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THE SUPREME COURT OF TEXAS**

**THE LOCAL RULES OF THE
COUNTY COURT AT LAW OF WALKER COUNTY**

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LOCAL RULES OF THE COUNTY COURT AT LAW OF WALKER COUNTY

The primary purpose of the Local Rules of the County Court at Law of Walker County is the management of the court docket sensibly, efficiently and fairly. These rules are to be an aid for the just disposition of cases without unnecessary delay.

These rules apply to all cases, including civil, criminal, estates, mental health, and family in which the County Court at Law has exclusive jurisdiction or concurrent jurisdiction with the District Courts or County Court. Nothing in these rules shall operate to expand the jurisdictional limitation of the court as defined by statute nor shall they be construed to overrule or conflict with the State and Federal Constitution, Texas Government Code, Texas Rules of Civil Procedure, Texas Code of Criminal Procedure, Texas Penal Code, Texas Family Code, Texas Estates Code, Texas Rules of Evidence, Texas Rules of Appellate Procedure, Rules of Appellate Procedure promulgated by the Tenth Court of Appeals or the Rules of Administration for the Second Administrative Judicial Region.

RULE 1 **GENERAL RULES OF PRACTICE**

RULE 1.10 TIME STANDARDS FOR CASE DISPOSITION

The court adopts the time standards for disposition of cases as established by the Constitution, Statutes, Rules of the Supreme Court, Rules of Judicial Administration, Rules of the Court of Criminal Appeals and by Rules of the Second Administrative Judicial Region.

RULE 1.11 COURT SESSIONS

- 1.11.1 **Annual calendar.** The court shall prepare and post on its website an annual calendar generally setting out the dockets of the court.
- 1.11.2 **Daily docket.** The court shall prepare and post daily, outside of the courtroom, a specific docket or dockets of the matters being considered by the court for that particular day.
- 1.11.3 **Holidays.** The court will observe all holidays approved and established by the Commissioners' Court of Walker County.
- 1.11.4 **Family cases.** Except in emergency situations or by mutual agreement of the parties, there shall be no family law hearings held during the time the State Bar of Texas Advanced Family Law Conference is conducted.

RULE 1.12 COURTROOM DECORUM

- 1.12.1 **Attorney responsibility.** All attorneys shall be responsible for advising their clients, witnesses and staff of appropriate courtroom decorum as contained in this rule.
- 1.12.2 **Telephones.** Telephones shall be turned on silent while inside the courtroom and shall not be operated while inside the courtroom.
- 1.12.3 **Clothing.** Hats and other headgear, absent religious observance, slippers, shorts, bare midriffs, tank tops or clothing depicting obscene, drug or alcohol related material shall not be acceptable inside the courtroom.
- 1.12.4 **Food or drink.** There will be no food, drinks, gum, candy or tobacco products inside the courtroom unless the court has expressly stated otherwise.
- 1.12.5 **Unsolicited communications.** There will be no outbursts, disturbances, threats, obscene language or gestures inside the courtroom. 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.
- 1.12.6 **Communication with inmates prohibited.** No person shall be permitted any verbal or physical contact with an inmate without the prior approval of the bailiff.
- 1.12.7 **Children.** No children shall be permitted in the courtroom during any court proceeding without prior approval of the court.
- 1.12.8 **Promptness.** Attorneys, parties and witnesses shall be prompt for all proceedings. Properly subpoenaed witnesses shall be available when called.
- 1.12.9 **Seating.** The state, plaintiff or moving party shall be seated at counsel table nearest the jury box.
- 1.12.10 **Sanctions.** Violation of courtroom decorum may result in immediate removal of the person who is in violation, a finding of contempt, a fine or any other sanction allowed by law.

RULE 1.13 PARTIES PROCEEDING PRO SE

- 1.13.1 **Requirement to understand rules and procedure.** All requirements of these rules applicable to attorneys apply with equal force to pro se litigants. Any

natural person proceeding on their own behalf without an attorney shall be expected to read and follow these local rules, the Texas Rules of Civil Procedure, Rules of Evidence, the Code of Criminal Procedure and the Rules of Appellate Procedure as may be applicable in a particular case. Wherever “counsel” or “attorney” is used in these Rules it includes a party not represented by an attorney. Failure to comply may result in the party being sanctioned, fined or punished as in other cases.

- 1.13.2 **Notice.** Pro se litigants are required to provide an address and telephone number for where they may be reached by court personnel and opposing counsel. Failure to accept or to pick up mail sent to the address provided by a pro se litigant will be considered constructive receipt of the mailed or delivered document and may be established by a postal service receipt for certified or registered mail or comparable proof of delivery.

RULE 1.14 EX-PARTE COMMUNICATIONS

All ex-parte communications with the court by attorneys, pro se parties and any other persons are prohibited except in circumstances in which a party has a constitutional or statutory right to communicate with the court in an ex parte manner. This prohibition includes, but is not limited to, electronic communications. Any person seeking information from the court regarding any matter shall direct such inquiry to the court coordinator. Unsolicited emails sent to the judge’s email address may be deleted without being opened. Emails sent to the judge’s email address in response to an inquiry by the judge shall be copied to all attorneys of record, as well as any pro se parties, except in circumstances in which a party has a constitutional or statutory right to communicate with the court in an ex parte manner. Such emails shall include the full name, mailing address, telephone number, fax number and State Bar of Texas number (if applicable) of the sender. The judge may, at any time, require all communications to be by first class mail or certified mail.

RULE 1.15 FILING PAPERS

- 1.15.1 **Filing.** All pleadings, motions, notices and any other paper, document or thing made a part of the record in any case shall be filed with the appropriate clerk.
- 1.15.2 **Form of orders.** All filed motions seeking affirmative relief from the court shall be accompanied by an order in such form as to grant or deny the motion.
- 1.15.3 **Signing of pleadings.** Every pleading of a party represented by an attorney shall be signed by at least one attorney of record and include the contact information listed in TRCP 57 or, in a criminal case, Code of Criminal Procedure Article 1.052. A party not represented by an attorney shall sign their own pleadings and include the contact information listed in TRCP 57 or Article 1.052.

RULE 1.16 ATTORNEY APPEARANCES AND AUTHORITY

- 1.16.1 **Attorney of record.** All hearings, scheduling conferences and pretrial conferences shall be attended by the attorney-in-charge or co-counsel who is familiar with the case and who is fully authorized to:
- a. state the client's position on the law and the facts;
 - b. make agreements as to scheduling;
 - c. enter into stipulations;
 - d. stipulate to the admissibility and/or authenticity of exhibits; and
 - e. negotiate settlement.
- 1.16.2 **Unauthorized persons to represent attorney.** Under no circumstances may an attorney be represented at any hearing, scheduling conference or pre-trial conference by any secretary, paralegal or other non-lawyer personnel.
- 1.16.3 **Attorney not present.** Under no circumstances will an attorney be permitted to condition or limit an appearance on behalf of a client at a hearing, scheduling conference or pretrial conference in deference to an attorney-in-charge who is not present.
- 1.16.4 **Seating of non-lawyer personnel.** Under no circumstances may any secretary, paralegal or other non-lawyer personnel be in front of the bar during a hearing or trial.

RULE 1.17 WITHDRAWAL OR SUBSTITUTION OF COUNSEL

- 1.17.1 **Requirements of motion to withdraw.** Any attorney who has appeared of record in any case may withdraw only by filing a motion with the court. The motion must include the information required by TRCP 10. In criminal cases, appointed counsel's withdrawal must comply with Article 26.04 of the Code of Criminal Procedure.
- 1.17.2 **No delay of proceedings.** Newly retained counsel shall not be permitted to substitute for counsel of record unless they certify they are prepared to proceed with the case without a delay of the proceedings.
- 1.17.3 **Notice of submission of order.** If substitute counsel's and/or the client's signature fails to appear on the motion, withdrawing counsel shall attach to the motion a copy of the cover letter forwarding a copy of the motion to the client advising them of the filing of the motion. The notice shall state 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 if no objection is filed. In criminal cases,

appointed counsel must properly advise counsel's client pursuant to Article 26.04 of the Code of Criminal Procedure before withdrawing as counsel.

RULE 1.18 ATTORNEY VACATIONS

Attorneys who desire to ensure themselves a vacation for a period of time shall comply with Rule 11 of the Second Administrative Judicial Region of Texas' Rules of Administration.

- 1.18.1 **Designation of vacation.** Subject to the other provisions of this Rule, an attorney may designate not more than four (4) weeks of vacation during a calendar year during which that 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 TRCP 8, is affected, unless the court expands coverage to other counsel. Notice of vacation weeks shall be served on the court, opposing counsel and the appropriate clerk.
- 1.18.2 **Summer vacations.** Written designation for vacation weeks during June, July and August must be filed by May 15. Summer vacation weeks so designated will protect the attorney from trials during those summer weeks, even if an order setting the case for trial was signed before a timely vacation designation was filed.
- 1.18.3 **Non-summer vacations.** Written designation for vacation in months other than June, July or August must be filed by February 1. Non-summer vacation weeks may not run consecutively for more than two (2) weeks at a time. Non-summer vacation weeks so designated will not protect an attorney from a trial by an order signed before the date the designation is filed.

RULE 1.19 CONFLICTING SETTINGS

The Rules of Administration for the Second Administrative Judicial Region, specifically Rule 10, control conflicts in settings of all kinds.

- 1.19.1 **Attorney already in trial in another court.** When informed that an attorney is presently in trial, the court will determine where and when assigned. This information will be verified upon request of opposing counsel. The case will be placed on "hold" or reset depending on when the attorney will be released. If the attorney is not actually in trial as represented by the attorney, or their agent, the case will be tried without further notice.
- 1.19.2 **Priority to be given by judges.** Judges should attempt to agree on which case has priority, otherwise the priorities shall be governed by Government Code §§ 23.101 and 23.102 and Article 32A.01 of the Code of Criminal Procedure.

- 1.19.3 **Duty to notify court of conflicts.** It is the duty of the attorney to call the judge's attention to all dual settings as soon as they are known. All attorneys having conflicts with other court settings who will be late for court settings, hearings or conferences shall notify the court coordinator and opposing counsel of said conflict as soon as it becomes apparent. Failure to timely notify the court may result in sanctions.

RULE 1.20 FAILURE TO APPEAR/UNPREPARED FOR HEARING

In non-criminal cases, when counsel for either party, after notice, and without good cause, fails to appear or is unprepared for a hearing, scheduling conference or pre-trial conference, the court may (1) make all scheduling decisions and rule on all motions, exceptions or other matters; (2) declare any motions or exceptions that have been prepared as having been waived; (3) alter the trial setting or other scheduling matters, decline to set the case for trial, cancel the setting previously made, or take such other action that is deemed just and proper; and/or (4) pass and reset the hearing or conference in which case the party represented may be entitled to recover reasonable attorney's fees and expenses.

RULE 1.21 EX PARTE AND EMERGENCY ORDERS

- 1.21.1 **Emergency filings.** No application for action or relief of any kind shall be presented to the judge before the application or case has been filed with the appropriate clerk, unless it is impossible to do so. If it is impossible to file an application or case before it is presented to a judge, then it shall be filed as soon thereafter as possible and the clerk notified of all actions taken by the judge.
- 1.21.2 **Notice.** All applications for ex parte relief shall contain a certificate signed by counsel in one of the forms set forth in the document entitled "certificate of conference and/or notice" on the court's website.

RULE 1.22 SIGNATURE OF ORDERS WHEN PRESIDING JUDGE IS UNAVAILABLE

Any judge of a district court or county court at law for matters filed in the county court at law or any family law matter may hear, decide and sign any necessary orders or other documents in cases involving hearings on applications for temporary restraining orders, issuance of writs of sequestration, garnishment and attachment, whether such matters shall be heard ex-parte or otherwise, entries of default judgment, writs and process, and/or any other emergency matter for which the presiding judge in whose court that case is pending is unavailable; provided, however, that a staff member of the unavailable judge, and not counsel, should take the proposed order to the respective judge who is being asked to sign the order or document. If the staff of the respective court is also unavailable, then the local administrative judge may sign the appropriate order or document. If the local administrative judge is also unavailable, then any

judge with subject matter jurisdiction (district or county) may sign the proposed order or document.

RULE 1.23 PREFERENTIAL SETTINGS

Motions for preferential setting shall be written, verified and specific. Upon request of counsel, such motions shall be granted in cases entitled to preferential setting by law or a case that the court has determined because of its nature, circumstances and litigation history, requires a priority trial setting.

RULE 1.24 FILING AND ASSIGNMENT OF CASES

1.24.1 **Family cases.** The district clerk will assign cases arising under the Texas Family Code to the County Court at Law except when an attorney filing an Original Petition specifically requests that the case be assigned to a District Court. If such a request is made the case will be filed in District Court according to the Local Rules of the District Courts of Walker County.

1.24.2 **Juvenile cases.** The District Clerk will assign all juvenile cases to the County Court at Law.

1.24.3 **Estates Code cases.** The County Clerk may assign cases arising under the Texas Estates Code to the County Court or the County Court at Law, whichever is requested by the attorney filing an Application.

1.24.4 **Civil cases.** The County Clerk will assign all civil cases to the County Court at Law.

RULE 1.25 SUBMISSION DOCKET

Matters that do not require testimony will be allowed to be set by submission at any time with at least ten (10) days written notice to object to opposing counsel. A confirmation of hearing must be filed with the appropriate clerk and the coordinator must receive a copy. If an objection is timely made, the matter must be set for oral hearing pursuant to Rule 2.11, 3.11 or 5.11, as applicable, of these local rules.

Matters that are titled “Agreed” and bear the signatures of all counsel or pro se parties will be signed upon presentment without the need for a confirmation of hearing.

Matters that are titled “Unopposed”, although not agreed, may be submitted without the need of a hearing. By representing the matters as unopposed, counsel is certifying to the court that opposing counsel is aware of the matter and has no objection to its entry. The court will sign the order upon presentment without the need for a confirmation of hearing.

RULE 2
CIVIL CASES

RULE 2.10 AD LITEM APPOINTMENTS

- 2.10.1 **Notification.** All attorneys in a case in which an attorney ad litem is appointed have an affirmative duty to give written notice, without delay, and in no case longer than five (5) days, to the ad litem of the appointment and any settings. Each party shall furnish copies of pleadings, orders and other documents filed to the ad litem.
- 2.10.2 **Ad litem appointment by agreement.** An agreement by the parties for appointment of an ad litem shall be submitted in writing in the form of a motion and order to the court, signed by all attorneys and will be considered by the court without a hearing.
- 2.10.3 **Payment of fees.** Payment of ad litem fees shall be shared equally by the parties, unless otherwise ordered by the court. Fees shall be paid in to the registry of the court within ten (10) days of appointment unless otherwise ordered by the court.

RULE 2.11 REQUEST FOR SETTINGS

- 2.11.1 **Conference required.** All court appearances, hearings and trials may only be scheduled after conference with opposing counsel. Failure to attempt to confer may be brought to the attention of the court without the necessity of a motion for continuance and may result in the court resetting the appearance, hearing or trial.
- 2.11.2 **Trial settings.** Cases shall be set for trial by contacting the court coordinator and requesting available dates. Counsel should be able to provide the coordinator with the number of days needed. Within seven (7) days of service of a notice of trial, any party having an objection to the setting shall inform the court of the objection in writing and the objecting party must request a hearing on the objection.
- 2.11.3 **Settings other than trial.** Cases shall be set for hearing by contacting the court coordinator and requesting available dates. Counsel should be able to provide the coordinator with the amount of time needed for the setting.
- 2.11.4 **Required notice of hearing.** It shall be the responsibility of the party setting a hearing, and not the responsibility of the court coordinator, to immediately give written notice to the opposing party of such setting, including date, time and subject matter, by using the court's confirmation of hearing form. The original

shall be filed with the appropriate clerk. A copy shall be provided to the court coordinator. The most current form may be obtained from the court's website.

- 2.11.5 **Agreement for submission.** By agreement, parties may submit matters for ruling by the judge without a personal appearance or oral presentation. The court should be advised in writing when such procedure is desired.
- 2.11.6 **Pretrial hearing.** A party seeking affirmative relief must announce "ready" or "not ready" at the pretrial hearing. A party should not announce "not ready" unless a motion for continuance has been filed.
- 2.11.7 **Failure to appear.** Failure of a party seeking affirmative relief to appear at any scheduled trial or hearing shall result in a dismissal of the case or waiver of the matters presented in the motion scheduled for hearing.

RULE 2.12 DOCKET CONTROL ORDER

The court may on its own motion and shall, upon timely request of any party, issue a docket control order which shall set appropriate deadlines and settings for the case.

RULE 2.13 MEDIATION

- 2.13.1 **Policy.** It is the policy of the court to encourage the peaceful resolution of disputes and the early settlement of pending litigation. To enforce this policy, all cases set for hearing which are expected to take two (2) hours or more are automatically referred to mediation and shall not be heard by the court until the conclusion of mediation.
- 2.13.2 **Objection to automatic referral.** Any party receiving notice of a setting that automatically refers the case to mediation has ten (10) days from the receipt of said notice to file a motion objecting to the automatic referral. Failure to file such motion waives the objection to the referral. If any party files a motion objecting to the automatic referral to mediation and the court finds that there is a reasonable basis for the objection, the case may be excused from the automatic referral.
- 2.13.3 **Referral by agreement or by court's motion.** On written agreement of the parties or on the court's own motion, the court may at any time refer a suit to mediation.
- 2.13.4 **Attendance at mediation.** Except upon leave of court, only the parties, an authorized agent, corporate representative, insurance company representative, accountant/CPA and attorneys may attend. All parties with the authority to settle the case shall be present.

- 2.13.5 **Irrevocable mediated settlement agreement.** A mediated settlement agreement shall be binding on the parties if the agreement states that it is not subject to revocation, it is signed by each party, and by each party's attorney who is present at the time the agreement is signed.
- 2.13.6 **Mediator qualifications.** The court may appoint a mediator who has completed a minimum of 40 hours of training or, in its discretion, is qualified to conduct mediation.

RULE 2.14 MOTIONS PRACTICE

- 2.14.1 **Resolution.** Parties are directed to use all reasonable means to resolve pretrial disputes to avoid the necessity of judicial intervention.
- 2.14.2 **Form.** Motions and responses shall be in writing and shall be accompanied by a proposed order granting or denying the relief sought. The proposed order shall be a separate document.
- 2.14.3 **Submission.** Motions set for submission shall state a date of submission which shall be at least ten (10) days from filing, except on leave of court.
- 2.14.4 **Response.** Responses shall be in writing. Responses shall be filed at least two (2) working days before the submission date. Failure to file a response may be considered a representation of no opposition.
- 2.14.5 **Unopposed motions.** If any motion is unopposed by all counsel of record, counsel may simply so state conspicuously on the face of the motion. In such event, the motion will be submitted by the clerk to the judge for approval and will be granted routinely without a hearing unless the judge is of the view that the granting of such motion is not in the interest of justice. A separate proposed order granting the relief sought shall accompany the motion and shall be signed by all attorneys.
- 2.14.6 **Waiver of hearing.** Hearings on any motion may be waived if all counsel of record agree and notice of same is given to the court. Argument in summary judgment matters may be waived by agreement of counsel by written notice to the court (see Rule 2.19).
- 2.14.7 **Conference requirement.** No counsel for a party shall file any motion unless accompanied with a "certificate of conference" signed by counsel for movant. Prior to the filing of a motion, counsel for the movant shall personally attempt to contact counsel for the respondent to hold or schedule a conference to resolve the disputed matter(s). Counsel for the movant shall make at least three (3) attempts

to contact counsel for the respondent. The attempts shall be made during regular business hours on at least two (2) business days. For the purposes of this rule, a “certificate of conference” shall be in one of the forms (verbatim) in the document entitled “certificate of conference and/or notice” on the court’s website.

2.14.8 **Sanctions for failure to confer.** Counsel who refuse to confer, or who ignore attempts to confer, as required by this rule may be sanctioned by the court up to an amount which is equivalent to at least three hours of attorney time at the usual and customary hourly rate prevailing in Walker County.

2.14.9 **Exceptions to conference requirement.** Rule 2.14.7 does not pertain to dispositive motions, motions for summary judgment, motions for default judgment, motions for voluntary dismissal or nonsuit, post-verdict motions, and motions involving service of citation.

RULE 2.15 DEPOSITIONS

2.15.1 **Motion to quash.** Any party who files a motion to quash depositions must comply with the TRCP. Upon receipt of the motion, the respondent may ask for a hearing to be heard within 72 hours but not less than 24 hours, subject to the court’s discretion.

2.15.2 **Unreasonable time for notice of depositions.** Notice of less than ten (10) calendar days under TRCP Rules 21a and 199.2(a) shall be presumed to be unreasonable.

2.15.3 **Attempt to agree to schedule.** The party initiating a deposition shall attempt to communicate with opposing counsel to determine whether an agreement can be reached as to date, time, place and material to be furnished at the time of deposition.

2.15.4 **Written notice of deposition.** A written notice of deposition on a date, time or place that is not agreed shall state as follows:

“A conference was held (or attempted) with the counsel for opposing party to agree to a time, date, place and materials to be furnished. Agreement could not be reached (or counsel will not respond) and the deposition is therefore being taken pursuant to this notice.”

2.15.5 **Failure to hold/attempt conference.** Failure to hold a conference as referred to in Rule 2.15.4 prior to noticing a deposition shall be grounds to quash the deposition.

RULE 2.16 DISCOVERY DISPUTES

- 2.16.1 **Discovery motions.** Any motion for discovery may be treated as premature unless counsel for movant has (1) made a good faith effort to obtain such discovery or relief from opposing counsel by agreement; (2) complied with the TRCP and has been unsuccessful, or shows good cause for not making such an effort; and (3) includes a proposed order and certificate of conference pursuant to Rule 2.14.7.
- 2.16.2 **Effect of motion to quash deposition and/or for protection.** The filing of a motion to quash a deposition with the clerk and service on opposing counsel or parties shall be in accordance with Rule 2.14 and 2.15 and with TRCP; otherwise, the filing of a motion to quash does not stay a deposition. The parties may, by Rule 11 agreement, agree to proceed with a partial deposition while still reserving part or all of the objections made in the motion for protection.
- 2.16.3 **Objections to discovery.** Frivolous objections to discovery are subject to sanctions by the court, including objections to identification of persons having knowledge of relevant facts and identification of testifying expert witnesses.
- 2.16.4 **Time period for discovery.** All parties shall complete discovery not less than thirty (30) days prior to the date the case is set for trial unless otherwise ordered by the court, agreed upon by parties or required by statute or rule.

RULE 2.17 SUSPENSE DOCKET

- 2.17.1 **Notice of bankruptcy.** Whenever a party in this court files for protection under the bankruptcy laws of the United States, it shall be the responsibility of that party's counsel to, within three (3) days of any bankruptcy filing, provide written notice to the court and all counsel that a bankruptcy has occurred, stating the name and location of the bankruptcy court, the bankruptcy cause number and style, the date of filing and the name and address of counsel for the bankrupt party, as well as the name and address for the trustee. The court shall transfer the case to the suspense docket.
- 2.17.2 **Conclusion of bankruptcy.** Once a bankruptcy has been concluded, whether by discharge, denial of discharge or otherwise, counsel shall promptly notify the court so that the case may be restored to the active docket or be dismissed as may be appropriate.
- 2.17.3 **Suggestion of death/abatement.** Upon a filing of a suggestion of death or to abatement by previous order of the court, the case is to be transferred to a

suspense docket for suspension of further action and will be subject to later reassignment in accordance with these rules when it becomes appropriate.

RULE 2.18 DISMISSAL DOCKET

- 2.18.1 **Criteria for dismissal docket.** At least once a year, cases which have not been disposed of within the time standards set out in Rule 1.10 above may be dismissed for want of prosecution.
- 2.18.2 **Notice of intent to dismiss.** Notice of intent to dismiss shall be given in accordance with TRCP Rule 165a to all parties and counsel whose addresses are shown on the docket or in the papers on file.
- 2.18.3 **Posting.** The dismissal docket shall be posted in a conspicuous place in the clerk's office.
- 2.18.4 **Notice of dismissal.** Unless good cause is shown, such cases shall be dismissed on the date stated within the notice. Notification of the dismissal order shall be as provided in TRCP Rule 306a.
- 2.18.5 **Motion to retain.** A written motion to retain shall be filed by any party desiring to retain a case at least ten (10) days prior to the date specified in the notice described in rule 2.18.2 above. Said motion shall include a written memorandum setting forth the factual and legal basis why the case should not be dismissed for want of prosecution, together with a proposed pretrial order complying with TRCP Rule 165a(1).
- 2.18.6 **Objection to motion to retain.** A party objecting to a motion to retain shall file a written memorandum setting forth factual and legal basis for any objection to the motion to retain within three (3) days of service of the motion to retain.
- 2.18.7 **Ruling on motion to retain and objections.** The court shall notify all parties of the ruling on the motion to retain and any objections filed.
- 2.18.8 **Retained cases trial settings.** If the court retains a case, the court shall set the case for trial and notify the parties of the setting. At that setting, the case shall be tried or dismissed. No continuance or delay will be considered.
- 2.18.9 **Delay because of agreement/payments/bankruptcy.** If a case is put on the dismissal docket because of a delay caused by an agreement of the parties or because a debt is being paid in installments or by the bankruptcy of a party, a party shall inform the court of that fact in writing.

RULE 2.19 SUMMARY JUDGMENTS

All motions for summary judgment will be controlled by the provisions of Rule 166a of the TRCP. Counsel of record may agree to submit the motion for summary judgment without oral argument by jointly filing a written waiver five (5) days prior to the setting.

RULE 2.20 PRETRIAL CONFERENCE

- 2.20.1 **Pretrial conference required.** Prior to all jury trials there shall be a pretrial conference. If a pretrial conference is not scheduled by the court the plaintiff/petitioner shall be responsible for requesting a pretrial conference.
- 2.20.2 **Exchange of documents and things.** Unless otherwise specifically ordered, at least ten (10) days prior to the pretrial conference, the parties shall serve or exchange the following: (1) exhibit lists (parties are required to make their exhibits available for inspection on the date of the pretrial conference or on a date prior with reasonable notice and request); (2) witness lists; (3) deposition excerpts by page and line; (4) motions in limine; and (5) proposed jury charge.
- 2.20.3 **Objections to documents and things.** Any objections to the items in 2.20.2 and/or cross-line page and line designations shall be filed five (5) days before the pretrial conference. Any objections that have been timely filed and served in compliance with these rules will be addressed at the pretrial conference.
- 2.20.4 **Attendance mandatory.** Trial counsel is ordered to attend the pretrial conference and shall be prepared to make an announcement of “ready” or “not ready”. Announcements of “not ready” shall be accompanied by a motion for continuance.
- 2.20.5 **Failure to comply.** Failure to comply with the foregoing may result in sanctions pursuant to the TRCP, and without limitations, may include exclusion of exhibits, witnesses or waiver of objections.

RULE 2.21 DISPOSITION OF MONEY IN COURT REGISTRY

In cases where monies are deposited into the registry of the court, it shall be the responsibility of all counsel and attorneys ad litem to make certain that the order or judgment instructs the clerk about the disposition of the monies. Failure to comply will result in the clerk depositing the funds in non-interest bearing accounts.

RULE 2.22 SUBMISSION OF ORDERS AND JUDGMENTS

- 2.22.1 **Reduce to writing.** Within twenty (20) days [ten (10) days for any type of temporary orders] after rendition, announcement of court's ruling or announcement of settlement by counsel, plaintiff/petitioner's counsel shall cause, unless ordered otherwise, all orders, decrees and judgments of any kind to be reduced to writing, approved as to form by opposing counsel and to be delivered to the court for signature.
- 2.22.2 **Objections to proposed orders.** Opposing counsel shall file any objections to a proposed judgment and/or order within five (5) working days of receipt of the proposed judgment.
- 2.22.3 **Procedure for entry of order.** If counsel is unable to secure the approval as to form from opposing counsel, counsel may:
- a. file a motion for entry of the proposed order, decree or judgment; secure a hearing on same no sooner than ten (10) days from the date of filing of the motion and provide notice to all opposing counsel. At a hearing on a motion for entry the court may assess costs and attorney fees within the court's discretion; or
 - b. present the court with the proposed order, decree or judgment together with a letter requesting the court to sign same if the court has not received any written objection from opposing counsel within ten (10) days from the date of the letter. Notice shall be provided to all opposing counsel by providing them with the proposed judgment and a copy of the letter. If the court receives a written objection from opposing counsel within the stated time, the court shall schedule a hearing for entry of the same pursuant to subsection a. of this rule;
 - c. a party responding to a motion filed under subsection a. of this rule shall, at least three (3) days prior to the hearing, present to opposing counsel a written list of objections to the order (or an alternative proposed order).
- 2.22.4 **Continuance or dismissal if order not furnished.** Failure to furnish the court with a temporary order, final judgment or decree, within the applicable time period, may result in the court continuing the case or placing the case on the court's dismissal docket.
- 2.22.5 **Order by court.** Nothing herein prevents the court from making and signing its own order at any time after a hearing in accordance with the TRCP.

- 2.22.6 **Hearing set by court.** The case may be set for entry of judgment thirty (30) days following the date of hearing, unless appropriate orders are submitted prior to that date.

RULE 2.23 CONTINUANCES

- 2.23.1 **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. Agreement by all parties does not mean automatic approval by the court. Any motion for continuance shall be filed no less than four (4) days prior to trial.
- 2.23.2 **Contents of motion.** Unless counsel for all parties consent in writing to the request for a continuance and the same is approved by the court, a motion must be filed pursuant to Rule 251, et seq. of the TRCP, as amended. The motion must be accompanied by an order. A confirmation of hearing must be filed with the appropriate clerk and the coordinator must receive a copy. Any motion that does not meet these requirements will be denied without prejudice to the right to refile.

RULE 2.24 APPEALS FROM JUSTICE COURT

- 2.24.1 **General rules.** Appeals from the Justice Courts will be heard in the County Court at Law. The procedures in the County Court at Law are different than those in Justice Court. The County Court at Law does not set your case for you. If you wish to set your case for hearing you must follow the procedures contained in these rules. Appeals from Justice Court are *de novo*, meaning everything that is done in Justice Court is set aside and retried at the County Court at Law level. The original plaintiff is still called the plaintiff (not the appellant or the appellee). The style of the case is the same as what it was in Justice Court with a new cause number.
- 2.24.2 **Eviction appeals.** Eviction appeals are given preference and are set expeditiously on request. These cases may be set any time after they have been on file with the county clerk for eight days.
- 2.24.3 **Forcible entry and detainer appeals (non-payment of rent).** Even if the tenant appeals and files a statement of inability to afford payment of court costs the tenant must still pay rent while the appeal is pending under TRCP 510.9. If rent is not paid as required, the landlord may file for a writ of possession. To obtain a final judgment for all past due rent, the case must be set for a trial.

RULE 3
FAMILY LAW CASES

RULE 3.10 AD LITEM APPOINTMENTS

- 3.10.1 **Notification.** All attorneys in a case in which an attorney ad litem is appointed have an affirmative duty to give written notice, without delay, and in no case longer than five (5) days, to the ad litem of the appointment and any settings. Each party shall furnish copies of pleadings, orders and other documents filed to the ad litem.
- 3.10.2 **Ad litem appointment by agreement.** An agreement by the parties for appointment of an ad litem shall be submitted in writing in the form of a motion and order to the court, signed by all attorneys and will be considered by the court without a hearing.
- 3.10.3 **Payment of fees.** Payment of ad litem fees shall be shared equally by the parties, unless otherwise ordered by the court. Fees shall be paid in to the registry of the court within ten (10) days of appointment unless otherwise ordered by the court.

RULE 3.11 REQUEST FOR SETTINGS

- 3.11.1 **Conference required.** All court appearances, hearings and trials may only be scheduled after conference with opposing counsel. Failure to attempt to confer may be brought to the attention of the court without the necessity of a motion for continuance and may result in the court resetting the appearance, hearing or trial.
- 3.11.2 **Trial settings.** Cases shall be set for trial by contacting the court coordinator and requesting available dates. Counsel should be able to provide the coordinator with the number of days needed. Within seven (7) days of service of a notice of trial, any party having an objection to the setting shall inform the court of the objection in writing and the objecting party must request a hearing on the objection.
- 3.11.3 **Duration.** Unless prior consent is obtained from the coordinator, temporary order hearings are not to be scheduled for more than two hours; that is one hour per side.
- 3.11.4 **Settings other than trial.** Cases shall be set for hearing by contacting the court coordinator and requesting available dates. Counsel should be able to provide the coordinator with the amount of time needed for the setting.

- 3.11.5 **Required notice of hearing.** It shall be the responsibility of the party setting a hearing, and not the responsibility of the court coordinator, to immediately give written notice to the opposing party of such setting including date, time and subject matter by using the court's confirmation of hearing form. The original shall be filed with the appropriate clerk. A copy shall be provided to the court coordinator.
- 3.11.6 **Agreement for submission.** Unless testimony is required, parties may submit matters for ruling by the judge without a personal appearance or oral presentation by agreement. The court should be advised in writing when such procedure is desired.
- 3.11.7 **Failure to appear.** Failure of a party seeking affirmative relief to appear at any scheduled trial or hearing shall result in a dismissal of the case or waiver of the matters presented in the motion scheduled for hearing.

RULE 3.12 DOCKET CONTROL ORDER

The court may on its own motion and shall, upon timely request of any party, issue a docket control order which shall set appropriate deadlines and settings for the case.

RULE 3.13 MEDIATION

- 3.13.1 **Policy.** It is the policy of the court to encourage the peaceful resolution of disputes and the early settlement of pending litigation. To enforce this policy, all cases set for hearing which are expected to take two (2) hours or more are automatically referred to mediation and shall not be heard by the court until the conclusion of mediation.
- 3.13.2 **Objection to automatic referral.** Any party receiving notice of a setting that automatically refers the case to mediation has ten (10) days from the receipt of said notice to file a motion objecting to the automatic referral. Failure to file such motion waives the objection to the referral. If any party files a motion objecting to the automatic referral to mediation and the court finds that there is a reasonable basis for the objection the case may be excused from the automatic referral.
- 3.13.3 **Referral by agreement or by court's motion.** On written agreement of the parties or on the court's own motion, the court may at any time refer a suit to mediation.
- 3.13.4 **Attendance at mediation.** Except upon leave of court, only the parties and attorneys may attend.

- 3.13.5 **Irrevocable mediated settlement agreement.** A mediated settlement agreement shall be binding on the parties if the agreement states that it is not subject to revocation, it is signed by each party, and by each party's attorney who is present at the time the agreement is signed.
- 3.13.6 **Mediator qualifications.** The court may appoint a mediator who has completed a minimum of 40 hours of training or, in its discretion, is qualified to conduct mediation.

RULE 3.14 MOTIONS PRACTICE

- 3.14.1 **Resolution.** Parties are directed to use all reasonable means to resolve pretrial disputes to avoid the necessity of judicial intervention.
- 3.14.2 **Form.** Motions and responses shall be in writing and shall be accompanied by a proposed order granting or denying the relief sought. The proposed order shall be a separate document.
- 3.14.3 **Submission.** Motions set for submission shall state a date of submission which shall be at least ten (10) days from filing, except on leave of court.
- 3.14.4 **Response.** Responses shall be in writing. Responses shall be filed at least two (2) working days before the submission date. Failure to file a response may be considered a representation of no opposition.
- 3.14.5 **Unopposed motions.** If any motion is unopposed by all counsel of record, counsel may simply so state conspicuously on the face of the motion. In such event, the motion will be submitted by the clerk to the judge for approval and will be granted routinely without a hearing unless the judge is of the view that the granting of such motion is not in the interest of justice. A separate proposed order granting the relief sought shall accompany the motion and shall be signed by all attorneys.
- 3.14.6 **Waiver of hearing.** Hearings on any motion may be waived if all counsel of record agree and notice of same is given to the court.
- 3.14.7 **Conference requirement.** No counsel for a party shall file any motion unless accompanied with a "certificate of conference" signed by counsel for movant. Prior to the filing of a motion, counsel for the movant shall personally attempt to contact counsel for the respondent to hold or schedule a conference to resolve the disputed matter(s). Counsel for the movant shall make at least three (3) attempts to contact counsel for the respondent. The attempts shall be made during regular business hours on at least two (2) business days. For the purposes of this rule, a

“certificate of conference” shall be in one of the forms (verbatim) in the document entitled “certificate of conference and/or notice” on the court’s website.

- 3.14.8 **Sanctions for failure to confer.** Counsel who refuse to confer, or who ignore attempts to confer, as required by this rule, may be sanctioned by the court up to an amount which is equivalent to at least three hours of attorney time at the usual and customary hourly rate prevailing in Walker County.
- 3.14.9 **Exceptions to conference requirement.** Rule 3.14.7 does not pertain to dispositive motions, motions for summary judgment, motions for default judgment, motions for voluntary dismissal or nonsuit, post-verdict motions, and motions involving service of citation.

RULE 3.15 DISCOVERY DISPUTES

- 3.15.1 **Discovery motions.** Any motion for discovery may be treated as premature unless counsel for movant has (1) made a good faith effort to obtain such discovery or relief from opposing counsel by agreement; (2) complied with the TRCP and has been unsuccessful, or shows good cause for not making such an effort; and (3) includes a proposed order and certificate of conference pursuant to Rule 3.14.
- 3.15.2 **Objections to discovery.** Frivolous objections to discovery are subject to sanctions by the court, including objections to identification of persons having knowledge of relevant facts and identification of testifying expert witnesses.
- 3.15.3 **Time period for discovery.** All parties shall complete discovery not less than thirty (30) days prior to the date the case is set for trial unless otherwise ordered by the court, agreed upon by parties or required by statute or rule.

RULE 3.16 DISMISSAL DOCKET

- 3.16.1 **Criteria for dismissal docket.** At least once a year, cases which have not been disposed of within the time standards set out in Rule 1.10 above may be dismissed for want of prosecution.
- 3.16.2 **Notice of intent to dismiss.** Notice of intent to dismiss shall be given in accordance with TRCP Rule 165a to all parties and counsel whose addresses are shown on the docket or in the papers on file.
- 3.16.3 **Posting.** The dismissal docket shall be posted in a conspicuous place in the clerk’s office.

- 3.16.4 **Notice of dismissal.** Unless good cause is shown, such cases shall be dismissed on the date stated within the notice. Notification of the dismissal order shall be as provided in TRCP Rule 306a.
- 3.16.5 **Motion to retain.** A written motion to retain shall be filed by any party desiring to retain a case at least ten (10) days prior to the date specified in the notice described in Rule 2.18.2 above. Said motion shall include a written memorandum setting forth the factual and legal basis why the case should not be dismissed for want of prosecution, together with a proposed pretrial order complying with TRCP Rule 165a(1).
- 3.16.6 **Objection to motion to retain.** A party objecting to a motion to retain shall file a written memorandum setting forth factual and legal basis for any objection to the motion to retain within three (3) days of service of the motion to retain.
- 3.16.7 **Ruling on motion to retain and objections.** The court shall notify all parties of the ruling on the motion to retain and any objections filed.
- 3.16.8 **Retained cases trial settings.** If the court retains a case, the court shall set the case for trial and notify the parties of the setting. At that setting the case shall be tried or dismissed. No continuance or delay will be considered.
- 3.16.9 **Delay because of agreement/payments/bankruptcy.** If a case is put on the dismissal docket because of a delay caused by an agreement of the parties or because a debt is being paid in installments or by the bankruptcy of a party, a party shall inform the court of that fact in writing.

RULE 3.17 SUBMISSION OF ORDERS AND JUDGMENTS

- 3.17.1 **Reduce to writing.** Within twenty (20) days [ten (10) days for any type of temporary orders] after rendition, announcement of court's ruling or announcement of settlement by counsel, plaintiff/petitioner's counsel shall cause, unless ordered otherwise, all orders, decrees and judgments of any kind to be reduced to writing, approved as to form by opposing counsel and to be delivered to the court for signature.
- 3.17.2 **Objections to proposed orders.** Opposing counsel shall file any objections to a proposed judgment and/or order within five (5) working days of receipt of the proposed judgment.
- 3.17.3 **Procedure for entry of order.** If counsel is unable to secure the approval as to form from opposing counsel, counsel may:

a. file a motion for entry of the proposed order, decree or judgment; secure a hearing on same no sooner than ten (10) days from the date of filing of the motion and provide notice to all opposing counsel. At a hearing on a motion for entry the court may assess costs and attorney fees within the court's discretion; or

b. present the court with the proposed order, decree or judgment together with a letter requesting the court to sign same if the court has not received any written objection from opposing counsel within ten (10) days from the date of the letter. Notice shall be provided to all opposing counsel by providing them with the proposed judgment and a copy of the letter. If the court receives a written objection from opposing counsel within the stated time, the court shall schedule a hearing for entry of the same pursuant to subsection a. of this rule;

c. a party responding to a motion filed under subsection a. of this rule shall at least three (3) days prior to the hearing present to opposing counsel a written list of objections to the order (or an alternative proposed order).

3.17.4 **Continuance or dismissal if order not furnished.** Failure to furnish the court with a temporary order, final judgment or decree within the applicable time period, may result in the court continuing the case or placing the case on the court's dismissal docket.

3.17.5 **Order by court.** Nothing herein prevents the court from making and signing its own order at any time after a hearing in accordance with the TRCP.

3.17.6 **Hearing set by court.** The case may be set for entry of judgment forty (40) days following the date of hearing unless appropriate orders are submitted prior to that date.

RULE 3.18 CONTINUANCES

3.18.1 **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. Agreement by all parties does not mean automatic approval by the court. Any motion for continuance shall be filed no less than four (4) days prior to trial.

3.18.2 **Contents of motion.** Unless counsel for all parties consent in writing to the request for a continuance and the same is approved by the court, a motion must be filed pursuant to Rule 251, et seq. of the TRCP, as amended. The motion must be accompanied by an order. A confirmation of hearing must be filed with the

appropriate clerk and the coordinator must receive a copy. Any motion that does not meet these requirements will be denied without prejudice to the right to refile.

RULE 3.19 RESTRAINING ORDERS

- 3.19.1 **Standing restraining order.** The Walker County Standing Restraining Order, located on the court's website, shall be attached to each new pleading filed in applicable family law cases in the Walker County Court at Law.
- 3.19.2 **Further requests for restraining order.** Any further requests for a restraining order shall NOT include restraints already included in the Walker County Standing Restraining Order. Failure to comply with this rule may result in the court denying the requested relief.

RULE 3.20 FINANCIAL INFORMATION AND DISCLOSURE

- 3.20.1 **Financial information required.** In all cases in which support of a child and/or spouse is in issue, whether temporary or final, each party shall be required to furnish the court and opposing party true and correct copies of the following, at or before the time of the hearing, if available:
- a. a sworn statement of the household usual and ordinary monthly income and expenses;
 - b. all payroll statements, pay stubs; and if self-employed, profit and loss statements, balance sheets, income statements, or any other document evidencing any and all of that party's earnings from January 1 of the current year through the date of the hearing;
 - c. federal tax returns, including attachments and schedules, for the two (2) years immediately prior to the hearing, or if returns have not been prepared, all W-2s, 1099s, K-1s or other evidence of income for said year; and
 - d. copies of any financial statements prepared for any financial institution for the year prior to the first hearing and from January 1 of the current year through the date of the hearing.
- 3.20.2 **Failure to comply.** This rule providing for the exchange of information shall constitute a discovery request under the TRCP, and failure to comply with this rule may be grounds for sanctions, as provided by Rule 215 of the TRCP. Sanctions shall not issue if the judge determines after a show cause hearing that the failure to comply was not willful. In addition, failure to file the information

required by this rule will result in the court adopting, as stipulated, the information filed by the complying party. The noncomplying party will be prohibited from contesting the accuracy of the information presented by the complying party.

RULE 3.21 INVENTORY AND APPRAISEMENT

- 3.21.1 **Inventory and appraisal required.** In a case where the division of the marital estate is in dispute, each party shall exchange and file with the court a sworn inventory and appraisal no later than thirty (30) days before any contested hearing date. The inventory and appraisal shall be in a form substantially similar to Form 7-1 of the Texas Family Law Practice Manual published by the State Bar of Texas and shall list the value of each item of property and shall list each liability, the number of periodic payments in arrears, if any, the property securing its payments and the name of the creditor. Any property or liability claimed to be separate shall be so characterized. All benefits arising from a party's employment (such as pensions, profit sharing plans, savings for thrift plans, whether vested or not) shall be identified. All property and liabilities shall be listed in a columnar form with each column totaled. The inventory shall show the net worth of the community estate and the net worth on any claimed separate estate. The parties may agree or request the court for an earlier date to exchange inventories.
- 3.21.2 **Sanctions for failure to file.** If a party or the parties fail to prepare and/or file the inventory and appraisal or 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 of the TRCP. In addition, failure to file the information required by this rule will result in the court adopting, as stipulated, the information filed by the complying party. The noncomplying party will be prohibited from contesting the accuracy of the information presented by the complying party. If both parties fail to comply the court may strike the case from the docket.
- 3.21.3 **Items to be exchanged.** In all cases where the division of the marital estate is in dispute the following items shall be exchanged without objection upon written request of counsel:
- a. copies of all insurance policies, including home, auto, life and medical;
 - b. copies of all promissory notes, deeds of trust and deeds evidencing ownership of real property, including contracts for deeds and time sharing contracts;

- c. copies of all stocks, mutual fund participation and investment portfolios and account statements relating thereto, held by the parties, in the name of the parties or for the benefit of the parties;
- d. copies of all documents concerning employee benefits, retirement and pension funds; and
- e. preceding six (6) months statements for all credit card accounts in the name of the parties or either party.

3.21.4 **Sealing of inventory.** Any party may request that the sworn inventory or any composite inventory be sealed.

RULE 4

CRIMINAL CASES

RULE 4.10 FILING OF DOCUMENTS

- 4.10.1 **Pre-complaint original documents.** The county clerk is responsible for maintaining custody of the original documents relating to an arrest or charge for a Class A or B misdemeanor until an information or indictment has been filed according to the accused's unique file number.
- 4.10.2 **Bonds.** The jail administrator shall send all original bonds daily to the criminal court coordinator who will then file them with the county clerk.
- 4.10.3 **Magistrate's warning.** The jail administrator shall collect the original complaints and the Magistrate's Warnings from the magistrate daily and send them to the criminal court coordinator who will then file them with the county clerk.
- 4.10.4 **Applications for court appointed attorneys, affidavits of indigency and orders relating to appointment of counsel entered prior to filing case with county clerk.** All original applications for court appointed counsel; affidavits of indigency and any orders entered prior to the filing of a case relating to appointment of counsel or determination of indigency shall be delivered to the criminal court coordinator who will then file them with the county clerk.
- 4.10.5 **Other.** Miscellaneous documents relating to the accused's case (e.g. letters from attorneys, etc.), after review by the criminal court coordinator, will be filed with the county clerk.
- 4.10.6 **Filing of an information.** Upon the filing of an information, all of the documents pre-filed with the county clerk will be transferred to the unique cause number in the official clerk's file. The information will be filed in the defendant's unique cause number, along with the pre-filed documents.

- 4.10.7 **Original bond paperwork.** The county clerk shall maintain the original bonds received from criminal court coordinator. If a bond forfeiture proceeding is filed, then the original bond will be filed in the bond forfeiture case file. The district attorney's office shall file a copy of the bond in the criminal case file when the information is filed.

RULE 4.11 ATTORNEY APPOINTMENT

Appointment of counsel to represent indigent defendants is governed by Chapter 26 the Code of Criminal Procedure and the Walker County Court Plan which can be located online at the Walker County website, the Texas Indigent Defense Commission's website or accessed by a link on the court's website. The judge will administer the plan. Counsel appointed to represent indigent defendants will adhere to the rules of the plan. Failure of counsel to adhere to the requirements of the plan may result in counsel's removal from the list as provided for in the plan.

RULE 4.12 APPEARANCE OF COUNSEL

Immediately upon employment, the defense attorney shall give written notice of said employment to the district attorney, the county clerk and the court coordinator stating the name of the defendant, the date of and the offense(s) charged and cause number, if known.

RULE 4.13 COURT APPEARANCES/RESETS

- 4.13.1 **Arraignment/initial appearance date.** The defendant shall receive notice of the arraignment date upon providing a bond to be released from Walker County jail according to the calendar provided to the jail by the court. The original notice shall be provided to the criminal court coordinator by the jail administrator who will then file it with the county clerk. The defendant shall provide this notice to the defendant's attorney, and surety or bail bond person. The county clerk shall file the original notice as stated in Rule 4.10. If the defendant has been released on bond from another county jail or the case is an appeal of a class C misdemeanor, the coordinator will issue an Order Setting Appearance for the defendant once the original bond is received from that county or once the appeal is filed with the county clerk. The Order Setting Appearance will be sent to the district attorney, the defendant's attorney and/or the surety.
- 4.13.2 **Pretrial setting.** At arraignment, a case may be reset by the defendant for a pretrial docket.
- 4.13.3 **Motions setting.** The defendant is entitled to one additional setting after pretrial docket, either a second pretrial or a motions ancillary. If a formal motion has been filed with the clerk and served upon the district attorney in compliance

with these rules, a date certain shall be set by the court at the motions ancillary for a hearing on said motion.

- 4.13.4 **Docket call setting.** If the case is not resolved by the second pretrial setting or hearing docket, the case will be set for docket call and trial. The defendant is not required to appear for docket call unless there is a plea that needs to be heard by the court. The attorney is not required to be present for docket call unless there are pretrial issues that need to be taken up with the judge prior to the day of trial (ie. motions in limine or motions for continuance).
- 4.13.5 **Jury trial.** All attorneys and defendants must appear at 8:00am to hear any pleas and emergency motions so that trial may begin at 9:00am.
- 4.13.6 **Motions to revoke and motions to adjudicate.** If the case is not resolved at the arraignment docket, the case shall be reset for a motions docket and a motions hearing docket.
- 4.13.7 **Presence required.** The presence of all defendants and attorneys is required at all hearings unless excused by the court or in compliance with Rule 4.13.10. The bondsman and defense attorney shall notify the defendant that their presence is required in the courtroom. Failure of the defendant to appear will result in a bond forfeiture hearing.
- 4.13.8 **Waiver of arraignment.** Arraignment may be waived in writing if signed by both the attorney and the defendant and filed with the clerk before noon on the day prior to the scheduled arraignment. A signed reset in compliance with Rule 4.13.10 must be received by the criminal court coordinator to excuse the presence of the defendant and/or counsel at arraignment.
- 4.13.9 **Appearance without counsel.** Defendants who appear without counsel at arraignment shall receive a reset, not to exceed thirty (30) days, for the purpose of retaining counsel, if the defendant so requests.
- 4.13.10 **Reset prior to court date.** An attorney may reset a case without the attorney or their client appearing by submitting a reset form (most current version is available on the court's website) for all appearances except motions hearings and trial. The reset form must be signed by the defendant and the attorney and a court date filled in for the next setting. The form must be completed and submitted to the criminal court coordinator by email or facsimile by 10am the day of the docket. The court will not tell the defendant that they are okay not to appear and neither will their bondsman. The direction about whether to appear must come from the attorney. If a completed reset is not received by the criminal court coordinator by 10am the day of the docket and the defendant does not

appear, a warrant will issue for the defendant in accordance with Chapter 22 of the Code of Criminal Procedure. A signed reset should move the case forward from the existing setting. See below for directions on next settings:

<u>Current Setting</u>	<u>Reset Setting</u>
arraignment	1 st pretrial
1 st pretrial	2 nd pretrial OR motions
2 nd pretrial	docket call AND trial
motions	motions hearing
motions hearing	docket call AND trial

Resetting court dates under this Rule does not excuse an attorney from arranging to pick up discovery in a timely manner and shall not be used as a reason for extra reset dates.

4.13.11 No case filed at arraignment. If no case has been filed against the defendant at the date they are set for arraignment, the defendant will be released until the district attorney files a case. At the time the case is filed, the coordinator will send an Order to Appear to the bondsman, the defense attorney and the district attorney. The coordinator will send an Order to Appear to the defendant at their last known address if they do not have a bondsman or an attorney.

RULE 4.14 MOTIONS

All pretrial motions, including pleadings of the defendant, special pleas, exceptions to the form or substance of the information, motions to suppress, motions for change of venue, discovery motions, and entrapment motions, must be filed at least seven (7) days prior to the motions or 2nd pretrial setting. If any such preliminary matter is not raised or filed seven days before the motions or 2nd pretrial setting it will not thereafter be allowed to be raised or filed, except by permission of the court for good cause shown. In order to set a pre-trial motion for hearing, the motion must:

1. succinctly state the relief sought;
2. state the facts pertinent to the motion;
3. state supporting argument with authorities;
4. be signed by counsel and, where required, by the defendant;
5. be sworn to when required;
6. contain a certificate of service; and
7. contain a proposed order granting or denying the motion in full or in part.

RULE 4.15 ATTORNEY BONDS

Any attorney who executes a bail bond or an appeal bond as a surety will be deemed to be the attorney of record for the person for whom the bond was made. People released from jail under such a bond will not ordinarily be assigned court appointed attorneys. If a court appointed attorney has previously been assigned to the person for whom an attorney bond is posted, the court appointed attorney will ordinarily be allowed to withdraw from the case. A letter of representation shall still be required under Rule 4.12.

RULE 4.16 BOND AND BOND FORFEITURES

4.16.1 **Governing law.** Matters concerning bond forfeitures shall be governed by Chapter 22 of the Code of Criminal Procedure.

4.16.2 **Current address.** As a condition of pre-trial release, every defendant who does not have a bondsman or an attorney is responsible for keeping the criminal clerk apprised of the defendant's correct physical and mailing address at all times during the pendency of criminal proceedings.

4.16.3 **Amount and type of bond.** Bonds shall be set on each criminal case based on Chapter 17 of the Code of Criminal Procedure.

4.16.4 **Affidavit to release surety.** Sureties requesting a release on their liability on a bail bond must complete an Affidavit to Release Surety (a sample of which may be found on the court's website), comply with the requirements of Chapter 17 of the Code of Criminal Procedure, and present the completed affidavit to the clerk for filing and presentation to the judge. Failure to provide service to the parties required to be served will be grounds for denial of the request for surrender. Sureties are encouraged to obtain competent legal advice and neither the court nor the court coordinator will give legal advice.

RULE 4.17 DISCOVERY

Discovery shall be conducted in accordance with Article 39.14 of the Code of Criminal Procedure. Resetting court dates under Rule 4.13.10 does not excuse an attorney from arranging to pick up discovery in a timely manner and shall not be used as a reason for extra reset dates.

RULE 4.18 CONTINUANCES

4.18.1 **Approval of judge.** No trial setting shall be passed by agreement of counsel without prior approval by the judge.

- 4.18.2 **Motions and timing.** Motions for continuance, whether by the state or the defendant, must comply with the provisions of Chapter 29 of the Code of Criminal Procedure. Motions for continuance for trial must be filed at or before docket call.
- 4.18.3 **Emergency motions.** Only matters arising subsequent to the time period specified in Rule 4.18.2 will be considered as grounds for filing a motion for continuance for trial after docket call.
- 4.18.4 **Motions on trial date.** Except for good cause shown, the court shall not consider any motion for continuance on the scheduled trial date.

RULE 5
ESTATE CODE CASES

RULE 5.10 AD LITEM APPOINTMENTS

5.10.1 Mandatory ad litem appointments.

Heirships. An order for appointment of an attorney ad litem must accompany each application for heirship. An attorney ad litem shall be appointed for the unknown heirs. The attorney ad litem's duties cease upon the signing of an order of heirship.

Guardianships. An order for the appointment of an ad litem must accompany each application for guardianship. An attorney ad litem shall be appointed for the proposed ward. The attorney ad litem's duties cease upon establishment of the guardianship unless specifically extended by the court.

- 5.10.2 **Notification.** All attorneys in a case in which an attorney ad litem is appointed have an affirmative duty to give written notice, without delay, and in no case longer than five (5) days, to the ad litem of the appointment and any settings. Each party shall furnish copies of pleadings, orders and other documents filed to the ad litem.
- 5.10.3 **Ad litem appointment by agreement.** An agreement by the parties for appointment of an ad litem shall be submitted in writing in the form of a motion and order to the court, signed by all attorneys, and will be considered by the court without a hearing.
- 5.10.4 **Payment of fees.** Payment of ad litem fees shall be shared equally by the parties, unless otherwise ordered by the court. Fees shall be paid in to the registry of the court within ten (10) days of appointment, unless otherwise ordered by the court.

RULE 5.11 REQUEST FOR SETTINGS

- 5.11.1 **Conference required.** All court appearances, hearings and trials may only be scheduled after conference with opposing counsel. Failure to attempt to confer may be brought to the attention of the court without the necessity of a motion for continuance and may result in the court resetting the appearance, hearing or trial.
- 5.11.2 **Trial settings.** Cases shall be set for trial by contacting the court coordinator and requesting available dates. Counsel should be able to provide the coordinator with the number of days needed. Within seven (7) days of service of a notice of trial, any party having an objection to the setting shall inform the court of the objection in writing and the objecting party must request a hearing on the objection.
- 5.11.3 **Settings other than trial.** Cases shall be set for hearing by contacting the court coordinator and requesting available dates. Counsel should be able to provide the coordinator with the amount of time needed for the setting.
- 5.11.4 **Required notice of hearing.** It shall be the responsibility of the party setting a hearing, and not the responsibility of the court coordinator, to immediately give written notice to the opposing party of such setting including date, time and subject matter by using the court's confirmation of hearing form. The original shall be filed with the appropriate clerk. A copy shall be provided to the court coordinator.
- 5.11.5 **Agreement for submission.** By agreement, parties may submit matters for ruling by the judge without a personal appearance or oral presentation. The court should be advised in writing when such procedure is desired.
- 5.11.6 **Pretrial hearing.** A party seeking affirmative relief must announce "ready" or "not ready" at the pretrial hearing. A party should not announce "not ready" unless a motion for continuance has been filed.
- 5.11.7 **Failure to appear.** Failure of a party seeking affirmative relief to appear at any scheduled trial or hearing shall result in a dismissal of the case or waiver of the matters presented in the motion scheduled for hearing.

RULE 5.12 DOCKET CONTROL ORDER

The court may on its own motion and shall, upon timely request of any party, issue a docket control order which shall set appropriate deadlines and settings for the case.

RULE 5.13 MEDIATION

- 5.13.1 **Policy.** It is the policy of the court to encourage the peaceful resolution of disputes and the early settlement of pending litigation. To enforce this policy, all cases set for hearings which are expected to take two (2) hours or more are automatically referred to mediation and shall not be heard by the court until the conclusion of mediation.
- 5.13.2 **Objection to automatic referral.** Any party receiving notice of a setting that automatically refers the case to mediation has ten (10) days from the receipt of said notice to file a motion objecting to the automatic referral. Failure to file such motion waives the objection to the referral. If any party files a motion objecting to the automatic referral to mediation and the court finds that there is a reasonable basis for the objection the case may be excused from the automatic referral.
- 5.13.3 **Referral by agreement or by court's motion.** On written agreement of the parties or on the court's own motion, the court may at any time refer a suit to mediation.
- 5.13.4 **Attendance at mediation.** Except upon leave of court, only the parties and attorneys may attend. All parties with the authority to settle the case shall be present.
- 5.13.5 **Irrevocable mediated settlement agreement.** A mediated settlement agreement shall be binding on the parties if the agreement states that it is not subject to revocation, it is signed by each party, and by each party's attorney who is present at the time the agreement is signed.
- 5.13.6 **Mediator qualifications.** The court may appoint a mediator who has completed a minimum of 40 hours of training or, in its discretion, is qualified to conduct mediation.

RULE 5.14 MOTIONS PRACTICE

- 5.14.1 **Resolution.** Parties are directed to use all reasonable means to resolve pretrial disputes to avoid the necessity of judicial intervention.
- 5.14.2 **Form.** Motions and responses shall be in writing and shall be accompanied by a proposed order granting or denying the relief sought. The proposed order shall be a separate document.
- 5.14.3 **Submission.** Motions set for submission shall state a date of submission which shall be at least ten (10) days from filing, except on leave of court.

- 5.14.4 **Response.** Responses shall be in writing. Responses shall be filed at least two (2) working days before the submission date. Failure to file a response may be considered a representation of no opposition.
- 5.14.5 **Unopposed Motions.** If any motion is unopposed by all counsel of record, counsel may simply so state conspicuously on the face of the motion. In such event, the motion will be submitted by the clerk to the judge for approval and will be granted routinely without a hearing unless the judge is of the view that the granting of such motion is not in the interest of justice. A separate proposed order granting the relief sought shall accompany the motion and shall be signed by all attorneys.
- 5.14.6 **Waiver of Hearing.** Hearings on any motion may be waived if all counsel of record agree and notice of same is given to the court.
- 5.14.7 **Conference requirement.** No counsel for a party shall file any motion unless accompanied with a “certificate of conference” signed by counsel for movant. Prior to the filing of a motion, counsel for the movant shall personally attempt to contact counsel for the respondent to hold or schedule a conference to resolve the disputed matter(s). Counsel for the movant shall make at least three (3) attempts to contact counsel for the respondent. The attempts shall be made during regular business hours on at least two (2) business days. For the purposes of this rule, a “certificate of conference” shall be in one of the forms (verbatim) in the document entitled “certificate of conference and/or notice” on the court’s website.
- 5.14.8 **Sanctions for failure to confer.** Counsel who refuse to confer, or who ignore attempts to confer, as required by this rule may be sanctioned by the court up to an amount which is equivalent to at least three hours of attorney time at the usual and customary hourly rate prevailing in Walker County.
- 5.14.9 **Exceptions to conference requirement.** Rule 5.14.7 does not pertain to dispositive motions, motions for summary judgment, motions for default judgment, motions for voluntary dismissal or nonsuit, post-verdict motions, and motions involving service of citation.

RULE 6
JUVENILE CASES

Reserved for future use

RULE 7
ADOPTION, AMENDMENT, NOTICE

RULE 7.10 ADOPTION

These local rules of practice before the court are adopted by the judge of the County Court at Law, pursuant to TRCP Rule 3a for all purposes. All previous local rules of the Walker County Court at Law are hereby repealed.

RULE 7.11 APPROVAL

Upon approval by the Judge of the Second Administrative Region and the Supreme Court of Texas, the Local Rules of the Walker County Court at Law shall become effective immediately after posting in conformity with TRCP Rule 3a, and so long thereafter until amended, repealed or modified. Each numbered or lettered paragraph shall be considered to be separate and distinct from all other portions hereof, and if any portion should be declared by a higher court to be improper, such declaration will not affect any other portion not so declared to be improper.

RULE 7.12 NOTICE AND PUBLICATION OF RULES

After the rules have been approved, a copy of these rules will be filed with the Walker County Clerk, Walker County District Clerk and posted on the Walker County website. A copy of these rules may be requested from the court.

RULE 7.13 APPLICATION OF LOCAL RULES

These rules are standing orders of the Walker County Court at Law. Knowing and intentional violation of these rules may be punished by contempt or other sanction authorized by law or by rules of procedure as the judge may deem appropriate.