

# Upton County

112<sup>th</sup> Judicial District

|                     |                                                                                                                           |     |                              |
|---------------------|---------------------------------------------------------------------------------------------------------------------------|-----|------------------------------|
| Courthouse:         | 205 E. 10 <sup>th</sup> Street<br>Rankin, TX 79778                                                                        |     |                              |
| Judge               | Brock Jones<br>907 Ave. D<br>P.O. Drawer C<br>Ozona, TX 76943                                                             | Fax | 325-392-5225<br>325-392-3434 |
| District Clerk      | Phyllis Stephens<br>205 E. 10 <sup>th</sup> Street<br>P.O. Box 465<br>Rankin, TX 79778<br>phyllis.stephens@co.upton.tx.us | Fax | 432-693-2861<br>432-693-2129 |
| Court Administrator | Cathy Carson<br>907 Ave. D<br>P.O. Drawer C<br>Ozona, TX 76943                                                            | Fax | 325-392-5225<br>325-392-3434 |

## RULE 1. CIVIL CASES

### RULE 1.10 SETTINGS – JURY CASES

*When setting a civil case for pre-trial, jury, non-jury or post trial hearing, please call the Court Administrator in Ozona, Texas prior to sending your Motion and Order Setting to obtain available hearing dates. After you have available dates, please contact opposing counsel to obtain a date that is agreeable to both parties. Once you have an agreed date, fill that date in on your Order Setting and forward both your Motion and Order, along with a statement that the date is an agreed date, to the Court Administrator in Ozona, Texas for entry with the Court.*

### RULE 1.11 REQUEST FOR SETTING – JURY CASES

A setting for trial on the merits will be made in response to a written Request for Setting submitted directly to the Court Administrator in Ozona, Texas. The party requesting a setting should not file the Request for Setting with the Clerk of Upton County.

The Request for Setting shall contain the following:

- 1.) The style and number of the case, and the county where the case is pending.
- 2.) The name, address and telephone number of the attorney making the request and the party represented by said attorney;

- 3.) Whether discovery is intended to be conducted under level 1, 2 or 3 according to Rule 190, T.R.C.P.;
- 4.) The date on which the jury fee was paid;
- 5.) A statement that the pleadings of the party requesting the setting are in order;
- 6.) A statement that mediation has been completed or none is required.
  - (a) Pending mediation, all discovery is abated unless otherwise ordered by the Court.
- 7.) A statement that all discovery has been completed or none is desired.
  - (a) If discovery is pending the request shall contain the date on which discovery is expected to be completed;
- 8.) A statement that all pre-trial matters have been disposed of or none is pending.
  - (a) If pre-trial matters are pending the request for setting shall state the nature of same, the party asserting same, the estimated time for hearing same and possible dates for a pre-trial hearing which have been cleared with opposing counsel;
- 9.) A statement that the party requesting the setting has made a good-faith effort to negotiate a settlement of the case and further efforts appear futile.
- 10.) Possible dates for the trial of the case which have been cleared with opposing counsel.
  - (a) If opposing counsel will not agree to a date for trial, the dates proposed and the reason for opposing counsel's refusal to agree to same;
- 11.) The estimated time of trial;
- 12.) A certificate that a copy of the Request for Setting has been served on all counsel in the case, the name and address of each attorney and the date of service;
- 13.) The signature of the attorney making the Request.

14.) A blank Order Setting which should be attached to the Request.

**RULE 1.12 ORDER SETTING – JURY CASES**

- a. In response to a Request for Setting, the Court will enter an Order setting the case for trial on the merits and deliver a copy of the same to the District Clerk to certify who will then deliver a certified copy to each attorney. If item 8.(a) in the Request for Setting is applicable, please send an Order Setting and the Court will set a pre-trial hearing.
- b. *At the bottom of all ORDER SETTINGS, please list all the parties who need to be notified. If the parties are represented by attorneys, please list the attorney's fax numbers. If they are pro se litigants, please give their addresses.*

**RULE 1.13 PROPOSED JURY QUESTIONS – JURY CASES**

At the time the parties announce ready, each party shall submit to the Court proposed jury questions.

**RULE 1.20 SETTINGS – NON-JURY CONTESTED CASES**

*When setting a civil case for pre-trial, non-jury or post trial hearing, please call the Court Administrator in Ozona, Texas prior to sending your Motion and Order Setting to obtain available hearing dates. After you have available dates, please contact opposing counsel to obtain a date that is agreeable to both parties. Once you have an agreed date, fill that date in on your Order Setting and forward both your Motion and Order, along with a statement that the date is an agreed date, to the Court Administrator in Ozona, Texas for entry with the Court.*

**RULE 1.21 REQUEST FOR SETTING – NON-JURY CONTESTED CASES**

A setting for trial on the merits will be made in response to a written Request for Setting submitted directly to the Court Administrator in Ozona, Texas. The party requesting a setting should not file the Request for Setting with the Clerk of Upton County. The contents of the Request for Setting shall be the same as a Request for Setting for jury trial except for item 4.

**RULE 1.22 ORDER SETTING – NON-JURY CONTESTED CASES**

- a. The same procedure will be followed as for Jury Trial.
- b. A setting will be made only in response to a proper written Request for Setting.
- c. *At the bottom of all ORDER SETTINGS, please list all the parties who need to be notified. If the parties are represented by attorneys, please list the attorney's fax numbers. If they are pro se litigants, please give their addresses.*

RULE 1.23 FAILURE TO AGREE ON SETTING – NON-JURY CONTESTED CASES

If the parties fail to agree on a hearing date, the Court will set matters for trial based on the Court's schedule.

RULE 1.30 DISMISSAL DOCKET: INVOLUNTARY DISMISSAL

At least once each year, each divorce case which has been on file for more than one year, and each civil case, other than divorce cases, which have been on file more than two years, may be set for hearing for all parties to show cause why same should not be dismissed for want of prosecution without further notice. Nothing in this rule shall prevent any court from adopting local rules governing the dismissal docket with shorter or longer pendency periods for dismissal.

RULE 1.40 UNCONTESTED AND DEFAULT MATTERS

When requesting a setting for uncontested divorces, agreed divorces, defaults or adoptions, you do not need to send an Order Setting. These matters can be set by contacting the Court Administrator in Ozona, Texas.

RULE 1.50 TEMPORARY RESTRAINING ORDERS AND PROTECTIVE ORDERS

- a. An application for a Temporary Restraining Order and/or Protective Order, to be granted without notice to the adverse party, will be considered only upon the applicant's verified complaint or affidavit accompanying the application, and no testimony will be heard. No Temporary Restraining Order or Protective Order will be granted without notice to the adverse party unless the applicant's verified complaint or affidavit accompanying the application contains "specific facts," as required by Rule 680, T.R.C.P., and "a plain and intelligible statement of the grounds for such relief," as required by Rule 682, T.R.C.P. No such Temporary Restraining Order shall be granted upon a complaint or affidavit containing mere conclusions, even if verified.
- b. Ex Parte Orders in family law matters must meet the requirements of the Family Code.

RULE 1.60 PUBLIC INFORMATION

The names and addresses of all parties to civil action filed with the County and District Clerks shall remain public information and shall not be confidential by law other than 30.015 of the Texas Civil Practices and Remedies Code.

## **RULE 2. CRIMINAL CASES**

### **RULE 2.10 CONTINUANCES**

All continuances shall be in accordance with Arts. 29.01 through 29.13, C.C.P. and Art. 30.003, Tx. Civil Prac. & Rem. Code.

### **RULE 2.11 AGREED CONTINUANCES**

If you have a continuance that is agreed to by all parties, please contact the Court Administrator in Ozona, Texas and advise her of this and she will consult with the Judge prior to removing the matter from the docket. **Continuances are not automatic upon agreement by the parties. Mere filing of a Motion for Continuance does not mean the continuance will be granted.**

### **RULE 2.12 RESETTINGS**

- a. To obtain a resetting date, please contact the Court Administrator in Ozona, Texas for available dates, then contact opposing counsel to obtain a date that is available and agreeable to all counsel.
- b. Send an Order Resetting with a cover letter advising the Court Administrator in Ozona, Texas of the date the parties have agreed on.

### **RULE 2.13 SETTINGS/SCHEDULING:**

Criminal cases will be set for trial at the request of the District Attorney. Should a defendant desire a trial for which the District Attorney has not requested a setting, the case will be set in response to the defendant's request. A pre-trial hearing, as provided by Art. 28.01, C.C.P., will be conducted in each case prior to trial.

### **RULE 2.14 PAYMENT OF COURT APPOINTED ATTORNEYS:**

All court appointed attorneys shall submit an Attorney Fee Voucher, which can be obtained from the Court Administrator in Ozona, Texas.

## **RULE 3. FAMILY LAW CASES**

### **RULE 3.10 CASES INVOLVING CHILDREN**

The trial of family law cases involving children will be given preference over the trial of other civil cases.

### **RULE 3.11 INCOME AND EXPENSE STATEMENTS**

The attorneys in all contested hearings concerning support shall prepare complete written income and expense statements as to their respective clients and present same to the Court prior to the hearing.

RULE 3.12 WRITTEN INVENTORY

In all contested cases involving the division of property the attorney shall prepare a complete written inventory of the assets and liabilities of the marital estate and of the separate estate of their respective client and submit same to the Court prior to trial.

RULE 3.13 CHAPTER 33 CASES

All cases filed involving Chapter 33 of the Texas Family Code, shall be filed with the District Clerk and docketed in the 112<sup>th</sup> District Court. The District Clerk will immediately notify the Court Administrator of the 112<sup>th</sup> District Court of a filing involving Chapter 33 of the Texas Family Code. All hearings required under Chapter 33 of the Texas Family Code, shall be conducted by the Judge of the 112<sup>th</sup> District Court, or a Judge sitting by Assignment in the 112<sup>th</sup> District Court.

RULE 3.14 FORM VS-165

All divorces and annulments are reported to the Bureau of Vital Statistics, using Form VS-165 provided by the bureau. Per Sec. 194.002 of the Health and Safety Code, the clerk shall file with the Bureau a completed report for each divorce or annulment granted during the preceding calendar month. The Attorney General and any attorney of record, in a case involving a divorce, an annulment, or any suit affecting the parent-child relationship shall complete the form and present it to the presiding judge upon the filing of the decree or judgment. No decree or judgment will be signed until said document is submitted.

## RULE 4. GENERAL RULES

The following rules apply to all cases:

RULE 4.10 CERTIFICATE OF SERVICE

*At the end of all MOTIONS, please include the opposing counsel's name, address, phone number and fax number under the Certificate of Service. Please do not put "...a copy has been sent to all opposing counsel." (This will let the Court know who the attorneys are since we do not have immediate access to all files in every county).*

RULE 4.11 AVAILABLE COURT DATES

When setting or resetting a case for trial, pre-trial, etc., please contact the Court Administrator in Ozona, Texas for available dates. Then, contact all other counsel and obtain a date that everyone is available.

- a. Submit an Order Setting to the Court, with a Request for Setting when obtaining a trial date, or a letter when obtaining a pre-trial date, stating the date the parties have agreed to.

- b. If you cannot obtain a date that is agreeable to all counsel, send your order Setting with a letter stating the dates that were given to opposing counsel and their reasons for not agreeing.
- c. **ALWAYS ADVISE THE COURT IN YOUR REQUEST OR COVER LETTER THAT YOU HAVE CONTACTED THE OPPOSING COUNSEL AND THAT THEY ARE AVAILABLE FOR HEARING ON THE DATE YOU HAVE REQUESTED.**

**RULE 4.12** **ESTIMATED TIME FOR HEARING**

When setting or resetting a case for trial, pre-trial, etc., please advise the Court the estimated time you will need for the hearing.

**RULE 4.13** **COURT FILES**

The Court will set your case for hearing as quickly as possible. In an effort to do so, the Court may set your case in another county within the District, other than the county the case is filed in (Crockett, Sutton, Pecos, Reagan and Upton Counties). When a case is heard out of county, but within the district, it is the attorney's responsibility to transport the case file to the judge in the County for which the hearing will be held. The attorney shall contact the District Clerk in the county for which the case is filed to let them know they will be picking the file up to transport it to another county for hearing. It is the attorney's responsibility to return the file to the District Clerk's Office the same day, unless prior arrangements are made with the District Clerk.

**RULE 4.14** **CANCEL HEARINGS**

If for any reason, you have to cancel a hearing, please contact the Court Administrator in Ozona, Texas as soon as possible.

**RULE 4.15** **TELEPHONE CONFERENCE**

Hearings conducted by telephone conference call are acceptable and encouraged by the Court.

**RULE 4.16** **FAX AND ANSWERING MACHINE AVAILABILITY**

Any attorney practicing in the 112<sup>th</sup> District Courts, if practicable, shall have access to a fax machine and answering machine that will be operative 24 hours a day, seven days a week. Said numbers shall be provided to the Courts, the Clerks of Court, and all opposing counsel. All communications between the Courts and attorneys sent via fax to the numbers provided shall be deemed received. This does not include filing documents with the District Clerk, unless the District Clerk has implemented an Electronic Filing Plan.

RULE 4.17 PARTIAL CIVIL INVALIDITY

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

RULE 4.18 CONSTRUCTION OF RULES

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

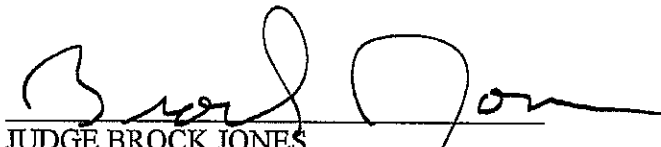
RULE 4.19 AUTHORITY FOR RULES

The foregoing rules of Practice are promulgated pursuant to rule 3A, T.R.C.P. and a copy of same has been furnished to the Supreme Court of Texas.

RULE 4.20 APPLICATION OF RULES

These rules shall supersede any prior local rules of practice. These rules shall become effective upon approval by the Texas Supreme Court.

SIGNED AND ORDERED FILED in the Minutes of the District Court in Upton County this the 27 day of October, 2004.

  
JUDGE BROCK JONES  
112<sup>th</sup> Judicial District Judge

APPROVED and SIGNED this the 1<sup>st</sup> day of Nov., 2004.

  
JUDGE STEPHEN B. ABLES  
6<sup>th</sup> Administrative Judicial Region