

**IN THE SUPREME COURT OF TEXAS**

Misc. Docket No. 00- 9119

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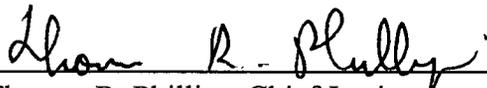
**ORDER APPROVING LOCAL RULES OF THE DISTRICT COURTS  
AND COUNTY COURTS AT LAW OF SMITH COUNTY**

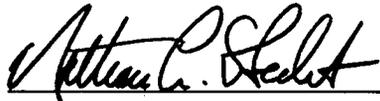
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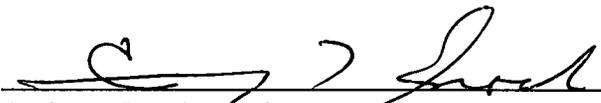
**ORDERED** that:

Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the following Local Rules of the District Courts and County Courts at Law of Smith County, Texas, are approved. This approval is temporary pending further orders of the Court.

BY THE COURT, IN CHAMBERS, this 26 day of July, 2000.

  
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Thomas R. Phillips, Chief Justice

  
\_\_\_\_\_  
Nathan L. Hecht, Justice

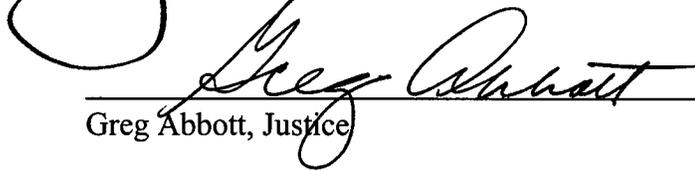
  
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Craig T. Enoch, Justice



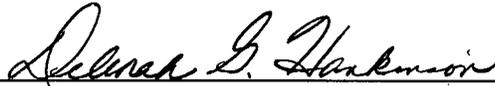
Priscilla R. Owen, Justice



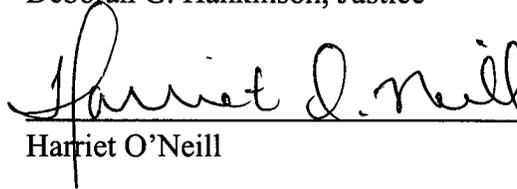
James A. Baker, Justice



Greg Abbott, Justice



Deborah G. Hankinson, Justice



Harriet O'Neill



Alberto R. Gonzales

**LOCAL SMITH COUNTY RULES OF CIVIL TRIAL  
JUDICIAL DISTRICT COURTS AND COUNTY COURTS AT LAW  
SMITH COUNTY, TEXAS**

**The following local rules of civil trial are adopted for use in non-family law civil trials in the 7th Judicial District Court, 114th Judicial District Court, 241st Judicial District Court, 321st Judicial District Court, County Court at Law, County Court at Law No. 2, County Court at Law No. 3 and the County Court of Smith County, Texas.**

**It is ORDERED that these rules shall be published, in a manner reasonably calculated to bring the rules to the attention of attorneys practicing before the Smith County courts, on or before November 23, 1998.**

**These rules shall be interpreted in a manner consistent with the Texas Rules of Civil Procedure and any rule of the First Administrative Judicial Region.**

**The Smith County District Clerk and the Smith County Court Clerk shall make the Local Smith County Rules of Civil Trial available, upon request, for review to citizens and members of the bar.**

**It is ORDERED that these rules are effective beginning on April 1, 1999 or upon their approval by the Texas Supreme Court pursuant to T.R.C.P.3a, whichever occurs later.**

**RULE 1.** The objective of the Rules of Civil Trial is to obtain a just, fair, equitable and impartial adjudication of the rights of litigants under established principles of substantive law and established rules of procedural law. To the end that this objective may be attained with as great expedition and dispatch and at the least expense both to the litigants and to the state as may be practicable, the rules shall be applied to ensure that, so far as reasonably possible, all matters are brought to trial or final disposition in conformity with the rules established by the Texas Supreme Court and laws of the State of Texas.

**RULE 2. MOTIONS.**

**2.1 Certification of Conference.** Before filing a motion, counsel for a moving party must confer or certify that a reasonable effort has been made to confer with the counsel, if known, of all parties affected by the requested relief to determine whether or not the contemplated motion will be opposed. Such a conference is required for all motions except motions to dismiss the entire action, motions to quash, motions for protection, temporary restraining orders, motions for judgment on the pleadings, motions for summary judgment, and motions for new trial.

The purpose of the conference requirement is to promote a frank exchange between counsel to resolve issues by agreement or to at least narrow and focus the matters in controversy before judicial resolution is sought.

If a motion to compel or for sanctions is sought, the Court will not consider the motion unless the movant certifies that the movant has conferred with or made a reasonable effort to confer with opposing counsel in an effort to resolve the dispute without the necessity of Court intervention and that the attempt has failed.

2.2 Form. Motions shall be in writing and shall be accompanied by a proposed order granting the relief sought. The proposed order shall be a separate instrument. All pleadings, motions, orders and other papers filed with the Court shall be consecutively numbered at the bottom of the page.

2.3 Submission. Motions shall state a date of submission at which time the Motion will be considered without a hearing, unless both a request for oral argument and a response are filed. The movant shall select the date of submission which shall be no sooner than the Monday following fifteen (15) days from date of filing, except on leave of Court. The motion will be submitted to the Court for ruling on that date or later.

Submission date on motions for summary judgment shall be no sooner than the expiration of thirty (30) days from the date of filing of the motion for summary judgment. A response, if any, to a motion for summary judgment shall be filed and served seven (7) days before the submission date pursuant Tex. R. Civ. Proc. Rule 166a. However, the Court will not actually hear oral argument on a motion for summary judgment unless (i) properly requested pursuant to Local Rule 2.7., and (ii) the Court determines that oral argument will substantially aid the Court in ruling on the motion for summary judgment. Counsel are encouraged to include citations and copies of any cases believed to be controlling as part of the motion or response.

2.4 Opposed Motions. All opposed motions must include either (i) a certificate which states that a conference was held and indicates the date of the conference and the attorneys who conferred, or (ii) a certificate explaining why it was not possible to hold the conference. Each contested motion must be accompanied by a separate proposed order and by a brief setting forth the movant's contentions of fact and law, unless a brief or proposed order is not required.

**The clerk of the court is directed not to submit opposed motions to the judge unless there has been compliance with this rule.**

2.5 Unopposed Motions. All unopposed motions must be accompanied by agreed proposed orders, signed by the parties or their attorneys. Motions without opposition and their orders must be captioned "Agreed."

2.6 Responses and Replies. Failure to respond to a motion is deemed to be a representation of no opposition unless objections are already on file. Responses to motions must be filed at least two working days before the date of submission, be in writing and supported by authority, and be accompanied by a separate form order

denying the relief sought, unless the Texas Rules of Civil Procedure provide otherwise.

2.7 Oral Argument. The motion or response shall include a request for oral argument, if desired, in the requesting party's motion or response. A request for an oral argument alone is not a response under Rule 2.6.

2.8 Motions for Continuance or Postponement.

- (1) All Motions for Continuance or Postponement must be filed in writing with the Court at least seven (7) days prior to the hearing in the cause, except for good cause shown, and a copy properly served upon opposing counsel or unrepresented opposing parties.
- (2) No request to continue, pass, postpone or reset any trial, pretrial or other hearing shall be granted unless counsel for all parties involved consent, or unless all parties not joining in such request or their counsel have been notified and have had opportunity to object. It is discretionary with the Court as to whether or not to grant any requested continuance or postponement even if such request is unopposed.
- (3) All second or subsequent Motions for Continuance must be personally approved and signed by the client for whom a postponement is requested, or if the client is unavailable or out of state, counsel may certify that his client has been mailed a copy of the motion by certified mail, return-receipt requested with a cover letter stating in a separate paragraph in bold face type, **The postponement is being sought by (attorney's name) for (the party's name).**

### **RULE 3. PRETRIAL.**

3.1 Civil Case Joint Questionnaire

The Court orders that the Civil Case Joint Questionnaire, provided by the Smith County District or County Clerk's office, be completed and filed by the Plaintiff after conferring with all counsel and pro se parties. The questionnaire must be filed within ninety (90) days of the date of the filing of the case.

3.2 Discovery Control Plan and Scheduling Order. The Court will enter a discovery control plan and scheduling order which will control the course of litigation and may not be amended without leave of Court.

Level 1 Discovery Control Plan shall apply to any suit as provided by 190.2 of the Texas Rules of Civil Procedure.

Level 2 Discovery Control Plan shall apply to any suit as provided by 190.3 of the

## Texas Rules of Civil Procedure.

The plaintiff or defendant may certify to the Court in writing at the time of the filing of plaintiff's pleading or the defendant's answer that the litigation is complex and should proceed under a 190.4 (Level 3) Discovery Control Order. If the Court concurs, the Court will enter a scheduling order to accommodate complex litigation as provided by 190.4 of the Texas Rules of Civil Procedure.

The Court may modify a discovery control plan at any time and shall do so when the interest of justice requires or when required under 190.5 of the Texas Rules of Civil Procedure. The date for the discovery deadline may be extended by Agreed Motion signed by all parties, so long as the proposed extension does not adversely affect the other dates or deadlines on the Scheduling Order.

### 3.3

#### Exhibits.

- (1) Each counsel will file a list of all potential exhibits to be offered, provide a copy to opposing counsel, and make all such exhibits available for examination by opposing counsel, and do so before the Pre-Trial Conference or at least seven (7) days before trial, whichever occurs first. The only exceptions to this rule are rebuttal exhibits which cannot be anticipated. Designation of substantially more documents than an attorney or party reasonably expects to actually introduce at trial will subject the offending party to sanctions and/or contempt of Court. Failure to comply with this rule will subject the offending party to sanctions and/or contempt of Court.
- (2) A party's production of a document in response to written discovery is self-authenticated as provided by Section 193.7 of the Texas Rules of Civil Procedure. Any counsel requiring authentication of any other exhibits not covered by Section 193.7, must so notify in writing the offering counsel at least fifteen (15) days before trial or pre-trial conference, whichever is earlier, except on leave of Court for good cause. Failure to do so is an admission of authenticity.
- (3) Any other objections to admissibility of exhibits must, where possible, be made at least fifteen (15) days before trial or pre-trial conference, whichever is earlier, except on leave of Court for good cause, and the Court notified in writing with copies to all counsel accompanied by supporting legal authorities and copies of the exhibits in dispute. All objections will normally be ruled upon by the Court prior to trial.
- (4) The offering party must pre-mark and pre-number his or her own exhibits prior to trial and must provide a list of exhibits to be offered at trial to the court reporter before jury selection.
- (5) All exhibits will be offered and received in evidence as the first item of business at the trial.

Joint Pretrial Order.

(1) Filing. A joint pretrial order shall be filed by the Plaintiff's attorney at least fifteen (15) days before the scheduled date of trial unless specified otherwise in the Scheduling Order. If an attorney for either party does not participate in the preparation of the joint pretrial order, the opposing attorney shall file a separate pretrial order with an explanation of why the joint order was not submitted.

(2) Contents. The pretrial order must contain; (1) a summary of the claims and defenses of each party; (2) pending motions needing resolution; (3) a statement of the stipulated facts; (4) a list of the contested issues of fact; (5) a list of those legal propositions not in dispute; (6) a list of contested issues of law; (7) names and addresses of witnesses and each party shall designate whether the witness will testify by deposition or in person; subject to change only upon good cause affirmatively established to the Court; (8) a statement that settlement efforts have been exhausted; (9) an estimate of the length of trial; (10) the signature of each attorney; and (11) a place for the date and signature of the Court.

(3) Video Presentations. Attorneys proposing to use video presentations must present the page and line numbers to opposing counsel at the time assigned for the entry of the joint pretrial order. Objections by opposing counsel must be presented to the Court and the offering attorney prior to the joint pretrial conference. Any edited video depositions shall be presented for exhibition to opposing counsel to examine any piecemeal editing, relocation of testimony, exhibition out of context, etc. Opposing counsel shall be entitled to assert the rule of Optional Completeness and have portions of the deposition proposed by opposing counsel or the entire deposition introduced after the initial presentation unless counsel agree to have a single presentation whether edited or in its unedited entirety. Any objections to the proposed video depositions shall be made prior to the pretrial conference and rulings will be made by the Court at the pretrial conference so that the video presentation of a party may be made uninterrupted.

(4) Objections. Objections to any matters set forth in the pretrial order shall be filed with the Court prior to the pretrial conference. All such objections will be ruled upon by the Court at the pretrial conference.

3.5 Exclusion. The parties may file, within twenty (20) days of the date of the scheduling order, an agreed motion and proposed order requesting exclusion of certain cases, i.e. collection suits, worker's compensation, simple car wrecks, slip and fall, etc., from the requirements of a joint pretrial order and pretrial conference and the Court will consider and rule upon such motion.

3.6 Pretrial Conference. A pretrial conference will be held according to the scheduling order entered by the Court which will normally be ten (10) days prior to the case's trial setting or at such other dates as set by the trial Court.

**RULE 4.     TRIALS.**

- 4.1     Manner of Setting. Cases shall be set for trial by order of the Court.
- 4.2     Date of Setting. Cases shall be set for trial for a date certain. If a case is not tried by the second Friday after the date it was set, whether because of a continuance or because it was not reached, the Court shall reset the case to a date certain. Unless all parties agree otherwise, the new setting must comply with all requisites of T.R.C.P. 245.
- 4.3.     Witness Attendance. Each party is responsible for the attendance at trial of its proposed witnesses, and may not rely on another party's list for attendance of a witness. Witnesses under subpoena are not affected by this rule.
- 4.4     Witness Numbers. Each party or parties with the same alignment on a disputed issue will be allowed up to two (2) witnesses on any disputed issue, such as expert witnesses, character witnesses, etc., except on good cause shown.

**RULE 5.     SUBMISSION OF ORDERS, DECREES AND JUDGMENTS.**

**Within ten (10) days after rendition of an order, an agreed order, decision, judgment or an announced settlement by counsel, counsel for the moving party shall cause, unless ordered otherwise, all such orders, decisions, or judgments, or documents to be reduced to writing and delivered to opposing counsel with an appropriate signature line to allow opposing counsel to acknowledge "approved as to form" or "approved as to form and substance," as appropriate. Opposing counsel must then return such order, decision, judgment, or document to the originating counsel within ten (10) days either with signature subscribed thereon or with objections in writing. Once attorneys for all parties have signed the document, it should be forwarded to the court coordinator for signature by the trial judge. If objections to the form or the substance of the order are made, the moving counsel is required to either amend the order to alleviate the objections and resubmit it to opposing counsel or forward it to the Court with a request for a hearing. If a response as required herein is not provided within ten (10) days of receipt of the proposed order, originating counsel may present the order and evidence of opposing counsel's receipt to the Court for signature and rendition.**

**If either counsel or a party cause or require a hearing that a reasonable and prudent party or attorney in the same or similar circumstances would not have caused or required, the Court shall award attorney's fees against such party or attorney in favor of the other party including any reasonable fees or expenses incurred as a result of causing or requiring the hearing. If counsel for the moving party or alternate counsel ordered by the Court to prepare the order, decision, judgment or other document fail to comply with the provisions of this rule, the Court shall award attorney's fees against the failing party in favor of**

**the other party for fees and expenses incurred reasonably by the other party's counsel in preparing the order or document. The Court may consider any requests for extensions of time under this rule for good cause shown only.**

**RULE 6. DISMISSAL DOCKETS.**

The following cases are eligible for dismissal for want of prosecution pursuant to T.R.C.P. 165a:

- (a) Cases on file for more than 180 days in which no answer has been filed or is required by law;
- (b) Cases which have been on file for more than twelve (12) months and are not set for trial;
- (c) Cases in which any party seeking affirmative relief fails to appear for any hearing or trial of which the party has notice.

**RULE 7. SETTLEMENT.**

Counsel is to notify the Court immediately of settlements that obviate Court settings as unnecessarily summoned jury panels are disruptive to the Court and jurors.

**RULE 8. VACATIONS OF COUNSEL.**

An attorney may designate not more than four (4) weeks during the year as vacation, during which time he will not be assigned to trial or required to engage in any pretrial proceedings. **A separate written designation in each cause must be filed with the Court Coordinator at least 45 days in advance of the vacation period unless the case has been set for trial prior to counsel's vacation designation.** This rule operates only where lead counsel, as defined by T.R.C.P. 8 is affected, unless the Court expands coverage to other counsel.

If a case is set by the Court during the designated vacation period, counsel must timely file with the Court a written Motion for Continuance to bring to the Court's attention the filed vacation designation.

**RULE 9. APPEARANCES.**

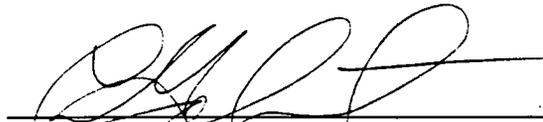
**Attorneys must make court appearances in person unless all matters to be considered in the hearing have been agreed by all parties and such agreement is reflected in a letter or fax, signed by all affected attorneys, to the Court through its court coordinator. If a fax is sent to manifest such agreement, the court coordinator should be notified by telephone when the fax is actually transmitted.**

The Court may allow, upon request, counsel to appear by telephone conference call. This, however, is discretionary with each individual Court.

**RULE 10. EFFECTIVE DATE.**

These rules shall become effective upon their approval by the Texas Supreme Court pursuant to T.R.C.P.3a or April 1, 1999, whichever occurs later.

ORDERED AND SIGNED on this the 7<sup>th</sup> day of March, 1999.



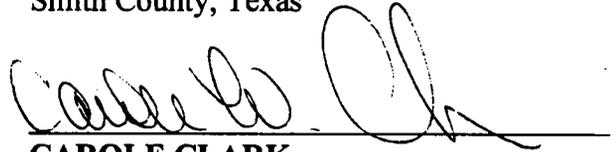
**LOUIS B. GOHMERT, JR.**  
Judge, 7th Judicial District Court  
Smith County, Texas



**CYNTHIA STEVENS KENT**  
Judge, 114<sup>th</sup> District Court  
Smith County, Texas



**DIANE DEVASTO**  
Judge, 241<sup>st</sup> District Court  
Smith County, Texas



**CAROLE CLARK**  
Judge, 321<sup>st</sup> District Court  
Smith County, Texas



**THOMAS DUNN**  
Judge, County Court at Law  
Smith County, Texas



**RANDALL ROGERS**  
Judge, County Court at Law No. 2  
Smith County, Texas



**FLOYD GETZ**  
Judge, County Court at Law No. 3  
Smith County, Texas



**LARRY CRAIG**  
Judge, Smith County Court  
Smith County, Texas

February 3, 1999

Memo to: Judge Diane DeVasto  
Judge Cynthia Kent  
Judge Louis Gohmert  
Judge Thomas Dunn  
Judge Randall Rogers  
Judge Floyd Getz  
Mrs. Becky Dempsey, District Clerk

From: Judge Carole Clark

Re: Final Draft of the Local Family Law Rules

Enclosed is the Final Draft of the Local Family Law Rules as approved at the Council of Judges Meeting.

I believe that I have made all of the corrections as approved; however, if I have omitted something, please let met know.

A handwritten signature in cursive script, appearing to read "Carole Clark".

**LOCAL RULES OF PRACTICE  
FAMILY LAW CASES OF SMITH COUNTY, TEXAS**

**1. RULES OF CIVIL PROCEDURE**

If there is a conflict between these rules and the Texas Rules of Civil Procedure, the Texas Rules of Civil Procedure shall control.

**2. FILING, ASSIGNMENT AND TRANSFER**

A. These rules shall apply to all pending cases and are effective beginning April 1, 1999 or upon their approval by the Texas Supreme Court pursuant to T.R.C.P. 3a whichever occurs last.

B. All cases filed by the Texas Department of Regulatory and Protective Services shall be filed in the 321st District Court.

C. All new family law cases shall be filed by the District Clerk in random order pursuant to the last adopted case assignment order of the Smith County Council of Judges (50%-321st, 30%-County Court at Law and 20%-County Court at Law #2).

D. All subsequent proceedings shall be assigned to the court of continuing jurisdiction, with the exception of all subsequent proceedings in the 241st District Court which shall be assigned to the County Court at Law #2.

E. Transfer of cases:

(1) The presiding judge may, upon notice and hearing, or upon agreement of the parties, transfer any case from the Court in which same is pending to any other Court having subject matter jurisdiction. The judge of the receiving Court must approve the transfer and an order transferring the suit must be filed prior to any hearings by the receiving Court.

(2) Whenever any pending case is so related to another case previously filed in or disposed of by another family law court in Smith 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 was pending may, upon notice and hearing, or by agreement of the parties, transfer the later case to such Court.

(3) Signing of the pleadings--every pleading of a party, represented by an attorney, before being filed shall be signed by at least one attorney of record in accordance with the Texas Rules of Civil Procedure. A party not represented by an attorney shall sign in like manner stating address and telephone number. The court personnel may not sign or amend any instrument for a party or attorney.

### **3. FLOW OF CASES**

A. Multiple Suits--In all instances where a suit is filed in one of the courts in the Family Trial Division, and thereafter the suit is in any way terminated (by nonsuit or otherwise) and a subsequent suit or case of action involving the same parties or the same subject matter is filed, the same shall be filed in or transferred to the court that first had jurisdiction of the said parties or subject matter. It is the purpose and intent of this rule that its applicable be made to all controversies, including divorce support, conservatorship, and all matters incident thereto whether sought by original proceedings or by modification, clarification or enforcement of a former order, judgment or settlement agreement. When such a situation is disclosed for the first time after the hearing begins, the judge of the court shall immediately order the suit transferred to the court in which the earlier suit was filed.

B. Severance--If a severance is granted, the new case remains assigned to the court where the original case is pending, bearing the same file date and the same number as the original case with a letter designation; provided, however, that when a severed case has previously been consolidated from another court, the case shall upon severance be assigned to the court from which it was consolidated.

C. Presiding for Another--In all cases where a judge signed an order on behalf of another court, the case shall remain in the original court.

D. Improper Court--if a case is on the docket of a court by any manner

other than as prescribed by these rules, the Administrative Judge of Smith County shall transfer the case to the proper court.

#### **4. TEMPORARY ORDERS**

A. Except in emergencies when the District 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. If the Judge of the court to which such case is assigned is absent or is occupied with other matters, the coordinator of the assigned Court shall insert a date and hour for hearing in any form of a proposed order before such application may be presented to any other Judge, who may sit for the Judge of the Court in which the case is pending and shall make all writs and process returnable to the assigned court.

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 at the earliest practicable time be docketed and assigned to a Court, and all writs and process shall be returnable to the assigned court. If the Judge of such Court is not available to hear the application for temporary relief at the time set, any court with jurisdiction may preside in this case.

#### **5. EX PARTE ORDERS**

A. All applications for ex parte relief shall be presented to the Court to which the case is assigned, unless emergency circumstances exist and then shall be presented in accordance with Paragraph 3.

B. In any case in which counsel of record for the nonmoving party has been designated, said application shall be presented to said counsel, by fax, hand delivery, or other method of service designed to give opposing counsel immediate notification, in addition to the requirements of notification of Texas Rules of Civil Procedure 21a.

#### **6. STANDING RESTRAINING ORDER**

A. The Court hereby ORDERS that in all divorce suits filed, a Standing Temporary Restraining Order in the form attached hereto as Addendum "1" is

imposed on all parties to the suit. All petitions for divorce shall contain a statement signed by Petitioner evidencing receipt of a copy of the Standing Temporary Restraining Order, and in the absence of such paragraph, it shall be DEEMED that Petitioner, by invoking the Court's jurisdiction, has constructive notice to the Standing Temporary Restraining Order and subject himself/herself to it.

B. The Clerk of this Court shall attach, to each citation to be served, a copy of the Standing Temporary Restraining Order. Said Standing Temporary Restraining Order shall become effective on the Respondent when citation is served, a waiver of citation is signed, or actual notice in some other manner is received.

C. The Standing Restraining Order remains effective until the temporary hearing, if any, or if no temporary hearing is requested by either party, until the final hearing. Should a temporary hearing be requested by either party, then the Court shall determine whether the Standing Restraining Order shall remain in effect until the final hearing, and absent a ruling on the Court to the contrary, the Standing Restraining Order shall remain effective until the final hearing.

## **7. SEMINAR FOR DIVORCING PARENTS**

A. All parties in a suit affecting the parent-child relationship are encouraged to successfully complete an approved seminar listed in Addendum "2."

B. All parties in a contested suit affecting the parent child relationship shall complete the seminar prior to requesting a setting in the matter.

C. Pro Bono clients shall make application with the seminar director for a fee waiver.

## **8. PREREQUISITES FOR A TRIAL SETTING IN OTHER THAN DEFAULT CASES**

A. Attendance by all parties at a settlement conference.

B. Attendance at a seminar for divorcing parents in a suit affecting the parent child relationship.

C. Attendance by all parties at mediation. In the event the parties are financially unable to secure the services of a private mediator, attendance at settlement week mediation shall be satisfactory to comply with this requirement. As settlement week is intended to benefit clients who are financially unable to obtain the services of a private mediator, all other cases shall be submitted to a private mediator.

D. Submission to the Court of that form attached as Addendum "3."

## **9. MOTIONS FOR CONTINUANCE**

A. An agreed continuance is not automatic and must be approved by the Court.

B. All contested motions for continuance must be filed before trial and a hearing had on the motion prior to the trial setting, except on good cause shown.

## **10. MOTIONS DURING PENDENCY OF CAUSE**

A. All motions filed with the Court shall include a certificate of conference.

B. All unopposed motions shall be submitted with an agreed order signed by the attorneys of record.

## **11. EXCHANGE OF INFORMATION**

A. Temporary Hearings--prior to the hearing all parties shall exchange wage information and expense sheets. (Expense Sheet--Addendum "4")

B. At the temporary hearing, the Court shall be furnished the information described in 11A above.

C. Final Hearing--prior to final hearing all parties shall exchange wage information, inventory and appraisement, proposed division of property, proposed resolutions of child custody, child support, visitation and any other pertinent matters.

D. At the final hearing, the Court shall be furnished all information set out in 11C.

## 12. EXHIBITS

A. All exhibits to be introduced shall be introduced with sufficient copies for all attorneys of record and the Court.

B. Counsel are encouraged to premark exhibits.

## 13. ORDERS

A. Within 10 days of the rendition of an order in a matter, the designated party shall submit a proposed order to the Court. If no objection is received within 10 days from the date the order is submitted, the Court shall enter it. If objection is received, the Court may set the matter for hearing.

FILED  
BECKY DEMPSEY  
DISTRICT CLERK

99 FEB -4 AM 10: 54

SMITH COUNTY, TEXAS

BY Becky Dempsey  
DEPUTY

IN THE  
321ST JUDICIAL DISTRICT COURT,  
COUNTY COURT AT LAW  
AND  
COUNTY COURT AT LAW NUMBER TWO,  
SMITH COUNTY, TEXAS

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STANDING TEMPORARY RESTRAINING ORDER

On the 18<sup>th</sup> day of Feb, 1999, came on to be considered the matter of issuance of temporary orders as provided by the Local Rules of these Courts (In supplement to the Texas Rules of Civil Procedures), effective Feb. 1, 1999, and the Courts being of the opinion that all parties to original divorce proceedings in the 321st Judicial District Court, County Court at Law, and County Court at Law Number Two of Smith County, Texas, ought to be subject to a restraining order from the date of institution of suit or service thereof and it appearing to the said Courts appropriate to enter a STANDING TEMPORARY RESTRAINING ORDER and the Court does hereby enter this order which is henceforth to be effective with respect to all parties to original divorce proceedings receiving actual or constructive notice thereof, and each third party to original divorce proceedings, and IT IS THEREFORE ORDERED that Petitioner, Respondent, and all third parties to said proceedings ARE HEREBY RESTRAINED AND ENJOINED FROM:

1. Removing any minor child of the parties to a location beyond the jurisdiction of this Court unless authorized by this Court.
2. Consuming any illegal controlled substance (As that term is defined in the Texas Controlled Substance Act), 12 hours prior to and during any period of possession of the child(ren).
3. Engaging in any physical contact with a person with the intent to receive or arouse the sexual gratification of the party in possession of the child(ren) while in the presence or sphere of presence of the child(ren).
4. Doing, or attempting to do, or threatening to do any act of injury, embarrassment, molestation, or harassment to the other spouse or the child (or any of the children) or any family member in possession of the child(ren) to which family member the parents relinquished possession of the child(ren) or acquiesced in said family member's possession of the child(ren) for at least six (6) months immediately preceding the filing of the divorce petition.

5. Making any derogatory or disparaging remarks against the other party to the child(ren) or within the child(ren)'s hearing range or presence nor shall either Party allow the child(ren) to be in the presence of anyone making disparaging or derogatory remarks against the other party or the child(ren).
6. Selling, encumbering, contracting to sell, damaging, destroying, negotiating, or otherwise disposing of or removing from the jurisdiction of this Court any of the property, including monies on account in any financial institution, which belong to the parties, except in the ordinary course of business or to make expenditures and incur indebtedness for reasonable attorney's fees, medical care, and for reasonable and necessary living expenses for food, clothing, shelter, and transportation.
7. Terminating or in any manner effecting the service of water, electricity, gas, telephone, cable television, at the customary residence of the other spouse or in any manner attempting to withdraw any deposits for service in connection with such services.
8. Intentionally excluding the other spouse from ingress and egress to the customary residence of said spouse.
9. Taking any action to terminate or limit credit or charge cards in the possession of the other spouse.
10. Incurring any credit purchase on any credit account or charge card in the name of either spouse except for the acquisition on credit or reasonable attorney's fees, medical care, and reasonable and necessary living expenses for food, clothing, shelter, and transportation.
11. Changing or in any manner altering the beneficiary designation on any life insurance policy on the life of either spouse.
12. Canceling, altering, or in any manner effecting any casualty, automobile, or health insurance policies insuring the parties' property or persons including the parties' minor child(ren).
13. Forging the name of the other spouse on any document.

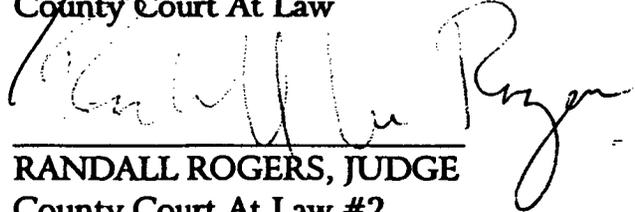
IT IS SO ORDERED this 1st day of February, 1999, effective from and after  
the 1st day of February, 1999.



CAROLE CLARK, JUDGE  
321st Judicial District Court



THOMAS A. DUNN, JUDGE  
County Court At Law



RANDALL ROGERS, JUDGE  
County Court At Law #2

## APPROVED SEMINARS

1. Kids First

REQUEST FOR SETTING  
COURT  
SMITH COUNTY, TEXAS

CAUSE NO. \_\_\_\_\_

STYLE: \_\_\_\_\_ CAUSE OF ACTION: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PETITIONER'S/MOVANT'S ATTORNEY: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RESPONDENT'S ATTORNEY: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OTHER ATTORNEY: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MONTH TO BE SET: \_\_\_\_\_ JURY OR NON/JURY: \_\_\_\_\_

PRE-TRIAL MATTERS:

\_\_\_\_ PRETRIAL HEARING REQUESTED (check if pretrial requested)

**( FOLLOWING MUST BE COMPLETED BEFORE REQUEST  
SUBMITTED)**

ITEM

ACCOMPLISHED

INVENTORIES FILED(PROPERTY CASE)	_____	(MUST BE YES)
SETTLEMENT CONFERENCE (ALL)	_____	(MUST BE YES)
PARENT SEMINAR(SAPCR)	_____	(MUST BE YES)
MEDIATION (ALL)	_____	(MUST BE YES)

DATE REQUEST SUBMITTED: \_\_\_\_\_

\_\_\_\_\_  
PERSON REQUESTING

DATE SET(TO BE FILLED IN BY COURT ONLY) \_\_\_\_\_

\_\_\_\_\_  
COURT COORDINATOR



**THIS FACE SHEET MUST ACCOMPANY THE FILING  
OF ALL PARTIES' FIRST PLEADING**

**FAMILY LAW DISCOVERY FACE SHEET**

CAUSE NO. \_\_\_\_\_

STYLE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TYPE OF CASE: \_\_\_\_\_

**DISCOVERY LEVELS**

**YOU MUST CHOOSE ONE**

LEVEL 1 \_\_\_\_\_

Cases with no children and marital estate less than \$50,000

LEVEL 2 \_\_\_\_\_

Any case not in category Level 1 or Level 3.

LEVEL 3 \_\_\_\_\_

Cases involving a discovery control plan "tailored to the circumstances of the specific suit."

If Level 3 is chosen, the party designating the case as a Level 3 must request a hearing for the court to implement the discovery plan. If there is a dispute over the proper level of discovery, it shall be brought to the court's attention at the first hearing.



# 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

JUSTICES  
NATHAN L. HECHT  
CRAIG T. ENOCH  
PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT  
DEBORAH G. HANKINSON  
HARRIET O'NEILL  
ALBERTO R. GONZALES

CLERK  
JOHN T. ADAMS

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T  
JIM HUTCHESON

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

August 19, 2000

Hon. Diane V. DeVasto  
Admin. Judge and Judge  
241st District Court  
100 N. Broadway, 2nd Floor  
Tyler, Texas 75702-7236

Dear Judge DeVasto,

Please find enclosed, a copy of the order of the Supreme Court that temporarily approved local rules for the courts of Smith County.

Sincerely,

**SIGNED**

John T. Adams  
Clerk

Encl.

cc: Hon. Pat McDowell  
Hon. Louis B. Gohmert, Jr.  
Hon. Cynthia Stevens Kent  
Hon. Carole Clark  
Hon. Thomas Dunn  
Hon. Randall Rogers  
Hon. Floyd Getz  
Hon. Larry Craig

District Clerk

County Clerk

Supreme Court Adv Committee

State Law Library