

**IN THE SUPREME COURT OF TEXAS**

Misc. Docket No. 10- **9173**

**APPROVAL OF LOCAL RULES FOR THE COURT OF APPEALS FOR  
THE FIFTH COURT OF APPEALS DISTRICT OF TEXAS**

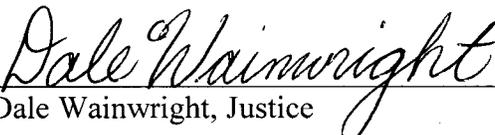
**ORDERED** that:

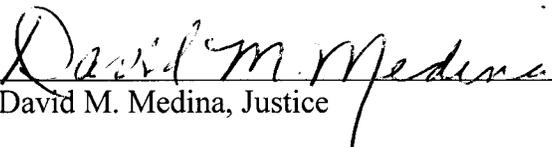
Pursuant to Texas Rule of Appellate Procedure 1.2, this Court approves the following amendments to the local rules for the Court of Appeals for the Fifth Court of Appeals District of Texas, effective December 1, 2010. To the extent these local rules vary from the standards in Appendix C to the Texas Rules of Appellate Procedure, these local rules control.

SIGNED this 18<sup>th</sup> day of October, 2010.

  
Wallace B. Jefferson, Chief Justice

  
Nathan L. Hecht, Justice

  
Dale Wainwright, Justice

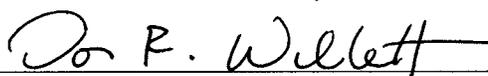
  
David M. Medina, Justice



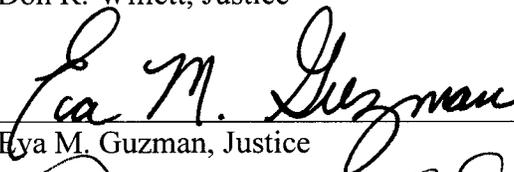
Paul W. Green, Justice



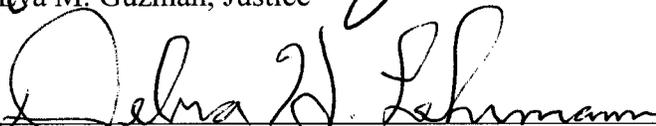
Phil Johnson, Justice



Don R. Willett, Justice



Eya M. Guzman, Justice



Debra H. Lehrmann, Justice

**Rule 12. Clerk's Record in Civil Cases**  
(Tex. R. App. P. 34.5, 35)

Unless otherwise stated, all references to a rule herein are to the Texas Rules of Appellate Procedure.

**Rule 12.1. Preparation of Clerk's Record**  
(Tex. R. App. P. 34.5, 35)

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) 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 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 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) include on the front cover of the second and subsequent volumes of the clerk's record the same information required under 12.1(h), in substantially the same form;
- (j) 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

- (k) 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's login and password serves as the clerk's signature on the certification page. The clerk also 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.

### **Rule 12.2. Filing an Electronic Clerk's Record**

The Fifth Court of Appeals **prefers** the filing of clerk's records in electronic form. When filing a clerk's record in electronic form, the trial court clerk must:

- (a) scan each image in black and white with a resolution of 300 dots per inch (dpi) when filing electronic documents created as scanned images;
- (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;
- (d) file each computer file in text-searchable Portable Document Format (PDF), compatible with the latest version of Adobe Reader;
- (e) include the following elements in the computer file name, exemplified as Dallas-DC-09-29-CLR-Vol001.pdf:
  - (1) county name without spaces between words;
  - (2) a hyphen;

- (3) the trial-court cause number, preferably in the format the trial court uses for cause numbers;
  - (4) a hyphen;
  - (5) “CLR-Vol”;
  - (6) the volume number as three digits with leading zeroes if needed;
  - (7) a period; and
  - (8) “pdf”;
- (f) if there are multiple volumes in a clerk’s record, use volume numbers pursuant to 12.2(e)(6) to identify the sequential order of the volumes (e.g., Dallas-DC-09-29-CLR-Vol001.pdf, Dallas-DC-09-29-CLR-Vol002.pdf, etc.);
  - (g) if filing a sealed document, include a hyphen, the number of the sealed document, and the term “Sealed” after the term “CLR” in the computer file name (e.g., Dallas-DC-09-29-CLR-1Sealed.pdf, Dallas-DC-09-29-CLR-2Sealed.pdf), and file each sealed document separately from the remainder of the clerk’s record;
  - (h) if filing a supplement to the clerk’s record, include a hyphen, the number of the supplement, the term “Supp,” and another hyphen after the term “CLR” in the computer file name (e.g., Dallas-DC-09-29-CLR-1Supp-Vol001.pdf, Dallas-DC-09-29-CLR-2Supp-Vol001.pdf); and
  - (i) submit each computer file to the Texas Appeals Management and E-filing System web portal, using the guidelines on the Fifth Court of Appeals’ website.

**Rule 12.3. Filing a Paper Clerk’s Record**

When filing a paper record, 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 including the cover page;
- (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.

In the event of a material violation of this rule 12 in the preparation 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 13. Electronic Reporter's Record in Civil Cases**  
(Tex. R. App. P. 34.6, 35)

- (a) The court reporter or court recorder must prepare and file the reporter's record in accordance with Rules 34.6 and 35 of the Texas Rules of Appellate Procedure and the Uniform Format Manual for Texas Reporters' Records. 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 record in the case.
- (b) If proceedings were recorded stenographically, in lieu of filing the reporter's record of the proceedings on paper, the court reporter **must** file the reporter's record in an electronic format via the Texas Appeals Management and E-filing System web portal, in accordance with Section 8 of the Uniform Format Manual for Texas Reporters' Records and the guidelines on the Fifth Court of Appeals' website.
- (c) 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.

**Rule 14. Suspension of Local Rules for Electronic Filings**

Upon receipt of a motion or on its own initiative, the Fifth Court of Appeals may, to expedite a decision or for other good cause, suspend a local rule pertaining to the filing of electronic records in a particular case and order a different procedure in accordance with the Texas Rules of Appellate Procedure.

CHIEF JUSTICE  
CAROLYN WRIGHT  
JUSTICES  
JOSEPH B. MORRIS  
JIM MOSELEY  
DAVID L. BRIDGES  
MICHAEL J. O'NEILL  
KERRY P. FITZGERALD  
MARTIN RICHTER  
MOLLY FRANCIS  
DOUGLAS S. LANG  
ELIZABETH LANG-MIERS  
MARY MURPHY  
ROBERT M. FILLMORE  
LANA MYERS



**Court of Appeals**  
**Fifth District of Texas at Dallas**  
COURT OF APPEALS, 5<sup>TH</sup> DISTRICT  
600 COMMERCE STREET, SUITE 200  
DALLAS, TEXAS 75202  
(214) 712-3400

LISA MATZ  
CLERK OF THE COURT  
(214) 712-3450  
lisa.matz@5thcoa.courts.state.tx.us

GAYLE HUMPA  
BUSINESS ADMINISTRATOR  
(214) 712-3434  
gayle.humpa@5thcoa.courts.state.tx.us

FACSIMILE  
(214) 745-1083

INTERNET  
[HTTP://5THCOA.COURTS.STATE.TX.US](http://5thcoa.courts.state.tx.us)

October 12, 2010

Blake Hawthorne  
Clerk  
Supreme Court of Texas  
P.O. Box 12248  
Austin, TX 78711

RE: Amendment to Court's Local Rules

Dear Mr. Hawthorne:

The Fifth District Court of Appeals at Dallas has approved the attached amendments to the Court's local rules. Pursuant to appellate rule 1.2, the Court requests your presentation of the amendments to the Supreme Court and Court of Criminal Appeals for approval. Thank you for your assistance. Should you have any questions, please do not hesitate to contact me at 214-712-3429.

Sincerely,

A handwritten signature in black ink that reads "Cliffie Wesson". The signature is fluid and cursive, with a large loop at the end.

Cliffie Wesson  
Chief Staff Attorney

cc: Chief Justice Wright  
Lisa Matz

ltr:mrh