

Adopted on March 9, 1979

FIFTH ADMINISTRATIVE JUDICIAL REGION

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RULES OF THE FIFTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS

Editor's Note: This is the most recent set of rules received by the publisher. The Fifth Administrative Judicial Region is currently in the process of revising and updating their rules.

BE IT KNOWN that at a Meeting of the Council of Judges of the Fifth Administrative Judicial District held on the 9th day of March, 1979, at Laredo, Texas, the following Rules were adopted pursuant to the provisions of Article 200a of the Revised Civil Statutes of the State of Texas, as amended, and were ordered filed with the Supreme Court of Texas as required by Rule 817, Texas Rules of Civil Procedure.

RULE 1. COUNCIL OF JUDGES

a. The Council of Judges of this Administrative Judicial District is composed of the Presiding Judge of the Administrative Judicial District, the judges of the district courts within the district, and the retired district judges residing in the district. (Source: Art. 200a, Sec. 4)

b. The Presiding Judge of the Administrative Judicial District is the Chairman of the Council of Judges. (Source: Art. 200a, Sec. 4)

c. The Chairman shall call and preside over at least one meeting each year of the Council of Judges.

(1) For consultation and counsel as to the state of business, civil and criminal, in the several district courts of the Administrative District; and

(2) To arrange for the disposition of the business pending on the dockets of the several district courts of the District.

He may call such additional meetings as he deems necessary for the effective administration of justice within the District. (Source: Art. 200a, Sec. 4)

d. (1) The Presiding Judge shall lay before each meeting of the Council a list of all cases pending, and the exact status of the various dockets, together with such other information as may be required by the rules and regulations of the council. (Source: Art. 200a, Sec. 4)

(2) Each judge shall provide a list with respect to each county in his district showing the number of civil cases pending on the docket of each county for more than two years and the number of criminal cases pending in each county for more than 120 days.

RULE 2. ASSIGNMENT OF JUDGES

a. Judges may be assigned in the manner provided by sections (b) and (c) of this Rule:

(1) For the purpose of holding court when the regular judge is absent, disabled or disqualified;

(2) For the disposition of judicial business in instances where the regular judge remains present and trying cases;

(3) When the office of the regular judge is vacant (Source: Art. 200a, Sec. 5); or

(4) When otherwise authorized by law.

b. The Presiding Judge of the Administrative District may assign active, retired or former district judges (meeting the qualifications of Art. 200a, Sec. 5, 5a, 5b) residing in the Administrative District to any district court within the Administrative Judicial District or to a court in another Administrative District upon call of the Presiding Judge of that Administrative District. (Source: Art. 200a, Sec. 5, 5a, 5b)

c. (1) In election contests or suits to remove a local official, The Presiding Judge of the Administrative Judicial District shall assign a judge of the Administrative District, who is not a resident of the county in which the contested election was held or the local official holds office, to hear and dispose of such suit. (Source: Art. 200a, Sec. 6)

(2) Upon the filing of any motion to recuse a district judge from a matter pending before his court, the Presiding Judge shall assign another judge of the Administrative District to hear and determine the motion. (Source: Art. 200a, Sec. 6)

(3) In a case filed to revoke the certification of the official court reporter or deputy court reporter of the court, the Presiding Judge shall assign a judge of another court or a retired judge to hear and determine the matter. (Source: Art. 232b, Sec. 13a)

d. If a sitting district judge is recused under the provisions of Rule 2c (2) from acting in a particular matter, the Presiding Judge shall assign another judge to hear the matter, if there is no other judge in the county who is not disqualified. Such refusal shall not prevent the district judge from performing his duties of office in all other matters. (Source: Based on Art. 200a, Sec. 6)

e. The Presiding Judge or his designee shall keep records of the assignments made, including but not limited to:

- (1) Name of the judge assigned;
- (2) Court to which assigned;
- (3) Duration of the Time actually served on assignment; and
- (4) Expenses incurred by the assigned judge which are payable by the state or county.

RULE 3. RELIEF FROM ASSIGNMENTS

a. When a judge is assigned under the provisions of Rule 2, the judge shall serve as directed unless relieved under the provision of section (b) of this Rule. (Source: Art. 200a, Sec. 5a)

b. A judge who has been assigned under authority of Rule 2 may present in writing to the Presiding Judge of the Administrative Judicial District a statement declining assignment for good cause shown. If the Presiding Judge refuses to relieve the judge of the assignment, the judge may petition, within five days of the refusal, the Chief Justice of the Supreme Court for relief from the assignment, who may grant or refuse the petition. (Source: Art. 200a, Sec. 5)

RULE 4. ASSIGNMENT OF CASES

In judicial districts where more than one district court sits, all cases should be filed on a rotating basis and no person shall otherwise be permitted to file a case in a court of his preference unless leave of the Court is requested and granted.

RULE 5. ABSENCES

Each active district judge whose absence from the bench requires the assignment of a visiting judge to properly handle the business of the court should make such fact known to the local Presiding Judge at the earliest possible time. The Presiding Judge of the Administrative District will then be notified of the necessity for the assignment of a visiting judge and will honor such request.

RULE 6. JUDICIAL SERVICE BY RETIRED AND FORMER JUDGES

Each justice or judge desiring to continue as a judicial officer pursuant to Sec. 7 and Article 6228b, and Sec. 5a, Article 200a, V.A.C.S., after leaving active service shall certify in writing, within 90 days of leaving the bench, his willingness to serve on assignment to the Chief Justice of the Supreme Court and the Presiding Judge of the Administrative Judicial District in which he resides. (Source: Art. 6228b, Sec. 7)

RULE 7. JUDGES

a. The judges of a common judicial district have a duty to adopt a system by which all cases are fairly distributed among the judges, in order that trials may be afforded without the least practicable delay. All judges should be available to assist each other in the disposition of any case filed in any county in the respective district.

b. Where there are two or more judges serving in a common judicial district and they choose not to select a local Presiding Judge, the judge with tenure in office for the longest period shall serve in that capacity.

c. Disputes among judges shall be submitted in a confidential manner to the Presiding Judge of the Administrative District.

d. All court sessions shall begin no later than 9 A.M.

e. There shall be a standing committee, composed of the Presiding Judge of the Administrative District and the Presiding Judges (or their designates) of each Judicial District who shall meet not less than once a year to compare Local Rules of Court and deliberately achieve uniformity insofar as practicable, consistent with local conditions; and uniformity in the various Administrative Judicial Districts shall be considered and promoted.

f. Vacation schedules for judges shall be effected so as to insure that a judge will be available to serve in all matters requiring their presence. Vacation schedules shall be established at the local judicial district level and as soon as possible submitted to the Presiding Judge of the Administrative District.

RULE 8. ATTORNEYS, TRIAL SETTINGS, PRE-TRIALS, ANNOUNCEMENTS AND APPOINTMENTS

a. Cases shall be set for trial at the instance of the judge or upon application of counsel, with consideration to the docket exigencies of the court. No case shall be set for trial without giving reasonable notice of not less than ten (10) days to the parties or by agreement of the parties, but failure to appear for hearing on motions to determine a date for trial, without good cause, will waive any ground for complaint. Noncontested cases may be tried or disposed of at any time whether set or not, and may be set at any time for any other time. (Source: Rule 245 R.C.P.)

b. All requests for settings must be in writing, addressed to the officer designated by the Local Rules and copies of such requests shall be served on all other parties or their counsel. The party requesting the setting shall certify that, as far as he knows, all requirements pursuant to trial have been met and the case is ready for trial. A hearing shall be had on said motion and parties should appear.

c. These Rules shall not prevent the Presiding Judge of any court from changing the date of any setting so requested, or from resetting the same.

d. When a person is represented by a firm of lawyers or more than one lawyer, one counsel must be designated as leading counsel or counsel in charge. Said designated counsel must appear at the hearing(s) when the case will be set for trial. Failure to appear by said counsel will then cause the attorney appearing to be designated as leading counsel or counsel in charge for all purposes. Failure or refusal to designate leading counsel in charge will bar the continuance or passing of a case on the grounds that such counsel is unavailable.

e. (1) When the docket clerk or judge is informed that an attorney is already in trial, the clerk will determine the designation of the court, the county where it is located and the time the attorney went to trial. If the judge or opposing attorneys desire the information to be verified, the

judge will then contact that court to ascertain if the attorney is actually in trial and the probable time of release. The case may then be placed on "hold" or re-set.

(2) If the attorney is not actually in trial, the case will be put on the ready list and all counsel or parties so advised.

(3) If the attorney's office cannot advise as to whether the attorney is in trial, the case will nevertheless be placed on the ready list and his office so advised, with the warning that the case will be assigned to trial without further notice.

f. Attorneys assigned to two courts for the same date:

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

(2) The following priority shall be observed by the judges of the respective courts and conforms to an agreement made by the Judges of the United States District Court for the Southern District of Texas:

(a) The cases in which the trial setting request, or Order setting the case, was earliest filed or entered will be given priority; provided, that settings for trials on the merits will take priority over settings for pre-trial conferences or other ancillary matters.

(b) Where a Speedy Trial Act, Federal or State, is applicable, the criminal case having a Speedy Trial Act problem will take precedence.

(c) In any particular case, this procedure may be varied upon mutual agreement of the judges involved.

g. Each attorney of the counties comprising the Fifth Administrative District who desires to assure himself of a vacation for a period not to exceed four (4) weeks may do so automatically by designating the four weeks, in writing, addressed, mailed and delivered to the District Clerk, or any officer designated as the Docket Clerk in his own County, with a copy thereof to the District Clerk or Docket Clerk of any other county of this Administrative District within sixty days before beginning date of said projected vacation period. This vacation period so designated shall be honored by all the judges of this Administrative District. This provision shall not apply to vacations of attorneys engaged in a criminal case. Nothing herein shall prevent the various judges from recognizing the vacations of attorneys as a discretionary matter.

h. Pretrials

(1) Pretrials shall be had upon request of counsel, with due notice to all opposing parties. The matters to be heard and determined shall be specified in said requests and the Court shall insure that counsel are prepared to accomplish the objectives for which the pretrial was called. Request for pretrials which appear to be premised on trivial causes for purposes of harassment should be denied.

(2) Preliminary matters pursuant to trial shall be presented within seven days before trial if requested by any counsel in the case. Otherwise, the Court will consider these on announcement day or thereafter in the discretion of the Court.

(3) Announcements

In all cases set for jury trials, counsel and the parties must be present on the working day before trial at 9:00 A.M. Absence will result in announcement of ready and matters pursuant to trial will be considered without counsel and be binding thereupon during trial.

(4) Dismissal Docket

Upon due notice all divorce cases which have been on file for one (1) year and all civil cases which have been on file for two (2) years shall be dismissed for want of prosecution upon thirty (30) days written notice unless good cause is shown why the same should remain on the docket. Nothing in this Rule shall prevent any court from adopting Local Rules governing the dismissal docket with shorter pending periods of dismissal.

RULE 9. DECORUM

a. Formal Opening. Immediately before the scheduled time for the beginning of court session, the Bailiff shall direct all court officers and spectators to their seats and shall bring order. As the Judge enters the courtroom, the Bailiff shall state, "Everyone please rise." While everyone is still standing he shall make an appropriate announcement such as, "The _____ Court is now in session, the Honorable _____, Judge Presiding. Be seated, please."

b. Formal Closing. At the end of the trial day the bailiff shall tell the jury, if there be a jury, or otherwise will announce to the officers of the court, "This Court will stand in recess until _____ at _____ o'clock" at which time the court bailiff shall state, "Will everyone please rise. The _____ Court of _____ County, Texas, will be in recess until _____ at _____ o'clock A.M. This Honorable Court now stands in recess."

c. Conduct required of all persons while attending court:

(1) All persons in the courtroom during the pendency of any hearing shall be attentive to the proceedings of the court and shall refrain from any action which is disruptive of the court proceedings. When court is in session, all persons, before entering the courtroom, shall first remove overcoats, hats, cigars, etc., and shall quietly be seated in the proper places provided. There shall be:

- (a) No reading of newspapers or magazines during court proceedings;
- (b) No bringing of bottles, paper cups or beverage containers into the courtroom;
- (c) No bringing of edibles in the courtroom (at any time);
- (d) No propping of feet on tables, chairs or benches;
- (e) No sitting on tables, railings, desks or arms of chairs;
- (f) No person shall walk through courtroom while any proceedings are being held (or court in session);
- (g) No making of noises or talking which interferes with the court procedure; and
- (h) No smoking, except where the Judge Presiding permits.

(2) No person should by any facial expression, shaking of the head or any other conduct, exhibit approval or disapproval of any testimony elicited or any statement or transaction which has occurred in the courtroom.

d. Conduct required of court officers:

(1) The Judge Presiding shall at all times remain impartial in the proceedings before him, and shall avoid any actions which may be construed as actions intending to influence the jury on any testimony introduced during the trial, or his approval or disapproval of the actions of counsel in the presence of the jury.

(2) All counsel are admonished to respect the letter and spirit of all canons and ethics including particularly those dealing with testimony by counsel participating in the trial, discussion of cases with representatives of the press, T.V., or radio and discussion of the facts or law of the case with the Court outside of the courtroom and not in the presence of opposing counsel. The Court may enforce the same by appropriate action.

(3) The lawyers, the Judge and all officers of the Court shall be prompt at all sessions and in the dispatch of all court business.

(4) All female lawyers and court officials shall dress in keeping with proper courtroom decorum, and all male lawyers and court officials shall wear coats and ties while in the attendance of the Court; provided, however, that judicial discretion be exercised otherwise in special situations.

(5) While the Court is in session all remarks of counsel shall be addressed to the court and not to opposing counsel or the Judge as an individual.

(6) In addressing the Judge, lawyers shall at all times rise and remain standing to address the Judge from their position at the counsel table. They shall remain at counsel table while interrogating witnesses, except as may be necessary for handling or displaying of exhibits or demonstrating evidence.

(7) The Judge shall be respectfully and properly addressed by title at all times; all objections and legal arguments by counsel shall be directed to the Judge and not to opposing counsel, and counsel shall be impersonal in addressing the Judge.

(8) The Judge shall address counsel with courtesy and in a professional and impersonal manner, by the use of the term "Counsel" or by the last name preceded by the courtesy titles "Mr.", "Miss", "Mrs.", or "Ms." rather than by the first name.

(9) Lawyers shall never lean on the bench or engage the Judge in a confidential manner, except by permission or at the request of the Judge.

(10) Lawyers shall advise their clients and witnesses of proper courtroom decorum and seek their full cooperation therewith. This will prevent possible embarrassment to the Judges as well as to the lawyers and laymen.

(11) After jury voir dire no attorney shall ever address the jury or a juror individually or by name without having first obtained leave of court. During trial, attorneys should not exhibit familiarity with witnesses, jurors, or opposing counsel, and to this end, the use of first names should be avoided. During jury argument no attorney should ever address a juror individually or by name.

(12) The trial attorney should refrain from interrupting the court or opposing counsel until the statement being made is fully completed, except when necessary to protect his client's rights on the record, and should respectfully await the completion of the Court's statement or opinion before undertaking to point out objectionable matter.

(13) There will not be any arguments on objections in the presence of the jury. If counsel desires to argue his point after making his objection on being overruled on an objection, he shall ask the court to exclude the jury before he proceeds with such argument. However, argument will be permitted on objections at the discretion of the court.

(14) During the trial, all lawyers and parties shall keep themselves informed of the time of the commencement or resumption of any court proceeding, and should not expect any court attendant to notify them individually of such.

e. **Bailiffs.**

(1) The Court shall appoint a Bailiff (or Bailiffs), who may be a deputy sheriff, who shall be present at all times while the court is in session or in recess, unless excused by the Judge. No duty shall be assigned to the Bailiff except upon prior approval by the Judge.

(2) The Bailiff shall see that the flag of the United States of America and the flag of the State of Texas are properly displayed and respected in the courtroom.

(3) The Bailiff shall enforce all rules of conduct and decorum and perform any other duties assigned by the Judge. (Source: Local Rules of several district courts)

RULE 10. COMMITTEES

a. The Presiding Judge shall appoint a standing Committee on Rules. This Committee shall review the rules of administration and procedure of this district and the courts therein for conformity with constitutional and statutory provisions and with the state and district rules of administration and encourage uniformity insofar as possible among the local rules of the courts of their district.

b. The Presiding Judge may appoint a standing Committee on Administration to make a continuous study of the condition of the dockets of the various courts of the District, and to make recommendations to improve the just disposition of cases therein.

c. The Presiding Judge may appoint such other Committees as, from time to time, may be necessary for the efficient administration of justice in the District.

RULE 11. [APPLICABILITY; EFFECTIVENESS]

These rules shall apply in the absence of such specific rules as have been or may be adopted for any county to govern the procedure within such county. In the event of a conflict between the rules adopted for the Fifth Administrative Judicial District and those adopted for one individual county the rules adopted for the county shall govern.

These above Rules shall become effective on the date certified hereon, and shall govern and remain in effect until changed by the Council of Judges as provided by law. A copy of these Rules shall be filed with the District Clerk of each county to be spread upon the Minutes of each district court of this Administrative District and filed with the Supreme Court of Texas as required by Rule 817 of the Texas Rules of Civil Procedure.

Adopted March 9, 1979.