



# The Supreme Court of Texas

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July 13, 2011

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

*via e-mail*

Re: Referral of Rules Issues

Dear Chip:

Several enactments by the 82nd Legislature require new administrative and procedural rules or revisions to existing rules. The Supreme Court requests the Advisory Committee to study and make recommendations on the following matters.

**Dismissal.** HB 274 adds Government Code § 22.004(g) and Civil Practice and Remedies Code § 30.021, which call for rules "for the dismissal of causes of action that have no basis in law or fact on motion and without evidence [to be] granted or denied within 45 days of the filing of the motion to dismiss", and in certain of such actions for the "award [of] costs and reasonable and necessary attorney's fees to the prevailing party".

**Expedited Actions.** HB 274 adds Government Code § 22.004(h), which calls for rules "to promote the prompt, efficient, and cost-effective resolution of civil actions . . . in which the amount in controversy, inclusive of all claims for damages of any kind, whether actual or exemplary, a penalty, attorney's fees, expenses, costs, interest, or any other type of damage of any kind, does not exceed \$100,000[,] . . . address[ing] the need for lowering discovery costs in these actions and the procedure for ensuring that these actions will be expedited in the civil justice system."

**Interlocutory Appeals.** HB 274 amends Civil Practice and Remedies Code § 51.014 for appeals from orders "not otherwise appealable". The amendments may require revisions to Rule 28 of the Rules of Appellate Procedure.

**Offer of Settlement.** HB 274 amends Civil Practice and Remedies Code chapter 42, regarding offers of settlement. The amendments will require revisions to Rule 167 of the Rules of Civil Procedure.

**Parental Rights Termination Cases.** HB 906 amends sections 107.013, 107.016, 109.002, and 263.405 of the Family Code, regarding post-trial procedures in cases for termination of parental rights. Section 263.405(c) calls for rules "accelerating the disposition by the appellate court and the supreme court of an appeal of a final order granting termination of the parent-child relationship". The amendments will require revisions to Rule 28 of the Rules of Appellate Procedure. The Committee should consider whether revisions in chapter 13 of the Civil Practice and Remedies Code are necessary.

**Return of Service.** HB 962 amends Civil Practice and Remedies Code § 17.065(b) and adds § 17.030, which calls for rules regarding returns of service of citation.

**Expedited Foreclosure.** HB 1228 amends Property Code chapter 209 and adds § 209.0092(b), calling for rules "establishing expedited foreclosure proceedings for use by a property owners' association in foreclosing an assessment lien of the association." The rules are to be "substantially similar" to Rules 735 and 736 of the Rules of Civil Procedure. The Task Force on Judicial Foreclosure Rules, *see* Misc. Order 07-9160 dated September 20, 2007, has recommended extensive revisions to these rules, which the Court has under consideration.

**Constitutional Challenges to Statutes.** HB 2425 adds Government Code § 402.010, which requires notice to the Attorney General of constitutional challenges to statutes. The Advisory Committee's previous recommendation to the Supreme Court should be reviewed in light of this statute.

**Security Details.** SB 1 adds Government Code § 660.2035, which gives the Supreme Court "original and exclusive mandamus jurisdiction over any dispute regarding the construction, applicability, or constitutionality of" provisions for the confidentiality of a "voucher or other expense reimbursement form . . . for payment or reimbursement of a travel expense incurred by a peace officer while assigned to provide protection for an elected official of this state or a member of the elected official's family". The statute contemplates the appointment of a master to assist the Court.

**Small Claims.** HB 79 abolishes the small claims court effective May 1, 2013, and calls for rules for the conduct of small claims cases and eviction proceedings in the justice courts.

**Cases Requiring Additional Resources.** HB 79 adds Government Code §§ 74.251-.257, which call for rules for "determin[ing] whether a case requires additional resources to ensure efficient judicial management of the case." The statute directs that recommendations be made by a task force appointed by the president of the State Bar of Texas. The Committee should review those recommendations.

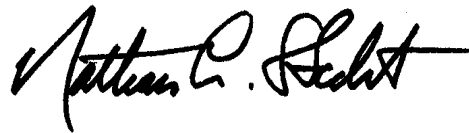
Task forces will assist the Advisory Committee on rules regarding expedited actions, parental rights termination cases, expedited foreclosure, and small claims.

The Court must have the Committee's recommendations by the following dates:

Dismissal	March 1, 2012
Expedited Actions	March 1, 2012
Interlocutory Appeals	August 27, 2011
Offer of Settlement	August 27, 2011
Parental Rights Termination Cases	October 24, 2011
Return of Service	October 24, 2011
Expedited Foreclosure	August 27, 2011
Constitutional Challenges to Statutes	December 12, 2011
Security Details	December 12, 2011
Small Claims	May 1, 2012
Cases Requiring Additional Resources	December 12, 2011

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

Sincerely,



Nathan L. Hecht  
Justice