



# **Court of Appeals**

## **Court of Appeals for the First District of Texas**

301 Fannin  
Houston, Texas 77002  
(713) 274-2700

July 24, 2020

*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. This information was updated in July 2020 and the court intends to keep the information current for the use of persons with matters before the court.*

### **The Basics**

#### **Internal Operating Procedures of the Court of Appeals for the First District of Texas**

1. Court's Address: 301 Fannin, Houston, Texas 77002
2. Telephone number: (713) 274-2700
3. Website address: <http://www.txcourts.gov/1stcoa>
4. Justices: Sherry Radack (C.J.), Evelyn Keyes, Russell Lloyd, Peter Kelly, Gordon Goodman, Sara Beth Landau, Richard Hightower, Julie Countiss, Terry Adams.
5. Chief Staff Attorney: Janet Williams
6. Clerk of the Court: Christopher A. Prine
7. Local Rules: Local Rules Relating to Assignment of Related Cases to and Transfers of Related Cases Between the First and Fourteenth Courts of Appeals. The other internal operating procedures of the Court are confidential.
8. Counties in District: The 1<sup>st</sup> and 14<sup>th</sup> Courts have concurrent jurisdiction over appeals from Harris and 9 other counties: Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Grimes, Waller, and Washington.
9. The trial court clerk randomly assigns each appeal to either the 1<sup>st</sup> or 14<sup>th</sup> Fourteenth Court of Appeals, with one exception: cases in which a related matter has previously been heard by a particular court are assigned to that court. Local Rule 1.4 requires that the notice of appeal identify matters previously filed in either the 1<sup>st</sup> or 14<sup>th</sup> Courts.

### The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
<p><b>E-Filing</b></p>	<p>Effective January 1, 2014, <u>all attorneys in civil and criminal cases</u> are required to file all documents (except a document submitted under seal or subject to a motion to seal) with the Court through the <a href="http://eFileTexas.gov">eFileTexas.gov</a> electronic filing system. Parties not represented by an attorney in may e-file documents, but e-filing is not required.</p> <p>Visit <a href="http://efiletexas.gov/">http://efiletexas.gov/</a> and the SupremeCourt website at <a href="http://www.supreme.courts.state.tx.us/ebriefs/ebriefs.asp">www.supreme.courts.state.tx.us/ebriefs/ebriefs.asp</a> for more information.</p>	<p>All filers should consult the Redaction Guidelines found on the Supreme Court's website and Rules 9.8, 9.9, and 9.10 of the Texas Rules of Appellate Procedure.</p>	<p>A filer who e-files a document must comply with Rule 9 of the Texas Rules of Appellate Procedure.</p> <p>Rule 9.3 of the Texas Rules of Appellate Procedure governs the number of paper copies required when a document is filed in a paper format by a party not represented by an attorney.</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>
<p><b>Records</b></p>	<p>Court sets due date and notifies parties, clerks, and reporter in accordance with Tex. R. App. P. 35.</p> <p>Motions to extend are filed by clerks and reporters directly with court.</p>	<p>Except in parental termination and child protection cases as defined in Tex. R. App. P. 28.4(a)(2), first motions to extend for 30 days or less—10 days or less in accelerated cases—are generally handled by the clerks. First motions asking for more than this amount of time, as well</p>	<p>All records are electronic and may be viewed by attorneys of record via the Attorney portal (<a href="https://attorneyportal.txcourts.gov/Account/Login">https://attorneyportal.txcourts.gov/Account/Login</a>) or on CD-Rom at the requests of self-represented parties.</p> <p>Sealed Records will not be checked out or viewed except as authorized by an order of the court sealing the record or an order by this Court specifying who may check out or view the record.</p>	<p>Under Tex. R. App. P. 35.3(c), each extension granted may not exceed 30 days in regular appeals and 10 days in accelerated appeals.</p> <p><b>In juvenile certification and parental termination and child protection cases, extensions may not exceed 30 days total, and the court may deny or shorten requested extensions. Tex. R. App. P. 28.4(b)(2).</b></p>

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<b>Motions</b>	<i>See</i> e-filing requirements	Motions may be ruled on by a justices or a panel of justices. For agreed or unopposed motions, including a certificate of conference can expedite the ruling on the motion. For agreed or unopposed motions, including a certificate of conference can expedite the ruling on the motion. Motions will be held for 10 days unless a certificate of conference shows the motion is unopposed, it is an emergency, or it requests an	The court generally grants a first motion for extension of time for up to 30 days to file a brief. Further requests for extensions to file a brief will be considered on a case-by- case basis.	As a general rule, motion rulings and orders issue on Tuesdays and Thursdays.
<b>Briefs</b>	<i>See</i> e-filing requirements.	Briefs that do not comply with Rule 9 of the Texas Rule of Appellate Procedure are not accepted and are returned for correction.	The Court follows the Texas Rules of Appellate Procedure. <b>Electronic features:</b> It is useful for the bookmarks in electronic briefs to list each section and heading in the brief (or a shortened version thereof) and each item in the appendix. Hyperlinks from citations in	All filers should consult the Redaction Guidelines found on the Supreme Court's website and Rules 9.8, 9.9, and 9.10 of the Texas Rule of appellate Procedure.

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			<p>the brief to items in the appendix are also useful.</p> <p><b>Appendix:</b> In addition to the items required by Tex. R. App. P. 38.1(k)(1), the appendix should include key authorities that are not available on Westlaw.</p> <p><b>Cross-Appeals:</b> After consolidation of cross-appeals, the Court encourages the parties to file an agreed motion regarding the number and due dates of briefs.</p>	
<b>Case Assignment</b>	Pursuant to the Court's Local Rules, when a notice of appeal is filed, it must contain a statement indicating whether a related appeal or original proceeding has been previously filed in either the First or Fourteenth Court of Appeals. The notice must provide the related case's caption and cause numbers.	Panels are generally reconstituted four times per year (at the first of February, May, August, and November) according to a random matrix. The Chief Justice always presides over A Panel or any other panel on which the Chief Justice is assigned. The most senior justice selected for each of the other panels will preside over that panel. A random draw several weeks before submission determines initial	The justices and legal staff of each panel read briefs, review the records, and discuss the cases at pre-submission and post-submission conference.	En banc consideration is rare.
<b>Oral Argument</b>	A request for oral argument must be noted on the front cover of the party's brief (somewhere other than the top right corner). A party requesting argument is encouraged to include a statement of reasons in	The Court generally 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	The Court grants oral argument under the guidelines of Tex. R. App. P. 39. If the court grants oral argument, any side that filed a brief will be given an opportunity to argue even if	Oral argument exhibits may be filed electronically before the day of argument. There is a charge of \$25 per exhibit.

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	<p>the body of the brief addressing why argument should be permitted. <i>See</i> Tex. R. App. P. 38.1(e), 39.7. If the case is part of the SBOT/HBA pro bono program, that fact should be included in the statement. A party's failure to request oral argument 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 are not favored.</p>	<p>Parties are notified of the justices on the panel when a submission notice letter is mailed at least 21 days before argument.</p>	<p>one side did not request oral argument in their brief.</p>	
<b>Voting</b>			<p>The court's deliberative process is confidential.</p>	<p>Opinions and motions are circulated electronically for voting by the justices.</p>
<b>Opinions</b>		<p>The Court has undisclosed internal guidelines with deadlines for drafting and circulation opinions. The authoring judge circulates an opinion only to the other</p>	<p>Except for emergency matters, the court issues opinions on Tuesdays and Thursdays.</p>	
<b>Motions for Rehearing</b>	<p><i>See</i> e-filing requirements.</p>	<p>Motions are circulated to the entire panel and voted on by the individual panel members. It is rare for the court to grant a rehearing without a request by the parties.</p>	<p>En banc consideration is not favored. The justices on the court carefully apply the standard in Rule 41.2(c), which limits en banc consideration to cases where extraordinary circumstances or conflicts exist. The justices on the original panel first consider the en banc motion. If the panel changes its opinion, the en banc motion is not circulated to</p>	

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			<p>the rest of the court. If the panel does not change its opinion, the vote of the justices on the panel 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.</p>	
<p><b>Original Proceedings</b></p>	<p>When an original proceeding is filed, the court's local rules require that a notice must be filed indicating whether a related appeal or original proceeding has been previously filed in either the First or Fourteenth Courts of Appeals. The notice must provide the related case's caption and cause numbers.</p>	<p>The 1<sup>st</sup> and 14<sup>th</sup> Courts of Appeals have concurrent habeas and mandamus jurisdiction. Petitions should be filed with the clerk of the 1<sup>st</sup> Court during the first six months of a calendar year, and with the clerk of the 14<sup>th</sup> Court during the last six months. Petitions will be logged and assigned between the courts on an alternating basis. See Local Rule 1.2. If one of the courts has previously heard a related matter, a notice must be filed identifying the matter, and the current proceeding will be assigned to the court that heard the related matter.</p>	<p>A party seeking emergency relief should call and notify the Court clerk that the motion is going to be filed.</p> <p>The Court reviews requests for emergency relief immediately. The Court's staff reviews petitions when they are filed. All original proceedings are given expedited consideration.</p>	<p>The panel assigned an original proceeding will determine whether to hear oral argument based on the particular issues presented. The Court may grant mandamus relief without oral argument.</p>

## **Technology**

1. The Court uses Westlaw primarily. The court does not have access to Lexis. The Court has Supreme Court Reporters, but not U.S Reporters. Providing citations to the Supreme Court Reporter is helpful.
2. **The Court no longer accepts any filings filed by fax.** For a motion that needs immediate consideration, parties should file motions through eFileTexas.gov, the portal established by the Texas Legislature.
3. The court has access to the Harris County Law Library, but appreciates it if the parties provide copies of authorities not available on Westlaw.
4. The Court distributes its orders and opinions electronically on its website.
5. The Court records oral arguments.

## **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 is not abated. 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 the appellant should complete and file a docketing statement, which includes a mediation section, and appellee should complete and file a one-page mediation docketing statement, both within 15 days of the date the case is docketed. The parties are informed that failure to comply will be deemed as an affirmative response to mediation by the non-filing party.

## **Fees**

1. Appeals: \$205
2. Petitions for Permissive Appeals: \$205
3. Original Proceedings: \$155
4. Motions: \$ 10
5. Motions for rehearing: \$15
6. Responses to Motions or Petition for Permissive Appeal: No charge.
7. DVD Copies of Oral Argument: \$25
8. Exhibits for Oral Argument: \$25 per exhibit

- 9. Standard Paper Copy of Document without Certificate or Seal:  
1 - 50 pages..... \$ .10 per page  
over 50 pages.....\$ .50 per page

**A \$25 fee is required in advance for retrieval of cases kept in off-site storage.**

(In accordance with the guidelines as provided by Tex. Gov't Code §51.207, §51.208, and §51.941Tex. Admin Code §70.3)

- 10. Certified Copies: \$1.00 per page for the first five pages (\$5.00 minimum) and one dollar per page for each additional page.
- 11. All records are electronic and available to the appointed/retained attorneys through the attorney record portal. Pro se parties may obtain records in active cases on CD.

**Miscellaneous**

- 1. After-hours filing is available through electronic filing (e-file). A party represented by an attorney must e-file any document that may be filed with the court in paper form, except a document under seal or subject to a motion to seal. Documents e-filed with the Fourteenth Court of Appeals must conform to Rule 9 of the Texas Rules of Appellate Procedure. Visit the court's website and <http://efiletexas.gov/> to learn more.
- 2. The Court occasionally utilizes the services of visiting judges.
- 3. In transfer cases in which the Court decides to hear oral argument, the Court gives the parties the option to hold argument in person in Houston or to allow the parties to appear through the use of teleconferencing technology in the city of the transferor court as provided by Section 73.003 of the Texas Government Code.