

SHERRY RADACK  
CHIEF JUSTICE

TIM TAFT  
SAM NUCHIA  
TERRY JENNINGS  
EVELYN KEYES  
ELSA ALCALA  
GEORGE C. HANKS, JR.  
LAURA CARTER HIGLEY  
JANE BLAND  
JUSTICES



M. KARINNE MCCULLOUGH  
CLERK OF THE COURT

JANET MCVEA WILLIAMS  
CHIEF STAFF ATTORNEY

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## Court of Appeals First District

1307 San Jacinto Street, 10th Floor  
Houston, Texas 77002-7006

In 2004, the Appellate Section of the State Bar of Texas and the First Court 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 - First District Court of Appeals (Houston) (August, 2007)

#### The Basics

1. Court's Address: Court of Appeals, 1st District, 1307 San Jacinto, 10th Floor, Houston, TX, 77002
2. Telephone number: 713-655-2700; 713-752-2304(fax)
3. Website address: [www.1stcoa.courts.state.tx.us](http://www.1stcoa.courts.state.tx.us)
4. Names of Justices: Sherry Radack (C.J.), Tim Taft, Sam Nuchia, Terry Jennings, Evelyn Keyes, Elsa Alcala, George C. Hanks, Jr., Laura Carter Higley, and Jane Bland
5. Chief Staff Attorney: Janet Williams
6. Clerk of Court: M. Karinne McCullough
7. Local Rules: The court has one local rule to govern transfers between the First and Fourteenth Court of Appeals.

#### The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions	Original plus 2 copies in appellate proceedings; original plus 3 copies in original proceedings.	The court is generally liberal in granting motions for extension, provided the briefs will be filed within 30 days of the original due date. Requests for extensions beyond 30 days after the original due date are disfavored, and the need for such extensions will be considered on a case-by-case basis.	Motions requiring only a single judge generally are decided by a single judge. A panel is used to act on petitions for extraordinary writs, dismissing or otherwise determining an appeal, and motions for rehearing.	Motions are considered and decided daily. The process is the same for both contested and agreed motions, except contested motions are held for 10 days.
Briefs	An original plus 5 copies of briefs and appendices. Deadlines follow the TRAPs.			Covers cannot be red, black, or dark blue. A motion for leave must accompany any late brief.

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Oral Argument	Oral argument must be requested on the cover of a party's first brief.	Court typically allows 15 minutes per side; which includes appellant's rebuttal. Rebuttal must be reserved from the appellant's 15 minutes. Court rarely allows more time. Cases with numerous parties or issues may be permitted extra time, in the court's discretion.	The court does not automatically grant requests for argument. The court will consider whether argument would significantly aid the court in determining the legal and factual issues presented in the appeal. Cases with novel or complex issues are more likely to be granted oral argument.	A party that fails to request oral argument waives the right to argue. The court may, in its discretion, permit a party to argue even if it has waived argument.
Voting			Either the day of argument, or the day before, the panel holds a presubmission conference and discusses cases. After argument, the panel holds a postsubmission conference to discuss the submitted cases and take a preliminary vote. The attorney then incorporates the panel's recommended changes into a proposed opinion. The panel judges vote on the case when the authoring judge circulates a proposed opinion. Same method is used for determining cases that are argued and cases submitted without argument.	

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
Motions for Rehearing	Rules require an original plus 2 copies, but it would be helpful to file an original plus 4 copies. If moving for rehearing en banc, it is helpful but not required to file an original plus 10 copies.	Motions for rehearing are initially circulated to author; author makes recommendation; then it is circulated to other panel members. If a motion for reconsideration en banc raises an issue that has not previously been presented to the panel in a motion for rehearing, the motion for en banc reconsideration will be presented to the panel. If the panel does not alter its original opinion, then the motion for rehearing en banc is presented to the full court. See <i>Butler v. State</i> , 6 S.W.3d 636, 637 n.1 (Tex. App.—Houston [1st Dist.] 1999, pet. ref'd). A motion for en banc reconsideration that raises issues previously raised before the panel will be presented directly to the entire court.		The court has sometimes granted rehearing w/o request under TRAP 50. There are cases where the court has decided to sit en banc without being asked to do so by the parties.
Original Proceedings	Original plus 3 copies.	Original proceedings are assigned to the chambers of the authoring judge, who is assigned at the time the original proceeding is filed. The authoring judge handles the original proceeding, along with the other two members of the panel on which the author is sitting.	Requests for emergency relief are handled promptly, and original proceedings are generally handled on an expedited basis, depending on the circumstances. One vote is required to grant emergency relief.	Whether the court grants argument in an original proceeding depends on whether it would significantly aid the court in determining the legal and factual issues presented.

## Technology

1. Court has both Westlaw and Lexis.
2. With respect to United States Supreme Court cites, use U.S. and S.Ct.
3. The court has received briefs or records on CD-Rom's and finds them helpful.
4. The court prefers that parties provide copies of out of state cases.
5. The court does not accept fax filing.
6. The court does not accept electronic filings.
7. The court distributes orders electronically.
8. The court does not record oral argument.

## Appellate Mediation

1. The court provides a means for the parties and their counsel to engage in meaningful settlement negotiations at an early point in the appellate process. However, it is not the practice of the court to order mandatory mediation.
2. Mediation is voluntary. If a party believes that mediation would be beneficial, he should so indicate on the docketing statement. If the court determines after review of the case that mediation is appropriate, it will enter an order referring the case to mediation. The parties will be given 10 days in which to file an objection to mediation. If no party objects to mediation, the parties will choose a mediator, agree on a reasonable fee for the mediator's services, and notify the Clerk of the name of the mediator. After a referral to mediation, the parties are generally given 15 days to choose a mediator and 45 days to conduct the mediation. The parties shall, within 2 days of the conclusion of the mediation, notify the court about whether the parties reached a settlement agreement.
3. If someone needs to contact the court about mediation, they must go through the clerk.
4. The parties must agree on a mediator or the case will not be referred to mediation.

**Fees**

1. Appeal: \$175, but only one \$175 filing fee for each civil case on appeal regardless of how many appellants there may be or the number of notices of appeal that are filed.
2. Original Proceeding: \$125 for each writ requested.
3. Motions: \$10
4. Response to Motion: None

**Miscellaneous**

1. The first floor lobby of the court contains a "drop box" for filing after the court has closed. The late night filing box is only open from 5:00 p.m. to 6:00 p.m. Documents filed during that time are considered timely filed on that day.
2. The court rarely uses visiting judges at this time. In the past, the court has regularly used Judges Jackson B. Smith, Jr., Judge Lee Duggan, Jr., and Judge Frank Price. As provided by the Legislature during the last session, it also occasionally uses district court judges as visiting judges.
3. The Supreme Court has approved a new local rule to govern the transfer of cases between the First and Fourteenth Court of Appeals.