

# IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 11- 9251

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**ORDER ADOPTING AMENDMENTS TO  
TEXAS RULE OF CIVIL PROCEDURE 306, TEXAS RULES OF APPELLATE  
PROCEDURE 20, 25, 28, 32, AND 35, AND  
TEXAS RULE OF JUDICIAL ADMINISTRATION 6**

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**ORDERED** that:

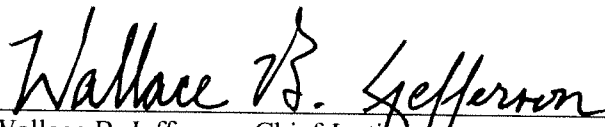
1. Pursuant to the Texas Constitution, article V, section 31(a), and sections 22.004 and 74.024 of the Texas Government Code, and in accordance with the Act of May 5, 2011, 82nd Leg., R.S., ch. 75 (HB 906), the Supreme Court of Texas amends Rule of Civil Procedure 306 and Rules of Appellate Procedure 20, 25, 28, 32, and 35, effective March 1, 2012, and Rule of Judicial Administration 6, effective May 1, 2012.

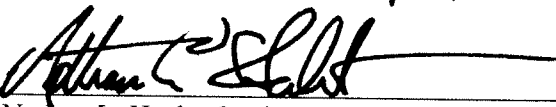
2. The Clerk is directed to:

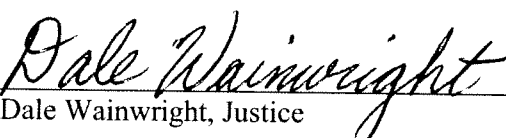
- a. file a copy of this Order with the Secretary of State;
- b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
- c. send a copy of this Order to each elected member of the Legislature; and
- d. submit a copy of the Order for publication in the *Texas Register*.

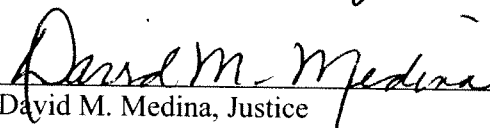
3. These amendments may be changed in response to public comments received before February 29, 2012. Any interested party may submit written comments directed to Marisa Secco, Rules Attorney, at P.O. Box 12248, Austin, TX 78711, or [marisa.secco@txcourts.gov](mailto:marisa.secco@txcourts.gov).

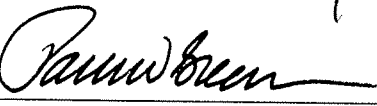
Dated: December 15<sup>th</sup>, 2011.

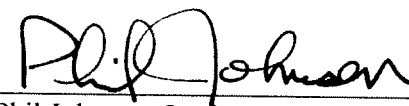
  
Wallace B. Jefferson, Chief Justice

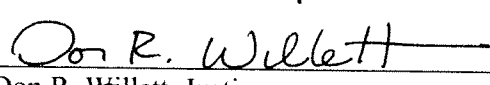
  
Nathan L. Hecht, Justice

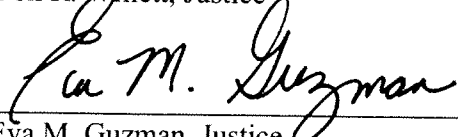
  
Dale Wainwright, Justice

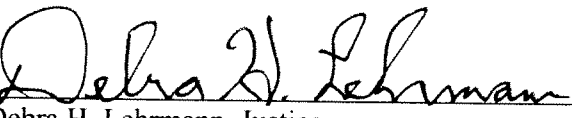
  
David M. Medina, Justice

  
Paul W. Green, Justice

  
Phil Johnson, Justice

  
Don R. Willett, Justice

  
Eva M. Guzman, Justice

  
Debra H. Lehrmann, Justice

**Amendment to Texas Rules of Civil Procedure:**

**Rule 306. Recitation of Judgment**

The entry of the judgment shall contain the full names of the parties, as stated in the pleadings, for and against whom the judgment is rendered. In a suit for termination of the parent-child relationship or a suit affecting the parent-child relationship filed by a governmental entity for managing conservatorship, the judgment must state the specific grounds for termination or for appointment of the managing conservator.

**Amendments to Texas Rules of Appellate Procedure:**

**Rule 20. When Party is Indigent**

**20.1 Civil Cases.**

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*(e) Contest to Affidavit Indigence.*

(1) If Affidavit Filed. The clerk, the court reporter, the court recorder, or any party may challenge an affidavit that is not accompanied by a TAJF certificate by filing — in the court in which the affidavit was filed — a contest to the affidavit. The contest must be filed on or before the date set by the clerk if the affidavit was filed in the appellate court, or within 10 days after the date when the affidavit was filed if the affidavit was filed in the trial court. The contest need not be sworn.

(2) If Indigence Presumed. The clerk, the court reporter, the court recorder, or any party may challenge a presumption of indigence that has been established as provided by Rule 20.1(a)(3) by filing a contest in the trial court. The contest must be filed within three days after a notice of appeal is filed. The contest must state specific facts demonstrating a good faith belief that the parent is no longer indigent due to a material and substantial change in the parent’s financial circumstances. The contest need not be sworn.

\* \* \*

*(g) Burden of Proof.*

(1) If Affidavit Filed. If a contest is filed, the party who filed the affidavit of indigence must prove the affidavit’s allegations. If the indigent party is incarcerated at the time the hearing on a contest is held, the affidavit must be considered as evidence and is sufficient to meet the indigent party’s burden to present evidence without the indigent party’s attending the hearing.

(2) If Indigence Presumed. If a presumption of indigence has been established as provided by Rule 20.1(a)(3), the party filing the contest must prove that the parent is no longer indigent due to a material and substantial change in the parent’s financial circumstances since the most recent determination of indigence.

\* \* \*

*(i) Hearing and Decision in the Trial Court.*

(1) Notice Required. If the affidavit of indigence is filed in the trial court or a presumption of indigence has been established as provided by Rule 20.1(a)(3) and a contest is filed, or if the appellate court refers a contest to the trial court, the trial court must set a hearing and notify the parties and the appropriate court reporter of the setting.

(2) Time for Hearing. The trial court must either conduct a hearing or sign an order extending the time to conduct a hearing:

(A) within 10 days after the contest was filed, if initially filed in the trial court; or

(B) within 10 days after the trial court received a contest referred from the appellate court.

(3) Extension of Time for Hearing. The time for conducting a hearing on the contest must not be extended for more than 20 days from the date the order is signed.

(4) Time for Written Decision; Effect. Unless — within the period set for the hearing — the trial court signs an order sustaining the contest, the affidavit's allegations will be deemed true or the presumption of indigence will continue unabated, and the party will be allowed to proceed without advance payment of costs.

*(j) Review of Trial Court's Decision.*

(1) Motion. If the trial court sustains a contest, the party claiming indigence may seek review of the court's order by filing a motion challenging the order with the appellate court without advance payment of costs.

(2) Time for Filing; Extension. The motion must be filed within 10 days after the order sustaining the contest is signed, or within 10 days after the notice of appeal is filed, whichever is later. The appellate court may extend the time for filing on motion complying with Rule 10.5(b).

(3) Record. Within three days after a motion is filed, the trial court clerk and court reporter, respectively, must prepare, certify, and file the clerk's record and reporter's record of the indigence hearing, if any, and the hearing on the contest. The record must be provided without advance payment of costs.

(4) Ruling by Operation of Law. If the appellate court does not deny the motion within 10 days after it is filed, the motion is granted by operation of law

(5) No Review of Order Overruling Contest. An order overruling a contest is not subject to appellate review.

(jk) *Record to be Prepared Without Prepayment.* If a party establishes indigence, the trial court clerk and the court reporter must prepare the appellate record without prepayment.

(kl) *Partial Payment of Costs.* If the party can pay or give security for some of the costs, the court must order the party, in writing, to pay or give security, or both, to the extent of the party's ability. The court will allocate the payment among the officials to whom payment is due.

(lm) *Later Ability to Pay.* If a party who has proceeded in the appellate court without having to pay all the costs is later able to pay some or all of the costs, the appellate court may order the party to pay costs to the extent of the party's ability.

(mn) *Costs Defined.* As used in this rule, costs means:

- (1) a filing fee relating to the case in which the affidavit of inability is filed; and
- (2) the charges for preparing the appellate record in that case.

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## **Rule 25. Perfecting Appeal**

### **25.1. Civil Cases**

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(d) *Contents of Notice.* The notice of appeal must:

- (1) identify the trial court and state the case's trial court number and style;

(2) state the date of the judgment or order appealed from;

(3) state that the party desires to appeal;

(4) state the court to which the appeal is taken unless the appeal is to either the First or Fourteenth Court of Appeals, in which case the notice must state that the appeal is to either of those courts;

(5) state the name of each party filing the notice;

(6) in an accelerated appeal, state that the appeal is accelerated and state whether it is a parental termination or child protection case, as defined in Rule 28.4;

(7) in a restricted appeal:

(A) state that the appellant is a party affected by the trial court's judgment but did not participate — either in person or through counsel — in the hearing that resulted in the judgment complained of;

(B) state that the appellant did not timely file either a postjudgment motion, request for findings of fact and conclusions of law, or notice of appeal; and

(C) be verified by the appellant if the appellant does not have counsel.

(8) state, if applicable, that the appellant is presumed indigent and may proceed without advance payment of costs as provided in Rule 20.1(a)(3).

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**Rule 28. Accelerated, Agreed, and Permissive Appeals in Civil Cases**

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**28.4 Accelerated Appeals in Parental Termination and Child Protection Cases**

**a) Application and Definitions.**

(1) Appeals in parental termination and child protection cases are governed by the rules of appellate procedure for accelerated appeals, except as otherwise provided in Rule 28.4.

(2) In Rule 28.4:

(A) a “parental termination case” means a suit in which termination of the parent-child relationship is at issue.

(B) a “child protection case” means a suit affecting the parent-child relationship filed by a governmental entity for managing conservatorship.

(b) Appellate Record.

(1) Responsibility for Preparation of Reporter’s Record. In addition to the responsibility imposed on the trial court in Rule 35.3(c), when the reporter’s responsibility to prepare, certify and timely file the reporter’s record arises under Rule 35.3(b), the trial court must direct the official or deputy reporter to immediately commence the preparation of the reporter’s record. The trial court must arrange for a substitute reporter, if necessary.

(2) Extension of Time. The appellate court may grant an extension of time to file a record under Rule 35.3(c); however, the extension or extensions granted must not exceed 60 days cumulatively, absent extraordinary circumstances.

(3) Restriction on Preparation Inapplicable. Section 13.003 of the Civil Practice & Remedies Code does not apply to an appeal from a parental termination or child protection case.

(c) Remand for New Trial. If the judgment of the appellate court reverses and remands a parental termination or child protection case for a new trial, the judgment must instruct the trial court to commence the new trial no later than 180 days after the mandate is issued by the appellate court.

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## **Rule 32. Docketing Statement**

### **32.1. Civil Cases**



Upon perfecting the appeal in a civil case, the appellant must file in the appellate court a docketing statement that includes the following information:

\* \* \*

(g) whether the appeal's submission should be given priority ~~or~~ whether the appeal is an accelerated one under Rule 28 or another rule or statute, and whether it is a parental termination or child protection case, as defined in Rule 28.4;

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**Rules 35. Time to File Record; Responsibility for Filing Record**

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**35.3. Responsibility for Filing Record**

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(c) *Courts to Ensure Record Timely Filed.* The trial and appellate courts are jointly responsible for ensuring that the appellate record is timely filed. The appellate court may extend the deadline to file the record if requested by the clerk or reporter. Each extension must not exceed 30 days in an ordinary or restricted appeal, or 10 days in an accelerated appeal. The appellate court must allow the record to be filed late when the delay is not the appellant's fault, and may do so when the delay is the appellant's fault. The appellate court may enter any order necessary to ensure the timely filing of the appellate record.

## **Amendment to Texas Rules of Judicial Administration**

### **Rule 6. Time Standards for the Disposition of Cases**

#### **Rule 6.1 District and Statutory County Courts**

District and statutory county court judges of the county in which cases are filed should, so far as reasonably possible, ensure that all cases are brought to trial or final disposition in conformity with the following time standards:

**a.(a) Criminal Cases.** As provided by Article 32A.02, Code of Criminal Procedure.

**b.(b) Civil Cases Other Than Family Law.**

(1) *Civil Jury Cases.* Within 18 months from appearance date.

(2) *Civil Nonjury Cases.* Within 12 months from appearance date.

**c.(c) Family Law Cases.**

(1) *Contested Family Law 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.

(2) *Uncontested Family Law 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.

**d. (d) Juvenile Cases.** In addition to the requirements of Title 3, Texas Family Code:

(1) *Detention Hearings.* On the next business day following admission to any detention facility.

(2) *Adjudicatory or Transfer (Waiver) Hearings.*

(a) Concerning a juvenile in a detention facility: Not later than 10 days following admission to such a facility, except for good cause shown of record.

(b) Concerning a juvenile not in a detention facility: Not later than 30 days following the filing of the petition, except for good cause shown of record.

(3) *Disposition Hearing*. Not later than 15 days following the adjudicatory hearing. The court may grant additional time in exceptional cases that require more complex evaluation.

(4) Nothing herein shall prevent a judge from recessing a juvenile hearing at any stage of the proceeding where the parties are agreeable or when in the opinion of the judge presiding in the case the best interests of the child and of society shall be served.

e: (e) **Complex Cases**. It is recognized that in especially complex cases or special circumstances it may not be possible to adhere to these standards.

**Rule 6.2 Appeals in Certain Cases Involving the Parent-Child Relationship.** In an appeal of a suit for termination of the parent-child relationship or a suit affecting the parent-child relationship filed by a governmental entity for managing conservatorship, appellate courts should, so far as reasonably possible, ensure that the appeal is brought to final disposition in conformity with the following time standards:

(a) *Courts of Appeals*. Within 180 days of the date the notice of appeal is filed.

(b) *Supreme Court*. Within 180 days of the date the petition for review is filed.