

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 94- 9144

**APPROVAL OF LOCAL RULES FOR THE FAMILY LAW DIVISION
HARRIS COUNTY**

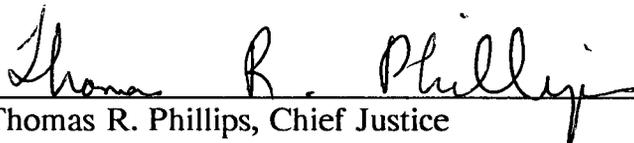
ORDERED:

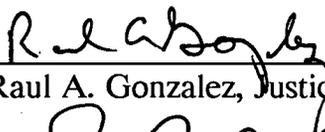
Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court approves the following local rules, which have been submitted to this Court:

Rules of the Judicial District Courts of Harris County, Texas, Family Trial Division, dated September 13, 1994.

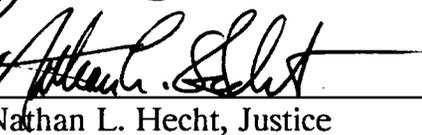
The approval of these rules is temporary, pending further orders of the Court.

SIGNED AND ENTERED this 28th day of December, 1994.

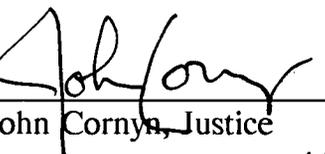

Thomas R. Phillips, Chief Justice

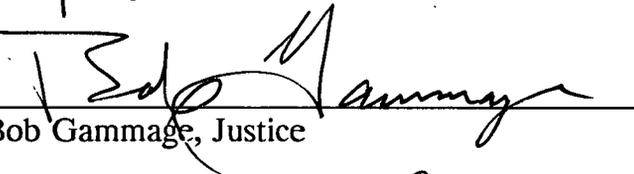

Raul A. Gonzalez, Justice


Jack Hightower, Justice


Nathan L. Hecht, Justice

Lloyd Doggett, Justice


John Cornyn, Justice


Bob Gammage, Justice


Craig Enoch, Justice


Rose Spector, Justice

Board of District Judges • Harris County, Texas

Civil Division • Juvenile Division • Family Division • Criminal Division

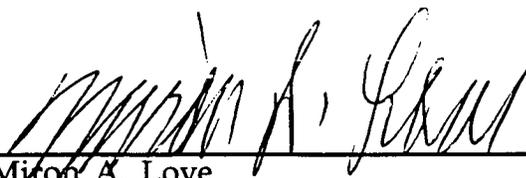
ORDER

BE IT REMEMBERED that the regular scheduled meeting of the Harris County Board of District Judges met on September 13, 1994, and approved the "Rules of the Judicial District Courts of Harris County, Texas, Family Trial Division."

IT IS THEREFORE ORDERED that the attached "Rules of the Judicial District Courts of Harris County, Texas, Family Trial Division" be filed in the Minutes of the District Courts.

IT IS FURTHER ORDERED that the Administrative Office of the District Courts send a copy of the "Rules of the Judicial District Courts of Harris County, Texas, Family Trial Division" to the Presiding Judge of the 2nd Administrative Judicial Region of Texas for approval and submitting to the Texas Supreme Court as provided by the Rules.

Dated: September 13, 1994.



Milton A. Love
Harris County Administrative Judge

RECORDER'S MEMORANDUM:
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RULES OF THE JUDICIAL DISTRICT COURTS
OF HARRIS COUNTY, TEXAS
FAMILY TRIAL DIVISION

RULE 1. OBJECTIVE

Purpose of Rules. The objective of these rules is to obtain a just, fair, equitable and impartial adjudication of the rights of the parties, and in particular children. In order to obtain that goal in the most efficient and least expensive manner while complying with all aspects of substantive law and all established rules of procedure, all matters should be brought to trial or final disposition in conformity with this objective. To achieve this objective, these rules are designed to encourage use of alternate dispute resolution procedures.

RULE 2. REPORTS

Reports to the Administrative Judge. The District Clerk shall supply to the Administrative Judge of Harris County, on a monthly basis, information concerning the number of filings, dispositions, trials and other judicial activities in each court in the Family Trial Division.

RULE 3. FLOW OF CASES

3.1 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 non-suit or otherwise) and a subsequent suit or cause 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 application 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 prior suit was filed.

3.1.1 Enforcement of Consent Decree or Contract. In accordance with General Assignment Order of September 1, 1977, any action for the enforcement of a consent decree or contract arising out of or in conjunction with any action previously filed in any of the courts of the Family Trial Division shall be filed in the same court.

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3.2 Transfer.

- 3.2.1 Continuing, Exclusive Jurisdiction. All provisions of the Family Code regarding continuing, exclusive jurisdiction and transfer shall take precedence over these rules.
- 3.2.2 Later Filed Case. If a case is filed in which there is a substantial identity of parties or subject matter as in a previously nonsuited or dismissed case, the later case shall be assigned to the court where the prior case was pending. 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 prior suit was pending.
- 3.2.3 Consolidation. A motion to consolidate cases shall be heard in the court where the lowest numbered case is pending. If the motion is granted, the consolidated case will be given the number of the lowest numbered case and assigned to that court.
- 3.2.4 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.
- 3.2.5 Presiding for Another. In all cases where a judge signs an order on behalf of another court, the case shall remain in the original court.
- 3.2.6 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 Harris County shall transfer the case to the proper court.

3.3 Ancillary Matters.

3.3.1 Ancillary Docket. The ancillary docket consists of:

1. Temporary injunctions;
2. Temporary orders in original proceedings;
3. Writs of habeas corpus;
4. Motions for enforcement including contempts, except those brought under subchapter D, Chapter 3, Texas Family Code;
5. Temporary receiverships;

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6. Motions to transfer; and
7. In the discretion of the court, as may be limited by the Family Code, hearings for temporary orders in suits for modification of a final order;
8. All matters preliminary to trial on the merits.

3.3.2 Preference for ADR. In the discretion of the court, preference in setting hearings shall be given to matters in which the parties have participated in alternate dispute resolution procedures.

3.4 Trials.

3.4.1 Manner of Setting. Cases shall be set for trial by order of the court.

3.4.2 Date of Setting. Cases shall be set for trial for a date certain. If a case is not assigned to trial 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 setting must comply with all requisites of T.R.C.P. 245.

3.4.3 Preference for ADR. In the discretion of the court, preference in setting cases for trial shall be given to matters in which the parties have participated in alternate dispute resolution procedures.

3.4.4 Assignment to Trial. A case is assigned to trial when counsel are called to the court to commence the jury or non-jury trial on the merits. For purposes of engaged counsel, no court may have more than two cases assigned to trial at any one time, one before the judge and one before the associate judge.

3.4.5 Open Weeks. Except with the consent of all parties, no cases will be assigned to trial on the merits during:

1. The week of the Second Administrative Judicial Region Conference (February);
2. The week of the State Bar Convention (June);
3. The week of the State Bar of Texas Advanced Family Law Course (August);
4. The week of the Conference of the Judicial Section (September); and

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5. The last week of December.

3.4.6 Continuances. Continuances shall be governed by T.R.C.P. 251 through 254.

3.5 Judgments and Orders. All judgments and orders must be submitted to the Court for signing within seven (7) days from the date of rendition, unless otherwise directed by the court. All judgments and/or orders in uncontested matters (except for settlements made pursuant to T.R.C.P. 11) must be presented at the time of hearing on such uncontested matter. All forms required by governmental entities shall be submitted at the time the judgment or order is submitted.

3.6 Presiding Judge. Each judge of the Family Trial Division, except the Administrative Judge, will serve as Presiding Judge for a calendar month in rotation in order of judicial district numbers.

3.7 Administrative Judge of the Family Trial Division.

3.7.1 Term. The Administrative Judge of the Family Trial Division shall be elected for a term of one year by the judges of the Family Trial Division at the regular May meeting of the judges for the Family Trial Division, for a term of one year beginning June 1 and ending the next May 31.

3.7.2 Substitute. The Administrative Judge of the Family Trial Division may by written order designate any other judge of the Division to act for the Administrative Judge if the judge is absent or unable to act. The judge so designated shall have all the duties and authority granted by these rules to the Administrative Judge of the Family Trial Division during the period of the designation.

RULE 4. INVENTORIES AND FINANCIAL INFORMATION

4.1 Initial Filing. Inventories and Financial Information Statements shall be filed in accordance with the order of the court.

4.2 Temporary Orders. In any hearing for temporary orders in which child support or spousal support is an issue, completion and exchange of Financial Information Statements is required prior to commencement of hearing.

4.3 Final Information. A party's final Inventory, Financial Information Statement and financial information required under the Family Code, as well as suggested findings regarding child support and a proposed division of property shall be exchanged no later than ten (10) days before trial, and shall be filed before the commencement of trial. If children are involved in the proceeding, the inventory shall contain sufficient

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information so the court may render a qualified medical child support order regarding health insurance for such children.

- 4.4 Inventory. Each inventory shall list the value of each item of property and shall list each liability, together with the total amount of the liability, the number of periodic payments in arrears, if any, the property securing its payment, and the name of the creditor. Any property or liability claimed to be separate shall be so characterized. All beneficial interests in insurance and all benefits arising from a party's employment (such as pensions, profit sharing plans, savings or thrift plans, whether vested or unvested) shall be identified. The last information furnished as to the employee's rights and monetary interest in such plans shall be incorporated into the inventory as an exhibit thereto, and there shall be furnished such other information so the court may render a qualified domestic relations order, if applicable. The inventory or a summary attached thereto shall list the property values and liabilities in a columnar form with each column totaled. Each inventory shall show the net worth of the community estate and the net worth of any claimed separate estate.

RULE 5. REFERRAL TO ASSOCIATE JUDGE

- 5.1 Referral. All pending cases and cases filed after the date of the adoption of these rules are hereby referred to the Associate Judge of each court pursuant to Section 54.005, Government Code, subject to limitations imposed by Chapter 54, Government Code.
- 5.2 Order of Referral. This Rule shall constitute the Order of Referral required by Section 54.005, Government Code, as to any pending or future cases under Title 1, 2, or 4, Family Code, or under Chapter 46 or 47, Human Resources Code.

RULE 6. ALTERNATE DISPUTE RESOLUTION

- 6.1 Temporary Hearings. In appropriate cases involving disputed custody or visitation issues, the court shall make referrals for mediation to Family Court Services or other private mediators agreed upon by the parties and attorneys. Additional issues may be mediated by agreement of the parties and attorneys. Attorneys may attend all mediations.
- 6.2 Final Trial. Except for good cause shown, matters shall be submitted for alternate dispute resolution procedures before trial.
- 6.3 Settlement Weeks. Referral of appropriate cases to alternate dispute resolution procedures shall be made at one or more settlement weeks each year as provided by law.

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RULE 7. CONFLICTING ENGAGEMENTS

- 7.1 Inter-County. The Rules of the Second Administrative Judicial Region control conflicts in settings of all cases between a Harris County court and a court not in Harris County.
- 7.2 Intra-County. Among the trial courts sitting in Harris County:
1. Trial/Trial. A trial setting that is assigned takes precedence over a conflicting trial setting not yet assigned;
 2. Trial/Non-Trial. Trial settings take precedence over conflicting non-trial settings except as provided herein;
 3. Non-Trial/Pre-Trial. The matter which was first filed, regardless of cause number, shall take precedence over non-trial settings, non-court-ordered alternate dispute resolution and non-court-ordered depositions.
- 7.3 Judge or Associate Judge. This rule is applicable whether the matter is assigned to the Judge or the Associate Judge of a court.
- 7.4 Waiver. The court with precedence may yield.
- 7.5 Lead Counsel. 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.
- 7.6 Engaged Counsel. Counsel is deemed to be unavailable for trial if such counsel is in the actual trial or hearing of another case or engaged in court-ordered alternate dispute resolution or a court-ordered deposition.
- 7.7 Reporting of Conflicting Engagements. It is the duty of counsel to report promptly to a court immediately upon learning of a conflicting engagement that might preclude that counsel's availability for trial.

RULE 8. VACATIONS OF COUNSEL

- 8.1 General Rule. Subject to the provisions of subpart .2 of this rule, an attorney may designate not more than four weeks of vacation during a calendar year as vacation, during which that attorney will not be assigned to trial or required to engage in any pretrial proceedings. This rule operates only where lead counsel, as defined by T.R.C.P. 8, is affected, unless the trial court expands coverage to other counsel. Such designation shall be honored only if it is made on the vacation letter form approved by the Board of District Judges of the Family Trial Division and is accompanied by the attorney's designation of at least one attorney who has consented to act for the vacationing attorney during the attorney's

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absence but only upon request of the court and in the event of an emergency.

- 8.2 Time for Designation. Written designation for vacation weeks during June, July, or August must be filed with the District Clerk by May 1. Written designation for vacation weeks in months other than June, July, or August must be filed with the District Clerk by February 1. Vacation weeks so designated will protect the attorney from trials or pretrial proceedings during those weeks, unless an order setting the case for trial was signed before the vacation designation was filed.

RULE 9. UNIFORMITY

- 9.1 Letters and Orders. The judges of the Family Trial Division shall use those form letters and form orders in the management of their dockets under T.R.C.P. 165a. and 166 which have been approved by the board of District Judges of the Family Trial Division.
- 9.2 Policies and Procedures. The Board of District Judges of the Family Trial Division shall, as they deem appropriate, establish and revise common policies and procedures on matters pertinent to the business of the courts. Insofar as practical, such policies and procedures shall be posted outside the entrance of each court.

RULE 10. MEETINGS

The judges of the Family Trial Division shall meet regularly each month at such times and places as the Administrative Judge of the Family Trial Division may direct by a written notice distributed at least 72 hours in advance of the meeting, except in the case of an emergency.

RULE 11. PARENT EDUCATION AND COUNSELING

Referral shall be made in divorces with suits affecting the parent-child relationship requiring the parents' attendance at an educational program for divorcing parents, except for good cause shown. In the discretion of the court, such a referral may also be made for parents involved in modification or enforcement litigation. Counseling may also be ordered in appropriate cases as authorized by the Family Code, including referral to a batterers' treatment program pursuant to a protective order under Chapter 71, Family Code.

RULE 12. EFFECTIVE DATE AND AMENDMENTS

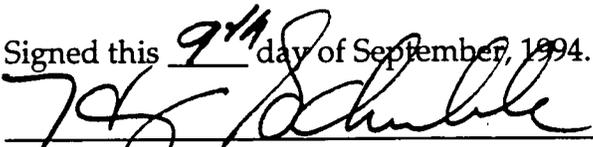
- 12.1 Effective Date. These rules shall become effective on January 1, 1995, or upon their approval by the Texas Supreme Court pursuant to T.R.C.P. 3a, whichever comes later.

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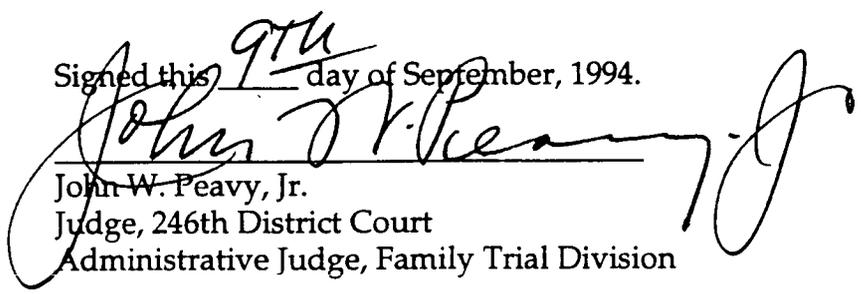
- 12.2 Cross-Reference. Any reference in these rules to a statute or a court rule shall also apply to any successor statute or court rule, whether by recodification, revision or amendment.
- 12.3 Applicability. The foregoing rules are applicable to both jury and non-jury cases.

The foregoing are hereby Ordered and Adopted as the Rules of the Judicial District Courts of Harris County, Texas, Family Trial Division, and the District Clerk is hereby directed to record a copy of this order in the minutes of each of said Judicial Courts.

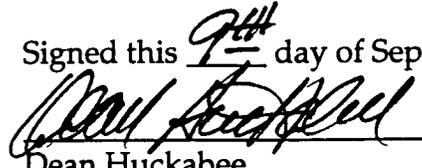
Signed this 9th day of September, 1994.


Henry Schuble
Judge, 245th District Court

Signed this 9th day of September, 1994.


John W. Peavy, Jr.
Judge, 246th District Court
Administrative Judge, Family Trial Division

Signed this 9th day of September, 1994.


Dean Huckabee
Judge, 247th District Court

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Signed this 9th day of September, 1994.

Linda Motheral
Linda Motheral
Judge, 257th District Court

Signed this 9th day of September, 1994.

Robert Hinojosa
Robert Hinojosa
Judge, 308th District Court

Signed this 9th day of September, 1994.

John Montgomery
John Montgomery
Judge, 309th District Court

Signed this ____ day of September, 1994.

Allen Daggett
Judge, 310th District Court

Signed this ____ day of September, 1994.

Bill Elliott
Judge, 311th District Court

Signed this ____ day of September, 1994.

Robert Webb
Judge, 312th District Court

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CP

**SECOND ADMINISTRATIVE JUDICIAL REGION
OF TEXAS**

**THOMAS J. STOVALL, JR.
PRESIDING JUDGE**

**P.O. BOX 40, SEABROOK, TEX. 77586
PHONE (713) 471-3911**

**JUDY MAPLES GEIGER
ADMINISTRATIVE ASSISTANT**

**VIKKI NELSON
REGIONAL DOCKET MANAGER**

**OFFICE LOCATED: HARRIS COUNTY
COURTHOUSE, LA PORTE ANNEX
117 E. AVE. A, LA PORTE, TEXAS**

September 19, 1994

**Hon. Nathan L. Hecht, Justice
Supreme Court of Texas
P. O. Box 12248
Austin, TX., 78711**

**Re: Local Rules, Family Law Division,
Harris County, Texas**

Dear Justice:

Enclosed are the new Rules for the Family Trial Division, Harris County, Texas, which have been approved by the Division. The Board of Judges of Harris County has also approved these Rules, as shown by the enclosed copy of Judge Love's letter of transmittal to me.

These Rules are to take effect on January 1, 1995, or upon approval by the Supreme Court, whichever comes later. Six of the nine Judges signed the Rules. Three of the current sitting Judges didn't sign, since they are leaving office on December 31, 1994. One who leaves office that date did sign. Four who did sign have opponents in November. Only one who signed is on the ballot and has no opponent. The only misgiving I have is that it is possible that there may be a majority of that Division elected who did not participate in the discussion and adoption process.

The Rules themselves seem appropriate to the work of that Division and have my approval.

Please call me or the affected Judges, if you have a question about final approval. Your usual courtesy in these matters is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas J. Stovall, Jr.", with a large, stylized flourish extending downwards and to the right.

Administrative Office of the District Courts
Harris County, Texas

Miron A. Love
HARRIS COUNTY ADMINISTRATIVE JUDGE
Fax No. 755-8973

301 San Jacinto, Room 100
Houston, Texas 77002-2022
713-755-6575

September 15, 1994

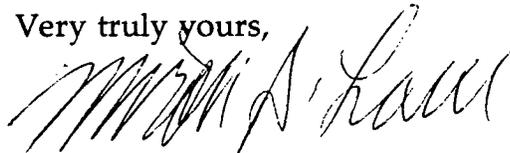
Judge Thomas J. Stovall
P.O. Box 40
Seabrook, Texas 77586

Dear Judge Stovall:

We are enclosing for your records the revised Family Trial Division Rules which were approved by the Board of Judges on September 13, 1994.

Also, please forward a copy to the Texas Supreme Court as provided by the Rules.

Very truly yours,



Miron A. Love

MAL:np
Enc.



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

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

December 28, 1994

Hon. Marion A. Love
Harris County Administrative Judge
301 San Jacinto, Room 100
Houston, Texas 77002-6575

Dear Judge Love,

Please find enclosed, a copy of the order of the Supreme Court that approved local rules for the Family Law Division of the District Courts of Harris County.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Thomas J. Stovall, Jr.
2nd Admin Judicial Rgn

District Clerk

County Clerk

Supreme Court Adv Committee

Mr. Raymond Judice
Office of Court Admin

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