

# IN THE SUPREME COURT OF TEXAS

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Misc. Docket No. 15-9051

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## APPROVAL OF AMENDED LOCAL RULES FOR THE DISTRICT COURTS OF COLLIN COUNTY

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**ORDERED** that:

Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court approves the following local rules for the District Courts of Collin County.

Dated: March 10, 2015.



Nathan L. Hecht, Chief Justice



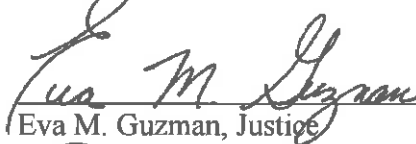
Paul W. Green, Justice



Phil Johnson, Justice



Don R. Willett, Justice




Eva M. Guzman, Justice



Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice

# LOCAL RULES OF THE DISTRICT COURTS OF COLLIN COUNTY, TEXAS

## PART ONE CONDUCT AND DECORUM

### 1.0 CONDUCT

#### 1.1 Attorney and Self-Represented Litigants Compliance with Rules

Every attorney and every self-represented litigant permitted to practice in the Courts of Collin County shall familiarize themselves with and comply with the standards of professional conduct required of members of the State Bar of Texas and contained in the Texas Disciplinary Rules of Professional Conduct, Government Code, Title 2, Subtitle G-Appendix and the decisions of any court applicable thereto, which are hereby adopted as standards of professional conduct of these courts.

#### 1.2 Self-Represented Litigants

All requirements of these rules applicable to attorneys or counsel apply with equal force to self-represented litigants. Self-represented litigants are required to provide address and telephone listings, and email and facsimile, if self-represented litigant has such capability, at which they can be reached by Court personnel and all counsel of record. Failure to accept delivery or to pick up mail addressed to the address provided by a self-represented 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.

#### 1.3 General Rules of Courtroom Conduct

- (a) All persons in the Courtroom shall be attentive to the proceedings and cause no distraction through their words, actions, or attire.
- (b) Beverages, food, chewing gum, candy, and tobacco products are not permitted in the courtroom, unless specifically authorized by the Judge of the Court.
- (c) No photos or electronic recordings of any kind (cell phone, camera phone, iPad, etc.) are permitted in the courthouse, unless specifically authorized by the Judge of the Court in accordance with Texas Rules of Civil Procedure ("TRCP") 18(c).
- (d) Each Court may post Standards of Conduct in or near its chambers.

## **1.4 Miscellaneous**

- (a) Except in emergencies when the District Clerk's Office is not open for business, no application for immediate or temporary relief shall be presented to a Judge until it has been filed and assigned to a Court.
- (b) Attorneys and self-represented litigants are required to notify the District Clerk of any change in address, email, telephone, or fax number. Any notice or communication directed to the attorney or self-represented litigant at the address, email, telephone or fax number indicated in the records of the District Clerk will be deemed received.
- (c) A "Vacation Letter" may be filed with the District Clerk by a party or attorney reserving days in which no hearings, depositions, or trials are to be set. A "Vacation Letter" per case is unnecessary; one letter shall give notice to all District Courts for each case related to the party or attorney filing the letter. The letter may be updated as needed.
- (d) Paysheets for court-appointed counsel in civil cases are due within 30 days of any hearing and within 30 days of trial. Paysheets for court-appointed counsel in criminal cases are due at the time of plea, or if there is a trial, within 30 days of trial. Paysheets untimely filed and without good cause will not be paid.
- (e) These rules shall be known as the "Local Rules of the District Courts of Collin County, Texas" and particular rules may be cited thus: "Local Rule 3.2."

## **PART TWO CASE FILING AND EMERGENCY ORDERS**

### **2.0 FILING OF PLEADINGS**

#### **2.1 Filing**

- (a) All civil cases shall be filed in rotating order. Forum shopping is prohibited. Once a case is filed in a court, it will remain in that court for any subsequent filings, including refilings.
- (b) Pursuant to TRCP 78(a), the original petition must be accompanied by a properly completed case information sheet.

## **2.2 Document and Filing Requirements**

- (a) All pleadings, motions, orders and other documents, including exhibits attached thereto, when offered for filing or entry, shall be descriptively titled.
- (b) Each page of each instrument shall, in the lower margin thereof, be numbered and titled; e.g., Plaintiff's Original Petition - Page 2.
- (c) Orders and Judgments shall be separate documents completely separated from all other documents.
- (d) There must be a minimum of a one-inch margin on all sides of the page.
- (e) All documents must contain the filer's complete contact information in the signature block, including the filer's name, address, phone number, and email address.
- (f) All documents must comply with the requirements of TRCP 21c on sensitive data.
- (g) A document must not contain any malware or viruses. The e-filing of a document constitutes certification by the e-filer that the document has been checked and is clear of any malware or viruses.
- (h) A fiat must be filed as a separate Notice of Hearing and cannot be part of the pleading. It must contain the name of the pleading to which it is associated—for example, Notice of Hearing on Motion for Continuance.
- (i) A document may not contain multiple filings; each filing must be filed separately. For example, you cannot file a combined Answer and Counter Petition; you must file one Answer and one Counter Petition.
- (j) PDF packages and portfolios are not permitted. Multiple documents that pertain to a single filing must be combined into a single PDF. Bookmarks must be used to separate content appropriately. For example, exhibits to pleadings must be combined in a single PDF, but they must be bookmarked by exhibit.
- (k) Proposed orders should not be filed as an initial filing/envelope. They must be filed as a subsequent filing/envelope.
- (l) Constable service requests must be verified through the Collin County Interactive Map, Precinct Finder at <http://gismaps.collincountytx.gov>.

### **2.3 Contact with the District Clerk's Office**

The deputy clerk shall limit response to telephone requests for information to the following: (1) If answer has been filed; (2) Existence and setting of a case; (3) Existence of a setting of a matter and/or motion in a pending case; (4) Return of service and a date; and (5) Correct style of a case when correct case number is supplied. The deputy clerk shall not receive and relay personal messages and/or telephone calls, read pleadings to attorneys, their secretaries or the public.

### **2.4 Application for Temporary Restraining Order and Other Ex Parte Orders**

- (a) Counsel presenting any application for a temporary restraining order or other ex parte relief shall notify the opposing party's counsel, or the opposing party if unrepresented by counsel in the present controversy, and provide opposing counsel or party with a copy of the application and proposed order at least two (2) hours before the application and proposed order are to be presented to the Court for decision, except as provided in Section 2.4(b).
- (b) Compliance with the provisions of Section 2.4(a) hereof is not required if a verified certificate of a party or a certificate of counsel is filed with the application:
  - (1) That irreparable harm is likely imminent and there is insufficient time to notify the opposing party or counsel; or
  - (2) That to notify the opposing party or counsel would impair or annul the Court's power to grant relief because the subject matter of the application could be compromised or property removed, secreted or destroyed, if notice were given.
- (c) Applications filed with District Clerk.
  - (1) If the Judge of the Court to which a case is assigned is absent or unavailable, any District Judge may sit for the Judge of the Court to which the case has been assigned and shall make all writs and process returnable to that Court. Hearings on applications for temporary injunctions, temporary receiverships and the like shall be set in the Court to which the case has been assigned.
  - (2) Whenever immediate action of a Judge is required in an emergency when the District Clerk's Office is not open for business, the case shall nevertheless at the earliest practicable time be docketed and

assigned to a Court, and all writs and process shall be returnable to that Court. If the Judge of such Court is not available to hear the applications for temporary relief at the time set, any District Judge or Judge sitting for a District Judge may preside in the case.

- (3) Counsel presenting any application for an ex parte order shall, before presenting any such application to any District Judge, determine whether there has been any previous application for the same or similar relief, or whether the relief sought will conflict with any previous order. Where there has been any previous application for the same or similar relief, or where the relief sought will conflict with any previous order, counsel shall so inform the Judge to whom the application for an ex parte order is presented. Depending on the circumstances, the Judge may decline to act and refer the entire case to the Judge of the appropriate Court.

## **2.5 Discovery Protective Order**

- (a) Upon agreement of all parties to a cause of action for the entry of the standard form Protective Order for Collin County Courts in that cause of action, the Court presiding over that cause of action may enter the standard form Protective Order for Collin County District Courts set forth in Section 2.5(c).
- (b) Upon the motion of one of the parties to a cause of action for entry of the standard form Protective Order for Collin County Courts in that cause of action, the Court presiding over that cause of action may enter the standard form Protective Order for Collin County District Courts unless one of the other parties to that cause of action objects to the motion for or entry of the standard form Protective Order within 10 days of receipt of notice of the filing of the motion for entry of the standard form Protective Order. The objecting party may object to the entry of a Protective Order in its entirety or may move for entry of a modified Protective Order as modified at the discretion of the Court. If the objecting party requests a modified Protective Order, the objecting party shall submit the modified Protective Order in the form and the language it seeks for the Court to enter.
- (c) The standard form Protective Order is available on the district clerk's website.

**PART THREE  
MOTIONS AND SUBPOENAS**

**3.0 MOTION PRACTICE**

**3.1** Parties are directed to use all reasonable efforts to attempt to resolve pre-trial disputes to avoid the necessity of judicial intervention.

**3.2** 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 matters. Counsel for movant shall use good faith efforts to contact opposing counsel and be prepared to outline such efforts for the Court.

**3.3** Except as provided in Section 3.4, no counsel for a party shall file, nor shall any clerk set for hearing, any motion unless accompanied with a Certificate of Conference signed by counsel for movant and stating:

- (a) Counsel for movant and counsel for respondent have personally conducted a conference at which there was a substantive discussion of the issues raised in this motion and despite best efforts the counsel have not been able to resolve those matters presented.
- (b) Counsel for movant has personally attempted to contact the counsel for respondent to resolve the matters presented, but counsel for respondent has failed to respond or attempt to resolve the matters presented.
- (c) Counsel for movant has conferred with opposing counsel on the merits of the issues contained in this motion, and opposing counsel has indicated that the motion is unopposed.

**3.4** The requirement for a Certificate of Conference set forth in this Rule does not apply to dispositive motions, motions for summary judgment, default judgments, motions for voluntary dismissal or nonsuit, post-verdict motions, and motions involving service of citation.

**3.5 Discovery Motions**

All motions for discovery sanctions, requests for rulings on discovery objections, and motions to compel discovery shall set out within the body of the motion, the interrogatory or request which is in dispute, and the objection and answer or response which is in dispute, so that all matters necessary for the Court's consideration are set out in one concise document

**3.6 Service of Subpoena and Subpoena Duces Tecum on Non-litigant Government Officials and Employees**



- (a) Before issuing a subpoena for records from a governmental body or for a government official or employee to appear as a witness if the official, employee, or its respective entity is not a party to the suit, the requesting party must first contact the legal representative or chief executive officer of the entity and make a reasonable good faith inquiry to ascertain the name(s) and capacity of the official or employee who has knowledge of the matter(s) and records for which a subpoena is sought. The inquiry must be made during regular business hours and at least three (3) business days before the subpoena is issued. In addition, the subpoena shall also include a certificate that provides substantially the following information:
  - (1) The attorney attempted to contact the legal representative or chief executive officer on (list date(s), time(s), method of contact, person(s) contacted) and provided a detailed message alerting the person of the reasons for the subpoena, but no legal representative, executive officer, or duly authorized representatives responded to the inquiry; or,
  - (2) The attorney conferred with a legal representative, chief executive officer, or duly authorized representative and was unable to agree on an alternative representative(s) to appear and/or provide the documents because the persons and/or documents sought were critical for the following reasons: list reason(s).
- (b) If the attorney fails to comply with the provisions of 3.6(a) above, the Court may grant the motion of a person opposing the subpoena on that ground, and the Court may order that expenses including attorney fees be paid to the person/entity opposing the subpoena.
- (c) This rule does not supersede any other response that may be asserted to the subpoena, and does not apply to subpoenas sought in conjunction with an emergency hearing or request for emergency relief, including Temporary Restraining Orders, Protective Orders, etc.

**PART FOUR  
CONFLICTS, CONTINUANCES, AND WITHDRAWALS**

**4.1 Conflict**

- (a) A “conflicting setting” exists when an attorney is already set for trial or hearing in another Court or an attorney is assigned to more than one Court at the same time.

- (b) An attorney shall inform all Courts in which the attorney is set for hearing or trial if the attorney has a conflicting setting, which information shall be verified upon request of opposing counsel or a Court.

#### **4.2 Continuances**

A trial date or hearing cannot be postponed or changed without the consent of the Court. Any Motion for Continuance shall be verified and filed as soon as possible and will be heard at a time to be set by the Court.

#### **4.3 Withdrawal**

- (a) Motions to withdraw must comply with TRCP 10 and be served on all counsel of record.
- (b) A lawyer may not file a motion to withdraw within 30 days of trial without leave of court.
- (c) A motion to withdraw may be granted without a hearing under the following circumstances:
  - (1) the motion is accompanied by a certificate by the client attesting to the client's consent to the withdrawal or a certificate by another lawyer attesting that the lawyer has been retained to represent the client in the case; or
  - (2) the motion is accompanied by a letter that notifies the client of the client's right to object to the withdrawal within ten days of the date that the letter was mailed; the withdrawing attorney certifies that the motion and letter were sent to the client's last known address by certified and regular mail; and no objection is filed.
- (d) If a motion to withdraw is granted, the withdrawing attorney must send the client by regular mail a copy of the court's order and a letter that lists all settings and pending deadlines and, if another lawyer is not being substituted, advises the client to obtain other counsel. The letter must be served on all counsel of record and filed with the Clerk.

### **PART FIVE PRETRIAL MATTERS**

#### **5.0 PRETRIAL MATTERS**

### **5.1 Pretrial Conference**

In all cases in which a jury fee has been paid, the Court shall conduct a pretrial conference prior to selection of the jury unless otherwise agreed to by the parties or order of the Court. This rule does not alter any deadlines established by TRCP 190.1-190.4 or by a Scheduling Order entered in the case.

### **5.2 Mediation**

It is the policy of the Collin County District Courts to encourage the peaceful resolution of disputes and the early settlement of pending litigation. If the Court finds that a party has delayed the mediation, or has not cooperated in scheduling the mediation, the Court may consider all appropriate actions, including sanctions.

## **PART SIX ELECTRONIC FILING**

### **6.0 ELECTRONIC FILING**

#### **6.1 Rules**

These rules govern the electronic filing and service of court documents in Collin County. The Collin County District Courts and District Clerk adopt the Texas Supreme Court "Order Requiring Electronic Filing in Certain Courts," the Texas Supreme Court Statewide E-Filing Rules, and the Technology Standards promulgated by the Judicial Committee on Information Technology.

#### **6.2 Official Record Copy**

All official records will be electronically stored upon presentation to the District Clerk. The reproduction of a record stored with the District Clerk is an original record and shall be accepted as an original record. A copy or reproduction on paper of a record stored with the District Clerk is a copy of the original record and may be certified as such by the District Clerk.

#### **6.3 Electronic Order and Viewing Electronically Filed Documents**

##### **(a) Courts Authorized to Make Electronic Orders**

- (1) A Judge may electronically sign an order by applying his or her digitized signature to the order.**

- (2) Upon electronically signing an order, the Judge shall electronically forward the order to the District Clerk who may treat the electronic order as the official copy of the order.
- (3) The District Clerk may electronically scan a court order. The scanned court order may then serve as the official copy of the court order.

(b) Viewing of Electronically Filed Documents

- (1) The District Clerk shall ensure that all the records of the court, except those made confidential or privileged by law or statute, may be viewed in some format by all persons for free.
- (2) Independent of the efilng system and the viewing access described herein, the District Clerk may provide for both filers and the general public to electronically view documents or court orders that have been electronically filed or scanned. Where such provision has been made, persons may electronically view documents or court orders that have been electronically filed or scanned.
- (3) Nothing in this rule allows for the viewing of documents or court orders, in any form, that are legally confidential (e.g., documents in mental health proceedings) or otherwise restricted by judicial rule or order.

**PART SEVEN  
ORDERS AND JUDGMENTS**

**7.0 JUDGMENTS AND DISMISSAL ORDERS**

**7.1 Dismissal for Want of Prosecution**

- (a) A case may be dismissed for want of prosecution for any of the following reasons:
  - (1) Failure of Plaintiff to request a setting, sign a Scheduling Order, or take other appropriate action after notice from the District Clerk that the case will be dismissed in sixty (60) days.
  - (2) Failure of Plaintiff or Plaintiff's counsel to appear for trial.

- (3) Failure of Plaintiff to make an announcement of “ready” when a case is called for trial.
  - (4) For any other reasons provided for by these Rules, Texas Rules of Civil Procedure, or the general law.
- (b) Pursuant to TRCP 165a, the District Clerk shall mail notice of such dismissal and signed Orders of Dismissal to all parties or their counsel of record to the address on file with the District Clerk.

## 7.2 Orders, Judgments, and Decrees

Within thirty (30) days after rendition or an announced settlement by counsel, counsel shall cause, unless ordered otherwise, all judgments, decisions, and orders of any kind to be reduced to writing approved as to form by opposing counsel, and as to contents, if an agreed order, judgment, or decree, and filed with the District Clerk. Upon counsel’s failure to file such a judgment or order finally disposing of the case, the Court shall presume that counsel wishes the case dismissed with prejudice with costs taxed at the Judge’s discretion.

## 7.3 Registry of the Court

As ministerial officers, District Clerk employees are barred from using their personal discretion when performing functions for a Court. Thus, when presented with an order from a Court, a District Clerk employee must perform in strict conformity with the order’s language and not make any assumptions or personal interpretations. Orders to disburse funds must be clear, complete, and void of any uncertainty. Therefore, to avoid any unnecessary delays in the disbursement of funds, please consider the following five issues when drafting an order to disburse:

1. Does the order clearly state the **DISTRICT CLERK IS ORDERED TO** issue the check?
2. Does the order state exactly who is to receive the check? For example: The District Clerk is ordered to **ISSUE A CHECK PAYABLE TO JANE MARIE DOE**.
3. Does the order include the amount to be paid? For example: the District Clerk is ordered to issue a check payable to Jane Marie Doe **FOR AN AMOUNT EQUAL TO ALL FUNDS PLUS ACCRUED INTEREST** or **THE PRINCIPLE AMOUNT OF \$\_\_\_\_\_, PLUS ACCRUED INTEREST**.
4. Does the order **WAIVE THE THIRTY-DAY WAITING PERIOD**? Without this language, the District Clerk **WILL WAIT** thirty days before making the disbursement. Language such as “immediately”, “instanter”, and “without delay” are not sufficient to waive the thirty-day waiting period.
5. The only time the thirty-day waiting period will be automatically waived is for Criminal Cash Bond disbursements and OAG cases.

When an order's language does not address the above five areas, there will be no disbursement until the defects are cured.

Please be advised, per Chapter 117 of the Texas Local Government Code for funds deposited in the registry of the court- **"We are required by Texas Local Government Code 117.054 to pay 10% of the interest earned on the investment to the general fund of the county. If funds are not invested, Texas Local Government Code 117.055 requires that at the time of withdrawal, we deduct from the amount of the withdrawal a fee in an amount equal to five percent (5%) of the withdrawal, but that may not exceed \$50. Withdrawal of funds generated from a case arising under the Family Code is exempt from the fee deduction provided by this section."**

## **PART EIGHT FAMILY LAW**

### **8.1 Temporary Orders**

Each party present at any hearing on temporary orders shall be limited to twenty (20) minutes total to present its evidence, cross-examine, rebut, and argue its case, unless the Judge affirmatively orders otherwise.

### **8.2 Interview of a Child/Child's Testimony**

In all cases in which the Court deems testimony of a child to be necessary or required by statute, the attorney wishing to have the child interviewed shall arrange a specific time through the court coordinator for the Court to interview the child. No party is to bring a child to the courthouse to testify without prior arrangement pursuant to this rule, unless the child's attendance is required by court order including a writ of habeas corpus or attachment. The attorney or self-represented litigant who is responsible for the child's attendance at court shall immediately notify the court coordinator of the child's presence in the courthouse. The child shall not be brought into the courtroom without the express consent of the Court.

### **8.3 Protective Orders**

The party requesting a Protective Order must include the TCIC (Texas Crime Information Center) form with the application for protective order. The form may be found at <http://www.txcourts.gov>.

### **8.4 Parenting Classes**

Parties are required to complete a Court-approved parenting class in contested custody cases only.

## **8.5 Records Withheld from Public Internet**

The District Clerk may withhold from the public internet records containing sensitive data, such as: social studies, psychological evaluations, business records, and records which include personal information (e.g. medical records, school records) filed in family law matters.

## **8.6 Redaction of Names Using Initials**

A document must not contain initials in place of the first and last name, unless redaction of the name is required or permitted by Texas Rule of Civil Procedure 21c, other law or court order.

# **PART NINE LOCAL COURT ADMINISTRATION**

## **9.1 General Rule**

Each District Judge in Collin County is a member of the Board of District Judges (“BODJ”).

## **9.2 Local Administrative Judge**

The BODJ must elect a Local Administrative Judge (“LAJ”). The LAJ must be elected by the BODJ at the December meeting of odd-numbered years for a two-year term, starting January 1<sup>st</sup> of the even-numbered year. In the event of a vacancy in the office of LAJ, the BODJ will elect a new LAJ at its next regular meeting to complete the term. In the event of the absence of the LAJ from the County, the LAJ must designate an acting LAJ.

## **9.3 Meetings of the BODJ**

The BODJ shall meet regularly on the first Friday of the month from 8:15 a.m. to 9:15 a.m. The BODJ may vote to cancel or reschedule any monthly meeting by a majority vote. The LAJ may call a special meeting by written notice distributed 72 hours in advance of the proposed special meeting date and time. The written notice for any special meeting will state a beginning and ending time for the meeting.

## **9.4 Duties of the LAJ**

The LAJ has all of the duties as set out in Rules 9 and 10 of the Rules of Judicial Administration and in Section 74.092 of the Texas Government Code. The LAJ must implement the policies of a majority vote of the BODJ at a duly called meeting. An action taken by the LAJ

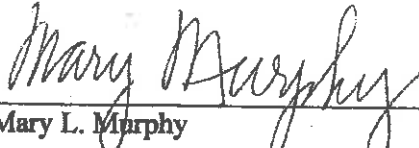
without approval of a majority vote of the BODJ may be subject to review or change by the BODJ at a regularly scheduled or specially called meeting. The LAJ must preside over meetings and appoint members to committees.

## **PART TEN GENERAL PROVISIONS**

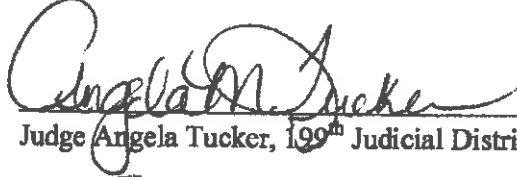
### **10.1 Publication of Amendments and Rules Approved for Specific Courts**

Local rules approved by the Supreme Court of Texas pursuant to Rule 3a, Texas Rules of Civil Procedure, which supplement or amend these rules may be published together with these rules.

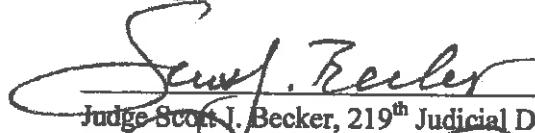




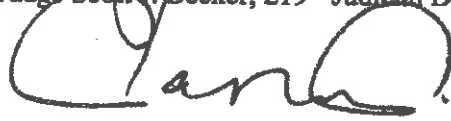
Mary L. Murphy  
Presiding Judge, First Administrative Judicial Region



Judge Angela Tucker, 199<sup>th</sup> Judicial District Court



Judge Scott J. Becker, 219<sup>th</sup> Judicial District Court



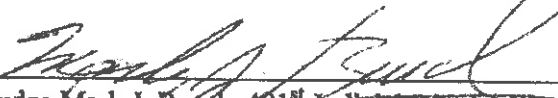
Judge John R. Roach, Jr., 296<sup>th</sup> Judicial District Court



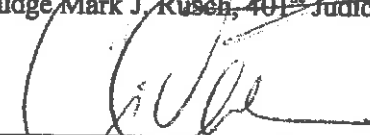
Judge, Ray Wheless, 366<sup>th</sup> Judicial District Court



Judge Benjamin Smith, 380<sup>th</sup> Judicial District Court



Judge Mark J. Ruseh, 401<sup>st</sup> Judicial District Court



Judge Chris Oldner, 416<sup>th</sup> Judicial District Court



Judge Cynthia Wheless, 417<sup>th</sup> Judicial District Court



Judge Jill Willis, 429<sup>th</sup> Judicial District Court

## **Top 10 Changes to Collin County Local Rules**

1. New section re: self-represented litigants: (1) they are subject to the same rules as attorneys; (2) they must provide a current address, phone and email to the District Clerk; and (3) they cannot avoid notice by failing to pick up mail
2. No photos or electronic recordings allowed in courtroom unless judge permits
3. New requirement to notify opposing counsel or party 2 hours before presenting TRO to the Court unless you verify it would irreparably harm the Applicant or impair Court's power to grant relief.
4. Adds a standard form Discovery Protective Order
5. Certificate of Conference required for non-dispositive motions
6. Adds requirement to contact counsel first before issuing subpoena for records to non-litigant government official or employee
7. Pre-trial conference required for jury trials
8. Adds sections on document and filing requirements and e-filing
9. Includes model language for Orders releasing Registry funds
10. Family law section: (1) court leave required before bringing children to Court for interviews; (2) completed TCIC form required with Protective Order requests; and (3) parenting classes required in contested custody case only.

### **LOCAL RULES OF THE DISTRICT COURTS OF COLLIN COUNTY, TEXAS**

**Approved by Texas Supreme Court on March 10, 2015**

CAUSE NO. \_\_\_\_\_

\_\_\_\_\_

**Plaintiff,**

v.

\_\_\_\_\_

**Defendant.**

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**IN THE DISTRICT COURT OF**

**COLLIN COUNTY, TEXAS**

\_\_\_\_\_ **JUDICIAL DISTRICT**

**PROTECTIVE ORDER**

IT IS HEREBY ORDERED as follows:

**A. Scope of Protective Order**

1. This Protective Order (the “Protective Order”) is to preserve and protect certain documents, information testimony and/or other material produced during discovery as confidential.

2. Therefore, this Protective Order shall apply to and shall govern the treatment of all documents, information, testimony and/or material designated by the parties for protection pursuant to the provisions of this Protective Order, including, *inter alia*, documents, deposition testimony and exhibits, responses to written discovery requests, data, charts, photographs, film or other media, and all other written, recorded, computerized, electronic or graphic matter, or any information contained therein or derived therefrom, arising from or relating in any respect to the above-referenced Cause. This Protective Order governs documents, information, testimony and/or materials responsive to pending outstanding discovery requests as well as to any future discovery requests. Information, or documents or material that is available to the public shall not be classified, and/or protected as confidential. Also, public information such as information

available under the Freedom Information Act, is not to be deemed, classified or protected as confidential.

**B. Designating Materials as “Confidential”**

1. Any document that any party wishes to protect against unauthorized disclosure or use shall be designated as “Confidential” by stamping, writing or delineating that designation, along with that party’s name or initials immediately preceding the word “Confidential” on the first page, or outer cover, of each document, item, information or material as to which confidentiality is claimed. In addition, if only a portion of a document is designated “Confidential,” individual pages of the document, item, information or material should be stamped, rather than the whole document. If necessary, the parties may agree in writing to a similar method of designating information, documents, data, material and/or the aforementioned items to be protected confidential.

2. Deposition testimony concerning “Confidential” documents shall be designated as “Confidential” during the course of the deposition, and the court reporter shall transcribe any pages designated as “Confidential” in a separate volume marked with that designation, with a blank page being provided in a non-designated main transcript. The separate transcript designated “Confidential” shall have page numbers in the sequence in which testimony was taken, as if those pages were not segregated.

a. Any party may also designate information disclosed in any deposition as “Confidential” by notifying all of the parties, in writing, within thirty (30) days after receipt of the transcript, of the specific pages and lines of the transcript that should be treated as “Confidential” thereafter. Each party shall attach a copy of such written notice or notices to the face of the

transcript and each copy thereof in his or her possession, custody or control and shall mark the designated pages of all such transcripts and copies as provided in Sections B.1 above.

3. For all documents, items, information or materials designated as “Confidential” that are not produced in paper form (such as diskettes, magnetic media, and any other discovery material not produced in paper form) and which are not susceptible to the imprinting of a stamp that signifies its confidential nature, the producing party shall, to the extent practicable, produce all such discovery material with a cover labeled “Confidential”.

**C. Restriction on Disclosure and Use of Designated Materials**

1. All documents, items, information or materials that are designated as “Confidential” or any information contained therein or derived therefrom, shall be handled in strict compliance with the terms of this Protective Order. The party who receives such documents, items, information or materials shall use it solely for the purposes of preparing for and/or the actual trial of this Cause and no party or its representative shall disclose any of this material, information and/or documentation to any person except as strictly permitted by the terms of this Protective Order.

2. “Confidential” Documents, Items, Information or Materials. No “Confidential” documents, items, information or materials or extracts or summaries therefrom, shall be provided, shown, made available, or disclosed or communicated in any way to any person or entity with the exception of:

- a. Outside attorneys of record for the party, their partners, shareholders, and associates working on this action on behalf of the party, and paralegal, legal assistants, stenographic, and clerical employees working under the

direct supervision of such attorneys, provided that a member of such law firm shall first sign a copy of this Protective Order. The signing of this Protective Order by outside counsel shall constitute an agreement by all lawyers in, and regular and temporary employees of, the law firm that is bound by the provisions of this Protective Order.

- b. Independent experts and consultants who are retained by any attorney described in paragraph C(2)(a) to assist in the preparation or hearing of this Cause, with disclosure made only to the extent necessary to perform such work. Independent experts or consultants, as these terms are used in this paragraph, shall not include any regular employee or agent of either party to this Cause. “Confidential” documents, items, information or materials shall not be disclosed to any independent expert or consultant who is retained in the Cause until that person has signed a written declaration in the form attached as **Exhibit A**, acknowledging that he or she has read a copy of this Protective Order and agrees to be bound by its terms.
- c. The judge, court reporters and law clerks present at any hearing or deposition.
- d. Outside vendors who perform microfiching, photocopying, computer classification, or similar clerical functions, but only for so long as necessary to perform those services.

No person who is permitted access to “Confidential” documents, items, information or materials under the terms of this Protective Order shall use any such documents for any purpose,

except as needed solely in connection with the prosecution or defense of claims in this Cause.

3. This Order does not preclude counsel from propounding questions based upon information discovered from “Confidential” documents to expert witnesses or to a fact witness who is the person and/or representative of the party or entity that originated or authored the document, after such expert or fact witness has signed and delivered to counsel interviewing or deposing such expert or fact witness a statement in the form annexed hereto as **Exhibit A**. The documents, items, information or materials shall not be shown to the witness, however, unless the requirements of Sections 2 and 3 are met. The transcripts of such questions and answers shall be designated and protected pursuant to paragraph B(2) of this Protective Order. If a witness refuses to sign Exhibit A, the deposition may cease and the parties may pursue any necessary motions with the Court, or the parties may continue the deposition by agreement.

4. Whenever “Confidential” documents, items, information or materials are disclosed in a deposition to qualified persons under Section 2 and 3 of the Protective Order, the party making such disclosure shall inform the witness, on the record, that the use of such material is subject to the terms of this Protective Order. The witness must sign a statement in the form attached hereto as **Exhibit A**, which form shall be included as an exhibit to such deposition, or the witness shall agree on the record to be bound by the terms of the Protective Order and the statement attached hereto as **Exhibit A**. If a witness refuses both options, the deposition may cease and the parties may pursue any necessary motions with the Court, or the parties may agree to continue the deposition on terms agreeable to the parties.

5. This Protective Order does not mean the parties have waived any of the following rights in this litigation:

- a. The right to object to any discovery requests on any ground (however, this provision shall in no event be interpreted to confer any additional rights with respect to discovery rulings previously made by the judge);
- b. The right to seek an order compelling discovery with respect to any discovery request served on the other party; or
- c. The right to object to the admission of any evidence on any ground.

6. The provisions of this Protective Order shall continue in effect with respect to any “Confidential” documents, items, information or materials until expressly released by the party furnishing such documents, items, information or materials, and such effectiveness shall survive the final determination of this action. Within sixty (60) days after a final determination in this action, each party shall return all “Confidential” documents, items, information or materials in its possession or control, and all copies, derivations and summaries thereof, to the party who furnished it without retaining any copies. For purposes of this Protective Order, the final determination in this action shall be deemed to be the later of (i) full settlement of all claims, final judgment herein or the completion and exhaustion of all appeals, rehearings, remands and reviews, if any, of this action; or (ii) the expiration of all time limits under applicable law for filing or submitting application for all appeals, rehearings, remands or reviews of this action, including the time limits for the filing of any motions or applications for extension of time pursuant to applicable law.

7. Counsel for the parties to whom “Confidential” documents, items, information or materials have been furnished shall be responsible for restricting disclosure of this information in



accordance with the provisions of this Protective Order and for securing and retaining the statement that is attached as **Exhibit A** as required under of this Protective Order.

8. In the event that a party wishes to use any “Confidential” documents, items, information or materials in any affidavits, briefs, memoranda of law, or other papers filed in this Cause, “Confidential” documents used therein shall be filed in a labeled, sealed envelope and maintained under seal by the Court.

**D. Additional Provisions**

1. The inadvertent disclosure of any privileged documents, items, information or materials by either of the parties to this Agreement shall not be deemed a waiver of that privilege as to any other documents, items, information or materials testimony or evidence. Upon written request by the producing party, all copies of inadvertently produced documents, items, information or materials or things shall promptly be returned to the producing party.

2. This Protective Order shall become fully effective between the parties immediately upon their signing of the Order. Nothing contained in this Protective Order shall be construed to prejudice the party’s right to seek a further stipulation, agreement or order from the Court that would serve to remove or reduce certain confidentiality designations and restrictions made under this Protective Order, or to create or provide additional confidentiality or additional protection for “Confidential” documents produced in this Cause. Until such agreement or order is obtained, however, this Protective Order shall constitute the Order controlling the parties with respect to all matters that are addressed in the Protective Order.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
JUDGE PRESIDING

AGREED:

\_\_\_\_\_

By: \_\_\_\_\_

State Bar No. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**ATTORNEYS FOR PLAINTIFF**

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

State Bar No. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**ATTORNEYS FOR DEFENDANT**

\_\_\_\_\_

**EXHIBIT A**

I, \_\_\_\_\_, hereby acknowledge that I have read the Protective Order entered in the case styled \_\_\_\_\_ vs. \_\_\_\_\_; Cause No. \_\_\_\_\_, in the \_\_\_\_\_ Judicial District Court, Collin County, Texas and I understand the terms of this Order. I agree not to use the confidential documents defined in the Protective Order for any purpose other than in connection with this Cause, including the investigation, prosecution or defense of the claims in this Cause. Further, I will not disclose materials designated "Confidential", except as permitted under the terms of the Protective Order, and I will otherwise comply with the terms of the Protective Order. I will return to counsel at the end of my involvement in this case, or the conclusion of the case, all materials that have been provided to me and all copies thereof, and I shall not make any copies of the material except as necessary in connection with my participation in this matter.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_