

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 97- 9095

**APPROVAL OF LOCAL RULES
FOR THE DISTRICT COURTS,
JEFFERSON COUNTY, TEXAS**

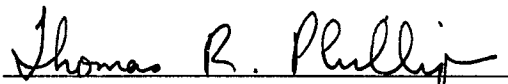
ORDERED:

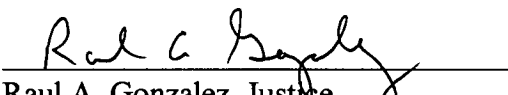
Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court approves the following local rules, which have been submitted to this Court:


Amendment of Local Rules for the District Courts of Jefferson County, Texas.

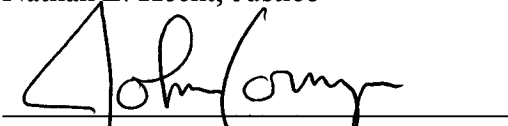
The approval of these rules is temporary, pending further orders of the Court.

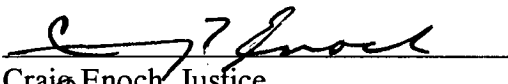
SIGNED AND ENTERED this 9th day of June, 1997

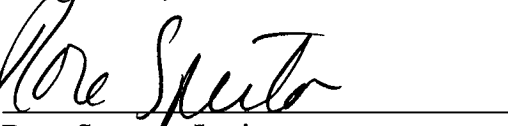

Thomas R. Phillips, Chief Justice


Raul A. Gonzalez, Justice


Nathan L. Hecht, Justice

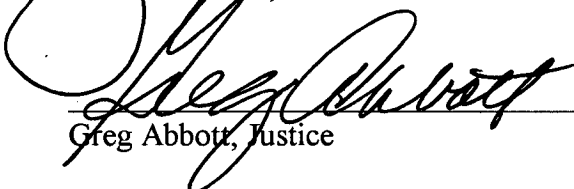

John Cornyn, Justice


Craig Enoch, Justice


Rose Spector, Justice


Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice

LOCAL CIVIL RULES - DISTRICT COURTS

JEFFERSON COUNTY, TEXAS

EFFECTIVE JUNE 1, 1997

RULE 1 - SETTINGS OF CASES FOR TRIAL

A. **OBTAINING A SETTING** (1) Cases will be set by the clerk for trial, upon written request by any party. Written objection to the request must be made within 30 days of the request, or such objection may be considered waived. Older cases will be set by the Court, sua sponte, on a "Try or Dismiss" basis, meaning that the case will be dismissed for want of prosecution unless an announcement of "ready" is made by a party, as provided below, and the case is tried when called for trial.

(2) A case is considered to be trial-ready as of its first trial setting. It may, and probably will, be re-set for trial automatically from time to time beginning the second month after the first setting, without further notice or request.

B. **SPECIAL SETTINGS** The top five settings for any given month are automatically designated hereby as preferential settings.

A "top five" setting is obtained (a) from the clerk, upon agreement of all parties, or (b) from the Court, upon application by any party.

The clerk will attempt to comply with all-party requests for a particular month's setting, on a "first-come, first-served" basis.

A "top five" setting is a preferential setting, and takes priority over all other settings which counsel may have. Counsel are required to advise this Court as soon as they become aware of any actual or potential conflict of schedule, and are likewise required to advise promptly any other affected tribunal that the setting in this Court is extant and preferential.

C. **DOCKET CALL** There will be no docket call, except in "Try or Dismiss" settings. It is presumed that all other cases are ready. Docket announcements on "Try or Dismiss" cases may be made by telephone call or letter, actually received by the clerk at least 15 days in advance of the first business day of the month for which the case is set.

D. CONTINUANCE (1) A case which is not “Try or Dismiss” may be passed by agreement of all parties, in writing filed with the Court, no later than two weeks prior to the 1st day of the month of the docket on which the case is pending. The writing should state to whom the continuance is to be charged.

(2) In “Try or Dismiss” cases, or in cases where there is no unanimous agreement to pass, a written motion must be brought to the Court’s attention for ruling as soon as practicable.

RULE 2 - HEARINGS

A. SCHEDULING HEARINGS Hearings on motions shall be scheduled at least 10 days before the first business day of the month during which the case is set.

B. CANCELING HEARINGS The parties shall notify the Court as soon as it is known that a hearing will be canceled or will not take place. The party canceling the hearing shall be responsible for timely notice to the Court and to all other parties of the cancellation and costs may be assessed, upon motion and hearing, against the canceling party for failure to timely notify the Court and all parties of the cancellation.

C. TELEPHONE HEARINGS A party appearing by telephone must make his own arrangements for conferencing with other parties, as the Court will take no action to effect a conference call. Each Court will determine whether a party may attend by telephone.

D. LENGTH OF HEARINGS The parties shall notify the clerk of the amount of time required for a hearing, and shall make every effort to remain within that time. Routinely, a hearing is scheduled for 15 minutes, and greater length is the exception.

E. CERTIFICATION REQUIRED Before any motion or other contested matter will be heard, the parties must make a good-faith attempt to resolve the disputed matter by agreement, and must file with the Court a written certification of that attempt, specifying when, where, how and by whom such attempt was made, and setting forth the specific proposals made by the parties (e.g. “I then offered to go to Dallas to take the deposition next Saturday. . .”). Agreements should be memorialized by an agreed order or a writing complying with rule 11, TRCP.

F. SUBMISSION Except as where required by rule or statute, the parties may agree in writing that the matter may be ruled upon by the Court without the need for a hearing.

G. CITATION OF AUTHORITY Counsel are to be mindful of the ethical rules of conduct which require them to advise the Court of authority contrary to any position being taken.

RULE 3 - ADR AND SPECIAL PROCEDURES

- A. ADR The Court strongly encourages the use of ADR, particularly mediation. Upon application of any party, the Court will give serious consideration to ordering mediation, and the use of the Dispute Resolution Center of Jefferson County is encouraged in cases where it is appropriate.
- B. STATUS CONFERENCES Upon application by any party, or sua sponte, the Court may hold a status conference asking the parties to suggest fresh and innovative approaches to the handling of any cases, particularly complex or novel cases, or those involving numerous parties.
- C. SPECIAL PROCEDURES The Court will carefully consider any suggestions for special procedures and methods which are not inconsistent with the Texas Rules of Civil Procedure.

RULE 4 - PRE-TRIAL MATTERS

- A. MOTIONS IN LIMINE Motions in limine and other such preliminary matters must be scheduled for hearing at a time sufficiently in advance of scheduled jury selection to allow full consideration by the Court, without causing delay in the beginning of jury selection. Thus, if jury selection is scheduled for 9:00 a.m., the motions in limine should be scheduled for hearing with the clerk sufficiently in advance, so that actual jury selection can begin at 9:00. In some cases this will require that the motions in limine be scheduled for hearing on the preceding business day. It is the responsibility of the attorneys to have the motions heard and determined in such a fashion that jury selection is not delayed.
- B. PROPOSED JURY CHARGES Proposed jury charges shall be delivered to the Court prior to the beginning of jury selection, without prejudice to the parties' right to supplement the same during trial.
- C. EXHIBITS The parties are to mark and exchange exhibits, to agree upon authenticity and/or admission if possible, and to bring objections to the Court's attention, before jury selection begins. Failure in this regard may result in waiver of objections.
- D. SPECIAL EQUIPMENT, MODELS, AND DISPLAYS (1) All special equipment, models, and displays shall be brought into the courtroom sufficiently in advance of trial to avoid disruption or delay. Attorneys will contact the clerk or bailiff to make arrangements for setting up any such equipment, models, or displays.

(2) Video equipment shall be set up and tested before Court convenes, and a monitor provided for the judge. VIDEO DISPLAY EQUIPMENT IS AVAILABLE FOR RENT (currently \$50.00/half-day) at the Jefferson County Bar Association Office on the 3rd floor of the courthouse, and can be brought to the courtroom easily.

RULE 5 - TRIAL MATTERS

- A. VIDEO DEPOSITIONS AND PRESENTATIONS Video depositions shall be edited for brevity and to remove extraneous material and abandoned objections. Research has shown that the optimum length of time for a video presentation is 12 minutes, 20 minutes maximum, for jury effectiveness; any length greater than that is discouraged by the Court.

Video depositions and presentations, in final edited form, shall be made available to the opposing party or parties sufficiently in advance of presentation so that any objections may be brought to the Court's attention and a ruling secured, without any delay in the progress of the trial. Failure to furnish the edited version of a video to opposing counsel as required hereby may result in its exclusion; failure to make objections thereto prior to Court's convening, as required hereby, may result in a waiver of objections.

Line and page designations must be furnished along with the edited version of any video deposition.

- B. NON-VIDEO DEPOSITIONS Line and page designations must be furnished to opposing counsel, to the court reporter, and to the Court, before a deposition is read. In addition, the proponent shall furnish the court with a copy of a deposition to be read for the purpose of ruling on objections. It is highly desirable to arrange in advance for a separate person to read the answers to a deposition, rather than have the same person read both question and answer.
- C. SCHEDULE OF TRIALS Punctuality is expected of the attorneys, in trial, as in other matters.
- D. COURTROOM DECORUM (1) There will be no gum chewing, eating, drinking, or use of tobacco products, in the courtroom; this prohibition includes snuff and chewing tobacco. Beverages and food items may not be brought into the courtroom.
- (2) Attorneys, parties, witnesses, and others, will be neat, clean, and conservatively dressed. There will be no thong-type shoes, no tank top shirts, or other such informalities. Male attorneys shall wear coat and necktie.
- (3) Attorneys shall be civil, dignified, and courteous in dealing with the Court, court personnel, witnesses, and (particularly) with each other. The provisions of TRCP 269, particularly sections (e), (f), (g), and (h), will be zealously observed. Attorneys shall be careful to permit others to finish speaking before they begin, remembering that interrupting is not only discourteous, but abuses the court reporter, as well.
- (4) Attorneys shall address and refer to veniremen, jurors, counsel, court personnel, and witnesses (except their own clients and children under 12 years of age), by proper title and last name (e.g. Mr. Baize, Dr. Jones, Rev. Patterson, Lieutenant Gordon, Miss. Hopkins, etc.), and never by first name or nickname, or by last name alone.

(5) No TV or video cameras, or sound or image reproducing equipment of any kind, will be permitted in the courtroom during any court proceeding, and no court proceeding may be filmed or recorded in any manner.

RULE 6 - GENERAL

- A. COLLEGIALITY AND DISCOVERY The resolution of discovery dispute(s) will be expedited, to a substantial extent, by a good-faith attempt to resolve the problem before Court intervention. Attorneys shall certify each such attempt in accordance with Rule 2(E) hereof.
- B. CONSOLIDATION OF CASES All consolidations of cases shall be into the earliest-filed case, and shall remain pending on the docket of the court in which that case was originally filed. Any and all motions for consolidation shall be heard and decided only by the presiding judge of the court in which the earliest-filed case was filed.
- C. KEEPING THE COURT INFORMED Settlements, cancellations, and all other matters materially affecting the Court or the Court's schedule shall be promptly reported to the court clerk. The Court shall be kept fully and accurately apprised of conflicting settings and calls to trial, and when another conflicting matter settles, or the conflict is resolved in any fashion, the attorney shall notify this Court as soon as possible.
- D. NON-SUITS AND REILING If a case is non-suited, then refiled, it must be reassigned to the same Court. The clerk is to take all steps to effectuate this rule, and any party may move to enforce the same.
- E. AD LITEMS The Court will maintain a list of approved ad litems from which appointments may be made. Appointment of ad litem>s must be requested sufficiently in advance of proceedings that the ad litem will have time to investigate and prepare therefore. Attorneys will be placed on the list upon request, assuming they meet the standards of good character, proper training, and competence, as determined by the Court. Ad litems will be expected to furnish reports in a format approved by the Court.
- F. WITHDRAWAL OF COUNSEL Motions by counsel to withdraw shall state whether or not the client has agreed to the withdrawal, and, if so, the motion shall be signed by the client evidencing such agreement. In such agreed withdrawals, the Court will consider the motion without hearing, but in all other cases the withdrawing attorney must provide evidence that the client has received a copy of the motion and notice of a hearing thereon at least 30 days in advance thereof. Counsel must also provide, in the motion, the client's full address and telephone number, and certify that the same are, as of the time of filing of the motion, still those of the client. All motions should comply with Rule 10, TRCP.
- G. PRO SE PARTIES The Court will attempt to accommodate pro se parties, consistent with the rights of other parties. Accordingly, every effort should be made to ensure that pro se parties, are fully notified and informed of all proceedings, so as to avoid expensive and time

consuming rescheduling. The Court's indulgence of pro se parties' lack of sophistication will generally require a high degree of caution by attorneys to see that their own positions are procedurally defensible.

Provisions should be made for a record in all proceedings involving a pro se, and adequate time scheduled therefore.

- H. THE JURY We should never forget that the jury is the focal point in the relationship between the legal community and the community as a whole. The jury is, in a real sense, the larger community looking at us and at what we do.

We should, of course, be courteous to and considerate of the jurors. More importantly, we should make every effort to demonstrate to them that their efforts and sacrifices are not in vain, and that the legal system is worthy of their contributions.

Attorneys shall, accordingly, conduct jury trials with punctuality and dispatch, doing the utmost to make the trial presentation as cogent, as concise, and as coherent as possible.

- I. FACSIMILE FILING The Civil District Court chambers may have facsimile copiers from time to time; however, the chambers facsimile machine will not be used for the filing of pleadings, and no pleadings received at chambers will be filed. Any facsimile filing must be made through the District Clerk's office. The chambers facsimile machine may be used only for communications with the court coordinator concerning the scheduling of matters for hearing and trial.
- J. These rules shall apply only to civil cases, as distinguished from criminal, domestic, or juvenile cases.

RULE 7 - ELECTRONIC FILING AND SERVICE OF PLEADINGS

The following rules govern the electronic filing and service of pleadings and other documents in all designated electronic filing cases pending before the District Courts of Jefferson County, Texas.

- A. DESIGNATION OF ELECTRONIC FILING CASES A District Court of Jefferson County may, from time to time, by written order, select and designate those cases which shall be assigned to the electronic filing system, as created and contemplated by the July 10, 1995, Service Agreement between LAWPlus™ and Jefferson County, Texas, or any successor system, either hereinafter referred to as EFILE. Upon receipt of any such Order, parties not then having access to the EFILE system shall promptly take steps to allow their counsel to electronically file, serve, receive, review and retrieve copies of the pleadings, orders, and other documents filed in the assigned case, either by a subscription agreement with LAWPlus or the then-current vendor ("the Vendor"), or by using the public-access terminal in the

District Clerk's office, or by any other means reasonably assuring reliable access to the said system.

B. ASSIGNMENT BY THE VENDOR OF PERSONAL IDENTIFICATION NUMBERS Upon receipt by the Vendor (LAWPlus or its successor) of a properly executed Subscriber Agreement, the Vendor shall assign to the party's designated representative a confidential Personal Identification Number ("PIN"), which may thereafter be used by such representative to obtain access to the EFILE system. This PIN will permit the attorney or party appearing pro se to file, serve, receive, review, and retrieve electronically filed pleadings, orders, and other documents filed in the assigned case.

C. ELECTRONIC FILING OF PLEADINGS AND OTHER DOCUMENTS Except as expressly provided in Local Rule No. 7D below, all pleadings, motions, memoranda of law, orders, or other documents filed in any case assigned to the EFILE electronic filing system shall be filed and served electronically through the system.

In an Efile case, the clerk shall not accept or file any pleadings or instrument in paper form; a party using the public access terminal shall either furnish the pleading or instrument on either an IBM formatted 3 1/2" computer disc or compatible to the clerk's office to be uploaded.

D. CONVENTIONAL FILING OF DOCUMENTS Notwithstanding the foregoing, the following types of documents may be filed conventionally and need not be filed electronically, unless expressly required by the Court or the District Clerk:

- i.) all pleadings or other documents filed in the case before an Order is issued assigning the case to the EFILE system;
- ii.) a motion to file documents under seal shall be filed and served electronically. However, the documents to be filed under seal shall be filed conventionally.
- iii.) lengthy appendices and exhibits to motions, memoranda of law, or other documents that exceed a page count, as set by the Court from time to time, maybe filed and served conventionally.


E. SERVICE OF CONVENTIONAL FILING Copies of all documents except sealed documents that are filed conventionally and are not filed electronically shall be served on all other parties pursuant to the provisions of Rule 21, Texas Rules of Civil Procedure.

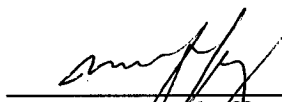
F. UTILIZATION OF PIN No attorney shall knowingly authorize or permit his/her PIN to be utilized by anyone else, other than authorized attorneys or employees of the attorney's law firm. Furthermore, no person shall knowingly use a PIN or cause or permit another person to use a PIN without express permission from the holder of the PIN.

- G. REPRESENTATIONS BY USING A TYPOGRAPHICAL SIGNATURE Every pleading, document, and instrument filed in the EFILE system shall bear a facsimile or typographical signature of at least one of the attorneys of record, along with the typed name, address, telephone number, and SBOT number of said attorney. Typographical signatures shall be treated exactly as personal signatures under the Texas Rules of Civil Procedure.
- H. EFFECT OF ELECTRONIC SERVICE The electronic service of a pleading or other document in EFILE shall be considered as valid and effective service on all designated recipients pursuant to Rule 21a. Texas Rules of Civil Procedure, and shall be construed in the same manner as a telephonic document transfer for purposes of such Rule, except that any such service completed by 11:59 p.m. local time shall be deemed service on that date.
- I. ELECTRONIC FILING OF AFFIDAVITS AND OTHER SWORN DOCUMENTS Unless specifically ordered by the Court, original signature pages on affidavits, verifications, or other documents in cases assigned to EFILE shall not be filed in paper form, but shall be maintained and made available, upon reasonable notice and during business hours, to other counsel and to the court.
- J. FORMAT OF ELECTRONICALLY FILED DOCUMENTS All electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper pleadings, and in such other and further format as the Court may require from time to time.
- K. TIME FOR FILING, AND EFFECT OF USE OF EFILE Any pleading filed electronically shall be considered as filed with the District Clerk on the date it is first transmitted to EFILE. The Vendor shall be and is hereby appointed the agent of the District Clerk as to the electronic filing, receipt, service, and/or retrieval of any pleading or document in EFILE, and neither the Vendor nor any attorney or party shall have any additionally-imposed liability because of the use of or participation in the EFILE system.
- L. ELECTRONIC FILING AND SERVICE OF COURT ORDERS AND OTHER PAPERS The Court intends to issue, file, and serve orders, rulings, and other documents in the assigned cases electronically, rather on paper. Parties who have not subscribed to the VENDOR'S System, or whose rights to use the VENDOR'S System have been suspended or terminated, are responsible for keeping themselves timely apprised of any orders, rulings, or other documents that the Court chooses to file and serve electronically in any of the assigned cases.
- M. TITLE OF PLEADINGS AND OTHER DOCUMENTS The title of each electronically filed pleading or other document ("papers") shall contain sufficient information to enable the Court to ascertain from the title of the paper (a) the party or parties filing the paper, (b) the nature of the paper, (c) the party or parties against whom relief, if any, is sought, and (d) the nature of the relief sought (i.e., "John Doe, et al.'s Motion to Compel Discovery and for Sanctions against Jim Smith").


N. PUBLIC ACCESS TO ELECTRONICALLY FILED DOCUMENTS The District Clerk's office shall make available, without charge and during normal business hours, to members of the general public at least one computer screen capable of searching and reviewing documents filed of public record in the assigned cases. The District Clerk shall make copies of any publicly filed documents available on EFILE, at a reasonable charge.

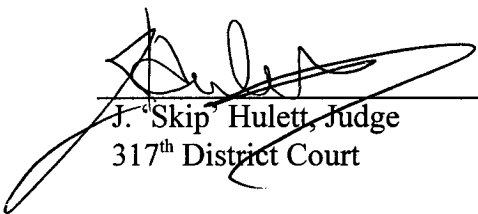
Adopted this 19th day of May, 1997, by all the undersigned District Judges of Jefferson County, Texas.


Leonard Giblin, Admin. Judge and
Judge 252nd Criminal District Court



James W. Mehahey, Judge
58th District Court


Charles Carver, Judge
Criminal District Court of Jefferson County


Gary Sanderson, Judge
60th District Court


J. 'Skip' Hulett, Judge
317th District Court


Milton Shuffield, Judge
~~60th~~ District Court
136th


Robert P. Walker, Judge
279th District Court


Donald Floyd, Judge
172nd District Court



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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CLERK
JOHN T. ADAMS

EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

JUSTICES

RAUL A. GONZALEZ
NATHAN L. HECHT
JOHN CORNYN
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

June 10, 1997

Hon. Leonard Giblin
Admin. Judge and Judge
252nd District Court
Post Office Box 3707
Beaumont, Texas 77704-3707

Dear Judge Giblin,

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

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Olen Underwood
2nd Admin Judicial Rgn

District Judges

District Clerk

County Clerk

Supreme Court Adv Committee

Mr. Jerry Benedict
Office of Court Admin

State Law Library