UNIFORM RULES OF COURT FOR THE DISTRICT AND STATUTORY COUNTY COURTS OF DENTON COUNTY, TEXAS

Title I. General Rules

Rule 1.1: Title, Scope, Authority and Application of Local Rules

1.1.1 These Rules are the Local Rules of Court of Denton County, Texas. They shall govern proceedings in the District and Statutory County Courts of Denton County, Texas, for the purpose of securing uniformity and fairness in those proceedings and in order to promote justice.

1.1.2 The term "Courts" shall refer to the District and Statutory County Courts of Denton County, Texas, and/or any other court who subsequently adopts these Rules as their Local Rules.

1.1.3 These Rules are adopted by the trial judges of the District and Statutory County Courts acting in concert pursuant to the inherent power of courts to control and guide the trial and disposition of causes, and pursuant to the provisions of the Supreme Court's order of September 13, 1999, as amended, adopting Rules of Judicial Administration and to the provision of the Court Administration Act, Sec. 74.093, Government Code, as amended.

1.1.4 These Rules are standing order of all District and Statutory County Courts of this county, now existing or as may be created hereafter. Knowing or intentional violation of these Rules may be punished by contempt or other sanction authorized by law or by rules of procedure as the trial judge may deem appropriate.

1.1.5 For purposes of these Rules, juvenile cases originating under Title 3, Juvenile Justice Code, of the Texas Family Code are neither criminal nor civil; however, for juveniles incarcerated pending a contested adjudication, the case shall be given at least the priority afforded an adult criminal case.

Rule 1.2: Repeal and Effective Date

1.2.1 All prior Local Rules are repealed as of the effective date of these Rules.

1.2.2 These Rules are effective September 1, 2003, or at such later date as they may be approved by the Supreme Court. They shall govern all proceedings occurring on or after their effective date.

Rule 1.3: Attorneys' Responsibilities to the Court

1.3.1 Attorneys are officers of the Court and shall assist the Court in maintaining proper decorum at all times Court is in session.

1.3.2 Attorneys shall be responsible for familiarizing their clients, witnesses, and all other people in attendance at the attorney's request with the appropriate courtroom decorum. It shall be the attorney's duty to familiarize all such persons specifically with Rule 1.5 governing conduct in the Courtroom.

1.3.3 Attorneys shall have the duty to assist the Court in expediting trials and hearings consistent with their duty to provide zealous representation to their client. This responsibility shall include the duty of attorneys to waive formal proof regarding any documents to be introduced into evidence where there is no reasonable dispute as to the authenticity of the document.

1.3.4 Attorneys shall be familiar with the Lawyer's Creed and shall have the responsibility to conduct themselves during Court proceedings in accordance with the spirit thereof.

Rule 1.4: Commencement of Proceedings

Each daily session of Court shall be brought to order by announcement of the bailiff, clerk, or other officer of the Court, requiring all persons to rise as the Judge and jury take their place.

Rule 1.5: Conduct in Courtroom

1.5.1 All persons in the Courtroom shall be attentive to the proceedings and cause no distraction. Conferences or conversations to which the Court is not privy shall not be conducted in the courtroom while court is in session.

1.5.2 No person is permitted to sit on railings, tables, desks, chair arms or prop feet on furniture or fixtures.

1.5.3 Beverages, food, chewing gum, candy, and tobacco products are not permitted in the courtroom, unless specifically authorized by the Judge of the court.

1.5.4 No communication devices shall be operated in the courtroom. No audible sounds from communication devices shall be permitted.

1.5.5 Overt advertising, campaign buttons, and campaign materials are prohibited in the courtroom.

1.5.6 Gestures, facial expressions, sounds, signs, or other action indicating approval or disapproval of any proceedings should be avoided.

1.5.7 All persons in the courtroom shall be attired in a manner reflecting the dignity of the Court.

1.5.8 The Court and attorneys shall address each other without familiarity. The use of first names should be avoided.

Rule 1.6: Conduct of Hearing or Trial

1.6.1 Trial participants, including attorneys, parties, and witnesses, shall be prompt for all docket calls and commencement of proceedings. Witnesses shall be available when called.

1.6.2 Attorneys should report their presence to the bailiff prior to the docket call.

1.6.3 During proceedings in which an attorney participates, the attorney should remain seated at counsel table except when addressing the Court or jury or when leave has been granted to approach the bench, witness board, or publish an exhibit to the jury.

1.6.4 Objections shall be in proper legal form. Argument will not be entertained by the Court on an objection except upon leave of the Court.

1.6.5 The State, plaintiff, or moving party shall be seated at the counsel table nearer the jury box.

Rule 1.7: Signing of Pleadings and Pro Se Parties

1.7.1 Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's name, with the attorney's State Bar of Texas identification number, address, telephone number, and, if available, telecopier number and e-mail address. A party not represented by an attorney shall sign their own pleadings, state their address, telephone number, and, if available, telecopier number and e-mail address.

1.7.2 Any natural person proceeding on their own behalf without an attorney shall be expected to read and follow these Local Rules and the Texas Rules of Civil Procedure, the Rules of Evidence, the Code of Criminal Procedure, and the Rules of Appellate Procedure as may be appropriate in the particular case. Failure to comply may be sanctioned, fined, or punished as in other cases.

Rule 1.8: Conflicting Settings and Lawyer Vacations

1.8.1 A "conflicting setting" exists when an attorney is already set for trial or hearing in another Court or an attorney is assigned to more than one Court at the same time.

1.8.2 An attorney shall inform all Courts in which the attorney is set for hearing or trial if the attorney has a conflicting setting, which information shall be verified upon request of

opposing counsel.

1.8.3 Insofar as practicable, Judges should attempt to agree on which case has priority, considering the following priorities:

(a) Criminal cases

(b) Case given preference by statute

(c) Preferentially set cases

(d) Case with earliest filing date

(e) Case set at earliest date by a Court official

(f) Denton County District and Statutory County Courts will yield to District and Statutory County Courts in rural counties in an instance of conflicting settings where necessary to utilize a called jury panel.

1.8.4 A lower priority case delayed by a conflicting setting shall be continued until the conflict is resolved or the case is reset.

1.8.5 If an attorney of record has filed a vacation letter with the Court Coordinator specifying the dates on which the attorney will be unavailable for Court appearances, not later than 45 days prior to the attorney's designated vacation and there is no conflicting trial setting request on file, no hearings or trials shall be set in a case, and no orders submitted under Rule 1.13 shall be entered, for which the attorney of record has filed a vacation letter.

Rule 1.9: Continuances, Passes, and Subsequent Settings

1.9.1 A "continuance" is a delay of a hearing or final trial setting requested by one party, and for purposes of these Rules, is charged against the requesting party.

1.9.2 A "pass" is a delay of a hearing or final trial setting that is mutually agreed upon by the parties, and for purposes of these Rules, is charged against both parties.

1.9.3 The first continuance and/or first pass shall be granted on or prior to announcement day without necessity of showing cause, subject to approval by the trial judge. All continuances and subsequent passes shall be granted only when required for a fair disposition of litigation or when a setting is in conflict with a setting having a higher priority under these Rules or as provided by law. Substitution of counsel is ordinarily not good cause for subsequent continuances. A case passed or continued because of an attorney's vacation may not receive a setting except upon agreement of the parties or upon good cause shown.

1.9.4 A trial date cannot be postponed or changed without the consent of the Court. Except for good cause shown, any Motion for Continuance will be filed no less than 7 days prior to the trial date and will be heard by the Court in the courtroom at 2:00 p.m. on the Thursday

preceding the trial date, unless otherwise set by the Court. Any motion for continuance based upon facts which occur on or after the deadline set forth in this paragraph will be filed as soon as possible and will be heard at a time to be set by the Court.

Rule 1.10: Docket Calls, Pretrial Hearings, and Arraignments

The times and manner of conducting docket calls, pretrial hearings, and arraignments on all cases shall be governed by the presiding Judge of the Court in which the case is pending.

Rule 1.11: Motion Practice

1.11.1 Parties are directed to use all reasonable means to resolve pre-trial disputes to avoid the necessity of judicial intervention.

1.11.2 No motions, objections, or special exceptions will be set for hearing unless the moving party shall have certified in such motion or in a letter substantially the following:

> "A conference was held on (date) with (name of attorney for opposing party) on the merits of this motion. A reasonable effort has been made to resolve the dispute without the necessity of court intervention and the effort failed. Therefore, it is presented to the Court for determination."

OR

> "A conference was not held with (name of attorney for opposing party) on the merits of this motion because (explanation of inability to confer)."

1.11.3 Court Coordinators are responsible for scheduling the dates and times for hearings. Upon receiving the date and time of hearing, the moving party shall immediately notify all other parties in writing as to the date, time, and subject matter of the hearing. A copy of this communication shall be provided to the Court Coordinator.

1.11.4 On request of a party and with consent of the Judge, a matter not requiring a record by the Court Reporter may be conducted by telephone. The moving party shall be responsible for advising opposing parties of the method and time of hearing and shall be responsible for arranging the conference call.

1.11.5 By agreement, parties may submit matters for ruling by the Judge without a personal appearance and oral presentation. The Judge will be advised in writing when such procedure is desired.

1.11.6 Section 1.11.2 of this Rule does not pertain to dispositive motions, (e.g., Motions for Summary Judgment, Motions to Dismiss, Motions for Default Judgment, and Special

Exceptions seeking to dismiss a cause of action) or to Motions for New Trial.

Rule 1.12: Briefs

Except in case of emergency, briefs relating to a motion (other than for summary judgment) set for hearing must be served and filed with the Clerk of the Court in which the case is filed not later than 2 working days before the scheduled hearing, or with the office of the District or County Clerk no later than 3 working days before the scheduled hearing. Briefs in support of a motion of summary judgment must be filed and served with that motion; briefs in opposition to a motion for summary judgment must be filed and served at or before the time the response is due; reply briefs in support of a motion for summary judgment must be filed and served no less than 3 days before the hearing.

Rule 1.13: Submission of Proposed Orders By Counsel

Except for proposed orders tendered at a hearing, proposed orders on contested matters should be submitted by the prevailing party after notification of the Court's ruling. Proposed orders should be tendered to the opposing party at least 2 working days before they are submitted to the Court. The opposing party must either approve the proposed order as to form or file objections in writing with the Court. If an order is not approved as to form and no objections are filed within 5 days of the submission of the proposed order, the Court will presume that there are no objections as to form. Nothing herein prevents the Court from making and signing its own order at any time after the hearing in accordance with the Texas Rules of Civil Procedure.

Rule 1.14 Local Counsel

In order to facilitate the resolution of day to day issues and the proper interpretation of these Rules, local counsel is recommended.

Title II: Rules Applicable In All Civil Cases

Rule 2.1: Ex Parte Communications

2.1.1 No application for action or relief of any kind shall be presented to a judge until the application or case has been filed with the clerk and assigned to a court, unless it is impossible to do so. If it is impossible to file an application or case before it is presented to a judge, then it shall be filed as soon thereafter as possible, and the clerk notified of all actions taken by the judge.

2.1.2 Every application for action or relief of any kind shall be presented first to the judge of the court to which it is assigned. If that judge is not available to hear the application, then it may be presented to any other court with subject matter jurisdiction. After a judge has announced a ruling on the application or deferred ruling, the application shall not be presented to any other judge without leave of the judge to which it was first presented.

2.1.3 Every application for relief ex parte shall contain a certificate signed by counsel in one of the forms set forth below:

"I certify that to the best of my knowledge the party against whom relief is sought ex parte is not represented by counsel in the matter made the basis of the relief sought"

OR

"I certify that counsel for the party against whom relief is sought ex parte has been notified of the application and has stated whether he or she wishes to be heard"

OR

"I certify that diligent attempts to notify counsel for the party against whom ex parte relief is sought have been unsuccessful and the circumstances do not permit additional efforts to give notice."

2.1.4 Only Texas-licensed attorneys or pro se litigants can introduce evidence and serve argument before any Court, including the presentation of ex parte temporary relief.

Rule 2.2: Default Prove-ups

Unless otherwise requested by the Court, default prove-ups shall be made through affidavits. Upon prior approval of the court upon request by any party, the Court may consider prove-ups without a formal hearing. However, this Rule shall not apply to cases involving injury to a minor.

Rule 2.3: Hearing of Uncontested Matters

Matters that are not contested or can be disposed of prior to any hearing or trial setting need not be docketed and may be heard at those times determined by each Court.

Rule 2.4: Bankruptcy

2.4.1 Whenever any party of litigation in these courts files for protection under the bankruptcy laws of the United States, it shall be the responsibility of that party's counsel in these courts: (a) to promptly notify the affected court(s) by immediately telephoning the Court Coordinator; and (b) within 3 days of any bankruptcy filing, to provide written notice to the affected court(s) and all counsel that a bankruptcy has occurred giving the name and location of the bankruptcy court, the bankruptcy cause number and style, the date of filing and the name and address of counsel for the bankrupt party.

2.4.2 Once a bankruptcy has been concluded, whether by discharge, denial of discharge, dismissal, or otherwise, counsel shall promptly notify the Court Coordinator so that the affected cases may be restored to the active docket or be dismissed as may be appropriate.

Rule 2.5: Court-Appointed Experts and Ad Litems in Civil Cases

2.5.1 Any party shall give notice to the Court and all other parties as soon as practicable of the necessity for appointment of an expert/ad litem by the Court. An agreement by the parties for appointment by the Court of a person as an expert/ad litem shall be submitted in writing to the Court, signed by all attorneys, and shall be considered by the Court. Such agreed expert/ad litem may be appointed by the Court without necessity of a hearing on the matter. The appointment of an expert/ad litem by the Court shall be reduced to written order, which order shall state, to the extent determined by the Court, the expert's/ad litem's duties, time limits for conducting such acts required of the expert/ad litem, and a method of compensating the expert/ad litem.

2.5.2 All attorneys in the case have the affirmative duty to give written notice to the expert/ad litem of the appointment within 7 days of the appointment, which includes providing the expert/ad litem with a copy of the order and the names, addresses, and telephone numbers of all attorneys, parties, and other persons affected by or the subject of the case. This Section will not apply to ad litems appointed pursuant to the Texas Health Code § 574.003.

Rule 2.6: Deposition Settings

2.6.1 Notice of less than 10 calendar days under Rules 21a and 199.2(a), Texas Rules of Civil Procedure, shall be presumed to be unreasonable. Notice of more than 10 days shall be presumed to be reasonable.

2.6.2 A party initiating an oral deposition shall first attempt to communicate with opposing counsel to determine whether agreement can be reached as to date, time, place, and

material to be furnished at the time of deposition.

(a) Any written notice of deposition shall state as follows:

"A conference was held (or attempted) with the attorney for opposing party to agree on a date, time, place, and materials to be furnished. Agreement could not be reached (or counsel will not respond) and the deposition is therefore being taken pursuant to this notice (or agreement was reached and this notice complies with the agreement)."

(b) Failure to hold such conference or to make adequate attempt to hold such conference prior to noticing a deposition shall be grounds to quash the deposition.

Rule 2.7: Dismissal for Want of Prosecution and Status Conferences

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

(a) Failure of the Plaintiff to request a setting or take other appropriate action after the case has been pending for more than 60 days.

(b) Failure of the Plaintiff's counsel to appear for pretrial, docket call, other preliminary hearing, or trial.

(c) Failure of Plaintiff's counsel to make an announcement of "ready" when a case is called for trial or hearing of any preliminary matters.

(d) For any other reasons provided for by these Rules, the Texas Rules of Civil Procedure, or the general law.

2.7.2 The courts will periodically give notice of their intent to hold dismissal dockets or status conferences for the purpose of determining the progress of a case. Upon appearing for one of these settings, attorneys and pro se litigants may be required to furnish signed scheduling orders or proof of issuance of citation as needed. Failure to appear may result in the case being dismissed for want of prosecution.

2.7.3 Subject to other provisions of these Rules, the Clerk shall mail a written notice of a dismissal for want of prosecution to all parties or their counsel of record.

Rule 2.8: Requests for Trial Settings

2.8.1 Cases will be set for trial by the Court upon written request and representation of the requesting party that the case will be ready for trial, except for appeals from the J.P. Court. The request may ask for a setting on a specific trial week, but not sooner than 75 days from the

date of the request for the initial trial setting. All further trial settings may be set at a time deemed reasonable by the Court.

2.8.2 Unless the Court determines that the case is not ready for trial, the case will be set for trial on the date requested or the nearest date afterward that the Court's docket will permit.

2.8.3 The party requesting the setting shall serve the request on all other parties. Within 7 days of service of a notice of trial setting, any party having an objection to the setting shall inform the Court of the objection.

2.8.4 An objection to a trial setting under Section 2.8.3 of this Rule is ineffective unless the objecting party requests a hearing on the objection.

2.8.5 The Coordinator will inform the requesting party of the trial setting and the party requesting the setting shall serve the notice of the setting on all other parties.

Rule 2.9: Docketing and Setting of Trials, Hearings, Depositions, etc.

2.9.1 All depositions, court appearances, or hearings are to be scheduled after conference with opposing counsel. Requests of an attorney or party for a court setting and notices for depositions require a certificate substantially in the form as set out in Rule 2.6.2 Failure to attempt to confer may be brought to the attention of the Court without the necessity of a Motion for Continuance and may result in the Court resetting the deposition, court appearance, or hearing.

2.9.2 Denton County District and Statutory County Courts shall adhere to and follow the 8th Administrative Judicial Region Rules of Administration.

Rule 2.10: Announcements for Civil Trials

Unless otherwise directed by the Court, a party seeking affirmative relief in a civil case set for trial must announce "ready" or "not ready," not less that 5 days nor more than 15 days prior to the trial setting. A party should not announce "not ready" unless a Motion for Continuance has been filed. Failure of a party seeking affirmative relief to make an announcement may result in dismissal for want of prosecution. A party not seeking affirmative relief need not make an announcement but must appear at the final trial setting unless a pass or continuance has been granted or the party has been notified by the presiding Judge or Court Coordinator of no need to appear.

Rule 2.11: Settlement Announcements in Civil Cases

If trial is passed on the basis of an announcement of settlement, a final judgment or order signed by all attorneys shall be submitted to the Court not later than 30 days after the passed setting. Absent a showing of good cause, failure to timely submit the judgment shall be grounds

for dismissal of the case for want of prosecution.

Rule 2.12: Failure to Appear in Civil Cases

Failure of a party seeking affirmative relief to appear at any scheduled trial or hearing shall result in dismissal of the case or waiver of the matters presented in the motion scheduled for hearing.

Rule 2.13: Trial Procedure in Civil Cases

At the time the parties report for trial, they will deliver to the Court and the other parties a witness list, exhibit list, any motion in limine, and any requested instructions and questions if trial is by jury (on disk). Any witnesses and exhibits not shown on such list can be used at the trial only upon leave of the Court. The week prior to commencement of trial, all exhibits will be marked, exchanged, and examined by counsel so that the trial will not be delayed by such examination.

Rule 2.14: Business Records Affidavits and Affidavits Concerning the Cost and Necessity of Services

2.14.1 The following Affidavits shall be filed with the Clerk in accordance with the Texas Rules of Civil Procedure and the Texas Civil Practice and Remedies Code; however, the attachments shall not be filed:

(a) Texas Rules of Evidence Rule 902(10): "Business Records Accompanied by Affidavit"

(b) Texas Civil Practices and Remedies Code §18.001: "Affidavit Concerning Cost and Necessity of Services."

2.14.2 The Affidavits described in the preceding paragraphs shall be served upon, and the attachments shall be made available to, all other lead counsel or parties in accordance with the Texas Rules of Civil Procedure and the Texas Civil Practice and Remedies Code at the cost of the requesting party.

Rule 2.15: Use of Videotaped Depositions

Unless otherwise expressly agreed by the parties or ordered by the Court, counsel intending to offer videotaped depositions or other films or videotapes at trial, except those offered solely for impeachment, must serve opposing counsel with page and line designations for videotaped depositions not later than 30 days prior to trial. Opposing counsel shall serve the proffering attorney with all objections to the testimony and page and line designations of any portions he/she intends to introduce at trial within 10 days of receiving the designation. A hearing on objections to the proffered testimony shall be at the time the objections are served,

and should be scheduled no later than 10 days prior to trial. Videotaped testimony will not be considered unless the procedures set forth in this paragraph are followed. Objections to videotaped testimony that are not heard prior to trial are waived.

Title III. Rules Applicable Only In Family Law Cases

Rule 3.1: Filing, Assignment, and Transfer

3.1.1 Every ancillary action suit shall be assigned to the Family District Court to which the matter is ancillary. Every garnishment, turnover, or other collection-remedy after judgment or any action arising out of a decree/judgment or Agreement Incident to Divorce shall be filed in the Family District Court to which rendered the judgment upon which the action is founded.

(a) If any action is dismissed by any party or the Court, and is refiled within one hundred 180 days of the date of dismissal and assigned to a different Court, either party or the Court may move within 30 days of the filing of an answer to transfer the case to the first Court and, upon hearing, the transfer shall be granted.

3.1.2 Whenever a case is transferred to Denton County by a Court of another county, and the order of transfer 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 by the presiding Administrative Judge.

3.1.3 Whenever a motion to sever is granted, the severed claim shall be filed as a new case in the same Court and shall be assigned a new cause number by the District Clerk. A filing fee is required as in all new cases and the attorneys must provide copies of the severed pleadings at the time of filing.

Rule 3.2: Ex Parte Orders

3.2.1 This Rule shall apply in any conflict between it and Rule 2.1.

3.2.2 All applications for ex parte orders or relief shall be accompanied by a written certification from the party or attorney in one of the following forms:

ATTORNEY'S CERTIFICATE FOR EX PARTE RELIEF

"I, the undersigned attorney or party, hereby certify and represent to the Court that:

1. To the best of my knowledge, no attorney is representing the opposing party in this matter at this time and no attorney has contacted me regarding the representation of the opposing party prior to filing this request for ex parte relief; OR,

2. Prior to presenting this request for ex parte relief to the Court for approval, I contacted all attorneys of record and/or all attorneys that have contacted

me as to their representation of the opposing party, transmitted a copy of the pleadings and proposed order as the requested ex parte relief, and notified them of the time and place that I would be presenting this requested ex parte relief to the Court, AND:

__ After conferring, no attorney of record wishes to be heard prior to the presentment of this request for ex parte relief; or,

__ After conferring, no agreement could be reached as to this request for ex parte relief, and such counsel or party stated that they would be present at _____ (time) on _____, _____ (date), in the _____ Judicial District Court to be heard on this matter prior to the Court signing any order for ex parte relief; or,

__ I was unable to confer with opposing counsel and left a message with _____, an individual in the office of opposing counsel, that I would present the request for ex parte relief at _____ (time) on _____, _____ (date), in the _____ Judicial District Court and they should be present at such time if they wished to be heard on this matter prior to the Court signing any order for ex parte relief; or,

__ After diligent attempts, I was unable to confer with opposing counsel and was further unable to leave a message with any individual in the office of opposing counsel regarding the presentment of this request for ex parte relief.

3.2.3 For purposes of this Rule, representation of prior counsel ends upon the entry of a final order. Counsel for any party, or any party if pro se, shall be reasonable in accommodating the opposing party, or party if pro se, as to the date, time, and place of presentment of the request of the ex parte relief.

Rule 3.3: Mandatory Exchange of Information

3.3.1 In contested divorce cases each party shall file with opposing counsel and may file with the District Clerk, not later than 60 days from Respondent's appearance but in no event less than 30 days prior to a final trial setting, an inventory, signed under oath by that party, setting forth a description and value of all property (real and personal, community and separate) owned or claimed by either or both of the parties and a list of all debts and liabilities (stating the creditor and amount) owed by either or both parties. Inventories shall not be filed with the Court except upon order of the Court; however, when a party files an inventory with opposing counsel, he/she shall file a certificate of compliance with the District Clerk certifying that the inventory has been filed with the opposing counsel. Failure of a party to timely file an inventory as required, both as to time and form, may subject that party to sanctions upon the motion of a party

or the Court.

3.3.2 In contested divorce cases, each party shall file with opposing counsel, and may file with the District Clerk, not later than the first hearing on any matter in the case, copies of the party's last 2 years' income tax returns and the party's pay stubs for the 3 months immediately preceding the date of such hearing. Failure of a party to timely file such tax returns and pay stubs as required, may subject that party to sanctions upon the motion of a party or the Court.

Rule 3.4: Setting Hearings

3.4.1 This Rule shall apply in any conflict between it and Rule 2.9.

3.4.2 No motion or other request on any matter which will require the ruling of the Court after hearing shall be set, except (a) TRCP 13 motions for sanctions, (b) motions to transfer venue, (c) special appearances, and/or (d) pleas to the subject matter jurisdiction of the Court, until the moving party shall first communicate and confer with opposing counsel or the opposing party, if pro se, to determine whether the contemplated motion will be opposed. If not opposed, the moving party shall accompany the motion with a proposed order signed by all counsel indicating approval of same. If the motion will be opposed, the following certificate shall be attached to the motion and signed by the designated lead attorney (or party pro se):

CERTIFICATE OF CONFERENCE

"I, the undersigned attorney or party pro se, hereby certify and represent to the Court that:

1. I have conferred with opposing counsel or opposing party (if pro se) in an effort to resolve the issues contained in this motion without the necessity of Court intervention; or,

2. After diligent attempts, I was unable to confer with opposing counsel. I attempted to contact opposing counsel at the following times and on the following dates:

_____

_____.

(Check Applicable paragraph below)

___ On _____, _____, at _____ (time) I left a specific message with _____, an individual in the office of opposing counsel, that the purpose of my call was to attempt to resolve the issues contained in this motion without the necessity of Court intervention.

OR

___ I was unable to leave a message as to the purpose of my call because

_____.

Such efforts have been unsuccessful, and it is necessary to set a hearing on this Motion.

_____
Attorney's Signature"

Failure to comply with this Rule may result in costs being assessed.

3.4.3 The following form should be used to set hearings on all matters (except as otherwise required by law):

Notice of Hearing

"The above motion is set for hearing on the Judge's docket of the _____ Judicial District Court at _____o'clock a.m./p.m. on the _____ day of _____, _____.

_____
CLERK/ADMINISTRATOR OF COURT"

3.4.4 A party or counsel setting a non-final or non-special set hearing may remove or reset such setting only (a) upon agreement of all opposing sides or (b) after reasonable notice to all opposing sides pursuant to Rule 21 of the Texas Rules of Civil Procedure. Failure to comply with this Rule may result in costs being assessed.

3.4.5 Final Hearings:

(a) A Clerk/Court Coordinator may not set final hearings on the merits without a Certificate of Conference.

(b) Any person who obtains a setting for a final hearing before a District Judge shall have the duty to send all opposing parties written notice of such setting within two business days of the date they obtained such setting. This Rule does not change the obligations for notice in the Texas Rules of Civil Procedure, including but not limited to Rules 12, 21, 21a, 166a, and 245.

(c) Absent the agreement of counsel or ruling by the Court, no setting for a

final hearing shall be granted if the date for such final setting would deny or materially interfere with any party's right to obtain discovery as allowed under the Texas Rules of Civil Procedure.

(d) Failure to comply with this Rule may result in costs being assessed.

Rule 3.5: Pre-Trial Conference

3.5.1 Counsel or parties pro se will be expected at the pre-trial conference to advise the Court which issues will be disputed and to be familiar with the authorities applicable to the questions of law raised at the pre-trial conference. Failure to conform to this Rule shall be grounds for postponement of the trial, setting of further pre-trial hearings, or other appropriate action.

3.5.2 Counsel attending the pre-trial conference shall either be the attorney in charge or an attorney familiar with the case and be fully authorized to state the party's position on the law and the facts and to make stipulations of fact. Counsel may not send to a pre-trial conference in his stead a legal assistant, paralegal, investigator, secretary, or other non-attorney. Parties appearing pro se must attend the pre-trial conference in person.

3.5.3 When counsel or a party pro se, after notice, fails to appear at the pre-trial conference the Court may:

(a) Rule on all motions, dilatory pleas, and exceptions in absence of such person;

(b) Declare any motions, dilatory pleas, or exceptions of such absent party waived;

(c) Advance or delay the trial setting according to the convenience of persons present;

(d) Pass and reset the pre-trial;

(e) Decline to set the case for trial, cancel a setting previously made;

(f) Dismiss the case for want of prosecution or grant a default judgment, if attorneys were ordered to appear, especially where there has been a previous failure to appear, or where no amendment has been filed after exceptions were previously sustained; and/or

(g) Grant sanctions or other relief.

Title IV. Rules Applicable In Criminal Cases

RESERVED FOR EXPANSION

Title V. Rules Governing the Procedure for the District and County Clerks of Denton County to Receive and File Electronically Transmitted Court Documents

Rule 5.1 Electronic Filing of Court Documents

5.1.1 The clerk is authorized to accept for filing via electronic transmission any document which might be filed in a court action except: (a) returns of service on issuances; (b) bonds; (c) signed orders or judgments.

5.1.2 Documents electronically transmitted for filing will be received by the clerk on a plain paper facsimile and printed by a laser printer, thereby rendering the copy of archival quality. No document printed on thermal paper shall be filed.

5.1.3 No document electronically transmitted shall be accepted by the clerk for filing until court costs and fees have been paid. Court costs and fees may be paid by Mastercard, Visa, or Escrow account approved by the clerk. Documents tendered to the clerk electronically without payment of court costs and fees, or with incomplete information on the charge authorization or request, or which do not conform to applicable rules, will not be filed.

5.1.4 A fee schedule for electronic filing shall be adopted annually by the clerk and approved by the local courts.

5.1.5 An electronically transmitted document accepted for filing will be recognized as the original record for file or for evidentiary purposes when it bears the clerk's official date and time file stamp.

5.1.6 Every document electronically transmitted for filing shall conform to the requirements for filing established by the Texas Rules of Civil Procedure, i.e., shall be on paper measuring approximately 8½ x 11 inches, shall be signed individually by the party or the party's attorney of record, and shall contain that individual's State Bar of Texas identification number, if any, address, telephone number, and telecopier number. The quality of the original hard copy shall be clear and dark enough to transmit legibly.

5.1.7 The sender shall maintain the original of the document with original signature affixed as required by Section 51.806, Texas Government Code.

5.1.8 A cover sheet must accompany every transmission which shall: (a) clearly identify the sender, the documents being transmitted, and the number of pages; (b) have clear and concise instructions concerning issuance or other request; and (c) have complete information on the charge authorization for court costs and fees.

5.1.9 The clerk upon receipt of an electronically transmitted document shall verify the completeness of the transmission.

5.1.10 The clerk when satisfied that the transmission is complete shall confirm the charge authorization and note the authorization code on the cost receipt. Thereafter, the documents tendered electronically shall be deemed accepted for filing and the clerk shall affix the clerk's official date and time file stamp to the document.

5.1.11 If the transmission is found to be incomplete or court costs or fees, if required, are not paid, the clerk will notify the sender as soon as practicable that the transmission has not been filed and the reason.

5.1.12 After filing an electronically transmitted document, the clerk will electronically transmit to the sender an acknowledgment of the filing, together with cost receipt, if any.

5.1.13 No citation or writ bearing the official seal of the court may be transmitted electronically.

5.1.14 Electronic transmission of a document does not constitute filing. Filing is complete when the clerk's official date and time file stamp is affixed to the document.

5.1.15 Each page of any document received by the clerk will be automatically imprinted with the date and time of receipt. The date and time imprinted on the last page of a document will determine the time of receipt but not time of filing. Transmissions completed during a normal business day before 5:00 p.m. and accepted for filing will be filed on the day of receipt. Transmissions completed after 5:00 p.m., on weekends or holidays will be verified and filed before 10:00 a.m. on the first business day following receipt of transmission. The sender is responsible for determining if there are any changes in normal business hours.

5.1.16 The clerk shall designate facsimile number(s), approved by the local courts, to accept filing via electronic transmission. Documents not received at the designated number(s) will not be filed.

APPROVED:

John Narsutis, Judge
16th Judicial District Court

Jake Collier, Judge
158th Judicial District Court

L. Dee Shipman, Judge
211th Judicial District Court

Bruce McFarling, Judge
362nd Judicial District Court

Lee Gabriel, Judge
367th Judicial District Court

Vicki Isaacks, Judge
393rd Judicial District Court

Jim Crouch, Judge
County Criminal Court No. 1

Virgil Vahlenkamp, Judge
County Criminal Court No. 2

David Garcia, Judge
County Criminal Court No. 3

Joe Bridges, Judge
County Criminal Court No. 4

Richard Podgorski, Judge
County Criminal Court No. 5

Darlene Whitten, Judge
County Court at Law No. 1

Margaret Barnes, Judge
County Court at Law No. 2

Approved by the Presiding Judge of the Eighth Administrative Region on the 22ND day of APRIL, 2003.

Judge Jeff Walker
Presiding Judge, Eighth Administrative Judicial Region

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 04-9085

APPROVAL OF LOCAL RULES FOR THE DISTRICT AND STATUTORY COUNTY COURTS OF DENTON COUNTY

ORDERED:

Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court approves the attached local rules which have been submitted to this Court by the District and Statutory County Courts of Denton County, Texas.

This Order shall be effective when recorded in the Minutes of the District and Statutory County Courts and upon compliance with Texas Rule of Civil Procedure 3a.

SIGNED AND ENTERED this 4th day of May, 2004.

Thomas R. Phillips, Chief Justice

Nathan L. Hecht, Justice

Priscilla R. Owen, Justice

Harriet O'Neill, Justice

Wallace B. Jefferson, Justice

Michael H. Schneider, Justice

Steven Wayne Smith, Justice

J. Dale Wainwright, Justice

Scott A. Brister, Justice

Misc. Docket No. 04-9085