

**COPY**

RULES OF COURT

24TH, 135TH, AND 267TH DISTRICT COURTS

Composed of

CALHOUN COUNTY, DEWITT COUNTY, GOLIAD COUNTY,

JACKSON COUNTY, REFUGIO COUNTY AND VICTORIA COUNTY

and

377TH DISTRICT COURT

Composed of

VICTORIA COUNTY

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Pursuant to the authorization of Rule 3(a) of the Texas Rules of Civil Procedure, the following rules governing the practice in the District Courts of the 24th, 135th, 267th and 377th Judicial Districts of Texas have been adopted. Nothing contained in these rules shall be construed or interpreted as interfering with the rights of the Trial Judge to make such orders, setting or procedural directions as in his discretion may be necessary and proper for the expedient and orderly dispatch of the business of the Court.

The Clerk of the District Court of each of the counties composing the 24th, 135th, 267th and 377th Judicial Districts shall make available to each attorney practicing in such Court copies of these Rules for a fee set by the Clerk.

1. FILING AND SETTING FOR TRIAL OF CASES

Rule 1.10 Time Standards for Case Disposition.

The 24th, 135th, 267th and 377th Judicial District Courts adopt the time standards for disposition of cases as established by the Constitution, Statutes, or by Rules of the Supreme Court, Rules of Judicial Administration, or by rules

promulgated by the Court of Criminal Appeals.

The Court may elect to vary from these time standards in complex cases or special circumstances upon the motion of either party or upon the Court's own motion.

Rule 1.11 Court Sessions.

The Courts sitting in the above mentioned counties shall be set according to a schedule or calendar published. The Courts shall publish an annual calendar showing the weeks of jury trials, non-jury trials, holidays and other schedules and events and any other matters that will facilitate the work of the Court. The Clerk shall make available a copy of the calendar to each attorney or litigant appearing in the Court and to other persons requesting it.

Rule 1.12. Filing and Assignment of Cases.

All criminal cases shall be filed in the 24th Judicial District Court.

All civil cases invoking District Court jurisdiction should be filed on a rotating basis among the District Courts. On being filed, a case shall be assigned randomly to the docket of one of the District Courts. Once assigned to a Court, the case will remain on the docket of that Court for all purposes.

Rule 1.13. Docket and Bench Exchange.

Any District Judge having geographical jurisdiction may hear and determine any matter pending in either of the District Courts of this district. In setting cases, the District Clerk

will ordinarily do so without reference to which Court the same is filed in or which Judge will be present to hear cases at a particular time.

Rule 1.13(e). Setting Before A Particular Judge.

If a Judge has heard preliminary, pre-trial, or related matters in a complex or a time-consuming case, the Judge may, either on his own motion or on the suggestion of the parties, retain that case through final disposition. Such cases may be set in this manner only with the approval of the Judge who heard the earlier matters in that case. A setting before a particular Judge is not necessarily a preferential setting.

Except for unusual circumstances, post trial matters such as Motions for Judgment, Motions for New Trial, and motions ancillary to enforcement of the judgment, except for Contempt Motions in Family Law matters, will be heard before the Judge who rendered judgment in the case.

Any Judge of the District Court serving a Judicial District may act for any other Judge of the District Court serving the same county in any case where the unavailability of the Judge of the Court in which the case is assigned shall work an injustice or hardship by undue delay, including, but not limited to: criminal matters; habeas corpus matters; juvenile matters; temporary restraining orders; temporary injunction hearings; contempt matters; and other emergency matters.

Rule 1.14. Request for Settings - Non-jury Cases.

Non-jury cases may be set for trial upon request to the District Clerk of the Court in which the case is filed, or upon the Court's own motion. Such request may be made by letter, by Motion to Set or in any other manner that may be appropriate. Notice of such Motion or request shall be mailed to all other counsel in the case.

Rule 1.15. Request for settings - Jury Cases.

Jury cases may be set by request from any party or upon the Court's own Motion or at a scheduling or Docket Control Conference hereafter described under Rule 3.18. Preferably such jury settings shall be made after consultation with all attorneys of record in order that conflicts of schedule and last minute delays may be avoided.

Rule 1.16. Request for Preferential Setting.

Special preferential settings may be made by the Judge when because of unusual circumstances more than ordinary difficulty would be encountered in having all counsel and witnesses available when the case is reached in regular order. Cases specially set shall take precedence over all other matters, except matters entitled to preference by law and matters commenced but not completed the preceding week. A preferential setting shall be made only by agreement of all the parties and with consent of the Judge who will preside, after showing good cause therefor. Such preferential setting may be

abated only by the Judge involved. After a case has been preferentially set, other engagements of counsel shall not be grounds for postponement of a case specially set, unless good cause is shown on motion and notice filed more than ten days before the date set for trial! Cases preferentially set are not subject to carry over.

Rule 1.17. Emergency and Special Meetings.

Whenever immediate action of a Judge is required in an emergency and the Clerk's office is not open for business, the case shall, nevertheless, at the earliest practical time be docketed and assigned to a Court as provided by these rules, and all writs and process shall be returnable to that Court.

All applications for ex parte relief shall state whether or not within the knowledge of the applicant and his attorney the opposing party is represented by counsel and if so the names of such counsel.

Rule 1.18. Docket Calls and Announcements.

Each Judge shall call the number and style of the cases assigned for that day at the commencement of proceedings, at which time the attorneys for each party shall indicate whether they are ready for trial and how long the trial of the matter before the Court will take. Each attorney should be candid and liberal in time estimates.

The purpose of Docket Call shall be to designate actual trial cases and to assign a numerical order of trial.

Readiness should be confirmed at Docket Call.

Rule 1.19. Resetting Cases.

Jury cases not reached for trial when all parties are ready may be carried over to the next available docket not in conflict with other trial settings of the attorney, and such a "carry over" case shall have preference over other cases set for the later dockets, except for cases with a preferential setting. Preferential settings shall not be subject to a carry over status, but shall be reset by the Judge granting the preferential setting.

Dismissal cases that have been continued shall be reset by the Judge for the next trial date available, and no case shall be continued without a subsequent trial setting being made.

The reset of any dismissal case continued shall be by a Pre-trial Order which also shall set forth deadlines for joinder of parties, amendment of pleadings, completing depositions, and the making of a response or supplemental response to discovery, and other pre-trial matters. A form of such Pre-trial Order is attached as Exhibit C.

Rule 1.20. Dismissals and Dismissal Docket.

(a) Any case not disposed of within the time standards of Rule 6 of the Rules of Judicial Administration should be placed on the Dismissal Docket at Regular Intervals as directed by the Judges of the District, and notice of the Courts' intention to dismiss and the date and place of the dismissal hearing shall

be sent by the Clerk to each attorney of record and to each party not represented by an attorney of record and whose address is shown on the docket or in the papers on file, as provided in Rule 165a of the Texas Rules of Civil Procedure, and the case shall thereafter be dismissed unless the case be retained in accordance with said Rule 165a.

Rule 1.21. Suspense Docket.

If a case has been stayed because it has been abated for any reason, or because a suggestion of bankruptcy proceedings involving a party thereto has been received or for any other reason, the Cause shall not be dismissed but shall be suspended until it can be determined whether the Court may proceed on it. The attorneys shall be responsible for notifying the Court of any change in the status of such case in order that it may be expeditiously heard or dismissed. If no report is received

from the attorneys in charge or pro se parties within 12 months after being placed in suspense, the Local Administrative Judge may in his or her discretion set the case for dismissal, either at a regular dismissal docket, or at any other convenient time.

Rule 2.10. Information to Local Administrative Judge.

The District and County Clerks shall be responsible individually to each and all the Judges and Local Administrative Judge of the county for the accurate collection and reporting of such information as may be prescribed in writing by the Regional Presiding Judge. Each Judge will have

direct access to any such information and/or data collected at all reasonable times, Monday through Friday during work hours, and the Clerk shall produce all such and deliver same to any Judge on request.

Rule 3.10. Presentment of Pre-Trial Pleas and Motions.

At any time after answers are filed or a request for trial setting has been made, upon written request of any party or upon motion of any party or the Judge, a pre-trial hearing or conference shall be set.

At such pre-trial hearing or conference all parties shall present their exceptions, motions and dilatory pleas, including Motions in Limine for rulings by the Court. Failure to present such exceptions, motions and pleas in a timely manner shall cause them to be waived.

Counsel and any pro se parties will be expected at pre-trial to advise the Court which issues will be disputed and will be expected to be familiar with authorities applicable to questions of law thereby raised. Counsel and pro se parties attending the pre-trial conference shall be the person which is expected to try the case or shall be familiar with the case and fully authorized to state the parties' position on the law and facts, make stipulations and enter into settlement negotiations. Should the Court find that counsel is not so qualified, it may consider that no counsel has appeared and may take action against the party involved.

Rule 3.11. Disposition of Motions and Other Preliminary Matters.

Preliminary matters which require a hearing by the Court may be disposed of either by hearing before the Court or upon written authorities as counsel may forward to the Court, following which the Court may rule without hearing. Any party is entitled to a hearing so long as the same is requested prior to the time that the Court makes its ruling.

A pre-trial conference may be held at the request of the Court or of the parties to the case. If the pre-trial conference is set at the request of attorneys for the parties, it shall be held no later than ten (10) days prior to the date set for trial, unless the Court, upon timely request, orders otherwise. (Pre-trial conferences for criminal cases are controlled by Chapter 28 of the Code of Criminal Procedure.)

Rule 3.12. Motions for Severance.

All motions to sever are controlled by the provisions of Rules 41 and 174, Texas Rules of Civil Procedure, and such rules will be strictly construed. No severance will be granted without notice and an opportunity for hearing afforded to all parties.

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 or suffix number or letter by the Clerk in whose Court the case is pending. The original case from which the

claim is severed shall retain the original number given it by the Clerk of the Court. Before the severed claim is filed as a new case, the Clerk's requirement concerning deposit for costs shall be met.

Rule 3.13. Motions for Continuance in Jury Cases.

No requests to pass, postpone or reset any jury trial shall be granted unless counsel for all parties have been notified and the Movant certifies that the client has been notified of the filing of the motion. The motion shall also contain the correct name and address of each client represented by the Movant. If the motion is granted, the client will be notified by the Clerk.

Rule 3.14. Motions for Default Judgment.

After the appearance date of the defendant in a case has passed, a written request for entry of a Default Judgment may be made, and a form of judgment presented, together with any affidavits as to unliquidated parts of such claim. If the parties desire a hearing for default judgment, the District Clerk should be contacted for appropriate time for setting, and where pertinent, these motions should be set on non-jury dockets. If a claim is liquidated and represented by documents filed, no hearing is necessary. For unliquidated claims, affidavits or testimony may be made the basis for a judgment by the Court. The use of affidavits in Default Judgment proceedings for unliquidated claims is encouraged.

