

ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 99-9091

**Approval of Local Rules of the
Civil Courts of Dallas County**

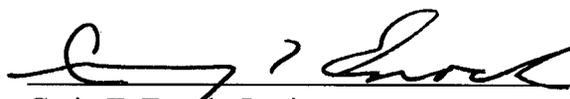
IT IS ORDERED that:

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

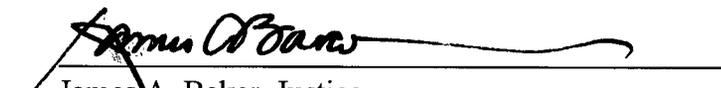
By the Court, en banc, in chambers, this 12th day of May, 1999.


Thomas R. Phillips, Chief Justice


Nathan L. Hecht, Justice


Craig T. Enoch, Justice


Priscilla R. Owen, Justice

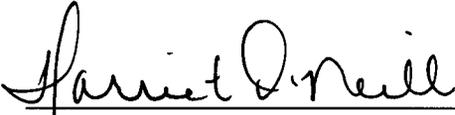

James A. Baker, Justice



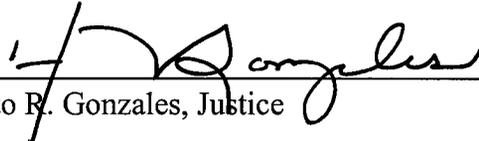
Greg Abbott, Justice



Deborah G. Hankinson, Justice



Harriet O'Neill, Justice



Alberto R. Gonzales, Justice



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of
THE CIVIL COURTS OF DALLAS COUNTY

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DALLAS CIVIL COURT RULES

PART I - FILING, ASSIGNMENT AND TRANSFER

1.01. RANDOM ASSIGNMENT

All civil cases filed with the District Clerk shall be filed in the Civil District Courts in random order. (source 1.1(a))

1.02. COLLATERAL ATTACK

Every proceeding seeking to attack, avoid, modify, or set aside any judgment, order or decree of a Civil Court of Dallas County shall be assigned to the Court in which such judgment, order or decree was rendered. (source 1.1(b); modified)

1.03. ANCILLARY PROCEEDINGS

Every proceeding ancillary to a civil action shall be assigned to the Court in which the suit to which the proceeding is ancillary is pending. (source 1.1(c); modified)

1.04. MOTION TO CONSOLIDATE

Every motion for consolidation or joint hearing of two or more cases under Texas Rules of Civil Procedure ("TRCP") Rule 174(a), shall be filed in the earliest case filed with notice to the later filed Court and all parties in each case. (source 1.1(e))

1.05. TRANSFER BY LOCAL ADMINISTRATIVE JUDGE

The Local Administrative Judge may, upon request of a Court, transfer any case from that Court to any other Court having subject matter jurisdiction of the case. The selection of the transferee Court shall be by random or serial selection. (source 1.1(f)(1); modified)

1.06. RELATED CASES

Whenever any case filed in Dallas County is so related to another case previously filed in or disposed of by another Court of Dallas County having subject matter jurisdiction that a transfer of the later case to such other Court would facilitate orderly and efficient disposition of the litigation, the Judge of the Court in which the earlier case is or was pending may, upon

notice to all affected parties and Courts and hearing, transfer the later case to such Court.
(source 1.1(f)(2))

1.07. CASES SUBJECT TO TRANSFER

The following types of cases shall be subject to transfer under Local Rule 1.06:

a. Any case arising out of the same transaction or occurrence as an earlier case, particularly if the earlier case was dismissed by plaintiff before final judgment.

b. Any case involving a plea that a judgment in the earlier 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 judgment or a determination of its effect.

c. Any suit for declaratory judgment regarding the alleged duty of an insurer to provide a defense for a party to the earlier suit.

d. Any suit concerning which the duty of an insurer to defend was involved in the earlier suit. (source 1.1(f)(2))

1.08. DISCLOSURE REGARDING CASES SUBJECT TO TRANSFER

The attorneys of record for the parties in any case within the categories of Local Rule 1.07 must notify the Judges of the respective Courts in which the earlier and later cases are assigned of the pendency of the later case. The attorney filing a case that is so related to another previously filed case shall disclose in the original pleading or in a separate simultaneous filing that the case is so related and identify by style, case number and Court the related case. If no such disclosure is made, the signature of the attorney filing the case on the original pleading shall be that attorney's certification that the case is not so related to another previously filed case. The attorney answering any filed case shall point out in the original defensive pleading or in a separate simultaneous filing any failure of the attorney filing the case to have made a proper and accurate disclosure. In the absence of any such plea, the signature of the attorney filing the original defensive pleading shall be that attorney's certificate either that the disclosure of the attorney filing the case was accurate, or, if no disclosure was made by the attorney filing the case, that the case is not so related to a prior filed or disposed of case. (source 1.1(f)(3); modified)

1.09. SEVERANCE

Whenever a motion to sever is sustained, the severed claim shall be filed as a new case in the same Court and shall be given the next number available at the filing desk in the office of the Clerk. Unless otherwise ordered, the Court assignment otherwise designated by that

number shall be disregarded. Before the severed claim is assigned a new cause number, the attorney for plaintiff in the new cause shall meet the Clerk's requirement concerning deposit for costs. (source 1.4.b; modified re payment of costs)

1.10. SEVERANCE OF MULTIPLE PLAINTIFFS

If a single pending case with multiple plaintiffs includes causes of action that do not arise out of a common nucleus of operative facts, the Court may on its own motion or the motion of any party order that the claims be severed in accordance with Local Rule 1.09. (source: NEW)

1.11. TRANSFER OR APPEAL TO SPECIFIC DALLAS COURT INEFFECTIVE

Whenever a case is transferred to Dallas County by a Court of another county, or is appealed, and the order of transfer or the appeal 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 Local Rule 1.01, and shall thereafter be subject to the provisions of this Part. (source 1.1.g)

1.12. PAYBACK OF TRANSFERRED CASES

Any Court receiving a case transferred by judicial order may transfer a case of comparable age and complexity to the transferor Court. (source: NEW)

PART II - MOTIONS AND DISCOVERY

2.01. FILING WITH THE COURT IN EMERGENCY ONLY

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 Local Rule 1.01. (source 1.2(a))

b. 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 in Local Rule 1.01 and all writs and process shall be returnable to that Court. Any Judge taking such emergency action shall notify the Clerk of the Judge of the Court in which such case is docketed at the earliest convenient and practical time. (source 1.2(b); modified)

2.02. APPLICATION FOR TRO AND OTHER EX PARTE ORDERS

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

(1) to the best of his knowledge the party against whom the relief is sought is not represented by counsel in the matter made the basis of the suit in which the relief is sought; or

(2) if the opposing party is represented by counsel in that matter, that (i) opposing counsel has been notified of the application and does not wish to be heard by the Court thereon; or (ii) that counsel presenting the application has diligently attempted to notify such counsel and has been unable to do so and the circumstances do not permit additional efforts to give notice.

b. Counsel presenting any application for an ex parte order shall at the time the application is presented further certify that to the best of counsel's knowledge, the case in which the application is presented is not subject to transfer under Local Rule 1.06. If the case is subject to transfer, counsel shall fully advise the Court of the circumstances, particularly as to whether there has been any previous application for the same or similar relief or whether the relief sought will conflict with any previous order, and the Judge to whom the application is presented may decline to act and refer the application or the entire case to the Judge of the Court to which the earlier related case is assigned. (source 1.3)

2.03. JUDGMENTS AND DISMISSAL ORDERS

Within 30 days after the Court has announced a verdict or judgment or the Court receives a written announcement of settlement from either party or from a mediator, counsel shall submit to the Court a proposed judgment or dismissal order, unless ordered otherwise. Failure to so furnish the Court with such a proposed judgment or dismissal order will be interpreted to mean that counsel wish the Court to enter an Order of Dismissal with prejudice with costs taxed at the Judge's discretion. (source 1.23; modified)

2.04. FILING OF PLEADINGS

All pleadings, motions, orders and other papers, including exhibits attached thereto, when offered for filing or entry, shall be descriptively titled and pre-punched at the top of the page to accommodate Clerk's 2 3/4" center-to-center flat-filing system. Each page of each instrument shall, in the lower margin thereof, be numbered and titled; e.g., "Plaintiff's Original Petition - Page 2." Orders and Judgments shall be separate documents completely separated from all other papers. If documents not conforming to this Local Rule are offered, the Clerk before receiving them shall require the consent of a Judge. Counsel shall furnish the Clerk with sufficient copies to perfect all service or notice. (source 1.31)

2.05. SERVICE OF PAPERS FILED WITH THE COURT

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

2.06. UNCONTESTED OR AGREED MATTERS

The Court does not require a separate motion or hearing on agreed matters, except for continuances in cases over one year old or as otherwise provided. All uncontested or agreed matters should be presented with a proposed form of order and should reflect the agreement of all parties either (a) by personal or authorized signature on the form of order, or (b) in the certificate of conference on the motion. (source: NEW; similar to old 1.10)

2.07. CERTIFICATE OF CONFERENCE BETWEEN COUNSEL

a. No counsel for a party shall file, nor shall any clerk accept for filing, any motion unless accompanied with a "Certificate of Conference" signed by counsel for movant in one of the forms set out in Rule 2.07 (c).

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

c. For the purposes of Rule 2.07 (a), a "Certificate of Conference" shall mean the appropriate one of the following three paragraphs (verbatim):

(1)

"Counsel for movant and counsel for respondent have personally conducted a conference at which there was a substantive discussion of every item presented to the Court in this motion and despite best efforts the counsel have not been able to resolve those matters presented.

Certified to the ___ Day of _____, 19___ by _____"
,or (2)

"Counsel for movant has personally attempted to contact the counsel for respondent to resolve the matters presented as follows:

(Dates, times, methods of contact, results)

Counsel for the movant has caused to be delivered to counsel for respondent and counsel for respondent has

received a copy of the proposed motion. At least one attempt to contact the counsel for respondent followed the receipt by counsel for respondent of the proposed motion. Counsel for respondent has failed to respond or attempt to resolve the matters presented.

Certified to the ___ Day of _____, 19___ by _____“
,or (3)

“Counsel for movant has personally attempted to contact counsel for respondent , as follows:

(Dates, times, methods of contact, results)

An emergency exists of such a nature that further delay would cause irreparable harm to the movant, as follows:

(details of emergency and harm) .

Certified to the ___ Day of _____, 19___ by _____“

2.08. SUBMISSION OF PROPOSED ORDERS BY COUNSEL

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

2.09. BRIEFS

Except in case of emergency, briefs relating to a motion (other than for summary judgment) set for hearing must be served and filed with the Clerk of the Court in which the case is filed no later than two working days before the scheduled hearing, or with the office of the District Clerk no later than three working days before the scheduled hearing. Briefs in support of a motion for summary judgment must be filed and served with that motion; briefs in opposition to a motion for summary judgment must be filed and served at or before the time the response is due; reply briefs in support of a motion for summary judgment must be filed and served no less than three days before the hearing. Briefs not filed and served in accordance with this paragraph likely will not be considered. Any brief that is ten or more pages long must begin with a summary of argument. (source: NEW)

2.10. DEFAULT PROVE-UPS

Upon request by the Court, default prove-ups may be made through affidavits and without hearing. (source: NEW; similar to 1.6.b)

2.11. FILING OF DISCOVERY AND RELATED MATERIALS

The filing of discovery in the Dallas County Civil District Courts and the County Courts at Law is governed by Texas Rule of Civil Procedure 191.1, a copy of which is attached as Appendix 1.

2.12. EFFECT OF MOTION TO QUASH DEPOSITION

a. For purposes of this rule, the date of delivery of a notice of deposition or motion to quash a notice of deposition is the date of actual delivery to counsel or a party, unless received after 5:00 p.m. in which case the date of delivery is deemed to be the next day on which the courthouse is open. Delivery by mail is presumed to be the third business day following mailing.

b. The filing of a motion to quash a deposition with the district clerk and service on opposing counsel or parties in accordance with Local Rule 2.05, if done no later than the third day the courthouse is open after delivery of the notice of deposition, is effective to stay the deposition subject to determination of the motion to quash. The filing of a motion to quash does not otherwise stay a deposition.

c. The parties may, by Rule 11 agreement, agree to proceed with a partial deposition while still reserving part or all of the objections made in the motion to quash.

PART III - TRIALS

3.01. REQUESTS TO CONTINUE TRIAL DATE

a. Unless otherwise permitted by Court policy, no request to pass, postpone or reset any trial shall be granted unless counsel for all parties 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 under Local Rule 3.02 shall constitute that party's consent to pass, postpone, reset or dismiss for want of prosecution any case set for trial the following week.

b. After a case has been on file for one year, it shall not be reset for a party except upon written motion for continuance, personally approved by the client in writing, and granted by the Court. (source 1.8)

c. Except as provided by statute, no party is entitled of right to a "pass" of any trial setting.

3.02. ANNOUNCEMENTS FOR TRIAL

a. In all cases set for trial in a particular week, counsel are required to make announcements to the Court Administrator on the preceding Thursday and in any event, no later than 10:30 A.M. on the preceding Friday concerning their readiness for trial. Such announcement shall include confirmation of compliance with Local Rule 2.08, if such compliance is required in the case. Any unqualified announcement of "ready" or "ready subject to" another Court engagement may be made to the Court Administrator in person or by telephone.

b. If Plaintiff does not make an announcement by 10:30 A.M. on Friday preceding the week in which the case is set for trial, the Court may dismiss the case for want of prosecution.

c. If one or more Defendants do not make an announcement by 10:30 A.M. on Friday preceding the week in which the case is set for trial, the Court may deem said Defendant(s) to be ready and may proceed with the taking of testimony, with or without the presence of said Defendant or Defendants or their respective counsel.

d. Counsel shall notify all parties of their announcement.

e. An announcement of "ready" shall be taken as continuing throughout the week in which the case is set for trial except to the extent that such announcement is qualified when it is made or later by prompt advice to the Clerk.

f. Whenever a non-jury case is set for trial at a time other than Monday, counsel are required to appear and make their announcements at the day and hour specified in the notice of setting without further notification.

3.03. CONFLICTING ENGAGEMENTS OF COUNSEL

a. Where counsel has more than one trial setting in a case on call in the Courts of Dallas County in the same week, the Court in which the case is first reached for trial shall have priority. If cases are reached in more than one Court at the same time and day, any case specially set case has priority; if no case is specially set, the older case shall have priority.

b. Where counsel for either party has a conflicting trial setting in another county, the Court may, in its discretion, defer to the out of county court and hold the case until the trial in the other county is completed.

c. Where counsel has a conflicting engagement in any Court of the United States or in any Appellate Court, the case in Dallas County may be held until such engagement has been completed. (source 1.19)

3.04. CARRYOVER CASES

If a case is not tried within the week, the Court may with prior written notice carry the case from week to week. Counsel are required to answer concerning their readiness for trial in these cases in the normal manner for the subsequent week. (source 1.20.a & d)

3.05. COUNSEL TO BE AVAILABLE

Unless released by the Court, during the week a case is set for trial counsel are required to be available upon a telephone call from the Court Administrator. Telephone notice to counsel's office or such other telephone number as counsel may provide to the Court Administrator will be deemed actual notice that a case is called for trial. Counsel shall promptly advise the Court Administrator of any matter that arises during the week that affects counsel's readiness or availability for trial. If counsel is engaged during the week in trial in another Court, whether in Dallas County or elsewhere, counsel shall advise the Court Administrator upon completion of such other trial. (source 1.21.a; modified)

PART IV - ATTORNEYS

4.01. ATTORNEY ADDRESSES

Attorneys are required to notify the District Clerk of any change in address, telephone, or fax number. Any notice or communication directed to the attorney at the address, telephone, or fax number indicated in the records of the District Clerk will be deemed received. (source: NEW)

4.02. WITHDRAWAL OF COUNSEL

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. When withdrawal is made at the request of or on agreement of client such motion shall be accompanied by the client's written consent to such withdrawal or a certificate by another lawyer that he has been employed to represent the client in the case. In the event the client has not consented, a copy of such motion shall be mailed by certified and regular first class mail to the client at his last known address, with a letter advising that the motion will be presented to the Court on or after a certain hour not less than ten days after mailing the letter, and that any objection to such withdrawal should be made to the Court in writing before such time. A copy of such letter shall be attached to the motion. A copy of the motion shall be served upon all counsel of record. Unless allowed in the discretion of the Court, no such motion shall be presented within 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 the client a letter by regular mail with a copy of the order of the withdrawal, stating any settings for trial or other hearings and any pending discovery deadlines, and advising him to secure other counsel, and shall forward a copy of such letter to all counsel of record and to the Clerk of the Court in which the case is pending. The requirements of this Local Rule are supplemental to, and not in place of, the requirements of TRCP Rule 10. (source 1.25; modified)

4.03. APPEARANCE OF ATTORNEYS NOT LICENSED IN TEXAS

A request by an attorney not licensed to practice law in the State of Texas to appear in a pending case must comply with the requirements of Rule XIX of the Rules Governing Admission to the Bar. (source: NEW)

4.04. VACATION LETTERS

Any attorney may reserve up to three weeks in any calendar year for vacations by sending a "vacation letter" for each case (with appropriate cause number and style) to the Court Coordinator and opposing counsel, reserving weeks in which no hearings, depositions, or trials are set as of the date of the letter. Once a letter is on file, no hearings, depositions, or trials may be set during the reserved weeks except upon notice and hearing. (source: NEW)

4.05. 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 address 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 a pro se litigant will be considered constructive receipt of the mailed or delivered document and may be established by a postal service receipt for certified or registered mail or comparable proof of delivery. Wherever "counsel" is used it includes a party not represented by an attorney.

(source: NEW)

4.06. GUARDIAN AD LITEM

When it is necessary or appropriate for the Court to appoint a guardian ad litem for minor or incompetent parties or an attorney ad litem for absent parties, independent counsel, not suggested by any of the parties or their counsel, will be appointed. (source 1.24)

4.07. LOCAL RULES AND DECORUM

All counsel and any person appearing pro se in the Courts of this County shall by entering an appearance acknowledge that he or she has read and is familiar with these Local Rules for the Courts of Dallas County, the Rules of Decorum set forth in Appendix 2, and The Texas Lawyer's Creed set forth in Appendix 3. (source: NEW)

PART V - COUNTY COURT AT LAW MODIFICATIONS

5.01. CLERK OF THE COURTS

In all matters before the County Courts at Law wherever "District Clerk" is used, "County Clerk" is substituted (Local Rules 3.09, 3.12.b., & 4.01).

5.02. RANDOM ASSIGNMENT

Except as required in Local Rule 6.03, all civil cases filed with the County Clerk shall be filed in the County Courts at Law in random order. (source 1.1(a))

5.03. EMINENT DOMAIN CASES

The County Clerk shall assign eminent domain cases to the County Courts at Law

sequentially, pursuant to statute. (Local Rule 1.01)

5.04. CONTINUANCES IN COUNTY COURTS AT LAW

All continuances in all cases before the County Courts at Law must be made by motion explaining good cause, even if agreed. (Local Rules 3.06, 4.01).

5.05. COUNSEL TO APPEAR AT TRIAL.

Notwithstanding Rule 3.05, in all cases in the County Courts at Law, all parties and counsel are expected to be present at all trial settings, unless advised otherwise by the Court Administrator or the Judge. Failure to so timely appear may result in the rendering of a default judgment or in dismissal or in other action required by justice and equity.

PART VI - FAMILY, JUVENILE, CRIMINAL, & PROBATE COURTS

6.01. RULES FOR OTHER COURTS

“Civil District Courts“ as used herein shall mean the 14th, 44th, 68th, 95th, 101st, 116th, 134th, 160th, 162nd, 191st, 192nd, 193rd, 298th District Courts and any district courts created hereafter for Dallas County which are designated to give preference to the trying of civil cases.

“County Courts at Law” as used herein shall mean the County Court at Law No. 1, County Court at Law No. 2, County Court at Law No. 3, County Court at Law No. 4, County Court at Law No. 5, and any County Courts at Law created hereafter for Dallas County.

The Dallas Civil Court Rules set forth herein govern and affect the conduct of the Civil District Courts and the County Courts at Law only. Nothing in these Local Rules shall repeal, modify, or affect any currently existing or subsequently adopted rules of the FAMILY, JUVENILE, CRIMINAL, or PROBATE COURTS of Dallas County.

Appendix 1

191.4 Filing of Discovery Materials.

- (a) ***Discovery materials not to be filed.*** The following discovery materials must not be filed:
- (1) discovery requests, deposition notices, and subpoenas required to be served only on parties;
 - (2) responses and objections to discovery requests and deposition notices, regardless on whom the requests or notices were served;
 - (3) documents and tangible things produced in discovery; and
 - (4) statements prepared in compliance with Rule 193.3(b) or (d).
- (b) ***Discovery materials to be filed.*** The following discovery materials must be filed:
- (1) discovery requests, deposition notices, and subpoenas required to be served on nonparties;
 - (2) motions and responses to motions pertaining to discovery matters; and
 - (3) agreements concerning discovery matters, to the extent necessary to comply with Rule 11.
- (c) ***Exceptions.*** Notwithstanding paragraph (a) —
- (1) the court may order discovery materials to be filed;
 - (2) a person may file discovery materials in support of or in opposition to a motion or for other use in a court proceeding; and
 - (3) a person may file discovery materials necessary for a proceeding in an appellate court.
- (d) ***Retention requirement for persons.*** Any person required to serve discovery materials not required to be filed must retain the original or exact copy of the materials during the pendency of the case and any related appellate proceedings begun within six months after judgment is signed, unless otherwise provided by the trial court.

- (e) ***Retention requirement for courts.*** The clerk of the court shall retain and dispose of deposition transcripts and depositions upon written questions as directed by the Supreme Court.

Appendix 2

RULES OF DECORUM FOR THE COURTS OF DALLAS COUNTY

1. COURTS WHERE APPLICABLE

The following rules of decorum shall be applicable to and shall govern cases tried in the Civil District Courts and County Courts at Law of Dallas County, Texas.

2. FORMAL OPENING

Immediately before the scheduled time for the beginning of court sessions, the Bailiff shall direct all court officers and spectators to their seats and shall bring order. As the Judge enters the courtroom, the Bailiff shall state, "Everyone please rise." While everyone is still standing he shall make an appropriate announcement such as, "The _____ Court is now in session, The Honorable _____, Judge Presiding. Be seated, please."

3. FORMAL CLOSING

At the end of the trial day the Court shall tell the Jury that the Court will be in recess until "tomorrow morning at _____ o'clock," at which time the Court Bailiff shall state, "The _____ Court of Dallas County, Texas, will be in recess until tomorrow morning at _____ o'clock A.M. Good day, ladies and gentlemen."

4. CONDUCT REQUIRED OF ALL PERSONS WHILE ATTENDING COURT

- a. No reading of newspapers or magazines in the courtroom (at any time);
- b. No bringing of bottles, paper cups or beverage containers into the courtroom;
- c. No bringing of edibles or food containers or packaging into the courtroom (at any time);
- d. No propping of feet on tables, chairs or benches;
- e. No sitting on tables, railings, desks or arms of chairs;
- f. No person shall walk through, sleep or loiter in the courtroom while any proceedings are being held (or court in session);
- g. No making noises or talking by persons unless during the proper participation in the matter then before the Court;
- h. No smoking, except where judge presiding permits;
1. Before entering a courtroom all persons shall first remove overcoat, hat, cigar, etc; and
- j. No person should by any facial expression, shaking of the head, guttural utterances, or any other conduct exhibit approval or disapproval of any testimony elicited or any statement or transaction which has occurred in the courtroom.

5. CONDUCT REQUIRED OF COURT OFFICERS

- a. All counsel are admonished to respect the letter and spirit of all Disciplinary Rules including particularly those dealing with testimony by counsel participating in the trial and discussion of the facts or law of the case with the Court outside of the courtroom and not in the presence of opposing counsel, the Court may enforce the same by appropriate action.

b. The lawyers, the Judge and all officers of the Court shall be prompt at all sessions and in the dispatch of all court business.

c. All lawyers and court officials shall dress in keeping with proper courtroom decorum. All male lawyers and court officials shall wear coats and ties while in attendance of the court; provided, however, that judicial discretion be exercised otherwise in special situations.

d. While the Court is in session all remarks of counsel shall be addressed to the Court and not to opposing counsel or to the Judge as an individual.

e. In addressing the Judge, lawyers shall at all times rise and remain standing to address the Judge from their position at the counsel table. They shall remain at counsel table while interrogating witnesses, except as may be necessary in handling or displaying of exhibits or demonstrating evidence.

f. The Judge shall be respectfully and properly addressed at all times; all objections and legal arguments by counsel shall be directed to the Judge and not to opposing counsel and counsel shall be impersonal in addressing the Judge.

g. All counsel are requested to refrain from inviting clients and witnesses into the court clerk's office and the Chambers except upon the direction of the Judge.

h. When the Judge addresses counsel it shall be impersonally, as by "Counsel " or by the last name, rather than by first name.

1. Lawyers shall never lean on the bench or engage the Judge in a confidential manner, except by permission or at the request of the Judge.

j. Lawyers shall advise their clients and witnesses of proper courtroom decorum and seek their full cooperation therewith.

k. After jury voir dire no attorney shall ever address the jury or a juror individually or by name without having first obtained leave of Court. During jury argument no attorney should ever address a juror individually or by name.

l. The trial attorney should refrain from interrupting the Court or opposing counsel until the statement being made is fully completed, except when necessary to protect his client's rights on the record, and should respectfully await the completion of the Court's statement or opinion before undertaking to point out objectionable matter.

m. There will be no arguments on objections in the presence of the jury. If counsel desires to argue his point after making his objection on being overruled on an objection, he shall ask the Court to exclude the jury before he proceeds with such argument. However, argument will be permitted on objections at the discretion of the Court.

n. It shall be improper to approach the Bench without first obtaining permission to do so.

o. Once an attorney has entered the courtroom and appeared before the Court, he shall not leave without first obtaining permission to do so.

p. During the trial of a matter only those counsel participating in the cause then being heard together with the clients shall sit at the counsel table; counsel not participating in the case then under consideration shall not sit at counsel table but shall remain seated within the courtroom, or other locations by consent of the Court.

q. No lawyer or party shall expect any Court attendant to request his or her presence prior to the commencement or resumption of any Court proceedings.

6. BAILIFFS

a. The Court shall appoint a Bailiff (or bailiffs), that may be a deputy sheriff, who shall be present at all times when the Court is in session or in recess, unless excused by the Judge. No duty shall be assigned to the bailiff except upon prior approval by the Judge.

b. The Bailiff shall see that the flag of the United States of America and the flag of the State of Texas are properly displayed and respected in the Courtroom.

c. The Bailiff shall enforce all rules of conduct and decorum and other duties assigned by the Judge.

Appendix 3

THE TEXAS LAWYER'S CREED--A MANDATE FOR PROFESSIONALISM

I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this creed for no other reason than it is right.

I. OUR LEGAL SYSTEM

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

1. I am passionately proud of my profession. Therefore, "My word is my bond."
2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.
3. I commit myself to an adequate and effective pro bono program.
4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.
5. I will always be conscious of my duty to the judicial system.

II. LAWYER TO CLIENT

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.

1. I will advise my client of the contents of this Creed when undertaking representation.
2. I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible.
3. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.

4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.

5. I will advise my client of proper and expected behavior.

6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.

7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.

8. I will advise my client that we will not pursue tactics which are intended primarily for delay.

9. I will advise my client that we will not pursue any course of action which is without merit.

10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.

11. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

III. LAWYER TO LAWYER

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

1. I will be courteous, civil, and prompt in oral and written communications.

2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance.

3. I will identify for other counsel or parties all changes I have made in documents submitted for review.

4. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties.

5. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are canceled.

6. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.

7. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.

8. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.

9. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.

10. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.

11. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.

12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the Court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.

13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.

14. I will not arbitrarily schedule a deposition, court appearance, or hearing until a good faith effort has been made to schedule it by agreement.

15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

16. I will refrain from excessive and abusive discovery.

17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.

18. I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable.

19. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

IV. LAWYER AND JUDGE

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.
2. I will conduct myself in Court in a professional manner and demonstrate my respect for the Court and the law.
3. I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility.
4. I will be punctual.
5. I will not engage in any conduct which offends the dignity and decorum of proceedings.
6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.
7. I will respect the rulings of the Court.
8. I will give the issues in controversy deliberate, impartial and studied analysis and consideration.
9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

ORDER OF ADOPTION

The conduct of a lawyer should be characterized at all times by honesty, candor, and fairness. In fulfilling his or her primary duty to a client, a lawyer must be ever mindful of the profession's broader duty to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals are committed to eliminating a practice in our State by a minority of lawyers of abusive tactics which have surfaced in many parts of our country. We believe such tactics are a disservice to our citizens, harmful to clients, and demeaning to our profession.

The abusive tactics range from lack of civility to outright hostility and obstructionism. Such behavior does not serve justice but tends to delay and often deny justice. The lawyers who use abusive tactics instead of being part of the solution have become part of the problem.

The desire for respect and confidence by lawyers from the public should provide the members of our profession with the necessary incentive to attain the highest degree of ethical and professional conduct. These rules are primarily aspirational. Compliance with the rules depends primarily upon understanding and voluntary compliance, secondarily upon re-enforcement by peer pressure and public opinion, and finally when necessary by enforcement by the courts through their inherent powers and rules already in existence.

These standards are not a set of rules that lawyers can use and abuse to incite ancillary litigation or arguments over whether or not they have been observed.

We must always be mindful that the practice of law is a profession. As members of a learned art we pursue a common calling in the spirit of public service. We have a proud tradition. Throughout the history of our nation, the members of our citizenry have looked to the ranks of our profession for leadership and guidance. Let us now as a profession each rededicate ourselves to practice law so we can restore public confidence in our profession, faithfully serve our clients, and fulfill our responsibility to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals hereby promulgate and adopt "The Texas Lawyer's Creed--A Mandate for Professionalism" as attached hereto and made a part hereof.

In Chambers, this 7th day of November, 1989.



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON
ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

May 17, 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 Civil Courts of Dallas County.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Pat McDowell
1st Admin Judicial Rgn

District Clerk

County Clerk

Supreme Court Adv Committee

Mr. Jerry Benedict
Office of Court Admin

State Law Library