

**LOCAL RULES OF THE COURTS**

**OF**

**WALLER COUNTY, TEXAS**

**506<sup>TH</sup> JUDICIAL DISTRICT**

**&**

**WALLER COUNTY COURT AT LAW**

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# **Local Rules of the 506<sup>Th</sup> District Court & County Court at Law of Waller County**

## **PURPOSE**

**The Local Rules of the 506<sup>Th</sup> District Court & County Court 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 506<sup>Th</sup> District Court has exclusive jurisdiction, and concurrent jurisdiction with the County Court at Law of Waller County.

#### **RULE 1.2 JURISDICTION**

##### **A. Exclusive Jurisdictions Regarding District Court**

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

##### **B. Concurrent Jurisdiction with County Court at Law**

Concurrent jurisdiction of the 506<sup>Th</sup> District Court with the Waller County Court at Law is set forth in Sections 25.0003 and 25.2391-25.2392 of the Texas Government Code.

#### **RULE 1.3 ASSIGNMENT OF CASES**

##### **A. Assignment**

The District and County clerk 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.

##### **C. Assignment of Concurrent Jurisdiction Cases**

The District clerk and County clerk shall assign the following type cases involving concurrent jurisdiction to the County Court at Law:

1. any and all cases arising under the Texas Family Code;
2. any and all Juvenile cases;
3. any and all Probate cases;
4. any criminal misdemeanor cases; and
5. any and all civil cases in which the matter in controversy exceeds \$500 but does not exceed \$250,000.

## **RULE 2**

### **LOCAL ADMINISTRATIVE DISTRICT JUDGE & RULES OF DECORUM**

#### **RULE 2.1 POWERS AND DUTIES OF LOCAL ADMINISTRATIVE DISTRICT JUDGE**

##### **A. Administrative Judge**

Pursuant to Section 74.091 of the Texas Government Code, the 506<sup>Th</sup> District Court in Waller County is the Local Administrative District Judge.

##### **B. Duties**

The Local Administrative District 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 506<sup>Th</sup> District Court and County Court 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 Court 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 506<sup>Th</sup> District Court and the County Court 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 judge of the 506<sup>Th</sup> District Court and/or County Court at Law Court deems proper.

## **RULE 3**

### **CIVIL CASES**

#### **RULE 3.1 GENERAL**

All civil cases, except for the civil cases designated for assignment to the County Court at Law Court per rule 1.3(C) above, shall be assigned to the 506<sup>TH</sup> District Court and shall be efiled with the District Clerk's office. All cases assigned to the County Court at Law Court per rule 1.3(C) above, save and except for Family Law Cases, shall be efiled with the County Clerk's office. All Family Law cases shall be efiled with the District Clerk's office.

#### **RULE 3.2 TRANSFER OF CASES; DOCKET EXCHANGE; BENCH EXCHANGE**

##### **A. Transfer**

After assignment to a particular court, 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 exchange cases and benches 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 both the County Court at Law and the 506<sup>TH</sup> District 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 506<sup>th</sup> District Judge or the Judge of the County Court 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). 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 litem 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 506<sup>th</sup> District Court and in the County Court 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 506<sup>Th</sup> District Court and the County Court at Law have their own setting request forms that can be obtained from each courts respective webpage.

## **C. Calendars**

Both the 506<sup>Th</sup> District Court and the County Court 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. Both the 506<sup>Th</sup> District Court and the County Court at Law calendars may be found and viewed on each Courts respective webpage.

## **RULE 3.7 PRE-TRIAL MOTIONS-506<sup>Th</sup> DISTRICT COURT ONLY**

### **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 506<sup>Th</sup> District Court's Website 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 506<sup>Th</sup> District Court Web site** 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.

After consideration of submitted matters the Court may elect to set a hearing on the matter. In that event, the Court Coordinator will attempt to set a mutually acceptable date for the hearing, as soon as practicable. Due to the limited docket days in rural counties, that is not always possible.

## **B. Pre-Trial Motions (Dismissal of Baseless Causes of Action Rule 91(a) TRCP)**

### **Motion**

The motion shall state either that the cause of action should be dismissed on the grounds that it has no basis in law or fact or both. If claim is to dismiss on the grounds that there is no basis in law, the motion shall state the specific law that if the allegations, taken as true, together with inferences reasonably drawn from them, do not entitle the claimant to relief sought. If claim is to dismiss on the grounds that there is no basis in law, the motion shall state the specific facts that show that no reasonable person could believe the facts that have been plead. The motion shall

contain a clear and concise argument for each ground with appropriate citations to authorities relied upon and specific references to the pleadings and evidence that show the Rule 91(a) motion should be granted.

### **Response**

The response shall address the motion in the same numerical order established in the motion for Dismissal of Baseless Causes of Action under Rule 91(a). Any response shall state the specific law and/or facts relied upon, identify any allegations, inferences drawn from and/or specific facts relied upon to defeat the motion, and specify where in the pleadings the allegations, inferences drawn from and/or specific facts are found. The response shall set out a clear and concise argument with appropriate citations to authorities relied upon and specific references to the allegations, inferences drawn from and/or specific facts pled.

### **Submission Guidelines for Motions for Dismissal of Baseless Causes of Action Rule 91(a) TRCP (See 506<sup>Th</sup> District Court's Website for detailed instructions)**

Motions for Dismissal of Baseless Causes of Action under Rule 91(a) TRCP may be filed under submission. This Court will follow Rule 91(a) TRCP for submission filings regarding motions for dismissal of baseless causes of action.. For additional information on filing motions for dismissal of baseless causes of action by submission see the 506<sup>Th</sup> District Court's Website.

**Please see Court Quirks on the 506<sup>Th</sup> District Court Web site** 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.

After consideration of submitted matters the Court may elect to set a hearing on the matter. In that event, the Court Coordinator will attempt to set a mutually acceptable date for the hearing, as soon as practicable. Due to the limited docket days in rural counties, that is not always possible.

### **C. Pre-Trial Motions (Summary Judgment Rule 166(c) TRCP)**

#### **Motion**

The motion shall state the specific grounds thereof in numerical order and shall state the specific facts relied upon in each ground, identify the source of those facts, and specify where in the summary judgment evidence the facts are found. The motion shall contain a clear and concise argument for each ground with appropriate citations to authorities relied upon and specific references to the summary judgment evidence.

#### **Response**

The response shall address the motion in the same numerical order established in the motion for summary judgment. The response shall state the specific facts relied upon, identify the source of those facts, and specify where in the summary judgment evidence the facts are found. The response shall set out a clear and concise argument with appropriate citations to authorities relied upon and specific references to the summary judgment evidence.

### **Submission Guidelines for Summary Judgment Rule 166(b) TRCP (See 506<sup>Th</sup> District Court's Website for detailed instructions)**

Motions for Summary Judgment Rule 166(b) TRCP may be filed under submission. This Court will follow Rule 166(b) TRCP for submission filings regarding motions for summary judgment, save and except, the 21 day notice to opposing counsel requirement under section (c) of Rule 166(a) of the TRCP is extended to **30-days after filing** for both standard and no-evidence motions for summary judgment. This will allow the 21-day notice, plus additional time for weekends, holidays and mailing to take effect. For additional information on filing motions for summary judgment by submission see the 506<sup>Th</sup> District Court's Website.

**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 506<sup>Th</sup> District Court Web site** 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.

After consideration of submitted matters the Court may elect to set a hearing on the matter. In that event, the Court Coordinator will attempt to set a mutually acceptable date for the hearing, as soon as practicable. Due to the limited docket days in rural counties, that is not always possible.

### **RULE 3.8 PRE-TRIAL MOTIONS-COUNTY COURT AT LAW COURT ONLY**

All pretrial motions instructions regarding civil matters in the County Court at Law are provided and posted on the County Court at Law Court's webpage and are adopted and incorporated into these local rules for all intents and purposes.

### **RULE 3.9 ALTERNATE DISPUTE RESOLUTION AND MEDIATION**

#### **A. Alternate Dispute Resolution**

In order to encourage the early settlement of disputes and to carry out the responsibilities of the courts as set out in Chapter 154 of the Texas Civil Practices and Remedies Code, appropriate alternative dispute resolution procedures will be encouraged and utilized.

#### **B. Mediation**

The courts encourage mediation in order to facilitate the settlement of disputes and litigation. See both the 506<sup>Th</sup> District Court and the County Court at Law webpage for the court's procedure for the use of mediation in all civil cases. It is in the sound discretion of the trial court whom to use as a mediator and the procedures for same.

### **RULE 3.10 CONTINUANCES**

Any motion for continuance of the trial setting shall be presented to the court pursuant to the Texas Rules of Civil Procedure. The proposed order granting or denying such motion shall contain a provision for resetting the case for trial on a specific date and time.

### **RULE 3.11 SETTLEMENTS**

All trial counsel are required to make a bona fide effort to settle cases at the earliest possible date before trial. The court will expect counsel to confer with his/her client and with opposing counsel concerning settlement offers. When an attorney settles or dismisses a case that is set for trial, he shall give notice to the court as soon as possible.

### **RULE 3.12 MOTIONS IN LIMINE**

The 506<sup>Th</sup> District Court has a Standing Order in Limine for civil cases. The Standing Order in Limine as posted on the Court's webpage shall apply to all civil cases tried in the 506<sup>Th</sup> District Court and should counsel desire that additional matters be included a motion will be required. The County Court at Law does not have a Standing Order in Limine regarding civil cases.

### **RULE 3.13 JURY CHARGE, DEFINITIONS, INSTRUCTIONS AND QUESTIONS**

Each party shall prepare in proper written form and present to the Court prior to trial or the jury selection all jury



charge definitions, instructions and questions which are expected to be raised by the pleadings and evidence and upon which the party has an affirmative burden. The charge shall be provided in both written form and via email, flash drive or other electronic form specified by the court.

### **RULE 3.14 VOIR DIRE**

The District and County clerk in Waller County shall align the Juror Information Cards in numerical order and seat the panel in numerical order. The judge will qualify the panel and accept or reject any excuses. After the final panel is determined, the attorneys must make their decision on whether or not a shuffle will be requested. The court will recess the panel to give the clerk time to copy the jury cards and to make a new list of names of jurors, either in shuffled order or in numerical order. When the new list is completed and cards copied the clerk will re-seat the jury according to the list and voir dire will begin. The attorneys and judge will be furnished a copy of the list and jury information cards.

Challenges for cause will be made after all parties have completed their voir dire examination of the panel. After all counsel have completed their voir dire examination, the attorneys will be asked to approach the bench. Counsel will be asked in turn for the juror number of the jurors whom they wish to challenge for cause. If, in the opinion of the Court, sufficient evidence has been adduced to support a ruling, the challenge will be granted or denied without further questions. Otherwise, the panel member will be called to the bench for further questioning. The panel member will then be excused immediately or asked to return to their seat. The panel member asked to return to their seat may be excused at a later time.

If any panel member responds to questions during voir dire examination in a manner which makes it clear that they possess such strong opinions that a challenge for a cause will clearly be good, and there exists a possibility that further responses may "poison" the entire panel, counsel should diplomatically terminate the inquiry and avoid further inquiries in the presence of the panel. If adverse counsel has a good-faith belief that the panel member can be rehabilitated, it will be pursued on an individual basis after the general voir dire examination.

Counsel will be allowed to tell the panel what their contentions are in order to provide a context for their voir dire examination. Detailed recitations of facts should be reserved for opening statement.

If panel members ask counsel about the existence of insurance or any other specific factual matter, counsel should direct the question to the Court.

### **RULE 3.15 DISMISSAL DOCKET; INVOLUNTARY DISMISSALS**

#### **A. Dismissal Dockets**

All cases not brought to trial or otherwise disposed of which have been on file for a time period determined by the Court to be excessive in time indicating the case is not being prosecuted timely shall be placed on the dismissal docket by the Court.

#### **B. Notice**

When a case has been placed on the dismissal docket, the Court shall promptly send notice of the Court's intention to dismiss for want of prosecution to each attorney of record and pro se party whose address is shown in the clerk's file. A copy of such notice shall be filed with the papers of the cause.

#### **C. Motion to Retain**

Unless a written motion to retain has been filed prior to the dismissal date as set forth in the notice of intention to dismiss, such case shall be dismissed. Notice of the signing of the order of dismissal shall be given as required by [Rule 165a of the Texas Rules of Civil Procedure](#). Failure to mail notices as set out above shall not affect any of the periods mentioned in [Rule 306 \(a\) of the Texas Rules of Civil Procedure](#) except as provided in that rule.

#### **D. Motion for Reinstatement**

A motion for reinstatement after dismissal shall follow the procedure and be governed by the provisions of [Rule 165a of the Texas Rules of Civil Procedure](#) relating to reinstatement.

### **RULE 4**

#### **FAMILY LAW CASES**

##### **RULE 4.1 GENERAL**

The filing, assignment, and transfer of cases under the Family Code shall be in accordance with Rule 1 of these rules. All cases filed pursuant to the Family Code, shall be governed by Rule 3 and 4 of these rules.

##### **RULE 4.2 TIME STANDARDS FOR FAMILY LAW CASE DISPOSITION**

Contested cases shall be tried or dismissed within 6 months from the 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. Uncontested cases shall be tried and or dismissed 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. Cases not concluded within these time periods will be placed on the Dismissal For Want of Prosecution Docket.

##### **RULE 4.3 JUVENILE CASES**

The Juvenile Board of Waller County has designated the County Court at Law as the Juvenile Court of Waller County. Rules for the disposition of juvenile cases will be adopted by the Juvenile Court in conformity with Rule 1 of the Second Administrative Judicial Region of Texas Regional Rules of Administration and Title 3 of the Texas Family Code. These cases shall be filed in the County Clerks' office pursuant to rules established by the Juvenile Judge and County Clerk, copies of these rules may be obtained from the Juvenile Judge.

##### **RULE 4.4 DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES (DFPS) CASES**

Disposition of Texas Department of Family and Protective Services (DFPS) cases shall be in conformity with those provisions set forth in Title 5 of the Texas Family Code. These cases shall be filed with the District Clerk's office and heard in the County Court at Law Court of Waller County.

##### **RULE 4.5 ATTORNEY GENERAL CASES**

Disposition of Attorney General Cases shall be in conformity with the Texas Family Code, but will be heard by the A.G. Associate Judge appointed by Second Judicial Region Presiding Judge.

##### **RULE 4.6 POLICIES & PROCEDURE**

All policies and procedures involving family law cases including but not limited to Protective Orders, Ex Parte Orders, Temporary Restraining Orders, Parenting Classes, Discovery, Pre-Trial and Trial matters can be found on the County Court at Law Court's webpage. The County Court at Law Court's policies and procedures provided on the County Court at Law Court's webpage are required to be adhered to and are made apart of and incorporated into these local rules for all intents and purposes.

#### **4.7 Child Support Disbursement Unit**

All child support payments will be made to State Disbursement Unit.

### **RULE 5**

### **CRIMINAL CASES**

#### **RULE 5.1 GRAND JURIES AND ASSIGNMENT OF CASES**

##### **A. Grand Juries**

The 506<sup>th</sup> Judicial District Court shall select and impanel the Grand Jury for both the January and July term of court for Waller County. The grand juries in Waller County shall hold all of their meetings in the Waller County Courthouse, in the room designated by the 506<sup>th</sup> District Judge or in another designated area that complies with Texas law. The Grand Jury shall be impaneled in accordance with Article 19A of the Code of Criminal Procedure.

##### **B. Grand Jury Minute Book**

The rules regarding presentment of indictments by a Grand Jury to the 506<sup>th</sup> District Court are set forth in Articles 20.21 and 20.22 of the Code of Criminal Procedure. Article 20.21 requires that the Foreperson of the Grand Jury shall deliver the indictments to the Judge or District Clerk and that at least nine members of the grand jury must be present when the delivery is made. Article 20.22 requires that the fact of presentment be entered upon the minutes of the court. The "minutes of the court" are contained in the Grand Jury Minute Book. The Grand Jury Minute Book shall remain in the custody of the District Clerk at all times except when the Grand Jury is in session. The Grand Jury Minute Book is not a secret book or document.

When the Grand Jury begins a session, the District Clerk shall have all members present sign the Grand Jury Minute Book as proof of their presence at the session and to make a record of the fact that a quorum was present at the session. The District Clerk shall then deliver the book to the Secretary of the Grand Jury. When a true bill of indictment is voted in the affirmative by at least nine members of the Grand Jury, the following information shall be entered by the Secretary of the Grand Jury in the Grand Jury Minute Book, and nothing else, to wit:

1. the date of the session;
2. name of the person indicted;
3. offense; and
4. names of the witnesses upon which the indictment is founded.

If the defendant is not in custody or under bond at the time of the presentment of the indictment, upon request of the District Attorney, the entry of the name of the defendant in the book may be delayed until such time as the capias is served and the defendant is placed in custody or under bond, at which time the name of the defendant will be entered in the book by the District Clerk. It is the duty of the District Clerk to verify that the indictments delivered to the clerk conform with the information contained in the Grand Jury Minute Book. If there is a variance, it should be called to the attention of the Secretary, Foreperson and District Attorney immediately.

When a defendant is "no-billed", meaning that a case was presented to the grand jury regarding an individual and less than nine affirmative votes were given for a true bill of indictment, a **Certificate of No-Bill** shall be signed by the Foreperson certifying that the case was presented to the Grand Jury and that a no-bill was returned. The District Clerk shall handle the certificates as follows:

**A. Defendant Under Arrest:** If the defendant is under arrest, a copy of the certificate shall be delivered to the Sheriff and the defendant immediately.

**B. Defendant Under Bond:** A copy of the certificate shall be delivered to the surety (bondsman) and the defendant immediately.

**C.** All other certificates shall be held by the clerk under seal, unless ordered released by the 506<sup>Th</sup> District court.

### **C. Assignment of Cases After Indictment**

All felony indicted cases shall be assigned to the 506<sup>Th</sup> District Court, unless the 506<sup>Th</sup> District Court is disqualified and/or the 506<sup>Th</sup> District Court recuses itself regarding a specific case, at which time the Presiding Judge of the Second Judicial Region shall appoint another judge to hear that case.

### **D. New Indictments After Assignment**

After assignment, the clerk shall assign any new indictment against a defendant to the same court.

### **E. Re-indictments**

The clerk shall assign any re-indictment of the same defendant to the same court in which the prior indictment was assigned.

### **F. Co-Defendant Indictment**

The clerk, after random assignment of an indictment to a court shall assign any co-defendant subsequently indicted to the same court in which the first co-defendant's indictment was assigned.

### **G. Information to the District Clerk**

The District Attorney shall note on a non-substantive part of the indictment the following information:

Whether there are other pending indicted cases on the defendant;

Whether the indictment is a re-indictment and;

The names of any co-defendants not named in the indictment.

The District Attorney shall also furnish the clerk information in writing as to whether or not a non-standard bond will be sought by the State and the factors supporting same.

### **H. Assignment of Misdemeanor Cases After Information**

All misdemeanor cases after information filed shall be assigned to the County Court at Law Court unless the County Court at Law Court is disqualified and/or the County Court at Law Court recuses itself regarding a specific case, at which time the Presiding Judge of the Second Judicial Region shall appoint another judge to hear that case.

## **RULE 5.2 BONDS**

Bonds will be set on each criminal case in accordance with Chapter 17 of the Code of Criminal Procedure. The court may also, in a proper case, dispense with the requirement of sureties and require only a personal bond or a personal recognizance bond regarding the defendant, with or without conditions.



### **RULE 5.3 BOND SURRENDER**

Sureties requesting a release on their liability on a Bail Bond must complete an Affidavit to Release Surety and present the completed affidavit along with an Order of Surrender to the Court in which the case of the defendant is currently pending.

### **RULE 5.4 BOND FORFEITURE**

Bonds will be forfeited on all defendants who do not appear in court when scheduled or otherwise ordered to appear in court. The name of the defendant will be called three times at the courtroom door by the Bailiff and if there is no answer the bond will be forfeited and a capias issued by the clerk for his arrest. It is the duty of the District clerk to prepare a Judgment Nisi with the aid of the District Attorney. The Judgment Nisi proceedings will be docketed as a civil matter in the court that ordered the forfeiture and the defendant and his sureties shall be served with citation. After the surety files an answer or defaults, the District clerk shall notify the proper court coordinator for a trial setting to be docketed. The sureties shall be given forty-five days advance notice of any trial setting.

### **RULE 5.5 POST CONVICTION PROCEEDINGS**

The clerk shall file any motion to revoke probation or any post-conviction application for writ of habeas corpus in the court having granted probation or entered the judgment in the case.

### **RULE 5.6 ARRAIGNMENT**

Defendants shall be arraigned at the earliest possible time after indictment. Presence of the defendant is mandatory at arraignment unless excused by the court or counsel for defendant has filed a written waiver of arraignment prior to the date of the arraignment. At arraignment a scheduling order shall be entered setting discovery deadlines, dates of pretrial hearing, docket call and trial date.

### **RULE 5.7 SCHEDULING ORDER**

Each court will adopt a scheduling order that shall be delivered to the defendant and counsel at arraignment. The defendant and his counsel and counsel for the state shall sign the scheduling order.

### **RULE 5.8 STANDING DISCOVERY ORDER**

The State of Texas is hereby ordered to furnish discovery to the defendant as provided in Article 39.14 of the Code of Criminal Procedure. Said discovery shall be furnished no later than seven (7) days prior to the pretrial hearing as set forth herein. Counsel for defendant shall register for the e-discovery portal with the Waller County District Attorney's office for discovery and accept discovery in that format. The 506<sup>th</sup> District Court has a Standing Discovery Order for Criminal Cases. The Standing Discovery Order as posted on the Court's webpage shall apply to all criminal cases tried in the 506<sup>th</sup> District Court of Waller County and should counsel desire that additional matters be included a motion will be required. The County Court at Law does not have a Standard Discovery Order regarding criminal cases.

### **RULE 5.9 PRETRIAL HEARING**

The pretrial hearing shall be held in a timely manner and the pretrial hearing date shall be provided by the Court as part of the scheduling order after all status hearing dates have been exhausted. All matters preliminary to actual trial on the merits must be brought to the attention of the court at the pretrial hearing.

### **RULE 5.10 DOCKET CALL**

The court coordinator shall prepare a list of all cases on the trial docket. The defendant and his counsel shall be present and announce ready or not ready.

### **RULE 5.11 MOTIONS FOR CONTINUANCE**

All motions for continuance, whether filed by the State or the defendant, must comply with the applicable law contained in the Code of Criminal Procedure and must be presented to and considered by the court in accordance with the scheduling order. Except for good cause shown and upon compliance with these rules, the court shall not consider any motion for continuance on the scheduled trial date.

### **RULE 5.12 STANDING ORDER IN LIMINE**

The 506<sup>th</sup> District Court has a Standing Order in Limine for criminal cases. The Standing Order in Limine as posted on the Court's webpage shall apply to all criminal cases tried in the 506<sup>th</sup> District Court and should counsel desire that additional matters be included a motion will be required. The County Court at Law has a Standing Order in Limine for criminal cases. The Standing Order in Limine as posted on the Court's webpage shall apply to all criminal cases tried in the County Court at Law and should counsel desire that additional matters be included a motion will be required.

### **RULE 5.13 VOIR DIRE**

The District and County clerk shall align the Juror Information Cards in numerical order and seat the panel in numerical order. The judge will qualify the panel and accept or reject any excuses. After the final panel is determined, the attorneys must make their decision on whether or not a shuffle will be requested. The court will recess the panel to give the clerk time to copy the jury cards and to make a new list of names of jurors, either in shuffled order or in numerical order. When the new list is completed and cards copied the clerk will re-seat the jury according to the list and voir dire will begin. The attorneys and judge will be furnished a copy of the list and jury information cards.

Challenges for cause will be made after all parties have completed their voir dire examination of the panel. After all counsel have completed their voir dire examination, the attorneys will be asked to approach the bench. Counsel will be asked in turn for the juror number of the jurors whom they wish to challenge for cause. If, in the opinion of the Court, sufficient evidence has been adduced to support a ruling, the challenge will be granted or denied without further questions. Otherwise, the panel member will be called to the bench for further questioning. The panel member will then be excused immediately or asked to return to their seat. The panel member asked to return to their seat may be excused at a later time.

If any panel member responds to questions during voir dire examination in a manner which makes it clear that they possess such strong opinions that a challenge for a cause will clearly be good, and there exists a possibility that further responses may "poison" the entire panel, counsel should diplomatically terminate the inquiry and avoid further inquiries in the presence of the panel. If adverse counsel has a good-faith belief that the panel member can be rehabilitated, it will be pursued on an individual basis after the general voir dire examination.

### **RULE 5.14 FAIR DEFENSE ACT**

The rules adopted by Waller County concerning the Fair Defense Act may be obtained from the Local Administrative Judge.

## **RULE 6**

### **CONFLICTING ENGAGEMENTS OF ATTORNEYS**

#### **A. Attorney already in trial in another court.**

When informed that an attorney is presently in trial, the court will determine where and when assigned. This information will be verified upon request of opposing counsel and/or the Court. The case will be placed on "hold" or reset, depending upon when the attorney will be released. If the attorney is not actually in trial as represented by

the attorney or his agent, the case will be tried without further notice.

**B. Attorney assigned to two courts for the same date:**

It is the duty of every attorney to call the affected judge's attention to all dual settings as soon as they are known. Insofar as is practicable, judges should attempt to agree on which case has priority, otherwise the following priorities shall be observed by the Judges of the respective courts:

Criminal cases

Cases given preference by statute

Preferentially set cases

Case set at earliest date

Case with earliest filing date

Cases in Metropolitan areas should yield to courts in rural areas

If the conflict cannot be resolved between the two judges, the Local Administrative Judge or the Regional Presiding Judge will resolve the conflict.

**C. Designation of Attorney in Charge**

Every case shall have an attorney in charge designated.

**RULE 7**

**ATTORNEY VACATIONS**

**A. DESIGNATION OF VACATION**

Subject to the provisions of subparts B and C of this rule, an attorney may designate not more than four weeks of vacation during a calendar year as vacation, during which that attorney will not be assigned to trial or required to engage in any pretrial proceedings. This rule operates only where lead counsel, as defined by T.R.C.P., is affected, unless the trial court expands coverage to other counsel.

**B. SUMMER VACATIONS**

Written designation for vacation weeks during June, July, or August must be filed with the District clerk by May 15. Summer vacations so designated will protect the attorney from trials during those summer weeks, unless an order setting the case for trial was signed before the designation was filed.

**C. NON-SUMMER VACATIONS**

Written designations for vacations in months other than June, July, or August must be filed with the District clerk no later than fourteen (14) days prior to the requested vacation period. Non-summer vacation weeks may not run consecutively for more than two weeks at a time. Non-summer vacation weeks so designated will not protect an attorney from a trial by an order signed before the date the designation is filed.

## **RULE 8**

### **LAWYER'S CREED**

The Lawyer's Creed is applicable in all cases tried in the 506Th District Court and the County Court at Law Court in Waller County.

## **RULE 9**

### **ADOPTION, APPROVAL AND NOTICE**

#### **RULE 9.1 ADOPTION**

These rules are adopted by the 506Th District Court and the County Court at Law of Waller County for all purposes. All previous rules of the 506Th District Court and the County Court at Law of Waller County are hereby repealed.

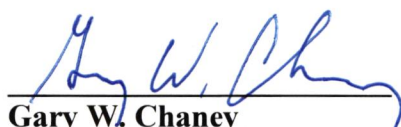
#### **RULE 9.2 APPROVAL**

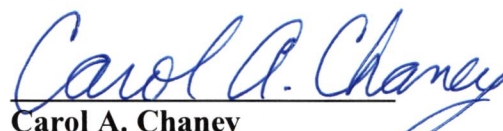
Upon approval by the Judge of the Second Administrative Region and posted on the Office of Court Administration's website, these rules shall become effective immediately, and so long thereafter until amended, repealed or modified. Each numbered or lettered paragraph of these rules shall be considered to be 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.

#### **RULE 9.3 NOTICE**

The 506Th District clerk is directed to furnish a copy of these rules to the Supreme Court of Texas pursuant to [Rule 3 \(a\) of the Texas Rules of Civil Procedure](#) and to record these Rules in the Civil Minutes of the 506Th District Court of Waller County, Texas.

**Approved on this the 11Th day of May, 2023.**

  
\_\_\_\_\_  
**Gary W. Chaney**  
**District Judge**  
**506<sup>Th</sup> Judicial District**

  
\_\_\_\_\_  
**Carol A. Chaney**  
**County Court at Law Judge**  
**Waller County, Texas**