

## Information for Practitioners and Pro Se Litigants

*The Appellate Section of the State Bar of Texas and the Fifth Court of Appeals worked together to identify key information needed for 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.*

### The Basics

1. **Court's Address:** Court of Appeals, 5th District, 600 Commerce Street, 2<sup>nd</sup> Floor, Dallas, TX 75202
2. **Telephone number:** 214-712-3400; 214-745-1083 (fax)
3. **Website address:** <http://www.5thcoa.courts.state.tx>
4. **Names of Justices:** Carolyn Wright (C.J.), Joseph B. Morris, Jim Moseley, David Bridges, Michael J. O'Neill, Kerry P. FitzGerald, Martin E. Richter, Molly Francis, Douglas S. Lang, Elizabeth Lang-Miers, Mary Murphy, Robert Fillmore, and Lana Myers
5. **Chief Staff Attorney:** Cliffie Wesson; **Deputy Chief Staff Attorney:** Marilyn Houghtalin
6. **Chief Clerk:** Lisa Matz
7. **Local Rules:** The Court's local rules are available on its website. The Court also has internal operating rules that 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 plus 2	Chief Justice appoints a motions panel that sits for a year. First motion for extension of time is granted by the clerk if filed before the expiration of the deadline and requests not more than 30 days. Second motions for extension are rarely granted, and subsequent motions only in extraordinary circumstances.	The motions panel is reconstituted yearly. The Court follows the TRAPs with respect to deciding motions.	No particular day for deciding motions.
<b>Briefs</b>	Rules require an original plus 7. Deadlines follow the TRAPs.		Court follows TRAP rules on briefs.	A motion for leave must accompany any late brief or any brief other than an appellant's brief, an appellee's brief or a reply brief.

<b>Case Assignment</b>		The Court follows an internal rotation schedule for assigning cases. Panels are reconstituted every 9 weeks.	The panel has a formal conference and vote immediately following argument or submission. Panels rarely but occasionally meet informally before argument or submission but do not vote at that time.	The Court has never heard a case <i>en banc</i> at the outset. Fewer than 5% of cases are heard <i>en banc</i> . On occasion, the Court has decided to sit <i>en banc</i> without being requested to do so by the parties.
<b>Oral Argument</b>	Follow the TRAPs in requesting oral argument.	Court typically allows 20 minutes per side, plus an additional 5 minutes for the appellant's rebuttal. Court allows more time only in extraordinary circumstances and only in response to a written motion. Clerks and staff attorneys do not generally participate in conferences or prepare memos for the conferences.	The Court does not automatically grant requests for argument. The Court makes this decision on a case-by-case basis. Parties find out who is on their panel in a submission notice sent 60 days before the argument.	If only one side requests argument in its brief and the Court grants it, the party that did not previously request argument should do so if it wants to argue.
<b>Voting</b>			Voting occurs at the formal conference following argument or submission.	
<b>Opinions</b>		Author is usually assigned at the formal conference after submission and is chosen by an internal rotation schedule. The panel decides on a case-by-case basis whether to circulate opinions to the entire Court.	Court does not release opinions on a particular day.	
<b>Motions for Rehearing</b>	Original plus 2	Motions for rehearing (and <i>en banc</i> ) are initially circulated to author; author makes recommendation; then it is circulated to other members of the panel. Motions for rehearing <i>en banc</i> are also circulated to the Chief Justice for review. The Court has sometimes granted rehearing w/o request under TRAP 50.		

<b>Original Proceedings</b>	The rules require an original plus 3, but the Court would prefer to get an original plus 4 copies.	There is an original proceedings panel that changes monthly pursuant to an internal rotation schedule.	Original proceedings are reviewed immediately, whether or not they request emergency relief.	Original proceedings are set for oral argument only in extraordinary circumstances. Local Rule 9 requires that Relator note on the cover of the petition if temporary relief is requested.
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### Technology

1. The Court has both Westlaw and Lexis.
2. The Court has no preference with respect to United States Supreme Court cites.
3. The Court has not received briefs or records on CD-Rom's and so has not considered this issue.
4. The Court prefers that parties provide copies of out of state cases.
5. Local Rule 3 provides procedures for fax filing.
6. The Court does not accept electronic filings.
7. The Court distributes opinions electronically via its website.
8. The Court records oral argument, but only for use by the Court. Tapes are not available to the parties.

### Appellate Mediation

1. The Court has a program for appellate mediation.
2. Parties have to complete ADR section of docketing statement.
3. The chief staff attorney and the Justices oversee the mediation program.
4. If someone needs to contact the Court about mediation, they must go through the clerk.
5. The Court encourages parties to select their own mediator, but will assign mediators based on a roster maintained by the Court.

### Pro Bono Program

The Fifth Court of Appeals in conjunction with the State Bar of Texas Appellate Section Pro Bono Committee and local Bar Associations is conducting a program to place a limited number of civil appeals with appellate counsel who will represent the appellate in the appeal before this Court.

The Pro Bono Committee is solely responsible for screening and selecting the civil cases for inclusion in the Program based upon a number of discretionary criteria, including the financial means of the appellate or appellee. If a case is selected by the Committee, and can be matched with appellate counsel, that counsel will take over representation of the appellant or appellee without charging legal fees. More information regarding this program can be found in the *Pro Bono Program Pamphlet* available in paper form at the Clerk's Office or on the Internet at <http://www.tex-app.org/probono.php>. If a case is selected and matched with a volunteer, the Pro Bono Committee will notify the party within 30 – 45 days after submitting the docketing statement.

### Fees

1. Appeal: \$175
2. Original Proceeding: \$125
3. Motions: \$10
4. Motions for Rehearing: \$15
5. Response to Motion: None
6. Exhibits tendered for oral argument: \$25

**Miscellaneous**

1. There is no special provision for after-hours filing, but a party could fax a brief to the Court by 5 p.m., and then file in hard copy within 7 days, pursuant to Local Rule 3.
2. The Court uses visiting Judge Charles F. Campbell, Chief Justice Thomas, and Justices Sue Lagarde, Francis Maloney, Bea Ann Smith.
3. A substantial percentage of the Court's opinions are memorandum opinions.
4. Absent prior leave of Court, no electronic devices may be used in the courtroom. Cellular telephones must be turned off before entering the courtroom.