

**LOCAL RULES
266TH JUDICIAL DISTRICT COURT
ERATH COUNTY, TEXAS**

INTRODUCTION

Pursuant to the authority granted District Courts under Rule 3a, T.R.C.P., and Art. 33.08, C.C.P., to promulgate Rules of Practice for conducting the business of District Courts, the rules, suggestions and procedures set out below will be in effect in this Court unless subsequently modified, changed or amended. All prior rules of the 266th Judicial District Court of Texas are hereby expressly repealed.

A copy of these rules is filed with the District Clerk and made available to all persons and attorneys having litigation in this Court.

These rules are promulgated for the benefit of the Court, the Court personnel, attorneys and litigants having matters before the Court, and are adopted for the purpose of establishing and maintaining an orderly, dignified and expeditious procedure for handling and conducting the Court's business. Nothing contained in these rules shall be construed or interpreted as interfering with the right of the Trial Judge to additionally make such orders, settings, or procedural directions as in his discretion may be necessary or proper for the expedient and orderly dispatch of the business of the Court.

As District Judge of this Court, I have freely used desirable court rules written by other Judges, and I acknowledge those contributions. In order to effectuate the purposes of these local rules as set forth, I solicit the comment, suggestions and even criticism from members of the Bar practicing in Erath County, so that all of the rules of the Court will be workable and helpful in disposing of the Court cases as expeditiously as possible and with as little inconvenience as possible to any party litigant or their attorneys.

ORDER ADOPTING RULES

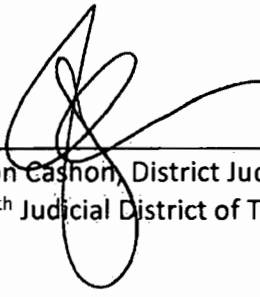
It is ordered by the District Judge of the 266th Judicial District Court of Erath County, Texas that:

1. The following rules of practice and procedure are adopted;
2. The Clerk of this Court in Erath County, Texas, record these rules and this Order in the Minutes of this Court;
3. A copy of these rules and this Order be furnished to the Supreme Court of Texas;
4. The Clerk of this Court immediately make available to each lawyer residing or maintaining an office within the county where such Clerk serves, a copy of these rules and this Order; a copy be made available by the Clerk to each

lawyer and pro se party appearing in any civil action in this Court; the Clerk keep a current record of each such delivery, the date thereof and make such record available for inspection;

5. These rules shall be construed and interpreted, in addition to, in conformity with and not as superseding the Constitution and laws of the State of Texas or the Texas Rules of Civil Procedure and Texas Code of Criminal Procedure. They shall not prohibit the Court from making orders, settings or procedures which, in the Court's discretion, may further the orderly administration of justice;
6. Should any of these rules, or any part thereof, be held invalid for any reason, such invalidity shall not affect the validity of the other rules or parts of rules, all of which have been separately considered and adopted;
7. All prior rules of the 266th Judicial District Court of Texas are hereby expressly repealed;
8. These rules shall be effective on July 1, 2022, and thereafter until amended, modified or repealed by order of the Court; and
9. Such rules shall be and read as set forth hereinafter.

ADOPTED and ORDERED this 1st day of July, 2022.



Jason Cashon, District Judge
266th Judicial District of Texas

**LOCAL RULES OF THE 266 JUDICIAL DISTRICT COURT
ERATH COUNTY, TEXAS**

Section I: Time Standards for the Disposition of cases

- 1.1. All cases shall be brought to trial or final disposition in conformity with the following time standards:
 - a. Criminal cases. As Provided by Article 32A, Code of Criminal Procedure.
 - b. Civil Cases Other Than Family Law.
 1. Civil Jury Cases. Within 18 months from appearance date.
 2. Civil Non-Jury Cases. Within 12 months from appearance date.
 - c. Family Law Cases.
 1. Contested Family Law Cases. Within 6 months from appearance date or within 6 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.
 2. Uncontested Family Law Cases. Within 3 months from appearance date or within 3 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.
 - d. Complex Case. It is recognized that in especially complex cases or special circumstances it may not be possible to adhere to these standards.
 - e. The Court shall maintain a regular dismissal docket, and if no action is taken by a party seeking affirmative relief within the time prescribed in these time standards directed toward a trial on the merits, the Court will proceed to dismiss the case for want of prosecution in accordance with the procedures set forth in T.R.C.P. 165a.

Section II: Rules of Decorum

- 2.1 All officers of the Court, parties, witnesses and the public shall at all times conduct themselves with dignity so as not to interfere with the Court's business.
- 2.2 All present shall rise and come to order as the Judge takes the bench.
- 2.3 All persons in attendance while the Court is in session shall be attentive to proceedings and cause no distraction.
- 2.4 No one shall sit on railings, tables, desks, chair arms, place feet on furniture or fixtures nor prop chairs back. No one shall lean on or rest arms or hands on the bench.
- 2.5 All persons shall be suitably attired. Except by special permission of the Court, male officers of the Court shall wear coats and ties; the attire of the female officers shall be equally suitable.

- 2.6 No gestures, facial expressions nor sounds indicating approval or disapproval of any person, act, testimony or proceeding shall be permitted.
- 2.7 Participants in all proceedings shall be prompt.
- 2.8 All officers of the Court shall avoid addressing each other with familiarity, shall use appropriate titles and shall avoid first names while the Court is in session and during official proceedings.
- 2.9 No reading material shall be permitted in the Courtroom except as may be directly related to current proceedings before the Court.
- 2.10 No active participant to interrogation shall smoke tobacco, chew tobacco, or chew gum.
- 2.11 Counsel shall instruct parties not to directly contact the Judge concerning pending matters.
- 2.12 No cell phone, tablet, computer, or similar electronic device shall be permitted to record any proceeding. All electronic equipment shall be silenced prior to entry of the courtroom.
- 2.13 Counsel shall be responsible to advise clients and witnesses of these rules to avoid embarrassment and delay.

Section III: Calendar

- 3.1 The Court will attempt to accommodate conflicting settings of counsel. Priorities, as they relate to such conflicts, shall be:
 - a. Election contests or other matters requiring assignment of a visiting judge.
 - b. Criminal cases.
 - c. Special or preferential settings.
 - d. Whether this or another Court will be without an available case for trial or shall have to disband a jury panel.
 - e. Earlier case filed.
 - f. Regular setting.
 - g. Pre-trial setting.
- 3.2 Jury weeks and non-jury days shall be set for each term of Court. The Court Administrator and the Clerk shall maintain a calendar for jury matters and for non-jury matters in each county.
- 3.3 Requests for regular trial settings for all civil jury and non-jury matters shall be in writing and forwarded to the Court Administrator, opposing counsel or pro se litigants. The Court Administrator shall be responsible for all civil trial settings, whether jury or non-jury, and shall confirm such settings in writing to the respective attorneys, pro se litigants and the District Clerk. If any attorney or litigant has a conflict or will be unable to appear on the date set for trial or hearing, the Court Administrator shall be notified within ten (10) days after receipt of such notice of setting in order to arrange for resetting; otherwise, such setting will be considered a

firm setting and the hearing or trial setting will not be passed except upon mutual agreement of the respective attorneys with consent of the Court or upon proper motion for continuance granted by the Court after hearing thereon. Written request for a setting shall certify:

- a. That the requesting party's pleadings are in order;
- b. Whether or not a pre-trial setting is necessary;
- c. That service has been perfected on all necessary parties;
- d. That a jury fee, if applicable, has been paid; and
- e. That a copy of the request has been served on all counsel and pro se parties.

The use of Form Letter set out in Appendix "D" appended hereto will comply with the foregoing requirements.

- 3.4 Any party requiring a hearing on special exceptions, dilatory pleas or other pre-trial matters shall request and obtain a setting thereon at least thirty (30) days prior to the date the case is set for trial on the merits.
- 3.5 All matters to be heard on regular non-jury days shall be set for 9:00 o'clock a.m. All counsel and parties shall be present and ready, with witnesses, at that time except by leave of the Court first obtained. All counsel and pro se parties shall be seated in the Courtroom ready for announcements. When called for, announcements shall give the nature of the matter, an estimate of the time required and any special circumstances, such as out-of-county parties and witnesses. The Court will arrange the order for proceeding, giving preference to uncontested matters and the convenience of all, where possible. Settlement negotiations should be completed prior to the calling of the docket, if at all possible, and failure to timely announce may result in postponing the matter to the end of the day, to another day or such other sanction, including contempt, provided for in these rules, the Rules of Civil Procedure or by law.
- 3.6 Counsel wishing to avoid assignment to trial during a vacation period not exceeding four (4) consecutive weeks may advise the Court Administrator, the Clerk and the Judge at least forty-five (45) days prior to the beginning of the vacation. This shall not be grounds for resetting cases already set.

Section IV: Criminal Docket and Pre-Trial Procedures

- 4.1 Immediately upon employment or Court appointment, the defense attorney shall give written notice thereof to the District Attorney and the District Clerk stating the name of the accused, the offense(s) charged and cause number, if known. The Clerk will note the attorney's name on the docket sheet and indicate whether he is retained or Court appointed.
- 4.2 If the accused, after indictment, is not represented by counsel, he (and his bondsman, if any) shall be notified and required to appear at informal arraignment as set by the Court for the purpose of ascertaining his ability

to retain counsel and the reasons for his failure to do so. Claimed financial inability to employ counsel shall be supported by evidence or sworn affidavit. If a Defendant is already represented by retained or Court appointed counsel at the time of indictment or before the setting for formal arraignment, neither the Defendant, his attorney, nor his bondsman will be required to appear for such informal arraignment PROVIDED that such defense attorney has forwarded written certification of his representation of the Defendant to the District Attorney, prior to such proceeding, with a copy thereof to the Court and the District Clerk.

- 4.3 Immediately following the return of an indictment, the Court Administrator or the office of the District Attorney shall notify the accused, his bondsman (if any) and his attorney (if known) to appear for pre-trial hearing and formal arraignment on the date set for such proceedings by the Court. All accused persons, their attorneys and bondsmen (if any) shall be required to appear for pre-trial hearing as set by the Court for the purpose of formal arraignment, announcements and presentment of pre-trial motions and other preliminary matters as set forth in Art. 28.01, C.C.P. The provisions of Art. 28.01(2), C.C.P. will be strictly complied with, and preliminary matter not raised or filed at least seven (7) days before the pre-trial hearing will not thereafter be allowed to be raised or filed, except by permission of the Court for good cause shown. Copies of all pre-trial motions shall be forwarded to the District Attorney at the time of filing the originals with the District Clerk.
- 4.4 The District Attorney shall advise the Judge by the first day of each month of the status of the criminal docket and of the cases in which the State is ready to proceed to trial in the next criminal jury week. The Court Administrator shall give written notice to the defense attorneys of the cases set for the next criminal jury week. Attorneys for the first two cases so set shall be present with their clients and witnesses ready for trial at 9:00 o'clock a.m. on the Monday of the criminal jury trial week, unless directed by the Court to appear at a different day or time, and all other attorneys who have received notification of trial setting shall be ready and available to proceed to trial during that week upon one-half days' notice.
- 4.5 The District Attorney shall advise the Judge, in advance of trial, of the results of any plea bargain in a pending criminal case. Recommendations on agreed punishment shall be made to the Court only by the District Attorney or his assistant with authority.
- 4.6 The District Attorney shall advise the Judge by 5:00 o'clock p.m. on the Thursday immediately preceding a jury trial week of the results of any plea bargain negotiations in pending criminal cases. If a plea agreement has been reached by the District Attorney and defense counsel, an Agreement to Reset and Plead Guilty must be signed and approved by the Court by 5:00 o'clock p.m. on the Thursday preceding a jury trial week. Otherwise, the case shall remain on the jury trial docket.

- 4.7 All attorneys shall be familiar with and comply with all requirements of the Court's Standard Discovery Order (effective February 1, 2022) and any subsequent amendments thereto. (Appendix "A")
- 4.8 Attorneys accepting appointments to represent indigent defendants in criminal cases shall familiarize themselves with and shall comply with the Local Indigent Defense Rules and Plan for this Court and shall complete a minimum of 6 hours, annually, in continuing legal education in the field of criminal law in order to remain on the Court's appointment list. A sworn affidavit by the attorney verifying that he/she has completed such annual education requirement must be filed with the Court on or before December 31 of each year. Failure to file such affidavit will be grounds for removal from the Court's appointment list.

Section V: Pre-Trial Procedures (Civil Cases)

- 5.1 At any time after answers are filed or a request for trial setting has been made, upon written request of any party or upon the motion of the Judge, a pre-trial hearing or conference shall be set.
- 5.2 It shall be the duty of all parties having places on the trial calendar to present to the Court and to obtain a hearing, if necessary, on all exceptions, motions and dilatory pleas not less than fourteen (14) days prior to the date the case is set for trial. All pre-trial motions shall be filed not less than three (3) days prior to the pretrial hearing and a copy thereof shall be forwarded to the Court and to opposing counsel. Failure to present the exceptions, motions and pleas in a timely manner shall cause them to be waived. An earlier date may be specified as a final date for the filing of such exceptions, motions and dilatory pleas and obtaining a hearing thereon in those cases in which the Judge deems an earlier date appropriate.
- 5.3 Counsel and all pro se parties will be expected at pre-trial to advise the Court which issues will be disputed and will be expected to be familiar with the authorities applicable to the questions of law thereby raised. Failure to conform to this rule shall be sufficient grounds for postponement of trial, setting of further pre-trial conferences or other appropriate action.
- 5.4 Counsel and pro se parties attending the pre-trial conference shall be the person who is expected to try the case or shall be familiar with the case and fully authorized to state the party's position on the law and facts, make stipulations and enter into settlement negotiations. Should the Court find that counsel is not so qualified, it may consider that no counsel has appeared and may take any of the proceedings provided in the following rule.
- 5.5 When counsel for either party, after notice, fails to appear at pre-trial conference, the Court may:

- a) Rule on all motions and exceptions in the absence of such counsel;
 - b) Declare any motions or exceptions of such absent party waived;
 - c) Advance or delay the trial setting according to the convenience of counsel present for the Court;
 - d) Pass and reset the trial;
 - e) In the event absent counsel represents the Plaintiff, the Court may decline to set the case for trial or may cancel a setting previously made or may dismiss the case for want of prosecution, especially where there has been a previous failure to appear or where no amendment has been filed to meet exceptions previously sustained; or
 - f) In the event absent counsel represents the Defendant, the Court, if the case has not been previously set for trial, may set the same at any time after seven (7) days have expired following the pre-trial conference at which counsel was absent, and/or may strike any counter-claim or cross-action and/or deny any pending motions.
- 5.6 In all Family law matters the attorneys and pro se litigants shall be familiar with and comply with all requirements of the Court's Administrative Orders and any subsequent amendments thereto. (Appendix "B" and "C")

Section VI: Motion Practice (Civil Cases)

- 6.1 Parties are directed to use all reasonable means to resolve pre-trial disputes to avoid the necessity of judicial intervention.
- 6.2 No motions will be set for hearing unless the moving party shall have certified in such motion or in a letter substantially the following;
- "A conference was held on (date) with (name of attorney for opposing party) on the merits of this motion. Agreement could not be reached. Therefore it is presented to the Court for determination"*
- or*
- "A conference was not held with (name of opposing attorney) on the merits of this motion because (explanation of inability to confer)."*
- 6.3 The Court Administrator is responsible for scheduling the dates and times for hearings. Upon receiving the date and time of hearing, the moving party shall immediately notify all other parties in writing of the date, time and subject matter of the hearing. A copy of this communication shall be provided to the Court Administrator.

Section VII: Trial Procedure

- 7.1 During the trial or hearing of any proceeding only Court officials, counsel and parties to such proceeding shall be permitted within the bar.
- 7.2 Counsel shall rise to address the Court. Counsel shall remain at the counsel table to examine witnesses, unless permission is first obtained to approach the witness.
- 7.3 A short settlement conference may be held by the Judge with counsel for all parties present, immediately prior to the trial. Settlement offers by any party shall be made known to the Judge and compromise shall be actively encouraged if a settlement during trial appears probable. Rulings on the admissibility issues may be discussed and tentatively resolved by the Judge in an effort to precipitate settlements that might otherwise be delayed until resolution of the issues. Should no settlement or other disposition be achieved, the case shall proceed immediately to trial.
- 7.4 Except upon permission of the Court, all witnesses must be present at the Courthouse and ready to testify no later than one hour after the beginning of voir dire in a jury case and no later than one-half hour after the beginning of trial in a non-jury case. If a witness is not available as required by this rule, and if the absence of such witness does not require a continuance, the Court, in its discretion, may require the use of a deposition in lieu of the witness, may submit the case to the jury without benefit of the witness's testimony or may make any other order which appears just to avoid delay of the trial.
- 7.5 When more than one jury is to be selected, counsel in all cases are urged to attend voir dire and to refrain from repeating questions already answered by members of the jury panel on voir dire of a previous case.
- 7.6 In all civil jury trial cases, anticipated special issues, definitions and instructions shall be submitted to the Court in writing seven (7) days prior to the beginning of the trial.
- 7.7 Counsel shall advise witnesses to speak distinctly and to answer questions audibly so as to be heard by the Court, jury and Court Reporter.
- 7.8 There shall be no argument by counsel in the presence of the jury relative to the Court's rulings on objections. Counsel wishing to argue shall first ask the Court if the jury might be retired and then present such arguments as the Court may permit.

Section VIII: Miscellaneous

- 8.1 Settlement Negotiations. The practice of delaying serious settlement negotiations until after announcement of ready is a major cause of waste of time and effort of counsel, litigants, witnesses and citizens called for jury service and greatly hinders the Court in the disposition of cases that must be tried. Consequently, all trial counsel are urged to make bona fide

efforts to settle cases before announcing ready for trial. In this connection, the Court will expect counsel, before announcing ready, to confer with his client and with opposing counsel concerning settlement and to recommend an offer which is in his professional opinion reasonable, unless in his professional opinion that case is not such as to justify any offer whatsoever, without respect to the amount of any offer made by any other party. Counsel will also be expected to advise his client concerning the provisions of this rule. Failure to comply with this rule will be grounds for the Court to postpone the trial and proceed with other cases on the calendar.

8.2 Withdrawal of Attorney. No attorney of record shall be permitted to withdraw from any case without presenting a motion, and obtaining from the Court an order granting leave to withdraw. Such motion shall be accompanied by the client's written consent to such withdrawal or a certificate by another lawyer that he has been employed to represent the client in the case, or a copy of such motion shall be mailed to the client at his last known address, with a letter advising that the motion will be presented to the Court on or after a certain hour, not less than five (5) days after mailing the letter, and that any objection to such withdrawal should be made to the Court in writing before such time and a copy of such letter shall be attached to such motion. A copy of such motion shall be mailed to opposing counsel. Such leave 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 letter by certified mail notifying him of the withdrawal, stating any settings for trial or otherwise and advising him to secure other counsel, and shall send a copy of such letter to opposing counsel and the Clerk of the Court.

8.3 Submission of Judgments.

- a. All orders, decrees and judgments shall be submitted to the Court by the responsible attorney for entry, within fifteen (15) days from the date of the announcement of the Court's decision, except temporary orders, which shall be submitted to the Court within four (4) days after submission. Upon failure to furnish the court with a final judgment order or decree disposing of the case within the fifteen (15) day period set forth above, the Court shall place the case on a dismissal docket, with notice to all attorneys, whereupon the case may be dismissed and costs may be taxed at the Court's discretion.
- b. If counsel is unable to secure all opposing counsel's approval as to form, counsel may:
 1. File a motion for entry of the proposed judgment, order or decree and secure a hearing for same, with notice to all opposing counsel pursuant to Rule 21A, Texas Rule of Civil Procedure. At a hearing,

the Court may assess costs and attorney's fees within the Court's discretion, or

2. Present the Court with the proposed judgment, decree or order, together with a letter requesting the Court to sign the same if the Court has not received a written objection from opposing counsel within ten (10) days from the date of the letter. Each party who submits a proposed judgment for signature shall serve the proposed judgment and a copy of the letter on all other parties who have appeared and remain in the case. If the Court receives a written objection from opposing counsel within the stated time, the proponent of the judgment, decree or order shall schedule a hearing for entry of the same pursuant to paragraph 1) above. If not written objection from opposing counsel is received by the Court, the Court shall sign the proposed judgment, decree or order.

8.4 Any willful failure by a party or attorney to comply with these rules shall subject such offending party or attorney to all sanctions provided for in these rules, the Texas Rules of Civil Procedure or by law, including contempt.

COURT PERSONNEL
266th Judicial District Court

Honorable Jason Cashon
District Judge

Ms. Candy Perry
Court Coordinator
districtcourt@co.erath.tx.us

Ms. K.C. DeBusk
Official Court Reporter

Mr. Robbie Rudder
Bailiff

Ms. Wanda Greer
District Clerk
districtclerk@co.erath.tx.us
Phone (254)-965-1486
Fax (254)-965-7156

Contact Information:

Donald R. Jones Justice Center
298 S. Graham
Stephenville, TX 76401
Phone (254) 965-1485
Fax (254) 965-4287
districtcourt@co.erath.tx.us

Erath County Website:

www.co.erath.tx.us

IN THE DISTRICT COURT §
266TH JUDICIAL DISTRICT §
ERATH COUNTY, TEXAS §

(Effective July 1, 2022)

- (1) The names, and addresses/telephone numbers where known, of all persons who are believed to have any knowledge of the facts giving rise to this prosecution, indicating which of said persons might be called by the State as witnesses at the trial of this cause. Such listing of anticipated witnesses should particularly include any persons who have been interviewed or arrested in conjunction with the investigation of the offense alleged in the indictment herein and all peace officers who participated in the investigation of such offense.
- (2) The criminal arrest and conviction records obtained by the District Attorney of the Defendant, the victim, if any, and of all witnesses who will testify for the State of Texas in this cause, with exception of any certified peace officers. Please note that copies of these criminal history printouts are furnished for use in the preparation of the defendant's case and may not be disseminated or published to any person for any other purpose.

(3) The nature of any agreement between the State or other governmental agency and any prospective witness in this cause which could in any manner affect the testimony, attitude or conduct of the witness, including particularly any agreement

not to prosecute the witness for criminal acts or to recommend a particular punishment in the disposition of a criminal case.

- (4) Notice of other crimes, wrongs or acts of the Defendant permitted by Rule 404(b) of the Texas Rules of Evidence that the State desires to use upon the trial of the case.
- (5) Notice as required by Article 37.07(3)(g) of the Texas Code of Criminal Procedure of any extraneous crime or bad act of the Defendant that has not resulted in a final conviction in a court of record or a probated or suspended sentence.
- (6) Notice of the intent to use certified copies.
- (7) All pretrial motions, including challenges to expert witnesses, must be filed in conformity with Article 28.01 of the Code of Criminal Procedure. The defendant may waive a pre-trial hearing upon the filing of a written instrument bearing the defendant's signature and that of his or her attorney.

This order shall be an ongoing one so that the District Attorney shall be required to make available to the Defendant's attorneys any new evidence coming into his possession or knowledge which is required to be produced under this order by placing it in his file for inspection by the attorney for the Defendant.

The purpose of this Order is to eliminate the necessity of pretrial hearings or the filing of pretrial motions relating to the matters covered hereby and does not in any way affect the right of the State, upon good cause shown, to file a motion seeking to modify this order in an appropriate case, or the right of the Defendant to file such other motions regarding pretrial discovery and/or production as necessary and advisable on matters not covered by this Order. It is the obligation of the defendant, counsel for the defendant and counsel for the State to avoid filing motions that duplicate, track or cover, directly or indirectly, any of the provisions of this order. Any such motions shall be overruled in their entirety without hearing.

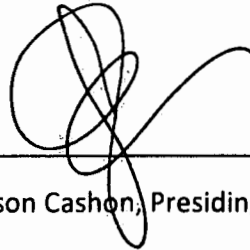
DEFENDANT AND COUNSEL FOR THE DEFENDANT SHOULD NOTE THAT THIS STANDARD DISCOVERY ORDER DOES NOT CHANGE OR AFFECT THE NECESSITY TO TIMELY FILE ON BEHALF OF THE DEFENDANT THE

- 1) ELECTION FOR JURY PUNISHMENT;
- 2) APPLICATION FOR PROBATION;
- 3) ANYTHING ELSE NOT SPECIFICALLY ADDRESSED BY THIS ORDER;
- 4) MOTION FOR INTERPRETER.

THE PROSECUTORS AND DEFENSE ATTORNEY ARE NOTIFIED AND CAUTIONED THAT IN THIS COURT THEY ARE EXPECTED TO OBSERVE THE TERMS OF THE TEXAS LAWYERS CREED.

The Order is effective July 1, 2022, and shall remain in full force and effect until altered, modified, or rescinded by the Court.

SIGNED this 1st day of July, 2022.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a long, sweeping horizontal stroke that extends to the right.

Jason Cashon, Presiding Judge

APPENDIX "B"

IN THE 266TH JUDICIAL DISTRICT COURT

OF ERATH COUNTY, TEXAS

ADMINISTRATIVE ORDER	§	PROCEDURES FOR DISSOLUTION
	§	OF MARRIAGE WHEN A CHILD IS
	§	BORN DURING MARRIAGE AND
	§	THE PARTIES AGREE THAT HUSBAND
	§	IS NOT THE BIOLOGICAL FATHER

A. Presumption of Paternity

The husband is presumed to be the father of the child if he is married to the mother of the child and the child is born or conceived during the marriage. **TEX. FAM. CODE ANN. §160.204(a)(1).**

A presumption of paternity may be rebutted only by: (1) an adjudication of parentage under Subchapter G, Chapter 160, Texas Family Code; or (2) the filing of a valid denial of paternity by a presumed father in conjunction with the filing by another person of a valid acknowledgement of paternity as provided by Section 160.305, Texas Family Code. **TEX. FAM. CODE ANN. §160.204(b).**

These procedures apply only if all parties agree that it would not be inequitable to disprove the father-child relationship between the presumed father and the child. If any party seeks to preserve the presumed father's relationship with the child, these procedures are not appropriate.

B. Rebuttal of Presumption by Valid Acknowledgment of Paternity and Denial of Paternity

1. The biological father of the child must execute a valid acknowledgement of paternity under Section 160.302, Texas Family Code.
2. The husband must execute a valid denial of paternity under Section 160.303, Texas Family Code.
3. An acknowledgement of paternity and a denial of paternity may be contained in a single document. **TEX. FAM. CODE ANN. §160.304(a).**
4. Only a certified entity may assist with the completion of an acknowledgment of paternity; birth registrars in hospitals with birthing facilities generally are *certified* to complete the forms, as are staff in the Office of Attorney General, Child Support Division. An attorney may qualify and obtain an entity code by completing the online certification program at: http://www.texas.org/aop/aop_train.asp.

5. The acknowledgement of paternity and the denial of paternity or the combined acknowledgement/denial of paternity must be filed with the bureau of vital statistics, and a certified copy of the filed acknowledgement of paternity and the denial of paternity or the combined acknowledgement/denial of paternity obtained from the bureau, prior to the date of the final hearing. **TEX. FAM. CODE ANN. §160.305.** Information about the requirements for filing the acknowledgement of paternity and the denial of paternity or the combined acknowledgement/denial of paternity and obtaining a certified copy of the form(s) may be obtained from the Bureau of Vital Statistics at 888-963-7111, ext. 3392. A certified copy of the acknowledgement of paternity and the denial of paternity or the combined acknowledgment/denial of paternity must be filed with the Court.
6. The decree of divorce must contain the following findings and order:
 - a. The Court finds that a valid acknowledgement of paternity has been filed and is effective pursuant to Subchapter D, Chapter 160, Texas Family Code.
 - b. The Court finds that a valid denial of paternity has been filed and is effective pursuant to Subchapter D, Chapter 160, Texas Family Code.
 - c. The Courts finds that **[name of husband]** is not the father of the child, **[name of child]**.IT IS ORDERED AND DECREED that **[name of husband]** is not, and he is adjudicated not to be, the father of the child, **[name of child]**, born on **[date]** to **[name of wife]**.
7. If the acknowledgment of paternity or the denial of paternity or the combined acknowledgment/denial of paternity does not conform to the Texas Family Code or cannot be obtained, a proceeding to adjudicate parentage under Subchapter G, Chapter 160, Texas Family Code must be joined with the divorce.

C. Rebuttal of Presumption by Proceeding to Adjudicate Parentage

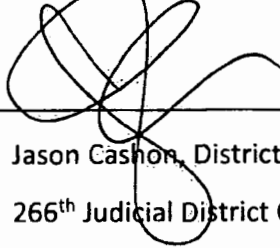
1. The alleged biological father must be made a party to the suit, subject to the provisions for personal jurisdiction under Section 160.604, Texas Family Code.
2. Note the time limitations on the right to file a proceeding to adjudicate parentage or to disprove the father-child relationship. See, **TEX. FAM. CODE ANN. §160.607.**
3. A proceeding to determine parentage commenced before the birth of the child may not be concluded until after the birth of the child. **TEX. FAM. CODE ANN. §160.611.**
4. Genetic testing under Subchapter F, Chapter 160, Texas Family Code must be conducted as to the child, the mother, the husband and the alleged biological father.
5. The report of the results of genetic testing must be filed with the Court. **TEX. FAM. CODE ANN. §160.504.**
6. If the report of the results of genetic testing identifies the alleged biological father as the father of the child, a decree of divorce, along with a motion and order for severance shall be prepared as provided herein. If the report excludes the alleged biological father as the father of the child, no further genetic testing will be permitted without a hearing and order of the Court.

7. The decree of divorce must contain the following finding and order:
- a. The Court finds that admissible results of genetic testing identify another man as the father of the child, **[name of child]**.

IT IS ORDERED AND DECREED that **[name of husband]** is not, and he is adjudicated not to be, the father of the child, **[name of child]**, born on **[date]** to **[name of wife]**.

8. On or before the date of the final hearing, the parties must present the Court with an agreed motion and order for severance of the suit affecting the parent-child relationship regarding the child not of the marriage and have deposited with the District Clerk all cost associated with the filing of the severed suit. The order for severance will be signed by the Court contemporaneously with the divorce decree.
9. The Court may refer, or the custodial parent may be ordered to refer, the severed suit affecting the parent-child relationship to the Office of the Attorney General, Child Support Division for further proceedings.

SIGNED AND SO ORDRED THIS THE 1st DAY OF JULY, 2022.



Jason Cashion, District Judge
266th Judicial District Court

APPENDIX "C"

IN THE 266TH JUDICIAL DISTRICT COURT OF ERATH COUNTY, TEXAS

ADMINISTRATIVE ORDER	§	STANDING ORDER REGARDING
	§	PROPERTY AND CONDUCT OF
	§	THE PARTIES IN DIVORCE
	§	CASES AND SUITS AFFECTING
	§	THE PARENT-CHILD
	§	RELATIONSHIP

THE DISTRICT COURT FOR ERATH COUNTY, TEXAS ADOPTS THIS STANDING ORDER REGARDING CHILDREN, PROPERTY, AND CONDUCT OF THE PARTIES. THIS ORDER IS BIDDING ON (1) THE PARTIES, (2) THE PARTIES' OFFICERS, AGENTS, SERVANTS, EMPLOYEES, AND ATTORNEYS, AND (3) ANY OTHER PERSON WHO ACTS IN CONCERT WITH THE PARTIES OR THEIR AGENTS AND WHO RECEIVES ACTUAL NOTICE OF THESE ORDERS AND IS ENFORCEABLE BY CONTEMPT OF COURT, INCLUDING A FINE OF UP TO \$500, CONFINEMENT IN THE COUNTY JAIL FOR SIX MONTHS, OR BOTH SUCH A FINE AND CONFINEMENT IN JAIL FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEE AND COURT COSTS.

No party to this lawsuit has requested this order. Rather, this order is a standing order of the 266th Judicial District Court that applies to every divorce suit and every suit affecting the parent-child relationship or modification thereof filed in the District Court of Erath County, except cases initiated by the Attorney General of Texas or Child Protective Services. The District Court has adopted this order because the parties and their children should be protected and their property preserved while the lawsuit is pending before the court. Therefore, it is ORDERED:

1. NO DISRUPTION OF CHILDREN. Both parties are ORDERED to refrain from doing the following acts concerning any children who are subjects of this cause:
 - 1.1 Removing the children from the State of Texas for the purpose of changing the children's domicile or residence, acting directly or in concert with others, without the written agreement of all parties or an order of this Court; provided, however, that this paragraph shall not prohibit or restrict a party from removing the children if an active prior court order gives that party the right to designate the children's primary residence outside the State of Texas or without regard to geographic location.
 - 1.2 Disrupting or withdrawing the children from school or day-care facility where the children are presently enrolled, without the written agreement of all parties or an order of this Court; provided, however, that this paragraph shall not prohibit

or restrict a party from so withdrawing the children from a school or day-care facility if that party is changing the children's domicile or residence within that party's rights pursuant to an active prior court order as described in Section 1.1 above.

- 1.3 Hiding or secreting the children from the other party or changing the children's current place of abode, without the written agreement of all parties or an order of this Court; provided, however, that this paragraph shall not prohibit or restrict a party from changing such place of abode if an active prior order gives that party the right to designate the children's primary residence without geographic restriction, or if the new place of abode lies within the geographic limits established by that active prior court order.
 - 1.4 Disturbing the peace of the children..
 - 1.5 Making disparaging remarks about each other or the other person's family members, to include but not be limited to the child's grandparents, aunts/uncles, or step-parents, in the presence or within the hearing of the child or children.
 - 1.6 Discussing with the children, or with any other person in the presence of the children, any litigation related to the children or the other party.
 - 1.7 If this is an original divorce action, allowing anyone with whom the party is romantically involved to remain overnight in the home while in possession of the children. Overnight is defined as from 10:00 p.m. to 7:00 a.m.
2. CONDUCT OF THE PARTIES DURING THE CASE. Both parties are ORDERED to refrain from doing the following acts:
- 2.1 Using vulgar, profane, obscene, or indecent language, or a course or offensive manner, to communicate with the other party, whether in person, by telephone or in writing, including texting and e-mail or other electronic communications.
 - 2.2 Committing any violation of any Penal Offense of the State of Texas directed at any party or child.
 - 2.2 Opening or diverting mail addressed to the other party.
3. PRESERVATION OF PROPERTY AND USE OF FUNDS DURING DIVORCE CASE. If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:

- 3.1 Destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of one or both of the parties.
- 3.2 Misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount or location of any property of one or both of the parties.
- 3.3 Damaging or destroying the tangible property of one or both of the parties, including any document that represents or embodies anything of value.
- 3.4 Tampering with the tangible property of one or both of the parties, including any document that represents or embodies anything of value, and causing pecuniary loss to the other party.
- 3.5 Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of either party, whether personal property or real estate property, and whether separate or community, except as specifically authorized by this order.
- 3.6 Incurring any indebtedness, other than legal expenses in connection with this suit, except as specifically authorized by this order.
- 3.7 Making withdrawals from any checking or savings account in any financial institution for any purpose, except as specifically authorized by this order.
- 3.8 Spending any sum of cash in either party's possession or subject to either party's control for any purpose, except as specifically authorized by this order.
- 3.9 Withdrawing or borrowing in any manner for any purpose from any retirement, profit-sharing, pension, death or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account, except as specifically authorized by this order.
- 3.10 Signing or endorsing the other party's name on any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividends, or attempting to negotiate any negotiable instrument payable to the other party without the personal signature of the other party.
- 3.11 Taking any action to terminate or limit credit or charge cards in which the other party is named as primary or secondary holder.
- 3.12 Entering, operating, or exercising control over the motor vehicle(s) in the possession of the other party.

- 3.13 Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual services, such as security, pest control, landscaping or yard maintenance, at the other party's residence or in any manner attempting to withdraw any deposits for service in connection with such services.
- 3.14 Discontinuing or altering the withholding for federal income taxes on wage or salary while this suit is pending.
- 3.15 Intercepting or recording the other party's electronic communications.
- 3.16 Taking any action to obtain credit in the name of the other party.
- 4. PERSONAL AND BUSINESS RECORDS IN DIVORCE CASE. If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:
 - 4.1 Concealing or destroying any family records, property records, financial records, business records or any records of income, debts, or other obligations.
 - 4.2 Falsifying any writing or record relating to the property of either party.
 - 4.3 "Records" including e-mail or other digital or electronic data, whether stored on a computer hard drive, diskette or other electronic storage device.
- 5. INSURANCE IN A DIVORCE CASE. If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:
 - 5.1 Withdrawing or borrowing in any manner all or any part of the cash surrender value of life insurance policies on the life of either party, except as specifically authorized by this order.
 - 5.2 Changing or in any manner altering the beneficiary designation on any life insurance on the life of either party or the parties' children.
 - 5.3 Cancelling, altering, or in any manner affecting any casualty, automobile, or health insurance policies insuring the parties' property or persons including the parties' minor children.
- 6. SPECIFIC AUTHORIZATIONS IN A DIVORCE CASE. If this is a divorce case, both parties to the marriage are specifically authorized to do the following:
 - 6.1 To engage in acts reasonable and necessary to the conduct of that party's usual

business and occupation. To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit.

6.2 To make expenditures and incur indebtedness for reasonable and necessary living expenses for food, clothing, shelter, transportation and medical care.

6.3 To make withdrawals from accounts in financial institutions only for the purposes authorized by this order.

7. SERVICE AND APPLICATION OF THIS ORDER.

7.1 The petitioner shall attach a copy of this order to the original petition and to each copy of the petition at the time the petition is filed. If the Petitioner has failed to attach a copy of this order to the petition and any copy of the petition, the Clerk shall ensure that a copy of this order is attached to the petition and every copy of the petition presented. **The Petitioner shall certify in writing that he/she has received and reviewed the entire contents of this Order upon filing of an original petition, suit affecting the parent-child relationship, or modification.**

7.2 This order is effective upon the filing of the original petition and shall remain in full force and effect as a temporary restraining order for fourteen days after the date of the filing of the original petition. **If no party contests this order by presenting evidence at a hearing on or before fourteen days after the date of the filing of the original petition, this order shall continue in full force and effect as a temporary mutual injunction until further order of the Court.**

This entire order will terminate and will no longer be effective once the court signs a final order.

8. EFFECT OF OTHER COURT ORDERS. If any part of this order is different from any part of a protective order that has already been entered or is later entered, the protective order provisions prevail. Any part of this order not changed by some later order remains in full force and effect until the court signs a final decree.

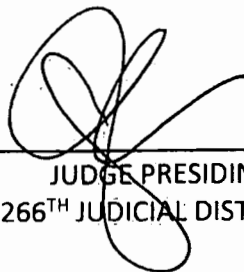
9. **PARTIES MUST CONFERENCE.** Prior to any hearing for Temporary Orders the parties and attorneys shall certify to the Court in writing that they have conferenced and negotiated in good faith for at least one (1) hour in an effort to resolve all issues regarding Temporary Orders. A Certificate of Conference establishing that this requirement has been met, must be on file prior to any hearing for Temporary Orders.

10. **PARTIES ENCOURAGED TO MEDIATE.** The parties are encouraged to settle their disputes amicably without court intervention. The parties are encouraged to use

alternative dispute resolution methods, such as mediation, to resolve the conflicts that may arise in this lawsuit, and the Court reserves the right to order any matter to mediation prior to setting or conducting a hearing.

11. OTHER REQUESTS FOR ORDERS. Motions or applications for relief that duplicate, track, or cover, directly or indirectly, any of the provisions of this order will be denied in their entirety without a hearing.
12. PROCEDURE BEFORE A FINAL TRIAL ON THE MERITS. **(Contested and Default hearings).** Before the final trial on the merits in any divorce suit, suit affecting the parent-child relationship, or suit to modify an order affecting the parent-child relationship, each party shall prepare and deliver forms as follows:
 - 12.1 In a divorce suit, each party shall confer, prepare and cause to be delivered at least ten (10) days prior to trial, a **Composite Inventory** in the form approved by the Court and fully setting out all agreed and disputed matters.
 - 12.2 In any suit requiring a contested determination of child support or spousal maintenance, each party shall prepare and deliver prior to trial, a **Proposed Support Decision** as a trial aid or requested ruling.
 - 12.3 In any suit requiring a contested determination of conservatorship, or possession and access to a child, each party shall prepare and deliver prior to trial, a **Proposed Parenting Plan** as a trial aid or requested ruling.
 - 12.4 In any suit subject to Section 12, each party shall also prepare and deliver prior to trial, a **Proposed Disposition of Other Issues** as a trial aid or requested ruling.
13. BOND WAIVED. It is ordered that requirement of a bond is waived.

THIS 266TH JUDICIAL DISTRICT COURT STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES SHALL BECOME EFFECTIVE ON THE 1ST DAY OF JULY, 2022.



JUDGE PRESIDING
266TH JUDICIAL DISTRICT

APPENDIX "FORM D"

Ms. Candy Perry
Court Coordinator
298 S. Graham
Stephenville, TX 76401

RE: Cause No. _____; Style of Case, in the District Court of Erath County, Texas

Please set the above styled and numbered cause for (trial/hearing – please designate what type of hearing) on the (jury / non-jury contested, non-jury uncontested) docket for the first available date.

This request for setting is made in good faith in the belief that (the party requesting the setting) will be ready for (trial / hearing) at the time requested. All of the (the party requesting the setting) pleadings are now in order or will be at least seven (7) days prior to the (trial / hearing) date.

There (are / are no) special exceptions (or other pre-trial matters) which should be presented to the Court in advance of trial.

All necessary ad litem appointments have been made.

All other attorneys (and / or pro se parties) in this case on this date are being mailed a copy of this request for setting.

Service was perfected on the Defendant / Respondent on _____, _____.

(If applicable) A jury fee was paid by the (Plaintiff / Defendant) on _____, _____.

Sincerely,

cc: District Clerk
Erath County, Texas

Opposing Counsel(s) (Please list names and addresses of those notified.)