

IN THE SUPREME COURT OF TEXAS

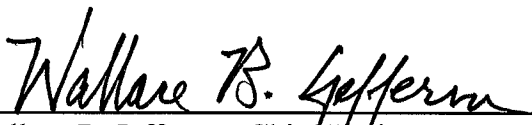
Misc. Docket No. 04- 9257

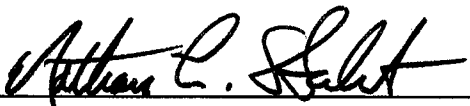
**APPROVAL OF LOCAL RULES OF COURT
FOR FORT BEND COUNTY COURTS AT LAW**


ORDERED that:


Pursuant to Texas Rule of Civil Procedure 3, the following Local Rules of Court for Fort Bend County Courts at Law are approved.

In Chambers, this 21st day of October, 2004.

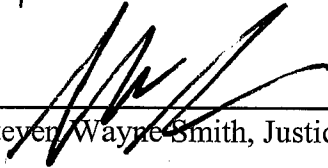

Wallace B. Jefferson, Chief Justice


Nathan L. Hecht, Justice


Priscilla R. Owen, Justice



Harriet O'Neill, Justice



Steven Wayne Smith, Justice



J. Dale Wainwright, Justice



Scott Brister, Justice

2004
LOCAL RULES OF COURT
FORT BEND COUNTY COURTS AT LAW

Honorable Walter S. McMeans, Judge
County Court at Law No. 2

Honorable Larry Wagenbach, Judge
County Court at Law No. 1

Honorable Susan G. Lowery, Judge
County Court at Law No. 3

Honorable R. H. "Sandy" Bielstein, Judge
County Court at Law No. 4

**RULE 7
PROBATE CASES**

RULE 7.10

Probate Courts/Session

The County Courts at Law of Fort Bend County, Texas setting as Probate Courts shall be deemed in session at all times regarding probate cases as set forth in the Texas Probate Code.

RULE 7.11

Case Assignment

All matters filed in the Courts of Fort Bend County, Texas, shall be assigned a number and court as provided for under assigned of civil cases in these Rules. Once a case number has been assigned and docketed to a particular Probate Court, all matters related thereto including subsequent proceeding upon testamentary trust shall remain in such court unless an Order of Transfer signed by the Judge of said court transferring the case is filed with the Clerk of the Court and the Judge of the Court to whom it is being transferred.

RULE 7.12

Preventing Duplication

In order to prevent the duplication of docketing and assignment of estates, all attorneys for applicants are required to review the estate index records in the probate division of the County Clerk's office prior to the filing of any estate. In the event a docket number has been previously assigned to an estate, all subsequent matters shall be filed under such previously assigned number.

RULE 7.13

Transfer Between Probate Courts

A request to transfer between Probate Courts in Fort Bend County shall be made by the attorney in charge of the party who is seeking a transfer. It shall be the responsibility of the attorney representing the party desiring a transfer to obtain the agreement of the Judges of the Courts from which the transfer is sought and to which the case will be transferred. The Court Coordinator of the court to which the case has been requested to be transferred shall notify the court from which the case is requested to be transferred indicating that a case transfer will be accepted. All case transfers are subject to the discretion of the Judge in which the case has been filed.

RULE 7.14

Dismissal Dockets

Each Probate Court in Fort Bend County, Texas may set for dismissal all contested cases or matters which are not set for trial and which have been on file for more than three (3) years. The County Clerk shall furnish notice to all parties and their counsel that any contested case or matters will be dismissed for want of prosecution pursuant to the provisions of Rule 165a of the Texas Rules of Civil Procedure. The procedures for notice of dismissal and retention shall be in compliance with Rules 165a and 306a of the Texas Rules of Civil Procedure.

RULE 7.15

Ancillary and/or Emergency Proceedings

All proceedings for restraining orders, temporary injunctions, writs of habeas corpus, receiverships, temporary administration, temporary guardianships, small estates,

or matters involving the payment of small claims without guardianships pursuant to §§ 137 through 144 of the Texas Probate Code, and proceedings for the examination and delivery of the contents of safe deposit boxes or any papers of the decedent pursuant to §§ 36(B) through 36(F) of the Texas Probate Code will be heard by the judge of the probate court to which the matter has been assigned and docketed, or if said judge of the court to which the matter is assigned and docketed is not available, then by any judge having probate jurisdiction in Fort Bend County, Texas.

RULE 7.16

Citation, Service and Return

All original, amended, or supplemental citations, notices, writs, process, applications, petitions, and motions shall be served in compliance with the applicable provisions of the Texas Probate Code and, unless otherwise inconsistent, in compliance with the applicable Texas Rules of Civil Procedure. Where the Texas Probate Code does not specify a specific manner of citation and service that may be issued or where the Probate Judge has discretion as to the type of citation and service that may be instituted then the required notice shall be by posting unless the Judge of said Court requires another type of citation and notice. It shall be the responsibility of the attorney in charge, in this instance, to ascertain the required citation and service by contracting the appropriate court personnel and when necessary submit to the Court an order for notice or citation other than by posting. All citations issued in matters pending before the Probate Courts shall be returned upon execution of service to the County Clerk's office where issued or within ninety (90) days from the date of service was issued. Failure to return citation within ninety (90) days shall not void a subsequent service under such citation.

RULE 7.17

Guardianship Hearings

No guardianship of an alleged incompetent person will be heard by the Probate Courts of Fort Bend County, Texas before the expiration of ten (10) days from the date that service of citation has been returned to the Clerk.

RULE 7.18

Ad Litem

(A) In all guardianships of incompetent persons and heirship proceedings a motion and order appointing an attorney ad litem shall accompany the application at the time of its filing.

(B) Before an attorney is eligible for appointments as an attorney ad litem, the attorney shall be certified pursuant to § 6.47a, Texas Probate Code.

RULE 7.19

Temporary Guardianships and Administration

All letters of temporary guardianship and administration shall reflect the expiration date and/or the date that the temporary guardianship or administration was originally granted. No letters shall be issued by the Clerk on any temporary guardianships that are over sixty (60) days or on temporary administrations that are over one hundred eighty (180) days after the date of their inception regardless of the date when such proceeding began.

RULE 7.20

Written Interrogatories and Depositions

All written interrogatories and/or depositions of witnesses concerning testimony as to the execution of a will or on any matters where there is no party or attorney upon whom notice may be served must be filed with the court and must have citation issued in compliance with ' 22 of the Texas Probate Code. In addition, all such interrogatory and deposition answers must be filed with the Clerk of the Court prior to the date of any hearing for admission of any will to probate or the presentation of such other matters to the Court.

RULE 7.21

Assignment of Matters Appertaining to and Incident to an Estate

All proceedings regarding the probate of wills, the issuance of letters testamentary and of administration, the determination of heirship and all claims by or against an estate, all actions for trial of title to land incident to an estate and for the enforcement of liens thereon, all actions for trial of the right of property incident to an estate, all action to construe wills, the interpretation and administration of testamentary trusts, intervivos trusts, and the applying of constructive trusts, and generally all matters relating to the settlement, partition and distribution of estates of wards and deceased persons, and all suits, actions and applications filed against or on behalf of any guardianship, heirship proceedings involving a matter or estate are not then pending, shall be commenced by filing an appropriate application, petition or motion with the Probate Department of the County Clerk's office of Fort Bend County, Texas, who will simultaneously therewith assign the

proceeding to a Court in accordance with the assignment and docketing procedures of Rule 7.11 hereof.

All applications, petitions and motions regarding the probate of wills, the issuance of letters testamentary and of administration, the determination of heirship and all claims by or against an estate, all actions for trial of title to land incident to an estate and for the enforcement of liens thereof, all actions for trial of the right to property incident to an estate, all actions to construe wills, the interpretation and administration of testamentary trusts, intervivos trusts, and the applying of constructive trust and generally all matters relating to the settlement, partition, and distribution of estates of wards and deceased persons, and all suits, actions, and applications filed against or on behalf of any guardianship, heirship proceeding, or decedent's estate, including estates administered by an independent executor where probate proceedings involving a matter are then pending, shall be filed with the County Clerk's office of Fort Bend County, Texas, docketed by the Clerk under the number of the pending probate proceeding and assigned to the Court in which the pending probate proceedings have been filed.

The provisions of this Rule shall apply to actions by or against an estate or the personal representative thereof, including, but not limited to, independent executors, community administrators.

RULE 7.22

Trial Assignments

All contested matters may be set for trial by any party, or the attorney in charge by first following Rule 3.34 herein and thereafter, by requesting a docket setting from the Probate Auditor of the Court in which the matter is pending and serving notice of the date

and time of such docket setting upon all opposing party or parties or their attorneys in charge. The Court may at any time require the entry of docket control orders, as well as the filing of a pre-trial order where such is determined advisable by the Court. Any trial setting may be continued only by written agreement of all parties among the papers in the probate proceeding at least one day prior to the day upon which the matter is assigned for trial, or by a written application for continuance that is heard by the Court prior to the date that the matter has been assigned for trial.

RULE 7.23

Jury Settings

Any party, or his counsel, desiring trial by a jury of six persons shall make application therefore and deposit a jury fee with the County Clerk's office of Fort Bend County, Texas, as specified by Rule 216 of the Texas Rules of Civil Procedure.

RULE 7.24

Withdrawal and/or Substitution of Counsel

All motions for withdrawal and/or substitution of counsel shall conform to the provisions of Rule 10, Texas Rules of Civil Procedure. In addition, where the attorney in charge has been requested to withdraw by a qualified personal representative, and such attorney refuses either in writing or by failing to execute or approve a proper motion for substitution of counsel, a motion for substitution of counsel may be presented by new counsel for the personal representative. Such substitution of counsel shall be presented upon motion and order showing good cause; notice that said motion has been filed must be provided by certified mail to the present attorney in charge; the personal representative must show that the attorney sought to be removed has been furnished written notice that

his or her services were terminated at least thirty (30) days prior to the filing of such motion; the new attorney seeking to be substituted shall acknowledge his or her agreement to assume responsibility as attorney in charge, together with his or her address, bar number, and telephone number. The Court, when presented with such motion, may require a formal hearing or may act upon said motion without hearing. When a hearing is not required, the court shall sign no orders of removal and substitution until ten (10) days following the date such motion was filed.

RULE 7.25

Ancillary Docket Settings

All uncontested matters and hearings on matters of an ancillary nature may be heard at any time at the convenience of the Court. Requests for settings on such matter shall be made to the Probate Auditor of the Court in which the matter is pending.

**RULE 8
JUVENILE CASES**

RULE 8.10

Juvenile Courts/Session

The County Courts at Law setting as Juvenile Trial Courts shall be deemed in session at all times, regarding all juvenile cases as set pursuant to title 3 of the Texas Family Code.

RULE 8.11

Filing and Assignment of Cases

The following Rules shall govern the assignment of juvenile cases within the jurisdiction of the County Courts at Law of Fort Bend County:

(A) All juvenile proceedings presented to the County Clerk for filing, whether through the District Attorney or otherwise, and whether a petition has been filed or not, shall be assigned a permanent file number by the County Clerk on a random basis to the County Courts at Law by means of a blind filing process which provides for the equal distribution of new cases in such a manner that it cannot be determined to which court a case will be assigned until after the court assignment. Except as may be provided otherwise in these Rules, the County Clerk shall randomly assign every juvenile case filed in a fair and equitable manner equally divided among the County Courts at Law.

(B) After assignment to a particular court, every case, both jury and non-jury, shall remain pending in such court until final disposition, or transfer.

(C) Any 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 Judge of this County. The purpose of this transfer may be for either preliminary matters or detention hearings, or for the final disposition for the case.

(D) When an adjudication is made by one of the courts, either on ancillary matters or on the merits, and the case is terminated (by non-suit or otherwise), and a subsequent suit or cause of action involving the same child or the same subject matter is filed, the same shall be filed in or transferred to the Court that had original jurisdiction of the parties and the issues.

(E) The District Attorney shall file an original of all pleadings with the County Clerk of Fort Bend County and a copy of all pleadings with the Juvenile Probation Department. The copy shall be clearly marked by the District Attorney "**Copy for Attorney in Charge for the Child.**" Upon application filed with the Juvenile Probation Department, Juvenile Probation shall release to the attorney in charge for the child those copies clearly marked by the District Attorney at no cost.

(F) The District Attorney shall immediately notify the Judge of the Court in which it is filed of the filing of a petition for determinate sentencing or certification as an adult. The County Clerk shall immediately bring to the Court the file when such cases are filed.

RULE 8.12

Submission of Judgments/Orders

All orders and judgments should be presented to the Court immediately following a hearing or trial by a Juvenile Court and in all events all orders and judgments must be submitted for the Courts' signature within fifteen (15) days from the date of the hearing unless otherwise specified by the Court.

RULE 8.13

Pre-Trial Conferences

Pre-trial conferences shall be held at such time as the Court shall specify.

RULE 8.14

Docket Settings

All cases shall be set on the docket as prescribed by the Courts.

RULE 8.15

Preferential Settings

Preferential settings on the contested docket shall be granted upon the Court's own motion or upon request only in the following cases:

1. those entitled to preferential setting by law;
2. those in which there are out-of-county parties or witnesses;
3. those in which evidence is presented that manifest hardship would be imposed upon any litigant if a preferential setting is not granted; or
4. those in which the juvenile is in detention.

RULE 8.16

Uncontested Matters

All uncontested matters shall be set and heard at times suitable to each Court.

RULE 8.17

Assignment of Cases for Trial

All assignment of cases for trial shall be set by each Court.

RULE 8.18

Appointment of Counsel

(A) Counsel for indigent juvenile respondents shall be appointed by the Court or its designee pursuant to Senate Bill 7, 77th Legislature 2001 (Texas Fair Defense Act) and by a plan approved by the Juvenile Board, adopted and incorporated herein for all purposes.

(B) **Rule 6.13 -- Appointment of Counsel**, as provided in these Rules for appointment of counsel in criminal cases, shall govern in the appointment of counsel in juvenile matters for so long as there is no conflict with the Texas Family Code.

RULE 8.19

Withdrawal or Substitution of Counsel

(A) All motions to withdraw as attorney in charge in a case, whether appointed or retained, must be signed by the attorney and, unless good cause is shown, approved in writing by the client and at least one parent or guardian. All motions for substitution of retained attorneys must be signed by the attorney seeking to withdraw and the attorney seeking to be substituted and the client and least one parent or guardian.

(B) Granting of motions permitting change in representation shall not be grounds for a continuance.

(C) Appointed attorneys may be withdrawn or substituted on the Court's own motion.

RULE 8.20

Continuances - Resetting/Postponement

(A) Continuances in a case shall require the consent of the Court. All parties to a suit who desire a continuance prior to the date set for hearing shall reduce their request to writing and submit such request to the Court for approval. It shall be the responsibility of the party requesting the continuance to also request a new hearing date mutually agreeable to all parties, and include the desired new hearing date in the request for continuance.

(B) Cases may be continued and reset on the Court's own motion.

RULE 8.21

Stipulations

Stipulations may be made and accepted with the Court's approval.

RULE 8.22

Jury/Non-Jury Trials

These Rules are applicable to both jury and non-jury cases.

RULE 8.23

**Time Standards for the
Disposition of Juvenile Cases**

(A) **Detention Hearings**

The initial detention hearing shall be held within 48 hours following admission to any detention facility unless same falls on a weekend or holiday, in which event it shall be held on the next business day of the Court. Detention hearings thereafter shall be set by the Court in which the case is pending to meet the requirements of the Texas Family

Code. Detention hearings may be waived in writing, signed by the juvenile and his attorney with approval of the Court. Probable cause to detain may be stipulated in writing, signed by the child and his attorney with approval of the Court.

(B) **Adjudicatory and Transfer (Waiver) Hearings**

- (1) Concerning a juvenile in a detention facility: Not later than thirty (30) days following admission to such a facility, except for good cause shown of record, a pre-trial conference may be conducted by the Court.
- (2) Concerning a juvenile not in a detention facility: Not later than thirty (30) days following the filing of the petition, except for good cause shown of record, a pre-trial conference may be conducted by the Court.
- (3) Disposition hearings shall be held not later than fifteen (15) days following the adjudicatory hearing. The Court may grant additional time in exceptional cases that require a more complex evaluation.
- (4) Nothing herein shall prevent a judge from recessing a juvenile hearing at any stage of the proceeding where the parties are agreeable or when in the opinion of the Judge Presiding in the case the best interest of the child and of society shall be served.

RULE 8.24

Complex Cases

It is recognized that in especially complex cases or special circumstances it may not be possible to adhere to these standards.

RULE 8.25

Appearance of Parties and Counsel

The attorney or substitute designated is required to be present to answer all docket calls pursuant to Rule 12.11(J). The juvenile and at least one parent or guardian is to be present at each docket call.

**RULE 9
JURY MANAGEMENT**

RULE 9.10

Management of Juries

No Local Rules under this subdivision.

RULE 9.11

Empanelling Juries

No Local Rules under this subdivision.

RULE 9.12

Miscellaneous

No Local Rules under this subdivision.

**RULE 10
JUDICIAL VACATION**

RULE 10.10

Judicial Vacation

(A) Judicial vacations and educational events will be scheduled in advance by each Judge, subject to changed conditions.

(B) The Judges of Statutory County Courts may take personal vacation at any time during the year.

(C) Such vacations should be coordinated with the other County Court at Law Judges.

(D) The Judges may take such sick leave as is essential for their health and well-being.

(E) Attendance at Judicial Conferences is considered an official duty and as court time.

(F) Attendance at additional education programs and seminars should likewise be coordinated with the other County Court at Law Judges.

(G) Military leave would not be included in normal vacation time.

RULE 10.11

Requests for Visiting Judges

No Local Rules under this subdivision.

**RULE 11
NON-JUDICIAL PERSONNEL**

RULE 11.10

Non-Judicial Personnel

(A) Each Judge shall control the employees of the Court, including those of other entities who render services directly to each Court under the Constitution, statutes, inherent powers, these Rules, and by tradition, as now established or hereafter amended.

(B) The qualifications for these positions shall be those set forth in the pertinent statutes, in the approved job description or in official joint Court orders.

(C) Each Judge shall be responsible for seeing that his or her non-judicial personnel are prompt and well qualified for their duties.

(D) Non-judicial personnel should observe the standards of decorum and conduct set forth in the Code of Judicial Conduct.

RULE 11.11

Code of Judicial Conduct

All person employed by the County Courts at Law in any capacity shall, within the first thirty days of employment, be apprised of the contents of the Code of Judicial Conduct. An acknowledgment shall be executed and signed with at least one witness present. Such completed acknowledgment shall be filed in the personnel file folder of the employee and a copy shall be retained by the employee.

RULE 11.12

Conduct of Non-Judicial Personnel

(A) Each Court Coordinator serves at the pleasure of the County Court at Law Judge or his/her successor in office.

(B) The Court Coordinator and related staff will perform such administrative duties as may be assigned by them by the respective County Court at Law Judge.

(C) The Court Coordinator will not perform any judicial (as opposed to administrative) function.

(D) Each Judge pursuant to his County approved budget, will appoint appropriate staff, and support personnel according to the needs of each Court including a bailiff, who may be a deputy sheriff and who shall be present at all times while the court is in session or in recess, unless excused by the Judge.

(E) No duties shall be assigned to the bailiff except upon approval by the Judge of such Court.

RULE 11.13

Duties of Non-Judicial Personnel

No Local Rules under this subdivision.

RULE 12
ATTORNEYS OF RECORD

RULE 12.10

Appearance of Counsel; Attorney in Charge

No Local Rules under this subdivision.

RULE 12.11

Conduct and Decorum of Counsel

(A) Each day the Court is engaged in hearing a matter, the Court shall be opened by the bailiff directing all court officials and spectators to their seats.

(B) In reconvening after recess, the bailiff shall cause all persons to be seated before the Judge enters.

(C) The bailiff shall see that the flag of the United States and the flag of the State of Texas are property and prominently displayed at some convenient place in the courtroom.

(D) While the Court is in session, there shall be:

- (1) No smoking or use of tobacco products.
- (2) No reading of newspapers or magazines.
- (3) No propping of feet on tables or chairs.
- (4) No loud noises or talking.
- (5) No gum chewing.
- (6) No food or drinks.
- (7) No pagers or cell phones in operation.
- (8) No shorts or tank tops.

(E) In addressing the Court, lawyers shall rise and remain standing at their positions at counsel table.

(F) Lawyers shall not approach the bench or witnesses except with permission or on request of the Court.

(G) Lawyers shall not lean on the bench, sit on rails or tables, or appear to engage the Court in a confidential manner.

(H) All male lawyers shall wear coats and ties while in attendance of the Court, unless otherwise permitted by the Court.

(I) Lawyers shall advise their clients and witnesses of the formalities of the Court.

(J) The lawyers, the Judge, and all other officers of the Court shall be prompt at all sessions and in the dispatch of all court business. In the event a lawyer is late or unable to attend same, he shall immediately notify the Coordinator of the Court, advising:

1. Specific reason(s) for the late appearance or non-appearance;
2. If late, the approximate time he expects to be in Court; and
3. If unable to attend, a recommended day and time to reschedule the pending matter.

A violation of this Rule by court-appointed attorneys will be grounds to remove the court-appointed attorney and a new attorney appointed immediately. A violation of this Rule by retained attorneys are subject to Court imposed sanctions.

(K) All counsel are admonished to respect the letter and that spirit of all rules and ethics, including, particularly, those dealing with discussion of cases with the Court outside of the courtroom and not in the presence of opposing counsel.

(L) The Court shall enforce the same by appropriate action.

(M) All remarks of counsel to the Court shall be addressed to the Court and not to the Judge as an individual.

(N) Once an attorney has entered the courtroom and appeared before the Court, he shall not leave without obtaining permission from the Court.

RULE 12.12

Withdrawal of Counsel

(A) Governed by Rule 10, Texas Rules of Civil Procedure and Rule 6.15 hereof.

(B) Leave to withdraw may be denied where the motion is presented so near the trial date as to require delay of this trial.

RULE 12.13

Attorney Vacations

(A) In civil cases not specially set, an attorney may not be put to trial for a period not to exceed four (4) periods of one week or less, which may be consecutive, in a given year if he has, in writing, filed with the appropriate clerk of the county of his residence, with a copy to the appropriate clerk of any other county where he has pending cases, notice of his vacation period, at least sixty (60) days in advance. Vacation may be taken in the months of June, July and August of each year, and other times must be with prior approval of the Court.

(B) This shall not be grounds for resetting cases already set.

(C) At his discretion, a Judge may recognize additional time for designated vacation.

(D) In the event an attorney already has a setting at the time the vacation notice is filed, it shall be the attorney's responsibility to notify opposing counsel and the Court Coordinator and either file an agreed reset or motion for continuance and obtain a ruling by the Court.

**RULE 13
ADMINISTRATIVE CASES**

RULE 13.10

Administrative Law Cases

No Local Rules under this subdivision.

RULE 14
MISCELLANEOUS LOCAL RULES

RULE 14.10

Settlement Week

No Local Rules under this subdivision.

RULE 14.11

Form for Submitting Court Costs

No Local Rules under this subdivision.

RULE 14.12

Form for Requesting Alternate Dispute Resolutions

No Local Rules under this subdivision.

RULE 14.13

Miscellaneous

The Board of County Courts at Law Judges has heretofore approved the "Fort Bend County Local Rules of the County Courts concerning the Electronic Filing of Court Documents" which is incorporated by reference herein for all purposes.

RULE 15
ADOPTION, AMENDMENT, NOTICE

RULE 15.10

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

(A) These Rules are **APPROVED** and **ADOPTED** by the Board of Trial Judges of Fort Bend County, Texas, on the 26th day of May 1992.

(B) These Rules will become effective on the 1st day of June 1992, or upon approval by the Supreme Court of Texas pursuant to Rule 3a, Texas Rules of Court, whichever comes later and will be reviewed from time to time by the Board of Judges of Fort Bend County, Texas.

RULE 15.11

Notice and Publication of Rules

No Local Rules under this subdivision.

RULE 15.12

Interim Orders Affecting Local Practice

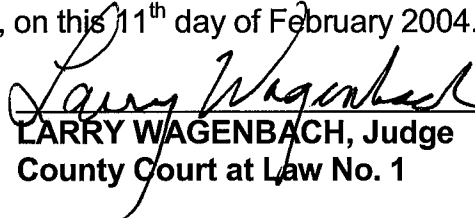
The Local Rules of Court which were approved by the Texas Supreme Court and became effective on September 14, 1992.


RULE 15.13

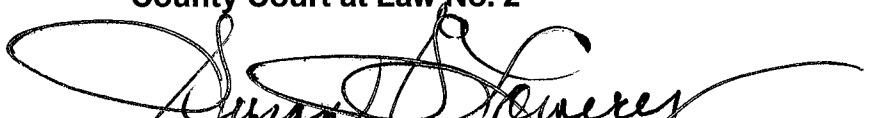
Local Practices Not Published in These Rules

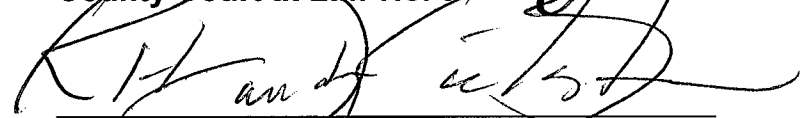
No Local Rules under this subdivision.

These Rules were **APPROVED, ADOPTED** and **SIGNED** by the County Court at Law Judges of Fort Bend County, Texas, on this 11th day of February 2004.


LARRY WAGENBACH, Judge
County Court at Law No. 1


WALTER S. McMEANS, Judge
County Court at Law No. 2


SUSAN G. LOWERY, Judge
County Court at Law No. 3


R. H. "SANDY" BIELSTEIN, Judge
County Court at Law No. 4