

# Supreme Court of Texas

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Misc. Docket No. 23-9082

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## Preliminary Approval of Amendments to Texas Rules of Appellate Procedure 9.3, 9.5, 53.2, and 53.3

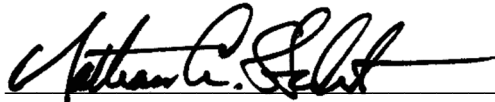
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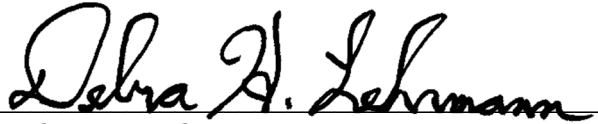
**ORDERED** that:

1. The Court invites public comments on proposed amendments to Texas Rules of Appellate Procedure 9.3, 9.5, 53.2, and 53.3.
2. Comments regarding the proposed amendments should be submitted in writing to [rulescomments@txcourts.gov](mailto:rulescomments@txcourts.gov) by January 1, 2024.
3. The Court will issue an order finalizing the amendments after the close of the comment period. The Court may change the rules in response to public comments. The Court expects the amendments to take effect on February 1, 2024.
4. The Clerk is directed to:
  - a. file a copy of this Order with the Secretary of State;
  - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this Order to each elected member of the Legislature; and
  - d. submit a copy of this Order for publication in the *Texas Register*.

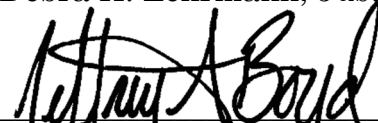
Dated: October 3, 2023.



Nathan L. Hecht, Chief Justice



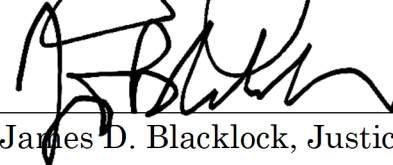
Debra H. Lehrmann, Justice



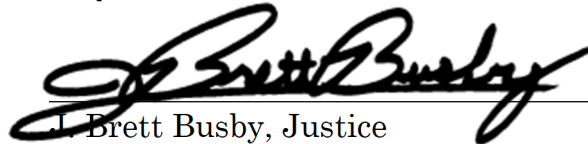
Jeffrey S. Boyd, Justice



John P. Devine, Justice



James D. Blacklock, Justice



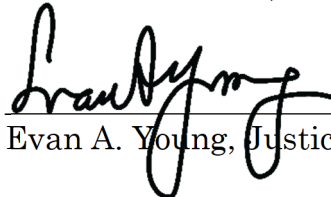
J. Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

# Court of Criminal Appeals of Texas

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Misc. Docket No. 23-006

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## Preliminary Approval of Amendments to Texas Rules of Appellate Procedure 9.3 and 9.5

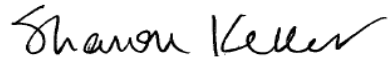
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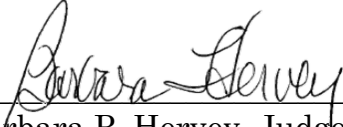
**ORDERED** that:

1. The Court invites public comments on proposed amendments to Texas Rules of Appellate Procedure 9.3 and 9.5.
2. Comments regarding the proposed amendments should be submitted in writing to the Court of Criminal Appeals by January 1, 2024 at [txccarulescomments@txcourts.gov](mailto:txccarulescomments@txcourts.gov) or by mail to the Clerk of the Court of Criminal Appeals at P.O. Box 12308, Austin, Texas 78711.
3. The Court will issue an order finalizing the amendments after the close of the comment period. The Court may change the amendments in response to public comments. The Court expects the final amendments to take effect on February 1, 2024.
4. The Clerk is directed to:
  - a. file a copy of this Order with the Secretary of State;
  - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
  - c. send a copy of this Order to each elected member of the Legislature; and
  - d. submit a copy of this Order for publication in the *Texas Register*.

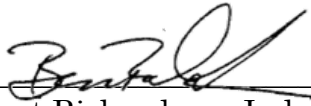
Dated: October 3, 2023.



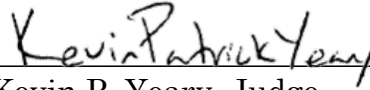
Sharon Keller, Presiding Judge



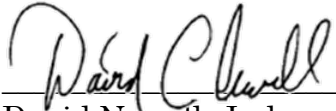
Barbara P. Hervey, Judge



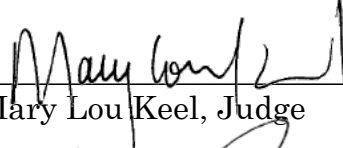
Bert Richardson, Judge



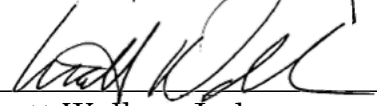
Kevin P. Yeary, Judge



David Newell, Judge



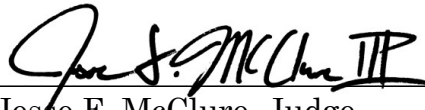
Mary Lou Keel, Judge



Scott Walker, Judge



Michelle Slaughter, Judge



Jesse F. McClure, Judge

# TEXAS RULES OF APPELLATE PROCEDURE

## Rule 9. Documents Generally

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### 9.3. Number of Copies

~~(a) *Courts of Appeals.*~~

- ~~(1) *Document Filed in Paper Form.* If a document is not electronically filed, a party must file the original and one unbound copy of the document unless otherwise required by local rule. The unbound copy of an appendix must contain a separate page before each document and must not include tabs that extend beyond the edge of the page.~~
- ~~(2) *Electronically Filed Document.* Unless required by local rule, a party need not file a paper copy of an electronically filed document.~~

~~(b) *Supreme Court and Court of Criminal Appeals.*~~

- ~~(1) *Document Filed in Paper Form.* If a document is not electronically filed, a party must file the original and 11 copies of any document addressed to either the Supreme Court or the Court of Criminal Appeals, except that in the Supreme Court only an original and one copy must be filed of any motion, response to the motion, and reply in support of the motion, and in the Court of Criminal Appeals, only the original must be filed of a motion for extension of time or a response to the motion, or a pleading under Code of Criminal Procedure article 11.07.~~
- ~~(2) *Electronically Filed Document.* Paper copies of each document that is electronically filed with the Supreme Court or the Court of Criminal Appeals must be mailed or hand delivered to the Supreme Court or the Court of Criminal Appeals, as appropriate, within three business days after the document is electronically filed. The number of paper copies required shall be determined, respectively, by order of the Supreme Court or the Court of Criminal Appeals.~~

~~(a) *Document Filed in Paper Form.* If a document is not electronically filed, a party must file the original and one unbound copy of the document~~

unless otherwise required by local rule, except that, in the Court of Criminal Appeals, only the original must be filed of a motion for extension of time, a response to the motion, or a pleading under Code of Criminal Procedure article 11.07. The unbound copy of an appendix must contain a separate page before each document and must not include tabs that extend beyond the edge of the page.

(b) Electronically Filed Document. A party need not file a paper copy of an electronically filed document.

(c) *Exception for Record.* Only the original record need be filed in any proceeding.

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## 9.5. Service

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(d) *Proof of Service.* A document presented for filing must contain a proof of service in the form of either an acknowledgment of service by the person served or a certificate of service. Proof of service may appear on or be affixed to the filed document. The clerk may permit a document to be filed without proof of service, but will require the proof to be filed promptly.

(e) *Certificate Requirements.* For a document filed electronically in a civil case, an automated certificate of service generated by the filing party's electronic filing service provider suffices. For a document not filed electronically in a civil case or for any document filed in a criminal case, Aa certificate of service must be signed by the person who made the service and must state:

- (1) the date and manner of service;
- (2) the name and address of each person served; and
- (3) if the person served is a party's attorney, the name of the party represented by that attorney.

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## Rule 53. Petition for Review

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## 53.2. Contents of Petition

The petition for review must, under appropriate headings and in the order here indicated, contain the following items:

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- (f) Introduction. The petition must contain an introduction summarizing the reasons the Court should grant review.
- (g) *Issues Presented.* The petition must state concisely all issues or points presented for review. The statement of an issue or point will be treated as covering every subsidiary question that is fairly included. If the matter complained of originated in the trial court, it should have been preserved for appellate review in the trial court and assigned as error in the court of appeals.
- (h) *Statement of Facts.* The petition must affirm that the court of appeals correctly stated the nature of the case, except in any particulars pointed out. The petition must state concisely and without argument the facts and procedural background pertinent to the issues or points presented. The statement must be supported by record references.
- (i) *Summary of the Argument.* The petition must contain a succinct, clear, and accurate statement of the arguments made in the body of the petition. This summary must not merely repeat the issues or points presented for review.
- (j) *Argument.* The petition must contain a clear and concise argument for the contentions made, with appropriate citations to authorities and to the record. The argument need not address every issue or point included in the statement of issues or points. Any issue or point not addressed may be addressed in the brief on the merits if one is requested by the Court. The argument should stateexplain the reasons why the Supreme Court should exercise jurisdiction to hear the case with specific reference to the factors listed in Rule 56.1(a). The petition need not quote at length from a matter included in the appendix; a reference to the appendix is sufficient. The Court will consider the court of appeals' opinion along with the petition, so statements in that opinion need not be repeated.
- (k) *Prayer.* The petition must contain a short conclusion that clearly states the nature of the relief sought.

~~(k)~~ *Appendix.*

- (1) Necessary Contents. Unless voluminous or impracticable, the appendix must contain a copy of:
  - (A) the judgment or other appealable order of the trial court from which relief in the court of appeals was sought;
  - (B) the jury charge and verdict, if any, or the trial court's findings of fact and conclusions of law, if any;
  - (C) the opinion and judgment of the court of appeals; and
  - (D) the text of any rule, regulation, ordinance, statute, constitutional provision, or other law on which the argument is based (excluding case law), and the text of any contract or other document that is central to the argument.
- (2) Optional Contents. The appendix may contain any other item pertinent to the issues or points presented for review, including copies or excerpts of relevant court opinions, statutes, constitutional provisions, documents on which the suit was based, pleadings, and similar material. Items should not be included in the appendix to attempt to avoid the page limits for the petition.

### **53.3. Response to Petition for Review**

Any other party to the appeal may file a response to the petition for review, but it is not mandatory. If no response is timely filed, or if a party files a waiver of response, the Court will consider the petition without a response. A petition will not be granted before a response has been filed or requested by the Court. The response must conform to the requirements of 53.2, except that:

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~~(c)~~ the introduction should summarize the reasons the Court should deny review;

~~(ed)~~ a statement of the issues presented need not be made unless:

- (1) the respondent is dissatisfied with the statement made in the petition;



- (2) the respondent is asserting independent grounds for affirmance of the court of appeals' judgment; or
- (3) the respondent is asserting grounds that establish the respondent's right to a judgment that is less favorable to the respondent than the judgment rendered by the court of appeals but more favorable to the respondent than the judgment that might be awarded to the petitioner (e.g., a remand for a new trial rather than a rendition of judgment in favor of the petitioner);

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