

# **Local Rules of the District Courts of Montgomery County, Texas**

## **Purpose**

The Local Rules of the District Courts of Montgomery County have as their primary purpose 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.

## **Rule 1**

### **Application, Jurisdiction and Filing**

#### **Rule 1.1 Application**

These rules apply to all cases, civil, criminal, and family, of which the District Courts have exclusive jurisdiction or concurrent jurisdiction with the County Courts at Law of Montgomery County Texas.

#### **Rule 1.2 Jurisdiction**

##### **A. Exclusive Jurisdiction**

Exclusive jurisdiction of District Courts encompasses matters defined by statute, rules of court, case law or these rules as the sole province of District Courts.

##### **B. Concurrent Jurisdiction**

Concurrent jurisdiction of the District Courts with the County Courts at Law is set forth in Section 25.1722 (a) of the Texas Government Code.

**Rule 1.3 Assignment of Cases**

**A. Equal Assignment**

The District Clerk shall assign cases equally among the courts on a rotation basis unless specifically instructed otherwise by these rules or by the Board of Judges.

**B. Assignment of Exclusive Jurisdiction Cases**

The District Clerk shall assign cases of exclusive jurisdiction to the District Courts.

**C. Assignment of Concurrent Jurisdiction Cases**

The District Clerk shall assign cases of concurrent jurisdiction to the District Courts and the County Courts at Law.

**Rule 2**

**Local Administrative District Judge**

**Rule 2.1 Powers and Duties of Local Administrative District Judge**

**A. Election of the Administrative Judge**

Pursuant to Section 74.091 of the Texas Government Code, a majority of the District Judges will elect a Local Administrative District Judge for a one-year term at the December meeting of each year to commence on January 1st of the following year.

## **B. Duties**

The Local Administrative District Judge will have the duties and responsibilities provided in Rule 9 of the Rules of Judicial Administration.

## **C. Meetings of the Judges of the County**

The Local Administrative District Judge or a majority of the District Judges will call meetings of the Judges as needed. The Local Administrative District Judge shall preside over such meetings; and in his/her absence, a temporary Chairperson may be elected by a majority of the quorum.

### **Rule 3**

#### **Civil Cases**

##### **Rule 3.1 General**

All civil cases which the District Courts of Montgomery County have exclusive or concurrent jurisdiction shall be filed in the District Clerk's office located at 300 North Main, Conroe, Texas 77301. These rules shall be applicable to all civil cases filed in the District Courts of Montgomery County.

##### **Rule 3.2 Time Standards for Civil Case Disposition**

###### **A. Civil Jury Cases**

All civil jury cases shall be tried or dismissed within 18 months from appearance date.

###### **B. Civil Non Jury Cases**

All civil non jury cases shall be tried or dismissed within 12 months from appearance date.

### **Rule 3.3 Filing and Assignment of Cases**

#### **A. Civil Case Information Sheet**

All civil cases filed in the District Clerk's office of Montgomery County shall have attached a Civil Case information sheet which shall be prepared by the District Clerk and shall indicate the type of action and monetary damages sought and any other information that the District Clerk requires.

#### **B. Assignment**

All civil cases filed shall be assigned in the District Courts of Montgomery County on a rotating basis and in compliance with these rules. Once assigned to a court, a case will remain on the docket of that court for all purposes unless transferred as hereinafter provided.

### **Rule 3.4 Transfer of Cases; Docket Exchange; Bench Exchange**

#### **A. Transfer**

After assignment to a particular court, a case may be transferred to another court by order of the Judge of the court in which the case is pending with the consent of the Judge of the court to which it is transferred, or by order of the Local Administrative District Judge.

#### **B. Exchange of Cases**

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

#### **C. Previous Judgment or filing**

Any claim for relief based upon a previous judgment shall be assigned to the court of original judgment. If a case is filed in which there is a substantial identity of parties and causes of action in a previously non suited case, the later case shall be assigned to the court where the prior case was pending.

#### **D. Consolidation**

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.

#### **E. Severance**

If a severance is granted, the new case will be assigned to the court where the original case is pending; however, a new file date and a new cause number will be assigned to the now severed case.

#### **F. Presiding for another Judge**

In all cases where a judge presides for another court, the case shall remain pending in the original court.

#### **G. Fair Distribution**

The Administrative District Judge may transfer cases between courts if he/she finds that a court has an inequitable burden due to illness, complex litigation, trial schedule, or other sufficient reasons.

#### **H. Recusal**

All motions to recuse shall be governed by the provisions of Rule 18 (a) & (b) of the Texas Rules of Civil Procedure.

## **I. Removal to District Court**

A case which has been assigned to a County Court at Law in error because the subject matter is within the exclusive jurisdiction of the District Courts will be returned to the District Clerk for reassignment.

### **Rule 3.5 Docket Settings**

#### **A. Court Coordinator/Administrator**

Each court shall appoint a court coordinator/administrator. It shall be the duty of each court coordinator/administrator to:

Establish procedures for setting cases for trial and hearings;

Provide the court, the clerk assigned to that particular court and the general public with a printed docket sheet indicating the cases set for a hearing for each day of court;

Provide the court with a submission docket indicating the cases set for submission;

Notify all counsel of settings and rulings of the court as is provided by these rules or at the direction of the court;

Prepare scheduling orders for all cases assigned to their court;

Coordinate all setting requests; and

Coordinate with the Juror Coordinator of the District Clerk's office concerning jury trials and juror requirements.

#### **B. Setting Requests**

Requests for hearings shall be made in writing to the court in which the matter is pending in accordance with these rules or the scheduling order of the court, and the attorneys making such request shall serve all counsel and parties appearing pro se with notice of the hearing.

### **C. Docket Control Orders**

Each court shall generate docket control orders for each civil case pending. The order shall contain a trial setting, cut off date for discovery, pretrial conference date and any other requirements as established by each individual court.

### **D. Trial Settings**

Cases shall be set for trial by order of the court, upon request of a party, on the court's own motion or by a docket control order.

All requests for non jury trials before the court shall be set by the court at the earliest possible trial date on those dates established by the court for non jury weeks. The request shall be in writing and copies of said request served upon all attorneys and parties pro se involved in the case. The court shall have sole discretion as to which non jury trial week the case will be assigned. The party obtaining the setting shall notify all counsel and parties appearing pro se of the setting.

All requests for jury trials shall be in writing and copies of said request served upon all attorneys and parties pro se involved in the case. The court shall have sole discretion as to which jury trial week the case will be assigned. The party obtaining the setting shall notify all counsel and parties appearing pro se of the setting.

If a case is not tried the week it is assigned, the court shall reset the case to a date certain.

All requests for preferential trial settings shall be made in writing with notice to all counsel and parties appearing pro se. The court shall set the matter for a hearing on the earliest possible date.

### **Rule 3.6 Dismissal Docket; Involuntary Dismissals**

### **A. Dismissal Dockets**

All cases not brought to trial or otherwise disposed of which have been on file for more than the specified time period as established by these rules shall be placed on the dismissal docket by the Court.

### **B. Notice**

When a case has been placed on the dismissal docket, the court shall promptly send notice of the court's intention to dismiss for want of prosecution to each attorney of record and pro se party whose address is shown in the clerk's file. A copy of such notice shall be filed with the papers of the cause.

### **C. Motion to Retain**

Unless a written motion to retain has been filed prior to the dismissal date as set forth in the notice of intention to dismiss, such case shall be dismissed. Notice of the signing of the order of dismissal shall be given as required by Rule 165 (a) of the Texas Rules of Civil Procedure. Failure to mail notices as set out above shall not affect any of the periods mentioned in Rule 306 (a) of the Texas Rules of Civil Procedure except as provided in that rule.

### **D. Motion for reinstatement**

A motion for reinstatement after dismissal shall follow the procedure and be governed by the provisions of Rule 165 (a) of the Texas Rules of Civil Procedure relating to reinstatement.

## **Rule 3.7 Hearings on Pre-Trial Motions**

### **A. Form**

Motions and responses shall be in writing and shall be accompanied by a proposed order granting or denying the relief sought. The proposed order shall be a separate instrument.



## **B. Submission**

Motions shall state a date of submission which shall be at least 10 days from filing, except on leave of court. The motion will be submitted to the court upon that date.

## **C. Response**

Responses shall be in writing. Responses shall be filed at least two working days before the submission date. Failure to file a response may be considered a representation of no opposition.

## **D. Oral argument**

The motion or response may include a request for oral argument. Said request shall be in writing and set forth reasons for the necessity of such hearing. It is in the sound discretion of the court whether to grant the request for oral hearing. A request for an oral argument is not a response under Rule 3.8 (c).

## **E. Certificate of Conference**

Opposed motions and responses shall contain a Certificate of Conference indicating that the counsel involved have attempted to resolve the dispute prior to filing of the motion or response, the date of such attempt and the manner of communication of such an attempt, or any other requirement of the court.

## **Rule 3.8 Continuances**

Any motion for continuance of the trial setting shall be presented to the court pursuant to the docket control order, or the Texas Rules of Civil Procedure. The order granting or denying such motion shall contain an order resetting the case for trial for a specific date and time.

### **Rule 3.9 Alternate Dispute Resolution and Mediation**

#### **A. Alternate Dispute Resolution**

In order to encourage the early settlement of disputes and to carry out the responsibilities of the courts set out in Chapter 154 of the Texas Civil Practices and Remedies Code, appropriate alternative dispute resolution procedures will be encouraged and utilized.

#### **B. Mediation**

The courts encourage mediation in order to facilitate the settlement of disputes and litigation. Each court shall adopt a procedure for the use of mediation in all civil cases. It is in the sound discretion of the trial court whom to use as a mediator and the procedures for same.

### **Rule 3.10 Settlements**

All trial counsel are required to make a bona fide effort to settle cases at the earliest possible date before trial. The court will expect counsel to confer with his/her client and with opposing counsel concerning settlement offers. When an attorney settles or dismisses a case which is set for trial, he shall give notice to the court as soon as possible.

### **Rule 3.11 Jury Charge Questions and Instructions**

Each party shall prepare in proper written form and present to the court prior to trial or the jury selection all jury charge questions and instructions which are raised by the pleadings and evidence and upon which the party has an affirmative burden. The charge shall be provided in both written form and on a 3.25 computer disc.

### **Rule 3.12 Guardians and Attorneys Ad Litem**

When it is necessary for the court to appoint a guardian ad litem for minor or incompetent parties or an attorney ad litem for absent parties, independent counsel, not suggested by any of the parties or their counsel, will be appointed. However, the court may appoint an attorney who is already counsel of record for one of the parties if the court finds that no conflict of interest or other circumstances exist which would prevent such attorney from providing adequate representation for such minor, incompetent or absent parties.

### **Rule 3.13 Entry of Interim Orders**

An interim order is any temporary order entered by the court during the pendency of the suit. In the event that the court renders an oral interim order, the court shall require a party to prepare a written order complying with the court's rendition and set a hearing date for entry. The party preparing the order shall obtain approval as to form from the opposing counsel or pro se litigant. Unreasonable refusal may result in sanctions imposed by the court.

### **Rule 3.14 Entry of Final Orders**

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

### **Rule 3.15 Requests of the District Clerk**

#### **A. Written Requests**

All parties desiring copies of documents from the District Clerk shall furnish the clerk return envelopes properly addressed and stamped. Except as provided elsewhere in these rules, no conformed copies shall be made or furnished nor shall searches or research be performed for counsel or the public, free of charge. All mail received with postage due will be returned to sender.

## **B. Telephone Requests**

The court clerk shall limit response to telephone requests for information to the following:

If answer has been filed.

Existence and setting of a case.

Return of service and date.

Correct style of case when correct case number is supplied.

If an order has been signed.

### **Rule 3.16 Filing of Pleadings**

All pleadings, motions, orders and other papers, including exhibits attached thereto, when offered for filing or entry, shall be descriptively titled and punched at the top of the page to accommodate clerk's 2.75" center-to-center flat-filing system. Each page of each instrument shall on the lower right-hand margin thereof be numbered and titled, i.e. "Plaintiff's Original Petition Page 2." Orders and Judgments shall be separate documents completely separated from all other papers. If documents not conforming to this rule are offered, the clerk shall return the documents to the counsel or party unfiled. Counsel shall furnish the clerk with sufficient copies to perfect service or notice.

### **Rule 3.17 Service of Process**

The Courts have adopted a blanket order permitting private process of service pursuant to Rule 103 of the Texas Rules of Civil Procedure. Applications for approval to be added to the list shall be presented to the presiding district judge.

## **Rule 4**

### **Family Law Cases**

#### **Rule 4.1 General**

The filing, assignment, and transfer of cases under the Family Code shall be filed in accordance with Rule 1 of these rules. All cases filed pursuant to the Family Code with the exception of Title 3 of the Family Code shall be governed by Rule 3 of these rules.

**Rule 4.2 Time Standards for Family Law Case Disposition**

Cases shall be tried or dismissed within 6 months from the appearance date or within 6 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

**Rule 4.3 Juvenile Disposition**

Rules for the disposition of juvenile cases will be adopted by the Juvenile Court in conformity with Rule 1 of the Second Administrative Judicial Region of Texas Regional Rules of Administration and Title 3 of the Texas Family Code.

**Rule 4.4 Department of Regulatory Services Cases**

Disposition of Texas Department of Protective and Regulatory Services cases shall be in conformity with those provisions set forth in Title 5 of the Texas Family Code.

**Rule 4.5 Inventories and Financial Information Statements**

**A. Initial Filing**

Inventories and Financial Information Statements shall be filed in all domestic relations cases related to divorce. Financial Information Statements shall be filed in all cases involving modification of conservatorship, support or periods of possession.

**B. Temporary Orders**

In any hearing for temporary orders in which child support or spousal support is an issue, completion and exchange of Financial Information Statements is required prior to commencement of the hearing.

### **C. Trial**

A party's final Inventory, Financial Information Statement and financial information required under the Family Code, as well as suggested findings regarding child support and a proposed division of property shall be exchanged no later than thirty (30) days before trial, or as required by the docket control order, and filed with the court before the commencement of trial. If children are involved in the proceeding, the inventory shall contain sufficient information so the court may render a qualified medical child support order regarding health insurance for such children.

### **D. Failure to file Financial Information Statements and Inventories**

Failure of either party to file Financial Information Statements or Inventories will result in the court adopting as stipulated the information filed by the complying party. The non-complying party will be prohibited from contesting the accuracy of the information presented by the complying party. If both parties fail to comply with these rules, the court may strike the case from the docket.

### **Rule 4.6 Parent Education and Counseling**

Referral shall be made in suits affecting the parent-child relationship requiring the parents' attendance at an educational program for divorcing parents, except for good cause shown. In the discretion of the court, such a referral may also be made for parents involved in modification or enforcement litigation. Counseling may also be ordered in appropriate cases as authorized by the Family Code, including referral to a family violence program pursuant to a protective order under Chapter 71 of the Family Code.

### **Rule 4.7 Ex Parte Restraining Orders, Protective Orders and Temporary Orders**

#### **A. Ex Parte Restraining Orders and Protective Orders**

Ex Parte Restraining Orders and Protective Orders shall be presented to the court in which it has been assigned. If the presiding judge of said court is not available, then the Ex Parte Order or Protective Order may be presented to any sitting District or County Court at Law Judge available. In all cases, only the court coordinator/administrator of the court to which the case is assigned may set the hearing.

## **B. Temporary Orders Entry**

All temporary orders shall be presented to the court for entry within ten (10) days after the hearing or at the entry date set by the court. Failure to comply could subject the case to dismissal.

### **Rule 4.8 Discovery**

#### **A. Mandated Discovery**

In all cases the following items shall be exchanged without objection upon a written request of counsel.

Parties or individual income tax returns for two years preceding the year of the request.

Copies of all insurance policies, including home, auto, life and medical.

Copies of all promissory notes, deeds of trust and deeds evidencing ownership of real estate, including contract for deeds and time sharing contracts.

Copies of all stocks, mutual fund participation and investment portfolios held by the parties, in the name of the parties, or for the benefit of the parties.

Copies of all documents concerning employee benefits, retirement benefits and pension funds.

The preceding six (6) months statements for all credit card accounts in the name of the parties, or either party.

Wage statements or statement showing year to date earnings of the party.

### **4.9 Child Support Local Registry**

Pursuant to §154.241 of the Texas Family Code, the District Clerk of Montgomery County is designated as the Local Registry to receive a court ordered child support payment or payment otherwise authorized by law.

## **Rule 5**

### **Criminal Cases**

#### **Rule 5.1 Filings/Return of Indictments**

##### **A. Assignment of Cases After Indictment**

Except as otherwise provided in this Rule, the Clerk shall equally distribute every criminal case filed by indictment into the five District Courts.

Capital cases shall be assigned on a rotation basis among the District Courts.

##### **B. New Indictments After Assignment**

After assignment, the clerk shall assign any new indictment against a defendant to the same court.

##### **C. Re-indictments**

The clerk shall assign any re-indictment of the same defendant to the same court in which the prior indictment was assigned.

##### **D. Co-Defendant Indictment**

The clerk, after random assignment of an indictment to a court shall assign any co-defendant subsequently indicted to the same court in which the first co-defendant's indictment was assigned.



## **E. Information to the District Clerk**

The District Attorney shall note on a non-substantive part of the indictment the following information:

Whether there are other pending indicted cases on the defendant;

Whether the indictment is a re-indictment and;

The names of any co-defendants not named in the indictment.

### **Rule 5.2 Post Conviction Proceedings**

The clerk shall file any motion to revoke probation or any post-conviction application for writ of habeas corpus in the court having granted probation or entered the judgment in the case.

### **Rule 5.3. Time Standards for Criminal Cases**

Disposition of Criminal Cases shall be in conformity with those provisions set forth in Article 32A.02 of the Code of Criminal Procedure.

### **Rule 5.4 Scheduling Order**

Each court will adopt a scheduling order that shall be given to the defendant and counsel at arraignment. The scheduling order may include such dates or deadlines for discovery, pretrial motions or trial. The scheduling order shall include a waiver of arraignment and acknowledgment of notice of appearance by the defendant.

### **5.5 Motions for Continuance**

All motions for continuance, whether filed by the State or the Defendant, must comply with the applicable law contained in the Code of Criminal Procedure and must be presented to and considered by the court in accordance with the scheduling order. Except for good cause shown and upon compliance with these rules, the court shall not consider any motion for continuance on the scheduled trial date.

**Rule 5.6. Standard Discovery Orders**

Each court shall adopt a standard discovery order to be entered in each case at time of arraignment. The discovery order shall set forth procedures for the exchange of information, evidence inspection, expert designations and deadlines to conform with the discovery order.

**Rule 6**

**Electronic Filing**

The District Courts have previously approved electronic filing. The previous order which has received the approval of the Supreme Court of Texas is herein adopted as part of these rules and incorporated herein.

**Rule 7**

**Board of Judges**

The Board of Judges shall consist of all the District Judges and County Courts at Law Judges that serve Montgomery County. The Board of Judges shall meet to discuss and pass resolutions on those matters which are of common concern of all the judges. The meeting shall be called by either the Administrative Judge of the District Courts or the Administrative Judge of the County Courts at Law. The chairman of the meeting shall be the Senior judge in attendance.

**Rule 8**

**Previous Rules**

All previous local rules in the District Courts of Montgomery County are hereby repealed.

## **Rule 9**

### **Lawyer's Creed Applicable**

The Texas Lawyer's Creed shall be observed in all proceedings before the court.

## **Rule 10**

### **Conflicting Trial and Ancillary Settings**

#### **A. Conflicting Trial Settings**

It is the duty of an attorney to notify all courts in which an attorney has conflicting settings as soon 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:

Juvenile cases.

Criminal cases.

Cases given preference by statute.

Preferentially set cases.

Cases with lowest file number.

Cases with earliest setting request date.

#### **B. Conflicting Ancillary Hearings**

It is the duty of an attorney with conflicting ancillary hearings to notify opposing counsel of the conflict immediately upon learning of same. The attorney shall inform the court prior to docket

call of the location of counsel, the court or courts where counsel is appearing, the matter being heard and the estimated time of appearance. Failure to notify the court of such conflict may result in a default on the matter before the court, or sanctions.

### **C. Designation of Attorney in Charge**

Every case shall have a designation of attorney in charge.

## **Rule 11**

### **Attorney Vacations**

Each attorney who desires to assure himself/herself a vacation for a period not to exceed four weeks may do so automatically by complying with the Rule 11 of the Second Administrative Region of Texas Regional Rules of Administration.

## **Rule 12**

### **Adoption, Approval and Notice**

#### **Rule 12.1 Adoption**

These rules are adopted by the District Judges for all purposes and by the County Court at Law Judges for those provisions that effect the concurrent jurisdiction of the county courts.

#### **Rule 12.2 Approval**

Upon approval by the Judge of the Second Administrative Region and the Supreme Court of Texas, these rules shall become effective immediately, and so long thereafter until amended, repealed or modified. Each numbered or lettered paragraph of these rules shall be considered to be separate and distinct from all other portions hereof, and if any portion should be declared by a

higher court to be improper, such declaration will not affect any other portion not so declared to be improper.

**Rule 12.3. Notice**

The District Clerk is directed to furnish a copy of these rules to the Supreme Court of Texas pursuant to Rule 3 (a) of the Texas Rules of Civil Procedure and to record these Rules in the Civil Minutes of the 9th, 221st, 284th, the 359th and 410th District Courts and the County Courts at Law Numbers One, Two and Three.

**Adoption**

Adopted the \_\_\_\_ day of \_\_\_\_\_, of the year 2000 to become effective upon approval by the Supreme Court of Texas.

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Judge Fred Edwards

9th District Court

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Judge Suzanne Stovall

221st District Court

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Judge Olen Underwood

284th District Court

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Judge James Keeshan

359th District Court

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Judge Mike Mayes

410th District Court

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Judge Dennis Watson

County Court at Law Number One

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Judge Jerry Winfree

County Court at Law Number Two

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Judge Mason Martin

County Court at Law Number Three

**Approval by the Second Administrative Regional Judge**

Approved on the \_\_\_\_ day of \_\_\_\_\_, of the year 2000, by Judge Olen Underwood, Regional Judge for the Second Administrative Judicial Region of the State of Texas.

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Judge Olen Underwood

Presiding Judge of the Second Administrative Judicial Region of the State of Texas