

EXHIBIT 5



Harris County District Courts



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RULES of the CIVIL TRIAL DIVISION

Harris County District Courts

4/28/2014

Rule 1. OBJECTIVE OF RULES.

The objective of the rules of the Civil Trial Division of the District Courts of Harris County is to obtain a just, fair, equitable and impartial adjudication of the rights of litigants under established principles of substantive law and established rules of procedural law. To the end that this objective may be attained with as great expedition and dispatch and at the least expense, both to the litigants and to the state, as may be practicable, the rules shall be applied to ensure that, so far as reasonably possible, all matters are brought to trial or final disposition in conformity with the following standards:

- (a) Civil jury cases within 18 months from appearance date;
- (b) Civil non-jury cases within 12 months from appearance date.

Rule 2. REPORTS TO ADMINISTRATIVE JUDGE.

The district clerk shall supply to the Administrative Judge of the Civil Trial Division, on a monthly basis, information concerning the number of filings, dispositions, trials and other judicial activities in each court in the Civil Trial Division.

Rule 3. FLOW OF CASES.

3.1 FILING AND ASSIGNMENT. On being filed, a case in the Civil Trial Division shall be assigned randomly to the docket of one of the courts in that Division. Once assigned to a court, a case will remain on

the docket of that court for all purposes unless transferred as provided in Rule 3.2.

3.2 TRANSFER.

3.2.1 Prior Judgment. Any claim for relief based upon a prior judgment shall be assigned to the court of original judgment.

3.2.2 Prior filings. Any matter filed after a non-suit, dismissal for want of prosecution, or other disposition of a previous filing involving substantially-related parties and claims shall

be assigned by the Administrative Judge of the Civil Trial Division to the court where the prior matter was pending.

3.2.3 Consolidation.

(a) *Consolidation of Cases.* Subject to subpart c, a motion to consolidate cases must be heard in the court where the first filed case is pending. If the motion is granted, the consolidated case will be given the number of the first filed case and assigned to that court.

(b) *Consolidation of Discovery.* Subject to subpart c, a motion to consolidate discovery in separate cases must be heard in the court where the first filed case is pending. If the motion to consolidate discovery is granted, the case will not transfer, but the case management will be conducted by the consolidating court.

(c) *Consolidation to Special Dockets.* Special dockets for the management of multi-court cases may be created by order of the Administrative Judge of the Civil Trial Division according to policies approved by the judges of the Civil Trial Division.

3.2.4 *Severance.* If a severance of a claim or a defendant in a case is ordered, the new case will be assigned to the court where the original case pends, bearing the same file date and the same number as the original case with a letter designation. If a severance of multiple plaintiffs or intervenors in a case is ordered, the new case(s) may be randomly reassigned by the Administrative Judge of the Civil Trial Division. If not randomly reassigned, the case(s) will stay in the same court. When a severed case has previously been consolidated from another court, the case shall upon severance be assigned to the court from which it was consolidated.

3.2.5 *Agreement.* Any case may be transferred from one court to another court by written order of the Administrative Judge of the Civil Trial Division or by written order of the judge of the court from which the case is transferred; provided, however, that in the latter instance the transfer must be with the written consent of the court to which the case is transferred.

3.2.6 *Presiding for Another.* In all cases where a court presides for another court, the case shall remain pending in the original court. If available, the judge who signed an order shall preside over any motion for contempt of that order, except as otherwise provided in Sec. 21.002, Tex. Gov. Code.

3.2.7 *Administrative Transfers.* The Administrative Judge of the Civil Trial Division may transfer cases between courts or may assign cases from one court to another court for hearing due to illness, trial schedule, or other sufficient reasons.

3.2.8 *Improper Court.* If a case is on the docket of a court by any manner other than as prescribed by these rules, the Administrative Judge of the Civil Trial Division shall transfer the case to the proper court.

3.3 MOTIONS.

3.3.1 *Form.* Motions shall be in writing and shall be accompanied by a proposed order granting the relief sought. The proposed order shall be a separate instrument, unless the entire motion, order, signature lines and certificate of service are all on one page.

3.3.2 *Response.* Responses shall be in writing and shall be accompanied by a proposed order. Failure to file a response may be considered a representation of no opposition.

3.3.3 *Submission.* Motions may be heard by written submission. Motions shall state Monday at 8:00 a.m. as the date for written submission. This date shall be at least 10 days from filing, except on leave of court. Responses shall be filed at least two working days before the date of submission, except on leave of court.

3.3.4 *Oral Hearings.* Settings for oral hearings should be requested from the court clerk. The notice of oral hearing shall state the time and date.

3.3.5 *Unopposed Motions.* Unopposed motions shall be labeled "Unopposed" in the caption.

3.3.6 *Extension of Certificates of Conference.* The certificates of conference required by the Texas Rules of Civil Procedure are extended to all motions, pleas and special exceptions except summary judgments, default judgments, agreed judgments, motions for voluntary dismissal or non-suit, post-verdict motions and motions involving service of citation.

3.4 TRIALS.

3.4.1 *Manner of Setting.* Cases shall be set for trial by order of the court.

3.4.2 *Date of Setting.* Cases shall be set for trial for a date certain. If a case is not assigned to trial by the second Friday after the date it was set, whether because of a continuance or because it was not reached, the court shall reset the case to a date certain. Unless all parties agree otherwise, the new setting must comply with all requisites of T.R.C.P. 245.

3.4.3 *Assignment to Trial.* A case is assigned to trial when counsel are called to the court to commence the jury or non-jury trial on the merits. For purposes of engaged counsel, no court may have more than one case assigned to trial at any one time.

3.4.4 *Dead Weeks.* Except with the consent of all parties, no court will assign cases to trial on the merits, or set oral hearings on motions, during:

- (a) The week of the spring state or regional judicial conference
- (b) The week of the State Bar Convention;
- (c) The week of the Conference of the Judicial Section (September); and
- (d) Any December week or weeks where the Monday of that week begins with the dates, Dec. 22-31.

3.5 ANCILLARY DOCKET.

3.5.1 *Ancillary Docket.* The ancillary docket consists of the following :

- a) Applications for temporary restraining orders;
- b) Motions to dissolve or modify temporary restraining orders;
- c) Motions to modify the bond for a temporary restraining order;
- d) Motions to authorize emergency medical treatment;
- e) Requests before any suit has been filed to appoint umpires or arbitrators;
- f) The following matters, when brought under Chapter 81 of the Texas Health & Safety Code:
 - i. Motions for orders of protective custody;
 - ii. Motions for orders of temporary protective custody;
 - iii. Motions for orders for temporary detention pending a hearing on a motion to modify an order for outpatient treatment;
 - iv. Appointment of attorneys for persons subject to protective custody or detention orders; and
 - v. Probable cause hearings.

3.5.2 *Ancillary Judge.* The Ancillary Judge is responsible for hearing all matters on the ancillary docket. Each judge will serve as Ancillary Judge for one-half of a calendar month according to a schedule adopted by the judges of the Civil Trial Division. The Ancillary Judge will be available at the courthouse on business days during regular business hours, and will provide the county switchboard with the means to locate the Ancillary Judge at all other times.

If not available to serve at any time during the term, the Ancillary Judge will designate, in writing, another judge to serve ad interim, and will notify the Administrative Judge of the Civil Trial Division, the ancillary clerk, and the county switchboard of that designation.

In the absence or unavailability of the Ancillary Judge or designee under the rule, matters requiring judicial attention will be presented to the Administrative Judge of the Civil Trial Division for ruling or assignment to another judge for ruling.

3.5.3 *Authority to Grant Ancillary Relief.* No judge other than the Ancillary Judge may grant ancillary relief without a written order from the Ancillary Judge or Administrative Judge of the Civil Trial Division. However, either the Presiding Judge or the Ancillary Judge may grant an extension of a temporary restraining order. In requests for ancillary relief, the Ancillary Judge shall hear the matters as "Judge Presiding" for the court in which the case is pending.

3.6 DISMISSAL DOCKETS. The following cases are eligible for dismissal for want of prosecution pursuant to T.R.C.P. 165a:

- (a) Cases on file for more than 120 days in which no answer has been filed or is required by law;
- (b) Cases which have been on file for more than eighteen months and are not set for trial;
- (c) Cases in which a party or his attorney has failed to take any action specified by the court.

Rule 10. CONFLICTING ENGAGEMENTS.

10.1 **INTER-COUNTY.** The Rules of the Second Administrative Judicial Region control conflicts in settings of all kinds between a Harris County court and a court not in Harris County. The Rules of the Second Administrative Judicial Region are available in the District Clerk's office.

10.2 **INTRA-COUNTY.** Among the trial courts sitting in Harris County:

- (a) Trial/Non-Trial. Trial settings take precedence over conflicting non-trial settings; and
- (b) Trial/Trial. A trial setting that is assigned takes precedence over a conflicting trial setting not yet assigned.

10.3 **WAIVER.** The court with precedence may yield.

10.4 **LEAD COUNSEL.** 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.

Rule 11. VACATIONS OF COUNSEL.

11.1 **DESIGNATION OF VACATION.** Subject to the provision of subparts .2 and .3 of this Rule, an attorney may designate not more than four weeks of vacation during a calendar year as vacation, during which that attorney will not be assigned to trial or required to engage in any pretrial proceedings. This rule operates only where lead counsel, as defined by T.R.C.P. 8, is affected, unless the trial court expands coverage to other counsel.

11.2 **SUMMER VACATIONS.** Written designation for vacation weeks during June, July, or August must be filed with the district clerk by May 15. Summer vacation weeks so designated will protect the attorney from trials during those summer weeks, even if an order setting the case for trial was signed before the vacation designation was filed.

11.3 **NON-SUMMER VACATIONS.** Written designation for vacation in months other than June, July, or August must be filed with the district clerk by February 1. Non-summer vacation weeks

may not run

consecutively for more than two weeks at a time. Non-summer vacation weeks so designated will not protect an attorney from a trial by an order signed before the date the designation is filed.

Rule 12. ADMINISTRATIVE JUDGE OF THE CIVIL TRIAL DIVISION.

12.1 ELECTION. The Administrative Judge of the Civil Trial Division shall be elected for a term of one calendar year by the judges of the Civil Trial Division at the regular December meeting of the judges of

the Civil Trial Division. No judge may serve more than two consecutive terms as Administrative Judge. If a vacancy occurs in the office of Administrative Judge, the judges of the Civil Trial Division must

hold an election to fill the vacancy at their next monthly meeting.

12.2 DESIGNEE. The Administrative Judge of the Civil Trial Division may by written order designate any other judge of the Division to act for the judge when the Administrative Judge is absent or unable to

act. The judge so designated shall have all the duties and authority granted by these Rules to the Administrative Judge of the Civil Trial Division during the period of the designation.

Rule 15. UNIFORMITY.

15.1 TRIAL AND DISMISSAL DOCKETS. The judges of the Civil Trial Division shall only use those docket management form letters and form orders which have been approved by the judges of the Civil Trial Division.

15.2 APPOINTEE FEE REPORT. Each person appointed by a judge in the Civil Trial Division to a position for which any type of fee may be paid shall file the designated uniform report before any judgment, dismissal, or nonsuit is signed. This report is required for every appointment made whether or not a fee is charged.

15.3 RECORDING AND BROADCASTING OF COURT PROCEEDINGS. Recording or broadcasting court proceedings in the Civil Trial Division is governed by uniform rules adopted by the judges of the Civil Trial Division.

Rule 16. MEETINGS.

The judges of the Civil Trial Division shall meet regularly on the first Tuesday of each month from 12:15 until 1:15 p.m. The Administrative Judge of the Civil Trial Division may call a special meeting by written notice distributed at least 72 hours in advance of the meeting. Any special meeting called will state an ending time for the meeting. The judges may vote to reschedule or cancel any monthly meeting. No more than two meetings in any calendar year may be canceled.

Rule 17. EFFECTIVE DATE.

Effective October 20, 1987; amended 1/22/90; 7/1/90; 8/31/91; 1/3/96; 7/2/97; 4/27/98; 5/26/99; 5/4/04, 4/28/14



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