

LOCAL RULES
OF THE
DISTRICT COURT
OF KLEBERG COUNTY, TEXAS

THE 105TH JUDICIAL DISTRICT
OF TEXAS

HONORABLE J. MANUEL BANALES
JUDGE PRESIDING

[Effv. 9/1/91]

LOCAL RULES OF THE DISTRICT COURT OF KLEBERG COUNTY, TEXAS

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IN THE DISTRICT COURT OF KLEBERG COUNTY, TEXAS
THE 105TH JUDICIAL DISTRICT OF TEXAS

LOCAL RULES OF THE DISTRICT COURT OF KLEBERG COUNTY, TEXAS

General Provisions

Rule A. Adoption of Local Rules

The District Court of Kleberg County, Texas hereby adopts the following as the "Local Rules of the District Court of Kleberg County, Texas."

[Source: Sec. 74.093, Tx.Govt.C.; Rule 3(a), Tx.R.Civ.P.; Rules 9 and 10, R.Jud.Admin.]

Rule B. Application of Rules in Judicial Proceedings

(1) All attorneys and all persons not represented by an attorney shall be subject to the application of the rules in all matters pending before the Court.

(2) All attorneys, all persons, all officials and all agencies having matters subject to the administration of the Court shall be subject to the application of the rules in all administrative matters affecting the Court.

Rule C. Definitions:

(1) "District Judge" means the Judge of the 105th Judicial District of Texas.

(2) "District Court" or "the Court" means the District Court in and for Kleberg County and of the 105th Judicial District of Texas.

(3) "Presiding Judge" means the Presiding Judge of the 5th Administrative Judicial Region of Texas.

(4) "Supreme Court" means the Supreme Court of Texas.

(5) "County Court at Law" means the County Court at Law of Kleberg County, Texas.

(6) "County Court" means the constitutional County Court of Kleberg, Texas.

(7) "Courts of Kleberg County" includes the District Court, the County Court at Law and the County Court heretofore defined.

(8) "District Clerk" or "Clerk" means the District Clerk of Kleberg County, Texas, including any deputy Clerk.

(9) "District Attorney" means the District Attorney in and for Kleberg County and of the 105th Judicial District of Texas.

Rule 1. Time Standards

Rule 1.001. General Rule

All cases pending in the District Court shall be disposed, so far as reasonably possible, within the time standards promulgated by the Supreme Court of Texas or by other law or rule.

[Source: Rule 5, R.Jud.Admin.]

Rule 1.002. Complex Cases

Unless the Court does so on its own motion, a motion to treat a case as a complex case shall state the specific grounds therefore.

[Source: Rule 5 (e). R.Jud.Admin.]

[Rules 1.003 thru 1.999 reserved for expansion.]

Rule 2. Administrative Reports

Rule 2.001. Duty of Clerk to Presiding Judge

The District Clerk shall deliver to the Presiding Judge a copy of the statistical report required to be sent each month to the Office of Court Administration, and such other information regarding docket management systems of the County as may be requested by the Presiding Judge.

Rule 2.002. Duty of Clerk to District Judge

The District Clerk shall be responsible to the District Judge for the accurate and timely collection and reporting of such information as may be required in writing by the Presiding Judge, the Supreme Court or the Office of Court Administration. The District Judge shall have access to any such information as so reported, including any supporting data, at all reasonable times; upon request, the Clerk shall produce all such information and deliver same to the District Judge.

Rule 2.003. Statistical Reports for Each Court

The District Clerk shall prepare the statistical reports required to be sent each month to the Office of Court Administration, which reports shall separately show the number of cases filed, disposed and pending in the District Court and in the County Court at Law.

[Rules 2.004 thru 2.999 reserved for expansion.]

Rule 3. Disposition of Civil Cases

A. Filing, Transfer and Docketing of Cases

Rule 3.001. Cases Filed with District Court

All cases that invoke the jurisdiction of the District Court or that are addressed to the District Court shall be filed with the District Clerk and shall be docketed with the District Court.

Rule 3.002. Docketing of Cases

After docketing in the District Court, a case shall remain pending in said Court until final disposition or a transfer to another Court.

Rule 3.003. Transfer of Cases to Other Courts

At the discretion of the District Court, any case docketed with or addressed to the District Court in which the County Court at Law or the County Court has concurrent jurisdiction may be transferred to the appropriate court with the consent of the latter Court, without the necessity of notice to the parties involved in the case.

Rule 3.004. Written Transfer Order Required

A transfer of a case from one Court to another shall be evidenced in writing in a form promulgated by the District Court.

Rule 3.005. Exchange of Benches

At the discretion of the Courts of Kleberg County and as permitted by law, the Judges of said Courts may exchange benches to accomodate their dockets.

(Source: Sec. 74.094 (a), Tx.Govt.C.

Rule 3.006. Objection to Transfer or Exchange

Any objection to the transfer of a case or to the exchange of benches shall be made to the subsequent Court.

Rule 3.007. Assignment of Cause Number

Each case filed with the District Clerk shall be given a cause number. The first two digits shall note the year of the filing of the case, followed by a three digit number given sequentially each calendar year.

(a) A case filed with and addressed to the District Court shall have the letter "D" added to the cause number.

(b) A case required to be filed with the District Clerk and which may be filed with the County Court at Law, or which is transferred to and/or addressed to the County Court at Law shall have the letter "C" added to the cause number.

Rule 3.008. When Cases May Be Transferred

Whenever any pending case is so related to another case pending in or disposed of by another Court, the Judge of the Court in which either case is or was pending may, upon motion (including the Court's own motion) and notice to the parties, transfer the case to the Court in which the earlier case was filed to facilitate the orderly and efficient disposition of the litigation. The following types of cases shall be subject to transfer under this Rule, but this listing is not exclusive and is given by way of example only:

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

(b) Any case involving one or more of the same parties as an earlier filed case and requiring a determination of any of the same questions of fact or of law as those in the earlier case.

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

(d) Any suit for a declaration concerning the alleged duty of an insurer to provide a defense for a party to another suit.

(e) Any suit concerning the duty of an insurer to defend was involved in another suit.

(f) Any case or suit in which another Court has concurrent jurisdiction with the District Court.

Rule 3.009. Transfer from Another County

Whenever a case is transferred to this County by a court of another county, the case shall be filed and assigned in the manner specified by these Rules.

Rule 3.010. Assignment to County Court at Law Judge

The Judge of the County Court at Law shall try any case and hear any proceeding pending before the District Court, whether civil or criminal or for pretrial or trial, as assigned by the Local Administrative District Judge.

[Source: Sec. 74.094 (b).]

Rule 3.011. Supervision of Assignment of Cases

The Local Administrative District Judge shall supervise the assignment of cases in the Courts filed with the District Clerk.

[Rules 3.012 thru 3.020 reserved for expansion.]

B. Proceedings Prior to Trial

Rule 3.021. Preliminary Conference

After any defendant has answered, or after 90 days from the filing of the case if no defendant has answered, the Court shall set a Preliminary Conference within 30 days thereof. The "Order for a Preliminary Conference" shall be in a form promulgated by the District Court.

Rule 3.022. Preliminary Status Review

If no defendant has answered by the Preliminary Conference, the Court may either dismiss the cause immediately or may reset it for a Preliminary Status Review within 60 days thereof to determine why no service has been obtained. If service is by then obtained, the cause may proceed for the preliminary conference.

Rule 3.023. Subsequent Preliminary Status Review

If service is not obtained by the Preliminary Status Review, the Court may either dismiss the cause immediately or may reset it for a Subsequent Preliminary Status Review within 30 days thereof to determine why no service has been obtained. If service is not by then obtained, the Court shall dismiss the cause immediately. If service is obtained by the Subsequent Preliminary Status Review, the cause may proceed for the Preliminary Conference.

Rule 3.024. Preliminary Conference before the Court

The Conference shall be before the Court on the record. In exceptional cases, the Conference may be done by telephone on the record, with the cost thereof to be done by agreement of the parties, by the party requesting the telephone conference, or by determination of the Court.

Rule 3.025. Purpose of Preliminary Conference

The purpose of the Preliminary Conference shall be to determine the nature of the case and to plan its disposition.

(a) Either by agreement of the parties or by Order of the Court, the following matters shall be resolved and set:

- (1) A trial date.
- (2) A Final Pretrial Conference.
- (3) A discovery schedule.
- (4) If appropriate, limiting the extent of discovery, such as the number and/or length of depositions, conducting discovery for the purpose of settlement or of

trial, the possibility of obtaining stipulations of fact, and such other matters to minimize the cost of discovery.

(5) Deadlines for the joinder of parties, the designation of expert witnesses, the amendment of pleadings, the exchanging of witness lists and exhibit lists, and for such other matters necessary to have the case ready for trial as scheduled.

(b) The Court and the parties shall also explore the possibility of settlement, including referral to any alternative dispute resolution system available to the Court.

(c) The Court and the parties shall also address such other matters as may aid in the disposition of the action.

(d) Upon conclusion of the Preliminary Conference, the Court shall issue a Docket Control Order reflecting the matters decided.

Rule 3.026. Settlement Conference

After discovery has been completed but prior to the Final Pretrial Conference, the Court shall conduct a Settlement Conference with the parties and counsel to discuss the possible settlement of the case.

Rule 3.027. Final Pretrial Conference

The Court shall conduct a Final Pretrial Conference in each case, unless an Agreed Final Pretrial Order signed by all counsel of record and parties not represented by counsel is approved by the Court prior to the scheduled Final Pretrial Conference date. The Order for a Pretrial

Conference shall be in the form promulgated by the Court. Unless otherwise provided for in the Order for a Pretrial Conference, the Final Pretrial Conference shall be held on the Friday following the third Monday of the month preceding the trial date.

Rule 3.028. Agreed Final Pretrial Order

An agreed Final Pretrial Order must address all matters that would be considered at the Final Pretrial Conference and must resolve all matters necessary to get the case ready for trial. Upon approving a final pretrial Order, the Court shall not consider any dilatory matter prior to jury selection or the commencement of a nonjury trial, except for good cause shown on the face of the motion or pleading.

Rule 3.029. Purpose of Final Pretrial Conference

At the Final Pretrial Conference, the Court shall consider and resolve all those matters set forth in the Order for a Pretrial Conference. All matters not raised at the Final Pretrial Conference shall be deemed waived, and, except for good cause shown, the Court shall not hear or consider on the day of trial any matter not raised at the Final Pretrial Conference or any matter filed after the Final Pretrial Conference. Upon conclusion of the Pretrial Conference, the Court shall enter a Final Pretrial Order reflecting the action taken.

Rule 3.030. Required Filings

As provided in the Order for Pretrial Conference, each party shall timely file in separate documents the following:

(a) A written statement of the party's contentions, not to exceed one page, double spaced and in regular size print.

(b) The contested issues of fact and a simplification of the issues.

(c) Any stipulation of facts.

(d) The identification of legal matters to be ruled on or decided by the Court.

(e) The exchange of a list of direct fact witnesses, other than rebuttal or impeaching witnesses the necessity of whose testimony cannot reasonably be anticipated before the time of trial, who will be called to testify at trial, stating their addresses and telephone number, and the subject of the testimony of each witness.

(f) The exchange of a list of expert witnesses, who will be called to testify at trial, stating their addresses and telephone number, and the subject of the testimony and opinions that will be proffered by each expert witness.

(g) Agreed applicable propositions of law and contested issues of law.

(h) Proposed jury charge questions, instructions, and definitions for a jury case or proposed findings of fact and conclusions of law for a nonjury case.

(i) The marking and exchanging of all exhibits that any party may use at trial and stipulation to the authenticity and admissibility of exhibits to be used at trial. If the exhibits have previously been exchanged or

provided during discovery, then the parties may exchange and file a list of exhibits clearly identifying the exhibits to be used at trial.

(j) Written trial objections to the opposite party's exhibits, stating the basis for each objection.

(k) A listing, by page and line number, of those portions of a deposition, or other discovery evidence, which will be offered for trial, and, if applicable, any edited video deposition.

(l) In response to subrule (k), a listing, by page and line number, of other portions of a deposition, or other discovery evidence, which will be offered for trial pursuant to Rule 106, T.R.Civ.Ev., and, if applicable, any edited video deposition.

(m) Written trial objections to any deposition testimony, by page or line number, or other discovery evidence, stating the basis for each objection.

[Rules 3.031 thru 3.040 reserved for expansion.]

C. Motions and Hearings on Motions

Rule 3.041. Motions

Any motion filed in a cause shall comply with Rule 21, T.R.Civ.P. The movant shall certify in writing that he has attempted consultation with the adverse party or parties and that the attempt to resolve the issue failed, or that there was no opportunity for consultation and the facts supporting no such opportunity.

Rule 3.042. Request for Hearing

Any movant requesting a hearing on his motion shall attach to the motion an "Order for Hearing" to be signed by the Judge. A "Notice of Hearing" signed by counsel is not sufficient. Although a movant may request and obtain a setting for a hearing on a motion by telephone from the Court Coordinator, no motion shall be docketed on the Court's calendar unless and until the motion is filed with the Clerk. Any cause called for hearing in which the motion has not been filed shall not be heard or considered; upon demand the opposing party may recover his costs for appearing at said hearing.

Rule 3.043. Submission of Motion without Hearing

A movant requesting the granting of his motion without a hearing shall attach to the motion a "Notice of Submission" stating that the motion shall be submitted to the Court for ruling without a hearing not less than 15 days after the filing of the motion. The opposing party may request a hearing of the motion or file his written response on or before the third day prior to the submission date.

Rule 3.044. Determination of Motion without Hearing

If no hearing is requested, the Court shall rule on the motion accordingly after the adverse party has had sufficient opportunity to respond.

Rule 3.045. Submission of Proposed Order

Each party shall submit a proposed Order stating the relief requested. The Court may require counsel to submit

another Order consistent with the rulings of the Court. Counsel shall also submit a sufficient number of copies of the approved Order to the Clerk for distribution to all opposing counsel or parties.

Rule 3.046. Scheduling of Appearances

All requests for scheduling of appearances before the Court for any purpose shall be made through the Court Coordinator. Upon obtaining a setting, counsel shall promptly inform opposing counsel of same by delivering a copy of the motion with a copy of the setting Order .

Rule 3.047. Motions for Summary Judgment

Unless the Court determines in writing that there is a need for a hearing and the appearance of counsel to present argument, motions for summary judgment and responses thereto shall be set for submission to the Court for a ruling without a hearing.

(a) The motion and the response must be succinct and brief, and may have attached to it written supporting argument and copies of the authorities relied upon.

(b) The summary judgment proof and proof in opposition must be attached to the motion or the response or must specifically refer to the appropriate record in the case.

(c) In exceptional cases and upon a proper showing on the motion or the response, counsel may request a hearing at the time of the filing of the motion or the response.

[Rules 3.048 thru 3.060 reserved for expansion.]

D. Trial Settings

Rule 3.161. Trial

The cause shall be tried on the scheduled date.

Rule 3.062. Resetting of Trial

If the case is not reached for trial for any reason, other than due to incomplete discovery, the case shall be reset for trial within 120 days of the scheduled trial date, without extension of any pretrial deadlines, unless good cause is shown for additional time therefore.

Rule 3.063. If Discovery Incomplete

If the case is not ready for trial due to incomplete discovery, the movant seeking a continuance shall state the reason for the incomplete discovery, the time required to complete discovery and a proposed new trial date.

Rule 3.064. Demand for a Jury Trial

(a) A demand for a jury trial shall be made in writing and the jury fee paid not less than 30 days before trial.

(b) A demand for a jury trial shall not be grounds for advancement or substantial delay of the trial or of any proceeding in the case. If the case was originally set for nonjury trial and a demand is later made for jury trial, the Court may try the case with a jury on the same setting if a jury is available, or add the case to the next available jury docket. Any unnecessary cost to a party caused by a resetting of the trial date due to a late demand for a jury may be assessed against the party causing the delay.

[Rules 3.065 thru 3.070 reserved for expansion.]

E. Appearances Before the Court

Rule 3.071. Required Appearances

Counsel of record and parties not represented by counsel shall be required to appear at all conferences, settings, hearings or other appearances required by these Rules or by Order of the Court. Other counsel may appear for counsel of record with leave of Court.

Rule 3.072. Authority of Counsel

Counsel appearing before the Court must have authority to bind himself, his co-counsel and his party on any matters before the Court. Counsel appearing and claiming no such authority or limited authority may be excused from the proceedings, and the cause shall proceed as if counsel had failed to appear.

Rule 3.073. Counsel Must Have Calendar

Counsel must appear with calendar in hand in order to arrange settings or scheduling of the case, if necessary. Any delay of the proceedings caused by counsel appearing without a calendar or calling the office to check on a proposed setting may subject counsel to appropriate sanctions, including contempt of court.

Rule 3.074. Failure to Appear

Any counsel or pro se party failing to appear as required before the Court may be liable for contempt of court. Upon demand by any appearing party, the Court may take appropriate action on the case, including assessing costs and attorney's fees, granting or denying pending

motions, striking pleadings, setting the case for trial or other hearing, or granting or denying any relief that is reasonable.

Rule 3.075. Appearance of Parties

Any party represented by counsel shall not be required to appear at any hearing, conference or other setting, unless specifically Ordered to do so.

[Rules 3.076 thru 3.080 reserved for expansion.]

F. Pleadings

Rule 3.081. Requisites of Pleadings

Each pleading shall comply with the requisites of the Texas Rules of Civil Procedure.

Rule 3.082. Size of Pleadings

All pleadings, motions and documents filed with the District Court, whether in civil or criminal cases, shall comply with Rule 45 (d), Tx.R.Civ.P.. To the extent possible, larger documents shall be reduced accordingly.

Rule 3.083. Address to the Court

The first or title page of each document shall be addressed to the Court in the manner provided herein. The address shall be centered and shall be not less than one inch from the top of the page. The address shall be as follows:

"IN THE DISTRICT COURT OF KLEBERG COUNTY, TEXAS
THE 105TH JUDICIAL DISTRICT OF TEXAS".

Rule 3.084. Name and Number of the case

The name and number of the case shall follow the address the address to the Court. The names of the parties shall be stated one-half inch or two lines after the address to the Court and shall be one inch from the left margin, and the number of the cause shall be centered as to the names of the parties and shall be one inch from the right margin. The following are provided as examples:

(a) In civil cases:

PLAINTIFF

VS.

NO. 91-000-D

DEFENDANT

(b) In criminal cases:

STATE OF TEXAS

VS.

NO. 91-CRF-000-D

DEFENDANT

(c) In family cases:

IN THE MATTER OF THE MARRIAGE OF

PETITIONER AND

RESPONDENT

NO. 91-000-D

AND IN THE INTEREST OF

CHILDREN

(d) In other cases:

IN RE OR EX PARTE OR ON APPLICATION OF

RELATOR OR PETITIONER OR APPLICANT

NO. 91-000-D.

Rule 3.085. Documents filed by Fax

Motions, pleadings and other documents may be filed by fax or other similar telephonic or electronic transmission, provided that the original document is subsequently filed within three (3) days of receipt of the faxed document. The Clerk shall note on the original document that a faxed document was earlier filed with the date of such filing.

Rule 3.086. Index of Court's Case File

For all documents filed on or after the effective date of these Rules, the Clerk shall provide an index in the case file showing what documents have been filed in the case.

(a) The index shall identify and list each document by a number given sequentially.

(b) Each document filed in the case shall be given a number and shall have attached to it on either margin a tab with a number corresponding to the index.

[Rules 3.087 thru 3.090 reserved for expansion.]

G. Witness

Rule 3.091. Witness to be Available

Each party shall have his witness available to testify without delay. However, with prior notice to and approval by the Court, a party may rely on calling certain witnesses out of turn or at a specific hour.

Rule 3.092. Examination of Witnesses

After the direct examination and cross examination of a witness, a party may conduct the redirect examination of

that witness one time only, and opposing counsel may conduct the recross examination of that witness one time only. However, for good cause shown, the Court may allow further examination of a witness.

Rule 3.093. Interpreters

The Court shall be timely informed that a particular witness will require the assistance of a language or sign interpreter so that appropriate arrangements may be made.

[Rules 3.094 thru 3.099 reserved for expansion.]

H. Other Matters

Rule 3.101. Consolidation

Every motion to consolidate two or more causes into one cause shall be heard in the Court in which the first case filed is pending. If the motion is granted, all other cases to be consolidated shall be transferred by appropriate Order to the Court in which the first case is pending.

Rule 3.102. Severance

When a motion to sever or for separate trials is granted, the severed claim shall be filed as a new case and shall be given a new cause number. The original case from which the claim is severed shall retain the original cause number. Before the severed claim is filed as a new cause, the deposit for costs shall be met, and if not met after 30 days from the Order granting severance, the severed cause shall be dismissed.

Rule 3.103. Continuance

In addition to meeting the requisites of Rules 251 thru 253, T.R.Div.P., a motion for continuance shall specify the reason for the continuance. The party seeking the continuance shall state in writing that he is aware of the motion and that he agrees to it. The motion shall also state whether it is opposed or agreed to. The motion shall state a proposed trial date. The motion shall be filed at least five days before the Final Pretrial Conference and, if not earlier disposed of, shall be decided at said Conference.

Rule 3.104. Discovery

All counsel are expected to engage in good faith negotiations pursuant the discovery and deposition rules of the Texas Rules of Civil Procedure. Requests for hearings on discovery complaints shall not be granted unless movant counsel certifies that he has attempted to obtain such discovery or relief from opposing counsel by agreement and has been unsuccessful, or shows good cause for not making such effort.

Rule 3.105. Temporary Orders

(a) Except in emergencies or 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 these Rules. If the Judge of the Court to which such case is assigned is absent or is occupied with other matters, such

application may be assigned by the Local Administrative District Judge to any Judge who may sit for the Judge of the Court in which the case is pending and shall make all orders, writs and process returnable to that Court. Hearings on applications for temporary injunctions, temporary receiverships and the like shall be set in the Court to which the case has been assigned by consulting with that Court.

(b) All applications for ex parte relief shall state whether, within the knowledge of the applicant or his counsel, the opposing party is represented by counsel and, if so, the name of such counsel. If opposing counsel is known to the applicant or his counsel, the applicant or his counsel shall state why opposing counsel was not notified. The party requesting such temporary relief shall be present in Court at the time such relief is requested to offer testimony, if necessary, unless the Court finds that such presence is not necessary.

Rule 3.106. Settlement of Case; Dismissal

When a case is settled or is otherwise dismissed, counsel shall notify the Court Coordinator as soon as possible. The appropriate Order or Judgment disposing of the case shall be submitted promptly. If no Order dismissing the cause is submitted within 30 days of the settlement announcement, the Court shall dismiss the cause.

Rule 3.107. Dismissal for Want of Prosecution

From time to time the Court shall set cases for dismissal for want of prosecution pursuant to Rule 165a, Tx.R.Civ.P. Except by leave of Court obtained previously, all counsel or pro se parties served with notice must appear to avoid dismissal.

Rule 3.108. Suspense Docket

The Clerk shall establish a "Suspense Docket" in which inactive cases that cannot be immediately dismissed (such as the filing of a notice of bankruptcy) may be kept pending further orders of the Court. Cases transferred to the Suspense Docket shall not be counted among the active cases pending before the Court but shall be counted separately as inactive cases.

Rule 3.109. Bankruptcy

Upon the filing of a notice of bankruptcy in a case, the Clerk shall notify the Court and shall transfer the case to the Suspense Docket until further Order of the Court.

Rule 3.110. Distress Warrants

A distress warrant issued pursuant to Rule 619, Tx.R.Civ.P., shall be filed as civil cases generally. The Justice Court shall file the required documents with the Clerk, including a statement showing the amount of the rent claimed. The citation shall be made returnable to the District Court.

Rule 3.111. Garnishment Suits

A garnishment suit shall be assigned to the Court in which the principal suit is or was pending. If the principal suit is transferred to another Court, the garnishment shall be transferred likewise.

Rule 3.112. Removal to Federal Court

Suits removable to federal court are governed by federal law; however, costs of removal may be assessed against the party seeking such removal.

[Rules 3.113 thru 3.120 reserved for expansion]

I. Criminal Matters Filed as Civil Cases

Rule 3.121. Bond Forfeitures

Bond forfeitures shall be filed as civil cases and shall be docketed with the County Court at Law.

Rule 3.122. Controlled Substances Act Forfeitures

Forfeitures filed under the Controlled Substances Act shall be filed as civil cases and shall be docketed with the District Court.

[Rules 3.123 thru 3.130 reserved for expansion.]

J. Tax Suits

Rule 3.131. Docketing of Tax Suits

All tax suits shall be docketed with and shall be heard by the County Court at Law, unless specifically required to be docketed with and heard by the District Court.

[Rules 3.132 thru 3.999 reserved for expansion.]

Rule 4. Family Cases and Juvenile Cases

A. Family Cases

Rule 4.001. Family Cases Other Than Juvenile Cases

All family cases, other than juvenile cases, shall be assigned a cause number as in civil cases generally and shall be docketed with the County Court at Law.

Rule 4.002. Transfer to the District Court

At the discretion of County Court at Law, or whenever the County Court at Law is required to do so, a family case may be transferred to the District Court as provided by these Rules.

Rule 4.003. Transfer to the County Court at Law

When a family case is filed and is addressed to the District Court and is therefore docketed with the District Court, the case shall be transferred to the County Court at Law as provided by these Rules.

[Rules 4.004 thru 4.100 reserved for expansion]

B. Juvenile Cases

Rule 4.101. Filed with Juvenile Court

All Juvenile cases shall be docketed in the Juvenile Court of Kleberg County as provided by law.

[Rules 4.102 thru 4.999 reserved for expansion.]

Rule 5. Disposition of Criminal Cases

Rule 5.001. General Rule

The rules regarding the disposition of criminal cases shall be applied to secure the effective administration of the felony criminal practice and to eliminate unjustifiable expense and delay, and shall be liberally construed to achieve fairness to all parties in each case, with due regard to the rights of the State, the accused, the victim and society.

Rule 5.002. Application of Civil Rules

The Rules applicable in civil matters are applicable in criminal matters.

[Rules 5.003 thru 5.010 reserved for expansion]

A. Filing of Cases and Cause Numbers

Rule 5.011. Filing of Cases

All indictments and all felony informations shall be filed with the District Clerk and shall be docketed with the District Court.

Rule 5.012. Assignment of Cause Number

Each felony case filed with the District Clerk shall be given a cause number. The first two digits shall note the year of the filing of the case, followed by the letters "CRF," and by a three digit number given sequentially each calendar year.

Rule 5.013. Transfer to the County Court at Law

A case which is transferred to the County Court at Law shall have the letter "C" added to the cause number. If the case is subsequently returned to the District Court, the letter "C" shall be deleted.

Rule 5.014. Superseding Indictments and Informations

(a) When a case is reindicted, the new indictment shall be referred to as a superseding indictment.

(b) The clerk shall file the superseding indictment in the same cause as the original indictment.

(c) The clerk shall assign the same cause number to the superseding indictment as the original indictment, except that there shall be added to the cause number the notation "S1" after the original cause number; thus, a superseding indictment in 91-CRF-999 would become 91-CRF-999-S1. Each succeeding superseding indictment shall be numbered sequentially, to-wit: "S2," "S3," etc.

(d) The filing of a superseding indictment shall cause the previous indictment to be dismissed without the necessity of an Order of dismissal; the cause itself is not dismissed by the filing of a superseding indictment. The most recent superseding indictment shall be the State's live pleading in the cause.

(e) All Orders, motions, applications, subpoenas, precepts, notices, warrants, and other documents filed in the cause shall apply to a superseding indictment filed in the cause.

(f) The filing of a superseding indictment shall not affect the defendant's bond, unless a motion to increase or to reduce bail is filed in the cause.

(g) The jury shall not be informed that a superseding indictment was filed in the cause.

(h) The filing of a superseding indictment shall not affect any settings in the cause.

(i) The foregoing rules apply in the same manner to the filing of a superseding information.

[Rules 5.015 thru 5.020 reserved for expansion]

B. Return of Indictments

Rule 5.021. When Grand Jury Shall Meet

The Grand Jury of Kleberg County, Texas shall hold its regular sessions on the Thursday following the third Monday of each month, unless otherwise specially set by the Grand Jury.

Rule 5.022. District Attorney Shall File Indictments

All indictments returned by the Grand Jury shall be promptly filed by the District Attorney with the District Clerk.

Rule 5.023. Bail Bond to be Attached with Indictment

At the time of such filing, the District Attorney shall attach to each indictment a copy of the bail bond, if any, executed by the defendant.

Rule 5.024. Clerk to Prepare Service of Indictment

If the indicted defendant is in custody, or if his bail has been increased by the return of said indictment, or if he has not been arrested, the Clerk shall prepare a copy of such indictment for service by the Sheriff.

Rule 5.025. Clerk Shall Prepare List of Indictments

The Clerk shall prepare a list of the indictments filed and shall deliver a copy of same to the District Court and the County Court at Law.

[Rules 5.026 thru R.030 reserved for expansion]

C. Jurisdiction of County Court at Law in Felony Cases

Rule 5.031. Authority of County Court at Law

The County Court at Law may conduct the arraignment and pretrial hearings in felony cases and may accept a guilty plea in any felony case.

[Source: Sec. 25.1392, Tx.Govt.C.]

Rule 5.032. By Assignment

Unless the cause is transferred to the County Court at Law, the Judge of the County Court at Law acts as the Judge of the District Court in any case assigned to said Judge.

Rule 5.033. Incidental Authority

Incident to its authority to consider felony cases, the Judge of the County Court at Law may also:

(a) dismiss indictments upon motion of the State or as a result of pretrial hearings;

(b) conduct revocation of probation proceedings in any case;

(c) appoint counsel for indigent defendants;

(d) set bail in any case;

(e) issue warrants of arrest in any case;

(f) order the forfeiture of bail bonds;

(g) sign judgments and orders for the District Court;

(h) perform such other duties in any case as assigned by the Local Administrative District Judge.

Rule 5.034. Cases from Kenedy County, Texas

The County Court at Law may preside over any case in which an indictment was returned or a felony information was filed in Kleberg County, Texas, although the offense may have occurred in Kenedy County, Texas, provided that the defendant executes a consent to venue in the form promulgated by the District Court.

[Rules 5.035 thru 5.040 reserved for expansion]

D. Transfer of Cases

Rule 5.041. Transfer of Cases

In its discretion, the District Court may transfer any case to the County Court at Law for final disposition upon a plea of guilty or for dismissal, without the necessity of notice to the parties.

Rule 5.042. Transfer of Cases to District Court

Upon such transfer, if the County Court at Law does not have the authority to finally dispose of a case, the County Court at Law shall return the case to the District Court.

Rule 5.043. Transfer Order

A transfer of a case from one Court to another shall be evidenced in writing in a form promulgated by the District Court.

Rule 5.044. Capital Cases

The District Court shall conduct all proceedings in indicted capital cases.

[Rules 5.045 thru 5.050 reserved for expansion]

E. Bail and Pretrial Supervision

Rule 5.051. Setting Bail Promptly

Bail shall be set promptly in each case.

Rule 5.052. Who May Set Bail

Any magistrate of Kleberg County may set bail upon any felony complaint or information.

Rule 5.053. How Bail May Be Posted

To secure his release from jail pending disposition of the case, a defendant may post a surety bail bond, a cash bond, a personal bond, a property bond or any bond recognized by law given as security by the accused that he will appear and answer before the proper Court.

Rule 5.054. Interview of Jailed Persons

The Community Supervisions and Corrections Department shall promptly interview each person placed in the County Jail (other than a person charged with an offense punishable by a fine only) to assist the magistrate setting bail whether to impose conditions of bail upon the accused.

(a) The officer conducting the interview shall submit a written report to the magistrate.

(b) The report shall include a history of the person's education, employment, criminal activity, financial ability, alcohol and controlled substance abuse, and such other information necessary to assist the magistrate in setting bail and in imposing conditions of bail.

Rule 5.055. Conditions of Bail

The magistrate may set any conditions of bail deemed necessary and reasonable, including but not limited to the following:

(a) That the person submit to pretrial supervision under the direction of the Community Supervision and Corrections Department.

(b) That he avoid the consumption of alcohol and controlled substances.

(c) That he submit to random testing for alcohol and controlled substances at least once per week and at the direction of the Department.

(d) That he commit no offense.

(e) That he report any arrest within 24 hours of the arrest.

(f) That he submit to home confinement and electronic monitoring.

(g) That he retain or obtain employment, and if unemployed, to report to the Texas Employment Commission for job opportunities.

(h) That he avoid the victim of the offense, including the family of the victim.

(i) That he submit to AIDS and HIV instruction.

(j) That he pay a supervision fee not to exceed \$500.

(k) Any other conditions deemed necessary and reasonable.

Rule 5.056. Review of Conditions

Upon written motion or application for writ of habeas corpus and after a hearing, the District Court or the County Court at Law may review the conditions of bail imposed upon a defendant by a magistrate.

Rule 5.057. Pretrial Supervision

The Community Supervisions and Corrections Department shall establish and operate such pretrial services necessary to enforce the conditions of bail.

Rule 5.058. Revocation of Bond

If a defendant violates any condition of bond, upon proper written motion, the appropriate Court may revoke the defendant's bond and order the defendant arrested.

[Rules 5.059 thru 5.060 reserved for expansion]

F. Notice of Settings; Discharge If Not Indicted

Rule 5.061. Notice of Arraignment

At the time of making bail upon a felony accusation, the defendant shall be given written notice by the Sheriff of the arraignment date and time, which notice the defendant shall acknowledge in writing.

Rule 5.062. Notice of Subsequent Settings

At the arraignment of the defendant, if his case is not then disposed of, the County Court at Law shall give the defendant written notice of all required appearances for pretrial and trial settings, which notice the defendant shall acknowledge in writing.

Rule 5.063. Defendant on Bail and Not Indicted

If a defendant on bail appearing for arraignment has not then been indicted, his cause shall be reset to the next scheduled felony arraignment in the County Court at Law. The defendant shall be given notice of his new arraignment date, which notice he shall acknowledge in writing.

Rule 5.064. Defendant in Jail and Not Indicted

If a defendant in jail appearing for arraignment has not then been indicted, and the Grand Jury has met at least once while the defendant was in jail for three days or more, the Court may admit the defendant to bail, reduce bail, or release him on a personal bond, or discharge the defendant absolutely, unless the State presents good cause not to do so. If the charges are not then dismissed, his cause shall be reset to the next scheduled felony

arraignment in the County Court at Law. The defendant shall be given notice of his new arraignment date, which notice he shall acknowledge in writing.

Rule 5.065. If Arraignment Waived

If a defendant waives arraignment, he shall acknowledge on the waiver of arraignment all of his required appearances for pretrial and trial settings.

Rule 5.066. Discharge of Defendant If Not Indicted

Notwithstanding Rules 5.063 and 5.064, if a defendant appearing for arraignment has not been indicted within 30 days after the expiration of the term of the Grand Jury in office during which he was arrested, the defendant shall be discharged, the warrant of his arrest shall be discharged, and/or his bail bond shall be discharged.

[Rules 5.067 thru 5.070 reserved for expansion]

G. Arraignment

Rule 5.071. Arraignments In the County Court at Law

The County Court at Law shall conduct the arraignment of all felony cases pursuant to Art. 26.01 et seq., Tx.C.Cr.Proc.

Rule 5.072. Arraignments In the District Court

In capital cases, and whenever the County Court at Law is unable to do so in other cases, the District Court shall conduct the arraignment of the case.

Rule 5.073. Regular Arraignment Day

The regular felony arraignment docket shall be held on the Thursday following the first Monday of each month at 1:30 p.m. in the County Court at Law.

Rule 5.074. Waiver of Arraignment

An indicted defendant may waive felony arraignment by executing a waiver of arraignment in the form promulgated by the District Court and thereby not appear for arraignment, provided such waiver is filed the on or before the day preceding felony arraignment day.

[Rules 5.075 thru 5.080 reserved for expansion]

H. Pretrial Motions

Rule 5.081. Deadline to File Pretrial Motions

All pretrial motions, other than for a continuance of the trial, shall be filed by the Thursday prior to the scheduled pretrial date. See Rule 5.103.

Rule 5.082. Motions Must Comply with Rules

Except for good cause shown upon written motion for leave to file, no pretrial motion shall be considered by the Court unless it complies with Local Rules 5.081 and 5.084; otherwise, the Court shall deny the motion without a hearing until there is compliance with said Rules.

Rule 5.083. Requisites of Pretrial Motions

Each pretrial motion shall succinctly state the relief sought, the facts pertinent to the motion, and a list of authorities with brief supporting argument; must be signed

by counsel and, where required, by the defendant; must be sworn to where required; must contain a certificate of consultation with the opposing party and a statement that the matter raised in the motion was not resolved, or, if no consultation was accomplished, an explanation thereof; a notice that the motion will be presented at the pretrial hearing; a proposed order granting or denying the motion in full or in part; and a certificate of service.

Rule 5.084. Late Evidentiary Pretrial Motions

At the discretion of the District Court, the District Court may refer to the County Court at Law any case in which a party presents to the Court an untimely filed evidentiary pretrial motion; if the trial of the case is delayed, the District Court shall charge the delay to the party causing the delay, may punish by contempt said party or his attorney, and/or may tax any cost of delay (such as the cost of an unused jury panel) against said party or his attorney.

Rule 5.085. Motions for Continuance of Trial Setting

(a) Only the District Court shall hear, consider and grant a motion for continuance of a trial setting.

(b) A motion for continuance, whether by the State or by the defendant, shall be in writing and shall be filed on or before the regular pretrial hearing date of the District Court. See Rule 5.107.

(c) Except for good cause shown on the face of the motion, the District Court shall not consider any motion for

continuance filed after the regular pretrial hearing date of the District Court or presented to it on the day of trial.

(d) If a motion for continuance cannot be heard on the regular pretrial hearing date of the District Court, it shall be the duty of the proponent of the motion to obtain a timely setting for a hearing on the motion, with prompt notice to the adverse party. The Clerk shall have no duty to present the motion to the District Court.

(e) A motion for continuance that avers conflicting settings shall have attached to it as exhibits the proof of such conflict, including dated notices of the conflicting settings. Failure to attach such proof shall authorize the District Court to deny the motion without a hearing.

(f) The mere filing of a motion for continuance does not excuse the absence of the defendant or counsel at the scheduled setting. Failure of the defendant to appear shall authorize the District Court to issue a warrant for the arrest of the defendant, to order the forfeiture of bail, and/or to increase or deny bail. Failure of counsel to appear shall authorize the District Court to impose appropriate sanctions against said counsel, including contempt.

[Rules 5.086 thru 5.100 reserved for expansion]

I. Pretrial Hearings

Rule 5.101. Waiver of Pretrial Hearing

A defendant may waive a pretrial hearing and thereby not be required to appear at said hearing either (a) by not filing pretrial motions, which fact shall be noted on the docket sheet of the case, or, (b) although having filed pretrial motions, by filing a waiver of pretrial hearing in the form promulgated by the District Court.

Rule 5.102. Hearings Before County Court at Law

Except as provided in these Rules or upon the unavailability of the Judge of the County Court at Law, all felony pretrial motions shall be heard by the County Court at Law.

Rule 5.103. Regular Pretrial Date

The County Court at Law shall conduct all felony pretrial hearings on the third Monday of each month at 9:00 a.m., unless otherwise specially set by said Court.

Rule 5.104. How Pretrial Hearings Conducted

All felony pretrial hearings shall be conducted pursuant to Art. 28.01, et seq., Tx.C.Cr.Proc. All pending motions, other than those pending before the District Court, shall then be resolved or disposed of.

Rule 5.105. No Appeal to District Court

The rulings of the County Court at Law on all felony pretrial motions are nonappealable to the District Court; however, during a trial the District Court is not bound by the pretrial rulings of the County Court at Law upon

sufficient showing that the facts presented at trial are at variance with the facts presented at pretrial.

Rule 5.106. Hearings Before the District Court

The District Court shall conduct hearings of pretrial motions in capital cases, of motions for continuance, and of any motions that could not be heard by the County Court at Law.

Rule 5.107. Hearing Date for District Court

The District Court shall hear any pretrial motions pending before it on the Friday following the third Monday of each month, or on such other date set by the District Court.

[Rules 5.108 thru 5.120 reserved for expansion]

J. Guilty Pleas and Motions to Revoke Probation

Rule 5.121. By Assignment to County Court at Law

The District Court may assign the Judge of the County Court at Law to accept a guilty plea, including a nolo contendere plea, in any case and to act for the District Court in such case.

Rule 5.122. By Transfer to County Court at Law

The District Court may transfer any case to the County Court at Law to accept a guilty plea, including a nolo contendere plea.

(a) Once a case is so transferred, the case shall remain on the docket of the County Court at Law, and said Court shall conduct all subsequent proceedings in the case.

(b) After transfer, if the defendant no longer desires to enter a guilty plea, or if the County Court at Law does not accept the plea bargain agreement and the defendant requests the withdrawal of his guilty plea, the case shall be returned to the District Court, which shall then set the case for trial for the next available trial setting.

Rule 5.123. Assignment of Motions to Revoke

The District Court may assign the Judge of the County Court at Law to hear a motion to revoke probation filed in any case and to act for the District Court in such case, including in any case in which the District Court placed the defendant on probation, and regardless of the plea of the probationer.

Rule 5.124. Transfer of Motions to Revoke

The District Court may transfer any case in which a motion to revoke probation is pending to the County Court at Law, regardless of the plea of the probationer.

[Rules 5.125 thru 5.130 reserved for expansion]

K. Trial Settings

Rule 5.131. Regular Trial Date

All felony cases not disposed of by the County Court at Law and all other cases not disposed of shall be set for trial on the week of the first Monday each month, unless specially set otherwise.

Rule 5.132. Report of Cases Not Disposed of

The County Court at Law shall report to the District Court a list of the pending cases by 3:00 p.m. of the last Thursday of each month.

Rule 5.133. Preparation of Trial Docket

The Court Coordinator for the District Court shall prepare the trial docket by 12:00 Noon of the last Friday of each month.

Rule 5.134. Trials

The District Court shall conduct the trials of felony jury and nonjury cases, and, in its discretion as Local Administrative District Judge, may assign the Judge of the County Court at Law to conduct the trial of any felony jury or nonjury case.

[Rules 5.135 thru 5.140 reserved for expansion]

L. Judgments and Orders

Rule 5.141. State to Prepare Judgments

Regardless of the result in any case, the District Attorney shall prepare the appropriate judgment or order as required by law.

Rule 5.142. Clerk to Deliver Copies of Judgment

The Clerk shall deliver a copy of the judgment or order to all counsel of record and to the defendant.

Rule 5.143. Judgments by the County Court at Law

A judgment or an order signed by the Judge of the County Court at Law shall recite that said Court has

jurisdiction to accept a guilty plea and to enter a judgment as provided by law.

Rule 5.144. Entering Judgments in Minutes of a Court

(a) The judgment or order of a case disposed of by the District Court or by the Judge of the County Court at Law assigned to and acting for the District Court shall be filed in the minutes of the District Court.

(b) The judgment or order of a case transferred to and disposed of by the County Court at Law shall be filed in the minutes of the County Court at Law.

[Rules 5.145 thru 5.150 reserved for expansion]

M. Appointment of Counsel and Schedule of Fees

Rule 5.151. Appointment of Counsel

At the earliest practical time, counsel shall be appointed for an indigent defendant pursuant to Art. 26.04, Tx.C.Cr.P. Upon appointment, counsel must contact the defendant within three business days.

Rule 5.152. Statement of Indigency

A defendant claiming indigency shall sign under oath the statement required by Art. 26.04(d), Tx.C.Cr.P.

Rule 5.153. Compensation for Appointed Counsel

A counsel appointed to represent an indigent defendant shall be compensated pursuant to Art. 26.05, Tx.C.Cr.P. and according to the fee schedule provided for herein, consistent with the reasonableness of the request and the ability of Kleberg County to pay the fees as Ordered.

Rule 5.154. Fee Schedule

Appointed counsel shall be compensated as follows:

- (a) Guilty Plea..... \$175.00
- (b) Dismissal..... \$100.00 to \$175.00
- (c) Trial (jury or nonjury) and contested Hearings
 - (1) In court..... \$ 40.00 to \$60.00 per hour
(maximum \$500.00 per day)
 - (2) Out of court..... \$ 30.00 to \$50.00 per hour
- (d) Reasonable expenses..... As documented
- (e) Investigation by nonlawyer..... Not to exceed \$500
- (f) Direct Appeal..... Not to exceed \$2,000.00
- (g) Discretionary Review..... Not to exceed \$2,000.00
- (h) Upon written motion setting forth good cause, the Court may vary from the foregoing schedule to fairly compensate counsel in a particular case, consistent with the ability of the County to pay.

Rule 5.155. Fee Application; Documentation

Counsel requesting payment must submit a written fee application in the form promulgated by the Court at the time of the guilty plea proceeding or dismissal of the case or within two days of the completion of other services. The application must have attached to it any documentation to support expenses, including charges by investigators.

Rule 5.156. Failure to Timely Submit Fee Application

Failure to timely submit a fee application shall constitute a waiver of compensation.

Rule 5.157. When Prior Approval Required

The appointment of an investigator or an expert witness and the filing of a petition for discretionary review must first be approved in writing before such expenses are incurred. Precise billing is required.

[Rules 5.158 thru 5.999 reserved for expansion]

Rule 6. Empaneling Juries

Rule 6.001. Jury Panels for the District Court

The District Clerk shall summon the required number of persons for jury duty for the District Court for the week of the first Monday of each month. The empaneling of the potential jurors shall begin at 8:45 a.m. on said Monday. At the discretion of the District Court, the Clerk may summon additional panels for the week of the second Monday of a month. The District Court shall empanel the persons summoned for jury duty and may assign panels to the Courts of Kleberg County as needed.

Rule 6.002. Jury Panels for Other Courts

The District Clerk shall summon the required number of persons for jury duty for the County Court at Law or the County Court upon request from said Courts not less than 10 days from the scheduled trial date. The empaneling of the potential jurors shall begin at a time designated by said Courts.

Rule 6.003. Form of Summons

The summons shall be in the form prepared by the District Clerk with the approval of the District Judge.

Rule 6.004. Jury Selection for a Particular Case

Jury selection for a particular case shall begin as soon as the panel is prepared.

Rule 6.005. Voir Dire

Voir dire shall be done as provided by law.

Rule 6.006. Challenges for cause

A challenge to a panel member shall not be made in the presence of the panel member or the panel.

[Rules 6.007 thru 6.999 reserved for expansion]

Rule 7. Calendar

Rule 7.001. Sessions

The District Court will be in session in Kleberg County as follows:

(a) On the week of the first Monday of each month from Monday thru Thursday;

(b) On the week of the second Monday of each month from Monday thru Thursday, if the docket for the month is not completed by the first week of the month;

(c) On Friday following the third Monday of each month;

(d) On such other dates to accomodate the docket of the Court, to complete an ongoing trial, and for such other reasons deemed appropriate and necessary.

Rule 7.002. Hours of Proceedings

(a) The morning proceedings shall begin at 8:30 a.m. and shall continue until all settings are completed or a recess is taken.

(b) The afternoon proceedings shall begin at 1:15 p.m. and shall continue until all settings are completed or a recess is taken.

(c) A case may be set for hearing at any other time of the day as deemed appropriate by the Court.

Rule 7.003. Vacation

The District Judge shall take vacation during the month of July of each year, unless the Judge posts his vacation schedule in a public place by December 1 of the year preceding the vacation.

Rule 7.004. Holidays

The District Court will observe the following holidays:

- (a) New Year's Day
- (b) President's Day
- (c) Memorial Day
- (d) Independence Day
- (e) Labor Day
- (f) Thanksgiving Day and the Friday after
- (g) Christmas Eve and Christmas Day
- (h) Any other holiday approved by Commissioners' Court for Kleberg County.

Rule 7.005. Judge's Continuing Education

The District Judge shall attend continuing educational events as needed.

[Rules 7.006 thru 7.999 reserved for expansion]

Rule 8. Rule With Respect to Rules

Rule 8.001. Numbering of Rules

These Rules are numbered pursuant to the Rules of Administration promulgated by the Regional Presiding Judges of Texas.

Rule 8.002. Misnumbering of Rules

The misnumbering of a Rule does not invalidate the Rule.

[Rules 8.003 thru 8.999 reserved for expansion]

Rule 9. Judges' Meetings

Rule 9.001. Meetings

The Judges of Kleberg County may meet as a board or conference of Judges as needed.

Rule 9.002. Local Administrative District Judge

As the only District Judge for the Kleberg County, the District Judge is the Local Administrative District Judge for the County and shall preside over the meetings.

[Rules 9.003 thru 9.999 reserved for expansion]

Rule 10. Conflicting Engagements

Rule 10.001. Duty of Counsel

It is counsel's duty to timely inform the Court that counsel has conflicting settings. Counsel should resolve the conflict such that no party is denied his day in court.

Rule 10.002. When Counsel Engaged in Another Court

When informed that counsel is engaged in another court, the case shall remain on the docket until it is reached for trial or hearing, unless the Court continues the cause to a later date.

Rule 10.003. When Misrepresentation Occurs

When the Court determines that counsel represented that he was engaged in another court when in fact he was not so engaged, the case will proceed to trial or hearing, consistent with the rights of the parties. The Court may sanction the offending person, including by contempt, and may report the matter for attorney discipline.

Rule 10.004. Yielding to Priority Settings

The Court may yield to counsel's conflicting settings in other courts as determined by the following:

- (a) A criminal case in which the defendant is in jail.
- (b) A case given preference by statute.
- (c) A case otherwise preferentially set.
- (d) A case with an earlier setting date.
- (e) A case with an earlier filing date.
- (f) A complex case.

[Rules 10.005 thru 10.999 reserved for expansion]

Rule 11. Matters Concerning Attorneys

A. Lead Counsel

Rule 11.001. Designation of Lead Counsel

Where two or more counsel or a lawfirm appear as counsel of record, the "lead counsel" must be designated.

Rule 11.002. Other Counsel May Appear

Other counsel may appear for lead counsel so long as said counsel has the same authority to act in the case as lead counsel.

[Rules 11.003 thru 11.010 reserved for expansion.]

B. Substitution of Counsel

Rule 11.011. Written Motion Required; Timeliness

A motion to substitute counsel must be in writing and must be timely filed.

Rule 11.012. Signed by All Counsel

The motion must be signed by all counsel involved in the substitution.

Rule 11.013. Approval of Party

Unless the motion clearly states that the substitution is done with the party's permission, the motion need not be signed by the party.

Rule 11.014. Not To Cause Delay

No substitution shall be granted if the substitution will cause a delay of the scheduled settings. Counsel coming into the case must accept all settings in the case.

[Rules 11.015 thru 11.20 reserved for expansion.]

C. Withdrawal of Counsel

Rule 11.021. Written Motion

A counsel's motion to withdraw as counsel of record must be in writing and must be timely filed.

Rule 11.022. Must State Specific Grounds

The motion must state specific grounds.

Rule 11.023. Must Inform Party

The motion must state that counsel has informed his client that counsel seeks to withdraw from the case; that counsel has informed his client of all settings in the case; and that counsel has advised his client to either retain new counsel or of the consequences of appearing without counsel.

Rule 11.024. Service Upon Party

Unless the motion is signed and approved by the party, the motion must be served upon the party either by certified mail, return receipt requested or as in civil cases.

Rule 11.025. When Hearing Required

Unless the motion is signed and approved by the party, the motion shall be set for hearing with notice to the party and to all other parties in the cause. If the motion is signed and approved by the party, the Court may grant the motion without a hearing.

Rule 11.026. Not to Cause Delay

No motion shall be granted, regardless of the grounds urged, if the Court determines that any opposing party in the case will suffer hardship by the delay.

[Rules 11.027 thru 11.040 reserved for expansion.]

D. Attorney Vacation

Rule 11.041. Attorney Must Give Notice; Limitation

An attorney who has given written notice to the Court by March 1 of any year of his planned vacation may not be put to trial or set for hearing during said vacation, provided that said vacation does not exceed four consecutive weeks.

Rule 11.042. Court May Change Attorney's Vacation

At the discretion of the Court, the Court may direct counsel to take vacation at another time upon any of the following circumstances:

- (a) in a specially set case;
- (b) in a case set prior to counsel's notice of his vacation plans;
- (c) for the convenience of the parties, the witnesses and other counsel; and/or,
- (d) when the interests of justice so dictate.

[Rules 11.043 thru 11.999 reserved for expansion]

Rule 12. Local Judicial Administration

A. Local Judicial Administration

Rule 12.001. Local Administrative District Judge

The District Judge is the Local Administrative District Judge for Kleberg County, Texas.

Rule 12.002. Duties

The Local Administrative District Judge shall perform the duties as provided by Sec. 74.092, Tx.Govt.C., the Rules of Judicial Administration and other law.

[Rules 12.003 thru 12.010 reserved for expansion]

B. Court Coordinator

Rule 12.011. Appointment of Court Coordinator

The District Judge shall appoint, with the consent of Commissioners Court, a Court Coordinator to manage the docket of the Court and to assist the Court in its administrative responsibilities. The Court Coordinator shall serve at the pleasure of the District Court.

Rule 12.012. Supervision of Court Coordinator

The District Judge shall supervise the Court Coordinator and shall be primarily responsible for the administration of the docket of the Court.

Rule 12.013. Duties of Court Coordinator

Subject to the supervision and direction of the District Court, the Court Coordinator shall perform the following duties:

(a) Set all cases for trial, hearing or other purpose at the direction of the District Judge, at the request of the parties to a case, or as required by law or by these Rules.

(b) Receive, date and docket all communications and correspondence addressed to the District Court.

(c) Manage the docket of the District Court so that all cases are disposed of in an orderly, expeditious and effective manner.

(d) Maintain such records as required by law.

(e) Perform such other duties as required by the District Court.

Rule 12.014. Compensation of Court Coordinator

The Commissioners Court shall set the compensation of the Court Coordinator.

[Rules 12.015 thru 12.020 reserved for expansion]

C. Meetings with Other Judges

Rule 12.021. Meetings with Other Judges

The District Judge shall meet with the Judge of the County Court at Law and the Judge of the County Court from time to time to discuss the administration of the dockets of the Courts for cases filed with the District Clerk.

[Rules 12.022 thru 12.030 reserved for expansion]

D. Judicial Budget Matters

Rule 12.031. Judicial Budget Matters

The District Judge shall submit to the appropriate funding agencies the budgets required for the effective operation of the District Court and the agencies subject to the supervision of the District Court.

[Rules 12.032 thru 12.040 reserved for expansion]

E. Probation Matters

Rule 12.041. Adult Probation Matters

The District Court shall supervise the Community Supervisions and Corrections Department (formerly the Adult Probation Department) as required by Art. 42.131, Tx.C.Cr.P.

Rule 12.042. Appointment of Director

The District Court shall appoint the Director of the Community Supervisions and Corrections Department, who shall serve at the pleasure of the District Court.

Rule 12.043. Duties of Director

The Director shall perform such duties as required by law and at the direction of the District Court.

Rule 12.044. Employee Policy Manual

Subject to the approval of the District Court, the Director shall prepare and have in effect an Employee Policy Manual to govern the administration of the Department.

Rule 12.044. Compensation of Director

The District Court shall set the compensation of the Director.

Rule 12.045. Juvenile Probation Matters

The District Judge shall serve as a member of the Juvenile Board of Kleberg County as required by law and shall perform such duties as provided by law.

[Rules 12.046 thru 12.050 reserved for expansion]

F. County Auditor

Rule 12.051. County Auditor Matters

The District Court shall appoint the County Auditor as provided by law, who shall serve a two year term from the date of qualification.

Rule 12.052. Duties of the County Auditor

The County Auditor shall perform such duties as required by law.

Rule 12.053. Supervision of the County Auditor

The District Court shall supervise the County Auditor to the extent required by law.

Rule 12.054. Compensation of the County Auditor

The District Court shall set the compensation of the County Auditor.

[Rules 12.055 thru 12.060 reserved for expansion]

G. County Purchasing Matters

Rule 12.061. County Purchasing Matters

To the extent provided by law, the County Auditor shall perform such duties regarding all purchasing matters for and by Kleberg County as determined by Commissioners Court or by the District Court.

[Rules 12.062 thru 12.070 reserved for expansion]

H. Relationship With News Media

Rule 12.071. Authority to Regulate Media

(a) In civil cases, the District Court may permit broadcasting, televising, recording, or photographing of

proceedings in the courtroom as provided by Rule 18c, Tx.R.Civ.P. and as provided herein.

(b) In criminal cases, the District Court may permit broadcasting, televising, recording, or photographing of proceedings in the courtroom in its discretion and as provided herein.

Rule 12.072. Request for Cameras in the Courtroom

(a) A request to permit cameras in the courtroom must be in writing.

(b) The request must be made at least three business days prior to commencement of proceedings of any given case.

(c) The request must designate the portions of the proceedings.

(d) The request must state an agreement to pool with other news media if other organizations also express an interest in the proceedings.

Rule 12.073. Notice to Parties

Such a request should be made to all counsel of record and parties not represented by counsel; if the person making the request certifies in the request that he does not know all counsel and such parties, the Court Coordinator shall notify all such counsel and parties at the earliest opportunity, whether by telephone or by mail.

Rule 12.074. Hearing

At the request of any party, the Court shall conduct a hearing to determine whether to grant the request for cameras in the courtroom.

Rule 12.075. If Request Granted

If the Court grants the request for cameras in the courtroom, the following provisions apply:

(a) Except on ceremonial occasions, only recognized news media organizations shall be granted permission.

(b) Except for good cause, only one video camera and one still camera shall be permitted in the courtroom.

(c) If two or more print or audio/video news media have applied for permission, said media shall pool their resources by agreement. The Court shall not mediate any disagreement. Failure to reach an agreement shall authorize the Court to deny the request.

(d) The photographer and the camera shall be stationary and shall not be allowed to roam the courtroom during the proceedings.

(e) No person shall be permitted to talk into a recording or transmitting device during the proceedings.

(f) The cameras shall be set up prior to the commencement of the proceedings.

(g) Conferences at the bench and between a party and his counsel shall not be audio recorded or broadcast.

(h) Except for good cause, minors and families of minors shall not be recorded or broadcast.

(i) Jurors and potential jurors may be recorded, broadcast, or photographed only incidentally.

Rule 12.076. Cameras Outside the Courtroom

(a) Cameras are permitted in the lobby area immediately adjacent to the courtroom, including but not limited to all open areas on the second floor of the courthouse, and at all other areas of the courthouse; provided, that any other department or agency located in the courthouse may otherwise regulate the use of cameras in its respective area.

(b) Notwithstanding the previous paragraph, minors and families of minors shall not be recorded or broadcast.

[Rules 12.077 thru 12.090 reserved for expansion]

I. Court Reporters

Rule 12.091. Court Reporters

The District Court shall appoint its court reporters.

Rule 12.092. Duties of Court Reporters

A court reporter shall record all proceedings of the Court and shall perform such other duties as required by the Court or by law.

Rule 12.093. Preparation of Records

A court reporter shall timely prepare all records timely requested. If a reporter cannot timely prepare a record, the reporter shall inform the Court.

Rule 12.094. Compensation for Court Reporter

The District Court shall set the compensation for the Court Reporter in the manner provided by law.

[Rules 12.095 thru 12.100 reserved for expansion]

J. Bailiff

Rule 12.101. Bailiff

The District Court shall appoint a Bailiff for the Court, with the consent of Commissioners Court and the Sheriff.

Rule 12.102. Duties of Bailiff

(a) The Bailiff shall maintain order in the courtroom whenever the Court is in session.

(b) The Bailiff shall be in charge of the jury and the Grand Jury.

(c) The Bailiff shall perform such duties as required by the Court and by law.

Rule 12.103. Compensation of Bailiff

The Commissioners Court shall set the compensation for the Bailiff.

[Rules 12.104 thru 12.110 reserved for expansion]

K. Conduct and Decorum

Rule 12.111. Conduct and Decorum in the Courtroom

All proceedings before the Court are formal proceedings, and all persons appearing before the Court shall conduct themselves accordingly.

Rule 12.112. When Persons Required to Rise

Whenever the District Judge enters or leaves the courtroom, and whenever the jury enters or leaves the courtroom, all other persons in the courtroom must rise until directed to be seated.

Rule 12.113. Prohibited Activity in the Courtroom

During any proceeding, the following activity is prohibited:

- (a) Smoking;
- (b) Drinking of any beverages other than water;
- (c) Eating;
- (d) Reading of newspapers or magazines;
- (e) Talking that is distractive of the proceedings;
- (f) Propping feet on tables or chairs;
- (g) Any other act that is disruptive.

Rule 12.114. Prohibited Activity in Outside Courtroom

The following activity is prohibited:

- (a) Smoking on the second floor of the Courthouse, whether the Court is in session;
- (b) Loud talking or noises, whenever the Court is in session;
- (c) Any other act that is disruptive of Court proceedings.

Rule 12.115. Conduct of Counsel

- (a) Counsel shall be dressed appropriately.
- (b) When addressing the Court, counsel shall rise and remain standing at counsel table. All remarks to the Court shall be addressed to the Court and not to the Judge as an individual.
- (c) Counsel shall not approach the bench or the witness box unless the Court grants permission to do so.

(d) Counsel shall not lean on the Bench, sit on rails or tables, or appear to engage the Court in a confidential manner.

(e) When questioning a witness, counsel shall stand by the podium at the place designated by the Court, unless the Court grants leave to counsel to question a witness while seated.

(f) Counsel shall inform his clients, witnesses and other persons of the formalities of the Court and their expected behavior.

(g) Counsel shall address each other and all other persons by the proper use of the surname of a person.

(h) Once counsel has entered the courtroom and appeared before the Court, he shall not leave the courtroom except by obtaining permission of the Court.

Rule 12.116. Ex Parte Communications

Ex parte communications about any matter pending before the Court or which may be filed with the Court are absolutely and expressly prohibited.

Rule 12.117. Telephones and Beepers in Courtroom

Telephones, beepers and similar equipment shall not be brought into the courtroom without the expressed permission of the Court.

[Rules 12.118 thru 12.999 reserved for expansion.]

Rule 13. Concluding Rules

Rule 13.001. Effective Date

These Rules shall become effective when approved by the Supreme Court of Texas and shall apply to any case then pending or thereafter filed with the District Clerk or docketed with the District Court.

Rule 13.002. Temporary Effective Date

After submission to the Bar of Kleberg County, these Rules shall be given temporary effect on or after September 1, 1991 or upon an Order signed by the District Court and shall apply to any case then pending or thereafter filed with the District Clerk or docketed with the District Court.

Rule 13.003. Amendment of Rules

These Rules may be amended as provided by law.

Effective date: September 1, 1991