

# IN THE SUPREME COURT OF TEXAS

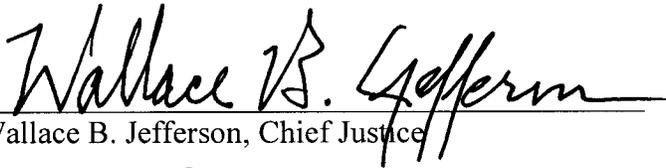
Misc. Docket No: 12-**9080**

## APPROVAL OF LOCAL RULES FOR THE COURT OF APPEALS FOR THE SECOND COURT OF APPEALS DISTRICT

**ORDERED** that:

Pursuant to Texas Rule of Appellate Procedure 1.2, this Court approves the following local rules for the Second Court of Appeals. The procedures prescribed by these local rules apply in lieu of those prescribed by the Texas Rules of Appellate Procedure to the extent there are differences between the procedures; otherwise, the Rules of Appellate Procedure continue to apply with full force and effect.

Dated: May 14<sup>th</sup>, 2012.

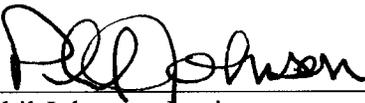
  
Wallace B. Jefferson, Chief Justice

  
Nathan L. Hecht, Justice

  
Dale Wainwright, Justice

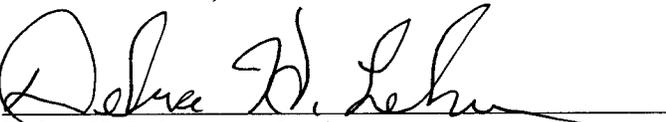
David M. Medina, Justice

  
Paul W. Green, Justice

  
Phil Johnson, Justice

  
Don R. Willett, Justice

Eva M. Guzman, Justice

  
Debra H. Lehrmann, Justice



**COURT OF APPEALS  
SECOND DISTRICT OF TEXAS**

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**CHIEF JUSTICE  
TERRIE LIVINGSTON**

**JUSTICES  
LEE ANN DAUPHINOT  
ANNE GARDNER  
SUE WALKER  
BOB McCOY  
BILL MEIER  
LEE GABRIEL**

**CLERK  
DEBRA SPISAK**

**CHIEF STAFF ATTORNEY  
LISA M. WEST**

**SECOND COURT OF APPEALS  
LOCAL RULES  
(EFFECTIVE JUNE 1, 2012)**

## **RULE 1. BRIEFS**

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

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

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

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

**C. Motions for Leave to File Briefs.** The appellant's opening brief, the appellee's opening brief, and the appellant's reply brief may be filed without leave of court, if their filing is timely. After the appellant's reply brief has been timely filed, any later brief merely replying to the last brief filed will be filed without a motion, if tendered at least seven days prior to the date of the scheduled oral argument or submission date.

All other briefs, including amended briefs, supplemental briefs, post-submission briefs, and letter briefs must be accompanied by a motion for leave to file, unless the brief is requested by the court.

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

**E. Number of Copies.** The original and four copies of every brief shall be filed with the clerk, if the brief is not filed electronically.

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

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

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

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

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

**I. Appendix.** The original and four copies of the appendix shall be filed with the clerk, if the corresponding brief is not filed electronically.

**J. Filing Dates.** The court will set filing dates for appellant's and appellee's opening briefs and appellant's reply brief when the record is filed. The clerk will give the parties notice of said filing dates. Motions to extend the filing dates for briefs will not be granted except upon a reasonable explanation of the need for an extension.

**K. Recording or Exhibit.** Whenever a party raises an issue in a brief that requires the court to view a video or audio recording or physical exhibit, the party must file in this court a motion to supplement the appellate record with the recording or exhibit when the party files its brief.

## **RULE 2. ORIGINAL PROCEEDINGS**

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

**A. Number of Copies.** If not filed electronically, the original and four copies of all documents in an original proceeding shall be filed with the clerk.

**B. Notice.** If the court is of the tentative opinion that relator is entitled to relief or that a serious question concerning the relief requires further consideration, the clerk shall send the parties notice stating (1) the date the response must be filed, if one has not been filed; (2) the date the relator's reply to the response must be filed, if permitted by the court; (3) whether the court will allow argument or will submit the case without oral argument; (4) if oral argument is permitted, the date and the time allotted for argument; and (5) the names of the members of the panel to which the case will be argued or submitted, subject to change by the court.

## **RULE 3. ORAL ARGUMENT**

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

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

**B. Notice.**

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

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

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

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

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

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

## **RULE 4. MOTIONS**

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

**A. Number of Copies.** If not filed electronically, the original and one copy of a motion shall be filed with the clerk.

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

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

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

## **RULE 5. CLERK'S RECORD**

**A. Preparation of Clerk's Record.** 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 a clerk's record, the trial court clerk must:

- (1) gather the documents required by Rule 34.5(a) and those requested by a party under Rule 34.5(b);
- (2) start each document on a new page;
- (3) include the date of filing on each document;
- (4) arrange the documents in ascending chronological order, by date of filing or occurrence.
- (5) 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;
- (6) prepare, label, and certify the clerk's record as required by this rule;
- (7) as far as practicable, include the date of signing by the judge on each order and judgment;
- (8) include on the front cover of each 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

Court of Appeals for the Second District of Texas, at Fort Worth, Texas

Attorney for Appellant(s):

Name: \_\_\_\_\_

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

Phone no.: \_\_\_\_\_

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

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

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

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

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

(9) 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

(10) 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.

**B. Filing an Electronic Clerk's Record.** The Second 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:

- (1) scan each image in black and white with a resolution of 300 dots per inch (dpi) when filing electronic documents created as scanned images;
- (2) create electronic bookmarks to mark the first page of each document in the clerk's record;
- (3) limit the size of each computer file to 100 MB or less;
- (4) file each computer file in text-searchable Portable Document Format (PDF), compatible with the latest version of Adobe Reader;
- (5) include the following elements in the computer file name, for example, if a case is appealed from Tarrant County, the file name would be Tarrant-141-123456-11-CLR-Vol001.pdf:
  - a. county name without spaces between words;
  - b. a hyphen;
  - c. the trial court cause number, preferably in the format the trial court uses for cause numbers;
  - d. a hyphen;
  - e. "CLR-Vol";

- f. the volume number as three digits with leading zeroes if needed;
  - g. a period; and
  - h. "pdf";
- (6) if there are multiple volumes in a clerk's record, identify the volumes by sequential order (e.g., Tarrant-141-123456-11-CLR-Vol001.pdf, Tarrant-141-123456-11-CLR-Vol002.pdf).
  - (7) 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., Tarrant-141-123456-11-CLR-1Sealed.pdf), and file each sealed document separately from the remainder of the clerk's record;
  - (8) 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., Tarrant-141-123456-11-CLR-1Supp.-Vol001.pdf.); and
  - (9) submit each computer file to the web portal designated by the court, currently, the Office of Court Administration File Share Portal.

**C. Filing a Paper Clerk's Record.** When filing a paper record, the trial court clerk must:

- (1) 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.;
- (2) include no more than 500 pages in each volume, or limit the thickness of each volume to a maximum of two inches;
- (3) include only one-sided copies in the clerk's record;
- (4) number the first volume "1" and each succeeding volume sequentially;
- (5) if practicable, make a legible copy of the documents on opaque, white, 8 1/2 x 11 inch paper; and
- (6) place each sealed document in a securely sealed, manila envelope that is not bound with the other documents in the clerk's record.

**D. Material Violation.** In the event of a material violation of this rule 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 6. REPORTER'S RECORD**

**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.** The Second Court of Appeals prefers the filing of the reporter's record in electronic form. If filed electronically, the court reporter must file the reporter's record via the web portal designated by the court, currently, the Office of Court Administration File Sharing Portal, in accordance with Section 8 of the Uniform Format Manual for Texas Reporters' Records and the guidelines posted on the Second Court of Appeals's 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.

**D.** Each volume of the reporter's record shall comply with the requisites established by the Texas Rules of Appellate Procedure, the Local Rules for the Second Court of Appeals, and the Uniform Format Manual for Texas Court Reporters. In addition, except by permission of this court for good cause shown, any printed record filed with this court shall contain the record on computer diskette, CD, or DVD form in ASCII format or other computer readable format preapproved by this court. Said diskette, CD, or DVD shall be affixed to the inside of the back cover of the final volume of the printed reporter's record of testimony in such manner as to be secure but easily removable for use.

## **RULE 7. ELECTRONIC FILING OF DOCUMENTS**

**A. Electronic Filing Permitted.** A party may electronically file (e-file) any document that may be filed with the court in paper form, except a document under seal or subject to a motion to seal.

**B. E-filing Mechanism.** E-filing must be done through Texas.gov, the portal established by the Texas legislature. Directions for its use may be found on its website. This is a summary. A person must first register with an Electronic Filing Service Provider (EFSP). A list of approved EFSPs is on the [www.texas.gov/efiling](http://www.texas.gov/efiling) website. The EFSP will provide the registrant with a username and password to use when e-filing a document. This username and password will also function as a signature on each e-filed document and will authorize payment of all filing fees and service fees. A document to be e-filed must be transmitted to the EFSP, which will send the document to [www.texas.gov/efiling](http://www.texas.gov/efiling), which in turn will send the document to the clerk. The e-filer will receive by email an immediate acknowledgment of the e-filing, a confirmation of the clerk's acceptance of the filing, and a file-stamped copy of the document. Fees charged by [www.texas.gov/efiling](http://www.texas.gov/efiling) for the e-filing of a document are in addition to any filing fees and are costs of court.

**C. Electronic Service.** A party who has registered to e-file documents through an EFSP may electronically serve (e-serve) documents through that EFSP on any other party who has consented to e-service by registering for the e-service option with an EFSP or by setting up a complimentary account with [www.texas.gov/efiling](http://www.texas.gov/efiling). Directions may be found on the [www.texas.gov/efiling](http://www.texas.gov/efiling) website.

1. Service through an EFSP is complete on transmission to the e-served person's EFSP or complimentary [www.texas.gov/efiling](http://www.texas.gov/efiling) account. The e-filer's EFSP will send proof of service to the e-filer. Fees that an EFSP charges for e-service are not costs of court.
2. If an e-filer must serve a copy of a document on a party who has not consented to e-service, the e-filer must comply with the service requirements in Texas Rule of Appellate Procedure 9.5 and, on the same day the document is e-filed, must send the document to:
  - (A) the party's lead counsel by email if the e-filer has an email address for the lead counsel; or
  - (B) if the party is not represented by counsel, to the party by email if the e-filer has the party's email address.

**D. Redaction of Information in E-Filed Document.**

1. Unless the court orders otherwise, an e-filed document must not contain a social security number; a birth date; a home address; the name of any person who was a minor when the underlying suit was filed; a driver's license number, passport number, tax identification number, or similar government-issued personal identification number; or a bank account number, credit card number, or other financial account number. The e-filer must redact all of this

information in accordance with the redaction guidelines posted by the Supreme Court's Clerk on the Supreme Court's website; however, the e-filed document may contain a reference to this information as long as the reference does not include any part of the actual information (e.g., "passport number"). In addition, information that could potentially identify a minor in juvenile and parental rights termination cases must be redacted in accordance with Texas Rule of Appellate Procedure 9.8. For good cause, the court may order redaction of additional information.

2. The e-filing of a document constitutes a certification by all attorneys of record for the party filing the document that the document complies with paragraph (1) of this rule.
3. If an e-filer believes any information described in paragraph (1) of this rule is essential to an e-filed document or that the e-filed document would be confusing without the information, the e-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 e-filed document to a listed identifier will be construed to refer to the corresponding item of information. If the e-filer provides a reference list pursuant to this rule, the front page of the e-filed document must indicate that the reference list has been, or will be, provided.
4. On its own initiative, the court may order a sealed reference list in any case. The court may also order that a document be filed under seal in paper 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.

**E. Format of E-Filed Document.** An e-filed document must be formatted as follows:

- (1) An e-filed document must be formatted in accordance with Texas Rule of Appellate Procedure 9.4(b)–(e). The “paper” requirements in Rule 9.4(b)–(c) apply equally to a “page” of the e-filed document.
- (2) An e-filed document must be in text-searchable portable document format (PDF) compatible with the latest version of Adobe Reader. An EFSP will convert each e-filed document from its original form into a PDF file that complies with this rule.
- (3) Records filed in original proceedings and appendix materials may be scanned if necessary, but scanning creates larger file sizes with

images of lesser quality and should be avoided when possible. An appendix must be combined into one computer file with the document it is associated with, unless the resulting computer file would exceed [www.texas.gov/efiling](http://www.texas.gov/efiling) size limits for the document. If a record is filed in an original proceeding or an appendix contains more than one item, it should include a table of contents and either bookmarks to assist in locating each item or separator pages with the title of the item immediately following and any number or letter associated with the item in the table of contents.

- (4) A scanned document must be made searchable using optical-character recognition software, such as Adobe Acrobat, and have a resolution of 300 dots per inch (dpi).
- (5) An e-filed document may contain hyperlinks to another part of the same document, an external source cited in the document, an appendix item associated with the document, an embedded case, or a record cite. Hyperlinks within an appendix are also permitted.
- (6) An e-filed document must not contain a virus or malware. The e-filing of a document constitutes a certification by the e-filer that the document has been checked for viruses and malware.
- (7) The court may strike an e-filed document for nonconformance with this rule.

#### **F. Signatures on E-Filed Documents.**

1. Except as otherwise provided by this rule, the confidential, secure username and password that the e-filer must use to e-file a document constitute the e-filer's signature on the document, in compliance with signature requirements in the Texas Rules of Appellate Procedure. When a signature is provided in this manner, the e-filer must also include either an "/s/" and the e-filer's name typed in the space where the e-filer's signature would otherwise appear or an electronic image of the e-filer's signature, which may take the form of a public key-based digital signature or a scanned image of the e-filer's signature. The e-filer must not allow the e-filer's username and password to be used by anyone other than an agent who is authorized by the e-filer.
2. If a document must be notarized, sworn to, or made under oath, the e-filer must e-file the document as a scanned image containing the necessary signature(s).
3. If a document requires the signature of an opposing party, the e-

filer must e-file the document as a scanned image containing the opposing party's signature.

4. When an e-filer e-files a scanned image of a document pursuant to paragraph (2) or (3) of this rule, the e-filer must retain the original document from which the scanned image was made until the case in which the document was filed is resolved. If the original document is in another party's possession, that party must retain the original document until the case in which the document was filed is resolved.
5. If an e-served document was also e-filed and the person who completes a certificate of service under Texas Rule of Appellate Procedure 9.5(e) is different from the person who e-filed the document, the person who completes the certificate of service must sign the certificate by including either an "/s/" and his or her name typed in the space where his or her signature would otherwise appear or an electronic image of his or her signature.

**G. Time of E-Filing.** A document will be considered filed timely if it is e-filed at any time before midnight (in the court's time zone) on the date on which the document is due.

1. An e-filed document is deemed filed when the e-filer transmits the document to the e-filer's EFSP, unless the document is transmitted on a Saturday, Sunday, or legal holiday or requires a motion and an order allowing its filing.
2. If a document is transmitted on a Saturday, Sunday, or legal holiday, it will be deemed filed on the next day that is not a Saturday, Sunday, or legal holiday.
3. If a document requires a motion and an order allowing its filing, it will be deemed filed on the date the motion is granted.
4. If an e-filed document is untimely due to a technical failure or a system outage, the e-filer may seek appropriate relief from the court.

**H. Paper Copies.** An e-filer must file three paper copies of any e-filed document, except a motion, in accordance with Rule 9 of the Texas Rules of Appellate Procedure within one business day after the document is e-filed. An e-filer must file one paper copy of any e-filed motion.

**I. Email Address Requirements and Communications With the Clerk.** An e-filed document must include the e-filer's email address, in addition to any other

information required by the Texas Rules of Appellate Procedure. If the e-filer's email address changes, the e-filer must provide the clerk and the e-filer's EFSP with the new email address within one business day of the change. If there is a change in the email address of a party who has consented to receive e-service, the party must provide [www.texas.gov/efiling](http://www.texas.gov/efiling) or, if applicable, the party's EFSP with the new email address within one business day of the change. The clerk may send notices or other communications about a case to an attorney's email address in lieu of mailing paper documents.

**J. Casemail Registration.** Lead counsel must register for Casemail and follow the instructions for receiving notices for cases in which they represent a party.

**K. Construction of Rules.** This rule must be liberally construed so as to avoid undue prejudice to any person who makes a good-faith effort to comply with requirements in this rule.

## **RULE 8. SUSPENSION OF LOCAL RULES FOR ELECTRONIC FILINGS**

Upon receipt of a motion or on its own initiative, the Second 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.

## **RULE 9. FAX FILING OF DOCUMENTS**

**A. By the Court.** Except as specifically required by the Texas Rules of Appellate Procedure, any notices issued by the clerk of the court or any orders issued by the court may be made by fax, at the discretion of the court. Fax notification shall be made to the fax number provided by the attorney of record for each party to the appeal.

### **B. By the Parties.**

(1) **Permissible Fax Filings.** In accordance with Rule 9.2(c) of the Texas Rules of Appellate Procedure, the clerk will accept for filing any document that is a total of ten transmitted pages or less, excluding the cover sheet. Documents may be faxed to the court (fax number: 817-884-1932) both during and after normal working hours, but documents received after 4:45 p.m. will be considered filed the next day the court is open to the public.

(2) **Cover Sheet.** A cover sheet shall accompany all documents transmitted by fax and shall clearly identify: 1) the name, address, telephone number, and fax number of the sender; 2) the name of the party the sender represents; 3) the document being transmitted; 4) the cause number; 5) the number of pages being transmitted; 6) and the name of the clerk or deputy clerk, if any, to whose attention the document is directed.

(3) **Receipt of Transmission.** The quality of the original shall be clear and dark enough to be transmitted legibly by fax. The clerk will be responsible for events that disrupt, impair, or render impossible the receipt of documents transmitted by fax. The sender is obligated to ensure that documents transmitted by fax have been received legibly and completely by the clerk. Although the clerk's office will verify by telephone that a document has been received legibly and completely, it will not initiate the telephone call. If a document transmitted by fax is not complete or is otherwise illegible, the clerk will nonetheless file it and bring it to the attention of the court. However, the incompleteness or illegibility of a document may be grounds for striking or denying a motion.

(4) **Service on Parties.** The party transmitting a document by fax must serve a copy of the document on all parties to the appeal by fax or other expedited means.

(5) **Fees.** The sender must deposit any applicable fees in the U.S. mail on the day the fax is transmitted. Failure of the clerk to receive the fees within seven days after the day the fax is filed may result in the striking of the filing transmitted by fax.

(6) **Signature on Original.** The sender shall maintain the original of any document transmitted by fax, with the original signature affixed, as required by section 51.806 of the Texas Government Code.

## **RULE 10. WITHDRAWAL OF RECORD ON APPEAL**

In addition to the conditions contained in Rule 12.4 of the Texas Rules of Appellate Procedure, the clerk may permit the record or file to be taken from the clerk's office on the following conditions:

**A. Civil Cases.** In civil cases, attorneys may check out the record from the clerk at any time up to three days before the date on which the case is scheduled to be submitted to the court. After that time, attorneys may not check out the court of appeals' record except on the leave of the court. An attorney who checks out the record shall return it promptly to the clerk on demand. Pro se parties may inspect the record only on the premises of this court.

**B. Criminal Cases.** In criminal cases, the court will not allow the record to be checked out. Records must be checked out through the district clerk's office or county clerk's office in the county from which the appeal arose.

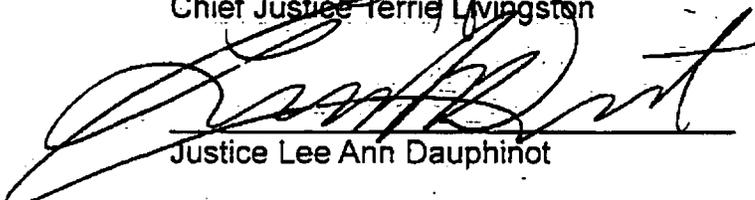
## **RULE 11. ALTERNATIVE DISPUTE RESOLUTION**

On a party's motion, or on the court's own initiative, the court may refer a civil case to alternative dispute resolution.

**ORDER ADOPTING LOCAL RULES**

These local rules for the Second District Court of Appeals are adopted effective June 1, 2012, subject to the approval of the Supreme Court of Texas and the Texas Court of Criminal Appeals.

  
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Chief Justice Terrie Livingston

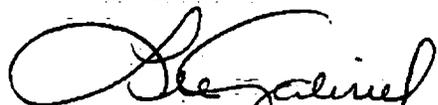
  
\_\_\_\_\_  
Justice Lee Ann Dauphinot

  
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Justice Anne Gardner

  
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Justice Sue Walker

  
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Justice Bob McCoy

  
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Justice Bill Meier

  
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Justice Lee Gabriel