

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 97- **9199**

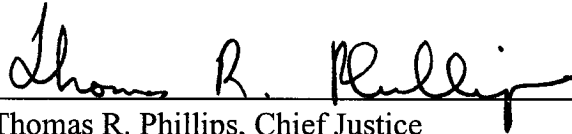
**APPROVAL OF LOCAL RULES FOR THE COURT OF APPEALS
SECOND JUDICIAL DISTRICT, TEXAS**


ORDERED that:

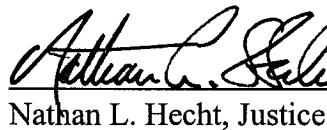
Pursuant to Texas Rule of Appellate Procedure 1.2, the Supreme Court approves the Second Court of Appeals Local Rules, which have been submitted to this Court.

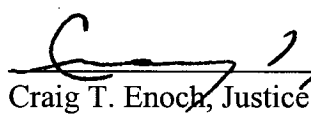
The approval of these rules is temporary, pending further orders of the Court.

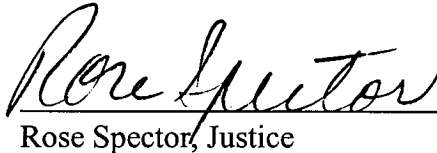
SIGNED AND ENTERED this 12th day of November, 1997.

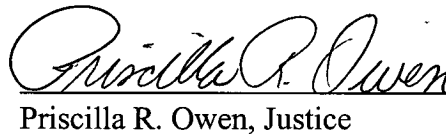

Thomas R. Phillips, Chief Justice

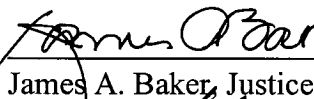

Raul A. Gonzalez, Justice

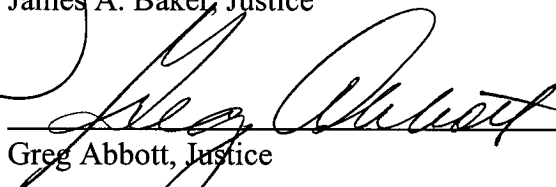

Nathan L. Hecht, Justice

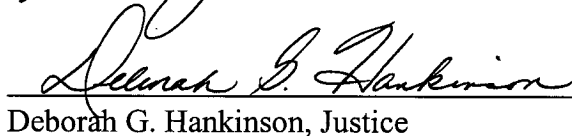

Craig T. Enoch, Justice


Rose Spector, Justice


Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice


Deborah G. Hankinson, Justice



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS**

CHIEF JUSTICE
JOHN CAYCE

100 W. WEATHERFORD ST.

FORT WORTH, TEXAS 76196

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YVONNE PALMER

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LEE ANN DAUPHINOT
DAVID RICHARDS
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STEPHANIE LAVAKE

CHIEF STAFF ATTORNEY
JANETTE THOMPSON

SECOND COURT OF APPEALS LOCAL RULES

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RULE 1. BRIEFS

All briefs, in both civil and criminal cases, shall conform to Rules 9 and 38 of the Texas Rules of Appellate Procedure and shall also meet the following requirements, unless the court, upon motion, permits an exception to the rules:

A. Cover. The front cover of the brief shall:

- (1) State the court of appeals case number;
- (2) Be addressed to the Court of Appeals for the Second District of Texas;
- (3) Name all appellants and appellees in the style of the case;
- (4) Identify the party for whom the brief is filed and the type of brief, if other than an original brief, for example, "Appellant's Amended Brief," "Appellant's Supplemental Brief," "Appellee's Reply Brief";
- (5) Identify the presiding judge and the trial court from which the appeal is taken, for example, "Appeal from the [number] District Court, [name] County, Texas, the Hon. [name] presiding;
- (6) State the name, address, telephone number, facsimile number, if any, and state bar identification number of the attorney who has signed the brief; and
- (7) State whether the party requests oral argument.
- (8) In civil cases, the court prefers that the cover of the brief of the appellant be light blue; that of the appellee, red; that of an intervenor or amicus curiae, green; that of any reply brief, gray. In criminal cases, the court prefers that the cover of the brief of the appellant be light blue or white, and that of the State (or appellee when the State appeals under article 44.01 of the Texas Code of Criminal Procedure) yellow or white.

B. Amended Briefs. An amended brief shall replace the brief that it is amending.

C. Motions for Leave to File Briefs. The appellant's opening brief, the appellee's opening brief, and the appellant's reply brief may be filed without leave of court, if their filing is timely. After the appellee's brief has been timely filed, any later brief merely replying to the last brief filed will be filed without a motion, if tendered at least seven (7) days prior to the date of the scheduled oral argument or submission date. All other briefs, including amended briefs, supplemental briefs, post-submission briefs, and letter briefs must be accompanied by a motion for leave to file, unless the brief is requested by the court.

E. Letter Briefs. Letter briefs shall be addressed to the clerk and shall refer to the style and number of the case. They shall be double-spaced, except for the address to the clerk.

F. Number of Copies. The original and four (4) copies of every brief shall be filed with the clerk.

G. Signature. The original copy of the brief shall be signed by the attorney of record or by the party, if the party is not represented by an attorney.

H. Length. Absent leave of court, briefs shall not be longer than the following page limits:

<u>Brief</u>	<u>Page Limit</u>
Appellant's opening brief	50
Appellee's opening brief	50
Reply brief	25
Letter brief	2
All other briefs	15

The aggregate number of pages of all briefs filed by a party must not exceed 90 pages, absent leave of court. An amended brief shall have the same page limit as the brief that it replaces. A party who wishes to file a brief that exceeds these page limits shall file a motion for leave and shall attach a copy of the proposed brief to that motion.

I. Summary of the Argument. The summary of the argument should seldom exceed two and never five pages.

J. Appendix. The appendix should be placed at the end of the brief, where practicable. If separately bound, the original and four (4) copies of the appendix shall be filed with the clerk.

K. Filing Dates. The court will set filing dates for appellant's and appellee's opening briefs and appellant's reply brief when the record is filed. The clerk will give the parties notice of said filing dates. Motions to extend the filing dates for briefs will not be granted except for good cause.

RULE 2. ORIGINAL PROCEEDINGS

Original proceedings shall be governed by Rule 52 of the Texas Rules of Appellate Procedure, Local Rule 1, and this rule.

A. Number of Copies. The original and four (4) copies of all documents in an original proceeding shall be filed with the clerk.

B. Notice. If the court is of the tentative opinion that relator is entitled to relief or that a serious question concerning the relief requires further consideration, the clerk shall send the parties notice stating (1) the date the response must be filed, if one has not been filed; (2) the date the relator's reply to the response must be filed, if permitted by the court; (3) whether the court will allow argument or will submit the case without oral argument; (4) if oral argument is permitted, the

date and the time allotted for argument; and (5) the names of the members of the panel to which the case will be argued or submitted, subject to change by the court.

RULE 3. ORAL ARGUMENT

Oral argument shall be governed by Rule 39 of the Texas Rules of Appellate Procedure and this rule.

A. Request. A request for oral argument shall be printed on the outside cover of the party's brief. Oral argument must be requested at the time the brief is filed, or it will be deemed waived. Oral argument shall not be requested unless the party requesting argument intends to appear for argument on the date set for submission. Conditional requests for argument (e.g., "Appellant requests oral argument only if oral argument is requested by appellee.") are acceptable.

B. Notice.

(1) **When Argument Requested.** In the event one or more parties request argument in the manner prescribed by Rule 39 and this rule, the clerk shall send to the parties — at least 21 days before the case is set for argument or submission without argument — the notice required under Rule 39.9.

(2) **When Argument Not Requested.** Any party who wishes that the case be submitted without oral argument should state that argument is not requested on the cover of their brief. If all parties request that the case be submitted without oral argument, or if no party requests oral argument, and the court decides that oral argument will not significantly aid the court in determining the issues presented in the appeal, the clerk shall send the parties a notice stating the case will be submitted without oral argument and the names of the members of the panel to which the case will be submitted, subject to change by the court.

D. Time Allowed. Unless additional time is granted by the presiding justice of the panel to which the case is assigned, oral argument will be limited to fifteen (15) minutes for the appellant's opening argument, fifteen (15) minutes for the appellee's argument, and five (5) minutes for the appellant's rebuttal. Requests for additional time must be made by motion filed at least ten (10) days prior to the scheduled submission date.

E. Continuance. After a case has been set for argument, oral argument may be continued only by an order of the court for good cause. It may not be continued by agreement of the parties.

F. Waiver. A party who desires to waive an oral argument that has been previously requested or scheduled must notify the clerk and all opposing parties at least seven (7) days prior to the scheduled submission date.

G. Failure to Appear. Unless argument is continued or waived under these rules, lead counsel for each party or his or her designee scheduled for oral argument shall appear in the courtroom at the time set for oral argument. Failure to appear will be looked upon with disfavor.

RULE 4. MOTIONS

All motions shall comply with Rules 9 and 10 of the Texas Rules of Appellate Procedure and this rule.

A. Number of Copies. Only the original of a motion shall be filed.

B. Signatures and Certificates. In both civil and criminal cases, all motions shall contain an original signature, a certificate of service, and, except motions for rehearing, a certificate of conference stating substantially one of the following:


- i. A conference was held on [date] with the opposing party on the merits of this motion, and the opposing party [does][does not] oppose the motion.
- ii. A conference was not held with the opposing party because [explanation].

C. Motions for Extension of Time in Criminal Cases. In addition to complying with Rule 10 of the Texas Rules of Appellate Procedure, all motions for extension of time in criminal cases shall state whether the defendant is incarcerated.

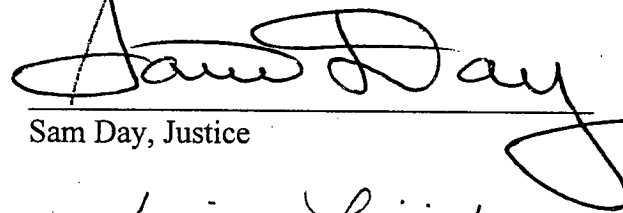
RULE 5. WITHDRAWAL OF RECORD ON APPEAL

In civil cases not under submission, attorneys may check out the record from the clerk by completing a receipt. In criminal cases, records must be checked out through the district clerk's office or county clerk's office. While a case is under submission, attorneys may not check out the court of appeals record except on the order of the court. An attorney who checks out the record shall return it promptly to the clerk on demand. Pro se parties may inspect the record only on the premises of this court.

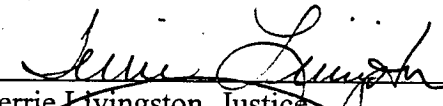
Signed this 28th day of August, 1997.



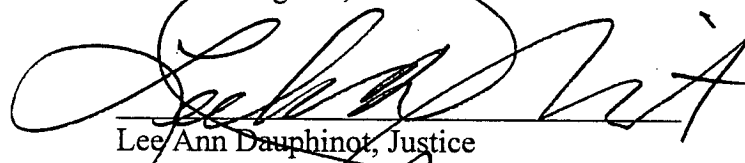
John Hill Cayce, III, Chief Justice



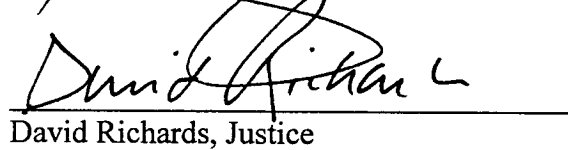
Sam Day, Justice



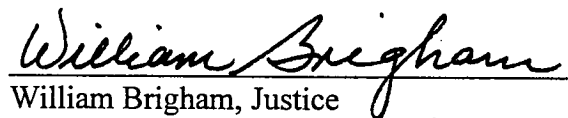
Terrie Livingston, Justice



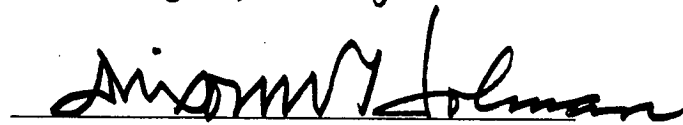
Lee Ann Dauphinot, Justice



David Richards, Justice



William Brigham, Justice



Dixon W. Holman, Justice



THE SUPREME COURT OF TEXAS

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THOMAS R. PHILLIPS

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JAMES A. BAKER
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EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

November 12, 1997

Chief Justice John Cayce
Second Court of Appeals
100 West Weatherford
Fort Worth, Texas 79196

Dear Chief Justice Cayce,

Please find enclosed, a copy of the order of the Supreme Court that approved local rules for the Second Court of Appeals.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Ms. Yvonne Palmer

Supreme Court Adv Committee

Mr. Jerry Benedict
Office of Court Admin

State Law Library