

**Local Rules of Practice
in the
235th District Court
Cooke County, Texas**

**Adopted:
January 31, 1989
Approved By Supreme Court
March 28, 1989**

10.4 Substitution. — Attorneys may be substituted upon motion and three days notice to all parties. The motion shall state whether the case is set for trial or other hearing.

10.5 Agreed Orders. — Counsel may withdraw or be substituted without the necessity of hearing when all parties agree to the substitution and all parties and the client agree to the withdrawal.

10.6 In civil cases no attorney of record shall be permitted to withdraw from any case without presenting a motion and obtaining from the Court an order granting leave to withdraw. Such motion shall be accompanied by the client's written consent to such withdrawal or a certificate by another lawyer that he has been employed to represent the client in the case, or a copy of such motion shall be mailed to the client at his last known address, certified mail, return receipt requested, with a letter advising that the motion will be presented to the Court on the date set for hearing, and that any objection to such withdrawal should be made to the Court in writing before such time. Proof of delivery or attempted delivery will be required at the hearing. A copy of the motion shall be delivered or mailed to opposing counsel. **Such leave will be denied where the motion is presented so near the trial date as to require delay of the trial.** After leave is granted, the clerk shall notify the party of such action and advise the party of any trial settings and that he may secure other counsel.

RULE 11. ATTORNEYS' VACATIONS — In civil cases not specially set and in criminal cases where the defendant is on bond, an attorney may not be put to trial during a period of 21 consecutive days in June, July, or August, if he has, in writing, filed with the District Clerk **AND** court coordinator designation of such period as vacation time.

RULE 12. SUBMISSION OF JUDGEMENTS/ORDERS

12.1 All orders and judgments must be submitted to the Court for entry within seven(7) days from the date of the hearing or decision by the Court. All judgments and/or orders in uncontested matters (excluding cases which are settled on the day of trial) must be presented at the time of hearing on such uncontested matters. In all uncontested divorce matters, the decree of divorce and any required involuntary wage assignment order must be presented to the Court at the time the case is heard.

12.2 All final judgments which are not approved by all counsel or opposing parties who appeared before the Court shall be forwarded to the Court, a copy shall be mailed to all opposing counsel or unrepresented parties by the party preparing the judgment. Said judgment shall be held in the Judge's chambers for ten(10) days and if no objection to the judgment is filed, it will then be signed by the Court without a hearing on entry of judgment. Any objections to the judgment must include form of order setting a hearing on the objection.

**RULES OF PRACTICE IN THE
235th JUDICIAL DISTRICT COURT**

9.29 After reporting their presence to the bailiff, attorneys should remain behind the bar until their case is called, they are asked to approach the bench or they are requested to sit inside the bar.

9.30 Attorneys shall remain seated at the counsel table during all proceedings except when addressing the Court or jury or when leave has been granted to approach the bench, witness, board, or to publish an exhibit to the jury.

9.31 Objections shall be in proper legal form. Argument will not be entertained by the Court on an objection except upon leave of Court granted.

9.32 The State, plaintiff, or moving party shall be seated at the counsel table or side of the counsel table nearer the jury box.

9.33 Overt advertising, campaign buttons, and other campaign materials are prohibited in the courtroom.

RULE 10. CONFLICTING ENGAGEMENTS

10.1 Attorney already in trial in another court:

10.11 When an attorney is presently in trial, said attorney shall inform other courts of the court and cause number of the conflicting trial. This information will be verified upon request of opposing counsel. The case will be placed on "hold" or reset, depending on when the attorney will be released.

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

10.2 An attorney assigned to more than one court for the same date:

10.21 It is the duty of an attorney to call the affected judges' attention to all multiple settings as soon as they are known.

10.22 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:

10.221 Criminal cases.

10.222 Cases given preference by statute.

10.223 Preferentially set cases.

10.224 Case with earliest filing date.

10.225 Case set at earliest date by court official.

10.226 Courts should yield to courts in rural counties in an instance of conflicting setting where necessary to utilize a called jury panel.

10.3 Withdrawal. — An attorney may be permitted to withdraw as counsel of record upon motion stating whether the case is set for trial or other hearing. The client whose attorney seeks to withdraw and all parties of record must either consent in writing to the withdrawal or be given three days notice of the hearing. All orders of withdrawal shall state the current address at which the party whose attorney seeks to withdraw may be notified of further court proceedings or explain why a current address cannot be given.

RULE 1. TIME STANDARDS FOR THE DISPOSITION OF CASES. All cases filed in the 235th Judicial District Court of Cooke County, Texas should, as far as reasonably possible, be brought to trial or final disposition in conformity with the following time standards;

1.1 CRIMINAL CASES

As provided by law and in accordance with timeliness established by the Court of Criminal Appeals, with preference given to cases wherein the defendant is incarcerated.

1.2 CIVIL CASES OTHER THAN FAMILY LAW

1.21 Civil Jury Cases — Within 18 months from appearance date.

1.22 Civil Non-Jury Cases — Within 12 months from appearance date.

1.3 FAMILY LAW CASES

1.31 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.

1.32 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, whichever is later.

1.4 COMPLEX CASES

It is recognized that in especially complex cases or special circumstances it may not be possible to adhere to these standards.

RULE 2. The District Clerk shall send the regional presiding judge a copy of the report sent each month to the Office of Court Administration, and such other information regarding docket management systems of the county as may be requested by such presiding judge.

RULE 3.

3.1 CIVIL CASES

Uncontested matters (waiver divorces, default judgments, adoptions), may be heard any morning (Monday through Thursday) from 8:30 A.M. until 9:00 A.M. without the necessity of obtaining a setting. The final decree or judgment **MUST** be submitted to the Court before the hearing begins. Settings may be obtained by request to Court Coordinator and District Clerk.

3.11 Parties must bring the Court's file and docket sheets with them to the courtroom prior to beginning the hearing.

3.12 Court Reporter will be available.

3.2 Court will publish a calendar each year designating non-jury weeks, civil jury weeks, criminal jury weeks, court's vacation time and judicial conferences. Requests for settings **MUST** be based upon the designations on the calendar. Requests for settings must be in writing and mailed to **BOTH** the District Clerk **AND** the Court Coordinator.

- 3.3 Non-jury trials may be set to follow the civil jury docket.
- 3.4 Civil jury trials may be set to follow the criminal jury docket.
- 3.5 **CRIMINAL TRIALS MAY TAKE PRECEDENCE OVER ANY OTHER MATTER IF NECESSITATED BY BACKLOG.**

3.6 All civil cases filed after January 1, 1989 will follow the following scheduling process:

3.61 A First Scheduling Conference will be set by the Court at which timelines for Discovery will be agreed upon by the parties or set by the Court. Timelines will be from 2 months to 4 months in most cases. A date for Second Scheduling Conference will be set. Failure of a litigant to appear may result IN THEIR LOSING RIGHT TO HAVE INPUT AS TO SETTING OF DATES.

3.62. At Second Scheduling Conference all pending Motions, Special Exceptions, etc., that have been on file a sufficient length of time will be heard; settlement negotiations will be inquired into by the Court; a final pretrial date will be set; a trial announcement date will be set; and a trial date will be set. FAILURE OF A LITIGANT TO APPEAR MAY RESULT IN THEIR LOSING RIGHT TO HAVE INPUT AS TO SETTING OF DATES.

3.63 Pretrial Conference will be conducted under the provisions of Rules 166-175 of the Texas Rules. Motions, special exceptions, etc., not previously ruled upon, will be ruled upon. Proposed jury questions and requested instructions **SHALL** be submitted to the Court at this conference and if not submitted will be considered untimely and may be refused. All parties **MUST** have authority to settle the litigation at this conference. Clients and/or duly authorized representatives or insurance representatives **MUST** attend this conference and engage in settlement discussions.

3.631 FAILURE TO ATTEND THIS CONFERENCE BY ALL PARTIES MAY RESULT IN SANCTIONS, INCLUDING STRIKING THE PLEADINGS OF THE PARTY NOT COMPLYING: CONTEMPT: OR THE COURT RULING AGAINST THE OFFENDING PARTY ON ALL OUTSTANDING MATTERS.

3.632 The Court will enter orders in conformity with what transpired at the pretrial conference.

3.64 **Announcement Docket** — will be to arrange the final order of the cases on the Court's trial docket, as to which jury is picked first, which case goes first week, etc. Continuances will not be granted at this Docket, except upon good cause shown.

3.65 **Trial** — will begin on Mondays, with 2 or 3 juries being picked with testimony in first case to begin on Tuesday. Docket is a two week docket and all cases set are subject to being tried either week. Cases that are not reached may be reset on a later docket, but no sooner than 30 days, unless by agreement of all litigants and the Court.

3.651 Cases will be assigned their position on the trial docket by age. Oldest cases first.

8.4 The District Clerk immediately deliver to each attorney residing or maintaining an office in Cooke County a copy of these Local Rules and this Order, a copy of these Rules be furnished by the Clerk to each lawyer and pro se party appearing in this Court and keep a record of each such delivery;

8.5 These Rules shall be construed and interpreted in addition to, and in conformity with and not as superseding the Constitution and laws of the State of Texas or the Texas Rules of Civil Procedure or Code of Criminal Procedure. These Rules shall not prohibit the Court from making Orders, settings or procedures which, in the Court's discretion, may further the orderly administration of justice;

8.6 Should any of these Rules, or any part thereof, be held invalid, for any reason, such invalidity shall not affect the validity of the other rules or parts of rules, all of which have been separately considered and adopted;

8.7 These Rules shall be effective on the date adopted and thereafter until amended, modified or repealed by Order of this Court.

RULES 9. MEETINGS OF THE JUDGES OF THE COUNTY

9.1 The Local Administrative Judge of the County or a majority of the Judges will call meetings of the Judges at least once each month, and as needed. The Local Administrative Judge of the County shall preside over such meetings, and in his absence a temporary Chairman may be elected by a majority of the quorum.

9.2 **COURTROOM DECORUM** — All attorneys shall be responsible for familiarizing their clients, witnesses, and all other people who are in attendance of the attorney of proper courtroom decorum. Attorneys as officers of the Court shall assist in maintaining proper decorum.

9.21 Each daily session of the court shall be brought to order by announcement of the bailiff, clerk, or other officer of the court requiring all to rise as the judge takes the bench.

9.22 All in attendance shall be attentive to the proceedings and cause no distraction. Conferences, discussions, or conversations to which the Court is not privy shall not take place in the courtroom while court is in session.

9.23 Beverages and edibles, including chewing gum, should not be brought into the courtroom.

9.24 No one should sit on railing, table, desk, chair arms, or prop one's feet on the furniture or fixtures.

9.25 Everyone should be attired in a manner enhancing the dignity of the court.

9.26 Gestures, facial expressions, or sounds indicating approval or disapproval of any proceeding should be avoided.

9.27 All trial participants shall be prompt. All witnesses shall be available when called.

9.28 The Court and attorneys shall address each other without familiarity. The use of first names should be avoided.

Court to determine the person's eligibility for a personal recognizance bond and whether or not they require the appointment of counsel. These hearings are to be held between 8:00 a.m. and 8:30 a.m. each morning.

RULE 6. JURY MANAGEMENT

- 6.1 As allowed by Section 62.011 of the Government Code, Petit Juries will be selected through the use of the electronic method now in use in the 235th Judicial District instead of by use of the jury wheel.
- 6.2 Grand Juries shall be impaneled from the panel selected by the Grand Jury Commission as set out under Chapter 19 of the Texas Code of Criminal Procedure.
- 6.3 Petit Juries in criminal cases will be called for each criminal week the Court has scheduled on its calendar and for any other week the Court designates as a criminal week. The criminal jury docket is to last one week at a time.
- 6.4 Petit juries in civil cases are to be called for the two week civil docket. As far as possible all civil juries will be selected on the Monday that begins the two week civil docket. On the Thursday immediately preceding the Monday jury docket, the civil cases will be assigned their final order for voir dire of the jury panel assigned to them on Monday.
- 6.5 In both criminal and civil jury trials, the jury will be in session from 9:00 a.m. to 5:00 p.m. with 1½ hours off at noon, Monday through Friday. However, these hours may be lengthened if necessary to complete the trial of all cases reached during a jury week or weeks. Saturdays may also be used.
- 6.6 The jury information cards presently in use in the 235th Judicial District shall continue to be used.

RULE 7. JUDICIAL VACATION, EDUCATION, AND HOLIDAYS — Judicial vacations, judicial conferences and holidays will be scheduled in advance by the judge as reflected on the calendar published at the first of the year.

RULE 8. AUTHORITY FOR THESE RULES — It is ORDERED by the 235th Judicial District Court of Texas, that:

- 8.1 These rules are promulgated pursuant to Rule 3a of the Texas Rules of Civil Procedure; the Supreme Court Rules of Judicial Administration, adopted February 4, 1987; the Eight Administrative Judicial Region Rules of Administration, adopted October 1, 1987; and Articles 28.01 and 33.08 of the Texas Code of Criminal Procedure;
- 8.2 The District Clerk of Cooke County, Texas records these rules and this Order in the minutes of this Court;
- 8.3 A copy of these Rules of Practice and Procedure of this Court and this Order be furnished to the Supreme Court of Texas, the Court of Appeals for the Second Supreme Judicial District of Texas and the Presiding Judge of the Eight Administrative Judicial Region of Texas;

3.652 The Court will attempt to accommodate conflicting settings of counsel. Priorities, as they relate to such conflicts shall be:

- (a) Election contests or other matters requiring assignment of a visiting judge;
- (b) Criminal cases;
- (c) Special or preferential settings;
- (d) Whether this or another Court will be without an available case for trial or shall have to disband a jury panel;
- (e) Earlier cases filed;
- (f) Regular settings;
- (g) Pre-trial setting.

3.66 No motion or special exception will be set for hearing until the moving party shall first communicate with opposing counsel to determine whether a contemplated motion or special exception will be opposed. If the motion or special exception will not be opposed, the moving party shall submit a proposed order signed by counsel for all parties indicating approval of same. If the motion or special exception will be opposed, the moving party shall state at the beginning of his motion or by letter:

“A conference was held on (date) with (name) attorney for opposing party, on the merits of this motion, or special exception. Agreement could not be reached; therefore, it is presented to the Court for determination.”

No motion or special exception will be set for hearing unless it is accompanied by the foregoing statement.

3.67 UNLESS OTHERWISE PROVIDED IN THE RULES OF CIVIL PROCEDURE, NO AGREEMENT BETWEEN ATTORNEYS OR PARTIES TOUCHING ANY SUIT PENDING WILL BE ENFORCED UNLESS IT BE IN WRITING, SIGNED AND FILED WITH THE PAPERS AS PART OF THE RECORD, OR UNLESS IT BE MADE IN OPEN COURT AND ENTERED OF RECORD.

3.68 All Cases requiring a temporary hearing shall be first filed with the District Clerk and then the appropriate papers should be presented to the Court Coordinator for a scheduled hearing date and time.

3.69 The following non-jury matters may be set on any Friday morning:

- (a) matters involving temporary orders in Divorce cases;
- (b) Habeas Corpus matters involving children;
- (c) any matter that is required by law to be determined within a fixed time period that would expire if an immediate hearing was not held.

RULE 4. FAMILY LAW MATTERS

- 4.1 All temporary matters in family law cases will be set for Fridays of each week. Settings must be obtained from the Court Coordinator at the time the suit is filed.

- 4.2 All final hearings for divorces must be set during one of the non-jury days on the Court's calendar. They will be set by the Court after 120 days if not earlier set by the parties.
- 4.3 Settings for trial hearings must be by letter addressed to **BOTH** the District Clerk **AND** the Court Coordinator.
- 4.4 Prior to hearings or temporary orders the parties must furnish information as to earnings; balances in checking accounts, savings accounts, etc.; bills, by completing the form provided in the District Clerk's Office or the Court Coordinator's office and filing the original in the Court's file and furnishing one copy to opposing counsel. These forms must be sworn to.
- 4.5 The Court has a visitation schedule published which will be followed by the Court unless there are extremely compelling reason not to. The schedule may be obtained from the District Clerk or the Court Coordinator.
- 4.6 Failure to appear and be ready to proceed on a temporary matter at the time it is set will result in the Court ruling in favor of the opposing party or postponing the hearing until all other matters set that particular date are heard, or contempt.
- 4.7 **JUVENILE CASES**
 - 4.71 There is a Juvenile Board in Cooke County which has a Juvenile Administrative Policy.
 - 4.72 The County Judge of Cooke County is the Juvenile Judge of Cooke County and the District Judge of the 235h Judicial District is the Alternate Juvenile Judge.

RULE 5. CRIMINAL

5.1 APPOINTMENTS

- 5.11 Appointment will be made on a rotating basis.
- 5.12 You must write a letter to the Court requesting to be on the list for criminal appointments.
- 5.13 You do not have to be on the criminal appointments list unless you represent persons charged with crimes able to pay fees.
- 5.14 Fees for Court appointed attorneys will be paid at the hourly rate as scheduled by the Court. Such schedule of fees and requirements for submitting statements may be obtained from the Court Coordinator or District Clerk.

5.2 ORDER OF PROCEEDINGS — All criminal cases will have the following entitled Court appearances in the following order. Clients will be required in Court for each appearance:

5.21 Arraignment after indictment — at arraignment, identity will be established, necessity for Court appointed attorney will be determined, indictment will be read, range of punishment will be explained by the Court to the defendant and, if possible, a determination will be made as to whether or not a plea bargain is a viable alternative in the case. If defendant shows up for arraignment without an attorney, Court will inquire as to resources of defendant and if defendant is not indigent, reset the arraignment for two weeks later. Arraignments will be

regularly scheduled on Friday afternoons, three weeks after indictment.

5.22 Announcement — at the Announcement Docket the State and the defendant need to be present and discuss the possibility of a plea bargain, and a date therefor. If no plea bargain is possible, the case will be set for pre-trial at a date and time certain. Whatever course is set, must be reported in the record at the Announcement Docket.

5.23 Pre-Trial — At pre-trial, both State and defendant will need to be present. PRE-TRIAL MOTIONS MUST BE FILED MORE THAN SEVEN(7) DAYS IN ADVANCE OF THE PRE-TRIAL SETTING AND COPIES THEREOF FURNISHED TO THE DISTRICT ATTORNEY, OR BE FOREVER WAIVED UNDER THE PROVISIONS OF ARTICLE 28.01 OF THE TEXAS CODE OF CRIMINAL PROCEDURE. EXCEPTIONS WILL BE ALLOWED FOR APPLICATION FOR PROBATION AND ELECTION AS TO JUDGE OR JURY SETTING PURNISHMENT.

5.24 Trial — Trial settings will be in accordance with Court's calendar. There will be an Announcement Docket on the Thursday immediately preceding the Monday trial setting. If the defendant is in jail, the same settings will apply, but the time frame will be faster. The Court reserves the right to set criminal cases to trail a civil docket and to use weeks that begin with a fifth Monday for criminal settings. The Court also reserves the right to use any civil week for criminal setting if necessitated by a backlog of criminal cases.

5.3 PLEAS

5.31 Where the defendant is on bond, guilty pleas will be set for the non-jury week of the Court's calendar unless a plea is agreed to at or before the time when the case is set for arraignment, announcement, or pretrial, in which event the guilty plea will occur at the time scheduled for the arraignment, announcement, or pre-trial.

5.32 If the defendant is incarcerated, a plea may be arranged at any time Monday through Thursday, except between 8:30 a.m. and 9:00 a.m.

5.33 IN ALL CASES, PLEA PAPERS MUST BE SIGNED PRIOR TO THE TIME SCHEDULED SO THAT THE PLEA MAY BEGIN AT THE TIME SCHEDULED.

5.4 PROBATION REVOCATIONS

5.41 Probationer will not be allowed on bond.

5.42 Hearing will be held within 20 days of arrest and confinement.

5.43 Attorney will have at least 10 days preparation time for the hearing.

5.5

PERSONAL RECOGNIZANCE BONDS — Within 3 days of arrest of a person charged with a felony (next day, if during the week), the person is to be brought before the Court for the