

STATE BAR OF TEXAS

COMMITTEE ON COURT RULES

REQUEST FOR NEW RULE OR CHANGE OF EXISTING RULE

TEXAS RULES OF CIVIL PROCEDURE

I. Exact wording of existing Rule:

**RULE 245. ASSIGNMENT OF CASES FOR TRIAL**

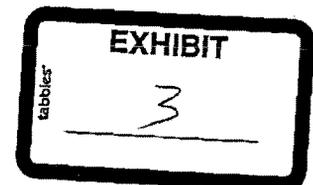
The court may set contested cases on written request of any party, or on the court's own motion, with reasonable notice of not less than forty-five days to the parties of a first setting for trial, or by agreement of the parties; provided, however, that when a case previously has been set for trial, the Court may reset said contested case to a later date on any reasonable notice to the parties or by agreement of the parties. Non-contested cases may be tried or disposed of at any time whether set or not, and may be set at any time for any other time.

A request for trial setting constitutes a representation that the requesting party reasonably and in good faith expects to be ready for trial by the date requested, but no additional representation concerning the completion of pretrial proceedings or of current readiness for trial shall be required in order to obtain a trial setting in a contested case.

II. Proposed New Rule:

**RULE 245. ASSIGNMENT OF CASES FOR TRIAL**

1. The court may set contested cases on written request of any party or on the court's own motion. Unless all parties agree otherwise, the court shall give reasonable notice of the first setting for trial of not less than seventy-five [75] days to the parties who have appeared when notice is given.
2. When a case previously has been set for trial, the court may reset the case to a later date on any reasonable notice to the parties who have appeared or by agreement of those parties. Non-contested cases may be tried or disposed of at any time whether set or not, and may be set at any time for any other time.



3. If a party is joined or appears after a case has been set for trial, the court shall give reasonable notice of the trial setting to that party of not less than seventy-five [75] days after that party has appeared, unless that party agrees otherwise. For good cause, the court has discretion to shorten the notice to the newly joined or appearing party of an existing trial setting; provided, that the court shall grant that party a reasonable period to resolve its pretrial motions and conduct discovery.
4. A request for trial setting constitutes a representation that the requesting party reasonably and in good faith expects to be ready for trial by the date requested, but no additional representation concerning the completion of pretrial proceedings or of current readiness for trial shall be required in order to obtain a trial setting in a contested case.

Committee commentary:

The committee felt two matters had rendered forty-five (45) days insufficient time to prepare for a trial. First, changes in statutory law and rules of procedure made it difficult to resolve a number of pre-trial motions before trial if a case is set shortly after it is filed. Second, the rule did not provide a minimum notice period for parties first joined after the case is set for trial.