

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 96- 9261

**APPROVAL OF NUECES COUNTY
LOCAL RULES OF ADMINISTRATION**

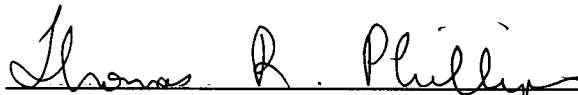
ORDERED:

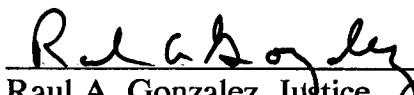
Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court of Texas approves the following local rules:


Nueces County Local Rules of Administration, applicable to the District Courts and County Courts at Law of Nueces County.

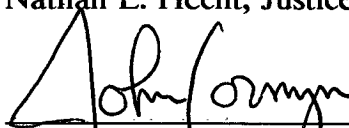
The approval of these rules is temporary, pending further orders of the Court.

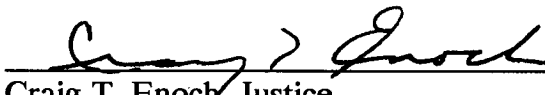
SIGNED AND ENTERED this 11th day of December, 1996

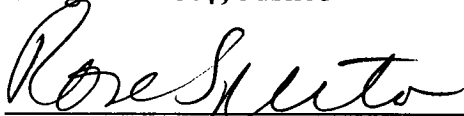

Thomas R. Phillips, Chief Justice

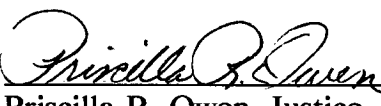

Raul A. Gonzalez, Justice


Nathan L. Hecht, Justice

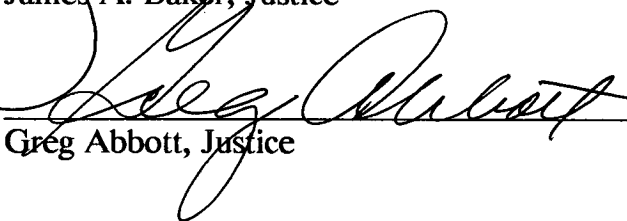

John Cornyn, Justice


Craig T. Enoch, Justice


Rose Spector, Justice


Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice

NUECES COUNTY

LOCAL RULES OF ADMINISTRATION

RULE 1: APPLICATION:

These rules shall apply to civil and criminal cases pending before the courts of Nueces County and to District Courts and County Courts at Law.

It is not the intent of these rules to impinge on the authority or jurisdiction of any Judge or Court established by the Constitution or the Statutes of this State or the Supreme Court of Texas.

RULE 2: ASSIGNMENT OF CASES:

DISTRICT COURTS:

(A) District Court civil cases shall be assigned by the District Clerk at random in the following proportions: The 28th, 94th, 117th, 148th, 214th, 319th, and 347th District Courts shall each receive 2/15 of the cases and the 105th District Court shall receive 1/15 of the cases.

(B) District Court criminal cases shall be assigned by the District Clerk at random in the following proportions: The 28th, 94th, 105th, 117th, 148th, 214th, 319th, and 347th District Courts shall each receive 1/8 of the cases.

COUNTY COURTS AT LAW:

(C) County Court at Law civil cases not within the concurrent jurisdiction of the District Courts shall be assigned by the Court Clerk to County Courts at Law No.'s 1, 2, 3, and 4 at random and in equal numbers. The District Clerk shall assign only those cases styled "In the County Court at Law" of concurrent jurisdiction with the District Court to County Courts at Law No.'s 1, 2, 3, and 4 at random and in equal numbers.

(D) County Court at Law criminal cases shall be assigned by the County Clerk to County Courts at Law No.'s 1, 2, 3, and 4 at random and in equal numbers.

CONCURRENT JURISDICTION:

(E) Civil cases within the concurrent jurisdiction of the District Courts and the County Courts-at-Law, as set out in Sec. 25.1802, TEXAS GOVERNMENT CODE, as amended effective September 1,

1995, shall be filed with the District Clerk. At the time of filing, the pleadings shall state whether the case is to be filed in a District Court or County Court at Law. The District Clerk shall assign such cases to the courts in the proportions and in the manner set out herein. Only those cases styled "In the District Court" shall be assigned to the District Courts and only those cases styled "In the County Court at Law" shall be assigned to the County Courts at Law.

ELECTRONICALLY TRANSMITTED PLEADINGS AND DOCUMENTS

(F) Pleadings and documents may be filed by electronic transmission with the appropriate District or County Court Clerk, and shall be recognized and treated as originals, subject to 51.806 (b), TEXAS GOVERNMENT CODE.

The District and County Clerks shall separately maintain such pleadings and documents received, subject to transfer.

Filing with one Court Clerk does not effect filing with the other. Pleadings or documents electronically transmitted for filing must be addressed to the Clerk appropriate for the case or procedure. Neither the District nor the County Clerk nor their employees shall be responsible for the misfiling of such pleadings or documents, nor for incomplete transmissions.

It shall be incumbent upon the sender to personally review court and clerk's files to insure the integrity or existence of electronically transmitted pleadings or documents.

The Court Clerk shall file stamp such pleadings and documents in the same manner as original papers are handled, on the next business day, showing the actual time received.

Senders of electronically transmitted pleadings or documents must maintain or file the originals, as required by law.

A cover sheet shall accompany such transmissions, identifying the sender, the case in which the pleadings or documents are to be filed, the nature of the pleadings or documents, the number of pages being transmitted including the cover sheet, and any special filing, service or dispositional instructions.

Returns of service and bonds may not be filed electronically. The originals must be filed with the Clerk for placement in the Court file.

Court costs and fees for such filings are due when the pleading is received and may be paid in cash, (credit card), check or money order, or may be credited against court costs posted in advance by a party; but filing fees must be paid or accessed against a credit card not later than 7 days of the filing.

A plan for the filing of pleading and documents is adopted contemporaneous with this rule and is incorporated herein by reference for all purposes, subject to revision by these Courts.

RULE 3: TRANSFER OF CASES WITHIN THE COURTS:

(A) Whenever any pending case is related to another case pending, dismissed, non-suited, or disposed of by another Court the Judge of either Court, acting as judge of either Court shall, upon motion (including the Court's own motion) and notice, transfer the case to the Court in which the earlier case was filed to facilitate the orderly and efficient disposition of the litigation.

The following types of cases shall be subject to transfer under this rule, but this listing is not exclusive and is given by way of example only:

(1) Any case arising out of the same transaction or occurrence as did an earlier case, particularly if the earlier case was dismissed for want of prosecution or voluntarily dismissed by Plaintiff at any time before final judgment;

(2) Any case involving one or more of the same parties as an earlier filed case and requiring a determination of any of the same questions of fact or of law as those involved in the earlier case;

(3) Any case involving a plea that a judgment in the earlier filed case is conclusive of any of the issues of the later case by way of res judicata or estoppel by judgment, or any pleading that requires a construction of the earlier signed judgment or a determination of its effect;

(4) Any suit concerning the duty of an insurer to defend;

(5) Whenever a case is transferred to Nueces County by a court of another county, it shall be assigned in the manner specified by these Rules.

(6) Regardless of which case was filed first, any suit affecting the parent-child relationship shall be transferred to the Court in which a divorce action involving the parties named in the suit affecting the parent-child relationship is pending.

(B) Every motion for consolidation or joint hearing of two or more cases under Rules 39, 40, 41, and 174 (a), **TEXAS RULES OF CIVIL PROCEDURE**, shall be filed in the earliest case filed.

(C) No civil case may be transferred from a District Court to a County Court at Law, or from a County Court at Law to a District Court without the prior consent of the parties and receiving court.

RULE 4: PRE-TRIAL PROCEDURES:

Settings for any matter to be heard by the Court shall be obtained from the Court Coordinator.

Docket control conferences, pre-trial conferences, and hearings shall be attended by the attorney for the party who is authorized to act for the party in taking those actions listed in Rule 166, TEXAS RULES OF CIVIL PROCEDURE.

The Court Pre-Trial Order shall reflect action taken at any pre-trial conference which order shall control the proceedings until the matter is finally disposed of or modified by the Court.

RULE 5: SEVERANCE:

Causes severed shall be assigned a new case number in the same Court in which the case was originally filed (or in the same Court where the severance was granted).

RULE 6: TEMPORARY, EMERGENCY, AND EX PARTE ORDERS:

(A) Except in emergencies when the Clerk's office is not open for business, no applications for immediate or temporary relief shall be presented to a Judge until it has been filed and assigned to a Court as provided in these Rules. If the Judge of the Court to which such case is assigned is absent or is occupied with other matters, such application may be assigned by the Local Administrative Judge to any Judge who may sit for the Judge of the Court in which the case is pending and shall make all orders, writs, and process returnable to that Court. Hearings on applications for temporary injunctions, temporary receiverships, and the like shall be set in the Court to which the case has been assigned.

(B) All applications for ex parte relief shall state, and it shall be brought to the attention of the Court, whether, within the knowledge of the applicant, the opposing party is represented by counsel, who shall be allowed to appear if practicable. The party requesting such temporary relief shall be present in Court at the time such relief is requested to offer testimony, if necessary, unless the Court finds that such presence is not necessary.

(C) Parties requesting ex parte temporary restraining orders in family law cases shall present evidence, under oath, by affidavit or live testimony, supporting each matter for which relief is requested.

(D) Whenever immediate action of a Judge is required in an emergency when the Clerk's Office is not open for business, the case shall, nevertheless, at the earliest practicable time be docketed and assigned to a Court as provided by these Rules and all writs and process shall be returnable to that Court. If the Judge of such Court is not available at the time set, the appropriate local Administrative Judge may designate any Judge having jurisdiction to hear the application for relief.

RULE 7: SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION:

Counsel and litigants are urged to resolve their differences and to utilize alternative dispute resolution at the earliest opportunity in proceedings.

Non judicial resolutions shall not be used to delay scheduled proceedings. Parties may agree to such delays if there is a reasonable expectation the case will be settled.

The Court shall, at least once a year, set aside a period of time for the referral of cases to alternative dispute resolution, and shall refer by order such cases the Court believes may settle.

The Court Coordinator shall be advised as soon as practicable of any settlement, so that the case may be removed from the docket and that the attention of the Court may be turned to other cases.

Attorneys of record, in civil cases, shall timely notify their clients of the availability of alternative dispute resolution procedure as provided in Sec. 154.021, **TEXAS CIVIL PRACTICE AND REMEDIES CODE**.

The parties may agree upon a procedure and the name of the impartial third party or parties to implement the procedure; however, in the absence of such agreement the Court may, on its own motion, and upon notice and hearing, designate a procedure and name the impartial third party or parties.

RULE 8: UNCONTESTED CASES AND MOTIONS:

The settlement of cases and motions is encouraged.

Uncontested matters shall be given priority and heard first on the Court's docket each day.

**RULE 9: BANKRUPTCY, SUGGESTION OF DEATH, ABATEMENT, SUSPENSE
DOCKET IN CIVIL CASES:**

The Clerk is to immediately give actual notice to the Court Coordinator or the Judge of the Court of any suggestion of death or information concerning bankruptcy proceedings.

In situations where the Court determines there is a valid and compelling reason not to dismiss the case for want of prosecution, or it is necessary to abate the proceedings, the case may be transferred to the Suspense Docket of the Clerk's Office, subject to later assignment to the Court where it was originally assigned, when it becomes appropriate to set the case for trial.

RULE 10: FEES FOR INDIGENT REPRESENTATION:

Counsel appointed to represent indigents shall be paid a fee in accordance with the schedule adopted by the Judges of County Courts at Law and District Courts. Counsel shall complete and file such request for compensation on a standardized application form adopted by the County Courts-at-Law and District Courts.

RULE 11: CRIMINAL CASES; ASSIGNMENT OF RELATED PROSECUTIONS

(A) After random assignment, the Clerk shall reassign any new indictment or information in a Felony case to the Court having a lower pending cause number on the same defendant.

(B) After random assignment, the Clerk shall reassign any new complaint in a Misdemeanor case to the Court having a lower pending cause number on the same defendant.

(C) When an indictment or information in a Felony case is dismissed, the Clerk shall assign any subsequently filed indictment or information of the same cause against the same Defendant, to the Court in which the prior indictment or information was assigned.

(D) When a complaint in a Misdemeanor case is dismissed, the Clerk shall assign any subsequently filed information or complaint of the same cause against the same Defendant, to the Court in which the prior complaint was assigned.

RULE 12: ABATEMENT IN CRIMINAL CASES:

In situations where the Court determines that there is a compelling reason to abate the proceedings, the case may be transferred to the Suspense Docket of the Clerk's Office, subject to later reassignment to the Court where it was originally assigned.

**RULE 13: SUBSTITUTION OF/WITHDRAWAL OF COUNSEL IN
CRIMINAL/CIVIL CASES:**

Counsel wishing to substitute in, or withdraw from, representation in a civil or criminal case shall comply with **TEXAS RULE OF COURT 10** and shall obtain the Court's written permission to do so. In the absence of good cause, such actions shall not be grounds for continuance nor delay of proceedings.

RULE 14: IMPANELING JURIES:

The Local Administrative District Judge of the County, or the District Judge Designate, shall preside over the qualifications of petit jurors and the assignment of jury panels to the various courts, pursuant to the plan on file with the District Clerk.

RULE 15: JUDICIAL VACATIONS/EDUCATIONAL EVENTS:

Judicial vacations and educational events will be scheduled in advance by each Judge, with due consideration for vacation and educational schedules of other Judges, subject to changed conditions, and when possible, notice thereof is to be filed with the appropriate Local Administrative Judge, to facilitate the scheduling of visiting Judges.

RULE 16: MEETINGS OF THE JUDGES OF THE COUNTY:

The Local Administrative District Judge and the Local Administrative County Court at Law Judge shall call meetings at least monthly for the purpose of transacting judicial business. These meetings may be held jointly.

RULE 17: COURT STAFF:

The Local Administrative District Judges (Presiding Judges) shall supervise the office of Court Administrator, and shall be responsible for administrative matters peculiar to the Courts, including case flow procedures and operations of the Court Administrator/coordinator management program.

Each Judge shall control the employees of the Court over which he or she presides, including those (adjunct employees/belonging to other departments), such as the clerk, rendering services directly to the particular court.

Court Staff includes the Court coordinator, bailiff, court reporter(s), and such other staff necessary to support the particular Court; and who shall serve at the pleasure of the Judge

of the particular Court. Court Staff shall perform duties assigned them by the Judge, or with the consent of the particular Judge, by the Court Administrator or Local Administrative Judge. Court Staff shall not perform judicial functions.

RULE 18: CONDUCT AND DECORUM OF ATTORNEYS BEFORE THE COURT:

Each Judge shall be responsible for maintaining proper decorum in his or her Court.

(A) In addressing the Court, counsel shall rise and remain standing at their positions at counsel table. They shall not approach the bench except with permission of or on request of the Court.

(B) Counsel or the parties shall not lean on the Bench, sit on rails or tables, or appear to engage the Court in a confidential manner.

(C) Counsel in attendance of Court shall dress in a dignified and professional manner.

(D) Counsel shall advise their clients and witnesses of the formalities of the Court and appropriate attire.

(E) Counsel, the Judge, and all other officers of the Court shall be prompt at all sessions and in the dispatch of all Court business.

(F) All counsel are admonished to respect the letter and the spirit of all applicable rules or codes of professional responsibility, including, particularly those dealing with discussion of cases with the Court outside the Courtroom and not in the presence of opposing counsel. The Court shall enforce the same by appropriate action.

(G) All remarks of counsel to the Court shall be addressed to the Court and not to the Judge as an individual.

(H) Once counsel has entered the Courtroom and appeared before the Court, he or she shall not leave without obtaining permission from the Court.

(I) While Court is in session, there shall be:

- (1) No smoking or use of other tobacco products;
- (2) No reading of newspapers or magazines;
- (3) No propping of feet on tables or chairs;

(4) No loud noises or talking;

(5) No gum chewing.

RULE 19: CAMERAS IN COURT

(A) Except for ceremonies and judicial investitures, cameras, televising, video transcriptions, recordings and broadcasting of proceedings are prohibited:

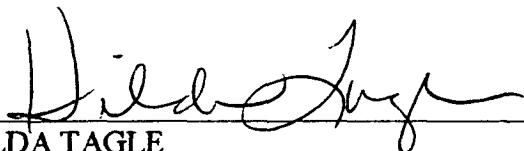
(1) in or near court spaces on the 3rd and 4th floors (Central Jury Room, Court Administrator's Office and Court Master's Court);

(2) in the halls and common spaces of the Courts on the 2nd, 7th, 8th and 9th floors of the Courthouse; and in or near premises of the Juvenile Justice Center.

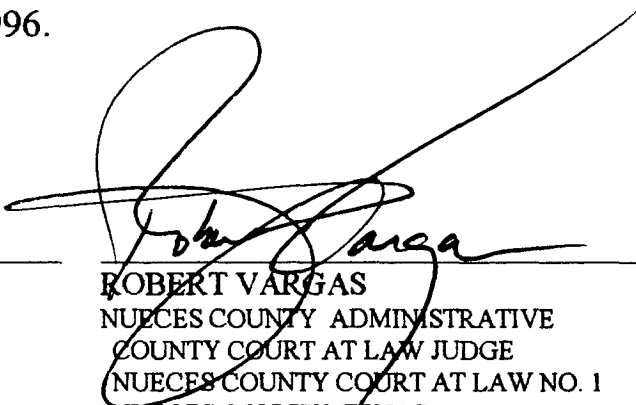
(B) The Judge of each trial court on the 7th, 8th and 9th floors shall determine whether proceedings in the courtroom shall be photographed, televised, video taped, recorded or broadcast, following Rule 18(c), and guidelines published by the Supreme Court of Texas, and including the consent of jurors, parties, witnesses, and attorneys.

ADOPTION OF RULES

These rules are adopted by the District Court and County Court at Law Judges of Nueces County, Texas, on the 3rd day of October, 1996, and forwarded to the Texas Supreme Court for approval on the 8 day of October, 1996.



HILDA TAGLE
NUECES COUNTY ADMINISTRATIVE DISTRICT
COURT JUDGE
148TH DISTRICT COURT
NUECES COUNTY, TEXAS



ROBERT VARGAS
NUECES COUNTY ADMINISTRATIVE
COUNTY COURT AT LAW JUDGE
NUECES COUNTY COURT AT LAW NO. 1
NUECES COUNTY, TEXAS



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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CLERK
JOHN T. ADAMS

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
JOHN CORNYN
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

December 12, 1996

Hon. Hilda Tagle
148th District Court
Post Office Box 2987
Corpus Christi, Texas 78403

Hon. Robert Vargas
County Court at Law No. 1
901 Leopard, Suite 701
Corpus Christi, Texas 78401

Dear Judge Tagle and Judge Vargas,

Please find enclosed, a copy of the order of the Supreme Court that approved local rules of administration for Nueces County.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Stephen B. Ables
6th Admin Judicial Rgn

District Clerk

County Clerk

Supreme Court Adv Committee

Mr. Jerry Benedict
Office of Court Admin

State Law Library