

## **PART FOUR - FAMILY LAW CASES**

### **RULE 4.01 FILING OF FAMILY LAW CASES:**

- (A) JUVENILE CASES ARE TO BE FILED SEPARATELY AS FAMILY DISTRICT COURT CASES.
- (B) FAMILY LAW CASES SHALL BE HEARD BY ASSOCIATE JUDGES UPON ORDERS OF REFERRAL FROM THE DISTRICT COURTS AND COUNTY COURTS AT LAW PURSUANT TO CHAPTER 54 OF THE GOVERNMENT CODE.

### **RULE 4.02 ANCILLARY PROCEEDINGS, TEMPORARY ORDERS, AND EMERGENCY MATTERS:**

- (A) NOTWITHSTANDING A TIMELY FILED OBJECTION TO REFERRAL TO THE TRIAL ON THE MERITS, ANCILLARY PROCEEDINGS AND TEMPORARY ORDER HEARINGS SHALL BE SCHEDULED AND HEARD BY ASSOCIATE JUDGES AND NOT BY THE REFERRING COURT UNLESS OTHERWISE DIRECTED.
- (B) THE DURATION OF SUCH HEARINGS IS LIMITED TO NO MORE THAN ONE HALF HOUR UNLESS OTHERWISE SPECIFICALLY REQUESTED AT TIME OF SCHEDULING.

### **RULE 4.03 UNCONTESTED MATTERS:**

UNCONTESTED MATTERS SHALL BE HANDLED BY AN UNCONTESTED DOCKET AS DIRECTED BY THE ASSOCIATE JUDGES. NO SCHEDULE SETTING WILL BE REQUIRED FOR SUCH DOCKETS.

### **RULE 4.04 FINANCIAL INFORMATION STATEMENTS; INVENTORY AND APPRAISEMENT; AND PRETRIAL PROCEDURE:**

THE ASSOCIATE JUDGES SHALL ESTABLISH POLICIES TO GOVERN FINANCIAL INFORMATION STATEMENTS, INVENTORIES AND APPRAISEMENTS, AND PRETRIAL PROCEEDINGS.

### **RULE 4.05 JURY DEMAND AND WITHDRAWAL OF JURY DEMAND:**

A COPY OF THE JURY DEMAND OR WITHDRAWAL OF JURY DEMAND SHALL BE PROVIDED TO THE REFERRING COURT AND TO THE ASSOCIATE JUDGES BY THE ATTORNEY FILING SAME WHEN FILED WITH THE DISTRICT CLERK.

### **RULE 4.06 OBJECTION TO REFERRAL:**

OBJECTION TO REFERRAL SHALL APPLY TO TRIAL ON THE MERITS ONLY. A COPY OF THE FILED OBJECTION SHALL BE PROVIDED TO THE REFERRING COURT AND TO THE ASSOCIATE JUDGES BY THE ATTORNEY FILING SAME WHEN FILED WITH THE DISTRICT CLERK.

### **RULE 4.07 WITHDRAWAL OF OBJECTION:**

ALL WITHDRAWS OF OBJECTION TO REFERRAL SHALL BE MADE WITH THE CONCURRENCE OF ALL PARTIES AND A COPY SHALL BE PROVIDED TO THE REFERRING COURT AND TO THE ASSOCIATE JUDGES WHEN FILED WITH THE DISTRICT CLERK.

**RULE 4.08 CANCELLATION OF COURT SETTING:** CANCELLATIONS OF COURT SETTINGS SHALL BE IN WRITING, UNLESS EXPRESSLY EXCUSED, AND ONLY WITH THE

CONCURRENCE OF BOTH PARTIES. THE CANCELLATION NOTICE SHALL STATE THE PARTIES' CONCURRENCE.

**RULE 4.09 REQUEST FOR SETTING:**

SETTINGS WILL BE ARRANGED THROUGH THE FAMILY LAW COURT COORDINATOR. REQUESTS FOR SETTINGS MAY BE REQUIRED TO BE IN WRITING, MAY SPECIFY THE AMOUNT OF TIME NEEDED, AND MAY BE FILED WITH THE CLERK, AS DIRECTED BY THE ASSOCIATE JUDGES.

**RULE 4.10 CONFIRMATION OF LENGTHY HEARINGS:** ATTORNEYS SHALL CONFIRM IN WRITING WITH THE FAMILY LAW COURT COORDINATOR AT LEAST ONE WEEK IN ADVANCE OF SCHEDULED HEARINGS OF A DURATION OF THREE HOURS OR MORE THAT SAID HEARINGS ARE STILL INTENDED TO BE HELD. FAILURE TO SO CONFIRM MAY RESULT IN CANCELLATION OF THE HEARING.

**RULE 4.11 PROPOSED ORDERS OR DECREES:**

ALL PROPOSED ORDERS OR DECREES SUBMITTED TO AN ASSOCIATE JUDGE WHICH MUST BE RATIFIED OR APPROVED BY THE REFERRING COURT SHALL INCLUDE A SIGNATURE LINE FOR THE "JUDGE PRESIDING."

**RULE \*4.12 JANE DOE:**

PURSUANT TO TEXAS PARENTAL NOTIFICATION RULES AND FORMS EFFECTIVE DATE JANUARY 1, 2000 RULE 2.1(B)3 – COURT ASSIGNMENT AND TRANSFER BY LOCAL RULE. (A) APPLICATIONS WILL BE FILED WITH THE DISTRICT CLERK WHO WILL ASSIGN THE APPLICATION TO A FAMILY LAW COURT IN ROTATION. APPLICATIONS FILED WITH ANYONE OTHER THAN THE DISTRICT CLERK'S OFFICE SHALL BE FILED INSTANT WITH THE DISTRICT CLERK'S OFFICE.

(B) UPON APPLICATION, THE DISTRICT CLERK WILL HAND DELIVER THE APPLICATION AND VERIFICATION IN A RED FOLDER TO THE COURT COORDINATOR, SHOULD THE ASSIGNED COURT BE CLOSED FOR BUSINESS, THEN THE DISTRICT CLERK WILL HAND DELIVER THE APPLICATION TO ONE OF THE OTHER COURT COORDINATORS/JUDGES OF THE FAMILY LAW COURTS.

(C) THE COURT COORDINATOR WILL IMMEDIATELY DELIVER THE APPLICATION TO THE JUDGE OF SAID COURT. IF THE JUDGE IS NOT AVAILABLE THE COURT COORDINATOR WILL HAND DELIVER THE APPLICATION TO ONE OF THE COURT COORDINATORS/JUDGES OF THE OTHER FAMILY LAW COURTS, SHOULD ALL FAMILY LAW JUDGES BE UNAVAILABLE TO HEAR CASES, THEN THE COURT COORDINATOR OR DISTRICT CLERK SHALL HAND DELIVER THE APPLICATION TO THE COURT COORDINATOR/PRESIDING JUDGE OF THE COUNCIL OF JUDGES.

(D) THE PRESIDING JUDGE OF THE COUNCIL OF JUDGES WILL THEN ASSIGN ONE OF THE OTHER DISTRICT COURTS TO HEAR THE APPLICATION AND HAVE THE APPLICATION HAND DELIVERED TO THAT COURT COORDINATOR/JUDGE.

(E) IF THE PRESIDING JUDGE OF THE COUNCIL OF JUDGES IS NOT AVAILABLE, THEN THE APPLICATION WILL BE HAND DELIVERED TO THE SENIOR PRESIDING JUDGE TO ASSIGN A COURT AND HAVE THE APPLICATION HAND DELIVERED TO THAT COURT COORDINATOR/JUDGE.

\*RULE 4.12 APPROVED BY SUPREME COURT OF TEXAS ON JULY 26, 2000.

**RULE \*4.13 65<sup>th</sup> DISTRICT COURT RULES FOR CHILD PROTECTION CASES**

(A) FILING CHILD PROTECTION CASES 1.1 CHILD PROTECTION CASES (CPC) AND ADOPTIONS STEMMING FROM A CHILD PROTECTION CASE ARE TO BE FILED IN THE 65<sup>TH</sup> DISTRICT COURT.

1.2 CPC CASES SHALL BE HEARD UPON ORDERS OF REFERRAL FROM THE DISTRICT COURT PURSUANT TO CHAPTER 201 OF THE TEXAS FAMILY CODE FILED ON THE 26<sup>TH</sup> DAY OF OCTOBER, 1995.

1.3 PURSUANT TO 201.005 OF THE TEXAS FAMILY CODE, A PARTY MUST FILE AN OBJECTION TO AN ASSOCIATE JUDGE HEARING A TRIAL ON THE MERITS OR PRESIDING AT A JURY TRIAL NOT LATER THAN THE 10<sup>TH</sup> DAY AFTER THE DATE THE PARTY RECEIVES NOTICE THAT THE ASSOCIATE JUDGE WILL HEAR THE TRIAL. IF AN OBJECTION IS FILED, THE REFERRING COURT SHALL HEAR THE TRIAL ON THE MERITS OR PRESIDE TO A JURY TRIAL. A COPY OF THE FILED OBJECTION SHALL BE PROVIDED TO THE REFERRING COURT, THE ASSOCIATE JUDGE AND COUNTY ATTORNEY WITHIN THREE DAYS BY THE ATTORNEY FILING SAME WHEN FILED WITH THE DISTRICT COURT.

(B) PRETRIAL

2.1 TO ASSIST IN THE DISPOSITION OF CPC CASES, ATTORNEYS ARE DIRECTED TO APPEAR AT A PRETRIAL CONFERENCE BY ORDER OF THE COURT.

2.2 STATEMENTS OF PATERNITY AND AFFIDAVITS OF STATUS SHALL BE BROUGHT TO THE PRETRIAL AND FILED BY THE FULL ADVERSARY HEARING.

**MOTION FOR CONTINUANCE:**

2.3 NOTICE OF FILING OF MOTION MUST BE SERVED ON OPPOSING COUNSEL.

2.4 ANY GROUND FOR CONTINUANCE SHALL BE PRESENTED TO THE COURT AT LEAST 10 DAYS PRIOR TO THE HEARING ABSENT EXIGENT CIRCUMSTANCES.

2.5 AGREED MOTIONS FOR CONTINUANCE SIGNED BY ALL PARTIES SHALL BE GRANTED UNLESS THE DELAY WOULD UNREASONABLY INTERFERE WITH THE OTHER BUSINESS OF THE COURT. MOTIONS FOR CONTINUANCE WILL NOT BE GRANTED ABSENT A SHOWING OF COMPELLING REASONS, WHICH MUST BE CLEARLY ARTICULATED IN THE MOTION.

REQUESTING PARTY MUST PREPARE A WRITTEN AGREEMENT, ALL ATTORNEYS MUST SIGN, AND THE MOTION FILED WITH THE DISTRICT CLERK. THE AGREED MOTION SHALL BE ACCOMPANIED BY AN ORDER SETTING HEARING OR MEDIATION AND PRESENTED TO THE ASSOCIATE JUDGE. BEFORE REQUESTING DATE FOR HEARING OR MEDIATION, THE REQUESTING PARTY SHALL MAKE REASONABLE EFFORTS ASCERTAIN FROM THE OTHER PARTIES AND THEN INFORM THE COURT COORDINATOR OF POTENTIAL CONFLICT IN THE ATTORNEY'S SCHEDULES.

2.6 THE REQUESTING PARTY SHALL THEN PROMPTLY SERVE ALL OTHER PARTIES/WITNESSES WITH WRITTEN NOTICE OF THE NEW SETTING FOR HEARING.

2.7 ALL MILITARY LEAVE AND VACATION REQUESTS SHALL BE HONORED WHEN TIMELY FILED.

2.8 LOCAL RULE 3.07 GOVERNING ALL THE COURTS' POLICIES ON CONTINUANCES

SHALL BE INCORPORATED BY REFERENCE.

**PRETRIAL MOTIONS/PRELIMINARY MATTERS:**

2.9 ALL MOTIONS SHALL BE IN WRITING AND SHALL HAVE A PROPOSED ORDER ATTACHED GRANTING THE RELIEF SOUGHT.

2.10 ALL MOTIONS WILL BE DISPOSED OF AT THE SCHEDULED HEARING, UNLESS CIRCUMSTANCES DICTATE THEIR IMMEDIATE DISPOSAL. MOTION REQUIRING IMMEDIATE DISPOSITION SHOULD BE SUBMITTED WITH A MOTION AND ORDER SETTING HEARING ATTACHED.

(C) MOTIONS ON SPECIFIC ISSUES BETWEEN REVIEW HEARINGS

**AGREED MOTIONS AND ORDERS:**

AGREED MOTIONS AND ORDERS BY ALL AFFECTED PARTIES SHALL BE GRANTED WITHOUT HEARING IF ALL PARTIES ARE IN AGREEMENT. AGREEMENTS CAN BE MADE THROUGH SIGNATURE OR BY VERBAL AGREEMENTS MEMORIALIZED IN THE ORDER.

**VISITATION AND TRIP REQUESTS:**

3.1 BETWEEN REVIEW HEARINGS ANY PARTY MAY PRESENT A WRITTEN FILE STAMPED MOTION AND PROPOSED ORDER REGARDING CHANGES IN VISITATION OR REQUESTS. THE MOTION SHALL INCLUDE PREVIOUS VISITATION ORDERS ALONG WITH CLEARLY ARTICULATED REQUESTED CHANGES AND REASON FOR CHANGE. ALL PARTIES MUST AGREE ON SUPERVISION, FREQUENCY, TIMES AND LOCATIONS OF VISITATIONS. THE AGREEMENTS MUST BE SIGNED BY ALL AFFECTED PARTIES IN ORDER FOR THE CHANGE TO OCCUR. THE ORDER MUST BE FILED WITH THE DISTRICT COURT AND SERVED UPON ALL PARTIES.

**CHANGE IN SCHOOL PLACEMENT AND CHANGE IN SUBSTITUTE CARE PLACEMENT:**

3.2 CHANGES IN SCHOOL PLACEMENT OR SUBSTITUTE CARE PLACEMENT SHALL BECOME EFFECTIVE UPON AGREEMENT OF ALL AFFECTED PARTIES. GUARDIAN AD LITEM OR ATTORNEY AD LITEM SHOULD VISIT PROSPECTIVE PLACEMENT.

**EMERGENCY CHANGE IN SUBSTITUTE CARE PLACEMENT:**

3.3 EMERGENCY PLACEMENTS WITHIN EL PASO COUNTY ONLY MAY BE DONE WITHOUT HEARING. CASEWORKER SHALL FILE A WRITTEN REPORT WITHIN TWO (2) WORKING DAYS OF LEARNING OF THE INCIDENT AND PROVIDE TO ALL PARTIES AND THE ASSOCIATE COURT THE WORKING DAY THEREAFTER.

3.4 EMERGENCY PLACEMENTS OUTSIDE EL PASO COUNTY MAY BE DONE WITHOUT HEARING ONLY IF BY AGREEMENT SIGNED BY THE AD LITEM FOR THE CHILD AND TDPRS.

**SERIOUS INCIDENT REPORTS**

3.5 SERIOUS INCIDENT REPORTS SHALL BE FILED IN ALL CASES WHERE THE INCIDENT VIOLATES A COURT ORDER OR PLACES THE CHILDREN IN DANGER OF HEALTH OR SAFETY. CESSATION OF VISITATION OR CHANGES IN PLACEMENT JUSTIFIED BY THE INCIDENT SHALL BE INCLUDED IN THE SPECIFIC INCIDENT REPORT. SERIOUS INCIDENT

REPORTS SHALL BE FILED WITHIN TWO (2) WORKING DAYS OF LEARNING OF THE INCIDENT.

**EXTENSIONS:**

3.6 AGREED MOTIONS AND ORDERS FOR EXTENSIONS SHALL BE GRANTED WITHOUT HEARING IF THE STATUTORY REQUIREMENTS ARE MET AND THE REASONS ARE OUTLINED WITH SPECIFICITY.

(D) HEARINGS

4.1 PERSONS OTHER THAN ATTORNEYS WHO SHOULD ALWAYS BE PRESENT AT HEARINGS:

4.1.1 THOSE REQUIRED BY LAW OR THE FAMILY CODE;

4.1.2 CUSTODIAL ADULTS;

4.1.3 FOSTER PARENTS;

4.1.4 ASSIGNED CASEWORKER;

4.1.5 CASA

**TRANSCRIPTS:**

4.2 COURT-APPOINTED ATTORNEY AD LITEMS REQUESTING A TRANSCRIPT OF A HEARING HELD BEFORE THE ASSOCIATE JUDGE MUST FILE A MOTION REQUESTING A HEARING TRANSCRIPT.

**JURY REQUESTS:**

4.3 AT LEAST NINETY DAYS BEFORE DISMISSAL A PARTY SHALL REQUEST A BENCH SETTING AND A BACK-UP JURY SETTING. NOTWITHSTANDING, REQUESTS FOR JURY TRIAL SHALL BE MADE AT LEAST 30 DAYS BEFORE THE SCHEDULED BENCH TRIAL.

(E) AD LITEMS

5.1 THE COURT SHALL APPOINT AN ATTORNEY AD LITEM IN ALL CASES AS REQUIRED BY 107 OF THE TEXAS FAMILY CODE, UNLESS OTHERWISE DESIGNATED BY COURT ORDER.

5.2 ATTORNEY AD LITEM POOL THE DISTRICT JUDGE WILL ESTABLISH AN AD LITEM POOL FROM WHICH ATTORNEY AD LITEMS WILL BE APPOINTED. TO BE ELIGIBLE FOR THE AD LITEM POOL, AN ATTORNEY MUST HAVE COMPLETED THE REQUIRED AD LITEM TRAINING.

5.3 RESPONSIBILITY OF AD LITEMS

5.3.1 OBSERVE AND ADHERE TO ALL TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT AS WELL AS THE AMERICAN BAR ASSOCIATE CANONS AND GUIDELINES.

5.3.2 OBSERVE AND ADHERE TO POWERS AND DUTIES OF ATTORNEY AD LITEM FOR CHILD UNDER THE TEXAS FAMILY CODE 107.

5.3.3 ENSURE THAT INCARCERATED CLIENTS ARE BENCH WARRANTED OR OTHERWISE REQUESTED FOR HEARINGS SHOULD THEIR PRESENCE BE NECESSARY.

**GUARDIAN AD LITEM APPOINTMENTS:**

5.4 THE DISTRICT JUDGE WILL ESTABLISH A GUARDIAN AD LITEM POOL FROM WHICH GUARDIAN AD LITEM WILL BE APPOINTED. TO BE ELIGIBLE FOR THE AD LITEM POOL A GUARDIAN MUST COMPLETE THE PREREQUISITE TRAINING OR OBTAIN A WAIVER FOR THE DISTRICT COURT.

5.5 RESPONSIBILITY OF GUARDIAN AD LITEMS:

5.5.1 CLIENT CONTACT

5.5.1.1 MEET WITH CLIENTS NO LESS THAN ONCE BEFORE THE SHOW CAUSE HEARING, THEREAFTER EVERY THIRTY (30 DAYS)

5.5.1.2 MEET WITH CLIENTS AFTER EACH HEARING.

5.5.1.3 GUARDIAN WHO'S CLIENTS RESIDE OUTSIDE OF EL PASO COUNTY ARE REQUIRED TO COMMUNICATE WITH CLIENTS NO LESS THAN ONCE A MONTH AND MEET WITH THEM NO LESS THAN EVERY 120 DAYS.

5.5.1.4 GUARDIANS WHO REPRESENT CLIENTS LESS THAN FOUR YEARS SHALL, IN ADDITION, MEET WITH THE CHILD'S PRIMARY CUSTODIAN.

5.5.2 PROVIDE DIRECTION TO THE ATTORNEY AD LITEM ON THE CHILD'S BEST INTERESTS.

5.5.3 GAL SHALL FILE AN AD LITEM REPORT THREE (3) DAYS BEFORE HEARING AND PROVIDE TO ALL PARTIES.