



# COURT OF APPEALS

## THIRD DISTRICT OF TEXAS

P.O. BOX 12547, AUSTIN, TEXAS 78711-2547

[www.3rdcoa.courts.state.tx.us](http://www.3rdcoa.courts.state.tx.us)

(512) 463-1733

W. KENNETH LAW, CHIEF JUSTICE  
JAN P. PATTERSON, JUSTICE  
DAVID PURYEAR, JUSTICE  
BOB PEMBERTON, JUSTICE  
ALAN WALDROP, JUSTICE  
DIANE HENSON, JUSTICE

JEFFREY D. KYLE, CLERK

PATRICK SHANNON,  
CHIEF STAFF ATTORNEY

*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 March 2007 and 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)** **September 2007**

#### **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](http://www.3rdcoa.courts.state.tx.us)
4. Names of Justices: W. Kenneth Law (C.J.), Jan Patterson, David Puryear, Bob Pemberton, Alan Waldrop, and Diane Henson
5. Chief Staff Attorney: Patrick Shannon
6. Clerk of the Court: Jeffrey D. Kyle

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 4 copies; Motions for rehearing en banc - original plus 6 copies; other motions - original plus 3 copies	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.	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. First and Second motions for extension of time to file a brief are routinely granted provided that the time requested does not exceed ninety (90) days total. Such motions are handled by the clerk's office.	

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Briefs	Original plus 7 copies (same for appendices)		Appellees' briefs are to be filed within thirty days of appellant's briefs; or within twenty days if 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.	
Case Assignment	Cases are assigned randomly to a judge upon filing.		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.	
Oral Argument		The Court prefers that oral argument be requested in the manner prescribed by the appellate rules.	The Justices confer immediately after oral argument. The Justices reach a tentative consensus regarding each case at the post-argument conference.	
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	The notice of submission includes the date submitted and the panel to whom the case is assigned.	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.	Draft opinions are circulated to all judges and court attorneys. The Court releases opinions daily.	

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
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.	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	Original plus 4 copies	How Handled: 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 bases. 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 "fall" or "spring" 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 does not receive 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 no longer has a mediation referral program.

## Fees

1. Appeal: \$175
2. Original Proceeding: \$125
3. Motions for Rehearing: \$15; all other motions: \$10.00
4. Exhibits for Oral Arguments: \$25.00
5. Response to Motions: \$10
6. Are there any other fees? Exhibits tendered for oral argument: \$25. Administering oath: \$5.

## Miscellaneous

1. Filing outside office hours should be arranged in advance with the Clerk.
2. The Court regularly uses Judge John F. Onion, Jr. as a visiting judge.
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.
5. The Court is participating with the State Bar of Texas Appellate Section Pro Bono Committee in a Pro Bono Pilot Program to place a limited number of civil appeals with pro bono appellate counsel.