

ORDER OF THE SUPREME COURT OF TEXAS


Misc. Docket No. 99- 9147


**Approval of Amendments to
Travis County Local Rules**

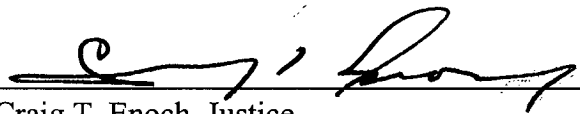
IT IS ORDERED that:


Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court of Texas approves the attached amendments to the Local Rules of Civil Procedure and Rules of Decorum of the Travis County District Courts, Travis County, Texas. The approval of these rules is temporary pending further orders of the Court.

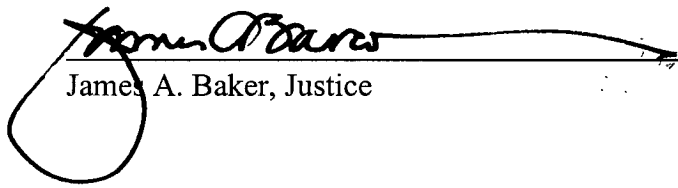
By the Court, en banc, in chambers, this 27th day of August, 1999.

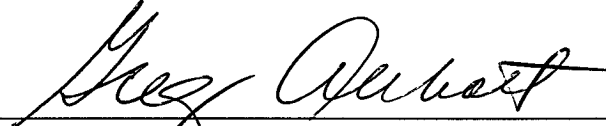

Thomas R. Phillips, Chief Justice


Nathan L. Hecht, Justice

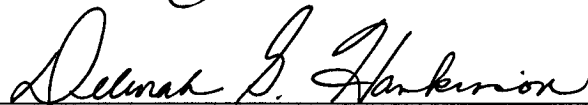

Craig T. Enoch, Justice


Priscilla R. Owen, Justice

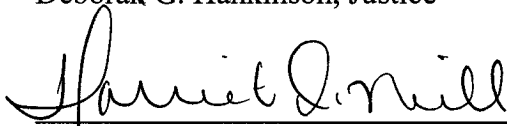

James A. Baker, Justice



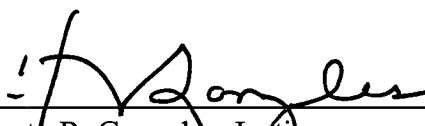
Greg Abbott, Justice



Deborah G. Hankinson, Justice



Harriet O'Neill, Justice



Alberto R. Gonzales, Justice

CHAPTER 3

ANNOUNCEMENT DOCKET AND THE ASSIGNMENT OF CASES

Settings before the District Courts

Rules 3.1 through 3.10 (no change)

Settings before the Associate Judges

3.11 Rules 3.1 through 3.10 apply to the announcement docket, the setting and hearing of motions for continuance and the assignment of cases on the Associate Judges' settings docket, unless otherwise provided herein.

- (a) An announcement docket will be held on Friday of each week for the Associate Judges' docket of longer-than-three-hour cases set for the following week. Announcements will be taken on Friday beginning at 8:00 a.m. and ending at 11:00 a.m. Attorneys for either side with offices in Travis County shall appear in the Court Administrator's office to give their announcement of readiness and an updated estimate of time needed for the entirety of the hearing. Attorneys with no office in Travis County may announce by telephone to the Court Administrator's office during the same time periods. The telephone number is (512) 473-9095. By Friday at noon, the Court Administrator shall post a list of cases set on the Associate Judges' longer-than-three hour docket for the following week that will include the order in which the cases will be heard. Cases set, but in which no attorney has announced, will be moved to the bottom of the list of cases set for the same time and will be heard only after all announced cases are heard and only if time permits.

- (b) Any time estimate controversy that affects the assignment of a matter will be heard by an Associate Judge on Friday at 11:45 a.m. following the announcement docket.
- (c) Any party who contests the time estimate given with notice of setting that is required by Local Rule 2.4 shall give timely notice to all parties that such controversy will be heard on Friday at 11:45 a.m.
- (d) Motions for continuance of a case set on the Associate Judges' docket will be heard each Friday at 11:45 a.m.
- (e) All cases set on the Associate Judges' docket will be called at the time and day on which they are set.
- (f) Any longer-than-three-hour case not assigned to an Associate Judge at the time the case is called may be assigned at any time before 5:00 p.m. on Thursday of the same week as an Associate Judge becomes available, and the parties must be ready to begin the trial or hearing when each case is reached.

CHAPTER 5

THE ORDER OF BUSINESS ON FRIDAYS

Rules 5.2, 5.3, 5.4, and 5.5 of the Local Rules of Civil Procedure are amended to read as follows:

- 5.1 (No change)
- 5.2 Except as otherwise authorized by a Judge, the following matters may be set on Friday mornings of jury and non-jury weeks:
 - (a) *De novo* hearings from findings and recommendations of an Associate Judge that will require three hours or less;
 - (b) A hearing that results from a Judge having granted a writ of *habeas corpus* involving a child may be set for a Friday morning, at the discretion of the Judge, and will be assigned to that same Judge;
 - (c) All family law contempt cases in which the movant is represented by a private attorney that will require one hour or less.
 - (d) Any family law matter not required to be heard originally by an Associate Judge that requires fifteen minutes or less;
 - (e) Any other contested or uncontested matter that will require 15 minutes or less.

Matters set pursuant to subparagraphs (a), (b) and (c) will be given preference over those set pursuant to subparagraphs (d) and (e). Matters set pursuant to subparagraphs (a), (b), (c) and (d) may be set at other days and times available on the

Central Settings Docket but will not be given preference over other settings on those other days and times.

5.3 – 5.5 are eliminated.

CHAPTER 6

PROCEEDINGS BEFORE ASSOCIATE JUDGES IN FAMILY LAW CASES

- 6.1 Pursuant to TEX.FAM.CODE ANN., Subchapter A, Chapter 201, the District Courts have appointed Associate Judges to hear certain matters specified by these Rules and by these Rules do refer such matters to the Associate Judges.
- 6.2 The following will be heard originally by an Associate Judge:
- (a) All matters relating to suits over which the District Courts have jurisdiction under TEX.FAM.CODE ANN. Titles 1, 4, and 5 except:
 - (1) matters on the uncontested docket;
 - (2) contested trials on the merits to terminate parental rights;
 - (3) contested trials on the merits that will require more than three hours, unless the parties in writing or on the record (i) consent to having the trial heard by an Associate Judge and (ii) waive the right to request a *de novo* hearing before a District Judge;
 - (4) proceedings in which Child Protective Services is a party;
 - (5) pretrial motions that, if granted, could have a dispositive effect on issues in the case, *e.g.*, pleas in abatement, special appearance, and summary judgment, unless the parties in writing or on the record (i) consent to having the motion heard by an Associate Judge and (ii) waive the right to request a *de novo* hearing before a District Judge;

- (6) motions for discovery sanctions with respect to any discovery issue where an order to compel has already been recommended by an Associate Judge; and
 - (b) Any other matter referred to an Associate Judge by a Judge (i) if the parties consent in writing or on the record or (ii) as otherwise provided by law.
 - (c) Adoptions and petitions to recognize foreign adoptions may not be heard at the uncontested docket. Uncontested adoptions and petitions to recognize foreign adoptions shall be set on the Associate Judges' settings docket.
- 6.3 All matters for which the Domestic Relations Office has responsibility shall be set by the Domestic Relations Office.
- 6.4 All other matters to be heard originally by an Associate Judge shall be set by the Court Administrator on the Associate Judges' settings docket. The Court Administrator may assign to another Associate Judge, or to an available Judge, any matter that cannot be reached by an Associate Judge at the time the case is called for hearing. An Associate Judge may refer any matter to the Court Administrator for a setting before a Judge. An Associate Judge will usually refer any matter requiring a lengthy hearing, unless the parties in writing or on the record waive their right to request a *de novo* hearing before a District Judge.
- 6.5 (a) A party may file an objection to the assignment of an Associate Judge to hear any trial on the merits. A trial on the merits is any trial in which a party seeks a final adjudication from which an appeal may be taken to a

Court of Appeals. The objection must be in writing. The time for filing an objection pursuant to TEX.FAM.CODE ANN. § 201.005, shall be:

- (1) on or before ten days from receipt of a notice of setting on the Associate Judges' docket;
 - (2) on or before the day a setting before a Judge is requested by the party seeking a hearing; or
 - (3) on or before ten days from receipt of notice that a Judge referred a specific case to an Associate Judge for a trial on the merits.
- (b) A person filing an objection shall deliver a copy of the objection to all parties and to the Court Administrator on the same day the objection is filed with the District Clerk. The Court Administrator shall remove any trial on the merits from the Associate Judges' docket after an objection is filed.
- (c) A party may file a motion to have any other matter heard originally before a Judge instead of an Associate Judge. The motion must be in writing and must specify the grounds in support of the motion. The party filing the motion must set the motion for hearing by a Judge, with notice to all parties as required by the applicable rules of civil procedure.

6.6 Matters set before an Associate Judge will be set on the days and times reflected on the docket schedule filed with the Court Administrator. Notice of the locations of the docket calls and hearings will be posted each day on the bulletin board outside of the District Clerk's office on the third floor of the courthouse.

- 6.7 The fact that the rules require that certain matters be heard originally by an Associate Judge does not affect a party's right to have a Judge grant or extend a temporary restraining order or an *ex parte* protective order, and does not prevent a temporary restraining order or an *ex parte* protective order from expiring. Until a Judge signs an order concerning the findings and recommendations of an Associate Judge, such findings and recommendations do not affect an existing temporary restraining order or *ex parte* protective order or the expiration or extension of such an order.
- 6.8 At the conclusion of any hearing conducted by an Associate Judge, the Associate Judge shall make findings, conclusions, and recommendations by making a written, signed and dated notation on the docket sheet of the case or on a separate document that will be placed in the file folder and noted on the docket sheet. The Associate Judge shall give to the parties participating in the hearing notice of the substance of the findings, conclusions, and recommendations. The notice may be given in open court or may be given by letter sent by certified mail, return receipt requested. If the notice is by certified mail, the Associate Judge shall certify the date of mailing, and the notice is deemed to have been given on the third day after the date of mailing. THE TIME FOR FILING A REQUEST FOR A *DE NOVO* HEARING BEFORE A JUDGE BEGINS ON THE FIRST DAY AFTER THIS NOTICE IS GIVEN OR DEEMED TO HAVE BEEN GIVEN..
- 6.9 The Associate Judge shall give notice to all parties of the right to request a *de novo* hearing before a Judge. This notice shall be given in the Associate Judge's

written report and by posting a copy of TEX.FAM.CODE ANN. §§ 201.001-201.017 inside or outside the Associate Judge's courtroom.

- 6.10 After a hearing is concluded, the Associate Judge shall send to a Judge a written, signed report containing the Associate Judge's findings and recommendations. The report may be in the form of a written order prepared for a Judge's signature and accompanied by the Associate Judge's signed and dated statement that the order as prepared is recommended. The Judge shall promptly approve or disapprove the report in its entirety or set the matter for a hearing before a Judge.
- 6.11 Any party is entitled to a *de novo* hearing before a Judge if, not later than the third day after the Associate Judge gives notice of his or her findings, conclusions, and recommendations, the party files with the District Clerk a written request for a *de novo* hearing. The right to a *de novo* hearing exists even if within said three-day period a Judge has signed an order approving the findings and recommendation of the Associate Judge.
- 6.12 Except for orders providing for incarceration or for the appointment of a receiver, a request for a *de novo* hearing does not stay, suspend, or affect the enforcement of an order of the Associate Judge pursuant to TEX.FAM.CODE ANN. § 201.013 pending a hearing before a District Judge on any appeal from the Associate Judge's report. A request for a *de novo* hearing does not stay, suspend, or prevent enforcement or contempt proceedings brought pursuant to an order requiring that the parties comply with an Associate Judge's decisions and recommendations pending a *de novo* hearing.

- 6.13 A request for a *de novo* hearing must state with particularity the specific findings, conclusions and recommendations of the Associate Judge that are the subject of objection, or the issue is deemed waived. The Judge to whom the *de novo* request is assigned for hearing may determine whether to consider other issues.
- 6.14 Any person requesting a *de novo* hearing before a Judge shall also deliver a copy of the request to the Court Administrator on the same day that the request is filed with the District Clerk. The Court Administrator shall set the matter for hearing on the Central Settings Docket on the first available date as determined by the Court Administrator after seven days, but no later than thirty days, from the date the initial request was filed.

CHAPTER 7

PRE-TRIAL PROCEDURE IN FAMILY LAW CASES

7.1 STANDING PRE-TRIAL AND DISCOVERY ORDER

The District Courts have determined that the following procedures are necessary for the orderly disposition of certain family law matters, and pursuant to Rule 166, Texas Rules of Civil Procedure, it is hereby ordered that this Chapter 7 shall constitute a standing pre-trial and discovery order in all divorce cases, suits affecting the parent-child relationship, and suits to modify orders affecting the parent-child relationship. The term “party” as used below includes a party’s counsel of record.

7.2 PRE-TRIAL PROCEDURE BEFORE A FINAL TRIAL ON THE MERITS

Before the final trial on the merits in any divorce suit, suit affecting the parent child relationship, or suit to modify an order affecting the parent-child relationship, each party shall prepare and deliver pre-trial forms as follows:

(1) FORMS REQUIRED DEPEND ON TYPE OF SUIT AND ISSUES AT TRIAL

- (a) In a divorce suit, each party shall prepare and deliver a Proposed Property Division in the form prescribed by these rules, fully completed and signed by the party; or a single agreed Proposed Property Division, signed by both parties.
- (b) In any suit requiring a determination of child support or spousal maintenance, each party shall prepare and deliver a Proposed Support Decision and Information in the form prescribed by these rules, fully

completed and signed by the party, or a single agreed Proposed Support Decision and Information, signed by both parties.

- (c) In any suit in which a Proposed Property Division or Proposed Support Decision and Information is required, then each party shall also prepare and deliver a Proposed Disposition of Other Issues, which shall state separately in brief complete sentences each trial decision that is sought by the party that is not covered by the Proposed Property Decision or Proposed Support Decision and Information.

(2) TO WHOM FORMS ARE DELIVERED

Each party shall deliver the required forms to the opposing party and to the Court Administrator.

(3) WHEN FORMS ARE DELIVERED

Each party shall deliver the required forms before 1:30 p.m. on the Thursday that is ten days prior to the Monday of the week of any trial on the merits.

7.3 PRE-TRIAL PROCEDURE BEFORE A TEMPORARY OR INTERIM ORDERS

HEARING

Before any hearing on temporary or interim orders in any divorce suit, suit affecting the parent-child relationship, or suit to modify an order affecting the parent-child relationship, each party shall prepare and deliver pre-trial forms as follows:

(1) FORM REQUIRED DEPENDS ON ISSUES AT HEARING

In a hearing to determine child support or spousal maintenance, each party shall prepare and deliver a Proposed Support Decision and Information in the form prescribed by these rules, fully completed, and signed by the party.

(2) TO WHOM FORM IS DELIVERED

Each party shall deliver the required form to the opposing party and to the Judge hearing the case.

(3) WHEN FORM IS DELIVERED

Each party shall deliver the required form before the court calls the case for hearing.

7.4 NOT REQUIRED IN DRO, DPRS, AG OR COUNTY ATTORNEY PROTECTIVE ORDER HEARINGS

Pre-trial forms are not required for any hearing at which attorneys from the Travis County Domestic Relations Office, the Department of Protective and Regulatory Services, the Texas Attorney General's Office or the County Attorney Protective Order Division appear.

7.5 NO EXTENSIONS OR WAIVERS BY COURT ADMINISTRATOR OR BY AGREEMENT

The Court Administrator is not authorized to extend the time for delivering pre-trial forms. The parties may not by agreement waive or modify the provisions or requirements of these rules.

7.6 HANDLING OF FORMS

The Court Administrator will deliver pre-trial forms received prior to a final trial on the merits to the Judge to whom the case is assigned for trial. Pre-trial forms shall not

be filed with the District Clerk at any time. The District Clerk is authorized to destroy any such forms found in the case file maintained by the Clerk.

7.7 USE AS EVIDENCE

Subject to applicable rules of evidence, the pre-trial forms required by these rules may be used during the trial or hearing and may be marked as exhibits and offered in evidence.

7.8 CONSEQUENCES FOR FAILURE TO COMPLY

(1) ALL PARTIES FAIL TO COMPLY

If all parties in a case fail to deliver pre-trial forms as required by these rules, the case will be moved to the bottom of the list of cases set for the same time and will be heard only after all announced cases are heard and only if time permits.

(2) A PARTY FAILS TO COMPLY

If it appears that any party in a case failed to deliver pre-trial forms as required by these rules, the Court shall conduct a pre-trial conference if requested and notice is given by any party, or the Court may conduct a pre-trial conference on its own motion. The Court may impose one or more of the sanctions authorized by Tex. R. Civ. Proc. 215 against any party or attorney responsible for such failure.

(3) ISSUES WAIVED

All issues not stated in pre-trial forms as required by these rules will be deemed waived except upon a showing of good cause for failure to comply with these rules.

7.9 NO LIMITATION ON TEXAS RULES OF CIVIL PROCEDURE

These rules shall not be construed as a substitute for, or as any limitation upon, any pre-trial or discovery right or proceeding pursuant to the Texas Rules of Civil Procedure. In cases subject to these local rules, as in other cases, Texas pre-trial conference and discovery rules apply.

CHAPTER 11

DISMISSAL FOR WANT OF PROSECUTION

11.1 CASE SELECTION

The following cases are eligible for dismissal for want of prosecution under this chapter pursuant to T.R.C.P. 165a:

- (a) Cases on file for more than 180 days in which no answer has been filed.
- (b) Cases which have been on file for more than eighteen months and are not set for trial and have had no filings or settings within 180 days.
- (c) Cases in which a party or the party's attorney has failed to take any action specified by the Court.
- (d) Any other case designated by the Court.

11.2 FILING PROCEDURES

The District Courts shall establish the procedures necessary to accomplish the purpose of this chapter including the keeping of all records and dockets. ALL ORIGINAL NOTICES, MOTIONS, NOTIFICATIONS AND PLEADINGS REQUIRED TO BE FILED BY THE CHAPTER SHALL BE INITIALLY DELIVERED TO THE COURT SERVICES DEPARTMENT OF THE CIVIL DISTRICT COURTS (512-473-9300). The Court Services Department shall file in a timely manner all documents required by this chapter with the District Clerk's Office.

11.3 NOTICE

Pursuant to Rule 165a, Texas Rules of Civil Procedure, the Court Services Department shall give notice that certain cases will be dismissed for want of prosecution.

Such matters will be dismissed on the date indicated in the notice of dismissal unless at least one party complies with the requirements set forth in this chapter.

11.4 DOCKET SETTINGS

No central docket settings may be obtained in cases set for dismissal until the dismissal docket process is complete, except with leave of Court.

11.5 PROCEDURES FOR RETAINING CASES AND OBJECTING TO MOTIONS TO RETAIN

- (a) Motions to retain shall be filed with the Court Services Department at least three working days prior to the date specified in the notice of dismissal for want of prosecution.
- (b) All motions to retain shall include a proposed Order to Retain (original and one copy). Any party that files a motion to retain shall include a written memorandum setting forth the factual and legal basis why the case should not be dismissed for want of prosecution.
- (c) Parties objecting to a motion to retain shall file with the Court Services Department a written memorandum setting forth the factual and legal basis for their objecting to the motion to retain within ten days of service of a motion to retain.
- (d) Failure of a party to appear in person or by written submission in connection with any motion will not of itself constitute grounds for ruling against the party.
- (e) There will be no oral arguments on motions to retain or objections to motions to retain, unless ordered by the Court.

11.6 CASES NOT REQUIRING ORAL ARGUMENTS

The Court shall notify all parties filing a motion to retain or objection to a motion to retain of the Court's ruling.

11.7 CASES REQUIRING ORAL ARGUMENTS

- (a) The Court shall notify the party filing a motion to retain of the Court's decision to permit oral arguments.
- (b) Unless otherwise set by the Court, the party filing a motion to retain shall be responsible for setting any hearings required by the Court on motions to retain and for giving proper notice to all interested parties. Settings shall be made and conducted within sixty days of the date set forth on the notice of dismissal for want of prosecution. Settings shall be made through the Court Services Department.
- (c) Parties filing a motion to retain or an objection to a motion to retain shall notify in writing the Court Services Department as to the outcome of any oral argument hearings on such pending motions within ten working days of the scheduled hearing.

11.8 RETAINED CASES

- (a) Cases retained by order of the Court are hereby referred to alternative dispute resolution procedures as authorized by the Texas Alternative Dispute Resolution Procedures Act and as described in Chapter 17 of the Travis County Local Rules.
- (b) Parties filing motions to retain shall file any objection to ADR simultaneously with their motion to retain. Parties receiving notice of a motion to retain shall file

any objection to ADR within ten days of service, or (simultaneously with an objection to a motion to retain).

- (c) Any party objecting to ADR shall file with the Court Services Department a written memorandum setting forth the factual and legal basis for their motion.
- (d) There will be no oral arguments on objections to ADR unless ordered by the Court.
- (e) Objections to ADR shall be scheduled simultaneously with all court hearings required by the Court on motions to retain or motions objecting to a motion to retain.
- (f) Unless otherwise set by the Court, objections to ADR shall be set through the Court Services Department.
- (g) The party filing an objection to ADR shall be responsible for notifying in writing the Court Services Department as to the outcome of any hearings conducted on a motion objecting to ADR within ten days of the hearing.
- (h) Parties filing motions to retain shall be responsible for scheduling and ensuring completion of an ADR procedure within 90 days of the Court's ruling to retain a case.

11.9 DISCOVERY

No further discovery is authorized in cases retained by the Court and ordered to complete an ADR procedure unless ordered by the Court or by written agreement of all parties and filed with the Court Services Department. Further discovery will not extend the deadlines prescribed in this chapter unless ordered by the Court.

11.9 ADR CERTIFICATION

- (a) Within 90 days of the Court's ruling to retain a case, the party filing the motion to retain shall deliver to the Court Services Department a written statement indicating that mediation has been completed and whether settlement was reached.
- (b) The ADR certification may be waived upon presenting a proposed or signed order of final judgment to the Court Services Department.

11.10 SCHEDULING ORDER

Parties involved in cases completing mediation and not reaching settlement shall submit a proposed scheduling order, (including a trial date) within 120 days of the Court's ruling to retain a case, to the Court Services Department.

11.11 NONCOMPLIANCE PENALTY

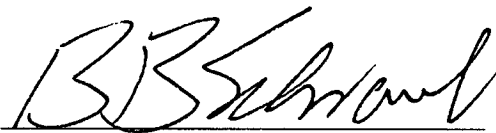
Failure to comply with any provision of this chapter shall result in the immediate dismissal of a case for want of prosecution.

11.12 INCLUDES ALL PENDING CLAIMS

Whenever this chapter refers to a case it shall include all pending claims in the case.

CERTIFICATE OF APPROVAL

The attached Revisions to the Travis County Local Rules are hereby approved and transmitted to the Supreme Court of Texas for final action this 29th day of June, 1999.

A handwritten signature in black ink, appearing to read "B.B. Schraub", written over a horizontal line.

B.B. Schraub, Presiding Judge
Third Administrative Judicial Region



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

EXECUTIVE ASST
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASST
NADINE SCHNEIDER

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

August 31, 1999

Hon. W. Jeanne Meurer
Admin. Judge and Judge
98th District Court
Post Office Box 1748
Austin, Texas 78767-1748

Dear Judge Meurer,

Please find enclosed, a copy of the order of the Supreme Court that approved amendments to the local rules for the district courts of Travis County.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. B. B. Schraub
3rd Admin Judicial Rgn

District Clerk

County Clerk

Supreme Court Adv Committee

Mr. Jerry Benedict
Office of Court Admin

State Law Library