

# IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 17-9163

## ORDER ADOPTING TEXAS RULE OF CIVIL PROCEDURE 308b AND AMENDING TEXAS RULE OF EVIDENCE 203

**ORDERED** that:

1. The Supreme Court adopts Texas Rule of Civil Procedure 308b and amends Texas Rule of Evidence 203. *See* TEX. GOV'T CODE §§ 22.004(b), 22.0041.
2. In compliance with Section 3 of the Act of May 22, 2017, 85th Leg., R.S., ch. 771 (HB 45, codified at TEX. GOV'T CODE § 22.0041), the rule and amendments are effective January 1, 2018. But they may be changed later in response to public comments. Any person may submit written comments to [rulescomments@txcourts.gov](mailto:rulescomments@txcourts.gov). The Court requests that comments be sent by April 2, 2018.
3. 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*.

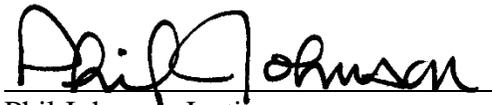
Dated: December 28, 2017.



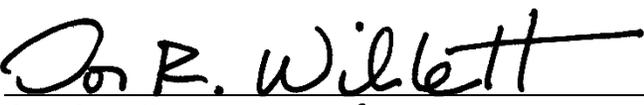
Nathan L. Hecht, Chief Justice



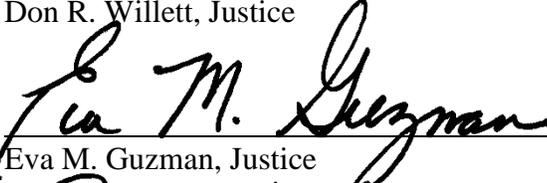
Paul W. Green, Justice



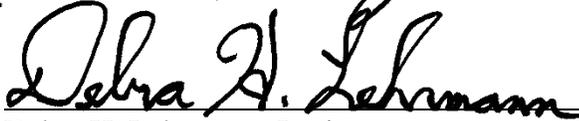
Phil Johnson, Justice



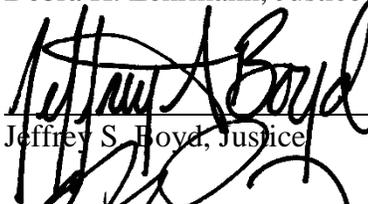
Don R. Willett, Justice



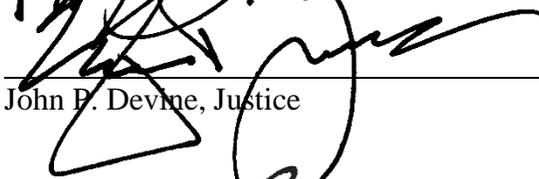
Eva M. Guzman, Justice



Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice

**Rule 308b. Determining the Enforceability of a Judgment or Arbitration Award Based on Foreign Law in Certain Suits Under the Family Code**

(a) *Definitions.* In this rule:

- (1) *Comity* means the recognition by a court of one jurisdiction of the laws and judicial decisions of another jurisdiction.
- (2) *Foreign law* means a law, rule, or code of a jurisdiction outside of the states and territories of the United States.

(b) *Applicability of This Rule.*

- (1) Except as provided in (2) and (3), this rule applies to the recognition or enforcement of a judgment or arbitration award based on foreign law in a suit involving a marriage relationship or a parent-child relationship under the Family Code.
- (2) This rule does not apply to an action brought under the International Child Abduction Remedies Act (22 U.S.C. § 9001 *et seq.*) concerning rights under the Hague Convention on the Civil Aspects of International Child Abduction.
- (3) In the event of a conflict between this rule and any federal or state law, the federal or state law will prevail.

(c) *Applicability of Texas Rule of Evidence 203.*

- (1) Paragraphs (c) and (d) of Rule 203, Texas Rules of Evidence, apply to an action under this rule.
- (2) Paragraphs (a) and (b) of Rule 203, Texas Rules of Evidence, do not apply to an action under this rule.

(d) *Notice.*

- (1) *Party Seeking Enforcement of a Judgment or Arbitration Award Based on Foreign Law.* Within 60 days of filing an original pleading, the party seeking enforcement must give written notice to the court and all parties that describes the court's authority to enforce or decide to enforce the judgment or award.
- (2) *Party Opposing Enforcement of a Judgment or Arbitration Award Based on Foreign Law.* Within 30 days of the date that a notice under (1) is served, a

party opposing enforcement must give written notice to the court and all parties that explains the basis for the party's opposition and states whether the party asserts that the judgment or award violates constitutional rights or public policy.

- (e) *Pretrial Conference.* Within 75 days of the date that a notice under (d)(1) is served, the court must conduct a pretrial conference to set deadlines and make other appropriate orders regarding:
  - (1) the submission of materials for the court to consider in determining foreign law;
  - (2) the translation of foreign-language documents; and
  - (3) the designation of expert witnesses.
- (f) *Determination Hearing and Order.*
  - (1) At least 30 days before trial, the court must conduct a hearing on the record to determine whether to enforce the judgment or award. The parties must have timely notice of the hearing.
  - (2) Within 15 days of the hearing, the Court must issue a written order on the determination that includes findings of fact and conclusions of law. This deadline must not be altered absent extraordinary circumstances.
  - (3) The court may issue any order necessary to preserve the principles of comity or the freedom to contract for arbitration while protecting against violations of constitutional rights and public policy.
  - (4) The court must comply with all requirements of this paragraph and make an independent determination whether to enforce the judgment or award even if no party opposes enforcement of the judgment or award.
- (g) *Temporary Orders.* Notwithstanding any other provision of this rule, the court may set filing deadlines and conduct the determination hearing to accommodate the circumstances of the case in connection with issuing temporary orders.



## Amendment Rule 203, Texas Rules of Evidence

### Rule 203. Determining Foreign Law

- (a) **Raising a Foreign Law Issue.** A party who intends to raise an issue about a foreign country's law must:
- (1) give reasonable notice by a pleading or other writing; and
  - (2) at least 30 days before trial, supply all parties a copy of any written materials or sources the party intends to use to prove the foreign law.
- (b) **Translations.** If the materials or sources were originally written in a language other than English, the party intending to rely on them must, at least 30 days before trial, supply all parties both a copy of the foreign language text and an English translation.
- (c) **Materials the Court May Consider; Notice.** In determining foreign law, the court may consider any material or source, whether or not admissible. If the court considers any material or source not submitted by a party, it must give all parties notice and a reasonable opportunity to comment and submit additional materials.
- (d) **Determination and Review.** The court—not the jury—must determine foreign law. The court's determination must be treated as a ruling on a question of law.
- (e) **Suits Brought Under the Family Code Involving a Marriage Relationship or Parent-Child Relationship.** Subsections (a) and (b) of this rule do not apply to an action to which Rule 308b, Texas Rules of Civil Procedure, applies.