

LOCAL RULES OF PRACTICE FOR BROWN AND MILLS COUNTY

35th District Court, Brown County Court at Law,
and the Constitutional County Courts of each county

(Amended effective October 1, 2005 subject to the approval of the Supreme Court of Texas)

TITLE 1. RULES GOVERNING ALL PROCEEDINGS

RULE 1.1 FLOW OF CASES

a. Filing, Assignment, and Transfer of Criminal Cases

1. All felony cases in Brown County shall be filed with the District Clerk for hearing in the 35th District Court of Brown County unless the Local Administrative District Judge transfers or assigns any cases to the County Court at Law for hearing due to illness, trial schedule, or other sufficient reason.
2. All felony cases in Mills County shall be filed with the District Clerk for hearing in the 35th District Court of Mills County.
3. Beginning January 1, 2003, all Class A and B misdemeanor cases filed in Brown County shall be filed in the Brown County Court at Law except Theft by Check cases which will be filed in the Brown County Court. These files shall be maintained by the Brown County Clerk.
4. On January 1, 2003, all currently pending misdemeanors on the docket of the Brown County Court (except Theft by Check cases) shall be transferred to the Brown County Court at Law by order of the County Court at Law Judge and the County Judge. These files shall be maintained by the Brown County Clerk.

b. Filing, Assignment, and Transfer of Juvenile Matters

1. All juvenile cases in Brown County shall be filed with the Brown County Clerk for hearing in the Brown County Court, Serving as the Juvenile Court, so long as the County Judge is an attorney licensed to practice law. If the County Judge in Brown County is not an attorney licensed to practice law, then the Brown County Court at Law shall serve as the juvenile court.
2. All juvenile cases in Mills County shall be filed with the District Clerk for

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SONYA SCOTT County & District Clerk
Mills County, Texas
By  Deputy

hearing in the District Court serving as the Juvenile Court.

c. Filing, Assignment, and Transfer of Family Law Cases

1. In Mills County, all family law cases and proceedings as defined in Section 25.0002 of the *Texas Government Code* shall be filed with the District Clerk for hearing in the District Court.
2. Except as provided below, beginning October 1, 2005, in Brown County, all family law cases and proceedings as defined in Section 25.0002 of the *Texas Government Code* when there is no court of continuing jurisdiction shall be filed with the District Clerk for hearing in the Brown County Court at Law. (Amended effective 10-1-05)
3. In family law cases and proceedings in both Brown and Mills County in which the Texas Department of Protective and Regulatory Services is the petitioner, the cases shall be filed in the District Court and assigned pursuant to the Standing Order of Referral for proceedings under Family Code Title I, IV and V to the Associate Judge of the Court (Child Protection Court of the Hill Country) as per the orders of referral previously entered on or before February 14, 2002, subject to appeal to the referring court as provided in the Standing Order of Referral. (A copy of this order is available in the District Clerk's Office)
4. In family law cases and proceedings filed in Brown County by the Attorney General of the State of Texas, the cases shall be filed in the District Court and assigned to the Associate Judge for Title IV-D Matters for the 35th District Court under the existing Order of Referral subject to appeal to the referring court as provided in the existing Order of Referral. (A copy of this order is available in the District Clerk's Office) In Mills County, the District Court shall continue to hear these matters without an Associate Judge. (Amended effective 10-1-05)
5. All motions seeking protective orders in family law cases in Brown County beginning January 1, 2003 will be filed with the County Clerk for hearing in the County Court at Law unless a related divorce or similar domestic relations matter is pending in the District Court in which case it shall be filed with the District Clerk for hearing in the District Court.
6. All motions seeking protective orders in family law cases in Mills County shall be filed with the District Clerk for hearing in the District Court.
7. If there is a court of continuing jurisdiction, all petitions for further remedy and motions to modify or enforce prior orders of the Court shall be filed in the court

of continuing jurisdiction.

8. When a paternity suit is filed simultaneously with or subsequent to the filing of a domestic relations case involving the same child, the paternity suit shall be assigned to the same court that heard the domestic relations suit.
9. When a family law case and proceeding filed in the Brown County District Court or the Brown County Court at Law is in any way terminated (by non-suit or otherwise) a subsequent suit or cause of action involving the same parties or the same subject matter (except for cases filed by the Texas Department of Protective and Regulatory Services or the Attorney General of the State of Texas) shall be filed in, or transferred to, the court that first had jurisdiction of the parties or subject matter. 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. When such a situation is disclosed for the first time after the hearing begins, the judge of the court shall immediately order the suit transferred to the court in which the prior suit was filed.
10. Nothing in the assignment of cases allows for the assignment, docketing, and transfer for hearing of any case not within the jurisdictional limits of the courts involved.
11. All provisions of the *Texas Family Code* regarding continuing exclusive jurisdiction and transfer shall take precedence over these rules.

d. Filing, Assignment, and Transfer of Civil Cases

1. Beginning October 1, 2005, in Brown County, civil cases in which the matter in controversy exceeds \$500 but does not exceed \$100,000, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs, as alleged on the face of the petition, and shall be docketed by the District Clerk and all such cases shall be filed and assigned to the District Court. (Amended effective 10-1-05)
2. In Brown County, cases concerning appeals of final rulings and decisions of the Texas Workers' Compensation Commission, regardless of the amount in controversy, the cases shall be handled in this same manner as outlined in the paragraph immediately preceding.
3. In Brown County, all civil cases within the concurrent jurisdiction of the County Court and the County Court at Law shall be filed and docketed by the County

Clerk and are assigned to the County Court at Law.

4. In Mills County, the County Court does not have any civil jurisdiction other than in probate, guardianship, mental commitments and otherwise as provided by statute.
5. Unless otherwise indicated in these rules, all civil cases shall be filed in whichever court chosen by the person filing the action provided the court has jurisdiction to hear the matter in accordance with the laws of the State of Texas.

e. Filing, Assignment, and Transfer of Miscellaneous County Court Matters

1. All probate, guardianship and mental commitment matters in Brown County shall be filed with the County Clerk of Brown County and heard in the County Court of Brown County.
2. All probate, guardianship and mental commitment matters in Mills County shall be filed with the County Clerk of Mills County to be heard in the County Court of Mills County.

f. Exchange of Benches and Transfer of Cases

1. As provided in Section 74.094 of the *Government Code of the State of Texas*, the District Judge of the 35th Judicial District or the Brown County Court at Law Judge may exchange benches and may hear and determine a matter pending in either court in Brown County regardless of whether the matter is preliminary or final, or whether there is a judgment in the matter. Either judge may sign a judgment or order in either court regardless of whether the case is transferred. The judgment, order, or action is valid and binding as if the case were pending in the court of the judge who acts in the matter. No case can be transferred from one court to another without the consent of the judge of the court to which it is transferred.
2. As provided in Section 74.121 of the *Government Code of the State of Texas*, the judges of the Brown County Court, the Brown County Court at Law, the Brown County Justice Courts and Small Claims Courts may transfer cases to and from the dockets of their respective courts, except that a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred. The County Judge and the County Court at Law Judge may exchange benches and may hear and determine a matter

- pending in either court in Brown County regardless of whether the matter is preliminary or final, or whether there is a judgment in the matter. Either judge may sign a judgment or order in either court regardless of whether the case is transferred. The judgment, order, or action is valid and binding as if the case were pending in the court of the judge who acts in the matter.
3. The transfer of cases and exchange of benches are otherwise governed by Section 74.121 of the *Government Code of the State of Texas* and other applicable authority.
 4. Any claim for relief based upon a prior judgment shall be assigned to the court of original judgment.
 5. Any matter filed after a non-suit, dismissal for want of prosecution, or other disposition of a previous filing involving substantially-related parties and claims shall be assigned by the District Judge to the court where the prior matter was pending.
 6. In all cases where a judge signs an order on behalf of another court, the case shall remain in the original court.
 7. If a case is on the docket of a court by any manner other than as prescribed by these rules, the appropriate District Judge or County Court at Law Judge shall transfer the case to the proper court.

g. Docket Call Procedures

1. Attorneys and pro se litigants who do not expect to be on time or present in the courtroom during docket call must notify the court and the opposing side of this fact.
2. Attorneys and pro se parties who will be late for docket call must give the court and opposing side notice of their estimated time of arrival at court and the reason for the delay. If the attorney is late because he or she must appear in another court at the same time, the clerk must be notified not only that the attorney will be late (as above), but also the specific court(s) in which the attorney will be appearing.
3. If the moving party (if pro se) or the party's attorney does not appear in the courtroom within thirty (30) minutes of docket call, that party's motion may be passed by the court at the request of the responding party.

RULE 1.2 CONDUCT AND COURTROOM DECORUM

a. Policy

Judges and attorneys have a duty to uphold the highest standards of conduct and to earn and promote public respect for the judiciary, the legal profession and the American system of justice.

b. The Texas Lawyer's Creed

The Standards of Professional Conduct in Section IV of The Texas Lawyer Creed, as promulgated by the Texas Supreme Court and the Texas Court of Criminal Appeals are adopted and incorporated herein by reference as guidelines for participating in litigation in the 35th District Court of Brown and Mills Counties, Texas, Brown County Court at Law, and the County Courts for each county.

c. Conduct Required of Counsel

1. Counsel shall timely appear before the court at each setting and following each recess.
2. Counsel shall be appropriately attired for all court proceedings.

Male attorneys shall be dressed neatly in business suits or coats, with appropriate pants, dress shirt and tie.

Female attorneys shall be dressed in conservative dress or business suit, with appropriate jacket and skirt or pants.
3. Counsel shall rise and remain standing while addressing the Court.
4. Counsel shall address all statements, requests and objections to the Court and not to opposing counsel.
5. Counsel shall not argue objections in the presence of the jury without prior leave of court.
6. Counsel shall not interrupt or talk over opposing counsel, except to state formal objections.
7. Counsel shall remain seated at counsel table while examining witnesses, and

may rise only to address the Court or to request permission to approach the witness when necessary to work with documentary or tangible evidence.

8. Counsel shall neither make nor insinuate derogatory or insulting remarks about opposing counsel.
9. Counsel shall address the Court as “Your Honor” or “Judge” and except by leave of court, shall refer to all counsel, parties and witnesses (except children) by their surnames, using such titles as Mr., Mrs., Miss, Dr., etc., as appropriate, and not by first names or nicknames, or any discriminatory or inappropriate classification.
10. Counsel shall neither exit nor enter the bar while court is in session without prior permission of the Court or the bailiff.
11. Counsel shall request leave of court before approaching the bench.
12. Counsel shall not lean on the bench except as may be necessary to prevent jurors from overhearing bench conferences. Counsel shall not engage in personal discussions with the Court or each other during trial while in the presence of jurors, parties, or witnesses.
13. Counsel shall advise counsel’s clients, witnesses and others subject to counsel’s control of these rules of conduct and courtroom decorum.
14. Counsel in all proceedings before the court shall be required to refrain from manifesting by words or conduct any bias or prejudice based on race, sex, religion, or natural origin against parties, counsel or others.

d. Conduct Required of All Persons

All persons in the courtroom during trials and other proceedings shall be attentive to the proceedings and shall refrain from any action which may disrupt the proceedings. Therefore, all persons shall comply with the following:

1. All persons shall be appropriately attired for court proceedings.

All persons entering the courtroom shall be dressed in clothing reasonably befitting the dignity and solemnity of court proceedings.

Tank tops, T-shirts, halter tops, shorts, swimsuits and clothing that is tattered or soiled are among those items of clothing not considered appropriate

- courtroom attire. No hats, caps or sunglasses shall be worn in the courtroom unless approved by the Court.
2. No tobacco use in any form is permitted.
 3. No bottles, beverage containers, paper cups or edibles are allowed in the courtroom, except as permitted by the Court.
 4. No gum chewing is permitted.
 5. No reading of newspapers, books, or magazines is permitted.
 6. No propping of feet on tables or chairs is permitted.
 7. No talking or unnecessary noise is permitted which interferes with the court proceedings.
 8. No person may, by facial expression, shaking or nodding of the head, or by any other conduct, express approval or disapproval of any testimony, statement or transaction in the courtroom.
 9. All persons shall rise when the judge enters the courtroom, and at such other times as the bailiff shall instruct.
 10. No person shall bring packages, suitcases, boxes, duffel bags, shopping bags or containers into the courtroom without the prior approval of the bailiff.
 11. No person shall be permitted any verbal or physical contact with a prisoner without the prior approval of the bailiff.
 12. No person shall bring radios, tape recorders, cameras, cellular telephones, pagers or other electronic devices into the courtroom unless the device is required for the court proceeding and prior approval has been given by the bailiff or the Court.
 13. All parties before the court shall be treated with dignity.
 14. All litigants and the issues raised in their respective cases shall be addressed in an impartial and professional manner without bias and with concern for the fair and just resolution of the merits of the dispute.
 15. All persons shall be addressed by appropriate titles and in an appropriate

manner.

16. Special care shall be taken to treat all victims of crime with respect and sensitivity to the trauma they have experienced.
17. Terms of endearment and diminutive terms shall be avoided as they do not belong in courthouse interaction.
18. Jokes and remarks with sexual content, or jokes and remarks that play on sexual stereotypes, shall be avoided as they are out of place in the courthouse setting.
19. Comments, gestures and touching that can offend others or make them uncomfortable, shall be avoided as they are out of place in the courthouse setting.
20. Women and men shall be treated with equal dignity, respect, and attentiveness, mindful of their professional accomplishments.
21. The Court and its staff and personnel shall make the utmost effort to treat all persons having business in the Court with dignity and respect and to respond to all proper requests in an efficient and professional manner.
22. Infants and toddlers should not be brought to the courtroom without prior approved of the Court unless the children are witnesses or are parties to a case. Special provisions concerning the interview of children and child testimony are provided in Rule 2.8 of these rules.

e. Enforcement

The bailiff of the court shall enforce the rules of conduct and courtroom decorum.

RULE 1.3 REQUESTS FOR CONTINUANCE OR POSTPONEMENT

a. Consent or Notice Required

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

b. Contents of Motion

A motion must be filed pursuant to Rule 245 of the Texas Rules of Civil Procedure; as amended or Article 29.01, Texas Code of Criminal Procedure, as applicable, and the motion (i) must state all opposing parties have been notified of the request and consent to the request; or (ii) be accompanied by an order setting the motion for a hearing. Any Motion for Continuance based upon conflicting settings shall comply with Rule 1.3a of these rules. Any motion that does not meet these requirements will not be acted upon by the Court.

RULE 1.4 CONFLICT IN TRIAL SETTINGS

a. Duty of Counsel to Notify Court

Whenever an attorney has two or more cases on trial dockets for trial at the same time, it shall be the duty of the attorney to bring the matter to the attention of the courts concerned immediately upon learning of the conflicting settings. Any Motion for Continuance based on a conflict in settings shall be accompanied by a copy of the setting notice from the conflicting court.

b. Priority of Cases in Event of Conflict

This Court will comply with the current Regional Rules of Administration, Seventh Administrative Judicial Region of Texas. Insofar as practicable, the affected courts shall attempt to agree upon which case shall have priority. Absent such agreement, conflicting trial settings shall be resolved in the following priority:

1. Federal cases.
2. Temporary injunctions.
3. Criminal cases against defendants who are detained in jail pending trial.
4. Cases given statutory preference.
5. Preferentially set cases, other than those given statutory preference.
6. The earliest set case.
7. As stated in the Regional Rules of Administration, courts in multi-judge counties should yield to courts in rural counties in all other instances of conflicting settings.

RULE 1.5 VACATIONS OF COUNSEL

a. General Rule

Subject to the provisions of 1.4 b of this rule, an attorney may designate not more than four weeks of vacation during a calendar year as vacation, during which an attorney will not be assigned to trial or required to engage in any pretrial proceedings.

This rule operates only where lead counsel, as defined by T.R.C.P. 8, is affected, unless the court expands coverage to other counsel.

b. Time for Designation

Written designation for vacation weeks during June, July, or August must be filed with the Court Coordinator by May 15. Otherwise, written designation for vacation weeks in other months must be filed with the Court Coordinator at least forty-five (45) days prior to the designated vacation period.

RULE 1.6 TIME STANDARDS FOR THE DISPOSITION OF CASES

In accordance with Rule 6 of the Texas Supreme Court Rules of Judicial Administration and Rule 1 of the Regional Rules of Administration, Seventh Administrative Judicial Region, the District Court shall so far as reasonably possible ensure that all cases brought to trial or final disposition are in conformity with the following time standards:

a. Criminal Cases

As provided by Article 32A.02, Code of Criminal Procedure.

b. Civil Cases other than Family Law

1. Civil Jury Cases

Within 18 months from appearance date.

2. Civil Non-jury Cases

Within 12 months from appearance date.

c. Family Law Cases

1. Contested Family Law Cases

Within 6 months from appearance date or within 6 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

2. Uncontested Family Law Cases

Within 3 months from appearance date or within 3 months from the expiration of the waiting period provided by the Family Code where such is required, whichever is later.

d. Juvenile Cases

In addition to the requirements of Title 3, Texas Family Code:

1. Detention Hearings.

Shall be held promptly, but not later than the second working date after a juvenile is taken into custody; provided, however, that when a juvenile is detained on a Friday or Saturday, then such detention hearing shall be held on the first working day after the juvenile is taken into custody.

2. Adjudicatory or Transfer (Waiver) Hearings.

(a) Concerning a juvenile in a detention facility:

Not later than 10 days following admission to such a facility, except for good cause shown of record.

(b) Concerning a juvenile not in a detention facility:

Not later than 30 days following the filing of the petition, except for good cause shown of record.

3. Disposition Hearings.

Not later than 15 days following the adjudicatory hearing. The court may grant additional time in exceptional cases that require more complex evaluation.

4. Nothing herein shall prevent a judge from recessing a juvenile hearing at any state of the proceeding where the parties are agreeable or when in the opinion of the judge presiding in the case the best interests of the child and society

shall be served.

5. Complex Cases

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

RULE 1.7 STANDING ORDER OF THE JUDGES OF BROWN AND MILLS COUNTIES FOR COMPENSATION OF ATTORNEYS APPOINTED TO REPRESENT INDIGENT DEFENDANTS AND JUVENILES

The schedule of fees concerning compensation of court appointed counsel for indigent defendants and related expenses have been adopted by all of the local courts and are included in a standing order of the judges of Brown and Mills Counties for compensation of attorneys appointed to represent indigent defendants and juveniles effective January 1, 2002. This standing order is referenced for all relevant purposes.

**TITLE 2. RULES GOVERNING CIVIL PROCEEDINGS
(Including Family Law Cases)**

RULE 2.1 APPLICATION FOR EX PARTE ORDERS

Counsel presenting any application for an ex parte order shall, at the time the application is presented to the Court, certify in writing that:

- a. To the best of counsel's knowledge, the party against whom the relief is sought is not represented by counsel; or
- b. If the party against whom the relief is sought is represented by counsel, that (i) such counsel has been notified of the application and does not wish to be heard by the Court thereon; or (ii) counsel presenting the application has diligently attempted to notify opposing counsel, has been unable to do so, and the circumstances do not permit additional efforts to give such notice.

RULE 2.2 PRETRIAL AND TRIAL SETTINGS

- a. At any time after the filing of an answer or entry of an appearance by the opposing party, any party may request a setting for a trial on the merits or, where applicable, a

pretrial hearing, by (i) filing with the Court a motion requesting a hearing, and an order setting the hearing, accompanied by a certificate of service to opposing counsel; or (ii) orally requesting the Court to schedule the hearing and confirming the request for setting by letter addressed to the Court, a copy of which shall be served on opposing counsel in accordance with Rule 21 of the Texas Rules of Civil Procedure, as amended. All requests for a setting shall include an estimate of the amount of court time required for the hearing.

- b. Prior to requesting a setting, counsel shall attempt to coordinate a setting with opposing counsel.
- c. In addition, cases shall be set for trial by order of the Court. In this regard, the Court may submit a civil case information sheet to be completed and filed when the case is filed to aid the Court in the scheduling of the case. An additional joint case questionnaire may be submitted by the Court to the parties once all answers have been filed which will further aid the Court in the management of its docket and in the scheduling of the trials. The Court shall publish a court calendar each year with the dates available for jury trials, some non-jury trials, judicial conferences, court holidays, and other related dates. This calendar will be available at no charge upon request to the Court Coordinator and will as soon as practicable be placed on a court web site.

RULE 2.3 WITHDRAWAL OF COUNSEL

a. Withdrawal

Withdrawal of counsel shall be governed by Rule 10 of the Texas rules of Civil Procedure, as amended, and the following rules.

b. Notice to Client

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 client 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. Notice of the filing of the Motion to Withdraw shall be sent by the attorney to the client by certified mail, return receipt requested and First Class U.S. Mail to the client's last known address. A certificate of such service by the attorney shall be included in the Motion for Withdrawal.

c. No Delay of Trial

Unless allowed in the discretion of the Court, no Motion to Withdraw shall be granted that is presented within thirty (30) days of the trial date or at such time as to require a delay of trial.

RULE 2.4 ALTERNATIVE DISPUTE RESOLUTION

a. Policy

It shall be the policy of the 35th Judicial District Court of the Brown and Mills Counties, Texas to encourage the peaceable resolution of disputes and early settlement of pending litigation by referral to alternative dispute resolution (ADR) pursuant to the Texas Alternative Dispute Resolution Procedures Act. Texas Civil Practice and Remedies Code, Chapter 154.

b. ADR Mandatory

No trial on the merits shall be conducted in any case until all contested 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 ADR 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 as are mutually agreeable, without the need for 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, and under such terms and conditions selected by the Court. Child Protective Service cases and cases involving allegations of family violence will be ordered to mediation as deemed appropriate by the presiding judge pursuant to a scheduling order. Upon the establishment by the Commissioner's Court of Brown County, Texas of an alternate dispute resolution system pursuant to Section 152.002 of the Texas Civil Practice and Remedies Code as adopted by the Commissioner's Court by resolution on May 6, 2002, the District Court will utilize the Family Services Center of Brownwood, Texas as a private non-profit corporation contracted by the Commissioner's Court of Brown County to manage an alternate dispute resolution system out of the Family Services Center. This will not be the exclusive means by which cases will be attempted to be resolved through alternate dispute resolution means but it will be available as an

option and fees will be collected to assist in financing the management of such a system as set out in Section 152.004 of the Texas Civil Practice and Remedies Code. The Family Services Center itself will not do mediation, but it will coordinate mediation efforts.

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 Texas Civil Practice and Remedies Code, Chapter 154. 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 2.5 DISMISSAL FOR WANT OF PROSECUTION

a. Procedure

The Court, on its own motion, may dismiss a case for want of prosecution. The procedure provided in Rule 165a of the Texas rules of Civil Procedure, as amended, shall apply.

b. Reasons for Dismissal

A case may be dismissed for want of prosecution for any of the following reasons:

1. Failure of a party seeking affirmative relief to take appropriate action when the case has been pending without action for six months.
2. Failure of counsel for a party seeking affirmative relief to appear for a pretrial or preliminary hearing, particularly if there has been a previous failure to appear or no motion has been timely filed to meet the exceptions previously sustained.
3. Failure of a party seeking affirmative relief to make an announcement as

scheduled when the case has been set for trial.

4. Cases on file for more than one hundred eighty (180) days in which no answer has been filed or is required by law.
5. Cases which have been on file for more than eighteen (18) months and are not set for trial.

RULE 2.6 ORDERS AND DECREES

a. Reduction to Writing Within Ten (10) Days

Unless agreed by the Court otherwise, within ten (10) days after rendition, announcement of the Court's ruling or announcement of settlement by counsel, counsel shall cause all judgments, decrees or orders of any kind to be reduced to writing with a copy forwarded to opposing counsel for objection as to form, and the original delivered directly to the Court for signing. If no objection is heard from opposing counsel within ten (10) days from the date it is received by the Court it will be signed.

b. Dismissal if Written Order Not Furnished

Upon failure to furnish the Court with a judgment, order or decree disposing of the case within the ten (10) day period, the Court may place the case on the next regularly scheduled dismissal docket, whereupon the case may be dismissed and costs may be taxed at the Court's discretion.

c. Procedure for Entry of Order

If counsel is unable to secure all opposing counsel's approval as to form, counsel may:

1. File a motion for entry of the proposed judgment, order or decree and secure a hearing for the same, with notice to all opposing counsel pursuant to Rule 21a, Texas Rules of Civil Procedure. At a hearing, the Court may assess costs and attorney's fees within the Court's discretion; or
2. Present the Court with the proposed judgment, decree or order, together with a letter requesting the Court to sign the same if the court has not received a written objection from opposing counsel within ten (10) days from the date of the letter. Each party who submits a proposed judgment for signature shall serve the proposed judgment and a copy of the letter of all other parties who

have appeared and remain in the case, in accordance with Rule 21a, Texas Rules of Civil Procedure. If the Court receives a written objection from opposing counsel within the stated time, the proponent of the judgment, decree or order shall schedule a hearing for entry of the same pursuant to subdivision 1 of this rule.

d. Orders for Money Tendered into Registry of the Court

No money will be deposited into the registry of the court without an appropriate order concerning the money deposited and provisions as to whether it will be held in an interest bearing account or not. If it is to be held in an interest bearing account, then provisions for a tax identification number or social security number should be made. It is the responsibility of the person tendering the money into the registry of the court to prepare and submit the appropriate order.

RULE 2.7 TELEPHONE CONFERENCES

Use of telephone conferences between judges and all attorneys in a case is encouraged for non-evidentiary matters. Telephone conferences shall be scheduled through the Court Coordinator.

RULE 2.8 INTERVIEW OF 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 or pro se party 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 statute or by court order including a writ of habeas corpus or attachment. The attorney or pro se party 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 judge.

TITLE 3 (Reserved for Expansion)

**TITLE 4. RULES GOVERNING ONLY
FAMILY LAW PROCEEDINGS**

RULE 4.1 TEMPORARY HEARINGS

a. Scheduling

All temporary hearings shall be set on a date and at a time scheduled by the Court. At the time of the request for the setting for the temporary hearing and again immediately prior to trial, counsel shall make an announcement of the estimate of time required to present the case.

b. Notice Required When Responding Party Seeking Affirmative Relief

An application to the Court for a temporary order and notice of any hearing thereon which is presented by a party responding to an application for temporary orders in which that party is seeking temporary relief not sought by the original moving party shall be served on the adverse party in accordance with Rule 5 and Rule 21a of the Texas Rules of Civil Procedure, as amended.

c. Time Limits

In all matters in which temporary managing conservatorship is in issue, the parties shall be granted not more than three (3) hours to present the case, which time shall be equally divided. In all other temporary matters, including a modification of a temporary order, the parties shall be granted not more than one (1) hour to present the case, which time shall be equally divided. Counsel should request a special setting at the time the application for temporary relief is presented to the Court for scheduling when, because of unusual circumstances, the time limits are unworkable or inappropriate. The Court shall determine the amount of time that shall be allotted for the hearing.

d. Order of Cases

All cases in which counsel announce a settlement shall be heard first. All other cases shall be docketed according to counsel's announcement, with those matters requiring the least amount of time to be heard first.

e. Documents Required

In all contested cases in which temporary support of a spouse and of the child is in issue, each party shall be required to furnish to each other and to the Court upon its request the following:

1. A statement of monthly income and expenses;
2. Copies of that party's federal income tax returns for the two calendar years

prior to the temporary hearing;

3. All payroll statements, pay stubs, W-2 forms, and 1099 forms which evidence that party's earnings for the calendar year prior to the temporary hearing and from January 1 of the current year through the date of the temporary hearing.
4. All checking account statements, including all canceled checks, deposit slips and check registers, all savings account statements, including all deposit and withdrawal slips, to or from which that party has made any deposits or withdrawals during the two years prior to the temporary hearing.
5. Copies of any financial statements filed by that party with any financial institution in the two years prior to the hearing.

f. Duration of Orders

No temporary order shall exceed one hundred eighty (180) days in duration from the date the order is signed, except by agreement of the parties or order of the Court.

RULE 4.2 INVENTORY AND APPRAISEMENT

a. Inventory and Appraisal Required

In all contested cases in which the character, value or division of property or debts is in issue, each party shall file, not less than thirty (30) days prior to trial, a sworn inventory and appraisal 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.

b. Composite Inventory and Appraisal

After each party's sworn inventory and appraisal has been filed, the parties shall file a composite Inventory and Appraisal. The Petitioner shall initiate the composite Inventory and forward it to the Respondent for completion not less than fourteen (14) days prior to trial. The Respondent shall complete and file the composite Inventory with the Court and serve a copy of the same on the Petitioner not less than seven (7) days prior to trial.

c. Sanctions for Failure to File

If a party or the parties fail to prepare and / or file the initial inventory or the

composite inventory as required, the Court may conduct a pretrial 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, as amended.

RULE 4.3 SEMINAR FOR PARENTS

a. Seminar Mandatory

All parties in a suit affecting the parent-child relationship, who are parents of the child the subject of the suit, shall attend and complete an educational seminar approved by the Court in which the suit is pending. The content of the seminar shall include, but not be limited to:

1. The developmental states of childhood;
2. The needs of children at different ages;
3. Stress indicators in children;
4. Age appropriate expectations of children;
5. The grief process;
6. Reducing stress for children the subject of a suit affecting the parent-child relationship;
7. The changing parental and marital roles as a result of a divorce;
8. Visitation recommendations to enhance the child's relationship with both parents;
9. Financial obligations of child rearing;
10. Conflict management and dispute resolution.

b. Substitution or Waiver of Seminar

For good cause shown, after notice and hearing, a service of equal value may be substituted for the seminar if written verification is provided to the Court by a third party provider indicating that the subjects addressed in another forum, including, but not limited to, professional or pastoral counseling. The requirement of a seminar or

service of equal value may be waived by the Court for good cause shown.

c. Registration

Each parent must preregister for an approved educational seminar. Information shall forms shall be available in the office of the Court Coordinator, the offices of the District Clerks of Brown and Mills Counties and at the offices of the seminar provider.

d. Fees

Each party shall attend the seminar or approved service of equal value at that parties sole cost and expense. The fee shall be payable to the service provider at the time of preregistration. The fee for the seminar shall be reduced or waived in cases of indigency, in the manner provided by the Texas Rules of Civil Procedure.

e. Deadline for Completion

Each party shall complete the seminar or approved service of equal value within 60 days after the date the respondent parent is served with process or executes a Waiver of Citation in the case and prior to a final hearing on the merits of the case.

f. Verification of Attendance

Each party completing the seminar shall be provided a certificate of attendance which that party shall present to the Court at the time of the final hearing.

g. Sanctions

If a party fails to attend and complete an approved seminar or approved service of equal value, the Court may make such orders as it may deem appropriate including contempt, striking of any pleadings, or any of the sanctions listed in Rule 215 of the Texas rules of Civil Procedure.

**RULE 4.4 BROWN AND MILLS COUNTIES REVISED PLAN AND
STANDING RULES AND PROCEDURES FOR TIMELY
APPOINTMENT OF COUNSEL FOR INDIGENT JUVENILES**

The Juvenile Board of Brown and Mills Counties has adopted a revised plan and standing rules and procedures for timely appointment of counsel for indigent juveniles. This plan is incorporated by reference for all relevant purposes.

TITLE 5. RULES GOVERNING CRIMINAL PROCEEDINGS IN DISTRICT COURT

RULE 5.1 ARRAIGNMENT

After indictment, all defendants, and their attorneys shall be notified and are required to personally appear for the defendant's formal arraignment, unless a written Waiver of Arraignment has been filed with the Court. As a courtesy, the Court will make every effort to notify all bondsmen of scheduled hearings.

RULE 5.2 SCHEDULING OF GUILTY OR NO CONTEST PLEAS

a. Plea Information

The District Attorney and counsel for the defendant shall complete a plea information form promulgated by the Court. A completed plea information form shall be delivered to the Criminal Liaison at least seven days prior to the scheduled hearing date. If the completed plea information form is not delivered timely to the Criminal Liaison, the plea hearing shall be re-scheduled until a completed plea information form has been filed with the Criminal Liaison, unless approved otherwise by the Court.

b. Guilty / Nolo Pleas

Where cases are set for guilty or *nolo contendere* pleas, all plea papers should be filled out prior to the time a case is scheduled to begin for the plea hearing. The prosecutor handling the case will be responsible for the timely preparation of the plea papers and delivery of these documents to the defendant's attorney prior to the day scheduled for the plea hearing.

c. Preparation of Orders

The prosecutor shall be responsible of the drafting of proposed judgments and sentences and submitting them to the Court within ten days following the time of the plea hearing in all cases not resulting in community supervision. The Criminal Liaison shall be responsible for the preparation and submission of all orders to the Court immediately following the time of the plea in all cases resulting in community supervision.

RULE 5.3 DUTIES OF COURT APPOINTED COUNSEL

All court appointed criminal defense counsel shall be required to do the following:

- a. Appear promptly at all times required by the Court.
- b. If the defendant is incarcerated, counsel shall make every reasonable effort to visit the defendant in jail not later than the end of the first working day after appointment.
- c. The responsibilities of court appointed counsel are set out in the Court's current Plan and Standing Rules and Orders for Appointment of Counsel for Indigent Accused Persons in Brown and Mills Counties, Texas. A copy of the above referenced standing rules and orders is posted outside of the Brown and Mills Counties District and County Clerk's Offices and is also available upon request from the Clerks or the Court Coordinator of the Court. An attorney's fee schedule and related forms are also available from the same sources.
- d. Ensure that an incarcerated defendant is provided with appropriate attire for a jury trial. This provision shall not be construed to permit counsel to purchase clothing for a defendant without first seeking the approval of the Court.

RULE 5.4 PRESENTENCE INVESTIGATIONS AND REPORTS

a. Presentence Investigation and Report Required.

Unless otherwise ordered by the Court, the Community Supervision and Corrections Department of the 35th Judicial District Court of Brown and Mills Counties, Texas shall conduct a presentence investigation and prepare a presentence report on all defendants charged with felony offenses pursuant to the requirements of Article 42.12, Section 9, Texas Code of Criminal Procedure, as amended. Each report shall contain a sentencing recommendation.

b. When Presentence Report Not Required.

Unless otherwise ordered by the Court, a presentence report shall not be prepared if:

1. Punishment is assessed by a jury and the jury does not recommend community supervision;
2. The defendant is convicted of or enters a plea of guilty or nolo contendere to capital murder;

3. The only available punishment is imprisonment;
4. One is not required otherwise by law.

If a presentence report is not required, the Community Supervision and Corrections Department of the 35th Judicial District Court of Brown and Mills Counties, Texas shall prepare a post-sentence report pursuant to the requirements of Article 42.12, Section 9, Texas Code of Criminal Procedure, as amended as required by law.

c. Distribution of the Presentence Report

The Community Supervision and Corrections Department of the 35th Judicial District Court of Brown and Mills Counties, Texas shall file the original presentence report and two copies of the same under seal in the papers of the cause, and shall not disclose the contents of the report to any person unless the defendant, in writing, authorized release of the report, whereupon the Community Supervision and Corrections Department shall release the report to the District Attorney and counsel for the defendant.

RULE 5.5 STANDING PRETRIAL ORDER IN CRIMINAL CASES

The Court has entered a Standing Pretrial Order in criminal cases which is placed in each of the files upon indictment governing routine discovery and production as stated in the order. A copy of this order is available with the District Clerks.

RULE 5.6 FELONY BOND SCHEDULE

The Court has established guidelines for setting bonds for felony offenses committed within Brown and Mills Counties. A copy of these guidelines are posted in the District Clerk offices.

RULE 5.7 PLAN AND STANDING RULES AND ORDERS FOR APPOINTMENT OF COUNSEL FOR INDIGENT ADULT DEFENDANTS IN BROWN AND MILLS COUNTIES, TEXAS

A Revised Adult Indigent Defense Plan for All Courts in Brown and Mills Counties, Texas has been adopted by the 35th District Court, County Court at Law of Brown County and the County Courts of Brown and Mills Counties, Texas in order to conform with the requirements of Senate Bill 7 passed by the Texas Legislature and signed into law in 2001. This plan is incorporated by reference.

TITLE 6. (Reserved for Expansion)

TITLE 7. MISCELLANEOUS

RULE 7.1 AUTHORITY FOR RULES

These rules are adopted pursuant to the Texas Government Code, Section 75.011 and Rule 3a of the Texas Rules of Civil Procedure, as amended, 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 7.2 TITLE AND CITATION

These rules shall be known as the Local Rules of Court for Brown and Mills Counties.

RULE 7.3 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 7.4 TERMS

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

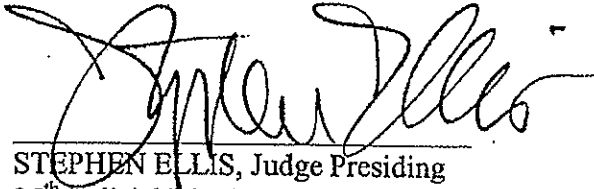
RULE 7.5 CONSTRUCTION OF RULES

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.

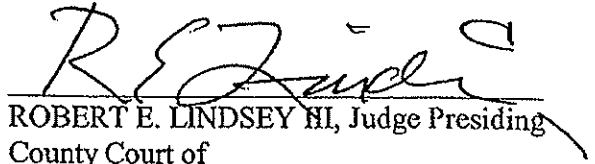
RULE 7.6 APPLICATION OF RULES

These rules supersede any prior local rules of practice. These rules shall become effective upon approval by the Texas Supreme Court and if appropriate by the Texas Court of Criminal Appeals.

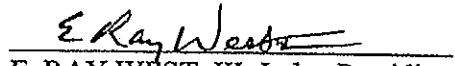
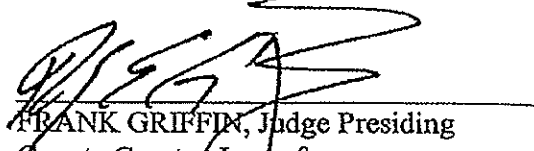
AMENDED, ADOPTED AND SIGNED this the 15 day of September, 2005.



STEPHEN ELLIS, Judge Presiding
35th Judicial District Court
Brown and Mills Counties, Texas



ROBERT E. LINDSEY III, Judge Presiding
County Court of
Mills County, Texas


E. RAY WEST, III, Judge Presiding
County Court of
Brown County, Texas
FRANK GRIFFIN, Judge Presiding
County Court at Law of
Brown County, Texas

SUBMITTED FOR APPROVAL BY THE TEXAS SUPREME COURT:



DEAN RUCKER, Presiding Judge
Seventh Administrative Judicial
Region of Texas