

IN THE SUPREME COURT OF TEXAS

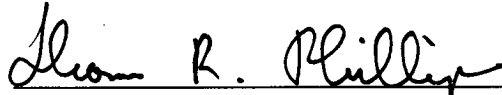
Misc. Docket No. 98- 9193

APPROVAL OF LOCAL RULES FOR THE FIFTH COURT OF APPEALS

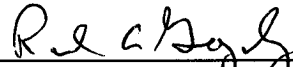
ORDERED that:

Pursuant to Texas Rule of Appellate Procedure 1.2(a), the Supreme Court of Texas approves the following Local Rules for the Fifth Court of Appeals. The approval of these rules is temporary pending further orders of the Court.

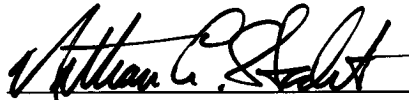
SIGNED AND ENTERED this 3rd day of November, 1998.



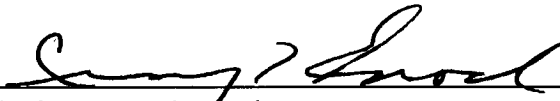
Thomas R. Phillips, Chief Justice



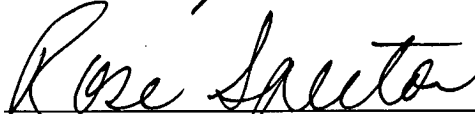
Raul A. Gonzalez, Justice



Nathan L. Hecht, Justice



Craig T. Enoch, Justice



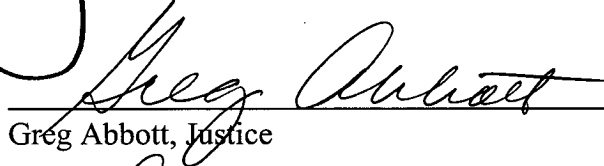
Rose Spector, Justice



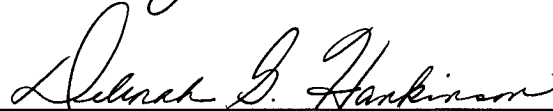
Priscilla R. Owen, Justice



James A. Baker, Justice



Greg Abbott, Justice



Deborah G. Hankinson, Justice

FIFTH DISTRICT COURT OF APPEALS
LOCAL RULES

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IT IS HEREBY ORDERED that the foregoing shall constitute the local rules of court for the Fifth District Court of Appeals, effective . . .

All local rules promulgated prior to such effective date are hereby rescinded; but this shall not affect any proper action taken pursuant to such rescinded rules prior to the effective date of the rules herein adopted.

Rule 1. Scope of Local Rules
(TEX. R. APP. P. 1.2)

These rules govern procedure for appeals, original proceedings, and other matters before the Court of Appeals for the Fifth District of Texas at Dallas. In the event of a conflict between these local rules and the Texas Rules of Appellate Procedure or any other state statute or rule, the Texas Rules of Appellate Procedure, statute, or rule shall control.

Rule 2. Change of address or other information
(TEX. R. APP. P. 9.1)

Counsel or a party proceeding pro se shall file a notice of change of address, telephone number, or facsimile number within ten (10) days of the date of the change. The notice shall include the style and cause number of any case the notifying party has pending

before the Court.

Rule 3. Filing by Facsimile (fax)
(TEX. R. APP. P. 9.2(c))

(a) The Clerk will maintain a fax machine for receipt of transmissions during normal business hours, Monday through Friday (excluding legal holidays as that term is defined by section 662.021 of the Texas Government Code) from 8:00 a.m. to 5:00 p.m. central time. The sender is responsible for determining if there are any changes in normal business hours. The Clerk is not responsible for events that disrupt, impair, or render impossible the receipt of documents transmitted by fax.

(b) Any document transmitted to the Court by fax will be initially stamped by the Clerk as received. If the document is subsequently stamped filed by the Clerk in compliance with the Texas Rules of Appellate Procedure and this rule, it will be deemed filed as of the date the Court received the fax.

(c) 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 document being transmitted and the cause number; (3) the number of pages being transmitted; (4) the name of the Clerk or deputy clerk, if any, to whose attention the document is directed; and (5) that the document is being transmitted under this local rule in anticipation of future filing.

(d) The sender is responsible for all applicable fees assessed by the Clerk in connection with the receipt of documents transmitted by fax. Failure to pay the fee within

seven (7) days of the date of the transmission will result in the Clerk declining to stamp the document as filed.

(e) The original of the document, together with the correct number of copies required to be filed by the Texas Rules of Appellate Procedure, must be received by the Clerk within seven (7) days of the fax. Under this rule, the original and copies must be accompanied by a cover letter referencing the date of the fax transmission and requesting that the documents be filed as of the date of the fax. Failure to comply with this requirement will result in the Clerk declining to stamp the document as filed.

(f) The sender is responsible for ensuring that documents transmitted by fax are received legibly and completely by the Clerk. The Clerk's office will verify by telephone that a document is legible and has been received completely but will not initiate the telephone call. If a document sent by fax is not complete or is otherwise illegible, the Clerk will decline to stamp it as filed.

(g) Except as specifically required by the Texas Rules of Appellate Procedure, any notices issued by the Clerk of the Court may be made by fax. Fax notification shall be made to the fax number provided by the attorney of record for each party to the appeal.

Rule 4. Withdrawal of Record on Appeal
(TEX. R. APP. P. 12.4)

(a) In criminal cases, the Court will not allow the record to be checked out. Records must be checked out through the District or County Clerk's office.

(b) In civil cases, the record may be checked out as provided by Texas Rule of

Appellate Procedure 12.4. The record must be returned to the Clerk within fourteen (14) days.

Rule 5. Monthly Report by Court Reporters
(TEX. R. APP. P. 13.4)

Court reporters must file a copy of the court reporter's monthly report required by Texas Rule of Appellate Procedure 13.4 with this Court before the first day of each month.

The report shall include:

- 1) a list of cases pending on appeal for which reporter's records are due;
- 2) the dates on which the written requests for the reporter's records were received;
- 3) the approximate number of pages and due dates for the reporter's record in each case; and
- 4) the names, addresses, and phone numbers of any substitute reporters for each case.

Rule 6. Extension of time to file Appellee's Briefs
(TEX. R. APP. P. 38.6(d))

(a) In criminal cases, the Court will not accept an appellee's brief tendered more than ten (10) days after the date of the letter notifying the parties that the case is set for submission.

(b) In civil cases, on motion complying with Texas Rule of Appellate Procedure 10.5(b), the Court may extend the time for filing the appellee's brief and may postpone submission of the case. A motion to extend the time to file the brief may be filed before or after the date the brief is due. The court may also, in the interests of justice, shorten the

time for filing briefs and for submission of the case.

Rule 7. Oral Argument
(TEX. R. APP. P. 39)

In civil cases, oral arguments in each appeal are heard at the time designated by the sitting panel. As a general rule, one case will be set for oral argument each hour, beginning at 9:00 a.m. or 1:00 p.m.

In criminal cases, all counsel who have requested oral argument are expected to be present at 9:00 a.m. or 1:00 p.m. as instructed by written notice. At that time, the presiding justice will call the docket and determine which attorneys will argue. Oral argument will be heard, insofar as practicable, in the order the cases appear on the submission docket for that date.

If there is more than one appellant or appellee, counsel shall be expected to announce to the Court, at docket call, how the time is to be divided among the parties.

Oral argument will be limited to twenty (20) minutes for the appellant's opening argument, twenty (20) minutes for the appellee's argument, and five (5) minutes for the appellant's rebuttal. Requests for additional time must be made by written motion filed at least ten (10) days prior to the scheduled submission date.

Rule 8. Settlement
(TEX. R. APP. P. 42.1)

In the event a civil case settles before submission, the parties shall notify the Clerk by filing an appropriate motion. The motion shall specify (1) the manner of disposition, and

(2) the parties' agreement on the allocation of costs of appeal.

Rule 9. Request for Temporary Relief in Original Proceedings
(TEX. R. APP. P. 52.10)

Relator must note on the front cover of the petition if temporary relief is requested.



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
CRAIG T. ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

November 3, 1998

Chief Justice Linda Thomas
Fifth Court of Appeals
600 Commerce Street, 2nd Floor
Dallas, Texas 75202-4658

Dear Justice Thomas,

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

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Pat McDowell
1st Admin Judicial Rgn

Ms. Lisa Rombok

District Clerk

County Clerk

Supreme Court Adv Committee

Mr. Jerry Benedict
Office of Court Admin

State Law Library