

SUPREME COURT ADVISORY COMMITTEE MEETING

March 7-8, 1986

Listed below were furnished to the State Law Library:

Request Letters of Standing Subcommittee
On Rules 1-14: JUDGE LINDA THOMAS, CHAIRMAN

Report of Standing Subcommittee
On Pre-Trial and Discovery Rules 15-215A:
SAM SPARKS, CHAIRMAN

Request Letters of Standing Subcommittee
On Pre-Trial and Discovery Rules 15-215A:
SAM SPARKS, CHAIRMAN

Report of Standing Subcommittee
On Trial Rules 216-314:
FRANKLIN JONES, JR., CHAIRMAN

Request Letters of Standing Subcommittee
On Trial Rules 216-314:
FRANKLIN JONES, JR., CHAIRMAN

Request Letters of Standing Subcommittee
On Post Trial Rules 315-331:
HARRY TINDALL, CHAIRMAN

Request Letters of Standing Subcommittee
On Court of Appeals Rules 342-472:
PROFESSOR WM. DORSANEO, CHAIRMAN

Request Letters of Standing Subcommittee
On Supreme Court Rules 474-515:
RUSSELL McMANS, CHAIRMAN

Request Letters of Standing Subcommittee
On Rules 523-591
BROADUS SPIVEY, CHAIRMAN

Report of Standing Subcommittee
On Ancillary Proceedings Rules 592-734:
PAT BEARD, CHAIRMAN

Request Letters of Standing Subcommittee
On Ancillary Proceedings Rules 592-734:
PAT BEARD, CHAIRMAN

Request Letters of Standing Subcommittee
On Special Procedures Rules 737-813
W. JAMES KRONZER, CHAIRMAN

Report of Standing Subcommittee
On Rules of Evidence/Relationship
to Rules of Civil Procedure:
PROFESSOR NEWELL BLAKELY, CHAIRMAN

M E M O R A N D U M

TO: Committee Members, Administration of Justice Committee
FROM: Luther H. Soules III
DATE: February 21, 1986
RE: Rule 364a (Proposed): "Stay of Enforcement of Judgment
or Order Pending Appeal"

Enclosed you will find a copy of proposed Rule 364a, with Appendix containing related rules of procedure and statutes cited herein. The Rule is proposed for the purpose of clarifying and harmonizing, within the body of our rules of practice and procedure, the powers of the trial and appellate courts to fashion equitable relief from execution, where relief is appropriate, and to provide guidelines for the available remedies.

Under our current rules, if a proper supersedeas bond is filed, execution on the judgment, or as much as has been superseded, is stayed. Rules 368, 634. Our present supersedeas rule, amended in 1984, is prefaced with the condition, "[u]nless otherwise provided by law or these rules" Rule 364(a). Although other remedies are available to effect a stay, as implicitly recognized under the language of Rule 364(a), supra, they are not recognized in the Rules, a matter which has the result of suggesting that a court has no authority to fashion a stay of execution in the absence of a supersedeas bond. See Rule 627; accord Merrell v. Fanning & Harper, 597 S.W.2d 945, 950 (Tex.Civ.App. - Tyler 1980, no writ)(absolute statutory right to

enforce judgment). To correct the restrictive interpretation suggested by the supersedeas rules, new Rule 364a, recognizing the equitable powers of the trial and appellate courts, is recommended to you.

Our courts have long been vested with such inherent equitable power as necessary to administer justice between the parties. These powers derive from the constitution and are exercisable independent of statutory authority. City of Dallas v. Wright, 36 S.W.2d 973, 975 (Tex. 1931) (holding injunctive relief pending appeal available in challenge to validity of special tax assessment regardless of statutory remedy at law). District courts are empowered, under the constitution, to issue all writs (including injunctive writs) necessary to enforce their jurisdiction, TEX. CONST. art. 5, § 8; Ex parte Lee, 93 S.W.2d 720, 733 (Tex. 1936) (recognizing potential jurisdiction), and are further specifically authorized by statute to stay execution on judgments, where authorized. TEX. CIV. PRAC. & REMEDIES CODE ANN. § 65.013 - .014 (Vernon Pamph. 1986). The appellate courts are similarly empowered to grant relief, upon the appropriate equitable or constitutional showing, where necessary to preserve the subject matter of the appeal and the status quo. See, e.g., Madison v. Martinez, 42 S.W.2d 84, 86 (Tex.Civ.App. - Dallas 1931, writ ref'd) (restraining order issued to prevent execution of writ of restitution); Pace v. McEwen, 604 S.W.2d 231, 233 (Tex.Civ.App. - San Antonio 1980, no writ) (temporary injunction issued to stay order for sheriff's sale); General Telephone Co. v. City of Garland, 522 S.W.2d 732, 734 (Tex.Civ.App. - Dallas

1975, no writ)(stay of temporary injunction issued to prevent irreparable harm). Case law pronouncements of supersedeas filing as the exclusive remedy, the ostensible interpretation given Rule 364 and its predecessor statute in some decisions, are distinguishable on the absence of the equitable considerations that authorize recourse "in lieu of supersedeas" and thus are not absolute statements of law. See e.g., Houtchens v. Mercer, 29 S.W.2d 1031, 1036 (Tex. 1930)(alternative remedy not sought); Anderson v. Pioneer Bldg. & Loan Ass'n, 150 S.W.2d 445, 446-447 (Tex. Civ. App. - Waco 1941, no writ)(in absence of independent equities, supersedeas provided adequate remedy at law); Harris v. Barngrover, 72 S.W.2d 967, 969-970 (Tex.Civ.App. - Beaumont 1934, no writ)(supersedeas provided adequate remedy at law). Our Rules of Procedure should recognize this as well.

Through the inclusion of the significant phrase, "unless otherwise provided by law or these rules," in the 1984 revision to Rule 364, the apparent authority of our trial and appellate courts to fashion alternative relief is recognized. The remedies exist but are not clearly recognized by our Rules and the courts lack explicit procedural guidelines. The proposed Rule 364a has been drafted with due consideration to the body of statutory and case law requirements applicable to equitable relief and with due consideration to preserving the concerns of the prevailing party for adequate security for the judgment debt pending appeal. See City of Dallas v. Wright, 36 S.W.2d 973, 974-976 (Tex. 1931)(setting forth conditions upon which relief will be granted); General Telephone Co. v. City of Garland, 522 S.W.2d

732, 734 (Tex.Civ.App. - Dallas 1975, no writ) (bond required as condition of granting stay, to provide security pending appeal); Pace v. McEwen, 604 S.W.2d 231, 232 (Tex.Civ.App. - San Antonio 1980, no writ) (recognizing equitable remedies available in trial court to protect litigants and in appellate courts to protect subject matter). See generally FED. R. CIV. P. 62 (permitting district courts and courts of appeal to fashion stay orders that protect the right of appeal as well as the rights of the prevailing party).

The proposed Rule has been drafted to recognize the inherent power of the trial court, where appropriate, to initially fashion alternate relief, and, where so decreed, to amend its orders entered incidental to judgment. See Southwestern States Gen. Corp. v. McKenzie, 658 S.W.2d 850, 852 (Tex.App. - Dallas 1983, writ ref'd n.r.e.) (trial court's continuing jurisdiction to fix supersedeas bond); Young v. Kilroy Oil Co., 673 S.W.2d 236, 240, 242 (Tex.App. - Houston [1st Dist.] 1984, writ ref'd n.r.e.) (trial court's continuing jurisdiction over right to supersedeas on its judgment). Cf. Rule 308 ("Court Shall Enforce Its Decrees"). The proposed Rule authorizes the appellate courts to similarly act on facts presented subsequent to entry of judgment and issuance of original orders, as well as to act in review of the trial court's actions. See Schrader v. Garcia, 512 S.W.2d 830, 831 (Tex.Civ.App. - Corpus Christi 1974, no writ) (power of appellate court to require additional bond within jurisdictional authority to act to protect subject matter of appeal). Cf. Rule 365 ("Review of Bond"). The proposed

presentation, modification, and review procedures will serve to expedite the grant or denial of relief, to the benefit of both appellant and appellee.

In order to clarify the available remedies and to provide procedural guidelines to the bench and bar on the important subject of the stay of proceedings pending appellate review, your consideration, approval, and adoption of proposed Rule 364a is earnestly sought.

Rule 364. Supersedeas Bond or Deposit

(a) **May Suspend Execution.** Unless otherwise provided by law or these rules, an appellant may suspend the execution of the judgment by filing a good and sufficient bond to be approved by the clerk, or making the deposit provided by Rule 14c, payable to the appellee in the amount provided below, conditioned that the appellant shall prosecute his appeal or writ of error with effect and, in case the judgment of the Supreme Court or Court of Appeals shall be against him, he shall perform its judgment, sentence or decree and pay all such damages as said court may award against him.

(b) **Money Judgment.** When the judgment awards recovery of a sum of money, the amount of the bond or deposit shall be at least the amount of the judgment, interest, and costs.

(c) **Land or Property.** When the judgment is for the recovery of land or other property, the bond or deposit shall be further conditioned that the appellant shall, in case the judgment is affirmed, pay to the appellee the value of the rent or hire of such property during the appeal, and the bond or deposit shall be in the amount estimated or fixed by the trial court.

(d) **Foreclosure on Real Estate.** When the judgment is for the recovery of or foreclosure upon real estate, the appellant may supersede the judgment insofar as it decrees the recovery of or foreclosure against said specific real estate by filing a supersedeas bond or making a deposit in the amount to be fixed by the court below, not less than the rents and hire of said real estate; but if the amount of said supersedeas bond or deposit is less than the amount of the money judgment, with interest and costs, then the appellee shall be allowed to have his execution against any other property of appellant.

(e) **Foreclosure on Personal Property.** When the judgment is for the recovery of or foreclosure upon specific personal property, the appellant may supersede the judgment insofar as it decrees the recovery of or foreclosure against said specific personal property or by filing a supersedeas bond or making a deposit in an amount to be fixed by the court below, not less than the value of said property on the date of rendition of judgment, but if the amount of the supersedeas bond or deposit is less than the amount of the money judgment with interest and costs, then the appellee shall be allowed to have his execution against any other property of appellant.

(f) **Other Judgment.** When the judgment is for other than money or property or foreclosure, the bond or deposit shall be in such amount to be fixed by the said court below as will secure the plaintiff in judgment in any loss or damage occasioned by the delay on appeal, but the court may decline to permit the judgment to be suspended on filing by the plaintiff of a bond or deposit to be fixed by the court in such an amount as will secure the defendant in any loss or damage occasioned by any relief granted if it is determined on final disposition that such relief was improper.

(g) **Child Custody.** When the judgment is one involving the care or custody of a child, the appeal, with or without a supersedeas bond or deposit shall not have the effect of suspending the judgment as to the care or custody of the child, unless it shall be so ordered by the court rendering the judgment. However, the appellate court, upon a proper showing, may permit the judgment to be superseded in that respect also.

(h) **For State or Subdivision.** When the judgment is in favor of the State, a municipality, a State agency, or a subdivision of the State in its governmental capacity, and is such that the judgment holder has no pecuniary interest in it and no monetary damages can be shown, the bond or deposit shall be allowed and its amount fixed within the discretion of the trial court, and the liability of the appellant shall be for the face amount if the appeal is not prosecuted with effect. The discretion of the trial court in fixing the amount shall be subject to review. Provided, that under equitable circumstances and for good cause shown by affidavit or otherwise, the court rendering judgment on the bond or deposit may allow recovery for less than its full face amount.

(i) **Certificate of Deposit.** If the appellant makes a deposit in lieu of a bond, the clerk's certificate that the deposit has been made shall be sufficient evidence thereof.

(Amended by orders of Oct. 10, 1945, eff. Feb. 1, 1946; Aug. 18, 1947, eff. Dec. 31, 1947; Dec. 5, 1983, eff. April 1, 1984.)

Source: Arts. 2270 and 2271. Subdivisions (e)(d), and (e) are new.

Change by amendment effective April 1, 1984: The provision authorizing the court to decline to permit the judgment to be suspended has been added to subdivision (f), and references to the deposit have been made to conform to Rule 14c. The sections have been redesignated and textual changes are made.

(Proposed) RULE 364a

STAY OF ENFORCEMENT OF JUDGMENT OR ORDER
PENDING APPEAL

In lieu of a supersedeas bond provided for in rule 364, the court from which or to which an appeal is taken may order a stay of all or any portion of any proceedings to enforce the judgment or order appealed from pending on appeal upon finding that the appeal is not frivolous, not taken for purposes of delay, and that the interest of justice and preservation of the status quo between the parties after judgment requires a stay of enforcement.

Either court may vacate, limit or modify the stay for good cause during the pendency of the appeal. A motion to vacate, limit, or modify the stay shall be filed and determined in the court that last rendered any order concerning the stay, subject to review by any higher court.

Any order granting, limiting, or modifying a stay must provide sufficient conditions for the continuing security of the adverse party to preserve the status quo and the effectiveness of the judgment or order appealed from, and may require a partial or reduced supersedeas bond.

Rule 368. Judgment Stayed

Upon the filing and approval of a proper supersedeas bond or the making of a deposit in compliance with Rule 364 or Rule 365, execution of the judgment, or so much thereof as has been superseded, shall be suspended, and if execution has been issued, the clerk shall forthwith issue a writ of supersedeas.

(Amended by order of Dec. 5, 1983, eff. April 1, 1984.)

Source: Art. 2275.

Change by amendment effective April 1, 1984: The reference to the deposit has been added, and minor textual changes have been made.

Rule 634. Execution Superseded

The clerk or justice of the peace shall immediately issue a writ of supersedeas suspending all further proceedings under any execution previously issued when a supersedeas bond is afterward filed and approved within the time prescribed by law or these rules.

Source: Art. 3772 reworded with minor textual change.

Rule 627. Time for Issuance

If no supersedeas bond or notice of appeal, as required of agencies exempt from filing bonds, has been filed and approved, the clerk of the court or justice of the peace shall issue the execution upon such judgment upon application of the successful party or his attorney after the expiration of thirty days from the time a final judgment is signed. If a timely

motion for new trial or in arrest of judgment is filed, the clerk shall issue the execution upon the judgment on application of the party or his attorney after the expiration of thirty days from the time the order overruling the motion is signed or from the time the motion is overruled by operation of law.

(Amended by orders of July 22, 1975, eff. Jan. 1, 1976; June 10, 1980, eff. Jan. 1, 1981; Dec. 5, 1983, eff. April 1, 1984.)

Source: Arts. 2448 and 3771.

Change by amendment effective January 1, 1976: The word "twenty" is changed to "thirty."

Change by amendment effective January 1, 1981: The rule is textually revised. It is changed so time will run from the time the judgment or order is signed or overruled by operation of law.

Change by amendment effective April 1, 1984: The words, "from the time the motion," are inserted after the word "or" in the second sentence.

SUBCHAPTER B. AVAILABILITY OF REMEDY

§ 65.011. Grounds Generally

A writ of injunction may be granted if:

- (1) the applicant is entitled to the relief demanded and all or part of the relief requires the restraint of some act prejudicial to the applicant;
- (2) a party performs or is about to perform or is procuring or allowing the performance of an act relating to the subject of pending litigation, in violation of the rights of the applicant, and the act would tend to render the judgment in that litigation ineffectual;
- (3) the applicant is entitled to a writ of injunction under the principles of equity and the statute of this state relating to injunctions;
- (4) a cloud would be placed on the title of real property being sold under an execution against a party having no interest in the real property subject to execution at the time of sale, irrespective of any remedy at law; or
- (5) irreparable injury to real or personal property is threatened, irrespective of any remedy at law.

§ 65.013. Stay of Judgment or Proceeding

An injunction may not be granted to stay a judgment or proceeding at law except to stay as much of the recovery or cause of action as the complainant in his petition shows himself equitably entitled to be relieved against and as much as will cover the costs.

§ 65.014. Limitations on Stay of Execution of Judgment

(a) Except as provided by Subsection (b), an injunction to stay execution of a valid judgment may not be granted more than one year after the date on which the judgment was rendered unless:

- (1) the application for the injunction has been delayed because of fraud or false promises of the plaintiff in the judgment practiced or made at the time of or after rendition of the judgment; or
- (2) an equitable matter or defense arises after the rendition of the judgment.

(b) If the applicant for an injunction to stay execution of a judgment was absent from the state when the judgment was rendered and was unable to apply for the writ within one year after the date of rendition, the injunction may be granted at any time within two years after that date.

Rule 62.

STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT

(a) **Automatic Stay; Exceptions—Injunctions, Receiverships, and Patent Accountings.** Except as stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 10 days after its entry. Unless otherwise ordered by the court, an interlocutory or final judgment in an action for an injunction or in a receivership action, or a judgment or order directing an accounting in an action for infringement of letters patent, shall not be stayed during the period after its entry and until an appeal is taken or during the pendency of an appeal. The provisions of subdivision (c) of this rule govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal.

(b) **Stay on Motion for New Trial or for Judgment.** In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment in accordance with a motion for a directed verdict made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b).

(c) **Injunction Pending Appeal.** When an appeal is taken from an interlocutory or final judgment granting, dissolving, or denying an injunction, the court in its discretion may suspend, modify, restore, or grant an injunction during the pendency of the appeal upon such terms as to bond or otherwise as it considers proper for the security of the rights of the adverse party. If the

judgment appealed from is rendered by a district court of three judges specially constituted pursuant to a statute of the United States, no such order shall be made except (1) by such court sitting in open court or (2) by the assent of all the judges of such court evidenced by their signatures to the order.

(d) **Stay Upon Appeal.** When an appeal is taken the appellant by giving a supersedeas bond may obtain a stay subject to the exceptions contained in subdivision (a) of this rule. The bond may be given at or after the time of filing the notice of appeal or of procuring the order allowing the appeal, as the case may be. The stay is effective when the supersedeas bond is approved by the court.

(e) **Stay in Favor of the United States or Agency Thereof.** When an appeal is taken by the United States or an officer or agency thereof or by direction of any department of the Government of the United States and the operation or enforcement of the judgment is stayed, no bond, obligation, or other security shall be required from the appellant.

(f) **Stay According to State Law.** In any state in which a judgment is a lien upon the property of the judgment debtor and in which the judgment debtor is entitled to a stay of execution, a judgment debtor is entitled, in the district court held therein, to such stay as would be accorded him had the action been maintained in the courts of that state.

(g) **Power of Appellate Court Not Limited.** The provisions in this rule do not limit any power of an appellate court or of a judge or justice thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.

(h) **Stay of Judgment as to Multiple Claims or Multiple Parties.** When a court has ordered a final judgment under the conditions stated in Rule 54(b), the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

SUPREME COURT OF TEXAS ADVISORY COMMITTEE
AGENDA FOR STANDING SUBCOMMITTEE ON RULES 342-472

Professor William V. Dorsaneo III, Chairman

Meeting of March 7 and 8, 1986

Requests not addressed in November meeting:

- a. Rule 354 and 380 submitted by James Milam.
- b. Rule 364(a) submitted by Guy Hopkins.
- c. Rule 377 submitted by Raymond Judice.
- d. Rule 423 submitted by Raymond Judice.
- e. Rule 439 submitted by Judge Robertson.
- f. Rule 452 Requested by Jim Kronzer and John Feather.
- g. Rules 456 and 457 submitted by Charles Jordan and I. Nelson Heggen.
- h. Rule 458 submitted by Judge Solomon Casseb.

New requests to be addressed in March meeting:

- i. Rules 356 and 386 submitted by Judge Frank J. Douthitt.
- j. Rules 360, 363, 385a, 447, 469 submitted by Professor Jeremy Wicker.

SUPREME COURT OF TEXAS ADVISORY COMMITTEE
AGENDA FOR STANDING SUBCOMMITTEE ON RULES 474-515

Russell McMains, Chairman

Meeting of March 7 and 8, 1986

Requests not addressed in November meeting:

- a. Rule 492 submitted by Professor Jeremy Wicker.
- b. Rule 496 submitted by Professor Jeremy Wicker.
- c. Rule 499a submitted by Judge Robert Calvert.

New requests to be addressed in March meeting:

- d. Rules 483, 496, 499a by Professor Jeremy Wicker.

SUPREME COURT OF TEXAS ADVISORY COMMITTEE
AGENDA FOR STANDING SUBCOMMITTEE ON RULES 315 - 331

Harry Tindall, Chairman

Meeting of March 7 and 8, 1986

Old requests not addressed in November meeting:

- a. Rule 324(b) submitted by Richard H. Kelsey.
- b. Rule 329 submitted by Charles Childress.

SUPREME COURT OF TEXAS ADVISORY COMMITTEE
AGENDA FOR STANDING SUBCOMMITTEE ON RULES 15-215A
Sam Sparks, Chairman

Meeting of March 7 and 8, 1986

Requests not addressed in November meeting:

- a. Rules 27a, 27b, 27c, 165a, 166f submitted by Council of Administrative Judges.
- b. Rule 37 submitted by Professor William Dorsaneo.
- c. Rules 86, 87, 88, and 89 submitted by Justice Wallace.
- d. Rule 87 submitted by Hubert Green and Robert Martin, Doak Bishop, James Holmes (in November meeting submitted to Dorsaneo and McMains for further study).
- e. Rule 101 submitted by Greg Gossett.
- f. Rule 103 and 106 submitted by Judge Menton Murray and Guillermo Vega, Jr.
- g. Rule 161 by Donald Baker.
- h. Rule 204 submitted by Charles Haworth.
- i. Rule 324(b) submitted by Richard Kelsey.

New requests to be addressed in March meeting:

- j. Rule 18a (new request, submitted 2-12-86 by Bruce A. Pauley).
- k. Rules of 18a (rejected in November meeting), 30, 72, 87, 111, 112, 113, 161, 165a, 182a, 188 submitted by Prof. Jeremy Wicker.
- l. Rules 103 and 106 submitted by Edward Hubbard, Charles Griggs, Guillermo Vega, Judge Menton Murray, Jr. and Judge Herb Marsh, Jr.
- . Rule 117a submitted by Mary Joe Carroll.
- n. Rule 142 submitted by Wendell Loomis.

Agenda for Subcommittee on Rules 15-215A (continued)

- c. Rule 201 submitted by John Wright.
- p. Rules 205, 206-1, 207 submitted by Judge Charles Matthews.
- q. Change of all discovery rules regarding filing of discovery materials submitted by Commissioner's Court of San Antonio.

SUPREME COURT OF TEXAS ADVISORY COMMITTEE
AGENDA FOR STANDING SUBCOMMITTEE ON RULES 216-314

Franklin Jones, Jr., Chairman

Meeting of March 7 and 8, 1986

Requests not addressed in November meeting:

- a. Rule 216 submitted by Bradford Moore, Judge Solomon Casseb, Charles Haworth, Judge Robertson.
- b. Rules 247, 247a, 250, 305a submitted by Council of Administrative Judges.
- c. Rule 264 (unknown request, unknown date proposed change presented by Richard Clarkson.
- d. Rule 265a submitted by Judge James C. Onion.
- e. Rule 272 submitted by Justice James Wallace.
- f. Rule 296 submitted by David Bickel, Doak Bishop, and Professor Jeremy Wicker.
- g. Rules 297, 373, and 749 submitted by Justice Wallace.
- h. Rule 306a and 306c submitted by Doak Bishop.
- i. Proposals regarding 296, 297, 306c by Professor Dorsaneo.
- j. Rule 306c submitted by Professor Jeremy Wicker.

New requests to be addressed in March meeting:

- k. Rule 239a submitted by Professor Jeremy Wicker.

Will present report to the committee on Rules 216-314, with a separate report on 277 and 279.

SUPREME COURT OF TEXAS ADVISORY COMMITTEE
AGENDA FOR STANDING SUBCOMMITTEE ON RULES 592-734

Pat Beard, Chairman

Meeting of March 7 and 8, 1986

Requests not addressed in November meeting:

- a. Rules 621a and 627 submitted by John Pace.
- b. Rule 680 and 683 submitted by William Martin, Kenneth Fuller.
- c. Proposed new rule 737 submitted by Jay M. Vogelsson.

New requests to be addressed in March meeting:

- d. Rule 685 submitted by David Keltner.
- e. Rules 621a, 657, 696 submitted by Professor Jeremy Wicker.
- f. Proposed new rule 737 submitted by John M. O'Quinn and Professor Orville C. Walker.

Mr. Beard will submit for discussion proposed amended Rules 621a, 657, 696.

Mr. Beard will report on the subcommittee's conference call of 1-24-86 regarding Rule 9.

SUPREME COURT OF TEXAS ADVISORY COMMITTEE
AGENDA FOR STANDING SUBCOMMITTEE ON RULES 523 - 591

Broadus Spivey, Chairman

Meeting of March 7 and 8, 1986

Old requests not addressed in November meeting:

- a. Rule 525 submitted by Ken Coffman.

SUPREME COURT OF TEXAS ADVISORY COMMITTEE
AGENDA FOR STANDING SUBCOMMITTEE ON RULES OF EVIDENCE

Newell Blakely, Chairman

Meeting of March 7 and 8, 1986

Mr. Blakely will submit his analysis of Article 3737h Sec 1(a) regarding request of Gary Beckworth.

SUPREME COURT OF TEXAS ADVISORY COMMITTEE
AGENDA FOR STANDING SUBCOMMITTEE ON HOUSE BILL 1658

Judge Solomon Casseb, Jr., Chairman

Meeting of March 7 and 8, 1986

Judge Casseb will report on status of House Bill 1658.

SUPREME COURT OF TEXAS ADVISORY COMMITTEE
AGENDA FOR STANDING SUBCOMMITTEE ON RULES 737-813

W. James Kronzer, Chairman

Meeting of March 7 and 8, 1986

Requests not addressed in November meeting:

- a. Rules 735-755 submitted by Jefferson Irvin and Robert Ray.
- b. Rule 749 submitted by Justice James Wallace.
- c. Rule 749c and 753 submitted by Ken Coffman.
- d. Rule 758 submitted by Professor Jeremy Wicker.
- e. Rule 792 submitted by John Williamson and Karl Hoppess.

New requests to be addressed in March meeting:

- f. Rules 748 and 755 submitted by Professor Jeremy Wicker and Council of Administrative Judges.
- g. Rules 741, 746, 772, 806, 807, 808, 810, 811 submitted by Professor Jeremy Wicker.

SUPREME COURT OF TEXAS ADVISORY COMMITTEE
AGENDA FOR STANDING SUBCOMMITTEE ON RULES 1-14

Judge Linda Thomas, Chairman

Meeting of March 7 and 8, 1986

Requests not addressed in November meeting:

- a. Rules 3a, 8, 10, 10a, 10b submitted by Committee on Local Rules of the Council of Administrative Judges.
- b. Rules 3a, 8, 10, 10a, 10b, submitted by James Weber.
- c. Rules 8, 10, 14b submitted by Craig Lewis and Frank Jones.
- d. Rules 8, 10, 112 submitted by Ray Hardy.
- e. Rule 10, 165a, and 306a submitted by Reese Harrison.
- f. Rule 14c submitted by W.J. Kronzer.

New request to be addressed in March meeting:

- g. Rule 13 submitted by Bruce A. Pauley.