

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 95- 9102

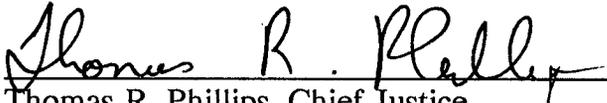
**APPROVAL OF LOCAL RULES FOR THE COURT OF APPEALS
EIGHTH JUDICIAL DISTRICT, TEXAS**

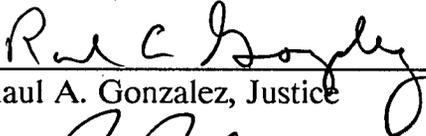
ORDERED:

Pursuant to Rule 1(b) of the Texas Rules of Appellate Procedure, the Supreme Court approves the Eighth Court of Appeals Local Rules, which have been submitted to this Court.

The approval of these rules is temporary, pending further orders of the Court.

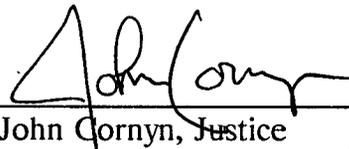
SIGNED AND ENTERED this 5th day of June, 1995

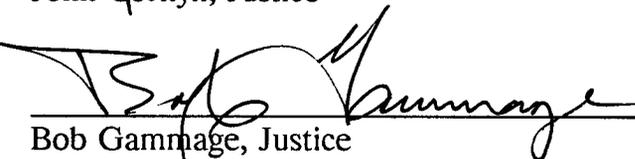

Thomas R. Phillips, Chief Justice

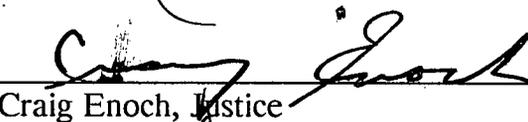

Raul A. Gonzalez, Justice

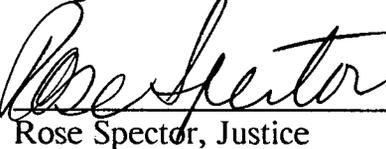

Jack Hightower, Justice


Nathan L. Hecht, Justice


John Cornyn, Justice


Bob Gammage, Justice


Craig Enoch, Justice


Rose Spector, Justice


Priscilla R. Owen, Justice



EIGHTH COURT OF APPEALS LOCAL RULES

RULE 1.1 SCOPE

(a) These rules govern procedure for appeals, original proceedings, and other matters before the Court of Appeals for the Eighth Judicial District. They are promulgated under the authority of Tex.R.App.P. 1(b). They are meant to supplement, not supplant, the Texas Rules of Appellate Procedure, and should be interpreted to harmonize with those rules.

(b) The rules are numbered to correspond with their closest counterpart within the Texas Rules of Appellate Procedure.

RULE 4.1 ATTORNEYS OF RECORD

(a) All documents filed in the Court of Appeals shall contain the full address, telephone number, facsimile number and State Bar number of the attorney of record. Any change of address, telephone number or facsimile number must be reported to the Clerk of the Court within ten days. Failure to provide the Court with updated location information may delay receipt of notifications sent by the Court. Except as specifically authorized by Rule 5(f) of the Texas Rules of Appellate Procedure, an attorney's failure to receive timely notice of Court action due to the attorney's failure to comply with this Rule shall not constitute grounds for extensions of time in which to respond to such notifications.

(b) The clerk of court shall send notices only to the attorney of record, who will be responsible for notifying clients and co-counsel of action by the court.

RULE 4.2 FACSIMILE NOTIFICATION

Except as specifically required by the Texas Rules of Appellate Procedure that notice issue by mail, any notices issued by the Clerk of the Court of Appeals may be made by facsimile at the discretion of the Court. Facsimile notification shall be made to the facsimile number provided by the attorney of record for each party to the appeal. Attorneys are cautioned to comply with the requirement elsewhere in these Local Rules that changes in location be reported to the Clerk of the Court within ten days.

RULE 4.3 FACSIMILE FILING

(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 11.1 DUTY OF COURT REPORTERS TO RECORD DEPOSITION TESTIMONY

It shall be the duty of the court reporter recording a trial, hearing, or other proceeding before the trial court to insure that deposition testimony is fully recorded for purposes of appeal,

whether videotaped or read into the record from a written transcript. If the deposition is tendered as an exhibit, it shall be retained with other exhibits introduced in the proceeding. The statement of facts on appeal shall either set out the deposition testimony in full as if presented by a live witness, or shall refer to the exhibit tendered in the trial court, which exhibit shall be included in the appellate record without further motion or designation by counsel.

RULE 11.2 DUTIES OF COURT REPORTERS AND DISTRICT CLERKS IN PREPARING RECORD

(a) It shall be the duty of the court reporter or district clerk preparing a portion of the record to insure that transcripts and statement of facts are bound in volumes in such a way as to insure they will not fall apart or lose their covers in regular use.

(b) Each volume of transcript or statement of facts shall include an index including the pages on which may be found witnesses testimony, exhibits marked and admitted, bills of exception, charge conferences, and other recorded proceedings.

RULE 18.1 DUTIES OF THE CLERK--THE RECORD

In civil cases not under submission, counsel (an attorney of record only) may check out the record through the Clerk of this Court. In criminal cases, counsel must check out the record through the District Clerk of the county from which the appeal arose. After submission, no record may leave the Court, but counsel or parties may make arrangements to review it in the Court's chambers.

RULE 19.1 MOTIONS

(a) All motions shall be verified.

(b) The Court decides motions each Wednesday, without oral argument. Agreed motions are decided the first Wednesday after filing; all others are decided the first Wednesday after 10 days from the date of filing.

RULE 21.1 PHOTOGRAPHING, ELECTRONIC BROADCASTING AND RECORDING OF PROCEEDINGS--POLICY

These rules allow electronic recording, broadcasting, and photography in this Court to facilitate the free flow of information to the public concerning the judicial system and to foster better public understanding about the administration of justice. These rules are to be construed to provide the greatest access possible while at the same time maintaining the dignity, decorum and impartiality of the court proceedings.

RULE 21.2 PHOTOGRAPHING, ELECTRONIC BROADCASTING AND RECORDING OF PROCEEDINGS—EQUIPMENT AND PERSONNEL

Unless the Court in its discretion orders otherwise, the following standards apply to the placement and operation of equipment:

(a) The Clerk of Court shall be notified of the planned use of recording, broadcasting or photography no later than 2 p.m. on the day prior to scheduled argument. A demonstration of equipment may be required to ensure compliance with these rules.

(b) To avoid disruption of proceedings by an excessive number of cameras, the Court encourages media agencies to make pool arrangements. When necessary, the Court may designate a pool coordinator and specify other conditions for pool coverage.

(c) All personnel and equipment shall be in place within designated areas of the courtroom at least ten minutes prior to the commencement of proceedings and shall not be moved during proceedings. No proceeding will be delayed for the sole purpose of allowing recording, broadcasting, or photography.

(d) Equipment shall not produce distracting sound or light. Signal lights or devices which show when equipment is operating shall not be visible. Moving lights, flash attachments, or sudden lighting changes shall not be used. Existing courtroom sound and lighting systems shall be used without modification unless the Court specifically approves modification.

(e) Personnel operating outside the courtroom shall not create a distraction nor restrict access through the courtroom door.

RULE 21.3 PHOTOGRAPHING, ELECTRONIC BROADCASTING AND RECORDING OF PROCEEDINGS—ENFORCEMENT

A violation of these rules may be sanctioned by appropriate measures, including, without limitation, barring the particular person or agency from access to coverage of proceedings for a defined period of time.

RULE 42.1 ACCELERATED DOCKET—ABBREVIATED

(a) In addition to those cases outlined in Tex.R.App.P. 42, the Court may advance any case for accelerated disposition. If the Court deems that a case may be decided quickly on simple or settled issues of law, or that oral argument will not materially aid the Court in deciding the appeal, the case will be placed upon the accelerated docket. Statements by counsel in the briefs that a case is appropriate for accelerated disposition, with a brief justification, will be considered by the Court but will not control.

(b) Civil cases selected for accelerated disposition will be submitted on the briefs. Criminal cases selected for accelerated disposition will be set for argument at an early date, if argument has been requested by counsel.

RULE 42.2 ACCELERATED DOCKET--EMERGENCY

(c) In addition to the reasons outlined above for accelerated disposition, the Court may order early disposition, with full oral argument, where time is of the essence. Counsel desiring such treatment of an appeal should file a motion setting forth the facts creating an emergency.

RULE 51.1 TRANSCRIPT DESIGNATION

Counsel are encouraged to take the early effort to cull unnecessary documents from their designation of the record before the transcript is forwarded to the Court. The Court strongly discourages inclusion of numerous, voluminous, and irrelevant documents in the transcript on appeal. The Court liberally grants motions to supplement the record after the initial filing, and counsel are encouraged to rely on that policy.

RULE 73.1 MOTIONS FOR EXTENSION OF TIME

(a) Motions for extension of time in criminal cases which request more than sixty days extension from the brief's original due date shall state whether the defendant is incarcerated, and shall be served upon the defendant as well as opposing counsel.

RULE 74.1 BRIEFS--FORM

(a) Briefs shall be bound so as to lie flat when opened. Spiral binding is suggested. Briefs may be duplex printed, that is printed on both sides of the page. Numerous font changes, capitalizations, and exclamation points for emphasis within a brief should be avoided.

(b) Proper citation form as outlined in *A Uniform System of Citation* and *Texas Rules of Form* shall be used in all briefs. Writ, petition, and certiorari histories shall be included. Specific page citations to relevant holdings and quotations within a case (jump cites) shall be incorporated.

(c) The Court encourages the use of color-coded briefs. The cover of appellant's brief should be blue; appellee, red; intervenor or amicus curiae, green; any reply brief, grey. The appendix if separately bound should be white.

(d) The Court encourages the use of recycled paper.

RULE 74.2 BRIEFS—LENGTH

Any brief following Appellant's opening brief and Appellee's initial response brief shall not exceed 25 pages without leave of Court.

RULE 74.3 BRIEFS—TIME FOR FILING

(a) Any brief replying to the last brief filed (following appellee's opening brief) shall be filed at least ten days before the case is set for submission. Any short update or supplement of authorities which counsel wishes to submit to the Court at submission or after may be in letter form, filed with the Clerk. All briefs received after the ten-day deadline shall be filed only upon motion and leave of Court.

(b) If, during oral argument, the Court requests additional briefing, such brief shall be filed within the time fixed by the Court, or if none is specified, within ten days after argument. The opposing party shall file any reply within ten additional days.

RULE 74.4 BRIEFS—CONTENT

Appendixes containing particularly pertinent excerpts from the record, statutes, rules, or other authorities not easily available to the Court may be filed with the brief. Such appendix may either be bound separately or attached at the end of the brief. Multiple appendix entries shall be accompanied by an index and separated by tabs.

RULE 75.1 ORAL ARGUMENT—HOW REQUESTED

(a) A request for oral argument shall be printed on the outside cover of the party's brief.

(b) If any party requests oral argument, all parties shall be given the opportunity for argument, whether initially requesting it or not. All parties shall be notified of the time and place for submission upon oral argument, and shall inform the Clerk promptly whether they wish to present argument.

(c) A party desiring to waive oral argument which has been previously requested shall notify the Clerk and opposing counsel as soon as possible, and in no event less than ten days before argument is scheduled. Last minute waivers prevent the Court from scheduling argument efficiently. A continued practice of requesting argument, followed by last-minute waiver or failure to appear without notice that counsel intends to waive, may be grounds for denying argument in future cases, or for other sanctions the Court deems appropriate.

(d) In addition to formal motions to vacate oral argument settings for good cause, the Court will make every reasonable effort to accommodate counsel's vacation plans upon timely receipt of a letter setting out all pending appeals and the dates counsel intends to be unavailable.

Counsel should be aware that the Court frequently sets cases for oral argument two months in advance.

RULE 75.2 ORAL ARGUMENT--TIME ALLOWED

(a) Appellant and appellee shall be allowed twenty minutes each in argument, with ten minutes more for appellant's rebuttal. If there are multiple appellants or appellees, they shall agree before argument how this time will be split, and shall announce their agreement to the Court before arguments begin.

(b) A request for additional time in argument shall be by written motion filed at least ten days before argument is scheduled.

RULE 75.3 ORAL ARGUMENT--POINTS COVERED

The Court will consider all points and arguments raised in the parties' briefs, whether discussed during oral argument or not.

RULE 120.1 NUMBER OF COPIES IN HABEAS CORPUS PROCEEDINGS

Six copies shall be filed of a petition seeking a writ of habeas corpus in a civil case, as well as six copies of any brief, certified copies of orders, judgments, and other exhibits accompanying the petition. Multiple exhibits shall be accompanied by an index and separated by tabs.

RULE 121.1 NUMBER OF COPIES IN ORIGINAL PROCEEDINGS

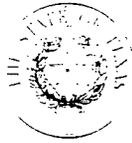
Six copies shall be filed of the motion, petition and brief shall be filed in mandamus, prohibition and injunction cases. Multiple exhibits shall be accompanied by an index and separated by tabs.

RULE 121.2 CONTENTS OF ORIGINAL PROCEEDINGS

In addition to the requirements of Tex.R.App.P. 121, an original proceeding shall contain counsel's certification that it has not been submitted to another court, whether it is pending before another court, or whether it has been submitted and rejected by another court.

RULE 121.3 ACTION ON ORIGINAL PROCEEDINGS

Motions for leave to file original proceedings, and writs of habeas corpus, shall be submitted to the Court immediately after filing. The Court's initial determination of whether to grant or deny leave to file, or to request a response before acting, will usually be made within three working days of filing.



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN

EXECUTIVE ASS'T.
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.
NADINE SCHNEIDER

June 6, 1995

Chief Justice Richard Barajas
Eighth Court of Appeals
500 E. San Antonio, Suite 1203
El Paso, Texas 79901

Dear Chief Justice Barajas,

Please find enclosed, a copy of the order of the Supreme Court that approved local rules for the Eighth Court of Appeals.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Clyde R. Ashworth
8th Admin Judicial Rgn

Ms. Barbara B. Dorris
Eighth Court of Appeals

Supreme Court Adv Committee

Mr. Raymond Judice
Office of Court Admin

State Law Library