

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 11- 9249

ORDER ADOPTING TEXAS RULE OF JUDICIAL ADMINISTRATION 16

ORDERED that:

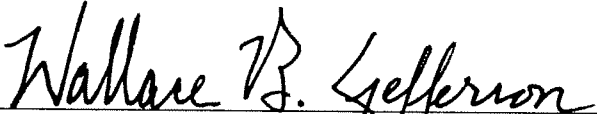
1. Pursuant to the Texas Constitution, article V, section 31(a), and section 74.024 of the Texas Government Code, and in accordance with the Act of June 29, 2011, 82nd Leg., 1st C.S., ch. 3 (HB 79), Texas Rule of Judicial Administration 16 is adopted as follows.

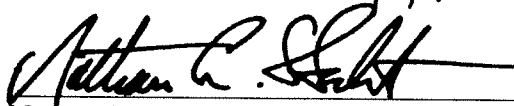
2. Rule of Judicial Administration 16, with any modifications made after public comments are received, takes effect May 1, 2012. Any interested party may submit written comments before February 29, 2012, directed to Marisa Secco, Rules Attorney, at P.O. Box 12248, Austin, TX 78711 or marisa.secco@txcourts.gov.

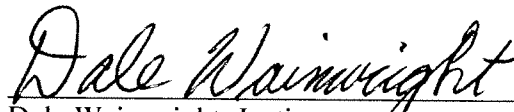
3. The Clerk is directed to:

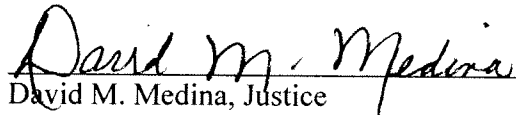
- a. file a copy of this Order with the Secretary of State;
- b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
- c. send a copy of this Order to each elected member of the Legislature; and
- d. submit a copy of the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


Dated: December 19th, 2011.



Wallace B. Jefferson, Chief Justice


Nathan L. Hecht, Justice

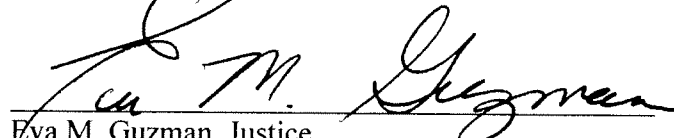

Dale Wainwright, Justice



David M. Medina, Justice


Paul W. Green, Justice


Phil Johnson, Justice


Don R. Willett, Justice


Eva M. Guzman, Justice


Debra H. Lehrmann, Justice

Rule 16. Additional Resources for Certain Cases

16.1 Authority and Applicability.

- (a) *Authority.* This rule is promulgated under Sections 74.251-74.257 of the Government Code.
- (b) *Applicability.* This rule applies to civil actions pending on or after May 1, 2012, in a constitutional county court, county court at law, probate court, or district court and that may require additional judicial resources.
- (c) *Other Cases.* This rule does not apply to:
 - (1) criminal matters;
 - (2) grants for local court improvement under Section 72.029 of the Government Code;
 - (3) cases in which judicial review is sought under Chapter 2001, Subchapter G, of the Government Code; or
 - (4) cases that have been transferred by the judicial panel on multidistrict litigation to a district court for consolidated or coordinated pretrial proceedings under Chapter 74, Subchapter H, of the Government Code.

16.2 Definitions.

As used in this rule:

- (a) *Judicial Committee for Additional Resources (JCAR)* means the judicial committee designated pursuant to Section 74.254 of the Government Code, including the chief justice of the Supreme Court of Texas and the presiding judges of the administrative judicial regions.
- (b) *JCAR Clerk* means the Administrative Director of the Office of Court Administration (OCA).
- (c) *Presiding Officer* means the Chief Justice of the Supreme Court of Texas.
- (d) *Trial court* means the judge of the court in which a case is filed or assigned.

16.3 Duties of the Office of Court Administration.

- (a) OCA will assist the JCAR in carrying out its duties under this rule by:
 - (1) providing support staff, meeting facilities, or technology to the JCAR;
 - (2) requesting appropriations for additional judicial resources from the legislature; and
 - (3) providing additional resources approved by the JCAR to the trial court.
- (b) The JCAR Clerk must file any requests for additional resources, and any written determination by a presiding judge or the JCAR of such a request, made pursuant to this rule.
- (c) At the conclusion of any case where additional resources were made available under this rule, OCA must prepare and file with the JCAR Clerk a report stating the additional resources provided and their estimated costs.

16.4 Considerations for Determining Whether a Case Requires Additional Resources.

In determining whether a case requires additional judicial resources, the trial court, presiding judge of the administrative judicial region in which the case is filed, and JCAR may consider whether a case involves or is likely to involve:

- (a) a large number of parties who are separately represented by counsel;
- (b) coordination with related actions pending in one or more courts in other counties of this state or in one or more United States district courts;
- (c) numerous pre-trial motions that present difficult or novel legal issues that will be time consuming to resolve;
- (d) a large number of witnesses or substantial documentary evidence;
- (e) substantial post-judgment supervision;
- (f) a trial that will last more than four weeks; or
- (g) a substantial additional burden on the trial court's docket and the resources available to the trial court to hear the case.

16.5 Additional Resources.

One or more of the following resources may be made available under this rule:

- (a) the assignment of an active or retired judge, subject to the consent of the trial court;

- (b) additional legal, administrative, or clerical personnel;
- (c) information and communication technology, including case management software, video conferencing, and specially designed courtroom presentation hardware or software to facilitate presentation of the evidence to the trier of fact;
- (d) specialized continuing legal education;
- (e) an associate judge;
- (f) special accommodations or furnishings for the parties;
- (g) other services or items determined necessary to try the case; and
- (h) any other appropriate resources.

16.6 Procedure for Requesting Additional Resources.

- (a) *Motion for Additional Resources.* A party in a case may move for the case to be designated as a case requiring additional resources. The motion must be in writing and must state:
 - (1) how the case involves or is likely to involve considerations that justify additional judicial resources;
 - (2) what additional judicial resources will promote the just and efficient conduct of the case;
 - (3) the time by which the additional resources are needed; and
 - (4) whether all parties in the case agree to the motion.
- (b) *Determination by Trial Court.* The trial court, upon motion complying with subparagraph (a), or on its own initiative, must determine whether a case will require additional resources.
- (c) *Request for Additional Judicial Resources.* If the trial court determines that a case requires additional resources under this rule it must:
 - (1) prepare a written request that states the nature of the case, the requested resources, and why the resources are needed;
 - (2) submit the request to the presiding judge of the administrative region in which the case is filed; and
 - (3) forward a copy of the request to the JCAR Clerk at the mailing address or email address listed on the “Contact Information” page of OCA’s website.
- (d) *Notice of Request for Additional Resources.* Upon receiving a request for additional resources, the JCAR clerk must send a copy of the request to the JCAR. Within 15 days of receiving the request, the presiding judge of the affected administrative judicial region or the

JCAR Clerk must provide notice to the trial court of any action on the request, even if to report the inability to take action.

16.7 Review of Request for Additional Resources.

- (a) *Review by Presiding Judge of Administrative Judicial Region.* Upon receipt, the presiding judge of the administrative judicial region in which the case is filed must review the trial court's request for additional resources. If the presiding judge agrees with the trial court's determination that the case requires additional resources, the presiding judge must:
 - (1) use resources previously allotted to the presiding judge, if the resources are permitted to be used for the purpose requested; or
 - (2) submit a request for additional resources to the JCAR.
- (b) *Review by the JCAR.* If the presiding judge of the administrative judicial region in which the case is filed submits a request for additional resources to the JCAR under subparagraph (a)(2), the JCAR must determine whether the case requires additional resources. If the JCAR determines additional resources are required, the JCAR may make available any resources the JCAR considers necessary or appropriate.
- (c) *Notice of Determination of Request.* The presiding judge of the administrative judicial region in which the case is filed or, if a request is submitted to the JCAR under subparagraph (a)(2), the JCAR must notify the JCAR Clerk in writing upon approval or denial of a request for additional resources. On receipt of such notice, the JCAR Clerk must transmit a copy to the affected trial court.

16.8 Implementation of Additional Resources.

If the JCAR determines that a case requires additional resources, the presiding judge of the administrative judicial region in which the case is filed and the Office of Court Administration must cooperate with the trial court or its designee in providing the approved additional resources.

16.9 Effect of Motion for Additional Resources.

- (a) *Jurisdiction.* The filing of a motion under this rule does not deprive the trial court of jurisdiction or suspend proceedings or orders in that court.

- (b) *No Stay or Continuance of Proceedings.* The filing of a motion under this rule is not grounds for a stay or continuance of the proceedings during the period the motion or request is being considered.

16.10 Review of Determinations by the Trial Court, Presiding Judge or JCAR.

A determination by the trial court, the presiding judge of the administrative region, or the JCAR of a request or motion for additional resources is not appealable or subject to review by mandamus.

16.11 Provisions for Additional Resources.

- (a) *Costs for Additional Resources.* The costs for additional resources provided under this rule must be paid by the state and must not be taxed against any party in the case for which the resources are provided or against the county in which the case is pending.
- (b) *Appropriations for Additional Resources.* Additional resources are subject to the availability of appropriations made by the legislature or as provided through budget execution authority or other budget adjustment method, or from funds made available by grants or donations.

Comment

Rule 16 is added to provide procedures for cases that require additional resources, as mandated by sections 74.252-74.257 of the Government Code, enacted effective January 1, 2012. The procedures in Rule 16 are not exclusive; judges may still be assigned as provided for in sections 74.052-74.062 of the Government Code.