

LOCAL ADMINISTRATIVE RULES
of the
121st DISTRICT COURT
TERRY AND YOAKUM COUNTIES, TEXAS

Effective January 1, 2008

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RULE 1 - GENERAL RULES WITH RESPECT TO DISPOSITION OF CASES

Rule 1.01 **Calendars and Holidays.**

a. The Court shall annually publish a calendar setting out a schedule for jury and non-jury weeks. Copies of such calendars will be kept in the District Clerk's office and will be furnished upon request.

b. The Court will observe those holidays recognized for county employees by the respective Commissioners Courts.

Rule 1.02 **Hours of Court Proceedings.** The Judge shall determine the hours of operation for the Court.

Rule 1.03 **Time Standards for Disposition of Cases.** To the extent possible, cases shall be brought to trial or final disposition within the time standards as prescribed by Rule 6 of the Rules of Judicial Administration and Rule 1 of the Regional Rules of Administration of the Ninth Administrative Judicial Region.

Rule 1.04 **Continuances.** With leave of Court, an agreed continuance may be granted without a written motion. Otherwise, continuances will not be granted except for good cause shown upon written motion supported by affidavit. All motions for continuance shall contain a certificate of conference that the request has been discussed with all opposing parties or counsel and that such motion is agreed or opposed. The party filing the motion shall be responsible for obtaining a hearing on the motion in timely fashion.

Rule 1.05 **Preferential Settings.**

a. Preferential settings shall be made in accordance with Sections 23.101 and 23.102 of the Government Code.

b. Preferential settings may also be made if, because of unusual circumstances, more than ordinary difficulty would be encountered in having all counsel and witnesses available on the regular docket and a special setting will facilitate the orderly conduct of the Court's business.

- Rule 1.06 **Submission of Orders, Judgments and Instruments.**
a. Agreed, approved or default judgments and orders should be submitted directly to the Court Coordinator for submission to the Judge for signature. All agreed orders or judgments shall be approved as to form by all counsel and/or *pro se* parties. Default judgments shall be approved as to form by counsel.
b. In contested matters, all counsel and *pro se* parties shall make reasonable effort to agree, in writing, to the form of the order to be submitted to the Court. If all counsel and *pro se* parties cannot agree on the form of the order or judgment, the Court will schedule a hearing on entry of the judgment with notice to all parties upon request.
- Rule 1.07 **Counsel For Indigents.** Counsel for indigents will be appointed and compensated as required by law and by the current plan governing same.
- Rule 1.08 **Interpreters.** When an interpreter is needed for a party or witness, counsel for the party or counsel who intends to call the witness shall notify the Coordinator as soon as is practical.

RULE 2 - CIVIL CASES OTHER THAN FAMILY AND JUVENILE CASES

- Rule 2.01 **Requests for Contested Non-Jury Settings.**
A request for setting shall be addressed in writing to the Court Coordinator, with notice to all counsel and *pro se* parties who are entitled to notice in the case, and shall include an estimate of the time required for trial.
- Rule 2.02 **Settings for Uncontested Matters.** Settings for uncontested matters, including default judgments, may be obtained through the Coordinator and need not be in writing.

- Rule 2.03 **Jury Trial Settings.** Unless an earlier request is made in accordance with this rule, civil cases in which a jury trial is demanded will automatically be placed on the jury docket approximately 12 months after filing. Requests for settings for jury trials at an earlier date shall include a certification that all discovery is complete, or will be complete at least twenty (20) days prior to the first docket date, that the jury fee has been paid, and that a demand for jury has been filed.
- Rule 2.04 **Docket Calls and Announcements for Jury Trials.**
a. The Coordinator shall send notices to attorneys or *pro se* parties of the time, date, and place of docket call.
b. The attorney who will try the case or an authorized attorney shall be present at the docket call unless the Judge has allowed announcements by other means.
- Rule 2.05 **Assignment of Cases for Trial.** Cases shall be assigned their order for trial at the docket call at the discretion of the Judge.
- Rule 2.06 **Hearings on Pre-Trial Pleas and Motions.** Requests for hearings on pre-trial motions including, but not limited to, temporary injunctions, discovery motions, protective orders, summary judgments and contempt, shall be submitted to the Coordinator for setting. After setting is obtained, it is the responsibility of the moving party to obtain proper notice to or citation on all opposing parties entitled thereto.
- Rule 2.07 **Discovery Documents.** Discovery documents shall not be filed with the Clerk unless filing is required by other rule or court order.
- Rule 2.08 **Summary Judgments.**
a. Summary judgments are heard by submission without oral argument.
b. Subject to the approval of the Court, for good cause shown, the parties may request oral argument.
- Rule 2.09 **Dismissals for Want of Prosecution.** The Judge may issue a notice of intent to dismiss for want of prosecution in any case

which has not been set for trial or finally disposed of within the time standards set out in Rule 1.03 or within such other time period as the Court deems appropriate according to the nature of the case.

Rule 2.10 **Alternate Dispute Resolution.** The Judge may refer cases for Alternate Dispute Resolution. Unless excused by the Court, no case will be finally set for jury trial unless Alternate Dispute Resolution has been conducted.

Rule 2.11 **Jury Questions and Instructions.** In all civil jury cases, anticipated jury questions, definitions and instructions shall be submitted to the Court in electronic medium no less than three (3) working days prior to commencement of voir dire examination.

Rule 2.12 **Juror Questionnaires.**

- a. Copies of juror questionnaires which have been returned will be delivered by the Clerk to attorneys or *pro se* parties upon request prior to voir dire unless otherwise ordered by the Court.
- b. Attorneys and *pro se* parties shall not copy juror questionnaires.
- c. Attorneys and *pro se* parties shall return all juror questionnaires to the Clerk at the end of voir dire.
- d. The Clerk shall maintain the confidentiality of juror questionnaires as required by law.

RULE 3 - FAMILY AND JUVENILE CASES

Rule 3.01 **Family Law Cases Generally.** Procedures for Family Law cases shall be as provided in Rule 2 and as supplemented by this rule.

Rule 3.02 **Inventories and Disposition Proposals in Property Cases.** In disputed property division cases, each attorney shall submit to the Court and opposing counsel not later than the commencement of trial an inventory of property, with values,

and debts and a proposed property division including property claimed or recognized as separate property.

Rule 3.03 **Conference Required in Family Law cases.** Each attorney shall, prior to the day of trial, confer with opposing counsel, if any, regarding settlement, stipulations, estimated time of trial, the extent, description, character and value of property in question, amount of support, medical insurance for any children and the cost thereof, conservatorship, periods of possession and/or access, rights, duties and powers of conservators and other relevant issues.

Rule 3.04 **Children's Interest Seminars.** In any suit involving the parent-child relationship, except uncontested adoptions and terminations, all parties shall successfully complete a children's interest seminar and file their certificate of completion with the Clerk. Each party will be responsible for payment of the appropriate fees. The seminar shall be completed prior to the final hearing. Failure to successfully complete the seminar may result in sanctions under Rule 215, Texas Rules of Civil Procedure, contempt of court, or delay of the final hearing. For good cause shown, the Judge may waive the requirement of completion of the seminar. If such seminar has been completed, no additional attendance is required in the event of motions to modify or enforce.

Rule 3.05 **Settings in Juvenile cases.**
a. Juvenile cases will be set by the Coordinator.
b. Counsel in juvenile cases where the right to jury trial is not going to be waived shall notify the Coordinator of such fact as soon as possible.

RULE 4 -CRIMINAL CASES

Rule 4.01 **Grand Juries.**
a. Terms for grand juries for the 121st District Court shall be June and December in Yoakum County and May and November in Terry County.

- Rule 4.02 **Appearance of Defendant and Counsel.** Immediately upon employment, the defense attorney shall file written notice thereof with the District Clerk and provide a copy of same to the attorney for the State and to the Court Coordinator.
- Rule 4.03 **Bond and Bond Forfeiture.**
- a. Bond shall be set immediately after indictment.
 - b. Bond forfeiture will be promptly initiated upon any failure of the defendant to appear after proper notice has been given.
- Rule 4.04 **Docket calls.**
- a. The Court Coordinator shall send notices to attorneys, bondsmen, and all *pro se* or unrepresented defendants of the time, date, and place of docket call.
 - b. The attorney who will try the case or an authorized attorney shall be present at docket call unless the Judge has allowed announcements by other means.
 - c. Defendants without attorneys shall be required to be present at docket call or bond will be forfeited.
- Rule 4.05 **Announcements.**
- a. An announcement of “ready” by the attorney for the State is a certification that plea bargaining is concluded, that no plea agreement could be reached, that all witnesses are available and that counsel for the State is ready for trial.
 - b. An announcement of “ready” by defense counsel is a certification that the defendant and all witnesses are available and that counsel is ready for trial.
 - c. Announcement by defense counsel that a case will be a guilty plea is a certification that a plea bargain agreement has been reached with the State and has been agreed to by the defendant.
 - d. Cases for which defense counsel announces a guilty plea will be set for plea at a date and time to be determined by the Court.
- Rule 4.06 **Plea Bargains.**
- a. Unless good cause is shown, plea bargains will not be approved for cases which have previously been announced by defense counsel for disposition by a plea of guilty, set for guilty plea hearing and subsequently not disposed by guilty plea.

b. Unless good cause is shown, plea bargains must be announced to the Court prior to or at docket call.

c. Unless excused by the Court upon written motion by the defendant, the defendant shall submit to a Presentence Investigation Report interview no less than 14 days prior to the date of any scheduled plea. Counsel whose client is incarcerated shall notify the CSCD of the defendant's location no less than 14 days prior to the date of any scheduled plea. Unless a written objection is filed prior to preparation of the report, the defendant shall be deemed to have consented to the Court's viewing of the PSI prior to entry of the plea of guilty.

Rule 4.07 **Speedy Trial.** All cases will be set for trial as expeditiously as possible.

Rule 4.08 **Pre-Trial Matters.** Pretrial hearings will not be automatically scheduled. Counsel shall advise the Court of any motions to be heard prior to trial and shall obtain a setting from the Coordinator.

Rule 4.09 **Preferential Settings.** Preferential settings shall be made as required by statute.

Rule 4.10 **Juror Questionnaires.**

a. Copies of juror questionnaires which have been returned will be delivered by the Clerk to attorneys or *pro se* parties upon request prior to voir dire unless otherwise ordered by the Court.

b. Attorneys and *pro se* parties shall not copy juror questionnaires.

c. Attorneys and *pro se* parties shall return all juror questionnaires to the Clerk at the end of voir dire.

e. The Clerk shall maintain the confidentiality of juror questionnaires as required by law.

RULE 5-JURY MATTERS

Rule 5.01 **Management of Juries.** The Judge will adopt or cause to be adopted a jury plan for each county.

RULE 6- ATTORNEY MATTERS

RULE 6.01 Conflicting Settings.

a. An attorney seeking to have a case continued on the grounds that the attorney is to go to trial in another court, shall furnish the Court and opposing counsel with a motion for continuance, which shall disclose the name of the court in which such other case is pending, the style of the case, the time for which such case is set, and the date on which the conflicting setting was made. A copy of the setting notice of the conflicting case shall be attached to the motion. In the event the conflicting case is passed, continued or disposed of prior to or during the week in which the case is set for trial under these Rules, the attorney shall immediately notify the Judge and opposing counsel of such fact.

b. Rule 10(b) of the Regional Rules of Administration of the Ninth Administrative Judicial Region shall establish the priority of cases in the event of conflict between courts.

Rule 6.02 **Substitutions.** Any attorney substituting for another attorney of record shall file with the Clerk a written notice of substitution signed by the client together with a proposed order permitting the substitution. At the time of filing, such attorney shall furnish a copy of the notice to the Judge, the attorney for whom substitution is being made, and all other attorneys of record or *pro se* parties.

Rule 6.03 **Withdrawal.** If there is no substitution of counsel as provided in Rule 6.02, no attorney of record shall attempt to withdraw without presenting a motion and obtaining from the Court an order granting leave to withdraw. Such motion shall be accompanied by the client's written consent to such withdrawal or a certification that a copy of such motion has been mailed to

the client at his/her last known address, with notice advising the client that the motion will be presented to the Court at a date not less than ten (10) days after mailing, and that any objection to such withdrawal should be made to the Court in writing before such date. Such notice shall be included within the motion or a copy of the letter attached to the motion. A copy of the motion shall also be delivered or mailed to opposing counsel. Such leave may be denied if withdrawal will delay trial. If leave is granted, the attorney shall notify the party and all other attorneys or *pro se* parties of such action by mail and file proof of notice with the Clerk.

RULE 7 - ATTORNEY VACATIONS

Rule 7.01 **Attorney Vacations.** Attorneys may notify the Court of scheduled vacations in accordance with Rule 11 of the Regional Rules of Administration of the Ninth Administrative Judicial Region.

RULE 8-COURTROOM DECORUM

Rule 8.01 **Trial Witnesses and Exhibits.**
a. Counsel shall examine witnesses while seated at counsel table. If counsel needs to approach the witness, counsel may do so without asking leave of court unless instructed otherwise.
b. No physical or documentary evidence shall be published to the jury without leave requested and granted by the Judge.

Rule 8.02 **Conduct of Counsel.**
Counsel shall conduct themselves in accordance with the standards of professionalism set out in THE TEXAS LAWYER'S CREED and shall preserve order and decorum in court proceedings and be courteous to litigants, jurors, witnesses and other lawyers. *See* Canon 3 B. (3) and (4), Texas Code of Judicial Conduct.

Rule 8.03 **Conduct of Parties, Witnesses and Spectators.**
All counsel, parties, witnesses and spectators shall wear

appropriate attire and conduct themselves in a dignified and courteous manner. During the course of a trial or hearing, no person shall approach the Judge, Clerk or other participants in the hearing (including counsel) about matters not related to the hearing, without the permission of the Court.

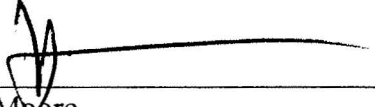
Rule 8.04 **Audio or Video Devices, Telephones and Recording of Proceedings.**

All court proceedings shall be reported by the Court Reporter of the 121st District or a deputy court reporter as permitted by the Judge. Without prior consent from the Judge, no person shall make audio, video or any other type of recordings of court proceedings. All cell phones shall be turned off during court proceedings.

IN THE 121ST DISTRICT COURT
Terry and Yoakum Counties

Miscellaneous Order

The foregoing Local Administrative rules are adopted to be effective January 1, 2008.



Kelly G. Moore
121st District Judge