

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 94- 9131

**APPROVAL OF LOCAL RULES FOR THE FAMILY LAW COURTS OF
TARRANT COUNTY**

ORDERED:

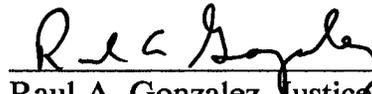
Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court approves the following local rules, which have been submitted to this Court:

Part 4, Rules for Disposition of Family Law Cases in the family law courts of Tarrant County, Texas, dated April 20, 1994.

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

SIGNED AND ENTERED this 8th day of September, 1994.


Thomas R. Phillips, Chief Justice


Raul A. Gonzalez, Justice

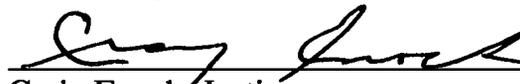

Jack Hightower, Justice


Nathan L. Hecht, Justice


Lloyd Doggett, Justice


John Cornyn, Justice


Bob Gammage, Justice


Craig Enoch, Justice


Rose Spector, Justice



Eighth Administrative Judicial Region

Office of Presiding Judge

5th Floor, Tarrant County Justice Center
Fort Worth, Texas 76196

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CLYDE R. ASHWORTH
Presiding Judge
Telephone (817) 884-3328

OUIDA STEVENS
Administrative Assistant

Telephone (817) 884-1558
FAX (817) 884-1560

May 23, 1994

Chief Justice Thomas Phillips
Supreme Court of Texas
P.O. Box 12248
Austin, Texas 78711

Dear Chief Justice Phillips:

In accordance with Rules 5, 9 and 10 of The Texas Rules of Judicial Administration I am enclosing proposed Rules for Disposition of Family Law Cases adopted by the Tarrant County Family Law Judges.

Judge William H. Brigham, Judge of the 233rd District Court and who also serves as Local Administrative Judge has approved the rules and it would appear unnecessary to seek his further approval.

I recommend the approval of the proposed rules and compliment the local family law judges in their formulation.

With kind personal regards, I am

Very truly yours,

A handwritten signature in cursive script, appearing to read "Clyde R. Ashworth".

Clyde R. Ashworth, Presiding Judge
8th Administrative Judicial Region

CRA:os

cc :Judge Brigham
Judge Carper



BRIAN A. CARPER
DISTRICT JUDGE
324TH JUDICIAL DISTRICT OF TEXAS
CIVIL COURTS BUILDING
FORT WORTH, TEXAS 76196-0232

May 18, 1994

The Honorable Clyde Ashworth
4025 Woodland Park Blvd
Suite 100
Arlington, Texas 76013

RE: Proposed rules for disposition of family law cases

Dear Judge Ashworth:

I am enclosing the proposed Rules for Disposition of Family Law Cases recently adopted by the Family District Judges for your review. After you have had an opportunity to examine them, and if they meet with your approval, would you please forward them to Chief Justice Phillips or instruct me as to the proper manner to submit them to the Supreme Court for approval.

Thank you for your help.

Very truly yours,

Brian A. Carper
Brian A. Carper

Encl: 1

Part 4. Rules for Disposition of Family Law Cases

Rule 4.01: General Disposition Rules

(a) ADR. It shall be the policy of the family law Courts of Tarrant County to encourage the amicable resolution of family law litigation, including the use of alternative dispute resolution. On its own motion, motion of a party or by agreement of the parties, the Court may refer a case to alternative dispute resolution pursuant to Chapter 154, Texas Civil Practice and Remedies Code.

(b) Pre-Trial. Pre-trial hearings or orders will not be required in every case, but each Court may establish its own pre-trial procedures pursuant to Rule 166, Texas Rules of Civil Procedure. A pre-trial conference may be set on the Court's own motion or proper request of a party.

(c) Dilatory Pleas. Any party filing special exceptions, pleas in abatement or any other dilatory plea shall request and obtain a hearing on them at least 30 days prior to the final trial , or as soon as possible if the pleading is filed within 30 days of the final trial date. Any such matters not timely heard shall be waived.

(d) Stipulations. It is the responsibility of each attorney to stipulate to all the facts which are accurate and not in dispute, and to waive formal proof as to any document to be introduced about which there is no reasonable dispute as to authenticity.

(e) Notice. Unless otherwise ordered, all notice provisions and time periods provided by the Texas Rules of Civil Procedure, Family Code, Government Code, and any other applicable statute shall be followed. Unless specifically shortened by the Court, a party responding to a request for temporary relief contained in an original action shall be entitled to at least 3 days notice of any hearing. No hearing for temporary relief shall be set prior to answer date in any Motion to Modify for child support and/or possession , unless special circumstances exist.

(f) Announcement of Time. When requested by the Court, it is the responsibility of each attorney to provide the Court with a reasonably accurate estimate of the time required for the Court to hear a matter. The Court may impose reasonable time limitation upon counsel and pro se parties to present their cases, within the confines of due process.

(g) DRO Fees. Every temporary or final order submitted to the Court for approval which contains provisions ordering the payment of child support shall contain a paragraph ordering the parties to pay the appropriate fees to the Tarrant County Child Support Office in such language as may be approved by each Court.

(h) Child Support Card. In every case in which child support is ordered payable through the Tarrant County Child Support Office, a "Record of Order for Child Support" shall be completed and delivered to the Child Support Office using the forms provided. Such form shall be completed by the party appearing before the Court on an agreement prior to prove up, or by the Obligee immediately after a contested hearing.

(i) Forms. All appropriate state and local forms shall be completed and delivered to the Court Clerk with all proposed Orders or Decrees to be left with the the Clerk for consideration by the Court.

Rule 4.02: Prove-Ups and Default Hearings

(a) Times. Each Court shall routinely hear agreed cases and defaults at times set by each Court every morning. It is not necessary to schedule agreed prove-ups and default hearings with the Court, and such are heard on a first-come-first-served basis, except that the Court may first hear cases in which a party is appearing with counsel in order save time for the party and minimize attorneys fees. A Court may cancel its morning prove-ups as may be required by other Court business, and notice of such cancellation shall be posted outside the Court. Agreed prove-ups and defaults may be heard at other times during the day if the Court is available.

(b) Presiding Judge. Agreed cases and default hearings should normally be heard by the District Judge sitting in the Court to which the case is assigned. If that Judge is not available, then it may be heard by any other District Judge who so consents. Unless otherwise directed by the Court, multiple prove-ups originating out of different Courts may be presented to one Court for hearing. Once a case has been presented to a Judge, and the Judge has made a ruling or deferred ruling, the same matter shall not be presented to any other Judge without the consent of the Judge to whom it was first presented. With the consent of the Court, agreed cases not requiring a record may be presented to the Associate Judge of the Court for hearing.

(c) Court's File. Any attorney presenting an agreed case or default to the Court for hearing shall obtain the Court's File on such case from the District Clerk's office prior to prove-up. The Court's File shall be delivered to the Court's bailiff, or other person designated by the Court, for consideration by the Court. When the File is so delivered, it shall contain the proposed Decree or Order with the appropriate number of copies, all other necessary pleadings, and the required State and local forms.

(d) Record. If a record of testimony is required, the attorney shall so notify the bailiff, or other person designated by the Court, and shall complete any additional forms as may be required by the Court to be delivered to the Court Reporter.

(e) Wage Withholdings. Except in unusual circumstances, every wage withholding order presented to the Court for approval shall have attached to it a receipt from the Tarrant County Child Support Office showing payment of the required fees.

Rule 4.03: Trial Settings

(a) Final Trial. Cases will be set for final trial upon written request using the procedure and form as may be required by the specific Court. Each Court's procedure and setting request form shall be obtained from the Court's Court Coordinator.

(b) Associate Judge and IV-D Master. Upon agreement of the parties, the Court may refer a non-jury case for final trial by the Associate Judge of that Court, or IV-D Master, if appropriate, if the parties agree to waive their right of appeal to the referring Court pursuant to Sect. 54.012(i), Texas Government Code, prior to the commencement of trial.

Rule 4.04: Associate Judges and IV-D Masters

(a) Cases Referred. Each Court may refer any aspect of a family law case to the Associate Judge or IV-D Master that is consistent with Sect. 54.005, Texas Government Code, Sect. 14.80 and Sect. 14.82, Texas Family Code. Unless otherwise ordered by the Court, the following matters will normally be so referred:

1. Requests for Temporary Orders in any case, including custody.

2. Motions to Modify Temporary or Final Orders, except for final custody modifications.
3. Motions to Transfer.
4. Motions for Enforcement or Contempt.
5. An action under Chapter 21, Texas Family Code.
6. Applications for Protective Orders.
7. An action under Chapter 46 or 76, Texas Human Resources Code.
8. Discovery matters.
9. Motions to Compel or for Sanctions.
10. Motions for Judgment or to Sign Orders, if hearing the subject of the proposed Order was heard by the Associate Judge.
11. Motions to Withdraw.
12. Pre-Trial Conferences.
13. An action under Chapter 13, Texas Family Code.
14. Any other matter referred by the Court.

The Court will not refer to the IV-D Master, and the IV-D Master shall not hear, final trials involving divorce proceedings. The Court may decline to refer to the IV-D Masters, and the IV-D Masters shall not hear, any matters listed above as is consistent with the relevant Code provisions.

(b) Settings. Hearings before the Associate Judge shall be obtained from the Court Coordinator of the appropriate Court and the appropriate written Order or Notice of Hearing shall be presented to the Coordinator at the time the hearing is requested. The Court, in its discretion, may allow the setting or resetting of a hearing without a written Order or Notice, but the attorney requesting said setting or resetting shall send the Coordinator and all parties written confirmation of the hearing date so set.

(c) Times. Hearings before the Associate Judge shall be held each morning at a specific time and place as directed by the Court. Each attorney and party appearing before the Associate Judge shall timely report to the bailiff assigned to said Associate Judge on the date of the hearing, and the Associate Judge, at his or her discretion, may request an announcement from counsel or pro se parties as to the issues in controversy and estimates of time required.

Rule 4.05: Trial Procedures

(a) Timely Appearance. It is the responsibility of every attorney to timely appear before the Judge, Associate Judge or IV-D Master, as appropriate, at the time of any hearing. Unless otherwise directed by the Court, counsel shall check-in with the Court or its bailiff at or

before the time the hearing is set. If counsel is to be late for a hearing or is in another Court, counsel or counsel's staff shall, by telephone or otherwise, notify the Court or its bailiff, giving the reason for the delay in appearance and exactly which other Courts counsel is appearing before. Failure to appear or check-in with the Associate Judge's or IV-D Master's Court within 30 minutes of the scheduled hearing time shall result in a default being granted or the hearing being passed, as appropriate. Although it is the policy of the Courts to recognize the inevitable conflicts in an urban law practice and to be reasonably flexible, it is ultimately the responsibility of counsel to keep the Court accurately informed of counsel's whereabouts so that the Court's dockets will not be unduly disrupted. Violation of this Rule may result in sanctions against counsel.

(b) Documents Required. In all cases in which support of a spouse and/or child(ren) is in issue, whether temporary or final, each party shall be required to furnish the Court and opposing party true and correct copies of the following, at or before the time of hearing, if available:

1. Summary statement of monthly income and expenses in a form substantially similar to any form that may be adopted by the Court.
2. All payroll stubs or wage statements for the past 3 months.
3. If self-employed, all Profit & Loss Statements, Balance Sheets, Income Statements or other evidence of earnings for the previous 12 months.
4. Federal Income Tax Returns, including all attachments and schedules, for the two years immediately prior to the hearing, or if a return has not been prepared and filed for a particular year, all W-2's, 1099's, K-1's or other evidence of income for such a year.
5. Financial statements filed by the parties with any financial institution within the past 3 years.
6. Any other documents as ordered by the Court, or properly subpoenaed by a party.

(c) Inventories. When ordered by the Court, each party shall file a sworn inventory and appraisal within 60 days of the Court's order, unless the Court or the parties extend or shorten such period. An Inventory and Appraisal may be ordered in any case in which the character, value or division of property or debts is in issue, and should be filed in a form substantially similar to the form provided in the Texas Family Practice Manual of the State Bar of Texas. Additionally, each party shall at the time of trial prepare for the Court and opposing counsel a written summary of that party's proposed division of property and debts.

(d) Orders. Within 60 days after rendition by the Judge, Associate Judge or IV-D Master of a decision, counsel shall cause, unless ordered otherwise, all orders, decrees or judgments of any kind to be reduced to writing, approved as to form by opposing counsel, and to be delivered to the Court for signature. If counsel is unable to secure the approval as to form from opposing counsel, counsel shall file a motion for entry of the proposed order and secure a hearing on same. The party or counsel responding to such a motion shall at least 3 days prior to the hearing present to opposing counsel an alternative proposed order or a written list of objections to the first order. Failure to furnish the Court with a proposed order, decree or judgment or to schedule a hearing for entry within the 60 day period may result in the Court placing the case on the dismissal docket.

(e) Court Reporters. A Court Reporter will be furnished to the Associate Judges for hearings only on the days that Enforcements are to be heard, unless special arrangements are made with the referring Judge. Counsel shall be required to furnish his or her own Court Reporter, if desired, for all other hearings before the Associate Judge.

Rule 4.06: Continuances and Resets

(a) Associate Judges and IV-D Masters. Unless otherwise directed by the Court, motions for continuance and resets may be presented to the Associate Judge or IV-D Master without the necessity of a written motion being filed. If not agreed by all parties, said motion for continuance or reset must be made to the Associate Judge or IV-D Master after all parties have been given notice and an opportunity to object.

(b) Presiding Judges. No request for a continuance or resetting shall be granted by the presiding Judge of a Court without the filing of a written motion, notice and hearing, unless agreed by all parties, with the consent of the Court. All other requests shall be in writing pursuant to the Texas Rules of Civil Procedure, filed with the Court, and shall be heard as may be scheduled by the Court after proper notice to all parties.

Rules 4.07 through 4.10 - Reserved

Rule 4.11: Discovery Guidelines

(a) Full Discovery. As provided in the Texas Rules of Civil Procedure and appellate court rulings, the Courts shall permit full, liberal and broad discovery, however such discovery shall not be unlimited, and the reasonable parameters contained in Rule 166b shall be applied in both letter and spirit.

(b) Disputes. Any discovery question, problem or dispute shall be attempted to be settled by counsel before intervention by the Court. Any discovery motion shall contain a certificate by the party or counsel filing same substantially as follows:

"A conference was held on (date) with (name of attorney for opposing party) on the merits of this motion. Agreement could not be reached. Therefore it is presented to the Court for determination."

or

"A conference was not held with (name of opposing attorney) on the merits of this motion because (explanation of inability to confer)."

No discovery motion shall be set for hearing or heard unless it contains such certificate, signed by counsel or a pro se party.

(c) Depositions. The following guidelines will generally be followed by the Courts on matters pertaining to oral depositions:

1. A party filing an action in Tarrant County must give his or her deposition in Tarrant County, if requested.
2. A Respondent properly sued in Tarrant County must give his or her deposition in Tarrant County, if requested.
3. The party initiating a deposition may elect to take the deposition orally or on written questions and the opposing party may elect to cross-examine orally or on written questions.
4. Unless agreed otherwise, fees charged by an expert for giving of deposition testimony shall be paid by the party requesting the deposition. The fee for the preparation of an expert's report, not previously reduced to writing and sought under Rule 166(b)(2)(e)(4), Texas Rules of Civil Procedure, shall be paid by the party employing the expert.
5. The following shall be presumed to be unreasonable unless otherwise agreed or ordered:
 - a. Notice of less than 10 days under Rules 21a and 200, Tex. Rules of Civ. Proc.

- b. Depositions scheduled for Saturday, Sunday or legal holidays in which the County Courthouse is closed.
- c. Depositions scheduled to begin before 8:00 a.m. or to extend past 6:00 p.m.
- 6. A party initiating an oral deposition shall first attempt to communicate with all opposing counsels to determine whether agreement can be reached as to the date, time, place and materials to be furnished at the time of deposition. Any written notice of oral deposition shall state substantially as follows:

"A conference was held or attempted with the attorney for opposing party to agree on a date, time, place and materials to be furnished. Agreement could not be reached, or counsel will not respond, and the deposition is therefore being taken pursuant to this Notice (or) Agreement was reached and this Notice complies with the agreement.

Failure to hold such conference or to make adequate attempt to hold such conference prior to noticing a deposition shall be grounds to quash the deposition.

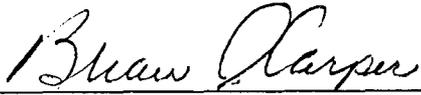
Notwithstanding the above guidelines, the parties may agree to a different procedure, and nothing shall preclude a party from submitting disputes as to such matters to the Court for determination by proper motion and hearing pursuant to the Texas Rules of Civil Procedure.

(d) Production. Unless otherwise ordered by the Court pursuant to Rule 167, Tex. Rules of Civ. Proc., or agreed by the parties, the following times and locations for production shall be presumed to be reasonable:

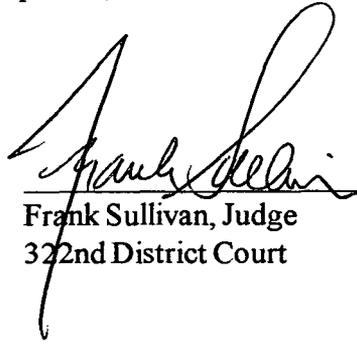
- a. For non-voluminous production, counsel for the party from whom the production is requested shall make and deliver copies of the documents to the office of counsel for the requesting party within 30 days of receipt of the request.
- b. For voluminous production, counsel for the party from whom the production is requested shall, within 30 days of the request, gather the documents at his or her office and inform requesting counsel that they are available. Requesting counsel shall then, at the option of requesting counsel, either pick up the documents to examine, copy and return within 5 working days, or to examine and copy the documents at the office of producing counsel, with the expense of examination and copying to be paid by requesting counsel.

Rules 4.12 through 4.99 - Reserved

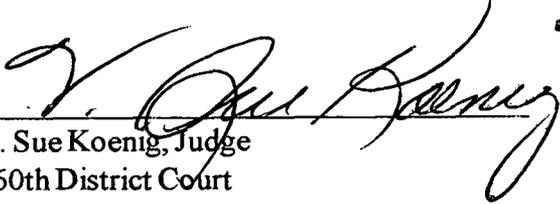
Part 4 adopted on April 20, 1994.



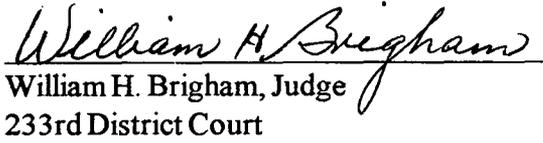
Brian A. Carper, Judge
324th District Court



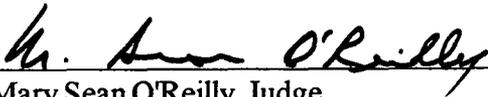
Frank Sullivan, Judge
322nd District Court



V. Sue Koenig, Judge
360th District Court



William H. Brigham, Judge
233rd District Court



Mary Sean O'Reilly, Judge
325th District Court



Randy Catterton, Judge
231st District Court

NOTICE OF ADOPTION OF LOCAL RULES

The members of the Bar and all pro se parties shall take notice that on April 20, 1994, Part 4 of the Local Rules of Court for Tarrant County, Texas, were adopted by the family court District Judges for the disposition of family law cases.

The projected effective date for Part 4 of the Local Rules is August 1, 1994; however, these rules will not be effective until approved by the Presiding Judge of the Eighth Administrative Judicial Region and the Texas Supreme Court. Notice will be posted announcing the approval of the rules. Members of the Bar are requested to voluntarily comply with the rules until their formal approval and effective date.

Copies of the rules will be made available through the District Clerk's office.



Brian A. Carper, Judge
324th District Court



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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TEL: (512) 463-1312

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EXECUTIVE ASST.
WILLIAM L. WILLIS

ADMINISTRATIVE ASST.
NADINE SCHNEIDER

JUSTICES
RAULA A. GONZALEZ
JACK HIGHTOWER
NATHAN L. HECHT
LLOYD DOGGETT
JOHN CORNYN
BOB GAMMAGE
CRAIG ENOCH
ROSE SPECTOR

September 8, 1994

Hon. Clyde R. Ashworth
8th Administrative Judicial Region
Tarrant County Justice Ctr., 5th Floor
Fort Worth, Texas 76196

Dear Judge Ashworth,

Please find enclosed, a copy of the order of the Supreme Court that approved local rules for disposition of family law cases in Tarrant County.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Brian A. Carper
Hon. Frank Sullivan
Hon. V. Sue Koenig
Hon. William H. Brigham
Hon. Mary Sean O'Reilly
Hon. Randy Catterton

District Clerk

County Clerk

Supreme Court Adv Committee

Mr. Raymond Judice
Office of Court Admin

State Law Library