

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 92-0102

**APPROVAL OF LOCAL RULES OF THE
TENTH COURT OF APPEALS**

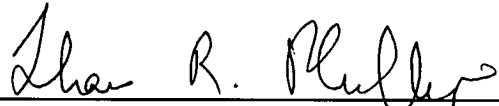
ORDERED:

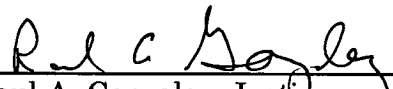
Pursuant to Rule 1(b) of the Texas Rules of Appellate Procedure, the Supreme Court approves the following local rules:

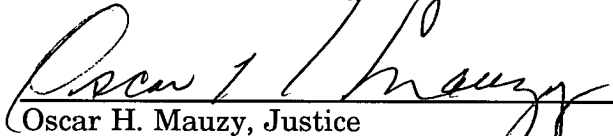
Local Rules of the Tenth Court of Appeals, signed August 6, 1992.

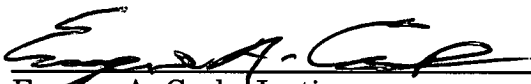
Misc. Docket No. 92-0107


SIGNED AND ENTERED this 14th day of September, 1992.

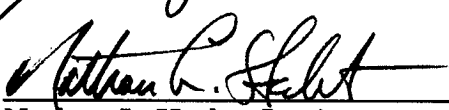

Thomas R. Phillips, Chief Justice



Raul A. Gonzalez, Justice



Oscar H. Mauzy, Justice

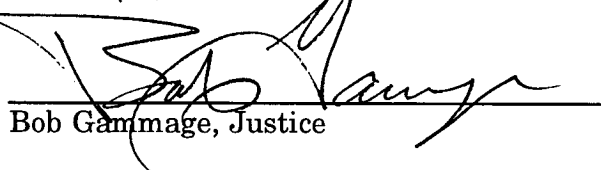

Eugene A. Cook, Justice


Jack Hightower, Justice


Nathan L. Hecht, Justice


Lloyd Doggett, Justice


John Cornyn, Justice


Bob Gammage, Justice



IN THE
TENTH COURT OF APPEALS

O R D E R

Order Adopting the Tenth Court of Appeals Local Rules

The Court of Appeals for the Tenth Court of Appeals District hereby adopts the following local rules. The parties appearing before this Court and attorneys practicing before this Court are expected to observe the spirit of the Texas Rules of Appellate Procedure and of these local rules. The Court may require any motion or brief not prepared in conformity with the spirit of the rules to be rewritten.

RULE 1. APPEARANCE

Only attorneys of record will be allowed to appear before this Court to present documents and argue cases. A party may proceed pro se before this Court, but if an attorney of record is designated, only that attorney will be allowed to proceed with the appeal. If an out-of-state attorney wishes to practice before this Court, a motion requesting permission to appear shall be filed.

RULE 2. FILING PROVISIONS

Generally, a document is marked "received" rather than "filed" when it is defective or is not timely filed. Any document that does not comply with the Texas Rules of Appellate Procedure or these local rules shall be promptly amended.

RULE 3. MOTIONS

In addition to complying with Rules 4 and 19 of the Texas Rules of Appellate Procedure, all motions shall be on 8½-by-11-inch paper. An original and one copy shall be filed with the Clerk.

**RULE 4. FACSIMILE FILING OF MOTIONS
FOR EXTENSION OF TIME**

(a) **Acceptable Motions.** The Clerk will accept for filing the following motions transmitted by facsimile machine: (1) motions to extend the time to file a cost bond or equivalent; (2)

motions to extend the time to file the transcript or the statement of facts; (3) motions to extend the time to file a brief; and (4) motions to extend the time to file a motion for rehearing.

(b) Applicable Fees. The sender is responsible for all applicable fees assessed by the Clerk in connection with the receipt of motions transmitted by facsimile machine. Failure to promptly pay the fee may result in the striking of the motion transmitted by facsimile machine.

(c) Signature on Original. The sender shall maintain the original of any motion transmitted by facsimile machine, with the original signature affixed, as required by section 51.806 of the Texas Government Code.

(d) Cover Sheet. A cover sheet shall accompany every motion transmitted by facsimile machine and shall clearly identify (1) the name, address, telephone number, and facsimile number of the sender; (2) the motion being transmitted; (3) the number of pages; and (4) the name of the Clerk or Deputy Clerk, if any, to whose attention the document is directed.

(e) Receipt of Transmission. The quality of the original shall be clear and dark enough to be transmitted legibly. The Clerk will not be responsible for events that disrupt, impair, or render impossible the receipt of documents transmitted by facsimile machine. The sender is obligated to ensure that documents transmitted by facsimile machine have been received legibly and completely by the Clerk. Although the Clerk's office will verify by telephone that a document has been received safely and completely, it will not initiate the telephone call. If a document electronically transmitted 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 the motion. The sender shall forward the copy required by Rule 3 of these local rules to the Clerk on the same day that the motion is transmitted by facsimile machine.

(f) Business Hours. The Clerk will maintain the facsimile machine for receipt of transmissions during normal business hours, Monday through Friday (other than legal holidays as that term is defined by article 4591 of the Texas Revised Civil Statutes), 8:00 a.m. to 5:00 p.m. Any transmission completed after 5:00 p.m. shall be deemed filed on the following day. The sender is responsible for determining if there are any changes in normal business hours.

RULE 5. STATEMENT OF FACTS

The Clerk will not file a statement of facts until the transcript has been filed. A statement of facts tendered before the transcript is filed will be marked "received" by the Clerk when tendered and "filed" when the transcript is filed.

RULE 6. WITHDRAWAL OF RECORD ON APPEAL

(a) Civil Cases. Before submission in civil cases, attorneys may check out the record from the Clerk by completing a receipt. After submission, attorneys may not check out the record except on the order of one of the justices of the Court. An attorney who checks out the record shall return it promptly to the Clerk on demand.

(b) Criminal Cases. In criminal cases, the record must be checked out from the county or district clerk's office.

RULE 7. BRIEFS

(a) **General Format.** In addition to complying with Rules 4 and 74 of the Texas Rules of Appellate Procedure, briefs shall be on 8½-by-11-inch paper and bound securely on the left side. All briefs shall be bound in such a manner that the open brief will lie flat. All typewriting except block quotations should be double-spaced. Proper citation form should be observed, and subsequent history should be provided. In citing cases, specific page citations to the pages where the relevant holdings or quotations may be found should be included.

(b) **Page Limit.** Briefs shall be no longer than the fifty-page limit of Rule 74(h) of the Texas Rules of Appellate Procedure. The Court may order rewriting of a brief of more than fifty pages or may consider only the first fifty pages of the brief.

(c) **References to Record.** In addition to complying with Rules 74(d) and 74(f) of the Texas Rules of Appellate Procedure, parenthetical references to the transcript or statement of facts should be made to the volume and page where any referenced material is found, *e.g.*, (I Tr. at 20), (II S.F. at 150).

(d) **Request for Oral Argument.** A request for oral argument shall be noted on the front cover of the brief, *e.g.*, ORAL ARGUMENT REQUESTED.

(e) **Number of Copies.** An original and five copies shall be filed with the Clerk.

(f) **Supplemental and Reply Briefs.** Before submission, supplemental and reply briefs may be filed without permission of the Court if no new points of error are raised. After submission, supplemental or reply briefs shall be accompanied by a motion for permission to file.

RULE 8. EXHIBITS

Multiple exhibits attached to a document shall be accompanied by an index, and each exhibit shall be identified by a tab.

RULE 9. SUBMISSION

Causes are regularly submitted on Wednesdays.

RULE 10. ORAL ARGUMENT

(a) **Request for Oral Argument Required.** A party desiring oral argument shall request oral argument in compliance with Rule 7(d) of these local rules. A party's failure to properly request oral argument shall be deemed a waiver of that party's right to oral argument in the case, even if another party has requested oral argument.

(b) **Time and Location.** Oral arguments in cases routinely set are heard on Wednesday mornings. The Court usually sits at the McLennan County Courthouse in Waco, but occasionally sits in the county seats of other counties in the district when the number of cases justifies an alternate site. All attorneys scheduled for oral argument must be present in the courtroom at 9:00 a.m. The failure to appear on time will constitute a waiver of oral argument by that party.

(c) **Extraordinary Proceedings.** Hearings and arguments in extraordinary proceedings are set at a convenient time, usually on Wednesdays at 2:00 p.m.

(d) **Waiver of Oral Argument.** A party who desires to waive oral argument previously requested shall promptly notify the Clerk and all opposing parties.

(d) **Time Allowed.** Unless additional time is granted by the presiding justice, oral argument will be limited to fifteen minutes for the appellant's opening argument, fifteen minutes for the appellee's argument, and five minutes for the appellant's rebuttal.

(e) **Post-Submission Letter.** Authorities cited during oral argument that are not contained in the briefs shall be submitted to the Clerk and all opposing parties by letter-brief not later than the Friday following oral argument.

**RULE 11. APPLICATIONS FOR WRIT OF
ERROR AND PETITIONS FOR
DISCRETIONARY REVIEW**

(a) **Civil Cases.** When an application for writ of error is filed with the Clerk of this Court under Rule 130 of the Texas Rules of Appellate Procedure, two separate deposits must be made. One deposit (\$50.00) shall be made payable to the Clerk of the Supreme Court for filing fees, and the other deposit (\$20.00) shall be made payable to the Clerk of the Tenth Court of Appeals for forwarding costs.

(b) **Criminal Cases.** When a petition for discretionary review is filed with the Clerk of this Court under Rule 202 of the Texas Rules of Appellate Procedure, no filings fees are required.

**RULE 12. CASES REMANDED FROM THE
COURT OF CRIMINAL APPEALS**

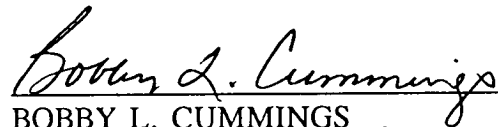
After a case is remanded to this Court from the Court of Criminal Appeals, the parties should consider filing a supplemental brief in light of recent changes in the law. The Court welcomes further assistance from counsel at this stage.

It is therefore **ORDERED** that these Tenth Court of Appeals Local Rules be, and the same are, adopted, effective September 1, 1992, or upon approval by the Supreme Court of Texas and the Court of Criminal Appeals of Texas, whichever occurs later; that a copy hereof shall be furnished to the Supreme Court of Texas and the Court of Criminal Appeals of Texas for approval as provided by Rule 1(b) of the Texas Rules of Appellate Procedure; and that, upon approval by the Supreme Court of Texas and the Court of Criminal Appeals of Texas, the same be placed upon the Minutes of the Court of Appeals for the Tenth Court of Appeals District.

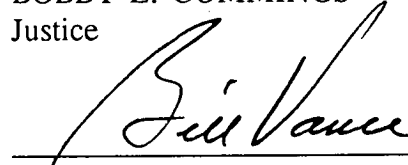
SIGNED this the 6th day of August 1992.



BOB L. THOMAS
Chief Justice



BOBBY L. CUMMINGS
Justice



BILL VANCE
Justice



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

P.O. BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

JUSTICES
RAUL A. GONZALEZ
OSCAR H. MAUZY
EUGENE A. COOK
JACK HIGHTOWER
NATHAN L. HECHT
LOYD DOGGETT
JOHN CORNYN
BOB GAMMAGE

CLERK
JOHN T. ADAMS

EXECUTIVE ASST.
WILLIAM L. WILLIS

ADMINISTRATIVE ASST.
MARY ANN DEFIBAUGH

September 17, 1992

Mr. Bob Watts, Clerk
Tenth Court of Appeals
Post Office Box 1606
Waco, Texas 76701

Dear Mr. Watts,

Please find a copy of the order of this Court of September 14, 1992, that approves local rules for the Tenth Court of Appeals.

Please note that the Supreme Court has been approving local rules provisionally. The Court believes that the Uniform Local Rules Committee is nearing completion of its task. You may therefore be asked to further amend your local rules in the not too distant future.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc:

Mr. Ray Judice
Office of Court Admin

State Law Library

Chmn Supreme Ct Adv Committee