

Administrative Office of the District Courts
Harris County, Texas

Kelly Smith
STAFF ATTORNEY

1201 Franklin, 7th Floor
Houston, Texas 77002-2022
713-755-6575; Fax No. 713-755-8973

January 31, 2008

Mr. Mark Bennett
Bennett & Bennett
735 Oxford Street
Houston, TX 77007

Re: January 23, 2008, Request for Judicial Records

Dear Mr. Bennett:

The District Court Judges Trying Criminal Cases ("the Judges") forwarded your January 23rd letter to me. You ask for copies of:

"All emails that you or your office have received or sent containing the words, "This email has been sent by an HCCLA member" [, the phrase HCCLA@yahoogroups.com " and the phrase "[HCCLA]" anywhere in the message including the subject line."

All the judges' electronic mail is stored on the Administrative Office server. To comply with your request, our technical services department would have to engage in a very time-consuming and labor-intensive undertaking of searching the server and retrieving the electronic mail you have requested. To access and retrieve that electronic mail, technical services would have to devote significant manpower and computing resources.

To avoid disrupting real time mail services during this search and retrieval process, technical services would need to first restore a copy of the Administrative Office server as of the date of your request from a backup tape. Then, technical services would have to

search each individual mailbox for the phrases you have requested, and then do the same for multiple back-up tapes.

Once the mailboxes have been restored and the electronic mail retrieved, to then review the results would require significant time from an always-busy technical services employee, who would have to painstakingly assess the search results for compliance. Someone from the legal staff would then have to review and redact the filtered electronic mail accessed by technical services to ensure the Judges comply with the Texas Code of Judicial Conduct and any other applicable laws before releasing any judicial records. In short, compliance with your request is not feasible.

The Judges are familiar with and support the policy expressed in Rule 12.1: that the rule should be liberally construed to achieve its purpose of providing public access to information in the judiciary consistent with the constitutional mandates of open courts and an independent judiciary. But on behalf of the Judges, assuming for the sake of argument the information you have requested is a judicial record, I must nevertheless respectfully deny access to the judicial records you seek because compliance with your request would substantially and unreasonably impede the routine operation of the Harris County District Courts. *See* TEX. R. JUD. ADMIN. 12.8(a)(2).

You have the right to appeal our denial of access to these records under Rule 12.9 to:

Carl Reynolds - Administrative Director
Office of Court Administration
205 West 14th Street, Suite 600
P.O. Box 12066
Austin, Texas 78711-2066

Sincerely,



Kelly Smith