



## **451<sup>st</sup> Judicial District Court Amended Local Rules of Practice and Procedure**

### **I. GENERAL**

- A. **POLICY** – Judges and attorneys have a duty to uphold the highest standards of conduct and to earn and promote public respect for the judiciary, the legal profession and the American system of justice.
- B. **THE TEXAS LAWYERS CREED** – The standards of professional conduct in Section IV of the Texas Lawyer’s Creed, as promulgated by the Texas Supreme Court and the Texas Court of Criminal Appeals, are adopted and incorporated herein by reference as guidelines for participating in litigation in the 451<sup>st</sup> Judicial District Court of Kendall County.
- C. **DECORUM REQUIRED OF ALL PERSONS** – All persons in the courtroom during trials and other proceedings shall be attentive to the proceedings and shall refrain from any action which may disrupt the proceedings. The bailiff of the court shall enforce these rules of conduct and decorum. All persons entering the court shall comply with the following:
  - a. Timeliness - All counsel (plus the defendants in criminal cases) are required at all court settings and must be present on time. The Court will not tolerate tardiness. If you are going to be late, it must be communicated to the Court in advance through either the Court Administrator or the Court Clerk.
  - b. All attorneys are required to provide notice of all Court settings to their clients. Notice to the attorney will be considered notice to the client.
  - c. Cell phones must be off or on silent.
  - d. No tobacco use in any form is permitted in the courtroom.
  - e. No food items will be allowed in the courtroom.
  - f. No gum chewing in the courtroom.
  - g. No talking or unnecessary noise which interferes with the Court proceeding will be permitted. Any discussions must be moved to the hallway, conference room or law library outside of the courtroom.
  - h. No person may, by facial expression, shaking or nodding of head, or by any other conduct, express approval or disapproval of any testimony, statement or transaction in the courtroom.
  - i. No newspapers will be allowed in courtroom.
  - j. Treat everyone with respect.
  - k. All persons shall be appropriately attired for Court proceedings and in a manner reasonably befitting the dignity and solemnity of the Court. Counsel shall ensure that clients and witnesses are dressed appropriately. This means the following clothing **WILL NOT BE PERMITTED** in the courtroom:
    - i. shorts

- ii. flip flops
- iii. tank tops
- iv. hats
- v. sunglasses
- vi. cut offs
- vii. capris
- viii. any clothing which is deemed profane, vulgar, or risqué by the court.

D. **DECORUM FOR COUNSEL AND ALL OTHER COURT OFFICIALS** - All counsel and other court officials that are located in the courtroom during trials and other proceedings shall be attentive to the proceedings and shall refrain from any action that may disrupt the proceedings. All counsel and other court officials are expected to follow the rules delineated herein. Failure to follow these rules may result in removal from the courtroom:

- a. Counsel are required to respect the letter and spirit of all rules of ethics including the Texas Lawyer's Creed; and those rules dealing with discussion of cases with representative of the press, television, or radio; and discussion of the facts or law of the case with the judge not in the presence of opposing counsel.
- b. Counsel and all court officials shall be prompt at all sessions and in the dispatch of all court business.
- c. In the courtroom, all counsel and other court officials shall dress in keeping with the dignity required for court proceedings.
- d. Counsel shall rise and remain standing while addressing the Court.
- e. Counsel shall address all statements, request and objections to the Court and not to opposing counsel or the jury.
- f. Counsel shall not argue objections in the presence of the jury without prior leave of Court.
- g. Counsel shall not interrupt or talk over the judge or opposing counsel, except when stating formal objections.
- h. Counsel shall remain behind the Counsel table while examining witnesses. If requested by Counsel, Counsel may stand at a podium to exam any witnesses.
- i. Counsel and other court officials shall neither make nor insinuate derogatory or insulting remarks about opposing counsel, parties or witnesses.
- j. Counsel and other court officials shall address the Court as "your Honor" or "Judge" and, except with leave of court, shall refer to all Counsel, parties and witnesses (except children) by their surnames, using such titles as Mr., Mrs., Miss, Dr., etc., as appropriate comment and not by first names or nicknames, or any discriminatory or other inappropriate classification.
- k. Counsel shall request leave of Court before approaching the bench or to approach the witness when necessary to work with documentary or tangible evidence.
- l. Counsel shall not lean on the bench unless it is necessary to prevent jurors from overhearing bench conferences.
- m. Counsel and other court officials shall not engage in personal discussions with the Court or each other during trial while in the presence of jurors, parties, or witnesses.

- n. All Court officials and others that are subject to the judge's discretion and control are required to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.
  - o. Counsel shall advise Counsel's clients, witnesses and others that are subject to Counsel's control of these rules of conduct and courtroom decorum.
- E. **CONTINUANCE POLICY** - All motions for continuance must be in writing and filed with the District Clerk's Office not later than three (3) business days before the setting for which the continuance is sought. The first request for an Agreed Continuance will be granted in accordance with Texas rules. Any additional request for a continuance, agreed or opposed, must be supported by good cause. Additional continuances are highly discouraged unless absolutely necessary. Any requests for an additional continuance must be heard and ruled on by the Court prior to the date of the hearing or trial.
- F. **WITHDRAWAL OF ATTORNEY POLICY** - All withdrawals of counsel must be approved by the Court. None will be allowed within 60 days of trial setting unless for good cause.
- G. **STATUS CONFERENCE** - All parties are required to be present and on time for any status conference.
  - a. **Civil/Family** - Failure of the movant to appear for a status conference in civil cases will result in the matter being dismissed and/or placed on the Dismissal Docket. Failure of the responding party to appear may result in the matter being set for trial and/or judgment being entered. Status conferences conducted by video conference in civil cases are acceptable and encouraged by the Court with prior notice and written agreement by the parties. In order to schedule a video conference, please contact the Court Coordinator.
  - b. **Criminal** - Failure of the Defendant to appear for a status conference in a criminal case may result in a warrant being issued for the Defendant. Failure of the Defendant's counsel to appear for a status conference in a criminal case may result in the attorney being held in contempt of court. Notice of a status or pre-trial conference in a criminal matter to the attorney of record will also constitute notice to the defendant. Failure of the criminal defendant to appear in response to a notice provided to the attorney may result in a warrant being issued due to the criminal defendant's failure to appear.

## II. CRIMINAL MATTERS

### A. **FILING/RETURN OF INDICTMENTS** –

- a. The Criminal District Attorney shall note on a non-substantive part of the indictment the following information:
  - 1. Whether there are other pending indicted causes on the defendant;
  - 2. Whether the indictment is a re-indictment; and
  - 3. The names of any co-defendants.

### B. **ATTORNEYS**

- a. Appointment - Attorneys wishing to receive appointments for criminal cases in the Court shall file any necessary documents as set forth in the indigent defense plan.
- b. Appointed counsel must immediately report any change in the status of their license to practice law in the State of Texas to the Office of Court Administration and to the Court.

- c. The phrase “the court” or “trial court” as set forth in the Texas Code of Criminal Procedure article 1.051 shall refer to the elected judge of that Court, any visiting judge of the Court, or any magistrate designated by the Court for the purpose of performing the court’s duties as set forth in that Article.
- C. **CRIMINAL CODE OF PROCEDURE 28.01 ORDER** – A Criminal Code of Procedure 28.01 Order will be issued upon the arraignment date or the first status conference setting and will be signed off by the District Attorney (or Assistant District Attorney), Defense Counsel and Defendant.
- D. **CONTINUANCES/RESETTING/POSTPONEMENT**
  - a. Continuances – All continuances shall be in accordance with Article 29 of the Texas Code of Criminal Procedure. ***Non-agreed continuances filed less than seven (7) days prior to a hearing are presumptively DENIED and the filing party should NOT rely on the Continuance Motion without a signed Order.***
  - b. Agreed Continuances – if you have a continuance that is agreed to by all parties, please contact the Clerk of the Court or the Court Coordinator and advise of this and s/he will consult with the Judge prior to removing the matter from the docket. **Continuances are not automatic upon agreement by the parties. Mere filing of a Motion for Continuance does not mean the continuance will be granted. See Section I(E) above.**
- E. **SETTINGS AND STATUS HEARINGS**
  - a. Settings – Criminal cases will be set for trial after the arraignment and two status hearings. A final pre-trial hearing, as provided by Article 28.01 Texas Code of Criminal Procedure will be conducted in each case approximately ten (10) days prior to the felony trial or two (2) days prior to a misdemeanor trial, unless otherwise agreed by the parties and the court. Felony and Misdemeanor Jury trials will be set on a Monday but may be called to trial on any day of that particular week. For example, the notice for final jury trial setting may read that the jury trial is set for Monday at 8 a.m.; however, the case may be called to trial any day that entire week. State’s Counsel, Defense Counsel, Defendant and all witnesses need to be prepared to appear any day that week.
  - b. Status Hearing - The Court will set two (2) status hearings approximately sixty days apart and then move forward to disposition or trial setting. Additional status conferences will be set by the Court when requested by the State and/or the defendant if the Court deems circumstances for such additional setting exists.
  - c. Conflict in Trial Settings – Whenever an attorney has two or more cases on the trial docket for trial at the same time in two different courts, it shall be the duty of the attorney to bring the matter to the attention of the Court immediately upon learning of the conflicting setting. As much as is practicable, the Court shall attempt to agree upon which case shall have priority in conference with the other court. Absent such an agreement, conflicting trial settings shall be resolved in the priority set forth in the 6<sup>th</sup> Judicial Regional Rules, Rule 10:
    - 1. Criminal cases;
    - 2. Cases given statutory preference;
    - 3. Preferentially set cases, other than those given statutory preference;
    - 4. The earliest case set;
    - 5. The case with the earliest filing date.

- F. **DISPOSITION SETTINGS** – A disposition setting is a final setting. The purpose of this setting is for the Court to accept a plea, dismissal of the matter or hear final arguments. A disposition setting is not and should not be viewed as another status hearing.
- G. **PRE-TRIAL HEARINGS AND OTHER PRE-TRIAL MATTERS**
- a. All pre-trial motions, including motions in limine, which may require substantial argument (in excess of thirty minutes total), must be filed and hearing held prior to the final pre-trial unless such motion can be run with the trial on the matter.
  - b. Each pre-trial motion that is set for hearing must contain the following:
    1. A statement of the relief sought, the facts pertinent to the motion, and supporting argument with authorities;
    2. Signature of counsel and, where required, by the defendant;
    3. Sworn to when required;
    4. A certificate of service and statement of consultation with opposing counsel and that the matter[s] raised in the motion were not resolved, or if no consultation, then an explanation thereof;
    5. A notice that the motion will be presented to the Court, with or without evidence, at the final pre-trial hearing or the alternate date chosen (per II.G.a. above); and
    6. A proposed order granting or denying the motion in full or in part.
  - c. The Court may refuse to consider any pre-trial motion that fails to comply with these rules.
  - d. All pre-trial motions, including any motion for continuance, whether filed by the State or Defendant, must comply with the applicable law contained in the Texas Code of Criminal Procedure, must be filed seven (7) days prior to any hearing to be considered by the Court on. Any motion for continuance that does not comply with this rule will not be considered unless such motion establishes that the grounds for the continuance did not exist or were not known.
  - e. Except for good cause, the Court shall not consider any motion for continuance after the parties announce ready for trial.
- H. **MOTION TO ADJUDICATE/REVOKE COMMUNITY SUPERVISION** – One (1) status hearing will be allowed for all Motions to Adjudicate / Revoke Community Supervision and will be followed by a disposition setting held between the Judge, District Attorney and/or Assistant District Attorney, Defense Counsel, Defendant, any necessary witnesses and the Probation Officer. No additional status conference will be allowed without good cause shown.
- I. **PLEAS** – A plea can be heard on any Court date and does not need to wait for a criminal court docket day. The Court will consider any plea on any day the Court is in session. However, if for any reason you are going to be late for a plea setting that occurs on a date other than a criminal docket day, you must contact the Court before the scheduled plea.
- J. **STANDING DISCOVERY CONTROL ORDERS** – The Court has a Standing Discovery Control Order that applies in all criminal cases. A copy of this Order may be obtained through the District Attorney's Office or the District Clerk's Office. Parties should not file Motions which duplicate the Standing Orders.
- K. **PAYMENT OF COURT APPOINTED ATTORNEYS** – All court appointed attorneys shall provide the Court with an itemized statement in compliance with the Court's Amended Standing Order for the Compensation of Attorneys Appointed to Represent Indigent Defendants. Such

itemized statement shall be through TechShare. All court appointed attorneys shall familiarize themselves with the Amended Standing Order for the Compensation of Attorneys Appointed to Represent Indigent Defendants and the Kendall County Indigence Defense Plan. A copy of these documents may be obtained through the District Clerk's Office or the Texas Indigence Defense Commission website.

### III. CIVIL MATTERS

*At the bottom of all orders setting matters, please list all the parties who need to be notified. If the parties are represented by attorneys, please list the attorneys' email address and fax numbers (if any). If they are self-represented litigants, please give their mailing address(es), email address(es) and fax number (if any).*

*At the end of all MOTIONS, please include the opposing counsel's name, address, phone number, email address and fax number (if any) under the Certificate of Service.*

- A. **AGREED CIVIL DISCOVERY AND DOCKET CONTROL ORDER AND CONFERENCES** - An Agreed Discovery and Docket Control Order shall be submitted to the Court within sixty (60) days of filing an Answer in consultation with the Court Coordinator. If an Agreed Discovery and Docket Control Order is not received by the Court within the sixty (60) days, or if the parties cannot reach an agreement, the Court may set the case for a Status Conference. If a status conference is set by the Court, Counsel or Self-Represented Litigants ("SRL") will be required to attend the Status Conference but attendance may be via telephonic or video conference with prior Court approval per section I(G)(a) above. The party seeking to attend via telephone or video shall be responsible for making the arrangements with the Court Coordinator. Failure of the movant to attend the Status Conference may result in the matter being summarily dismissed without prejudice or placed on the Dismissal Docket. Failure of the non-movant to attend the Status Conference may result in the entry of the Docket Control Order without input from the non-movant. Such Discovery and Docket Control Order, when entered, shall control the subsequent course of action, unless later modified.
- B. **PLEADING / MOTIONS / SETTINGS** - Any pleading or motion that requires a setting with the Court must be on file with the District Clerk's Office. When filing any pleading or motion that requires a setting by the Court, a formal "Request for Oral Hearing" or "Request for Submission" must be filed with the pleading, as a separate instrument, in accordance with these rules.
- a. **Settings** - For any matter requiring a setting with the Court, you must contact the Court Coordinator to get a date and time that the Court is available. Please remember that the Court's calendar is available at <https://www.co.kendall.tx.us/page/district.court#> and should be reviewed prior to contacting the Court. Please advise the Coordinator of the type of setting needed (i.e. jury trial, bench trial, discovery dispute, temporary orders, divorce prove-up, etc.) and the estimated amount of time needed for the setting.
1. The Court Coordinator will provide a date and time for the setting.
  2. After receipt, the moving party is required to confer with all other parties, and, once the date is agreed upon, file a Notice Setting the matter.

3. The Notice Setting must contain a Certificate of Conference (described below) signed by the movant. The District Clerk's office will forward the Notice Setting for the Court's signature. Once the Notice Setting has been signed, it will be set on the docket. ***The Court will not hold any dates until your Notice Setting has been signed by the Judge. If no Notice Setting is signed by the Judge, then no setting is on the Court's docket.***
  4. If no time announcement is provided to the Court Coordinator, the Court shall designate the time allotment as it deems appropriate taking into the consideration of the size of that day's docket.
- b. Form of Motions - Motions should be filed with the District Clerk's office not the Court. Motions shall be in writing and shall contain a summary of the argument. All motions shall be accompanied by a proposed order granting the relief sought. The proposed order shall be filed as a separate instrument, unless the entire motion, order, signature lines and certificate of service are all on one page. ***If there is not a Proposed Order accompanying the motion, the motion will be deemed not complete and will not be considered, reviewed, or ruled on.*** Counsel should bring to any hearing a copy of an order approving or denying the requested relief.
1. "Request for Oral Hearing" or "Request for Submission"- It will be this Court's practice that all motions not requiring an oral hearing will automatically be set for submission.
  2. If any party desires an oral hearing on a case, it may be set according to the Court's availability by the Court Coordinator. Please keep in mind that if a pleading or motion is reviewed under submission and the Court needs to hear oral argument, the Court will, under its own discretion, set the pleading or motion for an oral hearing. Also, there are certain motions such as Motions to Compel, Motions to Transfer Venue and Pleas to Jurisdiction that require an oral hearing\*\*\*. If an oral hearing is granted or requested by the Court, the parties shall provide copies of relevant case law and discovery (with pertinent provisions highlighted). The Court prefers to receive this information electronically via flash drive rather than hard copy.
  3. The Judge will rule on the motion in accordance with the Texas Rules of Civil Procedure, whether heard by oral argument or by submission.
- c. Responsive Motions - Responses shall be in writing and timely filed. Failure to timely file a response will be considered a representation of no opposition. All responses shall be accompanied by a proposed order denying the relief sought filed as a separate instrument. The proposed order shall be filed as a separate instrument, unless the entire response, order, signature lines and certificate of service are all on one page.
- d. Certificate of Conference – a certificate of conference shall be included with all motions and must contain the following information:
1. That counsel has conferred with the opposing party.
  2. The parties are agreeable to the date of the submission or oral hearing, if any, or the parties are unable to agree upon the date and the reason for the impasse plus the dates exchanged.
  3. The estimated time for the hearing, if any.
  4. Names, fax number, and email addresses, if any, of all counsel of record.
  5. Names, addresses, email addresses, and fax numbers, if any, of all SRLs who are a party to the suit.

C. **PRE-TRIAL / POST-TRIAL HEARINGS**

- a. After contacting the Court Coordinator and obtaining an agreeable date with all counsel, the requesting party shall forward a copy of the file marked Motion and an Order Setting to the Court for entry.
- b. Any Order Setting received by the Court with NO HEARING OR SUBMISSION DATE will be held in the Court's file until a hearing or submission date is obtained. If the parties cannot agree to a hearing date, a certificate of conference must contain the dates exchanged and the reason for impasse. The Court will then set the matter for a status conference or will simply set the matter for the requested hearing on a date convenient with the Court. Any Order Setting without names/faxes/emails, will be held until corrected and resubmitted.

D. **DISMISSAL DOCKET**

- a. **Dismissal for Want of Prosecution** – If no substantive action is taken by a party seeking affirmative relief directed towards a trial on the merits within the time frames listed below, the Court will proceed to dismiss the case for want of prosecution in accordance with Rule 165a, T.R.C.P.:
  1. Non-family matters - within nine (9) months;
  2. Contested family law matters – 180 days;
  3. Uncontested family law matters – 90 days.
- b. **Failure to Appear** – Failure of counsel for a party seeking affirmative relief to appear for trial, pre-trial or preliminary hearing may result in placement of the matter on the Dismissal for Want of Prosecution docket.

E. **TEMPORARY RESTRAINING ORDERS AND PROTECTIVE ORDERS**

- a. An application for a Temporary Restraining Order and/or Protective Order, to be granted without notice to the adverse party, will be considered only upon the applicants verified complaint or affidavit accompanying the application and, except for a s. 83.006 Texas Family Code Motion\*\*, no testimony will be heard. No Temporary Restraining Order and/or Protective Order will be granted without notice to the adverse party unless the applicants verified complaint or affidavit accompanying the application contains "specific facts" and a "plain and intelligible statement of the grounds for such relief," as required by rules 682 and 680 of the Texas Rule of Civil Procedure. No such Temporary Restraining Order shall be granted upon a complaint or affidavit containing mere conclusions, even if verified.
- b. Ex parte orders in family law matters must meet the requirements of the Texas Family Code s. 83.

F. **APPLICATION FOR EX PARTE ORDERS** – Counsel presenting any application for an ex parte Order shall, at the time the application is presented to the Court, certify in writing that:

- a. To the best of counsel's knowledge, the party against whom the relief is sought is not represented by counsel; or
- b. If the party against whom the relief is sought is represented by counsel, that (a) such counsel has been notified of the application and does not wish to be heard by the Court thereon or (b) counsel presenting the application has diligently attempted to notify the opposing counsel, has been unable to do so, and/or the circumstances do not permit additional efforts to give such notice.

#### **G. FAMILY LAW MATTERS**

- a. The “Standing Order Regarding Property and Conduct of Parties in Divorce” and “Suits Affecting the Parent-Child Relationship” attached hereto as Appendix I, is to be attached by counsel to the original citation in all suits of divorce and suits affecting the parent-child relationship. The order attached as Appendix I will remain in effect throughout the pendency of a suit unless specifically modified or set aside by the Court. Requests for Temporary Orders, Temporary Restraining Orders or Protective Orders shall not duplicate the Court’s standing orders, which are already in effect as discussed herein.
- b. The trial of family law matters involving children may be given preference over the trial of other civil cases as determined by the Judge.
- c. The attorneys in all contested hearings concerning support shall prepare complete written income and expense statements as to their respective clients and present same to the court prior to the hearing.
- d. In all contested cases involving the division of property where the value of assets in dispute exceeds \$250,000, the attorney shall prepare, or have prepared, a complete written inventory of the assets and liabilities of the marital estate and of the separate estate of their respective client and submit same to the Court prior to trial.

#### **H. TRIAL ON THE MERITS**

- a. Request for Setting – If a docket control order has not been entered or is not being adhered to; a setting for a trial on the merits will be made in response to a written Request for Setting submitted directly to the Court Coordinator. The party requesting the setting should not file the Request with the Clerk. The Request for Setting shall contain the following:
  1. The style and the number of the case;
  2. The name, telephone and fax numbers, and address of the attorney (or SRL) making the request and the opposing counsel (or SRL);
  3. The date on which the jury fee was paid if a jury trial is being sought;
  4. A statement that the pleadings of the party requesting the setting are in order;
  5. A statement that mediation is scheduled, has been completed or none is required;
  6. A statement that all discovery has been completed or none is desired;
  7. A statement that all pre-trial matters have been disposed of or none are pending (if pre-trial matters remain pending the request shall state the nature of same, the party asserting same, the estimated time for hearing same and possible dates for a pre-trial hearing **which have been cleared with opposing counsel or the SRL**);
  8. Possible dates for the trial of the cause **which have been cleared with opposing counsel or the SRL** (if opposing party will not agree to the dates for trial, the dates proposed and the reason for the refusal to agree);
  9. The estimated time for trial;
  10. A certificate that a copy of the Request for Setting has been served on all counsel or the SRL in the case, the name and address of each attorney and the date of service;
  11. The signature of the attorney making the Request; and

12. An Order Setting with an agreed date should be attached to the Request.
- b. Upon receipt of the Request and Order Setting, the Court will set the case for trial on the merits on the Court's docket and deliver a copy of same to the District Clerk to file who will then deliver a copy to each attorney or SRL. Jury trials will be set on a Monday but may be called to trial on any day of that particular week. For example, the notice for the jury trial setting may read that the jury trial is set for Monday at 8 a.m.; however, the case may be called to trial any day that entire week. Counsel, clients and all witnesses need to be prepared to appear for trial any day that particular week.
- c. Prior to the final trial on the merits, the Court will send the parties a letter requiring the submission of a Joint Pre-Trial Order seeking the submission of the following not later than two weeks prior to trial:
1. A brief statement of the case and contentions of the parties;
  2. List of unresolved motions;
  3. All stipulated facts and all factual issues in controversy necessary for final disposition of the case;
  4. The identification of legal matters to be ruled on or decided by the court;
  5. Agreed applicable propositions of law and contested issues of law, if applicable;
  6. Attach proposed charge questions, instructions, and definitions for a jury case, if applicable;
  7. The exchange of a list of direct fact witnesses, other than rebuttal or impeaching witnesses the necessity of whose testimony cannot reasonably be anticipated before the time of trial, who will be called to testify at trial, stating their address and telephone number, and the subject of the testimony of each such witness;
  8. The exchange of a list of expert witnesses who will be called to testify at trial, stating their address and telephone number, and the subject of the testimony and opinions that will be proffered by each expert witness;
  9. The marking and exchanging of all exhibits that any party may use at trial and stipulation to the authenticity and admissibility of exhibits to be used at trial;
  10. Written trial objections to the opposite party's exhibits, stating the basis for each objection; and
  11. Estimated length of trial.

***When setting a civil case for pre-trial, jury trial, non-jury trial or a post trial hearing, please call the Court Coordinator prior to sending your Motion and Order Setting, to obtain available hearing/trial dates. After you have the available dates, please contact opposing counsel or SRL to obtain a date that is agreeable to ALL PARTIES. Once you have an agreed date, fill in that date with a statement that this date is agreeable to all and forward to the Court Coordinator for entry with the Court. THE DATES PROVIDED ARE NOT CONFIRMED UNTIL THE ORDER SETTING IS RECEIVED AND SIGNED BY THE COURT.***

**IF THE PARTIES CANNOT AGREE ON A DATE FOR TRIAL, THE COURT WILL EITHER (1) SET THE MATTERS FOR TRIAL BASED ON THE AGREED SCHEDULING ORDER (ABOVE III(A)) AND THE**

**COURT'S SCHEDULE OR (2) SET THE MATTER FOR A STATUS CONFERENCE TO DISCUSS THE IMPASSE.**

- I. **SETTLEMENT** - In the event a civil case settles after the announcement of ready to proceed to trial, the Court requires that a Rule 11 agreement be signed by all parties and filed with the District Clerk's Office immediately. The Rule 11 agreement will announce that the case has settled. The Court will set the matter for entry of all final paperwork within approximately 45 days of the Rule 11 agreement. If the final paperwork is not submitted by the hearing date, all parties must appear at the hearing and advise as to why the matter is not concluded.
- J. **DISCOVERY**
- a. The listed discovery shall not be filed with the district clerk except on special order of the Court, unless it is filed with the original petition:
    - 1. Discovery requests, deposition notices, and subpoenas required to be served only on parties;
    - 2. Responses and objections to discovery requests and deposition notices, regardless on whom the requests are notice were served;
    - 3. documents and tangible things produced in discovery;
    - 4. Statements prepared in compliance with the Texas Rules of Civil Procedure 193.3(b) or (d); and
    - 5. Certificates of written discovery.
  - b. Following discovery materials must be filed:
    - 1. Discovery request deposition notices and subpoenas required to be served on nonparties;
    - 2. Motions and responses to motions pertaining to discovery matters; and
    - 3. Agreements concerning discovery matters, to the extent necessary to comply with Texas Rule of Civil Procedure 11.
  - c. Notwithstanding paragraph A:
    - 1. The Court may order discovery materials to be filed;
    - 2. A person may file discovery materials in support of or in opposition to a motion or for other use in a court proceeding; and
    - 3. A person may file discovery materials necessary for proceeding an appellate court.
- K. **ALTERNATE DISPUTE RESOLUTION**
- a. **POLICY** - It shall be the policy of the Court to encourage peaceable resolution of disputes and early settlement of pending litigation, including family law litigation, by referral to alternative dispute resolution ("ADR") pursuant to the Texas alternative dispute resolution procedures act, Texas Civil Practice and Remedies Code section 154.
  - b. **ADR MANDATORY** - No trial on the merits shall be conducted in any civil or family law case until all contested issues have been through the ADR procedure, and ADR has been unsuccessful; or the court has determined under section d. below that ADR is inappropriate for the case.
  - c. **MANNER OF REFERRAL** - It is anticipated that the parties shall cooperate in referring such issues to an ADR procedure under terms and conditions as are mutually agreeable, without the need for Court intervention. If the parties are unable to cooperate or agree to a referral of such issues to an ADR procedure, then upon written notification to the Court by one of the parties that efforts to coordinate a referral have been unsuccessful,

the Court, without the necessity of a hearing, shall enter an order of referral to an ADR procedure, and under such terms and conditions selected by the Court. The Court may, in its discretion, forward an Order of Referral to Mediation to all parties.

- d. **OBJECTION TO REFERRAL** - If the Court enters an Order of Referral to an ADR procedure, any party may object to such a referral pursuant to Texas Civil Practice and Remedies Code, chapter 154. Upon the filing of an objection, the Court shall schedule a hearing. If the Court finds that there is reasonable basis for the objection, the Court may, in its discretion, order that the case not be referred to an ADR procedure and order the case to proceed to trial on the merits.

#### **IV. HANDLING HEARING AND TRIAL EXHIBITS**

- A. It is the policy of this Court that in all family and civil matters, the parties shall confer and determine, prior to trial, which exhibits will be pre-admitted and which exhibits will require a ruling from the Court on objections to their admission. The parties shall prepare an exhibit list prior to trial to be shared with the official court reporter.
- B. Multi-page documents should either be Bates stamped or paginated and bound.
- C. One original set that the official court reporter will retain needs to have an original sticker on the bottom right-hand corner. This is the only set that should have an original sticker. Copies for the Court and opposing counsel need to be discernible from the original set.
- E. Exhibits should be marked using numbers or letters.
- F. If you will be using oversize exhibits during trial, an 8 1/2x11 should be produced for the court reporter's records. We will not retain oversized exhibits due to storage limitations. If you have a demonstrative exhibit, such as an object, please provide the court reporter a photo of the exhibit that can be used in the event a record needs to be prepared.
- G. Providing the court reporter exhibits on a flash drive in a searchable format is not a requirement, but is preferable.
- H. The Court or its official reporter will assist in keeping track of which exhibits were offered and admitted during the trial if you will take a small pause in speaking while she marks on her list as things are offered and admitted.
- I. Before leaving the courtroom for the day, please confer with opposing counsel and verify all offered and admitted exhibits are in the possession of the court reporter.
- J. Exhibits are not to be left in open view of the jury and/or witnesses when not in use. The court will provide a designated holding area for all offered and admitted exhibits during trial.
- K. At the conclusion of the hearing or the trial, both sides will agree on the record that all exhibits are accounted for and all redactions, if any, have been made. At that time, the court reporter will make exhibits available to the jury, if any.

#### **V. ADOPTION**

These rules shall become effective as of the date delineated below until amended, repealed or modified by the District Court. Each numbered or lettered paragraph of these rules shall be considered separate and distinct from all other portions hereof, and if any portion should be declared by a higher Court to be improper, such declaration will not affect any other portion not so declared to be improper.

The District Clerk is directed to furnish a copy of these rules to the Supreme Court of Texas pursuant to Rule 3a of the Texas Rules of Civil Procedure, and to record these rules in the Minutes of the 451<sup>st</sup> District Court.

Adopted on this 25th day of March 2025 to become effective immediately upon filing.



Judge Kirsten B. Cohoon  
Presiding Judge  
451<sup>st</sup> Judicial District Court  
Kendall County, Texas

FILED  
2025 MAR 25 PM 3:47  
JUS. CLERK  
KENDALL COUNTY, TEXAS  
BY:   
CLERK

**STANDING ORDER ON CHILDREN, PROPERTY & CONDUCT OF PARTIES**

On its own motion, the 451<sup>st</sup> District Court Judge, Kirsten B. Cohoon, issues this STANDING ORDER, which shall apply in every divorce suit and every suit affecting the parent-child relationship filed in Kendall County. The District Court of Kendall County has adopted this STANDING ORDER for the protection of the parties, their children, and for the preservation of their property.

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1. **NO DISRUPTION OF CHILDREN.** It is ORDERED that each party is prohibited from doing the following acts concerning any child who is the subject of this case:
  - 1.1 During the pendency of an original suit, removing a child from the State of Texas for the purpose of changing the child’s residence, acting directly or in concert with others, without the agreement of both parties or an order of this Court;
  - 1.2 During the pendency of an original suit, disrupting or withdrawing a child from the school or day-care facility where the child is presently enrolled, without the written agreement of both parents or an order of this Court;
  - 1.3 During the pendency of an original suit, hiding or secreting a child from the other parent or changing a child’s current place of abode, without the written agreement of both parents or an order of this Court;
  - 1.4 During the pendency of an original suit, disturbing the peace of a child;
  - 1.5 During the pendency of an original suit, making disparaging remarks about each other or the other party’s family members, to include but not be limited to the child’s grandparents, aunts, uncles, or stepparents;
  - 1.6 During the pendency of an original suit, discussing with a child, or with any other person in the presence of a child, any litigation related to a child or the other party;
  - 1.7 If this is an original divorce action, allowing anyone with whom the party is romantically involved to remain overnight in the home while in possession of a child. Overnight is defined as from 10:00 P.M. until 7:00 A.M.

- 2 **CONDUCT OF THE PARTIES DURING THE CASE.** Both parties are ORDERED to refrain from the following acts:
- 2.1 Communicating in person or in any other manner, including by telephone, electronic voice transmission, video chat, writing, or electronic messaging, with the other party by use of vulgar, profane, obscene, or indecent language or in a course of offensive manner;
  - 2.2 Threatening the other party in person or in any other manner, including by telephone, electronic voice transmission, video chat, writing, or electronic messaging, to take unlawful action against any person;
  - 2.3 Placing one or more telephone calls, anonymously, at an unreasonable hour, in an offensive or repetitious manner, or without a legitimate purpose of communication;
  - 2.4 Opening or diverting mail, e-mail, or any other electronic communication addressed to the other party;
  - 2.5 Using any password or personal identification number to gain access to the other party's e-mail account, bank account, social media account, or any other electronic account;
  - 2.6 Illegally intercepting or recording the other party's electronic communications.
- 3 **PRESERVATION OF PROPERTY AND USE OF FUNDS DURING DIVORCE CASE.** These orders apply to electronic records and electronically stored information, regardless of whether the information is stored on a hard drive, in a removable storage device, in cloud storage, or in another electronic storage medium. If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:
- 3.1 Destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of one or both of the parties;
  - 3.2 Misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount, or location of any tangible or intellectual property of one or both of the parties;
  - 3.3 Damaging or destroying the tangible or intellectual property of one or both parties, including any document that represents or embodies anything of value;
  - 3.4 Tampering with the tangible or intellectual property of one or both parties, including any document that represents or embodies anything of value, and causing pecuniary loss or substantial inconvenience to the other party;
  - 3.5 Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any property of either party, whether personal property, real estate property, or intellectual property, and whether separate property or community property, except as specifically authorized by this order;
  - 3.6 Incurring any debt, other than legal expenses in connection with this suit, except as specifically authorized by this order;
  - 3.7 Withdrawing money from any checking or savings account in any financial institution for any purpose, except as specifically authorized by this order;
  - 3.8 Spending any money in either party's possession or subject to either party's control for any purpose, except as specifically authorized by this order;
  - 3.9 Withdrawing or borrowing in any manner for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan, employee savings plan,

- individual retirement account, or Keogh account, of either party, except as specifically authorized by this order;
- 3.10 Signing or endorsing the other party's name on any negotiable instrument, check, or draft, including a tax refund, insurance payment, and dividend, or attempting to negotiate any negotiable instrument payable to the other party without the personal signature of the other party;
  - 3.11 Taking any action to terminate or limit credit or charge cards in the name of the other party;
  - 3.12 Entering, operating, or exercising control over a motor vehicle in the possession of the other party;
  - 3.13 Discontinuing or altering the withholding for federal income taxes from either party's wages or salary;
  - 3.14 Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or any other contractual service, such as security, pest control, landscaping, or yard maintenance at the other party's residence, or in any manner attempting to withdraw any deposit paid in connection with such services.
- 4 **PERSONAL AND BUSINESS RECORDS IN DIVORCE CASE.** These orders apply to the electronic records and electronically stored information, regardless of whether the information is stored on a hard drive, in a removable storage device, in cloud storage, or in another electronic storage medium. If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:
- 4.1 Concealing or destroying any family records, property records, business records, or any records of income, debts, or other obligations;
  - 4.2 Falsifying any writing or record relating to the property of either party;
  - 4.3 Destroying, disposing of, or altering any financial record of either party, including a canceled check, a deposit slip, any other record from a financial institution, a record of credit purchases or cash advances, a tax return, or a financial statement;
  - 4.4 Destroying, disposing of, or altering any e-mail, text message, video message, chat message, or other electronic information relevant to the suit;
  - 4.5 Modifying, changing, or altering the native format or metadata of any electronic information relevant to the suit;
  - 4.6 Deleting any data or content from any social network profile used or created by either party or a child of the parties.
- 5 **INSURANCE IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are specifically authorized to do the following:
- 5.1 To engage in acts reasonable and necessary to conduct that party's usual business and occupation;
  - 5.2 To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit;
  - 5.3 Canceling, altering, failing to renew or pay premiums on, or in any manner affecting the level of coverage that existed at the time the suit was filed, of any life, casualty,

automobile, or health insurance policy insuring the parties' property or persons, including a child of the parties.

- 6 **SPECIFIC AUTHORIZATIONS IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are specifically authorized to do the following:
- 6.1 To engage in acts reasonable and necessary to conduct that party's usual business and occupation;
  - 6.2 To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit;
  - 6.3 To make expenditures and incur indebtedness for reasonable and necessary living expenses for food, clothing, shelter, transportation, and medical care.

7 **SERVICE AND APPLICATION OF THIS ORDER.**

- 7.1 The Petitioner shall attach a copy of this order to the original petition and to each copy of the petition. At the time the petition is filed, if the Petitioner has failed to attach a copy of this order to the petition and any copy of the petition, the Clerk shall ensure that a copy of this order is attached to the petition and every copy of the petition presented;
- 7.2 This order is effective upon the filing of the original petition and shall remain in full force and effect as a temporary restraining order for fourteen days after the date of the filing of the original petition. If no party contests this order by presenting evidence at a hearing on or before fourteen days after the date of the filing of the original petition, this order shall continue in full force and effect as a temporary injunction until further order of this court. This entire order will terminate and will no longer be effective when the court signs a final order or the case is dismissed.

- 8 **EFFECT OF OTHER COURT ORDERS.** If any part of this order is different from any part of a protective order that has already been entered or is later entered, the protective order provisions prevail. Any part of this order not changed by some later order remains in full force and effect until the court signs a final order.

- 9 **PARTIES ENCOURAGED TO MEDIATE.** The parties are encouraged to settle their disputes amicably without court intervention. The parties are required to use alternative dispute resolution methods, such as mediation, to resolve the conflicts in accordance with this Court's Policies and Procedures effective January 1, 2023.

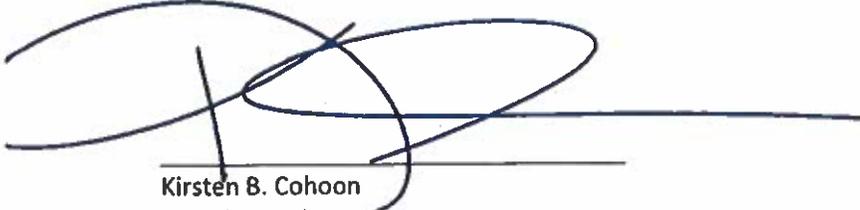
**ADOPTION**

These rules shall become effective on January 1, 2023 and so long thereafter until amended, repealed or modified by the District Court. Each numbered or lettered paragraph of these rules shall be considered separate and distinct from all other portions hereof, and if any portion should be declared by a higher Court to be improper, such declaration will not affect any other portion not so declared to be improper.

The District Clerk is directed to publish a copy of these rules on the Office of Court Administration's website in accordance with Rule 3a of the Texas Rules of Civil Procedure and Texas Rule of Judicial Administration 10. In addition, the District Clerk is directed to record these rules in the Minutes of the 451<sup>st</sup> District Court.

Adopted on this 29th day of December, 2022 to become effective on January 1, 2023.

Signed on the 29<sup>th</sup> day of December, 2022.



Kirsten B. Cohoon  
Presiding Judge  
451<sup>st</sup> Judicial District Court  
Kendall County, Texas

FILED 1/3/23  
at 9:00 o'clock A. M.

Susan Jackson, District Clerk  
Kendall County, Texas

By Susan Jackson Deputy