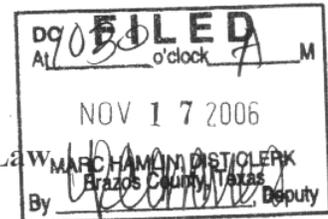




BRAZOS COUNTY LOCAL RULES OF ADMINISTRATION

Adopted November 16, 2006

Effective January 1, 2007



In the District Courts and County Courts at Law
Brazos County, Texas

**ORDER ADOPTING
BRAZOS COUNTY LOCAL RULES OF ADMINISTRATION**

On November 16th, 2006, the Judges of the District Courts and County Courts at Law in Brazos County, Texas, met and reviewed the existing Brazos County Local Rules of Administration. After consideration, the Judges approved amendments to the existing rules and adopted the attached rules as the Brazos County Local Rules of Administration, to become effective January 1st, 2007.

IT IS THEREFORE ORDERED that this order and the attached Brazos County Local Rules of Administration shall be immediately posted on the Brazos County District Clerk's website, and a copy transmitted to each attorney currently on any court-appointed attorney list by electronic or regular mail.

IT IS FURTHER ORDERED that a copy of this order and the attached rules be posted in the public access area in the District Clerk's Office and at the courtroom door of each District Court and County Court at Law.

IT IS FURTHER ORDERED that the District Clerk shall provide to any person upon request a copy of this order and the attached Brazos County Local Rules of Administration.

IT IS FURTHER ORDERED that this order and the attached Brazos County Local Rules of Administration shall be transmitted to the Presiding Judge of the Second Administrative Judicial Region of Texas for his consideration.

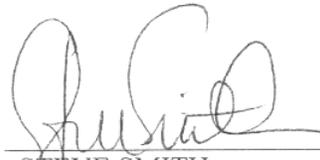
IT IS FURTHER ORDERED that, if approved by the Presiding Judge of the Second Administrative Judicial Region of Texas, the attached Brazos County Local Rules of Administration shall be transmitted to the Supreme Court of Texas for its consideration.

IT IS FURTHER ORDERED that, if approved by the Supreme Court of Texas, the attached Brazos County Local Rules of Administration shall become effective on January 1st, 2007, or the date approved by the Supreme Court of Texas, whichever is later.

ADOPTED on November 16th, 2007.



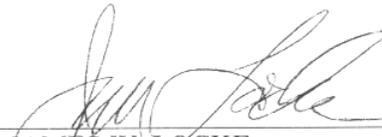
J. D. LANGLEY
Presiding Judge
85th District Court



STEVE SMITH
Presiding Judge
361st District Court



RICK DAVIS
Presiding Judge
272nd District Court



JAMES W. LOCKE
Presiding Judge
County Court at Law No. 2



BILL BALLARD
Presiding Judge
County Court at Law No. 1



AMANDA MATZKE
Judge-elect
County Court at Law No. 1

RULE 1. GENERAL PROVISIONS

1.10 Time Standards for Case Disposition. Each court shall, so far as reasonably possible, ensure that all ~~civil cases, other than family law cases,~~ are brought to trial or final disposition in conformity with the Rules of Judicial Administration promulgated by the Supreme Court of Texas. ~~the following time standards:~~

~~a. Civil jury cases — within 18 months from appearance date.~~

~~b. Civil non jury cases — within 12 months from appearance date.~~

Source: Brazos County Local Rules of Administration, Rule 1.10 (effective 2/1/90)

COMMENT

Former Rule 1.10 was adopted following the promulgation of time standards for the disposition of cases by the Supreme Court of Texas, in 1987. At the time of the adoption of the former rule, the courts were concerned that the practicing bar were unfamiliar with the new rule and it was reproduced verbatim in the local rules. Rather than continue reproduce the existing rules of Judicial Administration, this amendment makes it clear that the existing statewide time standards for all cases are applicable.

1.11 Terms of Court sessions; Annual Calendars; Weeks Not in Session; Holidays.

a. **Terms of Court sessions; Annual Calendars; Weeks Not in Session.** The courts of Brazos County have successive terms and are in session every week of the year.

b. **Annual Calendars.**

(1) District Courts. Each district court shall determine its own annual calendar.

(2) County Courts at Law. Each county court at law shall determine its own annual calendar.

(3) Magistrates, Referees, and Court Masters. The judges of the district courts and county courts at law shall coordinate the schedules of the magistrates, referees and court masters authorized to hear cases in this county in a manner designed to maximize the utilization of personnel and facilities available.

c. Holidays. The courts of Brazos County will observe those holidays set and published a reasonable time in advance by the Commissioners Court of Brazos County.

Source: Brazos County Local Rules of Administration, Rule 1.11 (effective 2/1/90)

COMMENT

The amendment places the duty of the district and county court at law judges to coordinate the schedules of the magistrate, juvenile referee and Title IV-D master to ensure maximum utilization of the county's personnel and facilities.

1.12 Hours of Court Proceedings. Normal court proceedings shall, as far as reasonably possible, be conducted between the hours of 8:00 a.m. and 5:00 p.m., Mondays through Fridays.

Source: Brazos County Local Rules of Administration, Rule 1.12 (effective 2/1/90) (unchanged)

1.13 Emergency and Special Sessions. Each court may convene at any time in the judge's discretion for emergency or special sessions, upon reasonable notice to the parties or attorneys of record.

Source: Brazos County Local Rules of Administration, Rule 1.13 (effective 2/1/90) (unchanged)

1.14 Jury/Non-jury Weeks.

a. District Courts. The district courts shall, to the extent possible, coordinate the designation of civil jury, criminal jury and bench weeks between the three district courts such that each district court hears a different subject-matter each week.

b. County Courts at Law. Jury and non-jury trial weeks or days may be designated by the judge of each county court at law. ~~The Court Coordinator for each court shall maintain a calendar of dates available for the setting of all jury and non jury matters. The Jury Coordinator shall summon jurors as requested by each court.~~

Source: Brazos County Local Rules of Administration, Rule 1.14 (effective 2/1/90).

COMMENT

The amendments to this rule reflect the effort of the district courts to coordinate their dockets for efficient utilization of county resources. The language deleted from the prior rule was deemed unnecessary.

RULE 2. LOCAL ADMINISTRATIVE JUDGE

2.10 Powers and Duties of Local Administrative Judge. The local administrative judge shall have those powers and duties provided by Section 74.092 of the Texas Government Code and that may be provided by other law or rule.

Source: Brazos County Local Rule of Administration, Rule 2.10 (effective 2/1/90)

2.11. Information to Local Administrative Judge. Each court shall provide the local administrative judge such information as may be required to fulfill the duties of such office.

Source: Brazos County Local Rule of Administration, Rule 2.11 (effective 2/1/90)

2.12. Exercise of Powers in Absence. In the event of the absence of the local administrative judge, the judge who last held the office may exercise the power of such office in an emergency.

Source: Brazos County Local Rule of Administration, Rule 2.12 (effective 2/1/90)

2.13. Court Divisions. No local rule under this subdivision.

Source: Brazos County Local Rule of Administration, Rule 2.13 (effective 2/1/90)

RULE 3. CIVIL CASES

3.10 Filing and Assignment of Cases.

a. Cases Within Exclusive Jurisdiction of the County Clerk Courts at Law.

All civil cases within the exclusive jurisdiction of the county courts at law (i.e., all probate, mental illness, appeals from justice and municipal courts, and civil cases where the amount in controversy is less than \$500 but more than \$200) and ~~all juvenile and condemnation cases~~ (where title to the subject property is not in question) shall be presented for filing to the County Clerk. ~~All such cases receiving an odd number shall be assigned to County Court at Law No. 1. All such cases receiving an even number shall be assigned to County Court at Law No. 2.~~

b. Cases Within the Exclusive Jurisdiction of the District Clerk Courts

All civil cases within the exclusive jurisdiction of the district courts ~~and within the concurrent jurisdiction of the district courts and the county courts at law [i. e., civil cases when the matter in controversy exceeds \$500 and does not exceed \$50,000, exclusive of interest, and all family law matters (except juvenile cases)]~~ shall be presented for filing to the District Clerk. ~~The clerk shall number the cases in the usual succession followed by " 85" for the 85th District Court, " 272" for the 272nd District Court, and " 361" for the 361st District Court.~~

c. Concurrent Civil Jurisdiction Cases

(1) All civil cases within the concurrent civil jurisdiction of the district courts and county courts at law (i.e., civil cases when the matter in controversy exceeds \$500 and does not exceed \$100,000, exclusive of interest, and all family law matters) shall be presented for filing to the District Clerk.

d. Assignment of Cases.

(1) All cases within the exclusive jurisdiction of the district courts shall be randomly assigned to a district court.

(2) All cases within the exclusive jurisdiction of the county courts at law shall be randomly assigned to a county court at law.

(3) All cases within the concurrent jurisdiction of the district courts and county courts at law shall be randomly assigned and equally distributed among the district courts and county courts at law, subject to the following limitations:

(a) All juvenile cases shall be assigned to the 272nd District Court.

(b) All Title IV-D cases (as defined by the Texas Family Code) shall be assigned to a district court.

All civil cases filed with the District Clerk shall be assigned to courts on a random basis, so that no person may predetermine the court to which a case will be assigned. The following procedures will be followed:

(1) The initial pleading document(s) presented for filing shall be file stamped immediately, before determining the court to which the case will be assigned. Once so filed, the pleading document(s) will not be returned to the filer. After the case has been assigned to a court, no other case may be substituted for it.

(2) The clerk will next determine the court assignment at random. If a computer system is not available, the clerk will employ a manual system. In the manual system, the clerk will draw from a container an object that identifies the court to which the case will be assigned. The District Clerk will maintain two containers: one for all district courts only, and another for all district courts and county courts at law. Cases within the exclusive jurisdiction of the district courts will be assigned a court by drawing an object from the first container. Cases with concurrent jurisdiction will be assigned a court by drawing an object from the second container.

(3) The District Clerk will ensure that each case has an equal chance of assignment to all courts having jurisdiction over it; e.g., before each drawing the container will contain an equal number of objects corresponding to the appropriate courts, will be well shaken,

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~~and the drawing will be accomplished in a way that prevents any person from determining which object will be drawn.~~

~~(4) At such time as a computer system is available to randomly assign cases, such system may be used in place of the manual system described herein, but all other provision of this rule 3.10 shall still apply.~~

~~(4)~~(5) To further assure randomness of assignment, if a party dismisses or non-suits a case and refiles it within one year after dismissal, it will be reassigned to the court in which it was pending at the time of dismissal or non-suit.

~~(5)~~(6) This rule 3.10(d) will apply to all newly filed cases in **Brazos** County ~~the District Clerk's Office~~, those transferred to the **Brazos** County District Clerk on change of venue, and those cases in **Brazos County** ~~the District Clerk's Office~~ ordered reassigned by a recusing **or transferring** judge. Nothing herein will prevent judges from exchanging benches, sitting for another judge, or transferring cases between themselves, when allowed by law or these local rules.

3.11 Filing on Holidays.

No local rule under this subdivision.

3.12 Transfer of Cases; Docket Exchange; Bench Exchange.

a. If a judge determines, either sua sponte or upon motion, that his or her court does not have subject-matter jurisdiction over a case, but venue appears proper in Brazos County, the judge shall transfer the case by written order to the appropriate clerk for reassignment to a court in this county which has subject-matter jurisdiction.

b. A civil case may be transferred from one court to another having jurisdiction:

(1) upon motion of a party, for good cause shown;

(2) in the event the judge is disqualified to hear or recuses himself or herself from hearing the case;

(3) when the case should be transferred in the interest of justice;

(4) to facilitate docket control as provided by law or by court rules; or

(5) when at least one common party and substantially similar questions of fact or law appear in each case in two or more courts (in which situation, the case having the higher cause number shall be transferred to the court having jurisdiction over the case with the lowest cause number).

(6) in family law cases when another court has previously exercised jurisdiction over any member of the family (All applications for protective orders and Title IV-D cases) should be transferred to the court having continuing exclusive jurisdiction).

c. No case may be transferred under paragraph (a) or (b) above except upon the consent of the judge of the court to which the case is being transferred.

3.13 Request for Settings--Non-Jury.

a. Submission for Ruling Without Hearing.

Upon the filing of any matter, the movant or the court may give notice to all attorneys of record and parties pro se that the matter will be submitted to the court for a ruling without any hearing. The notice shall clearly state that any party may either request a hearing or submit a written response on or before a specific submission date that is at least ten (10) days after service of such statement. If no hearing is requested prior to the submission date contained in the notice, the court, in the absence of counsel, shall examine the pleadings, authorities cited, and other papers submitted. After such examination the court may either set the matter for a hearing or make such rulings as the court deems proper, note a memorandum of such ruling among the papers of the case and send copies of such memorandum to all attorneys of record and parties pro se. Submission of orders, judgments or other documents necessary to effectuate the memorandum ruling of the court shall be accomplished in accordance with Rule 3.43.

b. Contested Hearings.

(1) Any party or attorney of record may obtain a setting of any contested proceeding by filing a Setting Request (furnished by the clerk, court coordinator, or in a form substantially similar to the form in Appendix). Each Setting Request shall be filed with the clerk of the court, who shall promptly transmit the setting request to the Court Coordinator of the appropriate court. Each Setting Request and shall specify:

- (a) the cause number and style of the case;
- (b) the nature of the hearing, trial or ruling sought;
- (c) the name, address and telephone number of each attorney of record or party pro se;
- (d) the amount of time estimated by the requesting party to be required for such hearing for both sides. Each attorney or party is cautioned to give careful attention to the amount of time requested, as other cases may be set at the conclusion of the estimated time period.

(2) The attorney or party filing the setting request shall mail or deliver to all attorneys of record and all parties pro se in the case a copy of the setting request. The original setting request shall be retained with the original papers in the court's file.

(3) The court coordinator shall mail a Notice of Setting to each attorney of record and party pro se at the address shown on the Setting Request. The Notice of Setting shall state the date, hour, nature of the trial or hearing set, and the allotted time. Failure of the requesting attorney or party pro se to accurately state the names and addresses of opposing counsel or party pro se shall be ground for a continuance on the motion of an attorney of record or party pro se who did not receive the Notice of Setting within a reasonable time prior to the hearing date.

(4) The setting specified in the Notice of Setting shall remain tentative for a period of ten (10) calendar days after the same is mailed by the court coordinator. During such period, any attorney may notify the court coordinator of a conflict of settings or other scheduling conflict. Upon receipt of a signed certificate setting forth the nature and extent of the conflict and with the approval of the court, the court coordinator may reset such cause to another tentative date or time. After the expiration of the ten (10) day period specified above, the setting shall become final.

c. Telephone hearings.

(1) When a setting has been given for a hearing that does not involve the presentation of evidence, the court will consider requests for an attorney to appear by telephone. Attorneys are encouraged to request telephone hearings in appropriate cases.

(2) To request a telephone hearing, contact the court coordinator, which may be by telephone, facsimile transmission, or e-mail, and give notice of your request to all other attorneys of record **as soon as possible** ~~not later than noon on the last working day~~ before the hearing. Notice to opposing counsel must be by lawyer-to-lawyer conversation if by phone, and if written, must be given a sufficient time in advance to provide reasonable assurance of delivery.

(3) Any attorney objecting to the requested telephone hearing should make the reasons for objection known to the court coordinator **as soon as possible before** ~~by 2:00 p.m. of the last working day preceding~~ the hearing. The court will rule on the request and any objections without a hearing as early as possible that afternoon. It is the responsibility of the attorneys to call the court coordinator to ascertain if the request has been granted or refused.

(4) The requesting party will initiate the call to the court coordinator who will make the necessary transfer to the courtroom or chambers. A speaker phone will be used when a record is requested by any party.

3.14 Disposition of Uncontested Matters. Requests for hearing uncontested matters and ex parte matters may be made in person, by telephone or in writing to the court

coordinator for the court in which the matter is pending. The court coordinator will set the matter for the next available uncontested docket or at any other time that may be convenient to the parties and the court. The requesting party shall, when required by these rules or other applicable law, notify all attorneys of record or parties pro se of such setting.

3.15 Request for Settings--Jury. Any attorney of record or party pro se may request a jury trial setting in the manner specified by Rule 3.13b above.

3.16 Jury Fee and Jury Demand. No civil case shall be set for a jury trial unless a jury setting request is filed and the proper jury fee is paid not later than **thirty (30)** ~~ten (10)~~ calendar days ~~after the date the Notice of Setting for bench trial is mailed by the court coordinator~~ **before the date the case is set for bench trial.**

3.17 Docket Calls and Announcements. All attorneys of record and parties pro se are expected to appear at all docket calls unless the Notice of Setting specifies otherwise.

3.18 Assignment of Cases for Trial. No local rule under this subdivision.

3.19 Conflicting Settings and Assignments of Counsel.

a. Attorney already in trial in another court.

(1) When informed that an attorney is presently in trial, the Court will determine where and when assigned. This information will be verified upon request of opposing counsel or party pro se. The case will be placed on "hold" or reset, depending upon when the attorney will actually be released.

(2) If the attorney is not actually in trial as represented by the attorney or agent, the case will be tried without further notice.

b. Attorney assigned to two courts for the same date.

(1) It is the duty of the attorney to call the affected judge's attention to all dual settings as soon as they are known.

(2) Insofar as practicable, judges should attempt to agree on which case has priority; otherwise, the following priorities shall be observed by the judges of the respective courts:

(I) Criminal cases in which the defendant is in jail, whether initial case or on probation revocation.

(II) All other criminal cases

(III) Cases given preference by statute

(IV) Preferentially set cases

(V) Case with earliest filing date

(VI) Case set at earliest date

(VII) Courts in metropolitan county areas should yield to Courts in rural county areas in all other instances of conflicting settings.

(VIII) In the event of unresolved conflict between two judges, the issue will be decided by the Local Administrative Judge or the Regional Presiding Judge.

3.20 Preferential Settings.

a. Preferential settings may be granted in the following cases:

(1) those entitled to preferential setting by law;

(2) those in which there are out-of-county parties or witnesses; or

(3) those in which it is shown that manifest hardship would be imposed upon any litigant or a material witness if a preferential setting is not granted.

b. Unless otherwise provided or required by law, a preferential setting shall be granted only after hearing, if requested by any party, upon motion, duly verified, setting forth the reason that the preferential setting is necessary.

3.21 Resettings. No setting shall be passed except by :

a. settlement agreement announced in open court or in writing complying with Rule 11 of the Texas Rules of Civil Procedure;

b. written agreement of all parties with court's approval; or

c. a motion for continuance granted by the Court.

3.22 Dismissal Docket; Involuntary Dismissal.

a. ~~At least once each year, e~~Cases which have not been disposed within the time limits set forth in **the Texas Rules of Judicial Administration** ~~these rules~~ may be dismissed for want of prosecution. Notice of intention to dismiss shall be given in accordance with Rule 165a of the Texas Rules of Civil Procedure to all attorneys of record and parties pro se whose addresses are shown on the docket or in the papers on file.

b. ~~If more than one case appears on the dismissal docket for a certain date, a list of cases to be dismissed shall be posted in a conspicuous place in the clerk's office.~~

e. Unless good cause is shown as required in the notice, such cases will be dismissed on or after the date stated therein. Postcard notification of the dismissal order shall be as provided in Rule 306a of the Texas Rules of Civil Procedure.

3.23 Suspense Docket. No local rule under this subdivision.

3.24 Hearings of Pre-trial Pleas and Motions. Any attorney of record or party pro se may request a hearing of any pre-trial plea or motion any reasonable length of time prior to trial on the merits unless otherwise provided by pre-trial order. Hearings should be requested using the procedure provided in Rule 3.13 of these rules.

3.25 Attorney Conference Requirement and Procedures. No local rule under this subdivision.

3.26 Non-compliance with Conference Procedures. No local rule under this subdivision.

3.27 Discovery Disputes. All counsel are expected to engage in good faith negotiations for the settlement of discovery disputes prior to requesting a hearing to resolve such disputes.

3.28 Severances. No local rule under this subdivision.

3.29 Continuances. No local rule under this subdivision.

3.30 Default Judgments. No local rule under this subdivision.

3.31 Summary Judgments. No local rule under this subdivision.

3.32 Ancillary Proceedings. No local rule under this subdivision.

3.33 Complex Case Designation. **No local rule under this subdivision.** ~~The parties may agree in writing with the court's approval to waive the time standards for the disposition of a particularly complex case or one involving highly unusual circumstances. Upon the court's approval of such waiver the court shall enter a pre-trial scheduling order establishing a specific timetable for the disposition of the case.~~

3.34 Alternative Dispute Resolution. No local rule under this subdivision.

3.35 Pre-Trial and Scheduling Conferences.

a. Any party may request that the case be set for a pre-trial hearing. A pre-trial hearing may also be set on the court's own motion and may be made a prerequisite to any trial setting in the case.

b. At the pre-trial hearing, the court may hear and consider any pre-trial matter contemplated by Rule 166 of the Texas Rules of Civil Procedure and such other matters as the court may direct.

3.36 Certificate of Progress; Proposed Preparation Plan. No local rule under this subdivision.

3.37 Trial Stipulations and Admissions. No local rule under this subdivision.

3.38 Trial Witnesses and Exhibits. No local rule under this subdivision.

3.39 Disposition Conferences. No local rule under this subdivision.

3.40 Settlements. No local rule under this subdivision.

3.41 Jury Selection. No local rule under this subdivision.

3.42 Jury Charge, Questions and Instructions. No local rule under this subdivision.

3.43 Submission of Orders, Judgments and Instruments.

a. After a ruling, the attorney directed shall prepare the form of the document to be entered in duplicate originals. On the same date the document is mailed or presented to the court coordinator, the duplicate of the document shall be mailed or delivered to opposing counsel and parties pro se to provide an opportunity to approve or object to the form of the document or that the document is inconsistent with the court's ruling (i.e., not a reargument of the merits).

b. If no written objection is received by the court coordinator within ten (10) calendar days after the original was received, the court coordinator shall submit the document to the court for signature.

c. All objections to the form or substance of a document submitted shall have the objecting party's proposed document for the court's signature attached. Upon receipt of objections, the court coordinator shall present the documents and all objections to the court for determination. The court may determine the issue with or without a hearing in its discretion. For good cause, the court may change the deadline for preparation and filing of a document and objections.

d. All judgments and orders in uncontested matters (except cases which are settled on the hearing date) shall be presented at the time of hearing on such matters, except for good cause shown.

e. If the court coordinator has not received a proposed judgment or order finally disposing of a case within thirty (30) days after decision by the court, the judge or the court coordinator shall send notice of intent to dismiss the case for want of prosecution to each attorney and pro se litigant in the case and present an Order of Dismissal with prejudice to the court, and Court costs may be taxed in the court's discretion. (See Appendix for form Order of Dismissal)

3.44 Withdrawal and Copying of Documents. No local rule under this subdivision.

3.45 Other Local Rules. No local rule under this subdivision.

RULE 4. FAMILY LAW CASES

4.10 Time Standards for Family Law Case Disposition. No local rule under this subdivision. Each court shall, so far as reasonably possible, ensure that all family law and juvenile cases are brought to trial or final disposition in conformity with the following time standards.

a. Family Law Cases

~~(1) Contested Family Law Cases. Within six (6) months from appearance date or within six (6) months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.~~

~~(2) Uncontested Family Law Cases. Within three (3) months from appearance date or within three (3) months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.~~

b. Juvenile Cases. In addition to Title 3, Texas Family Code:

~~(1) Detention Hearings. On the next business day following admission to any detention facility.~~

~~(2) Adjudicatory or Transfer (Waiver) Hearings.~~

~~(a) Concerning a juvenile in a detention facility: Not later than 10 days following admission to such a facility, except for good cause shown of record.~~

~~(b) Concerning a juvenile not in a detention facility: Not later than 30 days following the filing of the petition, except for good cause shown of record.~~

~~(3) Disposition Hearings. Not later than 15 days following the adjudicatory hearing. The court may grant additional time in exceptional cases that require more complex evaluation.~~

~~(4) Nothing herein shall prevent a judge from recessing a juvenile hearing at any stage of the proceeding where the parties are agreeable or when, in the opinion of the judge presiding in the case, the best interests of the child and of society shall be served.~~

4.11 Ancillary Proceedings, Temporary Orders, and Emergency Matters. In the event a bona fide emergency exists or a matter requires special attention and the judge of the court where the case is pending is unavailable, the attorney or party seeking relief shall contact any judge who has jurisdiction and the judge can consider the matter, but the case shall remain in the court originally filed.

4.12 Disposition Proposals.

a. To expedite disposition, it shall be the duty of each attorney to confer, prior to trial, with each other attorney regarding settlement, stipulations, estimated time of trial, waiver of jury, the extent, description, character and value of the property in question, amount of support, amount of monthly income, conservatorship, periods of possession and/or access, rights, duties and powers of the conservators, and contested issues.

b. Each attorney shall submit a Proposed Property Division (form furnished by the clerk, court coordinator or see Appendix for form) including property claimed or recognized as separate property, to the court and opposing counsel not later than the commencement of trial.

4.13 Uncontested Matters. Requests for hearing uncontested matters and ex parte matters may be made in person, by telephone or in writing to the court coordinator for the court in which the matter is pending. The court coordinator will set the matter for the next available uncontested docket or at any other time that may be convenient to the parties and the court. The requesting party shall, when required by these rules or other applicable law, notify all attorneys of record or parties pro se of such setting.

4.14 Financial Information Statements. A Financial Information Statement (furnished by the clerk, court coordinator or see Appendix for form) shall be furnished to the Court and opposing counsel not later than the commencement of a hearing or trial in which the payment of support or property rights will be an issue.

4.15 Child Support Guidelines. The amount of child support payable by the obligor parent ~~shall be set~~ in accordance with the current Child Support Guidelines adopted by the Supreme Court of Texas are presumptively reasonable.

4.16 Possessory Conservatory Visitation Guidelines. ~~No local rule under this subdivision.~~ The courts of Brazos County utilize the Standard Possession Order provided in Texas Family Code Chapter 153, Subchapters E and F in determining the appropriate periods of possession.

4.17 Inventory and Appraisalment.

No local rule under this subdivision.

4.18 Ad Litem Appointments.

The attorneys requesting appointment of attorneys and guardians ad litem may recommend a suitable, qualified person for such appointment. Proposed orders of appointment should accompany each such request.

4.19 Mediation Counseling.

No local rule under this subdivision.

4.20 Referral to Master.

No local rule under this subdivision.

RULE 5. LIQUIDATED CLAIMS

5.10 Liquidated Monetary Claims. Whenever a claim is liquidated and proved by an instrument in writing and the plaintiff is entitled to default judgment, the plaintiff may present a prepared judgment and certificate of last known address, together with a non-military affidavit and an affidavit for attorney's fees, if appropriate, to the court for signature without a hearing. If the court is satisfied that all legal prerequisites have been met, the court may enter judgment without the necessity for a personal appearance.

5.11 Certification for Suspense Docket.

No local rule under this subdivision.

5.12 Application to Defer Entry of Judgment.

No local rule under this subdivision.

5.13 Certification that Payment Agreement Continues in Effect.

No local rule under this subdivision.

RULE 6. CRIMINAL CASES

6.10 Felony and Misdemeanor Cases.

a. Pre-filing documents.

(1) The prosecuting attorney's office is responsible for maintaining custody of the following original documents relating to an arrest or charge for a Class A or B misdemeanor or any felony offense until an information or indictment has been filed:

(a) **Bonds.** The prosecuting attorney shall collect original bonds from the Sheriff daily.

(b) Magistrate's Warning.

(i) If an incarcerated defendant has not requested appointment of counsel, The completed original Magistrate's Warning will be collected from the magistrate by the prosecuting attorney immediately after completion of the warning.

(ii) If an incarcerated defendant has requested appointment of counsel, the completed original Magistrate's Warning shall be delivered to the prosecuting attorney after the magistrate has determined the indigency of the defendant and appointed counsel for the defendant, if found to be indigent.

(c) Applications for Court Appointed Attorneys, Affidavits of Indigency and orders relating to appointment of counsel entered prior to filing case with County or District Clerk. All original applications for court appointed counsel, affidavits of indigency and any orders entered prior to the filing of a case relating to appointment of counsel or determination of indigency shall be delivered to the prosecuting attorney after the magistrate has completed the determination of indigency and appointment of counsel. ~~72-hour hearing documents. These documents will be given to the prosecuting attorney after completion of the 72-hour hearing.~~

(d) **Other.** Miscellaneous documents relating to the defendant's case (e.g., applications for probation, letters from attorneys, etc.) will be forwarded to the prosecuting attorney upon receipt.

(2) Upon filing of the information or indictment, all of the above documents will be filed by the prosecuting attorney with the ~~appropriate clerk~~ District Clerk for placement in the clerk's file.

(3) Magistrate's warnings and bonds made after arrests in other cases where there is already an open clerk's file (e.g., arrests after motion to revoke/proceed or after capias

is issued in connection with bond forfeiture) will be filed by the prosecuting attorney with the appropriate clerk for placement in the clerk's file.

(4) After documents are filed with the clerk as described above, the clerk will forward the file to the appropriate court coordinator.

~~(5) "Prosecuting attorney" means the District Attorney if the charge is a felony and the County Attorney if the charge is a misdemeanor.~~

b. Transfer of Cases.

Subject to the approval of the transferee judge, any criminal case may be transferred to another court having jurisdiction by written order.

6.11 Grand Jury.

No local rule under this subdivision.

6.12 Filings/Return of Indictments.

a. All felony and Class A and B misdemeanor cases within the jurisdiction of the district courts and county courts at law shall be presented for filing in the Office of the District Clerk. All appeals from Class C misdemeanors within the exclusive jurisdiction of the county courts at law shall be presented for filing in the Office of the County Clerk.

b. The clerk shall assign to a district court the following criminal cases:

(1) Felonies;

(2) Misdemeanors involving official misconduct; and

(3) Class A and B Misdemeanors involving a defendant with pending felony charges.

Subject to the following overriding considerations, all other Class A and B misdemeanors and all appeals from Class C misdemeanors shall be randomly assigned to a county court at law.

~~a.c. Assignment of cases. Felony Cases.(1)~~ Except as may be otherwise specified by court order, by agreement of the judges, or provided by law or these rules, all felony cases, ~~including change of venue cases and juvenile certification cases,~~ presented to the district clerk for filing will be assigned in equal number among the district courts and in equal number among the county courts at law, on the a random basis, subject to the following considerations that override the random assignment requirement: of a sequential order, with the 85th District Court first, the 272nd District Court second, and the 361st District Court third. The clerk will determine the next court to receive a case by referring to the District Clerk's Criminal Fee Book (e.g., if the last

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court assigned a case was the 272nd, the 361st receives the next case). Each case number will receive a suffix number designating the assigned court, vis: 85, 272, 361.

~~(2)~~(1) If there are co-defendants with charges arising out of the same criminal transaction, the clerk shall assign all co-defendant's cases to the same court. All separate felony cases involving the same defendant, whether arising from the same criminal transaction or not, shall be assigned to the same court.

~~(3)~~(2) If a defendant has an felony original case, motion to revoke, or motion to proceed pending before a district court, any new felony case(s) shall be assigned to the same court.

(3) If a defendant has an original case, motion to revoke, or motion to proceed pending before a county court at law, and an original felony case, motion to revoke or motion to proceed is subsequently randomly filed in district court, the case(s) pending in the county court at law shall be transferred by the county court at law to the district court in which the felony case was randomly filed.

(4) When a defendant has been the subject of a case relating to a criminal matter, but filed as a civil case (e.g., habeas corpus, motion for bond reduction, or petition for forfeiture of property), any criminal case(s) against that defendant and related to the same criminal transaction shall be assigned to the district court to which the civil case was assigned, provided the court has subject matter jurisdiction.

(5) Conflicts between these rules for assignment of cases shall be resolved as follows:

(i) All co-defendants' cases shall be assigned to the court first assigned another co-defendant's case according to these rules, even though another co-defendant may have a motion to revoke, motion to proceed, or related civil case pending before another district court.

(ii) If the county court at law does not have jurisdiction to determine the matter that should be transferred, the county court at law may consider transferring the pending case to the district court if the district court would have jurisdiction over all pending cases related to a defendant or all co-defendants.

(iii) For any other circumstances not specifically addressed in this rule, it is the expressed intent of the courts that, within the limitations of subject-matter jurisdiction, all criminal cases relating to a single defendant or co-defendants be heard and determined in only one court and these rules shall be liberally construed to carry that intent into effect.

(6) When the district clerk erroneously assigns a criminal or civil case in conflict with the above rules, the affected courts may transfer the case to conform with these rules. However, nothing herein shall affect the otherwise lawful jurisdiction of a court to which a case is assigned.

~~b. Misdemeanor Cases.~~

~~(1) All misdemeanor cases (except official misconduct) shall be presented for filing in the Office of the County District Clerk. All cases receiving an odd number shall be assigned to the County Court at Law No. 1. All cases receiving an even number shall be assigned to the County Court at Law No. 2.~~

~~(2) If there are co-defendants with charges arising out of the same criminal transaction, the clerk shall assign all co-defendants to the court with the lowest pending number. All cases shall receive the same master case number and each individual case shall receive an additional consecutive number (i.e., the master number followed by " 1"; number " 2", etc.).~~

~~(3) If a defendant has a pending case(s), including probation cases, the new case(s) shall be assigned to the court in which the original case(s) is(are) pending.~~

Source: Brazos County Local Rules of Administration, Rule 6.12

COMMENT

The legislature has expanded the jurisdiction of the 85th and 272nd District Courts to include misdemeanor jurisdiction. All three district courts now have both felony and misdemeanor jurisdiction. This enables the courts to implement a policy of one defendant, one prosecutor, one defense attorney and one court. The amendments to this rule are designed to implement that policy.

6.13 Arraignment/Initial Appearance. Unless specifically retained by the court to which a case is assigned, all non-capital criminal cases are, by these rules, referred to the County Magistrate for the purpose of all determinations of indigency, appointment of counsel, and arraignment. No local rule under this subdivision.

Source: New rule
Ref: Tex. Govt. Code §54.1046

COMMENT

The legislature has granted authority to this county to utilize a Magistrate for certain limited activities in criminal cases. Among the powers authorized to be performed by a Magistrate are that of determination of indigency, appointment of counsel, and arraignment in criminal cases. The legislature specified that the Magistrate could only exercise power in cases that were referred.

6.14 Appointment of Counsel. Determinations of indigency and appointment of counsel shall be made in accordance with the current Brazos County Indigent Defense Plan. ~~No local rule under this subdivision.~~

Source: New Rule

Ref: Tex. Code Crim. Pro. Art. 26.04

6.15 Appearance of Defendant and Counsel/Court Attendance. No local rule under this subdivision.

6.16 Bond and Bond Forfeiture. No local rule under this subdivision.

6.17 Discovery. No local rule under this subdivision.

6.18 Docket Calls/Announcements. No local rule under this subdivision.

6.19 Continuance/Resetting/Postponements. No setting shall be passed or reset except by:

- a. written agreement of all parties with court's approval; or
- b. a motion for continuance granted by the Court.

~~No agreement by the attorneys to continue, reset or postpone any setting shall be effective unless approved by the court.~~

6.20 Plea Bargains. No local rule under this subdivision.

6.21 Guilty Pleas/Nolo Contendre/Open Pleas. The County Magistrate may hear and accept a plea of guilty or nolo contendere in any non-capital criminal case pending in any county court at law or district court without the necessity of a separate order of referral. ~~No local rule under this subdivision.~~

6.22 Speedy Trial. No local rule under this subdivision.

6.23 Motions/Pre-trial Hearings/Pre-trial Matters. All pre-trial hearings shall be conducted in accordance with Article 28.01 of the Texas Code of Criminal Procedure.

6.24 Settings/Schedules.

a. Any pro se defendant ~~party~~ or attorney of record may obtain a setting of any contested proceeding by filing a Setting Request (furnished by the clerk, court coordinator, or in a form substantially similar to the form in Appendix). Each Setting Request shall be filed with the clerk of the court and shall specify:

- (1) the cause number and style of the case;

(2) the nature of the hearing, trial or ruling sought;

(3) the name, address and telephone number of each attorney of record, each defendant, and the name of defendant's surety bondsman, if applicable;

(4) the amount of time estimated by the requesting party to be required for such hearing for both sides. Each attorney or party is cautioned to give careful attention to the amount of time requested, as other cases may be set at the conclusion of the estimated time period.

b. The attorney or party filing the setting request shall mail or deliver to all attorneys of record and all parties pro se in the case a copy of the setting request. The original setting request shall be retained with the original papers in the court's file.

c. The court coordinator shall mail a Notice of Setting to each attorney of record, to each defendant, and to the defendant's surety bondsman at the address shown on the Setting Request. The Notice of Setting shall state the date, hour, nature of the trial or hearing set, and the allotted time. Failure of the requesting attorney to accurately state the names and addresses of opposing counsel shall be grounds for a continuance on the motion of an attorney of record who did not receive the Notice of Setting within a reasonable time prior to the hearing date.

d. If the date specified in the Notice of Setting is at least fourteen (14) calendar days from the date the Notice of Setting was sent, the setting specified in the Notice of Setting shall remain tentative for a period of ten (10) calendar days after the same is mailed by the court coordinator. During such period, any attorney may notify the court coordinator of a conflict of settings or other scheduling conflict. Upon receipt of a signed certificate setting forth the nature and extent of the conflict and with the approval of the court, the court coordinator may reset such cause to another tentative date or time. After the expiration of the ten (10) day period specified above, the setting shall become final, and may only be continued, reset or postponed in accordance with these rules.

e. If the date specified in the Notice of Setting is less than fourteen (14) calendar days from the date the Notice of Setting was sent, the setting specified in the Notice of setting is immediately final and may only be continued, reset or postponed in accordance with these rules.

6.25 Order of Trials/Preferential Settings/Conflicting Engagements.

a. Preferential settings.

(1) Preferential settings may be granted in the following cases:

(a) those entitled to preferential setting by law;

(b) those in which there are out of county parties or witnesses; or

(c) those in which it is shown that manifest hardship would be imposed upon any litigant or material witness if a preferential setting is not granted.

~~(2) Unless otherwise provided or required by law, a preferential setting shall be granted only after hearing, if requested by any party, upon motion, duly verified, setting forth the reason that the preferential setting is necessary.~~

b. Conflicting Engagements.

(1) Attorney already in trial in another court.

(a) When informed that an attorney is presently in trial, the Court will determine where and when assigned. This information **may be verified by the court and** will be verified upon request of opposing counsel or party pro se. The case will be placed on "hold" or reset, depending upon when the attorney will actually be released.

(b) If the attorney is not actually in trial as represented by the attorney or agent, the case will be tried without further notice.

(2) Attorney assigned to two courts for the same date.

(a) It is the duty of the attorney to call the affected judge's attention to all dual settings as soon as they are known.

(b) Insofar as practicable, judges should attempt to agree on which case has priority; otherwise, the following priorities shall be observed by the judges of the respective courts:

(i) Criminal cases in which the defendant is in jail, whether initial case or on probation revocation;

(ii) All other criminal cases;

(iii) Cases given preference by statute;

(iv) Preferentially set cases;

(v) Case set at earliest date;

(vi) Case with earliest filing date;

(vii) Courts in metropolitan county areas should yield to Courts in rural county areas in all other instances of conflicting settings.

(viii) In the event of unresolved conflict between two judges, the issue will be decided by the Local Administrative Judge or the Regional Presiding Judge.

6.26 Witnesses/Evidence. The State and Defendant will be limited to no more than five (5) character witnesses per defendant, except for good cause shown.

6.27 Non-Jury Trials. No local rule under this subdivision.

6.28 Jury Trials. No local rule under this subdivision.

6.29 Jury Selection/Voir Dire. No local rule under this subdivision.

6.30 Probation Applications/Deferred Adjudication. No local rule under this subdivision.

6.31 Pre-Sentence Report. No local rule under this subdivision.

6.32 Judgments/Orders. No local rule under this subdivision.

6.33 Occupational Driver's License. Whenever a suspension of a person's driver's license was by order of any district or county court at law in this county, any petition for occupational driver's license may be heard only in the court which originally suspended the license.

6.34 Probation Revocations/Motions to Adjudicate/Habeas Corpus. No local rule under this subdivision.

6.35 Appeals from Lower Courts. No local rule under this subdivision.

RULE 7. MANAGEMENT OF JURIES

7.10 Management of Juries. No local rule under this subdivision.

RULE 8. JUDICIAL VACATION

8.10 Judicial Vacation. The judges of the courts of record shall arrange their vacation schedules in such a manner that the county will not be left without a judge capable of hearing cases within the jurisdiction of each court.

8.11 Notification of Local Administrative Judge of Absence or Planned Vacation of Judge. The judges of the courts of record should notify the Local Administrative

Judge of any absence or planned vacation of the judge as soon as practicable prior to the absence or vacation.

8.12 Requests for Visiting Judge. All requests for assignment of a visiting judge must be first delivered to the Local Administrative Judge. If the Local Administrative Judge determines that the requesting judge's docket for those dates might be handled by another court in this county, the Local Administrative Judge shall consult with the requesting judge and the judge who might handle the matter prior to forwarding the request for assignment to the Regional Presiding Judge. ~~No local rule under this subdivision.~~

RULE 9. NON-JUDICIAL PERSONNEL

9.10 Non-Judicial Personnel. No local rule under this subdivision.

9.11 Qualifications of Non-Judicial Personnel. No local rule under this subdivision.

9.12 Conduct of Non-Judicial Personnel. No local rule under this subdivision.

9.13 Duties of Non-Judicial Personnel.

a. Jury Coordinator. The Jury Coordinator shall:

(1) direct and coordinate all petit jury panels and special venire and any other type jury function as directed by the courts;

(2) hire and discharge employees of the Office of Jury Coordinator, with the concurrence of the judges of the district courts and county courts at law;

(3) supervise employees of the Office of Jury Coordinator, with the concurrence of the judges of the district courts and county courts at law;

(4) provide all necessary functions instant to efficient jury management;

(5) report to the judges of the district courts and county courts at law as necessary or directed.

(6) prepare the budget and maintain other internal records of the Office of Jury Coordinator necessary for efficient jury coordination; and

(7) such other duties deemed necessary by the judges of the district courts and the county courts at law.

RULE 10. ATTORNEYS OF RECORD

10.10 Appearance of Counsel; Designation of Attorney in Charge. No local rule under this subdivision.

10.11 Conduct and Decorum of Counsel.

a. Each attorney is expected to conduct himself or herself in accordance with the State Bar of Texas Code of Professional Responsibility, the Texas Rules of Civil Procedure, the Texas Code of Criminal Procedure, the Regional Rules of Administration for the Second Administrative Region, these local rules, and such other rules of conduct as may be published by the courts of this county and state. All attorneys, litigants, and witnesses shall be expected to act in a manner calculated to promote decorum, respect for the judicial system, and the prompt and fair administration of justice.

b. Attorneys shall be responsible for advising their clients and witnesses of the formalities of the courts.

c. All officers of the court are expected to be prompt, ~~and~~ prepared, and appropriately dressed in business attire.

d. The taking of photographs, the making of video or audio recordings, or the broadcasting of any judicial proceeding in or from any courtroom, or so close thereto as to disturb the order and decorum of the court, either while court is in session or at recess, is prohibited, unless prior permission is granted by the court.

e. Each court shall enforce all breaches of conduct by any appropriate action.

10.12 Withdrawal of Counsel. No attorney of record shall be permitted to withdraw from any case without presenting a motion to withdraw and obtaining from the court an order granting leave to withdraw. No motion to withdraw will be entertained by the court unless it includes a certificate of the client's last known address. If withdrawal is without the written consent of the client, the withdrawing attorney shall forward to his client by certified mail notification of the client's right to object to the motion and the client's right to request a hearing on the client's objection together with a copy of his or her motion to withdraw and a copy of the request for setting or notice of submission without a hearing. A copy of the motion to withdraw and request for setting or notice of submission without a hearing shall be delivered or mailed to any opposing counsel. Leave to withdraw may be denied where the motion is presented so near the trial date as to require delay of the trial. After leave is granted, the withdrawing attorney shall send the client a copy of the order granting leave to withdraw by certified mail. A copy of the order shall then be sent to opposing counsel.

10.13 Attorney Vacations. Each attorney desiring to assure that he will not be assigned for trial during a vacation period not to exceed four (4) consecutive weeks of a given year

may advise the court coordinator in writing not less than ninety (90) days prior to the first day of such vacation. In the event an attorney already has a setting at the time the vacation notice is filed, it shall be the attorney's responsibility to notify opposing counsel and the court coordinator and either file an agreed reset for approval by the court or a motion for continuance and obtain a ruling by the court.

RULE 11. ADMINISTRATIVE LAW CASES

11.10 Administrative Law Cases. No local rule under this subdivision.

RULE 12. MISCELLANEOUS LOCAL RULES

12.10 Settlement Week. No local rule under this subdivision.

12.11 Form for Submitting Court Costs. No local rule under this subdivision.

12.12 Form for Requesting Alternate Dispute Resolution. No local rule under this subdivision.

RULE 13. ADOPTION, AMENDMENT, NOTICE

13.10 Procedure for Adoption and Amendment of Local Rules. The Local Rules of Administration of Brazos County may be adopted or amended by a majority vote of all judges of the district courts and the county courts at law.

13.11 Adoption or Amendment by Local Administrative Judge. The Local Administrative Judge may promulgate local rules of administration if the other judges do not act by majority vote; provided, however, the Local Administrative Judge may not promulgate such rules unless he or she has given each of the other judges at least thirty (30) days prior written notice of his or her intent to so act.

13.12 Notice and Publication of Rules. Once the local rules of administration or any amendments thereto have received the approval of the Texas Supreme Court, the rules or amendments shall be published and be made available to the Bar and the public.

13.13 Interim Orders Affecting Local Practice. The judges of the district and county courts at law may from time to time promulgate by majority vote interim orders affecting local practice for the purpose of emergency action, testing of pilot programs, or other actions the judges deem reasonable and necessary.

13.14 Local Practice Not Published in These Rules. No local rule under this subdivision.

DRAFT AMENDMENTS UNDER CONSIDERATION

- 1 Amendment to 3.34. Alternate Dispute Resolution
- 2 Addition of Rules for Electronic Filing of Court Documents
- 3 Addition of Rules controlling Public Access to Case Records

This amendment was proposed by Tommy Munoz on February 6, 2003, but has not yet been approved.

Amend Rule 3.34 to read as follows:

3.34 Alternate Dispute Resolution. ~~No local Rule under this subdivision.~~

a. It shall be the policy of the courts of Brazos County, Texas to encourage the peaceable resolution of disputes and early settlement of pending litigation, including family law litigation, by referral to alternative dispute resolution (ADR) pursuant to the Texas Alternative Dispute Resolution Procedures Act, Texas Civil Practice and Remedies Code, Chapter 154.

b. ADR Mandatory

No trial on the merits shall be conducted in any case until all contested issues have been referred to an ADR procedure, and ADR has been unsuccessful; or the Court has determined that ADR is inappropriate for the case.

c. Manner of Referral

It is anticipated that the parties shall cooperate in referring such issues to an ADR procedure under terms and conditions as are mutually agreeable, without the need for court intervention. If the parties are unable to cooperate or agree to a referral of such issues to an ADR procedure, then upon written notification to the Court by one of the parties that efforts to coordinate a referral have been unsuccessful, the Court, without a hearing, shall enter an order of referral to an ADR procedure, and under such terms and conditions selected by the Court.

c. Objection to Referral

If the Court enters an order of referral to an ADR procedure, any party may object to such referral pursuant to Texas Civil Practice and Remedies Code, Chapter 154. Upon the filing of an objection, the Court shall schedule a hearing. If the Court finds that there is a reasonable basis for the objection, the Court shall order that the case not be referred to an ADR procedure and order the case set for trial on the merits.

e. Discovery Abated

After the case has been referred to an ADR procedure by the parties or the Court, no further discovery under the Texas Rules of Civil Procedure shall be conducted, except by written agreement of the parties filed with the clerk of the Court, or by court order.

If approved, consideration should be given to placing in Rule 4 for Family Law cases or in Rule 1 as generally applicable to all cases.