

- 3.7.3. Whenever possible, the party making the affidavit required for granting relief without a formal hearing shall appear when the matter is presented to the Judge for his or her determination. The party requesting ex parte relief shall be prepared to present additional testimony in support of the request, when required by the Judge.

## **4. FAMILY CASES**

### **4.1. TRANSFER OF CASES**

- 4.1.1. Multiple Suits. When a suit is filed in the 328<sup>th</sup> or the 387<sup>th</sup> District Court of Fort Bend County (referred to as Family District courts) and is in any way terminated (by non-suit or otherwise), a subsequent suit or cause of action involving substantially the same parties or the same subject matter shall be filed in, or transferred to, the court that first had jurisdiction of the parties or subject matter. This rule applies to all controversies, including divorce, support, conservatorship and all matters incident to them, whether sought by original proceedings or by modification, clarification or enforcement of a former order, judgment or settlement agreement. When such a situation is disclosed for the first time after the hearing begins, the judge of the court shall immediately order the suit transferred to the court in which the prior suit was filed.
- 4.1.2. Enforcement of Consent Decree or Contract. Any action for the enforcement of a consent decree or contract arising out of or in conjunction with any action previously filed in any of the family District Courts shall be filed in the same court.
- 4.1.3. 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 the appropriate court.
- 4.1.4. Severance. If a severance is granted, the new case remains assigned to the court where the original case is pending, bearing the same file date and the same number as the original case with a letter suffix.
- 4.1.5. Presiding for Another. In all cases where a judge signs an order on behalf of another court, the case shall remain in the original court.
- 4.1.6. Improper Court. If called to the attention of the court that a case is improperly placed on the docket of one Family District Court, the judge of that court shall transfer the case to the proper court.

### **4.2. FLOW OF CASES**

- 4.2.1. Appearance of Counsel. Any attorney representing a party or a pro se party in a case shall file an appropriate initial pleading with the court, be it a Petition, Answer, Notice of Appearance as Attorney of Record, or Motion and Order for Substitution of Counsel and promptly furnish a true copy thereof to opposing attorney or pro se party, as applicable. The pleading shall contain all information required under the Texas Rules of Civil Procedure (“T.R.C.P.”) Rule 57.
- 4.2.2. Docket Call Procedures.
- 4.2.2.1. Attorneys who will be late for court must give the court and opposing side notice of their estimated time of arrival at court and the reason for the delay. If the attorney is late because he or she must appear in another court at the same time, the clerk must be notified not only that the attorney will be late (as above) but also the specific court(s) in which the attorney will be appearing.

- 4.2.2.2. If an attorney does not appear in the courtroom within thirty (30) minutes of docket call, that party's motion may be ruled upon by the court and/or sanctions issued consistent with the Texas Rules of Civil Procedure.
- 4.2.3. Telephone conferences. Use of telephone hearings between judges or associate judges and all attorneys in a case is encouraged for non-evidentiary matters. Telephone hearings shall be scheduled through the court coordinator.
- 4.2.4. Interview of Child/Child's Testimony. In all cases in which the court deems testimony of a child to be necessary or required by statute, the attorney wishing to have the child interviewed shall arrange a specific time through the court coordinator for the court to interview the child. No party is to bring a child to the courthouse to testify without prior arrangement pursuant to this rule, unless the child's attendance is required by court order including a writ of habeas corpus or attachment. The attorney who is responsible for the child's attendance at court shall immediately notify the court coordinator of the child's presence in the courthouse. The child shall not be brought into the courtroom without the express consent of the judge or associate judge.
- 4.2.5. Scheduling Orders. It shall be the duty of an attorney or pro se party entering a pending case to ascertain from the court whether a Scheduling Order has issued and if so, to obtain a copy of the Scheduling Order from the District Clerk's office. Notwithstanding the foregoing, it shall also be the duty of the Petitioner or Movant in a pending case in which a Scheduling Order has been issued to provide a copy of the Scheduling Order to each party who has made or makes a general appearance in the pending case.
- 4.2.6. Parent Education. All parties required by paragraph 11.1 herein to attend a parent education course shall file with the court a certificate verifying the party's attendance at such course. The certificates shall be filed no later than the date the case is set for final hearing.

#### **4.3. DISCLOSURE OF PROPERTY AND FINANCIAL INFORMATION**

- 4.3.1. 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, copies of income tax returns for the past two years, and the three most recent payroll stubs shall be exchanged prior to the commencement of the hearing. This rule providing for the exchange of information shall constitute a discovery request and failure to comply with this rule may be grounds for sanctions, as provided by T.R.C.P. Rule 215.
- 4.3.2. Final Information. A party's final Inventory, Financial Information Statement and financial information required under the Family Code (including, but not limited to, the party's income tax returns for the past two years and the party's three most recent payroll stubs), as well as suggested findings regarding child support and a proposed division of property shall be exchanged no later than ten (10) days before trial, and shall be filed with the court at 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 the children. This rule providing for the exchange of information shall constitute a discovery request and failure to comply with this rule may be grounds for sanctions.
- 4.3.3. Inventory. Each inventory shall list each item of property and its fair market value, and shall also list each liability, together with the amount of the liability, the number of periodic payments in arrears, if any, the property securing its payment, and the name of the creditor. Any property or liability shall likewise be characterized as separate or community. All beneficial interests in insurance

and all benefits arising from a party's employment (such as pensions, profit sharing plans, savings or thrift plans, whether vested or non-vested) shall be identified. Each party shall incorporate as an exhibit to the inventory the last information furnished to the employee about to the employee's rights and monetary interest in the retirement and savings plans. Each party shall also furnish sufficient information so the court may render a qualified domestic relations order, if applicable. The inventory shall list and total, in columnar format, the property values and liabilities. Each inventory shall show the net worth of the community estate.

#### **4.4. REFERRAL TO ASSOCIATE JUDGE**

- 4.4.1. Referral. All pending cases and cases filed after the date of the adoption of these rules are hereby referred to the associate judge of each court pursuant to T. F. C. section 201.006, subject to limitations imposed by chapter 201.
- 4.4.2. Order of Referral. This Rule shall constitute the Order of Referral required by TFC section 201.006(a)(2), to any pending or future cases under Title 1, 2, 4, or 5.

#### **4.5. ALTERNATE DISPUTE RESOLUTION**

- 4.5.1. Temporary Hearings. In cases involving disputed custody or visitation issues, the court shall make referrals for mediation to the Dispute Resolution Center or private mediators, or as agreed upon by the parties and attorneys. Additional issues may be mediated by agreement of the parties and attorneys. Attorneys of record may attend all mediations. Except for good cause shown, no temporary hearings involving disputed custody or visitation issues will be conducted until the issues have been mediated.
- 4.5.2. Final Trial. Except for good cause shown, all cases shall be submitted for alternate dispute resolution procedures before trial, as provided in paragraph 7.1. Settlement Weeks. Referral of appropriate cases to alternate dispute resolution procedures shall also be made at one or more settlement weeks each year, as provided by law.
- 4.5.3. PARENT EDUCATION COURSE
  - 4.5.3.1. Except for good cause shown, all parents or other individuals requesting appointment as a conservator are required to attend a parent education course, whether the suit is an original suit or a modification.

### **5. CRIMINAL CASES**

5.1. **TRANSFER:** In criminal actions, cases shall be transferred according to the Direct Filing Order.

#### **5.2. APPEARANCE OF DEFENDANT AND COUNSEL/COURT ATTENDANCE.**

- 5.2.1. Defendant and defendant's attorney must be present during docket call. The attorney prior to the setting must obtain permission for the defendant not to be present. Attorney must notify the Judge or Court Coordinator at least 30 minutes prior to the time the case is set if the attorney anticipates not being present or late at docket call.
- 5.2.2. Attorneys wishing to have defendants transferred from the jail to the courthouse for an appearance must notify the bailiff at least two days before such appearance.

#### **5.3. WITHDRAWAL OR SUBSTITUTION OF COUNSEL**

- 5.3.1. If, prior to the disposition of a case, an appointed or retained attorney wishes to withdraw pursuant to DR 2-110, Code of Professional Responsibility, Vernon's Ann. Civ. Stat., Title 14 App., Art. 12, Sec. 8, or for any other reason, the attorney must file a written motion to that effect with the Court. Such motion must be filed at least 15 days prior to a trial setting. If an attorney is