

IN THE SUPREME COURT OF TEXAS

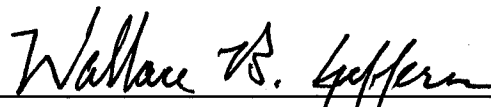
Misc. Docket No. 04- **9278**

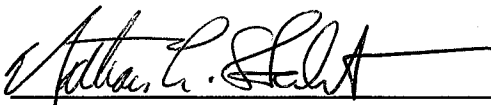
APPROVAL OF AMENDMENTS TO THE LOCAL RULES FOR THE FIFTH DISTRICT COURT OF APPEALS


ORDERED that:

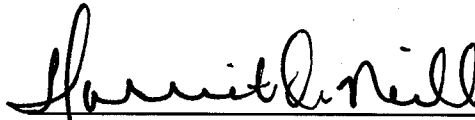
Pursuant to Texas Rule of Appellate Procedure 1.2, the following Amendments to the Local Rules for the Fifth District Court of Appeals are approved.

In Chambers, this 22nd day of November, 2004.

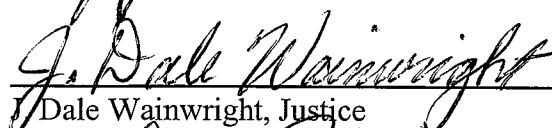

Wallace B. Jefferson, Chief Justice

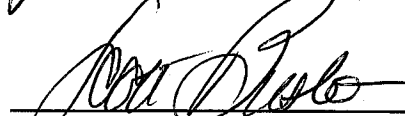

Nathan L. Hecht, Justice


Priscilla R. Owen, Justice


Harriet O'Neill, Justice


Steven Wayne Smith, Justice


Dale Wainwright, Justice


Scott Brister, Justice


David M. Medina, Justice

Amend Rule 10:

A party must file the original and seven (7) copies of any brief submitted to the Court.

Explanation of need.:

West Publishing has asked the Court to provide it with a copy of each brief filed. The Court uses six copies in completing its work on the case. The Court needs a seventh copy to be able to provide West with the requested copy.

New Rule 11: Briefs in cross-appeals.

11.1 In a civil appeal in which a cross-appeal has been timely filed, the briefs to be filed by the parties are:

- a. The appellant's brief.
- b. A combined appellee's and cross-appellant's brief.
- c. A combined appellant's reply and cross-appellee's brief.
- d. The cross-appellant's reply brief.

11.2 The aggregate number of pages for all briefs filed by any party may not exceed 125. The pages used to determine page limitations are those contained in appellate rule 38.4. The page limits are those set forth in appellate rule 38.4, except as provided for herein for the combined appellee/cross-appellant and appellant reply/cross-appellant's briefs. The combined appellee/cross-appellant's brief may be 100 pages, 50 pages for the appellee's portion and 50 pages for the cross-appellant's portion. The combined appellant's reply/cross-appellee's brief may be 75 pages, 25 for the reply brief and 50 for the cross-appellee's brief.

11.3 The deadlines for filing the briefs are:

- a. The appellant's brief is due no later than thirty days after the date the record is filed with the Court.
- b. The appellee/cross-appellant's brief is due no later than thirty days after the date the appellant's brief is filed.
- c. The appellant's reply/cross-appellee's brief is due no later than thirty days after the date the appellee/cross-appellant's brief is filed
- d. The cross-appellant's reply brief is due twenty days after the date the cross-appellee's brief is filed.

11.4 If appellant or cross-appellant's appeal is dismissed and the appeal remains pending on the

undismissed notice of appeal, the briefing schedule and page limitations will be as provided for in the rules of appellate procedure.

11.5. The Court may change the requirements of this rule on its own motion or motion of any party to the appeal.

Explanation of need:

Currently, the appeal and cross-appeal have separate but concurrent briefing schedules and requirements (viz. appellant's brief, appellee's brief, appellant's reply brief). This requires the justices and staff to look at six different briefs to see all the issues raised in the appeal. Under this proposal, the parties receive the standard amount of time to file their briefs and the Court can see all the issues raised in one progression of four briefs. The page limitations will be the combined amount (e.g., appellant's reply and cross-appellee's brief will be no longer than 75 pages, a combination of the reply brief limit of 25 pages and appellee's brief limit of 50 pages) so the parties receive the same number of pages they would if the briefs were filed separately.

CHIEF JUSTICE
LINDA THOMAS
JUSTICES
JOSEPH B. MORRIS
MARK WHITTINGTON
CAROLYN WRIGHT
JIM MOSELEY
DAVID L. BRIDGES
MICHAEL J. O'NEILL
KERRY P. FITZGERALD
MARTIN RICHTER
MOLLY FRANCIS
DOUGLAS S. LANG
ELIZABETH LANG-MIERS
AMOS L. MAZZANT



**Court of Appeals
Fifth District of Texas at Dallas**

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October 26, 2004

Andrew Weber
Clerk, Supreme Court of Texas
P.O. Box 12248
Austin, Texas 78711

Re: Amendment of Local Rules for Fifth District (Dallas) Court of Appeals

Dear Mr. Weber:

The Fifth District (Dallas) Court of Appeals submitted proposed new local rules by letter dated October 11, 2004. By telephone conversation with a staff member of your court, I was informed that the court had concerns about the wording of proposed rule 11.4. Attached please find the proposed rules as submitted on October 11, 2004 with changes to proposed rule 11.4 which this Court believes answers your Court's concern about the rule. Thank you for your cooperation. Should you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Brenda J. Norton".

Brenda J. Norton
Chief Staff Attorney

enc

ltr/bn