

**AMENDED RULES OF THE DISTRICT COURT  
TULSA COUNTY  
MAY, 2005**

**RULE 9. Courtroom conduct**

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.

**AMENDED CIVIL 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.
  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 considered unless submitted to the assigned judge no later than 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 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;
  - 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 CRIMINAL RULES

### **RULE CR 1. Orders of Release**

#### **A. Orders of Release – Criminal Bond Index**

A Preset Criminal and Traffic Bond Schedule Index 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 Index.

#### **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 ~~July 1, 1995~~ 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 ~~between the hours of 7:30 a.m. and 1:30 p.m. 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. At the end of each day, the clerk of the Magistrate calling the preliminary hearing docket shall prepare for each Trial Judge a record of the preliminary hearings held that day. The report shall include those cases set for trial arraignment, the date of the trial arraignment, and the assigned Judge. The Trial Judge shall prepare his/her arraignment docket from these records.~~

## **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 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. (No changes)

3. (No changes)

4. Total compensation for lead counsel shall not exceed three ~~twenty~~ thousand dollars (~~\$3,000~~ \$20,000) in capital cases. Total compensation for co-counsel shall not exceed five thousand dollars (\$5,000) in capital cases.

5. 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.

6. 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.

7. When the trial court loses jurisdiction, an attorney providing services pursuant to this rule shall submit ~~an~~ 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 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 (Okla. 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 6<sup>th</sup> 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.

~~Compensation for such expert shall be paid from the court fund in a sum not to exceed seven hundred fifty dollars (\$750.00) per indigent defendant, the specific amount to be determined by the trial judge, subject to the approval of the Presiding Judge. An expert's fee and expenses in excess of seven hundred fifty dollars (\$750.00) per indigent defendant may be~~

compensated upon application to and approval of the Presiding Judge, prior to the retention of the expert.

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 ~~criminal~~ cases ordered expunged according to the provisions of 22 O.S. §§18 and 19 shall be filed ~~in the Criminal Division~~ 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 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.

## AMENDMENT TO RULE CR 10

### RULE CR 10. Conflict of Interest-Reassignment of Case

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

- a. juvenile cases
- b. mental health cases
- c. grand jury cases
- d. traffic cases
- e. misdemeanor cases
- f. guardianship cases
- g. contempt proceedings
- h. child abuse cases pursuant to 10 O.S. § 7112
- i. felony cases, except murder cases.

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

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

Proposed Amendment

Rule CR 10 – “Conflict of Interest – Reassignment of Cases” is amended as follows:

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

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

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