

AMENDED LOCAL RULES OF PRACTICE
81ST AND 218TH JUDICIAL DISTRICTS OF TEXAS
COMPOSED OF:
ATASCOSA, FRIO, KARNES, LASALLE AND WILSON COUNTIES

Pursuant to the authorization of Rule 3a of the Texas Rules of Civil Procedure, the following rules governing practice in the 81st and 218th Judicial Districts (hereinafter the districts) have been adopted effective March 15, 2006. Nothing contained in these rules shall be construed or interpreted as interfering with the right of the Trial Judge to make such orders, settings or procedural directions as in her discretion may be necessary and proper for the expedient and orderly dispatch of the business of the Court.

Time of Court

All settings of both jury and non-jury cases are for 9:00 A. M., unless otherwise indicated. The lawyers, judges, and all of the officers of the court shall be prompt at all sessions and in the dispatch of court business. It shall be the duty of the lawyers to have their clients present at 9:00 A.M. for the call of the docket and further proceedings of the court.

Distribution of Local Rules of Practice

The District Clerk of each county comprising the 81st and 218th Judicial Districts shall record these rules in their respective District Court minutes.

The District Clerk of each county shall make available copies of these rules to all attorneys practicing in the districts and to all pro se parties and shall charge their usual and customary copy fee for such copies.

The District Clerk of each county shall post a copy of these rules in such place as is reasonably calculated to bring such rules to the attention of attorneys and pro se parties appearing before the courts of the districts.

Court Personnel

Stella Saxon, 218th Judicial District Court Judge, 101 N. Panna Maria #2, Karnes City, Texas 78118 Phone: 830-780-3089

Donna S. Rayes, 81st Judicial District Court Judge, #1 Courthouse Circle Drive Suite 206, Jourdanon, Texas 78026 Phone: 830-769-3572

Steven Jack Turner, Court Reporter for 218th District Court, 2950 FM 1784 Pleasanton, Texas 78026 Phone: 830-569-8500

Sherry Gentry, Court Reporter for 81st District Court, 310 Nicolet Drive, Jourdanton, Texas 78026 Phone: 830-769-3311

Cyndia Maxwell, Court Coordinator, #1 Courthouse Circle Drive Suite 206, Jourdanton, Texas 78026 Phone 830-769-3750

Veronica Piedra, Assistant Court Coordinator, #1 Courthouse Circle Drive Suite 206, Jourdanton, Texas 78026 Phone: 830-769-3750

RULE 1
Conduct and Courtroom Decorum

Policy: Judges and attorneys have a duty to uphold the highest standards of conduct and to earn and promote public respect for the judiciary, the legal profession and the American system of justice.

The Texas Lawyer's Creed: The Standards of Professional Conduct in Section IV Texas Court of Criminal Appeals are adopted and incorporated herein by reference as guidelines for participating in litigation in the 81st and 218th Judicial Districts.

Conduct Required of Counsel:

1. Counsel shall timely appear before the court at each setting and following each recess.
2. Counsel shall be appropriately attired for all court proceeding. Male attorneys shall dress in business suits or sportcoats, with appropriate slacks, dress shirt, and tie, with no open shirt collars. Female attorneys shall be dressed in business attire. Blue jeans, resort wear, and similar clothing are not considered appropriate courtroom attire for either male or female attorneys.
3. Counsel shall rise and remain standing while addressing the Court.
4. Counsel shall address all statements, requests and objections to the Court and not to opposing counsel.
5. Counsel shall not argue objections in the presence of the jury without prior leave of court.
6. Counsel shall not interrupt, or talk over opposing counsel or witnesses, except to state formal objections.
7. While examining witnesses, Counsel shall remain seated behind counsel table, or by request, may stand.
8. Counsel shall neither make nor insinuate derogatory or insulting remarks about opposing counsel, parties, or witnesses.

9. Counsel shall address the Court as “Your Honor” or “Judge”, and, except with leave of court, shall refer to all counsel, opposing parties and witnesses (except children and their own clients) by their surnames, using such titles as Mr., Mrs., Ms., Miss, Dr., etc., as appropriate, and not by first names, nicknames, or any discriminatory or inappropriate classification.
10. Counsel shall request leave of court before approaching the bench.
11. Counsel shall not lean on the bench except as may be necessary to prevent jurors from overhearing bench conferences. Counsel shall not engage in personal discussions with the Court or each other during trial while in the presence of jurors, parties, or witnesses.
12. Counsel shall not leave court for the day until each hearing or hearings set on the docket for which he is attorney of record are either heard or reset by the court. If the attorneys have agreed to a reset date, this agreement shall be announced to the court for the court’s approval prior to counsel leaving court.
13. Counsel shall advise counsel’s clients, witnesses and others subject to counsel’s control of these rules of conduct and courtroom decorum.

Conduct Required of All Persons:

1. All persons shall be appropriately attired for court proceedings. All persons entering the courtroom shall be dressed in clothing reasonably befitting the dignity and solemnity of court proceedings. Tank tops, shorts, thongs, and clothing that is tattered or soiled are among those items of clothing not considered appropriate courtroom attire. No hats, caps, or sunglasses shall be worn in the courtroom.
2. No tobacco use in any form is permitted.
3. No gum chewing is permitted.
4. No bottles, beverage containers, paper cups or edibles are allowed in the courtroom, except as permitted by the Court.
5. No propping of feet on tables or chairs is permitted.
6. No talking or unnecessary noise which interferes with court proceedings is permitted.
7. No person may, by facial expression, shaking or nodding of the head, or by any other conduct, express approval or disapproval of any testimony, statement, or transaction in the courtroom.
8. All persons shall rise when the judge, or the jury, enters the courtroom, and at such other times as the bailiff shall direct.
9. No person shall bring packages, suitcases, boxes, duffel bags, shopping bags, or containers into the courtroom without the prior approval of the bailiff.
10. No person shall be permitted any verbal or physical contact with a prisoner without the prior approval of the bailiff.
11. No person shall bring radios, tape recorders, cameras, cellular telephones, or pagers into the courtroom unless the device is turned

off, or unless required for the court proceeding and prior approval has been given by the bailiff or the court.

Enforcement:

The bailiff of the court shall enforce the rules of conduct and courtroom decorum.

RULE 2
Filing of Cases

All civil and criminal cases shall be filed by the Clerk in rotation for the two District Courts. Even numbers shall be filed in the 218th Judicial District Court. Odd numbers shall be filed in the 81st Judicial District Court. The Clerks of The District Courts may, in their discretion, maintain a single docket for both courts.

Regardless of the court in which any case is filed, any case, or any part thereof, in either court, may be heard by the judge of either the 81st Judicial District or the 218th Judicial District including motions, pre-trial matters, and trials on the merits.

RULE 3
Hearing of Uncontested Cases

All uncontested cases may be brought before either court at all reasonable times by a telephone request for setting to the Court Coordinator, followed by a letter to the Court Coordinator confirming such setting.

RULE 4
Hearing of Contested Cases

Both District Courts are served by the Court Coordinators listed above, whose duty is to make all district court settings for all counties. However, each judge will set cases for hearing when signing an Ex Parte order. All other requests for court case setting should be made directly with the Court Coordinator, who will require the information hereinafter described.

Prior to requesting a setting, Counsel shall attempt to coordinate a setting with opposing counsel.

At any time after the filing of an answer or entry of an appearance by the opposing party, any party may request a setting for a trial on the merits, pre-trial hearing, or hearing on any contested motion, by filing with the Court a motion

requesting a hearing, and an order setting the hearing, or notice setting hearing, accompanied by a certificate of service to opposing counsel. All requests for a setting shall include an estimate of the amount of court time required for the hearing. No request for the setting of a contested hearing or trial shall be made if the attorney requesting the setting has any other contested settings in any other county for the same date.

All civil jury requests shall be accompanied by either an agreed docket control plan or a request for hearing for a court ordered docket control plan. All docket control plans for cases in which a jury has been requested shall contain a pre-trial date, and a docket call date, which dates may be obtained from the Court Coordinator. All docket control plans for civil jury cases shall contain a date by which the case shall have been submitted to Alternative Dispute Resolution, which date shall precede the docket call date.

When an attorney settles or dismisses a case, notice of the case's resolution shall be given to the Court Coordinator as soon as possible.

RULE 5 Conflict in Trial Settings

Attorney Already in Trial in Another Court

When the Court Coordinator or Judge is informed that an attorney is already in trial, the attorney shall also inform the Court Coordinator or Judge as to which court the trial is being held and the county in which it is located. The Court Coordinator will determine from the court in which the trial is being held, the probable time of release. The case may then be put on "hold" or reset.

If an attorney is not actually in trial, the case will be put in ready status.

If an attorney's office cannot advise as to where the attorney is in trial, the case will be placed in ready status and the attorney's office will be so advised, with the warning that the case will be assigned to trial without further notice.

Attorney Assigned to Two Courts for Same Date

Whenever an attorney has two or more cases on trial dockets and is set for trial at the same time, it shall be the duty of that attorney to bring the matter to the attention of the Judge concerned immediately upon learning of the conflicting settings.

Insofar as practicable, the affected courts shall attempt to agree upon which case shall have priority. Absent such agreement, conflicting trial settings shall be resolved in the following priority:

1. Federal cases
2. Criminal cases with the defendant in custody
3. Criminal cases with the defendant not in custody
4. Cases given statutory preference
5. Preferentially set cases, other than those given statutory preference
6. The earliest set case

RULE 6

Continuance or Postponement

Consent or notice required

No request for a continuance, to pass, postpone or reset any trial, pretrial, or other hearing shall be granted unless counsel for all parties consent, or unless all parties not joining in such request have been notified

Contents of Motion

Unless counsel for all parties consent in writing to the request for a continuance and the same is approved by the 'Court, a motion must be filed pursuant to Rule 251, et seq. of the Texas Rules of Civil Procedure, as amended, or Article 29.01, Texas Code of Criminal Procedure, as applicable, and the motion must be accompanied by an order setting the motion for a hearing. Any motion that does not meet these requirements will be denied without prejudice to the right to refile.

RULE 7

Withdrawal of Counsel

a. Withdrawal

Withdrawal of counsel shall be governed by Rule 10 of the Texas Rules of Civil Procedure, as amended, and the following rules.

b. Notice to Client

If another attorney is not to be substituted as attorney for the party or if the party does not consent to the motion to withdraw, the withdrawing attorney shall set the Motion to Withdraw for hearing and notify the client by certified mail return receipt requested of the hearing on the motion.

c. No Delay of Trial

Unless allowed in the discretion of the court, no motion to withdraw shall be granted that is presented within thirty (30) days of the trial

RULE 8

Alternative Dispute Resolution

a. Policy

It shall be the policy of the 81st and 218th District Courts 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 exceeding one day in length 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.

d. 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 may, in its discretion, 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.

RULE 9

Dismissal For Want of Prosecution

a. Procedure

The court, on its own motion, may dismiss a case for want of prosecution. The procedure provided in Rule 165a of the Texas Rules of Civil Procedure, as amended, shall apply.

b. Reasons For Dismissal

A case may be dismissed for want of prosecution for any of the following reasons:

1. Failure of a party seeking affirmative relief to take appropriate action when the case has been pending without action for six months.
2. Failure of counsel for a party seeking affirmative relief to appear for a pretrial or preliminary hearing, particularly if there has been a previous failure to appear or no motion has been timely filed to meet the exceptions previously sustained.
3. Failure of a party seeking affirmative relief to make an announcement as scheduled when the case has been set for trial.

RULE 10

Orders and Decrees

a. Reduction to Writing Within Thirty (30) Days

Within thirty (30) days after rendition, announcement of the Court's ruling or announcement of settlement by counsel, counsel shall cause all judgments, decrees or orders of any kind to be reduced to writing, forwarded to opposing counsel for approval as to form, and delivered to the Court for signing.

b. Dismissal if Written Order Not Furnished

Upon failure to furnish the Court with a judgment, order or decree disposing

of the case within a sixty (60) day period, the Court shall place the case on the next regularly scheduled dismissal docket, whereupon the case may be dismissed and costs may be taxed at the Court's discretion.

C. Procedure for Entry of Order

If counsel is unable to secure all opposing counsel's approval as to form, counsel may:

1. File a motion for entry of the proposed judgment, order or decree and secure a hearing for the same, with notice to all opposing counsel pursuant to rule 21a, Texas Rules of Civil Procedure. At a hearing, the court may assess costs and attorney's fees within the Court's discretion; or
2. Present the Court with the proposed judgment, decree or order, together with a letter requesting the Court to sign the same if the Court has not received a written objection from opposing counsel within ten (10) days from the date of the letter to all other parties who have appeared and remain in the case, in accordance with Rule 21a, Texas Rules of Civil Procedure. If the Court receives a written objection from opposing counsel within the stated time, the proponent of the judgment, decree or order shall schedule a hearing for entry of the same pursuant to this rule.

RULE 11

Rules Governing Criminal Proceedings in District Courts

Arraignment

After indictment, all defendants, their attorneys are required to personally appear for the defendant's formal arraignment. No waiver of arraignment shall be allowed except for good cause shown.

Duties of Court Appointed Counsel

All court appointed criminal defense counsel shall be required to do the following:

- a. Appear promptly at all times required by the Court.
- b. It shall be counsel's continuing duty to visit an incarcerated defendant regularly until the defendant's case is concluded. Counsel's continuing duty to visit the defendant in jail is not satisfied simply by accepting collect telephone calls from an incarcerated defendant. Counsel should be able to assure the trial court that counsel has devoted sufficient time to visit an incarcerated defendant should a dispute arise concerning counsel's fulfillment of this duty.

- c. Ensure that an incarcerated defendant is provided with appropriate attire for a jury trial. This provision shall not be construed to permit counsel to purchase clothing for a defendant without first seeking the approval of the Court.

Withdrawal of Retained Counsel

Absent good cause shown, retained defense counsel in criminal proceedings shall not be permitted to withdraw from representation of a defendant unless the defendant has employed other defense the criminal proceeding.

RULE 12

Rules Governing Family Law Proceedings

Temporary Hearings

Scheduling and Notice

All temporary hearings shall be set in the same manner and notice of such setting shall be given in the same manner as other civil cases except as specifically provided herein.

Notice Required When Responding Party Seeking Affirmative Relief

An application to the Court for a temporary order and notice of any hearing thereon which is presented by a party responding to an application for temporary orders in which that party is seeking affirmative relief shall be served on the adverse party in accordance with Rule 5 and Rule 21a to the Texas Rules of Civil Procedure, as amended.

Time Limits

In all matters in which managing conservatorship is in issue, the parties shall be granted not more than one (1) hour to present the case, which time shall be equally divided. In all other temporary matters, including a modification of a temporary order, the parties shall be granted not more than one (1) hour to present the case, which time shall be equally divided. Counsel should request a special setting at the time the application for temporary relief is presented to the Court for scheduling when, because of unusual circumstances, the time limits are unworkable or inappropriate. The court shall determine the amount of time that shall be allotted for the hearing.

Documents Required

In all cases in which temporary support of a spouse and/or the child is in issue, each party shall be required to furnish:

1. A statement of monthly income and expenses.
2. Copies of that party's federal income tax returns for two calendar years prior to the temporary hearing.
3. All payroll statements, pay stubs, W2 forms, and 1099 forms which evidence that party's earnings for the calendar year prior to the temporary hearing and from January 1 of the current year through the date of the temporary hearing.

Parent Education and Family Stabilization Course

Course Mandatory

All parties in a suit affecting the parent-child relationship, including an action to modify and order in a suit affecting the parent-child relationship, shall attend and completed a parent education and family stabilization course approved by the court in which they suit is pending. Except as provided herein the provisions governing a parent education and family stabilization course in section 105.009, Texas Family Code as amended, shall apply.

Waiver of Course

For good cause shown, the court may waive the requirement of a course. If a party claims an inability to afford to take a course, and the court finds the claim is meritorious, the court may order that party to attend and complete a course that is offered on a sliding scale fee or without charge, if a course of that type is available.

a. Deadline for Completion

Each party shall complete the course prior to a final hearing on the merits of the case.

b. Verification of Attendance

Each party completing the course shall file a certificate of completion with the court within thirty (30) days of completion of the course, or at the time of that party's next court appearance, whichever is sooner.

c. Sanctions

If a party fails to attend and complete the course, the court may make such orders with regard to the failure as are just, including holding the party in contempt of court, striking pleadings, or invoking any sanction provided by Rule 215, Texas Rules of Civil Procedure, as amended.

Inventory and Appraisement

Inventory and Appraisement Required

In all cases in which the character, value or division of property or debts is in issue, each party shall file, not less than thirty (30) days prior to trial, a sworn inventory and appraisement of all the separate and community property owned or claimed by the parties and all debts and liabilities owed by the parties. It is recommended that each party file this inventory in a form substantially similar to Form 5-1 of the Texas Family Law Practice Manual published by the State Bar of Texas.

Sanctions for Failure to File

If a party fails to prepare and/or file the inventory as required, the Court may conduct a pretrial hearing and make such orders with regard to the failure as are just, including but not limited to, sanctions pursuant to Rule 215 (2)(b) of the Texas Rules of Civil Procedure, as amended.

After each party's sworn inventory and appraisement has been filed, it is recommended that each party file a suggested division of property and debts in the form of a spreadsheet, as an aid to the court.

Authority for Rules

These rules are adopted pursuant to the Texas Government Code, Section 75.011 and Rule 3a of the Texas Rules of Civil Procedure, as amended, and the constitutional, statutory and inherent powers of the courts to regulate proceedings before them and to provide for the orderly and efficient dispatch of litigation.

Title and Citation

These rules shall be known as the 81st and 218th Judicial Districts' Local Rules of Practice.

Partial Civil Invalidity

In the event any of the foregoing rules or any part thereof is held to be invalid for any reason, such invalidity shall not affect the validity of the remaining rules and parts of rules, all of which have been separately numbered and adopted.

Terms

The terms counsel, lawyer, and attorney of record as used in these rules shall apply to an individual litigant in the event a party appears pro se.

Construction of Rules

Unless otherwise expressly provided, the past, present or future tense shall each include the other; the masculine, feminine or neuter gender shall each include the other; and the singular and plural shall each include the other.

Application of Rules

These rules supersede any prior local rules of practice. These rules shall become effective upon approval by the Texas Supreme Court.