

MINUTES OF THE
SUPREME COURT ADVISORY COMMITTEE

JULY 15, 1989

The Advisory Committee of the Supreme Court of Texas convened at 8:30 o'clock a.m. on Saturday, July 15, 1989, pursuant to call of the Chairman.

Members present: Chair Luther H. Soules III, Justice Nathan L. Hecht, Honorable Sam Houston Clinton, Honorable Austin McCloud, Honorable David Peeples, Honorable Solomon Casseb, Jr., Honorable Raul Rivera, David Beck, R. Doak Bishop, Anthony Sadberry, Chuck Herring, Elaine Carlson, Rusty McMains, John O'Quinn, Tom Davis, Charles Morris, Franklin Jones, J. Hadley Edgar, Professor Newell Blakely, Harry Tindall, Pat Beard, William Dorsaneo III, and Kenneth Fuller. Also present were Chief Justice Thomas R. Phillips, Sarah B. Duncan, and Holly J. Halfacre.

Members absent were: Gilbert T. Adams, Jr., Frank L. Branson, John E. Collins, Michael A. Hatchell, Vester T. Hughes, Jr., Gilbert I. Low, Steve McConnico, Tom L. Ragland, Harry M. Reasoner, Broadus A. Spivey, Sam D. Sparks, and Sam Sparks.

Minutes of the May 26-27, 1989 meeting were approved.

Professor Elaine Carlson reported on progress of Texas Pattern Local Rules Project.

Discussion was had regarding letters receiving from state representatives regarding SB 1013 and HB 2223. Resolution was made for better communication with the legislature.

Redlined rules approved at the May 26-27, 1989 meeting for promulgation by the Supreme Court were approved with minor corrections to Rule 167a and 297a.

A report was given by Ken Fuller on Family Law Project regarding sealing of records and letter from John H. McElhaney. A committee was appointed to study same which consists of members Charles Morris- Co-Chair, Charles Herring - Co-Chair, Ken Fuller, Judge Solomon Casseb, Jr., Judge David Peeples, and Luke Soules and invitee John McElhaney. Luke Soules will prepare letter to Orlando Garcia and report formation of the committee and invite suggestions.

A request for reorganization of the TRAP rules was reported on, motion was made and the committee voted unanimously to

recommend that the Supreme Court not promulgate the requested reorganization but refer the project to the rules recodification effort over the next bi-innum.

A report was made by Justice Sam Houston Clinton regarding changes to proposed TRAP 1 and TRAP 20, motion was made and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendments.

A request for amendment to TRAP 4 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRAP 9 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRAP 47 was reported on by Professor Elaine Carlson, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRAP 49 was reported on by Elaine Carlson, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRAP 40 was reported on, motion was made, and the committee voted unanimously to table same for assignment Rusty McMains to do fully study and deliver a written report at next meeting, August 12, 1989.

A request for amendment to TRAP 46d was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRAP 40(a)(4) was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRAP 51(b) was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRAP 53 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRAP 51(c) was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to TRAP 52(d) was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRCP 299 and 299a was reported on, motion was made, and the committee voted 13 to 2 to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRAP 90 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRCP 99-107 was reported on, these rules have currently been amended. No action of committee required.

A request for amendment to TRCP 38(c) and 51(b) was reported on, motion was made to reject, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to TRCP 57 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRCP 120a was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRCP 238 was reported on, motion was made to reject, and a majority of the committee voted to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to TRCP 82 was reported on, motion was made, and the committee voted to table for assignment to R. Doak Bishop to deliver a written report at next meeting, August 12, 1989.

A request for amendment to TRCP 130a was reported on, motion was made to table, and the committee voted unanimously to reassign to Rusty McMMain to deliver a written report at next meeting, August 12, 1989.

A request for amendment to heading of Section 17 was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRCP 13 was reported on, motion was made to reject, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to TRCP 166(b)(3)(b) was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRCP 237a was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRCP 278 was reported on, motion was made, and the committee voted unanimously to reassign to Hadley Edgar to deliver a written report on August 12, 1989. The following members were appointed to prepare suggested redline versions and submit to Hadley Edgar by July 21: Rusty McMains, Professor Dorsaneo, John O'Quinn, Professor Edgar, Pat Beard and Luke Soules.

A request for amendment to TRCP 308a was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRCP 305 was reported on, motion was made to reject, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to TRCP 329b was reported on, motion was made to reject, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to TRCP 329 was reported on, motion was made to reject, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment.

A request for amendment to TRCP 329c was reported on, and the committee voted unanimously to recommend that the Supreme Court not promulgate the requested amendment until further information is received with briefing Skipper Lay.

A request for amendment to TRCP 749c was reported on, motion was made, and the committee voted unanimously to recommend that the Supreme Court promulgate the requested amendment.

A request for amendment to TRCP 534 was reported on, motion was made, and the committee voted unanimously to refer to Anthony Sadberry for written report at next meeting, August 12, 1989.

The following matters were placed on the agenda for August 12, 1989:

Form standing subcommittee on Multi-County, Multi-District Rules.

Form special subcommittee for consideration towards comprehensive reformatting and review of Texas Rules of Civil Procedure in order of Federal Rules of Civil Procedure.

Report of special subcommittee to combine all trial "notice" and "service" rules in a single rule, e.g. TRCP 21a and 72 - David Beck.

Report on Rule 278 - Professor Edgar

Report on Rule 40 - Rusty McMains

Report on Rule 82 - Doak Bishop

Report on Rule 329c - Harry Tindall

Report on Rule 534 - Sadberry

Report on Rule 130a (premature filing of application) - Hatchell

Report on TRAP 90(e) - Rusty McMains

Report on TRAP 121 - Rusty McMains

Report on TRAP 181 - Rusty McMains

Report on TRCP 10 - Frank Branson

Report on TRAP 15a and 18b - David Beck

Staff was recognized with appreciation.

Meeting adjourned.

TRCP 57 Signing of Pleadings

Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, with his State Bar of Texas identification number, address, ~~and~~ telephone number[, and, if available, telecopier number]. A party not represented by an attorney shall sign his pleadings, state his address, ~~and~~ telephone number[, and, if available, telecopier number].

[COMMENT TO 1990 CHANGE: To supply attorney telecopier information with other identifying information on pleadings.]

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