

ORDER OF THE SUPREME COURT OF TEXAS

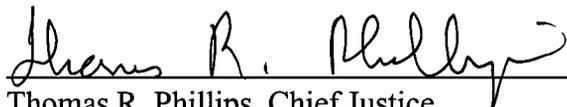
Misc. Docket No. 99-9069

Approval of Local Rules of the Family District Courts of Dallas County

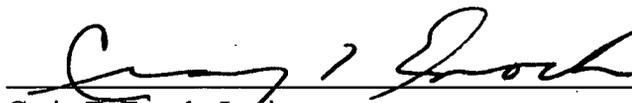
IT IS ORDERED that:

Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court of Texas approves the attached Local Rules of the Family District Courts of Dallas County, Texas. The approval of these rules is temporary pending further orders of the Court.

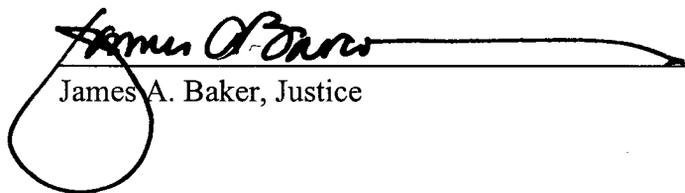
By the Court, en banc, in chambers, this 11th day of May, 1999.

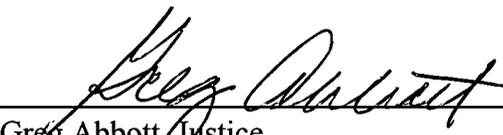

Thomas R. Phillips, Chief Justice


Nathan L. Hecht, Justice


Craig T. Enoch, Justice


Priscilla R. Owen, Justice

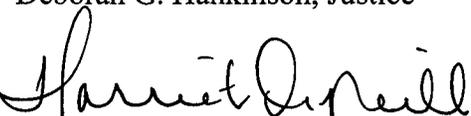

James A. Baker, Justice



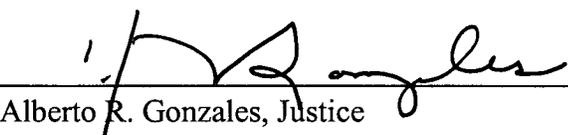
Greg Abbott, Justice



Deborah G. Hankinson, Justice



Harriet O'Neill, Justice



Alberto R. Gonzales, Justice

**LOCAL RULES OF
THE FAMILY DISTRICT COURTS OF
DALLAS COUNTY, TEXAS**

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PART I: FILING, ASSIGNMENT AND TRANSFER

1.01 Random Assignment to Family Courts

Except as provided in 1.02, the following cases shall be docketed numerically in order of filing and assigned in random order to the 301st, 302nd, 303rd, 330th, 254th, 255th and 256th District Courts (and Courts hereafter created giving preference to Family Law matters): divorce, annulment, suit to declare a marriage void, suits affecting the parent-child relationship concerning paternity/legitimation, managing conservatorship, termination and adoption, possessory conservatorship, possession and access to a child, support for a minor or disabled child, actions for breach, enforcement or interpretation of an agreement incident to divorce and/or decrees of divorce, pre-marital and partition agreements, protective orders (other than those filed by the District Attorney), uniform interstate family support cases, and all other cases arising under the Texas Family Code when there is no court of continuing jurisdiction, and all matters incident to or originating from such cases including suits for attorneys fees.

1.02 Random Assignment to Juvenile Courts

When there is no court of continuing jurisdiction, the following cases shall be docketed numerically in order of filing and assigned in random order to the 304th and 305th District Courts (and district courts hereafter designated to handle juvenile matters): protection of children in an emergency, removal of infant from hospital, juvenile name change, minority disability removal, delinquency, children in need of supervision and, when Petitioner is the Texas Department of Protective & Regulatory Services, suits affecting the parent-child relationship concerning Managing Conservatorship, Paternity/Legitimation, Termination or Adoption.

1.03 Assignment to Court of Continuing Jurisdiction

If there is a court of continuing jurisdiction, all requests or petitions for further action, including but not limited to modification, habeas corpus, contempt or enforcement, clarification, protective orders or other relief under the Texas Family Code, shall be filed in the court of continuing jurisdiction.

1.04 Bills of Review:

Every suit or proceeding in the nature of a bill of review or otherwise, which seeks to attack, avoid or set aside any judgment, order or decree of a Family District Court of Dallas County, shall be assigned to the Court in which such judgment, order or decree was rendered.

1.05 Ancillary Proceedings

Every ancillary action suit shall be assigned to the Family District Court to which the matter is ancillary. Every garnishment, turnover or other collection remedy after judgment or any action arising out of a decree/judgment or Agreement Incident to Divorce shall be filed in the Family District Court which rendered the judgment upon which the action is founded.

1.06 Cases Subject to Transfer

a. Every motion for transfer, consolidation or joint hearing of two or more cases under Rule 174(a), Texas Rules of Civil Procedure, shall be filed in the earliest filed case. The Motion shall have the cause number and style of each applicable case. Notice of the hearing shall be given to all parties in all actions pursuant to Texas Rules of Civil Procedure 21 and 21a. If granted, the other District Court or Family District Court shall enter an order transferring all other actions into the earliest filed case, except in situations where a SAPCR is pending and a subsequent divorce is filed involving a parent of a child of the SAPCR. Upon motion, the SAPCR action shall be transferred and consolidated into the divorce action, in which case the transfer or consolidation shall be done pursuant to the Texas Family Code.

b. If any action is dismissed by any party or the Court, and is refiled within one hundred eighty (180) days of the date of dismissal and assigned to a different Court, either party or the Court may move within thirty (30) days of the filing of an answer to transfer the case to the first Court and, upon hearing, the transfer shall be granted.

1.07 Cases Transferred to Dallas County

Whenever a case is transferred to Dallas County by a Court of another county, and the order of transfer specifies the particular court to which the case is transferred, such specification shall be disregarded and the case shall be assigned in the manner provided in Part I of these rules.

1.08 Severed Cases

Whenever a motion to sever is granted, the severed claim shall be filed as a new case in the same Court and shall be assigned a new cause number by the District Clerk. A filing fee is required as in all new cases and the attorneys must provide copies of the severed pleadings at the time of filing.

PART II: EX PARTE ORDERS

2.01 Presenting Ex Parte Orders

All applications for ex parte orders shall first be presented for determination to the Court (Associate Judge) in which the case is pending, and only if the Court is unavailable to promptly review same may it be presented to another Court.

2.02 Certificates to Ex Parte Orders

Prior to presentment, all applications for ex parte orders shall certify in writing, signed by the party or attorney, one of the following:

I hereby certify as follows: (check off and fill in blanks as required)

- ____ 1. To the best of my knowledge, there is no attorney of record representing any opposing party at this time; or

_____ 2. Prior to presenting this matter to an Associate Judge for approval, I contacted all attorneys of record, transmitted a copy of the pleadings and proposed order in this matter, and notified them that I was requesting such ex parte relief, and:

- _____ A. After conferring, no attorney of record wishes to be heard prior to the presentment of this request for ex parte relief; or,
- _____ B. We were unable to reach an agreement, at which time I notified all attorneys of record that I would present this matter to the Associate Judge at _____ (time) on _____, ____, (date) in the _____ (court) and invited them to attend and be heard prior to signing; or,
- C. I was unable to speak with the opposing attorney(s) and I left word with a staff person for each attorney that I would present this matter to the Associate Judge at _____ (time) on _____, ____ (date) in the _____ (court) and invited them to attend and be heard prior to signing; or,
- D. After diligent attempts, I was unable to reach the opposing attorney(s) and was further unable to leave any message with counsel's office regarding the presentment of this matter to the Associate Judge.

For purposes of this rule, representation of prior counsel ends upon the entry of a final order.

PART III : SETTING HEARINGS

3.01 Certificates of Conference

No motion or special exceptions, other than those listed in Rules 3.03, 3.04 and 3.06, will be set for hearing until the moving party shall first communicate with opposing counsel to determine whether a contemplated motion will be opposed. If not opposed, the moving party shall accompany the motion with a proposed order signed by all counsel indicating approval of same. If the motion will be opposed, the following certificate shall be attached to the motion and signed by the attorney in charge (or party pro se):

CERTIFICATE OF CONFERENCE

I, the undersigned attorney (or party pro se), hereby certify to the Court that:

- ____ 1. I have conferred with opposing counsel in an effort to resolve the issues contained in this motion without the necessity of Court intervention, or

- ____ 2. At _____ (time) on _____ (date), I attempted to reach opposing counsel and left a specific message that the purpose of my call was to attempt to resolve the issues contained in this motion without the necessity of Court intervention or could not leave a message because _____

Such efforts have been unsuccessful, and it is necessary to set a hearing on this motion.

3.02 Motions/Orders Requiring Associate Judges' and Judges' Signatures

The following documents require the approval of an Associate Judge and original signature of a Judge (but no certificate of conference) before it can be set by the Court Clerk/Administrator for hearing:

- a. Show cause order on contempt;
- b. Order granting a writ of habeas corpus;
- c. Motion to modify filed within one year;
- d. Any motion to modify in which a request for temporary orders is made at the time the motion to modify is filed;
- e. Writ of attachment;
- f. Writ of garnishment;
- g. Application for any kind of injunctive relief;
- h. Application for protective order;
- I. Order Extending TRO;
- j. Motion for continuance; and
- k. Motion to reinstate

3.03 Notice For All Other Hearings

The following form should be used to set hearings on all matters (except as otherwise required by law):

Notice of Hearing

The above motion is set for hearing on the Associate Judge's/Judge's docket of the _____ Judicial District Court at _____ o'clock __.m. on the _____ day of _____, _____.

CLERK/ADMINISTRATOR OF COURT

By the Clerk's/Administrator's stamped signature, on the above Notice of Hearing, the Court Clerk/Administrator shall set the following matters for hearing, without a Judge's signature, Associate Judge's approval or certificate

of conference:

- a. Motion for summary judgment;
- b. Rule 13 motions for sanctions;
- c. Motion to show authority;
- d. Motion to extend TRO;
- e. Motion to transfer venue;
- f. Special appearance;
- g. Plea in bar;
- h. Plea to the subject matter jurisdiction of the court;
- I. Motion for new trial or to correct, modify or amend an order;
- j. Motion for rehearing;
- k. Appeal from associate judge's recommendation;
- l. Motion for entry of order, with order sought attached if transmittal letter provided;
- m. "Trial motions" (Motion in limine; motion affecting order of proceeding; motion related to strikes or challenges of jurors);
- n. Motion for temporary orders; and
- o. Motion for pretrial hearing

3.04 Removal/Reset of Hearings

A party or counsel setting a non-final or non-special set hearing may remove or reset such setting only (1) upon agreement of all opposing sides or (2) after reasonable notice to all opposing sides per Texas Rules of Civil Procedure Rule 21. Failure to comply with this rule may result in costs being assessed.

3.05 Final Hearings

- a. A Clerk/Administrator may set final hearings on the merits without a certificate of conference or fiat.
- b. Any person who obtains a setting for a final hearing before a District Judge or Associate Judge shall have the duty to send all opposing parties

written notice of such setting within two (2) business days of the date they obtained such setting. This rule does not change the obligations for notice in the Texas Rules of Civil Procedure, including but not limited to Rules 12, 21, 21a, 166a and 245.

3.06 Specially Set Case

Cases specially set shall take precedence over all other matters in all other Family District Courts, except matters entitled to preference by law and matters commenced but not completed in the preceding week. Other engagements of counsel or parties shall not be grounds for postponement of a case specially set, unless good cause is shown on a timely filed motion. No more than one case shall be specially set for any particular docket call. No party shall specially set a case that conflicts with another court setting of said party or his attorney. If a person with a special setting obtains a subsequent setting which conflicts with such special setting, that person must, within two (2) business days, notify the court setting the latter matter and opposing party of the conflict.

3.07 Motions To Be Heard Ten Or More Days Before Trial

Dilatory pleas, special exceptions and other motions or exceptions (excluding motions in limine and other trial motions) shall be heard no less than ten (10) days before the date on which the case is set for final hearing, provided that the pleadings to which same are directed are on file.

PART IV SPECIAL EXCEPTIONS

4.01 Special Exceptions

The Court shall deny special exceptions complaining of a pleading which sets out its cause of action using language consistent with the Texas Family Code.

PART V PRE-TRIAL CONFERENCE

5.01 Purpose of Pre-Trial Conference

Counsel or parties pro se will be expected at pre-trial 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. Failure to conform to this rule shall be ground for postponement of the trial, setting of further pre-trial hearings, or other appropriate action.

5.02 Who Shall Attend Pre-Trial Conference

Counsel attending the pre-trial shall either be the attorney in charge or shall be familiar with the case and be fully authorized to state the party's position on the law and the facts and to make stipulations of fact. Counsel may not send to pre-trial in his stead a legal assistant, paralegal, investigator, secretary or other non-attorney. Parties appearing pro se must attend pre-trial in person.

5.03 Consequences For Failure To Attend Pre-trial Conference

When counsel or a party pro se, after notice, fails to appear at pre-trial the Court may:

- a. Rule on all motions, dilatory pleas and exceptions in absence of such person;
- b. Declare any motions, dilatory pleas, or exceptions of such absent party waived;
- c. Advance or delay the trial setting according to the convenience of persons present;
- d. Pass and reset the pre-trial;

e. Decline to set the case for trial, cancel a setting previously made, and/or

f. Dismiss the case for want of prosecution or grant a default judgment, if attorneys were ordered to appear, especially where there has been a previous failure to appear or where no amendment has been filed after exceptions were previously sustained.

g. Grant sanctions or other relief.

PART VI DISCOVERY

(Reserved for expansion)

PART VII ANNOUNCEMENT FOR TRIAL

7.01 Appearance At Docket Call

Docket call is the trial setting. In all contested matters set for final hearing, at the time of docket call for a particular week, all counsel or parties present are required to appear at docket call and make their announcements to the Court concerning their readiness for trial unless they have previously appeared at the pre-trial and received a specific date and time for trial. Any unqualified announcement of "ready" or "ready subject to" another court engagement shall be made to the Judge, or if so instructed by the Judge, to the Court Coordinator.

7.02 Continuances

Every ground for postponement or continuance shall be brought to the Court's attention at or before the docket call on the date the case is set for trial. No request for pass, postponement or reset of any trial, pre-trial, or other hearing shall be granted unless counsel for all parties involved consent, or unless all parties not joining in such request or their counsel have been notified and have had opportunity to object; provided however, that failure to make an announcement at docket call shall be taken as consent to pass, postpone, reset or dismiss for want of prosecution any case set for trial the following week. All motions for continuance shall be presented in the form and manner provided by the Texas Rules of Civil Procedure.

7.03 Appearance For Non-Final Matters

For all non-final matters and cases set on either the Judge's daily docket or Associate Judge's docket, all parties and counsel shall appear at the time and place set for the hearing and make their announcement as provided in 7.01. Failure to appear shall be treated as failure to announce under 7.02.

7.04 Conflicting Engagement Of Counsel

- a. Where counsel for either party has a conflicting trial or appeal setting, the Court may hold the case over until the trial or appeal has been completed.
- b. If counsel is engaged in trial or appeal in another court, counsel shall be obligated to advise the clerk of the Court in which he is set for trial or which is holding the case over of counsel's availability immediately upon completion of such other trial or appeal.
- c. Mediation settings confirmed by letter from the Mediator and presented to the Court at docket call should take precedence over all cases except those cases previously given a special setting.

PART VIII DISMISSAL FOR WANT OF PROSECUTION

8.01 Actions Resulting In A Case Being Dismissed For Want Of Prosecution

- a. Failure of a party to request a setting or take other appropriate action after notice from the Court Administrator that the case has been pending without action for more than 180 days, provided that upon giving the first notice (which shall be at least 30 days in advance of the date set for dismissal) of intent to dismiss for want of prosecution, the Court shall remove the matter from its dismissal docket if counsel for either side does contact the Court in person.
- b. Failure of moving party or his counsel to appear for trial, pre-trial or other preliminary hearing.
- c. Failure to comply with Rule 8.02; or
- d. For any other reason provided for by these rules and/or the Texas Rules of Civil Procedure.

Subject to other provisions of these rules, the Clerk shall mail a written notice of such dismissal to all parties or their counsel of record.

8.02 DWP After Rendition Or Announced Settlement

Unless ordered otherwise, within thirty days after rendition or an announced settlement by the parties, they shall cause decisions or settlements of any kind to be reduced to writing. Upon failure to furnish the Court Clerk/Administrator with such a judgment or order finally disposing of a case, or to request extension of the filing or to set a motion for entry, the Court shall enter an order of dismissal without prejudice with costs taxed at the Judge's discretion.

The Court will not sign an order that does not contain either the signature of all attorneys as to form or proof of notice that said order has been presented to all attorneys of record requesting same to file written objections within ten (10) days.

PART IX WITHDRAWAL/ SUBSTITUTION OF COUNSEL

9.01 Circumstances Under Which Attorney May Withdraw

No attorney of record shall be permitted to withdraw from any case without presenting a motion and obtaining from the Court an order granting leave to withdraw pursuant to Texas Rules of Civil Procedure 10. The letter required under TRCP shall be sent to the client advising that the client has ten (10) days after the date of mailing the letter to make any objection to such withdrawal to the Court, in writing, and that if not done and no objection raised, the motion shall be granted. A copy of the motion shall be delivered or mailed to opposing counsel. No such motion shall be presented within thirty (30) days of the trial date or at such time as to require delay of the trial. After leave is granted, the withdrawing attorney shall send his client, the Court and opposing counsel a letter notifying of the last known mailing address of his client and of any settings. Notice to the client shall be by certified and regular mail.

9.02 Attorney Substituting For Prior Attorney

If an attorney is substituting in as new counsel or attorney in charge for a party, the Court shall sign an order withdrawing the prior attorney in charge and substituting in the new counsel. Upon the filing of a motion requesting such relief signed by the party and the attorney substituting in as attorney in charge, the motion and order must be sent to all opposing parties and to the former attorney in charge, pursuant to Texas Rules of Civil Procedure 21 and 21a.

PART X INFORMATION FROM CLERK

10.01 Information The Court Clerk Will Not Provide To Parties or Counsel

- a. The Court Clerk will not state whether a case has been filed.
- b. No information will be given on a case unless a case number is known and provided. If the party or counsel does not know the case number, they will be referred to the public terminals in the records department of the District Clerk's Office.

10.02 Information The Court Clerk Will Provide To Parties Or Counsel If A Case Number Is Given

- a. What action is on file, the date of filing, the names addresses and telephone numbers of all attorneys in charge, and the specific court to which the case is assigned;
- b. Returns of service and the dates of such returns;
- c. Correct style of a case;
- d. Any settings in a case.

10.03 Court Clerk/Administrator Will Take Messages For The Judge

The Court Clerk/Administrator shall take and timely deliver

messages, including those related to an attorney being delayed for an appearance, and shall promptly notify the Judge of same.

PART XI FILING OF PLEADINGS

11.01 Pleadings Must Be Titled and Have Holes Punched

All pleadings, motions, orders and other papers, including exhibits attached thereto, when offered for filing or entry shall comply with TRCP Rule 45 and shall be descriptively titled and pre-punched at the top of the page to accommodate the Clerk's 2 3/4" center -to-center flat-filing system. Each instrument shall, at the bottom of each page, be numbered and titled, i.e. Petitioner's Original Petition - page 2. Motions shall be separate documents from orders and judgments. The Clerk may not sign or amend any instrument for a party or attorney.

11.02 Use of Fax Machines

Any party pro se or attorney who does not have a fax machine but who uses one to send correspondence to the other party or parties must indicate the number of the facsimile machine they are using, and they shall thereafter in the case be deemed to have designated such fax number as a number for receiving same.

PART XII ACCESS TO FILES

12.01 No Part Of A File Can Be Removed From Court

No pleadings or paper belonging to the files of the Court shall be taken from the office or custody of the Clerk, except upon order of the Court or with the Court's permission.

12.02 Order Limiting Access To A File

Any party or attorney may obtain an order limiting access to the files in any pending action by applying to the Court in which the action is filed and upon showing good cause for such action, the motion shall be granted. Upon the entry of an order limiting access to a file, the Clerk shall comply with the order and shall prevent all persons, except those therein designated, from having access to the file.

PART XIII ATTORNEYS

13.01 Ad Litem Entitled To All Pleadings

When the court appoints a guardian or attorney ad litem, all counsel shall provide such appointee with copies of their pleadings, orders, and reports filed with the Court, within five days (5) of notice of the appointment.

13.02 Appointment Of Mediator

In a case selected for mediation, the Court encourages parties to choose their own mediator. The Court, if requested, shall appoint an attorney-mediator who has substantial family law litigation experience.

13.03 Lawyers Creed And Code of Judicial Conduct

Counsel and parties shall treat the Court, court personnel, each other and trial participants in a manner consistent with the Texas Lawyers Creed.

The Court and court personnel shall treat attorneys, parties and trial participants in a manner consistent with the Texas Code of Judicial Conduct.

13.04 Vacation Letters

Each attorney in charge shall have the right to designate vacation

days and days of continuing legal education provided he notifies the clerk of the court and all opposing counsel in writing by separate letters in each case at least ten (10) days, prior to such designated dates, and provided said dates do not conflict with a current setting for trial, hearing, deposition, inspection, mediation or discovery deadline in the case. During the dates designated in said letter, opposing parties shall not set any matter for hearing in the case and any such setting is void. If a true emergency situation exists, the Court may grant ex parte emergency relief during the designated time period.

13.05 Pro Se Litigants

Rules for attorneys apply equally to pro se litigants.

All requirements of these rules applicable to attorneys or counsel apply with equal force to pro se litigants. Pro se litigants are required to provide addresses and telephone listings at which they can be reached by court personnel and opposing counsel. Failure to accept delivery or to pick up mail addressed to the address provided by pro se litigants will be considered constructive receipt of the mail or delivered document which may be established by postal service receipt, certified or registered mail receipt, or comparable proof of delivery.

PART XIV COURTROOM DECORUM

14.01 Attorneys To Inform Client Of Proper Courtroom Decorum

All attorneys shall be responsible for advising their clients and witnesses of appropriate courtroom conduct, attire, and policy regarding children.

14.02 Pagers, Beepers and Telephones

Pagers, beepers, and telephones should be turned off when a person is in the courtroom. If the beeper can be on without making a sound (except the vibration) it may remain on if kept in that mode. Failure to follow this rule may result in forfeiture of the device emitting sound.

14.03 Appropriate Dress For Court Appearances

The following shall not be acceptable in the courtroom: hats, bandannas or other headgear, shorts, bare midriffs, tank tops, tattered or dirty clothing.

14.04 Conduct In The Courtroom

A. No magazines, newspapers or other such reading material may be read in the courtroom while court is in session.

B. There will be no eating, drinking or chewing gum in the courtroom unless the Court has expressly stated otherwise.

C. There will be no outbursts, disturbances, threats, obscene language, or gestures. Violation of this rule shall result in immediate expulsion and/or direct contempt.

14.05 Children In The Courtroom

No child is to be brought to the courthouse unless the Judge or Associate Judge has specifically requested the child be brought at a time certain for interview or testimony.

14.06 Consequences Of Violating Rules Under Part XIV

Violation of the courtroom decorum rules of Part XIV will result in immediate expulsion of the person who is violating the same. They will not be permitted to return until they have conformed to these rules. Such expulsion will not be grounds for a continuance or delay, and the case will proceed.

PART XV RULES

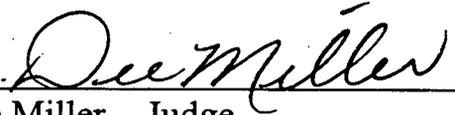
Rules 15.01

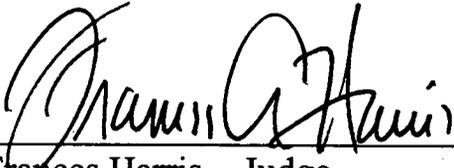
These local rules shall supersede any other local rules and shall constitute the Local Rules of Practice for the Family District Courts of Dallas County, Texas, as adopted by the seven (7) Family District Courts but shall not in

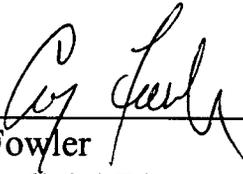
anyway supercede or pre-empt any standing order promulgated by any Family District Judge as to a particular policy of that court.

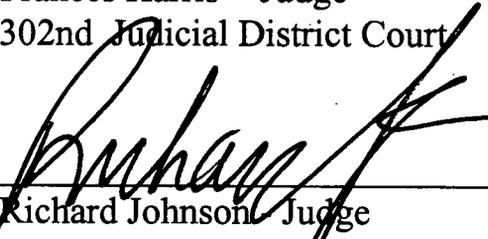
SIGNED this _____ day of _____, 1998.

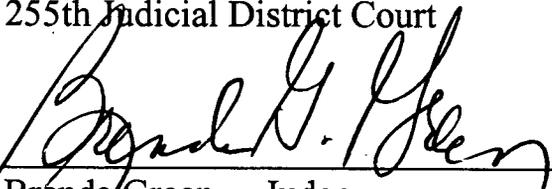
APPROVED and RECOMMENDED:


Dee Miller - Judge
254th Judicial District Court


Frances Harris - Judge
302nd Judicial District Court


Craig Fowler
255th Judicial District Court


Richard Johnson - Judge
303rd Judicial District Court


Brenda Green - Judge
256th Judicial District Court


Theo Bedard - Judge
330th Judicial District Court


Susan Rankin
301st Judicial District Court

First Administrative Judicial Region

PAT McDOWELL

Presiding Judge

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August 12, 1998

Honorable Tom Phillips
Chief Justice
Supreme Court of Texas
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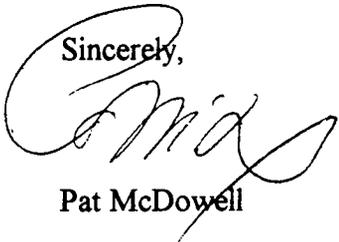
Re: Dallas County Family Court rules

Dear Chief:

I am enclosing a copy of the local rules adopted by the family courts in Dallas County, which I have approved for your consideration.

Thank you again.

Sincerely,



Pat McDowell



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

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DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

May 11, 1999

Hon. Bill Rhea
Admin. Judge and Judge
162nd District Court
600 Commerce Street
Dallas, Texas 75202

Dear Judge Rhea,

Please find enclosed, a copy of the order of the Supreme Court that approved local rules for the Family District courts of Dallas County.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Pat McDowell
1st Admin Judicial Rgn

Hon. Dee Miller
Hon. Craig Fowler
Hon. Brenda Green
Hon. Susan Rankin
Hon. Frances Harris
Hon. Richard Johnson
Hon. Theo Bedard

District Clerk

County Clerk

Supreme Court Adv Committee

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