

CIVIL TRIAL RULES
of the
COURTS OF ORANGE COUNTY, TEXAS

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Rule 1.10 TIME STANDARDS FOR THE DISPOSITION OF CASES.

District and statutory county court judges of Orange County shall, so far as reasonably possible, ensure that all cases are brought to trial or final disposition in conformity with the following time standards:

a) CIVIL CASES OTHER THAN FAMILY LAW

1) Civil Jury Cases

Within 18 months from appearance date.

2) Civil Non-jury Cases

Within 12 months from appearance date.

b) FAMILY LAW CASES

1) Contested Family Law Cases

Within 6 months from appearance date or
within 6 months from the expiration of the
waiting period provided by the Family Code
where such is required, whichever is later.

2) Uncontested Family Law Cases

Within 3 months from appearance date or
within 3 months from the expiration of the
waiting period provided by the Family Code
where such is required, whichever is later.

c) JUVENILE CASES

In addition to the requirements of Title 3, Texas Family Code:

1) Detention Hearings

On the next business day following admission to any detention facility.

2) Adjudicatory of Transfer (Waiver) Hearings

a) Concerning a juvenile in a detention facility:

Not later than 10 days following admission to such a facility, except for good cause shown of record.

b) Concerning a juvenile not in a detention facility:

Not later than 30 days following the filing of the petition, except
for good cause shown of record.

3) Disposition Hearings

Not later than 15 days following the adjudicatory hearing. The court may grant additional time in exceptional cases that require more complex evaluation.

4) Nothing herein shall prevent a judge from recessing a juvenile hearing at any stage of the proceeding where the parties are agreeable or when in the opinion of the judge presiding in the case the best interests of the child and of society shall be served.

d) COMPLEX CASES

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

Rule 1.11 ANNUAL CALENDAR. An annual calendar shall be maintained by the Court Administrator under the direction of the Administrative Judge.

a) The annual calendar shall reflect the weeks the individual districts

courts and statutory county courts of Orange County are not in session due to

judicial vacation, sick leave, attendance at educational programs, and similar

matters. The judges of the district courts and statutory county courts shall notify

the Court Administrator as soon as is practical of the dates required to be listed on

the annual calendar.

b) Whenever a court is not in session, emergency matters and special matters requiring immediate attention shall be the responsibility of the judge of the next court in the random order set out hereinafter in Rule 1.14. Whenever the annual

calendar reflects that no court is in session, provision shall be made by the local

administrative judge for a judge to hear emergency matters and special matters

requiring immediate attention.

Rule 1.14 FILING OF CASES. Except as provided hereafter in this Rule, all cases shall be filed in District Court and County Courts of Orange County in random order, in the manner prescribed by the Judges, and shall be assigned, insofar as practicable, in an equitable manner among the Courts.

a) After assignment to a particular court, every case, both jury and non-jury, shall remain pending in such court until final disposition, provided that any 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.

b) Every garnishment suit shall be assigned to the court in which the principal suit is or was pending, and if the principal suit is transferred to another court, the garnishment shall be transferred likewise.

c) Every suit or proceeding seeking to enforce, attack, avoid, or set aside a judgement, order or decree of a Court (including suits in the nature of a bill of review, writ of habeas corpus, or otherwise) shall be assigned to the Court in which such judgement, order or decree was rendered.

. d) Every motion for consolidation or joint hearing under Rule 174(a), Texas Rules of Civil Procedure, shall be heard in the court in which the first case filed is pending,

and if such motion is granted, other cases to be consolidated shall be transferred to the court in which the first case is pending.

e) In the event a Judge is disqualified from sitting in a particular case and no transfer is accomplished as set out in Rule 1.14 (a) the case shall be reassigned by the District Clerk's office in the same manner by which any other new case is assigned.

Rule 1.15 TRANSFER OF CASES. Whenever any pending case is so related to another case pending in or dismissed of by another court that a transfer of the case to such court would

facilitate orderly and efficient disposition of the litigation, the Judge of the Court in which either case is or was pending may, upon motion and notice, (including his own motion) transfer the case to the court in which the earlier case was filed.

The following types of cases shall be subject to transfer under this rule, but this listing is not exclusive and is given by way of example only:

- a) Any case arising out of the same transaction or occurrence as did an earlier case, particularly if the earlier case was dismissed for want of prosecution or voluntarily dismissed by plaintiff at any time before final judgement.
- b) Any case involving one or more of the same parties in an earlier case and requiring a determination of any of the same questions of fact or law as those involved in the earlier case.
- c) Any case involving a plea that a judgement in the earlier case is conclusive of any of the issues of the later case by way of res judicata or estoppel by judgement, or any pleading that requires a construction of the earlier judgement or a determination of its effect.
- d) Any suit for a declaration concerning the alleged duty of an insurer to provide a defense for a party to another suit.
- e) Any suit concerning which the duty of an insurer to defend was involved in another suit.
- f) Whenever a case is transferred to Orange County by a court of another county, or is appealed from the County Court or County Court at Law, and the case shall be assigned in the manner specified by these Rules.

Rule 3.16 SEVERANCE. Whenever a motion to sever is sustained, the severed claim shall be filed as a new case in the same court and shall be given the next number available at the filing desk in the office of the clerk.

Rule 3.23 SCHEDULING CONFERENCES

a) On the motion of either party or the Court, the Clerk/Coordinator of the Court shall set the case for a docket control conference. Said setting shall occur within thirty (30) days of receiving the request pending the Court's calendar and shall be directed to all parties and attorneys of record.

b) The purpose of the docket control conference is to acquaint the Court with the nature and issues of the case, as well as to determine complete trial readiness.

Docket control agreements shall be established according to need, regarding the

joinder of additional parties, setting of deadlines for completion of discovery,

amending pleadings, and for considering any and such other matters as are necessary and proper under the circumstances regarding trial readiness of the case

including the need for a pre-trial hearing and any agreement as to the setting of the

case on a specific trial docket. Docket control agreements may be constructed individually on a form, available in each court, and may be utilized whenever

convenient.

c) Docket control conferences shall be conducted informally without a record unless

so requested by a party or directed by the Court.

d) Attorneys for all parties shall be present at the docket control conference and they shall be only attorneys with sufficient authorization and knowledge of the case to provide necessary information and make decisions regarding docket control agreements.

e) At any time after the initial docket control conference, parties wishing to alter their docket control agreement based on new information, non-compliance, or the development of a need for a pre-trial hearing, not previously foreseen, may request another conference setting or pre-trial hearing. Parties may also alter their

docket control agreements by filing amended agreement thereby avoiding the need for another setting.

f) Should a case be on the jury docket for one year and no request for trial be made, the Court may automatically set that case for a docket control conference.

Rule 3.24 PRE-TRIAL HEARINGS.

a) When parties cannot agree on a particular motion, pleading, or the need for discovery, or when agreement cannot be reached on a matter not covered at a docket control conference, or when an agreement is not honored or cannot be honored as a result of information not previously known, a formal pre-trial hearing can be requested and scheduled, if it is thought that a docket control conference would not be beneficial.

b) All pre-trial proceedings shall follow the rules and procedures as outlined in the Texas Rules of Civil Procedure.

c) Upon the completion of pre-trial proceedings, a docket control agreement, or appropriate order may be filed establishing trial readiness.

Rule 3.25 MOTIONS FOR DISCOVERY.

All counsel are expected to engage in good faith negotiations pursuant to the discovery and deposition rules of the Texas Rules of Civil Procedure. Requests for hearings on motions for discovery, or for protection, or to quash interrogatories or requests for admissions or on objections to any discovery, will not be granted unless counsel filing the same certifies that he has attempted to obtain such discovery or relief from opposing counsel by agreement and has been unsuccessful, or shows good cause for not making such effort.

Rule 3.27 CERTIFICATE OF DISCOVERY COMPLETE

The Party requesting the setting shall certify that his pleadings are in order, that a jury fee has been paid; that other counsel of record shown on the request have not withdrawn from the case; that all written and filed agreements to take depositions or to furnish medical or other records have been met that all necessary ad litem appointments have been met; that discussions regarding the disposition of the case without a jury trial have been held or would not be productive, and thus by requesting a jury setting a non-jury disposition will not likely occur; and that as far as he knows all pre-trial requirements have been met making the case ready for trial. Should the request for setting not provide this information, or the information be incorrect, or the request not sent in accordance with these rules, the request can be denied or can be stricken upon motion.

a) Parties not agreeing with the statement contained in the jury trial request shall have five (5) working days for receipt of their copy of the request to notify the court of their disagreement. Notification shall be in written form citing the issues

which would prevent the case from being ready to be set for trial as requested. If a hearing or docket control conference is thought necessary to resolve these issues, a request for a setting shall be made within the notice of disagreement. If no request is made, on its own motion, may set a hearing or docket control conference to resolve the issue. No case shall be set for trial wherein a notice of disagreement as to trial readiness had not been resolved.

b) Requests for preferential settings on certain trial dockets shall follow the same procedure as above. A convenient request form is available in Court or at the

Clerk's office.

c) The party requesting the setting shall certify that his pleadings are in order; that a jury fee has been paid; that other counsel of record shown on the request have not withdrawn from the case; that all written and filed agreements to take depositions or to furnish medical or other records have been met; that all necessary ad litem appointments have been met; that discussions regarding the disposition of the case without a jury trial have been held or would not be productive, and thus by requesting a jury setting a non-jury disposition will not likely occur; and that as far as he knows all pre-trial requirements have been met making the case ready for trial. Should the request for setting not provide this information, or the information be incorrect, or the request not sent in accordance with these rules, the request can be denied or can be stricken upon motion.

Rule 3.30 DISMISSAL FOR WANT OF PROSECUTION

a) Should a civil case remain on the docket for a period of one year or longer in District Court, or for a period of six months or longer in County Court, or a statutory County Court, without significant action being taken to dispose of the case, the court of jurisdiction may issue a notice of intention to dismiss in accord with Rule 165a. The notice of intention to dismiss shall be issued on a form that is uniform among the courts.

b) Should a domestic relations case remain on the docket for a period of six (6) months or longer, the court of jurisdiction shall issue a notice of intention to dismiss in accord with Rule 165a.

c) Those cases wishing to remain on the active docket shall file a motion to retain briefly stating disposition intentions. Said motions shall be filed within twenty days of the issuance date of the

notice of intention to dismiss. The ruling of the Court on the retaining motion shall follow those rules outlined herein regarding the ruling on submitted motions.

Rule 3.31 DISMISSAL DOCKETS

a) Once a civil case is on the docket for a period of one year or longer in District Court, or for a period of six months or longer in County Court or a statutory County Court, and no disposition has been accomplished or no current action is

pending, the Clerk/Coordinator of the Court shall set the case on a try or dismiss docket.

b) Once a domestic relations case is retained on the non-jury docket for a period of six (6) months or longer and no disposition has been accomplished or no current action is pending, the Clerk/Coordinator of the Court shall set the case on a try or dismiss docket.

Rule 3.33 JURY CASES

Docket call in jury cases shall be held at least ten days prior to the beginning of the first trial week.

a) The purpose of docket call shall be to designate actual trial cases and to assign a numerical order of trial. It shall be accomplished by the Court calling those cases

which have been listed on a docket in chronological order determined by age or listed by preferential setting. The docket shall contain only those cases set by the Court or those which have indicated trial readiness as outlined within the original

trial request or per a docket control agreement. Said readiness shall be confirmed at docket call.

b) Parties may confirm trial readiness via phone or letter prior to docket call date or by appearance at docket call. Should a party fail to confirm trial readiness prior to or on the date of docket call, the Judge may remove the case from the trial docket until readiness is established, or consider a docket control agreement or trial request prevailing in establishing readiness and thereby designate the case ready and place it on the trial docket.

c) It shall be the responsibility of the parties to assess trial readiness prior to docket

call; and if necessary, file appropriate motions to insure readiness by docket call or to continue the case from its current trial setting.

d) Immediately following docket call the Clerk/Coordinator of the Court shall prepare the trial docket consisting of those cases confirming trial readiness. The list shall designate trial order according to chronological age or preferential setting for the trial dates indicated.

e) Regardless of listing, all cases are set for trial throughout the trial period and are subject to a call to trial at any time during the designated trial dates.

f) Should a case be placed on a trial docket and called for trial and no motion for continuance or other relevant information be made known to the court why the case cannot be tried, and no appearance made, said case shall be subject to dismissal.

g) Cases on the trial docket not reached for trial shall automatically be reset for the next earliest convenient docket call.

Rule 3.34 NON-JURY CASES

a) Cases not on the jury docket will be set for trial on request. Should the case be of a contested nature, the party requesting the setting shall certify that his pleadings are in order; that other counsel of record, as shown on the request, have not withdrawn from the case, and have been provided a copy of the setting request; that all written and filed agreements to take depositions or to furnish medical or other records have been met; that all necessary ad litem appointments have been met; that discussions regarding the disposition of the case without the necessity of a trial have been held, or would not be productive, and thus by requesting a setting, a disposition other than a trial will not likely occur; and that as far as he knows all other pre-trial requirements have been met making the case ready for trial. The request shall also contain an estimate of the amount of trial time required to hear the case and a copy of the request shall be forwarded to all parties of record. Should the request for setting not provide this information, or the information be incorrect, or the request not sent in accordance with these rules, the request can be denied or can be stricken upon motion.

b) Contesting parties not agreeing with the statement contained in the trial request

shall have five (5) working days from receipt of their copy of the request to notify the Court of their disagreement. Notification shall be in written form citing the issues which would prevent the case from being ready to be set for trial as requested. If a preliminary hearing or docket

control conference is thought necessary to resolve these issues, a request for settings can be made within the notice of disagreement. If no request is made, the Court, on its own motion may set a preliminary hearing or docket control conference. No case shall be set for trial wherein a notice of disagreement as to trial readiness has not been resolved.

Rule 3.38 MOTIONS AND ANCILLARY MATTERS

a) Preliminary matters which require a ruling by the court may be disposed of either by hearing before the court, a docket control conference as outlined in Rule 3.23 or upon such written authorities as counsel may forward to the court, following which the court may rule in chambers without any hearing as provided in this rule. Any party is entitled to a hearing so long as the same is requested prior to the time that the court entered its ruling.

b) Any party desiring a ruling on a pending matter may request a ruling either by requesting a hearing, filing a statement with the authorities, if any, relied upon, and a proposed order along with a request for ruling by the Court without a hearing. The opposing party shall be furnished a copy of the request and, within ten (10) days after service of such statement, either request a hearing or file a written response.

c) If no hearing is requested within seven (7) working days after that time for requesting a hearing or filing a response has expired the Judge in the absence of counsel shall examine the pleadings, authorities cited and other papers and make such rulings as he deems proper, note a memorandum of such ruling among the papers of the cause and send copies of such memorandum to counsel for all parties.

d) All foreseen pre-trial settings shall be made prior to docket call by request or motion, or at a docket control conference at which the schedule of all lead counsel will be taken into consideration. An attorney who fails to appear at such conference, or any attorney who fails to notify the court of a conflict in scheduling at the time the case is set, shall be precluded from seeking a continuance at a later time on the grounds of such conflict. When a party is represented by more than one attorney or firm of attorneys, a change in the identity of lead counsel which creates a conflict in settings shall not be a ground for continuance. Lead counsel shall be the attorney signing the initial pleading. Lead counsel may be changed at any time by filing a statement to that effect.

e) No requests to pass, postpone, or reset any docket control conference, pre-trial hearing or other preliminary hearing shall be granted unless counsel for all parties have been notified and have had an opportunity to object.

f) All motions for continuance of a jury trial setting, including joint motions of all

parties, shall be presented to the court either in open court or in chambers in written form, and shall comply with the Texas Rules of Civil Procedure.

g) Once the case is set for docket call, any ground for continuance of the trial setting then known shall be presented to the court no later than five (5) working days from the docket call setting. Cases continued from docket call due to a scheduling problem, or on agreement of the parties, will automatically be reset

on the next docket. Cases continued due to the lack of trial readiness will not be reset until trial readiness has been reestablished through the filing of a proper request or a docket control agreement. Should said agreement not be filed within

ninety (90) days of the granted continuance, the court may set a docket control conference.

h) To better insure the availability and utility of jury panels for other cases as well

as those County funds allocated for juror expenses, parties are requested, whenever possible, to actively engage in genuine settlement negotiations prior to docket call and so announce their results at that time or before.

Rule 3.42 JURY DEMAND

Demand for a trial by jury shall not be occasion for advancement or substantial delay of the trial or of any other proceeding in the case, nor for transfer of the case

to another court. If the case is already set for non-jury trial when such demand is made, the court may try the case with a jury on the same setting, add the case to the list of jury cases for the following week, or set it at some other convenient time. When a jury demand and resulting jury fee is paid on a case previously set for non-jury trial, the party demanding the jury shall be responsible for immediately notifying all interested parties including the Court of his demand for said jury. Payment of the jury fee shall be in accord with Rule 216 of the Texas Rules of Civil Procedure.

Rule 3.44 SPECIAL ISSUES

Prior to the actual commencement of a trial, each party shall submit to the court tentative requested special issues, instructions, and definitions.

Rule 9.11 CONDUCT OF NON-JUDICIAL PERSONNEL

The presiding Judges of the District Courts, and the statutory County Courts shall:

- a) Each appoint an official court reporter as provided in Section 52.041 of the Government Code.
- b) Supervise the performance of the court reporters duties as set out in Rule 11 of the Texas Rules of Appellate Procedure.
- c) Provide for timely preparations of records as set out in Rule 12 of the Texas Rules of Appellate Procedure.

Rule 12.12 MEETING OF JUDGES

The Local Administrative Judge shall call at least two meetings of the District and statutory County Court Judges of the County to:

- a) Study the condition of the dockets of the courts to determine the existence of
 - 1) A significant increase in the number of new cases filed;
 - 2) A disposition rate below the state average;
 - 3) Fewer cases disposed of than new cases filed;
 - 4) An excessive number of cases pending on the docket for a lengthy period of time;
 - 5) A large number of inactive tax cases, non-arrest criminal cases, cases held pending action in other courts or cases which are not ready for disposition.
 - 6) Cases tried and awaiting the entry of judgement;
 - 7) The need for technical assistance in case flow or case management; and
 - 8) the need for the assistance of visiting judges to any court;
- b) Review, propose amendments to, and propose and submit the judicial budget;
- c) Study and evaluate the adult and juvenile probation departments and as members of the Juvenile Board act in accordance with the provisions of Article 5139.zz;

d) Discharge the responsibilities related to the County Auditor placed on the District

Judges by Article 1645.

e) Discharge the responsibilities related to the County Purchasing Agent placed on the District
Judges by Article 1580;

f) Discharge the responsibilities related to the Orange County Child Support office

Placed on the Juvenile Board by Article 5139zz;

g) Consider and where necessary establish policies relative to relationships with other
Government bodies, the public, and the news media.