

Re: Randall County Court at Law No. 2

Family Law Operating Guidelines of the Randall County Court at Law No. 2

[Handout (with subsequent modifications) pertaining to speech by Judge Ronnie Walker at the Panhandle Family Law Association on January 18, 2007]

The attorneys practicing in the Randall County Court at Law No. 2 are expected to be in general compliance with such **Operating Guidelines**, which begin on page 2 of the attachment.

RANDALL COUNTY COURT AT LAW NO. 2 – INFORMATION AND CONSIDERATIONS
PANHANDLE FAMILY LAW ASSOCIATION MEETING (1-18-07)

1. General Circumstances of the Establishment of the Randall County Court at Law No. 2 and Case Allocation

- a. By statute, this court and County Court at Law No. 1 have concurrent jurisdiction with district courts on family law matters. Twelve person juries will be used pertaining to such concurrent jurisdiction matters.
- b. **An Order Regarding Allocation of Concurrent Jurisdiction Cases** was entered on August 11, 2006.
 - (1) County Court at Law No. 2 on or shortly after January 2, 2007, will receive all of the original divorce proceedings pending in the district courts as of December 31, 2006, wherein a final hearing or order has not been accomplished, and thereafter will be the court of continuing jurisdiction with respect to same. (In that regard, over 400 cases have been or will be transferred to County Court at Law No. 2, from the three district courts.)
 - (2) County Court at Law No. 2 will receive the first 220 newly filed family law cases, other than the juvenile cases, protective order cases, and CPS cases.
 - (3) County Court at Law No. 2 will hear and have filed therein 40% of all the family law divorce and related cases, and the three district courts each will hear and have filed therein 20%. [After the exhaustion of the first 220 cases mentioned above.]
 - (4) County Court at Law No. 1 will hear the temporary orders pertaining to the district courts.
 - (5) County Court at Law No. 1 will hear all the juvenile cases and for the time being all CPS cases.
 - (6) County Court at Law 1 and 2 will split all newly filed protective order cases.
- c. **County Court at Law No. 2 will hear one-half of the criminal misdemeanor cases**, but the case load will be built up prospectively; i.e., every other misdemeanor criminal case in Randall County beginning January 2, 2007, will be filed in County Court at Law No. 2.

2. Obviously, County Court at Law No. 2 is at the outset largely a family law court, with a start up docket of over 400 pending divorce cases, and the first 220 divorce and related cases filed in Randall County in 2007.

- a. However, at some time in the reasonably near future, the court will also of course hear a substantial number of criminal cases, as the criminal docket will build up rapidly.
- b. The circumstances necessitate this court quickly setting up appropriate procedure and operating guidelines pertaining to its handling of the family law cases.

3. **Some of my thoughts pertaining to Family Law procedure and related in my court are as follows:**
OPERATING GUIDELINES

- a. **Hearings** - If an attorney is involved on the other side, a sincere effort should be made in advance to reach an agreement on a hearing date. Of course this will require communication with my court coordinator or bailiff.
In general, I expect full communication between or among the lawyers before a hearing. (signed *Certificate of Conference* may be helpful)
- b. **Communication Among Lawyers in General** - I not only encourage it, I will expect it. It should be done in the context of collegiality and professionalism, and I believe it is necessary for justice as well as judicial efficiency.
- c. **Cases with Representation on Only One Side** - If one side is represented by an attorney and the other side is not, where appropriate I will need adequate evidence to support orders. If contested and relevant, I will expect the last two years income tax returns, the last three to six months wage statements, and necessary documents, to be submitted at the time of the hearing. The same principle applies to other issues. Also, however difficult it may seem, you will need to communicate and negotiate with the pro se litigant prior to a hearing.
- d. **Telephone Conferences with the Court** – I intend to use same freely. Of course, same will be accomplished consistent with ethical requirements. (I will use telephone conferences as a precursor to possible mediation, Rule 166 or scheduling orders; or at least as a preliminary step to determine whether a mediation, Rule 166 order or scheduling order is necessary. Such telephonic conferences are also useful as a means for the court to timely monitor the progress of cases, and especially useful pertaining to the more complex or time consuming cases.)
- e. **Law Matters** – The Family Code and related are very detailed, and often complicated. Gone are the days when you can freely assume that the Court should know the statutes, or the specific law. Therefore, I would like where appropriate, necessary or practical, specific statutory or other legal references made in argument or discussion.
- f. **Orders in General** –
 - (1) Pertaining to orders and especially routine language, I expect the lawyers to be up front, and not to attempt to sneak in language. I will say that if this does happen that the lawyer’s future credibility with the Court will suffer.
 - (2) I expect the lawyers to either approve the orders as to form and substance; or as to form only.
 - (3) If only one lawyer is involved and if the pro se party or parties do not sign the order; then the attorney should certify in the order the mailing or delivery of such order to the pro se party.
- g. **Financial Information Statements** - I want *Financial Information Statements* in appropriate form completed prior to any hearing pertaining to the standard family law issues.

h. Trial Aids; Worksheets; and Related for the Court –

- (1) I will encourage and expect trial aids which will facilitate decision making. I will further appreciate synopses, summaries and calculations pertaining to the issues. Particular areas where this might apply without limitation are child support, visitation, and property division. (Including a proposed property division, valuations, economic contribution, reimbursement, retirement, etc.)
- (2) I will ask the lawyers immediately prior to the commencement of the contested hearing or trial to indicate the issues or matters that have been agreed to, and the issues which are contested. The lawyers should be concise in their statements. I expect the lawyers to stipulate to uncontested matters, and further to indicate at that time such stipulations or agreements. If a lawyer is unprepared pertaining to same, the lawyer can expect the court to go over the issues with the lawyer or lawyers at that time. The court certainly prefers and expects that same be done by the lawyers in advance, and stated to the court immediately prior to the commencement of the trial or hearing. The court not only encourages stipulations, but expects stipulations as to uncontested matters.

i. Exhibits – To the extent possible, I expect the lawyers to have exchanged exhibits prior to hearings. In complex cases it will be required. There must always be sufficient copies of exhibits during a trial. (For example, it is required that there be extra copies for the testifying witness, judge, lawyers, etc. The originals will be given to the Court Reporter.) In regard to voluminous exhibits, I will encourage summaries, of course consistent with evidentiary rules.

j. More on Exhibits – In general, I expect the exhibits to be pre-marked and the originals submitted to the court reporter prior to or at the beginning of the trial. Of course, a separate set of such exhibits shall be provided to the opposing attorney. (This does not change my commentary above about exchanging exhibits in advance.) The exhibits do not have to be offered in numerical or sequential order, but they to the extent possible should be pre-marked in numerical and in an appropriate manner. If the exhibits are numerous, there should be a cover page listing the exhibits and appropriate tabs or dividers. My courtroom is a large courtroom. Failure to be in compliance will cause unnecessary delay, inefficiency, and generally a less effective presentation of your case.

k. Child Custody Trials – I believe that all efforts to resolve such matters prior to having a child custody trial should be exhausted, and especially prior to a jury trial. I will require mediation before a trial. I generally will require psychologicals or home studies; or other expert assistance. (Further, I expect serious mediation, and not just perfunctory mediation) I also may employ some of the powers of *Rule 166* of the Texas Rules of Civil Procedure (including possibly a scheduling order), before a trial will actually occur. I especially want the case fully worked before a jury trial occurs.

l. Property Matters – Again, trial aids will be encouraged. I realize that there may be an issue about hearsay or other matters, but in general I will be inclined to consider same as demonstrative evidence or a trial aid in general. In general, I will require mediation before a final trial. If there are serious or complex property issues, mediation will almost always be required. Rule 166 procedures (including possibly a scheduling order) may be used where necessary or appropriate.

m. Objections and related –

- (1) Especially pertaining to most family law bench trials, I in general will not be sympathetic to objections that simply delay and unnecessarily interfere with trial efficiency. However, I recognize there are circumstances that will require a different approach. I further understand there are factual matters or areas that are particularly sensitive or critical.
- (2) Do not make objections in the form of “ask and answered”. If appropriate, you may make an objection that same is “repetitive” or “redundant”.
- (3) Under most circumstances, telling a witness to answer “yes or no” is inappropriate.
- (4) Never “thank me” for a ruling.
- (5) When an attorney is questioning a non-hostile witness whom the attorney has called, no permission is needed to approach the witness.
- (6) In general, do not instruct the witness to “tell the judge”. Obviously the witness is testifying to the court in a bench trial.

n. Temporary Hearings – From time to time I may use a general rule of the party plus one witness for each side; and require that the hearing be accomplished within one and a half hours. However this is not an absolute rule, and I recognize there are situations where this would be inapplicable. You should generally advise my court coordinator or bailiff of the circumstances or expected time consumption, and he will generally advise me in advance of the hearing. You should provide this information as soon as reasonably practicable, so that scheduling can be accomplished accordingly.

o. Settlement Efforts - In general, I will expect the lawyers to make every effort at settlement prior to a hearing, and as necessary sufficiently in advance of their case actually being called for trial. As mentioned hereinabove, I will expect routine matters to be stipulated to.

p. Videos, audios, etc. – I expect the attorneys to have made an effort by agreement to edit same, and also I expect the lawyers to be considerate of unnecessary consumption of the court’s time in that regard.

q. Voir Dire – While my inclination is to give attorneys latitude pertaining to specific questioning, I’m also concerned about the privacy of the jurors, commitment related questions, excessive discussion about the facts of the case, and questions that lead to unnecessary and irrelevant discussion or considerations. (Some of this is certainly more appropriate at the “opening statement” stage of the trial.)

r. Child Testimony – There are historical admissibility issues; but there are also practical considerations as well as the recognition of the need often for exceptions where children are involved.

4. Miscellaneous –

- a. If there are discovery issues, I will want to know about them promptly.
- b. Generally, I will permit the jurors to take notes during a jury trial.
- c. I will have time limits on voir dire, opening statements, and closing argument. (I will discuss such time limits with the attorneys in advance of trial)