

MONTGOMERY COUNTY RULES OF ADMINISTRATION FOR CIVIL CASES

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Melisa Miller, District Clerk
Montgomery County, Texas
By: *amw* Deputy

Purpose

The primary purpose of the Rules of Administration for Civil Cases is the management of the court dockets sensibly, efficiently and fairly. These rules are to be an aid to the just disposition of cases without unnecessary delay or expense.

Authority

These Rules of Administration for Civil Cases are made pursuant to Section 74.093 of the Texas Government Code and Rule 3a of the Texas Rules of Civil Procedure.

Definitions

“Civil Trial Courts” shall mean those District Courts and/or County Courts of Law of Montgomery County and which, pursuant to the then current orders of assignment, regularly receive more than ten percent of the civil cases filed in the County (not including family cases, probate cases, *nisi* cases, non-disclosure cases, and occupational license case filings).

“Civil Trial Judges” shall mean those Judges who preside over the Civil Trial Courts.

Rule 1 General

- 1.1 **Application:** These rules shall be applicable to all civil cases filed in the Civil Trial Courts. These Rules and their subparts are adopted in order to achieve the time standards of Rule 6 of the Supreme Court Rules of Judicial Administration, as well as to meet the requirements stated in the Supreme Court Rules of Judicial Administration.
- 1.2 **Severability:** Each numbered or lettered paragraph of these Rules of Administration for Civil Cases shall be considered to be separate and distinct from all other portions hereof. If any portion should be declared by a higher court to be improper, such declaration will not affect any other portion not declared to be improper.
- 1.3 **Court Sessions:** The Civil Trial Courts will hold court at least once a week in Montgomery County.
- 1.4 **Absences:** The Civil Trial Courts will coordinate to ensure continued court operations when any of the Civil Trial Judges is absent due to vacation, sick leave, attendance at educational programs, and other similar matters.

Minute
Date: 1/27/23

Rule 2
Exchange of Cases

The courts may at any time exchange cases and benches to accommodate their dockets or to expedite the court's trials.

Rule 3
Previous Judgments or Filing

Any claim for relief based upon a previous judgment shall be assigned to the court in which the case is currently filed that contains the previous judgment.

Rule 4
Consolidation of Cases

4.1 When Both Cases Are Filed With a Single Clerk's Office (Either District Clerk Or County Clerk)

A motion to consolidate cases shall be heard in the court where the lowest numbered case is pending. If the motion is granted, the consolidated case will be given the number of the lowest numbered case and assigned to that court.

4.2 When Both Cases Are Filed With More Than One Clerk's Office (Both District Clerk And County Clerk)

4.2.1 When Jurisdiction Not Concurrent: If the jurisdiction of both cases is not concurrent, then a motion to consolidate cases shall be heard in the court that has jurisdiction over both cases. If the motion is granted, the consolidated case will be transferred by the District Clerk or County Clerk as applicable for filing with the papers of the case in which the motion to consolidate was filed.

4.2.2 When Jurisdiction Is Concurrent: If the jurisdiction of both cases is concurrent, then a motion to consolidate cases shall be heard in the court where the lowest numbered case is pending. If the motion is granted, the consolidated case will be transferred by the District Clerk or County Clerk as applicable for filing with the papers of the case in which the motion to consolidate was filed.

Rule 5
Severance

Unless otherwise specified in the order of severance, if a severance is granted, the new case will be assigned to the court where the original case is pending and the clerk of the court will assign a new file date and a new cause number to the now severed case upon payment of all clerk fees by the party which sought the severance. A severance order remains interlocutory and subject to being vacated if the applicable clerk's filing fees are not paid.

Rule 6
Presiding For Another Judge

- 6.1 **Case Distribution:** The assignment, docketing, transfer, and hearing of all civil cases will be done pursuant to Standing Orders posted pursuant to Texas Rule of Civil Procedure 3a and filed with the District Clerk and/or the County Clerk. The Civil Trial Judges will issue such Standing Orders in consideration of fair and equitable division of caseloads, though same are subject to redistribution per Rule 7.
- 6.2 **Where Case Is Pending:** In all cases where a judge presides for another court, the case shall remain pending in the original court.
- 6.3 **When Judge Unavailable:** If the judge to whom a case is assigned is not available to consider an emergency or exigent matter, then the litigant may take the matter to any of the other Civil Trial Judges, and, if none are available, to any other District Court or County Court at Law judge in Montgomery County.

Rule 7
Fair Distribution of Cases

If both the Administrative District Judge and the Administrative County Court at Law Judge find that a court has an inequitable burden due to illness, complex litigation, trial schedule, or other sufficient reasons, upon written order signed by both the Administrative District Judge and the Administrative County Court at Law Judge, they may transfer cases between District Courts and County Courts at Law.

Rule 8
Clerk Transfer of Cases

The Civil Trial Judges recognize that at times a case may be misfiled by the District Clerk or County Clerk to the wrong Court. If citation in the misfiled case has not issued, the District Clerk or County Clerk shall automatically transfer any such misfiled cases to the proper Court in accordance with the proper statute, rule, or order.

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Rule 9
Docket Control

- 9.1 **Docket Control Orders:** Each court may generate docket control orders including such deadlines as the Court issuing the docket control order deems appropriate for the case.
- 9.2 **Certificates of Discovery:** For civil cases, including expedited cases under Texas Government Code Chapter 22, the parties are required to file Certificates of Discovery providing the following information:
- 9.2.1 **Written Discovery Requests:** For written discovery requests, (1) the type(s) of discovery vehicle which was served, (2) when it was served, and (3) who is responsible for responding to the requests which were served.
- 9.2.2 **Written Discovery Responses:** For written discovery responses, (1) the type(s) of discovery vehicle to which the response applies and (2) when it was served.
- 9.2.3 **Depositions:** For depositions (both oral and written), (1) the identity of the deponent and (2) the date of the deposition.
- 9.3 **Certificates of Service:** Certificates of service must include (1) the name of the instrument which was served, (2) the method of service, (3) the name(s) of the person/people on whom it was served, and (4) the date on which it was served. A certificate of service which fails to provide this information creates no presumption that the instrument was served.
- 9.4 **Dismissal Dockets:** Each court may hold dismissal dockets as the court in its discretion deems necessary.

Rule 10
Contested Motions

- 10.1 **In Writing With Proposed Order:** Contested motions and responses shall be in writing using 12 to 14 point font, shall be well organized, shall use complete sentences, and shall be accompanied by a proposed order granting or denying the relief sought. The proposed order shall be a separate instrument.
- 10.2 **Notices of Hearing or Submission:** Movant shall schedule with the court a date and time for consideration of the motion. Movant shall serve written notice on all parties of the date and time of consideration as scheduled by the court and include whether the consideration will be via oral or submission hearing. Notice of hearing or submission as to all motions shall be filed and served as required by the law and/or the Texas Rules of Civil Procedure, but, other than emergency motions, in no event fewer than 10 calendar days before the date and time of consideration.

- 10.3 Failure to Contact Court:** If a party fails to comply with Rule 10.2 and, instead, picks a date and time for a setting without the Civil Trial Court providing such date and time, upon the Civil Trial Court learning of such a setting and receiving a request for a ruling, the Civil Trial Judge will either, at his or her discretion, rule or provide the party with a new date and time for the setting, which the party must then notice to the other parties and file in the case.
- 10.4 Written Responses:** Responses shall be in writing. Responses shall be filed as required by the law and/or the Texas Rules of Civil Procedure, but in no event less than 24 hours before the date and time of consideration by the court.
- 10.5 Court Discretion:** Unless the law and/or the Texas Rules of Civil Procedure require an oral hearing, it is in the sound discretion of the court whether to set a motion for submission or a hearing.

Rule 11
Guardians *Ad Litem* and Attorneys *Ad Litem*

- 11.1 Appointments:** When it is necessary for the Court to appoint a guardian *ad litem* or an attorney *ad litem*, the Court will appoint independent counsel from the list maintained by the Court as applicable to the particular case.
- 11.2 Payment:** A guardian *ad litem* or attorney *ad litem* wishing to apply to the Court for fees shall make an appropriate fee request with a proposed order.

Rule 12
Alternate Dispute Resolution and Mediation

In order to encourage the early settlement of disputes and to carry out the responsibilities of the courts, the Civil Trial Judges strongly encourage the use of appropriate alternative dispute resolution procedures. The Civil Trial Judges encourage mediation in order to facilitate the settlement of disputes and litigation. It is in the sound discretion of the court when and whether to order mediation. A personal appearance by each party and their attorney (if represented) is required at mediation unless otherwise indicated by leave of court.

Rule 13
Entry of Final Orders

In the event that the court renders an oral final order, the prevailing party shall prepare a written final order complying with the court's ruling and file the order by the date the court sets for entry. The party preparing the order shall attempt to obtain approval as to form from the opposing counsel or *pro se* litigant. Unreasonable refusal to approve such an order may result in sanctions imposed by the court *sua sponte*.

Rule 14

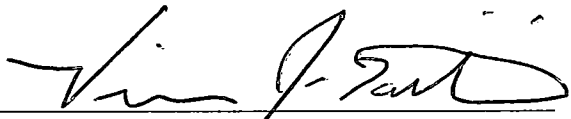
Adoption, Approval and Amendment of These Rules of Administration for Civil Cases

- 14.1 Adoption:** These Rules of Administration for Civil Cases are adopted by the Civil Trial Judges for all purposes and shall become effective immediately after posting in conformity with Texas Rule of Civil Procedure 3a, and so long thereafter until amended, repealed, or modified by a majority vote of the Civil Trial Judges.
- 14.2 Recordation:** The District Clerk and County Clerk are directed to record these Rules of Administration for Civil Cases in the Civil Minutes of all of the District and County Courts at Law of Montgomery County, Texas, and all additional District Courts and County Courts at Law thereafter created.


These Montgomery County Rules of Administration for Civil Cases for the County Courts at Law and the District Courts of Montgomery County, Texas are adopted and approved this the 27th day of January, 2023, effective immediately.



JUDGE KRISTIN BAYS
PRESIDING JUDGE, 284th DISTRICT COURT



JUDGE VINCENZO J. SANTINI
PRESIDING JUDGE, 457th DISTRICT COURT



JUDGE SCHARLENE VALDEZ
PRESIDING JUDGE, COUNTY COURT AT LAW #6