

**IN THE SUPREME COURT OF TEXAS**

Misc. Docket No. 910031

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**APPROVAL OF LOCAL RULES OF APPELLATE PROCEDURE  
FOR THE COURT OF APPEALS FOR THE FOURTH  
DISTRICT OF TEXAS AT SAN ANTONIO**

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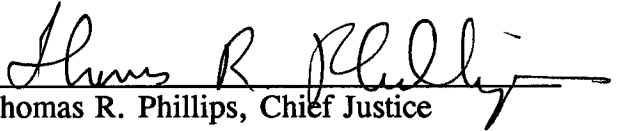
**ORDERED:**

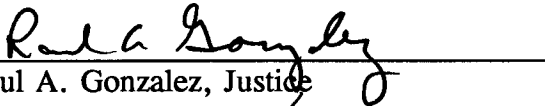
Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court approves the following local rules, which have been submitted to this Court:

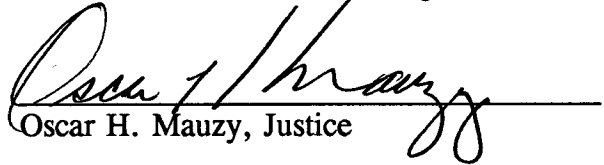
Local Rules of Appellate Procedure for the Court of Appeals for the Fourth District of Texas at San Antonio.

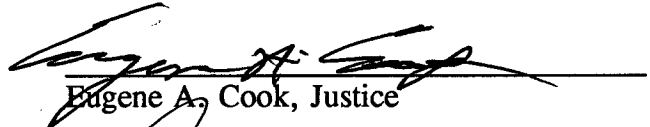
The approval of these rules is temporary, pending further orders of the Court.

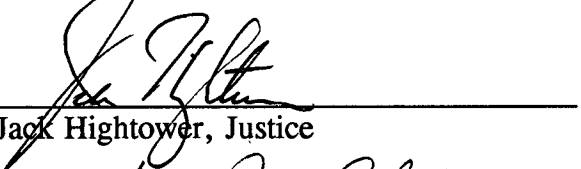
SIGNED AND ENTERED this 1st day of April, 1991.

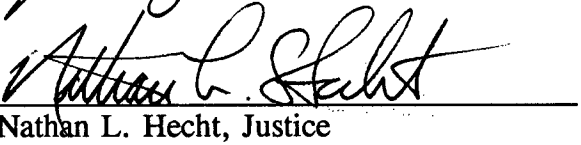
  
Thomas R. Phillips, Chief Justice

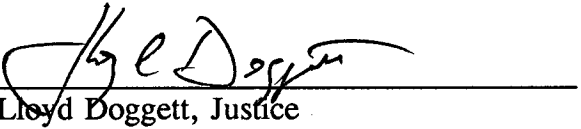
  
Raul A. Gonzalez, Justice

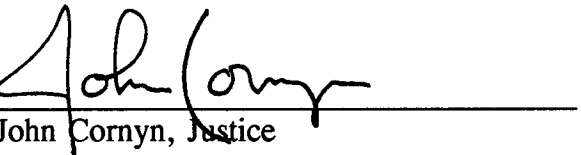
  
Oscar H. Mauzy, Justice

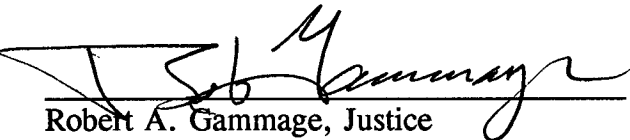
  
Eugene A. Cook, Justice

  
Jack Hightower, Justice

  
Nathan L. Hecht, Justice

  
Lloyd Doggett, Justice

  
John Cornyn, Justice

  
Robert A. Gammage, Justice

## **RULE 1. BRIEFS**

(A) In addition to comply with TEX. R. APP. P. 4 and 74, briefs shall be on 8-1/2" X 11" paper and bound securely on the left side. Pages should be numbered at the bottom. Briefs shall be no longer than 50 typewritten pages exclusive of cover, index, and table of authority pages. Briefs that are longer than 25 pages must be bound in such a manner that the open brief will lie flat. Reply briefs shall be limited to 25 pages.

(B) Number and Signature. Four signed copies of briefs, containing certificate of service, shall be filed.

(C) Motions Required with Certain Briefs. Any brief merely replying to the last brief filed, after the appellee's brief has been filed timely, will be filed without a motion, if tendered by noon at least seven (7) days prior to the date of the scheduled oral argument. All other amended, supplemental or postsubmission briefs must be accompanied by a motion for leave to file.

## **RULE 2. ORAL ARGUMENT**

(A) A party desiring oral argument shall file a request therefor at the time he files his brief by so indicating on the outside cover of the brief.

(B) In civil cases, oral argument will be limited to twenty (20) minutes for the appellant's opening argument, twenty (20) minutes for the appellee's argument, and ten (10) minutes for the appellant's rebuttal.

(C) In criminal cases, oral argument will be limited to twenty (20) minutes per side. Appellant may divide his twenty (20) minutes between presentation and rebuttal. If appellant desires to divide his argument, he must advise the Court at the beginning of argument and keep his own time.

(D) All attorneys scheduled for oral argument in civil and criminal cases must be present in the courtroom at the time set for oral argument to announce their presence. The failure of an attorney to appear on time and make his announcement, without notifying the clerk in advance, will be considered a waiver of oral argument for the party represented by that attorney.

## **RULE 3. MOTIONS**

(A) In addition to complying with TEX. R. APP. P. 4(a), all motions shall be verified and on 8-1/2" X 11" paper. An original and one copy shall be submitted.

(B) Motion for Extension of Time. In addition to complying with TEX. R. APP. P. 4(a) and 73, all motions for extension of time shall be verified and shall contain the following information:

## Local Rules

(1) in criminal cases, the date sentence is imposed or suspended in open court or the day an appealable order is signed by the trial judge;

(2) the name of the person or persons appealing;

(3) the date the motion for new trial and amended motion for new trial, if applicable, were filed and the date overruled;

(4) the date the statement of facts was requested;

(5) the affidavit(s) of the court reporter and/or the district or county clerk, if their inability to prepare the record on time is the reason for the requested extension. The affidavit of the court reporter shall state: (1) the style and trial court number of the case; (2) the approximate date of the trial, whether he or she is an official reporter of that court or a substitute reporter; (3) the date of the request of the statement of facts in the referenced cause; (4) the anticipated length of the statement of facts and the anticipated completion date of that statement of facts; (5) the status of the statement of facts, that is, whether or not transcription has begun and if so how many pages have been completed; (6) the date of request of any other statement of facts that are being prepared; (7) the anticipated length and completion date of each of those; and (8) any other duties or activities which would preclude working on the statement of facts on which the extension is requested.

### (C) Motions for Extensions of Time to File Briefs

(1) Contents. In addition to complying with TEX. R. APP. P. 4(a) and 73, motions for extension of time to file briefs shall state: the date that the transcript and statement of facts were filed; the name of the party or parties requesting the extension and whether they are appellant or appellee; the length of extension requested, up to and including a date certain; and a reasonable explanation as to why the brief cannot be tendered on time. This Court will not consider heavy workload of an attorney as a good cause for failure to file a brief on time.

(2) Authority of Clerk. The Clerk of this Court may, upon timely written request, authorize an extension of time to a date certain, not to exceed 14 calendar days, for the filing of appellant's or appellee's brief. The request for such an extension of time must contain a complete certificate of service including the name and mailing address of opposing counsel, and must be filed no later than the date the brief is due to be filed. Provided, however, that any such request sent to the Clerk by first-class United States mail in an envelope or wrapper properly addressed and stamped and deposited in the mail one day or more before the last day for filing, shall, if received by the Clerk not more than ten days tardily, be filed by the Clerk and deemed to have been filed in time. A legible postmark affixed by the United States Postal Service shall be prima facie evidence of the date of mailing. any

Local Rules

request for an extension by the Clerk that is not in compliance with these requirements shall be rejected by the Clerk.

**RULE 4. SUPPLEMENTAL TRANSCRIPT**

(A) Filed by Agreement. When accompanied by written authorization signed by attorneys of record for all parties to the appeal, a supplemental transcript may be filed at any time.

(B) Motion Required. If counsel for all other parties to the appeal will not sign a written authorization for the filing of a supplemental transcript, the attorney tendering a supplemental transcript must file a motion for leave to file.

**RULE 5. EXHIBITS**

(A) Only documentary Exhibits to be Filed. Only documentary exhibits shall be tendered for filing in this Court and insofar as is practical, such exhibits shall be filed in a separate bound volume.

(B) Large Exhibits. Exhibits not capable of being included in a bound volume (such as charts, x-rays, clothing, etc.) shall be retained in the trial court. A separate list of such exhibits, describing the exhibit and referencing the page of the statement of facts indicating admission into evidence and showing present location, shall be filed with the statement of facts. If the Court deems it necessary to review such exhibits, it will request that they be produced at or before the time the case is submitted.

**RULE 6. HEARINGS AND REHEARINGS EN BANC**

A party seeking en banc consideration of a motion for rehearing shall file a motion for such en banc consideration at the time motion for rehearing is filed. The motion for en banc consideration shall be filed separately from the motion for rehearing and shall not be attached to nor otherwise made a part of the motion for rehearing. The Court shall first consider the motion for en banc consideration, and if a majority of the members of the Court vote to grant such motion, the motion for rehearing shall be considered by the full Court. Otherwise, the panel which decided the case shall dispose of the motion for rehearing.

**RULE 7. COURT REPORTERS IDENTIFIED**

In addition to the requirements of TEX. R. APP. P. 51, the transcript on appeal shall contain the name, address, and telephone number of the court reporter who recorded the trial proceedings. The trial judge in each case and in each hearing that is part of that case shall cause to be entered in the record to be included in

the transcript the required identification of the court reporter. If more than one court reporter records the proceedings, each one at each hearing shall be so identified with the date of each hearing noted.

**RULE 8. ALTERNATIVE DISPUTE RESOLUTION**

Upon motion of counsel, or upon the court's own motion, the court of appeals may determine that a particular case should be referred to an alternative dispute procedure. See TEX. CIV. PRAC. & REM. CODE ANN. § 154.021 (Vernon Supp. 1991). After a conference with counsel of record and if the court decides to refer the case, the court will issue an order of referral, setting forth the essential terms of the process. The order will state: (1) that the preliminary conference was held; (2) the court's decision on any written objections or that the referral is made on the parties' agreement; (3) that the parties or their representatives, with settlement authority, are required to attend the designated procedure with counsel; (4) the length of time allowed for commencement and completion of mediation; (5) whether the referral extends the normal timetable for the appellate process; (6) the third parties, if any, appointed by the court to facilitate the procedure and the responsibilities of the parties; and (7) that the procedure will remain confidential, including the assurance that the conduct and demeanor of the parties and their counsel will never be disclosed to anyone, including the court, except as to the result of the referral or any written settlement agreement. Once the case has been referred, the alternative dispute resolution process is entirely in the hands of counsel and their clients, subject only to the coordinating responsibilities of the third parties designed to facilitate the settlement session.

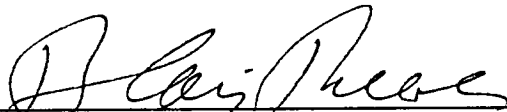
**RULE 9. DOCKETING**

In all cases docketed in the Fourth Court of Appeals District pursuant to TEX. R. APP. P. 18 and 57, with the exception of criminal cases, accelerated appeals, cases in which any party is represented pro se, and original proceedings under TEX. R. APP. P. 121, the clerk of the court of appeals shall provide counsel of record for each party with a docketing statement, which shall be fully and accurately completed by the counsel for the respective parties and filed with the court within 20 days from the date such case is docketed with a copy served upon opposing counsel.

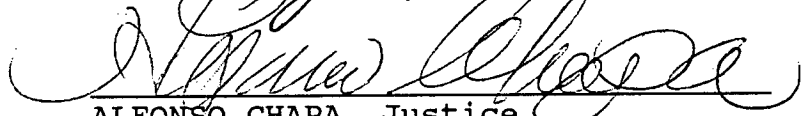
ORDER ADOPTING LOCAL RULES

IT IS HEREBY ORDERED that the foregoing shall constitute the local rules of court for the Court of Appeals for the Fourth Court of Appeals District of Texas, effective April 1, 1991.


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. Done this 14th day of February, 1991, effective April 1, 1991.

  
BLAIR REEVES, Chief Justice


  
SHIRLEY W. BUTTS, Justice

  
ALFONSO CHAPA, Justice

  
DAVID PEEPLES, Justice

  
FRED BIERY, Justice

  
RON CARR, Justice

  
ORLANDO GARCIA, Justice

**COURT OF APPEALS**  
**FOURTH COURT OF APPEALS DISTRICT**  
BEXAR COUNTY JUSTICE CENTER, SUITE 3200  
300 DOLOROSA  
SAN ANTONIO, TEXAS 78205

BLAIR REEVES  
CHIEF JUSTICE

SHIRLEY W. BUTTS  
ALFONSO CHAPA  
DAVID PEEPLES  
FRED BIERY  
RON CARR  
ORLANDO GARCIA  
JUSTICES

HERB SCHAEFER  
CLERK

TELEPHONE  
(512) 220-2635

FACSIMILE NO.  
(512) 220-2762

February 26, 1991

Hon. Thomas R. Phillips, Chief Justice  
The supreme Court of Texas  
P.O. Box 12248, Capitol Station  
Austin, TX 78711

Dear Chief Justice Phillips:

The Fourth Court of Appeals submits its new proposed local rules.

The changes within the rules are the addition of Rule 8 and Rule 9 dealing with Alternative Dispute Resolution procedures and a related docketing statement.

We will appreciate your examination and approval as soon as possible.

Sincerely yours,



Blair Reeves,  
Chief Justice

BR/p  
c.c.: Bill Willis, Administrator  
Supreme Court of Texas  
enclosure - Proposed Local Rules





THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

P.O. BOX 12248      AUSTIN, TEXAS 78711

TEL: (512) 463-1312

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CLERK  
JOHN T. ADAMS

EXECUTIVE ASS'T.  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T.  
MARY ANN DEFIBAUGH

JUSTICES  
RAUL A. GONZALEZ  
OSCAR H. MAUZY  
EUGENE A. COOK  
JACK HIGHTOWER  
NATHAN L. HECHT  
LLOYD DOGGETT  
JOHN CORNYN  
ROBERT A. "BOB" GAMMAGE

April 3, 1991

The Honorable Blair Reeves  
Chief Justice  
Fourth Court of Appeals  
Bexar County Justice Center, Suite 3200  
300 Dolorosa  
San Antonio, Texas 78205

Dear Chief Justice Reeves,

The Supreme Court has approved the change in local rules you submitted on February 26, 1991. A copy of the Supreme Court's order is enclosed.

Please note that it is the Court's practice to approve local rules provisionally, pending eventual promulgation of uniform rules.

Sincerely,

John T. Adams  
Clerk

Encl.

cc: Mr. Raymond Judice  
Office of Court Admin

Mr. Herb Schaefer, Clerk  
Fourth Court of Appeals