

**LOCAL RULES OF PRACTICE BEFORE THE FAMILY COURTS
OF MONTGOMERY COUNTY, TEXAS
AND
LOCAL RULES FOR THE ADMINISTRATION OF FAMILY CASES
IN MONTGOMERY COUNTY, TEXAS**

Purpose

The primary purposes of these *Local Rules of Practice before the Family Courts of Montgomery County, Texas* and *Local Rules for the Administration of Family Cases in Montgomery County, Texas* are: (1) to aid in the just disposition of cases without unnecessary delay or expense; (2) for the sensible and efficient management of the courts' dockets; and (3) to aid litigants and counsel.

Authority

These *Local Rules of Practice before the Family Courts of Montgomery County, Texas* and *Local Rules for the Administration of Family Cases in Montgomery County, Texas* are made pursuant to Rule 3a of the Texas Rules of Civil Procedure and Texas Government Code Section 74.093, respectively.

Definitions

"Board of Judges" shall be comprised of the Judges of the District Courts and the Judges of the County Courts of Law of Montgomery County, Texas.

"Family Trial Courts" shall mean the District Courts and/or County Courts at Law of Montgomery County, Texas, that, pursuant to the then current orders of assignment as referenced in Rule 4.1 of the Rules of Administration of Montgomery County, Texas, regularly receive more than ten percent (10%) of the family law cases.

"Family Trial Judges" shall mean those Judges who preside over the District Courts and/or County Courts of Law of Montgomery County and who, pursuant to the then current orders of assignment as referenced in Rule 4.1 of the Rules of Administration of Montgomery County, Texas, regularly receive more than ten percent (10%) of the family law cases.

**Rule 1
General**

1.1 Applicability. These rules shall be applicable to all family law cases filed in the District Courts or County Courts at Law of Montgomery County.

1.2 Severability. Each numbered or lettered paragraph of these *Local Rules of Practice before the Family Courts of Montgomery County, Texas and Local Rules for the Administration of Family Cases in Montgomery County, Texas* 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 shall not affect any other portion not declared to be improper.

**LOCAL RULES OF PRACTICE BEFORE THE FAMILY COURTS
OF MONTGOMERY COUNTY, TEXAS**

**Rule 2
Pre-Trial Motions**

2.1 Forms. Motions and responses shall be in writing and shall be accompanied by a certificate of service, a certificate of conference, and a proposed order granting or denying the relief sought. The proposed order shall be filed as a separate instrument.

2.2 Scheduling. Movant shall schedule with the court a date and time for consideration of a motion. Movant shall serve written notice on all parties of the date and time of the hearing, as well as whether the motion will be considered at oral hearing or will be considered on a submission docket. Unless the law and/or the Texas Rules of Civil Procedure require an oral hearing, it is in the sound discretion of the court whether to set a motion on a submission docket or for an oral hearing.

2.3 Submission. Any motion placed on a submission docket shall be in writing and shall be accompanied by a proposed order. The proposed order must be filed as a separate instrument. Additionally, any motion placed on a submission docket must contain a certificate of service that includes (1) the name of the instrument which was served, (2) the method of service, (3) the name(s) of the person/people on whom it was served, and (4) the date on which it was served. A certificate of service which fails to provide this information creates no presumption that the instrument was served. Additionally, any motion placed on a submission docket must contain a certificate of conference indicating that the attorneys and/or parties have attempted to resolve the dispute prior to the filing of the motion. Such certificate must be signed by the moving attorney and/or party and must include the date(s) and time(s) of the attempt(s), and the manner(s) of communication of the attempt(s). Such certificate is not required for dispositive motions, motions for summary judgment, default judgments, motions for voluntary dismissal or nonsuit, post-verdict motions and motions involving service of citation. Notices of a motion placed on a submission docket shall state a date of submission which shall be obtained by the movant from the court, and which shall be at least ten (10) days from filing, except on leave of court. The motion shall be submitted to the court upon that date. Responses shall be in writing and shall be accompanied by a proposed order. The proposed order must be filed as a separate instrument. Responses shall be filed at least two (2) business days before the submission date. Failure to file

a response may be considered a representation of no opposition. A motion or response may include a request for oral argument. Said request shall be in writing and set forth the reasons for the necessity of an oral hearing. It is in the sole discretion of the court whether to grant the request for oral hearing. A request for oral argument is not a response under this rule.

Rule 3 **Flow of Cases**

3.1 Scheduling Orders. Each court may generate scheduling orders and/or docket control orders, including such deadlines as the court issuing the scheduling order and/or docket control order deems appropriate for the case. It shall be the duty of the attorney and/or party appearing in a pending case to ascertain from the court record whether a scheduling order and/or docket control order has issued, and if so, to obtain a copy of the scheduling order and/or docket control order from the District Clerk.

3.2 Preference to Mediation. In the discretion of the court, preference in setting hearings and/or hearing disputes shall be given to matters in which the parties have participated in mediation.

3.3 Court Appearances. Attorneys and/or parties who do not expect to be on time or present in the courtroom for a scheduled hearing and/or trial must notify the court and the opposing attorneys and/or parties of this fact. Attorneys and/or parties who will be late for court must give the court and opposing attorneys and/or parties notice of their estimated time of arrival and the specific reason for the delay. If the attorney and/or party is late because he/she must appear in another court at the same time, such notification must include the specific court(s) in which the attorney and/or party will be appearing and the case number(s) for each such appearance. If the moving attorney and/or party does not appear in the courtroom within thirty (30) minutes of the time the hearing and/or trial was noticed to be heard, that attorney's and/or party's motion may be passed by the court.

Rule 4 **Protection of Children before the Family Courts**

4.1 Interview of Child / Child's Testimony. At no time shall a child the subject of a suit be brought to the courthouse incident to a scheduled hearing and/or trial without the specific approval or order of the Family Trial Judge, or instruction from the Family Trial Court administrator or coordinator. In the event that a child is brought to the courthouse pursuant to the court's order or approval, the attorney and/or party who is responsible for the child's attendance shall immediately notify the court of the child's presence, and the child shall not be brought into the courtroom without the express consent of the judge.

Rule 5
Disclosure of Financial Information and Property Information

5.1 Temporary Orders. At least twenty-four (24) hours prior to the commencement of any hearing for temporary orders in which child support and/or spousal support is at issue, the parties shall file and exchange: (a) Monthly Financial Information Statements (in the form substantially in conformity with the *Texas Family Practice Manual*, or on a form provided by the court); (b) the party's federal income tax returns for the past two (2) years; (c) the party's six (6) most recent payroll stubs; (d) if the party is self-employed, the party's three (3) most recent bank statements for all accounts at financial institutions controlled by the party; and (e) the information required by Sections 154.181(b) and 154.1815(c) of the Texas Family Code.

5.2 Final Trial/Financial Information Statement. At least thirty (30) days prior to the commencement of a final trial in which child support and/or spousal support is at issue, unless the court orders otherwise, the parties shall file and exchange: (a) Monthly Financial Information Statements (in the form substantially in conformity with the *Texas Family Practice Manual*, or on a form provided by the court); (b) the party's federal income tax returns for the past two (2) years; (c) the party's six (6) most recent payroll stubs; (d) if the party is self-employed, the party's three (3) most recent bank statements for all accounts at financial institutions controlled by the party; and (e) the information required by Sections 154.181(b) and 154.1815(c) of the Texas Family Code.

5.3 Final Trial/Sworn Inventory and Appraisalment. At least thirty (30) days prior to the commencement of a final trial in a divorce or annulment case, unless the court orders otherwise, each party shall file and exchange a sworn Inventory and Appraisalment in substantial conformity with the *Texas Family Practice Manual*. Each party is ordered to list all property, real and personal, tangible and intangible, in which each party owns an interest. The inventory shall include a listing of all beneficial interests, such as insurance and employment benefits. The inventory shall state that party's opinion as to the character of the property, separate or community. The inventory shall list all debt owed by the parties or either party. The inventory shall list and total the fair market value of each individual item of property listed and each liability. Failure of either party to timely file and exchange a sworn Inventory and Appraisalment will result in the court adopting as stipulated the information filed by the complying party. Except for good cause shown, the non-complying party shall be prohibited from contesting the accuracy of the information presented by the complying party. This does not alleviate a party's burden to overcome the presumption that property possessed by either spouse during or on dissolution of marriage is community property. If both parties fail to timely file and exchange a sworn Inventory and Appraisalment, the court may dismiss the case.

Rule 6
Alternative Dispute Resolution and Mediation

6.1 In order to encourage the early settlement of disputes and to carry out the responsibilities of the courts, the Family Trial Judges strongly encourage the use of appropriate alternative dispute resolution procedures.

6.2 The courts encourage mediation in order to facilitate the settlement of disputes and litigation. It is in the sound discretion of the court when and whether to order mediation. A personal appearance by each party and their attorney (if represented) is required at mediation, unless otherwise indicated by leave of court.

Rule 7
Entry of Orders

7.1 Entry. Upon rendition of any order, the prevailing party or the party designated by the court shall prepare a written order complying with the court's ruling. Said order shall be filed on or before the date of entry set by the court. The party preparing the order shall attempt to obtain approval as to form from the opposing attorney and/or party. A motion to enter shall be accompanied by the proposed order the subject of the motion, and the proposed order shall also be filed as a separate document.

LOCAL RULES FOR THE ADMINISTRATION OF FAMILY CASES
IN MONTGOMERY COUNTY, TEXAS

Rule 8
Transfer and/or Exchange of Cases

8.1 Bench Exchange. The courts may at any time exchange cases and benches to accommodate their dockets or to expedite the court's trials. Unless an order is signed transferring such case(s), when a judge signs an order on behalf of another court, the case shall remain in the original court.

8.2 Prior Filing(s). When a suit filed in a Family Trial Court is in any way terminated (by nonsuit or otherwise), a subsequent suit or cause of action involving the same parties or the same subject matter shall be filed in, or transferred to, the court that first had jurisdiction of the parties or subject matter, provided that such court is a Family Trial Court. This rule applies to all controversies, including divorce, support, conservatorship, and all matters incident to them, whether sought by original proceedings or by modification, clarification or enforcement of a former order, judgment or settlement agreement. In the event such matter is not disclosed until after filing, the judge of the court receiving the case shall immediately request that the suit be transferred to the court in which the prior suit was filed, provided that such court is a Family Trial Court.

8.3 Transfers. In the event of conflicts, or to aid in the prompt disposition of cases, the Family Trial Judges may transfer cases between Family Trial Courts, provided the Family Trial Judge of the transferring court and the Family Trial Judge of the receiving court agree in writing.

Rule 9

Adoption, Approval and Amendment of These Rules of Administration for Family Cases

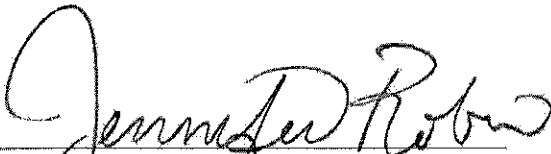
9.1 These rules are adopted by the Family Trial Judges for all purposes.

9.2 These rules shall become effective immediately upon publication on the Office of Court Administration's website in conformity with Rule 3a(c) of the Texas Rules of Civil Procedure, and shall remain effective until amended, repealed, or modified.

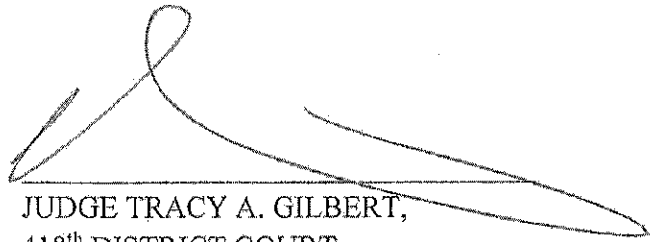
9.3 These rules may be amended, repealed, or modified by a vote of more than one-half (½) of the Family Trial Judges at a meeting called for that purpose, after reasonable notice to all Family Trial Judges of the date, time, and place of the meeting and the intent to consider same.

9.4 The District Clerk is directed to furnish a copy of these rules to the Supreme Court of Texas pursuant to Rule 3a of the Texas Rules of Civil Procedure, and to record these rules in the minutes of the 9th, 221st, 284th, 359th, 410th, 418th, 435th and 457th District Courts and the County Courts at Law Numbers One, Two, Three, Four, Five and Six, along with all additional District Courts and County Courts at Law hereinafter created.

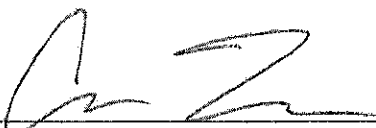
These Local Rules of Practice before the Family Courts of Montgomery County, Texas and Local Rules for the Administration of Family Cases in Montgomery County, Texas are adopted and approved on the 16th day of November, 2022.



JUDGE JENNIFER JAMES ROBIN,
410th DISTRICT COURT



JUDGE TRACY A. GILBERT,
418th DISTRICT COURT



JUDGE AMY TUCKER,
COUNTY COURT AT LAW NUMBER THREE (3)