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LOCAL RULES OF PRACTICE
AND PROCEDURE

25TH and 2ND 25TH Judicial Districts of Texas,
Counties of
Colorado, Gonzales and Lavaca

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The Honorable William D. Old III
The Honorable W.C. Kirkendall
Judges Presiding

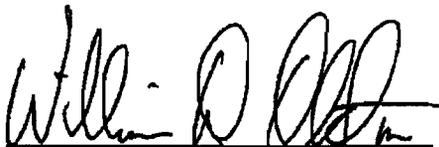
2013

ORDER ADOPTING RULES OF THE
25th AND 2nd 25th JUDICIAL DISTRICTS OF TEXAS
FOR COLORADO, GONZALES AND LAVACA COUNTIES

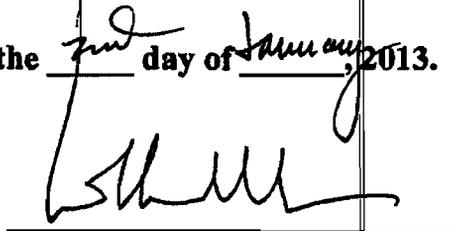
It is Ordered by the 25th and 2nd 25th Judicial District Courts of Texas that:

1. The 25th and 2nd 25th Judicial Districts Local Rules of Practice and procedure for Colorado, Gonzales and Lavaca Counties as hereinafter set out are hereby adopted subject to the approval of the Supreme Court of Texas and the Council of Judges of the Third Administrative Judicial Region of Texas;
2. The Clerks of the Courts in Colorado, Gonzales, and Lavaca Counties shall record these Rules of Practice and Procedure and this Order in the Minutes of the Court;
3. A copy of these rules and this order shall be furnished to the Supreme Court of Texas, the Courts of Appeals for the 1st, 13th and 14th Districts of Texas and the Presiding Judge of the Third Administrative Region of Texas;
4. Each Clerk of the Courts shall deliver to each lawyer maintaining an office within the county each Clerk serves a copy of these local rules; a copy shall further be furnished by the Clerk to each lawyer and *pro se* party appearing in any civil action in this Court. Each Clerk shall keep a current record of such delivery, the date thereof, and make such record available for inspection.
5. These Rules of Practice and Procedure, as may hereafter be amended, 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, the Texas Rules of Civil Procedure, rules adopted by the Council of Judges of the Third Administrative Judicial Region or rules promulgated by the Supreme Court of Texas.
6. Should any of these rules, or any part thereof, or any amendments thereto, 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.
7. These rules shall be effective on the date this Order is signed and thereafter until amended, modified or repealed by the order of these Courts.

Signed, Ordered and Effective this the 7th day of January, 2013.



25th Judicial District Judge



2nd 25th Judicial District Judge

Local Rules of Practice for the 25th and 2nd 25th Judicial District Courts of Texas in Colorado, Gonzales and Lavaca Counties

The dockets of the 25th and 2nd 25th District Courts of Colorado, Gonzales and Lavaca Counties are to be held in accordance with schedules published annually which may be obtained from the office of either judge or from the offices of the district clerks.

Any case filed in the 25th or 2nd 25th Judicial District Courts may be heard in either Court without transfer or further order except:

1. A family case involving custody of a child, if contested temporary orders are heard, must be set thereafter in the Court hearing said temporary orders;
2. Any motion to modify custody must be heard in the Court issuing the order to be modified if that Court heard contested hearings in making the original order;
3. Any case in which judge is disqualified or recused must be heard only in the other Court; and
4. Any other case where the Court orders the case to a particular judge.

In all proceedings in these Courts, the Texas Lawyers Creed will be observed.

Civil and Family Cases

1. General

- 1.1. All hearings in contested cases must be set by written motion with order attached. Attorneys requesting settings are responsible for notifying opposing parties within the time constraints of the Rules of Civil Procedure. No Court will notify a party of a setting except in the case of a request for a setting by a *pro se* litigant.
- 1.2. Only a court coordinator may set a case. Either the court coordinator for the 25th or the 2nd 25th Judicial District may set cases on either Court's docket, subject to the approval of the Court. With the approval of the court coordinator, a contested case may be set or passed by the agreement of all counsel; however the mere filing of a motion for continuance does not mean that the continuance will be granted, even with the agreement of all parties. Unless released in writing by the court coordinator, counsel must appear as scheduled. All motions for continuance must be in accordance with Articles 29.01 *et seq.*, C.C.P. and Rules 251 *et seq.*, T.R.C.P.
- 1.3. Prior to setting any case for any hearing, counsel must call the court coordinator to obtain available hearing dates. Counsel must then contact opposing counsel to insure the date is agreeable to all counsel. Once a date is agreed, counsel may forward an order setting, along with a statement that it is an agreed date, to the court coordinator for entry with the Court. If the parties, after consultation, cannot agree on a date, the Court shall set any hearings needed.

- 1.4. If an opposing counsel is not available for hearing on the date set, they shall immediately notify the counsel setting the case and the court coordinator in writing stating reasons.
- 1.5. Each attorney may file vacation letters with the Court, with copies to all opposing counsel, for periods not to exceed four weeks per year and will not be set during the designated period. Vacation letters alone will not excuse appearance at hearings set prior to the filing of the vacation letter.
- 1.6. On all motions, include the opposing counsel's name, address, and telephone and fax numbers and e-mail address under the certificate of service. (As a multi-county jurisdiction, we do not have local access to all files in every county.)
- 1.7. Applications for *ex parte* relief shall state whether the opposing party is represented by counsel and, if so, name said counsel. Notice of the request for *ex parte* relief and an opportunity to be heard shall be given to the opposing counsel, if any.
- 1.8. For uncontested or agreed family matters, defaults or adoptions, no written motion is required, but a setting shall be obtained by contacting the court coordinator.
- 1.9. The court coordinators will set cases as quickly as possible. To do so, they may, under Section 24.017, Government Code, set the hearing in another county within the district. In such event, it is the responsibility of the attorneys to transport the Court's file and docket sheet to the county where the hearing will be held and then to return it to the appropriate district clerk's office THE SAME DAY, if possible.

1.10. Hearings conducted by telephone conference call are acceptable at the discretion of the Court.

1.11. Request for hearings on motions regarding discovery must be accompanied by a certification from the movant's counsel that he has attempted to obtain relief by agreement and has been unsuccessful.

2. Trial on the merits

2.1. Cases shall be set for trial on the merits by the court coordinator on request by a party, the Court's own motion or by a docket control order.

2.2. All requests for non-jury trials of more than two hours in length shall be specially requested and shall be set by the Court at the earliest possible trial date on those dates established by the Court for non-jury trials. The request shall be in writing and copies served upon all parties in the case. The party obtaining the setting shall notify all other parties of the setting.

2.3. All non-jury trials of over two hours and all jury trials will be also set for a pre-trial hearing prior to the trial on the merits. At that pre-trial, all counsel are expected to be present to advise the Court of the following:

- 2.3.1. Summary of the claims and defenses of each party;
- 2.3.2. The agreed or stipulated facts;
- 2.3.3. Contested issues of fact;
- 2.3.4. Contested issues of law and authorities applicable;
- 2.3.5. Estimate of the length of trial and any possible delays;
- 2.3.6. Possibility of settlement.

2.4. In addition, at said pre-trial hearing:

2.4.1. All amended pleadings must be in their final form;

2.4.2. Each party should have suggested jury questions and instructions;

2.4.3. All physical evidence should be listed, marked and available for inspection. Each counsel will designate those exhibits to which no objection will be made. The Court will request that predicates be waived where admissibility is not questioned.

2.5. Attached is a copy of the current pre-trial conference order which may be changed by the Court at any time.

3. Family Law cases

3.1. All contested temporary orders hearings will have the following time limits:

3.1.1. Property only—30 minutes per side including cross-examination

3.1.2. Child custody—60 minutes per side including cross-examination

3.1.3. The Court for good cause shown may extend these limits.

3.2. In all contested hearings involving child or spousal support, each party shall prepare a complete written statement of their income and expenses for the previous two years and present same to the Court prior to the hearing. Attached hereto is a form to be used for that purpose.

3.3. In all contested hearings involving property, each party shall prepare a complete written inventory of their assets and liabilities, both community and separate and present same to the Court prior to the hearing.

3.4. In all divorces, contested or uncontested, or motions to modify, both parents must attend at their own expense an educational program for divorced parents such as

“For Kids’ Sake” and file with the Court a certificate of their completion prior to a setting on the merits or entry of a final order.

4. Alternative Dispute Resolution

4.1. ADR is encouraged. Cases may be ordered to ADR by agreement, by motion of any party after hearing or by the Court’s own motion.

4.2. All requests for setting any jury trial or a contested non-jury trial on the merits in a family law case must be accompanied by a representation that mediation has been attempted and a letter from the mediator that the case has not settled. No setting will be given until mediation has been attempted or waived after motion and hearing.

5. Dismissal dockets

5.1. All civil cases filed in the 25th and 2nd 25th District Courts shall be disposed of within the time requirements published by the Texas Supreme Court unless for good cause shown.

5.2. A dismissal docket shall be held not less than twice per year in each county, the 25th District having the dismissal dockets in the first six months of the year and the 2nd 25th District in the second six months of the year. Notice of the Court’s intention to dismiss and the date and place of the dismissal hearing shall be sent to each attorney of record and to each *pro se* party. At the dismissal hearing, the Court shall dismiss the case for want of prosecution unless there is good cause for the case to remain on the docket. Attached hereto is a copy of the current notice setting a case on a dismissal docket.

5.3. No case will be maintained unless a motion to retain, with order attached, is filed prior to the hearing, alleging specific facts showing good cause for the case to be maintained. Motions to retain will be heard at the dismissal docket.

5.4. Any case maintained at a dismissal docket will be set for trial or a pre-trial scheduling order entered unless good cause is shown.

6. Recording Court Sessions

6.1. In both civil and criminal proceedings, during sessions and recesses, no broadcasting, televising, recording (audio or visual) or the taking of photographs nor equipment capable of doing any of the above will be permitted in the Courtroom, except with leave of Court.

Criminal Cases

Criminal cases shall be set for trial at the request of the district attorney or county attorney. Should a defendant desire a trial in a case in which the district attorney has not requested a setting, the case will be set by the Court after written request by the defendant.

7. A pre-trial hearing will be conducted in each case prior to trial.
8. After the arraignment appearance and the initial pre-trial setting, all resets must include a trial setting as well as any non-jury settings necessary.
9. Judgments of probation shall be prepared by the Community Supervision and Corrections Department, and judgments with sentences to county jail, SJD-TDCJ or ID-TDCJ shall be prepared by the district attorney or county attorney, unless the Court orders otherwise.

10. All Court-appointed attorneys shall, at the conclusion of their representation of a defendant, provide the Court an itemized statement reflecting the hours spent in Court and the number of hours spent out of Court in representation of said defendant. An order should be attached to the itemized account.

Colorado, Gonzales and Lavaca Counties District Courts
Local Rule regarding the
Assignment and Setting of Felony Criminal Cases

It shall be the policy of the District Courts that felony criminal cases shall be randomly assigned between the 25th and the 2nd 25th District Courts. After assignment, a case may not be heard in another court without the permission of the judge of the assigned court and the permission of the transferee court, except under these local rules.

A. Assignment

1. Pre-indictment writs of habeas corpus may be heard in any court.
2. Cases filed by waiver of indictment may be heard in any court unless there is a pending indictment involving the same transaction.
3. Extradition hearings may be conducted in any court.
4. When indictments are returned by a grand jury empanelled by any district court, the District Clerks Office shall be responsible for randomly assigning the cases to the two separate lists in a manner and percentage to be specified from time to time in a separate memorandum from the local administrative district judge.
5. The assignment of criminal cases between the lists shall not necessarily be equal but shall be determined by the local administrative judge based upon court schedules, other judicial or administrative duties, the relative populations of the judicial districts, and the availability of a particular court for civil, juvenile or other non-criminal settings.
6. The lists are then each assigned to a particular court by action of the local administrative district judge.

7. The District Clerks Office shall exercise care that no person or entity may in any way influence the assignment of cases.

B. Setting of Cases

1. After assignment of cases to a particular list, the District Clerk shall deliver to the District Attorney's Office or the County Attorney's Office and each judge's office a list of the cases and the list to which they are assigned. The District Clerk is then responsible to immediately notify the defendant and any attorney or bondsman of the assignment and of the next setting. At the first setting of any indicted case, it shall be transferred to the proper court, if necessary.
2. If a defendant in a new indictment is currently being supervised on community supervision, the new indictment shall be transferred at the first setting to the supervising court unless agreement to the contrary between the judges of the courts.
3. If a defendant in a new indictment currently has an indictment pending in another district court, the new case shall be heard only in the court in which the original indictment is pending. At the first setting of the new indictment, the new indictment shall be transferred to the court in which the older indictment is pending unless agreement to the contrary between the judges of courts.
4. If a new indictment is a reindictment of an existing case, the new case shall be heard only in the court in which the original indictment was pending. At the first hearing after a subsequent indictment, the new indictment shall be transferred to the original court unless agreement to the contrary between the judges of the courts.
5. Future settings, after the first setting, are determined in a manner specified by the judge of the assigned court; however cases may only be set upon another date of the assigned court except as specified herein.
6. After assignment to a particular court, thereafter the case is assigned to that court for all matters unless:
 - a. The judge of the assigned court gives permission for another court to hear all or any part of the case,
 - b. After notice and hearing, any judge orders co-defendant cases consolidated, joined or tried together, or
 - c. The case is transferred under B.2 or B.3 above.

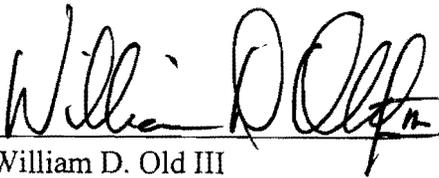
- d. The setting of cases for jury trial shall be determined by the district courts and may be to any court's docket.

C. Cases Filed Prior to the Adoption of These Rules

1. Cases existing on the date of the adoption of these rules shall also be assigned to a list.
2. The District Clerks Office shall assign existing cases in a manner and percentage as specified in a memorandum from the local administrative district judge.
3. Upon assignment of existing cases, the District Clerk shall provide to the District Attorney or the County Attorney a list of the cases. The District Clerk shall be responsible to immediately notify the defendant and any attorney and bondsman of the court assigned and of the next court date. In the event the defendant has not yet been arrested, such notice shall be made as soon as practicable after the defendant is arrested.
4. All motions to revoke probation and motions to adjudicate shall be filed in the court which originally sentenced.

THESE RULES ARE EFFECTIVE FEBRUARY 1, 2013.

ADOPTED THIS THE 2nd DAY OF January, 2013.



William D. Old III
Judge, 25th Judicial District



W.C. Kirkendall
Judge, 2nd 25th Judicial District