

These rules apply to the 47<sup>th</sup> District Court while presiding over cases in Potter, Randall and Armstrong counties. These rules are in addition to the Armstrong, Potter, and Randall County local rules. Should there exist a conflict between the rules, these rules shall control.

## CHAPTER 1 General Provisions

### **1.0 Children in the Courtroom**

No child shall be brought into the courtroom unless the Court has specifically requested the child to be brought into the courtroom for interview or testimony, or unless the Court has granted permission for the child to be present in the courtroom.

### **1.1 Cell Phone Policy**

Use of cellphones while court is in session, save and except for legal purposes, is strictly prohibited. Please turn off or silence your cell phone and do not use while in the courtroom.

### **1.2 Food Items**

No eating or chewing gum in the courtroom unless the Court has expressly stated otherwise.

### **1.3 Dress Code – Counsel**

When in a jury trial, counsel are expected to dress professionally. Coats are expected with ties for men. Ladies are expected to wear jackets with slacks, skirts or dresses. You may wear jeans on a Friday, but please put on a jacket.

### **1.4 Dress Code - Witnesses, Parties, and Gallery**

T-shirts with obscene language, offensive photos or gang symbols are not permitted. T-shirts, buttons, or signs of any kind commenting on a case are prohibited. Shorts are not allowed. Hats must be removed. Tank tops, muscle shirts and crop tops are not permitted.

### **1.5 Interference with Court Proceedings**

Members of the gallery are expected to sit quietly during all court proceedings. They should not audibly comment or react to any portion of the proceeding.

### **1.6 Recording Court Proceedings**

No one shall film or record court proceedings.

## **1.7 Illness**

Do not attend court if you are diagnosed with a communicable illness and know you are contagious. If you are a party, defendant, or witness, contact your attorney or the attorney who asked or subpoenaed you to appear. Medical documentation may be required.

## **CHAPTER 2** **Setting Cases**

### **2.0 Requesting a Setting and Time Estimate Requirement**

A party must not request a setting unless the party has previously filed the motion triggering the request for setting. Each request for a setting, verbal or written, must include an estimate of the total time required for the entire hearing, on all matters, for all participants. Please note that a half-day hearing usually includes a break, and a full-day hearing includes breaks in the morning and afternoon as well as a lunch break. Any matter which the court determines cannot reasonably be heard within the requested time will be rescheduled or continued at the discretion of the court.

### **2.1 Notice of Setting to be Provided by Party Obtaining the Setting**

All settings for hearings must be scheduled through the Court Administrator via email, even those included in an order signed by a judge. The party who obtains the setting must give notice to all parties of the time, place, and date of a setting and the total time needed for the entire hearing for all participants. Notice must be given in the manner and within the time provided by the Texas Rules of Civil Procedure. Notice must be sent the same day the party obtains the setting, and any delay in sending notice may be argued by the opposing party as a basis for continuance.

## **CHAPTER 3** **Motions**

### **3.0 Motion to Withdraw**

A hearing is required for a motion to withdraw unless the motion complies with Rule 10 of the Texas Rules of Civil Procedure and is filed with:

- (a) A written consent to the withdrawal signed by the withdrawing attorney's client(s);
- (b) A written consent to the withdrawal signed by all other parties in the action who have appeared;
- (c) A certificate of last known address of the client(s), containing the client's address, telephone number, email address, and, if available, fax number; and
- (d) A certification that there are no rulings of the court that have yet to be reduced to writing.

\*\*This Rule also applies in criminal cases.

### 3.1 Motion to Substitute Attorneys

A hearing is required for a motion to substitute attorneys unless the motion complies with Rule 10 of the Texas Rules of Civil Procedure, and is filed with:

- (a) A written consent to the substitution signed by all other parties in the action who have appeared;
- (b) A certificate of service notifying withdrawing attorney of the motion to substitute;
- (c) The substituting attorney's name, State bar number; address, telephone number, email address, and, if available, fax number; and
- (d) A certification that there are no rulings of the court that have yet to be reduced to writing.

*\*\*This Rule also applies in criminal cases.*

### 3.2 Motion for Continuance

Counsel must follow the Texas Rules of Civil Procedure, Texas Rules of Criminal Procedure, or other applicable rules and statutes, and proper motion practice for proper consideration of any requested relief. Absent extreme circumstances, oral requests for continuance are disfavored, and requests for reset should be in writing, at least 48 hours before a hearing—or as soon as practical. Written, verified motions for continuance are preferred to Rule 11 Agreements. Motions for continuance should state whether opposing counsel, or any opposing self-represented person, agrees or opposes the request. Even if all parties and counsel agree, the court retains discretion to grant or deny a motion for continuance. A hearing is required for a contested motion for continuance.

## CHAPTER 4

### Hearings

### 4.0 Remote Participation

Subject to Texas Rules of Civil Procedure 21d and constitutional limitations, the Court may allow any person—including but not limited to a party, attorney, witness, court reporter, or interpreter—involved in any hearing or other proceeding of any kind to participate remotely by video conference.

- (a) To participate by video conference, lawyers, parties, and witnesses must appear on-camera while the case is called and heard. Appearances solely by audio means are disallowed.
- (b) Counsel, whose clients or witnesses appear by video conference, shall provide adequate instructions on video conference technological requirements prior to the commencement of the hearing. Failure to prepare clients and witnesses prior to the hearing may waive their appearances.
- (c) No person shall operate a motor vehicle while a case is called and heard.
- (d) If any party objects to remote appearance, the court will consider and rule upon this objection.

## CHAPTER 5

### Dismissals

## 5.0 Notice to Dismiss for Want of Prosecution

The Court Coordinator will give notice that certain cases will be dismissed for want of prosecution. Such matters will be dismissed summarily without further proceedings on the dismissal date indicated in the notice of dismissal or thereafter unless:

- (a) At least one party files a motion to retain that complies with rule 3.2(a); or
- (b) At least one party appears and is granted additional time by the court.

If counsel receives a notice of dismissal of a previously dismissed or concluded case, they may contact the Court Coordinator and the District Clerk's office with documentation of the prior dismissal and the matter will be removed from the dismissal docket.

## 5.2 Motions to Retain and Objections to Motions to Retain

- (a) Motions to retain must set forth the factual and legal basis for retaining the case and must be filed at least 14 days prior to the dismissal date specified in the notice of dismissal.
- (b) Any objection to a motion to retain must be filed at least 7 days prior to the dismissal date specified in the notice of dismissal.
- (c) If a timely motion to retain is filed and no timely objection is filed, the court may grant the motion or may set it for hearing.
- (d) If a timely motion to retain and a timely objection are both filed, the court will consider the motion to retain on submission, or instruct the parties to set the motion to retain for hearing.

## CHAPTER 6

### Jury Trials

## 6.0 Jury Trials

- (a) Counsel and parties shall appear for jury trials at 8:30 a.m. Voir dire will begin promptly thereafter as soon as possible.
- (b) All pre-trial motions should be heard prior to morning of trial. Attorneys are to contact the Court Administrator to set a hearing date and time.
- (c) If an agreement is reached in a criminal matter, the plea hearing should be set and concluded prior to morning of trial. Please note, the 47<sup>th</sup> is not always in the trial county the week prior to a trial. Therefore, attorneys must plan ahead. Cases will remain on the docket and witnesses should not be released until the plea is final. If the defendant elects not to proceed with a plea hearing defendant, state and counsel should be ready for trial on their current setting.
- (d) Voir dire will begin as close to 9:00 a.m. as possible. Attorneys will be allowed as much time for voir dire **as needed**. However, questioning must be direct and non-repetitive. Ideally, a jury should be picked by 12:00 p.m., followed by a one (1) hour lunch break and opening statements beginning immediately after lunch.

## 6.1 Exhibits

- (a) Exhibits should be clearly marked on the front of the first page.
- (b) Photographs should be marked on the front of the photograph.
- (c) An exhibit behind a tab is not a marked exhibit unless it has a sticker or is marked on the first page behind the tab, including photographs.
- (d) Thumb drives or CDs containing documents or pictures should be in PDF format. The thumb drive size must be 100 mb or smaller. If the pictures or documents are individual exhibits, the pictures or documents must be marked with the exhibit number on the front of the picture or document.
- (e) Thumb drives or CDs containing audio or video recordings must be 2gb or smaller. If the recording is larger than 2gb, the original exhibit will go to the 7<sup>th</sup> Court of Appeals unless a copy is provided.
- (f) Exhibits that need to be sealed must be accompanied by an order for the judge to sign.

## 6.2 Bench Conferences

- (a) Bench conferences are **NOT** a part of the record unless attorneys notify the Court the conference is to be made a part of the record.
- (b) Attorneys must understand that due to technical issues in each courtroom, bench conferences are to be conducted in such a way that a record can be made if one is requested. i.e. mics, volume, sound. It is imperative that only one attorney speaks at a time.

## 7.0 Benchmarks for Moving Cases

This court will make all reasonable efforts to comply with the disposition time standards outlined in Rule 6 of the Texas Rules of Judicial Administration which are currently understood as follows:

Criminal Cases – Texas Code of Criminal Procedure, Article 32A.02

Non-Family Jury Cases – within 18 months from appearance date

Non-Family Non-jury Cases – within 12 months from appearance date

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

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