

IN THE SUPREME COURT OF TEXAS

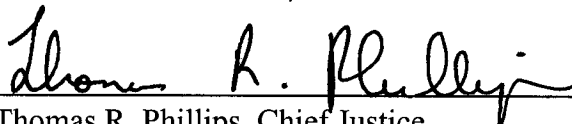
Misc. Docket No. 00- 9137

**ORDER APPROVING LOCAL RULES OF THE
FAMILY DISTRICT COURTS OF FORT BEND COUNTY**

ORDERED that:

Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the following Local Rules of the Family District Courts of Fort Bend County, Texas, are approved. This approval is temporary pending further orders of the Court.

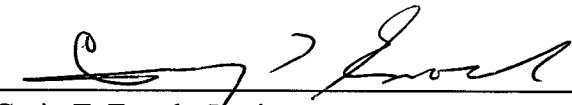
BY THE COURT, IN CHAMBERS, this 18th day of September, 2000.



Thomas R. Phillips, Chief Justice



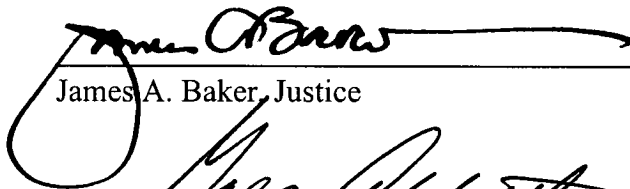
Nathan L. Hecht, Justice



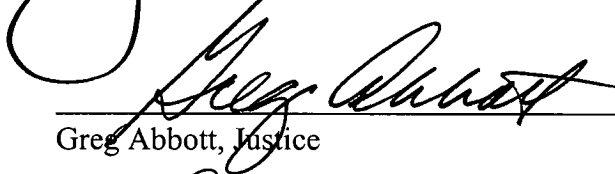
Craig T. Enoch, Justice




Priscilla R. Owen, Justice



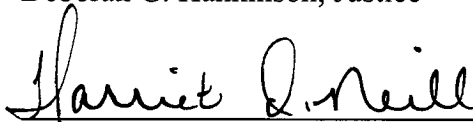
James A. Baker, Justice



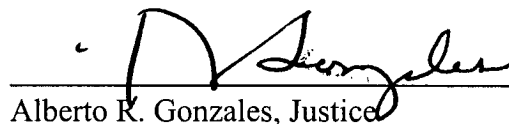
Greg Abbott, Justice



Deborah G. Hankinson, Justice



Harriet O'Neill, Justice



Alberto R. Gonzales, Justice

RULES OF THE 328TH AND 387TH DISTRICT COURTS

OF FORT BEND COUNTY, TEXAS

(Amended effective _____, 2000)

RULE 1. OBJECTIVE

- 1.1 Purpose of the Rules. Obtaining a fair, just and impartial adjudication of the rights of the parties and the children is the purpose of these rules. These rules encourage using alternate dispute resolution in all appropriate cases.
- 1.2 The rules shall apply equally to attorneys, parties and parties appearing pro se.

RULE 2. TRANSFER OF CASES

- 2.1 Transfer. Continuing, Exclusive Jurisdiction. All provisions of the Texas Family Code ("TFC") regarding continuing, exclusive jurisdiction and transfer shall take priority over these rules, provided that all such cases ending in an odd cause number shall be heard in the 387th District Court, except that all cases filed by the Texas Department of Protective and Regulatory Services shall be heard in the 328th District Court, per General Transfer Order signed August 27, 1999. All such cases ending in an even number shall be heard in the 328th District Court.
- 2.2 Multiple Suits. Subject to paragraph 2.1, 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, conservatorship and all matters incident to them, whether sought by original proceedings or by modification, clarification or enforcement of a former order, judgement 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.
- 2.3 Enforcement of Consent Decree or Contract. Subject to paragraph 2.1 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.

- 2.4 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.
- 2.5 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.
- 2.6 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.
- 2.7 Improper Court. If 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.

RULE 3. FLOW OF CASES

- 3.1 Appearance of Counsel. Any attorney representing a party or 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.
- 3.2. Docket Call Procedures.
- 3.2.1 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.
- 3.2.2 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, at the request of the opponent.
- 3.3 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.

- 3.4 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.
- 3.5 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.
- 3.6 Trials.
- 3.6.1 Manner of Setting. Cases shall be set for trial by order of the court.
- 3.6.2 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, whether because of a continuance or because it was not reached, the court shall reset the case to a date certain. Unless all parties agree otherwise, the first setting must comply with all requisites of T.R.C.P. Rule 245.
- 3.6.3 Assignment to Trial. A case is assigned to trial when counsel is called to the court to commence the jury or non-jury trial on the merits. For the purposes of engaged counsel, no court may have more than two cases assigned to trial at any one time.
- 3.6.4 Continuances. Continuances shall be governed by T.R.C.P. Rules 251 through 254.
- 3.7 Decrees, Judgments and Orders. 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.

- 3.8 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.

RULE 4. DISCLOSURE OF PROPERTY AND FINANCIAL INFORMATION

- 4.1 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.
- 4.2 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 Inventory. Each inventory shall list each item of property and its 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.

RULE 5. REQUIREMENTS FOR CERTAIN DOCUMENTS

5.1 Certificate of Conference.

5.1.1 Unopposed motions shall be labeled "Unopposed" in the caption.

5.1.2 Opposed motions shall contain a certificate that:

- 1) states that the movant and respondent have conferred with each other and in good faith have attempted to resolve the matter and
- 2) identifies the basis of disagreement between counsel; or
- 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.

5.1.3 The provisions of subparagraph 5.1.2 do not apply to motions for summary judgment, default judgments, motions for voluntary dismissal or non-suit, and motions involving service of citation.

5.2 Orders, Judgments and Decrees.

5.2.1 All Orders, including Decrees or Judgments, shall be submitted to the opposing attorney or pro se party for approval at least as to form, prior to filing with the court.

5.2.2 Orders based upon agreement of the parties shall also be submitted to the parties for approval as to substance.

RULE 6. REFERRAL TO ASSOCIATE JUDGE

6.1 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.

- 6.2 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.

RULE 7. ALTERNATE DISPUTE RESOLUTION

- 7.1 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.
- 7.2 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.
- 7.3 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.

RULE 8. CONFLICTING ENGAGEMENTS

- 8.1 Inter-County. The Rules of the Second Administrative Judicial Region control conflicts in settings of all cases between a Fort Bend County court and a non-Fort Bend County court.
- 8.2 Intra-County. Among the trial courts sitting in Fort Bend County:
- 8.2.1 Trial/Trial. An assigned trial setting takes precedence over a conflicting trial setting not yet assigned;
- 8.2.2 Trial/Non-Trial. An assigned trial setting takes precedence over conflicting non-trial settings, except as to a court-ordered mediation that is scheduled prior to the assignment to trial;
- 8.2.3 Non-Trial/Pre-Trial Intra-Court. The matter which was first filed, regardless of cause number, shall take precedence over subsequently filed non-trial settings, non-court-ordered alternate dispute resolution and non-court-ordered depositions.
- 8.3 Judge or Associate judge. This rule is applicable whether the matter is assigned to the judge or the associate judge of a court.

- 8.4 Waiver. The court lacking priority shall yield.
- 8.5 Lead Counsel. This rule operates only where lead counsel, as defined by T.R.C.P. Rule 8, is affected, unless the court expands coverage to other counsel.
- 8.6 Engaged Counsel. Counsel is deemed engaged and unavailable for trial if he or she is participating in the actual trial or hearing of another case or in court-ordered alternate dispute resolution or court-ordered deposition.
- 8.7 Reporting of Conflicting Engagements. It is the duty of an attorney to report promptly to the court immediately upon learning of a conflicting engagement that might preclude that attorney's availability. Failure to do so may result in sanctions.

RULE 9. VACATIONS OF ATTORNEYS

- 9.1 General Rule. Subject to the provisions of paragraph 9.2 of this rule, an attorney may designate not more than four weeks of vacation during a calendar year, during which time 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. Rule 8, is affected, unless the court expands coverage to other counsel. The vacation designation shall be honored only if it is filed in writing with the District Clerk, and is accompanied by the attorney's designation of at least one attorney who has consented to act for the vacationing attorney. The designated attorney shall be called upon to act only if the client consents to the designated attorney's representation, and then only if the court requests the designated attorney's participation due to an emergency.
- 9.2 Time for Designation. Written designation for vacation weeks during June, July, or August must be filed with the District Clerk by May 15 of that year. Written designation for vacation weeks in months other than June, July, or August must be filed with the District Clerk at least 60 days in advance. Designated vacation weeks protect the attorney from trials or pretrial proceedings during those weeks, unless a setting order was signed and the case was assigned to trial before the vacation designation was filed.

RULE 10. UNIFORMITY

- 10.1 Letters and Orders. In managing their dockets under T.R.C.P. Rules 165a and 166, Family Trial Division judges shall endeavor to use form letters and orders approved by the district judges of Fort Bend County.

- 10.2 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.

RULE 11. PARENT EDUCATION COURSE


- 11.1 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.


RULE 12. APPLICABILITY

- 12.1 Effective Date. These rules shall become effective on September 1, 2000 or upon their approval by the Texas Supreme Court pursuant to T.R.C.P. 3a, whichever comes later.
- 12.2 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 recodification, revision or amendment.
- 12.3 Applicability. These rules are applicable to both jury and non-jury cases.

The foregoing are hereby Ordered and Adopted as the Rules of the 328th and 387th Judicial 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 Courts.

Signed this 26 day of July, 2000.


Thomas O. Stansbury
Judge 328th District Court


Robert J. Kern
Judge 387th District Court



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

September 18, 2000

Hon. Tom Stansbury
Admin. Judge and Judge
328th District Court
301 Jackson
Richmond, Texas 77469

Dear Judge Stansbury,

Please find enclosed, a copy of the order of the Supreme Court that temporarily approved local rules for the family district courts of Fort Bend County.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Olen Underwood
2nd Admin Judicial Rgn

Hon. Robert J. Kern

District Clerk

County Clerk

Supreme Court Adv Committee

State Law Library