

NOV 12 2004

Misc. Docket No. 04-9271

ORIGINAL

ANDREW WEBER, Clerk
BY _____ Deputy

IN THE SUPREME COURT OF TEXAS

*Jim Wells, et al. v. El Paso Production Oil & Gas Co., et al., 04-04-00725-CV,
Brooks County, et al. v. El Paso Production Oil & Gas Co., et al., 04-04-00726-CV,
Duval County, et al. v. Conoco, Inc., et al., 04-04-00729-CV,
Webb County v. Conoco, Inc., et al., 04-04-00733-CV,
Zapata County, et al v. Conoco, Inc., et al., 04-04-00734-CV,
Hidalgo County v. Texaco Inc., et al., 13-04-00542-CV,
Edinburg C.I.S.D., et al. v. American Coastal Energy, Inc., et al., 13-04-00543-CV
Kleberg County, et al. v. El Paso Production Oil & Gas Co., et al., 13-04-00554-CV,
Willacy County v. El Paso Production Oil & Gas Co., et al., 13-04-00555-CV,
Kenedy County v. El Paso Production Oil & Gas Co., et al., 13-04-00557-CV*

**MOTION TO TRANSFER RELATED APPEALS
AND BRIEF IN SUPPORT**

From the Fourth Court of Appeals and the Thirteenth Court of Appeals

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**BOARD CERTIFIED - CIVIL APPELLATE LAW
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*OF COUNSEL

November 12, 2004

Mr. Andrew Weber
Clerk of the Court
Supreme Court of Texas
P. O. Box 12248
Austin, Texas 78711

Via Hand Delivery

RE: Cause No. 04-04-00725-CV; *JimWells, et al. v. El Paso Production Oil & Gas Co., et al.*; In the Fourth Court of Appeals, San Antonio, Texas
Cause No. 04-04-00726-CV, *Brooks County, et al. v. El Paso Production Oil & Gas Co., et al.*; In the Fourth Court of Appeals, San Antonio, Texas
Cause No. 04-04-00729-CV; *Duval County, et al. v. Conoco, Inc., et al.*; In the Fourth Court of Appeals, San Antonio, Texas
Cause No. 04-04-00733-CV; *Webb County v. Conoco, Inc., et al.*; In the Fourth Court of Appeals, San Antonio, Texas
Cause No. 04-04-00734-CV; *Zapata County, et al. v. Conoco, Inc.*; In the Fourth Court of Appeals, San Antonio, Texas
Cause No. 13-04-00542-CV; *Hidalgo County v. Texaco, Inc., et al.*; In the Thirteenth Court of Appeals, Corpus Christi, Texas
Cause No. 13-04-00543-CV; *Edinburg C.I.S.D., et al. v. American Coastal Energy, Inc., et al.*; In the Thirteenth Court of Appeals, Corpus Christi, Texas
Cause No. 13-04-00554-CV; *Kleberg County, et al. v. El Paso Production Oil & Gas Co., et al.*; In the Thirteenth Court of Appeals, Corpus Christi, Texas
Cause No. 13-04-00555-CV; *Willacy County v. El Paso Production Oil & Gas Co., et al.*; ; In the Thirteenth Court of Appeals, Corpus Christi, Texas
Cause No. 13-04-00557-CV; *Kenedy County v. El Paso Production Oil & Gas Co., et al.*; ; In the Thirteenth Court of Appeals, Corpus Christi, Texas

Dear Mr. Weber:

Please find enclosed one copy of Appellees' Motion To Transfer Related Appeals And


Brief In Support in the above-referenced cases and a letter to Mr. Willis. Please advise the date and time of filing on the additional copy enclosed (marked "COPY").

By copy of this letter, I am forwarding a copy of the foregoing document to opposing counsel via Certified Mail, Return Receipt Requested.

If you have any questions, please feel free to contact me.

Respectfully,

POPP & IKARD, LLP


Laurie Ratliff

Enclosures

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*OF COUNSEL

November 12, 2004

Mr. Bill Willis
Executive Assistant
Supreme Court of Texas
P. O. Box 12248
Austin, Texas 78711

Via Hand Delivery

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RE: Cause No. 04-04-00725-CV; *Jim Wells, et al. v. El Paso Production Co., et al.*; In the Fourth Court of Appeals, San Antonio, Texas
Cause No. 04-04-00726-CV, *Brooks County, et al. v. El Paso Production Oil & Gas Co., et al.*; In the Fourth Court of Appeals, San Antonio, Texas
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Cause No. 13-04-00542-CV; *Hidalgo County v. Texaco, Inc., et al.*; In the Thirteenth Court of Appeals, Corpus Christi, Texas
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Cause No. 13-04-00554-CV; *Kleberg County, et al. v. El Paso Production Oil & Gas Co., et al.*; In the Thirteenth Court of Appeals, Corpus Christi, Texas
Cause No. 13-04-00555-CV; *Willacy County v. El Paso Production Oil & Gas Co., et al.*; In the Thirteenth Court of Appeals, Corpus Christi, Texas
Cause No. 13-04-00557-CV; *Kenedy County v. El Paso Production Oil & Gas Co., et al.*; In the Thirteenth Court of Appeals, Corpus Christi, Texas

Dear Mr. Willis:

Please find enclosed Appellees' Motion To Transfer Related Appeals And Brief In Support in the above-referenced cases. Originals of the Motion are being filed today in the San

Antonio Court of Appeals and the Corpus Christi Court of Appeals, as evidenced by the attached letters. If you have any questions, please feel free to contact me.

Respectfully,

POPP & IKARD, LLP


Laurie Ratliff

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TEXAS BOARD OF LEGAL SPECIALIZATION

November 12, 2004

CM RRR 7160 3901 9842 8108 6636

Mr. Dan E. Crutchfield
Clerk of the Court
4th Court of Appeals
300 Dolorosa, Suite 3200
San Antonio, Texas 78205

RE: Cause No. 04-04-00725-CV; *Jim Wells, et al. v. El Paso Production Oil & Gas Co., et al.*; In the Fourth Court of Appeals, San Antonio, Texas
Cause No. 04-04-00726-CV, *Brooks County, et al. v. El Paso Production Oil & Gas Co., et al.*; In the Fourth Court of Appeals, San Antonio, Texas
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Cause No. 13-04-00555-CV; *Willacy County v. El Paso Production Oil & Gas Co., et al.*; In the Thirteenth Court of Appeals, Corpus Christi, Texas
Cause No. 13-04-00557-CV; *Kenedy County v. El Paso Production Oil & Gas Co., et al.*; In the Thirteenth Court of Appeals, Corpus Christi, Texas

Dear Mr. Crutchfield:

Please find enclosed the original and one copy of Appellees' Motion To Transfer Related Appeals And Brief In Support in the above-referenced cases along with the \$10.00 filing fee. Please present the motion to the Court for its comment and then forward the motion and

comment to the Supreme Court of Texas. Also, please advise the date and time of filing on the additional copy enclosed (marked "COPY") and return it to me in the postage-paid envelope provided.

By copy of this letter, I am forwarding a copy of the foregoing document to opposing counsel via Certified Mail, Return Receipt Requested.

If you have any questions, please feel free to contact me.

Respectfully,

POPP & IKARD, LLP



Laurie Ratliff

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TEXAS BOARD OF LEGAL SPECIALIZATION

November 12, 2004

CM RRR 7160 3901 9842 8108 6643

Ms. Cathy Wilborn
Clerk of the Court
13th Court of Appeals
3901 Leopard, 10th Floor
Corpus Christi, Texas 78401

RE: Cause No. 04-04-00725-CV; *Jim Wells, et al. v. El Paso Production Oil & Gas Co., et al.*; In the Fourth Court of Appeals, San Antonio, Texas
Cause No. 04-04-00726-CV, *Brooks County, et al. v. El Paso Production Oil & Gas Co., et al.*; In the Fourth Court of Appeals, San Antonio, Texas
Cause No. 04-04-00729-CV; *Duval County, et al. v. Conoco, Inc., et al.*; In the Fourth Court of Appeals, San Antonio, Texas
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Cause No. 13-04-00557-CV; *Kenedy County v. El Paso Production Oil & Gas Co., et al.*; In the Thirteenth Court of Appeals, Corpus Christi, Texas

Dear Ms. Wilborn:

Please find enclosed the original and three copies of Appellees' Motion To Transfer Related Appeals And Brief In Support in the above-referenced cases along with the \$10.00 filing

fee. Please advise the date and time of filing on the additional copy enclosed (marked "COPY") and return it to me in the postage-paid envelope provided.

Please present the Motion to the Court for comment and then forward the motion and comments to the Supreme Court of Texas. By copy of this letter, I am forwarding a copy of the foregoing document to opposing counsel via Certified Mail, Return Receipt Requested.

If you have any questions, please feel free to contact me.

Respectfully,

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Laurie Ratliff

Enclosures

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STATEMENT OF THE CASE

Nature of the case: Contending they are immune from the exclusive remedies provided in the Texas Tax Code, Appellants and other taxing units sued Appellees and other similarly-situated defendants in at least 37 cases in five Judicial Administrative Regions seeking additional ad valorem tax revenue alleging Appellees and the other similarly-situated defendants fraudulently misrepresented the prices received from their mineral properties. Appellees and other similarly-situated defendants filed pleas to the jurisdiction based on the comprehensive administrative procedures and remedies in the Texas Tax Code for pursuing such allegations, seeking dismissal of the Taxing Units' lawsuits for the failure to exhaust their administrative remedies. Pursuant to Supreme Court Administrative Rule 11, the Administrative Judges for the Fourth and Fifth Regions assigned Judge Tracy Christopher, presiding judge of the 295th District Court, Harris County, to conduct all pretrial proceedings in the related cases.

Trial court disposition:

On September 10, 2004, Judge Christopher granted Appellees' and other similarly-situated defendants' pleas to the jurisdiction and signed identical orders dismissing all of the related cases pending in the Fourth and Fifth Judicial Administrative Regions. Appendix Tab A.

Relief sought:

Appellants have filed 19 notices of appeal of Judge Christopher's order, 11 in the San Antonio Court of Appeals and 8 in the Corpus Christi Court of Appeals. In this motion to transfer related appeals, Appellees request that this Court transfer ten of the related appeals in which Appellees are parties so that they may be heard by a single court of appeals, either the Houston First or Fourteenth Court of Appeals, the courts that regularly hear appeals of Judge Christopher's orders.

STATEMENT OF JURISDICTION

This Court has jurisdiction over the motion to transfer pursuant to Texas Government Code section 73.001 (West 2004); *see also Miles v. Ford Motor Co.*, 914 S.W.2d 135 (Tex. 1995).

TO THE HONORABLE SUPREME COURT OF TEXAS:

Pursuant to Texas Government Code section 73.001, Appellees, El Paso Production Oil and Gas Company; El Paso Production Oil and Gas USA, L.P.; El Paso CGP Company; Coastal Oil and Gas Corporation; The Coastal Corporation; Coastal States Trading, Inc.; Coastal States Crude Gathering Company; Coastal Gas Marketing Company; Coastal Limited Ventures, Inc.; El Paso Merchant Energy Company ("El Paso") and Arco Oil & Gas Co., Vastar Resources, Inc., BP America Production Company ("BP") respectfully move this Court to transfer the appeals listed in the attached Appendix Tab B ("related appeals") pending in the San Antonio Court of Appeals and the Corpus Christi Court of Appeals, respectively, to either the First or Fourteenth Court of Appeals in Houston.¹

ISSUES PRESENTED

This Motion presents the following issues:

1. Should appeals arising from identical orders in related cases that have been coordinated for pretrial purposes under Administrative Rule 11 be heard in a single appellate proceeding?
2. Which court of appeals should hear the appeal from the coordinated cases?

SUMMARY OF ARGUMENT

This proceeding concerns identical appeals from identical orders in cases that were filed in multiple appellate districts and then coordinated for pretrial purposes under

¹ El Paso and BP have filed a copy of this motion with both the San Antonio Court of Appeals and the Corpus Christi Court of Appeals. *See Miles v. Ford Motor Co.*, 914 S.W.2d 135, 137, n.2 (Tex. 1995).

Administrative Rule 11. Judge Tracy Christopher, presiding judge of the 295th District Court in Harris County was appointed as the pretrial judge in all of the related cases. After Judge Christopher granted Appellees and similarly-situated defendants' pleas to the jurisdiction and dismissed all of the cases, Appellants filed a total of 19 appeals, 11 in the San Antonio Court of Appeals and 8 in the Corpus Christi Court of Appeals. Ten of those appeals, five in each of the foregoing courts of appeals, involve Appellees El Paso and BP.

El Paso and BP ask this Court to transfer these identical appeals to the Houston First or Fourteenth Courts of Appeals because they involve challenges to identical trial court orders and thus should be decided in one appellate proceeding.

Section 73.001 authorizes this Court to transfer cases "from one court of appeals to another at any time that, in the opinion of the supreme court, there is good cause for the transfer." TEX. GOV'T CODE ANN. § 73.001 (West 2004); *see Miles v. Ford Motor Co.*, 914 S.W.2d 135 (Tex. 1995). Good cause exists because these appeals challenge identical trial court orders. Multiple appeals from identical orders are likely to result in inconsistent and conflicting opinions, thus giving rise to conflict and confusion in the law. Therefore, efficiency and consistency are served by consolidation into one appellate proceeding.

In addition, under Rule 13 of the Texas Rules of Judicial Administration, the review of a judgment issued in cases consolidated for pretrial proceedings is to be conducted by "the appellate court that regularly reviews orders of the court in which the case is pending at the time review is sought." TEX. R. JUD. ADMIN. 13.9(b). Because Rule 11 "is to be

construed so as to facilitate the implementation of Rule 13," the appeals should be transferred to the First or Fourteenth Courts of Appeals, the courts that regularly review Judge Christopher's orders.

STATEMENT OF FACTS

- During 2003, and virtually all in August 2003, at least 37 cases were filed in the Fourth, Fifth, Sixth and Seventh Administrative Judicial Regions in West and South Texas in which county taxing units and school districts sought additional ad valorem tax revenue from oil and gas producers. In each case, the taxing units asserted virtually identical claims that the producers negligently misrepresented and/or fraudulently understated the prices received from their mineral properties to avoid ad valorem taxes.
- El Paso, BP and other similarly-situated defendants filed pleas to the jurisdiction in each of the 37 cases because the plaintiffs had failed to exhaust their administrative remedies before filing suit. Specifically, the defendants sought dismissal because the local appraisal review boards have exclusive jurisdiction over the taxing units' allegations and the Texas Tax Code provides the exclusive procedure and remedy for addressing the allegations. Because the taxing units failed to pursue their administrative remedies before filing suit, the trial court had no jurisdiction.
- El Paso, BP and the other defendants also moved under Rule 11 of the Texas Rules of Judicial Administration for the assignment of a pretrial judge to "conduct all pretrial proceedings and decide all pretrial matters" in the related cases. *See* TEX. R. JUD. ADMIN. 11.3(a). On March 26, 2004, the presiding judges from the Fourth, Fifth, Sixth, and Seventh Administrative Judicial Regions sat as a panel and heard the defendants' motions.
- On April 7, 2004, acting under Rule 11, Judge David Peeples, Presiding Judge of the Fourth Administrative Judicial Region, assigned Judge Tracy Christopher, Presiding Judge of the 295th Judicial District Court of Harris County, Texas (located within the Second Judicial Region), as the pretrial judge for the cases filed in the Fourth Judicial Region. Appendix Tab D.² (the "South Texas cases")

² The cases coordinated from the Fourth Judicial Region were *Webb County v. Conoco, Inc., et al.*, No. 2003-CVQ-001368-D2, in the 111th District Court of Webb County; *Webb County v. Exxon Mobil Corp., et al.*, No. 2003-CVQ-1401-D2, in the 111th District Court of Webb County; *Zapata*

- On April 15, 2004, also acting under Rule 11, Judge Darrell Hester, Presiding Judge of the Fifth Administrative Judicial Region, assigned Judge Christopher as the pretrial judge for identical cases filed in the Fifth Judicial Region. Appendix Tab D.³ (the "South Texas cases")
- On April 14, 2004, also acting under Rule 11, Judge Stephen B. Ables, Presiding Judge of the Sixth Administrative Judicial Region, assigned Judge Kelly G. Moore, Presiding Judge for the 121st District Court in Yoakum and Terry Counties, as the pretrial judge for the related cases in the Sixth Judicial Region. Appendix Tab E. (the "West Texas cases")

County, et al. v. Continental Oil Co., et al., No. 5519, in the 49th District Court of Zapata County; and *Zapata County, et al. v. Chevron U.S.A., Inc.*, No. 5520, in the 49th District Court of Zapata County.

³ The cases coordinated from the fifth judicial regions were *Brooks County, et al. v. El Paso Production Oil & Gas Co., et al.*, No. 03-08-11950-CV, in the 79th District Court of Brooks County; *Brooks County, et al. v. Exxon Mobil Corp., et al.*, No. 03-08-11948-CV, in the 79th District Court of Brooks County; *Brooks County, et al. v. Texaco E & P, Inc., et al.*, 03-08-11943-CV, in the 79th District Court of Brooks County; *Duval County, et al. v. Conoco, Inc., et al.*, No. DC-03-320, in the 229th District Court of Duval County; *Duval County, et al. v. Shell Western E & P, Inc.*, No. DC-03-313, in the 229th District Court of Duval County; *Duval County, et al. v. Exxon Mobil Corp., et al.*, No. DC-03-326, in the 229th District Court of Duval County; *Edcouch-Elsa ISD, et al. v. Chevron USA, Inc., et al.*, No. C-21-66-03-F, in the 332nd District Court of Hidalgo County; *Edinburg ISD v. American Coastal Energy, Inc., et al.*, No. C-401-03-E, in the 275th District Court of Hidalgo County; *Hidalgo County v. El Paso Oil & Gas Company*, No. C-647-03-H, in the 389th District Court of Hidalgo County; *Hidalgo County v. Texaco, Inc., et al.*, No. C-640-03-A, in the 92nd District Court of Hidalgo County; *Hidalgo County v. Shell Western E & P, Inc.*, No. C-641-03-B, in the 93rd District Court of Hidalgo County; *Hidalgo County v. Totalfinaelf E & P USA, Inc.*, No. C-645-03-F, in the 332nd District of Hidalgo County; *Hidalgo County v. Kerr McGee Oil & Gas Onshore, LLC*, No. C-644-03-E, in the 275th District Court of Hidalgo County; *Jim Hogg County, et al. v. Exxon Mobil Corp., et al.*, No. CC-03-117, in the 229th District Court of Jim Hogg County; *Jim Well County, et al. v. El Paso Production Oil & Gas Company, et al.*, No. 03-08-41749, in the 79th District Court of Jim Wells County; *Jim Wells County, et al. v. Exxon Mobil Corp., et al.*, No. 03-08-41767-CV, in the 79th District Court of Jim Wells County; *Jim Wells County, et al. v. Anadarko Petroleum Corp., et al.*, No. 03-08-41740, in the 79th District Court of Jim Wells County; *McAllen ISD v. Fina Oil & Chemical Company, et al.*, No. C-2195-03-H, in the 389th District Court of Hidalgo County; *Kenedy County v. El Paso Oil & Gas Company, et al.*, No. 03-CV-103, in the 105th District Court of Kenedy County; *Kenedy County v. Exxon Mobil Corp., et al.*, No. 03-CV-105, in the 105th District Court of Kenedy County; *Kleberg County et al. v. El Paso Production Oil & Gas Company, et al.*, No. 03-446-D, in the 105th District Court of Kleberg County; *Kleberg County, et al. v. Exxon Mobil Corp., et al.*, No. 03-454-D, in the 105th District Court of Kleberg County; *Kleberg County, et al. v. Atofina Petrochemicals, Inc., et al.*, No. 03-441-D, in the 105th District Court of Kleberg County; *Willacy County v. El Paso Production Oil & Gas Company, et al.*, No. 03-264, in the 357th District Court of Willacy County; *Willacy County v. Exxon Mobil Corp., et al.*, No. 03-265, in the 103rd District Court of Willacy County.

- On April 2, 2004, also acting under Rule 11, Judge Dean Rucker, Presiding Judge of the Seventh Administrative Judicial Region, assigned Judge Kelly G. Moore, Presiding Judge for the 121st District Court in Yoakum and Terry Counties, as the pretrial judge for the related cases in the Seventh Judicial Region. Appendix Tab E. (the "West Texas cases")
- One case filed in Yoakum County was already pending before Judge Moore at the time of defendants' motions for coordination. Yoakum County was not included in the coordination motions as it was the sole county in the Ninth Administrative Region in which a case alleging fraud was filed against mineral producers.
- In the Yoakum County case, Judge Moore denied the defendants' pleas to the jurisdiction on May 3, 2004. The defendants filed for writ of mandamus with the Amarillo Court of Appeals. On August 26, 2004, the Amarillo Court of Appeals conditionally granted the defendants' petition for writ of mandamus and directed the trial court to "vacate its order of May 3, 2004, and to dismiss the underlying suit." *In re ExxonMobil Corp.*, No. 07-04-00285-CV, 2004 WL 1908390 (Tex. App.-Amarillo August 26, 2004) (orig. proceeding). The taxing units responded by filing an emergency motion to stay proceedings and a petition for writ of mandamus with the Supreme Court of Texas on October 5, 2004. On October 7, 2004, the Supreme Court denied both motions, and Judge Moore signed a final order of dismissal of the Yoakum County Case. The Yoakum County plaintiffs have indicated they do not intend to appeal the final order of dismissal.
- By agreement of the parties to the cases in the Fourth and Fifth Administrative Judicial Regions, Judge Christopher heard all pretrial proceedings and signed all orders in Harris County.
- In the South Texas cases, Judge Christopher held a hearing on El Paso, BP and other defendants' pleas to the jurisdiction on July 12, 2004. On September 10, 2004, Judge Christopher granted all defendants' pleas and signed a "Final Order of Dismissal" in each of the related cases. The identical orders disposed of all of the South Texas cases. Appendix Tab A. On October 6 and 7, 2004, plaintiffs in each of the South Texas cases filed notices of appeal seeking review of Judge Christopher's orders by the San Antonio and the Corpus Christi Court of Appeals. Appendix Tab C.
- In the West Texas cases, plaintiffs filed motions for nonsuit in all but one case on October 18, 2004. Of the cases coordinated from the Sixth and Seventh

Administrative Judicial Regions, only *Kermit ISD v. Apache Corp.*, Cause No. 13,865, in the 109th District Court, Winkler County, Texas, remains pending.

- On October 28, 2004, defendants in *Kermit ISD v. Apache Corp.*, filed a motion requesting that the Regional Administrative Judge for the Seventh Judicial Administrative Region transfer the *Kermit* case from Judge Moore to Judge Christopher.
- On October 28, 2004, Appellants filed Motions for Consolidation of Appeals in the San Antonio Court of Appeals and in the Corpus Christi Court of Appeals arguing that the "issues before the Court in each of the appeals . . . will be identical and can more efficiently be briefed and presented to this court through a single consolidated brief on behalf of all the Plaintiffs." Appendix Tab F. If the motions to consolidate are granted by both courts of appeals, then one appeal will be pending in the San Antonio Court of Appeals and one will be pending in the Corpus Christi Court of Appeals.

ARGUMENT AND AUTHORITIES

I. This Court may transfer cases among the courts of appeals for good cause.

Section 73.001 provides that the supreme court "may order cases transferred from one court of appeals to another at any time that, in the opinion of the supreme court, there is good cause for the transfer." TEX. GOV'T CODE ANN. § 73.001 (West 1998). Good cause is the only requirement necessary to support this Court's decision to transfer cases. *Id.* Although typically used by the Court to transfer cases for docket equalization, the Court has recognized that it may transfer cases for other reasons. *Miles v. Ford Motor Co.*, 914 S.W.2d 135, 137 (Tex. 1995).⁴

⁴The *Miles* Court established the procedure for requesting a transfer among the courts of appeals. The movant should file copies of the motion to transfer and any supporting briefs in the courts of appeals, requesting that the court forward the motion to the supreme court and that the court of appeals indicate any objection to the transfer. *Id.* at 137, n.2. El Paso and BP have followed this procedure and in an abundance of caution, they also are filing a copy of their motion directly

Miles involved the overlapping appellate jurisdiction of the Texarkana and Tyler Courts of Appeals. The plaintiffs filed an appeal from a judgment in Rusk County in the Texarkana Court of Appeals, and the defendant later filed its appeal in the Tyler Court of Appeals. *Id.* at 136-37; TEX. GOV'T CODE ANN. §§ 22.201(g), (m) (West 2004). The defendant then requested the Texarkana Court of Appeals to transfer the plaintiffs' appeal to the Tyler Court of Appeals. Because only the supreme court may transfer cases, the Texarkana Court of Appeals forwarded the motion to transfer to this Court. *Miles*, 914 S.W.2d at 137.

In *Miles*, this Court had to determine which court of appeals retained jurisdiction because the "parties [did] not dispute . . . that all challenges to the trial court's judgment should be heard together in one appellate proceeding." *Id.* at 137-38. Applying the principle of dominant jurisdiction, the Court concluded the Texarkana Court of Appeals retained jurisdiction because it was the court in which an appeal was first-filed and denied the motion. *Id.* at 139.

While *Miles* was decided on the basis of dominant jurisdiction, central to the Court's determination was the principle that all challenges to a trial court's judgment should be heard in the same appellate proceeding. *Id.* at 137-38. Allowing a single appellate court to hear challenges to a trial court's judgment eliminates uncertainty and the potential for conflicting results. *Id.* at 139.

with this Court.

Unlike the appeals in *Miles*, dominant jurisdiction does not apply here.⁵ The basis for this motion to transfer is found in the Texas Rules of Judicial Administration and the underlying principle in *Miles* that requiring a single appellate court to hear challenges to identical trial court orders eliminates uncertainty and the potential for conflicting results. *See infra III.*

The related appeals in the present case involve multiple appellate districts because of pretrial coordination. Here, the related appeals are from cases in the San Antonio and Corpus Christi Courts of Appeals' appellate districts that were assigned to a pretrial judge in the Houston First and Fourteenth Court of Appeals' appellate district. Thus, the problem observed in *Miles* is present: absent a transfer, multiple appellate courts will hear appeals of identical trial court orders, thus creating a high risk of conflicting decisions. Also present is an additional issue concerning the purpose of pretrial coordination. Rules 11 and 13 are designed to promote efficiency and consistency through the coordination of similar cases before a single pretrial judge. However, any efficiency and consistency gained under Rules 11 and 13 will be completely negated if identical orders arising from coordination under those rules are not also reviewed by a single court of appeals.

Finally, judicial economy will be served by the transfer. It simply makes no economic sense for the parties to pursue identical appeals in multiple courts, and requiring multiple

⁵ Even if the concept of dominant jurisdiction applied, both courts were vested with jurisdiction on the same day. Appellants filed a notice of appeal on October 6, 2004 in both the San Antonio and Corpus Christi Courts of Appeals.

appeals is an unconscionable waste of judicial resources. All of these factors constitute good cause for the transfer.

II. Good cause exists for this Court to transfer all of the related appeals to a single court of appeals.

There is good cause to transfer the related appeals to a single court of appeals because allowing coordination of pretrial matters in the trial courts, but not in the appellate courts, will defeat the purpose and intent of Rule 11. Moreover, permitting multiple appellate courts to hear challenges to the same orders is contrary to the rationale in *Miles*. This Court promulgated the Rules of Judicial Administration to promote the efficient administration of justice. TEX. GOV'T CODE ANN. § 74.024(a). Specifically, Rule 11 is designed to promote the "just and efficient conduct" of cases involving similar factual and legal issues by assuring consistency in pretrial rulings among such "related cases" throughout the state. *See* TEX. R. JUD. ADMIN. 11.4(b)(4); 11.4(h).

Appellees and other similarly-situated defendants successfully obtained pretrial coordination under Rule 11. As the coordinated pretrial judge for the South Texas cases, Judge Christopher heard all defendants' pleas to the jurisdiction, granted the pleas and signed identical orders in each case. There are now 19 appeals of Judge Christopher's orders. It is a virtual certainty that these appeals will result in conflicting opinions and thus will nullify the benefits achieved by pretrial coordination.

Appellants' motions to consolidate cases within the separate courts do not address the problem. Appellants have filed motions to consolidate in the San Antonio and Corpus

Christi Courts of Appeals, requesting that the pending appeals in each of those courts be consolidated because they involve "identical" issues. Appendix Tab F. However, consolidation within the two courts of appeals does not address the risk of inconsistent opinions, and thus, it too is contrary to this Court's rationale in *Miles*. Moreover, these rulings will spark further parallel proceedings and even greater increases in costs to the parties and the courts.

Even assuming the two courts of appeals consolidated the related appeals and rendered consistent results, at the very least, the parallel appeals of the same orders will double the cost to the parties and greatly increase the burden on judicial resources. Each of these potential results threatens to create chaos, confusion and waste rather than the efficiency and consistency contemplated by Rule 11.

Accordingly, good cause exists to transfer the related appeals to a single court of appeals.

III. Under Rules 11 and 13 of the Texas Rules of Judicial Administration, Judge Christopher's orders should be reviewed by the First or Fourteenth Courts of Appeals.

Because this Court's opinion in *Miles* was based on the principle of dominant jurisdiction, it does not address the second issue presented here: which court of appeals should hear the related appeals now pending in the San Antonio and Corpus Christi Courts of Appeals. However, the Rules of Judicial Administration and the policies underlying those

rules compel that the related appeals be transferred to the court of appeals that regularly reviews orders of the pretrial judge assigned pursuant to Rule 11.

A. Judge Christopher is the only active judge in the related cases.

The primary purpose of Rule 11 is to promote justice and efficiency by providing consistency in related cases, that is, cases involving "common material issues of fact and law." *See* TEX. R. JUD. ADMIN. 11.2(d); 11.4(b); 11.4(h). Appendix Tab G. Rule 11 provides for the pretrial assignment of related cases to an appointed pretrial judge or judges "who will decide all pretrial motions." TEX. R. JUD. ADMIN. 11.3(a-b). In the interest of consistency and efficiency, "[i]f more than one pretrial judge is assigned in related cases, either in the same region or different regions, the pretrial judges must consult with each other in conducting pretrial proceedings and deciding pretrial matters." TEX. R. JUD. ADMIN. 11.3(c). Once assigned, a Rule 11 pretrial judge presides over all pretrial proceedings, and the "regular judge" can take no further action other than consulting on a trial date. Rule 11.3(b).

Rule 11 requires that the assignment of a pretrial judge continue notwithstanding an appeal. Under Rule 11.3(f), the assignment of a pretrial judge to coordinated cases does not terminate until:

- (i) all pretrial proceedings in a case have been completed;
- (ii) the pretrial judge ceases to be an active district judge; or

(iii) the presiding judge in the exercise of discretion terminates the assignment

TEX. R. JUD. ADMIN. 11.3(f).

Absent explicit resignation or termination, the pretrial judge retains jurisdiction until all pretrial proceedings have been completed. An appealable order is not "complete" until all available appeals have been exhausted, and the order has become final. Thus, the pretrial judge continues as the active judge until all appeals have been exhausted.

Here, pursuant to the objectives of Rule 11, the presiding judges for the Fourth and Fifth regions appointed Judge Christopher, a district judge from outside either region, to serve as the pretrial judge in the coordinated cases. Judge Christopher is the only active judge in these cases: the regular judges have no authority during her assignment. At the initial hearing before Judge Christopher, all parties agreed to allow her to hold hearings and sign orders in Harris County. After the hearing on the pleas to the jurisdiction, Judge Christopher signed identical orders of dismissal while sitting in Harris County.

Until the appellate process is complete and the orders become final, Judge Christopher's assignment and jurisdiction continue. Moreover, if the Appellants are successful on appeal, the cases will return to Judge Christopher, not to the trial courts from the Fourth and Fifth Regions, for the continuation of pretrial matters. Accordingly, as the pretrial judge and the only "active" judge in the related cases from the Fourth and Fifth Regions, Judge Christopher's rulings are intended to provide the efficiency and consistency contemplated by Rule 11.

B. Rule 11 was replaced by Rule 13 and must be construed in accordance with that rule.

With the passage of House Bill 4, the application of Rule 11 retroactively was restricted to cases filed before September 1, 2003, and Rule 13 was promulgated to apply to cases filed on or after that date. *See* TEX. R. JUD. ADMIN. 11.1 (as amended); *see also* TEX. R. JUD. ADMIN. 13.1 ("This rule applies to [cases filed] on or after September 1, 2003. Cases filed before that date are governed by Rule 11 of these rules.") Appendix Tab H.⁶

Rule 11 was further amended to reflect the interplay the Legislature intended between it and Rule 13. In particular, Rule 11 was amended to require generally that "[t]his rule is to be construed and applied so as to facilitate the implementation of Rule 13 *to the greatest extent possible.*" TEX. R. JUD. ADMIN. 11.7(a) (emphasis added). Appendix Tab G. In addition, the amendments make clear that pretrial judges assigned in related cases under Rule 11 are obligated to consult with the judges of pretrial courts to which cases have been transferred under Rule 13. TEX. R. JUD. ADMIN. 11.7(d). Thus, the Legislature contemplated a seamless transition between Rule 11 and Rule 13, which was intended further to promote the just and efficient conduct of cases involving similar factual and legal issues and provide consistency among such cases throughout the state.⁷

⁶ The majority of the related cases were filed on August 28, 2003, just four days before the effective date of Rule 13.

⁷ In addition to promoting "the just and efficient conduct" of the cases, *see* Rule 11.4(b)(4), Rule 13 also states that a transfer under its provisions is "for the convenience of the parties and witnesses." TEX. R. JUD. ADMIN. 13.3(a)(2).

C. Rule 13 provides the avenue of appeal for orders issued by a Rule 11 pretrial judge.

Although Rule 11 requires that the pretrial judge remain the "active judge" until pretrial proceedings have been completed, Rule 11 is silent on the appropriate procedure for appealing a pretrial judge's ruling. In contrast, Rule 13 expressly prescribes the procedure for such appeals:

Orders by the Trial Court and Pretrial Court. Orders and judgments of the trial court and pretrial court may be reviewed by the appellate court that regularly reviews orders of the court in which the case is pending at the time review is sought

TEX. R. JUD. ADMIN. 13.9(b). This procedure assures that any orders issued by the pretrial judge will be reviewed by a single court of appeals.

In addition, the proposed amendment to Rule 13.9(b) further reinforces El Paso and BP's position that an appeal of an order from a pretrial judge in a coordinated case should be heard only by the court of appeals that regularly reviews orders of the pretrial judge. The proposed amendment adds the following sentence to Rule 13.9(b): "A case involving such review may not be transferred for purposes of docket equalization among appellate courts." The proposed amendment emphasizes the importance of the rule that an appeal of orders issued by the pretrial judge should be assigned to the appellate court that regularly reviews such orders and may not be randomly transferred to another court. Because the appeals in this case were filed in courts other than the appellate courts that review Judge Christopher's orders, they appropriately should be transferred under Rule 13.9 to the First or Fourteenth

Court of Appeals.

Considering Rule 11's inherent goals of consistency and efficiency, logic compels the conclusion that appellate jurisdiction over pretrial orders under Rule 11 also must lie in a single appellate district. Any other conclusion would result in a multiplicity of appeals and potentially inconsistent rulings, which would negate any benefit derived from the coordination of pretrial procedures mandated by the rule. That result would violate the recent amendment to Rule 11, noted above, which provides that Rule 11 "is to be construed and applied so as to facilitate the implementation of Rule 13 to the greatest extent possible." TEX. R. JUD. ADMIN. 11.7(a).

The stated purposes of both Rule 11 and Rule 13 will not be served if Judge Christopher's orders of dismissal are appealed to different courts of appeals that may, in turn, issue different – and possibly conflicting – opinions. *See* TEX. R. JUD. ADMIN. 11.4(b)(4); 13.3(a)(1, 2). Construing Rules 11 and 13 together, Judge Christopher's orders in all of the related cases should be appealed to a single court of appeals, the court that regularly reviews her orders.

The intent of the rules, that an appeal of a pretrial order should go to the appellate court with jurisdiction over the pretrial court rather than a multiplicity of courts, is further established by the provision in Rule 13 that remand to the trial court is impermissible when the pretrial judge has rendered a final and appealable judgment. *See* TEX. R. JUD. ADMIN. 13.7(a). Based on that provision, the only court from which the appeal could arise would

be the pretrial court. Accordingly, under Rule 13, this Court should transfer the related appeals to either the First or Fourteenth Court of Appeals, the courts that regularly review Judge Christopher's orders.

D. Federal law supports the same conclusion.

Because Rule 13 is in its infancy, no Texas case has yet addressed its effect on an appeal of orders issued by a Rule 11 pretrial judge. However, federal courts have addressed the question presented here in the context of the federal multidistrict litigation statute, 28 U.S.C. §1407. This Court may look to federal precedent because Texas' multidistrict litigation system, as embodied in Rules 11 and 13, was modeled after the federal system. *See House Research Organization, Bill Analysis, Tex. H.B. 4, 78th Leg., R.S. (2003) at p. 44.*

The federal multidistrict litigation rule has the same underlying purpose as that of Rules 11 and 13: to provide for "the convenience of parties and witnesses and [to] promote the just and efficient conduct" of cases with common questions of fact through "coordinated or consolidated pretrial proceedings." 28 U.S.C. §1407(a); *see also, e.g., In Re National Student Marketing Litigation*, 368 F. Supp. 1311, 1317 (M.D.L. 1973).⁸

Like Rule 11, the federal MDL statute is silent regarding appeals from orders entered by a transferee court. However, the rule does provide for review of orders issued by the

⁸ Under the federal MDL rule, the court in which the proceedings are coordinated or consolidated is referred to as the "transferee court." *See* 28 U.S.C. 1407(b). The federal "transferee court" is the equivalent of the "pretrial judge" and the "pretrial court" referred to in the Texas rules. *See* TEX. R. JUD. ADMIN. 11, 13.

MDL panel both before and after consolidation:

No proceedings for review of any order of the panel may be permitted except by extraordinary writ pursuant to the provisions of title 28, section 1651, United States Code. Petitions for an extraordinary writ to review an order of the [MDL] panel to set a transfer hearing and other orders of the panel issued prior to the order either directing or denying transfer shall be filed only in the court of appeals having jurisdiction over the district in which a hearing is to be or has been held. Petitions for an extraordinary writ to review an order to transfer or orders subsequent to transfer shall be filed only in the court of appeals having jurisdiction over the transferee district.

28 U.S.C. 1407(e) (emphasis added).

Thus, if the MDL panel issues further orders after it has ordered cases transferred to a pretrial or "transferee court," those orders must be reviewed by the appellate court having jurisdiction over the transferee court, not the courts from which the cases were transferred.

Review by a single court promotes the efficiency and consistency that are the goals of the federal MDL statute by eliminating the potential for conflicting rulings in MDL cases. *Utah v. American Pipe & Const. Co.*, 316 F. Supp. 837, 839 (C.D. Cal. 1970). Thus, this provision has been extended by the federal courts to apply not only to post-transfer orders issued by the MDL panel, but also to orders issued by the transferee court itself. *See id.* (holding that the jurisdiction to review rulings by the MDL transferee court is in the court of appeals for the transferee district and that such a ruling is in keeping with Congress' intent that coordination of rulings at the appellate level be achieved in one court of appeals). *See also Astarte Shipping Co. v. Allied Steel & Export Serv.*, 767 F.2d 86, 87 (5th Cir. 1985) (the review of any order of the district court in a transferred [coordinated] cause is within

the jurisdiction of the court of appeals in the circuit to which the cause has been transferred). By providing for review by a single appellate court, Rule 13's provision concerning appeals appropriately parallels this provision. TEX. R. JUD. ADMIN. 13.9(b).

E. Similar policies undoubtedly guided the drafting of Rule 11 and Rule 13.

The federal courts clearly believe that identical orders in MDL cases should not be reviewed by more than one appellate court. "Confining appellate jurisdiction to the court of appeals for the region where the transferee court is located makes a great deal of sense." *FMC Corp. v. Glouster Eng'g Co.*, 830 F.2d 770, 772 (7th Cir. 1987). In *FMC Corp.*, the court reasoned that such a rule would prevent a situation where appellate jurisdiction over a case could be divided between two [or more] appellate circuits. *Id.* at 772-73. In the absence of such a rule, if a transferee court enters an identical order that affects cases from differing appellate jurisdictions (as Judge Christopher has done here), "it would be unclear which transferor circuit would have jurisdiction over an appeal from the order." *Id.* at 772. Thus, the court concluded, "a rule which gives the transferee circuit exclusive appellate jurisdiction over all orders issued by the transferee district court is simple to administer and free from uncertainty." *Id.*

The federal policy to promote efficiency and consistency in related cases mirrors the policy that underlies the enactment of Rules 11 and 13. Accordingly, this Court should be guided by the federal cases interpreting the MDL statute, which have sought to implement that policy. In keeping with the provisions of Rules 11 and 13, this Court should grant El

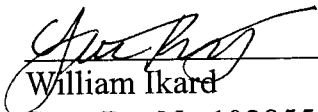
Paso and BP's motion to transfer the related appeals.

CONCLUSION AND PRAYER FOR RELIEF

For all the foregoing reasons, El Paso and BP respectfully request that this Court grant its motion to transfer the related appeals to either the First or Fourteenth Courts of Appeals.

Respectfully submitted,

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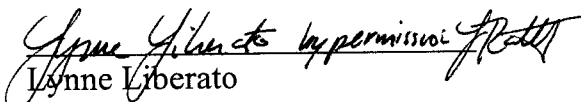
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CERTIFICATE OF CONFERENCE

I certify that I conferred with Chris Amberson, counsel for Appellants. Mr. Amberson informed me that all Appellants oppose this motion.

William Ikard by permission JAP

William Ikard

CERTIFICATE OF SERVICE

I hereby certify that on the date listed below a copy of the foregoing Motion to Transfer Related Appeals and Brief in Support was served by the methods indicated below, on the following counsel of record at their last known address:

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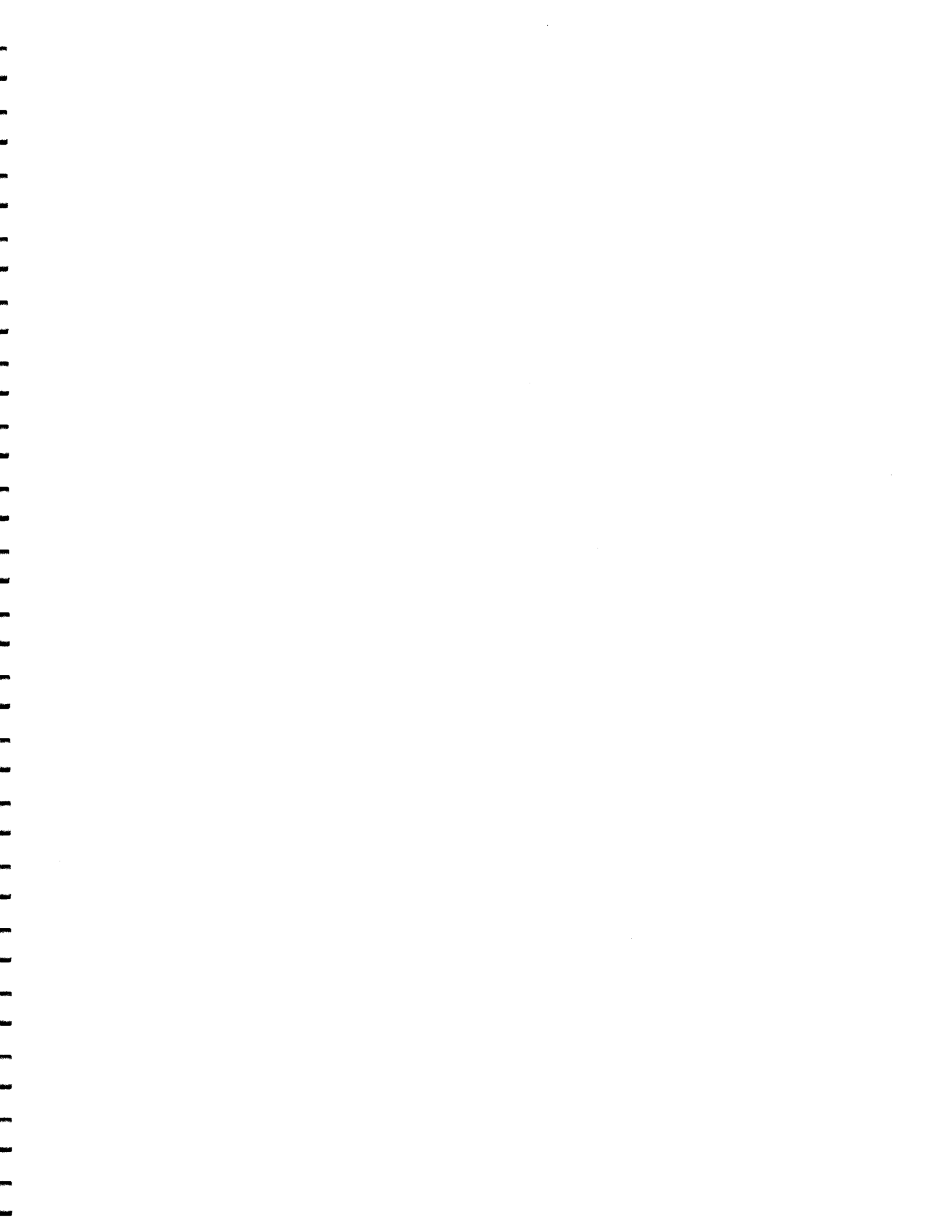
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Email

Date: November 12, 2004


Laurie Ratliff

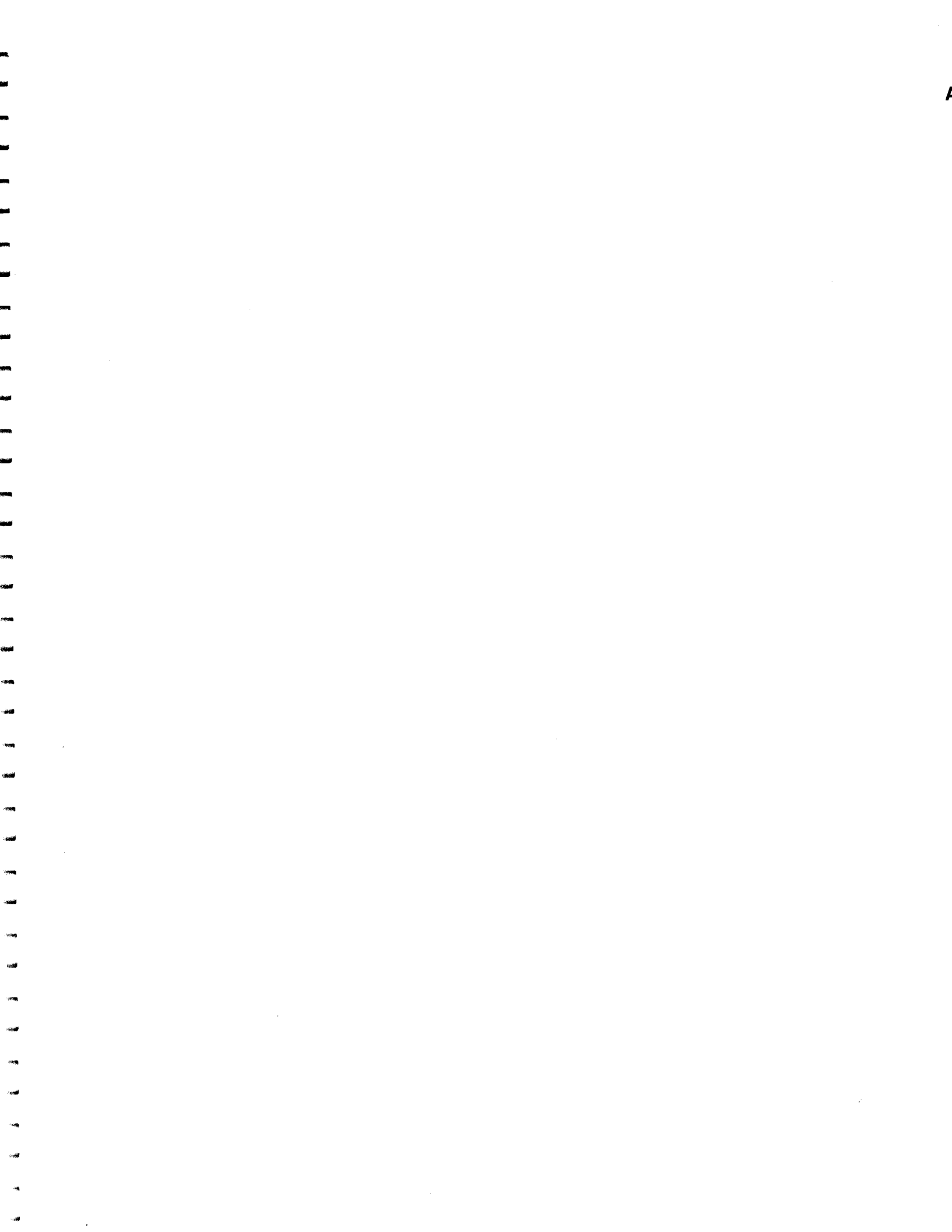


IN THE SUPREME COURT OF TEXAS

**Jim Wells, *et al.* v. El Paso Production Oil & Gas Co., *et al.*, 04-04-00725-CV,
Brooks County, *et al.* v. El Paso Production Oil & Gas Co., *et al.*, 04-04-00726-CV,
Duval County, *et al.* v. Conoco, Inc., *et al.*, 04-04-00729-CV,
Webb County v. Conoco, Inc., *et al.*, 04-04-00733-CV,
Zapata County, *et al.* v. Conoco, Inc., *et al.*, 04-04-00734-CV,
Hidalgo County v. Texaco Inc., *et al.*, 13-04-00542-CV,
Edinburg C.I.S.D., *et al.* v. American Coastal Energy, Inc., *et al.*, 13-04-00543-CV
Kleberg County, *et al.* v. El Paso Production Oil & Gas Co., *et al.*, 13-04-00554-CV,
Willacy County v. El Paso Production Oil & Gas Co., *et al.*, 13-04-00555-CV,
Kenedy County v. El Paso Production Oil & Gas Co., *et al.*, 13-04-00557-CV**

**APPENDIX TO MOTION TO TRANSFER RELATED APPEALS
AND BRIEF IN SUPPORT**

| <u>Tab</u> | <u>Document</u> |
|-------------------|-------------------------------------|
| A | Orders of dismissal |
| B | List of Related Appeals |
| C | Notices of appeal |
| D | Orders appointing Judge Christopher |
| E | Orders appointing Judge Moore |
| F | Appellants' Motions to Consolidate |
| G | TEX. R. JUD. ADMIN. 11 |
| H | TEX R. JUD. ADMIN. 13 |

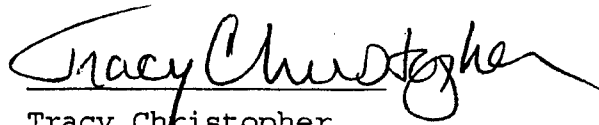


agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.


Tracy Christopher
Judge Presiding

Cause No. 03-08-11943

BROOKS COUNTY,
BROOKS INDEPENDENT
SCHOOL DISTRICT
Plaintiffs,

v.

TEXACO E&P, INC.,
SHELL WESTERN E&P, INC.
Defendants.

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IN THE DISTRICT COURT OF

BROOKS COUNTY, TEXAS

79TH JUDICIAL DISTRICT

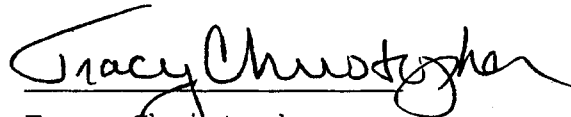
Final Order of Dismissal

On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.

A handwritten signature in cursive script that reads "Tracy Christopher". The signature is written in black ink and is positioned above the printed name.

Tracy Christopher
Judge Presiding

Cause No. DC-03-313

DUVAL COUNTY,
SAN DIEGO INDEPENDENT
SCHOOL DISTRICT,
FREER INDEPENDENT
SCHOOL DISTRICT
Plaintiffs,

v.

SHELL WESTERN E&P, INC.
Defendant.

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IN THE DISTRICT COURT OF

DUVAL COUNTY, TEXAS

229TH JUDICIAL DISTRICT

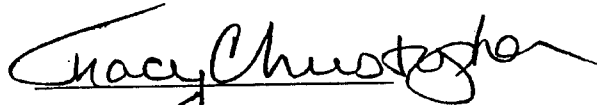
Final Order of Dismissal

On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.

A handwritten signature in cursive script that reads "Tracy Christopher". The signature is written in black ink and is positioned above the printed name.

Tracy Christopher
Judge Presiding

CAUSE NO. DC-03-320

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|----------------------------------|---|-------------------------------------|
| DUVAL COUNTY, SAN DIEGO | § | IN THE DISTRICT COURT |
| INDEPENDENT SCHOOL DISTRICT | § | |
| And FREER INDEPENDENT SCHOOL | § | |
| DISTRICT | § | |
| | § | |
| | § | |
| VS. | § | |
| | § | |
| | § | |
| CONOCO, INC; CONTINENTAL OIL | § | |
| COMPANY; BRANDYWINE INDUSTRIAL | § | |
| GAS; CONOCOPHILLIPS COMPANY; | § | |
| PHILLIPS PETROLEUM COMPANY; | § | 229 th JUDICIAL DISTRICT |
| EL PASO PRODUCTION OIL AND GAS | § | |
| COMPANY; EL PASO PRODUCTION OIL | § | |
| AND GAS USA, L.P.; EL PASO CGP | § | |
| COMPANY; COASTAL OIL AND GAS | § | |
| CORPORATION; THE COASTAL | § | |
| CORPORATION; COASTAL STATES | § | |
| TRADING, INC.; COASTAL STATES | § | |
| CRUDE GATHERING COMPANY; COASTAL | § | |
| GAS MARKETING COMPANY; COASTAL | § | |
| LIMITED VENTURES, INC.; EL PASO | § | |
| MERCHANT ENERGY COMPANY. | § | DUVAL COUNTY, TEXAS |

Final Order of Dismissal

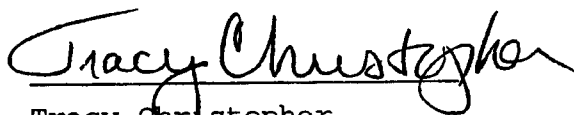
On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish

fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.



Tracy Christopher

Judge Presiding

CAUSE NO. C-640-03-A

| | | |
|---|---|-------------------------------|
| HIDALGO COUNTY, TEXAS, | § | IN THE DISTRICT COURT OF |
| | § | |
| v. | § | |
| | § | HIDALGO COUNTY, TEXAS |
| TEXACO, INC., a surviving subsidiary of | § | |
| merger between Texaco, Inc. and CHEVRON | § | |
| USA, TOTALFINAELF E&P USA INC., | § | 92ND JUDICIAL DISTRICT |
| KERR-MCGEE OIL & GAS ONSHORE, | § | |
| L.L.C., SHELL WESTERN E&P, INC., | § | (Consolidation of C-640-03-A, |
| EL PASO PRODUCTION OIL & GAS | § | C-641-03-B, C-645-03-F, |
| COMPANY | § | C-644-03-E, C-647-03-H) |

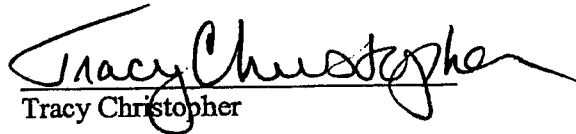
Final Order of Dismissal

On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.

A handwritten signature in black ink that reads "Tracy Christopher". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Tracy Christopher

Judge Presiding

CAUSE NO. C-401-03-E

| | | |
|-----------------------------------|---|-------------------------------------|
| EDINBURG CONSOLIDATED | § | IN THE DISTRICT COURT |
| INDEPENDENT SCHOOL DISTRICT | § | |
| | § | |
| VS. | § | |
| | § | |
| FINA OIL AND CHEMICAL | § | |
| COMPANY; ATOFINA PETRO- | § | |
| CHEMICALS, INC.; FINA, | § | |
| INC.; TOTALFINAELF | § | |
| GAS & POWER NORTH AMERICA, | § | |
| INC.; FINA NATURAL GAS | § | |
| COMPANY; MOKEEN OIL COMPANY; | § | |
| CONOCO, INC.; CONTINENTAL OIL | § | |
| COMPANY; BRANDYWINE INDUSTRIAL | § | |
| GAS, INC.; SHELL OIL COMPANY; | § | |
| SHELL WESTERN E&P, INC.; | § | |
| SHELL GAS TRADING COMPANY; | § | |
| EL PASO PRODUCTION OIL AND | § | |
| GAS COMPANY; EL PASO | § | |
| PRODUCTION OIL AND GAS | § | |
| USA, L.P.; EL PASO CGP | § | |
| COMPANY; IBC PETROLEUM, INC.; | § | |
| TEXAS INDEPENDENT EXPLORATION, | § | 275 TH JUDICIAL DISTRICT |
| INC.; SUN OPERATING LIMITED | § | |
| PARTNERSHIP; ORYX ENERGY COMPANY; | § | |
| ANR PRODUCTION COMPANY; COASTAL | § | |
| OIL AND GAS CORPORATION; THE | § | |
| COASTAL CORPORATION; COASTAL | § | |
| STATES TRADING, INC.; COASTAL | § | |
| STATES CRUDE GATHERING COMPANY; | § | |
| COASTAL GAS MARKETING COMPANY; | § | |
| COASTAL LIMITED VENTURES, INC.; | § | |
| EL PASO MERCHANT ENERGY COMPANY; | § | |
| AMERICAN EXPLORATION COMPANY; | § | |
| CONTRACT ENERGY, L.L.C.; EOG | § | |
| RESOURCES, INC.; ARCO OIL & GAS | § | |
| CO.; CODY ENERGY LLC; | § | |
| SAMEDAN OIL CORPORATION; CABOT | § | |
| OIL & GAS CORPORATION; VASTAR | § | |
| RESOURCES, INC.; BP AMERICA | § | |
| PRODUCTION COMPANY; | § | |
| KERR-MCGEE OIL & GAS ONSHORE LLC; | § | |
| MOBIL PRODUCING TX. & N.M. INC.; | § | |
| CHEVRON U.S.A. INC.; | § | |
| TEXACO INC.; SOCONY MOBIL | § | |
| COMPANY, INC. | § | HIDALGO COUNTY, TEXAS |

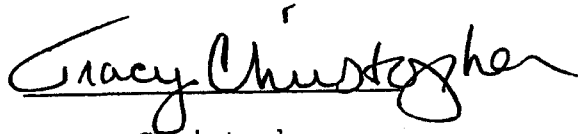
Final Order of Dismissal

On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

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The court considered the Defendants' Plea to the Jurisdiction
and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.

A handwritten signature in black ink that reads "Tracy Christopher". The signature is written in a cursive style with a horizontal line underlining the name.

Tracy Christopher

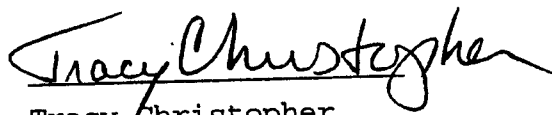
Judge Presiding

for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

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The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.


Tracy Christopher
Judge Presiding

| | | |
|------------------------------------|---|-------------------------------------|
| McALLEN INDEPENDENT SCHOOL | § | IN THE DISTRICT COURT |
| DISTRICT | § | |
| | § | |
| VS. | § | |
| | § | |
| | § | |
| FINA OIL AND CHEMICAL COMPANY, | § | |
| ATOFINA PETROCHEMICALS, INC., | § | 389 TH JUDICIAL DISTRICT |
| FINA, INC., TOTALFINAELEF GAS & | § | |
| POWER NORTH AMERICA, INC., | § | |
| FINA NATURAL GAS COMPANY, | § | |
| TOTALFINAELEF E&P USA, INC., TOTAL | § | |
| E&P USA, INC., DENOVO OIL & GAS, | § | |
| INC., VIRTEX PETROLEUM COMPANY, | § | |
| INC. | § | HIDALGO COUNTY, TEXAS |

Final Order of Dismissal


On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have

agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

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The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.



Tracy Christopher

Judge Presiding

Cause No. CC-03-115

JIM HOGG COUNTY AND
JIM HOGG INDEPENDENT
SCHOOL DISTRICT

Plaintiffs,

v.

CHEVRON U.S.A., INC. A/K/A
CHEVRON PRODUCTS COMPANY,
Defendant.

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IN THE DISTRICT COURT OF

JIM HOGG COUNTY, TEXAS

229TH JUDICIAL DISTRICT

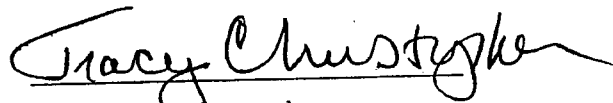
Final Order of Dismissal

On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have agreed (and have so stated in their briefs to this court) that this Plea to the Jurisdiction is to be decided by the court as a matter of law rather than contested fact.

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The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.



Tracy Christopher

Judge Presiding

CAUSE NO. 03-08-41749

JIM WELLS COUNTY; and
PREMONT INDEPENDENT SCHOOL
DISTRICT

VS.

EL PASO PRODUCTION OIL AND GAS
COMPANY; EL PASO PRODUCTION OIL
AND GAS USA, L.P.; EL PASO CGP
COMPANY; COASTAL OIL AND GAS
CORPORATION; THE COASTAL
CORPORATION; COASTAL STATES
TRADING, INC.; COASTAL STATES
CRUDE GATHERING COMPANY; COASTAL
GAS MARKETING COMPANY; COASTAL
LIMITED VENTURES, INC.; EL PASO
MERCHANT ENERGY COMPANY.

§ IN THE DISTRICT COURT
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§ 79th JUDICIAL DISTRICT
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§ JIM WELLS COUNTY, TEXAS

Final Order of Dismissal

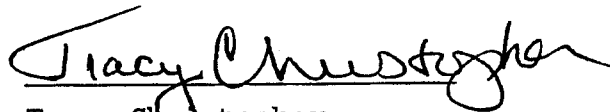
On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and

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The court also denies the Plaintiff's Motion to Strike the Testimony introduced at the hearing on July 12, 2004, and denies all of the plaintiff's objections to such testimony. Such evidence did not relate to the merits of the case, but was offered to show only that the plaintiffs have not filed a challenge before their respective Appraisal Boards and is considered by the court only as some evidence of procedures in the various counties.

The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.



Tracy Christopher
Judge Presiding

Cause No. 03-08-41740

| | | |
|--------------------------|---|--------------------------|
| JIM WELLS COUNTY, | § | IN THE DISTRICT COURT OF |
| PREMONT INDEPENDENT | § | |
| SCHOOL DISTRICT | § | |
| Plaintiffs, | § | |
| | § | |
| 5. | § | |
| | § | JIM WELLS COUNTY, TEXAS |
| ANADARKO PETROLEUM | § | |
| CORPORATION, | § | |
| ANADARKO HOLDING COMPANY | § | |
| F/K/A/ UNION PACIFIC | § | |
| MINERALS, INC. AND F/K/A | § | |
| UNION PACIFIC RESOURCES | § | |
| GROUP, INC. | § | |
| Defendants. | § | 79TH JUDICIAL DISTRICT |

Final Order of Dismissal

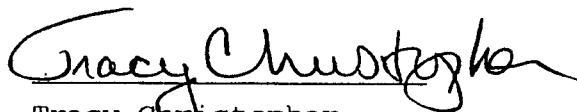
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The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.



Tracy Christopher
Judge Presiding

CAUSE NO. 03-CV-103

| | | |
|----------------------------------|---|-------------------------------------|
| KENEDY COUNTY | § | IN THE DISTRICT COURT |
| | § | |
| | § | |
| VS. | § | |
| | § | |
| | § | |
| | § | |
| EL PASO PRODUCTION OIL AND GAS | § | 105 th JUDICIAL DISTRICT |
| COMPANY; EL PASO PRODUCTION OIL | § | |
| AND GAS USA, L.P.; EL PASO CGP | § | |
| COMPANY; COASTAL OIL AND GAS | § | |
| CORPORATION; THE COASTAL | § | |
| CORPORATION; COASTAL STATES | § | |
| TRADING, INC.; COASTAL STATES | § | |
| CRUDE GATHERING COMPANY; COASTAL | § | |
| GAS MARKETING COMPANY; COASTAL | § | |
| LIMITED VENTURES, INC.; EL PASO | § | |
| MERCHANT ENERGY COMPANY. | § | KENEDY COUNTY, TEXAS |

Final Order of Dismissal

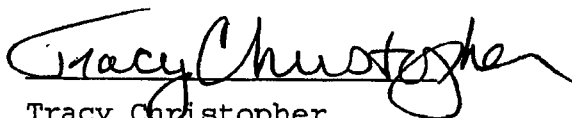
On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and

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The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.



Tracy Christopher

Judge Presiding

Cause No. 03-441-D

| | | |
|--------------------------------|---|--------------------------|
| KLEBERG COUNTY, | § | IN THE DISTRICT COURT OF |
| KINGSVILLE INDEPENDENT | § | |
| SCHOOL DISTRICT | § | |
| Plaintiffs, | § | |
| | § | |
| v. | § | |
| | § | |
| | § | |
| ATOFINA PETROCHEMICALS, INC. | § | |
| F/K/A FINA OIL & CHEMICAL CO., | § | KLEBERG COUNTY, TEXAS |
| TOTAL FINA ELF HOLDINGS USA, | § | |
| INC., ANADARKO PETROLEUM | § | |
| CORPORATION, | § | |
| ANADARKO HOLDING COMPANY F/K/A | § | |
| UNION PACIFIC MINERALS, INC. | § | |
| AND F/K/A UNION PACIFIC | § | |
| RESOURCES GROUP, INC., | § | |
| | § | |
| Defendants. | § | 105TH JUDICIAL DISTRICT |

Final Order of Dismissal

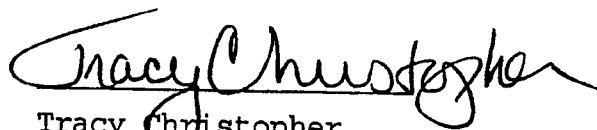
On this date, the court considered the Plaintiff's Motion for Continuance to conduct discovery to support its factual allegations and denies it. On Plaintiff's Motion for Clarification and Request for Discovery on the Merits, the court again denies the request for discovery. Based on the legal authorities presented and discussed at the hearing, the court holds that the Plea to the Jurisdiction can be decided without the necessity of any proof of fraud, conspiracy or negligent misrepresentation. The court orders that for purpose of contesting the pending Plea to the Jurisdiction, the plaintiffs will not be allowed to present evidence to establish fraud, conspiracy or negligent representation. The purpose of such an order is to avoid any procedural traps inherent in ruling on and defending against a plea to the jurisdiction. The defendants have

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The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.



Tracy Christopher

Judge Presiding

CAUSE NO. 03-446-D

| | | |
|----------------------------------|---|-------------------------------------|
| KLEBERG COUNTY AND | § | IN THE DISTRICT COURT |
| KINGSVILLE INDEPENDENT SCHOOL | § | |
| DISTRICT | § | |
| | § | |
| VS. | § | |
| | § | |
| | § | |
| | § | |
| EL PASO PRODUCTION OIL AND GAS | § | 105 th JUDICIAL DISTRICT |
| COMPANY; EL PASO PRODUCTION OIL | § | |
| AND GAS USA, L.P.; EL PASO CGP | § | |
| COMPANY; COASTAL OIL AND GAS | § | |
| CORPORATION; THE COASTAL | § | |
| CORPORATION; COASTAL STATES | § | |
| TRADING, INC.; COASTAL STATES | § | |
| CRUDE GATHERING COMPANY; COASTAL | § | |
| GAS MARKETING COMPANY; COASTAL | § | |
| LIMITED VENTURES, INC.; EL PASO | § | |
| MERCHANT ENERGY COMPANY. | § | KLEBERG COUNTY, TEXAS |

Final Order of Dismissal

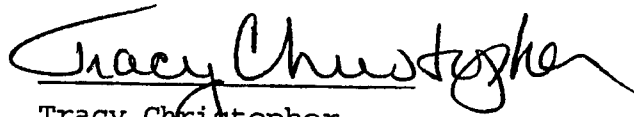
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The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.



Tracy Christopher
Judge Presiding

| | | |
|----------------------------------|---|-------------------------------------|
| WEBB COUNTY | § | IN THE DISTRICT COURT |
| | § | |
| | § | |
| VS. | § | |
| | § | |
| | § | |
| CONOCO, INC; CONTINENTAL OIL | § | |
| COMPANY; BRANDYWINE INDUSTRIAL | § | |
| GAS; CONOCOPHILLIPS COMPANY; | § | |
| PHILLIPS PETROLEUM COMPANY; | § | |
| EL PASO PRODUCTION OIL AND GAS | § | |
| COMPANY; EL PASO PRODUCTION OIL | § | |
| AND GAS USA, L.P.; EL PASO CGP | § | 111 th JUDICIAL DISTRICT |
| COMPANY; COASTAL OIL AND GAS | § | |
| CORPORATION; THE COASTAL | § | |
| CORPORATION; COASTAL STATES | § | |
| TRADING, INC.; COASTAL STATES | § | |
| CRUDE GATHERING COMPANY; COASTAL | § | |
| GAS MARKETING COMPANY; COASTAL | § | |
| LIMITED VENTURES, INC.; EL PASO | § | |
| MERCHANT ENERGY COMPANY. | § | WEBB COUNTY, TEXAS |

Final Order of Dismissal

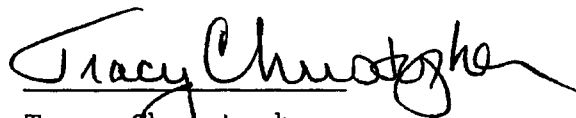
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The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.



Tracy Christopher
Judge Presiding

Cause No. 2003-CVQ-1374-D1

| | | |
|------------------------------|---|--------------------------|
| WEBB COUNTY, | § | IN THE DISTRICT COURT OF |
| | § | |
| Plaintiffs, | § | |
| | § | |
| v. | § | |
| | § | |
| | § | WEBB COUNTY, TEXAS |
| CHEVRON U.S.A., INC. A/K/A | § | |
| CHEVRON PRODUCTS COMPANY, | § | |
| TEXACO E&P, INC., AND | § | |
| FOUR STAR OIL & GAS COMPANY, | § | |
| | § | |
| Defendants. | § | 49TH JUDICIAL DISTRICT |

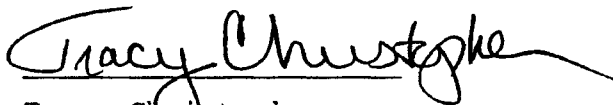
Final Order of Dismissal

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The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.

A handwritten signature in black ink that reads "Tracy Christopher". The signature is written in a cursive style with a long, sweeping underline.

Tracy Christopher

Judge Presiding

CAUSE NO. 03-264

| | | |
|----------------------------------|---|-------------------------------------|
| WILLACY COUNTY | § | IN THE DISTRICT COURT |
| | § | |
| | § | |
| VS. | § | |
| | § | |
| | § | |
| | § | |
| | § | |
| EL PASO PRODUCTION OIL AND GAS | § | 357 th JUDICIAL DISTRICT |
| COMPANY; EL PASO PRODUCTION OIL | § | |
| AND GAS USA, L.P.; EL PASO CGP | § | |
| COMPANY; COASTAL OIL AND GAS | § | |
| CORPORATION; THE COASTAL | § | |
| CORPORATION; COASTAL STATES | § | |
| TRADING, INC.; COASTAL STATES | § | |
| CRUDE GATHERING COMPANY; COASTAL | § | |
| GAS MARKETING COMPANY; COASTAL | § | |
| LIMITED VENTURES, INC.; EL PASO | § | |
| MERCHANT ENERGY COMPANY. | § | WILLACY COUNTY, TEXAS |

Final Order of Dismissal

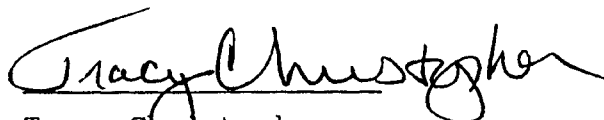
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The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.



Tracy Christopher

Judge Presiding

Cause No. 5,520

| | | |
|------------------------------|---|--------------------------|
| ZAPATA COUNTY, | § | IN THE DISTRICT COURT OF |
| ZAPATA INDEPENDENT | § | |
| SCHOOL DISTRICT | § | |
| Plaintiffs, | § | |
| | § | |
| v. | § | |
| | § | |
| CHEVRON U.S.A., INC. A/K/A | § | |
| CHEVRON PRODUCTS COMPANY, | § | ZAPATA COUNTY, TEXAS |
| SHELL WESTERN E&P, INC., | § | |
| ANADARKO PETROLEUM | § | |
| CORPORATION, ANADARKO | § | |
| HOLDING COMPANY F/K/A | § | |
| UNION PACIFIC MINERALS, INC. | § | |
| AND F/K/A UNION PACIFIC | § | |
| RESOURCES GROUP, INC., | § | |
| | § | |
| Defendants. | § | 49TH JUDICIAL DISTRICT |

Final Order of Dismissal

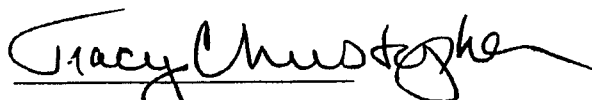
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The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.



Tracy Christopher

Judge Presiding

CAUSE NO. 5,519

| | | |
|----------------------------------|---|------------------------------------|
| ZAPATA COUNTY; and | § | IN THE DISTRICT COURT |
| ZAPATA INDEPENDENT SCHOOL | § | |
| DISTRICT | § | |
| | § | |
| | § | |
| VS. | § | |
| | § | |
| CONOCO, INC; CONTINENTAL OIL | § | |
| COMPANY; BRANDYWINE INDUSTRIAL | § | |
| GAS; CONOCOPHILLIPS COMPANY; | § | |
| PHILLIPS PETROLEUM COMPANY; | § | 49 th JUDICIAL DISTRICT |
| EL PASO PRODUCTION OIL AND GAS | § | |
| COMPANY; EL PASO PRODUCTION OIL | § | |
| AND GAS USA, L.P.; EL PASO CGP | § | |
| COMPANY; COASTAL OIL AND GAS | § | |
| CORPORATION; THE COASTAL | § | |
| CORPORATION; COASTAL STATES | § | |
| TRADING, INC.; COASTAL STATES | § | |
| CRUDE GATHERING COMPANY; COASTAL | § | |
| GAS MARKETING COMPANY; COASTAL | § | |
| LIMITED VENTURES, INC.; EL PASO | § | |
| MERCHANT ENERGY COMPANY. | § | ZAPATA COUNTY, TEXAS |

Final Order of Dismissal

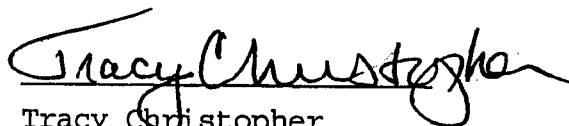
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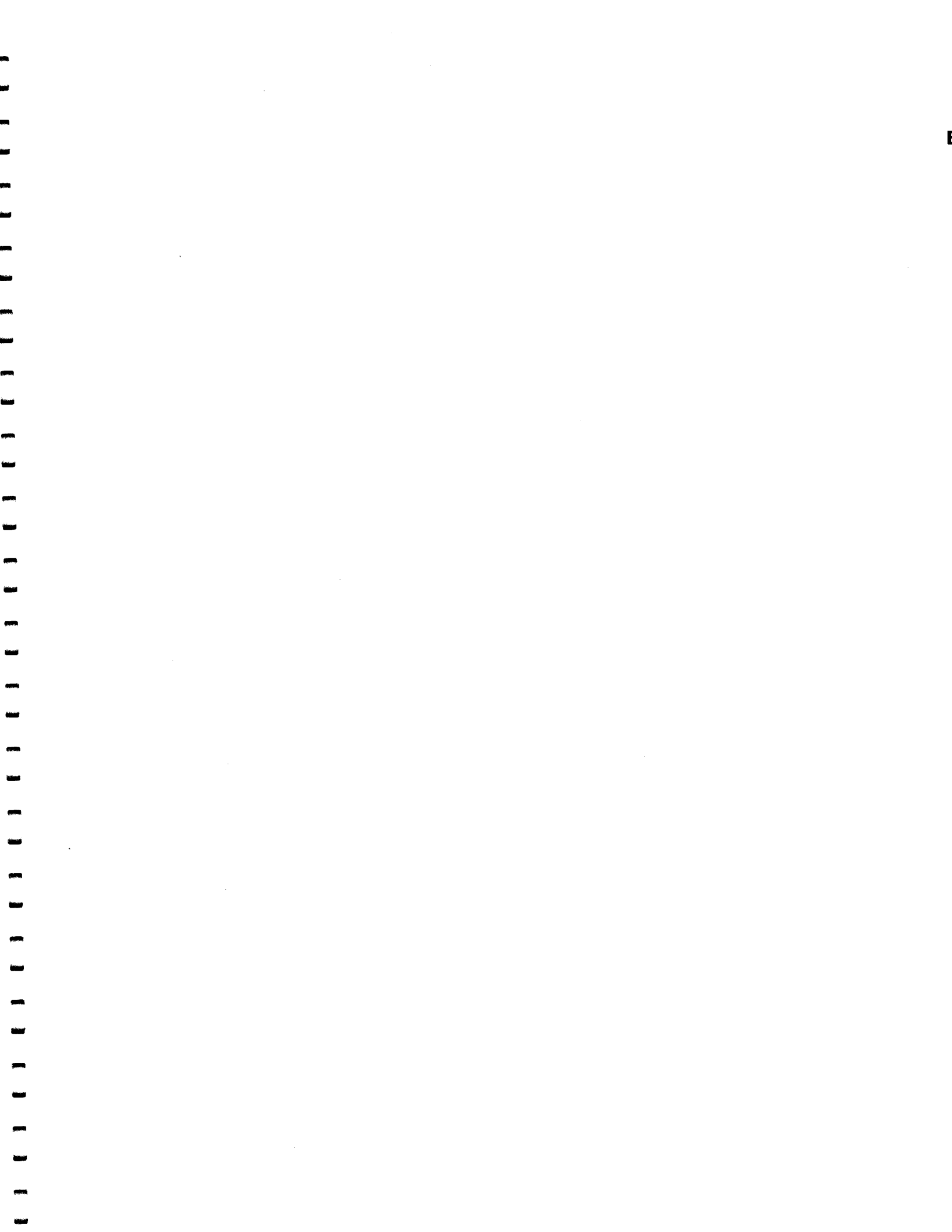
The court considered the Defendants' Plea to the Jurisdiction and grants the plea and dismisses all defendants.

Signed this 10th day of Sept, 2004.



Tracy Christopher

Judge Presiding



List of Related Appeals

Brooks County, et al. v. El Paso Production Oil & Gas Company, et al., No. 04-04-00726-CV, in the Fourth Court of Appeals.

Brooks County, et al. v. Texaco E&P, Inc. et al., No. 04-04-00727-CV, in the Fourth Court of Appeals.

Duval County, et al. v. Shell Western E&P, Inc., No. 04-04-00728-CV, in the Fourth Court of Appeals.

Duval County, et al. v. Conoco, Inc. et al., No. 04-04-00729-CV, in the Fourth Court of Appeals.

Jim Hogg County, et al. v. Chevron U.S.A., Inc., et al., No. 04-04-00730-CV, in the Fourth Court of Appeals.

Jim Wells, et al. v. El Paso Production Oil and Gas Company, et al., No. 04-04-00725-CV, in the Fourth Court of Appeals

Jim Wells, et al. v. Anadarko Petroleum Corporation, et al., No. 04-04-00731-CV, in the Fourth Court of Appeals

Webb County v. Chevron U.S.A., Inc. et al., No. 04-04-00732-CV, in the Fourth Court of Appeals

Webb County v. Conoco, Inc. et al., No. 04-04-00733-CV, in the Fourth Court of Appeals

Zapata County, et al. v. Conoco, Inc. et al., No. 04-04-00734-CV, in the Fourth Court of Appeals

Zapata County, et al. v. Chevron U.S.A., Inc. et al., No. 04-04-00735-CV, in the Fourth Court of Appeals

E.C.I.S.D. v. Fina Oil & Chemical Co., et al., No. 13-04-00543, in the Thirteenth Court of Appeals

Ed-Couch ISD, et al. v. Chevron U.S.A., Inc., et al., No. 13-04-00556-CV, in the Thirteenth Court of Appeals

Hidalgo County v. Texaco, Inc., et al., No. 13-04-00542-CV, in the Thirteenth Court of Appeals

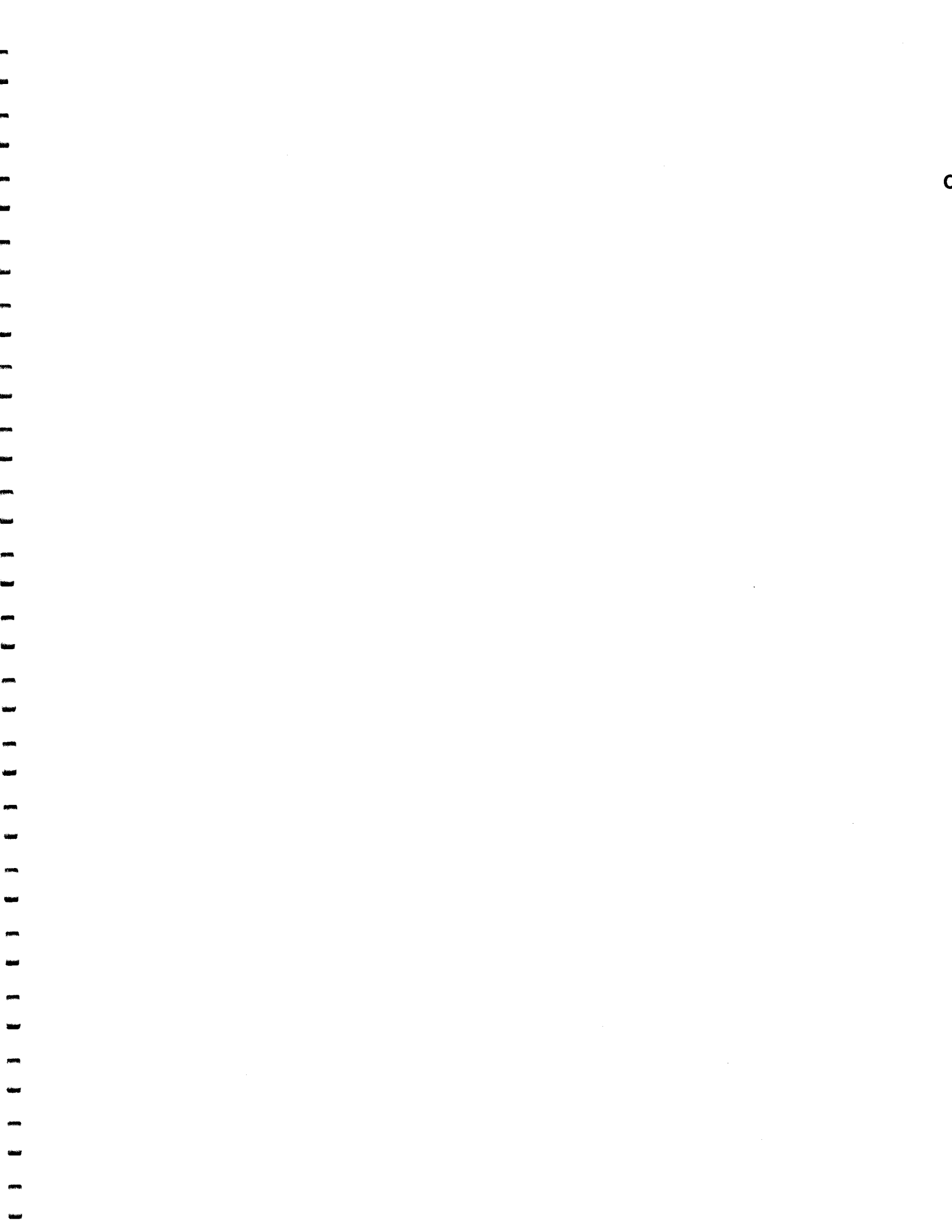
Kenedy County v. El Paso Production Oil & Gas Company, et al., No. 13-04-00557-CV,
in the Thirteenth Court of Appeals

Kleberg County, et al. v. El Paso Production Oil & Gas Company, et al., No. 13-04-
00554-CV, in the Thirteenth Court of Appeals

Kleberg County, et al. v. Atofina Petrochemicals, Inc., et al., No. 13-04-00553-CV, in the
Thirteenth Court of Appeals

McAllen ISD v. Fina Oil and Chemical Company, et al., No. 13-04-00544-CV, in the
Thirteenth Court of Appeals

Willacy County v. El Paso Production Oil & Gas Company, et al., No. 13-04-00555-CV,
in the Thirteenth Court of Appeals



BROOKS COUNTY,
BROOKS COUNTY ISD

VS.

EL PASO PRODUCTION OIL AND GAS
COMPANY; EL PASO PRODUCTION OIL
AND GAS USA, L.P.; EL PASO CGP
COMPANY; COASTAL OIL AND GAS
CORPORATION; THE COASTAL
CORPORATION; COASTAL STATES
TRADING, INC.; COASTAL STATES
CRUDE GATHERING COMPANY;
COASTAL GAS MARKETING COMPANY;
COASTAL LIMITED VENTURES, INC.;
EL PASO MERCHANT ENERGY COMPANY

IN THE DISTRICT COURT

79th JUDICIAL DISTRICT

BROOKS COUNTY, TEXAS

NOTICE OF APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Brooks County and Brooks Independent School District, Plaintiffs in the above numbered and styled cause and file this their Notice of Appeal pursuant to Rule 25 of the Texas Rules of Appellate Procedure as follows:

1. The trial court is the 79th Judicial District Court of Brooks County, Texas. The case's trial court number is 03-08-11950CV. The style of the case in the trial court is Brooks County and Brooks ISD v. El Paso Production Oil & Gas Company; El Paso Production Oil & Gas Production, U.S.A., L.P.; El Paso CGP Company; Coastal Oil and Gas Corporation; the Coastal Corporation; Coastal States Trading, Inc.; Coastal States Crude Gathering Company; Coastal Gas Marketing Company; Coastal Limited Ventures, Inc.; El Paso Merchant Energy Company.
2. The date of the judgment or order appealed from is September 10, 2004.
3. The Plaintiffs desire to appeal from the final order of dismissal entered in this cause on

September 10, 2004.

4. This appeal is taken to the Fourth Court of Appeals of Texas.

5. The parties filing this notice of appeal are the following: Brooks County and Brooks Independent School District.

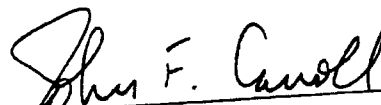
Respectfully submitted,

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By:

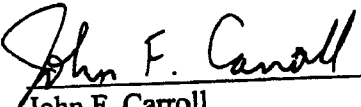


John F. Carroll
State Bar No. 03888100

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been served pursuant to a method authorized by the Texas Rules of Civil Procedure on this the 6th day of October 2004, upon the following counsel of record:

William Ikard
William W. Kilgarlin
Laurie Ratliff
POPP & IKARD, L.L.P.
Four Barton Skyway
1301 South Mopac, Suite 430
Austin, Texas 78746



John F. Carroll

numbered and styled cause and file this their Notice of Appeal pursuant to Rule 25 of the Texas Rules of Appellate Procedure as follows:

1. The trial court is the 229th Judicial District Court of Duval County, Texas. The case's trial court number is DC-03-320. The style of the case in the trial court is Duval County, San Diego Independent School District and Freer Independent School District, Plaintiffs, And Benavides Independent School District, Intervenor, v. Conoco, Inc; Continental Oil Company; Brandywine Industrial Gas; ConocoPhillips Company; Phillips Petroleum Company; El Paso Production Oil and Gas Company; El Paso Production Oil and Gas USA, L.P.; El Paso CGP Company; Coastal Oil and Gas Corporation; the Coastal Corporation; Coastal States Trading, Inc.; Coastal States Crude Gathering Company; Coastal Gas Marketing Company; Coastal Limited Ventures, Inc.; El Paso Merchant Energy Company, Defendants.

2. The date of the judgment or order appealed from is September 10, 2004.

3. The Plaintiffs desire to appeal from the final order of dismissal entered in this cause on September 10, 2004.

4. This appeal is taken to the Fourth Court of Appeals of Texas.

5. The parties filing this notice of appeal are the following: Duval County, San Diego Independent School District, Freer Independent School District, and Benavides Independent School District.

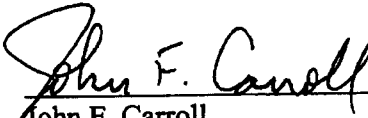
Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been served pursuant to a method authorized by the Texas Rules of Civil Procedure on this the 6th day of October, 2004, upon the following counsel of record:

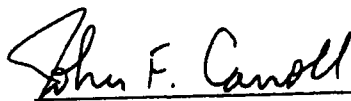
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Jaime Carrillo
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John F. Carroll

EDINBURG CONSOLIDATED
INDEPENDENT SCHOOL DISTRICT,
Plaintiffs,

And

LA JOYA INDEPENDENT SCHOOL DISTRICT,
Intervenor,

VS.

FINA OIL AND CHEMICAL
COMPANY; ATOFINA PETRO-
CHEMICALS, INC.; FINA,
INC.; TOTALFINAELF
GAS & POWER NORTH AMERICA,
INC.; FINA NATURAL GAS
COMPANY; MOKEEN OIL COMPANY;
CONOCO, INC.; CONTINENTAL OIL
COMPANY; BRANDYWINE INDUSTRIAL
GAS, INC.; SHELL OIL COMPANY;
SHELL WESTERN E&P, INC.;
SHELL GAS TRADING COMPANY;
EL PASO PRODUCTION OIL AND
GAS COMPANY; EL PASO
PRODUCTION OIL AND GAS
USA, L.P.; EL PASO CGP
COMPANY; IBC PETROLEUM, INC.;
TEXAS INDEPENDENT EXPLORATION,
INC.; SUN OPERATING LIMITED
PARTNERSHIP; ORYX ENERGY COMPANY;
ANR PRODUCTION COMPANY; COASTAL
OIL AND GAS CORPORATION; THE
COASTAL CORPORATION; COASTAL
STATES TRADING, INC.; COASTAL
STATES CRUDE GATHERING COMPANY;
COASTAL GAS MARKETING COMPANY;
COASTAL LIMITED VENTURES, INC.;
EL PASO MERCHANT ENERGY COMPANY;
AMERICAN EXPLORATION COMPANY;
CONTRACT ENERGY, L.L.C.; EOG
RESOURCES, INC.; ARCO OIL & GAS
CO.; CODY ENERGY LLC;

IN THE DISTRICT COURT

275TH JUDICIAL DISTRICT

| | | |
|-----------------------------------|---|-----------------------|
| SAMEDAN OIL CORPORATION; CABOT | § | |
| OIL & GAS CORPORATION; VASTAR | § | |
| RESOURCES, INC.; BP AMERICA | § | |
| PRODUCTION COMPANY; | § | |
| KERR-MCGEE OIL & GAS ONSHORE LLC; | § | |
| MOBIL PRODUCING TX. & N.M. INC.; | § | |
| CHEVRON U.S.A. INC.; | § | |
| TEXACO INC.; SOCONY MOBIL | § | |
| COMPANY, INC., | § | |
| Defendants. | § | HIDALGO COUNTY, TEXAS |

NOTICE OF APPEAL

NOW COME Edinburg Consolidated Independent School District, Plaintiff, and La Joya Independent School District, Intervenor, in the above numbered and styled cause and file this their Notice of Appeal pursuant to Rule 25 of the Texas Rules of Appellate Procedure as follows:

1. The trial court is the 275th Judicial District Court of Hidalgo County, Texas. The case's trial court number is C-401-03-E. The style of the case in the trial court is Edinburg Consolidated Independent School District, Plaintiff, And La Joya Independent School District, Intervenor, v. Fina Oil and Chemical, Company; Atofina Petro-Chemicals, Inc.; Fina, Inc.; Totalfinaelf Gas & Power North America, Inc.; Fina Natural Gas Company; Mokeen Oil Company; Conoco, Inc.; Continental Oil Company; Brandywine Industrial Gas, Inc.; Shell Oil Company; Shell Western E&p, Inc.; Shell Gas Trading Company; El Paso Production Oil and Gas Company; El Paso Production Oil and Gas USA, L.P.; El Paso CGP Company; IBC Petroleum, Inc.; Texas Independent Exploration, Inc.; Sun Operating Limited Partnership; Oryx Energy Company; ANR Production Company; Coastal Oil and Gas Corporation; the Coastal Corporation; Coastal States Trading, Inc.; Coastal States Crude Gathering Company; Coastal Gas Marketing Company; Coastal Limited Ventures, Inc.; El Paso Merchant Energy Company; American Exploration Company; Contract Energy, L.L.C.; EOG

Resources, Inc.; Arco Oil & Gas Co.; Cody Energy LLC; Samedan Oil Corporation; Cabot Oil & Gas Corporation; Vastar Resources, Inc.; BP America Production Company; Kerr-McGee Oil & Gas Onshore LLC; Mobil Producing TX. & N.M.; Chevron U.S.A., Inc.; Texaco, Inc.; and Socony Mobil Company, Inc., Defendants.

2. The date of the judgment or order appealed from is September 10, 2004.
3. The Plaintiffs desire to appeal from the final order of dismissal entered in this cause on September 10, 2004.
4. This appeal is taken to the Thirteenth Court of Appeals of Texas.
5. The parties filing this notice of appeal are: Edinburg Consolidated Independent School District and La Joya Independent School District.

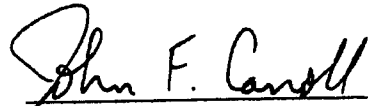
Respectfully submitted,

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By: 
John F. Carroll
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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Notice of Appeal has been served upon the following attorneys of record, on this 6th day of October 2004.

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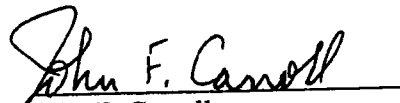
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Catherine Funkhouser
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John F. Carroll

CAUSE NO. C-640-03-E

HIDALGO COUNTY, TEXAS
Plaintiff

VS.

TEXACO, INC. a surviving subsidiary
of a merger between Texaco, Inc. and
Chevron USA, *et al.*
Defendants

§
§
§
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§
§
§
§

IN THE DISTRICT COURT

HIDALGO COUNTY, TEXAS

92d JUDICIAL DISTRICT

NOTICE OF APPEAL

NOW COMES Hidalgo County, Texas, Plaintiff in the above numbered and styled cause, and file this its Notice of Appeal pursuant to Rule 25 of the Texas Rules of Appellate Procedure as follows:

1. The trial court is the 92d Judicial District Court of Hidalgo County, Texas. The case's trial court number is C-640-03-E. The style of the case in the trial court is Hidalgo County, Texas v. Texaco, Inc.; TotalFinaElf E&P, Inc.; Kerr-McGee Oil & Gas Onshore LLC.; Shell Western E&P, Inc.; and El Paso Production Oil and Gas Company.

2. The date of the judgment or order appealed from is September 10, 2004.

3. The Plaintiffs desire to appeal from the final order of dismissal entered in this cause on September 10, 2004.

4. This appeal is taken to the Thirteenth Court of Appeals of Texas.

5. The party filing this notice of appeal is: Hidalgo County, Texas.

Respectfully submitted,



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(956) 687-6125 - Facsimile
ATTORNEYS FOR HIDALGO COUNTY,
TEXAS

CERTIFICATE OF SERVICE

I certify that that true and correct copy of this Notice of Appeal has been served upon the following attorneys of record by United States Mail, postage prepaid, to the addresses set forth below, on this 6th day of October, 2004.


J. Scott Morris

Mr. David Olivera
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E&P, INC.**

CAUSE NO. 03-08-41749

JIM WELLS COUNTY; and
PREMONT INDEPENDENT SCHOOL
DISTRICT

VS.

EL PASO PRODUCTION OIL AND GAS
COMPANY; EL PASO PRODUCTION
OIL AND GAS USA, L.P.; EL PASO CGP
COMPANY; COASTAL OIL AND GAS
CORPORATION; THE COASTAL
CORPORATION; COASTAL STATES
TRADING, INC.; COASTAL STATES
CRUDE GATHERING COMPANY;
COASTAL LIMITED VENTURES, INC.;
EL PASO MERCHANT ENERGY COMPANY

IN THE DISTRICT COURT

79TH JUDICIAL DISTRICT

JIM WELLS COUNTY, TEXAS

NOTICE OF APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Jim Wells County and Premont Independent School District, Plaintiffs in the above numbered and styled cause and file this their Notice of Appeal pursuant to Rule 25 of the Texas Rules of Appellate Procedure as follows:

1. The trial court is the 79th Judicial District Court of Jim Wells County, Texas. The case's trial court number is 03-08-41749. The style of the case in the trial court is Jim Wells County and Premont ISD v. El Paso Production Oil and Gas Company; El Paso Production Oil and Gas USA, L.P.; El Paso CGP Company; Coastal Oil and Gas Corporation; the Coastal Corporation; Coastal States Trading, Inc.; Coastal States Crude Gathering Company; Coastal Limited Ventures, Inc.; El Paso Merchant Energy Company.
2. The date of the judgment or order appealed from is September 10, 2004.
3. The Plaintiffs desire to appeal from the final order of dismissal entered in this cause on

September 10, 2004.

4. This appeal is taken to the Fourth Court of Appeals of Texas.

5. The parties filing this notice of appeal are the following: Jim Wells County and Premont Independent School District.

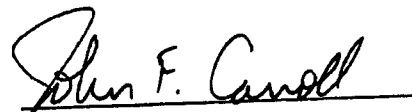
Respectfully submitted,

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By:



John F. Carroll
State Bar No. 03888100

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been served pursuant to a method authorized by the Texas Rules of Civil Procedure on this the 6th day of October 2004, upon the following counsel of record:

William Ikard
William W. Kilgarlin
Laurie Ratliff
POPP & IKARD, L.L.P.
Four Barton Skyway
1301 South Mopac, Suite 430
Austin, Texas 78746



John F. Carroll

KENEDY COUNTY § IN THE DISTRICT COURT
§
§
VS. §
§
§
§
EL PASO PRODUCTION OIL AND GAS § 105th JUDICIAL DISTRICT
COMPANY; EL PASO PRODUCTION OIL §
AND GAS USA, L.P.; EL PASO CGP §
COMPANY; COASTAL OIL AND GAS §
CORPORATION; THE COASTAL §
CORPORATION; COASTAL STATES §
TRADING, INC.; COASTAL STATES §
CRUDE GATHERING COMPANY; COASTAL §
GAS MARKETING COMPANY; COASTAL §
LIMITED VENTURES, INC.; EL PASO §
MERCHANT ENERGY COMPANY. § KENEDY COUNTY, TEXAS

NOTICE OF APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Kenedy County, Plaintiff in the above numbered and styled cause and file this their Notice of Appeal pursuant to Rule 25 of the Texas Rules of Appellate Procedure as follows:

1. The trial court is the 105th Judicial District Court of Kenedy County, Texas. The case's trial court number is 03-CV-103. The style of the case in the trial court is Kenedy County v. El Paso Production Oil and Gas Company; El Paso Production Oil And Gas USA, L.P.; El Paso CGP Company; Coastal Oil and Gas Corporation; the Coastal Corporation; Coastal States Trading, Inc.; Coastal States Crude Gathering Company; Coastal Gas Marketing Company; Coastal Limited Ventures, Inc.; El Paso Merchant Energy Company.

2. The date of the judgment or order appealed from is September 10, 2004.
3. The Plaintiff desires to appeal from the final order of dismissal entered in this cause on September 10, 2004.
4. This appeal is taken to the Thirteenth Court of Appeals of Texas.
5. The party filing this notice of appeal is Kenedy County.

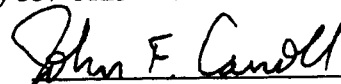
Respectfully submitted,

Jon Christian Amberson
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By:



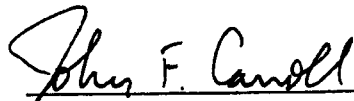
John F. Carroll

Attorneys for Plaintiff, Kenedy County

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been served pursuant to a method authorized by the Texas Rules of Civil Procedure on this the 6th day of October, 2004, upon the following counsel of record:

William Ikard
William W. Kilgarlin
Laurie Ratliff
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John F. Carroll

KLEBERG COUNTY AND
KINGSVILLE INDEPENDENT
SCHOOL DISTRICT

§
§
§
§
§
§
§
§
§
§
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IN THE DISTRICT COURT

VS.

EL PASO PRODUCTION OIL AND GAS
COMPANY; EL PASO PRODUCTION OIL
AND GAS USA, L.P.; EL PASO CGP
COMPANY; COASTAL OIL AND GAS
CORPORATION; THE COASTAL
CORPORATION; COASTAL STATES
TRADING, INC.; COASTAL STATES
CRUDE GATHERING COMPANY;
COASTAL LIMITED VENTURES, INC.;
EL PASO MERCHANT ENERGY COMPANY§

105th JUDICIAL DISTRICT

KLEBERG COUNTY, TEXAS

NOTICE OF APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Kleberg County and Kingsville Independent School District, Plaintiffs in the above numbered and styled cause and file this their Notice of Appeal pursuant to Rule 25 of the Texas Rules of Appellate Procedure as follows:

1. The trial court is the 105th Judicial District Court of Kleberg County, Texas. The case's trial court number is 03-446-D. The style of the case in the trial court is Kleberg County and Kingsville Independent School District v. El Paso Production Oil & Gas Company, El Paso Production Oil & Gas, USA, L.P., El Paso CGP Company, Coastal Oil & Gas Corporation, the Coastal Corporation, Coastal State's Trading, Inc. Coastal States Crude Gathering Company, Coastal Gas Marketing Company, Coastal Limited Venturers, Inc., and El Paso Merchant Energy Company.
2. The date of the judgment or order appealed from is September 10, 2004.
3. The Plaintiffs desire to appeal from the final order of dismissal entered in this cause on

September 10, 2004.

4. This appeal is taken to the Thirteenth Court of Appeals of Texas.

5. The parties filing this notice of appeal are as follows: Kleberg County and Kingsville Independent School District.

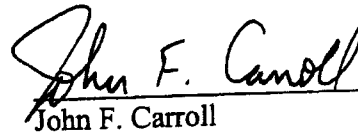
Respectfully submitted,

Jon Christian Amberson
State Bar No. 01141700
JON CHRISTIAN AMBERSON, P.C.
2135 E. Hildebrand Ave.
San Antonio, Texas 78212
Telephone: (210) 826-3339
Facsimile: (210) 826-3340

John F. Carroll
State Bar No. 03888100
ATTORNEY AT LAW
111 West Olmos Dr.
San Antonio, Texas 78212
(210) 829-7183 - Telephone
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Rolando Cantu
State Bar No. 00789201
Juan Rocha
State Bar No. 17122000
ROLANDO CANTU & ASSOCIATES, P.L.L.C.
Attorneys at Law
4428 S. McColl
Edinburg, Texas 78539
(956) 687-5777 - Telephone
(956) 687-6125 - Facsimile

By:




John F. Carroll
State Bar No. 03888100

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been served pursuant to a method authorized by the Texas Rules of Civil Procedure on this the 6th day of October 2004, upon the following counsel of record:

William Ikard
William W. Kilgarlin
Laurie Ratliff
POPP & IKARD, L.L.P.
Four Barton Skyway
1301 South Mopac, Suite 430
Austin, Texas 78746


John F. Carroll

CAUSE NO. 2003CVQ001368-D2

| | | |
|----------------------------------|---|-------------------------------------|
| WEBB COUNTY | § | IN THE DISTRICT COURT |
| | § | |
| | § | |
| | § | |
| VS. | § | |
| | § | |
| CONOCO, INC; CONTINENTAL OIL | § | |
| COMPANY; BRANDYWINE INDUSTRIAL | § | |
| GAS; CONOCOPHILLIPS COMPANY; | § | |
| PHILLIPS PETROLEUM COMPANY; | § | 111 th JUDICIAL DISTRICT |
| EL PASO PRODUCTION OIL AND GAS | § | |
| COMPANY; EL PASO PRODUCTION OIL | § | |
| AND GAS USA, L.P.; EL PASO CGP | § | |
| COMPANY; COASTAL OIL AND GAS | § | |
| CORPORATION; THE COASTAL | § | |
| CORPORATION; COASTAL STATES | § | |
| TRADING, INC.; COASTAL STATES | § | |
| CRUDE GATHERING COMPANY; COASTAL | § | |
| GAS MARKETING COMPANY; COASTAL | § | |
| LIMITED VENTURES, INC.; EL PASO | § | |
| MERCHANT ENERGY COMPANY. | § | WEBB COUNTY, TEXAS |

NOTICE OF APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Webb County, Plaintiff in the above numbered and styled cause and file this their Notice of Appeal pursuant to Rule 25 of the Texas Rules of Appellate Procedure as follows:

1. The trial court is the 111th Judicial District Court of Webb County, Texas. The case's trial court number is 2003CVQ001368-D2. The style of the case in the trial court is Webb County v. Conoco, Inc; Continental Oil Company; Brandywine Industrial Gas; ConocoPhillips Company; Phillips Petroleum Company; El Paso Production Oil and Gas Company; El Paso Production Oil and Gas USA, L.P.; El Paso CGP Company; Coastal Oil and Gas Corporation; The Coastal

Corporation; Coastal States Trading, Inc.; Coastal States Crude Gathering Company; Coastal Gas Marketing Company; Coastal Limited Ventures, Inc.; El Paso Merchant Energy Company.

2. The date of the judgment or order appealed from is September 10, 2004.
3. The Plaintiff desires to appeal from the final order of dismissal entered in this cause on September 10, 2004.
4. This appeal is taken to the Fourth Court of Appeals of Texas.
5. The party filing this notice of appeal is Webb County.

Respectfully submitted,

Jon Christian Amberson
State Bar No. 01141700
JON CHRISTIAN AMBERSON, P.C.
Attorneys at Law
2135 E. Hildebrand Ave.
San Antonio, Texas 78209
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Rolando Cantu
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State Bar No. 17122000
ROLANDO CANTU & ASSOCIATES, P.L.L.C.
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(956) 687-6125 - Facsimile

By: John F. Carroll
John F. Carroll
State Bar No. 03888100

Attorneys for Plaintiff

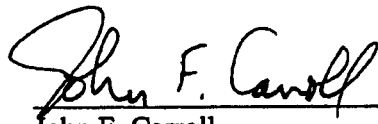
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been served pursuant to a method authorized by the Texas Rules of Civil Procedure on this the 7th day of October 2004, upon the following counsel of record:

Michael V. Powell
LOCKE LIDDELL & SAPP, LLP
2200 Ross Avenue, Suite 2200
Dallas, Texas 75201-6776

Raymond L. Thomas
Rebecca Vela
KITTLEMAN, THOMAS, RAMIREZ,
GONZALES, PLLC
P.O. Box 1416
4900-B North 10th St.
McAllen, Texas 78505

William Ikard
William W. Kilgarlin
Laurie Ratliff
POPP & IKARD, L.L.P.
Four Barton Skyway
1301 South Mopac, Suite 430
Austin, Texas 78746



John F. Carroll

| | | |
|---|---|-------------------------------------|
| WILLACY COUNTY | § | IN THE DISTRICT COURT |
| | § | |
| VS. | § | |
| | § | |
| EL PASO PRODUCTION OIL AND GAS COMPANY; EL PASO PRODUCTION OIL AND GAS USA, L.P.; EL PASO CGP COMPANY; COASTAL OIL AND GAS CORPORATION; THE COASTAL CORPORATION; COASTAL STATES TRADING, INC.; COASTAL STATES CRUDE GATHERING COMPANY; COASTAL GAS MARKETING COMPANY; COASTAL LIMITED VENTURES, INC.; | § | 357 TH JUDICIAL DISTRICT |
| EL PASO MERCHANT ENERGY COMPANY | § | WILLACY COUNTY |

NOTICE OF APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Willacy County, Plaintiff in the above numbered and styled cause and file this their Notice of Appeal pursuant to Rule 25 of the Texas Rules of Appellate Procedure as follows:

1. The trial court is the 357th Judicial District Court of Willacy County, Texas. The case's trial court number is 03-264. The style of the case in the trial court is Willacy County v. El Paso Production Oil and Gas Company; El Paso Production Oil and Gas USA, L.P.; El Paso CGP Company; Coastal Oil and Gas Corporation; the Coastal Corporation; Coastal States Trading, Inc.; Coastal States Crude Gathering Company; Coastal Gas Marketing Company; Coastal Limited Ventures, Inc.; El Paso Merchant Energy Company.

2. The date of the judgment or order appealed from is September 10, 2004.

3. The Plaintiff desires to appeal from the final order of dismissal entered in this cause on

September 10, 2004.

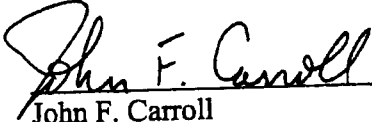
4. This appeal is taken to the Thirteenth Court of Appeals of Texas.
5. The party filing this notice of appeal is Willacy County.

Respectfully submitted,

Jon Christian Amberson
State Bar No. 01141700
JON CHRISTIAN AMBERSON, P.C.
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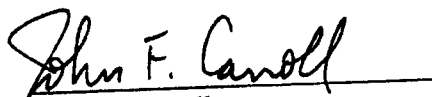
By: 
John F. Carroll
State Bar No. 03888100

Attorneys for Plaintiff, Willacy County

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been served pursuant to a method authorized by the Texas Rules of Civil Procedure on this the 6th day of October 2004, upon the following counsel of record:

William Ikard
William W. Kilgarlin
Laurie Ratliff
POPP & IKARD, L.L.P.
Four Barton Skyway
1301 South Mopac, Suite 430
Austin, Texas 78746


John F. Carroll

CAUSE NO. 5519

| | | |
|---------------------------------|---|---------------------------------|
| ZAPATA COUNTY and ZAPATA | § | IN THE DISTRICT COURT |
| INDEPENDENT SCHOOL DISTRICT | § | |
| | § | |
| V. | § | |
| | § | |
| CONOCO, INC.; CONTINENTAL OIL | § | |
| COMPANY; BRANDYWINE INDUSTRIAL | § | |
| GAS; CONOCOPHILLIPS COMPANY; | § | |
| PHILLIPS PETROLEUM COMPANY; | § | |
| EL PASO PRODUCTION OIL & GAS | § | |
| COMPANY, EL PASO PRODUCTION OIL | § | 49 TH DISTRICT COURT |
| AND GAS COMPANY, USA, L.P.; EL | § | |
| PASO CGP COMPANY; COASTAL OIL | § | |
| AND GAS CORPORATION; THE | § | |
| COASTAL CORPORATION; COASTAL | § | |
| STATES TRADING, INC.; COASTAL | § | |
| STATES CRUDE GATHERING | § | |
| COMPANY; COASTAL GAS | § | |
| MARKETING COMPANY; COASTAL | § | |
| LIMITED VENTURES, INC.; EL PASO | § | |
| MERCHANT ENERGY COMPANY | § | ZAPATA COUNTY, TEXAS |

NOTICE OF APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Zapata County and Zapata Independent School District, Plaintiffs in the above numbered and styled cause and file this their Notice of Appeal pursuant to Rule 25 of the Texas Rules of Appellate Procedure as follows:

1. The trial court is the 49th Judicial District Court of Zapata County, Texas. The case's trial court number is 5519. The style of the case in the trial court is Zapata County and Zapata Independent School District v. El Paso Production Oil & Gas Company, El Paso Production Oil & Gas, USA, L.P., El Paso CGP Company, Coastal Oil & Gas Corporation, the Coastal Corporation, Coastal State's Trading, Inc. Coastal States Crude Gathering Company, Coastal Gas Marketing

Company, Coastal Limited Venturers, Inc., and El Paso Merchant Energy Company.

2. The date of the judgment or order appealed from is September 10, 2004.
3. The Plaintiffs desire to appeal from the final order of dismissal entered in this cause on September 10, 2004.
4. This appeal is taken to the Fourth Court of Appeals of Texas.
5. The parties filing this notice of appeal are the following: Zapata County and Zapata Independent School District.

Respectfully submitted,

Jon Christian Amberson
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JON CHRISTIAN AMBERSON, P.C.
2135 E. Hildebrand Ave.
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Telephone: (210) 826-3339
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Juan Rocha
State Bar No. 17122000
ROLANDO CANTU & ASSOCIATES, P.L.L.C.
Attorneys at Law
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(956) 687-6125 - Facsimile

By: John F. Carroll
John F. Carroll
State Bar No. 03888100

Attorneys for Plaintiffs

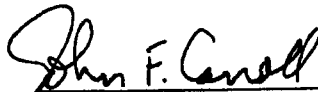
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been served pursuant to a method authorized by the Texas Rules of Civil Procedure on this the 7th day of October 2004, upon the following counsel of record:

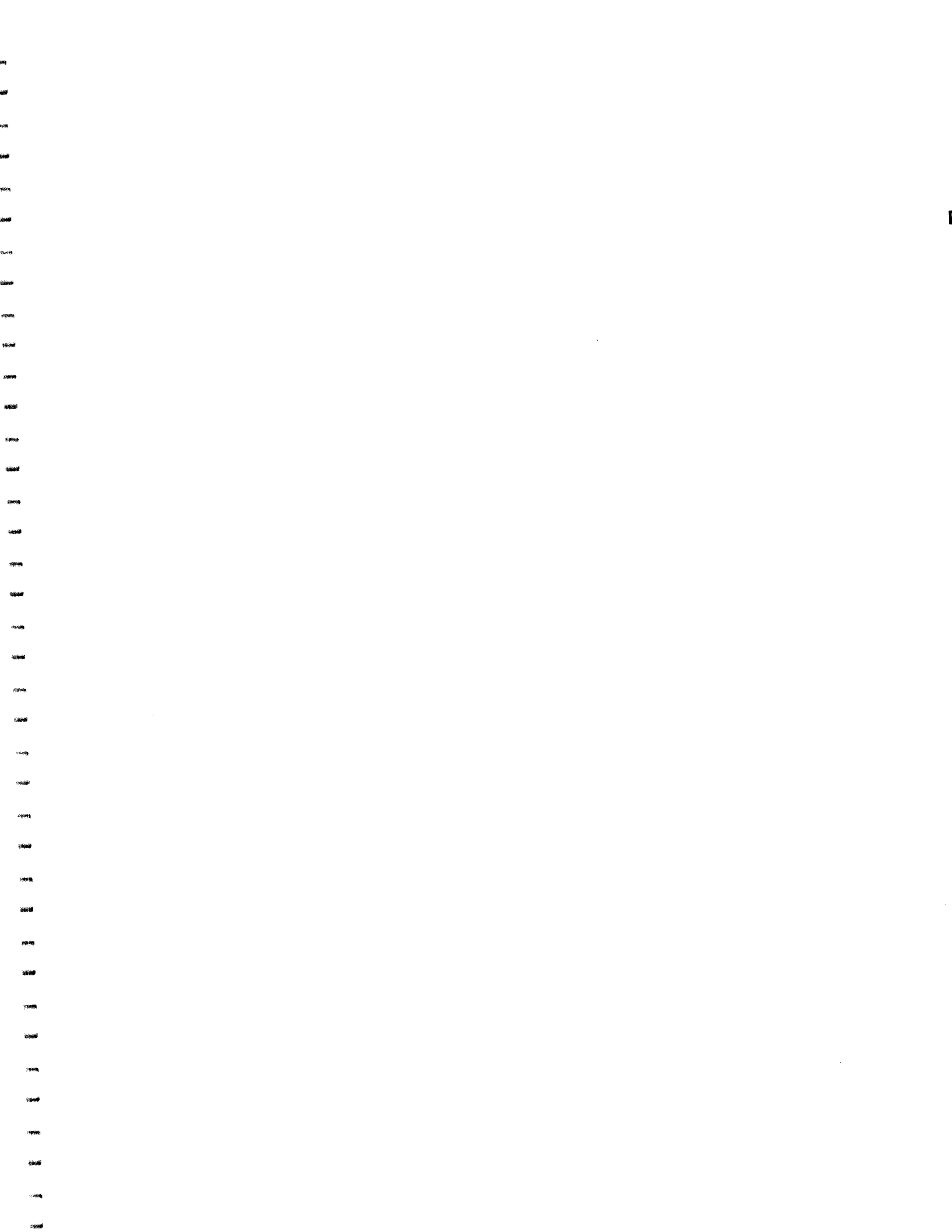
Michael V. Powell
LOCKE LIDDELL & SAPP, LLP
2200 Ross Avenue, Suite 2200
Dallas, Texas 75201-6776

Raymond L. Thomas
Rebecca Vela
KITTLEMAN, THOMAS, RAMIREZ,
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McAllen, Texas 78505

William Ikard
William W. Kilgarlin
Laurie Ratliff
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Austin, Texas 78746



John F. Carroll



FOURTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS
ORDER ASSIGNING PRETRIAL JUDGE

On March 26, 2004, a hearing was held before the undersigned Presiding Judge of the Fourth Administrative Judicial Region of Texas concerning the Motion for Coordinated Pretrial Proceedings and Assignment of Single Statewide Pretrial Judge filed in the following styled and numbered cases pending in the Fourth Region:

- (1) *Webb County v. Conoco, Inc., et al*, No. 2003-CVQ-001368-D2, in the 111th District Court of Webb County;
- (2) *Webb County v. Exxon Mobil Corp., et al.*, No. 2003-CVQ-1401-D2, in the 111th District Court of Webb County;
- (3) *Zapata County, et al v. Continental Oil Co., et al*, No. 5519, in the 49th District Court of Zapata County; and
- (4) *Zapata County, et al. v. Chevron U.S.A., Inc.*, No. 5520, in the 49th District Court of Zapata County.

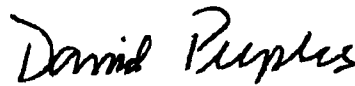
Having considered the evidence and arguments presented, the court finds that the referenced cases involve common material questions of fact and law and the assignment of a pretrial judge would promote the just and efficient conduct of the cases.

IT IS THEREFORE ORDERED that **The Honorable Tracy Christopher**, Presiding Judge of the 293th Judicial District Court of Harris County, Texas, having been assigned to the Fourth Region by the Chief Justice, is assigned as the pretrial judge in the referenced cases.

The pretrial judge shall preside over all pretrial proceedings in the referenced cases in place of the judge of the court in which the cases is pending, exercising all the powers granted to her as pretrial judge by Rule 11.

This assignment continues until the earliest of any of the following events: (1) all pretrial proceedings in the case have been completed; (2) the pretrial judge ceases to be an active district judge; or (3) the undersigned presiding judge, in the exercise of his discretion, terminates the assignment.

SIGNED: April 7, 2004.



David Peoples, Presiding Judge
Fourth Administrative Judicial Region

**FIFTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS
ORDER ASSIGNING PRETRIAL JUDGE**

On March 26, 2004, a hearing was held before the undersigned Presiding Judge of the Fifth Administrative Judicial Region of Texas concerning the Motion for Coordinated Pretrial Proceedings and Assignment of Single Statewide Pretrial Judge filed in the following styled and numbered cases pending the Fifth Region:

| | |
|--|--|
| 03-08-11950-CV 79 th District Court Brooks County | Brooks County & Brooks County ISD vs El Paso Production Oil & Gas Company, et al. |
| 03-08-11948-CV 79 th District Court Brooks County | Brooks County & Brooks County ISD vs Exxon Mobil Corp., et al. |
| 03-08-11943-CV 79 th District Court Brooks County | Brooks County & Brooks County ISD vs Texaco E & P, Inc., et al. |
| DC-03-320 229 th District Court Duval County | Duval County, et al. vs Conoco, Inc., et al. |
| DC-03-313 229 th District Court Duval County | Duval County, et al. vs Shell Western E & P, Inc. |
| DC-03-326 229 th District Court Duval County | Duval County, et al. vs Exxon Mobil Corp., et al. |
| C-21-66-03-F 332 nd District Court Hidalgo County | Edcouch-Elsa ISD, et al. vs Chevron USA, Inc., et al. |
| C-401-03-E 275 th District Court Hidalgo County | Edinburg ISD vs American Coastal Energy, Inc., et al. |
| C-647-03-H 389 th District Court Hidalgo County | Hidalgo County vs El Paso Production Oil & Gas Company |

| | |
|---|---|
| C-640-03-A 92 nd District Court Hidalgo County | Hidalgo County, Texas vs Texaco, Inc., et al. |
| C-641-03-B 93 rd District Court Hidalgo County | Hidalgo County vs Shell Western E & P, Inc. |
| C-645-03-F 332 nd District Court Hidalgo County | Hidalgo County vs Totalfinself E & P USA, Inc. |
| C-644-03-E 275 th District Court Hidalgo County | Hidalgo County vs Kerr McGee Oil & Gas Onshore, LLC |
| CC-03-117 229 th District Court Jim Hogg County | Jim Hogg County, et al. vs Exxon Mobil Corp., et al. |
| 03-08-41749 79 th District Court Jim Wells County | Jim Wells County, et al. vs El Paso Production Oil & Gas Company, et al. |
| 03-08-41767-CV 79 th District Court Jim Wells County | Jim Wells County, et al. vs Exxon Mobil Corp., et al. |
| 03-08-41740 79 th District Court Jim Wells County | Jim Wells County, et al. vs Anadarko Petroleum Corp., et al. |
| C-2195-03-H 389 th District Court Hidalgo County | McAllen ISD vs Fina Oil & Chemical Company, et al. |
| 03-CV-103 105 th District Court Kenedy County | Kenedy County vs El Paso Production Oil & Gas Company, et al. |
| 03-CV-105 105 th District Court Kenedy County | Kenedy County vs Exxon Mobil Corp., et al. |

03-446-D Kleberg County, et al. vs
105th District Court El Paso Production Oil & Gas Company, et al.
Kleberg County

03-454-D Kleberg County, et al. vs
105th District Court Exxon Mobil Corp., et al.
Kleberg County

03-441-D Kleberg County, et al. vs
105th District Court Atofina Petrochemicals, Inc., et al.
Kleberg County

03-264 Willacy County vs
357th District Court El Paso Production Oil & Gas Company, et al.
Willacy County

03-265 Willacy County vs
103rd District Court Exxon Mobil Corp., et al.
Willacy County


Having considered the evidence and arguments presented, the court finds that the referenced cases involve common material questions of fact and law and the assignment of a pretrial judge would promote the just and efficient conduct of the cases.

IT IS THEREFORE ORDERED that The Honorable Tracy Christopher, Presiding Judge of the 295th Judicial District Court of Harris County, Texas, having been assigned to the Fifth Region by the Chief Justice, is assigned as the pretrial judge in the referenced cases.

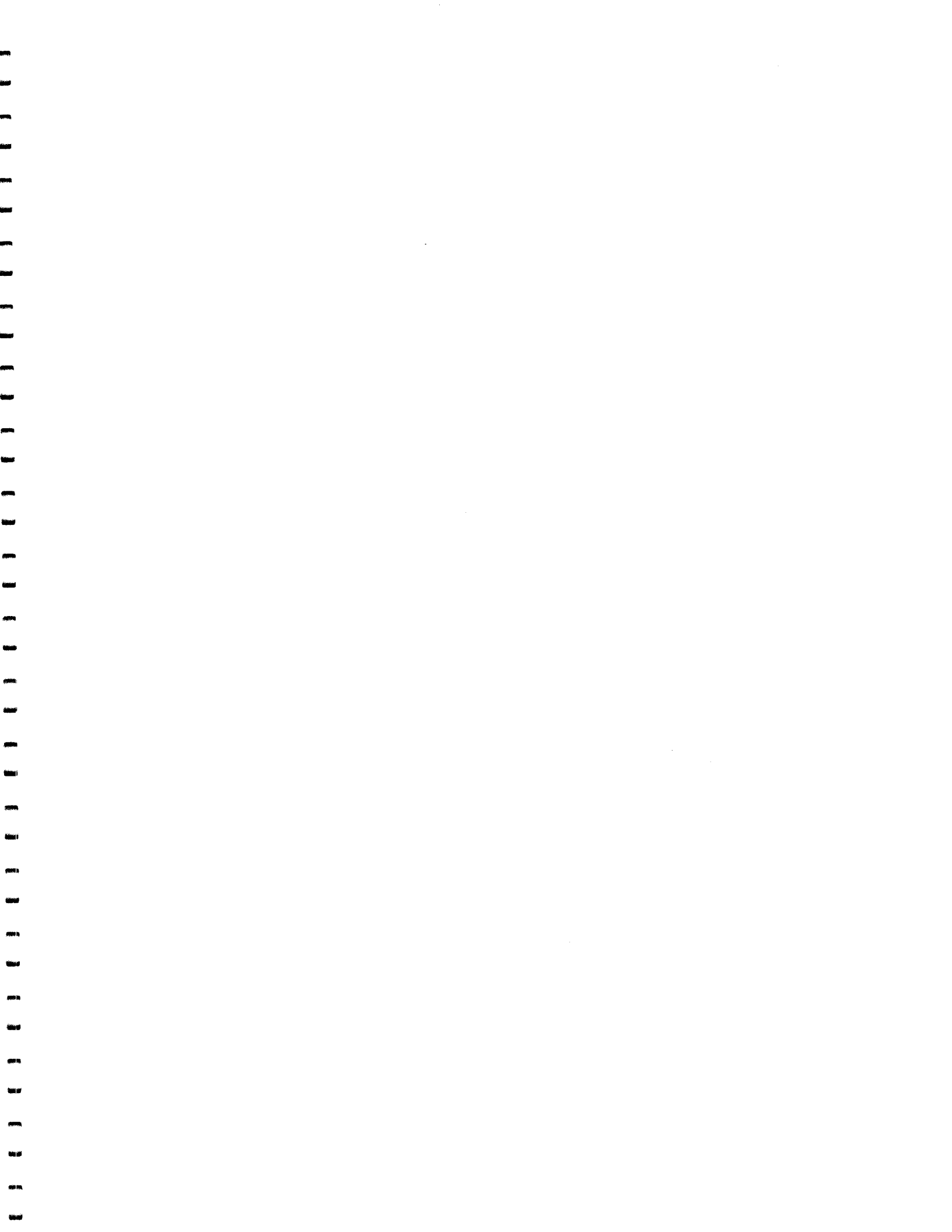
The pretrial judge shall preside over all pretrial proceedings in the referenced cases in place of the judge of the court in which the cases is pending, exercising all the powers granted to her as pretrial judge by Rule 11.

This assignment continues until the earliest of any of the following events: (1) all pretrial proceedings in the case have been completed; (2) the pretrial judge ceases to be an active district judge, or (3) the undersigned presiding judge, in the exercise of his discretion, terminates the assignment.

Signed for entry this 15^{*} day of April, 2004.



Judge Presiding
Fifth Administrative Judicial Region



THE STATE OF TEXAS

SIXTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS

ORDER OF ASSIGNMENT BY THE PRESIDING JUDGE

ORDER OF ASSIGNMENT OF PRETRIAL JUDGE

On March 29, 2004, the undersigned Presiding Judge of the Sixth Administrative Judicial Region of Texas considered the Motion for Coordinated Pretrial Proceedings and Assignment of Single Statewide Pretrial Judge filed in the following styled and numbered cases pending in the Sixth Administrative Judicial Region of Texas:

1. Cause Number P-615683-CV; Pecos County, et al v. ExxonMobil Corporation, et al; 83rd Judicial District Court of Pecos County, Texas.
2. Cause Number 03-08-U3817-OTH; Upton County, et al v. ExxonMobil Corporation, et al; 112th Judicial District Court of Upton County, Texas.

The undersigned further finds that the referenced cases involve common material questions of fact and law and the assignment of a pretrial judge would promote the just and efficient conduct of the cases.

IT IS THEREFORE ORDERED that **KELLY G. MOORE**, Presiding Judge of the 121st Judicial District Court of Terry County, Texas, is assigned as the pretrial judge in the referenced cases.

IT IS FURTHER ORDERED that the pretrial judge shall preside over all pretrial proceedings in the referenced cases in place of the judge of the court in which the case is pending; decide all pretrial motions, including motions to transfer venue and motions for summary judgment; consult with other pretrial judges assigned to similar cases in the same or different regions in conducting the pretrial proceedings and deciding pretrial matters; and consult with the judge of the court in which the case is pending on setting a trial date.

This assignment is effective immediately, and shall terminate on the date of the earliest occurrence of one of the events specified below:

1. all pretrial proceedings in the case have been completed;

4.19.2004 FILED AT 10:00 A.M.
PHYLLIS STEPHENS
CLERK, COUNTY/DISTRICT COURT
UPTON COUNTY
DEPUTY

UPTON COUNTY, TX

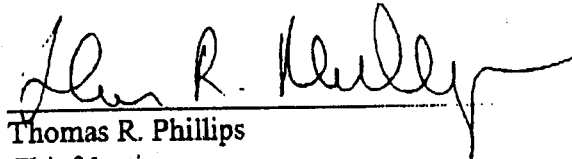
Misc. Docket No. 04- **9058**

ORDER OF THE CHIEF JUSTICE
OF THE SUPREME COURT OF TEXAS

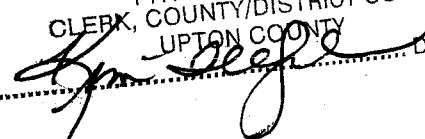
The Honorable Stephen B. Ables, Presiding Judge of the Sixth Administrative Judicial Region, having held a hearing on March 26, 2004, on a Motion to assign a Pretrial Judge to in the Sixth Administrative Judicial Region, has recommended the assignment of the Honorable Kelly G. Moore, Judge of the 121st District Court to the Sixth Region for assignment as Pretrial Judge.

Therefore, pursuant to Judge Ables' request, and to the authority vested in me as Chief Justice of the Supreme Court by Rule 11.3(d) of the Rules of Judicial Administration, I assign the Honorable Kelly G. Moore, Judge of the 121st District Court, to the Sixth Administrative Judicial Region, to be assigned as a Pretrial Judge under Rule 11.3(a).

April 13th, 2004.


Thomas R. Phillips
Chief Justice

VOL 0033 PG 722
UPTON COUNTY, TX

FILED
4-19-2004 AT 10:00 A.M.
PHYLLIS STEPHENS
CLERK, COUNTY/DISTRICT COURT
UPTON COUNTY
 DEPUTY

FILED

THE STATE OF TEXAS
SEVENTH ADMINISTRATIVE JUDICIAL REGION OF TEXAS

ORDER OF ASSIGNMENT BY THE PRESIDING JUDGE

2004 APR 5 PM 3:50
VIVIAN H. JOHNSON, CLERK
MIDLAND COUNTY, TEXAS
BY: *Angie Welch* DEPUTY

ORDER OF ASSIGNMENT OF PRETRIAL JUDGE
Rule 11, Rules of Judicial Administration

On March 26, 2004, the undersigned Presiding Judge of the Seventh Administrative Judicial Region of Texas considered the Motion for Coordinated Pretrial Proceedings and Assignment of Single Statewide Pretrial Judge filed in the following styled and numbered cases pending in the Seventh Administrative Judicial Region of Texas:

1. Cause Number CV-44,285, *Midland County, Texas v. ExxonMobil Corporation, et al.*; 238th Judicial District Court of Midland County, Texas;
2. Cause Number 13,865, *Kernit Independent School District v. Apache Corporation, et al.*; 109th Judicial District Court of Winkler County, Texas;
3. Cause Number 16,365, *Andrews County v. ExxonMobil Corporation, et al.*; 109th Judicial District Court of Andrews County, Texas;
4. Cause Number 16,366, *Andrews County, Texas v. Unocal Corporation, et al.*; 109th Judicial District Court of Andrews County, Texas;
5. Cause Number A-116,018, *Ector County, Texas v. Unocal Corporation, et al.*; 70th Judicial District Court of Ector County, Texas; and
6. Cause Number A-116,022, *Ector County, et al. v. ExxonMobil Corporation, et al.*; 70th Judicial District Court of Ector County, Texas.

The undersigned further finds that the referenced cases involve common material questions of fact and law and the assignment of a pretrial judge would promote the just and efficient conduct of the cases.

IT IS THEREFORE ORDERED that **KELLY G. MOORE**, Presiding Judge of the 121st Judicial District Court of Terry County, Texas, is assigned as the pretrial judge in the referenced cases.

IT IS FURTHER ORDERED that the pretrial judge shall preside over all pretrial proceedings in the referenced cases in place of the judge of the court in which the cases is pending; decide all pretrial motions, including motions to transfer venue and motions for summary judgment; consult with other pretrial judges assigned to similar cases in the same or different regions in conducting the pretrial proceedings and deciding pretrial matters; and consult with the judge of the court in which the cases is pending on setting a trial date.

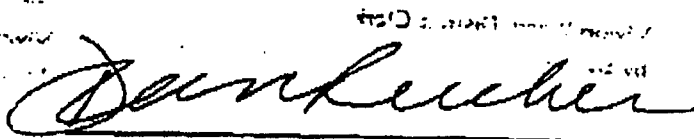
This assignment is effective immediately, and shall terminate on the date of the earliest occurrence of one of the events specified below:

1. all pretrial proceedings in the case have been completed;
2. the pretrial judge ceases to be an active district judge; or
3. the presiding judge in the exercise of discretion terminates the assignment.

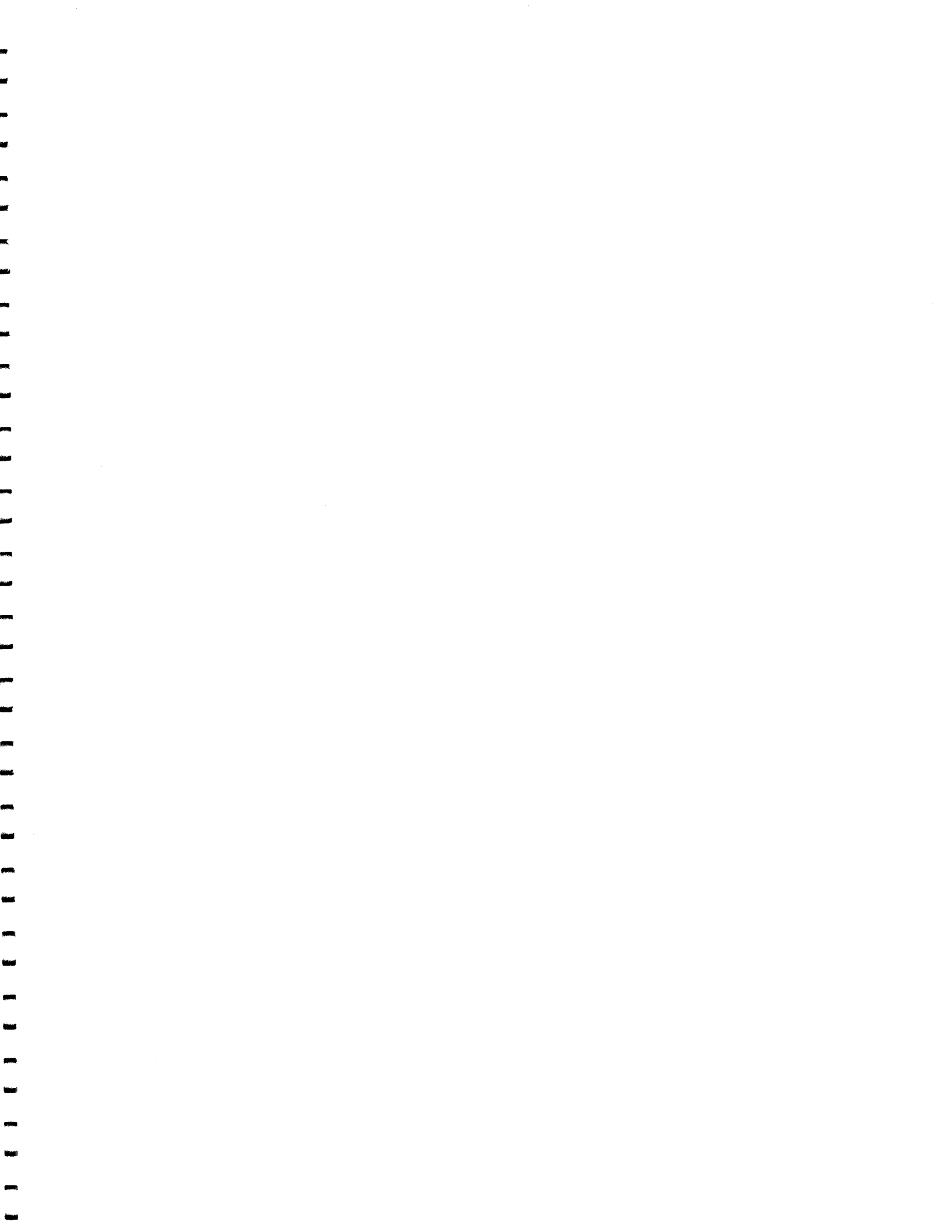
IT IS ORDERED that the Clerk of the Court shall file a copy of this order in the case, and, if it is reasonable and practicable, and if time permits, give notice of this assignment to each attorney representing a party to a case that is to be heard in whole or in part by the assigned pretrial judge.

IT IS FURTHER ORDERED that the Clerk, upon receipt hereof, shall post a copy of this order in a public area of the Clerk's office or courthouse so that attorneys and parties may be advised of this assignment.

SIGNED April 2, 2004.



DEAN RUCKER
Presiding Judge
Seventh Administrative Judicial Region



No. 04-04-00726-CV

FOURTH COURT OF APPEALS
SAN ANTONIO TEXAS

BROOKS COUNTY, ET AL.
Appellants,

v.

EL PASO PRODUCTION OIL & GAS COMPANY, ET AL.
Appellees

Appeal From Cause No. 03-08-11950-CV
79th District Court, Brooks County Texas

APPELLANT'S MOTION FOR CONSOLIDATION OF APPEALS

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Counsel for Appellants

APPELLANT'S MOTION FOR CONSOLIDATION OF APPEALS

TO THE HONORABLE JUDGE OF THE FOURTH COURT OF APPEALS:

NOW COMES Brooks County, et al., Plaintiffs in the above numbered and styled cause and file this its Motion for Consolidation of Appeals and in support thereof would show the Court as follows:

1. The number and style of the instant case is 03-08-11950-CV, Brooks County v. El Paso

Oil & Gas Company, et al.

2. The following cases pending before this Court are related:

1. Cause No. 03-08-11943-CV, Brooks County, et al. v. Texaco E&P, Inc. et al.; 79th District Court of Brooks County, Texas
2. Cause No. DC-03-320, Duval County, et al. v. Conoco, Inc. et al.; 229th District Court of Duval County, Texas
3. Cause No. DC-03-313, Duval County, et al. v. Shell Western E&P, Inc.; 229th District Court of Duval County, Texas
4. Cause No. CC-03-117, Jim Hogg County, et al. v. Exxon Mobil Corporation, et al.; 229th District Court of Jim Hogg County, Texas
5. Cause No. 03-08-41740, Jim Wells County, et al. v. El Paso Production Oil & Gas Company, et al.; 79th District Court of Jim Wells County, Texas
6. Cause No. 03-08-41767-CV, Jim Wells County et al. v. Anadarko Petroleum Corporation, et al.; 79th District Court of Jim Wells County, Texas
7. Cause No. 2003-CVQ-001374-D1, Webb County v. Chevron U.S.A., Inc. et al.; 49th District Court, Webb County, Texas
8. Cause No. 2003-CVQ-001368-D2, Webb County v. Conoco, Inc. et al.; 111th District Court, Webb County, Texas
9. Cause No. 5519, Zapata County, et al. v. Conoco, Inc., et al.; 49th Judicial District Court, Zapata County, Texas
10. Cause No. 5520, Zapata County, et al. v. Chevron U.S.A., Inc., et al.; 49th Judicial District Court, Zapata County, Texas

3. Appellant seeks to consolidate the above related appeals for purposes of briefing and oral argument to promote the efficient termination of these cases by the Court as well as to promote efficiency within the office of counsel for the Appellants.

Procedural Background

4. The above referenced cases are lawsuits filed by counties and school districts as taxing entities against various oil and gas production company defendants, alleging claims and causes of action for fraud arising out of what Plaintiffs allege was a scheme by the various Defendants to fraudulently undervalue mineral interests for real property tax purposes; thereby resulting in an undervaluation of the property with the result that the various Defendants under paid the amount of real property taxes which should have been paid to the various Plaintiffs'. The same claims were made not only in the cases listed in this motion but also in other cases in South Texas (Appeals of which are pending before the Thirteenth Court of Appeals of Texas) as well as cases filed by various taxing entities in West Texas (undersigned counsel does not represent the West Texas counties). The presiding judges of the Fourth, Fifth, Sixth and Seventh Judicial Administrative Regions were asked to consolidate all of the South Texas and West Texas cases under Rule 11 of the Texas Rules of Judicial Administration before a single pre-trial judge. Following a hearing in Austin, the Judges determined that the West Texas cases should be consolidated for hearing before one pre-trial judge and that the South Texas cases pending in the Fourth and Fifth Administrative Judicial Regions should be consolidated before a different pre-trial judge.

5. The South Texas cases, including those pending before this Court were assigned to the Honorable Tracy Christopher, Judge of the 295th Judicial District Court of Harris County. The Defendants in each of those cases filed Pleas to the Jurisdiction asserting that exclusive jurisdiction

of the Plaintiffs' claims was provided for in the Texas Tax Code and that the Plaintiffs' had failed to exhaust administrative remedies by not availing themselves of the procedures set forth in the Texas Tax Code including going before the local appraisal review board with their complaints.

6. On the 10th day of September 2004, Judge Christopher signed Orders in each of the above referenced cases as well as the cases now pending in the Fourth Court of Appeals granting the pleas to the jurisdiction and dismissing the Plaintiffs' claims. Each of the Plaintiffs has appealed. Appellants believe that the issues before the Court in each of the appeals listed above will be identical and can more efficiently be briefed and presented to this court through a single consolidated brief on behalf of all the Plaintiffs.

Conference

7. Undersigned counsel for the Appellants provided opposing counsel the attached correspondence regarding the legal question in this motion and received no response.

WHEREFORE, Appellant respectfully requests the Court grant this motion and order that the above listed appeals be consolidated for purposes of briefing and oral argument before the Court and that Appellants in each of the listed cases be directed to file a single consolidated brief asserting all their claims on appeal before the Court.

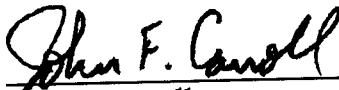
Respectfully submitted,

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By: 
John F. Carroll
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been served pursuant to a method authorized by the Texas Rules of Civil Procedure on this the 28th day of October 2004, upon the following counsel of record:

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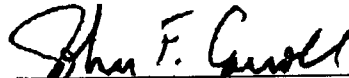
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John F. Carroll

No. 13-04-00543-CV

THIRTEENTH COURT OF APPEALS
CORPUS CHRISTI TEXAS

EDINBURG INDEPENDENT SCHOOL DISTRICT

Appellants,

v.

FINA OIL & CHEMICAL COMPANY, ET AL.

Appellees

Appeal From Cause No. C-401-03-E
275th District Court, Hidalgo County Texas

APPELLANT'S MOTION FOR CONSOLIDATION OF APPEALS

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Counsel for Appellants

APPELLANT'S MOTION FOR CONSOLIDATION OF APPEALS

TO THE HONORABLE JUDGE OF THE THIRTEENTH COURT OF APPEALS:

NOW COMES Edinburg Independent School District, Plaintiff in the above numbered and styled cause and files this its Motion for Consolidation of Appeals and in support thereof would show the Court as follows:

1. The number and style of the instant case is C-401-03-E, Edinburg Independent School District v. Fina Oil & Chemical Company, et al.

2. The following cases pending before this Court are related:

1. C-2166-03-F, Edcouch-Elsa Independent School District v. Chevron U.S.A., Inc. et al.; 332nd District Court of Hidalgo County, Texas
2. Cause No. C-640-03-A, Hidalgo County, Texas v. Texaco, Inc. et al.; 92nd District Court of Hidalgo County, Texas
3. Cause No. C-2195-03-H, McAllen Independent School District v. Fina Oil and Chemical Company, et al.; 38th District Court of Hidalgo County, Texas
4. Cause No. 03-CV-103, Kenedy County v. El Paso Production Oil & Gas Company, et al.; 105th District Court of Kenedy County, Texas
5. Cause No. 03-446-D, Kleberg County et al. v. El Paso Production Oil Y Gas Company; 105th District Court of Kleberg County, Texas
6. Cause No. 03-441-D, Kleberg County, et al. v. Atofina Petrochemicals, Inc. f/k/a Fina Oil & Gas Company et al.; 105th District Court of Kleberg County, Texas
7. Cause No. 03-264, Willacy County v. El Paso Production Oil and Gas Company et al.; 357th District Court of Willacy County, Texas

3. Appellant seeks to consolidate the above related appeals for purposes of briefing and oral argument to promote the efficient termination of these cases by the Court as well as to promote efficiency within the office of counsel for the Appellants.

Procedural Background

4. The above referenced cases are lawsuits filed by counties and school districts as taxing entities against various oil and gas production company defendants, alleging claims and causes of action for fraud arising out of what Plaintiffs allege was a scheme by the various Defendants to fraudulently undervalue mineral interests for real property tax purposes; thereby resulting in an undervaluation of the property for real property tax appraisal purposes with the result that the various Defendants under paid the amount of real property taxes which should have been paid to the various Plaintiffs'. The same claims were made not only in the cases listed in this motion but also in other cases in South Texas (Appeals of which are pending before the Fourth Court of Appeals of Texas) as well as cases filed by various taxing entities in West Texas (undersigned counsel does not represent the West Texas counties). The presiding judges of the Fourth, Fifth, Sixth and Seventh Judicial Administrative Regions were asked to consolidate all of the South Texas and West Texas cases under Rule 11 of the Texas Rules of Judicial Administration before a single pre-trial judge. Following a hearing in Austin, the Judges determined that the West Texas cases should be consolidated for hearing before one pre-trial judge and that the South Texas cases pending in the Fourth and Fifth Administrative Judicial Regions should be consolidated before a different pre-trial judge.

5. The South Texas cases, including those pending before this Court were assigned to the Honorable Tracy Christopher, Judge of the 295th Judicial District Court of Harris County. The Defendants in each of those cases filed Pleas to the Jurisdiction asserting that exclusive jurisdiction of the Plaintiffs' claims was provided for in the Texas Tax Code and that the Plaintiffs' had failed to exhaust administrative remedies by not availing themselves of the procedures set forth in the Texas Tax Code including going before the local appraisal review board with their complaints.

6. On the 10th day of September 2004, Judge Christopher signed Orders in each of the above referenced cases as well as the cases now pending in the Fourth Court of Appeals granting the pleas to the jurisdiction and dismissing the Plaintiffs' claims. Each of the Plaintiffs have timely appealed. Appellants believe that the issues before the Court in each of the appeals listed above will be identical and can more efficiently be briefed and presented to this court through a single consolidated brief on behalf of all the Plaintiffs.

Conference

7. Undersigned counsel for the Appellants provided opposing counsel the attached correspondence regarding the legal question in this motion and received no response.

WHEREFORE, Appellant respectfully requests the Court grant this motion and order that the above listed appeals be consolidated for purposes of briefing and oral argument before the Court and that Appellants in each of the listed cases be directed to file a single consolidated brief asserting all their claims on appeal before the Court.

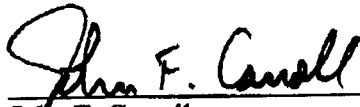
Respectfully submitted,

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By: 

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been served pursuant to a method authorized by the Texas Rules of Civil Procedure on this the 28th day of October 2004, upon the following counsel of record:

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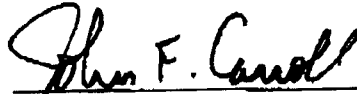
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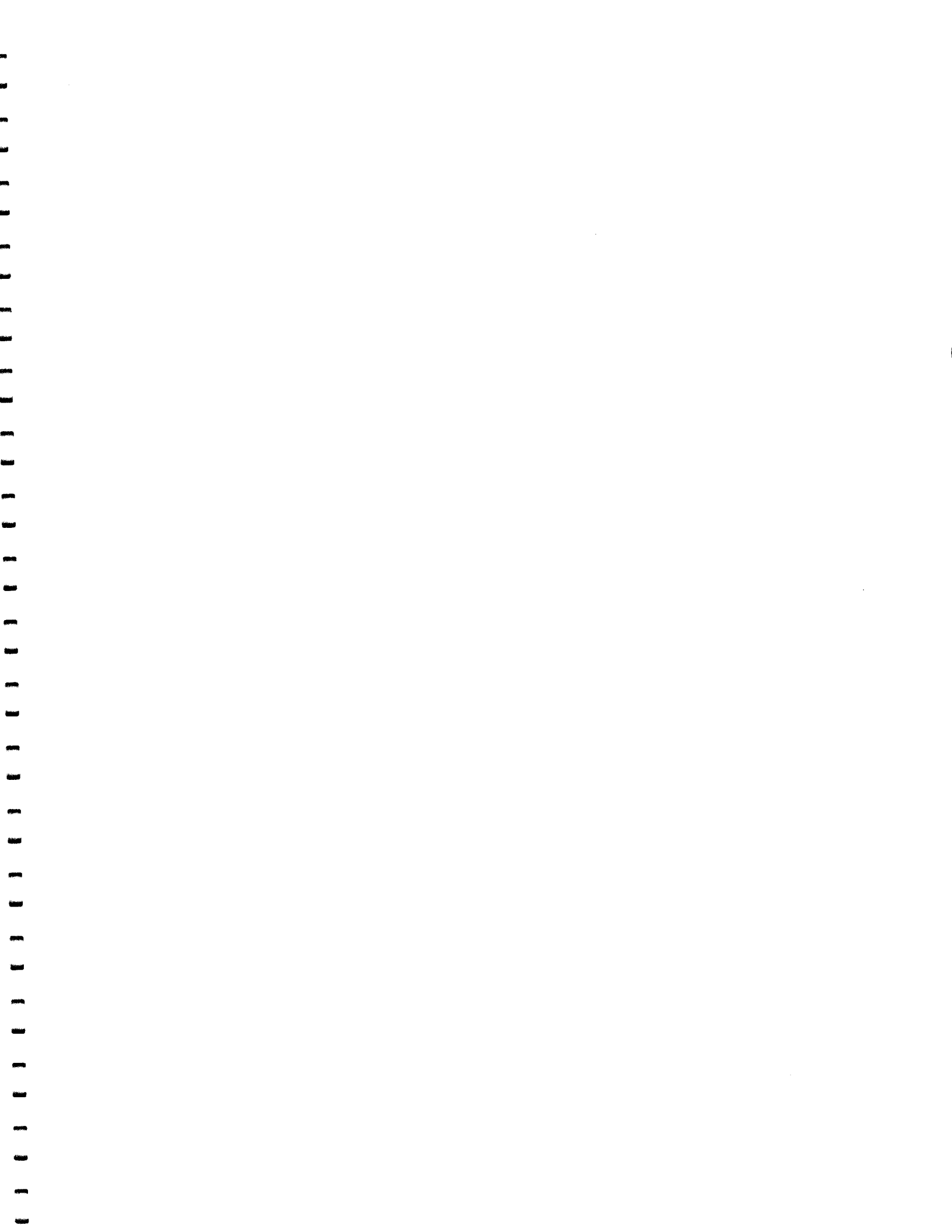
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John F. Carroll



In multi-court counties having two or more court divisions, each division must adopt a single set of local rules which shall govern all courts in the division.

Provisions for fair distribution of the caseload among the judges in the county.

Provisions to ensure uniformity of forms to be used by the courts under Rules 165a and 166, T.R.C.P.

Designation of the responsibility for emergency and special matters.

Plans for judicial vacation, sick leave, attendance at educational programs, and similar matters. Adopted by order of Feb. 4, 1987.

Rule 11. Pretrial Proceedings in Certain Cases

11.1 Applicability. This rule applies to any case filed before September 1, 2003, that involves material questions of fact and law in common with another case pending in another court in another county on or after October 1, 1997.

11.2 Definitions.

(a) *Presiding judge* means the presiding judge of an administrative judicial region in which a case is pending;

(b) *Regular judge* means the regular judge of a court in which a case is pending.

(c) *Pretrial judge* means a judge assigned under this rule.

(d) *Related* means that cases involve common material issues of fact and law.

11.3 Assignment of Pretrial Judge.

(a) *By presiding judge.* On motion or request under 11.4, a presiding judge may assign an active district judge, including himself or herself, to a case to conduct all pretrial proceedings and decide all pretrial matters.

(b) *Authority of pretrial judge.* The pretrial judge will preside over all pretrial proceedings in the case in place of the regular judge. The pretrial judge will decide all pretrial motions, including motions to transfer venue and motions for summary judgment. The pretrial judge and the regular judge must consult on setting a trial date.

(c) *Different judges assigned.* The same pretrial judge need not be assigned in all related cases. If more than one pretrial judge is assigned in related cases, either in the same region or in different regions, the pretrial judges must consult with each other

in conducting pretrial proceedings and deciding pretrial matters.

(d) *Assignment outside region.* The Chief Justice of the Supreme Court may assign an active district judge to other administrative regions to allow the judge to be assigned as a pretrial judge under this rule.

(e) *No objections to pretrial judge.* An assignment under this rule is not made pursuant to section 74.054 of the Government Code, and therefore a pretrial judge is not subject to an objection under section 74.053 of the Government Code.

(f) *Termination of assignment.* An assignment under this rule terminates when:

(i) all pretrial proceedings in a case have been completed;

(ii) the pretrial judge ceases to be an active district judge; or

(iii) the presiding judge in the exercise of discretion terminates the assignment.

11.4 Procedure for Obtaining Assignment of a Pretrial Judge.

(a) *Motion or request required; who may file.* A pretrial judge may be assigned only on the motion of a party to a case or at the request of the regular judge.

(b) *Contents of motion or request.* The motion or request must state:

(1) the number and style of the case;

(2) the number and style of the related case, and the court and county in which it is pending;

(3) the material questions of fact and law common to the cases;

(4) the reasons why the assignment would promote the just and efficient conduct of the action; and

(5) whether all parties agree to the motion.

(c) *Where filed.* The motion or request must be filed in all cases identified under (b)(1) and (b)(2).

(d) *Response.* A response may be filed by:

(1) any other party to the case;

(2) the regular judge of the court in which the case is pending;

(3) the regular judge of the court in which the related case is pending, if no pretrial judge has already been assigned in that case;

(4) the pretrial judge assigned to the related case, if a pretrial judge has already been assigned; and

(5) any party to the related case.

(e) *Briefs.* A motion, request, or response may be accompanied by a brief. The presiding judge may request briefs.

(f) *Hearing.* Unless all parties in the case agree to a motion or request, the presiding judge may not grant the motion without conducting an oral hearing. The hearing may be held in any county within the region or in Travis County. The presiding judge must give notice of the time and place for the hearing to all parties and the regular or pretrial judges in the cases identified in (b)(1) and (b)(2).

(g) *Evidence.* In ruling on the motion or request, the presiding judge may consider all documents filed in the case or the related case, all discovery conducted in the case or the related case, any stipulations filed by the parties in the case or the related case, affidavits filed in connection with the motion, request, or response, and oral testimony.

(h) *Decision.* The presiding judge must grant the motion or request if the judge determines that:

(1) the case involves material questions of fact and law common to a case in another court and county; and

(2) assignment of a pretrial judge would promote the just and efficient conduct of the cases.

Otherwise, the presiding judge must deny the motion or request.

(i) *Order.* The presiding judge must issue an order deciding the motion or request. The order must be filed in the case in which assignment of a pretrial judge was sought.

(j) *Service and notice.* A party must serve any paper filed under this rule on all parties to the cases identified under (b)(1) and (b)(2) and on the presiding judge or judges for those cases. If a judge files any paper under this rule, the clerk of the court in which the paper is filed must send a copy to all parties to the cases identified under (b)(1) and (b)(2) and to the presiding judge or judges for those cases. The clerk of the court where a case is pending in which assignment of a pretrial judge is sought shall serve as the clerk for the presiding judge under this rule.

11.5 Review. A presiding judge's order granting or denying a motion or request for appointment of a pretrial judge may be reviewed only by the Supreme Court in an original mandamus proceeding.

11.6 Expenses of Pretrial Judge. If a pretrial judge travels outside the judge's county of residence to conduct proceedings, the county in which the proceedings are conducted must pay—on certification by the presiding judge of the administrative judicial region in which the other county is located—the pretrial

judge's actual travel expenses and actual living expenses incurred for conducting the proceedings.

11.7 Relationship to Rule 13.

(a) *Generally.* This rule is to be construed and applied so as to facilitate the implementation of Rule 13 to the greatest extent possible.

(b) *Application of Rule 13 by Agreement of the Parties.* Parties may agree to the application of Rule 13. Such an agreement must be in writing and must be joined by all parties to the case. An agreement is effective and irrevocable when it is filed with the trial court if:

(1) no pretrial judge has been appointed in the case, or

(2) a pretrial judge has been appointed in the case, and the parties in all related cases to which the same pretrial judge has been assigned have likewise agreed to the application of Rule 13.

(c) *Assignments of Pretrial Judges After September 1, 2003.* An assignment of a pretrial judge to any case after September 1, 2003, must be made in consultation with the Chair of the Multidistrict Litigation Panel.

(d) *Consultation of Pretrial Judges.* In conducting pretrial proceedings and deciding pretrial matters, a pretrial judge assigned under this rule must consult with the judge of a pretrial court to which related cases have been transferred under Rule 13.

Adopted by Supreme Court Order eff. Oct. 1, 1997; Amended by Supreme Court Order eff. Nov. 12, 1997; Order of Aug. 29, 2003, eff. Aug. 31, 2003.

Rule 12. Public Access to Judicial Records

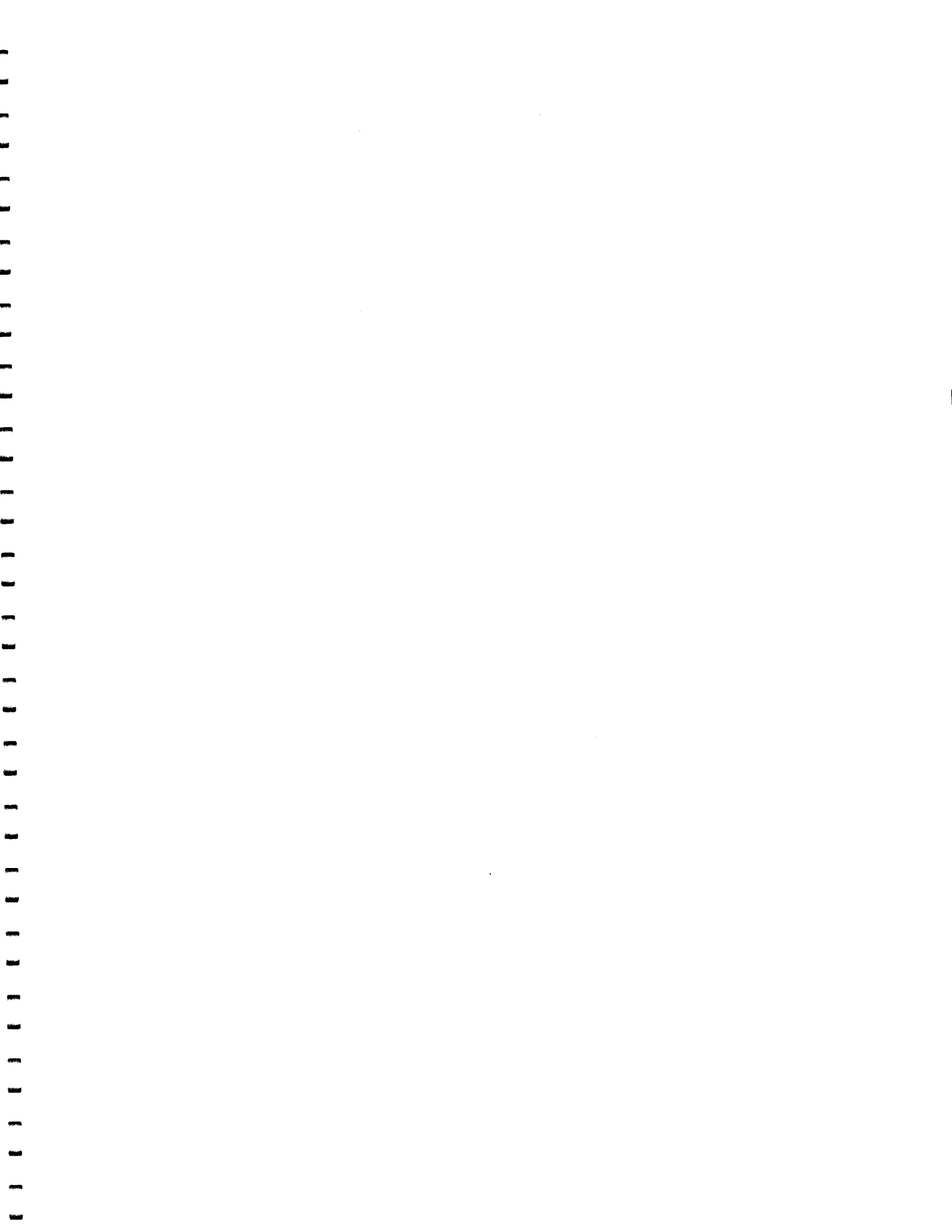
12.1 Policy. The purpose of this rule is to provide public access to information in the judiciary consistent with the mandates of the Texas Constitution that the public interests are best served by open courts and by an independent judiciary. The rule should be liberally construed to achieve its purpose.

12.2 Definitions. In this rule:

(a) Judge means a regularly appointed or elected judge or justice.

(b) Judicial agency means an office, board, commission, or other similar entity that is in the Judicial Department and that serves an administrative function for a court. A task force or committee created by a court or judge is a "judicial agency".

(c) Judicial officer means a judge, former or retired visiting judge, referee, commissioner, special master, court-appointed arbitrator, or other person exercising adjudicatory powers in the judiciary. A mediator or



records are not subject to disclosure under this rule, even though no law affirmatively makes their records confidential. The Board of Law Examiners is partly subject to the Act and partly exempt, Tex. Gov't Code § 82.003, and therefore this rule is inapplicable to it. An example of a judicial agency subject to the rule is the Supreme Court Advisory Committee, which is neither subject to nor expressly excepted from the Act, and whose records are not made confidential by any law.

2. As stated in Rule 12.4, this rule does not require the creation or retention of records, but neither does it permit the destruction of records that are required to be maintained by statute or other law, such as Tex. Gov't Code §§ 441.158-167, .180-203; Tex. Local Gov't Code ch. 203; and 13 Tex. Admin. Code § 7.122.

3. Rule 12.8 allows a records custodian to deny a record request that would substantially and unreasonably impede the routine operation of the court or judicial agency. As an illustration, and not by way of limitation, a request for "all judicial records" that is submitted every day or even every few days by the same person or persons acting in concert could substantially and unreasonably impede the operations of a court or judicial agency that lacked the staff to respond to such repeated requests.

Rule 13. Multidistrict Litigation

13.1 Authority and Applicability.

(a) *Authority.* This rule is promulgated under sections 74.161-164 of the Texas Government Code.

(b) *Applicability.* This rule applies to civil actions that involve one or more common questions of fact and that were filed in a constitutional county court, county court at law, probate court, or district court on or after September 1, 2003. Cases filed before that date are governed by Rule 11 of these rules.

13.2 Definitions. As used in this rule:

(a) *MDL Panel* means the judicial panel on multidistrict litigation designated pursuant to section 74.161 of the Texas Government Code, including any temporary members designated by the Chief Justice of the Supreme Court of Texas in his or her discretion when regular members are unable to sit for any reason.

(b) *Chair* means the chair of the MDL Panel, who is designated by the Chief Justice of the Supreme Court of Texas.

(c) *MDL Panel Clerk* means the Clerk of the Supreme Court of Texas.

(d) *Trial court* means the court in which a case is filed.

(e) *Pretrial court* means the district court to which related cases are transferred for consolidated or coordinated pretrial proceedings under this rule.

(f) *Related* means that cases involve one or more common questions of fact.

(g) *Tag-along case* means a case related to cases in an MDL transfer order but not itself the subject of an initial MDL motion or order.

13.3 Procedure for Requesting Transfer.

(a) *Motion for Transfer; Who May File; Contents.* A party in a case may move for transfer of the case and related cases to a pretrial court. The motion must be in writing and must:

(1) state the common question or questions of fact involved in the cases;

(2) contain a clear and concise explanation of the reasons that transfer would be for the convenience of the parties and witnesses and would promote the just and efficient conduct of the cases;

(3) state whether all parties in those cases for which transfer is sought agree to the motion; and

(4) contain an appendix that lists:

(A) the cause number, style, and trial court of the related cases for which transfer is sought; and

(B) all parties in those cases and the names, addresses, telephone numbers, fax numbers, and email addresses of all counsel.

(b) *Request for Transfer by Judges.* A trial court or a presiding judge of an administrative judicial region may request a transfer of related cases to a pretrial court. The request must be in writing and must list the cases to be transferred.

(c) *Transfer on the MDL Panel's Own Initiative.* The MDL Panel may, on its own initiative, issue an order to show cause why related cases should not be transferred to a pretrial court.

(d) *Response; Reply; Who May File; When to File.* Any party in a related case may file:

(1) a response to a motion or request for transfer within twenty days after service of such motion or request;

(2) a response to an order to show cause issued under subparagraph (c) within the time provided in the order; and

(3) a reply to a response within ten days after service of such response.

(e) *Form of Motion, Response, Reply, and Other Documents.* A motion for transfer, response, reply, or other document addressed to the MDL Panel must conform to the requirements of Rule 9.4 of the Texas Rules of Appellate Procedure. Without leave of the MDL Panel, the following must not exceed 20 pages: the portions of a motion to transfer required by

subparagraphs (a)(1)-(2); a response; and a reply. The MDL Panel may request additional briefing from any party.

(f) *Filing.* A motion, request, response, reply, or other document addressed to the MDL Panel must be filed with the MDL Panel Clerk. The MDL Panel Clerk may require that all documents also be transmitted to the clerk electronically. In addition, a party must send a copy of the motion, response, reply, or other document to each member of the MDL Panel.

(g) *Filing Fees.* The MDL Panel Clerk may set reasonable fees approved by the Supreme Court of Texas for filing and other services provided by the clerk.

(h) *Service.* A party must serve a motion, response, reply, or other document on all parties in related cases in which transfer is sought. The MDL Panel Clerk may designate a party or parties to serve a request for transfer on all other parties. Service is governed by Rule 9.5 of the Texas Rules of Appellate Procedure.

(i) *Notice to Trial Court.* A party must file in the trial court a notice — in the form prescribed by the MDL Panel — that a motion for transfer has been filed. The MDL Panel Clerk must cause such notice to be filed when a request for transfer by a judge has been filed.

(j) *Evidence.* The MDL Panel will accept as true facts stated in a motion, response, or reply unless another party contradicts them. A party may file evidence with the MDL Panel Clerk only with leave of the MDL Panel. The MDL Panel may order parties to submit evidence by affidavit or deposition and to file documents, discovery, or stipulations from related cases.

(k) *Hearing.* The MDL Panel may decide any matter on written submission or after an oral hearing before one or more of its members at a time and place of its choosing. Notice of the date of submission or the time and place of oral hearing must be given to all parties in all related cases.

(l) *Decision.* The MDL Panel may order transfer if three members concur in a written order finding that related cases involve one or more common questions of fact, and that transfer to a specified district court will be for the convenience of the parties and witnesses and will promote the just and efficient conduct of the related cases.

(m) *Orders Signed by Chair or Clerk; Members Identified.* Every order of the MDL Panel must be signed by either the chair or by the MDL Panel

Clerk, and must identify the members of the MDL Panel who concurred in the ruling.

(n) *Notice of Actions by MDL Panel.* The MDL Panel Clerk must give notice to all parties in all related cases of all actions of the MDL Panel, including orders to show cause, settings of submissions and oral arguments, and decisions. The MDL Panel Clerk may direct a party or parties to give such notice. The clerk may determine the manner in which notice is to be given, including that notice should be given only by email or fax.

(o) *Retransfer.* On its own initiative, on a party's motion, or at the request of the pretrial court, the MDL Panel may order cases transferred from one pretrial court to another pretrial court when the pretrial judge has died, resigned, been replaced at an election, requested retransfer, recused, or been disqualified, or in other circumstances when retransfer will promote the just and efficient conduct of the cases.

13.4 Effect on the Trial Court of the Filing of a Motion for Transfer.

(a) *No Automatic Stay.* The filing of a motion under this rule does not limit the jurisdiction of the trial court or suspend proceedings or orders in that court.

(b) *Stay of Proceedings.* The trial court or the MDL Panel may stay all or part of any trial court proceedings until a ruling by the MDL Panel.

13.5 Transfer to a Pretrial Court.

(a) *Transfer Effective upon Notice.* A case is deemed transferred from the trial court to the pretrial court when a notice of transfer is filed with the trial court and the pretrial court. The notice must:

(1) list all parties who have appeared and remain in the case, and the names, addresses, phone numbers, and bar numbers of their attorneys or, if a party is pro se, the party's name, address, and phone number;

(2) list those parties who have not yet appeared in the case; and

(3) attach a copy of the MDL transfer order.

(b) *No Further Action in Trial Court.* After notice of transfer is filed in the trial court, the trial court must take no further action in the case except for good cause stated in the order in which such action is taken and after conferring with the pretrial court. But service of any process already issued by the trial court may be completed and the return filed in the pretrial court.

(c) *Transfer of Files; Master File and New Files in the Pretrial Court.* If the trial court and pretrial court are in the same county, the trial court must transfer the case file to the pretrial court in accordance with local rules governing the courts of that county. If the trial court and pretrial court are not in the same county, the trial court clerk must transmit the case file to the pretrial court clerk. The pretrial court clerk, after consultation with the judge of the pretrial court, must establish a master file and open new files for each case transferred using the information provided in the notice of transfer. The pretrial court may direct the manner in which pretrial documents are filed, including electronic filing.

(d) *Filing Fees and Costs.* Unless the MDL Panel assesses costs otherwise, the party moving for transfer must pay the cost of refileing the transferred cases in the pretrial court, including filing fees and other reasonable costs.

(e) *Transfer of Tag-along Cases.* A tag-along case is deemed transferred to the pretrial court when a notice of transfer — in the form described in Rule 13.5(a) — is filed in both the trial court and the pretrial court. Within 30 days after service of the notice, a party to the case or to any of the related cases already transferred to the pretrial court may move the pretrial court to remand the case to the trial court on the ground that it is not a tag-along case. If the motion to remand is granted, the case must be returned to the trial court, and costs including attorney fees may be assessed by the pretrial court in its remand order. The order of the pretrial court may be appealed to the MDL Panel by a motion for rehearing filed with the MDL Panel Clerk.

13.6 Proceedings in Pretrial Court.

(a) *Judges Who May Preside.* The MDL Panel may assign as judge of the pretrial court any active district judge, or any former or retired district or appellate judge who is approved by the Chief Justice of the Supreme Court of Texas. An assignment under this rule is not subject to objection under chapter 74 of the Government Code. The judge assigned as judge of the pretrial court has exclusive jurisdiction over each related case transferred pursuant to this rule unless a case is retransferred by the MDL Panel or is finally resolved or remanded to the trial court for trial.

(b) *Authority of Pretrial Court.* The pretrial court has the authority to decide, in place of the trial court, all pretrial matters in all related cases transferred to the court. Those matters include, for example, jurisdiction, joinder, venue, discovery, trial preparation (such as motions to strike expert witnesses, preadmission of

exhibits, and motions in limine), mediation, and disposition by means other than conventional trial on the merits (such as default judgment, summary judgment, and settlement). The pretrial court may set aside or modify any pretrial ruling made by the trial court before transfer over which the trial court's plenary power would not have expired had the case not been transferred.

(c) *Case Management.* The pretrial court should apply sound judicial management methods early, continuously, and actively, based on its knowledge of each individual case and the entire litigation, in order to set fair and firm time limits tailored to ensure the expeditious resolution of each case and the just and efficient conduct of the litigation as a whole. After a case is transferred, the pretrial court should, at the earliest practical date, conduct a hearing and enter a case management order. The pretrial court should consider at the hearing, and its order should address, all matters pertinent to the conduct of the litigation, including:

- (1) settling the pleadings;
- (2) determining whether severance, consolidation, or coordination with other actions is desirable and whether identification of separable triable portions of the case is desirable;
- (3) scheduling preliminary motions;
- (4) scheduling discovery proceedings and setting appropriate limitations on discovery, including the establishment and timing of discovery procedures;
- (5) issuing protective orders;
- (6) scheduling alternative dispute resolution conferences;
- (7) appointing organizing or liaison counsel;
- (8) scheduling dispositive motions;
- (9) providing for an exchange of documents, including adopting a uniform numbering system for documents, establishing a document depository, and determining whether electronic service of discovery materials and pleadings is warranted;
- (10) determining if the use of technology, videoconferencing, or teleconferencing is appropriate;
- (11) considering such other matters the court or the parties deem appropriate for the just and efficient resolution of the cases; and
- (12) scheduling further conferences as necessary.

(d) *Trial Settings.* The pretrial court, in conjunction with the trial court, may set a transferred case for trial at such a time and on such a date as will promote the convenience of the parties and witnesses and the just and efficient disposition of all related proceedings. The pretrial court must confer, or order the parties to confer, with the trial court regarding

potential trial settings or other matters regarding remand. The trial court must cooperate reasonably with the pretrial court, and the pretrial court must defer appropriately to the trial court's docket. The trial court must not continue or postpone a trial setting without the concurrence of the pretrial court.

13.7 Remand to Trial Court.

(a) *No Remand If Final Disposition by Pretrial Court.* A case in which the pretrial court has rendered a final and appealable judgment will not be remanded to the trial court.

(b) *Remand.* The pretrial court may order remand of one or more cases, or separable triable portions of cases, when pretrial proceedings have been completed to such a degree that the purposes of the transfer have been fulfilled or no longer apply.

(c) *Transfer of Files.* When a case is remanded to the trial court, the clerk of the pretrial court will send the case file to the trial court without retaining a copy unless otherwise ordered. The parties may file in the remanded case copies of any pleadings or orders from the pretrial court's master file. The clerk of the trial court will reopen the trial court file under the cause number of the trial court, without a new filing fee.

13.8 Pretrial court orders binding in the trial court after remand.

(a) *Generally.* The trial court should recognize that to alter a pretrial court order without a compelling justification would frustrate the purpose of consolidated and coordinated pretrial proceedings. The pretrial court should recognize that its rulings should not unwisely restrict a trial court from responding to circumstances that arise following remand.

(b) *Concurrence of the Pretrial Court Required to Change Its Orders.* Without the written concurrence of the pretrial court, the trial court cannot, over

objection, vacate, set aside, or modify pretrial court orders, including orders related to summary judgment, jurisdiction, venue, joinder, special exceptions, discovery, sanctions related to pretrial proceedings, privileges, the admissibility of expert testimony, and scheduling.

(c) *Exceptions.* The trial court need not obtain the written concurrence of the pretrial court to vacate, set aside, or modify pretrial court orders regarding the admissibility of evidence at trial (other than expert evidence) when necessary because of changed circumstances, to correct an error of law, or to prevent manifest injustice. But the trial court must support its action with specific findings and conclusions in a written order or stated on the record.

(d) *Unavailability of Pretrial Court.* If the pretrial court is unavailable to rule, for whatever reason, the concurrence of the MDL Panel Chair must be obtained.

13.9 Review.

(a) *MDL Panel Decision.* Orders of the MDL Panel, including those granting or denying motions for transfer, may be reviewed only by the Supreme Court in original proceedings.

(b) *Orders by the Trial Court and Pretrial Court.* Orders and judgments of the trial court and pretrial court may be reviewed by the appellate court that regularly reviews orders of the court in which the case is pending at the time review is sought, irrespective of whether that court issued the order or judgment to be reviewed.

13.10 MDL Panel Rules. The MDL Panel will operate at the direction of its Chair in accordance with rules prescribed by the panel and approved by the Supreme Court of Texas.

Adopted by order of Aug. 29, 2003, eff. Sept. 1, 2003.

