

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 02- 9093

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ORDER APPROVING LOCAL RULES FOR THE CIVIL DISTRICT COURTS  
OF BEXAR COUNTY

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ORDERED that:

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

SIGNED AND ENTERED this 21<sup>st</sup> day of May, 2002.

  
Thomas R. Phillips, Chief Justice

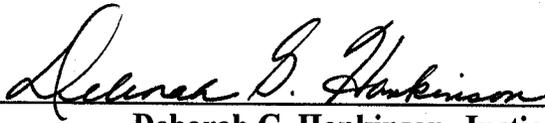
  
Nathan L. Hecht, Justice

  
Craig T. Enoch, Justice

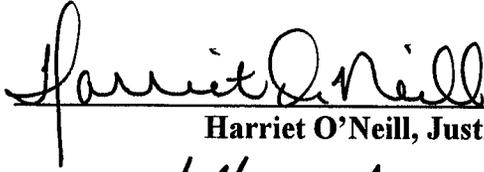
  
Priscilla R. Owen, Justice

  
James A. Baker, Justice

Misc. Docket Order 02-\_\_\_\_\_



**Deborah G. Hankinson, Justice**



**Harriet O'Neill, Justice**



**Wallace B. Jefferson, Justice**



**Xavier Rodriguez, Justice**

**LOCAL RULES FOR THE CIVIL DISTRICT COURTS  
OF BEXAR COUNTY, TEXAS  
October 2001**

**1. INTRODUCTION**

Every trial and pretrial hearing in civil district court is scheduled on one of the following two dockets: (A) the Nonjury Docket, administered by the Presiding Civil Judge, or (B) the Jury Docket, administered by the Monitoring Judge and Jury Assignment Clerk.

**2. ALLOCATION OF JUDGES**

The thirteen civil district judges rotate monthly as Presiding Civil Judge ["Presiding Judge"]. Each week three active judges are assigned to assist the Presiding Judge with the nonjury docket; the Family Law Associate Judge also assists. The other judges are assigned to try jury cases (and nonjury trials of two days or more). The judges trying jury cases assist the Presiding Judge with nonjury matters from 8:30 to 9:30 and resume their jury trials at 9:30. When the jury docket for the week has been completed, the available judges assist the Presiding Judge for the rest of the week.<sup>1</sup>

**3. NONJURY DOCKET (Presiding Civil Court)**

**A. 8:30 and 9:00 Dockets.** The Presiding Court hears all nonjury matters, including pretrial matters in cases set for jury trial, with the exception of issues allocated to the Monitoring Judge under Rule 4.<sup>2</sup> Each morning the Presiding Judge calls two dockets — one at 8:30 and the other at 9:00. The 8:30 docket includes discovery hearings, summary judgments, pleading disputes, and other matters that ordinarily do not require witnesses. The 9:00 docket includes nonjury trials on the merits, temporary orders, injunctions, family-law protective orders, special appearances, venue hearings and other matters that may require significant court time or involve witnesses. An additional docket consisting of requests for protective orders by the district attorney's office is called at 10:00 each Tuesday, Wednesday, and Thursday. The tax docket is heard two times each month on Wednesday at 2:00 P.M.

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<sup>1</sup> The daily schedule for the civil district courts may be found at the district clerk's website ([www.co.bexar.tx.us/dclerk](http://www.co.bexar.tx.us/dclerk)) under "Civil Courts."

<sup>2</sup> Pursuant to Rule 4(A), the Monitoring Judge hears the following pretrial matters in cases set for jury trial: motions for continuance, motions for special setting, motions for scheduling order, motions to designate a case complex, and motions to modify or extend deadlines in scheduling orders.

**B. Presiding Court Announcements.** When each case is called at docket call, parties shall announce whether they are ready or not ready, whether they want to confer, or whether the matter will be dropped, reset by agreement, or disposed of by agreed order. Parties are also expected to estimate the amount of court time contested hearings will take. When no announcement is made, the matter will be dropped.

**C. Discovery Hearings.** When setting a discovery hearing, attorneys and pro se litigants must comply with Rule 191.2, T.R.C.P., which requires a statement that the parties have tried to resolve the discovery dispute by agreement before resorting to court.

**D. Computation of Time.** Consistent with rules 4, 21, and 21a, T.R.C.P., the courts will not count Saturdays, Sundays, or legal holidays when calculating any three-day notice period, except when the period has been extended because notice was given by mail or facsimile.

#### **4. JURY DOCKET (Monitoring Court and Jury Assignment Clerk)**

**A. General.** Trials on the merits in all jury cases and in nonjury cases estimated to take two days or more are scheduled and assigned through the Jury Assignment Clerk. Each week the Jury Assignment Clerk assigns jury trials (and nonjury trials of two days or more) to courts as they become open. Jury cases are set for a specific week. Cases not reached during the week of the setting are automatically reset for trial during carry-over week — the last week of the month — without further notice. Each quarter of the year, a different civil district judge serves a rotation as Monitoring Judge. When jury cases require a docket-related decision — such as motions for continuance, motions for special setting, motions for pretrial scheduling order, or motions to designate a case as complex, or motions to modify or extend a deadline in a scheduling order — that decision is made by the Monitoring Judge.

**B. Procedures.** Each week's jury docket is handled in the following manner.

1. *Friday.* On Friday the Jury Assignment Clerk assigns cases to specific courts for trial, beginning with TDPRS<sup>3</sup> cases, followed by family-law cases and special settings, and working through the docket in numerical order, taking the older cases first. The clerk telephones lawyers and notifies them which court they are assigned to for trial on Monday.

2. *Monday.* The cases remaining on the docket after the assignments on Friday are called for announcements at 8:30 on Monday morning in Monitoring Court. Lawyers are expected to announce whether they are ready for trial (with the estimated trial time), not ready and filing a motion for continuance, or that the case has been settled. When the Monday morning docket has been called, the clerk will tell lawyers where their case ranks numerically on the list of remaining

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<sup>3</sup> Texas Department of Protective and Regulatory Services.

cases. Lawyers handling cases near the bottom of the list will be permitted to return to their offices to await a call notifying them when a court has become available for their case. Every case will be subject to assignment until Thursday at 11:00 A.M. Cases not reached and assigned to a court by Thursday will automatically be placed on the docket for carry-over week (the last week of the month) for trial at that time.

3. *Tuesday, Wednesday, and Thursday.* During the middle of each week, the Monitoring Judge hears motions for continuance, motions to designate cases as complex, motions for special setting, and motions for pretrial scheduling order. Settings on these matters are obtained through the Jury Assignment Clerk's office. The court hears a dismissal docket on the second and fourth Tuesdays of each month.

**C. Policies.** The Monitoring Judge will adhere to the following policies:

1. *Agreed continuances.* When a continuance is agreed or unopposed, a motion must be presented to the Monitoring Court so that if the motion is granted the judge can select a reset date that is available for additional settings and reasonably acceptable to all lawyers.

2. *Special settings.* The Monitoring Judge may grant a special setting, which will place the case at the beginning of a week's docket before the ordinary settings. This decision requires a motion and hearing in Monitoring Court, even if all parties agree.

3. *Complex cases.* The Monitoring Judge has the discretion to remove a case from the central docket for assignment to one judge for all further pretrial matters and trial on the merits. This decision requires a motion and hearing in Monitoring Court, even if all parties agree. If the motion is granted, the Jury Assignment Clerk and the Monitoring Judge will use a predetermined random procedure to determine which judge will preside over the case to its conclusion.

4. *Dismissal docket.* Periodically the District Clerk sets older cases for dismissal for want of prosecution and notifies the parties of the dismissal setting in Monitoring Court. Cases are set for dismissal on the second and fourth Tuesdays of each month. If no one appears at the hearing to ask that the case be retained on the docket, it will be dismissed. The Monitoring Judge decides which cases to retain on the docket and hears any motions to reinstate cases that have been previously dismissed for want of prosecution.

## **5. SCHEDULING HEARINGS**

**A. Non-jury Settings.** A party may schedule a nonjury trial or hearing by obtaining a date and time from the Presiding Civil Court (210-335-2000), providing the clerk a motion to set and order,

and serving a copy of the motion and a conformed copy of the order on all other parties.<sup>4</sup>

**B. Jury Settings.** A party may schedule a jury trial (or nonjury trial estimated to last two days or more) by obtaining a date and time from the Jury Assignment Clerk (210-335-2520), providing the clerk a motion to set and an order, and serving a copy of the motion and a conformed copy of the order on all other parties. When a case is set for jury trial, the parties are scheduled for a hearing on the ADR docket approximately four months before the trial date.

**C. Monitoring Court.** When cases have been set for jury trial, hearings on motions for continuance, for special setting, for pretrial scheduling order, or to designate a case as complex are set in Monitoring Court by obtaining a date and time from the Jury Assignment Clerk and giving notice to all other parties.

## 6. EX PARTE REQUESTS

**A. General.** Every request for relief from a civil district court must be presented to the Presiding Court, with the exception of uncontested matters (subsection B) and requests for family-law restraining orders (subsection C).

**B. Uncontested Matters.** The following matters are considered to be uncontested and may therefore be presented to any available district judge: default, agreed, and waiver divorces; agreed orders; no-answer default judgments; nonsuits; friendly suits; annulments; requests for occupational drivers licenses; orders for alternate service of citation; adoptions; and requests for change of name.

**C. Temporary Restraining Orders.** Requests for temporary restraining orders in family-law cases may be presented to any available district judge. In all other cases, requests for temporary restraining orders must be presented to the Presiding Court for decision or for assignment to another judge. The attorney making the request shall state in writing that: (1) to the best of his knowledge the respondent is not represented by counsel, (2) he has tried and has been unable to contact opposing counsel about the application, (3) opposing counsel has been notified of the application and does not wish to be heard, or (4) notifying the respondent or his counsel would cause irreparable harm to the movant.

**D. Other Extraordinary Relief.** Other requests for extraordinary relief, such as requests for writs of habeas corpus, sequestration, attachment, and garnishment, and requests for family-law protective orders, must be presented to the Presiding Judge for decision or assignment to another judge. When any judge has denied such a request, the matter may not be presented to a different judge without assignment by the Presiding Court.

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<sup>4</sup> When corresponding with the clerks by mail, counsel must provide a self-addressed, stamped return envelope.

## 7. CONFLICTING SETTINGS

When attorneys have conflicting court settings, they should try to resolve the conflict by agreement with opposing counsel and the courts involved. If agreement cannot be reached, counsel should ask the judges of the conflicting courts or their staffs to confer and seek resolution. Judges will ordinarily, in the exercise of their discretion, give preference to federal settings, criminal settings, special settings, and older settings. When attorneys have settings in more than one court in Bexar County, they should inform each court of their other settings and how they may be contacted. When one court setting unreasonably delays the others, the opposing attorneys may inform the courts of the delay and seek assistance.

## 8. POST-TRIAL HEARINGS

**A. Contested Trials and Hearings.** With the exception of post-judgment discovery and enforcement proceedings and family-law motions to modify or clarify a final order, after a contested trial on the merits all motions must be scheduled with and heard by the judge who presided over the trial. Motions to enter a judgment, order, or decree should be scheduled directly with the judge who made the ruling at issue.

**B. Default Judgments.** Motions to set aside or modify no-answer default judgments must be set before the Presiding Court in the same manner as other non-jury matters. Motions to set aside or modify post-answer default judgments (e.g., after failure to appear for trial or after the granting of sanctions) must be set before the judge who granted the judgment.

## 9. ADR DOCKET

**A. ADR Hearing.** Each month one judge will be responsible for deciding whether cases should be referred for alternate dispute resolution. All jury cases will be scheduled for an ADR hearing approximately four months before trial. At the ADR hearing it will be presumed that mediation should be ordered, but the ADR judge may decide that mediation would not be appropriate in a particular case. In most cases the court will order mediation and appoint a mediator. If no one appears at the ADR docket, and a written agreement has not been presented, the court will order mediation and select a mediator at random from a list of qualified mediators.

**B. Mediation Agreements.** The court will honor agreements that choose a particular mediator. Agreements must state the mediator's name, how the fee will be split, and the deadline for mediation, and must contain a provision authorizing sanctions for noncompliance.

## 10. VACATIONS AND OTHER UNAVAILABILITY

**A. Notice.** Attorneys who plan to take a vacation, or who know that they will be unavailable for hearings, and who wish to prevent the scheduling of hearings during their absence must give written notice to the Presiding Court and to the attorneys-in-charge for other parties in the cases affected at least two weeks before the vacation or period of unavailability will begin. The notification letter must provide an address, telephone number, and telecopier number for service of notice, and in family-law cases must designate alternate counsel in the event an emergency arises during the vacation or period of unavailability.

**B. Existing Settings.** Existing settings will not be dropped, postponed, or rescheduled solely on the basis of a vacation or unavailability letter. Attorneys who desire to take a vacation or otherwise be unavailable must reschedule existing hearings by agreed order or by motion for continuance and ruling from the Presiding Court.

## 11. APPLICABILITY

These rules supersede and replace Part 3 (Civil District Court Rules) of the *Rules of Practice, Procedure and Administration in the District Courts of Bexar County* (April 1991).

### COMMENTS

The following comments are meant to provide additional details and to explain some of the reasons and practical realities underlying these rules.

#### Rule 3.

- *8:30 Docket.* The 8:30 docket was created in the 1980's to serve three purposes: (1) it clears out shorter matters early in the morning before the general docket is called at 9:00; (2) it gives the Presiding Court the early-morning assistance of the judges who are trying jury cases; and (3) it helps minimize conflicts for lawyers who have pretrial hearings but are in trial elsewhere in the courthouse by releasing them from their jury cases until 9:30.

- *Computation of Time.* Under rules 4, 21, and 21a, weekends and holidays are not counted when calculating three-day notice periods and therefore notice must be given by Wednesday for a motion hearing on Monday. Three days are added to the notice periods when notice is given by fax or hand delivery.

It is helpful to understand how the Presiding Judge will interpret the common announcements at docket call and what action the judge will take:

- *No announcement by other side.* If the opposing party does not answer, the judge will call you to the bench after the docket has been called and will review the file to confirm notice and to discuss with you the relief to be granted. In certain situations, the judge may ask you to telephone the other lawyer and find out why he or she did not come to court. This practice helps avoid time-consuming motions for rehearing.

- *Ready.* If you have already conferred with opposing counsel, the matter cannot be resolved by agreement, and you need a hearing, you should announce ready.

- *Not ready.* This means you have conferred, you are not ready, and you want to postpone the hearing. Presumably, the other side will not agree to a continuance; otherwise the setting would be dropped or reset by agreement.

- *Conferring.* Frequently you will want to talk with opposing counsel in the hall or a conference room, but you want to keep your setting and be assigned to a court in the event you cannot reach an agreement. Judges want lawyers to confer because many disputes can be resolved when the lawyers talk face-to-face. Frequently, in family-law cases there has been no opportunity to talk. The suit has just been filed, and the petitioner does not know whether the respondent will appear, or whether he has retained an attorney or is pro se. In such cases the judge will want both sides to confer, at least briefly. After you have conferred, if there is no agreement and you need a ruling, you should return to court and give your announcement and time estimate to the clerk or the judge. If you are still conferring at 11:00 A.M., you must report this to the clerk so the case will be kept on the docket while you continue to confer.

- *Dropped settings.* In many cases you have not been able to serve or notify the other side, or you have your opponent's agreement to drop the setting and try to work things out informally, or perhaps you and your opponent have resolved your matter by agreement but do not intend to have a written order signed. In these situations you should ask that the setting be dropped. You have no *right* to drop a setting over your opponent's objection, even when it is your setting.

- *Agreed resets.* This means you and opposing counsel both want the matter reset. If you are ready and have conferred but cannot agree to the other side's request for a reset, you should announce ready and let your opponent seek a continuance.

- *Agreed orders.* When the issues set for hearing have been settled, a written agreed order should be submitted later. Be sure to state whether you need to present proof (e.g., in divorce settlements) or make a record pursuant to Rule 11, T.R.C.P.

- *Time estimates.* Attorneys are expected to make realistic estimates of the time they think will be needed for the entire hearing.

#### **Rule 4.**

- *Limits on weekly settings.* Years of experience with this system have proven that no week should be overloaded with jury settings because if too many cases are set at one time the courts will not be able to try all of them. If this were allowed to happen, the system would lose the predictability that is one of its main strengths. For this reason, the Jury Assignment Clerk sets limits on the number of weekly jury settings. Most of the time, each case is reached and disposed of during the week of the initial setting. Any remaining cases are invariably reached and tried during carry-over week.

- *Longer nonjury cases* are removed from the Presiding Court docket and assigned with the jury cases because the Presiding Court cannot afford to devote any of its three assisting judges or the Family Law Master to a long case.

- *Carry-over week* is an important part of the system because it adds certainty to the trial settings earlier in the month: Lawyers and litigants know that any cases not reached earlier in the month will be tried during the last week of the month, and this knowledge promotes settlement.

- *Special settings* are given only when there are several out-of-town witnesses or parties, or when the litigants and witnesses have significant scheduling problems. In addition, they are sometimes granted in cases that will require two weeks or more to try. Within one week after a case has been given a special setting, the attorneys are expected to submit an agreed pretrial scheduling order or, if agreement is not reached, to set the matter for hearing.

- *Complex Cases.* The central docket is not designed to handle those rare cases which are very complicated and require repeated pretrial hearings. In such cases, the central docket can produce inconsistent rulings, as lawyers constantly have to “reinvent the wheel” with each new judge who is assigned a hearing.

#### **Rule 5.**

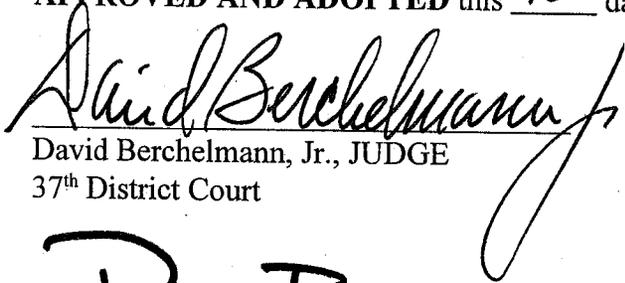
The order that sets the matter for trial or other hearing may consist of a short order at the end of the motion.

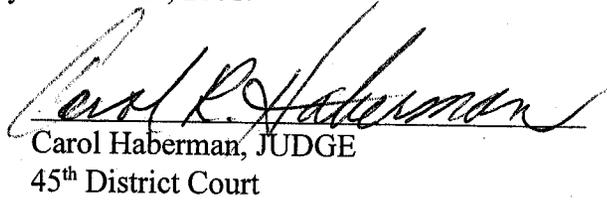
#### **Rule 6.**

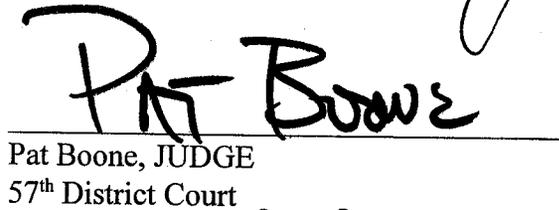
- *Temporary Restraining Orders.* When relying on rule 6(c)(2), the applicant should describe with reasonable particularity the unsuccessful efforts to contact opposing counsel.

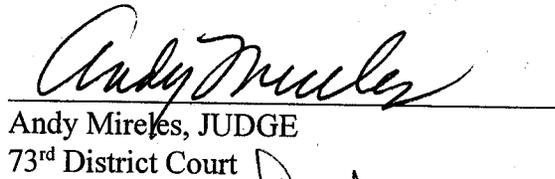
**Administrative Offices.** The administrative offices of the Civil District Courts may be contacted as follows: *Presiding Civil Court:* 210-335-2000; *Jury Assignment Clerk:* 210-335-2520; *ADR Coordinator:* 210-335-3930

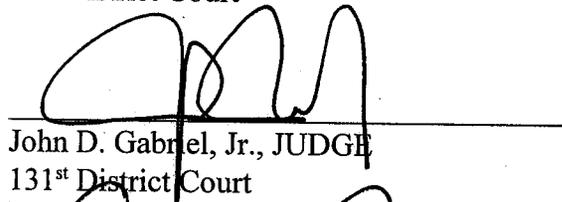
APPROVED AND ADOPTED this 10<sup>TH</sup> day of October, 2001.

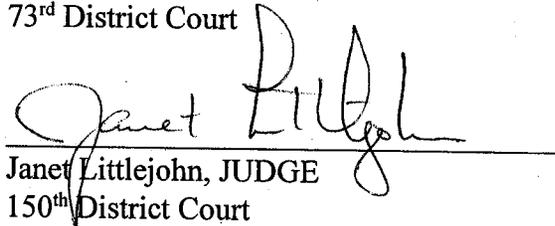
  
David Berchermann, Jr., JUDGE  
37<sup>th</sup> District Court

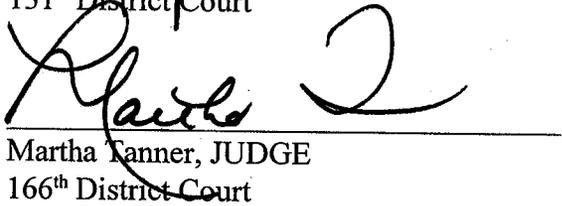
  
Carol Haberman, JUDGE  
45<sup>th</sup> District Court

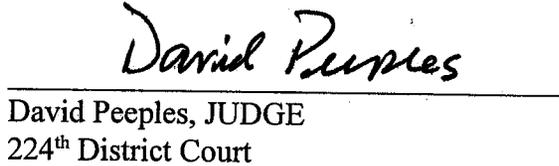
  
Pat Boone, JUDGE  
57<sup>th</sup> District Court

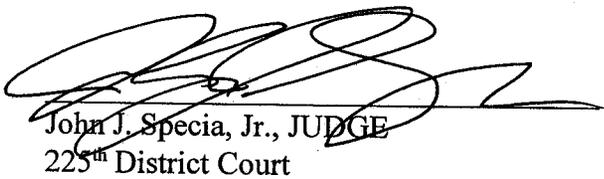
  
Andy Mireles, JUDGE  
73<sup>rd</sup> District Court

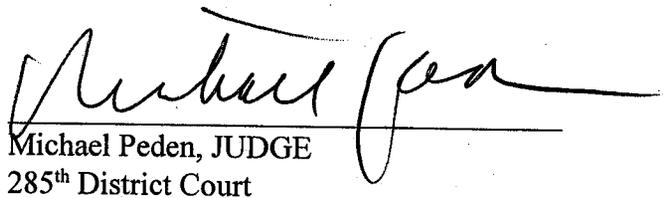
  
John D. Gabriel, Jr., JUDGE  
131<sup>st</sup> District Court

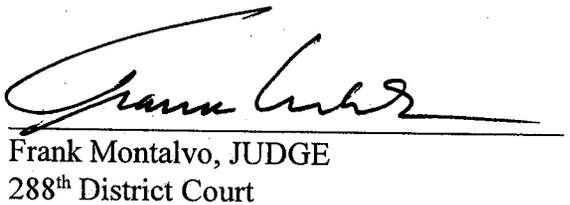
  
Janet Littlejohn, JUDGE  
150<sup>th</sup> District Court

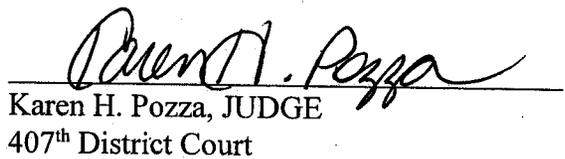
  
Martha Fanner, JUDGE  
166<sup>th</sup> District Court

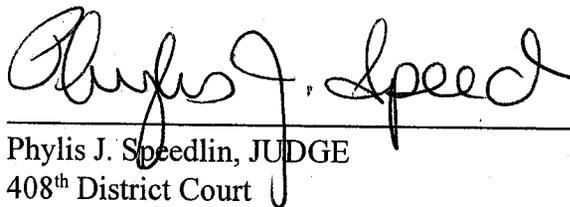
  
David Peeples, JUDGE  
224<sup>th</sup> District Court

  
John J. Specia, Jr., JUDGE  
225<sup>th</sup> District Court

  
Michael Peden, JUDGE  
285<sup>th</sup> District Court

  
Frank Montalvo, JUDGE  
288<sup>th</sup> District Court

  
Karen H. Pozza, JUDGE  
407<sup>th</sup> District Court

  
Phylis J. Speedlin, JUDGE  
408<sup>th</sup> District Court



## The Supreme Court of Texas

CHIEF JUSTICE  
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711  
Telephone: 512/463-1312 Facsimile: 512/463-1365

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JOHN T. ADAMS

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CRAIG T. ENOCH  
PRISCILLA R. OWEN  
JAMES A. BAKER  
DEBORAH G. HANKINSON  
HARRIET O'NEILL  
WALLACE B. JEFFERSON  
XAVIER RODRIGUEZ

EXECUTIVE ASSISTANT  
WILLIAM L. WILLIS

May 21, 2002

DEPUTY EXECUTIVE ASST  
JIM HUTCHESON

ADMINISTRATIVE  
ASSISTANT  
NADINE SCHNEIDER

Hon. Sid L. Harle  
Admin. Judge and Judge  
226th District Court  
300 Dolorosa, #2081  
San Antonio, Texas 78205-3028

Dear Judge Harle,

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

Sincerely,

**SIGNED**

John T. Adams  
Clerk

Encl.

cc: Hon. Olen Underwood  
2nd Admin Judicial Rgn

District Clerk

County Clerk

Supreme Court Adv Committee

State Law Library