

RULES OF PRACTICE
OF THE
71ST JUDICIAL DISTRICT COURT

EFFECTIVE AUGUST 1, 1991

Pursuant to the constitutional powers and duties of the Judicial authority in the State of Texas, and under the authority of Rule 3a of the Rules of Civil Procedure, the following local Rules of Practice and Procedure are hereby adopted to govern the trial of all cases in the 71st Judicial District Court. Nothing contained in these Rules shall be construed or interpreted as interfering with the right of the trial Judge to make such orders, settings, or procedural directions as in his discretion may be necessary and proper for the expedient and orderly dispatch of the business of the Court. These rules are intended to be consistent with and subject to the Rules of Civil Procedure and the statutes and Constitution of the State of Texas.

The District Clerk shall mail a copy of these Rules to the members of the Bar Association in Harrison County and to such non-resident attorneys who make appearances before this Court.

The Clerk is ordered to spread a copy of these Rules upon the minutes and to furnish a copy to the Supreme Court of Texas.

BONNIE LEGGAT, JUDGE
71ST JUDICIAL DISTRICT OF TEXAS

HARRISON COUNTY LOCAL RULES

Rule 1.10 Time Standards for Case Processing

The Court will strive to ensure that as far as reasonably possible, all cases shall be brought to trial or final disposition in conformity with the following time standards:

- a) Original criminal cases within six months if on bond, or 30 days if incarcerated;
- b) Probation revocations within 30 days of arrest;
- c) Civil jury cases within 24 months;
- d) Family law cases, contested, within 6 months of filing;
- e) Family law, uncontested, within 3 months of end of waiting period.

Rule 1.11 Court Sessions

By law the 71st Judicial District Court shall have six terms of court each year consisting of two months each. The Clerk shall issue a calendar approved by the Court prior to each term of court, setting forth the weeks for jury cases and non-jury cases.

The Court shall designate Jury Commissioners at the beginning of the term of court. The Jury Commissioners shall report to the Court on the first Wednesday of the term at 9:00 o'clock a.m. The Court shall empanel the Grand Jury on Tuesday of the fourth week of the term at 9:00 a.m.

Cases shall be scheduled so that cases will not conflict with the docket calls and the proceedings concerning the Grand Jury Commissioners and Grand Juries.

Uncontested matters and routine matters of short duration may be heard at 8:30 a.m. - 9:00 a.m. Law matters and motions will be heard from 1:00 - 1:30 p.m. A court reporter will be available. The parties shall schedule the matter with the Court

Coordinator 24 hours in advance. The Coordinator will have files pulled and available for the court.

Rule 1.12 Filing and Assignment of Cases

Pursuant to the Rules of the Supreme Court of Texas requiring that the Court file various reports documenting its case load including the age of all of its cases from the effective date of these Rules, all cases filed hereafter shall be numbered as follows: The first number of the cause will be the last two numbers of the year in which the cause is filed followed by a dash and, followed by a four digit number with the numbers beginning 0001 for the first case filed in the year and each case filed thereafter shall be numbered consecutively.

All criminal cases shall be preceded by the letters CR, followed by the last two digits of the year in which the case is filed followed by a dash and then followed by a three digit number with the first criminal case being filed in the year CR____-001, and each case filed thereafter to be numbered consecutively.

Rule 1.14 Request for Settings - Non-Jury Cases

- a) At any time after the filing of an answer upon the request of any party or the Judge's own motion the court clerk, acting upon the direction of the Judge, shall set the case for trial on the non-jury docket.
- b) When requesting a setting for a non-jury trial, the approximate length of time required for the trial shall be given in order to facilitate scheduling.

- c) The request for a non-jury trial setting may be made by telephone or by mail. The party obtaining the setting shall notify all parties of the setting.
- d) Uncontested cases may be heard between 8:30 a.m. - 9:00 a.m. by requesting a setting the day before. Matters of law or motions may be heard between 1:00 - 1:30 p.m. each day by requesting a setting the day before. A court reporter will be available.

Rule 1.15 Request for Settings - Jury Cases

- a) A request for setting shall state that the party is ready, discovery has been completed, that the parties have conferenced concerning the setting and that the setting is by agreement or not by agreement.
- b) Cases will be set for jury trial only when a Jury Fee has been paid at least thirty (30) days before the Monday of the week in which the case is set for trial.
- c) 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. If the case is already set for non-jury trial when a timely and proper demand for a jury 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 next jury week, or set the case at some other concurrent time in the court's discretion.
- d) Nothing in this rule shall be construed to prevent the more rapid trial of jury or non-jury cases when the time requirements of either category of trials shall make more expeditious handling of one category possible.

Rule 1.16 Request for Preferential Settings

- a) See Government Code 23.101, et seq., for matters that by law will be given primary or secondary priority.
- b) In addition, a case may be preferentially set when because of unusual circumstances, more than ordinary difficulty would be encountered in having all counsel and witnesses available for a regular setting.
- c) Motions for preferential setting must be written and filed with notice to all parties by docket call or, if the case has not been placed on the docket, then filed 30 days before the requested setting.

Rule 1.17 Emergency and Special Meetings

- a) 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.
- b) Whenever immediate action is required in an emergency when the Clerk's office is not open for emergencies, the case shall at the earliest practicable time be docketed on motions filed with the Clerk. Except in emergencies, no application for immediate or temporary relief shall be presented to the Judge until it has been filed with the Clerk.

Rule 1.18 Docket Calls and Announcements

- a) Upon receipt of a request for setting of a case for jury trial, the Court Coordinator shall set the trial for the week agreed upon by counsel. Failing agreement between counsel, the coordinator will set the case for the week

requested by the party requesting a setting. Objections and motions to continue will be heard promptly to such setting.

- b) The requesting party shall promptly notify all counsel of record of the setting.
- c) The Court Coordinator shall keep a list of the order of the settings of jury trials, striking causes on the docket which have been contested and settled and counsel may contact that office to determine the numerical standing for a jury selection. The current status of the jury docket will be posted in the office of the District Judge and updated upon notification of the cancellation of any case.

SETTINGS OF CRIMINAL TRIALS

- a) After indictment, criminal cases will be given an arraignment date. The attorney may waive arraignment and make official appearance in the case in writing prior to the arraignment date and need not be present. If arraignment is not waived and no attorney is officially of record in the case, the Defendant shall appear, and if represented by counsel, both counsel and defendant shall appear. Appointments of attorneys for indigents will be made at the time set for arraignment. Notice will be given the attorney appointed and a pre-trial and trial date assigned. In that event, the arraignment will be conducted at pre-trial.
- b) At arraignment the case will also be set for pre-trial and trial. All pre-trial motions shall be filed within ten days of the pre-trial.

- c) The State, Defendant and Defense Counsel must be present at the pre-trial. Failure to appear will waive the right to have heard any pre-trial motions.
- d) No attorney will be allowed to withdraw from a case without there first being a hearing. Counsel shall serve by certified mail a copy of the motion to withdraw notifying Defendant to appear at the hearing.
- e) No cases will be continued without a written motion for continuance, and then only upon consent of the Court and upon a resetting date from the Court Coordinator.

Rule 1.19 Resetting Cases

Cases that have been continued or that have not been reached may be carried over to the next available jury week or reset for trial in the discretion of the trial judge.

Rule 1.20 Dismissal Docket; Involuntary Dismissal

The Court shall periodically, but at least twice each year, review the court's docket, and commensurate with the condition of the docket, the length of time a case has been filed, and other circumstances, have cases placed on the dismissal docket. When a case is placed on the dismissal docket, notice shall be mailed to the attorneys for plaintiff who shall then notify all attorneys of record.

Upon receipt of the dismissal docket and at least three days prior to the docket call, a party may secure a telephone conference between the Court and all counsel of record, for the purpose of entering a scheduling order and setting the case for trial. The

Court may then remove the case from the dismissal docket and counsel will not have to appear at the dismissal docket.

The Court reserves the right to dismiss a case for want of prosecution if the circumstances warrant, or to dismiss the case without further notice if it is not disposed of within a specified time, in which case the burden is then on the plaintiff to dispose of the case or obtain an extension of the deadline upon a showing of good cause.

This dismissal docket procedure is cumulative, and not exclusive, and nothing herein shall prevent a cause from being dismissed for failure of any party seeking affirmative relief to appear for a trial, pre-trial, or other hearing, or for any other reason authorized by law or the Rules for Civil Procedure.

Rule 1.21 Suspense Docket

If a case has been stayed because it relates to a bankruptcy proceeding, or if a case cannot proceed due to a legal or factual impediment, then such case is to be transferred to a “Suspense Docket” for suspension of further action and the file delivered to the clerk for storage.

Rule 3.10 Presentment of Pre-Trial Pleas and Motions

- a) No dilatory pleas or motions or exceptions shall be heard less than ten (10) days before the date on which the case is set for trial, provided that the pleadings to which same are directed has been on file more than thirty (30) days at the time of the hearing.

- b) If a pre-trial is set and the pleading to which exceptions are directed has been on file seven (7) days or more before pre-trial, such exceptions shall be presented at pre-trial.
- c) If a pre-trial is set and the pleading to which exceptions are directed is filed less than seven (7) days before pre-trial, or is filed after pre-trial but not more than seven (7) days before trial, it shall be the duty of counsel urging such exceptions to obtain a hearing, give the required notice, and present such exceptions before the day of the trial.
- d) If no pre-trial is set, it shall be the duty of counsel urging such exceptions to obtain a hearing, give the required notice, and present such exceptions as herein provided.
- e) At hearings on specific motions and preliminary matters other than scheduling conferences and pretrial conferences, it shall be sufficient if counsel present is prepared to proceed on the matter at issue. In the absence of a specific order to the contrary, a party is not required to be represented by counsel who will try the case, or who is familiar with all aspects of the case, except at scheduling conferences and pretrial conferences.
- f) No motion or special exception will be set for hearing until the moving party shall first communicate with opposing counsel to determine whether a contemplated motion will be opposed. If the motion will not be opposed, the moving party shall accompany a motion with a proposed order signed by counsel for all parties indicating approval of same. If the motion will be opposed, the moving party shall state at the beginning of their motion as

follows: “A conference was held on (date) with (name), attorney for opposing party, on the merits of this motion. Agreement could not be reached; therefore, it is presented to the Court for a determination.”

Rule 3.11 Disposition Motions and Other Preliminary Matters

- a) Preliminary matters which require a hearing by the Court may be disposed of either (a) by hearing before the Court or (b) upon such written authorities as counsel may forward to the Court, following which the court may rule in chambers without any hearing as provided in this rule. Any party is entitled to a hearing so long as the same is requested prior to the time that the Court makes its ruling.
- b) 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, if any, relied upon, along with a request for ruling by the court without a hearing. The opposing party may, within ten (10) days after service of such statement, either (a) request a hearing or (b) file a written response.
- c) 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 send copies of such memorandum to counsel for all parties.

- d) Copies of all orders made pursuant to this rule shall be signed and forwarded to all counsel at the time they are entered.

Rule 3.12 Motions for Severance

When a motion to sever is sustained, the severed claim shall be filed as a new case. The original case from which the claim is severed shall retain the original number given it by the Clerk of the Court. Before the severed claim is filed as a new case, the Clerk's requirement concerning deposit for costs shall be met.

Rule 3.13 Motions for Continuance

- a) No requests to pass, postpone, or reset any scheduling conference, pre-trial conference, or other preliminary hearing shall be granted unless all counsel for all parties have been notified and have had an opportunity to object.
- b) Any ground for continuance of the trial setting shall be presented to the Court at least seven (7) days prior to the trial setting, at the call of the docket, or at the pre-trial conference, if any, whichever shall occur first, or shall be waived.
- c) All motions for continuance of trial setting, including joint motions for 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, and in criminal cases with Chapter 29 of the Texas Code of Criminal Procedure. All motions for continuance must be signed by the party requesting same. Upon granting of a motion for continuance, a scheduling conference shall

immediately be held, and the order granting such motion for continuance shall contain an order resetting the case for trial.

Rule 3.15 Motions for Summary Judgment

Motions for summary judgment will be heard between 1:00 p.m. and 1:30 p.m. on the motions docket. Settings may be obtained at other times as may be necessary.

Rule 3.17 Motions for Referral of Disputes and Alternatives

A court may, on its own motion or the motion of a party, refer a pending dispute for resolution for an alternative dispute resolution procedure provided for in Chapters 151, 152, or 154 of the Texas Civil Practice & Remedies Code. Any party may, within ten (10) days after receiving notification of a referral, file a written objection which sets forth a reasonable basis for the party's objection to referral.

Rule 3.19 Pre-Trial Conferences

A pre-trial conference may be held at the request of the Court or of the attorneys. If the pre-trial conference is set at the request of the attorneys, it shall be held no later than seven (7) days prior to the date set for trial, unless the Court, on timely request of one or more attorneys, orders otherwise.

Rule 3.20 Compliance with Conference Procedures

- a) All scheduling conferences and pre-trial conferences shall be attended by a counsel who is familiar with the case and fully authorized to state his party's

position on the law and the facts, to make agreements as to scheduling, to enter into stipulations, and to enter into settlement negotiations. Attorneys for all parties shall be physically present at the scheduling conference unless arrangements have been made for such conference to be held by telephone.

- b) Each attorney shall bring a calendar in order to arrange settings which do not conflict with any previous engagements of counsel. Under no circumstances may an attorney be represented at any scheduling conference or pretrial conference, whether held by telephone or otherwise, by any secretary or other non-lawyer personnel.

Rule 3.21 Non-Compliance with Conference Rules

When counsel for either party, after notice and without good cause, fails to appear or is unprepared for a scheduling conference or pre-trial conference, the court may:

- a) Make all scheduling decisions and rule on all motions, exceptions or other matters;
- b) Declare any motions or exceptions prepared waived;
- c) Alter the trial setting or other scheduling matters, decline to set the case for trial or cancel a setting previously made;
- d) Pass and reset the conference, in which case the party represented shall be entitled to recover his reasonable attorney's fees and expenses.
- e) Take such other action that is just and proper.

Rule 3.22 Discovery Motions

All counsel are expected to engage in good faith negotiations pursuant to the discovery and deposition rules of the Texas Rules of Civil Procedure. Requests for hearings on motions for discovery, or for protection, or to quash interrogatories or requests for admissions, or on objections to any discovery, interrogatories or requests for admissions, or on objections to any discovery, will not be granted unless counsel filing the same certifies that he has attempted to obtain such discovery or relief from opposing counsel by agreement and has been unsuccessful, or shows good cause for not making such effort.

Rule 3.23 Settlements

All trial counsel are urged to make a bona fide effort to settle cases before announcing ready for trial. 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. When an attorney settles or dismisses a case which is set for trial, he shall give notice to the Court as soon as possible.

Rule 3.25 Witnesses/Exhibits

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. When out-of-

country witnesses are to be called, the burden shall be on the party using such witnesses to have them available.

In so far as is possible, counsel for the parties shall pre-mark for identification all items to be introduced into evidence and further shall notify the Court as to those items upon which counsel can agree may be admitted into evidence without objection.

Objections to video tape which will be offered at the trial of the cause shall be made and heard at the Settlement/Pretrial Conference and if not made at that time shall be deemed waived. Parties are expected to edit video tapes to exclude inadmissible or repetitive or irrelevant material insofar as possible.

Rule 3.26 Jury Selection

All parties will be prepared to select juries and proceed to trial on the date of setting, as reflected by the docket of the Court. All juries required for the week will be selected before any case will be tried, and all counsel with cases to be tried will be expected to take notice of the preceding voir dire examinations. Repetition of previous voir dire questions will not be permitted.

Rule 3.27 Jury Charges

In all civil jury trial cases, anticipated special questions, definitions and instructions shall be submitted to the Court in writing at or prior to the beginning of the trial (before jury selection). If a party fails to submit a proposed charge, the Court may re-set the case to another date.

Rule 4.10 Family Law Cases

Uncontested Divorces and Other Uncontested Matters

 On Tuesday through Friday of each week from 8:30 a.m. until 9:00 a.m. and from 1:00 p.m. until approximately 1:30 p.m. the court will be available to sign orders and to hear uncontested divorces and any other uncontested matters of very duration.

 A court reporter will be available if requested at the time the setting is obtained.

Family Law Cases

 An inventory and appraisal shall be filed in divorce cases by both parties if no settlement has been reached concerning the division of the property. Each party should designate what property is requested by that party.

 All divorce decrees must be entered no later than thirty (30) days after the granting of such divorce unless a time extension is granted by the Court.

Guidelines for Time for Possession of and Access to a Child or Children in

Divorce Proceedings

 See attached.

Rule 6.12 Arraignment/Initial Appearance

 After indictment all criminal cases will be given an arraignment date. The attorney may waive arraignment and make official appearance in the case in writing prior to the arraignment date and need not be present. If arraignment is not waived the Defendant and Counsel shall appear.

Rule 6.13 Appointment of Counsel

Upon it being made known to the Court that a defendant has been incarcerated for 48 hours or more, 72 hours on a weekend, and wishes appointment of counsel, the Court shall consider proof of indigence. If indigent, the defendant will be appointed counsel.

Rule 6.14 Appearance of Defendant/Counsel

Appointed counsel shall be given written notice and telephone notice of the appointment, and any trial or pre-trial settings. If the defendant is incarcerated, the attorney is expected to interview or contact the defendant within 24 hours of notice of the appointment.

A lawyer enters an appearance by executing a bail bond or appeal bond or appearing at any hearing with respect to the defendant and the criminal episode.

Rule 6.15 Withdrawal of Counsel

No attorney who has made appearance as set forth in Rule 6.14 may not withdraw without notifying the defendant by serving a copy of his motion to withdraw and notifying the defendant to appear at a hearing thereon. The State shall be notified by counsel of the motion and hearing.

No motion shall be granted if filed within 30 days of the trial setting unless the motion is to substitute new counsel.

Rule 10.12 Attorney Withdrawal

In civil cases no attorney of record shall be permitted to withdraw from any case without presenting a motion and obtaining from the court an order granting leave to

withdraw in compliance with Rule 10, T.R.C.P., or Art. 26.04, C.C.P. Such leave may be denied where the motion is presented so near the trial date as to require delay of the trial.

In criminal cases: see Rule 6.15.

Rule 11 & 12 Adoption of Rules, Local Administration

Pursuant to the constitutional powers and duties of the Judicial authority in the State of Texas, and under the authority of Rule 3a of the Rules of Civil Procedure, the following local Rules of Practice and Procedure are hereby adopted to govern the trial of all cases in the 71st Judicial District Court. Nothing contained in these Rules shall be construed or interpreted as interfering with the right of the trial Judge to make such orders, settings, or procedural directions as in his/her discretion may be necessary and proper for the expedient and orderly dispatch of the business of the Court. These rules are intended to be consistent with and subject to the Rules of Civil Procedure and the statutes and Constitution of the State of Texas.

The District Clerk shall mail a copy of these Rules to the members of the Bar Association in Harrison County and to such non-resident attorneys who make appearances before this Court.

The Clerk is ordered to spread a copy of these Rules upon the minutes and to furnish a copy to the Supreme Court of Texas.

This Court will be governed by these Rules, and all attorneys are required to become familiar with these rules and governed thereby. The Clerk of this Court has a copy of such Rules available upon request by the attorney of record, in any case pending.

Rule 13.10 Miscellaneous

An attorney appointed as an ad litem is expected to fully perform his functions as provided by law. Parties shall request, when necessary, appointment in advance of the hearing or trial to make full investigations of the matter.

No default judgment will be entered unless the counsel requesting the hearing has notified the opposing counsel or party by certified mail or registered mail (as required by the Rules of Civil Procedure) of the time of the hearing. The rule does not apply to cases on the civil docket.

GUIDELINES FOR POSSESSION OF A CHILD
OR CHILDREN IN DIVORCE PROCEEDINGS

Pursuant to Section 14.033 of the Family Code, the Court files the following guidelines for standard visitation for a child or children in divorce proceedings. This schedule is intended for the purpose of guidelines, but may be varied in any case depending on the total circumstances involved. Both the "100 miles or more" and the "less than 100 miles" should be included in every decree in the event the parties move.

A. PARENTS WHO RESIDE 100 MILES OR LESS APART.

Except as otherwise explicitly provided, if the possessory conservator resides 100 miles or less from the primary residence of the child, the possessory conservator shall have the right to possession of the child as follows:

Weekends:

From 6:00 o'clock p.m. on the first, third, fifth Friday of each month until 6:00 o'clock p.m. on the following Sunday.

Except as otherwise explicitly provided, if a weekend period of possession of the possessory conservator coincides with a school holiday during the regular school term or with a federal, state or local holiday during the summer month in which school is not in session, the weekend possession shall extend until 6:00 o'clock p.m. on a Monday holiday or school holiday or shall begin at 6:00 o'clock p.m. Thursday for a Friday holiday or school holiday, as applicable.

Wednesdays:

Each week during the regular school term from 6:00 o'clock p.m. until 8:00 o'clock p.m.

Christmas:

In even-numbered years from 6:00 o'clock p.m. on the last school day before the Christmas school vacation begins until noon on December 26th, and the managing conservator shall have possession for the same period in odd-numbered years;

In odd-numbered years from noon on December 26th until 6:00 o'clock p.m. on the day before school resumes, and the managing conservator shall have possession for the same period in even-numbered years;

Thanksgiving:

In odd-numbered years from 6:00 o'clock p.m. on the Wednesday before Thanksgiving until 6:00 o'clock p.m. on the following Sunday, and the managing conservator shall have possession for the same period in even-numbered years;

Spring Break:

In even-numbered years from 6:00 o'clock p.m. on the last school day before the school's spring vacation begins until 6:00 o'clock p.m. on the day before school resumes, and the managing conservator shall have possession for the same period in odd-numbered years.

Summer:

If the possessory conservator gives the managing conservator written notice by May 1st of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 30 days between June 1st and August 31st, to be exercised in no more than two separate periods of at least seven consecutive days each; or

If the possessory conservator does not give the managing conservator written notice by May 1st of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 30 consecutive days beginning at 6:00 o'clock p.m. on July 1st and ending at 6:00 o'clock p.m. on July 31st;

If the managing conservator gives the possessory conservator written notice by May 15th of each year or gives the possessory conservator 14 days' written notice on or after May 16th of each year, the managing conservator shall have possession of the child on any one weekend from Friday at 6:00 o'clock p.m. to 6:00 o'clock p.m. on the following Sunday during any one period of possession by the possessory conservator under the provisions for extended summer possession, provided that the managing conservator picks up the child from the possessory conservator and returns the child to that same place;

If the managing conservator gives the possessory conservator written notice by May 15th of each year or gives the possessory conservator 14 days' written notice on or after May 16th of each year, the managing conservator may designate one weekend between June 1st and August 31st, during which an otherwise scheduled weekend period of possession by the possessory conservator will not take place, provided that the weekend so designated does not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is the father of the child;

Birthday:

The parent not in possession of a child on the child's birthday shall have possession of the child from 6:00 o'clock p.m. to 8:00 o'clock p.m. on that day, provided that the parent not in possession picks up the child from the child's residence and returns the child to that same place;

Father's Day:

If a conservator, the father shall have possession of the child on Father's Day from 9:00 o'clock a.m. to 6:00 o'clock p.m., provided that, if he is not in possession of the child, he picks up the child from the child's residence and returns the child to that same place.

Mother's Day:

If a conservator, the mother shall have possession of the child on Mother's Day from 9:00 o'clock a.m. to 6:00 o'clock p.m., provided that, if she is not in possession of the child, she picks up the child from the child's residence and returns the child to that same place.

B. PARENTS WHO RESIDE OVER 100 MILES APART.

Except as otherwise explicitly provided, if the possessory conservator resides more than 100 miles from the residence of the child, the possessory conservator shall have the right to possession of the child as follows:

Weekends:

Either regular weekend possession beginning on the first, third, and fifth Friday as provided under the terms of Part A above, or not more than one weekend per month of the possessory conservator's choice beginning at 6:00 o'clock p.m. on the day school recesses for the weekend and ending at 6:00 o'clock p.m. on the day

before school resumes after the weekend, provided that the possessory conservator gives the managing conservator seven days' written or telephonic notice preceding a designated weekend, and provided that the weekend possessions do not conflict with the portions of Part A above relating to "Christmas", "Thanksgiving", "Birthday", "Father's Day", and "Mother's Day".

Christmas:

The provisions of "Part A - Christmas" are applicable when the possessory conservator resides more than 100 miles from the residence of the child.

Thanksgiving:

The provisions of "Part A - Thanksgiving" are applicable when the possessory conservator resides more than 100 miles from the residence of the child.

Birthday:

The provisions of "Part A - Birthday" are applicable when the possessory conservator resides more than 100 miles from the residence of the child.

Father's Day:

The provisions of "Part A - Father's Day" are applicable when the possessory conservator resides more than 100 miles from the residence of the child.

Mother's Day:

The provisions of "Part A - Mother's Day" are applicable when the possessory conservator resides more than 100 miles from the residence of the child.

Spring Break:

Every spring school vacation from 6:00 o'clock p.m. on the day school recesses until 6:00 o'clock p.m. on the day before school resumes after that vacation;

Summer:

If the possessory conservator gives the managing conservator written notice by May 1st of each year specifying an extended period or periods of summer possession, the possessory conservator shall have possession of the child for 42 days between June 1st and August 31st, to be exercised in no more than two separate periods of at least seven consecutive days each; or

If the possessory conservator does not give the managing conservator written notice by May 15th of each year specifying an extended period or periods of summer possession the possessory conservator shall have possession of the child for 42 consecutive days beginning at 6:00 o'clock p.m. on June 15th and ending at 6:00 o'clock p.m. on July 27th;

If the managing conservator gives the possessory conservator written notice by May 15th of each year or gives the possessory conservator 14 days' notice on or after May 16th of each year, the managing conservator shall have possession of the child on any one weekend from Friday at 6:00 o'clock p.m. to 6:00 o'clock p.m. on the following Sunday during any one period of possession by the possessory conservator under Part B "Summer", provided that if a period of possession by the possessory conservator exceeds 30 days, the managing conservator may have possession of the child under the terms of said Part B "Summer" on any two nonconsecutive weekends during that time period, and further provided that the managing conservator picks up the child from the possessory conservator and returns the child to the same place.

If the managing conservator gives the possessory conservator written notice by May 15th of each year or gives the possessory conservator 30 days' written notice on or after May 16th of each year, the managing conservator may designate 21 days between June 1st and August 31st, to be exercised in not more than two separate periods of at least seven consecutive days each, during which the possessory conservator shall not have possession of the child, provided that the period or periods so designated do not interfere with the possessory conservator's period or periods of extended summer possession or with Father's Day if the possessory conservator is the father of the child.

General Terms and Conditions:

Except as otherwise explicitly provided, terms and conditions of possession of a child that apply irrespective of the distance between the residence of a parent and the child are as follows:

- (1) the managing conservator shall surrender the child to the possessory conservator at the beginning of each period of the possessory conservator's possession at the residence of the managing conservator;
- (2) the possessory conservator shall surrender the child to the managing conservator at the end of each period of possession at the residence of the possessory conservator.
- (3) each conservator shall return with the child the personal effects that the child brought at the beginning of each period of possession;
- (4) either parent may designate any competent adult to pick up and return the child, as applicable; a parent or a designated competent adult shall be present when the child is picked up or returned;
- (5) a parent shall give notice to the person in possession of the child on each occasion that the parent will be unable to exercise that parent's right of possession for any specified period; repeated failure of a parent to give notice of an inability to exercise possessory rights may be considered as a factor in a modification of those possessory rights;
- (6) written notice shall be deemed to have been timely made if received or postmarked before or at the time that notice is due; and
- (7) if a conservator's time of possession of a child ends at the time school resumes and for any reason the child is not or will not be returned to school, the conservator in possession of the child shall immediately notify the school and the other conservator that the child will not be or has not been returned to school.

VISITATION GUIDELINES FOR CHILDREN UNDER 3 YEARS OF AGE

If parents reside less than 100 miles apart:

0-6 months -

Visitation shall occur in the home of the custodial parent unless the Court designates another supervised location. Visitation shall be from 6 p.m. to 7 p.m. on each Tuesday and Thursday evening and from 10 a.m. to 12 noon on each Saturday.

6-18 months -

Visitation may occur outside the custodial parents home. Custodial parent shall provide an infant car seat and any breast milk or formula which the child may need during the visit. Visitation shall be from 6 p.m. to 8 p.m. one evening per week (to be designated by the visiting parent) and 1st, 3rd, 4th and 5th Saturdays of each month from 10 a.m. until 2 p.m.

18 months - 3 years -

Visitation shall be 1st, 3rd and 5th weekends of the month from 9 a.m. until 6 p.m. on Saturday and Sunday and further on December 25th and 26th, Thanksgiving Day, January 1st, Easter Sunday and July 4th, Mother's Day/Father's Day, and the child's birthday from 1 p.m. to 6 p.m. If there is a child over three living in custodial parent's home who is on a standard visitation schedule with this same visiting parent, the child under three shall begin overnight visitation on standard schedule after age 2.

If the parents reside farther than 100 miles apart: (same as less than 100 miles or: at visiting parent's option).

0-6 months -

Visitation shall occur in the custodial parent's or grandparent's home. Visitation may occur between the hours of 9 a.m. and 6 p.m. on any Saturday and Sunday the visiting parent shall be in town; however, said visitation shall be scheduled so as not to interfere with or interrupt the child's sleep or feeding schedules.

6-18 months -

Visitation may occur as set forth above, however, the visiting parent may take the child from the custodial parent's home for 2 periods during each day not to exceed 2 hours each.

18 months - 3 years -

Visitation shall occur on any designated weekend (no more than 2 weekends per month to be designated by the visiting parent giving custodial parent at least 14 days notice) between the hours of 9 a.m. and 6 p.m. on Saturday and Sunday. Visiting parent may also have possession of the child from 1 p.m. to 6 p.m. on December 25th and 26th, and from 9 a.m. to 6 p.m. on Thanksgiving Day, July 4th, Mother's/Father's Day and the child's birthday.

BONNIE LEGGAT
DISTRICT JUDGE
71ST JUDICIAL DISTRICT
MARSHALL, HARRISON COUNTY, TEXAS