



The Supreme Court of Texas

CHIEF JUSTICE
NATHAN L. HECHT

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ADMINISTRATIVE ASSISTANT
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PUBLIC INFORMATION OFFICER
OSLER McCARTHY

August 4, 2015

Mr. Charles L. "Chip" Babcock
Chair, Supreme Court Advisory Committee
Jackson Walker L.L.P.
1401 McKinney, Suite 1900
Houston, TX 77010

Re: Referral of Rules Issues

Dear Chip:

The Supreme Court requests the Advisory Committee to study and make recommendations on the following matters.

Parental Notification Rules and Forms. HB 3994, passed by the 84th Legislature, makes substantive amendments to Chapter 33 of the Family Code, which governs parental notice of an abortion for an unemancipated minor. In 1999, with the help of the Advisory Committee, the Court promulgated rules to govern proceedings to obtain a court order and forms for use in these proceedings. The rules and forms must be updated to reflect the recent statutory amendments. The Committee should also consider whether parental-notification proceedings should be subject to or exempt from the electronic-filing mandate for civil cases. Because HB 3994 takes effect on January 1, 2016, the Court must have the Committee's recommendations by October 16, 2015.

Three-Judge District Court. SB 455, passed by the 84th Legislature, adds to the Government Code Chapter 22A, which authorizes the Attorney General to request the convention of a special three-judge district court in school-finance and redistricting cases. Section 22A.004(b) authorizes the Court to adopt rules for the operation of a three-judge district court convened under Chapter 22A and for proceedings of the court.

Ex Parte Communications. The Internet and social media have made it easy for any person to direct a communication, or instigate mass communications, to a judge about a pending case. Canon 3(B)(8) of the Code of Judicial Conduct prohibits a judge from "initiat[ing], permit[ing], or consider[ing] *ex parte* communications," but it does not give specific guidance on the ethical duty of a judge who receives an improper communication or a mass of improper communications about a case. The Court

requests the Advisory Committee's recommendations on whether and how the Code should be amended to specifically address the duty of a judge who receives improper communications about a case, including communications sent by e-mail or through social media.

ADR and Constitutional County Court Judges. The Court has received the attached letter from the Hon. Tom Pollard, county judge of Kerr County. Judge Pollard points out that under Canons 4(F)-(G) and 6(B)(3) of the Code of Judicial Conduct, a constitutional county court judge is permitted to maintain a private law practice but is prohibited from acting as an arbitrator or mediator for compensation. Judge Pollard asks the Court to revise the Code to permit a constitutional county court judge to serve as an arbitrator or mediator for compensation in a case that is not pending before the judge. The Court requests the Advisory Committee's recommendations on whether and how the Code should be amended to permit a constitutional county court judge to serve as a private arbitrator or mediator.

As always, the Court is grateful for the Committee's counsel and your leadership.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathan L. Hecht". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Nathan L. Hecht
Chief Justice

Attachment



**THE COUNTY COURT
OF**

KERR COUNTY, TEXAS

700 Main Street, Ste. 101, Kerrville, Texas 78028

Tel: (830) 792-2211

Fax: (830) 792-2218

Email: commissioners@co.kerr.tx.us

COUNTY JUDGE
TOM POLLARD

COURT COORDINATOR
JODY GRINSTEAD

COMMISSIONERS COURT
H. A. "BUSTER" BALDWIN, PCT. 1
TOM MOSER, PCT. 2
JONATHAN LETZ, PCT. 3
BRUCE OEHLER, PCT. 4

May 12, 2015

Clerk of the Court
Supreme Court of the State of Texas
P. O. Box 12248
Austin, Texas 78711

Attn: Ms. Martha Newton

Re: Request for Revision/update of Canon 4 F of the Texas Code of Judicial Conduct

Dear Ms. Newton:

Background:

I am, and have been for 48 years, a licensed Texas Attorney as well as the duly elected constitutional County Judge of Kerr County, Texas. I estimate that 65% of my time involves handling judicial matters such as guardianships, probates, mental health commitments and I am the judge of the juvenile court. The balance of my time, 35% or so, is spent on administrative/non-judicial matters for Kerr County, Texas*.

The Texas Code of Judicial Conduct, Canon 4 F provides that "An active *full-time* (emphasis added) judge shall not act as an arbitrator or mediator for compensation outside the judicial system, but a judge may encourage settlement in the performance of official duties."

Canon 4G and Canon 6 B(3)

I note that I am permitted to have a private law practice for compensation so long as it does not relate to a matter pending in my Court, per Canon 4G and Canon 6 B(3).

Thank you for your attention.

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REQUEST:

I respectfully request that the Texas Supreme Court review and update the Texas Code of Judicial Conduct, specifically Canon 4F. by adding the following sentence (or similar language to the same effect), to-wit:

“Constitutional County Judges may be mediators and/or arbitrators for compensation so long as the matters being mediated and/or arbitrated are not, and never have been, pending in said Judge’s Court.

Thank you very much!.

Sincerely,



Tom Pollard,
Texas State Bar No.: 16100000
Kerr County Judge

Encl: (as stated)

* See attached general description of the Kerr County Judge judicial and administrative duties.

County Judge

The Texas Constitution vests broad judicial and administrative powers in the position of County Judge, who presides over a five-member commissioner's court, which has budgetary and administrative authority over county government operations.

The County Judge handles such widely varying matters as hearings for beer and wine license applications, hearing on admittance to state hospitals for the mentally ill and mentally handicapped, juvenile work permits and temporary guardianships for special purposes. The judge is also responsible for calling elections, posting election notices and for receiving and canvassing the election returns. The county judge may also perform marriages.

A County Judge in Texas may have judicial responsibility for certain criminal, civil and probate matters - responsibility for these functions vary from county to county. In those counties in which the judge has judicial responsibilities, the judge has appellate jurisdiction over matters arising from the justice courts. In Kerr County, when the office of County Judge is held by a licensed attorney, the County Judge has traditionally been the Presiding Judge of the Probate, Mental Health and Juvenile dockets. The County Judge is also head of civil defense and disaster relief, county welfare and in counties with a population of under 225,000 the judge prepares the county budget along with the County Auditor's Office.