Local Rules for the District Courts in McLennan County

(Effective date: September 1, 2003)

Rule 1 Civil Cases

1.01. FILING AND ASSIGNMENT OF CASES

A. All civil cases, except as otherwise provided herein or by court Order, shall be filed in the District Courts randomly.

B. Notwithstanding Rule 1.01 A, no civil cases shall be filed in the 54th District Court and all juvenile cases shall be filed in the 19th District Court.

C. If a party dismisses or non-suits a case and refiles it within one year after dismissal, it will be reassigned to the court in which it was pending at the time of the dismissal or non-suit.

1.02. COLLATERAL ATTACK

Every proceeding seeking to attack, avoid, modify, or set aside any judgment, order or decree of a District Court of McLennan County (including suits in the nature of a bill of review, writ of Habeas Corpus, or otherwise) shall be filed and assigned to the court in which such judgment, order or decree was rendered.

1.03. ANCILLARY PROCEEDINGS

Every proceeding ancillary to a civil action shall be assigned to the court in which the suit to which the proceeding is ancillary is pending.

1.04. MOTION TO CONSOLIDATE

Every motion to consolidate two or more cases shall be heard in the earliest case filed with notice to the later filed court and all parties in each case.

1.05. RELATED CASES

Whenever any case filed in a District Court is so related to another case previously filed in or disposed of by another District Court of McLennan County having subject matter jurisdiction that a transfer of the later case to such other court would facilitate orderly and efficient disposition of the litigation, the judge of the court in which the earlier case is or was pending may, upon notice to all affected parties and courts and hearing, transfer the later case to such court.

1.06. CASES SUBJECT TO TRANSFER

The following types of cases shall be subject to transfer under Local Rule 1.05:

A. Any case arising out of the same transaction or occurrence as an earlier case, particularly if the earlier case was dismissed by plaintiff before final judgment.

B. Any case involving a plea that a judgment in the earlier case is conclusive of any of the issues of the later case by way of res judicata or estoppel by judgment, or any pleading that requires a construction of the earlier judgment or a determination of its effect.

1.07. TRANSFER OF CASES: DOCKET EXCHANGE: BENCH EXCHANGE

A. The District Judges of McLennan County may exchange benches or hear cases for one another without the necessity of an order.

B. A case may be transferred from one court to another having jurisdiction:

1. Upon motion of a party, for good cause shown;
2. In the event the judge is disqualified to hear or recuses himself or herself from hearing the case;
3. When the case should be transferred in the interest of justice;
4. When at least one common party and substantially similar questions of fact or law appear in each case in two or more courts, or
5. By agreement of all counsel and/or parties *pro se* and of the court transferring the case, and of the transferee court.

No case may be transferred except upon the consent of the judge of the court to which the case is being transferred.

1.08. TRANSFER OR APPEAL TO SPECIFIC MCLENNAN COUNTY DISTRICT COURT INEFFECTIVE

Whenever a case is transferred to McLennan County by a court of another county, or is appealed, and the order of transfer or the appeal specifies the particular court to which the case is transferred, such specification shall be disregarded and the case shall be assigned in the manner provided in Local Rule 1.01.

1.09. TEMPORARY ORDERS

Requests for Temporary Restraining Orders or ex-parte protective orders in family-law cases may be presented to any available district judge for signature. In all other cases, no application for immediate or temporary relief shall be presented to a judge until the case is filed.

1.10. PRESIDING FOR ANOTHER

In all cases where a judge signs an Order on behalf of another court, the case shall remain in the original court.

1.11. ANCILLARY PROCEEDINGS, TEMPORARY ORDERS, AND EMERGENCY MATTERS

In the event a bona fide emergency exists or a matter requires special attention and the judge of the court where the case is pending is unavailable, the attorney or party seeking relief shall contact any judge who has jurisdiction and the judge can consider the matter, but the case shall remain in the court originally filed.

1.12. SERVICE OF PROCESS

Civil process shall be served either by those authorized by blanket order of the court, individual order of the court, or as otherwise authorized by the T.R.C.P.

1.13. JURY TRIAL SETTINGS

A. Cases on the jury docket shall be set on Monday of a jury week, and shall be subject to trial at any time during the week. Jury docket cases shall take priority on those weeks designated for that purpose.

B. A case is set on the jury docket by contacting the court coordinator of the court in which the case is pending.

C. Alternate settings are allowed. Special settings, agreed to by all parties, are subject to the approval of the court.

D. The attorney setting the case for jury trial shall provide notification of such setting to all other attorneys of record and pro-se parties pursuant to the T.R.C.P. and shall provide the court a copy of such notice.

1.14. JURY DOCKET CALL

No later than 9:00 a.m. on Friday morning before the jury trial setting for the following week, it shall be the duty of each counsel to communicate with the court in person or by telephone and announce ready or not ready. If an announcement of not ready is to be made, a Motion for Continuance must be filed and set for no later than that Friday morning at 9:00 a.m., unless opposing counsel advises the court that no contest will be made to the motion, or unless the case is passed by agreement of all parties and consent of the court.

If counsel does not communicate with the court as herein above indicated, the court may treat such failure as any one of the following: (a) an announcement of ready, or (b) an indication of no contest to any opponent's Motion for Continuance or other announcement.

1.15. PRE-TRIAL CONFERENCE

A pre-trial conference pursuant to Rule 166 T.R.C.P. may be held at the request of the court or of any attorney of record in the case.

1.16. SCHEDULING AND DOCKET CONTROL ORDERS

The court may enter Scheduling and Docket Control Orders which are submitted by agreement, are made on the court's own motion or are the result of a docket control conference. Such order, when entered, shall control the subsequent course of action, unless later modified by the court.

1.17. TIME STANDARDS FOR THE DISPOSITION OF CASES

District judges of the county in which cases are filed should, so far as reasonably possible, ensure that all cases brought to trial or final disposition are in conformity with the following time standards:

A. **Civil Cases Other Than Family Law**

1. Civil Jury Cases
   Within 18 months from appearance date.
2. Civil Non-jury Cases
   Within 12 months from appearance date.

B. **Family Law Cases**

1. Contested Family Law Cases
   Within 6 months from appearance date or within 6 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.
2. Uncontested Family Law Cases
   Within 3 months from appearance date or within 3 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

C. **Complex Cases**

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

1.18. DISMISSAL FOR WANT OF PROSECUTION

A. **Procedure**

The court, on its own motion, may dismiss a case for want of prosecution. The procedure provided in Rule 165a of the Texas Rules of Civil Procedure, as amended, shall apply.

B. **Reasons For Dismissal**

A case may be dismissed for want of prosecution for any of the following reasons:

1. Failure of a party seeking affirmative relief to take appropriate action when the case has been pending without action for six months.
2. Failure of counsel for a party seeking affirmative relief to appear for a pretrial or preliminary hearing, particularly if there has been a previous failure to appear or no motion has been timely filed to meet the exceptions previously sustained.
3. Failure of a party seeking affirmative relief to make an announcement as scheduled when the case has been set for trial.
4. Failure to dispose of the case within the time standards promulgated by these local rules or by the Supreme Court of Texas under Rule 6 of Rules of Judicial Administration.

1.19. NO LIMITATION ON TEXAS RULES OF CIVIL PROCEDURE

These rules shall not be construed as a substitute for, or as any limitation upon, any pre-trial or discovery right or proceeding pursuant to the Texas Rules of Civil Procedure.

In cases subject to these local rules, as in other cases, T.R.C.P. pre-trial conference and discovery rules apply.

1.20. RULES OF ADMINISTRATION THIRD ADMINISTRATIVE JUDICIAL REGION

The District Courts of McLennan County adopt the Rules of Administration Third Administrative Judicial Region of Texas effective September 26, 2000 (or later amended) which are made a part of these Rules. If these local rules conflict with the Rules of Administration then the latter will prevail.

Rule 2 Family Cases

2.01. APPLICATION OF RULE 1

All parts of Rule 1 (Civil Cases) apply to family law cases unless specifically in conflict with a portion of Rule 2.

2.02. SEMINAR FOR PARENTS

A. All parties in a suit affecting the parent-child relationship, who are parents of the child the subject of the suit, shall attend and complete a parent education seminar approved by the court in which the suit is pending.

B. Each party shall complete the seminar or approved service of equal value within sixty (60) days after the date the respondent parent is served with process or executes a waiver of citation in the case, and prior to a final hearing on the merits of the case.

C. All parties required by paragraph A herein to attend a parent education course shall file with the court a certificate verifying the party's attendance at such course. The certificates shall be filed no later than the date the case is set for final hearing.

D. Each party is responsible for payment of the appropriate fee.

E. For good cause shown, the Court may waive the requirement of completion of the seminar.

2.03 TEMPORARY HEARINGS SCHEDULING AND TIME LIMITS

All temporary hearings shall be set on a date and at a time scheduled by the Court. At the time set for the temporary hearing, counsel shall make an announcement of the estimate of time required to present the case. In all temporary matters, including a modification of a temporary order, the court shall determine the amount of time that shall be allotted for the hearing.

2.04. NOTICE OF SETTING FOR FINAL HEARING

Notice of all first settings for final hearing or trial shall be pursuant to Rule 245 of the Texas Rules of Civil Procedure. (i.e. 45 days notice)

2.05. INVENTORY AND APPRAISEMENT

In cases involving an appreciable amount of property in dispute, counsel for each party shall prepare a sworn list of property involved with estimates of value noted thereon. A copy of the list shall be presented to opposing counsel at least seven (7) days before trial and to the court prior to any testimony being offered. Either party may invoke this rule by letter to the opposing counsel at least 21 days prior to final hearing. The parties may agree or request the court for an earlier date to exchange inventories. At final hearing, the court shall be furnished a copy of each party's inventory.

2.06. EXCHANGE OF INFORMATION

A. Prior to final hearing all parties shall exchange wage information, proposed division of property, proposed resolutions of child custody, child support, visitation and any other pertinent matters.

B. At the final hearing, the court shall be furnished all information set out in Rule 2.05.

2.07. PRE-TRIAL PROCEDURE BEFORE A FINAL TRIAL ON THE MERITS

A. At least twenty-four (24) hours prior to trial on the merits for any divorce trial involving contested property division issues in which more than three (3) items of property are contested, each party shall deliver to the opposing party and to the court coordinator of the court in which the case is filed a Proposed Disposition of Issues, fully completed and in the form then being used by the court.

B. If the parties have an agreement on all issues pertaining to the division of community property and community debt the exchange of pre-trial forms is not necessary.

C. The court coordinator is not authorized to extend the time for delivering pretrial forms. The parties may not by agreement waive or modify the provisions or requirements of these rules.

D. Pre-trial forms shall not be filed with the District Clerk at any time. The District Clerk is authorized to destroy any such forms found in the case file maintained by the Clerk.

2.08. USE OF EVIDENCE

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