

LOCAL RULES OF THE COURTS

OF

WALLER COUNTY, TEXAS

506th JUDICIAL DISTRICT

&

WALLER COUNTY COURTS AT LAW

TABLE OF CONTENTS

<u>Rule 1 Application, Jurisdiction and Assignment of Cases</u>	1
Rule 1.1 Application	1
Rule 1.2 Jurisdiction	1
A. Exclusive Jurisdiction Regarding District Court.....	1
B. Concurrent Jurisdiction with County Courts At Law.....	1
Rule 1.3 Assignment of Cases	1
A. Assignment.....	1
B. Assignment of Exclusive Jurisdiction Cases	1
C. Assignment of Concurrent Jurisdiction Cases	2
<u>Rule 2 Local Administrative Judge and Rules of Decorum</u>	2
Rule 2.1 Powers and Duties of Local Administrative Judge	2
A. Administrative Judge.....	2
B. Duties	2
Rule 2.2 Board of Judges	2
A. Application.....	2
B. Establishment and Administration of Board of Judges.....	2
Rule 2.3 Rules of Decorum	3
<u>Rule 3 Civil Cases</u>	3
Rule 3.1 General	3
Rule 3.2 Transfer of Cases; Docket Exchange; Bench Exchange	3
A. Transfer	3
B. Exchange of Cases and Benches	3
C. Previous Judgment or Filing	3
D. Consolidation	3
E. Severance	4
F. Presiding for another Judge	4
G. Removal to District Court	4
H. Default Cases	4
Rule 3.3 Service of Process	4
Rule 3.4 District Clerk & County Clerk	4
A. Telephone Requests.....	4
B. Pro Se.....	4
Rule 3.5 Guardians and Attorneys Ad Litem	4
Rule 3.6 Docket Settings	5
A. Setting Requests	5
B. Docket Control Orders.....	5
C. Calendars	5

Rule 3.7 Pre-Trial Motions	5
A. Pre-Trial Motions (Non Summary Judgment and Non Rule 91(a))	5
B. Pre-Trial Motions (Rule 91(a)).....	7
C. Pre-Trial Motions (Summary Judgment).....	7
Rule 3.8 Alternate Dispute Resolution and Mediation.....	8
A. Alternate Dispute Resolution	8
B. Mediation	8
Rule 3.9 Continuances.....	8
Rule 3.10 Settlements	8
Rule 3.11 Jury Charge, Definitions, Instructions and Questions	8
Rule 3.12 Voir Dire	9
Rule 3.13 Dismissal Docket; Involuntary Dismissals	9
A. Dismissal Dockets	9
B. Notice	9
C. Motion to Retain	9
D. Motion for Reinstatement	9
<u>Rule 4 Family Law Cases</u>	10
Rule 4.1 General	10
Rule 4.2 Time Standards for Family Law Case Disposition.....	10
Rule 4.3 Juvenile Cases	10
Rule 4.4 Department of Family and Protective Services (DFPS) Cases.....	10
Rule 4.5 Attorney General Cases.....	10
Rule 4.6 Policies & Procedures	10
Rule 4.7 Child Support Disbursement Unit.....	10
<u>Rule 5 Criminal Cases</u>	11
Rule 5.1 Grand Juries and Assignment of Cases	11
A. Grand Juries	11
B. Grand Jury Minute Book	11
C. Assignment of Cases after Indictment	12
D. New Indictments after Assignment.....	12
E. Re-Indictments	12
F. Co-Defendant Indictment	12
G. Information to the District Clerk	12
H. Assignment of Misdemeanor Cases after Information.....	12
Rule 5.2 Bonds	12
Rule 5.3 Bond Surrender	12
Rule 5.4 Bond Forfeiture	13
Rule 5.5 Post Conviction Proceedings	13
Rule 5.6 Arraignment	13
Rule 5.7 Scheduling Order	13
Rule 5.8 Standing Discovery Order	13
Rule 5.9 Pretrial Hearing	13

Rule 5.10 Docket Call	13
Rule 5.11 Motions for Continuance	13
Rule 5.12 Standing Order in Limine	14
Rule 5.13 Voir Dire	14
Rule 5.14 Fair Defense Act	14
<u>Rule 6 Conflicting Engagements of Attorneys</u>	14
A. Attorney already in Trial in another Court.....	14
B. Attorney assigned to two Courts for the same date.....	14
C. Designation of Attorney in Charge.....	15
<u>Rule 7 Attorney Vacations</u>	15
A. Designation of Vacation.....	15
B. Summer Vacations.....	15
C. Non-Summer Vacations.....	15
<u>Rule 8 Lawyer's Creed</u>	15
<u>Rule 9 Adoption, Approval and Notice</u>	16
Rule 9.1 Adoption.....	16
Rule 9.2 Approval.....	16
Rule 9.3 Notice.....	16

Local Rules of the 506th District Court & County Courts At Law of Waller County

PURPOSE

The Local Rules of the 506th District Court & County Courts At Law (CCL) of Waller County have as their primary purpose the management of the court dockets in a fair, just, equitable and impartial manner. These rules are designed to be an aid in achieving that goal and to do so in a timely and economical manner.

RULE 1

APPLICATION, JURISDICTION AND ASSIGNMENT OF CASES

RULE 1.1 APPLICATION

These rules apply to all cases, civil and criminal, and family, of which the 506th District Court has exclusive jurisdiction, and concurrent jurisdiction with the County Courts At Law of Waller County, as well as to all cases over which the County Courts At Law of Waller County have exclusive jurisdiction.

RULE 1.2 JURISDICTION

A. Exclusive Jurisdiction Regarding District Court

Exclusive jurisdiction of 506th District Court encompasses matters defined by the constitution, statute or case law as the sole province of the 506th District Court or District Courts in general.

B. Concurrent Jurisdiction with County Courts At Law

Concurrent jurisdiction of the 506th District Court with the Waller County Courts At Law is set forth in Sections 25.0003 and 25.2391-25.2392 of the Texas Government Code, as well as the exclusive jurisdiction of the County Courts At Law.

RULE 1.3 ASSIGNMENT OF CASES

A. Assignment

The District and County Clerks shall assign cases as specifically instructed by the Board of Judges.

B. Assignment of Exclusive Jurisdiction Cases

The District Clerk shall assign cases of exclusive jurisdiction to the District Court. Examples of such cases include, but are not limited to, the following:

1. Capital murders;
2. Criminal cases involving official misconduct;
3. Election contest;
4. Suits on behalf of the State of Texas to recover penalties or escheated property; and
5. Cases involving title to land.

C. Assignment of Concurrent Jurisdiction Cases

The District Clerk and County Clerk shall assign the following type cases involving concurrent jurisdiction to the District Court and/or the County Courts At Law as outlined below:

1. Any and all odd-numbered cases arising under the Texas Family Code shall be assigned to the County Court At Law No. 1;
2. Any and all even-numbered cases arising under the Texas Family Code shall be assigned to the County Court At Law No. 2;
3. Any and all Department of Family & Protective Services (DFPS) cases shall be assigned to the County Court At Law No. 1;
4. Any and all Juvenile cases shall be assigned to the County Court At Law No. 1;
5. Any and all Probate cases or cases under the Texas Estates Code shall be assigned to the County Court At Law No. 2;
6. Any and all Criminal Misdemeanor cases shall be assigned to the County Court At Law No. 1;
7. Any and all Civil cases in which the matter in controversy exceeds \$500 but does not exceed \$250,000 shall be assigned to the County Court At Law No. 2;
8. Any and all Eminent Domain cases shall be assigned to the County Court At Law No. 2;
9. Any and all Civil cases in which the matter in controversy exceeds \$250,000 shall be assigned to the County Court At Law No. 2;
10. Any and all felony cases shall be assigned to the 506th District Court;
11. Any and all Tax cases shall be assigned to the 506th District Court; and
12. Cases involving co-defendants or multiple defendants shall be assigned to the same court based upon the lowest cause number assigned to all defendants.

RULE 2

LOCAL ADMINISTRATIVE JUDGE & RULES OF DECORUM

RULE 2.1 POWERS AND DUTIES OF LOCAL ADMINISTRATIVE JUDGE

A. Administrative Judge

Pursuant to Section 74.091 of the Texas Government Code, the Judge of the 506th District Court in Waller County is the Local Administrative District Judge and the Judge of the County Court At Law No. 1 is the Local Administrative County Court At Law Judge.

B. Duties

The Local Administrative District Judge and the Local Administrative County Court At Law Judge will have the duties and responsibilities provided in Rule 9 of the Rules of Judicial Administration, the Regional Administrative Rules and these rules.

RULE 2.2 BOARD OF JUDGES

A. Application

These Rules apply to all cases over which the 506th District Court and County Courts At Law of Waller County, Texas have jurisdiction. Nothing in these rules shall operate to expand the jurisdictional limitation of the courts as defined by statute.

B. Establishment and Administration of Board of Judges

The Board of Judges shall consist of the Judges of the District Courts and the Judges of the County Courts At Law Courts. The board shall meet to discuss and resolve questions that are of common concern to all of the members

thereof. The Local Administrative District Judge or any member of the Board of Judges may call meetings of the board as needed. The Local Administrative District Judge shall preside over such meetings; and in his/her absence, a temporary Chairperson may be elected by a majority of the quorum. A majority of the quorum of the Board of Judges is required before any action of the Board of Judges may take place.

RULE 2.3 RULES OF DECORUM

The Judges have a duty to maintain order and proper decorum in the courtroom. Both the 506th District Court and the County Courts At Law of Waller County have adopted Rules of Decorum set forth and posted on each of the Courts respective webpages. These rules shall apply to all attorneys and others appearing in the courtrooms of Waller County. The rules may be enforced by contempt or referral to the State Bar of Texas for grievance proceedings, or both, as the judges of the 506th District Court and/or County Courts At Law judges deem proper.

RULE 3

CIVIL CASES

RULE 3.1 GENERAL

All civil cases in which the matter in controversy exceeds \$250,000 and all Family Law cases (including Department of Family & Protective Services (DFPS) cases) shall be efiled with the District Clerk's office and assigned amongst the courts as outlined in Rule 1.3 above. All civil cases in which the matter in controversy exceeds \$500 but does not exceed \$250,000, probate cases and cases filed under the Texas Estates Code, and Juvenile cases shall be efiled with the County Clerk's office and assigned amongst the courts as outlined in Rule 1.3 above.

RULE 3.2 TRANSFER OF CASES; DOCKET EXCHANGE; BENCH EXCHANGE

A. Transfer

After assignment to a particular court per Rule 1.3 above, a case may be transferred to another court by order of the judge of the court in which the case is pending with the consent of the judge of the court to which it is transferred, as long as the court to which it is being transferred has jurisdiction or unless the transfer is approved by the Presiding Judge of the Second Judicial Region.

B. Exchange of Cases and Benches

The courts may at any time after assignment to a particular court per Rule 1.3 above, exchange cases and benches with the consent of the judges involved in said exchange to accommodate their dockets or to expedite the court's trials, as permitted by law.

C. Previous Judgment or Filing

Any claim for relief based upon a previous judgment shall be assigned to the court of original judgment. If a case is filed in which there is a substantial identity of parties and causes of action in a previously non-suited case, the later case shall be assigned to the court where the prior case was pending.

D. Consolidation

A motion to consolidate cases shall be heard in the court where the lowest numbered case is pending. If the motion is granted, the consolidated case will be given the number of the lowest numbered case. If the two cases being consolidated are in more than one court, the Board of Judges shall decide which court shall preside over the consolidated cases.

E. Severance

If a severance is granted, the new case will be assigned to the court where the original case is pending; however, a new file date and a new cause number will be assigned to the now severed case.

F. Presiding for another Judge

In all cases where a judge presides for another court, the case shall remain pending in the original court.

G. Removal to District Court

A case that has been assigned to a County Court At Law in error, because the subject matter is within the exclusive jurisdiction of the District Court, will be returned to the District Clerk for reassignment.

H. Default Cases

Default judgments, or other uncontested matters, may be heard by either the 506th District Judge or one of the Judges of the County Courts At Law, if the judge assigned the case is unavailable, subject to the requirements of jurisdiction.

RULE 3.3 SERVICE OF PROCESS

Process (including citation and other notices, writs, orders, and other papers issued by the court) may be served anywhere by (1) any sheriff or constable or other person authorized by law, (2) any person authorized by law or by written order of the court who is not less than eighteen years of age, or (3) any person certified under order of the Supreme Court.

RULE 3.4 DISTRICT CLERK & COUNTY CLERK

A. Telephone Requests

The court clerk shall limit response to telephone requests for information to the following:

Whether or not a specific document has been filed (i.e. answer). This does not authorize a fishing expedition.

Existence of case on file.

Return of service and date.

Correct style of case when correct case number is supplied.

If an order has been signed.

Whether or not a jury fee has been paid and date of payment.

B. Pro Se

All pro se parties upon filing any petition or responsive pleading should provide an email address for service via efile, as well as address and current phone number. Any party unable to provide such information above must file a pleading requesting an exception to this rule.

RULE 3.5 GUARDIANS AND ATTORNEYS AD LITEM

When it is necessary for the court to appoint a guardian ad litem for minor or incompetent parties or an attorney ad

item for absent parties, independent counsel, not suggested by any of the parties or their counsel, will be appointed. However, the court may appoint an attorney who is already counsel of record for one of the parties if the court finds that no conflict of interest or other circumstances exist which would prevent such attorney from providing adequate representation for such minor, incompetent or absent defendant.

RULE 3.6 DOCKET SETTINGS

A. Setting Requests

Requests for hearings and trials in the 506th District Court and in the County Courts At Law Court shall be made in writing to each respective court through the court coordinator of each respective court, and the attorneys making such request shall serve all counsel and parties appearing pro se with notice of the setting request. The setting request shall be in the form as posted on the Court's webpage for each respective court. If the setting request is approved, the court coordinator will confirm the setting in writing.

B. Docket Control Orders

Each court may generate docket control orders for each civil case pending. Upon approval of a docket control order the parties shall submit a setting request to the Court Coordinator for any trial setting. The 506th District Court and the County Courts At Law have their own setting request forms that can be obtained from each Court's respective webpage.

C. Calendars

The 506th District Court and the County Courts At Law have set calendars for each calendar year that set forth the availability of the respective courts for trials or other hearings in Waller County. The 506th District Court and the County Courts At Law calendars may be found and viewed on each Court's respective webpage.

RULE 3.7 PRE-TRIAL MOTIONS

A. Pre-Trial Motions (Non Summary Judgment and Non Rule 91(a))

Form

Motions and responses shall be in writing and shall be accompanied by a proposed order granting or denying the relief sought. The proposed order shall be a separate instrument.

Response

Responses shall be in writing. Responses shall be filed before the hearing date. Failure to file a response may be considered a representation of no opposition. A reply may be filed at any time after a response is filed prior to the court's ruling.

Certificate of Conference

Opposed motions and responses shall contain a Certificate of Conference indicating that the counsel involved have attempted to resolve the dispute prior to filing of the motion or response, the date of such attempt and the manner of communication of such an attempt, or any other requirement of the court.

Submission Guidelines (See each Court's respective Webpage for detailed instructions)

The following type of matters may be filed by submission without the need for a hearing:

1. All matters that may be submitted by agreement of all parties. On such fully agreed matters, the Court will sign the Order on presentment without a submission period. Such matters must show the signatures of all counsel or pro se parties. The heading of the motion shall state that it is agreed. For example, "Agreed Motion for Extension of Time for Mediation."

2. Matters that are labeled Unopposed, although not agreed, may be submitted to the Court without need of a hearing. By representing a matter as unopposed, counsel is certifying to the Court that opposing counsel is aware of the matter and has no objection to its entry. The Court will sign the Order on presentment after a 3-day submission period. The heading of the motion shall state that it is unopposed. For example, "Unopposed Motion for Substitution of Counsel."

3. In this subsection, "filing" refers to the date of the filing of the Notice of Submission. Other motions and applications that may be submitted to the Court without a hearing, and the time periods required for submission, are as follows:

Continuance: 10-days notice after filing.

Substitution of Counsel: 3-days notice after filing. If substitution will affect any hearing or trial setting, 10-days notice will be required.

Motion To Withdraw: Without client consent: 10-days notice after filing. With signed client consent: immediate submission.

Motion for Entry of Order: 10-days notice after filing.

Special Exceptions: presentment without hearing: 10-days notice after filing.

Substituted Service: Immediate submission.

Citation by Publication: Immediate submission.

Appointment of Ad Litem: Immediate submission.

Motion for Leave to Designate Responsible Third Party: 10-days after filing.

Nonsuit or Dismissal: Immediate submission. This is predicated on the motion being filed by the party seeking affirmative relief. Counsel is presumed to know whether the opposing side has pleadings on file seeking affirmative relief.

Ex parte matters: When service has not been effected or prior to an appearance, ex parte matters may be submitted immediately to the Court for consideration. The Court will determine whether a hearing will then be required and notify the requesting party accordingly.

Default Judgments: 3-days notice after filing of the Motion, with the Motion submitted at any time following 15-days after the answer date. The reason for the delay after answer date is to insure that all probable methods of delivery of a response have been exhausted. The moving party may use a Notice of Submission or a letter of submission to bring the matter to the Court's attention. Please provide your proposed order along with your Motion for Default Judgment.

Tax Cases and Application for Excess Proceeds.

Other matters: With consent of the Court.

Failure to file a response within the submission time period may be considered a representation of no opposition to the motion or matter. Responses must be in the Clerk's file prior to the submission date or they will not be considered.

Please see Court Quirks on the 506th District Court's and each County Court At Law's Webpage regarding certificates of service on all pleadings. Failure to properly notify opposing counsel of a submitted matter may result in imposition of sanctions and costs on the offending party and counsel.