

IN THE SUPREME COURT OF TEXAS

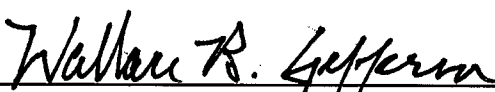
_____ **9019** _____
Misc. Docket No. 05-_____

**APPROVAL OF LOCAL RULES FOR THE
21ST AND 335TH JUDICIAL DISTRICT COURTS
OF BASTROP, BURLESON, LEE AND WASHINGTON COUNTIES**


ORDERED that:

Pursuant to Texas Rule of Civil Procedure 3, the following Local Rules for the 21st and 335th Judicial District Courts of Bastrop, Burleson, Lee & Washington Counties are approved.


In Chambers, this 14th day of January, 2005.



Wallace B. Jefferson, Chief Justice



Nathan L. Hecht, Justice



Priscilla R. Owen, Justice

Harriet O'Neill, Justice

J. Dale Wainwright

J. Dale Wainwright, Justice

Scott Brister

Scott Brister, Justice

David M. Medina

David M. Medina, Justice

Paul W. Green

Paul W. Green, Justice

LOCAL RULES FOR THE 21ST AND 335TH JUDICIAL DISTRICT COURTS OF
BASTROP, BURLESON, LEE AND WASHINGTON COUNTIES, STATE OF TEXAS

RULE 1. CIVIL CASES

1.10 Time Standards for Case Disposition.

The Court will, so far as reasonably possible, ensure that all civil cases, other than family law cases, are brought to trial or final disposition in conformity with the following time standards:

- a. Civil jury cases--within 18 months from appearance date.
- b. Civil non-jury cases--within 12 months from appearance date.

1.11 Request for Settings--Non Jury.

a. Submission for Ruling Without Hearing.

Upon the filing of any matter, the movant or the Court may give notice to all attorneys of record and parties pro se that the matter will be submitted to the Court for a ruling without any hearing. The notice shall clearly state that any party may either request a hearing or submit a written response on or before a specific submission date that is at least ten (10) days after service of such statement. If no hearing is requested prior to the submission date contained in the notice, the Court, in the absence of counsel, shall examine the pleadings, authorities cited, and other papers submitted. After such examination the Court may either set the matter for a hearing or make such rulings as the Court deems proper, note a memorandum of such ruling among the papers of the case and send copies of such memorandum to all attorneys of record and parties pro se. Submission of orders, judgments or other documents necessary to effectuate the memorandum ruling of the Court shall be accomplished in accordance with Rule 1.17.

b. Contested Hearings.

(1) Any party or attorney of record may obtain a setting of any contested proceeding, (a) by requesting an agreed setting from the Court Coordinator for the appropriate county, or Court Clerk

if there is no Court Coordinator for the appropriate county, or, (b) by filing a Setting Request. Each Setting Request shall be filed with the Clerk of the Court and the Clerk shall forward the request to the Court Coordinator for a setting to be made and such request shall specify:

- (a) the cause number and style of the case;
- (b) the nature of the hearing, trial or ruling sought;
- (c) the name, address and telephone number of each attorney of record or party pro se;
- (d) the amount of time estimated by the requesting party to be required for such hearing for both sides. Each attorney or party is cautioned to give careful attention to the amount of time requested, as other cases may be set at the conclusion of the estimated time period.

(2) The attorney or party filing the setting request shall cause to be delivered to all attorneys of record and all parties pro se in the case a copy of the setting request. The original setting request shall be retained with the original papers in the Court's file.

(3) The Court Coordinator (or Court Clerk, if there is no Court Coordinator) shall provide a date and time for the requested hearing that is available for a hearing pursuant to such setting request to the requesting party. The requesting party shall deliver a Notice of Setting to each attorney of record and party pro se at the address shown on the Setting Request. The Notice of Setting shall state the date, hour, nature of the trial or hearing set, and the allotted time. Failure of the requesting attorney or party pro se to accurately state the names and addresses of opposing counsel or party pro se shall be grounds for a continuance on the motion of an attorney of record or party pro se who did not receive the Notice of Setting within a reasonable time prior to the hearing date.

1.12 Disposition of Uncontested Matters.

Requests for hearing uncontested matters and ex parte matters may be made in person, by telephone

or in writing to the Court Coordinator. The Court Coordinator will set the matter for the next available uncontested docket or at any other time that may be convenient to the parties and the Court. The requesting party shall, when required by these rules or other applicable law, notify all attorneys of record or parties pro se of such setting.

1.13 Request for Jury Trial, Jury Fee and Jury Demand.

No Civil case shall be set for a jury trial unless a Rule 166 (T.R.C.P.) Pre-Trial conference (see rule 1.16 herein below) is requested in writing through the Court Coordinator, a demand for jury is properly filed with the District Clerk, and the proper jury fee is paid not later than ten (10) calendar days after the date the Notice of Setting for bench trial is mailed by the Court Coordinator or requesting party.

1.14 Resettings.

No setting shall be passed except by:

- a. settlement agreement announced in open court or in writing complying with Rule 11 of the Texas Rules of Civil Procedure;
- b. written agreement of all parties **with Court approval**; or
- c. a motion for continuance granted by the Court.
- d. All cases set for trial, whether jury or non-jury, may not be passed by agreement of counsel. Such may only be reset upon the granting by the Court of a motion for continuance, unless the Court removes such from the trial docket on its' own motion.

1.15 Dismissal Docket; Involuntary Dismissal.

- a. At least once each year, cases which have not been disposed within the time limits set forth in these rules may be dismissed for want of prosecution. Notice of intention to dismiss shall be given in accordance with Rule 165a of the Texas Rules of Civil Procedure to all attorneys of record and

parties pro se whose addresses are shown on the docket or in the papers on file.

b. If more than one case appears on the dismissal docket for a certain date, a list of cases to be dismissed shall be posted in a conspicuous place in the Clerk's office.

c. Unless good cause is shown as required in the notice, such cases will be dismissed on or after the date stated therein. Postcard notification of the dismissal order shall be as provided in Rule 306a of the Texas Rules of Civil Procedure.

d. A written Motion to Retain shall be filed by any party desiring to maintain the case on the docket setting forth good cause, together with a proposed Pre-Trial Order complying with Rule 165a (1) of the Texas Rules of Civil Procedure.

1.16 Pre-Trial and Scheduling Conferences.

a. Any party may request that the case be set for a Rule 166 (T.R.C.P.) Pre-Trial conference. A Pre-Trial conference may also be set on the Court's own motion and may be made a prerequisite to any trial setting in the case.

b. At the Pre-Trial conference, the Court may hear and consider any pre-trial matter contemplated by Rule 166 of the Texas Rules of Civil Procedure and such other matters as the Court may direct. The Court may then set the case for either a jury or non-jury trial, refer the case to mediation and may enter a Pre-Trial Docket Control Scheduling Order.

c. Counsel for each party will submit a proposed Charge of the Court, Witness List and List of Exhibits to the Court no later than noon on the Friday prior to the jury week for which the case is set for trial, unless otherwise directed by the Court.

1.17 Submission of Orders, Judgments and Instruments.

a. After a ruling, the attorney directed shall prepare the form of the document to be entered. On the same date the document is mailed or presented to the Court Coordinator or appropriate District

Clerk, a duplicate of the document shall be mailed or delivered to opposing counsel and parties pro se to provide an opportunity to approve or object to the form of the document or that the document is inconsistent with the Court's ruling (i.e., not a re-argument of the merits). The document must be signed by the attorney or party pro se submitting the document.

b. If no written objection is received by the Court Coordinator within ten (10) calendar days after the original was received, the Court Coordinator shall submit the document to the Court for signature.

c. All objections to the form or substance of a document submitted shall have the objecting party's proposed document for the Court's signature attached. Upon receipt of objections, the Court Coordinator shall present the documents and all objections to the Court for determination. The Court may determine the issue with or without a hearing in its discretion. For good cause the Court may change the deadline for preparation and filing of a document and objections.

d. All judgments and orders in uncontested matters (except cases which are settled on the hearing date) shall be presented at the time of hearing on such matters, except for good cause shown, and be signed by the attorney or party pro se presenting the order.

e. If the Court Coordinator or appropriate District Clerk has not received a proposed judgment or order finally disposing of a case within fourteen (14) days after decision by the Court, the Court Coordinator may send written notice of the lack of a proposed order to counsel. If no proposed order or judgment is received within seven (7) days from the date written notice is mailed or faxed, the Court may sign an Order of Dismissal with prejudice and costs may be taxed in the Court's discretion.

RULE 2. FAMILY LAW CASES

1.10 CIVIL RULES

All rules set forth herein above as to civil cases shall apply to family law cases, unless some rule set forth herein below as to family law cases is in conflict, then such rule as to family law cases shall supercede and apply.

2.10 Time Standards for Family Law Case Disposition.

The court will, so far as reasonably possible, ensure that all family law and juvenile cases are brought to trial or final disposition in conformity with the following time standards.

a. Family Law Cases

(1) Contested Family Law Cases. Within six (6) months from appearance date or within six (6) months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

(2) Uncontested Family Law Cases. Within three (3) months from appearance date or within three (3) months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

2.11 Ancillary Proceedings, Temporary Orders, and Emergency Matters.

In the event a bonafide emergency exists or a matter requires special attention and the judge of the court where the case is pending is unavailable, the attorney or party seeking relief shall contact any judge who has jurisdiction and the judge can consider the matter, but the case shall remain in the court originally filed.

2.12 Disposition Proposals.

a. To expedite disposition, it shall be the duty of each attorney to confer, prior to trial, with each other attorney regarding settlement, stipulations, estimated time of trial, waiver of jury, the extent, description, character and value of the property in question, amount of support, amount of monthly income, conservatorship, periods of possession and/or access, rights, duties and powers of the

conservators, and contested issues.

b. Each attorney shall submit a Proposed Property Division including property claimed or recognized as separate property, to the Court and opposing counsel not later than the commencement of trial.

2.13 Uncontested Matters.

Requests for hearing uncontested matters and ex parte matters may be made in person, by telephone or in writing to the Court Coordinator. The Court Coordinator will set the matter for the next available uncontested docket or at any other time that may be convenient to the parties and the Court.

The requesting party shall, when required by these rules or other applicable law, notify all attorneys of record or parties pro se of such setting.

2.14 Financial Information Statements.

In all cases requiring the division of property and/or liabilities, (except in cases where Respondent signs a Waiver of Citation and does not hire counsel), the Husband and Wife **EACH** shall file with the Court, or upon written mutual agreement exchange between themselves, sworn inventories within seventy-five (75) days of the date that the suit is filed. The seventy-five (75) day period may be extended by the parties upon written mutual agreement of the parties and/or their attorneys filed with the Court within seventy-five (75) days of the date the suit is filed. Each inventory shall list the value of each item of property and shall list each liability, together with the total amount of the liability, the number of periodic payments in arrears, if any, the property securing its payment, and the name of the creditor. Any property or liability claimed to be separate shall be so characterized. All benefits arising from a party's employment (such as pensions, profit sharing plans, savings or thrift plans, whether vested or not) shall be identified, and the last information furnished as to the employee's rights and monetary interest in such plans shall be incorporated into the inventory as an exhibit thereto.

The inventory or a summary attached thereto shall list the property values and liabilities in a columnar form with each column totaled. Each inventory shall show the net worth of the community estate and

the net worth on any claimed separate estate. All inventories shall be supplemented from the date of the original inventory through the day of the trial. When a suit is tried, three (3) copies of all inventories and supplemental inventories shall be made available for use in trial.

2.15 Child Support Guidelines.

The amount of child support payable by the obligor parent shall be set in accordance with the current Child Support Guidelines adopted by the Supreme Court of Texas.

2.16 For Kid's Sake Program

In all divorce actions involving the custody of children, both Petitioner and Respondent shall attend the "For Kid's Sake" program at the direction of the Court prior to obtaining a setting on a final hearing.

The Petitioner will attend the first session available after the filing of the divorce action, and Respondent will attend the following session. The parties may agree to switch the dates among themselves to attend the "For Kid's Sake" program only by an agreement in writing filed with the District Clerk prior to the beginning of the first session.

Certificates of attendance for both the Petitioner and Respondent shall be filed with the Clerk prior to obtaining a setting of the final hearing.

RULE 3. CRIMINAL CASES

3.10 Notice of Court Setting.

a. The arresting agency, or the appropriate County Sheriff, shall give the defendant at the time of arrest, or release from jail on bond, a Notice of Court Setting which shall have a date for the defendant to appear in court, which date is a regularly scheduled criminal docket day as it appears on the court's calendar and such will be provided by the Court Coordinator, or appropriate District Clerk if there is no court Coordinator for the particular county in question, to the arresting agency or the appropriate County Sheriff.

3.12 Appearance of Defendant and Counsel/Court Attendance

Immediately upon employment, the defense attorney shall give written notice thereof to the District Attorney and the Court Coordinator, or appropriate District Clerk if there is no Court Coordinator for the particular county in question, stating the name of the accused, the offense(s) charged and cause number, if known. The Court Coordinator will forward the notice to the District Clerk, who will note the attorney's name on the docket sheet.

3.13 Case Flow Scheduling.

In Bastrop, Burleson, and Washington Counties, cases will be scheduled by the Court Coordinator at the direction of the Court. In Lee County only, cases shall be set at the direction of the Court, either by a Court designated Court Coordinator, by the District Clerk or through the County Attorney's office. In all counties, all cases in order to be reset from the initial setting set by the Court, must be set as reflected on a case reset form to be supplied by the Court. State's counsel, defense counsel and the defendant must sign a reset form reflecting the next setting on the case before being excused from Court on the current setting. Any defendant having signed a reset form and then failing to appear in Court at the appointed time shall have his/her bond forfeited. No case may be reset, added to, or removed from, the Court's docket without Court approval. All cases set for trial,

whether jury or non-jury, may not be passed by agreement of counsel. Such may only be reset upon the granting by the Court of a motion for continuance, unless the Court removes such from the trial docket on its' own motion.

3.15 Docket Call

- a. Defendants shall appear at docket call with their counsel. The State must appear at all docket calls to announce "ready" or "not ready."
- b. Docket Call shall begin promptly at 9:00 a.m. on the day which it is scheduled , unless a different time for such is designated by the Court.

3.16 Pleas

- a. Pleas of guilty, whether there is an agreed recommendation as to punishment by the State or not, may be made before the Court at any docket call.

3.17 Trial Procedure

- a. Trials begin or resume at 9:00 a.m. unless the Court designates a different time.
- b. No Pre-trial matters will be heard on Trial Day unless granted leave by the Court.

3.18 Continuance/Resetting/Postponements.

No agreement by the attorneys to continue, reset or postpone any setting shall be effective unless approved by the Court.

3.19 Motions/Pre-trial Hearings/Pre-trial Matters.

All Pre-trial hearings shall be conducted in accordance with Article 28.01 of the Texas Code of Criminal Procedure.

RULE 4. ATTORNEYS OF RECORD

4.10 Conduct and Decorum of Counsel.

- a. Each attorney is expected to conduct himself or herself in accordance with the State Bar of Texas Code of Professional Responsibility, the Texas Rules of Civil Procedure, the Texas Code of Criminal Procedure, the Regional Rules of Administration for the Second Administrative Region, these local rules, and such other rules of conduct as may be published by the courts of this county and state. All attorneys, litigants, and witnesses shall be expected to act in a manner calculated to promote decorum, respect for the judicial system, and the prompt and fair administration of justice.
- b. In addressing the Court, attorneys shall rise and remain standing at their positions at counsel table. They shall not approach the Bench except with permission or upon request of the Court. When the Court is addressing an attorney, that attorney shall rise and remain standing until the Court finishes speaking.

Attorneys shall not lean on the Bench or appear to engage the Court in a confidential manner.

All remarks of Counsel to the Court shall be addressed to the Court and not to the Judge as an individual.

- c. Attorneys shall be responsible for advising their clients and witnesses of the formalities of the courts.
- d. All officers of the court are expected to be prompt and prepared.
- e. The taking of photographs, the making of video or audio recordings, or the broadcasting of any judicial proceeding in or from any courtroom, or so close thereto as to disturb the order and decorum of the court, either while court is in session or at recess, is prohibited, unless prior permission is granted by the court.
- f. All counsel are admonished to respect the letter and spirit of all canons of ethics including particularly those dealing with discussion of cases with representatives of the press or radio 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.

g. The Court shall enforce all breaches of conduct by any appropriate action.

4.11 Withdrawal of Counsel.

No attorney of record shall be permitted to withdraw from any case without presenting a Motion to Withdraw and obtaining from the Court an order granting leave to withdraw. No Motion to Withdraw will be entertained by the Court unless it includes a certificate of the client's last known address. If withdrawal is without the written consent of the client, the withdrawing attorney shall forward to his client by certified mail a copy of his or her motion to withdraw and a copy of the request for setting or notice of submission without a hearing. A hearing is required in criminal cases. A copy of the motion to withdraw and request for setting or notice of submission without a hearing shall be delivered or mailed to any opposing counsel. Leave to withdraw may be denied where the motion is presented so near the trial date as to require delay of the trial. After leave is granted, the withdrawing attorney shall send the client a copy of the order granting leave to withdraw by certified mail. A copy of the order shall then be sent to opposing counsel.

4.12 Attorney Vacations.

Each attorney desiring to assure that he will not be assigned for trial during a vacation period not to exceed four (4) consecutive weeks of a given year may advise the Court Coordinator in writing not less than ninety (90) days prior to the first day of such vacation. 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 for approval by the Court or a motion for continuance and obtain a ruling by the Court.

ORDER ADOPTING LOCAL RULES OF ADMINISTRATION

BE IT ORDERED by the 21st and 335th Judicial District Courts of Bastrop, Burluson, Lee and

Washington Counties, Texas that the following Local Rules of Administration are hereby adopted under the authority of, and in conformity with, Section 74.093 of the Texas Government Code, Rule 3a of the Texas Rules of Civil Procedure, Rules 9 and 10 of the Texas Rules of Judicial Administration and the Regional Rules of Administration for the Second Administrative Judicial Region of Texas.

BE IT FURTHER ORDERED these rules shall govern the administrative operation of the 21st and 335th Judicial District Courts of Bastrop, Burleson, Lee and Washington Counties, Texas on and after the effective date of such rules.

BE IT FURTHER ORDERED that these rules be delivered to the Supreme Court of Texas and to the Presiding Judge of the Second Administrative Judicial Region for consideration and approval.

BE IT FURTHER ORDERED that these rules shall be reproduced and copies be made available to each attorney practicing before the 21st and 335th Judicial District Courts of Bastrop, Burleson, Lee and Washington Counties, Texas at least 30 days prior to the Effective date hereof.

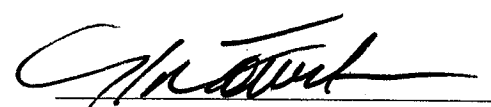
BE IT FURTHER ORDERED that the Local Rules of Administration of the 21st and 335th Judicial District Courts of Bastrop, Burleson, Lee and Washington Counties, Texas shall be published on or before November 15, 2004, and shall become effective on December 15, 2004.

BE IT FURTHER ORDERED that this order and these rules shall be recorded in the minutes in the 21st and 335th Judicial District Courts of Bastrop, Burleson, Lee and Washington Counties, Texas and that the original of this order, signed by the judges of such Courts shall be preserved by the District Clerk as a permanent record of these Courts.

SIGNED and ENTERED this 16 day of November, 2004.



Terry Flenniken, Presiding Judge
21st Judicial District Court, State of Texas



Harold R. Towslee, Presiding Judge
335th Judicial District Court, State of Texas



Second Administrative Judicial Region of Texas

Olen Underwood
Presiding Judge

Kassi Cranfill
Administrative Assistant

Christina Crawford
Secretary/Receptionist

December 10, 2004

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

Re: Local Rules for the 21st and 335th Judicial District Court of Bastrop, Burleson, Lee and Washington County, Texas

Dear Judge Hecht:

Pursuant to, and in accordance with Rule 3a, Texas Rules of Civil Procedure, and Rule 8, Regional Rules of Administration, Second Administrative Judicial Region of Texas, I am enclosing for approval by the Justices of the Supreme Court, Local Rules for the 21st and 335th Judicial District Court of Bastrop, Burleson, Lee and Washington County, Texas.

I hereby approve the Local Rules for the 21st and 335th Judicial District Court of Bastrop, Burleson, Lee and Washington County, Texas. Please advise this office of the Courts actions.

Thank you for your usual courtesies.

Sincerely,

A handwritten signature in black ink, appearing to read "Olen Underwood".

Olen Underwood

OU/kc

cc: Hon. Terry Flenniken, 21st Judicial District Court
Hon. Harold R. Towslee, 335th Judicial District Court