

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 98-9218

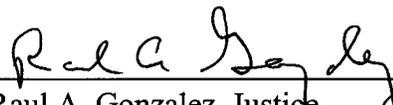
**APPROVAL OF LOCAL RULES FOR THE
DISTRICT COURTS OF HARRIS COUNTY, TEXAS,
FAMILY TRIAL DIVISION**

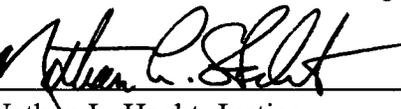
ORDERED that:

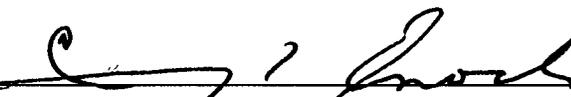
Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court of Texas approves the Local Rules of the Judicial District Courts of Harris County, Texas, Family Trial Division. The approval of these rules is temporary pending further orders of the Court.

SIGNED AND ENTERED this 22nd day of December, 1998.


Thomas R. Phillips, Chief Justice


Raul A. Gonzalez, Justice


Nathan L. Hecht, Justice

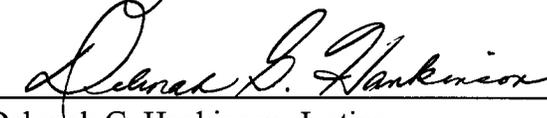

Craig T. Enoch, Justice


Rose Spector, Justice


Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice


Deborah G. Hankinson, Justice

RULES OF THE JUDICIAL DISTRICT COURTS

OF HARRIS COUNTY, TEXAS

FAMILY TRIAL DIVISION

(Amended effective 1998)

RULE 1. OBJECTIVE

- 1.1 Purpose of the Rules. Obtaining a just, fair, and impartial adjudication of the parties' and the children's rights is the purpose of these rules. To achieve this goal efficiently and inexpensively, while complying with procedural rules and substantive law, these rules encourage using alternate dispute resolution in all appropriate cases.

RULE 2. TRANSFER OF CASES

- 2.1 Multiple Suits. When a suit filed in a Family Trial Division court is in any way terminated (by non-suit or otherwise), a subsequent suit or cause of action involving the same parties or the same subject matter shall be filed in, or transferred to, the court that first had jurisdiction of the parties or subject matter. This rule applies to all controversies, including divorce, support, conservatorship, and all matters incident to them, 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.
- 2.2 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.
- 2.3 Transfer.
- 2.3.1 Continuing, Exclusive Jurisdiction. All provisions of the Texas Family Code ("Tex. Fam. Code") regarding continuing, exclusive jurisdiction and transfer shall take precedence over these rules.
- 2.3.2 Later Filed Case. If a case is filed in which there is a substantial identity of parties or subject matter as in a previously non-suited 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.
- 2.4 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.
- 2.5 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.

- 2.6 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.
- 2.7 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 the Family Trial Division shall transfer the case to the proper court.

RULE 3. FLOW OF CASES

3.1 Appearances of Counsel. Any attorney representing a party in a case shall file an appropriate initial pleading with the court, be it a Petition, Answer, Notice of Appearance as Attorney of Record, or Motion and Order for Substitution of Counsel. The pleading shall contain all information required under Rule 57 of the Texas Rules of Civil Procedure ("T.R.C.P.").

3.2 Ancillary Matters

3.2.1 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 Title 5, Subtitle D, Chapter 231, Tex. Fam. Code;
- 5) Temporary receiverships;
- 6) Motions to transfer;
- 7) In the discretion of the court, as may be limited by the Tex. Fam. Code, hearings for temporary orders in suits for modification of a final order; and
- 8) All matters preliminary to trial on the merits.

3.2.2 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.

3.3 Docket Call Procedures.

3.3.1 Attorneys and pro se litigants who do not expect to be on time or present in the courtroom during docket call must notify the court and the opposing side of this fact.

3.3.2 Attorneys and pro se parties who will be late for docket call must give the court and opposing side notice of their estimated time of arrival at court and the reason for the delay. If the attorney is late because he or she must appear in another court at the same time, the clerk must be notified not only that the attorney will be late (as above), but also the specific court(s) in which the attorney will be appearing.

3.3.3 If the moving party (if pro se) or the party's attorney does not appear in the courtroom within thirty (30) minutes of docket call, that party's motion may be passed by the court at the request of the responding party .

3.4 Telephone Conferences. Use of telephone conferences between judges or associate judges and all attorneys in a case is encouraged for non-evidentiary matters. Telephone conferences shall be scheduled through the court coordinator.

3.5 Interview of Child / Child's Testimony. In all cases in which the court deems testimony of a child to be necessary or required by statute, the attorney wishing to have the child interviewed shall arrange a specific time through the court coordinator for the court to interview the child. No party is to bring a child to the courthouse to testify without prior arrangement pursuant to this rule, unless the child's attendance is required by court order including a writ of habeas corpus or attachment. The attorney or pro se party who is responsible for the child's attendance at court shall immediately notify the court coordinator of the child's presence in the courthouse. The child shall not be brought into the courtroom without the express consent of the judge or associate judge.

3.6 Scheduling Orders. It shall be the duty of an attorney or pro se party entering a pending case to ascertain from the court whether a Scheduling Order has issued and if so, to obtain a copy of the Scheduling Order from the District Clerk's office. Notwithstanding the foregoing, it shall also be the duty of the Petitioner or Movant's attorney of record in a pending case in which a Scheduling Order has issued to provide a copy of the Scheduling Order to any pro se party who has made or makes a general appearance in the pending case.

3.7 Trials.

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

3.7.2 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.

3.7.3 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.

3.7.4 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 the 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.

3.7.5 Open Weeks. Except with the consent of all parties, and the court, no cases will be assigned to trial on the merits nor for ancillary hearings during:

- 1) The week of the Second Administrative Judicial Region Conference (March);
- 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

5) The last two weeks of December.

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

3.8 Judgments and Orders. All judgments and orders must be submitted to the court for signing within ten (10) days from the date of rendition, unless otherwise directed by the court. The party who is directed to prepare the judgment or order shall furnish all opposing parties with a copy of the proposed judgment or order at least five (5) days prior to entry date. All judgments and orders submitted for entry must be signed by the judge within seven (7) working days from the date that the judgments or orders are submitted for entry, unless the judgment or order is rejected by the court. All judgments or orders in uncontested matters (except for settlements made pursuant to T.R.C.P. 11) and in default matters (where citation has been served and there has been no answer filed or other general appearance) must be presented at the time of hearing on the uncontested or default matter. All forms required by governmental entities shall be submitted at the time the judgment or order is submitted.

RULE 4. DISCLOSURE OF PROPERTY AND FINANCIAL INFORMATION

4.1 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, copies of income tax returns for the past two years, and the two most recent payroll stubs are required prior to the commencement of the hearing. This rule providing for the exchange of information shall constitute a discovery request under the T.R.C.P., and failure to comply with this rule may be grounds for sanctions, as provided by Rule 215 of the T.R.C.P.. Sanctions shall not issue if the judge or associate judge determines that the failure to comply was not willful.

4.2 Final Information. A party's final Inventory, Financial Information Statement and financial information required under the Tex. Fam. Code including, but not limited to, the party's income tax returns for the past two years and the party's two most recent payroll stubs, 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 information so the court may render a qualified medical child support order regarding health insurance for the children. This rule providing for the exchange of information shall constitute a discovery request under the T.R.C.P., and failure to comply with this rule may be grounds for sanctions.

4.3 Inventory. Each inventory shall list each item of property and its value, and shall also list each liability, together with the 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 property 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 non-vested) shall be identified. Each party shall incorporate as an exhibit to the inventory the last information furnished about to the employee's rights and monetary interest in the retirement and savings plans. Each party shall also furnish sufficient information so the court may render a qualified domestic relations order, if applicable. A summary attached to the inventory shall list and total, in columnar format, the property values and liabilities. Each inventory shall show the net worth of the community estate and the net worth of any claimed separate estate.

4.4 Duty of Disclosure. Without waiting for a discovery request, each party to a suit for divorce, annulment, or a suit in which child or spousal support is in issue, has a duty of disclosure of certain information to the other party. "Disclosure" includes providing for inspection and copying the information in the party's "possession, custody or control," as that phrase is defined in Rule 166b(2)(b) of the T.R.C.P.. Different types of suits require disclosure of different information.

4.4.1 Disclosure in Suit for Divorce or Annulment. Each party to a suit for divorce or annulment shall, without waiting for a discovery request, provide to the other party the following information about property in which the party claims an interest:

- 1) all documents pertaining to real estate;
- 2) all documents pertaining to any pension, retirement, profit-sharing, or other employee benefit plan, together with the most recent account statement for any plan;
- 3) all documents pertaining to any life, casualty, liability, and health insurance;
- 4) the most recent account statement pertaining to any account located with any financial institution including, but not limited to, banks, savings & loans, credit unions, and brokerage firms.

4.4.2 Disclosure in Suit in which Child or Spousal Support is in Issue. Each party to a suit in which child support or spousal support is in issue shall, without waiting for a discovery request, provide to the other party the following information:

- 1) all policies, statements, and description of benefits which reflect any and all medical and health insurance coverage that is or would be available for the child or the spouse;
- 2) Unless the information has previously been exchanged in connection with a temporary hearing (Rule 4.1), a Financial Information Statement for the party, together with that party's previous two years income tax returns and two most recent payroll check stubs, or, if no payroll check stubs are available, the party's latest Form W-2.

4.4.3 Failure to Comply. This rule providing for the duty of disclosure shall constitute a discovery request under T.R.C.P., and failure to comply with this rule (or any of its subparts) may be grounds for sanctions, as prescribed by Rule 215 of T.R.C.P..

4.4.4 Method of Disclosure.

1) Timing of Disclosure. Disclosure required under this rule shall be made as follows:

- a) by a Petitioner or Movant within 30 days after the Respondent files Respondent's first pleading or makes a general appearance in the case;
- b) by a Respondent within 30 days after he or she files Respondent's first pleading or makes a general appearance in the case, whichever occurs first.

2) Delivery of Disclosure. The disclosures required under this rule shall be made by furnishing the information to the opposing party's attorney of record or, if the

opposing party is pro se, by furnishing the disclosures to the opposing party at the party's address. Each party making a disclosure shall promptly file a notice with the court advising that the required disclosure has taken place.

4.4.5 Duty to Supplement. After disclosure is made pursuant to this rule, each party shall be under a duty to reasonably supplement or to amend the information if the party obtains information on the basis of which he or she knows that the information disclosed was either incomplete or incorrect when made, or is no longer complete or true.

4.4.6 Rule 11. The provisions of this rule may be modified by agreement pursuant to Rule 11 of T.R.C.P..

RULE 5. REQUIREMENTS FOR CERTAIN DOCUMENTS

5.1 Certificate of Conference.

5.1.1 Unopposed motions shall be labeled "Unopposed" in the caption.

5.1.2 Opposed motions shall contain a certificate that:

- 1) states that the movant and respondent have conferred with each other and in good faith have attempted to resolve the matter; and
- 2) identifies the basis of disagreement between counsel; or
- 3) states that the parties have not been able to confer, and states in detail all efforts made to confer, including dates and methods of attempted communication.

5.1.3 The clerk of each court is directed not to submit opposed motions to the judge which do not comply with this rule.

5.1.4 The provisions of subparts 5.1.2 and 5.1.3 do not apply to motions for summary judgment, default judgments, agreed judgments, motions for voluntary dismissal or non suit, and motions involving service of citation.

RULE 6. REFERRAL TO ASSOCIATE JUDGE

6.1 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 Chapter 201, Tex. Fam. Code, subject to limitations imposed by that same chapter.

6.2 Order of Referral. This Rule shall constitute the Order of Referral required by Section 201.006, Tex. Fam. Code, as to any pending or future cases under Title 1, 2, 4, or 5, Tex. Fam. Code..

RULE 7. ALTERNATE DISPUTE RESOLUTION

7.1 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.

- 7.2 Final Trial. Except for good cause shown, cases shall be submitted for alternate dispute resolution procedures before trial.
- 7.3 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.

RULE 8. CONFLICTING ENGAGEMENTS

- 8.1 Inter-County. The Rules of the Second Administrative Judicial Region control conflicts in settings of all cases between of all cases between a Harris County court and a court not in Harris County.
- 8.2 Intra-County. Among the trial courts sitting in Harris County:
- 8.2.1 Trial/Trial. A trial setting that is assigned takes precedence over a conflicting trial setting not yet assigned;
- 8.2.2 Trial/Non-Trial. Trial settings take precedence over conflicting non-trial settings except as to court-ordered mediations in family law cases which are scheduled prior to the assignment to trial;
- 8.2.3 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.
- 8.3 Judge or Associate judge. This rule is applicable whether the matter is assigned to the judge or the associate judge of a court.
- 8.4 Waiver. The court with precedence may yield.
- 8.5 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.
- 8.6 Engaged Counsel. Counsel is deemed engaged and unavailable for trial if he or she participates in the actual trial or hearing of another case or in court-ordered alternate dispute resolution or court-ordered deposition.
- 8.7 Reporting of Conflicting Engagements. It is the duty of counsel to report promptly to the court immediately upon learning of a conflicting engagement that might preclude that counsel's availability for trial. Failure to do so may result in sanctions.

RULE 9. VACATIONS OF COUNSEL.

- 9.1 General Rule. Subject to the provisions of 9.2 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 court expands coverage to other counsel. The vacation 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. The designated attorney shall be called upon to act only if the client consents to the designated attorney's representation,

and then only if the court requests the designated attorney's participation due to an emergency.

- 9.2 Time for Designation. Written designation for vacation weeks during June, July, or August must be filed with the District Clerk by May 15. Written designation for vacation weeks in months other than June, July, or August must be filed with the District Clerk by February 1. Designated vacation weeks protect the attorney from trials or pretrial proceedings during those weeks, unless an order setting the case for trial was signed and the case was assigned to trial before the vacation designation was filed.

RULE 10. UNIFORMITY

- 10.1 Letters and Orders. In managing their dockets under T.R.C.P. 165a and 166, Family Trial Division judges shall use form letters and orders approved by the Board of District Judges of the Family Trial Division.
- 10.2 Policies and Procedures. The Board of District Judges of the Family Trial Division shall establish common policies and procedures on pertinent court business. If practical, policies and procedures shall be posted outside the entrance of each court.

RULE 11. ADMINISTRATION OF FAMILY TRIAL DIVISION

- 11.1 Presiding Judge. Each Family Trial Division judge, except the Administrative Judge, serves as Presiding Judge for a calendar month in rotation in order of judicial district numbers.
- 11.2 Administrative Judge of the Family Trial Division.
- 11.2.1 Term. At their regular May meeting, the Family Trial Division judges shall elect the Administrative Judge of the Family Trial Division for a one-year term beginning June 1 and ending the next May 31.
- 11.2.2 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 substitute administrative judge shall have all the duties and authority granted by these rules to the Administrative Judge during the period of the designation.
- 11.3 Meetings. The Family Trial Division judges shall meet regularly each month at times and places as the Administrative Judge of the Family Trial Division may direct by a written notice distributed, except in case of emergency, at least 72 hours in advance of the meeting.
- 11.4 Reports to the Administrative Judge. On a monthly basis, the District Clerk shall supply to the Administrative Judge of the Family Trial Division information concerning the number of filings, dispositions, trials and other judicial activities in each Family Trial Division court.

RULE 12. PARENT EDUCATION AND COUNSELING

- 12.1 Except for good cause shown, in all divorces joined with suits affecting the parent-child relationship, the court shall require parents to attend an educational program for divorcing parents. In its discretion, the court may also refer parents involved in modification or enforcement litigation, or a child involved in any type of custody litigation, to an education course or for counseling. In protective order cases authorized by Chapter 85, Tex. Fam. Code, the court may refer a party to a batterers' treatment program.

RULE 13. APPLICABILITY

- 13.1 Effective Date. These rules shall become effective on January 1, 1998, or upon their approval by the Texas Supreme Court pursuant to T.R.C.P. 3a, whichever comes later.
- 13.2 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 recodification, revision or amendment.
- 13.3 Applicability. These 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 4th day of December, 1998



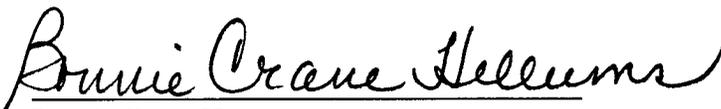
Annette Galik
Judge, 245th District Court

Signed this 9th day of December, 1998



Don Ritter
Judge, 246th District Court

Signed this 4 day of December, 1998



Bonnie Crane Hellums
Judge, 247th District Court

Signed this 9th day of December, 1998

Linda Motheral

Linda Motheral
Judge, 257th District Court

Signed this 4th day of December, 1998

Georgia Dempster

Georgia Dempster
Judge, 308th District Court

Signed this 9th day of December, 1998

John D. Montgomery

John D. Montgomery
Judge, 309th District Court

Signed this 4th day of December, 1998

Lisa A. Millard

Lisa A. Millard
Judge, 310th District Court

Signed this 4th day of December, 1998

Bill Henderson

Bill Henderson
Judge, 311th District Court

Signed this 4th day of December, 1998

James D. Squier

James D. Squier
Judge, 312th District Court
Administrative Judge, Family Trial Division



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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NATHAN L. HECHT
CRAIG T. ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

December 23, 1998

Hon. James D. Squier
Admin. Judge, Family Trial Div
312th District Court
1115 Congress, 2nd Floor
Houston, Texas 77002

Dear Judge Squier,

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

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Olen Underwood
2nd Admin Judicial Rgn

Family Trial Courts
District Court Administrator
District Clerk
County Clerk
Supreme Court Adv Committee

Mr. Jerry Benedict
Office of Court Admin

State Law Library