

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 11- **9169**

ORDER ADOPTING AMENDED TEXAS RULES OF APPELLATE PROCEDURE 20.1 AND 25.1

ORDERED that:

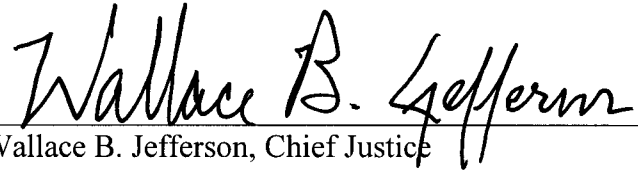
1. In accordance with the Act of May 5, 2011, 82nd Leg., R.S., ch. 75 (HB 906), effective September 1, 2011, amending sections 107.013 and 107.016 of the Texas Family Code, the Supreme Court of Texas amends Rules 20.1 and 25.1 of the Texas Rules of Appellate Procedure as follows, effective September 1, 2011.

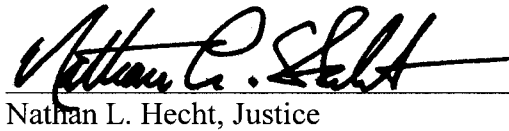
2. The Clerk is directed to:

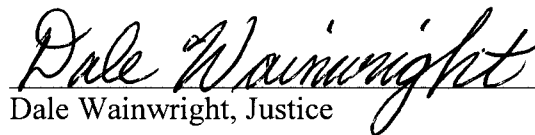
- a. file a copy of this Order with the Secretary of State;
- b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
- c. send a copy of this Order to each elected member of the Legislature; and
- d. submit a copy of the Order for publication in the *Texas Register*.

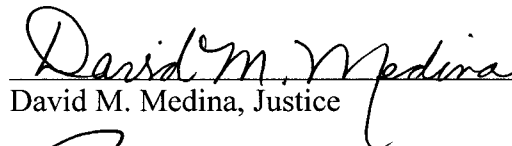
3. These amendments may be changed in response to comments received on or before November 1, 2011. Any interested party may submit written comments directed to Marisa Secco, Rules Attorney, at P.O. Box 12248, Austin, TX 78711, or marisa.secco@txcourts.gov.

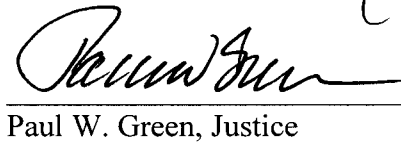
Dated: August 31, 2011.

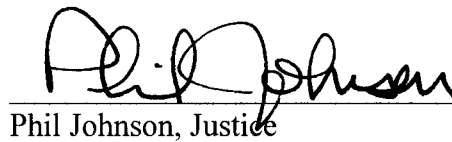

Wallace B. Jefferson, Chief Justice

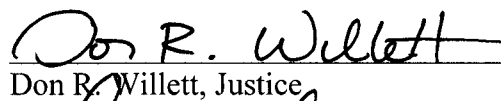

Nathan L. Hecht, Justice

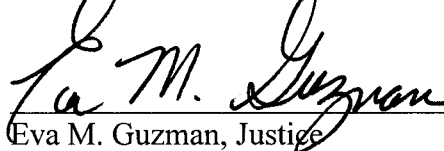

Dale Wainwright, Justice

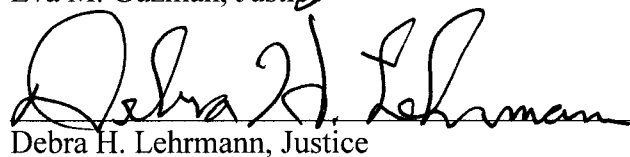

David M. Medina, Justice


Paul W. Green, Justice


Phil Johnson, Justice


Don R. Willett, Justice


Eva M. Guzman, Justice


Debra H. Lehmann, Justice

Rule 20. When Party is Indigent

20.1. Civil Cases

(a) Establishing Indigence.

(1) **By Certificate.** If the appellant proceeded in the trial court without advance payment of costs pursuant to a certificate under Texas Rule of Civil Procedure 145(c) confirming that the appellant was screened for eligibility to receive free legal services under income guidelines used by a program funded by Interest on Lawyers Trust Accounts or the Texas Access to Justice Foundation, an additional certificate may be filed in the appellate court confirming that the appellant was rescreened after rendition of the trial court's judgment and again found eligible under program guidelines. A party's affidavit of inability accompanied by the certificate may not be contested.

(2) **By Affidavit.** A party who cannot pay the costs in an appellate court may proceed without advance payment of costs if:

(A) the party files an affidavit of indigence in compliance with this rule;

(B) the claim of indigence is not contestable, is not contested, or, if contested, the contest is not sustained by written order; and

(C) the party timely files a notice of appeal.

(3) **By Presumption of Indigence.** In a suit filed by a governmental entity in which termination of the parent-child relationship or managing conservatorship is requested, a parent determined by the trial court to be indigent is presumed to remain indigent for the duration of the suit and any subsequent appeal, as provided by section 107.013 of the Family Code, and may proceed without advance payment of costs.

...

(c) When and Where Affidavit Filed.

(1) **Appeals.** An appellant must file the affidavit of indigence in the trial court with or before the notice of appeal. The prior filing of an affidavit of indigence in the trial court pursuant to Texas Rule of Civil Procedure 145 does not meet the requirements of this rule, which requires a separate affidavit and proof of current indigence, except in cases in which a presumption of indigence has been established as provided by Rule 20.1(a)(3). An appellee who is required to pay part of the cost of preparation of the record under Rule 34.5(b)(3) or 34.6(c)(3) must file an affidavit of indigence in the

trial court within 15 days after the date when the appellee becomes responsible for paying that cost.

(2) Other Proceedings. In any other appellate court proceeding, except in cases in which a presumption of indigence has been established as provided by Rule 20.1(a)(3), a petitioner must file the affidavit of indigence in the court in which the proceeding is filed, with or before the document seeking relief. A respondent who requests preparation of a record in connection with an appellate court proceeding must file an affidavit of indigence in the appellate court within 15 days after the date when the respondent requests preparation of the record, except in cases in which a presumption of indigence has been established as provided by Rule 20.1(a)(3).

Rule 25. Perfecting Appeal

25.1. Civil Cases

...

(d) *Contents of Notice.* The notice of appeal must:

- (1) identify the trial court and state the case's trial court number and style;
- (2) state the date of the judgment or order appealed from;
- (3) state that the party desires to appeal;
- (4) state the court to which the appeal is taken unless the appeal is to either the First or Fourteenth Court of Appeals, in which case the notice must state that the appeal is to either of those courts;
- (5) state the name of each party filing the notice;
- (6) in an accelerated appeal, state that the appeal is accelerated; and
- (7) in a restricted appeal:
 - (A) state that the appellant is a party affected by the trial court's judgment but did not participate—either in person or through counsel—in the hearing that resulted in the judgment complained of;
 - (B) state that the appellant did not timely file either a postjudgment

motion, request for findings of fact and conclusions of law, or notice of appeal; and

(C) be verified by the appellant if the appellant does not have counsel.

(8) state, if applicable, that the appellant is presumed indigent and may proceed without advance payment of costs as provided in Rule 20.1(a)(3).