

Local Rules

District Courts Of Fort Bend County

OBJECTIVE OF RULES

The objective of the rules of the District Courts of Fort Bend County is to obtain a just, fair, equitable and impartial adjudication of the rights of litigants under established principles of substantive law and established rules of procedural law.

Where attorney or counsel is used in these rules, the term shall also include a pro se party/party not represented by counsel.

1. **TIME STANDARDS:** District Judges in Fort Bend County should, as far as reasonably possible, ensure that all cases are brought to trial or final disposition in conformity with the following standards:
 - 1.1. **Criminal cases:** Within 12 months of arrest or indictment whichever is earlier.
 - 1.2. **Civil cases other than Family Law:**
 - 1.2.1. **Civil jury cases.** Within 18 months of appearance date.
 - 1.2.2. Civil non-jury cases. Within 12 months from appearance date.
 - 1.3. **Family Law Cases:**
 - 1.3.1. 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.
 - 1.3.2. 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, which is later.
 - 1.4. **Complex cases:** It is recognized that in especially complex or special circumstances it may not be possible to adhere to these standards.
2. **REPORTS TO THE ADMINISTRATIVE JUDGE:** The district clerk shall supply to the Administrative Judge of Fort Bend County, on a monthly basis, information concerning the number of filings, dispositions, trials and other judicial activities in each court.
3. **CIVIL CASES**
 - 3.1. **FILING & ASSIGNMENT.** On being filed, a case shall be assigned randomly to the docket of one of the courts. Once assigned to a court, a case will remain on the docket of that court for all purposes unless transferred.
 - 3.2. **TRANSFER:**

- 3.2.1. Prior Judgment. Any claim for relief based upon a prior judgment shall be assigned to the court of original judgment.
- 3.2.2. Prior filings. Any matter filed after a non-suit, dismissal for want of prosecution, or other disposition of a previous filing involving substantially-related parties and claims shall be assigned to the court where the prior matter was pending.
- 3.2.3. Consolidation:
 - 3.2.3.1. Consolidation of Cases. A motion to consolidate cases must be heard in the court where the first filed case is pending. If the motion is granted, with the consent of the transferring court the consolidated case will be given the number of the first filed case and assigned to that court.
 - 3.2.3.2. Consolidation of Discovery. A motion to consolidate discovery in separate cases must be heard in the court where the first filed case is pending. If the motion to consolidate discovery is granted, the case will not transfer, but the consolidating court will conduct the discovery management.
- 3.2.4. Severance: If a severance is granted, the new case will be assigned to the court where the original case pends, bearing the same file date and the same number as the original case with a letter designation; provided, however, that when a severed case has previously been consolidated from another court, the case shall upon severance be assigned to the court from which it was consolidated.
- 3.2.5. Agreement Any case may be transferred from one court to another court by written order of the judge of the court from which the case is transferred; provided, however, that the transfer must be with the written consent of the court to which the case is transferred.

3.3. MOTIONS.

- 3.3.1. Form. Motions shall be in writing and shall be accompanied by a certificate of service and proposed order granting the relief sought. The proposed order shall be a separate instrument, unless the entire motion, order, signature lines and certificate of service are all on one page. Motions shall include a certificate of conference in compliance with Rule 3.3.9.
- 3.3.2. Response. Responses shall be in writing and shall be accompanied by a proposed order. Failure to file a response may be considered a representation of no opposition.
- 3.3.3. Submission. Motions may be heard by written submission. Motions shall state a Monday date at 8:00 a.m. as the date for written submission. This date shall be at least 10 days from filing, except on leave of court. Responses shall be filed at least three days before the date of submission, except on leave of court.
- 3.3.4. Oral Hearings. Settings for oral hearings should be requested from the court coordinator. The notice of oral hearing shall state the time and date and be provided to all adverse parties or their counsel, by the requestor.
- 3.3.5. Unopposed Motions. Unopposed motions shall be labeled "Unopposed" in the caption.
- 3.3.6. Discovery motions. All motions for discovery sanctions, requests for ruling on discovery objections, and motions to compel discovery shall set out within the body of the motion, the interrogatory or request which is in dispute, and the objection and answer or response which is in dispute, so that all matters necessary for the Court's consideration are set out in one concise document.
- 3.3.7. Any motion to withdraw must comply with Rule 10 of the Texas Rules of Civil Procedure.
- 3.3.8. Any dismissal or non-suit shall be accomplished by notice with a court order.

3.3.9. Certificate of Conference. Opposed motions shall contain a certificate that:

- 3.3.9.1. States that the movant and respondent have conferred with each other and in good faith have attempted to resolve the matter and
- 3.3.9.2. Identifies the basis of disagreement between counsel; or
- 3.3.9.3. States that the parties have not been able to confer, and states in detail all efforts made to confer, including dates and methods of attempted communication.
- 3.3.9.4. The provisions of subparagraph 3.3.10. do not apply to motions for summary judgment, default judgments, motions for voluntary dismissal or non-suit, and motions involving service of citation.

3.4. TRIALS.

- 3.4.1. Manner of Setting. Cases shall be set for trial by order of the court upon it's own motion or upon the written request of any party.
- 3.4.2. Date of Setting. Cases shall be set for trial for a date certain. If a case is not assigned to trial by the Friday after the date it was set, the case will be reset. Unless all parties agree otherwise, the original setting must comply with all requisites of Rule 245 T.R.C.P.
- 3.4.3. Assignment to Trial. A case is assigned to trial when counsel are called to the court to commence the jury or non-jury trial on the merits. For purposes of engaged counsel, no court may have more than one case assigned to trial at any one time. All cases set are expected to be "ready" regardless of the order of cases on posted docket sheets.
- 3.4.4. Dead Weeks. Except with the consent of all parties, no court will assign cases to trial on the merits, or set oral hearings on motions, during any dead weeks mandated by law.
- 3.4.5. ADR. In the discretion of the court, preference in setting trials shall be given to matters in which the parties have participated in alternate dispute resolution procedures.

3.5. AGREEMENTS TO PASS

- 3.5.1. No setting shall be passed except by:
 - 3.5.1.1. Settlement; or
 - 3.5.1.2. Written agreement of all parties with approval of the court; or
 - 3.5.1.3. Verbal agreement announced to the court, followed by a memorandum, timely filed, evidencing the agreement signed by at least one attorney; or
 - 3.5.1.4. A motion for continuance granted by the court.
- 3.5.2. When a case is settled the attorneys shall immediately notify the court.

3.6. DISMISSAL DOCKET

- 3.6.1. At least once each year cases shall be dismissed for want of prosecution. Notice of intention to dismiss shall be given in accordance with Rule 165a, T.R.C.P., to all attorneys of record, and to pro se parties whose addresses are shown on the docket or in the papers of the file.
- 3.6.2. Without good cause shown, such cases will be dismissed on or after the date stated therein. Postcard notification of the dismissal order shall be given in accordance with Rule 306d, T.R.C.P.

3.7. EX PARTE MATTERS

- 3.7.1. Except in emergencies or when the clerk's office is not open for business, no application for immediate or temporary relief shall be presented to the Judge until it has been filed.
- 3.7.2. All applications for ex parte relief shall state whether or not, within the knowledge of the applicant and his or her attorney, the opposing party is represented by counsel, and if so, the name of such counsel.

- 3.7.3. Whenever possible, the party making the affidavit required for granting relief without a formal hearing shall appear when the matter is presented to the Judge for his or her determination. The party requesting ex parte relief shall be prepared to present additional testimony in support of the request, when required by the Judge.

4. FAMILY CASES

4.1. TRANSFER OF CASES

- 4.1.1. Multiple Suits. When a suit is filed in the 328th or the 387th District Court of Fort Bend County (referred to as Family District courts) and is in any way terminated (by non-suit or otherwise), a subsequent suit or cause of action involving substantially the same parties or the same subject matter shall be filed in, or transferred to, the court that first had jurisdiction of the parties or subject matter. This rule applies to all controversies, including divorce, support, conservator ship and all matters incident to them, whether sought by original proceedings or by modification, clarification or enforcement of a former order, judgment or settlement agreement. When such a situation is disclosed for the first time after the hearing begins, the judge of the court shall immediately order the suit transferred to the court in which the prior suit was filed.
- 4.1.2. Enforcement of Consent Decree or Contract. Any action for the enforcement of a consent decree or contract arising out of or in conjunction with any action previously filed in any of the family District Courts shall be filed in the same court.
- 4.1.3. Consolidation. A motion to consolidate cases shall be heard in the court where the lowest numbered case is pending. If the motion is granted, the consolidated case will be given the number of the lowest numbered case and assigned to the appropriate court.
- 4.1.4. Severance. If a severance is granted, the new case remains assigned to the court where the original case is pending, bearing the same file date and the same number as the original case with a letter suffix.
- 4.1.5. Presiding for Another. In all cases where a judge signs an order on behalf of another court, the case shall remain in the original court.
- 4.1.6. Improper Court. If called to the attention of the court that a case is improperly placed on the docket of one Family District Court, the judge of that court shall transfer the case to the proper court.

4.2. FLOW OF CASES

- 4.2.1. Appearance of Counsel. Any attorney representing a party or a pro se party in a case shall file an appropriate initial pleading with the court, be it a Petition, Answer, Notice of Appearance as Attorney of Record, or Motion and Order for Substitution of Counsel and promptly furnish a true copy thereof to opposing attorney or pro se party, as applicable. The pleading shall contain all information required under the Texas Rules of Civil Procedure (“T.R.C.P.”) Rule 57.
- 4.2.2. Docket Call Procedures.
- 4.2.2.1. Attorneys who will be late for court must give the court and opposing side notice of their estimated time of arrival at court and the reason for the delay. If the attorney is late because he or she must appear in another court at the same time, the clerk must be notified not only that the attorney will be late (as above) but also the specific court(s) in which the attorney will be appearing.

- 4.2.2.2. If an attorney does not appear in the courtroom within thirty (30) minutes of docket call, that party's motion may be ruled upon by the court and/or sanctions issued consistent with the Texas Rules of Civil Procedure.
- 4.2.3. Telephone conferences. Use of telephone hearings between judges or associate judges and all attorneys in a case is encouraged for non-evidentiary matters. Telephone hearings shall be scheduled through the court coordinator.
- 4.2.4. Interview of Child/Child's Testimony. In all cases in which the court deems testimony of a child to be necessary or required by statute, the attorney wishing to have the child interviewed shall arrange a specific time through the court coordinator for the court to interview the child. No party is to bring a child to the courthouse to testify without prior arrangement pursuant to this rule, unless the child's attendance is required by court order including a writ of habeas corpus or attachment. The attorney who is responsible for the child's attendance at court shall immediately notify the court coordinator of the child's presence in the courthouse. The child shall not be brought into the courtroom without the express consent of the judge or associate judge.
- 4.2.5. Scheduling Orders. It shall be the duty of an attorney or pro se party entering a pending case to ascertain from the court whether a Scheduling Order has issued and if so, to obtain a copy of the Scheduling Order from the District Clerk's office. Notwithstanding the foregoing, it shall also be the duty of the Petitioner or Movant in a pending case in which a Scheduling Order has been issued to provide a copy of the Scheduling Order to each party who has made or makes a general appearance in the pending case.
- 4.2.6. Parent Education. All parties required by paragraph 11.1 herein to attend a parent education course shall file with the court a certificate verifying the party's attendance at such course. The certificates shall be filed no later than the date the case is set for final hearing.

4.3. DISCLOSURE OF PROPERTY AND FINANCIAL INFORMATION

- 4.3.1. Temporary Orders. In any hearing for temporary orders in which child support or spousal support is an issue, completion and exchange of Financial Information Statements, copies of income tax returns for the past two years, and the three most recent payroll stubs shall be exchanged prior to the commencement of the hearing. This rule providing for the exchange of information shall constitute a discovery request and failure to comply with this rule may be grounds for sanctions, as provided by T.R.C.P. Rule 215.
- 4.3.2. Final Information. A party's final Inventory, Financial Information Statement and financial information required under the Family Code (including, but not limited to, the party's income tax returns for the past two years and the party's three most recent payroll stubs), as well as suggested findings regarding child support and a proposed division of property shall be exchanged no later than ten (10) days before trial, and shall be filed with the court at the commencement of trial. If children are involved in the proceeding, the inventory shall contain sufficient information so the court may render a qualified medical child support order regarding health insurance for the children. This rule providing for the exchange of information shall constitute a discovery request and failure to comply with this rule may be grounds for sanctions.
- 4.3.3. Inventory. Each inventory shall list each item of property and its fair market value, and shall also list each liability, together with the amount of the liability, the number of periodic payments in arrears, if any, the property securing its payment, and the name of the creditor. Any property or liability shall likewise be characterized as separate or community. All beneficial interests in insurance

and all benefits arising from a party's employment (such as pensions, profit sharing plans, savings or thrift plans, whether vested or non-vested) shall be identified. Each party shall incorporate as an exhibit to the inventory the last information furnished to the employee about to the employee's rights and monetary interest in the retirement and savings plans. Each party shall also furnish sufficient information so the court may render a qualified domestic relations order, if applicable. The inventory shall list and total, in columnar format, the property values and liabilities. Each inventory shall show the net worth of the community estate.

4.4. REFERRAL TO ASSOCIATE JUDGE

- 4.4.1. Referral. All pending cases and cases filed after the date of the adoption of these rules are hereby referred to the associate judge of each court pursuant to T. F. C. section 201.006, subject to limitations imposed by chapter 201.
- 4.4.2. Order of Referral. This Rule shall constitute the Order of Referral required by TFC section 201.006(a)(2), to any pending or future cases under Title 1, 2, 4, or 5.

4.5. ALTERNATE DISPUTE RESOLUTION

- 4.5.1. Temporary Hearings. In cases involving disputed custody or visitation issues, the court shall make referrals for mediation to the Dispute Resolution Center or private mediators, or as agreed upon by the parties and attorneys. Additional issues may be mediated by agreement of the parties and attorneys. Attorneys of record may attend all mediations. Except for good cause shown, no temporary hearings involving disputed custody or visitation issues will be conducted until the issues have been mediated.
- 4.5.2. Final Trial. Except for good cause shown, all cases shall be submitted for alternate dispute resolution procedures before trial, as provided in paragraph 7.1. Settlement Weeks. Referral of appropriate cases to alternate dispute resolution procedures shall also be made at one or more settlement weeks each year, as provided by law.
- 4.5.3. PARENT EDUCATION COURSE
 - 4.5.3.1. Except for good cause shown, all parents or other individuals requesting appointment as a conservator are required to attend a parent education course, whether the suit is an original suit or a modification.

5. CRIMINAL CASES

5.1. **TRANSFER:** In criminal actions, cases shall be transferred according to the Direct Filing Order.

5.2. APPEARANCE OF DEFENDANT AND COUNSEL/COURT ATTENDANCE.

- 5.2.1. Defendant and defendant's attorney must be present during docket call. The attorney prior to the setting must obtain permission for the defendant not to be present. Attorney must notify the Judge or Court Coordinator at least 30 minutes prior to the time the case is set if the attorney anticipates not being present or late at docket call.
- 5.2.2. Attorneys wishing to have defendants transferred from the jail to the courthouse for an appearance must notify the bailiff at least two days before such appearance.

5.3. WITHDRAWAL OR SUBSTITUTION OF COUNSEL

- 5.3.1. If, prior to the disposition of a case, an appointed or retained attorney wishes to withdraw pursuant to DR 2-110, Code of Professional Responsibility, Vernon's Ann. Civ. Stat., Title 14 App., Art. 12, Sec. 8, or for any other reason, the attorney must file a written motion to that effect with the Court. Such motion must be filed at least 15 days prior to a trial setting. If an attorney is

retained to replace existing counsel, the attorney must file a motion to substitute counsel, naming both himself and the attorney to be relieved.

5.3.2. A retained attorney of record at the time of trial will be considered the attorney of record in the event of an appeal unless the attorney files a written motion to withdraw when notice of appeal is given.

5.4. **OCCUPATIONAL DRIVER'S LICENSES:** The Court in whom a defendant has been convicted will maintain continuing jurisdiction for the purpose of Occupational/Restricted Drivers License. Petitioners seeking Occupational/ Restricted Drivers License must file a pleading indicating that they have not previously filed for application for the same in any County or District Court of Fort Bend County

6. **SELECTION AND CONTROL OF JURIES** The Fort Bend County Jury Plan shall govern the selection, management, assignment and time of jury service.

7. **JUDGE'S VACATION, ABSENCES and DISQUALIFICATION** Any judge who will be absent and wishes to have an assigned judge sit for him/her shall make such request in writing through the Administrative District Judge of Fort Bend County.

8. RULES:

9. **LOCAL COURT ADMINISTRATION:** The Board of District Judges of Fort Bend County shall meet regularly upon the call of the local Administrative District Judge.

10. CONFLICTING ENGAGEMENTS OF ATTORNEYS

10.1. ATTORNEY ALREADY IN TRIAL IN ANOTHER COURT.

10.1.1. When informed that an attorney is presently in trial, the Court will determine where and when assigned. This information will be verified upon request of opposing counsel. The case will be placed on "hold" or reset, depending upon when the attorney will be released.

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

10.2. ATTORNEY ASSIGNED TO TWO COURTS FOR THE SAME DATE:

10.2.1. It is the duty of the attorney to call the affected Judge's attention to all dual settings as soon as they are known

10.2.2. 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:

10.2.2.1. Criminal Cases.

10.2.2.2. Cases given preference of Statute.

10.2.2.3. Preferentially set cases.

10.2.2.4. Case set at earliest date.

10.2.2.5. Case with earliest filing date.

10.2.2.6. Courts in metropolitan County areas should yield to Courts in rural County areas in all other instances of conflicting settings. In the event of unresolved conflict between the two judges, the Local Administrative Judge or the Regional Presiding Judge will decide the issue.

11. VACATIONS OF COUNSEL.

11.1. **DESIGNATION OF VACATION.** An attorney may designate not more than four weeks of vacation during a calendar year as vacation, during which that attorney will not be assigned to trial or required to engage in any pretrial proceedings. This rule operates only where lead counsel, as defined by T.R.C.P. 8, is affected, unless the trial court expands coverage to other counsel.

- 11.2. **SUMMER VACATIONS.** Written designation for vacation weeks during June, July, or August must be filed with the district clerk by May 15. Summer vacation weeks so designated will protect the attorney from trials during those summer weeks, even if an order setting the case for trial was signed before the vacation designation was filed.
- 11.3. **NON-SUMMER VACATIONS.** Written designation for vacation in months other than June, July, or August must be filed with the district clerk by February 1. Non-summer vacation weeks may not run consecutively for more than two weeks at a time. Non-summer vacation weeks so designated will not protect an attorney from a trial by an order signed before the date the designation is filed.

12. COURT ROOM CONDUCT

- 12.1. Each attorney, party, witness and visitor is expected to conduct himself/herself in a manner appropriate to the decorum of the court.
- 12.2. All counsel shall conduct themselves according to the standards of professionalism as described in **THE LAWYERS CREED – A MANDATE FOR PROFESSIONALISM** as adopted by the Supreme Court of Texas and the Court of Criminal Appeals.
- 12.3. All litigants and spectators shall wear appropriate attire and conduct themselves in a dignified and courteous manner. Each Court may post Standards of Conduct and Dress.
- 12.4. Attorneys shall advise their clients and witnesses of the formalities of the court and seek their full cooperation.
- 12.5. The attorneys, the Judge, and all other officers' of the court shall be prompt at all sessions and in the dispatch of all court business.
- 12.6. The taking of photographs, film, video or broadcasting of judicial proceedings in or from the courtroom, or so close thereof as to disturb the order and decorum thereof, either while court is in session or at recess, is prohibited, unless written permission is granted by the court.
- 12.7. All attorneys are admonished to respect the letter and the spirit of all canons of ethics, including particularly those dealing with discussion of cases with representatives of the press or electronic media and ex parte communications. The court shall enforce the same by appropriate action.

13. DUTIES OF ATTORNEYS

- 13.1. **APPOINTEE FEE REPORT** Each person appointed by a judge in a civil or family case to a position for which any type of fee may be paid shall file the designated uniform report before any judgment, dismissal or nonsuit is signed. This report is required for every appointment made, whether or not a fee is charged.
- 13.2. **ATTORNEYS ADDRESSES:** Attorneys are required to notify the District Clerk of any change in address, telephone, fax number or e-mail address. Any notice or communication directed to the attorney at the address, telephone, fax number or e-mail address indicated in the records of the District Clerk will be deemed received.
- 13.3. **SUBMISSION OF INSTRUMENTS:** All judgments and orders must be submitted to the court for signing within 14 days of the rendition date, unless otherwise directed by the court. The party who is directed to prepare the judgment or order shall furnish all opposing parties with a copy of the proposed judgment or order at least five (5) days prior to entry date. All judgments or orders in uncontested matters (except for settlements made pursuant to (T.R.C.P. Rule 11) and in default matters (where citation has been served and there has been no answer filed or other general appearance) must be presented at the time of hearing. All forms required by governmental entities shall be submitted, along

with orders for withholding, QDROs and the like, as appropriate. Orders based upon agreement of the parties must be submitted to the parties for approval as to substance.

13.4. **VACATION LETTERS** A copy of a letter referred to in Rule 11, designating a vacation, shall be sent to the court and all affected opposing counsel and shall contain a list of pending settings during the vacation period.

14. **POLICIES AND PROCEDURES.** The district judges of Fort Bend County shall establish common policies and procedures on pertinent court business. Such policies and procedures shall be made available through the district clerk. Each court may additionally establish policies and procedures particular to that court.

EFFECTIVE DATE AND AMENDMENTS

a. Effective Date. These rules shall become effective thirty (30) days after their approval by the Texas Supreme Court pursuant to T.R.C.P. 3a.

b. Cross-reference. Any reference in these rules to a statute or a court rule shall also apply to any successor statute or court rule, whether by recodification, revision or amendment.

c. Applicability. The foregoing rules are applicable to both jury and nonjury cases.

The foregoing are hereby Ordered and Adopted as the Rules of the District Courts of Fort Bend County, Texas, and the District Clerk is hereby directed to record a copy of this order in the minutes of each of said Judicial Courts.

SIGNED THIS _____ May, 2001

Thomas R. Culver III
Judge of the 240th District Court

Brady G. Elliott
Judge of the 268th District Court

Thomas O. Stansbury
Judge of the 328th District Court

Robert J. Kern
Judge of the 387th District Court

Bradley Smith
Judge of the 400th District Court