

NOTE: Best copy available - pages with post it notes were copied twice once without the note, and once with.

SUPREME COURT OF TEXAS ADVISORY COMMITTEE
AGENDA

May 15, 16, 17, 1986

1. Report on Proposed Administrative Rules for Texas Trial Courts by Judge Solomon Casseb, Chairman of the Special Subcommittee on matters contemplated by House Bill 1658
2. Report and final action on Rule changes addressed by the Standing Subcommittee on Pre-Trial and Discovery Rules 15-215A: Sam Sparks
3. Report of Ad Hoc Committee composed of Spivey, Morris, McConnico and Reasoner regarding their work with the Supreme Court and their space requirements during the upcoming remodeling of the Court building
4. Report on Canon 3-C: Luther H. Soules III
5. Report of Subcommittee on Proposed Rule 365a: Professor J. Hadley Edgar
6. Report and final action on Rule changes addressed by the Standing Subcommittee on Rules of Evidence including their relationship to Rules of Civil Procedure: Professor Newell Blakely
7. Report of the Standing Subcommittee on Post Trial Rules 315-331: Harry Tindall
8. Report of the Standing Subcommittee on Justice Court Rules 523-591: Broadus Spivey
9. Report of the Standing Subcommittee on Ancillary Proceedings Rules 592-734: Pat Beard
10. Report of the Standing Subcommittee on Special Procedures Rules 737-813: James Kronzer
11. Report of the Standing Subcommittee on General Rules 1-14: Judge Linda Thomas
12. Report on Rule changes addressed by the Standing Subcommittee on Trial Rules 216-314: Franklin Jones, Jr.
13. Report and final action on Rule changes addressed by the Standing Subcommittee on Court of Civil Appeals Rules 342-472 and Supreme Court Rules 474-515: Professor William Dorsaneo and Russell McMains

00000001

MINUTES SUPREME COURT ADVISORY COMMITTEE

March 7-8, 1986

The Advisory Committee of the Supreme Court of Texas met on March 7, 1986, at 10:30 a.m. pursuant to call of the Chairman.

Members of the committee in attendance were Honorable Luther H. Soules III, Chairman, Gilbert T. Adams, Jr., Pat Beard, David J. Beck, Professor Newell Blakely, Frank L. Branson, Professor William V. Dorsaneo III, Professor J. Hadley Edgar, Chief Justice John Hill, Vester T. Hughes, Jr., Franklin Jones, Jr., W. James Kronzer, Gilbert I. Low, Steve McConnico, Russell McMains, Charles Morris, Harold Nix, Honorable Jack Pope, Tom L. Ragland, Harry M. Reasoner, Sam D. Sparks, Sam Sparks, Broadus A. Spivey, Harry Tindall, Honorable Bert H. Tunks, Professor Orville C. Walker, Justice James P. Wallace, and Honorable Allen Wood.

Welcoming remarks were received from Chief Justice John L. Hill.

Upon motion by Franklin Jones, Jr., seconded by Charles, the minutes from May 31, 1985, were approved.

The Chairman requested discussion concerning Canon 3C of the Code of Judicial Conduct. The language "shall" was changed to "should" by a show of hands 14 to 2. The Chairman's suggestion that the proposed Canon 3C be recommended to the Supreme Court was unanimously approved.

Professor Dorsaneo gave his subcommittee report. Rules 354 and 380 has been incorporated in proposed Rule 30(a)(3)(B). Rule 377 submitted by Raymond Judice has been taken care of by the Supreme Court itself. Rule 4 regarding certification form on the transcript or statement of acts, pursuant to a memo to Chief Justice Pope from Ray Judice, dated August 22nd, was done. Current Rule 423 was done by the Supreme Court in the last amendment of Rule 423. Rule 439, submitted by Justice Robertson, was reported on at the last meeting. It was decided by both the subcommittee and the full committee that Rules 439, 440, and 441 relating to remittiturs not be abolished. Rule 452 was extensively discussed last meeting and there will be no change in the present practice recommended. Rule 458, submitted by Judge Casseb, was voted down in the last meeting.

00000002

It was unanimously decided that Judge Frank J. Douthitt's recommendation regarding changing the time periods in the appellate timetable not be considered.

After discussion, Professor Jeremy Wicker's recommendation that the reference to a notice of appeal be deleted from current Rule 360 and from proposed Rule 35 at paragraphs 5 and 8 was unanimously rejected.

It was moved by Professor Dorsaneo and seconded by Mr. Sparks that Professor Wicker's recommended change of Rule 363, incorporated in Proposed Rule 30(a)(1) be rejected. The committee voted unanimously to reject same.

Professor Dorsaneo's recommendation that the sentence that currently appears in Rule 363 that is the subject matter of Professor Wicker's second recommendation be moved from proposed Rule 30(a)(1) to proposed appellate Rule 35 was unanimously approved, after being moved by Professor Dorsaneo and seconded by Mr. McMains.

Professor Wicker's recommendation that Rule 447 be corrected by replacing the reference to the repealed rule with the reference to the rule that covers that matter was approved and the change will be recommended.

After a motion by Professor Dorsaneo, and a second by Mr. Tindall, it was approved by a show of hands that, in the proposed rule that would supersede current Rule 447, there would be no cross reference to other rules. Proposed appellate Rule 88 will be used as a guide in drafting same.

Professor Wicker's suggestion concerning Rule 496, suggesting that it refer to the rule that contains the requirements or requisites for an application for writ of error rather than the rule for preparation of a brief in the court of appeals has already been addressed by Professor Dorsaneo's committee. Professor Wicker's suggestion that "J" and "N" be eliminated was approved and Professor Dorsaneo's suggestion that Proposed Rule 136(b) be corrected to reflect the foregoing was carried unanimously after motion by Professor Edgar and a second by Mr. Beck and Judge Tunks.

After discussion, it was agreed that Professor Dorsaneo would contact Professor Wicker for clarification of his suggestion regarding Rule 376(a).

Professor Wicker's suggestion concerning current Rule 388a (incorporated in the proposed appellate rules as Rule 13) was next considered by the committee. It was moved by Professor Dorsaneo and seconded by David Beck that, if the proposed rules are adopted, the order ought to be changed to refer to Rule 13 of

the Texas Rules of Appellate Procedure. The motion carried unanimously.

As per Professor Wicker's suggestion, Professor Dorsaneo moved that current Rule 385a, and if it's adopted, Proposed Rule 16, be corrected by changing the reference from the repeal statute to the appropriate section of the Texas Government Code. Mr. Sparks seconded and the motion carried unanimously.

Professor Dorsaneo made the same recommendation concerning Rule 469 (Proposed Rules 131 and 483, located in the proposed rules as Proposed Rule 133) and current Rule 499a (Proposed Rule 140) and the recommendation carried unanimously. Professor Dorsaneo and Mr. Tindall suggested deletion of the word "Texas" and it was the consensus of the committee that the deletion be made.

Professor Dorsaneo then read his redrafted Proposed Rule 84 to the committee and requested whether he had followed the committee's wishes as expressed in its November, 1985, meeting. Discussion ensued regarding current Rules 435 and 438, and there was extensive discussion regarding the wording of Proposed Rule 84. 11 members felt the Rule should contain the word "frivolous" and 11 members felt the phrase "without sufficient cause" to be appropriate. Chairman Soules read Rule 84, as changed in the committee's discussion, out loud as follows: "In civil cases where the court shall find that an appeal or writ of error has been taken for delay and without sufficient cause then the court of appeals may award the appellee as much as 10 percent of the amount of damages awarded in the judgment." Mr. Spivey motions to table the discussion and take it up at a later point in the session.

Professor Dorsaneo then reported to the committee that, since its last meeting, the Court of Criminal Appeals promulgated a version of the Texas Rules of Appellate Procedure that goes into effect September 1, 1986. He also discussed with the committee the work that needs to be done to harmonize the rules promulgated by the Court of Criminal Appeals and the ones that will be promulgated by the Supreme Court. David Beck volunteered to have his office read the two drafts, highlight the differences and send them to Professor Dorsaneo. Chairman Soules then appointed David Beck and Russell McMains to work with Professor Dorsaneo in working with the Court of Criminal Appeals for a June publication of a joint set of appellate rules. Justice Wallace will work with Mr. Beck, Mr. McMains and Professor Dorsaneo.

Chairman Soules stated that, in the event that 364a or 365a is adopted or recommended, then 368, 627 and 634 would also need to be amended as a housekeeping measure. Mr. Branson suggested that the matter be tabled, since several members of the committee represent both sides in the Pennzoil vs. Texaco litigation. Chairman Soules stepped down and appointed Professor Dorsaneo as

chairman in this particular matter and discussion ensued. Mr. Branson ruled that consideration of Proposed Rule 365a be tabled and Mr. Low seconded. By show of hands, by two-thirds vote, the committee tabled consideration of Proposed Rule 365a. David Beck, Russell McMains, Luther Soules, Harry Reasoner and James Kronzer abstained from voting. Mr. Low requested that the record reflect that his vote in no way reflected on any member of the committee. Justice Wallace requested that the issue be taken up again as soon as possible. Professor Dorsaneo, as acting chairman, appointed a subcommittee to be chaired by Professor J. Hadley Edgar with Broadus Spivey and Sam Sparks of El Paso to make a report at the next meeting.

Professor Edgar gave a brief summary of proposed Rule 277, regarding standardization of broad form questions, and the subcommittee's reasoning processes behind its recommendations for changes. Said changes were discussed extensively by the committee. The first sentence of the first full paragraph on Page 15 under the Proposed Rule 277 was changed by deleting from "in any case" in the first line, and deleting all of the second, third, fourth, fifth, sixth and seventh lines through the word "culpable." The word "also" was struck from the second sentence of the first full paragraph on page 15. Chairman Soules asked, by show of hand, how many felt good cause should be retained for the submission of a general charge. Ten felt it should be retained and ten felt it should not. On a show of hands, fourteen members approved the adoption of Rule 277, as proposed on page 13, with one change, deleting the words "in a proper case" and inserting "for good cause" in their place. Eight members opposed the motion. Regarding inferential rebuttal issues, the rule as written was defeated by a majority by show of hands with four opposed. It was voted, house against one, that the proposed rule have language saying "inferential rebuttal questions shall not be submitted." The language "Placement of the burden of proof may be accomplished in instructions rather than by inclusion in the question" was recommended by a unanimous show of hands. Chief Justice Pope commented at length regarding the court advising the jury of the effect of its answers. Upon unanimous vote, it was decided to delete the first sentence in the first full paragraph on Page 16, "upon request of either party the court may instruct the jury as to the effect of its answers to questions will have upon the judgment to be rendered in the case." It was moved by Mr. Branson and seconded by Professor Edgar that the second sentence, "counsel may argue to the jury what they contend to be the effect of the jury's answers and the judgment to be rendered." Upon show of hands, sixteen members voted for deletion and four members voted for retention. Retention of the last sentence of the rule was approved, sixteen to five. Eight members voted to make the last sentence mandatory, with the last sentence being permissive carrying. "The court may predicate the damage question upon affirmative findings of liability" was moved to the first paragraph on Page

15 to read "The court shall instruct the jury to answer the damage question or questions without any reduction because of the percentage of negligence or causation, if any, of the person injured. The court may predicate the damage questions upon affirmative findings of liability." The committee voted to adopt the last paragraph on Page 16, as written. Six members felt that the judge should be able to explain from the bench to the jury without given them a written instruction, be outside of a written instruction in the event of a conflict. Nine members felt that the judge, whenever he does instruct, if he can instruct on an inconsistency, should be confined to a written instruction which he may read to the jury from the bench after an opportunity for objections. Chairman Soules' suggestion to move the paragraph regarding written instructions being read from the bench from Rule 277 to Rule 295 was unanimously approved by show of hands. Chairman Soules then moved that Rule 277 be recommended to the Supreme Court and upon a show of hands, it was carried, with Harry Reasoner and James Kronzer voting against same.

The committee discussed meeting times and dates and agreed that it should attempt to meet quarterly instead of twice a year, meet earlier in the day and schedule working lunches instead of lunch breaks.

The committee agreed to meet on May 16th and 17th, 1986, beginning at 8:30 a.m. on the morning of May 16, 1986.

After discussion, Mr. Branson moved that the committee adopt the provisions underlined on Page 21 regarding broad form questions. Mr. Low seconded the motion and by show of hands, eleven to six, it was adopted.

The committee re-convened on March 8, 1986.

It was proposed that the word "judge" in Rule 271 be changed to "trial court". The motion carried unanimously.

On Rule 272, "judge" was changed to "court" "his" to "its" and an addition was made "outside the presence of the jury". The changes will be recommended to the Supreme Court as a unanimous recommendation of the committee.

Rule 273 as proposed will be recommended for adoption by the Supreme Court as the unanimous recommendation of the committee.

Rule 274 as proposed will be recommended for adoption by the Supreme Court as the unanimous recommendation of the committee.

It was unanimously agreed that the word "charge" be eliminated from Rules 273, 274, and 275.

It was unanimously agreed that the first word in the third sentence from the bottom of Page 8 "requested" be deleted from

Rule 275. With that deletion, it was unanimously agreed that Proposed Rule 275 be recommended to the Supreme Court for adoption.

Rule 277 and 295 came up for further discussion. It was moved by Mr. Beck and seconded by Mr. Sparks that they be referred back to Mr. Jones' subcommittee for further review.

Chairman Soules requested that Mr. Beck and Mr. Jones work on the issue submission aspects of Rules 295 and 286.

Proposed Rule 278, "Submission of Questions" is the first full paragraph of what used to be Rule 279. Mr. Low moved that the first line of Proposed Rule 278 be deleted, with Professor Edgar seconding. The motion was unanimously carried. The committee moved to eliminate the words "the controlling" and the first clause in the sentence. After further discussion, it was agreed that further work was necessary before Rule 278 could be submitted.

Proposed Rule 279 was then discussed. Suggestions concerning deletions and changes to language were made and it was referred back to subcommittee.

The deletion of the phrase "as well as distance actually traveled in serving such process" in Rule 16 was unanimously recommended.

Chairman Soules included Rule 21c in the repealer list to the appellate rules project under no objection from the committee.

It was moved by Mr. Sparks to approve the recommendation made by Mary Jo Carroll regarding Rule 117a, seconded by Professor Dorsaneo. Rule 117a was adopted unanimously by show of hands.

The idea of "good cause" in Rule 165a(2) was rejected unanimously by show of hands, after motion by Mr. Kronzer and second by Mr. McConnico. The proposal to extend the time to seek reinstatement to six months will be taken up at the next meeting by Mr. Sparks. Professor Wicker's suggestion to change "is" to "are" in the phrase "The same reinstatement procedures and timetables" was unanimously recommended by show of hands.

It was moved by Professor Dorsaneo and seconded by Mr. Sparks that Rule 184 and 184a be repealed, since the subject matter is covered by the Texas Rules of Evidence. Chairman Soules, Mr. Kronzer, Mr. Reasoner, Mr. McMains, Mr. Beck and Judge Casseb abstained from voting.

Chief Justice Hill requested a subcommittee be appointed to assist the Supreme Court in the remodeling of the Supreme

Courtroom and its chambers. Mr. Reasoner was appointed chairman, with Mr. Spivey, Mr. McConnico and Mr. Morris volunteering as members.

Chairman Soules requested that Mr. Professor Blakely study the Rules of Practice in District and County Courts in Section 9, Evidence in Depositions and Subsection A, Evidence, numbered Rules 176 through and including Rule 185 to determine whether they should be repealed in light of the subject matter being covered by the Rules of Evidence.

A meeting was scheduled for September 12th and 13, 1986, beginning at 8:30 a.m. and ending at 5:30 on Friday and from 8:30 a.m. to 1:30 p.m. on Saturday.

Mr. Sparks addressed Don Baker's suggestion regarding Rule 201. The committee decided that it had already accepted his suggestion and incorporated it into the Proposed Rules.

It was unanimously decided that the committee would recommend Judge Barrow's suggestion regarding Rule 206, reinsertion of the provision that the original deposition be taxed as costs, which is the current practice.

The suggestion regarding Rule 209, allowing clerks to dispose of depositions 180 days after judgment was tabled for further investigation by subcommittee.

Professor Jeremy Wicker's suggestions concerning the rules beginning with Rule 18a through 182a were unanimously approved by show of hands.

Professor Wicker's suggestions concerning Rules 167 through Rule 209 are being studied and will be studied further by Mr. Sparks' committee and he urged members of the committee to send in their comments and/or suggestions regarding same.

Rule 84 was again discussed at length. It was unanimously decided that each delayed appellee can recover up to ten percent of the taxable costs from the parties causing the delay and that the sentence "a request for damages for delay shall not have the effect of permitting the appellate court to consider error that has not been preserved for appellate review" be retained.

It was unanimously decided that Rule 438 should contain the language "where the court upon its own motion or upon request of any party shall find".

Judge Casseb gave a summary of actions taken by the task force in response to House Bill 1658. Judge Casseb strongly urged that the committee review the output of his subcommittee for consistency and harmony with the Rules of Civil Procedure before its adoption by the Supreme Court. Chairman Soules

suggested that the committee meet on May 15, 1986, to discuss Judge Casseb's recommendations to House Bill 1658.



OFFICE OF COURT ADMINISTRATION
TEXAS JUDICIAL COUNCIL

1414 Colorado, Suite 602 • P.O. Box 12066 • Austin, Texas 78711-2066 • 512/463-1625

TO: Members, Task Force on the Court Administration Act
FROM: C. Raymond Judice
DATE: April 10, 1986
RE: Proposed Administrative Rules

Enclosed is a copy of the Proposed Administrative Rules incorporating the changes made by the Task Force on April 5, 1986.

These proposed rules will be published in the June issue of the Texas Bar Journal. There will be an open forum during the State Bar Convention in Houston in June to afford an opportunity for additional input on the rules.

Enclosure

OCA:MEMTF1.21

00000010

PROPOSED ADMINISTRATIVE RULES
FOR
TEXAS TRIAL COURTS

Proposed by the
TASK FORCE ON THE
COURT ADMINISTRATION ACT
on
April 5, 1986

00000011

PROPOSED ADMINISTRATIVE RULES
FOR
TEXAS TRIAL COURTS

The Texas Rules of Civil Procedure
April 5, 1986

Rule 1

The purpose of these Rules is to provide for the just and expeditious disposition of the cases in the courts of Texas. It is intended that these Rules be consistent with the Texas Rules of Civil Procedure, ~~which shall govern in all cases not specifically covered by these Rules~~

which shall govern in event of conflict.

In the execution of these Rules, telephone hearings or conferences in lieu of court appearances are encouraged.

*Move to
TRC.P.
21.*

RULE 2 It shall be the policy of the courts and bar of Texas to manage their work to achieve the disposition of non-probate civil cases within the periods of time listed:

	<u>50%</u>	<u>90%</u>	<u>98%</u>
<i>Family Law</i>			
Domestic Actions and Actions for Liquidated Monetary Claims	90 days	180 days	360 days
All Other Civil Actions	180 days	360 days	540 days

[COMMENT: As this is a new policy, cases pending on the effective date of these rules should be approached with the same attitude as new cases.]

RULE 3. The local administrative judges of each county shall require the following information to be reported on a monthly basis:

0000012

PROPOSED ADMINISTRATIVE RULES

COURTS
here
86

in event of conflict,
to provide for the just and
in the courts of Texas. It is
with the Texas Rules of Civil
~~to be specifically covered~~
These Rules, telephone hearings
are encouraged.

Rule 1

exp
int
Pro
by
or

Schedule
Plan in
old cases first then
new cases

Moved to
TRC.P.
21.

RULE 2 It shall be the policy of the courts and bar of Texas to
manage their work to achieve the disposition of non-probate civil
cases within the periods of time listed:

- Family Law
- ~~Domestic~~ Actions
and Actions for
Liquidated Monetary
Claims
- All Other Civil Actions

50%

[COMMENT: As this is a new
date of these rules should be
cases.]

Interruption docket:
"off the clock" if
stayd or abated
these ~~standards~~ shall not be
enjoyed,
stayd, abated or removed
or in any other manner
suspended from
during the period of any
suspension.
all
below
of rules - ✓

RULE 3. The local administra
shall require
the following information to be reported on a monthly basis:

C0000012

SEE NEXT PAGE FOR POST-IT NOTE COMMENTS

- a. The age of cases at the time of disposition for each category of case.
- b. A chart aging the active cases in the same time spans as the disposition aging.
- c. The number of cases, by category, disposed of:
 - (1) within 72 hours before the trial setting;
 - (2) at the first trial setting;
 - (3) at or after the second trial setting; or
 - (4) after the commencement of trial; or
 - (5) after verdict or rendition.
- d. The length of "trials" in hours, separately for jury and non-jury.
- e. The number and median age of cases at disposition for all
 - (1) dismissals,
 - (2) defaults,
 - (3) agreed judgments,
 - (4) trials before a judge, and
 - (5) trials to a jury verdict.

³
RULE 3 The control of the flow of non-probate civil cases shall be subject to the following:

- a. It is the purpose of this rule to provide a process for the routine management of non-probate civil cases. This rule shall be interpreted liberally to provide for the just and expeditious disposition of the cases brought to the courts of Texas. Nothing in this rule shall be interpreted to prevent a court in an individual case from issuing an exception order

- a. The age of cases at the time of disposition for each category of case.
- b. A chart aging the active cases in the same time spans as the disposition aging.
- c. The number of cases, by category, disposed of:
 - (1) within 72 hours before the trial setting;
 - (2) at the first trial setting;
 - (3) at or after the second trial setting; or
 - (4) after the commencement of trial; or
 - (5) after verdict or rendition.
- d. The length of "trials" in hours, separately for jury and non-jury.
- e. The number and median age of cases
 - (1) dismissals,
 - (2) defaults,
 - (3) agreed judgments,
 - (4) trials before a judge, and
 - (5) trials to a jury verdict.

Memo
~~after~~
 6

³
 RULE ~~3~~ The control of the flow of non-probate civil cases shall be subject to the following:

- a. It is the purpose of this rule to provide a process for the routine management of non-probate civil cases. This rule shall be interpreted liberally to provide for the just and expeditious disposition of the cases brought to the courts of Texas. Nothing in this rule shall be interpreted to prevent a court in an individual case from issuing an exception order

based on a specific finding that the interest of justice requires a modification of the routine processes as prescribed by this rule.

- b. This rule shall apply to all non-probate civil cases filed in the courts of Texas unless a more specific rule covering a specific category or group of cases is otherwise provided.
- c. Within 30 days after ~~filing~~ ^{general appearance of} of the ~~initial pleading~~ by the last Defendant to appear:

- (1) any or all parties may, without waiver of any rights, file with the Court a proposed plan for completion of discovery, preparation for trial and trial setting, or a formal request pursuant to section d.;
- (2) within 21 days after the filing of a proposed plan, any other party may respond to a proposed plan;
- (3) in the event additional ^{persons become} parties ~~are joined~~ after the order for the schedule for the completion of discovery and preparation for trial has been ~~entered~~ ^{rendered,} then ~~such~~ ^{any} ~~party~~ party may, within 21 days from the date such ~~additional~~ ^{persons make a general appearance,} ~~parties~~ ^{is required to answer,} propose changes in such schedule; and

- (4) as soon as reasonably practicable after the time period for responding to a proposed plan has elapsed, the Court shall ~~enter~~ ^{render and sign} its ~~order~~ ^{minutes}, or if additional parties are added, its amended order, for completion of discovery, for preparation for trial, and for trial setting.)

If at any time a case appears to be sufficiently complicated to require close supervision, a party may request that a scheduling ^{minutes} conference be held, which the Court shall hold

Rule 16(g)

*Copy of the order for amended order
The clerk of the court shall immediately give notice to the parties or their attorneys as required by the rules which*

Party may request scheduling hearing unless court shall hold a hearing of the request

Court shall maintain a copy of its order amended order to all parties

within ten days of the request. If at any time the Court ^{determines that} ~~believes~~ a case requires close supervision, the Court may set and hold a scheduling ^{hearing} ~~conference~~.

(1) The request for a scheduling ^{hearing} ~~conference~~ shall be accompanied by an outline of the characteristics of the case which the requesting party believes will justify its treatment as complicated.

- (2) At a scheduling ^{hearing} ~~conference~~, the judge shall prescribe:
- (a) time limits for the completion of discovery;
 - (b) time limits for any motions which might be necessary;
 - (c) other time limits necessary to coordinate the preparation of the case for hearings and for trial;
 - (d) the time on which a pretrial ^{hearing} ~~conference~~, if any, shall be held;
 - (e) the date on which trial shall commence; or enter a determination that the case does not require close supervision with such further order as may be proper under the circumstances.

e. In all cases where the proceedings are not subject to a ^{scheduling order} ~~plan~~ under section c. or ~~a scheduling order under~~ section d., the following time limits shall take effect:

(1) A date no more than 270 days after the last original answer or other pleading is filed shall be set for trial.

Change plan to scheduling order throughout.

{ 1666 (5) b
63

- (2) The parties shall have no less than 90 days under this section to complete discovery, which shall be completed ~~30~~ days before the date set for trial under subsection e.(1).
 - (3) Each party shall file with the Court 45 days before the date set for trial under subsection e.(1) the certification provided in section f.
 - (4) Not less than 30 days before the date set for trial under subsection e.(1), the parties shall meet to discuss the disposition of the case and shall file with the Court a disposition conference report as prescribed by local rule.
 - (5) If the report required by subsection e.(4) is not filed, the Court shall set and hold a pretrial conference within 10 days of the date on which the report was due.
- f. Whenever under this rule a time is or has been provided for completion of discovery, each party shall file with the Court, on or before the date provided, a certification that discovery has been completed. In the event it is necessary to qualify this certification to file it within the time limits prescribed, the qualification shall be specific and the time within which the qualification shall be satisfied shall be stated.
- g. Provided that the trial date will not be affected, discovery time limits may be extended by agreement of the parties or by the Court upon a showing of good cause.

{ 1666 (5) b
63

(2) The parties shall have no less than 90 days under this section to complete discovery, which shall be completed ~~30~~ days before the date set for trial under subsection e.(1).

(3) Each party shall file with the Court 45 days before the date set for trial under subsection e.(1) the certification provided in section f.

(4) Not less than 30 days before the date set for trial under subsection e.(1), the parties shall meet to discuss the disposition of the case and shall file with the Court a conference report as prescribed

*Change
166 b to
45 days
(2) to 30 ✓*

→ subsection e.(4) is not at and hold a pretrial of the date on which the

f.

or has been provided for party shall file with the Court. If not provided, a certification that

discovery has been completed. In the event it is necessary to qualify this certification to file it within the time limits prescribed, the qualification shall be specific and the time within which the qualification shall be satisfied shall be stated.

g. Provided that the trial date will not be affected, discovery time limits may be extended by agreement of the parties or by the Court upon a showing of good cause.

- h. All motions for continuance ^{of the triad date} shall be made in writing and signed by ~~the client, or~~ ^{statement} shall contain a certification by counsel that a copy has been mailed ^{or delivered} to the client. The motion ^{shall comply with the amended T.R.C.P.} or request shall state the reason for the delay. The Court, in granting the delay, shall make a finding on the record as to the reasons for the delay.
- i. Failure of a party to file the certification reports or other documents required by the Court or otherwise required by this rule shall be deemed a failure to comply with an order of the Court within the Texas Rules of Civil Procedure.
- j. The Court has the authority to impose all appropriate sanctions in accordance with paragraph 2.b. of Rule 215 of the Texas Rules of Civil Procedure.

4
 RULE ~~4~~ (Family) ^{Family Law} The control of the flow of ~~divorce~~ cases shall be subject to the following:

- a. Beginning with the filing of an answer, or appearance, or in default of an answer beginning with the date on which an answer is due, each party shall have 60 days to file a disposition proposal in each case, unless:
 - (1) one of the parties files a motion to enlarge time to complete the disposition proposal or to permit mediation or counseling; or unless
 - (2) the parties shall have filed a completed joint disposition proposal.

[of the trial date]
h. All motions for continuance shall be made in writing and signed by the ~~attorney~~ ^{statement} shall contain a certification by counsel that a copy has been mailed ~~to the client~~ ^{or delivered} to the client. The motion ^{shall comply with the applicable T.R.P.} or request shall state the reason for the delay. The Court, in granting the delay, shall make a finding on the record as to the reasons for the delay.

i. Failure of a party to file the certification reports or other documents required by the Court or otherwise required by this rule shall be deemed a failure to comply with an order of the Court within the Texas Rules of Civil Procedure.

j. The Court has the authority to impose all appropriate sanctions in accordance with the Texas Rules of Civil Procedure.

4
RULE 4. (Family) The court shall be subject to the following

a. Beginning with the default of an answer is due

disposition proposal in each case, unless:

- 762
- Part in TRCP
Conflict w/251
\$252
\$254
- e 215 of
shall be
nce, or in
which an
to file a
- (1) one of the parties files a motion to enlarge time to complete the disposition proposal or to permit mediation or counseling; or unless
 - (2) the parties shall have filed a completed joint disposition proposal.

- b. The motion as provided in subsection a.(1) shall outline the times within which each specific item of a completed proposal shall be ready or the time limits in which mediation or counseling shall be attempted. If the motion is unopposed, the grounds stated in the motion will be prima facie sufficient for the Court to enlarge time.
- c. The disposition proposal required by section a. shall include the following:
- (1) a proposed property disposition in the form provided by local rule;
 - (2) a proposed child support order, when necessary to a disposition, in a form provided by local rule;
 - (3) a proposed ^{Conservatorship} ~~child custody~~ order, when necessary to a disposition, in a form provided by local rule;
 - (4) where the parties are submitting separate proposals, counsel shall meet to consider a joint proposal and include in each separate proposal a statement as to the time and place where the counsel for the parties met to consider a joint proposal; and
 - (5) a statement as to the specific matters upon which the parties do agree and the contested issues to be tried.
- d. In the absence of a disposition proposal by a party, the Court has authority to impose all appropriate sanctions in accordance with paragraph 2.b. of Rule 215, Texas Rules of Civil Procedure.
- e. When one of the parties has moved for an enlargement of time to file a disposition proposal or to permit counseling or mediation, the Court shall determine whether the reasons

stated for the additional time justify the delay and record the justification in a finding for the record before granting additional time. Representation by counsel that counseling or mediation is in progress will be sufficient to justify an enlargement of time. When granting additional time, the Court shall provide a specific time when the disposition proposal shall be filed as well as a specific time for any further proceedings which it deems necessary. In any case in which additional time is granted, the Court shall set time limits for all further proceedings.

- f. Local rules shall provide a process for ruling on the motion to enlarge time, as provided in subsection a.(1) of this rule, within 15 days of its submission as well as for the further scheduling of the case.
- g. All family law matters other than divorce will be the subject of local rules to assure their timely disposition.

~~RULE 5.~~ (Suit on Liquidated Monetary Claim) *Rule 185* In all cases for the collection of a debt, including but not limited to a suit on a promissory note, open account, stated account, or contract requiring payment of a specific sum, as well as any suit brought by a taxing authority for the collection of taxes, the control of the flow of cases shall be subject to the following:

- a. In such a case the plaintiff shall entitle the original petition as an "original petition in suit upon a debt," which will cause the action to be subject to the provisions of this Rule.

b. Cases subject to this Rule shall be carried on one of four dockets:

- (1) the "service pending docket," for cases where one or more answers are not due;
- (2) the "active docket," for cases where all answers are due or have been filed for all named defendants;
- (3) the "suspense docket," for cases where the parties have made application to defer ^{Suspense} ~~entry~~ of judgment on the ground that the parties have entered into a payment schedule to discharge the claim; or
- (4) the "bankruptcy docket" for cases stayed in a bankruptcy proceeding.

c. At the end of 180 days after a suit upon a debt is transferred from the service pending docket to the active docket, it shall be dismissed unless the Court finds:

- (1) that the suit is set for disposition by summary judgment or trial, or has been disposed of and is awaiting ^{summary} ~~entry~~ of judgment;
- (2) that the plaintiff has attempted to secure disposition of the case by summary judgment or trial but has been unable to do so, either because a trial setting, though requested, has not been given, or a continuance has been granted by the Court; or
- (3) that the plaintiff has certified, in writing, that a defendant has raised an issue of fact which precludes the granting of a summary judgment to the plaintiff.

