

ORDER OF THE SUPREME COURT OF TEXAS

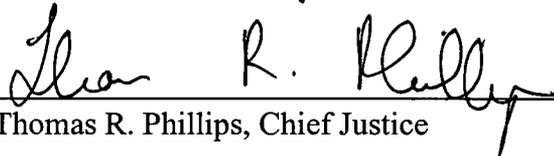
Misc. Docket No. 99-9169

**Approval of Local Rules of the
Eighth Court of Appeals**

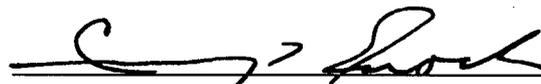
IT IS ORDERED that:

Pursuant to Texas Rule of Appellate Procedure 1.2(a), the Supreme Court of Texas approves the attached Local Rules of the Eighth Court of Appeals. This order is temporary pending further orders of this Court.

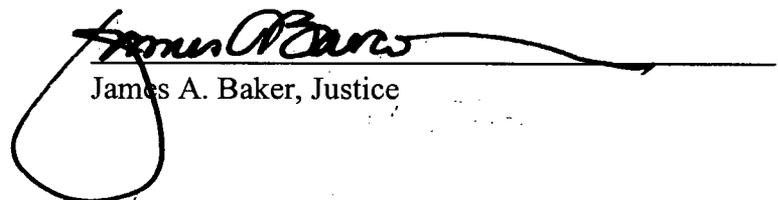
By the Court, en banc, in chambers, this 21st day of September, 1999.


Thomas R. Phillips, Chief Justice


Nathan L. Hecht, Justice

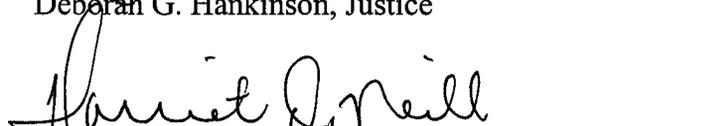

Craig T. Enoch, Justice

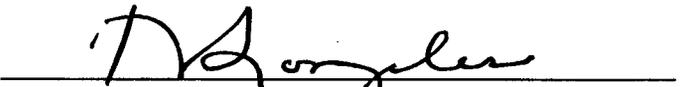

Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice


Deborah G. Hankinson, Justice


Harriet O'Neill, Justice


Alberto R. Gonzales, Justice



EIGHTH COURT OF APPEALS LOCAL RULES

(Cite these rules as 8TH TEX.APP. (EL PASO) LOC.R.)

RULE 1 SCOPE

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 Texas Rule of Appellate Procedure 1.2. They are meant to supplement, not supplant, the Texas Rules of Appellate Procedure, and should be interpreted to harmonize with those rules. They are numbered to correspond with their closest counterpart in the Texas Rules of Appellate Procedure.

RULE 2 ALTERNATIVE DISPUTE RESOLUTION (ADR)

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

RULE 8 BANKRUPTCY AND OTHER STAYS IN CIVIL CASES

Any party filing a notice of bankruptcy or otherwise claiming an automatic stay of the appeal as provided by federal or state law must also file in this court, every 90 days, a letter informing the court of the status of the bankruptcy or other proceeding.

RULE 9.1 FACSIMILE NOTIFICATION

(a) **By the court.** 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 address be reported to the clerk of court within ten days.

(b) **By the parties.**

(1) **Fees.** The sender is responsible for fees assessed by the clerk in connection with the receipt of any filing transmitted by facsimile machine. Failure to promptly pay the fee may result in

the striking of the filing transmitted by facsimile machine.

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

(3) **Cover Sheet.** A cover sheet shall accompany every filing transmitted by facsimile machine and shall clearly identify (1) the name, address, telephone number, and facsimile number of the sender; (2) the document 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.

(c) **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 the document or denying the relief requested therein. The sender shall forward a copy of the filing to the clerk on the same day that the filing is transmitted by facsimile machine.

RULE 9.2 MOTIONS--NUMBER OF COPIES

A party need only file the original of any motion filed before submission of the case. After submission, the court requires the original plus five copies of a motion.

RULE 9.3 ORIGINAL PROCEEDINGS--NUMBER OF COPIES

(a) An original and three copies shall be filed of a petition seeking extraordinary relief, as well as an original and three copies of any brief in support of the petition.

(b) Relator need file only one copy of the record in an original proceeding. Appendixes containing pertinent portions of the record, as set out in Texas Rule of Appellate Procedure 52.3(j), shall accompany each petition. Appendixes may be bound at the end of each petition, or separately if bulky.

RULE 12 DUTIES OF THE CLERK--CUSTODY OF THE RECORD

In civil cases not under submission, counsel (or pro se party) may check out the record through the clerk of this court. In criminal cases, counsel must check out the record through the clerk of the county from which the appeal arose unless extraordinary circumstances dictate that the record be obtained from this court. After submission, no record may leave the court, but counsel or parties may make arrangements to review it in the court's chambers. The record must not be disassembled, nor the clerk's seal broken.

RULE 13 DUTIES OF COURT REPORTERS AND CLERKS IN PREPARING RECORD

(a) It shall be the duty of the court reporter or clerk preparing a portion of the record to insure that the record is bound in volumes so it will not fall apart or lose its covers in regular use.

(b) When the clerk or court reporter needs additional time to file the record, he or she shall file a written notice with this court stating the reasons why additional time is needed. The written notice shall include the address and phone number of either the clerk or court reporter and this court's case number.

(c) A clerk or court reporter filing a written notice under Local Rule 13(b) shall send copies to all counsel or parties as set out in Texas Rule of Appellate Procedure 6.3.

(d) In civil cases, the court reporter shall include in the record a certified bill of costs including the total cost of preparing the reporter's record and reflecting the amount of payments made and by whom.

(e) In civil cases, the clerk shall include in the record a certified bill of costs reflecting the total cost of preparing the clerk's record, the amount of payments made, and by whom.

RULE 32 DOCKETING STATEMENTS

Each appellant should file a docketing statement in this court when the notice of appeal is filed, or as shortly thereafter as possible. Forms for docketing statements are available from the clerk. Appellant should attach a copy of the judgment or order being appealed.

RULE 38.1 BRIEFS--FORM

(a) 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. 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 identity of all trial judges presiding below, including visiting judges, shall be included in the section identifying the parties and counsel.

(d) The court encourages the use of recycled paper and duplex copying.

RULE 38.2 BRIEFS--TIME FOR FILING

(a) The appellate clerk acts upon routine motions for extensions of time to file briefs, and has developed a uniform policy for the first and second extensions of time. Barring unusual circumstances, a movant will receive a 45 day extension upon first request, and a 30 day extension upon second request. The third request is taken to a judge for determination and the time granted will vary according to the grounds supporting an extension. The third extension is usually final.

(b) In appeals involving multiple appellees, the timetable for appellant's reply brief shall begin to run from the date the last appellee's brief is filed.

(c) Appellees are encouraged to file motions for extension of time to file briefs if more time is needed. The court will file appellee's brief if received in sufficient time before submission to allow appellant the full time within which to prepare a response brief.

(d) A party may file a letter of authorities with succinct comment at any time without leave of court.

RULE 39.1 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 39.2 ORAL ARGUMENT--RECORDED BY COURT

The court makes video recordings of oral arguments for its own use. A party, member of the press, or other interested person may purchase a copy of the recording from the clerk. The court does not guarantee the tape will be clear, audible, or visible, and the court will generally not grant a rehearing because the videotape quality is not satisfactory.

RULE 39.3 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 39.4 ORAL ARGUMENT--USE OF TELECONFERENCING TECHNOLOGY

In accordance with Section 73.003(e) of the Texas Government Code, and upon proper notice to the parties, the court may hear oral argument through the use of teleconferencing technology as provided by Section 22.302 of the Texas Government Code.

RULE 39.5 ORAL ARGUMENT--REQUESTING AFTER BRIEF FILED

If a party desiring oral argument failed to request it on the brief's front cover, the party may file a letter or motion notifying the court of its desire to present argument. In no event will a party be denied oral argument if an opposing party presents argument.

RULE 52 ACTION ON ORIGINAL PROCEEDINGS

Any original proceeding petition shall be submitted to the court immediately after filing. The court's initial determination of whether to consider the petition on the merits, or to request a response before acting, will usually be made within three working days.

These local rules for the Eighth Supreme Judicial District of Texas were approved by the Texas Court of Criminal Appeals and by the Texas Supreme Court by separate orders dated

These rules shall be effective _____.

IT IS SO ORDERED THIS ____ DAY OF _____, 1998.

RICHARD BARAJAS, Chief Justice

SUSAN LARSEN, Justice

ANN CRAWFORD McCLURE, Justice

DAVID WELLINGTON CHEW, Justice

En Banc
Barajas, C.J., Larsen, McClure and Chew, JJ.



**COURT OF APPEALS
EIGHTH JUDICIAL DISTRICT**

EL PASO COUNTY COURTHOUSE, SUITE 1203
500 E. SAN ANTONIO STREET
EL PASO, TEXAS 79901-2421
(915) 546-2240 FAX (915) 546-2252
E-MAIL: clerk@8thcoa.courts.state.tx.us

Chief Justice
Richard Barajas

Justices
Susan Larsen
Ann Crawford McClure
David Wellington Chew

Clerk
Denise Pacheco

Chief Deputy Clerk
Diana Rodriguez

August 24, 1999

Mr. Bob Pemberton
Supreme Court of Texas
P. O. Box 12248
Austin, TX 78711

Re: Amended local rules for the Eighth Judicial District

Dear Mr. Pemberton:

Pursuant to our telephone conversation of this morning, please find enclosed a copy of the proposed amended local rules for the El Paso Court of Appeals. The Court has amended its previously submitted local rules by removing Rule 9.1(d) - Business Hours regarding the facsimile machine. Also, a typographical error has been corrected on Rule 13(c).

Please submit these local rules for approval and if you should have any questions or need any additional information, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Denise Pacheco".

Denise Pacheco

Enclosure

08/24/99

11:00 AM



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

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

September 21, 1999

Chief Justice Richard Barajas
Eighth Court of Appeals
500 East San Antonio, Suite 1203
El Paso, Texas 79901-2421

Dear Chief Justice Barajas,

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

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Denise Pacheco

Supreme Court Adv Committee

Mr. Jerry Benedict
Office of Court Admin

State Law Library