



1 of 50 DOCUMENTS

Texas Rules
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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas

Tex. Dist. Ct. Montgomery Cty. Preface (2011)

[Preface]

Adopted 2000

PURPOSE

The Local Rules of the District Courts of Montgomery County have as their primary purpose the management of the court dockets sensibly, efficiently and fairly. These rules are to be an aid to the just disposition of cases without unnecessary delay or expense.



2 of 50 DOCUMENTS

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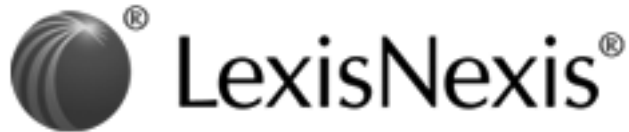
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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 1. Application, Jurisdiction and Filing

Tex. Dist. Ct. Montgomery Cty. LR 1.1 (2011)

Rule 1.1. Application

These rules apply to all cases, civil, criminal, and family, of which the District Courts have exclusive jurisdiction or concurrent jurisdiction with the County Courts at Law of Montgomery County Texas.



3 of 50 DOCUMENTS

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Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 1. Application, Jurisdiction and Filing

Tex. Dist. Ct. Montgomery Cty. LR 1.2 (2011)

Rule 1.2. Jurisdiction

A. Exclusive Jurisdiction. Exclusive jurisdiction of District Courts encompasses matters defined by statute, rules of court, case law or these rules as the sole province of District Courts.

B. Concurrent Jurisdiction. Concurrent jurisdiction of the District Courts with the County Courts at Law is set forth in *Section 25.1722 (a) of the Texas Government Code*.



4 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
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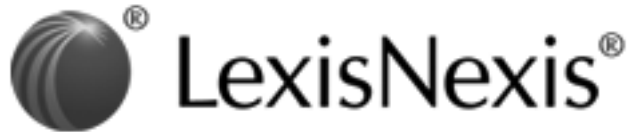
Tex. Dist. Ct. Montgomery Cty. LR 1.3 (2011)

Rule 1.3. Assignment of Cases

A. Equal Assignment. The District Clerk shall assign cases equally among the courts on a rotation basis unless specifically instructed otherwise by these rules or by the Board of Judges.

B. Assignment of Exclusive Jurisdiction Cases. The District Clerk shall assign cases of exclusive jurisdiction to the District Courts.

C. Assignment of Concurrent Jurisdiction Cases. The District Clerk shall assign cases of concurrent jurisdiction to the District Courts and the County Courts at Law.



5 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
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Local Rules of the District Courts of Montgomery County, Texas
Rule 2. Local Administrative District Judge

Tex. Dist. Ct. Montgomery Cty. LR 2.1 (2011)

Rule 2.1. Powers and Duties of Local Administrative District Judge

A. Election of the Administrative Judge. Pursuant to *Section 74.091 of the Texas Government Code*, a majority of the District Judges will elect a Local Administrative District Judge for a one-year term at the December meeting of each year to commence on January 1st of the following year.

B. Duties. The Local Administrative District Judge will have the duties and responsibilities provided in *Rule 9 of the Rules of Judicial Administration*.

C. Meetings of the Judges of the County. The Local Administrative District Judge or a majority of the District Judges will call meetings of the Judges as needed. The Local Administrative District Judge shall preside over such meetings; and in his/her absence, a temporary Chairperson may be elected by a majority of the quorum.



6 of 50 DOCUMENTS

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Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.1 (2011)

Rule 3.1. General

All civil cases which the District Courts of Montgomery County have exclusive or concurrent jurisdiction shall be filed in the District Clerk's office located at 300 North Main, Conroe, Texas 77301. These rules shall be applicable to all civil cases filed in the District Courts of Montgomery County.



7 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.2 (2011)

Rule 3.2. Time Standards for Civil Case Disposition

A. Civil Jury Cases. All civil jury cases shall be tried or dismissed within 18 months from appearance date.

B. Civil Non Jury Cases. All civil non jury cases shall be tried or dismissed within 12 months from appearance date.



8 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.3 (2011)

Rule 3.3. Filing and Assignment of Cases

A. Civil Case Information Sheet. All civil cases filed in the District Clerk's office of Montgomery County shall have attached a Civil Case information sheet which shall be prepared by the District Clerk and shall indicate the type of action and monetary damages sought and any other information that the District Clerk requires.

B. Assignment. All civil cases filed shall be assigned in the District Courts of Montgomery County on a rotating basis and in compliance with these rules. Once assigned to a court, a case will remain on the docket of that court for all purposes unless transferred as hereinafter provided.



9 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.4 (2011)

Rule 3.4. Transfer of Cases; Docket Exchange; Bench Exchange

A. Transfer. After assignment to a particular court, a case may be transferred to another court by order of the Judge of the court in which the case is pending with the consent of the Judge of the court to which it is transferred, or by order of the Local Administrative District Judge.

B. Exchange of Cases. The courts may at any time exchange cases and benches to accommodate their dockets or to expedite the court's trials.

C. Previous Judgment or Filing. Any claim for relief based upon a previous judgment shall be assigned to the court of original judgment. If a case is filed in which there is a substantial identity of parties and causes of action in a previously non suited case, the later case shall be assigned to the court where the prior case was pending.

D. Consolidation. A motion to consolidate cases shall be heard in the court where the lowest numbered case is pending. If the motion is granted, the consolidated case will be given the number of the lowest numbered case and assigned to that court.

E. Severance. If a severance is granted, the new case will be assigned to the court where the original case is pending; however, a new file date and a new cause number will be assigned to the now severed case.

F. Presiding for Another Judge. In all cases where a judge presides for another court, the case shall remain pending in the original court.

G. Fair Distribution. The Administrative District Judge may transfer cases between courts if he/she finds that a court has an inequitable burden due to illness, complex litigation, trial schedule, or other sufficient reasons.

H. Recusal. All motions to recuse shall be governed by the provisions of Rule 18 (a) & (b) of the Texas Rules of Civil Procedure.

I. Removal to District Court. A case which has been assigned to a County Court at Law in error because the subject matter is within the exclusive jurisdiction of the District Courts will be returned to the District Clerk for reassignment.



10 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
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Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.5 (2011)

Rule 3.5. Docket Settings

A. Court Coordinator/Administrator. Each court shall appoint a court coordinator/administrator. It shall be the duty of each court coordinator/administrator to:

Establish procedures for setting cases for trial and hearings;

Provide the court, the clerk assigned to that particular court and the general public with a printed docket sheet indicating the cases set for a hearing for each day of court;

Provide the court with a submission docket indicating the cases set for submission;

Notify all counsel of settings and rulings of the court as is provided by these rules or at the direction of the court;

Prepare scheduling orders for all cases assigned to their court;

Coordinate all setting requests; and

Coordinate with the Juror Coordinator of the District Clerk's office concerning jury trials and juror requirements.

B. Setting Requests. Requests for hearings shall be made in writing to the court in which the matter is pending in accordance with these rules or the scheduling order of the court, and the attorneys making such request shall serve all counsel and parties appearing pro se with notice of the hearing.

C. Docket Control Orders. Each court shall generate docket control orders for each civil case pending. The order shall contain a trial setting, cut off date for discovery, pretrial conference date and any other requirements as established by each individual court.

D. Trial Settings. Cases shall be set for trial by order of the court, upon request of a party, on the court's own

motion or by a docket control order.

All requests for non jury trials before the court shall be set by the court at the earliest possible trial date on those dates established by the court for non jury weeks. The request shall be in writing and copies of said request served upon all attorneys and parties pro se involved in the case. The court shall have sole discretion as to which non jury trial week the case will be assigned. The party obtaining the setting shall notify all counsel and parties appearing pro se of the setting.

All requests for jury trials shall be in writing and copies of said request served upon all attorneys and parties pro se involved in the case. The court shall have sole discretion as to which jury trial week the case will be assigned. The party obtaining the setting shall notify all counsel and parties appearing pro se of the setting.

If a case is not tried the week it is assigned, the court shall reset the case to a date certain.

All requests for preferential trial settings shall be made in writing with notice to all counsel and parties appearing pro se. The court shall set the matter for a hearing on the earliest possible date.



11 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.6 (2011)

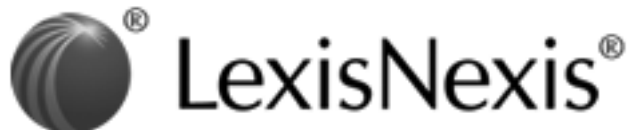
Rule 3.6. Dismissal Docket; Involuntary Dismissals

A. Dismissal Dockets. All cases not brought to trial or otherwise disposed of which have been on file for more than the specified time period as established by these rules shall be placed on the dismissal docket by the Court.

B. Notice. When a case has been placed on the dismissal docket, the court shall promptly send notice of the court's intention to dismiss for want of prosecution to each attorney of record and pro se party whose address is shown in the clerk's file. A copy of such notice shall be filed with the papers of the cause.

C. Motion to Retain. Unless a written motion to retain has been filed prior to the dismissal date as set forth in the notice of intention to dismiss, such case shall be dismissed. Notice of the signing of the order of dismissal shall be given as required by *Rule 165(a) of the Texas Rules of Civil Procedure*. Failure to mail notices as set out above shall not affect any of the periods mentioned in *Rule 306 (a) of the Texas Rules of Civil Procedure* except as provided in that rule.

D. Motion for Reinstatement. A motion for reinstatement after dismissal shall follow the procedure and be governed by the provisions of *Rule 165(a) of the Texas Rules of Civil Procedure* relating to reinstatement.



12 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.7 (2011)

Rule 3.7. Hearings on Pre-Trial Motions

A. Form. Motions and responses shall be in writing and shall be accompanied by a proposed order granting or denying the relief sought. The proposed order shall be a separate instrument.

B. Submission. Motions shall state a date of submission which shall be at least 10 days from filing, except on leave of court. The motion will be submitted to the court upon that date.

C. Response. Responses shall be in writing. Responses shall be filed at least two working days before the submission date. Failure to file a response may be considered a representation of no opposition.

D. Oral Argument. The motion or response may include a request for oral argument. Said request shall be in writing and set forth reasons for the necessity of such hearing. It is in the sound discretion of the court whether to grant the request for oral hearing. A request for an oral argument is not a response under Rule 3.8(c).

E. Certificate of Conference. Opposed motions and responses shall contain a Certificate of Conference indicating that the counsel involved have attempted to resolve the dispute prior to filing of the motion or response, the date of such attempt and the manner of communication of such an attempt, or any other requirement of the court.



13 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.8 (2011)

Rule 3.8. Continuances

Any motion for continuance of the trial setting shall be presented to the court pursuant to the docket control order, or the Texas Rules of Civil Procedure. The order granting or denying such motion shall contain an order resetting the case for trial for a specific date and time.



14 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.9 (2011)

Rule 3.9. Alternate Dispute Resolution and Mediation

A. Alternate Dispute Resolution. In order to encourage the early settlement of disputes and to carry out the responsibilities of the courts set out in Chapter 154 of the Texas Civil Practices and Remedies Code, appropriate alternative dispute resolution procedures will be encouraged and utilized.

B. Mediation. The courts encourage mediation in order to facilitate the settlement of disputes and litigation. Each court shall adopt a procedure for the use of mediation in all civil cases. It is in the sound discretion of the trial court whom to use as a mediator and the procedures for same.



15 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.10 (2011)

Rule 3.10. Settlements

All trial counsel are required to make a bona fide effort to settle cases at the earliest possible date before trial. The court will expect counsel to confer with his/her client and with opposing counsel concerning settlement offers. When an attorney settles or dismisses a case which is set for trial, he shall give notice to the court as soon as possible.



16 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
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Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

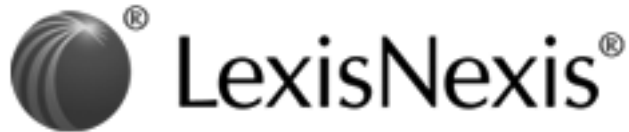
Tex. Dist. Ct. Montgomery Cty. LR 3.11 (2011)

Rule 3.11. Jury Charge Questions and Instructions

Each party shall prepare in proper written form and present to the court prior to trial or the jury selection all jury charge questions and instructions which are raised by the pleadings and evidence and upon which the party has an affirmative burden. The charge shall be provided in both written form and on a 3.25 computer disc.

LexisNexis 50 State Surveys, Legislation & Regulations

Civil Jury Instructions



17 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.12 (2011)

Rule 3.12. Guardians and Attorneys Ad Litem

When it is necessary for the court to appoint a guardian ad litem for minor or incompetent parties or an attorney ad litem for absent parties, independent counsel, not suggested by any of the parties or their counsel, will be appointed. However, the court may appoint an attorney who is already counsel of record for one of the parties if the court finds that no conflict of interest or other circumstances exist which would prevent such attorney from providing adequate representation for such minor, incompetent or absent parties.



18 of 50 DOCUMENTS

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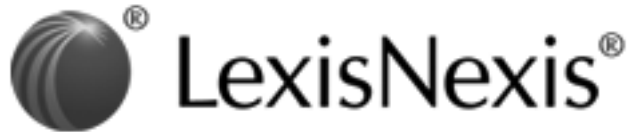
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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.13 (2011)

Rule 3.13. Entry of Interim Orders

An interim order is any temporary order entered by the court during the pendency of the suit. In the event that the court renders an oral interim order, the court shall require a party to prepare a written order complying with the court's rendition and set a hearing date for entry. The party preparing the order shall obtain approval as to form from the opposing counsel or pro se litigant. Unreasonable refusal may result in sanctions imposed by the court.



19 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.14 (2011)

Rule 3.14. Entry of Final Orders

In the event that the court renders an oral final order, the court shall require a party to prepare a written final order complying with the court's ruling and set a hearing date for entry. The party preparing the order shall obtain approval as to form from the opposing counsel or pro se litigant. Unreasonable refusal may result in sanctions imposed by the court.



20 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.15 (2011)

Rule 3.15. Requests of the District Clerk

A. Written Requests. All parties desiring copies of documents from the District Clerk shall furnish the clerk return envelopes properly addressed and stamped. Except as provided elsewhere in these rules, no conformed copies shall be made or furnished nor shall searches or research be performed for counsel or the public, free of charge. All mail received with postage due will be returned to sender.

B. Telephone Requests. The court clerk shall limit response to telephone requests for information to the following:

If answer has been filed.

Existence and setting of a case.

Return of service and date.

Correct style of case when correct case number is supplied.

If an order has been signed.



21 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.16 (2011)

Rule 3.16. Filing of Pleadings

All pleadings, motions, orders and other papers, including exhibits attached thereto, when offered for filing or entry, shall be descriptively titled and punched at the top of the page to accommodate clerk's 2.75" center-to-center flat-filing system. Each page of each instrument shall on the lower right-hand margin thereof be numbered and titled, i.e. "Plaintiff's Original Petition Page 2." Orders and Judgments shall be separate documents completely separated from all other papers. If documents not conforming to this rule are offered, the clerk shall return the documents to the counsel or party unfiled. Counsel shall furnish the clerk with sufficient copies to perfect service or notice.



22 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 3. Civil Cases

Tex. Dist. Ct. Montgomery Cty. LR 3.17 (2011)

Rule 3.17. Service of Process

The Courts have adopted a blanket order permitting private process of service pursuant to *Rule 103 of the Texas Rules of Civil Procedure*. Applications for approval to be added to the list shall be presented to the presiding district judge.



23 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 4. Family Law Cases

Tex. Dist. Ct. Montgomery Cty. LR 4.1 (2011)

Rule 4.1. General

The filing, assignment, and transfer of cases under the Family Code shall be filed in accordance with Rule 1 of these rules. All cases filed pursuant to the Family Code with the exception of Title 3 of the Family Code shall be governed by Rule 3 of these rules.



24 of 50 DOCUMENTS

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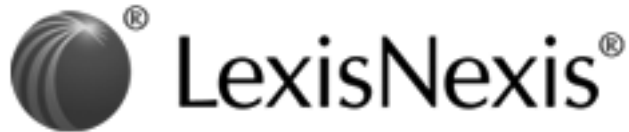
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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 4. Family Law Cases

Tex. Dist. Ct. Montgomery Cty. LR 4.2 (2011)

Rule 4.2. Time Standards for Family Law Case Disposition

Cases shall be tried or dismissed within 6 months from the 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.



25 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 4. Family Law Cases

Tex. Dist. Ct. Montgomery Cty. LR 4.3 (2011)

Rule 4.3. Juvenile Disposition

Rules for the disposition of juvenile cases will be adopted by the Juvenile Court in conformity with Rule 1 of the Second Administrative Judicial Region of Texas Regional Rules of Administration and Title 3 of the Texas Family Code.



26 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 4. Family Law Cases

Tex. Dist. Ct. Montgomery Cty. LR 4.4 (2011)

Rule 4.4. Department of Regulatory Services Cases

Disposition of Texas Department of Protective and Regulatory Services cases shall be in conformity with those provisions set forth in Title 5 of the Texas Family Code.



27 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 4. Family Law Cases

Tex. Dist. Ct. Montgomery Cty. LR 4.5 (2011)

Rule 4.5. Inventories and Financial Information Statements

A. Initial Filing. Inventories and Financial Information Statements shall be filed in all domestic relations cases related to divorce. Financial Information Statements shall be filed in all cases involving modification of conservatorship, support or periods of possession.

B. Temporary Orders. In any hearing for temporary orders in which child support or spousal support is an issue, completion and exchange of Financial Information Statements is required prior to commencement of the hearing.

C. Trial. A party's final Inventory, Financial Information Statement and financial information required under the Family Code, as well as suggested findings regarding child support and a proposed division of property shall be exchanged no later than thirty (30) days before trial, or as required by the docket control order, and filed with the court before the commencement of trial. If children are involved in the proceeding, the inventory shall contain sufficient information so the court may render a qualified medical child support order regarding health insurance for such children.

D. Failure to File Financial Information Statements and Inventories. Failure of either party to file Financial Information Statements or Inventories will result in the court adopting as stipulated the information filed by the complying party. The non-complying party will be prohibited from contesting the accuracy of the information presented by the complying party. If both parties fail to comply with these rules, the court may strike the case from the docket.



28 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 4. Family Law Cases

Tex. Dist. Ct. Montgomery Cty. LR 4.6 (2011)

Rule 4.6. Parent Education and Counseling

Referral shall be made in suits affecting the parent-child relationship requiring the parents' attendance at an educational program for divorcing parents, except for good cause shown. In the discretion of the court, such a referral may also be made for parents involved in modification or enforcement litigation. Counseling may also be ordered in appropriate cases as authorized by the Family Code, including referral to a family violence program pursuant to a protective order under Chapter 71 of the Family Code.



29 of 50 DOCUMENTS

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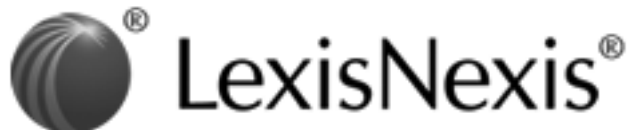
LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 4. Family Law Cases

Tex. Dist. Ct. Montgomery Cty. LR 4.7 (2011)

Rule 4.7. Ex Parte Restraining Orders, Protective Orders and Temporary Orders

A. Ex Parte Restraining Orders and Protective Orders. Ex Parte Restraining Orders and Protective Orders shall be presented to the court in which it has been assigned. If the presiding judge of said court is not available, then the Ex Parte Order or Protective Order may be presented to any sitting District or County Court at Law Judge available. In all cases, only the court coordinator/administrator of the court to which the case is assigned may set the hearing.

B. Temporary Orders Entry. All temporary orders shall be presented to the court for entry within ten (10) days after the hearing or at the entry date set by the court. Failure to comply could subject the case to dismissal.



30 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 4. Family Law Cases

Tex. Dist. Ct. Montgomery Cty. LR 4.8 (2011)

Rule 4.8. Discovery

A. Mandated Discovery. In all cases the following items shall be exchanged without objection upon a written request of counsel.

Parties or individual income tax returns for two years preceding the year of the request.

Copies of all insurance policies, including home, auto, life and medical.

Copies of all promissory notes, deeds of trust and deeds evidencing ownership of real estate, including contract for deeds and time sharing contracts.

Copies of all stocks, mutual fund participation and investment portfolios held by the parties, in the name of the parties, or for the benefit of the parties.

Copies of all documents concerning employee benefits, retirement benefits and pension funds.

The preceding six (6) months statements for all credit card accounts in the name of the parties, or either party.

Wage statements or statement showing year to date earnings of the party.



31 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 4. Family Law Cases

Tex. Dist. Ct. Montgomery Cty. LR 4.9 (2011)

Rule 4.9. Child Support Local Registry

Pursuant to ? 154.241 of the Texas Family Code, the District Clerk of Montgomery County is designated as the Local Registry to receive a court ordered child support payment or payment otherwise authorized by law.



32 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 5. Criminal Cases

Tex. Dist. Ct. Montgomery Cty. LR 5.1 (2011)

Rule 5.1. Filings/Return of Indictments

A. Assignment of Cases After Indictment. Except as otherwise provided in this Rule, the Clerk shall equally distribute every criminal case filed by indictment into the five District Courts.

Capital cases shall be assigned on a rotation basis among the District Courts.

B. New Indictments After Assignment. After assignment, the clerk shall assign any new indictment against a defendant to the same court.

C. Re-Indictments. The clerk shall assign any re-indictment of the same defendant to the same court in which the prior indictment was assigned.

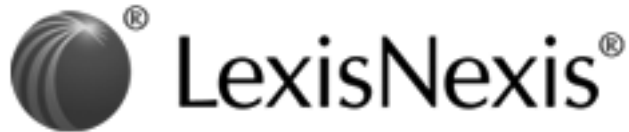
D. Co-Defendant Indictment. The clerk, after random assignment of an indictment to a court shall assign any co-defendant subsequently indicted to the same court in which the first co-defendant's indictment was assigned.

E. Information to the District Clerk. The District Attorney shall note on a non-substantive part of the indictment the following information:

Whether there are other pending indicted cases on the defendant;

Whether the indictment is a re-indictment and;

The names of any co-defendants not named in the indictment.



33 of 50 DOCUMENTS

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Local Rules of the District Courts of Montgomery County, Texas
Rule 5. Criminal Cases

Tex. Dist. Ct. Montgomery Cty. LR 5.2 (2011)

Rule 5.2. Post Conviction Proceedings

The clerk shall file any motion to revoke probation or any post-conviction application for writ of habeas corpus in the court having granted probation or entered the judgment in the case.



34 of 50 DOCUMENTS

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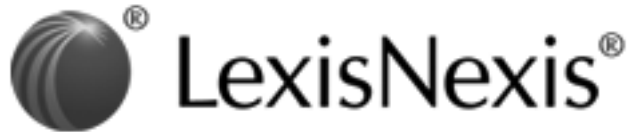
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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 5. Criminal Cases

Tex. Dist. Ct. Montgomery Cty. LR 5.3 (2011)

Rule 5.3. Time Standards for Criminal Cases

Disposition of Criminal Cases shall be in conformity with those provisions set forth in *Article 32A.02 of the Code of Criminal Procedure*.



35 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 5. Criminal Cases

Tex. Dist. Ct. Montgomery Cty. LR 5.4 (2011)

Rule 5.4. Scheduling Order

Each court will adopt a scheduling order that shall be given to the defendant and counsel at arraignment. The scheduling order may include such dates or deadlines for discovery, pretrial motions or trial. The scheduling order shall include a waiver of arraignment and acknowledgment of notice of appearance by the defendant.



36 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
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Local Rules of the District Courts of Montgomery County, Texas
Rule 5. Criminal Cases

Tex. Dist. Ct. Montgomery Cty. LR 5.5 (2011)

Rule 5.5. Motions for Continuance

All motions for continuance, whether filed by the State or the Defendant, must comply with the applicable law contained in the Code of Criminal Procedure and must be presented to and considered by the court in accordance with the scheduling order. Except for good cause shown and upon compliance with these rules, the court shall not consider any motion for continuance on the scheduled trial date.



37 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 5. Criminal Cases

Tex. Dist. Ct. Montgomery Cty. LR 5.6 (2011)

Rule 5.6. Standard Discovery Orders

Each court shall adopt a standard discovery order to be entered in each case at time of arraignment. The discovery order shall set forth procedures for the exchange of information, evidence inspection, expert designations and deadlines to conform with the discovery order.



38 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas

Tex. Dist. Ct. Montgomery Cty. LR 6 (2011)

Rule 6. Electronic Filing

The District Courts have previously approved electronic filing. The previous order which has received the approval of the Supreme Court of Texas is herein adopted as part of these rules and incorporated herein.



39 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas

Tex. Dist. Ct. Montgomery Cty. LR 7 (2011)

Rule 7. Board Of Judges

The Board of Judges shall consist of all the District Judges and County Courts at Law Judges that serve Montgomery County. The Board of Judges shall meet to discuss and pass resolutions on those matters which are of common concern of all the judges. The meeting shall be called by either the Administrative Judge of the District Courts or the Administrative Judge of the County Courts at Law. The chairman of the meeting shall be the Senior judge in attendance.



40 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas

Tex. Dist. Ct. Montgomery Cty. LR 8 (2011)

Rule 8. Previous Rules

All previous local rules in the District Courts of Montgomery County are hereby repealed.



41 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
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Local Rules of the District Courts of Montgomery County, Texas

Tex. Dist. Ct. Montgomery Cty. LR 9 (2011)

Rule 9. Lawyer's Creed Applicable

The Texas Lawyer's Creed shall be observed in all proceedings before the court.



42 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
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Local Rules of the District Courts of Montgomery County, Texas

Tex. Dist. Ct. Montgomery Cty. LR 10 (2011)

Rule 10. Conflicting Trial and Ancillary Settings

A. Conflicting Trial Settings. It is the duty of an attorney to notify all courts in which an attorney has conflicting settings as soon 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:

Juvenile cases.

Criminal cases.

Cases given preference by statute.

Preferentially set cases.

Cases with lowest file number.

Cases with earliest setting request date.

B. Conflicting Ancillary Hearings. It is the duty of an attorney with conflicting ancillary hearings to notify opposing counsel of the conflict immediately upon learning of same. The attorney shall inform the court prior to docket call of the location of counsel, the court or courts where counsel is appearing, the matter being heard and the estimated time of appearance. Failure to notify the court of such conflict may result in a default on the matter before the court, or sanctions.

C. Designation of Attorney in Charge. Every case shall have a designation of attorney in charge.



43 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
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Local Rules of the District Courts of Montgomery County, Texas

Tex. Dist. Ct. Montgomery Cty. LR 11 (2011)

Rule 11. Attorney Vacations

Each attorney who desires to assure himself/herself a vacation for a period not to exceed four weeks may do so automatically by complying with the Rule 11 of the Second Administrative Region of Texas Regional Rules of Administration.



44 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 12. Adoption, Approval and Notice

Tex. Dist. Ct. Montgomery Cty. LR 12.1 (2011)

Rule 12.1. Adoption

These rules are adopted by the District Judges for all purposes and by the County Court at Law Judges for those provisions that effect the concurrent jurisdiction of the county courts.



45 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Local Rules of the District Courts of Montgomery County, Texas
Rule 12. Adoption, Approval and Notice

Tex. Dist. Ct. Montgomery Cty. LR 12.2 (2011)

Rule 12.2. Approval

Upon approval by the Judge of the Second Administrative Region and the Supreme Court of Texas, these rules shall become effective immediately, and so long thereafter until amended, repealed or modified. Each numbered or lettered paragraph of these rules shall be considered to be separate and distinct from all other portions hereof, and if any portion should be declared by a higher court to be improper, such declaration will not affect any other portion not so declared to be improper.



46 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS
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Local Rules of the District Courts of Montgomery County, Texas
Rule 12. Adoption, Approval and Notice

Tex. Dist. Ct. Montgomery Cty. LR 12.3 (2011)

Rule 12.3. Notice

The District Clerk is directed to furnish a copy of these rules to the Supreme Court of Texas pursuant to *Rule 3 (a) of the Texas Rules of Civil Procedure* and to record these Rules in the Civil Minutes of the 9th, 221st, 284th, the 359th and 410th District Courts and the County Courts at Law Numbers One, Two and Three.



47 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS

Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Procedures -- Local Rule for Electronic Filing and Service of Pleadings in the District Courts and County Courts at
Law, Montgomery County, Texas

Tex. Dist. Ct. Montgomery Cty. Elec. Filing Procedures (2011)

Local Rule for Electronic Filing and Service of Pleadings in the District Courts and County Courts at Law, Montgomery
County, Texas

Adopted May 1997

RULE ELECTRONIC FILING AND SERVICE OF PLEADINGS

The following rules govern the electronic filing and service of pleadings and other documents in all designated
electronic filing cases pending before the District Courts of Montgomery County, Texas and the County Courts at Law
having concurrent jurisdiction with District Courts.

DESIGNATION OF ELECTRONIC FILING CASES

A District court in Montgomery County, or a county Court at Law having concurrent jurisdiction may, from time
to time, by written order, select and designate those cases which shall be assigned to the electronic filing system, as
created and contemplated by the April 21, 1997, Service Agreement between LAWPlus and Montgomery County,
Texas, or any successor system, all collectively hereinafter referred to as EFILE. Upon receipt of any such Order,
parties not then having access to the EFILE system shall promptly take steps to allow their counsel to electronically file,
serve, receive, review and retrieve copies of the pleadings, orders, and other documents filed in the assigned case, either
by a subscription agreement with LAWPlus or the then-current vendor ("the Vendor"), or by using the public-access
terminal in the District Clerk's office, or by any other means reasonably assuring reliable access to the said system.

ASSIGNMENT BY THE VENDOR OF PERSONAL IDENTIFICATION NUMBERS

Upon receipt by the Vendor (LAWPlus or its successor) or a properly executed Subscriber Agreement, the Vendor
shall assign to the party's designated representative a confidential Personal Identification Number ("PIN"), which may
thereafter be used by such representative to obtain access to the EFILE system. This PIN will permit the attorney or
party appearing pro se to file, serve, receive, review, and retrieve electronically filed pleadings, orders, and other

documents filed in the assigned case.

ELECTRONIC FILING OF PLEADINGS AND OTHER DOCUMENTS

Except as expressly provided in Local Rule No. D below, all pleadings, motions, memoranda of law, orders, or other documents filed in any case assigned to the EFILE electronic filing system shall, to the extent practicable, be filed and served electronically through the system.

CONVENTIONAL FILING OF DOCUMENTS

Notwithstanding the foregoing, the following types of documents shall be filed conventionally and shall not be filed electronically, unless express permission is granted by the Court or the District Clerk:

all pleadings or other documents filed in the case before an Order is issued assigning the case to the EFILE system;

a motion to file documents under seal shall be filed and served electronically. However, the documents to be filed under seal shall be filed conventionally.

Appendices and exhibits to motions, memoranda of law, or other documents that are not readily amendable to electronic scanning may, at the option of the filer, be filed and served conventionally.

SERVICE OF CONVENTIONAL FILING

Copies of all documents except sealed documents that are filed conventionally and are not filed electronically shall be served on all other parties pursuant to the provisions of *Rule 21, Texas Rules of Civil Procedure*.

UTILIZATION OF PIN

No attorney shall knowingly authorize or permit his/her PIN to be utilized by anyone else, other than authorized attorneys or employees of the attorney's law firm. Furthermore, no person shall knowingly use a PIN or cause or permit another person to use a PIN without express permission from the holder of the PIN.

REPRESENTATION BY USING A TYPOGRAPHICAL SIGNATURE

Every pleading, document, and instrument filed in the EFILE system shall bear a facsimile or typographical signature of at least one of the attorneys of record, along with the typed name, address, telephone number, and SBOT number of said attorney. Typographical signatures shall be treated exactly as personal signatures under the Texas Rules of Civil Procedure.

EFFECT OF ELECTRONIC SERVICE

The electronic service of a pleading or other document in EFILE shall be considered as valid and effective service on all designated recipients pursuant to Rule 21a. Texas Rules of Civil Procedure, and shall be construed in the same manner as a telephonic document transfer for purposes of such Rule, except that any such service completed by 11:59 p.m. local time shall be deemed service on that date.

ELECTRONIC FILING OF AFFIDAVITS AND OTHER SWORN DOCUMENTS

Unless specifically ordered by the Court, original signature pages on affidavits, verifications, or other documents in cases assigned to EFILE shall not be filed in paper form, but shall be maintained and made available, upon reasonable notice and during business hours, to other counsel and to the Court.

FORMAT OF ELECTRONICALLY FILED DOCUMENTS

All electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper pleadings, and in such other and further format as the Court may require from time to time.

TIME FOR FILING, AND EFFECT OF USE OF EFILE

Any pleading filed electronically shall be considered as filed with the District Clerk on the date it is first transmitted to EFILE. The Vendor shall be and is hereby appointed the agent of the District Clerk as to the electronic filing, receipt, service, and/or retrieval of any pleading or document in EFILE, and neither the Vendor nor any attorney or party shall have any additionally-imposed liability because of the use of or participation in the EFILE system.

ELECTRONIC FILING AND SERVICE OF COURT ORDERS AND OTHER PAPERS

The Court intends to issue, file, and serve orders, rulings, and other documents in the assigned cases electronically, rather on paper. Parties who have not subscribed to the VENDOR'S System, or whose rights to use the VENDOR'S System have been suspended or terminated, are responsible for keeping themselves timely apprised of any orders, rulings, or other documents that the Court chooses to file and serve electronically in any of the assigned cases.

TITLE OF PLEADINGS AND OTHER DOCUMENTS

The title of each electronically filed pleading or other document ("papers") shall contain sufficient information to enable the Court to ascertain from the title of the paper (a) the party or parties filing the paper, (b) the nature of the paper, (c) the party or parties against whom relief, if any, is sought, and (d) the nature of the relief sought (i.e., "John Does, et al's Motion to Compel Discovery and for Sanctions against Jim Smith").

PUBLIC ACCESS TO ELECTRONICALLY FILED DOCUMENTS

The District Clerk's office shall make available, without charge and during normal business hours, to members of the general public at least one computer screen capable of searching and reviewing documents filed of public record in the assigned cases. The District Clerk shall make copies of any publicly filed documents available on EFILE.



48 of 50 DOCUMENTS

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LOCAL RULES OF DISTRICT COURTS IN TEXAS

Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Procedures -- Local Rules of Montgomery County for the Timely and Fair Appointment of Counsel for Indigent
Defendants

Tex. Dist. Ct. Montgomery Cty. Procedures (2011)

Local Rules of Montgomery County for the Timely and Fair Appointment of Counsel for Indigent Defendants

Adopted November 2001; Last Amended May 11, 2007

I. METHOD OF APPOINTMENTS

A. Public Appointment Lists. The District and County Courts at Law in Montgomery County, Texas will maintain nine **Public Appointment Lists** of attorneys qualified to represent indigent defendants as follows:

1. Trial Category A for first degree and second degree felony offenses;
2. Trial Category B for third degree and state jail felony offenses
3. Trial Category C for all misdemeanors;
4. Appellate Category A for first degree and second degree felony offenses;
5. Appellate Category B for third degree and state jail felony offenses
6. Appellate Category C for all misdemeanors;
7. Capital Trial Category for death penalty offenses;
8. Capital Appellate Category for death penalty appeals; and
9. Writ Category for post-conviction writs of habeas corpus

Attorneys who desire to represent indigent persons shall file with the Board of Judges (1) a sworn **Application To Be Placed On Public Appointment List For Montgomery County** to have his/her name approved on one or more of the Public Appointment Lists, attached hereto as Exhibit "A," and (2) an **Attorney Certification of Knowledge Of**

Local Rules For The Timely and Fair Appointment of Counsel for Indigent Defendants, attached hereto as Exhibit "B." From time to time, the District Judges and County Court at Law Judges shall meet and approve such Applications of eligible attorneys for each List, and the respective Administrative District or County Court At Law Judge shall sign the **Order of Approval/ Disapproval** that is made a part of the **Application To Be Placed On Public Appointment List For Montgomery County**. A copy of each **Public Appointment List** shall be made available to the public upon request to the AD.

B. Appointment Designee. The Board Of Judges (BOJ) shall appoint one or more Appointment Designees (AD). The AD will be under the supervision of the Board of Judges. The BOJ shall determine the duties, responsibilities and compensation of the AD.

C. Prompt Appearance Before a Magistrate. The law enforcement officer making the arrest and any officer who later has custody of an accused person shall ensure that the person is taken before a magistrate without unnecessary delay, but not later than 48 hours after the person is arrested, for proceedings under *Article 15.17 of the Code of Criminal Procedure*.

D. Appointment of Counsel

1. At the Magistrate's Probable Cause hearing (which shall be within 48 hours of arrest), and at any time thereafter while charges are pending against the defendant, each defendant shall be provided the opportunity to request court appointed counsel, if indigent. When a Defendant requests appointed counsel, the magistrate or Judge may assist, or refer the defendant to the AD for assistance, in completing the **Attorney Request Form**, attached hereto as Exhibit "C," and the **Questionnaire Under Oath Concerning Financial Resources**, attached hereto as Exhibit "D." The magistrate, Judge or AD may question the defendant under oath regarding the defendant's financial resources in lieu of or in addition to the **Questionnaire Under Oath Concerning Financial Resources**. The magistrate and the AD may be assisted by a representative of the Montgomery County Collections Department in the determination of indigence.

2. The magistrate shall, no later than 24 hours after the defendant requests appointment of counsel, transmit or cause to be transmitted to the AD or Judge the forms requesting the appointment of counsel. Upon a determination of indigence, and no later than the end of the first working day after the date on which the Judge or the AD receive the defendant's request for appointed counsel, the magistrate, Judge or AD shall appoint an attorney from the appropriate Public Appointment List using a system of rotation. The magistrate, Judge or the AD shall appoint the attorney from among the next five names on the Public Appointment List in the order in which the attorney's name appears on the List, unless the Court makes a finding of good cause on the record for appointing an attorney out of order. Where the defendant has both felony and misdemeanor charges, the magistrate, Judge or the AD shall appoint one attorney for all charges from the List for the most serious offense. In the event a Defendant requests an attorney who is not qualified for the category of offense with which the Defendant is charged, the Defendant must sign and file **Defendant's Motion to Appoint Attorney on Higher Category Case**, attached hereto as Exhibit "I." The magistrate, Judge or the AD shall sign an **Order Appointing/ Denying Attorney**, attached hereto as Exhibit "E." The Defendant shall be required to sign a **Sworn Affidavit of Financial Inability to Hire Counsel**, attached hereto as Exhibit "J."

3. The magistrate, Judge or the AD shall notify the attorney of the appointment by the most expeditious means available, and provide counsel with a copy of the Order Appointing Counsel and the last known location of the Defendant. If the attorney does not accept the appointment, the attorney shall immediately advise the magistrate, Judge or the AD and the above rotation process shall be repeated.

II. QUALIFICATIONS OF APPOINTED ATTORNEYS

All attorneys that request and are approved for appointment to each Public Appointment List shall maintain their **principal** law office [in] Montgomery County, Texas. All attorneys must disclose the geographic location by city or town and physical address of their **principal** office. An attorney shall have only one **principal** office.

All attorneys shall reapply annually for approval to the Public Appointment List(s), and may reapply at any time for a category for which they previously had not applied. The application renewal date is July 1st of every year.

A. Trial Category A

1. A separate master list will be maintained of attorneys who request and are approved for appointment to first degree and second degree felony trial cases.

2. All attorneys who request appointments in this category must (a) be Board Certified in criminal law by the Texas Board of Legal Specialization or the National Board of Trial Advocacy, or (b) have been licensed to practice law in Texas for at least three years, have completed at least 6 hours of Criminal Law CLE (during the 12 months prior to filing the **Application To Be Placed On Public Appointment List For Montgomery County**) and have tried to verdict as 1st or 2nd chair at least 3 felony jury trials.

B. Trial Category B

1. A separate master list will be maintained of attorneys who request and are approved for appointment to third degree and state jail felony trial cases.

2. All attorneys who request appointments in this category must (a) be Board Certified in criminal law by the Texas Board of Legal Specialization or the National Board of Trial Advocacy, or (b) have been licensed to practice law in Texas for at least one year, have completed at least 6 hours of Criminal Law CLE (during the 12 months prior to filing the **Application To Be Placed On Public Appointment List For Montgomery County**) and have tried to verdict as 1st or 2nd chair at least 3 Class "B" or higher misdemeanor jury trials.

C. Trial Category C

1. A separate master list will be maintained of attorneys who request and are approved for appointment to all misdemeanor trial cases.

2. All attorneys who request appointments in this category must be licensed to practice law in Texas, have completed at least 6 hours of Criminal Law CLE (during the prior 12 months and have tried to verdict or appealed at least one Class "B" or higher misdemeanor jury trial as 1st or 2nd chair.

D. Appellate Category A

1. A separate master list will be maintained of attorneys who request and are approved for appointment to first degree and second degree felony appellate cases.

2. All attorneys who request appointments in this category must (a) be Board Certified in criminal law by the Texas Board of Legal Specialization or the National Board of Trial Advocacy, or (b) have been licensed to practice law in Texas for at least three years, have completed at least 6 hours of Criminal Law CLE (during the 12 months prior to filing the **Application To Be Placed On Public Appointment List For Montgomery County**) and have tried to verdict as 1st or 2nd chair, or appealed, at least 3 felony jury trials, or otherwise establishes proficiency in felony appellate work.

E. Appellate Category B

1. A separate master list will be maintained of attorneys who request and are approved for appointment to third degree and state jail felony appellate cases.

2. All attorneys who request appointments in this category must (a) be Board Certified in criminal law by the Texas Board of Legal Specialization or the National Board of Trial Advocacy, or (b) have been licensed to practice law

in Texas for at least one year, have completed at least 6 hours of Criminal Law CLE (during the 12 months prior to filing the **Application To Be Placed On Public Appointment List For Montgomery County**) and have tried to verdict as 1st or 2nd chair, or appealed at least 3 Class "B" or higher misdemeanor jury trials, or otherwise establishes proficiency in felony appellate work.

F. Appellate Category C

1. A separate master list will be maintained of attorneys who request and are approved for appointment to all misdemeanor appellate cases.

2. All attorneys who request appointments in this category must be licensed to practice law in Texas and have tried to verdict as 1st or 2nd chair or appealed at least one Class "B" or higher misdemeanor jury trial, or otherwise establishes proficiency in misdemeanor appellate work.

G. Capital Trial Category

1. A separate master list will be maintained of attorneys who request and are approved for appointment in capital murder cases. To be approved, an attorney must meet the standards for qualification for appointment to death penalty cases adopted by the local selection committee created by *Art. 26.052 CCP* for the 2nd Administrative Judicial Region of Texas, attached hereto.

2. Two attorneys will be appointed in each capital case. Only lead counsel is required to meet the above qualifications. Co-counsel must meet at least the requirements of Trial Category A. Additionally, co-counsel must have tried to verdict at least five 1st or 2nd degree felony jury cases.

H. Capital Appellate Category

1. A separate master list will be maintained of attorneys who request and are approved for appointment in the appeal of capital murder cases.

2. All attorneys who request appointments in this category must have appealed 5 felony appeals. To be approved for death penalty appeal cases, an attorney must meet the standards for qualification for appointment to death penalty appeal cases adopted by the local selection committee created by *Art. 26.052 CCP* for the 2nd Administrative Judicial Region of Texas, attached hereto.

I. Post-Conviction Writ of Habeas Corpus Category

1. A separate master list will be maintained of attorneys who request and are approved for appointment to post-conviction Writs of Habeas Corpus cases.

2. All attorneys who request appointments in this category must meet the experience requirements established for the relevant appellate category.

J. Special Language Qualifications and Appointments

1. Each attorney who speaks more than one language, or who signs, may voluntarily note this fact when requesting appointment to any Public Appointment List.

2. The magistrate or AD shall appoint an attorney that is capable of communicating in a language understood by the Defendant.

III. DUTIES OF APPOINTED COUNSEL

Appointed counsel shall make every reasonable effort to contact their client not later than the end of the first working day after the date on which the attorney is appointed, and shall interview the client as soon as practicable after the attorney is appointed. The Court may replace an attorney who violates this requirement.

Appointed counsel shall maintain an office with a phone which is answered by a receptionist, an answering service, a voice recording device or other messaging system that is able to promptly notify the attorney of the existence of a call. Persons answering the phone must have the capability to promptly locate the attorney to notify the attorney of appointment and hearing settings. Appointed counsel shall maintain a FAX number and/or an e-mail address, to which faxes and e-mails can be received 24 hours a day, seven days a week. All attorney contact methods, FAX numbers and e-mail addresses shall be included in the **ATTORNEY CERTIFICATION OF LOCAL RULES FOR THE TIMELY AND FAIR APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS**. The attorney shall designate in his **CERTIFICATION** the primary method by which he shall be contacted. An attorney's office number, fax number and e-mail address shall be the official numbers and address which will be utilized by Court personnel to notify counsel of their appointment and of hearing settings, unless a different primary number or address is designated in the **CERTIFICATION**. Any change in these numbers or address shall be given in writing as soon as practicable (but, in any event, no less than 10 days prior to the change) to the AD, or each County and District Court Judge, prior to the change.

Appointed Counsel shall comply with all laws, rules, procedures and ethical provisions for providing reasonable assistance of counsel to their client.

Appointed Counsel shall maintain a high standard of ethical conduct toward the Court and their client, and always be completely candid with both.

Appointed Counsel shall timely inform their client of all matters relating to the preparation, trial and disposition of the case, offers of plea bargains, appellate and writ rights, deadlines and such other matters necessary to provide reasonable assistance of counsel.

Appointed Counsel shall represent a defendant until the charges are dismissed, the defendant is acquitted, appeals are exhausted, or the attorney is relieved of his duties by the Court or replaced by other counsel after a finding of good cause is entered on the record.

IV. REMOVAL FROM PUBLIC APPOINTMENT LISTS

A. An attorney may be removed from all Public Appointment Lists and any active case he/she has been assigned for the following reasons:

1. Suspension or removal of a lawyer's law license, or
 2. Conviction for any felony, or misdemeanor involving a crime of moral turpitude, or
 3. Indictment for a felony or a filing of an information against the attorney involving a crime of moral turpitude,
- or
4. Intentional material misrepresentation by the attorney on the application for appointment.

B. An attorney may be removed from the Public Appointment Lists for failure to fulfill his/her duties required by law, Canons of Ethics, Local Rules, these Rules or any conduct deemed inappropriate by a panel of judges.

C. Removal from the Public Appointment Lists pursuant to IV (A) or IV (B) shall be conducted as follows:

1. The Director of the Office of Indigent Defense (OID) or any Judicial Officer of Montgomery County, Texas who presides over a court that maintains a public appointment list may file a complaint against any attorney requesting

disciplinary action with the Office of Indigent Defense.

2. The complaint shall be in writing, and shall specify the details of the conduct in question. The complaint may include affidavits or exhibits supporting the allegation of misconduct.

3. Upon receipt of the complaint, the Director of the OID shall immediately forward a copy of said complaint to the attorney in question. The attorney shall have ten (10) business days from receipt of the complaint to file a response with the OID. The response shall be in writing and may contain any affidavits or exhibits to support the response.

4. The Director of the OID shall convene a panel of judges to review the complaint and the response, if any. The panel shall consist of three presiding judges selected at random to preside over the removal hearing. The judge filing the request shall not be a member of the panel.

5. The panel shall meet in closed session and review all the documents, exhibits and affidavits filed with the OID. The panel shall make a determination whether disciplinary action should be taken.

6. Disciplinary action may consist of a private or public reprimand, temporary removal from all or some of the public appointment lists for up to one year, or permanent removal from public appointment lists.

D. The panel of judges has been granted the authority to act on behalf of the Board of Judges and the Juvenile Board. The decision of the panel is final with no right of review or appeal.

V. APPOINTMENT BY LITIGATION PHASES

A. **In the Trial Court.** Appointments made in accordance with the procedures outlined above shall be effective for all litigation in the trial court through and including a ruling on a Motion for New Trial, unless relieved by the Court at an earlier date. The Court shall advise the indigent defendant of all appellate rights on the record immediately after sentencing.

B. In the Court of Appeals

1. If requested by the defendant-appellant, counsel shall be appointed by the trial judge for a direct appeal to the Court of Appeals no later than the next working day after sentencing.

2. Unless requested by the defendant-appellant to appoint trial defense counsel, the Court shall appoint an attorney other than the trial defense counsel on appeal.

3. Appellate counsel will be appointed from the Public Appointment Lists. The rotation procedure set out above shall apply to this procedure.

C. **In the Court of Criminal Appeals.** If appellate counsel is requested on direct appeal, that appointment shall be effective through and including the filing of a Petition For Discretionary Review or Response to a Petition For Discretionary Review and subsequent proceedings through a final decision by the Court of Criminal Appeals.

D. **In the United States Supreme Court.** In a death penalty case, the appointment shall be effective through and including the filing of a Petition for Writ of Certiorari.

In non-death penalty cases, upon application from appellate counsel, the trial court has discretion to appoint counsel to file a Petition for Writ of Certiorari.

E. Writs of Habeas Corpus

1. The procedures outlined above for appointment of appellate counsel shall apply to writs of habeas corpus.

2. The Court shall appoint a lawyer, other than the lawyer(s) that represented the Defendant at trial or on appeal, to represent the applicant in a writ of habeas corpus.

3. An appointment in a writ of habeas corpus shall be effective through and including a decision by the Court of Criminal Appeals.

VI. COMPENSATION OF COUNSEL

A. Legal Fees

1. All fee payment requests must be submitted on an **Affidavit Of The Itemized Time, Services and Expenses For Court Appointed Counsel**, attached hereto as Exhibit "F," detailing the dates of service, a description of the service and the time rendered for the service. The itemization shall include the following statement:

"I, , State Bar of Texas Number , do hereby file this Itemization of Time and Services and do solemnly swear or affirm that the below information is true and correct. I hereby submit my request in the above numbered and entitled cause(s) and such request for compensation is reasonable and necessary. The following is a true and accurate itemization of the time and services by date, description of service, and actual time expended in rendering such service."

2. All requests shall be submitted to the Judge presiding over the proceedings for review and approval, and submitted to the county auditor for payment.

3. Appointed attorneys shall be compensated on an hourly fee basis in accordance with the **Schedule of Fees** adopted by formal action of the District and County Court at Law Judges, attached hereto as Exhibit "G." The trial court shall order the amount of attorney's fees and expenses approved on an **Order to Pay Court Appointed Attorney**, attached hereto as Exhibit "H."

4. The range of hourly rates shall be uniform among all Courts, and take into consideration the complexity of the case, the experience and ability of the attorney, time spent in court making an appearance for the Defendant as evidenced by a docket entry, time spent in trial, time spent in a proceeding in which sworn oral testimony is elicited, reasonable and necessary time spent out of court supported by any documentation required by the court, preparation of appellate briefs and preparation and presentation of same to the appellate court, preparation of a motion for rehearing, the potential punishment faced by the defendant, and reasonable office overhead costs.

5. If the trial judge recommends disapproval of the requested amount of payment, the judge shall make written findings, stating the amount of payment that the judge approves and each reason for approving an amount different from the requested amount.

6. Any disapproved fee payment request may be appealed by the appointed counsel to the Presiding Judge of the Second Administrative Judicial Region, as provided by the Fair Defense Act.

B. Expenses

1. Compensation for reasonable and necessary expenses shall be submitted in the **Affidavit Of The Itemized Time, Services and Expenses For Court Appointed Counsel**. All investigation and expert witness expenses require prior court approval.

2. Procedures consistent with Articles 26.052(f), (g), and (h) of the Code of Criminal Procedure will be adopted for payment of expenses incurred with and without prior court approval, as provided in the Fair Defense Act.

VII. RETENTION OF RULES

These Rules shall be filed and maintained in the Office of Court Administration, the office of the Administrative

District Judge, the office of the Administrative County Court at Law Judge, and the offices of the District and County Clerk.



49 of 50 DOCUMENTS

Texas Rules
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*** This document reflects changes received as of April 29, 2011 ***

LOCAL RULES OF DISTRICT COURTS IN TEXAS

Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas
Procedures -- Amended Local Rules of Montgomery County for the Timely and Fair Appointment of Counsel in
Juvenile Proceedings

Tex. Dist. Ct. Montgomery Cty. Procedures (2011)

Amended Local Rules of Montgomery County for the Timely and Fair Appointment of Counsel in Juvenile Proceedings

Effective October 2008

I. METHOD OF APPOINTMENTS

A. Public Attorney Appointment Lists. The Juvenile Court in Montgomery County, Texas, will maintain three public appointment lists of attorneys qualified to represent indigent juveniles as follows:

1. Trial Category A for determinate sentence eligible cases including habitual offenders, certification cases, and release-transfer hearing cases;

2. Trial Category B for all other felony juvenile cases excluding determinate sentence eligible cases including habitual offenders, certification cases, and release-transfer hearing cases;

3. Trial Category C for all other misdemeanor juvenile cases.

4. Appellate Categories for those cases in which an appealable order or judgment has been entered.

Attorneys who desire to represent indigent persons shall file a sworn APPLICATION TO BE PLACED ON PUBLIC APPOINTMENT LIST FOR MONTGOMERY COUNTY with the Board of Judges to have his/her name approved on one or more of the Public Appointment Lists, attached hereto as Exhibit "A." [**Editor's Note:** Contact the District Clerk for Exhibit "A".] The Juvenile Board shall meet and approve a list of eligible attorneys for each List. A copy of each Public Appointment List shall be posted outside the County Clerk and District Clerk's Offices and available to the public upon request.

B. Appointment of Counsel for Detained Juveniles

1. At the initial detention hearing, each juvenile-respondent, or parent or person responsible for each

juvenile-respondent, shall be provided the opportunity to request court appointed counsel.

2. Upon request, or on the Court's own motion, the Juvenile Court shall appoint an attorney from the appropriate Public Appointment List using a system of rotation. The Court shall appoint the attorney from among the next five names on the Public Appointment List in the order in which the attorney's name appears on the List, unless the Court makes a finding of good cause on the record for appointing an attorney out of order. Where the juvenile-respondent has been accused of committing multiple offenses and one of those offenses is eligible to be pursued as a determinate sentence or through certification proceedings, the Court shall appoint an attorney from the List of attorneys who qualify under Trial Category A. The attorney appointed from Trial Category A shall continue to represent the juvenile-respondent until the matter is concluded in Juvenile Court or concluded in Adult Criminal Court. The Court or the Court Designee shall sign an **Order Appointing Counsel**. The order shall be included within the juvenile-respondent's file maintained by the juvenile probation department.

3. The Court or Court Designee shall notify the attorney of the appointment by the most expeditious means available, and provide counsel with a copy of the Order Appointing Counsel and the last known location of the juvenile-respondent. If the attorney does not accept the appointment, the attorney shall immediately advise the court or the juvenile probation department and the above appointment process shall be repeated.

4. If the parents/custodian of the Juvenile-Respondent elect to retain counsel, they shall retain an attorney immediately. The parents shall notify the Juvenile's probation officer by noon of the next working day of the name of the juvenile's attorney. If the parents have not retained an attorney by noon of the next working day following the initial detention hearing, the probation officer shall submit a request for appointment of counsel for the detained juvenile.

C. Appointment of Counsel for Juvenile-Respondents Not in Detention

1. If a juvenile is released prior to the initial detention hearing, the probation officer shall inform the juvenile and the juvenile's parents of the right to request a court appointed attorney. Forms to request a court appointed attorney shall be provided to the juvenile or the juvenile's parents upon request.

2. The Juvenile Court, upon receiving a request for a court appointed attorney, shall appoint an attorney on or before the fifth working day after the date a petition for adjudication or discretionary transfer hearing has been served on the child. Included in the summons shall be the following language: "The said Juvenile-Respondent must have an attorney. It is the responsibility of the parent(s)/guardian(s) to pay for legal expenses. However, if the parent(s)/guardian(s) are too poor to afford an attorney, one will be appointed to represent the Juvenile-Respondent. Juvenile-Respondent and the parent(s)/guardian(s) may appear in Juvenile Court at 1:30 p.m. on the Thursday following service of this summons and present proof of indigence to the court in order to have an attorney appointed pursuant to Tex. Fam. Code ? 51.101."

3. The Juvenile Court, upon receiving a request for a court appointed attorney, shall appoint an attorney on or before the fifth working day after the motion to modify disposition seeking commitment to TYC or placing in secure correctional facility has been filed. Upon request, the probation officer shall provide forms to request court appointment of an attorney to the juvenile and the juvenile's parents before referring a case to the prosecutor's office for the purpose of filing a motion to modify a juvenile's probation. The form to request court appointment of an attorney shall accompany the motion to modify when the prosecutor files the motion with the District Clerk. When the motion to modify is filed, the request for appointment of counsel shall immediately be submitted to the court. Upon receipt of the request for appointment of counsel, the court shall appoint an attorney from the public attorney appointment list and the Court Designee shall immediately notify the attorney.

II. QUALIFICATIONS OF APPOINTED ATTORNEYS

A. General Qualifications for Attorneys on All Juvenile Appointment Lists

Tex. Dist. Ct. Montgomery Cty. Procedures

1. An attorney must be a member in good standing with the State Bar of Texas.
2. An attorney must reside in Montgomery County or maintain his/her principal office in Montgomery County. (A post office address alone will not satisfy this requirement).
3. An attorney must have a functioning fax machine.
4. An attorney must be able to receive e-mail.
5. An attorney must have the ability to produce typed motions or orders.
6. An attorney must have on file with the Juvenile Board a completed application for inclusion on the juvenile public appointment list approved by the Montgomery County Juvenile Board.
7. An attorney shall promptly notify the Juvenile Board of any changes to the information contained in the application for the juvenile public appointment list.
8. An attorney shall promptly notify the Juvenile Board of any matter that would disqualify the attorney from receiving appointments under these guidelines or any other law, regulation or rule.
9. An attorney must have on file with the Juvenile Board a list of continuing Legal Education (CLE) hours completed during the preceding 12 months. Attorneys seeking qualification for Categories A, B, and C are required to complete the minimum number of appropriate CLE for the trial category under which they are seeking appointments.
10. An attorney shall comply with any additional requirements that may be later imposed by the Juvenile Board.

B. Trial Category A

1. A separate master list will be maintained of attorneys who request and are approved for appointment for determinate sentence eligible cases, certification cases, and release-transfer cases.

2. All attorneys who request appointments in this category must be:

a. Board Certified in Juvenile Law by the Texas Board of Legal Specialization, or

b. Meet the following criteria:

1) have been approved for Trial Category A cases under the Local Rules of Montgomery County For Appointment of Counsel For Indigent Defendants; i.e.

(a) Board certified in criminal law by the Texas Board of Legal Specialization or the National Board of Trial Advocacy, or

(b)(i) have been licensed to practice law in Texas for at least three years, and

(ii) have completed at least 6 hours of Criminal law CLE (during the 12 months prior to filing the Application To Be Placed On Public Appointment List For Montgomery County), and

(iii) have tried to verdict as 1st or 2nd chair at least three felony jury trials;

2) and, have completed at least 6 hours of Juvenile Law CLE (during the 12 months prior to filing the Application To Be Placed On Public Appointment List For Montgomery County)

C. Trial Category B

Tex. Dist. Ct. Montgomery Cty. Procedures

1. A separate master list will be maintained of attorneys who request and are approved for appointment for all other felony juvenile cases excluding determinate sentence eligible cases, certification cases, and release-transfer cases.

2. All attorneys who request appointments in this category must be:

a. Board Certified in Juvenile Law by the Texas Board of Legal Specialization, or

b. Meet the following criteria:

1) have been approved for Trial Category A or B cases under the Local Rules of Montgomery County For Appointment of Counsel For Indigent Defendants; i.e.

(a) Board certified in criminal law by the Texas Board of Legal Specialization or the National Board of Trial Advocacy, or

(b)(i) have been licensed to practice law in Texas for at least one year;

(ii) have completed at least 6 hours of Criminal law CLE (during the 12 months prior to filing the Application To Be Placed On Public Appointment List For Montgomery County), and

(iii) have tried to verdict as 1st or 2nd chair at least 3 Class "B" or higher misdemeanor jury trials;

2) and, have completed at least 6 hours of Juvenile Law CLE (during the 12 months prior to filing the Application To Be Placed On Public Appointment List For Montgomery County)

D. Trial Category C

1. A separate master list will be maintained of attorneys who request and are approved for appointment for all other misdemeanor juvenile cases.

2. All attorneys who request appointment in this category must be:

a. Board Certified in Juvenile Law by the Texas Board of Legal Specialization, or

b. Meet the following criteria:

1) have been approved for Trial Category A, B or C cases under the Local Rules of Montgomery County For Appointment of Counsel For Indigent Defendants; i.e.

(a) Board certified in criminal law by the Texas Board of Legal Specialization or the National Board of Trial Advocacy, or

(b)(i) have been licensed to practice law in Texas for at least one year;

(ii) have completed at least 6 hours of Criminal law CLE (during the 12 months prior to filing the Application To Be Placed On Public Appointment List For Montgomery County), and

(iii) have tried to verdict or appealed at least one Class "B" or higher misdemeanor jury trial as 1st or 2nd chair.

2) and, have completed at least 6 hours of Juvenile Law CLE (during the 12 months prior to filing the Application To Be Placed On Public Appointment List For Montgomery County).

E. Appellate Qualifications and Appointments

1. A separate master list will be maintained of attorneys who request and are approved for appointment to those cases in which an appealable order of judgment has been entered.

2. An attorney qualified for trial appointment for any level may receive an appellate appointment at that same level.

F. Special Language Qualifications and Appointments

1. Each attorney who speaks more than one language, or who can communicate using sign language, should note this fact when requesting appointment to any Public Appointment List.

2. Whenever possible, the Juvenile Court shall appoint an attorney that is capable of communicating in a language understood by the juvenile-respondent.

G. Procedures for Requesting Compensation. When an attorney's representation is concluded, the attorney should use the forms for criminal appointments when requesting compensation. All procedures, forms, and schedules regarding compensation provided in criminal cases are applicable in Juvenile cases, using comparable or same level of offense criteria.

H. Procedures for Removal of Attorney from Public Appointment List

A. An attorney may be removed from all Public Appointment Lists and any active case he/she has been assigned for the following reasons:

- 1.* Suspension or removal of a lawyer's law license, or
- 2.* Conviction for any felony, or misdemeanor involving a crime of moral turpitude, or
- 3.* Indictment for a felony or a filing of an information against the attorney involving a crime of moral turpitude, or
- 4.* Intentional material misrepresentation by the attorney on the application for appointment.

B. An attorney may be removed from the Public Appointment Lists for failure to fulfill his/her duties required by law, Canons of Ethics, Local Rules, these Rules or any conduct deemed inappropriate by a panel of judges.

C. Removal from the Public Appointment Lists pursuant to IV(A) or IV(B) shall be conducted as follows:

1. The Director of the Office of Indigent Defense (OID) or any Judicial Officer of Montgomery County, Texas who presides over a court that maintains a public appointment list may file a complaint against any attorney requesting disciplinary action with the Office of Indigent Defense.

2. The complaint shall be in writing, and shall specify the details of the conduct in question. The complaint may include affidavits or exhibits supporting the allegation of misconduct.

3. Upon receipt of the complaint, the Director of the OID shall immediately forward a copy of said complaint to the attorney in question. The attorney shall have ten (10) business days from receipt of the complaint to file a response with the OID. The response shall be in writing and may contain any affidavits or exhibits to support the response.

4. The Director of the OID shall convene a panel of judges to review the complaint and the response, if any. The panel shall consist of three presiding judges selected at random to preside over the removal hearing. The judge filing the request shall not be a member of the panel.

5. The panel shall meet in closed session and review all the documents, exhibits and affidavits filed with the OID. The panel shall make a determination whether disciplinary action should be taken.

6. Disciplinary action may consist of a private or public reprimand, temporary removal from all or some of the public appointment lists for up to one year, or permanent removal from public appointment lists.

D. The panel of judges has been granted the authority to act on behalf of the Board of Judges and the Juvenile Board. The decision of the panel is final with no right of review or appeal.



50 of 50 DOCUMENTS

Texas Rules
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*** This document reflects changes received as of April 29, 2011 ***

LOCAL RULES OF DISTRICT COURTS IN TEXAS
Montgomery County -- The 9th, 221st, 284th, 359th, 410th, 418th and 435th Judicial District Courts of Texas

Tex. Dist. Ct. Montgomery Cty. Dist. Ct. Personnel (2011)

Dist. Ct. Personnel District Clerk

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Conroe, TX 77305

Physical Address:

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