

**IN THE SUPREME COURT OF TEXAS**

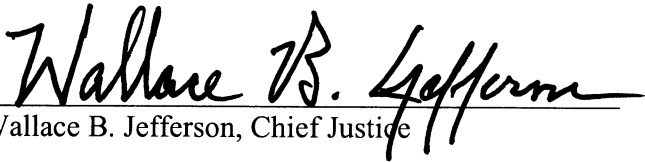
Misc. Docket No. 13- **9067**


**APPROVAL OF AMENDED LOCAL RULES FOR  
DISTRICT COURTS OF JASPER AND NEWTON COUNTY**

**ORDERED** that:

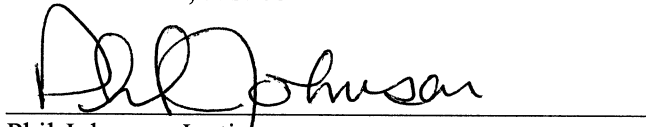
Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court approves the following amendment to the local rules for the 1st and 1-A District Courts of Jasper and Newton County.

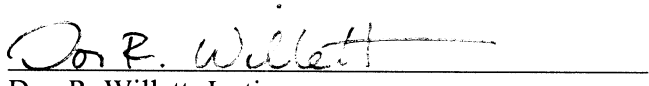
Dated: May 13<sup>th</sup>, 2013.

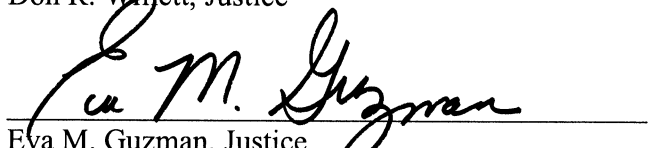
  
Wallace B. Jefferson, Chief Justice

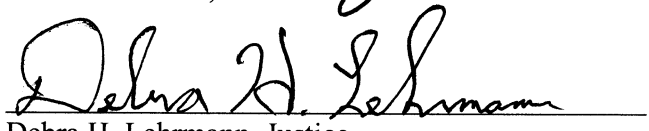
  
Nathan L. Hecht, Justice

  
Paul W. Green, Justice

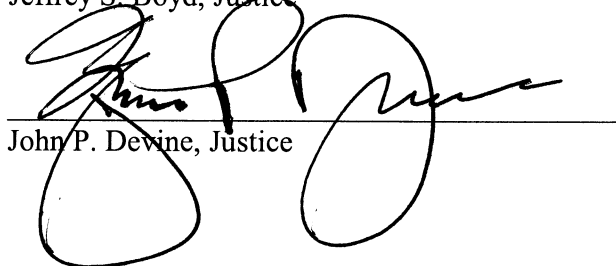
  
Phil Johnson, Justice

  
Don R. Willett, Justice

  
Eva M. Guzman, Justice

  
Debra H. Lehrmann, Justice

Jeffrey S. Boyd, Justice

  
John P. Devine, Justice

LOCAL RULES  
of the  
FIRST JUDICIAL DISTRICT COURT  
and the  
1-A JUDICIAL DISTRICT COURT  
(Jasper and Newton Counties)

By authority of **Rule 3a, Texas Rules of Civil Procedure, Section 74.093, Texas Government Code, Rule 10, Supreme Court Rules of Administration**, and the **Regional Rules of Administration of the Second Administrative Judicial Region**, the following Local Rules of Administration pertaining to the **First Judicial District Court** and the **1-A Judicial Court of Jasper and Newton Counties** are adopted. All other rules heretofore adopted by each Court are rescinded. Nothing contained in these rules shall be construed or interpreted as interfering with the right of the Judge to make such orders, settings or procedural directions (not inconsistent with the Texas Rules of Civil Procedure) as in the Judge's discretion may be necessary and proper for the expedient and orderly dispatch of the business of the court.

**RULE 1. TIME STANDARDS**

**1.1 Adoption of Time Standards**

- 1.1.1 The **District Courts of Jasper and Newton Counties** hereby adopt the time standards established by **Rule 6**, Supreme Court Rules of Judicial Administration and **Rule 1**, Second Administrative Judicial Regional Rules of Administration.
- 1.1.2 The **District Courts of Jasper and Newton Counties** shall, as far as reasonably possible, ensure that all cases are brought to trial or final disposition in conformity therewith.

**1.2 Criminal Cases**

- 1.2.1 Within 12 months of arrest or return of indictment which ever is earlier.
- 1.2.2 Within the time required by constitutional speedy trial provisions if sooner than the 12 month period.

**1.3 Civil Cases other than Family Law**

- 1.3.1 Within 18 months of appearance date for jury cases.
- 1.3.2 Within 12 months of appearance date for nonjury cases.

## **1.4 Family Law Cases**

- 1.4.1 Within 6 months from appearance date or within 6 months from the expiration of the waiting period provided by the Family Code (where such is required, whichever is later) in contested cases.
- 1.4.2 Within 3 months from appearance date or within 3 months from the expiration of the waiting period provided by the Family Code (where such is required, whichever is later) in uncontested cases.

## **1.5 Juvenile Cases**

**1.5.1 Detention Hearings** on the next business day following admission to detention facility.

### **1.5.2 Adjudicatory or Transfer (Waiver) Hearings**

- 1.5.2.1 For a juvenile in a detention facility, not later than 10 days following admission to such facility, except for good cause shown of record.
- 1.5.2.2 For a juvenile not in a detention facility, not later than 30 days following the filing of the petition, except for good cause shown of record.

### **1.5.3 Disposition Hearings**

- 1.5.3.1 Not later than 15 days following the adjudicatory hearing.
  - 1.5.3.2 The court may grant additional time in exceptional cases that require more complex evaluation.
- 1.5.4 Nothing herein shall prevent a judge from recessing a juvenile hearing at any stage of the proceeding where the parties are agreeable or when in the opinion of the judge presiding in the case the best interests of the child and of society shall be served.
- 1.5.5 The above time standards are in addition to the requirements of **Title 3, Texas Family Code**.

**1.6 Complex Cases**

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

1.6.2 Such determination may be made in connection with a pretrial conference or in an order pursuant to **Rule 165a, Texas Rules of Civil Procedure**.

**RULE 2. SUPPLYING INFORMATION**

**2.1 Office of Court Administrator Report** - The Court Coordinator, or the District Clerks of Jasper and Newton Counties shall send a copy of this monthly report to the Presiding Judge of the Second Administrative Judicial Region.

**2.2 Other Information**- Upon request, the Court Coordinator or the District Clerks of Jasper and Newton Counties shall send the Presiding Judge of the Second Administrative Judicial Region other information regarding docket management systems of the District Courts as may be requested.

**RULE 3. DISPOSITION OF CIVIL CASES**

**3.1 Policy** - Rule 3 is adopted to facilitate the meeting of the time standards set forth above in Rule 1.3 consistent with safeguarding the rights of litigants to the just processing of their causes.

**3.2 Jurisdiction** - The jurisdiction of the First and 1-A District Courts shall extend to all cases and each judge may sit in either court.

**3.3 Filing of civil cases** - A central docket will be used and all civil cases shall be docketed numerically in the order of filing.

**3.4 Terms of Court** - The following terms of court shall apply to the District Courts of Jasper and Newton Counties.

**3.4.1 First District Court** will hold at least two jury/nonjury terms in Jasper and Newton Counties beginning as follows:<sup>1</sup>

3.4.1.1 **Jasper** - The first Monday in January and the 22<sup>nd</sup> Monday after the first Monday in January, and such other times as may be designated by the Court.

3.4.1.2 **Newton** - The 5<sup>th</sup> and 34<sup>th</sup> Mondays after the first Monday in January, and such other times as may be designated by the Court.

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<sup>1</sup> As provided by Texas Government Code §24.101.

3.4.2 **1-A District Court** will hold at least two jury/nonjury terms in Jasper and Newton Counties beginning as follows:

3.4.2.1 **Jasper** - The first week of April and the first week of October, and at such other times as may be designated by the Court.

3.4.2.2 **Newton** - The third week in May and the fourth week in November, and at such other times as may be designated by the Court.

### **3.5 Docket Calls**

3.5.1 The dockets of Jasper and Newton Counties will be called on a day certain prior to the opening day of a term of court for the purpose of setting cases for trial during designated weeks.

3.5.2 Docket settings may be made by the Court for the various jury and nonjury weeks.

3.5.3 Nonjury cases, when set during a jury week, are set subject to the jury docket for that week.

3.5.4 Notice of docket calls shall be made to the lawfirms, and unless otherwise requested, shall constitute notice to the attorney in charge.

3.5.5 Request for settings may be made by mail or by telephone prior to the docket call. Personal appearance will not be necessary unless presence of counsel is required for hearing any pretrial matter.

### **3.6 Resetting Cases**

3.6.1 After docket calls, in which cases have been set for trial, parties may, by agreement, reset cases for another week during the term.

3.6.2 All resettings will be subject to court approval. The cases, when reset, will tail the docket.

3.6.3 The designated periods are minimum times. Additional time will be provided consistent with the moving of the docket and the disposition of cases within the time standards for the disposition of civil cases.

### **3.7 Dismissal Dockets**

3.7.1 There shall be dismissal dockets in April and October of each year and, in addition, as many such dockets as may be needed to deal with lack of prosecution and to comply with the time standards.

3.7.2 All cases failing to meet the time standards shall be subject to the dismissal docket and the retention order requirements of **Rule 165a, Texas Rules of Civil Procedure**.

### **3.8 Request for Settings - Nonjury Cases**

3.8.1 The Courts will be available for nonjury trials at times other than jury weeks.

3.8.2 When requesting a setting for a nonjury trial, it is requested that the approximate length of time required for the trial be given in order to facilitate scheduling.

3.8.3 The request for trial setting may be made to the Court Coordinator by telephone or by mail and shall comply with the Texas Rules of Civil Procedure.

### **3.9 Emergency and Special Matters**

3.9.1 The District Clerks of Jasper and Newton Counties, or counsel, upon filing, may present applications for immediate or temporary relief to either judge for appropriate action.

3.9.2 Hearings on temporary restraining orders or petitions for temporary relief may be set for hearing before either judge depending upon their availability, trial schedules and the time requirements for hearing such ancillary matters.

### **3.10 Hearing Motions, Exceptions and Dilatory Pleas**

3.10.1 Before a motion, special exception or other dilatory plea will be heard, the moving party shall first confer with all counsel to determine whether there is opposition.

3.10.2 If the matter will not be opposed, the moving party shall send a proposed order, signed by counsel indicating approval.

3.10.3 If there will be opposition, or, if after reasonable efforts this cannot be determined, the court will be advised and a hearing will be scheduled.

### **3.11 Continuances**

3.11.1 By directive of Rule 7, Supreme Court Rules of Judicial Administration, there must be adherence to firm trial dates with strict policies on continuances.

- 3.11.2 Agreements to continue a case will be respected by the Courts when consistent with the orderly administration of the docket and the Supreme Court Rules of Judicial Administration.
- 3.11.3 A motion for continuance, when filed, should be brought to the attention of the Court and that of opposing counsel with reasonable diligence.
- 3.11.4 Proposed continuances in cases subject to pretrial orders under **Rule 165a, Texas Rules of Civil Procedure**, must be based upon valid and compelling reasons.

### **3.12 Settlements**

- 3.12.1 The possibility of compromise settlement and resolution of issues must be fully discussed and explored before announcing ready for trial.
- 3.12.2 The Court shall be promptly advised of any settlement or agreement that might affect the trial docket.

### **3.13 Court's Charge**

- 3.13.1 Proposed charge questions and instructions shall be given to the Court by each side prior to the presentation of their case. Counsel need not exchange questions and instructions until directed by the Court.
- 3.13.2 Such questions and instructions shall be in a form ready for submission on paper measuring 8 ½ inches by 11 inches.
- 3.13.3 The party having the right to open and close shall prepare the standard introductory and concluding instructions and form for jury verdict.

## **RULE 4. DISPOSITION OF FAMILY LAW AND JUVENILE CASES**

- 4.1 Policy** - Rule 4 is adopted to facilitate the meeting of the time standards set forth in **Rule 1.4** and **Rule 1.5** consistent with the Family Code and with safeguarding the rights of litigants to the just processing of their causes.
- 4.2 Jurisdiction** - The jurisdiction of the First and 1-A District Courts shall extend to all cases and each judge may sit in either court.
- 4.3 Filing of Cases** - A central docket will be used for cases filed under the Family Code with separate dockets for divorce and juvenile cases. Other family law cases will be maintained on the civil docket.



**4.4 Terms of Court** - In addition to the jury and nonjury terms of Court specified in Rule 3.4 above, the following schedules will be observed.

**4.4.1 First District Court** - The following half day schedules will be observed for hearing family law matters, except for the months of June, November and December or holidays, unless otherwise provided. Counsel should check with the Court Coordinator for the schedule for these days in June, November and December or when the regular scheduled day is a holiday.

4.4.1.1 Jasper - 3rd Thursday at 9:00 A. M.

4.4.1.2 Newton - 3rd Thursday at 2:00 P. M.

**4.4.2 1-A District Court** - The following half day schedules will be observed for hearing family law matters, except for the month of July or holidays, unless otherwise provided. Counsel should check with the Court Coordinator for the schedule for these days in July or when the regular scheduled day is a holiday.

4.4.2.1 Jasper - 1st Thursday at 9:00 A. M.

4.4.2.2 Newton - 1st Thursday at 2:00 P. M.

4.4.3 On each of these designated days, the Courts will hear all matters in open court unless special circumstances warrant otherwise and the law permits.

#### **4.5 Docket Calls**

4.5.1 The provisions of **Rule 3.5** shall apply to all family law cases, except juvenile cases, in which a jury fee has been paid. A specific request must be made to the Court Coordinator to have the case included in the docket call.

4.5.2 The provisions of **Rule 3.6** for resetting cases that have been set for trial at a docket call shall apply to such family law cases.

**4.6 Dismissal Docket**- The provisions of **Rule 3.7** shall apply to all family law cases.

#### **4.7 Request for Settings**

4.7.1 A request for setting will not be required to obtain hearings by agreement or for uncontested cases during the half day schedules set out in **Rule 4.4** above, except that counsel are requested to notify the Court Coordinator in advance of matters to be heard on the half day schedules and such matters on the Court Coordinator's list shall take preference over matters not listed.

- 4.7.2 Consideration should be given to the time constraints on those half day schedules when seeking hearings on contested cases. In this connection, **Rule 3.7** shall apply when trial of a contested case (except for hearings for temporary orders) is sought.
- 4.7.3 If it appears that not enough time would be available during the half day schedules for hearing temporary matters and the scheduling of witness, for example, is a factor, the matter should be brought to the attention of the Court as soon as possible.
- 4.8 Emergency and Special Matters** - The provisions of **Rule 3.9** shall apply to family law cases.
- 4.9 Documentation for Support\Property Division**
- 4.9.1 Child support** - The parties shall furnish sufficient information to enable the Court to accurately identify net resources and the ability to provide child support.
- 4.9.2 Temporary Alimony** - The parties shall furnish the Court with an exhibit setting forth all relevant factors which may be considered in determining this issue.
- 4.9.3 Property Division** - The parties shall furnish the Court with an exhibit setting forth the property (separate\community), with estimates of value, the amounts of debts, the existence of liens and a proposed division.
- 4.10 Other Procedural Matters**
- 4.10.1 Hearing Motions** - The provisions of **Rule 3.10** shall apply.
- 4.10.2 Continuances** - The provisions of **Rule 3.11** shall apply.
- 4.10.3 Court's Charge** - The provisions of **Rule 3.13** shall apply.
- 4.11 Appointment of Counsel** - In contempt cases, the following statement shall be included in or attached as a part of the notice of hearing given a respondent:

IN A CONTEMPT ACTION YOU HAVE THE RIGHT TO BE REPRESENTED BY AN ATTORNEY AND THE RIGHT TO THE APPOINTMENT OF AN ATTORNEY IF YOU ARE INDIGENT. YOU MUST BE PREPARED TO SIGN AN AFFIDAVIT AND PRESENT EVIDENCE UNDER OATH AT THE HEARING TO PROVE ANY CLAIM OF INDIGENCY BEFORE AN ATTORNEY CAN BE APPOINTED.

#### **4.12 Court Master**

4.12.1 All cases filed pursuant to Title IV-D of 42 U.S.C. Sections 651, et seq., will, by direction of Section 201.101 of the Family Code be referred for hearing to the Master appointed by the Presiding Judge of the Second Administrative Judicial Region if the Presiding Judge determines the appointment is required.

4.12.2 The duly appointed Master shall have the powers as provided by Section 201.104, Family Code and Subchapter A, Chapter 54, Government Code.

#### **4.13 Settlements**

4.13.1 The successful conclusion of family law matters and the enhancement of post divorce adjustment is best achieved through the settlement of issues.

4.13.2 Each party is expected to make a good faith effort to dispose of, by agreement, as many issues as possible. Counsel shall so advise their clients.

### **RULE 5. DISPOSITION OF FELONY AND MISDEMEANOR CASES**

**5.1 Policy** - Rule 5 is adopted to facilitate the meeting of the time standards set forth in **Rule 1.2** above consistent with the ends of justice, statutory and constitutional rights and the objectives of the Code of Criminal Procedure.

**5.2 Jurisdiction** - The jurisdiction of the First and 1-A District Courts shall extend to all criminal cases (as described in **Article 4.05, 4.06 and 4.17, Code of Criminal Procedure**). Each judge may sit in either court.

**5.3 Filing of Cases** - A central docket will be used and all informations and indictments may be returned to either the **First or 1-A District Courts**.

#### **5.4 Terms of Court**

5.4.1 The provisions of **Rule 3.4** identifying terms of court for civil cases shall apply for the trial of criminal cases. During each term, certain weeks will be set aside for the trial of criminal cases.

5.4.2 When time permits, the half day schedules set out in **Rule 4.4a and 4.4b** will be available for hearing pretrial motions, conducting arraignments and taking pleas of guilty.

**5.5 Docket Calls** - From time to time criminal docket calls will be held on a day certain for setting cases, conducting arraignments, taking pleas of guilty and hearing other pretrial matters as provided in **Article 28.01, Code of Criminal Procedure**.

**5.6 Continuances** - The provisions of **Rule 3.11a** and **Rule 3.11b** shall apply in keeping with **Chapter 29, Code of Criminal Procedure**.

## **RULE 6. SELECTION AND CONTROL OF JURIES**

**6.1 General Provisions** - The following procedures will be used for the selection of names of persons for jury service.

**6.1.1 Jasper County** - The electronic or mechanical method of selection set forth in **Section 62.011** Government Code, shall be used.

**6.1.2 Newton County** - The electronic or mechanical method of selection set forth in **Section 62.011, Government Code**, shall be used.

### **6.2 Jury Trial Selection Procedures**

**6.2.1** Jury selection shall take place on the first day of each jury week. Selection will be for one week only.

**6.2.2** In civil cases, juries will be selected in all cases in which a "ready" announcement has been made unless the court directs otherwise.

**6.2.3** In criminal cases, if more than one case is to be tried during the week, the panel will be reassembled, following completion of the first trial, for further selection.

**6.2.4** As many cases will be tried during a jury week as time permits.

**6.2.5** Sessions for cases on trial shall be from 9:00 A.M. until noon and from 1:00 P.M. until 5:00 P.M. with morning and afternoon recesses. Trial in the first case will begin on the first day of the jury week after all jury panels are selected and sworn.

## **RULE 7. JUDGE'S VACATION, ABSENCES AND DISQUALIFICATION**

**7.1 Vacation** - The vacation time for the **First District Court** is June and that of the **1-A District Court** is July.

- 7.2 **Judicial Conference** - Attendance at the mid-winter conference of the Second Administrative Judicial Region during the second week of February and the annual meeting of the Judicial Section of the State Bar of Texas during the last week of September is authorized.
- 7.3 **Educational Meetings** - Attendance at the criminal justice conference for trial judges in May, the juvenile justice conference in November and such other conferences offered by the State Bar of Texas, when scheduling permits, is authorized.
- 7.4 **Military Leave** - For any judge having military duty as a member of the state military forces or a reserve component of the armed forces, leave of absence is authorized as provided in **Section 431.005, Government Code**.
- 7.5 **Disqualification** -If a judge determines, on his own, that under **Rule 18b, Texas Rules of Civil Procedure**, he is disqualified to sit in a particular case or that he should recuse himself, he shall first talk with the other judge of their common district about hearing the case. After conferring, if it is determined that getting a visiting judge would be more feasible, then a request will be made to the Presiding Judge of the Second Administrative Judicial Region for an assignment of a visiting judge. If a motion to recuse is filed, the provisions of **Rule 18a, Texas Rules of Civil Procedure**, shall be followed.

**RULE 8. THE RULE WITH RESPECT TO RULES**

- 8.1 **Authority** - These local rules are adopted pursuant to and in conformity with the Regional Rules of the Second Administration Judicial Region of Texas.
- 8.2 **Effective Date** - These local rules shall not become effective until approved by the Presiding Judge of the Second Administrative Region and the Supreme Court of Texas and until 30 days after publication as provided in **Rule 3a(3), Texas Rules of Civil Procedure**.

**RULE 9. LOCAL COURT ADMINISTRATION**

**9.1 Board of Local Judges**

- 9.1.1 The district judges of Jasper and Newton Counties, under the direction of the local administrative judge, shall constitute the Board of Local Judges for each county.
- 9.1.2 The local administrative judge shall have the duties as authorized by **Section 74.092, Government Code**.

**9.2 Meetings**

9.2.1 The Board of Local Judges shall meet regularly to address matters set forth in **Rule 3e** and **Rule 9b**, Supreme Court Rules of Judicial Administration and **Section 74.093, Government Code**.

9.2.2 Meetings shall be held at least quarterly or at shorter intervals as the need arises.

**RULE 10. CONFLICTING ENGAGEMENTS OF ATTORNEYS**

**10.1 State Courts - Rule 10**, Second Administrative Judicial Regional Rules of Administration shall apply.

**10.2 Federal Courts - Rule 10a (1) and (2) and Rule 10b (1)**, Second Administrative Judicial Regional Rules of Administration shall apply.

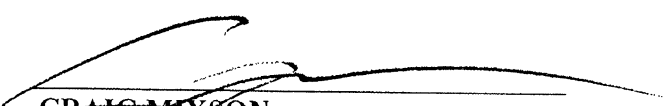
**RULE 11. ATTORNEY VACATIONS**

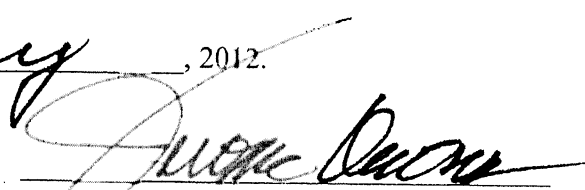
**11.1 Policy - Rule 10**, Second Administrative Judicial Regional Rules of Administration, shall apply.

**ORDER**

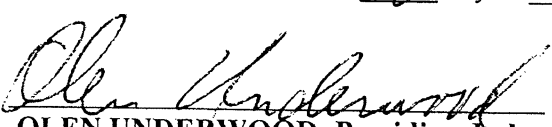
It is ORDERED that the District Clerks of Jasper and Newton Counties shall cause these local rules to be entered upon the official minutes of the District Courts of each county and that the same be published in a manner reasonable calculated to bring them to the attention of attorneys practicing before the courts and it is further ORDERED that such rules be made available upon request to members of the bar.

ADOPTED THIS 23 day of May, 2012.

  
CRAIG MIXSON  
Presiding Judge  
First District Court

  
JEROME P. OWENS  
Presiding Judge  
1-A District Court

APPROVED THIS 30 day of May, 2012.

  
OLEN UNDERWOOD, Presiding Judge,  
Second Administrative Judicial Region of Texas