

# **LOCAL COURT RULES FOR TRIAL SETTINGS AND DOCKET MANAGEMENT**

These rules apply to Family Law Cases on file in the office of the District Clerk of Gregg County, and all such cases are to be governed hereby. These rules are adopted to achieve efficiency in the management of Family Law cases filed with the District Clerk of Gregg County, Texas, in each of the following ways:

1. Systematic ongoing dismissals for want of prosecution of dormant cases.
2. Provisions for presenting agreed matters, default hearings and waiver hearings at stated times;
3. Automatic setting of temporary orders, enforcement and juvenile court hearings, according to an understandable and predictable scheme;
4. Provision for special settings of contested final hearings;
5. Jury request procedures to insure effective use of the central jury panel.
6. Provisions for discovery, settlement and setting conferences for complex cases.
7. Providing simplified procedure for identifying those cases to be relieved from the time requirements and dismissal process.
8. Providing for alternative dispute resolution in appropriate cases.

**EFFECTIVE DATE: THESE RULES WILL BE IN EFFECT FOR ALL TRIAL SETTINGS AFTER MARCH 15, 2005.**

## **RULE 1: Attorneys' and Parties' Responsibility**

Attorneys and persons not represented by attorneys shall be charged with knowledge of and responsible for observing the requirements of these rules. Disregard, abuse or violation of these rules shall be subject to sanction by the Court. Sanctions shall include denial of the right to practice under the rules, and contempt of court and/or any other remedy deemed equitable by the Court under the circumstances.

When a party is represented by more than one attorney or firm of attorneys, the "attorney in charge" shall be determined and governed by Rule 8, TX RULES CIV PRO.

## **RULE 2: Requisites of Pleadings**

All pleadings shall be governed by the requisites set forth in TX RULES CIVIL PROCEDURE. A person not represented by an attorney shall sign his pleadings and state his address and telephone number. The stated address shall serve as the address of record for such individual and all notices sent to that address shall be deemed received absent notification to the District Clerk of a change of such address.

## **RULE 3: Responsibility for adherence to time standards**

Exception from the case controls prescribed by the Supreme Court shall be permitted only on motion in writing, stating the reasons why the ends of justice require an exception and a finding by the Court that the circumstances in the case make an exception necessary.

In accordance with the Rules of Judicial Administration of the Supreme Court of Texas, Rule 6, the Court will, as far as reasonably possible, ensure that all cases are brought to trial or final disposition in conformity with the following time standards:

(1) Contested Family Law Cases. Within 6 months from appearance date or within 6 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

(2) Uncontested Family Law Cases. Within 3 months from appearance date or within 3 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

It is recognized that in especially complex cases or special circumstances it may not be possible to adhere to these standards. The judge shall determine whether a case should be excepted from these time requirements.

#### **RULE 4: Hearings on Default, Waivers and Uncontested Matters**

The Court will hear defaults, waivers and uncontested matters on Monday, Tuesday, Wednesday and Friday at 9:00 a.m., or by previous appointment in exceptional situations, at other times when the court is in session. No appointment is necessary for the 9:00 a.m. docket; however, it is recommended that attorneys call the court coordinator to verify the Court will be in session on the desired day. If you notify the coordinator, she will have the court's file at her desk. If you do not schedule with the court coordinator, you must pick up the court's file at the District Clerk's office and bring it to the court coordinator.

#### **RULE 5: Protective Orders, Temporary Restraining Orders, Temporary Injunctions and Temporary Orders**

All PO'S, TRO'S and settings for temporary order hearings will be returnable for hearing at 8:15 a.m. on the first Thursday after three days after service. Until service is obtained, all PO'S should be extended by notation and initial of the Judge on the docket sheet every fourteen days. Counsel for the moving party should bring said order to the attention of the judge. Any party receiving notice of a PO or TRO may, through counsel, obtain a hearing or conference by the next working day after service to modify or to make a mutual TRO. The hearing or conference may be obtained by contacting the court coordinator or the Judge, who will notify the petitioner's attorney. If this matter can be taken care of by conference between counsel and the Judge in person or by telephone, it will be followed by a memorandum for the Judge's signature as to the ruling out of the conference.

#### **Temporary Order Hearings**

All hearings for temporary orders will be held at 8:15 a.m. on Thursdays. If you anticipate a lengthy temporary order hearing, (for example, contested temporary conservatorship of a child), please notify the court coordinator as early as possible. The Court may arrange a more convenient time to have the hearing. The Court may refer the case for mediation of temporary orders.

At the temporary hearing, each party shall produce for the court any copies of past IRS returns in their possession, a listing of the property in their possession, a listing of the debts of the parties and a statement of the earnings of the parties, verified by the employer. The statement of earnings may be by production of the latest pay stub showing cumulative gross earnings and amounts withheld from gross earnings. All show cause orders or orders setting hearing for temporary orders shall contain notice to the respondent to produce such items.

Protective Orders and Temporary Injunctions regarding persons or property shall be presented for entry on or before the next working day after the hearing. If an agreed order containing the injunction has not been signed before the first Friday immediately following the hearing, at 1:15 p.m., all counsel and any pro se litigants shall appear for a hearing on entry of the order.

All other Temporary Orders should be presented for the Court's signature within three working days of the Court's pronouncement of the order.

Temporary orders should also contain any agreement by counsel or orders of the Court relating to discovery or scheduling deadlines.

### **Enforcement Hearings**

All enforcement and contempt hearings will be held on the first Thursday 10 days after service at 1:15 p.m. unless otherwise previously arranged with the judge. The prosecuting attorney shall give notice to other parties.

All show cause orders shall command the respondent to produce the last two years' tax returns and a statement of the year to date earnings of the respondent, verified by his employer. Any prosecuting attorney who seeks to have respondent punished by incarceration shall present to the judge prior to the hearing a proposed Order On Enforcement, finding Respondent in contempt, assessing punishment, and a Writ of Commitment.

### **RULE 6: Trial Setting**

#### **Non-jury calendar**

A. Causes of action shall placed on the non-jury trial calendar in the following manner:

1. Upon the court's own motion, or
2. Upon request of any interested party through his attorney of record, who shall give notice to all other parties to the cause of the time and date of such trial. Such notice shall be given by United State mail, postage prepaid, or by hand delivering same to all parties or their attorneys, unless otherwise directed by the Presiding Judge.

B. A setting for trial on the merits will be made by telephone directly to the court coordinator any weekday, except Thursdays.

It is suggested that anyone calling for a setting arrange a conference call between his/her office and the office of opposing counsel for scheduling a hearing. If opposing counsel cannot be reached, the coordinator shall set the hearing not less than 45 days hence.

The party requesting a setting shall reasonably and in good faith expect to be ready for trial by the date requested. The requesting party shall give the court coordinator an estimated time for trial and a brief statement of the issues to be tried. If there are pre-trial matters pending, the court will, upon any party's request, set a pre-trial hearing not less than ten days prior to the date of the trial setting.

C. All parties in divorce cases involving children and any other case ordered by the presiding judge shall complete the "For Kids Sake" program or an equivalent course approved by the judge prior to a final hearing. In cases of default by a respondent, petitioner shall attend the seminar and the court will order appropriate sanctions for respondent, which may include an action for contempt of court, suspension of visitation until completion of the course and assessment of additional attorney fees. Any party seeking an exception to this rule for good cause, shall schedule a pretrial hearing on the matter; no exceptions will be granted at the final hearing.

Each party, except one who is indigent, shall pay his or her fees in connection with the course. Indigents will be admitted on a reduced rate.

D. All contested child custody cases or property cases requiring more than two hours of court time must participate in good faith in mediation before a final hearing is scheduled. Upon the filing of a motion and showing of good cause (ex: spousal abuse or battering, alcoholism or drug abuse) the court may waive mediation. The cost of mediation shall be borne equally by the parties unless there is a showing that a party is unable to pay, in which case a financially aided mediation may be arranged. In any case where all issues are not resolved by the mediation, the parties shall identify and sign in the presence of the mediator a detailed statement of issues that will be contested at trial. Mediation will not be considered complete until such statement is completed and filed with the court.

## **JURY TRIAL CALENDAR**

A. Requests for jury trial settings must be presented in writing to the Judge or Court Coordinator. The jury request shall be filed not less than 30 days in advance of the assigned trial date; provided that, if one party obtains a non-jury setting on less than 30 days notice to opposing counsel, then opposing counsel has two working days from receipt of notice of setting in which to request a jury trial and to inform the court and opposing counsel, in writing, of the issues expected to be submitted to the jury. The attorney paying the jury fee shall notify the Court Coordinator immediately that a jury fee has been paid, and the court coordinator shall set the same for pre-trial conference on the first Friday 5 days after request at 1:15, at which time the judge shall set the case for trial.

It is the duty of the requesting party to notify all other parties in the case, of the date and time of the pretrial hearing. Failure to appear for the pre-trial conference may result in the case being stricken from the jury docket or other appropriate sanctions.

B. No case will proceed to jury trial until the parties in good faith have participated in mediation. All rules regarding mediation set forth above shall apply to jury trial mediations.

C. Cases shall be set on the jury trial docket in the order in which they are requested, with the exception of a "priority" or preferential setting by the judge. Priority shall be determined by the judge on the basis of the definition of "priority" in these rules and as governed by statute.

D. Counsel shall inform the Court, in a request for jury trial setting, what issues will be submitted to the jury. The court does not ordinarily furnish a jury trial on purely advisory issues.

## **RULE 7: Agreements to Pass and Motions for Continuance**

1. No contested setting shall be passed except by:

- a. settlement of the entire case;
- b. agreement of all parties;
- c. a motion for continuance granted by the court.

When a case is settled the attorneys shall immediately notify the court coordinator. No case may be passed by agreement less than 3 working days before a setting without approval of the judge.

2. No agreement to pass or continue a jury case shall be honored by the Court if announced after noon on Friday of the week preceding trial. In the event a case is not going to proceed to trial, one of the attorneys of record shall notify the court coordinator not later than 12:00 noon on Wednesday preceding the Monday of the week the cases are set for a jury trial. In the event one of the attorneys of record does NOT notify the court coordinator's office, and the case does NOT proceed to trial when called by the Court, the Court may assess the actual cost of the entire jury panel against the parties in such proportions as it deems proper. The Court shall not assess any such costs if the panel is sworn for the trial of another case.

Motions for Continuance in jury cases will be heard by the Court at 1:15 p.m. Friday ten days preceding the Monday of the week during which the case is set for trial, or at such other time set by the Court. Only matters arising subsequent to such date shall be grounds for any motion for continuance less than ten days prior to trial.

Motions for continuance in all other instances shall be heard at 1:15 p.m. on the first Friday following filing of such motion or at a time determined by the Court. A motion for continuance shall be filed by Thursday preceding the week during which a case is set for trial. Only matters arising subsequent to such a date shall be grounds for any motion for continuance.

Where a party is represented by more than one attorney or a firm of attorneys, a conflict in settings shall not be a ground for continuance when the motion for continuance is

contested, until after a hearing has been held to determine that another attorney in the firm cannot handle the matter.

### **RULE 8: Pretrial conferences**

Pretrial conferences will be set in matters designated by the Court as complex cases and any matters in which estimated time of trial is greater than 2 hours.

In other cases, pretrial conferences may be requested by either party or set by the Judge on his/her own motion. Unless the attorney deems that the presence of a party is necessary, they will be held with only the attorneys and Judge present.

At a pretrial conference, the Court may consider and make orders regarding any matters under TX RULES CIV PRO 166.

### **RULE 9: Submission of Orders, Judgments, Instruments**

All Judgments, Decrees and Orders pronounced by the Court shall be reduced to writing by counsel for the prevailing party, or by counsel as directed by the Court, and submitted to the Court for signature within ten days of the pronouncement, or as directed by the Court, with a true and correct copy of same sent to all other counsel or pro se party by mail, postage prepaid. Any party objecting to such order shall, within five (5) days, raise any objection in writing to the Court and opposing counsel or pro se party. In any case in which a final judgment has not been signed within 20 days after pronouncement, the matter will be set for hearing on the following Friday at 1:15 p.m. at which time each party shall present to the Court a substantially correct decree.

At the hearing the Court may sign whichever order the Court deems appropriate, or draft and sign an order of the Court's own choice. Nothing herein shall prevent or preclude the attorneys and parties from entering an agreed judgment or order.

All orders, judgments and decrees shall be submitted to the court coordinator for presentment to the Judge for signature.

Any reports required to be filed with the state submitted with all final orders, judgments and decrees. They will be submitted to the clerk after the order, judgment or decree has been signed by the Judge.

### **RULE 10: Priority of Case**

The Court will, to the best of its ability, try the cases set for hearing in the order in which they are set; however, some cases involving children shall have priority over other cases. When necessary to rearrange settings, cases shall be heard in the following priority:

1. Writs for possession of children;
2. Child Protective Services Ex Parte orders or 14-day hearings;
3. Any other matters involving custody, possession or welfare of children.

### **RULE 11: Discovery**

A. All discovery shall be conducted in accordance with the TX RULES CIVIL PROCEDURE.

## **RULE 12: Rule of Court Attendance**

Counsel with scheduled matters in the 307th Family District Court will check in with the court coordinator on or before the time of their scheduled hearing and will not leave until the Judge of the Court has excused them.

## **RULE 13: Children in Court**

When custody or possession of a child is in question the person having physical possession of the child at the time of the hearing shall have the child in court at each hearing or available to be brought to the court within 30 minutes upon telephone notice, unless the Court specifically states to each attorney that it is not necessary to have the child present.

If a child is to be called as a witness, the court coordinator and opposing counsel will be notified in writing and a guardian ad litem will be appointed for the child. The fee for the guardian ad litem will be taxed as costs and apportioned by the Court.

## **RULE 14: Settlement Negotiations**

Before any contested final hearing, each party, or his/her attorney, shall certify to the Court that all pleadings are in order, that all necessary discovery has been completed, that all pretrial matters have been disposed of and that the parties have made a good faith effort to negotiate a settlement, or, if not, the reasons these have not been completed.

## **RULE 15: Miscellaneous Rules of Practice**

### **Child Support**

The Court will follow the guidelines set forth in the Texas Family Code, § 154 in setting child support.

In every case involving support for children, whether the case is an original case, modification, or motion for contempt for back child support, each party must bring to each hearing the last two years' income tax returns, a statement of current earnings with a year-to-date figure showing gross pay and deductions, or if such statement cannot be obtained, then any form that is convenient for the employer to furnish will be accepted, so long as that statement shows the latest paycheck amount and to date accumulated earnings and deductions.

### **Application for and Refusal of Title IV-D Child Support Services**

- a. Each final decree entered by the 307th District Court for Gregg County, Texas in a Suit Affecting Parent-Child Relationship, which orders the payment of child support, shall be deemed to be an application for Title IV-D services provided through the

Office of Attorney General, pursuant to Section 231 of the Texas Family Code. This Rule shall apply to all final decrees in Suits affecting the Parent Child Relationship entered by the 307th District Court.

- b. Unless required to accept such services pursuant to other laws, and Obligee of child support entitled to receive Title IV-D child support services pursuant to this rule may decline such services by filing a Refusal of Child Support Services with the District Clerk of Gregg County, Texas.
- c. Refusal of IV-D Child Support Services pursuant to this Rule does not preclude that person from making a subsequent application to Title IV-D child support services.

### Visitation

The Court will, in the absence of an agreement or in unusual circumstances, set visitation periods in accordance with the guidelines in Texas Family Code § 153.

The Court commends to the parties the use of local services for safe exchange and supervised visitation of children.

### Alternate Dispute Resolutions

The Court will approve any agreement for alternate dispute resolutions and will entertain any motion for referral for alternate dispute resolutions sanctioned by the Texas Family Code.

Nothing in these Rules shall restrict the authority of the Court to enter whatever order is necessary for the management of the docket or any specific case thereon.