LOCAL RULES OF COURT
FORT BEND COUNTY COURTS AT LAW
Approved and Adopted January 1, 2018

Honorable Christopher G. Morales, Judge
County Court at Law No. 1

Honorable Jeffrey A. McMeans, Judge
County Court at Law No. 2

Honorable Susan G. Lowery, Judge
County Court at Law No. 3

Honorable Jerry Bussell, Judge
County Court at Law No. 4

Honorable Ron Cohen, Judge
County Court at Law No. 5

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RULE 1
GENERAL

RULE 1.10

Time Standards for Case Disposition

Pursuant to Article 5, §31 of the Texas Constitution, §§ 22.004, 72.002(2) and 74.024 of the Texas Government Code, Title 3 of the Texas Family Code, Rule 6 of the Rules of Judicial Administration, and Rules 1, 3, 4, and 5 of the Regional Rules of Judicial Administration, time standards have been established to which reference is made for all purposes, as they now exist, or as they may be hereafter amended.

RULE 1.11

Court Sessions; Annual Calendars; Jury Weeks; Non-Jury Weeks; Criminal-Civil Weeks; Not in Session; Holidays

(A) Each County Court at Law shall prepare and post daily, outside of its courtroom, a specific docket or dockets of the matters being considered by the court at a particular docket call.

(B) Each County Court at Law will be governed by and will observe all holidays approved and established by Commissioners' Court of Fort Bend County.

RULE 1.12

Hours of Court Proceedings

No Local Rules under this subdivision.

RULE 1.13

Emergency and Special Sessions

(A) Except in emergencies when the Clerk's Office is not open for business, no application for immediate or temporary relief shall be presented to a Judge until it has been filed and assigned to a Court as provided in these Rules.

(B) If the Judge of the Court to which such case is assigned is absent or is occupied with other matters, and the other County Courts at Law are absent, such application may be assigned by the Local Administrative Judge, to any Judge who may sit for the Judge of the court in which that case is pending and shall make all orders, writs and process returnable to that Court.

(C) Hearings on applications for temporary injunctions, temporary receiverships, and the like, shall be set in the Court to which the case has been assigned by consulting with that Court.

(D) All applications for ex parte relief shall state whether or not, within the knowledge of applicant and his attorney, the opposing party is represented by counsel and, if so, the name of such counsel.

(E) The party requesting such temporary relief shall be present in Court at the time such relief is requested, unless the Court waives this requirement for good cause shown.

Emergency Orders

(A) Whenever immediate action of a Judge is required in an emergency when the Clerk's office is not open for business, the case shall, nevertheless, at the earliest

practicable time be docketed and assigned to a Court as provided by these Rules, and all writs and process shall be returnable to that Court.

(B) If the Judge of such Court is not available at the time set, the Local Administrative Judge may designate any Judge having jurisdiction to hear the application for temporary relief.

RULE 1.14

Official Records of County Courts at Law

No Local Rules under this subdivision.

RULE 1.15

Documents Containing Sensitive Data

(A) The County Clerk shall not copy nor scan for public or non-public view or publish to the internet in any form, records containing sensitive data. Documents containing sensitive data include, but are not limited to, protected health information, reports based on a medical, psychological or psychiatric record and all juvenile records.

(B) Access to court records containing sensitive data shall be limited to parties, attorneys of record in the cause in question, and court officials, court personnel, or other governmental entities, including law enforcement agencies, whose duties require access to sensitive data.

RULE 2
LOCAL ADMINISTRATIVE JUDGE

RULE 2.10

Powers and Duties of Local Administrative Judge Fixing Responsibility for Monitoring Information Requirements, How Supplied

(A) The County Clerk shall be responsible, individually to each and all of the County Courts at Law Judges and the Local Administrative Judge of the County Courts at Law for the accurate collection and reporting of such information as may be prescribed in writing by the Regional Administrative Judge or the Supreme Court of Texas for the County Courts at Law of Fort Bend County, Texas.

(B) Each Judge will have direct access to any such information and/or data collected at all reasonable times, Monday through Friday, during working hours, and the Clerk shall produce such and deliver same to any Judge upon request.

RULE 2.12

Exercise of Powers in Absence

No Local Rules under this subdivision.

RULE 2.13

Court Divisions

No Local Rules under this subdivision.

RULE 3
CIVIL CASES

RULE 3.10

Filing and Assignment of Cases

(A) All cases are to be filed, docketed, and assigned pursuant to Rule 10 of the Rules of Judicial Administration of the Supreme Court of Texas and §§ 74.093, 74.121, and 75.011(i) Texas Government Code.

1. The office of the County Clerk shall be available to accept filings in all cases during the same working hours the County Courts at Law are open for normal working hours.

2. So that the Court shall have available to it all of the latest pleadings, papers and/or documents, the County Clerk shall make available to the Court at the time of any hearing or trial all pleadings, papers and/or documents filed in the case up to the time of the hearing or trial.

(B) Thereafter, the Courts may at any time exchange cases and Benches to accommodate their dockets or to specialize the Court's trials.

(C) Except as provided hereafter in this Rule, all cases shall be filed with the Clerk of the County Courts at Law in random order and shall be assigned and equally divided, insofar as practicable, in a fair and equitable manner among the County Courts at Law.

Garnishment Suits

Every garnishment suit shall be assigned to the court in which the principal suit is or was pending, and if the principal suit is transferred to another court, the garnishment shall be transferred likewise.

RULE 3.11

Filing on Holidays

No Local Rules under this subdivision.

RULE 3.12

Transfer of Cases; Docket Exchange; Branch Exchange

(A) After assignment to a particular court, every case, both jury and non-jury, shall remain pending in such court until final disposition, or transfer.

(B) Any case may be transferred to another court by order of the Judge of the court in which the case is pending with the consent of the Judge of the Court to which it is transferred; or by order of the Local Administrative Judge of the County Courts at Law.

(C) Whenever any pending case is so related to another case pending in or disposed of by another court and the Judge of the Court in which either case is or was pending may, upon motion (including his own motion) and notice, transfer the case to the court in which the earlier case was filed to facilitate the orderly and efficient disposition of the litigation with consent of the Judge of the court to which it is transferred.

(D) The following types of cases shall be subject to transfer under this Rule, but this listing is not exclusive and is given by way of example only:

1. Any case arising out of the same transaction or occurrence, as did an earlier filed case, particularly if the earlier case was dismissed for want of prosecution or voluntarily dismissed by plaintiff at any time before final judgment.

2. Any case involving one or more of the same parties as an earlier filed case and requiring a determination of any of the same questions of fact or of law as those involved in the earlier case.

3. Any case involving a plea that a judgment in the earlier filed case is conclusive of any of the issues of the later case by way of res judicata or estoppel by judgment or any pleading that requires a construction of the earlier signed judgment or a determination of its effect.

4. Any suit for a declaration concerning the alleged duty of an insurer to provide a defense for a party to another suit.

5. Any suit concerning the duty of an insurer to defend what was involved in another suit.

(E) Whenever a case is transferred to this County by a court of another county, it shall be assigned in the manner specified by these Rules.

RULE 3.13

Request for Settings - Non-Jury

(A) All requests for the scheduling of appearances for the Court for any purpose will be made by contacting the Court Coordinator who will arrange an appropriate time to appear before the Court.

(B) Requests for hearing shall be made to the Court in which the matter is pending, in accordance with these Rules, and the attorney making such request shall serve all other parties with notice of the date and hour set for hearing and of the particular matter which will be considered at such time.

RULE 3.14

Disposition of Uncontested Matters

No Local Rules under this subdivision.

RULE 3.15

Request for Settings - Jury

(A) Demand for a trial by jury shall not be occasion for advancement or substantial delay of the trial or of any other proceeding in the case, nor for transfer of the case to another court.

(B) If the case is already set for non-jury trial when such demand is made, the Court may try the case with a jury on the same setting, add the case to the list of jury cases for the following week, or set it at some other convenient time.

(C) Jury fees are to be paid when a request for a jury trial is made.

(D) All requests for the scheduling of appearances for the Court for any purpose will be made by contacting the Court Coordinator who will arrange an appropriate time to appear before the Court.

(E) Requests for hearing shall be made to the Court in which the matter is pending, in accordance with these Rules, and the attorneys making such request shall serve notice to all counsel and/or pro se parties of the date and hour set for hearing and of the particular matter which will be considered at such time.

RULE 3.16

Jury Fee and Jury Demand

No Local Rules under this subdivision.

RULE 3.17

Docket Call and Announcements

All litigants and attorneys shall be present at a docket call scheduled by the Court in which a matter is pending. Failure to appear may result in the matter being dismissed for want of prosecution.

RULE 3.18

Assignment of Cases for Trial

No Local Rules under this subdivision.

RULE 3.19

Conflicting Settings and Assignments of Counsel

(A) **Attorney Already in Trial in Another Court**

1. When informed that an attorney is presently in trial, the Court will determine where and when assigned.

2. This information will be verified upon request of opposing counsel.

3. The case will be placed on "hold" or "reset" or "passed", depending on when the attorney will be released.

4. If the attorney is not actually in trial as represented by him or his agent, the case will be tried without further notice.

(B) **Attorney Assigned to Two Courts for the Same Date**

1. It is the duty of an attorney to call the affected Judges' attention to all dual settings as soon as the conflicts are known.

2. Insofar as practicable, Judges should attempt to agree on which case has priority, otherwise, the following priorities shall be observed by the Judges of the respective Courts:

(a) Juvenile Detention Cases;

(b) Incarcerated Criminal Cases;

(c) Juvenile Cases;

(d) Criminal Cases;

(e) Cases given preference by statute;

(f) Preferentially set cases;

(g) Case set at earliest date;

(h) Case with earliest filing date;

(i) Courts in multi-judge counties should yield to courts in rural counties in all other instances of conflicting settings.

(C) The unavailability of a particular lawyer in a firm will generally not be considered grounds for a continuance of any case where other lawyers in the firm have had significant involvement in the case, such as signing pleadings, making court appearances, or attending depositions.

(D) If any lawyer's caseload becomes a disruption to the orderly flow of a Jury Docket, the Court may limit the number of set cases in which the lawyer can be the attorney in charge and require designation of another attorney in charge for other set cases.

(E) **Counsel in Appellate Courts**

Counsel shall be excused from appearing for any purpose at a time when counsel is scheduled to appear before an appellate court of the United States, the State of Texas, or any other State.

RULE 3.20

Request for Preferential Settings

No Local Rules under this subdivision.

RULE 3.21

Resetting Cases

No Local Rules under this subdivision.

RULE 3.22

Dismissal Docket - Involuntary Dismissal

Each Court shall set its own dismissal docket. The County Clerk shall notify each attorney and all pro se parties in writing of the date, time and place of the hearing of the dismissal docket.

RULE 3.23

Suspense Docket
Dismissal, Bankruptcy, Suggestion of Death, Abatement

The Clerk is to immediately give actual notice to the Court Coordinator or the Judge of the Court any suggestion of death or suggestion of bankruptcy proceedings when same are filed with the Clerk in the pending case.

RULE 3.24

Hearings on Pre-Trial Motions, Exceptions and Pleas

Pre-Trial Procedures - Civil Cases

(A) Any party requiring a hearing on motions, exceptions, dilatory pleas, or other pre-trial matters shall timely request and obtain a setting thereon prior to commencement of trial on the merits.

(B) All motions, exceptions, and pleas shall be in writing and shall have a proposed order attached granting the relief sought.

(C) Failure to present motions, exceptions, and pleas in a timely manner shall cause same to be waived.

(D) A specific date or period of time may be assigned as a final date for the filing of motions, exceptions, and dilatory pleas and obtaining a hearing thereon in those cases, which the Judge deems appropriate.

(E) When counsel for either party or any party pro se, after notice, fails to appear at a pre-trial setting on any motion, exception, or plea, the Court may:

1. Rule on all motions, exceptions, and pleas in the absence of such counsel;

2. Declare any motions, exceptions, or pleas for such absent party waived.

3. 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 claims 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

4. In the event absent counsel represents the defendant, the Court, if the case has not been previously set for trial, may set the same for trial pursuant to Texas Rules of Civil Procedure 245 and/or may dismiss any counter-claim or cross-action for want of prosecution.

(F) Preliminary matters which require a hearing by the Court may be disposed of either (1) by hearing before the Court; (2) by hearing before the Associate Judge of the Court or (3) upon such written authorities as counsel may forward to the Court, following which the Court may rule in chambers without a hearing as provided in this Rule.

1. Any party is entitled to a hearing so long as the same is requested prior to the time that the Court makes it's ruling as provided in subparagraph 6.

2. Any party who desires a ruling on any matter pending shall request a ruling either by (a) requesting a hearing; or (b) filing a statement with the authorities and a statement of any relief thereupon, along with a request for ruling by submission without a hearing. Notice to be by registered or certified mail, return receipt requested.

3. The opposing party may, within ten (10) days after service of such statement, either (a) request a hearing; or (b) file a written response.

4. A requesting party shall state the estimated time required for the hearing.

5. It is the responsibility of the party requesting a ruling by submission to notify the Court of the date of service of such statement for calculation of submission dates.

6. If no hearing is requested within seven (7) days after the time for requesting a hearing or for filing a response has expired, the Judge, in the absence of counsel, shall examine the pleadings, authorities cited, and other papers and make such rulings as the Judge deems proper, note a memorandum of such ruling among the papers of the cause and provide copies of such memorandum to counsel for all parties. Copies of all orders signed pursuant to this paragraph shall be forwarded to all counsel by the Court Coordinator at the time they are entered.

(G) Before a motion, exception, or other dilatory plea will be heard, the moving party shall first talk with counsel to determine whether there is opposition.

1. If the matter will not be opposed, the moving party shall send a proposed order, signed by all counsel of record, indicating approval.

2. If there will be opposition, or, if after reasonable efforts this cannot be determined, the Court will be advised.

RULE 3.25

Attorney Conference Requirement and Procedure

No Local Rules under this subdivision.

RULE 3.26

Non-Compliance with Conference Procedures

(A) The Court may sanction a party or counsel who fails without adequate reason to attend a court-ordered conference, by denying or deferring ruling on the motion and awarding attorneys fees. Counsel who intentionally fails to attend may be cited for contempt of court.

(B) When counsel for either party, after notice, fails to appear or is unprepared for a scheduling conference or pre-trial conference, the Court may:

1. Make all scheduling decisions and rule on all motions, exceptions, pleas, or other matters;

2. Declare any pending motions, exceptions, or pleas waived;

3. Advance or delay the trial setting consistent with Texas Rules of Civil Procedure 245, alter other scheduling matters, decline to set the case for trial or cancel a setting previously made, or take such other action that is just and proper according to the convenience of counsel present and parties represented;

4. Pass and reset the conference, in which case the party attending the conference shall be entitled to recover his reasonable attorney's fees and expenses.

5. Consider the absence of "attorney in charge" as a contempt of court, and punish counsel accordingly.

(C) Counsel at pre-trial shall either be the attorney who expects to try the case, or shall be familiar with the case and be fully authorized to state his party's position on the

law and facts, make stipulations and enter into settlement negotiations as trial counsel. If the Court finds counsel is not qualified, the Court may take any of the procedures provided above.

RULE 3.27

Discovery Disputes

(A) All counsel are expected to engage in good faith negotiations pursuant to the discovery and deposition Rules of the Texas Rules of Civil Procedure.

(B) Requests for hearings on motions for discovery, or for protection or to quash, or on objections to any discovery, will not be granted unless counsel filing the same certifies that he has attempted diligently and in good faith to obtain such discovery or relief from opposing counsel by agreement and has been unsuccessful, or shows good cause for not making such attempt.

RULE 3.28

Consolidation and Severance

Consolidation of Cases

Every motion for consolidation or joinder hearing under Rule 174(a), Texas Rules of Civil Procedure, shall be heard in the Court in which the first case filed is pending, and if such motion is granted, other cases to be consolidated shall be transferred to the Court in which the first case is pending.

Severance of Cases

(A) When a motion to sever is sustained, the severed claim shall be filed as a new case in the same Court and shall be given a new number or suffix number or letter by the Clerk in whose Court the case is pending.

(B) The original case from which the claim is severed shall retain the original number given it by the Clerk of the County Courts at Law.

(C) Before the severed claim is filed as a new case, the Clerk's requirement concerning deposit for costs shall be met.

RULE 3.29

Continuances

(A) All trial settings will be made by the Court or by contacting the Court Coordinator who will set the case for jury or non-jury trial. The attorney setting the case for trial will notify all opposing counsel and pro se parties pursuant to the Texas Rules of Civil Procedure.

(B) Any attorney in charge who fails to notify the Court of a conflict in scheduling at the time he receives notice that the case is set, shall be precluded from seeking a continuance at a later time on the grounds of such conflict.

(C) Where a party is represented by more than one attorney or firm of attorneys in charge, which creates a conflict in settings, shall not be a ground for continuance.

(D) Any known ground for continuance of the trial setting shall be presented to the Court at least 14 days prior to the trial setting or at the pre-trial conference, if any, whichever shall occur first, or shall be waived.

(E) No requests to pass, postpone, or reset any docket control conference, pre-trial conference or other preliminary hearing shall be granted unless counsel for all parties have been notified and have had an opportunity to object.

(F) All motions for continuance of trial settings, including joint motions of all parties, shall be presented to the Court either in open court or in chambers and shall comply in civil cases with the Texas Rules of Civil Procedure.

(G) Upon granting of a motion for continuance, the order granting such motion for continuance may contain an order resetting the case for trial.

RULE 3.30

Default Judgments

If a court requires an oral hearing for default judgments, requests for hearing shall be made to the Court Coordinator in which the matter is pending, in accordance with these Rules, and the attorney making such request shall serve all other parties with notice of the date and hour set for hearing and of the particular matter which will be considered at such time.

RULE 3.31

Summary Judgments

Requests for oral hearing shall be made to the Court Coordinator in which the matter is pending, in accordance with these Rules, and the attorney making such request shall serve all other parties with notice of the date and hour set for hearing and of the particular matter which will be considered at such time.

RULE 3.32

Ancillary Proceedings,
Temporary Orders and Emergency Matters

No Local Rules under this subdivision.

RULE 3.33

Complex Case Designation

No Local Rules under this subdivision.

RULE 3.34

Alternative Dispute Resolution

(A) Unless otherwise approved by the Court, with the exception of condemnation cases, the parties must first present the case to alternative dispute resolution. The responsibility for scheduling and conducting such mediation will be on the parties or their representatives; however, the appropriate Court may sign orders to compel same when requested.

(B) At the time an attorney or party requests a trial setting from the Court, the attorney or party requesting said setting shall certify that the case has been unsuccessfully presented to alternative dispute resolution.

RULE 3.35

Pre-Trial and Scheduling Conferences

(A) **Pre-Trial Procedures**

Rule 10(c) of the Rules of Judicial Administration and, Rule 166 of the Texas Rules of Procedure dealing with pre-trial procedures are incorporated herein by reference for all purposes and the following civil pre-trial rules and procedures apply to all civil cases.

(B) **Pre-Trial Conferences**

1. A pre-trial conference shall be held at the order of the Court or may be held at the request of an attorney in charge.

2. If the pre-trial conference is set at the request of an attorney, it shall be held no later than ten (10) days prior to the date set

for trial, unless the Court, or on timely request of one or more attorneys in charge, orders otherwise.

(C) **Scheduling**

1. All requests for scheduling of appearances for the Court for any purpose will be made by contacting the Court Coordinator to arrange an appropriate time to appear before the Court.

2. Requests for hearing shall be made to the Court in which the matter is pending, in accordance with these Rules, the attorney making such request shall notify all counsel of the date and hour set for hearing and of the particular matter which will be considered at such time.

(D) **Docket Control Order and Conferences**

1. A Court under its own Docket Control Order and without hearing, may determine:

   (a) When discovery is due;

   (b) The trial date; and

   (c) Any deadlines or procedures the Court deems appropriate.

2. A Docket Control Conference may be set at any time following forty (40) days after the date suit is filed. If a Docket Control Conference is not set or a Docket Control Order entered by the Court, then each party shall present to the trial court in writing within ten (10) days thereafter:

   (a) When discovery is anticipated to be completed;

   (b) A proposed date for trial;

   (c) A proposed scheduling order; and,

   (d) If not completed, when alternative dispute resolution is scheduled or anticipated to be completed.

(e) The failure of Plaintiff or Cross-Plaintiff to request a Docket Control Conference hearing will subject their cause of action to be placed on a dismissal docket.

3. If no Docket Control Conference has been held by the expiration of six (6) months from the date suit is filed, then such a conference may be promptly scheduled by the Court.

4. At any time such a conference is scheduled, the Court in which the case is pending shall notify all attorneys in charge of the place, date and hour at which the attorneys are to appear for the purpose of conducting such conference.

5. Attorneys in charge for all parties shall be present at the Docket Control Conference unless arrangements have been made for such conference to be held by telephone.

6. Each attorney shall have with him his calendar in order to arrange settings, which do not conflict with any previous engagements he has.

7. Under no circumstances may an absent attorney be represented by any Docket Control Conference, whether held by telephone or otherwise, by any secretary or other non-lawyer personnel.

(E) **Binding Agreements, Scheduling, and Negotiations**

1. All Docket Control Conferences and pre-trial conferences shall be attended by the attorney in charge who is completely familiar with the case and fully authorized to state his party's position on the law and the facts, to make agreements in writing as to scheduling, to enter into stipulations, and to enter into settlement negotiations, subject to orders or practices of the Court.

2. When any attorney in charge for either party, after notice and without good cause, fails to appear for a Docket Control Conference or pre-trial conference, the Court may:

(a) Make all scheduling decisions and rule on all motions, exceptions or other matters in the absence of such counsel;

(b) Declare any motions or exceptions of the absent party waived;

(c) Advance or delay the trial setting or other scheduling matters, or decline to set the case for trial or cancel a setting previously made, according to the convenience of counsel present;

(d) Pass and reset the Docket Control Conference, in which case the party represented shall be entitled to recover his reasonable attorney's fees and expenses;

(e) Consider the absence of the attorney in charge as a contempt of court, and punish counsel accordingly.

(F) **Telephone Docket Control Conference**

1. The Docket Control Conference may be held by telephone with approval of the Court.

2. An attorney requesting that the Docket Control Conference be held by telephone shall be responsible for arranging the conference call on the date and time scheduled by the Court Coordinator.

(G) **Purpose of Docket Control Conference**

The Docket Control Conference shall be conducted informally, and shall be for the purpose of becoming acquainted with the nature of the case and the issues presented; determining the probable length of time required for trial; fixing deadlines for joinder of additional parties, completion of discovery, or amendment of pleadings, to consider such other matters and make other docket control orders as are necessary and proper under the circumstances in regard to handling of the case; and to arrive at a trial date which all attorneys and the Court consider firm.

(H) **Docket Control Order**

The Court shall have the authority to draft a Docket Control Order in accordance with its inherent authority or make an order, which recites any action taken or agreements made at the Docket Control Conference, and such order when entered shall control the subsequent course of action, unless later modified by the Court.

RULE 3.36

Status Conference; Certificate of Progress; Proposed Preparation Plan

No Local Rules under this subdivision.

RULE 3.37

Trial Stipulations and Admissions

No Local Rules under this subdivision.

RULE 3.38

Trial Witnesses and Exhibits

Civil

(A) Cases announced to be "ready" shall be in all respects ready, with witnesses and other evidence available so that the trial may proceed without delay.

(B) When out-of-county witnesses are to be called, the burden shall be on the party using such witnesses to have them available.

(C) In so far as is possible, counsel for the parties shall pre-mark for identification all exhibits to be introduced into evidence, and shall notify the Court as to those items upon which counsel can agree may be admitted into evidence without objection and submit all objections to exhibits in writing to the Court prior to trial.

(D) In any case where a witness does not speak English, the attorney presenting such witness shall make provision for a properly licensed interpreter to be present at the time of such witness' testimony.

(E) If the 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 counsel to present the missing witness out of order, may require use of a deposition in lieu of the witness, may submit the case to the jury without benefit of the witness' testimony or may make any other order which appears just to avoid delay of the trial.

(F) Objections to video tape which will be offered at the trial of the cause shall be made and heard at a pre-trial conference in accordance with Rule 3.24 hereof and if not made at that time shall be deemed waived.

RULE 3.39

Disposition Conferences

No Local Rules under this subdivision.

RULE 3.40

Settlements

(A) All trial counsel are urged to make a bona fide effort to settle cases before announcing ready for trial.

(B) 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 the case is not such as to justify any offer whatsoever.

(C) When an attorney settles or dismisses a case which is set for trial he shall give notice to the Court Coordinator as soon as possible.

RULE 3.41

Jury Selection

No Local Rules under this subdivision.

RULE 3.42

Jury Charge Questions and Instructions

(A) Each party shall prepare in proper written form and present to the Court prior to or at the time of the jury selection, all jury charge questions and instructions, which are raised by the pleadings.

(B) Written objections as to the form of the issues so presented shall be made as the Court may direct.

(C) Counsel will be expected at jury docket call to advise the Court which issues will be disputed and to be familiar with the authorities applicable to the questions of law raised at pre-trial.

(D) The Court may require counsel to file written briefs on any point in question and fix the date for their submission.

RULE 3.43

Submission of Orders, Judgments, Instruments

No Local Rules under this subdivision.

RULE 3.44

Withdrawal and Copying of Documents

No Local Rules under this subdivision.

RULE 3.45

Eminent Domain Cases

Pursuant to §21.014, Subsection (a) of the Texas Property Code as amended, each party to the litigation shall have the right to strike any one of the three Special Commissioners appointed by the Court hearing the case. Any party to the Eminent Domain case wishing to strike a Special Commissioner must file their Motion and Order to Strike such Special Commissioner with the Court no later than five (5) days after the Notice of Special Commissioners' Hearing has been served on such party. Upon receipt of any party's Motion and Order to Strike a Commissioner, the Court shall immediately strike the objectionable Special Commissioner and appoint a Replacement Commissioner.

RULE 3.46

Retention of Court Files

No Local Rules under this subdivision.

RULE 3.47

Other Local Rules

Except when modified by more specific rules, this Rule 3 is applicable in all civil cases in all courts.

RULE 4
FAMILY LAW CASES

RULE 4.10

Time Standards for Family Law Case Disposition

No Local Rules under this subdivision.

RULE 4.11

Ancillary Proceedings, Temporary Orders and Emergency Matters

No Local Rules under this subdivision.

RULE 4.12

Disposition Proposals

No Local Rules under this subdivision.

RULE 4.13

Uncontested Matters

No Local Rules under this subdivision.

RULE 4.14

Financial Information Statements

No Local Rules under this subdivision.

RULE 4.15

Inventory and Appraisement

No Local Rules under this subdivision.

RULE 4.16

Ad Litem Appointments

No Local Rules under this subdivision.

RULE 4.17

Mediation Counseling

No Local Rules under this subdivision.

RULE 4.18

Referral to Master

No Local Rules under this subdivision.

RULE 4.19

Termination/Adoption

No Local Rules under this subdivision.

RULE 4.20

Miscellaneous

No Local Rules under this subdivision.

RULE 5
LIQUIDATED CLAIM CASES

RULE 5.10

Liquidated Monetary Claims

No Local Rules under this subdivision.

RULE 5.11

Certification of Plaintiff for Suspense Docket

No Local Rules under this subdivision.

RULE 5.12

Application to Defer Entry of Judgment

No Local Rules under this subdivision.

RULE 5.13

Certification that Payment Agreement Continues in Effect

No Local Rules under this subdivision.

RULE 6
CRIMINAL CASES

RULE 6.10

Felony and Misdemeanor Cases

No Local Rules under this subdivision.

RULE 6.10-A

Grand Jury

No Local Rules under this subdivision.

RULE 6.11

Filings/Return of Information

Assignment of Cases after Information

The following rules shall govern the assignment of misdemeanor cases and other matters within the jurisdiction of the County Courts at Law in Fort Bend County, Texas:

(A) All misdemeanor proceedings presented to the County Clerk for filing shall be assigned by the County Clerk on a random basis to the County Courts at Law by means of a blind filing process which provides for the equal distribution of new cases in such a manner that it cannot be determined to which court a case will be assigned until after said court assignment. Except as otherwise provided in these Rules, the County Clerk shall randomly assign every criminal case filed by information in a fair and equitable manner among the County Courts at Law.

(B) After refiling and docketing of misdemeanor information into the County Courts at Law, the County Clerk will determine by research [based upon information provided by the District Attorney at the time of filing the information] whether the defendant

named in the misdemeanor information has a prior connection too an existing case in any of the County Courts at Law. Such prior connection is defined as: (1) defendant has been accorded misdemeanor probation in one of the County Courts at Law and the probation has not been revoked or been terminated; (2) defendant has prior pending misdemeanor charges in one of the County Courts at Law; (3) the charge arose from the same criminal transaction which was the basis of the misdemeanor information previously filed in one of the County Courts at Law; (4) the defendant has been accorded deferred adjudication in one of the County Courts at Law and the deferred adjudication has not been terminated or adjudicated; (5) the defendant has been granted a restricted driver's license in one of the County Courts at Law and is charged with a subsequent DWI or DWLS; or (6) a case wherein the defendant has not discharged his sentence. If the County Clerk's research indicates one of the above prior connections, the new misdemeanor case filing will be transferred to the court where the defendant has such prior connection.

All refiles of cases already pending shall be filed and docketed in accordance with statutory rotation. The County Clerk is then authorized to transfer and set the refiled case in the court where the initial misdemeanor information is or was pending. The setting date assigned to the refiled case will be the same date as the initial pending case. All writs of habeas corpus, contempts, writs of procedendo and ex parte matters shall be filed and docketed in accordance with statutory rotation. The County Clerk is then authorized to transfer the proceedings in the courts where prior case connection exists, or if no prior case connection exists, to transfer the proceeding to the court wherein the hearing on such proceeding is to be conducted. Unless said cases are later transferred by agreement of

the Judges or are transferred by authority of a separate order, all such assigned cases shall remain on the docket of the court of assignment until final disposition.

The Fort Bend County Clerk shall not effect any changes in the matters of random filing, numbering of cases, docketing of cases, transfer of cases, or assignment of settings, or any other matters that affect the distribution of work or the dispatch of the business of the Fort Bend County Courts at Law unless so directed to do so by the Judges of the County Courts at Law.

(C) Upon filing and docketing of misdemeanor information into the County Courts at Law of Fort Bend County, Texas, the County Clerk will determine by research whether the defendant named in the misdemeanor information has a prior connection in any of the County Courts at Law, in accordance with the criteria established in Rule 6.11.

(D) All refiles and cases already pending or dismissed shall be filed and docketed in accordance with statutory rotation. The County Clerk is then authorized to transfer and set the refiled case in the court where the initial misdemeanor information is or was pending. The setting date assigned to the refiled case will be the same date as the initial case, if the initial case is still pending. If the initial case is not still pending, the refiled case shall be given an appropriate setting in accordance with these Rules. All writs of habeas corpus, contempts and ex parte matters shall be filed and docketed in accordance with statutory rotation. The County Clerk is then authorized to transfer and set the proceedings in the court where prior case connection already exists or if no prior case connection exists, to transfer the proceeding to the court wherein the hearing on such proceedings is to be conducted.

(E) When it has been determined that a case is to be transferred from one court to another court, the Judge of the sending court shall prepare a letter of transfer to the County Clerk specifying the case and the court that the case is to be transferred. Said letter of transfer shall be approved by the Judge of the sending court and of the receiving court.

(F) After the docket entry is completed, the Coordinator of the sending court will prepare a transfer order, obtain the Judge's signature and cause the signed order and court case file to be timely delivered to the Coordinator of the receiving court. The Coordinator of the receiving court will obtain the Judge's signature on the transfer order. At that time the Coordinator will set the case in the receiving court and complete all setting information on the bottom of the transfer order.

RULE 6.12

Arraignment/Initial Appearance

(A) **Initial Settings**

The County Clerk of Fort Bend County, Texas, in accordance with the following procedure, is directed to provide the first setting on all misdemeanor information and certain other processes filed and docketed into the County Courts at Law of Fort Bend County, Texas, and to record same in the automated system.

The first setting date of the case shall be known as the "Initial Arraignment" setting and it shall be provided by the County Clerk on all cases except those filed as no-arrest where a capias is issued for the defendant.

(B) **Arraignment After Information Filed**

1. Upon information being filed the cause shall be randomly assigned to one of the County Courts at Law, pursuant to these Rules.

2. When a defendant appears for an initial appearance and he has been formally charged, the Court may proceed to arraign the defendant or the Court may postpone arraignment at the Court's discretion.

3. Upon arraignment, unless the cause is otherwise disposed of (such as by plea of guilty or dismissal), the County Court at Law shall refer by appropriate reset order the cause for further proceedings.

4. The reset order may give notice to the defendant and his counsel of a pre-trial date and a probable date for trial and of a deadline to file pre-trial motions.

5. Since the Fort Bend County District Attorney's Office does not have a twenty-four (24) intake section to process persons charged with misdemeanor offences being held in the County Jail and since the Fort Bend County Clerk's Office does not have a deputy clerk assigned twenty-four (24) hours per day at the Fort Bend County Jail, the Fort Bend County Sheriff's Office shall randomly designate a trial court for defendants who are charged with misdemeanor offenses and bond out of jail prior to charges filed and a court designed by the County Clerk's Office. This designation shall be in the same manner as approved for the County Clerk's Office and shall be included on the release instruments for the defendants.

RULE 6.13

Appointment of Counsel

(A) The Court or its designee shall appoint counsel for an indigent defendant pursuant to Senate Bill 7, 77th Texas Legislature 2001 (Texas Fair Defense Act) and plan approved by the Board of County Courts at Law Judges, adopted and incorporated herein for all purposes.

(B) A defendant who claims indigency and requests appointment of counsel shall complete under oath a questionnaire concerning his financial resources, or respond to the Court under oath to an examination regarding his financial resources or both.

(C) The questionnaire shall be in the form adopted by the Courts.

(D) A counsel appointed to represent a defendant in a criminal proceeding, including a habeas corpus hearing, shall be reimbursed for reasonable expenses incurred with prior court approval for purposes of investigation and expert testimony and shall be paid a reasonable attorney's fee for performing services as provided in Senate Bill 7, 77th Texas Legislature 2001 (Texas Fair Defense Act) and plan approved by the Board of County Courts at Law Judges, adopted and incorporated herein for all purposes.

(E) Counsel requesting compensation for representing an indigent criminal defendant must submit a completed application for payment in the form provided by the Courts for reporting the types of services performed in each case. The application for payment for fees and expenses must be documented in the form provided by the Courts and as supplemented by extra sheets.

Hourly billing must be accompanied by a completed out-of-court and in-court billing sheet. Time spent performing the services must be reported in 1/10 hours, using percentages (i.e., .1, .2, .9).

(F) No payment shall be made until the compensation form, completed in its entirety, is submitted to and approved by the Court and is in accordance with the fee schedule.

(G) If the case is disposed of by a plea of guilty, the application must be submitted to the Court at the time of the plea; otherwise, the application must be submitted

within sixty (60) days of the case being disposed of, unless waived by the Court and award of attorney's fees noted on docket sheet by the Court.

(H) Failure to timely submit the application may constitute a waiver of compensation.

(I) If the Court determines that a defendant has financial resources that enable him to offset in part or in whole the costs of the legal services provided, including any expenses or costs, the Court shall order the defendant to pay the amount that it finds the defendant is able to pay.

(J) If at the time of appointment of counsel the Court finds that the defendant is non-indigent, the Court may order the defendant to periodically deposit into a "prepayment of attorney's fees and costs" account administered by the County Clerk an estimated amount of such fees and costs in advance of the disposition of his case; any payment in excess of the amount actually ordered by the Court for such fees and costs will be refunded to the defendant.

(K) Expenses for purpose of foreign language interpreter, investigation, expert testimony and psychological evaluation and other expenses must receive prior Court approval. Counsel must submit a timely written motion requesting the item, setting out the factual basis for the request, describing the necessity of specific services to be rendered and provided an estimated cost.

(L) Billing for investigation must be broken down by specific costs and services rendered after prior approval has been obtained.

(M) Expert testimony must include itemized billing for services rendered after prior approval has been obtained.

(N) Counsel appointed to represent indigent defendants shall represent the defendant until the charges are disposed of, whether by conviction, acquittal or dismissal, or until the right of appeal is exhausted or the attorney is relieved of his duties by the Court or replaced by other counsel.

(O) Counsel must make initial contact with the defendant in custody within twenty-four hours of the appointment.

(P) Counsel may be removed from the Fort Bend County Indigent Defense Appointment list by agreement of the Board of County Court at Law Judges, for falsifying attorney's fees and expenses, misrepresentation of a client, failure to appear at docket settings and for conduct deemed unprofessional and/or unethical by the Judges.

RULE 6.14

Appearance of Defendant and Counsel/Court Attendance

Every pleading, brief, and motion of a party represented by an attorney, shall bear the manuscript signature of at least one of the attorneys of record, in his individual name, along with his state bar card number, address, telephone number, and email address. The pleading, brief, or motion shall further contain a certification that a copy of the document was mailed, emailed, e-filed delivered or hand-delivered to opposing counsel.

RULE 6.15

Withdrawal or Substitution of Counsel

(A) With the Court's approval, counsel may withdraw, if:

1. a written notice to withdraw stating proper grounds is filed;

2. the defendant has been notified of the filing of the motion and has signed the motion;

3. the Court determines that there is sufficient time for new counsel to enter the case; and

4. the defendant's papers and property have been returned to him.

(B) If a motion to withdraw contains the written consent of the defendant, the Court may grant the motion without a hearing.

(C) A defendant shall not be permitted to dismiss his counsel of record unless a motion to dismiss counsel is filed in the case, stating good cause for such dismissal.

(D) No withdrawal or dismissal of counsel shall be effective unless approved by the Court.

(E) No withdrawal or dismissal of counsel shall be permitted if it reasonably appears that such withdrawal or dismissal is solely for the purpose of delay.

(F) Newly retained counsel shall not be permitted to substitute for counsel of record unless new counsel is prepared to proceed with the case without a delay of the proceedings.

(G) No withdrawal or substitution of counsel shall be the basis for a continuance.

RULE 6.16

Bond and Bond Forfeiture

(A) Each Court shall have discretion to set and modify bail as prescribed by law.

(B) Each Court may set bail in alternative amounts; for example, the Court may order one amount for the posting of a surety bail bond and another amount for the posting of a cash bond, provided that the amount of the cash bond is not more than ten percent (10%) of the amount required for a surety bail bond.

(C) At the time the accused is placed in the County Jail, each accused shall fill out (with such assistance from the jail personnel as necessary) under oath a biographical data sheet containing all relevant information to guide the Court in setting bail.

(D) Such information shall include the accused's name and aliases, date and place of birth, addresses within the last five year, marital and family data (including name of parents and in-laws and their addresses and telephone numbers), employment history, annual income, prior arrests and convictions, identification numbers, prior mental health provider information and information deemed necessary by the Courts for setting bail.

(E) The statement shall accompany the accused to each jail docket and initial appearance while he is in custody for periodic review by the Court and, upon information filed, shall be filed in the cause.

RULE 6.17

Refund of Cash Bonds

(A) Cash bond deposits will be refunded to depositors other than the defendant upon final disposition of the criminal proceeding unless notice of appeal is given. Refunds will not be given until a replacement bond has been duly filed with the County Clerk or notice of appeal is either withdrawn or the Mandate of Affirmance has been satisfied.

(B) In the event of notice of appeal, defendant's cash bond deposits will not be refunded or assigned until a replacement bond has been duly filed with the County Clerk or until notice of appeal has been either withdrawn or the Mandate of Affirmance has been satisfied.

RULE 6.18

Bond Forfeiture Reinstatements, Dismissals and Judgments

(A) All bond reinstatement orders, bond forfeiture dismissal orders and agreed judgments, wherein payments of cost of judgment are involved, shall be presented in person by the bonding agency or District Attorney to only the Judge of the Court wherein the forfeiture occurred. A brief narrative statement shall be provided, in writing, by the District Attorney setting forth the basis for the recommendations as to bond reinstatement, or dismissal of forfeiture.

(B) The total amount of the cost on bond reinstatements with costs, dismissals with costs, and in the case of agreed judgments, the total amount of judgment and costs, will be delivered to the Court along with the order of judgment by the bonding company or the District Attorney.

(C) Money orders and cashier's checks payable to the County Clerk of Fort Bend County and credit card payments are the only tender that will be accepted. Cash payments may be made in advance and receipt obtained from the County Clerk and presented with the order or judgment.

(D) Upon reinstatement, dismissal, or approval of the agreed judgment by the Judge of the Court wherein the forfeiture occurred, the order, judgment, and the accompanying tender, shall be delivered by the Judge to the County Clerk's office wherein receipts for fees paid may be obtained in person or mailed to the bonding agency by the County Clerk.

RULE 6.19

Approval of Personal Bonds During Non-Business Hours

No Local Rules under this subdivision.

RULE 6.20

Juvenile Defendants

(A) Any defendant who is charged with a misdemeanor offense within the jurisdiction of the Fort Bend County Courts at Law will be presumed to be an adult until a proper judicial determination is made to the contrary.

(B) In any case wherein proof is offered indicating that a defendant may be a juvenile, the Sheriff and/or the District Attorney are requested to make the Court in which the cause is pending aware of the style of the case in which the defendant is determined or suspected to be a juvenile.

(C) The Court will immediately set the cause for a hearing to determine whether the defendant is a juvenile and only after that determination will the defendant be released from custody, and the cause transferred to the Juvenile Court in accordance with § 51.08, Family Code.

(D) In all cases wherein a determination is made that a defendant is a juvenile, expeditious transfer of the cause will be made to remove the case from the criminal court's docket.

(E) The defendant may be released from custody if proof is provided to the Sheriff or other holding agency that the defendant is a juvenile. The evidence provided to the Sheriff or other holding agency affecting the release of the defendant from custody shall be presented to the Court on the next court workday in order that a judicial

determination may be made, and if the Court finds that the defendant is a juvenile, a transfer to the Juvenile Court will be immediately processed. Should the Court find, however, that the defendant is not a juvenile or is certified by a court to be prosecuted as an adult, appropriate process will be issued for the defendant's arrest.

RULE 6.21

Probable Cause Hearings for Further Detention

(A) All pre-trial detainees shall be given a hearing within 48 hours immediately after being placed in a Fort Bend County jail facility. Personnel and/or files from the District Attorney, County Clerk, and pre-trial services agency necessary to conduct the hearings shall be present and made available at such hearing. All detainees will be deemed to have been taken before a judge either by being physically present or by the use of high-speed two-way audio/video transmission technology, if available. In circumstances where audio/video technology is utilized, the entire hearing must be recorded on videotape and maintained by the Court for a period of one hundred twenty (120) days after the hearing.

(B) The magistrate shall perform the following for every person for whom a hearing is conducted:

1. Inform the accused in clear, understandable language of the charges against him and of any complaint or information that may have been caused to be filed against him;

2. Inform the accused of his right to retain counsel, of his right to remain silent; of his right to have an attorney present during any interview with peace officers or prosecutors; of his right to terminate police interrogation at any time; of his right to request the appointment of counsel if he is indigent and that any statement made

by the accused can and probably will be used against him at trial;

3. Determine whether probable cause exists for the further detention of the accused on the charges filed, through the use of live witness testimony, affidavits, the arresting officer's testimony, an analysis of the written offense report, field notes or other reports prepared by the arresting office;

4. Enter the basis and results of the findings on the record and have the same included in the papers of the case file maintained by the County Clerk;

5. Upon a finding that no probable cause exists for further detention the accused shall immediately be ordered discharged from custody, and upon a finding that probable cause exist, the magistrate shall set the amount of bail required of the accused for release and determine the eligibility of the accused for release on personal bond, cash bond, surety bond, or other alternative to scheduled bail amounts.

(C) The bond schedule maintained by the County Court at Law Judges for all misdemeanor offenses occurring within the Courts' jurisdiction shall be referred to by the magistrate. Such bond determinations shall be according to the following criteria:

1. The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with;

2. The nature of the offense for which probable cause has been found and the circumstances under which the offense was allegedly committed are to be considered, including both aggravating and mitigating factors for which there is reasonable ground to believe shown, if any;

3. The ability to make bail is to be regarded, and proof may be taken upon this point;

4. The future safety of the victim and public may be considered, and if this be a factor, release to a third person should also be considered; and

5. The magistrate shall also consider the employment history, residency, family affiliations, prior criminal record, previous court appearance performance and any outstanding bonds of the accused.

(D) At all other times, defendants booked into the County Jail on any and all process pending in or issued out of the County Courts at Law, shall be brought immediately before a magistrate who shall determine if probable cause exists for the continued detention of the defendant.

RULE 6.22

Discovery Requests

Attorneys should use the pre-approved standard 39.14 Court Discovery Motions in all misdemeanor cases. Requests for these motions may be directed to each County Court at Law. Any discovery motion outside the pre-approved standard Court Discovery Motion must be made in writing and scheduled with the Court thirty (30) days before trial. Notice of the motion and hearing date must be provided to the Fort Bend County District Attorney's Office in accordance with legal standards.

RULE 6.23

Motions/Pre-Trial Hearings/Pre-Trial Matters

(A) Each Court shall determine its own settings for pre-trial and trial. The District Attorney's Office or counsel for defendant may request settings for pre-trial hearings.

(B) The defendant shall appear at each scheduled pre-trial hearing, unless he waives his pre-trial hearing by executing a waiver of pre-trial hearing; however, if the State filed pre-trial motions, the defendant shall appear.

(C) All pre-trial motions, including motions in limine, must be filed by the set deadline, unless an extension of time is granted by the Court for good cause shown.

(D) Each pre-trial motion must succinctly state the relief sought, the facts pertinent to the motion, and supporting argument with authorities; must be signed by counsel and, where required by the defendant; must be sworn to when required; must contain a certificate of service and consultation with opposing counsel and a statement that the matter raised in the motion was not resolved or, if no consultation was accomplished, an explanation thereof; must contain a notice that the motion will be presented to the Court at the pre-trial hearing with or without evidence; and must contain a proposed order granting or denying the motion in full or in part.

(E) The Court may refuse to consider any pre-trial motion that fails to comply with these Rules.

(F) The waiver of pre-trial hearing shall contain a declaration by the defendant and his attorney that no motions have been or will be thereafter filed, or that any motions previously filed are withdrawn or waived and that no necessity for a pre-trial hearing exists, and that the defendant is ready for trial.

(G) Motions for continuance, whether by the State or the defendant, must comply with Chapter 29, Texas Code of Criminal Procedure and must be presented to and considered by the Court on or before the Friday before the scheduled trial date.

(H) Except for good cause shown and upon compliance with these Rules, the Court shall not consider any motion for continuance on the scheduled trial date.

1. It shall be the duty of the proponent of such motion to obtain a timely setting for hearing said motion with due notice to opposing counsel or party.

2. The Clerk shall have no duty to present the motion to the Court.

3. A motion for continuance that avers conflicting settings shall have attached to it as exhibits proof of such conflict, including dates of notice of the other settings.

4. Failure to attach proof of conflicting settings shall authorize the Court to summarily deny the motion.

5. The mere filing of a motion for continuance shall not authorize the absence of counsel or of the defendant at the scheduled setting.

6. Failure of counsel or the defendant to appear shall authorize the Court to render the appropriate orders.

7. The defendant must consent in writing to a motion for continuance filed by his attorney of record. Failure to contain such written consent shall authorize the Court to summarily deny the motion.

(l) If a court-appointed interpreter is necessary, the attorney for the defendant shall request same in writing at the pre-trial hearing or earlier.

RULE 6.24

Settings/Schedules

Criminal cases are to be filed, docketed, assigned, and processed pursuant to Rule 3.10 hereof when not in conflict with specialized setting rules.

RULE 6.25

Subsequent Settings

All subsequent settings of misdemeanor cases shall be the specific responsibility of the Court Coordinator or Judge of each County Court at Law. Reset forms provided by the Court or by the District Attorney with the Courts' consent as to wording shall be signed by

defendant and defendant's attorney and approved by the Court. The Assistant District Attorney may sign resets if required by the Court. Reset forms will be used to reset trials, motion hearings, and all other pre-trial hearings including pleas and arraignments.

(A) **Bond Reinstatement**

When a case is again active because of the reinstatement of a bond, either with or without cost, the Court Coordinator shall enter a seven (7) day setting except when, for some reason, a setting already exists in the system, in which case the date in the system shall remain.

(B) **Bench Warrants and Attachments**

Such documents shall have a setting date in the body of the document and the Court Coordinator shall set accordingly.

(C) **Summons in Lieu of Capias**

When a misdemeanor information is taken against a corporation in, for example, a pollution case, the process issued shall be a summons rather than a capias and the summons shall require that the corporation make an appearance at 8:30 A.M. on the first Friday next following the expiration of twenty days from the date of service, unless the Court orders a specific date for appearance.

When a summons is used against a defendant in lieu of a capias in a misdemeanor information that is a refile of an earlier filed misdemeanor information, the appearance date on the newly filed case shall be set the same day as the earlier filed case except when the earlier filed case has no setting. In that event, then both cases shall be set at 8:30 A.M. on the first Friday next following the expiration of seven (7) days from the receipt of service,

unless the Court orders a specific date for appearance and the setting in the refiled case shall be for arraignment.

(D) **Mandate of Abatement**

The County Clerk shall notify the County Courts at Law upon receipt of a mandate or order of abatement. The Court may set a hearing twenty-one (21) days from the date of order or mandate. The Court Coordinator shall notify surety, principal and attorney of record by certified mail of the hearing date.

(E) **Mandates of Affirmance and Reversal and Remand**

Immediately upon receipt of information from the County Clerk, the Court Coordinator, upon receipt of an order or mandate, shall determine first if the defendant is in the Fort Bend County Jail. If the defendant is in jail the case shall be set the next day court is convened. If the defendant is on bond, the County Clerk shall immediately issue a capias for the defendant, provide a seven (7) day setting, and forward the information to the Court. Immediately upon receipt of the information from the Clerk, the Court Coordinator shall notify the attorney of record on appeal, the surety on appeal bond, if one exists, and the appellant by regular mail.

RULE 6.26

Adding Cases to the Daily Docket

(A) Only the Judge or the Coordinator of the Court may approve the addition of a case to the docket.

(B) To request the addition of a case to the court's docket, the requesting party (District Attorney, defense attorney, Court Clerk, Sheriff, etc.), shall submit in writing to the

Court Coordinator the case number, defendant's name and status (jail or bond), and the reason for the request.

RULE 6.27

Docketing of Misdemeanor Indictments

Upon receipt of a misdemeanor indictment returned by a Fort Bend County Grand Jury and certification that the cause is to be transferred to the docket of the County Courts at Law, the cause shall be randomly filed and docketed into the County Courts at Law in the manner prescribed by law and in accordance with these Rules. The County Clerk shall endorse the amount of bail upon the papers of the case in accordance with the bail schedule provided by these Rules. The County Clerk shall then issue a capias to the Sheriff of Fort Bend County who shall require a new bond be made in the amount specified in the capias.

RULE 6.28

Docketing of Non-Record Municipal Court and Justice Court Appeals

(A) All cases transmitted to the County Clerk of Fort Bend County, Texas by a municipal or a justice court for the purpose of appeal of misdemeanor convictions shall contain all original papers filed, an appeal bond (unless waived) and a certified transcript of all proceedings had in the transmitting court.

(B) Where the transcript is complete, the de novo appeal shall be set for arraignment at 8:30 A.M. on the first Friday following fourteen (14) days from the date of the receipt of the transcript. The Clerk shall forward written notice to the defendant.

(C) Where the defendant is in custody the de novo appeal shall be set for arraignment on the next date the court is in session.

Filing and Attraction of Municipal Court and Justice Court Appeals

Two types of municipal appeals, referred to in the system as MAP's, are distinguished:

City Municipal Appeals and All Others Including Justice and Non-Record Municipal Cases

1. **City Municipal Appeal** are filed into the County Courts on a rotation basis and are not attached to an already pending misdemeanor nor do such cases attract other misdemeanors.

2. **All Others** are trial de novo cases and are attached to other misdemeanors already pending against the same person and, likewise, attract other misdemeanors when pending. These cases are simply new County Court cases.

Each category attracts additional MAPs in its own category. For example, an appellee/defendant having a City Municipal Appeal pending and who appeals another City case will have the newer appeal filed into the court where the current appeal is pending.

An appellee/defendant having any other municipal or JP appeal pending and who appeals another non-city case will have the newer appeal filed into the court where the current appeal is pending.

RULE 6.29

Jury Selection/Voir Dire

No Local Rules under this subdivision.

RULE 6.30

Probation Applications/Deferred Adjudication

No Local Rules under this subdivision.

RULE 6.31

Pre-Sentence Report/Court's Proposed Sentence

Defendants may waive pre-sentence investigation, in writing, signed by both defendant and his/her attorney, with approval of the Court.

RULE 6.32

Judgments/Orders

(A) Upon the conviction or revocation of probation of a defendant, the State shall submit the appropriate judgment and sentence or order of revocation as may be required by law.

(B) Where probation is awarded to a defendant, the District Attorney shall prepare the order of probation containing the conditions of probation, and shall deliver a copy of said order to the defendant.

(C) The State may cause the dismissal of a case by filing a motion to dismiss containing the order of dismissal on the same document. The motion shall specifically state the reason(s) for dismissal. If the defendant is in jail, the filing of the motion to dismiss, the order granting said motion and the delivery of a copy of the order shall be expedited in order to affect the immediate release of the defendant from custody, if the defendant has no other charges pending against him.

(D) Upon acquittal of the defendant, the Court Coordinator shall prepare the appropriate judgment for approval of the Court. If the defendant is in jail, the defendant

shall be released from custody immediately after his administrative discharge from the jail, but in no event later than the same day of acquittal, if no other charges or holds are pending against him.

(E) Upon disposition of the cause, the Court Coordinator of the court shall deliver a copy of the final judgment or order to all counsel of record.

(F) If the Court's ruling on a pre-trial motion or trial motion has the effect of causing the dismissal of the cause, such as the suppression of all incriminating evidence or the quashing of an information, counsel for defendant shall submit a proposed order granting the motion, and if the defendant is in jail, he shall be discharged immediately if an order of dismissal is signed by the Court and if there are no other charges pending against him.

(G) If the State certifies that the State will appeal said ruling or order or will seek the re-indictment of the defendant, the Court shall not sign an order of dismissal unless the defendant shows that no appeal is timely taken by the State as required by Article 44.01(d), Texas Code of Criminal Procedure, or that there was no re-indictment of the defendant within thirty (30) days of the ruling of the Court.

(H) Further, if the defendant is on bail, he shall remain at large on the existing bail bond, if the defendant is in custody, he is entitled to reasonable bail, unless the appeal is from an order which would terminate the prosecution, in which event the defendant is entitled to release on personal bond, see Article 44.01, Texas Code of Criminal Procedure.

RULE 6.33

Restricted Driver's Licenses – Occupational Driver's License

A. Prerequisites for Issuance

1. A person whose license has been suspended for a cause other than a physical or mental disability or impairment or a conviction under Section 49.04, Texas Penal Code, may apply for an occupational license by filing a verified petition with the Clerk of the court with jurisdiction in which:

   (a) The person resides; or

   (b) The offense occurred for which the license was suspended

2. Operator, commercial or chauffeur license, or any class designation of these licenses must be suspended as a result of conviction of an offense that makes suspension automatic.

3. A valid operator, commercial or chauffeur license, or any class designation of these licenses, must be surrendered to the Court at the time of conviction.

4. A person may apply for an occupational license by filing a verified petition only with the clerk of the court in which the person was convicted if:

   (a) the person's license has been automatically suspended or cancelled for a conviction of an offense under the laws of this State; and

   (b) the person has not been issued, in the 10 years preceding of the filing of the petition, more than one occupational license after a conviction of an offense under the laws of this State.

5. A verified petition must be delivered to the County Clerk along with a fee deposit to cover statutory required fees.

6. The Clerk, upon receipt of the verified petition and accompanying fee, shall docket and number the petition ancillary to the cause and in the Court where the conviction occurred.

7. The Clerk shall deliver the filed, docketed and verified petition to the Judge of the Court where same is filed.

8. The Judge of the Court shall set the matter for hearing at a time and day convenient to the Court.

9. In the absence of a waiver of notice and issuance approval being executed and filed by the attorney for the State, the Clerk shall send a copy of the verified petition and order setting hearing to the attorney for the State and notice of hearing to the petitioner's attorney, and if none, to the petitioner.

10. A person requesting an occupational license must have an SR-22 on file with the Texas Department of Public Safety prior to the Court issuing an occupational license. A petitioner shall bring a copy of the SR-22 to the hearing for the occupational license.

11. On hearing, the petitioner shall present evidence in support of each and every allegation contained in the petition, and the State may present evidence against granting the petition.

12. The Court may grant petitioner use of a motor vehicle and specify the reason for the use, the hours and days of use, the routes or areas to be used, and order the Clerk to forward to the Texas Department of Public Safety the surrendered license, the record of conviction and a certified copy of the order the Texas Department of Public Safety to issue petitioner a restricted license for the duration of the suspension period.

B. **Results of Issuance**

1. Upon the signing and entry of the order granting petitioner use of a motor vehicle, the Clerk shall furnish a certified copy of the order to the petitioner, at petitioner's expense, and a certified copy of the order may be used as a restricted license for thirty (30) days following the date of the order.

2. Upon receipt of the surrendered license, the record of conviction and a certified copy of the order granting petitioner use of a motor vehicle, the Texas Department of Public Safety shall issue a restricted license reflecting on the face the restriction imposed by the Court and expiration date.

3. A certified copy of the order granting petitioner use of motor vehicle must be carried by the petitioner at all times while operating a motor vehicle

4. A peace officer, upon request, may examine the order at any time the petitioner is operating a motor vehicle.

5. It is an offense to operate a motor vehicle when a certified copy of the order granting petitioner use of a motor vehicle is not carried by the operator.

6. Under certain circumstances the Court may restrict a person's operation of a motor vehicle to one equipped with an ignition interlock devise. If such restriction is ordered, the device shall be installed and maintained at the person's sole expense, unless the Court finds that to do so would not be in the best interest of justice.

7. The Court may order a person's occupational license to be supervised by the local community supervision and corrections department to verify compliance with the conditions specified by the order granting the license. The Court may order the person to pay a monthly administrative fee for this supervision.

8. The Court may, for good cause, revoke an occupational license at any time.

RULE 6.34

Probation Revocations/Motions to Adjudicate/Habeas Corpus

(A) Proceedings to revoke probation apply to proceedings to adjudicate guilt.

(B) Motions to revoke probation shall state a summary of the prior proceedings in the cause, including but not limited to the offense alleged in the indictment or information, the date of the said conviction or entry of plea of guilty, and the term of probation.

(C) Upon the arrest of a probationer who fails to make bail within three (3) days of his arrest, the defendant shall appear on the first County Court at Law jail docket thereafter; in all other cases the hearing shall be set by the Court.

(D) For good cause shown upon written motion in compliance with Rule 6.23 (except that the motion may be presented to the Court one business day prior to the set hearing date), the Court may continue a revocation hearing.

(E) The resetting shall be acknowledged by the probationer in writing.

(F) Only the Court in which the defendant was tried may fix or alter conditions of probation, revoke probation or discharge the defendant, unless the Court has transferred jurisdiction of the case to another court with the latter's consent. See § 5, Article 42.12, Texas Code of Criminal Procedure.

RULE 6.35

Appeals from Lower Courts

No Local Rules under this subdivision.

RULE 6.36

Miscellaneous

(A) These Rules shall be known as the **"Local Rules of County Courts at Law Practice in Fort Bend County"** and may be referred to as the **"Misdemeanor Criminal Rules."**

(B) These Rules shall be applied to secure the effective administration of the misdemeanor criminal practice in the County Courts at Law of Fort Bend County and to eliminate unjustifiable expense and delay in the disposition of misdemeanor criminal cases.

(C) These Rules shall be liberally construed to achieve fairness to all parties in each case, with due regard to the rights of the State, the accused, the victim and society.

(D) These Rules shall be subject to the law of the State of Texas and to such Rules adopted by higher courts.

(E) Each County Court at Law shall retain its inherent authority to adopt Local Rules of Court not inconsistent with these Rules.

RULE 7
PROBATE CASES

RULE 7.10

Probate Courts/Session

The County Courts at Law of Fort Bend County, Texas, exercising original probate jurisdiction shall be deemed in session at all times regarding probate, guardianship, and mental health commitments.

RULE 7.11

Definitions

In these Rules:

(a) "Ancillary matter" includes any lawsuit brought by or against a personal representative, or brought on behalf of an estate, that does not relate to or concern the routine administration of an estate. Ancillary matters include, but are not limited to, suits concerning note collection, personal injury, breach of contract, and trust litigation.

(b) "Clerk" means the probate division of the Fort Bend County Clerk's office.

(c) "Contested matters" includes all litigated matters for which there are opposing parties.

(d) "Counsel" includes attorneys and parties representing themselves pro se.

(e) "Court" means the County Courts at Law and all judges serving those Courts, including associate and visiting judges.

(f) "Hearing" means any record proceeding before the Court, including a status conference, preliminary hearing, scheduling conference, or trial.

(g) "Party" means a person who has made an appearance in a case pending before the Court, either pro se or through counsel.

RULE 7.12

Parties Proceeding Pro Se

(a) Consistent with applicable law, including statutes prohibiting the unauthorized practice of law, the Court restricts pro se parties from representing themselves or others in certain instances. An individual must be represented by an attorney if the individual is:

(1) applying to serve as an executor or administrator of an estate;

(2) applying for a guardianship for another; or

(3) representing a third party, such as a beneficiary, heir, creditor, or estate representative, who seeks relief from the Court.

(b) An individual subject to subsection (a) may present a document to the Clerk for filing, but the Court will take no action on the document until there is an attorney of record in the case.

(c) An individual may appear before the Court pro se if the individual is:

(1) the sole beneficiary in a muniment of title action;

(2) a non-corporate creditor of a probate or guardianship estate;

(3) a non-corporate party in an ancillary civil action;

(4) a distributee of an estate appearing pursuant to a small estate affidavit; or

(5) otherwise permitted to do so by the Court.

(d) In a pending case for which legal representation is required, a party is urged to secure substitute counsel simultaneously with discharging the attorney of record to avoid delays and additional expense.

(e) A pro se party is expected to read and follow the Local Rules and the Texas Rules of Civil Procedure, the Texas Rules of Civil Evidence, the Texas Estates Code, and the Texas Rules of Appellate Procedure as may be appropriate in the particular case. A pro se party who fails to comply with all rules may be sanctioned. A pro se party shall ensure the Clerk has accurate contact information for the party, including current address, email address and phone numbers, for purposes of receiving pleadings and other notices.

RULE 7.13

Assignment of Cases

(a) All matters filed in the Courts of Fort Bend County, Texas, shall be assigned a number and court as provided for under "Filing and Assignment of Civil Cases" in these Rules.

(b) Once a case number has been assigned and docketed to a particular court, all matters related thereto, including but not limited to the following as set out in §31.002, Texas Estates Code, shall remain in such Court unless an Order of Transfer signed by the Judge of said Court transferring the case is filed with the Clerk of the Court and the Judge of the Court to whom it is being transferred.

i. the interpretation and administration of a testamentary trust if the will creating the trust has been admitted to probate in the court; and

ii. the interpretation and administration of an inter vivos trust created by a decedent whose will has been admitted to probate in the court.

(c) The County Clerk shall maintain a case file for each person's filed guardianship proceeding pursuant to §1052.052, Texas Estates Code (e.g., guardianships filed for siblings shall be maintained in separate files for each ward).

(d) If wills are filed for probate at the same time for a husband and wife, both cases shall be filed in the Court in which the lowest numbered case is assigned.

(e) If a decedent's estate is filed in which the decedent was a ward of a Court, the decedent's estate shall be filed in the Court in which the guardianship was pending.

(f) The county Clerk shall manually rotate and assign the civil mental health cases and Richmond State Supporting Living Center cases equally among all of the County Courts at Law.

RULE 7.14

Preventing Duplication

In order to prevent the duplication of docketing and assignment of estates, all attorneys for applicants are required to review the estate index records in the probate division of the County Clerk's office prior to the filing of any estate. In the event a docket

number has been previously assigned to an estate, all subsequent matters shall be filed under such previously assigned number.

RULE 7.15

Transfer Between Courts

A request to transfer between Courts in Fort Bend County shall be made by the attorney in charge of the party who is seeking a transfer. It shall be the responsibility of the attorney representing the party desiring a transfer to obtain the agreement of the Judges of the Courts from which the transfer is sought and to which the case will be transferred. The Probate Auditor of the Court to which the case has been requested to be transferred shall notify the Court from which the case is requested to be transferred indicating that a case transfer will be accepted. All case transfers are subject to the discretion of the Judge in which the case has been filed.

RULE 7.16

Citation, Service and Return

All original, amended, or supplemental citations, notices, writs, process, applications, petitions, and motions shall be served in compliance with the applicable provisions of the Texas Estates Code including but not limited to, Sections 258.001, 258.002, 258.003, 303.001 and 303.002 and unless otherwise inconsistent, in compliance with the applicable Texas Rules of Civil Procedure. Where the Texas Estates Code does not specify a specific manner of citation and service that may be issued or where the Judge has discretion as to the type of citation and service that may be instituted then the required notice shall be by posting unless the Judge of said Court requires another type of citation and notice. It shall be the responsibility of the attorney in charge, in this instance,

to ascertain the required citation and service by contacting the Probate Auditor and when necessary submit to the Court an order for notice or citation other than by posting. All citations issued in matters pending before the Courts shall be returned upon execution of service to the County Clerk's office where issued or within ninety (90) days from the date of service was issued. Failure to return citation within ninety (90) days shall not void a subsequent service under such citation.

RULE 7.17

Filing of Original Will with the Clerk

When a party electronically files an application that seeks to probate an original will, a copy of such will shall be filed electronically along with the application to probate such will and the original will shall be filed with the Clerk within three business days after the application is filed pursuant to Rule 21(f)(12), Texas Rules of Civil Procedure. The clerk must retain an original will filed for probate in a numbered file folder pursuant to Rule 21(f)(13), Texas Rules of Civil Procedure. The appropriate Court will allow the applicant to schedule a hearing only after the original will has been filed with the Clerk.

RULE 7.18

Filing of Copy of Will not Produced in Court with the Clerk

When a party electronically files an application that seeks to probate a lost will or a will not produced in court, a copy of the document purporting to represent the contents of such lost will shall be filed electronically along with the application to probate such will and a hard copy of such document purporting to represent the contents of the lost will shall be filed with the Clerk within three business days after the application is filed. The Court will allow the applicant to schedule a hearing only after a hard copy of such

document purporting to represent the contents of such lost will has been filed with the Clerk.

RULE 7.19

Filing Applications to Probate a Copy of a Lost Will or a Lost Will without a Copy

(A) The fact that a copy of a lost will or a lost will without a copy is being offered for probate must be included in the title of the title of the application.

(B) The Court may appoint an attorney ad litem under Texas Estates Code §53.104 to represent the interests of testator's unknown heirs or heirs having a legal disability, if a full or partial intestacy will result if the lost will is not admitted to probate. If an attorney ad litem needs to be appointed:

1. The applicant may be required to deposit funds toward the services of the attorney ad litem.
2. The applicant must provide the Clerk with copies of the application and the will to be sent to the attorney ad litem.

(C) The Clerk must attach to each citation issued under Texas Estates Code §258.002 the "Notice of Application to Probate Copy of Lost Will or Codicil or Lost Will or Codicil without a Copy" in the same form provided for under this Rule, informing all persons interested in the estate of their right to object to the probate.

(D) All persons who are named as devisees in the lost will must be personally served with citation under §258.002 or must execute an affidavit waiving citation.

(E) All persons who would inherit as an heir of the testator if the lost will is not admitted to probate must be personally served with citation under §258.002 or must execute an affidavit waiving citation. If the lost will is a codicil to an original will, the beneficiaries of the testator's original will – instead of the testator's heirs – must be personally served with citation under §258.002 or must execute an affidavit waiving citation.

(F) When an heir or a devisee executes an affidavit waiving citation, the affidavit itself must explicitly include all of the points addressed in the "Notice of Application to Probate Copy of Lost Will or Codicil or Lost Will or Codicil without a Copy" which can be found on the Court's website.

(G) Form language for Notice of Application to Probate Copy of Lost Will or Codicil or Lost Will or Codicil without a Copy:

> You are notified that an application has been filed in this Decedent's estate to probate a written will or codicil even though the applicant cannot produce the original will. The application filed in this estate seeks either to probate a copy of a lost will or codicil or to probate a lost will or codicil without a copy (all referred to below as "lost will").
>
> When an original will cannot be produced, the law presumes that the testator (the person who wrote the will) revoked the will before the testator's death. The Court will not grant the application in this case unless the applicant offers sufficient evidence to rebut that presumption and proves to the Court that the will was <u>not</u> revoked, even though only a copy has been filed.
>
> If no will is admitted to probate, Decedent's property will pass to Decedent's heirs. If a lost codicil to a valid original will is not admitted to probate, Decedent's property will pass to the devisees (beneficiaries) named in the valid will. Therefore, your rights to inherit property may be affected by the probate of the lost with either (1) as an heir of the Decedent, or (2) as someone who is named as a devisee in the lost will, or (3) as a devisee in a valid will when there is a lost codicil to that will.

If you want to object to the probate of the lost will, you must file a written objection with the Clerk. The Clerk's citation, which is attached to this notice, indicates the date by which you should file a written objection. Note that the citation does not indicate a specific hearing date.

If you sign an affidavit waiving citation, you are indicating to the Court that you do not object to the probate of the lost will.

You should consult an attorney if you have any questions about your rights in this probate matter.

RULE 7.20

Filing Applications to Probate a Will More than Four Years after the Testator's Death

(A) The fact that a will is being offered for probate more than four years after the testator's death must be included in the title of the title of the application.

(B) The Court may appoint an attorney ad litem under Texas Estates Code §53.104 to represent the interests of testator's unknown heirs or heirs having a legal disability, *except when the application indicates that another will of the testator has previously been admitted to probate.* If an attorney ad litem is appointed:

1. The applicant may be required to deposit funds toward the services of the attorney ad litem.
2. When an attorney ad litem will be appointed, the applicant must provide the Clerk with copies of the application and the will to be sent to the attorney ad litem.

(C) The Clerk must attach to each citation issued the "Notice of Application to Probate a Will More than Four Years after the Testator's Death" in the same form provided under this Rule.

(D) All persons who would inherit as an heir of the testator if the will is not admitted to probate must either (1) be personally served with citation or (2) deliver to the Court an affidavit waiving citation and indicating that the heir does not object to the offer of the testator's will for probate. If another will of the testator has previously been admitted to probate, all beneficiaries of the testator's probate will – instead of the testator's heirs – must be personally served with citation or must deliver to the Court an affidavit waiving citation and indicating that the beneficiary does not object to the offer of the testator's will for probate.

(E) When an heir or beneficiary executes an affidavit waiving citation and waiving objection, the affidavit itself must explicitly include all of the points addressed in the "Notice of Application to Probate a Will More than Four Years after the Testator's Death" which can be found on the Court's website.

(F) Form language for Notice of Application to Probate a Will More than Four Years after the Decedent's Death:

> You are notified of the filing in this Decedent's estate of an application to probate a will or codicil ("will") more than four years after the Decedent died.
>
> You must understand the following:
>
> (1) The testator's property will pass to the testator's heirs if the will is not admitted to probate. (Or if this will is not admitted to probate, but another will of Decedent was previously admitted to probate, Decedent's property will pass to the beneficiaries in that previously probated will.)
>
> (2) The person offering the testator's will for probate may not be in default for failing to present the will for probate during the four-year period immediately following the testator's death.

Therefore, the Court will not grant the application in this case unless the applicant offers sufficient evidence to prove that he or she was not in default for failing to probate the will within four years of Decedent's death.

As an heir of the Decedent – or as a beneficiary in Decedent's previously probate will – your rights to inherit property may be affected by the probate of ta will more than four years after Decedent's death.

If you want to object to the probate of the will more than four years after the Decedent' death, you need to file a written objection with the Clerk. The Clerk's citation, which is attached to this notice, indicates the date by which you should file a written objection. Note that the citation does not indicate a specific hearing date.

If you sign an affidavit waiving citation, you are indicating to the Court that you do not object to the probate of the will that has been filed by the applicant more than four years after the Decedent died.

You should contact an attorney if you have any questions about your rights in this probate matter.

RULE 7.21

Filing of Annual and Final Accounts

The following procedures must be followed when any annual or final account is filed:

(A) File the accounting in compliance with TRCP21c, redacting sensitive data as needed (e.g. required verifications of deposit, confirmations of safekeeping, and tax affidavits).

(B) File the accounting electronically as required by Texas Supreme Court Order and TRCP Rule 21.

(C) No financial statement, check copy, or other back-up to an annual or final accounting shall be filed with the Clerk, whether or not any sensitive date is redacted.

(D) Within seven business days of filing the accounting, deliver a hard copy of the following by mail or by hand-delivery to the Probate Auditor for the Court in which the accounting was filed:

i. An un-redacted copy of the filed accounting that clearly indicates on the first page or in a cover letter the date of accounting was filed;

ii. All required, un-redacted, back-up documents including financial statements (e.g., bank statements, copies of returned checks, brokerage statements, etc.). The Court will not file the back-up documents or the un-redacted copy of the filed accounting;

iii. If it is a first annual accounting, an un-redacted copy of the inventory; and

iv. In a probate matter, the names and birth dates of all minor heirs, if any.

RULE 7.22

Filing of Original Surety Bonds With Clerk

In instances where a surety bond is required pursuant to the Texas Estates Code, the Clerk shall accept the filing of original bonds over the counter or by mail for approval by the Court and shall retain the original bond in the current numbered file pursuant to Rule 21(f)(4)(C), Texas Rules of Civil Procedure.

RULE 7.23

Filing of Small Estate Affidavits

(A) Posted citation is required upon the filing of all Small Estate Affidavits.

(B) The Court has created a Small Estate Affidavit form that – if completely and correctly filled out – includes all information necessary to enable the Court to determine whether the Court should approve a Small Estate Affidavit.

(C) The Court will not approve any Small Estate Affidavit unless it uses the approved form posted on the Court's website (or whatever modification of the approved form is posted in the future).

(D) Approval of a Small Estate Affidavit is within the Court's discretion pursuant to §205.003, Texas Estates Code.

RULE 7.24

Severance

(A) A motion to sever will be granted only on a showing that a severance is necessary to protect substantial rights or to facilitate disposition of the litigation. Except on a showing of good cause, a severance will not be granted to make a judgment final if the judgment otherwise would be interlocutory due to other pending claims in the case.

(B) When a motion to sever is granted, the party who sought the severance shall file the severed claim as a new case and the Clerk shall give the new case a new cause number. A severed claim filed as a new case is subject to all filing fees required by the Clerk.

RULE 7.25

Vacations of Counsel

Counsel may not request a hearing on a date for which counsel has received notice that another party to the case is unavailable. If the Court sets a case for a hearing on a date for which a counsel has planned a vacation, counsel shall notify the Court as soon as the notice of hearing is received and the hearing will be reset for a different date, unless there is a clear showing of abuse or unreasonable delay. If a counsel becomes

unavailable for a hearing after receiving a hearing notice, counsel shall immediately notify the Court and all parties and request that the hearing be reset for a different date.

RULE 7.26

Judicial Absences

When a judge anticipates being absent, the judge may request that the Presiding Judge of the Administrative Judicial District assign a visiting judge to the court or use the Associate Judge pursuant to standing orders or specific referrals. Counsel is encouraged to contact the Court Administrator to verify whether a visiting judge is scheduled, particularly for continued or contested hearings.

RULE 7.27

Bankruptcy

(A) Notice of Filing

(1) When a party to a case pending before the Court files for protection under the bankruptcy laws of the United States, that party shall provide written notice to the Court and all counsel that a bankruptcy filing has occurred. The notice must be filed immediately and not later than five days after the date of the bankruptcy filing and include the name and location of the bankruptcy court, the bankruptcy cause number and style, the date of filing, and the name and address of counsel for the debtor(s).

(2) The Court may sanction a party or counsel for failure to comply with this Rule.

(B) Conclusion of Bankruptcy

After a bankruptcy has been concluded, whether by discharge, denial of discharge, an Order lifting the automatic stay so as to permit continuation of the litigation, a dismissal or otherwise, counsel shall notify the Court promptly so the affected case may be restored to the active docket or dismissed as appropriate.

RULE 7.28

Appointment of Attorney or Guardian Ad Litem

(A) The Court may appoint an attorney or guardian ad litem when authorized or required pursuant to the Texas Estates Code or the Texas Rules of Civil Procedure.

(B) Before an attorney is eligible for appointments as an attorney ad litem in guardianship cases, the attorney shall be certified pursuant to §1054.201, Texas Estates Code and complete any additional standards prescribed by the Court.

(C) Until discharged, an ad litem is entitled to be notified of all hearings and to be served with all pleadings.

(D) In all guardianship and heirship proceedings, a motion and order appointing an attorney ad litem shall accompany the application at the time of filing.

(E) Except as otherwise directed by the Court:

(1) an attorney ad litem in a guardianship matter is not required to make a written report, to avoid compromising the attorney work product or other privilege;

(2) an attorney ad litem in a non-guardianship proceeding is required to make a written report;

(3) a guardian ad litem is required to file a written report not later than the date established by the Court; and

(4) counsel serving in a dual role of attorney ad litem and guardian ad litem shall make a report only if the portion of the report relating to the role of guardian ad litem does not compromise the attorney work product or other privilege.

(F) In an appropriate case, an ad litem should consider filing an application for security for costs under Tex. R. Civ. P. 143 and Texas Estates Code §53.052 and 1053.052

(G) In a determination of heirship proceeding, the Court may require the deposit of security for costs for the fees of the attorney ad litem.

(H) All ad litems serve at the pleasure of the Court.

RULE 7.29

Filing Papers

(A) All pleadings, motions, notices, briefs, proposed orders, proposed judgments, and any other paper, document, or thing made a part of the record shall be electronically filed with the Clerk. A pleading should have only one style to ensure pleadings are filed in the correct case.

(B) This subsection applies to the submission of a proposed order or judgment in a case in which parties are entitled to notice or service of pleadings under Tex. R. Civ. P. 21.

(1) If all counsel agree to the form of the proposed order or judgment:

(i) all counsel must sign the order or judgment; and

(ii) the Court may enter the order or judgment immediately on submission.

(2) Absent an agreed order or judgment under subdivision (1) of this subsection:

(i) counsel may submit a proposed order or judgment to the Court no earlier than 10 days (mailbox rule applies) after serving that proposed

order or judgment on all other counsel, unless all counsel agree to submit the proposed form and alternative forms of the order or judgment before that date;

(ii) at the time of submission, the proponent shall certify to the Court that the proposed order or judgment was served on all counsel and describe to the Court the substance of all communications received from all counsel regarding the form of the order or judgment;

(iii) a party objecting to the form of the order or judgment must prepare an alternative form of the order or judgment, specifically state the objections to the proponent's order or judgment, serve the alternative form on all counsel, and submit the alternative form to the Court; and

(iv) a proposed order or judgment submitted in accordance with this subdivision is subject to being held an additional 10 days before the Court will consider the order or judgment, after which the Court may act without notice to the parties.

(3) The Court may act at any time without further notice to the parties on a proposed order or judgment submitted in accordance with this subsection. Nothing in this subsection prevents the Court from entering its own form of order or judgment or restricts the Court's ability to enter orders at its discretion.

(C) Counsel may not file an amendment to a pleading later than seven days before the date a case is set for trial. The Court will consider an amended pleading offered for filing later than seven days before the date of trial only as a trial amendment under Tex. R. Civ. P. 66. The amended pleading may be filed only with leave of Court after filing a motion and providing notice to all parties.

(D) Notwithstanding subsection (c), an order sustaining a special exception or taking an action that requires the filing of an amended pleading is considered to grant leave to file the amended pleading not later than 20 days after the date the order is entered unless the order specifies a different deadline.

RULE 7.30

The Setting of Cases

(A) The Court shall promulgate a yearly calendar showing which weeks shall be jury or non-jury.

(B) Non-jury matters may be set and tried in jury weeks subject to the jury docket.

(C) At the Court's discretion and subject to the availability of jury panels, the Court may call to trial a jury matter during a non-jury week.

(D) The Court will set a hearing and place it on the docket on written or oral request of a party unless the Court requires the request to be made in writing. The Court will not sign an order setting a hearing except when:

(1) a show cause order is necessary; or

(2) a rule of law requires that an order for a hearing be signed by the Court.

(E) Temporary guardianship hearings and other matters involving exigent circumstances will take priority over other proceedings.

(F) A request for a non-jury hearing must include an estimate of the hearing time required for the matter being set. Counsel requesting the hearing shall include the time estimate in the notice to the parties.

(G) The Court may establish an uncontested docket procedure. Uncontested matters and routine matters of very short duration may be set on the uncontested docket by calling the Probate Auditor. The uncontested docket consists of, but is not

limited to, issuance of letters testamentary, muniment of title actions, issuance of letters of administration, administrative motions, and declarations of heirship.

RULE 7.31

Resolution of Conflicting Settings

When a counsel has settings in more than one court:

(1) a trial on the merits in any court takes precedence over hearings, motions, and other interlocutory matters in another court;

(2) all proceedings in any court take precedence over depositions and other out of court activities; and

(3) an attorney who has a previously scheduled oral argument in an appellate court will be given a reasonable time to travel to and from that court and make argument if the attorney advises the Court of the scheduled argument before trial commences.

RULE 7.32

Disposition of Contested and Ancillary Matters

(A) On its own motion or by agreement of the parties and counsel, the Court will refer a case for resolution by an alternate dispute resolution procedure under Chapter 154, Civil Practice and Remedies Code. A party or counsel may move for such a referral if an agreement cannot be reached.

(B) A pre-trial hearing will not be required in every case. On request of a party or on its own motion, the Court may set a hearing under Tex. R. Civ. P. 166 to consider any matter that might aid in the disposition of the action, including requiring the filing of the Parties Joint Pre-Trial Statement.

(C) The Court may conduct a scheduling conference in any case at the request of a party or on its own motion. If before the date of the scheduling conference

the parties provide to the Court an Agreed Scheduling Order, a scheduling conference will be required only if requested by a party or as required by the Court.

(D) When a party believes a case is ready for trial, counsel may request that the case be set for trial by filing a written request with the Probate Auditor. The request may ask for a setting on a specific trial week, but no sooner than 45 days after the date of request, unless leave of Court is obtained or all counsel agree to an earlier setting. The request must be sent to all counsel and/or pro se parties. A party may file a written objection to the request not later than seven days after receiving the request for setting. The objecting party must request a hearing on the objection.

(E) When requesting a trial setting, counsel shall inform the Court of the estimated time for trial. Counsel shall make a good faith estimate of the time required after consulting all parties and considering proper examination of witnesses, introduction of exhibits, and cross-examination and rebuttal of witnesses reasonably anticipated to be called by all parties. If the time requested is not sufficient, the Court may continue the matter as the Court's docket allows. If the Court finds that the counsel requesting the trial setting acted in bad faith in misrepresenting the time required, the Court may impose appropriate sanctions, including attorneys' fees incurred by any delay in trial and costs and expenses for travel of witnesses and parties who are required to return at a later date as a result of the continued setting.

RULE 7.33

Motions for Continuance, Agreed Passes, and Settlements

(A) A trial or hearing date may not be postponed or changed without Court approval.

(B) Except as otherwise provided by this subsection, a motion for continuance must be filed not later than five days before the date of a scheduled hearing. A motion for continuance based on facts occurring on or after the fifth day before the date of a scheduled hearing must be filed as soon as possible and will be heard at a time set by the Court.

(C) If counsel agrees to continue a hearing, the counsel initiating the request for continuance shall notify the Court immediately and the Court will decide whether to grant the continuance. If counsel fails to notify the Court within a reasonable time before the date of the hearing, the Court may impose appropriate sanctions.

(D) If the parties reach a settlement, the counsel representing the party seeking affirmative relief shall notify the Court of the settlement in writing and that the hearing date is no longer needed. If counsel fails to notify the Court within a reasonable time before the date of the hearing, the Court may impose appropriate sanctions.

(E) On receiving notice of a settlement, the Court shall set the matter for dismissal on a date not earlier than 30 days after the date the notice was filed.

RULE 7.34

Pre-Trial

(A) If not otherwise addressed in a Scheduling Order, the Court will conduct a pre-trial conference at least 10 days before the scheduled trial date. At the pre-trial conference, the Court will hear and consider all pending preliminary, pre-trial, and dispositive motions and matters. Before the presentation of any evidence to the jury, the parties shall present to the Court and each other a proposed jury charge for any issue on which the party presenting the charge carries the burden of proof, unless the Court requires the proposed jury charge to be submitted to the Court earlier. The Court reserves the right to require the parties to present their proposed jury charges 10 days before the scheduled trial date.

(B) At the pre-trial conference, counsel is expected to identify for the Court the issues that are disputed and to be familiar with the authorities applicable to the questions of law raised at pre-trial. Failure to comply with this Rule is grounds to postpone the trial, require further pre-trial hearings, or other appropriate sanction.

(C) If counsel for a party fails to appear at a pre-trial conference, the Court may:

(1) rule on all motions, dilatory pleas, and exceptions in the absence of that counsel;

(2) declare any motions, dilatory pleas, or exceptions of the absent counsel waived;

(3) advance or delay the trial setting according to the convenience of the counsel present;

(4) pass and reset the pre-trial; or

(5) if the absent counsel represents the plaintiff:

(i) decline to set the case for trial;

(ii) cancel a setting previously made; or

(iii) dismiss the case for want of prosecution.

(D) Counsel appearing at the pre-trial either shall be the attorney who will try the case or shall be familiar with the case and be fully authorized to state the party's position on the law and the facts, make stipulations, and enter into settlement negotiations as trial counsel. If the Court finds that the appearing counsel is not qualified, the Court may deem that counsel for that party did not appear.

RULE 7.35

Trial Procedure

(A) Except as otherwise specified in a scheduling order or by leave of Court, a dilatory pleading, such as special exceptions or a plea in abatement, must be filed not later than 30 days before a scheduled trial date.

(B) All contested and ancillary matters are specially set. Counsel may request only one additional setting as a second setting. A second setting will be called to trial if the case with the number one setting on that date does not proceed.

(C) Except as otherwise ordered by the Court, when reporting for trial, counsel shall deliver to the Court and other counsel a witness list, exhibit list, and any motion in limine. A witness or exhibit that was not disclosed as required by this subsection may be offered at the trial only by leave of Court. Before the trial starts, counsel shall mark all exhibits and exchange them with opposing counsel so that the trial will not be delayed.

(D) Counsel intending to offer videotaped depositions or other forms of media or recordings at trial, except those offered solely for impeachment, must make the forms of media or recordings available to opposing counsel sufficiently in advance of trial so that a hearing on any objections can be held before the start of trial. Any tapes or films not so tendered will not be permitted into evidence at trial. All counsel must timely examine any tendered tapes or films and request a hearing immediately, if there are objections to the admissibility of any part of the tapes or films. Any objections not heard prior to trial are waived.

(E) Counsel shall stipulate to all facts that are not in dispute and waive formal proof as to any documents to be introduced about which there is no dispute as to authenticity.

RULE 7.36

Motion Practice

(A) Counsel is encouraged to resolve pre-trial disputes to avoid the need for judicial intervention.

(B) The Court will not set a motion for hearing unless the moving counsel certifies in the motion or in a letter filed contemporaneously with the motion that counsel conferred or attempted to confer with opposing counsel regarding the motion. The certification must conform substantially to the following:

> "A conference was held on (date) with (name of opposing counsel) on the merits of this motion. Agreement could not be reached."
>
> or

"A conference was not held with (name of opposing counsel) on the merits of this motion because (explanation of inability to confer)."

(C) The Probate Auditor is responsible for scheduling the dates and times for hearings. On obtaining a date and time for a hearing, the moving counsel shall immediately notify all counsel in writing as to the date, time, and subject matter of the hearing. The moving counsel shall provide a copy of the notice to the Probate Auditor.

(D) By agreement, counsel may submit a matter for decision by the Court without a hearing. The Court should be advised in writing when this procedure is desired.

(E) When requesting a hearing on a motion, counsel shall inform the Court of the estimated time for the hearing. Counsel shall make a good faith estimate of the time required after consulting all parties and considering proper examination of witnesses, introduction of exhibits, and cross-examination and rebuttal of witnesses reasonably anticipated to be called by all of the parties. If the time requested is not sufficient, the Court may continue the matter as the Court's docket allows. If the Court finds that the counsel requesting the hearing acted in bad faith in misrepresenting the time required, the Court may impose appropriate sanctions, including attorneys' fees incurred by any delay in the hearing and costs and expenses for travel of witnesses and parties who are required to return at a later date as a result of the continued hearing.

RULE 7.37

Hearings Conducted by Electronic Devices

Generally, the Court does not permit telephonic hearings or hearings at which a party, witness, or counsel appears remotely. A telephonic hearing or hearing at which a party, witness, or counsel seeks to appear remotely must be pre-approved by the Court through the Probate Auditor. The requesting party shall make the request in writing to the Court and send a copy of the request to all parties. The party requesting the telephonic or remotely-attended hearing shall coordinate and facilitate all connections and communications before making the request. The party requesting the telephonic or remotely-attended hearing shall ensure the ability of the court reporter to take an accurate record of the proceeding. The Court will not permit a telephonic or remotely-attended hearing to be conducted through the use of a cellular telephone or other cellular device. At the Court's discretion, the Court may terminate a telephonically or remotely-attended hearing and continue the hearing at a later date in the presence of the Court.

RULE 7.38

Deposition Guidelines

(A) The Court adopts these guidelines to promote uniformity and save time and expense resulting from discovery disputes. The Court encourages counsel to strive for agreement on discovery matters. Absent agreement, counsel may submit discovery disputes for Court resolution by filing a proper motion. The Court may require a hearing before acting on a motion relating to a discovery dispute.

(B) The party initiating a deposition may elect to take the deposition orally or on written questions and all counsel may elect to cross-examine orally or on written questions.

(C) Before noticing an oral deposition, the attorney initiating an oral deposition shall attempt to confer with all counsel to reach an agreement as to date, time, place, and materials to be furnished at the deposition. Failure to make an adequate attempt to confer as required by this subsection is grounds to quash the deposition. A notice of deposition must describe the efforts to reach agreement in a statement that conforms substantially to the following:

> "A conference was held (or attempted) with opposing counsel to agree on a date, time, place, and materials to be furnished at the deposition. Agreement could not be reached (or counsel did not respond) and the deposition is being taken pursuant to this notice (or agreement was reached and this notice complies with the agreement)."

(D) Notice of less than 10 days under Tex. R. Civ. P. 21a and 202.3(a) is presumed to be unreasonable.

(E) A deposition may be noticed in:

(1) the county of the witness's residence or the county where the witness is employed or regularly transacts business in person;

(2) the county of suit if the witness is a party or a person designated by a party under Tex. R. Civ. P. 199.2(b)(1);

(3) the county where the witness was served with the subpoena, or within 150 miles of the place of service, if the witness is not a resident of Texas or is a transient person; or

(4) any other convenient place directed by the Court in which the case is pending.

RULE 7.39

Matters Requiring Immediate Action

(A) A pleading requesting immediate action or relief, such as an application for temporary restraining order, receivership, temporary administration, temporary guardianship, or a request to examine the contents of a safe deposit box will not be considered by the Court until the pleading has been filed with the Clerk, unless it is impossible to do so. If it is impossible to file such a pleading before it is presented to the Court, the presenting party shall file the pleading as soon as possible and the Clerk notified of all actions taken by the Court.

(B) A party requesting relief *ex parte* shall notify all parties of the intent to present the request for relief to the Court *ex parte.* The requesting counsel must provide notice to all parties not later than two hours before the time the counsel intends to present the request *ex parte* and state in the notice the time and place the request will be presented. An application for relief *ex parte* must include a certificate by counsel that states whether the party against whom relief is being sought is represented by counsel in the matter that is the basis of the relief sought and, if so, the name, address, and telephone number of that counsel.

RULE 7.40

Private Service of Process

The Court will not sign a proposed order authorizing private service under Tex. R. Civ. P. 103 unless the party requesting private service files a certificate of counsel stating that the individual to be authorized to serve a citation or notice is at least

18 years of age, is not a party, and has no interest in the outcome of the case for which the authorization is sought.

RULE 7.41

Motions to Withdraw as Attorney of Record and Motions to Substitute Counsel

(A) A motion to withdraw as attorney of record requires a hearing with written notice to all counsel and the client except as otherwise provided by this section

(B) A motion to withdraw that includes a request to substitute another attorney does not require a hearing if:

(1) the motion is filed at least 45 days before a scheduled court date, including a final hearing;

(2) the motion contains the client's written and signed consent to the withdrawal; and

(3) the substituting attorney makes an appearance pursuant to Tex. R. Civ. P. 10 and Tex. R. Civ. P. 57.

(C) A motion to withdraw filed later than 45 days before the date scheduled for a final hearing does not require a hearing if the motion is agreed to in writing by all parties of record and the client.

(D) Notwithstanding Subsections (B), (C), and (D) of this Rule, a hearing will be required on the filing of an objection or at the request of a party.

RULE 7.42

Dismissal Dockets

Each Court in Fort Bend County, shall establish its own standards for dismissal dockets. The County Clerk shall furnish notice to all parties and their counsel that any contested case or matters 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 8
JUVENILE CASES

RULE 8.10

Juvenile Courts/Session

The County Courts at Law setting as Juvenile trial Courts shall be deemed in session at all times, regarding all juvenile cases as set pursuant to Title 3 of the Texas Family Code.

RULE 8.11

Filing and Assignment of Cases

The following Rules shall govern the assignment of juvenile cases within the jurisdiction of the County Courts at Law of Fort Bend County:

(A) All juvenile proceedings presented to the County Clerk for filing, whether through the District Attorney or otherwise, and whether a petition has been filed or not, shall be assigned a permanent file number by the County Clerk on a random basis to the County Courts at Law by means of a blind filing process which provides for the equal distribution of new cases in such a manner that it cannot be determined to which Court a case will be assigned until after the court assignment. Except as may be provided otherwise in these Rules, the County Clerk shall randomly assign every juvenile case filed in a fair and equitable manner equally divided among the County Courts at Law; however, if known, siblings or co-actors of juveniles currently pending in a County Court at Law, shall be assigned to that County Court at Law were the sibling or co-actor is pending. If siblings or co-actors are not currently pending in a County Court at Law, but are filed concurrently, those cases shall be assigned the same County Court at Law.

(B) After assignment to a particular Court, every case, both jury and non-jury, shall remain pending in such court until final disposition, or transfer.

(C) Any case may be transferred to another Court by order of the judge of the Court in which the case is pending with the consent of the judge of the Court to which it is transferred; or by order of the Local Administrative Judge of the County Courts at Law. The purpose of this transfer may be for either preliminary matters or detention hearings, or for the final disposition for the case.

(D) When an adjudication is made by one of the Courts, either on ancillary matters or on the merits, and the case is terminated (by non-suit or otherwise), and a subsequent suit or cause of action involving the same child or the same subject matter is filed, the same shall be filed in or transferred to the Court that had original jurisdiction of the parties and the issues.

(E) The District Attorney shall file an original of all pleadings with the County Clerk of Fort Bend County and a copy of all pleadings with the Juvenile Probation Department. The copy shall be clearly marked by the District Attorney ***"Copy for Attorney in Charge for the Child."*** Upon application filed with the Juvenile Probation Department, Juvenile Probation shall release to the attorney in charge for the child those copies clearly marked by the District Attorney at no cost.

(F) The District Attorney shall immediately notify the Judge of the Court in which it is filed of the filing of a petition for determinate sentencing or certification as an adult. The County Clerk shall immediately bring to the Court the file when such cases are filed.

RULE 8.12

Submission of Judgments/Orders

All orders and judgments should be presented to the Court immediately following a hearing or trial by a Juvenile Court and in all events all orders and judgments must be submitted for the Courts' signature within fifteen (15) days from the date of the hearing unless otherwise specified by the Court.

RULE 8.13

Pre-Trial Conferences

Pre-trial conferences shall be held at such time as the Court shall specify.

RULE 8.14

Docket Settings

All cases shall be set on the docket as prescribed by the Courts.

RULE 8.15

Preferential Settings

Preferential settings on the contested docket shall be granted upon the Court's own motion or upon request only in the following cases:

1. Those entitled to preferential setting by law;
2. Those in which there are out-of-county parties or witnesses;
3. Those in which evidence is presented that manifest hardship would be imposed upon any litigant if a preferential setting is not granted; or
4. Those in which the juvenile is in detention.

RULE 8.16

Uncontested Matters

All uncontested matters shall be set and heard at times suitable to each Court.

RULE 8.17

Assignment of Cases for Trial

All assignment of cases for trial shall be set by each Court.

RULE 8.18

Appointment of Counsel

(A) Counsel for indigent juvenile respondents shall be appointed by the Court or its designee pursuant to Senate Bill 7, 77th Legislature 2001 (Texas Fair Defense Act) and by a plan approved by the Juvenile Board, adopted and incorporated herein for all purposes.

(B) **Rule 6.13 -- Appointment of Counsel**, as provided in these Rules for appointment of counsel in criminal cases, shall govern in the appointment of counsel in juvenile matters for so long as there is no conflict with the Texas Family Code.

RULE 8.19

Withdrawal or Substitution of Counsel

(A) All motions to withdraw as attorney in charge in a case, whether appointed or retained, must be signed by the attorney and, unless good cause is shown, approved in writing by the client and at least one parent or guardian. All motions for substitution of retained attorneys must be signed by the attorney seeking to withdraw and the attorney seeking to be substituted and the client and least one parent or guardian.

(B) Granting of motions permitting change in representation shall not be grounds for a continuance.

(C) Appointed attorneys may be withdrawn or substituted on the Court's own motion.

RULE 8.20

Continuances - Resetting/Postponement

(A) Continuances in a case shall require the consent of the Court. All parties to a suit who desire a continuance prior to the date set for hearing shall reduce their request to writing and submit such request to the Court for approval. It shall be the responsibility of the party requesting the continuance to also request a new hearing date mutually agreeable to all parties, and include the desired new hearing date in the request for continuance.

(B) Cases may be continued and reset on the Court's own motion.

RULE 8.21

Stipulations

Stipulations may be made and accepted with the Court's approval.

RULE 8.22

Jury/Non-Jury Trials

These Rules are applicable to both jury and non-jury cases.

RULE 8.23

Time Standards for the Disposition of Juvenile Cases

(A) **Detention Hearings**

The initial detention hearing shall be held within 48 hours following admission to any detention facility unless same falls on a weekend or holiday, in which event it shall be held on the next business day of the Court. Detention hearings thereafter shall be set by the Court in which the case is pending to meet the requirements of the Texas Family Code. Detention hearings may be waived in writing, signed by the juvenile and his attorney with approval of the Court. Probable cause to detain may be stipulated in writing, signed by the child and his attorney with approval of the Court.

(B) **Adjudicatory and Transfer (Waiver) Hearings**

a. Concerning a juvenile in a detention facility: Not later that thirty (30) days following admission to such a facility, except for good cause shown of record, a pre-trial conference may be conducted by the Court.

b. Concerning a juvenile not in a detention facility: Not later than thirty (30) days following the filing of the petition, except for good cause shown of record, a pre-trial conference may be conducted by the Court.

c. Disposition hearings shall be held not later than fifteen (15) days following the adjudicatory hearing. The Court may grant additional time in exceptional cases that require a more complex evaluation.

d. Nothing herein shall prevent a judge from recessing a juvenile hearing at any stage of the proceeding where the parties are agreeable or when in the opinion of the Judge Presiding in the case the best interest of the child and of society shall be served.

RULE 8.24

Complex Cases

It is recognized that in especially complex cases or special circumstances it may not be possible to adhere to these standards.

RULE 8.25

Appearance of Parties and Counsel

The attorney or substitute designated is required to be present to answer all docket calls pursuant to Rule 12.11(J). The juvenile and at least one parent or guardian is to be present at each docket call.

RULE 9
JURY MANAGEMENT

RULE 9.10

Management of Juries

No Local Rules under this subdivision.

RULE 9.11

Empanelling Juries

No Local Rules under this subdivision.

RULE 9.12

Miscellaneous

No Local Rules under this subdivision.

RULE 10
JUDICIAL VACATION

RULE 10.10

Judicial Vacation

(A) Judicial vacations and educational events will be scheduled in advance by each Judge, subject to changed conditions.

(B) The Judges of Statutory County Courts may take personal vacation at any time during the year.

(C) Such vacations should be coordinated with the other County Court at Law Judges.

(D) The Judges may take such sick leave as is essential for their health and well-being.

(E) Attendance at Judicial Conferences is considered an official duty and as court time.

(F) Attendance at additional education programs and seminars should likewise be coordinated with the other County Court at Law Judges.

(G) Military leave would not be included in normal vacation time.

RULE 10.11

Requests for Visiting Judges

No Local Rules under this subdivision.

RULE 11
NON-JUDICIAL PERSONNEL

RULE 11.10

Non-Judicial Personnel

(A) Each Judge shall control the employees of the Court, including those of other entities who render services directly to each Court under the Constitution, statutes, inherent powers, these Rules, and by tradition, as now established or hereafter amended.

(B) The qualifications for these positions shall be those set forth in the pertinent statutes, in the approved job description or in official joint Court orders.

(C) Each Judge shall be responsible for seeing that his or her non-judicial personnel are prompt and well qualified for their duties.

(D) Non-judicial personnel should observe the standards of decorum and conduct set forth in the Code of Judicial Conduct.

RULE 11.11

Code of Judicial Conduct

All person employed by the County Courts at Law in any capacity shall, within the first thirty days of employment, be apprised of the contents of the Code of Judicial Conduct. An acknowledgment shall be executed and signed with at least one witness present. Such completed acknowledgment shall be filed in the personnel file folder of the employee and a copy shall be retained by the employee.

RULE 11.12

Conduct of Non-Judicial Personnel

(A) Each Court Coordinator serves at the pleasure of the County Court at Law Judge or his/her successor in office.

(B) The Court Coordinator and related staff will perform such administrative duties as may be assigned to them by the respective County Court at Law Judge.

(C) The Court Coordinator will not perform any judicial (as opposed to administrative) function or give legal advice.

(D) Each Judge pursuant to his County approved budget, will appoint appropriate staff, and support personnel according to the needs of each Court including a bailiff, who may be a deputy sheriff and who shall be present at all times while the court is in session or in recess, unless excused by the Judge.

(E) No duties shall be assigned to the bailiff except upon approval by the Judge of such Court.

RULE 11.13

Duties of Non-Judicial Personnel

No Local Rules under this subdivision.

RULE 12
ATTORNEYS OF RECORD

RULE 12.10

Appearance of Counsel; Attorney in Charge

No Local Rules under this subdivision.

RULE 12.11

Conduct and Decorum of Counsel

(A) Each day the Court is engaged in hearing a matter, the Court shall be opened by the bailiff directing all court officials and spectators to their seats.

(B) In reconvening after recess, the bailiff shall cause all persons to be seated before the Judge enters.

(C) The bailiff shall see that the flag of the United States and the flag of the State of Texas are properly and prominently displayed at some convenient place in the courtroom.

(D) While the Court is in session, there shall be:

(1) No smoking or use of tobacco products;

(2) No reading of newspapers or magazines;

(3) No propping of feet on tables or chairs;

(4) No loud noises or talking;

(5) No gum chewing;

(6) No food or drinks;

(7) No shorts, tank tops or sagging pants; or

(8) Or any other rules a Court may deem necessary.

(E) In addressing the Court, lawyers shall rise and remain standing at their positions at counsel table.

(F) Lawyers shall not approach the bench or witnesses except with permission or on request of the Court.

(G) Lawyers shall not lean on the bench, sit on rails or tables, or appear to engage the Court in a confidential manner.

(H) All male lawyers shall wear coats and ties while in attendance of the Court, unless otherwise permitted by the Court.

(I) Lawyers shall advise their clients and witnesses of the formalities of the Court.

(J) The lawyers, the Judge, and all other officers of the Court shall be prompt at all sessions and in the dispatch of all court business. In the event a lawyer is late or unable to attend same, he shall immediately notify the Coordinator of the Court, advising:

1. Specific reason(s) for the late appearance or non-appearance;

2. If late, the approximate time he expects to be in Court; and

3. If unable to attend, a recommended day and time to reschedule the pending matter.

A violation of this Rule by court-appointed attorneys will be grounds to remove the court-appointed attorney and a new attorney appointed immediately. A violation of this Rule by retained attorneys are subject to Court imposed sanctions.

(K) All counsel are admonished to respect the letter and that spirit of all rules and ethics, including, particularly, those dealing with discussion of cases with the Court outside of the courtroom and not in the presence of opposing counsel.

(L) The Court shall enforce the same by appropriate action.

(M) All remarks of counsel to the Court shall be addressed to the Court and not to the Judge as an individual.

(N) Once an attorney has entered the courtroom and appeared before the Court, he shall not leave without obtaining permission from the Court.

RULE 12.12

Withdrawal of Counsel

(A) Governed by Rule 10, Texas Rules of Civil Procedure and Rule 6.15 hereof.

(B) Leave to withdraw may be denied where the motion is presented so near the trial date as to require delay of this trial.

RULE 12.13

Attorney Vacations

(A) In civil cases not specially set, an attorney may not be put to trial for a period not to exceed four (4) periods of one week or less, which may be consecutive, in a given year if he has, in writing, filed with the appropriate clerk of the county of his residence, with a copy to the appropriate clerk of any other county where he has pending cases, notice of his/her vacation period, by May 15th of each year for the summer months of June, July and August. Any other vacation times must be with prior approval of the Court. Vacation notices on file in Fort Bend County must be completed in the form provided on the Fort Bend County website tilted Attorney Vacation Schedule Request.

(B) This shall not be grounds for resetting cases already set.

(C) At his discretion, a Judge may recognize additional time for designated vacation.

(D) In the event an attorney already has a setting at the time the vacation notice is filed, it shall be the attorney's responsibility to notify opposing counsel and the Court Coordinator and either file an agreed reset or motion for continuance and obtain a ruling by the Court.

RULE 13
ADMINISTRATIVE CASES

RULE 13.10

Administrative Law Cases

No Local Rules under this subdivision.

RULE 14
MISCELLANEOUS LOCAL RULES

RULE 14.10

Settlement Week

No Local Rules under this subdivision.

RULE 14.11

Form for Submitting Court Costs

No Local Rules under this subdivision.

RULE 14.12

Form for Requesting Alternate Dispute Resolutions

No Local Rules under this subdivision.

RULE 14.13

Miscellaneous

The Board of County Courts at Law Judges has heretofore approved the "Fort Bend County Local Rules of the County Courts concerning the Electronic Filing of Court Documents" which is incorporated by reference herein for all purposes.

RULE 15
ADOPTION, AMENDMENT, NOTICE

RULE 15.10

Procedure for Adoption and Amendment of Local Rules

(A) These Rules are **APPROVED** and **ADOPTED** by the Board of County Court at Law Judges of Fort Bend County, Texas, on the 1st day of August 2017.

(B) These Rules become effective on January 1, 2018, or upon approval by the Supreme Court of Texas pursuant to Rule 3a, Texas Rules of Court, whichever comes later. These Rules can be changed, modified and/or amended by approval of the Board of County Court at Law Judges of Fort Bend County, Texas.

RULE 15.11

Notice and Publication of Rules

No Local Rules under this subdivision.

RULE 15.12

Interim Orders Affecting Local Practice

The Local Rules of Court which where approved by the Texas Supreme Court and became effective on September 14, 1992.

RULE 15.13

Local Practices Not Published in These Rules

No Local Rules under this subdivision.

These Rules were **APPROVED, ADOPTED** and **SIGNED** by the County Court at Law Judges of Fort Bend County, Texas, on this 1st day of August 2017.

CHRISTOPHER G. MORALES, Judge
County Court at Law No. 1

JEFFREY A. McMEANS, Judge
County Court at Law No. 2

SUSAN G. LOWERY, Judge
County Court at Law No. 3

JERRY W. BUSSELL, Judge
County Court at Law No. 4

RON COHEN, Judge
County Court at Law No. 5