

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 98- 9094

**APPROVAL OF AMENDMENT TO CHAPTER 11 OF THE LOCAL RULES
OF THE DISTRICT COURTS OF TRAVIS COUNTY, TEXAS
(DISMISSAL FOR WANT OF PROSECUTION)**

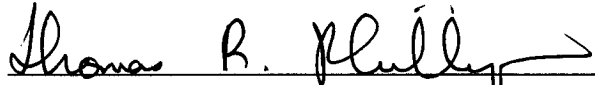
ORDERED:

Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the Supreme Court of Texas approves the following local rule:


Amendment to Chapter 11 of the Local Rules of the District Courts of Travis County, Texas, regarding dismissal for want of prosecution.

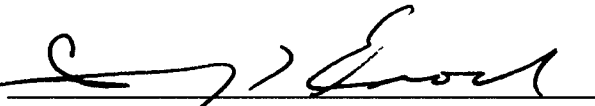
The approval of this rule is temporary, pending further orders of the Court.

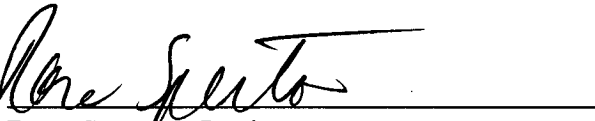
SIGNED AND ENTERED this 22nd day of June, 1998.

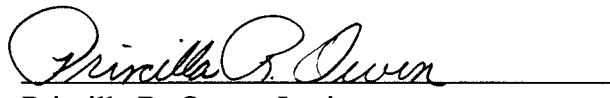

Thomas R. Phillips, Chief Justice

Raul A. Gonzalez, Justice

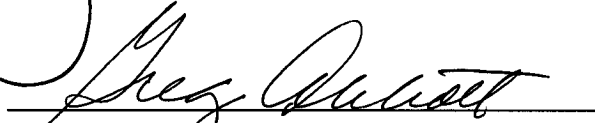

Nathan L. Hecht, Justice

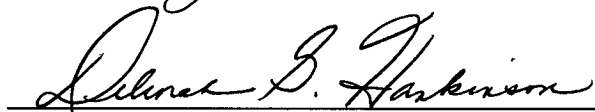

Craig T. Enoch, Justice


Rose Spector, Justice


Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice


Deborah G. Hankinson, Justice

CHAPTER 11

DISMISSAL FOR WANT OF PROSECUTION

11.1 Case Selection. The following cases are eligible for dismissal for want of prosecution under this chapter pursuant to T.R.C.P. 165a:

- a) Cases on file for more than 180 days in which no answer has been filed.
- b) Cases which have been on file for more than eighteen months and are not set for trial and have had no filings or settings within 180 days.
- c) Cases in which a party or the party's attorney has failed to take any action specified by the Court.
- d) Any other case designated by the Court.

11.2 Filing Procedures. The District Courts shall establish the procedures necessary to accomplish the purpose of this chapter including the keeping of all records and dockets. **ALL ORIGINAL NOTICES, MOTIONS, NOTIFICATIONS AND PLEADINGS REQUIRED TO BE FILED BY THIS CHAPTER SHALL BE INITIALLY DELIVERED TO THE COURT SERVICES DEPARTMENT OF THE CIVIL DISTRICT COURTS (512/473-9300).** The Court Services Department shall file in a timely manner all documents required by this chapter with the District Clerk's Office.

11.3 Notice. Pursuant to Rule 165a, Texas Rules of Civil Procedure, the Court Services Department shall give notice that certain cases will be dismissed for want of prosecution. Such matters will be dismissed on the date indicated in the

notice of dismissal unless at least one party complies with the requirements set forth in this chapter.

11.4 Docket Settings. No central docket settings may be obtained in cases set for dismissal until the dismissal docket process is complete, except with leave of Court.

11.5 Procedures for Retaining Cases and Objecting to Motions to Retain.

- a) Motions to retain shall be filed with the Court Services Department at least three working days prior to the date specified in the notice of dismissal for want of prosecution.
- b) All Motions to retain shall include a proposed Order to Retain (original and one copy). Any party that files a motion to retain shall include a written memorandum setting forth the factual and legal basis why the case should not be dismissed for want of prosecution.
- c) Parties objecting to a motion to retain shall file with the Court Services Department a written memorandum setting forth the factual and legal basis for their objecting to the motion to retain within ten days of service of a motion to retain.
- d) Failure of a party to appear in person or by written submission in connection with any motion will not of itself constitute grounds for ruling against the party.

- e) There will be no oral arguments on motions to retain or objections to motions to retain, unless ordered by the Court.

11.6 Cases Not Requiring Oral Arguments. The Court shall notify all parties filing a motion to retain or objection to a motion to retain of the Court's ruling.

11.7 Cases Requiring Oral Arguments.

- a) The Court shall notify the party filing a motion to retain of the Court's decision to permit oral arguments.
- b) Unless otherwise set by the Court, the party filing a motion to retain shall be responsible for setting any hearings required by the Court on motions to retain and for giving proper notice to all interested parties. Settings shall be made and conducted within sixty days of the date set forth on the notice of dismissal for want of prosecution. Settings shall be made through the Court Services Department.
- c) Parties filing a motion to retain or an objection to a motion to retain shall notify in writing the Court Services Department as to the outcome of any oral argument hearings on such pending motions within ten working days of the scheduled hearing.

11.8 Retained Cases.

- a) Cases retained by order of the Court are hereby referred to alternative dispute resolution procedures as authorized by the Texas Alternative Dispute Resolution Procedures Act and as described in Chapter 17 of the Travis County Local Rules.
- b) Parties filing motions to retain shall file any objection to ADR simultaneously with their motion to retain. Parties receiving notice of a motion to retain shall file any objection to ADR within ten days of service, or (simultaneously with an objection to a motion to retain).
- c) Any party objecting to ADR shall file with the Court Services Department a written memorandum setting forth the factual and legal basis for their motion.
- d) There will be no oral arguments on objections to ADR unless ordered by the Court.
- e) Objections to ADR shall be scheduled simultaneously with all court hearings required by the Court on motions to retain or motions objecting to a motion to retain.
- f) Unless otherwise set by the Court, objections to ADR shall be set through the Court Services Department.
- g) The party filing an objection to ADR shall be responsible for notifying in writing the Court Services Department as to the outcome of any hearings conducted on a motion objecting to ADR within ten days of the hearing.

- h) Parties filing motions to retain shall be responsible for scheduling and ensuring completion of an ADR procedure within 90 days of the Court's ruling to retain a case.

11.9 Discovery. No further discovery is authorized in cases retained by the Court and ordered to complete an ADR procedure unless ordered by the Court or by written agreement of all parties and filed with the Court Services Department. Further discovery will not extend the deadlines prescribed in this chapter unless ordered by the Court.

11.10 ADR Certification.

- a) Within 90 days of filing a motion to retain, the party filing the motion to retain shall deliver to the Court Services Department a written statement indicating that mediation has been completed and whether settlement was reached.
- b) The ADR certification may be waived upon presenting a proposed or signed order of final judgment to the Court Services Department.

11.11 Scheduling Order. Parties involved in cases completing mediation and not reaching settlement shall submit a proposed scheduling order, (including a trial date) within 120 days of filing a motion to retain to the Court Services Department.

11.12 Noncompliance Penalty. Failure to comply with any provision of this chapter shall result in the immediate dismissal of a case for want of prosecution.

11.13 Includes all pending claims. Whenever this chapter refers to a case it shall include all pending claims in the case.

CERTIFICATE OF APPROVAL

The attached revision of Chapter 11 of the Local Rules of the District Courts of Travis County is hereby approved and transmitted to the Supreme Court of Texas for final action this 9th day of June, 1998.

A handwritten signature in cursive script, appearing to read "B.B. Schraub", written in black ink.

B.B. Schraub, Presiding Judge
Third Administrative Judicial Region



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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TEL: (512) 463-1312

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CLERK
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EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
CRAIG T. ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

June 22, 1998

Hon. B. B. Schraub
Third Admin, Judicial Rgn.
101 East Court Street, Rm. 302
Seguin, Texas 78155-5742

Dear Judge Schraub,

Please find enclosed, a copy of the order of the Supreme Court that approved an amendment to the local rules for the district courts of Travis County.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Joseph H. Hart
Local Admin Judge

District Clerk

County Clerk

Supreme Court Adv Committee

Mr. Jerry Benedict
Office of Court Admin

State Law Library