



# TENTH COURT OF APPEALS

**Chief Justice**

Tom Gray

McLennan County Courthouse  
501 Washington Avenue, Rm 415  
Waco, Texas 76701-1373

**Clerk**

Sharri Roessler

**Justices**

Bill Vance

Felipe Reyna

Phone: (254) 757-5200

Fax: (254) 757-2822

*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 – Tenth District Court of Appeals  
(Waco) (August 2007)**

**THE BASICS**

1. **Court's Address:** McLennan County Courthouse, 501 Washington Avenue, Room 415, Waco, Texas 76701-1373
2. **Telephone number:** Phone: (254) 757-5200, Fax: (254) 757-2822
3. **Website address:** <http://www.10thcoa.courts.state.tx.us>
4. **Names of Justices:** Tom Gray (C.J.), Bill Vance, and Felipe Reyna
5. **Chief Staff Attorney:** None
6. **Chief Clerk::** Sharri Roessler is the Clerk of the Court.
7. **Local Rules:** The court has local rules. The court has, but does not publish, internal operating procedures.

**THE INS AND OUTS**

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
<b>Motions</b>	Original plus 1 copy.	Dependent on the type of motion, a motion may be decided by the Court, by a single justice, or by the Court's clerk. Routine motions for extension of time of 60 days or less, except in accelerated appeals, are ruled on by the Court's clerk. 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 and rarely granted.	Appellant's motion to extend time to file a brief must state: the date the clerk's record and reporter's record were filed (or, if appellee's motion, the date appellant's brief was 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)-(c).	Generally, Tuesday is the day orders on motions are issued.  Except for the number of days held before a motion is decided, the disposition process remains the same regardless of whether the motion is opposed or agreed.

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
<b>Briefs</b>	Original plus 5 copies.	<p>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>Appellee's brief must be filed within 30 days—20 days in an accelerated appeal—after the date appellant's brief was filed. If appellant has not filed a brief under TRAP 38.6(a), the appellee may file a brief within 30 days—20 days in an accelerated appeal—after the date 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>	<p>Proper citation form should be observed and subsequent history 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 12(b).</p> <p>Parenthetical references to the clerk's record and reporter's record should be made to the volume and page where any referenced material is found. LR 12(c).</p> <p>Pre-submission supplemental briefs may be filed without Court permission if no new issues are raised. Post-submission supplemental briefs may be filed only with permission of the Court. LR 12(f).</p>	<p>The Court prefers that the cover of appellant's brief be light blue; appellee's brief (and the State as appellee in criminal cases) white or off-white; intervenor's or amicus' brief green, and the reply brief gray. LR 12(a)</p> <p>Any appendix required by TRAP 38.1(j) and which contains "necessary contents" as defined by such rule must be bound with the party's brief, if practicable. Any appendix which contains "optional contents" must be bound separately and an original and five copies filed with the Clerk. LR 13. Each "necessary" and "optional" appendix must have an index and each appended document must be preceded by a numbered or lettered tab. LR 13.</p>
<b>Oral Argument</b>	Request oral argument on cover of brief. TRAP 39.7; LR 12(d). If requested, the brief should contain a short statement about why oral argument would assist the Court. LR 12(e).	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. The granting of additional time may be due to the number or complexity of the issues, facts, or legal 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.	Justices 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.
<b>Voting</b>			"Voting" takes place by notations made on a response slip when the draft opinion is distributed to the justices.	A tentative vote or indication of what the justices believe the result will be is sometimes taken after oral argument.
<b>Opinions</b>		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 Wednesday.
<b>Original Proceedings</b>	Original plus 5 copies.  Unless otherwise directed by the court, the relator must file an original plus 5 copies of the appendix required by TRAP 52.3(j).	<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 14.</p> <p>The assigned justice receives a copy of the original proceeding at the time that it is filed and makes a recommendation to the other members of the Court, who also receive a copy.</p>	<p>Court reviews requests for emergency relief usually within a couple of hours. If there is no motion for emergency relief, it is addressed within 1 business day. A majority of the panel must vote to grant emergency relief.</p> <p>Original proceedings may be set for oral argument or decided without oral argument. LR 16(b).</p>	<p>The court's criteria for setting original proceedings for oral argument are the same as the criteria for oral argument in direct appeals.</p> <p>Counsel should notify the Clerk of circumstances requiring an expeditious hearing in an original proceeding. LR 16(b).</p>

## **TECHNOLOGY**

1. Court subscribes to both Westlaw and Lexis.
2. Court has no preference with respect to United States Supreme Court cites.
3. Court prefers copies of out of state cases, especially as to resource materials that may not otherwise be readily available.
4. Local Rule 8 governs the types of documents that the Court will accept via fax and the procedure for such filings. The sender should contact the Court's clerk before trying to send/file one.
5. Court requests that written briefs on the merits filed before submission also be submitted electronically on a CD-ROM or as an email attachment addressed to [ebrief.10thcoa@courts.state.tx.us](mailto:ebrief.10thcoa@courts.state.tx.us). *Searchable* PDF is the preferred file format. "Information on Submission of Electronic Briefing" concerning the preferred form and format for electronically-filed briefs is available on the timely filed under the Texas Rules of Appellate Procedure. Local Rule 12(g).
6. Court very rarely distributes orders electronically.
7. Court does not record oral arguments.

## **APPELLATE MEDIATION**

1. The Court may, on a party's motion or its own initiative, refer a civil case for alternative dispute resolution.

## **FEES**

1. Appeal: \$175
2. Original Proceeding: \$125
3. Motions for rehearing: \$15
4. All other motions: \$10
5. Response to Motion: None
6. Other fees: See TRAP appendix

## **MISCELLANEOUS**

1. Court does not use visiting judges.
2. In the event of a recusal or if the court is not fully staffed, the Chief Justice of the Texas Supreme Court will make an assignment to fill a vacancy.
3. For the last three fiscal years ("FY"), the following percentage of the court's decisions were in the form of memorandum opinions: FY 2005 – 91%; FY 2006 – 82%; and FY 2007 (as of May 2007) – 82%.
4. Motions for rehearing are initially distributed to the authoring justice, who makes a recommendation to the entire panel.
5. Court has certain caption requirements for appeals of expunction orders and certain orders under the Texas Family Code. Local Rule 18.