

**RULE 3
CIVIL CASES**

RULE 3.10

Filing and Assignment of Cases

(A) All cases are to be filed, docketed, and assigned pursuant to Rule 10 of the Rules of Judicial Administration of the Supreme Court of Texas and §§ 74.093, 74.121, and 75.011(i) Texas Government Code.

(B) Thereafter, the Courts may at any time exchange cases and Benches to accommodate their dockets or to specialize the Court's trials.

(C) Except as provided hereafter in this Rule, all cases shall be filed with the Clerk of the County Courts at Law in random order and shall be assigned, insofar as practicable, in a fair and equitable manner among the Courts with uneven numbers being assigned to County Court at Law No. 1 and even numbers being assigned to County Court at Law No. 2

Garnishment Suits

(D) Every garnishment suit shall be assigned to the court in which the principal suit is or was pending, and if the principal suit is transferred to another court, the garnishment shall be transferred likewise.

Filing on Holidays

No Local Rules under this subdivision.

RULE 3.12

Transfer of Cases; Docket Exchange; Branch Exchange

(A) After assignment to a particular court, every case, both jury and non-jury, shall remain pending in such court until final disposition, or transfer.

(B) Any 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 Judge of this County.

(C) Whenever any pending case is so related to another case pending in or disposed of by another court and Judge of the Court in which either case is or was pending may, upon motion (including his own motion) and notice, transfer the case to the court in which the earlier case was filed to facilitate the orderly and efficient disposition of the litigation with consent of the Judge of the court to which it is transferred.

(D) The following types of cases shall be subject to transfer under this Rule, but this listing is not exclusive and is given by way of example only:

1. Any case arising out of the same transaction or occurrence as did an earlier filed case, particularly if the earlier case was dismissed for want of prosecution

or voluntarily dismissed by plaintiff at any time before final judgment.

2. Any case involving one or more of the same parties as an earlier filed case and requiring a determination of any of the same questions of fact or of law as those involved in the earlier case.
3. Any case involving a plea that a judgment in the earlier filed case is conclusive of any of the issues of the later case by way of res judicata or estoppel by judgment, or any pleading that requires a construction of the earlier signed judgment or a determination of its effect.
4. Any suit for a declaration concerning the alleged duty of an insurer to provide a defense for a party to another suit.
5. Any suit concerning which the duty of an insurer to defend was involved in another suit.

(E) Whenever a case is transferred to this County by a court of another county, it shall be assigned in the manner specified by these Rules.

(F) The distribution of criminal cases is to be governed by Rule 6 of these Rules, as they now exist or as hereinafter amended.

RULE 3.13

Request for Settings -- Non-Jury

(A) All requests for the scheduling of appearances for the Court for any purpose will be made by contacting the Court Coordinator who will arrange an appropriate time to appear before the Court.

(B) Requests for hearing shall be made to the Court in which the matter is pending, in accordance with these Rules, and the attorneys making such request shall serve all other parties with notice of the date and hour set for hearing and of the particular matter which will be considered at such time.

RULE 3.14

Disposition of Uncontested Matters

No Local Rules under this subdivision.

RULE 3.15

Request for Settings -- Jury

(A) Demand for a trial by jury shall not be occasion for advancement or substantial delay of the trial or of any other proceeding in the case, nor for transfer of the case to another court.

(B) If the case is already set for non-jury trial when such demand is made, the Court may try the case with a jury on the same setting, add the case to the list of jury cases for the following week, or set it at some other convenient time.

(C) Jury fees are to be paid when a request for a jury trial is made.

(D) All requests for the scheduling of appearances for the Court for any purpose will be made by contact the Court Coordinator who will arrange an appropriate time to appear before the Court.

(E) Requests for hearing shall be made to the court in which the matter is pending, in accordance with these Rules, and the attorneys making such request shall serve notice to all counsel of the date and hour set for hearing and of the particular matter which will be considered at such time.

RULE 3.16

Jury Fee and Jury Demand

No Local Rules under this subdivision.

RULE 3.17

Docket Call and Announcements

No Local Rules under this subdivision.

RULE 3.18

Assignment of Cases for Trial

No Local Rules under this subdivision.

RULE 3.19

Conflicting Settings and Assignments of Counsel

(A) **Attorney Already in Trial in Another Court**

1. When informed that an attorney is presently in trial, the Court will determine where and when assigned.

2. This information will be verified upon request of opposing counsel.

3. The case will be placed on "hold" or "reset" or "passed", depending on when the attorney will be released.

4. If the attorney is not actually in trial as represented by him or his agent, the case will be tried without further notice.

(B) **Attorney Assigned to Two Courts for the Same Date**

1. It is the duty of an attorney to call the affected Judges' attention to all dual settings as soon as the conflicts are known.

2. Insofar 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:

(a) Criminal Cases;

(b) Juvenile Cases;

(c) Cases given preference by statute;

(d) Preferentially set cases;

(e) Case set at earliest date;

(f) Case with earliest filing date;

(g) Courts in multi-judge counties should yield to courts in rural counties in all other instances of conflicting settings.

(C) The unavailability of a particular lawyer in a firm will generally not be considered grounds for a continuance of any case where other lawyers in the firm have had significant involvement in the case, such as signing pleadings, making court appearances, or attending depositions.

(D) If any lawyer's caseload becomes a disruption to the orderly flow of a Jury Docket, the Court may limit the number of set cases in which the lawyer can be the attorney in charge and require designation of another attorney in charge for other set cases.

(E) **Counsel in Appellate Courts**

Counsel shall be excused from appearing for any purpose at a time when counsel is scheduled to appear before an appellate court of the United States, the State of Texas, or any other State.

RULE 3.20

Request for Preferential Settings

No Local Rules under this subdivision.

RULE 3.21

Resetting Cases

No Local Rules under this subdivision.

RULE 3.22

Dismissal Docket -- Involuntary Dismissal

Each Court shall set its own dismissal docket. The County Clerk shall notify each attorney and all pro se parties in writing of the date, time and place of the hearing of the dismissal docket.

RULE 3.23

Suspense Docket

Dismissal, Bankruptcy, Suggestion of Death, Abatement

The Clerk is to immediately give actual notice to the Court Coordinator or the Judge of the Court any suggestion of death or suggestion of bankruptcy proceedings when same are filed with the Clerk in the pending case.

RULE 3.24

Hearings on Pre-Trial Motions, Exceptions and Pleas

Pre-Trial Procedures -- Civil Cases

(A) Any party requiring a hearing on motions, exceptions, dilatory pleas, or other pre-trial matters shall timely request and obtain a setting thereon prior to commencement of trial on the merits.

(B) All motions, exceptions, and pleas shall be in writing and shall have a proposed order attached granting the relief sought.

(C) Failure to present motions, exceptions, and pleas in a timely manner shall cause same to be waived.

(D) A specific date or period of time may be assigned as a final date for the filing of motions, exceptions, and dilatory pleas and obtaining a hearing thereon in those cases which the Judge deems appropriate.

(E) When counsel for either party or any party pro se, after notice, fails to appear at a pre-trial setting on any motion, exception, or plea, the Court may:

1. Rule on all motions, exceptions, and pleas in the absence of such counsel;

2. Declare any motions, exceptions, or pleas for such absent party waived.
3. In the event absent counsel represents the plaintiff, the Court may decline to set the case for trial or may cancel a setting previously made or may dismiss the claims for want of prosecution, especially where there has been a previous failure to appear or where no amendment has been filed to meet exceptions previously sustained; or

4. In the event absent counsel represents the defendant, the Court, if the case has not been previously set for trial, may set the same for trial pursuant to Texas Rules of Civil Procedure 245 and/or may dismiss any counter-claim or cross-action for want of prosecution.

(F) Preliminary matters which require a hearing by the Court may be disposed of either (1) by hearing before the Court; or (2) upon such written authorities as counsel may forward to the Court, following which the Court may rule in chambers without a hearing as provided in this Rule.

1. Any party is entitled to a hearing so long as the same is requested prior to the time that the Court makes its ruling as provided in subparagraph 6.
2. Any party who desires a ruling on any matter pending shall request a ruling either by (a) requesting a hearing; or (b) filing a statement with the authorities and a statement of any relief thereupon, along with a request for ruling by submission without a hearing. Notice to be by registered or certified mail, return receipt requested.
3. The opposing party may, within ten (10) days after service of such statement, either (a) request a hearing; or (b) file a written response.
4. A requesting party shall state the estimated time required for the hearing.
5. It is the responsibility of the party requesting a ruling by

submission to notify the Court of the date of service of such statement for calculation of submission dates.

6. If no hearing is requested within seven (7) days after the time for requesting a hearing or for filing a response has expired, the Judge, in the absence of counsel, shall examine the pleadings, authorities cited, and other papers and make such rulings as the Judge deems proper, note a memorandum of such ruling among the papers of the cause and provide copies of such memorandum to counsel for all parties. Copies of all orders signed pursuant to this paragraph shall be forwarded to all counsel by the Court Coordinator at the time they are entered.

(G) Before a motion, exception, or other dilatory plea will be heard, the moving party shall first talk with counsel to determine whether there is opposition.

1. If the matter will not be opposed, the moving party shall send a proposed order, signed by all counsel of record, indicating approval.
2. If there will be opposition, or, if after reasonable efforts this cannot be determined, the Court will be advised.

RULE 3.25

Attorney Conference Requirement and Procedure

No Local Rules under this subdivision.

RULE 3.26

Non-Compliance with Conference Procedures

(A) The Court may sanction a party or counsel who fails without adequate reason to attend a court-ordered conference, by denying or deferring ruling on the motion and awarding attorneys fees. Counsel who intentionally fails to attend may be cited for contempt of court.

(B) When counsel for either party, after notice, fails to appear or is unprepared for a scheduling conference or pre-trial conference, the Court may:

1. Make all scheduling decisions and rule on all motions, exceptions, pleas, or other matters;

2. Declare any pending motions, exceptions, or pleas waived;

3. Advance or delay the trial setting consistent with Texas Rules of Civil Procedure 245, alter other scheduling matters, decline to set the case for trial or cancel a setting previously made, or take such other action that is just and proper according to the convenience of counsel present and parties represented;

4. Pass and reset the conference, in which case the party attending the conference shall be entitled to recover his reasonable attorney's fees and expenses.

5. Consider the absence of "attorney in charge" as a contempt of court, and punish counsel accordingly.

(C) Counsel at pre-trial shall either be the attorney who expects to try the case, or shall be familiar with the case and be fully authorized to state his party's position on the law and facts, make stipulations and enter into settlement negotiations as trial counsel. If the Court finds counsel is not qualified, the Court may take any of the procedures provided above.

RULE 3.27

Discovery Disputes

(A) All counsel are expected to engage in good faith negotiations pursuant to the discovery and deposition Rules of the Texas Rules of Civil Procedure.

(B) Requests for hearings on motions for discovery, or for protection or to quash, or on objections to any discovery, will not be granted unless counsel filing the same certifies that he has attempted diligently and in good faith to obtain such discovery or relief from opposing counsel by agreement and has been unsuccessful, or shows good cause for not making such attempt.

RULE 3.28

Consolidation and Severance

Consolidation of Cases

Every motion for consolidation or joinder hearing under Rule 174(a), Texas Rules of Civil Procedure, shall be heard in the Court in which the first case filed is pending, and if such motion is granted, other cases to be consolidated shall be transferred to the Court in which the first case is pending.

Severance of Cases

(A) When a motion to sever is sustained, the severed claim shall be filed as a new case in the same Court and shall be given a new number or suffix number or letter

by the Clerk in whose Court the case is pending.

(B) The original case from which the claim is severed shall retain the original number given it by the Clerk of the County Courts at Law.

(C) Before the severed claim is filed as a new case, the Clerk's requirement concerning deposit for costs shall be met.

RULE 3.29

Continuances

(A) All trial settings will be made by contacting the Court Coordinator who will set the case for jury or non-jury trial. The attorney setting the case for trial will notify all opposing counsel and pro se parties pursuant to the Texas Rules of Civil Procedure.

(B) Any attorney in charge who fails to notify the Court of a conflict in scheduling at the time he receives notice that the case is set, shall be precluded from seeking a continuance at a later time on the grounds of such conflict.

(C) Where a party is represented by more than one attorney or firm of attorneys in charge which creates a conflict in settings shall not be a ground for continuance.

(D) Any known ground for continuance of the trial setting shall be presented to the Court at least 14 days prior to the trial setting or at the pre-trial conference, if any, whichever shall occur first, or shall be waived.

(E) No requests to pass, postpone, or reset any docket control conference, pre-trial conference or other preliminary hearing shall be granted unless counsel for all parties have been notified and have had an opportunity to object.

(F) All motions for continuance of trial settings, including joint motions of all parties, shall be presented to the Court either in open court or in chambers and shall comply in civil cases with the Texas Rules of Civil Procedure.

(G) Upon granting of a motion for continuance, the order granting such motion for continuance may contain an order resetting the case for trial.

RULE 3.30

Default Judgments

No Local Rules under this subdivision.

RULE 3.31

Summary Judgments

No Local Rules under this subdivision.

RULE 3.32

**Ancillary Proceedings,
Temporary Orders and Emergency Matters**

No Local Rules under this subdivision.

RULE 3.33

Complex Case Designation

No Local Rules under this subdivision.

RULE 3.34

Alternative Dispute Resolution

No Local Rules under this subdivision.

RULE 3.35

Pre-Trial and Scheduling Conferences

(A) **Pre-Trial Procedures**

Rule 10(c) of the Rules of Judicial Administration and, Rule 166 of the Texas Rules of Procedure dealing with pre-trial procedures are incorporated herein by reference for all purposes and the following civil pre-trial rules and procedures apply to all civil cases.

(B) **Pre-Trial Conferences**

1. A pre-trial conference shall be held at the order of the Court or may be held at the request of an attorney in charge.

2. If the pre-trial conference is set at the request of an attorney, it shall be held no later than ten (10) days prior to the date set for trial, unless the Court, on timely request of one or more attorneys in charge, orders otherwise.

(C) **Scheduling**

1. All requests for scheduling of appearances for the Court for any purpose will be made by contacting the Court to arrange an appropriate time to appear before the Court.

2. Requests for hearing shall be made to the Court in which the matter is pending, in accordance with these Rules, which shall notify all counsel of the date and hour set for hearing and of the particular matter which will be considered at such time.

(D) **Docket Control Conferences**

1. A Docket Control Conference may be set at any time following forty (40) days after the date suit is filed, upon request of either party or upon the Court's own motion.

2. If no Docket Control Conference has been held by the expiration of six (6) months from the date suit is filed, then such a conference may be promptly scheduled by the Court.

3. At any time such a conference is scheduled, the Court in which the case is pending shall notify all attorneys in charge of the place, date and hour at which the

attorneys are to appear for the purpose of conducting such conference.

4. Attorneys in charge for all parties shall be present at the Docket Control Conference unless arrangements have been made for such conference to be held by telephone.

5. Each attorney shall have with him his calendar in order to arrange settings which do not conflict with any previous engagements he has.

6. Under no circumstances may an absent attorney be represented by any Docket Control Conference, whether held by telephone or otherwise, by any secretary or other non-lawyer personnel.

(E) **Binding Agreements, Scheduling, and Negotiations**

1. All Docket Control Conferences and pre-trial conferences shall be attended by the attorney in charge who is completely familiar with the case and fully authorized to state his party's position on the law and the facts, to make agreements in writing as to scheduling, to enter into stipulations, and to enter into settlement negotiations, subject to orders or practices of the Court.

2. When any attorney in charge for either party, after notice and without good cause, fails to appear for a Docket Control Conference or pre-trial conference, the Court may:

- a. Make all scheduling decisions and rule on all motions, exceptions or other matters in the absence of such counsel;
- b. Declare any motions or exceptions of the absent party waived;
- c. Advance or delay the trial setting or other scheduling matters, or decline to set the case for trial or cancel a setting previously made, according to the convenience of counsel present;
- d. Pass and reset the Docket Control Conference, in which case the party represented shall be entitled to recover his reasonable attorney's fees and expenses;
- e. Consider the absence of the attorney in charge as a contempt of court, and punish counsel accordingly.

(F) **Telephone Docket Control Conference**

1. The Docket Control Conference may be held by telephone with approval of the Court.

2. An attorney requesting that the Docket Control Conference be held by

telephone shall be responsible for arranging the conference call on the date and time scheduled by the Court Coordinator.

(G) **Purpose of Docket Control Conference**

The Docket Control Conference shall be conducted informally, and shall be for the purpose of becoming acquainted with the nature of the case and the issues presented; determining the probable length of time required for trial; fixing deadlines for joinder of additional parties, completion of discovery, or amendment of pleadings, to consider such other matters and make other docket control orders as are necessary and proper under the circumstances in regard to handling of the case; and to arrive at a trial date which all attorneys and the Court consider firm.

(H) **Docket Control Order**

The Court shall make an order which recites any action taken or agreements made at the Docket Control Conference, and such order when entered shall control the subsequent course of action, unless later modified by the Court.

RULE 3.36

Status Conference; Certificate of Progress; Proposed Preparation Plan

No Local Rules under this subdivision.

RULE 3.37

Trial Stipulations and Admissions

No Local Rules under this subdivision.

RULE 3.38

Trial Witnesses and Exhibits

Civil

(A) Cases announced to be "ready" shall be in all respects ready, with witnesses and other evidence available so that the trial may proceed without delay.

(B) When out-of-county witnesses are to be called, the burden shall be on the party using such witnesses to have them available.

(C) In so far as is possible, counsel for the parties shall pre-mark for identification all exhibits to be introduced into evidence, and shall notify the Court as to those items upon which counsel can agree may be admitted into evidence without objection and submit all objections to exhibits in writing to the Court prior to trial.

(D) In any case where a witness does not speak English, the attorney presenting such witness shall make provision for a properly qualified interpreter to be present at the time of such witness' testimony.

(E) If the witness is not available as required by this Rule, and if the absence of such witness does not require a continuance, the Court, in its discretion, may require

counsel to present the missing witness out of order, may require use of a deposition in lieu of the witness, may submit the case to the jury without benefit of the witness' testimony or may make any other order which appears just to avoid delay of the trial.

(F) Objections to video tape which will be offered at the trial of the cause shall be made and heard at a pre-trial conference in accordance with Rule 3.24 hereof and if not made at that time shall be deemed waived.

RULE 3.39

Disposition Conferences

No Local Rules under this subdivision.

RULE 3.40

Settlements

(A) All trial counsel are urged to make a bona fide effort to settle cases before announcing ready for trial.

(B) The Court will expect counsel, before announcing ready, to confer with his client and with opposing counsel concerning settlement and to recommend an offer which is in his professional opinion reasonable, unless in his professional opinion the case is not such as to justify any offer whatsoever.

(C) When an attorney settles or dismisses a case which is set for trial, he shall give notice to the Court Coordinator as soon as possible.

RULE 3.41

Jury Selection

No Local Rules under this subdivision.

RULE 3.42

Jury Charge Questions and Instructions

(A) Each party shall prepare in proper written form and present to the Court prior to or at the time of the jury selection, all jury charge questions and instructions which are raised by the pleadings.

(B) Written objections as to the form of the issues so presented shall be made as the Court may direct.

(C) Counsel will be expected at jury docket call to advise the Court which issues will be disputed and to be familiar with the authorities applicable to the questions of law raised at pre-trial.

(D) The Court may require counsel to file written briefs on any point in question and fix the date for their submission.

RULE 3.43

Submission of Orders, Judgments, Instruments

No Local Rules under this subdivision.

RULE 3.44

Withdrawal and Copying of Documents

No Local Rules under this subdivision.

RULE 3.45

Other Local Rules

Except when modified by more specific rules, this Rule 3 is applicable in all civil cases in all courts.