

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 90-0011

APPROVAL OF LOCAL RULES OF TRAVIS COUNTY DISTRICT COURTS

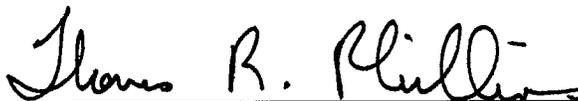
ORDERED:

Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court approves the following local rules, which have been previously approved by the presiding judge of the appropriate administrative judicial region and submitted to this Court:

Local Rules of Civil Procedure and Rules of Decorum of the Travis County District Courts, dated September 21, 1990

The approval of these rules is temporary, pending further orders of the Court.

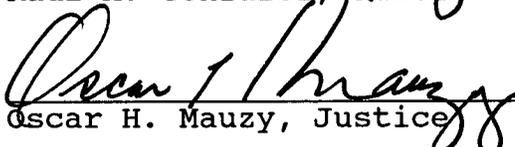
SIGNED AND ENTERED this 26th day of November, 1990.

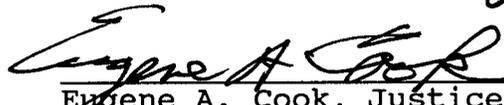

Thomas R. Phillips, Chief Justice

Franklin S. Spears, Justice

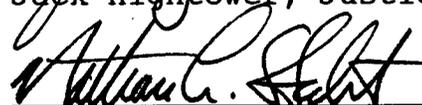

C. L. Ray, Justice

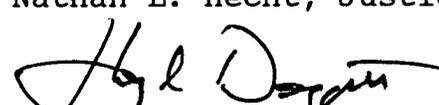

Raul A. Gonzalez, Justice


Oscar H. Mauzy, Justice


Eugene A. Cook, Justice


Jack Hightower, Justice


Nathan L. Hecht, Justice


Lloyd Doggett, Justice



STATE OF TEXAS
OFFICE OF COURT ADMINISTRATION

1414 COLORADO STREET, SUITE 602

Post Office Box 12066
Austin, Texas 78711-2066
512/463-1625

C. Raymond Judice
Administrative Director

Jim Hutcheson
General Counsel

September 27, 1990

Honorable B.B. Schraub
Presiding Judge
Third Administrative Judicial Region
County Courthouse
Seguin, Texas 78155

RE: Local Rules of Civil Procedure and Rules of Decorum of the Travis County District Courts, dated September 21, 1990.

Dear Judge Schraub:

The Supreme Court has received the above-referenced local rules, a copy of which is enclosed. There is no indication that the rules have received your approval as required by the Supreme Court.

The Court has asked me to determine whether you have approved them.

For your convenience we have enclosed a Certificate of Approval. Upon receipt of your action, the amended rule will be submitted to the Supreme Court for temporary approval until such time as the uniform local model rules, which are now under study, are adopted.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Raymond Judice".

C. Raymond Judice
Administrative Director

Enclosure

cc: Hon. Pete Lowry
Hon. Nathan Hecht



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

P.O. BOX 12248 CAPITOL STATION
AUSTIN, TEXAS 78711
(512) 463-1312

CLERK
JOHN T. ADAMS

JUSTICES
FRANKLIN S. SPEARS
C. L. RAY
RAUL A. GONZALEZ
OSCAR H. MAUZY
EUGENE A. COOK
JACK HIGHTOWER
NATHAN L. HECHT
LLOYD DOGGETT

EXECUTIVE ASST.
WILLIAM L. WILLIS

ADMINISTRATIVE ASST.
MARY ANN DEFIBAUGH

September 25, 1990

Mr. Ray Judice
Office of Court Administration
Texas Law Center
Austin, TX 78701

Dear Ray:

I am forwarding for your consideration the proposed Local Rules of Civil Procedure and Rules of Decorum for the District Courts of Travis County.

Sincerely,

Nathan L. Hecht
Justice

NLH:sm

Encl.



County of
TRAVIS
STATE OF TEXAS

PETE LOWRY
DISTRICT JUDGE
261ST DISTRICT COURT

COUNTY COURTHOUSE
P. O. BOX 1748
AUSTIN, TEXAS 78767

September 21, 1990

Honorable John T. Adams
Clerk, Supreme Court of Texas
Supreme Court Building
P. O. Box 12248
Austin, Texas 78711

Dear Sir:

Enclosed for filing and approval is a copy of the current
Local Rules of Civil Procedure and Rules of Decorum for the
District Courts of Travis County, Texas.

Best Wishes.

Sincerely yours,

PETE LOWRY
Local Administrative Judge
The District Courts
Travis County, Texas

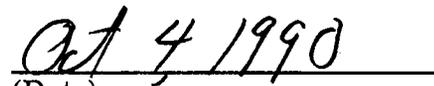
PL/bjv
Enclosure

CERTIFICATE OF APPROVAL

As presiding judge of the administrative judicial region covering the affected counties, I approve the Local Rules of Civil Procedure and Rules of Decorum of the Travis County District Courts, dated September 21, 1990.



(Signature)



(Date)

LOCAL RULES
OF
CIVIL PROCEDURE
AND
RULES OF DECORUM

The District Courts of Travis County, Texas

TRAVIS COUNTY DISTRICT COURTS

Local Civil Rules

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CHAPTER 1

General Organization

1.1 All of the District Courts of Travis County (District Courts) are courts of general jurisdiction, and the judges thereof will hear and determine civil, criminal, and juvenile cases as required. As permitted by Rule 330(e), Texas Rules of Civil Procedure, and Articles 199 and 199a, Texas Revised Civil Statutes, the District Courts have established a Central Settings Docket that will control all civil matters set for 9:00 a.m. or 2:00 p.m. on Monday through Thursday, or for 9:00 a.m. on Friday.

All such matters will be assigned from the Central Settings Docket to the judges as necessary or desirable for the orderly dispatch of the business of all the Courts, without considering whether any case is being assigned to the judge of the Court in which it was filed or is pending.

1.2 By majority vote the Judges of the District Courts of Travis County will elect their Presiding Judge, who will serve at their pleasure and who shall have the general administrative responsibility and authority necessary for the proper functioning of the District Courts.

1.3 The Central Settings Docket and a Masters' Settings Docket, for certain settings before Masters in family law cases as provided by Rule 6.3, will be administered by the Administrator of the District Courts of Travis County (Court Administrator) under the supervision of the Presiding Judge, who may adjust the administration of said dockets from time to time as required for the orderly disposition of cases.

1.4 The Court Administrator will maintain a Court Administrator's Mailing List for mailing to attorneys schedules designating jury and non-jury weeks, amendments of these Rules, and other communications.

Each attorney must determine whether his or her name and address are correctly listed and must notify the Court Administrator of any error and any change.

Setting notices will not be mailed by the Court Administrator. Attorneys must give notice of settings in the manner and within the time provided by the Texas Rules of Civil Procedure and local Rule 2.4.

Change: Beginning January 1, 1988, Court Administrator will not mail notices of settings. Amended January 1, 1988.

1.5 Every pleading filed to initiate a new action that is required by law to be filed in a particular District Court must state the correct name of that court and the law and circumstances that require the action to be filed in that court. Upon request, the Clerk will file each such case in the court designated by the pleading.

The District Clerk will file all other new cases by distributing them equally, on a rotating basis, among the District Courts.

The fact that a case is filed in a particular court will not be considered in assigning the case to a judge for any hearing or for trial.

CHAPTER 2

The Setting of Cases

2.1 A schedule that can be obtained from the District Clerk or the Court Administrator will designate jury weeks and non-jury weeks.

2.2 All jury and all non-jury matters on the Central Settings Docket will be set by the Court Administrator upon written or oral request of any party and will be placed on the docket for each week, day, or half-day in the order in which such requests are received.

Judges should not be requested to sign orders setting cases except when a show cause order is necessary or when some rule of law requires that an order for a setting be signed by a judge and entered in the minutes by the Clerk.

2.3 Each jury case will be set for 9:00 a.m. on Monday of a jury week and will be subject to trial during that week only.

2.4 Each request for a non-jury setting pursuant to this Rule or Rule 2.5 shall include an estimate of the hearing time required for the matter being set; and the notice of such setting that the party requesting the setting gives to other parties shall state said time estimate.

(a) Each non-jury matter that will require more than three hours will be set for 9:00 a.m. on Monday of a non-jury week and will be subject to trial or hearing at any time before noon on Thursday of that week, but not thereafter.

(b) Each non-jury matter that will require three hours or less may be set for either 9:00 a.m. or 2:00 p.m. on any day during a non-jury week except Friday. Such a matter will be subject to trial or hearing at any time during the half day in which it is set, but not thereafter.

2.5 The following non-jury matters may be set on Thursdays of jury weeks:

(a) Matters involving temporary custody of children and habeas corpus hearings involving children;

(b) Any matter that is required by law to be determined within a fixed time period that would expire if an immediate hearing were not held;

(c) Any matter requiring 30 minutes or less.

Only matters that will require one day or less may be set pursuant to subparagraphs (a) and (b); such matters will be given preference over those set pursuant to subparagraph (c).

2.6 Upon the suggestion of any judge, or after conference with the attorneys for all of the parties, the Presiding Judge may assign all or part of a case to a particular judge.

A setting before a particular judge is not a preferential setting unless such setting is made pursuant to Rule 2.7.

2.7 The District Judges have concluded that because of the delays now being experienced by parties seeking jury trials it is not practicable to grant preferential settings for civil jury cases, and there will be no such settings.

A request for a preferential setting of a non-jury matter must be presented to a judge upon notice and hearing and will be granted only if justified by the exigencies of the circumstances or the law. No more than two non-jury preferential settings will be granted for any 9:00 a.m. or 2:00 p.m. docket.

After the announcement docket, no request should be made for a preferential setting for the following week.

A preferential setting is not a setting before the judge who granted it, or before any particular judge, unless the matter is assigned by the Presiding Judge pursuant to Rule 2.6.

Amended September 15, 1990.

2.8 In matters on the Central Settings Docket that have preferential settings or settings before particular judges, attorneys must observe all docket call announcement Rules.

2.9 The Court Administrator is not authorized to grant any of the settings described by this Rule.

A request for any of the following settings must be presented to a judge upon notice and hearing:

- (a) A setting for trial on the merits if the request for the setting is made prior to the appearance day of any defendant named by the plaintiff's pleading in the record of the cause at the time the request is made;
- (b) A setting of any family law case for a jury trial on a date beyond 60 days from the date on which the setting request is made, unless an agreement signed

by all parties or their attorneys is presented to the Court Administrator when the setting is requested;

(c) A setting for a jury trial if a non-jury trial setting of the same case has been obtained after appearance day and before a jury fee was paid, unless an agreement to strike the non-jury setting, signed by all parties or their attorneys, is presented to the Court Administrator when the jury setting is requested;

(d) More than one setting of any matter.

Amended September 15, 1990.

2.10 If a party's request for more than one setting is granted, that party shall immediately deliver to the Court Administrator a written memorandum signed by the judge and stating the cause number and style of the case and listing all setting dates. Thereafter, when the matter is reached for trial or hearing, said party shall immediately deliver to the Court Administrator a written memorandum listing all settings that should be removed from the Central Settings Docket.

2.11 If the Court Administrator determines that any setting has been obtained in violation of these Rules, the parties will be notified, and the Court Administrator is authorized to strike the setting.

CHAPTER 3

Announcement Docket and The Assignment of Cases

3.1 An announcement docket will be held each week for cases set the following week.

3.2 Announcements will be taken beginning Monday at 8:00 a.m. and ending Wednesday at 5:00 p.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 time estimate (time needed for the entire hearing, not just one side).

Any time estimate controversy that affects the assignment of a matter will be heard by a judge on Thursday at 8:30 a.m.

Any party who contests the estimate given with notice of setting as required by Rule 2.4 shall give timely notice to all parties that such controversy will be heard on Thursday at 8:30 a.m.

Attorneys with no office in Travis County may announce by telephone to the Court Administrator's office during the same time period set out in the first paragraph of this rule. (512-473-9095)

As stated in Rule 2.8, a setting before a particular judge or a preferential setting does not excuse the parties from this rule, and failure to announce will result in loss of the setting.

3.3 A failure of a party to make an announcement will constitute an announcement of ready.

3.4 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.

3.5 Motions for continuance will be heard each Thursday at 8:30 a.m. This rule does not relieve a movant of the burden of delivering a copy of the motion and giving notice of the hearing in the manner and within the time provided by the Texas Rules of Civil Procedure.

The name and location of the Judge designated to hear motions for continuance will be posted on the bulletin board outside the District Clerk's office.

The party presenting the motion for continuance must obtain the file and docket sheet from the District Clerk's office and deliver them to the Judge designated to hear motions for continuance.

No setting will be accepted after the Friday preceding the announcement period except by agreement of all parties unless it is governed by a statute requiring it be heard within a certain time frame.

- 3.6 A matter may be removed from the Central Settings Docket only upon notice and hearing, unless written notice of an agreement to strike is presented to the Court Administrator before the deadline for entering an announcement as set out in Rule 3.2.

Cases set for trial after notice of intent to dismiss for want of prosecution may not be removed from the Central Settings Docket by agreement.

- 3.7 All jury cases and all non-jury matters that will require more than three hours will be called at 9:00 a.m. on Monday of the week in which they are set. Cases not assigned to judges at that time will be assigned at any time before noon on Thursday of that week as judges become available, and the parties must be ready to begin the trial or hearing when each case is reached.

The Court Administrator may excuse parties whose cases cannot be reached.

- 3.8 Non-jury matters that will require three hours or less will not be called on Monday. Instead, shortly before such matters are set, assignments to particular judges will be posted on the bulletin board outside of the District Clerk's office on the third floor of the Travis County Courthouse.
- 3.9 By Thursday at noon the Court Administrator shall post a list of cases set the following week which will include the order in which the cases will be heard.
- 3.10 All or part of any case may be assigned for trial or hearing to any judge eligible for assignment under the Court Administration Act. Before noon on the Thursday preceding the setting, the Court Administrator will post, on the bulletin board outside of the District Clerk's office on the third floor of the Courthouse, a notice naming judges who will be so assigned for the week. An objection to the assignment of one of said judges to any case set for the following week will not be timely unless a file-marked copy of the objection is delivered to the Court Administrator before 5:00 p.m. on

the Thursday preceding the setting. After the receipt of such an objection, the Court Administrator will not assign the case to the judge named by the objection.

Any hearing necessitated by an objection will be conducted by a local judge before the assignment of a case to a visiting judge.

No such objection will be urged before or ruled upon by any visiting judge assigned by virtue of this Act.

Amended January 29, 1987.

Change: Rule 3.10 amended to conform to amended statute, which permits only one such objection. - Amended January 1, 1988.

Rules 3.1 through 3.10 amended July 1, 1990.

CHAPTER 4

Matters Preliminary to Trials on the Merits

4.1 Except for motions in limine and motions for continuance based on new circumstances, all exceptions and all pre-trial motions and pleas in every case shall be presented and heard before the announcement docket.

All such exceptions, motions, and pleas not presented and heard within the time provided by this Rule will be deemed waived except upon a showing of good cause for failure to comply with this Rule.

Amended September 15, 1990.

4.2 Before the commencement of the trial, motions in limine not previously heard will be heard by the judge to whom the case is assigned.

Motions in limine should be served before the Announcement Docket.

This Rule does not relieve a movant of the burden of delivering a copy of the motion in the manner and within the time provided by Texas Rules of Civil Procedure.

Amended September 15, 1990.

CHAPTER 5

The Order of Business on Fridays

5.1 The District Courts have set aside Friday mornings to hear certain important matters as herein provided.

Announcements of all matters set on each Friday morning will be taken beginning Monday at 8:00 a.m. and ending Wednesday at 5:00 p.m. immediately preceding the Friday morning on which they are set.

Assignments of Friday morning matters to available judges will be posted before 9:00 a.m. Friday outside of the District Clerk's office on the third floor of the Courthouse.

At a Friday morning hearing a judge may limit the amount of time allocated to each party.

Amended September 15, 1990.

5.2 Except as otherwise authorized by a judge, the following matters may be set only on Friday mornings of jury or non-jury weeks:

- (a) All de novo hearings that require three hours or less after findings and recommendations by a Master;

(b) All matters set for hearing before a judge pursuant to Rules 6.3 or 6.4 that will require one hour or less;

(c) All family law contempt cases in which the movant is represented by a private attorney that will require one hour or less.

Matters set pursuant to this Rule will be heard in the order listed above and will be heard before those set pursuant to Rules 5.3 and 5.4.

Amended September 15, 1990.

5.3 Additionally, if any family law matter not required to be heard originally by a Master will require one hour or less, it may be set on Friday morning of a jury or a non-jury week.

5.4 Additionally, any other contested or uncontested matter that will require 15 minutes or less may be set on Friday morning of a non-jury week.

5.5 In the discretion of a judge who grants a writ of habeas corpus involving a child, the hearing may be set for a Friday morning, and the matter will be assigned to that judge.

CHAPTER 6

Proceedings Before Masters in Family Law Cases

- 6.1 Pursuant to Subchapter A, Chapter 54, Texas Government Code, the District Courts have appointed Masters to hear certain matters specified by these Rules and by these Rules do refer such matters to the Masters.
- 6.2 The following will be heard originally by a Master:
- (a) All support, contempt, and visitation matters in which attorneys from the Travis County Domestic Relations Office have responsibility;
 - (b) All support, contempt, and visitation matters in which attorneys from the Texas Attorney General's office have responsibility;
 - (c) All motions and suits to modify support orders;
 - (d) All motions and suits to modify visitation orders;
 - (e) All motions for temporary orders in suits for divorce or annulment;
 - (f) All motions for temporary orders in suits affecting the parent-child relationship;
 - (g) All applications for protective orders for protection against family violence;

- (h) All hearings required by Chapter 17 of the Texas Family Code (DHS cases);
- (i) All review hearings required by Chapter 18 of the Texas Family Code (DHS cases);
- (j) All adoptions of children and all uncontested terminations of the parent-child relationship;
- (k) All motions and suits to establish paternity in which attorneys from the Texas Attorney General's office have responsibility;
- (l) All motions for paternity testing in suits to establish paternity in which the petitioner is represented by a private attorney;
- (m) Any hearing required after the granting of a writ of habeas corpus involving a child, if referred to a master by a judge who grants a writ of habeas corpus;
- (n) Any family law matter the parties have agreed to have heard by a master;
- (o) Any other matter referred to a master by a judge, including trials on the merits.

6.3 The matters specified by the following rules will be set by the District Clerk:

Rule 6.2 (a) - DRO contempt cases;

Rule 6.2 (b) - AG contempt cases;

Rule 6.2 (j) - adoptions;

Rule 6.2 (k) - AG paternity cases.

All other matters to be heard originally by a Master will be set by the Court Administrator on the Masters' Settings Docket.

The Court Administrator may assign to another Master or to an available judge any matter that cannot be reached by a Master at the time of the setting.

Any matter set before a master may be referred by the Master to the Court Administrator for a setting before a judge. A master will usually refer any matter requiring a lengthy hearing, unless the parties waive their rights to request a de novo hearing before a judge. A master may refer any motion or suit to modify visitation or support if the master determines it should be heard at the same time as a motion for contempt in which the movant is represented by a private attorney.

- 6.4 (a) A party may file an objection to a master hearing 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 Section 54.005, Texas Government Code, shall be:

- (1) within ten days after receiving a notice of setting on the master's docket, or
- (2) on or before the day a setting before a judge is requested from the Court Administrator, or
- (3) within ten days after receiving notice that a judge referred a specific case to a master for a trial on the merits.

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 Masters' Settings Docket after an objection is filed.

(b) A party may file a motion to have any other matter heard originally before a judge instead of a master. The motion must be in writing and must specify the grounds therefore. The party filing the motion must set the motion for hearing by a judge, upon reasonable notice to other parties.

6.5 Matters set before a master will be set on the days and times stated 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.

- 6.6 The fact that these Rules require that certain matters be heard originally by a master does not affect a party's right to have a judge grant or extend a temporary restraining order and does not prevent a temporary restraining order from expiring.

Until a judge signs an order concerning the findings and recommendations of a master, such findings and recommendations do not affect an existing temporary restraining order or the expiration or extension of such an order.

- 6.7 At the conclusion of any hearing conducted by a master, the master 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 master 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 master shall certify the date of mailing, and the notice is considered 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 CONSIDERED TO HAVE BEEN GIVEN.

6.8 The master 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 master's written report and by posting a copy of Subchapter A, Chapter 54, Texas Government Code, inside or outside the Master's Courtroom.

6.9 After a hearing is concluded, the master shall send to a judge a written, signed report containing the master'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 master'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.

6.10 Any person is entitled to a de novo hearing before a judge if, not later than the third day after the master gives notice of his or her findings, conclusions, and recommendations, the person 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 recommendations of the master.

6.11 A request for a de novo hearing does not stay, suspend, or affect the authority of a judge to sign an order pursuant to Section 54.015, Texas Government Code, ordering the parties to comply with the decisions and recommendations of a master pending a hearing before a judge on the objections to the master's report. Such an order controls the rights of the parties until another order is made pursuant to a de novo hearing.

A request for a de novo hearing does not stay, suspend, or prevent enforcement or contempt proceedings brought pursuant to an order that the parties comply with a master's decisions and recommendations pending a de novo hearing.

6.12 A request for a de novo hearing limits the right of the person filing the request to a hearing before a judge on those master's findings, conclusions, and recommendations that are objected to in writing.

If a party requesting a de novo hearing limits the request to particular findings, conclusions, or recommendations, the judge to whom the matter is referred will determine whether to consider other issues.

6.13 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 any day and time appropriate for the time estimate, after seven days but no later than thirty days after the date the request is filed.

Rules 6.1 through 6.13 amended September 15, 1990.

CHAPTER 7

Pre-Trial Procedures in Family Law Cases

7.1 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 and in all actions to modify orders in suits affecting the parent-child relationship

7.2 Before 1:30 p.m. on the Thursday that is immediately prior to the announcement docket for any divorce trial, each party shall deliver to the opposing party and to the Court Administrator a Proposed Property Division, fully completed and in the form included in these Rules.

If the parties have an agreement on all issues pertaining to the division of their property, and the setting remains on the Central Settings Docket at the time when Proposed Property Divisions must be delivered, the parties shall deliver to the Court Administrator at said time either a signed copy of their written

agreement or a single Proposed Property Division stating their agreement and signed by both parties.

Amended September 15, 1990.

- 7.3 Before 1:30 p.m. on the Thursday that is immediately prior to the announcement docket for any trial or hearing before a judge to determine an amount of child or spousal support, each party shall deliver to the opposing party and to the Court Administrator a Proposed Support Decision And Information, fully completed and in the form included in these Rules.

If the parties have an agreement on all issues pertaining to support, and the setting remains on the Central Settings Docket at the time when Proposed Support Decision And Information forms must be delivered, the parties shall deliver to the Court Administrator at said time either a signed copy of their written agreement or a single Proposed Support Decision And Information stating their agreement and signed by both parties.

Amended September 15, 1990.

- 7.4 At the time any party is required by the above Rules to deliver one or more disputed or agreed pre-trial forms, said party shall also deliver to each opposing party and

to the Court Administrator a Proposed Disposition of Other Issues, which shall state separately in brief, complete sentences each trial or hearing decision that is sought by said party and not covered by another form.

7.5 All issues not stated as required by the above Rules will be deemed waived except upon a showing of good cause for failure to comply with said Rules.

7.6 If at the time pre-trial forms are required to be delivered to the Court Administrator all of the parties in a case fail to deliver such forms, the setting for that case will be stricken, unless the case was set for trial by the Court after notice of intent to dismiss for want of prosecution.

The Court Administrator is not authorized to extend the time for delivering pre-trial forms.

Pre-trial forms received by the Court Administrator will be delivered to the judge to whom the case is assigned for trial or hearing.

7.7 The judge or master to whom the case is assigned for trial or hearing will examine the pre-trial forms delivered to the Court Administrator. If it appears that there has been a failure to comply with the above

Rules in any case that remains on the Central Settings Docket, the judge or master to whom the case is assigned shall conduct a pre-trial sanctions conference immediately before commencing the trial or hearing. If the judge determines upon hearing that there has been such a failure, one or more of the sanctions stated in Rule 215, Texas Rules of Civil Procedure, may be imposed against any party or attorney responsible for such failure.

At a pre-trial conference set to consider compliance with these Rules, other pre-trial orders pursuant to Rule 166, Texas Rules of Civil Procedure, may be considered on the application of a party after notice or on the Court's own motion.

Amended September 15, 1990.

7.8 Before a master calls a case for hearing to determine an amount of support, each party shall deliver to each opposing party and to the master a Proposed Support Decision And Information fully completed and in the form provided by these Rules.

The master may certify to a judge for appropriate action any failure to comply with this Rule.

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

Such forms shall not be filed with the District Clerk at any time. The Clerk is authorized to destroy any such forms found in the folders containing filed papers.

Such forms are not required for any hearing at which attorneys from the Travis County Domestic Relations Office or the Texas Attorney General's office appear.

7.10 The provisions and requirements of the above Rules in Chapter 7 may not be waived or modified by agreement of the parties.

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 should be utilized.

CHAPTER 8

Family Law Support and Show Cause Orders

8.1 The Domestic Relations Office of Travis County is hereby designated as the Registry of the Court for all of the District Courts for all spouse and child support payments.

Every draft of an order or decree requiring any such support payment must provide that all payments shall be made through the Domestic Relations Office of Travis County, Texas.

At the time any support is ordered, the party who is to receive the support must provide to the Domestic Relations Office an Intake Sheet containing the information required by that office; and after the order or decree is signed, such party shall deliver to the Domestic Relations Office a conformed copy of the order or decree.

8.2 Every draft of a show cause order for a hearing before a master must require the respondent to report to Room 511 in the Courthouse at 8:30 a.m.

The paragraph in the order stating this requirement should read as follows:

"It is ordered that the Clerk shall issue notice to Respondent, _____, to appear, and said Respondent is hereby ordered to appear, by reporting to Room 511 of the Travis County Courthouse, 1000 Guadalupe, Austin, Texas, on the _____ day of _____, 19__, at 8:30 a.m."

Amended September 15, 1990.

8.3 Repealed September 15, 1990.

CHAPTER 9

Motions to Withdraw as Attorney of Record and Motions to Substitute Attorneys

9.1 A motion to withdraw as attorney of record will be granted without a hearing only if the moving attorney:

- (a) files written consents to the withdrawal signed by attorneys for all parties; and
- (b) files a written consent to the withdrawal signed by the client, or includes in the motion a specific statement of the circumstances that prevent the moving attorney from obtaining the client's written consent; and
- (c) files a certificate stating the last known mailing address of the client.

If a motion to withdraw and to substitute another includes an appearance by another attorney pursuant to Rule 10 and Rule 57, Texas Rules of Civil Procedure, that appearance will satisfy the requirements of subparagraphs (b) and (c) above, but such an appearance will not satisfy the requirement that the movant must

file written consents to the withdrawal signed by attorneys for all parties.

9.2 If all requirements of Rule 9.1 are not satisfied, a motion to withdraw or to substitute another attorney must be presented at a hearing after notice to the client and to all other parties.

CHAPTER 10

Uncontested Divorces and Other Uncontested Matters

10.1 On Monday through Friday of each week from 8:00 a.m. until approximately 8:50 a.m. and from 1:00 p.m. until approximately 1:50 p.m., at least one judge will be available in a courtroom to sign orders and to hear uncontested divorces and other uncontested matters of very short duration.

These matters will ordinarily be considered in the order in which the pertinent files, docket sheets, and papers are brought to the courtroom clerk.

Court reporters will be available at the morning (8:00 a.m. to 8:50 a.m.) session only.

Notice of the location of this uncontested docket will be posted each day on the bulletin board outside of the District Clerk's office on the third floor of the Courthouse.

Amended April 15, 1987.

Comment Concerning Rule 10.1

The purpose of this Rule is to provide flexibility for attorneys in scheduling uncontested divorce hearings and to provide throughout the week convenient access to a judge for

the signing of orders and for very brief uncontested hearings.

Attorneys should make use of this uncontested docket not only for uncontested divorces, but also for uncontested name changes, agreed orders in pending divorce cases, orders concerning service of citation, family law temporary restraining orders, show cause orders, and other such matters. (Unnecessary orders setting cases should not be requested. See Rule 2.2.)

Special Instruction for Rule 10.1

Attorneys must obtain from the District Clerk's office and deliver to the courtroom all files and docket sheets which may be needed for the matters which they will present to the judge.

CHAPTER 11

Procedures for Dismissal for Want of Prosecution

11.1 Pursuant to Rule 165a, Texas Rules of Civil Procedure, the District Clerk or the Court Administrator for the District Clerk will give notice from time to time that certain cases will be dismissed for want of prosecution. Each such case will be dismissed on the date indicated in the notice unless at least one party complies with Rule 11.4.

11.2 The Court Administrator will establish all the procedures necessary to accomplish the purposes of this rule including, but not limited to, the keeping of all necessary time records and dockets. All notices, motions, notifications and pleadings required by this rule must be delivered originally to the Court Administrator's office which, after notation in its records, will cause the documents to be filed with the District Clerk.

11.3 Each case in which a motion to retain on the docket is delivered in response to a dismissal notice is hereby referred by the court on its own motion to nonbinding

alternative dispute resolution (ADR) procedures as authorized by the Texas Alternative Dispute Resolution Procedures Act, TEX.CIV.PRAC.& REM. CODE, §154.001 et seq., and as described more fully in Chapter 17 of these Local Rules.

11.4 Upon receipt of a dismissal notice a party must, in order to avoid dismissal of the case:

- (1) deliver to the Court Administrator's office, before the date specified in the notice, a motion to retain the case on the docket; and
- (2) either deliver a motion objecting pursuant to Rule 11.5, or, if no party delivers a motion objecting, then arrange for an ADR procedure through the Dispute Resolution Center of Travis County (DRC) as set forth herein and in Chapter 17 of these Local Rules.

11.5 If the party who delivers the motion to retain objects to the referral of the case to ADR procedures, that party must deliver, simultaneously with the motion to retain, a written objection stating the reasons for objecting to the referral to ADR procedures. Any other party who objects to the referral must deliver such an

objection within ten days after the service upon that party of the motion to retain.

Upon the delivery of an objection to the referral the court on its own motion will set the objection for a hearing. If the court finds that there is a reasonable basis for the objection, the court may, in its discretion, order that the case not be referred to ADR procedures but will order it set for trial. If the court overrules the objection, the party who delivered the motion to retain the case on the docket must insure the completion of an appropriate ADR procedure in accordance with the time limits specified in 11.7.

11.6 If an objection to the referral to ADR procedures clearly shows that such a referral would be inappropriate or contrary to law (for example, where there is a lack of service or because of the pendency of federal bankruptcy proceedings concerning a party against whom relief is sought), the Local Administrative Judge may cancel the referral without a hearing. The case will then be placed on the "Suspense Docket" upon such terms as the Local Administrative Judge may then direct, subject to any subsequent order.

A case placed on the "Suspense Docket" may be set by any party for a hearing on a regular docket at any time.

11.7 The attorney for the party or the party delivering the motion to retain shall contact the DRC within 30 days from the date of delivering the motion to retain and arrange for the ADR procedure, and insure the completion of an appropriate ADR procedure within 90 days from the date of delivering the motion to retain.

11.8 After the motion to retain has been delivered, and until the ADR procedure has been completed, no further discovery under the Texas Rules of Civil Procedure shall be conducted, except by agreement of the parties in writing filed with the District Clerk or by specific court order. The conducting of discovery will not extend any deadlines prescribed by this chapter unless by court order.

11.9 For cases referred to nonbinding ADR procedures by virtue of this chapter, the method of alternative dispute resolution will be that of arbitration as described in TEX.CIV.PRAC.& REM. CODE §154.027, unless the court, in its discretion, on the motion of a party

or on its own motion, determines that another type of ADR procedure is more appropriate and orders the use of a different procedure. The procedures for the arrangement and conduct of an arbitration method of hearing are set forth in Chapter 17 of these Local Rules, particularly rules 17.9 and 17.10.

11.10 Each party, or a person with authority to settle the case on that party's behalf, must be present during an ADR procedure under this chapter, unless upon motion to the court, the presence of such a party or person has been excused by order of the court.

11.11 Before the expiration of the 90 days specified in rule 11.7, the party who delivered the motion to retain shall deliver to the Court Administrator's office a document entitled "90 Day Notification" indicating: (1) whether or not the ADR procedure has been completed; and (2) whether or not a settlement of the case has been reached.

If the case has been settled, in place of the "90 Day Notification" the parties may present an appropriate proposed order agreed to and signed by all parties which when signed by the court will dispose of the case completely and finally.

Failure to deliver the "90 Day Notification" within the 90-day period or failure to have completed the ADR procedure within the 90-day period shall result in immediate dismissal of the case unless the court orders it retained upon motion by a party showing good cause.

If the "90 Day Notification" delivered indicates that the ADR procedure has been completed, but is not accompanied with a proposed order agreed to and signed by all parties which when signed by the court will dispose of the case completely and finally, the Court Administrator shall forthwith set the case for trial. Settings of these cases may not be changed by agreement of the parties or in any way except by order of the court.

Rules 11.1 through 11.11 amended January, 1989.

CHAPTER 12

Hearings Conducted by Telephone

12.1 By agreement of the attorneys and after arrangements in advance for a judge or master to be available, hearings not requiring the introduction of evidence may be conducted by telephone conference calls.

The Court Administrator should not be requested to make these arrangements.

12.1 At the discretion of the judge or master, a court reporter or recording device may be provided by the court during these calls. A request by an attorney for such an arrangement must be made in advance.

12.3 A judge or master will not initiate a conference call. All arrangements with telephone operators must be made by an attorney.

12.4 At any time, even after the completion of a conference call, a judge or master may determine that a hearing by

telephone will not be sufficient and may require a hearing in court upon notice to all parties.

Rules 12.1 through 12.4 amended September 15, 1990.

CHAPTER 13

Review of Decisions of Administrative Agencies

13.1 So far as practicable, hearings in actions to review decisions of administrative agencies will be set on Friday afternoons by arrangement with the judge to whom each such case is assigned. Such assignments will be made upon any party's written request to the Presiding Judge that he designate a judge to whom the case will be assigned.

The Court Administrator should not be requested to make these arrangements.

Amended September 15, 1990.

13.2 Subject to the approval of the court, the parties may establish by agreement a hearing and briefing schedule, or any party may request a hearing for the purpose of establishing such a schedule or considering any other matter.

It is not required that briefs be filed with the District Clerk.

13.3 The plaintiff's brief in an action to review an agency decision shall contain the following:

- (a) a complete list of the names of all parties and their attorneys, so that the judge may determine at once whether any cause exists for disqualification or recusal;
- (b) at the option of the party, a subject index, a list of authorities, and a glossary of technical words and terms;
- (c) a short general statement of the nature of the case, without argument of any error asserted;
- (d) a statement of each point of error*, separately numbered and followed immediately by the argument pertinent to such point, with a reference to the pertinent paragraph of the motion for rehearing filed with the agency;
- (e) a prayer for relief that specifically states the District Court action sought by the party submitting the brief.

*In these Rules and in briefs filed pursuant to these Rules, "point of error" means a point of error asserted in the District Court in an action to review a decision of an administrative agency. These Rules do not purport to adopt the law applicable to appellate points of error or to change the law applicable to District Court pleadings and practice.

13.4 Each brief of a party defending an agency decision shall contain the following:

- (a) at the option of the party, a subject index, a list of authorities, and a glossary of technical words and terms;
- (b) a short statement of any disagreement with plaintiff's statement of the nature of the case, without argument pertaining to the points of error;
- (c) a statement of the response to each point of error, numbered to correspond with the point to which the response is directed and followed immediately by the argument pertinent to such response;
- (d) a conclusion that specifically states the District Court action sought by the party submitting the brief.

13.5 A reply brief is not required, but if one is submitted, it should contain only argument in reply to another brief and should not repeat previous argument.

13.6 A copy of each brief, marked on its cover as "Judge's Copy", should be delivered to the judge to whom the case is assigned.

The Judge's Copy of the plaintiff's brief must have attached to it:

- (a) a copy of the agency's final order, including any report or recommendation incorporated into the order; and
- (b) a copy of the plaintiff's motion for rehearing filed with the agency, or that portion of the motion necessary to show that the points of error briefed were included in the motion.

13.7 The Judge's Copy of the brief of any party may have attached to it:

- (a) copies of selected parts of the record pertinent to the points briefed;
- (b) copies of statutes no longer in effect, rules, regulations, and other law sources that may not be readily accessible;
- (c) copies of authorities that the party's attorney considers to be particularly important.

Such copies may be submitted in a separately bound and clearly labeled appendix.

CHAPTER 14

Adoptions and Terminations

14.01 In the following proceedings, the District Clerk will maintain the files, docket sheets, and minutes as confidential records:

- (a) every suit in which the petition includes a prayer seeking adoption of a child;
- (b) every suit in which any authorized agency seeks termination of the parent-child relationship.

In all other suits seeking termination but not adoption, the files, docket sheets, and minutes will not be confidential or sealed unless otherwise ordered pursuant to Rule 14.03.

All social studies and reports filed pursuant to the Texas Family Code will be maintained as confidential records.

14.02 If confidential records relating to a request for further action concerning a child in the court of continuing jurisdiction are required by Texas Family Code, §11.07(c), to be filed under the same docket number as a prior proceeding in which records were not confidential or sealed, the District Clerk will place

the petition in a separate file folder for the same suit, with the same docket number. The Clerk shall make a notation on the original file folder that there is a separate file folder containing confidential pleadings and orders.

Amended September 15, 1990.

14.03 In any pending proceeding brought by the Texas Department of Human Services concerning a child and in any pending suit in which any party seeks termination of the parent-child relationship, the court, on the application of a party or on the court's own motion, may order that records shall be confidential.

After final judgment or decree in such a matter and in any proceeding in which adoption is sought, records may be sealed pursuant to §11.17(b) of the Texas Family Code.

Amended September 15, 1990.

14.04 In every suit in which there are confidential or sealed records, the petitioner's attorney must determine whether the records are correctly marked and maintained and must bring to the attention of the District Clerk any clerical action required.

14.05 The District Clerk is hereby authorized to use microfilm or other suitable means for maintaining inactive confidential records and sealed files.

14.06 The District Courts have determined that the following orders concerning appointments of guardians ad litem and the making of social studies are necessary for the orderly disposition of suits seeking termination of the parent-child relationship or adoption, or both.

Subject to any order that may be made in a particular case, it is therefore ordered pursuant to Rule 166, Texas Rules of Civil Procedure, that Rules 14.07 and 14.08 shall constitute standing pre-trial orders in all cases to which said Rules apply.

14.07 In each suit in which the Texas Department of Human Services seeks termination of the parent-child relationship, an attorney ad litem for each child will be appointed by court order after the suit is filed.

In each suit in which an authorized agency seeks to terminate the parent-child relationship, and in each suit seeking adoption of a child placed for adoption by an authorized agency, said authorized agency is appointed by this standing order as guardian ad litem for each child.

In every other suit seeking termination of the parent-child relationship or adoption, or both, the Supervisor of the Family Services Unit of the Travis County Domestic Relations Office (Family Services Supervisor) is appointed by this standing order as guardian ad litem for each child. This standing order applies to all suits in which the Texas Department of Human Services seeks termination and to all suits seeking adoption of a child placed for adoption by the Texas Department of Human Services.

In all other suits affecting the parent-child relationship in which the Texas Department of Human Services has been named or seeks to be named by the court, or has been named in an affidavit of relinquishment, as the managing conservator of a child, the Family Services Supervisor is appointed by this standing order as guardian ad litem for each child.

This standing order is effective immediately in suits pending when these Rules become effective. Thereafter, each appointment shall become effective on the date each suit is filed. Each appointment shall continue in effect pending further order unless a decree of adoption is entered. A decree terminating the

parent-child relationship shall not discharge the guardian ad litem unless otherwise ordered.

Amended September 15, 1990.

14.08 In a suit in which the Texas Department of Human Services seeks termination of the parent-child relationship, any social study that is ordered should be made by the petitioner Department.

Any party who seeks an order that the Family Services Supervisor make such a social study must submit a draft of the proposed order, approved and signed by the Family Services Supervisor, as well as the attorneys.

In each suit seeking adoption of a child placed for adoption by the Texas Department of Human Services or an authorized agency, this is a standing order that the agency or Department that placed the child for adoption shall make the social study required by §16.031 of the Texas Family Code.

In every other suit in which an adoption is sought, this is a standing order that the Family Services Supervisor shall make said social study.

Each social study made pursuant to this standing order shall be filed on a date set by, and shall be made according to criteria established by, the Family

Services Supervisor, under the supervision of the District Judges.

In each suit in which an adoption is sought, this standing order shall be effective on the date the suit is filed, which date shall be "the date on which the investigator is appointed" for the purposes of setting the hearing pursuant to §16.031(b) of the Texas Family Code.

Amended September 15, 1990.

14.09 In suits seeking termination of the parent-child relationship or adoption, or both, and in all suits in which the Family Services Supervisor is guardian ad litem, the Family Services Supervisor may request that the matter be set for trial or a hearing.

CHAPTER 15

Drafts of Judgments, Decrees, and Orders

To be Signed by Judges

15.1 So far as practicable, every draft of a judgment, decree, or order to be signed by a judge or master should be approved as to form by attorneys for all parties before it is presented to the judge.

Amended September 15, 1990.

15.2 Every draft of a judgment, decree, or order which is submitted through the District Clerk's office to be signed by a judge or master after a trial or hearing shall have typed on it below the line for the judge's signature the name of the judge who presided at said trial or hearing.

Each such draft shall also be accompanied by a letter stating the name of the judge or master who presided and the date and nature of the trial or hearing.

Amended September 15, 1990.

15.3 A draft of an order shall not be typed on the same page with a pleading, motion, certificate of service, or any part thereof, and each such draft shall have a heading showing the cause number, the style of the case, and the court in which it is pending.

15.4 The word "entered" should not be used in the line provided immediately above the judge's or master's signature to show the date on which a judgment, decree, or order is signed.

Amended September 15, 1990.

CHAPTER 16

Rules of Decorum

16.1 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 or master enters the courtroom, the bailiff shall state:

"Everyone rise, please."

And while everyone is still standing, the bailiff shall announce:

"The _____ District Court (or Master's Court) of Travis County, Texas, is now in session, Judge _____ presiding. Be seated, please."

Amended September 15, 1990.

16.2 Recess

When the judge or master announces a recess, the bailiff shall state:

"Everyone rise, please."

And all shall remain standing until the judge or master 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 or master 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 remain seated 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.

Amended September 15, 1990.

16.3 General Rules of Courtroom Conduct

All officers of the court except the judge, master 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:

- (a) no tobacco used;
- (b) no chewing gum used by a witness or by any attorney while interrogating a witness or addressing the judge or jury;
- (c) no reading of newspapers or magazines;
- (d) no bottles, cups or beverage containers except court water pitchers and cups;
- (e) no edibles;
- (f) no propping of feet on tables or chairs;
- (g) no noise of talking that interferes with court proceedings.

The judge, master, 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 a master shall be the same as that used toward a District Court Judge ("Judge", "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.

Masters shall wear judicial robes.

Amended September 15, 1990.

16.4 Conduct of Attorneys

- (a) 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 or master;
- (b) Attorneys should advise their clients and witnesses of local Rules of Decorum that may be applicable;
- (c) All objections, arguments, and other comments by counsel shall be directed to the judge, master, or jury and not to opposing counsel;
- (d) While another attorney is addressing the judge, master, or jury, an attorney should not stand for any purpose except to claim the right to interrupt the attorney who is speaking;
- (e) Attorneys should not approach the bench without leave of court and must never lean on the bench;

- (f) Attorneys shall remain seated at the counsel tables at all times except:
- (1) when the judge or master enters and leaves;
 - (2) when addressing the judge, master, or jury; and
 - (3) whenever it may be proper to handle documents, exhibits, or other evidence. (Leave of court is not required.)
- (g) Attorneys should anticipate any need to move furniture, appliances, or easels, and should make advance arrangements with the bailiff. Tables should not be moved during court sessions.
- (h) All rules of decorum for attorneys shall apply in appearances before a master.

16.5 Conduct of Photographers and of Television and Broadcasting Personnel

Pursuant to the Texas Code of Judicial Conduct, during sessions of court and recesses between sessions, the District Judges and masters will not permit broadcasting, televising, recording, or taking photographs in the courtroom or in any areas adjacent thereto that are subject to their control, except that a judge or master may authorize:

- (a) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a

record, or for other purposes of judicial administration;

(b) the broadcasting, televising, recording, or photographing of investigative, or ceremonial proceedings;

(c) the photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:

(1) The means of recording will not distract participants or impair the dignity of the proceedings;

(2) the parties have consented, and the consent to be depicted or recorded has been obtained from each witness appearing in the recording or reproduction;

(3) the reproduction will not be exhibited until after the proceeding has been concluded and all direct appeals have been exhausted; and

(4) the reproduction will be exhibited only for instructional purposes in educational institutions.

CHAPTER 17

Referral of Cases to Alternative Dispute Resolution Procedures

17.1 PURPOSE AND SCOPE

This chapter shall direct the referral of cases to nonbinding alternative dispute resolution (ADR) procedures in the Travis County District Courts. Where applicable, it shall apply to (a) the mandatory referral to ADR procedures of dismissal notice cases, as set forth in Chapter 11 of these Local Rules; and (b) the discretionary referral of other cases to ADR procedures by a district court, on the court's own motion, on a motion by a party, or by agreement of the parties.

17.2 AUTHORITY FOR REFERRAL OF CASES TO ADR PROCEDURES

This chapter and Chapter 11 are based upon the judicial authority of the Travis County District Courts under the Constitution, statutes, and common law of Texas, and in particular upon the authority of: (a) the Texas Alternative Dispute Resolution Procedures Act, TEX.CIV.PRAC.& REM. CODE §154.001, et seq., providing for referral of cases to ADR procedures; and (b) Texas

Rule of Civil Procedure 165a, providing for dismissal of cases for want of prosecution.

17.3 POLICY FOR REFERRAL OF CASES BY DISTRICT COURTS

It shall be the policy of the Travis County District Courts to encourage the peaceable resolution of disputes and the early settlement of pending litigation by identifying cases appropriate for referral to nonbinding ADR procedures pursuant to the guidelines set out in this chapter.

17.4 CASES APPROPRIATE FOR REFERRAL TO ADR PROCEDURES

The following cases shall be considered appropriate for referral to nonbinding ADR procedures:

- (a) All cases in which notice of dismissal for want of prosecution has been given as set out in Chapter 11 of these rules.
- (b) Any other case deemed appropriate, in the discretion of a district court, giving consideration to such factors as the subject matter of the case, the amount in controversy, the complexity of the case, the number of parties, the interest of the parties in

pursuing ADR procedures, the availability of ADR procedures, and the likelihood of settlement by ADR procedures.

17.5 REFERRAL OF CASES

Cases, other than those subject to Chapter 11, may be referred to nonbinding ADR procedures in the following manner:

- (a) Any district court may, either on its own motion or on the motion of any party, determine that a case is appropriate for ADR procedures.
- (b) If the court on its own motion determines that a pending dispute is appropriate for referral to ADR, the court shall notify the parties of this determination and shall require the parties to complete an ADR procedure as set forth in Rule 17.8 within a time period as the court specifies in its notice. Any party may, within ten days after receiving the notice of determination, file a written objection to the referral or to the type of ADR procedure selected and request a hearing by the court.

(c) If a motion for an ADR referral is made by a party, appropriate notice of it shall be provided by the moving party to all other parties. Any other party may, within ten days after receiving notice of the motion, file a written objection to it. A hearing may be requested by any party or may be set by the court.

17.6 DISCOVERY

After the date of the order of referral, and until the ADR procedure has been completed, no further discovery under the Texas Rules of Civil Procedure shall be conducted, except by agreement of the parties in writing filed with the District Clerk or by specific court order.

17.7 AUTHORITY TO SETTLE

Each party, or a person with authority to settle the case on a party's behalf, must be present during an ADR procedure, unless upon motion the presence of such a person or party has been excused by order of the court.

17.8 TYPES OF ADR PROCEDURES

The following types of ADR procedures authorized by the Texas Alternative Dispute Resolution Procedures Act, as set forth in TEX.CIV.PRAC.& REM. CODE §154.024, or any appropriate variation of such procedures, may be utilized pursuant to this rule:

- (a) Mediation
- (b) Mini-Trial
- (c) Moderated Settlement Conference
- (d) Summary Jury Trial
- (e) Arbitration

17.9 ADMINISTRATIVE FUNCTIONS CONCERNING ARBITRATION

The following procedures will be utilized for the conduct of the administrative functions necessary to make the arbitration procedure available as needed for the referral of dismissal notice cases and cases referred under this chapter:

- (a) The Travis County Bar Association and the Austin Young Lawyers Association, in cooperation with the Travis County District Courts, will select attorneys to serve as arbitrators. The Dispute Resolution Center of Travis County (DRC) will provide administrative assistance and arrange training for these attorneys.

- (b) The DRC shall compile and maintain an "Arbitrators List" comprised of these attorneys.
- (c) The parties and their attorneys shall be responsible for contacting the DRC and cooperating with the DRC in the selection of the arbitrator(s) and the designation of a date and time for the arbitration. If the parties are unable to agree upon a date, the DRC shall set a date and time for the arbitration and notify the parties in writing, but the parties shall remain responsible for compliance with the time limits set in Chapter 11 or the requirements or time limits of any court order.
- (d) The arbitration shall be held at the offices of the DRC, 512 East Riverside Drive, Austin, Texas, 78704, (512) 443-5981, or at some other location designated by the DRC or agreed to by the parties on the agreed date or at the time set by the DRC.
- (e) The DRC shall perform such other functions as shall be agreed upon by the district courts and the DRC.

CONDUCT OF ARBITRATION HEARING

When a case has been referred under this chapter by a district court to arbitration or referred under Chapter 11, the following procedures shall apply:

- (a) The hearing shall be held before a single arbitrator or a panel of three arbitrators, if a party requests such a panel or the court orders it.
- (b) The DRC shall select an arbitrator or a panel of three arbitrators from the "Arbitrators List". In selecting the arbitrator(s) for a particular case, the DRC shall give consideration to the nature of the case and the areas of practice, experience, and expertise of the prospective arbitrator(s).
- (c) Upon selection of the arbitrator(s), the DRC shall send the name(s) of the arbitrator(s) to each party or counsel of record in the case. Any party may challenge an arbitrator for bias, conflict of interest, or other appropriate cause. In the event such challenge cannot be resolved by the DRC and the parties by the substitution of another arbitrator or by other voluntary means, a dissatisfied party may file a motion with the court showing good cause why the arbitration

should not proceed with the designated arbitrator(s).

- (d) The arbitrator(s) shall conduct the arbitration hearing in an informal manner and shall assist and encourage the parties in attempting to reach a settlement. The following is a sample format for the hearing, but it may be altered by the arbitrator(s) as deemed appropriate for the particular case:

Opening statement by plaintiff's attorney: 5 minutes

Opening statement by defendant's attorney: 5 minutes

Presentation of plaintiff's case: 1 hour

Presentation of defendant's case: 1 hour

Conclusion by plaintiff's attorney: 15 minutes

Conclusion by defendant's attorney: 15 minutes

Deliberation by arbitrator(s): 15 minutes

Statement to parties and counsel of arbitrator's determination and explanation of reasons: 15 minutes

(e) Each party shall present its case in summarized form, based upon evidence which would reasonably be expected to be admissible at trial. Representations of fact must be supported by reference to affidavits or discovery materials, including depositions, certified records, stipulations, answers to interrogatories, answers to requests for production of documents, and answers to requests for admissions, or by a professional representation that counsel has spoken with a witness and is repeating what the witness stated. Exhibits, charges, and other demonstrative aids may be used. Evidence may be presented in narrative form, question and answer form, or argument on the facts and the law. Live testimony in the form of questions and answers from witnesses shall not be permitted, but narrative presentations by parties or witnesses may be permitted at the discretion of the arbitrator(s). No testimony should be taken under oath, and no cross-examination of witnesses or parties shall be

permitted, except that the arbitrator(s) may ask questions of the attorneys, parties, or witnesses.

- (f) In receiving evidence, the arbitrator(s) shall generally be guided by the Texas Rules of Evidence, but shall not thereby be precluded from receiving evidence which is considered relevant and trustworthy, and which is not privileged.
- (g) The arbitrator(s) shall be authorized to make reasonable rules and issue orders necessary for the fair and efficient conduct of the hearing.
- (h) There shall be no ex parte communication between an arbitrator and any counsel or party on any matter concerning the case except for the purpose of scheduling.
- (i) The decision on the merits of the case by the arbitrator(s) is nonbinding on the parties.

17.11 CONFIDENTIALITY OF ADR PROCEDURES

As provided in TEX.CIV.PRAC.& REM. CODE §154.073, a communication relating to the subject matter of any civil or criminal dispute made by a participant in an ADR procedure is confidential, is not subject to disclosure, and may not be used as evidence against the

participant in any judicial or administrative proceeding. Likewise, any nonbinding decision on the merits or any record made at an ADR procedure is confidential, and the participants or the third party facilitating the procedure may not be required to testify in any proceeding relating to or arising out of the matter in dispute or be subject to process requiring disclosure of confidential information or data relating to or arising out of the matter in dispute. However, an oral communication or written material used in or made a part of an ADR procedure is admissible or discoverable if it is admissible or discoverable independent of the ADR procedure.

Rules 17.1 through 17.11 added January, 1989.

CAUSE NO. _____

IN THE MATTER OF
THE MARRIAGE OF

AND

AND IN THE INTEREST OF

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§
§

IN THE DISTRICT COURT OF

_____ COUNTY, TEXAS

_____ JUDICIAL DISTRICT

PROPOSED SUPPORT DECISION AND INFORMATION OF

(A) GROSS MONEY EARNED PER MONTH:

- (1) Gross wages and salary income \$ _____
- (2) Commissions, tips and bonuses \$ _____
- (3) Self-employment income (net of expenses other than depreciation and tax credits) \$ _____
- (4) Rental income (net of expenses other than depreciation) \$ _____
- (5) All other income actually received (specify):
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____

GROSS MONEY EARNED PER MONTH \$ _____ (A)

(B) ACTUAL DEDUCTIONS PER MONTH - Attach most recent pay stub from each employer.

- (1) Income tax withholding \$ _____
- (2) FICA (Social Security) \$ _____
- (3) Health insurance \$ _____
- (4) Union dues \$ _____
- (5) Other (specify):
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____

TOTAL ACTUAL DEDUCTIONS PER MONTH \$ _____ (B)

(C) NET MONEY ACTUALLY RECEIVED PER MONTH. SUBTRACT (B) FROM (A). \$ _____ (C)

(D) STATUTORY NET RESOURCES DEDUCTIONS ALLOWED PER MONTH:

- (1) Income tax withholding for a single person claiming one personal exemption and standard deduction \$ _____
- (2) FICA (Social Security) \$ _____
- (3) Health insurance attributable to child(ren) \$ _____
- (4) Union dues \$ _____

STATUTORY NET RESOURCES DEDUCTIONS ALLOWED PER MONTH \$ _____ (D)

(E) STATUTORY NET RESOURCES PER MONTH. SUBTRACT (D) FROM (A). \$ _____ (E)

(F) TOTAL MONEY NEEDED PER MONTH BY ME AND MINOR CHILD(REN) LIVING WITH ME. For items which are not paid monthly, express the amount as a monthly average.

- (1) Rent or house payment \$ _____
- (2) Real property taxes (omit if part of house payment) \$ _____
- (3) Residence maint. (repairs, yard) \$ _____
- (4) Insurance - home or renters (omit if part of house payment) \$ _____
- (5) Utilities - Gas \$ _____
- (6) Utilities - Electric and water \$ _____
- (7) Telephone (incl. avg. long dist.) \$ _____
- (8) Utilities - Garbage service \$ _____
- (9) Groceries and household items \$ _____
- (10) Meals away from home \$ _____
- (11) School lunches \$ _____
- (12) Dental and orthodontia \$ _____
- (13) Medical and prescriptions \$ _____
- (14) Laundry and dry cleaning \$ _____
- (15) Car payment \$ _____
- (16) Gas and vehicle maintenance \$ _____
- (17) Clothing and shoes \$ _____
- (18) Insurance - Car \$ _____
- (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 only show total here) \$ _____
- (27) Support or alimony payments to other persons \$ _____
- (28) Other (specify): _____ \$ _____
- _____ \$ _____
- _____ \$ _____
- _____ \$ _____
- _____ \$ _____

TOTAL MONEY NEEDED PER MONTH \$ _____ (F)

(G) TOTAL MONTHLY PAYMENTS ON DEBTS:

<u>Description of Debt</u>	<u>Balance Now Owed</u>	<u>Date of Final Payment</u>	<u>Amount Of Monthly Payment</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

TOTAL MONTHLY PAYMENTS ON DEBTS \$ _____ (G)

(H) DIFFERENCE BETWEEN MONEY RECEIVED AND MONEY NEEDED
SUBTRACT (F) FROM (C) \$ _____ (H)

(I) STATUTORY PRESUMED CHILD SUPPORT - MULTIPLY (E) BY THE
GUIDELINE PERCENTAGE _____ % \$ _____ (I)

I, _____, would testify under oath in open court that the foregoing information is true and correct. I understand that at such a court hearing I may be required to prove these amounts by testimony and by records such as pay vouchers, cancelled checks, receipts, and bills.

SIGNED this _____ day of _____, 19____.

Signature of Party

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

SIGNED this _____ day of _____, 19____.

Signature of Party or Attorney

CAUSE NO. _____

IN THE MATTER OF
THE MARRIAGE OF

AND

§ IN THE DISTRICT COURT OF
§
§
§ _____ COUNTY, TEXAS
§
§
§
§ _____ JUDICIAL DISTRICT

PROPOSED DISPOSITION OF ISSUES

TO THE HONORABLE JUDGE OF SAID COURT:

_____, _____, would ask
the Court to make the following disposition of all issues
incident to this Divorce and would testify in court under oath
that the attached information is true and correct.

Respectfully submitted,

ATTORNEY FOR _____

CAUSE NO. _____

IN THE MATTER OF
THE MARRIAGE OF

AND

§
§
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§
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§
§

IN THE DISTRICT COURT OF

_____ COUNTY, TEXAS

_____ JUDICIAL DISTRICT

PROPOSED PROPERTY DIVISION

TO THE HONORABLE JUDGE OF SAID COURT:

_____, _____, hereby presents to the
Court the following proposed division of property.

Community Property Division

<u>Property</u>	<u>Fair Market Value</u>	<u>Secured Debt Balance</u>	<u>To Wife Net Value</u>	<u>To Husband Net Value</u>
1. _____	\$ _____	\$ _____	\$ _____	\$ _____
2. _____	\$ _____	\$ _____	\$ _____	\$ _____
3. _____	\$ _____	\$ _____	\$ _____	\$ _____
4. _____	\$ _____	\$ _____	\$ _____	\$ _____
5. _____	\$ _____	\$ _____	\$ _____	\$ _____
6. _____	\$ _____	\$ _____	\$ _____	\$ _____
7. _____	\$ _____	\$ _____	\$ _____	\$ _____
8. _____	\$ _____	\$ _____	\$ _____	\$ _____
9. _____	\$ _____	\$ _____	\$ _____	\$ _____
10. _____	\$ _____	\$ _____	\$ _____	\$ _____
11. _____	\$ _____	\$ _____	\$ _____	\$ _____
12. _____	\$ _____	\$ _____	\$ _____	\$ _____
13. _____	\$ _____	\$ _____	\$ _____	\$ _____
14. _____	\$ _____	\$ _____	\$ _____	\$ _____
15. _____	\$ _____	\$ _____	\$ _____	\$ _____
16. _____	\$ _____	\$ _____	\$ _____	\$ _____
17. _____	\$ _____	\$ _____	\$ _____	\$ _____
18. _____	\$ _____	\$ _____	\$ _____	\$ _____
19. _____	\$ _____	\$ _____	\$ _____	\$ _____
20. _____	\$ _____	\$ _____	\$ _____	\$ _____
21. _____	\$ _____	\$ _____	\$ _____	\$ _____
22. _____	\$ _____	\$ _____	\$ _____	\$ _____
23. _____	\$ _____	\$ _____	\$ _____	\$ _____
24. _____	\$ _____	\$ _____	\$ _____	\$ _____
25. _____	\$ _____	\$ _____	\$ _____	\$ _____

<u>Property</u>	<u>Fair Market Value</u>	<u>Secured Debt Balance</u>	<u>To Wife Net Value</u>	<u>To Husband Net Value</u>
26.	\$	\$	\$	\$
27.	\$	\$	\$	\$
28.	\$	\$	\$	\$
29.	\$	\$	\$	\$
30.	\$	\$	\$	\$
31.	\$	\$	\$	\$
32.	\$	\$	\$	\$
33.	\$	\$	\$	\$
34.	\$	\$	\$	\$
35.	\$	\$	\$	\$
36.	\$	\$	\$	\$
37.	\$	\$	\$	\$
38.	\$	\$	\$	\$
39.	\$	\$	\$	\$
40.	\$	\$	\$	\$
41.	\$	\$	\$	\$
42.	\$	\$	\$	\$
43.	\$	\$	\$	\$
44.	\$	\$	\$	\$
45.	\$	\$	\$	\$
46.	\$	\$	\$	\$
47.	\$	\$	\$	\$
48.	\$	\$	\$	\$
49.	\$	\$	\$	\$
50.	\$	\$	\$	\$
51.	\$	\$	\$	\$
52.	\$	\$	\$	\$
53.	\$	\$	\$	\$
54.	\$	\$	\$	\$
55.	\$	\$	\$	\$
56.	\$	\$	\$	\$
57.	\$	\$	\$	\$
58.	\$	\$	\$	\$
59.	\$	\$	\$	\$
60.	\$	\$	\$	\$
61.	\$	\$	\$	\$
62.	\$	\$	\$	\$
63.	\$	\$	\$	\$
64.	\$	\$	\$	\$
65.	\$	\$	\$	\$
TOTAL COMMUNITY PROPERTY	\$	\$	\$	\$

LESS UNSECURED COMMUNITY DEBTS:

<u>Creditor</u>	<u>Debt Balance</u>	<u>To Wife Net Value</u>	<u>To Husband Net Value</u>
1. _____	\$ _____	\$ _____	\$ _____
2. _____	\$ _____	\$ _____	\$ _____
3. _____	\$ _____	\$ _____	\$ _____
4. _____	\$ _____	\$ _____	\$ _____
5. _____	\$ _____	\$ _____	\$ _____
6. _____	\$ _____	\$ _____	\$ _____
7. _____	\$ _____	\$ _____	\$ _____
8. _____	\$ _____	\$ _____	\$ _____
9. _____	\$ _____	\$ _____	\$ _____
10. _____	\$ _____	\$ _____	\$ _____
11. _____	\$ _____	\$ _____	\$ _____
12. _____	\$ _____	\$ _____	\$ _____
13. _____	\$ _____	\$ _____	\$ _____
14. _____	\$ _____	\$ _____	\$ _____
15. _____	\$ _____	\$ _____	\$ _____
16. _____	\$ _____	\$ _____	\$ _____
17. _____	\$ _____	\$ _____	\$ _____
18. _____	\$ _____	\$ _____	\$ _____
19. _____	\$ _____	\$ _____	\$ _____
20. _____	\$ _____	\$ _____	\$ _____
21. _____	\$ _____	\$ _____	\$ _____
22. _____	\$ _____	\$ _____	\$ _____
23. _____	\$ _____	\$ _____	\$ _____
24. _____	\$ _____	\$ _____	\$ _____
25. _____	\$ _____	\$ _____	\$ _____
26. _____	\$ _____	\$ _____	\$ _____
27. _____	\$ _____	\$ _____	\$ _____
28. _____	\$ _____	\$ _____	\$ _____
29. _____	\$ _____	\$ _____	\$ _____
30. _____	\$ _____	\$ _____	\$ _____
31. _____	\$ _____	\$ _____	\$ _____
32. _____	\$ _____	\$ _____	\$ _____
33. _____	\$ _____	\$ _____	\$ _____
34. _____	\$ _____	\$ _____	\$ _____
35. _____	\$ _____	\$ _____	\$ _____
TOTAL COMMUNITY DEBTS	\$ _____	\$ _____	\$ _____
NET COMMUNITY	\$ _____	\$ _____	\$ _____

SEPARATE PROPERTY OF WIFE

SEPARATE PROPERTY OF HUSBAND

CAUSE NO. _____

IN THE MATTER OF
THE MARRIAGE OF

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IN THE DISTRICT COURT OF

_____ COUNTY, TEXAS

AND

_____ JUDICIAL DISTRICT

PROPOSED DISPOSITION OF OTHER ISSUES



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

P.O. BOX 12248 CAPITOL STATION
AUSTIN, TEXAS 78711
(512) 463-1312

CLERK
JOHN T. ADAMS

JUSTICES
FRANKLIN S. SPEARS
C. L. RAY
RAUL A. GONZALEZ
OSCAR H. MAUZY
EUGENE A. COOK
JACK HIGHTOWER
NATHAN L. HECHT
LLOYD DOGGETT

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
MARY ANN DEFIBAUGH

November 27, 1990

The Honorable Peter M. Lowry, Presiding Judge
261st District Court
Travis County Courthouse
P.O. Box 1748
Austin, Texas 78767

Dear Judge Lowry:

Enclosed is a copy of this Court's order approving the Local Rules of Civil Procedure and Rules of Decorum for Travis County which you have submitted.

Please note that the Supreme Court has been approving local rules provisionally. We believe that the Uniform Local Rules committee is nearing completion of its task. You may therefore be asked to further amend your local rules in the not too distant future.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Adams", written over a large, stylized flourish or scribble.

John T. Adams
Clerk

cc. Hon. B. B. Schraub, Presiding Judge
Third Administrative Region
Hon. John Dickson, District Clerk