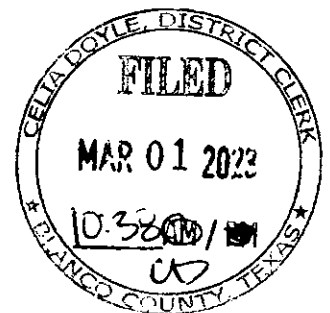


LOCAL RULES OF COURT  
OF  
THE DISTRICT COURTS &  
THE COUNTY COURT AT LAW<sup>1</sup>  
OF THE COUNTIES OF BLANCO, BURNET, LLANO &  
SAN SABA

2023

District Courts  
1701 E. Polk St.  
Burnet, TX 78611  
512-756-5436  
512-756-8478 facsimile  
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Burnet County Court at Law  
220 S. Pierce  
Burnet, TX 78611  
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512-715-5226 facsimile



Updated January 2023

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<sup>1</sup> Of only Burnet county at the time of the adoption of these Rules

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**SECTION 1**  
**GENERAL RULES APPLICABLE TO ALL DISTRICT COURTS**  
**AND COUNTY COURTS AT LAW**

**A. DECORUM**

**1. General Rules of Courtroom Conduct.**

a. All officers of the Court, and all other participants, except witnesses who have been placed under the Rule, shall promptly enter the courtroom before the scheduled time for each court session. When the Bailiff calls the Court to order, complete order should be observed.

b. In the courtrooms, the following conduct is not permitted:

- 1) The use of tobacco;
- 2) Chewing gum;
- 3) Reading of newspapers or magazines;
- 4) Bottles, cups or beverage containers except court water pitchers and cups;
- 5) Food;
- 6) Propping of feet on tables or chairs;
- 7) Talking that interferes with court proceedings;
- 8) Possession of knives or firearms;
- 9) Use of any electronic device to record or photograph any court proceedings;
- 10) Use of cell phones or any other electronic device, except by attorneys with permission of the court.

c. The Judge, the Attorneys, and other officers of the Court will refer to and address other court officers and participants in the proceeding respectfully and impersonally by using appropriate titles and surnames rather than first names. The form of address toward a Judge shall be "Your Honor". Any reference to the Judge shall be to "The Court".

d. The oath will be administered in a manner calculated to impress upon the witnesses the importance and solemnity of the promise to adhere to the truth.

#### 4. Conduct of Attorneys

a. Attorneys should observe the letter of all canons of ethic, including those dealing with discussion of cases with representatives of the media and those concerning improper ex parte communications with the Judge;

b. Attorneys should advise their clients and witnesses of Local Rules of Decorum that may be applicable;

c. All objections, arguments, and other comments by the counsel shall be directed to the Judge or Jury and not to opposing Counsel;

d. While another Attorney is addressing the Judge or Jury, an Attorney should not stand for any purpose except to claim the right to interrupt the Attorney who is speaking to make a proper objection;

e. Attorneys should not approach the bench without leave of the court; should leave the courtroom only upon being granted permission to leave, and should never lean on the bench;

f. Attorneys shall remain seated at the counsel tables at all times except;

(1) when the Judge or Jury enters and leaves;

(2) when addressing the Judge or Jury; and

(3) whenever it may be proper to handle documents,

exhibits, or other evidence. (Leave of court is required.)

g. Attorneys should anticipate any need to move furniture, easels or set-up electronic equipment and make advance arrangements with the Bailiff. Such moving or arrangements should not take place during court sessions, if at all possible.

#### 5. Dress Code

a. All officers of the Court shall dress appropriate for court sessions; appropriate dress entails attire suitable for formal professional or business engagements.

b. Jurors, witnesses, parties and members of the public should dress appropriately, without displaying pictures or words that are derogatory, crude, offensive, profane or disrespectful to the court proceedings.

**6. Conduct of Photographers and of Television and Broadcasting Personnel.**

The media must obtain prior permission of the Court, and if said permission is granted, the following rules apply:

a. **Television.** One fixed video camera with one operator will be permitted in the courtroom during the trial. No camera lights will be permitted in the courtroom. The various television stations will have to agree to share the tape and agree upon whose camera will be located in the courtroom. There will be no other television or movie film permitted in the courtroom. No interviews of any kind will be permitted in the courtroom. No filming will be permitted through the windows in the courtroom door. No films, videos or photos shall be made of any juror involved in the case. No witnesses should be filmed or photographed unless advance written permission is obtained from the witness.

b. **Other Media.**

Radio, print and television media representatives will be permitted in the courtroom so long as there is adequate seating for public access to the courtroom. Still camera photographs without flash will be permitted in the courtroom so long as the operator takes pictures from his or her seat without changing locations in the courtroom or creating a disturbance or disruption. No interviews shall be held in the courtroom. So long as all media representatives honor the Court's rules concerning media in the courtroom, these rules will remain in effect. Any violation of these rules will result in the exclusion of all filming, photographing and interviewing inside the Justice Center for the duration of that trial.

**B. UNCONTESTED DOCKET**

Each Court will establish procedures for uncontested cases filed in that Court.

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**C. TRO'S, WRITS OF ATTACHMENT, WRITS OF GARNISHMENT, WRITS OF SEQUESTRATION**

1. Presentation. Cases requesting extraordinary relief shall be presented by the Attorney to the Judge in whose court the case is pending. If that Judge is unavailable and if waiting for that Judge to become available would result in an emergency situation, then the matter may be presented to another Judge for consideration.

2. TRO's in Non-Family Civil Cases.

The County Court at Law Judge will not grant TRO's in non-family District Court cases.

3. Notice.

Before presenting a TRO or any petition for extraordinary relief, the Attorney representing the Defendant or Respondent, if known, must be notified by the Plaintiff's or Movant's Attorney and given the opportunity to appear with Plaintiffs or Movant's Attorney.

**D. HEARINGS CONDUCTED BY PHONE**

1. Agreement.

At the discretion of the Judge and after arrangements have been made in advance for the Judge to be available, hearings not requiring the introduction of evidence may be conducted by telephone conference calls.

2. Arrangements.

The Court Coordinator should not be requested to make arrangements. The Attorney requesting the conference is responsible for arranging the telephone conference call.

A Judge will not initiate a conference call. All arrangements with telephone operators must be made by an Attorney.

3. Record.

A court reporter shall be provided by the Court during these calls. A request by an Attorney for such an arrangement must be made in advance.

4. Court Discretion.

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At any time, even after the completion of a conference call, a Judge may determine that a hearing by telephone will not be sufficient and may require a hearing in court upon notice to all parties.

#### E. VACATION OF COUNSEL

Any Attorney may designate not more than four weeks during the year as vacation, during which time he will not be assigned to trial or required to engage in any pre-trial proceedings. The written designation must be filed with the Clerk with a copy to all Court Coordinators no less than ninety (90) days in advance of the vacation. This rule operates only where lead Counsel, as defined by T.R.C.P. 8, is affected, unless the Court expands coverage to other Counsel.

#### F. RULES OF ADMINISTRATION--THIRD ADMINISTRATIVE JUDICIAL REGION

The Courts of the 33<sup>rd</sup> & 424<sup>th</sup> Judicial District will adopt the Rules of Administration, Third Administrative Judicial Region of Texas as promulgated, and as may be amended. If these local rules conflict with the Rules of Administration, then the latter will prevail.

### **SECTION II FAMILY LAW –RULES APPLICABLE TO ALL DISTRICT COURTS AND COUNTY COURT AT LAW**

#### A. GENERAL RULES

1. Filing of Family Cases: All cases authorized under the Family Code, except for those filed under Chapter 261, 262 & 263 of the Texas Family Code involving the Texas Department of Family and Protective Services, shall be filed by the District Clerk as follows: in Burnet County - 100% in the County Court at Law; in Blanco, San Saba, and Llano Counties – on an alternating basis in the 33<sup>rd</sup> & 424<sup>th</sup> Judicial District.



2. Filing of Texas Department of Family and Protective Services Cases: All cases filed under Chapter 261, 262 & 263 of the Texas Family Code involving the Department of Family and Protective Services shall be assigned to the Associate Judge as designated from time to time by the Presiding Judge of the Third Administrative Region.

3. CHILDREN'S INTEREST SEMINAR:

The court requires parties in all suits affecting the parent-child relationship filed in Blanco, Burnet, Llano, and San Saba Counties to successfully complete a seminar or classes that address the issues confronted by parents and children that are the subject of divorce, custody and child support litigation. Each party is responsible for payment of their fees, unless otherwise ordered by the court. The seminar or classes shall be successfully completed prior to the entry of a final order in the case. Upon a party's failure to successfully complete the seminar pursuant to this rule, the Court may take appropriate action, including contempt, striking of any pleading, or any of the sanctions listed in Rule 215 of the Texas Rules of Civil Procedure.

**B. SETTING THE CASE.**

1. Court Coordinator/Administrator.

All settings for non-jury matters and jury trials shall be done through the office of the Court Coordinator/Administrator for the court in which the case is pending. No setting for jury trial will be given until the proper jury fee has been paid and mediation has occurred. At the time a jury trial is set, the Court Coordinator/Administrator shall schedule a date for the pre-trial hearing.

2. Attorney Conference.

Attorneys shall communicate with opposing Counsel before requesting the setting of a trial in an effort to agree upon a setting date. If the case is set without agreement of Counsel, the Attorney who set the case shall immediately notify the opposing Counsel according to the Rules of Civil Procedure, and provide a written certificate

of conference on their notice of setting explaining in detail their attempts to confer with opposing counsel regarding the date.

### 3. Conflicts.

No request for settings shall be directed toward any Judge. Any conflicts or difficulties in obtaining a setting may require a hearing before the Court. The Court shall then resolve the conflict or set the case at a time that is reasonable for all parties.

### 4. Preferential.

A preferential setting before a visiting Judge may be obtained if the parties are willing to waive in writing their objection to a visiting Judge or if the case has been set for trial on four prior occasions and has not been reached by the Court.

### 5. Attempt to Confer.

No pre-trial matter will be set for hearing unless the moving party has first communicated with opposing Counsel to determine whether a contemplated motion or special exception will not be opposed. If the motion or special exception will not be opposed, the moving party shall submit a proposed order signed by Counsel for all parties affected by the order indicating approval of same. If the motion or special exception will be opposed, the moving party shall include at the end of his pleading one of the following certificates:

- 1) "A conference was held on (date) with (name), Attorney for opposing party, on the substance of this motion or special exception. We are not able to agree, therefore, the matter is presented to the Court for determination," or
- 2) "I was unable to reach opposing Counsel, (name), to confer about the merits of this matter, after the following attempts: (briefly state the dates and nature of the unsuccessful attempts to contact opposing Counsel)." Or
- 3) In multi-party cases, "Before setting this matter for hearing, I attempted to resolve this dispute by sending the attached letter to all Counsel of record."

b) The Court Coordinator will not set any pre-trial matter for hearing unless it is accompanied by one of the foregoing certificates.

c) This rule does not apply to cases in which no opposing Attorney has entered an appearance, or to matters involving family violence, habeas corpus, attachment, contempt of court, or temporary orders.

### C. ANCILLARY FAMILY LAW ORDERS

#### 1. Child Support.

For District Courts and County Court at Law the following will be heard originally by the Associate Judge: All IV-D cases. Every order or decree requiring payment of child support shall require all payments be made through the Attorney General's Office, Child Support Disbursement Unit, unless otherwise directed.

2. Information. The party who is to receive support shall provide to the District Clerk's office the information required by that office.

3. Wage Assignment Order. The party who is to receive support through a wage assignment is responsible for presenting the wage assignment order to the Judge, if at all possible, at the time a decree of divorce or order modifying a prior order is signed. The party is also responsible for having all documents required by the District Clerk for forwarding wage assignments completed and filed with the wage assignment order.

4. Other Forms. The party who is responsible for preparing a decree of divorce for the Judge to sign is also responsible for completing any vital statistics forms and other documents required by the District Clerk's office.

5. QDRO. The party who is to receive a portion of another party's retirement benefit through a domestic relations order is responsible to present the order, if at all possible, at the time the decree of divorce is signed.

### D. PRE-TRIAL PROCEDURES IN FAMILY LAW CASES

The Courts having family law jurisdiction require the following procedures for family law matters. Pursuant to Rule 166, Texas Rules of Civil Procedure, it is

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hereby ordered that these rules constitute a standing pre-trial and discovery order in all suits affecting the parent-child relationship, and in all actions to modify or enforce orders in those suits.

1. Inventory and Appraisalment

a) Within sixty days after Respondent's answer or waiver is filed, each party shall file with the District Clerk, a copy being furnished to the Judge, opposing Counsel and pro se parties, a sworn inventory and appraisalment of all property (both separate and community) of the parties, including any property belonging to children of the parties.

b) In the event of the filing of a written agreement completely settling the property of the parties to such action and all custody and support matters, it shall not be necessary to file such inventories and appraisalments.

c) The failure to timely file such inventories and appraisalments, affidavits or statements may result, in addition to other sanctions provided by law, in continuance of temporary alimony and/or support or in the discontinuance of same, depending upon the party failing to comply with these rules.

d) The parties may agree in writing to exchange inventories without filing the inventories or to delay filing inventories beyond sixty days after an answer or waiver is filed, but the Court may require the filing of same, over the objection of all parties, unless there is a written agreement completely settling the property and all custody and support matters.

2. Proposed Disposition of Issues

a) Before 5:00 p.m. on the date that is seven (7) days prior to the date set for a trial on the merits for any divorce trial, each party shall deliver to the opposing party and to the Court Coordinator of the Court in which the case is filed a Proposed Disposition of Issues, fully completed and in the form attached as **Exhibit "A"** to these Rules.

b) If the parties have an agreement on issues pertaining to the division of community property and community debt, and the trial on the merits on the Court's docket setting remains at the time the parties are required to deliver the Proposed Disposition of Issues, the parties shall deliver to the Court Coordinator either a signed copy of their written agreement or a single Proposed Disposition of Issues stating their agreement and signed by both parties.

**3. Proposed Support Decision and Information.**

a) Before 5:00 p.m. on the date that is seven days prior to the date set for a trial on the merits before a Judge to determine an amount of child or spousal support, each party shall deliver to the opposing party and to the Court Coordinator of the Court in which the case is filed a Proposed Support Decision and Information, fully completed and in the form attached to these Rules as Exhibit "B".

b) If the parties have an agreement on all issues pertaining to support, and the setting remains on the Court's docket at the time when the Proposed Support Decision and Information forms must be delivered, the parties shall deliver to the Court Coordinator either a signed copy of their written agreement or a single Proposed Support Decision and Information stating their agreement and signed by both parties.

**4. Mediation.**

After completion of discovery but prior to any case being tried before the Court or a jury, counsel will participate in mediation to attempt to resolve the dispute, unless waived by the Court. Counsel must certify to the Court that they were unable to resolve the dispute by any mediation procedure seven (7) days before trial commences. Failure to certify that a mediation has occurred may result in sanctions for the non-certifying party.

**5. Proposed Support Decision—Temporary Orders.**

Immediately before a hearing on temporary orders in which the Court must decide temporary child support or temporary spousal support, each party shall deliver to the opposing party if known, and to the Court, a Proposed Support Decision and Information, fully completed and in the form attached to these Rules as **Exhibit "B"**.

**6. Proposed Disposition of Other Issues.**

Except for temporary orders requirements, at the time any party is required by these Rules to deliver one or more disputed or agreed pre-trial forms, the party shall also deliver to each opposing party and to the Court Coordinator a Proposed Disposition of Other Issues, which shall state separately in brief, complete sentences each trial or hearing decision that is sought by the party not covered by a required form.

**7. Waiver of Issues.**

All issues not stated as required by these Rules may be deemed waived except upon a showing of good cause for failure to comply with the Rules.

**8. Sanctions.**

If at the time pre-trial forms (excluding inventories) are required to be delivered to the Court Coordinator, all parties in a case fail to deliver the forms, the setting for that case may be stricken, unless the case was set for trial by the Court after notice of intent to dismiss for want of prosecution.

**9. Extension.**

A Court Coordinator is not authorized to extend the time for delivering pre-trial forms.

**10. Pre-Trial Sanctions Conference.**

If it appears that there has been a failure to comply with the Rules, the Judge may conduct a pre-trial sanctions conference immediately before commencing the trial or hearing. If the Judge determines upon hearing that there has been such a failure,

one or more of the sanctions stated in Rule 215, Texas Rules of Civil Procedure, may be imposed against any party or Attorney responsible for the failure.

11. Use of Forms.

Subject to the applicable rules of evidence, the pre-trial forms required by these Rules may be used during the trial or hearing and may be marked as exhibits. The forms shall not be filed with the District Clerk at any time. The forms are not required for any hearing before a Title IVD Master.

12. No Waiver.

The provision and requirements of these Rules (except for sworn inventories) may not be waived or modified by agreement of the parties. These Rules shall not be construed as a substitute for or as any limitation upon, a pretrial or discovery right or proceeding pursuant to the Texas Rules of Civil Procedure. In cases subject to these Local Rules, as in other cases, Texas pre-trial conference and discovery Rules shall be utilized.

## E. DISMISSAL DOCKET; INVOLUNTARY DISMISSAL

1. Time.

At least once a year, all domestic relations cases which have been on file for more than 180 days and all cases which have been continued by agreement three times shall be placed on a dismissal docket and sent a notice of the Court's intention to dismiss the case for want of prosecution as provided by Texas Rule of Civil Procedure 165a. Written motions to remove a case from the dismissal docket must be presented to the Judge prior to the notified date of dismissal.

2. Dismissal.

If no appearance or announcement is made when the case is called for trial, the case will be dismissed for want of prosecution at that time.

3. Reset.

Where motions to remove a case from dismissal docket are granted, unless extraordinary circumstances exist, the case shall be set for trial. The party or Attorney setting the case shall give notice to opposing Counsel according to the Rules of Civil Procedure.

F. JUDICIAL BYPASS OF PARENTAL NOTIFICATION ("JANE DOE" CASES)

Pursuant to Chapter 33 of the Texas Family Code, the Burnet County Courts require the following procedures in cases seeking judicial bypass of parental notification for the purposes of obtaining an abortion. These cases will be referred to herein as "Jane Doe cases".

1. District Clerk Designated. .

A "Jane Doe case" application may be filed with either the District Clerk or the County Clerk, but if an application is received by the County Clerk, the County Clerk shall accept it and shall immediately transfer the application to the District Clerk.

2. Assignment of Case.

All District Courts and Statutory County Courts shall hear "Jane Doe cases" through the active judge of the court (or through a judge previously assigned to the court for general purposes) who is then present in the county. The District Clerk shall assign the case by a random blind drawing in strict rotation (no court, having heard an application, will hear another application until all other courts have subsequently heard an application). In the event of doubt about the presence of a judge in the county, the Clerk shall request the guidance of the Presiding Judge of the county.

3. Notification of the Hearing.

The District Clerk shall notify the "Jane Doe" applicant of the time and place of the hearing on the application, which shall be at 2:00 p.m. on the next business day after the filing of the application, unless an application for postponement is



filed by the applicant. The Court to which the case is assigned shall notify the individual or individuals appointed to serve as guardian and /or attorney ad litem of the time and place of the hearing on the application. The hearing shall be held in accordance with the provisions Chapter 33 of the Family Code and the Texas Parental Notification Rules promulgated by the Texas Supreme Court pursuant thereto.

**SECTION III  
CIVIL CASES  
DISTRICT COURTS AND COUNTY COURTS AT LAW**

**A. GENERAL RULES**

**1. Case Filing.**

All District Court civil cases shall be filed on an alternating basis by the District Clerk in the 33<sup>rd</sup> and 424<sup>th</sup> District Courts. All County Court civil cases shall be filed by the County Clerk in the County Court-at-Law.

**2. Designation.**

Except as herein provided, or as otherwise provided by law, all cases shall be designated civil, family, tax or probate.

**3. Garnishment.**

Every garnishment suit shall be assigned to the Court in which the original suit is pending. If the original suit is transferred to another Court, then the ancillary garnishment action shall be transferred to the same Court.

**4. Avoidance of Judgment.**

Every action in the nature of a writ of error or bill of review, or that seeks to attack, avoid or set aside any judgment, order or decree of a Trial Court of Burnet County, Texas, shall be filed and assigned in the Court in which the original judgment, order or decree was rendered.

## 5. Consolidation.

All motions for consolidation or joint hearing under Rule 174A, TRCP, shall be filed in the Court in which the first case filed is pending and if such motion is granted, the consolidated case shall be assigned to the Court where the first case filed is pending.

## 6. Severance.

Any case which has been severed shall be filed in the Court where the original action was filed and shall be given a new cause number.

## 7. Pre-Conviction Writs of Habeas Corpus.

Pre-Conviction Writs of Habeas Corpus shall be filed in the Court whose Grand Jury term is in session.

## B. SETTING THE CASE

### 1. Court Coordinator.

All settings for non-jury matters and jury trials shall be done through the office of the Court Coordinator for the Court in which the case is filed. No setting for jury trial will be given until the proper jury fee has been paid and mediation has occurred. At the time the jury trial is set, the Court Coordinator shall schedule a date for the pre-trial hearing.

### 2. Attorney Conference.

Attorneys shall communicate with opposing Counsel before requesting the setting of a trial in an effort to agree upon a setting date. If the case is set without agreement of Counsel, the Attorney who set the case shall immediately notify opposing Counsel according to the Rules of Civil Procedure, and provide a written certificate of conference on their notice of setting explaining in detail their attempts to confer with opposing counsel regarding the date.

### 3. Conflicts.

No request for settings shall be directed toward any Judge. Any conflicts or difficulties in obtaining a setting may require a hearing before the Court in which the conflict arose. The Court shall then resolve the conflict or set the case at the time that is a reasonable for all parties.

### 4. Preferential.

A preferential setting before a visiting judge may be obtained if the parties are willing to waive in writing their objection to a visiting Judge or if the case has been set for trial on four prior occasions and has not been reached by the Court.

### 5. Attempt to Confer.

a) No pre-trial matter will be set for hearing unless the moving party has first communicated with opposing Counsel to determine whether a contemplated motion or special exception will be opposed. If the motion or special exception will not be opposed, the moving party shall submit a proposed order signed by a Counsel for all parties affected the order indicating approval of same. If the motion or special exception will be opposed, the moving party shall include at the end of Movant's pleading one of the following certificates:

1) "A conference was held on (date) with (name), Attorney for opposing party, on the substance of this motion or special exception. We are not able to agree, therefore, the matter is presented to the Court for determination," or;

2) "I was unable to reach opposing Counsel, (name), to confer about the merits of this matter, after the following attempts: (briefly state the dates and nature of the unsuccessful attempts to contact opposing Counsel)." or;

3) In multi-party cases, "Before setting this matter for hearing, I attempted to resolve this dispute by sending the attached letter to all Counsel of record."

b) The Court Coordinator will not set any pre-trial matter for hearing unless it is accompanied by one of the foregoing certificates.

c) This rule does not apply to cases in which no opposing Attorney has entered an

appearance, or to matters involving family violence, habeas corpus, attachment, contempt of court, or temporary orders.

## C. PRE-TRIAL PROCEDURE

### 1. TRCP.

It is in the intention of the Trial Courts of the 33<sup>rd</sup> & 424<sup>th</sup> Judicial Districts to make full utilization of the pre-trial rules contained in Rule 166, Texas Rules of Civil procedure, and this rule will be strictly followed.

### 2. Ready for Trial.

Cases will be considered ready for trial after the 270<sup>th</sup> day and may be set on Court's own motion thereafter. Failure to comply with the Rules of pretrial scheduling may result in sanctions being imposed unless the parties seek relief prior to the foregoing deadlines.

### 3. Mediation.

After completion of discovery but prior to any case being tried before the Court or a jury, counsel will participate in mediation to attempt to resolve the dispute, unless waived by the Court. Counsel must certify to the Court that they were unable to resolve the dispute by any mediation procedure seven (7) days before trial commences.

### 4. Pre-trial.

The Court will set all jury cases for pre-trial hearing. Any motions in limine will be heard at that time, and all matters considered for pre-trial pursuant to Rule 166. When Counsel for either party fails to appear at the pre-trial after notice to appear, the Court may:

- a) rule on all motions and exceptions in the absence of such Counsel;
- b) declare any motions or exceptions of such absent party to be waived;
- c) advance or delay trial setting according to the convenience of the Counsel present.

**The Counsel at the pre-trial shall either be the Attorney who expects to try the case, or shall be familiar with the case and fully authorized to state his party's position on**

**the law and facts, make stipulations and enter into settlement negotiations as trial Counsel. If the Court finds Counsel is not qualified, the Court may consider that no Counsel has appeared and may take any of the procedures provided above.**

**5. Special Exception.**

All special exceptions shall be considered waived if not timely filed and presented to the Court at the pre-trial hearing.

**6. Withdrawal.**

Withdrawal by Attorney of record will be pursuant to R. 10 of TRCP.

**D. DISMISSAL DOCKET; INVOLUNTARY DISMISSAL**

**1. Time.**

At least once each year, all cases in which there has been no activity on the file for 180 days shall be placed on the dismissal docket and sent a notice of the Court's intention to dismiss the case for want of prosecution as provided by Texas Rule of Civil Procedure 165a. Written motions to remove a case from dismissal docket must be presented to the trial Judge prior to the notified date of dismissal.

**2. Dismissal.**

If no appearance or announcement is made when the case is called for trial the case will be dismissed for want of prosecution at that time.

**3. Reset.**

Where motions to remove a case from dismissal docket are granted, unless extraordinary circumstances exist, the case shall be set for trial.

**SECTION IV  
CRIMINAL CASES -DISTRICT COURT**

**A. GENERAL PROVISIONS**

**1. Name.**

These rules shall be known at the "Local Rules of Felony Criminal Practice in the 33<sup>rd</sup>/424<sup>th</sup> Judicial District" and may be referred to as the "Felony Criminal Rules".

**2. Application.**

These rules shall be applied to secure the effective administration of the felony criminal practice in the District Courts of Blanco, Burnet, Llano, and San Saba Counties, Texas, and to eliminate unjustifiable expense and delay in the disposition of felony criminal cases.

**3. Object of Rules.**

These rules shall be liberally construed to achieve fairness to all parties, with the due regard to the rights of the State, the accused, the victim and society.

**4. Rules of Court.**

Each District Court shall retain its inherent authority to adopt local rules of Court not inconsistent with these rules.

**B. GRAND JURY TERMS**

**1. Terms.**

The rotation of Grand Jury terms will be set by agreement of the District Judges.

**2. Responsibilities.**

During the Grand Jury term of a Court, the Judge of that Court will be responsible for, or assigning responsibility for, all ancillary criminal matters filed during that term including but not limited to the following: appointing Attorneys to unindicted indigent Defendants; granting and revoking pre-trial releases; hearing pre-indictment writs of habeas corpus; and hearing any bond issues on unindicted cases.

## C. ASSIGNMENT OF CASES

All cases indicted by a Grand Jury shall be filed in the Court which is assigned to take felony criminal cases that month, except for cases transferred by agreement of the Judges or transferred by the following rules:

### 1. Multiple Prosecutions.

Multiple prosecutions arising from the same facts or against the same Defendant will be filed in the same Court. If cases must be transferred to accomplish this, all cases will go to the Court with the lowest cause number, unless the Judges agree otherwise.

### 2. Prior Prosecutions.

If a newly indicted Defendant has a pending case in another Court or is on probation in another Court then the new case will be transferred to that Court.

### 3. Reindictments.

If a new indictment is a re-indictment of a pending case then the case will be transferred to the Court where the original indictment is pending.

### 4. Capital Cases.

a) The first capital case returned by a Grand Jury of Burnet, Llano, Blanco, or San Saba Counties, Texas, on or after the effective date of these rules, shall be deemed as filed with or transferred in the sequential rotation as follows:

1<sup>st</sup>; 33<sup>rd</sup>

2<sup>nd</sup>; 424<sup>th</sup>

b) A case indicted and called for trial as a capital case will count as a "Capital Case" even though subsequently reduced to a lesser offense.

## D. ATTORNEY OF RECORD

### 1. Court Appointed Counsel.

a) Qualifications. The Court Coordinators of the District Courts shall maintain a list of Attorneys available for appointment to represent indigent Defendants in criminal cases. To be on the list the Attorney must volunteer by submitting an

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application providing the name, address and telephone number, together with proof that he or she is licensed by the Supreme Court of Texas. In addition, the application and qualifications made part of the County's Indigent Defense Plan must be completed and submitted. This rule does not limit a Judge's authority to appoint any qualified Attorney to represent an indigent Defendant should the Judge deem it appropriate.

b) Fee Schedule. The District Judges shall promulgate a fee schedule for the payment of Court appointed Counsel which shall take into account the nature of each case, the complexity of the legal questions involved, the time involved and the number of court appearances necessary to dispose of the case.

## 2. Appearance of Counsel.

Any Attorney who makes bail bond for a Defendant, obtains the release of a Defendant by asserting his or her intent to represent Defendant as a condition of release on a personal bond, or who appears at any hearing for the Defendant shall be considered as the Attorney of record for the Defendant until released as such by the Court. In the event more than one attorney represents a Defendant, than the lead Attorney shall file with the Court a designation of lead Attorney.

## 3. Notice in Retained Cases.

Upon employment, the Defense Attorney shall give written notice thereof to the District Attorney, the District Clerk and the Court Coordinator in the Court in which the case is filed. The Clerk will note the Attorneys name on the docket sheet.

## E. WITHDRAWAL OF COUNSEL

### 1. Withdrawal.

An Attorney's motion to withdraw may be heard at any time when the Defendant has had notice to appear.



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## 2. Substitution.

Motions to substitute Counsel will be granted without hearing if the order is signed by the Defendant as well as the incoming and outgoing Attorneys. A motion to withdraw or for substitution of Counsel that causes delay requires a hearing.

## 3. Settings.

Motions to withdraw or to substitute Counsel are set with the Court Coordinator at the convenience of the Court. Notice of such motions shall be delivered to the State when the motion is set.

## F. INITIAL APPEARANCE

After indictment, all Defendants and their Attorneys of record shall be notified and are required to appear for arraignment as set by the Court.

## G. PRE-TRIAL AND TRIAL SETTINGS

Each Court shall determine its own setting for pre-trial, trial and sentencing. All Defendants and their Attorneys shall appear at each scheduled pre-trial and hearing.

## H. DISCOVERY

To encourage the expeditious disposal of cases, to promote judicial economy, and without the diluting the rights of Defendants and in the interest of justice, the District Attorney's office will provide a check list of discovery material provided informally to the Defense Attorney and the list will be filed with the Court upon completion of discovery. The Court's Standing Criminal Discovery Order is attached to these Local Rules as **Exhibit "C"**.

## **I. PROBATION INTAKE INTERVIEW**

1. In cases where a Defendant is to be placed on probation, a probation intake interview shall be scheduled with the 33<sup>rd</sup>/424<sup>th</sup> Judicial District Community Supervision Department on a date prior to the date set for sentencing unless otherwise permitted by the Court.
2. Attorneys representing Defendants shall be responsible for making appointments for their clients in advance of the sentencing date so that no delays are incurred in disposing of the case.

## **SECTION V CRIMINAL CASES-COUNTY COURT AT LAW**

### **A. GENERAL PROVISIONS**

1. These rules shall be known as the "Local Rules of Misdemeanor Criminal Practice in Burnet County" and may be referred to as the "Misdemeanor Criminal Rules".
2. These rules shall be applied to secure the effective administration of the misdemeanor criminal practice in the County Court at Law of Burnet, Texas, and to eliminate unjustifiable expense and delay in the disposition of misdemeanor criminal cases.
3. These rules shall be liberally construed to achieve fairness to all parties with due regard to the rights of the State, the accused, the victim and society.
4. Each County Court at Law shall retain its inherent authority to adopt local rules of court not inconsistent with these rules.

### **C. ATTORNEY OF RECORD**

#### **1. Court Appointed Counsel**

##### **a) Qualifications.**

The Court Coordinator of the County Court at Law shall maintain a list of Attorneys available for appointment to represent indigent Defendants in criminal cases. To be on the list the Attorney must submit the approved application. In addition, the

application and qualifications made part of the County's Indigent Defense Plan must be completed and submitted. The attorney applicant must be approved by the consent of the majority of County Court Judges hearing criminal cases. An Attorney remains the Attorney of record for a Defendant until relieved by written order of the Court.

b) Fee Schedule.

The County Court at Law Judge shall promulgate a fee schedule for the payment of Court appointed Counsel which shall take into account the name of each case, the complexity of the legal questions involved, the time involved and the number of court appearances necessary to dispose of the case.

2. Appearance of Counsel.

Any Attorney who makes bail bond for a Defendant, obtains a release of a Defendant by asserting his or her intent to represent the Defendant as a condition of release on a personal bond, who obtains a setting or resetting of a case, appears at any hearing for the Defendant or who seeks discovery or plea recommendation shall be considered the Attorney of record for the Defendant until released as such by the Court. In the event more than one Attorney represents a Defendant, then the lead Attorney shall file with the Court a designation of lead Attorney.

3. Notice in Retained Cases.

Upon employment, the Defense Attorney shall give notice thereof, in writing, to the County Attorney, to the County Clerk and the Court Coordinator in the Court in which the case is filed. The Clerk will note the Attorney's name on the docket sheet and indicate whether he is retained or appointed.

D. WITHDRAWAL OF COUNSEL

1. An Attorney remains the Attorney of record for a Defendant until relieved by written order of the Court.

2. An Attorney's Motion to Withdraw may be heard at any time when the Defendant has had notice to appear.

3. Motions to Substitute Counsel will be granted without hearing if the order is signed by the Defendant as well as the incoming and outgoing Attorneys. A motion to withdraw or for substitution of Counsel that will cause delay requires a hearing.

4. Motions to Withdraw or Substitute Counsel are set with the Court Coordinator at the convenience of the Court. Notice of such motions shall be delivered to the State when the motion is set.

#### E. INITIAL APPEARANCE

1. After the filing of an Information, all Defendants and/or their attorneys shall be notified of a date to appear before the Court. Defendants are to appear on that date at the time specified or forfeit their bond and a new warrant shall issue a warrant for their arrest. A new bond may be set by the Court.

2. In instances where a Defendant has not been arrested, i.e. citation by a peace officer, referral/ transfer from the District Courts, a Defendant may be given notice to appear at a specific time and date. Failure to appear may result in additional charges and a warrant shall issue for the Defendant's arrest and a bond amount may be set by the Court.

#### F. PRE-TRIAL AND TRIAL SETTINGS

1. Each Court shall determine its own settings for cases.

2. Each Defendant and their Attorney shall appear at each scheduled court setting, unless waived by the Court.

3. Cases may be set by the Court to the Status Docket. Notice of such setting will be given to the Defendant and the Defense Attorney. Attendance at the Status Docket setting by both the Defendant and the Defense Attorney is required. Failure of the Defendant to appear at the Status Docket may result in the Defendant's bond being revoked. Failure of the Defense Attorney to appear may result in sanctions as the Court deems appropriate. Cases may be reset from the Status Docket after a plea-bargain recommendation is obtained from the County Attorney's office.

4. Defense Attorneys shall subpoena all witnesses, including the State's witnesses, and law enforcement officers necessary for pre-trial hearings.

a) No pre-trial motions shall be heard on the date of the jury trial, except motions in limine, and those designated by the trial court.

b) All pre-trials shall be held at least seven (7) days prior to jury trial.

c) All pre-trial motions must be filed at least seven (7) days before the date of the pre-trial hearing.

**SECTION VI  
CRIMINAL CASES - INDIGENT  
COUNTY PAID APPEALS IN CRIMINAL CASES**

**A. Trial Counsel's Responsibilities**

If a defendant has been deemed to be indigent or files for appointed counsel after conviction, trial counsel shall file a Motion for New Trial and a Notice of Appeal before withdrawing from the case.

**B. Reporter's Responsibilities**

Upon notification from the Third Court of Appeals that an appeal has been filed and the Official Reporter is aware that defendant has been deemed indigent, the Official Court Reporter will begin transcription of the jury trial portion of the Reporter's Record, including voir dire, to be forwarded to the Court of Appeals, thus allotting adequate time to said Official Court reporter to meet imposed deadlines set by the Third Court of Appeals.

**C. Appointed Counsel's Responsibility in Designating Record**

Upon appointment as appellate counsel to handle a specific appeal, all court-appointed appellate attorneys are advised that they are required to deliver a written designation to the Official Court Reporter and/or the Deputy Official Reporter within 15 days of appointment whereas the Official Reporter can begin transcription and meet imposed deadlines with the Third Court of Appeals. If timely designation is not forthcoming, the Official Reporter will prepare the jury trial portion of the

record, including voir dire, for filing with the Third Court of Appeals and no other hearings will be included.

All official reporter's records are archived by date; therefore, the written designation to the Official Court Reporter must include the date specificity regarding each specific hearing being requested to be included in the Reporter's Record on appeal. Designation of Reporter's Record must also specify if a hard paper copy is needed, otherwise all records will be delivered in an electronic PDF format via email or CD. All hearings being requested to be included in the Official Record on an indigent county-paid appeal other than the jury trial portion of said record must be pre-approved by the Presiding Judge for county payment.

**D. Completion of Record**

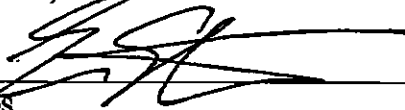
Upon completion of appellate record, the original transcript will be E-filed with the Third Court of Appeals and electronic copies of same will be transmitted to appellate counsel, counsel for the State of Texas, and the District Clerk of said county unless otherwise specified.

The foregoing Local Rules for Burnet, Blanco, Llano, and San Saba Counties were approved at a called meeting of the Judges of the District Courts of all counties listed and the County Court at Law of Burnet County, Texas. On 22<sup>nd</sup> day of ~~January~~<sup>February</sup>, 2023.



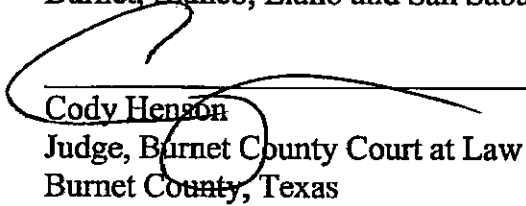
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J. Allan Garrett  
Judge, 33<sup>rd</sup> Judicial District  
Burnet, Blanco, Llano and San Saba Counties, Texas



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Evan Stubbs  
Judge, 424<sup>th</sup> Judicial District  
Burnet, Blanco, Llano and San Saba Counties, Texas



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Cody Henson  
Judge, Burnet County Court at Law  
Burnet County, Texas