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July 7, 2002

The Honorable Thomas R. Phillips
Chief Justice, Supreme Court
Supreme Court Building
P. O. Box 12248
Capitol Station
Austin, Texas 78711

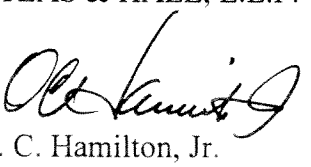
Dear Justice Phillips:

Enclosed is a proposed rule change to Rule 13 and rule 21.b to change the reference from Rule 215-2.b to Rule 215.2(b) which have been approved for submission to the Supreme Court by the Court Rules Committee.

By copy of this letter, I am forwarding copies of this proposed rule change to Charles Babock, Chairman of the supreme Court Advisory Committee, Justice Hecht and to Chris Grissel.

Sincerely,

ATLAS & HALL, L.L.P.

By: 

O. C. Hamilton, Jr.

OCH:PGB
CourtRules.ChangesJudgePhillips.772002

Attachments

cc with attachments:

The Honorable Nathan Hecht
Justice, Supreme Court of Texas
Supreme Court Building
P. O. Box 12248
Capitol Station
Austin, Texas 78711

Charles Babcock
901 Main Street Suite 6000
Dallas, Texas 75202-3748

Chris Griesel
Supreme Court Building
P. O. Box 12248
Capitol Station
Austin, Texas 78711

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 existing Rule:

RULE 13. EFFECT OF SIGNING OF PLEADINGS, MOTIONS AND OTHER PAPERS; SANCTIONS

The signatures of attorneys or parties constitute a certificate by them that they have read the pleading, motion, or other paper; that to the best of their knowledge, information, and belief formed after reasonable inquiry the instrument is not groundless and brought in bad faith or groundless and brought for the purpose of harassment. Attorneys or parties who shall bring a fictitious suit as an experiment to get an opinion of the court, or who shall file any fictitious pleading in a cause for such purpose, or shall make statements in pleading which they know to be groundless and false, for the purpose of securing a delay of the trial of the cause, shall be held guilty of a contempt. If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, after notice and hearing, shall impose an appropriate sanction available under Rule 215-2b, upon the person who signed it, a represented party, or both.

Courts shall presume that pleadings, motions, and other papers are filed in good faith. No sanctions under this rule may be imposed except for good cause, the particulars of which must be stated in the sanction order. "Groundless" for purposes of this rule means no basis in law or fact and not warranted by good faith argument for the extension, modification, or reversal of existing law. A general denial does not constitute a violation of this rule. The amount requested for damages does not constitute a violation of this rule.

II. Proposed Rule:

RULE 13. EFFECT OF SIGNING OF PLEADINGS, MOTIONS AND OTHER PAPERS; SANCTIONS

The signatures of attorneys or parties constitute a certificate by them that they have read the pleading, motion, or other paper; that to the best of their knowledge, information, and belief formed after reasonable inquiry the instrument is not groundless and brought in bad faith or groundless and brought for the purpose of harassment. Attorneys or parties who shall bring a fictitious suit as an experiment to get an opinion of the court, or who shall file any fictitious pleading in a cause for such purpose, or shall make statements in pleading which they know to

be groundless and false, for the purpose of securing a delay of the trial of the cause, shall be held guilty of a contempt. If a pleading, motion or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, after notice and hearing, shall impose an appropriate sanction available under Rule 215.2(b), upon the person who signed it, a represented party, or both.

Courts shall presume that pleadings, motions, and other papers are filed in good faith. No sanctions under this rule may be imposed except for good cause, the particulars of which must be stated in the sanction order. "Groundless" for purposes of this rule means no basis in law or fact and not warranted by good faith argument for the extension, modification, or reversal of existing law. A general denial does not constitute a violation of this rule. The amount requested for damages does not constitute a violation of this rule.

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

Comment to 2002 change: To change the former reference to Rule 215-2b to 215.2(b) to reflect the 1999 revisions and renumbering of Rule 215.