

# IN THE SUPREME COURT OF TEXAS


Misc. Docket No. 11- 9075


## APPROVAL OF AMENDED LOCAL RULES FOR THE COURT OF APPEALS FOR THE FOURTH COURT OF APPEALS DISTRICT OF TEXAS

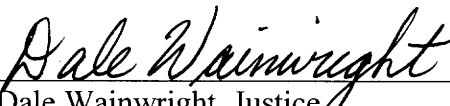
**ORDERED** that:

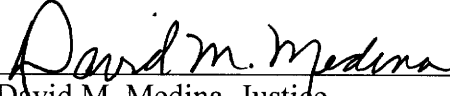
Pursuant to Texas Rule of Appellate Procedure 1.2, this Court approves the following amendments to the local rules for the Court of Appeals for the Fourth Court of Appeals District of Texas, effective June 1, 2011. To the extent these local rules vary from the standards in Appendix C to the Texas Rules of Appellate Procedure, these local rules control.

Dated: April 20, 2011.

  
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Wallace B. Jefferson, Chief Justice

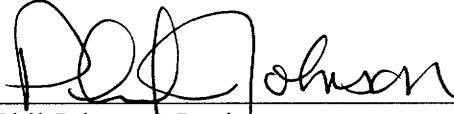
  
\_\_\_\_\_  
Nathan L. Hecht, Justice

  
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Dale Wainwright, Justice

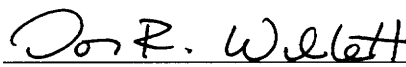
  
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David M. Medina, Justice



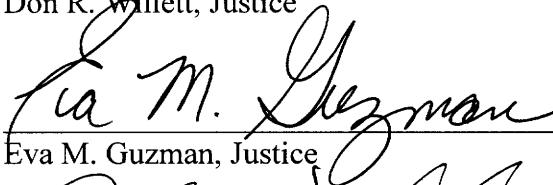
Paul W. Green, Justice



Phil Johnson, Justice



Don R. Willett, Justice



Eva M. Guzman, Justice



Debra H. Lehrmann, Justice

**IN THE COURT OF APPEALS  
FOURTH COURT OF APPEALS DISTRICT  
STATE OF TEXAS**

<b>In the Matter of:</b>	§	
	§	
<b>Amendment to</b>	§	<b>ADMINISTRATIVE ORDER</b>
<b>Local Rules of the Court of Appeals</b>	§	
<b>for the Fourth Court of Appeals</b>	§	
<b>District of Texas</b>	§	

1. **DEFINITION** – The term “Local Rules” shall mean the Local Rules of the Court of Appeals for the Fourth Court of Appeals District of Texas signed on September 23, 1998, effective October 1, 1998.
2. **AMENDMENT TO LOCAL RULE 7** – Local Rule 7 is amended to add five additional subsections to read as follows:

**7.4 Preparation of Clerk’s Record (TEX. R. APP. P. 34.5, 35).** The trial court clerk must prepare and file the clerk’s record in accordance with Rules 34.5 and 35. Even if more than one notice of appeal or request for inclusion of items is filed, the clerk should prepare only one record in a case. To prepare the clerk’s record, the trial court clerk must:

- (a) gather the documents required by Rule 34.5(a) and those requested by a party under Rule 34.5(b);
- (b) start each document on a new page;
- (c) include the date of filing on each document;
- (d) arrange the documents in ascending chronological order, by date of filing or occurrence;
- (e) start the page numbering on the front cover of the first volume of the clerk’s record and continue to number all pages consecutively—including the front and back covers, tables of contents, certification page, and separator pages, if any—until the final page of the clerk’s record, without regard for the number of volumes in the clerk’s record, and place each page number at the bottom of each page;
- (f) prepare, label, and certify the clerk’s record as required by this rule;

(g) as far as practicable, include the date of signing by the judge on each order and judgment;

(h) include on the front cover of the first volume of the clerk's record, whether filed in paper or electronic form, the following information, in substantially the following form:

CLERK'S RECORD

VOLUME \_\_\_\_ of \_\_\_\_

Trial Court Cause No. \_\_\_\_\_

In the \_\_\_\_\_ (District or County) Court  
of \_\_\_\_\_ County, Texas,  
Honorable \_\_\_\_\_, Judge Presiding

-----  
\_\_\_\_\_, Plaintiff(s)

vs.

\_\_\_\_\_, Defendant(s)  
-----

Appealed to the  
(Supreme Court of Texas at Austin, Texas,  
or Court of Appeals for the \_\_\_\_\_ District of Texas, at \_\_\_\_\_, Texas).

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Attorney for Appellant(s):

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone no.: \_\_\_\_\_

Fax no.: \_\_\_\_\_

E-mail address: \_\_\_\_\_

SBOT no.: \_\_\_\_\_

Attorney for: \_\_\_\_\_, Appellant(s)

-----  
Name of clerk preparing the clerk's record: \_\_\_\_\_

(i) include on the front cover of the second and subsequent volumes of the clerk's record the same information required under 7.4(h), in substantially the same form;

(j) prepare and include after the front cover of the clerk's record a detailed table of contents identifying each document in the entire record (including sealed documents), the date each document was filed, and, except for sealed documents, the page on which each document begins. The table of contents must be double-spaced and conform to the order in which documents appear in the clerk's record, rather than in alphabetical order. If the clerk's record consists of multiple volumes, the table of contents must indicate the page on which each volume begins. If the clerk's record is filed in electronic form, the clerk must use bookmarks to link each document description in the table of contents, except descriptions of sealed documents, to the page on which each document begins; and

(k) conclude the clerk's record with a certificate in substantially the following form:

The State of Texas )

County of \_\_\_\_\_ )

I, \_\_\_\_\_, Clerk of the \_\_\_\_\_ Court of \_\_\_\_\_ County, Texas do hereby certify that the documents contained in this record to which this certification is attached are all of the documents specified by Texas Rule of Appellate Procedure 34.5(a) and all other documents timely requested by a party to this proceeding under Texas Rule of Appellate Procedure 34.5(b).

GIVEN UNDER MY HAND AND SEAL at my office in \_\_\_\_\_, County, Texas this \_\_\_ day of \_\_\_\_\_.

signature of clerk \_\_\_\_\_

name of clerk \_\_\_\_\_

title \_\_\_\_\_

If the clerk's record is filed in electronic form, the trial court clerk's login and password serves as the clerk's signature on the certification page. The clerk also must include either a scanned image of the clerk's signature or "/s/" and the clerk's name typed in the space where the signature would otherwise appear.

**7.5 Filing an Electronic Clerk's Record.** The Fourth Court of Appeals prefers the filing of clerk's records in electronic form. When filing a clerk's record in electronic form, the trial court clerk must:

- (a) scan each image in black and white with a resolution of 300 dots per inch (dpi) when filing electronic documents created as scanned images;
- (b) create electronic bookmarks to mark the first page of each document in the clerk's record;
- (c) limit the size of each computer file to 100 MB or less;
- (d) file each computer file in text-searchable Portable Document Format (PDF), compatible with the latest version of Adobe Reader;
- (e) include the following elements in the computer file name, exemplified as Bexar-2009CR12209-CLR-Vol001.pdf:
  - (1) county name without spaces between words;
  - (2) a hyphen;
  - (3) the trial-court cause number, preferably in the format the trial court uses for cause numbers;
  - (4) a hyphen;
  - (5) "CLR-Vol";
  - (6) the volume number as three digits with leading zeroes if needed;
  - (7) a period; and
  - (8) "pdf";
- (f) if there are multiple volumes in a clerk's record, use volume numbers pursuant to 12.2(e)(6) to identify the sequential order of the volumes (e.g., Bexar-2009CR12209-CLR-Vol001.pdf, Bexar-2009CR12209-CLR-Vol002.pdf, etc.);
- (g) if filing a sealed document, include a hyphen, the number of the sealed document, and the term "Sealed" after the term "CLR" in the computer file name (e.g., Bexar-2009CR12209-CLR-1Sealed.pdf, Bexar-2009CR12209-CLR-2Sealed.pdf), and file each sealed document separately from the remainder of the clerk's record;

(h) if filing a supplement to the clerk's record, include a hyphen, the number of the supplement, the term "Supp," and another hyphen after the term "CLR" in the computer file name (e.g., Bexar-2009CR12209-CLR-1Supp-Vol001.pdf, Bexar-2009CR12209-CLR-2Supp-Vol001.pdf); and

(i) submit each computer file to the Texas Appeals Management and E-filing System web portal, using the guidelines of the Fourth Court of Appeals' website.

**7.6 Filing a Paper Clerk's Record.** When filing a paper record, the trial court clerk must:

(a) bind the documents together in one or more volumes with a top bound, two-inch capacity, two-and-three-quarter-inch, center-to-center removable fastener and no other binding materials, like wax, ribbon, glue, staples, tape, etc.;

(b) include no more than 500 pages in each volume including the cover page;

(c) include only one-sided copies in the clerk's record;

(d) number the first volume "1" and each succeeding volume sequentially;

(e) if practicable, make a legible copy of the documents on opaque, white, 8½ x 11 inch paper; and

(f) place each sealed document in a securely sealed, manila envelope that is not bound with the other documents in the clerk's record.

In the event of a material violation of this rule in the preparation of the clerk's record, on motion of a party or on its own initiative, the appellate court may require the trial court clerk to amend the clerk's record or to prepare a new clerk's record in proper form — and provide it to any party who has previously made a copy of the original, defective clerk's record — at the trial clerk's expense. A supplement to a clerk's record must also be prepared in conformity with this rule.

**7.7 Electronic Reporter's Record (TEX. R. APP. P. 34.6, 35).**

(a) The court reporter or court recorder must prepare and file the

reporter's record in accordance with Rules 34.6 and 35 of the Texas Rules of Appellate Procedure and the Uniform Format Manual for Texas Reporters' Records. Even if more than one notice of appeal or request for preparation of the record is filed, the court reporter or court recorder should prepare only one record in the case.

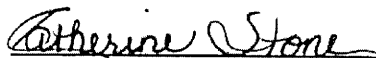
(b) If proceedings were recorded stenographically, in lieu of filing the reporter's record of the proceedings on paper, the court reporter must file the reporter's record in an electronic format via the Texas Appeals Management and E-filing System web portal, in accordance with Section 8 of the Uniform Format Manual for Texas Reporters' Records and the guidelines posted on the Fourth Court of Appeals' website.

(c) In the event of a material violation of this rule in the preparation of a reporter's record, on motion of a party or on the court's own initiative, the appellate court may require the court reporter or court recorder to amend the reporter's record or to prepare a new reporter's record in proper form — and provide it to any party who has previously made a copy of the original, defective reporter's record — at the reporter's or recorder's expense. A court reporter who fails to comply with the requirements of the Uniform Format Manual for Texas Reporters' Records is also subject to discipline by the Court Reporters Certification Board.

**7.8 Suspension of Local Rules for Electronic Filings.** Upon receipt of a motion or on its own initiative, the Fourth Court of Appeals may, to expedite a decision or for other good cause, suspend a local rule pertaining to the filing of electronic records in a particular case and order a different procedure in accordance with the Texas Rules of Appellate Procedure.

3. **NOTICE** – The clerk of this court is ordered to send notice of this amendment to practitioners and publication sources.
4. **EFFECTIVE DATE** — This order is effective June 1, 2011, subject to the approval of the Texas Supreme Court and the Texas Court of Criminal Appeals.

DATED this 19<sup>th</sup> day of April, 2011.

  
Catherine Stone, Chief Justice



*Karen Angelini*

Karen Angelini, Justice

*Sandee Bryan Marion*

Sandee Bryan Marion, Justice

*Phyllis J. Speedlin*

Phyllis J. Speedlin, Justice

*Rebecca Simmons*

Rebecca Simmons, Justice

*Steven C. Hilbig*

Steven C. Hilbig, Justice

*Marielyn Barnard*

Marielyn Barnard, Justice