

The Appellate Advocate

State Bar of Texas Appellate Section Report



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*****SPECIAL EDITION*****

HANDBOOK TO THE TEXAS APPELLATE COURTS

THE PROCESS: INTERNAL OPERATING PROCEDURES OF THE TEXAS APPELLATE COURTS

**BY: CYNTHIA KEELY TIMMS, MICHAEL S. TRUESDALE,
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SECTION WEB SITE: www.tex-app.org

THE PROCESS: INTERNAL OPERATING PROCEDURES OF THE APPELLATE COURTS

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INTRODUCTION

This paper surveys the procedures of the Texas Supreme Court, the Texas Court of Criminal Appeals, and the fourteen courts of appeals in several areas: (1) motions, (2) briefing, (3) oral argument, (4) voting, (5) opinions, (6) motions for rehearing, (7) original proceedings, (8) technology, (9) fees, and (10) other miscellaneous areas.

BACKGROUND

In August 1996, the *Appellate Advocate* published an article entitled *Report of the User-Friendly Courts Committee*, prepared by Lori Meghan Gallagher, as chair of the State Bar Appellate Section's User Friendly Committee, and her co-authors Liz Wiley, James A. Vaught, and Bill Boyce.

9 APPELLATE ADVOCATE 9 (Aug. 1996). The report was the result of surveys forwarded to all of the State's appellate courts in which the courts were asked "basic questions regarding court procedures and other issues of practical concern to appellate practitioners."

Id. The responses were then compiled in table form, with the goal of "provid[ing] helpful information at a glance that will lessen the number of routine telephone inquiries received by the clerks. . . ." *Id.* The report was used frequently by many attorneys and staff members who turned to it first before calling clerk's offices across the State.

Over time, the Report began to become obsolete, in part as a result of the 1997 changes to the Texas Rules of Appellate Procedure and as the courts adopted new technologies. The Report has been updated on various occasions since its initial publication, each time reporting new categories of information and reporting changes in procedures at the various courts.

This paper represents the most recent attempt to provide a current resource for appellate practitioners. As with previous versions of the Report, this paper began with a review of past editions of the Report. However, this version sought additional information regarding the internal practices employed by the courts in handling motions, case assignment, preparation of opinions, deliberations, and other areas. A representative of each court was provided an extensive survey form, and thereafter, initial responses to the survey were prepared for each court. The information was then compiled in a new format, with all information pertaining to a particular court reported together. Drafts of the responses were returned to the various courts for their review and approval, and the revisions received have been incorporated into the final product.

As with prior versions of the Report, this paper is only possible as a result of the generous cooperation of the court staff across the State who provided the input from which the Report was written.

It should be noted that as this paper was going to press, the Fourth District Court of Appeals was in the process of implementing new internal operating procedures. The procedures ultimately adopted by the court are not reflected in this paper, and may differ from the ones described herein. Those procedures are available online at www.tex-app.org.

Survey of the Texas Appellate Courts - Supreme Court of Texas

The Basics

1. Court's Address: Supreme Court of Texas, P.O. Box 12248, Austin, TX 78711 or Supreme Court Bldg, 201 W. 14th St., Room 104, Austin, TX 78701
2. Telephone numbers: Phone: (512) 463-1312; Fax: (512) 463-1365
3. Website address: <http://www.supreme.courts.state.tx.us>
4. Names of Justices: Chief Thomas R. Phillips, Associate Justices Nathan Hecht, Priscilla Owen, Harriet O'Neill, Wallace Jefferson, Michael Schneider, Steven Smith, Dale Wainwright, Scott Brister
5. Chief Clerk: Andrew Weber
6. Local Rules: The Court has no local rules. The Court's internal operating procedures are not published.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original plus 11 copies	Motions are generally processed by clerk (except for emergencies and rehearing). Contested motions are decided on an ad hoc basis after an opportunity for response. First motions for extensions of time (up to 30 days) are usually granted. The Court's letter granting requests relating to briefs or responses typically states that further requests will be disfavored. Requests to extend the deadline to reply to responses typically receive the Court's standard letter. Requests to extend the deadline to file a Reply Brief are forwarded to the memo chambers which may grant the request if it wants to see a reply.	If motion is in a cause and requires knowledge of or would impact disposition of the case, motion will go to the majority chambers. Court requests that case number be typed in 48 point font at the top middle of the cover. In parental termination cases, standard extension is 15 days. Second agreed motions on petitions will usually be granted with language disfavoring further extensions; all other subsequent requests depend on whether they overcome the "disfavor;" settlement discussions usually do, most other reasons do not. All motions except for motions for rehearing require a certificate of conference; Court will not dispose of motion for 10 days without a certificate. If motion is opposed, Court allows 10 days for a response.	
Briefs	Original plus 11 copies	Petitions are due 45 days after the later of the date of the court of appeals' judgment or denial of last timely motion for rehearing. Due dates on briefs are as stated in the request letter, or, if no schedule, per TRAP 53.	Court requests that case number be typed in 48 point font at the top middle of the cover. Court prefers not to receive requests to submit additional pages when requesting emergency relief.	No clear, black, or red covers.
Oral Argument	n/a	20 minutes per side; Court rarely allots additional time and usually only in very complex cases involving multiple parties or to hear an amicus.	If petition for review is granted, Court will schedule oral argument, request is not necessary.	additional filing fee of \$75 is due if oral argument is scheduled
Voting		Cases are assigned to justices before the case is argued. If a petition is not denied initially, its disposition is decided through conference discussion.	Court rarely meets in advance of argument with respect to a case being argued; after submission at regular conference Court will meet to discuss case. Clerks and staff attorneys participate in and prepare memos for conference.	
Opinions		Authors of opinions are assigned by random draw.	The Court has internal deadlines for circulation of an initial draft, for reviewing and responding to a draft, which both can be extended. The Court generally releases its opinions on Fridays at 9:00 a.m.	
Motions for Rehearing	Original plus 11 copies	Motions filed in causes are forwarded to the majority chambers who prepares a memo for the Court; motions filed in connection with petitions are circulated to the Court. The court has corrected and substituted non-substantive revisions without a motion for rehearing		

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Original Proceedings	Original plus 11 copies	A vote of 5 is required to set original proceeding for oral argument, a vote of 1 is required to grant emergency relief.	Mandamus staff attorney reviews motions to determine whether emergency exists and if so, how soon relief is needed. If no emergency exists, original proceeding is circulated and considered as if it were a petition for review; if an emergency exists, it is considered ASAP, a memo goes to the Court, and any justice can receive a copy of the original proceeding.	

Technology

1. The court has both Westlaw and Lexis.
2. With respect to United States Supreme Court cites, use U.S.
3. The court has received briefs and/or records on CD-Rom, with some Justices finding them helpful.
4. The court prefers that parties provide copies of out of state cases; if central and not voluminous, the preference is to include them in the appendix.
5. The court accepts fax filing only in emergency situations. Party seeking to file by fax should call first for consent and when fax is being transmitted.
6. The court accepts electronic filings only in emergency situations and on the Court's request.
7. The court posts its orders on its website.
8. The court makes audio recordings of oral arguments available on cassette for \$5 (or \$7 if mailed). The Court should have digital recording by the fall of 2004 allowing the Court to send recordings by e-mail or CD Rom.

Fees

1. Appeal: Petition for Review is \$75; another \$75 if granted; Direct appeals are \$125
2. Original Proceeding: \$75 to file; another \$75 if set to argue
3. Motions: \$10 except Motion for Rehearing is \$15
4. Response to Motion: No fee.

Survey of the Texas Appellate Courts – Court of Criminal Appeals

The Basics

1. Court's Address: Court of Criminal Appeals, P.O. Box 12308, Austin, TX 78711 or Supreme Court Bldg, 201 W. 14th St., Austin, TX 78701
2. Telephone numbers: Phone: (512) 463-1551; Fax: (512) 463-7061
3. Website address: <http://www.cca.courts.state.tx.us>
4. Names of Judges: Presiding Judge Sharon Keller, Serving Judges Lawrence E. Meyers, Tom Price, Paul Womack, Cheryl Johnson, Michael Keasler, Barbara Hervey, Charles Holcomb, Cathy Cochran
5. Chief Clerk: Troy C. Bennett, Jr.
6. Local Rules: The Court has no local rules.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original only of motions for extension of time; Original plus 11 copies of all other motions	First motions for extension of time are routinely granted. Motions for extension of time must comply with TRAP 10.5(b) and 68.2(c)		
Briefs	Original plus 11 copies		Briefs must comply with TRAP 38 and 71.3 Amendment and supplementation is allowed only with leave of Court	
Oral Argument	n/a	The Court will designate whether a case requires oral argument. Notification of such designation shall be sent to counsel along with notification of submission. If counsel desires oral argument and the Court has not so designated the case, counsel may petition the Court within 30 days of the submission notification.	The total maximum time for oral argument is 20 minutes per side. If a motion for rehearing is granted and the cause re-submitted, oral argument is limited to 15 minutes per side	Multiple additional citations should not be made orally during argument, but should be reduced to writing and filed with the Clerk.
Opinions			Orders are released Wednesday mornings at 9:00 a.m.	
Motions for Rehearing	Original plus 11 copies			

Technology

1. The Court has both Westlaw and Lexis.
2. The Court does not accept fax filings.
3. The Court does not accept electronic filings.
4. The Court posts its orders on its website.
5. The Court makes audio recordings of oral arguments available on cassette for \$5.

Survey of the Texas Appellate Courts - First District Court of Appeals (Houston)

The Basics

1. Court's Address: Court of Appeals, 1st District, 1307 San Jacinto, 10th Floor, Houston, TX, 77002
2. Telephone number: 713-655-2700; 713-752-2304(fax)
3. Website address: www.1stcoa.courts.state.tx.us
4. Names of Judges: Sherry Radack (C.J.), Tim Taft, Sam Nuchia, Terry Jennings, Evelyn Keyes, Elsa Alcala, George C. Hanks, Jr., Laura Carter Higley, and Jane Bland
5. Chief Staff Attorney: Janet McVea Williams
6. Chief Clerk: Margie Thompson
7. Local Rules: The court does not have local rules. Internal operating procedures are described below.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original plus 2 copies in appellate proceedings; original plus 3 copies in original proceedings.	The court is generally liberal in granting motions for extension, provided the briefs will be filed within 30 days of the original due date. Requests for extensions beyond 30 days after the original due date are disfavored, and the need for such extensions will be considered on a case-by-case basis.	Motions requiring only a single judge generally are decided by a single judge. A panel is used to act on petitions for extraordinary writs, dismissing or otherwise determining an appeal, and motions for rehearing.	Motions are considered and decided daily. The process is the same for both contested and agreed motions, except contested motions are held for 10 days.
Briefs	An original plus 5 copies of briefs and appendices. Deadlines follow the TRAPs.			Covers cannot be red, black, or dark blue. A motion for leave must accompany any late brief.
Case Assignment		When a case is filed, the clerk assigns it to a justice on a rotating basis. The assigned justice becomes the author of the opinion in that case. The Chief Justice sets the panels for the court. Generally, the three most senior justices serve as the presiding judges of the three panels. The panels generally change on a quarterly basis.	Once the case is set for submission, it is assigned to either a staff attorney or a briefing attorney, depending on the size of the case and the complexity of the issues. The attorney prepares a pre-submission memo, which is usually completed one week before argument. Briefs and supplemental authorities filed within one week of submission might not be addressed in the pre-submission memo. Parties receive notice of the panel members at least 21 days before the case is submitted. The panel members are subject to change by the court.	If one of the justices who is not on the panel does not agree with the opinion when the case is submitted for full court review, he or she may call for en banc review. If the court votes to grant en banc review, an en banc opinion will issue. If the court votes to deny en banc review, the justice who called the en banc review may issue a dissent from the denial of en banc review. In deciding whether to hear a case en banc, the court considers whether en banc review is necessary to secure or maintain uniformity of the court's decisions or whether extraordinary circumstances require en banc review.

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Oral Argument	Oral argument must be requested on the cover of a party's first brief.	Court typically allows 15 minutes per side; which includes appellant's rebuttal. Rebuttal must be reserved from the appellant's 15 minutes. Court rarely allows more time. Cases with numerous parties or issues may be permitted extra time, in the court's discretion.	The court does not automatically grant requests for argument. The court will consider whether argument would significantly aid the court in determining the legal and factual issues presented in the appeal. Cases with novel or complex issues are more likely to be granted oral argument.	A party that fails to request oral argument waives the right to argue. The court may, in its discretion, permit a party to argue even if it has waived argument.
Voting			Either the day of argument, or the day before, the panel holds a pre-submission conference and discusses cases. After argument, the panel holds a post-submission conference to discuss the submitted cases and take a preliminary vote. The attorney then incorporates the panel's recommended changes into a proposed opinion. The panel judges vote on the case when the authoring judge circulates a proposed opinion. Same method is used for determining cases that are argued and cases submitted without argument.	
Opinions		The court has internal guidelines for the time in which opinions should issue. There is no firm deadline for the initial draft, but the court tries to have a draft opinion prepared at the time of submission. After the author circulates a proposed opinion, panel members have approximately one week to either agree, make comments, or announce their intention to concur or dissent. Panel members may informally request more time to review an opinion. If a panel member decides to concur or dissent from the opinion, he or she is given an additional 45 days to draft a concurrence or dissent. When the panel has agreed on a proposed opinion, the case is circulated to the other 6 members of the court for their review, along with concurrences and dissents. Once the full court has had the opportunity to review and approve the proposed opinion, it issues. All members of the court are given 72 hours to review a final opinion before it issues.	Court generally issues its opinions on Thursdays.	
Motions for Rehearing	Rules require an original plus 2 copies, but it would be helpful to file an original plus 4 copies. If moving for rehearing en banc, it is helpful but not required to file an original plus 10 copies.	Motions for rehearing are initially circulated to author; author makes recommendation; then it is circulated to other panel members. If a motion for reconsideration en banc raises an issue that has not previously been presented to the panel in a motion for rehearing, the motion for en banc reconsideration will be presented to the panel. If the panel does not alter its original opinion, then the motion for rehearing en banc is presented to the full court. <i>See Butler v. State</i> , 6 S.W.3d 636, 637 n.1 (Tex. App.—Houston [1st Dist.] 1999, pet. ref'd). A motion for en banc reconsideration that raises issues previously raised before the panel will be presented directly to the entire court.		The court has sometimes granted rehearing w/o request under TRAP 50. There are cases where the court has decided to sit en banc without being asked to do so by the parties.

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Original Proceedings	Original plus 3 copies.	Original proceedings are assigned to the chambers of the authoring judge, who is assigned at the time the original proceeding is filed. The authoring judge handles the original proceeding, along with the other two members of the panel on which the author is sitting.	Requests for emergency relief are handled promptly, and original proceedings are generally handled on an expedited basis, depending on the circumstances. One vote is required to grant emergency relief.	Whether the court grants argument in an original proceeding depends on whether it would significantly aid the court in determining the legal and factual issues presented.

Technology

1. Court has both Westlaw and Lexis.
2. With respect to United States Supreme Court cites, use U.S. and S.Ct.
3. The court has received briefs or records on CD-Rom's and finds them helpful.
4. The court prefers that parties provide copies of out of state cases.
5. The court does not accept fax filing.
6. The court does not accept electronic filings.
7. The court distributes orders electronically.
8. The court does not record oral argument.

Appellate Mediation

1. The court provides a means for the parties and their counsel to engage in meaningful settlement negotiations at an early point in the appellate process. However, it is not the practice of the court to order mandatory mediation.
2. Mediation is voluntary. If a party believes that mediation would be beneficial, he should so indicate on the docketing statement. If the court determines after review of the case that mediation is appropriate, it will enter an order referring the case to mediation. The parties will be given 10 days in which to file an objection to mediation. If no party objects to mediation, the parties will choose a mediator, agree on a reasonable fee for the mediator's services, and notify the Clerk of the name of the mediator. After a referral to mediation, the parties are generally given 15 days to choose a mediator and 45 days to conduct the mediation. The parties shall, within 2 days of the conclusion of the mediation, notify the court about whether the parties reached a settlement agreement.
3. A rotating panel of three justices oversees the mediation program.
4. If someone needs to contact the court about mediation, they must go through the clerk.
5. The parties must agree on a mediator or the case will not be referred to mediation.

Fees

1. Appeal: \$125, but only one \$125 filing fee for each civil case on appeal regardless of how many appellants there may be or the number of notices of appeal that are filed.
2. Original Proceeding: \$75 for each writ requested.
3. Motions: \$10 (if motion requests multiple relief, \$10 for each request)
4. Response to Motion: None

Miscellaneous

1. The first floor lobby of the court contains a "drop box" for filing after the court has closed. The late night filing box is only open from 5:00 p.m. to 6:00 p.m. Documents filed during that time are considered timely filed on that day.
2. The court rarely uses visiting judges at this time. In the past, the court has regularly used Judges Jackson B. Smith, Jr., Judge Lee Duggan, Jr., and Judge Frank Price. As provided by the Legislature during the last session, it also occasionally uses district court judges as visiting judges.

Survey of the Texas Appellate Courts - Second District Court of Appeals (Fort Worth)

The Basics

1. Court's Address: Tarrant County Justice Center, 401 W. Belknap Street, Suite 9000, Fort Worth, Texas 76196
2. Telephone number: Phone: (817) 884-1900, Fax: (817) 884-1932
3. Website address: <http://www.2ndcoa.courts.state.tx.us>
4. Names of Judges: Chief – John Cayce; Other Justices – Terrie Livingston; Lee Ann Dauphinot; Dixon W. Holman; Anne Gardner; Sue Walker; and, Bob McCoy
5. Chief Staff Attorney: Janette Thompson
6. Chief Clerk: Stephanie Lavake
7. Local Rules: The court has published written local rules and unpublished written internal operating procedures.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original only, no copies. Certificate of conference required on all motions, except motions for rehearing.	Motions that may be decided by a single justice and are filed before a panel is assigned are decided by a single justice, unless the justice responsible for deciding the motion requests that a motion panel be assigned. After a panel is assigned to a case, all motions pertaining to the case generally are submitted to the panel. Some first motions for extension of time to file briefs are handled by the clerks. First motions for extension of time are liberally granted for cause depending upon the amount of time requested. Second motions – depends upon the circumstances of the case. Subsequent motions – Looked upon with disfavor.	If the motion is an agreed motion, it is submitted when filed. If it is a contested motion, it is held for 10 days before submission to the court. Both pre-submission motion panels and appeal panels are set in December for the following calendar year. Motion panels change monthly; the motion justice who decides single justice motions changes every 2 months.	All motions are considered and decided any day of the week. Rulings on motions for rehearing are announced on Thursdays. All motions for extensions of time in criminal cases must state whether the appellant is incarcerated.
Briefs	Original plus 4 copies.	<u>Appeals</u> : The court uses the filing deadlines in TRAP 38.6(a-b), but those dates are not set until the record is filed. The parties are notified by letter of the filing dates. Local Rule ("LR") 1(J). <u>Original Proceedings</u> : If the court requests a response, it generally sets a 10-day deadline. Sometimes circumstances warrant a shorter or longer deadline. LR 2(B). REPLY BRIEFS: <u>Appeals</u> : Same as deadlines in TRAP 38.6(c); notice provided by clerk. LR 1(J). Up to 7 days before submission the court will also accept, w/o a motion for leave, appellant's reply to appellee's brief. LR 1(C). <u>Original Proceedings</u> : Generally 5 days after response brief is filed, but the court may consider and decide the case before a reply is filed. TRAP 52.5; LR 2(B).	Unless requested by the court, all amended, supplemental, post-submission, and letter briefs must be accompanied by a motion for leave to file. LR 1(C). Letter briefs must be double-spaced. LR 1(D). Aggregate number of pages of all briefs filed by a party cannot exceed 90 pages. LR 1(G). If appendix is separately bound, must file original and 4 copies. LR 1(I).	In civil cases, appellant's brief should be light blue; appellee's brief red; intervenor's or amicus' brief green; and any reply brief gray. LR 1(A)(8). In criminal cases, appellant's brief should be light blue or white; State's or appellee's (when State is appellant) brief yellow or white. LR 1(A)(8).

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Case Assignment		Generally, a panel is assigned when the appellee's brief is filed. The court has a rotation cycle so as to achieve different compositions of panels. Judges are reassigned every 2 months.	Judges occasionally meet before argument/submission; always after argument/submission; and occasionally both before <u>and</u> after argument/submission. If neither party requests oral argument, the opinion may be drafted prior to conference.	Parties can always call to find out who is on their panel. Appeals: Panels are assigned when the appellee's brief is filed. Parties are notified at that time. Original Proceedings: Assigned at the time of filing. If a response is requested, the order will identify the panelists.
Oral Argument	Request oral argument on cover of the brief	When oral argument is granted, the court allots 15 minutes per side; 5 minute rebuttal for appellant/relator. Allotment of more time is at the discretion of the court.	Appeals: Requests for oral argument are not automatically honored. Requests are screened in certain categories of cases. Factors considered in determining whether to grant oral argument include the complexity and number of the issues presented and whether the law and facts are well-settled. After screening and recommendation by a staff attorney, author judge decides whether to grant oral argument. If ordered submitted w/o argument, an objection by a party requesting argument may be sustained. Original Proceedings: The judges on the panel decide whether to grant oral argument.	Law clerks generally participate in conferences; staff attorneys generally do not, unless requested by a judge. Clerks summarize the facts and issues presented in memos for conference. No detailed "bench memos" are prepared, except in original proceedings. If only one side requests oral argument, the court will either have both sides argue or the case will be submitted on the briefs. TRAP 39.7, 39.8.
Voting		Voting occurs after oral argument. For most cases submitted w/o argument, voting occurs on the date the case is submitted on the briefs. Parties are notified of the submission date by letter.	The court has a weekly submission docket that includes cases submitted both orally and on briefs. After oral argument, all cases on the submission docket for a particular date are voted on in panel conference.	Occasionally, the panel votes after reading a draft of the opinion prepared by one of the panel members.
Opinions		Internal guidelines recommend that the author circulate an initial draft to panel members 6 months after submission. The guidelines suggest that each panel member has 14 days to sign off on the draft, request a panel conference, or note that they intend to draft a concurrence or dissent. The panel member then has 60 days to circulate the draft of a concurrence or dissent. Then, additional time is allowed for subsequent drafts of opinions.	Author is chosen on a random basis by the Clerk of Court. For appeals, the author is assigned approximately 2 weeks before submission. In original proceedings, the author is assigned when the proceeding is filed. If neither party requests oral argument, the opinion may be drafted prior to conference.	Court releases its opinions on Thursdays. Opinions in original proceedings can be handed down on any day. The proposed opinion (including concurrences and dissents) is circulated to the panel first; then the entire court.
Motions for Rehearing	Original only.	Motions for rehearing are initially circulated to author first, then to remainder of panel. Author makes recommendation. The court cannot grant rehearing unless a response to a motion for rehearing has been filed or requested. In rare circumstances, the court may choose to issue a corrected opinion <i>sua sponte</i> .		Motions for rehearing en banc are initially circulated to the author first, then panel, then entire court. Author makes a recommendation. Court has sometimes decided to sit <i>en banc</i> w/o request, but very rarely.

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Original Proceedings	Original plus 4 copies. LR 2.	Once filed, an original proceeding is immediately assigned to a staff attorney, who prepares a detailed memo, with a recommendation, that is circulated to the panel. If a motion requests emergency relief, it is circulated immediately and dealt with ASAP. If there is no motion for emergency relief, it is addressed as soon as possible within the normal course of business.	Granting emergency relief requires 2 out of 3 panel judges. In extremely rare circumstances, a single judge may grant—but not deny—emergency relief.	Oral argument requires a vote of 2 out of 3 of the panel judges. Original proceedings panels change monthly.

Technology

1. Court subscribes to Westlaw.
2. Court prefers citations from both U.S. and S.Ct., unless *cert. denied*, then it only cites the U.S.
3. Court may receive CD-Rom in addition to hard copies, but not in lieu of hard copies. Reporter's records on CD-Rom are very helpful because they can be searched using keywords.
4. Court prefers that parties provide copies of out of state cases.
5. Court accepts fax filings for motions and letters only.
6. Court does not accept electronic filings.
7. Court does not distribute its orders electronically.
8. Court records oral argument. Copies of oral argument tapes are provided at \$1.00 per tape.

Appellate Mediation

1. Court has a program for appellate mediation.
2. A case should be mediated if it is determined the parties have indicated an interest in mediation. Interested parties have to complete the Addendum to Civil Docketing Statement.
3. The responsibility to oversee appellate mediation rotates every 2 months among the justices.
4. If someone needs to contact the court about mediation, they must go through the clerk.
5. Court allows the parties to select their own mediator.
6. If parties cannot agree on a mediator, either the administrative judge (if the case has not been assigned to a panel) or the judge who is head of the panel selects the mediator at random. The court maintains a list of local mediators the judge may consult.

Fees

1. Appeal: \$125 (civil only)
2. Original Proceeding: \$75
3. Motions: \$10 (civil only)
4. Response to Motion: no fee
5. Other fees: Copies are \$0.10 per page; certified copies are \$1.00 per page (\$5.00 minimum); copies of oral arguments are \$1.00 per tape; retrieval fee if case is in storage is \$10.00; shipping fee to send case to supreme court (if requested) is \$15.00.

Miscellaneous

1. There is not a method for filing a brief after hours.
2. The court still uses visiting judges, but does not use any visiting judge "regularly." The court uses visiting judges as often as necessary within budget limitations.
3. Approximately 75% of the court's decisions are memorandum opinions.
4. The court very rarely decides to initially sit *en banc*. The court may be convened *en banc* for the purposes of hearing or rehearing any case on the Chief Justice's own motion, or upon a motion supported by a majority of the court. Approximately 3 cases a year are heard *en banc*.

Survey of the Texas Appellate Courts - Third District Court of Appeals (Austin)

Basic Information

1. Court's Address: P.O. Box 12547, Austin, TX 78711-2547
2. Telephone numbers: (512) 463-1733
3. Website address: www.3rdcoa.courts.state.tx.us
4. Names of Justices: W. Kenneth Law, Chief Justice, Justice Mack Kidd, Justice Bea Ann Smith, Justice Jan Patterson, Justice David Puryear, Justice Bob Pemberton
5. Chief Staff Attorney: Patrick Shannon
6. Chief Clerk: Diane O'Neal
7. Local Rules: The Court does not have formal local rules. See "Practice Before the Court of Appeals for the Third District of Texas" on the Court's website.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Motions in original proceedings - original plus 3 copies; Motions for rehearing en banc - original plus 6 copies; other motions original plus 2 copies	Motions filed before submission of the appeal are assigned to a justice who acts daily on the motions that are ready to be determined. Motions filed after submission of the appeal are assigned to that panel and are acted on at the Court's weekly Monday afternoon motion conference.	Agreed motions will be acted on as soon as practicable; contested motions may be held and referred to the panel. First motions for extension of time to file a brief are routinely granted, up to ninety days; (the Clerk's office handles first and second motions for extension of time) second motions for extension of time to file a brief are routinely granted, up to ninety days.	
Briefs	Original plus 7 copies (same for appendices)		The appellee's brief may be filed without leave of the Court at any time. A supplemental or reply brief may be filed without leave of the Court if the brief is tendered before the cause is submitted unless the brief raises additional issues or points for the first time or it would cause the combined arguments to exceed the page limits for briefs. A supplemental or reply brief tendered after submission must be accompanied by a motion for leave to file unless it is tendered within twenty-five days after the appellee's brief was filed.	
Case Assignment			The Clerk assigns cases to panels on a rotating basis. The Court sits in two panels. The Chief Justice always sits on the morning panel; the senior Justice always sits on the afternoon panel. The other four Justices rotate between the two panels. Panels change every six months, in February and September.	
Oral Argument		The Court prefers that oral argument be requested in the manner prescribed by the appellate rules.	The Court does not automatically honor requests for oral argument. The Court has no express criteria for determining whether to allow oral argument. In general, the Court limits oral argument to cases involving complex facts or raising new or difficult issues. As a general rule, parties are allocated twenty minutes.	
Voting			The Justices confer immediately after oral argument. The Justices reach a tentative consensus regarding each case at the post-argument conference. A final decision is not made until the draft opinion circulates. The Justices generally do not confer regarding unargued cases until the draft opinion circulates.	

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Opinions		Clerks and staff attorneys participate in conferences. Occasionally, a Justice will request a pre-submission memorandum. The notice of submission includes the names of the Justices on the panel. The Court sends this notice approximately forty-five days before submission.	The Justices draw for orally argued cases prior to argument. Unargued cases are assigned to individual Justices by the Clerk on a rotation basis. Draft opinions of unargued cases are circulated to all the Justices for comment and approval. Proposed opinions are circulated to the entire Court. If the final opinion differs significantly from the original circulated draft, it also will be circulated to the entire Court. The Court generally releases its opinions on Thursday mornings.	
Motions for Rehearing	Original plus 3 copies	Notices for rehearing and motions for rehearing en banc go to the entire Court. In both cases the author makes a report and recommendation.		
Original Proceedings	Original plus 4 copies	Requests for emergency relief are given immediate consideration. Three votes are required to grant emergency relief. Original proceedings are given prompt, but not necessarily immediate attention.	Original proceedings are assigned to individual Justices on a rotating basis. That Justice chooses two other Justices to serve on the panel for that proceeding. There is no designated original proceeding panel. The Court will set an original proceeding for oral argument according to the same general criteria applied to other cases.	

Technology

1. The Court uses Lexis.
2. With respect to the United States Supreme Court cites, use U.S. and/or L.Ed.
3. The court has not received briefs and/or records on CD-Rom.
4. The Court does not accept fax filing.
5. The Court does not accept electronic filings.
6. The Court makes its orders available electronically.
7. The Court does not record oral arguments.

Appellate Mediation

1. The Court has a mediation referral program for civil cases. Parties may agree to referral at any time after the appeal has been perfected.
2. The primary factor for referring a case to mediation is the amenability of the parties to mediation. Other criteria include the nature of the dispute, the procedural posture of the appeal, and the mediation history of the case.
3. David DuBose oversees the mediation program and may be contacted by the parties.
4. Parties may select their own mediator. The court provides a list of volunteer attorney mediators from which the parties may choose. Parties are not required to choose a mediator from the list.

Fees

1. Appeal: \$125
2. Original Proceeding: \$75
3. Motions: \$10
4. Response to Motions: \$10
5. Are there any other fees? Exhibits tendered for oral argument: \$25. Administering oath: \$5. Photocopying: .10¢ per page.

Miscellaneous

1. Filing outside office hours should be arranged in advance with the Clerk.
2. The Court regularly uses Justice Marilyn Aboussie, Justice John Powers, and Judge John F. Onion, Jr. as visiting judges.
3. A summary of the Court's operating procedures is available at the Court's web site: "Practice Before the Court of Appeals for the Third District of Texas."
4. The Court estimates that approximately 80% of its decisions are memorandum opinions.

Survey of the Texas Appellate Courts - Fourth District Court of Appeals (San Antonio)

Basic Information

1. Court's Address: 300 Dolorosa, Suite 3200, San Antonio, TX 78205
2. Telephone numbers: (210) 335-2635; fax (210) 335-2762
3. Website address: www.4thcoa.courts.state.tx.us
4. Names of Justices: Chief Justice Alma L. López, Associate Justices Catherine Stone, Sarah B. Duncan, Karen Angelini, Sandee Bryan Marion and Phylis J. Speedlin
5. Chief Staff Attorney: The court does not have a chief staff attorney; however, Wendy Martinez is the court's coordinating staff attorney.
6. Clerk: Dan Crutchfield

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original plus 1 copy of motions and motions for rehearing en banc; original and three copies in original proceedings	Motions are considered and decided as they are filed or, when necessary, carried with the case. The process for considering a motion is left to the individual judge's discretion. The court has delegated to the clerk the authority to grant a first motion for extension of time to file a brief for up to thirty days from the original due date except in accelerated and precedential appeals. A judge's process for considering additional extensions is left to that judge's discretion; however, an extension in excess of ninety days from the original due date must be approved by a motions panel.	When an appeal is filed, it is assigned to a judge who is responsible for considering motions filed before the case is set for submission. Although a single judge may grant a non-dispositive motion filed before submission, at least two judges must approve the denial of a motion filed before submission, as well as orders on dispositive motions filed before submission and motions filed after a panel has been assigned to the case. Each judge has a set motions panel based on order of seniority.	See Local Rule 6 government motions and Local Rule 6/2 governing motions for rehearing en banc (to be filed separately from motion for rehearing) (file an original and one copy)
Briefs	Original plus 3 copies; Appendices - original plus 3 copies		The court has no requirements or preferences concerning the color of the covers of briefs. The due date for the filing of briefs is governed by Rule 38.6 of the Texas Rules of Appellate Procedure and Local Rule 8. Whether to enforce the appendix requirement for briefs in civil appeals is left to the monitoring judge's discretion.	Local Rule 8 governs briefs and provides that "[a] party need only file an original and three copies of a brief or a letter of additional citations, as addressed in Rule 8.3."
Case Assignment		Once a submission docket is set, the judges are assigned to author opinions by random draw; however, authorship can change if the panel judges disagree on the appropriate reasoning or judgment. Law clerks and staff attorneys participate in conferences and prepare memos for conferences. Parties are notified of the panel assigned to their case after the submission docket is finalized for most appeals or after a submission date is set for accelerated appeals and original proceedings.	An "at issue" list listing all appeals in which an appellee's brief has been filed or for which the time for filing an appellee's brief has expired is prepared by the clerk's office. Cases on the "at issue" list are then assigned to panels by alternating assignments between the two panels based on the date the cases became at issue. Judges are assigned to panels by random selection. Panels are randomly drawn every two months with one judge off rotation. The court refers to Rule 41.2(c) in determining whether to allow en banc consideration.	

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Oral Argument		"Any attorney or party who wishes to present argument must register in the Clerk's office 30 minutes before the time scheduled for argument and must also orally announce their appearance in the courtroom at the time scheduled for argument." Loc. R. 9.3. "If an attorney or party fails to comply with this rule, the Court will deem oral argument waived and may take any other appropriate action."	Oral argument must be requested on the cover of a party's brief or it is considered waived; however, the court will consider a late request for oral argument. Oral argument is not automatically allowed if requested, and is granted at the panel's discretion. The court may direct the party waiving oral argument to appear and argue. TEX. R. APP. P. 39.7. If oral argument is scheduled, "[a]ny party who requests oral argument and later decides to waive argument must notify the Court and the other parties in writing before the date set for submission." Loc R. 9.2. Each side is granted twenty minutes for argument, and the appellant is allowed an additional ten minutes for rebuttal. Loc. R. 9.1. The court may allot more time for oral argument if requested by motion, particularly if there are numerous parties or cross-appeals.	See Local Rule 9.
Voting			Voting on a case submitted by oral argument typically occurs in a conference following oral argument unless additional research is requested by the panel. Meetings regarding the cases are left to the panel members' discretion; however, the judges routinely meet after oral argument to discuss the argued cases. Voting on cases submitted without oral argument can either occur as a draft opinion circulates or during a conference.	
Opinions		The author of an opinion is chosen by random draw; however, authorship can change if the panel members disagree on the appropriate reasoning or judgment. The supreme court's guidelines establish a target date for issuing an opinion six months after submission; however, the Fourth Court of Appeals has voluntarily established an internal policy of circulating draft opinions three months after submission. The Fourth Court has also adopted an internal operating procedure permitting two judges to issue a majority opinion if the third judge on the panel holds the authoring judge's draft opinion for more than thirty days.	Opinions are released on Wednesdays and "on such days as the authoring justice or the panel may direct." Under the court's internal operating procedures, proposed and final opinions are circulated only to the panel members. However, the court is considering revising its internal operating procedures to provide for full court circulation before issuance.	
Motions for Rehearing	Original plus 1 copy		A motion for rehearing is initially circulated to the author and then to the remainder of the panel. A motion for rehearing en banc is initially circulated to the author, then to the remainder of the panel, then to rest of the court. The court has decided to sit en banc on a case without being requested to do so by the parties.	
Original Proceedings	Original plus 3 copies		Panel members are randomly assigned to original proceedings. When to review an original proceeding is left to the authoring judge's discretion. Two of the three panel members must agree to grant emergency relief. Whether an original proceeding is set for oral argument is determined by the assigned panel.	

Technology

1. The court subscribes to Westlaw.
2. With respect to United States Supreme Court cases, the court prefers citations to U.S. and S.Ct.
3. The court has received briefs and records on CD-ROM and has found them extremely helpful.
4. The court prefers that parties provide copies of out-of-state cases.
5. Local Rule 3.3 governs filing by fax.
6. The court is exploring the possibility of electronic filing.
7. The court posts its opinions on its website, which has a courtmail function.
8. The court records oral argument, and parties may purchase a copy of the audiotape. To improve the quality and availability of recordings of oral argument, the court recently decided to purchase the software and equipment necessary to record oral argument digitally.

Appellate Mediation

1. The court has an alternative dispute resolution program that is currently under the direction of Justice Stone. In all civil appeals, the parties are required to file an Addendum to the Docketing Statement; and it is on the basis of this statement that each civil appeal is screened for possible inclusion in the program. If an appeal is targeted for the program, the parties are notified by letter. Janie Murphy is the clerk in charge of the program, and may be contacted by the parties.
2. The court will permit parties to select their own mediators. The court will appoint a mediator if the parties cannot agree.

Fees

1. Appeal: \$125.00
2. Original Proceeding: \$75.00
3. Motions: \$10.00
4. Response to Motions: \$10.00 (but no fee if response is requested by the court)

Miscellaneous

1. Other than the mailbox rule and rule 9.2(a), TEX. R. APP. P., the only method for a party to file a brief after hours is, for briefs ten pages or less, to file by fax.
2. The court does not regularly use visiting judges.
3. The court's local rules are available on the court's website.
4. The court is currently updating its internal operating procedures. A copy of the internal operating procedures will be provided to the Appellate Section of the State Bar of Texas when the revision is completed.
5. Since September 1, 2003, approximately 81% of the court's opinions have been memorandum opinions.

Survey of the Texas Appellate Courts - Fifth District Court of Appeals (Dallas)

The Basics

1. **Court's Address:** Court of Appeals, 5th District, 600 Commerce Street, Suite 200, Dallas, TX 75202
2. **Telephone number:** 214-712-3400; 214-745-1083 (fax)
3. **Website address:** www.courtstuff.com/5th
4. **Names of Judges:** Linda Thomas (C.J.), Joseph B. Morris, Mark Whittington, Carolyn Wright, Jim Moseley, David Bridges, Michael J. O'Neill, Kerry P. Fitzgerald, Martin E. Richter, Molly Francis, Douglas S. Lang, Elizabeth Lang-Miers, Amos L. Mazzant
5. **Chief Staff Attorney:** Brenda Norton
6. **Chief Clerk:** Lisa Matz
7. **Local Rules:** The court's local rules are available on its website. The court also has internal guidelines that are not publicly available.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original plus 2	Chief Justice appoints a motions panel that sits for a year. First motion for extension of time is granted by the clerk if filed before the expiration of the deadline and requests not more than 30 days. Second motions for extension are rarely granted, and subsequent motions only in extraordinary circumstances.	The motions panel is reconstituted yearly. The court follows the TRAPs with respect to deciding motions.	No particular day for deciding motions.
Briefs	Rules require an original plus 5; but court prefers to get 6 copies. Deadlines follow the TRAPs.	A cross-appellant should file a combined appellee's and cross-appellant's brief 30 days after the appellant's brief.	Court follows TRAP rules on briefs. Court has requested permission from the Supreme Court to enact a local rule requiring 6 copies of briefs be filed.	A motion for leave must accompany any late brief or any brief other than an appellant's brief, an appellee's brief or a reply brief.
Case Assignment		The court follows an internal rotation schedule for assigning cases. Panels are reconstituted every 9 weeks.	The panel has a formal conference and vote immediately following argument or submission. Panels rarely but occasionally meet informally before argument or submission but do not vote at that time.	The court has never heard a case <i>en banc</i> at the outset. Less than 5% of cases are heard <i>en banc</i> . On occasion, the court has decided to sit <i>en banc</i> without being requested to do so by the parties.
Oral Argument	Follow the TRAPs in requesting oral argument.	Court typically allows 20 minutes per side, plus an additional 5 minutes for the appellant's rebuttal. Court allows more time only in extraordinary circumstances and only in response to a written motion. Clerks and staff attorneys rarely participate in conferences and do not prepare memos for the conferences.	The court does not automatically grant requests for argument. The court makes this decision on a case-by-case basis. Parties find out who is on their panel in a submission notice sent 60 days before the argument.	If only one side requests argument in its brief and the court grants it, the party that did not previously request argument should do so if it wants to argue.
Voting			Voting occurs at the formal conference following argument or submission.	

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Opinions		Author is usually assigned at the formal conference after submission and is chosen by an internal rotation schedule. The panel decides on a case-by-case basis whether to circulate opinions to the entire court. Court does not have internal guidelines concerning deadlines for drafting and circulating opinions.	Court does not release opinions on a particular day.	
Motions for Rehearing	Original plus 2	Motions for rehearing (and en banc) are initially circulated to author; author makes recommendation; then it is circulated to other members of the panel. The court has sometimes granted rehearing w/o request under TRAP 50.		
Original Proceedings	The rules require an original plus 3, but the court would prefer to get an original plus 4 copies.	There is an original proceedings panel that changes monthly pursuant to an internal rotation schedule.	Original proceedings are reviewed immediately, whether or not they request emergency relief.	Original proceedings are set for oral argument only in extraordinary circumstances. Local Rule 9 requires that Relator note on the cover of the petition if temporary relief is requested.

Technology

1. Court has both Westlaw and Lexis.
2. Court has no preference with respect to United States Supreme Court cites.
3. The court has not received briefs or records on CD-Rom's and so has not considered this issue.
4. The court prefers that parties provide copies of out of state cases.
5. Local Rule 3 provides procedures for fax filing.
6. The court does not accept electronic filings.
7. The court distributes orders electronically via its website.
8. The court records oral argument, but only for use by the court. Tapes are not available to the parties.

Appellate Mediation

1. The court has a program for appellate mediation.
2. Parties have to complete ADR section of docketing statement.
3. The chief staff attorney and the Justices oversee the mediation program.
4. If someone needs to contact the court about mediation, they must go through the clerk.
5. The court encourages parties to select their own mediator, but will assign mediators based on a roster maintained by the court.

Fees

1. Appeal: \$125
2. Original Proceeding: \$75
3. Motions: \$10
4. Response to Motion: None

Miscellaneous

1. There is no special provision for after-hours filing, but a party could fax a brief to the court by 5 p.m., then file in hard copy within 7 days, pursuant to Local Rule 3.
2. The court still uses visiting judges Sue LaGarde and Francis Maloney, but rarely.
3. A substantial percentage of the court's opinions are memorandum opinions.

Survey of the Texas Appellate Courts - Sixth District Court of Appeals (Texarkana)

The Basics

1. Court's Address: Court of Appeals, 6th District, 100 N. State Line Avenue, #20, Texarkana, TX 75501
2. Telephone number: 903.798.3046
3. Website address: www.6thcoa.courts.state.tx.us
4. Names of Judges: Josh R. Morriss, III (C.J.); Donald R. Ross, Jack Carter
5. Chief Staff Attorney: Stacy Stanley
6. Chief Clerk: Linda Rogers
7. Local Rules: The court does not have local rules.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original plus 3 copies.	Clerk's office routinely grants first motions for extension of time. Second motions are presented to the court and granted if good cause is shown. Third motions are granted only under exceptional circumstances. Other motions are usually decided by the full court.	Process is the same for agreed and contested motions.	Motions are generally considered by the court at a conference on Mondays.
Briefs	Original plus 3 copies of both briefs and appendices. Deadlines follow the TRAPs.			Do not use red, black, or plastic cover.
Case Assignment				
Oral Argument	Request argument on brief cover.	Court typically allows 20 minutes per side, plus an additional 10 minutes for appellant's rebuttal. In unusual situations (e.g., multiple parties, non-aligned parties, and complicated issues), when advance request is made, court will allot extra time.	The court does not automatically grant requests for argument. Argument is granted if it will assist the court in reaching a decision.	If only one party requested argument and it is granted, the other side is allowed ten days from the notice of argument to make its request. If not requested within that time, party will not be granted argument.
Voting			The court meets both before argument and immediately after. Clerks and staff attorneys participate in conferences and prepare memos as needed. Often, a preliminary vote is taken immediately following argument. If there is no argument, voting occurs after a proposed opinion is circulated, but that occurs only after the court has discussed any apparent problems or disagreements.	
Opinions		Authors are assigned based on a numerical rotation. There are no internal deadlines for writing opinions.	Court does not release opinions on particular days.	
Motions for Rehearing	Original plus 3 copies.	Motions for rehearing are circulated to the entire court, but the author considers the motion first and makes a recommendation. The court has granted rehearing w/o request under TRAP 50.		

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Original Proceedings	Original plus 3 copies.		Original proceedings are distributed to each member of the court and a staff attorney. If a response is desired, it is requested immediately. After discussion, the court decides whether argument is required. If not, a draft opinion is prepared and circulated. Original proceedings are reviewed as soon as possible. Generally, one vote is required to grant emergency relief.	Original proceedings are set for oral argument if it will assist the court to decide the issues and will not be redundant.

Technology

1. Court has Lexis, but not Westlaw.
2. With respect to United States Supreme Court cites, cite the U.S. reporter.
3. The court has not previously received briefs or records on CD-Rom's.
4. The court does not prefer that parties provide copies of out of state cases, but copies of cases that are not available on Lexis are helpful.
5. The court does not accept fax filing.
6. The court does not accept electronic filings.
7. The court does not distribute orders electronically.
8. The court records oral argument. Parties can obtain tapes for a nominal fee if request is made promptly. Recording is for the court's convenience only, and tapes are routinely recorded over by subsequent arguments.

Appellate Mediation

1. The court does not have a program for appellate mediation.

Fees

1. Appeal: \$125
2. Original Proceeding: \$75
3. Motions: \$10
4. Response to Motion: None

Miscellaneous

1. Phone numbers of clerk and deputies are posted outside the court. If necessary, someone will come to the court to accept a filing after hours.
2. The court uses visiting judges when necessary to complete a panel. The court uses William J. Cornelius, Ben Z. Grant, and Roby Hadden.
3. About 50% of the court's opinions for FY 03-04 (through April) were memorandum opinions.

Survey of the Texas Appellate Courts - Seventh District Court of Appeals (Amarillo)

The Basics

1. Court's Address: Seventh Court of Appeals, 501 South Fillmore, Suite 2-A, Amarillo, Texas 79101-2449
2. Telephone number: Phone: (806) 342-2650, Fax: (806) 342-2675
3. Website address: <http://www.7thcoa.courts.state.tx.us>
4. Names of Judges: Chief – Phil Johnson; Serving Justices – Brian Quinn, Don H. Reavis, and James T. Campbell
5. Chief Staff Attorney: Clint Sare
6. Court Clerk: Peggy Culp
7. Local Rules: Court has no local rules. The court's internal operating procedures are not published.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original plus 2 copies. TRAP 9.3(a)(1)(B).	Typically, motions are decided by individual justices who may confer with other members of the panel depending on the motion at issue. With respect to requests for extensions of time, clerks handle the first 30-day motions. First motions for extension of time are usually granted up to 30 days. Second motion – court will ordinarily grant 30 days with a showing of good cause; Subsequent motion – determined by the court for cause.	The disposition process remains the same regardless of whether the motion is contested or agreed.	There are no particular days that motions are considered and decided.
Briefs	Original plus 5 copies. TRAP 9.3(a)(1)(C).	The appellant must file a brief within 30 days—20 days in an accelerated appeal—after the later of: (1) the date the clerk's record was filed; or (2) the date the reporter's record was filed. TRAP 38.6(a). The appellee's brief must be filed within 30 days—20 days in an accelerated appeal—after the date the appellant's brief was filed. If the appellant has not filed a brief as provided in TRAP 38.6(a), an appellee may file a brief within 30 days—20 days in an accelerated appeal—after the date the appellant's brief was due. TRAP 38.6(b). A reply brief, if any, must be filed within 20 days after the date the appellee's brief was filed. TRAP 38.6(c).	Court follows TRAP rules for briefs.	A petition or brief should have durable front and back covers, which shall not be plastic or black, red or dark blue. TRAP 9.4(f).
Case Assignment		Judges assigned to panels based on monthly rotation. Panel compositions are fixed. Judges meet as deemed appropriate based upon the particular case.	Panel members will be shown on the letter from the clerk's office informing the parties of the date and time for oral argument. If submitted on the briefs, panel members will be identified at the time the opinion is issued.	Court never sits <i>en banc</i> at the outset of a case. Court determines whether it will sit <i>en banc</i> on motion of a party. No cases have been heard <i>en banc</i> in recent years.

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Oral Argument	Request oral argument on cover of the brief. TRAP 39.7.	Court grants 20 minutes per side; 5 minute rebuttal for appellant. Court may grant additional time when multiple parties are aligned, but have distinct issues, or if the case presents a number of complex issues.	Court ordinarily grants oral argument if requested. The court may decide a case w/o oral argument if argument would not significantly aid the court in determining the legal and factual issues presented in the appeal. TRAP 39.8. If only one side requests oral argument, the party requesting argument will be permitted to present that argument.	Clerks and staff attorneys do not participate in conferences and only prepare memos for conferences upon specific request.
Voting			Voting occurs on circulation of a draft opinion.	
Opinions		Generally, disposition should occur within 12 months after submission. In most cases, opinions are issued much sooner.	The author is chosen by random assignment at time of filing. Ordinarily, drafts are only circulated to members of the panel. Copies of final opinion are provided to each judge.	Release of opinions is not limited to a particular day.
Motions for Rehearing	Original plus 2 copies. TRAP 9.3.	Motions for rehearing (and en banc) are initially circulated to the panel; author first considers motion and makes recommendation.		The court has not granted a rehearing w/o being requested to do so in recent years. It has withdrawn opinions and issued a substituted one to correct errors, but those were not rehearings.
Original Proceedings	Original plus 3 copies. TRAP 9.3.	The original proceeding is assigned to the panel for the month in which the proceeding is filed. Granting emergency relief requires 2 votes.	If motion requests emergency relief, it is generally reviewed upon filing. If there is no motion for emergency relief, it is generally addressed within 3 working days. The court may decide a case w/o oral argument if argument would not significantly aid the court in determining the legal and factual issues presented in the petition.	There are no specific criteria for setting original proceedings for oral argument. Court will sometimes grant mandamus w/o having oral argument, but always requests a response before doing so.

Technology

1. Court subscribes to both Westlaw and Lexis.
2. Court prefers parallel citations to United States Supreme Court cases.
3. Court has received diskettes from some court reporters with copies of the reporter's record. This can be helpful with voluminous records.
4. Court does not prefer that parties provide copies of out of state cases if they are available on Lexis or Westlaw.
5. Court does not accept filing by fax.
6. Court does not accept electronic filings.
7. The only form of electronic distribution is the case mail service available on the court's web site.
8. Court ordinarily does not record oral arguments, but is able to do so.

Appellate Mediation

1. Court does not have a structured program for appellate mediation. Requests for abatement or continuance so mediation can take place are generally granted.

Fees

1. Appeal: \$125
2. Original Proceeding: \$75
3. Motions: \$10
4. Response to Motion: \$10
5. The court's website has a current list of filing fees.

Miscellaneous

1. If a judge recuses himself/herself or if the court is not fully staffed on a case, the court has a retired justice assigned and available. If more assistance is needed, the court requests assignment of a justice from another court.
2. There is not a method to file a brief after hours.
3. Court still uses visiting judges. The court regularly uses Retired Justice John Boyd.
4. Approximately 50% of the court's decisions are memorandum opinions.

Survey of the Texas Appellate Courts - Eighth District Court of Appeals (El Paso)

The Basics

1. Court's Address: 500 E. San Antonio, Suite 1203, El Paso, Texas 79901
2. Telephone number: Phone: (915) 546-2240, Fax: (915) 546-2252
3. Website address: <http://www.8thcoa.courts.state.tx.us>
4. Names of Judges: Chief – Richard Barajas; Other Justices – Susan Larsen, Ann Crawford McClure, David Wellington Chew
5. Chief Staff Attorney: Bill Lockhart
6. Chief Clerk: Denise Pacheco
7. Local Rules: The court has published local rules; it also has internal operating procedures, but they are not publicly available

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original before submission; after submission requires original plus 5	Motions are decided as follows: prior to submission of a motion, a single judge works on the rotation with staff; after submission, it is decided en banc. In the near future, they are losing a judge; so this will change. Rotations last 1 month.	An agreed motion goes to the motions judge immediately. The judge looks it over to make sure it is okay. If contested, it takes longer; parties will probably get a notice that it will be heard on a certain day. Extensions of time are treated differently. Under local rule 38.2, the clerk acts on extensions of time on briefs.	There aren't particular days that motions are decided. Sometimes the court sends out a notice that a motion will be decided on a certain day. Clerk brings to judges consistently. Judge may pick a day; but it is up to judge and isn't a certain day. Agreed motions get immediate consideration.
Briefs	Original plus 5	Refer to Rule 38.6 for due date of response briefs. Reply briefs must be filed in 20 days. They allow letter briefing without leave of court.	There are no unique requirements for briefs in original proceedings in this court.	Rule 9.5 (f) for covers and appearance. Note local rule 38.1(c) – they require that all trial judges presiding below be identified.
Case Assignment			Court discusses cases both before and after argument. Cases are discussed informally before oral argument and the panel meets again after.	
Oral Argument	Request oral argument on cover of the brief.	Court grants 20 minutes per side; with ten minutes more for appellant's rebuttal. Court can allot more time in exceptional situations; parties must move for the additional time. Clerks and staff attorneys sometimes attend conferences and sometimes prepare memos for the conferences.	Court usually grants oral argument if requested except in rare circumstances. This circumstance can occur if someone wants to vacate a setting, and the court may decide not to reschedule a case for oral argument. If one side doesn't want oral argument and the other requests it, they will allow both sides to argue. Opinion author is usually assigned before the argument. The case is set and then the author is randomly assigned by a drawing.	
Voting			There is no set time when voting occurs. Voting is a function of the pre and post argument conferences. If there is no oral argument, the author is assigned at the same time as if there is oral argument; judge that drew the case will prepare a draft opinion, which will be circulated. If there are questions, the judges get together—but without set formal conferences.	2 votes are required to grant emergency relief on an Original Proceeding.

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Opinions		Court has guidelines of the performance measures from court administration (also legislature) concerning deadlines for drafting and circulating opinions. The proposed opinion is circulated to the entire court. The author of the opinion is chosen by a random drawing.	Court releases its opinions on Thursdays. This is not etched in stone; various reasons that it can be other days.	
Motions for Rehearing	Original plus 5			
Original Proceedings	Original plus 3	Local Rule 52 applies; usually the court will make a decision on whether to request a response within 3 working days. Usually a staff member will look at it and present it to the requisite number of judges, then they will make a decision. Oftentimes, this court will request a response.	2 votes are required to grant emergency relief on an original proceeding.	Most proceedings are not set for oral argument; if there is a novelty, then it depends on the issues. Court will sometimes grant mandamus without having oral argument, but will always request a response before doing so.

Technology

1. The court has Westlaw.
2. With respect to Supreme Court citations, the court prefers that parties follow the green book and blue book.
3. The court has received briefs or records on CD-Rom's and has found them helpful in cases involving a voluminous record, but still want a hard copy of the briefs.
4. The court might appreciate copies of out of state cases, but they should be in an appendix. However, the court noted that these cases are easily printed off of the computer.
5. The Court accepts non-voluminous motions and briefs by fax (Local Rule 9.1). But this is not encouraged. Do not have a method for hand-delivery of late filings any more.
6. The court does not accept electronic filings.
7. The court does not distribute orders electronically except through its internet site.
8. The court records oral argument and the parties can get a copy.

Appellate Mediation

1. The Court has a program for appellate mediation (Local rule 2).
2. It is at the parties' suggestion.
3. Judge Chew is appointed to oversee appellate mediation.
4. If someone needs to contact the court about mediation, they must go through the clerk.
5. The Court prefers that parties select their own mediator. The court never selects any mediators.

Fees

1. Appeal: \$125
2. Original Proceeding: \$75
3. Motions: \$10
4. Response to Motion: None

Miscellaneous

1. They will lose one judge's position effective Dec. 31, 2004. Judge Larsen is judge who will be leaving the court at that time.
2. The court does not have a method for hand-delivery of late filings.
3. The court uses visiting judges very seldom. When they do, they have used Judge Hill from Fort Worth and Judge Wittig.
4. The court estimates that 65% of its opinions are memorandum opinions.

Survey of the Texas Appellate Courts - Ninth District Court of Appeals (Beaumont)

The Basics

1. Court's Address: 1001 Pearl, Suite 330, Beaumont, Texas 77701-3552
2. Telephone number: Phone: (409) 835-8402, Fax: (409) 835-8497
3. Website address: <http://www.9thcoa.courts.state.tx.us>
4. Names of Judges: Chief – Steve McKeithen; Other Justices – Don Burgess, David B. Gaultney.
5. Chief Staff Attorney: Leslie Saia
6. Clerk of the Court: Carol Anne Flores
7. Local Rules: The court has no local rules. The Court's internal operating procedures are not published.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original plus 2; in original proceedings, orig. plus 3	Motions are decided by a panel of 3 judges, except for motions for extension of time, which are decided by a single judge. Clerks never handle motions. First motion for extension of time is usually granted (30 days, 20 for accelerated, 10 for extraordinary proceeding). Second motion – generally granted (same length of time 30-20-10); Subsequent motion is usually granted, but with notation that it will be final.	If an agreed motion; they will waive 10-day requirement before ruling; if contested, then presented to court for ruling after 10 days have expired. Voluntary dismissal – don't hold 10 days if filed by only party that filed a notice of appeal.	Tuesday and Friday are the days that routine motions are considered and decided; non-routine motions are done on Thursday.
Briefs	Original plus 3; starting Sept. 1 2004, orig. plus 5	Go by rules for due dates on briefs. Post-submission briefs – must file motion unless court specifically requests brief at oral argument.	Court follows TRAP rules on briefs	
Oral Argument	Request oral argument on cover of the brief, no particular place.	Court typically allots time for oral argument as 20/20/10. The court rarely allots more time for oral argument than the standard amount. Additional time might be granted in cases wherein it is obvious that issues can't be addressed in standard time. Parties have to ask for more time. The judges meet when briefs are reviewed, when they are deciding whether to have oral argument, and immediately after submission. The clerk makes an assignment at submission and in rotation. The judges have a good idea who the author is going to be at oral argument.	Oral argument is not automatically honored. Whether a case goes to oral argument is decided by full panel. When briefs are in, they decide what cases get oral argument. Oral argument granted in cases that: challenge existing case law; split in court; statutory interpretation; unsettled issues; issues where there is a pending petition for review; issues of first impression; novel application to existing case law. Clerks and staff attorneys participate in conferences depending on the case, but their participation is limited. They do not prepare memos for conferences.	If one of the parties does not request oral argument, it may have an effect on whether argument is granted; it is an indication that one side didn't think it needed to argue. But if argument is granted, court allows both sides to argue.
Voting			If there has been oral argument, preliminary voting on the case occurs after the judges have a conference after oral argument, and they express their opinions at the conference. The judges have a weekly conference to discuss cases in which oral argument has been denied or not requested. All cases are voted on when draft is circulated. Their weekly conferences are on Thursdays. Clerk assigns author to non-oral argument cases in rotation.	

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Opinions		Court does not have internal guidelines concerning deadlines for drafting and circulating opinions.	The court usually releases its opinions as follows: Criminal released on Wednesday; Civil on Thursday; some criminal cases go out on Thursday (the ones dismissed without briefing because of lack of jurisdiction).	
Motions for Rehearing		Motions for rehearing are circulated to the entire court. The court has a motions conference, and the author may speak first concerning the motion for rehearing. There are no situations where the court has granted a rehearing without being requested to do so by the parties, unless it is to correct typographical errors.		
Original Proceedings	Original plus 3	The original proceeding is circulated to all members of the court.	If motion requests emergency relief, court may contact the real party in interest to see if they want to respond to request for emergency relief. If there is no motion for emergency relief, the court usually requests a response in ten days. One vote can grant emergency relief if necessary. But they try to take it to all three judges.	Not many mandamus proceedings get oral argument; if there is oral argument, they set them pretty quickly; sometimes the panel grants relief without oral argument (but the court always obtains a response).

Technology

1. The court has both Westlaw and Lexis. Court members use both Westlaw and Lexis; they usually download to disc or read on the screen because of limited paper.
2. The court prefers that parties follow bluebook with respect to United States Supreme Court cites.
3. The court has received briefs or records on CD-Rom's and has found them helpful. Parties must still file a hard copy.
4. The court prefers that parties provide copies of out of state cases. Don't include copies of things like the rules unless they are key to your arguments.
5. The court accepts filing by fax. Originals and required fees must follow by mail.
6. The court does not accept electronic filings.
7. The only form of electronic distribution is the case mail system available on the web. Opinions are available on the court's website.
8. The court does not record oral argument.

Appellate Mediation

1. The Court has a program for appellate mediation. A form is mailed to parties to be filled out and sent back.
2. Cases are mediated when both parties agree to mediate.
3. The clerk of the court is appointed to oversee mediation.
4. If someone needs to contact the court about mediation, they must go through the clerk.
5. The court allows the parties to select their own mediator. The court has a list if parties do not specify a preference.

Fees

1. Civil Appeal: \$125
2. Original Proceeding: \$75
3. Civil Motions: \$10
4. Response to Motion: None

Miscellaneous

1. The court will have 4 judges as of January 1, 2005.
2. If a judge recuses himself/herself, the court uses a visiting judge.
3. If a party needs to file its brief after hours, arrangements can be made with the clerk (Carol Ann Flores).
4. About 70% of the court's opinions are memorandum opinions.

Survey of the Texas Appellate Courts - Tenth District Court of Appeals (Waco)

The Basics

1. Court's Address: McLennan County Courthouse, 501 Washington Avenue, Room 415, Waco, Texas 76701-1327
2. Telephone number: Phone: (254) 757-5200, Fax: (254) 757-2822
3. Website address: <http://www.10thcoa.courts.state.tx.us>
4. Names of Judges: Chief – Tom Gray; Other Justices – Bill Vance and Felipe Reyna
5. Chief Staff Attorney: None
6. Clerk: Sharri Roessler
7. Local Rules: The court has local rules. The court does not have published internal operating procedures.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original plus 1 copy	Motions are decided by the court. Clerks do not decide motions. Generally, requests for time are not determined by the number of requests, but rather the number of days requested. Any request for more than 60 days is disfavored.	Motions to extend time to file a brief must state: the date the clerk's record and reporter's record were filed; the name of the party or parties requesting the extension; the length of the extension requested, up to and including a date certain; and a reasonable explanation as to why the brief cannot be tendered on time. Local Rule ("LR") 7(b). Under the authority granted to the Court in TRAP 2, the court will entertain appellees' motions to extend the time to file a brief. LR 7(c).	Generally, Wednesday is the day orders on motions are issued. The disposition process remains the same regardless of whether the motion is opposed or agreed. LR 7.
Briefs	Original plus 5 copies	The appellant must file a brief within 30 days—20 days in an accelerated appeal—after the later of: (1) the date the clerk's record was filed; or (2) the date the reporter's record was filed. TRAP 38.6(a). The appellee's brief must be filed within 30 days—20 days in an accelerated appeal—after the date the appellant's brief was filed. If the appellant has not filed a brief as provided in TRAP 38.6(a), an appellee may file a brief within 30 days—20 days in an accelerated appeal—after the date the appellant's brief was due. TRAP 38.6(b). A reply brief, if any, must be filed within 20 days after the date the appellee's brief was filed. TRAP 38.6(c).	In addition to complying with TRAP 9 and 38, proper citation form should be observed and subsequent history should be provided in all briefs. In citing cases, specific page citations should be given to the pages where the relevant holdings or quotations may be found. LR 13(b). In addition to complying with TRAP 38.1(h) and 38.2(a), parenthetical references to the clerk's record and the reporter's record should be made to the volume and page where any referenced material is found. LR 13(c). Before submission, supplemental briefs may be filed without permission of the court if no new issues are raised. After submission, supplemental briefs may be filed only with permission of the court. LR 13(e).	A petition or brief should have durable front and back covers, which shall not be plastic or black, red or dark blue. TRAP 9.4(f).
Oral Argument	Request oral argument on cover of the brief. TRAP 39.7.	Court grants 15 minutes per side; rebuttal is 5 minutes. The court will allot more time when it appears that additional time will assist the court in addressing the issues.	Court does not automatically grant oral argument. It must meet the requirements to be submitted with oral argument as specified in the rules. See TRAP 39.8. Only those who request argument will be allowed to argue.	Judges meet with respect to an argued case both before and after argument/ submission. Clerks and staff attorneys participate in conferences; however, they do not prepare memos for distribution at the conferences.

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Voting			"Voting" takes place by notations made on the draft opinion when it is circulated among the justices.	
Opinions		Court has no internal guidelines governing the time in which an opinion must be written.	The author is assigned when the case is filed, generally by rotation.	The court releases its opinions primarily on Thursdays.
Original Proceedings	<p>Original plus 5 copies</p> <p>All petitions requesting extraordinary relief must comply with TRAP 52 and Local Rule 13. LR. 17(a).</p> <p>Unless otherwise directed by the court, any appendix required by TRAP 52.3(j)(1) consisting of the "necessary contents" as defined by such rule must be bound with the party's brief. LR 14 and 17(b). Only one copy of the appendix required by TRAP 52.3(j)(2) consisting of the "optional contents" as defined by such rule will be filed unless otherwise directed by the court. LR 14 and 17(b).</p>	<p>In habeas corpus and bail proceedings, the appellant's brief is due 20 days after the filing of the clerk's record or reporter's record, whichever is later. The State's brief is due 20 days after the date of the filing of the appellant's brief. LR 15.</p> <p>Every justice receives a copy of the original proceeding at the time it is filed.</p>	<p>Court reviews requests for emergency relief promptly. If there is no motion for emergency relief, it is addressed within 1 business day. One vote can grant emergency relief (TRAP 10.4(a)), but a majority of the justices who are available will participate in the decision.</p> <p>Hearings and arguments in original proceedings are set expeditiously. LR 17(c).</p>	The court's criteria for setting original proceedings for oral argument is the same as the criteria for oral argument in direct appeals.

Technology

1. Court subscribes to both Westlaw and Lexis.
2. Court has no preference with respect to United States Supreme Court cites.
3. Court has not received a brief or record on CD-Rom.
4. Court does not prefer that parties provide copies of out of state cases, but would like copies of resource materials that may not be readily available.
5. Court accepts some filings by fax. See Local Rule 8, which states that:
 - a) The Clerk will accept for filing the following documents transmitted by fax: (a) motions to extend the time to file a notice of appeal, (b) motions to extend the time to file a brief, (c) notices changing the designation of lead counsel, (d) motions to extend the time to file a motion for rehearing, and (e) upon prior approval of the Clerk in emergency circumstances, any document.
 - b) The sender is responsible for all applicable fees. A failure to promptly pay the fee may result in the striking of the document transmitted by fax.
 - c) The sender shall maintain the original of any document transmitted by fax, with the original signature affixed, as required by Tex. Gov't Code § 51.806.
 - d) A cover sheet shall accompany every document transmitted by fax and shall clearly identify (a) the name, address, telephone number, and fax number of the sender; (b) the document being transmitted; (c) the number of pages; and (d) the name of the Clerk or Deputy Clerk, if any, to whose attention the document is directed.
 - e) The quality of the original shall be clear and sufficiently dark to be transmitted legibly. The sender is obligated to ensure that documents transmitted by fax have been received legibly and completely by the Clerk. If a document electronically transmitted is not complete or is otherwise illegible, the Clerk will nonetheless file it and bring it to the attention of the court. However, the incompleteness or illegibility of a document may be grounds for striking or denying a motion. The sender shall forward a copy of the document to the Clerk on the same day that the document is transmitted by fax.
 - f) Any transmission completed after 5:00 p.m. shall be deemed filed on the next day the court is open to the public.

6. Court does not accept electronic filings.
7. Court very rarely distributes orders electronically.
8. Court does not record oral arguments.

Appellate Mediation

1. Court does not have a program for appellate mediation.

Fees

1. Appeal: \$125
2. Original Proceeding: \$75
3. Motions: \$10
4. Response to Motion: None
5. Other fees: See TRAP appendix

Miscellaneous

1. Court does not use visiting judges.
2. If there is a recusal or the court is not fully staffed, the court notifies the Chief Justice of the Texas Supreme Court, who will make an assignment to fill a vacancy cause by a recusal.
3. Court does not have a method for filing a brief after hours.
4. For the fiscal year through May 31, 2004, 73% of the court's opinions were memorandum opinions.
5. Motions for rehearing are initially distributed to the authoring justice, who considers the motion and makes a recommendation to the entire panel.

Survey of the Texas Appellate Courts - Eleventh District Court of Appeals (Eastland)

The Basics

1. Court's Address: Physical Address: Eastland County Courthouse, 100 W. Main, 3rd Floor, Eastland, Texas 76448; Mailing Address: P.O. Box 271, Eastland, Texas 76448
2. Telephone number: Phone: (254) 628-2638, Fax: (254) 628-2192
3. Website address: <http://www.11thcoa.courts.state.tx.us>
4. Names of Judges: Chief – W.G. Arnot, III; Other Justices – Jim Wright and Terry McCall
5. Chief Staff Attorney: Nancy Nutto Hughes
6. Chief Clerk: Sherry Williamson
7. Local Rules: Court does not have local rules. Variance from the Texas Rules of Appellate Procedure is discouraged.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original plus 2 copies.	Motions are decided by the court. The clerks do not handle any motions.	The disposition process is usually handled quicker if the motion is agreed. If the motion is contested, the court waits 10 days for a response. A first motion for extension of time is usually granted if reasonable. Any subsequent motions for extension of time are handled on a case-by-case basis.	Rulings on motions are handed down on Thursdays at 9:00a.m.
Briefs	Original plus 5 copies.	<p>The appellant must file a brief within 30 days—20 days in an accelerated appeal—after the later of: (1) the date the clerk's record was filed; or (2) the date the reporter's record was filed. TRAP 38.6(a).</p> <p>The appellee's brief must be filed within 30 days—20 days in an accelerated appeal—after the date the appellant's brief was filed. If the appellant has not filed a brief as provided in TRAP 38.6(a), an appellee may file a brief within 30 days—20 days in an accelerated appeal—after the date the appellant's brief was due. TRAP 38.6(b).</p> <p>A reply brief, if any, must be filed within 20 days after the date the appellee's brief was filed. TRAP 38.6(c).</p>	Court follows TRAP rules on briefs.	<p>A petition or brief should have durable front and back covers, which shall not be plastic or black, red or dark blue. TRAP 9.4(f).</p> <p>Use of multiple fonts in the body of a brief is discouraged.</p>
Oral Argument	Request oral argument on cover of the brief.	<p>In civil cases, the court grants 30 minutes per side; rebuttal is 10 minutes. In criminal cases, the court grants 20 minutes per side, with 10 minutes for rebuttal.</p> <p>Court sometimes allots more time upon request.</p>	Court usually grants oral argument if requested.	Judges meet before and after argument/submission. Clerks and staff attorneys sometimes participate in conferences, but do not usually prepare memos for the conferences.
Voting			There is no formal voting. Judges discuss cases.	

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Opinions		The court does not have internal guidelines concerning the time in which an opinion is drafted.	Author is assigned randomly prior to submission.	Court releases its opinions on Thursdays.
Motions for Rehearing	Original plus 2 copies.	Motions for rehearing are initially circulated to the author, who considers the motion and makes a recommendation. The court does not typically grant oral argument on a motion for rehearing.		
Original Proceedings	Original plus 5 copies.	Original proceedings are circulated to all members when filed. Emergency relief will be granted when the justices agree it is necessary.	If motion requests emergency relief, it is circulated immediately and dealt with ASAP. If there is no motion for emergency relief, it is addressed as soon as possible.	

Technology

1. Court subscribes to both Westlaw and Lexis.
2. Court does not have a preference with respect to United States Supreme Court cites.
3. Court has not received briefs or records on CD-Rom's.
4. Court prefers that parties provide copies of out of state cases. See TRAP 38.1(j).
5. Court does not accept filing by fax or electronic filings.
6. Court does not distribute its orders electronically.
7. Court does not record oral arguments.

Appellate Mediation

1. Court does not have a program for appellate mediation, but the court is looking at procedures used by other intermediate courts to be applied on a case-by-case basis.

Fees

1. Appeal: \$125
2. Original Proceeding: \$75
3. Motions: \$10
4. Response to Motion: \$10
5. The court's web site has a current list of filing fees. See also Tex. Gov't Code section 51.207(b) & (c).

Miscellaneous

1. If Judge recuses himself/herself, or if the court is not fully staffed on a case, the court notifies the parties. TRAP 16 & 17.
2. There is no typical method for a party to file its brief after hours. In exceptional situations, arrangements can be made with the clerk's office.
3. Typically, the court does not use visiting judges. However, the court has used former members of the court – Retired Chief Justice Austin McCloud and Retired Justice Bob Dickenson. The court rarely uses visiting judges because of budget cuts.
4. Approximately 15% of the court's decisions are memorandum opinions.

Survey of the Texas Appellate Courts - Twelfth District Court of Appeals (Tyler)

The Basics

1. Court's Address: Court of Appeals, 12th District, 1517 W. Front Street, Suite 354, Tyler, TX 75701
2. Telephone number: 903.593.8471, 903.593.2193 (fax)
3. Website address: www.12thcoa.courts.state.tx.us
4. Names of Judges: James T. Worthen (C.J.), Sam Griffith, Diane DeVasto
5. Chief Staff Attorney: Margaret Hussey
6. Chief Clerk: Cathy Lusk
7. Local Rules: The court does not have local rules.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original plus 1 copy.	Non-routine motions are decided by the full court. First motions for extension of time are routinely granted. Additional requests should seek no more than 30-day increments. Second motions are generally granted; subsequent motions are considered on the merits.	The court generally respects the parties' agreements, but does not automatically grant agreed motions. Motions are held for 10 days before consideration to allow time for a response, unless the rules allow for earlier consideration.	Motions are generally considered on Tuesdays.
Briefs	Original plus 4 copies of both briefs and appendices. Deadlines follow the TRAPs.			
Case Assignment				
Oral Argument	Request argument on brief cover.	Court typically allows 20 minutes per side; which includes the appellant's rebuttal. The appellant is asked to allot time for rebuttal when making an appearance. Court does not allow more time. Judges prepare independently for argument and case conferences.	The court does not automatically grant requests for argument. Argument is granted if it will assist the court in reaching a decision.	If the court grants argument, both sides will have the opportunity to appear and present argument, even if only one party requested it.
Voting			The court meets informally every morning, but case conferences are held after argument. Voting generally occurs after argument. Staff attorneys are assigned to cases, not judges, and the staff attorney for a particular case will attend the conference for that case. In cases without oral argument, the court decides on a case-by-case basis how and when voting occurs.	
Opinions		Authors are assigned based on a random draw when the case is docketed for argument or submitted without argument. Court does not have internal guidelines concerning deadlines for drafting and circulating opinions.	Court releases opinions on Wednesdays and the last business day of each month.	
Motions for Rehearing	Original plus 3 copies.	Motions for rehearing are initially circulated to author, who makes a recommendation to the court. The court has not recently granted rehearing w/o request under TRAP 50, but will do so in an appropriate case.		

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Original Proceedings	Original plus 5 copies.	If the court requests a response, it generally sets the deadline in 10-15 days.	The Clerk's office distributes an original proceeding to the court and chief staff attorney. Requests for emergency relief are reviewed immediately. Original proceedings generally are given priority. Generally, two votes are required to grant emergency relief.	Original proceedings are set for oral argument if it will assist the court to decide the issues.

Technology

1. Court has both Westlaw and Lexis.
2. With respect to United States Supreme Court cites, cite all three reporters.
3. The court has not received briefs or records on CD-Rom's and so has not considered this issue.
4. The court prefers that parties provide copies of out of state cases.
5. The court does not accept fax filing.
6. The court does not accept electronic filings.
7. The court does not distribute orders electronically.
8. The court records oral argument. Parties can obtain tapes for \$1.

Appellate Mediation

1. The court has a program for appellate mediation, but is selective in referring cases to mediation. Only a small percentage of cases is referred. The court considers the parties' preferences, the mediation history of the case, the amount in controversy, the probable outcome, and whether settlement appears possible. If the parties have mediated in the lower court, the court of appeals generally will not require a second mediation.
2. Parties must confer with the mediator within 7 days of an order referring the case to mediation and schedule mediation no later than 6 weeks after the order.
3. The chief staff attorney oversees the mediation program.
4. If someone needs to contact the court about mediation, they must go through the clerk.
5. The court encourages parties to select their own mediator and will honor those requests. The court will tentatively appoint a mediator whose appointment will become final unless parties agree on another mediator within 7 days. The court makes appointments from a list of approved mediators and attempts to match the case with the mediator best-qualified to handle it. Any mediator who has completed a qualified training program can complete an application for inclusion on the court's list of approved mediators.

Fees

1. Appeal: \$125
2. Original Proceeding: \$75
3. Motions: \$10
4. Response to Motion: \$10
5. Exhibits tendered for oral argument: \$25
6. Photocopying or comparing documents for certification: 10 cents per page

Miscellaneous

1. There is no special provision for after-hours filing.
2. The court infrequently uses as visiting judges the former Chief Justice Tom Ramey or former Justice Bill Bass.
3. A high percentage of the court's opinions are memorandum opinions, especially in criminal cases.

Survey of the Texas Appellate Courts - Thirteenth District Court of Appeals (Corpus Christi)

Basic Information

1. Court's Address: Corpus Christi Address: Nueces County Courthouse, 901 Leopard, 10th Floor, Corpus Christi, TX 78401; Edinburg Address: Administration Building, 100 E. Cano, 5th Floor, Edinburg, TX 78539
2. Telephone numbers: Corpus Christi: Phone: (361) 888-0416, Fax: (361) 888-0794; Edinburg: Phone: (956) 318-2405, Fax: (956) 318-2403
3. Website address: <http://www.13thcoa.courts.state.tx.us>
4. Names of Justices: Chief – Rogelio Valdez; Other Justices – Federico G. Hinojosa, Linda Reyna Yanez, Nelda V. Rodriguez, Errlinda Castillo, Dori Contreras Garza
5. Chief Staff Attorney: Cecile Fay Gsanger
6. Chief Clerk: Cathy Wilborn
7. Local Rules: The court had local rules (which are still on the court's internet site), but the court has voted to suspend them. The court operates only under the TRAP. They court has internal operating procedures, but they are not publicly available.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motion	Original plus 2 copies	Motions are decided by a panel of 3 judges. Clerks never handle motions. First motions for extension of time is usually granted; length of time varies. Second motion – depends on nature of case and length of first extension; Subsequent motion – It all keys off the first motion; by the time it gets to the third motion, you need to be on your knees.	A justice takes charge of the motions for the month. The panel that determines the motions is the panel on which the judge is currently serving. The panels on which judges serve change quarterly. The process remains the same regardless whether the motion is opposed or agreed. The court doesn't always grant agreed motions. Instead, goes through same process of obtaining a recommendation and vote. The motions justice makes recommendation.	Thursday is the regular hand-down day for motions, and decisions. They can alter that and do if unusual time constraints or it is the end of the fiscal year (Aug. 31).
Briefs	Original plus 5 copies; 30 days on appellant's and appellee's brief; 20 days on reply.		Court follows TRAP rules on briefs.	Court prefers no black, red or dark covers. It helps to pick a color and stick with it for the first brief and succeeding briefs.
Case Assignment		Cases are assigned randomly. There is no location preference between Corpus and Edinburg. Four judges are out of Edinburg and 2 out of Corpus; but assignment to panels is completely random. The court is statutorily obligated to set certain cases in the location where filed.	Panels are assigned every quarter by random assignment. Court discusses cases both before and after argument. Cases are discussed informally before oral argument and the panel meets again after. The authoring judge decides case and vote isn't taken until opinion is circulated.	The court takes summer recess in June and July. Business goes on during that time and they occasionally hear oral argument in emergency and original proceedings, but court doesn't have the usual 4 days per month of oral argument. Court never sits <i>en banc</i> at the outset of a case.
Oral Argument	Request oral argument on brief cover, usually lower left corner, but it doesn't matter. If party needs more time, it should file motion to modify; only rarely will parties be given more time at announcements.	Court grants 20 minutes per side; rebuttal comes out of the 20 minutes. Court can allot more time or less time than usual amount. Clerks and staff attorneys sometimes attend conferences and sometimes prepare memos for the conferences.	Court usually grants oral argument if requested except in rare circumstances. Author is usually assigned when the case is set for submission. The case is first set for a panel and then the author is randomly assigned out of the panel. Parties find out who is on their panel on their submission notice.	Court grants additional time usually in consolidated cases, cases with multiple parties, or in multiple appeals generated from the same underlying proceeding.

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Voting			Voting occurs after an opinion has been circulated – regardless whether there has been oral argument.	
Opinions		Court has internal guidelines concerning deadlines for drafting and circulating opinions, but they are not disclosed to the public.	Court releases its opinions on Thursdays.	
Motions for Rehearing	Original plus 2 copies	Motions for rehearing (and en banc) are initially circulated to author; author makes recommendation; then it is circulated to other members of the panel. The court has sometimes granted motion for rehearing w/o request under TRAP 50.		Court generally does not have reargument when it considers cases en banc.
Original Proceedings	Original plus 3 copies	Assigned on a rotating basis to a judge. It goes to that judge's panel. Rotates on each orig. proceeding. Granting relief requires 2 out of 3 votes on the panel.	If motion requests emergency relief, it is circulated immediately and dealt with ASAP. If there is no motion for emergency relief, it is addressed as soon as possible within the normal course of business.	There is no specific criteria for setting proceeding for oral argument. Court will sometimes grant mandamus without having oral argument, but always requests a response before doing so.

Technology

1. Court subscribes to both Westlaw and Lexis. Court members typically use Lexis because they have unlimited usage; thus, it is better to cite to Lexis.
2. Court prefers that parties follow bluebook with respect to United States Supreme Court cites.
3. Court has received briefs or records on CD-Rom's and has found them helpful in cases involving a voluminous record.
4. Court does not prefer that parties provide copies of out of state cases, but would like copies of legislative history or other unusual citations. Don't include copies of things like the rules unless they are key to your arguments.
5. Court accepts non-voluminous routine motions by fax during or after normal working hours. Originals and required fees must follow by mail. Faxes to the court must be sent to opposing counsel by fax as governed by rules of appellate procedure.
6. Court does not accept electronic filings.
7. The only form of electronic distribution is the case mail system available on the web.
8. Court records oral argument and the parties can get a copy, but the parties have to come in and copy the tapes themselves.

Appellate Mediation

1. Court has a program for appellate mediation.
2. Parties have to complete ADR section of docketing statement.
3. The following cases are the types that are mediated: (1) cases in which both parties agree to mediate; (2) money judgments up to \$20,000 exclusive of costs and interest; (3) family law cases excluding custody disputes, termination of parental rights, and juvenile cases; (4) forfeiture of property cases; (5) there may be occasions when a panel will order post-briefing mediation.
4. The court has a mediation committee made up of a justice, clerk and chief staff attorney.
5. If someone needs to contact the court about mediation, they must go through the clerk.
6. The Court prefers that parties select their own mediator.
7. If the parties can't agree on a mediator, the court will select one for them.

Fees

1. Appeal: \$125
2. Original Proceeding: \$75
3. Motions: \$10
4. Response to Motion: None

Miscellaneous

1. If court is split 3/3, they will request assignment of a 7th judge.
2. If a party needs to file its brief after hours, arrangements can be made with the clerk.
3. The court still uses visiting judges, but very infrequently now.
4. Approximately 70% of the court's decisions are memorandum opinions.

Survey of the Texas Appellate Courts - Fourteenth District Court of Appeals (Houston)

The Basics

1. Court's Address: 1307 San Jacinto, 11th Floor, Houston, Texas 77002
2. Telephone number: Phone: (713) 655-2800, Fax: (713) 650-8550
3. Website address: <http://www.14thcoa.courts.state.tx.us>
4. Names of Judges: Chief – Adele Hedges; Other Justices – Leslie Brock Yates, John S. Anderson, J. Harvey Hudson, Wanda McKee Fowler, Richard H. Edelman, Kem Thompson Frost, Charles W. Seymore, Eva Guzman.
5. Chief Staff Attorney: Nina Reilly
6. Chief Clerk: Edward E. Wells, Jr.
7. Local Rules: No local rules. Internal operating procedures do exist, but they are confidential.
8. Counties in District: The 1st and 14th Courts have concurrent jurisdiction over cases from Harris and 12 other counties: Austin, Brazoria, Burleson, Chambers, Colorado, Fort Bend, Galveston, Grimes, Trinity, Walker, Waller, and Washington. Trial court clerk randomly assigns each appeal.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original plus 2	Motions are ruled on by the panel to which case is assigned. Cases are assigned to a panel when filed (there are panels A, B, and C) Clerks might handle first extension of time by a court reporter; clerks don't handle motions filed by attorneys. On agreed motions, the certificate of conference can expedite the ruling on the motion. Motions will be held for 10 days unless certificate of conference shows the motion is unopposed, it is an emergency, or motion requests extensions to file a brief.	The court generally grants a first motion for extension of time for up to thirty days to file a brief. When granting an extension of time to file a brief, the court's ruling contains the following notation: "No further extensions will be granted absent exceptional circumstances; any further motions may be set for status conference." Further requests for extensions to file a brief will be considered on a case-by-case basis. If a party files a proper motion to extend time to file a brief, but the brief's due date elapses before the court's ruling, the court generally grants an extension of at least 2 weeks past the date of the ruling.	As a general rule, Thursday is the regular-hand down day for motions and orders. Panels are reconstituted spring and fall (Aug. – Jan.; Feb. – July).
Briefs	Original plus 5		Court follows TRAP rules.	
Case Assignment		A semi-annual random draw determines panel composition. The Chief Justice always presides over A Panel. The most senior justice selected for each of the other panels will preside over that panel. A random draw several weeks before submission determines authorship of each case.	On each panel, the justices and legal staff read the records and briefs and discuss the cases at a pre-submission conference before oral argument. They also meet after the oral argument.	The Court has decided to sit en banc initially in a couple of cases in which the court was concerned about a direct conflict with another decision from the Fourteenth Court of Appeals.
Oral Argument	A request for oral argument must be noted on the front cover of the party's brief. A party's failure to make this request on the front cover waives the right to argue. If the request is inadvertently omitted, it is proper to file a motion requesting argument promptly after discovering the omission. Late requests	The Court grants 15 minutes per side, and appellant may reserve time for rebuttal. Requests to modify the time permitted for argument should be made before the day of argument. Clerks and staff attorneys sometimes attend conferences and generally prepare memos for the conferences, but each chambers has its own procedure. Parties find out who is on panel when submission notice letter is mailed out about 30 days before argument.	The Court does not automatically grant oral argument. Frequently, the court does not have oral argument in criminal cases; judges look through briefs and determine whether to have oral argument. The court also gives at least 21 days' notice of submissions if no oral argument is granted. If only one side requests oral argument, oral argument may still be granted.	The Court grants additional time usually in consolidated cases, cases with multiple parties, or in multiple appeals generated from the same underlying proceeding.

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
	are not favored.			
Voting			The court's deliberative process is confidential.	
Opinions		The Court has undisclosed internal guidelines with deadlines for drafting and circulating opinions. The authoring judge circulates an opinion only to the other members of the panel. Copies are available to the entire court, but they aren't circulated for approval.	Except for emergency matters, the court issues opinions on Tuesdays and Thursdays. A random draw several weeks before submission determines authorship of each case	
Motions for Rehearing	Original plus 2, motions for rehearing en banc original plus 11	Motions are initially circulated to the entire panel and voted on by the individual panel members. It is rare for court to grant a rehearing without being requested by the parties. When they do so, it is generally under the criminal rules that permit modifications of the opinion within 30 days. There is no precedent for granting a rehearing without motion in a civil matter.	En banc consideration is not favored. The justices on the court carefully apply the standard so that parties should not request en banc review unless there are extraordinary circumstances or a conflict exists. The justices on the original panel first consider the en banc motion. Their vote is reported to the rest of justices who then consider the motion. If any justice calls for a vote, the entire court votes on rehearing.	
Original Proceedings	Rules require original and 3 copies of all documents in an original proceeding. The court prefers, however, to receive an original and 4 copies.	The First and Fourteenth Courts of Appeals have concurrent habeas and mandamus jurisdiction. Petitions are docketed in a single book and assigned on a rotating basis.	If the original proceeding contains a request for emergency relief, the court attempts to act within a day. If the original proceeding does not request emergency relief, it is screened the day it is filed. The court tries to circulate immediately and recommend an action. The Court tries to accelerate petitions for original proceedings ahead of everything else. But if the original proceeding is complex and requires oral argument, it takes longer. The assigned attorney tries to get full panel vote. If it is an emergency, the Court may act with two votes.	The Court's criteria for setting an original proceeding for oral argument depends on the particular facts at issue. The Court will grant mandamus without oral argument

Technology

1. The Court uses Westlaw; they have Lexis available, but only if a chambers requests it. Only a few have so requested.
2. The Court has S.C.T. reporters, but not U.S. Providing parallel citations to the Supreme Court Reporter is helpful.
3. The Court has received briefs or records on CD-Rom and has found them helpful. The Court will be promulgating procedures to implement electronic filing of record as well.
4. The Court prefers that parties provide copies of out of state cases.
5. The Court accepts emergency motions by fax. The filing party must, however, file an original and 2 copies at the earliest opportunity (usually the next day), and indicate that the motion was previously faxed. As long as the filing fee is promptly paid, the motion will be deemed filed as of the date the fax is received. The Court will also accept non-emergency motions by fax, but it requests that they are filed by hard copy also. The Court does not accept fax filing of briefs.
6. The Court does not have the capability to accept electronic filings at this time.
7. The Court does not distribute its orders electronically other than through its internet site.
8. The Court does not record oral argument.

Appellate Mediation

1. The Court has a program for appellate mediation.
2. Parties are ordered to mediation if the court determines the case is appropriate for mediation or the parties agree. If mediation is ordered, the appeal process is stayed for 60 days, or longer if an extension is granted. Parties are entitled to object to a mediation order within 10 days of the date of the order.
3. When a civil appeal is filed, the parties are notified that appellant should complete and file a docketing statement, including the mediation section, and appellee should complete and file a one-page mediation docketing statement, both within 15 days. The parties are informed that failure to comply will be deemed an affirmative response to mediation by the non-filing party. A case may be dismissed or sanctions imposed for failure to comply with the court's mediation orders.
4. The three central staff attorneys monitor the cases assigned to their panels, including mediation.
5. When a case is ordered to mediation, the parties are to agree on a mediator within 10 days of the order, or within 10 days of the overruling of an objection, if one is filed.
6. If the parties are unable to agree, they must each submit the names of two acceptable mediators, and the court will randomly select a mediator.

Fees

1. Appeal: \$125
2. Original Proceeding: \$75
3. Motions: \$10
4. Copying charges \$.10 per page

Miscellaneous

1. The court maintains a “drop box” in the lobby of the court of appeals building for after-hours filing. Documents placed in the drop box between 5:00 and 6:00 p.m. are considered timely filed on that day. Rules provide that clerk may accept at home.
2. The court still uses visiting judges, but sparingly (about 3 submission days this year).
3. The court used retired Chief Justice, Paul Murphy, Former Justice Joe Draughn, and retired Justice Jackson Smith.
4. The court estimates that maybe around 70% of its opinions are memorandum opinions. (2/3 of docket is criminal cases.) The Court only recently began keeping track.