

IN THE SUPREME COURT OF TEXAS

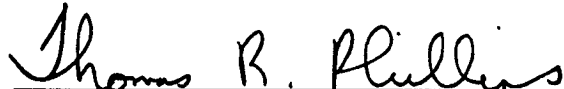
Misc. Docket No. 97- 9099

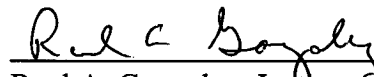
APPROVAL OF REVISIONS TO THE TEXAS RULES OF JUDICIAL ADMINISTRATION


ORDERED that:

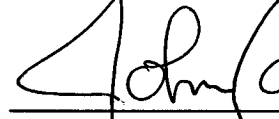
1. Rule 11 of the Texas Rules of Judicial Administration is added as follows;
2. This rule, with any changes made after public comments are received, takes effect October 1, 1997;
3. The Clerk is directed to file an original of this Order with the Secretary of State forthwith, and to cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*.


SIGNED AND ENTERED this 12th day of June, 1997.



Thomas R. Phillips, Chief Justice


Raul A. Gonzalez, Justice



Nathan L. Hecht, Justice


John Cornyn, Justice


Craig T. Enoch, Justice


Rose Spector, Justice


Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice

RULE 11. PRETRIAL PROCEEDINGS IN CERTAIN CASES

11.1 Applicability. This rule applies to any case that involves material questions of fact and law in common with another case pending in another court in another county on or after October 1, 1997.

11.2 Definitions.

- (a) *Presiding judge* means the presiding judge of an administrative judicial region in which a case is pending;
- (b) *Regular judge* means the regular judge of a court in which a case is pending.
- (c) *Pretrial judge* means a judge assigned under this rule.
- (d) *Related* means that cases involve common material issues of fact and law.

11.3 Assignment of Pretrial Judge.

- (a) *By presiding judge.* On motion or request under 11.4, a presiding judge may assign an active district judge to a case to conduct all pretrial proceedings and decide all pretrial matters.
- (b) *Authority of pretrial judge.* The pretrial judge will preside over all pretrial proceedings in the case in place of the regular judge. The pretrial judge will decide all pretrial motions, including motions to transfer venue and motions for summary judgment. The pretrial judge and the regular judge must consult on setting a trial date.
- (c) *Different judges assigned.* The same pretrial judge need not be assigned in all related cases. If more than one pretrial judge is assigned in related cases, either in the same region or in different regions, the pretrial judges must consult with each other in conducting pretrial proceedings and deciding pretrial matters.
- (d) *Assignment outside region.* The Chief Justice of the Supreme Court may assign an active district judge to other administrative regions to allow the judge to be assigned as a pretrial judge under this rule.

- (e) *No objections to pretrial judge.* An assignment under this rule is not made pursuant to section 74.054 of the Government Code, and therefore a pretrial judge is not subject to an objection under section 74.053 of the Government Code.
- (f) *Termination of assignment.* An assignment under this rule terminates when:
 - (i) all pretrial proceedings in a case have been completed;
 - (ii) the pretrial judge ceases to be an active district judge; or
 - (iii) the presiding judge in the exercise of discretion terminates the assignment.

11.4 Procedure for Obtaining Assignment of a Pretrial Judge.

- (a) *Motion or request required; who may file.* A pretrial judge may be assigned only on the motion of a party to a case or at the request of the regular judge.
- (b) *Contents of motion or request.* The motion or request must state:
 - (1) the number and style of the case;
 - (2) the number and style of the related case, and the court and county in which it is pending;
 - (3) the material questions of fact and law common to the cases;
 - (4) the reasons why the assignment would promote the just and efficient conduct of the action; and
 - (5) whether all parties agree to the motion.
- (c) *Where filed.* The motion or request must be filed in all cases identified under (b)(1) and (b)(2).
- (d) *Response.* A response may be filed by:
 - (1) any other party to the case;

- (2) the regular judge of the court in which the case is pending;
 - (3) the regular judge of the court in which the related case is pending, if no pretrial judge has already been assigned in that case;
 - (4) the pretrial judge assigned to the related case, if a pretrial judge has already been assigned; and
 - (5) any party to the related case.
- (e) *Briefs.* A motion, request, or response may be accompanied by a brief. The presiding judge may request briefs.
- (f) *Hearing.* Unless all parties in the case agree to a motion or request, the presiding judge must conduct an oral hearing. The hearing may be held in any county within the region or in Travis County. The presiding judge must give notice of the time and place for the hearing to all parties and the regular or pretrial judges in the cases identified in (b)(1) and (b)(2).
- (g) *Evidence.* The presiding judge may consider all documents filed in the case or the related case, all discovery conducted in the case or the related case, any stipulations filed by the parties in the case or the related case, affidavits filed in connection with the motion, request, or response, and oral testimony.
- (h) *Decision.* The presiding judge must grant the motion or request if the judge determines that:
- (1) the case involves material questions of fact and law common to a case in another court and county; and
 - (2) assignment of a pretrial judge would promote the just and efficient conduct of the cases.

Otherwise, the presiding judge must deny the motion or request.

- (i) *Order.* The presiding judge must issue an order deciding the motion or request. The order must be filed in the case in which assignment of a pretrial judge was sought.

- (j) *Service and notice.* A party must serve any paper filed under this rule on all parties to the cases identified under (b)(1) and (b)(2) and on the presiding judge or judges for those cases. If a judge files any paper under this rule, the clerk of the court in which the paper is filed must send a copy to all parties to the cases identified under (b)(1) and (b)(2) and to the presiding judge or judges for those cases. The clerk of the court where a case is pending in which assignment of a pretrial judge is sought shall serve as the clerk for the presiding judge under this rule.

11.5 Review. A presiding judge's order granting or denying a motion or request for appointment of a pretrial judge may be reviewed only by the Supreme Court in an original mandamus proceeding.

11.6 Expenses of Pretrial Judge. If a pretrial judge travels outside the judge's county of residence to conduct proceedings, the county in which the proceedings are conducted must pay — on certification by the presiding judge of the administrative judicial region in which the other county is located — the pretrial judge's actual travel expenses and actual living expenses incurred for conducting the proceedings.



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK
JOHN T. ADAMS

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NATHAN L. HECHT
JOHN CORNYN
CRAIG ENOCH
ROSE SPECTOR
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

June 18, 1997

Office of the Secretary of State
Statutory Filings Section
Room 214, Rudder Building
1019 Brazos Street
Austin, Texas 78701

By order of the Supreme Court of Texas, the enclosed original order is forwarded for appropriate filing. Please contact this office if you have questions in this matter.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.



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EXECUTIVE ASST
WILLIAM L. WILLIS

ADMINISTRATIVE ASST
NADINE SCHNEIDER

June 12, 1997

Mr. Antonio Alvarado
Executive Director
State Bar of Texas
1414 Colorado Street
Austin, Texas 78701

Dear Mr. Alvarado,

Please find enclosed, a copy of the order of the Supreme Court of Texas of this date. Per this order, a copy is to be published as soon as possible in the Texas Bar Journal. You may contact the undersigned if there are any questions in this matter.

Sincerely,

SIGNED
John T. Adams
Clerk

Encl.

cc: Ms. Kelley Jones