

Hemphill
WHEELER COUNTY
Local Rules of Practice
Of
The 31st Judicial District of Texas

Rule 1

Rule 1.10. Time Standards for Case Processing

The 31st Judicial District Court of Wheeler County, Texas adopts the time standards for disposition of cases as established by the Constitution, Statutes, or by Rule of the Supreme Court Rules of Judicial Administration, as follows:

- a. Criminal Cases
As provided by Article 32A.02, Code of Criminal Procedure.
- b. Civil Cases Other Than Family Law
 1. Civil Jury Cases
Within 12 months from appearance date.
 2. Civil Non-jury Cases
Within 12 months from appearance date.
- c. Complex Cases

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

- d. 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.
 3. Failure to Timely File Required Documents
The failure to timely file the inventories and appraisement, affidavits, or statements or proposed property divisions, may result, in addition to other sanctions provided by law, in the continuance of temporary support or in the discontinuance of same, depending on the party failing to comply with these rules.

Rule 1.11 Court Sessions

Each Monday of every sixth week, and following said Monday by twenty-four days, each Thursday of every sixth week is set aside for the trial of uncontested matters, with the first priority given to family cases, on a first come-first serve basis.

The Court Administrator shall set the docket for this day. All other settings will be made by the District Judge, with the

notification to be made by the Attorney requesting setting.

Rule 1.14. Request for Settings - Non-jury Cases

a. At any time after the filing of an answer upon the request of any party or the Judge's own motion, the Court Administrator, acting upon the direction of the Judge, shall set the case for trial on the non-jury docket.

b. When requesting a setting for a non-jury trial, the approximate length of time required for the trial shall be given in order to facilitate scheduling.

c. The request for a non-jury trial setting may be made by telephone or by mail.

Rule 1.20. Dismissal Dockets, Involuntary Dismissal

a. A dismissal docket shall periodically be made regarding cases that have been idle for a substantial period of time. Notice of such dismissals shall be pursuant to Rule 165a, Texas Rules of Civil Procedure. Any request in response to a dismissal notice must be made in writing and must be filed with the clerk and a copy sent to the District Judge. Failure to appear ready at any setting made following such request will result in immediate dismissal.

b. In each calendar month, the Court Administrator shall prepare, and the Court Clerk shall mail to each attorney of record (or if there be no attorney for any party, to such party) in each domestic relations case (annulment, divorce, and modification of custody, visitation and support) which has been on file more than 1 year, the following notice:

NUMBER AND STYLE OF CASE

Pursuant to the Texas Rules of Civil Procedure and the Local Rules of the Court, the above cause will be dismissed for want of prosecution unless a written request for setting is made within 15 days of the mailing of this notice.

When, after such notice, a written request for setting is made, the case shall be set for a day certain and shall be tried on such day or shall be dismissed.

When a case is dismissed, the Clerk shall notify the parties or their attorneys of such dismissal and the date of same.

Rule 3.13. Motion for Continuance

a. No agreed continuance by attorneys after a case is set is permitted without approval of the Court. **Except** for a showing of good cause for a continuance, the case will automatically be placed **Last** on the jury request list.

PURSUANT TO RULE 141, TEXAS RULES OF CIVIL PROCEDURE, IF A JURY CASE IS SETTLED OR CONTINUED WITHIN THREE (3) DAYS OF TRIAL

SETTINGS, THE PARTIES MAY BE REQUIRED TO PAY THE COST OF SUMMONING AN UNUSED JURY PANEL.

b. No party shall be entitled to rely upon an agreement entered into between parties or counsel to pass or continue a case unless such agreement is reduced to writing and approved by the Court.

Rule 3.14. Motion for Default Judgment

All requests for settings for default judgments shall be made by telephone, in person, or by mail from the movant after the appearance date of the defendant has passed. A hearing date and time shall be set by the Court Administrator.

Rule 3.19. Pre-Trial Conferences

At any time the Court may order a pre-trial conference pursuant to Rule 166, Texas Rules of Civil Procedure. The Court may order such a conference if it appears from the Clerk's file that the case has remained inactive for 180 days. The court may enter an order following each pre-trial conference which will address each of the applicable matters stated in Rule 166.

Rule 3.27. Jury Charges, Witness List and Exhibits

Counsel for each party will submit a proposed Charge of the Court, Witness List and List of Exhibits to the Court no later than noon on the Wednesday prior to the jury week for which the case is set for trial.

**Rule 6.14. Appearance of Defendant and Counsel/Court Attendance
(Criminal)**

Immediately upon employment or court appointment, the defense attorney shall give written notice thereof to the District Attorney and the District Clerk stating the name of the accused, the offense(s) charged and cause number, if known. The Clerk will note the attorney's name on the docket sheet and indicate whether he/she is retained or Court appointed.

Rule 6.15. Withdrawal or Substitution of Counsel (Criminal)

No attorney will be allowed to withdraw from a case without there first being a hearing to determine the reason if the motion is granted so the Defendant can fully be advised of his rights, and the last known address of the Defendant is provided by the withdrawing attorney.

A lawyer who has entered an appearance and becomes counsel of record; by being retained, by signing a bail bond, or by appointment may not withdraw as counsel of record except by permission of the Court.

Rule 6.18. Docket Calls/Announcements (Criminal)

The State must appear at all docket calls to announce "ready" or "not ready." Unless an announcement of "ready" for trial is made in writing or by phone not less than one (1) nor more than seven (7) days prior to docket call, the defendant shall appear at docket call. An announcement of ready is a representation to the Court, signed by the defense attorney and the defendant that the defendant is available for trial and has actually received notice of the setting for which the announcement is made.

Rule 6.19. Continuance/Resetting Postponement (Criminal)

No case will be continued without a written motion for continuance, unless the attorneys for both sides agree to a continuance then only upon receiving a resetting date from the Court Administrator.

Rule 6.20. Plea Bargains (Criminal)

The District Attorney shall advise the Judge, in advance of trial, of the results of any plea bargain negotiations in a pending criminal case.

Rule 6.22. Speedy Trial (Criminal)

Justice demands the speedy disposition of all criminal cases.

All Felony cases should be set for trial no later than 45 days after indictment or arrest whichever period is longer.

Cases not reached on the date set may be carried from day to day at the discretion of the trial judge.

The trial preference for docketed cases shall be as follows:

Cases in which:

- a. The defendant is incarcerated in the Wheeler County Jail.
- b. A child is the victim.
- c. A crime of violence is alleged.

All other cases will be tried in order of their age. The oldest cases shall be tried first.

Rule 6.26. Witnesses/Evidence (Criminal)

Texas Rules of Criminal Evidence will govern matters pertaining to witnesses and evidence.

Rule 6.28. Jury Trials (Civil and Criminal)

Jury arguments are to be conducted from the lectern and the attorney should refrain from walking about in front of the jury and

sitting on tables, etc.

Rule 6.32 Judgments/Orders

Judgments will be prepared as required by Article 42.01 C.C.P.

Rule 10.13. Conduct/Decorum of Person in Court

(1) All persons in the courtroom during the pendency of any hearing shall be attentive to the proceedings of this Court and shall refrain from any action which is disruptive of the Court proceedings. When court is in session, all persons shall quietly be seated in the places provided. All men shall remove hats and caps.

There shall be:

- (a) No reading of newspaper or magazines during the court proceedings;
- (b) No bringing of bottles, paper cups, or beverage containers into the courtroom, except with the specific consent of the Court;
- (c) No bringing of edibles in the courtroom (at any time);
- (d) No propping of feet on tables, chairs or benches;
- (e) No sitting on tables, railing, desks or arms of chairs;
- (f) No person shall walk through the courtroom while any proceedings are being held (or in court session);
- (g) No making noises or talking which interferes with the court procedure; and
- (h) No smoking.

(2) No person should by any facial expression, shaking of the head or any other conduct, exhibit approval or disapproval of any testimony elicited or any statement or transaction which has occurred in the Courtroom.

Conduct Required of Court Officers

In addressing the Court, lawyers shall rise and remain standing at their positions at counsel table. They shall not approach the Bench except with permission or upon request of the Court. When the Court is addressing an attorney, that attorney shall rise and remain standing until the Court finishes speaking.

Lawyers shall not lean on the Bench or appear to engage the Court in a confidential manner.

All male attorneys shall wear coats and ties, and all female attorneys shall wear equally formal attire while in attendance of the Court, unless otherwise permitted by the Court.

Lawyers shall advise their clients and witnesses of the formalities of the Court and seek their full cooperation. It is not intended that the clients and witnesses shall wear coats and ties, but may wear casual dress.

All counsel are admonished to respect the letter and spirit of all canons of ethics including particularly those dealing with discussion of cases with representatives of the press or radio and discussion of the facts or law of the case with the Court outside of the Courtroom and not in the presence of opposing counsel.

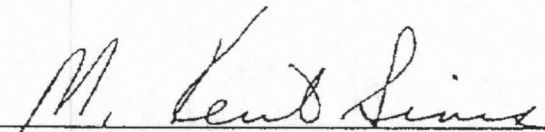
All remarks of Counsel to the Court shall be addressed to the Court and not to the Judge as an individual.

PLEASE TAKE NOTICE:

Please be informed that: You must supply a stamped self-addressed envelope for copies or receipts to be returned to you.

Any fees or statement in regard to this schedule are subject to change at the discretion of the District Clerk of Wheeler County, Texas.

Adopted: 2-14-94


M. KENT SIMS
31ST JUDICIAL DISTRICT JUDGE

COURT PERSONNEL

31ST JUDICIAL DISTRICT JUDGE
M. Kent Sims
806-826-5501 (Wheeler)

COURT ADMINISTRATOR
Debbie M. Haning
806-826-5501 (Wheeler)

COURT REPORTER
J. Larry Porton
806-826-3455 (Wheeler)

COURT BAILIFF
Wayne C. Carter
806-826-5501 (Wheeler)

DISTRICT CLERK
Sherri Jones (by appointment)
806-826-5931 (Wheeler)

31ST JUDICIAL DISTRICT COURT
Gray, Hemphill, Lipscomb, Roberts and Wheeler Counties

Steven R. Emmert
Judge Presiding

P.O. Box 766
Wheeler, Texas 79096

Toni McClendon
Court Reporter

Dana Burch
Court Administrator

(806) 826-5501
Facsimile (806) 826-5503
email: 31stdistrictcourt@centramedia.net

Wayne Carter
Court Bailiff

FACSIMILE COVER PAGE

Date: July 10, 2012

To: Lisa Johnson 323-8125

From: Dana Burch, Court Administrator

Re: Local Rules

Memo:

Original to follow: ___ Yes ___x___ No

Total pages, including cover page: 7

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