

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 92-0088

APPROVAL OF LOCAL RULES OF THE COUNTY COURTS AT LAW OF FORT BEND COUNTY

ORDERED:

Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court approves the following local rules, which have been previously approved by the presiding judge of the appropriate administrative judicial region and submitted to this Court:

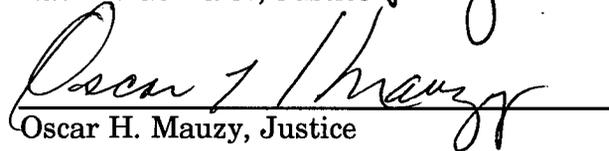
The Local Rules of the County Courts at Law of Fort Bend County adopted by the judges of the County Courts at Law of Fort Bend County May 26, 1992.

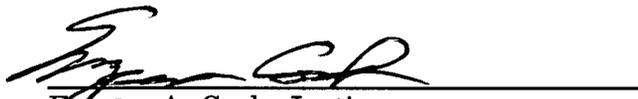
The approval of these rules is temporary, pending further orders of the Court.

SIGNED AND ENTERED this 14th day of September, 1992.


Thomas R. Phillips, Chief Justice

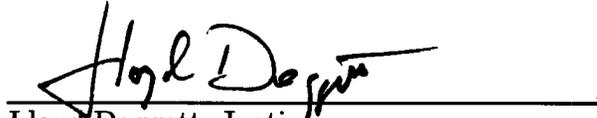

Raul A. Gonzalez, Justice


Oscar H. Mauzy, Justice


Eugene A. Cook, Justice


Jack Hightower, Justice


Nathan L. Hecht, Justice


Lloyd Doggett, Justice


John Comyn, Justice


Bob Gammage, Justice



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

P.O. BOX 12248 AUSTIN, TEXAS 78711

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JOHN T. ADAMS

JUSTICES
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OSCAR H. MAUZY
EUGENE A. COOK
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NATHAN L. HECHT
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ADMINISTRATIVE ASS'T.
MARY ANN DEFIBAUGH

September 17, 1992

Ms. Dianne Wilson
County Clerk
Post Office Box 520
Richmond, Texas 77469

Dear Ms. Wilson,

Please find a copy of the order of this Court of September 14, 1992, that approves local rules for the County Courts at Law in Fort Bend County.

Please note that the Supreme Court has been approving local rules provisionally. The Court believes that the Uniform Local Rules Committee is nearing completion of its task. You may therefore be asked to further amend your local rules in the not too distant future.

Sincerely,

SIGNED
John T. Adams
Clerk

Encl.

cc:
Hon. Thomas J. Stovall, Jr.
2nd Admin Judicial Dist

District Clerk

Mr. Ray Judice
Office of Court Admin

State Law Library

Chmn Supreme Ct Adv Committee

SECOND ADMINISTRATIVE JUDICIAL REGION OF TEXAS

**Presiding Judge, Thomas J. Stovall Jr.
Administrative Assistant, Judy Maples Geiger
Regional Docket Manager, Vikki Nelson**

**Mailing Address
P. O. Box 40
Seabrook, Texas, 77586**

Phone (713) 471-3911

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June 1, 1992

**Hon. Nathan L. Hecht, Justice
Supreme Court of Texas
P. O. Box 12248
Austin, TX., 78711**

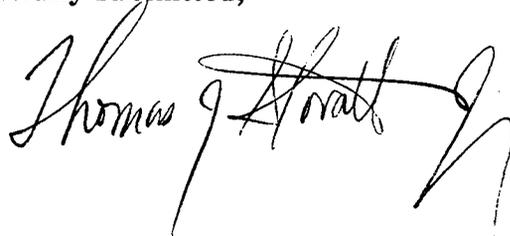
Dear Justice Hecht:

The enclosed Local Rules have been sent me by the County Courts at Law, Fort Bend County. Before they approved them proposals were circulated to the local Bar and all affected court personnel. After considerable discussion and some modification they have been approved and sent for my approval and forwarding to your Court for final approval. I approve them, with the following comments:

Although they seem overly detailed, they appear to cover the waterfront and have the tacit approval of those affected. They probably should provide some uniform rule for a Dismissal Docket (page 10), and a Settlement Week (page 78). I note there are no rules for jury management (perhaps they are covered by the general jury panel for the County), and omit rules for the Family Law cases. Any need for a visiting Judge should be handled through the office of the Local Administrative Judge of Fort Bend County (Page 71, 10.11).

Thank you for your usual courtesy in these matters.

Respectfully submitted,





County Court At Law No. 1

FORT BEND COUNTY
RICHMOND, TEXAS 77469

LARRY WAGENBACH
JUDGE

AREA CODE 713
341-4415

May 27, 1992

The Honorable Thomas J. Stovall, Jr.
Presiding Judge
Second Administrative Judicial
Region of Texas
P.O. Box 40
Seabrook, Texas 77586

RE: Local Rules of Court-Fort Bend County Courts at Law

Dear Judge Stovall:

The undersigned have completed the above referenced local rules and the same were approved by the Fort Bend County Board of Trial Judges on May 26, 1992. The local rules are hereby forwarded to you for your consideration and transfer to the Supreme Court of Texas for final approval.

Enclosed please find duplicate executed originals of the said rules. It is our understanding that once you have reviewed same (and in the event the rules meet with your approval), your office will forward the local rules to the Supreme Court for its review and acceptance.

Thank you for your time and consideration in this matter. Should you need additional copies or information for this process, please do not hesitate to request same.

Very truly yours,

Handwritten signature of Walter S. McMeans in cursive script, written over a horizontal line.

Walter S. McMeans, Judge
County Court at Law No. 2

Handwritten signature of Larry Wagenbach in cursive script, written over a horizontal line.

Larry Wagenbach, Judge
County Court at Law No. 1

LW:rg
Enclosures

LOCAL RULES OF COURT
FORT BEND COUNTY COURTS AT LAW

Honorable Walter S. McMeans
Judge, County Court at Law No. 2

Honorable Larry Wagenbach
Judge, County Court at Law No. 1

LOCAL RULES OF COURT
FORT BEND COUNTY COURTS AT LAW

Honorable Walter S. McMeans
Judge, County Court at Law No. 2

Honorable Larry Wagenbach
Judge, County Court at Law No. 1

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FORT BEND COUNTY COURT AT LAW LOCAL RULES

PREAMBLE

These rules, in conjunction with the Government Code, govern proceedings in the Fort Bend County Courts at Law. These rules shall not be construed as extending the jurisdiction of these courts, nor shall they be construed to overrule or conflict with the Texas Government Code, Texas Code of Civil Procedure, Texas Code of Criminal Procedure, Texas Penal Code, Texas Family code, Texas Probate Code, Texas Rules of Criminal Evidence, or Texas Rules of Appellate Procedure, or the Rules of Appellate Procedure promulgated by the First and Fourteenth Courts of Appeals. These rules are intended to govern local proceedings where not in conflict with existing law and where consistent with State Statutory Law and Rules promulgated by the Court of Criminal Appeals and the Texas Supreme Court.

RULE 1
GENERAL

RULE 1.10

Time Standards for Case Disposition

Pursuant to Article 5, Section 31 of the Texas Constitution, Sections 22.004, 72.002(2) and 74.024 of the Texas Government Code, Title 3 of the Texas Family Code, Rule 6 of the Rules of Judicial Administration, and Rules 1, 3, 4, and 5 of the Regional Rules of Judicial Administration, time standards have been established to which reference is made for all purposes, as they now exist, or as they may be hereafter amended.

RULE 1.11

Court Sessions; Annual Calendars; Jury Weeks;
Non-Jury Weeks; Criminal Civil Weeks
Not in Session; Holidays

(A) Each County Court at Law shall prepare and post outside of its courtroom a semi-annual calendar generally setting out the daily and weekly dockets of the court.

(B) Each County Court at Law shall prepare and post daily, outside of its courtroom, a specific docket or dockets of the matters being considered by the court at a particular docket call.

(C) Each County Court at Law will be governed by and will observe all holidays approved and established by Commissioners' Court of Fort Bend County.

RULE 1.12

Hours of Court Proceedings

No Local Rules under this subdivision

RULE 1.13

Emergency and Special Sessions

Temporary Orders

(A) Except in emergencies when the Clerk's Office is not open for business, no application 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.

(B) If the Judge of the Court to which such case is assigned is absent or is occupied with other matters, and other County Court at Law is absent, such application may be assigned by the Local Administrative Judge, to any Judge who may sit for the Judge of the Court in which that case is pending and shall make all orders, writs and process returnable to that Court.

(C) Hearings on applications for temporary injunctions, temporary receiverships, and the like, shall be set in the Court to which the case has been assigned by consulting with that Court.

(D) 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.

(E) The party requesting such temporary relief shall be present in Court at the time such relief is requested, unless the Court waives this requirement for good cause shown.

Emergency Orders

(A) 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.

(B) If the Judge of such Court is not available at the time set, the Local Administrative Judge may designate any Judge having jurisdiction to hear the application for temporary relief.

RULE 2
LOCAL ADMINISTRATIVE JUDGE

RULE 2.10

Powers and Duties of Local Administrative Judge

(A) Fixing Responsibility for Monitoring Information Requirements, How Supplied

1. The County Clerk shall be responsible, individually to each and all of the County Courts at Law Judges and Local Administrative Judge of the County for the accurate collection and reporting of such information as may be prescribed in writing by the Regional Administrative Judge or the Supreme Court for the County Courts at Law of Fort Bend County, Texas.

2. Each Judge will have direct access to any such information and/or data collected at all reasonable times, Monday through Friday during working hours, and the Clerk shall produce all such and deliver same to any Judge upon request.

RULE 2.12

Exercise of Powers in Absence

No Local Rule under this subdivision.

RULE 2.13

Court Divisions

No Local Rule under this subdivision.

RULE 3
CIVIL CASES

RULE 3.10

Filing and Assignment of Cases

(A) All cases are to be filed, docketed, and assigned pursuant to Rule 10 of the Rules of Judicial Administration of the Supreme Court of Texas and Section 74.093, 74.121, and 75.011(i) Texas Government Code.

(B) Thereafter, the Courts may at any time exchange cases and Benches to accommodate their dockets or to specialize the Court's trials.

(C) Except as provided hereafter in this Rule, all cases shall be filed with the Clerk of County Courts at Law in random order and shall be assigned, insofar as practicable, in a fair and equitable manner among the Courts with uneven numbers being assigned to County Court at Law No. 1 and even numbers being assigned to County Court at Law No. 2.

(D) Garnishment Suits Every garnishment suit shall be assigned to the Court in which the principal suit is or was pending, and if the principal suit is transferred to another Court, the garnishment shall be transferred likewise.

RULE 3.11

Filing on Holidays

No Local Rule under this subdivision.

RULE 3.12

Transfer of Cases; Docket Exchange; Branch Exchange

(A) After assignment to a particular Court, every case, both jury and non-jury, shall remain pending in such Court until final

disposition, or transfer.

(B) Any case may be transferred to another court 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; or by order of the Local Administrative Judge of this County.

(C) Whenever any pending case is so related to another case pending in or disposed of by another Court and Judge of the Court in which either case is or was pending may, upon motion {including his 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 with consent of the Judge of the court to which it is transferred.

(D) 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 filed 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 for a declaration concerning the alleged duty of an insurer to provide a defense for a party to another suit.

5. Any suit concerning which the duty of an insurer to defend was involved in another suit.

(E) Whenever a case is transferred to this County by a Court of another County, it shall be assigned in the manner specified by these Rules.

(F) The distribution of criminal cases is to be governed by Rule 6 of these Rules, as they now exist or as hereinafter amended.

RULE 3.13

Request for Settings -- Non-Jury

(A) All requests for the scheduling of appearances for the Court for any purpose will be made by contacting the Court Coordinator who will arrange an appropriate time to appear before the Court.

(B) Requests for hearing shall be made to the Court in which the matter is pending, in accordance with these Rules, and the attorneys making such request shall serve all other parties with notice of the date and hour set for hearing and of the particular matter which will be considered at such time.

RULE 3.14

Disposition of Uncontested Matters

No Local Rules under this subdivision.

RULE 3.15

Request for Settings -- Jury

(A) 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, nor for transfer of the case to another Court.

(B) If the case is already set for non-jury trial when such demand 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 following week, or set it at some other convenient time.

(C) Jury fees are to be paid when a request for a jury trial is made.

(D) All requests for the scheduling of appearances for the Court for any purpose will be made by contacting the Court Coordinator who will arrange an appropriate time to appear before the Court.

(E) Requests for hearing shall be made to the Court in which the matter is pending, in accordance with these Rules, and the attorneys making such request shall serve notice to all counsel of the date and hour set for hearing and of the particular matter which will be considered at such time.

RULE 3.16

Jury Fee and Jury Demand

No Local Rules under this subdivision.

RULE 3.17

Docket Call and Announcements

No Local Rules under this subdivision.

RULE 3.18

Assignment of Cases for Trial

No Local Rules under this subdivision.

RULE 3.19

Conflicting Settings and Assignments of Counsel

(A) Attorney Already in Trial in Another Court

1. When informed that an attorney is presently in trial, the Court will determine where and when assigned.

2. This information will be verified upon request of opposing counsel

3. The case will be placed on "hold" or "reset" or "passed", depending on when the attorney will be released.

4. If the attorney is not actually in trial as represented by him or his agent, the case will be tried without further notice.

(B) Attorney Assigned to Two Courts for the Same Date

1. It is the duty of an attorney to call the affected Judges' attention to all dual settings as soon as the conflicts are known.

2. Insofar as practicable, Judges should attempt to agree on which case has priority, otherwise, the following priorities shall be observed by the Judges of the respective Courts:

- (a) Criminal Cases.
- (b) Juvenile Cases.
- (c) Cases given preference by statute.
- (d) Preferentially set cases.
- (e) Case set at earliest date.
- (f) Case with earliest filing date.
- (g) Courts in multi-judge counties should yield to courts in rural counties in all other instances of conflicting settings.

(D) The unavailability of a particular lawyer in a firm will generally not be considered grounds for a continuance of any case where other lawyers in the firm have had significant involvement in the case, such as signing pleadings, making court appearances,

or attending depositions.

(E) If any lawyer's caseload becomes a disruption to the orderly flow of a Jury Docket, the Court may limit the number of set cases in which the lawyer can be the attorney in charge and require designation of another attorney in charge for other set cases.

(F) Counsel in Appellate Courts

Counsel shall be excused from appearing for any purpose at a time when counsel is scheduled to appear before an appellate court of the United States, the State of Texas, or any other state.

RULE 3.20

Request for Preferential Settings

No Local Rule under this subdivision.

RULE 3.21

Resetting Cases

No Local Rule under this subdivision.

RULE 3.22

Dismissal Docket -- Involuntary Dismissal

Each Court shall set its own dismissal docket. The County Clerk shall notify each attorney and all pro se parties in writing of the date, time and place of the hearing of the dismissal docket.

RULE 3.23

Suspense Docket

Dismissals, Bankruptcy, Suggestion of Death, Abatement

The Clerk is to immediately give actual notice to the Court Coordinator or the Judge of the Court any suggestion of death or suggestion of bankruptcy proceedings when same are filed with the

Clerk in the pending case.

RULE 3.24

Hearings on Pre-Trial Motions,
Exceptions and Pleas

Pre-Trial Procedures -- Civil Cases

(A) Any party requiring a hearing on motions, exceptions, dilatory pleas, or other pre-trial matters shall timely request and obtain a setting thereon prior to commencement of trial on the merits.

(B) All motions, exceptions, and pleas shall be in writing and shall have a proposed order attached granting the relief sought.

(C) Failure to present motions, exceptions, and pleas in a timely manner shall cause same to be waived.

(D) A specific date or period of time may be assigned as a final date for the filing of motions, exceptions, and dilatory pleas and obtaining a hearing thereon in those cases which the Judge deems appropriate.

(E) When counsel for either party or any party pro se, after notice, fails to appear at a pre-trial setting on any motion, exception, or plea, the Court may:

1. Rule on all motions, exceptions, and pleas in the absence of such counsel;
2. Declare any motions, exceptions, or pleas of such absent party waived
3. In the event absent counsel represents the Plaintiff, the Court may decline to set the case for trial or may cancel a setting previously made or may dismiss the claims for want of prosecution, especially where there has been a previous failure to appear or where no amendment has been filed to meet exceptions previously sustained; or

4. In the event absent counsel represents the Defendant, the Court, if the case has not been previously set for trial, may set the same for trial pursuant to Texas Rules of Civil Procedures 245 and/or may dismiss any counter-claim or cross-action for want of prosecution.

(F) Preliminary matters which require a hearing by the Court may be disposed of either (1) by hearing before the Court; or (2) upon such written authorities as counsel may forward to the Court, following which the Court may rule in chambers without a hearing as provided in this Rule.

1. Any party is entitled to a hearing so long as the same is requested prior to the time that the Court makes its ruling as provided in subparagraph 6.
2. 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 and a statement of any relief thereupon, along with a request for ruling by submission without a hearing. Notice to be by registered or certified mail, return receipt requested.
3. The opposing party may, within ten (10) days after service of such statement, either (a) request a hearing or (b) file a written response.
4. A requesting party shall state the estimated time required for the hearing.
5. It is the responsibility of the party requesting a ruling by submission to notify the Court of the date of service of such statement for calculation of submission dates.
6. 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 provide copies of such memorandum to counsel for all parties. Copies of all orders signed pursuant to this paragraph shall be forwarded to all counsel by the Court Coordinator at the time they are entered.

(G) Before a motion, exception, or other dilatory plea will be heard, the moving party shall first talk with counsel to determine whether there is opposition.

(1) If the matter will not be opposed, the moving party shall send a proposed order, signed by all counsel of record, indicating approval.

(2) If there will be opposition, or, if after reasonable efforts this cannot be determined, the Court will be advised.

RULE 3.25

Attorney Conference Requirement and Procedure

No Local Rule under this subdivision.

RULE 3.26

Non-Compliance with Conference Procedures

(A) The Court may sanction a party or counsel who fails without adequate reason to attend a court ordered conference, by denying or deferring ruling on the motion and awarding attorneys fees. Counsel who intentionally fails to attend may be cited for contempt of court.

(B) When counsel for either party, after notice, fails to appear or is unprepared for a scheduling conference or pre-trial conference, the Court may:

1. Make all scheduling decisions and rule on all motions, exceptions, pleas, or other matters;
2. Declare any pending motions, exceptions, or pleas waived;
3. Advance or delay the trial setting consistent with Tex.R.Civ.P. 245, alter other scheduling matters, decline to set the case for trial or cancel a setting previously made, or take such other action that is just and proper according to the convenience of counsel present and parties represented;

4. Pass and reset the conference, in which case the party attending the conference shall be entitled to recover his reasonable attorney's fees and expenses.
5. Consider the absence of "attorney in charge" as a contempt of court, and punish counsel accordingly.

(C) Counsel at pre-trial shall either be the attorney who expects to try the case, or shall be familiar with the case and be fully authorized to state his party's position 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 take any of the procedures provided above.

RULE 3.27

Discovery Disputes

(A) All counsel are expected to engage in good faith negotiations pursuant to the discovery and deposition rules of the Texas Rules of Civil Procedure.

(B) Requests for hearings on motions for discovery, or for protection or to quash, or on objections to any discovery, will not be granted unless counsel filing the same certifies that he has attempted diligently and in good faith to obtain such discovery or relief from opposing counsel by agreement and has been unsuccessful, or shows good cause for not making such attempt.

RULE 3.28

Consolidation and Severances

Consolidation of Cases

Every motion for consolidation or joinder hearing under Rule 174(a), Texas Rules of Civil Procedure, shall be heard in the

Court in which the first case filed is pending, and if such motion is granted, other cases to be consolidated shall be transferred to the Court in which the first case is pending.

Severance

(A) When a motion to sever is sustained, the severed claim shall be filed as a new case in the same Court and shall be given a new number or suffix number or letter by the Clerk in whose Court the case is pending.

(B) The original case from which the claim is severed shall retain the original number given it by the Clerk of the County Court at Law.

(C) Before the severed claim is filed as a new case, the Clerk's requirement concerning deposit for costs shall be met.

RULE 3.29

Continuances

(A) All trial settings will be made by contacting the Court Coordinator who will set the case for jury or non-jury trial. The attorney setting the case for trial will notify all opposing counsel and pro se parties pursuant to the Texas Rules of Civil Procedure.

(B) Any attorney in charge who fails to notify the Court of a conflict in scheduling at the time he receives notice that the case is set, shall be precluded from seeking a continuance at a later time on the grounds of such conflict.

(C) Where a party is represented by more than one attorney or firm of attorneys in charge which creates a conflict in settings shall not be a ground for continuance.

(D) Any known ground for continuance of the trial setting shall be presented to the Court at least 14 days prior to the trial setting or at the pre-trial conference, if any, whichever shall occur first, or shall be waived.

(E) No requests to pass, postpone, or reset any Docket Control Conference, pre-trial conference or other preliminary hearing shall be granted unless counsel for all parties have been notified and have had an opportunity to object.

(F) All motions for continuance of trial settings, including joint motions of 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.

(G) Upon granting of a motion for continuance, the order granting such motion for continuance may contain an order resetting the case for trial.

RULE 3.30

Default Judgments

No Local Rule under this subdivision.

RULE 3.31

Summary Judgments

No Local Rule under this subdivision.

RULE 3.32

Ancillary Proceedings, Temporary Orders
and Emergency Matters

No Local Rule under this subdivision.

RULE 3.33

Complex Case Designation

No Local Rule under this subdivision.

RULE 3.34

Alternative Dispute Resolution

No Local Rule under this subdivision.

RULE 3.35

Pre-Trial and Scheduling Conferences

(A) Pre-Trial Procedures

Rule 10(c) of the Rules of Judicial Administration and, Rule 166 of the Texas Rules of Procedure dealing with pre-trial procedures are incorporated herein by reference for all purposes and the following civil pre-trial rules and procedures apply to all civil cases.

(B) Pre-Trial Conferences

1. A pre-trial conference shall be held at the order of the Court or may be held at the request of an attorney in charge.

2. If the pre-trial conference is set at the request of an attorney, it shall be held no later than ten (10) days prior to the date set for trial, unless the Court, on timely request of one or more attorneys in charge, orders otherwise.

(C) Scheduling

1. All requests for scheduling of appearances for the Court for any purpose will be made by contacting the Court to arrange an appropriate time to appear before the Court.

2. Requests for hearing shall be made to the Court in which the matter is pending, in accordance with these Rules, which shall notify all counsel of the date and hour set for hearing and of the particular matter which will be considered at such time.

(D) Docket Control Conferences

1. A Docket Control Conference may be set at any time following forty (40) days after the date suit is filed, upon request of either party or upon the Court's own motion.

2. If no Docket Control Conference has been held by the expiration of six (6) months from the date suit is filed, then such a conference may be promptly scheduled by the Court.

3. At any time such a conference is scheduled, the Court in which the case is pending shall notify all attorneys in charge of the place, date and hour at which the attorneys are to appear for the purpose of conducting such conference.

4. Attorneys in charge for all parties shall be present at the Docket Control Conference unless arrangements have been made for such conference to be held by telephone.

5. Each attorney shall have with him his calendar in order to arrange settings which do not conflict with any previous engagements he has.

6. Under no circumstances may an absent attorney be represented at any Docket Control Conference, whether held by telephone or otherwise, by any secretary or other non-lawyer personnel.

(E) Binding Agreements, Scheduling, and Negotiations

1. All Docket Control Conferences and pre-trial conferences shall be attended by the attorney in charge who is completely familiar with the case and fully authorized to state his party's

position on the law and the facts, to make agreements in writing as to scheduling, to enter into stipulations, and to enter into settlement negotiations, subject to orders or practices of the Court.

2. When any attorney in charge for either party, after notice and without good cause, fails to appear for a Docket Control Conference or pre-trial conference, the Court may:

- a. Make all scheduling decisions and rule on all motions, exceptions or other matters in the absence of such counsel;
- b. Declare any motions or exceptions of the absent party waived;
- c. Advance or delay the trial setting or other scheduling matters, or decline to set the case for trial or cancel a setting previously made, according to the convenience of counsel present;
- d. Pass and reset the Docket Control Conference, in which case the party represented shall be entitled to recover his reasonable attorney's fees and expenses;
- e. Consider the absence of the attorney in charge as a contempt of court, and punish counsel accordingly.

(F) Telephone Docket Control Conference

1. The Docket Control Conference may be held by telephone with approval of the Court.

2. An attorney requesting that the Docket Control Conference be held by telephone shall be responsible for arranging the conference call on the date and time scheduled by the Court Coordinator.

(G) Purpose of Docket Control Conference

1. The Docket Control Conference shall be conducted informally, and shall be for the purpose of becoming acquainted with the nature of the case and the issues presented; determining the probable length of time required for trial; fixing deadlines for joinder of additional parties, completion of discovery, or amendment of pleadings, to consider such other matters and make other docket control orders as are necessary and proper under the circumstances in regard to handling of the case; and to arrive at a trial date which all attorneys and the Court consider firm.

(H) Docket Control Order

The Court shall make an order which recites any action taken or agreements made at the Docket Control Conference, and such order when entered shall control the subsequent course of action, unless later modified by the Court.

RULE 3.36

Status Conference; Certificate of Progress;
Proposed Preparation Plan

No Local Rule under this subdivision.

RULE 3.37

Trial Stipulations and Admissions

No Local Rule under this subdivision.

RULE 3.38

Trial Witnesses and Exhibits

Civil

(A) 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.

(B) When out-of-county witnesses are to be called, the burden shall be on the party using such witnesses to have them available.

(C) In so far as is possible, counsel for the parties shall pre-mark for identification all exhibits to be introduced into evidence, and shall notify the Court as to those items upon which counsel can agree may be admitted into evidence without objection and submit all objections to exhibits in writing to the Court prior to trial.

(D) In any case where a witness does not speak English, the attorney presenting such witness shall make provision for a properly qualified interpreter to be present at the time of such witness's testimony.

(E) If a witness is not available as required by this rule, and if the absence of such witness does not require a continuance, the Court, in its discretion, may require counsel to present the missing witness out of order, may require use of a deposition in lieu of the witness, may submit the case to the jury without benefit of the witness's testimony or may make any other order which appears just to avoid delay of the trial.

(F) Objections to video tape which will be offered at the trial of the cause shall be made and heard at a Pre-Trial Conference in accordance with Rule 3.24 hereof and if not made at that time shall be deemed waived.

RULE 3.39

Disposition Conferences

No Local Rule under this subdivision.

RULE 3.40

Settlements

(A) All trial counsel are urged to make a bona fide effort to settle cases before announcing ready for trial.

(B) 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.

(C) When an attorney settles or dismisses a case which is set for trial, he shall give notice to the Court Coordinator as soon as possible.

RULE 3.41

Jury Selection

No Local Rules under this subdivision.

RULE 3.42

Jury Charge Questions and Instructions

(A) Each party shall prepare in proper written form and present to the Court prior to or at the time of the jury selection, all jury charge questions and instructions which are raised by the pleadings.

(B) Written objections as to the form of the issues so presented shall be made as the Court may direct.

(C) Counsel will be expected at jury docket call to advise the Court which issues will be disputed and to be familiar with the authorities applicable to the questions of law raised at pre-trial.

(D) The Court may require counsel to file written briefs on any point in question and fix the date for their submission.

RULE 3.43

Submission of Orders, Judgments, Instruments

No Local Rule under this subdivision.

RULE 3.44

Withdrawal and Copying of Documents

No Local Rule under this subdivision.

RULE 3.45

Other Local Rules

Except when modified by more specific rules, this Rule 3 is applicable in all civil cases in all courts.

RULE 4
FAMILY LAW CASES

RULE 4.10

Time Standards for Family Law Case Disposition

No Local Rule under this subdivision.

RULE 4.11

**Ancillary Proceedings, Temporary Orders
and Emergency Matters**

No Local Rule under this subdivision.

RULE 4.12

Disposition Proposals

No Local Rule under this subdivision.

RULE 4.13

Uncontested Matters

No Local Rule under this subdivision.

RULE 4.14

Financial Information Statements

No Local Rule under this subdivision.

RULE 4.15

Inventory and Appraisement

No Local Rule under this subdivision.

RULE 4.16

Ad Litem Appointments

No Local Rule under this subdivision.

RULE 4.17

Mediation Counseling

No Local Rule under this subdivision.

RULE 4.18

Referral to Master

No Local Rule under this subdivision.

RULE 4.19

Termination/Adoption

No Local Rule under this subdivision.

RULE 4.20

Miscellaneous

No Local Rule under this subdivision.

RULE 5
LIQUIDATED CLAIM CASES

RULE 5.10

Liquidated Monetary Claims

No Local Rule under this subdivision.

RULE 5.11

Certification of Plaintiff for Suspense Docket

No Local Rule under this subdivision.

RULE 5.12

Application to Defer Entry of Judgment

No Local Rule under this subdivision.

RULE 5.13

Certification that Payment Agreement
Continues in Effect

No Local Rule under this subdivision.

RULE 6
CRIMINAL CASES

RULE 6.10

Felony and Misdemeanor Cases

No Local Rule under this subdivision.

RULE 6.10A

Grand Jury

No Local Rule under this subdivision.

RULE 6.11

Filings/Return of Informations

Assignment of Cases After Information

The following rules shall govern the assignment of misdemeanor cases and other matters within the jurisdiction of the County Courts at Law in Fort Bend County.

(A) All misdemeanor proceedings presented to the County Clerk for filing shall be assigned by the County Clerk on a random basis to the County Courts at Law by means of a blind filing process which provides for the equal distribution of new cases in such a manner that it cannot be determined to which court a case will be assigned until after said court assignment. Except as otherwise provided in these Rules, the County Clerk shall randomly assign every criminal case filed by information with uneven numbered cases being assigned to County Court at Law No. 1 and even numbered cases being assigned to County Court at Law No. 2.

(B) After refiling and docketing of misdemeanor informations into the County Courts at Law, the County Clerk will determine by research {based upon information provided by the District Attorney at the time of filing the information} whether the defendant named

in the misdemeanor information has a prior connection to an existing case in any of the County Courts at Law. Such prior connection is defined as: (1) defendant has been accorded misdemeanor probation in one of the County Courts at Law and the probation has not been revoked or been terminated; (2) defendant has prior pending misdemeanor charges in one of the County Courts at Law; (3) the charge arose from the same criminal transaction which was the basis of the misdemeanor information previously filed in one of the County Courts at Law; (4) the defendant has been accorded deferred adjudication in one of the County Courts at Law and the deferred adjudication has not been terminated or adjudicated; (5) the defendant has been granted a restricted driver license in one of the County Courts at Law and is charged with a subsequent DWI or DWLS; or (6) a case wherein the defendant has not discharged a sentence. If the County Clerk's research indicates one of the above prior connection, the new misdemeanor case filing will be transferred to the court where the defendant has such prior connection. (For purpose of this rule it will be assumed that all even numbered cases were filed in County Court at Law No. 2 even though it was not in existence at the time the case was filed).

All refiles of cases already pending shall be filed and docketed in accordance with statutory rotation. The County Clerk is then authorized to transfer and set the refiled case in the court where the initial misdemeanor information is or was pending. The setting date assigned to the refiled case will be the same date as the initial pending case. All writs of habeas corpus,

contempts, writs of procedendo and ex parte matters shall be filed and docketed in accordance with statutory rotation. The County Clerk is then authorized to transfer the proceedings in the courts where prior case connection exists, or if no prior case connection exists, to transfer the proceeding to the court wherein the hearing on such proceeding is to be conducted. Unless said cases are later transferred by agreement of the judges or are transferred by authority of a separate order, all such assigned cases shall remain on the docket of the court of assignment until final disposition.

The Fort Bend County Clerk shall not effect any changes in the matters of random filing, numbering of cases, docketing of cases, transfer of cases, or assignment of settings, or any other matters that affect the distribution of work or the dispatch of the business of the Fort Bend County Courts at Law unless so directed to do so by the judges of the County Courts at Law.

(C) Upon filing and docketing of misdemeanor information into the County Courts at Law of Fort Bend County, Texas, the County Clerk will determine by research whether the defendant named in the misdemeanor information has a prior connection in any of the County Courts at Law, in accordance with the criteria established in Rule 6.11.

(D) All refiles and cases already pending or dismissed shall be filed and docketed in accordance with statutory rotation. The County Clerk is then authorized to transfer and set the refiled case in the court where the initial misdemeanor information is or was pending. The setting date assigned to the refiled case will

be the same date as the initial case, if the initial case is still pending. If the initial case is not still pending, the refiled case shall be given an appropriate setting in accordance with these rules. All writs of habeas corpus, contempts and ex parte matters shall be filed and docketed in accordance with statutory rotation. The County Clerk is then authorized to transfer and set the proceedings in the court where prior case connection already exists or if no prior case connection exists, to transfer the proceeding to the court wherein the hearing on such proceedings is to be conducted.

(E) When it has been determined that a case is to be transferred from one court to another court, the judge of the sending court shall enter a docket notation that the case is to be transferred and specify which court the case is to be transferred to.

(F) After the docket entry is completed, the Coordinator of the sending court will prepare a transfer order, obtain the judge's signature and cause the signed order and court case file to be timely delivered to the Coordinator of the receiving court. The Coordinator of the receiving court will obtain the judge's signature on the transfer order. At that time the coordinator will set the case in the receiving court and complete all setting information on the bottom of the transfer order.

RULE 6.12

Arraignment/Initial Appearance

(A) Initial Settings

The County Clerk of Fort Bend County, Texas, in accordance with the following procedure, is directed to provide the first

setting on all misdemeanor informations and certain other processes filed and docketed into the County Courts at Law of Fort Bend County, Texas, and to record same in the automated system.

The first setting date of the case shall be known as the "Initial Arraignment" setting and it shall be provided by the County Clerk on all cases except those filed as no-arrest where a *capias* is issued for the defendant.

(B) Arraignment After Information Filed

1. Upon information being filed the cause shall be randomly assigned to one of the County Courts at Law, pursuant to these rules.

2. When a defendant appears for an initial appearance and he has been formally charged, the Court may proceed to arraign the defendant or the Court may postpone arraignment at the Court's discretion.

3. Upon arraignment, unless the cause is otherwise disposed of (such as by plea of guilty or dismissal), the County Court at Law shall refer by appropriate reset order the cause for further proceedings.

4. The reset order may give notice to the defendant and his counsel of a pre-trial date and a probable date for trial and of a deadline to file pre-trial motions.

RULE 6.13

Appointment of Counsel

(A) The Court shall appoint counsel for an indigent defendant pursuant to Art. 26.04, Texas Code of Criminal Procedure at the earliest practicable time.

(B) A defendant who claims indigency and requests appointment of counsel shall complete under oath a questionnaire concerning his financial resources, or respond to the Court under oath to an examination regarding his financial resources or both.

(C) The questionnaire shall be in the form adopted by the Courts.

(D) A counsel appointed to represent a defendant in a criminal proceeding, including a habeas corpus hearing, shall be reimbursed for reasonable expenses incurred with prior court approval for purposes of investigation and expert testimony and shall be paid a reasonable attorney's fees for performing services as provided in Art. 26.05(a), Texas Code of Criminal Procedure, based on the time and labor required, the complexity of the case, and the experience and ability of said counsel, as follows:

1. Out of Court Hours -- Minimum \$25.00/hour and Maximum \$40.00/hour.
2. Non-Trial Appearances -- Minimum \$35.00/hour and Maximum \$50.00/hour.
3. Trial Appearance -- Minimum \$50.00/hour and Maximum \$50.00/hour with a daily maximum of \$400.00.
4. Appeals and Writs -- Minimum \$25.00/hour and Maximum \$50.00/hour with a maximum of \$750.00 an appeal.

(E) Counsel requesting compensation for representing an indigent criminal defendant must submit a completed application for payment in the form provided by the Courts for reporting the types of services performed in each case.

The application for payment for fees or expenses must be documented in the form provided by the Courts and as supplemented by extra sheets.

Hourly billing must be accompanied by a completed out-of-court and in-court billing sheet.

Time spent performing the services must be reported in quarter hours, using percentages (i.e., .25, .50, .75).

(F) No payment shall be made until the compensation form is submitted to and approved by the Court and is in accordance with the fee schedule.

(G) If the case is disposed of by a plea of guilty, the application must be submitted to the Court at the time of the plea; otherwise, the application must be submitted within fourteen days of the case being disposed of, unless waived by the Court and award of attorney's fee noted on docket sheet by the Court.

(H) Failure to timely submit the application may constitute a waiver of compensation.

(I) If the Court determines that a defendant has financial resources that enable him to offset in part or in whole the costs of the legal services provided, including any expenses or costs, the Court shall order the defendant to pay the amount that it finds the defendant is able to pay.

(J) If at the time of appointment of counsel the Court finds that the defendant is employed or is about to be employed, the Court may order the defendant to periodically deposit into a "prepayment of attorney's fees and costs" account administered by the County Clerk an estimated amount of such fees and costs in

advance of the disposition of his case; any payment in excess of the amount actually ordered by the Court for such fees and costs will be refunded to the defendant.

(K) Expenses for purpose of foreign language interpreter, investigation, expert testimony and psychological evaluation and other expenses must receive prior court approval. Counsel must submit a timely written motion requesting the item, setting out the factual basis for the request, describing the necessity of specific services to be rendered and provided an estimated cost.

(L) Billing for investigation must be broken down by specific costs and services rendered after prior approval has been obtained.

(M) Expert testimony must include itemized billing for services rendered after prior approval has been obtained.

(N) Counsel appointed to represent indigent defendants shall represent the defendant until the charges are disposed of, whether by conviction, acquittal or dismissal, or until the right of appeal is exhausted or the attorney is relieved of his duties by the Court or replaced by other counsel.

(O) Counsel must make initial contact with the defendant in custody within three business days of the appointment.

RULE 6.14

Appearance of Defendant and Counsel/Court Attendance

Every pleading, brief, and motion of a party represented by an attorney, shall bear the manuscript signature of at least one of the attorneys of record, in his individual name, along with his state bar card number, address, and telephone number. The

pleading, brief, or motion shall further contain a certification that a copy of the document was mailed or hand-delivered to opposing counsel.

RULE 6.15

Withdrawal or Substitution of Counsel

- (A) With the Court's approval, counsel may withdraw, if
- (1) a written notice to withdraw stating proper grounds is filed;
 - (2) the defendant has been notified of the filing of the motion and has signed the motion.
 - (3) the Court determines that there is sufficient time for new counsel to enter the case; and
 - (4) the defendant's papers and property have been returned to him.
- (B) If a motion to withdraw contains the written consent of the defendant, the Court may grant the motion without a hearing.
- (C) A defendant shall not be permitted to dismiss his counsel of record unless a motion to dismiss counsel is filed in the case, stating good cause for such dismissal.
- (D) No withdrawal or dismissal of counsel shall be effective unless approved by the Court.
- (E) No withdrawal or dismissal of counsel shall be permitted if it reasonably appears that such withdrawal or dismissal is solely for the purpose of delay.
- (F) Newly retained counsel shall not be permitted to substitute for counsel of record unless new counsel is prepared to proceed with the case without a delay of the proceedings.

(G) No withdrawal or substitution of counsel shall be the basis for a continuance.

RULE 6.16

Bond and Bond Forfeiture

(A) Each Court shall have discretion to set and modify bail as prescribed by law.

(B) Each Court may set bail in alternative amounts; for example, the Court may order one amount for the posting of a surety bail bond and another amount for the posting of a cash bond, provided that the amount of the cash bond is not more than ten percent (10%) of the amount required for a surety bail bond.

(C) A Court authorizing the release of an accused upon his personal bond may require the accused to post a cash deposit of not less than five percent (5%) of the face amount of the personal bond or \$50.00, whichever is greater.

(D) At the time the accused is placed in the County Jail, each accused shall fill out (with such assistance from the jail personnel as necessary) under oath a biographical data sheet containing all relevant information to guide the Court in setting bail.

(E) Such information shall include the accused's name and aliases, date and place of birth, addresses within the last five years, marital and family data (including names of parents and in-laws and their addresses and telephone numbers), employment history, annual income, prior arrests and convictions, identification numbers and similar information.

(F) The statement shall accompany the accused to each jail docket and initial appearance while he is in custody for periodic review by the Court and, upon information filed, shall be filed in the cause.

RULE 6.17

Refund of Cash Bonds

(A) Cash bond deposits will be refunded to depositors other than the defendant upon final disposition of the criminal proceeding unless notice of appeal is given. Refunds will not be given until a replacement bond has been duly filed with the County Clerk or notice of appeal is either withdrawn or the Mandate of Affirmance has been satisfied.

(B) In the event of notice of appeal, defendant's cash bond deposits will not be refunded or assigned until a replacement bond has been duly filed with the County Clerk or until notice of appeal has been either withdrawn or the Mandate of Affirmance has been satisfied.

RULE 6.18

Bond Forfeiture Reinstatements,
Dismissals and Judgments

(A) All bond reinstatements orders, bond forfeiture dismissal orders and agreed judgments, wherein payments of cost of judgments are involved, shall be presented in person by the bonding agency or District Attorney to only the Judge of the Court wherein the forfeiture occurred. A brief narrative statement shall be provided, in writing, by the District Attorney setting forth the basis for the recommendations as to bond reinstatement, or dismissal of forfeiture.

(B) The total amount of the cost on bond reinstatements with costs, dismissals with costs, and in the case of agreed judgments, the total amount of judgment and costs, will be delivered to the court along with the order of judgment by the bonding company or the District Attorney.

(C) Money orders and cashier's checks payable to the County Clerk of Fort Bend County, are the only tender that will be accepted. Cash payments may be made in advance and receipt obtained from the County Clerk and presented with the order or judgment.

(D) Upon reinstatement, dismissal, or approval of agreed judgment by the Judge of the Court wherein the forfeiture occurred, the order, judgment, and the accompanying tender, shall be delivered by the Judge to the County Clerk's Office wherein receipts for fees paid may be obtained in person or mailed to the bonding agency by the County Clerk.

RULE 6.19

Approval of Personal Bonds During
Non-Business Hours

No Local Rules under this subdivision.

RULE 6.20

Juvenile Defendants

(A) Any defendant who is charged with a misdemeanor offense within the jurisdiction of the Fort Bend County Courts at Law will be presumed to be an adult until a proper judicial determination is made to the contrary.

(B) In any case wherein proof is offered indicating that a defendant may be a juvenile, the Sheriff and/or the District

Attorney are requested to make the Court in which the cause is pending aware of the style of the case in which the defendant is determined or suspected to be a juvenile.

(C) The Court will set the cause as soon as possible for a hearing to determine whether the defendant is a juvenile and only after that determination will the defendant be released from custody, and the cause transferred to the Juvenile Court in accordance with Section 56.08, Family Code.

(D) In all cases wherein a determination is made that a defendant is a juvenile, expeditious transfer of the cause will be made to remove the case from the criminal court's docket.

(E) The defendant may be released from custody if proof is provided to the Sheriff or other holding agency that the defendant is a juvenile. The evidence provided to the Sheriff or other holding agency effecting the release of the defendant from custody shall be presented to the Court on the next Court workday in order that a judicial determination may be made, and if the Court finds that the defendant is a juvenile, a transfer to the Juvenile Court will be immediately processed. Should the Court find, however, that the defendant is not a juvenile, appropriate process will be issued for the defendant's arrest.

RULE 6.21

Probable Cause Hearings for Further Detention

(1) All pre-trial detainees shall be given a hearing within 48 hours immediately after being placed in a Fort Bend County jail facility. Personnel and/or files from the District Attorney, County Clerk, and pre-trial services agency necessary to conduct

RULE 6.23

Motions/Pre-Trial Hearings/Pre-Trial Matters

(A) Each court shall determine its own settings for pre-trial and trial. The District Attorney's Office or counsel for defendant may request settings for pre-trial hearings.

(B) The defendant shall appear at each scheduled pre-trial hearing, unless he waives his pre-trial hearing by executing a waiver of pre-trial hearing; however, if the State filed pre-trial motions, the defendant shall appear.

(C) All pre-trial motions, including motions in limine, must be filed by the set deadline, unless an extension of time is granted by the Court for good cause shown.

(D) Each pre-trial motion must succinctly state the relief sought, the facts pertinent to the motion, and supporting argument with authorities; must be signed by counsel and, where required, by the defendant; must be sworn to when required; must contain a certificate of service and consultation with opposing counsel and a statement that the matter raised in the motion was not resolved or, if no consultation was accomplished, an explanation thereof; must contain a notice that the motion will be presented to the Court at the pre-trial hearing with or without evidence; and must contain a proposed order granting or denying the motion in full or in part.

(E) The Court may refuse to consider any pre-trial motion that fails to comply with these rules.

(F) The waiver of pre-trial hearing shall contain a declaration by the defendant and his attorney that no motions have

(3) The bond schedule maintained by the County Court at Law Judges for all misdemeanor offenses occurring within the courts' jurisdiction and shall be referred to by the magistrate. Such bond determinations shall be according to the following criteria:

- (a) The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with;
- (b) The nature of the offense for which probable cause has been found and the circumstances under which the offense was allegedly committed are to be considered, including both aggravating and mitigating factors for which there is reasonable ground to believe shown, if any;
- (c) The ability to make bail is to be regarded, and proof may be taken upon this point;
- (d) The future safety of the victim may be considered, and if this be a factor, release to a third person should also be considered; and
- (e) The magistrate shall also consider the employment history, residency, family affiliations, prior criminal record, previous court appearance performance and any outstanding bonds of the accused.

(4) At all other times, defendants booked into the County jail on any and all process pending in or issued out of the County Courts at Law, shall be brought immediately before a magistrate who shall determine if probable cause exists for the continued detention of the defendant.

RULE 6.22

Speedy Trial

No Local Rule under this subdivision.

the hearings shall be present and made available at such hearing. All detainees will be deemed to have been taken before a judge either by being physically present or by the use of high-speed two way audio/video transmission technology, if available. In circumstances where audio/video technology is utilized, the entire hearing must be recorded on video tape and maintained by the Court for a period of one hundred twenty (120) days after the hearing.

(2) The magistrate shall perform the following for every person for whom a hearing is conducted:

- (a) Inform the accused in clear, understandable language of the charges against him and of any complaint or information that may have been caused to be filed against him;
- (b) inform the accused of his right to retain counsel, of his right to remain silent; of this right to have an attorney present during any interview with peace officers or prosecutors; of his right to terminate police interrogation at any time; of his right to request the appointment of counsel if he is indigent and that any statement made by the accused can and probably will be used against him at trial;
- (c) determine whether probable cause exists for the further detention of the accused on the charges filed, through the use of live witness testimony, affidavits, the arresting officer's testimony, an analysis of the written offense report, field notes or other reports prepared by the arresting officer;
- (d) enter the basis and results of the findings on the record and have the same included in the papers of the case file maintained by the County Clerk;
- (e) upon a finding that no probable cause exists for further detention the accused shall immediately be ordered discharged from custody, and upon a finding that probable cause for further detention does exist, the magistrate shall set the amount of bail required of the accused for release and determine the eligibility of the accused for release on personal bond, cash bond, surety bond, or other alternative to scheduled bail amounts.

been or will be thereafter filed, or that any motions previously filed are withdrawn or waived and that no necessity for a pre-trial hearing exists, and that the defendant is ready for trial.

(G) Motions for continuance, whether by the State or the defendant, must comply with Chapter 29, Texas Code of Criminal Procedure and must be presented to and considered by the Court on or before the Friday before the scheduled trial date.

(H) Except for good cause shown and upon compliance with these rules, the Court shall not consider any motion for continuance on the scheduled trial date.

- (1) It shall be the duty of the proponent of such motion to obtain a timely setting for hearing said motion with due notice to opposing counsel or party.
- (2) The Clerk shall have no duty to present the motion to the Court.
- (3) A motion for continuance that avers conflicting settings shall have attached to it as exhibits proof of such conflict, including dates of notice of the other settings.
- (4) Failure to attach proof of conflicting settings shall authorize the Court to summarily deny the motion.
- (5) The mere filing of a motion for continuance shall not authorize the absence of counsel or of the defendant at the scheduled setting.
- (6) Failure of counsel or the defendant to appear shall authorize the Court to render the appropriate orders.
- (7) The defendant must consent in writing to a motion for continuance filed by his attorney of record. Failure to contain such written consent shall authorize the Court to summarily deny the motion.

(I) If a court-appointed interpreter is necessary, the attorney for the defendant shall request same in writing at the pre-trial hearing or earlier.

RULE 6.24

Settings/Schedules

Criminal Cases/Speedy Trials

Criminal cases are to be filed, docketed, assigned, and processed pursuant to Rule 3.10 hereof when not in conflict with specialized setting rules.

RULE 6.25

Subsequent Settings

All subsequent settings of misdemeanor cases shall be the specific responsibility of the Court Coordinator or Judge of each County Court at Law. Reset forms provided by the District Attorney with the Courts' consent as to wording shall be signed by defendant, defendant's attorney, Assistant District Attorney and approved by the Court. Reset forms will be used to reset trials, motion hearings, and all other pre-trial hearings including pleas and arraignments.

(1) Bond Reinstatement

When a case is again active because of the reinstatement of a bond, either with or without cost, the Court Coordinator shall enter a seven (7) day setting except when, for some reason, a setting already exists in the system, in which case the date in the system shall remain.

(2) Bench Warrants and Attachment

Such documents shall have a setting date in the body of the document and the Court Coordinator shall set accordingly.

(3) Summons in Lieu of Capias

When a misdemeanor information is taken against a corporation in, for example, a pollution case, the process issued shall be a summons rather than a capias and the summons shall require that the corporation make an appearance at 8:30 A.M. on the first Tuesday next following the expiration of twenty days from the date of service, unless the Court orders a specific date for appearance.

When a summons is used against a defendant in lieu of a capias in a misdemeanor information that is a refile of an earlier filed misdemeanor information, the appearance date on the newly filed case shall be set the same day as the earlier filed case except when the earlier filed case has no setting. In that event, then both cases shall be set at 8:30 A.M. on the first Tuesday next following the expiration of seven (7) days from the date of service, unless the Court orders a specific date for appearance and the setting in the refiled case shall be for arraignment.

(4) Mandate of Abatement

The County Clerk shall notify the County Courts at Law upon receipt of a mandate or order of abatement. The Court may set a hearing twenty one (21) days from the date of order or mandate. The Coordinator shall notify

surety, principal and attorney of record by certified mail of the hearing date.

(5) Mandates of Affirmance and Reversal and Remand

Immediately upon receipt of information from the County Clerk, the Court Coordinator, upon receipt of an order or mandate, shall determine first if the defendant is in the Fort Bend County jail. If the defendant is in jail the case shall be set the next day court is convened. If the defendant is on bond, the County Clerk shall immediately issue a capias for the defendant, provide a seven (7) day setting, and forward the information to the Court. Immediately upon receipt of the information from the Clerk, the Court Coordinator shall notify the attorney of record on appeal, the surety on appeal bond, if one exists, and the appellant by regular mail.

RULE 6.26

Adding Cases to the Daily Docket

(A) Only the Judge or the Coordinator of the Court may approve the addition of a case to the docket.

(B) To request the addition of a case to the court's docket, the requesting a party (District Attorney, defense attorney, Court Clerk, Sheriff, et cetera), shall submit in writing to the Court Coordinator the case number, defendant's name and status (jail or bond), and the reason for the request.

RULE 6.27

Docketing of Misdemeanor Indictments

Upon receipt of a misdemeanor indictment returned by a Fort Bend County grand jury and certification that the cause is to be transferred to the docket of the County Courts at Law, the cause shall be randomly filed and docketed into the County Courts at Law in the manner prescribed by law and in accordance with these Rules. The County Clerk shall endorse the amount of bail upon the papers of the case in accordance with the bail schedule provided by these Rules. The County Clerk shall then issue a capias to the Sheriff of Fort Bend County who shall require a new bond be made in the amount specified in the capias.

RULE 6.28

Docketing of Non-Record Municipal Court
and Justice Court Appeals

(A) All cases transmitted to the County Clerk of Fort Bend County, Texas by municipal and justice courts for the purpose of appeal of misdemeanor convictions shall contain all original papers filed, an appeal bond (unless waived) and a certified transcript of all proceedings had in the transmitting court.

(B) Where the transcript is complete, the de novo appeal shall be set for arraignment at 8:30 A.M. on the first Tuesday following fourteen (14) days from the date of the receipt of the transcript. The Clerk shall forward written notice to the defendant.

(C) Where the defendant is in custody, the de novo appeal shall be set for arraignment on the next date the court is in session.

Filing and Attraction of Municipal
and Justice Court Appeals

Two types of municipal appeals, referred to in the system as MAP's, are distinguished.

City Municipal Appeals and All Others
Including Justice and Non-Record Municipal Cases

- (1) CITY MUNICIPAL APPEALS are filed into the County Courts on a rotation basis and are not attracted to an already pending misdemeanor nor do such cases attract other misdemeanors.
- (2) ALL OTHERS are trial de novo cases and are attracted to other misdemeanors already pending against the same person and, likewise, attract other misdemeanors when pending. These cases are simply new County Court cases.
- (3) Each category attracts additional MAPs in its own category. For example, an appellee/defendant having a City Municipal Appeal pending and who appeals another City case will have the newer appeal filed into the Court where the current appeal is pending.
- (4) An appellee/defendant having any OTHER municipal or JP appeal pending and who appeals another non City case will have the newer appeal filed into the Court where the current appeal is pending.
- (5) Finally, City appeals do not attract ALL OTHER Municipal appeals and ALL OTHER Municipal appeals do not attract City appeals, again, because one is from a court of record and the other isn't.

RULE 6.29

Jury Selection/Voir Dire

No Local Rule under this subdivision.

RULE 6.30

Probation Applications/Deferred Adjudication

No Local Rule under this subdivision.

RULE 6.31

Pre-Sentence Report/Court's Proposed Sentence

Defendants may waive pre-sentence investigation, in writing, signed by both defendant and his/her attorney, with approval of the Court.

RULE 6.32

Judgments/Orders

(A) Upon the conviction or revocation of probation of a defendant, the State shall submit the appropriate judgment and sentence or order of revocation as may be required by law.

(B) Where probation is awarded to a defendant, the District Attorney shall prepare the order of probation containing the conditions of probation, and shall deliver a copy of said order to the defendant.

(C) The State may cause the dismissal of a case by filing a motion to dismiss containing the order of dismissal on the same document. The motion shall specifically state the reason(s) for dismissal. If the defendant is in jail, the filing of the motion to dismiss, the order granting said motion and the delivery of a copy of the order shall be expedited in order to effect the immediate release of the defendant from custody, if the defendant has no other charges pending against him.

(D) Upon acquittal of the defendant, the Court Coordinator shall prepare the appropriate judgment for approval of the Court. If the defendant is in jail, the defendant shall be released from custody immediately after his administrative discharge from the jail, but in no event later than the same day of acquittal, if no other charges or holds are pending against him.

(E) Upon disposition of the cause, the Court Coordinator of the court shall deliver a copy of the final judgment or order to all counsel of record.

(F) If the Court's ruling on a pre-trial motion or trial motion has the effect of causing the dismissal of the cause, such as the suppression of all incriminating evidence or the quashing of an information, counsel for defendant shall submit a proposed order granting the motion, and if the defendant is in jail, he shall be discharged immediately if an order of dismissal is signed by the Court and if there are no other charges pending against him.

(G) If the State certifies that the State will appeal said ruling or order or will seek the reindictment of the defendant, the Court shall not sign an order of dismissal unless the defendant shows that no appeal is timely taken by the State as required by Article 44.01(d), Texas Code of Criminal Procedure, or that there was no reindictment of the defendant within thirty (30) days of the ruling of the Court.

(H) Further, if the defendant is on bail, he shall remain at large on the existing bail bond, if the defendant is in custody, he is entitled to reasonable bail, unless the appeal is from an order which would terminate the prosecution, in which event the defendant is entitled to release on personal bond, see Article 44.01, Texas Code of Criminal Procedure.

RULE 6.33

Restricted Driver Licenses--
Occupational Driver's License

(A) Prerequisites for Issuance

- (1) Operator, commercial or chauffeur license, or any class designation of these licenses, must be suspended as a result of conviction of an offense that makes suspension automatic.
- (2) A valid operator, commercial or chauffeur license, or any class designation of these licenses, must be surrendered to the Court at the time of conviction.
- (3) A verified petition must be delivered to the County Clerk along with a fee deposit to cover statutory required fees.
- (4) The Clerk, upon receipt of the verified petition and accompanying fee, shall docket and number the petition ancillary to the cause and in the Court where the conviction occurred.
- (5) The Clerk shall deliver the filed, docketed, and verified petition to the Judge of the Court where same is filed.
- (6) The Judge of the Court shall set the matter for hearing at a time and day convenient to the Court.
- (7) In the absence of a waiver of notice and issuance approval being executed and filed by the attorney for the State, the Clerk shall send a copy of the verified petition and order setting hearing, to the attorney for the State, and notice of hearing to the petitioner's attorney, and if none, to the petitioner.
- (8) On hearing, the petitioner shall present evidence in support of each and every allegation contained in the petition, and the State may present evidence against granting the petition.
- (9) The Court may grant petitioner use of a motor vehicle and specify the reason for the use, the hours and days of use, the routes or areas to be used, and order the Clerk to forward to the Texas Department of Public Safety the surrendered license. The record of conviction and a certified copy of the order granting petitioner use of a motor vehicle, and order the Texas Department of Public Safety to issue petitioner a restricted license for the duration of the suspension period.

(B) Results of Issuance

- (1) Upon the signing and entry of the order granting petitioner use of a motor vehicle, the Clerk shall furnish a certified copy of the order to the petitioner, at petitioner's expense, and a certified copy of the order may be used as a restricted license for fourteen (14) days following the date of the order.
- (2) Upon receipt of the surrendered license, the record of conviction and a certified copy of the order granting petitioner use of a motor vehicle, the Texas Department of Public Safety shall issue a restricted license reflecting on its face the restrictions imposed by the Court and expiration date.
- (3) A certified copy of the order granting petitioner use of a motor vehicle must be carried by the petitioner at all times while operating a motor vehicle.
- (4) A peace officer, upon request, may examine the order at any time the petitioner is operating a motor vehicle.
- (5) It is an offense to operate a motor vehicle when a certified copy of the order granting petitioner use of a motor vehicle is not carried by the operator.

RULE 6.34

Probation Revocations/Motions to
Adjudicate/Habeas Corpus

(A) Proceedings to revoke probation apply to proceedings to adjudicate guilt.

(B) Motions to revoke probation shall state a summary of the prior proceedings in the cause, including but not limited to the offense alleged in the indictment or information, the date of the said conviction or entry of plea of guilty, and the term of probation.

(C) Upon the arrest of a probationer who fails to make bail within three (3) days of his arrest, the defendant shall appear on the first County Court at Law jail docket thereafter; in all other cases the hearing shall be set by the Court.

(D) For good cause shown upon written motion in compliance with Rule 6.23 (except that the motion may be presented to the Court one business day prior to the set hearing date), the Court may continue a revocation hearing.

(E) The resetting shall be acknowledged by the probationer in writing.

(F) Only the Court in which the defendant was tried may fix or alter conditions or probation, revoke probation or discharge the defendant, unless the Court has transferred jurisdiction of the case to another court with the latter's consent. See Section 5, Article 42.12, Texas Code of Criminal Procedure.

RULE 6.35

Appeals from Lower Courts

No Local Rule under this subdivision.

RULE 6.36

Miscellaneous

(1) General Provisions

(A) These Rules shall be known as the "Local Rules of County Court Practice in Fort Bend County" and may be referred to as the "Misdemeanor Criminal Rules".

(B) These Rules shall be applied to secure the effective administration of the misdemeanor criminal practice in the County Courts at Law of Fort Bend County and to eliminate unjustifiable expense and delay in the disposition of misdemeanor criminal cases.

(C) These Rules shall be liberally construed to achieve fairness to all parties in each case, with due regard to the

rights of the State, the accused, the victim and society.

(D) These Rules shall be subject to the law of the State of Texas and to such rules adopted by higher courts.

(E) Each County Court at Law shall retain its inherent authority to adopt local rules of court not inconsistent with these Rules.

RULE 7
PROBATE CASES

RULE 7.10

Probate Courts/Session

The County Courts at Law of Fort Bend County, Texas setting as Probate Courts shall be deemed in session at all times regarding probate cases as set forth in the Texas Probate Code.

RULE 7.11

Case Assignments

All matters filed in the Courts of Fort Bend County, Texas, shall be assigned a number and court as provided for under assignment of civil cases in these Rules. Once a case number has been assigned and docketed to a particular Probate Court, all matters related thereto including subsequent proceeding upon testamentary trust shall remain in such court unless an Order of Transfer signed by the judge of said court transferring the case is filed with the clerk of the court and the Judge of the Court to whom it is being transferred.

RULE 7.12

Preventing Duplication

In order to prevent the duplication of docketing and assignment of estates, all attorneys for applicants are required to review the estate index records in the probate division of the County Clerk's office prior to the filing of any estate. In the event a docket number has been previously assigned to an estate, all subsequent matters shall be filed under such previously assigned number.

RULE 7.13

Transfer Between Probate Courts

A request to transfer between Probate Courts in Fort Bend County shall be made by the attorney in charge of the party who is seeking a transfer. It shall be the responsibility of the attorney representing the party desiring a transfer to obtain the agreement of the Judges of the Courts from which the transfer is sought and to which the case will be transferred. The Court Coordinator of the court to which the case has been requested to be transferred shall notify the court from which the case is requested to be transferred indicating that a case transfer will be accepted. All case transfer are subject to the discretion of the judge in which the case has been filed.

RULE 7.14

Dismissal Dockets

Each Probate Court in Fort Bend County, Texas shall set for dismissal all contested cases or matters which are not set for trial and which have been on file for more than three (3) years. The County Clerk shall furnish notice to all parties and their counsel that any contested case or matters will be dismissed for want of prosecution pursuant to the provisions of Rule 165a of the Texas Rules of Civil Procedure. The procedures for notice of dismissal and retention shall be in compliance with Rules 165a and 306a of the Texas Rules of Civil Procedure.

RULE 7.15

Ancillary and/or Emergency Proceedings

All proceedings for restraining orders, temporary injunctions, writs of habeas corpus, receivership, temporary administration, temporary guardianship, small estates, or matters involving the payment of small claims without guardianships pursuant to Sections 137 through 144 of the Texas Probate Code, and proceedings for the examination and delivery of the contents of safe deposit boxes or any papers of the decedent pursuant to Sections 36B through 36F of the Texas Probate Code will be heard by the judge of the probate court to which the matter has been assigned and docketed, or if said judge of the court to which the matter is assigned and docketed is not available, then by any judge having probate jurisdiction in Fort Bend County, Texas.

RULE 7.16

Citation, Service and Return

All original, amended, or supplemental citations, notices, writs, process, applications, petitions, and motions shall be served in compliance with the applicable provisions of the Texas Probate Code and, unless otherwise inconsistent, in compliance with the applicable Texas Rules of Civil Procedure. Where the Texas Probate Code does not specify a specific manner of citation and service that may be issued or where the Probate Judge has discretion as to the type of citation and service that may be instituted then the required notice shall be by posting unless the judge of said court requires another type of citation and notice. It shall be the responsibility of the attorney in charge, in this

instance, to ascertain the required citation and service by contacting the appropriate court personnel and when necessary submit to the court an order for notice or citation other than by posting. All citations issued in matters pending before the Probate Courts shall be returned upon execution of service to the County Clerk's office where issued or within ninety (90) days from the date of service was issued. Failure to return citation within ninety (90) days shall not void a subsequent service under such citation

RULE 7.17

Guardianship Hearings

No guardianship of an alleged incompetent person will be heard by the Probate Courts of Fort Bend County, Texas before the expiration of ten (10) days from the date that service of citation has been returned to the clerk.

RULE 7.18

Ad Litem

In all guardianships of incompetent persons and heirship proceedings a motion and order appointing an attorney ad litem shall accompany the application at the time of its filing.

RULE 7.19

Temporary Guardianships and Administrations

All letters of temporary guardianship and administration shall reflect the expiration date and/or the date that the temporary guardianship or administration was originally granted. No letters shall be issued by the clerk on any temporary guardianships that are over sixty (60) days or on temporary

administrations that are over one hundred eighty (180) days after the date of their inception regardless of the date when such proceeding began.

RULE 7.20

Written Interrogatories and Depositions

All written interrogatories and/or depositions of witnesses concerning testimony as to the execution of a will or on any matters where there is no party or attorney upon whom notice may be served must be filed with the court and must have citation issued in compliance with Section 22 of the Texas Probate Code. In addition, all such interrogatory and deposition answers must be filed with the clerk of court prior to the date of any hearing for admission of any will to probate or the presentation of such other matters to the Court.

RULE 7.21

Assignment of Matters Appertaining to
and Incident to an Estate

All proceedings regarding the probate of wills, the issuance of letters testamentary and of administration, the determination of heirship and all claims by or against an estate, all actions for trial of title to land incident to an estate and for the enforcement of liens thereon, all actions for trial of the right of property incident to an estate, all action to construe wills, the interpretation and administration of testamentary trusts, intervivos trusts, and the applying of constructive trusts, and generally all matters relating to the settlement, partition and distribution of estates of wards and deceased persons, and all suits, actions and applications filed against or on behalf of any guardianship, heirship proceedings involving a matter or estate

are not then pending, shall be commenced by filing an appropriate application, petition or motion with the Probate Department of the County Clerk's office of Fort Bend County, Texas, who will simultaneously therewith assign the proceeding to a Court in accordance with the assignment and docketing procedures of Rule 7.11 hereof.

All applications, petitions and motions regarding the probate of wills, the issuance of letters testamentary and of administration, the determination of heirship and all claims by or against an estate, all actions for trial of title to land incident to an estate and for the enforcement of liens thereof, all actions for trial of the right to property incident to an estate, all actions to construe wills, the interpretation and administration of testamentary trusts, intervivos trusts, and the applying of constructive trust and generally all matters relating to the settlement, partition, and distribution of estates of wards and deceased persons, and all suits, actions, and applications filed against or on behalf of any guardianship, heirship proceeding, or decedent's estate, including estates administered by an independent executor where probate proceedings involving a matter are then pending, shall be filed with the County Clerk's office of Fort Bend County, Texas docketed by the clerk under the number of the pending probate proceeding and assigned to the Court in which are pending probate proceeding has been filed.

The provisions of this Rule shall apply to actions by or against an estate or the personal representative thereof,

including, but not limited to, independent executors, community guardians and qualified and unqualified community administrators.

RULE 7.22

Trial Assignments

All contested matters may be set for trial by any party, or the attorney in charge, by requesting a docket setting from the Probate Auditor of the Court in which the matter is pending and serving notice of the date and time of such docket setting upon all opposing party or parties or their attorneys in charge. The Court may at any time require the entry of docket control orders, as well as the filing of a pre-trial order where such is determined advisable by the Court. Any trial setting may be continued only by written agreement of all parties among the papers in the probate proceeding at least one day prior to the day upon which the matter is assigned for trial, or by a written application for continuance that is heard by the Court prior to the date that the matter has been assigned for trial.

RULE 7.23

Jury Settings

Any party, or his counsel, desiring trial by a jury of six persons shall make application therefor and deposit a jury fee with the County Clerk's office of Fort Bend County, Texas as specified by Rule 216 of the Texas Rules of Civil Procedure.

RULE 7.24

Withdrawal and/or Substitution of Counsel

All motions for withdrawal and/or substitution of counsel shall conform to the provisions of Rule 10, Texas Rules of Civil Procedure. In addition, where the attorney in charge has been

requested to withdraw by a qualified personal representative, and such attorney refuses either in writing or by failing to execute or approve a proper motion for substitution of counsel, a motion for substitution of counsel may be presented by new counsel for the personal representative. Such substitution of counsel shall be presented upon motion and order showing good cause; notice that said motion has been filed must be provided by certified mail to the present attorney in charge; the personal representative must show that the attorney sought to be removed has been furnished written notice that his or her services were terminated at least thirty (30) days prior to the filing of such motion; the new attorney seeking to be substituted shall acknowledge his or her agreement to assume responsibility as attorney in charge, together with his or her address, bar number, and telephone number. The Court when presented with such motion may require a formal hearing or may act upon said motion without hearing. When a hearing is not required, the Court shall sign no orders of removal and substitution until ten (10) days following the date such motion was filed.

RULE 7.25

Ancillary Docket Settings

All uncontested matters and hearings on matters of an ancillary nature may be heard at any time at the convenience of the Court. Requests for settings on such matter shall be made to the Probate Auditor of the Court in which the matter is pending.

RULE 8
JUVENILE CASES

RULE 8.10

Juvenile Courts/Session

The County Courts at Law setting as Juvenile Trial Courts shall be deemed in session at all times, regarding all juvenile cases as set pursuant to Title 3 of the Texas Family Code.

RULE 8.11

Filing and Assignment of Cases

The following rules shall govern the assignment of juvenile cases within the jurisdiction of the County Courts at Law of Fort Bend County.

(A) All juvenile proceedings presented to the County Clerk for filing, whether through the district attorney or otherwise, and whether a petition has been filed or not, shall be assigned a permanent file number by the County Clerk on a random basis to the County Courts at Law by means of a blind filing process which provides for the equal distribution of new cases in such a manner that it cannot be determined to which court a case will be assigned until after said court assignment. Except as may be provided otherwise in these Rules, the County Clerk shall randomly assign every juvenile case filed with uneven numbered cases being assigned to the County Court at Law No. 1 and even numbered cases being assigned to County Court at Law No. 2.

(B) After assignment to a particular court, every case, both jury and non-jury, shall remain pending in such Court until final disposition, or transfer.

(C) Any case may be transferred to another court 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; or by order of the Local Administrative Judge of this County. purpose of this transfer may be for either preliminary matters or detention hearings, or for the final disposition for the case.

(D) When an adjudication is made by one of the Courts, either on ancillary matters or on the merits, and the case is terminated (by nonsuit or otherwise), and a subsequent suit or cause of action involving the same child or the same subject matter is filed, the same shall be filed in or transferred to the Court that had original jurisdiction of the parties and the issues.

(E) The District Attorney shall file an original of all pleadings with the County Clerk of Fort Bend County and a copy of all pleadings with the Juvenile Probation Department. The copy shall be clearly marked by the District Attorney "Copy for Attorney in Charge for the Child". Upon application filed with the Juvenile Probation Department, Juvenile Probation shall release to the attorney in charge for the child those copies clearly marked by the District Attorney at no cost.

(F) The District Attorney shall immediately notify the Judge of the Court in which it is filed of the filing of a petition for determinate sentencing or certification as an adult. The County Clerk shall immediately bring to the Court the file when such cases are filed.

RULE 8.12

Submission of Judgments/Orders

All orders and judgments should be presented to the court immediately following a hearing or trial by a Juvenile Court and in all events all orders and judgments must be submitted for the Courts' signature within fifteen (15) days from the date of the hearing unless otherwise specified by the Court.

RULE 8.13

Pre-Trial Conferences

Pre-trial conferences shall be held at such time as the Court shall specify.

RULE 8.14

Docket Settings

All cases shall be set on the docket as prescribed by the Courts.

RULE 8.15

Preferential Settings

Preferential settings on the Contested Docket shall be granted upon the Court's own motion or upon request only in the following cases:

- (1) those entitled to preferential setting by law;
- (2) those in which there are out-of-county parties or witnesses;
- (3) those in which evidence is presented that manifest hardship would be imposed upon any litigant if a preferential setting is not granted; or
- (4) those in which the juvenile is in detention.

RULE 8.16

Uncontested Matters

All uncontested matters shall be set and heard at times suitable to each Court.

RULE 8.17

Assignment of Cases for Trial

All assignment of cases for trial shall be set by each Court.

RULE 8.18.

Appointment of Counsel

(A) Counsel shall be appointed by the Court as required or needed.

(B) Rule 6.13 Appointment of Counsel, as provided in these Rules for appointment of counsel in criminal cases, shall govern in the appointment of counsel in juvenile matters for so long as there is no conflict with the Texas Family Code.

RULE 8.19

Withdrawal or Substitution of Counsel

(A) All motions to withdraw as attorney in charge in a case, whether appointed or retained, must be signed by the attorney and, unless good cause is shown, approved in writing by the client and at least one parent or guardian. All motions for substitution of retained attorneys must be signed by the attorney seeking to withdraw and the attorney seeking to be substituted and the client and at least one parent or guardian.

(B) Granting of motions permitting change in representation shall not be grounds for a continuance.

(C) Appointed attorneys may be withdrawn or substituted on the Court's own motion.

RULE 8.20

Continuances -- Resetting/Postponement

(A) Continuances in a case shall require the consent of the Court. All parties to a suit who desire a continuance prior to the date set for hearing shall reduce their request to writing and submit such request to the Court for approval. It shall be the responsibility of the party requesting the continuance to also request a new hearing date mutually agreeable to all parties, and include the desired new hearing date in the request for continuance.

(B) Cases may be continued and reset on the Court's own motion.

RULE 8.21

Stipulations

Stipulations may be made and accepted with Court's approval.

RULE 8.22

Jury/Non-Jury Trials

These Rules are applicable to both jury and non-jury cases.

RULE 8.23

Time Standards for the
Disposition of Juvenile Cases

In addition to the requirements of Title 3, Texas Family Code:

(A) Detention Hearings

The initial detention hearings shall be held within 48 hours following admission to any detention facility unless same falls on

a weekend or holiday, in which event it shall be held on the next business day of the Court. Detention hearings thereafter shall be set by the Court in which the case is pending to meet the requirements of the Texas Family Code. Detention hearings may be waived in writing, signed by the juvenile and his attorney with approval of the Court. Probable cause to detain may be stipulated in writing, signed by the child and his attorney with approval of the Court.

(B) Adjudicatory and Transfer (Waiver) Hearings

- (1) Concerning a juvenile in a detention facility: Not later than thirty (30) days following admission to such a facility, except for good cause shown of record, a pre-trial conference may be conducted by the Court.
- (2) 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, a pre-trial conference may be conducted by the Court.
- (3) Disposition hearings shall be held not later than fifteen (15) days following the adjudicatory hearing. The Court may grant additional time in exceptional cases that require a 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 interest of the child and of society shall be served.

RULE 8.24

Complex Cases

It is recognized that in especially complex cases or special circumstances it may not be possible to adhere to these standards.

RULE 8.25

Appearance of Parties and Counsel

The attorney or substitute designated is required to be present to answer all docket calls pursuant to Rule 12.11(J). The juvenile and at least one parent or guardian is to be present at each docket call.

RULE 9
JURY MANAGEMENT

RULE 9.10

Management of Juries

No Local Rule under this subdivision.

RULE 9.11

Empaneling Juries

No Local Rule under this subdivision.

RULE 9.12

Miscellaneous

No Local Rule under this subdivision.

RULE 10
JUDICIAL VACATION

RULE 10.10

Judicial Vacation

(A) Judicial vacations and educational events will be scheduled in advance by each Judge, subject to changed conditions.

(B) The Judges of Statutory County Courts may take personal vacation at any time during the year.

(C) Such vacations should be coordinated with the other County Court at Law Judge.

(D) The Judges may take such sick leave as is essential for their health and well being.

(E) Attendance at Judicial Conferences is considered an official duty and as court time.

(F) Attendance at additional education programs and seminars should likewise be coordinated with the other County Court at Law Judge.

(G) Military leave would not be included in normal vacation time.

RULE 10.11

Requests for Visiting Judges

No Local Rules under this subdivision.

RULE 11
NON-JUDICIAL PERSONNEL

RULE 11.10

Non-Judicial Personnel

(A) Each Judge shall control the employees of the Court, including those of other entities who render services directly to each Court under the Constitution, statutes, inherent powers, these Rules, and by tradition, as now established or hereafter amended.

(B) The qualifications for these positions shall be those set forth in the pertinent statutes, in the approved job description or in official joint Court orders.

(C) Each Judge shall be responsible for seeing that his or her non-judicial personnel are prompt and well qualified for their duties.

(D) Non-Judicial personnel should observe the standards of decorum and conduct set forth in the Code of Judicial Conduct.

RULE 11.11

Code of Judicial Conduct

All persons employed by the County Courts at Law in any capacity shall, within the first thirty days of employment, be apprised of the contents of the Code of Judicial Conduct. An acknowledgment shall be executed and signed with at least one witness present. Such completed acknowledgment shall be filed in the personnel file folder of the employee and a copy shall be retained by the employee.

RULE 11.12

Conduct of Non-Judicial Personnel

(A) Each Court Coordinator serves at the pleasure of the County Court at Law Judge or his/her successor in office.

(B) The Court Coordinator and related staff will perform such administrative duties as may be assigned to them by the respective County Court at Law Judge.

(C) The Court Coordinator will not perform any judicial (as opposed to administrative) function.

(D) Each Judge pursuant to his County approved budget, will appoint appropriate staff, and support personnel according to the needs in each Court including a bailiff, who may be a deputy sheriff and who shall be present at all times while the Court is in session or in recess, unless excused by the Judge.

(E) No duties shall be assigned to the bailiff except upon approval by the Judge of such Court.

RULE 11.13

Duties of Non-Judicial Personnel

No Local Rule under this subdivision.

RULE 12
ATTORNEYS OF RECORD

RULE 12.10

Appearance of Counsel; Attorney in Charge

No Local Rule under this subdivision.

RULE 12.11

Conduct and Decorum of Counsel

(A) Each day the Court is engaged in hearing a matter, the Court shall be opened by the bailiff directing all court officials and spectators to their seats.

(B) In reconvening after recess, the bailiff shall cause all persons to be seated before the Judge enters.

(C) The bailiff shall see that the flag of the United States and the flag of the State of Texas are properly and prominently displayed at some convenient place in the courtroom.

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

- (1) No smoking or use of 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.

(E) In addressing the Court, lawyers shall rise and remain standing at their positions at counsel table.

(F) Lawyers shall not approach the bench or witnesses except with permission or on request of the Court.

(G) Lawyers shall not lean on the bench, sit on rails or tables, or appear to engage the Court in a confidential manner.

(H) All male lawyers shall wear coats and ties while in attendance of the Court, unless otherwise permitted by the Court.

(I) Lawyers shall advise their clients and witnesses of the formalities of the Court.

(J) The lawyers, the Judge, and all other officers of the Court shall be prompt at all sessions and in the dispatch of all court business. In the event a lawyer is late or unable to attend same, he shall immediately notify the Coordinator of the court, advising: (1) specific reason(s) for the late appearance or non-appearance; (2) if late, the approximate time he expects to be in Court; and (3) if unable to attend, a recommended day and time to reschedule the pending matter. A violation of this rule by court-appointed attorneys will be grounds to remove the court-appointed attorney and a new attorney appointed immediately. A violation of this rule by retained attorneys are subject to Court imposed sanctions.

(K) All counsel are admonished to respect the letter and that spirit of all rules and ethics, including, particularly, those dealing with discussion of cases with the Court outside of the courtroom and not in the presence of opposing counsel.

(L) The Court shall enforce the same by appropriate action.

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

(N) Once an attorney has entered the courtroom and appeared before the Court, he shall not leave without obtaining permission from the Court.

RULE 12.12

Withdrawal of Counsel

(A) Governed by Rule 10, Texas Rules of Civil Procedure and Rule 6.15 hereof.

(B) Leave to withdraw may be denied where the motion is presented so near the trial date as to require delay of the trial.

RULE 12.13

Attorney Vacations

(A) In civil cases not specially set, an attorney may not be put to trial for a period not to exceed four (4) periods of one week or less, which may be consecutive, in a given year if he has, in writing, filed with the appropriate clerk of the county of his residence, with a copy to the appropriate clerk of any other county where he has pending cases, notice of his vacation period, at least sixty (60) days in advance. Vacation may be taken in the months of June, July and August of each year, and other times must be with prior approval of the Court.

(B) This shall not be grounds for resetting cases already set.

(C) At his discretion, a Judge may recognize additional time for designated vacation.

(D) In the event an attorney already has a setting at the time the vacation notice is filed, it shall be the attorney's responsibility to notify opposing counsel and the Court Coordinator and either file an agreed reset or motion for continuance and obtain a ruling by the Court.

RULE 13
ADMINISTRATIVE LAW CASES

RULE 13.10

Administrative Law Cases

No Local Rule under this subdivision.

RULE 14
MISCELLANEOUS LOCAL RULES

RULE 14.10

Settlement Week

No Local Rule under this subdivision.

RULE 14.11

Form for Submitting Court Costs

No Local Rule under this subdivision.

RULE 14.12

Form for Requesting
Alternate Dispute Resolutions

No Local Rule under this subdivision.

RULE 14.13

Miscellaneous

No Local Rule under this subdivision.

RULE 15
ADOPTION, AMENDMENT, NOTICE

RULE 15.10

Procedure for Adoption and
Amendment of Local Rules

(A) These Rules were APPROVED AND ADOPTED by the Board of Trial Judges of Fort Bend County, Texas on the 26th day of May, 1992.

(B) These Rules will become effective on the 1st day of June, 1992 or upon approval by the Supreme Court of Texas pursuant to Rule 3a, Texas Rules of Court, whichever comes later and will be reviewed from time to time by the Board of Judges of Fort Bend County, Texas

RULE 15.11

Notice and Publication of Rules

No Local Rule under this subdivision.

RULE 15.12

Interim Orders Affecting Local Practice

No Local Rule under this subdivision.

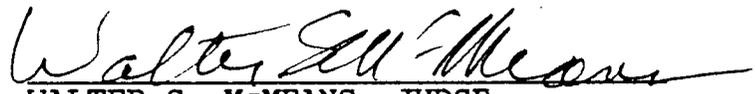
RULE 15.13

Local Practices Not Published in these Rules

No Local Rule under this subdivision.

These Rules were APPROVED, ADOPTED and SIGNED by the County Court at Law Judges of Fort Bend County, Texas on this 28 day of May, 1992.


LARRY WAGENBACH, JUDGE
County Court at Law No. 1


WALTER S. McMEANS, JUDGE
County Court at Law No. 2