



COURT OF APPEALS

THIRD DISTRICT OF TEXAS

P.O. BOX 12547, AUSTIN, TEXAS 78711-2547 www.3rdcoa.courts.state.tx.us
(512) 463-1733

DARLENE BYRNE, CHIEF JUSTICE
MELISSA GOODWIN, JUSTICE
THOMAS J. BAKER, JUSTICE
GISELA D. TRIANA, JUSTICE
CHARI L. KELLY, JUSTICE
EDWARD SMITH, JUSTICE

JEFFREY D. KYLE, CLERK

In 2004, the Appellate Section of the State Bar of Texas and the Courts of Appeals worked together to identify key information needed by appellate attorneys and pro se litigants to practice effectively before the court. To assist the court in this effort, the Appellate Section collected and formatted the relevant information and published it in the Appellate Advocate in February 2005. The court intends to keep the information current for the use of persons with matters before the court.

Internal Operating Procedures - Third District Court of Appeals, Austin January 2021

Basic Information

1. Court's Address: P.O. Box 12547, Austin, TX 78711-2547
2. Telephone number: (512) 463-1733
3. Website address: <http://www.txcourts.gov/3rdcoa>
4. Names of Justices: Chief Justice Darlene Byrne; Justices Melissa Goodwin, Thomas J. Baker, Gisela D. Triana, Chari L. Kelly and Edward Smith
5. The Court does not have a Chief Staff Attorney.
6. Clerk: Jeffrey D. Kyle
7. Counties served: Bastrop, Bell, Blanco, Burnet, Caldwell, Coke, Comal, Concho, Fayette, Hays, Irion, Lampasas, Lee, Llano, McCulloch, Milam, Mills, Runnels, San Saba, Schleicher, Sterling, Tom Green, Travis, and Williamson
8. The Court has local Rule 1, Frivolous Appeals in Criminal Cases.

Filing Instructions

1. All attorneys are required to file all documents (except a document submitted under seal or subject to a motion to seal) with the Court through the efiletexas.gov electronic filing system. Persons not represented by an attorney are encouraged to e-file documents; however, e-filing is not required. Documents e-filed by a party electronically with the Third Court of Appeals must conform to Rule 9 of the Texas Rules of Appellate Procedure. In the Third Court of Appeals, an e-filer is not required to file any paper copies of an e-filed document unless specifically requested by the Court.
2. If a party not represented by counsel opts not to e-file a document and to file the document in paper form instead, the original document filed with the Court must be in the form provided by Rule 9.4 of the Texas Rules of Appellate Procedure. However, the document must be unbound and one-sided and contain no hard covers, tabs, or any other item that would impede the scanning of the document. In lieu of tabs, separator pages with the title of the item immediately following should be used. A filer need only file the original document unless specifically requested by the Court.
3. All documents submitted to the Court must be redacted in compliance with Rule 9.8, 9.9, and 9.10 of the Texas Rules of Appellate Procedure. E-filed briefs must follow the Texas Supreme Court's Redaction Guidelines found at <http://www.supreme.courts.state.tx.us/ebriefs/RedactionGuidelines.pdf>.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
E-filing	<p>All attorneys are required to file all documents (except a document submitted under seal or subject to a motion to seal) with the Court through the efiletexas.gov electronic filing system. Persons not represented by an attorney are encouraged to e-file documents; however, e-filing is not required. Documents e-filed by a party electronically must conform to TRAP 9.</p> <p>An e-filer is not required to file any paper copies of an e-filed document unless specifically requested by the Court.</p>	<p>All documents submitted to the Court must be redacted in compliance with TRAPs 9.8, 9.9, and 9.10. E-filed briefs must follow the Redaction Guidelines found on the Supreme Court's website.</p>	<p>Parties seeking a copy of any electronic record may send an email to recordrequest@txcourts.gov. Attorneys may receive the record by Microsoft OneDrive or, if small enough, the clerk's office may email the file.</p>	<p>An e-filed document must include the e-filer's email address, in addition to any other information required by the Texas Rules of Appellate Procedure.</p>

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Records	<p>Due dates are posted on the Court's website.</p> <p>Motions to extend are filed by clerks and reporters directly with the court.</p>	<p>The clerk's office handles initial extension requests up to 60 days. Additional extensions or extensions for longer than a total of 60 days are submitted to chambers for an order.</p> <p>All motions to extend in parental termination and child protection cases are submitted to chambers for an order.</p>	<p>Most records are received in electronic form. The clerk's office converts any paper records received into searchable PDFs and generally makes them available to the parties.</p> <p>The handling of sealed records will depend on the case and the language of the sealing order. Some sealed documents are received in electronic form and some in paper form. Counsel should contact the clerk's office to determine what will be required to obtain access.</p>	<p>Under TRAP 35.3(c), each extension granted may not exceed 30 days in regular appeals and 10 days in accelerated appeals.</p> <p>In parental termination and child protection cases, extensions may not exceed 30 days total and may not be granted in all appeals. TRAP 28.4(b)(2).</p>
Motions	See E-filing.	<p>Motions filed before the appeal is submitted are assigned to the justice to whom the case was randomly assigned on filing. Motions filed after the case is submitted to a panel are assigned to that panel. There is no set schedule for acting on motions.</p>	<p>Agreed motions will be acted on as soon as practicable, so a conspicuous indication that a motion is agreed to or unopposed by the other side helps expedite the motion. Motions for extension of time to file a brief are routinely granted provided that the time requested does not exceed sixty (60) days total. Such motions are handled by the clerk's office.</p>	
Briefs	See E-filing.		<p>Appellees' briefs are to be filed within thirty days of appellant's briefs; or within twenty days in an accelerated appeal. Appellants' reply briefs are due twenty days after the filing of appellees' briefs. If a brief cannot be filed within the dates prescribed by the appellate rules, a motion for extension of time must be filed, even for appellee's briefs. All post-submission briefs, including letter briefs, with the exception of those requested by the Court in oral argument, must be accompanied by a separate motion for leave to file except for an appellant's reply brief tendered within the time set by the rules.</p> <p>The Court currently has no preferred practice regarding cross-appeals. Motions asking the Court to consider a combined appellee's/cross-appellant's brief are considered on a case-by-case basis. Practitioners should address the new word-count limits in such motions.</p>	
Case Assignment	Cases are assigned randomly to a judge upon filing.		<p>The Court sits in two panels. For oral argument, 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 January and July.</p>	
Oral Argument		<p>The Court prefers that oral argument be requested in the manner prescribed by the appellate rules.</p>	<p>The Court does not automatically honor requests for oral argument. The Court follows TRAP 39.1 in determining whether to allow oral argument. As a general rule, parties are allocated twenty minutes per side.</p>	

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
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.	
Opinions		Clerks and staff attorneys participate in conferences. Occasionally, a Justice will request a pre-submission memorandum. The notice of submission includes the date the case will be submitted and the names of the Justices on the panel. The Court sends this notice approximately not less than 21 days before submission.	Draft opinions are circulated to all judges and all attorneys. The Court releases opinions daily.	
Motions for Rehearing	See E-filing.	Notices for rehearing and motions for rehearing en banc go to the entire Court. In both cases the author makes a report and recommendation.	Motions for rehearing are distributed for review to the panel that decided the case; motions for rehearing en banc are distributed to the entire court. In both cases, the judge who authored the opinion makes a report and recommendation for the disposition of the motion.	
Original Proceedings	See E-filing.	Requests for emergency relief are given immediate attention; it assists the Court if the request for emergency relief is conspicuous. Original proceedings are given prompt, but not necessarily immediate attention.	Original proceedings are assigned to individual justices on a rotating basis. There is no set original proceeding panel. The justice to whom the proceeding is assigned assembles a panel of three judges for that proceeding; the panel may or may not coincide with that judge's regularly assigned 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 and Westlaw.
2. With respect to the United States Supreme Court cites, use U.S. and/or L.Ed.
3. All attorneys are required to file all documents (except a document submitted under seal or subject to a motion to seal) with the Court through the efiletexas.gov electronic filing system. Persons not represented by an attorney are encouraged to e-file documents; however, e-filing is not required.
4. The Court does not accept email or fax filing.
5. The Court makes its orders available electronically.
6. The Court records oral arguments. Recordings are posted on the Court's website.

Appellate Mediation

1. The Court no longer has a mediation referral program.

Fees

1. Appeal: \$205
2. Petition for permissive appeal: \$205 (no additional fee if petition is granted)
3. Original Proceeding: \$155
4. Motions for Rehearing: \$15; all other motions are \$10
5. Exhibits tendered for oral argument: \$25

Miscellaneous

1. Filing outside office hours should be arranged in advance with the Clerk.
2. A summary of the Court's operating procedures is available at the Court's website: "Practice Before the Court of Appeals for the Third District of Texas."
3. The Court estimates that approximately 80% of its decisions are memorandum opinions.
4. The Court is participating with the State Bar of Texas Appellate Section Pro Bono Committee in a Pro Bono Program to place a limited number of civil appeals with pro bono appellate counsel.
5. The best way to bring emergency matters to the Court's attention is to use the correct document classification when e-filing and contact the clerk's office prior to filing.