

DISTRICT COURT RULES

For the 22nd Judicial District of Oklahoma

Pontotoc County District Court



District Judge C. Steven Kessinger

Associate District Judge Lori L. Jackson

Special Judge Gregory D. Pollard

Adopted July 1, 2019

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Adopted Pursuant to Title 20 O.S., Chapter 1, Appendix 2, Rule 8

July 1, 2019

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These Rules are hereby adopted as the Court Rules for the 22nd Judicial District of the State of Oklahoma - Pontotoc County District Court on July 1, 2019.

C. Steven Kessinger
District Judge
22nd Judicial District of Oklahoma

Lori L. Jackson
Associate District Judge
22nd Judicial District of Oklahoma

Gregory D. Pollard
Special Judge
22nd Judicial District of Oklahoma

CHAPTER I -- GENERAL RULES

RULE 1.1 -- ENTRY OF APPEARANCE

No attorney may appear in a case without first having filed a written entry of appearance with the Court Clerk. An exception to this rule is that an attorney need not file an entry of appearance if that attorney has been appointed by the Court to represent one of the parties involved in the case.

RULE 1.2 -- BEHAVIOR AND PUNCTUALITY OF ATTORNEYS

Attorneys are officers of the Court. As such, their behavior toward the Court sets the example for the public. Their responsibility is, at a minimum, to be courteous and civil. Good manners and decorum require the following:

An attorney shall address all arguments to the Court, and not to opposing counsel. An attorney shall stand when addressing the Court. An attorney shall stand where the Court, the witness, the jury and the court reporter can hear when the attorney is examining a witness. Attorneys may sit at counsel table to address a witness with permission from the judge presiding, if there is a legitimate reason to do so. An attorney shall not approach the bench unless he or she has obtained permission from the judge presiding. An attorney shall not sit on counsel table. An attorney shall not take files, pleadings or exhibits from the Clerk's or Reporter's desk without permission from the judge presiding.

When an attorney's business in the courtroom is finished, he or she should depart from the courtroom quietly. Attorneys do not need permission from the Court to be excused once his or her business has been concluded.

An attorney shall not hold conferences in the courtroom when the Court is in session, and an attorney shall not engage in loud conversations with clients, witnesses or other attorneys when the Court is in session. An attorney should advise his or her clients as to the impropriety of discussing any aspect of a pending case with the judge.

Attorneys shall wear appropriate and professional business attire in the courtroom at all times, and said attire must appear neat and clean in all respects. Female attorneys are permitted to wear slacks. An attorney may not wear jeans or shorts for any court appearance. Neckties must be worn by male attorneys for all court appearances. Tongue/lip rings or jewelry may not be worn by attorneys or by any person who may be speaking in the courtroom. Suit coats or jackets are not required by attorneys between Memorial Day and Labor Day of any given year, unless a jury is seated to hear a matter. The Court may apply this rule to other times of the year based on weather conditions. Female attorneys are not required to wear suit coats or jackets provided they are wearing otherwise appropriate professional attire.

Attorneys must be punctual in arriving for a scheduled hearing. At times it is unavoidable to be late for a setting or a docket. However, to be consistently late demonstrates a lack of courtesy to the Court, clients, parties, witnesses and attorneys. An attorney who finds it impossible to be on time should immediately inform the Court and give the reason for the delay. An attorney who is consistently tardy may, in those instances where such behavior causes financial hardship, be assessed attorney fees and expenses for travel and other costs to those who have suffered by the attorney's wrong. Opposing counsel may apply to the Court, in appropriate circumstances, for sanctions under this rule.

RULE 1.3 -- DRESS CODE FOR PARTIES, WITNESSES AND SPECTATORS

Any party, witness or spectator who enters the courtroom must be dressed appropriately. This means no midriff-baring shirts, no revealing low-cut clothing, no shorts, no extremely short skirts, no sleeveless shirts by males, no hats, unless a hat is necessary because of a medical condition, no sunglasses, unless sunglasses are necessary because of a medical condition, and no bare feet. Dressing appropriately also means that clothes should be clean and appear neat in all respects. No clothing with any potentially offensive wording or depictions on it is permitted in the courtroom by anyone.

RULE 1.4 -- DUTY OF ATTORNEY TO INSTRUCT CLIENTS AND WITNESSES

Attorneys should instruct their client(s) and any witness about appropriate court appearance. This includes, but is not limited to, ensuring that the client or witness is dressed appropriately pursuant to these rules.

Attorneys should also ensure that their client and any witness the attorney calls is not chewing gum or using tobacco of any kind while in the courtroom. Further, attorneys should advise their client and witnesses that tongue/lip rings may not be worn by any person who is to speak in the courtroom.

Attorneys should also ensure that their client and any witness do not have a cell phone or other device which is prohibited by these rules.

The attorney should also explain that at no time is a party or a witness to approach or communicate with a juror or a judge. A party or witness who attempts to communicate with a juror or judge may not only cause a mistrial, but may be subject to contempt proceedings and/or assessment of costs, including juror expense and attorney fees, to the adverse party if a mistrial is granted because of their conduct.

RULE 1.5 -- COURTROOM ACTIVITIES AND CONDUCT

No gun, knife, or other potentially offensive weapon is permitted in the courtroom except as provided in 21 O.S., § 1277. Further, anyone entering the courtroom is subject to having their person and/or belongings thoroughly searched by a bailiff and/or a law enforcement officer.

Everyone entering the courtroom is advised of the following courtroom rules:

Bringing small children into the courtroom is prohibited. Gum chewing is prohibited in the courtroom. Eating and/or drinking anything is prohibited in the courtroom. An exception to this rule is that an attorney, a party or a witness may have a small cup of water/bottled water and/or a mint, cough drop or throat lozenge. Tobacco use of any kind is prohibited in the courtroom, and smoking or vaping is prohibited in the courthouse. Wearing sunglasses is prohibited in the courtroom unless sunglasses are necessary because of a medical condition. Wearing a hat is prohibited in the courtroom unless a hat is necessary because of a medical condition. Reading newspapers, books or magazines is prohibited in the courtroom.

Cell phones or other electronic devices are prohibited in the courtroom. Attorneys may have a cell phone or other electronic device in the courtroom but must be placed on silent. Attorneys, or their designated support staff, are allowed to access such cell phone or electronic device for the purposes of consulting their calendar, legal research, accessing court records and other actions related to the present case.

Any activity or noise in or near the courtroom which disrupts or disturbs the proceedings is strictly prohibited. When it is necessary to call any person's name or announce any case in the courtroom or corridor, the announcement may only be made at an audible level so that a reasonable or average person could hear the announcement. No such announcement may be made at a level of sound which would be disruptive to any other court process. Further, shouting or loud noises are prohibited in or near chambers, or in or near the Court Clerk's office. A reasonable, professional and respectful tone of voice is required at all times from all attorneys, court personnel, court reporters, parties, witnesses and spectators.

Attorneys and/or parties who are in the courtroom but not involved in the current hearing should exit the courtroom or remain in the gallery for consultation purposes. At no time should any conversation between waiting attorneys or clients interfere with current courtroom proceedings or interfere with the court reporter's ability to hear testimony/announcements.

A courtroom may not be used for any purpose other than a judicial function without prior permission of the District Judge.

RULE 1.6 -- COURT FILES

Original papers and documents on file in the Court Clerk's office shall not be removed, subject to the following exceptions:

The Court Clerk or a deputy may transport files to and from Judges' chambers or courtrooms. An attorney or member of a Judge's staff may remove a file to the Judge's chambers or courtroom, provided that the Court Clerk's staff has knowledge of such removal. The Chief Judge may make a blanket Order allowing one or more bonded abstractors to remove Court files. Files may be checked out by an attorney for not more than twenty-four (24) hours upon signing a proper receipt as prescribed by the Court Clerk. Only attorneys (and not members of their staff) may actually check out files. In order to check out a file, the person checking out the file must sign his or her signature along with the time that the file was checked back in to the Court Clerk. Any attorney who exceeds the twenty-four (24) hour time limit may have his or her privilege to check out files suspended.

No papers shall be inserted or removed from the file folders except by the Court Clerk or a deputy.

RULE 1.7 -- COMMUNICATIONS

Parties and attorneys should not ask a judge or a member of a judge's staff to process court filings or mailings, but should direct all such communications to the Office of the Court Clerk, unless specifically directed to do otherwise by the Court.

Communication with the judge assigned to hear a particular case (or a member of his staff) regarding scheduling and procedural matters is permitted. An attorney (his/her client or a member of his/her staff) shall have no ex parte communication on the substance of a pending case with the assigned judge.

RULE 1.8 -- ADMISSIBILITY OF EXHIBITS

As a condition of the admissibility of any exhibit in the District Court, the party introducing the exhibit will be responsible for the timely production of two (2) copies of the original exhibit (of the same quality) to the court reporter (in the event of an appeal). If an admitted exhibit is a color document or photograph, the party who admitted the color document or photograph will be responsible for providing two (2) color copies (of the same quality) of the original document or photograph. If the case being tried is a capital case, a condition of the admissibility of any exhibit under this rule is that the party admitting the exhibit will be responsible for the production of three (3) copies of the original exhibit (of the same quality) in the event of an appeal.

As a condition of admissibility of an exhibit that is an audio or video tape or other electronically reproduced medium an exhibit in the District Court, the party introducing the exhibit will be responsible for the timely production of two (2) copies of the original exhibit (of the same quality) to the court reporter (in the event of an appeal). If the case being tried is a capital case, a condition of the admissibility of any exhibit under this rule is that the party admitting the exhibit will be responsible for the production of three (3) copies of the original exhibit (of the same quality) to the court reporter in the event of an appeal.

In the event the exhibit cannot be physically attached to a transcript (such as a weapon, piece of clothing, etc...) a condition of the admissibility of the exhibit is that the party introducing the exhibit will be responsible for timely providing the court reporter a clear and viewable color photograph or photocopy which accurately depicts the original exhibit. Three (3) copies are required in a non-capital case and four (4) copies are required in a capital case.

All exhibits shall be marked with exhibit stickers, and shall be marked in the manner proscribed by the judge presiding. All such exhibits will be marked using a numerical format.

No attorney should leave the courtroom until he or she is sure that all exhibits admitted by the Court are in the court reporter's possession.

RULE 1.9 -- CAMERAS, RECORDING DEVICES OR CELL PHONES IN THE COURTROOM

Video/photographic cameras, audio recording devices and cell phones are prohibited in the courtroom. This rule applies to everyone, including news reporters. Attorneys, and their designated support staff, may utilize a cell phone or electronic device pursuant to Rule 1.5. No person is authorized to audibly record or video record any court proceeding.

The only person permitted to record a proceeding by any audio device, without prior approval from the Court, is an official court reporter. Any person who violates this rule may have their camera, recording device or cell phone confiscated, and may be subject to imprisonment/fine for contempt of court.

CHAPTER II -- PLEADINGS AND MOTIONS

RULE 2.1 -- MOTIONS

All motions will be set on the next regularly scheduled motion docket, unless otherwise directed by the judge assigned to hear that particular case. A courtesy copy of any motion is not generally required, unless specifically told otherwise by the judge assigned to hear that particular case.

RULE 2.2 -- DISCOVERY

The parties shall not tender to the clerk for filing the following discovery instruments:

Written interrogatories or responses thereto, demands for production of documents or other things, requests for permission to enter upon land of a party, requests for admissions or responses thereto, or requests for physical or mental examinations of a party or person in custody or under legal control of a party other than those referenced in 12 O.S., § 3235.

The Court Clerk shall not accept for filing any of the above discovery instruments, but is directed to return them to the party tendering them. Further, the party to whom the discovery instruments are returned shall be responsible for the postage associated with returning said discovery instruments.

Should a party desire to preserve a record of the time such discovery procedures were initiated, he/she may file a notice of submission of the same. Such notice will contain a brief description of the type of discovery initiated, the date it was initiated and the method by which it was transmitted to the opposing party.

Motions for an order compelling discovery must contain a statement by counsel for the moving party that after personal consultation with opposing counsel and reasonable efforts to do so, counsel for the moving party has been unable to make discovery of the matter in question by agreement with opposing counsel.

In all instances where the Court must conduct a hearing regarding a discovery response, the non-prevailing party will be required to pay all costs and expenses associated with said hearing pursuant to 12 O.S., § 3237.

RULE 2.3 -- JOURNAL ENTRY

In all contested matters, the Journal Entry presented for signature of the Court must contain the attorneys' or pro se parties' signature of approval as to form for all interested parties to the proceedings.

The Journal Entry must be submitted for the trial judge's signature and filed within thirty (30) days of the judge's ruling, unless directed otherwise by the Court. If the parties do not agree as to the form of Journal Entry, then they shall file a Motion to Settle Journal Entry, which will then be set for hearing. The Court may, in its discretion, assess attorney fees against a party for being unreasonable in finalizing an Order.

RULE 2.4 -- NOTICE OF BANKRUPTCY PROCEEDINGS

In an emergency situation an oral announcement, by an attorney or a party, that a bankruptcy proceeding has been filed shall be sufficient to temporarily stay a proceeding in the District Court. However, it shall be obligatory upon the attorney or party giving such notice to file a written pleading within five (5) days, which shall fully describe the bankruptcy proceeding. Such notice shall, at a minimum, give the following:

Name of the parties; Location of the Federal Court where bankruptcy is filed; the case number; and, the filing date and time.

RULE 2.5 -- CERTIFICATE OF MAILING

Each pleading, other than initial Petition and Summons, filed with the court clerk shall contain a certificate of mailing signed by counsel stating that a true and correct copy of the pleading was mailed to each attorney of record or, if a party is unrepresented, to such pro se party at their last known address. Such certificate of mailing must show the date of mailing and must be signed by the attorney filing such pleading. Failure to attach the certificate of mailing may result in the hearing being continued.

RULE 2.6 -- PRE-TRIAL CONFERENCES

A pre-trial conference will be held in all civil and criminal trials. Any attorney who will participate in the trial must attend the pre-trial conference.

CHAPTER III -- DOMESTIC RELATIONS

RULE 3.1 -- ASSIGNMENT TO A PARTICULAR JUDGE

All divorce and paternity cases will be assigned to a particular judge by the Court Clerk in the manner prescribed by the District Judge.

If the judge assigned disqualifies himself, then the parties must immediately notify the District Judge so that the matter can be assigned to a different judge.

RULE 3.2 -- TEMPORARY ORDERS

Generally, all temporary order hearings shall be set for hearing on the Domestic Docket which is held on the first and third Thursday of each month, subject to such dates not interfering with other dockets or holidays. Each party to a temporary order hearing shall be given a maximum of fifteen (15) minutes to present their requests at said hearing. However, the judge presiding may permit additional time if that judge finds it warranted.

The parties may mutually agree to submit their requests as to the temporary order hearing in writing to the judge assigned to their case.

RULE 3.3 -- MEDIATION

All parties to a domestic relations case must attend and participate in mediation before the Court will set any such case for a final hearing. If it becomes difficult to find a mediator because of an allegation of domestic violence, the parties may request permission from the judge presiding in their case to waive this rule. Such waiver is not guaranteed.

RULE 3.4 -- PRETRIAL DECLARATION

In all contested divorce cases, a trial date will be assigned at the pre-trial conference. At the pre-trial conference the parties shall present a combined declaration, under oath, setting forth all of the income, expenses, assets and debts of the parties, and a list of separate property. The parties shall also submit a proposed division of such assets and debts. Such declaration and proposed division shall be in Excel Spreadsheet format. At the Court's discretion, failure to submit such declaration may result in a party not being allowed to present such evidence at the trial on the merits.

Further, the declaration shall include any proposed child support calculations, and any proposed arrangement as to the custody of any child(ren).

ASSETS: Each party shall give a personal opinion as to the value of each asset, regardless of who has possession of the same. In the event that one of the parties plans to use a witness to establish the value of any asset, that party shall provide the name, address and credentials of said expert.

DEBTS: All debts, secured or unsecured, shall be listed giving the name and address of each creditor, the unpaid balance, the periodic payment, and whether or not the debt is current. If the debt is delinquent, adequate information must be provided as to when the debt became delinquent and what asset has been given as security.

The court may on its own motion require either party to furnish such additional information as the court deems necessary to ensure an efficient disposition of the case.

In cases involving minor children, each party must attend and complete Divorcing Well for the Sake of the Minor Children prior to pre-trial conference. The Court will not accept any online parenting class unless approved by the Court in writing prior to the pre-trial conference.

RULE 3.5 -- STANDARD VISITATION SCHEDULE

A copy of the Court's standard "Visitation Schedule" is available by contacting the bailiff. The parties may vary from the standard "Visitation Schedule" if it is agreed by all parties, and if the judge presiding finds it would be in the best interest of any children who would be affected by the agreement.

RULE 3.6 -- DECREES

In an uncontested divorce, the final decree must be submitted to the Court and filed of record on the day such divorce is granted.

If the domestic relations case was contested, the decree must be submitted to the trial judge and filed within thirty (30) days of the judge's ruling. If the parties do not agree as to the form of decree, then they shall provide a proposed decree within the same period.

The decree must be approved by the presenting party or his or her attorney and by any opposing attorney of record.

RULE 3.7 -- MOTIONS TO MODIFY

Any motion to modify a decree in a divorce or paternity case should be set by the party seeking the modification for initial status conference on the Domestic Docket. If there is opposing counsel, the party seeking the modification shall coordinate with that attorney's schedule in setting a motion to modify a decree in a divorce or paternity case.

CHAPTER IV -- CRIMINAL MATTERS

RULE 4.1 -- INCARCERATION WITHOUT FORMAL CHARGES

No Defendant accused of any public offense may be jailed longer than a reasonable time without being formally charged.

RULE 4.2 -- INITIAL APPEARANCES

Due process requires that an accused person be brought before a judge without unnecessary delay. If Court is not in session, then the Defendant must be brought before the Court on the next successive working day. Any delay beyond that point may cause the case to be dismissed or the Defendant to be released from custody.

RULE 4.3 -- STATE'S DUTY TO REVIEW ALL FILINGS

The District Attorney/State of Oklahoma is required to proofread any document submitted for filing to ensure that all matters contained in said document are accurate.

RULE 4.4 -- INDIGENT DEFENDANTS MAY NOT NOMINATE AN ATTORNEY

The Court will not entertain the suggestion that any particular attorney be appointed to represent an indigent Defendant in a criminal case. An exception to this rule is when an attorney, who has already been appointed to represent an indigent Defendant in another pending criminal case, notifies the Court that it would be in the best interest of justice for said attorney to be appointed to represent said Defendant in the new criminal case.

RULE 4.5 -- DISCOVERY THAT DEFENDANT IS NOT INDIGENT

Should Court-appointed counsel become aware or suspect that a Court-appointed client is in fact not indigent, the attorney must immediately make known to the appointing judge such facts so that the Court may make the appropriate inquiry.

RULE 4.6 -- WITHDRAWAL BY ATTORNEY

A retained attorney in a criminal case may not withdraw except for good cause shown. Good cause shown does not mean that the attorney has not been paid; that the attorney has not had contact with the Defendant; or, that the Defendant failed to appear as previously ordered. Any motion to withdraw as attorney of record must state specifically the reason(s) for said request.

An attorney in a criminal case, whether Court-appointed or hired, need not file a motion to withdraw once the case has concluded either by plea or by trial. Any attorney who has been appointed by the Court or who has entered an appearance to represent a Defendant in a criminal case will be withdrawn as attorney of record by operation of this rule once the time has passed for a Defendant to petition the Court to withdraw his or her plea, or once the time has passed to file a notice of intent to appeal.

In its discretion, the Court may allow an OIDS attorney to withdraw when a client fails to appear, subject to OIDS being reappointed when such Defendant is located.

RULE 4.7 -- COURT FUND TRANSCRIPTION

If a transcript of any part of a criminal proceeding has been furnished by the Court Fund, it remains the property of the Court Fund. Counsel for the State and the Defendant may use said transcript to prepare for trial or appeal, but must obtain approval to check out said transcript from the Court Clerk.

RULE 4.8 -- PLEA AGREEMENTS AND BLIND PLEAS

When a matter is presented to the Court on a proposed plea agreement, both counsel for the Defendant and for the State are bound to reveal to the Court any previous denial by a judge of any plea agreement in that particular criminal case and all surrounding circumstances.

Any plea offer/agreement shall be clearly stated in writing and shall be attached to all plea forms unless the plea is a blind plea. The State of Oklahoma and counsel for the Defendant are required to thoroughly review all plea forms and Judgment and Sentence for accuracy before signing their name to them, and before submitting them to the Court.

Virtually without exception, every Defendant charged with a felony who is entering a blind plea will be remanded into custody at least until the sentencing date at the time the blind plea is entered. This rule applies regardless of whether there is an agreement between the Defendant and the State to the contrary. The attorney for a Defendant entering a blind plea should advise his or her client of this rule, as no case will be continued because a Defendant claims to be unaware of this rule.

CHAPTER V -- TRIAL

RULE 5.1 -- TRIAL PROCEDURE, NOTICE OF SETTLEMENT, DISMISSAL OR CONTINUANCE

Civil jury trial dates will be set at the pre-trial conference held in each case.

Counsel on both sides of any lawsuit shall keep the Court informed at all times of any proposed settlement, dismissal or request that a particular case be continued.

If a civil case has been settled, the parties must immediately notify in writing the judge assigned to the case.

Any request for a dismissal or continuance of any case must be in writing and shall state specifically the reason(s) for said request. Any request for a continuance shall include the position of opposing counsel as to the request for the continuance.

RULE 5.2 -- FRIENDLY SUIT

The Court requires that all friendly suit hearings be done on the record.

RULE 5.3 -- WITHDRAWAL FROM CASE

No attorney will be permitted to withdraw from any non-criminal case within thirty (30) days from the date of any hearing or trial unless the Court finds that there is good cause shown for said withdrawal. Good cause shown does not mean that the attorney has not been paid. Any motion to withdraw as attorney of record must state specifically the reason(s) for said request, and must be accompanied by a proposed order.

RULE 5.4 -- ARGUMENT BY A PARTY

No party to a suit shall be permitted to argue the case to a judge or jury if the party has counsel.

RULE 5.5 -- CONDUCT TOWARD JURORS AFTER VERDICT

No attorney or party to any lawsuit shall thank the jury or individual juror for a favorable verdict. Likewise, no attorney or party to any lawsuit may express any disdain toward the jury or an individual juror for an unfavorable verdict. No attorney or party may communicate directly or indirectly with a juror after a verdict has been returned until the entire jury panel has been finally discharged from service.

No attorney or party to any lawsuit may continue discussing any case with a juror once that juror has expressed a desire not to discuss the matter.

The District Court reserves the right to amend or make additions to any rule set forth herein.