

# IN THE COURT OF CRIMINAL APPEALS

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Misc. Docket No. 13-003

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## ORDER ADOPTING AMENDMENTS TO THE TEXAS RULES OF APPELLATE PROCEDURE

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ORDERED that:

1. Pursuant to section 22.108 of the Texas Government Code, the Court of Criminal Appeals amends Rules of Appellate Procedure 6, 9, 37, 48, 68, 70, 71, and 73, Appendix C, Appendix F: Application for a Writ of Habeas Corpus and Appendix G; Appendix E: Order Directing the Form of the Appellate Record in Criminal Cases and Appendix H: Order Regarding Court of Appeals Clerk Preparing Record to Send to the Court of Criminal Appeals is repealed, effective January 1, 2014.

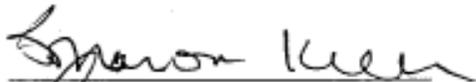
2. Pursuant to Texas Rule of Appellate Procedure 34.4, the Court of Criminal Appeals orders that the appellate record be in the form attached as Appendix C.

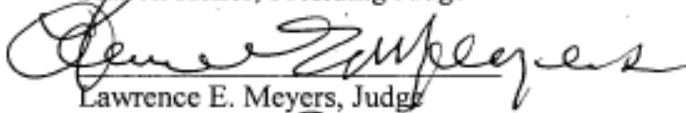
3. By order dated September 18, 2013, in Misc. Docket No. 13-2, the Court proposed the adoption of Rules of Appellate Procedure 6, 9, 68, and 73, the Appendix: Application for Writ of Habeas Corpus; Rule 34.4 and Appendix C; and Appendix G. The Court also invited public comment. Following public comment, the Court made revisions to the rules and to the appendix. This order incorporates those revisions and contains the final version of the rules and appendix, effective January 1, 2014.

4. These rules supersede all local rules of the courts of appeals on electronic filing.

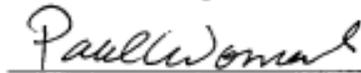
5. The Clerk is directed to:
- a. file a copy of this order with the Secretary of State;
  - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the Texas Bar Journal;
  - c. send a copy of this order to each elected member of the Legislature; and
  - d. submit a copy of the order for publication in the Texas Register.

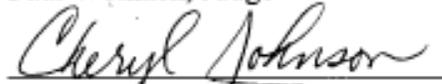
SIGNED AND ENTERED this 11<sup>th</sup> day of December, 2013.

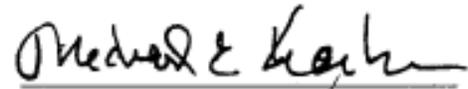
  
Sharon Keller, Presiding Judge

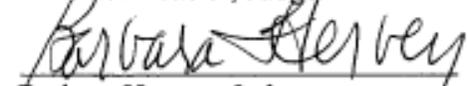
  
Lawrence E. Meyers, Judge

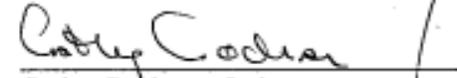
  
Tom Price, Judge

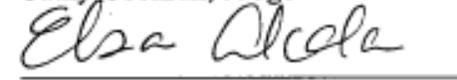
  
Paul Womack, Judge

  
Cheryl Johnson, Judge

  
Michael Keasler, Judge

  
Barbara Hervey, Judge

  
Cathy Cochran, Judge

  
Elsa Alcala, Judge

# IN THE SUPREME COURT OF TEXAS

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Misc. Docket No. 13-9165

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**ORDER ADOPTING TEXAS RULE OF CIVIL PROCEDURE 21c AND AMENDMENTS  
TO TEXAS RULES OF CIVIL PROCEDURE 4, 21, 21a, 45, 57, AND 502; TEXAS  
RULES OF APPELLATE PROCEDURE 6, 9, AND 48; AND THE SUPREME COURT  
ORDER DIRECTING THE FORM OF THE APPELLATE RECORD**

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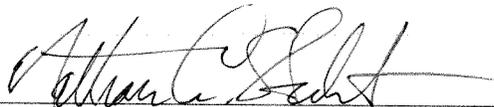
**ORDERED** that:

1. Pursuant to section 22.004 of the Texas Government Code, and in accordance with Misc. Docket No. 12-9206, as amended by Misc. Docket Nos. 13-9092 and 13-9164, Order Requiring Electronic Filing in Certain Courts, the Supreme Court of Texas adopts Rule of Civil Procedure 21c and amends Rules of Civil Procedure 4, 21, 21a, 45, 57, and 502 and Rules of Appellate Procedure 6, 9, and 48.
2. Pursuant to Texas Rule of Appellate Procedure 34.4, the Supreme Court orders that the appellate record be in the form attached as Appendix C.
3. By order dated August 16, 2013, in Misc. Docket No. 13-9128, the Court proposed the adoption of Rule of Civil Procedure 21c and amendments to Rules of Civil Procedure 4, 21, 21a, and 502; Rules of Appellate Procedure 6 and 9; and Appendix C to the Rules of Appellate Procedure. The Court also invited public comment. Following public comment, the Court made revisions to the rules and to the appendix. This order incorporates those revisions and contains the final version of the rules and appendix, effective January 1, 2014.
4. These rules supersede all local rules and templates on electronic filing, including all county and district court local rules based on e-filing templates; the justice court e-filing rules, approved in Misc. Docket No. 07-9200; the Supreme Court e-filing rules, approved in Misc. Docket No. 11-9152; the appellate e-filing templates, approved in Misc. Docket 11-9118; and local rules of courts of appeals based on those templates.

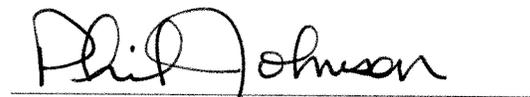
5. The Clerk is directed to:

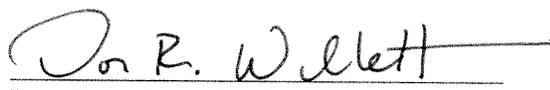
- a. file a copy of this order with the Secretary of State;
- b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
- c. send a copy of this order to each elected member of the Legislature; and
- d. submit a copy of the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

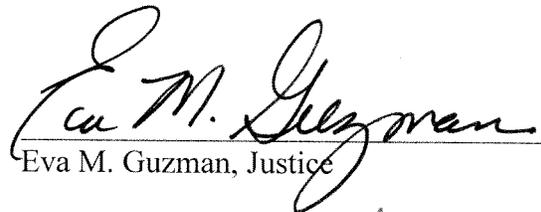
Dated: December <sup>13<sup>th</sup></sup>, 2013.

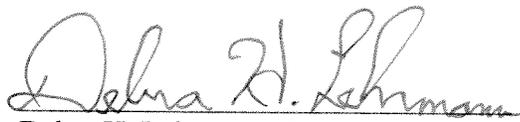
  
Nathan L. Hecht, Chief Justice

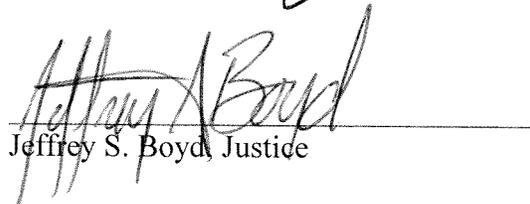
  
Paul W. Green, Justice

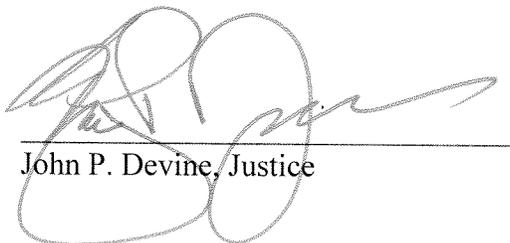
  
Phil Johnson, Justice

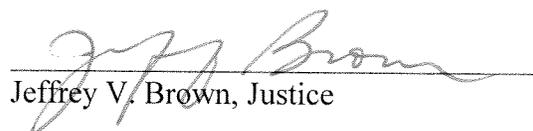
  
Don R. Willett, Justice

  
Eva M. Guzman, Justice

  
Debra H. Lehmann, Justice

  
Jeffrey S. Boyd, Justice

  
John P. Devine, Justice

  
Jeffrey V. Brown, Justice

Amendments to Rule 4, Texas Rule of Civil Procedure

**RULE 4. COMPUTATION OF TIME**

In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. Saturdays, Sundays, and legal holidays shall not be counted for any purpose in any time period of five days or less in these rules, except that Saturdays, Sundays, and legal holidays shall be counted for purpose of the three-day periods in Rules 21 and 21a, extending other periods by three days when service is made by registered or certified mail, or by telephonic document transfer, and for purposes of the five-day periods provided for under Rules 748, 749, 749a, 749b, and 749c.

Amendments to Rule 21, Texas Rule of Civil Procedure

**RULE 21. FILING AND SERVING PLEADINGS AND MOTIONS**

(a) *Filing and Service Required.* Every pleading, plea, motion, or application to the court for an order, whether in the form of a motion, plea, or other form of request, unless presented during a hearing or trial, shall must be filed with the clerk of the court in writing, shall must state the grounds therefor, shall must set forth the relief or order sought, and at the same time a true copy shall must be served on all other parties, and shall must be noted on the docket.

(b) *Service of Notice of Hearing.* An application to the court for an order and notice of any hearing thereon, not presented during a hearing or trial, shall must be served upon all other parties not less than three days before the time specified for the hearing, unless otherwise provided by these rules or shortened by the court.

(c) *Multiple Parties.* If there is more than one other party represented by different attorneys, one copy of each such pleading shall must be served on ~~delivered or mailed to~~ each attorney in charge.

(d) *Certificate of Service.* The party or attorney of record, shall must certify to the court compliance with this rule in writing over signature on the filed pleading, plea, motion, or application.

(e) *Additional Copies.* After one copy is served on a party, that party may obtain another copy of the same pleading upon tendering reasonable payment for copying and delivering.

(f) Electronic Filing.

(1) Requirement. Except in juvenile cases under Title 3 of the Family Code, attorneys must electronically file documents in courts where electronic filing has been mandated. Attorneys practicing in courts where electronic filing is available but not mandated and unrepresented parties may electronically file documents, but it is not required.

(2) Email Address. The email address of an attorney or unrepresented party who electronically files a document must be included on the document.

(3) Mechanism. Electronic filing must be done through the electronic filing manager established by the Office of Court Administration and an electronic filing service provider certified by the Office of Court Administration.

(4) Exceptions.

(A) Wills are not required to be filed electronically.

(B) The following documents must not be filed electronically:

(i) documents filed under seal or presented to the court in camera; and

(ii) documents to which access is otherwise restricted by law or court order.

(C) For good cause, a court may permit a party to file other documents in paper form in a particular case.

(5) Timely Filing. Unless a document must be filed by a certain time of day, a document is considered timely filed if it is electronically filed at any time before midnight (in the court's time zone) on the filing deadline. An electronically filed document is deemed filed when transmitted to the filing party's electronic filing service provider, except:

(A) if a document is transmitted on a Saturday, Sunday, or legal holiday, it is deemed filed on the next day that is not a Saturday, Sunday, or legal holiday; and

(B) if a document requires a motion and an order allowing its filing, the document is deemed filed on the date that the motion is granted.

(6) Technical Failure. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from the court. If the missed deadline is one imposed by these rules, the filing party must be given a reasonable extension of time to complete the filing.

(7) Electronic Signatures. A document that is electronically served, filed, or issued by a court or clerk is considered signed if the document includes:

(A) a “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or

(B) an electronic image or scanned image of the signature.

(8) Format. An electronically filed document must:

(A) be in text-searchable portable document format (PDF);

(B) be directly converted to PDF rather than scanned, if possible;

(C) not be locked; and

(D) otherwise comply with the Technology Standards set by the Judicial Committee on Information Technology and approved by the Supreme Court.

(9) Paper Copies. Unless required by local rule, a party need not file a paper copy of an electronically filed document.

(10) Electronic Notices From the Court. The clerk may send notices, orders, or other communications about the case to the party electronically. A court seal may be electronic.

(11) Non-Conforming Documents. The clerk may not refuse to file a document that fails to conform with this rule. But the clerk may identify the error to be corrected and state a deadline for the party to resubmit the document in a conforming format.

(12) Original Wills. When a party electronically files an application to probate a document as an original will, the original will must be filed with the clerk within three business days after the application is filed.

(13) Official Record. The clerk may designate an electronically filed document or a scanned paper document as the official court record. The clerk is not required to keep both paper and electronic versions of the same document unless otherwise required by local rule. But the clerk must retain an original will filed for probate in a numbered file folder.

Comment to 2013 Change: Rule 21 is revised to incorporate rules for electronic filing, in accordance with the Supreme Court's order – Misc. Docket No. 12-9206, amended by Misc. Docket Nos. 13-9092 and 13-9164 – mandating electronic filing in civil cases beginning on January 1, 2014. The mandate will be implemented according to the schedule in the order and will be completed by July 1, 2016. The revisions reflect the fact that the mandate will only apply to a subset of Texas courts until that date.

Amendments to Rule 21a, Texas Rule of Civil Procedure

### **RULE 21a. METHODS OF SERVICE**

(a) *Methods of Service.* Every notice required by these rules, and every pleading, plea, motion, or other form of request required to be served under Rule 21, other than the citation to be served upon the filing of a cause of action and except as otherwise expressly provided in these rules, may be served by delivering a copy to the party to be served, or the party's duly authorized agent or attorney of record, ~~as the case may be, either~~ in the manner specified below:

(1) Documents Filed Electronically. A document filed electronically under Rule 21 must be served electronically through the electronic filing manager if the email address of the party or attorney to be served is on file with the electronic filing manager. If the email address of the party or attorney to be served is not on file with the electronic filing manager, the document may be served on that party or attorney under subparagraph (2).

(2) Documents Not Filed Electronically. A document not filed electronically may be served ~~either in person, or by agent or by courier receipted delivery or by certified or registered mail, to the party's last known address, by commercial delivery service, or by fax, telephonic document transfer to the recipient's current telecopier number, by email,~~ or by such other manner as the court in its discretion may direct.

(b) *When Complete.*

(1) Service by mail or commercial delivery service shall be complete upon deposit of the paper document, postpaid and properly addressed, in the mail or with a commercial

~~delivery service, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.~~

(2) Service by fax is complete on receipt. Service completed after 5:00 p.m. local time of the recipient shall be deemed served on the following day.

(3) Electronic service is complete on transmission of the document to the serving party's electronic filing service provider. The electronic filing manager will send confirmation of service to the serving party.

(c) Time for Action After Service. Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, ~~or by telephonic document transfer,~~ three days shall be added to the prescribed period.

(d) Who May Serve. Notice may be served by a party to the suit, an attorney of record, a sheriff or constable, or by any other person competent to testify.

(e) Proof of Service. The party or attorney of record shall certify to the court compliance with this rule in writing over signature and on the filed instrument. A certificate by a party or an attorney of record, or the return of the officer, or the affidavit of any other person showing service of a notice shall be prima facie evidence of the fact of service. Nothing herein shall preclude any party from offering proof that the document ~~notice or instrument~~ was not received, or, if service was by mail, that ~~it~~ the document was not received within three days from the date ~~that it was deposited of deposit in the mail~~ that it was deposited ~~in the mail~~ ~~postoffice or official depository under the care and custody of the United States Postal Service,~~ and upon so finding, the court may extend the time for taking the action required of such party or grant such other relief as it deems just.

(f) Procedures Cumulative. These provisions ~~hereof relating to the method of service of notice~~ are cumulative of all other methods of service prescribed by these rules.

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Comment to 2013 Change: Rule 21a is revised to incorporate rules for electronic service in accordance with the Supreme Court's order – Misc. Docket No. 12-9206, amended by Misc. Docket Nos. 13-9092 and 13-9164 – mandating electronic filing in civil cases beginning on January 1, 2014.

**RULE 21c. PRIVACY PROTECTION FOR FILED DOCUMENTS.**

(a) *Sensitive Data Defined.* Sensitive data consists of:

(1) a driver's license number, passport number, social security number, tax identification number, or similar government-issued personal identification number;

(2) a bank account number, credit card number, or other financial account number;  
and

(3) a birth date, home address, and the name of any person who was a minor when the underlying suit was filed.

(b) *Filing of Documents Containing Sensitive Data Prohibited.* Unless the inclusion of sensitive data is specifically required by a statute, court rule, or administrative regulation, an electronic or paper document, except for wills and documents filed under seal, containing sensitive data may not be filed with a court unless the sensitive data is redacted.

(c) *Redaction of Sensitive Data; Retention Requirement.* Sensitive data must be redacted by using the letter "X" in place of each omitted digit or character or by removing the sensitive data in a manner indicating that the data has been redacted. The filing party must retain an unredacted version of the filed document during the pendency of the case and any related appellate proceedings filed within six months of the date the judgment is signed.

(d) *Notice to Clerk.* If a document must contain sensitive data, the filing party must notify the clerk by:

(1) designating the document as containing sensitive data when the document is electronically filed; or

(2) if the document is not electronically filed, by including, on the upper left-hand side of the first page, the phrase: "NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA."

(e) *Non-Conforming Documents.* The clerk may not refuse to file a document that contains sensitive data in violation of this rule. But the clerk may identify the error to be corrected and state a deadline for the party to resubmit a redacted, substitute document.

(f) *Restriction on Remote Access.* Documents that contain sensitive data in violation of this rule must not be posted on the Internet.

Comment to 2013 Change: Rule 21c is added to provide privacy protection for documents filed in civil cases.

Amendments to Rule 45, Texas Rule of Civil Procedure

**RULE 45. DEFINITION AND SYSTEM**

Pleadings in the district and county court shall

- (a) be by petition and answer;
- (b) consist of a statement in plain and concise language of the plaintiff's cause of action or the defendant's grounds of defense. That an allegation be evidentiary or be of legal conclusion shall not be grounds for an objection when fair notice to the opponent is given by the allegations as a whole; and
- (c) contain any other matter which may be required by any law or rule authorizing or regulating any particular action or defense;
- ~~(d) —~~

Pleadings that are not filed electronically must be in writing, on paper measuring approximately 8 ½ inches by 11 inches, and signed by the party or his attorney, ~~and either the signed original together with any verification or a copy of said original and copy of any such verification shall be filed with the court.~~ The use of recycled paper is strongly encouraged.

~~When a copy of the signed original is tendered for filing, the party or his attorney filing such copy is required to maintain the signed original for inspection by the court or any party incident to the suit, should a question be raised as to its authenticity.~~

All pleadings shall be construed so as to do substantial justice.

Amendments to Rule 57, Texas Rule of Civil Procedure

**RULE 57. SIGNING OF PLEADINGS**

Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, with his State Bar of Texas identification number, address, telephone number, email address, and if available, ~~telecopier~~ fax number. A party not represented by an attorney shall sign his pleadings, state his address, telephone number, email address, and, if available, ~~telecopier~~ fax number.

Amendments to Rule 502, Texas Rule of Civil Procedure

**RULE 502. INSTITUTION OF SUIT**

**RULE 502.1. PLEADINGS AND MOTIONS MUST BE WRITTEN, SIGNED, AND FILED**

Except for oral motions made during trial or when all parties are present, every pleading, plea, motion, application to the court for an order, or other form of request must be written and signed by the party or its attorney and must be filed with the court. A document may be filed with the court by personal or commercial delivery, by mail, or electronically, if the court allows electronic filing. Electronic filing is governed by Rule 21.

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Amendments to Rule 6, Texas Rule of Appellate Procedure

**Rule 6. Representation by Counsel**

**6.1. Lead Counsel**

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(c) *How to Designate.* The original or a new lead counsel may be designated by filing a notice stating that attorney's name, mailing address, telephone number, fax number, if any, email address, and State Bar of Texas identification number. If a new lead counsel is being designated, both the new attorney and either the party or the former lead counsel must sign the notice.

**6.2. Appearance of Other Attorneys**

An attorney other than lead counsel may file a notice stating that the attorney represents a specified party to the proceeding and giving that attorney's name, mailing address, telephone number, fax number, if any, email address, and State Bar of Texas identification number. The clerk will note on the docket the attorney's appearance. When a brief or motion is filed, the clerk will note on the docket the name of each attorney, if not already noted, who appears on the document.

Amendments to Rule 9, Texas Rule of Appellate Procedure

**Rule 9. ~~Papers~~ Documents Generally**

**9.1. Signing**

(a) *Represented Parties.* If a party is represented by counsel, a document filed on that party's behalf must be signed by at least one of the party's attorneys. For each attorney whose name appears on a document as representing that party, the document must contain that attorney's State Bar of Texas identification number, mailing address, telephone number, ~~and~~ fax number, if any, and email address.

(b) *Unrepresented Parties.* A party not represented by counsel must sign any document that the party files and give the party's mailing address, telephone number, ~~and~~ fax number, if any, and email address.

(c) *Electronic Signatures.* A document that is electronically served, filed, or issued by a court or clerk is considered signed if the document includes:

(1) a “/s/” and name typed in the space where the signature would otherwise appear, unless the document is notarized or sworn; or

(2) an electronic image or scanned image of the signature.

## **9.2. Filing**

(a) *With Whom.* A document is filed in an appellate court by delivering it to:

(1) the clerk of the court in which the document is to be filed; or

(2) a justice or judge of that court who is willing to accept delivery. A justice or judge who accepts delivery must note on the document the date and time of delivery, which will be considered the time of filing, and must promptly send it to the clerk.

(b) *Filing by Mail.*

(1) *Timely Filing.* A document received within ten days after the filing deadline is considered timely filed if:

(A) it was sent to the proper clerk by United States Postal Service ~~first-class, express, registered, or certified mail~~ or a commercial delivery service;

(B) it was placed in an envelope or wrapper properly addressed and stamped; and

(C) it was deposited in the mail or delivered to a commercial delivery service on or before the last day for filing.

(2) *Proof of Mailing.* Though it may consider other proof, the appellate court will accept the following as conclusive proof of the date of mailing:

(A) a legible postmark affixed by the United States Postal Service;

(B) a receipt for registered or certified mail if the receipt is endorsed by the United States Postal Service; ~~or~~

- (C) a certificate of mailing by the United States Postal Service; or
- (D) a receipt endorsed by the commercial delivery service.

~~(c) *Electronic Filing.* Documents may be permitted or required to be filed, signed, or verified by electronic means by order of the Supreme Court or the Court of Criminal Appeals, or by local rule of a court of appeals. A technical failure that precludes a party's compliance with electronic filing procedures cannot be a basis for disposing of any case.~~

(1) Requirement. Attorneys in civil cases must electronically file documents. Attorneys in criminal cases must electronically file documents except for good cause shown in a motion filed in the appellate court. Unrepresented parties in civil and criminal cases may electronically file documents, but it is not required.

(2) Mechanism. Electronic filing must be done through the electronic filing manager established by the Office of Court Administration and an electronic filing service provider certified by the Office of Court Administration.

(3) Exceptions. Documents filed under seal, subject to a pending motion to seal, or to which access is otherwise restricted by law or court order must not be electronically filed. For good cause, an appellate court may permit a party to file other documents in paper form in a particular case.

(4) Timely Filing. Unless a document must be filed by a certain time of day, a document is considered timely filed if it is electronically filed at any time before midnight (in the court's time zone) on the filing deadline. An electronically filed document is deemed filed when transmitted to the filing party's electronic filing service provider, except:

(A) if a document is transmitted on a Saturday, Sunday, or legal holiday, it is deemed filed on the next day that is not a Saturday, Sunday, or legal holiday; and

(B) if a document requires a motion and an order allowing its filing, the document is deemed filed on the date the motion is granted.

(5) Technical Failure. If a document is untimely due to a technical failure or a system outage, the filing party may seek appropriate relief from the court.

(6) Confirmation of Filing. The electronic filing manager will send a filing confirmation notice to the filing party.

(7) Electronic Notices From the Court. The clerk may send notices, orders, or other communications about the case to the party electronically. A court seal may be electronic.

### 9.3. Number of Copies; ~~Electronic Copies~~

(a) *Courts of Appeals.*

~~(1) Paper Copies in General— Document Filed in Paper Form.~~ If a document is not electronically filed, ~~A~~ a party must file ~~the original and one unbound copy of the document unless otherwise required by local rule.~~ The unbound copy of an appendix must contain a separate page before each document and must not include tabs that extend beyond the edge of the page.

~~(A) — the original and three copies of all documents in an original proceeding;~~

~~(B) — the original and two copies of all motions in an appellate proceeding; and~~

~~(C) — the original and five copies of all other documents.~~

(2) Electronically Filed Document. Unless required by local rule, a party need not file a paper copy of an electronically filed document.

~~Local Rules.~~ A court of appeals may by local rule require:

~~(A) — the filing of more or fewer paper copies of any document other than a petition for discretionary review; and~~

~~(B) — an electronic copy of a document filed in paper form.~~

(b) *Supreme Court and Court of Criminal Appeals.*

~~(1) Paper copies of Document Filed in Paper Form.~~ If a document is not electronically filed, A a party must file the original and 11 copies of any document addressed to either the Supreme Court or the Court of Criminal Appeals, except that in the Supreme Court only an original and one copy must be

filed of any motion, response to the motion, and reply in support of the motion, and in the Court of Criminal Appeals, only the original must be filed of a motion for extension of time or a response to the motion, or a pleading under Code of Criminal Procedure article 11.07.

~~(2) — Electronic Copies of Documents Filed in Paper Form. An electronic copy of a document filed in paper form may be required by order of the Supreme Court or the Court of Criminal Appeals.~~

~~(3)(2) Paper Copies of Electronically Filed Document. Paper~~ Copies of each document that is electronically filed with the Supreme Court or the Court of Criminal Appeals must be mailed or hand-delivered to the Supreme Court or the Court of Criminal Appeals, as appropriate, within ~~one business day~~ three business days after the document is electronically filed. The number of paper copies required shall be determined, respectively, by order of the Supreme Court or the Court of Criminal Appeals.

(c) *Exception for Record.* Only the original record need be filed in any proceeding.

#### **9.4. Form**

Except for the record, a document filed with an appellate court, including a paper copy of an electronically filed document, must — unless the court accepts another form in the interest of justice — be in the following form:

(a) *Printing.* A document may be produced by standard typographic printing or by any duplicating process that produces a distinct black image. Printing ~~may~~ must be on ~~both~~ one sides of the paper.

(b) *Paper Type and Size.* The paper on which ~~the~~ a document is produced must be 8½ by 11 inches, white or nearly white, and opaque. ~~Paper must be 8½ by 11 inches.~~

(c) *Margins.* ~~Papers~~ Documents must have at least one-inch margins on both sides and at the top and bottom.

(d) *Spacing.* Text must be double-spaced, but footnotes, block quotations, short lists, and issues or points of error may be single-spaced.

(e) *Typeface.* A document produced on a computer must be printed in a conventional typeface no smaller than 14-point except for footnotes, which must be no smaller than 12-point. A typewritten document must be printed in standard 10-character-per-inch (cpi) monospaced typeface.

(f) *Binding and Covering.* A paper document must be bound so as to ensure that it will not lose its cover or fall apart in regular use. A paper document should be stapled once in the top left-hand corner or be bound so that it will lie flat when open. A paper petition or brief should have durable front and back covers which must not be plastic or be red, black, or dark blue.

(g) *Contents of Cover.* A document's front cover, if any, must contain the case style, the case number, the title of the document being filed, the name of the party filing the document, and the name, mailing address, telephone number, fax number, if any, email address, and State Bar of Texas identification number of the lead counsel for the filing party. If a party requests oral argument in the court of appeals, the request must appear on the front cover of that party's first brief.

(h) *Appendix and Original Proceeding Record.* A paper appendix may be bound either with the document to which it is related or separately. If separately bound, the appendix must comply with paragraph (f). A paper record in an original proceeding or a paper appendix should must be tabbed and indexed. An electronically filed record in an original proceeding or an electronically filed appendix that includes more than one item must contain bookmarks to assist in locating each item.

(i) *Length.*

(1) *Contents Included and Excluded.* In calculating the length of a document, every word and every part of the document, including headings, footnotes, and quotations, must be counted except the following: caption, identity of parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of jurisdiction, statement of procedural history, signature, proof of service, certification, certificate of compliance, and appendix.

(2) *Maximum Length.* The documents listed below must not exceed the following limits:

(A) A brief and response in a direct appeal to the Court of Criminal Appeals in a case in which the death penalty has been assessed: 37,500 words if computer-generated, and 125 pages if not.

(B) A brief and response in an appellate court (other than a brief under subparagraph (A)) and a petition and response in an original proceeding in the court of appeals: 15,000 words if computer-generated, and 50 pages if

not. In a civil case in the court of appeals, the aggregate of all briefs filed by a party must not exceed 27,000 words if computer-generated, and 90 pages if not.

(C) A reply brief in an appellate court and a reply to a response to a petition in an original proceeding in the court of appeals: 7,500 words if computer-generated, and 25 pages if not.

(D) A petition and response in an original proceeding in the Supreme Court, a petition for review and response in the Supreme Court, a petition for discretionary review ~~and response~~ in the Court of Criminal Appeals, and a motion for rehearing and response in an appellate court: 4,500 words if computer-generated, and 15 pages if not.

(E) A reply to a response to a petition for review in the Supreme Court, a reply to a response to a petition in an original proceeding in the Supreme Court, and a reply ~~to a response~~ to a petition for discretionary review in the Court of Criminal Appeals: 2,400 words if computer-generated, and 8 pages if not.

(3) Certificate of Compliance. A computer-generated document that is subject to a word limit under this rule must include a certificate by counsel or an unrepresented party stating the number of words in the document. The person certifying may rely on the word count of the computer program used to prepare the document.

(4) Extensions. A court may, on motion, permit a document that exceeds the prescribed limit.

(j) Electronically Filed Documents. An electronically filed document must:

(1) be in text-searchable portable document format (PDF);

(2) be directly converted to PDF rather than scanned, if possible;

(3) not be locked;

(4) be combined with any appendix into one computer file, unless that file would exceed the size limit prescribed by the electronic filing manager; and

(5) otherwise comply with the Technology Standards set by the Judicial Committee on Information Technology and approved by the Supreme Court.

~~(j)(k)~~ *Nonconforming Documents.* ~~Unless every copy of a document conforms to these rules~~ If a document fails to conform with these rules, the court may strike the document ~~or and return all nonconforming copies to the filing party.~~ The court must identify the error to be corrected and state a deadline for ~~and permit~~ the party to resubmit the document in a conforming format by a specified deadline. ~~If another nonconforming document is filed, the court may strike the document and prohibit the party from filing further documents of the same kind.~~

## 9.5. Service

(a) *Service of All Documents Required.* At or before the time of a document's filing, the filing party must serve a copy on all parties to the proceeding. Service on a party represented by counsel must be made on that party's lead counsel. Except in original proceedings, ~~But~~ a party need not serve a copy of the record.

(b) *Manner of Service.* ~~Service on a party represented by counsel must be made on that party's lead counsel.~~ Service may be personal, by mail, by commercial delivery service, or by fax. ~~Personal service includes delivery to any responsible person at the office of the lead counsel for the party served.~~

(1) Documents Filed Electronically. A document filed electronically under Rule 9.2 must be served electronically through the electronic filing manager if the email address of the party or attorney to be served is on file with the electronic filing manager. If the email address of the party or attorney to be served is not on file with the electronic filing manager, the document may be served on that party or attorney under subparagraph (2).

(2) Documents Not Filed Electronically. A document that is not filed electronically may be served in person, by mail, by commercial delivery service, by fax, or by email. Personal service includes delivery to any responsible person at the office of the lead counsel for the party served.

(c) *When Complete.*

(1) Service by mail is complete on mailing.

(2) Service by commercial delivery service is complete when the document is placed in the control of the delivery service.

(3) Service by fax is complete on receipt.

(4) Electronic service is complete on transmission of the document to the serving party's electronic filing service provider. The electronic filing manager will send confirmation of service to the serving party.

(d) *Proof of Service.* A document presented for filing must contain a proof of service in the form of either an acknowledgment of service by the person served or a certificate of service. Proof of service may appear on or be affixed to the filed document. The clerk may permit a document to be filed without proof of service, but will require the proof to be filed promptly.

(e) *Certificate Requirements.* A certificate of service must be signed by the person who made the service and must state:

(1) the date and manner of service;

(2) the name and address of each person served; and

(3) if the person served is a party's attorney, the name of the party represented by that attorney.

...

## **9.9 Privacy Protection for Documents Filed in Civil Cases.**

(a) *Sensitive Data Defined.* Sensitive data consists of:

(1) a driver's license number, passport number, social security number, tax identification number or similar government-issued personal identification number;

(2) a bank account number, credit card number, or other financial account number; and

(3) a birth date, home address, and the name of any person who was a minor when the underlying suit was filed.

(b) *Filing of Documents Containing Sensitive Data Prohibited.* Unless the inclusion of sensitive data is specifically required by a statute, court rule, or administrative

regulation, an electronic or paper document containing sensitive data may not be filed with a court unless the sensitive data is redacted, except for the record in an appeal under Section Two.

(c) *Redaction of Sensitive Data; Retention Requirement.* Sensitive data must be redacted by using the letter “X” in place of each omitted digit or character or by removing the sensitive data in a manner indicating that the data has been redacted. The filing party must retain an unredacted version of the filed document during the pendency of the appeal and any related proceedings filed within six months of the date the judgment is signed.

(d) *Notice to Clerk.* If a document must contain sensitive data, the filing party must notify the clerk by:

(1) designating the document as containing sensitive data when the document is electronically filed; or

(2) if the document is not electronically filed, by including, on the upper left-hand side of the first page, the phrase: “NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA.”

(e) *Restriction on Remote Access.* Documents that contain unredacted sensitive data in violation of this rule must not be posted on the Internet.

### **Notes and Comments**

Comment to 1997 change: This is former Rule 4. Subdivision 9.4, prescribing the form of documents filed in the appellate courts, is changed and the form to be used is stated in significantly more detail. Former subdivisions (f) and (g), regarding service of documents, are merged into subdivision 9.5. Former Rule 6 is included as subdivision 9.6, but no substantive change is made. Other changes are made throughout the rule. Electronic filing is authorized by §§ 51.801-.807 of the Government Code.

Comment to 2002 change: The change [to Rule 9.5(a)] clarifies that the filing party must serve a copy of the document filed on all other parties, not only in an appeal or review, but in original proceedings as well. The rule applies only to filing *parties*. Thus, when the clerk or court reporter is responsible for filing the record, as in cases on appeal, a copy need not be served on the parties. The rule for original civil proceedings, in which a party is responsible for filing the record, is stated in subdivision 52.7.

Subdivision 9.7 is added to provide express authorization for the practice of adopting by reference all or part of another party's filing.

Comment to 2008 change: Subdivision 9.3 is amended to reduce the number of copies of a motion for extension of time or response filed in the Supreme Court. Subdivision 9.8 is new. To protect the privacy of minors in suits affecting the parent-child relationship (SAPCR), including suits to terminate parental rights, Section 109.002(d) of the Family Code authorizes appellate courts, in their opinions, to identify parties only by fictitious names or by initials. Similarly, Section 56.01(j) of the Family Code prohibits identification of a minor or a minor's family in an appellate opinion related to juvenile court proceedings. But as appellate briefing becomes more widely available through electronic media sources, appellate courts' efforts to protect minors' privacy by disguising their identities in appellate opinions may be defeated if the same children are fully identified in briefs and other court papers available to the public. The rule provides protection from such disclosures. Any fictitious name should not be pejorative or suggest the person's true identity. The rule does not limit an appellate court's authority to disguise parties' identities in appropriate circumstances in other cases. Although appellate courts are authorized to enforce the rule's provisions requiring redaction, parties and amici curiae are responsible for ensuring that briefs and other papers submitted to the court fully comply with the rule.

Comment to 2012 Change: Rule 9 is revised to consolidate all length limits and establish word limits for documents produced on a computer. All documents produced on a computer must comply with the word limits. Page limits are retained for documents that are typewritten or otherwise not produced on a computer.

Comment to 2013 Change: Rule 9 is revised to incorporate rules for electronic filing, in accordance with the Supreme Court's order – Misc. Docket No. 12-9206, amended by Misc. Docket Nos. 13-9092 and 13-9164 – mandating electronic filing in civil cases in appellate courts, effective January 1, 2014. In addition, Rule 9.9 is added to provide privacy protection for all documents, both paper and electronic, filed in civil cases in appellate courts.

## **9.10 Privacy Protection for Documents Filed in Criminal Cases.**

(a) Sensitive Data Defined. Sensitive data consists of:

(1) a driver's license number, passport number, social security number, tax identification number or similar government-issued personal identification number;

(2) bank account number, credit card number, and other financial account number;

(3) a birth date, a home address, and the name of any person who was a minor at the time the offense was committed.

(b) Redacted Filings. Unless a court orders otherwise, an electronic or paper filing with the court, including the contents of any appendices, must not contain sensitive data.

(c) Redaction procedures. Sensitive data must be redacted by using the letter “X” in place of each omitted digit or character or by removing the sensitive data in a manner indicating that the data has been redacted. The filer must retain an unredacted version of the filed document during the pendency of the appeal and any related proceedings filed within three years of the date the judgment is signed. If a district court clerk or appellate court clerk discovers unredacted sensitive data in the record, the clerk shall notify the parties and seek a ruling from the court.

(d) Certification. The filing of a document constitutes a certification by the filer that the document complies with paragraphs (a) and (b) of this rule.

(e) Reference List. If a filer believes any information described in paragraph (a) of this rule is essential to a document or that the document would be confusing without the information, the filer may submit the information to the court in a reference list that is in paper form and under seal. The reference list must specify an appropriate identifier that corresponds uniquely to each item listed. Any reference in the document to a listed identifier will be construed to refer to the corresponding item of information. If the filer provides a reference list pursuant to this rule, the front page of the document containing the redacted information must indicate that the reference list has been, or will be, provided. On its own initiative, the court may order a sealed reference list in any case.

(f) Sealed materials. Materials that are required by statute to be sealed, redacted, or kept confidential, such as the items set out in Articles 35.29 (Personal Information About Jurors), 38.45 (Evidence Depicting or Describing Abuse of or Sexual Conduct by Child or Minor), and 42.12, § 9(j), must be treated in accordance with the pertinent statutes and shall not be publicly available on the Internet. A court may also order that a document be filed under seal in paper form or electronic form, without redaction. The court may later unseal the document or order the filer to provide a redacted version of the document for the public record. If a court orders material sealed, whether it be sensitive data or other materials, the court’s sealing order must be affixed to the outside of the sealed container if the sealed material is filed in paper form, or be the first document that appears if filed in electronic form. Sealed portions of the clerk's and reporter's records should be clearly marked and separated from unsealed portions and tendered as separate records, whether

in paper form or electronic form. Sealed material shall not be available either on the Internet or in other form without court order.

Amendments to Rule 37, Texas Rule of Appellate Procedure

**Rule 37. Duties of the Appellate Clerk on Receiving the Notice of Appeal and Record**

**37.2. On Receiving the Record**

On receiving the clerk's record ~~from the trial court clerk~~ or the reporter's record ~~from the reporter~~, the appellate clerk must determine whether each complies with the Supreme Court's and Court of Criminal Appeals' order on preparation of the record. If so, the clerk must endorse on each the date of receipt, file it, and notify the parties of the filing and the date. If not, the clerk must endorse on the clerk's record or reporter's record — whichever is defective — the date of receipt and return it to the official responsible for filing it. The appellate court clerk must specify the defects and instruct the official to correct the defects and return the record to the appellate court by a specified date. In a criminal case, the record must not be posted on the Internet.

Amendments to Rule 48, Texas Rule of Appellate Procedure

**Rule 48. Copy of Opinion and Judgment to Interested Parties and Other Courts**

**48.1. ~~Mailing~~ Recipients of Opinion and Judgment in All Cases**

On the date when an appellate court's opinion is handed down, the appellate clerk must ~~mail~~send or deliver copies of the opinion and judgment to the following persons:

- (a) the trial judge;
- (b) the trial court clerk;
- (c) the regional administrative judge; and
- (d) all parties to the appeal.

...

Amendments to Rule 68, Texas Rule of Appellate Procedure

## Rule 68.4 Contents of Petition

A petition for discretionary review must be as brief as possible. It must be addressed to the “Court of Criminal Appeals of Texas” and must state the name of the party or parties applying for review. The petition must contain the following items:

(a) Identity of Judge, Parties, and Counsel. The petition must list the trial court judge, all parties to the judgment or order appealed from, and the names and addresses of all trial and appellate counsel.

~~(a)~~ (b) Table of Contents. The petition must include a table of contents with references to the pages of the petition. The table of contents must indicate the subject matter of each ground or question presented for review.

~~(b)~~ (c) Index of Authorities. The petition must include an index of authorities arranged alphabetically and indicating the pages of the petition where the authorities are cited.

~~(c)~~ (d) Statement Regarding Oral Argument. The petition must include a short statement of why oral argument would be helpful, or a statement that oral argument is waived. If a reply or cross-petition is filed, it likewise must include a statement of why oral argument should or should not be heard.

~~(d)~~ (e) Statement of the Case. The petition must state briefly the nature of the case. This statement should seldom exceed half a page. The details of the case should be reserved and stated with the pertinent grounds or questions.

~~(e)~~ (f) Statement of Procedural History. The petition must state:

(1) the date any opinion of the court of appeals was handed down, or the date of any order of the court of appeals disposing of the case without an opinion;

(2) the date any motion for rehearing was filed (or a statement that none was filed); and

(3) the date the motion for rehearing was overruled or otherwise disposed of.

~~(f)~~ (g) *Grounds for Review.* The petition must state briefly, without argument, the grounds on which the petition is based. The grounds must be separately numbered. If the petitioner has access to the record, the petitioner must (after each ground) refer to the page of the record where the matter complained of is found. Instead of listing grounds for review, the petition may contain the questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The statement of questions should be short and concise, not argumentative or repetitious.

~~(g)~~ (h) *Argument.* The petition must contain a direct and concise argument, with supporting authorities, amplifying the reasons for granting review. See Rule 66.3. The court of appeals' opinions will be considered with the petition, and statements in those opinions need not be repeated if counsel accepts them as correct.

~~(h)~~ (i) *Prayer for Relief.* The petition must state clearly the nature of the relief sought.

~~(i)~~ (j) *Appendix.* The petition must contain a copy of any opinion of the court of appeals.

Amendments to Rule 70, Texas Rule of Appellate Procedure

**Rule 70. Brief on the Merits**

**70.2. Reply Respondent's Brief**

**70.4 Other Briefs**

The Court of Criminal Appeals may direct that a party file a brief, or an additional brief, in a particular case. Additionally, upon motion by a party the Court may permit the filing of additional briefs.

Amendments to Rule 71, Texas Rule of Appellate Procedure

**Rule 71. Direct Appeals**

**71.4. Additional Briefs**

Upon motion by a party the Court may permit the filing of additional briefs other than those provided for in Rule 38.

Amendments to Rule 73, Texas Rule of Appellate Procedure

**Rule 73. Postconviction Applications for Writs of Habeas Corpus**

**73.1. Form ~~of~~ for Application in Felony Case (Other Than Capital) Filed Under Article 11.07 of the Code of Criminal Procedure**

(a) *Prescribed Form.* An application filed under Article 11.07 ~~for post-conviction habeas corpus relief in a felony case without a death penalty, under Code of Criminal Procedure article 11.07,~~ must be ~~made in~~ on the form prescribed by the Court of Criminal Appeals ~~in an order entered for that purpose.~~

(b) *Availability of Form.* The district clerk of the convicting court county of conviction will shall make the forms available to applicants on request, without charge.

(c) *Contents.* The person making the application applicant or petitioner must provide all information required by the form. The application form must include specify all grounds for relief, and must set forth in summary fashion the facts supporting each ground. Any ground not raised on the form will not be considered. The application must not cite cases or other law. Legal citations and arguments may be made in a separate memorandum. The application form must be computer-generated, typewritten, or legibly handwritten legibly.

(d) *Length.* Each ground for relief and supporting facts raised on the form shall not exceed the two pages provided for each ground in the form. The applicant or petitioner may file a separate memorandum. This memorandum shall comply with these rules and shall not exceed 15,000 words if computer-generated or 50 pages if not. If the total number of pages, including those in the original and any additional memoranda, exceed the word or page limits, an application may be dismissed unless the convicting court for good cause shown grants leave to exceed the prescribed limits. The prescribed limits do not include appendices, exhibits, cover page, table of contents, table of authorities, and certificate of compliance.

(e) *Typeface.* A computer-generated memorandum must be printed in a conventional typeface no smaller than 14-point except for footnotes, which must be no smaller than 12-point. A typewritten document must be printed in standard 10-character-per-inch (cpi) monospaced typeface.

(f) *Certificate of compliance.* A computer-generated memorandum, including any additional memoranda, must include a certificate by the applicant or petitioner stating the number of words in the document. The person certifying may rely on the word count of the computer program used to prepare the document.

(g) *Verification.* The application must be verified by either:

(1) oath made before a notary public or other officer authorized to administer oaths;  
or

(2) if the person making the application is an inmate in the Institutional Division of the Department of Criminal Justice or in a county jail, an unsworn declaration in substantially the form required in Civil Practices and Remedies Code chapter 132.

### **73.2. Non-complianceet Applications**

~~The clerk of the convicting court will not file an application that is not on the form prescribed by the Court of Criminal Appeals, and will return the application to the person who filed it, with a copy of the official form. The clerk of the Court of Criminal Appeals may, without filing an application that does not comply with this rule, return it to the clerk of the convicting court, with a notation of the defect, and the clerk of the convicting court will return the application to the person who filed it, with a copy of the official form~~ dismiss an application that does not comply with these rules.

### **73.3. State's Response**

Any response by the State must comply with length, typeface, and certificate of compliance requirements set out in rule 73.1 (d),(e) and (f).

### **73.34. ~~Summary Sheet~~Duties of District Clerk. Filing and Transmission of Habeas Record**

(a) The district clerk of the county of conviction shall accept and file all Code of Criminal Procedure article 11.07 applications.

(b) In addition to the duties set out in Article 11.07, the clerk shall do the following:

(1) If the convicting court enters an order designating issues, the clerk shall immediately transmit to the Court of Criminal Appeals a copy of that order and proof of the date the district attorney received the habeas application.

(2) When findings of fact and conclusions of law are made, a copy of those findings and conclusions shall immediately be sent to all parties in the case. A party has ten days from the date he receives the findings to file objections, but the trial court may, nevertheless, transmit the record to the Court of Criminal Appeals before the expiration of the ten days.

(3) When a district clerk transmits the record in a postconviction application for a writ of habeas corpus under Code of Criminal Procedure articles 11.07 or

11.071, the district clerk must prepare and transmit a summary sheet that includes the following information:

(~~a~~A) the convicting court's name and county, and the name of the judge who tried the case;

(~~b~~B) the applicant's name, the offense, the plea, the cause number, the sentence, and the date of sentence, as shown in the judgment of conviction;

(~~c~~C) the cause number of any appeal from the conviction and the citation to any published report;

(~~d~~D) whether a hearing was held on the application, whether findings of fact were made, any recommendation of the convicting court, and the name of the judge who presided over the application;

(E) the name of counsel if applicant is represented.

The Court of Criminal Appeals may by order adopt a form of summary sheet that the district clerks must use.

(4) The district clerk shall also include in the record transmitted to the Court of Criminal Appeals, among any other pertinent papers or supplements, the indictment or information, any plea papers, the court's docket sheet, the court's charge and the jury's verdict, any proposed findings of fact and conclusions of law, the court's findings of fact and conclusions of law, any objections to the court's findings of fact and conclusions of law filed by either party, and the transcript of any hearings held.

(5) On the 181<sup>st</sup> day from the date of receipt of the application by the State of a postconviction application for writ of habeas corpus under Article 11.07, the district clerk shall forward the writ record to this Court unless the district court has received an extension of time from the Court of Criminal Appeals pursuant to Rule 73.4.5.

### **73.5. Time Frame for Resolution of Claims Raised in Application**

Within 180 days from the date of receipt of the application by the State, the convicting court shall resolve any issues that the court has timely designated for resolution. Any motion for extension of time must be filed in the Court of Criminal Appeals before the expiration of the 180-day period.

### **73.46. Action on Application**

The Court may deny relief based upon its own review of the application or may issue such other instructions or orders as may be appropriate.

**APPENDIX C  
IN THE SUPREME COURT OF TEXAS  
IN THE COURT OF CRIMINAL APPEALS  
ORDER DIRECTING  
THE FORM OF THE APPELLATE RECORD**

**RULE 1 CLERK’S RECORD**

**1.1. Preparation of Electronic or Paper Clerk’s Record.**

The trial court clerk must prepare and file the clerk’s record in accordance with Rules of Appellate Procedure 34.5 and 35. Even if more than one notice of appeal or request for inclusion of items is filed, the clerk should prepare only one consolidated record in a case. To prepare the clerk’s record, the trial court clerk must:

- (a) gather the documents required by Rule of Appellate Procedure 34.5(a) and those requested by a party under Rule of Appellate Procedure 34.5(b);
- (b) start each document on a new page;
- (c) include the date of filing on each document;
- (d) arrange the documents in ascending chronological order, by date of filing or occurrence;
- (e) start the page numbering on the front cover of the first volume of the clerk’s record and continue to number all pages consecutively – including the front and back covers, tables of contents, certification page, and separator pages, if any – until the final page of the clerk’s record, without regard for the number of volumes in the clerk’s record, and place each page number at the bottom of each page;

- (f) prepare, label, and certify the clerk’s record as required by this rule;
- (g) as far as practicable, include the date of signing by the judge on each order and judgment;
- (h) include on the front cover of the first volume, and any subsequent volumes, of the clerk’s record, whether filed in paper or electronic form, the following information, in substantially the following form:

**CLERK’S RECORD**

VOLUME \_\_\_\_ of \_\_\_\_

Trial Court Cause No. \_\_\_\_\_

In the \_\_\_\_\_ (District or County) Court

of \_\_\_\_\_ County, Texas,

Honorable \_\_\_\_\_, Judge Presiding

\_\_\_\_\_, Plaintiff(s)

vs.

\_\_\_\_\_, Defendant(s)

Appealed to the

(Supreme Court of Texas at Austin, Texas,

or Court of Criminal Appeals of Texas at Austin, Texas,

or Court of Appeals for the \_\_\_\_\_ District of Texas, at \_\_\_\_\_, Texas).

Attorney for Appellant(s):

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone no.: \_\_\_\_\_

Fax no.: \_\_\_\_\_

E-mail address: \_\_\_\_\_

SBOT no.: \_\_\_\_\_

Attorney for: \_\_\_\_\_, Appellant(s)

\_\_\_\_\_

Name of clerk preparing the clerk's record: \_\_\_\_\_

(i) prepare and include after the front cover of the clerk's record a detailed table of contents identifying each document in the entire record (including sealed documents), the date each document was filed, and, except for sealed documents, the page on which each document begins. The table of contents must be double-spaced and conform to the order in which documents appear in the clerk's record, rather than in alphabetical order. If the clerk's record consists of multiple volumes, the table of contents must indicate the page on which each volume begins. If the clerk's record is filed in electronic form, the clerk must use bookmarks to link each document description in the table of contents, except descriptions of sealed documents, to the page on which each document begins; and

(j) conclude the clerk's record with a certificate in substantially the following form:

The State of Texas )

County of \_\_\_\_\_ )

I, \_\_\_\_\_, Clerk of the \_\_\_\_\_ Court of \_\_\_\_\_ County, Texas do hereby certify that the documents contained in this record to which this certification is attached are all of the documents specified by Texas Rule of Appellate Procedure 34.5(a) and all other documents timely requested by a party to this proceeding under Texas Rule of Appellate Procedure 34.5(b).

GIVEN UNDER MY HAND AND SEAL at my office in \_\_\_\_\_, County, Texas this \_\_\_\_ day of \_\_\_\_\_.

signature of clerk \_\_\_\_\_

name of clerk \_\_\_\_\_

title \_\_\_\_\_

If the clerk's record is filed in electronic form, the trial court clerk must include either a scanned image of the clerk's signature or "/s/" and the clerk's name typed in the space where the signature would otherwise appear.

## **1.2. Filing an Electronic Clerk's Record.**

Unless the clerk receives permission from the appellate court to file the record in paper form, the clerk must file the record electronically. When filing a clerk's record in electronic form, the trial court clerk must:

- (a) file each computer file in text-searchable Portable Document Format (PDF);
- (b) create electronic bookmarks to mark the first page of each document in the clerk's record;
- (c) limit the size of each computer file to 100 MB or less, if possible;
- (d) directly convert, rather than scan, the record to PDF, if possible;
- (e) comply with the Technology Standards set by the Judicial Committee on Information Technology;
- (f) include the following elements in the computer file name, exemplified as CR (01 of 02).pdf:
  - (1) "CR";
  - (2) the volume number, using at least two digits, with leading zeroes if needed; "of"; and the total number of volumes;
  - (3) a period; and

- (4) “pdf”;
  
- (g) file each sealed document separately from the remainder of the clerk’s record and include the word “sealed” in the computer file name;
  
- (h) if filing a supplement to the clerk’s record, include the number of the supplement and “Supp”;
  
- (i) submit each computer file to the Texas Appeals Management and E-filing System (TAMES) web portal using the instructions provided on the appellate court’s website; and
  
- (j) not lock any document that is part of the record.

### **1.3. Filing a Paper Clerk’s Record.**

When filing a paper record with the appellate court, the trial court clerk must:

- (a) bind the documents together in one or more volumes with a top bound, two-inch capacity, two-and-three-quarter-inch, center-to-center removable fastener and no other binding materials, like wax, ribbon, glue, staples, tape, etc.;
  
- (b) include no more than 500 pages in each volume, or limit the thickness of each volume to a maximum of two inches;
  
- (c) include only one-sided copies in the clerk’s record;
  
- (d) number the first volume “1” and each succeeding volume sequentially;
  
- (e) if practicable, make a legible copy of the documents on opaque, white, 8½ x 11 inch paper; and

- (f) place each sealed document in a securely sealed, manila envelope that is not bound with the other documents in the clerk's record.

#### **1.4. Non-Conforming Records and Supplements.**

In the event of a material violation of this rule in the preparation or filing of the clerk's record, on motion of a party or on its own initiative, the appellate court may require the trial court clerk to amend the clerk's record or to prepare a new clerk's record in proper form – and provide it to any party who has previously made a copy of the original, defective clerk's record – at the trial clerk's expense. A supplement to a clerk's record must also be prepared in conformity with this rule.

#### **RULE 2. ELECTRONIC REPORTER'S RECORD.**

(a) The court reporter or court recorder must prepare and file the reporter's record in accordance with Rules of Appellate Procedure 34.6 and 35 and the Uniform Format Manual for Texas Reporters' Records, and the court's local rules. Even if more than one notice of appeal or request for preparation of the record is filed, the court reporter or court recorder should prepare only one consolidated record in the case.

(b) If proceedings were recorded stenographically, the court reporter or recorder must file the reporter's record in an electronic format via the Texas Appeals Management and E-filing System (TAMES) web portal and in accordance with Section 8 of the Uniform Format Manual for Texas Reporters' Records, the court's local rules, and any guidelines posted on the appellate court's website.

(c) If the record is filed in electronic format, the court reporter or recorder must include either a scanned image of any required signature or “/s/” and name typed in the space where the signature would otherwise appear.

(d) A court reporter or recorder must not lock any document that is part of the record.

(e) In exhibit volumes, the court reporter or recorder must create bookmarks to mark the first page of each exhibit document.

(f) In the event of a material violation of this rule in the preparation of a reporter's record, on motion of a party or on the court's own initiative, the appellate court may require the court reporter or court recorder to amend the reporter's record or to prepare a new reporter's record in proper form – and provide it to any party who has previously made a copy of the original, defective reporter's record – at the reporter's or recorder's expense. A court reporter who fails to comply with the requirements of the Uniform Format Manual for Texas Reporters' Records is also subject to discipline by the Court Reporters Certification Board.

Repeal of Appendix E, Texas Rules of Appellate Procedure

**APPENDIX E**  
**IN THE COURT OF CRIMINAL APPEALS OF TEXAS**  
**ORDER DIRECTING**  
**THE FORM OF THE APPELLATE RECORD IN CRIMINAL CASES**

ORDERED that:

Pursuant to Texas Rule of Appellate Procedure 34.4, the Court of Criminal Appeals of Texas orders that the appellate record in criminal cases be in the form specified below. All references in this Order to a rule are to the Texas Rules of Appellate Procedure unless otherwise stated:

~~A. Clerk's Record~~

~~1. The trial court clerk must prepare and file the clerk's record in accordance with Rules 34.5 and 35. Even if more than one notice of appeal or request for inclusion of items is filed, the clerk should prepare only one record in a case. To prepare the clerk's record, the trial court clerk must:~~

- ~~(a) gather the documents required by Rule 34.5(a) and those requested by a party under Rule 34.5(b);~~
- ~~(b) make a legible copy of the documents on opaque, white, 8½ X 11 inch paper, if practicable;~~
- ~~(c) arrange the documents in ascending chronological order, by date of filing or occurrence;~~
- ~~(d) consecutively number the pages in the bottom right hand corner;~~
- ~~(e) bind the documents together in one or more group under a heavy cover;~~
- ~~(f) prepare, label, and certify the clerk's record as required by this Order.~~

~~2. The clerk's record should be in the following form:~~

- ~~(a) It is preferred that the clerk's record lie flat when opened.~~
- ~~(b) If the clerk's record will lie flat when opened, two-sided copies may be included in the clerk's record; otherwise, only one-sided copies may be included.~~
- ~~(c) Each individual document must start on a new page.~~

~~(d) — The first volume should be numbered “1” and each succeeding volume numbered sequentially.~~

~~(e) — Page numbering should start on the first page of the first volume of the clerk’s record and continue to the final page of the clerk’s record without regard for the number of volumes in the clerk’s record.~~

~~(f) — It is preferred that the clerk’s record be tabbed to show the beginning of each document.~~

~~(g) — Each document must show the date of filing.~~

~~(h) — As far as practicable, each order and judgment must show the date of signing by the judge.~~

~~(i) — The front cover of the first volume of the clerk’s record must include the following information and be in substantially the following form:~~

**~~CLERK'S RECORD~~**

~~VOLUME \_\_\_\_\_ of \_\_\_\_\_~~

~~Trial Court Cause No. \_\_\_\_\_~~

~~In the \_\_\_\_\_ (District or County) Court~~

~~of \_\_\_\_\_ County, Texas,~~

~~Honorable \_\_\_\_\_, Judge Presiding~~

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~~\_\_\_\_\_~~

~~\_\_\_\_\_, Plaintiff(s)~~

~~vs.~~

~~\_\_\_\_\_, Defendant(s)~~

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~~\_\_\_\_\_~~

~~Appealed to the  
(Supreme Court of Texas at Austin, Texas,  
or Court of Criminal Appeals of Texas at Austin, Texas,  
or Court of Appeals for the \_\_\_\_\_ District of Texas, at \_\_\_\_\_, Texas).~~

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Attorney for Appellant(s):

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone no. \_\_\_\_\_

Fax no. \_\_\_\_\_

SBOT no. \_\_\_\_\_

Attorney for: \_\_\_\_\_, Appellant(s)

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Delivered to the (Supreme Court of Texas at Austin, Texas,  
or Court of Criminal Appeals of Texas at Austin, Texas,  
or Court of Appeals for the \_\_\_\_\_ District of Texas, at \_\_\_\_\_, Texas)  
on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

signature of clerk \_\_\_\_\_

name of clerk \_\_\_\_\_

title \_\_\_\_\_

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Appellate Court Cause No. \_\_\_\_\_

Filed in the (Supreme Court of Texas at Austin, Texas,  
or Court of Criminal Appeals of Texas at Austin, Texas,  
or Court of Appeals for the \_\_\_\_\_ District of Texas, at \_\_\_\_\_, Texas)  
this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_, Clerk

By \_\_\_\_\_, Deputy

(j) — The front cover of the second and subsequent volumes of the clerk's record must include the same information and be in substantially the same form except that second and subsequent volumes may, but need not, include statements of delivery and filing.

(k) — The clerk must prepare and include on the first pages of the clerk's record a detailed index identifying each document included in the clerk's record, the date of filing, and the page where it first appears. The index must be double spaced and conform to the order in which matters appear in the clerk's record, rather than in alphabetical order.

\_\_\_\_— (l) — After the index, the clerk must include the following:

~~\_\_\_\_\_ The State of Texas \_\_\_\_\_)~~  
~~\_\_\_\_\_ County of \_\_\_\_\_)~~

~~— In the \_\_\_\_\_ (County Court or Judicial District Court) of \_\_\_\_\_ County, Texas, the Honorable \_\_\_\_\_, Judge Presiding, the following proceedings were held and the following instruments and other papers were filed in this cause, to wit:~~

~~Trial Court Cause No. \_\_\_\_\_~~

~~\_\_\_\_\_ )  
vs. \_\_\_\_\_ )  
\_\_\_\_\_ )~~

~~\_\_\_\_\_ (m) \_\_\_\_\_ The clerk's record must conclude with a certificate in substantially the following form:~~

~~\_\_\_\_\_ The State of Texas \_\_\_\_\_)~~  
~~\_\_\_\_\_ County of \_\_\_\_\_)~~

~~— I, \_\_\_\_\_, Clerk of the \_\_\_\_\_ Court of \_\_\_\_\_ County, Texas do hereby certify that the documents contained in this record to which this certification is attached are all of the documents specified by Texas Rule of Appellate Procedure 34.5(a) and all other documents timely requested by a party to this proceeding under Texas Rule of Appellate Procedure 34.5(b).~~

~~— GIVEN UNDER MY HAND AND SEAL at my office in \_\_\_\_\_, County, Texas this \_\_\_\_\_ day of \_\_\_\_\_~~

~~— signature of clerk \_\_\_\_\_  
— name of clerk \_\_\_\_\_  
— title \_\_\_\_\_~~

~~3. A supplement must be prepared in conformity with this Order.~~

~~4. In the event of a flagrant violation of this Order in the preparation of the clerk's record, on motion of a party or on its own initiative, the appellate court may require the clerk to amend the clerk's record or to prepare new clerk's record in proper form and provide it to any party who has previously made a copy of the original, defective clerk's record at the clerk's expense.~~

**~~B. Reporter's Record~~**

~~1. The court reporter must prepare and file the reporter's record in accordance with Rules 34.6 and 35 and the Uniform Format Manual for Texas Court Reporters. Even if more than one notice of appeal or request for preparation of the record is filed, the reporter should prepare only one record in a case.~~

~~2. In the event of a flagrant violation of this Order in the preparation of a reporter's record, on motion of a party or on the court's own initiative, the appellate court may require the court reporter to amend the reporter's record or to prepare a new reporter's record in proper form and provide it to any party who has previously made a copy of the original, defective reporter's record at the reporter's expense. Failure of a reporter to comply with the requirements of the Uniform Format Manual for Texas Court Reporters is also subject to discipline by the Court Reporters Certification Board.~~

~~Amended April 12, 1999, effective May 1, 1999.~~

Amendments to Appendix F, Texas Rules of Appellate Procedure

**APPENDIX ~~F~~E**  
**COURT OF CRIMINAL APPEALS OF TEXAS**  
**APPLICATION FOR A WRIT OF HABEAS CORPUS**  
**SEEKING RELIEF FROM FINAL FELONY CONVICTION**  
**UNDER CODE OF CRIMINAL PROCEDURE, ARTICLE 11.07**

**INSTRUCTIONS**

1. You must use the complete form, which begins on the following page, to file an application for a writ of habeas corpus seeking relief from a final felony conviction under Article 11.07 of the Code of Criminal Procedure. (This form is not for death-penalty cases, probated sentences which have not been revoked, or misdemeanors.)
2. The district clerk of the trial court~~county~~ in which you were convicted will make this form available to you, on request, without charge.
3. You must file the entire writ application form, including those sections that do not apply to you. If any pages are missing from the form, or if ~~the form has been downloaded and~~ the questions have been renumbered or omitted, your entire application ~~will~~may be ~~returned~~dismissed as non-compliant. ~~If your application is returned as non-compliant, the clerk of the trial court will write a note of the defect on your application and return the form to you without filing it.~~

4. You must make a separate application on a separate form for each judgment of conviction you seek relief from. Even if the judgments were entered in the same court on the same day, you must make a separate application for each one.
5. Answer every item that applies to you on the form. ~~You may use additional pages only if you need them for item 17, the facts supporting your ground for relief.~~ Do not attach any additional pages for any ~~other~~ item.
6. You must include all grounds for relief on the application form as provided by the instructions under item 17. You must also briefly summarize the facts of your claim on the application form as provided by the instructions under item 17. Each ground shall begin on a new page, and the recitation of the facts supporting the ground shall be no longer than the two pages provided for the claim in the form.
7. ~~Do not cite cases or other law in this application form. Do not make legal arguments in this form.~~ Legal citations and arguments may be made in a separate memorandum that complies with Texas Rule of Appellate Procedure 73 and does not exceed 15,000 words if computer-generated or 50 pages if not.
8. You must verify the application by signing either the Oath Before Notary Public or the Inmate's Declaration, which are at the end of this form on pages 11 and 12. You may be prosecuted and convicted for aggravated perjury if you make any false statement of a material fact in this application.
9. When the application is fully completed, mail the original to the district clerk of the convicting district court county of conviction. Keep a copy of the application for your records.
10. You must notify the district clerk of the convicting district court county of conviction of any change in address after you have filed your application.

Case No. \_\_\_\_\_  
(The Clerk of the convicting court will fill this line in.)

**IN THE COURT OF CRIMINAL APPEALS OF TEXAS**  
**APPLICATION FOR A WRIT OF HABEAS CORPUS**  
**SEEKING RELIEF FROM FINAL FELONY CONVICTION**  
**UNDER CODE OF CRIMINAL PROCEDURE, ARTICLE 11.07**

NAME: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

PLACE OF CONFINEMENT: \_\_\_\_\_

TDCJ-CID NUMBER: \_\_\_\_\_ SID NUMBER: \_\_\_\_\_

(1) This application concerns (check all that apply):

- |                                       |  |
|---------------------------------------|--|
| <input type="checkbox"/> a conviction | <input type="checkbox"/> parole  |
| <input type="checkbox"/> a sentence   | <input type="checkbox"/> mandatory supervision                                   |
| <input type="checkbox"/> time credit  | <input type="checkbox"/> out-of-time appeal or petition for discretionary review |

(2) What district court entered the judgment of the conviction you want relief from?  
(Include the court number and county.)

\_\_\_\_\_  
(3) What was the case number in the trial court?

\_\_\_\_\_  
(4) What was the name of the trial judge?

(5) Were you represented by counsel? If yes, provide the attorney's name:

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(6) What was the date that the judgment was entered?

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(7) For what offense were you convicted and what was the sentence?

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(8) If you were sentenced on more than one count of an indictment in the same court at the same time, what counts were you convicted of and what was the sentence in each count?

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(9) What was the plea you entered? (Check one.)

- guilty-open plea                       guilty-plea bargain  
 not guilty                                       *nolo contendere/no contest*

If you entered different pleas to counts in a multi-count indictment, please explain:

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(10) What kind of trial did you have?

- no jury     jury for guilt and punishment  
 jury for guilt, judge for punishment

(11) Did you testify at trial? If yes, at what phase of the trial did you testify?





- (17) **Beginning on page 6, state *concisely* every legal ground for your claim that you are being unlawfully restrained, and then briefly summarize the facts supporting each ground. You must present each ground on the form application and a brief summary of the facts. *If your grounds and brief summary of the facts have not been presented on the form application, the Court will not consider your grounds.***

**If you have more than four grounds, use pages 14 and 15 of the form, which you may copy as many times as needed to give you a separate page for each ground, with each ground numbered in sequence. The recitation of the facts supporting each ground must be no longer than the two pages provided for the ground in the form.**

**You may ~~attach~~include with the form a memorandum of law ~~to the form application~~ if you want to present legal authorities, but the Court will *not* consider grounds for relief set out in a memorandum of law that were not ~~stated~~raised on the form application. The citations and argument must be in a memorandum that complies with Texas Rule of Appellate Procedure 73 and does not exceed 15,000 words if computer-generated or 50 pages if not. If you are challenging the validity of your conviction, please include a summary of the facts pertaining to your offense and trial in your memorandum.**















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**GROUND:**

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**WHEREFORE, APPLICANT PRAYS THAT THE COURT GRANT APPLICANT RELIEF TO WHICH HE MAY BE ENTITLED IN THIS PROCEEDING.**

**VERIFICATION**

This application must be verified or it will be dismissed for non-compliance. For verification purposes, an applicant is a person filing the application on his or her own behalf. A petitioner is a person filing the application on behalf of an applicant, for example, an applicant's attorney. An inmate is a person who is in custody.

The inmate applicant must sign either the "Oath Before a Notary Public" before a notary public or the "Inmate's Declaration" without a notary public. If the inmate is represented by a licensed attorney, the attorney may sign the "Oath Before a Notary Public" as petitioner and then complete "Petitioner's Information." A non-inmate applicant must sign the "Oath Before a Notary Public" before a notary public unless he is represented by a licensed attorney, in which case the attorney may sign the verification as petitioner.

A non-inmate non-attorney petitioner must sign the "Oath Before a Notary Public" before a notary public and must also complete "Petitioner's Information." An inmate petitioner must sign either the "Oath Before a Notary Public" before a notary public or the "Inmate's Declaration" without a notary public and must also complete the appropriate "Petitioner's Information."

**OATH BEFORE A NOTARY PUBLIC**

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

\_\_\_\_\_, being duly sworn, under oath says: "I am the applicant / petitioner (circle one) in this action and know the contents of the above application for a writ of habeas corpus and, according to my belief, the facts stated in the application are true."

\_\_\_\_\_  
Signature of Applicant / Petitioner (circle one)

SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public

**PETITIONER'S INFORMATION**

Petitioner's printed name: \_\_\_\_\_

State bar number, if applicable: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

**INMATE'S DECLARATION**

I, \_\_\_\_\_, am the applicant / petitioner (circle one) and  
being presently incarcerated in \_\_\_\_\_, declare under penalty of  
perjury that, according to my belief, the facts stated in the above application are true and correct.

Signed on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Applicant / Petitioner (circle one)

**PETITIONER'S INFORMATION**

Petitioner's printed name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Signed on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Petitioner

Amendments to Appendix G, Texas Rules of Appellate Procedure

**APPENDIX ~~GF~~**

**IN THE COURT OF CRIMINAL APPEALS OF TEXAS**

**ORDER ADOPTING SUMMARY SHEET**

**FOR POSTCONVICTION APPLICATIONS FOR**

**WRIT OF HABEAS CORPUS**

~~ORDERED that:~~

~~Pursuant to Texas Rules of Appellate Procedure 73, the Court of Criminal Appeals hereby orders that the attached form to be used when a postconviction application for writ of habeas corpus is transmitted to the Court of Criminal Appeals.~~

**Application for Writ of Habeas Corpus**

Ex Parte \_\_\_\_\_ from \_\_\_\_\_ County  
(Name of Applicant) \_\_\_\_\_ Court

TRIAL COURT WRIT NO. \_\_\_\_\_

**CLERK'S SUMMARY SHEET**

APPLICANT'S NAME: \_\_\_\_\_

(As reflected in judgment)

OFFENSE: \_\_\_\_\_

(As reflected in judgment)

CAUSE NO: \_\_\_\_\_

(As reflected in judgment)

PLEA:       GUILTY             NOT GUILTY

SENTENCE: \_\_\_\_\_ DATE: \_\_\_\_\_  
(Terms of years reflected in judgment)

TRIAL DATE: \_\_\_\_\_

JUDGE'S NAME: \_\_\_\_\_  
(Judge presiding at trial)

APPEAL NO: \_\_\_\_\_  
(If applicable)

CITATION TO OPINION: \_\_\_\_\_ S.W.3d \_\_\_\_\_  
(If applicable)

HEARING HELD: \_\_\_\_\_ YES \_\_\_\_\_ NO  
(Pertaining to the application for writ of habeas corpus)

FINDINGS & CONCLUSIONS FILED: \_\_\_\_\_ YES \_\_\_\_\_ NO  
(Pertaining to the application for writ of habeas corpus)

RECOMMENDATION: \_\_\_\_\_ GRANT \_\_\_\_\_ DENY \_\_\_\_\_ NONE  
(Trial court's recommendation regarding application for writ of habeas corpus)

JUDGE'S NAME:  
(Judge presiding over habeas corpus proceeding)

NAME OF COUNSEL IF APPLICANT IS REPRESENTED: \_\_\_\_\_

Repeal of Appendix H, Texas Rules of Appellate Procedure

**~~APPENDIX H~~**

**~~IN THE COURT OF CRIMINAL APPEALS OF TEXAS~~**

**~~ORDER REGARDING COURT OF APPEALS CLERK PREPARING THE  
RECORD TO SEND TO THE COURT OF CRIMINAL APPEALS~~**

~~ORDERED that:~~

~~The court of appeals clerk must gather together the appellate record and the papers filed in the court of appeals and file them with the clerk of the Court of Criminal Appeals in one or more envelopes that conform to the following specifications:~~

- ~~(1) extra heavyweight stock;~~
- ~~(2) one piece construction with flaps;~~
- ~~(3) congress tie, noncollapsing style construction with closed corners;~~
- ~~(4) dimensions of 11½ inches in width, 9 inches in height, and a thickness of 1, 1½, 2, 3, or 4 inches; and~~
- ~~(5) the front of each envelope must show the trial court style and case number and the court of appeals style and case number.~~