

LOCAL RULES OF PRACTICE
38TH JUDICIAL DISTRICT COURT
REAL AND UVALDE COUNTIES

TITLE 1. RULES GOVERNING ALL PROCEEDINGS

RULE 1.1 CONDUCT AND COURTROOM DECORUM

A. Policy

Judges and attorneys have a duty to uphold the highest standards of conduct and to earn and promote public respect for the judiciary, the legal profession and the American system of justice.

B. The Texas Lawyer's Creed

The Standards of Professional Conduct in Section IV of the Texas Lawyer's Creed, as promulgated by the Texas Supreme Court and the Texas Court of Criminal Appeals are adopted and incorporated herein by reference as guidelines for participating in litigation in the 38th Judicial District Court.

C. Conduct Required of Counsel

1. Counsel shall timely appear before the court at each setting and following each recess.
2. Counsel shall be appropriately attired for all court proceedings in conservative business attire. Blue Jeans, resort wear, sportswear, jumpsuits and similar clothing are not considered appropriate courtroom attire.
3. Counsel shall rise while addressing the Court.

4. Counsel shall address all statements, requests and objections to the Court and not to opposing counsel.
5. Counsel shall not argue objections in the presence of the jury without prior leave of court.
6. Counsel shall not interrupt or talk over opposing counsel, except to state formal objections.
7. Counsel shall remain behind counsel table while examining witnesses unless given prior leave of court.
8. Counsel shall neither make nor insinuate derogatory or insulting remarks about opposing counsel.
9. Counsel shall address the Court as "Your Honor" or "Judge" and except with leave of court, shall refer to all counsel, parties and witnesses (except children) by their surnames, using such titles as Mr., Mrs., Miss, Dr., etc., as appropriate, and not by first names or nicknames, or any discriminatory or inappropriate classification.
10. Counsel shall request leave of court before approaching the bench or to approach the witness when necessary to work with documentary or tangible evidence.
11. Counsel shall not lean on the bench except as may be necessary to prevent jurors from overhearing bench conferences. Counsel shall not engage in personal discussions with the Court or each other during trial while in the presence of jurors, parties, or witnesses.
12. Counsel shall advise counsel's clients, witnesses and others subject to counsel's control of these rules of conduct and courtroom decorum.

D. Conduct Required of All Persons

All persons in the courtroom during trials and other proceedings shall be attentive to the proceedings and shall refrain from any action which may disrupt the proceedings. Therefore, all persons shall comply with the following:

1. Order shall be maintained at all times. Violation of this or any rule can result in a reprimand by the Judge, expulsion from the courtroom or contempt of court, which could result in a **fine and/or 3 days in jail**.
2. At the discretion of the Bailiff, any persons entering the courts may be subject to a pat search at any time and inspection of any items carried into the courtroom.
3. All persons shall be appropriately attired for court proceedings and in a manner reasonably befitting the dignity and solemnity of court proceedings. Tank tops, T-shirts that are tattered or soiled or which contain lewd or inappropriate language or which encourage or suggest a particular outcome in a proceeding before the court, shorts and clothing that is tattered or soiled are among those items not considered appropriate courtroom attire. No hats, caps or sunglasses shall be worn in the courtroom. **The following is inappropriate attire:** Baggy-Saggy pants/pajama top or bottoms, flip flop shoes, hats/caps, mini-skirts, provocative clothing designed or worn to provoke emotion or disruption, shirts with violent or offensive logos, pictures or writings, shorts/cut-offs, spandex or see through clothing, sunglasses, halter tops, spaghetti straps, t-shirts, tank tops or tube tops.
4. For your safety, weapons of any type (guns, chemical spray, knives, etc...) are **not permitted** in the courtroom unless you are a member of law enforcement and are engaged in the discharge of your duties. Having a concealed handgun permit is **not** an exception to this rule.

5. No tobacco use in any form is permitted.
6. No bottles, beverage containers, paper cups or edibles are allowed in the courtroom, except as permitted by the Court.
7. No gum chewing is permitted.
8. No reading of newspapers, books, or magazines is permitted without leave of court.
9. No propping of feet on tables or chairs is permitted.
10. No talking or unnecessary noise is permitted which interferes with the court proceeding.
11. No person may, by facial expression, shaking or nodding of the head, or by any other conduct, express approval or disapproval of any testimony, statement or transaction in the courtroom.
12. All persons shall rise when the judge enters the courtroom, and at such other times as the bailiff shall instruct.
13. No person shall bring packages, suitcases, boxes, duffel bags, shopping bags or containers into the courtroom without the prior approval of the bailiff.
14. No person shall be permitted any verbal or physical contact with a prisoner without the prior approval of the bailiff.
15. No person shall bring radios, tape recorders, computers, cameras, cellular telephones, I Pads, tablets, pagers or other electronic devices into the courtroom unless the device is required for the court proceeding and prior approval has been given by the bailiff or the Court. Failure to abide by this rule will result in confiscation of the device until the court proceedings are over. Counsel may bring cellular telephones or

computers into the courtroom as long as the devices are on silent or are turned off.

16.No visual or audio recording of court proceedings may be made by anyone other than the official court reporter or official court recorder.

E. Enforcement

The bailiff of the court shall enforce the rules of conduct and courtroom decorum.

RULE 1.2 REQUESTS FOR CONTINUANCE OR POSTPONEMENT

A. Consent or Notice Required

No request for a continuance, to pass, postpone or reset any trial, pretrial, or other hearing shall be granted unless counsel for all parties consent, or unless all parties not joining in such request have been notified and have had an opportunity to object.

B. Contents of Motion

Unless counsel for all parties consent in writing to the request for a continuance and the same is approved by the Court, a motion must be filed pursuant to Rule 251, et seq. of the Texas Rules of Civil Procedure, as amended, or Article 29.01, Texas Code of Criminal Procedure, as applicable, and the motion must be accompanied by an order setting the motion for a hearing. Any motion that does not meet these requirements will be denied without prejudice to the right to refile.

RULE 1.3 CONFLICT IN TRIAL SETTINGS

A. Duty of Counsel to Notify Court

Whenever an attorney has two or more cases on trial dockets for trial at the same time, it shall be the duty of the attorney to bring the matter to the attention of the courts concerned immediately upon learning of the conflicting settings.

B. Priority of Cases In Event of Conflict

Insofar as practicable, the affected courts shall attempt to agree upon which case shall have priority. Absent such agreement, conflicting trial settings shall be resolved in the priority set forth in the 6th Judicial Regional Rules, Rule 10:

1. Criminal cases
2. Cases given statutory preference
3. Preferentially set cases, other than those given statutory preference
4. The earliest set case
5. Case with earliest filing date

TITLE 2. RULES GOVERNING ALL CIVIL PROCEEDINGS

RULE 2.1 APPLICATION FOR EX PARTE ORDERS

Counsel presenting any application for an ex parte order shall, at the time the application is presented to the Court, certify in writing that:

- A. To the best of counsel's knowledge, the party against whom the relief is sought is not represented by counsel; or
- B. If the party against whom the relief is sought is represented by counsel, that (i) such counsel has been notified of the application

and does not wish to be heard by the Court thereon; or (ii) counsel presenting the application has diligently attempted to notify opposing counsel, has been unable to do so, and the circumstances do not permit additional efforts to give such notice.

RULE 2.2 PRETRIAL AND TRIAL SETTINGS

1. When setting or resetting a case for trial, pre-trial hearing, etc., please contact the District Court Coordinator at the Uvalde County Office for available dates, or you may view the District Court's calendar online at www.texas38th.com .
 - A. Submit an Order Setting to the Court, with a Request for Setting when obtaining a trial date, or a letter when obtaining a pre-trial date, stating the date the parties have agreed to.
 - B. At the bottom of all Orders Setting, please list all the parties; and, if the parties are represented by counsel, please list the attorney's name, address, email address and fax number. If they are pro-se litigants, please give their address and email address. Do not put, "...a copy has been sent to all opposing counsel".
 - C. If you cannot obtain a date that is agreeable to all counsel, send your Order Setting with a letter stating the dates that were given to opposing counsel and their reasons for not agreeing.
 - D. **Always advise the Court in your request or cover letter than you have contacted the opposing counsel and that they are available for hearing on the date you have requested.**
 - E. When setting or resetting a case for trial, pre-trial, etc., please advise the Court Coordinator as to the estimated time you will need for the hearing.
 - F. If, for any reason, you have to cancel a hearing, or if you are running late to a scheduled hearing, please contact the Court Coordinator as soon as possible.



G. If you are the party setting the case, it is your responsibility to circulate the signed order setting to all parties once the order containing the judge's signature is returned to you via efile. Efile will not send a signed copy of any order to any party other than the party requesting the setting.

2. Hearings conducted by Zoom video conference are acceptable and encouraged by the Court. To request a hearing in the District Court through Zoom video conference, please contact the District Court Coordinator. All parties must agree as to the hearing date and time and that the hearing be conducted via Zoom video conference.
3. Any attorney practicing in the 38th Judicial District Court will, at the time a case is being set for trial, advise the Court as to any scheduled vacation dates. Should an attorney file a notice of vacation after the date a case has been set for trial or pre-trial matters, it is the responsibility of that attorney to file a motion for continuance seeking leave of court to reschedule said setting.
4. Any attorney practicing in the 38th Judicial District Court, if practicable, shall have access to a fax machine, email and answering machine/cell phone with voice mail activated that will be operative 24 hours a day, seven days a week. Said numbers and email address shall be provided to the Courts, the Clerks of Court, and all opposing counsel. All communications between the Courts and attorneys sent via fax to the numbers provided, or via email via the addresses provided, shall be deemed received. This does not include filing documents with the District Clerk, unless the District Clerk has implemented an Electronic Filing Plan.
5. Copies of court dockets will be posted on the Court's calendar prior to court settings. Counsel must provide his/her e-mail address and contact information to the Court Coordinator.

6. In the District Court, at any time after a case is filed, and all parties have been served, whether or not it has been classified as a complex case, a docket control conference will be scheduled, upon the Court's motion or upon request by any party.
 - A. At any time such conference is scheduled, the Court shall notify all attorneys of record of the date and hour at which the attorneys are to appear.
 - B. Upon Court approval, the docket control conference may be held by Zoom video conference. To request a hearing through Zoom video conference, please contact the Court Coordinator. All parties must agree as to the hearing date and time.
 - C. If counsel does not wish to have a hearing for entry of a docket control order, counsel may submit a completed docket control order to the Court, signed by all parties, prior to the setting date for the scheduled docket control conference. A copy of the approved docket control order may be found at www.texas38th.com or at the Texas Judicial Branch website: <https://www.txcourts.gov/rules-forms-local-rules-forms-and-standing-orders/>.
 - D. If you are the party submitting the DCO for the Court's signature, it is your responsibility to circulate the signed DCO to all parties once the order containing the judge's signature is returned to you via efile. Efile will not send a signed copy of any order to any party other than the party requesting the court's signature/approval.**

RULE 2.3 WITHDRAWAL OF COUNSEL

1. Withdrawal

Withdrawal of counsel shall be governed by Rule 10 of the Texas Rules of Civil Procedure, and the following rules.

2. Notice to Client

If another attorney is not to be substituted as attorney for the party or if the party does not consent to the motion to withdraw and indicate same by signing the proposed order granting the withdrawal, the withdrawing attorney shall notify the client in writing that the Court will be requested to sign an order granting the withdrawal and set same for hearing. Notice shall be sent by certified mail, return receipt requested or by any other means set forth in the Texas Rules of Civil Procedure.

3. No Delay of Trial

Unless allowed in the discretion of the Court, no motion to withdraw shall be granted that is presented within thirty (30) days of the trial date or at such time as to require a delay of trial.

RULE 2.4 ALTERNATIVE DISPUTE RESOLUTION

A. Policy

It is the policy of the 38th Judicial District Court to encourage the peaceable resolution of disputes and early settlement of pending litigation, including family law litigation, by referral to alternative dispute resolution (ADR) pursuant to the Texas Alternative Dispute Resolution Procedures Act, Texas Civil Practice and Remedies Code, Chapter 154.

B. ADR Mandatory

No trial on the merits shall be conducted in any case until all contested issues have been referred to an ADR procedure, and ADR has been unsuccessful; or the Court has determined that ADR is inappropriate for the case.

C. Manner of Referral

It is anticipated that the parties shall cooperate in referring such issues to an ADR procedure under terms and conditions as are mutually agreeable, without the need for court intervention. If the parties are unable to

cooperate or agree to a referral of such issues to an ADR procedure, then upon written notification to the Court by one of the parties that efforts to coordinate a referral have been unsuccessful, the Court, without a hearing, shall enter an order of referral to an ADR procedure, and under such terms and conditions selected by the Court.

D. Objection to Referral

If the Court enters an order of referral to an ADR procedure, any party may object to such referral pursuant to Texas Civil Practice and Remedies Code, Chapter 154. Upon the filing of an objection, the Court shall schedule a hearing. If the Court finds that there is a reasonable basis for the objection, the Court may, in its discretion, order that the case not be referred to an ADR procedure and order the case to proceed to trial on the merits.

RULE 2.5 DISMISSAL FOR WANT OF PROSECUTION

A. Procedure

The Court, on its own motion, may dismiss a case for want of prosecution. The procedure provided in Rule 165a of the Texas Rules of Civil Procedure, as amended, shall apply.

B. Reasons For Dismissal

A case may be dismissed for want of prosecution for any of the following reasons:

1. Failure of a party seeking affirmative relief to take appropriate action when the case has been pending without action for six months.
2. Failure of counsel for a party seeking affirmative relief to appear for a pretrial or preliminary hearing, particularly if there has been a previous failure to appear.
3. Failure of a party seeking affirmative relief to make an announcement as scheduled when the case has been set for trial.

RULE 2.6 ORDERS AND DECREES

A. Reduction to Writing Within Sixty (60) Days

Within sixty (60) days after rendition, announcement of the Court's ruling or announcement of settlement by counsel, counsel shall cause all judgments, decrees or orders of any kind to be reduced to writing, forwarded to opposing counsel for approval as to form, and delivered to the Court for signing.

B. Dismissal if Written Order Not Furnished

Upon failure to furnish the Court with a judgment, order or decree disposing of the case within the sixty (60) day period, the Court shall place the case on the next regularly scheduled dismissal docket, whereupon the case may be dismissed and costs may be taxed at the Court's discretion.

C. Procedure for Entry of Order

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 the same, with notice to all opposing counsel pursuant to Rule 21a, Texas Rules 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,

in accordance with Rule 21a, Texas Rules of Civil Procedure. 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 subdivision 1 of this rule.

3. **If you are the party submitting the proposed judgment, decree or order via efile, it is your responsibility to circulate the judgment, decree or order containing the court's signature to all parties once it is returned to you via efile. Efile will not send a signed copy of any judgment, decree or order to any party other than the party submitting same for signature by the court.**

TITLE 3. RULES GOVERNING CRIMINAL PROCEEDINGS

RULE 3.1 COURT APPOINTED COUNSEL FOR INDIGENT DEFENDANTS

All individuals charged with a felony offense who wish to apply for court appointed counsel must contact the office of the Indigent Defense Coordinator for the 38th Judicial District at 830-278-3913. That office will assist any defendant charged with a felony offense in filling out the necessary paperwork to determine indigency and to appoint counsel to all applicants who qualify.

RULE 3.2 DISTRICT COURT-ARRAIGNMENT

After indictment, all defendants, their attorneys and bondpersons will be notified and are required to personally appear for the defendant's formal arraignment. A waiver of arraignment will be allowed upon filing notice of same.

RULE 3.3 DISTRICT COURT-SCHEDULING OF PLEAS

- A. All felony plea forms may be obtained from the District Attorney's office. All forms are to be filled out and sworn to before the District Clerk prior to setting a case for a plea hearing. All counsel and

defendants are to be present at docket call hearings and are to have conferred with the District Attorney prior to said scheduled hearing.

- B. **It is the responsibility of defense counsel to advise the court of the need for a court interpreter, by notifying the Court Coordinator, prior to any scheduled plea hearing.**

RULE 3.4 DUTIES OF COURT APPOINTED AND RETAINED COUNSEL

All criminal defense counsel shall be required to do the following:

- A. Appear promptly at all times required by the Court.
- B. It shall be counsel's continuing duty to visit an incarcerated defendant regularly until the defendant's case is concluded. Counsel's continuing duty to visit the defendant in jail is not satisfied simply by accepting collect telephone calls from an incarcerated defendant. Counsel should be able to assure the trial court that counsel has devoted sufficient time to visit an incarcerated defendant should a dispute arise concerning counsel's fulfillment of this duty. **Should counsel wish to contact his/her counsel via remote video conference at the Uvalde County Jail, counsel may contact the Indigent Defense Coordinator at 830-278-3913 to obtain the digital application and procedures in order to do so.**
- C. Ensure that an incarcerated defendant is provided with appropriate attire for a jury trial. This provision shall not be construed to permit court appointed counsel to purchase clothing for a defendant without first seeking approval of the Court.
- D. All court appointed counsel must comply with all requirements set forth in the Indigent Defense Plan for Uvalde and Real counties regarding court-appointed counsel. A complete copy of said plan may be found at www.texas38th.com.
- E. Comply with the 38th Judicial District Criminal Standing Order which may be found at www.texas38th.com under the District Court tab.

- F. If counsel wishes to be sent electronically transmitted copies of court dockets prior to court settings, counsel must provide his/her e-mail address and contact information to the appropriate Court Coordinator.

RULE 3.5 WITHDRAWAL OF RETAINED COUNSEL

Absent good cause shown, retained defense counsel in criminal proceedings shall not be permitted to withdraw from representation of a defendant unless the defendant has employed other defense counsel, and provided that the substitution of counsel does not interfere with the orderly disposition of the criminal proceeding.

TITLE 4. RULES GOVERNING FAMILY LAW PROCEEDINGS

(other than those proceedings which are initiated by the Texas Attorney General or the Texas Department of Protective and Regulatory Services)

RULE 4.1 TEMPORARY HEARINGS

A. Scheduling

All temporary hearings shall be set on a date and at a time scheduled by the Court. At the time set for the temporary hearing, counsel shall make an announcement of the estimate of time required to present the case.

B. Notice Required When Responding Party Seeking Affirmative Relief

An application to the Court for a temporary order and notice of any hearing thereon which is presented by a party responding to an application for temporary orders in which that party is seeking affirmative relief shall be served on the adverse party in accordance with Rule 5 and Rule 21a of the Texas Rules of Civil Procedure, as amended.

C. Standing Order Regarding Property and Conduct of Parties in Divorce

The Standing Order Regarding Property and Conduct of Parties in Divorce and Suits Affecting the Parent-Child Relationship and the Children's Bill of Rights attached hereto are to be attached by counsel to the original citation in all suits of divorce and suits affecting the parent-child relationship. The Orders will remain in effect throughout the pendency of a suit unless specifically modified or set aside by the Court.

D. Time Limits

In all matters in which **managing conservatorship is in issue**, the parties shall be granted not more than three (3) hours to present the case, which time shall be equally divided. In all other temporary matters, including a modification of a temporary order, the parties shall be granted not more than one (1) hour to present the case, which time shall be equally divided. Counsel should request a special setting at the time the application for temporary relief is presented to the Court for scheduling when, because of unusual circumstances, the time limits are unworkable or inappropriate, or, if the case would require more than one (1) hour to present. The Court shall determine the amount of time that shall be allotted for the hearing.

E. Order of Cases

All cases in which counsel announce a settlement shall be heard first. All other cases shall be docketed according to counsel's announcement, with those matters requiring the least amount of time to be heard first.

F. Documents Required

In all cases in which temporary support of a spouse and/or the child is in issue, each party shall be required to furnish all payroll statements, pay stubs, W2 forms and 1099 forms which evidence that party's earnings for the calendar year prior to the temporary hearing, a statement of monthly income and expenses, and copies of that party's federal income tax returns for the two calendar years prior to the temporary hearing.

All parties are required to comply with Tex. R. Civ. Proc. 194.2(c) Initial Disclosures in Certain Suits under the Family Code.

RULE 4.2 PARENT EDUCATION AND FAMILY STABILIZATION COURSE

A. Course Mandatory

All parties in a suit affecting the parent-child relationship, including an action to modify an order in a suit affecting the parent-child relationship, in which the issue of conservatorship is contested, shall attend and complete a parent education and family stabilization course approved by the court in which the suit is pending. Except as provided herein, the provisions governing a parent education and family stabilization course in Sec. 105.009, Texas Family Code, as amended, shall apply.

B. Waiver of Course

For good cause shown, after notice and hearing, the court may waive the requirement of a course. If a party claims an inability to afford to take a course, and the court finds the claim is meritorious, the court may order that party to attend and complete a course that is offered on a sliding scale fee or without charge, if a course of that type is available.

C. Deadline for Completion

Each party shall complete the course prior to a final hearing on the merits of the case.

D. Verification of Attendance

Each party completing the course shall file a certificate of completion with the court within thirty (30) days of completion of the course, or at the time of that party's next court appearance, whichever is sooner.

E. Sanctions

If a party fails to attend and complete the course, the court may make such orders with regard to the failure as are just, including holding the party in contempt of court, striking pleadings, or invoking any sanction provided by Rule 215, Texas Rules of Civil Procedure, as amended.

RULE 4.3 FINAL HEARINGS

- A. In all cases to be tried to the bench, the attorneys are required to submit a proposed property division to the court on the date of trial.
- B. In all contested cases where the value of assets in dispute exceeds \$250,000, the following documents are required:
 - 1. Each party shall file, not less than thirty (30) days prior to trial, a sworn inventory and appraisal of all the separate and community property owned or claimed by the parties and all debts and liabilities owed by the parties.
 - 2. After each party's sworn inventory and appraisal has been filed, the parties shall file a composite inventory and appraisal. The Petitioner shall initiate the composite inventory and forward it to the Respondent for completion not less than fourteen (14) days prior to trial. The Respondent shall complete and file the composite inventory with the Court and serve a copy of the same on the Petitioner not less than (7) days prior to trial. A sample form for Composite Inventory is attached to these rules.
 - 3. If a party of the parties fail to prepare and/or file the initial inventory or the composite inventory as requested, the court may conduct a pretrial hearing and make such orders with regard to the failure as are just, including but not limited to, sanctions pursuant to Rule 215(2)(b) of the Texas Rules of Civil Procedure, as amended.

TITLE 5. (Reserved for Expansion)

TITLE 6. MISCELLANEOUS

RULE 6.1 AUTHORITY FOR RULES

These rules are adopted pursuant to the Texas Government Code, Section 75.011 and Rule 3a of the Texas Rules of Civil Procedure, as amended and the constitutional, statutory and inherent powers of the courts to regulate proceedings before them and to provide for the orderly and efficient dispatch of litigation.

RULE 6.2 TITLE AND CITATION

These rules shall be known as the ***Local Rules of Practice of the 38TH Judicial District Court of Real and Uvalde Counties.***

RULE 6.3 PARTIAL CIVIL INVALIDITY

In the event any of the foregoing rules or any part thereof is held to be invalid for any reasons, such invalidity shall not affect the validity of the remaining rules and parts of rules, all of which have been separately numbered and adopted.

RULE 6.4 TERMS

The terms *counsel*, *lawyer* and *attorney of record* as used in these rules shall apply to an individual litigant in the event a party appears *pro se*.

RULE 6.5 CONSTRUCTION OF RULES

Unless otherwise expressly provided, the past, present or future tense shall each include the other; the masculine, feminine or neuter gender shall each include the other; and the singular and plural shall each include the other.

RULE 6.6 APPLICATION OF RULES

These rules supersede any prior local rules of practice.

Adopted effective January L, 2025. SIGNED AND ORDERED FILED in the Minutes of the Court in each County of the District.

A handwritten signature in black ink, appearing to read "Kelley T. Kimble". The signature is written in a cursive, flowing style.

Kelley T. Kimble, Presiding Judge
38th Judicial District