

**BRAZOS COUNTY
LOCAL RULES
OF
ADMINISTRATION**

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RULE 1.
GENERAL PROVISIONS

1.10 Time Standards for Case Disposition

Each court shall, so far as reasonably possible, ensure that all cases are brought to trial or final disposition in conformity with the Rules of Judicial Administration promulgated by the Supreme Court of Texas.

1.11 Terms of Court; Annual Calendars; Weeks Not in Session; Holidays

a. Terms of Court; Weeks Not in Session. The courts of Brazos County have successive terms and are in session every week of the year.

b. Annual Calendars.

(1) District Courts. Each district court shall determine its own annual calendar.

(2) County Courts at Law. Each county court at law shall determine its own annual calendar.

(3) Magistrates, Associate Judges, Referees, Specialty Court Judges, and Court Masters. The judges of the district courts and county courts at law shall coordinate the schedules of the magistrates, associate judges, referees, specialty court judges, and court masters authorized to hear cases in this county in a manner designed to maximize the utilization of personnel and facilities available.

c. Holidays. The courts of Brazos County will observe those holidays set and published a reasonable time in advance by the Commissioners Court of Brazos County.

1.12 Hours of Court Proceedings

Normal court proceedings shall, as far as reasonably possible, be conducted between the hours of 8:00 a.m. and 5:00 p.m., Mondays through Fridays.

1.13 Emergency and Special Sessions

Each court may convene at any time in the judge's discretion for emergency or special sessions, upon reasonable notice to the parties or attorneys of record.

1.14 Jury/Non-jury Weeks

a. District Courts. The district courts shall, to the extent possible, coordinate the designation of civil jury, criminal jury and bench weeks between the three district courts to accommodate each court's schedule.

b. County Courts at Law. Jury and non-jury trial weeks or days may be designated by the judge of each county court at law.

RULE 2.
LOCAL ADMINISTRATIVE JUDGE

2.10 Powers and Duties of Local Administrative Judge

The local administrative judge shall have those powers and duties provided by Section 74.092 of the Texas Government Code and that may be provided by other law or rule.

2.11. Information to Local Administrative Judge

Each court shall provide the local administrative judge such information as may be required to fulfill the duties of such office

2.12. Exercise of Powers in Absence

In the event of the absence of the local administrative judge, the judge who last held the office, or the next available district judge according to length of time in office, may exercise the power of such office in an emergency

RULE 3.
CIVIL CASES

3.10 Filing and Assignment of Cases

a. Cases within Exclusive Jurisdiction of the County Courts at Law. All civil cases within the exclusive jurisdiction of the county courts at law (i.e., all probate, mental illness, appeals from justice and municipal courts, and civil cases where the amount in controversy is less than \$500 but more than \$200) and condemnation cases (where title to the subject property is not in question) shall be presented for filing to the County Clerk.

b. Cases within the Exclusive Jurisdiction of the District Courts. All civil cases within the exclusive jurisdiction of the district courts shall be presented for filing to the District Clerk.

c. Concurrent Civil Jurisdiction Cases.

All civil cases within the concurrent civil jurisdiction of the district courts and county courts at law (i.e., civil cases when the matter in controversy exceeds \$500 and does not exceed \$250,000, exclusive of interest, and all family law matters) shall be presented for filing to the District Clerk.

d. Assignment of Cases.

(1) All cases within the exclusive jurisdiction of the district courts shall be randomly assigned to a district court.

(2) All cases within the exclusive jurisdiction of the county courts at law shall be randomly assigned to a county court at law.

(3) All cases within the concurrent jurisdiction of the district courts and county

courts at law shall be randomly assigned and equally distributed among the district courts and county courts at law, subject to the following limitations:

(a) All juvenile cases shall be assigned to the 272nd District Court.

(b) All Title IV-D cases (as defined by the Texas Family Code) shall be assigned to a district court.

(4) To assure randomness of assignment, if a party dismisses or non-suits a case and refiles it within one year after dismissal, it will be reassigned to the court in which it was pending at the time of dismissal or non-suit.

(5) This rule 3.10(d) will apply to all newly filed cases in Brazos County, those transferred to Brazos County on change of venue, and those cases in Brazos County ordered reassigned by a recusing or transferring judge. Nothing herein will prevent judges from exchanging benches, sitting for another judge, or transferring cases between themselves, when allowed by law or these local rules.

3.11 Filing on Holidays

No local rule under this subdivision.

3.12 Transfer of Cases; Docket Exchange; Bench Exchange

a. If a judge determines, either sua sponte or upon motion, that his or her court does not have subject-matter jurisdiction over a case, but venue appears proper in Brazos County, the judge shall transfer the case by written order to the appropriate clerk for reassignment

to a court in this county which has subject-matter jurisdiction.

b. A civil case may be transferred from one court to another having jurisdiction:

(1) upon motion of a party, for good cause shown;

(2) in the event the judge is disqualified to hear or recuses himself or herself from hearing the case;

(3) when the case should be transferred in the interest of justice;

(4) to facilitate docket control as provided by law or by court rules; or

(5) when at least one common party and substantially similar questions of fact or law appear in each case in two or more courts (in which situation, the case having the higher cause number shall be transferred to the court having jurisdiction over the case with the lowest cause number.

(6) in family law cases when another court has previously exercised jurisdiction over any member of the family (All applications for protective orders and Title IV-D cases) should be transferred to the court having continuing exclusive jurisdiction).

c. No case may be transferred under paragraph (a) or (b) above except upon the consent of the judge of the court to which the case is being transferred.

3.13 Request for Settings--Non-Jury

a. Submission for Ruling without Hearing. Upon the filing of any matter, the Movant or the court may give notice to all attorneys of record and parties pro se that the matter will be submitted to the court for a ruling without any hearing. The notice shall clearly state that any party may either request a hearing or submit a written response on or before a specific submission date that is at least ten (10) days after service of such statement. If no hearing is requested prior to the submission date contained in the notice, the court, in the absence of counsel, shall examine the pleadings, authorities cited, and other papers submitted. After such examination the court may either set the matter for a hearing or make such rulings as the court deems proper, note a memorandum of such ruling among the papers of the case and send copies of such memorandum to all attorneys of record and parties pro se. Submission of orders, judgments or other documents necessary to effectuate the memorandum ruling of the court shall be accomplished in accordance with Rule 3.43.

b. Contested Hearings

(1) Any party or attorney of record may obtain a setting of any contested proceeding by filing a Setting Request (furnished by the clerk, court coordinator, or in a form substantially similar to the form in Appendix). Each Setting Request shall be filed with the clerk of the court, who shall promptly transmit the setting request to the Court Coordinator of the appropriate court. Each Setting Request shall specify:

(a) the cause number and style of the case;

(b) the nature of the hearing, trial or ruling sought;

(c) the name, mailing address, email address, and telephone number of each attorney of record or party pro se;

(d) the amount of time estimated by the requesting party to be required for such hearing for both sides. Each attorney or party is cautioned to give careful attention to the amount of time requested, as other cases may be set at the conclusion of the estimated time period.

(2) The attorney or party filing the setting request shall mail or deliver, by any reasonable means, a copy of the setting request to all attorneys of record and all parties pro se. The original setting request shall be retained with the original filings in the court's file.

(3) The court shall direct delivery by any reasonable means a Notice of Setting to each attorney of record and party pro se at the physical or electronic mailing address in the court's file. The Notice of Setting shall state the date, hour, nature of the trial or hearing set, and the allotted time for the hearing. Failure of the requesting attorney or party pro se to accurately state the names and addresses of opposing counsel or party pro se shall be ground for a continuance on the motion of an attorney of record or party pro se who did not receive the Notice of Setting within a reasonable time prior to the hearing date.

(4) The setting specified in the Notice of Setting shall remain tentative for a period of ten (10) calendar days after the same is

delivered by the court. During such period, any attorney may notify the court coordinator of a conflict of settings or other scheduling conflict. Upon receipt of a signed certificate setting forth the nature and extent of the conflict and with the approval of the court, the court coordinator may reset such cause to another tentative date or time. After the expiration of the ten (10) day period specified above, the setting shall become final.

c. Audio/Video Hearings (“Zoom” or other program utilized by the courts)

(1) When a setting has been given for a hearing that does not involve the presentation of evidence, the court may consider requests for an attorney to appear by audio/video.

(2) To request an audio/video hearing, attorneys or pro se parties must contact the court coordinator by e-mail, or in writing, and give notice of your request to all other attorneys of record as soon as possible before the hearing, but no later than two days prior to the hearing. Notice to opposing counsel must be by lawyer-to-lawyer conversation if by phone, and if written, must be given a sufficient time in advance to provide reasonable assurance of delivery.

(3) Any attorney objecting to the requested audio/video hearing should make the reasons for objection known to the court coordinator as soon as possible before the hearing. The court will rule on the request and any objections without a hearing as early as possible. It is the responsibility of the attorneys to contact the court coordinator to ascertain if the request has been granted or refused.

(4) No request to appear by audio/video shall be made less than two days before the

time scheduled for the hearing. All documents to be referenced at or offered as an exhibit at such audio/video hearing, if approved, must be provided to the court, opposing counsel, and opposing parties at least 48 hours before the scheduled hearing.

3.14 Disposition of Uncontested Matters

Requests for hearing uncontested matters and ex parte matters may be made in person, by telephone, or in writing to the court coordinator for the court in which the matter is pending. The court coordinator will set the matter for the next available uncontested docket or at any other time that may be convenient to the parties and the court. The requesting party shall, when required by these rules or other applicable law, notify all attorneys of record or parties pro se of such setting.

3.15 Request for Settings—Jury

Any attorney of record or party pro se may request a jury trial setting in the manner specified by Rule 3.13b above.

3.16 Jury Fee and Jury Demand

No civil case shall be set for a jury trial unless a jury setting request is filed and the proper jury fee is paid not later than thirty (30) days before the date the case is set for bench trial.

3.17 Docket Call & Final Pretrial Announcements

All attorneys of record and parties pro se are expected to appear at all docket calls and final

pretrial hearings unless the Notice of Setting specifies otherwise or they have leave of court.

3.18 Assignment of Cases for Trial

No local rule under this subdivision.

3.19 Conflicting Settings and Assignments of Counsel

a. Attorney already in trial in another court (Lead Attorney Only).

(1) When informed that a lead attorney is presently in trial, the Court will determine where and when assigned. This information will be verified upon request of opposing counsel or party pro se. The case will be placed on "hold" or reset, depending upon when the attorney will actually be released.

(2) If the attorney is not actually in trial as represented by the attorney or agent, the case will be tried without further notice.

b. Attorney assigned to two courts for the same date (Lead Attorney Only).

(1) It is the duty of the lead attorney to call the affected judge's attention to all dual settings as soon as they are known.

(2) Insofar as 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:

- (I) Preferentially set cases;
- (II) Criminal cases in which the defendant is in jail, whether

initial case or on probation revocation;

- (III) All other criminal cases;
- (IV) Cases given preference by statute;
- (V) Case with earliest filing date;
- (VI) Case set at earliest date;
- (VII) Courts in metropolitan county areas should yield to courts in rural county areas in all other instances of conflicting settings; &
- (VIII) In the event of unresolved conflict between two judges, the issue will be decided by the Local Administrative Judge or the Regional Presiding Judge.

3.20 Preferential Settings

a. Preferential settings may be granted in the following cases:

- (1) those entitled to preferential setting by law;
- (2) those in which there are out-of-county parties or witnesses; or
- (3) those in which it is shown that manifest hardship would be imposed upon any litigant or a material witness if a preferential setting is not granted.

b. Unless otherwise provided or required by law, a preferential setting shall be granted

only after hearing, if requested by any party, upon motion, duly verified, setting forth the reason that the preferential setting is necessary.

3.21 Resetting's

No setting shall be passed except by:

- a. settlement agreement announced in open court or in writing complying with Rule 11 of the Texas Rules of Civil Procedure;
- b. written agreement of all parties with court's approval; or
- c. a motion for continuance granted by the Court.

3.22 Dismissal Docket; Involuntary Dismissal

a. Cases which have not been disposed within the time limits set forth in the Texas Rules of Judicial Administration may be dismissed for want of prosecution. Notice of intention to dismiss shall be given in accordance with Rule 165a of the Texas Rules of Civil Procedure to all attorneys of record and parties pro se whose addresses are shown on the docket or in the papers on file.

b. Unless good cause is shown as required in the notice, such cases will be dismissed on or after the date stated therein. Notification of the dismissal order shall be as provided in Rule 306a of the Texas Rules of Civil Procedure.

3.23 Suspense Docket

No local rule under this subdivision.

3.24 Hearings of Pre-trial Pleas and Motions

Any attorney of record or party pro se may request a hearing of any pre-trial plea or motion a reasonable length of time prior to trial on the merits unless otherwise provided by pre-trial order. Hearings should be requested using the procedure provided in Rule 3.13 of these rules.

3.25 Attorney Conference Requirement and Procedures

No local rule under this subdivision.

3.26 Non-compliance with Conference Procedures.

No local rule under this subdivision.

3.27 Discovery Disputes

All counsel are expected to engage in good faith negotiations for the settlement of discovery disputes prior to requesting a hearing to resolve such disputes.

3.28 Severances

No local rule under this subdivision.

3.29 Continuances

All motions or requests for continuances must be by written motion with order unless otherwise ordered by the court.

3.30 Default Judgments

No local rule under this subdivision.

3.31 Summary Judgments

No local rule under this subdivision.

3.32 Ancillary Proceedings

No local rule under this subdivision.

3.33 Complex Case Designation

No local rule under this subdivision.

3.34 Alternative Dispute Resolution

No local rule under this subdivision.

3.35 Pre-Trial and Scheduling Conferences

a. Any party may request that the case be set for a pre-trial hearing. A pre-trial hearing may also be set on the court's own motion and may be made a prerequisite to any trial setting in the case.

b. At the pre-trial hearing, the court may hear and consider any pre-trial matter contemplated by Rule 166 of the Texas Rules of Civil Procedure and such other matters as the court may direct.

3.36 Certificate of Progress; Proposed Preparation Plan

No local rule under this subdivision.

3.37 Trial Stipulations and Admissions

Unless another date is controlling per a court scheduling order, any and all trial stipulations, including trial exhibits, evidence, deposition designation agreements, & Motions in Limine

shall be filed by 5:00 p.m. two days prior to the date set for the final pretrial hearing or docket call hearing (regardless of whether such hearing is in person or by submission). Late filings will be allowed only upon a showing of good cause.

3.38 Trial Witnesses and Exhibits

Unless another date is controlling per a court scheduling order, designation of trial witnesses and exhibits shall be filed at or before the date set for the final pretrial hearing or docket call hearing (regardless of whether such hearing is in person or by submission). Late filings will be allowed only upon a showing of good cause.

3.39 Disposition Conferences

No local rule under this subdivision.

3.40 Settlements

No local rule under this subdivision.

3.41 Jury Selection

No local rule under this subdivision.

3.42 Jury Charge, Questions and Instructions

Unless another date is controlling per a court scheduling order, proposed jury charge questions and instructions shall be filed at or before the time set for the final pretrial or docket call hearing.

3.43 Submission of Orders, Judgments and Instruments

a. After a ruling, the attorney directed shall prepare the form of the document to be entered in duplicate originals. On the same

date the document is delivered to the court coordinator, the duplicate of the document shall be mailed, emailed or delivered to opposing counsel and parties pro se to provide an opportunity to approve or object to the form of the document or that the document is inconsistent with the court's ruling (i.e., not a re-argument of the merits).

b. If no written objection is received by the court coordinator within ten (10) calendar days after the original was received, the court coordinator shall submit the document to the court for signature.

c. All objections to the form or substance of a document submitted shall have the objecting party's proposed document for the court's signature attached. Upon receipt of objections, the court coordinator shall present the documents and all objections to the court for determination. The court may determine the issue with or without a hearing in its discretion. For good cause, the court may change the deadline for preparation and filing of a document and objections.

d. All judgments and orders in uncontested matters shall be presented at the time of hearing on such matters, except for good cause shown.

e. If the court coordinator has not received a proposed judgment or order finally disposing

of a case within thirty (30) days after decision by the court, the judge or the court coordinator shall send notice of intent to dismiss the case for want of prosecution to each attorney and pro se litigant in the case and present an Order of Dismissal with prejudice to the court. Court costs may be taxed in the court's discretion.

3.44 Withdrawal and Copying of Documents

No local rule under this subdivision.

3.45 Other Local Rules

No local rule under this subdivision.

RULE 4.
FAMILY LAW CASES

4.10 Time Standards for Family Law Case Disposition.

No local rule under this subdivision.

4.11 Ancillary Proceedings, Temporary Orders, and Emergency Matters

In the event a bona fide emergency exists or a matter requires special attention and the judge of the court where the case is pending is unavailable, the attorney or party seeking relief shall contact any judge who has jurisdiction and the judge can consider the matter, but the case shall remain in the court originally filed. Unless otherwise ordered, a hearing on Temporary Orders shall be set only after the parties mediate. Regardless of the issues presented, each party shall prepare or present the following exhibits for each Temporary Orders prior to the commencement of the hearing.

- a. Financial Information Statement;
- b. Two prior years' income tax returns with all schedules and attachments;
- c. Three previous months' pay stubs;
- d. Proof of health and dental insurance, including expense of same for only the child(ren), in any, before the court; and
- e. Proposed relief for that party.

4.12 Mediation Counseling

Mediation is required prior to requesting a setting for Temporary Orders hearing and prior to a request for a final trial hearing. The court encourages parties to choose their own mediator who has substantial family law experience. In the absence of an agreed mediator, the court orders all cases mediated at the Dispute Resolution center of Brazos County, Texas.

4.13 Disposition Proposals

a. To expedite disposition, it shall be the duty of each attorney to confer, prior to trial, with each other attorney regarding settlement, stipulations, estimated time of trial, waiver of jury, the extent, description, character and value of the property in question, amount of support, amount of monthly income, conservatorship, periods of possession and/or access, rights, duties and powers of the conservators, and contested issues.

b. Cases will be set for final trial upon written request filed by the requesting party using a Setting Request form.

c. Upon proper request and payment of a jury fee pursuant to Texas Rules of Civil Procedure 216, the Associate Court may conduct a jury trial on the issues about which a jury may decide a binding issue or give its advisory opinion pursuant to the Family Code.

d. Each attorney shall submit the following exhibits to the court and opposing counsel according to the court's Scheduling Order/Docket Control Order. If no such Order is issued, then the following shall be submitted not later than 5:00 p.m. the day before commencement of trial:

1. Sworn Inventory and Appraisal;
2. Proposed Property Division;
3. Two prior years' income tax returns with all schedules and attachments;
4. Three previous month's pay stubs;
5. Proof of health and dental insurance, including the expense of the same for only the child(ren), in any, before the court; and
6. Proposed relief for that party.

4.14 Uncontested Matters

Requests for hearing uncontested matters and ex parte matters may be made in person, by audio/video or in writing to the court coordinator for the court in which the matter is pending. The court coordinator will set the matter for the next available uncontested docket or at any other time that may be convenient to the parties and the court. The requesting party shall, when required by these rules or other applicable law, notify all attorneys of record or parties pro se of such setting.

Uncontested and agreed matters may be proven-up by a properly efiled and executed sworn affidavit as to jurisdiction, legal and factual matters.

4.15 Income Withholding

Every order submitted to the court for approval of child support shall be accompanied with an order or writ of income withholding as provided by law.

4.16 Child Support Guidelines

The amount of child support payable by the obligor parent in accordance with the current Child Support Guidelines adopted by the Supreme Court of Texas are presumptively reasonable.

4.17 Possessory Conservator Visitation Guidelines

The courts of Brazos County utilize the Standard Possession Order provided in Texas Family Code in determining the appropriate periods of possession.

4.18 Ad Litem and Amicus Appointments

The attorneys requesting appointment of attorneys and guardians ad litem may recommend a suitable, qualified person for such appointment. Proposed orders of appointment should accompany each such request.

4.19 Children in Court

In all cases where the court deems testimony of a child to be necessary or required by law, the attorney wishing the child interviewed shall arrange the day and time through the court coordinator for the interview. The attorney SHALL NOT bring the child to the courthouse without prior arrangement pursuant to this rule. The attorney or litigant responsible for the child's attendance at court shall immediately notify the court coordinator of the child's arrival at the courthouse.

4.20 Parenting Classes

A court-approved parenting class is required in all cases involving children.

RULE 5. LIQUIDATED CLAIMS

5.10 Liquidated Monetary Claims

Whenever a claim is liquidated and proved by an instrument in writing and the plaintiff is entitled to default judgment, the plaintiff may present a prepared judgment and certificate of last known address, together with a non-military affidavit and an affidavit for attorney's fees, if appropriate, to the court for signature without a hearing. If the court is satisfied that all legal prerequisites have been met, the court may enter judgment without the necessity for a personal appearance.

5.11 Certification for Suspense Docket.

No local rule under this subdivision.

5.12 Application to Defer Entry of Judgment

No local rule under this subdivision.

5.13 Certification that Payment Agreement Continues in Effect.

No local rule under this subdivision

RULE 6. CRIMINAL CASES

6.10 Felony and Misdemeanor Cases

a. Pre-filing documents.

(1) The prosecuting attorney's office is responsible for maintaining custody of the following original documents relating to an arrest or charge for a Class A or B misdemeanor or any felony offense until an information or indictment has been filed:

(a) Bonds. The prosecuting attorney shall collect original bonds from the Sheriff daily.

(b) Magistrate's Warning.

(i) If an incarcerated defendant has not requested appointment of counsel, the completed original Magistrate's Warning will be collected from the magistrate by the prosecuting attorney immediately after completion of the warning.

(ii) All rules and regulations outlined in the Brazos County Indigent Defense Plan shall control.

(c) Other. Miscellaneous documents relating to the defendant's case (e.g., applications for probation, letters from attorneys, etc.) will be forwarded to the prosecuting attorney upon receipt.

(2) Upon filing of the information or indictment, all of the above documents will be filed by the prosecuting attorney with the District Clerk for placement in the clerk's file.

(3) Magistrate's warnings and bonds made after arrests in other cases where there is already an open clerk's file (e.g., arrests after motion to revoke/proceed or after capias is issued in connection with bond forfeiture) will be filed by the prosecuting attorney with the appropriate clerk for placement in the clerk's file.

(4) After documents are filed with the clerk as described above, the clerk will forward the file to the appropriate court coordinator.

b. Transfer of Cases.

Subject to the approval of the transferee judge, any criminal case may be transferred to another court having jurisdiction by written order.

6.11 Grand Jury

No local rule under this subdivision.

6.12 Filings/Return of Indictments

a. All felony and Class A and B misdemeanor cases within the jurisdiction of the district courts and county courts at law shall be presented for filing in the Office of the District Clerk. All appeals from Class C misdemeanors within the exclusive jurisdiction of the county courts at law shall be presented for filing in the Office of the County Clerk.

b. The clerk shall assign to a district court the following criminal cases:

- (1) Felonies;
- (2) Misdemeanors involving official misconduct; and
- (3) Class A and B Misdemeanors involving a defendant with pending felony charges.

Subject to the following overriding considerations, all other Class A and B misdemeanors and all appeals from Class C misdemeanors shall be randomly assigned to a county court at law.

c. **Assignment of cases.** Except as may be otherwise specified by court order, by agreement of the judges, or provided by law or these rules, all cases presented to the district clerk for filing will be assigned in equal number among the district courts and in equal number among the county courts at law, on a random basis, subject to the following considerations that override the random assignment requirement:

(1) If there are co-defendants with pending charges arising out of the same criminal transaction, the clerk shall assign all co-defendant's cases to the same court. All separate pending felony cases involving the same defendant, whether arising from the same criminal transaction or not, shall be assigned to the same court.

(2) If a defendant has an original pending case, motion to revoke, or motion to proceed pending before a district court, any new case(s) shall be assigned to the same court.

(3) If a defendant has an original pending case, motion to revoke, or motion to proceed pending before a county court at law, and an original felony case, motion to revoke or motion to proceed is subsequently randomly filed in district court, the case(s) pending in the county court at law shall be transferred by the county court at law to the district court in which the felony case was randomly filed.

(4) When a defendant has been the subject of a case relating to a criminal matter, but filed as a civil case (e.g., habeas corpus, motion for bond reduction, or petition for forfeiture of property), any criminal case(s) against that defendant and related to the same criminal transaction shall be assigned to the court to which the civil case was assigned, provided the court has subject matter jurisdiction.

(5) Conflicts between these rules for assignment of cases shall be resolved as follows:

(i) All co-defendants' cases shall be assigned to the court first assigned another co-defendant's case according to these rules, even though another co-defendant may have a motion to revoke, motion to proceed, or related civil case pending before another district court.

(ii) If the county court at law does not have jurisdiction to determine the matter that should be transferred, the county court at law may consider transferring the pending case to the district court if the district court would have jurisdiction over all pending cases related to a defendant or all co-defendants.

(iii) For any other circumstances not specifically addressed in this rule, it is the expressed intent of the courts that, within the limitations of subject-matter jurisdiction, all criminal cases relating to a single defendant or co-defendants be heard and determined in only one court and these rules shall be liberally construed to carry that intent into effect.

(6) When the district clerk erroneously assigns a criminal or civil case in conflict with the above rules, the affected courts may transfer the case to conform with these rules. However, nothing herein shall affect the otherwise lawful jurisdiction of a court to which a case is assigned.

6.13 Arraignment/Initial Appearance

Unless specifically retained by the court to which a case is assigned, all non-capital criminal cases are, by these rules, referred to the County Associate Courts for the purpose of all determinations of indigency, appointment of counsel, and arraignment.

6.14 Appointment of Counsel

- a. Determinations of indigency and appointment of counsel shall be made in accordance with the current Brazos County Indigent Defense Plan.
- b. A determination by the majority of the judicial board of Brazos County (District and County Court at Law judges) or any formal source that an attorney has provided ineffective assistance of counsel shall be just cause to remove that attorney from a court-appointed attorney list and

deny appointments under the Brazos County Indigent Defense Plan.

6.15 Appearance of Defendant and Counsel/Court Attendance

- a. Defendants and attorneys shall appear in person for all court dates, unless otherwise approved by the court.
- b. Appropriate court attire is required. Failure to dress appropriately will result in removal from court and will be treated as a failure to appear. The following attire is not permitted:
 1. Cap/hats;
 2. House shoes;
 3. Tank tops & muscle shirts;
 4. Strapless blouse or dress;
 5. Shirts with inappropriate language, advertising, campaign slogans, or social commentary;
 6. Shorts;
 7. Skirts of inappropriate length;
 8. Clothing exposing midriff;
 9. Low-cut shirts/blouses; &
 10. Sagging pants.

This list is not exhaustive and the courts have discretion to determine if attire is appropriate or not.

6.16 Bond and Bond Forfeiture

No local rule under this subdivision.

6.17 Discovery

No local rule under this subdivision.

6.18 Docket Calls/Announcements

No local rule under this subdivision.

6.19 Continuance, Resettings, and Postponements

No setting shall be passed or reset except by:

- a. written agreement of all parties with court's approval; or
- b. a written motion for continuance granted by the Court.

6.20 Plea Bargains

- a. **County Courts:** Prior to a plea agreement being set on the docket, all completed plea agreement documents must be e-filed or emailed to the court-coordinator three (3) days before the requested setting date;
- b. **District Courts:** Prior to a plea agreement being set on the docket, all completed plea agreement documents must be e-filed or emailed to the court coordinator by 3:00 p.m. the day before the requested setting date.

6.21 Guilty Pleas / Nolo Contendre / Open Pleas

The associate court may hear and accept a plea of guilty or nolo contendere in any non-capital criminal case pending in any county court at law or district court without the necessity of a separate order of referral.

6.22 Speedy Trial

No local rule under this subdivision.

6.23 Motions/Pre-trial Hearings/Pre-trial Matters.

All pre-trial hearings shall be conducted in accordance with Article 28.01 of the Texas Code of Criminal Procedure.

6.24 Settings/Schedules

a. Any pro se defendant or attorney of record may obtain a setting of any contested proceeding by filing a Setting Request (furnished by the clerk, court coordinator, or in a form substantially similar to the form in Appendix). Each Setting Request shall be filed with the clerk of the court and shall specify:

(1) the cause number and style of the case;

(2) the nature of the hearing, trial or ruling sought;

(3) the name, address and audio/video number of each attorney of record, each defendant, and the name of defendant's surety bondsman, if applicable;

(4) the amount of time estimated by the requesting party to be required for such hearing for both sides. Each attorney or party is cautioned to give careful attention to the amount of time requested, as other cases may be set at the conclusion of the estimated time period.

b. The attorney or party filing the setting request shall deliver to all attorneys of record and all parties pro se in the case a copy of the setting request. The original setting request shall be retained with the original filings in the court's file.

c. The court shall deliver a Notice of Setting to each attorney of record, to each defendant, and to the defendant's surety bondsman at the address shown on the Setting Request. The Notice of Setting shall state the date, hour, nature of the trial or hearing set, and the allotted time. Failure of the requesting attorney to accurately state the names and addresses of opposing counsel shall be grounds for a continuance on the motion of an attorney of record who did not receive the Notice of Setting within a reasonable time prior to the hearing date.

d. If the date specified in the Notice of Setting is at least fourteen (14) calendar days from the date the Notice of Setting was sent, the setting specified in the Notice of Setting shall remain tentative for a period of ten (10) calendar days after the same is delivered by the court coordinator. During such period, any attorney may notify the court coordinator of a conflict of settings or other scheduling conflict. Upon receipt of a signed certificate setting forth the nature and extent of the conflict and with the approval of the court, the court coordinator may reset such cause to another tentative date or time. After the expiration of the ten (10) day period specified above, the setting shall become final, and may only be continued, reset or postponed in accordance with these rules.

e. If the date specified in the Notice of Setting is less than fourteen (14) calendar days from the date the Notice of Setting was sent, the setting specified in the Notice of Setting is immediately final and may only be continued, reset or postponed in accordance with these rules.

6.25 Order of Trials/Preferential Settings/Conflicting Engagements (Lead Counsel only)

a. Preferential settings.

(1) Preferential settings may be granted in the following cases:

(a) those entitled to preferential setting by law;

(b) those in which there are out of county parties or witnesses; or

(c) those in which it is shown that manifest hardship would be imposed upon any litigant or material witness if a preferential setting is not granted.

b. Conflicting Engagements (Lead Counsel Only)

(1) Attorney already in trial in another court.

(a) When informed that an attorney is presently in trial, the Court will determine where and when assigned. This information may be verified by the court and will be verified upon request of opposing counsel or party pro se. The case will be placed on "hold" or reset, depending upon when the attorney will actually be released.

(b) If the attorney is not actually in trial as represented by the attorney or agent, the case will be tried without further notice.

(2) Attorney assigned to two courts for the same date.

(a) It is the duty of the attorney to call the affected judge's attention to all dual settings as soon as they are known.

(b) Insofar as 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:

- (i) Preferentially set cases;
- (ii) Criminal cases in which the defendant is in jail, whether initial case or on probation revocation;
- (iii) All other criminal cases;
- (iv) Cases given preference by statute;
- (v) Case set at earliest date;
- (vi) Case with earliest filing date;
- (vii) Courts in metropolitan county areas should yield to Courts in rural county areas in all other instances of conflicting settings; &
- (viii) In the event of unresolved conflict between two judges, the issue will be decided by the Local Administrative Judge or the Regional Presiding Judge.

6.26 Witnesses/Evidence

The State and Defendant will be limited to no more than five (5) character witnesses per defendant, except for good cause shown.

6.27 Non-Jury Trials

No local rule under this subdivision.

6.28 Jury Trials

No local rule under this subdivision.

6.29 Jury Selection/Voir Dire

No local rule under this subdivision.

6.30 Probation Applications/Deferred Adjudication

No local rule under this subdivision.

6.31 Pre-Sentence Report

No local rule under this subdivision.

6.32 Judgments/Orders

No local rule under this subdivision.

6.33 Occupational Driver's License

Whenever a suspension of a person's driver's license was by order of any district or county court at law in this county, any petition for occupational driver's license may be heard only in the court which originally suspended the license.

6.34 Probation Revocations/Motions to Adjudicate/Habeas Corpus

No local rule under this subdivision.

6.35 Appeals from Lower Courts

No local rule under this subdivision.

**RULE 7.
MANAGEMENT OF JURIES**

7.10 Management of Juries

No local rule under this subdivision.

**RULE 8.
JUDICIAL VACATION**

8.10 Judicial Vacation The judges of the courts of record shall arrange their vacation schedules in such a manner that the county will not be left without a judge capable of hearing cases within the jurisdiction of each court.

8.11 Notification of Local Administrative Judge of Absence or Planned Vacation of Judge

The judges of the courts of record should notify the Local Administrative Judge of any absence or planned vacation of the judge as soon as practicable prior to the absence or vacation.

8.12 Requests for Visiting Judge

All requests for assignment of a visiting judge must be first delivered to the Local Administrative Judge. If the Local Administrative Judge determines that the requesting judge's docket for those dates might be handled by another court in this county, the Local Administrative Judge shall consult with the requesting judge and the judge who might handle the matter prior to forwarding the request for assignment to the Regional Presiding Judge.

RULE 9. COURT PERSONNEL

9.10 Associate Judges

a. Positions Authorized. The following associate judges have been authorized by the Commissioners Court to serve the courts in Brazos County:

(1) *Associate Judge 1* is a full-time criminal associate judge serving the district courts and county courts at law appointed by the District and County Court at Law Judges under the authority of Tex. Govt. Code §54A.002.

(2) *Associate Judge 2* is a full-time associate judge who serves as:

(a) a part-time criminal associate judge serving the district courts and county courts at law appointed by the District and County Court at Law Judges under the authority of Tex. Govt. Code §54A.002; and

(b) a part-time juvenile referee serving the district courts and county courts at law appointed by the Brazos County Juvenile Board under the authority of Tex. Fam. Code §51.04(g).

(c) A party must file an objection to the juvenile referee hearing a trial on the merits or contested hearing not later than the 10th day after the date the party receives notice that the juvenile referee or associate judge will hear the case. If an objection is filed, the referring court shall hear the trial on the merits or preside over the contested hearing.

(3) *Family Law Associate Judge* is a part-time associate judge serving the district courts and county courts at law appointed by the District and County Court at Law Judges under the authority of Tex. Fam. Code §201.001.

9.11 Qualifications of Court Personnel

No local rule under this subdivision.

9.12 Conduct of Court Personnel

No local rule under this subdivision.

9.13 Duties of Court Personnel

a. Associate Judges (Criminal):

ORDER OF REFERRAL. The Presiding Judges of the Brazos County District Courts and County Courts at Law hereby refer to the Criminal Associate Judges all powers, without limitation, necessary to complete the following proceedings:

I. An associate judge may preside over any matter arising out of a criminal case involving:

1. a determination of whether a defendant is indigent and, if so, the appointment of counsel for the defendant;
2. the arraignment of the defendant;
3. a bond forfeiture;
4. any pretrial motion;

5. a writ of habeas corpus;
 6. an examining trial;
 7. an occupational driver's license;
 8. an appeal of an administrative driver's license revocation hearing;
 9. a civil commitment matter under Subtitle C, Title 7, Health and Safety Code;
 10. setting, adjusting, or revoking bond;
 11. a motion to proceed with adjudication or motion to revoke;
 12. a motion to modify or revoke community supervision;
 13. a specialty court proceeding;
 14. early termination (from probation);
 15. sign a dismissal submitted by the State;
 16. the issuance of search warrants, including a search warrant under Article 18.02(a)(10), Code of Criminal Procedure, notwithstanding Article 18.01(c), Code of Criminal Procedure; and
 17. any other matter the judge considers necessary and proper.
- b. An associate judge may accept an agreed plea of guilty or no contest from a defendant charged with misdemeanor, felony, or both misdemeanor and felony offenses and may assess punishment if a plea agreement is announced on the record between the defendant and the state.
- c. An associate judge has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.
- d. An associate judge may select a jury. Except as provided in Subsection (b), an associate judge may not preside over a trial on the merits, whether or not the trial is before a jury.
- e. An associate judge may not enter a ruling on any issue of law or fact if that ruling could result in dismissal or require dismissal of a pending criminal prosecution, but the associate judge may make findings, conclusions, and recommendations on those issues.
- f. **POWERS.** Except as limited by an order of referral, an associate judge to whom a case is referred may:
1. conduct hearings;
 2. hear evidence;
 3. compel production of relevant evidence;
 4. rule on the admissibility of evidence;
 5. Issue summons for the appearance of witnesses;
 6. examine a witness;
 7. swear a witness for a hearing;
 8. make findings of fact on evidence;
 9. formulate conclusions of law;
 10. rule on pretrial motions;
 11. recommend the rulings, orders, or judgment to be made in a case;
 12. regulate proceedings in a hearing;
 13. order the attachment of a witness or party who fails to obey a subpoena;
 14. accept a plea of guilty from a defendant charged with

misdemeanor, felony, or both misdemeanor and felony offenses;

15. select a jury;

16. notwithstanding Article 18.01(c), Code of Criminal Procedure, issue a search warrant including a search warrant under Article 18.02(a)(10), Code of Criminal Procedure; and

17. take action as necessary and proper for the efficient performance of the duties required by the order of referral.

g. Objection to Associate Judge.

Criminal associate judges do not preside over jury trials or on any matters that raise an issue of law or fact that could result in dismissal or require dismissal of a pending criminal prosecution. Therefore, there is no right to object to the referral of a criminal matter to a criminal associate judge.

h. Court Reporter. Associate Judges shall make a recording of all proceedings; however, at the request of a party, the court shall provide a court reporter to record the proceedings before the associate judge. A party must give timely notice of the request for a court reporter.

i. Witnesses. A witness appearing before an associate judge is subject to the penalties for perjury provided by law. A referring court may issue attachment against and may fine or imprison a witness whose failure to

appear after being summoned or whose refusal to answer questions has been certified to the court.

j. Appeals. After hearing a matter, a criminal associate judge shall notify each attorney participating in the hearing of the associate judge's decision. An associate judge's decision has the same force and effect as an order of the referring court unless a party appeals the decision as provided by Subsection (1). Notice of the right to appeal or waiver of a right to appeal may be given by oral statement in open court or in writing.

1. To appeal an associate judge's decision, a party must file an appeal in the referring court not later than the seventh (7) day after the date the party receives notice of the decision.

k. Papers Transmitted to Judge.

At the conclusion of the proceedings, an associate judge shall transmit to the referring court any papers relating to the case, including the associate judge's findings, conclusions, orders, recommendations, or other action taken.

l. Judicial Action. Not later than the 30th day after the date an action is taken by an associate judge, a referring court may adopt, modify, correct, reject, reverse, or recommit for further

information the action taken by the associate judge. If the court does not modify, correct, reject, reverse or recommit an action to the associate judge, the action becomes the decree of the court.

m. Jury Coordinator. The Jury Coordinator shall:

- (1) direct and coordinate all petit jury panels and special venire and any other type jury function as directed by the courts;
- (2) hire and discharge employees of the Office of Jury Coordinator, with the concurrence of the judges of the district courts and county courts at law;

(3) supervise employees of the Office of Jury Coordinator, with the concurrence of the judges of the district courts and county courts at law;

(4) provide all necessary functions instant to efficient jury management;

(5) report to the judges of the district courts and county courts at law as necessary or directed;

(6) prepare the budget and maintain other internal records of the Office of Jury Coordinator necessary for efficient jury coordination; and

(7) such other duties deemed necessary by the judges of the district courts and the county courts at law.

RULE 10. ATTORNEYS OF RECORD

10.10 Appearance of Counsel; Designation of Attorney in Charge

No local rule under this subdivision.

10.11 Conduct and Decorum of Counsel

a. Each attorney is expected to conduct himself or herself in accordance with the State Bar of Texas Code of Professional Responsibility, the Texas Rules of Civil Procedure, the Texas Code of Criminal Procedure, the Regional Rules of Administration for the Second Administrative Region, these local rules, and such other rules of conduct as may be published by the courts of this county and state. All attorneys, litigants, and witnesses shall be expected to act in a manner calculated to promote decorum,

respect for the judicial system, and the prompt and fair administration of justice.

b. Attorneys shall be responsible for advising their clients and witnesses of the formalities of the courts, including proper dress code.

c. All officers of the court are expected to be prompt, prepared, and appropriately dressed in business attire.

d. The taking of photographs, the making of video or audio recordings, or the broadcasting of any judicial proceeding in or from any courtroom, or so close thereto as to disturb the order and decorum of the court, either while court is in session or at recess, is

prohibited, unless prior permission is granted by the court.

e. No person shall use any digital device, including their phone, in court except for court business. Attorneys are responsible for informing their staff and clients of this rule.

f. Each court shall enforce all breaches of conduct by any appropriate action.

10.12 Withdrawal of Counsel

No attorney of record shall be permitted to withdraw from any case without presenting a motion to withdraw and obtaining from the court an order granting leave to withdraw. No motion to withdraw will be entertained by the court unless it includes a certificate of the client's last known address. If withdrawal is without the written consent of the client, the withdrawing attorney shall forward to his client by certified mail notification, or by email with acknowledged receipt, of the client's right to object to the motion and the client's right to request a hearing on the client's objection together with a copy of his or her motion to withdraw and a copy of the request for setting or notice of submission without a hearing. A copy of the motion to withdraw and request for setting or notice of submission without a hearing shall be delivered or mailed to any opposing counsel. Leave to withdraw may be denied where the motion is presented so near the trial date as to require delay of the trial. After leave is granted, the withdrawing attorney shall send

the client a copy of the order granting leave to withdraw by certified mail, or by email with acknowledged receipt. A copy of the order shall then be sent to opposing counsel.

10.13 Attorney Vacations

(In accordance with Rule 11 of the Second Administrative Judicial Regional Administrative Rules, (A))n attorney may designate not more than 25 court days during a calendar year as personal days, during which that attorney will not be assigned to trial or required to engage in any pretrial proceedings. Personal days include vacation, continuing legal education or other days the attorney will not be available for court. This rule operates only where lead counsel is affected (i.e., a request to move a hearing or trial setting due to co-counsel's vacation schedule will remain within the discretion of the court). No personal day period may be designated for less than 3 consecutive court days. (EX:designating Friday, Monday and Tuesday are considered consecutive days).

Attorneys shall give the district clerk, all affected court's coordinator and the parties 120 calendar days notice of the dates of the designated personal days. With 120 days notice, any matters set will be continued. If less than 120 calendar days notice, a motion for continuance will be required for any scheduled hearings and will be considered at the discretion of the court.

**RULE 11.
ADMINISTRATIVE LAW CASES**

11.10 Administrative Law Cases

No local rule under this subdivision.

**RULE 12.
MISCELLANEOUS LOCAL RULES**

12.10 Settlement Week

No local rule under this subdivision.

**12.12 Form for Requesting Alternate
Dispute Resolution**

No local rule under this subdivision.

12.11 Form for Submitting Court Costs

No local rule under this subdivision.

**RULE 13.
ADOPTION, AMENDMENT, NOTICE**

**13.10 Procedure for Adoption and
Amendment of Local Rules**

The Local Rules of Administration of Brazos County may be adopted or amended by a majority vote of all judges of the district courts and the county courts at law.

**13.11 Adoption or Amendment by Local
Administrative Judge**

The Local Administrative Judge may promulgate local rules of administration if the other judges do not act by majority vote; provided, however, the Local Administrative Judge may not promulgate such rules unless he or she has given each of the other judges at least thirty (30) days prior written notice of his or her intent to so act.

13.12 Notice and Publication of Rules

Once the local rules of administration or any amendments have been approved by the judges of the courts and county commissioners, the rules or amendments shall be published and be made available to the Bar and the public.

**13.13 Interim Orders Affecting Local
Practice**

The judges of the district and county courts at law may from time to time promulgate by majority vote interim orders affecting local practice for the purpose of emergency action, testing of pilot programs, or other actions the judges deem reasonable and necessary.

Appendix

No. _____ - _____ - _____

Vs. _____

§ In the _____ District Court
§ County Court at Law No. _____
§ Brazos County, Texas

SETTING REQUEST – CIVIL/CRIMINAL

TYPE OF SETTING REQUESTED:

_____ Uncontested or TRO
_____ Hearing on Motion to/for _____
_____ Pretrial Hearing
_____ Bench Trial
_____ Jury Trial
_____ Ruling without a Hearing
_____ Other _____

Estimated amount of time required by both sides _____ (minutes, hours, days)

IF OPPOSING COUSEL DISAGREES WITH TIME ESTIMATED, WRITTEN OBJECTIONS MUST BE MAILED/DELIVERED TO THE COURT COORDINATORS OFFICE WITHIN TEN (10) DAYS FROM THE DATE BELOW; TIME WILL BE DIVIDED EQUALLY BETWEEN COUNSEL/PARTIES.

REQUESTING ATTORNEY OR UNREPRESENTED PARTIES:

Name: _____
Address: _____
Phone Number: _____

ALL OTHER ATTORNEYS OF RECORD OR UNREPRESENTED PARTIES TO BE NOTIFIED:

Name: _____ Name: _____
Address: _____ Address: _____
Phone Number: _____ Phone Number: _____

Week of Preference (give Monday date of commencing week)

1st Choice _____ 2nd Choice _____ 3rd Choice _____

I CERTIFY THAT A COPY OF THIS SETTING REQUEST HAS BEEN MAILED/DELIVERED TO ALL ATTORNEYS OR PARTIES OF RECORD.

SIGNATURE _____ DATE _____ STATE BAR NUMBER IF APPLICABLE _____

PLEASE RETURN ORIGINAL REQUEST TO THE DISTRICT CLERK'S OFFICE.



**In the District Courts and County Courts at Law
Brazos County, Texas**

**ORDER ADOPTING
BRAZOS COUNTY LOCAL RULES OF ADMINISTRATION**

The Judges of the District Courts and County Courts at Law in Brazos County, Texas, met and reviewed the existing Brazos County Local Rules of Administration. After consideration, the Judges approved amendments to the existing plan and adopted the attached rules as the Brazos County Local Rules of Administration.

IT IS THEREFORE ORDERED that this order and the attached Brazos County Local Rules of Administration shall be immediately posted on the Brazos County District Clerk's website.

IT IS FURTHER ORDERED that a copy of this order and the attached amendments be posted in the public access area in the District Clerk's Office.

IT IS FURTHER ORDERED that the District Clerk shall provide to any person upon request a copy of this order and the attached Brazos County Local Rules of Administration.

IT IS FURTHER ORDERED that this order and the attached Brazos County Local Rules of Administration shall be transmitted to the Office of Court Administration of the State of Texas for posting on its site.

IT IS FURTHER ORDERED that, upon approval and adoption of the Brazos County Local Rules by the Brazos County Commissioner's Court, the rules shall become effective.

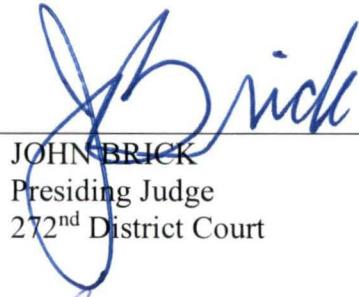
ADOPTED on June 28, 2023.



KYLE HAWTHORNE
Presiding Judge
85th District Court



DAVID HILBURN
Presiding Judge
361st District Court



JOHN BRICK
Presiding Judge
272nd District Court



ROY BRANTLEY
Presiding Judge
County Court at Law No. 2



AMANDA MATZKE
Presiding Judge
County Court at Law No. 1



**BRAZOS COUNTY
BRYAN, TEXAS**

DEPARTMENT:

NUMBER:

DATE OF COURT MEETING: 7/11/2023

ITEM: Order Adopting Brazos County Local Rules of Administration.

TO: Commissioners Court

DATE: 06/30/2023

FISCAL IMPACT: False

BUDGETED: False

DOLLAR AMOUNT: \$0.00

ATTACHMENTS:

<u>File Name</u>	<u>Description</u>	<u>Type</u>
<u>Brazos County Local Rules of Administration.pdf</u>	Local Rules of Administration	Cover Memo
<u>Order Adopting Brazos County Local Rules of Administration.pdf</u>	Order Adopting Local Rules of Administration	Cover Memo

APPROVED

 7/11/23

Duane Peters
County Judge

Date