

**RULES OF
PRACTICE IN
CIVIL CASES IN THE
DISTRICT COURTS OF
POTTER AND RANDALL
COUNTIES, TEXAS**

**EFFECTIVE:
DECEMBER 1, 1978 – POTTER COUNTY
JANUARY 1, 1979 – RANDALL COUNTY**

RULE 1

Jury and Non-Jury Settings

(a) On the first Monday in each even numbered month (hereinafter referred to as the "docket Monday") the judge of each district court in Potter County shall set for trial all contested jury and contested non-jury cases for which a setting has been requested by one of the parties. On the first Monday in each odd numbered month (hereinafter referred to as the "docket Monday") the judge of each district court in Randall County shall set for trial all contested jury and non-jury cases for which a setting has been requested by one of the parties. The cases shall usually be set for trial during the two calendar months following the month of the docket Monday. All requests for setting of jury and contested non-jury cases shall be made in writing, and such request must be in the office of the District Judge by 5:00 o' clock p.m. fourteen (14) days prior to the docket Monday.

(b) Either at or before the time the written request for setting is made to the District Judge, a copy thereof must be served upon all counsel of record and upon all parties not represented by counsel.

Such request must be in the form set out in Appendix "A".

If such certificate is not made or is incorrect in any respect the case shall, upon motion by counsel or upon the Court's own motion, be removed from that particular setting.

(c) Contested non-jury matters will be disposed of in non-jury as well as jury weeks (see Rule 1 (a)). Setting of contested non-jury matters may be made at the same time as the contested jury cases are set for the jury weeks. Nothing herein ordered shall preclude continuation of the present practice of setting contested non-jury cases for trial by giving the required ten (10) days written notice to the opposing party of the week of such setting. Non-jury cases may be set each

month for both jury and non-jury weeks by giving such notice to the opposing party or his attorney of record and furnishing a copy of such notice to the judge of the court. All non-jury cases set for trial in this manner during either a jury or non-jury week will be placed on the contested case docket following the non-jury cases previously set for that week.

Compliance with this rule will enable the courts to dispose of contested non-jury cases during jury weeks when the jury docket breaks down.

(d) No request for setting of any jury case for trial shall be made until at least two months from answer date.

(e) Once a case is set for trial on a current docket, it shall not be removed from that current trial setting.

(f) All jury cases shall be set for trial in each court according to the order in which such cases were filed with the district clerk, except in those cases where a preferential setting is required by law.

(g) Special or preferential settings will not be looked upon with favor, and in no event, except in those cases entitled by law to a preferential setting, will such a setting be granted unless the case has been on file for at least twelve (12) months or unless it is shown that manifest hardship will result if a preferential setting is not granted.

(h) In the event that any attorney is called for trial in cases pending in more than one court in Potter or Randall Counties, Texas, the oldest numbered civil case (except juvenile cases) will have preference, except that special settings in any of the district courts will take preference over other cases not preferentially set, and if one or more counsel are involved in more than one special setting in different courts, then the oldest numbered special setting shall have preference.

RULE 2

Docket Sheets

Upon making the settings, the Judge shall make up a trial docket sheet listing each case in the order that it will be called for trial and showing each attorney of record in the case. The District Judge shall promptly furnish a copy of the docket sheet to the District Clerk and shall promptly mail a copy of the docket sheet to each attorney of record and to each party not represented by an attorney.

RULE 3

Announcements

(a) Each Thursday will be announcement day for both jury and contested non-jury cases set for the week following in both Potter and Randall Counties. If Thursday is a legal holiday, announcements will be made on the immediately preceding court day. The docket of the district courts for all contested jury cases set for trial on the merits during the following week shall be called at 9:00 o'clock a.m. on announcement day in the 47th District Courtroom in the Potter County Courthouse, Amarillo, Texas, and shall be called by each of the judges of the five district courts. The call shall continue until all cases in all courts are called by the respective judges. Attorneys for ALL parties are expected to appear in person before the respective judges at 9:00 o'clock a.m. for the call of the docket. All attorneys shall appear promptly at 9:00 o'clock a.m. and shall remain until the entire civil docket call is completed. No announcements will be accepted prior to the Thursday docket call. **ANNOUNCEMENTS WILL BE RECEIVED ONLY BY THE COURT.**

(b) No announcements will be accepted after the docket call as provided in the preceding paragraph.

(c) If the attorney for the plaintiff or the defendant only appears and the attorney for the opposing party fails to appear, the announcement of the party appearing will prevail and the case passed at his request or tried unless legal grounds for continuance exist. All discretionary grounds for continuance shall be ruled against the party not announcing.

If none of the parties announce, the case shall be dismissed for lack of prosecution.

(d) When a case which is set for trial is settled, the Court shall immediately be notified by the attorneys of such settlement, and the judge of the court shall remove the case from the trial docket. This will enable both the Court and attorneys in other cases on the docket to better determine the position of such other cases on the Court's docket.

(e) No agreement to pass or continue a case which is made after the call of the docket on announcement day shall be recognized or honored by the Court, except in the case of settlement.

(f) If a party who has announced ready for trial on announcement day at any time thereafter withdraws such ready announcement, except for reasons of health or other hardship situations which could not be foreseen at the time of announcement, the case may be dismissed by the Court. All attorneys with cases on the jury docket for any week are expected to be available for trial upon short notice when called by the Judge or his secretary. If the attorney cannot be located on such short notice, the case may proceed to trial or be dismissed by the Court.

RULE 4

All Orders to be Left With Judge

Any instruments involving matters previously heard or disposed of by the Court, as well as instruments which may be signed by the Judge without a hearing, such as dismissals and agreed judgments, among others, shall be presented to the secretary of the court involved. The secretary will then submit promptly such instrument, together with the appropriate docket sheet, to the Judge for his signature. This will permit the orderly presentation of such matters to the Court for its consideration without undue interruptions, and all attorneys are expected to comply.

RULE 5 **Continuances**

Every ground for continuance not brought to the Court's attention when the case is called Thursday shall be deemed waived and shall not be considered unless such ground arises after such call and could not have been foreseen by the use of reasonable diligence by counsel at the time of announcement.

RULE 6 **Vacations**

Bona fide vacations of not more than one month per year of attorneys of record may be recognized as acceptable grounds for continuance or postponement of causes.

RULE 7 **Withdrawal of Counsel**

No attorney shall be permitted to withdraw from a case without first presenting a written motion and obtaining from the Court an order permitting withdrawal. The motion shall be

accompanied by the client's written consent, if available, or certificate of employment by another attorney, if available. A copy of such motion and the consent or certificate of employment shall be served on all opposing counsel.

In the absence of such consent or certificate, a copy of the motion shall be mailed to the client, return receipt requested, at his last known address along with a letter advising the client the motion will be presented to the Court for action thereon at a date and time certain, not less than ten days after the date of mailing. The letter shall advise the client that any objection to the withdrawal must be presented to the Court in writing prior to the date set for the hearing on the motion. A copy of this letter shall be attached to the motion filed with the Court, and a copy of the motion and letter shall be mailed to all opposing counsel. Leave to withdraw will be denied when to grant it would result in delaying a previously scheduled trial of the case or in undue prejudice to the rights of the client.

RULE 8 **Motion Practice**

No motion will be set for hearing until the moving party shall first communicate with opposing counsel to determine whether a contemplated motion will be opposed. If the motion will not be opposed, the moving party shall accompany a motion with a proposed order signed by counsel for all parties indicating approval of same. If the motion will be opposed, the moving party shall state at the beginning of his motion as follows:

"A conference was held on (date) with (name), attorney for opposing party, on the merits of this motion. Agreement could not be reached; therefore, it is presented to the Court for a determination."

The Court will not set any motion for hearing

unless it is accompanied by the foregoing statement.

An order setting hearing shall accompany all contested motions.

**RULE 9
Domestic Relations Cases**

In all contested domestic relations cases, the form entitled "FINANCIAL INFORMATION STATEMENT" attached hereto as Appendix "B" and made a part of these rules shall be completed and a copy furnished opposing counsel and the Court prior to any show-cause hearing and/or hearing on the merits in domestic relations cases.

**RULE 10
Dismissals**

A domestic relations case shall be dismissed for want of prosecution if the petitioner fails to request a setting or take other appropriate action after receiving notice from the District Judge that the case has been pending more than twelve (12) months. Any other civil case shall be dismissed for want of prosecution if the plaintiff fails to request a setting or take other appropriate action after receiving notice from the District Judge that the case has been pending more than eighteen (18) months.

**RULE 11
Copies of Rules Furnished to Attorneys**

The District Clerks of Potter and Randall Counties, Texas, shall mimeograph copies of these rules and mail a copy to each firm and individual practitioner in Potter and Randall Counties and shall, upon the request of any lawyer residing out of either county, mail a copy to such attorney.

**RULE 12
Trial Priorities**

Insofar as is practicable, the trial of a criminal action shall be given preference over trials of civil cases.

By virtue of constitutional and statutory powers of District Courts in the State of Texas and under authority of Rule 817, Texas Rules of Civil Procedure, the foregoing rules, which shall govern the trial of all civil cases in the District Courts of Potter and Randall Counties, Texas, are hereby adopted on this the 23 day of August, 1978.

Effective:
December 1, 1978 Potter County
January 1, 1979 Randall County

H. BRYAN POFF, JR., JUDGE
47th Judicial District

EDWARD B. NOBLES, JUDGE
108th Judicial District

GEORGE E. DOWLEN, JUDGE
181st Judicial District

NAOMI HARNEY, JUDGE
251st Judicial District

JERRY SHACKELFORD, JUDGE
320th Judicial District

**SUGGESTED FORM FOR
REQUESTED SETTING**

(date)

Honorable _____
District Judge
_____ Judicial District
Potter County Courthouse
Amarillo, Texas 79101

Re: (Number and Style of Case)

Dear Judge:

Please set the above styled and numbered cause for trial on the next jury (non-jury) docket.

This request for setting is made in good faith in the belief that plaintiff will be ready for trial at the time requested. All of plaintiff's pleadings are now in order.

There (are/are no) special exceptions (or other pre-trial matters) which should be presented to the Court in advance of trial.

We hereby certify that all depositions have been taken in this cause and, to the best of our knowledge, all discovery is completed.

We further certify that all necessary ad litem appointments have been made and that the jury fee has been paid (if applicable).

All other attorneys in this case on this date are being mailed a copy of this request for setting.

Very truly yours,

cc: (Listing those notified)

NOTICE:

This form is to be completed and a copy furnished to opposing Counsel and Court prior to the show-cause hearing and/or hearing on the merits. All columns must be totaled.

FINANCIAL INFORMATION STATEMENT

NO. _____ District Court

Petitioner _____ Respondent _____

Attorney for Petitioner _____ Attorney for Respondent _____

1. Date of (marriage) _____ (separation) _____
2. Ages of children of this marriage: () () () () () () () ()

A. Necessary Monthly Expenses:			
House payment/rent	\$ _____	SUBTOTAL FORWARD	\$ _____
Utilities including telephone	_____	Clothing	_____
Food	_____	Cleaning and Laundry	_____
Doctor/Dentist/Drugs	_____	Legal Fees	_____
Insurance Premiums	_____	Gifts	_____
Car payments	_____	Church Support	_____
Gasoline/oil/parking/	_____	Entertainment Activities/	_____
Bus fares	_____	lessons for children	_____
Car repairs/maintenance	_____		
Child care/school tuition	_____	Miscellaneous	_____
Lunches/school supplies	_____		
Haircuts	(+) _____		(+) _____
SUBTOTAL	\$ _____	GRAND TOTAL	\$ _____

B. Debts (other than house and car)

AMOUNT	MONTHLY PAYMENT
\$ _____	\$ _____
_____	_____
_____ (+) _____ (-)	_____ (+) _____ (-)
TOTAL \$ _____	\$ _____ (+) _____ (-)

GRAND TOTAL (monthly expenses and debts) (3A & 3B) \$ _____

4. Are you working: (Yes) (No) Kind of work: _____

Name of employer: _____

5. I am paid: () weekly, () every two weeks, () twice a month, () once a month. I will get my next check _____
My hourly rate is \$ _____

6. Gross income (if available, attach last three pay stubs):

	EACH PAY PERIOD	MO.
	\$ _____	\$ _____
Deductions:		
Withholding tax	\$ _____	
F.I.C.A.	_____	
Retirement	_____	

TOTAL DEDUCTIONS \$ _____ (-) _____ (-)

NET INCOME \$ _____ \$ _____

7. Other income (Yes) (No) Explain: _____

APPENDIX "B" continued

8. Have you received any overtime pay in the last 12 months (Yes) (No)
9. Quick assets: I have or subject to my control:
- | | | |
|---------------------------|-----------------------------|----------|
| \$ _____ cash | \$ _____ banks | \$ _____ |
| \$ _____ credit unions | \$ _____ undeposited checks | S & L |
| \$ _____ stocks and bonds | \$ _____ other | ASSN. |
- I can borrow \$ _____ on my signature.
10. Is your spouse working? (Yes) (No) Kind of work: _____
 Name of spouse's employer: _____
 My spouse is paid: () weekly, () every two weeks, () twice a month, () once a month. My spouse's paycheck is received _____
 My spouse's hourly rate of pay is \$ _____

11. Gross Income (if available, attach spouse's last three pay stubs)

	EACH PAY PERIOD	MO.
	\$ _____	\$ _____
Deductions:	\$ _____	
Withholding tax	_____	
F.I.C.A.	_____	
Retirement	_____	
	(+) _____	
TOTAL DEDUCTIONS	\$ _____ (-) _____	(-) _____
NET INCOME	\$ _____	\$ _____

13. Other Income -- Spouse: (Yes) (No) Explain _____

14. Has your spouse received any overtime in the last 12 months? (Yes) (No)
15. Quick assets: My spouse has control of:
- | | | |
|---------------------------|-----------------------------|----------|
| \$ _____ cash | \$ _____ banks | \$ _____ |
| \$ _____ credit unions | \$ _____ undeposited checks | S & L |
| \$ _____ stocks and bonds | \$ _____ other | ASSN. |
- My spouse can borrow \$ _____ by signature.

16. Custody of the children is at present as follows: _____

17. (ANSWER ONLY IF WIFE) The following sums are reasonably necessary or within the ability of my husband to pay, and that it will be fair and equitable to require the following:

	EACH PAY PERIOD	MO.
a. For temporary alimony	\$ _____	\$ _____
b. For child support	(+) _____	(+) _____
18. Total lines 17a. and 17b.	\$ _____	\$ _____
19. Wife's Net Income	(+) _____	(+) _____
20. Total Lines 18 and 19	\$ _____	\$ _____
21. Husband's Net Income	\$ _____	\$ _____
22. Less alimony and support (line 18)	(-) _____	(-) _____

23. Net husband after deduction of child support and alimony \$ _____

24. (ANSWER ONLY IF HUSBAND) I feel that a reasonable sum for me to pay weekly or monthly would be:

	EACH PERIOD	MO.
a. For temporary alimony	\$ _____	\$ _____
b. For child support	(+) _____	(+) _____
25. Total Lines 24a. and 24b.	\$ _____	\$ _____
26. REAL ESTATE		VALUE
a. _____		\$ _____
b. _____		\$ _____

Date: _____ (Husband) (Wife)