

IN THE SUPREME COURT OF TEXAS

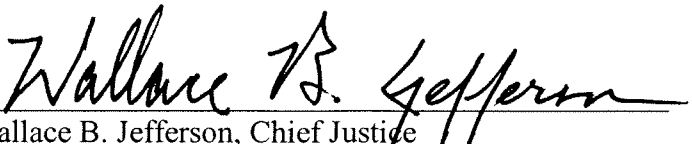
Misc. Docket No. 08-9004

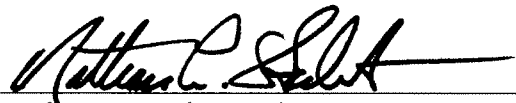
ORDER PROMULGATING RULE OF JUDICIAL ADMINISTRATION 15

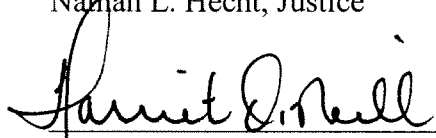
It is hereby ORDERED that:

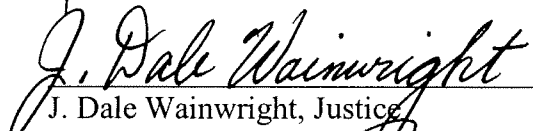
1. Pursuant to the Texas Constitution, article V, §31(a), and Texas Government Code §74.024, the Texas Rules of Judicial Administration are amended by adding Rule 15, which addresses appeals from trial courts located in counties assigned to multiple appellate districts, as follows.
2. Comments on these revisions may be submitted to the Court in writing on or before June 30, 2008. Comments should be directed to Jody Hughes, Rules Attorney, P.O. Box 12248, Austin TX 78711, or may be emailed to him at jody.hughes@courts.state.tx.us.
3. This rule, with any changes made after public comments are received, takes effect September 1, 2008.
4. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature before December 1; and
 - d. submit a copy of this Order for publication in the *Texas Register*.


SIGNED AND ENTERED, this 10th day of March, 2008.


Wallace B. Jefferson, Chief Justice

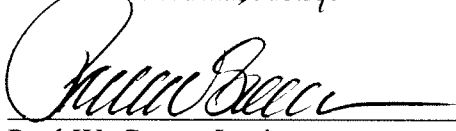

Nathan L. Hecht, Justice

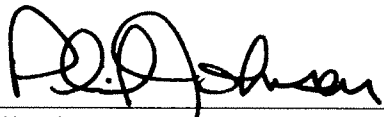

Harriet O'Neill, Justice

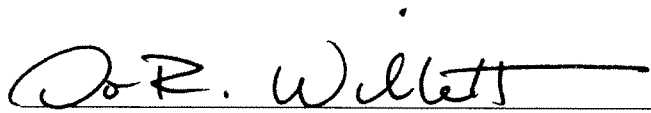

J. Dale Wainwright, Justice


Scott Brister, Justice


David M. Medina, Justice


Paul W. Green, Justice


Phil Johnson, Justice


Don R. Willett, Justice

Rule 15. Appeals from Trial Courts in Counties Assigned to Multiple Appellate Districts.

15.1 Applicability. This rule applies to appeals to a court of appeals from an order or judgment issued by a trial court in a county assigned by law to more than one court of appeals district, except where assignment of such appeals is governed by statute. This rule does not apply to appeals to the First or Fourteenth Court of Appeals from trial courts in counties in the districts of the First or Fourteenth Court of Appeals, as assignment of such appeals is governed by Tex. Gov't Code §22.202(h).

15.2 When Consolidation Required. If notices of appeal filed by two or more parties from a single judgment or order designate two courts of appeals that both have jurisdiction of the appeal because the county in which the trial court sits is assigned to more than one appellate district, the appeals must be consolidated in one of the courts of appeals.

15.3 Consolidation by Agreement; Notice to Courts of Appeals.

(a) *Appealing parties to confer regarding consolidation.* When any appealing party learns that two or more parties have properly designated two different courts of appeals, that party must promptly confer with lead counsel for all other appealing parties (if represented, otherwise counsel must confer with the pro se party) and determine if all appealing parties will agree to consolidate the appeals in one of the courts of appeals.

(b) *Time to provide notice.* No later than 30 days—20 days in an accelerated appeal—after the filing date of the first-filed notice of appeal described in paragraph (a), the parties must submit to the clerks of both courts of appeals written notice either of the appealing parties' agreement to consolidate the appeals or of the appealing parties' inability to reach agreement regarding consolidation.

(c) *Contents of notice.* The notice must identify each appealing party and the party's counsel (if represented, or state that the party is pro se), and must either identify the court of appeals designated by agreement or state that the appealing parties were unable to agree to consolidate all appeals in a particular court. The notice must also contain a certificate stating that the filing parties conferred, or made a reasonable attempt to confer, with all other appealing parties regarding consolidation of the appeals. If the notice states that all appealing parties have agreed to consolidation, it must identify every party or party's attorney who agreed to the consolidation.

(d) *Consolidation by agreement of all appealing parties.* If the clerks of both courts of appeals receive notice that all appealing parties have agreed to consolidation, the Chief Justices of both courts shall request the Chief Justice of the Supreme Court to transfer all pending appeals in the case to the court of appeals designated by the parties' agreement.

15.4 Consolidation When Appealing Parties Unable to Agree.

- (a) *Clerks of courts of appeals to jointly notify trial court clerk.*
- (i) If both courts of appeals receive notice of the appealing parties' inability to reach agreement regarding consolidation, the clerks of both appellate courts must jointly notify the clerk of the trial court in writing of that fact.
 - (ii) If the period described in Rule 15.3(b) has passed and the clerks of the two courts of appeals have not received any notice from the appealing parties regarding consolidation, the Chief Justices of the two courts of appeals shall confer and instruct the clerks of their respective courts to jointly notify the clerk of the trial court in writing that the appealing parties failed to timely submit notice of agreement regarding consolidation, and instruct the clerk to perform the selection process in Rule 15.4(b).
- (b) *Consolidation by trial court clerk.* After the trial court clerk receives notice from the clerks of the courts of appeals regarding either the appealing parties' inability to reach agreement as to consolidation or their failure to timely submit notice of agreement, the clerk shall write the numbers of the two courts of appeals on identical slips of paper and place the slips in a container folded in half or otherwise arranged so that the numbers are completely hidden from view. The trial court clerk shall draw a number from the container at random, in a public place, and shall assign the case to the court of appeals for the corresponding number drawn.

15.5 All Appeals From Same Judgment or Order to be Consolidated Together. When appeals to multiple courts of appeals have been consolidated pursuant to this rule, other parties' appeals from the same judgment or order underlying the consolidated appeals must be assigned to the same court of appeals in which the previous appeals were consolidated.