

**RULES OF PRACTICE AND PROCEDURE
IN THE 82ND DISTRICT COURT
FALLS AND ROBERTSON COUNTIES**

Pursuant to the Constitution of the State of Texas, the Judicial Administration Act and the Texas Rules of Court, the following local rules of practice and procedure are hereby adopted to govern the proper and efficient disposition of all cases in the 82nd Judicial District, amending the previous local rules. These rules shall become effective January 1, 2019.


BRYAN F. RUSS, JR., JUDGE PRESIDING

Except as otherwise provided by law or the Texas Rules of Court and the Texas Code of Criminal Procedure, the following rules of administration, practice and procedure shall govern the disposition and trial of cases in the 82nd Judicial District.

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

I. PRESIDING JUDGE

1.01 JUDGE

Reference to "Judge" in these rules shall mean the duly elected Judge of the 82nd Judicial District of Texas, or such judge as might sit in his stead by administrative assignment. Such judge shall have the authority and shall perform such duties as shall effect the expeditious disposition of all cases filed within the 82nd Judicial District, consistent with the proper ends of justice.

II. DOCKETS AND CALENDARS

2.01 GENERAL DOCKETS

The District Clerk in each county, under the direction of the Judge, shall maintain a civil docket, a criminal docket and a juvenile docket. The civil docket shall consist of all cases in which the civil jurisdiction of the Court has been invoked. All cases shall be entered in the appropriate docket when filed. Each Monday when the Court is in session in Robertson County, the criminal docket shall commence at 8:30 a.m. The civil and juvenile dockets shall commence at 9:30 a.m. All motions, bench trials and other matters set in Robertson County shall commence at 9:30 a.m. unless the Judge otherwise schedules. Every second Tuesday and Thursday of each

month when the Court is in session in Falls County, the docket shall commence at 9:00 a.m. The Judge will have court in session for the purpose of calling the docket in all cases. At such times, pleas of guilty in criminal cases, arraignments, default judgment hearings on uncontested matters and motions to set cases for trial will be heard.

2.02 JURY TRIALS

Jury Trials will be held in Robertson County on the third Tuesday of each month, and in Falls County on the first Tuesday of each month. Jury trials in Robertson County begin at 9:00 a.m.; Falls County at 9:00 a.m. Attorneys may request a special Jury setting by contacting the Court Coordinator. The Judge reserves the right to set jury trials at such dates and times as the ends of justice requires.

2.03 SETTING CASES FOR TRIAL

After all parties in each case have entered their appearance before the Court, the attention of the presiding Judge shall be called to such fact and such case shall be tentatively set for pre-trial and trial on the merits, allowing the parties sufficient time to complete their discovery. Each case may be set for status hearings by the Court from time to time. The **Court Coordinator** shall immediately give all the parties written notice of such setting, stating whether it is on the jury or non-jury docket. Any exception to the setting must be filed as a matter to be discussed at a pre-trial conference.

2.04 PREFERENTIAL SETTINGS

Motions for preferential setting shall be in writing and verified. Upon request of counsel, such motions shall be granted in the following cases:

- A. Cases entitled to preferential setting by law; or
- B. Cases that the Court has determined because of its nature, circumstances and litigation history requires a priority trial.

2.05 REQUEST FOR POSTPONEMENT

No request to pass, postpone or to reset any trial, pre-trial or other hearing shall be granted unless counsel for all parties involved consent, or the ends of justice require that it be postponed or reset.

2.06 CONFLICTING ENGAGEMENTS OF COUNSEL

If, at any stage of proceedings, a postponement is sought for the reason that counsel has conflicting settings in some other court, such counsel shall give the Court alternative dates, within six weeks of the date of the tentative setting, when he or she will be available to try the

case. Such request on this basis shall be accompanied by a letter from the clerk of the Court where such conflict exists, showing such conflicts, the probability that the conflicting case will actually be tried, the date the conflicting case was set, and shall also be accompanied by a sworn statement that no other member of the firm involved is competent or available to try the case set on the docket of this Court. Cases will not be set so as to interfere with vacations of counsel when reasonable notice of this time and length of such vacations is given to the Court before the beginning of such vacation.

III. PRE-TRIAL CONFERENCES

3.01 PRE-TRIAL CONFERENCES-CIVIL

At any time after the answer is filed, upon written request of either party, or upon the direction of the Court, a pre-trial conference shall be scheduled by the Judge, pursuant to the Texas Rules of Court, to determine such matters as the presiding Judge may include in his order for such pre-trial conference.

3.02 PRE-TRIAL CONFERENCES-CRIMINAL

When the criminal dockets are called in each county (Monday in Robertson County, second and fourth in Falls County) in cases not otherwise disposed of, a pre-trial conference shall be set for hearing in accordance with Article 28.01 of the Texas Code of Criminal Procedure, to determine such matters to be accomplished at the conference as directed by the presiding Judge.

3.03 MEDIATION

Mediation is encouraged in all matters. The Judge may, with or without a request, refer any civil suit to mediation.

IV. DISMISSAL OF CASES

4.01 CAUSES FOR DISMISSAL

A case may be dismissed for want of prosecution at the discretion of the presiding Judge for any of the following reasons:

- A. Failure of the moving party to comply with the Rules of Practice and Procedure or to take other appropriate action within fifteen days after notice from the clerk that necessary action on his or her part has not been accomplished.
- B. Failure of the moving party's counsel to appear for pre-trial conference or other preliminary hearing, or at the trial duly set by the Judge when he or she is properly notified.

4.02 DISMISSAL FOR WANT OF PROSECUTION

The Court from time to time shall have the Court Coordinator check the docket and note each case where there has been no action for over one year. Each attorney of record in each case so noted shall be sent a notice that the Court will dismiss the same within fifteen days for want of prosecution, and unless good cause is shown within such time, the case will be dismissed with costs to the plaintiff, or as the Court directs.

4.03 REINSTATEMENT

Any case dismissed for want of prosecution may be reinstated by the Court upon proper application to the Court as provided by Rule 165A.

V. TRIAL PROCEDURE

5.01 JURY TRIAL IN CIVIL CASES

Jury trials in civil cases will be granted only when a jury fee has been paid at least 30 days before the Tuesday of the week in which the case is set for trial.

5.02 NON-JURY CALENDAR

Non-jury cases shall be set for hearing at such time as the presiding Judge may deem advisable upon request of the attorneys.

5.03 UNCONTESTED MATTERS

Uncontested matters may be heard at any time upon notification of the Court and the availability of the Judge.

5.04 PRESENCE OF WITNESSES

All Counsel shall have all witnesses he or she intends to have testify available, whether actually present or not, at the beginning of the trial. At the discretion of the Judge, medical witnesses and other expert witnesses may be taken out of order.

5.05 WITHDRAWAL OF COUNSEL

Upon proper motion in writing, the Judge will permit an attorney to withdraw from a case. No order permitting such withdrawal will be entered unless the attorney seeking to withdraw certifies in writing that he or she has notified the client of the intention to withdraw at his or her last known address.

5.06 GUARDIANS AND ATTORNEYS AD LITEM

Attorneys, Ad-Litem and/or Guardian Ad Litem may be appointed by the Judge of the District Court of Robertson Falls on his own motion or on motion of a party, subject to the discretion of the presiding Judge.

5.07 SUBMISSION OF ORDERS AND JUDGMENTS TO COURT

All orders involving matters previously heard or disposed of by the Court, as well as orders which may be signed by the Judge without a hearing, such as dismissals, agreed judgments and like matters, shall be submitted to the opposing party for approval as to form, then submitted to the Court in chambers. The clerk will notify all parties of the date such order or judgment is signed and entered. In all cases where a final judgment is to be entered it shall contain, if applicable, a statement that "all relief not specifically granted herein to any party is denied." Such judgment shall have a place for the Judge to note the exact date which the judgment is entered.

All orders shall be submitted to the Court for approval and signature no later than thirty (30) days from the date the Judge announces his decision. Failure to submit orders in a timely fashion, as set forth herein, may result in the Court setting a status hearing regarding the preparation of the order.

5.08 EX PARTE ORDERS

No ex parte order, including, but not limited to, restraining orders and writs of attachment, shall be presented to the Court or entered by the Judge between the hours of 2:00 p.m. on Friday and 8:00 a.m. the following Monday, except in cases of dire emergency or in cases involving family violence.

5.09 UNFIT JURORS

From time to time, there are individuals who appear for jury duty whose vocal and uncivilized behavior threatens the jury selection process and renders them unfit for jury service. When such individual appears on a jury panel and it is clear the individual is attempting to undermine the jury process, the Court personnel and/or counsel shall call the Court's attention to such individual and unless there is a reasonable objection, the Court shall excuse this prospective juror, the same as if the prospective juror was excused for cause.

VI. COURTROOM DECORUM

6.01 CONDUCT OF PERSONS PRESENT IN COURT

The following practices are forbidden:

- A. Bringing bottles, paper cups, beverage containers or food into the courtroom at any time, except as permitted by the Court.
- B. Propping feet on tables, chairs or benches.
- C. Bringing children under six in the courtroom, except with permission of the Court.
- D. Smoking
- E. All cell phones must be turned off.

6.02 CONDUCT REQUIRED OF COURT OFFICERS

The following rules will be observed:

- A. The Judge, lawyers and other officers of the Court shall be prompt at all sessions and in the dispatch of all court business.
- B. When it is necessary to address each other directly during the Court of a trial, lawyers shall address each other by courtesy title and last name.
- C. Witnesses shall be addressed by courtesy title and last name.
- D. Lawyers shall advise their clients and witnesses of proper courtroom decorum and demand their full cooperation therewith.
- E. The trial attorney should refrain from interrupting the Judge or opposing counsel until the statement being made is completed, except when necessary to protect his client's rights on the record.
- F. There will be no arguments in the presence of the jury. If such becomes necessary, counsel will ask the jury be withdrawn before proceeding.
- G. Lawyers will attire themselves in such a manner as to give dignity to courtroom proceedings. Male lawyers shall wear coat and tie, except in unusual circumstances. It is the responsibility of counsel to advise their clients regarding proper courtroom attire.

6.03 WEAPONS, FIREARMS AND RECORDING EQUIPMENT

The bailiff and courtroom security personnel are directed to prohibit any person from entering the courtroom carrying a firearm, knife, club, stick, mace, scissors, ice picks, recording equipment and/or containers of any kind.

Law enforcement officers, as described in section 46 of the Texas Penal Code, are exempt from this rule with respect to firearms. However, the presiding Judge reserves the right to prohibit any person from entering the courtroom if the presiding Judge determines security and safety of courtroom personnel is otherwise at risk.

VII. GENERAL PROVISION

7.01 AMENDMENTS OF RULES

These rules may be amended from time to time by the Judge of the 82nd Judicial District of Texas carry out the purpose for which they are promulgated.

7.02 ENFORCEMENT OF RULES

The Bailiff or other officers are instructed to enforce these rules. The Judge may enforce these rules by striking pleadings or other manner that may be necessary to gain the attention of the offender.