

**IN THE SUPREME COURT OF TEXAS**

Misc. Docket No. 97- 9157

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**APPROVAL OF  
LOCAL RULE FOR ELECTRONIC FILING AND SERVICE OF PLEADINGS  
IN THE 23<sup>RD</sup> DISTRICT COURT OF BRAZORIA COUNTY, TEXAS**

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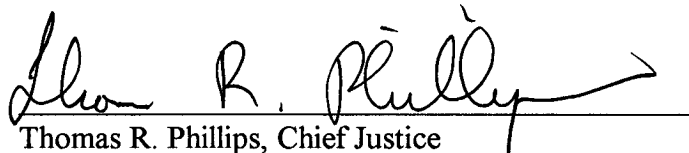
**ORDERED** that:

Pursuant to Texas Rule of Civil Procedure, the Supreme Court of Texas approves the following local rules:

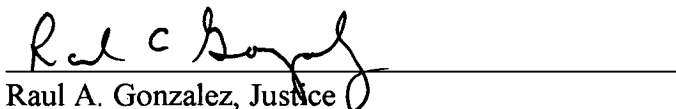
Local Rule of Civil Procedure for Electronic Filing and Service of Pleadings in the 23<sup>rd</sup> District Court of Brazoria County, Texas, dated June 23, 1997

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

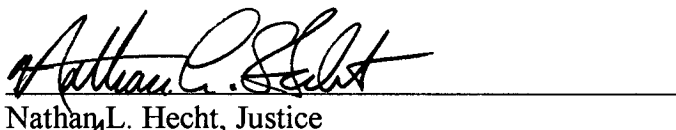
SIGNED AND ENTERED this 16<sup>th</sup> day of Sept., 1997.



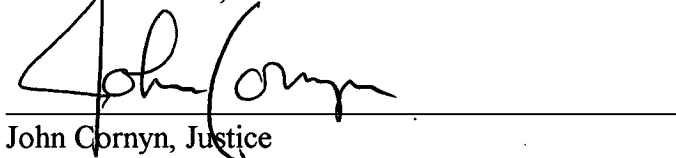
Thomas R. Phillips, Chief Justice



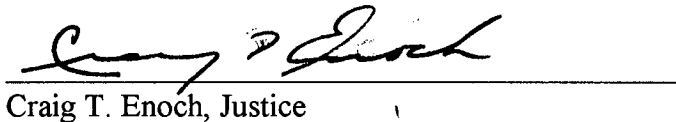
Raul A. Gonzalez, Justice



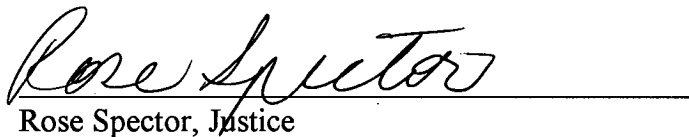
Nathan L. Hecht, Justice



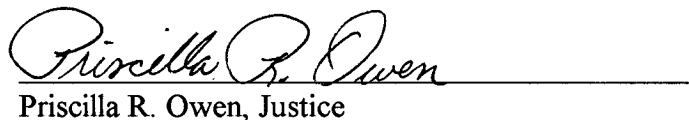
John Cornyn, Justice



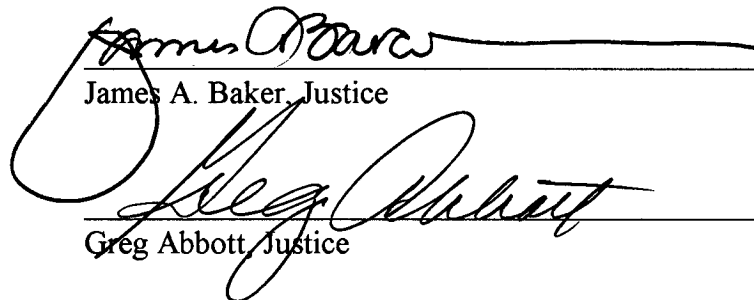
Craig T. Enoch, Justice



Rose Spector, Justice



Priscilla R. Owen, Justice



James A. Baker, Justice

  
Greg Abbott, Justice

**23<sup>rd</sup> DISTRICT COURT OF  
BRAZORIA COUNTY  
LOCAL RULE OF CIVIL PROCEDURE**

**ELECTRONIC FILING AND SERVICE OF PLEADINGS**

The following rules govern the electronic filing and service of pleadings and other documents in all designated electronic filing cases pending in the 23<sup>rd</sup> District Court of Brazoria County, Texas:

- 1.) **DESIGNATION OF ELECTRONIC FILING CASES.** A District Court in Brazoria County, Texas may, from time to time, by written order, select and designate those cases which shall be assigned to the electronic filing system, as created and contemplated by the June 9, 1997 Service Agreement between LAWPlus™ and Brazoria County, Texas, or any successor system, all collectively hereinafter referred to as EFILE. Upon receipt of any such Order, parties not then having access to the EFILE system shall promptly take steps to allow their counsel to electronically file, serve, receive, review and retrieve copies of the pleadings, orders, and other documents filed in the assigned case, either by a subscription agreement with LAWPlus or the then-current vendor ("the Vendor"), or by using the public-access terminal in the District Clerk's office, or by any other means reasonably assuring reliable access to the said system.
  
- 2.) **ASSIGNMENT BY THE VENDOR OF PERSONAL IDENTIFICATION NUMBERS.** Upon receipt by the Vendor (LAWPlus or its successor) or a properly executed Subscriber Agreement, the Vendor shall assign to the party's designated representative a confidential Personal Identification Number ("PIN"), which may thereafter be used by such representative to obtain access to the EFILE system. This PIN will permit the attorney or party appearing pro se to file, serve, receive, review, and retrieve electronically filed pleadings, orders, and other documents filed in the assigned case.
  
- 3.) **ELECTRONIC FILING OF PLEADINGS AND OTHER DOCUMENTS.** Except as expressly provided in Section 4 below, all pleadings, motions, memoranda of law, orders, or other documents filed in any case assigned to the EFILE electronic filing system shall, to the extent practicable, be filed and served electronically through the system.
  
- 4.) **CONVENTIONAL FILING OF DOCUMENTS.** Notwithstanding the foregoing, the following types of documents shall be filed conventionally and shall not be filed electronically, unless express permission is granted by the Court or the District Clerk:
  - a.) all pleadings or other documents filed in the case before an Order is issued assigning the case to the EFILE system;
  
  - b.) a motion to file documents under seal shall be filed and served electronically. However, the documents to be filed under seal shall be filed conventionally.
  
  - c.) appendices and exhibits to motions, memoranda of law, or other documents that are not readily amenable to electronic scanning may, at the option of the filer, be filed and served conventionally.

- 5.) SERVICE OF CONVENTIONAL FILING. Copies of all documents except sealed documents that are filed conventionally and are not filed electronically shall be served on all other parties pursuant to the provisions of Rule 21, Texas Rules of Civil Procedure.
- 6.) UTILIZATION OF PIN. No attorney shall knowingly authorize or permit his/her PIN to be utilized by anyone else, other than authorized attorneys or employees of the attorney's law firm. Furthermore, no person shall knowingly use a PIN or cause or permit another person to use a PIN without express permission from the holder of the PIN.
- 7.) REPRESENTATIONS BY USING A TYPOGRAPHICAL SIGNATURE. Every pleading, document, and instrument filed in the EFILE system shall bear a facsimile or typographical signature of at least one of the attorneys of record, along with the typed name, address, telephone number, and SBOT number of said attorney. Typographical signatures shall be treated exactly as personal signatures under the Texas Rules of Civil Procedure.
- 8.) EFFECT OF ELECTRONIC SERVICE. The electronic service of a pleading or other document in EFILE shall be considered as valid and effective service on all designated recipients pursuant to Rule 21a. Texas Rules of Civil Procedure, and shall be construed in the same manner as a telephonic document transfer for purposes of such Rule, except that any such service completed by 11:59 p.m. local time shall be deemed service on that date.
- 9.) ELECTRONIC FILING OF AFFIDAVITS AND OTHER SWORN DOCUMENTS. Unless specifically ordered by the Court, original signature pages on affidavits, verifications, or other documents in cases assigned to EFILE shall not be filed in paper form, but shall be maintained and made available, upon reasonable notice and during business hours, to other counsel and to the court.
- 10.) FORMAT OF ELECTRONICALLY FILED DOCUMENTS. All electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper pleadings, and in such other and further format as the Court may require from time to time.
- 11.) TIME FOR FILING, AND EFFECT OF USE OF EFILE. Any pleading filed electronically shall be considered as filed with the District Clerk on the date it is first transmitted to EFILE. The Vendor shall be and is hereby appointed the agent of the District Clerk as to the electronic filing, receipt, service, and/or retrieval of any pleading or document in EFILE, and neither the Vendor nor any attorney or party shall have any additionally-imposed liability because of the use of or participation in the EFILE system.
- 12.) ELECTRONIC FILING AND SERVICE OF COURT ORDERS AND OTHER PAPERS. The Court intends to issue, file, and serve orders, rulings, and other documents in the assigned cases electronically, rather on paper. Parties who have not subscribed to the VENDOR'S System, or whose rights to use the VENDOR'S System have been suspended or terminated, are responsible

for keeping themselves timely apprised of any orders, rulings, or other documents that the Court chooses to file and serve electronically in any of the assigned cases.

13.) TITLE OF PLEADINGS AND OTHER DOCUMENTS. The title of each electronically filed pleading or other document ("papers") shall contain sufficient information to enable the Court to ascertain from the title of the paper (a) the party or parties filing the paper, (b) the nature of the paper, (c) the party or parties against whom relief, if any, is sought, and (d) the nature of the relief sought (i.e., "John Doe, et al.'s Motion to Compel Discovery and for Sanctions against Jim Smith").

14.) PUBLIC ACCESS TO ELECTRONICALLY FILED DOCUMENTS. The District Clerk's office shall make available, without charge and during normal business hours, to members of the general public at least one computer screen capable of searching and reviewing documents filed of public record in the assigned cases. The District Clerk shall make copies of any publicly filed documents available on EFILE.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 1997.

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Ben Hardin, Judge Presiding  
23<sup>rd</sup> District Court



**BEN HARDIN**  
DISTRICT JUDGE  
23RD JUDICIAL DISTRICT  
BRAZORIA COUNTY COURTHOUSE  
111 E. LOCUST, ROOM 402  
ANGLETON, TEXAS 77515

June 23, 1997

The Honorable Nathan L. Hecht  
Justice, Texas Supreme Court  
Supreme Court Building  
P.O. Box 12248  
Austin, TX 78711

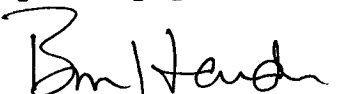
RE: Proposed Adoption of Local Rule for Electronic Filing and  
Service of Pleadings in the 23rd District Court of  
Brazoria County

Dear Justice Hecht:

Enclosed is a copy of a proposed Local Rule of Civil Procedure which would allow electronic filing and service of pleadings in selected cases in the 23rd District Court in Brazoria County. The proposed rule is essentially identical to the local rule adopted by the 58th District court of Jefferson County, which was approved by the Texas Supreme Court on October 2, 1995.

Pursuant to Rule 3a of the Texas Rules of Civil Procedure, I hereby request approval of this local rule by the Texas Supreme Court. Please contact me if you need further information.

Very truly yours,

  
Ben Hardin

BH:ms

cc: The Honorable Olen Underwood  
Presiding Judge  
2nd Administrative Judicial Region  
Montgomery County Courthouse  
301 North Main, Suite 228  
Conroe, TX 77031

cc: The Honorable Robert E. May  
Judge, 149th District Court  
Local Administrative Judge of Brazoria County



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  
RAUL A. GONZALEZ  
NATHAN L. HECHT  
JOHN CORNYN  
CRAIG ENOCH  
ROSE SPECTOR  
PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT

EXECUTIVE ASS'T  
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T  
NADINE SCHNEIDER

September 17, 1997

Hon. Ben Hardin  
23rd District Court  
111 E. Locust, Room 402  
Angleton, Texas 77515

Dear Judge Hardin,

Please find enclosed, a copy of the order of the Supreme Court that approved local rules for your court.

Sincerely,

SIGNED

John T. Adams  
Clerk

Encl.

cc: Hon. Olen Underwood  
2nd Admin Judicial Rgn

Hon. Robert E. May  
149th District Court

District Clerk

County Clerk

Supreme Court Adv Committee

Mr. Jerry Benedict  
Office of Court Admin

State Law Library