

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 92-0017

APPROVAL OF LOCAL RULES GOVERNING FAMILY LAW PROCEEDINGS IN MIDLAND COUNTY

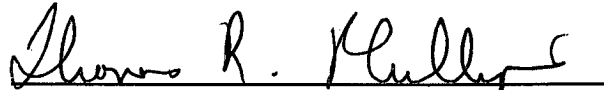
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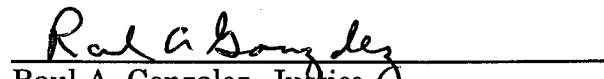
Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court approves the following local rules, which have been previously approved by the presiding judge of the appropriate administrative judicial region and submitted to this Court:

Rules Governing Family Law Proceedings in Midland County, Texas, dated August 28, 1991


The approval of these rules is temporary, pending further orders of the Court.

SIGNED AND ENTERED this 21st day of November, 1991.


Thomas R. Phillips, Chief Justice



Raul A. Gonzalez, Justice

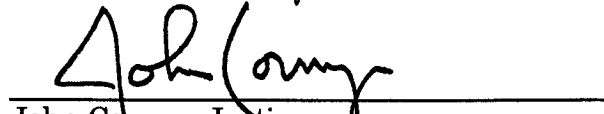

Oscar H. Mauzy, Justice


Eugene A. Cook, Justice


Jack Hightower, Justice


Nathan L. Hecht, Justice


Lloyd Doggett, Justice


John Cornyn, Justice


Bob Gammage, Justice



*used
order*

SEVENTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS
WELDON KIRK, PRESIDING JUDGE

BETTY JOY VAUGHT
ADMINISTRATIVE ASSISTANT
P. O. BOX 528
SWEETWATER, TEXAS, 79556
915/235-3133, 915 236-6944

October 17, 1991

The Supreme Court of Texas
P. O. Box 12248
Austin, Texas 78711

Re: "Rules Governing Family Law Proceedings in Midland
County, Texas"

Dear Sirs:

I have reviewed the enclosed document and submit it to you
for your approval.

Very truly yours,

A large, stylized handwritten signature in black ink that reads "Weldon Kirk".

Weldon Kirk

WK:nd

Enclosure



DEAN RUCKER
DISTRICT JUDGE
318TH JUDICIAL DISTRICT COURT
P. O. BOX 1922
MIDLAND, TEXAS 79702

(915) 688-1144

October 1, 1991

*Rec'd
10-4-91*

The Honorable Weldon Kirk
Nolan County Courthouse
Sweetwater, Texas 79556

Dear Judge Kirk:

I am enclosing a certified copy of a document entitled "Rules Governing Family Law Proceedings In Midland County, Texas" which has been approved by the district and county court-at-law judges and filed in the minutes.

Please approve these rules and forward the same to the Texas Supreme Court for its approval.

Thank you for your cooperation.

Very truly yours,

Dean Rucker

Dean Rucker

DR:apo

RULES GOVERNING FAMILY LAW PROCEEDINGS
IN MIDLAND COUNTY, TEXAS

PART ONE

RULES FOR ORDERLY ADMINISTRATION OF CASES

RULE 1.1. Temporary Hearings

In all cases in which an application for temporary relief is presented, the following guidelines shall apply:

a) 318th Family District Court. All hearings on temporary relief shall be held on Wednesday of each week. The docket shall be called at 8:45 o'clock a.m. at which time each attorney shall make an announcement of the estimate of time required to present his case.

County Court-At-Law. All hearings on temporary relief shall be set on a date and for a time scheduled by the court.

b) An application to the court for an order and notice of any hearing thereon presented by the party responding to an application for temporary relief shall be served on the adverse party not less than three (3) days before the time specified for the hearing, unless shortened by the court.

c) In all matters in which temporary managing conservatorship is in issue, the parties shall be granted a maximum of three (3) hours total, which shall be equally divided, in which to develop their case. In all other temporary matters, the parties shall be granted a maximum of one (1) hour total, which shall be equally divided, in which to develop the case. Counsel should request a special preferential setting when,

because of unusual circumstances, the above limits are unworkable or inappropriate. The court at that time shall determine the time to be allotted.

d) All cases on which counsel announce a settlement shall be considered first. All other cases on which an evidentiary hearing is required shall be docketed according to counsel's estimates of time required. Those matters which require the least amount of time shall be considered first.

e) In all cases in which temporary support of a spouse and/or the child(ren) is in issue, each party shall be required to present to the court a statement of monthly income and expenses in a form substantially similar to that attached to these rules as Appendix 1.

f) In all cases in which temporary support of a spouse and/or the child(ren) is in issue, each party shall be required to furnish the court with the following:

- 1) Copies of the parties' federal income tax returns for the two years prior to the hearing.
- 2) All payroll statements, pay stubs, W2 forms, and 1099 forms which evidence the parties' earnings for the calendar year prior to the temporary hearing and from January 1 of the current year through the date of the hearing.
- 3) All checking account statements (including all cancelled checks, deposit slips and check registers), all savings account statements (including all deposit and withdrawal slips) to or from which the parties made any deposits or withdrawals during the two years prior to the hearing.
- 4) Copies of any financial statements filed by the parties with any financial institution in the two years prior to the hearing.

g) When a sworn inventory and appraisal is requested or appropriate, any order compelling the filing of same shall require that the sworn inventory and appraisal be filed on or before ninety (90) days after the temporary order is signed, except for good cause shown.

h) No temporary order shall exceed one hundred and eighty (180) days in duration from the date the order is signed, except for good cause shown.

RULE 1.2. Setting for Trial on Merits and Pre-Trial

a) At any time after the filing of an answer, any party may request a setting for trial on the merits or, where applicable, a pre-trial, by 1) filing with the court a motion requesting a hearing and an order setting hearing, accompanied by a certificate of service to opposing counsel; or 2) orally requesting the court to schedule the hearing and confirming such setting by letter addressed to the court, a copy of which shall be served on opposing counsel in accordance with Rule 21a of the Texas Rules of Civil Procedure.

b) Prior to requesting a setting, counsel shall attempt to coordinate any setting with opposing counsel for all parties.

c) If conservatorship and/or possession of or access to the children is contested, counsel shall be required to comply with Rule 1.3 prior to trial on the merits.

RULE 1.3. Alternative Dispute Resolution

a) Policy. It shall be the policy of courts of competent jurisdiction of Midland County, Texas to encourage the peaceable resolution of disputes and early settlement of pending family law litigation by referral to alternative dispute resolution (ADR) pursuant to the Texas Alternative Dispute Resolution Procedures Act, TEX. CIV. PRAC. & REM. CODE ANN. Sec. 154.001 et seq.

b) ADR Mandatory. No trial on the merits shall be conducted by any court for cases in which the conservatorship of and/or possession of and access to the child(ren) is contested, until such issues have been referred to an ADR procedure, and ADR has been unsuccessful; or the court has determined that ADR is inappropriate for the case. At the completion of the ADR procedure, but not later than seven (7) days prior to the trial on the merits, the parties shall file a written statement advising the Court when the procedure was conducted, and whether a settlement resulted.

c) Manner of Referral. It is anticipated that the parties shall cooperate in referring such issues to an ADR procedure under terms and conditions that are mutually agreeable, without the need of court intervention. If the parties are unable to cooperate or agree to a referral of such issues to an ADR procedure, then upon written notification to the court by one of the parties that efforts to coordinate a referral have been unsuccessful, the Court, without a hearing, shall enter an order

of referral to an ADR procedure selected by the court, pursuant to terms and conditions specified by the court.

d) Objection to Referral. If the Court enters an order of referral to an ADR procedure, any party may object to such referral pursuant to TEX. CIV. PRAC. & REM. CODE ANN. Sec. 154.022. Upon the filing of an objection, the court shall schedule a hearing. If the court finds that there is a reasonable basis for the objection, the court may, in its discretion, order that the case not be referred to an ADR procedure and order the case set for trial on the merits.

e) Discovery Abated. After the case has been referred to an ADR procedure by the parties or the court, no further discovery under the Texas Rules of Civil Procedure shall be conducted, except by written agreement of the parties filed with the clerk of the court, or by court order.

RULE 1.4. Request for Continuance or Postponement

No request for a continuance, to pass, postpone or reset any trial, pre-trial, or other hearing shall be granted unless counsel for all parties involved consent, or unless all parties not joining in such request have been notified and have had an opportunity to object.

RULE 1.5. Inventory and Appraisement

a) In all cases in which the character, value or division of property or debts is in issue, each party shall be required to file at least thirty (30) days prior to trial, a sworn inventory

and appraisalment of all of the separate and community property owned or claimed by the parties and all debts and liabilities owed by the parties. It is recommended that each party file this inventory in a form substantially similar to Form 5-1 of the Texas Family Practice Manual published by the State Bar of Texas Professional Development Program.

b) After each party's sworn inventory and appraisalment has been filed, the parties shall file a composite inventory and appraisalment in a form substantially similar to that attached as Appendix 2. Petitioner has the burden to initiate the composite inventory and forward it to Respondent at least fourteen (14) days prior to trial. Respondent shall complete and file the composite inventory with the court and serve a copy of the same on Petitioner at least seven (7) days prior to trial.

c) If the parties fail to prepare and/or file the initial or the composite inventory as required, the court may conduct a pre-trial hearing and make such orders with regard to the failure as are just, including, but not limited to, sanctions pursuant to Rule 215(2)(b) of the Texas Rules of Civil Procedure.

RULE 1.6. Child Support Services

a) Each order or decree which provides for child support to be paid through the registry of the District Clerk of Midland County, Texas shall include, and shall be deemed to include, an application for child support services provided by the registry of the District Clerk and the Texas Attorney General pursuant to Chapter 76, Texas Human Resources Code. This rule shall apply to

all orders of courts having jurisdiction of such matters, whether entered before or after the effective date of this rule.

b) A reasonable fee, to be set by the district and statutory county court judges of this county, may be collected by the District Clerk at the time a suit affecting the parent-child relationship is filed, for the services of the District Clerk in providing child support services.

c) A person entitled to receive child support services may decline such services by responding on the form(s) provided by the clerk of the court at the time collection efforts are initiated.

d) Whenever the court orders the payment of child support, modifies or enforces a child support order, the obligee or the obligee's attorney shall complete a Record of Order of Child Support. Forms shall be available from the District Clerk and shall be completed and delivered to the clerk of the court by the obligor, the obligee or that party's attorney immediately after the hearing, although the court's ruling may not have been reduced to writing at that time.

RULE 1.7. Orders and Decrees

a) Within sixty (60) days after rendition or an announced settlement by counsel, counsel shall cause, unless ordered otherwise, all judgments, decrees or orders of any kind to be reduced to writing, to be approved as to form by opposing counsel for all parties, and to be delivered to the court for signing.

b) Upon failure to furnish the court with such a judgment, order or decree disposing of the case within the sixty (60) day period, the court shall place the case on the next regularly scheduled dismissal docket, whereupon the case may be dismissed with prejudice and costs may be taxed at the court's discretion.

c) If counsel is unable to secure the approval as to form from all opposing counsel, counsel shall file a motion for entry of the proposed order and secure a hearing for the same, with notice to all opposing counsel or parties.

RULE 1.8 Withdrawal of Counsel

a) Withdrawal of an attorney shall be governed by Rule 10 of the Texas Rules of Civil Procedure, and other conditions established herein.

b) If another attorney is not to be substituted as attorney for the party or if the party does not consent to the motion to withdraw, the withdrawing attorney shall notify the party in writing that the court will be requested to sign an order granting the withdrawal on or after ten (10) days following the date of such notice.

c) Unless allowed in the discretion of the court, no motion to withdraw shall be presented within thirty (30) days of the trial date or at such time as to require delay of the trial.

PART TWO

GENERAL

RULE 2.1. Authority for Rules

These rules are adopted under and by virtue of TEX. GOVERNMENT CODE Section 75.011 and Rule 3a of the Texas Rules of Civil Procedure, and the constitutional, statutory and inherent powers of the courts to regulate proceedings before them and to provide for the orderly and efficient dispatch of litigation.

RULE 2.2. Title and Citation

These rules shall be known as the "Rules Governing Family Law Proceedings in Midland County, Texas" or the "Midland County Family Law Rules."

RULE 2.3. Partial Civil Invalidity

In the event any of the foregoing rules or any part thereof is held to be invalid for any reason, such invalidity shall not affect the validity of the remaining rules and parts of rules, all of which have been separately numbered and adopted.

RULE 2.4. Terms

The terms "counsel", "lawyer" and "attorney of record" as used in these rules shall, in the event a party appears pro se, apply to individual litigants.

RULE 2.5. Construction of Rules

Unless otherwise expressly provided, the past, present or future tense shall each include the other; the masculine, feminine


or neuter gender shall each include the other; and the singular and plural shall each include the other.

RULE 2.6. Application of Rules

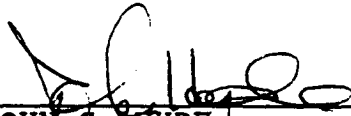
These rules shall govern all family law proceedings filed in any court of competent jurisdiction of Midland County, Texas.

These rules supersede any prior Midland Family District Court Rules.


APPROVED the 28 day of AUGUST, 1991.



PAT M. BASKIN
Judge, 142nd District Court




JOHN G. HYDE
Judge, 238th District Court



DEAN RUCKER
Judge, 318th Family District Court



AL WALVOORD
Judge, County Court-At-Law



JAMES FITZ-GERALD
Judge, County Court-At-Law No. 2

FINANCIAL INFORMATION STATEMENT

CLIENT: _____

CAUSE NO: _____

MONTHLY INCOME

Gross Income.....\$ _____

Total Monthly Payroll Deductions:

Withholding.....\$ _____

FICA (Social Security).....\$ _____

Mandatory retirement.....\$ _____

Voluntary retirement.....\$ _____

or deferred compensation....\$ _____

Life insurance.....\$ _____

Credit union (savings).....\$ _____

Credit union (loan payment)...\$ _____

Health insurance.....\$ _____

Other payroll deductions:

.....\$ _____

.....\$ _____

Total Monthly Payroll Deductions...\$ _____

Net Pay.....\$ _____

Other Income:

Source

.....\$ _____

.....\$ _____

TOTAL MONTHLY INCOME.....\$ _____

MONTHLY EXPENSES

1. Rent or house payment.....\$ _____
2. Real property taxes
(If not included in house payment).....\$ _____
3. Insurance
(If not included in house payment).....\$ _____
4. Renter's or fire insurance.....\$ _____
5. Maintenance of residence
(repairs, yardwork, etc.).....\$ _____
6. Utilities (gas, water, electric,
garbage, sewer, etc.).....\$ _____
7. Telephone.....\$ _____
8. Groceries.....\$ _____
9. Meals away from home.....\$ _____
10. School lunches.....\$ _____
11. Uninsured doctor and
medical expenses.....\$ _____
12. Uninsured prescriptions and
pharmaceutical expenses.....\$ _____
13. Uninsured routine dental care.....\$ _____
14. Uninsured orthodontal expenses.....\$ _____
15. Health and hospitalization
insurance (If not paid by employer
or deducted from wages).....\$ _____
16. Life insurance (If not paid by
employer or deducted from wages).....\$ _____
17. Clothing purchases.....\$ _____
18. Laundry and dry cleaning.....\$ _____
19. Car payment.....\$ _____

_____	_____	\$ _____	\$ _____	_____
_____	_____	\$ _____	\$ _____	_____
_____	_____	\$ _____	\$ _____	_____

Total monthly payments (Enter on line 34) \$ _____

TOTAL MONTHLY EXPENSES.....\$ _____

STATE OF _____ *
COUNTY OF _____ *

I, _____, state on oath that, to the best of my knowledge and belief, the foregoing financial information statement contains a full and complete list of my monthly income from all sources and my monthly expenses.

SIGNED on the _____ day of _____, 19____.

SIGNED under oath before me on the _____ day of _____, 19____.

Notary Public, State of Texas
Commission Expires: _____

Typed or Printed Name of Notary:

COMPOSITE INVENTORY

CAUSE NUMBER _____

IN THE MATTER OF THE MARRIAGE OF
AND _____

PETITIONER: _____

RESPONDENT: _____

PETITIONER'S ATTORNEY: _____

RESPONDENT'S ATTORNEY: _____

COMPOSITE INVENTORY
CAUSE NUMBER _____

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

I, Petitioner, in the above styled and numbered cause, state on oath that, to the best of my knowledge and belief, the foregoing composite inventory contains:

a full and complete list of all properties in my possession or subject to my control that I claim belong to the community estate of myself and my spouse, with the values thereof;

a full and complete list of all properties in my possession or subject to my control that I claim or admit as my or my spouse's separate property and estate, with the values thereof;

a full and complete list of the debts that I claim.

SIGNED on the _____ day of _____, 19____.

, Petitioner

SIGNED under oath before me on the _____ day of _____, 19____.

NOTARY PUBLIC in and for
the State of Texas

COMPOSITE INVENTORY
CAUSE NUMBER _____

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

I, Respondent, in the above styled and numbered cause, state on oath that, to the best of my knowledge and belief, the foregoing composite inventory contains:

a full and complete list of all properties in my possession or subject to my control that I claim belong to the community estate of myself and my spouse, with the values thereof;

a full and complete list of all properties in my possession or subject to my control that I claim or admit as my or my spouse's separate property and estate, with the values thereof;

a full and complete list of the debts that I claim.

SIGNED on the _____ day of _____, 19____.

, Respondent

SIGNED under oath before me on the _____ day of _____, 19____.

NOTARY PUBLIC in and for
the State of Texas