

SUPPLEMENT TO RULES OF THE DISTRICT COURT OF TULSA COUNTY

PRESIDING JUDGE

J. Michael Gasset

DISTRICT JUDGES

Office No. 1	William Kellough
Office No. 2	Jesse Harris
Office No. 3	Clancy Smith
Office No. 4	Daman Cantrell
Office No. 5	Jefferson Sellers
Office No. 6	Gordon McAllister
Office No. 7	Thomas Gillert
Office No. 8	P. Thomas Thornbrugh
Office No. 9	Linda G. Morrissey
Office No. 10	Mary Fitzgerald
Office No. 11	Rebecca Nightingale
Office No. 12	Doris Fransein
Office No. 13	Deborah Shallcross
Office No. 14	J. Michael Gasset

ASSOCIATE DISTRICT JUDGE

Dana L. Kuehn

SPECIAL JUDGES

Mark Barcus
Terry Bitting
Carlos Chappelle
Theresa Dreiling
Carl Funderburk
Kyle Haskins
Russell Hass
Edward J. Hicks
Charles Hogshead
Allen Klein
Millie Otey
Kirsten Pace
Wilma Palmer
Robert Perugino
Clifford J. Smith
Sarah Day Smith
Rodney B. Sparkman
David C. Youll

JUVENILE COURT REFEREE

Russell Anderson

FAMILY COURT REFEREE

Dawn Moody

COURT ADMINISTRATOR

Vicki A. Cox

RULE 2. Divisions, Dockets, and Assignments of the District Court

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The assignments of the District and Associate District Judges are:

DIVISION:

ASSIGNMENT:

CIVIL: Daman Cantrell
Mary Fitzgerald
J. Michael Gasset
Linda Morrissey
Rebecca Nightingale
Jefferson Sellers
Deborah Shallcross
P. Thomas Thornbrugh

CRIMINAL: Thomas Gillert
William Kellough
Dana Kuehn
Gordon McAllister
Clancy Smith

FAMILY:

JUVENILE: Doris Fransein

PROBATE & ADOPTIONS: Jesse Harris

The assignments of Special Judges:

- Traffic Court Room 173
- Civil: Asset Hearings, Defaults, Uncontested Orders and Judgments, Garnishments Room 357
- Small Claims Room 112
- Probate Room 111
- Family Room(s) 348, 349, 378 and 379
- Criminal Room(s) 124, 329, 343, 344 and 347
Arraignments; Preliminary hearings; Misdemeanor dockets;
Magistrates in criminal felony matters
- Protective Orders Room 158
- Juvenile Juvenile Detention Center
315 South Gilcrease Museum Road

Each Special Judge may also be assigned other matters by the Presiding Judge.

RULE 3. Habeas Corpus Actions

Habeas Corpus Actions shall be filed in the following divisions:

RULE 5. Presiding Judge

A. The Presiding Judge is the Chief Administrative Officer of the Courts. All statutory, case law, or court rule references to Chief Judge shall be synonymous with Presiding Judge unless indicated otherwise by these rules, i.e., Chief Judge Family, Chief Judge Criminal, Chief Judge Civil, Chief Judge Juvenile.

RULE 9. Courtroom conduct

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13. Cellular phones, pagers or other electronic devices may not be activated in the courtroom. Under no circumstances will cellular phones or any communications devices be permitted in the jury deliberation room by jurors during their deliberations.

RULE 18. Foreign language Interpreters and Interpreters for the Deaf and Hard of Hearing. (New Rule)

A. Foreign Language Interpreters. In all court proceedings in which any party or witness is unable to clearly understand and/or speak English he shall have his statements interpreted into English and/or have documents and statements interpreted to him by a certified foreign language interpreter. A certified foreign language interpreter shall be a person who:

- (1) Makes application to the Presiding Judge on a form prepared by the Office of Court Administration, and adopted in an Administrative Order.
- (2) Agrees in writing to comply with the Code of Professional Responsibility for Interpreters adopted by an Administrative Order.
- (3) Observes two (2) court proceedings; and
- (4) Either:
 - (i) Proves certification by either (a) any United States District Court, (b) the State Consortium for Interpreter Certification program, or (c) any State court of equivalent jurisdiction having a certification program approved by the Presiding Judge, or;
 - (ii) Has attained a four (4) year college degree in the language for which certification is requested, or;
 - (iii) Is determined to be proficient in the language for which certification is requested or deaf interpretation by a majority vote of the District and Associate District Court Judges, or;
 - (iv) Is certified pursuant to procedures adopted pursuant to Okla. Stat. tit. 20 § 1701-1710.

B. Interpreters for the Deaf and Hard of Hearing. In all court proceedings in which any party or witness is unable to clearly understand and/or speak due to deafness or hearing difficulty he shall have his statements interpreted and have statements interpreted to him by a certified sign language interpreter. A certified sign language interpreter shall be a person who:

- (1) Complies with the provisions of Section A 1, 2 and 3 above; and
- (2) Either
 - (i) Proves certification by (a) any United States District Court, (b) the Registry of Interpreters for the Deaf or the National Association for the Deaf or the National Association for the Deaf, or, (c) any state court of equivalent jurisdiction having a certification program approved by the Presiding Judge, or,
 - (ii) Has attained a four (4) year college degree in deaf education which includes proficiency in sign language, or,
 - (iii) Is determined to be proficient in the use of sign language by a majority vote of the District and Associate District Court Judges, or,
 - (iv) Is Certified pursuant to procedures adopted pursuant to Okla. Stat. tit. 20 §1701-1710.

C. Authority of District Court Preserved. Notwithstanding the requirement for certification set forth above, any District Judge, Associate District Judge or Special District Judge may waive certification by any interpreter in any proceeding before that judge if (a) no certified interpreter is available for the proceeding and obtaining one would cause delay contrary to the interest of any party or the Court; and, (b) such interpreter has requisite skill in translating and interpreting as determined by the Judge after appropriate inquiry.

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AMENDED CIVIL DIVISION RULES

RULE CV 20.5. Conduct During Depositions (New Rule)

- A. Objections to questions during an oral deposition are limited to “Objection, leading” and “Objection, form.” Objections to testimony during the deposition are limited to “Objection, nonresponsive.” These objections are waived if not stated as phrased during the oral deposition. All other objections need not be made or recorded during the deposition to be later raised in court. Argumentative or suggestive objections or explanations waive objection and may be grounds for terminating the oral deposition or assessing court or other sanctions.
- B. An instruction to a deponent not to answer a question shall be limited to the grounds set forth in Section 3230 E.1. of the Discovery Code, 12 O.S. 2001 §3230 E. 1. The attorney instructing the witness not to answer shall give a concise, nonargumentative, nonsuggestive explanation of the grounds for the instruction if requested by the party conducting the examination.
- C. Counsel and a witness shall not engage in private, off-the-record conferences during the actual taking of the deposition, except for the purpose of deciding whether to assert a privilege or to move for a protective order. Private conferences may be held, however, during agreed recesses and adjournments.

RULE CV 23. Trial Exhibits

Copies of all exhibits to be offered at trial must be marked by number and exchanged with opposing counsel before the pretrial conference and provided to the Court at the pretrial conference, unless waived by the Court. Anatomical models and enlargements of marked exhibits may be excluded from those provided to the Court but must be shown to opposing counsel.

All documentary/photographic exhibits offered or used at trial must be in a binder or notebook in compliance with the Oklahoma Supreme Court Rules for Appeals (Rule 1.33).

RULE CV 27. Withdrawal of Counsel

When submitting an Application or Motion to Withdraw and an Order Allowing Withdrawal, counsel must comply *with both* of the following:

- A.** Every **Application to Withdraw** as counsel in a civil case must contain the following:
 - 1. Statement of grounds for withdrawal.
 - 2. Current status of the case (including when hearings, if any, have been scheduled).
 - 3. Whether new or substitute counsel has been obtained by the client and entered an appearance.

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4. A certificate of mailing to the client showing last known mailing address and to all other attorneys of record in the case.

5. All applications to withdraw must comply with 12 O.S. 2005.2.C.

No Application to Withdraw will be granted absent compelling circumstances if filed within 30 days before the date on which a hearing or trial is scheduled.

B. Every Order Allowing Withdrawal must contain:

1. A statement of the case's current status, including when hearings, if any, have been scheduled *AND*

2. A certificate of mailing to the client showing last known mailing address and to all other attorneys of record in the case.

3. All orders allowing withdrawal must comply with 12 O.S. Sec. 2005.2.C.

RULE CV 30. Final Orders Repealed 3/30/06

RULE CV 33.5. Excess Funds in Foreclosure Actions (New Rule)

In foreclosure of real property cases, motions to confirm sheriff's sales shall contain a notification to the judgment debtor or debtors and lienholders that after payment of the judgment and costs, excess funds may remain with the court clerk to which the judgment debtors and lienholders may be entitled.

RULE CV 35. Personal Data Identifiers (New Rule)

1. Parties should not include sensitive information in any document filed with the court unless such inclusion is necessary and relevant to the case. If sensitive information must be included, the following personal data identifiers must be partially redacted from the pleading:

a. **Social Security numbers.** If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.

b. **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.

c. **Dates of birth.** If an individual's date of birth must be included in a pleading, only the year should be used.

d. **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.

2. A party filing a redacted document may at the same time file by court order an unredacted document under seal containing the personal data identifiers.

3. Counsel shall exercise caution when filing documents that contain the following:

a. A personal identifying number, such as a driver's license number;

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- b. Medical records, treatment and diagnosis;
 - c. Employment history;
 - d. Individual financial information;
 - e. Proprietary or trade secret information.
4. Counsel shall inform and discuss the contents of this Order with all clients so that an informed decision about the inclusion of certain materials may be made. It is the sole responsibility of counsel and the parties to be sure that all pleadings comply with the rules stated herein. The clerk will not review any pleading for redaction.
5. This Civil Rule shall not apply to family, probate, adoption or protective order cases.

AMENDED FAMILY DIVISION RULES

RULE DR 1. Assignment of Family Cases

1. All Family cases, including Habeas Corpus actions seeking custody of minor children, DHS, and Paternity cases, shall be assigned at the time of filing to one of the Family Division Judges by random computer function.
2. The Court Clerk shall keep a separate record of all case assignments and show the name of the assigned Judge on the court file, the appearance docket, and computer records. On the day following the filing of the case, the Clerk shall provide a copy of case assignments to each Judge.
3. The assigned Judge will handle the case from filing, including temporary orders, through any post-decree matter. The setting of the case will be determined by the assigned Judge. Nothing in this rule is intended to prohibit administrative reassignment to a docket which promotes judicial economy (e.g. indirect contempt of court for failure to pay child support).

RULE DR 2. Miscellaneous Family Case Assignments and Transfers (Amended 10-30-2008)

1. In all Family cases where a claim or counterclaim which exceeds the jurisdictional limit of the assigned Judge is joined with the divorce action, the assigned Judge shall first determine the divorce on its merits and then transfer the case to the Presiding Judge for assignment of any remaining claims to a Judge of appropriate jurisdiction. In no case shall the determination of the divorce be delayed by reason of the joined claim.
2. The Chief Judge of the Family Division may transfer cases from one Judge to another for good cause shown at the request of the assigned judge.

RULE DR 8. Post-Decree Proceedings

1. Applications for post-decree relief, including motions to modify and citations for contempt, shall be verified pursuant to Rule 4 of the Oklahoma rules for the District Courts and presented to the Judge to whom the case is assigned. No briefs are required unless unusual legal questions are presented. Provided, however, that this rule shall not prohibit citations for contempt from being administratively assigned to a judge presiding over a child support enforcement docket.

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AMENDED CRIMINAL DIVISION RULES

RULE CR 1. Orders of Release

A. Orders of Release – Criminal Bond Index

A Preset Bond Schedule has been prepared and will be periodically reviewed under the direction of the Presiding Judge. This listing of bonds shall be for the purpose of expediting releases from the Tulsa County Jail and as a guide for judges to follow in order to provide consistency in bond settings. It shall not, however, affect the discretion of a Judge initially to set a higher or lower bond without a hearing or to raise or lower the bond initially set in a case, provided a proper hearing is held with all parties present.

The bond amount for Fugitive From Justice charges shall be taken from the bond reflected on the fugitive warrant. If no bond is shown on the fugitive warrant, the bond shall be set according to the Tulsa County Preset Bond Schedule.

D. Failure to Appear or Pay

No person being held for failure to appear will be released from the City-County Jail without approval of a Judge or posting an appearance bond. No person shall be released in the case of failure to pay without approval of a Judge, payment in full, or under the authority granted the Tulsa County Court Cost Administration as set out in the Tulsa County Cost Administration consensus, effective August 1, 1995.

Under the authority of 22 O.S. §1105 effective April 6, 2004, the Order of Release of any prisoner in the Tulsa County Jail may be issued by the Sheriff of Tulsa County or the Court Clerk of Tulsa County subject to the following conditions:

RULE CR 2. Initial Arraignments

All initial arraignments, except felony traffic offenses, shall be held at the times established by the Presiding Judge and judges assigned to the Criminal Division.

When the Courthouse is closed to public business, judicial reviews of Affidavits of Arrest will be conducted by a Magistrate by 7:00 a.m. on designated days at the Tulsa County jail. The dates of the judicial reviews when the courthouse is closed and a list of Magistrates assigned to this duty will be provided by the Presiding Judge.

RULE CR 6. Preliminary Hearings

- A. No changes.
- B. No changes.
- C. No changes.
- D. Eliminated

RULE CR 10. Conflict of Interest-Reassignment of Case

1. If the Court determines that conflict of interest exists at the trial level between a defendant and a County Indigent Defender, the case may be reassigned by the assigned District Judge or Special Judge to a private attorney who represents indigents pursuant to contract or a private attorney who has agreed to accept such appointments. The assigned attorney will indicate his acceptance of the assignment by executing the judge's written order.

In addition, in every case where the defendant is subject to the death penalty and a conflict of interest exists at the trial level between the defendant and the County Indigent

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Defender, the assigned District Judge may appoint the Indigent Defense System to represent the defendant or may appoint a private attorney who represents indigents pursuant to contract or a private attorney who has agreed to accept such appointments. However, in every case where more than one defendant is subject to the death penalty and a conflict of interest exists at the trial level between one or more of the defendants who are subject to the death penalty and the County Indigent defender, the assigned District Judge may appoint the Indigent Defense System to represent not more than one of the defendants in the case and may appoint a private attorney who represents indigents pursuant to contract or a private attorney who has agreed to accept such appointments to any other defendant(s) in the case. The appointment of private attorneys in capital cases shall be in accordance with the Tulsa County Plan for Appointment of Conflict Defense Counsel.

2. Total compensation shall not exceed one thousand dollars (\$1,000) in the following cases:

- a. mental health cases
- b. grand jury cases
- c. traffic cases
- d. misdemeanor cases
- e. guardianship cases
- f. contempt proceedings
- g. felony cases, except murder cases.

3. Total compensation shall not exceed three thousand dollars (\$3,000) in non-capital murder cases.

4. Total compensation for lead counsel shall not exceed twenty thousand dollars (\$20,000) in capital cases. Total compensation for co-counsel shall not exceed five thousand dollars (\$5,000) in capital cases.

5. In all cases described above, the hourly is \$60 for time out of court and \$80 for time in court.

6. An attorney's fee and expenses in excess of the above amounts may be compensated upon application to and approval by the Trial Judge upon good cause shown, subject to the approval of the Presiding Judge. In capital murder cases, the maximum fee may be exceeded only upon written approval of the Presiding Judge and a finding that the request for extraordinary fees is reasonable.

7. Any attorney providing services pursuant to this rule shall continue to provide representation until the trial court loses jurisdiction, unless the court allows an attorney to withdraw upon proper written application.

8. When the trial court loses jurisdiction, an attorney providing services pursuant to this rule shall submit a written application for compensation which an affidavit detailing the hours spent on the case and the services rendered. The application shall also state if any amount awarded by the court shall be the sole source of compensation for the services provided. If other sources of compensation are used, the other sources and amounts shall be specified in the application.

RULE CR 13. Compensation – Expert Witnesses

When an indigent defendant charged with a criminal offense demonstrates to the trial judge that his/her sanity at the same time of the offense is to be a significant factor at trial and/or that the defendant will be prejudiced by a lack of expert assistance, the trial court shall authorize

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counsel to obtain expert service reasonably necessary to permit the indigent defendant to adequately prepare and present his/her defense at trial. [Ake v. Oklahoma, 105 S. Ct. 1087 (1985) and Rogers v. State, 890 P.2d 959 (Okl. Cr. 1995)].

Application for any expert or investigator needed for a criminal defense must be filed timely before the trial court. After an ex parte hearing on the record, the appointment may be conditionally approved. The order approving the appointment shall define and limit the task or assistance to be provided and the basis for determining that such assistance is required by the 6th Amendment.

The order will be presented to the Presiding Judge for final approval with a contract or agreement with the expert or investigator delineating the work to be performed, an estimate of the total cost, a schedule for completion and an hourly fee for both in and out-of-court time. The Presiding Judge will deny the appointment or approve the appointment with dollar or other limitations.

In the event that the approved assistance may exceed the defined limits, counsel must reapply to the Presiding Judge for additional compensation or assistance.

All orders approving or denying will be filed but may be sealed upon request of counsel.

In the event that the request is for assistance regarding competency or examinations required by 10 O.S. §7306 et seq. and the expert is a state employee or contracted by the court to do the requested examination, only an application to the trial court is required.

Compensation for appointed experts shall be made only after services are provided.

When the trial court loses jurisdiction, an application for compensation must include an itemized statement of the services provided and shall be accompanied by an affidavit of the expert who provided the services stating whether the amount awarded by the trial court shall be the sole source of compensation. If other sources of compensation are used, the other sources of compensation and amounts shall be specified in the application.

RULE CR 16. Expunge Orders

Unless otherwise specified by the Court, expungements will be granted only according to the provisions of 22. O.S. §991C.

1. (No changes)
2. (No changes)
3. (No changes)

Other cases ordered expunged according to the provisions of 22 O.S. §§18 and 19 shall be filed under the MI case designation and subject to civil fees and assessments and randomly assigned to the District and Associate District Judges with criminal dockets.

RULE CR 17. Indigent Defender – Report

Rule repealed effective 7/24/2008; CV-2008-18

RULE CR 18. Pretrial Evidentiary Motions (New Rule)

Motions requiring evidentiary hearings must be filed three weeks in advance of trial. Any exception to this rule will be at the discretion of the trial judge.

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AMENDED JUVENILE DIVISION RULES

RULE JV 1. Assignment of Juvenile Cases

1. All judges in the Juvenile Division shall be assigned JDL, JD and JT cases with the Chief Judge in the Juvenile Division, if necessary and for good cause shown, receiving a lesser percentage of the newly-filed cases than the Special Judges. Said percentages of assigned cases shall be determined by administrative order issued by the Presiding Judge.

2. JS cases shall be assigned randomly and equally to the Special Judges in the Juvenile Division.

3. The Chief Judge shall transfer the assignment of a newly-filed petition to the specific judge with whom the child, who is the subject of the petition, is currently a ward of that court.

RULE JV 4. Compensation for Court-Appointed Attorneys [New]

1. Compensation for court-appointed attorneys for the legal representation of any party in any juvenile proceeding shall be as follows:

- a. \$80 per hour for jury, non-jury trials and contested hearings in which formal evidence is presented;
- b. \$60 per hour for time out-of-court and for in-court non-contested adjudication hearings, disposition hearings, disposition review and permanency hearings.

2. Compensation shall not exceed one thousand dollars (\$1,000) unless, upon a showing made for the necessity in an extraordinary case, the Chief Judge and the Presiding Judge of the 14th Judicial District determines that the compensation should exceed that amount.

3. The Chief Judge may make special assignments when necessary for good cause shown.

RULE JV 5. Uncontested and Contested Adoption and Guardianship Matters [New 10-30-2008]

The judge presiding over a deprived action shall also have subject matter jurisdiction and shall be assigned to hear and finalize the adoption or guardianship of the child that is the subject of the deprived action.

Last amended 12/06