

**IN THE SUPREME COURT OF TEXAS**

Misc. Docket No. 96- 9259

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**APPROVAL OF LOCAL RULES OF PRACTICE  
FOR THE 329TH AND 23RD JUDICIAL DISTRICT COURTS  
WHARTON COUNTY, TEXAS**

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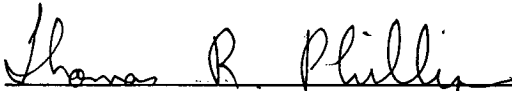
**ORDERED:**

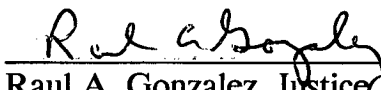
Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court of Texas approves the following local rules:


Local Rules of Practice for the 329th and the 23rd Judicial District Courts, Wharton County, Texas.

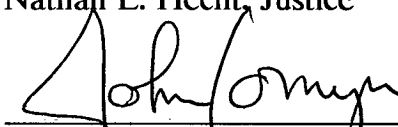
The approval of these rules is temporary, pending further orders of the Court.

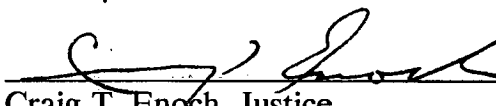
SIGNED AND ENTERED this 30<sup>th</sup> day of January, ~~1996~~ <sup>1997</sup>

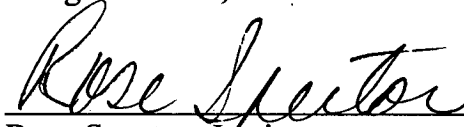
  
Thomas R. Phillips, Chief Justice

  
Raul A. Gonzalez, Justice


  
Nathan L. Hecht, Justice


  
John Cornyn, Justice

  
Craig T. Enoch, Justice

  
Rose Spector, Justice

  
Priscilla R. Owen, Justice

  
James A. Baker, Justice

  
Greg Abbott, Justice

**WHARTON COUNTY, TEXAS**  
**LOCAL RULES OF PRACTICE**  
**OF**  
**329TH AND 23RD JUDICIAL DISTRICT COURTS**

**RULE 1. TIME STANDARDS FOR THE DISPOSITION OF CASES**

1.1. The following standards will apply to insure the final disposition of cases in a timely manner:

A. CRIMINAL CASES - As provided by Article 32A.01, Code of Criminal Procedure.

B. CIVIL CASES OTHER THAN FAMILY LAW  
**Civil Jury Cases** within 18 months from appearance date.  
**Civil Non-Jury Cases** within 12 months from appearance date.

C. FAMILY LAW CASES  
**Contested Family Law Cases** within 6 months from appearance date or within 6 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

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

D. JUVENILE CASES

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

1. **Detention Hearings** on the next business day following admission to any detention facility.

2. **Adjudicatory or Transfer (Waiver) Hearings**

Concerning a juvenile in a detention facility, not later than 10 working days following admission to such a facility, except for good cause shown of record.

Concerning a juvenile not in a detention facility, not later than 30 days following the filing of the petition, except for good cause shown of record.

3. **Disposition Hearings** not later than 15 days following the adjudicatory hearing. The Court may grant additional time in exceptional cases that require more complex evaluation.

4. Nothing herein shall prevent a judge from recessing a juvenile hearing at any stage of the proceeding where the parties are agreeable or when, in the opinion of the judge presiding in the case, the best interest of the child and of society shall be served.

E. COMPLEX CASES

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

**RULE 2. INFORMATION REGARDING ACTIVITY OF THE COURTS**

2.1. The Administrative Judge shall provide the following information as to the activity of the Courts within the County:

- A. MONTHLY - The number of cases filed, disposed, and pending in the County by type of case in accord with the definitions of the Office of Court Administration.

The age of the active pending criminal cases listed in 30-day intervals to 270 days and all over 270 days.

The age of the active pending domestic case listed in 30-day intervals to 360 days and all over 360 days.

- B. QUARTERLY - The age of the active pending civil cases listed in 90-days intervals to 540 days and all over 540 days.

The number of dispositions in each category of case exceeding the time standards adopted by the Supreme Court presented as a percentage of the total dispositions in that category.

**RULE 3. COURT DOCKET**

3.1. There is one general docket for the 23rd and 329th District Court; and, cases filed in Wharton County shall be styled "In the District Court of Wharton County, Texas" as provided in Section 24.124 of the Texas Government Code.

- A. All odd numbered cases shall be assigned to the 23rd Judicial District Court except for Domestic Relations, Change of Name, and Occupational Driver's License cases, which shall be assigned to the 329th Judicial District Court.
- B. All even numbered cases shall be assigned to the 329th Judicial District Court.
- C. The Judges of the 23rd and 329th District Court may hear and dispose of any matter on the general docket of the Courts, both civil and criminal, without a transfer of the matter. Accordingly, subject to the availability of the Court in which the matter is to be heard and the consent of the Judge to whose Court the matter is assigned, any matter may be heard in either Court. Such requests should be addressed to the Court Coordinator of the 329th District Court.

### 3.2. SETTINGS IN THE 329th JUDICIAL DISTRICT COURT

3.2.1. Trial Settings - A case shall be placed on the "Active Trial Docket" only after the Court receives written request from a party or his attorney of record, requesting that the case be set for trial. Such request shall certify:

- A. Whether the case is jury or non-jury.
- B. The approximate number of days required to try the case.
- C. The names and address of all parties or their attorneys of record.
- D. That a copy of the request has been served on all other parties or their attorneys of record at the addresses indicated.
- E. That the pleadings are in order.
- F. That no attorney of record on whom a copy of the request is served has withdrawn from the case.
- G. That all written and filed agreements to take depositions and to produce a party for physical examination have been accomplished.
- H. That all necessary ad litem appointments have been made.
- I. That all matters preliminary to trial have been accomplished.
- J. That the case is ready for trial.

3.2.2. The Court shall maintain two separate active trial dockets, one for jury cases and one for non-jury cases.

3.2.3. The setting priority on cases on an active trial docket shall be the order in which setting requests are received by the Court. The case shall maintain its setting priority relative to other cases on the active trial docket until it is either tried or removed from the active trial docket by the granting of a continuance. (As a means of discouraging premature setting requests solely to establish a high docket priority, setting priority will be lost if a continuance is granted at docket call.)

3.2.4. A party to a case is entitled to 45 days notice after service of a copy of a setting request before jury docket call for the case. The Court, in its discretion, shall determine how many cases with highest setting priority shall be placed on any particular call of the docket, and the Court shall notify all parties or their attorneys of record in writing as to the date and time of jury docket call.

3.2.5. At jury docket call, the Court shall hear all unresolved pre-trial motions, conduct a pre-trial conference pursuant to Rule 166, and shall assign a trial date for the case unless a continuance is granted. The assigned trial date shall be no fewer than 10 days after the date of docket call. If a trial date is assigned at docket call, no other amended pleadings, motions, or other pleas may be filed prior to trial except by special leave of the Court, and the case may not be passed by agreement of the parties.

- 3.2.6. In general, one jury case per week will be tried; however, more cases will be tried when the Court feels there is sufficient time. Therefore, the “ready” cases are, in most instances, determined prior to the time for a formal calling of the docket for the jury day, thus rendering such call unnecessary. After the “ready” case has started to trial, the other cases will be passed for another setting and the attorneys excused.

3.3. MOTIONS AND SHORT HEARINGS - 329th JUDICIAL DISTRICT COURT

It is the policy of the 329th Judicial District Court to refrain from scheduling more than one hearing at the same time. A party or his attorney of record who wishes to schedule a motion or other short hearing should communicate with the Court Coordinator by telephone, or otherwise, to determine an acceptable date and time for the hearing. The Court should be informed as to the estimated amount of time required for the hearing. Nothing other than an informal confirmation by the Court or the Court’s Coordinator is required in order to have the Court reserve that time for the hearing. However, it shall be the duty of the party scheduling the hearing to serve or cause to be served the proper notice of the hearing within the time limits and in the manner prescribed by the Texas Rules of Civil Procedure or other applicable rule of law.

3.4. SETTINGS IN THE 23rd JUDICIAL DISTRICT COURT

- 3.4.1. Trial Settings - Request for trial settings, both jury and non-jury, shall be in writing and in the form prescribed by the Court. The form of the setting request is available from the Court Coordinator. Setting requests shall be for a specific one-week or two-week docket, as identified on the Court’s schedule for the current calendar year. In general, setting priority shall be given to older cases and cases for which setting requests are first received; however, the Court may assign cases on the trial docket in the order which best promotes the administration of justice. Preferential settings are discouraged, and will be granted only in unusual circumstances.
- 3.4.2. Ancillary Hearings - Hearings on motions and other ancillary matters shall be set by written, telephonic, or telecopier request to the Court Coordinator.
- 3.4.3. Pretrial Requirements for Jury Trials - Except for cases in which a pretrial hearing has been set, docket call for all jury trials will be held at 9:00 o’clock a.m. on the Monday on which the trial is to begin. Except for cases in which a docket control order has been entered, the following **must be done prior to the beginning of the trial:**
- A. Motions in limine should be filed and exchanged by noon on the preceding Friday. Because of the very limited time available to the Court to hear and rule on these motions prior to voir dire, counsel must discuss the motions prior to docket call and determine which portions are truly contested. Contested limine issued must be supported by a brief in outline form.

- B. Exhibits must be marked prior to trial, and exhibit lists and exhibits must be exchanged sufficiently in advance of the trial to enable the lawyers to discuss which exhibits will be admitted into evidence by stipulation and which exhibits will be the subject of objections.
- C. Video deposition excerpts must be exchanged prior to docket call and, to the extent possible, reviewed and edited jointly, in order to minimize trial disruptions.
- D. Proposed special issues must be prepared and submitted to the Court and opposing counsel prior to voir dire.
- E. Bench copies of live pleadings and any outstanding motions which are to be considered must be presented to the Court at docket call.

If all these requirements are not complete, the case is subject to being reset on a later docket.

3.5. CORRESPONDENCE relating to settings shall be addressed to:

Daniel R. Sklar  
Judge of the 329th District Court  
Wharton County Courthouse  
100 Milam, Room 202  
Wharton, Texas 77488  
409-532-1514  
409-532-1299 (fax)

Mary Peck Schubert  
Court Coordinator-23rd District Court  
Brazoria County Courthouse  
111 E. Locust, Suite 402  
Angleton, Texas 77515  
409-849-5711  
409-849-7514 (fax)

#### **RULE 4. DOMESTIC RELATIONS CASES**

4.1. REPORTS PURSUANT TO A DIVORCE - Upon filing of a divorce decree, Report of Divorce form, Notice of Child Support form, and Information on Child in Suit Affecting Parent-child Relationship form shall be filled out and presented to the Clerk.

4.2. CHILD SUPPORT PAYMENTS - All Child Support Orders shall include the statement that all child support payments shall be made through the following office:

**Wharton County Child Support Office  
P. O. Box 807  
Wharton, Texas 77488**

- A. All child support payments shall be by Cashier's Check or Money Order and made payable to the recipient.

4.3. ANNUAL SERVICE FEE ON CHILD SUPPORT PAYMENTS - All Divorce Decrees and Support Orders after contempt hearings involving child support shall contain the following paragraph:

“It is further ordered that \_\_\_\_\_, the person ordered to make payments for child support, shall pay a fee of \$48.00 annually to the Child Support Office this Court, by a separate Cashier’s Check or Money Order, and the first annual payment of this service fee is to be paid in addition to the amount of support, on same date of first support payment, and then \$48.00 payable annually on the same date of each year thereafter until child support is no longer required to be paid in this cause.”

- A. Child support payments are to be ordered withheld from the Obligor’s earnings.
- B. The name and address of the Obligor’s employer must accompany the Order for Withholding from Income for child support.

4.4. VISITATION GUIDELINES

The Court encourages settlement of visitation between the parents with due regard for the welfare of the children affected. The possessory conservator shall be entitled to reasonable possession of the children, which, except upon clear and convincing proof otherwise, shall, as a minimum, be as set out in the Family Code, Sec. 153.311 et seq.

4.5. UNCONTESTED DIVORCES - NOTICE OF CHILD SUPPORT PAYMENTS

In all cases where child support payments shall be sought, the party requested to pay the support must be given notice of child support proposal prior to the hearing, or be given notice that child support payments are to be requested and shall be determined by the Court at the hearing.

4.6. FINANCIAL INFORMATION STATEMENT

The Financial Information Statement furnished by the Clerk is to be completed and furnished to opposing counsel and the Court prior to any show cause hearing and/or hearing on the merits in domestic relations cases.

4.7. CHILDREN COPE SEMINAR

The adult parties to all divorce suits and suits involving minor children are to attend the Children Cope Seminar, or equivalent, prior to the granting of a final judgment.

**RULE 5. GUARDIAN/ATTORNEY AD LITEM APPOINTMENT**

It shall be required that before any person/attorney be appointed guardian/attorney ad litem there be filed with the District Clerk a Certification of Study acknowledging that the applicant is familiar with Chapter 107, Subchapters A, B, and C of the Texas Family Code; and, have attended, reviewed, or have viewed at least 3 hours of seminars or course material involving power, duties, and responsibilities of a Guardian Ad Litem.



**RULE 6. PAYMENT OF JURY FEE**

Jury trials will be granted only when a jury fee has been paid at least 30 days before the Monday of the week in which the case is set for trial and the request therefore has been known to the Judge before the announcement of the docket.

**RULE 7. COURT CALENDAR-OPEN WEEKS**

7.1. OPEN WEEKS - The following weeks shall be reserved by the Courts:

- A. The first week in January.
- B. The week of the annual State Bar Convention.
- C. The week of the annual conference of the Judicial Section of the State Bar.
- D. The last week in December.

**RULE 8. COURTROOM CONDUCT**

8.1. CONDUCT OF ATTORNEYS

The conduct of attorneys shall be prescribed by the Rules of Civil Procedure and the Code of Ethics. No attorney shall remain seated while addressing the Court, upon the pain that his remarks or objections may not be heard by the Court. However, attorneys shall remain seated during examination and cross-examination of witnesses, unless it is necessary to stand to present exhibits to witnesses, etc. Only one attorney taking the lead in the trial of a case will examine witnesses for each party or parties unless permission is granted by the Court. All attorneys shall conduct themselves in courteous manner, with respect shown to the Court, opposing attorneys, and witnesses.

8.2. CONDUCT REQUIRED OF ALL PERSONS

While the Court is in session, there shall be:

- A. No chewing gum used by the witnesses while on the witness stand or by any attorneys while interrogating the witness or addressing the Court.
- B. No bottles, paper cups, or beverage containers brought into the Courtroom while the Court is in session or left in the Courtroom at any time.
- C. No edibles brought into the Courtroom.
- D. No propping of feet on tables or chairs.
- E. No noises or talking, which interferes with the Court proceedings.
- F. No newspapers, books, or other reading material shall be read in the Courtroom.
- G. No photographs or recordings will be made in the Courtroom and no recording devices, cameras, or movie cameras will be brought into the Courtroom without first obtaining permission from the Court.

8.3. The Court shall not be deemed in session for purposes of these rules during any recess or while the Jury has retired for its deliberations.

**RULE 9. SPECIAL SETTINGS**

The Court reserves the power to make special settings not in accordance with these rules, subject to the provisions of Rule 245 of the Texas Rules of Civil Procedure. Except for such special settings, these rules shall apply.

**RULE 10. ADMINISTRATIVE JUDGE**

The Judge of the 329th District Court shall serve as the local Administrative Judge of Wharton County, Texas.

**RULE 11. TRIAL PRIORITY**

11.1. Judges shall attempt to agree on which trial setting has priority; otherwise, the following order of priorities is established:

- A. Criminal Cases.
- B. Preferential settings.
- C. The 329th District Court shall yield to the 23rd District Court if failing to yield results in disbanding of the jury panel; or, the Court being without a case available for trial.
- D. Election contests and other matters requiring the assignment of a visiting judge.
- E. The earlier filed case.
- F. Regular settings.
- G. Pre-trial settings.

**RULE 14. DESIGNATION OF ATTORNEY VACATION**

In civil cases not specially set, an attorney may not be put to trial during a period in June, July, and August if he has, in writing, filed with the Clerk before the first of April of such year, a designation of such period as vacation time.

Dated: March 30, 1984  
Revised: April 1, 1987  
Revised: July 1, 1989  
Revised: October 8, 1996

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Daniel R. Sklar, Judge  
329th Judicial District Court

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Ben Hardin, Judge  
23rd Judicial District Court



# SECOND ADMINISTRATIVE JUDICIAL REGION OF TEXAS

OLEN UNDERWOOD  
PRESIDING JUDGE

JUDY M. GEIGER  
ADMINISTRATIVE ASSISTANT

VIKKI L. NELSON  
REGIONAL DOCKET MANAGER

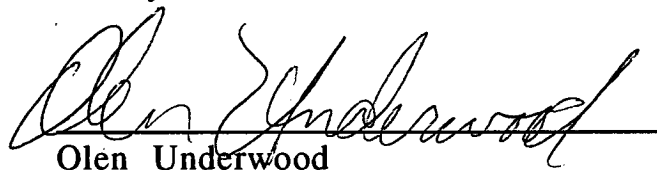
January 14, 1997

## APPROVAL OF RULES OF THE 329th and 23rd DISTRICT COURTS OF WHARTON COUNTY

On January 14, 1997, the Presiding Judge of the Second Administrative Judicial Region of Texas approved by letter, the Local Rules of the 329th and 23rd District Courts of Wharton County.

Upon review of said Local Rules, same are approved as written by the Presiding Judge of the Second Administrative Judicial Region of Texas.

Signed this the 14th day of January, 1997.

  
Olen Underwood



## 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 ASST  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

January 30, 1997

Hon. Olen Underwood  
2nd Admin. Judicial Rgn.  
301 N. Main, Suite 228  
Conroe, Texas 77301

Dear Judge Underwood,

Please find enclosed, a copy of the order of the Supreme Court that approved local rules of practice for the 329th and 23rd Judicial District Courts of Wharton County.

Sincerely,

SIGNED

John T. Adams  
Clerk

Encl.

cc: Hon. Daniel R. Sklar  
329th District Court

Hon. Ben Hardin  
23rd District Court

District Clerk

County Clerk

Supreme Court Adv Committee

Mr. Jerry Benedict  
Office of Court Admin

State Law Library