LOCAL RULES OF PRACTICE

AND PROCEDURE

25TH, 2ND 25TH, and 274th Judicial Districts of Texas

Guadalupe County

The Honorable Dwight Peschel
The Honorable W.C. Kirkendall
The Honorable Gary Steel
Judges Presiding

2005

ORDER ADOPTING RULES OF THE

25TH, 2ND 25TH and 274th JUDICIAL DISTRICTS OF TEXAS

FOR GUADALUPE COUNTY

It is Ordered by the 25th , 2nd 25th and 274th Judicial District Courts of Texas that:

1. The 25th , 2nd 25th and 274th Judicial District Local Rules of Practice and Procedure for Guadalupe County as hereinafter set out are hereby adopted subject to the approval of the Supreme Court of Texas and the Council of Judges of the Third Administrative Judicial Region of Texas.
2. The Clerks of the Courts in Guadalupe County shall record the Rules of Practice and Procedure and this Order in the Minutes of the Court;
3. A copy of these rules and this order shall be furnished to the Supreme Court of Texas, the Courts of Appeals for the 4th District of Texas and the Presiding Judge of the Third Administrative Region of Texas;
4. Each Clerk of the Courts shall deliver to each lawyer maintaining an office within the county each Clerk serves a copy of these local rules, a copy shall further be furnished by the Clerk to each lawyer and *pro se* party appearing in any civil action in this Court. Each Clerk shall keep a current record of such delivery, the date thereof, and make such record available for inspection.
5. These Rules of Practice and Procedure, as may hereafter be amended, shall be construed and interpreted in addition to, and in conformity with and not as

superseding the Constitution and laws of the State of Texas, the Texas Rules of Civil Procedure, rules adopted by the Council of Judges of the Third Administrative Judicial Region or rules promulgated by the Supreme Court of Texas.

6. Should any of these rules, or any part thereof, or any amendments thereto, be held invalid for any reason, such invalidity shall not affect the validity of the other rules or parts of rules, all of which have been separately considered and adopted.
7. These rules shall be effective on the date this Order is signed and thereafter until amended, modified or repealed by the order of these Courts.

Signed, Ordered and Effective this the 27 day of October, 2005.

25th Judicial District Judge

2nd 25th Judicial District Judge

274th Judicial District Judge

Local Rules of Practice for the 25th , 2nd 25th and 274th Judicial District Courts of Texas in Guadalupe County

The dockets of the 25th , 2nd 25th and 274th District Courts of Guadalupe County are to be held in accordance with schedules published annually which may be obtained from the office of either judge or from the office of the district clerks.

Any case filed in the 25th , 2nd 25th or 274th Judicial District Courts may be heard in either Court without transfer or further order except:

1. A family case involving custody of a child, if contested temporary orders are heard, must be set thereafter in the Court hearing said temporary orders;
2. Any motion to modify custody must be heard in the Court issuing the order to be modified if that Court heard contested hearings in making the original order;
3. Any case in which judge is disqualified or recused must be heard only in the other Court; and
4. Any other case where the Court orders the case to a particular judge.

In all proceedings in these Courts, the Texas Lawyers Creed will be observed.

Civil and Family Cases

1. Settings

1.1. All hearings in contested cases must be set by written motion with order attached and with an estimated time for the hearing. Attorneys requesting settings are responsible for notifying opposing parties within the time constraints of the Rule of Civil Procedure. No Court will notify a party of a setting except in the case of a request for a setting by a *pro se* litigant.

1.2. Only a court coordinator may set a case. Either the court coordinator for the 25th , the 2nd 25th or the 274th Judicial District may set cases on any of the courts' dockets, subject to the approval of the coordinator of the Court receiving the case .

1.3. All motions for continuance must be in accordance with Articles 29.01 *et seq.*, C.C.P. and Rules 251 *et seq.*, T.R.C.P. With the approval of the court coordinator, a contested case may be set of passed by the agreement of all counsel; however the mere filing of a motion for continuance does not mean that the continuance will be granted, even with the agreement of all parties. Unless released in writing by the court coordinator, counsel must appear as scheduled.

1.4. Prior to setting any cases for any hearing, counsel must call the court coordinator to obtain available hearing dates. Counsel must then contact opposing counsel to insure the date is agreeable to all counsel. Once a date is agreed, counsel may

forward an order setting, along with a statement that it is an agreed date, to the court coordinator for entry with the Court. If the parties, after consultation, cannot agree on a date, the Court shall set any hearings needed.

1.5. If an opposing counsel is not available for hearing on the date set, they shall immediately notify the counsel setting the case and the court coordinator in writing stating reasons.

1.6. Each attorney may file vacation letters with the Court, with copies to all opposing counsel, for periods not to exceed four weeks per year. Counsel will not be set during the designated period. Vacation letters alone will not excuse appearance at hearings set prior to the filing of the vacation letter.

1.7. For uncontested or agreed family matters, defaults or adoptions, no written motion is required, but a setting shall be obtained by contacting the court coordinator.

1.8. The court coordinators may, under Section 24.017, Government Code, set the hearing in another county within the district. In such event, it is the responsibility of the attorneys to transport the Court's file and docket sheet to the county where the hearing will be held and then to return it to the appropriate district clerk's office THE SAME DAY, if possible.

1.9. Hearings conducted by telephone conference call are acceptable at the discretion of the Court.

1.10. Attorneys or *pro se* litigants who do not expect to be on time or present in the courtroom during docket call must notify the court and the opposing side, give a reason for the delay and estimate time of arrival.

2. Motions

2.1. Request for hearings on motions regarding discovery must be accompanied by a certification from the movant's counsel that he has attempted to obtain relief by agreement and has been unsuccessful.

2.2. On all motions (including motions to set), include the opposing counsel's name, address, and telephone and fax numbers and e-mail address under the certification of service.

2.3. Applications for *ex parte* relief shall state whether the opposing party is represented by counsel and, if so, name said counsel. Notice of the request for *ex parte* relief and an opportunity to be heard shall be given to the opposing counsel, if any.

3. Trial on the merits

3.1. Cases shall be set for trial on the merits by the court coordinator on request by a party, the Court's own motion or by a docket control order. A jury demand must be filed and a jury fee paid prior to obtaining a setting on the jury docket.

3.2. All requests for non-jury trials of more than two hours in length shall be specially requested and shall be set by the Court at the earliest possible trial date on those dates established by the Court for non-jury trials. The requests shall be in writing and copies served upon all parties in the case. The party obtaining the setting shall notify all other parties of the setting.

3.3. All non-jury trials of over two hours and all jury trials will be also set for a pre-trial hearing prior to the trial on the merits. At that pre-trial, all counsel are expected to be present to advise the Court of the following:

3.3.1. Summary of the claims and defenses of each party;

3.3.2. The agreed or stipulated facts;

3.3.3. Contested issues of fact;

3.3.4. Contested issues of law and authorities applicable;

3.3.5. Estimate of the length of trial and any possible delays;

3.3.6. Possibility of settlement.

3.4. In addition, at said pre-trial hearing:

3.4.1 All amended pleadings must be in their final form;

3.4.2 Each party should have suggested jury questions and instructions;

3.4.3. All physical evidence should be listed, marked and available for inspection. Each counsel will designate those exhibits to which no objection will be made. The Court will request that predicates be waived where admissibility is not questioned.

3.5. Attached is a copy of the current pre-trial conference order, which may be changed by the Court at any time.

4. Family Law cases

4.1. All contested temporary orders hearings will have the following time limits:

4.1.1 Property only—30 minutes per side including cross-examination

4.1.2. Child custody—60 minutes per side including cross-examination

4.1.3. The Court for good cause shown may extend these limits.

4.2. In all contested hearings involving child or spousal support, each party shall provide the Court and opposing counsel copies of any income tax returns for the last two (2) years, copies of their two most recent pay stubs and shall prepare a complete written statement of their income and expenses for the previous two years and present same to the Court prior to the hearing, such statement to be on a form substantially similar to the form attached for that purpose.

4.3. In all contested hearings involving property, each party shall prepare and exchange not less than thirty (30) days prior to trial a complete written inventory of their assets and liabilities, both community and separate, and present same to the Court prior to the hearing. It is recommended that each party file this inventory in form substantially similar to the form in the Texas Family Law Form Manual published by the State Bar of Texas.

4.4. After each party's inventory is filed, the parties shall file a composite inventory in a form substantially similar to that attached hereto. The petitioner shall initiate the composite inventory and forward it to the respondent not less than fourteen (14) days before trial. The respondent shall complete and file the composite inventory with the Court and serve a copy on the petitioner not less than seven (7) days prior to trial.

4.5. In all divorces with children, contested or uncontested, or motions to modify, both parents must attend at their own expense an educational program for divorced parents such as "For Kids' Sake" or any other comparable program, and file with the Court a certificate of their completion prior to entry of a final order.

4.6 Arrangements for the preparation of a social study shall be made on all adoptions before the case will be set for trial.

4.7 In contested family law cases involving custody of children where a social study is ordered, the anticipated costs for the preparation must be deposited with the district clerk or other satisfactory arrangements made to guarantee payment to the person preparing the social study. Without such arrangements, the social study should not be delivered to the parties.

5. Judgments and Orders

5.1. All judgments and orders must be submitted to the Court within ten (10) days form the date of rendition, unless otherwise directed by the Court.

5.2. The party who is directed to prepare the judgment or order shall furnish all opposing parties with a copy of the proposed judgment or order.

5.3. All judgments and orders will be signed by the Court within seven (7) days from the date they are submitted unless any party requests a hearing on a motion to enter.

6. Alternative Dispute Resolution

6.1. ADR is encouraged. Cases may be ordered to ADR by agreement, by motion of any party after hearing or by the Court's own motion without hearing.

6.2. All requests for setting any jury trial or a contested non-jury trial on the merits in a family law case must be accompanied by a representation that mediation has been attempted and a letter from the mediator that the case has not settled. No setting will be given until mediation has been attempted or waived after motion and hearing.

7. Dismissal dockets

7.1. All civil cases filed in the 25th , 2nd 25th and 274th District Courts shall be disposed of within the time requirements published by the Texas Supreme Court unless for good cause shown.

7.2. A dismissal docket shall be held not less than three times per year, not less than one in each third of the year, the 25th District having the dismissal dockets in the first four months of the year, the 2nd 25th District in the second four months of the year, and the 274th District in the last four months of the year. Notice of the Court's intention to dismiss and the date and place of the dismissal hearing shall be sent to each attorney of record and to each *pro se* party. At the dismissal hearing, the Court shall dismiss the case for want of prosecution unless there is good cause for the case to remain on the docket. Attached hereto is a copy of the current notice setting a case on a dismissal docket.

7.3. No case will be maintained unless a motion to retain, with order attached, is filed prior to the hearing, alleging specific facts showing good cause for the case to be maintained. Motions to retain will be heard at the dismissal docket.

7.4. Any case maintained at a dismissal docket will be set for trial or a pre-trial scheduling order entered unless good cause is shown.

8. Recording Court Sessions

8.1. In both civil and criminal proceedings, during sessions and recesses, no broadcasting, televising, recording (audio or visual) or the taking of photographs nor equipment capable of doing any of the above will be permitted in the Courtroom, except with leave of Court.

Criminal Cases

1. Criminal cases shall be set for trial at the request of the district attorney, to be distributed between the criminal setting dates of the Courts. Should a defendant desire a trial in a case which the district attorney or county attorney has not requested a setting, the case will be set by the Court after written request by the defendant.
2. After pre-trial hearing will be conducted in each case prior to trial.
3. After the arraignment appearance and the initial pre-trial setting, all resets must include a trial setting as well as any non-jury settings necessary.
4. Judgments of probation shall be prepared by the Community Supervision and Corrections Department, and judgments with sentences to county jail, SJD-TDCJ or ID-TDCJ shall be prepared by the district attorney or county attorney, unless the Court orders otherwise.
5. All Court-appointed attorneys shall, at the conclusion of their representation of a defendant, provide the Court an itemized statement reflecting the hours spent in Court and the number of hours spent out of Court in representation of said defendant. The statement may only be submitted on the fee voucher attached.
6. Recognizing that attorneys practicing criminal law in Guadalupe County district courts are sometimes scheduled to appear in more than one court at the same time, such attorneys are to report first to the court in which they have the most jail cases set, then to the court with the next greatest total, and so on. Any deviation from this rule requires the prior approval of the appropriate court.

CAUSE NO. _____

_____	*	IN THE _____JUDICIAL DISTRICT
VS.	*	COURT OF
_____	*	**GUADALUPE** COUNTY, TEXAS

NOTICE OF SETTING FOR PRE-TRIAL CONFERENCE

It appears to the Court that the above referenced case is set for **Jury Trial** on _____ at **9:00 A.M.** and it is advisable and necessary that a **Pre-Trial** conference should be held in this cause.

THEREFORE, BY ORDER OF THE COURT, notice is hereby given you that a Pre-Trial Conference in this cause be, and the same is hereby set for the _____day of _____ at **9:00 A.M.** in the District Courtroom, _____County Courthouse, _____, Texas.

It is further Ordered by the Court that:

MEDIATION SHALL BE COMPLETED BY THE PRE-TRIAL DATE.

All parties shall appear before the Court individually and/or through their authorized attorneys who shall have thorough knowledge of the case and full authority to bind the parties in all things. All attorneys shall consult their clients as to authority, if any, for settlement and if possible, shall obtain authorization within certain figures.

Each attorney shall come to the hearing with full authority for the purpose of simplifying issues and expediting trial and be prepared to present to the Court, including but not limited to:

1) Anticipated length of trial, special scheduling problems, and potential complexity.

2) All exceptions, motions and motions in limine will be heard. Motions for Continuance will only be granted upon good cause shown by adequate proof. All Motions for Continuance must be made in writing, filed with the Court, and presented to opposing counsel prior to the date of the hearing.

3) All discovery procedures shall have been completed. Counsel is required to attempt to resolve any issues regarding discovery between themselves. Any request for sanction or hearing for failure of compliance must contain a detailed and sworn representation of efforts made to resolve the outstanding issue and the responses received from opposing counsel.

4) All requested special issues, instructions and definitions that may be reasonably anticipated shall be prepared and presented to the Court.

5) The names and addresses of witnesses, including the number of expert witnesses and the nature of their testimony shall be furnished to the Court.

6) Each attorney shall come to the hearing with full authority to make disclosures of fact, admit and stipulate undisputed facts, to discuss contested points of law and submit trial briefs thereon, the theory of the parties, the admitted facts, the ultimate facts which will be disputed and points of law to be passes upon by the Court.

7) All exhibits (photographs, records, tangible objects, etc.) shall be available for inspection and marked as evidence to be presented in the case. Such exhibits are to be prepared and marked beforehand, and a list of such exhibits is to be furnished to the Court.

You are expected to be present and make your announcement. **If no announcement is made the Court will take such action as deemed appropriate up to and including dismissal of this cause.**

ISSUED this the **_____ day of _____, 200___.**

BY THE AUTHORITY OF THE DISTRICT COURT

_____ Judicial District
Court Administrator

FINANCIAL INFORMATION STATEMENT

CLIENT:
CAUSE NUMBER:

MONTHLY INCOME

Gross Income	$

Total Monthly Payroll Deductions:

Withholding	$
FICA (Social Security)	$
Mandatory Retirement	$
Voluntary Retirement	$
Deferred Compensation	$
Life Insurance	$
Credit Union (savings)	$
Credit Union (loan payment)	$
Health Insurance	$
Other Deductions:	
	$
	$

Total Deductions	$
NET PAY	$

Other Income: (itemized below)

	$
	$
	$

TOTAL MONTHLY INCOME	$

MONTHLY EXPENSES

Rent or mortgage payment	$
Real property taxes (if not included in the mortgage payment)	$
Homeowner's insurance (if not included in mortgage payment)	$
Renter's or fire insurance	$
Maintenance of residence (repairs, yard work, etc.)	$
Utilities (gas, water, electric, garbage, sewer, etc.)	$
Telephone	$
Groceries	$
Dining out	$
School lunches	$
Uninsured doctor expenses	$
Uninsured prescription and pharmaceutical expenses	$
Uninsured routine dental care	$
Uninsured orthodontic care	$
Health and hospitalization insurance (if not paid by employer or deducted from wages)	$
Life insurance (if not paid by employer or deducted form wages)	$
Clothing purchases	$
Laundry and dry cleaning	$
Vehicle payment	$
Gas and oil for vehicle	$
Vehicle repair and maintenance	$
Vehicle insurance	$
Parking fees	$
School tuition	$
School supplies	$
Children's extracurricular activities	$
Childcare while at work	$
Childcare for other times	$
Entertainment	$
Hairstyling, barber	$
Contributions	$

Dues	$
Subscriptions	$
Prior obligations for child support or alimony	$

Other Creditors: (itemized below)

NAME	PURPOSE	BALANCE	MONTHLY PAYMENT
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$

Total monthly payment to other creditors	$

TOTAL MONTHLY EXPENSES	**$**

STATE OF TEXAS §
§
COUNTY OF _____ §

I, _____, state on oath that, to the best of my knowledge and belief, the foregoing financial information statement contains a full and complete accounting of my monthly income from all sources and my monthly expenses.

SIGNED on the _____ day of _____, _____.

_____
SIGNATURE OF PARTY

SIGNED under oath before me on the _____ day of _____, _____.

_____
NOTARY PUBLIC, State of Texas

COMPOSITE INVENTORY

CAUSE NUMBER _____

IN THE MATTER OF THE MARRIAGE OF

_____ AND _____

PETITIONER: _____ RESPONDENT: _____

PETITIONER'S ATTORNEY: _____

RESPONDENT'S ATTORNEY: _____

Community Property = CP
Wife's Separate Property = WSP
Husband's Separate Property = HSP

PROPERTY ITEM NUMBER	PROPERTY DESCRIPTION	PETITIONER		RESPONDENT		COURT'S NOTES
		VALUE	CHARACTER	VALUE	CHARACTER	

COMPOSITE INVENTORY **Page Number _____ of _____**

Community Property = CP
Wife's Separate Property = WSP
Husband's Separate Property = HSP

PROPERTY ITEM NUMBER	PROPERTY DESCRIPTION	PETITIONER		RESPONDENT		COURT'S NOTES
		VALUE	CHARACTER	VALUE	CHARACTER	

COMPOSITE INVENTORY **Page Number _____ of _____**

COMPOSITE INVENTORY

CAUSE NUMBER _____

STATE OF TEXAS **§**

§

COUNTY OF _____ **§**

I, Petitioner in the above-styled and numbered cause, state on oath that, to the best of my knowledge and belief, the foregoing composite inventory contains:

(1) a full and complete list of all properties in my possession or subject to my control that I claim belong to the community estate of myself and my spouse, with the values thereof;
(2) a full and complete list of all properties in my possession or subject to my control that I claim or admit as my or my spouse's separate property and estate, with the values thereof;
(3) a full and complete list of the debts claimed by me or my spouse.

SIGNED on the _____ day of _____, _____.

_____
PETITIONER

SIGNED under oath before me on the _____ day of _____, _____.

_____
NOTARY PUBLIC, State of Texas

COMPOSITE INVENTORY

CAUSE NUMBER _____

STATE OF TEXAS **§**

§

COUNTY OF _____ **§**

I, Petitioner in the above-styled and numbered cause, state on oath that, to the best of my knowledge and belief, the foregoing composite inventory contains:

(1) a full and complete list of all properties in my possession or subject to my control that I claim belong to the community estate of myself and my spouse, with the values thereof;
(2) a full and complete list of all properties in my possession or subject to my control that I claim or admit as my or my spouse's separate property and estate, with the values thereof;
(3) a full and complete list of the debts claimed by me or my spouse.

SIGNED on the _____ day of _____, _____.

_____
RESPONDENT

SIGNED under oath before me on the _____ day of _____, _____.

_____
NOTARY PUBLIC, State of Texas

DATE

<<LastName>>
<<Address2>>
<<City>>,

<<Cause>>
<<Case>>

NOTICE OF DISMISSAL DOCKET

The above listed case has been set on the **Dismissal Docket** for **DATE** at **9:00A.M.** in the 25th Judicial District Court, **Guadalupe County**, Texas. The Court on its own motion has set this case for dismissal that day. This setting is for parties to show cause why these cases should not be dismissed for **Want of Prosecution**.

These cases have not been disposed of within the time standards promulgated by the Supreme Court of Texas or have been **inactive** for more than **six (6) months** and are not being prosecuted with due diligence.

TO PREVENT A DISMISSAL FOR WANT OF PROSECUTION YOU MUST FILE A MOTION TO RETAIN FIVE (5) BUSINESS DAYS PRIOR TO THE SETTING DATE AND YOU MUST <u>APPEAR</u> AND SHOW CAUSE.

Failure to appear and failure to show good cause why the case(s) should not be dismissed will result in the case(s) being dismissed for Want of Prosecution without further notice.

Telephone conversations with the District Judge, Court Coordinator or the District Clerk will not be sufficient to retain the case(s) on the docket.

Lynn Bothe

Court Coordinator

25th Judicial District

Attorney Fee Voucher

1. Jurisdiction 2. County 3. Cause Number Offense 4. Proceedings

District County _____ _____ Trial-Jury Trial-Court

County Court at Law _____ _____ Plea-Open Plea-Bargain

Court # _____ _____ _____ Other

5. In the case of:

State of Texas v _____

6. Case Level

Felony Misdemeanor Juvenile Appeal Capital Case

Revocation – Felony Revocation – Misdemeanor No Charges Filed Other_____

7.Attorney (Full Name) 9. Attorney Address (Include Law Firm Name if Applicable) 10. Telephone

8. State Bar Number 8a. Tax ID Number 11. Fax

12. **Flat Fee – Court Appointed Services** 12a. Total Flat Fee

13. **In Court Services** Hours Dates 13a. Total In Court Compensation

$

Rate per Hour = Total hours

14. **Out of Court Services** Hours Dates 14a. Total Out of Court Compensation

Rate per Hour = Total hours

$

15. **Investigator** Amount 15a. Total Investigator Expenses

$

16. **Expert Witness** Amount 16a. Total Expert Witness Expenses

$

17. **Other Litigation Expenses** Amount 71a. Total Other Litigation Expenses

$

18. **Time Period of service Rendered:** From _____ to _____

Date Date

19. **Additional Comments** 20. Total Compensation and Expenses Claimed

21. Attorney Certification – I, the undersigned attorney, certify that the above information is true and correct and in accordance with the laws of the State of Texas. The compensation and expenses claimed were reasonable and necessary to provide effective assistance of counsel.

Final Payment Partial Payment _____

Signature Date

22. SIGNATURE OF PRESIDING JUDGE: Amount

Reason(s) for Denial or Variation