IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 12- 9173

APPROVAL OF LOCAL RULES FOR THE DENTON COUNTY PROBATE COURT

ORDERED that:

Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court approves the following local rules for the Denton County Probate Court.

Dated: October 22nd, 2012.

Wallace B. Jefferson, Chief Justice

Nathan L. Hecht, Justice

David M. Medina, Justice

Paul W. Green, Justice

Phil Johnson, Justice

Don R. Willett, Justice

Eva M. Guzman, Justice

Debra H. Lehrmann, Justice

DENTON COUNTY PROBATE COURT LOCAL RULES

TABLE OF CONTENTS

Chapter 1. General Rules

Chapter 2. Cases

Chapter 3. Dismissal for Want of Prosecution

Chapter 4. Rules of Decorum

Appendices

DENTON COUNTY PROBATE COURT LOCAL RULES

CHAPTER 1. GENERAL RULES

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

(a) These Rules are the Local Rules of the Statutory Probate Court of Denton County, Texas. They shall govern proceedings in the Probate Court of Denton County, Texas, for the purpose of securing uniformity and fairness in those proceedings and to promote justice.

(b) These Rules are adopted by the Presiding Judge of the Statutory Probate Court of Denton County, Texas, pursuant to Tex. R. Civ. P. 3a.

(c) These Rules are standing orders of the Denton County Statutory Probate Court and any other statutory probate court that may be created in this county. Knowing or intentional violation of these Rules may be punished by contempt or other sanction authorized by law or by rules of procedure.

(d) On final adoption, these Rules supersede all prior versions of the Local Rules of the Statutory Probate Court of Denton County, Texas.

(e) Supplemental information, including Court procedures and policies, forms, and other information is available on the Court's website.

Rule 1.2. Definitions

In these Rules:

(a) "Ancillary matter" includes any lawsuit brought by or against a personal representative, or brought on behalf of an estate, that does not relate to or concern the routine administration of an estate. Ancillary matters include, but are not limited to, suits concerning note collection, personal injury, breach of contract, and trust litigation.

(b) "Clerk" means the probate division of the Denton County Clerk's office.

(c) "Contested matters" includes all litigated matters for which there are opposing parties.

(d) "Counsel" includes attorneys and parties representing themselves pro se.

(e) "Court" means the Denton County Statutory Probate Court and all judges serving that Court, including associate and visiting judges.

(f) "Hearing" means any record proceeding before the Court, including a status conference, preliminary hearing, scheduling conference, or trial.

(g) "Party" means a person who has made an appearance in a case pending before the Court, either pro se or through counsel.

Rule 1.3. Parties Proceeding Pro Se

(a) Consistent with applicable law, including statutes prohibiting the unauthorized practice of law, the Court restricts pro se parties from representing themselves or others in certain instances. An individual must be represented by an attorney if the individual is:

(1) applying to serve as an executor or administrator of an estate;

(2) applying for a guardianship for another; or

(3) representing a third party, such as a beneficiary, heir, creditor, or estate representative, who seeks relief from the Court.

(b) An individual subject to subsection (a) may present a document to the Clerk for filing, but the Court will take no action on the document until there is an attorney of record in the case.

(c) An individual may appear before the Court pro se if the individual is:

(1) the sole beneficiary in a muniment of title action;

(2) a noncorporate creditor of a probate or guardianship estate;

(3) a noncorporate party in an ancillary civil action;

(4) a distributee of an estate appearing pursuant to a small estate affidavit; or

(5) otherwise permitted to do so by the Court.

(d) In a pending case for which legal representation is required, a party is urged to secure substitute counsel simultaneously with discharging the attorney of record to avoid delays and additional expense.

(e) A pro se party is expected to read and follow the Local Rules and the Texas Rules of Civil Procedure, the Texas Rules of Civil Evidence, the Texas Probate Code, and the Texas Rules of Appellate Procedure as may be appropriate in the particular case. A pro se party who fails to comply with all rules may be sanctioned. A pro se party shall ensure the Clerk has accurate contact information for the party, including current addresses and phone numbers, for purposes of receiving pleadings and other notices.

Rule 1.4. Assignment of Causes

(a) The Clerk will assign a unique cause number to each matter filed in the Probate Court. After a cause number has been assigned, all matters relating to that case will be filed using the same cause number.

(b) If a case includes an ancillary matter, the cause number of all pleadings relating to the ancillary matter shall be followed by the number "01." If a case contains more than one ancillary matter, each subsequent matter shall be designated by sequential numbers (i.e., 02, 03, etc.) The style of an ancillary matter shall include the names of the party bringing the action and the opposing party, as well as the name of the estate, ward, or trust. The form of various case styles is attached as Appendix A.

Rule 1.5. Transfer

A party seeking to transfer to the Court a cause of action pending in a district, county, or statutory county court under the Texas Probate Code must file a proper motion and proposed order. A hearing on the motion is required unless the motion to transfer is agreed to by all parties. An agreed motion is not binding on the Court.

Rule 1.6. Severance

(a) A motion to sever will be granted only on a showing that a severance is necessary to protect substantial rights or to facilitate disposition of the litigation. Except on a showing of good cause, a severance will not be granted to make a judgment final if the judgment otherwise would be interlocutory due to other pending claims in the case.

(b) When a motion to sever is granted, the party who sought the severance shall file the severed claim as a new case and the Clerk shall give the new case a new cause number. A severed claim filed as a new case is subject to all filing fees required by the Clerk.

Rule 1.7. Vacations of Counsel

Counsel may not request a hearing on a date for which counsel has received notice that another party to the case is unavailable. If the Court sets a case for a hearing on a date for which a counsel has planned a vacation, counsel shall notify the Court as soon as the notice of hearing is received and the hearing will be reset for a different date, unless there is a clear showing of abuse or unreasonable delay. If a counsel becomes unavailable for a hearing after receiving a hearing notice, counsel shall immediately notify the Court and all parties and request that the hearing be reset for a different date.

Rule 1.8. Judicial Absences

When a judge anticipates being absent, the judge may request that the Presiding Judge of the Administrative Judicial District assign a visiting judge to the court or use the Associate Judge pursuant to standing orders or specific referrals. Counsel are encouraged to contact the Court Administrator to verify whether a visiting judge is scheduled, particularly for continued or contested hearings.

Rule 1.9. Bankruptcy

(a) Notice of Filing

(1) When a party to a case pending before the Court files for protection under the bankruptcy laws of the United States, that party shall provide written notice to the Court and all counsel that a bankruptcy filing has occurred. The notice must be filed immediately and not later than five days after the date of the bankruptcy filing and include the name and location of the bankruptcy court, the bankruptcy cause number and style, the date of filing, and the name and address of counsel for the debtor(s).

(2) The Court may sanction a party or counsel for failure to comply with this Rule.

(b) Conclusion of Bankruptcy

After a bankruptcy has been concluded, whether by discharge, denial of discharge, an Order lifting the automatic stay so as to permit continuation of the litigation, a dismissal or otherwise, counsel shall notify the Court promptly so the affected case may be restored to the active docket or dismissed as appropriate.

Rule 1.10. Appointment of Attorney or Guardian Ad Litem

(a) The Court may appoint an attorney or guardian ad litem when authorized or required pursuant to the Texas Probate Code or the Texas Rules of Civil Procedure.

(b) Until discharged, an ad litem is entitled to be notified of all hearings and to be served with all pleadings.

(c) Except as otherwise directed by the Court:

(1) an attorney ad litem in a guardianship matter is not required to make a written report, to avoid compromising the attorney work product or other privilege;

(2) an attorney ad litem in a nonguardianship proceeding is required to make a written report;

(3) a guardian ad litem is required to file a written report not later than the date established by the Court; and

(4) counsel serving in a dual role of attorney ad litem and guardian ad litem shall make a report only if the portion of the report relating to the role of guardian ad litem does not compromise the attorney work product or other privilege.

(d) In an appropriate case, an ad litem should consider filing an application for security for costs under Tex. R. Civ. P. 143 and Texas Probate Code §12.

(e) In a determination of heirship proceeding, the Court may require the deposit of security for costs for the fees of the attorney ad litem.

(f) All ad litems serve at the pleasure of the Court.

Rule 1.11. Attorney Fee Standards

A party who seeks approval from the Court for payment for attorney fees for legal services shall file with the Court an Application for Payment of Attorney Fees. The Court maintains "Standards for Court Approval of Attorney Fee Applications" which are available from the Court and on the Court's website. An application for payment of attorney fees must conform to the Court's Standards. All applications for attorney fees are subject to review by the Court staff.

CHAPTER 2. CASES

Rule 2.1. Docketing Instructions

Unless otherwise specified by statute, the Presiding Judge of the State Statutory Probate Courts will direct the County Clerk in the matters of filing, docketing, and transferring cases within the jurisdiction of the Court. Directions and instructions given by the Court are effective and considered given by the authority and with the consent of the State Presiding Statutory Probate Judge unless specifically controverted, cancelled, or withdrawn by the State Presiding Statutory Probate Judge in writing directed to the County Clerk.

Rule 2.2. Filing Papers

(a) All pleadings, motions, notices, briefs, proposed orders, proposed judgments, and any other paper, document, or thing made a part of the record shall be filed with the Clerk. A pleading should have only one style to ensure pleadings are filed in the correct case.

(b) This subsection applies to the submission of a proposed order or judgment in a case in which parties are entitled to notice or service of pleadings under Tex. R. Civ. P. 21.

(1) If all counsel agree to the form of the proposed order or judgment:

(i) all counsel must sign the order or judgment; and

(ii) the Court may enter the order or judgment immediately on submission.

(2) Absent an agreed order or judgment under subdivision (1) of this subsection:

(i) counsel may submit a proposed order or judgment to the Court no earlier than 10 days (mailbox rule applies) after serving that proposed order or judgment on all other counsel, unless all counsel agree to submit the proposed form and alternative forms of the order or judgment before that date;

(ii) at the time of submission, the proponent shall certify to the Court that the proposed order or judgment was served on all counsel and describe to the Court the substance of all communications received from all counsel regarding the form of the order or judgment;

(iii) a party objecting to the form of the order or judgment must prepare an alternative form of the order or judgment, specifically state the objections to the proponent's order or judgment, serve the alternative form on all counsel, and submit the alternative form to the Court; and

(iv) a proposed order or judgment submitted in accordance with this subdivision is subject to being held an additional 10 days before the Court will consider the order or judgment, after which the Court may act without notice to the parties.

(3) The Court may act at any time without further notice to the parties on a proposed order or judgment submitted in accordance with this subsection. Nothing in this subsection prevents the Court from entering its own form of order or judgment or restricts the Court's ability to enter orders at its discretion.

(c) Counsel may not file an amendment to a pleading later than seven days before the date a case is set for trial. The Court will consider an amended pleading offered for filing later than seven days before the date of trial only as a trial amendment under Tex. R. Civ. P. 66. The amended pleading may be filed only with leave of Court after filing a motion and providing notice to all parties.

(d) Notwithstanding subsection (c), an order sustaining a special exception or taking an action that requires the filing of an amended pleading is considered to grant leave to file the amended pleading not later than 20 days after the date the order is entered unless the order specifies a different deadline.

Rule 2.3. The Setting of Cases

(a) The Court shall promulgate a yearly calendar showing which weeks shall be jury or non-jury.

(b) Non-jury matters may be set and tried in jury weeks subject to the jury docket.

(c) At the Court's discretion and subject to the availability of jury panels, the Court may call to trial a jury matter during a non-jury week.

(d) The Court will set a hearing and place it on the docket on written or oral request of a party unless the Court requires the request to be made in writing. The Court will not sign an order setting a hearing except:

(1) when a show cause order is necessary; or

(2) when a rule of law requires that an order for a hearing be signed by the Court.

(e) Temporary guardianship hearings and other matters involving exigent circumstances will take priority over other proceedings.

(f) A request for a non-jury hearing must include an estimate of the hearing time required for the matter being set. Counsel requesting the hearing shall include the time estimate in the notice to the parties.

(g) The Court may establish an uncontested docket procedure. Uncontested matters and routine matters of very short duration may be set on the uncontested docket by calling the Court Administrator. The uncontested docket consists of, but is not limited to, issuance of letters testamentary, muniment of title actions, issuance of letters of administration, administrative motions, and declarations of heirship.

(h) The Court hears a mental health docket at least weekly at a regularly scheduled time.

Rule 2.4. Resolution of Conflicting Settings

When a counsel has settings in more than one court:

(1) a trial on the merits in any court takes precedence over hearings, motions, and other interlocutory matters in another court;

(2) all proceedings in any court take precedence over depositions and other out of court activities; and

(3) an attorney who has a previously scheduled oral argument in an appellate court will be given a reasonable time to travel to and from that court and make argument if the attorney advises the Court of the scheduled argument before trial commences.

Rule 2.5. Disposition of Contested and Ancillary Matters

(a) On its own motion or by agreement of the parties and counsel, the Court will refer a case for resolution by an alternate dispute resolution procedure under Chapter 154, Civil Practice and Remedies Code. A party or counsel may move for such a referral if an agreement cannot be reached.

(b) A pretrial hearing will not be required in every case. On request of a party or on its own motion, the Court may set a hearing under Tex. R. Civ. P. 166 to consider any matter that might aid in the disposition of the action, including requiring the filing of the Parties Joint Pretrial Statement. A form of the Parties Joint Pretrial Statement is attached as Appendix B.

(c) The Court may conduct a scheduling conference in any case at the request of a party or on its own motion. The Court will conduct a scheduling conference in each case in which a party has pled that a Discovery Control Plan - By Order (Level 3) governs under Tex. R. Civ. P. 190.4. Counsel in a Level 3 case shall request a setting for a scheduling conference. If before the date of the scheduling conference the parties provide to the Court an Agreed Scheduling Order Worksheet, a form of which is attached as Exhibit C, a scheduling conference will be required only if requested by a party or as required by the Court. A form of a Scheduling Order is attached as Appendix D.

(d) When a party believes a case is ready for trial, counsel may request that the case be set for trial by filing a written request with the Court Administrator. The request may ask for a setting on a specific trial week, but no sooner than 45 days after the date of request, unless leave of Court is obtained or all counsel agree to an earlier setting. The request must be sent to all counsel. A party may file a written objection to the request not later than seven days after receiving the request for setting. The objecting party must request a hearing on the objection.

(e) When requesting a trial setting, counsel shall inform the Court of the estimated time for trial. Counsel shall make a good-faith estimate of the time required after consulting all parties and considering proper examination of witnesses, introduction of exhibits, and cross-examination and rebuttal of witnesses reasonably anticipated to be called by all parties. If the time requested is not sufficient, the Court may continue the matter as the Court's docket allows. If the Court finds that the counsel requesting the trial setting acted in bad faith in misrepresenting the time required, the Court may impose appropriate sanctions, including attorneys' fees incurred by any delay in trial and costs and expenses for travel of witnesses and parties who are required to return at a later date as a result of the continued setting.

Rule 2.6. Motions for Continuance, Agreed Passes, and Settlements

(a) A trial or hearing date may not be postponed or changed without Court approval.

(b) Except as otherwise provided by this subsection, a motion for continuance must be filed not later than five days before the date of a scheduled hearing. A motion for continuance based on facts occurring on or after the fifth day before the date of a scheduled hearing must be filed as soon as possible and will be heard at a time set by the Court.

(c) If counsel agree to continue a hearing, the counsel initiating the request for continuance shall notify the Court immediately and the Court will decide whether to grant the continuance. If counsel fails to notify the Court within a reasonable time before the date of the hearing, the Court may impose appropriate sanctions.

(d) If the parties reach a settlement, the counsel representing the party seeking affirmative relief shall notify the Court of the settlement in writing and that the hearing date is no longer needed. If counsel fails to notify the Court within a reasonable time before the date of the hearing, the Court may impose appropriate sanctions.

(e) On receiving notice of a settlement, the Court shall set the matter for dismissal on a date not earlier than 30 days after the date the notice was filed.

Rule 2.7. Pretrial

(a) If not otherwise addressed in a Scheduling Order, the Court will conduct a pretrial conference at least 10 days before the scheduled trial date. Trials will begin on Mondays or the first available day after Monday in the event of a Courthouse closure. At the pretrial conference, the Court will hear and consider all pending preliminary, pretrial, and dispositive motions and matters. Before the presentation of any evidence to the jury, the parties shall present to the Court and each other a proposed jury charge for any issue on which the party presenting the charge carries the burden of proof, unless the Court requires the proposed jury charge to be submitted to the Court earlier. The Court reserves the right to require the parties to present their proposed jury charges 10 days before the scheduled trial date.

(b) At the pretrial conference, counsel are expected to identify for the Court the issues that are disputed and to be familiar with the authorities applicable to the questions of law raised at pretrial. Failure to comply with this Rule is grounds to postpone the trial, require further pretrial hearings, or other appropriate sanction.

(c) If counsel for a party fails to appear at a pretrial conference, the Court may:

(1) rule on all motions, dilatory pleas, and exceptions in the absence of that counsel;

(2) declare any motions, dilatory pleas, or exceptions of the absent counsel waived;

(3) advance or delay the trial setting according to the convenience of the counsel present;

(4) pass and reset the pretrial; or

(5) if the absent counsel represents the plaintiff:

(i) decline to set the case for trial;

(ii) cancel a setting previously made; or

(iii) dismiss the case for want of prosecution.

(d) Counsel appearing at the pretrial either shall be the attorney who will try the case or shall be familiar with the case and be fully authorized to state the party's position on the law and the facts, make stipulations, and enter into settlement negotiations as trial counsel. If the Court finds that the appearing counsel is not qualified, the Court may deem that counsel for that party did not appear.

Rule 2.8. Trial Procedure

(a) Except as otherwise specified in a scheduling order or by leave of Court, a dilatory pleading, such as special exceptions or a plea in abatement, must be filed not later than 30 days before a scheduled trial date.

(b) All contested and ancillary matters are specially set. Counsel may request only one additional setting as a second setting. A second setting will be called to trial if the case with the number one setting on that date does not proceed.

(c) Except as otherwise ordered by the Court, when reporting for trial, counsel shall deliver to the Court and other counsel a witness list, exhibit list, and any motion in limine. A witness or exhibit that was not disclosed as required by this subsection may be offered at the trial only by leave of Court. Before the trial starts, counsel shall mark all exhibits and exchange them with opposing counsel so that the trial will not be delayed.

(d) Counsel intending to offer videotaped depositions or other films at trial, except those offered solely for impeachment, must make the tapes and films available to opposing counsel sufficiently in advance of trial so that a hearing on any objections can be held before the start of trial. Any tapes or films not so tendered will not be permitted into evidence at trial. All counsel must timely examine any tendered tapes or films and request a hearing immediately if there are objections to the admissibility of any part of the tapes or films. Any objections not heard prior to trial are waived.

(e) Counsel shall stipulate to all facts that are not in dispute and waive formal proof as to any documents to be introduced about which there is no dispute as to authenticity.

Rule 2.9. Motion Practice

(a) Counsel are encouraged to resolve pretrial disputes to avoid the need for judicial intervention.

(b) The Court will not set a motion for hearing unless the moving counsel certifies in the motion or in a letter filed contemporaneously with the motion that counsel conferred or attempted to confer with opposing counsel regarding the motion. The certification must conform substantially to the following:

> "A conference was held on (date) with (name of opposing counsel) on the merits of this motion. Agreement could not be reached."
>
> or
>
> "A conference was not held with (name of opposing counsel) on the merits of this motion because (explanation of inability to confer)."

(c) The Court Administrator is responsible for scheduling the dates and times for hearings. On obtaining a date and time for a hearing, the moving counsel shall immediately notify all counsel in writing as to the date, time, and subject matter of the hearing. The moving counsel shall provide a copy of the notice to the Court Administrator.

(d) By agreement, counsel may submit a matter for decision by the Court without a hearing. The Court should be advised in writing when this procedure is desired.

(e) When requesting a hearing on a motion, counsel shall inform the Court of the estimated time for the hearing. Counsel shall make a good-faith estimate of the time required after consulting all parties and considering proper examination of witnesses, introduction of exhibits, and cross-examination and rebuttal of witnesses reasonably anticipated to be called by all of the parties. If the time requested is not sufficient, the Court may continue the matter as the Court's docket allows. If the Court finds that the counsel requesting the hearing acted in bad faith in misrepresenting the time required, the Court may impose appropriate sanctions, including attorneys' fees incurred by any delay in the hearing and costs and expenses for travel of witnesses and parties who are required to return at a later date as a result of the continued hearing.

Rule 2.10. Hearings Conducted by Electronic Devices

Generally, the Court does not permit telephonic hearings or hearings at which a party, witness, or counsel appears remotely. A telephonic hearing or hearing at which a party, witness, or counsel seeks to appear remotely must be preapproved by the Court through the Court Administrator. The requesting party shall make the request in writing to the Court and send a copy of the request to all parties. The party requesting the telephonic or remotely-attended hearing shall coordinate and facilitate all connections and communications before making the request. The party requesting the telephonic or remotely-attended hearing shall ensure the ability of the court reporter to take an accurate record of the proceeding. The Court will not permit a telephonic or remotely-attended hearing to be conducted through the use of a cellular telephone or other cellular device. At the Court's discretion, the Court may terminate a telephonically or remotely-attended hearing and continue the hearing at a later date in the presence of the Court.

Rule 2.11. Deposition Guidelines

(a) The Court adopts these guidelines to promote uniformity and save time and expense resulting from discovery disputes. The Court encourages counsel to strive for agreement on discovery matters. Absent agreement, counsel may submit discovery disputes for Court resolution by filing a proper motion. The Court may require a hearing before acting on a motion relating to a discovery dispute.

(b) The party initiating a deposition may elect to take the deposition orally or on written questions, and all counsel may elect to cross-examine orally or on written questions.

(c) Before noticing an oral deposition, the attorney initiating an oral deposition shall attempt to confer with all counsel to reach an agreement as to date, time, place, and materials to be furnished at the deposition. Failure to make an adequate attempt to confer as required by this subsection is grounds to quash the deposition. A notice of deposition must describe the efforts to reach agreement in a statement that conforms substantially to the following:

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

(d) Notice of less than 10 days under Tex. R. Civ. P. 21a and 202.3(a) is presumed to be unreasonable.

(e) A deposition may be noticed in:

(1) the county of the witness's residence or the county where the witness is employed or regularly transacts business in person;

(2) the county of suit if the witness is a party or a person designated by a party under Tex. R. Civ. P. 199.2(b)(1);

(3) the county where the witness was served with the subpoena, or within 150 miles of the place of service, if the witness is not a resident of Texas or is a transient person; or

(4) any other convenient place directed by the Court in which the case is pending.

Rule 2.12. Matters Requiring Immediate Action

(a) A pleading requesting immediate action or relief, such as an application for temporary restraining order, receivership, temporary administration, temporary guardianship, or a request to examine the contents of a safe deposit box will not be considered by the Court until the pleading has been filed with the Clerk, unless it is impossible to do so. If it is impossible to file such a pleading before it is presented to the Court, the presenting party shall file the pleading as soon as possible and the Clerk notified of all actions taken by the Court.

(b) A party requesting relief *ex parte* shall notify all parties of the intent to present the request for relief to the Court *ex parte*. The requesting counsel must provide notice to all parties not later than two hours before the time the counsel intends to present the request *ex parte* and state in the notice the time and place the request will be presented. An application for relief *ex parte* must include a certificate by counsel that states whether the party against whom relief is being sought is represented by counsel in the matter that is the basis of the relief sought and, if so, the name, address, and telephone number of that counsel.

Rule 2.13. Private Service of Process

(a) The Court considers a person authorized to serve citations and other notices under Tex. R. Civ. P. 103 to be an officer of the Court. A person who files a false return or engages in service contrary to law or rule is subject to punishment for contempt and is subject to losing the privilege of serving citations and notices in this County.

(b) The Court will not sign a proposed order authorizing private service under Tex. R. Civ. P. 103 unless the party requesting private service files a certificate of counsel stating that the individual to be authorized to serve a citation or notice is at least 18 years of age, is not a party, and has no interest in the outcome of the case for which the authorization is sought.

(c) A proposed order authorizing private service must conform to all procedures administered by the Denton County District Clerk on behalf of all courts of record in Denton County.

Rule 2.14. Motions to Withdraw as Attorney of Record and Motions to Substitute Counsel

(a) A motion to withdraw as attorney of record requires a hearing with written notice to all counsel and the client except as otherwise provided by this section.

(b) A motion to withdraw that includes a request to substitute another attorney does not require a hearing if:

(1) the motion is filed at least 45 days before a scheduled court date, including a final hearing;

(2) the motion contains the client's written and signed consent to the withdrawal; and

(3) the substituting attorney makes an appearance pursuant to Tex. R. Civ. P. 10 and Tex. R. Civ. P. 57.

(c) A motion to withdraw filed at least 45 days before the date scheduled for a final hearing does not require a hearing if the motion contains the client's written and signed consent to the withdrawal.

(d) A motion to withdraw filed later than 45 days before the date scheduled for a final hearing does not require a hearing if the motion is agreed to in writing by all parties of record and the client.

(e) Notwithstanding Subsections (b), (c), and (d) of this Rule, a hearing will be required on the filing of an objection or at the request of a party.

CHAPTER 3. DISMISSAL FOR WANT OF PROSECUTION

Rule 3.1. Case Selection

The Court may select a case for dismissal for want of prosecution under Tex. R. Civ. P. 165a if:

(a) the case has been on file for more than 180 days and an answer has not been filed;

(b) the case has been on file for more than 12 months, has not been set for trial, and has had no filings or settings in the preceding 180 days;

(c) a party to the case or the party's attorney has failed to take an action ordered by the Court; or

(d) based on the record of the case the Court determines further prosecution is not likely to occur.

Rule 3.2. Notice

The Court shall give notice to all parties if a case is selected to be dismissed for want of prosecution. The Court shall dismiss the case on the date indicated in the notice of dismissal unless there is good cause for the case to be retained on the docket.

CHAPTER 4. RULES OF DECORUM

Rule 4.1. General Rules of Courtroom Conduct

(a) All officers of the Court, except the Judge and jurors, and all other participants except witnesses who have been placed under the Rule, shall promptly enter the courtroom before the scheduled time for each court session. When the bailiff calls the Court to order, all persons in the courtroom shall observe complete order.

(b) In the courtrooms, a person may not:

(1) use tobacco;

(2) chew gum;

(3) read newspapers or magazines;

(4) possess a bottle, cup, or other beverage container, other than bottled water or Court-provided water pitchers and cups, except for jurors;

(5) eat food;

(6) rest feet on tables or chairs;

(7) make noise or talk in a manner that interferes with court proceedings, including using cellular phones; or

(8) if the person is a juror, use an electronic device.

(c) The Judge, counsel, and other officers of the court will refer to and address other court officers or participants in the proceedings respectfully and impersonally, by using appropriate titles and surnames rather than first names.

(d) The Court shall administer the oath in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth.

(e) All persons appearing before the Court shall dress appropriately for court sessions.

Rule 4.2. Conduct of Counsel

(a) Counsel should observe the letter and spirit of the Lawyer's Creed and the Canons of Ethics, including those dealing with discussion of cases with representatives of the media and those concerning improper *ex parte* communications with the Court.

(b) Counsel should advise their clients and witnesses of the local Rules of Decorum.

(c) All objections, arguments, and other comments by counsel shall be directed to the Court or jury and not to opposing counsel.

(d) While another attorney is addressing the Court or jury, an attorney should not stand for any purpose except to make an objection.

(e) Counsel should not approach the bench without leave of Court and may not lean on the bench.

(f) Counsel shall remain seated at the counsel table except:

(1) when the Judge or jury enters and leaves;

(2) when addressing the Court or jury;

(3) when necessary to handle documents, exhibits, or other evidence; and

(4) with leave of Court.

(g) Counsel should anticipate any need to move furniture, appliances, or easels and make advance arrangements with the bailiff. Tables should not be moved during court sessions.

APPROVED this 10 day of January, 2012.

The Honorable Bonnie J. Robison
Presiding Judge
Denton County Probate Court
Denton County, Texas

The Honorable David W. Jahn
Associate Judge
Denton County Probate Court
Denton County, Texas