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IN SUPREME COURT
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BLAKE HAWTHORNE, Clerk
By _____ Deputy

In The Supreme Court of Texas

Brief of the Texas Access to Justice Commission

Regarding the Supreme Court's
Authority To Promulgate Pleading Forms

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ISSUE PRESENTED

Does the Supreme Court of Texas have constitutional, statutory, or inherent authority to promulgate family-law pleading forms that will help pro se litigants gain access to the justice system to vindicate their rights in Texas courts and create efficiencies for judges and court staff in Texas?

ARGUMENT

The Supreme Court of Texas may promulgate family-law pleading forms for two separate reasons. First, the Court has authority to promulgate pleading forms under its power to administer the judicial branch of government and to create rules of procedure. *See* Part I, *infra*. Second, the Court may promulgate pleading forms under its power to create efficiencies for Texas courts. *See* Part II, *infra*. The Supreme Court's authority to promulgate pleading forms is confirmed by local and nationwide practice: forty-seven states—including Texas—offer court-approved, statewide pleading forms. *See* Part III, *infra*. A decision that the Supreme Court *cannot* promulgate pleading forms would uproot years of Supreme Court practice and make Texas the *only state in the country* to forbid its Supreme Court to promulgate such forms. *Id.*

I. The Supreme Court Of Texas Has Power To Promulgate Pleading Forms Under The Court's Authority To Administer The Judicial Branch Of Government And To Create Rules Of Procedure.

The Texas Constitution, the Texas Government Code, and Texas common law uniformly recognize the Supreme Court's authority to administer the judicial branch of government and to create rules of procedure. High courts from other states have promulgated pleading forms under powers that are substantively identical to those of the Supreme Court, and research has not revealed any instance

in which a state's high court has concluded that it *lacks* authority to promulgate pleading forms.

A. The Supreme Court Of Texas Has Authority To Administer The Judicial Branch Of Government And To Create Rules Of Procedure.

The Supreme Court of Texas enjoys constitutional, statutory, and inherent authority to administer the judicial branch of government. The Texas Constitution states that “[t]he Supreme Court is responsible for the efficient administration of the judicial branch.” TEX. CONST. art. V, § 31(a). The Texas Constitution also requires the Supreme Court to “promulgate rules of administration not inconsistent with the laws of the state as may be necessary for the efficient and uniform administration of justice in the various courts,” and to “promulgate rules of civil procedure for all courts not inconsistent with the laws of the state as may be necessary for the efficient and uniform administration of justice in the various courts.” *Id.* § 31(a)–(b). The Court has interpreted its constitutional charge as conveying an overarching “obligation to supervise and administer the judicial branch.” *In re Castillo*, 201 S.W.3d 682, 684 (Tex. 2006) (orig. proceeding). Although the Texas Constitution identifies *duties* rather than *powers* of the Court, “[i]t is elementary that . . . the imposition of a definite duty upon any . . . court confers by implication the authority to do whatever may be necessary in

order . . . to perform the duty imposed.” *Brown v. Clark*, 102 Tex. 323, 333, 116 S.W. 360, 364 (Tex. 1909).

The Supreme Court’s authority to administer the judicial branch of government extends to helping indigent Texans protect their rights in Texas courts. As Chief Justice Jefferson recently explained: “The Constitution requires the [Texas Supreme] Court to administer justice. This occurs not only by deciding cases, but also by establishing a judicial climate in which people who lack money to hire a lawyer have a reasonable chance to vindicate their rights in a court of law.” Letter from Hon. Wallace B. Jefferson, Chief Justice, Supreme Court of Texas, to Mr. Bob Black, President, State Bar of Texas (Jan. 25, 2012) (attached as Exhibit A).

In addition to that constitutional authority, the Legislature has confirmed by statute the Supreme Court’s authority to administer the judicial branch. The Texas Government Code provides that “[t]he [S]upreme [C]ourt has supervisory and administrative control over the judicial branch” and is “responsible for the orderly and efficient administration of justice.” TEX. GOV’T CODE § 74.021; *accord Castillo*, 201 S.W.3d at 684.

Finally, the Supreme Court enjoys inherent power over the judicial branch of government. “The Inherent judicial power of a court is not derived from legislative grant or specific constitutional provision, but from the very fact that the

court has been created and charged by the constitution with certain duties and responsibilities.” *Eichelberger v. Eichelberger*, 582 S.W.2d 395, 398 (Tex. 1979). The Court’s inherent authority includes powers that the Court “may call upon . . . in the administration of justice . . . and in the preservation of its independence and integrity,” *id.*, and enables the Court to “regulate judicial affairs,” *State Bar of Tex. v. Gomez*, 891 S.W.2d 243, 245 (Tex. 1994).

B. Courts In Other States Have Promulgated Pleading Forms Based On Powers That The Supreme Court Of Texas Possesses.

Multiple high courts in other jurisdictions have relied on their supervisory, administrative, and rule-making authority—powers also belonging to the Supreme Court of Texas—to promulgate pleading forms. According to the Arizona Constitution, the Supreme Court of Arizona has “administrative supervision over all the courts of the state.” ARIZ. CONST. art. VI, § 3 (attached as Exhibit B). The Supreme Court of Arizona relied on that constitutional authority to promulgate “usable and understandable legal forms,” reasoning that such forms are “uniform and efficient” and “enhance the public’s access to the courts.” Admin. Order No. 89-22 (Ariz. 1989) (attached as Exhibit C¹).

The Supreme Court of Florida promulgated family-law pleading forms under its constitutional rule-making authority. *In re Family Law Rules of Procedure*, 663 So.2d 1049, 1051 (Fla. 1995); *In re Petition for Approval of Forms Pursuant to*

¹ Available at <http://www.azcourts.gov/Portals/22/admorder/Orders89/pdf89/8922.pdf>.

Rule 10-1.1(b) of Rules Regulation the Fla. Bar—Stepparent Adoption Forms, 613 So.2d 900, 900 (Fla. 1992). That authority entitles the Florida Supreme Court to “adopt rules for the practice and procedure in all courts.” FLA. CONST. art V, § 2(a) (attached as Exhibit D).

In *Nichols v. State*, 191 N.W. 333 (Neb. 1922), the Nebraska Supreme Court replaced a longwinded form for criminal information with a much shorter and plainer form. *Id.* 335–36. The court held that it had the constitutional authority to promulgate the shorter form under the court’s authority to promulgate rules for the “effectual administration of justice” and the “prompt disposition” of cases. *Id.*

Finally, the Supreme Court of South Carolina has promulgated basic family-law pleading forms, including a Complaint for Divorce form. Admin. Order. No. 11-12-2009 (S.C. 2009) (attached as Exhibit E²). In promulgating those forms, the court relied on a constitutional provision stating that “[t]he [South Carolina] Supreme Court shall make rules governing the administration of all the courts of the State” and “rules governing the practice and procedure in all such courts.” S.C. CONST. art. V, § 4 (attached as Exhibit F).

As the following table indicates, the Supreme Court of Texas possesses authority that is substantively identical to authority on which high courts of other states have relied in promulgating pleading forms.

² Available at <http://www.sccourts.org/courtOrders/HTMLFiles/2009-11-12-01.htm>.

<i>State</i>	<i>Authority Under Which Court Promulgates Pleading Forms</i>	
	<i>Supervisory Authority</i>	<i>Rule-Making Authority</i>
Texas:	“The Supreme Court <u>is responsible for the efficient administration of the judicial branch.</u> ” TEX. CONST. art. V, § 31(a) (emphasis added).	“The Supreme Court . . . <u>shall promulgate rules of administration . . . as may be necessary for the efficient and uniform administration of justice . . .</u> ” TEX. CONST. art. V, § 31(a) (emphases added). “The Supreme Court <u>shall promulgate rules of civil procedure . . . as may be necessary for the efficient and uniform administration of justice . . .</u> ” TEX. CONST. art. V, § 31(b) (emphases added).
Arizona:	“The supreme court <u>shall have administrative supervision over all the courts of the state.</u> ” ARIZ. CONST. art. VI, § 3 (emphasis added).	
Florida:		“The supreme court <u>shall adopt rules for the practice and procedure in all courts including . . . the administrative supervision of all courts.</u> ” FLA. CONST. art V, § 2(a) (emphases added).
Nebraska:		“For the <u>effectual administration of justice and the prompt disposition of judicial proceedings</u> , the supreme court <u>may promulgate rules of practice and procedure</u> for all courts . . .” NEB. CONST. art. V, § 25 (emphases added).
South Carolina:	“The Chief Justice of the Supreme Court shall be the <u>administrative head of the unified judicial system.</u> ” S.C. CONST. art. V, § 4 (emphases added).	“The Supreme Court <u>shall make rules governing the administration of all the courts of the State.</u> Subject to the statutory law, the Supreme Court <u>shall make rules governing the practice and procedure</u> in all such courts.” S.C. CONST. art. V, § 4 (emphases added).

Thus, a state court's authority to administer the judicial branch of government and to create rules of procedure enables the court to promulgate statewide pleading forms. Because the Supreme Court of Texas possesses those powers, the Supreme Court has ample power to promulgate the proposed family-law forms.

II. The Supreme Court Has Authority To Promulgate Pleading Forms Under The Court's Power To Achieve Administrative Efficiencies.

As explained above, the Texas Constitution states that “[t]he Supreme Court is responsible for the *efficient* administration of the judicial branch.” TEX. CONST. art. V § 31(a) (emphasis added). Similarly, in the Government Code, the Legislature has recognized that the Court is “responsible for the *orderly and efficient* administration of justice.” TEX. GOV'T CODE § 74.021 (emphasis added). The Supreme Court of Texas, as well as courts from other jurisdictions, have rightly acknowledged that uniform pleading forms for pro se litigants create significant efficiencies for judges and court staff alike.

When the Supreme Court created the Uniform Forms Task Force in 2011, the Court recognized that “developing pleading and order forms approved by the Court for statewide use w[ill] . . . reduce the strain on the courts posed by pro se litigants.” Misc. Docket No. 11-9046 (Tex. 2011) (attached as Exhibit G). The Court's finding is confirmed by other jurisdictions' experience with standardized,

court-approved forms. Judges in jurisdictions that have promulgated standardized forms report numerous efficiencies from the use of such forms:

- North Carolina: “The judges have openly expressed their preference in reviewing and processing local template forms . . . based on uniformity, the ability to review the information at a glance for completeness, and the formatting of the documents. In fact, for ease in processing, most judges first separate the divorce files into two piles, local forms and other pleadings. The time spent processing the template forms is minimized greatly in comparison to those drafted by members of the Bar.” National Center for State Courts, *Use of Self-Help Forms* (2012) (attached as Exhibit H).
- Alaska: “Judges report that filings are more complete and include more relevant information about the issues in the case.” *Id.*
- California: “[Standardized forms] save[] a huge amount of time in training and judicial review to know that the key elements are set forth in the forms. We have a relatively small number of judges given our population and I think that part of the reason that the system works is because of standardized forms.” *Id.*
- Iowa: “Use of these forms almost certainly increases the likelihood that self-represented parties provide the type of information judges need to make decisions and move the case to the next step. Judges also know exactly where to find the information they need on the forms because the forms are standardized. Consequently, the forms and instructions have almost certainly increased the courts’ efficiency in handling cases involving self-represented parties.” *Id.*

The use of court-approved, standardized forms also creates efficiencies for court staff:

- New Mexico: “The forms improve court efficiency because court staff has forms and/or referrals to give to pro se litigants, who otherwise clog up the lines and phones with questions and requests for legal advice that court staff cannot give.” *Id.*

- Alaska: “Court clerks report a reduced need to issue deficiency notices because the fill-in-the blank forms address many common problems (they are formatted correctly and include certificate of service sections) that historically have caused documents to be deemed deficient filings because of non-compliance with court rules.” *Id.*
- Idaho: “Prior to our use of court approved forms, these parties were trying to create their own forms, or using inadequate or inappropriate forms they found from a variety of sources, which did nothing but frustrate court staff and judges who had to deal with the problems created by those documents. By having correct forms and instructions approved by the courts, these issues have diminished greatly. Less time is spent correcting or redirecting the self-represented litigants by court staff and judges, and matters are resolved more quickly and efficiently.” *Id.*
- New Hampshire: “The use of these forms increases efficiency because they reduce the explanation time required by clerical staff to the filing party, and both clerical and judicial staff know immediately where on the form to look for specific information to screen and review.” *Id.*

In short, standardized, court-approved forms reduce the time that judges spend on each pleading by enabling the judge to know in advance where to look for key information and, indeed, ensuring that each pleading contains the information that the judge needs to make a decision. The forms also create efficiencies for court staff by enabling staff to refer inquiring litigants to standardized forms and associated instructions, to spend less time rejecting forms for deficiencies, and to avoid having to correct other problems in pro se pleadings. Because the proposed family law forms will promote the efficient operation of the

judicial branch, the Supreme Court has authority to promulgate the forms under its authority to achieve efficient administration of justice in Texas.

III. A Decision That The Supreme Court Cannot Promulgate Pleading Forms Would Uproot Years Of Established Supreme Court Practice And Make Texas The *Only State In The Country* To Forbid Its Supreme Court To Promulgate Pleading Forms.

Forty-seven states offer court-approved pleading forms. *See* Texas Access to Justice Commission, Statewide Uniform Forms – All 50 States + D.C. (attached as Exhibit I). As Chief Justice Jefferson recently recognized, pleading and order forms “have been officially sanctioned by courts in most states.” Letter from Hon. Wallace B. Jefferson, Chief Justice, Supreme Court of Texas, to Mr. Bob Black, President, State Bar of Texas (Jan. 25, 2012) (attached as Exhibit A). Thirty-seven states offer court-approved forms for an uncontested divorce with no children – *i.e.*, one of the family law forms that the Uniform Forms Task Force is proposing. *See* Texas Access to Justice Commission, Statewide Uniform Forms – All 50 States + D.C. (attached as Exhibit I). The ability of state high courts to promulgate pleading forms is so broadly accepted that a contrary decision would create a minority rule by which a single state supreme court—the Supreme Court of Texas—cannot promulgate pleading forms, while *forty-six other* states continue to offer court-approved forms. *Id.*

A decision that the Supreme Court of Texas cannot promulgate pleading forms would also displace the Supreme Court’s practice of doing just that. In

2005, the Supreme Court approved protective-order forms for pro se litigants to use in obtaining protective orders. Misc. Docket No. 05-9059 (Tex. 2005) (attached as Exhibit J). The Court-approved documentation includes extensive instructions on the process for obtaining a protective order, sample forms indicating where the litigant should list certain items of information, and a template form for the litigant to complete and file in court. *Id.*

In 2009, the Supreme Court promulgated “a form petition that tenants may use” in filing suit to require a landlord “to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant.” Misc. Docket No. 09-9195 (Tex. 2009) (attached as Exhibit K). The form petition was promulgated along with an amendment to Texas Rule of Civil Procedure 737. The Legislature had instructed the Court to promulgate the amendment to Rule 737, but the Legislature had not instructed the Court to promulgate the accompanying form. *See* Act of May 27, 2009, 81st Leg., R.S., ch. 225, § 1, 2009 Tex. Gen. Laws 623 (SB 1448) (attached as Exhibit L).

The Supreme Court has also promulgated numerous forms for use in the legislatively created “judicial bypass” procedure by which a court may authorize a pregnant minor to obtain an abortion absent parental notification. Misc. Docket No. 99-9243 (Tex. 1999) (attached as Exhibit M); Misc. Docket No. 00-9171 (Tex. 2000) (attached as Exhibit N); Misc. Docket No. 07-9035 (Tex. 2007) (attached as

Exhibit O). The Court-approved documentation includes a set of detailed, plain-language instructions regarding the judicial-bypass procedure, an application for the litigant to complete and file in court, a form for the litigant to use to request a continuance of a court hearing, and numerous other forms. Unlike the protective-order and landlord-tenant forms, the judicial-bypass forms were promulgated at the Legislature's direction. Misc. Docket No. 99-9243 (Tex. 1999) (attached as Exhibit M). In directing the Supreme Court to promulgate pleading forms, the Texas Legislature implicitly recognized the Supreme Court's constitutional authority to promulgate such forms.

The Texas Rules of Civil Procedure contain numerous forms that litigants can use in judicial processes. Texas Rule of Civil Procedure 592b contains a template form that a litigant may use in submitting an attachment bond. TEX. R. CIV. P. 592b (attached as Exhibit P). Rule 736(2) sets forth a form that a litigant may use to give notice of a suit to foreclose on certain liens. *Id.* 736(2) (attached as Exhibit Q). Rule 750 contains a form for litigants to use in filing an appeal bond in a forcible entry and detainer case. *Id.* 750 (attached as Exhibit R). And Rule 117a sets forth a fill-in-the-blank form for citing by publication or personal service in suits for delinquent ad valorem taxes. *Id.* 117a(5) (attached as Exhibit S).

Thus, nearly every state in the country—including Texas—offers court-approved pleading forms. A decision that a state high court lacks this authority is an unsupportable and unprecedented argument under both the constitution and case law that would undermine the Supreme Court’s established practice of promulgating pleading forms, and would withhold from the Supreme Court of Texas powers that most other state courts routinely exercise without controversy.

CONCLUSION

The Texas Constitution, statutory law, and common law all provide that the Supreme Court of Texas has the authority to administer the judicial branch of government, to create rules of procedure, and to achieve efficiencies for Texas courts. The Supreme Court may promulgate pleading forms in exercise of those powers.

Respectfully submitted,



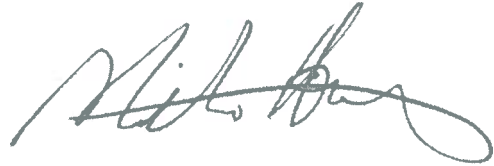
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LIST OF EXHIBITS

- A. Letter from Hon. Wallace B. Jefferson, Chief Justice, Supreme Court of Texas, to Mr. Bob Black, President, State Bar of Texas (Jan. 25, 2012).
- B. ARIZ. CONST. art. VI, § 3.
- C. Admin. Order No. 89-22 (Ariz. 1989).
- D. FLA. CONST. art V, § 2(a).
- E. Admin. Order. No. 11-12-2009 (S.C. 2009).
- F. S.C. CONST. art. V, § 4.
- G. Misc. Docket No. 11-9046 (Tex. 2011).
- H. National Center for State Courts, Use of Self-Help Forms (2012).
- I. Texas Access to Justice Commission, Statewide Uniform Forms – All 50 States + D.C.
- J. Misc. Docket No. 05-9059 (Tex. 2005).
- K. Misc. Docket No. 09-9195 (Tex. 2009).
- L. Act of May 27, 2009, 81st Leg., R.S., ch. 225, § 1, 2009 Tex. Gen. Laws 623 (SB 1448).
- M. Misc. Docket No. 99-9243 (Tex. 1999).
- N. Misc. Docket No. 00-9171 (Tex. 2000).
- O. Misc. Docket No. 07-9035 (Tex. 2007).
- P. TEX. R. CIV. P. 592b.
- Q. TEX. R. CIV. P. 736(2)
- R. TEX. R. CIV. P. 750.
- S. TEX. R. CIV. P. 117a(5).

Exhibit A



The Supreme Court of Texas

CHIEF JUSTICE
WALLACE B. JEFFERSON

JUSTICES
NATHAN L. HECHT
DALE WAINWRIGHT
DAVID M. MEDINA
PAUL W. GREEN
PHIL JOHNSON
DON R. WILLETT
EVA M. GUZMAN
DEBRA H. LEHRMANN

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January 25, 2012

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ADMINISTRATIVE ASSISTANT
NADINE SCHNEIDER

PUBLIC INFORMATION OFFICER
OSLER MCCARTHY

Mr. Bob Black
President, State Bar of Texas
P.O. Box 12487
Austin, TX 78711

Dear President Black:

The Court met yesterday to consider comments we have received about how best to provide our poorest citizens access to the rule of law. We greatly appreciate and accept the State Bar's offer to assist with this shared mission. No Court can accomplish this goal alone; the profession must help. The Court and the profession cannot do it alone; the State must help. No easy solution exists. Yet we must try.

Six million Texans qualify for legal aid. Even with the strong support of the Texas Legislature, economic conditions continue to force funding levels downward. Legal aid providers are cutting back as funding dissipates. They can provide help to fewer than one in five who apply. Texas lawyers have generously contributed both money and time toward legal services, yet each year tens of thousands of Texans are compelled to seek justice in our courts without legal representation. They need legal services they cannot afford.

For that reason, after consulting with the State Bar, we announced last year that "developing pleading and order forms approved by the Court for statewide use would increase access to justice and reduce the strain on courts posed by pro se litigants." Order in Misc. Docket No. 11-9046. Such forms have been officially sanctioned by courts in most states. The Court created the Supreme Court Uniform Forms Task Force with broad representation to develop similar forms and to provide counsel on their most effective use. The Task Force delivered its first report earlier this month.

In accordance with its usual practice, the Court has decided to refer the Task Force report to the Supreme Court Advisory Committee. We expect the Advisory Committee members to engage in the careful critique they have always given on matters of profound importance to the administration of justice. We instruct the Committee to consider input from all sectors, including the judiciary, the legal profession, representatives of the Legislature, and the public. I anticipate that the Court will receive the Committee's recommendations in April and will begin to review them in May. Considering the importance of this enterprise, we encourage the State Bar to present recommendations to the Advisory Committee and to the Court. This should allow all who wish to participate to be heard.

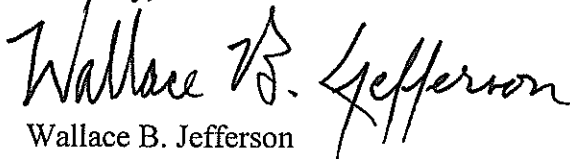
Mr. Bob Black

January 25, 2012

We will approve forms only if they are substantively correct and are reasonably calculated to accomplish the goal of greater access to the courts. Uniform forms are but one means of addressing the problems presented by pro se litigation. The State Bar may develop other recommendations.

The Constitution requires the Court to administer justice. This occurs not only by deciding cases, but also by establishing a judicial climate in which people who lack money to hire a lawyer have a reasonable chance to vindicate their rights in a court of law. We are pleased to have the Bar's full participation toward that end.

Sincerely,

A handwritten signature in cursive script that reads "Wallace B. Jefferson". The signature is written in dark ink and is positioned above the printed name and title.

Wallace B. Jefferson
Chief Justice

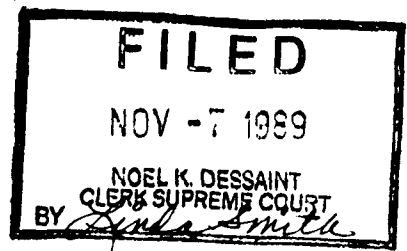
Exhibit B

Arizona Constitution Article VI, § 3

Section 3. The supreme court shall have administrative supervision over all the courts of the state. The chief justice shall be elected by the justices of the supreme court from one of their number for a term of five years, and may be reelected for like terms. The vice chief justice shall be elected by the justices of the supreme court from one of their number for a term determined by the court. A member of the court may resign the office of chief justice or vice chief justice without resigning from the court.

The chief justice, or in his absence or incapacity, the vice chief justice, shall exercise the court's administrative supervision over all the courts of the state. He may assign judges of intermediate appellate courts, superior courts, or courts inferior to the superior court to serve in other courts or counties.

Exhibit C



SUPREME COURT OF ARIZONA

LEGAL FORMS DEVELOPMENT AND APPROVAL AUTHORITY

Administrative Order No. 89-22

In order to promote development and use of uniform and efficient legal forms at all levels of the court system and to enhance the public's access to the courts through the availability of useable and understandable legal forms,

IT IS ORDERED, pursuant to the Ariz. Const. Art. VI, Sec. 3 authority of the Court, that the Administrative Office of the Courts develop and approve all legal forms required by statute.

IT IS FURTHER ORDERED that the Administrative Office of the Courts shall develop and approve for discretionary use by the public such other forms as the Administrative Office deems appropriate to enhance public access to the courts and to improve the efficiency of the courts.

DATED AND ENTERED this 7th day of November , 1989 at the State Capitol, Phoenix, Arizona.

FRANK X. GORDON, JR.
Chief Justice

Exhibit D

Florida Constitution Article V, § 2

SECTION 2. Administration; practice and procedure.—

(a) The supreme court shall adopt rules for the practice and procedure in all courts including the time for seeking appellate review, the administrative supervision of all courts, the transfer to the court having jurisdiction of any proceeding when the jurisdiction of another court has been improvidently invoked, and a requirement that no cause shall be dismissed because an improper remedy has been sought. The supreme court shall adopt rules to allow the court and the district courts of appeal to submit questions relating to military law to the federal Court of Appeals for the Armed Forces for an advisory opinion. Rules of court may be repealed by general law enacted by two-thirds vote of the membership of each house of the legislature.

(b) The chief justice of the supreme court shall be chosen by a majority of the members of the court; shall be the chief administrative officer of the judicial system; and shall have the power to assign justices or judges, including consenting retired justices or judges, to temporary duty in any court for which the judge is qualified and to delegate to a chief judge of a judicial circuit the power to assign judges for duty in that circuit.

(c) A chief judge for each district court of appeal shall be chosen by a majority of the judges thereof or, if there is no majority, by the chief justice. The chief judge shall be responsible for the administrative supervision of the court.

(d) A chief judge in each circuit shall be chosen from among the circuit judges as provided by supreme court rule. The chief judge shall be responsible for the administrative supervision of the circuit courts and county courts in his circuit.

Exhibit E

The Supreme Court of South Carolina

Re: Revisions to Self-Represented Litigant Simple Divorce Packet

ADMINISTRATIVE ORDER

From April 1, 2009 to June 1, 2009, the South Carolina Bar allowed its members to send recommendations to improve the Self-Represented Litigant Simple Divorce Packet previously approved by this Court. The responses were forwarded to South Carolina Court Administration and to the Family Court Judges Advisory Committee for consideration. While a number of recommendations were submitted, the advisory committee endorsed only the revisions listed below in keeping with the goal to provide documents to obtain a simple, uncontested divorce based on one year separation.

Pursuant to the provisions of South Carolina Constitution Article V § 4,

IT IS ORDERED that the revisions in the following forms in the Self-Represented Litigant Simple Divorce Packet, with a revision date of (11/2009), are approved as follows:

SCCA 400P SRL-DIV - Plaintiff's Instructions

- A warning and disclaimer are included at the top of Page 1.
- Page 5 is revised to indicate that a notarized SCCA 430- Financial Declaration should be attached to the SCCA 405F - Motion to Affidavit to Proceed In Forma Pauperis if it is filed with the Clerk of Court.

SCCA 400.02 SRL-DIV - Complaint for Divorce

- On Page 1, the residency requirements have been revised for the Plaintiff to specify the length of time the parties have lived in South Carolina and their county of residence.
- Paragraph 4 now indicates that the parties have remained living separate and apart "without cohabitation".
- Paragraph 5 on Page 2 includes a table to list the name(s) and date(s) of birth of any child(ren).

SCCA 400.05 SRL-DIV – Defendant's Answer

- Page 3 has been revised slightly in the form of a Counterclaim. This section now gives the Defendant the option to request a change of name.

SCCA 400.08 SRL-DIV - Request for Hearing for Divorce

- A section has been added at the bottom of the form for the Clerk of Court to input the date and time of the scheduled hearing.

SCCA 400.10 SRL-DIV - Final Order of Divorce

- In Paragraph 2, the residency requirements have been revised to indicate the length of time

the parties have lived in South Carolina and their county of residence.

- Paragraph 12 includes a table to list the name(s) and date(s) of birth of any child(ren).

SCCA 400D SRL-DIV - Defendant's Instructions

A warning and disclaimer are included at the top of Page 1.

IT IS SO ORDERED.

s/Jean Hoefer Toal

Jean Hoefer Toal

Chief Justice

November 12, 2009
Columbia, South Carolina

Exhibit F

South Carolina Constitution Article V, § 4

SECTION 4. Powers of Chief Justice; rules; admission to practice of law and discipline of persons admitted.

The Chief Justice of the Supreme Court shall be the administrative head of the unified judicial system. He shall appoint an administrator of the courts and such assistants as he deems necessary to aid in the administration of the courts of the State. The Chief Justice shall set the terms of any court and shall have the power to assign any judge to sit in any court within the unified judicial system. Provided, each county shall be entitled to four weeks of court each year and such terms therefor shall be provided for by the General Assembly. Provided, further, that the Chief Justice shall set a term of at least one week in any court of original jurisdiction in any county within sixty days after receipt by him of a resolution of the county bar requesting it. The Supreme Court shall make rules governing the administration of all the courts of the State. Subject to the statutory law, the Supreme Court shall make rules governing the practice and procedure in all such courts. The Supreme Court shall have jurisdiction over the admission to the practice of law and the discipline of persons admitted. (1972 (57) 3176; 1973 (58) 161; 1985 Act No. 9.)

Exhibit G

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 11-9046

ORDER CREATING UNIFORM FORMS TASK FORCE

The Texas Access to Justice Commission, in collaboration with the Office of Court Administration, the Texas Legal Services Center, and the Texas Access to Justice Foundation, hosted the Texas Forum on Self-Represented Litigants and the Courts in Dallas on April 8-9, 2010. Over 120 attendees, including members of the judiciary, legal services attorneys, court clerks and administrators, and law librarians participated.

Participants at the Forum considered the impact pro se litigants have on the court system and evaluated tools to enable the courts to help pro se litigants navigate the legal system and to improve court efficiencies. An issue that arose consistently throughout the Forum was the need for statewide standardized forms for pleadings frequently used by pro se litigants.

The legal system functions most effectively when each litigant is represented by an attorney. But there are currently insufficient resources to meet the continually growing demand for civil legal aid. As a result, an increasing number of litigants will appear in courts pro se because they cannot afford an attorney and are unable to secure representation from legal aid.

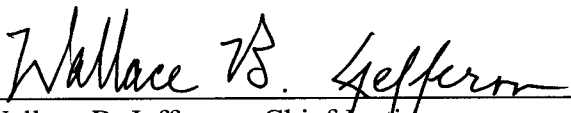
The Court is concerned about the accessibility of the court system to Texans who are unable to afford legal representation. After consultation with the State Bar of Texas and the Texas Access to Justice Commission, the Court agrees that developing pleading and order forms approved by the Court for statewide use would increase access to justice and reduce the strain on courts posed by pro se litigants.

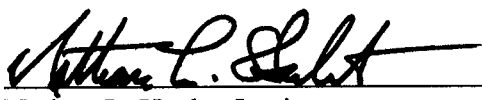
Accordingly, it is **ORDERED** that:

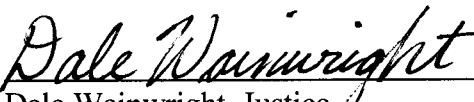
1. The Supreme Court Uniform Forms Task Force is created to:
 - a. monitor local efforts to create, amend, or modify forms and incorporate local efforts within the Task Force's purview;
 - b. evaluate best practices for the creation and distribution of forms;
 - c. consult with and seek input from stakeholders including the Texas Access to Justice Commission, the Texas Access to Justice Foundation, and legal services providers;
 - d. draft an implementation plan that will identify legal areas that would benefit from the availability of uniform pleading and order forms and that will make the forms readily available;
 - e. develop proposed models of uniform pleading and order forms to be evaluated and approved by the Court for statewide use.
2. The members of the Task Force shall represent, at a minimum, the judiciary, the private bar, legal services attorneys, court clerks and administrators, and law librarians.
3. The following members are appointed:

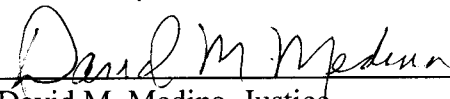
Stewart Gagnon, Houston	Steve Naylor, Fort Worth
Hon. Tracy Gilbert, Conroe	Lisa Rush, Austin
Hon. Diane M. Guariglia, Houston	Hon. Phylis J. Speedlin, San Antonio
Casey Kennedy, Austin	Ed Wells, Houston
Cristy Keul, Tyler	Sheri Woodfin, San Angelo
Hon. Marilea Lewis, Dallas	Michael Wyatt, El Paso
Karen Miller, Austin	
4. The Task Force will deliver minutes of its meetings to the Court and report to the Court by September 1, 2011, on progress made and challenges faced, efforts underway to develop forms throughout the state and steps taken to incorporate those efforts into the Task Force's charge, forms that have been completed, documents to be developed and a schedule for creation of those documents, and best practices for use with statewide forms.
5. Justice Hecht is designated the Court's liaison to the Task Force.


Dated: March 15, 2011

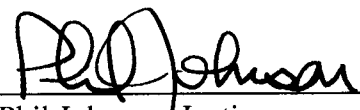

Wallace B. Jefferson, Chief Justice

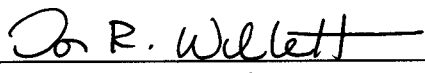

Nathan L. Hecht, Justice

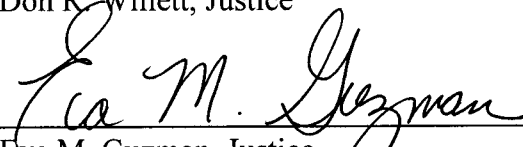

Dale Wainwright, Justice


David M. Medina, Justice


Paul W. Green, Justice


Phil Johnson, Justice


Don R. Willett, Justice


Eva M. Guzman, Justice

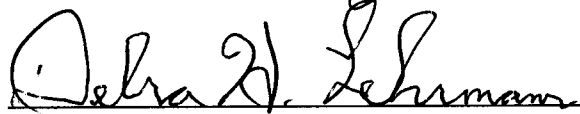

Debra H. Lehrmann, Justice

Exhibit H

We have received the following two questions from Carl Reynolds, Administrative Director of the Texas Office of Court Administration, regarding the use by self-represented litigants of state-approved forms for matters such as uncontested divorce:

1. Have you seen evidence that using the forms has harmed individuals or the public?
2. What is the impact of using the forms on judicial and court efficiency?

State/Respondent	Response
Alaska/Stacey Marz	<p>I am the Alaska Court System Director for the self-help program and draft the forms for use by self-represented litigants so Christine Johnson asked me to respond to the questions about usage of self-help forms.</p> <p>1. Have you seen evidence that using the forms has harmed individuals or the public?</p> <p>No, we have seen no evidence that using self-help forms has harmed individuals or the public. The Alaska Court System has been providing self-help forms for many years. Our self-help center was created in 2001 and began producing many forms to be used specifically by self-represented litigants. See www.courts.alaska.gov/shcforms.htm for a list of family law forms designed for self-represented litigants and www.courts.alaska.gov/shc/appeals/appealsforms.htm for a list of forms for civil appeals to the Alaska Supreme Court. The court system also provides forms in other case types: www.courts.alaska.gov/forms.htm. These forms have increased the ability of self-represented litigants to access the courts to resolve their legal matters.</p> <p>2. What is the impact of using the forms on judicial and court efficiency?</p> <p>Judges report that filings are more complete and include more relevant information about the issues in the case. In fact, in custody family law cases, the judges regularly issue final findings and conclusions of law and decrees on forms designed to be filed by self-represented litigants. Judicial officers routinely use other self-help orders designed for self-represented litigants. They appreciate the fill-in-the blank and check box formatting and the inclusion of all necessary provisions. Judges have also reported that filings on self-help forms are sometimes better than those drafted by attorneys.</p>

	Court clerks report a reduced need to issue deficiency notices because the fill-in-the blank forms address many common problems (they are formatted correctly and include certificate of service sections) that historically have caused documents to be deemed deficient filings because of non-compliance with court rules.
Arizona/Dave Byers	<p>I have never heard of any instance of harm due to the forms....Of course regardless of the forms, pro pers can make mistakes in filings and what they request (e.g. not asking for a portion of a pension)</p> <p>The impact of the forms on the court are all positive...They are legible. Instructions help make forms more complete...</p>
California/Bonnie Hough	<p>I am responding to the question you posed regarding the usage of self-help forms on behalf of Mr. Ronald Overholt, Interim Administrative Director of the Courts.</p> <p>California has used standard forms since the 1970's. We currently have about 1,400 forms that have been approved by the Judicial Council including translations of those that are most commonly used by self-represented litigants. For a list of all forms and link to each, please see: http://www.courts.ca.gov/forms.htm The procedure for adopting a rule or form is attached.</p> <p>The Judicial Council adopts legal forms in one of two ways. Under Government Code section 68511, the council may "prescribe" certain forms. Use of those forms is mandatory. The council may also "approve" forms. Use of an approved form is not mandatory, but the form must be accepted by all courts in appropriate cases (rule 1.35). Forms thus are "adopted" for mandatory use and "approved" for optional use.</p> <p>Some forms are for information only (including all translations). Most forms can be downloaded to a local computer and filled out. They are also available at clerks' offices, law libraries, and self-help centers. Parties can also print any form and fill it out by hand. See the section on the website re: "How to fill out court forms."</p>

	<p>We have no evidence that forms have hurt litigants in any way.</p> <p>Judges, clerks and practicing attorneys generally find them extremely helpful as they know where to look on forms for the information they need and do not have to worry about basic issues not being set out before the court. Self-represented litigants can prepare appropriate pleadings – often with the guidance of an attorney. Cases such as divorce, child support, domestic violence, small claims, guardianship, conservatorship, probate, adoption and a wide variety of other matters precede primarily using forms. It saves a huge amount of time in training and judicial review to know that the key elements are set forth in the forms. We have a relatively small number of judges given our population and I think that part of the reason that the system works is because of standardized forms.</p> <p>While we have a large number of self-represented litigants in California, our figures do not seem to be different than in most other states that report that data. We also have many litigants who may not be able to afford an attorney for the entire case, but are able to get help with a portion of the case, including completion or review of forms.</p>
Guam/Geraldine Amparo Cepeda	<div data-bbox="669 617 730 680" data-label="Image"> </div> <p>howprerule.pdf</p> <p>The inquiry was the effects of the use of state-approved forms by self-represented litigants. Here is the response from the Judiciary of Guam:</p> <p>The Judiciary of Guam has self-help computer kiosks that allow self-represented litigants to complete pre-approved forms, which are then printed and filed by these litigants.</p> <p>Have you seen evidence that using the forms has harmed individuals or the public?</p> <p>No, the court has no evidence that the use of the self-help kiosks and forms has resulted in any harm. Those who cannot afford an attorney but do not qualify for assistance from Guam Legal Services are able to generate court filings for less</p>

	<p>complex court proceedings, such as guardianships and uncontested divorces.</p> <p>What is the impact of using the forms on judicial and court efficiency?</p> <p>The impact on members of the public who use the kiosks and the forms has been positive. They are able to represent themselves in less complex court proceedings, and save money. The impact on efficiency in the court system has been positive as well, because the court documents generated by the kiosk are correct and in proper format for filing. As a result, there is no hold up in the filing process.</p>
Idaho/Michael Dennard	<p>1. Have you seen evidence that using the forms has harmed individuals or the public?</p> <p>No. We try and limit our forms to court proceedings which are not complex, although that is difficult to do in family law cases which have the greatest need for assistance and the greatest inability to retain legal counsel. While there might be an occasional circumstance where instructions are not followed, or errors occur, the same thing happens in cases where the parties are represented by attorneys. Our goal is to provide access to the courts for citizens of limited means who are unable to retain legal counsel. If there were adequate resources for these people to assist them in retaining counsel, we would not have to provide this kind of assistance for self-represented parties. But the reality is, there is no other option. The "harm" to the public would be to provide no help for those unable to retain an attorney. For those who have dealt with this issue for many years, the argument that providing access to justice through court approved forms "harms" the public is very disingenuous.</p> <p>2. What is the impact of using the forms on judicial and court efficiency?</p> <p>If statistics are examined for the past 10 to 15 years, in particular in family cases, one will see an extremely high and consistent rate of self-representation. This is not the result of any action or inaction on the part of the courts, but driven by the high cost of legal representation in proceedings where parties have no choice but to go to court. Prior to our use of court approved forms, these parties were trying to create their own forms, or using inadequate or inappropriate forms they found from a variety of sources, which did nothing but frustrate court staff and judges who had to deal with the problems created by those documents. By having correct forms and instructions approved by the courts, these issues have diminished greatly. Less time is spent correcting or redirecting the self-represented litigants by court staff and judges, and matters are resolved more quickly and efficiently. But the greatest "impact" on the judiciary, however, is the appreciation expressed by the public and the public's very appropriate perception that everyone is ensured access to justice in our courts.</p>

Indiana/Camille Wiggins	<p>Here are several responses from Indiana per your request to the COSCA listserv:</p> <p>In response to your email dated February 8, 2012, to Indiana Supreme Court Division of State Court Administration Executive Director, Lilly Judson, I forwarded the survey questions to our SRL Committee for response. Our Committee is comprised of judges, lawyers, court librarians, legal service organizations, court clerks, law schools, and pro bono organizations. Below you will find the responses received from several of the Committee members:</p> <p>From judges.....</p> <p>People tend to use the forms without a full understanding of what they are supposed to be used for. They also think that once they file the forms their relief will either be automatically granted or the Court or court staff will assist them through the process. Many people do not bother to read or follow the directions that accompany the forms. They become frustrated when they cannot get the relief they are requesting.</p> <p>The impact on the Court and judicial efficiency is that court staffs are glad to be able to refer people to the website for forms. However, the staff is not sufficiently aware that there are not forms available to fit all situations. The litigants return to the court frustrated that they cannot find the correct forms or resort to using the wrong forms just to get something on file. We often go in to Court to hear an emancipation only to discover that the moving party is seeking modification of custody or some other relief. I don't think the answer is creating forms to fit more situations. Litigants need to understand the limitations of the website.</p> <hr/> <p>The forms help separate the simple cases that can be done with little or no professional assistance, from the more complicated matters that genuinely require legal specialist and other professional guidance.</p> <hr/> <p>Please allow me to respond to your questions in reverse order.</p> <p>The forms generally save the court time in two ways. First, they are recognizable as pleadings, which mean I do not spend as much time guessing what the litigant wants. Second, the forms are a huge improvement over handwritten pleadings because they are much easier to read.</p> <p>I do not believe that the forms have harmed individuals or the public. Litigants are harmed by incomplete forms, missing important information or issues, and lack of understanding the legal process. As long as people are self represented, that is not likely to change.</p>
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	<p>The existence and use of the forms is incidental to that problem. That said, having the forms may give some persons a false a sense of security that can be risky. The philosophical question of whether it is better to let people engage in legal combat where they may be overmatched and "outgunned" or not let them get into the fray at all is for those wiser than me.</p> <p><i>From a court clerk....</i></p> <p><i>Have you seen evidence that using the forms has harmed individuals or the public? no</i></p> <p><i>What is the impact of using the forms on judicial and court efficiency? Our Courts really appreciate the forms. Without them pro-se litigants turn the Court and Clerk staffs into interpreters.</i></p> <p>From pro bono organizations....</p> <p>Harm? I don't believe that I have ever seen the forms themselves result in harm to litigants that would not have occurred regardless. Certainly, litigants mis-use the forms sometimes, use them for the wrong reasons, or try and modify them to fit a situation that they aren't designed to address, but they would likely do that regardless of the existence of our court forms (using forms from the internet or other sources or no forms at all). There are times when litigants don't read the directions or understand the implications of court actions, but that is not the fault of the forms. That is the fault of a society that doesn't have adequate access to counsel – which is a different issue entirely. I do think litigants are sometimes frustrated that our forms cannot work the magic they hope and pray for.</p> <p>Efficiency? The forms have absolutely improved judicial and court efficiency, especially since the advent of the new versions that help litigants only use the appropriate forms for their specific situation (no more filing for both and final hearing and a waiver of the final hearing because they are in the same packet). When combined with pro se assistance, we have seen the number of continuances in litigated matters drop substantially with litigants completing matters more quickly and with fewer scheduled hearings.</p> <p><i>Have you seen evidence that using the forms has harmed individuals or the public?</i></p> <p>I have not seen any such evidence. All feedback to me has been positive.</p> <p><i>What is the impact of using the forms on judicial and court efficiency?</i></p> <p>I do not work in the courts but the pro bono plan administrators' observation is that the forms increase court efficiency and access to justice.</p>
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Iowa/John Goerd on behalf of David Boyd	<p>David Boyd asked me to respond to this inquiry. The Iowa courts have offered a form for filing a small claims case for at least 15 years. In 2007, the Iowa courts began offering forms and instructions for self-represented parties in a divorce that does not include children. In 2008, our courts also began providing forms and instructions for parties involved in a proceeding to modify child support only. The committee that developed these forms expects to complete the forms and instructions for a divorce involving children sometime during 2012.</p> <p>You can find the forms and instructions for domestic relations cases on the Iowa courts' website at: http://www.iowacourts.gov/Representing_Yourself/DivorceFamily_Law/Index.asp</p> <p>1. Have you seen evidence that using the forms has harmed individuals or the public?</p> <p>We have not received any complaints or feedback from the public or judges that use of these forms has harmed any individuals. Many or most of the people who have used the forms and instructions developed by the Iowa judicial branch would have found forms someplace (e.g., on the internet or at Walmart) -- and those generic forms often do not meet some specific requirements under Iowa law. By using the forms and instructions approved by the Iowa Supreme Court, parties and judges can be confident that the forms and instructions meet the requirements of Iowa law. Consequently, the forms and instructions probably prevent harm, rather than cause harm.</p> <p>It should be noted that at approximately the same time when the forms and instructions for divorce without children were released (in 2007), the supreme court amended the Code of Professional Conduct for attorneys to allow them to handle just part of a case (i.e., unbundled legal services), rather than requiring them to handle everything in a case from start to finish. The instructions that accompany the forms for self-represented litigants encourage the parties to consult with an attorney whenever they have questions about a form or procedure described in the instructions.</p> <p>2. What is the impact of using the forms on judicial and court efficiency?</p> <p>Under the Iowa Court Rules, a self-represented party who uses forms in any case for which the supreme court has made forms available must use the approved forms. The forms are very simple and clearly explained by the instructions. Use of these forms almost certainly increases the likelihood that self-represented parties provide the type of information judges need to make decisions and move the case to the next step. Judges also know exactly where to find the information they need on the forms because the forms are standardized. Consequently, the forms and instructions have almost certainly increased the courts' efficiency in handling cases involving self-represented parties.</p>
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Massachusetts/Kim Wright	<p>Your inquiry to Listserv members regarding questions from Carl Reynolds regarding self help forms has been referred to me relative to a question about Probate and Family Court forms.</p> <p>We have a court promulgated form for filing an uncontested divorce, a Joint Petition, but we do not provide a form for the agreement that must be submitted with it that contains all the substantive information about the parties agreement relative to custody, visitation, child support, property division etc.</p> <p>We have various other complaint and petition forms for other case types available at our courthouse and some on our website.</p> <p>Please feel free to contact me with further questions.</p>
Michigan/Amy El Garoushi	<p>I am responding from Michigan. We have not yet started using court-approved forms for divorce proceedings in Michigan. We are in the process of developing them now for use with a pilot website being developed by the Michigan Poverty Law Program through a project funded by the State Bar Foundation and overseen an advisory group established by the Solutions on Self Help Task Force. The use of these forms and the website will be evaluated for effectiveness and impact on the judiciary in the upcoming year. If you would like more details, you can contact Angela Tripp of the Michigan Poverty Law Program. Feel free to contact me for more information.</p>
Missouri/Greg Linhares	<p>Missouri has no survey or other empirical data to determine if the public or individuals have been harmed by our forms, nor do we have such information to determine impact on court efficiency. Anecdotal evidence suggests both benefits and drawbacks to use of such forms in Missouri, with improved access to court process for pro se litigants being identified anecdotally as a benefit, and improper use of forms or improper attempts to represent oneself when an attorney should be used being identified anecdotally as a drawback.</p>
Montana/Erin Farris	<p>I am responding to this message on behalf of the Montana Supreme Court Court-Help Program. As the current Program Administrator, these comments are a reflection of the feedback I receive from clerks of court and judges statewide regarding the State's provision of forms for self representation.</p> <p><i>Have you seen evidence that using the forms has harmed individuals or the public?</i></p> <p>I cannot report a single incident where the use of self represented forms created and distributed by the State has harmed</p>

	<p>a self represented litigant. Although form development is challenging, especially in light of legal progress, obstacles encountered by self represented litigants are only made easier by the State's provision of forms.</p> <p>A large contributing factor to Montana's success in form development and distribution is the administrative safeguards in place. The Montana Supreme Court has a Commission on Self Represented Litigation. One of the purposes of the Commission is to approve form development and revisions. The Commission has a process of determining what materials are most appropriate for self representation and endorses the development of only those forms. The Commission also delegates legal experts to review form content. The decision of whether to provide forms on a particular subject often hinges on whether the materials might put the litigant at risk of harm due to predictable or unpredictable legal outcomes.</p> <p>An example of near harm created by self representation forms was due to a litigant's utility of a form found from a foreign online source. The forms used were not provided by the State. This was only a situation of near harm because the presiding judge was able to identify the unfamiliar form and consult community and State resources about its inappropriateness. Through the provision of well defined state approved forms and communication with the court, Court based legal programs act as a safeguard to the multitude of misinformation available to people through various online legal resources.</p> <p><i>What is the impact of using the forms on judicial and court efficiency?</i></p> <p>Prior to the provision of forms, litigants were largely undirected. Given the relative unpreparedness of an individual attempting to navigate the court system, court staff had a very difficult time administering justice. Judges found themselves in uncomfortable positions in the court room; making difficult decisions in answering litigant questions and instructing litigants on filing. Clerks of court similarly had to regularly instruct litigants on filing requirements.</p> <p>Judges observations are that the State's provision of forms dramatically increased court efficiency by enhancing the effectiveness of scheduling and completing effective court hearings. However, complaints about forms are ongoing. Judges complain the "one size fits all" approach to form development results in overly lengthy forms. Judges have also complained that the forms are unconstructively vague. However, the solution in those jurisdictions has not been to abandon forms. Rather, judges developed county or district specific forms to address their concerns.</p> <p>Clerks of court are extremely appreciative of state wide form provision. Prior to form development, clerks of court would receive multiple visits from self represented litigants in their jurisdictions and found it very difficult to manage their time and avoid instructing individuals on filing instructions from the counter. Many clerks describe the ability to direct individuals to state forms as an option they couldn't do without. Some clerks have fully endorsed forms to the extent of</p>
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	<p>actually providing printed forms to litigants at the clerk counter.</p> <p>I hope this brief description of our experience is helpful to your research. Feel free to contact me if you have additional questions.</p> <p>For a complete list of Commission endorsed self representation forms see: http://courts.mt.gov/library/topic/default.mcpix</p> <p>For more information on the Commission on Self Represented Litigants see: http://courts.mt.gov/supreme/boards/self_represented_litigants/default.mcpix</p>
New Hampshire/Don Goodnow	<p>Have you seen evidence that using the forms has harmed individuals or the public? Assuming "state-approved" refers to forms created by the judicial branch which are made available to the public, we have not seen any evidence that the use of these forms has harmed individuals of the public.</p> <p>What is the impact of using the forms on judicial and court efficiency? Our pre-made forms include spaces for individuals to include information set forth in statute or court rules and thus they provide a compliance roadmap for any filing party. The use of these forms increase efficiency because they reduce the explanation time required by clerical staff to the filing party, and both clerical and judicial staff know immediately where on the form to look for specific information to screen and review. These forms are updated by the court, thereby reducing the likelihood that they will have to be returned to the party for the inclusion of information newly required by law or court rule.</p>
New Mexico/Arthur Pepin	<p>1. Have you seen evidence that using the forms has harmed individuals or the public?</p> <p>NM introduced statewide uncontested divorce forms over ten years ago. The main problem with the form was that people did not understand the difference between contested and uncontested (no matter how clearly that was addressed in the form) and would try to file uncontested forms for contested matters. Because the need for pro se forms is so severe in NM, the NM Supreme Court is seeking to establish forms for use in both contested and uncontested cases through the interactive format of the LawHelp website.</p> <p>2. What is the impact of using the forms on judicial and court efficiency?</p> <p>The initial impact was confusion on the part of court staff and judges, but continued use resulted in familiarity and</p>

	<p>suggestions to streamline the process. There has never been a major push to pull the forms off the shelf once they were introduced, only to improve them. The forms improve court efficiency because court staff has forms and/or referrals to give to pro se litigants, who otherwise clog up the lines and phones with questions and requests for legal advice that court staff cannot give. Trained on the difference between legal advice and procedural information, and equipped with available, approved referrals, court staff are able to provide access to the courts to pro se litigants rather than turn them away with no help.</p>
<p>North Carolina/Todd Nuccio on behalf of Judge John Smith</p>	<p>Judge Smith forwarded the below email to my attention for comment and direct submission. I am the court administrator in Mecklenburg County, NC and we generally have the widest use of self-help forms and services in the state. Please let me know if you need any further clarification regarding the below responses. Thanks.</p> <p>Q. Have you seen evidence that using the forms has harmed individuals or the public?</p> <p>A. We have not seen any evidence which indicates the use of legal form packets by pro se litigants has harmed individuals or the public. To use the example of absolute divorce, litigants who wish to file for absolute divorce are required to meet all the same legal standards as an attorney filing for absolute divorce. A judge is assigned to review all documents filed by the individual in the case and determine that all legal standards have been met prior to signing the order granting an absolute divorce.</p> <p>The Mecklenburg County SelfServe Center has developed step by step instructions and local county forms that require the litigant to answer all of the legal requirements for filing for absolute divorce, child support, custody and other claims for relief. These forms have been reviewed and approved for distribution by various Family Court Judges in Mecklenburg County. We have found that these and the other steps mentioned below have helped in reducing harm to individuals and the public. In fact, the standardized forms actually assist in reducing errors, increasing efficiency and improving litigant satisfaction.</p> <p>In addition to forms and instructions, we provide supplemental services which further reduce any potential harm. One additional service is providing a list of attorneys willing to provide “unbundled services.” This term is used to describe the wide range of discreet tasks that an attorney might provide without providing full representation. Unbundled services allow the litigant to seek assistance for those tasks that are beyond either their educational means, financial means or both. As such, they can elect to use an attorney for their entire case or just a particular phase of the case. Other measures we have implemented which reduce any potential harm to individuals or the public include the offering of educational workshops (clinics) for pro se litigants. In partnership with the Charlotte School of Law and the Latin American</p>

	<p>Coalition we conduct clinics in both English and Spanish during the lunch hour, in the evening and on weekends. These clinics cover the legal standards required and increase the accuracy and completeness of the forms. After attending a legal clinic, the litigant, if financially qualified, may also sign up for an Attorney for the Day appointment. This is a 30 minute consultation with a licensed North Carolina attorney. These attorneys have also attended a continuing legal education (CLE) on assisting self-represented litigants navigate the court system. The Mecklenburg County SelfServe Center hosts, on average, three (3) days per month where an attorney conducts up to six (6) consultations per day. This allows 18 litigants per month to have their documents reviewed for accuracy, completeness and the ability to ask additional questions about the divorce process.</p> <p>Q. What is the impact of using the forms on judicial and court efficiency?</p> <p>A. Each week one judge is charged with reviewing up to 135 divorce files. The judges have openly expressed their preference in reviewing and processing local template forms. Their preference is expressly based on uniformity, the ability to review the information at a glance for completeness, and the formatting of the documents. In fact, for ease in processing, most judges first separate the divorce files into two piles, local forms and other pleadings. The time spent processing the template forms is minimized greatly in comparison to those drafted by members of the Bar. The same preference is true for handling forms dealing with other case types. The completeness and uniformity serve to ensure that the Court has what it needs to address the relief being sought.</p>
North Dakota/Sally Holewa	<p>1. Have you seen evidence that using the forms has harmed individuals or the public? We have not done a study on this. Anecdotally, some judges and lawyers have raised this as an issue, but have not provided any specific examples.</p> <p>2. What is the impact of using the forms on judicial and court efficiency? Judges and court staff frequently raise this as an issue, but we have not done any type of study to determine whether that is actually the case or whether <u>not</u> having forms available for self-represented litigants would make the process more efficient.</p>
Ohio/Jo Ellen Cline on behalf of Steve Hollon	<p>Have you seen evidence that using the forms has harmed individuals or the public? None to our knowledge.</p> <p>What is the impact of using the forms on judicial and court efficiency? Allowing the use of standardized forms has a significant impact on judicial economy both in terms of administrative matters and case processing. Ohio uses standard forms in domestic relations cases, civil protection order cases, and in probate matters extensively.</p>

Oklahoma/Mike Evans	Occasionally the Oklahoma legislature has directed that the Administrative Office of the Courts prepare subject matter forms that are available to judges and litigants; however, these forms are not designed or specifically designated for use by self-represented litigants only. These forms have been used on a very limited basis. I am not aware of any particular concerns with their use in any Oklahoma trial court.
South Carolina/Cody Lidge	<p>1. Have you seen evidence that using the forms has harmed individuals or the public?</p> <p>No, but SC Court Administration has learned of isolated events where individuals have attempted to sell the Self-Represented Litigant Divorce Packet to litigants even though the packet is offered free of charge.</p> <p>2. What is the impact of using the forms on judicial and court efficiency?</p> <p>Our forms are easily accessible on the website and, in some cases, provided in the Clerks of Court offices for a nominal fee. When the court forms are used correctly, they benefit all players and help judicial proceedings run smoothly.</p>
Utah/Jessica Van Buren on behalf of Dan Becker	<p>The answers provided are based on anecdotal experience.</p> <p>1. Have you seen evidence that using the forms has harmed individuals or the public?</p> <p>We have not. We have, however, seen people harmed by not using the free court-approved forms. For example, people who pay for divorce packets that don't include vital forms, like the petition.</p> <p>2. What is the impact of using the forms on judicial and court efficiency?</p> <p>There has been a positive effect on clerical and judicial efficiency. The court-approved forms are also used by clinic staff and practicing attorneys.</p>

Exhibit I

Statewide Uniform Forms - All 50 states + D.C.

Executive Summary:

Total states + D.C. with standardized forms: 49

Total states requiring courts to accept forms if used by litigant or lawyer: 37

Total states with family law forms: 48

Total states with divorce forms: 37

(Of divorce forms, 31 states have divorce with children, 30 have divorce with real property, 33 have forms for custody matters, and 39 have forms for child support matters)

Total states with forms available online: 49

Total states which limit access to forms to low-income litigants only: 0

Total states with a self-help website: 39

STATE	STATE-WIDE FORMS	COURT-REQUIRED ACCEPTANCE	SUBJECT-MATTER	FAMILY LAW FORMS	DIVORCE FORMS	DIVORCE + KIDS	DIVORCE + REAL PROPERTY	FORMS AVAILABLE ONLINE	INCOME RESTRICTIONS?	STATE SELF-HELP WEBSITE
Totals	49	37		48	37	31	30	49	0	39
Alabama	Yes	-----	State Bar created 25 forms and 20 Court approved forms: landlord/tenant, SAPCR, divorce	Yes	Yes	-----	-----	Yes	No	-----
Alaska	Yes	-----	18 different categories of forms including appeals- SRL forms issued in past 12 years	Yes	Yes	Yes	Yes	Yes	No	Yes
Arizona	Yes	Yes (protective order kit only)	12 categories of forms: divorce, small claims, appeals, eviction protective order, etc. & 16 Family Procedure Forms 01/2009	Yes	Yes	Yes	Yes	Yes	No	Yes
Arkansas	Yes	-----	Protective order and some probate forms are approved by the Supreme Court. Other form kits for SRLs are provided by the ATJ Commission in collaboration with legal aid. While these forms are not court ordered, they are supported by the Court and widely accepted.	Yes- protective order Kit	-----	-----	-----	Yes	No	-----
California	Yes	Yes	Hundreds of forms in existence for over 30 years. Forms are accepted and required by all courts in the state.	Yes	Yes	Yes	Yes	Yes	No	Yes
Colorado	Yes	-----	Adoption, family, domestic relations, appeals, probate, protective order, small claims, water, juvenile, criminal, civil, paternity, misc.	Yes	Yes	Yes	Yes	Yes	No	Yes
Connecticut	Yes	Yes	Administrative, civil, criminal, family, general, housing, juvenile, probate, small claims, appellate, protective order	Yes	Yes	Yes	Yes	Yes	No	Yes

Statewide Uniform Forms - All 50 states + D.C.

STATE	STATE-WIDE FORMS	COURT-REQUIRED ACCEPTANCE	SUBJECT-MATTER	FAMILY LAW FORMS	DIVORCE FORMS	DIVORCE + KIDS	DIVORCE + REAL PROPERTY	FORMS AVAILABLE ONLINE	INCOME RESTRICTIONS?	STATE SELF-HELP WEBSITE
Delaware	Yes	Yes	Civil, family, criminal, traffic, appeals	Yes	Yes	Yes	Yes	Yes	No	Yes
D.C.	Yes	Yes	Family, domestic relations, protective order, civil, small claims, landlord/tenant, criminal, probate. Additional family law forms, including divorce forms, are provided on the Bar website	Yes	Yes	Yes	Yes	Yes	No	Yes
Florida	Yes	-----	Family, probate, landlord/tenant, small claims, guardianship	Yes	Yes	Yes	Yes	Yes	No	Yes
Georgia	Yes	-----	Juvenile, probate, protective order, criminal, domestic relations	Yes-protective order Kit	-----	-----	-----	Yes	No	Yes
Hawaii	Yes	-----	Family, civil, small claims, landlord/tenant, traffic, criminal, protective order	Yes	Yes***	Yes	Yes	Yes	No	Yes
Idaho	Yes	Yes	Family, landlord/tenant, name change, small claims, protective order, judicial consent to abortion.	Yes	Yes	Yes	Yes	Yes	No	Yes
Illinois	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----
Indiana	Yes	Yes	Civil, criminal, and appellate matters. Started 10 years ago.	Yes	Yes	Yes	Yes	Yes	No	Yes
Iowa	Yes	Yes	Civil, small claims, family, divorce, protective order, commitments.	Yes	Yes	-----	Yes	Yes	No	Yes
Kansas	Yes	Yes	Civil, family, landlord/tenant, probate and juvenile. 20+ categories. 100+ forms.	Yes	Yes	Yes	Yes	Yes	No	Yes
Kentucky	Yes	Yes	Probate and protective order form appear to be available for use by non-attorneys. All other forms (wide variety) available on Court's website appear to be for lawyers only. Bar provides ongoing divorce self-help clinics.	Yes-protective order Kit	-----	-----	-----	Yes	No	-----

Statewide Uniform Forms - All 50 states + D.C.

STATE	STATE-WIDE FORMS	COURT-REQUIRED ACCEPTANCE	SUBJECT-MATTER	FAMILY LAW FORMS	DIVORCE FORMS	DIVORCE + KIDS	DIVORCE + REAL PROPERTY	FORMS AVAILABLE ONLINE	INCOME RESTRICTIONS?	STATE SELF-HELP WEBSITE
Louisiana	Yes	Yes	Protective order forms available for attorneys and non-attorneys/victims of domestic violence.	Yes-protective order Kit	-----	-----	-----	Yes	No	-----
Maine	Yes	Yes	Consumer, civil, criminal, family, foreclosures, money judgment, protective order, small claims, protective custody, appeals.	Yes	Yes	Yes	Yes	Yes	No	Yes
Maryland	Yes	Yes	Family, landlord/tenant, small claims, traffic, protective order, and more. Started 20+ years ago.	Yes	Yes	Yes	Yes	Yes	No	Yes
Massachusetts	Yes	-----	Family, limited scope representation, probate, small claims, landlord/tenant, municipal courts.	Yes	Yes	Yes	Yes	Yes	No	Yes
Michigan	Yes	Yes	Adoption, civil, criminal, guardianship, protective order, name change, emancipation, parental consent, juvenile, mental commitment, probate.	Yes	-----	-----	-----	Yes	No	Yes
Minnesota	Yes	Yes	33 categories including divorce, protective order, traffic, small claims, bankruptcy, etc. Packets started being developed in mid-1990's. Court and Bar studied and concluded forms were needed.	Yes	Yes	Yes	Yes	Yes	No	Yes
Mississippi	<i>forms are currently in development</i>	-----	-----	-----	-----	-----	-----	-----	-----	-----
Missouri	Yes	Yes	Family: divorce, modification of protective order and custody, name change and paternity. SRLs MUST USE these forms.	Yes	Yes	Yes	Yes	Yes	No	Yes
Montana	Yes	-----	Over 50 categories of forms including family law, discovery, appeals, protective order, landlord/tenant, probate, taxes, small claims.	Yes	Yes	Yes	Yes	Yes	No	Yes-Bar

Statewide Uniform Forms - All 50 states + D.C.

STATE	STATE-WIDE FORMS	COURT-REQUIRED ACCEPTANCE	SUBJECT-MATTER	FAMILY LAW FORMS	DIVORCE FORMS	DIVORCE + KIDS	DIVORCE + REAL PROPERTY	FORMS AVAILABLE ONLINE	INCOME RESTRICTIONS?	STATE SELF-HELP WEBSITE
Nebraska	Yes	Yes	Appeals, court records, children and family, estates, financial/medical, parental consent waiver, general trial procedure, guardianship, name change, small claims, worker's comp and protective order.	Yes	Yes	Yes	-----	Yes	No	Yes
Nevada	Yes	Yes	Civil, protective order, family, guardianship, landlord/tenant, appellate, divorce.	Yes	Yes	Yes	Yes	Yes	No	Yes
New Hampshire	Yes	Yes	Appeals, divorce, domestic relations, child welfare, juvenile, adoption, estates, guardianship, probate.	Yes	Yes	Yes	Yes	Yes	No	Yes
New Jersey	Yes	Yes	Civil, criminal, family, municipal, landlord/tenant, tax, appellate, foreclosures, small claims, juvenile, protective order.	Yes	-----	-----	-----	Yes	No	Yes
New Mexico	Yes	Yes	Civil, criminal, municipal, landlord/tenant, guardianship, domestic relations.	Yes	Yes	Yes	Yes	Yes	No	Yes
New York	Yes	Yes	Family law, divorce, protective order, criminal, and variety of civil forms. Civil forms have been used for decades.	Yes	Yes	Yes	Yes	Yes	No	Yes
North Carolina	Yes	-----	Criminal (88), civil (131), protective order, child support, paternity, juvenile. Divorce packets and self-help center provided at local district court level.	Yes	Yes	-----	-----	Yes	No	-----
North Dakota	Yes	Yes	Appeals, child support, visitation, guardianship, probate, protective order, small claims, simple divorce.	Yes	Yes	-----	-----	Yes	No	Yes
Ohio	Yes	Yes	Protective order and some custody & support forms. Other domestic relations forms, including simple divorce forms, are provided by local courts.	Yes-protective order Kit	-----	-----	-----	Yes	No	-----

Statewide Uniform Forms - All 50 states + D.C.

STATE	STATE-WIDE FORMS	COURT-REQUIRED ACCEPTANCE	SUBJECT-MATTER	FAMILY LAW FORMS	DIVORCE FORMS	DIVORCE + KIDS	DIVORCE + REAL PROPERTY	FORMS AVAILABLE ONLINE	INCOME RESTRICTIONS?	STATE SELF-HELP WEBSITE
Oklahoma	Yes	Yes	Protective order, child support, civil, appeals, criminal appeals.	Yes	-----	-----	-----	Yes	No	-----
Oregon	Yes	Yes	300+ family law forms, small claims, landlord/tenant, some criminal. Coalition of family law lawyers sought legislative mandate to create forms. Maintained by the Family Law Council, State Court Administrator and State Court Advisory Committee.	Yes	Yes	Yes	-----	Yes	No	Yes
Pennsylvania	Yes		Probate, foreign adoptions, appeals, civil, landlord/tenant, expungements. Other forms including family law and divorce forms are provided at local court level.	-----	-----	-----	-----	Yes	No	-----
Rhode Island	Yes	Yes	Administrative appeals, civil, family, landlord/tenant, traffic, pre-trial. Limited family law forms. Criminal and small claims forms are "coming soon."	Yes	-----	-----	-----	Yes	No	Yes
South Carolina	Yes	Yes	Some civil and simple divorce created for SRLs. Divorce forms: uncontested, no kids, no property. But the SRL can modify the forms to include kids and property and contested matters. Also a lot of court-approved forms that are geared to attorneys.	Yes	Yes		-----	Yes	No	Yes
South Dakota	Yes	-----	Protective order, divorce, name change, parenting time, civil	Yes	Yes	Yes	Yes	Yes	No	Yes

Statewide Uniform Forms - All 50 states + D.C.

STATE	STATE-WIDE FORMS	COURT-REQUIRED ACCEPTANCE	SUBJECT-MATTER	FAMILY LAW FORMS	DIVORCE FORMS	DIVORCE + KIDS	DIVORCE + REAL PROPERTY	FORMS AVAILABLE ONLINE	INCOME RESTRICTIONS?	STATE SELF-HELP WEBSITE
Tennessee	Yes	Yes	Divorce no kids, no property were approved by the Supreme Court in 2011. They are the only Court approved forms. Tennessee's OCA has developed other forms available to lawyers and non-lawyers, but they have not been approved by the Court. These OCA forms include: protective order, child support, criminal, probate, small claims, traffic.	Yes	Yes	-----	-----	Yes	No	Yes
Texas	Yes	Yes	Protective Order Kit in 2005	Yes- protective order Kit	-----	-----	-----	Yes	No	-----
Utah	Yes	Yes	Divorce, child support, enforcement, protective order, landlord/tenant, guardianship, parentage, probate, small claims, exoungement.	Yes	Yes	Yes	Yes	Yes	No	Yes
Vermont	Yes	Yes	Civil, small claims, family, protective order, criminal, probate, name change, guardianship, partner adoption.	Yes	Yes	Yes	Yes	Yes	No	Yes
Virginia	Yes	Yes	Protective order, traffic, paternity, child support, juvenile, mental health, civil.	Yes	-----	-----	-----	Yes	No	-----
Washington	Yes	Yes	Divorce, custody, child support, protective order, juvenile, title, financial, criminal, adoption.	Yes	Yes	Yes	Yes	Yes	No	Yes
West Virginia	Yes	Yes	Divorce, family, appeals, child support, custody, protective order, guardianship,	Yes	Yes	Yes	Yes	Yes	No	Yes
Wisconsin	Yes	Yes	Divorce, family law, small claims, name change, juvenile, probate, protective order, appeals.	Yes	Yes	Yes	Yes	Yes	No	Yes
Wyoming	Yes	Yes	Divorce, child support, child custody.	Yes	Yes	Yes	Yes	Yes	No	Yes

Exhibit J

IN THE SUPREME COURT OF TEXAS

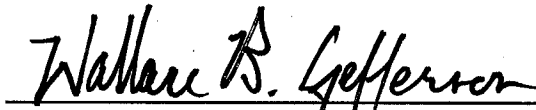
Misc. Docket No. 05-9059

ORDER APPROVING PROTECTIVE ORDER FORMS

ORDERED that:

The following protective order forms are approved for use in obtaining a protective order under Title IV of the Texas Family Code. Use of the approved forms is not required. However, if the approved forms are used, the court should attempt to rule on the application without regard to technical defects in the application. A trial court must not refuse to accept the approved forms simply because the applicant is not represented by counsel.

SIGNED AND ENTERED this 12th day of April, 2005.



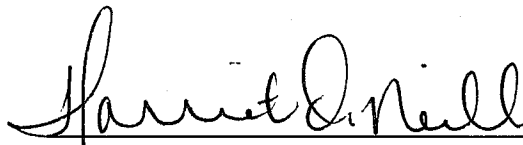
Wallace B. Jefferson, Chief Justice



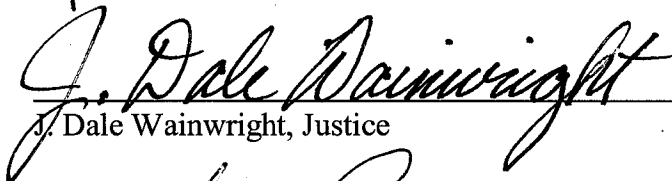
Nathan L. Hecht, Justice



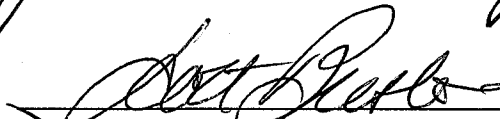
Priscilla R. Owen, Justice



Harriet O'Neill, Justice



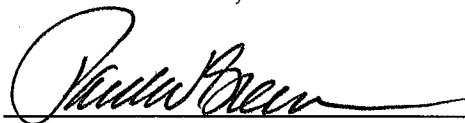
J. Dale Wainwright, Justice



Scott Brister, Justice



David M. Medina, Justice



Paul W. Green, Justice



Phil Johnson, Justice

Protective Orders

What is a protective order?

It is a court order that protects you from someone who has been violent or threatened to be violent.

How can a protective order help me?

It can order the other person to:

- Not hurt you or threaten to hurt you
- Not contact you or go near you, your children, other family relatives, your home, where you work, or your children's schools
- Not have a gun or a license to carry a gun

The police can arrest the other person for violating any of these orders.

Can I get a protective order?

You can get a protective order if:

- Someone has hurt you, or threatened to hurt you, **and**
- You have a close relationship with that person (you were or are married, dating or living together, have a child together or are close relatives), **and**
- You are afraid that person may hurt you again.

How much does it cost?

It is free for you.

How do I ask for a protective order?

Fill out the forms in this kit:

- Application for Protective Order
- Temporary Ex Parte Protective Order
- Protective Order
- Respondent Information



Where do I file the forms?

After you fill out the forms, take the forms with 2 copies to the courthouse. File them in the county where you or the other person lives. But if you have a divorce or custody case pending against the other person, file the forms in that same county or the county where you live.

What if the other person and I live together or have children together?

The judge can make orders about who gets to use the house, apartment or car.

The judge can also make other orders, like child custody, child support, visitation, and spousal support.

Can I get protection right away?

The judge may give you a temporary order that protects you until your court hearing. This order is called a "Temporary Ex Parte Protective Order".

In some cases, the judge orders the other person to leave the home right away. If you want this, you should ask the judge. Be ready to testify at a hearing when you file your Application.

Do I have to go to court?

Yes. Even if you get a Temporary Ex Parte Protective Order, you must go to the next hearing. It should be in about 2 weeks. The judge will decide if you should have protection and for how long. If you do not go, the Temporary Ex Parte Protective Order may end.

Read *Get Ready for Court* in this kit. Or get it from the court clerk or from:

www.texaslawhelp.org/protectiveorderkit

How will the other person know about the protective order?

You must have the other person "served" **before** the court hearing. This means someone—not you—will serve the other person a copy of your application for a protective order.

The clerk can arrange for law enforcement to serve the other person the court papers for FREE (for you).

Need help?

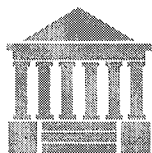
There is an instruction sheet for each form. But, if you need more help, contact:

Family Violence Legal Line: **800-374-HOPE**

Or, go to:

www.texaslawhelp.org/protectiveorderkit

Get Ready for Court



Don't miss your hearing!

If you miss it, your Temporary Ex Parte Protective Order may end and you will have to start from the beginning.

Get ready.

- Fill out a Protective Order before you go to court and bring it with you.
- Bring any evidence you have, like photographs, medical records, torn clothing. Also bring witnesses who know about the violence, like a neighbor, relative or police. The judge may ask them to testify.
- Bring proof of your and the other person's income and expenses, like bills, paycheck stubs, bank accounts, tax returns.
- If the Proof of Service was returned to you, file it with the clerk and bring a copy to court.

Get there 30 minutes early.

- Find the courtroom.
- When the courtroom opens, go in and tell the clerk or officer that you are present.
- Watch the other cases so you will know what to do.
- When your name is called, go to the front of the courtroom.

What if I don't speak English?

When you file your papers, tell the clerk you will need an interpreter.

If a court interpreter is not available, bring someone to interpret for you. Do not ask a child, a protected person, or a witness to interpret for you.

What if I am deaf?

When you file your papers, ask for an interpreter or other accommodation.

What if I need child support or visitation orders?

Call the Family Violence Legal Line before you go to court: **800-374-HOPE**

What if I am afraid?

If you don't feel safe, call your local family crisis center or the National Domestic Violence Hotline: **800-799-SAFE**

Practice what you want to say.

Make a list of the orders you want and practice saying them. Do not take more than 3 minutes to say what you want.

If you get nervous at the hearing, just read from your list. Use that list to see if the judge has made every order you asked for.

The judge may ask questions.

The other person or his or her lawyer may also ask you questions. Tell the truth. Speak slowly. Give complete answers.

If you don't understand, say, "I don't understand the question."

Speak only to the judge unless it is your turn to ask questions. When people are talking to the judge, wait for them to finish. Then you can ask questions about what they said.

What happens after the hearing?

If the judge agrees you need protection, the judge will sign your Protective Order.

Take your signed order to the court clerk. Ask for copies of your order (or make extra copies) and keep one with you at all times.

Give copies of your order to your children's day care, babysitter, or school. If the other person violates the order, call the police and show them your order.

Need help?

If you are in danger, call the police: **911**

Or call Family Violence Legal Line:
800-374-HOPE

Or go to:
www.texaslawhelp.org/protectiveorderkit

Case No.: _____
Applicant: Your name here.
You are the Applicant. § In the _____ Court
§
§
§
Respondent: Name of person you want protection from.
This is the Respondent. § _____ County, Texas
The clerk fills out this part

Application for Protective Order

1 Parties

Name: _____ County of Residence: _____
Applicant: Your name here
Respondent: Name of person you want protection from _____ County where each person lives
Respondent's address for service: _____ Best address to give the other person a copy of this form

Check all that apply:

- ☐ The Applicant and Respondent are or were members of the same family or household.
- ☐ The Applicant and Respondent are parents of the same child or children.
- ☐ The Applicant and Respondent used to be married.
- ☐ The Applicant and Respondent are or were dating.
- ☐ The Applicant is an adult asking for protection for the Children named below from child abuse and/or family or dating violence.

2 Children: The Applicant is asking for protection for these Children under age 18:

Name: _____ Is Respondent the biological parent? _____ County of Residence: _____
a. _____ ☐ Yes ☐ No
b. Names of children ☐ Yes ☐ No
c. needing protection ☐ Yes ☐ No
d. _____ ☐ Yes ☐ No
County where each person lives

Check all that apply:

- ☐ Other children are listed on a sheet attached to this Application.
- ☐ The Children are or were members of the Applicant's family or household.
- ☐ The Children are the subject of a court order affecting access to them or their support.

3 Other Adults: The Applicant is asking for protection for these Adults, who are or were members of the Applicant's family or household:

Name: _____ County of Residence: _____
a. _____ County where each person lives
b. Names of other adults needing protection _____

4 Other Court Cases: Are there other court cases, like divorce, custody, support, involving the Applicant, Respondent, or the Children? ☐ Yes ☐ No

If "Yes," say what kind of case and if the case is active or completed.

If "completed," (check one): ☐ A copy of the final order is attached.
☐ A copy of the final order will be filed before the hearing on this Application.

5 Grounds: Why is the Applicant asking for this Protective Order? Read and check one or both

- ☐ The Respondent committed family violence and is likely to continue in the future.
- ☐ The Respondent violated a prior Protective Order that expired, or will expire in 30 days or less. A copy of the Order is (check one): ☐ Attached, or
☐ Not available now but will be filed before the hearing on this Application.

Sample Only – Do Not File



The Applicant requests a Protective Order and asks the Court to make the following orders:

Check all the orders you want the judge to make

with a check ☒

6 ☐ Orders to Prevent Family Violence

The Applicant asks the Court to order the Respondent to (Check all that apply):

- a. ☐ Not commit family violence against any person named on page 1 of this form.
- b. ☐ Not communicate in a threatening or harassing manner with any person named on page 1 of this form.
- c. ☐ Not communicate a threat through any person to any person named on page 1 of this form.
- d. ☐ Not communicate or attempt to communicate in any manner with (Check all that apply):
☐ Applicant ☐ Children ☐ Other Adults named on page 1 of this form.
The Respondent may communicate through: _____ or other person the Court appoints.
Good cause exists for prohibiting the Respondent's direct communications.
- e. ☐ Not go within 200 yards of the (Check all that apply):
☐ Applicant ☐ Children ☐ Other Adults named on page 1 of this form.
- f. ☐ Not go within 200 yards of the residence, workplace or school of the (Check all that apply):
☐ Applicant ☐ Other Adults named on page 1 of this form.
- g. ☐ Not go within 200 yards of the Children's residence, child-care facility, or school, except as specifically authorized in a possession schedule entered by the Court.
- h. ☐ Not stalk, follow or engage in conduct directed specifically to anyone named on page 1 of this form that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass them.

The Applicant also asks the Court to make these Orders (Check all that apply):

- i. ☐ Suspend any license to carry a concealed handgun issued to the Respondent under state law.
- j. ☐ Require the Respondent to complete a battering intervention and prevention program; or if no such program is available, counseling with a social worker, family service agency, physician, psychologist, licensed therapist, or licensed professional counselor; and pay all costs for the counseling or treatment ordered.
- k. ☐ Require the Respondent to follow these provisions to prevent or reduce the likelihood of family violence.

The law requires a trial court issuing a protective order to prohibit the Respondent from possessing a firearm or ammunition, unless the Respondent is a peace officer actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.

7 ☐ Property Orders

The Residence located at:

Your home address here, unless you want it to be confidential.

(Check one):

- ☐ is jointly owned or leased by the Applicant and Respondent;
- ☐ is solely owned or leased by the Applicant; or
- ☐ is solely owned or leased by the Respondent; and the Respondent is obligated to support the Applicant or a child in the Applicant's possession.

The Applicant also asks the Court to make these orders (Check all that apply):

- ☐ The Applicant to have exclusive use of the Residence identified above, and the Respondent must vacate the Residence.
- ☐ The sheriff, constable, or chief of police shall provide a law enforcement officer to accompany the Applicant to the Residence, to inform the Respondent that the Court has ordered the Respondent excluded from the Residence, to provide protection while the Applicant takes possession of the Residence and the Respondent removes any necessary personal property, and, if the Respondent refuses to vacate the Residence, to remove the Respondent from the Residence and arrest the Respondent for violating the Court's Order.
- ☐ The Applicant to have exclusive use of the Residence identified above, and the Respondent jointly own or lease: _____
List the property you want to use or control, like a car or furniture, even if the other person owns it with you.
- ☐ The Respondent must not damage, transfer, encumber, or otherwise dispose of any property jointly owned or leased by the parties, except in the ordinary course of business or for reasonable and necessary living expenses, including, but not limited to, removing or disabling any vehicle owned or possessed by the Applicant or jointly owned or possessed by the parties (whether so titled or not).



8 ☐ Spousal Support Order

The Applicant asks the Court to order the Respondent or otherwise legally entitled to support from the Respondent and asks the Court to order the Respondent to pay support in an amount set by the Court.

Check here if you want spousal support.

9 ☐ Orders Related to Removal, Possession and Support of Children

The Applicant asks the Court to order the Respondent to pay support for the Applicant's children: _____

Check here and fill out this section if you want the judge to make orders about who the children can stay with, restrictions on travel, and child support. _____

- Check here if you want the judge to make orders about who the children can stay with, restrictions on travel, and child support. _____
- ☐ The Respondent must not remove the children from the Applicant's possession or from their child-care facility or school, except as specifically authorized in a possession schedule entered by the Court.
 - ☐ The Respondent must not remove the children from the jurisdiction of the Court.
 - ☐ Establish or modify a schedule for the Respondent's possession of the Children, subject to any terms and conditions necessary for the safety of the Applicant or the Children.
 - ☐ Require the Respondent to pay child support in an amount set by the Court.

10 ☒ Temporary Ex Parte Protective Order

Based on the information in the attached Affidavit, there is a clear and present danger of family violence that will cause the Applicant, Children or Other Adults named on page 1 of this form immediate and irreparable injury, loss and damage, for which there is no adequate remedy at law. Applicant asks the Court to issue a Temporary Ex Parte Protective Order immediately without bond, notice or hearing.

11 ☐ Ex Parte Order: Vacate Residence Immediately

The Applicant now lives with the Respondent at: Your home address here or has resided at this address _____ prior to filing this Application. The Respondent committed family violence against the Applicant _____ days prior to the filing of this Application, as described in the attached Affidavit. The Applicant is available for a hearing but asks the Court to issue a Temporary Ex Parte Protective Order immediately without bond, notice or hearing:

Check here if you want the judge to order the other person to move out.

- Granting the Applicant exclusive use and possession of the Residence and ordering the Respondent to vacate the Residence immediately, and remain at least 200 yards away from the Residence pending further Order of the Court; and
- Directing the sheriff, constable, or chief of police to provide a law enforcement officer to accompany the Applicant to the Residence, to inform the Respondent that the Court has ordered the Respondent to vacate the Residence, and to provide protection while the Applicant either takes possession of the Residence or removes necessary personal property.

12 ☐ Keep Information Confidential

Check here if you want to keep your addresses and telephone numbers for residences, workplaces, schools, and your contact information private.

13 ☐ Fees And Costs

The Applicant asks the Court to order the Respondent to pay fees for service of process, all other fees and costs of Court, and reasonable attorneys' fees, if applicable.

I have read the entire Application and it is true and correct to the best of my knowledge.

► Sign Here

Applicant, Pro se

Address where Applicant may be contacted: _____

Phone # where Applicant may be contacted: _____

List your address/phone or another address/phone if you want yours kept confidential.

(List another address/phone if you want yours kept confidential.)

Affidavit

County of _____
State of Texas

Write the name of
your county here

My name is _____ Your name here _____. I am _____ years old and otherwise competent to make this Affidavit. The information and events described in this Affidavit are true and correct.

- 1 Describe the most recent time the Respondent hurt you or threatened to hurt you:

Answer every question on this form.

- 2 What date did this happen? _____ If it happened in the last 30 days, the judge can order the Respondent to move out.
- 3 Was a weapon involved? ☐ Yes ☐ No
- 4 Were any children there? ☐ Yes ☐ No If yes, who? _____
- 5 Did you call the police? ☐ Yes ☐ No If yes, what happened? _____
- 6 Did you get medical care? ☐ Yes ☐ No If yes, describe your injuries: _____

- 7 Has the Respondent ever threatened or hurt you **before**? Describe below, including date(s).

- 8 Were weapons ever involved? ☐ Yes ☐ No If yes, what kind? _____
- 9 Were any children there? ☐ Yes ☐ No If yes, who? _____
- 10 Have the police ever been called? ☐ Yes ☐ No
- 11 Did you ever have to get medical care? ☐ Yes ☐ No If yes, describe your injuries: _____

Do NOT sign until the notary tells you to.
Applicant signs here

On ____ / ____ / ____, the Applicant _____ personally appeared before me, the undersigned _____, the Applicant stated that she/he is qualified to make this oath, that she/he has _____ and Affidavit, that she/he has personal knowledge of the facts asserted, and the facts _____ to the best of her/his knowledge and belief.

Subscribed and sworn to before me on ____ / ____ / ____.

Notary Public in and for the State of Texas

My Commission expires: _____

Case No.: _____

Applicant: _____ § In the _____ Court
v. §
§
§
§
Respondent: _____ § _____ County, Texas
§

Application for Protective Order

1 Parties

Name: _____

County of Residence: _____

Applicant: _____

Respondent: _____

Respondent's address for service: _____

Check all that apply:

- ☐ The Applicant and Respondent are or were members of the same family or household.
- ☐ The Applicant and Respondent are parents of the same child or children.
- ☐ The Applicant and Respondent used to be married.
- ☐ The Applicant and Respondent are or were dating.
- ☐ The Applicant is an adult asking for protection for the Children named below from child abuse and/or family or dating violence.

2 Children: The Applicant is asking for protection for these Children under age 18:

Name: _____

Is Respondent the biological parent? _____

County of Residence: _____

- | | | |
|----------|--|-------|
| a. _____ | <input type="checkbox"/> Yes <input type="checkbox"/> No | _____ |
| b. _____ | <input type="checkbox"/> Yes <input type="checkbox"/> No | _____ |
| c. _____ | <input type="checkbox"/> Yes <input type="checkbox"/> No | _____ |
| d. _____ | <input type="checkbox"/> Yes <input type="checkbox"/> No | _____ |

Check all that apply:

- ☐ Other children are listed on a sheet attached to this Application.
- ☐ The Children are or were members of the Applicant's family or household.
- ☐ The Children are the subject of a court order affecting access to them or their support.

3 Other Adults: The Applicant is asking for protection for these Adults, who are or were members of the Applicant's family or household:

Name: _____

County of Residence: _____

- a. _____
- b. _____

4 Other Court Cases: Are there other court cases, like divorce, custody, support, involving the Applicant, Respondent, or the Children? ☐ Yes ☐ No

If "Yes," say what kind of case and if the case is active or completed.

- If "completed," (check one): ☐ A copy of the final order is attached.
☐ A copy of the final order will be filed before the hearing on this Application.

5 Grounds: Why is the Applicant asking for this Protective Order? *Check one or both:*

- ☐ The Respondent committed family violence and is likely to commit family violence in the future.
- ☐ The Respondent violated a prior Protective Order that expired, or will expire in 30 days or less. A copy of the Order is (check one): ☐ Attached, or
☐ Not available now but will be filed before the hearing on this Application.



The Applicant requests a Protective Order and asks the Court to make all Orders marked with a check ☒

6 ☐ Orders to Prevent Family Violence

The Applicant asks the Court to order the Respondent to (Check all that apply):

- a. ☐ Not commit family violence against any person named on page 1 of this form.
- b. ☐ Not communicate in a threatening or harassing manner with any person named on page 1 of this form.
- c. ☐ Not communicate a threat through any person to any person named on page 1 of this form.
- d. ☐ Not communicate or attempt to communicate in any manner with (Check all that apply):
☐ Applicant ☐ Children ☐ Other Adults named on page 1 of this form.
The Respondent may communicate through: _____ or other person the Court appoints.
Good cause exists for prohibiting the Respondent's direct communications.
- e. ☐ Not go within 200 yards of the (Check all that apply):
☐ Applicant ☐ Children ☐ Other Adults named on page 1 of this form.
- f. ☐ Not go within 200 yards of the residence, workplace or school of the (Check all that apply):
☐ Applicant ☐ Other Adults named on page 1 of this form.
- g. ☐ Not go within 200 yards of the Children's residence, child-care facility, or school, except as specifically authorized in a possession schedule entered by the Court.
- h. ☐ Not stalk, follow or engage in conduct directed specifically to anyone named on page 1 of this form that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass them.

The Applicant also asks the Court to make these Orders (Check all that apply):

- i. ☐ Suspend any license to carry a concealed handgun issued to the Respondent under state law.
- j. ☐ Require the Respondent to complete a battering intervention and prevention program; or if no such program is available, counseling with a social worker, family service agency, physician, psychologist, licensed therapist, or licensed professional counselor; and pay all costs for the counseling or treatment ordered.
- k. ☐ Require the Respondent to follow these provisions to prevent or reduce the likelihood of family violence.

The law requires a trial court issuing a protective order to prohibit the Respondent from possessing a firearm or ammunition, unless the Respondent is a peace officer actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.

7 ☐ Property Orders

The Residence located at: _____

- (Check one):
- ☐ is jointly owned or leased by the Applicant and Respondent;
 - ☐ is solely owned or leased by the Applicant; or
 - ☐ is solely owned or leased by the Respondent; and the Respondent is obligated to support the Applicant or a child in the Applicant's possession.

The Applicant also asks the Court to make these orders (Check all that apply):

- ☐ The Applicant to have exclusive use of the Residence identified above, and the Respondent must vacate the Residence.
- ☐ The sheriff, constable, or chief of police shall provide a law enforcement officer to accompany the Applicant to the Residence, to inform the Respondent that the Court has ordered the Respondent excluded from the Residence, to provide protection while the Applicant takes possession of the Residence and the Respondent removes any necessary personal property, and, if the Respondent refuses to vacate the Residence, to remove the Respondent from the Residence and arrest the Respondent for violating the Court's Order.
- ☐ The Applicant to have exclusive use of the following property that the Applicant and Respondent jointly own or lease: _____
- ☐ The Respondent must not damage, transfer, encumber, or otherwise dispose of any property jointly owned or leased by the parties, except in the ordinary course of business or for reasonable and necessary living expenses, including, but not limited to, removing or disabling any vehicle owned or possessed by the Applicant or jointly owned or possessed by the parties (whether so titled or not).



8 ☐ Spousal Support Order

The Applicant is married to the Respondent or otherwise legally entitled to support from the Respondent and asks the Court to order the Respondent to pay support in an amount set by the Court.

9 ☐ Orders Related to Removal, Possession and Support of Children

The Respondent is a parent of the following of the Applicant's children: _____

And, the Applicant asks for these Orders in the best interest of the people named on page 1 of this form.

Check all that apply:

- ☐ The Respondent must not remove the children from the Applicant's possession or from their child-care facility or school, except as specifically authorized in a possession schedule entered by the Court.
- ☐ The Respondent must not remove the children from the jurisdiction of the Court.
- ☐ Establish or modify a schedule for the Respondent's possession of the Children, subject to any terms and conditions necessary for the safety of the Applicant or the Children.
- ☐ Require the Respondent to pay child support in an amount set by the Court.

10 ☒ Temporary Ex Parte Protective Order

Based on the information in the attached Affidavit, there is a clear and present danger of family violence that will cause the Applicant, Children or Other Adults named on page 1 of this form immediate and irreparable injury, loss and damage, for which there is no adequate remedy at law. Applicant asks the Court to issue a Temporary Ex Parte Protective Order immediately without bond, notice or hearing.

11 ☐ Ex Parte Order: Vacate Residence Immediately

The Applicant now lives with the Respondent at: _____ or has resided at this Residence within the 30 days prior to filing this Application. The Respondent committed family violence against a member of the household within the 30 days prior to the filing of this Application, as described in the attached Affidavit. There is a clear and present danger that the Respondent is likely to commit family violence against a member of the household. The Applicant is available for a hearing but asks the Court to issue a Temporary Ex Parte Protective Order immediately without bond, notice or hearing:

- Granting the Applicant exclusive use and possession of the Residence and ordering the Respondent to vacate the Residence immediately, and remain at least 200 yards away from the Residence pending further Order of the Court; and
- Directing the sheriff, constable, or chief of police to provide a law enforcement officer to accompany the Applicant to the Residence, to inform the Respondent that the Court has ordered the Respondent to vacate the Residence, and to provide protection while the Applicant either takes possession of the Residence or removes necessary personal property.

12 ☐ Keep Information Confidential

The Applicant asks the Court to keep addresses and telephone numbers for residences, workplaces, schools, and childcare facilities confidential.

13 ☐ Fees And Costs

The Applicant asks the Court to order the Respondent to pay fees for service of process, all other fees and costs of Court, and reasonable attorneys' fees, if applicable.

I have read the entire Application and it is true and correct to the best of my knowledge.



Applicant, *Pro se*

Address where Applicant may be contacted: _____

Phone # where Applicant may be contacted: _____ Fax #: _____

(List another address/phone if you want yours kept confidential)



Affidavit

County of _____
State of Texas

My name is _____. I am _____ years old and otherwise competent to make this Affidavit. The information and events described in this Affidavit are true and correct.

- 1 Describe the most recent time the Respondent hurt you or threatened to hurt you:

- 2 What date did this happen? ____ / ____ / ____

- 3 Was a weapon involved? ☐ Yes ☐ No If yes, what kind? _____

- 4 Were any children there? ☐ Yes ☐ No If yes, who? _____

- 5 Did you call the police? ☐ Yes ☐ No If yes, what happened? _____

- 6 Did you get medical care? ☐ Yes ☐ No If yes, describe your injuries: _____

- 7 Has the Respondent ever threatened or hurt you *before*? Describe below, including date(s).

- 8 Were weapons ever involved? ☐ Yes ☐ No If yes, what kind? _____

- 9 Were any children there? ☐ Yes ☐ No If yes, who? _____

- 10 Have the police ever been called? ☐ Yes ☐ No

- 11 Did you ever have to get medical care? ☐ Yes ☐ No If yes, describe your injuries: _____



Applicant signs here

On ____ / ____ / ____, the Applicant _____ personally appeared before me, the undersigned notary. After being sworn, the Applicant stated that she/he is qualified to make this oath, that she/he has read the foregoing Application and Affidavit, that she/he has personal knowledge of the facts asserted, and the facts asserted are true to the best of her/his knowledge and belief.

Subscribed and sworn to before me on ____ / ____ / ____.



Notary Public in and for the State of Texas

My Commission expires: _____

Case No.: _____

Applicant: _____ Court _____

Look at the top of your Application for Protective Order and copy the same information here.

v. _____

of _____

Respondent: _____ County, Texas

Temporary Ex Parte Protective Order

Go to the court hearing on: Date: _____ Time: _____ ☐ a.

The court fills out this part.

Court Address: _____

Findings: The Court finds from the sworn Affidavit attached to the *Application for Protective Order* filed in this case that there is a clear and present danger that the Respondent named below will commit acts of family violence that will cause the Applicant, Children and/or Other Adults named below immediate and irreparable injury, loss and damage, for which there is no adequate remedy at law. The Court, therefore, enters this *Temporary Ex Parte Protective Order* without further notice to the Respondent or hearing. No bond is required.

1 Respondent: The person named below must follow all Orders marked with a check

Name: _____ County of Residence: _____

Who do you want protection from?

What county does s/he live in?

2 Protected People: The following people are protected by the terms of this Protective Order:

Name: _____

County of Residence: _____

☐ **Applicant:**

Your name here

☐ **Children:**

Names of children you want to be protected by this order

County where each person lives

☐ **Other Adults:**

Names of other adults needing protection

3 Temporary Orders — To prevent family violence, the Court orders the Respondent to obey all orders marked with a check. ☒

The Respondent (person named in 1) must:

- a. ☐ Not commit an act against any person named in 2 above that causes or results in physical harm, bodily injury, assault, or sexual assault or that is a threat to the safety of the people in fear of imminent physical harm, bodily injury, or death.
- b. ☐ Not communicate in a threatening or harassing manner with any person named in 2 above.
- c. ☐ Not communicate a threat through any person to any person named in 2 above.

The Court fills out the rest of this form. The judge may ask you questions before making the orders.

Sample Only – Do Not File

- d. ☐ Not communicate or attempt to communicate in any manner with: *(Check all that apply)*
☐ Applicant ☐ Children ☐ Other Adults named in **2** above. The Respondent may communicate through: _____ or other person the Court appoints.
Good cause exists for prohibiting the Respondent's direct communications.
- e. ☐ Not go within 200 yards of the: *(Check all that apply)*
☐ Applicant ☐ Children ☐ Other Adults named in **2** above. (except to go to court hearings)
- f. ☐ Not go within 200 yards of the Residence, workplace or school of the: *(Check all that apply)*
☐ Applicant ☐ Other Adults named in **2** above
The addresses of the prohibited locations are: *(Check all that apply)*
☐ Deemed confidential. The Clerk is ordered to strike the information from all public court records and maintain a confidential record of the information for Court use only.
☐ Disclosed as follows:
Applicant's Residence: _____
Applicant's Workplace/School: _____
Other: _____
- g. ☒ Not possess a firearm or ammunition, unless the Respondent is a peace officer actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.
- h. ☐ Not go within 200 yards of the Children's Residence, child-care facility, or school.
The addresses of the prohibited locations are: *(Check all that apply)*
☐ Deemed confidential. The Clerk is ordered to strike the information from all public court records and maintain a confidential record of the information for Court use only.
☐ Disclosed as follows:
Children's Residence: _____
Children's Child-care/School: _____
Other: _____
- i. ☐ Not stalk, follow or engage in conduct directed specifically toward the Applicant, Children, or Other Adults named in **2** above that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass them.
- j. ☐ Not remove the Children from their school, child-care facility, or the Applicant's possession.
- k. ☐ Not remove the Children from the jurisdiction of the Court.
- l. ☐ Not interfere with the Applicant's use of the Residence located at: _____, including, but not limited to, disconnecting utilities or telephone service or causing such services to be disconnected.
- m. ☐ Not interfere with the Applicant's use and possession of the following property:

- n. ☐ Not damage, transfer, encumber, or otherwise dispose of any property jointly owned or leased by the Applicant and Respondent, except in the ordinary course of business or for reasonable and necessary living expenses, including, but not limited to, removing or disabling any vehicle owned or possessed by the Applicant or jointly by the parties (whether so titled or not)

4 Order: Vacate Residence Immediately

The Court finds that the Residence located at: _____

(Check one):

- ☐ is jointly owned or leased by the Applicant and Respondent;
☐ is solely owned or leased by the Applicant; or
☐ is solely owned or leased by the Respondent; and the Respondent is obligated to support the Applicant or a child in the Applicant's possession.

The Court further finds that the Applicant currently resides at the Residence, or has resided there within 30 days prior to the filing of the *Application for Protective Order* in this case, and that the Respondent has committed family violence against a member of the household within 30 days prior to the filing of the *Application for Protective Order* in this case. There is a clear and present danger that the Respondent is likely to commit family violence against a member of the household.

The Respondent is therefore ORDERED to vacate the Residence on or before:

_____ ☐ a.m. ☐ p.m. on (date): _____ and to remain at least 200 yards away from the Residence until further order of the Court. The Applicant shall have exclusive use and possession of the Residence until further order of the Court.

IT IS FURTHER ORDERED that the sheriff, constable, or chief of police shall provide a law enforcement officer to accompany the Applicant to the Residence, to inform the Respondent that the Court has ordered the Respondent to vacate the Residence, and to provide protection while the Applicant takes possession of the Residence, and if the Respondent refuses to vacate the Residence, provide protection while the Applicant takes possession of the Applicant's necessary personal property.

5 Go to the court hearing

IT IS FURTHER ORDERED that notice issue to the Respondent to appear, and the Respondent is ORDERED to appear in person before this Court at the time and place indicated on page 1 of this form.

The purpose of this hearing is to determine whether the Court should issue the Protective Orders and other relief requested in the *Application for Protective Order* filed in this case.

6 Duration of Order: This Order is effective immediately and shall continue in full force and effect until twenty (20) days from the date it is signed, or further order of the Court.

7 Warning: A person who violates this order may be punished for contempt of court by a fine of as much as \$500 or by confinement in jail for as long as six months, or both.

No person, including a person who is protected by this order, may give permission to anyone to ignore or violate any provision of this Order. During the time in which this Order is valid, every provision of this Order is in full force and effect unless a court changes the Order.

It is unlawful for any person, other than a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision, who is subject to a Protective Order to possess a firearm or ammunition.

This Ex Parte Order signed on (date): _____ Time: _____ ☐ a.m. ☐ p.m.

Judge Presiding: ► _____

This is a Court Order. The Court can change this Order.

Case No.: _____

Applicant: _____

v.

In the _____ Court

of

Respondent: _____

_____ County, Texas

Temporary Ex Parte Protective Order

Go to the court hearing on: Date: _____ Time: ____ ☐ a.m. ☐ p.m.

Court Address: _____

Findings: The Court finds from the sworn Affidavit attached to the *Application for Protective Order* filed in this case that there is a clear and present danger that the Respondent named below will commit acts of family violence that will cause the Applicant, Children and/or Other Adults named below immediate and irreparable injury, loss and damage, for which there is no adequate remedy at law. The Court, therefore, enters this *Temporary Ex Parte Protective Order* without further notice to the Respondent or hearing. No bond is required.

1 Respondent: The person named below must follow all Orders marked with a check.

Name: _____ County of Residence: _____

2 Protected People: The following people are protected by the terms of this Protective Order:

Name:

County of Residence:

☐ **Applicant:**

☐ **Children:**

☐ **Other
Adults:**

3 Temporary Orders — To prevent family violence, the Court orders the Respondent to obey all orders marked with a check. ☒

The Respondent (person named in 1) must:

- a. ☐ Not commit an act against any person named in **2** above that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places those people in fear of imminent physical harm, bodily injury, assault, or sexual assault.
- b. ☐ Not communicate in a threatening or harassing manner with any person named in **2** above.
- c. ☐ Not communicate a threat through any person to any person named in **2** above.



- d. ☐ Not communicate or attempt to communicate in any manner with: *(Check all that apply)*
☐ Applicant ☐ Children ☐ Other Adults named in **2** above. The Respondent may communicate through: _____ or other person the Court appoints.
Good cause exists for prohibiting the Respondent's direct communications.
- e. ☐ Not go within 200 yards of the: *(Check all that apply)*
☐ Applicant ☐ Children ☐ Other Adults named in **2** above. (except to go to court hearings)
- f. ☐ Not go within 200 yards of the Residence, workplace or school of the: *(Check all that apply)*
☐ Applicant ☐ Other Adults named in **2** above
The addresses of the prohibited locations are: *(Check all that apply)*
☐ Deemed confidential. The Clerk is ordered to strike the information from all public court records and maintain a confidential record of the information for Court use only.
☐ Disclosed as follows:
Applicant's Residence: _____
Applicant's Workplace/School: _____
Other: _____
- g. ☒ Not possess a firearm or ammunition, unless the Respondent is a peace officer actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.
- h. ☐ Not go within 200 yards of the Children's Residence, child-care facility, or school.
The addresses of the prohibited locations are: *(Check all that apply)*
☐ Deemed confidential. The Clerk is ordered to strike the information from all public court records and maintain a confidential record of the information for Court use only.
☐ Disclosed as follows:
Children's Residence: _____
Children's Child-care/School: _____
Other: _____
- i. ☐ Not stalk, follow or engage in conduct directed specifically toward the Applicant, Children, or Other Adults named in **2** above that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass them.
- j. ☐ Not remove the Children from their school, child-care facility, or the Applicant's possession.
- k. ☐ Not remove the Children from the jurisdiction of the Court.
- l. ☐ Not interfere with the Applicant's use of the Residence located at: _____, including, but not limited to, disconnecting utilities or telephone service or causing such services to be disconnected.
- m. ☐ Not interfere with the Applicant's use and possession of the following property:

- n. ☐ Not damage, transfer, encumber, or otherwise dispose of any property jointly owned or leased by the Applicant and Respondent, except in the ordinary course of business or for reasonable and necessary living expenses, including, but not limited to, removing or disabling any vehicle owned or possessed by the Applicant or jointly by the parties (whether so titled or not).

4 Order: Vacate Residence Immediately

The Court finds that the Residence located at: _____

(Check one):

- ☐ is jointly owned or leased by the Applicant and Respondent;
☐ is solely owned or leased by the Applicant; or
☐ is solely owned or leased by the Respondent; and the Respondent is obligated to support the Applicant or a child in the Applicant's possession.

The Court further finds that the Applicant currently resides at the Residence, or has resided there within 30 days prior to the filing of the *Application for Protective Order* in this case, and that the Respondent has committed family violence against a member of the household within 30 days prior to the filing of the *Application for Protective Order* in this case. There is a clear and present danger that the Respondent is likely to commit family violence against a member of the household.

The Respondent is therefore ORDERED to vacate the Residence on or before:

_____ ☐ a.m. ☐ p.m. on (date): _____ and to remain at least 200 yards away from the Residence until further order of the Court. The Applicant shall have exclusive use and possession of the Residence until further order of the Court.

IT IS FURTHER ORDERED that the sheriff, constable, or chief of police shall provide a law enforcement officer to accompany the Applicant to the Residence, to inform the Respondent that the Court has ordered the Respondent to vacate the Residence, and to provide protection while the Applicant takes possession of the Residence, and if the Respondent refuses to vacate the Residence, provide protection while the Applicant takes possession of the Applicant's necessary personal property.

5 Go to the court hearing

IT IS FURTHER ORDERED that notice issue to the Respondent to appear, and the Respondent is ORDERED to appear in person before this Court at the time and place indicated on page 1 of this form.

The purpose of this hearing is to determine whether the Court should issue the Protective Orders and other relief requested in the *Application for Protective Order* filed in this case.

6 Duration of Order: This Order is effective immediately and shall continue in full force and effect until twenty (20) days from the date it is signed, or further order of the Court.

7 Warning: A person who violates this order may be punished for contempt of court by a fine of as much as \$500 or by confinement in jail for as long as six months, or both.

No person, including a person who is protected by this order, may give permission to anyone to ignore or violate any provision of this Order. During the time in which this Order is valid, every provision of this Order is in full force and effect unless a court changes the Order.

It is unlawful for any person, other than a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision, who is subject to a Protective Order to possess a firearm or ammunition.

This Ex Parte Order signed on (date): _____ Time: _____ ☐ a.m. ☐ p.m.

Judge Presiding: ► _____

This is a Court Order. No one – except the Court – can change this Order.

Case No.: _____

Applicant: _____ Court

v.

of

Respondent: _____ § _____ County, Texas

Look at the top of your Application
for Protective Order and copy the
same information here

Protective Order

Write the date
and time of your
hearing here.

A court hearing was held on: Date: _____ Time: _____

Findings: All legal requirements have been met, and the Court has jurisdiction over the parties and this case. This Order is in the best interests of the Protected Person(s) and is necessary to prevent future family violence.

- ☐ The Applicant and Respondent are spouses, former spouses, parents of the same child, live-in partners, or former live-in partners, and are thus "intimate partners" as defined by 18 U.S.C. § 921(a)(32).
- ☐ The parties have agreed to the terms of this Protective Order.

Statutory grounds for the Protective Order have been established. (Check one or both):

- ☐ The Respondent has committed family violence against the Applicant or Children named below and is likely to commit family violence in the future.
- ☐ The Respondent has violated a prior Protective Order that expired or will expire within 30 days.

1 **Appearances:** (Check any that apply):

Applicant Respondent

- ☐ ☐ Appeared in person and announced ready.
- ☐ ☐ Appeared in person and by attorney, _____, and announced ready.
- ☐ ☐ Appeared by signature below evidencing agreement to the entry of this Protective Order.
- ☐ ☐ Although duly cited, did not appear and wholly made default.

2 **Protected People:** The following people are protected by the terms of this Protective Order:

Name:

County of Residence:

☐ **Applicant:**

Your name here

☐ **Children:**

Names of children needing protection

County where
each person lives

☐ **Other
Adults:**

Names of other adults needing protection

3 **A Record of Testimony** (Check one): ☐ was made by: _____ ☐ was waived by the parties.

4 **Protective Orders** — To prevent family violence, the Court orders the Respondent to obey all Orders marked with a check. ☒ **The Respondent must:**

- a. ☐ Not commit an act against any person named in 2 above that results in bodily injury, assault, or sexual assault or that is a threat of imminent physical harm, bodily injury, assault, or sexual assault.
- b. ☐ Not communicate in a threatening or harassing manner with any person named above.
- c. ☐ Not communicate with any person named above.

The Court fills out the rest of this form.
The judge may ask you questions
before making the orders.

- d. ☐ Not communicate or attempt to communicate in any manner with: *(Check all that apply)*
☐ Applicant ☐ Children ☐ Other Adults in **2** above (except through: _____)
 Good cause exists for prohibiting the Respondent's direct communications.
- e. ☐ Not go within 200 yards of the: *(Check all that apply)*
☐ Applicant ☐ Children ☐ Other Adults named in **2** above.
 (Except to go to court hearings or to exchange Children as authorized by a court order)
- f. ☐ Not go within 200 yards of the Residence, workplace or school of the: *(Check all that apply)*
☐ Applicant ☐ Other Adults named in **2** above.
 The addresses of the prohibited locations are: *(Check all that apply)*
☐ Deemed confidential. The clerk is ordered to strike the information from all public court records and maintain a confidential record of the information for Court use only.
☐ Disclosed as follows:
 Applicant's Residence: _____
 Applicant's Workplace/School: _____
 Other: _____
- g. ☐ Not go within 200 yards of the Children's Residence, child-care facility, or school, except as authorized by a court order. The addresses of the prohibited locations are: *(Check all that apply)*
☐ Deemed confidential. The clerk is ordered to strike the information from all public court records and maintain a confidential record of the information for Court use only.
☐ Disclosed as follows:
 Children's Residence: _____
 Children's Child-care/School: _____
 Other: _____
- h. ☐ Not stalk, follow or engage in conduct directed specifically to any person named in **2** above that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass them.
- i. ☒ Not possess a firearm or ammunition, unless the Respondent is a peace officer actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision. Any license to carry a concealed handgun issued to the Respondent is hereby SUSPENDED.

5 Family Violence Prevention Program

- ☐ The Respondent is ordered to enroll in, pay costs for, and enter the program checked below no later than ___/___/___, and to complete the program by ___/___/___. *(Check one):*
☐ The local Battering Intervention and Prevention Program that meets the guidelines adopted by the community justice assistance division of the Texas Department of Criminal Justice:

Or if no such Battering Intervention and Prevention Program is available, then:

- ☐ A counseling program recommended and conducted by the following social worker, family service agency, physician, psychologist, licensed therapist, or licensed professional counselor:

- ☐ The Respondent is ordered to comply with any recommendation or referral for additional or alternate counseling within seven (7) days of the recommendation, and ordered to complete any additional or alternate program recommended. The Respondent is ordered to sign a waiver for release of information upon enrollment so that participation in the program may be monitored by the Applicant and/or the Court.
- ☐ The Respondent must also follow these provisions to prevent family violence:

6 Property Orders

- ☐ The Court finds that the Residence located at: _____
(Check one):
- ☐ is jointly owned or leased by the Applicant and Respondent;
 - ☐ is solely owned or leased by the Applicant; or
 - ☐ is solely owned or leased by the Respondent; and the Respondent is obligated to support the Applicant or a child in the Applicant's possession.
- ☐ IT IS ORDERED that the Applicant shall have exclusive use of the Residence identified above, and the Respondent must vacate the Residence no later than: _____ ☐ a.m. ☐ p.m. on (date): _____.
- ☐ IT IS FURTHER ORDERED that the sheriff, constable, or chief of police shall provide a law enforcement officer to accompany the Applicant to the Residence, to inform the Respondent that the Court has ordered the Respondent to be excluded from the Residence, to provide protection while the Applicant takes possession of the Residence and the Respondent removes any necessary personal property, and, if the Respondent refuses to vacate the Residence, to remove the Respondent from the Residence and arrest the Respondent for violating the Court's Order.

7 Other Property Orders

- ☐ The Court finds that the Applicant and Respondent jointly own or lease the following Additional Property, and awards the Applicant the exclusive use of:
- _____
- _____

The Respondent must not damage, transfer, encumber, or otherwise dispose of the Additional Property identified above or any other property jointly owned or leased by the parties, except in the ordinary course of business or for reasonable and necessary living expenses, including, but not limited to, removing or disabling any vehicle owned or possessed by the Applicant or jointly by the parties (whether so titled or not).

8 Spousal Support Order

- ☐ IT IS ORDERED that the Respondent pay the Applicant support in the amount of \$_____ per month, with the first payment due and payable on ___ / ___ / ___ and a like payment due and payable on the _____ day of each following month until further Order of this Court. IT IS ORDERED that all payments be sent to the Applicant at the address listed below and postmarked on or before the due date for each payment:
- _____

9 Orders Related to Removal, Possession and Support of Children

The Court finds that the Respondent is a parent of the Children. The Protective Order below is in the best interests of the Applicant, Children, and/or Other Adults named in **2** above.

- ☐ **Removal** — Check one or both:
- The Respondent must:
- ☐ Not remove the Children from the Applicant's possession or from their child-care facility or school, except as specifically authorized in a possession schedule ordered by the Court.
 - ☐ Not remove the Children from the jurisdiction of the Court.
- ☐ **Possession** — Check one:
- ☐ The Applicant is granted exclusive possession of the Children, and the Respondent shall have no possession or access to the Children, unless and until further Orders are entered by the Court. This Order supersedes any previous order granting the Respondent possession or access to the Children.
 - ☐ The Applicant is granted primary possession of the Children, and the Respondent may have possession of the Children pursuant to the possession schedule attached to this Protective Order as Exhibit A, subject to the terms and conditions stated herein as necessary for the safety of the Applicant and the Children. The possession schedule hereby ordered supersedes any previous order.

- ☐ The possession schedule previously entered on ___ / ___ / ___, in case number _____, styled _____, shall continue to govern the Respondent's possession and access to the Children, except that no exchanges of the Children shall occur at a prohibited location described in this Protective Order.

☐ **Child Support** — Nothing in this Protective Order shall be construed as relieving the Respondent of any past or future obligation to pay child support as previously ordered. — Check one:

- ☐ The Respondent is ordered to pay child support to the Applicant in the amount of \$ _____ per month, with the first such payment due and payable on ___ / ___ / ___, and a like payment due and payable on the _____ day of each month thereafter for the term of this Protective Order or until further Order of the Court, whichever occurs first.

The Respondent is ordered to make all child support payments payable to the Applicant, and must mail all payments to:

Texas Child Support Disbursement Unit, P.O. Box 659791, San Antonio, TX 78265-9791

That agency will send the payment to the Applicant for the support of the Children. The Respondent must keep the child support registry informed of the Respondent's Residence and work addresses.

On this date, the Court signed an Income Withholding Order, ordering the employer and any subsequent employer of the Respondent to withhold court-ordered child support from the Respondent's earnings. **The existence of the Order for withholding from earnings for child support does not excuse the Respondent from personally making any child support payment herein, except to the extent the Respondent's employer actually makes the payment on behalf of the Respondent.**

- ☐ The child support Order previously entered on ___ / ___ / ___, in case number _____, styled _____, shall continue to govern the Respondent's child support obligations with respect to the Children.

10 ☐ Fees and Costs

Within 60 days after this Order is signed, the Respondent must pay the Total Fees and Costs as follows:

Total to be paid: \$ _____

(This includes fees for service: \$ _____ + all other Court fees and costs: \$ _____)

Address where Respondent must pay the Clerk of the Court with cash, cashier's check, or money order:

11 ☐ Attorney's Fees

Within 60 days after this Order is signed, the Respondent must pay the attorney who helped enter this Protective Order the Attorney Fees listed below. Pay with cash, cashier's check, or money order.

Attorney Fees awarded by the Court: \$ _____

Attorney's name: _____

Attorney's address: _____

Attorney (name) _____ shall have and recover judgment against the Respondent (name) _____ for \$ _____, such judgment bearing interest at _____ percent per annum compounded annually from the date this judgment and Order is signed until paid, for which let execution issue if it is not paid.

12 Service

This Protective Order (Check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Was served on the Respondent in open court. | <input type="checkbox"/> Shall be delivered to the Respondent by certified |
| <input type="checkbox"/> Shall be personally served on the Respondent. | mail, return receipt requested, or by fax, to the |
| <input type="checkbox"/> Shall be mailed by the Clerk of the Court to the Respondent. | Respondent's last known address or fax number, or |
- attested by Tex. R. Civ. P. 21a.

13 Copies Forwarded

The Clerk is ORDERED to forward copies of this Protective Order and accompanying Respondent Information Form to (Check all that apply):

- ☒ Sheriff and Constable of _____ County, Texas
☐ Police Chief of the City of _____
☐ Children's child-care facility/schools listed above.

Any law enforcement agency receiving a copy of this Protective Order MUST, within 10 days, enter all required information into the Department of Public Safety's statewide law enforcement information system.

14 Duration of Order

This Protective Order is in full force and effect until (date) _____ (Texas law provides that the Protective Order may last for two years after the date it is signed.) If the Respondent is confined or imprisoned on the date this Protective Order is scheduled to expire, the Protective Order will expire one year after the date of the Respondent's release.

Warning: A person who violates this Order may be punished for contempt of court by a fine of as much as \$500 or by confinement in jail for as long as six months, or both.

No person, including a person who is protected by this Order, may give permission to anyone to ignore or violate any provision of this Order. During the time in which this Order is valid, every provision of this Order is in full force and effect unless a court changes the Order.

It is unlawful for any person, other than a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision, who is subject to a Protective Order to possess a firearm or ammunition.

A violation of this Order by commission of an act prohibited by the Order may be punishable by a fine of as much as \$4,000 or by confinement in jail for as long as one year, or both. An act that results in family violence may be prosecuted as a separate misdemeanor or felony offense. If the act is prosecuted as a separate felony offense, it is punishable by confinement in prison for at least two years.

Possession of a firearm or ammunition while this Protective Order is in effect may subject respondent to federal criminal penalties. It is unlawful for any person who is subject to a Protective Order to knowingly purchase, rent, lease, or receive as a loan or gift from another, a handgun for the duration of this Order.

Interstate violation of this Protective Order may subject the Respondent to federal criminal penalties. This Protective Order is enforceable in all fifty states, the District of Columbia, tribal lands, and U.S. territories.

This Protective Order signed on (date): _____ Time: _____ ☐ a.m. ☐ p.m.

Judge Presiding: _____

This is a Court Order. No one – except the Court – can change this Order.

Agreed Order

By their signatures below, the Applicant and Respondent agree to the entry of the foregoing Protective Order and approve all terms stated in the Order:

Applicant

Respondent

Receipt Acknowledged – The Respondent hereby acknowledges receipt of a copy of this Protective Order.

Respondent

Protective Order
Form Approved by the

Sample Only – Do Not File

Case No.: _____

Applicant: _____ § In the _____ Court
v. §
§
§ of
§
Respondent: _____ § _____ County, Texas
§

Protective Order

A court hearing was held on: Date: _____ Time: _____ ☐ a.m. ☐ p.m.

Findings: All legal requirements have been met, and the Court has jurisdiction over the parties and this case. This Order is in the best interests of the Protected Person(s) and is necessary to prevent future family violence.

- ☐ The Applicant and Respondent are spouses, former spouses, parents of the same child, live-in partners, or former live-in partners, and are thus "intimate partners" as defined by 18 U.S.C. § 921(a)(32).
- ☐ The parties have agreed to the terms of this Protective Order.

Statutory grounds for the Protective Order have been established. *(Check one or both):*

- ☐ The Respondent has committed family violence against the Applicant or Children named below and is likely to commit family violence in the future.
- ☐ The Respondent has violated a prior Protective Order that expired or will expire within 30 days.

1 Appearances: *(Check any that apply):*

Applicant Respondent

- ☐ ☐ Appeared in person and announced ready.
- ☐ ☐ Appeared in person and by attorney, _____, and announced ready.
- ☐ ☐ Appeared by signature below evidencing agreement to the entry of this Protective Order.
- ☐ ☐ Although duly cited, did not appear and wholly made default.

2 Protected People: The following people are protected by the terms of this Protective Order:

	Name:	County of Residence:
<input type="checkbox"/> Applicant:	_____	_____
<input type="checkbox"/> Children:	_____	_____
	_____	_____
	_____	_____
<input type="checkbox"/> Other Adults:	_____	_____

3 A Record of Testimony *(Check one):* ☐ was made by: _____ ☐ was waived by the parties.

4 Protective Orders — To prevent family violence, the Court orders the Respondent to obey all Orders marked with a check. ☒ **The Respondent must:**

- a. ☐ Not commit an act against any person named in **2** above that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places those people in fear of imminent physical harm, bodily injury, assault, or sexual assault.
- b. ☐ Not communicate in a threatening or harassing manner with any person named in **2** above.
- c. ☐ Not communicate a threat through any person to anyone named in **2** above.

- d. ☐ Not communicate or attempt to communicate in any manner with: *(Check all that apply)*
☐ Applicant ☐ Children ☐ Other Adults in **2** above (except through: _____)
 Good cause exists for prohibiting the Respondent's direct communications.
- e. ☐ Not go within 200 yards of the: *(Check all that apply)*
☐ Applicant ☐ Children ☐ Other Adults named in **2** above.
 (Except to go to court hearings or to exchange Children as authorized by a court order)
- f. ☐ Not go within 200 yards of the Residence, workplace or school of the: *(Check all that apply)*
☐ Applicant ☐ Other Adults named in **2** above.
 The addresses of the prohibited locations are: *(Check all that apply)*
☐ Deemed confidential. The clerk is ordered to strike the information from all public court records and maintain a confidential record of the information for Court use only.
☐ Disclosed as follows:
 Applicant's Residence: _____
 Applicant's Workplace/School: _____
 Other: _____
- g. ☐ Not go within 200 yards of the Children's Residence, child-care facility, or school, except as authorized by a court order. The addresses of the prohibited locations are: *(Check all that apply)*
☐ Deemed confidential. The clerk is ordered to strike the information from all public court records and maintain a confidential record of the information for Court use only.
☐ Disclosed as follows:
 Children's Residence: _____
 Children's Child-care/School: _____
 Other: _____
- h. ☐ Not stalk, follow or engage in conduct directed specifically to any person named in **2** above that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass them.
- i. ☒ Not possess a firearm or ammunition, unless the Respondent is a peace officer actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision. Any license to carry a concealed handgun issued to the Respondent is hereby SUSPENDED.

5 Family Violence Prevention Program

- ☐ The Respondent is ordered to enroll in, pay costs for, and enter the program checked below no later than ____/____/____, and to complete the program by ____/____/____. *(Check one):*
- ☐ The local Battering Intervention and Prevention Program that meets the guidelines adopted by the community justice assistance division of the Texas Department of Criminal Justice:

Or if no such Battering Intervention and Prevention Program is available, then:

- ☐ A counseling program recommended and conducted by the following social worker, family service agency, physician, psychologist, licensed therapist, or licensed professional counselor:
- _____
- ☐ The Respondent is ordered to comply with any recommendation or referral for additional or alternate counseling within seven (7) days of the recommendation, and ordered to complete any additional or alternate program recommended. The Respondent is ordered to sign a waiver for release of information upon enrollment so that participation in the program may be monitored by the Applicant and/or the Court.
- ☐ The Respondent must also follow these provisions to prevent family violence:
- _____
- _____

6 Property Orders

- ☐ The Court finds that the Residence located at: _____
(Check one):
- ☐ is jointly owned or leased by the Applicant and Respondent;
 - ☐ is solely owned or leased by the Applicant; or
 - ☐ is solely owned or leased by the Respondent; and the Respondent is obligated to support the Applicant or a child in the Applicant's possession.
- ☐ IT IS ORDERED that the Applicant shall have exclusive use of the Residence identified above, and the Respondent must vacate the Residence no later than: _____ ☐ a.m. ☐ p.m. on (date): _____.
- ☐ IT IS FURTHER ORDERED that the sheriff, constable, or chief of police shall provide a law enforcement officer to accompany the Applicant to the Residence, to inform the Respondent that the Court has ordered the Respondent to be excluded from the Residence, to provide protection while the Applicant takes possession of the Residence and the Respondent removes any necessary personal property, and, if the Respondent refuses to vacate the Residence, to remove the Respondent from the Residence and arrest the Respondent for violating the Court's Order.

7 Other Property Orders

- ☐ The Court finds that the Applicant and Respondent jointly own or lease the following Additional Property, and awards the Applicant the exclusive use of:
- _____

The Respondent must not damage, transfer, encumber, or otherwise dispose of the Additional Property identified above or any other property jointly owned or leased by the parties, except in the ordinary course of business or for reasonable and necessary living expenses, including, but not limited to, removing or disabling any vehicle owned or possessed by the Applicant or jointly by the parties (whether so titled or not).

8 Spousal Support Order

- ☐ IT IS ORDERED that the Respondent pay the Applicant support in the amount of \$ _____ per month, with the first payment due and payable on ___ / ___ / ___ and a like payment due and payable on the _____ day of each following month until further Order of this Court. IT IS ORDERED that all payments be sent to the Applicant at the address listed below and postmarked on or before the due date for each payment:
- _____

9 Orders Related to Removal, Possession and Support of Children

The Court finds that the Respondent is a parent of the Children. The Protective Order below is in the best interests of the Applicant, Children, and/or Other Adults named in **2** above.

- ☐ **Removal** — Check one or both:
- The Respondent must:
- ☐ Not remove the Children from the Applicant's possession or from their child-care facility or school, except as specifically authorized in a possession schedule ordered by the Court.
 - ☐ Not remove the Children from the jurisdiction of the Court.
- ☐ **Possession** — Check one:
- ☐ The Applicant is granted exclusive possession of the Children, and the Respondent shall have no possession or access to the Children, unless and until further Orders are entered by the Court. This Order supersedes any previous order granting the Respondent possession or access to the Children.
 - ☐ The Applicant is granted primary possession of the Children, and the Respondent may have possession of the Children pursuant to the possession schedule attached to this Protective Order as Exhibit A, subject to the terms and conditions stated herein as necessary for the safety of the Applicant and the Children. The possession schedule hereby ordered supersedes any previous order granting the Respondent possession and access to the Children.

- ☐ The possession schedule previously entered on ___ / ___ / ___, in case number _____, styled _____, shall continue to govern the Respondent's possession and access to the Children, except that no exchanges of the Children shall occur at a prohibited location described in this Protective Order.

☐ **Child Support** — Nothing in this Protective Order shall be construed as relieving the Respondent of any past or future obligation to pay child support as previously ordered. — Check one:

- ☐ The Respondent is ordered to pay child support to the Applicant in the amount of \$ _____ per month, with the first such payment due and payable on ___ / ___ / ___, and a like payment due and payable on the _____ day of each month thereafter for the term of this Protective Order or until further Order of the Court, whichever occurs first.

The Respondent is ordered to make all child support payments payable to the Applicant, and must mail all payments to:

Texas Child Support Disbursement Unit, P.O. Box 659791, San Antonio, TX 78265-9791

That agency will send the payment to the Applicant for the support of the Children. The Respondent must keep the child support registry informed of the Respondent's Residence and work addresses.

On this date, the Court signed an Income Withholding Order, ordering the employer and any subsequent employer of the Respondent to withhold court-ordered child support from the Respondent's earnings. **The existence of the Order for withholding from earnings for child support does not excuse the Respondent from personally making any child support payment herein, except to the extent the Respondent's employer actually makes the payment on behalf of the Respondent.**

- ☐ The child support Order previously entered on ___ / ___ / ___, in case number _____, styled _____, shall continue to govern the Respondent's child support obligations with respect to the Children.

10 ☐ Fees and Costs

Within 60 days after this Order is signed, the Respondent must pay the Total Fees and Costs as follows:

Total to be paid: \$ _____

(This includes fees for service: \$ _____ + all other Court fees and costs: \$ _____)

Address where Respondent must pay the Clerk of the Court with cash, cashier's check, or money order:

11 ☐ Attorney's Fees

Within 60 days after this Order is signed, the Respondent must pay the attorney who helped enter this Protective Order the Attorney Fees listed below. Pay with cash, cashier's check, or money order.

Attorney Fees awarded by the Court: \$ _____

Attorney's name: _____

Attorney's address: _____

Attorney (name) _____ shall have and recover judgment against the Respondent (name) _____ for \$ _____, such judgment bearing interest at _____ percent per annum compounded annually from the date this judgment and Order is signed until paid, for which let execution issue if it is not paid.

12 ☐ Service

This Protective Order (Check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Was served on the Respondent in open court. | <input type="checkbox"/> Shall be delivered to the Respondent by certified mail, return receipt requested, or by fax, to the Respondent's last known address or fax number, or in any other manner allowed by Tex. R. Civ. P. 21a. |
| <input type="checkbox"/> Shall be personally served on the Respondent. | |
| <input type="checkbox"/> Shall be mailed by the Clerk of the Court to the Respondent's last known address. | |

13 Copies Forwarded

The Clerk is ORDERED to forward copies of this Protective Order and accompanying Respondent Information Form to *(Check all that apply)*:

- ☒ Sheriff and Constable of _____ County, Texas
☐ Police Chief of the City of _____
☐ Children's child-care facility/schools listed above.

Any law enforcement agency receiving a copy of this Protective Order MUST, within 10 days, enter all required information into the Department of Public Safety's statewide law enforcement information system.

14 Duration of Order

This Protective Order is in full force and effect until *(date)* _____ (Texas law provides that the Protective Order may last for two years after the date it is signed.) If the Respondent is confined or imprisoned on the date this Protective Order is scheduled to expire, the Protective Order will expire one year after the date of the Respondent's release.

Warning: A person who violates this Order may be punished for contempt of court by a fine of as much as \$500 or by confinement in jail for as long as six months, or both.

No person, including a person who is protected by this Order, may give permission to anyone to ignore or violate any provision of this Order. During the time in which this Order is valid, every provision of this Order is in full force and effect unless a court changes the Order.

It is unlawful for any person, other than a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision, who is subject to a Protective Order to possess a firearm or ammunition.

A violation of this Order by commission of an act prohibited by the Order may be punishable by a fine of as much as \$4,000 or by confinement in jail for as long as one year, or both. An act that results in family violence may be prosecuted as a separate misdemeanor or felony offense. If the act is prosecuted as a separate felony offense, it is punishable by confinement in prison for at least two years.

Possession of a firearm or ammunition while this Protective Order is in effect may subject respondent to federal criminal penalties. It is unlawful for any person who is subject to a Protective Order to knowingly purchase, rent, lease, or receive as a loan or gift from another, a handgun for the duration of this Order.

Interstate violation of this Protective Order may subject the Respondent to federal criminal penalties. This Protective Order is enforceable in all fifty states, the District of Columbia, tribal lands, and U.S. territories.

This Protective Order signed on *(date)*: _____ Time: _____ ☐ a.m. ☐ p.m.

Judge Presiding: ► _____

This is a Court Order. No one – except the Court – can change this Order.

Agreed Order

By their signatures below, the Applicant and Respondent agree to the entry of the foregoing Protective Order and approve all terms stated in the Order:

► _____
Applicant

► _____
Respondent

Receipt Acknowledged – The Respondent hereby acknowledges receipt of a copy of this Protective Order.

► _____
Respondent

Respondent Information

Fill out this form then file it with the clerk. Law enforcement needs this information to serve the Respondent and enter it into the state database for protective orders.

Respondent's Name: _____

Alias (Nickname): _____

Respondent's relationship to Applicant: _____

Respondent lives in: _____ County

Street: _____ City: _____ State: _____ Zip: _____

Sex ☐ M ☐ F **DoB** ____/____/____ **DL #** _____

Height ____ ft ____ in **Place of birth** _____ **Other ID#** _____

Weight ____ lbs **SS #** _____ **State** _____ **Expires** _____

Race	Eye color	Hair color	Skin
<input type="checkbox"/> American Indian or Alaskan Native (I)	<input type="checkbox"/> Black (BLK)	<input type="checkbox"/> Black (BLK)	<input type="checkbox"/> Albino (ALB)
<input type="checkbox"/> Asian Pacific Islander (A)	<input type="checkbox"/> Blue (BLU)	<input type="checkbox"/> Blond or Strawberry (BLN)	<input type="checkbox"/> Black (BLK)
<input type="checkbox"/> Black (B)	<input type="checkbox"/> Brown (BRO)	<input type="checkbox"/> Brown (BRO)	<input type="checkbox"/> Dark (DRK)
<input type="checkbox"/> White (W)	<input type="checkbox"/> Gray (GRY)	<input type="checkbox"/> Gray or partially gray (GRY)	<input type="checkbox"/> Dark Brown (DBR)
<input type="checkbox"/> Unknown (All other non-whites) (U)	<input type="checkbox"/> Green (GRN)	<input type="checkbox"/> Red or Auburn (RED)	<input type="checkbox"/> Fair (FAR)
<i>Other:</i> _____	<input type="checkbox"/> Hazel (HAZ)	<input type="checkbox"/> White (WHI)	<input type="checkbox"/> Light (LGT)
	<input type="checkbox"/> Maroon (MAR)	<input type="checkbox"/> Sandy (SDY)	<input type="checkbox"/> Light Brown (LBR)
	<input type="checkbox"/> Pink (PNK)	<input type="checkbox"/> Completely Bald or Unknown (xxx)	<input type="checkbox"/> Medium (MED)
	<input type="checkbox"/> Multicolored (MUL)		<input type="checkbox"/> Medium Brown (MBR)
	<input type="checkbox"/> Unknown (xxx)		<input type="checkbox"/> Olive (OLV)
	<i>Other:</i> _____	<i>Other (style/length):</i> _____	<input type="checkbox"/> Ruddy (RUD)
			<input type="checkbox"/> Sallow (SAL)
			<input type="checkbox"/> Yellow (YEL)
			<input type="checkbox"/> Unknown (xxx)
			<i>Other:</i> _____

Ethnicity

- ☐ Hispanic (H)
☐ Non-Hispanic (N)
☐ Unknown (U)

You do not have to fill out the rest of this form. But, it may help law enforcement serve the Respondent.

Other Identifying Information *Check all that apply*

- | | | |
|--|---|--|
| <input type="checkbox"/> Glasses | Unusual markings on body (describe) _____ | <input type="checkbox"/> Mental Problems _____ |
| <input type="checkbox"/> Beard | <input type="checkbox"/> Tattoos _____ | |
| <input type="checkbox"/> Moustache | <input type="checkbox"/> Scars _____ | <input type="checkbox"/> Drug/Alcohol Problems _____ |
| <input type="checkbox"/> Missing front teeth | <input type="checkbox"/> Markings _____ | <input type="checkbox"/> Weapons _____ |
| <input type="checkbox"/> Bald | <input type="checkbox"/> Piercings _____ | |

Respondent works at (name of business): _____

Street: _____ City: _____ State: _____ Zip: _____

Phone: _____ Hours/Dept: _____ Supervisor: _____

Respondent's Vehicle: VIN _____ Color: _____ Year: _____ Make/Model: _____

License Plate # _____ State: _____ Exp. _____

Respondent's Attorney (Name): _____

Phone: _____ Address: _____

Other contacts who may have information to help find Respondent:

Name: _____ **Phone:** _____

Address: _____ **Relationship:** _____

Other Information: _____

Name: _____ **Phone:** _____

Address: _____ **Relationship:** _____

Other Information: _____

Exhibit K

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 09- **9195**

ORDER ADOPTING AMENDED TEXAS RULE OF CIVIL PROCEDURE 737

ORDERED that:

1. As required by the Act of May 27, 2009, 81st Leg., R.S., ch. 225, § 1, 2009 Tex. Gen. Laws 623 (SB 1448), and in accordance with its mandatory deadlines, the Supreme Court of Texas amends Rule 737 of the Texas Rules of Civil Procedure as follows, effective January 1, 2010.

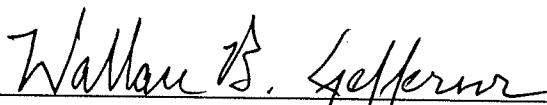
2. To facilitate the proper filing of a suit brought under SB 1448 and Rule 737, the Supreme Court of Texas also promulgates a form petition that tenants may use in these suits. This form petition should be appended, as Appendix A, to the end of the Texas Rules of Civil Procedure.

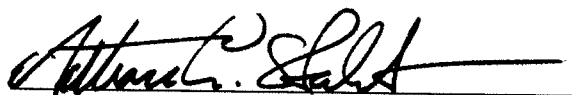
3. The Clerk is directed to:

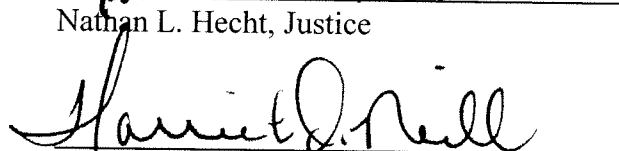
- a. file a copy of this Order with the Secretary of State;
- b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
- c. send a copy of this Order to each elected member of the Legislature; and
- d. submit a copy of the Order for publication in the *Texas Register*.

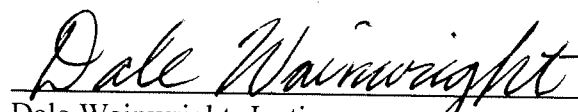
3. These amendments may be changed in response to comments received on or before April 1, 2010. Any interested party may submit written comments directed to Kennon L. Peterson, Rules Attorney, at P.O. Box 12248, Austin TX 78711, or kennon.peterson@courts.state.tx.us.

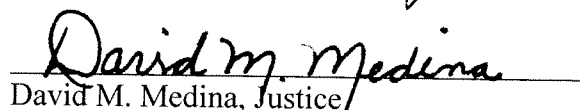
SIGNED this 14th day of December, 2009.



Wallace B. Jefferson, Chief Justice.

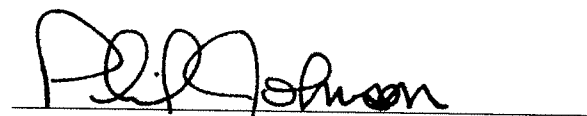

Nathan L. Hecht, Justice

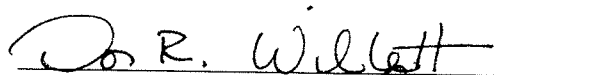

Harriet O'Neill, Justice

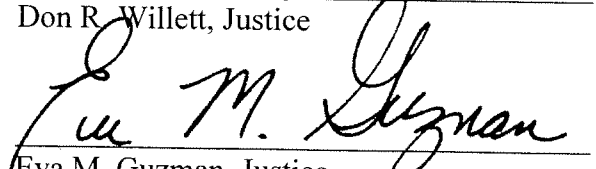

Dale Wainwright, Justice


David M. Medina, Justice


Paul W. Green, Justice


Phil Johnson, Justice


Don R. Willett, Justice


Eva M. Guzman, Justice

PART VII
RULES RELATING TO SPECIAL PROCEEDINGS

* * *

SECTION 2. JUSTICE COURT PROCEEDINGS
TO ENFORCE LANDLORD'S DUTY TO REPAIR OR REMEDY
RESIDENTIAL RENTAL PROPERTY

Rule 737.1. Applicability of Rule

This rule applies to a suit filed in a justice court by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. Rules 523-574b also apply to the extent they are not inconsistent with this rule.

Rule 737.2. Contents of Petition; Copies; Forms and Amendments

- (a) *Contents of Petition.* The petition must be in writing and must include the following:
- (1) the street address of the residential rental property;
 - (2) a statement indicating whether the tenant has received in writing the name and business street address of the landlord and landlord's management company;
 - (3) to the extent known and applicable, the name, business street address, and telephone number of the landlord and the landlord's management company, on-premises manager, and rent collector serving the residential rental property;
 - (4) for all notices the tenant gave to the landlord requesting that the condition be repaired or remedied:
 - (A) the date of the notice;
 - (B) the name of the person to whom the notice was given or the place where the notice was given;

- (C) whether the tenant's lease is in writing and requires written notice;
 - (D) whether the notice was in writing or oral;
 - (E) whether any written notice was given by certified mail, return receipt requested, or by registered mail; and
 - (F) whether the rent was current or had been timely tendered at the time notice was given;
- (5) a description of the property condition materially affecting the physical health or safety of an ordinary tenant that the tenant seeks to have repaired or remedied;
 - (6) a statement of the relief requested by the tenant, including an order to repair or remedy a condition, a reduction in rent, actual damages, civil penalties, attorney's fees, and court costs;
 - (7) if the petition includes a request to reduce the rent:
 - (A) the amount of rent paid by the tenant, the amount of rent paid by the government, if known, the rental period, and when the rent is due; and
 - (B) the amount of the requested rent reduction and the date it should begin;
 - (8) a statement that the total relief requested does not exceed \$10,000, excluding interest and court costs but including attorney's fees; and
 - (9) the tenant's name, address, and telephone number.
- (b) *Copies.* The tenant must provide the court with copies of the petition and any attachments to the petition for service on the landlord.
 - (c) *Forms and Amendments.* A petition substantially in the form promulgated by the Supreme Court is sufficient. A suit may not be dismissed for a defect in the petition unless the tenant is given an opportunity to correct the defect and does not promptly correct it.

Rule 737.3. Citation: Issuance; Appearance Date

- (a) *Issuance.* When the tenant files a written petition with a justice court, the justice must immediately issue citation directed to the landlord, commanding the landlord to appear before such justice at the time and place named in the citation.
- (b) *Appearance Date.* The appearance date on the citation must not be earlier than the sixth day nor later than the tenth day after the date of service of the citation. For purposes of this rule, the appearance date on the citation is the trial date.

Rule 737.4. Service and Return of Citation; Alternative Service of Citation

- (a) *Service and Return of Citation.* The sheriff, constable, or other person authorized by Rule 536 who receives the citation must serve the citation by delivering a copy of it, along with a copy of the petition and any attachments, to the landlord at least six days before the appearance date. At least one day before the appearance date, the person serving the citation must return the citation, with the action written on the citation, to the justice who issued the citation. The citation must be issued, served, and returned in like manner as ordinary citations issued from a justice court.
- (b) *Alternative Service of Citation.*
 - (1) If the petition does not include the landlord's name and business street address, or if, after making diligent efforts on at least two occasions, the sheriff, constable, or other person authorized by Rule 536 is unsuccessful in serving the citation on the landlord under (a), the sheriff, constable, or other person authorized by Rule 536 must serve the citation by delivering a copy of the citation, petition, and any attachments to:
 - (A) the landlord's management company if the tenant has received written notice of the name and business street address of the landlord's management company; or
 - (B) if (b)(1)(A) does not apply and the tenant has not received the landlord's name and business street address in writing, the landlord's authorized agent for service of process, which may be the landlord's management company, on-premise manager, or rent collector serving the residential rental property.

- (2) If the sheriff, constable, or other person authorized by Rule 536 is unsuccessful in serving citation under (b)(1) after making diligent efforts on at least two occasions at either the business street address of the landlord's management company, if (b)(1)(A) applies, or at each available business street address of the landlord's authorized agent for service of process, if (b)(1)(B) applies, the sheriff, constable, or other person authorized by Rule 536 must execute and file in the justice court a sworn statement that the sheriff, constable, or other person authorized by Rule 536 made diligent efforts to serve the citation on at least two occasions at all available business street addresses of the landlord and, to the extent applicable, the landlord's management company, on-premises manager, and rent collector serving the residential rental property, providing the times, dates, and places of each attempted service. The justice may then authorize the sheriff, constable, or other person authorized by Rule 536 to serve citation by:
- (A) delivering a copy of the citation, petition, and any attachments to someone over the age of sixteen years, at any business street address listed in the petition, or, if nobody answers the door at a business street address, either placing the citation, petition, and any attachments through a door mail chute or slipping them under the front door, and if neither of these latter methods is practical, affixing the citation, petition, and any attachments to the front door or main entry to the business street address;
 - (B) within 24 hours of complying with (b)(2)(A), sending by first class mail a true copy of the citation, petition, and any attachments addressed to the landlord at the landlord's business street address provided in the petition; and
 - (C) noting on the return of the citation the date of delivery under (b)(2)(A) and the date of mailing under (b)(2)(B).

The delivery and mailing to the business street address under (b)(2)(A)-(B) must occur at least six days before the appearance date. At least one day before the appearance date, the citation, with the action written thereon, must be returned to the justice who issued the citation. It is not necessary for the tenant to request the alternative service authorized by this rule.

Rule 737.5. Representation of Parties

Parties may represent themselves. A party may also be represented by an authorized agent, but nothing in this rule authorizes a person who is not an attorney licensed to practice law in this state to represent a party before the court if the party is present.

Rule 737.6. Docketing and Trial; Failure to Appear; Continuance

- (a) *Docketing and Trial.* The case shall be docketed and tried as other cases. The justice may develop the facts of the case in order to ensure justice.
- (b) *Failure to Appear.*
 - (1) If the tenant appears at trial and the landlord has been duly served and fails to appear at trial, the justice may proceed to hear evidence. If the tenant establishes that the tenant is entitled to recover, the justice shall render judgment against the landlord in accordance with the evidence.
 - (2) If the tenant fails to appear for trial, the justice may dismiss the suit.
- (c) *Continuance.* The justice may continue the trial for good cause shown. Continuances should be limited, and the case should be reset for trial on an expedited basis.

Rule 737.7. Discovery

Reasonable discovery may be permitted. Discovery is limited to that considered appropriate and permitted by the justice and must be expedited. In accordance with Rule 215, the justice may impose any appropriate sanction on any party who fails to respond to a court order for discovery.

Rule 737.8. Judgment: Amount; Form and Content; Issuance and Service; Failure to Comply

- (a) *Amount.* Judgment may be rendered against the landlord for failure to repair or remedy a condition at the residential rental property if the total judgment does not exceed \$10,000, excluding interest and court costs but including attorney's fees. Any party who prevails in a suit brought under these rules may recover the party's court costs and reasonable attorney's fees as allowed by law.

(b) *Form and Content.*

- (1) The judgment must be in writing, signed, and dated and must include the names of the parties to the proceeding and the street address of the residential rental property where the condition is to be repaired or remedied.
- (2) In the judgment, the justice may:
 - (A) order the landlord to take reasonable action to repair or remedy the condition;
 - (B) order a reduction in the tenant's rent, from the date of the first repair notice, in proportion to the reduced rental value resulting from the condition until the condition is repaired or remedied;
 - (C) award a civil penalty of one month's rent plus \$500;
 - (D) award the tenant's actual damages; and
 - (E) award court costs and attorney's fees, excluding any attorney's fees for a cause of action for damages relating to a personal injury.
- (3) If the justice orders the landlord to repair or remedy a condition, the judgment must include in reasonable detail the actions the landlord must take to repair or remedy the condition and the date when the repair or remedy must be completed.
- (4) If the justice orders a reduction in the tenant's rent, the judgment must state:
 - (A) the amount of the rent the tenant must pay, if any;
 - (B) the frequency with which the tenant must pay the rent;
 - (C) the condition justifying the reduction of rent;
 - (D) the effective date of the order reducing rent;
 - (E) that the order reducing rent will terminate on the date the condition is repaired or remedied; and

- (F) that on the day the condition is repaired or remedied, the landlord must give the tenant written notice, served in accordance with Rule 21a, that the condition justifying the reduction of rent has been repaired or remedied and the rent will revert to the rent amount specified in the lease.
- (c) *Issuance and Service.* The justice must issue the judgment. The judgment may be served on the landlord in open court or by any means provided in Rule 21a at an address listed in the citation, the address listed on any answer, or such other address the landlord furnishes to the court in writing. Unless the justice serves the landlord in open court or by other means provided in Rule 21a, the sheriff, constable, or other person authorized by Rule 536 who serves the landlord must promptly file a certificate of service in the justice court.
- (d) *Failure to Comply.* If the landlord fails to comply with an order to repair or remedy a condition or reduce the tenant's rent, the failure is grounds for citing the landlord for contempt of court under Section 21.002 of the Government Code.

Rule 737.9. Counterclaims

Counterclaims and the joinder of suits against third parties are not permitted in suits under these rules. Compulsory counterclaims may be brought in a separate suit. Any potential causes of action, including a compulsory counterclaim, that are not asserted because of this rule are not precluded.

Rule 737.10. Post-Judgment Motions: Time and Manner; Disposition; Number

- (a) *Time and Manner.* A party may file a motion for new trial, a motion to amend the judgment, or a motion to set aside a default judgment or a dismissal for want of prosecution. The motion must be in writing and filed within ten days after the date the justice signs the judgment or dismissal order.
- (b) *Disposition.*
 - (1) If the justice grants a motion for new trial or a motion to set aside a default judgment or a dismissal for want of prosecution, the resulting trial must occur within ten days after the date the justice signs the order granting the motion.
 - (2) If the justice grants a motion to amend the judgment, the justice must amend the judgment within fifteen days after the date the justice signs the original judgment.

- (3) If the justice does not rule on a motion for new trial, a motion to amend the judgment, or a motion to set aside a default judgment or a dismissal for want of prosecution with a written, signed order within fifteen days after the justice signs the judgment or dismissal order, the motion is considered overruled by operation of law on expiration of that period.
- (c) *Number.* A party may file only one motion for new trial, one motion to amend the judgment, and one motion to set aside a default judgment or a dismissal for want of prosecution.

Rule 737.11. Plenary Power

The justice court's plenary power expires when a party perfects an appeal. If a party does not perfect an appeal, the justice court has plenary power to grant a new trial, amend or vacate the judgment, or set aside a default judgment or a dismissal for want of prosecution within fifteen days after the date the justice signs the judgment or dismissal order.

Rule 737.12. Appeal: Time and Manner; Perfection; Effect; Costs; Trial on Appeal

- (a) *Time and Manner.* Either party may appeal the decision of the justice court to a statutory county court or, if there is no statutory county court with jurisdiction, a county court or district court with jurisdiction by filing a written notice of appeal with the justice court within twenty days after the date the justice signs the judgment. If the judgment is amended in any respect, any party has the right to appeal within twenty days after the date the justice signs the new judgment, in the same manner set out in this rule.
- (b) *Perfection.* The posting of an appeal bond is not required for an appeal under these rules, and the appeal is considered perfected with the filing of a notice of appeal. Otherwise, the appeal is in the manner provided by law for appeal from a justice court.
- (c) *Effect.* The timely filing of a notice of appeal stays the enforcement of any order to repair or remedy a condition or reduce the tenant's rent, as well as any other actions.
- (d) *Costs.* The appellant must pay the costs on appeal to a county court in accordance with Rule 143a.
- (e) *Trial on Appeal.* On appeal, the parties are entitled to a trial de novo. Either party is entitled to trial by jury on timely request and payment of a fee, if required. An appeal of a judgment

of a justice court under these rules takes precedence in the county court and may be held at any time after the eighth day after the date the transcript is filed in the county court.

Rule 737.13. Effect of Writ of Possession

If a judgment for the landlord for possession of the residential rental property becomes final, any order to repair or remedy a condition is vacated and unenforceable.

Comment to 2010 change: The heading of repealed Rule 737, regarding bills of discovery, is deleted. New Rule 737 is promulgated pursuant to Senate Bill 1448 to provide procedures for a tenant's request for relief in a justice court under Section 92.0563(a) of the Property Code. Except when otherwise specifically provided, the terms in Rule 737 are defined consistent with Section 92.001 of the Property Code. All suits must be filed in accordance with the venue provisions of Chapter 15 of the Civil Practice and Remedies Code.

Cause No. _____

Tenant: _____
V. _____
Landlord: _____

In the Justice Court
Precinct _____ Place _____
County, Texas

PETITION FOR RELIEF UNDER SECTION 92.0563 OF THE TEXAS PROPERTY CODE

1. **COMPLAINT:** Tenant files this petition against the above-named Landlord pursuant to Section 92.0563 of the Texas Property Code because there is a condition in Tenant's residential rental property that would materially affect the health or safety of an ordinary tenant. Information Regarding Residential Rental Property:

Street Address Unit No. (if any) City County State Zip

Landlord's Contact Information (to the extent known):

Business Street Address Unit No. (if any) City County State Zip Phone Number

2. **SERVICE OF CITATION:** Check the box next to each statement that is true.

☐ Tenant received in writing Landlord's name and business street address.

☐ Tenant received in writing the name and business street address of Landlord's management company.

☐ The name of Landlord's management company is _____. To Tenant's knowledge, this is the management company's contact information:

Business Street Address Unit No. (if any) City County State Zip Phone Number

☐ The name of Landlord's on-premise manager is _____. To Tenant's knowledge, this is the on-premise manager's contact information

Business Street Address Unit No. (if any) City County State Zip Phone Number

☐ The name of Landlord's rent collector serving the residential rental property is _____. To Tenant's knowledge, this is the rent collector's contact information:

Business Street Address Unit No. (if any) City County State Zip Phone Number

3. **LEASE AND NOTICE:** Check the box next to each statement that is true.

☐ The lease is oral. ☐ The lease is in writing. ☐ The lease requires the notice to repair or remedy a condition to be in writing.

☐ Tenant gave written notice to repair or remedy the condition on _____. ☐ The written notice to repair or remedy the condition was sent by certified mail, return receipt requested, or registered mail on _____.

☐ Tenant gave oral notice to repair or remedy the condition on _____.

Name of person(s) to whom notice was given: _____
Place where notice was given: _____

4. **RENT:** At the time Tenant gave notice to repair or remedy the condition, Tenant's rent was: ☐ current (no rent owed), ☐ not current but Tenant offered to pay the rent owed and Landlord did not accept it, or ☐ not current and Tenant did not offer to pay the rent owed. Tenant's rent is due on the _____ day of the ☐ month ☐ week ☐ _____ (specify any other rent-payment period). The rent is \$ _____ per ☐ month ☐ week ☐ _____ (specify any other rent-payment period). Tenant's rent (check one): ☐ is not subsidized by the government ☐ is subsidized by the government as follows, if known: \$ _____ paid by the government, and \$ _____ paid by Tenant.

5. **PROPERTY CONDITION:** Describe the property condition materially affecting the physical health or safety of an ordinary tenant that Tenant seeks to have repaired or remedied: _____

6. **RELIEF REQUESTED:** Tenant requests the following relief: ☐ a court order to repair or remedy the condition, ☐ a court order reducing Tenant's rent (in the amount of \$ _____ to begin on _____), ☐ actual damages in the amount of \$ _____, ☐ a civil penalty of one month's rent plus \$500, ☐ attorney's fees, and ☐ court costs. Tenant states that the total relief requested does not exceed \$10,000, excluding interest and court costs but including attorney's fees.

Tenant Signature: _____

Date: _____

Street address Unit No. (if any)

Phone Number

City State Zip

Misc. Docket No. 09- 9195

Page 12 of 12

Exhibit L

AN ACT

relating to actions in a justice court regarding the repair of residential rental property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 92.0563, Property Code, is amended by amending Subsection (c) and adding Subsections (d), (e), and (f) to read as follows:

(c) The justice, county, and district courts have concurrent jurisdiction in ~~of~~ an action under Subsection (a) ~~of this section except that the justice court may not order repairs under Subdivision (1) of Subsection (a) of this section]~~.

(d) If a suit is filed in a justice court requesting relief under Subsection (a), the justice court shall conduct a hearing on the request not earlier than the sixth day after the date of service of citation and not later than the 10th day after that date.

(e) A justice court may not award a judgment under this section, including an order of repair, that exceeds \$10,000, excluding interest and costs of court.

(f) An appeal of a judgment of a justice court under this section takes precedence in county court and may be held at any time after the eighth day after the date the transcript is filed in the county court. An owner of real property who files a notice of appeal of a judgment of a justice court to the county court perfects the owner's appeal and stays the effect of the judgment without the

1 necessity of posting an appeal bond.

2 SECTION 2. Not later than January 1, 2010, the Texas Supreme
3 Court shall adopt rules of civil procedure applicable to orders of
4 repair issued by a justice court under Subdivision (1), Subsection
5 (a), Section 92.0563, Property Code.

6 SECTION 3. Section 92.0563, Property Code, as amended by
7 this Act, applies only to an action filed on or after the effective
8 date of this Act. An action filed before the effective date of this
9 Act is governed by the law in effect immediately before that date,
10 and that law is continued in effect for that purpose.

11 SECTION 4. This Act takes effect January 1, 2010.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1448 passed the Senate on April 22, 2009, by the following vote: Yeas 29, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 1448 passed the House on May 19, 2009, by the following vote: Yeas 145, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor

Exhibit M

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 99- **9243**

PROMULGATION OF FORMS FOR USE IN PARENTAL NOTIFICATION PROCEEDINGS UNDER CHAPTER 33 OF THE FAMILY CODE

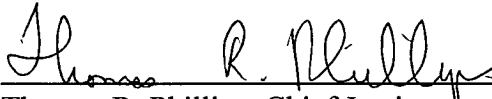
ORDERED that:

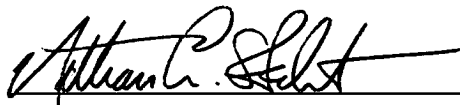
1. In compliance with the Legislature's directive, *see* Act of May 25, 1999, 76th Leg., R.S., ch. 395, §§ 2 and 6, 1999 Tex. Gen. Laws 2466 (S.B. 30), the attached forms are adopted for use in proceedings under chapter 33 of the Family Code.

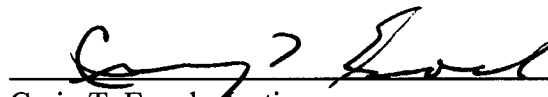
2. The Clerk is directed forthwith:


- a. to file a copy of this Order with the Secretary of State;
- b. to mail a copy of this Order to each Member of the Legislature, to each court in which proceedings under chapter 33 may be heard, and to the clerks of such courts; and
- c. 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 15th day of December, 1999.

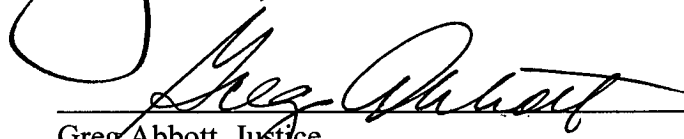

Thomas R. Phillips, Chief Justice

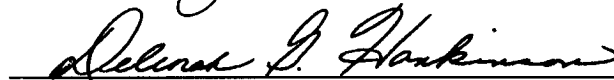

Nathan L. Hecht, Justice



Craig T. Enoch, Justice

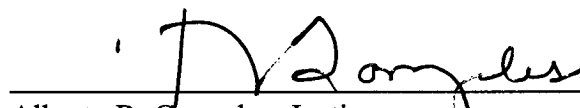

Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice


Deborah G. Hankinson, Justice


Harriett O'Neill, Justice


Alberto R. Gonzales, Justice

INSTRUCTIONS FOR APPLYING TO THE COURT FOR A WAIVER OF PARENTAL NOTIFICATION

(Form 1A)

Your situation and the law

If you are younger than 18 and have not been legally "emancipated," you are "unemancipated," which means that you are legally under the custody or control of your parent(s), managing conservator, or guardian. (A "managing conservator" is a parent, other adult, or agency appointed by a court to have custody or control of you.)

If you are pregnant, unemancipated, and younger than 18, you cannot get an abortion in Texas unless:

- your doctor first informs your parent(s), managing conservator, or guardian at least 48 hours before you can have an abortion,

or unless

- a judge issues an order that "waives," or removes, the requirement that you must let your parent(s), managing conservator, or guardian know about your planned abortion.

How to get a waiver of parental notification

• Fill out the application

To get a court order waiving the requirement that you tell your parent(s), managing conservator, or guardian about your planned abortion, you or someone acting on your behalf must complete Forms 2A and 2B, *Confidential Application for Waiver of Parental Notification*. Form 2A is the "Cover Page" for the Application; it requests basic information about why you are seeking the order. Form 2B is the "Verification Page," which requests information about you.

On the Verification Page, you will be asked to tell the court how you may be contacted quickly and confidentially. It is very important that you provide this information because the court may later need to contact you about your application. If you cannot be

contacted, your application will be denied. You may list a phone, pager, beeper, or fax number, or other way that you can be contacted. You can but need not give your own number — instead, you can ask the court to contact you through someone who is helping you or acting on your behalf. You may also list a second person who may be contacted on your behalf.

You or someone acting on your behalf must deliver the forms to the clerk in the district court, county court-at-law, county court, or probate court to be filed. The court clerk can help you complete and file the application, and can help you get a hearing on your request. However, the clerk cannot give you legal advice or counsel you about abortion.

All of the information you put on the application is confidential. You do not have to pay a fee to file this application.

• Your hearing

The court will tell you when to come to the courthouse for your "hearing." In your hearing, you will meet with a judge to discuss your request. The court will hold your hearing within two days (not counting weekends and holidays) after you file your application.

After you file your application, the court will appoint a person to meet with you before the hearing and help the judge decide your application. The person is called a "guardian ad litem." In your application you may ask the court to appoint someone you want to be your guardian ad litem (who can be a relative, clergy, counselor, psychiatrist or psychologist, or other adult), but the court is not required to appoint this person.

You must have a lawyer with you at your hearing. You may hire your own lawyer, or you may ask the court to appoint one to represent you for free. The person appointed to be your lawyer might also be appointed to be your guardian ad litem.

• Keeping it confidential

Your hearing will be confidential and private. The only persons allowed to be there are you, your guardian ad litem, your lawyer, court staff, and any person whom you request to be there.

You already know that your application stays confidential. So will everything from your hearing: all testimony, documents and other evidence presented to the court, and any order given by the judge. The court will keep everything sealed. No one else can inspect the evidence.

• **The court's decision**

The court must "rule" — issue a decision on your application — before 5:00 p.m. on the second day after the day you filed your application, not counting weekends and holidays.

If the court fails to rule within that time, it counts as an "OK" to you — it is an automatic waiver of the requirement that you inform your parent(s), managing conservator, or guardian about your planned abortion. If this happens, you can get a certificate from the court clerk that says that your request is "deemed granted," which means that your application was approved.

If the court *does* rule within the required time, the court issues an order that does one of the following four things:

(1) Approves your request because the court finds that you are mature enough and know enough to choose on your own to have an abortion;

(2) Approves your request because it is in your best interests to *not* notify your parent(s), managing conservator, or guardian before getting the abortion;

(3) Approves your request because notifying your parent(s), managing conservator, or guardian before getting the abortion may lead to physical, sexual, or emotional abuse of you; or

(4) Denies your request because the court does not find (1), (2) or (3).

If you claim that you have been or may be sexually abused, the court must treat your claim as a very serious matter and may be required to refer it to the

police or other authorities for investigation.

• **Appealing the court's decision**

If the court denies your request, you may ask another court to hear your case. This request is called an "appeal," and the new court will be the Court of Appeals.

To appeal the first court's decision, have your own lawyer or your court-appointed lawyer fill out Form 3A, *Notice of Appeal in Parental Notification Proceeding*. The lawyer must file it with the clerk of the court that denied your request for a waiver of parental notification.

You will *not* have to go to the Court of Appeals. Instead, the Court of Appeals will review the written record and will issue a written ruling on your appeal no later than 5:00 p.m. on the second day after the day you file the *Notice of Appeal*, not counting weekends and holidays.

The Court of Appeals will provide its ruling to you, the lawyer, your guardian ad litem, or any other person designated by you to receive the ruling.

The same guardian ad litem and lawyer who helped you with your first hearing can help with your appeal.

• **Getting the forms you need**

Forms 2A and 2B, the Cover Page and Verification Page to the *Confidential Application for Waiver of Parental Notification*, and Form 3A, *Notice of Appeal in Parental Notification Proceeding*, should all be attached to these instructions.

If these forms are not attached to these instructions, you can get them from the clerk of the district, county court-at-law, county, or probate court or Court of Appeals. These forms are also available on the Texas Judiciary Internet website at www.courts.state.tx.us.

Attention Clerk: Please Expedite

Confidential Application for Waiver of Parental Notification: Cover Page (Form 2A)

As prescribed by the Clerk of the Supreme Court of Texas pursuant to Tex. Fam. Code § 33.003(m).

(Do not complete this section. Court staff will complete this section.)

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

Important: Your Application has two parts: (1) this cover sheet (Form 2A), which asks for basic information about your application; and (2) a separate verification page (Form 2B), which asks for information about you and for you to swear to the truth of everything you say in the cover sheet and verification page. You or someone acting on your behalf must complete both of these forms. If you are completing this application for a minor, remember that "I" or "my" refers to the minor rather than to you.

1. I ask the court for an order that allows me to have an abortion without first telling my parent(s), managing conservator, or guardian before I have an abortion. I swear or affirm that (place a check mark in all the blanks for which you answer "yes"):

_____ I am pregnant.

_____ I am unmarried and younger than 18 years of age.

_____ I do not have an order from a Texas court that gives me the same legal rights and responsibilities as an adult.

2. I request this order for one of the following reasons (place a check mark beside any that apply):

_____ I am mature enough to decide to have an abortion without telling my parent(s), managing conservator, or guardian. I also know enough about abortion to make this decision.

Please continue to the next page.

_____ Telling my parent(s), managing conservator, or guardian that I want an abortion is not in my best interest.

_____ Telling my parent(s), managing conservator or guardian that I want an abortion may lead to physical or emotional abuse of me.

_____ Telling my parent(s), managing conservator or guardian that I want an abortion may lead to sexual abuse of me.

3. Please check one of the following statements:

_____ I **do not** have a lawyer. (The court will appoint one for you).

_____ I have a lawyer, who is:

Lawyer's name: _____

Lawyer's address: _____

Lawyer's phone: _____

4. The court must appoint a "guardian ad litem" for you. A guardian ad litem meets with you before the hearing and helps the judge decide your application. Please state whether you want the court to appoint someone you know as your guardian ad litem. This person could be a relative, a member of the clergy, a counselor, a psychiatrist or psychologist, or other adult, or your lawyer. You do not have to ask the court to appoint someone you know. Keep in mind that the court may appoint the person you request, but it does not have to.

_____ I am requesting that the court appoint someone I know as my guardian ad litem (you will identify this person on your verification page)

_____ I am not requesting the court to appoint someone I know as my guardian ad litem. (The court will appoint someone it chooses).

5. Please state whether you have filed a Confidential Application for Waiver of Parental Notification other than this one.

_____ I have filed another Confidential Application for Waiver of Parental Notification.

_____ I have **not** filed another Confidential Application for Waiver of Parental Notification.

(End of Cover Page)

CAUSE NO. _____

(Do not fill in the blank above. Court staff will fill in the blank.)

**Confidential Application for Waiver of Parental Notification:
Verification Page
(Form 2B)**

As prescribed by the Clerk of the Supreme Court of Texas pursuant to Tex. Fam. Code §33.003(m)

Important: Your Application has two parts: (1) this cover sheet (Form 2A), which asks for basic information about your application; and (2) a separate verification page (Form 2B), which asks for information about you and for you to swear to the truth of everything you say in the cover sheet and verification page. You or someone acting on your behalf must complete both of these forms. If you are completing this application for a minor, remember that "I" or "my" refers to the minor rather than to you.

1. If you are requesting the court to appoint someone you know as your guardian ad litem (*see* Question 4 on the Cover Sheet, Form 2A), please identify them:

Name: _____ Relationship: _____

Address: _____ Phone: _____

2. If you do not have a lawyer, please complete the two blanks below. Tell us how the court, the lawyer appointed by the court, and the guardian ad litem appointed by the court can quickly contact you. If you cannot be contacted, your application will be denied. You can choose to be contacted by telephone, pager/beeper, or any other method by which you can be contacted immediately and confidentially. You do not have to give us your own telephone number, and you can have us contact someone else who helps you.

Person to be contacted (you or another person)

Another person to be contacted (optional)

Phone/pager/beeper/fax number(s)

Phone/pager/beeper/fax number(s)

Important: Please sign your name in the blank below. You must sign your name before a notary public, court clerk, or other person authorized to give oaths.

I swear or affirm that the information in my Application (both the Cover Sheet and this Verification Page) is true and correct.

Signature of minor or other person
completing this form

Full name of minor printed or typed
(if minor is not person completing this form)

Name of person completing this form printed or typed

Minor's date of birth

Sworn to or affirmed in my presence this _____ day of _____, ____.

Notary Public, Clerk or other person authorized to give oaths

**REQUEST TO POSTPONE TRIAL COURT HEARING
IN PARENTAL NOTIFICATION PROCEEDING;
DESIGNATION OF ALTERNATIVE TIME FOR HEARING
(Form 2C)**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

Please check and complete any questions below that apply:

_____ I request that the court postpone its hearing on my application. The hearing currently is due to be held on _____ at _____ a.m./p.m.

_____ Please rule on my application by 5 p.m. on the second business day after (please state a date after which you will be ready to have the hearing): _____. The clerk will notify you concerning the specific time of the hearing.

_____ I will contact you at a later time to determine a time for the hearing.

Attorney's Signature: _____

Attorney's Name, Printed: _____

Attorney's State Bar No.: _____

Attorney's Address: _____

Attorney's Telephone: _____

Attorney's Fax No.: _____

**JUDGMENT AND FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON APPLICATION IN PARENTAL NOTIFICATION PROCEEDING
(Form 2D)**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

This matter was heard on this _____ day of _____, _____. Based on the testimony and evidence presented, this court finds:

1. The applicant is pregnant.
2. The applicant is unmarried and under 18 years of age.
3. The applicant has not had her disabilities as a minor removed under Chapter 31 of the Texas Family Code.
4. The applicant wishes to have an abortion without her doctor notifying either of her parents, her managing conservator or guardian.
5. A preponderance of the evidence supports the following [State "yes" beside any issue for which the court finds in favor of the applicant by a preponderance of the evidence. If any one issue is decided in favor of the applicant, the court need not consider other issues]:

_____ The applicant is mature and sufficiently well informed to make the decision to have an abortion performed without notification to either of her parents, her managing conservator or guardian.

Comment: _____

_____ Notifying either of the applicant's parents, managing conservator or guardian would not be in her best interest.

Comment: _____

_____ Notifying either of the applicant's parents, managing conservator or guardian may lead to physical, sexual, or emotional abuse of the applicant.

Comment: _____

THEREFORE, IT IS ORDERED

_____ The application is GRANTED and the applicant is authorized to consent to the performance of an abortion without notifying either of her parents or a managing conservator or guardian.

_____ The application is DENIED. The applicant is advised of her right to appeal under Rule 3 of the Texas Parental Notification Rules and will be furnished a Notice of Appeal form, Form 3A.

All costs shall be paid by the State of Texas pursuant to Family Code Chapter 33.

Judge Presiding

**CERTIFICATE OF DEEMED GRANTING OF
APPLICATION IN PARENTAL NOTIFICATION PROCEEDING
(Form 2E)**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

This will certify that on the _____ day of _____, _____, Jane Doe filed an application for a court order authorizing her to consent to an abortion without the parental notice required by Section 33.002, Family Code. The court did not rule on the application by 5:00 p.m. on the second business day after the day the application was filed. Accordingly, under Section 33.003(h), Family Code, the application is deemed to be GRANTED.

Signed this _____ day of _____, _____.

Judge Presiding or Clerk

**ORDER THAT COSTS IN PARENTAL NOTIFICATION PROCEEDING
BE PAID BY STATE PURSUANT TO TEXAS FAMILY CODE §33.007
(Form 2F)**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

ORDER

In this proceeding filed under Texas Family Code § 33.003, the court heard evidence on the _____ day of _____, _____, concerning court costs. Based on the evidence presented, pursuant to Texas Family Code § 33.007, the State of Texas is ordered to pay:

1. Reasonable and necessary attorney ad litem fees and expenses of \$ _____ to:

Name: _____ State Bar No. _____

Address: _____

Telephone: _____ Federal Tax ID: _____

2. Reasonable and necessary guardian ad litem fees and expenses of \$ _____ to:

Name: _____

Address: _____

Telephone: _____ Federal Tax ID: _____

3. Court reporter's fees certified by the court reporter to:

Name: _____

Address: _____

Telephone: _____ Federal Tax ID: _____

4. All court costs certified by the clerk.

Judge Presiding

Notice of Appeal in Parental Notification Proceeding (Form 3A)

CAUSE NO.

IN THE _____

 COUNTY, TEXAS

(Important: Your lawyer or court-appointed lawyer should fill out the information below.)

Attorney's Signature: _____

Attorney's Name, Printed: _____

Attorney's State Bar No.: _____

Attorney's Address: _____

Attorney's Telephone: _____

Attorney's Fax No.: _____

**REQUEST TO POSTPONE COURT OF APPEALS' RULING
IN PARENTAL NOTIFICATION PROCEEDING;
DESIGNATION OF ALTERNATIVE TIME FOR RULING
(Form 3B)**

CAUSE NO. _____

IN RE JANE DOE

IN THE COURT OF APPEALS FOR THE

_____ DISTRICT OF TEXAS

AT _____, TEXAS

Please check and complete any questions below that apply:

_____ I request that the court postpone its ruling on my appeal. The appeal currently is due to be ruled on by _____ at _____ a.m./p.m.

_____ Please rule on my appeal by 5:00 p.m. on the second business day after (please state a date after which you will be ready to have the hearing): _____. The clerk will notify you concerning the specific time of the hearing.

_____ I will contact you at a later time to determine a time for ruling on my appeal.

Attorney's Signature: _____

Attorney's Name, Printed: _____

Attorney's State Bar No.: _____

Attorney's Address: _____

Attorney's Telephone: _____

Attorney's Fax No.: _____

**JUDGMENT ON APPEAL IN PARENTAL NOTIFICATION
PROCEEDING
(Form 3C)**

CAUSE NO. _____

IN RE JANE DOE

IN THE COURT OF APPEALS FOR THE

_____ DISTRICT OF TEXAS

AT _____, TEXAS

It is ORDERED that the trial court's final order in this cause denying the minor's application for a court order authorizing her to consent to an abortion without the parental notice required by Section 33.002, Family Code, is:

_____ Affirmed. The minor will be advised of her right to appeal under Rule 4 of the Texas Parental Notification Rules and furnished a Notice of Appeal form, Form 4A.

_____ Reversed and the application is GRANTED.

_____ Opinion to follow.

_____ No opinion to follow.

Justice

Other Members of the Panel:

Justice _____

Justice _____

Date: _____

**CERTIFICATION OF DEEMED REVERSAL OF ORDER ON APPEAL
IN PARENTAL NOTIFICATION PROCEEDING
(Form 3D)**

CAUSE NO. _____

IN RE JANE DOE

IN THE COURT OF APPEALS FOR THE

_____ DISTRICT OF TEXAS

AT _____, TEXAS

This will certify that on the _____ day of _____, _____, Jane Doe filed her notice of appeal from an order denying her application for a court order authorizing her to consent to an abortion without the parental notice required by Section 33.002, Family Code. The court of appeals did not rule on her appeal by 5:00 p.m. on the second business day after the day the notice of appeals was filed. Accordingly, under Section 33.004(b), Family Code, the order is deemed to be REVERSED and the application is deemed to be GRANTED.

Signed this _____ day of _____, _____.

Judge Presiding or Clerk

ATTENTION CLERK: PLEASE EXPEDITE

NOTICE OF APPEAL TO TEXAS SUPREME COURT IN PARENTAL NOTIFICATION PROCEEDING (Form 4A)

CAUSE NO. _____

IN THE SUPREME COURT OF TEXAS

IN RE JANE DOE

On this _____ day of _____, _____, notice is hereby given that Jane Doe petitions the Supreme Court of Texas for review of the order entered in Cause No. _____, in the _____ Court of Appeals affirming the denial of her application for a court order authorizing her to consent to an abortion without the parental notice required by Section 33.002, Family Code.

Attorney's Signature: _____

Attorney's Name, Printed: _____

Attorney's State Bar No.: _____

Attorney's Address: _____

Attorney's Telephone: _____

Attorney's Fax No.: _____



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

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

January 7, 2000

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 two orders are forwarded for appropriate filing. Please contact this office if you have questions in this matter.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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HARRIET O'NEILL
ALBERTO R. GONZALES

January 7, 2000

Ms. Kelley King, Editor
The Texas Bar Journal
1414 Colorado Street
Austin, Texas 78701

Dear Ms. King,

Please find enclosed, copies of two orders of the Supreme Court of Texas. Per these orders, copies are 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.

Exhibit N

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 00- 9171

ORDER APPROVING AMENDMENTS TO TEXAS PARENTAL NOTIFICATION RULES AND FORMS FOR USE IN PROCEEDINGS UNDER CHAPTER 33 OF THE FAMILY CODE

ORDERED that:

1. The Texas Parental Notification Rules, adopted by Order dated December 22, 1999, in Misc. Docket No. 99-9247, are revised as follows:

- a. Rules 1.4(b), 1.6(a), 1.9, and 3.3(b) are amended;
- b. Comments 3 and 8 to Rule 1 and Comment 1 to Rule 2 are amended; and
- c. Rule 1.10 and Comment 9 to Rule 1 are added.

2. The Texas Parental Notification Forms, adopted by Order dated December 15, 1999, in Misc. Docket No. 99-9243, are revised as follows:

- a. Forms 1A, 2D, and 2F are amended; and
- b. Forms 2G and 2H are added.

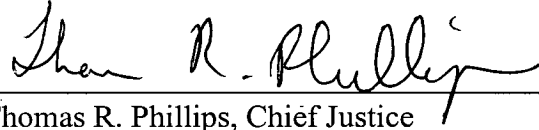
3. These changes, with any modifications made after public comments are received, take effect March 1, 2001.

4. In a proceeding under Chapter 33 of the Family Code in which the final ruling in the proceeding occurred on or before February 28, 2001, an order for the State to pay fees and costs under Rule 1.9, Texas Parental Notification Rules, is valid only if the order is signed by the judge and sent to the Texas Department of Health not later than May 30, 2001.

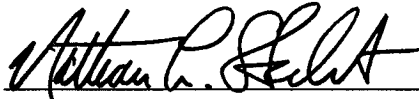
5. The Clerk is directed forthwith to:

- a. file a copy of this Order with the Secretary of State;
- b. to mail a copy of this Order to each member of the Legislature;
- c. 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*; and
- d. to cause a copy of this Order to be posted on the website of the Supreme Court of Texas at <http://www.supreme.courts.state.tx.us>.

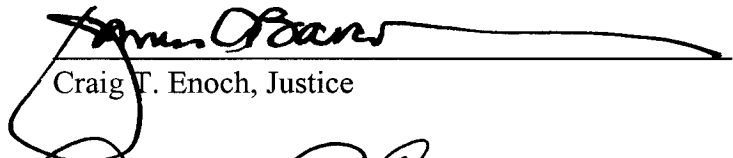
BY THE COURT, IN CHAMBERS, this 8th day of November, 2000.



Thomas R. Phillips, Chief Justice



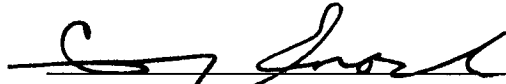
Nathan L. Hecht, Justice



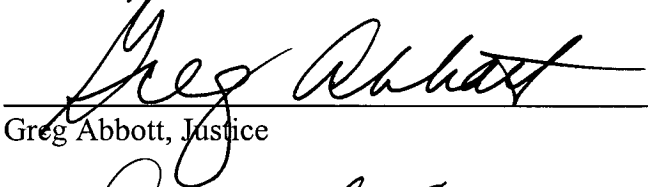
Craig T. Enoch, Justice



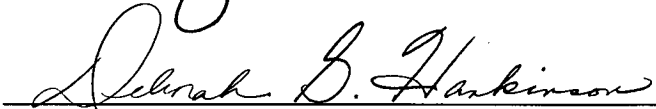
Priscilla R. Owen, Justice



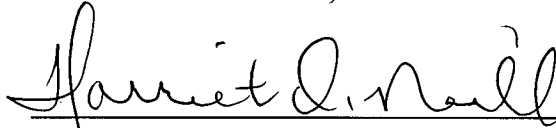
James A. Baker, Justice



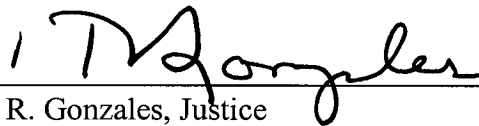
Greg Abbott, Justice



Deborah G. Hankinson, Justice



Harriet O'Neill, Justice



Alberto R. Gonzales, Justice

1.4 Confidentiality of Proceedings Required; Exceptions.

(b) ***Documents and information pertaining to the proceeding.*** As required by Chapter 33, Family Code, the application and all other court documents and information pertaining to the proceedings are confidential and privileged and are not subject to disclosure under Chapter 552, Government Code, or to discovery, subpoena, or other legal process. But documents and information may be disclosed when expressly authorized by these rules, and an order, ruling, opinion, or clerk's certificate may be released to:

- (1) the minor;
- (2) the minor's guardian ad litem;
- (3) the minor's attorney;
- (4) a person designated in writing by the minor to receive the order, ruling, opinion, or certificate;
- (5) a governmental agency or governmental attorney, in connection with a criminal or administrative action seeking to assert or protect the minor's interests; or
- (6) another court, judge, or clerk in the same or related proceedings.

1.6 Disqualification, Recusal, or Objection to a Judge.

(a) ***Time for filing and ruling.*** An objection to a trial judge, or a motion to recuse or disqualify a trial judge, must be filed before 10:00 a.m. of the first business day after an application is filed or promptly after the assignment of a judge to hear the case is made known to the minor or her attorney, whichever is later. An objection to an appellate judge, or a motion to recuse or disqualify an appellate judge must be filed before 10 a.m. of the first business day after a notice of appeal is filed. A judge who chooses to recuse voluntarily must do so instanter. An objection to a judge or a motion to disqualify or recuse does not extend the deadline for ruling on the minor's application.

1.9 Fees and Costs.

- (a) ***No fees or costs charged to minor.*** No filing fee or court cost may be assessed against a minor for any proceeding in a trial or appellate court.
- (b) ***State ordered to pay fees and costs.***
 - (1) Fees and costs that may be paid. The State may be ordered to pay the reasonable and necessary fees and expenses of the attorney ad litem, the reasonable and necessary fees and expenses of the guardian ad litem, the court reporter's fee as certified by the court reporter, and trial court filing fees and costs as certified by the clerk. Court costs include the expenses of an interpreter (Form 2H) but do not include the fees or expenses of a witness. Court costs do not include fees which must be remitted to the state treasury.
 - (2) To whom order directed and sent. The order must be directed to the Comptroller of Public Accounts but should be sent by the clerk to the Director, Fiscal Division, of the Texas Department of Health.
 - (3) Form and contents of the order. The order must state the amounts to be awarded the attorney ad litem and the guardian ad litem. The order must be separate from any other order in the proceeding and must not address any subject other than the assessment of costs. A trial court may use Forms 2F and 2G, but it is not required to do so.
 - (4) Time for signing and sending order. To be valid, the order must be signed by the judge and sent by the clerk to the Department of Health not later than the ninetieth day after the date of the final ruling in a proceeding, whether the application is granted, deemed granted, or denied, or the proceeding is dismissed or nonsuited.
- (c) ***Motion to reconsider; time for filing.*** Within thirty days of actual receipt of the order, the Comptroller or any other person adversely affected by the order may file a motion in the trial court to reconsider the assessment of costs. The trial court retains jurisdiction of the case to hear and determine any timely filed motion to reconsider.
- (d) ***Appeal.*** The Comptroller or any other person adversely affected by the order may

appeal from the trial court's ruling on the motion to reconsider as from any other final judgment of the court.

- (e) ***Report to the Office of Court Administration.*** The Department of Health must transmit to the Office of Court Administration a copy of every order assessing costs in a proceeding under Chapter 33, Family Code. Such orders are not subject to the Amended Order of the Supreme Court of Texas, dated September 21, 1994, in Misc. Docket No. 94-9143, regarding mandatory reports of judicial appointments and fees.
- (f) ***Confidentiality.*** When transmitting an order awarding costs to the Department of Health, the clerk must take reasonable steps to preserve its confidentiality. The confidentiality of an order awarding costs — as prescribed by Chapter 33, Family Code — is not affected by its transmission to the Comptroller, Texas Department of Health, or the Office of Court Administration, nor is the order subject to public disclosure in response to a request under any statute, rule, or other law. But these rules do not preclude the Comptroller, Texas Department of Health, and the Office of Court Administration from disclosing summary information from orders assessing costs for statistical or other such purposes.

1.10 Amicus Briefs. Amicus briefs may be submitted and received by a court – but not filed – under either of the following procedures.

- (a) ***Confidential, Case-Specific Briefs.*** A non-party who is authorized to attend or participate in a particular proceeding under Chapter 33, Family Code may submit an amicus brief addressing matters, including confidential matters, specific to the proceeding. The brief and the manner in which it is submitted must comply with Rules 1.3 and 1.4 and be directed to the court in which the proceeding is pending. The person must submit the original brief and the same number of copies required for other submissions to the court, and must serve a copy of the brief on the minor's attorney. The court to which the brief is submitted must maintain the brief as part of the confidential case file in accordance with Rule 1.4.
- (b) ***Public or General Briefs.*** Any person may submit a brief addressing any matter relating to proceedings under Chapter 33, Family Code. Such a brief must not contain any information in violation of Rules 1.3 and 1.4. The person must submit the original brief and the same number of copies required for other submissions to the court. If the brief is submitted to a court of appeals, the original and eleven

copies of the brief, plus a computer disk containing the brief, must also be submitted to the Supreme Court of Texas. When an appeal of a proceeding is filed, the clerk of the court of appeals or the Supreme Court must notify the parties to the appeal of the existence of any brief filed under this subsection and must make the brief available for inspection and copying. Upon submission, the Clerk of the Supreme Court must, as soon as practicable, have the brief posted on the Texas Judiciary Internet site and make it available to the public for inspection and copying.

Notes and Comments

3. Any judge involved in a proceeding, whether as the judge assigned to hear and decide the application, the judge assigned to hear and decide any disqualification, recusal or objection, a judge authorized to transfer the application or assign another judge to it, or an appellate judge, may have access to all information (including the verification page) in the proceeding or any related proceeding, such as a prior filing by the minor. Similarly, a minor's attorney and guardian ad litem must, of course, have access to the case file to the extent necessary to perform their respective duties.

8. Because orders awarding costs contain information made confidential by Chapter 33, Family Code, that confidentiality should not be affected by the transmission to the Texas Department of Health and the Comptroller, which is necessary to effectuate payment, or to the Office of Court Administration, which is necessary to oversee the costs associated with the proceedings. Rule 1.9(f) does not preclude either the Comptroller, Texas Department of Health, or the Office of Court Administration from disclosing total amounts paid for all proceedings, or average amount per proceeding, or other such statistical summaries or analyses which do not impair the confidentiality of the proceedings.

9. Rule 1.10 adds a procedure for filing amicus curiae briefs uniquely designed for the expedited and confidential nature of parental notification cases.

RULE 2. PROCEEDINGS IN THE TRIAL COURT

Notes and Comments

1. Section 33.003(b), Family Code, permits an application to be filed in "any county court at law, court having probate jurisdiction, or district court, including a family district court, in this state." The initial assignment of an application to a specific court in a county is made by the clerk with whom the application is filed (not by the minor). Given the diversity of needs and

circumstances among Texas courts, these rules allow the courts in each county to tailor the procedures for filing, handling, and assigning applications prescribed by these rules to best meet those needs and circumstances. Chapter 74, Subchapter C, Government Code, affords the presiding judge of an administrative judicial region broad discretion to assign active judges within the region, as well as visiting judges, to hear matters pending in courts within the region. *See* Tex. Govt. Code §§ 74.054, 74.056; *see also id.*, § 74.056(b) (presiding judges may request judges from other judicial regions for assignment); § 74.057 (Chief Justice may assign judges from one judicial region to another). Section 25.0022, Government Code, provides for assignment of probate judges. Furthermore, Chapter 74, Subchapter D, Government Code, authorizes district and statutory county court judges within a county to hear matters pending in any district or statutory county court in the county. *Id.*, § 74.094(a). Finally, Section 74.121, Government Code, permits courts within a county to transfer cases among courts having jurisdiction over the case. If no local rule governs assignments, then Rule 2.1(b)(4) controls.

3.3 Proceedings in the Court of Appeals.

- (b) *Ruling.*** The court of appeals — sitting in a three-judge panel — must issue a judgment affirming or reversing the trial court’s order denying the application. The court may use Form 3C but is not required to do so.

**INSTRUCTIONS FOR APPLYING TO THE COURT
FOR A WAIVER OF PARENTAL NOTIFICATION
(Form 1A)**

Your situation and the law

If you are younger than 18 and have not been legally “emancipated,” you are “unemancipated,” which means that you are legally under the custody or control of your parent(s), managing conservator, or guardian. (A “managing conservator” is a parent, other adult, or agency appointed by a court to have custody or control of you.)

If you are pregnant, unemancipated, and younger than 18, you cannot get an abortion in Texas unless:

- your doctor first informs your parent(s), managing conservator, or guardian at least 48 hours before you can have an abortion,

or unless

- a judge issues an order that “waives,” or removes, the requirement that you must let your parent(s), managing conservator, or guardian know about your planned abortion.

**How to get a waiver
of parental notification**

• Fill out the application

To get a court order waiving the requirement that you tell your parent(s), managing conservator, or guardian about your planned abortion, you or someone acting on your behalf must complete Forms 2A and 2B, *Confidential Application for Waiver of*

Parental Notification. Form 2A is the “Cover Page” for the Application; it requests basic information about why you are seeking the order. Form 2B is the “Verification Page,” which requests information about you.

On the Verification Page, you will be asked to tell the court how you may be contacted quickly and confidentially. It is very important that you provide this information because the court may later need to contact you about your application. If you cannot be contacted, your application will be denied. You may list a phone, pager, beeper, or fax number, or other way that you can be contacted. You can but need not give your own number — instead, you can ask the court to contact you through someone who is helping you or acting on your behalf. You may also list a second person who may be contacted on your behalf.

You or someone acting on your behalf must deliver the forms to the clerk in the district court, county court-at-law, county court, or probate court to be filed. The court clerk can help you complete and file the application, and can help you get a hearing on your request. However, the clerk cannot give you legal advice or counsel you about abortion.

All of the information you put on the

application is confidential. You do not have to pay a fee to file this application.

- **Your hearing**

The court will tell you when to come to the courthouse for your “hearing.” In your hearing, you will meet with a judge to discuss your request. The court will hold your hearing within two days (not counting weekends and holidays) after you file your application.

After you file your application, the court will appoint a person to meet with you before the hearing and help the judge decide your application. The person is called a “guardian ad litem.” In your application you may ask the court to appoint someone you want to be your guardian ad litem (who can be a relative, clergy, counselor, psychiatrist or psychologist, or other adult), but the court is not required to appoint this person.

You must have a lawyer with you at your hearing. You may hire your own lawyer, or you may ask the court to appoint one to represent you for free. The person appointed to be your lawyer might also be appointed to be your guardian ad litem.

- **Keeping it confidential**

Your hearing will be confidential and private. The only persons allowed to be there are you, your guardian ad litem, your lawyer, court staff, and any person whom you request to be there.

You already know that your application stays confidential. So will everything from your hearing: all testimony, documents and other evidence presented to the court, and any order given by the judge. The court will keep everything sealed. No one else can inspect the evidence.

- **The court’s decision**

The court must “rule” — issue a decision on your application — before 5:00 p.m. on the second day after the day you filed your application, not counting weekends and holidays.

If the court fails to rule within that time, it counts as an “OK” to you — it is an automatic waiver of the requirement that you inform your parent(s), managing conservator, or guardian about your planned abortion. If this happens, you can get a certificate from the court clerk that says that your request is “deemed granted,” which means that your application was approved.

If the court *does* rule within the required time, the court issues an order that does one of the following four things:

(1) Approves your request because the court finds that you are mature enough and know enough to choose on your own to have an abortion;

(2) Approves your request because it is in your best interests to *not* notify your parent(s), managing conservator, or guardian

before getting the abortion;

(3) Approves your request because notifying your parent(s), managing conservator, or guardian before getting the abortion may lead to physical, sexual, or emotional abuse of you; or

(4) Denies your request because the court does not find (1), (2) or (3).

If you say, or if there is evidence, that you have been or may be sexually abused, the court must treat your claim as a very serious matter and may be required to refer it to the police or other authorities for investigation.

• **Appealing the court's decision**

If the court denies your request, you may ask another court to hear your case. This request is called an "appeal," and the new court will be the Court of Appeals.

To appeal the first court's decision, have your own lawyer or your court-appointed lawyer fill out Form 3A, *Notice of Appeal in Parental Notification Proceeding*. The lawyer must file it with the clerk of the court that denied your request for a waiver of parental notification.

You will *not* have to go to the Court of Appeals. Instead, the Court of Appeals will review the written record and will issue a written ruling on your appeal no later than 5:00 p.m. on the second day after the day you file the *Notice of Appeal*, not counting

weekends and holidays.

The Court of Appeals will provide its ruling to you, the lawyer, your guardian ad litem, or any other person designated by you to receive the ruling.

The same guardian ad litem and lawyer who helped you with your first hearing can help with your appeal.

• **Getting the forms you need**

Forms 2A and 2B, the Cover Page and Verification Page to the *Confidential Application for Waiver of Parental Notification*, and Form 3A, *Notice of Appeal in Parental Notification Proceeding*, should all be attached to these instructions.

If these forms are not attached to these instructions, you can get them from the clerk of the district, county court-at-law, county, or probate court or Court of Appeals. These forms are also available on the Texas Judiciary Internet website at www.courts.state.tx.us.

**JUDGMENT AND FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON APPLICATION IN PARENTAL NOTIFICATION PROCEEDING
(Form 2D)**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

This matter was heard on this _____ day of _____, _____. Based on the testimony and evidence presented, this court finds:

1. The applicant is pregnant.
2. The applicant is unmarried and under 18 years of age.
3. The applicant has not had her disabilities as a minor removed under Chapter 31 of the Texas Family Code.
4. The applicant wishes to have an abortion without her doctor notifying either of her parents, her managing conservator or guardian.
5. A preponderance of the evidence supports the following [State "yes" beside any issue for which the court finds in favor of the applicant by a preponderance of the evidence. If any one issue is decided in favor of the applicant, the court need not consider other issues]:

_____ The applicant is mature and sufficiently well informed to make the decision to

have an abortion performed without notification to either of her parents, her managing conservator or guardian.

Findings of Fact/Conclusions of Law: _____

_____ Notifying either of the applicant's parents, managing conservator or guardian would not be in her best interest.

Findings of Fact/Conclusions of Law: _____

_____ Notifying either of the applicant's parents, managing conservator or guardian may lead to physical, sexual, or emotional abuse of the applicant.

Findings of Fact/Conclusions of Law: _____

THEREFORE, IT IS ORDERED

_____ The application is GRANTED and the applicant is authorized to consent to the performance of an abortion without notifying either of her parents or a managing conservator or guardian.

_____ The application is DENIED. The applicant is advised of her right to appeal under Rule 3 of the Texas Parental Notification Rules and will be furnished a Notice of Appeal form, Form 3A.

All costs shall be paid by the State of Texas pursuant to Family Code Chapter 33.

Judge Presiding

**ORDER THAT COSTS IN PARENTAL NOTIFICATION PROCEEDING
BE PAID BY STATE PURSUANT TO TEXAS FAMILY CODE §33.007
(Form 2F)**

**Notice: To guarantee reimbursement, this Order must be served on the Director, Fiscal Division, Texas
Department of Health, within the deadlines imposed by Tex. Paren. Notif. R 1.9(b).**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

ORDER

In this proceeding filed under Texas Family Code § 33.003, the court heard evidence on the _____ day of _____, _____, concerning court costs. Based on the evidence presented, pursuant to Texas Family Code § 33.007, the State of Texas is ordered to pay:

1. Reasonable and necessary attorney ad litem fees and expenses of \$ _____ to:

Name:

State Bar No.

Address:

Telephone:

Federal Tax ID:

2. Reasonable and necessary guardian ad litem fees and expenses of \$ _____ to:

Name:

Address:

Telephone:

Federal Tax ID:

3. Court reporter's fees certified by the court reporter to:

Name:

Address:

Telephone:

Federal Tax ID:

4. All court costs certified by the clerk.

Judge Presiding

**CLERK'S CERTIFICATION OF COURT COSTS AND FEES AND
TRANSMISSION OF ORDER FOR PAYMENT IN PARENTAL
NOTIFICATION PROCEEDING
(Form 2G)**

Director, Fiscal Division
Texas Department of Health
1100 West 49th Street
Austin TX 78756

Re: *In re Jane Doe*

Cause No. _____

Court: _____

County: _____

Dear Sir or Madam:

Please find enclosed a certified copy of an Order issued on _____, 20____, in the referenced case. Please pay the amounts to the payees as stated in the Order.

In accordance with the Order, I certify the following fees and costs for payment as follows:

Amount: \$ _____

Name of the Clerk: _____

Address : _____

Tax Identification No.: _____

Thank you.

Sincerely,

[seal]

Name: _____

Encl: Certified copy of Order

Position: _____

Misc. Docket No. 00- **9171**

Page 17 of 19

**ORDER APPOINTING INTERPRETER FOR
CHAPTER 33, FAMILY CODE PROCEEDINGS
(Form 2H)**

CAUSE NO. _____

IN RE JANE DOE

IN THE _____

_____ COUNTY, TEXAS

ORDER

ORDERED that for good cause, the following person is appointed an interpreter to assist the applicant in applying for relief under Chapter 33, Family Code:

Name: _____ State Bar No. _____

Address: _____

Telephone: _____ Federal Tax ID: _____

Signed: this _____ day of _____, 20____.

Judge

OATH FOR INTERPRETER

I, _____, do swear or affirm that I am competent and well versed in the _____ language and shall: (1) make a true interpretation of all the proceedings to the applicant; (2) repeat verbatim all statements, questions, and answers of all persons who are a part of the proceeding, to applicant, counsel, the court, and others in the English language and in the _____ language, using my best skill and judgment.

I shall not: (1) participate in any manner other than as an interpreter in the decision making or adjudicative process; (2) communicate with any other person regarding the proceedings except a literal translation of questions, answers, or remarks made during the proceeding, or (3) disclose or discuss any of the proceedings with any person following entry of judgment.

Print Name: _____

Address: _____

Telephone: _____

SWORN TO AND SUBSCRIBED before me on _____, 20__

[seal] _____

Exhibit O

IN THE SUPREME COURT OF TEXAS

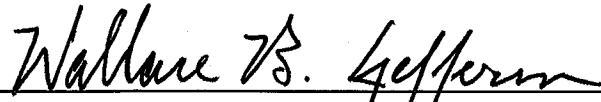
Misc. Docket No. 07-9035


FINAL APPROVAL OF AMENDMENTS TO TEXAS PARENTAL NOTIFICATION RULES AND FORMS FOR USE IN PROCEEDINGS UNDER CHAPTER 33 OF THE FAMILY CODE

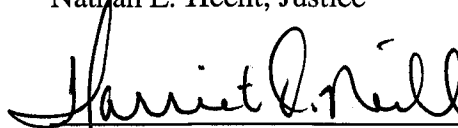
ORDERED that:

1. The Texas Parental Notification Rules, adopted by Order of Misc. Docket No. 99-9247 (Dec. 22, 1999) and amended by Order of Misc. Docket No. 00-9171 (Nov. 8, 2000), are revised by amending the Explanatory Statement that prefaces the Rules, and Rules 1.1, 1.3(c), 1.10, 2.2(f), 2.3(a), and 2.4(d), as follows.
2. The Texas Parental Notification Forms, adopted by Order of Misc. Docket No. 99-9243 (Dec. 15, 1999) and amended by Order of Misc. Docket No. 00-9171 (Nov. 8, 2000), are revised by adding Forms 2I and 2J as follows.
3. As ordered in Misc. Docket No. 06-9143, these changes take effect March 1, 2007.
4. The Clerk is directed to:
 - a. post a copy of this Order on the Court's Internet website at www.courts.state.tx.us
 - b. file a copy of this Order with the Secretary of State;
 - c. 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*;
 - d. send a copy of this Order to each member of the Legislature; and
 - e. submit a copy of the Order for publication in the *Texas Register*.


SIGNED AND ENTERED this 27th day of February, 2007.


Wallace B. Jefferson, Chief Justice

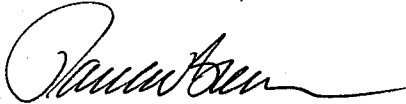

Nathan L. Hecht, Justice

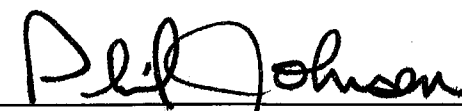

Harriet O'Neill, Justice

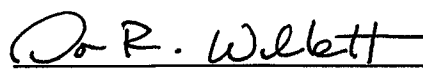
J. Dale Wainwright, Justice


Scott Brister, Justice

David M. Medina, Justice


Paul W. Green, Justice


Phil Johnson, Justice


Don R. Willett, Justice

EXPLANATORY STATEMENT

Chapter 33 of the Texas Family Code, adopted by Act of May 25, 1999, 76th Leg., R.S., ch. 395, 1999 Tex. Gen. Laws 2466 (S.B. 30), provides for judicial authorization of an unemancipated minor to consent to an abortion in Texas without notice to her parents, managing conservator, or guardian. Section 2 of the Act states: "The Supreme Court of Texas shall issue promptly such rules as may be necessary in order that the process established by Sections 33.003 and 33.004, Family Code, as added by this Act, may be conducted in a manner that will ensure confidentiality and sufficient precedence over all other pending matters to ensure promptness of disposition." *See also* Tex. Fam. Code §§ 33.003(l), 33.004(c). Section 6 of the Act adds: "The clerk of the Supreme Court of Texas shall adopt the application form and notice of appeal form to be used under Sections 33.003 and 33.004, Family Code, as added by this Act, not later than December 15, 1999." *See also* Tex. Fam. Code §§ 33.003(m), 33.004(d).

The following rules and forms are promulgated as directed by the Act without any determination that the Act or any part of it comports with the United States Constitution or the Texas Constitution. During the public hearings and debates on the rules and forms, questions were raised concerning the constitutionality of Chapter 33, among which were whether the statute can make court rulings secret, and whether the statute can require courts to act within the specified, short deadlines it imposes. Because such issues should not be resolved outside an adversarial proceeding with full briefing and argument, the rules and forms merely track statutory requirements of the Legislature. Adoption of these rules does not, of course, imply that abortion is or is not permitted in any specific situation. *See, e.g., Roe v. Wade*, 410 U.S. 113 (1973); Tex. Rev. Civ. Stat. Ann. art. 4495b, § 4.011 (restrictions on third trimester abortions of viable fetuses).

In 2005, the Legislature amended the Texas Occupations Code to prohibit a physician from performing an abortion on an unemancipated minor

without the written consent of the child's parent, managing conservator, or legal guardian or without a court order, as provided by Section 33.003 or 33.004, Family Code, authorizing the minor to consent to the abortion, unless the physician concludes that on the basis of the physician's good faith clinical judgment, a condition exists that complicates the medical condition of the pregnant minor and necessitates the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial impairment of a major bodily function and that there is insufficient time to obtain the consent of the child's parent, managing conservator, or legal guardian.

Act of May 27, 2005, 79th Leg., R.S., ch. 269, §1.42, 2005 Tex. Gen. Laws 734 (S.B. 419) (codified at Tex. Occ. Code §164.052(a)(19)). The parental consent law does not direct the Supreme Court to provide procedural rules implementing its provisions but instead expressly references the judicial bypass provisions in the parental notification law as providing an exception to the parental consent requirement. The procedures governing application for a judicial bypass to the parental notification requirement are set forth in the existing Parental Notification Rules. In addition, the parental consent law requires the Texas Medical Board to adopt the forms necessary for physicians to obtain the consent required by law to perform an abortion upon an unemancipated minor. See *id.* (codified at Tex. Occ. Code §164.052(c)). Those forms are published at 22 Tex. Admin. Code §165.6(f) and are available on the Texas Medical Board's website, at www.tmb.state.tx.us/rules/docs/Current%20Rules%20-%20%201-4-07.doc.

The notes and comments appended to the rules are intended to inform their construction and application by courts and practitioners.

1.1 Applicability of These Rules. These rules govern proceedings for obtaining a court order authorizing a minor to consent to an abortion without notice to either of her parents or a managing conservator or guardian under Chapter 33, Family Code (or as amended). All references in these rules to "minor" refer to the minor applicant. Other Texas court rules — including the Rules of Civil Procedure, Rules of Evidence, Rules of Appellate Procedure, Rules of Judicial Administration, and local rules approved by the Supreme Court — also apply, but when the application of another rule would be inconsistent with the general framework or policy of Chapter 33, Family Code, or these rules, these rules control.

1.3 Anonymity of Minor Protected.

(c) ~~Notice Required to Minor's Attorney.~~ With the exception of orders and rulings released under Rule 1.4(b), all service and communications from the court to the minor must be directed to the minor's attorney with a copy to the guardian ad litem. A minor's attorney must serve on the guardian ad litem instanter a copy of any document filed with the court. A guardian ad litem must serve on a minor's attorney instanter a copy of any document filed with the court. ~~This~~ These requirements takes effect when an attorney appears for the minor, or when the clerk has notified the minor of the appointment of an attorney or guardian ad litem.

1.10 Amicus Briefs. Amicus briefs may be submitted and received by a court – but not filed – under either of the following procedures.

(a) ***Confidential, Case-Specific Briefs.*** A non-party who is authorized to attend or participate in a particular proceeding under Chapter 33, Family Code may submit an amicus brief addressing matters, including confidential matters, specific to the proceeding. The brief and the manner in which it is submitted must comply with Rules 1.3 and 1.4 and be directed to the court in which the proceeding is pending. The person must submit the original brief and the same number of copies required for other submissions to the court, and must serve a copy of the brief on the minor's attorney and guardian ad litem. The court to which the brief is submitted must maintain the brief as part of the confidential case file in accordance with Rule 1.4.

(b) ***Public or General Briefs.*** Any person may submit a brief addressing any matter relating to proceedings under Chapter 33, Family Code. Such a brief must not contain any information in violation of Rules 1.3 and 1.4. The person must submit the original brief and the same number of copies required for other submissions to the court. If the brief is submitted to a court of appeals, the original and eleven copies of the brief, plus a computer disk containing an electronic copy of the brief, must also be submitted to the Supreme Court of Texas. When an appeal of a proceeding is filed, the clerk of the court of appeals or the Supreme Court must notify the ~~parties to the appeal~~ minor's attorney and guardian ad litem of the existence of any brief ~~filed~~ submitted under this subsection and must make the brief available for inspection and copying. Upon ~~submission~~ receipt of an electronic copy of an amicus brief submitted under this subsection, the Clerk of the Supreme Court must, as soon as practicable, have the brief posted on the Texas Judiciary Internet site and make it available to the public for inspection and copying.

2.2 Clerk's Duties.

(f) ***Orders.*** The clerk must provide the minor's ~~and the attorney and the guardian ad litem~~ with copies of all court orders, including findings of fact and conclusions of law.

2.3 Court's Duties. Upon receipt of an application from the clerk, the court must promptly:

(a) appoint a qualified person to serve as guardian ad litem for the minor applicant;

2.4 Hearing.

(d) *Record.* ~~If the minor appeals, or if there is evidence of past or potential abuse of the minor, the hearing must be transcribed instant.~~ The court, the minor's attorney, or the guardian ad litem may request that the record — the clerk's record and reporter's record — be prepared. A request by the minor's attorney or guardian ad litem must be in writing and may be, but is not required to be, on Form 2I (if an appeal will be taken) or 2J (if an appeal will not be taken). The court reporter must provide an original and two copies of the reporter's record to the clerk. When the record has been prepared, the clerk must contact the minor's attorney and the guardian ad litem at the telephone numbers shown on Form 2I or 2J and make it available to them. The record must be prepared and made available instant if it has been requested for appeal or if a belief that there is evidence of past or potential abuse of the minor is stated on the record or submitted to the court in writing. When a notice of appeal is filed, the clerk must forward the record to the court of appeals in accordance with Rule 3.2(b).

Form 2I: NOTICE TO CLERK AND COURT REPORTER TO PREPARE RECORDS

CAUSE NO. _____

IN RE JANE DOE:

This matter was heard on the _____ day of _____, _____. The Court has issued a final judgment. **Jane Doe may desire to appeal.** Jane Doe requests the court reporter and appropriate clerk to prepare instant a record of the trial proceedings and make it available to:

(Name and address of guardian ad litem)

(Name and address of minor's attorney)

Immediately upon completion of the record, the clerk must contact both the undersigned attorney and the guardian ad litem at the following telephone numbers to advise that the record is available:

(Telephone number for guardian ad litem)

(Telephone number for minor's attorney)

A copy of this notice has been given to both the appropriate clerk and court reporter and no additional request for the record of the trial proceedings is required. The filing of this document with the clerk constitutes proof that written request for preparation of the trial record was made.

Signed the _____ day of _____, _____ at _____ [time] a.m./p.m [circle one]

ATTORNEY

GUARDIAN AD LITEM

Caution: no officials or court personnel involved in the proceedings may ever disclose to anyone outside the proceedings—including the minor's parent, managing conservator, or legal guardian—that the minor is or has ever been pregnant, or that she wants or has ever wanted an abortion, except as permitted by law.

Form 2J: NOTICE TO CLERK AND COURT REPORTER TO PREPARE RECORDS

CAUSE NO. _____

IN RE JANE DOE:

This matter was heard on the _____ day of _____, _____. The Court has issued a final judgment and **no appeal will be taken**. Jane Doe's attorney/guardian ad litem requests the court reporter and appropriate clerk to prepare a record of the trial proceedings and make it available to:

(Name and address of guardian ad litem)

(Name and address of minor's attorney)

Upon completion of the record, the clerk must contact both the undersigned attorney and the guardian ad litem at the following telephone numbers to advise that the record is available:

(Telephone number for guardian ad litem)

(Telephone number for minor's attorney)

A copy of this notice has been given to both the appropriate clerk and court reporter and no additional request for the record of the trial proceedings is required. The filing of this document with the clerk constitutes proof that written request for preparation of the trial record was made.

Signed the _____ day of _____, _____ at _____ [time] a.m./p.m [circle one]

ATTORNEY

GUARDIAN AD LITEM

Caution: no officials or court personnel involved in the proceedings may ever disclose to anyone outside the proceedings—including the minor's parent, managing conservator, or legal guardian—that the minor is or has ever been pregnant, or that she wants or has ever wanted an abortion, except as permitted by law.

Exhibit P

shall enter its order with respect to such bond and sufficiency of the sureties.

RULE 592b. FORM OF ATTACHMENT BOND

The following form of bond may be used:

"The State of Texas,
County of _____,

"We, the undersigned, as principal, and and as sureties, acknowledge ourselves bound to pay to C.D. the sum of dollars, conditioned that the above bound plaintiff in attachment against the said C.D., defendant, will prosecute his said suit to effect, and that he will pay all such damages and costs to the extent of penal amount of this bond as shall be adjudged against him for wrongfully suing out such attachment. Witness our hands this _____ day of _____, 20____."

RULE 593. REQUISITES FOR WRIT

A writ of attachment shall be directed to the sheriff or any constable within the State of Texas. It shall command him to attach and hold, unless replevied, subject to the further order of the court, so much of the property of the defendant, of a reasonable value in approximately the amount fixed by the court, as shall be found within his county.

RULE 594. FORM OF WRIT

The following form of writ may be issued:

"The State of Texas.

"To the Sheriff or any Constable of any County of the State of Texas, greeting:

"We command you that you attach forthwith so much of the property of C.D., if it be found in your county, repleviable on security, as shall be of value sufficient to make the sum of _____ dollars, and the probable costs of suit, to satisfy the demand of A.B., and that you keep and secure in your hands the property so attached, unless replevied, that the same may be liable to further proceedings thereon to be had before our court in _____, County of _____. You will true return make of this writ on or before 10 a.m. of Monday, the _____ day of _____, 20____, showing how you have executed the same."

RULE 595. SEVERAL WRITS

Several writs of attachment may, at the option of the plaintiff, be issued at the same time, or in

Exhibit Q

TEXAS RULES OF CIVIL PROCEDURE

PART VII - RULES RELATING TO SPECIAL PROCEEDINGS

SECTION 1. PROCEDURES RELATED TO HOME EQUITY LOAN FORECLOSURE

RULE 735. PROCEDURES

A party seeking to foreclose a lien created under Tex. Const. art. XVI, § 50(a)(6), for a home equity loan, or Tex. Const. art. XVI, § 50(a)(7), for a reverse mortgage, that is to be foreclosed on grounds other than Tex. Const. art. XVI, § 50(k)(6)(A) or (B), may file: (1) a suit seeking judicial foreclosure; (2) a suit or counterclaim seeking a final judgment which includes an order allowing foreclosure under the security instrument and Texas Property Code § 51.002; or (3) an application under Rule 736 for an order allowing foreclosure.

RULE 736. EXPEDITED FORECLOSURE PROCEEDING

(1) **Application.** A party filing an application under Rule 736 seeking a court order allowing the foreclosure of a lien under Tex. Const. art. XVI, § 50(a)(6)(D), for a home equity loan, or § 50(k)(11), for a reverse mortgage, shall initiate such in rem proceeding by filing a verified application in the district court in any county where all or any part of the real property encumbered by the lien sought to be foreclosed (the "property") is located. The application shall:

- (A) be styled: "In re: Order for Foreclosure Concerning (Name of person to receive notice of foreclosure) and (Property Mailing Address) ";
- (B) identify by name the party who, according to the records of the holder of the debt, is obligated to pay the debt secured by the property;
- (C) identify the property by mailing address and legal description;
- (D) identify the security instrument encumbering the property by reference to volume and page, clerk's file number or other identifying recording information found in the official real property records of the county where all or any part of the property is located or attach a legible copy of the security instrument;
- (E) allege that:
 - (1) a debt exists;
 - (2) the debt is secured by a lien created under Tex. Const. art. XVI, § 50(a)(6), for a home equity loan, or § 50(a)(7), for a reverse mortgage;

- (3) a default under the security instrument exists;
- (4) the applicant has given the requisite notices to cure the default and accelerate the maturity of the debt under the security instrument, Tex. Prop. Code § 51.002, Tex. Const. art. XVI, § 50(k)(10), for a reverse mortgage, and applicable law;
- (F) describe facts which establish the existence of a default under the security instrument; and
- (G) state that the applicant seeks a court order required by Tex. Const. art. XVI, § 50(a)(6)(D), for a home equity loan, or § 50(k)(11), for a reverse mortgage, to sell the property under the security instrument and Tex. Prop. Code § 51.002.

A notice required by Tex. Const. art. XVI, § 50(k)(10), for a reverse mortgage, may be combined or incorporated in any other notice referenced in Rule 736(1)(E)(4). The verified application and any supporting affidavit shall be made on personal knowledge and shall set forth such facts as would be admissible in evidence, provided that facts may be stated based upon information and belief if the grounds of such belief are specifically stated.

(2). **Notice.**

- (A) **Service.** Every application filed with the clerk of the court shall be served by the party filing the application. Service of the application and notice shall be by delivery of a copy to the party to be served by certified and first class mail addressed to each party who, according to the records of the holder of the debt is obligated to pay the debt. Service shall be complete upon the deposit of the application and notice, enclosed in a postage prepaid and properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service. If the respondent is represented by an attorney and the applicant's attorney has knowledge of the name and address of the attorney, an additional copy of the application and notice shall be sent to respondent's attorney.
- (B) **Certificate of Service.** The applicant or applicant's attorney shall certify to the court compliance with the service requirements of Rule 736. The applicant shall file a copy of the notice and the certificate of service with the clerk of the court. The certificate of service shall be prima facie evidence of the fact of service.
- (C) **Form of Notice.** The notice shall be sufficient if it is in substantially the following form in at least ten point type:

Cause No. _____

In re: Order for Foreclosure

In the District Court

Concerning Cause No. _____*(1)_____ Of _____ County
and

_____*(2)_____ Judicial District

NOTICE TO _____*(3)_____

An application has been filed by , as Applicant, on *(4) , in a proceeding described as:

"In re: Order for Foreclosure Concerning _____*(1)_____ and *_(2)_____.

The attached application alleges that you, the Respondent, are in default under a security instrument creating a lien on your homestead under Tex. Const. art. XVI, § 50(a)(6), for a home equity loan, or § 50(a)(7), for a reverse mortgage. This application is now pending in this court.

Applicant seeks a court order, as required by Tex. Const. art. XVI, § 50(a)(6)(D) or § 50(k)(11), to allow it to sell at public auction the property described in the attached application under the security instrument and Tex. Prop. Code § 51.002.

You may employ an attorney. If you or your attorney do not file a written response with the clerk of the court at _____*(5)_____ on or before 10:00 a.m. on _____*(6)_____ an order authorizing a foreclosure sale may be signed. If the court grants the application, the foreclosure sale will be conducted under the security instrument and Tex. Prop. Code § 51-002.

You may file a response setting out as many matters, whether of law or fact, as you consider may be necessary and pertinent to contest the application. If a response is filed, the court will hold a hearing at the request of the applicant or respondent.

In your response to this application, you must provide your mailing address.
In addition, you must send a copy of your response to _____*(7)_____.

ISSUED

By

(Applicant or Attorney for Applicant)

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this notice with a copy of the application was sent certified and regular mail to _____*(3)_____ on the _____ day of _____, 20____.

(signature)

(Applicant or Attorney for Applicant)

- * (1) name of respondent
- * (2) mailing address of property
- * (3) name and address of respondent
- * (4) date application filed
- * (5) address of clerk of court
- * (6) response due date
- * (7) name and address of applicant or applicant's or applicant's attorney

(D) The applicant shall state in the notice the date the response is due in accordance with Rule 736(3).

(E) The application and notice may be accompanied by any other notice required by state or federal law.

(3) **Response Due Date.** A response is due on or before 10:00 a.m. on the first Monday after the expiration of thirty-eight (38) days after the date of mailing of the application and notice to respondent, exclusive of the date of mailing, as set forth in the certificate of service.

(4) **Response.**

(A) The respondent may file a response setting out as many matters, whether of law or fact, as respondent deems necessary or pertinent to contest the application. Such response and any supporting affidavit shall be made on personal knowledge and shall set forth such facts as would be admissible in evidence, provided that facts may be stated based upon information and belief if the grounds of such belief are specifically stated.

(B) The response shall state the respondent's mailing address.

(C) The response shall be filed with the clerk of the court. The respondent shall also send a copy of the response to the applicant or the applicant's attorney at the address set out in the notice.

(5) **Default.** At any time after a response is due, the court shall grant the application without further notice or hearing if:

(A) the application complies with Rule 736(1);

(B) the respondent has not previously filed a response; and

(C) a copy of the notice and the certificate of service shall have been on file with the clerk of the court for at least ten days exclusive of the date of filing.

Exhibit R

tenant/appellant shall pay the rent into the county court registry within five days of the due date under the terms of the rental agreement.

- (3) If the tenant/appellant fails to pay the rent into the court registry within the time limits prescribed by these rules, the appellee may file a notice of default in county court. Upon sworn motion by the appellee and a showing of default to the judge, the court shall issue a writ of restitution.
- (4) Landlord/appellee may withdraw any or all rent in the county court registry upon a) sworn motion and hearing, prior to final determination of the case, showing just cause, b) dismissal of the appeal, or c) order of the court upon final hearing.
- (5) All hearings and motions under this rule shall be entitled to precedence in the county court.

RULE 749c. APPEAL PERFECTED

When an appeal bond has been timely filed in conformity with Rule 749 or a pauper's affidavit approved in conformity with Rule 749a, the appeal shall be perfected.

RULE 750. FORM OF APPEAL BOND

The appeal bond authorized in the preceding article may be substantially as follows:

"The State of Texas,

"County of _____

"Whereas, upon a writ of forcible entry (or forcible detainer) in favor of A.B., and against C.D., tried before , a justice of the peace of county, a judgment was rendered in favor of the said A.B. on the _____ day of _____, A.D. _____, and against the said C.D., from which the said C.D. has appealed to the county court; now, therefore, the said C.D. and his sureties, covenant that he will prosecute his said appeal with effect and pay all costs and damages which may be adjudged against him, provided the sureties shall not be liable in an amount greater than \$_____, said amount being the amount of the bond herein.

"Given under our hands this _____ day of _____, A.D. _____."

RULE 751. TRANSCRIPT

When an appeal has been perfected, the justice shall stay all further proceedings on the judgment, and immediately make out a transcript of all the entries made on his docket of the proceedings had

Exhibit S

RULE 115. FORM OF PUBLISHED CITATION IN ACTIONS INVOLVING LAND

In citations by publication involving land, it shall be sufficient in making the brief statement of the claim in such citation to state the kind of suit, the number of acres of land involved in the suit, or the number of the lot and block, or any other plat description that may be of record if the land is situated in a city or town, the survey on which and the county in which the land is situated, and any special pleas which are relied upon in such suit.

RULE 116. SERVICE OF CITATION BY PUBLICATION

The citation, when issued, shall be served by the sheriff or any constable of any county of the State of Texas or by the clerk of the court in which the case is pending, by having the same published once each week for four (4) consecutive weeks, the first publication to be at least twenty-eight (28) days before the return day of the citation. In all suits which do not involve the title to land or the partition of real estate, such publication shall be made in the county where the suit is pending, if there be a newspaper published in said county, but if not, then in an adjoining county where a newspaper is published. In all suits which involve the title to land or partition of real estate, such publication shall be made in the county where the land, or a portion thereof, is situated, if there be a newspaper in such county, but if not, then in an adjoining county to the county where the land or a part thereof is situated, where a newspaper is published.

RULE 117. RETURN OF CITATION BY PUBLICATION

The return of the officer executing such citation shall be indorsed or attached to the same, and show how and when the citation was executed, specifying the dates of such publication, be signed by him officially and shall be accompanied by a printed copy of such publication.

RULE 117a. CITATION IN SUITS FOR DELINQUENT AD VALOREM TAXES

In all suits for collection of delinquent ad valorem taxes, the rules of civil procedure governing issuance and service of citation shall control the issuance and service of citation therein, except as herein otherwise specially provided.

1. **Personal Service: Owner and Residence Known, Within State.** Where any defendant in a tax suit is a resident of the State of Texas and is not subject to citation by publication under subdivision 3 below, the process shall conform substantially to the form hereinafter set out for personal service and shall contain the essential elements and be served and returned and otherwise regulated by the provisions of Rules 99 to 107, inclusive.
2. **Personal Service: Owner and Residence Known, Out of State.** Where any such defendant is absent from the State or is a nonresident of the State and is not subject to citation by publication under subdivision 3 below, the process shall conform substantially

to the form hereinafter set out for personal service and shall contain the essential elements and be served and returned and otherwise regulated by the provisions of Rule 108.

3. **Service by Publication: Nonresident, Absent From State, Transient, Name Unknown, Residence Unknown, Owner Unknown, Heirs Unknown, Corporate Officers, Trustees, Receivers or Stockholders Unknown, Any Other Unknown Persons Owning or Claiming or Having an Interest.** Where any defendant in a tax suit is a nonresident of the State, or is absent from the State, or is a transient person, or the name or the residence of any owner of any interest in any property upon which a tax lien is sought to be foreclosed, is unknown to the attorney requesting the issuance of process or filing the suit for the taxing unit, and such attorney shall make affidavit that such defendant is a nonresident of the State, or is absent from the State, or is a transient person, or that the name or residence of such owner is unknown and cannot be ascertained after diligent inquiry, each such person in every such class above mentioned, together with any and all other persons, including adverse claimants, owning or claiming or having any legal or equitable interest in or lien upon such property, may be cited by publication. All unknown owners of any interest in any property upon which any taxing unit seeks to foreclose a lien for taxes, including stockholders of corporations - defunct or otherwise - their successors, heirs, and assigns, may be joined in such suit under the designation of "unknown owners" and citation be had upon them as such; provided, however, that record owners of such property or of any apparent interest therein, including, without limitation, record lien holders, shall not be included in the designation of "unknown owners"; and provided further that where any record owner has rendered the property involved within five years before the tax suit is filed, citation on such record owner may not be had by publication or posting unless citation for personal service has been issued as to such record owner, with a notation thereon setting forth the same address as is contained on the rendition sheet made within such five years, and the sheriff or other person to whom citation has been delivered makes his return thereon that he is unable to locate the defendant. Where any attorney filing a tax suit for a taxing unit, or requesting the issuance of process in such suit, shall make affidavit that a corporation is the record owner of any interest in any property upon which a tax lien is sought to be foreclosed, and that he does not know, and after diligent inquiry has been unable to ascertain, the location of the place of business, if any, of such corporation, or the name or place of residence of any officer of such corporation upon whom personal service may be had, such corporation may be cited by publication as herein provided. All defendants of the classes enumerated above may be joined in the same citation by publication.

An affidavit which complies with the foregoing requirements therefor shall be sufficient basis for the citation above mentioned in connection with it but shall be held to be made upon the criminal responsibility of affiant.

Such citation by publication shall be directed to the defendants by names or by designation as hereinabove provided, and shall be issued and signed by the clerk of the court in which such tax suit is pending. It shall be sufficient if it states the file number and style of the case, the date of the filing of the petition, the names of all parties by name or by designation as hereinabove provided, and the court in which the suit is pending; shall command such parties to appear and defend such suit at or before 10 o'clock a.m. of the first Monday after the

expiration of forty-two days from the date of the issuance thereof, specifying such date when such parties are required to answer; shall state the place of holding the court, the nature of the suit, and the date of the issuance of the citation; and shall be signed and sealed by the clerk.

The citation shall be published in the English language one time a week for two weeks in some newspaper published in the county in which the property is located, which newspaper must have been in general circulation for at least one year immediately prior to the first publication and shall in every respect answer the requirements of the law applicable to newspapers which are employed for such a purpose, the first publication to be not less than twenty-eight days prior to the return day fixed in the citation; and the affidavit of the editor or publisher of the newspaper giving the date of publication, together with a printed copy of the citation as published, shall constitute sufficient proof of due publication when returned and filed in court. If there is no newspaper published in the county, then the publication may be made in a newspaper in an adjoining county, which newspaper shall in every respect answer the requirements of the law applicable to newspapers which are employed for such a purpose. The maximum fee for publishing the citation shall be the lowest published word or line rate of that newspaper for classified advertising. If the publication of the citation cannot be had for this fee, chargeable as costs and payable upon sale of the property, as provided by law, and this fact is supported by the affidavit of the attorney for the plaintiff or the attorney requesting the issuance of the process, then service of the citation may be made by posting a copy at the courthouse door of the county in which the suit is pending, the citation to be posted at least twenty-eight days prior to the return day fixed in the citation. Proof of the posting of the citation shall be made by affidavit of the attorney for the plaintiff, or of the person posting it. When citation is served as here provided it shall be sufficient, and no other form of citation or notice to the named defendants therein shall be necessary.

4. **Citation in Tax Suits: General Provisions.** Any process authorized by this rule may issue jointly in behalf of all taxing units who are plaintiffs or intervenors in any tax suit. The statement of the nature of the suit, to be set out in the citation, shall be sufficient if it contains a brief general description of the property upon which the taxes are due and the amount of such taxes, exclusive of interest, penalties, and costs, and shall state, in substance, that in such suit the plaintiff and all other taxing units who may set up their claims therein seek recovery of the delinquent ad valorem taxes due on said property, and the (establishment and foreclosure) of liens, if any, securing the payment of same, as provided by law; that in addition to the taxes all interest, penalties, and costs allowed by law up to and including the day of judgment are included in the suit; and that all parties to the suit, including plaintiff, defendants, and intervenors, shall take notice that claims for any taxes on said property becoming delinquent subsequent to the filing of the suit and up to the day of judgment, together with all interest, penalties, and costs allowed by law thereon, may, upon request therefor, be recovered therein without further citation or notice to any parties thereto. Such citation need not be accompanied by a copy of plaintiff's petition and no such copy need be served. Such citation shall also show the names of all taxing units which assess and collect taxes on said property not made parties to such suit, and shall contain, in substance, a recitation that each party to such suit shall take notice of, and plead and answer to, all claims and pleadings then on file or thereafter filed in said cause by all other parties

5. **Form of Citation by Publication or Posting.** The form of citation by publication or posting shall be sufficient if it is in substantially the following form, with proper changes to make the same applicable to personal property, where necessary, and if the suit includes or is for the recovery of taxes assessed on personal property, a general description of such personal property shall be sufficient:

To _____

You are hereby notified that suit has been brought by _____ as Plaintiffs, against _____ as Defendants, by petition filed on the _____ day of _____, 19_____, in a certain suit styled _____ v. _____ for collection of the taxes on said property and that said suit is now pending

in the District Court of _____ County, Texas, _____ Judicial District, and the file number of said suit is _____, that the names of all taxing units which assess and collect taxes on the property hereinabove described, not made parties to this suit, are _____.

Plaintiff and all other taxing units who may set up their tax claims herein seek recovery of delinquent ad valorem taxes on the property hereinabove described, and in addition to the taxes all interest, penalties, and costs allowed by law thereon up to and including the day of judgment herein, and the establishment and foreclosure of liens, if any, securing the payment of same, as provided by law.

All parties to this suit, including plaintiff, defendants, and intervenors, shall take notice that claims not only for any taxes which were delinquent on said property at the time this suit was filed but all taxes becoming delinquent thereon at any time thereafter up to the day of judgment, including all interest, penalties, and costs allowed by law thereon, may, upon request therefor, be recovered herein without further citation or notice to any parties herein, and all said parties shall take notice of and plead and answer to all claims and pleadings now on file and which may hereafter be filed in said cause by all other parties herein, and all of those taxing units above named who may intervene herein and set up their respective tax claims against said property.

You are hereby commanded to appear and defend such suit on the first Monday after the expiration of forty-two (42) days from and after the date of issuance hereof, the same being the _____ day of _____, A.D., 19_____ (which is the return day of such citation), before the honorable District Court of _____ County, Texas, to be held at the courthouse thereof, then and there to show cause why judgment shall not be rendered for such taxes, penalties, interest, and costs, and condemning said property and ordering foreclosure of the constitutional and statutory tax liens thereon for taxes due the plaintiff and the taxing units parties hereto, and those who may intervene herein, together with all interest, penalties, and costs allowed by law up to and including the day of judgment herein, and all costs of this suit.

Issued and given under my hand and seal of said court in the City of _____, _____ County, Texas, this _____ day of _____, A.D., 19_____.

Clerk of the District Court.

County, Texas,

Judicial District.

6. **Form of Citation by Personal Service in or out of State.** The form of citation for personal service shall be sufficient if it is in substantially the following form, with proper changes to make the same applicable to personal property, where necessary, and if the suit includes or is for the recovery of taxes assessed on personal property, a general description of such personal property shall be sufficient:

THE STATE OF TEXAS

To _____, Defendant,

GREETING:

YOU ARE HEREBY COMMANDED to appear and answer before the Honorable District Court, _____ Judicial District, _____ County, Texas, at the Courthouse of said county in _____, Texas, at or before 10 o'clock a.m. of the Monday next after the expiration of 20 days from the date of service of this citation, then and there to answer the petition of _____, Plaintiff, filed in said Court on the _____ day of _____, A.D., 19_____, against _____, Defendant, said suit being number _____ on the docket of said Court, the nature of which demand is a suit to collect delinquent ad valorem taxes on the property hereinafter described.

The amount of taxes due Plaintiff, exclusive of interest, penalties, and costs, is the sum of \$ _____, said property being described as follows, to-wit: _____

The names of all taxing units which assess and collect taxes on said property, not made parties to this suit, are: _____

Plaintiff and all other taxing units who may set up their tax claims herein seek recovery of delinquent ad valorem taxes on the property hereinabove described, and in addition to the taxes all interest, penalties, and costs allowed by law thereon up to and including the day of judgment herein, and the establishment and foreclosure of liens securing the payment of same, as provided by law.

All parties to this suit, including plaintiff, defendants, and intervenors, shall take notice that claims not only for any taxes which were delinquent on said property at the time this suit was filed but all taxes becoming delinquent thereon at any time thereafter up to the day of judgment, including all interest, penalties, and costs allowed by law thereon, may, upon request therefor, be recovered herein without further citation or notice to any parties herein, and all said parties shall take notice of and plead and answer to all claims and pleadings now on file and which may hereafter be filed in this cause by all other parties hereto, and by all of those taxing units above named, who may intervene herein and set up their respective tax claims against said property.

If this citation is not served within 90 days after the date of its issuance, it shall be returned unserved.

The officer executing this return shall promptly serve the same according to the requirements of law and the mandates hereof and make due return as the law directs.

Issued and given under my hand and seal of said Court at _____, Texas, this the _____ day of _____, A.D., 19_____.

Clerk of the District Court of
_____ County, Texas.

By _____, Deputy.
