

**LOCAL RULES OF PRACTICE
FAMILY LAW CASES OF SMITH COUNTY, TEXAS**

1. RULES OF CIVIL PROCEDURE

If there is a conflict between these rules and the Texas Rules of Civil Procedure, the Texas Rules of Civil Procedure shall control.

2. FILING, ASSIGNMENT AND TRANSFER

A. These rules shall apply to all pending cases and are effective beginning April 1, 1999 or upon their approval by the Texas Supreme Court pursuant to T.R.C.P. 3a whichever occurs last.

B. All cases filed by the Texas Department of Regulatory and Protective Services shall be filed in the 321st District Court.

C. All new family law cases shall be filed by the District Clerk in random order pursuant to the last adopted case assignment order of the Smith County Council of Judges (50%-321st, 30%-County Court at Law and 20%-County Court at Law #2).

D. All subsequent proceedings shall be assigned to the court of continuing jurisdiction, with the exception of all subsequent proceedings in the 241st District Court which shall be assigned to the County Court at Law #2.

E. Transfer of cases:

(1) The presiding judge may, upon notice and hearing, or upon agreement of the parties, transfer any case from the Court in which same is pending to any other Court having subject matter jurisdiction. The judge of the receiving Court must approve the transfer and an order transferring the suit must be filed prior to any hearings by the receiving Court.

(2) Whenever any pending case is so related to another case previously filed in or disposed of by another family law court in Smith that a transfer of the later case to such other court would facilitate orderly and efficient

disposition of the litigation, the Judge of the court in which the earlier case was pending may, upon notice and hearing, or by agreement of the parties, transfer the later case to such Court.

(3) Signing of the pleadings--every pleading of a party, represented by an attorney, before being filed shall be signed by at least one attorney of record in accordance with the Texas Rules of Civil Procedure. A party not represented by an attorney shall sign in like manner stating address and telephone number. The court personnel may not sign or amend any instrument for a party or attorney.

3. FLOW OF CASES

A. Multiple Suits--In all instances where a suit is filed in one of the courts in the Family Trial Division, and thereafter the suit is in any way terminated (by nonsuit or otherwise) and a subsequent suit or case of action involving the same parties or the same subject matter is filed, the same shall be filed in or transferred to the court that first had jurisdiction of the said parties or subject matter. It is the purpose and intent of this rule that its applicability be made to all controversies, including divorce support, conservatorship, and all matters incident thereto whether sought by original proceedings or by modification, clarification or enforcement of a former order, judgment or settlement agreement. When such a situation is disclosed for the first time after the hearing begins, the judge of the court shall immediately order the suit transferred to the court in which the earlier suit was filed.

B. Severance--If a severance is granted, the new case remains assigned to the court where the original case is pending, bearing the same file date and the same number as the original case with a letter designation; provided, however, that when a severed case has previously been consolidated from another court, the case shall upon severance be assigned to the court from which it was consolidated.

C. Presiding for Another--In all cases where a judge signed an order on behalf of another court, the case shall remain in the original court.

D. Improper Court--if a case is on the docket of a court by any manner

other than as prescribed by these rules, the Administrative Judge of Smith County shall transfer the case to the proper court.

4. TEMPORARY ORDERS

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. If the Judge of the court to which such case is assigned is absent or is occupied with other matters, the coordinator of the assigned Court shall insert a date and hour for hearing in any form of a proposed order before such application may be presented to any other Judge, who may sit for the Judge of the Court in which the case is pending and shall make all writs and process returnable to the assigned court.

B. Whenever immediate action of a Judge is required in an emergency when the clerk's office is not open for business, the case shall at the earliest practicable time be docketed and assigned to a Court, and all writs and process shall be returnable to the assigned court. If the Judge of such Court is not available to hear the application for temporary relief at the time set, any court with jurisdiction may preside in this case.

5. EX PARTE ORDERS

A. All applications for ex parte relief shall be presented to the Court to which the case is assigned, unless emergency circumstances exist and then shall be presented in accordance with Paragraph 3.

B. In any case in which counsel of record for the nonmoving party has been designated, said application shall be presented to said counsel, by fax, hand delivery, or other method of service designed to give opposing counsel immediate notification, in addition to the requirements of notification of Texas Rules of Civil Procedure 21a.

6. STANDING RESTRAINING ORDER

A. The Court hereby ORDERS that in all divorce suits filed, a Standing Temporary Restraining Order in the form attached hereto as Addendum "1" is

imposed on all parties to the suit. All petitions for divorce shall contain a statement signed by Petitioner evidencing receipt of a copy of the Standing Temporary Restraining Order, and in the absence of such paragraph, it shall be DEEMED that Petitioner, by invoking the Court's jurisdiction, has constructive notice to the Standing Temporary Restraining Order and subject himself/herself to it.

B. The Clerk of this Court shall attach, to each citation to be served, a copy of the Standing Temporary Restraining Order. Said Standing Temporary Restraining Order shall become effective on the Respondent when citation is served, a waiver of citation is signed, or actual notice in some other manner is received.

C. The Standing Restraining Order remains effective until the temporary hearing, if any, or if no temporary hearing is requested by either party, until the final hearing. Should a temporary hearing be requested by either party, then the Court shall determine whether the Standing Restraining Order shall remain in effect until the final hearing, and absent a ruling on the Court to the contrary, the Standing Restraining Order shall remain effective until the final hearing.

7. SEMINAR FOR DIVORCING PARENTS

A. All parties in a suit affecting the parent-child relationship are encouraged to successfully complete an approved seminar listed in Addendum "2."

B. All parties in a contested suit affecting the parent child relationship shall complete the seminar prior to requesting a setting in the matter.

C. Pro Bono clients shall make application with the seminar director for a fee waiver.

8. PREREQUISITES FOR A TRIAL SETTING IN OTHER THAN DEFAULT CASES

A. Attendance by all parties at a settlement conference.

B. Attendance at a seminar for divorcing parents in a suit affecting the parent child relationship.

C. Attendance by all parties at mediation. In the event the parties are financially unable to secure the services of a private mediator, attendance at settlement week mediation shall be satisfactory to comply with this requirement. As settlement week is intended to benefit clients who are financially unable to obtain the services of a private mediator, all other cases shall be submitted to a private mediator.

D. Submission to the Court of that form attached as Addendum "3."

9. MOTIONS FOR CONTINUANCE

A. An agreed continuance is not automatic and must be approved by the Court.

B. All contested motions for continuance must be filed before trial and a hearing had on the motion prior to the trial setting, except on good cause shown.

10. MOTIONS DURING PENDENCY OF CAUSE

A. All motions filed with the Court shall include a certificate of conference.

B. All unopposed motions shall be submitted with an agreed order signed by the attorneys of record.

11. EXCHANGE OF INFORMATION

A. Temporary Hearings--prior to the hearing all parties shall exchange wage information and expense sheets. (Expense Sheet--Addendum "4")

B. At the temporary hearing, the Court shall be furnished the information described in 11A above.

C. Final Hearing--prior to final hearing all parties shall exchange wage information, inventory and appraisement, proposed division of property, proposed resolutions of child custody, child support, visitation and any other pertinent matters.

D. At the final hearing, the Court shall be furnished all information set out in 11C.

12. EXHIBITS

A. All exhibits to be introduced shall be introduced with sufficient copies for all attorneys of record and the Court.

B. Counsel are encouraged to premark exhibits.

13. ORDERS

A. Within 10 days of the rendition of an order in a matter, the designated party shall submit a proposed order to the Court. If no objection is received within 10 days from the date the order is submitted, the Court shall enter it. If objection is received, the Court may set the matter for hearing.

FILED
BECKY DEMPSEY
DISTRICT CLERK

99 FEB -4 AM 10: 54

SMITH COUNTY, TEXAS

BY Becky Dempsey
DEPUTY

IN THE
321ST JUDICIAL DISTRICT COURT,
COUNTY COURT AT LAW
AND
COUNTY COURT AT LAW NUMBER TWO,
SMITH COUNTY, TEXAS

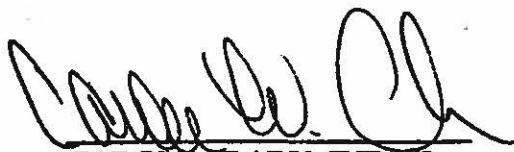
STANDING TEMPORARY RESTRAINING ORDER

On the 18th day of Feb, 1999, came on to be considered the matter of issuance of temporary orders as provided by the Local Rules of these Courts (In supplement to the Texas Rules of Civil Procedures), effective Feb. 1, 1999, and the Courts being of the opinion that all parties to original divorce proceedings in the 321st Judicial District Court, County Court at Law, and County Court at Law Number Two of Smith County, Texas, ought to be subject to a restraining order from the date of institution of suit or service thereof and it appearing to the said Courts appropriate to enter a **STANDING TEMPORARY RESTRAINING ORDER** and the Court does hereby enter this order which is henceforth to be effective with respect to all parties to original divorce proceedings receiving actual or constructive notice thereof, and each third party to original divorce proceedings, and **IT IS THEREFORE ORDERED** that Petitioner, Respondent, and all third parties to said proceedings **ARE HEREBY RESTRAINED AND ENJOINED FROM:**

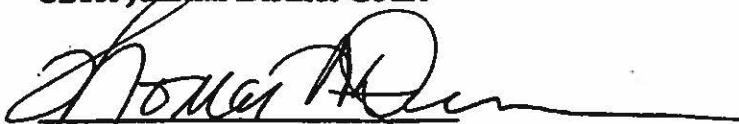
1. Removing any minor child of the parties to a location beyond the jurisdiction of this Court unless authorized by this Court.
2. Consuming any illegal controlled substance (As that term is defined in the Texas Controlled Substance Act), 12 hours prior to and during any period of possession of the child(ren).
3. Engaging in any physical contact with a person with the intent to receive or arouse the sexual gratification of the party in possession of the child(ren) while in the presence or sphere of presence of the child(ren).
4. Doing, or attempting to do, or threatening to do any act of injury, embarrassment, molestation, or harassment to the other spouse or the child (or any of the children) or any family member in possession of the child(ren) to which family member the parents relinquished possession of the child(ren) or acquiesced in said family member's possession of the child(ren) for at least six (6) months immediately preceding the filing of the divorce petition.

5. Making any derogatory or disparaging remarks against the other party to the child(ren) or within the child(ren)'s hearing range or presence nor shall either Party allow the child(ren) to be in the presence of anyone making disparaging or derogatory remarks against the other party or the child(ren).
6. Selling, encumbering, contracting to sell, damaging, destroying, negotiating, or otherwise disposing of or removing from the jurisdiction of this Court any of the property, including monies on account in any financial institution, which belong to the parties, except in the ordinary course of business or to make expenditures and incur indebtedness for reasonable attorney's fees, medical care, and for reasonable and necessary living expenses for food, clothing, shelter, and transportation.
7. Terminating or in any manner effecting the service of water, electricity, gas, telephone, cable television, at the customary residence of the other spouse or in any manner attempting to withdraw any deposits for service in connection with such services.
8. Intentionally excluding the other spouse from ingress and egress to the customary residence of said spouse.
9. Taking any action to terminate or limit credit or charge cards in the possession of the other spouse.
10. Incurring any credit purchase on any credit account or charge card in the name of either spouse except for the acquisition on credit or reasonable attorney's fees, medical care, and reasonable and necessary living expenses for food, clothing, shelter, and transportation.
11. Changing or in any manner altering the beneficiary designation on any life insurance policy on the life of either spouse.
12. Canceling, altering, or in any manner effecting any casualty, automobile, or health insurance policies insuring the parties' property or persons including the parties' minor child(ren).
13. Forging the name of the other spouse on any document.

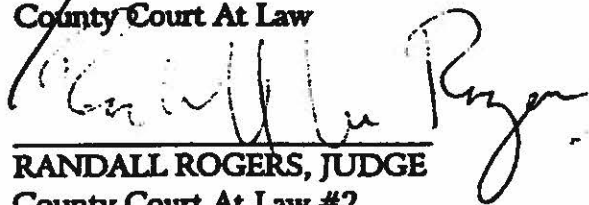
IT IS SO ORDERED this 1st day of February, 1999, effective from and after the 1st day of February, 1999.



CAROLE CLARK, JUDGE
321st Judicial District Court



THOMAS A. DUNN, JUDGE
County Court At Law



RANDALL ROGERS, JUDGE
County Court At Law #2

APPROVED SEMINARS

1. Kids First

REQUEST FOR SETTING
COURT
SMITH COUNTY, TEXAS

CAUSE NO. _____

STYLE: _____ CAUSE OF ACTION: _____

PETITIONER'S/MOVANT'S ATTORNEY: _____

RESPONDENT'S ATTORNEY: _____

OTHER ATTORNEY: _____

MONTH TO BE SET: _____ JURY OR NON/JURY: _____

PRE-TRIAL MATTERS:

_____ PRETRIAL HEARING REQUESTED (check if pretrial requested)

(FOLLOWING MUST BE COMPLETED BEFORE REQUEST
SUBMITTED)

ITEM

ACCOMPLISHED

INVENTORIES FILED(PROPERTY CASE)	_____	(MUST BE YES)
SETTLEMENT CONFERENCE (ALL)	_____	(MUST BE YES)
PARENT SEMINAR(SAPCR)	_____	(MUST BE YES)
MEDIATION (ALL)	_____	(MUST BE YES)

DATE REQUEST SUBMITTED: _____

PERSON REQUESTING

DATE SET(TO BE FILLED IN BY COURT ONLY) _____

COURT COORDINATOR

NO. _____

IN THE MATTER OF THE MARRIAGE OF
OF _____
AND _____

DESIGNATION OF COURT

AND IN THE INTEREST OF

(A) CHILD(REN)

MONTHLY EXPENSES/INCOME SHEET

Date of Prior Order: _____

Ages of child(ren): _____

MONTHLY EXPENSES:

HOUSING:

House payment/Rent
Utilities (gas, water, etc.)
Maintenance and repair

TRANSPORTATION:

Car payments
Insurance
Gasoline, Oil, etc.
Parking, other

INSURANCE:

Life:
Other:

GROCERIES:

PERSONAL:

Work Expenses:

Lunches
Dues, Fees
Medical (not covered by insurance
Doctors\Dentists
Drugs
Clothing
Cleaning, laundry
Grooming (Hairstylist)
Entertainment
Current Child support
Other:
Attorney's fees

**THIS FACE SHEET MUST ACCOMPANY THE FILING
OF ALL PARTIES' FIRST PLEADING**

FAMILY LAW DISCOVERY FACE SHEET

CAUSE NO. _____

STYLE: _____

TYPE OF CASE: _____

DISCOVERY LEVELS

YOU MUST CHOOSE ONE

LEVEL 1

Cases with no children and marital estate less than \$50,000

LEVEL 2

Any case not in category Level 1 or Level 3.

LEVEL 3

Cases involving a discovery control plan "tailored to the circumstances of the specific suit."

If Level 3 is chosen, the party designating the case as a Level 3 must request a hearing for the court to implement the discovery plan. If there is a dispute over the proper level of discovery, it shall be brought to the court's attention at the first hearing.