

**LOCAL RULES
266TH JUDICIAL DISTRICT COURT
ERATH COUNTY, TEXAS**

INTRODUCTION

Pursuant to the authority granted District Courts under Rule 817, T.R.C.P., and Art. 33.08, C.C.P., to promulgate Rules of Practice for conducting the business of District Courts, the rules, suggestions and procedures set out below will be in effect in this Court unless subsequently modified, changed or amended. All prior rules of the 266th Judicial District Court of Texas are hereby expressly repealed.

A copy of these rules is filed with the District Clerk in each of the counties in this District and available to all persons and attorneys having litigation in this Court.

These rules are promulgated for the benefit of the Court, the Court personnel, attorneys and litigants having matters before the Court, and are adopted for the purpose of establishing and maintaining an orderly, dignified and expeditious procedure for handling and conducting the Court's business. Nothing contained in these rules shall be construed or interpreted as interfering with the right of the Trial Judge to additionally make such orders, settings, or procedural directions as in his discretion may be necessary or proper for the expedient and orderly dispatch of the business of the Court.

As District Judge of this Court, I have freely used desirable court rules written by other Judges, and I acknowledge those contributions. In order to effectuate the purposes of these local rules as set forth above, I solicit the comment, suggestions and even criticism from members of the Bar practicing in Erath County, so that all of the rules of the Court will be workable and helpful in disposing of the Court cases as expeditiously as possible and with as little inconvenience as possible to any party litigant or their attorneys.

ORDER ADOPTING RULES

It is ordered by the District Judge of the 266th Judicial District Court of Erath County, Texas that:

1. The following rules of practice and procedure are adopted;
2. The Clerk of this Court in Erath County, Texas, record these rules and this Order in the Minutes of this Court;
3. A copy of these rules and this Order be furnished to the Supreme Court of Texas, the Court of Civil Appeals for the Second and Eleventh Supreme Judicial District of Texas and the Presiding Judge of the Eighth Administrative District of Texas;
4. The Clerk of this Court immediately deliver to each lawyer residing or maintaining an office within the county where such Clerk serves, a copy of these rules and this Order; a copy be furnished by the Clerk to each lawyer and pro se party appearing in any civil action in this Court; the Clerk keep a current record of each such delivery, the date thereof and make such record available for inspection;
5. These rules shall be construed and interpreted, in addition to, in conformity with and not as superseding the Constitution and laws of the State of Texas or the Texas Rules of Civil Procedure. They shall not prohibit the Court from making orders, settings or procedures which, in the Court's discretion, may further the orderly administration of justice;
6. Should any of these rules, or any part thereof, be held invalid for any reason, such invalidity shall not affect the validity of the other rules or parts of rules, all of which have been separately considered and adopted;
7. All prior rules of the 266th Judicial District Court of Texas are hereby expressly repealed;
8. These rules shall be effective on August 1, 2008, and thereafter until amended, modified or repealed by order of the Court; and
9. Such rules shall be and read as set forth hereinafter.

ADOPTED and ORDERED this 1st day of August, 2008.

Donald R. Jones, District Judge
266th Judicial District of Texas

**LOCAL RULES OF THE 266 JUDICIAL DISTRICT COURT
ERATH COUNTY, TEXAS**

Section I: Rules of Decorum

- 1.1 All officers of the Court, parties, witnesses and the public shall at all times conduct themselves with dignity so as not to interfere with the Court's business.
- 1.2 All present shall rise and come to order as the Judge takes the bench.
- 1.3 All persons in attendance while the Court is in session shall be attentive to proceedings and cause no distraction.
- 1.4 No one shall sit on railings, tables, desks, chair arms, place feet on furniture or fixtures nor prop chairs back. No one shall lean on or rest arms or hands on the bench.
- 1.5 All persons shall be suitably attired. Except by special permission of the Court, male officers of the Court shall wear coats and ties; the attire of the female officers shall be equally suitable.
- 1.6 No gestures, facial expressions nor sounds indicating approval or disapproval of any person, act, testimony or proceeding shall be permitted.
- 1.7 Participants in all proceedings shall be prompt.
- 1.8 All officers of the Court shall avoid addressing each other with familiarity, shall use appropriate titles and shall avoid first names while the Court is in session and during official proceedings.
- 1.9 No reading material shall be permitted in the Courtroom except as may be directly related to current proceedings before the Court.
- 1.10 No active participant to interrogation shall smoke tobacco or chew gum.
- 1.11 Counsel shall instruct parties not to directly contact the Judge concerning pending matters.
- 1.12 Counsel shall be responsible to advise clients and witnesses of these rules to avoid embarrassment and delay.

Section II: Calendar

- 2.1 The Court will attempt to accommodate conflicting settings of counsel. Priorities, as they relate to such conflicts, shall be:
 - a. Election contests or other matters requiring assignment of a visiting judge.
 - b. Criminal cases.
 - c. Special or preferential settings.
 - d. Whether this or another Court will be without an available case for trial or shall have to disband a jury panel.
 - e. Earlier case filed.
 - f. Regular setting.
 - g. Pre-trial setting.
- 2.2 Jury weeks and non-jury days shall be set for each term of Court. The Court Administrator and the Clerk shall maintain a calendar for jury matters and for non-jury matters in each county.
- 2.3 Requests for regular trial settings for all civil jury and non-jury matters shall be in writing and forwarded to the Court Administrator, opposing counsel or pro se litigants. The Court Administrator shall be responsible for all civil trial settings, whether jury or non-jury, and shall confirm such settings in writing to the respective attorneys, pro se litigants and the District Clerk. If any attorney or litigant has a conflict or will be unable to appear on the date set for trial or hearing, the Court Administrator shall be notified within ten (10) days after receipt of such notice of setting in order to arrange for resetting; otherwise, such setting will be considered a firm setting and the hearing or trial setting will not be passed except upon mutual agreement of the respective attorneys with consent of the Court or upon proper motion for continuance granted by the Court after hearing thereon. Written request for a setting shall certify:
 1. That the requesting party's pleadings are in order;
 2. Whether or not a pre-trial setting is necessary;
 3. That all necessary discovery has been completed and all necessary ad litem appointments have been made;
 4. That service has been perfected on all necessary parties;
 5. That a jury fee, if applicable, has been paid; and
 6. That a copy of the request has been served on all counsel and pro se parties.

The use of Form Letter A appended hereto will comply with the foregoing requirements.

- 2.4 Any party requiring a hearing on special exceptions, dilatory pleas or other pre-trial matters shall request and obtain a setting thereon at least fourteen (14) days prior to the date the case is set for trial on the merits.
- 2.5 All matters to be heard on regular non-jury days shall be set for 9:00 o'clock a.m. All counsel and parties shall be present and ready, with witnesses, at that time except by leave of the Court first obtained. All counsel and pro se parties shall be seated in the Courtroom ready for announcements. The Court Administrator shall provide the Clerk with a list of the matters to be heard and the Clerk shall have the files available to the Court. When called for, announcements shall give the nature of the matter, an estimate of the time required and any special circumstances, such as out-of-county parties and witnesses. The Court will arrange the order for proceeding, giving preference to uncontested matters and the convenience of all, where possible. Settlement negotiations should be completed **prior** to the calling of the docket, if at all possible, and failure to timely announce may result in postponing the matter to the end of the day, to another day or such other sanction, including contempt, provided for in these rules, the Rules of Civil Procedure or by law.
- 2.6 Counsel wishing to avoid assignment to trial during a vacation period not exceeding four (4) consecutive weeks may advise the Court Administrator, the Clerk and the Judge at least forty-five (45) days prior to the beginning of the vacation. This shall not be grounds for resetting cases already set.

Section III: Criminal Docket and Pre-Trial Procedures

- 3.1 Immediately upon employment or Court appointment, the defense attorney shall give written notice thereof to the District Attorney and the District Clerk stating the name of the accused, the offense(s) charged and cause number, if known. The Clerk will note the attorney's name on the docket sheet and indicate whether he is retained or Court appointed.
- 3.2 If the accused, after indictment, is not represented by counsel, he (and his bondsman, if any) shall be notified and required to appear at informal arraignment as set by the Court for the purpose of ascertaining his ability to retain counsel and the reasons for his failure to do so. Claimed financial inability to employ counsel shall be supported by evidence or sworn affidavit. If a Defendant is already represented by retained or Court appointed counsel at the time of indictment or before the setting for formal arraignment, neither the Defendant, his attorney, nor his bondsman will be required to appear for such informal arraignment **PROVIDED** that such defense attorney has forwarded written certification of his representation of the Defendant to the District Attorney, prior to such proceeding, with a copy thereof to the Court and the District Clerk.
- 3.3 Immediately following the return of an indictment, the Court Administrator or the office of the District Attorney shall notify the accused, his bondsman (if any) and his attorney (if known) to appear for pre-trial hearing and formal arraignment on the date set for such proceedings by the Court. All accused persons, their attorneys and bondsmen (if any) shall be required to appear for pre-trial hearing as set by the Court for the purpose of formal arraignment, announcements and presentment of pre-trial motions and other preliminary matters as set forth in Art. 28.01, C.C.P. The provisions of Art. 28.01(2), C.C.P. will be strictly complied with, and preliminary matter not raised or filed at least seven (7) days before the pre-trial hearing will not thereafter be allowed to be raised or filed, except by permission of the Court for good cause shown. Copies of all pre-trial motions shall be forwarded for the Judge and to the District Attorney at the time of filing the originals with the District Clerk.
- 3.4 The District Attorney shall advise the Judge by the first day of each month of the status of the criminal docket and of the cases in which the State is ready to proceed to trial in the next criminal jury week. The Court Administrator shall give written notice to the defense attorneys of the cases set for the next criminal jury week. Attorneys for the first two cases so set shall be present with their clients and witnesses ready for trial at 9:00 o'clock a.m. on the Monday of the criminal jury trial week, unless directed by the Court to appear at a different day or time, and all other attorneys who have received notification of trial setting shall be ready and available to proceed to trial during that week upon one-half day's notice.
- 3.5 The District Attorney shall advise the Judge, in advance of trial, of the results of any plea bargain negotiations in a pending criminal case. Recommendations on punishment shall be made to the Court only by the District Attorney or his assistant with authority.

Section IV: Pre-Trial Procedures (Civil Cases)

- 4.1 At any time after answers are filed or a request for trial setting has been made, upon written request of any party or upon the motion of the Judge, a pre-trial hearing or conference shall be set.
- 4.2 It shall be the duty of all parties having places on the trial calendar to present to the Court and to obtain a hearing, if necessary, on all exceptions, motions and dilatory pleas not less than fourteen (14) days prior to the date the case is set for trial. All pre-trial motions shall be filed not less than three (3) days prior to

the pretrial hearing and a copy thereof shall be forwarded to the Court and to opposing counsel. Failure to present the exceptions, motions and pleas in a timely manner shall cause them to be waived. An earlier date may be specified as a final date for the filing of such exceptions, motions and dilatory pleas and obtaining a hearing thereon in those cases in which the Judge deems an earlier date appropriate.

- 4.3 Counsel and all pro se parties will be expected at pre-trial to advise the Court which issues will be disputed and will be expected to be familiar with the authorities applicable to the questions of law thereby raised. Failure to conform to this rule shall be sufficient grounds for postponement of trial, setting of further pre-trial conferences or other appropriate action.
- 4.4 Counsel and pro se parties attending the pre-trial conference shall be the person who is expected to try the case or shall be familiar with the case and fully authorized to state the party's position on the law and facts, make stipulations and enter into settlement negotiations. Should the Court find that counsel is not so qualified, it may consider that no counsel has appeared and may take any of the proceedings provided in the following rule.
- 4.5 When counsel for either party, after notice, fails to appear at pre-trial conference, the Court may:
 - a) Rule on all motions and exceptions in the absence of such counsel;
 - b) Declare any motions or exceptions of such absent party waived;
 - c) Advance or delay the trial setting according to the convenience of counsel present for the Court;
 - d) Pass and reset the trial;
 - e) In the event absent counsel represents the Plaintiff, the Court may decline to set the case for trial or may cancel a setting previously made or may dismiss the case for want of prosecution, especially where there has been a previous failure to appear or where no amendment has been filed to meet exceptions previously sustained; or
 - f) In the event absent counsel represents the Defendant, the Court, if the case has not been previously set for trial, may set the same at any time after seven (7) days have expired following the pre-trial conference at which counsel was absent, and/or may strike any counter-claim or cross-action and/or deny any pending motions.

Section V: Trial Procedure

- 5.1 During the trial or hearing of any proceeding only Court officials, counsel and parties to such proceeding shall be permitted within the bar.
- 5.2 Counsel shall rise to address the Court. Counsel shall remain at the counsel table to examine witnesses, unless permission is first obtained to approach the witness.
- 5.3 A short settlement conference may be held by the Judge with counsel for all parties present, immediately prior to the trial. Settlement offers by any party shall be made known to the Judge and compromise shall be actively encouraged if a settlement during trial appears probable. Rulings on the admissibility issues may be discussed and tentatively resolved by the Judge in an effort to precipitate settlements that might otherwise be delayed until resolution of the issues. Should no settlement or other disposition be achieved, the case shall proceed immediately to trial.
- 5.4 Except upon permission of the Court, all witnesses must be present at the Courthouse and ready to testify no later than one hour after the beginning of voir dire in a jury case and no later than one-half hour after the beginning of trial in a non-jury case. If a witness is not available as required; by this rule, and if the absence of such witness does not require a continuance, the Court, in its discretion, may require the use of a deposition in lieu of the witness, may submit the case to the jury without benefit of the witness's testimony or may make any other order which appears just to avoid delay of the trial.
- 5.5 Counsel shall not repeat or restate information on juror information cards in their voir dire of the jury.
- 5.6 When more than one jury are to be selected, counsel in all cases are urged to attend voir dire and to refrain from repeating questions already answered by members of the jury panel on voir dire of a previous case.
- 5.7 In all civil jury trial cases, anticipated special issues, definitions and instructions shall be submitted to the Court in writing at or prior to the beginning of the trial.
- 5.8 Counsel shall advise witnesses to speak distinctly and to answer questions audibly so as to be heard by the Court, jury and Court Reporter
- 5.9 There shall be no argument by counsel in the presence of the jury relative to the Court's rulings on objections. Counsel wishing to argue shall first ask the Court if the jury might be retired and then present such arguments as the Court may permit.

Section VI: Miscellaneous

- 6.1 Settlement Negotiations. The practice of delaying serious settlement negotiations until after announcement of ready is a major cause of waste of time and effort of counsel, litigants, witnesses and citizens called for jury service and greatly hinders the Court in the disposition of cases that must be tried. Consequently, all trial counsel are urged to make bona fide efforts to settle cases before announcing ready for trial. In this connection, the Court will expect counsel, before announcing ready, to confer with his client and with opposing counsel concerning settlement and to recommend an offer which is in his professional opinion reasonable, unless in his professional opinion that case is not such as to justify any offer whatsoever, without respect to the amount of any offer made by any other party. Counsel will also be expected to advise his client concerning the provisions of this rule. Failure to comply with this rule will be grounds for the Court to postpone the trial and proceed with other cases on the calendar.
- 6.2 Withdrawal of Attorney. No attorney of record shall be permitted to withdraw from any case without presenting a motion, and obtaining from the Court an order granting leave to withdraw. Such motion shall be accompanied by the client's written consent to such withdrawal or a certificate by another lawyer that he has been employed to represent the client in the case, or a copy of such motion shall be mailed to the client at his last known address, with a letter advising that the motion will be presented to the Court on or after a certain hour, not less than five (5) days after mailing the letter, and that any objection to such withdrawal should be made to the Court in writing before such time and a copy of such letter shall be attached to such motion. A copy of such motion shall be mailed to opposing counsel. Such leave may be denied where the motion is presented so near the trial date as to require delay of the trial. After leave is granted, the withdrawing attorney shall send the client a letter by certified mail notifying him of the withdrawal, stating any settings for trial or otherwise and advising him to secure other counsel, and shall send a copy of such letter to opposing counsel and the Clerk of the Court.
- 6.3 Submission of Judgments. All orders, decrees and judgments shall be submitted to the Court by the responsible attorney for entry, within fifteen (15) days from the date of the announcement of the Court's decision, except temporary orders, which shall be submitted to the Court within four (4) days after submission.
- 6.4 Any willful failure by a party or attorney to comply with these rules shall subject such offending party or attorney to all sanctions provided for in these rules, the Texas Rules of Civil Procedure or by law, including contempt under Article 1991a, Revised Civil Statutes.

COURT PERSONNEL 266th Judicial District Court

Honorable Donald R. Jones District Judge 112 W. College, #114 P.O. Box 1427 Stephenville, TX 76401	Office Phone (254) 965-1485 Fax (254) 965-4287
Ms. Candy Perry Court Coordinator	Office Phone (254) 965-1485 Fax (254) 965-4287
Mr. Tommy Johnson Official Court Reporter 215 Brentwood Stephenville, TX 76401	Office Phone (254) 965-1457 Home Phone (254) 968-8570
Ms. Wanda Pringle District Clerk 112 W. College Stephenville, TX 76401	Office Phone (254) 965-1486 Fax (254) 965-7156
Mr. Virgil Thompson Bailiff, 266 th District Court Stephenville, TX 76401	Office Phone (254) 965-1429

Ms. Candy Perry
Court Coordinator
112 W. College
Stephenville, TX 76401

RE: Cause No. _____; Style of Case, in the District Court of Erath County, Texas

Please set the above styled and numbered cause for (trial/hearing – please designate what type of hearing) on the (jury / non-jury contested, non-jury uncontested) docket for the first available date.

This request for setting is made in good faith in the belief that (the party requesting the setting) will be ready for (trial / hearing) at the time requested. All of the (the party requesting the setting) pleadings are now in order or will be at least seven (7) days prior to the (trial / hearing) date.

There (are / are no) special exceptions (or other pre-trial matters) which should be presented to the Court in advance of trial.

All necessary ad litem appointments have been made.

All other attorneys (and / or pro se parties) in this case on this date are being mailed a copy of this request for setting.

Service was perfected on the Defendant / Respondent on _____, _____.

(If applicable) A jury fee was paid by the (Plaintiff / Defendant) on _____, _____.

Sincerely,

cc: District Clerk
Erath County, Texas

Opposing Counsel(s) (Please list names and addresses of those notified.)

THIS CASE HAS BEEN SET FOR THE ____ DAY OF _____, _____.

APPENDIX "A"