

IN THE SUPREME COURT OF TEXAS


Misc. Docket No. 06- 9034


**APPROVAL OF LOCAL RULES FOR THE
DISTRICT COURTS OF MADISON COUNTY**


ORDERED that:

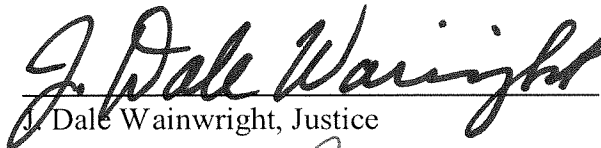
Pursuant to Texas Rule of Civil Procedure 3a, the following Local Rules for the District Courts of Madison County are approved.

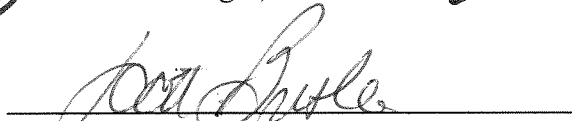
In Chambers, this 22nd day of February, 2006.

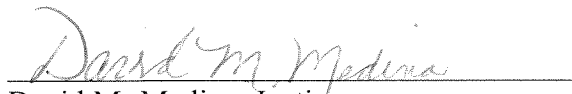

Wallace B. Jefferson, Chief Justice


Nathan L. Hecht, Justice

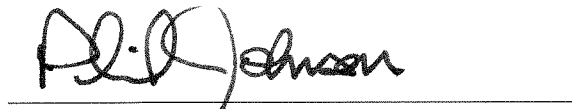

Harriet O'Neill, Justice


J. Dale Wainwright, Justice


Scott Brister, Justice


David M. Medina, Justice


Paul W. Green, Justice


Phil Johnson, Justice


Don R. Willett, Justice



Second Administrative Judicial Region of Texas

Olen Underwood
Presiding Judge

Kassi Cranfill
Regional Administrator

Nathan Jensen
Regional Assistant

February 15, 2006

Honorable Nathan L. Hecht
Justice, Supreme Court of Texas
Attn: Jody Hughes, Rules Attorney
P.O. Box 12248
Austin, Texas 78711

Re: Local Rules of the District Courts of Madison County, Texas

Dear Judge Hecht:

Pursuant to, and in accordance with Rule 3a, Texas Rules of Civil Procedure, and Rule 8, Regional Rules of Administration, Second Administrative Judicial Region of Texas, I am requesting approval by the Justices of the Supreme Court for the Local Rules of the District Courts of Madison County, Texas.

I hereby approve this addition of the Local Rules of the District Courts of Madison County, Texas. Please advise this office of the Courts actions.

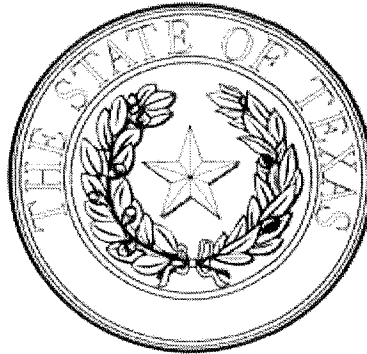
Thank you for your usual courtesies.

Sincerely,

A handwritten signature in black ink that reads "Olen Underwood".

Olen Underwood
OU/kc

cc: Honorable Kenneth Keeling, 278th District Court



LOCAL RULES OF THE DISTRICT COURTS
OF
MADISON COUNTY, TEXAS

12th AND 278th JUDICIAL DISTRICTS



LOCAL RULES OF THE DISTRICT COURTS

OF

MADISON COUNTY, TEXAS

12TH & 278TH 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

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.

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 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 in **Addendum 1** to 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 filed in the District Clerk's office located at the County Courthouse, 101 West Main, Rm. 226, Madisonville, Texas 77864. Even numbers shall be assigned to cases filed in the 12th District Court and odd numbers shall be assigned to cases filed in the 278th 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. 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 at Law, if the Judge assigned the case is unavailable, subject to the requirements of jurisdiction.

RULE 3.3 SERVICE OF PROCESS

The Courts have adopted a blanket order permitting private service of process pursuant to Rule 103 of the Texas Rules of Civil Procedure. Applications for approval to be added to the list shall be presented to the local administrative judge. A list of approved private process servers is maintained in the District Clerk's Office.

RULE 3.4 REQUESTS OF THE DISTRICT CLERK

A. Written Requests

All parties desiring copies of documents from the District Clerk shall furnish the clerk return envelopes properly addressed and stamped. Except as provided elsewhere in these rules, no conformed copies shall be made or furnished nor shall searches or research be performed for counsel or the public, free of charge. All mail received with postage due will be returned to sender.

B. 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.

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;

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 District Clerk's office concerning jury trials and jury requirements.

B. Requests for Settings

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 in **Addendum 2**, attached to these rules. 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. The order shall contain a trial setting, cut off date for discovery, pretrial conference date and any other requirements as established by each individual court.

D. Calendars

Court calendars are established by the 12th and 278th 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 Madison, Walker, Grimes 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** attached hereto as **Addendum 3** 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 on a 3.25 computer disc, CD-ROM, or other pre-approved media.

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 are completed with 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

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 306a 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. 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 Clerks 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 Courts of Madison County in accordance with Rule 1 of these Rules.

RULE 4.5 TEMPORARY ORDERS

A. Except in emergencies when the District Clerks 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 4.6 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 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 4.7 STANDING TEMPORARY RESTRAINING ORDERS

A. The court hereby ORDERS that in all divorce suits filed, a Standing Temporary Restraining Order in the form attached hereto as **Addendum 6** 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 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 4.8 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 set forth in **Addendum 4 and 5** attached to these rules as set forth in paragraphs B. and C.

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 set forth in **Addendum 5** attached to these rules.

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 forth in **Addendum 4 and Addendum 5** attached to these rules.

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 4.9 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 4.10 DISCOVERY

In all cases the following items shall be exchanged within thirty days, without objection, upon a written request of counsel. Failure to exchange these items may result in sanctions being imposed on the attorney, or party, or both, as the court deems proper, to wit:

Income tax returns for the previous two years.

Copies of all insurance policies, including home, auto, life and medical.

Copies of all promissory notes, deeds of trust and deeds evidencing ownership of real estate, including contract for deeds and time sharing contracts.

Copies of all stocks, mutual fund participation and investment portfolios held by the party, in the name of

the parties, or for the benefit of either parties.

Copies of all documents concerning employee benefits, retirement benefits and pension funds.

The preceding six (6) months statements for all credit card accounts in the name of the parties, or either party.

Wage statements or statement showing year to date earnings of the party.

RULE 4.11 CHILD SUPPORT LOCAL REGISTRY

Pursuant to § 154.241 of the Texas Family Code, the District Clerk of Madison County is designated as the Local Registry to receive a court ordered child support payment or payment otherwise authorized by law.

RULE 5
CRIMINAL CASES

RULE 5.1 GRAND JURIES AND ASSIGNMENT OF CASES

A. Grand Juries

The 12th Judicial District Court shall select and impanel the Grand Jury for the January term of court and the 278th 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 grand jury room. The commissioner method of selection shall be utilized.

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 12th District Court and odd numbered cases shall be assigned to the 278th 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. Failure to furnish the information will result in a bond amount in accordance with the Bond Schedule.

RULE 5.2 STANDING BOND SCHEDULES

Bonds will be set on each criminal case in accordance with the Bond Schedule attached hereto as **Addendum 7** unless the District Attorney furnishes information in writing to the court justifying an exception. 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 is attached hereto in **Addendum 8**. The District Attorney shall be served with a copy of the Affidavit.

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. 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

A standing discovery order is entered in each case at time of arraignment. The discovery order shall set forth procedures for the exchange of information, evidence inspection, expert designations and deadlines to comply with the discovery order. The Standing Discovery Order is set forth in **Addendum 9**, attached hereto.

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 5.12 PLEA BARGAINS

If a plea bargain is made on a case set for trial, the plea must be submitted to the court prior to the date jury selection is to commence. The courts will not approve a plea bargain that is not submitted and completed prior to date of jury selection.

RULE 5.13 STANDING ORDER IN LIMINE

The Standing Order in Limine attached hereto as **Addendum 10** 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 are completed with 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 Judges 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

JUDGES VACATION

If a Judge will be out of the District for a month 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 at Law of Madison County. A copy is attached hereto as Addendum 11.

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 approval by the Judge of the Second Administrative Region and the Supreme Court of Texas, 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.

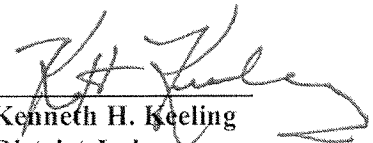
RULE 10.3 NOTICE

The District Clerk is directed to furnish a copy of these rules to the Supreme Court of Texas pursuant to Rule 3 (a) of the Texas Rules of Civil Procedure and to record these Rules in the Civil Minutes of the 12th and 278th District Courts of Madison County, Texas.

Approved on this the 17th day of January 2006.



William L. McAdams
District Judge
12th Judicial District



Kenneth H. Keeling
District Judge
278th Judicial District

APPROVAL BY THE SECOND ADMINISTRATIVE REGIONAL JUDGE

Approved on the ____ day of January 2006 by Judge Olen Underwood, Regional Judge for the Second Administrative Judicial Region of the State of Texas.

Judge Olen Underwood
Presiding Judge

ADDENDUM 1

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.

ADDENDUM 2

NO. _____

VS. _____

§ IN THE DISTRICT COURT OF
§
§ MADISON COUNTY, TEXAS
§
§ 12/278th JUDICIAL DISTRICT

SETTING REQUEST

TYPE OF SETTING REQUESTED:

_____ Hearing on Motion(s) for _____
_____ Pre-Trial Hearing _____
_____ Bench Trial _____
_____ Jury Trial _____
_____ Other _____

REQUESTED DATE OF SETTING: _____

ESTIMATED AMOUNT OF COURT TIME REQUIRED: _____

REQUESTING ATTORNEY:

Name: _____ (plaintiff/defendant)
Address: _____ (petitioner/respondent)

(SPECIFY ONE)
Phone: _____ Fax: _____

ALL OTHER ATTORNEYS OF RECORD (or unrepresented parties):

Name: _____ (plaintiff/defendant)
Address: _____ (petitioner/respondent)

(SPECIFY ONE)
Phone: _____ Fax: _____

Name: _____ (plaintiff/defendant)
Address: _____ (petitioner/respondent)

(SPECIFY ONE)
Phone: _____ Fax: _____

I certify that discussions of the matter to be set have been held or would not be productive, and thus without requesting a setting a disposition will not likely occur.
I certify that a copy of this setting request has been mailed/delivered to all other attorneys/parties of record.

Date: _____

Name of Requesting Attorney
State Bar No. _____

Original to District Court Coordinator: Copy to District Clerk.

ADDENDUM 3

STANDING ORDER IN LIMINE FOR TRIAL OF CIVIL JURY CASES

During the trial of any civil jury case in the District Court, unless and except to the extent that the operation of this order shall have been suspended with reference to such specific trial, no attorney shall make mention, refer to or suggest any of the matters hereinafter set forth in the presence or hearing of the jury, the venire, or of any member of either without first approaching the bench and securing a ruling from the Court authorizing such reference. In addition, each attorney shall admonish the client, client's representatives and all non-adverse witnesses the attorney may call to testify similarly to refrain from any such statement, reference or suggestion unless same is essential to respond truthfully to a question asked by opposing counsel.

The matters to which reference is prohibited by this order are as follows:

1. **Insurance.** Unless an insurance company is a named Defendant, that the Defendant is or is not protected, in whole or in part, by liability insurance, or that defense counsel was retained by, or all or any part of the costs of defense, or of any resulting judgments, are or will be paid by an insurance company, or any other matter suggesting an involvement of any insurance company with the defense of the case.

2. **Jurors' Connection with Insurance Industry.** Inquiring of potential jurors as to their present or past employment or connection with the insurance industry, or present or past connection of any family member with the insurance industry, except that:

- a) If a potential juror's juror information card discloses employment in the insurance industry, such potential juror may be questioned concerning same.
- b) inquiry may be made of potential jurors concerning their experience (or that of members of their family), if any, reviewing, adjusting or allowing/disallowing claims, as long as no express reference is made to "insurance."

3. **Liability or Non-Liability for Judgment.** That the named Defendant may or may not have to pay any resulting judgment.

4. **Collateral Source.** That any portion of the damages sought by Plaintiff have been, or will be, paid by any collateral source, including but not limited to:

- a) health and accident or disability insurance.
- b) any employee benefit plan, formal or informal, including payment of wages for time not actually worked.
- c) social security or welfare.
- d) veterans or other benefits.
- e) provisions of medical services free of charge or for less than reasonable and customary charges, provided that the foregoing does not prohibit reference to unpaid charges of any health care provider who actually testifies for Plaintiff (or whose medical records are offered by Plaintiff), or to any letter of protection securing any such charges.

5. **Retention of Attorney.** The time or circumstances under which either party consulted or retained an attorney provided that if any attorney referred a party to a health care provider who testifies in the case (or whose medical records are introduced by such party) such fact may be a subject of inquiry.
6. **Attorney's Fees.** That any party will have to pay attorneys' fees, or any reference to the amount or basis of any attorneys' fees, unless a claim for recovery of attorneys' fees in the case will be submitted to the jury.
7. **Income Taxes.** That any recovery will or will not be subject to income taxes, in whole or in part.
8. **Independent Medical Examination.** That the plaintiff offered to, or was or is willing to, undergo an examination by an independent physician or psychologist.
9. **Criminal Offenses.** That any party of witness has been suspected of, arrested for, charged with or convicted of any criminal offense unless there is evidence of a specific conviction that the Court has previously ruled is admissible in the case.
10. **Alcohol or Drug Use.** That any party or witness uses or abuses alcohol, tobacco, or any controlled substance, unless and until such alleged use or abuse is shown to be specifically relevant to the matters in controversy.
11. **Settlement Negotiations or Mediation.** Any negotiations, offers or demands with respect to any attempted settlement or mediation.
12. **Discovery Disputes.** Any reference to discovery disputes that arose during the preparation of the case for trial, any position taken by any party with respect thereto, or to the Court's rulings thereon.
13. **Prior Suits or Claims.** That any party has been a party to any prior lawsuit, or has asserted any prior claim, or that any prior claim, has been asserted against a party; provided that this clause does not prohibit inquiry about a prior injury that may have been the subject of a claim, as distinguished from the claim, suit or settlement with reference thereto, if the nature of injuries claimed in the present suit make the same relevant.
14. **Ex Parte Statements of Witnesses.** Any reference to any ex parte statement of any witness or alleged witness, other than an adverse party or agent of an adverse party, unless and until such witness has been called to testify and has given testimony conflicting with such ex parte statement. A deposition or a statement in business or medical records that have been approved up as required by the Rules of Evidence is not an ex parte statement.
15. **Testimony of Absent Witness.** Any statement or suggestion as to the probable testimony of any witness or alleged witness who is unavailable to testify, or whom the party is expected to testify by deposition, this provision does not apply to testimony contained in the deposition expected to be offered.
16. **Hearsay Medical Opinions.** Any hearsay statement offered for the truth of the statement by an allegedly injured person concerning any diagnosis or medical opinions communicated to such person by a physician or other health care provider.
17. **Photographs and Visual Aids.** Showing any documents, photographs or visual aids to the jury, or displaying same in such manner that the jury or any member thereof can see the same, unless and until the same has been tendered to opposing counsel, and has been admitted in evidence or approved for admission or use before the jury, either by the Court or by all Counsel.
18. **Requests for Stipulations.** Any request or demand in the presence of the jury for a stipulation to any fact, or that counsel admit or deny any fact.

19. **Requests for Files.** Any request or demand in the presence of the jury that opposing counsel produce any document or thing, or that opposing counsel or any party or witness exhibit, turn over or allow examination of the contents of any file or briefcase (except that a party may demand to see a document used by a witness on the stand to refresh his/her recollection, or that a witness testifies that he/she has used previously to refresh his/her recollection).

20. **Discrimination.** Any argument that a party should be treated more or less favorably because of such party's race, gender, national origin, nationality, religion, marital status, occupation, or financial status (except in the second phase of a bifurcated trial).

21. **Social Cost of Award.** Any argument or suggestion that an award of damages will affect insurance premiums, the price of any goods or services, or the level of taxation.

22. **Hardship or Privation.** Any argument or suggestion that a failure to award damages will cause a Plaintiff privation or financial hardship.


23. **Golden Rule.** Any argument or suggestion that the jurors should put themselves in the position of a party.

24. **Counsel's Opinion of Credibility.** Any expression of counsel's personal opinion regarding the credibility of any witness.


25. **Effect of Answers to Jury Question.** Any argument that any finding or failure to find in response to a particular jury question will, or will not result in a judgment favorable to any party. This provision does not bar argument by counsel that a particular jury question should be answered in a particular way.

26. **Evidence Not Produced in Discovery Response to a Proper Request.** Calling any witness, or offering any document in evidence, if the identity of such witness or the document has not been disclosed in response to a proper discovery request. If a party has a good faith basis to urge that such witness or document should be received either because (a) no discovery request properly called for its disclosure, or (b) good cause existed for failure timely to disclose, such party shall first approach the bench and secure a ruling thereon. Counsel are advised that to the extent possible or predictable, such matters should be addressed and a ruling sought at pretrial once the case is assigned for trial.

27. **Objections to Evidence Not Produced In Discovery.** Any objection based on failure to disclose evidence in pre-trial discovery. Any party desiring to urge any such objection shall request to approach the bench and urge such objection outside the hearing of the jury. To the extent possible or predictable, such matters should be addressed and a ruling sought at pretrial once the case is assigned for trial, although the objection may be urged for the record outside the hearing of the jury at the time such evidence is offered in the event the Court has overruled the objection at pretrial.



W.L. McAdams
District Judge
12th Judicial District



Kenneth H. Keeling
District Judge
278th Judicial District

ADDENDUM 4

NO. _____

IN THE MATTER OF
THE MARRIAGE OF

§

IN THE DISTRICT COURT

AND

§

12th/278th JUDICIAL DISTRICT

§

MADISON COUNTY, TEXAS

PROPOSED PROPERTY DIVISION

PROPOSED COMMUNITY PROPERTY DIVISION

| Property | Fair Market Value | Secured Debt Balance | To Wife Net Value | To Husband Net Value |
|----------|-------------------|----------------------|-------------------|----------------------|
| 1 | \$ | \$ | \$ | \$ |
| 2 | | | | |
| 3 | | | | |
| 4 | | | | |
| 5 | | | | |
| 6 | | | | |
| 7 | | | | |
| 8 | | | | |
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| 16 | | | | |
| 17 | | | | |
| 18 | | | | |
| 19 | | | | |

15

16

17

| | | | | | |
|--|----|---------|----|---|----|
| TOTAL UNSECURED COMMUNITY DEBTS | \$ | | \$ | | \$ |
| NET COMMUNITY | \$ | | \$ | | \$ |
| PERCENTAGES | | 100.00% | | % | % |

SEPARATE PROPERTY OF WIFE
(list)

SEPARATE PROPERTY OF HUSBAND
(list)

PROPOSED DISPOSITION OF OTHER ISSUES
(list)

AFFIDAVIT

I, _____, do hereby state upon my oath that I have read the above and foregoing document and that same is true and correct.

Signature of Party

Sworn to and subscribed before me on this the ___ day of _____ 200__.

Notary Public
State of Texas

Certificate of Service

I, _____, do hereby certify that a true and correct copy of the above and foregoing was served by certified mail (or hand delivery) on opposing counsel on this the ___ day of _____ 200__.

Signature of Attorney

- (19) Insurance--Life

- (20) Insurance--Health (omit if payroll deduction)

- (21) Child care

- (22) Children's activities

- (23) Entertainment

- (24) Haircuts

- (25) Cable TV and newspaper

- (26) Total monthly payments on debts (list below at
G and show total here)

- (27) Other (specify)

| | | |
|-------------------------------------|-----------|------------|
| TOTAL MONEY NEEDED PER MONTH | \$ | (F) |
|-------------------------------------|-----------|------------|

SIGNED this ____ day of _____ 200_.

Signature of Party

I intend to ask the court to set support at \$_____ per month.

Signed this ____ day of _____ 200_.

Signature of Party or Attorney

Certificate of Service

I, certify that a true copy of the above was served on opposing counsel, via certified mail (or hand delivery) on the ____ day of _____ 200_.

Signature of Attorney

ADDENDUM 6

STANDING RESTRAINING ORDER

STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES

No party to this lawsuit has requested this order. Rather, this order is a standing order of the Madison County District Courts that applies in every divorce suit and every suit affecting the parent-child relationship filed in Madison County. The District Courts of Madison County have adopted this order because the parties and their children should be protected and their property preserved while the lawsuit is pending before the court. Therefore, it is ORDERED:

1. **NO DISRUPTION OF CHILDREN.** Both parties are ORDERED to refrain from doing the following acts concerning any children who are subjects of this case:
 - 1.1 Removing the children from the State of Texas, acting directly or in concert with others, without the written agreement of both parties or an order of this Court.
 - 1.2 Disrupting or withdrawing the children from the school or day-care facility where the children are presently enrolled, without the written agreement of both parents or an order of this Court.
 - 1.3 Hiding or secreting the children from the other parent or changing the children's current place of abode, without the written agreement of both parents or an order of this Court.
 - 1.4 Disturbing the peace of the children.

2. **CONDUCT OF THE PARTIES DURING THE CASE.** Both parties are ORDERED to refrain from doing the following acts:
 - 2.1 Using vulgar, profane, obscene, or indecent language, or a coarse or offensive manner, to communicate with the other party, whether in person, by telephone, or in writing.
 - 2.2 Threatening the other party in person, by telephone, or in writing to take unlawful action against any person.
 - 2.3 Placing one or more telephone calls, at an unreasonable hour, in an offensive or repetitious manner without a legitimate purpose of communication, or anonymously.
 - 2.4 Opening or diverting mail addressed to the other party.

3. **PRESERVATION OF PROPERTY AND USE OF FUNDS DURING DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:
 - 3.1 Destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of one or both of the parties.
 - 3.2 Misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount, or location of any property of one or both of the parties.
 - 3.3 Damaging or destroying the tangible property of one or both of the parties, including any document that represents or embodies anything of value.
 - 3.4 Tampering with the tangible property of one or both of the parties, including any document that represents or embodies anything of value, and causing pecuniary loss to the other party.
 - 3.5 Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of either party, whether personal property or real estate property, and whether separate or community, except as specifically authorized by this order.
 - 3.6 Incurring any indebtedness, other than legal expenses in connection with this suit, except as specifically authorized by this order.
 - 3.7 Making withdrawals from any checking or savings account in any financial institution for any

- purpose, except as specifically authorized by this order.
- 3.8 Spending any sum of cash in either party's possession or subject to either party's control for any purpose, except as specifically authorized by this order.
 - 3.9 Withdrawing or borrowing in any manner for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account, except as specifically authorized by this order.
 - 3.10 Signing or endorsing the other party's name on any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividends, or attempting to negotiate any negotiable instrument payable to the other party without the personal signature of the other party.
 - 3.11 Taking any action to terminate or limit credit or charge cards in the name of the other party.
 - 3.12 Entering, operating, or exercising control over the motor vehicle in the possession of the other party.
 - 3.13 Discontinuing or reducing the withholding for federal income taxes on wages or salary while this suit is pending.
 - 3.14 Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual services, such as security, pest control, landscaping, or yard maintenance at the other party's residence or in any manner attempting to withdraw any deposits for service in connection with such services.
4. **PERSONAL AND BUSINESS RECORDS IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:
 - 4.1 Concealing or destroying any family records, property records, financial records, business records or any records of income, debts, or other obligations.
 - 4.2 Falsifying any writing or record relating to the property of either party.
 - 4.3 "Records" include e-mail or other digital or electronic data, whether stored on a computer hard drive, diskette or other electronic storage device.
 5. **INSURANCE IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:
 - 5.1 Withdrawing or borrowing in any manner all or any party of the cash surrender value of life insurance policies on the life of either party, except as specifically authorized by this order.
 - 5.2 Changing or in any manner altering the beneficiary designation on any life insurance on the life of either party or the parties' children.
 - 5.3 Canceling, altering, or in any manner affecting any casualty, automobile, or health insurance policies insuring the parties' property of persons including the parties' minor children.
 6. **SPECIFIC AUTHORIZATIONS IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are specifically authorized to do the following:
 - 6.1 To engage in acts reasonable and necessary to the conduct of that party's usual business and occupation.
 - 6.2 To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit.
 - 6.3 To make expenditures and incur indebtedness for reasonable and necessary living expenses for food, clothing, shelter, transportation and medical care.
 - 6.4 To make withdrawals from accounts in financial institutions only for the purposes authorized by this order.
 7. **SERVICE AND APPLICATION OF THIS ORDER.**
The Petitioner shall attach a copy of this order to the original petition and to each copy of the petition. At the time the

petition is filed, if the Petitioner has failed to attach a copy of this order to the original petition and any copy of the petition, the Clerk shall ensure that a copy of this order is attached to the petition and every copy of the petition presented.

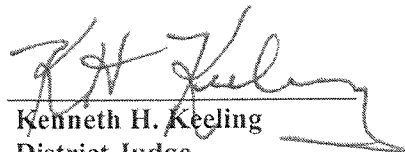
This order is effective upon the filing of the original petition and shall remain in full force and effect as a temporary restraining order for fourteen days after the date of the filing of the original petition. If no party contests this order by presenting evidence at a hearing on or before fourteen days after the date of the filing of the original petition, this order shall continue in full force and effect as a temporary injunction until further order of the court. This entire order will terminate and will no longer be effective once the court signs a final order.

8. EFFECT OF OTHER COURT ORDERS. If any part of this order is different from any part of a protective order that has already been entered or is later entered, the protective order provisions prevail. Any part of this order not changed by some later order remains in full force and effect until the court signs a final decree.
9. PARTIES ENCOURAGED TO MEDIATE. The parties are encouraged to settle their disputes amicable without court intervention. The parties are encouraged to use alternative dispute methods, such as mediation, to resolve the conflicts that may arise in this lawsuit.

THIS MADISON COUNTY STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES SHALL BECOME EFFECTIVE ON THE DATE AND TIME A PARTY RECEIVES NOTICE HEREOF.



William L. McAdams
District Judge
12th Judicial District



Kenneth H. Keeling
District Judge
278th Judicial District

ADDENDUM 8

CAUSE NO. _____

| | | |
|----------------|---|---|
| STATE OF TEXAS | § | IN THE DISTRICT COURT |
| VS. | § | 12 th /278 th JUDICIAL DISTRICT |
| _____ | § | MADISON COUNTY, TEXAS |

AFFIDAVIT TO RELEASE SURETY

To the Honorable Judge of Said Court:

Comes now, _____ and respectfully shows to the Court that he/she is the surety on the appearance bond of the defendant in the above entitled and numbered cause, wherein the said defendant has been charged with the offense of _____, a felony and has been released on a bond in the sum of \$_____, and your applicant would show the Court that the defendant is within the State of Texas and within the jurisdiction of this Court and that your applicant desires to surrender the said defendant to the Court and to be relieved upon the appearance bond herein.

Your applicant would further show that said bond was made on the ___ day of _____, 20___, and the defendant has paid a fee of \$_____, and the reason for the surrender of the defendant is because:

Wherefore applicant prays the Court to direct the Clerk of this Court to prepare a warrant of arrest directing the Sheriff of Madison County, Texas or any other proper officer of this State to re-arrest said defendant and that upon such re-arrest the applicant herein be relieved of all further obligations and responsibility as surety upon said appearance bond.

Surety

Sworn to and subscribed before me this ___ day of _____, 20___.

Notary Public In and For the State of Texas

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Affidavit To Release Surety has been personally served upon the defendant's attorney of record _____ on this ___ day of _____, 20__.

(or)

I hereby certify that a true and correct copy of the foregoing Affidavit To Release Surety was mailed, by Certified Mail, Return Receipt Requested, to the defendant's attorney of record, _____, at _____ on this ___ day of _____, 20__.

(or)

After due inquiry, I certify that the said defendant is not represented by an attorney.

Surety

Copy To: District Attorney

ORDER

On this ___ day of _____, 20__, came on to be heard the application of _____, surety on the bond of the defendant herein, and the Court being of the opinion that such application should be granted, it is therefore Ordered, Adjudged, and Decreed by the Court that the Clerk be, and is hereby directed to prepare a warrant of arrest to be signed by the judge of this court for the re-arrest of the defendant, and further that _____, surety upon the bond of the defendant, be, and is hereby relieved of all further responsibilities and obligations as surety upon said bond of the defendant herein of and from such time as the defendant shall be re-arrested under the warrant herein ordered, and after the payment by said surety of all necessary and reasonable expenses incurred in re-arresting said defendant.

Judge Presiding

ADDENDUM 9

CAUSE NO. _____

| | | |
|---------------------------|---|---|
| THE STATE OF TEXAS | § | IN THE DISTRICT COURT OF |
| VS. | § | MADISON COUNTY, TEXAS |
| | § | 12TH / 278TH JUDICIAL DISTRICT |

STANDING DISCOVERY ORDER IN CRIMINAL CASES

This Court hereby adopts the following Standing Discovery Order that shall apply in all criminal cases in this Court until specifically ordered otherwise:

State is Ordered to Furnish:

1. Written list of all anticipated trial witnesses, including experts, and their addresses, to be supplemented as others are discovered.
2. All written or recorded statements of the defendant, along with all confessions or statements whether verbal or otherwise, made pursuant to Art. 38.22 C.C.P.
3. Written notice of intent to use extraneous offense evidence at trial. (Rule 404(b) Texas Rules of Evidence).
4. Inspection of:
 - a. All items seized from the defendant;
 - b. All items seized from any co-defendant or accomplice;
 - c. All physical objects to be introduced as part of the State’s case;
 - d. All documents and photographs and investigative charts or diagrams to be introduced at trial;
 - e. All contraband, weapons, implements of criminal activity seized or acquired by the State or its agents in the investigation of the alleged offense;
 - f. All records of conviction which may be admissible in evidence or used for impeachment of the defendant; and

- g. All tangible items of physical evidence collected by the State or its agents concerning the alleged offense; to include latent fingerprints, footprints, hairs, fibers, fingernail scrapings, body fluids, tire tracts, paint scrapings, etc.
5. All promises of benefit or lenience afforded to any accomplice or prospective witness in connection with his proposed testimony or other cooperation with regard to the alleged offense.
6. All known convictions which are admissible for impeachment concerning any of the State's proposed witnesses.
7. All known convictions, pending charges or suspected criminal offenses concerning any accomplice proposed to be used as a witness by the State.
8. Copies of all complaints, search warrants (related affidavits), autopsy reports and laboratory reports of all examinations of contraband, fluids, hairs, fingerprints, blood samples, ballistics, soil, fibers and paints.
9. Inspection and copy of all business records or governmental records expected to be introduced by the State.
10. All exculpatory evidence pursuant to *Brady v. Maryland* and related cases.
11. It is to be understood that the State will furnish all of such above items which are in the possession of the State's attorneys or which are known to be in the possession of the investigating officers or other agents of the State.
12. In appropriate cases, the State is encouraged to furnish offense reports and witness statements in addition to the above items. However, such reports and statements are normally work product of the State and are therefore protected from mandatory disclosure unless the contents are exculpatory. Such statements and reports must of course be tendered to the Defense for cross-examination on proper request under *Gaskin* or related requirements.
13. In the event that photographs, diagrams or models are prepared as "jury aids" at the direction of the State's attorneys before trial, such items will be considered work product unless the Defense demonstrates a "particularized need" for inspection thereof.
14. This order will dispose of any and all pretrial discovery motions heretofore filed. Because of the extensive nature of the discovery herein ordered, it will be considered that such Order is acceptable to the Defense pending the review of evidence and documents as ordered. In the event that further particularized discovery is considered necessary, the Defense will thereafter file a written Motion for Discovery, addressing only matters not covered in this Order, and such Motion will be presented to the Court at the earliest practical opportunity before trial.
15. The State is ordered to furnish the above inspection and copying on or before the date required by the Criminal Docket Scheduling Order or other order entered in each respective case. If the State discovers or learns of any new additional matter after the

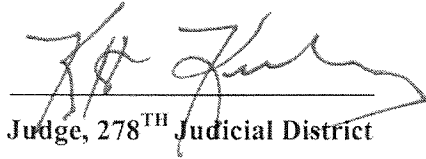
Pre-Trial Hearing that are subject to disclosure under this Order, the State shall advise the Defense and furnish same for inspection and copying as soon as practicable. It is understood that the Defense should exercise reasonable diligence to contact the State's attorney and arrange a mutually convenient time for the appointment.

16. If a written request is made by the Defense, the State is ordered to prepare a list of exhibited or furnished items to be filed among the papers of this cause on or before the start of trial.

ORDERED and **ENTERED** on date of arraignment, and the State is **ORDERED** to comply herewith by date stated in scheduling order or 30 days from date of arraignment whichever is first.



Judge, 12TH Judicial District



Judge, 278TH Judicial District

ADDENDUM 10

STANDING ORDER IN LIMINE FOR TRIAL OF CRIMINAL JURY CASES

During the trial of any criminal jury case in the District Court, unless and except to the extent that the operation of this order shall have been suspended with reference to such specific trial, no attorney shall make mention, refer to or suggest any of the matters hereinafter set forth in the presence or hearing of the jury, the venire, or of any member of either without first approaching the bench and securing a ruling from the Court authorizing such reference. In addition, each attorney shall admonish the client, client's representatives and all non-adverse witnesses the attorney may call to testify similarly to refrain from any such statement, reference or suggestion unless same is essential to respond truthfully to a question asked by opposing counsel.

WARNING: Violations of this order may result in contempt of court proceedings or referral to the State Bar for grievance proceedings, as the court deems proper.

The matters to which reference is prohibited by this order are as follows:

1. The facts of the case during voir dire. (May talk about allegations in indictment).
2. The fact that the defendant has or has not applied for probation.
3. The range of punishment, if the judge is to assess punishment.
4. Do not ask commitment questions on voir dire.
5. Do not argue your case during voir dire or opening statement.
6. The state shall not make any reference to the defendants right to silence at any stage of the trial.
7. The **enhancement portions of an indictment** shall not be mentioned or referred to during voir dire or opening statements and that portion of the indictment shall not be read to the jury during the guilt stage of the trial.
8. **Ex Parte Statements of Witnesses.** Any reference to any ex parte statement of any witness or alleged witness unless and until such witness has been called to testify and has given testimony conflicting with such ex parte statement.
9. **Testimony of Absent Witness.** Any statement or suggestion as to the probable testimony of any witness or alleged witness who is unavailable to testify.

10. Hearsay Medical Opinions. Any hearsay statement offered for the truth of the statement by an allegedly injured person concerning any diagnosis or medical opinions communicated to such person by a physician or other health care provider.

11. Photographs and Visual Aids. Showing any documents, photographs or visual aids to the jury, or displaying same in such manner that the jury or any member thereof can see the same, unless and until the same has been tendered to opposing counsel, and has been admitted in evidence or approved for admission or use before the jury, by the Court.

12. Requests for Stipulations. Any request or demand in the presence of the jury for a stipulation to any fact, or that counsel admit or deny any fact.

13. Counsel's Opinion of Credibility. Any expression of counsel's personal opinion regarding the credibility of any witness.

14. Witnesses Comment On Credibility Of Another Witness. Any question that asks a witness to comment or testify that some other witness lied or is not credible except as provided in Rules 404 and 405, Texas Rules of Evidence.

15. Counsel's Opinion of Guilt or Innocence. Any expression of state or defense counsel's personal opinion as to the guilt or innocence of the defendant.

16. Evidence Not Produced in Discovery Response. Calling any witness, or offering any document in evidence, if the identity of such witness or the document has not been disclosed in response to the Standing Discovery Order or other court order. If a party has a good faith basis to urge that such witness or document should be received either because good cause existed for failure timely to disclose, such party shall first approach the bench and secure a ruling thereon. Counsel are advised that to the extent possible or predictable, such matters should be addressed and a ruling sought at pretrial once the case is assigned for trial.

17. Objections to Evidence Not Produced In Discovery. Any objection based on failure to disclose evidence in pre-trial discovery. Any party desiring to urge any such objection shall request to approach the bench and urge such objection outside the hearing of the jury. To the extent possible or predictable, such matters should be addressed and a ruling sought at pretrial once the case is assigned for trial, although the objection may be urged for the record outside the hearing of the jury at the time such evidence is offered in the event the Court has overruled the objection at pretrial.

20. Polygraph Exams. No mention shall be made about the taking of, or offering to take, a polygraph exam.

21. Extraneous Offenses. Prior approval of the court is required before any mention is made of any extraneous offenses whether adjudicated or not, unless the prior adjudicated offense is an element of the primary offense that is on trial.

22. **Objections.** Do not argue your objections unless argument is invited by the court.

23. **Retention of Attorney.** The time or circumstances under which the defendant retained or was appointed an attorney.



W.L. McAdams
District Judge
12th Judicial District



Kenneth H. Keeling
District Judge
278th Judicial District

ADDENDUM 11
THE SUPREME COURT OF TEXAS
AND
THE COURT OF CRIMINAL APPEALS

**THE TEXAS LAWYER'S CREED--A MANDATE FOR
PROFESSIONALISM**

I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this creed for no other reason than it is right.

I. OUR LEGAL SYSTEM

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

- 1. I am passionately proud of my profession. Therefore, "My word is my bond."**
- 2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.**
- 3. I commit myself to an adequate and effective pro bono program.**
- 4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.**
- 5. I will always be conscious of my duty to the judicial system.**

II. LAWYER TO CLIENT

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.

- 1. I will advise my client of the contents of this creed when undertaking representation.**
- 2. I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible.**

3. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.
4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.
5. I will advise my client of proper and expected behavior.
6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.
7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.
8. I will advise my client that we will not pursue tactics which are intended primarily for delay.
9. I will advise my client that we will not pursue any course of action which is without merit.
10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.
11. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.

III. LAWYER TO LAWYER

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

1. I will be courteous, civil, and prompt in oral and written communications.
2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance.
3. I will identify for other counsel or parties all changes I have made in documents submitted for review.
4. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon

or omit provisions which are necessary to reflect the agreement of the parties.

5. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are canceled.

6. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.

7. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.

8. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.

9. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.

10. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.

11. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.

12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the Court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.

13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.

14. I will not arbitrarily schedule a deposition, court appearance, or hearing until a good faith effort has been made to schedule it by agreement.

15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

16. I will refrain from excessive and abusive discovery.

17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.

18. I will not seek Court intervention to obtain discovery that is clearly improper and not discoverable.

19. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.

IV. LAWYER AND JUDGE

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.

2. I will conduct myself in Court in a professional manner and demonstrate my respect for the Court and the law.

3. I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility.

4. I will be punctual.

5. I will not engage in any conduct that offends the dignity and decorum of proceedings.

6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.

7. I will respect the rulings of the Court.

8. I will give the issues in controversy deliberate, impartial and studied analysis and consideration.

9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.