

# IN THE SUPREME COURT OF TEXAS

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Misc. Docket No. 17-9015

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## APPROVAL OF AMENDED RULES OF ADMINISTRATION AND PROCEDURE FOR THE FIRST ADMINISTRATIVE JUDICIAL REGION

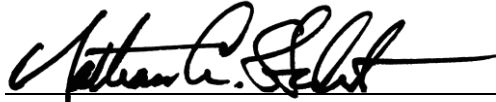
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**ORDERED** that:

Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court approves the following Amended Rules of Administration and Procedure for the First Administrative Judicial Region.

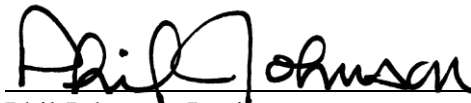
Dated: February 14, 2017.



Nathan L. Hecht, Chief Justice



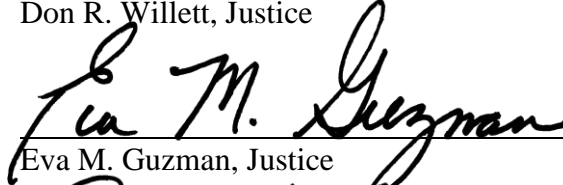
Paul W. Green, Justice



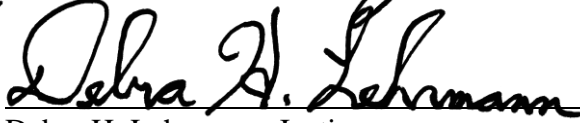
Phil Johnson, Justice



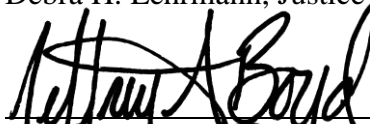
Don R. Willett, Justice



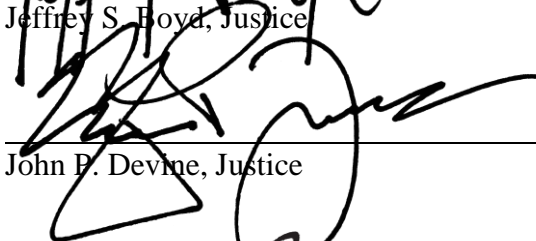
Eva M. Guzman, Justice



Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice



**THE STATE OF TEXAS**  
**FIRST ADMINISTRATIVE JUDICIAL REGION**  
**RULES OF ADMINISTRATION AND PROCEDURE**

**PART I. GENERAL RULES**

**RULE 1. AUTHORITY AND APPLICABILITY**

These rules are promulgated by the Council of Judges of the First Administrative Judicial Region of the State of Texas pursuant to Section 74.048(c)(1) of the Texas Government Code and Rule 4(c) of the Rules of Judicial Administration, adopted by the Supreme Court of Texas under the authority of Section 74.024 of the Texas Government Code. These rules apply to all district and statutory county courts in the First Administrative Judicial Region.

**RULE 2. DEFINITIONS AND CONVENTIONS**

In these rules:

- 2.1 "Presiding Judge" means the presiding judge of the First Administrative Judicial Region.
- 2.2 "Region" means the First Administrative Judicial Region as created by Section 74.042(b) of the Texas Government Code.
- 2.3 References to Chapters 74 and 75 and sections therein are to the Texas Government Code.

**RULE 3. COUNCIL OF JUDGES**

- 3.1 Pursuant to Rule 4(a) of the Rules of Judicial Administration, the Council of Judges for the Region is composed of the Presiding Judge as Chair, judges of the district and statutory county courts within the Region (excepting statutory probate courts), and retired and former district and statutory county court judges residing in the Region who have qualified to serve as judicial officers under Section 74.055(c).
- 3.2 The Presiding Judge shall call and preside over at least one annual regular meeting of the Council of Judges at a designated time and place. The Presiding Judge also may call a special meeting of the Council of Judges at any time considered necessary.

- 3.3 The Council of Judges shall consider those matters prescribed by Section 74.048(c) and Rules 3 and 4 of the Rules of Judicial Administration.
- 3.4 All matters requiring approval of the Council of Judges are decided by a majority of the judges present at the meeting. No proxy votes are allowed.

## **PART II. RESPONSIBILITIES OF THE PRESIDING JUDGE**

### **RULE 4. AUTHORITY OF THE PRESIDING JUDGE**

- 4.1 Under Section 74.047, the Presiding Judge has the authority to perform the acts necessary to carry out the provisions of Chapter 74 and to improve the management of the court system and the administration of justice.
- 4.2 Pursuant to Section 74.056(c), the Presiding Judge may appoint an Acting Presiding Judge to serve in the absence of the Presiding Judge. The acting presiding judge has all the rights, duties, and powers of the Presiding Judge.

### **RULE 5. JUDICIAL SERVICE BY RETIRED AND FORMER JUDGES**

- 5.1 Definitions:
  - a. A “retired” judge is a judge who served as a district, appellate court, or statutory county court judge and is receiving an annuity under the judge’s respective retirement system.
  - b. A “senior” judge is a retired district or appellate court judge who served for at least 96 months and has elected to be a judicial officer under Section 75.001.
  - c. A “former” judge is a person who served as an active judge in a district, statutory county, statutory probate, or appellate court for at least 96 months and is not yet retired.
- 5.2 Pursuant to Section 74.055(a), the Presiding Judge is required to maintain a list of qualified retired and former judges eligible to sit by assignment in the Region.
- 5.3 Qualified retired and former judges may elect to serve as judicial officers eligible for assignment pursuant to Chapters 74 and 75. The statutory requirements are detailed in Section 74.055(c) and include the certification to the Presiding Judge of a willingness not to appear and plead as an attorney in any court in this state for a period of two years and compliance with annual continuing judicial education requirements.
- 5.4 The Section 74.055(a) list of retired and former judges shall include the areas of expertise (criminal, civil, or family) for each eligible judge. Although a judge may

qualify for assignment in more than one area of expertise, a judge may not be assigned to a case or docket outside the judge's listed area(s) of expertise.

- 5.5 Retired and former judges must certify annually their continued eligibility for judicial assignment on the form provided by the Region.

## **RULE 6. ASSIGNMENT OF JUDGES**

- 6.1 Whenever needed and pursuant to the authority granted by Section 74.056(a), the Presiding Judge may assign judges to preside in courts of the Region to try cases and dispose of accumulated business.
- 6.2 Under Rule 8 of the Rules of Judicial Administration, judges may be assigned in the manner provided by Chapter 74 when the regular judge of the court is absent or is unable to serve, voluntarily recuses or is recused under the provisions of Rule 18b of the Texas Rules of Civil Procedure, is disqualified for any reason, or needs assistance with a heavy docket. Judges also may be assigned when the office of the judge is vacant because of death, resignation, or other cause.
- 6.3 Assigned judges may be active judges or may be qualified retired or former judges.
- 6.4 In accordance with Section 74.060, active judges may not be assigned outside the judge's district or county for more than 10 calendar days in a year without the judge's consent.
- 6.5 When a judge is assigned under Chapter 74, the order of assignment shall state whether the judge is an active, retired, senior, or former judge. An active judge assigned under Chapter 74 is not subject to an objection under Section 74.053.
- 6.6 Pursuant to Section 74.059(a), an assigned judge has all the powers of a judge of the court to which the judge is assigned.
- 6.7 The salary, compensation, and expenses incurred by a judge while assigned shall be paid in accordance with the provisions of Section 74.061 and other laws of the state. Claims for expenses submitted by assigned active judges and all pay and expense claims submitted by assigned retired and former judges are subject to the approval of the Presiding Judge after certification by the assigned judge.
- 6.8 The presiding judge of one administrative region may request the presiding judge of another administrative region to furnish judges for assignment in a court in the administrative region of the requesting presiding judge.

### **PART III. LOCAL ADMINISTRATIVE JUDGES AND TRIAL COURTS**

#### **RULE 7. LOCAL ADMINISTRATIVE JUDGES**

- 7.1 Pursuant to Sections 74.091(a) and 74.0911(a), the district and statutory county courts must each have a local administrative judge (LAJ). If an LAJ is not chosen by the local judges, the Presiding Judge shall designate one of the qualified judges of the county to act as the LAJ pursuant to Rule 9 of the Rules of Judicial Administration.
- 7.2 The LAJ has the authority to adopt rules and policies for the management of the courts and to perform the acts needed to carry out the provisions of Section 74.092(a).
- 7.3 Pursuant to Section 74.092(a)(6), the LAJ is responsible for providing requested statistical and management information to the Supreme Court of Texas and the Office of Court Administration.
- 7.4 Pursuant to Article 102.017(f) of the Code of Criminal Procedure, the LAJ is responsible for reporting to the Office of Court Administration any security threats or incidents occurring on the premises of any court or office used by the court.

#### **RULE 8. ADOPTION AND AMENDMENT OF LOCAL RULES**

- 8.1 The district and statutory county court judges in each county shall, by majority vote, adopt local rules in accordance with Section 74.093.
- 8.2 Local rules of administration must provide for the filing, assignment, docketing, transfer, and hearing of all cases to achieve the time standards set forth in Rule 6 of the Rules of Judicial Administration. Rules relating to the transfer of cases or proceedings shall not permit the transfer of a case from one court to another court unless the case is within the jurisdiction of the court to which the case is transferred.
- 8.3 Any rules related to docket or bench exchanges between judges shall be in accordance with Section 74.094.
- 8.4 The rules should include procedures for attorneys who wish to reserve vacation weeks, guidelines for courtroom order and decorum consistent with judicial duties under Canon 3B(3) of the Texas Code of Judicial Conduct, and procedures for recording and broadcasting court proceedings.
- 8.5 Local rules must meet the requirements of Rules 7, 9(b), and 10 of the Rules of Judicial Administration.
- 8.6 The county local rules shall not be inconsistent with these rules. In the event of a conflict, these rules control.

- 8.7 Local rules must be submitted to the Presiding Judge for review and approval before submission to the Supreme Court of Texas. In accordance with Rule 3a of the Texas Rules of Civil Procedure, any proposed local rule is not effective until approved by the supreme court. Once approved, the local rules must be published and available to the Bar and public.

## **RULE 9. RECUSAL AND DISQUALIFICATION**

- 9.1 These provisions apply to recusals and disqualifications, and “recusal” is used interchangeably unless noted otherwise.
- 9.2 When a party files a motion to recuse a judge under Texas Rule of Civil Procedure 18a, the clerk of the court must immediately deliver a copy of the motion to the respondent judge and the Presiding Judge.
- 9.3 Pursuant to Rule 18a(f)(1), a respondent judge has a duty to act on the motion within 3 business days by signing and filing with the clerk, an order of recusal or an order referring the motion to the Presiding Judge. The clerk of the court shall deliver a copy of the signed order to the Presiding Judge.
- 9.4 The respondent judge must refer the motion, even if the motion does not comply with Rule 18a. If the motion is filed before evidence is offered at trial, the judge may not take any further action in the case until the motion is resolved, except for good cause stated in writing or on the record.
- 9.5 If the judge signs an order voluntarily recusing, the Presiding Judge will transfer the case to another court in the county with jurisdiction over the subject matter of the case or assign another judge to the case. This rule does not preclude judges from adopting local rules for transfer of cases when no order of recusal is involved.
- 9.6 If the respondent judge declines to recuse, the Presiding Judge will rule on the referred motion by written order under Rule 18a(g)(3) or assign a judge to rule on the motion. If a hearing is required, the hearing should be conducted as soon as practicable with notice to all parties.
- 9.7 If the judge hearing the recusal motion grants the motion, the signed order shall be delivered to the Presiding Judge for transfer of the case to another court in the county with jurisdiction or the assignment of another judge to the case. The signed order also must be filed with the clerk of the court, with a copy delivered to the respondent judge.
- 9.8 Motions for recusal of a Presiding Judge are referred to the Chief Justice of the Supreme Court of Texas for disposition.

## **RULE 10. TIME STANDARDS FOR THE DISPOSITION OF CASES**

District and statutory county court judges should make every reasonable effort to ensure that each case is brought to trial or final disposition in conformity with the following time standards adopted by Rule 6 of the Rules of Judicial Administration:

- 10.1 Criminal Cases – Courts shall follow time limits and procedures as required by law to minimize undue delay and further the prompt disposition of criminal cases.
- 10.2 Civil Cases Other Than Family Law
  - a. Civil Jury Cases – Within 18 months from the appearance date.
  - b. Civil Nonjury Cases – Within 12 months from the appearance date.
- 10.3 Family Law Cases
  - a. Contested Family Law Cases – The later of 6 months from the appearance date or within 6 months from the expiration of the waiting period provided by the Family Code where a waiting period is required. This requirement does not apply to cases under Chapter 262 of the Texas Family Code.
  - b. Uncontested Family Law Cases – The later of 3 months from the appearance date or within 3 months from the expiration of the waiting period provided by the Family Code where such waiting period is required. This requirement does not apply to cases arising under Chapter 262 of the Texas Family Code.
- 10.4 Juvenile Cases – In addition to the requirements of Chapter 54 of the Texas Family Code:
  - a. Detention Hearings – On the next business day following admission to any detention facility.
  - b. Adjudication or Transfer (Waiver) Hearings – If the hearing concerns a juvenile in a detention facility, the hearing shall occur not later than 10 days following the filing of the petition, except for good cause shown on the record. If the hearing concerns a juvenile not in a detention facility, the hearing shall occur not later than 30 days following the filing of the petition, except for good cause shown on the record.
  - c. Disposition Hearings – Not later than 15 days following the adjudication hearing. The court may grant additional time in exceptional cases that require additional evaluation.



d. Nothing in these rules prevents a judge from recessing a juvenile hearing at any stage of the proceeding when the parties agree or the judge believes the best interests of the child and society are served by a recess.

10.5 Exceptions – Special circumstances and case complexity may make it impossible to adhere to these time standards for the disposition of cases.

## **RULE 11. CONFLICT IN TRIAL SETTINGS AND PRIORITY OF CASES**

11.1 An attorney who is in trial in one court may not be ordered to trial in another court. When informed that an attorney is presently in trial in another court, the court will verify the information and place the case on “hold” or reset the case, depending on the circumstances.

11.2 Judges confronted with conflicting settings that cannot be resolved by the parties, only after those parties have had a reasonable opportunity to resolve the conflict themselves, should confer and determine which case has priority. The following priorities and considerations should aid judges in determining priority:

a. Criminal cases have priority over civil cases pursuant to Article 32A.01 of the Texas Code of Criminal Procedure.

b. Other statutorily preferenced cases have priority over non-preferential cases.

c. Court-ordered preferential settings have priority over non-preferential settings.

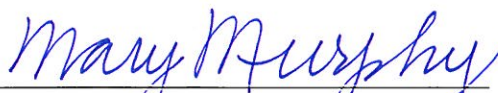
d. Otherwise, factors such as the age of the case, whether a jury has been requested, and whether the case is in a multi-judge or single-judge county, should be weighed.

11.3 Relevant circumstances to consider in resolving a conflict between criminal cases include the following: defendant’s confinement pending trial (including other detainers such as a “blue warrants”), the age of the case, the number of resets, a defendant’s right to a speedy trial and related circumstances, the availability of new trial dates, witness availability, and any other requirement for a prompt trial of either case under applicable law.

11.4 When the affected judges cannot resolve a conflict in settings, the trial judges shall request the LAJ (if the cases are pending in the same county) or the Presiding Judge to do so. If two or more administrative judicial regions are involved and the regional presiding judges cannot resolve the conflict, the regional presiding judges shall request the Chief Justice of the Supreme Court of Texas or the Chief Justice’s designee to resolve the conflict.

**PART IV. ADOPTION AND EFFECTIVE DATE**

These Rules of Administration and Procedure were adopted by the Council of Judges of the First Administrative Judicial Region on September 7, 2016. These amended rules are effective as of this date, subject to approval by the Supreme Court of Texas, and supersede previously adopted rules of administration and procedure for the Region.



MARY MURPHY, PRESIDING JUDGE  
FIRST ADMINISTRATIVE JUDICIAL  
REGION OF TEXAS