



# COURT OF APPEALS EIGHTH DISTRICT OF TEXAS

CHIEF JUSTICE  
David Wellington Chew

JUSTICES  
Ann Crawford McClure  
Guadalupe Rivera

EL PASO COUNTY COURTHOUSE  
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Denise Pacheco

CHIEF DEPUTY CLERK  
Diana Rodriguez

*In 2004, the Appellate Section of the State Bar of Texas and the Eighth 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. The Appellate Section and the court updated the information in March 2007. Hereafter, the court intends to keep the information updated for the use of persons with matters before the court.*

**January 8, 2009**

## Survey of the Texas Appellate Courts - Eighth District Court of Appeals (El Paso)

### The Basics

1. Court's Address: 500 E. San Antonio Ave., Suite 1203, El Paso, Texas 79901-2408
2. Telephone number: Phone: (915) 546-2240, Fax: (915) 546-2252
3. Website address: <http://www.8thcoa.courts.state.tx.us>
4. Names of Justices: David W. Chew (C.J.), Ann Crawford McClure, and Guadalupe Rivera
5. Chief Staff Attorney: Kay Waters
6. Chief Clerk: Denise Pacheco
7. Local Rules: The court has internal operating procedures, but they are not publicly available.

### The Ins and Outs

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
<b>Motions</b>	Original before submission; after submission requires original plus 5  Reference - Local Rule 9.2 and rules 9 & 10 of the Texas Rules of Appellate Procedure	Motions are decided as follows: prior to submission of a motion, a single judge works on the rotation with staff; after submission, it is decided en banc. Rotations last 1 month.	An agreed motion goes to the motions judge immediately. The judge looks it over to make sure it is okay. If contested, it takes longer; parties will probably get a notice that it will be heard on a certain day. Extensions of time are treated differently. Under local rule 38.2, the clerk acts on extensions of time on briefs.	There aren't particular days that motions are decided. Sometimes the court sends out a notice that a motion will be decided on a certain day. Clerk brings to judges consistently. Judge may pick a day; but it is up to judge and isn't a certain day. Agreed motions get immediate consideration.
<b>Briefs</b>	Original plus 5  Reference - TRAP 9.3	Refer to Rule 38.6 for due date of response briefs. Reply briefs must be filed in 20 days. They allow letter briefing without leave of court.	There are no unique requirements for briefs in original proceedings in this court.	TRAP Rule 9 –Papers Generally. Note local rule 38.1(c) – it requires that all trial judges presiding below be identified.

PROCEDURE	WHAT AND HOW TO FILE	HOW HANDLED	COURT'S PARTICULAR PRACTICES	SPECIAL NOTES
<b>Case Assignment</b>			Court discusses cases both before and after argument. Cases are discussed informally before oral argument and the panel meets again after. Opinion author is usually assigned by random drawing before the case is submitted.	
<b>Oral Argument</b>	Request oral argument on cover of the brief.  Local Rule 39.1 – 5 and TRAP 39.7	Court grants 20 minutes per side; with 10 minutes more for appellant's rebuttal. Court can allot more time in exceptional situations; parties must move for additional time.	Court usually grants oral argument if requested. There are instances, however, when the court will exercise its discretion under TRAP 39.8 and decide a case without oral argument. If only one party requests oral argument, the court will allow both sides to argue.	Clerks and staff attorneys sometimes attend conferences and sometimes prepare memos for the conferences.
<b>Voting</b>			There is no set time when voting occurs. Voting is a function of the pre and post argument conferences. The authoring judge prepares and circulates a draft opinion. If there are questions or differences of opinion, the judges get together—but without set formal conferences.	2 votes are required to grant emergency relief on an Original Proceeding.
<b>Opinions</b>		Court has guidelines of the performance measures from court administration (also legislature) concerning deadlines for drafting and circulating opinions. The proposed opinion is circulated to the entire court. The author of the opinion is chosen by a random drawing.	Court releases its opinions on Thursdays. This is not etched in stone; various reasons that it can be other days.	
<b>Motions for Rehearing</b>	Original plus 5			

<b>PROCEDURE</b>	<b>WHAT AND HOW TO FILE</b>	<b>HOW HANDLED</b>	<b>COURT'S PARTICULAR PRACTICES</b>	<b>SPECIAL NOTES</b>
<b>Original Proceedings</b>	Original plus 3  Reference – Local Rule 9.3 and TRAP 9.3	Local Rule 52 applies; usually the court will make a decision on whether to request a response within 3 working days. Usually a staff member will look at the petition and present it to the requisite number of judges, then they will make a decision. Oftentimes, this court will request a response.	2 votes are required to grant emergency relief on an original proceeding.	If the court determines it will hear the mandamus petition on the merits, it will set the case for oral argument if requested by the parties. The court will always request a response before granting mandamus relief.

### **Technology**

1. The court utilizes Westlaw.
2. The court does not accept electronic filings, but it will receive electronically filed briefs (e.g., on CD-ROM) to be used as an aid to the court.
3. The court accepts non-voluminous motions and briefs by fax (Local Rule 9.1), but this is not encouraged.
4. The court does not distribute orders electronically except through its internet site.
5. The court records oral argument. The parties can purchase a copy of the DVD (Local Rule 39.2 – videotapes no longer used).

### **Appellate Mediation**

1. The court has a program for appellate mediation (Local Rule 2).
2. It is at the parties' suggestion.
3. Chief Justice Chew is appointed to oversee appellate mediation.
4. If someone needs to contact the court about mediation, they must go through the clerk.
5. The court prefers that parties select their own mediator. The court never selects any mediators.

### **Fees (Reference Supreme Court Order)**

1. Appeal: \$175
2. Original Proceeding: \$125
3. Motions: \$10
4. Motions for Rehearing \$15.00

### **Miscellaneous**

1. The court does not have a method for hand-delivery of late filings.
2. The court utilizes a visiting judge whenever one of the judges is recused or disqualified.
3. Generally, the court issues memorandum opinions only in Anders cases and dismissals or when denying mandamus relief.