

Local Rules

District Courts Of Fort Bend County

OBJECTIVE OF RULES

The objective of the rules of the District Courts of Fort Bend County is to obtain a just, fair, equitable and impartial adjudication of the rights of litigants under established principles of substantive law and established rules of procedural law.

Where attorney or counsel is used in these rules, the term shall also include a pro se party/party not represented by counsel.

1. **TIME STANDARDS:** District Judges in Fort Bend County should, as far as reasonably possible, ensure that all cases are brought to trial or final disposition in conformity with the following standards:
 - 1.1. **Criminal cases:** Within 12 months of arrest or indictment whichever is earlier.
 - 1.2. **Civil cases other than Family Law:**
 - 1.2.1. **Civil jury cases.** Within 18 months of appearance date.
 - 1.2.2. Civil non-jury cases. Within 12 months from appearance date.
 - 1.3. **Family Law Cases:**
 - 1.3.1. Contested Family Law Cases. Within 6 months from 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.
 - 1.3.2. Uncontested Family Law Cases. Within 3 months from appearance date or within 3 months from the expiration of the waiting period provided by the Family Code where such is required, which is later.
 - 1.4. **Complex cases:** It is recognized that in especially complex or special circumstances it may not be possible to adhere to these standards.
2. **REPORTS TO THE ADMINISTRATIVE JUDGE:** The district clerk shall supply to the Administrative Judge of Fort Bend County, on a monthly basis, information concerning the number of filings, dispositions, trials and other judicial activities in each court.
3. **CIVIL CASES**
 - 3.1. **FILING & ASSIGNMENT.** On being filed, a case shall be assigned randomly to the docket of one of the courts. Once assigned to a court, a case will remain on the docket of that court for all purposes unless transferred.
 - 3.2. **TRANSFER:**

- 3.2.1. Prior Judgment. Any claim for relief based upon a prior judgment shall be assigned to the court of original judgment.
- 3.2.2. Prior filings. Any matter filed after a non-suit, dismissal for want of prosecution, or other disposition of a previous filing involving substantially-related parties and claims shall be assigned to the court where the prior matter was pending.
- 3.2.3. Consolidation:
 - 3.2.3.1. Consolidation of Cases. A motion to consolidate cases must be heard in the court where the first filed case is pending. If the motion is granted, with the consent of the transferring court the consolidated case will be given the number of the first filed case and assigned to that court.
 - 3.2.3.2. Consolidation of Discovery. A motion to consolidate discovery in separate cases must be heard in the court where the first filed case is pending. If the motion to consolidate discovery is granted, the case will not transfer, but the consolidating court will conduct the discovery management.
- 3.2.4. Severance: If a severance is granted, the new case will be assigned to the court where the original case pends, bearing the same file date and the same number as the original case with a letter designation; provided, however, that when a severed case has previously been consolidated from another court, the case shall upon severance be assigned to the court from which it was consolidated.
- 3.2.5. Agreement Any case may be transferred from one court to another court by written order of the judge of the court from which the case is transferred; provided, however, that the transfer must be with the written consent of the court to which the case is transferred.

3.3. MOTIONS.

- 3.3.1. Form. Motions shall be in writing and shall be accompanied by a certificate of service and proposed order granting the relief sought. The proposed order shall be a separate instrument, unless the entire motion, order, signature lines and certificate of service are all on one page. Motions shall include a certificate of conference in compliance with Rule 3.3.9.
- 3.3.2. Response. Responses shall be in writing and shall be accompanied by a proposed order. Failure to file a response may be considered a representation of no opposition.
- 3.3.3. Submission. Motions may be heard by written submission. Motions shall state a Monday date at 8:00 a.m. as the date for written submission. This date shall be at least 10 days from filing, except on leave of court. Responses shall be filed at least three days before the date of submission, except on leave of court.
- 3.3.4. Oral Hearings. Settings for oral hearings should be requested from the court coordinator. The notice of oral hearing shall state the time and date and be provided to all adverse parties or their counsel, by the requestor.
- 3.3.5. Unopposed Motions. Unopposed motions shall be labeled "Unopposed" in the caption.
- 3.3.6. Discovery motions. All motions for discovery sanctions, requests for ruling on discovery objections, and motions to compel discovery shall set out within the body of the motion, the interrogatory or request which is in dispute, and the objection and answer or response which is in dispute, so that all matters necessary for the Court's consideration are set out in one concise document.
- 3.3.7. Any motion to withdraw must comply with Rule 10 of the Texas Rules of Civil Procedure.
- 3.3.8. Any dismissal or non-suit shall be accomplished by notice with a court order.

3.3.9. Certificate of Conference. Opposed motions shall contain a certificate that:

- 3.3.9.1. States that the movant and respondent have conferred with each other and in good faith have attempted to resolve the matter and
- 3.3.9.2. Identifies the basis of disagreement between counsel; or
- 3.3.9.3. States that the parties have not been able to confer, and states in detail all efforts made to confer, including dates and methods of attempted communication.
- 3.3.9.4. The provisions of subparagraph 3.3.9. do not apply to motions for summary judgment, default judgments, motions for voluntary dismissal or non-suit, and motions involving service of citation.

3.4. TRIALS.

- 3.4.1. Manner of Setting. Cases shall be set for trial by order of the court upon it's own motion or upon the written request of any party.
- 3.4.2. Date of Setting. Cases shall be set for trial for a date certain. If a case is not assigned to trial by the Friday after the date it was set, the case will be reset. Unless all parties agree otherwise, the original setting must comply with all requisites of Rule 245 T.R.C.P.
- 3.4.3. Assignment to Trial. A case is assigned to trial when counsel are called to the court to commence the jury or non-jury trial on the merits. For purposes of engaged counsel, no court may have more than one case assigned to trial at any one time. All cases set are expected to be "ready" regardless of the order of cases on posted docket sheets.
- 3.4.4. Dead Weeks. Except with the consent of all parties, no court will assign cases to trial on the merits, or set oral hearings on motions, during any dead weeks mandated by law.
- 3.4.5. ADR. In the discretion of the court, preference in setting trials shall be given to matters in which the parties have participated in alternate dispute resolution procedures.

3.5. AGREEMENTS TO PASS

- 3.5.1. No setting shall be passed except by:
 - 3.5.1.1. Settlement; or
 - 3.5.1.2. Written agreement of all parties with approval of the court; or
 - 3.5.1.3. Verbal agreement announced to the court, followed by a memorandum, timely filed, evidencing the agreement signed by at least one attorney; or
 - 3.5.1.4. A motion for continuance granted by the court.
- 3.5.2. When a case is settled the attorneys shall immediately notify the court.

3.6. DISMISSAL DOCKET

- 3.6.1. At least once each year cases shall be dismissed for want of prosecution. Notice of intention to dismiss shall be given in accordance with Rule 165a, T.R.C.P., to all attorneys of record, and to pro se parties whose addresses are shown on the docket or in the papers of the file.
- 3.6.2. Without good cause shown, such cases will be dismissed on or after the date stated therein. Postcard notification of the dismissal order shall be given in accordance with Rule 306d, T.R.C.P.

3.7. EX PARTE MATTERS

- 3.7.1. Except in emergencies or when the clerk's office is not open for business, no application for immediate or temporary relief shall be presented to the Judge until it has been filed.
- 3.7.2. All applications for ex parte relief shall state whether or not, within the knowledge of the applicant and his or her attorney, the opposing party is represented by counsel, and if so, the name of such counsel.

- 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 328th or the 387th 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, conservator ship 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.