

LOCAL RULES FOR FAMILY LAW MATTERS

71st JUDICIAL DISTRICT COURT

EFFECTIVE JANUARY 1, 2013

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 Harrison County, Texas, 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 Harrison 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. Provision for special settings of contested final hearings;
4. Jury request procedures to insure effective use of the central jury panel;
5. Provisions for discovery, settlement, and setting conferences for complex cases;
6. Providing simplified procedure for identifying those cases to be relieved from the time requirements and dismissal process; and
7. Providing for alternative dispute resolution in appropriate cases.

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

RULE 1: RESPONSIBILITY OF ATTORNEYS AND PARTIES

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, 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 of the Texas Rules of Civil Procedure.

RULE 2: REQUISITES OF PLEADINGS

All pleadings shall be governed by the requisites set forth in the Texas Rules of Civil Procedure. A person not represented by an attorney shall sign his/her pleadings and state his/her 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 and practical, ensure that all cases are brought to trial or final disposition in conformity with the following time standards:

- (1) *Uncontested Family Law Cases* - Within three (3) months from the appearance date or within three (3) months from the expiration of the waiting period provided by the Texas Family Code where such is required, whichever is later.
- (2) *Contested Family Law Cases* - Within six (6) months from the appearance date or within six (6) months from the expiration of the waiting period provided by the Texas 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 each day of the week of nonjury weeks at 8:30 a.m. (or by previous appointment in exceptional situations at other times when the Court is in session). No appointment is necessary for the 8:30 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 Court Coordinator, she will have the Court's file at her desk. If you do not schedule the hearing 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**

Temporary Order and Protective Order Hearings

All hearings for temporary orders will be held at 9:00 a.m. on Monday, Tuesday, Wednesday, and Thursday of nonjury weeks. If you anticipate a lengthy temporary order hearing (for example, contested temporary conservatorship of a child), please notify the Court Coordinator at the time of filing of your case or as soon thereafter as possible. The Court may arrange a more convenient time to have the hearing. The Court may also refer the case for mediation of temporary orders. Known contested matters will be scheduled at 10:00 a.m. or thereafter on Monday, Tuesday, Wednesday, and Thursday of nonjury weeks.

At the temporary hearing, each party shall produce for the Court true and complete copies of their tax returns for the past two (2) years together with all forms filed therewith, 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 maybe by production of the latest paystub 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 response to produce such items.

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

Enforcement Hearings

All show cause orders shall command the Respondent to produce true and complete copies of the last two (2) years' tax returns together with all forms filed therewith and a statement of the year to date earnings of the Respondent, verified by his or her employer.

Conference with Counsel

Regardless of the type of hearing, all counsel shall contact the opposing counsel immediately upon hiring and prior to temporary hearing. If contact or the attempt to contact is not made, the hearing may be rescheduled for another date.

RULE 6: FOR KIDS' SAKE

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 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 for a reduced rate.

RULE 7: TRIAL SETTINGS

Non-Jury Calendar

- A. A setting for trial on the merits will be made directly to the Court Coordinator. Anyone calling for a setting shall 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 Court Coordinator shall set the hearing not less than forty-five (45) days hence.
- B. Causes of action shall be placed on the non-jury calendar in the following manner:
 - (1) upon the Court's own motion, or
 - (2) upon request of any interested party through his or her attorney of record who shall give actual notice to all other parties to the cause of the time and date of such trial in accordance with the Texas Rules of Civil Procedure.
- C. All contested child custody cases or property cases requiring more than two (2) hours of court time must confer with all counsel of record about the possibility of mediation before a final hearing is scheduled.

Jury Trial Calendar

- A. Requests for jury trial settings must be presented in writing to the Judge or Court Coordinator.
- B. Cases shall be set on the jury trial docket in the order in which they are requested with the exception of a "special" 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.

RULE 8: AGREEMENTS TO PASS AND MOTIONS FOR CONTINUANCE

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.

RULE 9: PRETRIAL CONFERENCES

Pretrial conferences will be set in matters designated by the Court as complex cases and any matters in which the estimated time of trial is greater than two (2) hours. Pretrial hearings will be scheduled as any other nonjury hearing as indicated herein.

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, pretrial conferences 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 Texas Rules of Civil Procedure Rule 166.

RULE 10: STANDING TEMPORARY RESTRAINING ORDER

Upon request by a party upon the filing of a divorce or the first responsive pleading thereto, the Clerk of this Court shall attach to each citation to be served a copy of the Standing Temporary Restraining Order. Said Temporary Restraining Order shall become effective on the Respondent when citation is served, a waiver of citation is signed, or actual notice in some other manner is received. Petitioner shall be deemed, by invoking the Court's jurisdiction, to have constructive notice of the Standing Temporary Restraining Order and subject himself/herself to it.

The Standing Restraining Order remains effective until the temporary hearing, if any. If no temporary hearing is requested by either party, the Standing Restraining Order remains effective until the final hearing. Should a temporary hearing be requested by either party, the Court shall determine whether the Standing Temporary Restraining Order shall remain in effect until the final hearing. Absent a ruling by the Court to the contrary, the Standing Restraining Order shall remain effective until the final hearing.

RULE 11: PRIORITY OF CASE

To the best of its ability, the Court will 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 Part orders or fourteen (14) day hearings;
3. Any other matters involving custody, possession, or welfare of children.

RULE 12: DISCOVERY

All discovery shall be conducted in accordance with the Texas Rules of Civil Procedure.

RULE 13: SUBMISSION TO THE COURT OF ORDERS

Prior to the submission of any orders to the Court, the attorney submitting the proposed order shall submit the proposed order to all counsel of record at least three (3) business days prior to submitting the order to the Court for consideration. Following the expiration of three (3) business days, counsel may submit an order to the Court where it will be held for objection by all counsel of record for at least five (5) business days before the Court will consider entry of same. If counsel fails to submit the proposed order to all counsel of record prior to presenting the order to the Court, the Court may refuse to enter the order. If an objection is made in writing by any counsel to the proposed order prior to the expiration of five (5) business days, the attorney requesting entry shall request and obtain a hearing date before the Court.

All orders should be presented for the Court's signature as soon as practical following the Court's pronouncement of the order.

RULE 14: CHILDREN IN COURT

When custody or possession of a child is an issue, the person having physical possession of the child at the time of the hearing shall have the child available to be brought to the Court within forty-five (45) 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 shall be notified in writing, and an Amicus Attorney shall be appointed. The fee for the Amicus Attorney shall be taxed as costs and apportioned by the Court.

RULE 15: 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 matters have not been completed.

RULES 16: MISCELLANEOUS RULES OF PRACTICE

Child Support

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

Visitation

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

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

Child Support Hearings

In every case involving support for children, whether the case is an original case, a modification, or a motion for contempt for child support arrearages, each party must bring to each hearing the last two (2) years' income tax returns together with all forms filed therewith, a statement of current earnings with a year-to-date figure showing gross pay and deductions. If such statement cannot be obtained, any form that is convenient for the employer to furnish will be accepted so long as that statement shows the latest paycheck amount as well as the earnings and deductions accumulated to date.

RULE 17: DRESS CODE

All persons entering the courtroom shall dress and conduct themselves in keeping with proper courtroom decorum.

Attorneys

Males - Men are to wear a collared dress shirt with buttons, and the shirt shall be tucked in. Men shall wear business jackets and ties.

Females - Women shall wear a suit, dress with business jacket, skirt and blouse with a business jacket, dress slacks with a business jacket, or a pant suit.

If legal assistants or other staff of the attorney's office appear in the courtroom before the bar or sit at counsel table, they will abide by the same dress code as attorneys do.

The following attire is not appropriate for parties or anyone else to wear in the courtroom:

- (1) shorts;
- (2) sleeveless shirts or t-shirts with writing (other than a county or state emblem);
- (3) garments showing cleavage, see-thru garments, and skirt lengths substantially above the knee; and
- (4) backless tops, spaghetti straps, tank tops, halter tops, exposed midriffs, or other tight or provocative tops.

Anyone wearing such attire shall be removed from the courtroom. If an employee of Harrison County has another dress code in effect for his or her office, the stricter of the two shall apply in Court.

SIGNED on this the 8th day of January, 2013.



BRAD MORIN, PRESIDING JUDGE