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COURT OF APPEALS
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Local Rules

1. Scope of Local Rules (Tex. R. App. P. 1.2)

1.1 Relationship to Tex. R. App. P. These rules supplement the procedures in the Texas Rules of Appellate Procedure and, unless otherwise specified, apply to both civil and criminal cases. If the Texas Rules of Appellate Procedure conflict with these local rules, the Texas Rules of Appellate Procedure govern.

1.2 Relationship to Jurisdiction. These rules do not extend or limit the jurisdiction of this Court, but failure to comply with these rules may result in the dismissal of an appeal after the Court gives the noncomplying party notice and a reasonable opportunity to cure.

Notes & Comments: The notes and comments appended to the local rules are not part of the rules. Instead, they reflect the Court's general procedures and preferences and are provided for the convenience of the public.

2. Alternative Dispute Resolution (ADR)

On a party's motion, or on the Court's own initiative after reviewing the docketing statement, the Court may refer a civil case to alternative dispute resolution.

3. Papers Generally (Tex. R. App. P. 9)

3.1 Papers Filed Before the Docketing Statement. If a document is filed in this Court before the appellant's docketing statement is filed, the certificate of service must include the names, addresses, and telephone numbers of each person served.

3.2 Filing by Fax. Documents of ten pages or less may be filed in this Court by fax. Documents may be faxed to the Court both during and after normal working hours. The Court is not responsible for events that disrupt, impair, or render impossible the receipt of documents transmitted by fax.

Notes & Comments: The Clerk will mail a file-marked copy of a document to any party who tenders an extra copy of the document and a postage-paid self-addressed envelope. The Court encourages parties to use the same method of service of a document on a party as is used in filing the document with the Court.

4. Bankruptcy and Other Stays in Civil Cases (Tex. R. App. P. 8)

Any party may file a notice of bankruptcy or otherwise claim an automatic stay of the appeal as provided by federal or state law. The notice must be accompanied by an appropriate form of proof. The appeal will be abated and, for administrative purposes, treated as a closed case. However, the appeal may be reinstated on prompt motion of any party showing the stay has been lifted and specifying what further action, if any, is required from this Court.

5. Docketing Statements (Tex. R. App. P. 32)

5.1 Forms. Each appellant must file a docketing statement and attach a signed copy of the judgment or order being appealed.

5.2 Time to File. The docketing statement must be filed in the Fourth Court of Appeals when the notice of appeal is filed.

Notes & Comments: To assist the efficient handling of cases, the Court encourages appellants to accurately complete the docketing statements adopted by the Court. See Appendix A (civil appeals), Appendix B (ADR), and Appendix C (criminal appeals).

6. Motions (Tex. R. App. P. 10, 26.3, 38.6(d) & 49.8 (c))

6.1 Number of Copies. A party need only file an original and one copy of each motion.

6.2 Motions for Rehearing. A motion for rehearing en banc must be filed separately from a motion for rehearing.

Notes & Comments: Motions for extension of time are no longer required to file the appellate record, but they may be used for filing briefs. The titles of motions should be descriptive and indicate whether agreed or opposed and whether emergency relief is requested. Proposed orders should not be submitted. Parties should not wait for the Court's ruling on a motion for extension of time but should meet all deadlines at the earliest possible date. Any objection to a visiting judge should be filed within ten days of the date the Clerk sends the parties notice that a visiting judge has been assigned to the appeal.

7. Appellate Record (Tex. R. App. P. 12.4, 34 & 35)

7.1 Notice of Late Record. If an official requires additional time to file a record, the official must request additional time from the Court using the form adopted by the Court. See Appendix D ("Official's Notice of Late Record"). Failure to file the record by the due date or according to the Court's directives will result in appropriate court action.

7.2 Withdrawal of the Record.

(a) Attorneys of Record. At any time before an appeal is set for submission, attorneys of record may withdraw all or part of a record without a motion for a period of 14 days. After the Clerk sends the parties notice setting the appeal for submission, attorneys may review a record in the Court's offices only.

(b) Pro Se Parties. Parties who are representing themselves and are not licensed attorneys may inspect a record only in designated areas within the Court's offices. However, the Court may grant a motion requesting permission to review the record on other terms.

(c) Protection of the Record. The record must not be disassembled.

7.3 Preparation of Clerk's Record. The trial court clerk must prepare and file the clerk's record in accordance with Rules 34.5 and 35. Even if more than one notice of appeal or request for inclusion of items is filed, the clerk should prepare only one record in a case. To prepare the clerk's record, the trial court clerk must:

(a) gather the documents required by Rule 34.5(a) and those requested by a party under Rule 34.5(b);

- (b) start each document on a new page;
- (c) include the date of filing on each document;
- (d) arrange the documents in ascending chronological order, by date of filing or occurrence;
- (e) start the page numbering on the front cover of the first volume of the clerk's record and continue to number all pages consecutively-including the front and back covers, tables of contents, certification page, and separator pages, if any-until the final page of the clerk's record, without regard for the number of volumes in the clerk's record, and place each page number at the bottom of each page;
- (f) prepare, label, and certify the clerk's record as required by this rule;
- (g) as far as practicable, include the date of signing by the judge on each order and judgment;
- (h) include on the front cover of the first volume of the clerk's record, whether filed in paper or electronic form, the following information, in substantially the following form:

CLERK'S RECORD

VOLUME ____ of ____

Trial Court Cause No. _____

In the ____ (District or County) Court

of _____ County, Texas,

Honorable _____, Judge Presiding

_____, Plaintiffs)

vs.

_____, Defendant(s)

Appealed to the

(Supreme Court of Texas at Austin, Texas,
or Court of Criminal Appeals of Texas at Austin, Texas,
or Court of Appeals for the ____ District of Texas, at _____, Texas).

Attorney for Appellant(s):

Name: _____

Address: _____

Telephone no.: _____

Fax no.: _____

E-mail address: _____

SBOT no.: _____

Attorney for: _____, Appellant(s)

Name of clerk preparing the clerk's record: _____

- (i) prepare and include after the front cover of the clerk's record a detailed table of contents identifying each document in the entire record (including sealed documents), the date each document was filed, and, except for sealed documents, the page on which each document begins. The table of contents must be double-

spaced and conform to the order in which documents appear in the clerk's record, rather than in alphabetical order. If the clerk's record consists of multiple volumes, the table of contents must indicate the page on which each volume begins. If the clerk's record is filed in electronic form, the clerk must use bookmarks to link each document description in the table of contents, except descriptions of sealed documents, to the page on which each document begins; and

(j) conclude the clerk's record with a certificate in substantially the following form:

The State of Texas)

County of _____)

I, _____, Clerk of the _____ Court of _____ County, Texas do hereby certify that the documents contained in this record to which this certification is attached are all of the documents specified by Texas Rule of Appellate Procedure 34.5(a) and all other documents timely requested by a party to this proceeding under Texas Rule of Appellate Procedure 34.5(b).

GIVEN UNDER MY HAND AND SEAL at my office in _____, County, Texas ____ this day of _____.

signature of clerk _____

name of clerk _____

title _____

If the clerk's record is filed in electronic form, the trial court clerk's login and password serves as the clerk's signature on the certification page. The clerk also must include either a scanned image of the clerk's signature or "/s/" and the clerk's name typed in the space where the signature would otherwise appear.

8. Briefs (Tex. R. App. P. 9, 31.1 & 38)

8.1 Number of Copies. The number of copies of a brief that must be filed is governed by Rule 9.3 of the Texas Rules of Appellate Procedure.

8.2 Time for Filing Briefs in Appeals in Habeas Corpus & Bail Proceedings

(a) Appellant's Brief. The appellant's brief must be filed no later than 20 days after the date the clerk's record or the reporter's record is filed, whichever is later.

(b) State's Brief. The State's brief must be filed no later than 20 days after the date the appellant's brief is filed.

8.3 Additional Citations. A party may file a letter containing additional citations with succinct comment, at any time without leave of Court.

8.4 Amendment or Supplementation. If a party wishes to amend or supplement the party's brief other than in the manner permitted by Local Rule 8.3, the party must obtain the Court's permission.

8.5 Post-Submission Briefs.

(a) Requested by the Court. If the Court requests a post-submission brief, the brief must be filed at the time indicated by the Court; or, if no time is specified, within ten days after the Court's request. An opposing party's reply to a post-submission brief requested by the Court must be filed no later than ten days after the date of the brief requested by the Court. If an additional post-submission brief is requested by the Court, the aggregate page limits contained in the Texas Rules of Appellate Procedure do not apply.

(b) Not Requested by the Court. If a party wishes to file a post-submission brief that has not been requested by the Court, the party must obtain the Court's permission.

Notes & Comments: Citations should use jump cites or pinpoint cites and should conform to the most recent editions of Harvard L. Rev., A Uniform System of Citation (the Bluebook), and Tex. L. Rev., Texas Rules of Form (the Greenbook). The Court encourages the use of appendices, especially for federal authorities not found in its own library. The reporter's record may be referred to as "RR" and the clerk's record as "CR." As a general rule, the Court will not give permission to file a brief containing additional issues or points of

error after a case has been submitted to the Court for decision. The Court interprets the term "amended brief" to mean a brief that completely replaces the original brief. Pursuant to administrative order of the Court, the Clerk of the Court is authorized to attest to per curiam orders granting extensions of time to file briefs. The Court generally grants a requested extension of time to file a brief, up to 60 days from the original due date. Additional time may be granted at the Court's discretion. An appellant who is also in the position of appellee may request permission to file a combination brief.

9. Oral Argument (Tex. R. App. P. 39)

9.1 Time Allowed. Oral argument will be limited to 20 minutes for the appellant's opening argument, 20 minutes for the appellee's argument, and ten minutes for the appellant's rebuttal.

9.2 Waiver. Any party who requests oral argument and later decides to waive argument must notify the Court and the other parties in writing before the date set for submission.

9.3 Failure to Appear. Any attorney or party who wishes to present argument must register in the Clerk's office 30 minutes before the time scheduled for argument and must also orally announce their appearance in the courtroom at the time scheduled for argument. If an attorney or party fails to comply with this rule, the Court will deem oral argument waived and may take any other appropriate action.

9.4 Audio Recordings. The Court makes audio recordings of oral argument for its own use. However, a party may purchase a copy of the recording from the Clerk. The Court does not guarantee the recording will be clear or audible, and the Court will generally not grant a rehearing because the recording is not clear or audible.

Notes & Comments: If oral argument is waived, a case may receive expedited consideration. If an issue or point of error raised in a brief is not discussed at argument, the Court will nonetheless consider the issue or point of error preserved for appellate review. If an attorney or party intends to cite a case that is not contained in the briefs, the attorney or party should provide a copy of the case to the Clerk and opposing counsel before argument. The Court monitors the time during oral argument.

Order Adopting Local Rules

IT IS ORDERED that, effective October 1, 1998, these rules are adopted as local rules for the Fourth Court of Appeals with the permission of the Texas Supreme Court and Texas Court of Criminal Appeals. The notes and comments appended to the local rules are not part of the rules and do not have the same force and effect as the rules. All local rules promulgated before October 1, 1998 are rescinded, but this shall not affect any proper action taken pursuant to such rescinded rules prior to the effective date of the rules adopted herein. Done September 23, 1998, effective October 1, 1998.

IT IS ORDERED that, effective June 1, 2011, an amendment to Local Rule 7 has been adopted to add five additional subsections to the local rules for the Fourth Court of Appeals subject to the approval of the Texas Supreme Court and the Texas Court of Criminal Appeals. Done April 19, 2011, effective June 1, 2011.

IT IS ORDERED that, effective September 27, 2011, an amendment to the local rules for the Fourth Court of Appeals was adopted to amend Local Rule 7.4(f) and to add Local Rules 10 and 11. Done September 6, 2011, effective September 27, 2011.

IT IS ORDERED that, effective January 1, 2014, an amendment to the local rules for the Fourth Court of Appeals was adopted, amending Local Rule 7 to delete subsections 7.4, 7.5, 7.6, and 7.7, and deleting Local Rules 10 and 11. Done October 16, 2013, effective January 1, 2014.

Updated: 22-May-2014