

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 06- 9040


**APPROVAL OF LOCAL RULES FOR THE 64th and 242nd
DISTRICT COURTS OF CASTRO, HALE, AND SWISHER COUNTIES**

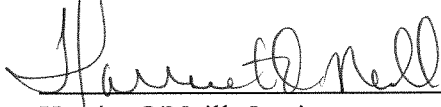
ORDERED that:


Pursuant to Texas Rule of Civil Procedure 3a, the following Local Rules for the 64th and 242nd District Courts of Castro, Hale, and Swisher Counties are approved.


In Chambers, this 22nd day of February, 2006.

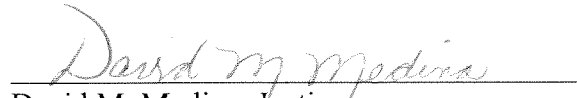

Wallace B. Jefferson, Chief Justice



Nathan L. Hecht, Justice



Harriet O'Neill, Justice



J. Dale Wainwright, Justice


Scott Brister, Justice


David M. Medina, Justice


Paul W. Green, Justice


Phil Johnson, Justice


Don R. Willett, Justice

LOCAL ADMINISTRATIVE RULES
of the
64th and 242nd DISTRICT COURTS
CASTRO, HALE, AND SWISHER COUNTIES, TEXAS
 Effective January 1, 2005

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RULE 1 - GENERAL RULES WITH RESPECT TO DISPOSITION OF CASES

- Rule 1.01 **Calendars and Holidays.**
a. Each court shall annually publish a calendar setting out a schedule for jury and non-jury weeks. Copies of such calendars will be kept in the district clerks' offices and will be furnished upon request.
b. The courts will observe those holidays recognized for county employees by the respective Commissioners Courts.
- Rule 1.02 **Hours of Court Proceedings.** The Judge of each Court shall determine the hours of operation for the Court.
- Rule 1.03 **Time Standards for Disposition of Cases.** Cases shall be brought to trial or final disposition within the time standards as prescribed by Rule 6, Rules of Judicial Administration and Rule 1, Regional Rules of Administration.
- Rule 1.04 **Continuances.** Continuances will not be granted except for good cause shown upon written Motion supported by affidavit. All Motions for continuance shall contain a certificate of conference that the request has been discussed with all opposing parties or counsel and that such Motion is agreed or opposed.
- Rule 1.05 **Transfers and Bench Exchanges.**
a. Any case may be transferred from one court to the other by written order of the judge from whom the case is transferred, provided the judge to whom the case is being transferred consents. Such consent shall be presumed upon the filing of a transfer order signed by the Judge of the Court from which the case is being transferred.
b. The Judges may exchange benches by agreement as needed to promote judicial efficiency.
- Rule 1.06 **Signing of Orders.** Either Judge may sign any judgment, decree or order for the other.

- Rule 1.07 **Preferential Settings.**
a. Preferential settings shall be made in accordance with Sections 23.101 and 23.102 of the Government Code.
b. Preferential settings may also be made if, because of unusual circumstances, more than ordinary difficulty would be encountered in having all counsel and witnesses available on the regular docket and a special setting will facilitate the orderly conduct of the court's business.
- Rule 1.08 **Resettings.** Cases that have not been reached may be carried over to the next assignment period or reset for trial at the direction of the Judge.
- Rule 1.09 **Submission of Orders, Judgments, Instruments.**
a. Agreed or approved judgments and orders should be submitted directly to the administrator for submission to the Judge for signature.
b. In contested matters, orders and judgments which are not agreed or approved shall be submitted no sooner than 10 days after a copy has been mailed or delivered to opposing counsel or pro se party with instructions to opposing counsel or party to send written objections to the trial court before the proposed submission date.
- Rule 1.10 **Counsel For Indigents.** Counsel for indigents will be appointed as required by law and counsel will be compensated as provided in the "Interim Plan for Appointment of Counsel for Indigents" on file in the offices of the respective District Clerks.
- Rule 1.11 **Interpreters.** Where interpreters are needed for a party or witness, counsel for the party calling the witness shall notify the appropriate administrator as soon as possible.

RULE 2- LOCAL ADMINISTRATIVE JUDGE

- Rule 2.01 **Local Administrative Judge.** The Judges shall elect a local administrative Judge as required by Rule 9, Rules of Judicial

Administration, who shall have the duties as prescribed in such Rule and in Rule 2, Regional Rules of Administration.

RULE 3 - CIVIL CASES OTHER THAN FAMILY AND JUVENILE CASES

- Rule 3.01 **Filing and Assignment.** Cases shall be filed by the District Clerks in the courts on an alternating basis except for Judgment Nisi's which shall be filed in the court with jurisdiction of the underlying criminal case.
- Rule 3.02 **Consolidations.** 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 and assigned to that court.
- Rule 3.03 **Request for Contested Non-Jury Settings.**
a. A request for a non-jury setting for a contested case shall include a certification that all discovery is complete, or will be complete within no more than twenty (20) days after the request.
b. Such requests shall be addressed in writing to the appropriate administrator, with notice to all counsel and pro se parties, and shall include an estimate of the time required for trial.
- Rule 3.04 **Setting for Uncontested Matters.** Settings for uncontested matters, including default judgments, shall be by appointment through the respective court administrator and need not be in writing.
- Rule 3.05 **Request for Jury Trial Settings.**
a. Requests for settings for jury trials shall include a certification that all discovery is complete, or will be complete at least twenty (20) days prior to the first docket date, that the jury fee has been paid, and that a demand for jury has been filed.
b. Requests for settings for jury trial shall be made in writing addressed to the appropriate administrator, with notice to all counsel and pro se parties, and shall include an estimate of the

time required for trial.

- Rule 3.06 **Docket Calls and Announcements for Jury Trials.**
a. Each administrator shall send notices to attorneys or pro se parties of the time, date, and place of docket call.
b. The attorney who will try the case or an authorized attorney shall be present at the docket call unless the Judge of the respective court has allowed announcements by other means.
- Rule 3.07 **Assignment of Cases for Trial.** Cases shall be assigned their order for trial at the docket call.
- Rule 3.08 **Suspense Docket.**
a. If a case has been stayed because it relates to a bankruptcy proceeding or payout agreement, such case is to be transferred to the “Suspense Docket”.
b. Within one year of referral of a case to the Suspense Docket or the last status report, all attorneys in charge or pro se parties shall file with the clerk a report explaining the status of the case. If no such report is filed within said time, the case may be set for dismissal.
- Rule 3.09 **Hearings on Pre-Trial Pleas and Motions.** Requests for hearings on pre-trial motions including, but not limited to, temporary injunctions, discovery motions, protective orders, summary judgments, and contempt, shall be submitted to the administrator for setting. After setting is obtained, it is the responsibility of the moving party to obtain proper notice to or citation on all opposing parties entitled thereto.
- Rule 3.10 **Discovery Documents.** Discovery documents need not be filed with the Clerks unless filing is required by other rule or court order.
- Rule 3.11 **Summary Judgments.**
a. Summary judgments are heard by submission only with briefs due by the submission date.
b. Any party may request oral argument by request made to the administrator prior to the submission date. The Judge will grant

or deny the request at his/her discretion.

c. The Judge may request that the parties present oral arguments.

Rule 3.12 **Dismissals for Want of Prosecution.** Each Judge shall annually set for dismissal hearing all cases which have not been set for trial or finally disposed of within the time standards set in Rule 1.03. At such hearing, the procedure prescribed by Rule 165a, Rules of Civil Procedure, shall be followed.

Rule 3.13 **Alternative Dispute Resolution.** Each Judge may refer cases for Alternate Dispute Resolution.

Rule 3.14 **Jury Questions and Instructions.**
In all jury cases, anticipated jury questions, definitions and instructions shall be submitted to the court in electronic medium on floppy disc in Word Perfect or Word format or by email.

Rule 3.15 **Juror Questionnaires.**

- a. Copies of juror questionnaires which have been returned will be delivered by the Clerks to attorneys or pro se parties prior to Voir Dire unless otherwise ordered by the court.
- b. Attorneys and pro se parties shall not copy juror questionnaires.
- c. Attorneys and pro se parties shall return all juror questionnaires to the Clerk at the end of voir dire.
- d. The Clerk shall keep juror questionnaires confidential except as provided herein and shall not include copies in any appellate record unless ordered to do so by the Court or Appellate Court.

RULE 4 - FAMILY AND JUVENILE CASES

Rule 4.01 **Family Law Cases Generally.** Procedures for Family Law cases shall be as provided in Rule 3 as supplemented by this rule.

Rule 4.02 **Inventories and Disposition Proposals in Property Cases.** In

disputed property division cases, each attorney shall submit to the court and opposing counsel not later than the commencement of trial an inventory of property, with values, and debts and a proposed property division including property claimed or recognized as separate property.

Rule 4.03 **Conference Required in Family Law cases.** Each attorney shall, prior to the day of trial, confer with opposing counsel, if any, regarding settlement, stipulations, estimated time of trial, the extent, description, character and value of property in question, amount of support, medical insurance for any children and the cost thereof, conservatorship, periods of possession and/or access, rights, duties and powers of conservators and other relevant issues.

Rule 4.04 **Children's Interest Seminars.** In any suit involving the parent-child relationship, except uncontested adoptions and terminations, all parties shall successfully complete the children's interest seminar, "For Kids Sake", file their certificate of completion with the Clerk, and require children in their custody between the ages of six and seventeen to attend the "Sandcastles" program. Each party will be responsible for payment of the appropriate fees. Such seminars shall be completed prior to the final hearing. Failure to successfully complete the seminars may result in sanctions under Rule 215, Texas Rules of Civil Procedure, contempt of Court, or delay of the final hearing. For good cause shown, the Judge may waive the requirement of completion of the seminars. If such seminars have been completed, no additional attendance is required in the event of motions to modify or enforce.

Rule 4.05 **Filing of Certain Juvenile Cases.** The prosecuting attorney will cause juvenile cases to be filed in alternating order except where juveniles are involved in the same incident, in which event all such cases will be filed in the same court. Where the juvenile has or will have a pending motion to modify filed in an existing case, new cases involving the same juvenile will be filed in the court with the existing case.

- Rule 4.06 **Settings in Juvenile cases.**
- a. Juvenile cases will be set by the administrator.
 - b. Counsel in juvenile cases where the right to jury trial is not going to be waived shall notify the administrator of such fact as soon as possible.

RULE 5 -CRIMINAL CASES

- Rule 5.01 **Grand Juries.**
- a. Terms for grand juries for the 64th District Court shall be July-December in Hale County and January- June in Castro and Swisher Counties.
 - b. Terms for grand juries for the 242nd District Court shall be July-December in Castro and Swisher Counties and January-June in Hale County.
- Rule 5.02 **Filings/Return of Indictments.**
- a. All indictments shall be returned to the court that has empanelled the grand jury. Either Judge may set bonds.
 - b. Cases shall be transferred where the case is a re-indictment of a charge previously indicted in the other court, or where the Defendant is on felony probation or has a felony case pending in the other Court.
- Rule 5.03 **Appearance of Defendant and Counsel.** Immediately upon employment, the defense attorney shall give written notice thereof to the district attorney and to the respective administrator. Any appearance at court for the defendant, including, but not limited to, getting a bond set or reduced, shall constitute the attorney as attorney of record for the defendant.
- Rule 5.04 **Bond and Bond Forfeiture.**
- a. Bond shall be set immediately after indictment.
 - b. Bond forfeiture will be promptly initiated upon any failure of the Defendant to appear after proper notice had been given.
- Rule 5.05 **Docket calls.**
- a. Each administrator shall send notices to attorneys, bondsmen and pro-se parties of the time, date, and place of docket call.

- b. The attorney who will try the case or an authorized attorney shall be present at the docket call unless the Judge has allowed announcements by other means.
- c. Defendants without attorneys shall be required to be present at docket call or bond will be forfeited.

Rule 5.06 **Announcements.**

- a. An announcement of “ready” by the attorney for the State is a certification that all witnesses are available and that counsel for the State is ready for trial.
- b. An announcement of “ready” by Defense counsel is a certification that the Defendant and all witnesses are available and that counsel is ready for trial.
- c. Announcement by Defense counsel that a case will be a guilty plea is a certification that a plea bargain agreement has been reached with the State and has been agreed to by the Defendant.
- d. Cases for which Defense counsel announces a guilty plea will be set for hearing on a guilty plea docket or may be set by request made to the administrator.

Rule 5.07 **Continuances.** There will be no summary or automatic “first” continuances. All continuances shall comply with these rules.

Rule 5.08 **Plea Bargains.**

- a. Unless good cause is shown, plea bargains will not be approved for cases which have previously been announced by Defense Counsel for disposition by a plea of guilty, set for guilty plea hearing and subsequently not disposed by guilty plea.
- b. Unless good cause is shown, plea bargains, except for first degree felonies, must be announced to the court in person at docket call or in writing received by the Court not later than 5:00 P. M. on the Friday prior to trial week or will not be approved.

Rule 5.09 **Speedy Trial.** All cases will be set for trial as expeditiously as possible.

- Rule 5.10 **Pre-Trial Matters.** Each Judge shall determine settings for pre-trial hearings. The defendant shall appear at each pre-trial hearing unless there are no pre-trial matters to be determined.
- Rule 5.11 **Preferential Settings.** Preferential settings shall be made as required by statute.
- Rule 5.12 **Juror Questionnaires.**
- a. Copies of juror questionnaires which have been returned will be delivered by the Clerks to attorneys or pro se parties prior to Voir Dire unless otherwise ordered by the court.
 - b. Attorneys and pro se parties shall not copy juror questionnaires.
 - c. Attorneys and pro se parties shall return all juror questionnaires to the Clerk at the end of voir dire.
 - d. The Clerk shall keep juror questionnaires confidential except as provided herein and shall not include copies in any appellate record unless ordered to do so by the Court or Appellate Court.

RULE 6-JURY MATTERS

- Rule 6.01 **Management of Juries.** The Judges will adopt and file with the District Clerk a jury plan for each county.

RULE 7 -JUDICIAL VACATIONS

- Rule 7.01 **Judicial Vacations.** The Judge of each court shall be entitled to not more than thirty (30) days of vacation each year provided the business of the court is not materially delayed thereby. The Judges will coordinate their vacation time to insure that one Judge will be present within the District during each business day.
- Rule 7.02 **Notification to Regional Administrative Judge of Absence.** Each Judge shall notify the Regional Administrative Judge of any absence under rule 7.01.
- Rule 7.03 **Requests for Visiting Judge.** Each Judge may advise the

Regional Administrative Judge of the need for the assignment of a visiting Judge to the respective Court.

RULE 8 - RULE AS TO RULES

Rule 8.01 **Amendment**. These rules may be amended by consent of the Judges and shall be effective upon approval of such amendment by the Regional Administrative Judge and the Supreme Court.

RULE 9 - LOCAL COURTS ADMINISTRATION

Rule 9.01 **Local Courts Administration**. Each Judge may adopt additional rules of administration and practice for the respective Court provided such rules are consistent with these Rules, the Regional Rules of Administration, the Rules of Judicial Administration and other requirements of law.

RULE 10- ATTORNEY MATTERS

RULE 10.01 Conflicting Settings

a. An attorney seeking to have a case continued on the grounds that the attorney is to go to trial in another court, shall furnish the court and opposing counsel with a Motion for Continuance, which shall disclose the name of the court in which such other case is filed, the style of the case, the time for which such case is set, and the date on which the conflicting setting was made. A copy of the setting notice of the conflicting case shall be attached to the motion. In the event the conflicting case is passed, continued or disposed of prior to or during the week in which the case is set for trial under these Rules, the attorney shall immediately notify the Judge and opposing counsel of such fact.

b. Rule 10(b) of the Regional Rules of Administration shall establish the priority of cases in the event of conflict between courts.

Rule 10.02 **Substitutions**. Any attorney substituting for another attorney of record shall file with the Clerk a written Notice of Substitution signed by the client. At the time of filing, such

attorney shall furnish a copy of the notice to the Judge, the attorney for whom substitution is being made, and all other attorneys of record or pro-se parties.

Rule 10.03 **Withdrawal**. If there is no substitution of counsel as provided in Rule 10.02, no attorney of record shall attempt to withdraw without presenting a motion and obtaining from the court an order granting leave to withdraw. Such motion shall be accompanied by the client's written consent to such withdrawal or a certification that a copy of such motion has been mailed to the client at his/her last known address, with notice advising the client that the motion will be presented to the court at a date not less than 10 days after mailing, and that any objection to such withdrawal should be made to the court in writing before such date. Such notice shall be included within the Motion or a copy of the letter attached to the motion. A copy of the motion shall also be delivered or mailed to opposing counsel. Such leave may be denied if withdrawal will delay trial. If leave is granted, the attorney shall notify the party and all other attorneys or pro se parties of such action by certified mail.

RULE 11 - ATTORNEY VACATIONS

Rule 11.01 **Attorney Vacations**. Attorneys may notify the courts of scheduled vacations. Each Judge will attempt to avoid any settings for such attorney during such vacations provided such times do not exceed 30 days annually.

RULE 12 - PROCEDURAL RULES

No additional local rules.

RULE 13-COURTROOM DECORUM

Rule 13.01 **Trial Witnesses and Exhibits**.

- a. Counsel shall examine witnesses while seated at counsel table. If counsel needs to approach the witness, counsel may do so without asking leave of Court unless instructed otherwise.
- b. No physical evidence shall be published to the jury without

leave requested and granted by the trial judge. Exhibits handed to the jury shall be retrieved by the bailiff.

Rule 13.02 **Conduct of Counsel.**

Counsel shall conduct themselves in accordance with the standards of professionalism set out in the TEXAS LAWYERS CREED-A MANDATE FOR PROFESSIONALISM.

Rule 13.03 **Conduct of Parties, Witnesses and Spectators.**

All parties, witnesses, and spectators shall wear appropriate attire and conduct themselves in a dignified and courteous manner. Each Court may post Standards of Conduct in or near its Courtroom.

RULE 14-BUDGET MATTERS

Rule 14.01 **Budget Matters.** The Judges shall timely submit budgets to the Hale County Commissioners Court for all departments under their jurisdiction.

Rule 14.02 **Probation Department Budgets.** The Judges shall consult with the Hale County Commissioners Court regarding the budget of the Community Supervision and Corrections Department as provided by law.

RULE 15- PROBATION MATTERS

Rule 15.01 **Community Supervision and Corrections Department.** The Judges shall maintain a Community Supervision and Corrections Department as required by law.

RULE 16-COUNTY AUDITOR AND COUNTY PURCHASING MATTERS

Rule 16.01 **County Auditors.** The Judges will comply with Chapter 84 of the Local Government Code in all county auditor matters.

Rule 16.02 **Meetings.** The Judges will meet regularly with the County Auditors to review county financial matters.

Rule 16.03 **County Purchasing Matters.** With the assistance of the County Auditors, the Judges shall have general oversight of county purchasing practices as provided by law.

RULE 17-RELATIONSHIPS WITH GOVERNMENTAL BODIES, THE PUBLIC AND NEWS MEDIA

Rule 17.01 **Other governmental bodies.** The Judges shall at least once each year review their practices in regard to other governmental bodies in order to promote cooperation between the branches of government in accordance with law.

Rule 17.02 **The Public.** The Judges shall at least once each year review their practices in regard to the public in order to promote confidence in the integrity, competence and impartiality of the judiciary.

Rule 17.03 **The News Media.** The Judges shall at least once each year review their practices in regard to the news media in order to promote the public administration of justice while insuring all litigants a fair trial.

RULE 18-COURT REPORTERS AND RECORDS

Rule 18.01 **Court Reporters.**

a. Each Judge shall comply with Chapter 52 of the Government Code in the appointment and compensation of the court reporter for the respective Court.

b. Each Judge shall monitor the work load of the court reporter and insure timely preparation of records so far as possible.

c. Reporters shall be entitled to vacation and sick leave as provided in Rule 19.02.

RULE 19-COURT ADMINISTRATORS

Rule 19.01 **Court Administrators**

Each Judge shall appoint a Court Administrator as provided by Chapter 74, Sub-chapter E, Government Code, who shall have the duties as set out in the Job Description on file with Hale

County.

Rule 19.02 **Vacation and Sick Leave**

- a. Administrators and Reporters shall be entitled to three weeks paid vacation and to twelve days paid sick leave each year.
- b. Requests for vacation pay and sick leave under this Rule shall be submitted to the judge of the respective court.

RULE 20-BAILIFFS

Rule 20.01 **Bailiffs**

The Sheriff of Hale County shall furnish each court with a qualified Bailiff who shall have such duties as directed by the Judge of each Court.

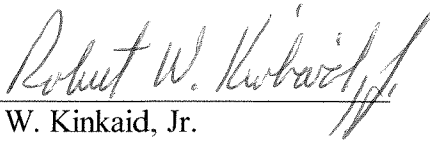
IN THE 64TH AND THE 242ND DISTRICT COURTS
OF CASTRO, HALE, AND SWISHER COUNTIES, TEXAS

MISCELLANEOUS ORDER

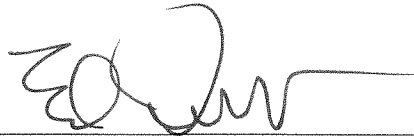
The Local Rules of Administration for the 64th and 242nd District Courts are revised as shown on the attached copy, effective January 1, 2005, subject to approval of the Supreme Court of Texas.

The Clerks of the Court shall provide to each attorney or pro se party a copy of such Rules upon request.

Signed this the 22nd day of December, 2004.




Robert W. Kinkaid, Jr.
Judge Presiding
64th District Court



Ed Self
Judge Presiding
242nd District Court

CERTIFICATE OF APPROVAL

I have read the Local Rules of Administration for the 64th and 242nd Judicial District Courts of Castro, Hale, and Swisher counties, adopted on December 22, 2004. The rules are not inconsistent with any rule of the Ninth Administrative Judicial Region and are approved for final action this 21st day of January, 2006.



Kelly G. Mootc, Presiding Judge
Ninth Administrative Judicial Region