

**GONZALES COUNTY
LOCAL RULES OF PRACTICE**

TITLE 1. RULES GOVERNING ALL PROCEEDINGS

The primary purpose of the Local Rules of Practice is the management of the court dockets sensibly, efficiently and fairly. These rules are to be an aid to the just disposition of cases without unnecessary delay or expense.

The practice, procedure and administration of the courts will be governed by the Texas Rules of Civil Procedure, the Texas Code of Criminal Procedure, the Texas Rules of Appellate Procedure, the Court Administration Act, Rules of Judicial Administration, and other pertinent statutes. The word "Court" or "Courts" used in these rules refers to, the County Court and Constitutional County Court of Gonzales County, Texas.

Rule 1.1 CONDUCT AND COURTROOM DECORUM

A. Policy

- a. Judges and attorneys have a duty to uphold the highest standards of conduct and to earn and promote public respect for the judiciary, the legal profession and the American system of justice.

B. The Texas Lawyer's Creed

- a. The Standards of Professional Conduct in Section IV of the Texas Lawyer's Creed, as promulgated by the Texas Supreme Court and the Texas Court of Criminal Appeals are adopted and incorporated herein by reference as guidelines for participating in litigation in the Gonzales County Court.

C. Conduct Required of Counsel

- a. Counsel shall timely appear before the Court at each setting until excused by the Court and communicate conflicts with the Court Coordinator in advance of the setting.
- b. Counsel shall wear business attire for all court proceedings.
- c. Counsel shall rise and remain standing when addressing the Court.
- d. When Court is in session, confer quietly or outside of the courtroom.
- e. Counsel shall address all statements, requests and objections to the Court and not to opposing counsel.
- f. Counsel shall not interrupt or talk over opposing counsel, except to state formal objections.
- g. Counsel shall remain behind the counsel table while examining witnesses.
- h. Counsel shall request permission before approaching the bench or witness when necessary to work with documentary or tangible evidence.
- i. Counsel shall neither make nor insinuate derogatory or insulting remarks about opposing counsel.
- j. Counsel shall address the Court as "Your Honor" or "Judge" and shall refer to all counsel, parties and witnesses (except children) by their surnames, using such titles as Mr., Mrs., Dr., etc., as appropriate, and not by first names or nicknames.

- k. Counsel shall neither exit nor enter the bar area while court is in session without prior permission of the Court or the bailiff.
- l. Counsel shall not lean on the bench except as may be necessary to prevent jurors from overhearing bench conferences. Counsel shall not engage in personal discussions with the Court or each other during trial while in the presence of the jurors, parties or witnesses.
- m. Counsel shall advise counsel's clients, witnesses and others subject to counsel's control of these rules of conduct and courtroom decorum.
- n. Conduct Required of All Other Persons
- o. Be punctual/on time for court.
- p. Dress appropriately to maintain the dignity, integrity, decorum, and professional atmosphere of the Court and the justice system. Inappropriate clothing includes shorts, bandanas, hats, pajamas, costumes, flip flops, exposed undergarments, tank/halter/crop tops, excessively oversized clothing, and clothing/accessories that denote or reference gang affiliation, illegal or disruptive behavior.
- q. Beverages, food, gum and tobacco products are not permitted in the courtroom.
- r. Parties are to remain in attendance until cases are resolved or reset.
- s. Be attentive to the proceedings and refrain from any disruptive behavior.
- t. All electronic devices must be turned off or silenced prior to entering the courtroom. When court is in session, cell phone use is not allowed.
- u. When court is in session, it is expected that there will be minimal noise and movement in the courtroom.
- v. Rise when the Judge enters the courtroom and at other times as instructed by the bailiff. Stand when addressing the Court. Approach the bench only with permission.
- w. Purses, bags or backpacks are not to be brought to the bench.
- x. Spectators and witnesses are welcome in the courtroom. Spectators in the gallery shall refrain from any disrespectful or inappropriate behavior.
- y. No children are permitted in the courtroom during proceedings without prior approval by the Court.
- z. Recording and photographing proceedings, during sessions and recesses, is prohibited.

D. Enforcement

- a. The bailiff(s) of the court shall enforce the rules of conduct and courtroom decorum.

RULE 1.2 GENERAL COURT ADMINISTRATION

A. Assignment of Cases

- a. The County Clerk is designated as filing clerk and it is their duty to assign to the courts all cases filed in the County Court of Gonzales County. All cases shall be assigned based upon agreement and approval by the Judge. Civil, Criminal and Probate cases are filed in County Court. All petitions for writ of habeas corpus shall be filed in the Court where the underlying case is pending.

B. Times and Places for holding Court.

- a. Court shall be held at such times as determined by the Judge. Court calendars are posted on the County website. Court shall be held at the Gonzales County Courthouse in the Commissioner's courtroom or other places as designated.

RULE 1.3 REQUESTS FOR CONTINUANCE OR POSTPONEMENT

A. Consent or Notice Required

- a. No request for a continuance, to pass, postpone or reset any trial, pretrial, or other hearing shall be granted unless counsel for all parties consent, or unless all parties not joining in such request have been notified and have had an opportunity to object. Agreement by counsel for all parties to a continuance does not mean automatic approval by the Court, and the Court reserves the right to deny or require a hearing.

B. Contents of Motion

- a. Unless counsel for all parties consent in writing to the request for a continuance and the same is approved by the Court, a motion must be filed and accompanied by an order setting the motion for a hearing.

C. Attorney Vacation/Continuing Legal Education

- a. An attorney may designate days for vacation or CLE during which time the attorney will not be assigned to pre-trial or trial settings. All designations must be in writing and filed with the appropriate Clerk and Court Coordinator. Designations should be made at sixty (60) days prior to the first day of the period designated with not more than two (2) consecutive weeks designated.

RULE 1.4 CONFLICTS IN SETTINGS

A. Duty of Counsel to Notify Court

- a. Whenever an attorney has two or more cases on trial dockets for trial at the same time, it shall be the duty of the attorney to bring the matter to the attention of the courts concerned immediately upon learning of the conflicting settings.

B. Priority of Cases

- a. Jury trials take priority over non-jury settings, except as provided in Article 21A.01 of the Texas Code of Criminal Procedure.
- b. During non-jury weeks, the courts shall give priority to hearings based on the court structure's designated hierarchy and as designated by statute with regards to the case type.
- c. Secondary priorities include matters where delay will cause physical or economic injury to either of the parties or the public; matters involving substantial substantive or constitutional rights; matters involving important issues that greatly concern the public or materially affect the public welfare; and matters involving complete restoration of a ward's capacity or modification of a ward's guardianship.
- d. The affected courts shall attempt to resolve the conflict by agreement. Absent agreement, the setting which was obtained first will take priority. It is understood for non-jury criminal case settings, attorneys may schedule multiple courts for the same day and will prioritize cases based on court structure, keeping the Court Coordinator informed.

RULE 1.5 TRIAL SETTINGS

- A. All matters to be heard on regular non-jury days shall be set with the Court's Coordinator. Except where provided by statute or permission of Court, all non-jury settings shall be on at least ten (10) days notice to opposing counsel and/or parties.
- B. All parties shall be responsible for notifying the Court Coordinator as soon as practical of settlement, cancellations of trial and/or settings.
- C. Requests for civil jury trial settings shall be in writing and filed with the Clerk and a copy shall be delivered to the Court Coordinator and opposing counsel. Except upon order of the Court, or where otherwise required by law, such request shall be filed by the date of the docket call two (2) months prior to the date of the requested jury trial. The Courts may on their own motion; and shall upon the timely request of any party, issue a Docket Control Order which shall set the appropriate deadlines for the case and shall include a trial setting.
- D. Criminal jury trial settings will be set in conjunction with an Announcement/Motions setting at the request of the defense attorney or after an allotted number of pre-trial settings as determined by the Court.
- E. At least thirty (30) minutes prior to the time designated for trial or hearing, all counsel and parties shall be present and ready, with witnesses, except with the Court's permission.
- F. Prior to requesting a setting, counsel shall attempt to coordinate a setting with opposing counsel.
- G. Summary judgment shall be by submission only, except with permission of the Court for good cause shown.

RULE 1.6 APPOINTMENT OF ATTORNEYS AD LITEM, GUARDIANS AD LITEM, MEDIATORS, AND GUARDIANS

- A. The appointment of Attorneys ad Litem, Guardians ad Litem, Mediators and Guardians shall be made pursuant to the provisions of Chapter 37 of the Government Code.

RULE 1.7 ORDERS SENT TO JUDGES

- A. Except in response to a ruling or order entered by the Court, no order shall be filed without an accompanying motion clearly setting forth the relief sought and the specific grounds in support of the relief. Any order submitted to the Court shall be signed by the attorney submitting the Order, approving the order as to form, unless it is submitted as a Rule 11 Agreement, in which case the attorneys shall sign the order, approving it as to form and content. In all cases, the attorney submitting the order shall provide to all opposing counsel and/or pro se parties a copy of the Order bearing the Clerk's file stamp.

RULE 1.8 ORDERS AND DECREES SUBMISSION TIMELINE

- A. Reduction in Writing; Submission to Counsel and Court
- B. Within twenty (20) calendar days after rendition, announcement of the Court's ruling or announcement of settlement by counsel, all final judgments and decrees shall be reduced to writing by counsel designated by the Court and forwarded to the Court and opposing counsel for approval as to form.
- C. Within ten (10) calendar days after receipt by opposing counsel, opposing counsel shall deliver the order to the Court for signature, or deliver to the Court and all counsel, specific written objections to the form of the proposed order. The Court will determine the written objections and either sign and enter the proposed order or inform counsel for the parties of the changes that need to be made to the proposed order.
- D. Agreed orders of any kind shall be approved by all counsel as to form and content. All other orders shall be approved as to form. The timeline may be expanded upon written motion for good cause shown.
- E. Continuance or Dismissal if Written Order Not Furnished
- F. Upon failure to furnish the Court with an order or final judgment within the applicable time period, the Court may continue the case or place the case on the Court's dismissal docket at the Court's discretion.

TITLE 2. RULES GOVERNING CIVIL PROCEEDINGS

RULE 2.1 APPLICATION FOR EX PARTE ORDERS

- A. Counsel presenting any application for an ex parte order shall, at the time the application is presented to the Court, verify in writing that:
 - a. To the best of the counsel's knowledge, the party against whom the relief is sought is not represented by counsel; or
 - b. If the party against whom the relief is sought is represented by counsel, that (1) such counsel has been notified of the application and does not wish to be heard by the Court thereon; or (2) counsel presenting the application has diligently attempted to notify opposing counsel, have been unable to do so, and the circumstances do not permit additional efforts to give such notice.

- B. No ex-parte order shall be presented to the Court unless accompanied by a copy of the application or motion

RULE 2.2 PRETRIAL CONFERENCE

- A. Except for motions expressly allowed by law to be filed ex-parte, before filing any motions, counsel for a moving party shall confer with the counsel for all parties affected by the requested relief to determine whether or not the contemplated motion will be opposed. Such conference is required for all motions except motions to dismiss the entire action, motions for summary judgment and motions for new trial.

- B. All motions shall contain a certificate by the party filing same that efforts to resolve the dispute without Court intervention have been attempted and failed and shall set forth specifically the efforts taken by date, action and method. If an opposing party is pro se, and that party does not respond to efforts to confer, counsel may certify that the pro se party failed to respond.

- C. Any motion omitting such certificate shall not be set for hearing until such certification has been filed.

- D. Prior to all jury trials, there shall be a pretrial conference. If a pretrial conference has not been set by the Court, the Plaintiff shall be responsible for requesting a pretrial conference.

- E. Unless otherwise ordered specifically, at least fourteen (14) days prior to the pretrial conference, the parties shall serve or exchange the following things:
 - a. Exhibit lists (and make exhibits available for inspection);
 - b. Witness lists;

- c. Designation of deposition excerpts (written or electronic);
 - d. Motion in Limine.
- F. The parties are to serve objections to the above referenced items, including objections to each party's exhibits, no later than seven (7) days after receipt of the above referred items.
- G. Trial counsel are ordered to attend the pretrial conference and discuss all aspects of the trial and shall be prepared to make an announcement of "ready" or "not ready." Any announcement of "not ready" shall be accompanied by a motion for continuance.
- H. All motions and/or objections that have been filed and served in compliance with the preceding paragraphs will be addressed at the pretrial conference.
- I. Failure to comply with the foregoing may result in sanctions pursuant to the Texas Rules of Civil Procedure, and without limitation, includes exclusion of exhibits, witnesses, or waiver of objections.

RULE 2.3 WITHDRAWAL OF COUNSEL

- A. Withdrawal of counsel shall be governed by Rule 10 of the Texas Rules of Civil Procedure.
- B. Notice to Client
If another attorney is not to be substituted as attorney for the party, or if the party does not consent to the motion to withdraw, the withdrawing attorney shall notify the client in writing that the Court will be requested to sign an order granting the withdrawal on or after ten (10) days following the date of such notice. Notice shall be sent by certified mail, return receipt requested.
- C. No Delay of Trial
Unless allowed in the discretion of the Court, no motion to withdraw shall be granted that is presented within thirty (30) days of the trial date or at such time as to require a delay in trial.

RULE 2.4 ALTERNATIVE DISPUTE RESOLUTION

- A. Policy
It shall be the policy of the County Court of Gonzales County, Texas to encourage the peaceable resolution of disputes and early settlement of pending litigation, including family law litigation, by referral to Alternative Dispute Resolution (ADR)

pursuant to the Texas Alternative Dispute Resolution Procedures Act, Texas Civil Practices and Remedies Code, Chapter 154.

B. ADR Mandatory for Jury Trials

No jury trial on the merits shall be conducted in any case until all contested issues have been referred to an ADR procedure, and ADR has been unsuccessful; or the Court has determined that ADR is inappropriate for the case. ADR is not mandatory in non-jury cases, but the Court may require ADR either on the motion of any party or upon the Court's own motion.

C. Manner of Referral

It is anticipated that the parties shall cooperate in referring such issues to an ADR procedure under terms and conditions as are mutually agreeable, without the need for court intervention. If the parties are unable to cooperate or agree to a referral of such issues to an ADR procedure, then upon written notification to the Court by one of the parties that efforts to coordinate a referral have been unsuccessful; the Court, without a hearing, may, and in the event of a case pending a jury trial, shall enter an order of referral to an ADR procedure, and under such terms and conditions selected by the Court.

D. Objections of Referral

If the Court enters an order of referral to an ADR procedure, any party may object to such referral pursuant to Texas Civil Practices and Remedies Code, Chapter 154. Upon the filing of an objection, the Court shall schedule a hearing. If the Court finds that there is a reasonable basis for the objection, the Court may, in its discretion, order that the case not be referred to an ADR procedure and order the case set for trial on the merits.

E. Discovery Abated

After the case has been referred to an ADR procedure by the parties or the Court, further discovery under the Texas Rules of Civil Procedure shall not be conducted until completion of the ADR procedure, except with permission of the Court or agreement of all parties.

F. Attendance at ADR

Except with permission of the Court, only the parties, an authorized agent, corporate representative, insurance company representative, accountant or CPS, and attorneys shall attend. All parties with the authority to settle the case shall be present.

RULE 2.5 DISMISSAL FOR WANT OF PROSECUTION

- A. The Court, on its own motion, may dismiss a case for want of prosecution. The procedure provided in Rule 165a of the Texas Rules of Civil Procedure shall apply. Any party may file a motion to dismiss a case pursuant to Rule 165a of the Texas Rules of Civil Procedure.

RULE 2.6 FILING RESPONSES TO DISCOVERY

- A. Except upon special order of the Court, only the discovery responses and related material required by the Texas Rules of Civil Procedure, the Texas Rules of Evidence, the Texas Civil Practices and Remedies Code, or other statute, shall be filed with the Clerk of the Court.
- B. If relief is sought concerning any discovery dispute, a party may file copies of only those portions of the material related to the dispute, without obtaining a special order.
- C. A party may file discovery and related material in support of a motion for summary judgment, or for any response or reply to such a motion, or for any other pretrial motion, response or reply, without obtaining a special order. Only the portions of a deposition or other discovery material related to the motion, response or other pretrial matter may be filed without a special order.
- D. A party may file discovery materials not previously on file for use on appeal or for other post-judgment purposes without a special order.

RULE 2.7 MINOR SETTLEMENTS

- A. Any order providing for a minor settlement and the investment of settlement proceeds by the County Clerk shall include the social security number, address (physical address, not a post office box) and date of birth for the minor. All settlement proceeds shall be invested in interest bearing accounts. Information pertaining to the child (social security number, address and date of birth) shall not be released except upon Court Order or as required by the Clerk for investing the funds. Upon proper proof to the County Clerk, once the child attains 18 years of age, the clerk may pay the proceeds to the minor without further order of the Court.

TITLE 3. RULES GOVERNING CRIMINAL PROCEEDINGS

RULE 3.1 ARRAIGNMENT

- A. Defendants may be arraigned during a pretrial docket call. Arraignment may be waived in writing if signed by the attorney and filed prior to the scheduled arraignment.

RULE 3.2 PRETRIAL NON-JURY SETTINGS:

- A. Docket will be called at 9 a.m. and will be in session until cases are resolved with breaks as needed.
- B. Attorneys are encouraged to negotiate cases prior to the court date.
- C. There is a total of three pretrial non-jury settings permitted for discovery purposes. If additional pretrial settings are necessary, both parties must approach the Court to request additional settings.
- D. Unresolved cases will be moved to a contested Motions/Announcement setting after the third pretrial non-jury setting, unless additional settings have been approved.
- E. If a jury waiver is signed by all parties, additional resets may be approved.
- F. Regarding pleas of guilty/nolo contendere, all forms must be signed by all parties. For a plea in absentia, a waiver of right to appearance form must be signed. It is imperative that attorneys review these forms thoroughly with their clients prior to the entry of the plea.
- G. If the defendant is to receive probation, please notify the court probation officer prior to submitting paperwork to the clerk so that the order can be prepared.
- H. Attorneys should carefully review all conditions with the defendant prior to sentencing and provide the signed form to the prosecutor.

RULE 3.3 CONTESTED MOTIONS SETTING

- A. Cases will be set after the third non-jury setting. If no motions are filed seven (7) days prior to setting, one (1) additional Motions setting is permitted.
- B. If no timely motions are filed, motions are waived and the case will be set to an Announcement Setting.

RULE 3.4 ANNOUNCEMENT SETTING

- A. Cases set for Announcement will also be set for Jury that same month. Announcement cases are scheduled approximately two (2) weeks prior to Jury Setting.
- B. Plea bargains will be accepted in writing through the end of business day on the Friday of the week of Announcement Setting.

RULE 3.5 BENCH TRIALS

- A. Cases may not be set for a Bench Trial unless discovery is complete, the parties have negotiated, and a jury trial waiver has been signed by all parties.
- B. In criminal cases, a Presentence Investigation Report will be conducted prior to sentencing.

RULE 3.6 JURY TRIALS

- A. Motions related to trial should have been filed seven (7) days prior to the Motions Setting.
- B. In-custody cases will be given top priority. If there are no in-custody cases, older cases based on the offense date will have priority.
- C. Each side will be generally allowed one continuance. Any additional requests must be made at the bench and communicated directly to the Court.
- D. On the day of trial, all parties must be present at 8:30 a.m. Voir dire will begin at 9:00 a.m. It is possible that a second voir dire may begin in the afternoon. Each side will be given up to 30 minutes to question the panel. Trials will begin immediately after voir dire or the following day at 9 a.m.
- E. Have all exhibits pre-marked by attorneys before trial and provide a list to the court reporter.
- F. Thoroughly inform witnesses of rulings including the Rule, motions in limine and other pretrial motions.

TITLE 4. MISCELLANEOUS ADMINISTRATIVE RULES

RULE 4.1 AUTHORITY FOR RULES

- A. These rules are adopted pursuant to the Texas Government Code, Section 74.093 and the constitutional, statutory and inherent powers of the Court to regulate proceedings before them and to provide for the orderly and efficient dispatch of cases.

RULE 4.2 TITLE AND CITATION

- A. These rules shall be known as the Gonzales County Local Rules of the Constitutional County Court.

RULE 4.3 PARTIAL CIVIL INVALIDITY

- A. In the event any of the foregoing rules or any part thereof is held to be invalid for any reason, such invalidity shall not affect the validity of the remaining rules and parts of rules, all of which have been separately numbered and adopted.

RULE 4.4 TERMS AND CONSTRUCTION OF RULES

- A. The terms counsel, lawyer, and attorney of record as used in these rules shall apply to an individual litigant in the event a party appears pro se. Unless otherwise expressly provided, the past, present or future tense shall each include the other; the masculine, feminine, or neutral gender shall each include the other; and the singular and plural shall each include the other.

RULE 4.5 APPLICATION OF RULES

- A. These rules supersede any prior local rules or practice. These rules have been adopted, by the Constitutional County Court of Gonzales County.

RULE 4.6 PROBATE COURTS

- A. Probate Court
 - a. Uncontested probate cases are handled in Gonzales County Court by the County Judge. The Court must receive all documents required for an uncontested docket hearing before a setting date may be provided. Compliance with this rule allows the Court to review the file and contact the attorney should any deficiencies be present. A death certificate should be brought to the hearing to be reviewed for accuracy and will be returned at the hearing. Information and forms regarding Probate Court for uncontested cases are located on Gonzales County's website.

RULE 4.7 COURT CALENDARS

- A. Court calendars are available on the court's website.

RULE 4.8 ABSENCES OF JUDGES

- A. Judges may take personal vacation at any time during the year with arrangements coordinated for the handling of judicial business. Judges may take such sick leave as is essential for their health or wellbeing. Attendance at Judicial Conferences is considered an official duty and responsibility. Extended absences should be coordinated with the Administrative Judge and consideration of a Visiting Judge.

RULE 4.9 LOCAL ADMINISTRATIVE JUDGE

- A. As per Government Code Sec. 74.0911, a local administrative statutory county court judge will be elected for a term of not more than two years. The duties are set forth in Sec. 74.092.

These rules shall become effective July 1, 2023 and so long thereafter until amended, repealed or modified by order of the County Court. All existing Local Rules previously governing the management of the Court dockets shall be repealed on the effective date of these rules. Each numbered or lettered paragraph of these rules shall be considered to be separate and distinct from all other portions hereof, and if any portion should be declared improper or inconsistent with state or federal law or rules adopted by the Supreme Court of Texas, such declaration will not affect any other portion not so declared to be improper or inconsistent.

Adopted this the 1st day of June, 2023 to become effective July 1, 2023.



Patrick C. Davis
Gonzales County Judge