

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 02- 9091

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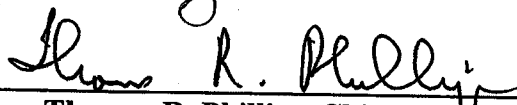
ORDER APPROVING LOCAL RULES FOR THE 123<sup>RD</sup> JUDICIAL DISTRICT  
COURT AND THE COUNTY COURT AT LAW OF PANOLA COUNTY

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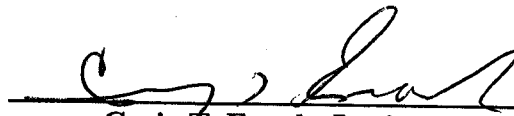
ORDERED that:

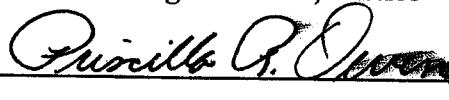
Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Following Local Rules for the 123<sup>rd</sup> Judicial District Court and the County Court at Law of Panola County are approved. This approval is temporary pending further orders of the Court.


SIGNED AND ENTERED this 7<sup>th</sup> day of May, 2002.

  
Thomas R. Phillips, Chief Justice

  
Nathan L. Hecht, Justice

  
Craig T. Enoch, Justice

  
Priscilla R. Owen, Justice

  
James A. Baker, Justice

*Deborah G. Hankinson*

Deborah G. Hankinson, Justice

*Harriet O'Neill*

Harriet O'Neill, Justice

*Wallace B. Jefferson*

Wallace B. Jefferson, Justice

*Xavier Rodriguez*

Xavier Rodriguez, Justice

**LOCAL RULES FOR THE 123<sup>RD</sup> JUDICIAL DISTRICT COURT AND  
THE COUNTY COURT AT LAW OF PANOLA COUNTY TEXAS**

**RULE 1.10 TIME STANDARDS FOR CASE PROCESSING**

1. As far as reasonably possible, all cases should be brought to trial or final disposition in conformity with the time standards below.
  - A. Criminal cases.
    1. One hundred eighty (180) days if the defendant is accused of a felony.
    2. Ninety (90) days if the defendant is accused of a misdemeanor punishable by a sentence of imprisonment for more than 180 days.
    3. Sixty (60) days if the defendant is accused of a misdemeanor punishable by a sentence of imprisonment for 180 days or less or punishable by a fine only.
  - B. Civil cases (other than Family Law cases).
    1. Jury: Within eighteen (18) months from the date of filing.
    2. Non-Jury: Within twelve (12) months from the date of filing.
  - C. Family Law cases.
    1. Contested Family Law Cases: Within six (6) months from filing or six (6) months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.
    2. Uncontested Family Law Cases: Within three (3) months from filing or within three (3) months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.
  - D. Juvenile cases.
    1. Detention Hearings: On the next business day following admission to any detention facility.
    2. Adjudicatory or Transfer (Waiver) Hearings:
      - a. Concerning a juvenile in a detention facility: Not later than ten (10) days following admission to such facility, except for good cause shown of record.

- b. Concerning a juvenile not in a detention facility: Not later than thirty (30) days following the filing of the petition, except for good cause shown of record.
  - 3. Disposition Hearings: Not later than fifteen (15) days following the Adjudicatory Hearing. The Court may grant additional time in exceptional cases that require more complex evaluation.
  - 4. Nothing herein shall prevent a judge from recessing a juvenile hearing at any stage of the proceeding where the parties are agreeable or when, in the opinion of the judge presiding in the case, the best interests of the child and the public shall be served.
2. It is recognized that in especially complex cases or special circumstances it may not be possible to adhere to these standards.

**RULE 1.11 COURT SESSIONS**

**1. District Court**

- A. The District Court will be in session in Panola County and will be available to try cases during the following months:

Criminal Cases.

- 1. Jury: January, February, May, June, September and October.
- 2. Non-jury: January, February, May, June, September and October.
- 3. Grand Jury: To be impaneled on the first Monday in January, May and September.

Civil Cases.

- 1. Jury: January, February, May, June, September and October.
- 2. Non-jury: January, February, May, June, September and October.

- B. When not in conflict with the trial settings in Shelby County, any and all civil and criminal jury and non-jury matters may be scheduled by the Court during the months other than those listed above.

**2. County Court at Law**

The County Court at Law will be in session in Panola County and will be available to try cases from January through December.

### **Criminal Cases.**

All criminal cases will be set per the trial schedule promulgated by the Judge and distributed to the Bar.

### **Civil Cases.**

1. All civil jury cases will be set as per the trial schedule promulgated by the Judge and distributed to the Bar.
2. All civil non-jury cases will be scheduled by the Judge.

## **RULE 1.12 FILING AND ASSIGNMENT OF CASES**

Either Court may exercise the concurrent jurisdiction prescribed by V.T.C.A., Government Code Section 25.1852(a).

## **RULE 1.13 TRANSFER OF CASES, DOCKET EXCHANGE, AND BENCH EXCHANGE**

1. A case over which the District Court and the County Court at Law have concurrent jurisdiction may be transferred from one Court to the other by order of the judge of the Court in which the case is pending with the consent of the judge of the Court to which it is transferred.
2. Pursuant to V.T.C.A., Government Code Section 74.094, the District Judge or the County Court at Law Judge may hear and determine a matter pending in either Court regardless of whether the matter is preliminary or final or whether there is a judgment in the matter. Either judge may sign a judgment or order in either court regardless of whether the case is transferred. The judgment, order or action is valid and binding as if the case were pending in the Court of the judge who acts on the matter.
3. In all other respects, docket exchange and bench exchange shall be in accordance with V.T.C.A., Government Code Section 74.094.

## **RULE 1.14 REQUEST FOR SETTING OF JURY AND NON-JURY CASES**

1. **District Court and County Court at Law**
  - A. **Criminal Cases**
    1. Requests must be made orally or in writing to the Court prior to or at the time of the call of the docket for each term.
    2. It is the responsibility of the requesting party to give notice of the requested setting to the other party.

3. Notice of all settings made at the request of the District Attorney's office shall be given to the defendant and his sureties and to the defendant's attorney of record, with a copy of such notice filed in the District Clerk's office.

4. Notice of all settings made at the request of the defendant shall be given by said defendant to the District Attorney's office.

**B. Civil Cases**

1. Contested

- a. At the call of the docket, requests for setting shall be made in person.
- b. Prior to the call of the docket, requests may be made in writing to the Court, with a copy of the request served on all parties to the cause or their counsel of record if all parties agree to the requested setting.
- c. Prior to the docket call, oral requests may be made to the Court, if the requested setting is agreed to by all parties and confirmed in writing with copies of such request to all parties or their counsel of record.
- d. Each request shall state the estimated time required for trial.
- e. It is the responsibility of the requesting party to give notice to all other parties or their counsel of record.
- f. Except by agreement of the parties, all requests for setting shall comply with Rule 245 of the Texas Rules of Civil Procedure.

2. Uncontested

- a. Requests may be made in writing to the Court with a copy of such request given to all parties or their counsel of record.
- b. Oral requests for settings may be made orally if confirmed in writing with a copy of such request given to all parties or their counsel of record.
- c. It is the responsibility of the requesting party to give notice to all other parties or their counsel of record.

**C. Criminal and Civil Cases**

Upon reasonable notice to all parties, the Court may on its own motion set any case for a status and scheduling conference, pre-trial conference, and trial.

## **RULE 1.15 REQUEST FOR PREFERENTIAL SETTING**

The Court may grant a preferential setting of any case upon written request by any party or their counsel of record filed with the Court. Notice of such request shall be given to all parties or their counsel of record. Such setting shall be granted upon good cause shown or as provided by law.

## **RULE 1.16 DOCKET CALLS AND ANNOUNCEMENTS**

### **1. District Court and County Court at Law**

#### **A. Criminal Cases**

1. The District Attorney shall set the cases for arraignment and docket call in accordance with the schedules prescribed under Rule 1.11 herein.
2. The defendant and his attorney are excused from appearing at arraignment if a written waiver of arraignment, signed by the defendant and defense counsel, has been filed with the District Clerk and served on the District Attorney prior to arraignment.
3. Docket call is for the purpose of hearing announcements of "Ready" or "Not Ready" for trial and for the purpose of setting a hearing of any pre-trial motions.
4. The defendant and his counsel shall be present at docket call if the defendant intends to announce "Not Ready" and urge a contested motion for continuance. The defendant and his counsel are excused from appearing at docket call if a written announcement of "Ready" is filed with the District Clerk and served on the District Attorney prior to the docket call.

#### **B. Civil Cases**

1. All cases in which requests are made for setting on the jury and non-jury docket shall be set for docket call in accordance with Rule 1.11 herein.
2. Docket call is for the purpose of hearing announcements of "Ready" or "Not Ready" for trial and resolving any conflicting requests for settings.
3. Parties and their counsel are excused from appearing at docket call if all of the parties have agreed to continue or pass the case and the Court approves such agreement, or all of the parties have agreed to the requested setting as provided by Rule 1.14 herein.

## **RULE 1.17 RESETTING CASES**

Once a case has been placed on the docket, such case is automatically set for trial from term to term until disposition and shall not be removed from such docket except for no announcements at docket call and except by order of the Court on the motion of a party, for good cause, after notice and hearing, or on the Court's own motion.

## **RULE 1.18 DISMISSAL DOCKET: INVOLUNTARY DISMISSAL**

Periodically, but at least once each year, all civil cases which have not been disposed of within a period of two (2) years from it's date of filing will be placed on the dismissal docket in accordance with Rule 165a of the Texas Rules of Civil Procedure.

Periodically, but at least once each year, all family law cases which have not been disposed of within one (1) year from the date of filing of the original petition, or other motion requesting modification or enforcement of the decree of divorce or other order of the Court will be placed on the dismissal docket in accordance with Rule 165a of the Texas Rules of Civil Procedure.

## **RULE 2.10 PRESENTMENT OF PRE-TRIAL MOTIONS**

1. **Criminal Cases**
  - A. The Court shall set cases for pre-trial hearings for a date and time in the Court's notice of docket call.
  - B. The defendant and defense counsel are excused from appearing at the pre-trial if there are no pre-trial motions to be heard. All motions not urged at pre-trial will be deemed waived.
  - C. All motions shall be filed with the District Clerk and served on the District Attorney at least five (5) working days before the pre-trial hearing.
  
2. **Civil Cases**
  - A. The Court shall set cases for pre-trial hearings for a date and time in the Court's notice of docket call.
  - B. Counsel is excused from appearing at pre-trial if there are no pre-trial motions to be heard.
  - C. All motions in limine, special exceptions, other pre-trial motions and pleas shall be filed and copies served on opposing counsel at least five (5) working days before the pre-trial hearing, unless a longer period for filing is otherwise required or a shorter period allowed for good cause.
  - D. When counsel for any party fails to appear at pre-trial, the Court may:
    1. Rule on all pre-trial motions in absence of counsel;
    2. Declare any pre-trial motions of such absent party waived;
    3. Advance or delay the trial setting according to the convenience of the counsel and parties present;
    4. Pass and reset the pre-trial.
  - E. Counsel at the pre-trial shall either be the attorney, who intends to try the case, or shall be familiar with the case and fully authorized to state his or her parties' positions on the law and facts, make



stipulations and enter into settlement negotiations as trial counsel. If the Court finds counsel is not qualified, the Court may consider that no counsel has appeared and may take any of the procedures provided above.

- F. All pre-trial motions not urged at pre-trial hearing shall be deemed waived,
- G. There shall be no further pleadings or discovery after the pre-trial hearing except by agreement of all counsel and approved by the Court, in direct response to orders of the Court at the pre-trial hearing or upon written motion for good cause after notice and hearing.
- H. A status and scheduling conference as authorized by Rule 2.16 herein may modify or change any part of this rule.

## **RULE 2.11 TRIAL EXHIBITS AND VIDEO DEPOSITIONS**

### **Exhibits**

- A. All exhibits that will be offered at trial shall be marked and exchanged with all counsel of record at least five (5) working days prior to the pre-trial hearing.
- B. Any objections to the admission of exhibits exchanged shall be made at the time of pre-trial or the objections to its admission shall be deemed waived.
- C. By agreement of counsel and approval of the Court at pre-trial, exhibits may be exchanged between counsel after pre-trial but before trial if the exhibits are identified and assigned a number at pre-trial.
- D. The requirements of "A", "B" and "C" may be excused by the Court for good cause.
- E. A list of exhibits that may be offered at trial shall be exchanged between counsel and provided to the Court Reporter at the time of pre-trial.

### **Video Depositions**

- A. All video depositions that either party intends to offer shall be edited of those parts that will not be offered at trial.
- B. All video depositions, either edited or unedited, shall be exchanged and marked as exhibits. The rule herein that applies to exhibits shall also apply to video depositions.
- C. Counsel offering the video deposition is responsible for procuring video machines and televisions in good operating order and ready to use prior to the showing of the video deposition so as not to delay the trial of the case.

## **RULE 2.12 DISPOSITION OF MOTIONS AND OTHER PRELIMINARY MATTERS**

1. Motions and other preliminary matters may be heard in advance of the pre-trial if, when filed, they are accompanied by an order setting hearing to be completed by the Court. Otherwise, all such motions and other preliminary matters must be urged at pre-trial, or they will be deemed waived.
2. It is the responsibility of the moving party to give notice of such setting to all parties or their counsel of record.

## **RULE 2.13 MOTIONS FOR CONTINUANCE**

1. All contested motions for continuance must be in writing and filed at least five (5) working days before docket call.
2. Contested motions for continuance filed after the docket call shall be based on grounds that either did not exist or were not known and could not have been reasonably anticipated at the time of docket call.
3. After a case has been on file for more than two (2) years in a civil case and one (1) year in a family law case, the moving party shall personally approve all motions for continuance from trial settings before the Court will consider it.

## **RULE 2.14 MOTIONS FOR DEFAULT JUDGMENT**

Requests for settings for default may be made orally or in writing to the Court, who will set a date and time for hearing.

## **RULE 2.15 MOTIONS FOR SUMMARY JUDGMENT**

Unless specifically set otherwise, all pending motions for summary judgment which have been on file and a copy delivered to the opposing parties or their counsel more than twenty-one (21) days prior to the date set for hearing will be considered as set for hearing at the time of the pre-trial hearing as if they were formally set on that date by written order.

## **RULE 2.16 STATUS AND SCHEDULING CONFERENCES**

Any case may be set for a status or a scheduling conference on an oral or written request made to the Court.

It is the responsibility of the requesting party to give notice of the setting to all other parties or their counsel of record.

The status or scheduling conference shall be for any or all the following purposes:

- a. establishing deadlines for joinder of additional parties, completion of discovery and amendment of pleadings;

- b. dates for designation of experts;
- c. determining the probable length of time required for trial;
- d. setting dates and times for pre-trial conferences, jury selection and the trial of the case on the merits.
- e. Considering any other scheduling matter that will facilitate disposition of the case.

#### **RULE 2.17 PRE-TRIAL CONFERENCE**

Any case may be set for a pre-trial conference on written or oral motion made to the Court.

The date and time for the pre-trial conference shall be set and notice given of such setting at the scheduling conference authorized by Rule 2.16 herein.

The pre-trial conference shall serve as the pre-trial authorized by Rule 2.10 herein and by Rule 166 of the Texas Rules of Civil Procedure.

Procedures set out under Rule 2.10 and Rule 2.11 herein shall also apply to the pre-trial conference authorized under this Rule.

#### **RULE 2.18 DISCOVERY MOTIONS IN CIVIL CASES**

Motions relating to discovery may be heard in advance of the pre-trial if, when filed, they are accompanied by an order setting hearing to be completed by the Court. Otherwise, all such motions shall be urged at pre-trial or they will be deemed waived.

It is the responsibility of the moving party to give notice of such setting to all other parties or their counsel of record.

#### **RULE 2.19 JURY VOIR DIRE/VENIRE**

Juries for all cases set and ready for trial during a given week will be selected on the day designated for jury selection for that week in accordance with the schedules under Rule 1.11 herein.

Juries will be selected on that day for one (1) week only and for as many cases as time permits to be tried during that week.

Prior to voir dire examination by counsel, all parties will be provided a copy of the completed jury panel questionnaire of each panel member.

## **RULE 2.20 JURY CHARGES**

Requested definitions, instructions and questions shall be furnished to the Court and to opposing counsel before or at the commencement of trial unless otherwise ordered by the Court.

## **RULE 3.10 FAMILY LAW CASES**

### **1. Court Master**

- A. All cases filed pursuant to Title IV-D of 42 U.S.C., Sections 651, et seq., will, by direction of Section 201.101 of the Texas Family Code, be referred for hearing to the Master appointed by the Presiding Judge of the First Administrative Region.
- B. The duly appointed Master shall have the powers as provided by Section 201.101, et seq., of the Texas Family Code and Subchapter A, Chapter 54 of the Texas Government Code.
- C. The Master shall originally hear all cases filed by the Texas Attorney General's office.

### **2. Child Support**

These Courts adopt the Child Support Guidelines as set forth in Chapter 154 of the Texas Family Code as presently promulgated and as it may, from time to time, be amended.

### **3. Visitation and Access to Children**

These Courts adopt the Standard Possession Order as set forth in Chapter 153, Subchapter F of the Texas Family Code as presently promulgated and as it may, from time to time, be amended.

### **4. "For Kid's Sake" Program**

These Courts adopt the Children's Interest Seminar ("For Kid's Sake" program) as set forth in their previous order of October 1, 1997, and on file with the District Clerk.

#### **RULE 4.10 COMPENSATION OF APPOINTED COUNSEL IN CRIMINAL AND CIVIL CASES**

Compensation of counsel appointed by the Courts to represent parties in cases shall be compensated according to a written schedule of fees adopted by the Courts.

#### **RULE 4.11 ATTORNEY VACATIONS**

Continuances based on attorney vacations shall be granted only by agreement of all parties or on written motion after notice and hearing.

Continuances will not be automatically granted solely on the basis of a vacation letter from an attorney to the Court or opposing counsel.

#### **RULE 4.12 ATTORNEY WITHDRAWALS**

1. 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.
2. Such motion shall be accompanied by the client's written consent to such withdrawal or a certificate by another lawyer that he or she has been employed to represent the client in the case, or a copy of such motion shall be mailed to the client at his or her last known address with a letter advising that the motion will be presented to the Court on or after a certain time, not less than ten (10) days after mailing the letter, and that any objection to such withdrawal should be made to the Court in writing before such time, and a copy of such letter shall be attached to the motion.
3. A copy of the motion shall be served on opposing counsel.
4. Leave of Court may be denied where the motion is presented so near the trial date as to require delay of the trial.
5. After leave of Court is granted, if the client is without counsel, withdrawal shall not be effective unless and until withdrawing counsel has written a letter to the client, with a copy filed with the Court advising such client of any setting of the case for trial or for any other hearing or proceeding and advising the client to promptly secure other counsel in the case.

#### **RULE 5.10 CONDUCT AND DECORUM IN THE COURTROOM**

1. All persons entering the courtroom shall dress and conduct themselves in keeping with proper courtroom decorum.
2. No smoking or other use of tobacco products shall be permitted in the courtroom.

3. No bottles, cans, cups or other beverage containers shall be allowed in the courtroom except for the water pitchers and cups furnished by the Court.
4. No edibles shall be allowed in the courtroom.
5. No chewing gum shall be used by any person in the courtroom at any time.
6. In addressing the Court, counsel shall at all times rise and remain standing and address the Court from their position at counsel table.
7. Counsel shall remain seated at the counsel table while interrogating a witness except when handling exhibits or other demonstrative evidence and except when necessary to approach a friendly or neutral witness. Leave of Court must be obtained to approach an adverse or hostile witness.
8. Any party with the burden of proof shall use the counsel table nearest the jury box or as directed by the Court.
9. Jurors shall not be permitted to take notes during a trial except by leave of Court.
10. Witnesses and parties shall be addressed by their appropriate title (i.e. Mr., Ms., Dr., etc.)
11. Attorneys should advise their clients and witnesses of this Rule that is applicable to them.

#### **RULE 6.10 APPLICATIONS FOR TRO'S AND OTHER EX PARTE ORDERS**

Counsel presenting any application for an ex parte order shall at the time the application is presented certify in writing to the Court that:

1. To the best of his or her knowledge, no other Court has issued an ex parte order in the matter made the basis of the suit in which the relief is sought; and
2. To the best of his or her knowledge, the party against whom the relief is sought is not represented by counsel in the matter made the basis of the suit in which the relief is sought; or
3. If the opposing party is represented by counsel in that matter; that (a) opposing counsel has been notified of the application and does not wish to be heard by the Court thereon; or (b) that counsel presenting the application has diligently attempted to notify such counsel and has been unable to do so and the circumstances do not permit additional efforts to give notice.

#### **RULE 6.11 JUDGMENTS AND DISMISSAL ORDERS**

Within 30 days after the Court has announced a verdict or judgment or the Court receives a written announcement of settlement from either party or from a mediator, counsel shall submit to the Court a proposed judgment or dismissal order, unless ordered otherwise. Failure to so furnish the Court with such a proposed judgment or dismissal order will be interpreted to mean that counsel

wish the Court to enter an order of dismissal with prejudice with costs taxed at the Judge's discretion.

#### **RULE 6.12 SUBMISSION OF PROPOSED ORDERS BY COUNSEL**

Except for proposed orders tendered at a hearing, the prevailing party should submit proposed orders on contested matters after notification of the Court's ruling. Proposed orders should be tendered to the opposing party at least two (2) working days before they are submitted to the Court. The opposing party must either approve the proposed order as to form or file objections in writing with the Court. If an order is not approved as to form and no objections are filed within five (5) working days of the submission of the proposed order, the proposed order is deemed approved as to form. Nothing herein prevents the Court from making and signing its own order at any time after the hearing in accordance with the Texas Rules of Civil Procedure.

#### **RULE 6.13 SERVICE OF PAPERS FILED WITH THE COURT**

Other than original petitions and accompanying applications for temporary restraining orders, any document filed with the Court that relates to requests for expedited relief or to matters set for hearing within seven (7) days of filing must be served upon all opposing parties in a manner that will ensure receipt of the papers by them on the same day the papers are filed with the Court or Clerk.

#### **RULE 6.14 CERTIFICATE OF CONFERENCE BETWEEN COUNSEL**

Prior to filing of a motion, counsel for the potential movant shall personally attempt to contact counsel for the potential respondent to hold or schedule a conference to resolve the disputed matters. Counsel for the potential movant shall make at least three attempts to contact counsel for the potential respondent. The attempts shall be made during regular business hours on at least two (2) business days.

#### **RULE 6.15 EFFECTIVE DATE**

These rules shall take effect on March 1, 2001 and shall govern all proceedings in actions brought after they take effect, and also all further proceedings in actions then pending. These rules shall supersede all local Court Rules heretofore promulgated by these Courts and all of said prior local Court Rules are hereby repealed.



# The Supreme Court of Texas

CHIEF JUSTICE  
THOMAS R. PHILLIPS

JUSTICES  
NATHAN L. HECHT  
CRAIG T. ENOCH  
PRISCILLA R. OWEN  
JAMES A. BAKER  
DEBORAH G. HANKINSON  
HARRIET O'NEILL  
WALLACE B. JEFFERSON  
XAVIER RODRIGUEZ

201 West 14th Street Post Office Box 12248 Austin TX 78711  
Telephone: 512/463-1312 Facsimile: 512/463-1365

May 7, 2002

CLERK  
JOHN T. ADAMS

EXECUTIVE ASSISTANT  
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST  
JIM HUTCHESON

A D M I N I S T R A T I V E  
ASSISTANT  
NADINE SCHNEIDER

Hon. Guy William Griffin  
Admin. Judge and Judge  
123rd District Court  
County Courthouse, Rm 217A  
Carthage, Texas 75633

Dear Judge Griffin,

Please find enclosed, a copy of the order of the Supreme Court that temporarily approved local rules for the the district court and county court at law in Panola County.

Sincerely,

**SIGNED**

John T. Adams  
Clerk

Encl.

cc: Hon. John Ovard  
1st Admin Judicial Rgn

Hon. Terry D. Bailey  
County Court at Law

District Clerk

County Clerk

Supreme Court Adv Committee

State Law Library