

**LOCAL RULES OF PRACTICE**  
**of the**  
**DISTRICT COURTS, COUNTY COURTS AT LAW,**  
**AND COUNTY COURT**  
**of**  
**MIDLAND COUNTY, TEXAS**

**TITLE 1. GENERAL**

**RULE 1.01 TITLE AND CITATION**

These Rules shall be known as the *Local Rules of Practice of the District Courts, County Courts at Law, and County Court of Midland County, Texas* or the *Midland County Local Rules*.

**RULE 1.02 AUTHORITY FOR RULES**

These Rules are adopted pursuant to Section 74.093 of the Texas Government Code, as amended; Rule 3a of the Texas Rules of Civil Procedure, as amended; Rule 10 of the Texas Rules of Judicial Administration, 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 resolution of litigation.

**RULE 1.03 APPLICATION OF RULES**

- a. These Rules govern proceedings in the District Courts, County Courts at Law, and County Court of Midland County, Texas (the “*Courts*”), to secure uniformity and fairness in those proceedings and promote justice.
- b. These Rules are standing orders of the Courts, now existing or as may be created hereafter.

**RULE 1.04 CONSTRUCTION OF RULES**

Unless otherwise expressly provided, the past, present, or future tense shall each include the others; the masculine, feminine, or neuter gender shall each include the others; and the singular and plural shall each include the other. These Rules shall not be construed in a manner that conflicts with the United States and Texas Constitutions, Texas statutes, or Texas’ rules of civil or criminal procedure.

**RULE 1.05 PARTIAL INVALIDITY**

In the event any of these 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.

**RULE 1.06 LOCAL ADMINISTRATIVE JUDGE**

By majority vote, the Judges of the District Courts and County Courts at Law of Midland County elect their Local Administrative Judge, who serves at their pleasure for a two-year term. The Local Administrative Judge has the general administrative responsibility and authority necessary for the proper functioning of those courts, including the authority to supervise the expeditious movement of court caseloads, subject to local, regional, and state rules of administration.

**RULE 1.07 APPLICATION OF RULES**

These Rules supersede any prior local rules of practice. These Rules shall become effective on approval by the Regional Presiding Judge and the Supreme Court of Texas.

## TITLE 2. RULES GOVERNING ALL PROCEEDINGS

### RULE 2.01 PARTIES PROCEEDING WITHOUT ATTORNEYS

- a. Any individual who is proceeding without an attorney (a “*self-represented litigant*”) shall be expected to read and follow these Rules, the Texas Rules of Civil Procedure, the Texas Code of Criminal Procedure, the Texas Rules of Evidence, and the Texas Rules of Appellate Procedure, as may be applicable in the particular case.
- b. All requirements of these Rules applicable to attorneys or counsel apply with equal force to self-represented litigants. As used in these Rules, the terms *counsel*, *attorney*, *lawyer*, and *attorney of record* apply to self-represented litigants.
- c. Self-represented litigants are required to provide the court with an address, telephone, and email listings at which they can be reached by court personnel and opposing counsel. In a civil case, failure to accept delivery of or to pick up mail addressed to the address provided by a self-represented litigant will be considered constructive receipt of the mailed or delivered document and may be established by a postal service receipt for certified or registered mail or comparable proof of delivery.

### RULE 2.02 ATTORNEYS

#### a. 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.

#### b. The Texas Lawyer’s Creed and the Texas Disciplinary Rules of Professional Conduct

The standards of professional conduct in The Texas Lawyer’s Creed, as promulgated by the Texas Supreme Court and Texas Court of Criminal Appeals, and the Texas Disciplinary Rules of Professional Conduct, as amended, are adopted and incorporated herein by reference as guidelines for participating in litigation in the Courts.

#### c. Conduct Required of Counsel

1. Counsel shall timely appear before the appropriate court at each setting and following each recess.

2. Counsel shall be attired appropriately for all court proceedings and shall exercise common sense, good taste, and discretion in selecting their attire.

Male attorneys shall be dressed neatly and wear a business suit, blazer, or sport coat, and a tie. Their shirt collars shall be buttoned.

Female attorneys shall be dressed neatly in conservative dress or business attire.

Counsel shall remove hats before entering the courtroom.

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 the court.
6. Counsel shall not interrupt or talk over opposing counsel, except to state formal objections.
7. Counsel shall remain behind counsel table while examining witnesses. If requested by counsel, counsel may stand at a podium while examining witnesses. Counsel may approach witnesses only to work with documentary or other tangible evidence and only with the court's permission.
8. Counsel shall neither make nor insinuate derogatory or insulting remarks about opposing counsel.
9. Counsel shall not use vulgar or indecent language, except whether quoting another person.
10. Counsel shall address the court as "Your Honor" or "Judge" and except with leave of court, shall refer to all counsel, parties, and witnesses (except children) by their surnames, using such titles as Mr., Ms., Mrs., Dr., etc., as appropriate, and not by first names or nicknames, or any discriminatory or inappropriate classification.
11. Counsel shall neither enter nor exit the bar while court is in session without prior approval of the court or the bailiff.
12. Counsel shall request leave of court before approaching the bench.

13. 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, court personnel, or each other during trial while in the presence of jurors, parties, or witnesses.
14. Counsel shall strictly follow Rule 3.07 of the Texas Disciplinary Rules of Professional Conduct regarding extrajudicial statements.
15. Counsel shall advise counsel's clients, witnesses, and others subject to counsel's control of these Rules.

**d. Enforcement**

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

**RULE 2.03 DECORUM OF PARTIES AND OTHER PERSONS IN THE COURTROOM**

**a. Conduct Required of All Persons**

All persons in the courtroom during trials and other proceedings shall be attentive to the proceedings and shall refrain from any action which may disrupt the proceedings. Counsel shall advise counsel's clients, witnesses, and others subject to counsel's control of these Rules. Paragraphs 6-8 do not apply to attorneys.

1. All persons entering the courtroom shall be dressed in clothing appropriate to the dignity and solemnity of court proceedings. Tank tops, t-shirts, shorts, sweat suits, leggings, yoga pants, spandex, drawstring pants, sports bras worn without a top over them, pajamas, flip-flops, and clothing that is tattered, soiled, or revealing are among those items of clothing not considered appropriate courtroom attire. Men's shirts shall be tucked into their pants. Hats, caps, and hoods shall not be worn in the courtroom. Dark glasses shall not be worn in the courtroom unless medically necessary.
2. No tobacco use in any form is permitted, including vaping or electronic cigarettes.
3. No beverages, beverage containers, food, or food containers are allowed in the courtroom, except as permitted by the court.
4. No gum chewing is permitted.
5. No reading of newspapers, books (other than law books), or magazines is permitted.

6. No person shall bring electronic devices into the courtroom unless the device is required for the court proceeding and prior approval has been given by the bailiff or the court.
7. No person shall bring a cellphone into the courtroom unless it has been turned off or silenced so as to prevent audible disturbances, as may be allowed by the court.
8. No reading or other use of cellphones, tablets, laptops, or e-readers is permitted unless allowed in the sole discretion of each court.
9. No person shall record or broadcast any proceeding without prior approval of the court. See Rule 2.12.
10. No propping of feet on tables, chairs, or benches is permitted.
11. No talking or unnecessary noise which interferes with the court proceeding is permitted.
12. No person may, by facial expression, shaking or nodding of the head, gesture, voice, sound, or any other conduct, express approval or disapproval of any person, testimony, statement, argument, ruling, conduct, or transaction in the courtroom.
13. All persons shall rise when the judge or jury enters and exits the courtroom, and at such other times as the bailiff instructs.
14. No person shall bring packages or containers into the courtroom without the prior approval of the bailiff.
15. Except for attorneys, no person shall be permitted any verbal or physical contact with a prisoner without the prior approval of the bailiff.
16. No overt advertising, campaign buttons, and campaign materials are permitted in the court.
17. No person shall be permitted to display or wear any clothing, item, or thing that may influence the jury in the performance of its duties.
18. No children will be permitted in the courtroom during any court proceeding without prior approval of the court. See Rule 5.05.
19. No person shall use vulgar or indecent language.

20. No other behavior that is disruptive to or disrespectful of the court proceedings is permitted.

21. When the court is called to order, complete order must be observed.

**b. Conduct Required of Parties**

In addition to the foregoing, parties must comply with the following Rules. To the extent these Rules conflict with the Rules governing self-represented litigants, the Rules governing self-represented litigants control. Attorneys must advise their clients of these Rules.

1. A party must not interrupt while another person is testifying or addressing the judge or jury.

2. Unless otherwise instructed by the court, parties must remain seated at the counsel tables at all times except when:

a. The judge or jury enters or exits the courtroom; and

b. Addressing the judge or jury.

3. Parties must not approach the bench without leave of court and must never lean on the bench.

**c. Enforcement**

The bailiff shall enforce the Rules of conduct and courtroom decorum.

**RULE 2.04 REQUESTS FOR CONTINUANCE OR POSTPONEMENT**

**a. Consent or Notice Required**

No request to pass, postpone, or reset any trial, pretrial, or other hearing shall be granted unless all attorneys and self-represented litigants consent, or unless all parties not joining in such request have been notified and have had an opportunity to object.

**b. Contents of Motion**

Unless all attorneys and self-represented litigants consent in writing to the request to pass, postpone, or reset any trial, pretrial conference, or hearing and the request 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, *et seq.*, of the Texas Code of Criminal Procedure, as amended, as applicable. The motion must include a Certificate of

Conference that complies with Rule 4.05 and be accompanied by a proposed order setting the motion for hearing. Any motion that does not meet these requirements will be denied without prejudice to the right to refile.

## **RULE 2.05 CONFLICT IN TRIAL SETTINGS**

### **a. Attorney in Trial in Another Court**

An attorney who is in trial in one court may not be ordered to appear for trial in another court. When informed that an attorney is presently in trial in another court, the court may, in its discretion, verify the information and take whatever action the court deems necessary.

### **b. Attorney Assigned to Two or More Courts for the Same Date**

1. Attorneys shall advise the affected judges of all dual settings as soon as the attorney becomes aware of them.
2. Attorneys shall advise the affected courts that they are assigned to two or more courts for the same date and/or time. Judges who are confronted with conflicting settings, and which cannot be resolved by the parties, should confer and attempt when practicable to agree on which case has priority. Judges should observe the following priorities when attempting to prioritize cases involving an attorney with conflicting trial assignments:
  - a. Criminal cases (pursuant to Article 32A.01 of the Texas Code of Criminal Procedure, criminal cases have priority over civil case settings).
  - b. Circumstances to consider in resolving conflicts between criminal case settings include the factors outlines in Article 32A.01, whether the defendant is confined pending trial (including other detainers such as a “blue warrant”), the age of the case, the number of resets, the defendant’s right to a speedy trial and related circumstances, the availability of subsequent trial dates, witness availability, and any other legal requirement necessary for the prompt trial of either case.
  - c. Cases given preference by statute (*see* Section 23.101 of the Texas Government Code), and *de novo* proceedings under Chapter 201 of the Texas Family Code.
  - d. Preferentially set cases.

- e. Case(s) with the earliest setting date(s).
  - f. Cases(s) with the earliest filing date(s).
  - g. Courts in larger counties should yield to courts in smaller or rural counties in all other instances of conflicting trial assignments.
  - h. Age of the case, whether a jury has been requested, and whether the case is pending in a multi-judge or single-judge county should be considered.
3. If the affected judges cannot resolve a conflict in settings or agree on which case should have priority, the Local Administrative Judge (if the cases are pending in the same county) or the Regional Presiding Judge will decide how to proceed. If two or more administrative judicial regions are involved and the Regional Presiding Judges cannot resolve the conflict, the Regional Presiding Judges shall request the Chief Justice of the Texas Supreme Court or his/her designee to resolve the conflict.

## **RULE 2.06 WITHDRAWAL AND SUBSTITUTION OF COUNSEL**

### **a. Withdrawal**

In civil cases, withdrawal and substitution of counsel shall be governed by Rule 10 of the Texas Rules of Civil Procedure, as amended, and this Rule. A request for withdrawal or substitution of counsel that does not comply with Rule 10 and this Rule is subject to being denied without hearing.

### **b. Rulings Not Memorialized**

Each motion for withdrawal must contain the attorney's certification that there are no rulings of the court that have yet to be reduced to writing and signed by the court.

### **c. 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 or for substitution, the withdrawing attorney shall notify the client in writing that the court will be requested to sign an order granting the withdrawal on or after ten (10) days following the date of such notice. Notice shall be sent to the client by certified mail, return receipt requested. If the client has provided the attorney with an email address, notice shall also be sent to the client by email.

**d. No Delay of Trial**

Unless allowed in the discretion of the court, no motion to withdraw or for substitution shall be granted that is presented within thirty (30) days of the trial date or at such time as to require a delay of trial.

**RULE 2.07 LIMITED REPRESENTATION**

**a. Limited Representation Is Permitted**

Consistent with Rule 1.02(b) of the Texas Disciplinary Rules of Professional Conduct, an attorney may limit the scope, objectives, and general methods of representation if the client consents after consultation.

**b. Notice of Limited Appearance**

An attorney making a limited appearance shall file a Notice of Limited Appearance. The Notice shall state the hearing to which the limited appearance pertains, and, if the appearance does not extend to all issues to be considered at that hearing, the Notice shall identify the discrete issues covered by the appearance. The Notice of Limited Appearance shall also state the name, address, telephone number, and email address of the client. An attorney may file a Notice of Limited Appearance for more than one (1) hearing in a case.

**c. Scope of Limitation**

An attorney who files a Notice of Limited Appearance has no responsibility to the court for any matter outside the scope of the Notice except as provided in this Rule.

**d. Ruling and Order**

If an attorney appears at a hearing pursuant to a Notice of Limited Appearance, the attorney's obligation to the court continues on the matters within the scope of the Notice of Limited Appearance until the court signs an order ruling on those matters, except as follows. If the court defers its ruling until final hearing or trial, the attorney's obligation to the court ends with the hearing at which the attorney appeared. The fact that an order is subject to review by the court at a later date does not extend the attorney's obligation to the court. When the attorney has completed a limited appearance, the attorney shall file a Notice of Completion of Limited Service advising the court that the limited service has been completed. If the client's name, address, telephone number, or email address has changed since the attorney filed the Notice of Limited Appearance, the changed

information shall be included in the Notice of Completion of Limited Service.

**e. Withdrawal and Substitution**

1. In a civil case, an attorney whose limited appearance has been completed as provided in paragraph d. need not file a motion to withdraw.
2. A motion to withdraw from limited representation is governed by Rule 2.06. In addition, if an attorney is substituting in a limited appearance, the motion and order must state that the substituting attorney has assumed responsibility for all matters within the scope of the withdrawing attorney's Notice of Limited Appearance that have not been completed, and it must be signed by both the withdrawing and the substituting attorney.
3. A court has discretion to determine whether the withdrawing attorney has fulfilled the attorney's responsibilities to the court pursuant to the Notice of Limited Appearance and this Rule and whether any substituting attorney has assumed the remaining responsibilities.

**f. Responsibilities of Opposing Counsel Regarding Service**

When service is required or permitted to be made on a party represented by an attorney who has filed a Notice of Limited Appearance, service regarding matters outside the scope of the Notice of Limited Appearance must be made on the party. Service on an attorney regarding matters outside the scope of the attorney's Notice of Limited Appearance is not effective service on that party. Service on a party shall be at the address listed for the party in the Notice of Limited Appearance. Nothing in this rule precludes also serving matters outside the scope of the Notice of Limited Appearance on the attorney filing the Notice of Limited Appearance.

**RULE 2.08 VACATIONS OF ATTORNEYS**

- a. Each attorney may designate days for continuing legal education and for vacations by e-filing a letter with the District Clerk in the attorney vacation file maintained by the District Clerk. A copy of the letter shall also be emailed to the Court Coordinator in each court in which the attorney has cases pending.
- b. Notification as provided in paragraph a. will not cancel or otherwise affect trials, hearings, depositions, property inspections (TEX. R. CIV. P. 196.7), and ADR proceedings previously scheduled, but will preclude the

subsequent scheduling of trials, hearings, depositions, property inspections (TEX. R. CIV. P. 196.7), and ADR proceedings during the designated time periods.

## **RULE 2.09 CHALLENGE TO THE CONSTITUTIONALITY OF A TEXAS STATUTE**

When an attorney or self-represented litigant files a pleading or other document that challenges the constitutionality of a Texas statute, the attorney or self-represented litigant must simultaneously file with the Clerk a completed copy of the form promulgated for that purpose by the Attorney General of Texas and promptly hand deliver or email a copy of that form to the Court Administrator.

## **RULE 2.10 EXHIBITS**

### **a. Pre-Marking of Exhibits**

Exhibits that an attorney or self-represented litigant can reasonably anticipate using at a trial, pretrial conference, or hearing shall be pre-marked, utilizing party designation, sequential numbers, and the date of the proceeding.

### **b. Exhibit List**

An attorney or self-represented litigant shall provide a list of the attorney's or self-represented litigant's exhibits to the court and to each attorney and self-represented litigant prior to the proceeding.

### **c. Copies of Exhibits**

An attorney or self-represented litigant shall provide a copy of the attorney's or self-represented litigant's exhibits to the court and to each attorney and self-represented litigant prior to the proceeding.

### **d. Audio Exhibits**

Audio exhibits must be in mp3 format, or as directed by the Eleventh Court of Appeals from time to time.

### **e. Video Exhibits**

Video exhibits must be in mp4 format, or as directed by the Eleventh Court of Appeals from time to time.

## **RULE 2.11 COURTROOM ELECTRONICS**

Attorneys and self-represented litigants shall anticipate any need to use courtroom electronics, and shall make advance arrangements with the court reporter. Attorneys and self-represented litigants shall ensure that they are able to operate the courtroom electronics in advance of the proceeding at which they will be used.

## **RULE 2.12 RECORDING AND BROADCASTING OF COURT PROCEEDINGS**

### **a. Written Order Permitting Coverage Required**

Media coverage is permitted only on written order of the court. A person wishing to broadcast, televise, record, or photograph a court proceeding must file a request to cover the proceeding. The request must state:

1. The case style and number;
2. The date and time when the proceeding is to begin;
3. The name of the requesting person or organization;
4. The type of coverage requested (*e.g.*, televising, recording, or photographing); and
5. The type and extent of equipment to be used.

The request shall be filed with the Clerk, with a copy delivered to the Court Administrator, all attorneys of record, and all self-represented litigants.

### **b. Coverage of Jurors Prohibited**

Audio and visual coverage of potential jurors and jurors in the courthouse is prohibited.

### **c. Equipment and Personnel**

All equipment and personnel shall be in place in advance of the proceeding.

### **d. Media Product Is Not an Official Record**

Any product of media coverage of a proceeding pursuant to this Rule shall not be considered a part of the official court record.

## **TITLE 3. RULES GOVERNING CRIMINAL PROCEEDINGS**

### **RULE 3.01 ARRAIGNMENT**

After indictment, all defendants, their attorneys, and their bondspersons shall be notified and are required to personally appear for the defendant's formal arraignment. Waivers of arraignment are permitted.

### **SCHEDULING OF PLEAS**

#### **RULE 3.02**

The District Attorney and counsel for the defendant shall notify the Court Administrator of a plea agreement and the administrator will schedule the plea hearing.

### **DUTIES OF COURT-APPOINTED COUNSEL**

#### **RULE 3.03**

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

- a.** Appear promptly at all times required by the court.
- b.** 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.

### **RULE 3.04 WITHDRAWAL OF RETAINED COUNSEL**

- a.** Withdrawal and substitution of counsel in criminal proceedings shall be governed by Article 1.051 of the Code of Criminal Procedure and Rule 2.06.
- b.** 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 counsel, and provided that the substitution of counsel does not interfere with the orderly disposition of the criminal proceeding.

### **RULE 3.05 REFERRAL TO SPECIALTY COURTS**

On its own initiative or at the request of the State or the defendant, the court may refer the defendant to one or more of Midland County's specialty courts (*e.g.*, driving while intoxicated court, drug court, mental health court, veterans' treatment court). The defendant's criminal case or cases remain pending before the court while the specialty court is considering and handling the matter referred to it.

**RULE 3.06 MIDLAND COUNTY INDIGENT DEFENSE PLAN**

The terms, provisions, and conditions set forth in the Midland County Indigent Defense Plan, as amended from time to time, shall apply to all criminal proceedings in which counsel has been appointed.

**RULE 3.07 SCHEDULING ORDERS**

Each court may issue scheduling orders for the orderly disposition of criminal cases. Attorneys must familiarize themselves with the particular requirements of each court's order, communicate those requirements to their clients, and comply accordingly.

## TITLE 4. RULES GOVERNING CIVIL AND FAMILY LAW PROCEEDINGS

### RULE 4.01 APPLICATION FOR *EX PARTE* ORDERS

Counsel presenting an application for an *ex parte* order shall, at the time the application is presented to the court, certify in writing that:

- a. To the best of counsel's knowledge, the party against whom the relief is sought is not represented by counsel; or
- b. If the party against whom the relief is sought is represented by counsel:
  - 1. Such counsel has been notified of the application and does not wish to be heard by the court thereon; or
  - 2. Counsel presenting the application has diligently attempted to notify opposing counsel, has been unable to do so, and the circumstances do not permit additional efforts to give such notice.

### RULE 4.02 OBTAINING SETTINGS

- a. At any time after the filing of an answer or entry of an appearance by the opposing party, a party may request a setting for a trial on the merits or a pretrial conference by (i) filing with the court a motion requesting the setting, accompanied by a Certificate of Conference as required by Rule 4.05 and a Certificate of Service on opposing counsel or (ii) orally requesting the court to schedule the hearing and confirming the setting by letter addressed to the court, a copy of which shall be served on opposing counsel in accordance with Rule 21a of the Texas Rules of Civil Procedure.
- b. A party may request other hearings by (i) submitting a proposed Order Setting Hearing to the Court Administrator or (ii) requesting a hearing from the Court Administrator and promptly submitting a proposed Order Setting Hearing to the Court Administrator.
- c. All requests for the setting of a trial, pretrial conference, or hearing shall include an estimate of the amount of court time required for the trial, pretrial conference, or hearing.
- d. Prior to requesting a setting, counsel shall attempt to coordinate a setting with opposing counsel.
- e. In all cases in which a party is incarcerated, the party wishing to set a hearing or trial must communicate with the Court Administrator well in advance of the proposed date for the hearing, pretrial conference, or trial. On receiving a request, the Court Administrator will confer with the parties

and the facility to determine the date and time for a setting. The party requesting the setting must give notice to all other parties. If the setting has been requested by the incarcerated party, the Court Administrator will announce ready on his or her behalf. The Court Administrator will arrange for the incarcerated party's transportation if the court has issued a bench warrant or will arrange for the incarcerated party to participate by telephone or other electronic means. Other parties wishing to participate must appear in person, unless otherwise authorized by the court. If the incarcerated party will appear by telephone or other electronic means, the Court Administrator will advise the court, which will initiate the call or other electronic communication to the incarcerated party.

### **RULE 4.03 ALTERNATIVE DISPUTE RESOLUTION**

#### **a. Policy**

It is the policy of the 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 Chapter 154 of the Texas Civil Practice and Remedies Code and Section 153.0071 of the Texas Family Code, as applicable.

#### **b. ADR Mandatory**

No trial on the merits or hearing requiring in excess of two (2) hours shall be conducted until all contested issues have been submitted to an ADR procedure, which was unsuccessful, or the court has determined that ADR is not appropriate for the case.

#### **c. Manner of Referral**

It is anticipated that the parties will 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 on written notification to the court by one (1) of the parties that efforts to coordinate such 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 that referral pursuant to Chapter 154 of the Texas Civil Practice and Remedies Code or Section 153.0071 of the Texas Family Code. On 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, make such orders as it deems just, including, but not limited to, ordering that the case not be referred to an ADR procedure and ordering the case set for trial on the merits.

**e. Discovery Not Abated**

Neither referral of a case to an ADR procedure nor the scheduling of that procedure shall abate or otherwise affect discovery, except by written agreement of the parties filed with the Clerk or court order.

**RULE 4.04 DISMISSAL FOR WANT OF PROSECUTION**

**a. Procedure**

On its own motion, a court 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 failure of a party seeking affirmative relief to take appropriate action when the case has been pending without action for six (6) months.

**RULE 4.05 MOTION PRACTICE**

**a. Conference Requirement**

**1. Conferences Are Required**

- a.** Prior to filing any motion, plea, application, request, objection, or special exception (hereafter, "*Pleading*"), counsel for the filing party shall schedule a conference to resolve the disputed matters.
- b.** Both counsel shall attempt in good faith to resolve any and all issues in the Pleading.
- c.** Counsel shall respond promptly to communications from other counsel.

**2. Certificates of Conference**

Each Pleading shall include a Certificate of Conference signed by counsel as follows:

- a. If counsel conferred regarding the merits of the Pleading, the Certificate of Conference shall state the following:
  1. the date of the conference;
  2. the names of the attorneys who conferred;
  3. that the conference included all issues raised in the Pleading;
  4. that agreement could not be reached; and
  5. that the Pleading is therefore presented to the court for determination.
  
- b. If counsel did not confer regarding the merits of the Pleading, the Certificate of Conference shall include the following:
  1. the date and time of each attempt to confer;
  2. the name of the attorney with whom counsel attempted to confer;
  3. that the attempts to confer were unsuccessful; and
  4. that the Pleading is therefore presented to the court for determination.

### **3. Scheduling of Hearings**

The Court Administrator shall not schedule a hearing on a Pleading unless a Certificate of Conference complying with this Rule has been filed.

### **4. Exigent Circumstances**

In the rare exigent circumstances in which the conference requirement is not practicable, counsel filing the Pleading shall (i) explain the exigency in the Certificate of Conference, (ii) confer as required by this Rule promptly after filing the Pleading, and (iii) file an amended Certificate of Conference accordingly.

### **5. Exceptions to Conference Requirement**

**a. Requests for *Ex Parte* Relief**

The conference requirement does not apply to requests for *ex parte* relief, which are governed by Rule 4.01.

**b. Voluntary Dismissals and Abandonments**

The conference requirement does not apply to a party's motion to dismiss, nonsuit, or abandon one or more of that party's claims voluntarily.

**c. Pleadings Regarding Which the Relief Is Mandatory**

The conference requirement does not apply to Pleadings in which the relief sought is mandatory (*e.g.*, motions to confer with children twelve (12) years of age or older, jury demands).

**b. Summary of the Argument**

Any motion, response, reply, brief, opposition, or memorandum that is ten (10) or more pages long must begin with a summary of the argument.

**c. Table of Contents**

Any motion, response, reply, brief, opposition, or memorandum that is twenty (20) or more pages long must contain a table of contents.

**d. Use of Discovery**

Only the pages from discovery requests, discovery responses, and deposition transcripts relevant to the motion, response, reply, brief, opposition, or memorandum shall be attached to the motion, response, reply, brief, opposition, or memorandum.

**e. Courtesy Copies**

The proponent of a Pleading shall, prior to a hearing on the Pleading, deliver to the Court Administrator a notebook containing the Pleading and all responses, replies, briefs, oppositions, and memoranda filed by any party in connection with the Pleading. Individual documents and exhibits shall be marked with tabs or other appropriate identifiers.

**f. Proposed Judgments, Decrees, and Orders**

Counsel shall file proposed judgments, decrees, and orders with the associated motion or other request for relief, or provide their proposed judgments, decrees, and orders to the court and counsel at the commencement of the hearing.

**g. Telephonic or Electronic Hearings**

Whether to allow an attorney or self-represented litigant to appear telephonically or electronically for a hearing is within the discretion of the court. Attorneys and self-represented litigants who wish to appear telephonically shall contact the Court Administrator to inquire whether the court will permit a telephonic appearance under the circumstances. Regarding parties who are incarcerated, see Rule 4.02.

**RULE 4.07 NOTIFICATION OF BANKRUPTCY**

**a. Notice of Filing of Bankruptcy Proceeding**

When a party files for protection under the bankruptcy laws of the United States, that party's attorney shall:

1. Immediately notify the Court Administrator by telephone; and
2. Within three (3) business days of the date of the filing, provide written notice to the court and all attorneys of the filing, including the name of the party filing for bankruptcy protection, the date of the filing, the name and address of the court in which the filing was made, the case number and style in the bankruptcy court, and the name, address, telephone number, and email address of the attorney for the debtor.

**b. Notice of Conclusion of Bankruptcy Proceeding**

Within seven (7) days of the conclusion of the bankruptcy proceeding, the attorney for the debtor shall notify the court in writing that the bankruptcy proceeding has concluded and file a copy of the order or judgment concluding the bankruptcy proceeding so that the court can determine whether to reinstate its case on its active docket, dismiss that case, or seek additional information.

**c. Other Parties**

Nothing in this Rule precludes other parties from informing the court of the commencement or conclusion of bankruptcy proceedings.

**RULE 4.08 SUGGESTION OF DEATH**

Within seven (7) days of learning of the death of a party, the party's attorney shall file a suggestion of death. Nothing in this Rule precludes other parties from informing the court of the death of a party.

#### **RULE 4.09 JUDGMENTS, DECREES, AND ORDERS**

##### **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. Hearing if Written Order Not Furnished**

On failure to furnish the court with a judgment, decree, or order disposing of the case within the thirty (30) day period, the court shall set the lawsuit for a hearing for entry of judgment.

##### **c. Dismissal if Written Order Not Furnished**

On failure to appear for the hearing for entry of judgment or furnish the court with a judgment, decree, or order disposing of the case at the hearing for entry of judgment, 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.

##### **d. Procedure for Entry of Judgment, Decree, or Order**

If counsel is unable to secure the approval as to form of all opposing counsel and self-represented litigants, counsel may:

1. File a motion for entry of the proposed judgment, decree, or order and secure a hearing for the same, with notice to all opposing counsel and self-represented litigants pursuant to Rule 21a, Texas Rules of Civil Procedure, as amended. 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. Each party who submits a proposed judgment, decree, or order for signature shall serve the proposed judgment, decree, or order and a copy of the

letter on all other parties who have appeared and remain in the case, in accordance with Rule 21a, Texas Rules of Civil Procedure, as amended. 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.

**RULE 4.10 NOTICE TO TRIAL JUDGE OF POST-TRIAL PLEADINGS**

A party filing one or more of the following post-trial pleadings shall give notice to the trial judge by hand-delivering or emailing a copy of the filing to the Court Administrator promptly after it is filed:

- a. Request for Findings of Fact and Conclusions of Law (TEX. R. CIV. P. 296);
- b. Notice of Past Due Findings of Fact and Conclusions of Law (TEX. R. CIV. P. 297);
- c. Request for Additional or Amended Findings of Fact and Conclusions of Law (TEX. R. CIV. P. 298);
- d. Request for Preparation of the Court Reporter's Record (TEX. R. APP. P. 34.6); or
- e. An affidavit of indigency filed in connection with an appeal (TEX. R. APP. P. 20.1).

## **TITLE 5. RULES GOVERNING FAMILY LAW PROCEEDINGS**

In addition to the Rules in Title 4, these Rules govern family law proceedings.

### **RULE 5.01 TEMPORARY HEARINGS**

#### **a. Scheduling**

All temporary hearings shall be set on a date and at a time scheduled by the court.

#### **b. Notice Required When Responding Party Seeking Affirmative Relief**

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

#### **c. Announcements**

At the time set for the temporary hearing, counsel shall make an announcement of the estimate of the time required to present the case.

#### **d. Time Limits**

- 1.** In all matters in which managing conservatorship is in issue, the parties shall be granted no more than one (1) hour to present the case, which time shall be equally divided.
- 2.** In all other temporary matters, including a modification of a temporary order, the parties shall be granted not more than forty (40) minutes to present the case, which time shall be equally divided.
- 3.** The court may, depending on the temporary hearing docket, modify the foregoing time limits.
- 4.** Counsel shall 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 allotted for the hearing.

#### **e. Order of Cases**

All cases in which counsel announce a settlement shall be heard first. All other cases shall be docketed according to counsel's announcement, with

those matters requiring the least amount of time to be heard first. The court may, in its discretion, hear cases in a different order.

**f. Documents Required at Temporary Hearing**

1. In all cases, each party shall file and provide to opposing counsel a summary of the relief requested no later than the day of the hearing.
2. In contested cases in which temporary support of a spouse, a child, or both is in issue, each party shall file and provide to opposing counsel the following no later than the day of the hearing:
  - a. A statement of monthly income and expenses in a form substantially similar to the Financial Information Statement Form, which is available on the website of the 318<sup>th</sup> Family District Court.
  - b. Copies of that party's federal income tax returns for the two (2) calendar years prior to the temporary hearing. A party who has copies of the other party's federal income tax returns for the two (2) calendar years prior to the temporary hearing shall also file copies of those returns.
  - c. All payroll statements, pay stubs, W-2 forms, and 1099 forms which evidence that party's earnings for the calendar year prior to the temporary order hearing and from January 1 of the current year through the date of the temporary hearing.
  - d. If the case involves a child, a Proposed Child Support Calculation. If the parties are in agreement, they may instead file an Agreed Child Support Calculation.
  - e. If a party is requesting spousal maintenance, a Proposed Spousal Maintenance Calculation. If the parties are in agreement, they may instead file an Agreed Spousal Maintenance Decision Calculation.

**g. Duration of Temporary Orders**

No temporary order shall exceed one hundred eighty (180) days in duration from the date the order is signed, except by agreement of the parties or order of the court.

**RULE 5.02 FINAL HEARINGS**

- a. In all cases in which the character, value, or division of property or debts is in issue, the petitioner and the respondent shall file at least thirty (30) days prior to the final hearing a Sworn Inventory and Appraisal of all separate and community property owned or claimed by the parties and all debts and liabilities owed by the parties signed by the party under oath in a form substantially similar to one of those found on the website of the 318<sup>th</sup> Family District Court. The petitioner shall also file a Composite Inventory and Appraisal at least fourteen (14) days prior to the final hearing. If the parties are in agreement, they may instead file an Agreed Composite Inventory and Appraisal signed by the parties under oath.
- b. In contested property cases, each party shall file (and provide a copy to opposing counsel prior to the final hearing) a Proposed Property Division signed by the party. If the parties are in agreement, they may instead file an Agreed Property Division signed by both parties.
- c. In contested child custody cases, each party shall file (and deliver to opposing counsel prior to the final hearing) a Proposed Parenting Plan.

#### **RULE 5.03 PARENT EDUCATION AND FAMILY STABILIZATION COURSE**

**a. Course Mandatory**

All parties in any suit affecting the parent-child relationship shall attend and complete a parent education and family stabilization course approved by the court. The provisions governing a parent education and family stabilization course in Section 105.009 of the Texas Family Code, as amended, shall apply.

**b. Waiver of Course**

The court may waive the requirement of a course after notice and a hearing, for good cause shown. 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 such a course is available.

**c. Deadline for Completion**

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

**d. 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.

#### **RULE 5.04 CHILD SUPPORT SERVICES**

**a. Place of Payment**

All child support required by a court order must be paid directly to the Texas Child Support State Disbursement Unit, P.O. Box 659791, San Antonio, Texas 78265-9791.

All spousal maintenance required by a court order must be paid through the Midland County District Clerk, 500 North Loraine, 3rd Floor, Midland, Texas 79701.

**b. District Clerk as Registry**

The Midland County District Clerk is hereby designated as the Registry of the Court for the purpose of receiving all spousal maintenance payments.

#### **RULE 5.05 CONFERENCES WITH CHILDREN**

**a.** Parties who wish the court to confer with a child in chambers shall file a motion to that effect. The court shall then determine whether to confer with the child. If the court decides to confer with the child, a time for the conference shall be scheduled.

**b.** Subject to the requirements of Chapter 263, Texas Family Code, as amended, or other applicable law, parties are discouraged from bringing children to the courthouse, thereby removing them from their daily routines, before the court decides whether and when to confer with the children.

#### **RULE 5.06 ADOPTIONS AND TERMINATIONS**

**a.** In a suit seeking adoption of a child placed for adoption by the Texas Department of Family and Protective Services (the "*Department*"), the pre-adoptive home screening and post-placement adoptive report shall be made by the Department.

**b.** In a suit brought by a child-placing agency (other than the Department) that seeks to terminate the parent-child relationship, and in each suit that seeks adoption of a child placed by a child-placing agency, the child-placing agency shall prepare the pre-adoptive home screening and post-placement adoptive report.

- c. In every other suit seeking termination of the parent-child relationship or adoption of a child, an individual or entity appointed by the court shall prepare the pre-adoptive home screening and post-placement adoptive report. The fees for preparation of a pre-adoptive home screening and post-placement adoptive report shall be paid at the time of the filing of the suit.
- d. Unless waived by the court for good cause shown, the court shall appoint an amicus attorney for the child. The fees for the amicus attorney shall be paid at the time of the filing of the suit.

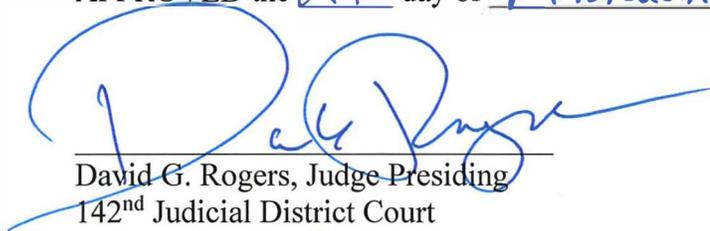
**TITLE 6. RULE GOVERNING CIVIL PROCEEDINGS**

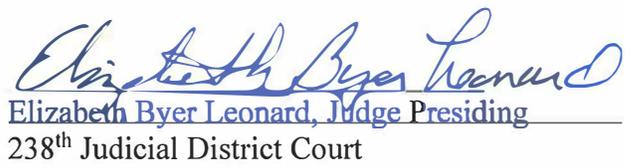
In addition to the Rules in Title 4, this Rule governs civil proceedings other than family law proceedings.

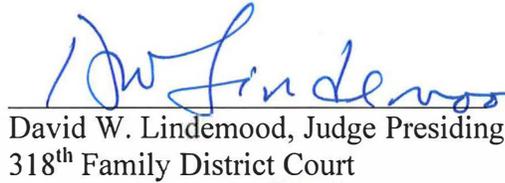
**RULE 6.01 SCHEDULING ORDERS**

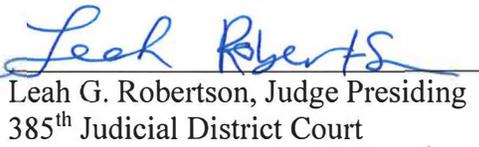
All suits shall be controlled by a scheduling order issued by the court.

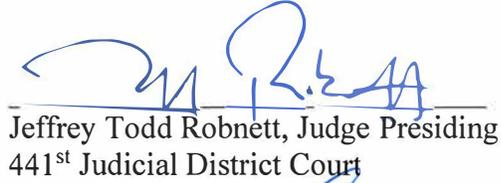
APPROVED the 24<sup>th</sup> day of February, 2022.

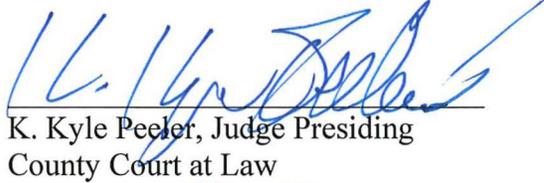
  
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 David G. Rogers, Judge Presiding  
 142<sup>nd</sup> Judicial District Court

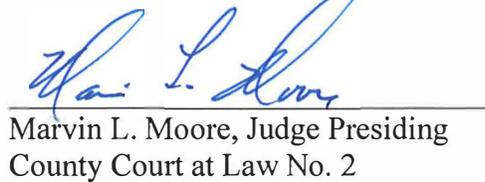
  
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 Elizabeth Byer Leonard, Judge Presiding  
 238<sup>th</sup> Judicial District Court

  
 \_\_\_\_\_  
 David W. Lindemoor, Judge Presiding  
 318<sup>th</sup> Family District Court

  
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 Leah G. Robertson, Judge Presiding  
 385<sup>th</sup> Judicial District Court

  
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 Jeffrey Todd Robnett, Judge Presiding  
 441<sup>st</sup> Judicial District Court

  
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 K. Kyle Peeler, Judge Presiding  
 County Court at Law

  
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 Marvin L. Moore, Judge Presiding  
 County Court at Law No. 2

  
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 Terry Johnson, Judge Presiding  
 County Court

APPROVED the 28 day of FEBRUARY, 2022.



Dean Rucker, Judge Presiding  
Seventh Administrative Judicial Region