STATE BAR OF TEXAS
COMMITTEE ON COURT RULES

REQUEST FOR NEW RULE OR CHANGE OF EXISTING RULE
TEXAS RULES OF CIVIL PROCEDURE

I. Exact wording of existing Rule:

Rule 329b. TIME FOR FILING MOTIONS

The following rules shall be applicable to motions for new trial and motions to modify, correct, or reform judgments (other than motions to correct the record under Rule 216) in all district and county courts:

(a) Motion for new trial, if filed, shall be filed prior to or within thirty days after the judgment or other order complained of is signed.

(b) One or more amended motions for new trial may be filed without leave of court before any preceding motion for new trial filed by the movant is overruled and within thirty days after the judgment or other order complained of is signed.

(c) In the event an original or amended motion for new trial or a motion to modify, correct or reform a judgment is not determined by written order signed within seventy-five days after the judgment was signed, it shall be considered overruled by operation of law on expiration of that period.

(d) The trial court, regardless of whether an appeal has been perfected, has plenary power to grant a new trial or to vacate, modify, correct, or reform the judgment within thirty days after the judgment is signed.

(e) If a motion for new trial is timely filed by any party, the trial court, regardless of whether an appeal has been perfected, has plenary power to grant a new trial or to vacate, modify, correct, or reform the judgment until thirty days after all such timely-filed motions are overruled, either by a written and signed order or by operation of law, whichever occurs first.

II. Proposed Rule:

Rule 329b. TIME FOR FILING MOTIONS

The following rules shall be applicable to motions for new trial and motions to modify, correct, or reform judgments (other than motions to correct the record under Rule 216) in all district and county courts:

(a) Motion for new trial, if filed, shall be filed ~~prior to or within~~ not later than ~~thirty days~~ the 30th day after the date the judgment or other order complained of is signed.

(b) One or more amended motions for new trial may be filed without leave of court before any preceding motion for new trial filed by the movant is overruled and ~~within~~ **not later than** ~~thirty days~~ **the 30th day** after the **date the** judgment or other order complained of is signed.

(c) In the event an original or amended motion for new trial or a motion to modify, correct or reform a judgment is not determined by written order signed ~~within~~ **not later than** ~~seventy-five days~~ **the 75th day** after the **date the** judgment was signed, it shall be considered overruled by operation of law on expiration of that period.

(d) The trial court, regardless of whether an appeal has been perfected, has plenary power to grant a new trial or to vacate, modify, correct, or reform the judgment ~~within~~ **not later than** ~~thirty days~~ **the 30th day** after the **date the** judgment is signed.

(e) If a motion for new trial is timely filed by any party, the trial court, regardless of whether an appeal has been perfected, has plenary power to grant a new trial or to vacate, modify, correct, or reform the judgment until **not later than** ~~thirty days~~ **the 30th day** after **the date** all such timely-filed motions are overruled, either by a written and signed order or by operation of law, whichever occurs first.

III. Brief statement of reasons for requested changes and advantages to be served by them:

The proposed change is intended to promote greater clarity and consistency in the expression of time, time periods and deadlines by (1) referring to the "date" or "day" on which an event occurs, as opposed to "time" which may be construed to mean a time of day, (2) describing a time period in a way that makes the first and last days clear, and (3) leaving no doubt about which is the last day on which action may be taken, in accordance with §7.28 of the Texas Legislative Counsel Drafting Manual.

Respectfully submitted,

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