

UNIFORM LOCAL RULES OF COURT FOR THE
COUNTY COURT AT LAW OF POLK COUNTY, TEXAS,
AND THE 258TH AND 411TH DISTRICT COURTS FOR
POLK, SAN JACINTO, AND TRINITY COUNTIES

1.

Scope, Authority and Application of Local Rules

- 1.1 These rules are the Local Rules of Court of Polk, San Jacinto and Trinity Counties. They shall govern proceedings in the Statutory County Courts of Polk County, Texas, and the District Courts in Polk, San Jacinto and Trinity Counties, for the purpose of securing uniformity and fairness in the proceedings of said Courts and in order to promote justice.
- 1.2 These Rules are adopted by the trial judges of the District and Statutory County Courts acting in concert pursuant to the inherent power of courts to control and guide the trial and disposition of causes, and pursuant to the provisions of the Supreme Court's order of September 13, 1999, as amended, adopting Rules of Judicial Administration and to the provision of the Court Administration Act, Section 74.093, Government Code, as amended.
- 1.3 Nothing herein is intended to conflict with or modify any statute of the Texas Legislature or rules promulgated by the Supreme Court of Texas or the Second Administrative Judicial Region.

2.

Rules Applicable to All Cases

- 2.1 In order to encourage the early settlement of disputes and to carry out the responsibilities of the courts as set out in Chapter 154 of the Texas Civil Practices and Remedies Code, mediation or other appropriate alternative dispute resolution procedures is encouraged.
- 2.2 The courts will strive to insure that all cases are brought to trial or final disposition in conformity with the following time standards:

Criminal Cases:

Felonies - within 12 months of arrest or return of indictment, whichever is earlier.

Misdemeanors - within 6 months of arrest or filing of information, whichever is earlier.

Civil Cases other than family:

Civil Jury Cases - within 18 months of appearance date.

Civil Non-Jury Cases - within 12 months from appearance date.

Family Law Cases:

Contested Cases - Within 6 months from appearance date or within 6 months from the expiration of the waiting period provided by the family code where such is required, whichever is later.

Uncontested Cases - Within 3 months from appearance date or within 3 months from the expiration of the waiting period provided by the family code where such is required, whichever is later.

Cases in which the Department of Family and Protective Services is a party - Within the time frames established by Title 5, Subtitle E of the Texas Family Code.

Complex Cases. The courts recognize that in especially complex cases or special circumstances it may not be possible to adhere to these standards.

2.3 Transfer and Hearing of Cases

Cases may be heard by the various courts of Polk County without transfer, subject to the jurisdictional limitations of the various courts, as provided by Sections 24.003 and 74.094(a), Government Code.

Cases may be transferred between the courts of Polk County pursuant to Sections 24.003 and 74.121, Government Code.

2.4 All requests for settings, including civil, criminal and family law cases, shall only be made through the court coordinator of the court in which the particular case is pending. The court clerk shall refer any setting requests to the appropriate coordinator.

2.5 In the event an attorney is scheduled to appear in more than one court subject to these rules at a particular time, the attorney shall contact the court coordinators of each conflicting court at least two days before the time of the conflicting settings. The coordinators will confer and direct the appearance of the attorney in a manner that minimizes the conflict for the attorney while promoting the efficient operation of the courts. Conflicting settings of attorneys involving a court outside the scope of these rules shall be resolved pursuant to the rules of the Second Judicial Administrative District.

2.6 The following Affidavits may be filed with the Clerk in accordance with the Texas Rules of Evidence and the Texas Civil Practice and Remedies Code; however, the attachments shall not be filed:

- (1) Texas Rules of Evidence Rule 902(10): "Business Records Accompanied by Affidavit"
- (2) Texas Civil Practices and Remedies Code § 18.001: "Affidavit Concerning Cost and Necessity of Services."

The above described affidavits shall be served upon, and the attachments shall be made available to all other lead counsel or parties in accordance with the Texas Rules of Civil Procedure, the Texas Rules of Evidence and the Texas Civil Practice and Remedies Code at the cost of the requesting party.

3. Family Law Cases

3.1 A. The Standing Order Regarding Children, Property and Conduct of the Parties ("Standing Order"), attached hereto as Appendix A, shall apply to every divorce action and every suit affecting parent-child relationship, not initiated by a governmental agency, pending in the County Court at Law of Polk County, and in the District Courts in Polk, San Jacinto and Trinity Counties. Any action for modification or enforcement of existing orders of such cases are likewise included in the application of the Standing Order.

B. The petitioner shall attach a copy of the Standing Order to the original petition and to each copy of the petition. At the time the petition is filed, if the petitioner failed to attach a copy of the Standing Order to the petition, the clerk of the court shall deliver to the petitioner a copy of the Standing Order. A copy of the Standing Order shall be attached to each citation to be served. Said Standing Order shall become effective on the Petitioner when the petition is filed and on the Respondent when citation is served, a waiver of citation is signed, or actual notice in some other manner is received.

C. The Standing Order remains effective until the temporary hearing, if any, or if a temporary hearing is not requested by either party, until the final hearing. Should a temporary hearing be requested by either party, then the court shall determine whether the Standing Order shall remain in effect until the final hearing and absent a ruling of the court to the contrary, the Standing Order shall remain effective until the final disposition of the action by the entry of either a final judgment or order of dismissal.

3.2 Every ex parte restraining order shall be mutual and apply to the conduct of both parties unless the application is supported by an affidavit stating specific facts demonstrating an immediate necessity to deviate from this rule.

- 3.3 In a case where the division of the marital estate is in dispute, each party shall exchange a final sworn inventory and appraisal, no later than thirty (30) days before the trial date. The parties shall file with the court a certificate of compliance with this provision. A final sworn inventory and appraisal shall be supplemented on or before and no later than seven (7) days before trial. The inventory and appraisal shall be in a form substantially similar to Appendix B hereto. Real property must be identified by either a copy of the deed into the party or parties or sufficient legal description to describe the specific property. The parties are encouraged to use and exchange a single form by agreement.
- 3.4 Unless otherwise agreed to by the parties or for good cause with court approval, in any hearing in which child support or spousal support is an issue, the parties shall complete and exchange the following documents prior to the commencement of the hearing:
1. A sworn statement of the household usual and ordinary monthly income and expenses;
 2. Copies of that party's federal income tax returns for the two calendar years preceding the filing of the Original Petition or Suit Affecting Parent-Child Relationship;
 3. All payroll statements, pay stubs, W2 forms and 1099 forms, and all supporting schedules, and any other document evidencing any and all of that party's earning for the calendar year immediately prior to the filing of the Original Petition for Divorce or Suit Affecting Parent-Child Relationship for child support and from January 1 of the current year through the date of the hearing; and
 4. Copies of any financial statements prepared for any financial institution during the marriage.

This rule providing for the exchange of information shall constitute a discovery request under the Texas Rules of Civil Procedure, and the failure to comply with this rule may be grounds for sanctions, as provided by Rule 215 of the T.R.C.P.

- 3.5 In a pro se divorce action, any party requesting affirmative relief must attend a Review Clinic provided by Lone Star Legal Aid or comparable class. A final hearing of such divorce will not be set by the court coordinator until the completion of the review clinic and the tender to the court of a proposed final decree in proper form.

4.
Criminal Cases

4.1 GRAND JURIES AND ASSIGNMENT OF CASES

A. Grand Juries

The 411th Judicial District Court shall select and impanel the Grand Jury for Polk County the January term of court and the 258th Judicial District Court shall select and impanel the Grand Jury for Polk County for the July term of court.

The 258th Judicial District Court shall select and impanel the Grand Juries for San Jacinto and Trinity Counties for the January term of court and the 411th Judicial District Court shall select and impanel the Grand Jury for San Jacinto and Trinity Counties for the July term of court.

B. Presentment of Indictments

The rules regarding presentment of indictments by a Grand Jury to the District Court are set forth in Articles 20.21 and 20.22 of the Code of Criminal Procedure. Article 20.21 requires that the Foreperson of the Grand Jury shall deliver the indictments to the Judge or District Clerk and that at least nine members of the grand jury must be present when the delivery is made. Article 20.22 requires that the fact of presentment be entered upon the minutes of the court. The "minutes of the court" are contained in the Grand Jury Minute Book. The Grand Jury Minute Book shall remain in the custody of the District Clerk at all times except when the Grand Jury is in session. The Grand Jury Minute Book is not a secret book or document. When the grand jury begins a session, the District Clerk shall have all members present sign the Grand Jury Minute Book as proof of their presence at the session and to make a record of the fact that a quorum was present at the session. The District Clerk shall then deliver the book to the Secretary of the Grand Jury. When a true bill of indictment is voted in the affirmative by at least nine members of the Grand Jury, the following information shall be entered by the Secretary of the Grand Jury in the Grand Jury Minute Book, and nothing else, to wit:

1. the date of the session;
2. name of the person indicted;
3. offense; and
4. names of the witnesses upon which the indictment is founded.

If the defendant is not in custody or under bond at the time of the presentment of the indictment, upon request of the District Attorney, the entry of the name of the defendant in the book may be delayed until such time as the capias is served and the

Uniform Local Rules for Polk, San Jacinto and Trinity Counties

defendant is placed in custody or under bond, at which time the name of the defendant will be entered in the book by the District Clerk. It is the duty of the District Clerk to verify that the indictments delivered to the clerk conform with the information contained in the Grand Jury Minute Book. If there is a variance, it should be called to the attention of the Secretary, Foreperson and District Attorney immediately.

When a defendant is "no-billed", meaning that a case was presented to the Grand Jury regarding an individual and less than nine affirmative votes were given for a true bill of indictment, a Certificate of No-Bill shall be signed by the Foreperson certifying that the case was presented to the Grand Jury and that a no-bill was returned. The certificate shall be presented to the District Clerk in the same manner as indictments. The District Clerk shall handle the certificates as follows:

A. Defendant Under Arrest:

If the defendant is under arrest, a copy of the certificate shall be delivered to the Sheriff and the defendant immediately.

B. Defendant Under Bond:

A copy of the certificate shall be delivered to the surety or pre-trial services, as the case may be, and the defendant as soon as practicable.

C. All certificates shall be held by the clerk under seal, unless ordered released by the District Court.

C. Assignment of Cases After Indictment

Except as otherwise provided in this Rule, the District Clerk shall equally distribute in a random manner determined by the clerk every criminal case filed by indictment into the two District Courts. Capital cases shall be assigned on an independent, rotational basis among the District Courts.

D. New Indictments After Assignment

When an indictment is pending against a defendant, the clerk shall assign any subsequent indictment, whether a re-indictment or for another offense, to the same court in which the prior indictment was assigned.

E. Co-Defendant Indictment

The clerk, after random assignment of an indictment to a court, shall assign any co-defendant indicted at the same time or subsequently to the same court in which the first co-defendant's indictment was assigned.

F. Information to the District Clerk

The District Attorney shall note on a non-substantive part of the indictment the following information:

- (1) Whether there are other pending indicted cases on the defendant;
 - (2) Whether the indictment is a re-indictment;
 - (3) The names of any co-defendants, and;
 - (4) Whether the defendant is incarcerated or under bond, and the name of the surety, if any.
- 4.2 The appearance of counsel as attorney of record for a defendant by a) an actual appearance in open court, b) filing a written notice of appearance with a copy provided to the State's attorney or c) the appointment of counsel by the court upon a finding of indigency shall constitute a discovery request by the defendant under Article 39.14 (a), Code of Criminal Procedure. It is the responsibility of the defendant's counsel to inspect, duplicate, copy or photograph such items as are discoverable under Article 39.14(a).
- 4.3 Subject to the operation of Rule 2.5 above, Chapter 29 of the Code of Criminal Procedure shall control any continuance from a trial setting and the procedures contained therein shall be strictly enforced.

ORDER CONCERNING THE IDENTIFICATION OF PARTIES IN PLEADINGS

Among other information, a minor's name, birth date and address is considered to be sensitive data when including in a pleading. Rule 21c(a)(3), Rules of Civil Procedure.

Rule 21c(b) provides that "Unless the inclusion of sensitive data is specifically required by a statute, court rule, or administrative regulation, an electronic or paper document, except for will and documents filed under seal, containing sensitive data may not be filed with a court unless the sensitive data is redacted."

Rule 21c(d) provides that if a document must contain sensitive data, the filing party must notify the clerk by either designating the document as containing sensitive data when the document is electronically filed or including the phrase "NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA" if the document is not electronically filed.

Texas Family Code Sections 6.401, 6.406, 102.008, 105.006 and Texas Rules of Civil Procedure Rule 79 require certain information to be included in the style and/or body of a petition and final order including the full name of parties and the names and dates of birth of any minor children.

Section 6.401 requires the pleadings in a suit for divorce or annulment to be styled "In the Matter of the Marriage of _____ and _____."


Section 102.008 requires the pleadings in a suit affecting the parent child relationship, excluding the adoption of an adult, to be styled "In the Interest of _____ and _____, a child." The name and date of birth of a child may be omitted only if an adoption is requested.

Section 51.303, Texas Government Code, requires the District Clerk to "keep an index of the parties to all suits filed in the court. The index must list the parties alphabetically using their full names and must be cross-referenced to the other parties to the suit."


Effective March 7, 2019, the name of any minor child which is subject of a suit affecting the parent-child relationship, including divorce actions, shall be included in the style of the case. The District Clerk is ordered to return for correction any filing or pleading that does not comply with this order. The filing party of a pleading which contains the minor's name in the style under this order shall comply with Rule 21c(d) which will prohibit the clerk from making the document accessible on a public internet site, without redacting the information as required by Rule 21c(f).

ADOPTION OF RULES

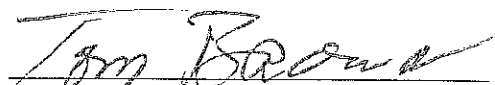
The foregoing "Uniform Local Rules of County Court at Law of Polk County, Texas, and the 258th and 411th District Courts for Polk, San Jacinto, and Trinity Counties, are hereby adopted by the undersigned judges in Polk County on this the 7th day of March, 2019 and shall be effective on the date of filing with the District and County Clerks in Polk, San Jacinto and Trinity Counties.



Travis E. Kitchens, Jr.
Judge, 258th Judicial District Court



Kaycee Jones
Judge, 411th Judicial District Court



Tom Brown
Judge, County Court at Law

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SHERYLE J. RICHARDS-DISTRICT CLERK
POLK COUNTY, TEXAS
BY _____

APPENDIX "A"

POLK, SAN JACINTO, AND TRINITY COUNTIES ORDER
REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES

THIS STANDING ORDER FOR POLK, SAN JACINTO, AND TRINITY COUNTIES REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES IS BINDING ON (1) THE PARTIES, (2) THE PARTIES' OFFICERS, AGENTS, SERVANTS, EMPLOYEES, AND ATTORNEYS, AND (3) ANY OTHER PERSON WHO ACTS IN CONCERT WITH THE PARTIES OR THEIR AGENTS AND WHO RECEIVES ACTUAL NOTICE OF THESE ORDERS, AND IS ENFORCEABLE BY CONTEMPT, INCLUDING A FINE OF UP TO \$500, CONFINEMENT IN THE COUNTY JAIL FOR SIX MONTHS, OR BOTH SUCH A FINE AND CONFINEMENT IN JAIL FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS.

NO PARTY TO THIS LAWSUIT HAS REQUESTED THIS ORDER. Rather, this order is a standing order of the Polk County Court at Law and the Polk, San Jacinto and Trinity Counties District Courts that applies in every divorce suit and every suit affecting the parent-child relationship, including a suit for modification or enforcement of a prior order, filed in Polk, San Jacinto and Trinity Counties, Texas. The Polk County Court at Law and the Polk, San Jacinto and Trinity Counties District Courts have adopted this order pursuant to Texas Family Code §§6.501-6.503, 105.001, and 105.009 because the parties and their children should be protected and their property preserved while the lawsuit is pending before the court. IT IS THEREFORE ORDERED:

1. **NO DISRUPTION OF CHILDREN.** All parties are ORDERED to refrain from doing the following acts concerning any children who are subjects of this cause:

1.1 Removing the children from the State of Texas for the purpose of changing the children's domicile or residence, acting directly or in concert with others, without the written agreement of all parties or an order of this Court; provided, however, that this paragraph shall not prohibit or restrict a party from so removing the children if an active prior court order gives that party the right to designate the children's primary residence outside the State of Texas or without regard to geographic location.

1.2 Disrupting or withdrawing the children from the school or day-care facility where the children are presently enrolled without the written agreement of all parties or an order of this Court; provided, however, that this paragraph shall not prohibit or restrict a party from so withdrawing the children from a school or day-care facility if that party is changing the children's domicile or residence within that party's rights pursuant to an active prior court order as described in §1.1 above.

1.3 Hiding or secreting the children from any other party.

1.4 Changing the children's current place of abode without the written agreement of all parties or an order of this Court; provided, however, that this paragraph shall not prohibit or restrict a party from changing such place of abode if an active prior court order gives that party the right to designate the children's primary residence without geographic restriction, or if the

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new place of abode lies within the geographic limits established by that active prior court order.

1.5 Disturbing the peace of the children.

1.6 Making disparaging remarks about another party or another party's family members, including but not limited to the child's grandparents, aunts, uncles, stepparents, or anyone with whom the party has a dating relationship.

1.7 Discussing with the children, or with any other person in the presence of the children, any litigation related to the children or the other party.

1.8 If this is an original divorce action, allowing anyone with whom the party has a dating relationship to be in the same dwelling or on the same premises overnight while in possession of the child. Overnight is defined from 10:00 p.m. until 7:00 am.

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2. CONDUCT OF THE PARTIES DURING THE CASE. All parties are ORDERED to refrain from doing the following acts with the intent to harass, annoy, alarm, abuse, torment, or embarrass another party:

2.1 Using vulgar, profane, obscene, coarse, offensive, or indecent language to communicate with another party, whether in person, by telephone, or in writing, including by email, text message, or any other electronic communication.

2.2 Threatening another party in person, by telephone, or in writing, including by email, text message, or any other electronic communication, to take unlawful action against the party, a member of the party's family, including but not limited to anyone with whom the party has a dating relationship, or the party's property.

2.3 Placing or transmitting one or more telephone calls, emails, text messages, or other electronic communications to another party at an unreasonable hour, in an offensive or repetitious manner, anonymously, or without a legitimate purpose of communication.

3. PRESERVATION OF PROPERTY AND USE OF FUNDS DURING DIVORCE CASE. If this is a divorce case, both parties to the marriage are ORDERED to refrain from the following conduct:

3.1 Destroying, removing, concealing, encumbering, transferring, or otherwise harming or reducing the value of the property of one or both of the parties, regardless of whether it is personal or real property and whether it is claimed as separate or community property.

3.2 Misrepresenting or refusing to disclose to the other party or to the Court, on proper request, the existence, amount, or location of any property of one or both of the parties, regardless of whether it is personal or real property and whether it is claimed as separate or community property.

3.3 Damaging, destroying or tampering with the tangible property of one or both of the parties, including any document that represents or embodies anything of value, regardless of whether it is personal or real property and whether it is claimed as separate or community property.

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3.4 Selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of either party, regardless of whether it is personal or real property and whether it is claimed as separate or community property, except as specifically authorized by this order or a subsequent order of this Court.

3.5 Incurring any indebtedness, including cash advances from a credit card or line of credit, other than legal expense in connection with this suit, except as specifically authorized by this order or a subsequent order of this Court.

3.6 Making withdrawals from any account in any financial institution for any purpose, except as specifically authorized by this order or a subsequent order of this Court.

3.7 Spending any sum of cash in either party's possession or subject to either party's control for any purpose, except as specifically authorized by this order or a subsequent order of this Court.

3.8 Withdrawing or borrowing in any manner for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account, except as specifically authorized by this order or a subsequent order of this Court.

3.9 Signing or endorsing the other party's name or any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividends, or attempting to negotiate any negotiable instrument payable to the other party without the personal signature of the other party.

3.10 Taking any action to terminate, close, restrict, or limit lines of credit, credit cards, charge cards, or financial accounts in the name of or subject to the control of the other party, whether owned individually or jointly, except by subsequent court order or written agreement signed by each party permitting such action.

3.11 Entering, operating, or exercising control over the motor vehicle in the possession of the other party.

3.12 Discontinuing or altering the withholding for federal income taxes on wages or salary while this suit is pending.

3.13 Terminating or in any manner affecting the service of water, electricity, gas, telephone, cable television, or other contractual services, such as security, pest control, landscaping, or yard maintenance at the other party's residence or in any manner attempting to withdraw any deposits for service in connection with such services.

3.14 Unlawfully intercepting or recording the other party's electronic communications.

3.15 Opening or diverting mail addressed to the other party.

3.16 Excluding a spouse from the use and enjoyment of the marital residence in which the spouse had been residing within the thirty (30) day period prior to the date the original petition for divorce was filed.

3.17 Communicating with the other party's employer or a person with whom the other party has a business relationship without a legitimate purpose.

3.18 Entering any safe deposit box in the name of or subject to the control of a party, whether owned individually or jointly, except by subsequent court order or written agreement signed by each party permitting such entrance.

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4. **PERSONAL AND BUSINESS RECORDS IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts:

4.1 Concealing or destroying any family records, property records, financial records, business records or any records of income, debts, or other obligations.

4.2 Falsifying any writing or record relating to the property of either party.

4.3 "Records" includes e-mail or other digital or electronic data, whether stored on a computer hard drive, diskette or other electronic storage device.

5. **INSURANCE IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are ORDERED to refrain from doing the following acts, except by written agreement signed by each party permitting such acts:

5.1 Withdrawing or borrowing in any manner all, or any part, of the cash surrender value of life insurance policies on the life of either party, except as specifically authorized by this order or a subsequent order of this Court.

5.2 Changing or in any manner altering the beneficiary designation on any life insurance on the life of either party or the parties' children.

5.3 Canceling, altering, or in any manner affecting any casualty, automobile, or health insurance policies insuring the parties' property or persons including the parties' minor children.

6. **SPECIFIC AUTHORIZATIONS IN DIVORCE CASE.** If this is a divorce case, both parties to the marriage are specifically authorized to do the following:

6.1 To engage in acts reasonably and necessary to the conduct of that party's usual business and occupation.

6.2 To make expenditures and incur indebtedness for reasonable attorney's fees and expenses in connection with this suit.

6.3 To make expenditures and incur indebtedness for reasonable and necessary living expenses commensurate with such expenditures and indebtedness incurred for the past six months.

6.4 To make withdrawals from accounts in financial institutions only for the purposes authorized by this order.

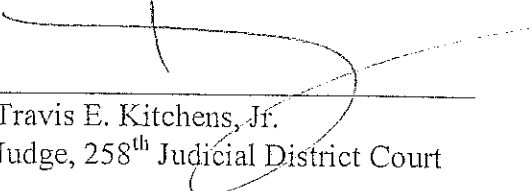
7. **EFFECT OF OTHER COURT ORDERS.** If any part of this order is different from any part of a protective order that has already been entered or is later entered, the protective order provisions prevail. Any part of this order not changed by some later order remains in full force and effect until the court signs a final decree.

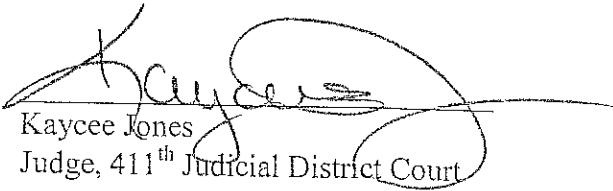
APPENDIX "A"

THIS STANDING ORDER REGARDING CHILDREN, PROPERTY AND CONDUCT OF THE PARTIES IS EFFECTIVE IN EVERY DIVORCE SUIT AND EVERY SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP, INCLUDING A SUIT FOR MODIFICATION OR ENFORCEMENT OF A PRIOR ORDER, FILED ON OR AFTER the 7th day of March, 2019.

ADOPTION OF RULES

The foregoing "Polk, San Jacinto and Trinity Counties Standing Order Regarding Children, Property and Conduct of the Parties" is hereby adopted by the undersigned judges in Polk County on this the 7th day of March, 2019.


Travis E. Kitchens, Jr.
Judge, 258th Judicial District Court


Kaycee Jones
Judge, 411th Judicial District Court


Tom Brown
Judge, County Court at Law

FILED FOR RECORD
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BY _____
KAYCEE J. RICHARDS-DUNN
POLK COUNTY, TEXAS

