

**LOCAL RULES OF THE DISTRICT COURTS**

**OF**

**MADISON COUNTY, TEXAS**

**12<sup>TH</sup> & 278<sup>TH</sup> JUDICIAL DISTRICTS**

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# **Local Rules of the District Courts of Madison County**

## **PURPOSE**

**The Local Rules of the District Courts of Madison County have as their primary purpose the management of the court dockets in a fair, just, equitable and impartial manner. These rules are designed to be an aid in achieving that goal and to do so in a timely and economical manner.**

## **RULE 1**

### **APPLICATION, JURISDICTION AND ASSIGNMENT OF CASES**

#### **RULE 1.1 APPLICATION**

These rules apply to all cases, civil, criminal, and family, of which the District Courts have exclusive jurisdiction in Madison County.

#### **RULE 1.2 JURISDICTION**

Exclusive jurisdiction of District Courts encompasses matters defined by the constitution, statute or case law as the sole province of District Courts.

#### **RULE 1.3 ASSIGNMENT OF CASES**

A. The District Clerk shall assign cases equally among the District Courts on a mandatory rotation basis unless specifically instructed otherwise by these rules or by the Board of Judges.

#### **B. Assignment of Juvenile Cases**

The District Clerk shall assign all Juvenile cases to the County Court.

## **RULE 2**

### **LOCAL ADMINISTRATIVE DISTRICT JUDGE, BOARD OF JUDGES AND RULES OF DECORUM**

#### **RULE 2.1 POWERS AND DUTIES OF LOCAL ADMINISTRATIVE DISTRICT JUDGE**

#### **A. Election of the Administrative Judge**

Pursuant to Section 74.091 of the Texas Government Code, a majority of the District Judges will elect a Local Administrative District Judge for a one-year term at the December meeting of each year to commence on January 1st of the following year.

## **B. Duties**

The Local Administrative District Judge will have the duties and responsibilities provided in Rule 9 of the Rules of Judicial Administration, the Regional Administrative Rules and these rules.

### **RULE 2.2 BOARD OF JUDGES**

The Board of Judges shall consist of the Judges of the District Courts. The board shall meet to discuss and resolve questions that are of common concern to all of the members thereof. The Local Administrative District Judge or any member of the Board of Judges may call meetings of the board as needed. The Local Administrative District Judge shall preside over such meetings; and in his/her absence, a temporary Chairperson may be elected by a majority of the quorum.

### **RULE 2.3 RULES OF DECORUM**

The Judges have a duty to maintain order and proper decorum in the courtroom. The Board of Judges have adopted the Rules of Decorum set forth and posted on the Court's website, these rules which shall apply to all attorneys and others appearing in the courtrooms of Madison County. The rules may be enforced by contempt or referral to the State Bar of Texas for grievance proceedings, or both, as the judge deems proper.

## **RULE 3**

### **CIVIL CASES**

#### **RULE 3.1 GENERAL**

All civil cases which the District Courts of Madison County have exclusive jurisdiction shall be efiled with the District Clerk's office. Even numbers shall be assigned to cases filed in the 12<sup>th</sup> District Court and odd numbers shall be assigned to cases filed in the 278<sup>th</sup> District Court.

#### **RULE 3.2 TRANSFER OF CASES; DOCKET EXCHANGE; BENCH EXCHANGE**

##### **A. Transfer**

After assignment to a particular court, a 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.

##### **B. Exchange of Cases**

The courts may at any time exchange cases and benches to accommodate their dockets or to expedite the court's trials, as permitted by law.

##### **C. Previous Judgment or filing**

Any claim for relief based upon a previous judgment shall be assigned to the court of original judgment. If a case is filed in which there is a substantial identity of parties and causes of action in a previously non-suited case, the later

case shall be assigned to the court where the prior case was pending.

**D. 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 that court.

**E. Severance**

If a severance is granted, the new case will be assigned to the court where the original case is pending; however, a new file date and a new cause number will be assigned to the now severed case.

**F. Presiding for another Judge**

In all cases where a judge presides for another court, the case shall remain pending in the original court.

**G. Removal to District Court**

A case that has been assigned to a County Court in error, because the subject matter is within the exclusive jurisdiction of the District Courts, will be returned to the District Clerk for reassignment.

**H. Prove-up Divorce Cases and Default Cases**

Uncontested divorce cases, default judgments, or other uncontested matters, may be heard by either of the District Judges or the Judge of the County Court, if the judge assigned the case is unavailable, subject to the requirements of jurisdiction.

**RULE 3.3 SERVICE OF PROCESS**

Process—including citation and other notices, writs, orders, and other papers issued by the court—may be served anywhere by (1) any sheriff or constable or other person authorized by law, (2) any person authorized by law or by written order of the court who is not less than eighteen years of age, or (3) any person certified under order of the Supreme Court.

**RULE 3.4 DISTRICT CLERK**

**A. Telephone Requests**

The court clerk shall limit response to telephone requests for information to the following:

- If answer has been filed.
- Existence of case on file.
- Return of service and date.
- Correct style of case when correct case number is supplied.
- If an order has been signed.
- Whether or not a jury fee has been paid and date of payment.
- Whether or not a specific document has been filed. But this does not authorize a fishing expedition.

**B. Pro Se**

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All pro se parties upon filing any petition or responsive pleading should provide an email address for service via efile, as well as address and current phone number. Any party unable to provide such information above must file a pleading requesting an exception to this rule.

### **RULE 3.5 GUARDIANS AND ATTORNEYS AD LITEM**

When it is necessary for the court to appoint a guardian ad litem for minor or incompetent parties or an attorney ad litem for absent parties, independent counsel, not suggested by any of the parties or their counsel, will be appointed. However, the court may appoint an attorney who is already counsel of record for one of the parties if the court finds that no conflict of interest or other circumstances exist which would prevent such attorney from providing adequate representation for such minor, incompetent or absent defendant.

### **RULE 3.6 DOCKET SETTINGS**

#### **A. Court Coordinator/Administrator**

Each court shall appoint a court coordinator/administrator. It shall be the duty of each court coordinator/administrator to:

Provide the court, the clerk assigned to that particular court and the general public with a printed docket of the cases set for a hearing for each day of court;

Post the docket on the webpage of the Court on the Court's county website;

Notify all counsel of settings and rulings of the court as is provided by these rules or at the direction of the court;

Prepare scheduling orders for cases assigned to their court;

Coordinate all setting requests; and

Coordinate with the juror coordinator of the District Clerk's office concerning jury trials and jury requirements.

#### **B. Setting Requests**

Requests for hearings and trials in the District Courts shall be made in writing to the court in which the matter is pending, and the attorneys making such request shall serve all counsel and parties appearing pro se with notice of the setting request. The setting request shall be in the form set forth on the Court's county webpage. If the setting request is approved, the court coordinator will confirm the setting in writing.

#### **C. Docket Control Orders**

Each court may generate docket control orders for each civil case pending. Upon approval of a docket control order the parties shall submit a setting request to the Court Coordinator for any trial setting.

#### **D. Calendars**

Court Calendars are established by the 12<sup>th</sup> and 278<sup>th</sup> Judicial District Courts for each calendar year that set forth the availability of the respective courts for trials or other hearings in the counties of Walker, Grimes, Madison and Leon. Copies of these calendars may be obtained from the District Clerk or Court Coordinator.



**RULE 3.7 Pre-Trial Motions****A. Pre-Trial Motions (Non Summary Judgment)****Form**

Motions and responses shall be in writing and shall be accompanied by a proposed order granting or denying the relief sought. The proposed order shall be a separate instrument.

**Response**

Responses shall be in writing. Responses shall be filed before the hearing date. Failure to file a response may be considered a representation of no opposition. A reply may be filed at any time after a response is filed prior to the court's ruling.

**Certificate of Conference**

Opposed motions and responses shall contain a Certificate of Conference indicating that the counsel involved have attempted to resolve the dispute prior to filing of the motion or response, the date of such attempt and the manner of communication of such an attempt, or any other requirement of the court.

**B. Pre-Trial Motions (Summary Judgment Rule 166(c) TRCP)****Motion**

The motion shall state the specific grounds thereof in numerical order and shall state the specific facts relied upon in each ground, identify the source of those facts, and specify where in the summary judgment evidence the facts are found. The motion shall contain a clear and concise argument for each ground with appropriate citations to authorities relied upon and specific references to the summary judgment evidence.

**Response**

The response shall address the motion in the same numerical order established in the motion for summary judgment. The response shall state the specific facts relied upon, identify the source of those facts, and specify where in the summary judgment evidence the facts are found. The response shall set out a clear and concise argument with appropriate citations to authorities relied upon and specific references to the summary judgment evidence.

**RULE 3.8 ALTERNATE DISPUTE RESOLUTION AND MEDIATION****A. Alternate Dispute Resolution**

In order to encourage the early settlement of disputes and to carry out the responsibilities of the courts as set out in Chapter 154 of the Texas Civil Practices and Remedies Code, appropriate alternative dispute resolution procedures will be encouraged and utilized.

**B. Mediation**

The courts encourage mediation in order to facilitate the settlement of disputes and litigation. Each court shall adopt a procedure for the use of mediation in all civil cases. It is in the sound discretion of the trial court whom to use as a mediator and the procedures for same.

**RULE 3.9 CONTINUANCES**

Any motion for continuance of the trial setting shall be presented to the court pursuant to the Texas Rules of Civil

Procedure. The proposed order granting or denying such motion shall contain a provision for resetting the case for trial on a specific date and time.

### **RULE 3.10 SETTLEMENTS**

All trial counsel are required to make a bona fide effort to settle cases at the earliest possible date before trial. The court will expect counsel to confer with his/her client and with opposing counsel concerning settlement offers. When an attorney settles or dismisses a case that is set for trial, he shall give notice to the court as soon as possible.

### **RULE 3.11 MOTIONS IN LIMINE**

The Standing Order in Limine, on the Court's webpage, shall apply to all civil cases tried in the District Courts of Madison County and should counsel desire that additional matters be included a motion will be required.

### **RULE 3.12 JURY CHARGE, DEFINITIONS, INSTRUCTIONS AND QUESTIONS**

Each party shall prepare in proper written form and present to the court prior to trial or the jury selection all jury charge definitions, instructions and questions which are expected to be raised by the pleadings and evidence and upon which the party has an affirmative burden. The charge shall be provided in both written form and via email, flash drive or other electronic form specified by the court.

### **RULE 3.13 VOIR DIRE**

The District Clerk shall align the Juror Information Cards in numerical order and seat the panel in numerical order. The judge will qualify the panel and accept or reject any excuses. After the final panel is determined, the attorneys must make their decision on whether or not a shuffle will be requested. The court will recess the panel to give the clerk time to copy the jury cards and to make a new list of names of jurors, either in shuffled order or in numerical order. When the new list is completed and cards copied the clerk will re-seat the jury according to the list and voir dire will begin. The attorneys and judge will be furnished a copy of the list and jury information cards.

Challenges for cause will be made after all parties have completed their voir dire examination of the panel. After all counsel have completed their voir dire examination, the attorneys will be asked to approach the bench. Counsel will be asked in turn for the juror number of the jurors whom they wish to challenge for cause. If, in the opinion of the court, sufficient evidence has been adduced to support a ruling, the challenge will be granted or denied without further questions. Otherwise, the panel member will be called to the bench and each counsel will be allowed a few questions. The panel member will then be excused to return to their seat, and the challenge will be ruled on outside the presence of the panel member.

If any panel member responds to questions during voir dire examination in a manner which makes it clear that they possess such strong opinions that a challenge for a cause will clearly be good, and there exists a possibility that further responses may "poison" the entire panel, counsel should diplomatically terminate the inquiry and avoid further inquiries in the presence of the panel. If adverse counsel has a good-faith belief that the panel member can be rehabilitated, it will be pursued on an individual basis after the general voir dire examination.

Counsel will be allowed to tell the panel what their contentions are in order to provide a context for their voir dire examination. Detailed recitations of facts should be reserved for opening statement.

If panel members ask counsel about the existence of insurance or any other specific factual matter, counsel should direct the question to the Court.

### **RULE 3.14 DISMISSAL DOCKET; INVOLUNTARY DISMISSALS**

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**A. Time Standards for Civil Case Dispositions**

**A. Civil Jury Cases**

All civil jury cases shall be tried or dismissed within 18 months from appearance date.

**B. Civil Non Jury Cases**

All civil non-jury cases shall be tried or dismissed within 12 months from appearance day.

**B. Dismissal Dockets**

All cases not brought to trial or otherwise disposed of which have been on file for more than the specified time period as established by these rules shall be placed on the dismissal docket by the Court.

**C. Notice**

When a case has been placed on the dismissal docket, the court shall promptly send notice of the court's intention to dismiss for want of prosecution to each attorney of record and pro se party whose address is shown in the clerk's file. A copy of such notice shall be filed with the papers of the cause.

**D. Motion to Retain**

Unless a written motion to retain has been filed prior to the dismissal date as set forth in the notice of intention to dismiss, such case shall be dismissed. Notice of the signing of the order of dismissal shall be given as required by [Rule 165a of the Texas Rules of Civil Procedure](#). Failure to mail notices as set out above shall not affect any of the periods mentioned in [Rule 306 \(a\) of the Texas Rules of Civil Procedure](#) except as provided in that rule.

**E. Motion for Reinstatement**

A motion for reinstatement after dismissal shall follow the procedure and be governed by the provisions of [Rule 165a of the Texas Rules of Civil Procedure](#) relating to reinstatement.

**RULE 4**

**FAMILY LAW CASES**

**RULE 4.1 GENERAL**

The filing, assignment, and transfer of cases under the Family Code shall be in accordance with Rule 1 of these rules. All cases filed pursuant to the Family Code, shall be governed by Rule 3 and 4 of these rules.

**RULE 4.2 TIME STANDARDS FOR FAMILY LAW CASE DISPOSITION**

Cases shall be tried or dismissed within 6 months from the 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. Cases not concluded within these time periods will be placed on the Dismissal For Want of Prosecution Docket.

**RULE 4.3 JUVENILE CASES**

The Juvenile Board of Madison County has designated the County Court as the Juvenile Court of Madison County.

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Rules for the disposition of juvenile cases will be adopted by the Juvenile Court in conformity with Rule 1 of the Second Administrative Judicial Region of Texas Regional Rules of Administration and Title 3 of the Texas Family Code. These cases shall be filed in the District Clerk's office pursuant to rules established by the Juvenile Judge and District Clerk, copies of these rules may be obtained from the Juvenile Judge.

**RULE 4.4 DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES CASES** (Child Protective Services)

Disposition of Texas Department of Family and Protective Services (CPS) cases shall be in conformity with those provisions set forth in Title 5 of the Texas Family Code. These cases shall be filed in the District Court, but shall be heard by the 2<sup>nd</sup> Region Child Protection court unless referred to the 12<sup>th</sup> or 278<sup>th</sup> District Court.

**RULE 4.5 ATTORNEY GENERAL CASES**

Disposition of Attorney General Cases shall be in conformity with the Texas Family Code, but will be heard by the A.G. Associate Judge appointed by Second Judicial Region Presiding Judge.

**RULE 4.6 TEMPORARY ORDERS**

**A.** Except in emergencies when the District Clerk's office is not open for business, no application for immediate or temporary relief shall be presented to a judge until it has been filed and assigned to a court. If the judge of the court to which such case is assigned is absent or is occupied with other matters, the coordinator of the assigned court shall insert a date and hour for hearing in any form of a proposed order before such application may be presented to any other judge, who may sit for the judge of the court in which the case is pending and shall make all writs and process returnable to the assigned court.

**B.** Whenever immediate action of a judge is required in an emergency when the clerk's office is not open for business, the case shall at the earliest practicable time be docketed and assigned to a court, and all writs and process shall be returnable to the assigned court. If the judge of such court is not available to hear the application for temporary relief at the time set, any court with jurisdiction may preside in this case.

**RULE 47 EX PARTE ORDERS**

**A.** All applications for ex parte relief shall be presented to the court to which the case is assigned, unless emergency circumstances exist and then shall be presented in accordance with Paragraph 4.5.B.

**B.** In any case in which counsel of record for the nonmoving party has been designated, said application shall be presented to said counsel, by efile, email, fax, hand delivery, or other method of service designed to give opposing counsel immediate notification, in addition to the requirements of Rule 21a TRCP.

**RULE 4.8 STANDING TEMPORARY RESTRAINING ORDERS**

**A.** The court hereby ORDERS that in all divorce suits filed, a Standing Temporary Restraining Order in the form as posted to the Court's webpage is imposed on all parties to the suit. All petitions for divorce shall contain a statement signed by the Petitioner evidencing receipt of a copy of the Standing Temporary Restraining Order, and in the absence of such paragraph, it shall be DEEMED that Petitioner, by invoking the court's jurisdiction, has constructive notice of the Standing Temporary Restraining Order and subjects himself or herself to it.

**B.** The clerk of this court shall attach, to each citation to be served, a copy of the Standing Temporary Restraining Order. Said Standing Temporary Restraining Order shall become effective on the Respondent when citation is served, a waiver of citation is signed, or actual notice in some other manner is received.

**C.** The Standing Restraining Order remains effective until the temporary hearing, if any, or if a temporary hearing

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is not requested by either party, until the final hearing. Should a temporary hearing be requested by either party, then the court shall determine whether the Standing Temporary Order shall remain in effect until the final hearing and absent a ruling of the court to the contrary, the Standing Restraining Order shall remain effective until the final hearing.

#### **RULE 4.9 PROPOSED PROPERTY DIVISIONS AND PROPOSED SUPPORT DECISIONS**

##### **A. Filing**

**Proposed Property Division Statements** shall be filed in all domestic relations cases related to divorce. **Proposed Support Decision Statements** shall be filed in all cases involving modification of conservatorship, support or periods of possession. These proposals shall be furnished in the format as posted on the Court's webpage.

##### **B. Temporary Orders**

In any hearing for temporary orders in which child support or spousal support is an issue, completion and exchange of **Proposed Support Decision Statements** is required prior to commencement of the hearing in the form as posted to the Court's webpage.

##### **C. Trial**

A party's final Proposed Support Decision Statements regarding child support and a Proposed Property Division Statement shall be exchanged no later than ten (10) days before trial, or as required by the docket control order, and filed with the court before the commencement of trial. This proposed division of assets and liabilities and the proposed findings regarding support shall be furnished in the format set as posted to the Court's webpage.

##### **D. Failure to file Proposed Property Division and Proposed Support Decision Statements.**

Failure of either party to file Proposed Property Division and Support Division Statements may result in the court adopting as stipulated the information filed by the complying party. The non-complying party will be prohibited from contesting the accuracy of the information presented by the complying party. If both parties fail to comply with these rules, the court may dismiss the case from the docket.

#### **RULE 4.10 PARENT EDUCATION AND COUNSELING**

Referral may be made in suits affecting the parent-child relationship requiring the parents' attendance at an educational program for divorcing parents. In the discretion of the court, such a referral may also be made for parents involved in modification or enforcement litigation. Counseling may also be ordered in appropriate cases as authorized by the Family Code, including referral to a family violence program pursuant to a protective order under Chapter 71 of the Family Code.

#### **RULE 4.11 DISCOVERY**

Pursuant to Texas Rules of Civil Procedure 194.2(c) Content in Certain Suits Under the Family Code:

(1) In a suit for divorce or annulment, a party must, without awaiting a discovery request, provide to the other party a copy of:

- (A) all documents pertaining to real estate;
- (B) all documents pertaining to any pension, retirement, profit-sharing, or other employee benefit plan, including the most recent account statement for any plan;
- (C) all documents pertaining to any life, casualty, liability, and health insurance; and
- (D) the most recent statement pertaining to any account at a financial institution, including banks, savings and loans institutions, credit unions, and brokerage firms.

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(2) In a suit in which child or spousal support is at issue, a party must, without awaiting a discovery request, provide to the other party a copy of:

(A) all policies, statements, and the summary description of benefits for any medical and health insurance coverage that is or would be available for the child or the spouse;

(B) the party's income tax returns for the previous two years or, if no return has been filed, the party's Form W-2, Form 1099, and Schedule K-1 for such years; and

(C) the party's two most recent payroll check stubs.

Failure to exchange these items may result in sanctions being imposed on the attorney, or party, or both, as the court deems proper.

#### **4.12 Child Support Disbursement Unit**

All child support payments will be made to State Disbursement Unit.

## RULE 5

### CRIMINAL CASES

#### RULE 5.1 GRAND JURIES AND ASSIGNMENT OF CASES

##### **A. Grand Juries**

The 12<sup>th</sup> Judicial District Court shall select and impanel the Grand Jury for the January term of court and the 278<sup>th</sup> Judicial District Court shall select and impanel the Grand Jury for the July term of court. The grand juries shall hold all of their meetings in the Madison County Courthouse, in the room designated by the impaneling judge. The Grand Jury shall be impaneled in accordance with Article 19A of the Code of Criminal Procedure.

##### **B. Grand Jury Minute Book**

The rules regarding presentment of indictments by a Grand Jury to the District Court are set forth in Articles 20.21 and 20.22 of the Code of Criminal Procedure. Article 20.21 requires that the Foreperson of the Grand Jury shall deliver the indictments to the Judge or District Clerk and that at least nine members of the grand jury must be present when the delivery is made. Article 20.22 requires that the fact of presentment be entered upon the minutes of the court. The “minutes of the court” are contained in the Grand Jury Minute Book. The Grand Jury Minute Book shall remain in the custody of the District Clerk at all times except when the Grand Jury is in session. The Grand Jury Minute Book is not a secret book or document.

When the grand jury begins a session, the District Clerk shall have all members present sign the Grand Jury Minute Book as proof of their presence at the session and to make a record of the fact that a quorum was present at the session. The District Clerk shall then deliver the book to the Secretary of the Grand Jury. When a true bill of indictment is voted in the affirmative by at least nine members of the Grand Jury, the following information shall be entered by the Secretary of the Grand Jury in the Grand Jury Minute Book, and nothing else, to wit:

1. the date of the session;
2. name of the person indicted;
3. offense; and
4. names of the witnesses upon which the indictment is founded.

If the defendant is not in custody or under bond at the time of the presentment of the indictment, upon request of the District Attorney, the entry of the name of the defendant in the book may be delayed until such time as the capias is served and the defendant is placed in custody or under bond, at which time the name of the defendant will be entered in the book by the District Clerk. It is the duty of the District Clerk to verify that the indictments delivered to the clerk conform with the information contained in the Grand Jury Minute Book. If there is a variance, it should be called to the attention of the Secretary, Foreperson and District Attorney immediately.

When a defendant is “no-billed”, meaning that a case was presented to the grand jury regarding an individual and less than nine affirmative votes were given for a true bill of indictment, a **Certificate of No-Bill** shall be signed by the Foreperson certifying that the case was presented to the Grand Jury and that a no-bill was returned. The District Clerk shall handle the certificates as follows:

**A. Defendant Under Arrest:** If the defendant is under arrest, a copy of the certificate shall be delivered to the Sheriff and the defendant immediately.

**B. Defendant Under Bond:** A copy of the certificate shall be delivered to the surety (bondsman) and the defendant immediately.

C. All other certificates shall be held by the clerk under seal, unless ordered released by the district court.

**C. Assignment of Cases After Indictment**

Except as otherwise provided in this Rule, the clerk shall equally distribute every criminal case filed by indictment into the two district courts. Even numbered cases shall be assigned to the 12<sup>th</sup> District Court and odd numbered cases shall be assigned to the 278<sup>th</sup> District Court.

Capital cases shall be assigned on an independent, rotational basis among the district courts.

**D. New Indictments After Assignment**

After assignment, the clerk shall assign any new indictment against a defendant to the same court.

**E. Re-indictments**

The clerk shall assign any re-indictment of the same defendant to the same court in which the prior indictment was assigned.

**F. Co-Defendant Indictment**

The clerk, after random assignment of an indictment to a court shall assign any co-defendant subsequently indicted to the same court in which the first co-defendant's indictment was assigned.

**G. Information to the District Clerk**

The District Attorney shall note on a non-substantive part of the indictment the following information:

Whether there are other pending indicted cases on the defendant;

Whether the indictment is a re-indictment and;

The names of any co-defendants not named in the indictment.

The District Attorney shall also furnish the clerk information in writing as to whether or not a non-standard bond will be sought by the State and the factors supporting same.

**RULE 5.2 BOND**

Bonds will be set on each criminal case in accordance with Chapter 17 of the Code of Criminal Procedure. The court may also, in a proper case, dispense with the requirement of sureties and require only the personal recognizance of the defendant, with or without conditions.

**RULE 5.3 BOND SURRENDER**

Sureties requesting a release on their liability on a Bail Bond must complete the Affidavit to Release Surety and present the completed affidavit to the District Judge that the Defendants case is assigned to. The form and requirements for release are posted to the Court's webpage.

**RULE 5.4 BOND FORFEITURE**

Bonds will be forfeited on all defendants who do not appear in court when scheduled or otherwise ordered to appear in court. The name of the defendant will be called three times at the courtroom door by the Bailiff and if there is no



answer the bond will be forfeited and a capias issued by the clerk for his arrest. It is the duty of the District Clerk to prepare a Judgment Nisi with the aid of the District Attorney. The Judgment Nisi proceedings will be docketed as a civil matter in the court that ordered the forfeiture and the defendant and his sureties shall be served with citation. After the surety files an answer or defaults, the District Clerk shall notify the proper court coordinator for a trial setting to be docketed. The sureties shall be given forty-five days advance notice of any trial setting.

#### **RULE 5.5 POST CONVICTION PROCEEDINGS**

The clerk shall file any motion to revoke probation or any post-conviction application for writ of habeas corpus in the court having granted probation or entered the judgment in the case.

#### **RULE 5.6 ARRAIGNMENT**

Defendants shall be arraigned at the earliest possible time after indictment. Presence of the defendant is mandatory at arraignment unless excused by the court or counsel for defendant has filed a written waiver of arraignment prior to the date of the arraignment. At arraignment a scheduling order shall be entered setting discovery deadlines, dates of pretrial hearing, docket call and trial date.

#### **RULE 5.7 SCHEDULING ORDER**

Each court will adopt a scheduling order that shall be delivered to the defendant and counsel at arraignment. The defendant and his counsel and counsel for the state shall sign the scheduling order.

#### **RULE 5.8 STANDING DISCOVERY ORDER**

The State of Texas is hereby ordered to furnish discovery to the defendant as provided in Article 39.14 of the Code of Criminal Procedure. Said discovery shall be furnished no later than seven (7) days prior to the pretrial hearing as set forth herein. Counsel for defendant shall register for the e-discovery portal with the Madison County District Attorney's office for discovery and accept discovery in that format.

#### **RULE 5.9 PRETRIAL HEARING**

The pretrial hearing shall be held within sixty (60) days from date of arraignment. All matters preliminary to actual trial on the merits must be brought to the attention of the court at this hearing.

#### **RULE 5.10 DOCKET CALL**

The court coordinator shall prepare a list of all cases on the trial docket. The defendant and his counsel shall be present and announce ready or not ready. An announcement of "not ready" must be accompanied by a motion for continuance.

#### **RULE 5.11 MOTIONS FOR CONTINUANCE**

All motions for continuance, whether filed by the State or the defendant, must comply with the applicable law contained in the Code of Criminal Procedure and must be presented to and considered by the court in accordance with the scheduling order. Except for good cause shown and upon compliance with these rules, the court shall not consider any motion for continuance on the scheduled trial date.

#### **RULE 5.13 STANDING ORDER IN LIMINE**

Revised 07/26/22

Revised 01/10/2023

The Standing Order in Limine, posted to the Court's webpage, shall apply in all felony jury trials in the District Courts of Madison County.

**RULE 5.14 VOIR DIRE**

The District Clerk shall align the Juror Information Cards in numerical order and seat the panel in numerical order. The Judge will qualify the panel and accept or reject any excuses. After the final panel is determined, the attorneys must make their decision on whether or not a shuffle is requested. The court will recess the panel to give the clerk time to copy the jury cards and to make a new list of names of jurors, either in shuffled order or in numerical order. When the new list is completed and cards copied the clerk will re-seat the jury according to the list and voir dire will begin. The attorneys and judge will be furnished a copy of the list and jury information cards.

Challenges for cause will be made after all parties have completed their voir dire examination of the panel. After all counsel has completed their voir dire examination, the attorneys will be asked to approach the bench. Counsel will be asked in turn for the Juror Number of the jurors whom they wish to challenge for cause. If, in the opinion of the court, sufficient evidence has been adduced to support a ruling, the challenge will be granted or denied without further questions. Otherwise, the panel member will be called to the bench and each counsel will be allowed a few questions. The panel member will then be excused to return to their seat, and the challenge will be ruled on outside the presence of the panel member.

If any panel member responds to questions during voir dire examination in a manner which makes it clear that they possess such strong opinions that a challenge for a cause will clearly be good, and there exists a possibility that further responses may "poison" the entire panel, counsel should diplomatically terminate the inquiry and avoid further inquiries in the presence of the panel. If adverse counsel has a good-faith belief that the panel member can be rehabilitated, it will be pursued on an individual basis after the general voir dire examination.

**RULE 5.15 TIME STANDARDS**

Criminal cases shall be completed within 12 months from earliest date of arrest or indictment.

**RULE 5.16 FAIR DEFENSE ACT**

The rules adopted by Madison County concerning the Fair Defense Act may be obtained from the Local Administrative Judge.

**RULE 6**

**CONFLICTING ENGAGEMENTS OF ATTORNEYS**

**A. Attorney already in trial in another court.**

When informed that an attorney is presently in trial, the court will determine where and when assigned. This information will be verified upon request of opposing counsel. The case will be placed on "hold" or reset, depending upon when the attorney will be released. If the attorney is not actually in trial as represented by the attorney or his agent, the case will be tried without further notice.

**B. Attorney assigned to two courts for the same date:**

It is the duty of every attorney to call the affected Judge's attention to all dual settings as soon as they are known. Insofar as is 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:

Criminal cases

Cases given preference by statute

Preferentially set cases

Case set at earliest date

Case with earliest filing date

Cases in Metropolitan areas should yield to courts in rural areas

If the conflict cannot be resolved between the two judges, the Local Administrative Judge or the Regional Presiding Judge will resolve the conflict.

**C. Designation of Attorney in Charge**

Every case shall have an attorney in charge designated.

**RULE 7**

**ATTORNEY VACATIONS**

**A. DESIGNATION OF VACATION**

Subject to the provisions of subparts B and C of this rule, an attorney may designate not more than four weeks of vacation during a calendar year as vacation, during which that attorney will not be assigned to trial or required to engage in any pretrial proceedings. This rule operates only where lead counsel, as defined by T.R.C.P., is affected, unless the trial court expands coverage to other counsel.

**B. SUMMER VACATIONS**

Written designation for vacation weeks during June, July, or August must be filed with the District Clerk by May 15. Summer vacations so designated will protect the attorney from trials during those summer weeks, even if an order setting the case for trial was signed before the designation was filed.

**C. NON-SUMMER VACATIONS**

Written designations for vacations in months other than June, July, or August must be filed with the district clerk by February 1. Non-summer vacation weeks may not run consecutively for more than two weeks at a time. Non-summer vacation weeks so designated will not protect an attorney from a trial by an order signed before the date the designation is filed. (Source Rule 11 Second Region)

**RULE 8**

**JUDGE'S VACATION**

If a judge will be out of the district for a week or more, for vacation, attending a seminar or illness he/she shall notify the Local Administrative Judge and the Presiding Judge of the Second Administrative Region so that the business of the court can be taken care of during any such absence.

**RULE 9**

**LAWYER'S CREED**

The Lawyer's Creed is applicable in all cases tried in the District Courts or County Court of Madison County.

**RULE 10**

**ADOPTION, APPROVAL AND NOTICE**

**RULE 10.1 ADOPTION**

These rules are adopted by the District Judges for all purposes. All previous rules of the District Court of Madison County are hereby repealed.

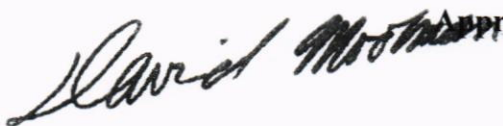
**RULE 10.2 APPROVAL**

Upon review by the Judge of the Second Administrative Region and posting on the Office of Court Administration's website, these rules shall become effective immediately, and so long thereafter until amended, repealed or modified. Each numbered or lettered paragraph of these rules shall be considered to be separate and distinct from all other portions hereof, and if any portion should be declared by a higher court to be improper, such declaration will not affect any other portion not so declared to be improper.

**RULE 10.3 NOTICE**

The District Clerk is directed to record these Rules in the Civil Minutes of the 12th and 278th District Courts of Madison County, Texas.

Approved on this the 4th day of January, 2023.



**David W. Moorman**  
District Judge  
12<sup>th</sup> Judicial District



**Hal R. Ridley**  
District Judge  
278<sup>th</sup> Judicial District

# **RULES OF DECORUM**

## **RULE 1: OPENING PROCEDURE**

Immediately before the scheduled time for the first court session on each day, the bailiff shall direct all persons present to their seats and shall cause the courtroom to come to order. As the Judge enters the courtroom, the bailiff shall state:

“Everyone rise, please.”

And while everyone is still standing, the bailiff shall announce:

“The \_\_\_\_\_ District Court of Madison County, Texas is now in session, Judge \_\_\_\_\_ presiding. Be seated, please.”

## **RULE 2: RECESS**

When the Judge announces a recess, the bailiff shall state:

“Everyone rise, please.”

And all shall remain standing until the judge leaves the courtroom, whereupon the bailiff shall announce:

“This Court is recessed until \_\_\_\_\_ (a certain time.)”

In reconvening after a recess, the bailiff shall call the courtroom to order and request everyone to rise as the judge enters, and shall then state:

“Be seated, please.”

Before a recess of a jury trial, the jury will be excused, and all other persons present shall rise while the bailiff conducts the jury from the courtroom into the jury room.

After a recess, the bailiff shall direct all jurors to the jury room and shall call the courtroom to order and request everyone to rise as the Judge enters, as in non-jury trials. After everyone is reseated, the jury shall be returned to the jury box from the jury room and everyone except the judge will rise again until the jury is seated.

## **RULE 3: GENERAL RULES OF COURTROOM CONDUCT**

All officers of the court except the judge, and jurors, and all other participants except witnesses, who have been placed under the rule, shall promptly enter the courtroom before the scheduled time for each court session. When the bailiff calls the court to order, complete order should be observed.

In the courtrooms, there shall be:

**No tobacco used.**

**No chewing gum used.**

**No reading of newspaper or magazines.**

**No bottles, cups or beverage containers except court water pitchers and cups.**

**No edibles.**

**No propping of feet on tables or chairs.**

**No noise or talking that interferes with court proceedings.**

The judge, the attorneys, and other officers of the court will refer to and address other court officers or participants in the proceedings respectfully and impersonally, as by using appropriate titles and surnames rather than first names. The form of address toward the judge shall be (“Judge,” or “Your Honor”).

The oath will be administered in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth.

All officers of the court shall dress appropriately for court sessions.

**RULE 4: CONDUCT OF ATTORNEYS**

Attorneys should observe the letter and spirit of all canons of ethics, including those dealing with discussion of cases with representatives of the media and those concerning improper *ex parte* communications with the Judge.

Attorneys should advise their clients and witnesses of local Rules of Decorum that may be applicable to them.

All objections, arguments, and other comments by counsel shall be directed to the Judge, or jury and not to opposing counsel.

While another attorney is addressing the judge, or jury, an attorney should not stand for any purpose except to claim the right to interrupt the attorney who is speaking.

Attorneys should not approach the bench without leave of court and must never lean on the bench.

Attorneys shall remain seated at the counsel tables at all times except:

- a) **When the judge enters or leaves; and**
- b) **When addressing the judge, or jury; and whenever it may be proper to handle documents, exhibits, or other evidence. (Leave of court is not required)**

Attorneys should anticipate any need to move furniture, appliances, or easels, and should make advance arrangements with the bailiff. Tables should not be moved without leave of court.

Only attorneys and parties are permitted to sit at the counsel tables. All secretaries, paralegals, investigators and other personnel must remain outside the bar unless granted specific leave of court to enter.

