



Court of Appeals

Ninth District of Texas

Jefferson County Courthouse
1001 Pearl, Suite 330
Beaumont, Texas 77701
(409) 835-8402

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 - Ninth District Court of Appeals (Beaumont) (January 2008)

The Basics

1. Court's Address: 1001 Pearl, Suite 330, Beaumont, Texas 77701-3552
2. Telephone number: Phone: (409) 835-8402, Fax: (409) 835-8497
3. Website address: <http://www.9thcoa.courts.state.tx.us>
4. Names of Justices: Steve McKeithen (C.J.), David B. Gaultney, Charles Kreger, and Hollis Horton.
5. Clerk of the Court: Carol Anne Flores
6. Chief Staff Attorney: Leslie Saia
7. Local Rules: The court has no local rules.

The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original plus 2; in original proceedings, original plus 3	Motions are decided by a panel of 3 judges, except for motions for extension of time, which are decided by a single judge. First motion for extension of time is granted (30 days, 20 for accelerated, 10 for extraordinary proceeding). Second motion – generally granted (same length of time 30-20-10), but with notation that it will be final.	If a motion for extension of time or an agreed motion, we will waive 10-day requirement before ruling; if not agreed, then presented to court for ruling after 10 days have expired. Voluntary dismissal – do not hold 10 days if filed by only party that filed a notice of appeal.	Tuesday and Friday are the days that routine motions are considered and decided; non-routine motions are done on Thursday.
Briefs	Original plus 5	TRAP rules for due dates on briefs. Post-submission briefs – must file motion unless court specifically requests brief during oral argument.	Court follows TRAP rules on briefs.	

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Oral Argument	Request oral argument on cover of the brief, no particular place.	Court typically allots time for oral argument as 20/20/10. The court rarely allots more time for oral argument than the standard amount. Additional time might be granted in cases wherein it is obvious that issues can't be addressed in standard time. Parties have to ask for more time. The judges meet when briefs are reviewed, when they are deciding whether to have oral argument, and immediately after submission. The clerk makes an assignment at submission and in rotation. The judges have a good idea who the author is going to be at oral argument.	Request for oral argument are not automatically granted. Whether a case goes to oral argument is decided by full panel, however any one member of the panel can grant oral argument. When briefs are in, the decision is made regarding oral argument. Oral argument granted in cases that: challenge existing case law; split in court; statutory interpretation; unsettled issues; issues where there is a pending petition for review; issues of first impression; novel application to existing case law. Staff attorneys participate in conferences depending on the case, but their participation is limited. They do not prepare memos or draft opinions for conferences.	If one of the parties does not request oral argument, it may have an effect on whether argument is granted; it is an indication that one side didn't think it needed to argue. But if argument is granted, court allows both sides to argue.
Voting			If there has been oral argument, preliminary voting on the case occurs after the judges have a conference immediately following oral argument, and they express their opinions at the conference. The judges have a weekly conference to discuss cases in which oral argument has been denied or not requested. All cases are voted on when draft is circulated. Their weekly conferences are on Wednesdays or Thursdays. Clerk assigns author to non-oral argument cases in rotation.	
Opinions		Court does not have internal guidelines concerning deadlines for drafting and circulating opinions.	The court usually releases its opinions as follows: Criminal released on Wednesday; Civil on Thursday.	
Motions for Rehearing		Motions for rehearing are circulated to the entire court. The court has weekly motions conference, and the author may speak first concerning the motion for rehearing. There are no situations where the court has granted a rehearing without being requested to do so by the parties.		

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Original Proceedings	Original plus 3	The original proceeding is circulated to all members of the panel.	If motion requests emergency relief, court may contact the real party in interest to see if they want to respond to request for emergency relief. If there is no motion for emergency relief, the court usually requests a response in ten days. One vote can grant emergency relief if necessary. But they try to take it to all three judges.	Not many mandamus proceedings get oral argument; if there is oral argument, they set them pretty quickly; sometimes the panel grants relief without oral argument (but the court always obtains a response).

Technology

1. The court has both Westlaw and Lexis. Court members use both Westlaw and Lexis; they usually download to disc or read on the screen because of limited paper.
2. The court prefers that parties follow bluebook with respect to United States Supreme Court cites.
3. The court has received briefs or records on CD-Rom's and has found them helpful. Parties must still file a hard copy.
4. The court prefers that parties provide copies of out of state cases. Don't include copies of things like the rules unless they are key to your arguments.
5. The court accepts filing by fax. Originals and required fees must follow by mail.
6. The court does not accept electronic filings.
7. The only form of electronic distribution is the case mail system available on the web. Opinions are available on the court's website.
8. The court does not record oral argument.

Appellate Mediation

1. The Court has a program for appellate mediation. A form is mailed to parties to be filled out and sent back.
2. Cases are mediated when both parties agree to mediate.
3. The clerk of the court is appointed to oversee mediation.
4. If someone needs to contact the court about mediation, they must go through the clerk.
5. The court allows the parties to select their own mediator. The court has a list if parties do not specify a preference.

Fees

1. Civil Appeal: \$175
2. Original Proceeding: \$125
3. Civil Motions: \$10
4. Civil Motions for Rehearing: \$15

Miscellaneous

1. If a party needs to file an instrument after hours, arrangements can be made with the clerk of the court (Carol Anne Flores).
2. About 85% of the court's opinions are memorandum opinions.