

FAYETTE COUNTY TEXAS CONSTITUTIONAL COURT LOCAL RULES

Rule 1: Objective.

The County Judge of Fayette County, Texas, under the authority of Section 21.001 of the *Texas Government Code*, adopts these rules as guidance to the Court and parties before the Court to facilitate execution of the Court's duties as specified in Chapter 26 of the *Texas Government Code*.

The County Clerk will assure each party before the Court has been provided with a copy or referred to an on-line county publication of these rules.

Certain items in these rules require the County Clerk to develop specific charges or procedures; in fulfilling those requirements, the County Clerk will develop and publish a supplement to these rules, which supplement will be appended to every copy of these rules furnished by any means to any person.

Attorneys representing parties before the Court will assure their clients are familiar with the content of these rules, an exception being allowed for attorneys who are hired or appointed after the Court has begun its day.

Rule 2. Construction

These rules shall be construed in conformance with, and subordinate to, the *Texas Constitution*, *The Texas Civil Practice & Remedies Code*, *The Texas Code of Criminal Procedure*, *The Texas Government Code*, *The Texas Rules of Civil Procedure*, and other applicable statutory law.

Rule 3. Appropriate Dress

A: Intent of Rule

Parties before the Court are expected to dress appropriately.

B: Appropriate Clothing

1. Dress pants or nice jeans
2. Shirt with collar or business-like blouse
3. Suit or sport coat
4. Dress
5. Tie (optional, but required for Attorneys)

Note, however, that during months in which the expected high temperature exceeds 90 degrees Fahrenheit (June, July, August, September, and October), a relaxed dress code will be in force. Jackets and ties will not be required; shirts originally designed to be worn with open collar and draped over a belt (e.g. Guayabera style shirts) will be permitted.

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C: Inappropriate Clothing

1. Jeans with holes or tears
2. Shorts (of any kind)
3. Sweat pants
4. Yoga pants
5. T-shirts or sleeveless shirts
6. Saggy, baggy pants
7. Hoodies
8. Flip flops
9. Hats or caps
10. Shirts with offensive writings, markings or symbols

D: Enforcement

Where a party before the Court is dressed inappropriately, the Judge may, at the Judge's discretion, take appropriate action including, but not limited to:

1. Verbal admonishment; or,
2. Postponement of court to another date; or
3. Punishment under Section 21.002 of the *Texas Government Code*, Contempt of Court.

Rule 4. Appropriate Behavior

A: Intent of Rule

Parties before the Court are expected to conduct themselves in a manner befitting of the Court's dignity and demonstrably respectful of the Court.

B: Expected Behavior

1. Any person addressing the Court or being addressed by the Court will stand, and remain standing during the extent of the communication; but on request or on its own motion, the Court may grant permission to remain seated.
2. Persons addressing the Judge will refer to him as "Judge" or "Your Honor"
3. No person may approach the bench or any witness who is at or near the bench without the Judge's permission.
4. Persons allowed to approach the bench, to the extent they are able, will display respect for the Court by refraining from putting their hands in their pockets and from slouching.
5. Communication between and among the Court, attorneys, parties, and observers present in the courtroom will be respectful at all times.
6. Arguments, objections, and comments in general made by counsel will be addressed to the Court and not to each other.
7. Judges, attorneys, and all other officers of the Court will be prompt in attendance at all sessions of Court.

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8. All attorneys practicing before the Constitutional Court of Fayette County, Texas, will act in accordance with the terms of the Texas Lawyers' Creed, to which each of them previously has sworn.

C: Enforcement

Where a party before the Court acts inappropriately or disrespectfully, the Judge may, at the Judge's discretion, take appropriate action including, but not limited to:

1. Verbal admonishment; or,
2. Postponement of court to another date; or
3. Punishment under Section 21.002 of the *Texas Government Code*, Contempt of Court.

Rule 5. Ad Litem Attorneys

A: Intent of Rule

The Court may, from time to time, either on its own motion or as required by statute, appoint attorney(s) at litem for a specific matter.

B: Implementation

1. The County Clerk will maintain a list of attorneys qualified for and willing to accept appointments.
2. Attorneys so appointed will be paid at the rate then established by the County.
3. Attorneys will be responsible for keeping appropriate time records and furnishing the County Clerk with billing statements in an appropriate format. Billing statements so furnished will detail expenses and billable hours separately.
4. The County Clerk, in coordination with the County Auditor, will develop and publish guidelines for bills to be submitted in accordance with this rule.
5. The County Clerk, in coordination with the County Auditor, will be responsible for auditing such bills and bringing any potential discrepancies to the attention of the Court.
6. As early in the process of filing an action, but no later than the point at which an ad litem attorney is appointed, the County Clerk, with the guidance of the Court, will calculate a figure (the "reserve amount") intended to cover the reasonable charges to be billed by the appointed attorney.
 - a. Where the action in question is originated by a private individual with adequate funds, the reserve amount will be collected and paid into the registry of the Court as early as possible; ideally, this will be at the initial filing, collected through the electronic filing system, but in any case will be complete before a final hearing is set.
 - b. Where the action in question is originated or necessitated on behalf of an indigent individual, the County Clerk, with the guidance of the Court, will

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act to ensure that the reserve amount is funded appropriately by the County.

- c. In lieu of a specific calculation for any individual action, the County Clerk may presume that three hundred and fifty dollars (\$350.00) is a reasonable amount.
7. During the progress of the action in question, the ad litem attorney must receive notice of all hearings or conferences with the Court, and receive copies of all pleadings. Once the ad litem attorney is identified with the action in question in the state's electronic filing service, such notices filed through that service will be deemed delivered.
8. If the ad litem attorney's duties include an investigation, the attorney must file a report with the Court detailing the results of that investigation.
9. Attorneys ad litem should consider requesting security for costs pursuant to Rule 143 of the *Rules of Civil Procedure* or Section 53 of the *Texas Estates Code*.
10. Upon completion of the action in question, the attorney ad litem will submit an hourly bill; upon the bill's approval by the Court, the County Clerk will submit the approved bill to the County Auditor for further action.
 - a. Where the approved amount billed exceeds the reserve amount, the difference either will be billed to the original client through the client's counsel, or funded appropriately by the County.
 - b. Where the approved amount bill is less than the reserve amount, the difference either will be refunded to the original client through the client's counsel, or accounted for appropriately by the County.

Rule 6. Pro Se Parties

A: Intent of Rule

Parties have the right to represent themselves; the court will make reasonable accommodations.

B: Authority and Implementation

1. "[N]o basis exists for differentiating between litigants represented by counsel and litigants not represented by counsel in determining whether rules of procedure must be followed. With respect to a Criminal case, the United States Supreme Court has said: 'The right of self-representation is not a license to abuse the dignity of the courtroom. Neither is it a license not to comply with the relevant rules of procedural and substantive law.' *Faretta v. California*, 422 U.S. 806, 835 n. 46, 95 S. Ct. 2525, 2541, 45 L. Ed. 2d 562 (1975). There cannot be two sets of procedural rules, one for litigants with counsel and the other for litigants representing themselves. Litigants who represent themselves must comply with the applicable procedural rules, or else they would be given an unfair advantage over litigants represented by counsel. *Stein v. Lewisville Independent School District*, 481 S.W.2d 436 (Tex.Civ.App. Fort Worth 1972, writ ref'd n. r. e.), Cert.

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denied, 414 U.S. 948, 94 S. Ct. 272, 38 L. Ed. 2d 203 (1973).” *Mansfield State Bank v. Cohn*, 573 S.W.2d 181, 184-85 (Tex. 1978).

2. Parties before the court, in whatever capacity, are responsible for abiding by all relevant rules and statutes.
3. Recognizing that parties have a right to represent themselves before the court, and recognizing further that owing to their lack of familiarity with those rules and statutes, pro se parties may inadvertently cause harm to their positions or themselves, the court must expend additional effort reviewing submissions from such parties. To facilitate that review, the court will call upon those licensed attorneys who accept appointments from the court.
 - a. At its sole discretion, the court may refer a pro se submission to such an attorney for review and comment.
 - b. Upon receipt of the report of the review and any accompanying commentary, the court will, in its sole discretion, accept the submission as filed, or return it for necessary corrections.
 - c. The court will cause attorneys so tasked to be paid for their work; the court will presume that one half of an hour will be adequate time for the required review, but will entertain arguments from attorneys so tasked to the effect that more time was required.
 - d. For purposes of payment and reporting, attorneys so tasked will be considered as having been appointed ad litem for the tasks and parties assigned, and will be subject to the reporting rules and paid at the rates identified in Rule 5, above.
 - e. The court may, depending on circumstances as they appear to the court, tax costs so incurred as expenses to the party benefiting from them.

Rule 7. Transfer of Cases

After filing in the county court, every case, both jury and non-jury, shall remain pending in this court until final disposition or transfer. Any case may be transferred to the 155th District Court, by order of the County Judge, and with the consent of the Judge of that court.

Rule 8. Hearings

A: Intent of Rule

The court provides the following administrative guidance for persons appearing before the court.

B: Implementation

1. Except for good-cause shown, any request for an extension of time, or continuance, shall be filed no fewer than 3 business days before any setting, hearing, trial, or other in-court procedure.

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2. Any such filing must be done through the eFile Texas system as ordered by the Texas Supreme Court in time to provide all persons due notice sufficient advance notice, but in no case less than 3 business days before the event being noticed.
3. Notices of hearings and of continuances must be provided through eFile Texas system.
4. If a report, proposed order, or any other document will be required at a hearing, that document must be filed through the eFile Texas system a minimum of 3 business days before that hearing; failure to file such a document timely will be deemed good-cause for purposes of rule 7.1 above.
5. If a previously scheduled hearing must be canceled, the party responsible for the cancelation must file a notice of cancelation through the eFile Texas system a minimum of 24 hours before the scheduled time of the hearing.
6. Any attorney or pro-se party can request a short hearing be conducted by telephone conference call or other electronic meeting facility, or that the attorney's or pro-se party's participation in a scheduled short hearing be permitted to be via telephone or other electronic meeting facility. The request must be filed through the eFile Texas system a minimum of 3 business days before that hearing. Any attorney or pro-se party can object to such communication by filing an objection through the eFile Texas system a minimum of 24 hours before the scheduled time of the hearing. Approval or disapproval of such motions is at the Court's sole discretion.
7. Maintenance of Decorum.
 - a. "Contempt of court is categorized as either criminal or civil. ... Texas courts, however, have long had inherent power to find and punish for contempt. This power is 'broad and plenary.' 'Although the exercise of this authority should be tempered with common sense and sound discretion, nevertheless we accord the judge's contempt power wide latitude because it is essential to judicial independence and authority.'" *Ex parte Reposa*, No. AP-75,965, 2009 Tex. Crim. App. Unpub. LEXIS 725, at *12 (Crim. App. Oct. 28, 2009). "The Legislature too has recognized the authority of Texas courts to maintain dignity within its courtrooms. Section 21.001 of the *Government Code*, entitled 'Inherent Power and Duty of Courts,' provides in part '(a) A court has all powers necessary for the exercise of its jurisdiction and the enforcement of its lawful orders, including authority to issue the writs and orders necessary or proper in aid of its jurisdiction.'" *Ibid*.
 - b. In order to maintain decorum in the courtroom and to facilitate fair and efficient proceedings, the County Judge may, at his discretion:
 - i. Issue reasonable instructions to parties and attorneys present;
 - ii. Call attorneys to the bench to conduct sidebar conversations;
 - iii. Call attorneys, parties, or observers to his chambers for private consultation;
 - iv. Require the removal of persons disrupting the court;

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- v. Clear the courtroom.

Rule 9. Dismissal Dockets

All contested cases which are not set for trial and which have been on file for more than three (3) years are subject to dismissal. Upon request of the court, the court staff shall furnish notice to all parties and their counsel that any contested case will be dismissed for want of prosecution pursuant to the provisions of Rule 165a of the *Texas Rules of Civil Procedure*. The procedures for notice of dismissal and retention shall be in compliance with Rules 165a and 306a of the *Texas Rules of Civil Procedure*.

Rule 10. Rules Specific to Estate Matters

A: Intent of Rule

Cases originating under the Texas Estates Code are unique in that they involve persons seldom before a court, under emotionally stressful conditions. The court has established these rules to provide guidelines and reduce uncertainty.

B: Implementation

1. No hearings will be set until the individual seeking the hearing demonstrates that all persons entitled to notice have received or waived notice.
2. Should the result of a hearing require issuance of letters testamentary, letters of administration, or copies of other documents, payment must be made in advance through the eFile Texas system or via check at the time of the hearing. The County Clerk will not accept cash or credit cards.
3. Notices of hearings and of continuances must be provided through the eFile Texas system; however, consistent with Rule 10 (B) 5 below, no guardianship hearings will take place until the appropriate training certificate has been filed with the court, and the criminal check has come back from the Judicial Branch Certification Commission (JBCC).
4. For all probates with letters of testamentary/administration, the executor/administrator must complete the Oath and Acknowledgment of Duties that is presented in court at the time of the probate hearing. No letters will be given until all court requirements have been met. Regardless of whether or not the executor/administrator is present in court at the time of the hearing, letters only will be issued once the clerk's office has received the original Oath & Acknowledgment of Duties.
5. For all guardianships, including temporary guardianships, the guardian, the proposed guardian, or his attorney must register the guardianship information online with the Judicial Branch Certification Commission (JBCC) at <http://www.txcourts.gov/jbcc/register-a-guardianship> prior to any hearing. Upon registration, the JBCC will notify the applicant if he will need to obtain digital fingerprints and provide him all necessary information.

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Rule 11. Vacation Letters

Any attorney may reserve up to four weeks in any calendar year for vacations by sending a "vacation letter" to the County Clerk specifying vacation dates. If the attorney is involved in any matter already before the Court, the attorney should furnish copies of the vacation letter to each opposing counsel. If the letter is filed at least sixty days in advance of the first vacation day, no hearings, depositions, or trials may be set during the reserved days. If the letter is filed less than sixty days in advance of the first vacation day, hearings, depositions, or trials may be set during the reserved days for good cause shown and with the approval of the Court.

Rule 12. General Expectation of Decorum

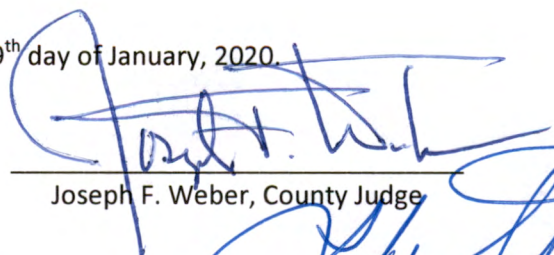
Under the authority of Subsection 21.001(b) of the *Texas Government Code*, the County Judge specifically orders that:

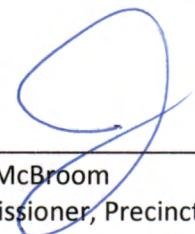
1. There will be no photography or video recording permitted.
2. There will be no audio recording permitted other than recordings that from time to time may be made by the County Clerk as a matter of record.
3. There will be no unattended or unsupervised children in the courtroom.
4. There will be no food or drink in the courtroom; however, staff of the Court including clerks, bailiffs, attorneys, or others who must be present in the courtroom continuously are permitted small, personal containers of water.
5. All persons present in the courtroom are subject to search at any time.
6. No handguns, firearms, knives, clubs or weapons of any kind are permitted in the Courtroom, except as stated in this paragraph, as follows: Peace officers are allowed to carry handguns and weapons in and about the courtroom and courthouse, as authorized by Section 46.15, Texas Penal Code. Jailers assisting as bailiffs are allowed to carry handguns in and about the courtroom and courthouse, provided they have successfully completed the training course approved by TCOLE and conducted by the Fayette County Sheriff's Office. Active judicial officers, bailiffs designated by an active judicial officer, honorably retired peace officers, qualified retired law enforcement officers, parole officers, community supervision and corrections department officers, juvenile probation officers, the attorney general, a district attorney, criminal district attorney, county attorney, municipal attorney, an assistant attorney general, assistant district attorneys, assistant criminal district attorneys, and assistant county attorneys are allowed to carry handguns in and about the courtroom and courthouse, as authorized by Section 46.15, Texas Penal Code, provided each such person is in compliance with the provisions of Section 46.15, Texas Penal Code, specifically applicable to them. Persons with questions should confer with the County Judge well prior to their attendance at court.

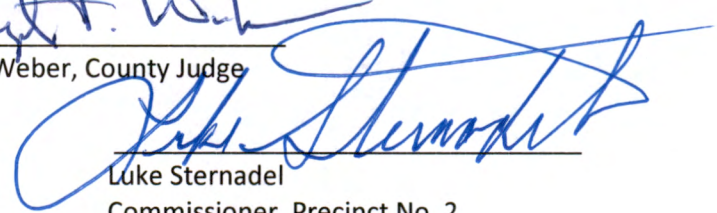
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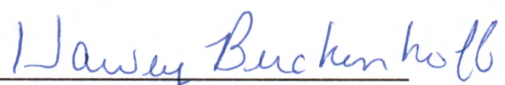
7. All persons present in the courtroom will rise when the Judge enters the courtroom, remain standing until the Judge or the bailiff announces "Be Seated", and rise again when the Judge exits the courtroom.

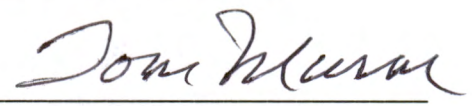
Ordered and approved this 9th day of January, 2020.


Joseph F. Weber, County Judge

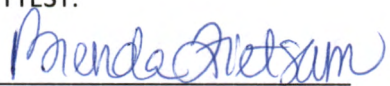

Jason McBroom
Commissioner, Precinct No. 1


Luke Sternadel
Commissioner, Precinct No. 2


Harvey Berckenhoff
Commissioner, Precinct No. 3


Tom Muras
Commissioner, Precinct No. 4

ATTEST:


Brenda Fietsam, County Clerk

