

# IN THE SUPREME COURT OF TEXAS

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Misc. Docket No. 15-9051

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## APPROVAL OF AMENDED LOCAL RULES FOR THE DISTRICT COURTS OF COLLIN COUNTY

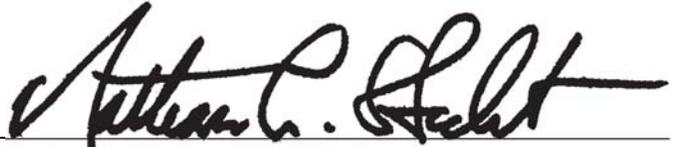
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**ORDERED** that:

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

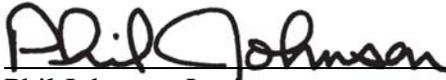
Dated: March 10, 2015.



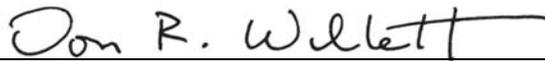
Nathan L. Hecht, Chief Justice



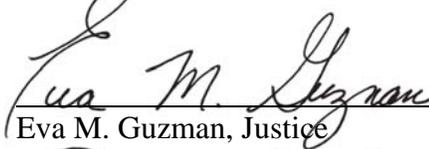
Paul W. Green, Justice



Phil Johnson, Justice



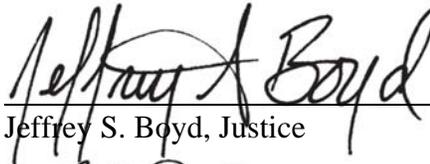
Don R. Willett, Justice



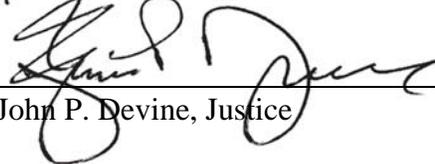
Eva M. Guzman, Justice



Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice

# **LOCAL RULES OF THE DISTRICT COURTS OF COLLIN COUNTY, TEXAS**

## **PART ONE CONDUCT AND DECORUM**

### **1.0 CONDUCT**

#### **1.1 Attorney and Self-Represented Litigants Compliance with Rules**

Every attorney and every self-represented litigant permitted to practice in the Courts of Collin County shall familiarize themselves with and comply with the standards of professional conduct required of members of the State Bar of Texas and contained in the Texas Disciplinary Rules of Professional Conduct, Government Code, Title 2, Subtitle G-Appendix and the decisions of any court applicable thereto, which are hereby adopted as standards of professional conduct of these courts.

#### **1.2 Self-Represented Litigants**

All requirements of these rules applicable to attorneys or counsel apply with equal force to self-represented litigants. Self-represented litigants are required to provide address and telephone listings, and email and facsimile, if self-represented litigant has such capability, at which they can be reached by Court personnel and all counsel of record. Failure to accept delivery or to pick up mail addressed to the address provided by a self-represented litigant will be considered constructive receipt of the mailed or delivered document and may be established by a postal service receipt for certified or registered mail or comparable proof of delivery.

#### **1.3 General Rules of Courtroom Conduct**

- (a) All persons in the Courtroom shall be attentive to the proceedings and cause no distraction through their words, actions, or attire.
- (b) Beverages, food, chewing gum, candy, and tobacco products are not permitted in the courtroom, unless specifically authorized by the Judge of the Court.
- (c) No photos or electronic recordings of any kind (cell phone, camera phone, iPad, etc.) are permitted in the courthouse, unless specifically authorized by the Judge of the Court in accordance with Texas Rules of Civil Procedure (“TRCP”) 18(c).
- (d) Each Court may post Standards of Conduct in or near its chambers.

## **1.4 Miscellaneous**

- (a) Except in emergencies when the District Clerk's Office is not open for business, no application for immediate or temporary relief shall be presented to a Judge until it has been filed and assigned to a Court.
- (b) Attorneys and self-represented litigants are required to notify the District Clerk of any change in address, email, telephone, or fax number. Any notice or communication directed to the attorney or self-represented litigant at the address, email, telephone or fax number indicated in the records of the District Clerk will be deemed received.
- (c) A "Vacation Letter" may be filed with the District Clerk by a party or attorney reserving days in which no hearings, depositions, or trials are to be set. A "Vacation Letter" per case is unnecessary; one letter shall give notice to all District Courts for each case related to the party or attorney filing the letter. The letter may be updated as needed.
- (d) Paysheets for court-appointed counsel in civil cases are due within 30 days of any hearing and within 30 days of trial. Paysheets for court-appointed counsel in criminal cases are due at the time of plea, or if there is a trial, within 30 days of trial. Paysheets untimely filed and without good cause will not be paid.
- (e) These rules shall be known as the "Local Rules of the District Courts of Collin County, Texas" and particular rules may be cited thus: "Local Rule 3.2."

## **PART TWO CASE FILING AND EMERGENCY ORDERS**

### **2.0 FILING OF PLEADINGS**

#### **2.1 Filing**

- (a) All civil cases shall be filed in rotating order. Forum shopping is prohibited. Once a case is filed in a court, it will remain in that court for any subsequent filings, including re filings.
- (b) Pursuant to TRCP 78(a), the original petition must be accompanied by a properly completed case information sheet.

## 2.2 Document and Filing Requirements

- (a) All pleadings, motions, orders and other documents, including exhibits attached thereto, when offered for filing or entry, shall be descriptively titled.
- (b) Each page of each instrument shall, in the lower margin thereof, be numbered and titled; e.g., Plaintiff's Original Petition - Page 2.
- (c) Orders and Judgments shall be separate documents completely separated from all other documents.
- (d) There must be a minimum of a one-inch margin on all sides of the page.
- (e) All documents must contain the filer's complete contact information in the signature block, including the filer's name, address, phone number, and email address.
- (f) All documents must comply with the requirements of TRCP 21c on sensitive data.
- (g) A document must not contain any malware or viruses. The e-filing of a document constitutes certification by the e-filer that the document has been checked and is clear of any malware or viruses.
- (h) A fiat must be filed as a separate Notice of Hearing and cannot be part of the pleading. It must contain the name of the pleading to which it is associated—for example, Notice of Hearing on Motion for Continuance.
- (i) A document may not contain multiple filings; each filing must be filed separately. For example, you cannot file a combined Answer and Counter Petition; you must file one Answer and one Counter Petition.
- (j) PDF packages and portfolios are not permitted. Multiple documents that pertain to a single filing must be combined into a single PDF. Bookmarks must be used to separate content appropriately. For example, exhibits to pleadings must be combined in a single PDF, but they must be bookmarked by exhibit.
- (k) Proposed orders should not be filed as an initial filing/envelope. They must be filed as a subsequent filing/envelope.
- (l) Constable service requests must be verified through the Collin County Interactive Map, Precinct Finder at <http://gismaps.collincountytx.gov>.

### **2.3 Contact with the District Clerk's Office**

The deputy clerk shall limit response to telephone requests for information to the following: (1) If answer has been filed; (2) Existence and setting of a case; (3) Existence of a setting of a matter and/or motion in a pending case; (4) Return of service and a date; and (5) Correct style of a case when correct case number is supplied. The deputy clerk shall not receive and relay personal messages and/or telephone calls, read pleadings to attorneys, their secretaries or the public.

### **2.4 Application for Temporary Restraining Order and Other Ex Parte Orders**

- (a) Counsel presenting any application for a temporary restraining order or other ex parte relief shall notify the opposing party's counsel, or the opposing party if unrepresented by counsel in the present controversy, and provide opposing counsel or party with a copy of the application and proposed order at least two (2) hours before the application and proposed order are to be presented to the Court for decision, except as provided in Section 2.4(b).
- (b) Compliance with the provisions of Section 2.4(a) hereof is not required if a verified certificate of a party or a certificate of counsel is filed with the application:
  - (1) That irreparable harm is likely imminent and there is insufficient time to notify the opposing party or counsel; or
  - (2) That to notify the opposing party or counsel would impair or annul the Court's power to grant relief because the subject matter of the application could be compromised or property removed, secreted or destroyed, if notice were given.
- (c) Applications filed with District Clerk.
  - (1) If the Judge of the Court to which a case is assigned is absent or unavailable, any District Judge may sit for the Judge of the Court to which the case has been assigned and shall make all writs and process returnable to that Court. Hearings on applications for temporary injunctions, temporary receiverships and the like shall be set in the Court to which the case has been assigned.
  - (2) Whenever immediate action of a Judge is required in an emergency when the District Clerk's Office is not open for business, the case shall nevertheless at the earliest practicable time be docketed and

assigned to a Court, and all writs and process shall be returnable to that Court. If the Judge of such Court is not available to hear the applications for temporary relief at the time set, any District Judge or Judge sitting for a District Judge may preside in the case.

- (3) Counsel presenting any application for an ex parte order shall, before presenting any such application to any District Judge, determine whether there has been any previous application for the same or similar relief, or whether the relief sought will conflict with any previous order. Where there has been any previous application for the same or similar relief, or where the relief sought will conflict with any previous order, counsel shall so inform the Judge to whom the application for an ex parte order is presented. Depending on the circumstances, the Judge may decline to act and refer the entire case to the Judge of the appropriate Court.

## **2.5 Discovery Protective Order**

- (a) Upon agreement of all parties to a cause of action for the entry of the standard form Protective Order for Collin County Courts in that cause of action, the Court presiding over that cause of action may enter the standard form Protective Order for Collin County District Courts set forth in Section 2.5(c).
- (b) Upon the motion of one of the parties to a cause of action for entry of the standard form Protective Order for Collin County Courts in that cause of action, the Court presiding over that cause of action may enter the standard form Protective Order for Collin County District Courts unless one of the other parties to that cause of action objects to the motion for or entry of the standard form Protective Order within 10 days of receipt of notice of the filing of the motion for entry of the standard form Protective Order. The objecting party may object to the entry of a Protective Order in its entirety or may move for entry of a modified Protective Order as modified at the discretion of the Court. If the objecting party requests a modified Protective Order, the objecting party shall submit the modified Protective Order in the form and the language it seeks for the Court to enter.
- (c) The standard form Protective Order is available on the district clerk's website.

**PART THREE  
MOTIONS AND SUBPOENAS**

**3.0 MOTION PRACTICE**

**3.1** Parties are directed to use all reasonable efforts to attempt to resolve pre-trial disputes to avoid the necessity of judicial intervention.

**3.2** Prior to the filing of a motion, counsel for the movant shall personally attempt to contact counsel for the respondent to hold or schedule a conference to resolve the disputed matters. Counsel for movant shall use good faith efforts to contact opposing counsel and be prepared to outline such efforts for the Court.

**3.3** Except as provided in Section 3.4, no counsel for a party shall file, nor shall any clerk set for hearing, any motion unless accompanied with a Certificate of Conference signed by counsel for movant and stating:

- (a) Counsel for movant and counsel for respondent have personally conducted a conference at which there was a substantive discussion of the issues raised in this motion and despite best efforts the counsel have not been able to resolve those matters presented.
- (b) Counsel for movant has personally attempted to contact the counsel for respondent to resolve the matters presented, but counsel for respondent has failed to respond or attempt to resolve the matters presented.
- (c) Counsel for movant has conferred with opposing counsel on the merits of the issues contained in this motion, and opposing counsel has indicated that the motion is unopposed.

**3.4** The requirement for a Certificate of Conference set forth in this Rule does not apply to dispositive motions, motions for summary judgment, default judgments, motions for voluntary dismissal or nonsuit, post-verdict motions, and motions involving service of citation.

**3.5 Discovery Motions**

All motions for discovery sanctions, requests for rulings on discovery objections, and motions to compel discovery shall set out within the body of the motion, the interrogatory or request which is in dispute, and the objection and answer or response which is in dispute, so that all matters necessary for the Court's consideration are set out in one concise document

**3.6 Service of Subpoena and Subpoena Duces Tecum on Non-litigant Government Officials and Employees**

- (a) Before issuing a subpoena for records from a governmental body or for a government official or employee to appear as a witness if the official, employee, or its respective entity is not a party to the suit, the requesting party must first contact the legal representative or chief executive officer of the entity and make a reasonable good faith inquiry to ascertain the name(s) and capacity of the official or employee who has knowledge of the matter(s) and records for which a subpoena is sought. The inquiry must be made during regular business hours and at least three (3) business days before the subpoena is issued. In addition, the subpoena shall also include a certificate that provides substantially the following information:
  - (1) The attorney attempted to contact the legal representative or chief executive officer on (list date(s), time(s), method of contact, person(s) contacted) and provided a detailed message alerting the person of the reasons for the subpoena, but no legal representative, executive officer, or duly authorized representatives responded to the inquiry; or,
  - (2) The attorney conferred with a legal representative, chief executive officer, or duly authorized representative and was unable to agree on an alternative representative(s) to appear and/or provide the documents because the persons and/or documents sought were critical for the following reasons: list reason(s).
- (b) If the attorney fails to comply with the provisions of 3.6(a) above, the Court may grant the motion of a person opposing the subpoena on that ground, and the Court may order that expenses including attorney fees be paid to the person/entity opposing the subpoena.
- (c) This rule does not supersede any other response that may be asserted to the subpoena, and does not apply to subpoenas sought in conjunction with an emergency hearing or request for emergency relief, including Temporary Restraining Orders, Protective Orders, etc.

**PART FOUR  
CONFLICTS, CONTINUANCES, AND WITHDRAWALS**

**4.1 Conflict**

- (a) A “conflicting setting” exists when an attorney is already set for trial or hearing in another Court or an attorney is assigned to more than one Court at the same time.

- (b) An attorney shall inform all Courts in which the attorney is set for hearing or trial if the attorney has a conflicting setting, which information shall be verified upon request of opposing counsel or a Court.

#### **4.2 Continuances**

A trial date or hearing cannot be postponed or changed without the consent of the Court. Any Motion for Continuance shall be verified and filed as soon as possible and will be heard at a time to be set by the Court.

#### **4.3 Withdrawal**

- (a) Motions to withdraw must comply with TRCP 10 and be served on all counsel of record.
- (b) A lawyer may not file a motion to withdraw within 30 days of trial without leave of court.
- (c) A motion to withdraw may be granted without a hearing under the following circumstances:
  - (1) the motion is accompanied by a certificate by the client attesting to the client's consent to the withdrawal or a certificate by another lawyer attesting that the lawyer has been retained to represent the client in the case; or
  - (2) the motion is accompanied by a letter that notifies the client of the client's right to object to the withdrawal within ten days of the date that the letter was mailed; the withdrawing attorney certifies that the motion and letter were sent to the client's last known address by certified and regular mail; and no objection is filed.
- (d) If a motion to withdraw is granted, the withdrawing attorney must send the client by regular mail a copy of the court's order and a letter that lists all settings and pending deadlines and, if another lawyer is not being substituted, advises the client to obtain other counsel. The letter must be served on all counsel of record and filed with the Clerk.

### **PART FIVE PRETRIAL MATTERS**

#### **5.0 PRETRIAL MATTERS**

## **5.1 Pretrial Conference**

In all cases in which a jury fee has been paid, the Court shall conduct a pretrial conference prior to selection of the jury unless otherwise agreed to by the parties or order of the Court. This rule does not alter any deadlines established by TRCP 190.1-190.4 or by a Scheduling Order entered in the case.

## **5.2 Mediation**

It is the policy of the Collin County District Courts to encourage the peaceful resolution of disputes and the early settlement of pending litigation. If the Court finds that a party has delayed the mediation, or has not cooperated in scheduling the mediation, the Court may consider all appropriate actions, including sanctions.

# **PART SIX ELECTRONIC FILING**

## **6.0 ELECTRONIC FILING**

### **6.1 Rules**

These rules govern the electronic filing and service of court documents in Collin County. The Collin County District Courts and District Clerk adopt the Texas Supreme Court “Order Requiring Electronic Filing in Certain Courts,” the Texas Supreme Court Statewide E-Filing Rules, and the Technology Standards promulgated by the Judicial Committee on Information Technology.

### **6.2 Official Record Copy**

All official records will be electronically stored upon presentation to the District Clerk. The reproduction of a record stored with the District Clerk is an original record and shall be accepted as an original record. A copy or reproduction on paper of a record stored with the District Clerk is a copy of the original record and may be certified as such by the District Clerk.

### **6.3 Electronic Order and Viewing Electronically Filed Documents**

#### **(a) Courts Authorized to Make Electronic Orders**

- (1) A Judge may electronically sign an order by applying his or her digitized signature to the order.**

- (2) Upon electronically signing an order, the Judge shall electronically forward the order to the District Clerk who may treat the electronic order as the official copy of the order.
  - (3) The District Clerk may electronically scan a court order. The scanned court order may then serve as the official copy of the court order.
- (b) Viewing of Electronically Filed Documents
- (1) The District Clerk shall ensure that all the records of the court, except those made confidential or privileged by law or statute, may be viewed in some format by all persons for free.
  - (2) Independent of the efilings system and the viewing access described herein, the District Clerk may provide for both filers and the general public to electronically view documents or court orders that have been electronically filed or scanned. Where such provision has been made, persons may electronically view documents or court orders that have been electronically filed or scanned.
  - (3) Nothing in this rule allows for the viewing of documents or court orders, in any form, that are legally confidential (e.g., documents in mental health proceedings) or otherwise restricted by judicial rule or order.

## **PART SEVEN ORDERS AND JUDGMENTS**

### **7.0 JUDGMENTS AND DISMISSAL ORDERS**

#### **7.1 Dismissal for Want of Prosecution**

- (a) A case may be dismissed for want of prosecution for any of the following reasons:
  - (1) Failure of Plaintiff to request a setting, sign a Scheduling Order, or take other appropriate action after notice from the District Clerk that the case will be dismissed in sixty (60) days.
  - (2) Failure of Plaintiff or Plaintiff's counsel to appear for trial.

- (3) Failure of Plaintiff to make an announcement of “ready” when a case is called for trial.
  - (4) For any other reasons provided for by these Rules, Texas Rules of Civil Procedure, or the general law.
- (b) Pursuant to TRCP 165a, the District Clerk shall mail notice of such dismissal and signed Orders of Dismissal to all parties or their counsel of record to the address on file with the District Clerk.

## 7.2 Orders, Judgments, and Decrees

Within thirty (30) days after rendition or an announced settlement by counsel, counsel shall cause, unless ordered otherwise, all judgments, decisions, and orders of any kind to be reduced to writing approved as to form by opposing counsel, and as to contents, if an agreed order, judgment, or decree, and filed with the District Clerk. Upon counsel’s failure to file such a judgment or order finally disposing of the case, the Court shall presume that counsel wishes the case dismissed with prejudice with costs taxed at the Judge’s discretion.

## 7.3 Registry of the Court

As ministerial officers, District Clerk employees are barred from using their personal discretion when performing functions for a Court. Thus, when presented with an order from a Court, a District Clerk employee must perform in strict conformity with the order’s language and not make any assumptions or personal interpretations. Orders to disburse funds must be clear, complete, and void of any uncertainty. Therefore, to avoid any unnecessary delays in the disbursement of funds, please consider the following five issues when drafting an order to disburse:

1. Does the order clearly state the **DISTRICT CLERK IS ORDERED TO** issue the check?
2. Does the order state exactly who is to receive the check? For example: The District Clerk is ordered to **ISSUE A CHECK PAYABLE TO JANE MARIE DOE**.
3. Does the order include the amount to be paid? For example: the District Clerk is ordered to issue a check payable to Jane Marie Doe **FOR AN AMOUNT EQUAL TO ALL FUNDS PLUS ACCRUED INTEREST** or **THE PRINCIPLE AMOUNT OF \$\_\_\_\_\_, PLUS ACCRUED INTEREST**.
4. Does the order **WAIVE THE THIRTY-DAY WAITING PERIOD?** Without this language, the District Clerk **WILL WAIT** thirty days before making the disbursement. Language such as “immediately”, “instanter”, and “without delay” are not sufficient to waive the thirty-day waiting period.
5. The only time the thirty-day waiting period will be automatically waived is for Criminal Cash Bond disbursements and OAG cases.

When an order's language does not address the above five areas, there will be no disbursement until the defects are cured.

Please be advised, per Chapter 117 of the Texas Local Government Code for funds deposited in the registry of the court- **“We are required by Texas Local Government Code 117.054 to pay 10% of the interest earned on the investment to the general fund of the county. If funds are not invested, Texas Local Government Code 117.055 requires that at the time of withdrawal, we deduct from the amount of the withdrawal a fee in an amount equal to five percent (5%) of the withdrawal, but that may not exceed \$50. Withdrawal of funds generated from a case arising under the Family Code is exempt from the fee deduction provided by this section.”**

## **PART EIGHT FAMILY LAW**

### **8.1 Temporary Orders**

Each party present at any hearing on temporary orders shall be limited to twenty (20) minutes total to present its evidence, cross-examine, rebut, and argue its case, unless the Judge affirmatively orders otherwise.

### **8.2 Interview of a Child/Child's Testimony**

In all cases in which the Court deems testimony of a child to be necessary or required by statute, the attorney wishing to have the child interviewed shall arrange a specific time through the court coordinator for the Court to interview the child. No party is to bring a child to the courthouse to testify without prior arrangement pursuant to this rule, unless the child's attendance is required by court order including a writ of habeas corpus or attachment. The attorney or self-represented litigant who is responsible for the child's attendance at court shall immediately notify the court coordinator of the child's presence in the courthouse. The child shall not be brought into the courtroom without the express consent of the Court.

### **8.3 Protective Orders**

The party requesting a Protective Order must include the TCIC (Texas Crime Information Center) form with the application for protective order. The form may be found at <http://www.txcourts.gov>.

### **8.4 Parenting Classes**

Parties are required to complete a Court-approved parenting class in contested custody cases only.

## **8.5 Records Withheld from Public Internet**

The District Clerk may withhold from the public internet records containing sensitive data, such as: social studies, psychological evaluations, business records, and records which include personal information (e.g. medical records, school records) filed in family law matters.

## **8.6 Redaction of Names Using Initials**

A document must not contain initials in place of the first and last name, unless redaction of the name is required or permitted by Texas Rule of Civil Procedure 21c, other law or court order.

# **PART NINE LOCAL COURT ADMINISTRATION**

## **9.1 General Rule**

Each District Judge in Collin County is a member of the Board of District Judges (“BODJ”).

## **9.2 Local Administrative Judge**

The BODJ must elect a Local Administrative Judge (“LAJ”). The LAJ must be elected by the BODJ at the December meeting of odd-numbered years for a two-year term, starting January 1<sup>st</sup> of the even-numbered year. In the event of a vacancy in the office of LAJ, the BODJ will elect a new LAJ at its next regular meeting to complete the term. In the event of the absence of the LAJ from the County, the LAJ must designate an acting LAJ.

## **9.3 Meetings of the BODJ**

The BODJ shall meet regularly on the first Friday of the month from 8:15 a.m. to 9:15 a.m. The BODJ may vote to cancel or reschedule any monthly meeting by a majority vote. The LAJ may call a special meeting by written notice distributed 72 hours in advance of the proposed special meeting date and time. The written notice for any special meeting will state a beginning and ending time for the meeting.

## **9.4 Duties of the LAJ**

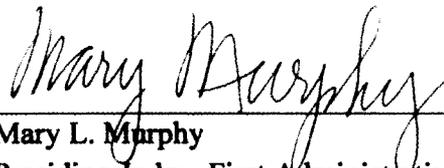
The LAJ has all of the duties as set out in Rules 9 and 10 of the Rules of Judicial Administration and in Section 74.092 of the Texas Government Code. The LAJ must implement the policies of a majority vote of the BODJ at a duly called meeting. An action taken by the LAJ

without approval of a majority vote of the BODJ may be subject to review or change by the BODJ at a regularly scheduled or specially called meeting. The LAJ must preside over meetings and appoint members to committees.

**PART TEN  
GENERAL PROVISIONS**

**10.1 Publication of Amendments and Rules Approved for Specific Courts**

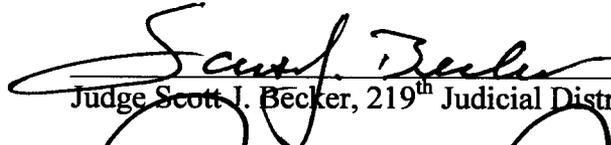
Local rules approved by the Supreme Court of Texas pursuant to Rule 3a, Texas Rules of Civil Procedure, which supplement or amend these rules may be published together with these rules.



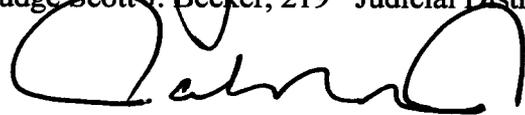
Mary L. Murphy  
Presiding Judge, First Administrative Judicial Region



Judge Angela Tucker, 199<sup>th</sup> Judicial District Court



Judge Scott J. Becker, 219<sup>th</sup> Judicial District Court



Judge John R. Roach, Jr., 296<sup>th</sup> Judicial District Court



Judge Ray Wheless, 366<sup>th</sup> Judicial District Court



Judge Benjamin N. Smith, 380<sup>th</sup> Judicial District Court



Judge Mark J. Rusch, 401<sup>st</sup> Judicial District Court



Judge Chris Oldner, 416<sup>th</sup> Judicial District Court



Judge Cynthia Wheless, 417<sup>th</sup> Judicial District Court



Judge Jill Willis, 429<sup>th</sup> Judicial District Court



Judge Piper McCraw, 469<sup>th</sup> Judicial District Court



Judge Emily A. Miskel, 470<sup>th</sup> Judicial District Court