

**IN THE SUPREME COURT OF TEXAS**

Misc. Docket No. 96-9009

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**APPROVAL OF RULES OF PRACTICE IN THE  
198TH AND 216TH JUDICIAL DISTRICT COURTS  
BANDERA, CONCHO, GILLESPIE, KENDALL, KERR,  
KIMBLE, McCULLOCH AND MENARD COUNTIES, TEXAS**

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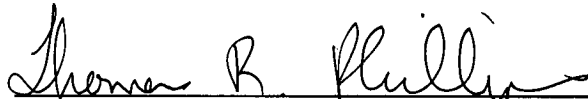
**ORDERED:**

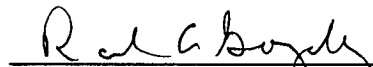
Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court approves the following local rules, which have been submitted to this Court:

Rules of Practice in the 198th and 216th Judicial District Courts sitting in Bandera, Concho, Gillespie, Kendall, Kerr, Kimble, McCulloch and Menard Counties, Texas, dated November 17, 1995

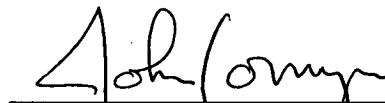
The approval of these rules is temporary, pending further orders of the Court.


SIGNED AND ENTERED this 3rd day of January, 1996

  
Thomas R. Phillips, Chief Justice

  
Raul A. Gonzalez, Justice

  
Nathan L. Hecht, Justice

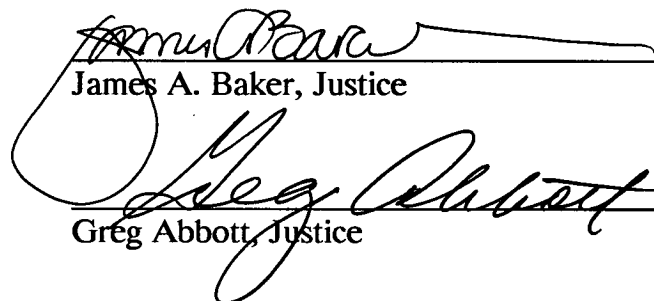
  
John Cornyn, Justice

  
Craig Enoch, Justice

  
Rose Spector, Justice

  
Priscilla R. Owen, Justice

  
James A. Baker, Justice

  
Greg Abbott, Justice



DISTRICT CLERKS:

CONCHO COUNTY - MARGARET TAYLOR  
915/732-4322  
KERR COUNTY - LINDA UECKER  
210/257-4396  
KIMBLE COUNTY - ELAINE CARPENTER  
915/446-3353  
McCULLOCH COUNTY - MACKYE JOHNSON  
915/597-0733  
MENARD COUNTY - ELSIE MASERANG  
915/396-4682

EMIL KARL PROHL  
DISTRICT JUDGE  
198TH JUDICIAL DISTRICT COURT  
KERR COUNTY COURTHOUSE  
KERRVILLE, TEXAS 78028

COURT COORDINATOR: BECKY I. HENDERSON  
KERR COUNTY COURTHOUSE  
700 MAIN STREET  
KERRVILLE, TEXAS 78028  
210/257-5945

COURT REPORTER: LINTON TOMLIN  
208 BALL DRIVE  
KERRVILLE, TEXAS 78028  
210/257-2105

November 17, 1995

Honorable John T. Adams  
Clerk, Supreme Court  
Supreme Court Building  
P. O. Box 12248  
Austin, Texas 78711

Re: Local Rules of the 198th & 216th District Courts

Dear Mr. Adams:

Enclosed, please find the Rules of Practice in the 198th & 216th Judicial District Courts to be filed with the Supreme Court.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Emil Karl Prohl".

Emil Karl Prohl  
198th District Court

EKP:bh

RULES OF PRACTICE IN THE 198TH & 216TH JUDICIAL DISTRICT COURTS

BANDERA, CONCHO, GILLESPIE, KENDALL, KERR  
KIMBLE, McCULLOCH, MENARD

CIVIL CASES

A. REQUEST FOR SETTING - JURY CASES:

Jury Trial

1. Request for Setting

A setting for trial on the merits will be made in response to a written Request for Setting submitted directly to the Court Coordinator at the Kerr County Office. The party requesting a setting should not file the Request for Setting with the Clerk.

The Request for Setting shall contain the following:

- a. The style and number of the case, and the county where the case is pending;
- b. The name, address and telephone number of the attorney making the request and the party represented by said attorney;
- c. The date on which the jury fee was paid;
- d. A statement that the pleadings of the party requesting the setting are in order;
- e. A statement that mediation has been completed or none is required.
  - (1) Pending mediation, all discovery is abated unless otherwise ordered by the Court.
- f. A statement that all discovery has been completed or none is desired.
  - (1) If discovery is pending the request shall contain the date on which discovery is expected to be completed;
- g. A statement that all pre-trial matters have been disposed of or none is pending.

- (1) If pre-trial matters are pending the request for setting shall state the nature of same, the party asserting same, the estimated time for hearing same and possible dates for a pre-trial hearing which have been cleared with opposing counsel;
  - h. A statement that the party requesting the setting has made a good-faith effort to negotiate a settlement of the case and further efforts appear futile;
  - i. Possible dates for the trial of the case which have been cleared with opposing counsel.
    - (1) If opposing counsel will not agree to a date for trial, the dates proposed and the reason for opposing counsel's refusal to agree to same;
  - j. The estimated time of trial;
  - k. A certificate that a copy of the Request for Setting has been served on all counsel in the case, the name and address of each attorney and the date of service;
  - l. The signature of the attorney making the Request.
  - m. A blank Order Setting which should be attached to the Request.
2. In response to a Request for Setting, the Court will enter an Order setting the case for trial on the merits and deliver a copy of the same to the District Clerk to certify who will then deliver a certified copy to each attorney. If item g. (1) in the Request for Setting is applicable, the Court will set a pre-trial hearing.
  3. At the time the parties announce ready, each party shall submit to the Court proposed jury questions.

B. REQUEST FOR SETTINGS - NON-JURY CONTESTED CASES:

Non-Jury Trial

1. Request for Setting

A setting for trial on the merits will be made in response to a written Request for Setting submitted directly to the Court Coordinator at the Kerr County Office. The party requesting a setting should not file the Request for Setting with the Clerk. The contents of

the Request for Setting shall be the same as a Request for Setting for jury trial except for item c.

2. Order Setting

The same procedure will be followed as for Jury Trial.

- a. A setting will be made only in response to a proper written Request for Setting.

C. DISMISSAL DOCKET; INVOLUNTARY DISMISSAL:

Dismissal for Want of Prosecution.

If no action is taken by a party seeking affirmative relief within eighteen (18) months directed toward a trial on the merits, the Court will proceed to dismiss the case for want of prosecution in accordance with Rule 165a, R.C.P.

D. UNCONTESTED AND DEFAULT MATTERS:

1. Request for Settings for uncontested and Default matters may be made orally, by contacting the Court Coordinator.
2. In all counties of the district in all matters which may be heard in any county of the district, the attorneys may bring the case file to the Judge in the county where he is present, and the case will be heard there. The attorneys obtaining the file to be taken to another county shall return the file to the District Clerk's Office the same day or no later than the next working day after the trial concerning the file is completed.

E. TEMPORARY RESTRAINING ORDERS AND PROTECTIVE ORDERS:

1. An application for a Temporary Restraining Order and/or Protective Order, to be granted without notice to the adverse party, will be considered only upon the applicant's verified complaint or affidavit accompanying the application, and no testimony will be heard. No Temporary Restraining Order or Protective Order will be granted without notice to the adverse party unless the applicant's verified complaint or affidavit accompanying the application contains "specific facts," as required by Rule 680, T.R.C.P., and a "a plain and intelligible statement of the grounds for such relief," as required by Rule 682, T.R.C.P. No such Temporary Restraining Order shall be granted upon a complaint or affidavit containing mere conclusions, even if verified.

Ex Parte Orders in family law matters must meet the requirements of Section 11.11 and 71.15 of the Family Code.

CRIMINAL CASES

A. GRAND JURY:

The Court will be present in the following counties of the district on the following dates for the purpose of having grand juries in session:

Concho County	- As Needed
Kerr County (198th)	- 1st Friday of each month, 9:00 a.m.
Kimble County	- 2nd Monday of each month, 9:00 a.m.
McCulloch County	- 2nd Friday of each month, 9:00 a.m.
Menard County	- 1st Thursday of each month, 9:00 a.m.
Kendall County	- 1st Monday of each month, 8:30 a.m.
Gillespie County	- 2nd Monday of each month, 8:30 a.m.
Kerr County (216th)	- 3rd Monday of each month, 8:30 a.m.
Bandera County	- 4th Monday of each month, 8:30 a.m.

(There may be a few months that the dates may vary).

B. CONTINUANCES/RESETTING/POSTPONEMENT:

1. Continuances

All continuances shall be in accordance with Arts. 29.01 through 29.13, C.C.P. and Art. Tx. Civil Prac. & Rem. Code 30.003.

2. Agreed Continuances

If you have a continuance that is agreed to by all parties, please contact the Court Coordinator and advise her of this and she will consult with the Judge prior to removing the matter from the docket. **Continuances are not automatic upon agreement by the parties.**

3. Resettings

1. To obtain a resetting date, please contact the Court Coordinator for available dates, then contact opposing counsel to obtain a date that is available and agreeable to all counsel.
2. Send an Order Resetting with a cover letter advising the Coordinator of the date the parties have agreed on.

C. SETTINGS/SCHEDULING:

1. Settings

Criminal cases will be set for trial at the request of the District Attorney. Should a defendant desire a trial for which the District Attorney has not requested a setting, the case will be set in response to the defendant's request. A pre-trial hearing, as provided by Art. 28.01, C.C.P., will be conducted in each case prior to trial.

2. Continuances

There will be no summary or automatic "first continuances." All continuances shall be in accordance with Arts. 29.01 through 29.13, C.C.P. and Art. 30.003, Texas Civil Prac. & Remedies Code.

D. PAYMENT OF COURT APPOINTED ATTORNEYS:

All court appointed attorneys shall provide the Court an itemized statement reflecting the number of hours spent in Court in representation of an indigent defendant and the number of hours spent out of Court representing said defendant.

1. An Order Paying Court Appointed Attorney should be attached to the itemized statement.

E. FAMILY LAW CASES:

1. The trial of family law cases involving children will be given preference over the trial of other civil cases.
2. The attorneys in all contested hearings concerning support shall prepare complete written income and expense statements as to their respective clients and present same to the Court prior to the hearing.
3. In all contested cases involving the division of property the attorneys shall prepare a complete written inventory of the assets and liabilities of the marital estate and of the separate estate of their respective client and submit same to the Court prior to trial.

F. GENERAL RULES:

The following rules apply to all cases:



1. When setting or resetting a case for trial, pre-trial, etc., please contact the Court Coordinator for available dates. Then, contact all other counsel and obtain a date that everyone is available.
  - a. Submit an Order Setting to the Court, with a Request for Setting when obtaining a trial date, or a letter when obtaining a pre-trial date, stating the date the parties have agreed to.
  - b. If you cannot obtain a date that is agreeable to all counsel, send your Order Setting with a letter stating the dates that were given to opposing counsel and their reasons for not agreeing.

**ALWAYS ADVISE THE COURT IN YOUR REQUEST OR COVER LETTER THAT YOU HAVE CONTACTED THE OPPOSING COUNSEL AND THAT THEY ARE AVAILABLE FOR HEARING ON THE DATE YOU HAVE REQUESTED.**

2. When setting or resetting a case for trial, pre-trial, etc., please advise the Court the estimated time you will need for the hearing.
3. The Court will set your case for hearing as quickly as possible. In an effort to do so, the Court may set your case in another county within the District, other than the county the case is filed in. It is the obligation of the attorneys to transport the Court's file to the county where the hearing will be held and then to see that it is returned to the appropriate Clerk's Office with which it is filed.
4. If for any reason, you have to cancel a hearing, please contact the Court Coordinator as soon as possible.
5. Hearings conducted by telephone conference call are acceptable and encouraged by the Court.

The foregoing rules of Practice are promulgated pursuant to rule 3A, R.C.P., and a copy of same has been furnished to the Supreme Court of Texas.

SIGNED AND ORDERED FILED in the Minutes of the Court in each County of the District this the 17 day of November, 1995.



EMIL KARL PROHL  
Presiding Judge  
198th Judicial District of Texas



STEPHEN B. ABLES  
Presiding Judge  
216th Judicial District of Texas

**SIXTH ADMINISTRATIVE JUDICIAL REGION**

STEPHEN B. ABLES, Presiding Judge  
KERR COUNTY COURTHOUSE  
KERRVILLE, TEXAS 78028

ADMINISTRATIVE ASSISTANT  
BECKY HENDERSON

(210) 257-5845  
FAX (210) 792-5818

January 3, 1996

Honorable Tom Phillips  
Chief Justice  
Supreme Court Building  
P. O. Box 12248  
Austin, Texas 78711

Re: Local Rules of the 198th & 216th District Courts

Dear Justice Phillips:

This letter is to confirm that as Administrative Judge for the Sixth Administrative Judicial Region of Texas, I hereby approve the Local Rules of Practice in the 198th & 216th Judicial District Courts.

Please let me know if you need anything further.

Very truly yours,

A handwritten signature in black ink, appearing to read "S. B. Ables", written over a horizontal line.

Stephen B. Ables  
Presiding Judge  
Sixth Administrative Judicial Region

SBA:bh



## 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

CLERK  
JOHN T. ADAMS

JUSTICES  
RAUL A. GONZALEZ  
NATHAN L. HECHT  
JOHN CORNYN  
CRAIG ENOCH  
ROSE SPECTOR  
PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

January 8, 1996

Hon. Stephen B. Ables  
Sixth Admin. Judicisl Rgn.  
Kerr County Courthouse  
Kerrville, Texas 78520

Dear Judge Ables,

Please find enclosed, a copy of the order of the Supreme Court that approved local rules for the 198th and 216th District Courts.

Sincerely,

**SIGNED**

John T. Adams  
Clerk

Encl.

cc: Hon. Emil Karl Prohl  
198th District Court

District Clerks  
Bandera County  
Concho County  
Gillespie County  
Kendall County  
Kerr County  
Kimble County  
McCulloch County  
Menard County

Supreme Court Adv Committee

Mr. Jerry Benedict  
Office of Court Admin

State Law Library