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**WALLER COUNTY**

**LOCAL RULES OF THE COUNTY COURT AT LAW**

concerning the

**ELECTRONIC FILING OF COURT DOCUMENTS IN FAMILY LAW CASES**

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**PART 1. GENERAL PROVISIONS**

**Rule 1.1 Purpose**

These rules govern the electronic filing and service of court documents, by any method other than fax filing, in Waller County. These rules are adopted pursuant to Rule 3a of the Texas Rules of Civil Procedure and may be known as the “Waller County Local Rules of the County Court at Law Concerning the Electronic Filing of Court Documents in Family Law Cases.”

**Rule 1.2 Effect on Existing Local Rules**

These rules are adopted in addition to any other local rules of the county courts at law in Waller County. These rules do not supersede or replace any previously adopted local rules.

**Rule 1.3 Electronic Filing Optional Unless Ordered by Court**

(a) Except as provided by subsection (b) below, the electronic filing and serving of court documents is wholly optional.

(b) Upon the motion of a party and for good cause shown, a court may order the parties in a particular case to electronically file and serve court documents that are permitted to be electronically filed under Rule 3.3.

**PART 2. DEFINITIONS**

**Rule 2.1 Specific Terms**

The following definitions apply to these rules:

(a) “Convenience fee” is a fee charged in connection with electronic filing that is in addition to regular filing fees. A Convenience Fee charged by the District Clerk will be considered as a court cost.

(b) "District clerk" means the Waller County District Clerk, who serves as the clerk for the filing of documents in family law cases in the County Court at Law in Waller County.

(c) "Digitized signature" means a graphic image of a handwritten signature.

(d) "Document" means a pleading, plea, motion, application, request, exhibit, brief, memorandum of law, paper, or other instrument in paper form or electronic form. The term does not include court orders.

(e) "Electronic filing" is a process by which a filer files a court document with the district clerk's office by means of an online computer transmission of the document in electronic form. For purposes of these rules, the process does not include the filing of faxed documents which is described as the "electronic filing of documents" in Section 51.801, Government Code.

(f) "Electronic filing service provider (EFSP)" is a business entity that provides electronic filing services and support to its customers (filers). An attorney or law firm may act as an EFSP.

(g) "Electronic order" means a computerized, non-paper court order that a judge signs by applying his or her digitized signature to the order. A digitized signature is a graphic image of the judge's handwritten signature.

(h) "Electronic service" is a method of serving a document upon a party in a case by electronically transmitting the document to that party's e-mail address.

(i) "Electronically file" means to file a document by means of electronic filing.

(j) "Electronically serve" means to serve a document by means of electronic service.

(k) "Filer" means a person who files a document, including an attorney.

(l) "Party" means a person appearing in any case or proceeding, whether represented or appearing pro se, or an attorney of record for a party in any case or proceeding.

(m) "Regular filing fees" are those filing fees charged in connection with traditional filing.

(n) "Rules" are the Waller County Local Rules of the County Court at Law concerning the Electronic Filing of Court Documents in Family Law Cases.

(o) "Traditional court order" means a court order that is on paper.

(p) "Traditional filing" is a process by which a filer files a paper document with a clerk or a judge.

## **Rule 2.2 Application to Pro Se Litigants**

The term “counsel” shall apply to an individual litigant in the event a party appears pro se.

## **PART 3. APPLICABILITY**

### **Rule 3.1 Scope**

(a) These rules apply to the filing of documents in all family law civil cases, including cases that are appeals from lower courts, before the County Court at Law with jurisdiction in Waller County.

(b) These rules apply to the filing of documents in cases before the court referred to in paragraph (a) above that are subsequently assigned to associate judges or any other similar judicial authorities.

### **Rule 3.2 Clerks**

These rules apply only to the filing of documents with the district clerk. These rules do not apply to the filing of documents directly with a judge as contemplated by TEX. R. CIV. P. 74.

### **Rule 3.3 Documents That May Be Electronically Filed**

(a) A document that can be filed in a traditional manner with the district clerk may be electronically filed with the exception of the following documents:

- i) citations or writs bearing the seal of the court;
- ii) returns of citation;
- iii) bonds;
- iv) wills and codicils thereto;
- v) subpoenas;
- vi) proof of service of subpoenas;
- vii) documents to be presented to a court in camera, solely for the purpose of obtaining a ruling on the discoverability of such documents;
- viii) documents sealed pursuant to TEX. R. CIV. P. 76a; and

ix) documents to which access is otherwise restricted by law or court order, including a document filed in a proceeding under Chapter 33, Family Code.

(b) A motion to have a document sealed, as well as any response to such a motion, may be electronically filed.

#### **Rule 3.4. Documents Containing Signatures**

(a) A document that is required to be verified, notarized, acknowledged, sworn to, or made under oath may be electronically filed only as a scanned image.

(b) A document that requires the signatures of opposing parties (such as a Rule 11 agreement) may be electronically filed only as a scanned image.

(c) Any affidavit or other paper described in Rule 3.4(a) or (b) that is to be attached to an electronically filed document may be scanned and electronically filed along with the underlying document.

(d) Where a filer has electronically filed a scanned image under this rule, a court may require the filer to properly file the document in a traditional manner with the district clerk. A third party may request the court in which the matter is pending to allow inspection of a document maintained by the filer.

### **PART 4. FILING MECHANICS**

#### **Rule 4.1 TexasOnline**

(a) Texas Online is a project of the Department of Information Resources (DIR) Board, a state entity charged with establishing a common electronic infrastructure through which state agencies and local governments may electronically send and receive documents and required payments.

(b) To become registered to electronically file documents, filers must follow registration procedures outlined by TexasOnline. The procedure can be accessed from TexasOnline's website at "www.texasonline.com."

(c) Filers do not electronically file documents directly with the district clerk. Rather, filers indirectly file a document with the district clerk by electronically transmitting the document to an electronic filing service provider (EFSP) which then electronically transmits the document to TexasOnline which then electronically transmits the document to the district clerk. A filer filing or serving a document must have a valid account with a TexasOnline EFSP.

(d) Consistent with standards promulgated by the Judicial Committee on Information Technology (JCIT), TexasOnline will specify the permissible formats for documents that will be electronically filed and electronically served.

(e) Filers who electronically file documents will pay regular filing fees to the district clerk indirectly through TexasOnline by a method set forth by TexasOnline.

(f) An EFSP may charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees.

(g) TexasOnline will charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees and will be in an amount not to exceed the amount approved by the DIR Board.

(h) The district clerk may charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees, credit card fees, or other fees.

#### **Rule 4.2 Signatures**

(a) Upon completion of the initial registration procedures, each filer will be issued a confidential and unique electronic identifier. Each filer must use his or her identifier in order to electronically file documents. Use of the identifier to electronically file documents constitutes a “digital signature” on the particular document.

(b) The attachment of a digital signature on an electronically-filed document is deemed to constitute a signature on the document for purposes of signature requirements imposed by the Texas Rules of Civil Procedure or any other law. The person whose name appears first in the signature block of an initial pleading is deemed to be the attorney in charge for the purposes of Texas Rules of Civil Procedure 8, unless otherwise designated. The digital signature on any document filed is deemed to be the signature of the attorney whose name appears first in the signature block of the document for the purpose of Texas Rules of Civil Procedure 13 and 57.

(c) A digital signature on an electronically-filed document is deemed to constitute a signature by the filer for the purpose of authorizing the payment of document filing fees.

#### **Rule 4.3 Time Document is Filed**

(a) A filer may electronically transmit a document through an EFSP to TexasOnline 24 hours per day each and every day of the year, except during brief periods of state-approved scheduled maintenance which will usually occur in the early hours of Sunday morning.

(b) Upon sending an electronically-transmitted document to a filer's EFSP, the filer is deemed to have delivered the document to the district clerk and, subject to Rule 4.3(h),

the document is deemed to be filed. If a document is electronically transmitted to the filer's EFSP and is electronically transmitted on or before the last day for filing the same, the document, if received by the district clerk not more than ten days tardily, shall be filed by the district clerk and deemed filed in time. A transmission report by the filer to the filer's EFSP shall be prima facie evidence of date and time of transmission.

(c) On receipt of a filer's document, the filer's EFSP must send the document to Texas Online in the required electronic file format along with an indication of the time the filer sent the document to the EFSP and the filer's payment information. TexasOnline will electronically transmit to the filer an "acknowledgment" that the document has been received by TexasOnline. The acknowledgment will note the date and time that the electronically-transmitted document was received by TexasOnline.

(d) Upon receiving a document from a filer's EFSP, TexasOnline shall electronically transmit the document to the district clerk. If the document was not properly formatted, Texas Online will transmit a warning to the filer's EFSP.

(e) Not later than the first business day after receiving a document from TexasOnline, the district clerk shall decide whether the document will be accepted for filing. The district clerk shall accept the document for filing provided that the document is not misdirected and complies with all filing requirements. The district clerk shall handle electronically-transmitted documents that are filed in connection with an affidavit of inability to afford court costs in the manner required by TEX. R. CIV. P. 145. If the district clerk fails to accept or reject a document within the time period, the document is deemed to have been accepted and filed.

(f) If the document is accepted for filing, the district clerk shall note the date and time of filing which, with the exception of subsection (h) below, shall be the date and time that the filer transmitted the document to the filer's EFSP. The district clerk shall inform TexasOnline of its action the same day action is taken. TexasOnline shall, on that same day, electronically transmit to the filer's EFSP a "confirmation" that the document has been accepted for filing by the district clerk. The EFSP will electronically transmit the confirmation to the filer. This confirmation will include an electronically "file-marked" copy of the front page of the document showing the date and time the district clerk considers the document to have been filed.

(g) If the document is not accepted for filing, the district clerk shall inform TexasOnline of its action, and the reason for such action, the same day action is taken. TexasOnline shall, on that same day, electronically transmit to the filer's EFSP an "alert" that the document was not accepted along with the reason the document was not accepted. The EFSP will electronically transmit the alert to the filer.

(h) Except in cases of injunction, attachment, garnishment, sequestration, or distress proceedings, documents that serve to commence a civil suit will not be deemed to have been filed on Sunday when the document is electronically transmitted to the filer's EFSP,

TexasOnline, or the district clerk on Sunday. Such documents will be deemed to have been filed on the succeeding Monday.

**Rule 4.4 Filing Deadlines Not Altered**

The electronic filing of a document does not alter any filing deadlines.

**Rule 4.5 Multiple Documents**

(a) Except as provided by subsection (b) below, a filer may include only one document in an electronic transmission to TexasOnline.

(b) A filer may electronically transmit a document to TexasOnline that includes another document as an attachment (e.g., a motion to which is attached a brief in support of the motion).

**Rule 4.6 Official Document**

(a) The district clerk's file for a particular case may contain a combination of electronically-filed documents and traditionally-filed documents.

(b) The district clerk may maintain and make available electronically-filed documents in any manner allowed by law.

**Rule 4.7 E-mail Address Required**

In addition to the information required on a pleading by TEX. R. CIV. P. 57, a filer must include an e-mail address on any electronically-filed document.

**Rule 4.8 Document Format**

(a) Electronically-filed documents must be computer-formatted as specified by TexasOnline. Electronically-filed documents must also be formatted for printing on 8½-inch by 11-inch paper.

(b) An electronically-filed pleading is deemed to comply with TEX. R. CIV. P. 45.

**PART 5. SERVICE OF DOCUMENTS OTHER THAN CITATION**

**Rule 5.1 Electronic Service of Documents Permissible**

(a) In addition to the methods of serving documents (other than the citation to be served upon the filing of a cause of action) set forth in TEX. R. CIV. P. 21a, a filer may serve documents upon another party in the case by electronically transmitting the document to

**PART 7. MISCELLANEOUS PROVISIONS**

**Rule 7.1 Assigned Court to Resolve Disputes**

In the event a dispute should arise involving the application of these rules or various electronic filing issues, the court assigned to the case in which the dispute arises shall decide any dispute.

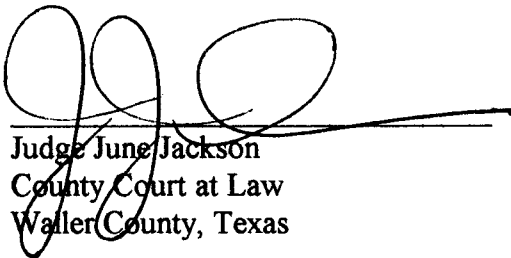
**Rule 7.2 Rule Guiding Interpretation**

These rules shall be liberally construed so as to avoid undue prejudice to any person on account of using the electronic filing system or sending or receiving electronic service in good faith.

**ADOPTION OF RULES**

The foregoing "Waller County Local Rules of the County Court at Law concerning the Electronic Filing of Court Documents in Family Law Cases" are hereby adopted by the undersigned judge in Waller County on this the 31 day of July, 2007 and submitted to the Supreme Court of Texas for approval.

These rules shall become effective upon their approval by the Supreme Court of Texas.

  
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Judge June Jackson  
County Court at Law  
Waller County, Texas