

IN THE SUPREME COURT OF TEXAS

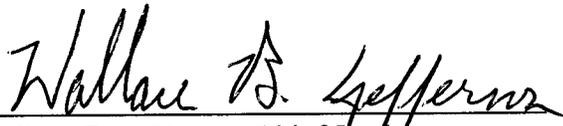
Misc. Docket No. 10- 9109

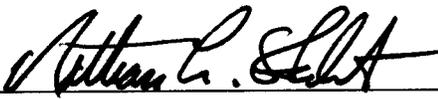
APPROVAL OF LOCAL ELECTRONIC-FILING AND FACSIMILE-FILING RULES FOR THE DISTRICT COURT OF HARRISON COUNTY

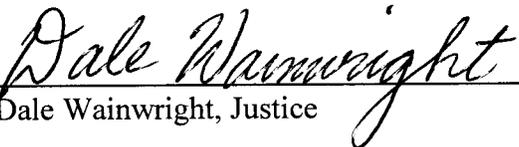
ORDERED that:

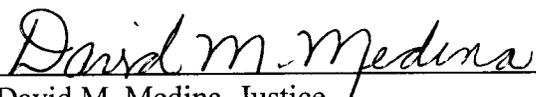
Pursuant to Texas Rule of Civil Procedure 3a, the Supreme Court of Texas approves the following electronic-filing and facsimile-filing local rules for the district court of Harrison County.

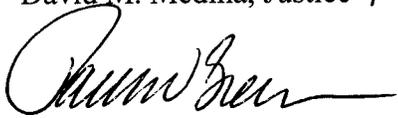
SIGNED this 21~~st~~ day of June, 2010.


Wallace B. Jefferson, Chief Justice


Nathan L. Hecht, Justice

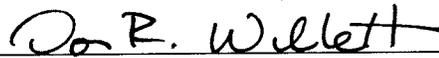

Dale Wainwright, Justice


David M. Medina, Justice

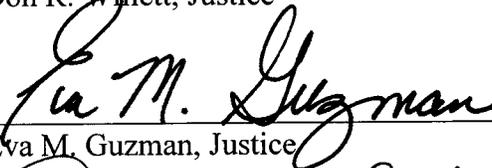

Paul W. Green, Justice



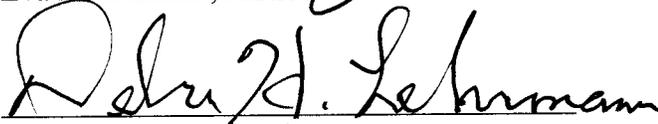
Phil Johnson, Justice



Don R. Willett, Justice



Eva M. Guzman, Justice



Debra Lehrmann, Justice

HARRISON COUNTY

LOCAL RULES OF THE DISTRICT COURTS

concerning the

ELECTRONIC FILING OF COURT DOCUMENTS

PART 1. GENERAL PROVISIONS

Rule 1.1 Purpose

These rules govern the electronic filing and service of court documents, by any method other than fax filing, in Harrison County. These rules are adopted pursuant to Rule 3a of the Texas Rules of Civil Procedure and may be known as the “Harrison County Local Rules of the District Courts Concerning the Electronic Filing of Court Documents.”

Rule 1.2 Effect on Existing Local Rules

These rules are adopted in addition to any other local rules of the district courts in Harrison County. These rules do not supersede or replace any previously adopted local rules. These rules are in addition to current local rules regarding electronic court documents (fax filing).

Rule 1.3 Electronic Filing Optional Unless Ordered by Court

(a) Except as provided by subsection (b) below, the electronic filing and serving of court documents is wholly optional.

(b) Upon the motion of a party and for good cause shown, a district court may order the parties in a particular case to electronically file and serve court documents that are permitted to be electronically filed under Rule 3.3.

PART 2. DEFINITIONS

Rule 2.1 Specific Terms

The following definitions apply to these rules:

(a) “Convenience fee” is a fee charged in connection with electronic filing that is in addition to regular filing fees. A Convenience Fee charged by the District Clerk will be considered as a court cost.

(b) “District clerk” means the Harrison County District Clerk.

- (c) “Digitized signature” means a graphic image of a handwritten signature.
- (d) “Document” means a pleading, plea, motion, application, request, exhibit, brief, memorandum of law, paper, or other instrument in paper form or electronic form. The term does not include court orders.
- (e) “Electronic filing” is a process by which a filer files a court document with the district clerk’s office by means of an online computer transmission of the document in electronic form. For purposes of these rules, the process does not include the filing of faxed documents which is described as the “electronic filing of documents” in Section 51.801, Government Code.
- (f) “Electronic filing service provider (EFSP)” is a business entity that provides electronic filing services and support to its customers (filers). An attorney or law firm may act as an EFSP.
- (g) “Electronic order” means a computerized, non-paper court order that a judge signs by applying his or her digitized signature to the order. A digitized signature is a graphic image of the judge’s handwritten signature.
- (h) “Electronic service” is a method of serving a document upon a party in a case by electronically transmitting the document to that party’s e-mail address.
- (i) “Electronically file” means to file a document by means of electronic filing.
- (j) “Electronically serve” means to serve a document by means of electronic service.
- (k) “Filer” means a person who files a document, including an attorney.
- (l) “Party” means a person appearing in any case or proceeding, whether represented or appearing pro se, or an attorney of record for a party in any case or proceeding.
- (m) “Regular filing fees” are those filing fees charged in connection with traditional filing.
- (n) “Rules” are the Harrison County Local Rules of the District Courts concerning the Electronic Filing of Documents.
- (o) “Traditional court order” means a court order that is on paper.
- (p) “Traditional filing” is a process by which a filer files a paper document with a clerk or a judge.

Rule 2.2 Application to Pro Se Litigants

The term “counsel” shall apply to an individual litigant in the event a party appears pro se.

PART 3. APPLICABILITY

Rule 3.1 Scope

(a) These rules apply to the filing of documents in all non-juvenile civil cases, including cases that are appeals from lower courts, before the various district courts with jurisdiction in Harrison County.

(b) These rules apply to the filing of documents in cases before the various district courts referred to in paragraph (a) above that are subsequently assigned to associate judges or any other similar judicial authorities.

Rule 3.2 Clerks

These rules apply only to the filing of documents with the district clerk. These rules do not apply to the filing of documents directly with a judge as contemplated by TEX. R. CIV. P. 74.

Rule 3.3 Documents That May Be Electronically Filed

(a) A document that can be filed in a traditional manner with the district clerk may be electronically filed with the exception of the following documents:

- i) citations or writs bearing the seal of the court;
- ii) returns of citation;
- iii) bonds;
- iv) subpoenas;
- v) proof of service of subpoenas;
- vi) documents to be presented to a court in camera, solely for the purpose of obtaining a ruling on the discoverability of such documents;
- vii) documents sealed pursuant to TEX. R. CIV. P. 76a; and
- viii) documents to which access is otherwise restricted by law or court order, including a document filed in a proceeding under Chapter 33, Family Code.

(b) A motion to have a document sealed, as well as any response to such a motion, may be electronically filed.

Rule 3.4. Documents Containing Signatures

(a) A document that is required to be verified, notarized, acknowledged, sworn to, or made under oath may be electronically filed only as a scanned image.

(b) A document that requires the signatures of opposing parties (such as a Rule 11 agreement) may be electronically filed only as a scanned image.

(c) Any affidavit or other paper described in Rule 3.4(a) or (b) that is to be attached to an electronically-filed document may be scanned and electronically filed along with the underlying document.

(d) Where a filer has electronically filed a scanned image under this rule, a court may require the filer to properly file the document in a traditional manner with the district clerk. A third party may request the court in which the matter is pending to allow inspection of a document maintained by the filer.

PART 4. FILING MECHANICS

Rule 4.1 Texas.gov

(a) Texas.gov is a project of the Department of Information Resources Board, a state entity charged with establishing a common electronic infrastructure through which state agencies and local governments may electronically send and receive documents and required payments.

(b) To become registered to electronically file documents, filers must follow registration procedures outlined by Texas.gov. The procedure can be accessed from Texas.gov's website at "www.Texas.gov."

(c) Filers do not electronically file documents directly with the district clerk. Rather, filers indirectly file a document with the district clerk by electronically transmitting the document to an electronic filing service provider (EFSP) which then electronically transmits the document to Texas.gov which then electronically transmits the document to the district clerk. A filer filing or serving a document must have a valid account with an EFSP and with Texas.gov

(d) Consistent with standards promulgated by the Judicial Committee on Information Technology (JCIT), Texas.gov will specify the permissible formats for documents that will be electronically filed and electronically served.

(e) Filers who electronically file documents will pay regular filing fees to the district clerk indirectly through Texas.gov by a method set forth by Texas.gov.

(f) An EFSP may charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees.

(g) Texas.gov will charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees and will be in an amount not to exceed the amount approved by the Department of Information Resources Board.

(h) The district clerk may charge filers a convenience fee to electronically file documents. This fee will be in addition to regular filing fees, credit card fees, or other fees.

Rule 4.2 Signatures

(a) Upon completion of the initial registration procedures, each filer will be issued a confidential and unique electronic identifier. Each filer must use his or her identifier in order to electronically file documents. Use of the identifier to electronically file documents constitutes a “digital signature” on the particular document.

(b) The attachment of a digital signature on an electronically-filed document is deemed to constitute a signature on the document for purposes of signature requirements imposed by the Texas Rules of Civil Procedure or any other law. The person whose name appears first in the signature block of an initial pleading is deemed to be the attorney in charge for the purposes of Texas Rules of Civil Procedure 8, unless otherwise designated. The digital signature on any document filed is deemed to be the signature of the attorney whose name appears first in the signature block of the document for the purpose of Texas Rules of Civil Procedure 13 and 57.

(c) A digital signature on an electronically-filed document is deemed to constitute a signature by the filer for the purpose of authorizing the payment of document filing fees.

Rule 4.3 Time Document is Filed

(a) A filer may electronically transmit a document through an EFSP to Texas.gov 24 hours per day each and every day of the year, except during brief periods of state-approved scheduled maintenance which will usually occur in the early hours of Sunday morning.

(b) Upon sending an electronically-transmitted document to a filer's EFSP, the filer is deemed to have delivered the document to the clerk and, subject to Rule 4.3(h), the document is deemed to be filed. If a document is electronically transmitted to the filer's EFSP and is electronically transmitted on or before the last day for filing the same, the document, if received by the clerk not more than ten days tardily, shall be filed by the clerk and deemed filed in time. A transmission report by the filer to the filer's EFSP shall be prima facie evidence of date and time of transmission.

(c) On receipt of a filer's document, the filer's EFSP must send the document to Texas.gov in the required electronic file format along with an indication of the time the filer sent the document to the EFSP and the filer's payment information. Texas.gov will electronically transmit to the filer an "acknowledgment" that the document has been received by Texas.gov. The acknowledgment will note the date and time that the electronically-transmitted document was received by Texas.gov.

(d) Upon receiving a document from a filer's EFSP, Texas.gov shall electronically transmit the document to the district clerk. If the document was not properly formatted, Texas.gov will transmit a warning to the filer's EFSP.

(e) Not later than the first business day after receiving a document from Texas.gov, the district clerk shall decide whether the document will be accepted for filing. The district clerk shall accept the document for filing provided that the document is not misdirected and complies with all filing requirements. The district clerk shall handle electronically-transmitted documents that are filed in connection with an affidavit of inability to afford court costs in the manner required by TEX. R. CIV. P. 145. If the clerk fails to accept or reject a document within the time period, the document is deemed to have been accepted and filed.

(f) If the document is accepted for filing, the district clerk shall note the date and time of filing which, with the exception of subsection (h) below, shall be the date and time that the filer transmitted the document to the filer's EFSP. The district clerk shall inform Texas.gov of its action the same day action is taken. Texas.gov shall, on that same day, electronically transmit to the filer's EFSP a "confirmation" that the document has been accepted for filing by the district clerk. The EFSP will electronically transmit the confirmation to the filer. This confirmation will include an electronically "file-marked" copy of the front page of the document showing the date and time the district clerk considers the document to have been filed.

(g) If the document is not accepted for filing, the district clerk shall inform Texas.gov of its action, and the reason for such action, the same day action is taken. Texas.gov shall, on that same day, electronically transmit to the filer's EFSP an "alert" that the document was not accepted along with the reason the document was not accepted. The EFSP will electronically transmit the alert to the filer.

(h) Except in cases of injunction, attachment, garnishment, sequestration, or distress proceedings, documents that serve to commence a civil suit will not be deemed to have been filed on Sunday when the document is electronically transmitted to the filer's EFSP, Texas.gov, or the Clerk on Sunday. Such documents will be deemed to have been filed on the succeeding Monday.

Rule 4.4 Filing Deadlines Not Altered

The electronic filing of a document does not alter any filing deadlines.

Rule 4.5 Multiple Documents

(a) Except as provided by subsection (b) below, a filer may include only one document in an electronic transmission to Texas.gov.

(b) A filer may electronically transmit a document to Texas.gov that includes another document as an attachment (e.g., a motion to which is attached a brief in support of the motion).

Rule 4.6 Official Document

(a) The district clerk's file for a particular case may contain a combination of electronically-filed documents and traditionally-filed documents.

(b) The district clerk may maintain and make available electronically-filed documents in any manner allowed by law.

Rule 4.7 E-mail Address Required

In addition to the information required on a pleading by TEX. R. CIV. P. 57, a filer must include an e-mail address on any electronically-filed document.

Rule 4.8 Document Format

(a) Electronically-filed documents must be computer-formatted as specified by Texas.gov. Electronically-filed documents must also be formatted for printing on 8 ½-inch by 11-inch paper.

(b) An electronically-filed pleading is deemed to comply with TEX. R. CIV. P. 45.

PART 5. SERVICE OF DOCUMENTS OTHER THAN CITATION

Rule 5.1 Electronic Service of Documents Permissible

(a) In addition to the methods of serving documents (other than the citation to be served upon the filing of a cause of action) set forth in TEX. R. CIV. P. 21a, a filer may serve documents upon another party in the case by electronically transmitting the document to that party at the party's email address. Service in such a manner is known as "electronic service," and is permissible in the circumstances set out in paragraph (b) below.

(b) Documents may be electronically served upon a party only where that party has agreed to receive electronic service or where the court has ordered the parties to electronically serve documents.

(c) By virtue of electronically filing a document or serving a document or by agreeing to accept service, a filer additionally agrees to provide information regarding any change in his or her e-mail address to Texas.gov, the district clerk, and all parties in the case.

(d) A party who electronically files a document is not required to electronically serve documents upon other parties unless the court has ordered the parties to electronically serve documents.

(e) A filer may electronically serve a document in instances where the document is traditionally filed as well as in instances where the document is electronically filed.

Rule 5.2 Completion of Service and Date of Service

(a) Electronic service shall be complete upon transmission of the document by the filer to the party at the party's e-mail address.

(b) Except as provided by subsection (c) below, the date of service shall be the date the electronic service is complete.

(c) When electronic service is complete after 5:00 p.m. (recipient's time), then the date of service shall be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

Rule 5.3 Time for Action After Service

Whenever a party has the right or is required to do some act within a prescribed period of time after service of a document upon the party and that document is electronically served, then three days shall be added to the prescribed period of time.

Rule 5.4 Certification of Service

(a) Documents to be electronically served upon another party shall be served before the time or at the same time that the document is filed.

(b) A filer who electronically serves a document upon another party shall make a written certification of such service that shall accompany the document when that document is filed. The written certification shall include, in addition to any other requirements imposed by the Texas Rules of Civil Procedure, the following:

(i) the filer's e-mail address or telecopier (facsimile machine) number;

(ii) the recipient's e-mail address;

(iii) the date and time of electronic service; and

(iv) a statement that the document was electronically served and that the electronic transmission was reported as complete.

PART 6. ELECTRONIC ORDERS AND VIEWING OF ELECTRONICALLY-FILED DOCUMENTS

Rule 6.1 Courts Authorized to Make Electronic Orders

(a) A judge may electronically sign an order by applying his or her digitized signature to the order. Judges are not required to electronically sign orders.

(b) Upon electronically signing an order, the judge shall electronically forward the order to the district clerk who may treat the electronic order as the official copy of the order. Alternatively, the district clerk may print the electronic order and treat the printed order as the official copy of the order.

(c) The district clerk may electronically scan a traditional court order. The scanned court order may then serve as the official copy of the court order. The district clerk is not required to electronically scan traditional court orders in order to create official electronic court orders. Electronic scanning of traditional court orders is at the option of the district clerk.

Rule 6.2 Viewing of Electronically-filed Documents

(a) The district clerk shall ensure that all the records of the court, except those made confidential or privileged by law or statute, may be viewed in some format by all persons for free.

(b) Independent of the Texas.gov system and the requirement of viewing access described in subsection (a), the district clerk may choose to provide for both filers and the general public to electronically view documents or court orders that have been electronically filed or scanned. Where such provision has been made, persons may electronically view documents or court orders that have been electronically filed or scanned.

(c) Nothing in this rule allows for the viewing of documents or court orders, in any form, that are legally confidential (e.g., papers in mental health proceedings) or otherwise restricted by judicial rule or order.

PART 7. MISCELLANEOUS PROVISIONS

Rule 7.1 Assigned Court to Resolve Disputes

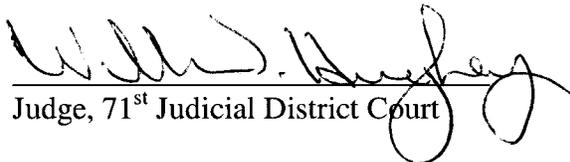
In the event a dispute should arise involving the application of these rules or various electronic filing issues, a district court assigned in accordance with local assignment procedures shall decide any dispute.

Rule 7.2. Rule Guiding Interpretation.

These rules shall be liberally construed so as to avoid undue prejudice to any person on account of using the electronic filing system or sending or receiving electronic service in good faith.

ADOPTION OF RULES

The foregoing "Harrison County Local Rules of the District Courts concerning the Electronic Filing of Documents" are hereby adopted by the undersigned district judges in Harrison County on this the 21 day of May, 2010 and submitted to the Supreme Court of Texas for approval. These rules shall become effective upon their approval by the Supreme Court of Texas.



Judge, 71st Judicial District Court

RULES GOVERNING THE PROCEDURE FOR THE DISTRICT CLERK OF HARRISON COUNTY TO RECEIVE AND FILE ELECTRONICALLY TRANSMITTED COURT DOCUMENTS

The following rules govern the procedure for the District Clerk of Harrison County ("the clerk") to receive and file electronically transmitted court documents.

- 1. The clerk is authorized to accept for filing via electronic transmission any document which might be filed in a court action except: (a) pleadings which require a filing fee; (b) returns of service on issuance's; (c) bonds;(d) final orders which require a judge's signature unless approved by judge prior to transmission.**
- 2. Documents electronically transmitted for filing will be received by the clerk on a plain paper facsimile and printed on a laser printer, thereby rendering the copy of archival quality. No document printed on thermal paper will be filed.**
- 3. No document electronically transmitted shall be accepted by the clerk for filing that requires court cost or a fee. Documents tendered to the clerk electronically, which require a filing fee, or received incomplete, will not be filed.**
- 4. A fee schedule for electronic filing shall be adopted annually by the clerk and approved by the local courts.**
- 5. An electronically transmitted document accepted for filing will be recognized as the original record for file or for evidentiary purposes when it bears the clerk's official date and time file stamp and electronically received stamp.**
- 6. Every document electronically transmitted for filing shall conform to the requirements for filing established by the Texas Rules of Civil Procedure, i.e., shall be on paper measuring approximately 8-1/2 X 11 inches, shall be signed individually by the party or the party's attorney of record, and shall contain that individual's State Bar of Texas identification number, if any, address, telephone number and telecopier number. The quality of the original hard copy shall be clear and dark enough to transmit legibly.**
- 7. The sender shall maintain the original of the document with original signature affixed as required by section 51.806, Texas Government Code.**

8. **A cover sheet must accompany every transmission, which shall: (a) clearly identify the sender, the documents being transmitted, and the number of pages; (b) have clear and concise instructions concerning special instruction or request.**
9. **The Clerk upon receipt of an electronically transmitted document shall verify the completeness of the transmission.**
10. **The clerk when satisfied that the transmission is complete shall confirm the receipt of the document by affixing the clerk's official date and time file stamp to the document, and the electronically received stamp.**
11. **If the transmission is found to be incomplete the clerk will notify the sender as soon as practical that the transmission has not been filed and the reason.**
12. **After filing an electronically transmitted document the clerk will electronically transmit to the sender an acknowledgement of the filing affixed to the front page of the document verifying the number of pages received and filed.**
13. **Electronic transmission of a document does not constitute filing. Filing is complete when the clerk's official date and time file stamp is affixed to the document, and electronically received stamp and confirmation is sent to the sender.**
14. **Each page of any document received by the clerk will be automatically imprinted with the date and time of receipt. The date and time imprinted on the last page of a document will determine the time receipt but not filing time. Transmissions completed during a normal business day before 5:00 p.m. and accepted for filing will be filed on the day of receipt. Transmissions completed after 5:00 p.m., on weekends and holidays will be verified and filed before 10:00 a.m. on the first business day following receipt of transmission. The sender is responsible for determining if there are any changes in normal business hours.**
15. **The sender is responsible for maintaining the verification notice from the clerk for proof of transmittal.**

**INSTRUCTIONS FOR EMPLOYEES
RULES FOR RECEIVING FAXED DOCUMENTS**

- 1. Do Not receive Final Orders and Decrees for Judges approval or signature unless approved by District Judge prior to transmission.**
- 2. Do Not receive returns of service on issuances.**
- 3. Do Not receive Bonds.**
- 4. Do Not receive documents, which require a filing fee. DOCUMENTS FAXED THAT REQUIRE A FILING FEE WILL NOT BE FILED AND NOTICE WILL BE SENT TO THE SENDER.**
- 5. Do Not file faxed documents on thermal paper.**
- 6. A document is filed when it bears the official date and time of the clerk's file stamp and document received electronically stamp.**
- 7. Documents must be signed and copies received must be clear and legible.**
- 8. A cover sheet must accompany every transmission which shall:
 - (a) Clearly identify the sender, the document being transmitted, the cause number and the number of pages;**
 - (b) Have clear and concise instructions concerning specific instructions and/or request;****
- 9. When you are satisfied that the transmission is complete and you have checked for all the information given in #8, you are to fax the 1st page with the date and time stamped and the fax received stamped affixed to the page and transmit it immediately to the sender to confirm receipt of documents.**
- 10. If the transmission is not complete or we do not receive the complete document you shall send a notice to the sender stating why the document was not filed.**
- 11. Transmissions completed during normal business days before 4:30 p.m. and accepted for filing will be file marked and accepted on the day of receipt. Transmissions completed after 4:30 p.m., on weekends and holidays will be verified and filed before 10:00 a.m. on the first business day following.**

FROM: Sherry Griffis, District Clerk of Harrison County

TO: The Honorable Judge of the District Courts of Harrison County

PURSUANT TO THE RULES GOVERNING THE PROCEDURE FOR THE DISTRICT CLERK OF HARRISON COUNTY TO RECEIVE AND FILE ELECTRONICALLY TRANSMITTED COURT DOCUMENTS, THERE WILL BE NO PER PAGE CHARGE FOR RECEIVING DOCUMENTS. THE CHARGE FOR SENDING REQUESTED DOCUMENT BY FACSIMILE WILL BE \$1.00 PER PAGE IN ACCORDANCE WITH 51.318 OF THE GOVERNMENT CODE.

RESPECTFULLY SUBMITTED FOR YOUR APPROVAL. THIS THE
21 **DAY OF** May, 2010.

Approved:


Judge William T. Hughey
71st District Court

THE FOLLOWING STAMP WILL BE AFFIXED TO THE FIRST PAGE OF THE DOCUMENT, WHICH ARE ACCEPTED BY THE CLERK'S OFFICE, IN ADDITION TO THE FILE DATE AND TIME. WE WILL FAX THE FIRST PAGE WITH THESE TWO ITEMS AFFIXED BACK TO THE SENDER FOR CONFIRMATION OF FILING.

STAMP WILL STATE:

**WE HAVE RECEIVED AND FILED _____ PAGES BY FAX.
_____ DEPUTY (INITIAL)**

TIME AND DATE STAMP:

IF DOCUMENTS ARE NOT COMPLETE WE WILL NOTIFY SENDER BY FORM LETTER:

These documents WERE NOT filed because:

If you have any question, please contact:

_____ at 915-659-6579.

Deputy

Harrison County



Sherry Griffis

District Court Clerk
200 West Houston St. Ste 234
Marshall, Texas 75670
(903) 935-8409 Ext. 1100

Kennon L. Peterson
Rules Attorney, Supreme Court of Texas
P. O. Box 12248
Austin, TX 78711

Dear Ms. Peterson:

I have enclosed the Rules for E-filing and Fax Filing for the 71st District Court of Harrison County. Please review these rules for submission as amendments to our Local Rules. If you have any questions please call me.

Sincerely,

Sherry Griffis
Sherry Griffis
Secretary

Sag
Enclosures (2)