment of Counsel.

Procedures for the determination of indigency and the appointment of counsel for an indigent defendant shall comply with Texas Code of Criminal Procedure Chapter 26 and with Articles 1.051.15.17 and 115.18 of the Texas Code of Criminal Procedure. Full completion of these forms shall be an absolute requirement before a request for appointment of an attorney by a defendant will be considered by the Court.

8.5. Pretrial Procedure.

All pretrial hearing shall be governed by article 28.01, Texas Code of Criminal Procedure, other pertinent Texas statutes, constitutional provisions and statewide rules and these Local Rules. Matters not timely raised and presented at the scheduled pretrial hearing will be considered waived and will not be heard by the Court thereafter except on written motion and leave of the Court, consistent with Article 28.01. No pretrial hearings will be continued except upon written motion filed prior to the hearing. No Afirst setting@ or Aagreed@ continuances will be permitted by the Court, except when permitted by Chapter 29 of the Texas Code of Criminal Procedure.

8.6. Pre-sentence Report.

Defendants who desire to make application for probation and/or request that punishment be assessed by the Court, may execute and consent to the Court=s inspection of the pre-sentence report, in accordance with Texas Code of Criminal Procedure Article 42A.254 at least five (5) days before any pretrial hearing.

8.7. Pleas--Cases on Jury Docket.

Guilty pleas arising from plea-bargain agreements must be completed, including sentencing, at least five (5) days before the date on which the case is first set in the jury term.

- (a) All scheduling of entry of Guilty pleas shall be done through the District Court Coordinator.
- (b) The Court will admonish all defendants in writing in compliance with Article 26. 13 of the Texas Code of Criminal Procedure as the same exists

and may be amended hereafter. Counsel shall carefully review such admonishments with each defendant prior to formal entry of a plea of guilty. In the event counsel believes that a defendant does not understand any such written admonishment, he or she shall so advise the Court before beginning the entry of the plea.

- (c) All plea papers, except those actually required to be signed before the Judge in open court, shall be fully completed and sworn to prior to the appearance of counsel and the Defendant before the bench or within the bar of the court.
- (d) Continuances of cases on jury docket to a subsequent plea setting will be considered by the Court only if Texas Code of Criminal Procedure Chapter 29 authorizes the continuance OR:
 - (I) A joint resetting order approved by the State and the defense is presented to the Court;
 - (ii) The order provides for a specific date on a summary docket date for the setting;
 - (iii) The order provides that all counsel and the defendant will be present on the specified date; and
 - (iv) The order is signed for approval by all counsel and the defendant and complies with Texas Code of Criminal Procedure Chapter 29.
- (e) The Court may, at its discretion, permit the entry of a guilty plea pursuant to a plea bargain agreement which provides that the defendant will appear at a later date for sentencing, but only in those instances where the Court enters a written order setting for the specific date for re-appearance by the Defendant and the specific terms of the plea bargain.
- (f) Guilty pleas pursuant to plea bargain agreements which are not in timely compliance with these Rules may be rejected by the Court. It shall also be the right of the Defendant to withdraw his or her plea of guilty if the Court rejects the proposed plea bargain agreement.

8.8. Discovery

- (a) Depositions and Discovery in criminal cases shall be governed by and conducted according to the provisions of Chapter 39, Texas Code of Criminal Procedure, the Texas Penal Code and all amendments thereto adopted after the approval of these Local Rules.
- (b) Defense counsel shall not file discovery motions seeking material which the State is obliged to provide under the Texas Rules of Criminal

Procedure unless such material has not been provided at the time of the motion. Any matters requested by defense counsel which are not addressed or provided in a State's Disclosure document filed with the Court shall be requested by a specific, separate motion identifying each item or thing sought. All requirements of motion practice shall be strictly adhered to by defense counsel. Motions not complying with these Rules and governing statute shall be treated by the Court as if no motion has been filed.

8.9. Attorney-Client Conference.

In all cases, including those in which counsel are appointed, counsel shall confer with his or her client prior to every court appearance, including arraignment (if appointment or employment is done prior thereto) so that no delay will result in the proceedings at that appearance.

8.10. Jury Trial Settings.

- (a) All counsel shall file announcements of "ready" or "not ready" shall be received by the District Court Coordinator in writing at least ten (10) days prior to the first day of jury term, according to the requirements of Local Rue 4.7(h); announcements shall also state an estimate of the time required to try the case.
- (b) Announcements of "not ready" shall be made in a detailed Motion for Continuance in proper form, containing a detailed explanation of why the case is not ready for trial. Failure to announce properly will be considered an announcement of "ready" by the Court.
- (c) All announcements shall be addressed to the District Court Coordinator at the address provided in the Jury Docket Order of the Court.
- (d) Attorneys must notify the Court at least seven (7) days prior to the date of jury trial if a bench warrant is necessary.

9.0. CIVIL CASES

9.1. General.

Pretrial jury procedures shall require two pretrial conferences--a Pretrial Scheduling Conference and a Final Pretrial Conference-- in all civil cases except default judgments and non-contested matters, tax collection cases and ordinary commercial collection cases.

9.2. Duty of Counsel.

It shall be the duty of all counsel and pro se parties to file and present to the Court all preliminary matters at the scheduling, pretrial conferences and final pretrial conferences. No preliminary matters may be presented on the day of trial or during trial.

9.3. Pretrial Scheduling Conference Procedure.

At the pretrial scheduling conference, the Court may by written order establish a schedule for completion of discovery, including:

- (i) Exchanging lists of all expert witnesses and reports in accordance with the Texas Rules of Civil Procedure;
 - (ii) Exchanging of lists of all fact witnesses in accordance with the Texas Rules of Civil Procedure;
 - (iii) Exchanging of all exhibits and the filing of written objections thereto;
 - (iv) Setting time limits for depositions;
 - (v) Setting deadlines for the filing of all pleadings by parties;
 - (vi) Setting a date for hearing on summary judgment motions;
 - (vii) Setting deadlines for mediation;
 - (viii) Setting final pretrial conference;
 - (vix) Setting a trial date; and
 - (x) Entering such other orders as may be necessary or expedient for the scheduling of the case or as authorized by Texas Rules of Civil Procedure 166.
- (b) The pretrial scheduling conference may be waived by written agreement of all counsel and pro se parties, with written approval of the Court, provided an agreed scheduling order setting out the matters addressed in Rule 9.3 is provided to the Court. The agreed scheduling order may leave blanks for the dates of summary judgment hearing and for final pretrial conference and trial date, with the Court's approval. Such an agreed order must contain a statement that all counsel and/or pro se parties are familiar with the Court's Local Rules and the same must conform to the time standards of the Rules of Judicial Administration, and must be filed with Court before the date of the scheduled Pretrial Scheduling Conference.
- (c) The Scheduling Order signed by the Court shall control the scheduling of all matters in the case unless the same is superceded by further order of the Court. Any request for modification of the requirements of an approved Scheduling Order must be in writing, approved by the Court and filed in the case.
- (d) In all civil cases, including Family Law Cases, in which the final hearing is

estimated by either counsel to require more than two hours to complete, the Court requires Mediation to be conducted by a trained mediator prior to the final hearing. Parties shall submit an order appointing an agreed-upon mediator with a final date for the completion of mediation stated. If the parties cannot agree upon a mediator, one or more of the parties shall notify the Court of this inability and submit an order which allows the Court to appoint a mediator in the order.

9.4. Discovery

Discovery shall be conducted pursuant to the Texas Rules of Civil Procedure, as amended, together with all other applicable rules pertaining to discovery in civil cases. The rules of discovery should be liberally construed, but untimely objections will be overruled.

9.5. Summary Judgment Procedure.

Anticipated motions for summary judgment shall be scheduled at the Pretrial Scheduling Conference.

9.6. Final Pretrial Conference.

A Final Pretrial Conference shall be held in all jury cases and in non-jury cases as determined by the Court, pursuant to the Texas Rules of Civil Procedure and these Local Rules. No Final Pretrial Conference shall be continued for failure to comply with the Pretrial Scheduling Order.

- (a) All matters preliminary to the actual trial of the case shall be heard at the final pretrial conference. All matters, including final pleadings and required discovery documents, shall be filed at least seven (7) days prior to the date the Final Pretrial Conference is scheduled or earlier if otherwise provided by law or order of the Court and shall be served on all opposing counsel and pro se parties with a copy provided to the Court.
- (b) Matters which shall be disposed of at the Final Pretrial Conference and which shall be deemed waived if not properly presented are as follows:
 - (i) Motions in limine;
 - (ii) Motions to suppress;
 - (iii) All pending dilatory pleas, motions and exceptions;
 - (iv) Objections (which must be in writing) to any discovery or proposed exhibits;
 - (v) Approval of stipulations, including in workers= compensation cases,

wage rates, hardship or lump sum and reasonable and necessary medical expenses. In the event such specific matters relating to workers= compensation cases are not stipulated, counsel shall be prepared to satisfy the Court of the reasonableness in not agreeing to the stipulation. With respect to the wage rate, it is incumbent upon the insurer to secure from the employer all wage rate records which may be necessary;

- (vi) All other matters necessary to the proper trial of the case.
- c) Each party shall appear at the Final Pretrial Conference by the counsel in charge, unless permission of the Court has been first obtained to permit the appearance by a co-counsel who has full knowledge of the case and who has authority to bind the client in all things before the Court.
- (d) All discovery procedures must have been completed prior to the Final Pretrial Conference.
- (e) All exhibits, including filings required by the Texas Rules of Evidence, shall be exchanged with all parties as ordered by the Scheduling Order in the case, or, if no scheduling order was issued, then such exhibits shall be exchanged not later than three (3) days prior to the Final Pretrial Conference; and any objections to such exhibits shall be presented, in writing, at the Final Pretrial Conference.
- (f) All items described in the Texas Rules of Civil Procedure 166(k) shall be presented to the Court at the Final Pretrial Conference. Failure to timely submit may be grounds for refusal of any requested pretrial question, definition or instruction or the denial of objections to the charge.
- (g) Failure to appear at a Pretrial Scheduling Conference or a Final Pretrial Conference, or the failure to comply with the Texas Rules of Civil Procedure, the Local Rules or the Court's orders with respect to a case may result, after a hearing, in appropriate sanctions being imposed by the Court. The failure to comply with any of the Local Rules, including the rules concerning settlement authority, shall be considered a failure to appear.

9.7. Presence of Witnesses.

- (a) All witnesses must be present in Court and ready to testify at the time set by the Court for the start of evidence in the trial. The Court may, in its discretion, refuse to delay the proceedings to await the arrival of any witness.

- (b) Subpoenas for witnesses must be processed through the Office of the District Clerk using the form e-Filing Request for Issuance of a Subpoena. Applicable fees for issuance must be paid before subpoenas are issued.

9.8. Voir Dire

- (a) Voir dire shall be conducted from the bench side of the counsel table or the lectern, if available, and counsel shall require prospective jurors to rise and state his or her name when answering individual questions.
- (b) Prospective jurors shall not be asked questions which have been previously answered in response to a question by the Court, by other counsel, or on jury information cards.
- (c) AJury argument@ or Aopening statement@ voir dire shall not be permitted, and counsel may be reprimanded in the presence of the panel for violation of this Rule.

9.9. Videotapes and Films.

- (a) Unless otherwise expressly agreed upon by the parties in writing or order by the Court, counsel intending to offer videotaped depositions or other films or videotapes at trial, except those offered solely for impeachment, must make such videotapes and films available to opposing counsel and serve opposing counsel with page and line designations for videotaped depositions, not later than 14 days prior to the Final Pretrial Conference. Opposing counsel shall then serve the proffering attorney with page and line designations of any portion of the videotaped deposition he or she intends to introduce at trial not later than 10 days prior to the Final Pretrial Conference. The proffering attorney shall then serve opposing counsel with page and line designations of any portion of the videotape deposition he or she further intends to introduce at trial not later than 7 days prior to the Final Pretrial Conference.
- (b) Any videotapes or films not tendered as required by Rule 9.9(a) will not be permitted into evidence at trial.
- (c) All parties and counsel must timely examine any tendered videotapes or films and notify the Court and opposing counsel of any objections to the admissibility of any part of the videotape or film.
- (f) All objections to videotapes and films will be heard at the final pretrial

hearing. Any objections not presented at the final pretrial hearing will be considered waived.

9.10. Bankruptcy

- (a) Notice of Filing. Whenever any party to litigation in this Court files for protection under the bankruptcy laws of the United States, it shall be the responsibility of that party's attorney to notify the attorney appearing for the party in bankruptcy to (i) promptly notify this Court by immediately contacting the District Court Coordinator and to (ii) within three (3) days of any bankruptcy filing to provide written notice to the Court and to all counsel in the case that a bankruptcy filing has occurred, giving the name and location of the bankruptcy court, the bankruptcy cause and case number and style of the case, the date of filing and the name and address of counsel for the bankrupt. Failure to comply with this rule may be punished by sanctioning counsel and, in appropriate cases, the party once the bankruptcy is concluded.
- (b) Conclusion of Bankruptcy. Once a bankruptcy case has been concluded, whether by discharge, denial of discharge, dismissal or otherwise, counsel shall promptly notify the District Court Coordinator and shall provide a copy of such bankruptcy order so that the affected case may be restored to the active docket or be dismissed as may be appropriate.

9.11. Requests for Issuance of Citation, Orders, etc.

- (a) Requests for issuance of writs, citation, citation for expedited foreclosure, any notice, precept, show cause notice or temporary restraining order shall be filed with the District Clerk using the form "E-Filing Request for Issuance" available on the Court's website.
- (b) Requests for issuance of Abstracts of Judgment and/or Writs of Execution shall be filed with the District Clerk using the form "E-Filing Request for Issuance of Abstract of Judgment and/or Writ of Execution" available on the Court's website.
- (c) Requests for Orders of Sale shall be filed with the District Clerk using the form "e-Filing Request for Issuance for an Order of Sale" available on the Court's website.

RULE 10. FAMILY LAW CASES

10.1 Ex Parte Orders

In all family law cases in which an ex parte order involving temporary orders for support is requested, the party seeking such temporary orders hearing shall include the following language in the temporary orders:

All parties to this action shall file with the District Clerk and serve all counsel or pro se parties with a written statement accurately showing the gross income of each party hereto for the preceding three (3) calendar months and the preceding three (3) calendar years by at least the day preceding the hearing on temporary orders. A

10.2 Temporary Orders

- (a) A temporary orders short form available on the Court's website and from the District Clerk's Office shall be used in every temporary orders hearing and shall be compiled by counsel insofar as possible before the hearing; the original copy of the form shall be provided to the Court by counsel or pro se party before or during the hearing. If all issues in the temporary orders hearing are resolved by agreement, no formal hearing shall be required; if some issues are not so resolved, the hearing shall be held to consider only those issues. Whether or not agreement is reached, all counsel and parties shall sign one completed temporary orders form before leaving court and file the original of that form with the District Clerk after the same is approved by the Court. All counsel shall retain a copy of the completed form and file a copy of it with the Court with the formal Temporary Orders. The form is not a substitute for the entry of formal Temporary Orders, which must be filed with the Court within four (4) working days after the hearing.
- (b) An application to the Court for a temporary order and notice of any hearing thereon shall be served on the adverse party in accordance with Rule 5 and Rule 21a of the Texas Rules of Civil Procedure, as amended.
- (c) In all matters in which managing conservatorship is an issue, the parties shall be granted not more than two (2) hours to present the case, which time shall be divided equally between the parties. In all other temporary matters, including a modification of a temporary order, the parties shall be granted not more than one (1) hour to present the case, which time shall be equally divided between the parties. Counsel should request a special hearing at the time the application for temporary relief is presented to the Court when, because of unusual circumstances, the time limits set out in these Rules is unworkable or inappropriate. The Court shall determine the

amount of time that shall be allocated for the hearing.

- (d) All cases in which counsel announce a settlement shall be heard first on each docket. All other cases shall be docketed according to counsel=s announcement, with those matters requiring the least amount of time to be heard first. Hearings which exceed the amount of estimated time announced may be recessed and continued by the Court another docket setting.
- (e) In all cases in which temporary support of a spouse and/or a child or children is in issue, each party shall be required to furnish to the Court and to opposing counsel or pro se party:
 - (I) A statement of monthly income and expenses similar to that available on the Court's website.
 - (ii) Copies of that party=s federal income tax return for the two (2) calendar years prior to the temporary orders hearing;
 - (iii) All payroll statements, pay stubs, W-2 forms, and 1099 forms which evidence the party=s earnings for the calendar year prior to the temporary orders hearing and from January 1 of the current year through the date of the temporary orders hearing;
 - (iv) Copies of all financial statements filed by that party with a financial institution in the two (2) years prior to the hearing.

10.3. Requests for Settings

Requests for settings in family law cases shall be made in compliance with Local Rule 4.1.

11.4. Inventories.

- (a) In all suits for the dissolution of marriage, each party shall file with the District Clerk, no later than thirty (30) days prior to the commencement of trial, a complete, itemized, sworn inventory and appraisal of all separate and community property owned or claimed by the parties to the marriage, and all debts and liabilities owed by the parties. Any property claimed to belong to children of the marriage must also be listed in the inventory and appraisal. This inventory shall list each item of property and each debt, with the value of that item shown to the right of the property description.
- (b) After each party=s sworn inventory and appraisal has been filed, the parties shall file a composite inventory and appraisal in a form

substantially similar to that on the Court's website. The Petitioner shall initiate the composite inventory and forward it to the Respondent for completion not less than fourteen (14) days prior to the trial. The Respondent shall complete and file the composite inventory with the Court and serve a copy of the same on Petitioner not less than seven (7) days prior to trial.

- (c) Inventories required by these Local Rules shall be considered as discovery, the requirements therefor and the documents so filed are subject to sanctions provided by law, including Rule 215, Texas Rules of Civil Procedure.
- (d) In the event an agreement completely settling all property, custody and support issues in the suit is entered into prior to the final hearing, then the filing of inventories under this Local Rule shall not be required.

10.5. ADR

- (a) It shall be the policy of the Court to encourage amicable resolution of family law litigation by the use of alternative dispute resolution. On its own motion, on motion of a party or by agreement of the parties, the Court may refer a case to alternative dispute resolution pursuant to Chapter 154, Texas Civil Practice and Remedies Code. On its own motion, the motion of a party or by agreement of the parties, the Court may refer a case to access facilitation. All cases in which the time estimated for final hearing exceeds two (2) hours will be referred to mediation by the Court.
- (b) In cases selected for mediation, the Court encourages the parties to choose a mutually agreed upon mediator. The Court, if requested, shall appoint a mediator who has substantial experience in family law mediation.

10.6. Co-Parenting Education.

- (a) Pursuant to Texas Family Code Sec. 153.001, it shall be the policy of the Court to:
 - (i) assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interests of the child,
 - (ii) provide a safe, stable and nonviolent environment for the child, and
 - (iii) to encourage parents to share in the rights and duties of raising their children after the parents have separated or dissolved their marriage.
- (b) On its own motion, motion of a party or by agreement of the parties, the

Court may order the parties to attend a parenting education and family stabilization course for the purposes of promoting this policy. The Court encourages all parties to attend classes of this type.

10.7. Pretrial.

- (a) Pretrial hearing or orders will not be required in all cases, but the Court may establish its own pretrial procedures pursuant to Rule 166, Texas Rules of Civil Procedure. A pretrial conference may be set on the Court's own motion, or proper request of a party. If a pretrial conference is set, counsel or parties pro se will be expected at the hearing to advise the Court about which issues will be disputed and the time required for trial.
- (b) Counsel attending the pretrial shall be the lead attorney or shall be familiar with the case and the party's position on the law and the facts and authorized to make stipulations of fact. Counsel shall not send a non-attorney to a pretrial hearing. Pro se parties must attend the pretrial hearing in person.
- (c) When counsel or a pro se party, after notice, fail to appear, the Court may:
 - (i) Rule on all motions, dilatory pleas and exceptions in the absence of such person, including rulings declaring such matters to be waived;
 - (ii) Advance or delay the trial setting according to the convenience of the persons present;
 - (iii) Pass and reset the pretrial;
 - (iv) Decline the case for want of prosecution or grant a default judgment, as appropriate, provided counsel and pro se parties were properly notified to appear; and
 - (v) Grant sanctions or other relief.

10.5. Visitation and Access to Children.

Agreement with respect to visitation and access to the children of the marriage is encouraged. In the absence of agreement between the parties, access and possession of the children by the parties will normally be ordered by the Court in accordance with the Standard Possession Order in Texas Family Code Sec. 153.311 et seq, absent special circumstances.

10.6. Child Support.

- (a) Unless agreed upon by the parties, child support shall be determined and ordered by the Court pursuant to Texas Family Code Chapter 154 et seq.

The Court will also consider Texas Family Code Chapter 154 et seq. for the purpose of modification of prior support orders.

- (b) All parties in an action involving child support shall file with the Court a written statement setting forth the accurate gross income of all adult parties to the proceeding for the preceding three (3) calendar years and the preceding three (3) calendar months. Each counsel or pro se party shall also prepare a written statement showing any items for which a deduction from gross income (except Social Security tax and income tax withheld) is sought, including a written statement of the reasons such deduction should be allowed by the Court. Each counsel or pro se party shall also file with the Court a written statement setting forth his calculation of the amount of child support sought to be ordered by the Court in that proceeding.
- (c) Automatic reduction in child support due to emancipation shall not be considered by the Court to be an automatic pro rata reduction. Reduction, if no change of circumstances has occurred, shall be calculated by applying the proper percentage level for the number of minor children remaining pursuant the Texas Family Code Child Support Guidelines.
- (d) All child support payments ordered by the Court (except for an employer pursuant to a withholding order) and monthly service fees shall be paid to the state disbursement unit (SDU) as provided in Texas Family Code Sec. 154.004 et seq. All decrees, judgments and orders for support shall include provisions stating the manner and place of payment in compliance with the Local Rules and shall include the proper address of the SDU.
- (e) Every order submitted to the Court for approval which contains provisions for child support shall be accompanied by a medical support order in conformance with the requirements of Texas Family Code Sec. 154.181, as amended
- (f) Every final order submitted to the Court for approval which contains provisions for child support shall be accompanied by an order or writ for income withholding in accordance with Chapter 158, Texas Family Code, as amended. All persons presenting said order or writ for income withholding shall also submit an "e-Filing Request for Issuance for an Order Withholding to Employer's" to the District Clerk, available on the Court's website.
- (g) At the conclusion of all divorces/annulments (with or without children) excluding adoptions, the party submitting a decree or order to the Court must also present, at the same time, a completed form entitled AInformation on Suit Affecting the Family Relationship (Excluding

Adoptions) available on the Court's website, to the District Clerk for submission to the State Vital Statistics Unit, as required by the Texas Health & Safety Code.

10.7. Proposed Division of Community Estate and Proposed Support Decision.

Counsel for each party and each pro se party shall present to the Court prior to the final divorce hearing in which property division is contested, a document containing the following information:

- (a) Community assets requested to be awarded to each of the respective parties;
- (b) Community liabilities requested to be awarded to each of the respective parties;
- (c) Assets or liabilities requested to be confirmed to each of the respective parties as separate property; and
- (d) Information for calculating support.
- (e) The document submitted may follow the format in the form available on the Court's website.

10.8. Adoptions

The Petitioner, upon presenting a signed copy of a final order for adoption to the District Clerk shall, at the same time, present a completed Certificate of Adoption.

10.9. Interviews with Children

All interviews with children in Suits Affecting the Parent-Child Relationship shall be conducted by the Court in chambers with a Court-designated witness. No parties or counsel shall be permitted to attend such conferences. The content of the interview will remain confidential and any record made of the same by the Court Reporter or Court-designated witness shall be sealed unless opened by written order of the Court after consideration of a motion showing good cause.