# LOCAL RULES FOR THE WASHINGTON COUNTY COURT AT LAW

# WASHINGTON COUNTY, TEXAS

Judge Eric Berg

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## Table of Contents


**RULE I – General**

1.10 Time Standards for Case Disposition 1

1.11 Request for Setting – Non Jury 1

1.12 Disposition of Uncontested Matters 2

1.13 Jury Demand / Fee 2

1.14 Resets 3

1.15 Dismissal Docket / Involuntary Dismissal 3

1.16 Pre-Trial and Scheduling Conferences 3

1.17 Submission of Orders, Judgments and Instruments 4

**RULE II – FAMILY LAW CASES**

2.10 Time standards for Family Law Case Disposition 4

2.11 Ancillary Proceedings, Temporary Orders, and Emergency Matters 5

2.12 Disposition Proposals 5

2.13 Uncontested Matters 5

2.14 Financial Information Statements 6

2.15 Child Support Guidelines 6

2.16 For Kid's Sake Program 6

**RULE III – CRIMINAL CASES**

3.10 Misdemeanor Cases 7

3.11 Filing of Cases 7

3.12 Appearance of Defendant and Counsel 8

3.13 Case Scheduling 8

3.14 Time Limit on Plea Recommendations 9

3.15 Docket Call 9

3.16 Pleas 10

3.17 Trial Procedure 10

3.18 Continuance / Reset / Postponement 11

3.19 Motion / Pre-trial Hearings and Matters 11

**RULE IV – Attorneys of Record**

4.10 Conduct and Decorum 11

4.11 Withdrawal of Counsel 12

4.13 Attorney Vacations 12

**ORDER ADOPTING LOCAL RULES OF ADMINSTRATION**

# LOCAL RULES OF THE WASHINGTON COUNTY COURT AT LAW

## RULE 1. CIVIL CASES

**1.10** Time Standards for Case Disposition.

The Court will ensure, as reasonably possible, civil cases, other than family law cases, should brought to trial or final disposition in conformity with the following time standards:

a. Civil jury cases – within 18 months from appearance date.

b. Civil non-jury cases – within 12 months from appearance date.

**1.11** Request for Settings – Non-Jury.

a. Submission for Ruling Without Hearing.

Upon the filing of any matter, the movant or the Court may give notice to all attorneys of record and parties pro se that the matter will be submitted to the Court for a ruling without any hearing. The notice shall clearly state that any party may either request a hearing or submit a written response on or before a specific submission date that is at least ten (10) days after service of such statement. If no hearing is requested prior to the submission date contained in the notice, the Court, in the absence of counsel, may examine the pleadings, authorities cited, and other papers submitted. After examining such pleadings, authorities, and papers submitted, the Court may set a hearing, or may make a ruling the court deems proper, noting such ruling among the papers of the case and send copies of a memorandum of such ruling to all attorneys of record and pro se parties. Submission of orders, judgments or other documents necessary to effectuate the memorandum ruling of the Court shall be accomplished in accordance with Rule 1.17.

b. Contested Hearings.

(1) A party or attorney of record may obtain a setting of any contested proceeding by, (a) requesting an agreed setting from the Court Coordinator, or, (b) filing a Setting Request (furnished by the Clerk, Court Coordinator, or in a form substantially similar to the form in Appendix). Each Setting Request shall be filed with the Clerk of the Court and shall specify:

(a) the cause number and style of the case;

(b) the nature of the hearing, trial or ruling sought;

(c) the name, address and telephone number of each attorney of record or

party pro se;

(d) the amount of time estimated by the requesting party to be required for such hearing for both sides. NOTE: each attorney or party must give careful attention to the amount of time requested, as other cases may be set at the conclusion of the estimated time.

(2) The attorney or party filing the setting request shall mail or deliver to all attorneys of record and all parties pro se in the case a copy of the setting request. The original setting request shall be retained with the original papers in the Court's file.

(3) The Court Coordinator shall mail a Notice of Setting to each attorney of record and party pro se at the address shown on the Setting Request. The Notice of Setting shall state the date, hour, nature of the trial or hearing set, and the allotted time. Failure of the requesting attorney or party pro se to accurately state the names and addresses of opposing counsel or party pro se shall be grounds for a continuance on the motion of an attorney of record or party pro se who did not receive the Notice of Setting within a reasonable time prior to the hearing date.

(4) The setting specified in the Notice of Setting shall remain tentative for a period of ten (10) calendar days after the same is mailed by the Court Coordinator. During such period, any attorney may notify the Court Coordinator of a conflict of settings or other scheduling conflict. Upon receipt of a signed certificate setting forth the nature and extent of the conflict and with the approval of the Court, the Court Coordinator may reset such cause to another tentative date or time. After the expiration of the ten (10) day period specified above, the setting shall become final.

**1.12** Disposition of Uncontested Matters.

Requests for hearing of uncontested matters and ex parte matters may be made in person, by telephone or in writing to the Court Coordinator. The Court Coordinator will set the matter for the next available uncontested docket or at any other time that may be convenient to the parties and the Court. The requesting party shall, when required by these rules or other applicable law, notify all attorneys of record or parties pro se of such setting.

**1.13** Jury Fee and Jury Demand.

No Civil case shall be set for a jury trial unless a jury setting request is filed and the proper jury fee is paid not later than ten (10) calendar days after the date the Notice of Setting for bench trial is mailed by the Court Coordinator, or scheduled in open court.

**1.14** Resettings.

No setting may be passed except by:

a. A settlement agreement announced in open court or in writing complying with Rule 11 of the Texas Rules of Civil Procedure;

b. Written agreement of all parties with court's approval; or

c. A motion for continuance granted by the Court.

**1.15** Dismissal Docket; Involuntary Dismissal.

a. At least once each year, cases which have not been disposed within the time limits set forth in these rules may be dismissed for want of prosecution. Notice of intention to dismiss shall be given in accordance with Rule 165a of the Texas Rules of Civil Procedure to all attorneys of record and parties pro se whose addresses are shown on the docket or in the papers on file.

b. If more than one case appears on the dismissal docket for a certain date, a list of cases to be dismissed shall be posted in a conspicuous place in the Clerk's office.

c. Unless good cause is shown as required in the notice, such cases will be dismissed on or after the date stated therein. Postcard notification of the dismissal order shall be as provided in Rule 306a of the Texas Rules of Civil Procedure.

d. A written Motion to Retain shall be filed by any party desiring to maintain the case on the docket setting forth good cause, together with a proposed Pre-Trial Order complying with Rule 165a (1) of the Texas Rules of Civil Procedure.

**1.16** Pre-Trial and Scheduling Conferences.

a. Any party may request that the case be set for a Pre-Trial conference. A Pre-Trial conference may also be set on the Court's own motion if it appears that the case has remained inactive for 180 days and may be made a prerequisite to any trial setting in the case.

b. At the Pre-Trial conference, the Court may hear and consider any pre-trial matter contemplated by Rule 166 of the Texas Rules of Civil Procedure and such other

matters as the Court may direct. The Court shall then enter a Pre-Trial Docket Control Scheduling Order.

c. Counsel for each party will submit a proposed Charge of the Court, Witness List and List of Exhibits to the Court no later than noon on the Friday prior to the jury week for which the case is set for trial, unless an earlier time has been set by the court.

**1.17** Submission of Orders, Judgments and Instruments.

a. After a ruling, the attorney directed shall prepare within ten (10) days the form of the document to be entered. On the same date the document is mailed or presented to the Court Coordinator, a duplicate of the document shall be mailed or delivered to opposing counsel and parties pro se to provide an opportunity to approve or object to the form of the document or that the document is inconsistent with the Court's ruling (i.e., not a reargument of the merits). The document must be signed by the attorney or party pro se submitting the document.

b. If no written objection is received by the Court Coordinator within ten (10) calendar days after the original was received, the Court Coordinator shall submit the document to the Court for signature.

c. All objections to the form or substance of a document submitted shall have the objecting party's proposed document for the Court's signature attached. Upon receipt of objections, the Court Coordinator shall present the documents and all objections to the Court for determination. The Court may determine the issue with or without a hearing in its discretion. For good cause the Court may change the deadline for preparation and filing of a document and objections.

d. All judgments and orders in uncontested matters (except cases which are settled on the hearing date) shall be presented at the time of hearing on such matters, except for good cause shown, and be signed by the attorney or party pro se presenting the order.

e. If the Court Coordinator has not received a proposed judgment or order finally disposing of a case within ten (10) days after decision by the Court, the Court coordinator shall send written notice of the lack of a proposed order to counsel. If no proposed order or judgment is received within five (5) days from the date written notice is mailed or faxed, the Court Coordinator shall present an Order of Dismissal with prejudice to the Court and costs may be taxed in the Court's discretion.

## RULE 2. FAMILY LAW CASES

**2.10** Time Standards for Family Law Case Disposition.

The court will, so far as reasonably possible, ensure that all family law cases are brought to trial or final disposition in conformity with the following time standards:

(1) Contested Family Law Cases. Within six (6) months from appearance date or within six (6) months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later;

(2) Uncontested Family Law Cases. Within three (3) months from appearance date or within three (3) months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

**2.11** Ancillary Proceedings, Temporary Orders, and Emergency Matters.

In the event a bonafide emergency exists or a matter requires special attention and the judge of the court where the case is pending is unavailable, the attorney or party seeking relief shall contact any judge who has jurisdiction and the judge can consider the matter, but the case shall remain in the court originally filed.

**2.12** Disposition Proposals.

a. To expedite disposition, each attorney (or pro se party) shall confer, prior to trial, with each other attorney (or pro se party) regarding settlement, stipulations, estimated time of trial, waiver of jury, the extent, description, character and value of the property in question, amount of support, amount of monthly income, conservatorship, periods of possession and/or access, rights, duties and powers of the conservators, and any other contested issues.

b. Each attorney shall submit a Proposed Property Division (form furnished by the Clerk, Court Coordinator or see Appendix for form) including property claimed or recognized as separate property, to the Court and opposing counsel not later than seven (7) days prior to the commencement of trial.

**2.13** Uncontested Matters.

Requests for hearing uncontested matters and ex parte matters may be made in person, by telephone or in writing to the Court Coordinator. The Court Coordinator will set the matter for the next available uncontested docket or at any other time that may be convenient to the parties and the Court. The requesting party shall, when required

by these rules or other applicable law, notify all attorneys of record or parties pro se of such setting.

Uncontested or agreed Family Law matters, where the parties waive the making of a record, may be set during the weeks not having a civil court date. You may request a setting by contacting the Court Coordinator. The criteria for the cases that can be heard on an off-docket basis are:

a. Uncontested with a Waiver of Citation and a making of a record, or

b. An agreed decree, signed by both parties together with a written waiver of the making of a record. The signature of a non-appearing pro se party will need to be notarized.

**2.14** Financial Information Statements.

In all cases requiring the division of property and/or liabilities, (except in cases where Respondent signs a Waiver of Citation and does not hire counsel), the Husband and Wife EACH shall file with the Court, or upon written mutual agreement exchange between themselves, sworn inventories within seventy-five (75) days of the date that the suit is filed. The seventy-five (75) day period may be extended upon written mutual agreement of the parties and/or their attorneys filed with the Court within seventy-five (75) days of the date the suit is filed. Each inventory shall list the value of each item of property and shall list each liability, together with the total amount of the liability, the number of periodic payments in arrears, if any, the property securing its payment, and the name of the creditor. Any property or liability claimed to be separate must be identified as such. All benefits arising from a party's employment (such as pensions, profit sharing plans, savings or thrift plans vested-unvested) shall be identified, and the last information furnished as to the employee's rights and monetary interest in such plans shall be incorporated into the inventory as an exhibit thereto. The inventory or a summary attached thereto shall list the property values and liabilities in a columnar form with each column totaled. Each inventory shall show the net worth of the community estate and the net worth on any claimed separate estate. Parties must supplement all inventories from the date of the original inventory through the day of trial. When a suit is tried, three (3) copies of all inventories and supplemental inventories shall be available for use in trial.

**2.15** Child Support Guidelines.

The amount of child support payable by the obligor parent shall be set in accordance with the current Child Support Guidelines adopted by the Supreme Court of Texas, unless good cause is shown to deviate from said guidelines.

**2.16** For Kid's Sake Program

In all divorce actions involving the custody of children, both Petitioner and Respondent shall attend the "For Kid's Sake" program at the direction of the Court prior to obtaining a setting on a final hearing. The Petitioner will attend the first session available after the filing of the divorce action, and Respondent will attend the following session. The parties may agree to switch the dates among themselves to attend the "For Kid's Sake" program only by an agreement in writing filed with the District Clerk prior to the beginning of the first session. Certificates of attendance for both the Petitioner and Respondent shall be filed with the Clerk prior to obtaining a setting of the final hearing.

## RULE 3. CRIMINAL CASES

**3.10** Misdemeanor Cases.

a. Pre-filing documents.

(1) The County Attorney's office is responsible for maintaining custody of the following original documents until an information or indictment has been filed:

(a) Bonds. The prosecuting attorney shall collect original bonds from the arresting agencies.

(b) Magistrate's Warning. The completed original Magistrate's Warning will be collected from the magistrate by the prosecuting attorney immediately after completion of the warning.

(c) Other. Miscellaneous documents relating to the defendant's case (e.g., applications for probation, letters from attorneys, etc.) will be forwarded to the County Attorney upon receipt.

(2) Upon filing of the information or indictment, all of the above documents will be filed by the County Attorney with the County Clerk for placement in the Clerk's file.

(3) Magistrate's warnings and bonds made after arrests in other cases where there is already on open clerk's file (e.g., arrests after motion to

revoke/proceed or after capias is issued in connection with bond forfeiture) will be filed by the County Attorney with the appropriate clerk for placement in the Clerk's file.

**3.11** Filing of Cases.

a. The arresting agency shall give the defendant at the time of the arrest a Notice of Arraignment which shall have a date for the defendant to appear in court, which date is a regularly scheduled criminal docket day as it appears on the court's calendar. This date will be not less than thirty (30) but no more than forty five (45) days from the date of arrest. If the offense is Driving While Intoxicated, and a blood test was taken, then the arraignment date shall be set not less than sixty (60) days nor more than (75) days from the date of arrest.

b. The County Attorney must file the Complaint and Information with the County Clerk, if he chooses to file the case, as soon as is practicable.

c. If a defendant appears on the date set out in the Notice of Arraignment, and the case is not yet filed, the court coordinator may: (1) reset the defendant to another court date; or (2) send notice of a new court date upon the filing of a complaint and information.

**3.12** Appearance of Defendant and Counsel/Court Attendance

Immediately upon employment, the defense attorney shall give written notice thereof to the County Attorney and the Court Coordinator stating the name of the accused, the offense(s) charged and cause number, if known. The Court Coordinator will forward the notice to the County Clerk, who will note the attorney's name on the docket sheet.

**3.13** Case Flow Scheduling.

Absent a scheduling order, cases will be scheduled in this order, unless the interest of justice demands leeway:

a. First Setting: At this Non-trial setting, attorneys may reset the case for the next court date (not less than 10 days) for MOTIONS settings-by which time all Article 28.01 motions must be timely filed; or, can reset case for Plea, or Trial, or MOTH, i.e., a Motion to Suppress Hearing where the Court's ruling thereon will be dispositive of the case.

b. Second Setting: Attorney may choose to either:

(1) plead case; or

(2) reset for motions setting, a setting where a ruling on a Motion to Suppress will be dispositive of the case. This will be set along with Bench Trials (if not dispositive of the case, it will be heard along with the trial on the merits); or

(3) reset for PLEA, up to four (4) weeks, if plea recommendations have been reduced to writing and signed by County Attorney, defendant and his/her attorney; or

(4) reset for BENCH TRIAL/JURY TRIAL; or MTRP Hearing on regular trial docket with Jury Trial set either on a Monday or a Tuesday, and with COURT TRIALS and the MTRP Hearings and other hearings on Wednesdays and Thursdays.

c. Subsequent Settinga:

(1) JURY TRIAL/FINAL PRE-TRIAL will be held at 1:30 p.m. on a date that is not less than ten (10) days prior to JURY TRIAL setting to determine order of cases. This is the last opportunity for the defendant to plea before trial. The court may require any pleas after this date to be before the jury, or "open;"

(2) PLEA, MTRP, AND COURT (BENCH) TRIALS

(3) The Court will reset some cases for JUDGMENT and SENTENCE in straight pleas.

**3.14** Time Limit on Plea Recommendation

If there are time limit restrictions as to Defense counsel's accepting a plea bargain recommendation from the State, such time limitation shall be noted somewhere in writing and initialed by counsel for both sides.

**3.15** Docket Call

a. Docket call begins as soon as is practicable.

b. After Docket is called, agreed pleas will be heard first followed by pleas without an agreed recommendation.

c. The Court will recess after the first pleas taken. The State must appear at all docket calls to announce "ready" or "not ready." The defendant must appear at docket call, unless the defendant makes an announcement of "ready" for trial in writing not less than three (3) nor more than ten (10) days prior to docket call. An announcement of

ready is a representation to the Court, signed by the defense attorney and the defendant that the defendant is available for trial and has actually received notice of the setting for which the announcement is made.

d. The general order of trial shall be the oldest case should proceed first. A defendant in custody will take precedence over a case where the defendant is out on bail or recognizance. If multiple defendants are in custody, preference will be given to the defendant who has been in custody the longest and / or who is in custody only on the charge before the County Court at Law.

**3.16** Pleas

a. All pleas must be ready with a proposed judgment filled out and presented to the court at the time of the plea. The Court must be provided with any relevant information, including but not limited to:

(1) pertinent facts, restitution and personal property damage;

(2) Special conditions of Probation, e.g. no contact and name and addresses of the victim;

(3) Complaining witnesses input on assaultive cases, if any;

(4) Fines and Court Costs payment schedule, if any, must be fully out in the Judgment;

(5) All supervisory fees, with first payment due on the date of plea;

(6) a partial plea bargain with one or more terms being submitted to the court may be handled after all agreed pleas.

**3.17** Trial Procedure

a. Trials begin or resume at 9:00 a.m.

b. No Pre-trial matters heard on day of trial unless granted leave by the Court and opposing counsel agrees to the hearing, which must be completed by 9:00 a.m.

c. At Docket Call, counsel for State and Defense announce ready or not ready. Ready is a good faith ready.

d. All counsel to rise when addressing the Court, requesting permission to approach the Court Reporter or witness, perform any demonstrations, and when passing witnesses.

e. Counsel will not request any witness or Court Reporter to do any demonstrations or come off stand.

f. Breaks are for the stated time and counsel for both sides are expected to be in the Courtroom ready to resume when the Court takes the bench.

g. Once trial begins, the Court will attempt to work around certain witnesses' schedules; however, concern for the jurors, counsel, court personnel and court overrides a witness's inconvenience; therefore, witnesses will be ready when court is ready and no unnecessary or avoidable delays in trial will be tolerated.

h. Phone calls and messaging by counsel is not permitted in front of the jury.

i. No "outside" work or reading is to be done in the courtroom by any second chair. Any work or reading must pertain to case in trial. Outside work or reading may result in the court excusing "second chair" counsel from further participation in trial.

j. Whenever possible, all exhibits shall be pre-marked.

**3.18** Continuance/Resetting/Postponements.

No agreement by the attorneys to continue, reset or postpone any setting shall be effective unless approved by the Court.

**3.19** Motions/Pre-trial Hearings/Pre-trial Matters.

Any pre-trial hearings shall be conducted in accordance with Article 28.01 of the Texas Code of Criminal Procedure.

## RULE 4. ATTORNEYS OF RECORD

**4.10** Conduct and Decorum of Counsel.

a. Each attorney is expected to conduct himself or herself in accordance with the State Bar of Texas Code of Professional Responsibility, the Texas Rules of Civil Procedure, the Texas Code of Criminal Procedure, the Regional Rules of Administration for the Second Administrative Region, these local rules, and such other rules of conduct as may be published by the courts of this county and state. All attorneys, litigants, and witnesses are expected to act in a manner calculated to promote decorum, respect for the judicial system, and the prompt and fair administration of justice.

b. In addressing the Court, attorneys shall rise and remain standing at their positions at counsel table. Counsel shall not approach the Bench except with permission or upon request of the Court. When the Court is addressing an attorney,

that attorney shall rise and remain standing until the Court finishes speaking. Counsel shall not lean on the Bench or appear to engage the Court in a confidential manner. Counsel's remarks to the Court shall be addressed to the Court and not to the Judge as an individual.

c. Counsel shall be responsible for advising their clients and witnesses of the formalities of the courts.

d. All officers of the court are expected to be prompt and prepared.

e. The taking of photographs, the making of video or audio recordings, or the broadcasting of any judicial proceeding in or from any courtroom is prohibited. Broadcasting any such information so close thereto as to disturb the order and decorum of the court, either while court is in session or at recess, is also prohibited.

f. The court will consider a request to record or photograph, but the request must be in writing and prior to the day of any hearing.

g. All counsel are admonished to respect the letter and spirit of all canons of ethics including particularly those dealing with discussion of cases with representatives of the press 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.

h. The Court shall enforce all breaches of conduct by any appropriate action.

**4.11** Withdrawal of Counsel.

No attorney of record may withdraw from any case without presenting a Motion to Withdraw and obtaining from the Court an order granting leave to withdraw. A Motion to Withdraw will not be considered by the Court unless it includes a certificate of the client's last known address. If withdrawal is without the written consent of the client, the withdrawing attorney shall forward to his client by certified mail a copy of his or her motion to withdraw and a copy of the request for setting or notice of submission without a hearing. Unless the client has consented in writing, a hearing must be set with the court coordinator in criminal cases. A copy of the motion to withdraw and request for setting or notice of submission without a hearing shall be delivered or mailed to any opposing counsel. Leave to withdraw may be denied where the motion is presented so near the trial date as to require delay of the trial. After leave is granted, the withdrawing attorney shall send the client a copy of the order granting leave to withdraw by certified mail. A copy of the order shall then be sent to opposing counsel.

**4.12** Attorney Vacations.

Counsel desiring to assure that he will not be assigned for trial or court settings during a vacation period not to exceed four (4) consecutive weeks of a given year, or six (6) total weeks of a given year, may advise the Court Coordinator in writing not less than ninety (90) days prior to the first day of such vacation. In the event an attorney already has a setting at the time the vacation notice is filed, it shall be the attorney's responsibility to notify opposing counsel and the court coordinator of the conflict. Counsel may file an agreed reset for approval by the Court, or file a motion for continuance and obtain a ruling by the Court.

**ORDER ADOPTING LOCAL RULES OF ADMINISTRATION**

IT IS ORDERED by the County Court at Law of Washington County, Texas, that the following Local Rules of Administration are hereby adopted under the authority of and in conformity with Section 74.093 of the Texas Government Code, Rule 3a of the Texas Rules of Civil Procedure, Rules 9 and 10 of the Texas Rules of Judicial Administration and the Regional Rules of Administration for the Second Administrative Judicial Region of Texas.

These rules shall govern the administrative operation of the County Court at Law of Washington County, Texas, on and after the effective date of such rules.

BE IT FURTHER ORDERED that the Local Rules of Administration of the Washington County Court at Law, shall be published on or before January 1, 2023, and shall become effective on February 1, 2023. The previous local rules adopted and effective September 15, 1995, shall remain in effect until that date.

29 December 2022

Eric Berg

Judge Presiding