ORDER OF THE SUPREME COURT OF TEXAS

Misc. Docket No. 00-9045

Approval of Local Rules For
The Probate Court of Galveston County

IT IS ORDERED that:

Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court of Texas approves the attached Local Rules for the Probate Court of Galveston County, Texas. The approval of these rules is temporary pending further orders of the Court.

By the Court, en banc, in chambers, this 8th day of March, 2000.

Thomas R. Phillips, Chief Justice

Nathan L. Hecht, Justice

Craig T. Enoch, Justice

Priscilla R. Owen, Justice

James A. Baker, Justice

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GALVESTON COUNTY, TEXAS

Greg Abbott, Justice

Deborah G. Hankinson, Justice

Harriet O'Neill, Justice

Alberto R. Gonzales, Justice

FILED
00 MAR 14 AM 9:23
COUNTY, TEXAS

Misc. Docket No. 00 - 9045

LOCAL RULES

FOR

THE PROBATE COURT OF GALVESTON COUNTY, TEXAS

CHAPTER 1: GENERAL RULES

Rule 1.1: Title, Scope, Authority and Application of Local Rules

(a) These rules are the Local Rules of the Probate Court of Galveston County, Texas. They shall govern proceedings in the Probate Court of Galveston County, Texas, for the purpose of securing uniformity and fairness in those proceedings and in order to promote justice.

(b) These rules are adopted by the Statutory Probate Judges of Texas pursuant to §25.0022(m) of the Texas Government Code and are adopted by the Statutory Probate Judge of Galveston County, Texas.

(c) These rules are standing orders of the Galveston County Probate Court, and any other statutory probate court that may be created hereafter in this county. Knowing or intentional violation of these rules may be punished by contempt or other sanction authorized by law or by rules of procedure as the trial judge may deem appropriate.

Rule 1.2: Jurisdiction

The Probate Court of Galveston County, Texas hears:

(a) all applications, petitions and motions regarding probate or guardianship matters;

(b) all matters incident or appertaining to such guardianships or estates;

(c) all matters regarding mental health commitments; and

(d) concurrently with the district court, all actions by or against a person in the person's capacity as a personal representative, in all actions involving an inter vivos trust, in all actions involving a charitable trust, and in all actions involving a testamentary trust.

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Rule 1.3: Parties and Parties Proceeding Pro Se

(a) "Counsel" as used in these Rules includes attorneys and parties representing themselves pro se.

(b) Any natural person proceeding on their own behalf without an attorney shall be expected to read and follow these Local Rules and the Rules of Civil Procedure, the Rules of Civil Evidence, the Texas Probate Code, and the Rules of Appellate Procedure as may be appropriate in the particular case. Failure to comply may be sanctioned, fined or punished as in other cases. Pro se parties shall be responsible for providing the Clerk with current addresses and phone numbers. The address so provided shall be used as the address for serving all pleadings and any other notices on the pro se party.

Rule 1.4: Assignment of Causes

(a) All matters filed in the Probate Court of Galveston County, Texas, shall be assigned a number. Once a case number has been assigned and docketed, all matters relating thereto, including but not limited to, any subsequent proceedings upon a testamentary trust or bills of review, shall remain in that court using the same cause number.

(b) If a case includes an ancillary matter as that term is defined herein, the cause number of all pleadings relating to the ancillary matter shall be followed by the letter "A" or the number "1", whichever is applicable. If a case contains more than one ancillary matter then each subsequent matter shall be designated by sequential letters or numbers. (i.e. B, C, 2, 3, etc.) The style on all ancillary matters shall include the names of the party bringing the action and the opposing party, as well as the name of the estate. A form of the style is set forth in Appendix A.

(c) "Ancillary matters" shall include any lawsuit brought by or against a personal representative, or brought on behalf of an estate, and which lawsuit does not relate to or concern the routine administration of an estate. Ancillary matters include, but are not limited to, suits concerning note collection, personal injury, breach of contract, and trust litigation. "Contested matters" shall include all other litigated matters, for which there are opposing parties.

Rule 1.5: Severance

(a) Motions to sever are not favored and will be granted only upon a showing that a severance is necessary to protect substantial rights or to facilitate disposition of the litigation. Except on a showing of good cause, a severance will not be granted for the purpose of making a judgment final which otherwise would be interlocutory because of the continued pendence of other claims in the case.

(b) Whenever a motion to sever is sustained, the severed claim shall be filed as a new case in the same court and shall be given a new number or letter by the Probate Clerk. Before the severed claim is filed as a new cause, the clerk's requirement concerning deposit for costs shall be met.

Rule 1.6: Vacations of Counsel

Counsel who desires to assure himself a vacation for a period not to exceed four weeks may do so automatically by designating the four weeks, in writing, addressed and mailed or delivered to the County Clerk, thirty days in advance. If plans for a vacation are made by a Counsel after a trial setting notice has been received, Counsel will immediately notify the Court and other parties with a request that the case be reset for a different time. The Court will rule on such a request after giving all parties to the lawsuit an opportunity to respond to the request.

Rule 1.7: Judicial Absences

Whenever a judge anticipates an absence of more than five court days due to vacation, illness, national service, attendance at legal education courses, attendance at the meetings of judicial or bar committees, or otherwise, then that judge may, at his or her discretion, request that the presiding judge assign a visiting judge to his or her court.

Rule 1.8: Bankruptcy

(a) Notice of Filing

(1) Whenever any party to litigation in these courts files for protection under the bankruptcy laws of the United States, it shall be the responsibility of that party's Counsel in these courts: (I) to promptly notify the affected court(s) by immediately telephoning the Court; and (ii) within three days of any bankruptcy filing, to provide written notice to the affected court(s) and all Counsel that a bankruptcy filing has occurred, giving the name and location of the bankruptcy court, the bankruptcy cause number and style, the date of filing and the name and address of Counsel for the bankrupt.

(2) Compliance with this rule will enable the courts to pass over cases affected by bankruptcy and to try other cases on the docket.

(3) Failure to comply with this rule may be punished by sanctioning Counsel and, in appropriate cases, the party once the bankruptcy is concluded.

(b) Conclusion of Bankruptcy

Once a bankruptcy has been concluded, whether by discharge, denial of discharge, dismissal or otherwise, Counsel shall promptly notify the Court so that the affected cases may be restored to the active docket or be dismissed as may be appropriate.

Rule 1.9: Appointment of Attorney or Guardian Ad Litem

(a) An attorney or guardian ad litem may be or shall be appointed pursuant to the Probate Code or the Rules of Civil Procedure.

(b) Until an order is signed dismissing an ad litem, the ad litem shall be notified of all hearings and/or conferences with the court, and shall be served with all pleadings.

(c) The ad litem shall make a report as directed by the Court of the result of the ad litem's investigation concerning the purpose of the ad litem's appointment.

(d) In any case for which an attorney has been appointed, the ad litem should consider filing an application for security for costs pursuant to Rule 143 of the Rules of Civil Procedure and Section 12 of the Probate Code.

CHAPTER 2: CASES

Rule 2.1: Docketing Instructions

Unless otherwise specified by statute, the Presiding Judge of the state's Statutory Probate Courts shall direct the County Clerk in the matters of filing, docketing and transferring cases within the jurisdiction of the statutory probate court in the county. The Presiding Judge shall give such direction based upon the request of the statutory probate judge of the county unless the administration of justice requires otherwise.

Rule 2.2: Filing Papers

(a) All pleadings, motions, notices, briefs, proposed orders, proposed judgments, and any other paper, document or thing made a part of the record shall be filed with the Clerk.

(b) All proposed orders and judgments shall be presented to the court after the presenting counsel has either obtained approval or has sent a copy, and the presenting Counsel shall either and the presenting Counsel shall either (1) obtain approval of said proposed order or judgment by all other Counsel, or (2) shall send a copy of the proposed order or judgment to all Counsel. If the second method is used, then the presenting Counsel must notify the court of the delivery of the proposed order or judgment to all other Counsel. Notification may be accomplished by sending the court a copy of the letter mailed to all Counsel and such letter should contain a copy of the proposed order or judgment. It is not necessary to prove that all Counsel actually received the proposed order or judgment, only that it was mailed to their last known address. If the court receives no objection within ten (10) days after notification, the court may act on such proposed order or judgment.

(c) No amendment to a pleading shall be filed less than seven (7) days prior to the date a case is set for trial. Any amended pleading offered for filing within seven (7) days of the date of trial shall be considered only as a trial amendment pursuant to Rule 66, Texas Rules of Civil Procedure and shall be filed only after obtaining leave of court, upon motion and notice to all adverse parties.

(d) Notwithstanding the foregoing, or any trial setting, any order sustaining a special exception or taking action necessitating the filing of an amended pleading shall be deemed to

grant leave to file such pleading within twenty (20) days after the rendition of such order unless such order specify a different time limit, if any, within which such pleading shall be filed.

Rule 2.3: The Setting of Cases

(a) The probate court shall promulgate a yearly calendar showing which weeks shall be jury or non-jury.

(b) Non-jury matters may be set and tried in jury weeks subject to the jury docket.

(c) At the court's discretion, subject to the availability of jury panels, the court may call to trial any jury matter during a non-jury week.

(d) All jury and non-jury matters will be set by the Court upon written request of any party, and will be placed on the docket for each week, day, or half-day in the order in which such requests are received.

Judges should not be requested to sign orders setting cases except when a show cause order is necessary, or when some rule of law requires that an order for a setting be signed by a Judge and entered in the minutes by the Clerk.

(e) Each request for a non-jury setting shall include an estimate of the hearing time required for the matter being set, and the notice of such setting that the party requesting the setting gives to other parties shall state said time estimate.

(f) Uncontested matters and routine matters of very short duration may be set on the uncontested docket by calling the Court. The uncontested docket consists generally, but is not necessarily limited to, issuance of letters testamentary, probate of wills as a muniment of title, and issuance of letters of administration.

(g) The Court hears a mental health docket weekly at a regularly scheduled time after the appropriate paperwork is filed with the probate clerk's office.

Rule 2.4: Resolution of Conflicting Settings

(a) Where a Counsel has settings in two or more courts which conflict preference shall be as follows:

(1) Trials on the merits in any court take precedence over hearings, motions and other temporary matters in any other court;

(2) All proceedings in any court take precedence over depositions and other out of court discovery activities; and

(b) Any Counsel having a previously scheduled oral argument in any appellate court shall be given a reasonable time to travel to and from that court and make argument provided the attorney advises the trial judge of the scheduled argument before the commencement of trial.

Rule 2.5: Disposition of Contested and Ancillary Matters

(a) On its own motion or by agreement of the parties and Counsel, the court will refer a case for resolution by an alternate dispute resolution procedure under Chapter 154, Civil Practice and Remedies Code. Any party or Counsel may move for such referral if agreement cannot be reached.

(b) Pre-trial hearings or orders will not be required in every case, but upon request of any Counsel or on its own motion the court may set a hearing under Rule 166, Texas Rules of Civil Procedure, to consider such matters as might aid in the disposition of the action, including the entering of a docket control order. For further discussion of pre-trial hearings, see Rule 2.7 supra. Examples of a pre-trial order and docket control order are attached hereto as Appendix B and C.

(c) Cases will be set for trial by the court upon written request and representation of any Counsel that the case will be ready for trial. The request may ask for a setting on a specific trial week, but no sooner than 45 days from the date of request, unless leave of court is obtained, or all Counsel agree to an earlier setting. The request must be sent to all Counsel. Any Counsel will file a written response to the request within 7 days after receipt stating any objection to the request for setting. The objecting Counsel must then request a hearing and, after the hearing, unless the court determines that the case is not ready for trial, the case will be set for trial on the date requested or the nearest date that the docket of the court will permit.

(d) At the time of making a request for setting, Counsel shall inform the court of the estimated time for trial. Counsel shall make a good faith estimate of the time required after consulting all Counsel and considering the following: proper examination of witnesses, introduction of exhibits, cross-examination and rebuttal of witnesses reasonably anticipated to be called by all of the parties. In the event that the time requested is not sufficient, the court may continue the matter until such date and time as the court's docket allows. If the court finds that the Counsel requesting the trial setting has misrepresented the reasonable time required in bad faith, the court may impose appropriate sanctions, including attorneys fees occasioned by any delay in trial and costs and expenses for travel of witnesses and parties who are required to return at a later date as a result of the continued setting.

Rule 2.6: Motion for Continuance, Agreed Passes and Settlements

A trial or hearing date cannot be postponed or changed without the consent of the court.

(a) Except as hereinafter provided, any motion for continuance will be filed no later than five (5) days preceding the trial or hearing date. Any motion for continuance based upon facts which occur on or after the fifth day preceding the trial or hearing date will be filed as soon as possible and will be heard at a time to be set by the court.

(b) In the event Counsel agree to continue any trial or other hearing, Counsel initiating the request for continuance shall immediately notify the court and the court will decide whether to grant such continuance. If such Counsel fails to notify the court within a reasonable time before the scheduled trial or hearing, the court may impose appropriate sanctions against such Counsel or the party represented by such Counsel. If the parties reach a settlement, Counsel representing the plaintiff, movant or party seeking affirmative relief, shall notify the court of such settlement, and that the trial or hearing date is no longer needed. If such Counsel fails to so notify the court within a reasonable time before the trial or hearing, the court may impose appropriate sanctions against such Counsel or the party represented by such Counsel.

Rule 2.7: Pre-Trial

(a) The Court may, at its discretion, order a pre-trial conference to take care of preliminary matters.

(b) Counsel will be expected at pre-trial to advise the Court which issues will be disputed and to be familiar with the authorities applicable to the questions of law raised at pre-trial. Failure to conform to this rule shall be grounds for postponement of the trial, setting of further pre-trial hearings, or other appropriate sanction.

(c) If the counsel for either party fails to appear at a pre-trial conference the Court may:

I. Rule on all motions, dilatory pleas and exceptions in the absence of such counsel.

ii. Declare any motions, dilatory pleas, or exceptions of such absent party waived.

iii. Advance or delay the trial setting according to the convenience of counsel present.

iv. Pass and reset the pre-trial.

v. Where the absent counsel represent the Plaintiff, the Court may decline to set the case for trial or may cancel a setting previously made, or the Court may dismiss the case for want of prosecution, especially where there has been a previous failure to appear or where no amendment has been filed to meet exceptions previously sustained.

(d) Counsel attending the pre-trial shall either be the attorney who expects to try the case, or shall be familiar with the case and be fully authorized to state his party's position on the law and the facts, make stipulations and enter into settlement negotiations as trial counsel. If the Court finds that the counsel is not qualified, the Court may deem that no counsel has appeared and proceed in any of the ways enumerated above.

Rule 2.8: Trial Procedure

(a) Any party or Counsel filing special exceptions, pleas in abatement, or other dilatory pleas shall request and obtain a hearing on them at least 30 days prior to the trial date or as soon as possible after the pleading is filed if the pleading is filed within 30 days of the trial date. Any such matters not heard are waived.

(b) All Contested and Ancillary matters are specially set unless otherwise notified. Counsel may request one, and only one, additional setting as a second setting. A second setting will be called to trial, for that date and time, if the case with the number one setting is unable to proceed for any reason.

(c) Unless ordered otherwise, at the time the parties and Counsel report for trial they will deliver to the court and the other Counsel a witness list, exhibit list, any motion in limine and any requested instructions and questions if a jury trial, and proposed findings of fact and conclusions of law if a non-jury trial. Any witnesses or exhibits not shown on such list can be used at the trial only upon leave of the court. Prior to commencement of trial all exhibits will be marked, exchanged and examined by Counsel so that the trial will not be delayed by such examination.

(d) Counsel intending to offer videotaped depositions or other films at trial, except those offered solely for impeachment, must make such tapes and films available to opposing Counsel sufficiently in advance of trial so that a hearing on any objections can be held before commencement of trial. Any tapes or films not so tendered will not be permitted into evidence at the trial. All Counsel must timely examine any tendered tapes or films and request a hearing immediately if there are objections to the admissibility of any part of the tapes or films. Any objections not heard prior to trial will be waived.

(e) It is the responsibility of each Counsel to stipulate to all facts which are not in dispute and to waive formal proof as to any documents to be introduced about which there is no dispute as to authenticity.

Rule 2.9: Motion Practice

(a) Counsel are directed to use all reasonable means to resolve pre-trial disputes to avoid the necessity of judicial intervention.

(b) No motions, objections or special exceptions will be set for hearing unless the moving Counsel shall have certified in such motion or in a letter substantially the following:

> "A conference was held on (date) with (name of opposing Counsel) on the merits of this motion. Agreement could not be reached. Therefore, it is presented to the court for determination."
>
> or
>
> "A conference was not held with (name of opposing Counsel) on the merits of this motion because (explanation of inability to confer)." **Note that a statement that opposing counsel was "unavailable" is insufficient. Every effort to confer must be made.**

(c) Court personnel are responsible for scheduling the dates and times for hearings. Upon receiving the date and time of hearing, the moving Counsel shall immediately notify all Counsel in writing as to the date, time and subject matter of the hearing. A copy of this communication shall be provided to the secretary of the court.

(d) By agreement, Counsel may submit matters for ruling by the judge without a personal appearance and oral presentation. The judge should be advised in writing when such procedure is desired.

(e) At the time of making a request for setting on a motion, Counsel shall inform the court of the estimated time for hearing. Counsel shall inform the court of the estimated time for hearing. Counsel shall make a good faith estimate of the time required after consulting all Counsel and considering the following: proper examination of witnesses, introduction of exhibits, cross-examination and rebuttal of witnesses reasonably anticipated to be called by all of the parties. In the event that the time requested is not sufficient, the court may continue the matter until such date and time as the court's docket allows. If the court finds that the Counsel requesting the hearing has misrepresented the reasonable time required in bad faith, the court may impose appropriate sanctions, including attorney's fees occasioned by any delay in the hearing, costs and expenses for travel of witnesses and parties who are required to return at a later date as a result of the continued setting.

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Rule 2.10: Hearings Conducted by Telephone

Any party may request that a short hearing, not requiring the introduction of evidence, be conducted by telephone conference call or that the party be allowed to participate in the hearing by telephone. The requesting party shall make the request in writing to the Court with notice to all other parties. Any party objecting should notify the Court. At the discretion of the Judge, a court reporter or recording device may be provided by the Court during these calls. A request by

an attorney for such arrangement must be made in advance. A Judge may, at anytime, determine that a hearing by telephone is not sufficient and may require a hearing in court upon notice to all parties.

Rule 2.11: Deposition Guidelines

(a) In an attempt to have uniformity and save time and expense resulting from hearings on discovery matters, the following guidelines will generally be followed by the courts on matters pertaining to oral depositions. A deposition may be noticed in:

(i) the county of the witness's residence or the county where the witness is employed or regularly transacts business in person;

(ii) the county of suit if the witness is a party or a person designated by a party under Rule 199.2(b)(1);

(iii) the county where the witness was served with the subpoena, or within 150 miles of the place of service, if the witness is not a resident of Texas or is a transient person; or

(iv) any other convenient place directed by the Court in which the cause is pending.

(v) The party initiating a deposition may elect to take the deposition orally or on written questions and all Counsel may elect to cross-examine orally or on written questions.

(vi) Unless the parties through their Counsel otherwise agree, reasonable fees charged by an expert for giving of deposition testimony shall be paid by the party that retained the expert. The fee shall be considered reasonable if the fee is calculated at the same hourly rate which is being charged to the party by whom the expert is employed. If Counsel cannot agree to a reasonable fee the Counsel requesting the deposition may ask the court to set a reasonable fee. The fee for the preparation of an expert's report, not previously reduced to writing and sought under Rule 195.5, Texas Rules of Civil Procedure, shall be paid by the party by whom the expert is employed.

(vii) Notice of less than fifteen (15) days under Rules 21a and 202.3(a), Tex. R. Civ. P., shall be presumed to be unreasonable.

Although, these matters are best handled by agreement of the parties, Counsel are not precluded from submitting disputes as to such matters to the court for determination by proper motion and hearings.

(b) Counsel initiating an oral deposition shall first attempt to communicate with all Counsel to determine whether agreement can be reached as to date, time, place and materials, to be furnished at the time of deposition. Any written notice of deposition shall state as follows:

"A conference was held (or attempted) with opposing Counsel to agree on a date, time, place and materials to be furnished. Agreement could not be reached (or Counsel will not respond) and the deposition is therefore being taken pursuant to this notice (or agreement was reached and this notice complies with the agreement)."

Failure to hold such conference or to make adequate attempt to hold such conference prior to noticing a deposition shall be grounds to quash the deposition.

Rule 2.12: Matters Requiring Immediate Action

(a) An application for action or relief, including but not limited to, restraining orders, writs of habeas corpus, receivership, temporary administration, temporary guardianship, proceedings for examination and delivery of the contents of safe deposit boxes or any papers of a decedent pursuant to Sections 36B through 36F of the Texas Probate Code, shall not be presented to a judge until the application or case has been filed with the clerk, unless it is impossible to do so. If it is impossible to file an application or case before it is presented to a judge, then it shall be filed as soon thereafter as possible, and the clerk notified of all actions taken by the judge.

(b) Every application for action or relief of any kind shall be presented first to the judge of the court to which it is assigned. If that judge is not able to hear the case, another statutory probate judge shall be assigned to hear the case. After a judge has announced a ruling on the application or deferred ruling, the application shall not be presented to any other judge without leave of the judge to which it was first presented.

(c) Every application for relief ex parte shall contain a certificate signed by Counsel that:

(i) To the best of their knowledge whether or not the party against whom relief is sought ex parte is represented by Counsel in the matter made the basis of the relief sought; or,

(ii) If the party against whom relief is sought ex parte is represented by Counsel, the certificate shall state the name, address, and telephone of such Counsel, if known. Movant should give counsel notice of at least 2 hours that the movant intends to present the application to the court at a given time and place, unless otherwise directed by the Court.

Rule 2.13: Private Service of Process

(a) For purposes of supervision and discipline the court deems those persons authorized to serve citations and other notices by order pursuant to Rule 103, Texas rules of Civil Procedure, to be officers of the court. Any such person filing a false return or engaging in service contrary to law or rule may be subject to punishment by an order of contempt. Such order may prohibit such person from serving citations and notices in this County.

(b) Any proposed order authorizing private service under Rule 103 will not be signed by the judge unless accompanied by a certificate signed by Counsel requesting such an appointment. Such certificate shall set out the name and address of the person to be so authorized and affirm that such person is not less than eighteen years of age, is not a party, and has no interest in the outcome of the suit in which the authorization is sought.

Rule 2.14: Motions to Withdraw as Attorney of Record and Motions to Substitute Attorneys

A motion to withdraw as attorney of record will be granted without a hearing only if the moving attorney:

(a) files written consents to the withdrawal signed by attorneys for all parties; and

(b) files a written consent to the withdrawal signed by the client, or includes in the motion a specific statement of the circumstances that prevent the moving attorney from obtaining the client's written consent; and

(c) files a certificate stating the last known mailing address of the client.

If a motion to withdraw and to substitute another attorney includes an appearance by another attorney pursuant to Rule 10 and Rule 57, Texas Rules of Civil Procedure, that appearance will satisfy the requirements of subparagraphs (b) and (c) above, but such an appearance will not satisfy the requirement that the movant must file written consents to the withdrawal signed by attorneys for all parties.

If all requirements of Local Rule 2.14 are not satisfied, a motion to withdraw or to substitute another attorney must be presented at a hearing after notice to the client and to all other parties.

CHAPTER 3: DISMISSAL FOR WANT OF PROSECUTION

3.1 Case Selection:

The following cases are eligible for dismissal for want of prosecution under this chapter pursuant to T.R.C.P. 165a:

(a) Cases on file for more than 180 days in which no answer has been filed.

(b) Cases which have been on file for more than twelve months and are not set for trial and have had no filings or settings within 180 days.

(c) Cases in which a party or the party's attorney has failed to take any action specified by the Court.

(d) Any other case designated by the Court.

3.2 Notice:

Pursuant to Rule 165a, Texas Rules of Civil Procedure, the Court shall give notice that certain cases will be dismissed for want of prosecution. Such matters will be dismissed on the date indicated in the notice of dismissal.

CHAPTER 4: RULES OF DECORUM

4.1: General Rules of Courtroom Conduct

(a) All officers of the court except the Judge and jurors, and all other participants except witnesses who have been placed under the rule, shall promptly enter the courtroom before the scheduled time for each court session. When the bailiff calls the court to order, complete order should be observed.

(b) In the courtrooms, there shall be:

(I) no tobacco used;

(ii) no chewing gum used by a witness or any attorney while interrogating a witness or addressing the Judge or jury;

(iii) no reading of newspapers or magazines;

(iv) no bottles, cups or beverage containers except court water pitchers and cups;

(v) no edibles;

(vi) no propping of feet on tables or chairs;

(vii) no noise or talking that interferes with court proceedings, including but not limited to cellular phones and digital pagers.

(c) The Judge, the attorneys, and other officers of the court will refer to and address other court officers or participants in the proceedings respectfully and impersonally, as by using appropriate titles and surnames rather than first names.

(d) The oath will be administered in a manner calculated to impress the witness with the importance and solemnity of the promise to adhere to the truth.

(e) All officers of the court shall dress appropriately for court sessions.

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4.2: Conduct of Attorneys

(a) Attorneys should observe the letter and spirit of all canons of ethics, including those dealing with discussion of cases with representatives of the media and those concerning improper *ex parte* communications with the Judge.

(b) Attorneys should advise their clients and witnesses of local Rules of Decorum that may be applicable;

(c) All objections, arguments, and other comments by counsel shall be directed to the Judge, or jury and not to opposing counsel;

(d) While another attorney is addressing the Judge, or jury, an attorney should not stand for any purpose except to claim the right to interrupt the attorney who is speaking;

(e) Attorneys should not approach the bench without leave of court and must never lean on the bench;

(f) Attorneys shall remain seated at the counsel tables at all times except:
(I) when the Judge enters and leaves;
(ii) when addressing the Judge or jury; and
(iii) whenever it may be proper to handle documents, exhibits, or other evidence. (Leave of court is not required.)

(g) Attorneys should anticipate any need to move furniture, appliances, or easels, and should make advance arrangements with the bailiff. Tables should not be moved during court sessions.

APPENDIX A

NO. 00,0000

IN RE: ESTATE OF	§	IN THE PROBATE COURT OF
	§	
_____,	§	
	§	
DECEASED	§	GALVESTON COUNTY, TEXAS

NO. 00,0000

PARTY	§	IN THE PROBATE COURT OF
	§	
VS.	§	
	§	
OPPOSING PARTY	§	GALVESTON COUNTY, TEXAS

APPENDIX B

STYLE

JOINT PRE-TRIAL ORDER

APPEARANCE OF COUNSEL

(List the parties, their respective counsel and the address and telephone numbers of counsel in separate paragraphs.)

STATEMENT OF THE CASE

(Give a brief statement of the case for the information of the Court.)

MOTIONS

(State if there are any pending motions)

CONTENTIONS OF THE PARTIES

(State concisely in separate paragraphs what each party claims.)

ADMISSIONS OF FACT

(List all facts which have been stipulated and admitted and require no proof.)

CONTESTED ISSUES OF FACT

(List all factual issues in controversy necessary to the final disposition of this case.)

AGREED APPLICABLE PROPOSITIONS OF LAW

(Delineate those legal propositions not in dispute.)

CONTESTED ISSUES OF LAW

(State briefly the issues of law in dispute, with a memorandum of authorities supporting each issue.)

EXHIBITS

1. Each counsel will attach to the JOINT pre-trial order a copy of the list of all exhibits to be offered and will make all such exhibits available for examination by opposing counsel. This rule does not apply to rebuttal exhibits, which cannot be anticipated.

2. Any counsel requiring authentication of an exhibit must so notify in writing the offering counsel within five (5) days after the exhibit is made available to opposing counsel for examination. FAILURE TO DO SO is an ADMISSION of authenticity.

3. Any other objections to admissibility of exhibits must, where possible, be made at least three (3) business days before trial, and the Court notified in writing with copies to all counsel accompanied by supporting legal authorities and copies of the exhibits in dispute.

4. The offering party will MARK HIS OR HER OWN EXHIBITS.

5. All exhibits will be OFFERED and RECEIVED in evidence as the FIRST ITEM OF BUSINESS at the trial.

WITNESSES

1. List the names and addresses of witnesses who will or may be used with a brief statement of the subject matter and substance of their testimony.

2. Include in this section the following:

"In the event there are any other witnesses to be called at the trial, their names, addresses and the subject matter of their testimony shall be reported to opposing counsel as soon as they are known. This restriction shall not apply to rebuttal or impeaching witnesses, the necessity of whose testimony cannot be anticipated before the time of trial."

SETTLEMENT

(Include a statement that all settlement efforts have been exhausted, that the case cannot be settled, and will have to be tried.)

TRIAL

(Include in this paragraph the following:

a. Probable length of trial; AND
b. Availability of witnesses, including out-of-state witnesses.)

ATTACHMENTS

(Include the following REQUIRED attachments:

a. For a jury trial: Proposed Special Issues, including instructions or definitions.
b. For a non-jury trial: Proposed findings of fact and conclusions of law, with supporting authorities in a memorandum of law.)

_____

Judge _____

APPENDIX C

§ IN THE PROBATE COURT OF
§
§ GALVESTON COUNTY, TEXAS

DOCKET CONTROL PLAN

It is ORDERED pursuant to Rule 190.4 that discovery in this case be conducted in accordance with this Plan and that the parties shall meet and adhere to the following deadlines:

1. Deadline to add parties. All new parties shall be added no later than _____.

2. Deadlines to designate testifying expert witnesses:
   a. Plaintiff shall designate testifying expert witnesses no later than _____.

   b. Defendant(s) shall designate testifying expert witnesses no later than _____.

   c. Any party designating a testifying expert witness is ORDERED to provide, no later than the dates set forth above for designation, the information set forth in Rule 194.2(f) and a written report prepared by the expert setting forth the substance of the expert's opinion.

      An expert not designated prior to the above deadlines shall not be permitted to testify unless good cause is shown for late designation.

3. Limits on discovery:

   a. Total time for oral deposition: _____ hours per side. "Side" is defined in Rule 190.3(b)(2). (The default time is 50 hours in Level 2 cases).

   b. Any party may serve on any other party no more than ____ written interrogatories, excluding interrogatories asking a party only to identify or authenticate specified documents. (The default limit is 25 interrogatories).

4. Discovery period ends _____.

5. Deadline to amend or supplement pleadings: _____.

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00 MAR 14 AM 9:24

6. Mediation. The parties are ordered to attend mediation on or before _____. The parties shall submit an agreed order naming a mediator agreed to by the parties to the Court within 30 days of this order. If no such order is submitted within 30 days of this order, the Court hereby appoints the following person to serve as mediator in this case:

Name: _____
Address: _____
_____
Phone: _____
Fax: _____

No later than 30 days prior to the mediation deadline set forth above, the parties shall agree with the mediator on a specific date to conduct mediation.

7. Pre-trial conference shall take place on _____ at _____ __m.

The parties are ordered to exchange with each other prior to the pretrial conference the items checked below.

_____ Proposed jury instructions and questions (jury trial).

_____ Proposed finding of fact and law (non-jury trial).

_____ Motions in Limine.

_____ Exhibit lists using the format of the sample attached to this order.

_____ Labeled and number exhibits. The parties are ordered per Rule 192.5 (c)(2) to exchange prior to the pretrial conference all exhibits they intend to introduce at trial and to make good faith efforts to reach agreement on the admissibility of all exhibits. The parties should be prepared to discuss at the pretrial conference objection to exhibits which the parties do not agree are admissible.

_____ Witness list stating each witness' name, address, and phone number and stating whether the witness is a party, a fact witness or an expert witness. The parties should be prepared to discuss at the pretrial conference any scheduling problems relating to witnesses and any objections to improperly designated experts or fact witnesses.

8. Trial

_____ Trial is set for _____at _____ __.m

SIGNED on _____, 1999.

_____

JUDGE PRESIDING

Agreed to by Counsel and pro se parties:

_____ _____

_____ _____

FILED
00 MAR 14 AM 9:24
GALVESTON COUNTY, TEXAS

CERTIFICATION

I certify that the Statutory Probate Judge of Galveston County has complied with the following:

1. that none of the proposed rules are inconsistent with these Texas Rules of Civil Procedure or any Rules of the Statutory Probate Courts of Texas;

2. that no time period provided by the Texas Rules of Civil Procedure has been altered by the local rules;

3. that any proposed local rule or amendment shall not become effective until it is submitted and approved by the Supreme Court of Texas;

4. that any proposed local rule or amendment shall not become effective until at least thirty days after its publication in a manner reasonably calculated to bring it to the attention of attorneys practicing before the court or courts for which it is made; (Published on 10/19/99)

5. that all local rules or amendments adopted and approved in accordance herewith will be made available upon request to members of the bar; and

6. that no local rule, order, or practice of any court, other than local rules and amendments which fully comply with all requirements of this Rule 3a, will ever be applied to determine the merits of a matter.

Signed November 19, 1999.

Gladys Burwell, Presiding Judge
Probate Court of Galveston County

FILED
00 MAR 14 AM 9:24

Statement Adopting Local Rules

The Statutory Probate Judge of Galveston County adopts the attached proposed local rules and supports their submission to the Texas Supreme Court for approval.

Signed Oct 19, 1999.

Gladys Burwell

Gladys Burwell, Presiding Judge
Galveston County Probate Court

FILED
00 MAR 14 AM 9:24
COUNTY CLERK
GALVESTON COUNTY, TEXAS

CERTIFICATION

The Undersigned, as the Presiding Statutory Probate Judge of Texas, certifies that the Local Rules for the Galveston County Probate Court, which I am submitting to you meet my approval based on the following:

1. that none of the proposed rules are inconsistent with these Texas Rules of Civil Procedure or any Rules of the Statutory Probate Courts of Texas;

2. that no time period provided by the Texas Rules of Civil Procedure has been altered by the local rules;

3. that any proposed local rule or amendment shall not become effective until it is submitted and approved by the Supreme Court of Texas;

4. that any proposed local rule or amendment shall not become effective until at least thirty days after its publication in a manner reasonably calculated to bring it to the attention of attorneys practicing before the court or courts for which it is made;

5. that all local rules or amendments adopted and approved in accordance herewith will be made available upon request to members of the bar; and

6. that no local rule, order, or practice of any court, other than local rules and amendments which fully comply with all requirements of this Rule 3a, will ever be applied to determine the merits of a matter.

SIGNED December 22, 1999.

Guy Herman, Presiding Judge
Statutory Probate Courts of Texas

FILED
00 MAR 14 AM 9:24
COUNTY, TEXAS
GALVESTON COUNTY, TEXAS

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 00- 9012

ORDER APPROVING LOCAL RULES GOVERNING ASSIGNMENT OF PARENTAL NOTIFICATION APPLICATIONS IN THE PROBATE COURT OF GALVESTON COUNTY

ORDERED that:

1. Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the following amendment to the Local Rules for the Probate Court of Galveston County, Texas, is approved. This amendment concerns the assignment of applications for waiver of parental notification under Chapter 33, Texas Family Code.

2. In view of the urgency that procedures be adopted for handling applications under Chapter 33, Family Code, the requirement of Rule 3a(4) is suspended, and this amendment may take effect immediately.

BY THE COURT, IN CHAMBERS this 11th day of January, 2000.

Thomas R. Phillips, Chief Justice

Nathan L. Hecht, Justice

Craig T. Enoch, Justice

Priscilla R. Owen, Justice

James A. Baker, Justice

Greg Abbott, Justice

Deborah G. Hankinson, Justice

Harriet O'Neill

Alberto R. Gonzales

FILED
00 MAR 14 AM 9:23
DISTRICT CLERK
GALVESTON COUNTY, TEXAS

Misc. Docket No. 00- 9012

AMENDMENT TO LOCAL RULES FOR THE PROBATE COURT OF GALVESTON COUNTY, TEXAS

Rule 2.1A

When an Application for Waiver of Parental Notification before Abortion is presented to the County Clerk or District Clerk by a minor, the respective Clerks shall file and docket every eighth (8th) application in the Probate Court of Galveston County.

FILED
00 MAR 14 AM 9:23
COUNTY CLERK
GALVESTON COUNTY, TEXAS

STATEMENT ADOPTING AMENDMENT TO LOCAL RULES

The Statutory Probate Judge of Galveston County adopts the attached proposed amendment to the local rules and supports its submission to the Texas Supreme Court for approval.

Signed January 6, 2000.

Gladys B. Burwell, Presiding Judge
Galveston County Probate Court

FILED
00 MAR 14 AM 9:23
COUNTY CLERK
GALVESTON COUNTY, TEXAS

CERTIFICATION

I certify that the Statutory Probate Court of Galveston County has complied with the following:

1. that the amendment to the rules is inconsistent with the Texas Rules of Civil Procedure or any Rules of the Statutory Probate Courts of Texas;

2. that no time period provided by the Texas Rules of Civil Procedure has been altered by the amendment to the local rules;

3. that the proposed amendment to the local rules shall not become effective until it is submitted and approved by the Supreme Court of Texas;

4. that the proposed amendment to the local rules has not been published and that a necessity exists for an immediate adoption of the proposed amendment to comply with Rule 2.1(b)(3) of the Texas Parental Notification Rules and Forms (effective date January 1, 2000) and that it will be brought to the attention of attorneys and parties practicing before the Court immediately.

5. that all local rules or amendments adopted and approved in accordance herewith will be made available upon request to members of the bar; and

6. that no local rule, order, or practice of any court, other than local rules and amendments which full comply with all requirements of this Rule 3a, will ever be applied to determine the merits of a matter.

Signed January 6, 2000.

Gladys B. Burwell

Gladys B. Burwell, Presiding Judge
Probate Court of Galveston County

FILED
00 MAR 14 AM 9:23
COUNTY, TEXAS

CERTIFICATION

The Undersigned certifies that the Amendment adding Rule 2.1A to the Statutory Probate Court Local Rules of Galveston County which is being submitted to you on behalf of the Statutory Probate Court of Galveston County is approved by myself in my role as Presiding Judge of the Statutory Probate Courts of Texas.

SIGNED January 10, 2000.

Guy Herman, Presiding Judge
Statutory Probate Courts of Texas

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00 MAR 14 AM 9:23
CLERK
TEXAS

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04 JUL 19 PM 4:41

COUNTY CLERK
GALVESTON COUNTY, TEXAS

MISC. DOCKET NO. 04-9078

ORDER OF THE SUPREME COURT OF TEXAS

Approving Amendment to Local Rule for the Probate Court of Galveston County, Texas

ORDERED that:

Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the following amendment to Local Rule 2.1A for the Probate Court of Galveston County is approved. This approval is temporary pending further orders of the Court.

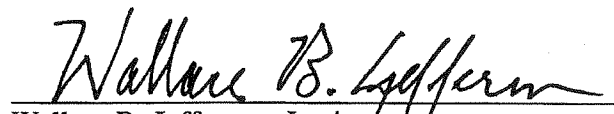
In Chambers, this 10th day of May, 2004.

Thomas R. Phillips, Chief Justice

Nathan L. Hecht, Justice

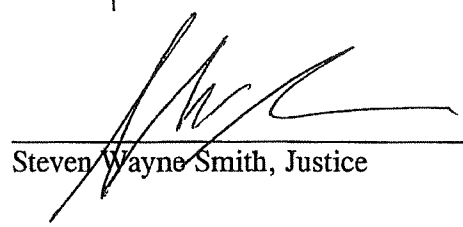
Priscilla R. Owen, Justice

Harriet O'Neill, Justice

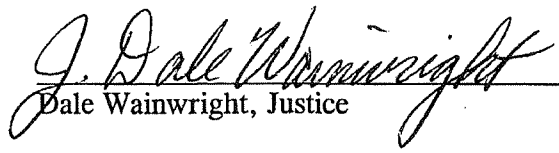


Wallace B. Jefferson, Justice

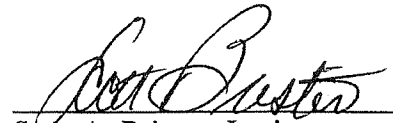
Michael H. Schneider, Justice



Steven Wayne Smith, Justice



Dale Wainwright, Justice



Scott A. Brister, Justice

9078

Misc. Docket No. 04-_____

AMENDMENT TO LOCAL RULES FOR THE PROBATE COURT OF GALVESTON COUNTY, TEXAS

Rule 2.1 A is amended to read as follows:

Rule 2.1A

When an Application for Waiver of Parental Notification before Abortion is presented to the County Clerk or District Clerk by a minor, the respective Clerks shall file and docket every eleventh (11th) application in the Probate Court of Galveston County.

CERTIFICATION

I certify that the Statutory Probate Court of Galveston County has complied with the following:

1. that the amendment to the rules is inconsistent with the Texas Rules of Civil Procedure or any Rules of the Statutory Probate Courts of Texas;

2. that no time period provided by the Texas Rules of Civil Procedure has been altered by the amendment to the local rules;

3. that the proposed amendment to the local rules shall not become effective until it is submitted and approved by the Supreme Court of Texas;

4. that the proposed amendment to the local rules has not been published and that a necessity exists for an immediate adoption of the proposed amendment to comply with Rule 2.1(b)(3) of the Texas Parental Notification Rules and Forms (effective date January 1, 2000) and that it will be brought to the attention of attorneys and parties practicing before the Court immediately.

5. that all local rules or amendments adopted and approved in accordance herewith will be made available upon request to members of the bar; and

6. that no local rule, order, or practice of any court, other than local rules and amendments which full comply with all requirements of this Rule 3a, will ever be applied to determine the merits of a matter.

Signed July 10, 2002.

Gladys B. Burwell, Presiding Judge
Probate Court of Galveston County

CERTIFICATION

The Undersigned certifies that the Amendment adding Rule 2.1A to the Statutory Probate Court Local Rules of Galveston County which is being submitted to you on behalf of the Statutory Probate Court of Galveston County is approved by myself in my role as Presiding Judge of the Statutory Probate Courts of Texas.

SIGNED July 30, 2002.

Steve M. King, Presiding Judge
Statutory Probate Courts of Texas

FILED
02 JUL 19 PM 4:41

FILED

04 MAY 17 PM 5:08

COUNTY CLERK
GALVESTON COUNTY, TEXAS

MISC. DOCKET NO. 04- 9079

ORDER OF THE SUPREME COURT OF TEXAS

Approving Rules for Electronic Filing of Court Documents

ORDERED that:

Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the following amendment to Local Rule 2.2A for the Probate Court of Galveston County is approved. This approval is temporary pending further orders of the Court.

In Chambers, this 10th day of May, 2004.

Thomas R. Phillips, Chief Justice

Nathan L. Hecht, Justice

Priscilla R. Owen, Justice

Harriet O'Neill, Justice

Wallace B. Jefferson, Justice

Michael H. Schneider, Justice

Steven Wayne Smith, Justice

Dale Wainwright, Justice

Scott A. Brister, Justice

Misc. Docket No. 04-9079

AMENDMENT TO LOCAL RULES FOR THE PROBATE COURT OF GALVESTON COUNTY, TEXAS

New Rule 2.2A is adopted and added to the local rules for the Probate Court of Galveston County, Texas as approved by the Supreme Court of the State of Texas on March 8, 2000.

Rule 2.2A: Procedure for Filing Electronically Transmitted Court Documents

The following rule, adopted in accordance with Chapter 51, Subchapter I of the Texas Government Code, governs the procedure for the County Clerk of Galveston County ("the clerk") to receive and file electronically transmitted court documents in the Probate Court of Galveston County, Texas.

1. The clerk is authorized to accept for filing via electronic transmission any document which might be filed in a court action except:

   A. Returns of service on issuance
   B. Bonds and Oaths
   C. Orders or judgments signed by a Judge

2. Documents electronically transmitted for filing will be received by the clerk on a plain paper facsimile and printed by a laser printer, thereby rendering the copy of archival quality. No document printed on thermal paper shall be filed.

3. No document electronically transmitted shall be accepted by the clerk for filing until required court costs or fees have been paid. Documents which require no filing fee shall be accepted by the clerk for filing. Documents which require a filing fee to be paid shall be accepted by the clerk if the sender has arranged to pay such fee with a MasterCard or Visa and such arrangements are still valid or through an escrow account established with the clerk in which funds are still readily available to the clerk upon request. If the clerk rejects a filing for non payment of fees, or due to incomplete information on the charge authorization or request, or which do not conform to applicable rules; the document will not be filed and the clerk will notify the sender of that fact as soon as practicable.

4. A fee schedule for electronic filing shall be adopted annually by the clerk and approved by the local court. Senders are responsible for obtaining the current fee schedule adopted by the clerk.

5. An electronically transmitted document accepted for filing will be recognized as the original record for file or for evidentiary purposes when it bears the clerk's official date and time file stamp.

6. Every document electronically transmitted for filing shall conform to the requirements for filing established by the Texas Rules of Civil Procedure, i.e. it shall be on paper measuring approximately 8 1/2 x 11 inches, it shall be signed individually by the party or the party's attorney of record, and it shall contain the individual's State Bar of Texas Identification number, if any, as well as the sender's address, telephone number and telecopier number. The quality of the original hard copy shall be clear and dark enough to transmit legibly. Documents that are received that do not meet these requirements will not be filed and the clerk will notify the sender of that fact as soon as practicable

7. The sender shall maintain the original of the document with original signature affixed as required by Section 51.806 of the Texas Government Code and Rule 45, Texas Rules of Court.

8. A cover sheet must accompany every transmission and shall:

   A. clearly identify the sender, the documents being transmitted, and the number of pages;
   B. have clear and concise instructions concerning issuance of citation or other request; and
   C. have complete information on the charge authorization or escrow account debit for court costs and fees.

9. The clerk upon receipt of an electronically transmitted document shall verify the completeness of the transmission.

10. The clerk when satisfied that the transmission is complete shall confirm the availability of funds through credit card authorization or escrow account debit, note the authorization code on the cost receipt and collect the funds. Thereafter, the documents tendered electronically shall be deemed accepted for filing and the clerk shall affix the clerk's official date and time file stamp to the document. The clerk will notify the sender as soon as practicable if documents are not deemed accepted for filing

11. If the transmission is found to be incomplete or court costs or fees, if required, are not paid, or if, for any other reason documents are not deemed accepted for filing, the clerk will notify the sender as soon as practicable that the transmission has not been filed and give the reason(s) for the failure to file.

12. After filing an electronically transmitted document, the clerk will electronically transmit to the sender an acknowledgment of the filing, together with cost receipt, if any.

13. No citation or writ bearing the official seal of the court may be transmitted electronically.

14. Electronic transmission of a document does not constitute filing. Filing is complete when the clerk's official date and time file stamp is affixed to the document.

15. Each page of any document received by the clerk will be automatically imprinted by the clerk's fax machine, with the date and time of receipt. The date and time imprinted on the last page of a document will determine the time of receipt and determine the order of filing. The clerk shall affix the clerks' official date and time stamp and file the documents in the order they were received as reflected by the imprinted date and time. Receipt by the clerk's fax machine of the electronic transmission of a document form with the proper charges authorization constitutes filing. Transmissions completed during the normal business day before 5:00 p.m. and accepted for filing will be filed on the day of receipt. Transmissions completed after 5:00 p.m., on weekends, holidays or days the Clerk's Office is closed will be verified and filed before 10:00 a.m. on the first business day following receipt of transmission. The sender is responsible for determining if there are changes in normal business hours. The sender is also solely responsible for determining whether an electronic transmission has been properly received and filed.

16. Under no circumstances will the clerk be responsible for failure to file or to timely file a document.

It is therefore ORDERED that this system for electronic filing of documents in the Probate Court of Galveston County, Texas be and the same is adopted, effective upon approval by the Supreme Court of Texas; that a copy hereof shall be furnished to the Supreme Court of Texas for approval as provided by Section 51.807, Texas Government Code; and that upon approval by the Supreme Court of Texas the same become effective and placed upon the Minutes of the Probate Court of Galveston County, Texas.

SIGNED this 26th day of June, 2003.

Gladys Burwell, Presiding Judge
Galveston County Probate Court

STATEMENT ADOPTING AMENDMENT TO LOCAL RULES

The Statutory Probate Judge of Galveston County adopts the attached proposed amendment to the local rules and supports its submission to the Texas Supreme Court for approval.

Signed June 26, 2003.

Gladys B. Burwell

Gladys B. Burwell, Presiding Judge
Galveston County Probate Court

CERTIFICATION

I certify that the Statutory Probate Court of Galveston County has complied with the following:

1. that the amendment to the rules is consistent with the Texas Rules of Civil Procedure or any Rules of the Statutory Probate Courts of Texas;

2. that no time period provided by the Texas Rules of Civil Procedure has been altered by the amendment to the local rules;

3. that the proposed amendment to the local rules shall not become effective until it is submitted and approved by the Supreme Court of Texas;

4. that any proposed local rule or amendment shall not become effective until at least thirty days after its publication in a manner reasonably calculated to bring it to the attention of attorneys practicing before the court or courts for which it is made.

5. that all local rules or amendments adopted and approved in accordance herewith will be made available upon request to members of the bar; and

6. that no local rule, order, or practice of any court, other than local rules and amendments which fully comply with all requirements of this Rule 2.2A, will ever be applied to determine the merits of a matter.

Signed July 28, 2003.

Gladys B. Burwell, Presiding Judge
Probate Court of Galveston County

CERTIFICATION

The undersigned certifies that the Amendment adding Rule 2.2A to the Statutory Probate Court Local Rules of Galveston County which is being submitted to you on behalf of the Statutory Probate Court of Galveston County, Texas is approved by myself in my role as Presiding Judge of the Statutory Probate Courts of Texas.

SIGNED October 28, 2003

Steve M. King, Presiding Judge
Statutory Probate Courts of Texas

FILED
04 MAY 17 PM 5:08
Mary Ann Daigle
COUNTY CLERK
GALVESTON COUNTY, TEXAS